

TOWN OF YUCCA VALLEY
PLANNING COMMISSION MEETING



The Mission of the Town of Yucca Valley is to provide a government that is responsive to the needs and concerns of its diverse citizenry and ensures a safe and secure environment while maintaining the highest quality of life.

**TUESDAY
AUGUST 12, 2014
6:00 p.m.**

**YUCCA VALLEY COMMUNITY CENTER, YUCCA ROOM
57090 - 29 PALMS HIGHWAY
YUCCA VALLEY, CALIFORNIA 92284**

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PLANNING COMMISSION MEMBERS

*Tim Humphreville, Chairman
Vickie Bridenstine, Vice Chairman
Jeff Drozd, Commissioner
Warren Lavender, Commissioner
Steve Whitten, Commissioner*

AGENDA

MEETING OF THE TOWN OF YUCCA VALLEY PLANNING COMMISSION 6:00 P.M., TUESDAY, AUGUST 12, 2014

The Town of Yucca Valley complies with the Americans with Disabilities Act of 1990. If you require special assistance to attend or participate in this meeting, please call the Town Clerk's office at (760) 369-7209 at least 48 hours prior to the meeting.

If you wish to comment on any subject on the agenda, or any subject not on the agenda during public comments, please fill out a card and give it to the Planning Commission secretary. The Chair will recognize you at the appropriate time. Comment time is limited to 3 minutes.

CALL TO ORDER:

ROLL CALL: Vickie Bridenstine, Vice Chairman
Jeff Drozd, Commissioner
Warren Lavender, Commissioner
Steve Whitten, Commissioner
Tim Humphreville, Chairman

PLEDGE OF ALLEGIANCE

APPROVAL OF AGENDA

Action: Move by _____ 2nd by _____ Voice Vote _____.

PUBLIC COMMENTS

In order to assist in the orderly and timely conduct of the meeting, the Planning Commission takes this time to consider your comments on items of concern, which are not on the agenda. When you are called to speak, please state your name and community of residence. Please limit your comments to three minutes or less. Inappropriate behavior, which disrupts or otherwise impedes the orderly conduct of the meeting, will result in forfeiture of your public comment privileges. The Planning Commission is prohibited by State law from taking action or discussing items not included on the printed agenda.

PUBLIC HEARINGS

**1. ENVIRONMENTAL ASSESSMENT, EA 03-14
CONDITIONAL USE PERMIT, CUP 02-14 ALKARADSHEH**

Request for approval for the change in use of an existing 1,800 square foot restaurant building with outdoor patio to a hookah lounge/restaurant. The hookah lounge is outdoor only.

RECOMMENDATION: That the Planning Commission:

- A. Finds that the project is exempt from CEQA pursuant to Section 15303, Class 3, conversion of small structures.
- B. Approves Conditional Use Permit, CUP 02-14 based upon the required findings and Conditions of Approval

Action: Moved by _____ 2nd by _____ Roll Call Vote _____

**2. DEVELOPMENT CODE AMENDMENT, DCA 02-14
HOME OCCUPATION REGULATIONS
CEQA EXEMPTION, SECTION 15061(b)(3)**

Proposed amendment to Title 9, adding Section 9.08.050 of Article 2, and adding Chapter 9.75, Sections 9.75.010 thru 9.75.080 of Article 4, of the Yucca Valley Development Code, establishing development regulations and permitting procedures for the operation of Home Occupation Permits and repealing Sections 84.0615, Chapter 6, Division 4 of Title 8.

The project is exempt from CEQA in accordance with Section 15061(b)(3) of the California Environmental Quality Act. The proposed amendment to revise the Town’s Home Occupation Permit Regulations has no potential to impact the environment. The proposed amendment does not alter the existing requirements that specific development projects must comply with the provisions of the California Environmental Quality Act. Development Code Amendment, DCA 02-14 meets the exemption criteria which states “that if an activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment and where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA”.

RECOMMENDATION: That the Planning Commission:.

- A. Finds that the project is exempt from CEQA in accordance with Section 15061 (b)(3) of the California Environmental Quality Act. The proposed amendment to revise the Town’s Home Occupation Permit regulations has no potential to impact the environment. The proposed amendment does not alter the existing requirements that specific development projects must comply with the provisions of the California Environmental Quality Act. Development Code Amendment, DCA 02-14 meets the

exemption criteria which states “that if an activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment and where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA”.

- B. Recommends that the Town Council adopts the Ordinances and repeals Development Code Section 84.0615, Chapter 6, Division 4 of Title 8.

Action: Moved by _____ 2nd by _____ Roll Call Vote _____

**3. DEVELOPMENT CODE AMENDMENT, DCA 03-14
ARTICLE 5, ADMINISTRATION**

CEQA EXEMPTION, SECTION 15061

Proposed amendment to Title 9, Yucca Valley Development Code adding Article 5, Chapter 9.80 thru Chapter 9.86, Administration, providing standards and procedures for appeals, enforcement and violations, permit amendments, permit revocations, public notices and hearings and time limitations and time extensions and repealing Sections 83.010605-83.010630, Section 81.0150, Sections 81.0205-81.0235 and Sections 87.1201-87.1202 of Title 8 of the Town of Yucca Valley Development Code

The project is exempt from CEQA in accordance with Section 15061 (b)(3) of the California Environmental Quality Act. The proposed amendment to revise the Town’s Development Code Regulations has no potential to impact the environment. The proposed amendment does not alter the existing requirements that specific development projects must comply with the provisions of the California Environmental Quality Act. Development Code Amendment, DCA 03-14 meets the exemption criteria which states “that if an activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment and where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA”.

RECOMMENDATION: That the Planning Commission continues the public hearing to the meeting of August 26, 2014.

Action: Moved by _____ 2nd by _____ Roll Call Vote _____

**4. DEVELOPMENT CODE AMENDMENT, DCA 01-14
ARTICLE 2, ZONING DISTRICTS AND DEVELOPMENT STANDARDS
CEQA EXEMPTION, SECTION 15061(b)(3)**

Proposed amendment to Title 9, Yucca Valley Development Code adding Article 2 Chapter 9.05 thru Chapter 9.22, Zoning Districts and Development Standards. This article establishes the Town’s zoning districts and zoning map and provides land use standards and development requirements for the zoning districts and overlay

districts.

The project is exempt from CEQA in accordance with Section 15061 (b)(3) of the California Environmental Quality Act. The proposed amendment to revise the Town's Development Code Regulations has no potential to impact the environment. The proposed amendment does not alter the existing requirements that specific development projects must comply with the provisions of the California Environmental Quality Act. Development Code Amendment, DCA 01-14 meets the exemption criteria which states "that if an activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment and where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA".

RECOMMENDATION: That the Planning Commission continues the public hearing to the meeting of August 26, 2014.

Action: Moved by _____ 2nd by _____ Voice Vote _____

DEPARTMENT REPORTS

5. CONDITIONAL USE PERMIT, CUP 09-07 LUPINE PLAZA

Request for an extension of time on an approval for the construction of two office buildings on Lupine Drive.

RECOMMENDATION: That the Planning Commission approves the request for an extension of CUP 09-07 Lupine Plaza.

Action: Moved by _____ 2nd by _____ Roll Call Vote _____

6. ENVIRONMENTAL ASSESSMENT, EA 01-13 SITE PLAN REVIEW, SPR 01-13 BILLINGS TRANSFER

Request to establish a rock, sand and gravel yard at 55525 Yucca Trail.

RECOMMENDATION: That the Planning Commission:

- A. Finds the project exempt from CEQA under Section 15301, existing facilities.
- B. Approves Site Plan Review, SPR 01-13, based upon the required findings and Conditions of Approval.

Action: Moved by _____ 2nd by _____ Roll Call Vote _____

**7. STREET VACATION, SV-01-14
CEQA EXEMPTION, SECTION 15301, Class 1**

Proposal to vacate a 10' by 132' easement along Sage Ave, at the southwest corner of Sage Ave and Hidden Gold Dr.

RECOMMENDATION: That the Planning Commission finds that the street vacation, SV-01-14, is consistent with the General Plan and General Plan Circulation Element, and recommends to the Town Council to vacate an approximate 10' x 132' easement on the southwest corner of Sage Avenue and Hidden Gold Drive, as identified on Exhibit A to this staff report, being a portion of APN 585-362-01, and forwards that recommendation to the Town Council.

Action: Moved by _____ 2nd by _____ Roll Call Vote _____

CONSENT AGENDA: All items listed on the consent calendar are considered to be routine matters or are considered formal documents covering previous Planning Commission instruction. The items listed on the consent calendar may be enacted by one motion and a second. There will be no separate discussion of the consent calendar items unless a member of the Planning Commission or Town Staff requests discussion on specific consent calendar items at the beginning of the meeting. Public requests to comment on consent calendar items should be filed with the Planning Commission Secretary before the consent calendar is called

1. MINUTES

A request that the Planning Commission approves as submitted the minutes of the meetings held on June 24, 2014 and July 8, 2014.

Action: Moved by _____ 2nd by _____ Roll Call Vote _____

STAFF REPORTS AND COMMENTS:

FUTURE AGENDA ITEMS:

COMMISSIONER REPORTS AND REQUESTS:

Commissioner Drozd
Commissioner Lavender
Commissioner Whitten
Vice Chairman Bridenstine
Chairman Humphreville

ANNOUNCEMENTS:

The next regular meeting of the Yucca Valley Planning Commission will be held on Tuesday, August 26, 2014

ADJOURN

Planning Commission: August 12, 2014
TOWN OF YUCCA VALLEY
COMMUNITY DEVELOPMENT DEPARTMENT
CURRENT PLANNING DIVISION STAFF REPORT
ALKARADSHEH

Case: ENVIRONMENTAL ASSESSMENT, EA-03-14
CONDITIONAL USE PERMIT, CUP-02-14, ALKARADSHEH

Request: REQUEST FOR APPROVAL FOR THE CHANGE IN USE OF AN EXISTING 1,800 SQUARE FOOT RESTAURANT BUILDING WITH OUTDOOR PATIO AREAS FROM A RESTAURANT TO A HOOKAH LOUNGE/RESTAURANT. THE HOOKAH LOUNGE IS OUTDOOR ONLY.

Applicant: MAKRAM ALKARADSHEH
7208 PALO ALTO, APT 5
YUCCA VALLEY, CA 92284

Property Owner:
TRAN PEW PIN
57345 29 PALMS HWY
YUCCA VALLEY, CA 92284

Representative:
MAKRAM ALKARADSHEH
7208 PALO A LOT, APT 5
YUCCA VALLEY, CA 92284

Location: THE PROJECT IS LOCATED AT 57345 29 PALMS HWY, ON THE SOUTH SIDE OF 29 PALMS HWY, APPROXIMATELY 400 FEET EAST OF JOSHUA LANE AND IS FURTHER IDENTIFIED AS APN: 595-192-04.

Existing General Plan Land Use Designation:
THE SITE IS DESIGNATED MIXED USE (MU)

Existing Zoning Designation:
THE SITE IS DESIGNATED GENERAL COMMERCIAL (C-G)

Surrounding General Plan Land Use Designations:
NORTH: MIXED USE (MU)
SOUTH: MIXED USE (MU)
WEST: MIXED USE (MU)
EAST: MIXED USE (MU)

Division Approvals:
Engineering _____ Building & Safety _____ Public Works _____

Surrounding Zoning Designations:

NORTH: GENERAL COMMERCIAL (C-G)
SOUTH: OFFICE COMMERCIAL (C-O)
WEST: GENERAL COMMERCIAL (C-G)
EAST: GENERAL COMMERCIAL (C-G)

Surrounding Land Use:

NORTH: MEDICAL OFFICE /VACANT LAND
SOUTH: VACANT LAND
WEST: VACANT LAND
EAST: RETAIL /OFFICE COMPLEX

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA):

THE PROJECT WAS REVIEWED UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA). THE PROJECT IS EXEMPT FROM CEQA UNDER SECTION 15303 CLASS 3, CONVERSION OF SMALL STRUCTURES.

OUTSIDE AGENCIES COMMENTS RECEIVED

SAN BERNARDINO COUNTY FLOOD CONTROL

SAN BERNARDINO COUNTY PUBLIC WORKS

MORONGO BAND OF MISSION INDIANS

COPIES OF ALL LETTERS ARE INCLUDED IN THE PACKET.

RECOMMENDATIONS:

ENVIRONMENTAL ASSESSMENT, EA 03-14

That the Planning Commission finds the project exempt from CEQA under section 15303, Class 3, conversion of small structures.

CONDITIONAL USE PERMIT, CUP 02-14:

That the Planning Commission approves Conditional Use Permit, CUP-2-14, based upon the findings and the Conditions of Approval.

Appeal Information:

Actions by the Planning Commission, including any finding that a negative declaration be adopted, may be appealed to the Town Council within 10 calendar days. Appeal Application filing and processing information may be obtained from the Planning Division of the Community Development Department. Per Section 83.030145 of the Development Code, minor modifications may be approved by the Planning Division if it is determined that the changes would not affect the findings prescribed in Section 83.030140 of the Development Code, Required Findings, and that the subject of the proposed changes were not items of public controversy during the review and approval of the original permit, including modifications to phasing schedules for the project.

I. GENERAL INFORMATION

PROJECT DESCRIPTION. The applicant is requesting approval to change the use of an existing 1,800 square foot building with an outdoor patio from a restaurant to a hookah lounge /restaurant. The hookah lounge portion of the project is located on an exterior patio to the rear of the building. Access to the hookah lounge is from the inside of the restaurant.

LOCATION: The project is located at 57345 29 Palms Hwy, on the south side of 29 Palms Hwy, approximately 400 feet east of Joshua Lane, and is further identified as APN: 595-192-04.

PROJECT SYNOPSIS:

SITE COVERAGE

PROJECT AREA

0.35 acre

BUILDING AREA

1,800 square feet existing building and approximately 1000 square feet of patio

PHASED CONSTRUCTION:

No

FLOOD ZONE

Map 8860 zone X, areas determined to be outside the 0.2% annual chance floodplain

ALQUIST PRIOLO ZONE

Yes

OFF-SITE IMPROVEMENTS REQ.

No

ASSESSMENT DISTRICTS REQ.

No

RIGHT-OF-WAY DEDICATION REQ.

No

UTILITY UNDERGROUNDING:

All new service lines shall be underground in conformance to Ordinance No. 233, or as amended by the Town Council

AIRPORT INFLUENCE AREA:

Located inside the Airport Influence area.

TRAILS & BIKE LANE MASTER PLAN

No facilities on or adjacent to the project.

PUBLIC FACILITY MASTER PLAN	No facilities on or adjacent to the project.
PARKS AND RECREATION MASTER PLAN	No public facilities are identified for this site.
MASTER PLAN OF DRAINAGE:	No facilities on or adjacent to the project,
EROSION AND SEDIMENT CONTROL PLAN REQUIRED	No
STREET LIGHTS:	No
SPECIFIC PLAN/ PLANNED DEVELOPMENT AREA:	No
FUTURE PLANNING COMMISSION ACTION REQUIRED	No
FUTURE TOWN COUNCIL ACTION REQUIRED	No, unless appealed

II. PROJECT ANALYSIS

General:

At the Planning Commission meeting of June 17, 2008, the Planning Commission issued a Development Code Interpretation that hookah lounges were allowed in the General Commercial zone. Minutes from that Planning Commission meeting are attached. At that time, the Commission did not have in their discussions differentiation between indoor vs. outdoor hookah lounges. Therefore staff requested the applicant to file a Conditional Use Application so that this matter could be brought to the Planning Commission for consideration.

Without the inclusion of the hookah lounge, no planning approval of this proposed business would be required.

Information regarding hookah lounges or bars is attached to this staff report. In this particular application, the smoking of hookah is limited to the outdoor seating area (patio area). As such, state law does not prohibit smoking in this area. The Town has not adopted any local regulations in excess of those established at the state level.

The restaurant building contains approximately 1,800 square feet. A middle eastern menu is planned, and beer and wine will be served at the restaurant.

The outdoor patio area is accessed from inside the restaurant, to the screened patio.

ADJACENT LAND USES

The site is bounded by 29 Palm Hwy on the north. Across SR 62 to the north are a medical office and vacant lots. To the west and south are vacant lots and to the east is an office/retail complex.

Surrounding General Plan designations are Mixed Use (MU) and Zoning designations are General Commercial, except to the south of the project site, which is designated as Office Commercial (C-O). Retail development was anticipated and planned for on this project site with adoption of the General Plan, and the development meets and satisfies the goals, policies and implementation strategies of the General Plan. General retail and service oriented commercial uses are anticipated in these areas, and the proposed use identified in CUP 02-14 is consistent with the desired development pattern within the Town.

SITE CHARACTERISTICS, GRADING, SETBACKS

The property is an existing 1,800 square foot restaurant with a fenced rear patio.

Setback Area:	Required	Existing Building
North	15'	120'
South	15'	80'
East	10'	0'
West	10'	20'

The Development Code allows for a maximum 60% of the lot to be covered with building area. As proposed, the site is developed at approximately 18% lot coverage.

PHASING

There is no phasing proposed as the project is located on a developed property

BUILDING ELEVATIONS:

The existing structure is a wood framed with stucco, one story structure with a flat roof. No alterations are proposed to the building as part of the project.

CIRCULATION & PARKING

On site circulation as proposed includes two points of ingress/egress from 29 Palms Outer Hwy south. The property contains 22 parking spaces, including two ADA parking spaces, sufficient controls over left hand turn movements into/out of the facility, and on-site circulation meeting Town and Fire Department standards. Internal circulation provides access to required parking. Staff finds the project adequately parked and

consistent with the Development Code. A condition of approval has been included to restripe the parking area.

FLOOD CONTROL/DRAINAGE

The property is located within FEMA flood zone X, areas determined to be outside the 0.2% annual chance floodplain.

UTILITIES:

All new service lines shall be underground in conformance with Ordinance No. 233.

Each utility provider charges connection and service fees which are designed to include the need for additional facilities as growth occurs. The project applicant will be required to go through each utility company permitting processes, including SCE for street lighting.

Electrical services are provided by Southern California Edison. Natural gas services are provided to by The Gas Company. The Hi-Desert Water District (HDWD, District) serves the Town of Yucca Valley. Solid waste services are provided by Burrtec Inc. The Town of Yucca Valley requires mandatory solid waste services and the project will be served by Burrtec.

LANDSCAPING:

The project is located on an existing restaurant site and no additional landscaping is being required.

WALLS/FENCES

The hookah lounge portion of the project is to be located on the rear patio. The rear patio is screened on the west and south sides by a wrought iron fence. The north and east sides of the patio are screened by building walls.

ENVIRONMENTAL CONSIDERATIONS

The project was reviewed under the California Environmental Quality Act (CEQA). The project is exempt from CEQA under Section 15303, Class 3, conversion of small structures.

GENERAL PLAN CONSIDERATION

The project is designated Mixed Use (MU). This designation is intended to allow highly integrated commercial, residential and office uses that facilitate pedestrian access and walkability.

The General Plan supports this project through the following goals and policies:

Policy LU 1-1

Encourage infill development to maximize the efficiency of existing and planned public services, facilities and infrastructure.

Policy LU 1-4

Encourage the development of public spaces within commercial mixed use and residential projects to contribute to the community's stock of gathering places and special event venues.

Policy LU 1-17

Encourage the renovation of existing commercial and industrial areas to improve appearance, environmental responsiveness, use of infrastructure and functionality.

CONCLUSION

Based upon the facts on the record, the project is consistent with the General Plan, the Development Code, and the Town's master plans. Commercial based development was anticipated and planned for on this project site with adoption of the General Plan, and the development meets and satisfies the goals, policies and implementation strategies of the General Plan. The project, as designed, meets all requirements of the Development Code and no variances or deviations from adopted standards are required for approval.

CONDITIONAL USE PERMIT FINDINGS:

- 1. That the location, size, design, density and intensity of the proposed development is consistent with the General Plan, the purpose of the land use district in which the site is located, and the development policies and standards of the Town;**

The site is bounded by 29 Palms Hwy to the north. Across SR 62 to the north are a medical office and vacant lots. To the east of the project is a retail /office complex and to the west and south are vacant lots. Surrounding General Plan designations are Mixed Use (MU). Surrounding zoning designations are all General Commercial, except to the south of the project site, which is designated as Office Commercial (C-O). Commercial based development was anticipated and planned for on this project site with adoption of the General Plan, and the development meets and satisfies the goals, policies and implementation strategies of the General Plan. General retail and service oriented commercial uses are anticipated in these areas, and the proposed uses identified in CUP-02-14 is consistent with the desired development pattern within the Town. The project is developed well below the maximum lot coverage of 60%, and all setbacks for the General Commercial district are met and exceeded, as outlined in this staff report.

- 2. That the location, size, design and architectural design features of the proposed structures and improvements are compatible with the site's natural landform, surrounding sites, structures and streetscapes;**

The project is located on a developed site with an existing wood framed with stucco, one story structure with a flat roof. No alterations are proposed to the building as part of the project.

- 3. That the proposed development produces compatible transitions in the scale, bulk, coverage, density and character of the development between adjacent land uses;**

The project is located on a developed site with an existing wood framed with stucco, one story structure with a flat roof. No alterations are proposed to the building as part of the project

The project is developed below the maximum lot coverage of 60%, and all setbacks for the General Commercial District are met and exceeded, as outlined in this Staff Report. The site is surrounding by 29 Palms Hwy to the north, vacant land to the west and south and a commercial building to the east.

- 4. That the building site and architectural design is accomplished in an energy efficient manner;**

The project is located on a developed site with an existing wood framed with stucco, one story structure with a flat roof. No alterations are proposed to the building as part of the project

The project is developed below the maximum lot coverage of 60%, and all set-backs for the General Commercial District are met and exceeded, as outlined in this Staff Report. The site is surrounding by 29 Palms Hwy to the north, vacant land to the west and south and a commercial building to the east The site has been developed consistent with adopted set back and building height standards, allowing opportunities to maximize energy efficiency and conservation measures..

- 5. That the materials, textures and details of the proposed construction, to the extent feasible, are compatible with the adjacent and neighboring structures;**

The project is located on a developed site with an existing wood framed with stucco, one story structure with a flat roof. No alterations are proposed to the building as part of the project

- 6. That the development proposal does not unnecessarily block views from other buildings or from public ways, or visually dominate its surroundings with respect to mass and scale to an extent unnecessary and inappropriate to the use;**

The project is located on a developed site with an existing wood framed with stucco, one story structure with a flat roof. No alterations are proposed to the building as part of the project

- 7. That the amount, location, and design of open space and landscaping conforms to the requirements of the Development Code, enhances the visual appeal and is compatible with the design and functions of the structure(s), site and surrounding area;**

The project is located on an existing restaurant site and no additional landscaping is being required.

- 8. That there are existing public facilities, services, and utilities available at the appropriate levels and/or that new or expanded facilities, services and utilities shall be required to be installed at the appropriate time to serve the project as they are needed;**

The project is located on a developed parcel and utilities are existing on the project site.

Each utility provider charges connection and service fees which are designed to include the need for additional facilities as growth occurs. The project applicant will be required to pay these fees as applicable.

Electrical services are provided by Southern California Edison. Natural gas services are provided to by The Gas Company. The Hi-Desert Water District (HDWD, District) serves the Town of Yucca Valley. Solid waste services are provided by Burrtec Inc. The Town of Yucca Valley requires mandatory solid waste services and the project will be served by Burrtec. Verizon facilities are not indicated on the schematic utility plan, but are available to the site.

- 9. That access to the site and circulation on and off-site is required to be safe and convenient for pedestrians, bicyclists, equestrians and motorists;**

On site circulation as proposed includes two points of ingress/egress from 29 Palms Outer Hwy south. The property contains 22 parking spaces, including two ADA parking spaces, sufficient controls over left hand turn movements into/out of the facility, and on-site circulation meeting Town and Fire Department standards. Internal circulation provides access to required parking. Staff finds the project adequately parked and consistent with the Development Code.

- 10. That traffic generated from the proposed project has been sufficiently addressed and mitigated and will not adversely impact the capacity and physical character of surrounding streets;**

The project was reviewed under the California Environmental Quality Act (CEQA). The project is exempt from CEQA under Section 15303, Class 3, conversion of small structures.

No negative impacts created by the project have been identified, including traffic impacts.

11. **That traffic improvements and/or mitigation measures have been applied or required in a manner adequate to maintain a Level of Service D or better on arterial roads, where applicable, and are consistent with the Circulation Element of the Town General Plan;**

The project was reviewed under the California Environmental Quality Act (CEQA). The project is exempt from CEQA under Section 15303, Class 3, conversion of small structures.

No negative impacts created by the project have been identified, including traffic impacts.

12. **That there will not be significant harmful effects upon environmental quality and natural resources including endangered, threatened, rare species, their habitat, including but not limited to plants, fish, insects, animals, birds or reptiles;**

The project was reviewed under the California Environmental Quality Act (CEQA). The project is exempt from CEQA under Section 15303, Class 3, conversion of small structures.

No negative impacts created by the project have been identified, including biological resources.

13. **That there are no other relevant or anticipated negative impacts of the proposed use that cannot be mitigated and reduced to a level of non-significance in conformance with CEQA, the California Environmental Quality Act;**

The project was reviewed under the California Environmental Quality Act (CEQA). The project is exempt from CEQA under Section 15303, Class 3, conversion of small structures.

No negative impacts created by the project have been identified.

14. **That the impacts which could result from the proposed development, and the proposed location, size, design and operating characteristics of the proposed development, and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety and welfare of the community or be materially injurious to properties or improvements in the vicinity or be contrary to the adopted General Plan; and**

The project was reviewed under the California Environmental Quality Act (CEQA). The project is exempt from CEQA under Section 15303, Class 3, conversion of small structures.

No negative impacts created by the project have been identified.

15. **That the proposed development will comply with each of the applicable provisions of this code, and applicable Town policies; except approved variances.**

The project, as designed, complies with the standards and requirements set forth in the Yucca Valley Development Code and the adopted General Plan policies, as identified and set forth in this Staff Report.

Attachments:

1. Standard Exhibits
2. Application materials
3. Site Plan & Elevations
4. Agency comments
5. Notice of Exemption

**TOWN OF YUCCA VALLEY
CONDITIONS OF APPROVAL
ENVIRONMENTAL ASSESSMENT, EA 03-14
CONDITIONAL USE PERMIT, CUP 02-14
ALKARADSHEH**

This approval is for Conditional Use Permit, CUP 02-14 a request to change the use of an existing 1,800 square foot building with an outdoor patio from a restaurant to a hookah lounge /restaurant. The hookah lounge portion of the project is located on an exterior patio to the rear of the building. Access to the hookah lounge is from the inside of the restaurant.

The project is located at 57345 29 Palms Hwy and is identified as APN: 595-192-04.

GENERAL CONDITIONS

- G1. The applicant shall agree to defend, indemnify and hold harmless the Town of Yucca Valley, its agents, officers and employees, at his sole expense, against any action, claim or proceedings brought against the Town or its agents, officers or employees, to attack, set aside, void, or annul this approval or because of the issuance of such approval, or in the alternative, to relinquish such approval, in compliance with the Town of Yucca Valley Development Code. The applicant shall reimburse the Town, its agents, officers, or employees for any court costs, and attorney's fees which the Town, its agents, officers or employees may be required by a court to pay as a result of such action. The Town may, at its sole discretion, participate at its own expense in the defense of any such action but such participation shall not relieve applicant of his obligations under this condition. The Town shall promptly notify the applicant of any claim, action or proceedings arising from the Town's approval of this project, and the Town shall cooperate in the defense.
- G2. This Conditional Use Permit shall become null and void if the tentative tract map has not recorded within three (3) years of the Town of Yucca Valley date of approval. Extensions of time may be granted by the Planning Commission and/or Town Council, in conformance with the Town of Yucca Valley Development Code. The applicant is responsible for the initiation of an extension request.

CUP-02-14 Approval Date:	August 12, 2014
Expiration Date:	August 12, 2017

- G3. The applicant shall ascertain and comply with requirements of all State, County, Town and local agencies as are applicable to the project. These include, but are not limited to, County of San Bernardino Environmental Health Services, County of San Bernardino Transportation/Flood Control, County of San Bernardino Fire Department, Yucca Valley Building and Safety, Caltrans, High Desert Water

District, Airport Land Use Commission, California Regional Water Quality Control Board, Colorado River Region, the Federal Emergency Management Agency, MDAQMD-Mojave Desert Air Quality Management District, Community Development, Engineering, and all other Town and utility company requirements.

- G4. All conditions are continuing conditions. Failure of the applicant to comply with any or all of said conditions at any time may result in the revocation of any construction permits for the project.
- G5. No on-site or off-site work shall commence without obtaining the appropriate permits for the work required by the Town and the appropriate utilities. The approved permits shall be readily available on the job site for inspection by Town personnel.
- G6. The applicant shall pay all fees charged by the Town as required for application processing, plan checking, construction and/or inspection. The fee amounts shall be those which are applicable and in effect at the time work is undertaken and accomplished. Fees for entitlement prior to construction permits are based on estimated costs for similar projects. Additional fees may be incurred, depending upon the specific project. If additional fees for services are incurred, they must be paid prior to any further processing, consideration, or approval(s).
- G7. All improvements shall be inspected by the Town as appropriate. Any work completed without proper inspection may be subject to removal and replacement under proper inspection.
- G8. All refuse shall be removed from the premises in conformance with Yucca Valley Town Code 33.083.
- G9. During construction, if any, the applicant shall be responsible to sweep public paved roads adjacent to the project as necessary and as requested by the Town staff to eliminate any site related dirt and debris within the roadways. During business activities, the applicant shall keep the public right-of-way adjacent to the property in a clean and sanitary condition.
- G10. The applicant shall pay Development Impact Fees in place at the time of issuance of Building Permits.
- G11. At the time of permit issuance the applicant shall be responsible for the payment of fees associated with electronic file storage of documents
- G12. The Applicant shall reimburse the Town for the Town's costs incurred in monitoring the developer's compliance with the Conditions of Approval including, but not limited to, inspections and review of developer's operations and activities for compliance with all applicable dust and noise operations. This condition of approval is supplemental and in addition to normal building permit and public

improvement permits that may be required pursuant to the Yucca Valley Municipal Code.

- G13. Prior to the issuance of a Certificate of Occupancy for any habitable structure in each phase of the project, all improvements shall be constructed, final inspection performed, punch-list items completed, and all installations approved by the appropriate agency.
- G14. The site shall be developed in accordance with the approved plans on file with the Town of Yucca Valley, in accordance with the Conditions of Approval approved for the project, and in accordance with the General Plan and Development Code. Prior to any use of the project site or business activity being commenced thereon, all Conditions of Approval shall be completed to the satisfaction of the Town.
- G15. The applicant or the applicant's successor-in-interest shall be responsible for maintaining any undeveloped portion of the site in a manner that provides for the control of weeds, erosion and dust.
- G16. Violations of any condition or restriction or prohibition set forth in these conditions, including all approved construction plans, public and private, for this project and subject to the Town's overall project approval and these conditions of approval, shall subject the owner, applicant, developer or contractor(s) to the remedies as noted in the Municipal Code. In addition, the Town Engineer or Building Official may suspend all construction related activities for violation of any condition, restriction or prohibition set forth in these conditions until such time as it has been determined that all operations and activities are in conformance with these conditions.

PLANNING CONDITIONS

- P1. The development of the property shall be in conformance with FEMA requirements and the Town's Floodplain Management Ordinance requirements. Adequate provision shall be made to intercept and conduct the existing tributary drainage flows around or through the site in a manner that will not adversely affect adjacent or downstream properties at the time the site is developed. Protection shall be provided by constructing adequate drainage facilities, including, but not limited to modifying existing facilities or by securing a drainage easement.
- P2. All exterior lighting shall comply with the Ordinance 90, Outdoor Lighting and shall be illustrated on all construction plans.

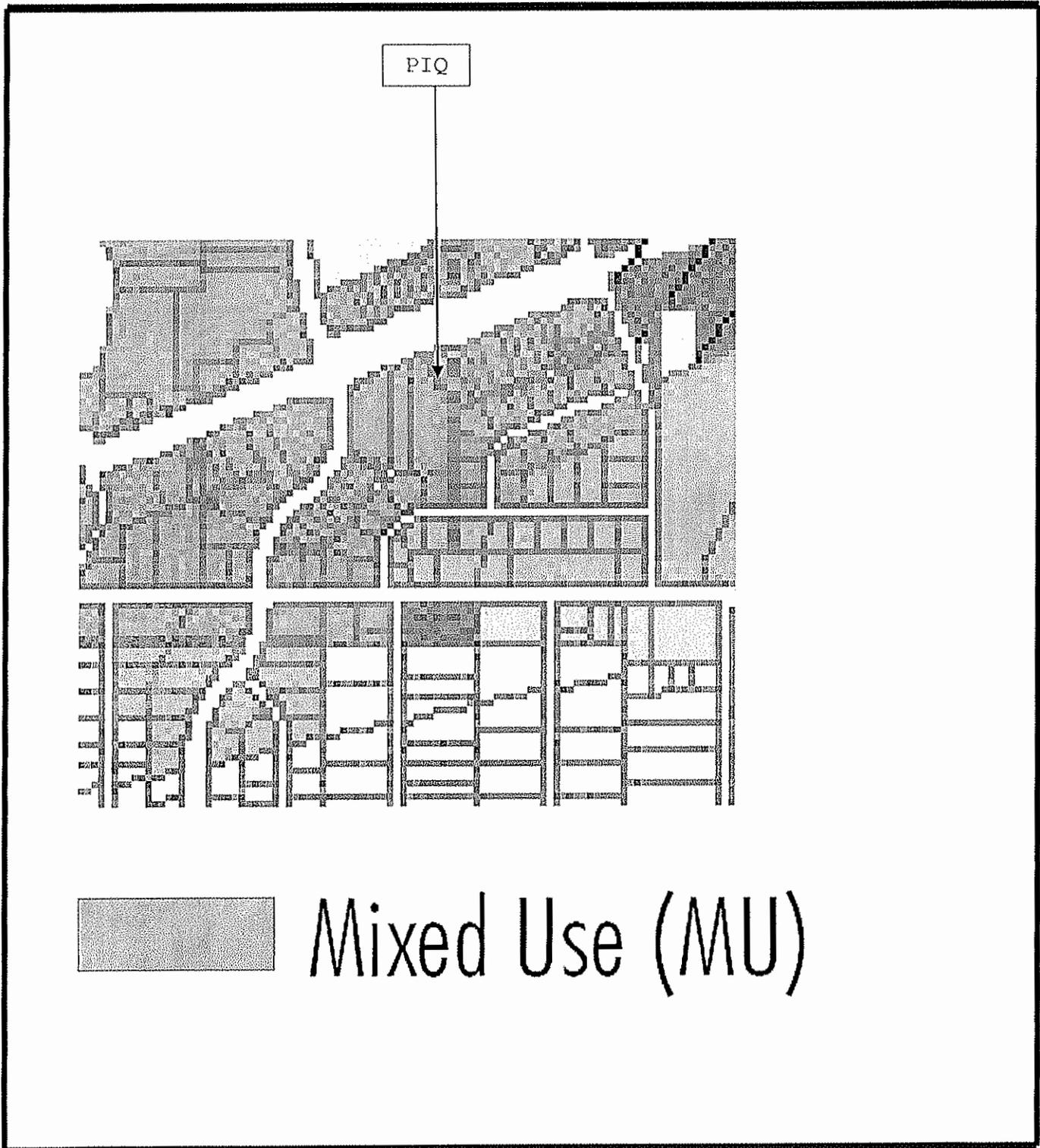
- P3. Hours of operation shall be 10 am to 1 am.
- P4. All patrons of the hookah lounge shall be at least 18 years or older.
- P5. The business shall be operated in a manner that conforms to all requirements of California Labor Code Section 6404.5.
- P6. Only tobacco-based projects shall be sold or smoked in the hookah lounge. No other substances shall be smoked, sold or distributed, including but not limited to, marijuana.
- P7. There shall be no smoking within ten (10) feet of any doors or windows
- P8. Should calls for law enforcement increase due to the establishment of the business, the applicant may be required to provide security subject to approval by the Chief of Police.
- P9. There shall be no live entertainment permitted on the premises at any time without modifications to the Conditional Use Permit by the Planning Commission.
- P10. The applicant shall take whatever steps are necessary to prohibit customers from loitering or smoking in front of the establishment.
- P11. The Town shall periodically review the operation for potential impacts to the surrounding properties and neighborhood. If impacts including, but not limited to, public drunkenness, the illegal sale or use of narcotics, drugs or alcohol, lewd and/or disorderly conduct, noise in excess of established Development Code standards, and disturbing the peace result from the proposed land use, the Conditional Use Permit will be scheduled for Planning Commission consideration of amendments to and/or revocation of the Conditional Use Permit.
- P12. The outside patio fence shall be prohibited from displaying any type of signage.
- P13. The outside patio gate shall only be operable from inside the hookah lounge.

I HEREBY CERTIFY THAT THE APPROVED CONDITIONS OF APPROVAL WILL BE SATISFIED PRIOR TO OR AT THE TIMEFRAMES SPECIFIED AS SHOWN ABOVE. I UNDERSTAND THAT FAILURE TO SATISFY ANY ONE OF THESE CONDITIONS WILL PROHIBIT THE ISSUANCE OF ANY PERMIT OR ANY FINAL MAP APPROVAL.

Applicant's Signature _____ Date _____

TOWN OF YUCCA VALLEY

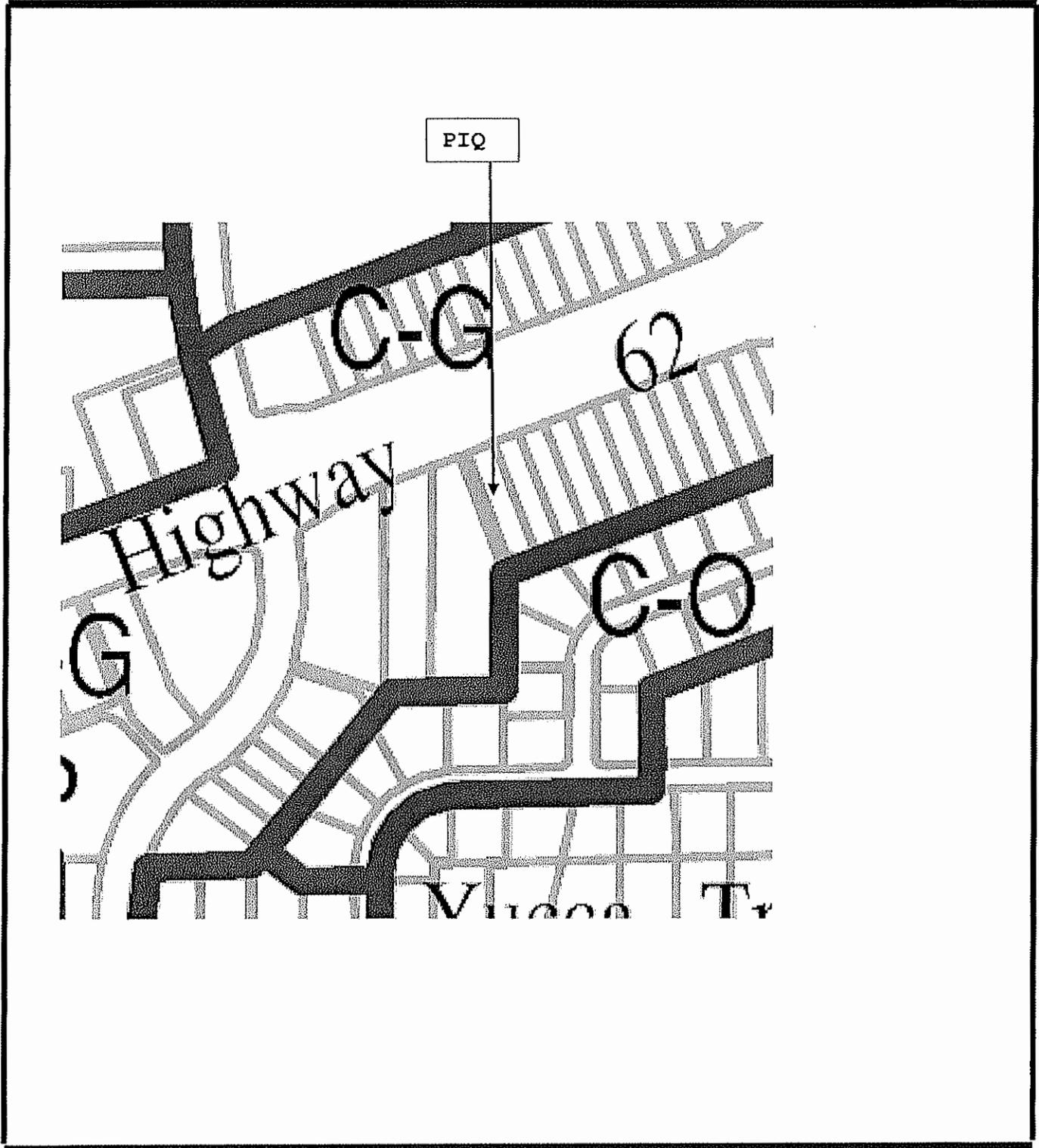
PROJECT NO.: CONDITIONAL USE PERMIT, CUP 02-14 ALKARADSHEH



GENERAL PLAN LAND USE MAP

TOWN OF YUCCA VALLEY

PROJECT NO.: CONDITIONAL USE PERMIT, CUP 02-14 ALKARADSHEH



ZONING MAP

TOWN OF YUCCA VALLEY

PROJECT NO.: CONDITIONAL USE PERMIT, CUP 02-14 ALKARADSHEH



AERIAL PHOTO

TOWN OF YUCCA VALLEY

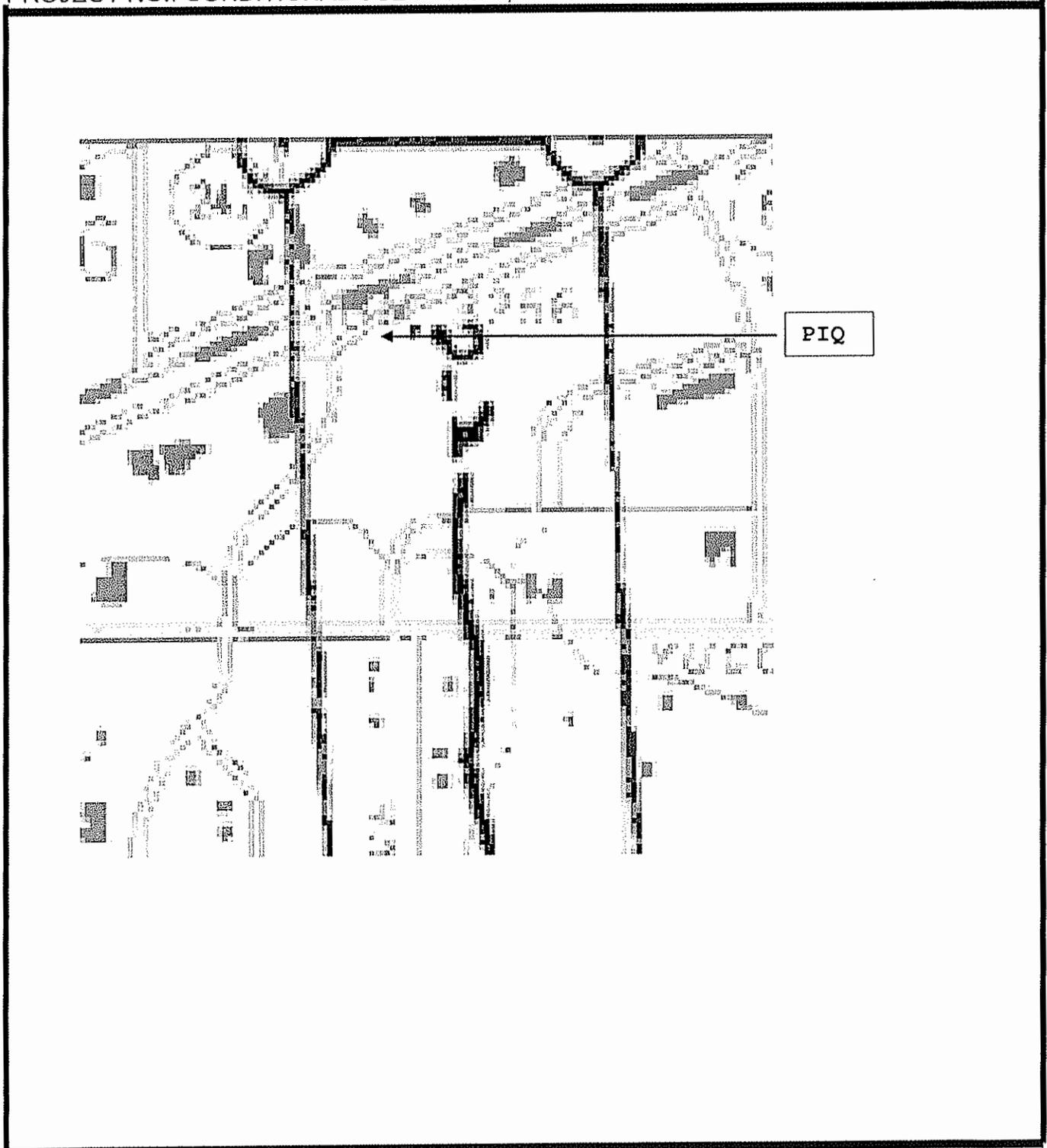
PROJECT NO.: CONDITIONAL USE PERMIT, CUP 02-14 ALKARADSHEH



FEMA FLOOD MAP-ZONE X, MAP 8860

TOWN OF YUCCA VALLEY

PROJECT NO.: CONDITIONAL USE PERMIT, CUP 02-14 ALKARADSHEH



ALQUIST PRIOLO MAP

Notice of Exemption

Form D

To: Office of Planning and Research
PO Box 3044, 1400 Tenth Street, Room 222
Sacramento, CA 95812-3044

From: (Public Agency) Town of Yucca Valley
58928 Business Center Drive
Yucca Valley, CA 92284
(Address)

County Clerk
County of San Bernardino
385 N. Arrowhead, 2nd Flr.
San Bernardino, CA. 92415

Project Title: Conditional Use Permit, CUP 02-14 Alkaradsheh

Project Location - Specific:

The project is at 57345 29 Palms Hwy and is identified as APN:595-192-04.

Project Location - City: Yucca Valley Project Location - County: San Bernardino

Description of Project:

A proposal to convert and existing restaurant into a hookah lounge/restaurant.

Name of Public Agency Approving Project: Town of Yucca Valley

Name of Person or Agency Carrying Out Project: Makram Alkaradsheh

Exempt Status: (check one)

- Ministerial (Sec. 21080(b)(1); 15268);
- Declared Emergency (Sec. 21080(b)(3); 15269(a));
- Emergency Project (Sec. 21080(b)(4); 15269(b)(c));
- Categorical Exemption. State type and section number: Section 15303 Class 3 conv of small struct
- Statutory Exemptions. State code number: _____

Reasons why project is exempt:

The project is located at an existing facility and no expansion of the existing building is proposed.

Lead Agency

Contact Person: Shane Stueckle Area Code/Telephone/Extension: (760) 369-6575 X305

If filed by applicant:

1. Attach certified document of exemption finding.
2. Has a Notice of Exemption been filed by the public agency approving the project? Yes No

Signature: _____ Date: _____ Title: _____

- Signed by Lead Agency Date received for filing at OPR: _____
- Signed by Applicant

Revised May 1999

To: Whom it may concern.

Dear

The buyer Makram (Mark) Karadsheh (I myself) is applying for a conditional use permit to open a Middle Eastern Restaurant and Hookah Lounge, in what is currently Chen's Chinese Restaurant. The restaurant will feature Middle Eastern food including: BBQ kebabs, Falafel, Hummus, Tabouleh, Salads etc. There will also be a special menu for vegetarians to meet the healthy people needs. Included in the offerings will be an assortment of exotic, natural juice drinks, Turkish coffee, etc.

Very popular in other parts of the world. I'm making plans to bring a head chef from a prominent hotel in Amman, Jordan who has expertise in not only Middle Eastern fare but European Continental cuisine as well. In addition, he was a chef at the American Embassy in Amman.

The restaurant will be open for lunch and dinner. The Hookah Lounge will be outside on the extensive patio area that is currently not being used. Hookah-Lounges are one of the hottest up and coming businesses in the United States "Hookah is flavored tobacco smoked from a water pipe which is smoother because of the water filtration", usually people who don't smoke will not have any problems smoking hookah. It is not inhaled and is a very socially appealing experience.

Hours of operation for both the restaurant and Hookah lounge will be approximately from 10:00 am – 1:00 am. Mr. Makram anticipates hiring about 16 employees.

Our belief that this type of project will help the prosperity of the region and find an outlet for young people to enjoy their time.

Makram Karadsheh



Conditional Use Permit Application

Date Received	07/15/14
By	
Fee	2745
Case #	CUP-02-14
EA #	03-14

General Information

APPLICANT MAKRAM ALKARADSHET ⁹⁰⁹ Phone 362-6693 Fax ---

Mailing Address 7208 PALO ALTO ^{APT. 5} Email makramsami2@gmail.com

City YUCCA VALLEY State 760 Zip 760

REPRESENTATIVE KOLLEEN LAMB ⁷⁶⁰ Phone 221-4774 Fax 365-8883

Coldwell BANKER, REALTOR FOR PURCHASE OF PROPERTY

Mailing Address 7231 DUMOSA AVE Email KolleenLamb@aol.com
STR 2

City Y.V. State 760 ZIP 760

PROPERTY OWNER TRAN PEW-PIN ⁷⁶⁰ Phone 369-9566 Fax NA

OHON'S CHINESE RESTAURANT

Mailing Address 57345 29 PALMS HWY Email NA

City Y.V. State 760 Zip 760

Project Information

Project Address 57345 29 PALMS HWY Assessor Parcel Number(s) 059519204

Project Location NEXT TO STAR MARKET

Project Description: HOOKAH LOUNGE + MIDDLE EASTERN
FOOD RESTAURANT + Beer & Wine

Please attach any additional information that is pertinent to the application.

Town of Yucca Valley
 Community Development Department
 Planning Division
 58928 Business Center Dr
 Yucca Valley, CA 92284
 760 369-6575 Fax 760 228-0084
www.yucca-valley.org

Environmental Assessment

1. Property boundaries, dimensions and area (also attach an 8 1/2 x 11" site plan):

SEE ATTACHED PROPERTY PROFILE

2. Existing site zoning: ^{COMM} RETAIL 3. Existing General Plan designation: _____

4. Precisely describe the existing use and condition of the site: CHINESE RESTAURANT + GOOD CONDITION

5. Existing Zoning of adjacent parcels:

North _____ South _____ East _____ West _____

6. Existing General Plan designation of adjacent parcels:

North _____ South _____ East _____ West _____

7. Precisely describe existing uses adjacent to the site: VACANT LOTS BEHIND ON SOUTH + WEST - ANGIE'S UNIFORMS

8. Describe the plant cover found on the site, including the number and type of all protected plants: ONE JOSHUA TREES ON BACK PATIO, ~~ROCKS~~

Note: Explain any "Yes" or "Maybe" responses to questions below. If the information and responses are insufficient or not complete, the application may be determined incomplete and returned to the applicant.

Yes Maybe No

9. Is the Site on filled or slopes of 15% or more or in a canyon? (A geological and/or soils Investigation report is required with this application.)

DON'T KNOW

10. Has the site been surveyed for historical, paleontological or archaeological resources? (If yes, a copy of the survey report is to accompany this application.)

DON'T KNOW

11. Is the site within a resource area as identified in the archaeological and historical resource element?

12. Does the site contain any unique natural, ecological, or scenic resources?

13. Do any drainage swales or channels border or cross the site?

14. Has a traffic study been prepared? (If yes, a copy of the study is to accompany this application.)

15. Is the site in a flood plain? (See appropriate FIRM)

Project Description

Complete the items below as they pertain to your project. Attach a copy of any plans submitted as part of the project application and any other supplemental information that will assist in the review of the proposed project pursuant to CEQA.

1. Commercial, Industrial, or Institutional Projects:

- A. Specific type of use proposed: HOOKAH LOUNGE + RESTAURANT
- B. Gross square footage by each type of use: 1500 BLDG + BACK + SIDE PATIOS - APPROX 1100 DINING + SMOKING AREA
- C. Gross square footage and number of floors of each building: 1800 sq. ft SINGLE STORY
- D. Estimate of employment by shift: 4
- E. Planned outdoor activities: POSSIBLE USE OF PATIOS FOR HOOKAHS + DINING

2. Percentage of project site covered by:

00 % Paving, 20 % Building, .05 % Landscaping, 65 % Parking

3. Maximum height of structures 20 ft. _____ in.

4. Amount and type of off street parking proposed: ALREADY EXISTS

5. How will drainage be accommodated? EXISTING

6. Off-site construction (public or private) required to support this project:

NONE

7. Preliminary grading plans estimate NA cubic yards of cut and NA cubic yards of fill

8. Description of project phasing if applicable: NA

9. Permits or public agency approvals required for this project: X

10. Is this project part of a larger project previously reviewed by the Town? If yes, identify the review process and associated project title(s) _____

NO

11. During construction, will the project: (Explain any "yes" or "maybe" responses to questions below – attach extra pages if necessary.)

Yes Maybe No

- A. Emit dust, ash, smoke, fumes or odors?
- B. Alter existing drainage patterns?
- C. Create a substantial demand for energy or water?
- D. Discharge water of poor quality?
- E. Increase noise levels on site or for adjoining areas?
- F. Generate abnormally large amounts of solid waste or litter?
- G. Use, produce, store, or dispose of potentially hazardous materials such as toxic or radioactive substances, flammable or explosives?
- H. Require unusually high demands for such services as police, fire, sewer, schools, water, public recreation, etc.
- I. Displace any residential occupants?

Certification

I hereby certify that the information furnished above, and in the attached exhibits, is true and correct to the best of my knowledge and belief.

Signature: Makram Sami Date: 7/15/2014

Owner/Applicant Authorization

Applicant/Representative: I/We have reviewed this completed application and the attached material. The information included with this application is true and correct to the best of my/our knowledge. I/We further understand that the Town may not approve the application as submitted, and may set conditions of approval. Further, I/We understand that all documents, maps, reports, etc., submitted with this application are deemed to be public records. This application does not guarantee approval or constitute a building permit application. Additional fees may be required depending on additional administrative costs.

Signed: Melkran S...
Date: 7/15/2014

Property Owner: I/We certify that I/We are presently the legal owner(s) of the above described property (If the undersigned is different from the legal property owner, a letter of authorization must accompany the form). Further, I/We acknowledge the filing of this application and certify that all of the above information is true and accurate. I/We understand that I/We are responsible for ensuring compliance with conditions of approval. I/We hereby authorize the Town of Yucca Valley and or/its designated agent(s) to enter onto the subject property to confirm the location of existing conditions and proposed improvements including compliance with applicable Town Code Requirements. Further, I/We understand that all documents, maps, reports, etc., submitted with this application are deemed to be public records. This application does not guarantee approval or constitute a building permit application. Additional fees may be required depending on additional administrative costs. I am hereby authorizing

to act as my agent and is further authorized to sign any and all documents on my behalf.

Signed: Melkran S...
Dated: 7/15/2014

Agreement to Pay All Development Application Fees

In accordance with Town Council Resolution 04-38 the Town collects certain fees based on the actual cost of providing service. The application deposit for this project (as indicated below) may not cover the total cost of processing this application. I/We are aware that if the account has 25% or less remaining prior to completion of the project, staff will notify the undersigned in writing, of the amount of additional deposit required to complete the processing of the application, based on Staff's reasonable estimate of the hours remaining to complete this application process.

Further, I understand that if I do not submit the required additional deposit to the Town within 15 business days from the date of notification by the Town, the Town will cease processing of the application and/ or not schedule the project for action by the Planning Commission or Town Council until the fees have been paid.

Any remaining deposit will be refunded to me at time of closeout after I have submitted any required approved project plans and forms, including signed conditions of approval, or upon my written request to withdraw the application.

As the applicant, I understand that I am responsible for the cost of processing this application and I agree that the actual costs incurred processing this application will be paid to the Town of Yucca Valley.

Deposit Paid: \$ 2765.00

Applicant's Signature Markman S Date: 7/15/2016

Applicants Name _____
(Please print)



SURROUNDING PROPERTY OWNERS LIST CERTIFICATION
(To be submitted with application)

I, _____, certify that on _____ the attached property owners list was prepared by _____ pursuant to the requirements of the Town of Yucca Valley. Said list is a complete compilation of the owner(s), applicant(s) and representative of the subject property and all owners of surrounding properties within a radius of _____ feet from all exterior boundaries of the subject property and is based on the latest equalized assessment rolls of the San Bernardino County Assessor's Office dated _____. I further certify that the information filed is true and correct to the best of my knowledge; I understand that incorrect and erroneous information may be grounds for rejection or denial of the development application.

Signed: Mokhammad S. Al Karadsho

Print Name: Mokhammad Al Karadsho Date: 7/15/2014

Developer Disclosure Statement

NA

This portion of the application must be fully completed and signed by the applicant. If not fully completed and signed, the application will be deemed incomplete.

Address of subject property: 57345 29 PALMS HWY, YV

Cross street: JOSHUA LANE

Date this Disclosure Statement is completed: _____

Name of Applicant: MAKRAM ALKARADSEH

The Applicant is a:

- Limited Liability Company (LLC)
- Partnership
- Corporation
- None of the above

Information for LLC, Partnership, Corporation

Name _____ Phone _____ Fax _____

Mailing Address _____ Email _____

City _____ State _____ Zip _____

State of Registration _____

Managing member(s), General Partner(s) officer(s)

Name _____ Phone _____ Fax _____

Mailing Address _____ Email _____

City _____ State _____ Zip _____

Attach additional sheets if necessary

Agent for Service of Process

Name _____ Phone _____ Fax _____

Mailing Address _____ Email _____

City _____ State _____ Zip _____

For Corporations, Shareholder with Fifty Percent or More Share or Controlling Shareholder

Name _____ Phone _____ Fax _____

Mailing Address _____ Email _____

City _____ State _____ Zip _____

The Owner is a:

- Limited Liability Company (LLC)
- Partnership
- Corporation
- None of the above

Information for LLC, Partnership, Corporation

Name _____ Phone _____ Fax _____

Mailing Address _____ Email _____

City _____ State _____ Zip _____

State of Registration _____

Managing member(s), General Partner(s) officer(s)

Name _____ Phone _____ Fax _____

Mailing Address _____ Email _____

City _____ State _____ Zip _____

Attach additional sheets if necessary

Agent for Service of Process

Name _____ Phone _____ Fax _____

Mailing Address _____ Email _____

City _____ State _____ Zip _____

For Corporations, Shareholder with Fifty Percent or More Share or Controlling Shareholder

Name _____ Phone _____ Fax _____

Mailing Address _____ Email _____

City _____ State _____ Zip _____

The Party in escrow is a (if property is in escrow):

- Limited Liability Company (LLC)
- Partnership
- Corporation
- None of the above

Information for LLC, Partnership, Corporation

Name _____ Phone _____ Fax _____

Mailing Address _____ Email _____

City _____ State _____ Zip _____

State of Registration _____

Managing member(s), General Partner(s) officer(s)

Name _____ Phone _____ Fax _____

Mailing Address _____ Email _____

City _____ State _____ Zip _____

Attach additional sheets if necessary

Agent for Service of Process

Name _____ Phone _____ Fax _____

Mailing Address _____ Email _____

City _____ State _____ Zip _____

For Corporations, Shareholder with Fifty Percent or More Share or Controlling Shareholder

Name _____ Phone _____ Fax _____

Mailing Address _____ Email _____

City _____ State _____ Zip _____

For any deeds of trust or other liens on the property (other than real property tax liens) please state the following:

A. Name of beneficiary of the deed of trust or lien _____

B. Date of the deed of trust or lien. _____

I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on the date and location set forth below

Makram S
Signature

Print Name: Makram Al Karadshie

Title: _____

Date of signing: 7/15/2014

Location: _____



HAZARDOUS WASTE SITE STATEMENT

I have been informed by the Town of Yucca Valley of my responsibilities, pursuant to California Government Code Section 65962.5, to notify the Town as to whether the site for which a development application has been submitted is located within an area which has been designated as the location of a hazardous waste site by the Office of Planning and Research, State of California (OPR).

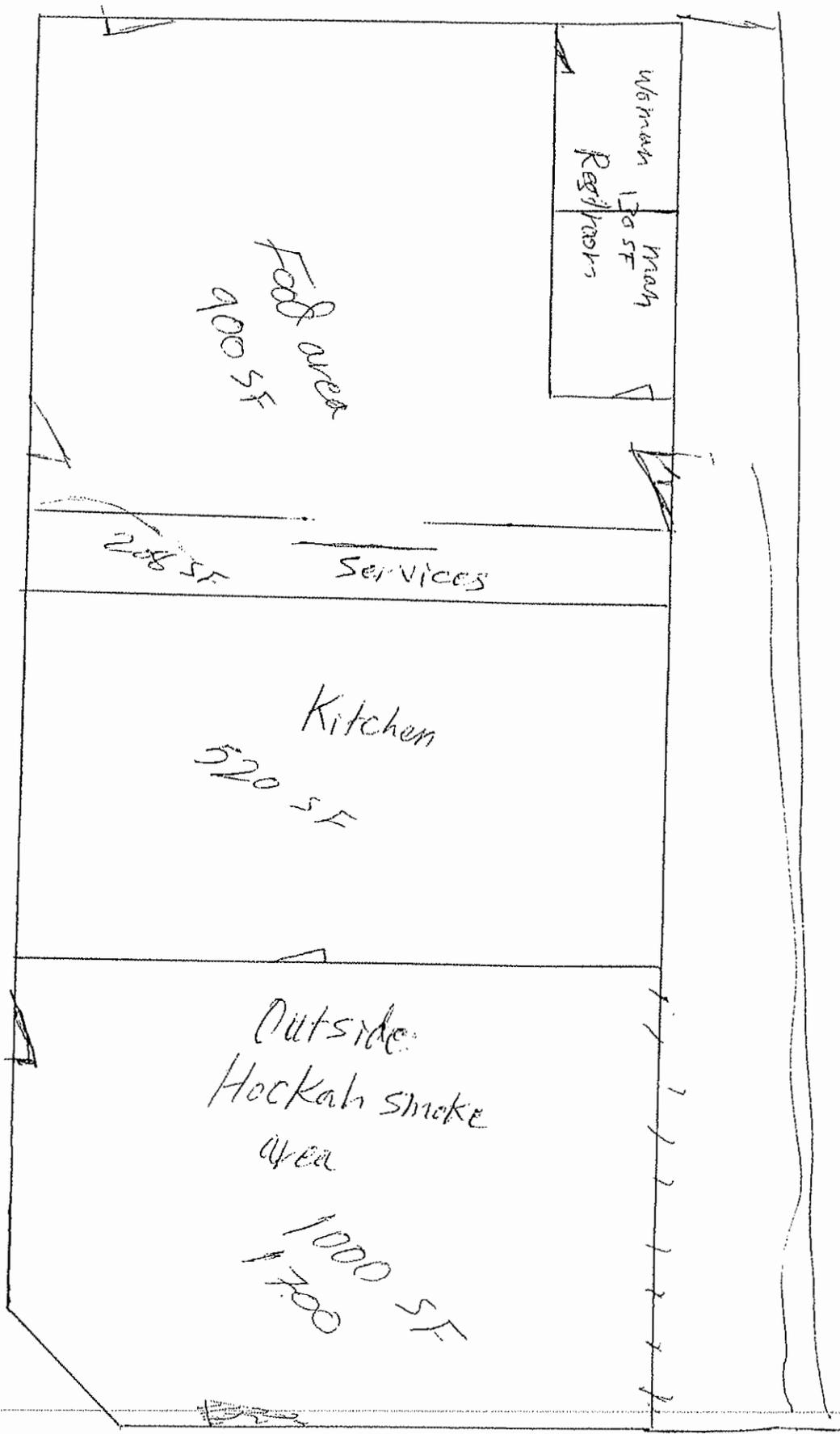
I am informed and believe that the proposed site, for which a development application has been submitted, is not within any area specified in said Section 65962.5 as a hazardous waste site.

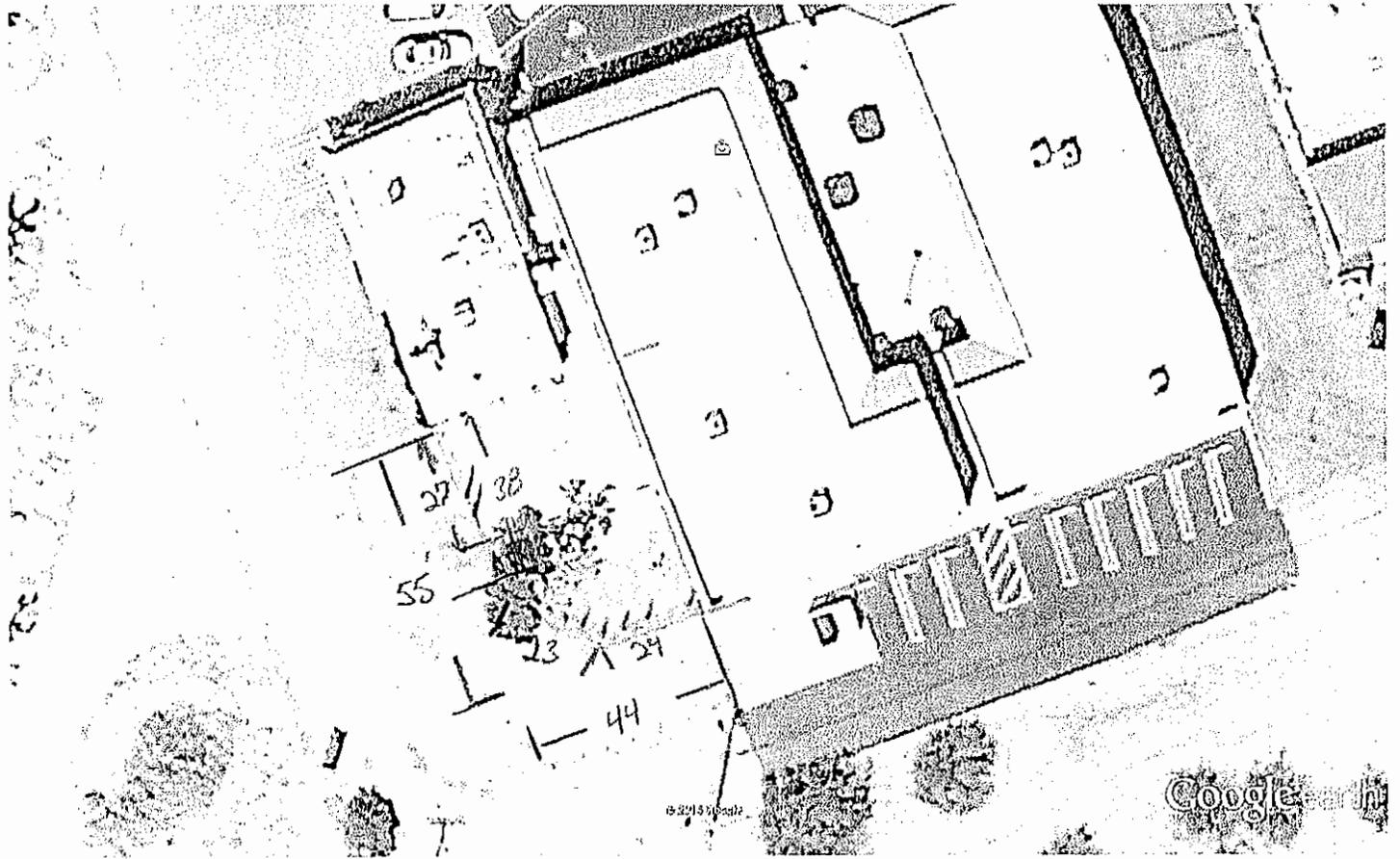
I declare under penalty of perjury of the laws of the State of California that the foregoing is true and correct.

Dated: 7/15/2014

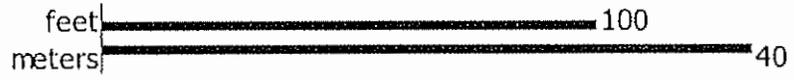
Makram Al-Sayid
Applicant/Representative printed name

Applicant/Representative signature





Google earth



Diane Olsen

From: Ali, Mohammad <mali@dpw.sbcounty.gov>
Sent: Wednesday, July 30, 2014 5:29 PM
To: Diane Olsen
Subject: RE: Town of Yucca Valley Conditional Use Permit

No impact to Flood Control District facilities. THx

From: Ali, Mohammad
Sent: Wednesday, July 30, 2014 5:16 PM
To: Truett, Michael
Subject: FW: Town of Yucca Valley Conditional Use Permit

Hi Mike,
Please respond to the Town. It appears a county road is being impacted. I do not see an impact to any existing FCD facility. Thx

From: Diane Olsen [<mailto:dolsen@YUCCA-VALLEY.ORG>]
Sent: Wednesday, July 30, 2014 3:42 PM
Subject: Town of Yucca Valley Conditional Use Permit

The Town of Yucca Valley is currently reviewing an application for a Conditional Use Permit for a hookah lounge/restaurant. Please review the attached materials and provide any comments/concerns. Please contact me if you have any questions.

Thank you,
Diane Olsen
Planning Technician
760-369-6575 x317

Diane Olsen

From: Truett, Michael <mtruett@dpw.sbcounty.gov>
Sent: Thursday, July 31, 2014 11:22 AM
To: Diane Olsen
Cc: Ali, Mohammad; Lam, Hoa
Subject: FW: Town of Yucca Valley Conditional Use Permit for RFC CUP 02-14 Alkaradsheh application

Hello Ms. Olsen,
The Transportation Operations/Permits Section has reviewed the information forwarded from Muhammad Ali and we find no County road right-of-way conflicts or concerns regarding this RFC CUP 02-14 Alkaradsheh application.



Michael Truett, P.E.
Permit Engineer
Permits/Operations Support Division
Department of Public Works
County of San Bernardino
mtruett@dpw.sbcounty.gov
(909) 387-7995

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

From: Ali, Mohammad
Sent: Wednesday, July 30, 2014 5:16 PM
To: Truett, Michael
Subject: FW: Town of Yucca Valley Conditional Use Permit

Hi Mike,
Please respond to the Town. It appears a county road is being impacted. I do not see an impact to any existing FCD facility. Thx

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Sent: Wednesday, July 30, 2014 3:42 PM
Subject: Town of Yucca Valley Conditional Use Permit

The Town of Yucca Valley is currently reviewing an application for a Conditional Use Permit for a hookah lounge/restaurant. Please review the attached materials and provide any comments/concerns. Please contact me if you have any questions.

Thank you,
Diane Olsen
Planning Technician
760-369-6575 x317

July 31, 2014

Diane Olsen, Planning Technician
Town of Yucca Valley
Community Development Public Works Department
58928 Business Center Drive
Yucca Valley, CA 92284

**SUBJECT: Request For Comments
Conditional Use Permit
CUP 02-14
Alkaradsheh**

Dear Ms. Olsen:

Thank you for contacting the Morongo Band of Mission Indians regarding the above referenced project. The Tribe greatly appreciates the opportunity to review the project and, respectfully, offer the following comments.

The project is outside of the Tribe's current reservation boundaries but within an area that may be considered a traditional use area or one in which the Tribe has cultural ties (e.g. Cahuilla/Serrano territory). Because the project involves a proposal for a Conditional Use Permit for the conversion of an existing 1,800 square foot restaurant to a hookah lounge/restaurant, to include the sale of beer and wine, with an outdoor patio area of approximately 1,000 square feet for the hookah lounge, the Morongo Band of Mission Indians asks that you impose specific conditions regarding cultural and/or archaeological resources and buried cultural materials on any development plans or entitlement applications as follows:

- If human remains are encountered during grading and other construction excavation, work in the immediate vicinity shall cease and the County Coroner shall be contacted pursuant to State Health and Safety Code §7050.5.
- In the event that Native American cultural resources are discovered during project development/construction, all work in the immediate vicinity of the find shall cease and a qualified archaeologist meeting Secretary of Interior standards shall be hired to assess the find. Work on the overall project may continue during this assessment period.

If significant Native American cultural resources are discovered, for which a Treatment Plan must be prepared, the developer or his

archaeologist shall contact the Morongo Band of Mission Indians ("Tribe")¹. If requested by the Tribe, the developer or the project archaeologist shall, in good faith, consult on the discovery and its disposition (e.g. avoidance, preservation, return of artifacts to tribe, etc.).

If I may be of further assistance with regard to this matter, please do not hesitate to contact me at your convenience.

Very truly yours,

MORONGO BAND OF MISSION INDIANS

Franklin A. Dancy,
Director of Planning

¹ The Morongo Band of Mission Indians realizes that there may be additional tribes claiming cultural affiliation to the area; however, Morongo can only speak for itself. The Tribe has no objection if the archaeologist wishes to consult with other tribes and if the city wishes to revise the condition to recognize other tribes.



Mojave Desert Air Quality Management District

14306 Park Avenue, Victorville, CA 92392-2310

760.245.1661 • fax 760.245.2699

Visit our web site: <http://www.mdaqmd.ca.gov>

Eldon Heaston, Executive Director

July 31, 2014

Ms. Diane Olsen, Planning Technician
Town of Yucca Valley
58928 Business Center Drive
Yucca Valley, CA 92284

Project: Conditional Use Permit, CUP 02-14 Alkaradsheh

Dear Ms. Olsen:

The Mojave Desert Air Quality Management District (District) has received the Request for Comments for Conditional Use Permit, CUP 02-14 Alkaradsheh. This is an application for the conversion of an existing 1,800 square foot restaurant to a hookah lounge/restaurant, to include the sale of beer and wine, with an outdoor patio area of approximately 1,000 square feet for the hookah lounge. The property is located at 57345 29 Palms Highway.

The District has reviewed the information provided and based on the information available to us at this time, we have no comments.

Thank you for the opportunity to review this planning document. If you have any questions regarding this letter, please contact me at (760) 245-1661, extension 6726, or Tracy Walters at extension 6122.

Sincerely,

Alan J. DeSalvo
Supervising Air Quality Engineer

AJD/tw

YV CUP 02 14 Alkaradsheh

RECEIVED

AUG 05 2014

TOWN OF YUCCA VALLEY
SOM DEV

California Labor Code 6404.5

6404.5. (a) The Legislature finds and declares that regulation of smoking in the workplace is a matter of statewide interest and concern. It is the intent of the Legislature in enacting this section to prohibit the smoking of tobacco products in all (100 percent of) enclosed places of employment in this state, as covered by this section, thereby eliminating the need of local governments to enact workplace smoking restrictions within their respective jurisdictions. It is further the intent of the Legislature to create a uniform statewide standard to restrict and prohibit the smoking of tobacco products in enclosed places of employment, as specified in this section, in order to reduce employee exposure to environmental tobacco smoke to a level that will prevent anything other than insignificantly harmful effects to exposed employees, and also to eliminate the confusion and hardship that can result from enactment or enforcement of disparate local workplace smoking restrictions. Notwithstanding any other provision of this section, it is the intent of the Legislature that any area not defined as a "place of employment" pursuant to subdivision (d) or in which the smoking of tobacco products is not regulated pursuant to subdivision (e) shall be subject to local regulation of smoking of tobacco products.

(b) No employer shall knowingly or intentionally permit, and no person shall engage in, the smoking of tobacco products in an enclosed space at a place of employment. "Enclosed space" includes lobbies, lounges, waiting areas, elevators, stairwells, and restrooms that are a structural part of the building and not specifically defined in subdivision (d).

(c) For purposes of this section, an employer who permits any nonemployee access to his or her place of employment on a regular basis has not acted knowingly or intentionally in violation of this section if he or she has taken the following reasonable steps to prevent smoking by a nonemployee:

(1) Posted clear and prominent signs, as follows:

(A) Where smoking is prohibited throughout the building or structure, a sign stating "No smoking" shall be posted at each entrance to the building or structure.

(B) Where smoking is permitted in designated areas of the building or structure, a sign stating "Smoking is prohibited except in designated areas" shall be posted at each entrance to the building or structure.

(2) Has requested, when appropriate, that a nonemployee who is smoking refrain from smoking in the enclosed workplace.

For purposes of this subdivision, "reasonable steps" does not include (A) the physical ejection of a nonemployee from the place of employment or (B) any requirement for making a request to a

nonemployee to refrain from smoking, under circumstances involving a risk of physical harm to the employer or any employee.

(d) For purposes of this section, "place of employment" does not include any of the following:

(1) Sixty-five percent of the guestroom accommodations in a hotel, motel, or similar transient lodging establishment.

(2) Areas of the lobby in a hotel, motel, or other similar transient lodging establishment designated for smoking by the establishment. An establishment may permit smoking in a designated lobby area that does not exceed 25 percent of the total floor area of the lobby or, if the total area of the lobby is 2,000 square feet or less, that does not exceed 50 percent of the total floor area of the lobby. For purposes of this paragraph, "lobby" means the common public area of an establishment in which registration and other similar or related transactions, or both, are conducted and in which the establishment's guests and members of the public typically congregate.

(3) Meeting and banquet rooms in a hotel, motel, other transient lodging establishment similar to a hotel or motel, restaurant, or public convention center, except while food or beverage functions are taking place, including setup, service, and cleanup activities, or when the room is being used for exhibit purposes. At times when smoking is not permitted in a meeting or banquet room pursuant to this paragraph, the establishment may permit smoking in corridors and prefunction areas adjacent to and serving the meeting or banquet room if no employee is stationed in that corridor or area on other than a passing basis.

(4) Retail or wholesale tobacco shops and private smokers' lounges. For purposes of this paragraph:

(A) "Private smokers' lounge" means any enclosed area in or attached to a retail or wholesale tobacco shop that is dedicated to the use of tobacco products, including, but not limited to, cigars and pipes.

(B) "Retail or wholesale tobacco shop" means any business establishment the main purpose of which is the sale of tobacco products, including, but not limited to, cigars, pipe tobacco, and smoking accessories.

(5) Cabs of motortrucks, as defined in Section 410 of the Vehicle Code, or truck tractors, as defined in Section 655 of the Vehicle Code, if no nonsmoking employees are present.

(6) Warehouse facilities. For purposes of this paragraph, "warehouse facility" means a warehouse facility with more than 100,000 square feet of total floorspace, and 20 or fewer full-time employees working at the facility, but does not include any area within a facility that is utilized as office space.

(7) Gaming clubs, in which smoking is permitted by subdivision

(f). For purposes of this paragraph, "gaming club" means any gaming club, as defined in Section 19802 of the Business and Professions Code, or bingo facility, as defined in Section 326.5 of the Penal Code, that restricts access to minors under 18 years of age.

(8) Bars and taverns, in which smoking is permitted by subdivision (f). For purposes of this paragraph, "bar" or "tavern" means a facility primarily devoted to the serving of alcoholic beverages for consumption by guests on the premises, in which the serving of food is incidental. "Bar or tavern" includes those facilities located within a hotel, motel, or other similar transient occupancy establishment. However, when located within a building in conjunction with another use, including a restaurant, "bar" or "tavern" includes only those areas used primarily for the sale and service of alcoholic beverages. "Bar" or "tavern" does not include the dining areas of a restaurant, regardless of whether alcoholic beverages are served therein.

(9) Theatrical production sites, if smoking is an integral part of the story in the theatrical production.

(10) Medical research or treatment sites, if smoking is integral to the research and treatment being conducted.

(11) Private residences, except for private residences licensed as family day care homes, during the hours of operation as family day care homes and in those areas where children are present.

(12) Patient smoking areas in long-term health care facilities, as defined in Section 1418 of the Health and Safety Code.

(13) Breakrooms designated by employers for smoking, provided that all of the following conditions are met:

(A) Air from the smoking room shall be exhausted directly to the outside by an exhaust fan. Air from the smoking room shall not be recirculated to other parts of the building.

(B) The employer shall comply with any ventilation standard or other standard utilizing appropriate technology, including, but not limited to, mechanical, electronic, and biotechnical systems, adopted by the Occupational Safety and Health Standards Board or the federal Environmental Protection Agency. If both adopt inconsistent standards, the ventilation standards of the Occupational Safety and Health Standards Board shall be no less stringent than the standards adopted by the federal Environmental Protection Agency.

(C) The smoking room shall be located in a nonwork area where no one, as part of his or her work responsibilities, is required to enter. For purposes of this subparagraph, "work responsibilities" does not include any custodial or maintenance work carried out in the breakroom when it is unoccupied.

(D) There are sufficient nonsmoking breakrooms to accommodate nonsmokers.

(14) Employers with a total of five or fewer employees, either

full time or part time, may permit smoking where all of the following conditions are met:

(A) The smoking area is not accessible to minors.

(B) All employees who enter the smoking area consent to permit smoking. No one, as part of his or her work responsibilities, shall be required to work in an area where smoking is permitted. An employer who is determined by the division to have used coercion to obtain consent or who has required an employee to work in the smoking area shall be subject to the penalty provisions of Section 6427.

(C) Air from the smoking area shall be exhausted directly to the outside by an exhaust fan. Air from the smoking area shall not be recirculated to other parts of the building.

(D) The employer shall comply with any ventilation standard or other standard utilizing appropriate technology, including, but not limited to, mechanical, electronic, and biotechnical systems, adopted by the Occupational Safety and Health Standards Board or the federal Environmental Protection Agency. If both adopt inconsistent standards, the ventilation standards of the Occupational Safety and Health Standards Board shall be no less stringent than the standards adopted by the federal Environmental Protection Agency.

This paragraph shall not be construed to (i) supersede or render inapplicable any condition or limitation on smoking areas made applicable to specific types of business establishments by any other paragraph of this subdivision or (ii) apply in lieu of any otherwise applicable paragraph of this subdivision that has become inoperative.

(e) Paragraphs (13) and (14) of subdivision (d) shall not be construed to require employers to provide reasonable accommodation to smokers, or to provide breakrooms for smokers or nonsmokers.

(f) (1) Except as otherwise provided in this subdivision, smoking may be permitted in gaming clubs, as defined in paragraph (7) of subdivision (d), and in bars and taverns, as defined in paragraph (8) of subdivision (d), until the earlier of the following:

(A) January 1, 1998.

(B) The date of adoption of a regulation (i) by the Occupational Safety and Health Standards Board reducing the permissible employee exposure level to environmental tobacco smoke to a level that will prevent anything other than insignificantly harmful effects to exposed employees or (ii) by the federal Environmental Protection Agency establishing a standard for reduction of permissible exposure to environmental tobacco smoke to an exposure level that will prevent anything other than insignificantly harmful effects to exposed persons.

(2) If a regulation specified in subparagraph (B) of paragraph (1) is adopted on or before January 1, 1998, smoking may thereafter be permitted in gaming clubs and in bars and taverns, subject to full compliance with, or conformity to, the standard in the regulation

within two years following the date of adoption of the regulation. An employer failing to achieve compliance with, or conformity to, the regulation within this two-year period shall prohibit smoking in the gaming club, bar, or tavern until compliance or conformity is achieved. If the Occupational Safety and Health Standards Board and the federal Environmental Protection Agency both adopt regulations specified in subparagraph (B) of paragraph (1) that are inconsistent, the regulations of the Occupational Safety and Health Standards Board shall be no less stringent than the regulations of the federal Environmental Protection Agency.

(3) If a regulation specified in subparagraph (B) of paragraph (1) is not adopted on or before January 1, 1998, the exemptions specified in paragraphs (7) and (8) of subdivision (d) shall become inoperative on and after January 1, 1998, until a regulation is adopted. Upon adoption of such a regulation on or after January 1, 1998, smoking may thereafter be permitted in gaming clubs and in bars and taverns, subject to full compliance with, or conformity to, the standard in the regulation within two years following the date of adoption of the regulation. An employer failing to achieve compliance with, or conformity to, the regulation within this two-year period shall prohibit smoking in the gaming club, bar, or tavern until compliance or conformity is achieved. If the Occupational Safety and Health Standards Board and the federal Environmental Protection Agency both adopt regulations specified in subparagraph (B) of paragraph (1) that are inconsistent, the regulations of the Occupational Safety and Health Standards Board shall be no less stringent than the regulations of the federal Environmental Protection Agency.

(4) From January 1, 1997, to December 31, 1997, inclusive, smoking may be permitted in gaming clubs, as defined in paragraph (7) of subdivision (d), and in bars and taverns, as defined in paragraph (8) of subdivision (d), subject to both of the following conditions:

(A) If practicable, the gaming club or bar or tavern shall establish a designated nonsmoking area.

(B) If feasible, no employee shall be required, in the performance of ordinary work responsibilities, to enter any area in which smoking is permitted.

(g) The smoking prohibition set forth in this section shall constitute a uniform statewide standard for regulating the smoking of tobacco products in enclosed places of employment and shall supersede and render unnecessary the local enactment or enforcement of local ordinances regulating the smoking of tobacco products in enclosed places of employment. Insofar as the smoking prohibition set forth in this section is applicable to all (100-percent) places of employment within this state and, therefore, provides the maximum degree of coverage, the practical effect of this section is to

eliminate the need of local governments to enact enclosed workplace smoking restrictions within their respective jurisdictions.

(h) Nothing in this section shall prohibit an employer from prohibiting smoking in an enclosed place of employment for any reason.

(i) The enactment of local regulation of smoking of tobacco products in enclosed places of employment by local governments shall be suspended only for as long as, and to the extent that, the (100-percent) smoking prohibition provided for in this section remains in effect. In the event this section is repealed or modified by subsequent legislative or judicial action so that the (100-percent) smoking prohibition is no longer applicable to all enclosed places of employment in California, local governments shall have the full right and authority to enforce previously enacted, and to enact and enforce new, restrictions on the smoking of tobacco products in enclosed places of employment within their jurisdictions, including a complete prohibition of smoking. Notwithstanding any other provision of this section, any area not defined as a "place of employment" or in which smoking is not regulated pursuant to subdivision (d) or (e), shall be subject to local regulation of smoking of tobacco products.

(j) Any violation of the prohibition set forth in subdivision (b) is an infraction, punishable by a fine not to exceed one hundred dollars (\$100) for a first violation, two hundred dollars (\$200) for a second violation within one year, and five hundred dollars (\$500) for a third and for each subsequent violation within one year. This subdivision shall be enforced by local law enforcement agencies, including, but not limited to, local health departments, as determined by the local governing body.

(k) Notwithstanding Section 6309, the division shall not be required to respond to any complaint regarding the smoking of tobacco products in an enclosed space at a place of employment, unless the employer has been found guilty pursuant to subdivision (j) of a third violation of subdivision (b) within the previous year.

(l) If any provision of this act or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

HOOKAH SMOKING

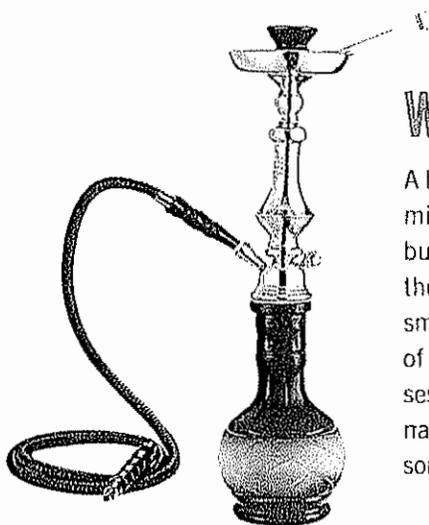
A Growing Threat to Public Health

Hookah (or waterpipe) smoking is gaining popularity nationwide, especially among urban youth, college students, and young professionals.^{1, 2} Despite the growing popularity and increased adoption of state and local smokefree workplace laws, hookah bars remain largely unregulated. In addition, many hookah smokers consider the practice less harmful than smoking cigarettes.³ This is troubling from a public health perspective since evidence shows that hookah smoking carries many of the same health risks and has been linked to many of the same diseases caused by cigarette smoking.² As the American Lung Association and its public health partners continue to move forward to protect workers and patrons from the harmful effects of secondhand smoke, it is vital that we address the health risks hookah use poses to youth and young adults, and close the loopholes in smokefree workplace laws that often exempt hookah bars.

Originating in ancient Persia and India, hookah smoking is a highly social activity during which users smoke tobacco filtered through a waterpipe

that is often shared by the group.⁴ Hookah tobacco often contains flavors, including candy and fruit flavors such as orange, white grape or chocolate mint, which help mask the harshness of smoking.⁵ Hookah smoking is most common in the United States among young adults ages 18 to 24; however, some studies suggest significant use among middle and high school students.⁶ Hookah smoking may serve as a bridge to other forms of tobacco use and is falsely perceived as less harmful than cigarette smoking.⁷

Hookah smoking has increased with the growth of retail establishments that rent waterpipes and sell the flavored tobacco mixtures. Laws and regulations governing the use of hookahs in public places vary from state to state and sometimes from community to community. In many communities, hookah bars and cafes are exempt from smokefree air laws. Given the well-documented dangers of tobacco smoke, stringent policies to limit hookah smoking—especially among youth—are needed to halt this emerging public health threat.



WHAT IS A HOOKAH AND HOW IS IT USED?

A hookah is a waterpipe used to pass charcoal heated air through a tobacco mixture and ultimately through a water-filled chamber. The charcoal or burning embers are placed on top of a perforated aluminum foil and the tobacco mixture is placed below. The user inhales the water filtered smoke through a tube and mouthpiece. The water lowers the temperature of the smoke. Hookahs are often shared by several users in a smoking session. The tobacco mixtures used in the hookahs are called shisha, boory, marghile, goza, argihileh, or hubble bubble. They vary in composition, with some having flavorings and additives that can reduce the nicotine content.

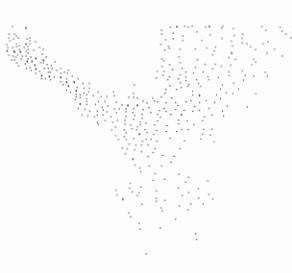


PREVALENCE AND RISK FACTORS

What We Know

Most national and state surveys of tobacco use do not track hookah smoking. As a result, the public health community must rely primarily on research conducted with college students and a limited number of state-based surveys to ascertain the extent of hookah use in the U.S. Despite these limitations, a troubling picture of this trend is emerging. Estimates of hookah use among college students over the past month and lifetime range from 9.5 percent to 20.4 percent and 41 percent to 48 percent, respectively.^{5,8} In a sample of users from Memphis, Tennessee and Richmond, Virginia, researchers reported most users were younger than 26 years of age, male, and college graduates or students. Greater frequency of use was found among people who owned a waterpipe, shared hookahs with more than one other person, and were younger when they first used a hookah.²

In a recent national survey of 12th graders, 17 percent reported smoking a hookah within the past year.⁹ A survey of Arizona high school and middle school students found 10.3 percent and 2.1 percent reported having smoked a hookah, respectively.¹⁰ Data from the Florida Youth Tobacco survey indicate that 11 percent of high school students and four percent of middle school students reported using hookahs.⁶ Cigarette use and hookah use were found to be associated with each other, but it is unclear whether cigarette smoking leads to hookah smoking, vice versa, or an unknown third factor affects both.⁶ Middle school and high school students who viewed cigarettes as helpful in relieving stress and in social situations were more likely to report hookah use.⁶ Evidence also suggests 18 to 24 year olds who smoke cigarettes and marijuana, consume alcohol, or use other illicit drugs have higher rates of hookah use.⁸



FAR FROM SAFE

Why Hookah Use Needs Greater Attention

Hookah use carries many of the same health risks as cigarette smoking.

Hookah smoking appears to be associated with lung cancer, respiratory disease, and low birth weight in babies.¹¹ Changes measured in the amount of air moved in and out of the lungs when smokers breathe suggest that cigarette smoking and hookah smoking have similar effects on a person's breathing.^{12, 13} The combination of charcoal and tobacco is unique to hookah smoking and the charcoal has its own set of health effects in addition to the health effects associated with tobacco use.^{14, 12} Additionally, the use of shared mouthpieces during smoking sessions can spread infectious diseases such as tuberculosis, herpes, influenza, and hepatitis.¹⁴

Hookah smokers may be exposed to more nicotine than cigarette smokers.

Many users think hookah smoking is less addictive and exposes them to less nicotine than cigarette smoking.^{2, 15} As research on the health effects of waterpipe smoking increases, studies suggest hookah smokers may inhale larger amounts of smoke than cigarette smokers during a single smoking session.^{7, 11} Hookah smoking sessions are generally longer (1/2 hour or more) which results in considerably greater nicotine exposure.^{16, 5} In one study that pooled results from other similar studies looking at cotinine (a by-product of nicotine in urine and blood), researchers estimated daily waterpipe use to be equivalent to smoking 10 cigarettes a day.¹⁶ When smoking a hookah, very little nicotine is filtered out when the smoke passes through the water in the pipe, with less than a five percent decrease observed.¹⁶

Increased availability and flavored tobacco make hookah use attractive, especially to youth and young adults.

A recent review of the global waterpipe smoking trend suggests hookah use may "represent the second global tobacco epidemic since the cigarette."⁷ Hookahs are often smoked in private homes. Becoming increasingly common is patrons renting hookahs and purchasing flavored tobacco in public places such as bars, cafes, and lounges.^{5, 2, 6} Two-thirds of states have hookah bars and cafes.¹² Many of these establishments are located near college campuses and students can purchase pipes and accessories online.^{5, 2, 6} Additionally, some hookah establishments can cater to youth under the age of 21 as long as alcohol is not served.

continued on next page ➔



FAR FROM SAFE

Why Hookah Use Needs Greater Attention *(continued)*

Youth and young adults perceive hookah use as less dangerous than smoking cigarettes.

The increasing popularity of hookah smoking is in part driven by the social context in which use occurs (e.g., among friends in popular social settings), the attractive flavors used in the tobacco mixtures and the perception that it is safer and less irritating than cigarette smoking.^{2, 12, 14} *The American Journal of Public Health* recently published findings from the California Tobacco Study that showed a 40 percent increase in hookah smoking among California adults between 2005 and 2008, much of this use in young, college educated adults.¹⁷ Surveys of youth and young adults reveal that this population believes they will experience fewer health effects from hookah smoking than from cigarette smoking.^{2, 12} In a survey of attitudes among hookah smokers in Richmond and Memphis the majority of smokers believed that their risk of addiction is less, and reported that they could quit at any time.² Most reported that if they switched from cigarettes to hookahs it would reduce their health risks from tobacco.² Researchers also report that hookah smoke may be less irritating to smokers, presumably because the smoke is filtered through water before inhalation occurs.⁷

Regulatory environment is murky and varies from state to state. Despite widespread adoption of smokefree workplace legislation in many states and localities, tobacco stores and hookah bars continue to operate. They are often exempted from the requirements that prohibit smoking in public places because they sell tobacco and are classified primarily as tobacco retail establishments. The retail exemption has sometimes been interpreted to mean that patrons can sample the tobacco products they purchase on site.¹⁸ Some establishments qualify for exemptions because they do not serve alcohol on the premises.¹⁸ The definition of smoking can also be an impediment to effective regulation and enforcement, because water pipe smoking is not consistently defined as smoking across jurisdictions.^{18, 20}

With the exception of menthol cigarettes, the U.S. Food and Drug Administration (FDA) prohibits the sale of cigarettes with "characterizing flavors" but does not regulate other flavored tobacco products such as those used in waterpipes. The FDA is currently examining options for regulating these products, which, according to a fact sheet posted on FDA's website, the agency considers unsafe and harmful.¹⁹



REGULATING HOOKAH USE

What Some States and Local Governments Are Doing

In some states, bars and lounges that derive a portion of their income from the sale of non-cigarette tobacco products are exempt from smokefree workplace legislation that prohibits smoking in indoor public places.²⁰ New Jersey exempts bars and restaurants from their smokefree air ordinance if more than 15 percent of income is from sale of these products and in New York, a similar exemption applies if more than 10 percent of the income is derived from such sales.¹⁸ Michigan's 2010 'Smoke Free Air Law' prohibits hookah smoking unless an exemption as a tobacco specialty store is obtained, and as a tobacco specialty store they can't have any type of liquor, food or restaurant license. North Carolina limits hookah smoking to establishments that do not serve food or alcohol.²¹ Boston and Maine have ended their indoor-smoking exemptions that previously allowed customers at hookah bars to smoke indoors.¹

San Francisco recently applied California's state law prohibiting smoking inside enclosed workplaces to hookah establishments, prohibiting the serving of food or alcohol in those establishments and requiring that they be owner-occupied and located in commercial buildings.²² This local interpretation was necessary because the California state law does not explicitly reference hookah bars and lounges.²¹ Some communities in California seem to be interpreting state law differently, however, with Sacramento permitting indoor hookah smoking in family-owned establishments.²¹

POLICY RECOMMENDATIONS

A broad range of strategies are needed to reverse the accelerating trend of hookah use in the United States. To accomplish this objective, the American Lung Association recommends the following:

- 1 Close loopholes in state and local laws that exempt hookah bars.** States with smokefree workplace laws often include specific exemptions that enable hookah establishments to continue to allow smoking. In some states and local jurisdictions, hookah bars can qualify as tobacco retail stores, tobacco/cigar bars, private clubs, or owner-operated businesses. Exemptions for hookah bars should be closed in existing laws when possible and not included in new smokefree workplace laws.
- 2 Close loopholes in laws/regulations by clearly defining smoking to include waterpipes.** State laws should clearly include waterpipes in their definitions of smoking. This loophole has been used to exempt hookah bars from laws prohibiting smoking in public places and workplaces in some states.
- 3 FDA should assert authority over tobacco used in hookahs.** The U.S. Food and Drug Administration should assert authority over the manufacturing and marketing of tobacco used in waterpipes, and apply regulations to these products as needed to protect public health.
- 4 Prohibit flavorings in hookah tobacco.** Federal, state or local laws/regulations should be used to eliminate flavorings in hookah tobacco. Flavorings are one of the factors associated with increasing use in youth and young adults. Prohibiting flavors is likely to lessen the appeal of hookah smoking.
- 5 Include questions in national surveys to provide data on hookah use to the public health community.** National surveys such as the Behavioral Risk Factor Surveillance Survey (BRFSS) and the Youth Risk Behavior Survey (YRBS) should include questions about hookah smoking so that better estimates of national incidence and prevalence will be available for policymakers and public health professionals.
- 6 Implement and enforce laws prohibiting the sale of hookah tobacco and its smoking paraphernalia to minors.** The varying definitions of smoking in some jurisdictions allow minors to be admitted to establishments where hookahs are used and/or where paraphernalia is sold. Closing these loopholes will help prevent minors from purchasing hookah tobacco or its paraphernalia.
- 7 Use licensure requirements or zoning rules to regulate hookah establishments.** License and zoning requirements for the sale of tobacco, alcohol or food, hours of operation, age of patrons, and live music or belly dancing can be tools to restrict hookahs bars and lounges. Some jurisdictions prohibit tobacco use and the sale of food and alcohol on the premises. Zoning regulations could prohibit hookah bars and lounges near college campuses.

In addition to the policy recommendations outlined above, alternate measures to discourage hookah use should also be considered. Prohibiting advertising in college newspapers or websites can help to discourage college students from frequenting hookah establishments. Additionally, public awareness campaigns that highlight the health effects of hookahs and counter the myths about reduced harm (compared to cigarette smoking) could help build public support for more effective regulations.

Conclusions A comprehensive approach to limiting access to hookah use is critical to averting a potentially deadly trend. Hookah smoking is a growing public health threat that may lead to a resurgence in tobacco use among vulnerable populations. Both the American Lung Association and the World Health Organization recommend that laws or regulations prohibiting cigarette or other tobacco use in public places apply to hookah smoking.¹⁸ Efforts should be made to restrict hookah use, especially among teens and young adults.

RESOURCES

American Academy of Pediatrics
Julius P. Richmond Center of Excellence
www.aap.org/richmondcenter/RCEwebinars.html#webinar2

American Cancer Society
www.njgasp.org/ACS_Hookah_Factsheet.pdf

Americans for Nonsmokers' Rights
www.no-smoke.org/goingsmokefree.php?id=581

American Lung Association State
Legislated Actions on Tobacco Issues
www.lungusa2.org/slati/search.php

Tobacco Free U.org
(The Bacchus Network)
www.tobaccofreeu.org/pdf/HookahWhitePaper.pdf

Tobacco Control Network
www.ttac.org/tcn/peers/other/08.12.10.html

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- ²² CBS San Francisco. Closer look: San Francisco hookah lounges snuffed out. <http://sanfrancisco.cbslocal.com/2011/08/03/closer-look-san-francisco-hookah-lounges-snuffed-out/> August 3, 2011.

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HOOKAH TOBACCO IS UNSAFE

What Are Hookahs?

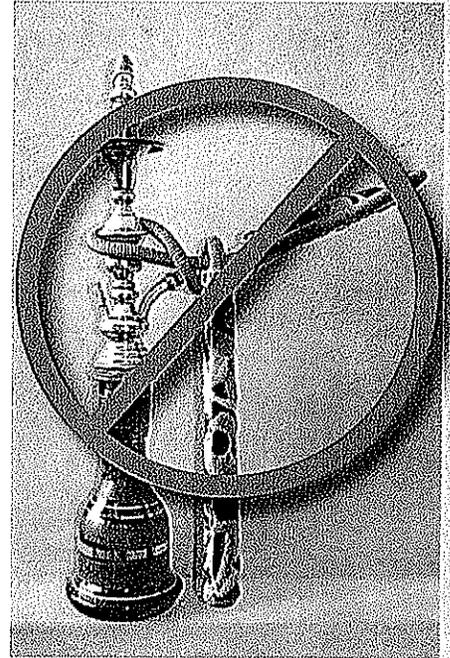
- Hookahs are glass or metal waterpipes that originated in India. They are shaped somewhat like a bottle and have long, flexible hoses with tips that people put into their mouths to inhale tobacco smoke. In most hookahs, hot charcoal is placed on top of tobacco in a bowl to heat it.¹ The tobacco, or shisha, is typically flavored, and contains the same chemicals found in all tobacco, including nicotine.²
- In recent years, there has been tremendous growth in the number of hookah bars and lounges in California.^{3,4,5} Hookah smoking is **increasingly popular among underage youth and young adults**, exposing them to both tobacco use and secondhand smoke.⁶ Many of these young people do not think that hookah smoke is as harmful and addictive as cigarette smoke.⁷

Why Are Hookahs Harmful?

- Smoking hookah for 45-60 minutes can be equivalent to smoking 100 or more cigarettes.⁸
- Secondhand hookah smoke contains the same cancer-causing chemicals found in secondhand smoke from cigarettes.
- In addition, the charcoal used in the tobacco heating process produces the toxin carbon monoxide.⁹
- In 2005, the World Health Organization (WHO) issued an Advisory Note about hookah use, stating that people who smoke hookah pipes or who are exposed to secondhand hookah smoke are at risk for the same diseases that are caused by smoking cigarettes, including:
 - Cancer
 - Heart disease
 - Respiratory disease
 - Adverse effects during pregnancy
- The WHO Advisory Note also warned that sharing a waterpipe mouthpiece poses a serious risk of transmission of communicable diseases, including tuberculosis and hepatitis.¹⁰
- The proliferation of hookah bars and lounges in California is leading to a growing public acceptance of smoking. This threatens to setback twenty years of progress in reducing tobacco-related death and disease.

How Can Hookah Bars and Lounges Allow Indoor Smoking?

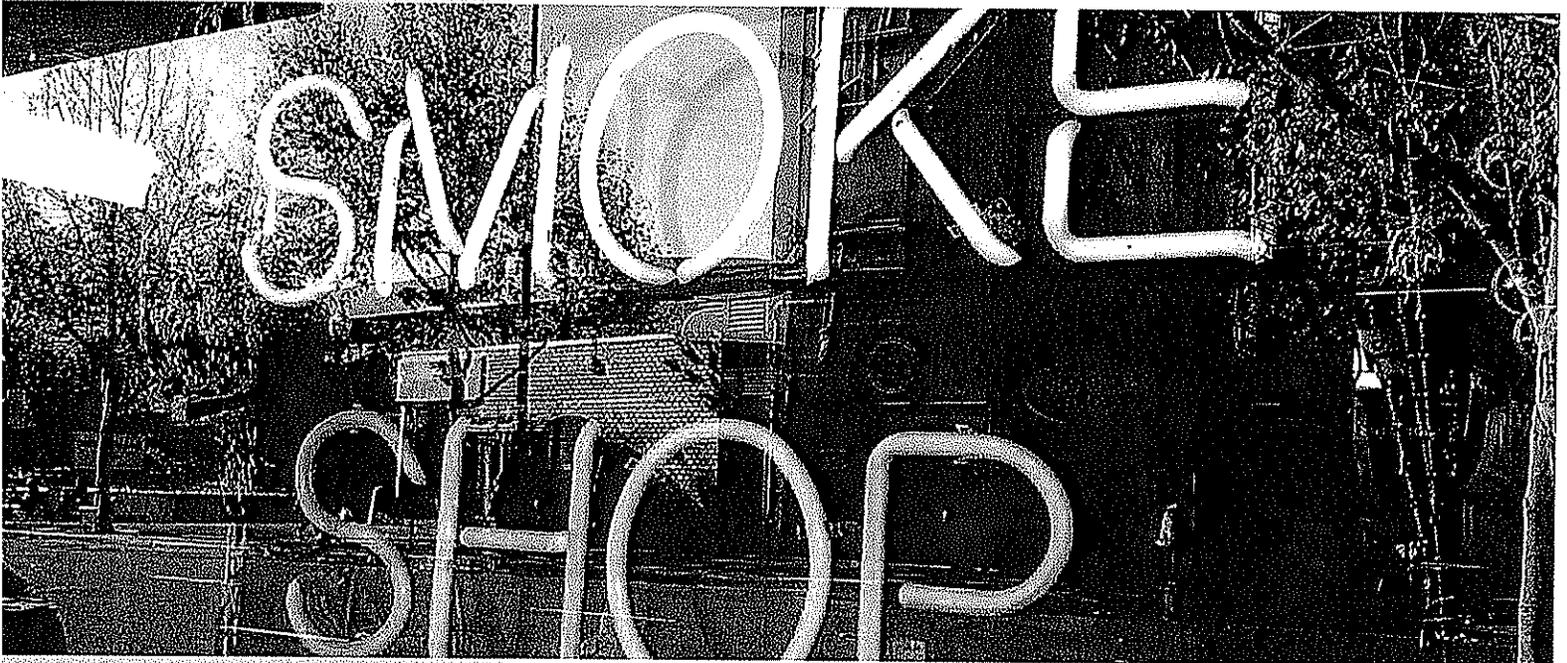
- While smoking inside restaurants and bars has been banned since 1998 in California, the Smoke-Free Workplace law (Labor Code Section 6404.5) includes twelve exemptions that allow smoking in certain indoor workplaces.
- Hookah bars and lounges typically claim they operate as tobacco shops and private smokers' lounges, which are among the businesses that can allow indoor smoking under exemptions in California's Smoke-Free Workplace law.
 - The California Smoke-free Workplace law defines a tobacco shop as a business establishment whose "main purpose" is to sell tobacco products. Unfortunately, the definition of "main purpose" is unclear.



- For example, some hookah bars and lounges have obtained licenses to sell alcohol, serve food and nonalcoholic beverages, and provide entertainment –operating more like a bar or restaurant where smoking inside is prohibited under state law. The assertion that the “main purpose” of these businesses is the sale of tobacco is questionable.
- Other hookah bars and lounges assert that the business is owner-operated and has no employees and is therefore exempt from the state labor law.
- It is unfair that hookah bars and lounges are trying to take advantage of ambiguities in the law to allow indoor smoking, while other similar businesses (bars and restaurants) are following the law.
- The ambiguity and contradictions in state law make enforcement by cities and counties throughout California difficult. Investigating claims that hookah bars and lounges are violating the state Smoke-Free Workplace law can be time-consuming and challenging because of these seemingly contradictory interpretations of business classifications and permitting and licensing requirements and standards.

All California workers deserve to be protected from secondhand smoke. All businesses should be on a level playing field, required to abide by the same rules when it comes to protecting California’s workers from secondhand smoke exposure. It’s time to close the loophole on hookah bars and lounges.

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Tobacco Shops & Smokers' Lounges

Understanding the Exceptions to California's Smokefree Workplace Act

This fact sheet describes how to determine when a business is in violation of the smokefree workplace law, and provides strategies for communities to address the proliferation of businesses that allow smoking.

California's smokefree workplace law prohibits smoking in most places of employment, such as bars, restaurants, and retail establishments.¹ Passed in 1994 to create a uniform standard for protecting employees from secondhand smoke exposure,² the law contains several exceptions for specific types of businesses, permitting indoor smoking on some or all of their premises.

The most common types of businesses that may allow indoor smoking are tobacco shops (for example, smoke shops and tobacconists), and smokers' lounges (for example, cigar bars and hookah lounges). These businesses have become increasingly popular throughout California. They are legally permitted to allow indoor smoking because of an exception in the smokefree workplace law for "retail or wholesale tobacco shops and private smokers' lounges."³

Many communities are concerned that the proliferation of these businesses in their neighborhoods may create a number of problems. For example, drifting smoke from a tobacco shop may severely impact neighboring businesses and residences, endangering occupants' health. There is also a concern that these businesses contribute to the normalization of tobacco use among youth and young adults. Hookah smoking in particular has become extremely popular with young people, and many communities have recently seen a boom in the number of tobacco shops opening up as hip bars.



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Businesses must meet very specific requirements to qualify for the tobacco shop/smokers' lounge exemption, and many businesses may mistakenly believe that they qualify for the exemption when they actually do not.

This fact sheet describes how to determine when a business is in violation of the smokefree workplace law, and provides strategies for communities to address the proliferation of businesses that allow smoking.

How Does the Law Define "Tobacco Shop?"

The law defines a "retail or wholesale tobacco shop" as "any business establishment the main purpose of which is the sale of tobacco products, including, but not limited to, cigars, pipe tobacco, and smoking accessories."⁴

How Does the Law Define "Smokers' Lounge?"

The law defines "private smokers' lounge" as "any enclosed area in or attached to a retail or wholesale tobacco shop that is dedicated to the use of tobacco products, including, but not limited to, cigars and pipes."⁵

In understanding the distinction between tobacco shops and smokers' lounges, it's important to recognize that they overlap. A "retail or wholesale tobacco shop" may contain a smokers' lounge, but it can allow smoking in its premises regardless of whether or not it contains a smokers' lounge, so long as it exists specifically to sell tobacco products and paraphernalia. On the other hand, a "private smokers' lounge" must be inside or attached to a retail or wholesale tobacco shop, and cannot exist independently. Note also that despite the use of the word "private," a smokers' lounge may be open to the public and still qualify for the exemption, so long as it meets all the necessary criteria discussed in this fact sheet.

Interpreting the Definitions

The smokefree workplace law requires that a tobacco shop's "main purpose" be the sale of tobacco products⁶ and that a smokers' lounge be "dedicated to" the use of tobacco products.⁷ If a business operates in a way that falls outside the parameters of these definitions, it is not exempt from the requirements of Labor Code section 6404.5 and may not permit smoking. Because the law does not define the key terms "main purpose" or "dedicated to," some law enforcement officials have struggled to interpret this language. In determining the scope of the exemption for tobacco shops and smokers' lounges, legal interpretations from the California Legislative Counsel, the California Attorney General, and several City Attorney's offices provide some useful guidance.

Understanding the terms "main purpose" and "dedicated to" is extremely important from an enforcement standpoint because businesses such as bars, restaurants, and clubs will sometimes claim to be tobacco stores so that they can allow smoking, but still sell or serve food, alcohol, and/or other products. According to analyses by the California Legislative Counsel and the California Attorney General, businesses that sell food or alcohol do *not* qualify for the tobacco shop exception because their "main purpose" is not to sell tobacco products.^{8,9} In addition, such businesses cannot simply designate a room (or an attached enclosed space) as a "smokers' lounge," because smokers' lounges can only exist inside, or attached to, a bona fide retail or wholesale tobacco shop.

Furthermore, a joint analysis from the City Attorneys' offices of San Francisco, Los Angeles, and San Jose concluded that because a tobacco shop's *main purpose* is to sell tobacco products and paraphernalia, a business owner cannot simply convert a portion of their store, restaurant, or bar into a tobacco shop in order to allow smoking on the premises.¹⁰ Consistent with this analysis, they note that a tobacco shop should have a separate entrance, separate enclosure, and separate business license from any bar, restaurant, or other type of retail establishment.¹¹

The Attorney General's Opinion on the Exemption for Retail or Wholesale Tobacco Shops and Private Smokers' Lounges

The California Attorney General, as the state's chief law enforcement officer, issues formal legal opinions on questions related to the enforcement of particular laws. Although these opinions are not legally binding like a court decision, they carry a great deal of weight with courts that are considering a legal question for the first time.¹² Therefore, the Attorney General's formal legal opinions serve as guidance for law enforcement on how a law should be interpreted.

In 2011, the California Attorney General issued an opinion that interpreted the definitions of "tobacco shop" and "smokers' lounge," and determined that when an establishment that is open to the public sells alcohol (and by logical extension, food or any other non-tobacco products) it is no longer exempt from the smokefree workplace law.¹³ The Attorney General also concluded that both a tobacco shop and an attached smokers' lounge should be set aside exclusively for the sale and use of tobacco products—if they want to allow smoking inside the premises.¹⁴

The 2011 Attorney General's opinion builds upon similar analyses that have been done in the past. For example, in 2008, the Legislative Counsel of California issued an opinion concluding that smokers' lounges attached to tobacco shops are not exempt from the smokefree workplace law if they serve alcoholic beverages to patrons, noting that the terms "main purpose" and "dedicated to" indicate exclusion of other types of retail.¹⁵

What does this mean for cigar bars?

Cigar bars, as the name suggests, are businesses that specialize in selling a variety of cigars that patrons can smoke onsite in a social environment. Oftentimes, cigar bars cater to an affluent clientele, offering expensive "premium" cigars. Many establishments also offer a wide selection of inexpensive flavored cigars which have become increasingly popular among youth.¹⁶

Communities may be concerned about cigar bars for different reasons. In some cases, the smoke from cigar bars drifts into neighboring buildings or neighboring units in the same building. This drifting smoke impacts neighbors' health, and may have a harmful economic impact on neighboring businesses. Communities may also be concerned about the increased availability of cheap, candy-flavored cigars (and so-called "little cigars," or "cigarillos") to children and teenagers.

Cigar bars qualify for the smokefree workplace law's tobacco shop/smokers' lounge exemption; however, they may only permit smoking if the criteria listed on page 6 are met. If they sell or serve food, alcohol, or other products, they may *not* permit smoking inside their establishment.

What does this mean for hookah lounges?

A hookah lounge is an establishment where customers pay to rent a hookah that is placed at a table for communal use. A hookah is a tobacco pipe with a long, flexible tube that draws smoke through water contained in a bowl. Many hookah lounges offer patrons a menu of flavored tobacco to choose from. They also frequently offer food and beverages, even though the smokefree workplace law prohibits such businesses from serving food or beverages.

Many communities are very concerned about the recent increase in the popularity of hookah lounges among youth and young adults. Youth and young adults who may not otherwise be inclined to use tobacco may be attracted to hookah smoking because of the sweetened, flavored smell and taste of the tobacco used in hookahs.¹⁷ In addition, young people may not be aware of the health consequences of hookah use, erroneously believing that it's somehow safer or less addictive than other tobacco products. This misunderstanding may account for the increase in popularity of hookah smoking and the increase in the number of hookah lounges established in recent years.¹⁸

As with cigar bars, hookah lounges may permit smoking under the tobacco shop/smokers' lounge exemption only if they meet the criteria listed on page 6.



What Communities Can Do

There are several ways that cities or counties can address the issue of smoking in tobacco shops, cigar bars, and hookah lounges in their community.

Enforcing Existing Law

Cities and counties are authorized to enforce the state smokefree workplace law.¹⁹ If an individual witnesses a business illicitly permitting smoking – for example, allowing smoking while also serving food or beverages – they can contact their local police or public health department to lodge a complaint. The state smokefree workplace law gives authority to local law enforcement, including public health departments, to issue citations to such businesses until they comply with the law. Businesses have typically been required to pay \$100-\$300 per violation.²⁰

After the owner of an establishment is found to have violated the smokefree workplace law on three occasions, the case can be referred to the California Division of Occupational Safety and Health (Cal/OSHA). Cal/OSHA can then conduct an inspection and issue significant fines if they find severe or repeated violations of the law.²¹

For example, in Shasta County, two separate bar owners who continued to allow smoking in their bars were each fined \$54,000 by Cal/OSHA for “willful and serious” violations of the California Smokefree Workplace Act.²² (These were some of the largest fines that have been levied against business owners for failing to comply with the smokefree workplace law.)

Enacting Local Smokefree Workplace Ordinances

The state smokefree workplace law explicitly gives authority to local governments to pass laws that are more restrictive than the state law.²³ This means that cities and counties can pass their own laws to prohibit smoking in any or all places of employment, even those that are exempted from the state smokefree workplace law, such as tobacco shops and smokers' lounges. Because local governments can prohibit smoking anywhere within their jurisdiction, local smokefree laws can be very broad, possibly without any exemptions at all.

Enacting Local Tobacco Retailer Licensing Ordinances

Communities can also pass tobacco retailer licensing ordinances, requiring businesses to obtain a license in order to sell tobacco, and subjecting retailers to certain conditions. For example, a community can require that tobacco retailers prohibit smoking on their premises or limit access to minors. A licensing law can also be used to regulate the types of tobacco products that are sold. For example, a licensing law could require retailers to refrain from selling candy-flavored tobacco products that may be attractive to children or teenagers. This can be a direct way of limiting hookah lounges that specialize in such youth-friendly flavors, or cigar bars and other tobacco shops that sell a wide variety of flavored cigarillos or “little cigars.”

For more information on tobacco retailer licensing ordinances, and the types of conditions that can be placed on obtaining and maintaining a license, *visit our website*.



Other Types of Exemptions

Establishments like cigar bars and hookah lounges often try to claim that they are exempt from the smokefree workplace law in other ways, so that they might avoid having to meet the qualification criteria for the tobacco shop/smokers' lounge exemption (i.e., so they can serve food or alcohol). Two arguments in particular are frequently made by these businesses: 1) that they qualify for the smokefree workplace law's exemption for businesses with five or fewer employees; and 2) that they are not covered by the smokefree workplace law at all because they are an owner-operated business. For reasons described below, it is actually extremely difficult for businesses to qualify for these particular exemptions.

Exemption: Businesses with Five or Fewer Employees

The "five or fewer employees" exemption contains very strict criteria.

In order for to qualify for this exemption: 1) the smoking area must not be accessible to minors; 2) all employees who enter the smoking area must consent to allow smoking in that area; 3) the air from the smoking area must be vented directly outside and not re-circulated into the rest of the building; and 4) the ventilation used in the smoking area must meet OSHA or EPA standards.

Even if the above criteria can be met, the California Attorney General's analysis of the exemption is that bars, taverns, and gaming clubs *cannot* qualify for this exemption.²⁴

Restaurants and other food service establishments also *cannot* qualify for the "five or fewer" exemption, as they are not permitted to arbitrarily prohibit minors from their premises just so that they might qualify.²⁵

Owner-Operated Businesses and Volunteers

The smokefree workplace law does not have a specific exemption for "owner-operated" businesses. However, because the law itself only applies to "places of employment," establishments that have no employees are not covered by the law and are therefore not subject to its smokefree requirement.

Some business owners have tried to "transform" their employees into "co-owners" in order to circumvent the law and allow indoor smoking. In many cases, courts have found this to be a "sham" operation and have held that the smokefree workplace law did indeed apply.²⁶

Finally, businesses sometimes claim that they're not places of employment for purposes of the smokefree workplace law because they're operated by volunteers rather than employees. However, courts have found that there actually is an employment relationship between a business owner and volunteers if the business owner has the right to direct and control the activities of the volunteers, and if the volunteers receive some sort of benefit in return for their services.^{27,28}

For a more detailed discussion of owner-operated businesses and/or volunteer-operated establishments, see ChangeLab Solutions' Law Notes: "*How to Prohibit Smoking in Owner-Operated Businesses*," and "*How to Prohibit Smoking in Places Operated by Volunteers*," available at www.changelabsolutions.org/tobacco-control.

For more about the different exemptions contained in the California Smokefree Workplace Act, see "*Tobacco Laws Affecting California*," available at www.changelabsolutions.org/tobacco-control.



Additional Resources

ChangeLab Solutions has a *Comprehensive Smokefree Places Model Ordinance* with provisions to address smoking in workplaces, as well as a *Tobacco Retailer Licensing Model Ordinance and Associated Plug-ins*. ChangeLab Solutions can help cities or counties expand or customize language from these model ordinances to address problems associated with smoking lounges in their communities. To request technical assistance, please *visit our website*.

ChangeLab Solutions is a nonprofit organization that provides legal information on matters relating to public health. The legal information provided in this document does not constitute legal advice or legal representation. For legal advice, readers should consult a lawyer in their state.

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Checklist for determining if a business qualifies for the tobacco shop or smokers' lounge exemption created by California Labor Code 6404.5(i)(d)(4)

Consistent with the legal analyses discussed in this fact sheet, if a business does not meet all of the following criteria, it does not qualify as a "retail or wholesale tobacco shop" under the smokefree workplace law and cannot allow smoking in their establishment pursuant to that exemption:

- The main purpose of the business is the sale of tobacco products and smoking accessories
- The business does not sell or serve other products for consumption, such as beverages or food
- The business has its own business license separate and apart from any other business
- The business has its own entrance to the premises, separate and apart from any other business
- The business has its own separate enclosure (unit, suite, etc.), separate and apart from any other business

Consistent with the legal analyses discussed in this fact sheet, if a space does not meet all of the following criteria, it does not qualify as a "private smokers' lounge" under the smokefree workplace law and cannot allow smoking within its walls pursuant to that exemption:

- The lounge is attached to or inside of a retail or wholesale tobacco shop that meets the the criteria listed on the left
- Other products such as food or beverages are not served for consumption in the lounge
- The lounge is used only for the consumption of tobacco products; it is not used for the consumption of other types of products such as beverages or food

¹ Cal. Lab. Code § 6404.5.

² Cal. Lab. Code § 6404.5(a). ("It is further the intent of the Legislature to create a uniform statewide standard to restrict and prohibit the smoking of tobacco products in enclosed places of employment, as specified in this section, in order to reduce employee exposure to environmental tobacco smoke to a level that will prevent anything other than insignificantly harmful effects to exposed employees, and also to eliminate the confusion and hardship that can result from enactment or enforcement of disparate local workplace smoking restrictions.")

³ Cal. Lab. Code § 6404.5(i)(d)(4).

⁴ Cal. Lab. Code § 6404.5(i)(d)(4)(B).

⁵ Cal. Lab. Code § 6404.5(i)(d)(4)(A).

⁶ Cal. Lab. Code § 6404.5(i)(d)(4)(B).

⁷ Cal. Lab. Code § 6404.5(i)(d)(4)(A).

⁸ Cal. Att'y Gen. Op. No. 09-507 (Dec. 21, 2011).

⁹ Legis. Counsel of Cal. Op. No. 0824950, at 3 (September 15, 2008).

¹⁰ Solomon, Barbara, Deputy City Attorney, San Francisco, Evan Braude, Special Assistant City Attorney, Los Angeles, Brian Doyle, Senior Assistant City Attorney, San Jose. Legal Parameters of the California Smokefree Workplace Law (Labor Code 6404.5), Section 9.4. Available at: http://changelabsolutions.org/sites/pbl/pact.org/files/1Legal_Parameters_of_the_California_Smokefree_Workplace_Law.pdf

¹¹ *Id.*

¹² See *Thorning v. Hollister School Dist.*, 11 Cal. App. 4th 1598, 1604 (1992); *Napa Valley Educators' Assn. v. Napa Valley Unified School Dist.*, 194 Cal. App. 3rd 243, 251 (1987)

¹³ Cal. Att'y Gen. Op. No. 09-507 (Dec. 21, 2011).

¹⁴ *Id.* at 6.

¹⁵ See Legis. Counsel of Cal. Op. No. 0824950, at 3 (September 15, 2008).

¹⁶ *Id.* at 1.

¹⁷ *Id.* at 5.

¹⁸ California Department of Public Health. California Tobacco Control Program. 2011. *Hookah Tobacco is Unsafe*, 1. www.cdph.ca.gov/programs/tobacco/Documents/Hookah%20Fact%20Sheet.pdf

¹⁹ Cal. Lab. Code § 6404.5(j).

²⁰ See California's Clean Air Project. *California Court Decisions on Smokefree Bars*, *supra* note vii, at Section 4.

²¹ See California's Clean Air Project. *The Role of Cal OSHA in Enforcing Labor Code 6404.5*, *supra* note vii, at Section 7.1. ("Example of past practice: [...] Upon referral Cal-OSHA obtained an inspection warrant, conducted an inspection (including an air sample), and levied an administrative fine based on all California code violations they found. The fine amounted to \$10,000.")

²² See California's Clean Air Project. *California Court Decisions on Smokefree Bars*, *supra* note vii, at Section 4.3.

²³ Cal. Lab. Code § 6404.5(i) (West). ("[L]ocal governments shall have the full right and authority [...] to enact and enforce new, restrictions on the smoking of tobacco products in enclosed places of employment within their jurisdictions, including a complete prohibition of smoking.")

²⁴ Cal. Att'y Gen. Op. No. 82-190 (Oct. 8, 1999).

²⁵ Cal. Att'y Gen. Op. No. 79-8 (Feb. 15, 1996).

²⁶ See *People v. The Beacon Lounge*, Lake Elsinore Municipal Court, Riverside County (June 26, 2000). A summary is available at: [www.changelabsolutions.org/sites/pbl/pact.org/files/Civ_Case_Summary.pdf](http://changelabsolutions.org/sites/pbl/pact.org/files/Civ_Case_Summary.pdf), at page 4.9.

²⁷ See Cal. Dept. of Educ., Letter to TEROC Chairperson Jennie Cook, May 18, 1998. Available at: http://changelabsolutions.org/sites/default/files/documents/Cal_Dept_of_Edu_Letter_to_TEROC_Chairperson_Jennie_Cook_May_18_1998.pdf

²⁸ *Riskin v. Indus. Accident Comm'n*, 26 Cal. 2d 130, 135 (1943) (defendant's claim that plaintiff was independent contractor and not employee fails because, in part, defendant had right to issue instructions and to expect them to be followed).

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With Public Smoking Bans in Place, Hookah Use Is on the Rise

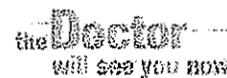
By Esther Entin

Contrary to popular belief, hookah is not safer than cigarettes, and there are some ways that it poses even greater medical risks



A recent study looked at hookah use in California, and the results were concerning. From 2005 to 2008, hookah use among adults in the state increased by 40 percent, with young men, ages 18-24, reporting hookah use twice as often as all adult men. Use was more common among people with some college education, non-Hispanic whites, young adults, and current and former cigarette smokers.

While public indoor smoking is banned in California, hookah use is allowed in hookah lounges that are classified as retail tobacco shops. The researchers note that the American Lung Association suggests that the public cigarette ban may actually be helping to increase the popularity of the lounges because they provide a legal alternative for smoking socially with peers. It may also give the impression that



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hookah smoking is safe.

Salmonella Outbreaks Raise Questions

Contrary to popular belief, however, hookah use is not safer than cigarette smoking, and there are some ways that it poses even greater medical risks to users.

A hookah is a water pipe that has a smoke chamber through which the smoke from specially formulated tobacco is passed. It is then drawn into a rubber hose and into a mouthpiece from which it is inhaled. The dangerous contaminants, including tar, carbon monoxide, heavy metals, and carcinogens remain in the smoke, despite passing through the water.

Hookah sessions often last as long as an hour and smokers inhale more deeply from the pipe than from cigarettes, so hookah smokers may in fact inhale 100-200 times the volume of smoke inhaled from a single cigarette in a typical hookah session. They receive the same amount of nicotine as from cigarettes and are at equal risk of addiction.

Hookah smokers are exposed to higher levels of carbon monoxide than cigarette smokers because charcoal is used to heat the tobacco in the pipe. The health risks associated with hookah smoke include lung, bladder, and oral cancers, cardiovascular disease, and low birth weight babies. Additionally, because pipes are often shared, hookah smoking increases the risk of transmission of infections, including tuberculosis, viruses such as herpes and hepatitis, and others.

The secondhand smoke from a hookah is as dangerous to nonsmokers as from cigarettes and has the additional toxicity of a higher carbon monoxide level.

The study was published in the American Journal of Public Health, online, ahead of print.

Image: REUTERS/Baz Ratner.

This article originally appeared on TheDoctorWillSeeYouNow.com.

This article available online at:

<http://www.theatlantic.com/health/archive/2011/09/with-public-smoking-bans-in-place-hookah-use-is-on-the-rise/245213/>

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Context Sensitive Design

Lot sizes or product types other than those identified as “typical” in this section may be considered. Variations in residential product type or design may be considered on a case-by-case basis in an effort to preserve a property owner’s right to develop and concurrently conserve or preserve valuable open space resources, habitat, or wildlife corridors. The total number of units allowed on a site will be determined by the gross acres of the subject site.

Commercial, Mixed Use, and Industrial Land Uses

The Commercial, Mixed Use, and Industrial land use designations allow a range of nonresidential and mixed use development to support the Town’s position as the economic hub of the Morongo Valley.

Commercial (C) 0.20 to 0.50 FAR

Local and regional serving retail and service uses, including uses such as shopping centers and malls, small commercial centers, hotels, commercial recreation uses such as movie theaters and bowling alleys, restaurants, supermarkets, and personal services. Office uses are also allowed, including financial, legal, insurance, and other professional office uses. Research and development, technology centers, and business parks are also permitted.

Mixed Use (MU) 0.35 to 1.0 FAR and 25 du/acre maximum

Intended for a mix of uses, including commercial, professional office, recreational, and high density residential land uses along SR-62 corridor in concentrated nodes. Its purpose is to allow highly integrated commercial, residential, and office uses that facilitate pedestrian access and walkability. Proximity of residential uses near employment and activity centers can reduce vehicle trips and greenhouse gas emissions. Housing opportunities are also encouraged in these areas, providing walkable accessibility to services and facilities. Development in this designation will require the preparation of a Specific Plan or compliance with a new mixed use zoning designation and associated development standards.

Industrial (I) 0.25 to 1.0 FAR

Industrial and related uses, including warehousing/distribution, assembly and light manufacturing, repair facilities, and supportive retail uses. Preferred development types include master planned business and industrial parks with integrated access and internal circulation. Outdoor storage is also permitted in this designation; however, special screening and design treatments must be applied to outdoor storage within the Rural Mixed Use Special Policy Area for properties on the north side of Skyline Ranch Road.

**TOWN OF YUCCA VALLEY
PLANNING COMMISSION MEETING MINUTES**

JUNE 17, 2008

Vice-Chair Goodpaster called the regular meeting of the Yucca Valley Planning Commission to order at 7:00 p.m.

Commissioners present: Vice-Chair Shannon Goodpaster, Commissioners George Huntington, Steve Willman and Robert Lombardo

Chair McKoy was excused from attendance at the meeting for family reasons.

Vice Chair Goodpaster led the P ledge of Allegiance.

APPROVAL OF AGENDA:

Mr. Willman moved approval of the Agenda, which motion was seconded by Mr. Lombardo and passed unanimously by voice vote of the Commissioners present.

PUBLIC COMMENTS:

None

PUBLIC HEARING:

None

BUSINESS ITEMS:

1. SPECIFIC PLAN 01-05, PARCEL MAP 17455, CONDITIONAL USE PERMIT 06-05, ENVIRONMENTAL ASSESSMENT 09-05 – HOME DEPOT

A request from staff that the Planning Commission discuss, interpret the provisions of the Specific Plan and Commercial Design Guidelines; and provide direction regarding the appropriateness of the use of chain link fencing surrounding the southern detention basin located behind the Home Depot building on Palisade Dr. and identified as APN's 601-201-31 & 601-201-32.

With reference to the complete printed staff report provided in the meeting packets and preserved in the project and meeting files, Associate Planner Robert Kirschmann presented the project discussion to the meeting. He announced that a request was received from the applicant on June 13, 2008 for a continuance of this item to the Planning Commission meeting of July 15, 2008. Staff requests that the item be continued.

Mr. Willman moved that the item be continued to the meeting of July 15, 2008. The motion was seconded by Mr. Lombardo and passed unanimously by voice vote of the Commissioners present.

2. DETERMINATION OF APPROPRIATE LAND USE DESIGNATION FOR A "HOOKAH" BAR/LOUNGE

A discussion of whether "Hookah" Bars are a permitted use, prohibited use or a conditional use in the non-residential zoning districts based upon a verbal request to establish a "Hookah" Bar/Lounge at an undisclosed location within the Town boundaries.

With reference to the complete printed staff report provided in the meeting packets and preserved in the project and meeting files, Associate Planner Robert Kirschmann presented the project discussion to the meeting. A Hookah Lounge is an establishment where patrons share flavored tobacco from a communal Hookah pipe. Some Hookah bars include live entertainment, some serve food and beverages. In order to comply with indoor smoking laws, a majority focus of the business must be dedicated to smoking.

A Hookah Bar is not currently listed in any of the Town's land use classifications. Staff researched surrounding cities and discovered a wide range of approvals. Some cities permit the use as a matter of right while others, specifically Hemet, Indio and Palm Springs, classify them as smoke shops. Riverside and Palm Desert consider them to be cafes. La Quinta, Victorville and Hemet all require a Conditional Use Permit. Current Town regulations do not address smoke shops which have been considered General Retail.

San Bernardino County Health Department verified there are no special requirements or inspections for Hookah Bars unless food is being served. These establishments could, however, be subject to periodic inspections. Some city police departments have expressed concerns with these types of bars. The San Bernardino County Sheriff's Dept. does not have a concern with Hookah Bars.

Staff requests that the Commission discuss and provide direction to staff regarding the following issues:

1. Is this use similar to live entertainment or another land use already specified in the Development Code?
2. Where is this type of business most appropriate to locate? General Commercial, Industrial or other areas?
3. Should a Conditional Use Permit be required to allow this type of use?

Mr. Lombardo commented staff did a nice job with the presentation of the table comparing the various other cities and their approaches to the issue. He requested and received confirmation that Starbucks is classified as a restaurant by the Town and that a Hookah Bar can be similar to a coffee shop in that people congregate, talk and linger there. He requested elaboration of the application of the indoor smoking laws.

Mr. Kirschmann replied the primary focus must be on the smoking of the tobacco and a notice must be posted stating tobacco is smoked on the premises. Mr. Lombardo stated he is concerned about people under the age of 18 being at the facility. Mr. Kirschmann replied some of the other cities required a Conditional Use Permit to establish age limits and hours of operation. Mr. Lombardo requested and received confirmation that a Conditional Use Permit ("CUP") would allow the use and establish limitations on the use and that a restaurant is approved through a Site Plan Review.

Mr. Huntington requested and received confirmation that the present Town Code does not address tobacco shops and no permits are required for them.

Mr. Goodpaster opened the public comments. There being no one wishing to speak, Mr. Goodpaster closed public comments.

Mr. Huntington commented there is a potential for abuse with Hookah Bars. Other jurisdictions address those issues and are re-writing some of their codes. Since no specific regulations exist for Hookah Bars we have no option but to require a CUP. The General Commercial zoning should apply to Hookah Bars to keep them close to or on the highways.

Mr. Willman agreed with the use of a CUP and with the General Commercial zoning districts.

Mr. Lombardo agreed it should be General Commercial and stated we have to be able to control some of the circumstances under which it operates because there is a potential for health problems. It needs to be regulated for hours of operation with age restrictions. There should also be no lingering outside the door with severe penalties if anyone under 18 is admitted. But there is nothing inherently wrong with the concept.

Mr. Goodpaster agreed a CUP should be required and the General Commercial district is the only logical fit for this kind of operation.

Mr. Lombardo moved that the Planning Commission after interpreting existing codes and regulations allow Hookah Bars in the General Commercial land use district subject to a Conditional Use Permit approval. The motion was seconded by Mr. Huntington and passed unanimously by voice vote of the Commissioners present.

CONSENT AGENDA:

3. MINUTES –

Mr. Willman moved to approve as submitted the minutes of the Regular Planning Commission Meeting held June 3, 2008. The motion was seconded by Mr. Lombardo and passed unanimously by voice vote of the Commissioners Present.

STAFF REPORTS AND COMMENTS: None

FUTURE AGENDA ITEMS:

Mr. Kirschmann reported the following items are scheduled for the July 15, 2008 meeting:

- Home Depot chain link fence issue
- An extension of time for Tract Map 16733
- A rear set-back Variance on Buena Vista
- A CUP for a small commercial building on Pueblo Tr at Geronimo Tr.

Deputy Town Manager Shane Stueckle reported the extension of time for a residential development known as Yucca 87 has expired and therefore the Tentative Tract Map has expired.

Mr. Huntington commented that was a Mayer/Luce project and they just filed for a Chapter 7 Bankruptcy.

COMMISSIONER REPORTS AND REQUESTS:

Commissioner Willman questioned the status of the construction site on the Outer Highway east of Washington Mutual. Mr. Kirschmann replied grading permits have been approved but no building plans have been submitted and they may not be proceeding with the project.

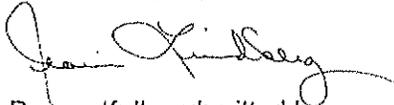
Mr. Willman asked, in that case, if the ground can be treated to prevent erosion. Town Engineer Art da Rosa commented there is a Storm Water Pollution Prevention Plan in place and those conditions are being met. The site is still an eyesore and the fence is in disrepair. Staff has contacted the applicant about the issues but has not heard back about the time schedule for repairs. He will report back to the Commission on the project.

ANNOUNCEMENTS:

Mr. Goodpaster announced that since there are no Agenda Items for a meeting on July 1, 2008; the next regular meeting of the Yucca Valley Planning Commission will be held on Tuesday, July 15, 2008 at 7:00 p.m.

ADJOURNMENT

The meeting adjourned at 7:18 p.m.


Respectfully submitted by,

Jeannie Lindberg
Administrative Assistant III

PLANNING COMMISSION STAFF REPORT

To: Chairman & Planning Commission
From: Shane Stueckle, Deputy Town Manager
Diane Olsen, Planning Technician
Date: August 6, 2014
For Commission Meeting: August 12, 2014

Subject: Development Code Amendment, DCA-02-14
Title 9, Article 2, Chapter, 9.08, Section 9.08.050, repealing Section 84.0615, Chapter 6, Division 4 of Title 8.
Title 9, Chapter 9.75, Sections 9.75.010 thru 9.75.080
Home Occupation Permit Regulations
CEQA Exemption Section 15061(b) (3)

Prior Commission Review: The Planning Commission discussed Home Occupation Permits at the meetings of August 27, 2013 and March 11, 2014, May 13, 2014 and June 10, 2014, June 24, 2014, July 8, 2014 and held a workshop on May 27, 2014

Recommendation: That the Planning Commission:

- A. Finds that the project is exempt from CEQA in accordance with Section 15061 (b)(3) of the California Environmental Quality Act. The proposed amendment to revise the Town's Home Occupation Permit regulations has no potential to impact the environment. The proposed amendment does not alter the existing requirements that specific development projects must comply with the provisions of the California Environmental Quality Act. Development Code Amendment, DCA 02-14 meets the exemption criteria which states "that if an activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment and where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA".
- B. Recommends that the Town Council adopts the Ordinances and repeals Development Code Section 84.0615, Chapter 6, Division 4 of Title 8.

Executive Summary: A proposed amendment to Title 9, adding Section 9.08.050 of Article 2, and adding Chapter 9.75 of Article 4, of the Yucca Valley Development Code, establishing development regulations and permitting procedures for the operation of a Home Occupation.

The project is exempt from CEQA in accordance with Section 15061 (b)(3) of the California Environmental Quality Act. The proposed amendment to revise the Town's

<input type="checkbox"/> Department Report	<input checked="" type="checkbox"/> Ordinance Action	<input type="checkbox"/> Resolution Action	<input checked="" type="checkbox"/> Public Hearing
<input type="checkbox"/> Consent	<input type="checkbox"/> Minute Action	<input type="checkbox"/> Receive and File	<input type="checkbox"/> Study Session

Home Occupation Permit Regulations has no potential to impact the environment. The proposed amendment does not alter the existing requirements that specific development projects must comply with the provisions of the California Environmental Quality Act. Development Code Amendment, DCA 02-14 meets the exemption criteria which states "that if an activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment and where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA"

This matter was continued from the Planning Commission meeting of July 8, 2014. At the meeting of June 10, 2014, the Commission requested that the ordinance be revised to reflect a tiered structure for the operation of Home Occupations. The ordinance has been revised to include four classes of Home Occupations, to include Class I, Exempt; Class II, No Hearing Required; Class III, Public Notice and Hearing; and Class IV, Conditional Use Permit.

At the meeting of June 24, 2014, the Commission requested that the ordinance be revised to include a table of commercial uses. The ordinance has been revised to include a table of commercial uses, indicating what kinds of uses are permitted in the different residential zones and what their permitting requirements are.

At the meeting of July 8, 2014, the Commission came to a consensus on the following issues:

- The hours of operation should be limited to between the hours of 9am and 5pm for Class II and Class III business in which there are customers visiting the site, and between the between the hours of 7am and 7pm for Class I, Class II and Class II businesses in which there are no customers visiting the site.
- Ten percent of the lot area would be allowed for screened outdoor storage related to the home occupation for RS zones, and use of that storage would not require coming before the Commission.
- The approval period should be 3 years.
- All home occupations which have customers coming to the business, including the sale of firearms, should be limited to RS lots of 18,000 sq. ft. or greater.
- There should be no limit to the percentage of the residence or accessory structures which can be used as part of the home occupation, provided that the home occupation does not change the residential character of the outside.

Order of Procedure:

Request Staff Report

Request Public Comment
Commission Discussion/Questions of Staff
Motion/Second
Discussion on Motion
Call the Question (Roll Call Vote)

Discussion: As part of the Development Code Update project, the Planning Commission is reviewing regulations for home occupations or home based businesses. Chapter 9.08.050 establishes regulations for the operation of Home Occupations in single family and multi-family land use districts. The intent of these regulations is to allow for certain business activities within residential neighborhoods without altering the character of the neighborhood or creating impacts or activities that are not commonly associated with residential neighborhoods.

While staff has made suggested modifications to the regulations, there are several policy areas that the Commission should review and discuss to ensure the regulations address the Commission's intended outcome for the process and standards for home based businesses.

As staff has reviewed the existing regulations in detail, there are areas within the existing regulations that are either "vague" or that "conflict" with other provisions. Therefore staff proposes the following Commission discussion points to assist in finalizing the regulations at the August 12, 2014 Planning Commission meeting.

Approval Authority: Modifications have been made that provide for two levels of approval authority including Director and Planning Commission. Planning Commission review applies to those home based businesses which propose sales activities from the home, customers visiting the residence, and for uses which propose outdoor screened business activity. A conditional use permit application may be filed for Planning Commission consideration for any proposed home based business which exceeds the standards identified.

Renewal Authority: The Commission came to a consensus that renewal authority shall remain with the Director for all home occupation permits.

Period of Approval: The Commission came to a consensus that the period of approval shall be 3 years.

Prohibited Uses: The Commission may desire to identify if additional prohibited uses should be added to the list.

Exemptions: Telecommuting, No Customers, Business Conducted Off-Site: Additional language has been added to this section that further clarifies what home based business activities are exempt from obtaining a permit.

Outside Storage: The current Ordinance identifies that outside storage is allowed, but the Ordinance does not provide sufficient details or standards. Modifications have been made which prohibit outside storage on smaller lots in the RM zoning districts, while allowing “some” outside storage on lots larger than one acre in the RL and R-HR zoning districts. The Commission came to a consensus that permitted Home Occupations in the RS zones would be allowed up to 10% of the lot area for screened outside storage of materials.

Percentage of Structures that may be used for business activities: The Commission came to a consensus that no limit should be placed on the percentage of the structure which can be used for business activities, provided that the business activities do not change the residential character of the exterior.

Where Are Business Activities To Be Conducted: The Commission came to a consensus that primary structures, accessory structures and outdoor activities are appropriate.

Hours of Business Operation: The Commission came to a consensus that the hours of business operation for home based businesses which have sales on the premises or customers to the site shall be limited to 9:00 am to 5:00 pm. All other homes based business would be limited to between 7:00am and 7:00 pm.

Cottage Food Operations: California Assembly Bill, AB 1616 establishes requirements for limited preparation of low risk food products from a private home. Private home is defined as a dwelling, including an apartment or other leased spaced, where individuals reside.

Family Day Care Homes: Small family day care homes (up to eight children) are considered a residential use of a single family dwelling and are permitted as a matter of right Large family day care homes (9 to 14 children) are permitted with a non-discretionary permit.

Chapter 9.75 establishes the application submittal requirements, the permitting procedures and the required findings for the issuance of Home Occupation Permits.

Alternatives: The Planning Commission may provide direction to staff as deemed necessary.

Fiscal impact: This Ordinance is included in the Town’s contract for the Development Code Update project. No additional costs are incurred beyond existing contract services.

Attachments:

- Section 9.08.050, Home Occupation Permit Regulations
- Chapter 9.75, Home Occupation Permit Permitting Procedures
- Ordinance 178, Home Occupation Permits
- Ordinance 54, Home Occupations Permits
- Planning Commission minutes from August 27, 2013, March 11, 2014, May 13, 2014,

May 27, 2014, and June 10, 2014,
Draft Planning Commission minute form June 24, 2014 and July 8, 2014
Notice of Hearing
General Plan Land Use Policies-Residential

ORDINANCE NO. .

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF YUCCA VALLEY, CALIFORNIA, AMENDING TITLE 9, YUCCA VALLEY DEVELOPMENT CODE, BY ADOPTING ARTICLE 2, CHAPTER 9.08, SECTION 9.08.050, HOME OCCUPATIONS AND REPEALING SECTION 84.0615, CHAPTER 6, DIVISION 4 OF TITLE 8.

The Yucca Valley Town Council does ordain as follows.

Section 1:

9.08.050 Home Occupations

- A. Purpose.** The purpose of this Section is to establish regulations allowing for the operation of certain business activities in single and multi-family residential neighborhoods. The standards and requirements are intended to ensure that home occupation operations do not alter the character of any residential neighborhood, or create impacts or activities that are not typically and commonly associated with residential neighborhoods. It is the intent of this Section to allow for commercial uses that are accessory and incidental to the primary purpose of residential zones , which is that of providing a habitable dwelling for the owner or occupant as the primary use of the residential dwelling unit.
- B. Applicability.** The provisions in this Section shall apply to home occupations as defined in *Article 7, Definitions* and where allowed in compliance within this Article and the following standards. A home occupation shall only be allowed as an accessory use on a parcel with a legal residential dwelling unit.

A Home Occupation is defined as “a commercial activity conducted in compliance with Section 9.08.050 of this Development Code, carried out by an occupant and conducted as an accessory use within the primary dwelling unit, an accessory structure or approved outdoor activity”.

- C. ~~Prohibited Home Occupations.~~** ~~The following uses are not incidental to or compatible with residential activities and therefore shall not be allowed as home occupations:~~

- ~~1. Animal hospitals, animal rehabilitation, pet grooming, kennels or catteries~~
- ~~2. Automotive and other vehicle repair (body or mechanical), upholstery, painting, or storage;~~
- ~~3. Junk yards;~~
- ~~4. Medical and dental offices, clinics, and laboratories;~~
- ~~5. Mini-storage;~~
- ~~6. Storage of equipment, materials, and other accessories to the construction trades;~~

- ~~7. Welding and machining.~~
- ~~8. Cabinet shop.~~
- ~~9. Uses which may include the storage or use of explosives or highly combustible or toxic materials beyond that permitted by the Building, Fire Code, or adopted restrictions.~~
- ~~10. Sales of firearms in residential zoning districts other than Rural Living (RL) or Hillside Reserve (R-HR)~~
- ~~11. Sales of ammunition~~
- ~~12. Massage establishments~~
- ~~13. Any other use determined by the Director that is not incidental to and/or compatible with residential activities.~~

D. Classes of Home Occupations Described

1. Home occupations are commercial uses that are accessory and incidental to a residential land use and that do not alter the character or the appearance of the residential environment or neighborhood.
2. No person shall engage in a home occupation without first obtaining a Home Occupation Permit from the Planning Division consistent with the requirements of this Chapter, unless otherwise exempt. In addition, the operator of the home occupation shall procure a Business Registration in compliance with Municipal Code Chapter 5.20 (Business Registration Certificate), including home occupations that are exempt from permitting.

a. Class I, Exempt from Permitting

Class I Home Occupations shall have no impact on the neighborhood in which they are located. Work is performed exclusively by phone and mail, or over the internet, and/or the activity is limited so that there are no impacts on the neighborhood. Class I Home Occupations are allowed in any residential zoning district.

These uses include telecommuting and internet or electronic based businesses, or other similar activities that are transparent inside the residential structure, and do not involve customers to the site, employees, or any structural alteration.

In addition, no permit is required for home based businesses where no business activity takes place other than the scheduling of appointments or paperwork, there are no customers received at the residence, the exterior of the property is not modified for the business and there is no outdoor storage of materials or vehicles, except as normally associated with and allowed in a residential area. These business activities include, but are not limited to, contractors, housecleaning, carpet cleaning, mobile carwash or gardeners.

Class I Development Standards:

1. No customers or clients shall visit the residence
2. All employees shall be members of the resident family and shall reside on the premises.
3. Operating hours shall be limited to the hours of 7 AM to 7 PM.

b. Class II, No Hearing Required.

Class II Home Occupations may have a limited impact on the neighborhood in which they are located. Class II Home Occupations shall be allowed in the Residential Single Family (RS), Rural Living (RL) and Rural Hillside Reserve (R-HR) zoning districts.

Subject to the authority and discretion of the Director, Home occupations that meet the following standards, after appropriate application and subject to a field investigation, may be permitted without notice or a hearing. Alternatively, the Director may schedule a hearing or forward the matter to the Commission for action. The Director may establish any other special condition of approval for any Home Occupation Permit as necessary to carry out the intent of this subsection.

Class II Development Standards:

1. There may sales of products on the premises.
2. A maximum of three customers or clientele per day may visit the residence.
3. All employees, except one, shall be members of the resident family and shall reside on the premises.
4. Operating hours of a home occupation in which there are customers visiting the site shall be between the hours of 9:00 a.m and 5:00 p.m. Operating hours of all other home occupations requiring a permit shall be between the hours of 7:00 a.m. and 7:00 p.m.
5. There shall be no outdoor home occupation activity—~~or~~, and screened outdoor storage of material shall be limited to 10% of the lot area.

c. Class III, Notice and Hearing Required

Class III Home Occupations may have a limited impact on the neighborhood in which they are located but are also slightly more intense than Class II in that they may involve outdoor storage of material and/or outdoor home occupation activities that do not impact the neighborhood. Class III Home Occupations are permitted in the Rural Living (RL) and Rural Hillside Reserve (R-HR) zoning districts.

Class III Home Occupations shall be subject to notice and hearing. The Commission is the review authority, and the Commission may forward the application to the Council for consideration.

Class III Development Standards:

1. There may be sales of products on the premises.
2. Customers may visit the residence and then only by appointment. This is restricted to a single appointment at a time. The monthly average of the total trip count for business activities shall not exceed 12 trips per day in all zoning districts.
3. All employees, except two, shall be members of the resident family and shall reside on the premises.
4. Operating hours of a home occupation in which there are sales on the premises or customers visiting the site shall be between the hours of 9:00 a.m and 5:00 p.m.- Operating hours of all other home occupations requiring a permit shall be between the hours of 7:00 a.m. and 7:00 p.m.
5. Lots in the Rural Living (RL) and Hillside Reserve (R-HR) zoning districts that are one acre or larger shall be permitted outdoor business activity or screened outdoor storage of materials subject to review and approval by the Commission.

d. Class IV, Conditional Use Permit.

Home Occupations which may exceed the standards provided in (D (2) or (3) may be approved subject to the review and approval of a Conditional Use Permit by the Commission.

**TABLE 2-X:
PERMITTED LAND USES AND PERMIT REQUIREMENTS
FOR RESIDENTIAL ZONING DISTRICTS**

Zoning Districts: R-HR: Rural Hillside Reserve RL: Rural Living
RS: Residential Single Family RM: Residential Multi Family

Permit Required CUP: Conditional Use Permit SPR: Site Plan and Design Review
HOP: Home Occupation Permit SUP: Special Use Permit
E: Exempt --: Prohibited

Type of Use	Permit Required by Zoning District				Notes and Other Regulations
	R-HR	RL	RS	RM	
Care Uses					
Child Day Care (small family)	E	E	E	--	Eight or fewer children, pursuant to Residential District Standards, Section 9.XX
Child Day Care (large family)	SUP	SUP	SUP	--SUP	Nine to fourteen children, pursuant to Residential District Standards, Section 9.XX
Child Day Care Center	CUP	CUP	CUP	CUP--	Fifteen or more children, pursuant to Section 9.XX.XXX
Homeless Shelter	--	--	--	--	Including Transitional and supportive uses.
Social Care Facility, Six or Fewer	E	E	E	E	Includes but is not limited to elderly care and sober living facilities. Pursuant to Residential District Standards Section 9.XX
Social Care Facility, Seven or More	CUP	CUP	CUP	--	Includes but is not limited to elderly care and sober living facilities See Section 9.XX.XXX (Social Care Facilities)
Agriculture, Animal Related, and Open Space Uses					
Animal Care Facility	--	--	--	--	Including, but not limited to animal hospitals, veterinarian, pet stores, and grooming.
Community Gardens	HOP	HOP	--	--	
Equestrian Facility	SUP--	SUP--	--	--	
Feed and Tack	--	--	--	--	
Horticulture for private use, including growing fruit, flowers, ornamental plants and vegetables	E	E	E	E	Permitted as a use that is incidental to the primary use
Agriculture for commercial use not including animal husbandry or stockyards	CUP	CUP	--	--	Including but not limited to row, field, tree, and nursery crop cultivation

**TABLE 2-X:
PERMITTED LAND USES AND PERMIT REQUIREMENTS
FOR RESIDENTIAL ZONING DISTRICTS**

Zoning Districts: R-HR: Rural Hillside Reserve RL: Rural Living
RS: Residential Single Family RM: Residential Multi Family

Permit Required CUP: Conditional Use Permit SPR: Site Plan and Design Review
HOP: Home Occupation Permit SUP: Special Use Permit
E: Exempt --: Prohibited

Type of Use	Permit Required by Zoning District				Notes and Other Regulations
	R-HR	RL	RS	RM	
<u>Kennels and Catteries (over 15 animals)</u>	--	--	--	--	See Section 9.XX.XXX (Animal Keeping)
<u>Livestock Operations</u>	--	--	--	--	
<u>Natural Resources Development</u>	--	--	--	--	
<u>Nature Preserve</u>	--	--	--	--	
<u>Nursery/Garden Supply (with outdoor display)</u>	--	--	--	--	
<u>Nursery/Garden Supply (without outdoor display)</u>	--	--	--	--	
<u>Retail Commercial Uses</u>					
<u>Ammunition Sales</u>	--	--	--	--	
<u>Antique/Second Hand Stores</u>	--	--	--	--	
<u>Adult-Oriented Business</u>	--	--	--	--	See Section 9.XX.XXX (Adult-Oriented Uses)
<u>Appliance Sales and Home Goods (no repair)</u>	--	--	--	--	
<u>Auto and Vehicle Sales and Rentals and Parts Sales</u>	--	--	--	--	
<u>Building and Landscape Materials Sales (indoor)</u>	--	--	--	--	
<u>Building and Landscape Materials Sales (outdoor)</u>	--	--	--	--	
<u>Convenience Store</u>	--	--	--	--	
<u>Construction and Heavy Equipment Sales and Rentals</u>	--	--	--	--	
<u>Farmers Market/Arts and Crafts Events</u>	--	--	--	--	See Section 9.XX.XXX (Temporary Special Events)
<u>Firearms Sales</u>	HOP	HOP	HOP	--	

**TABLE 2-X:
PERMITTED LAND USES AND PERMIT REQUIREMENTS
FOR RESIDENTIAL ZONING DISTRICTS**

Zoning Districts: R-HR: Rural Hillside Reserve RL: Rural Living
RS: Residential Single Family RM: Residential Multi Family

Permit Required CUP: Conditional Use Permit SPR: Site Plan and Design Review
HOP: Home Occupation Permit SUP: Special Use Permit
E: Exempt --: Prohibited

Type of Use	Permit Required by Zoning District				Notes and Other Regulations
	R-HR	RL	RS	RM	
Fuel/Propane Dealer	--	--	--	--	See Section 9.XX.XXX (Gas or Other Fueling Stations)
Grocery, Supermarket, Specialty Food Store, Drug Store	--	--	--	--	
Manufactured Home Sales	--	--	--	--	
Boat and Recreational Vehicle Sales	--	--	--	--	
Pawn Shop	--	--	--	--	
Retail Store (less than 80,000 sf)	--	--	--	--	
Retail Store (80,000 or greater sf)	--	--	--	--	
Seasonal Holiday Sales Facilities	--	--	--	--	See Section 9.XX.XXX (Temporary Special Events Permits)
Swap Meet, Outdoor Market, Auction Yard (permanent)	--	--	--	--	See Section 9.XX.XXX (Swap Meets)
Shopping Center (neighborhood, community, or regional),	--	--	--	--	
Warehouse Retail	--	--	--	--	
Business, Financial, and Professional					
ATM	--	--	--	--	
Financial Institution and Related Service	--	--	--	--	
Laboratory	--	--	--	--	
Office	E	E	E	E	Provided that no customers are clients are visiting the residence.
Office	HOP	HOP	HOP	HOP--	Customers or clients visiting the residence

Eating and Drinking Establishments					
Bakery (retail), Coffee Shop and Similar Uses	==	==	==	==	Including but not limited to ice cream shops, frozen yogurt shops, and candy/sweet shops
Bakery (delivery only)	HOP	HOP	HOP	HOP	
Bar, Lounge, Nightclub, Tavern, and Pool Hall	==	==	==	==	
Catering Service	HOP	HOP	HOP	HOP	
Cottage Food Operation	HOP	HOP	HOP	HOP	
Fast Food (w/drive through, delivery)	==	==	==	==	
Fast Food (w/o drive through, delivery)	==	==	==	==	
Full Service Restaurant	==	==	==	==	
Commercial Service Uses					
Ambulance Service	==	==	==	==	
Appliance Sales, Service, Repair, and Rental	==	==	==	==	
Automobile Gas Station	==	==	==	==	
Automobile Service/Repair (minor repair, maintenance, upholstery, painting)	==	==	==	==	
Automobile Service/Repair (major repair/body work)	==	==	==	==	
Automobile Washing (car wash)	==	==	==	==	
Barber, Beauty Shop, and other Similar Personal Service Uses	HOP	HOP	HOP	HOP--	
Printing and Duplication Services	HOP	HOP	HOP	HOP--	
Equipment Sales, Service, Repair, and Rental	==	==	==	==	
Fitness Center	==	==	==	==	
Fortune Telling and Related Service	HOP	HOP	HOP	HOP--	
Funeral Service (excluding crematorium)	==	==	==	==	
Funeral Service (including crematorium)	==	==	==	==	
Laundry and Dry Cleaning	==	==	==	==	

Locksmith	HOP	HOP	HOP	HOP--	
Maintenance and Repair, General (Minor)	HOP--	HOP--	=	=	
Maintenance and Repair (Major)	=	=	=	=	
Massage Establishment	=	=	=	=	
Personal Trainer	HOP	HOP	HOP	HOP--	Customers or clients visiting the residence
Studio (dance, music, martial arts, artists)	HOP	HOP	HOP	HOP--	
Tattoo and Piercing	=	=	=	=	
Commercial Recreation					
Amusement Arcade or Park	=	=	=	=	
Carnivals/Circuses/Festivals / Fairs	=	=	=	=	
Campgrounds	=	=	=	=	
Concerts, Open-Air Theaters, Outdoor Entertainment Events	=	=	=	=	
Game Arcade, Internet Café, and Similar Businesses	=	=	=	=	
Golf Course	=	=	=	=	
Hookah Lounge	=	=	=	=	
Parks/ Recreation Facilities	=	=	=	=	
Private Clubs and Lodges	=	=	=	=	
Recreation and Entertainment (commercial indoor and outdoor)	=	=	=	=	
Recreational Vehicle Park	=	=	=	=	
Industry, Manufacturing and Processing, Wholesaling					
Construction/Contractor Storage Yard	=	=	=	=	
Hazardous Waste Operations	=	=	=	=	See Section 9.XX.XXX (Hazardous Materials)
Manufacturing Operations	=	=	=	=	
Motor Vehicle Storage/Impound Facility	=	=	=	=	
Recycling Facility (small collection facility)	=	=	=	=	See Section 9.XX.XXX (Recycling Facilities)

Recycling Facility (processing facility)	==	==	==	==	
Research and Development	==	==	==	==	
Salvage Facility	==	==	==	==	
Storage – Mini-Storage (personal storage)	==	==	==	==	See Section 9.XX.XXX (Mini-Storage Facilities)
Storage (outdoor vehicles storage)	==	==	==	==	
Welding and machining	==	==	==	==	
Wholesaling and Distribution	==	==	==	==	
Transportation, Communications, and Infrastructure					
Communication Facility	==	==	==	==	Including, but not limited to, radio and television stations or towers, satellite receiving stations, but not wireless telecommunication facilities
Wireless Telecommunication Facilities	CUP	CUP	CUP	CUP	Pursuant to Chapter 9.XX
Parking Lot	---	==	==	==	
Public/Government Facilities	==	==	==	==	
Public Safety Uses (permanent)	==	==	==	==	
Solar Energy Systems (accessory)	P	P	P	P	See Section 9.45.010 (Solar Energy Systems)
Solar Energy Systems (Commercial Utility grade/primary use)	==	==	==	==	See Section 9.44.010 (Solar Energy Systems)
Transmission utility lines, pipelines, and control stations	==	==	==	==	
Utilities (major)	==	==	==	==	
Wind Energy System (accessory)	SPR	SPR	SPR	SPR	See Section 9.46.010 (Wind Energy System)
Wind Energy System (utility grade/Commercial/primary use)	==	==	==	==	See Section 9.44.010 (Wind Energy System)
Other Uses					
Archery and Gun Ranges (Indoor)	==	==	==	==	
Archery and Gun Ranges (Outdoor)	==	==	==	==	
Bed and Breakfast	SUP	SUP	SUP	SUP--	See Section 9.08.030 (Bed and Breakfast)

<u>Cemeteries, Including Pet Cemeteries</u>	==	==	==	==	
<u>Churches, Religious Assembly, and Other Public Assembly</u>	==	==	==	==	
<u>Conference Centers and Group Camps</u>	==	==	==	==	
<u>Correctional Institution</u>	==	==	==	==	
<u>Emergency Facilities (temporary)</u>	==	==	==	==	
<u>Hotels and Motels</u>	==	==	==	==	
<u>Hospitals/Medical/ Rehabilitation Centers/Clinics</u>	==	==	==	==	
<u>Medical and Dental Offices, clinics, laboratories</u>	==	==	==	==	
<u>Medical Marijuana Dispensary</u>	==	==	==	==	<u>See Section 9.XX.XXX (Medical Marijuana Dispensary)</u>
<u>Museum, Library, Art Gallery, Outdoor Exhibit</u>	==	==	==	==	
<u>Schools (private, vocational, charter, and other)</u>	==	==	==	==	<u>Not to include home schooling</u>

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E. Development Standards. All home occupations shall comply with all of the following conditions of approval at all times:

1. No dwelling or accessory structure shall be built, altered, furnished or decorated for the purpose of conducting the home occupation in such a manner as to change the residential character and appearance of the dwelling, or in such a manner as to cause the structure to be recognized as a place where a home occupation is conducted;
2. There shall be no displays, sale, or advertising signs on the premises;
3. There shall be no signs other than one unlighted identification sign containing the name and address of the owner attached to the building not exceeding two square feet in area per street frontage;
4. All maintenance or service vehicles and equipment, or any vehicle bearing any advertisement, shall be in conformance with Town regulations regarding vehicle signs;
5. The home occupation shall not encroach into any required parking, setback, or open space area and required covered parking shall not be altered for the purpose of conducting the home occupation.
6. There shall be no outdoor home occupation activity or outdoor storage of stock, merchandise, scrap supplies, or other materials or equipment on the premises, except as approved by the Commission.
7. Any storage of hazardous, toxic, or combustible materials in amounts exceeding those typically found in residential uses shall be prohibited;
8. There shall be complete conformity with Fire, Building, Plumbing, Electrical, and Health Codes and to all applicable State and Town laws and ordinances. Activities conducted and equipment or material used shall not change the fire safety or occupancy classification of the premises;
9. No home occupation shall generate pedestrian or vehicular traffic in excess of that customarily associated with a residential use and the neighborhood in which it is located;
10. No home occupation shall be initiated until a current business registration certificate is obtained, including home occupations that are exempt from permitting;
11. A Home Occupation Permit shall not be transferable to another person or property;

12. No use shall create or cause noise in excess of noise standards established for residential zoning districts, dust, light, vibration, odor, gas, fumes, toxic or hazardous materials, smoke, glare, electrical interference, or other hazards or nuisances;
13. Public advertising shall only list phone number, operators name, post office box and description of business. Business address or location shall not be included in any public advertising.
14. Parking shall comply with the requirements of Chapter 9.33. One additional parking space shall be provided for each non-resident employee.
- ~~15. Up to 25 percent or 250 square feet, whichever is greater, of the total floor area of the dwelling unit and the related accessory structures may be used for the operation of the home occupation and for the storage of material and supplies related to the home occupation in all RS and RM zoning districts. Up to 35 percent or 500 square feet, whichever is greater, of the total floor area of the dwelling unit and the related accessory structures may be used for the operation of the home occupation and for the storage of material and supplies related to the use in all RL and R-IR zoning districts.~~
16. If the home occupation is to be conducted on rental property, written permission from the property owner shall be submitted.

F. Review. The Review Authority shall review all applications for a Home Occupation Permit to determine if the proposed use is consistent with the provision of Section 9.08.050. If all standards are met after complying with the noticing provisions of Section 9.75, the review authority shall make the following findings prior to issuance of the permit;

1. That the proposed use is not prohibited;
2. That the proposed use will comply with all applicable standards;
3. That the issuance of the Home Occupation Permit will not be detrimental to the public health, safety, and general welfare;
4. That the proposed use will be consistent with any applicable specific plan.
5. That the proposed use will not alter the character of the neighborhood and will not induce physical or socioeconomic changes to the neighborhood that are inconsistent with the goals and objectives of the General Plan, and the

Development Code, and that do not create characteristics more closely associated with commercial, office or industrial land use activities.

G. Home Occupation Permit Renewal.

Home Occupation Permits are approved for a period of three (3) years. The Director shall be the review authority for all home occupation permits.

H. Home Occupation Permit Amendment

Refer to Article 5, Chapter 9.83 Permit Amendments

I. Home Occupation Permit Revocation

Refer to Article 5, Chapter 9.84 Permit Revocation

J. Appeal.

Refer to Article 5, Chapter 9.81 Appeals

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Section 2: Repeal of County Code as Adopted and Amended by the Town: The Town Council hereby repeals Sections 84.0615 thru 84.0622, Chapter 6, Division 4 of Title 8.

Section 3. Severability: If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable. The Town Council hereby declares that it would have adopted this Ordinance irrespective of the invalidity of any particular portion thereof.

Section 4. Certification; Publication: The Town Clerk shall certify to the adoption of this Ordinance and cause it, or a summary of it, to be published once within 15 days of adoption in a newspaper of general circulation printed and published within the Town of Yucca Valley, and shall post a certified copy of this Ordinance, including the vote for and against the same, in the Office of the Town Clerk in accordance with Government Code § 36933.

Section 5. Effective Date: This Ordinance shall become effective thirty (30) days from its adoption.

APPROVED AND ADOPTED this _____ day of _____, 2014.

MAYOR

ATTEST:

TOWN CLERK

ORDINANCE NO. .

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF YUCCA VALLEY, CALIFORNIA, AMENDING TITLE 9, YUCCA VALLEY DEVELOPMENT CODE, BY ADOPTING ARTICLE 4, CHAPTER 9.75, SECTIONS 9.75.010 THRU 9.75.080, HOME OCCUPATIONS.

Section 1:

9.75.010 – Purpose

9.75.020 – Applicability

9.75.030 – Procedures

9.75.040 – Application Submittal Requirements

9.75.050 – Application Fee

9.75.060 – Investigation and Report

9.75.070 – Required Findings

9.75.080 – Development of Property Before Final Decision

9.75.010 – Purpose

The Home Occupation Permit review procedure allows the Town to evaluate proposed Home Occupations to determine consistency with the General Plan, Development Code and applicable Town ordinances. The Home Occupation Permit review procedure is intended to protect and enhance the visual appeal, environment and property values of the Towns residential neighborhoods. Review of such uses is necessary to ensure that the uses are developed, operated and located properly with respect to surrounding properties, and so that any and all potentially adverse impacts are mitigated.

9.75.020 – Applicability

The provisions of this Chapter are applicable to all single family residential and multi-family residential zoned property.

9.75.030 – Procedures

- A. Class II Home Occupations subject Section 9.08.050 (D)(2).

Procedure: Staff Review without Notice
Reviewing Authority: Director

- B. Class III Home Occupations subject to Section 9.08.050 (D)(3).

Procedure: Public Hearing
Reviewing Authority: Commission

- C. When necessary, the Director may forward any request for a Home Occupation Permit to the Commission for review and the Commission may forward any request to the Council for review.
- D. Notice shall be given in accordance with Chapter 9.85, *Public Notices and Hearings*.
- E. In approving an application for a Home Occupation Permit, the review authority may impose necessary conditions to ensure compliance with this Code.

9.75.040 – Application Submittal Requirements

Applications for Home Occupations Permits shall be filed on a form prescribed by the Planning Division and shall contain such information and reports as may be required by the application submittal packed or by other applicable ordinances or by the Town in order for the review authority to make the required findings.

If the home occupation is to be conducted on rental property, the property owner's written authorization for the proposed use shall be obtained prior to the submittal for a Home Occupation Permit;

9.75.050 – Application Fee

The application shall be accompanied by a fee established by resolution of the Council to cover the cost of handling and processing the application as prescribed in this Chapter.

9.75.060 – Investigation and Report

The Director shall cause an analysis of each application for a Home Occupation Permit to be made. The level of detail of the analysis shall be appropriate to the type of project proposed and the needs of the Planning Division. The analysis shall examine the applications consistency with the content, intent and purpose of the General Plan, the Development Code, and any other applicable Town standards or policies. As a result of the analysis, the Planning Division may include a list of proposed conditions necessary to guarantee the public health, safety and welfare, should the proposed project be approved.

9.75.070 – Required Findings

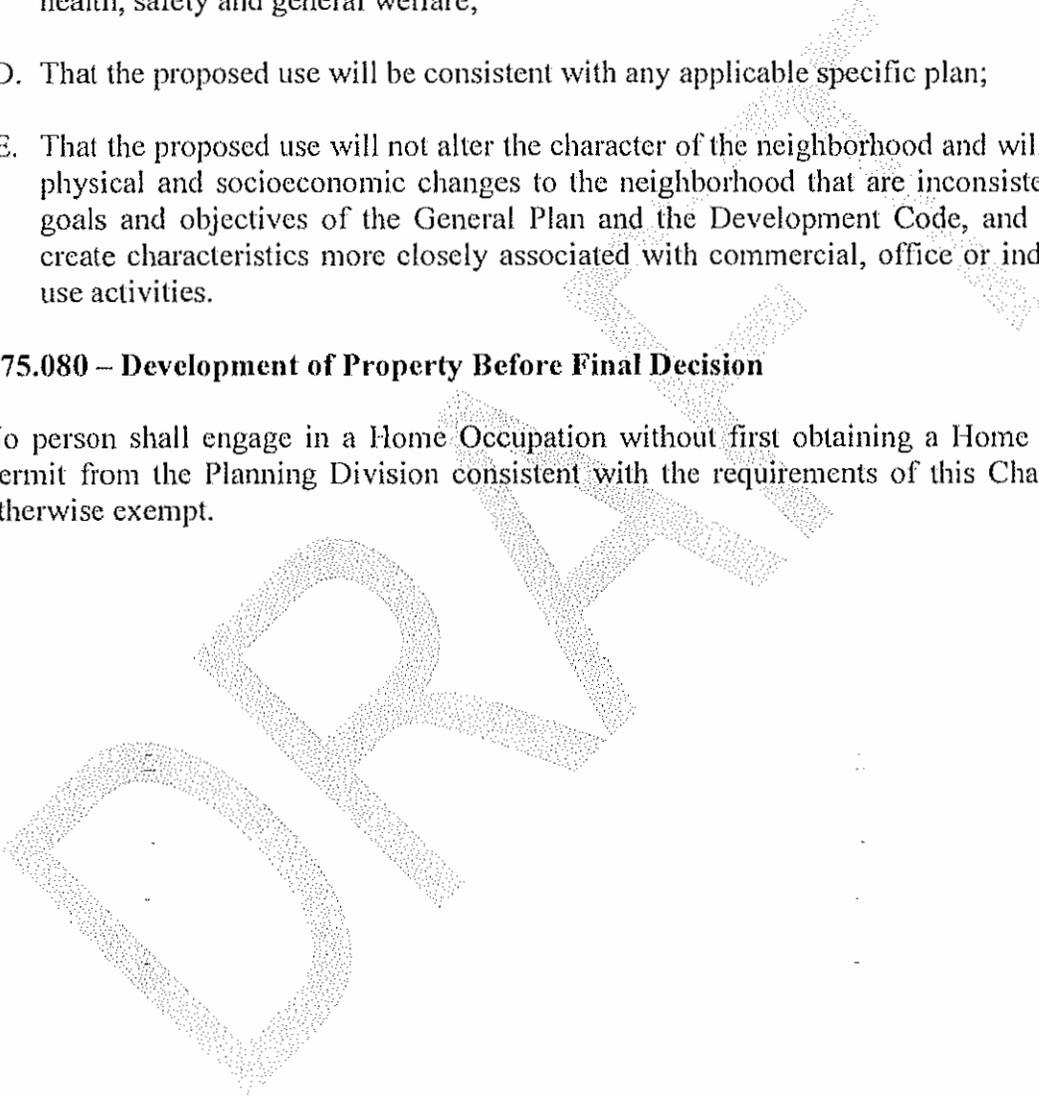
The review authority shall review all applications for a Home Occupation Permit to determine if the proposed use meets all of the standards of Section 9.08.050. If all standards are met

after complying with the noticing provisions of Chapter 9.85 the review authority shall make the following findings prior to the issuance of the permit:

- A. That the proposed use is not prohibited;
- B. That the proposed use will comply with all applicable standards;
- C. That the issuance of the Home Occupation Permit will not be detrimental to the public health, safety and general welfare;
- D. That the proposed use will be consistent with any applicable specific plan;
- E. That the proposed use will not alter the character of the neighborhood and will not induce physical and socioeconomic changes to the neighborhood that are inconsistent with the goals and objectives of the General Plan and the Development Code, and that do not create characteristics more closely associated with commercial, office or industrial land use activities.

9.75.080 – Development of Property Before Final Decision

No person shall engage in a Home Occupation without first obtaining a Home Occupation Permit from the Planning Division consistent with the requirements of this Chapter, unless otherwise exempt.



Section 2. Severability: If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable. The Town Council hereby declares that it would have adopted this Ordinance irrespective of the invalidity of any particular portion thereof.

Section 3. Certification; Publication: The Town Clerk shall certify to the adoption of this Ordinance and cause it, or a summary of it, to be published once within 15 days of adoption in a newspaper of general circulation printed and published within the Town of Yucca Valley, and shall post a certified copy of this Ordinance, including the vote for and against the same, in the Office of the Town Clerk in accordance with Government Code § 36933.

Section 4. Effective Date: This Ordinance shall become effective thirty (30) days from its adoption.

APPROVED AND ADOPTED this _____ day of _____, 2014.

MAYOR

ATTEST:

TOWN CLERK

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PREVIOUS, NOW
REPEALED
ORDINANCE

Ordinance No. 54

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF YUCCA VALLEY, CALIFORNIA, AMENDING SECTION 84.0615 OF THE TOWN OF YUCCA VALLEY DEVELOPMENT CODE REGARDING HOME OCCUPATIONS/COTTAGE INDUSTRY BY AMENDING SUBSECTION 84.0615 (a), AND 84.0615 (b) AND ADDING NEW SUBSECTIONS 84.0615(e), 84.0615(f), 84.0615(g), AND 84.0615(h)

The Town Council of the Town of Yucca Valley does ordain as follows:

SECTION 1. SECTION 84.0615 AMENDMENTS

Section 84.0615 of the Yucca Valley Development Code is hereby amended as follows:

1.1 Subsection (a) of Section 84.0615 of the Town of Yucca Valley Development Code is hereby amended to read as follows:

"(a) Home Occupations and Cottage Industries are businesses, professions or trade activities of a non-residential nature which is accessory to a residential land use. The home occupation is performed by the resident within that residential dwelling unit for purposes of generating income or gainful employment by means of the manufacture, provision and/or sale of goods and/or services, where this activity is purely incidental to the use of the dwelling for residential purposes. Home Occupations and Cottage Industries conducted in accordance with the provision of this chapter shall be permitted in residential zones, and in areas where residential uses are allowed, provided that the occupation is clearly incidental to the use of the dwelling for residential purposes and does not alter the character nor the appearance of the residential environment. No home occupation shall be established until an application for a Home Occupation Permit has been submitted to and approved by the Director of the Community Development Department as being consistent with the requirements of this Chapter. Home Occupations and Cottage Industries shall be permitted as an accessory use to a residential land use, subject to a Special Use Permit and to the following standards:

Home Occupation and Cottage Industry Standards are divided into three (3) groups of provisions:

- (1) General standards applying to both Home Occupations and Cottage Industries.
- (2) Home Occupation standards for properties within land use districts which allow residential uses.
- (3) Cottage Industry standards for land use districts which require a minimum parcel size of two and one-half (2 1/2) acres and where the lot size is at least one (1) acre."

SUMMARY OF STANDARDS

TOPIC	REGULATORY INTENT	STANDARDS
Location	To minimize unsightly conditions from disturbing surrounding neighbors.	<p>The home occupation shall be confined to an enclosed structure</p> <p>The home occupation may be conducted in the garage to the dwelling unit but shall not use any space required for off-street parking.</p> <p>All employees, partners or operators of the home occupation, shall be members of the resident family and shall reside on the premises.</p> <p>All employees, partners or operators of the home occupation, except two (2), shall be members of the resident family and shall reside on the premises (Cottage Industry)</p>
Sales Activity	Restrict scope of business activity to ensure that residential use remains primary	<p>Direct sales of products or merchandise shall be limited to seven (7) customers per week.</p> <p>Operating hours of a Home Occupation shall be between the hours of seven (7:00) a.m. and eight (8:00) p.m. (Cottage Industry).</p>
Appearance	Maintain visual character of the existing structure as a primary residence.	<p>The appearance of the structure shall not be altered nor the occupation within the residence be conducted in a manner which would cause the premises to differ from its residential character either by the use of colors, materials, construction, lighting, signs or the emission of sounds, noises and vibrations.</p> <p>The use shall not involve storage of materials outside any structures, nor shall merchandise be visible from outside of the home.</p>

TOPIC	REGULATORY INTENT	STANDARDS
Traffic	A home occupation shall not create pedestrian/automobile or truck traffic, or parking demand above normal levels for that zone.	<p>Pedestrian and vehicular traffic will be limited to that normally associated with residential districts.</p> <p>The home occupation shall not involve the use of commercial vehicles for the delivery of materials to or from the premises beyond those commercial vehicles normally associated with residential uses.</p>
Utilities	Maintain residential scale of utility services to limit business activity to an incidental use and avoid TV/radio interference.	<p>The uses of utilities and community facilities shall be limited to that normally associated with the use of property for residential purposes.</p> <p>No equipment or process shall be utilized that causes electrical or reception interference to televisions or radios of neighboring residences.</p>
Business Vehicle	Restrict number, size and keeping of vehicles to reduce parking demand and maintain residential streetscapes.	<p>Parking shall comply with the parking requirements specified by Division 7, Chapter 6 of this Title. One additional on-site parking space shall be provided for each non-resident employee.</p> <p>The home occupation shall not involve the use of commercial vehicles for the delivery of materials to or from the premises beyond those commercial vehicles normally associated with residential uses.</p>
Storage	Ensure that stored material do not take up required parking space or accumulate in yards	<p>Up to twenty-five percent (25%) or two hundred fifty (250) square feet, whichever is greater, of the total floor area of the dwelling unit and related accessory structures, may be used for storage of materials and supplies related to the home occupation.</p> <p>Up to thirty five percent (35%) of the total floor area of the dwelling unit and related accessory structures or five hundred (500) square feet, whichever is greater, of the home may be used for storage of materials, supplies and equipment related to the cottage (Cottage Industry).</p>
Cumulative Effects	Ensure that home occupation at a site does not exceed single-activity performance levels	The Director of the Community Development Department may impose such additional conditions as deemed necessary to safeguard the health, safety, and general welfare of the neighborhood, and carry out the intent of this section.

1.2 Subsection (b) of Section 84.0615 of the Town of Yucca Valley Development Code is hereby amended to read as follows:

"(b) GENERAL STANDARDS.

All home occupations and cottage industries shall adhere to the following standards:

- (1) Pedestrian and vehicular traffic will be limited to that normally associated with residential districts.
- (2) The home occupation shall be confined to an enclosed structure.
- (3) The home occupation shall be limited to one type of occupation per residence.
- (4) The home occupation may be conducted in the garage to the dwelling unit but shall not use any space required for off-street parking.
- (5) The home occupation shall not involve the use of commercial vehicles for the delivery of materials to or from the premises beyond those commercial vehicles normally associated with residential uses.
- (6) The appearance of the structure shall not be altered nor the occupation within the residence be conducted in a manner which would cause the premises to differ from its residential character either by the use of colors, materials, construction, lighting, signs or the emission of sounds, noises and vibrations.
- (7) The use shall not involve storage of materials outside any structure. Merchandise shall not be visible from outside of the home.
- (8) Direct sales of products or merchandise shall be limited to seven (7) customers per week.
- (9) The uses of utilities and community facilities shall be limited to that normally associated with the use of property for residential purposes.
- (10) No equipment or process shall be utilized that causes electrical or reception interference to televisions or radios of neighboring residences.
- (11) If the business operation is to be operated by a tenant of the property, written permission from the property owner for the use of the property for the home occupations shall be submitted.
- (12) All required permits from other agencies and departments shall be submitted with the Home Occupation Permit application.

- (13) Noise emanations shall not exceed fifty five (55) dBA as measured at the property lines at all times.
- (14) Any activity producing glare shall be carried on so that direct or indirect light from the source shall not cause glare onto an adjacent parcel.
- (15) Chemicals, solvents, mixtures or materials which are corrosive, toxic, flammable, an irritant, a strong sensitizer, or other similar materials used in home occupation shall be used and stored in accordance with regulations of the San Bernardino County Department of Environmental Health Services, Hazardous Materials Division
- (16) Parking shall comply with the parking requirements specified by Division 7, Chapter 6 of this Title. One additional on-site parking space shall be provided for each non-resident employee.
- (17) No merchandise or articles shall be displayed for advertising. Public advertising (e.g. handbills) shall only list: phone number, home occupation operator's name, post office box and description of business. Location information shall be limited to community name only. Business address or location should not be included in any public advertising.
- (18) The Director of the Community Development Department may impose such additional conditions as deemed necessary to safeguard the health, safety, and general welfare of the neighborhood, and carry out the intent of this section."

1.3 Section 84.0615 of the Town of Yucca Valley Development Code is hereby amended by adding a new subsection 84.0615 (e) Permitted Home Occupations/Cottage Industry to read as follows:

"(e) **PERMITTED HOME OCCUPATIONS/COTTAGE INDUSTRY.**

The following home occupations/cottage industry shall be permitted provided they comply with all applicable standards of Section 84.0615(b), (c) and (d):

- (1) Office uses when the residence is used for the sole purpose of receiving mail, telephone calls, appointments, and bookkeeping,
- (2) Offices for accountant, bookkeeper, insurance agent, real estate broker, typist, notary public, architect, engineer, instructor in arts, crafts, or music, beauty shops, medical services, salesman (where no direct sales occur),

- (3) Crafts and hobby uses, such as photography, artwork, jewelry, home crafts, and minor baked goods.
- (4) Services, such as gardening, janitorial, typing,
- (5) Off premises sales and vending, such as import/export, product distributing, and swap meet vendors,
- (6) Any similar use as approved by the Community Development Director."

1.4 Section 84.0615 of the Town Development Code is hereby amended by adding a new subsection 84.0615 (f) Prohibited Home Occupations to read as follows:

"(f) PROHIBITED HOME OCCUPATIONS/COTTAGE INDUSTRY.

The following home occupations are expressly prohibited as home occupations:

- (1) The repair, reconditioning, servicing or manufacture of any internal combustion or diesel engine or of any motor vehicle, including automobiles, trucks, motorcycles, or boats,
- (2) The repair or construction of motor vehicles and appliances, machine shops, and cabinet shops,
- (3) Uses which entail food handling, processing or packing, other than specialized minor cooking or baking.
- (4) Uses which may include the services of training, breeding, raising or grooming of dogs, cats or other animals shall be approved only under separate permit pursuant to animal keeping regulations.
- (5) Sale of produce, hay or other agricultural product,
- (6) Uses which require the storage or use of explosives or highly combustible or toxic materials beyond that permitted by the building, fire code, or other adopted restriction,
- (7) ~~Uses which involve commercial vehicles (over a gross weight of 6,000 pounds or greater),~~
- (8) Other uses which the Community Development Director determines to be similar to those listed above or which include activities which the Director deems to be equally or more incompatible with the surrounding land uses as the activities normally found in the uses listed above and which may

adversely affect the health, safety, and general welfare of the neighborhood."

1.5 Section 84.0615 of the Town Development Code is hereby amended by adding a new subsection 84.0615 (g) Reviewing Authority and Enforcement to read as follows:

"(g) REVIEWING AUTHORITY AND ENFORCEMENT

(1) The Director of the Community Development Department, or his or her designee, shall review all applications for a Home Occupation Permit to determine if the proposed use meets all of the standards of Section 84.0615. If all standards are met, the Community Development Director shall make the following findings and issue the permit:

- (a) That the proposed use is not prohibited under Section 84.0615(f);
- (b) That the proposed use will comply with all applicable standards;
- (c) That the issuance of the Home Occupation Permit will not be detrimental to the public health, safety, and general welfare;
- (d) That the proposed use will be consistent with any applicable specific plan.

(2) Home Occupation Permits are subject to review by the Community Development Director within one year after issuance, or as a result of any complaint by any person.

The Home Occupation Permit may be revoked by the Community Development Department upon making findings that there exists a violation of a condition; regulation or limitation of the permit and said violation is not corrected within ten (10) days after a notice of violation is served on the violator or after repeated violations."

1.6 Section 84.0615 of the Town Development Code is hereby amended by adding a new subsection 84.0615 (h) Appeals to read as follows:

"(h) APPEALS

Any affected person may appeal a decision of the Director of the Community Development Department to the Planning Commission. Appeals shall be filed with the Community Development Department within ten (10) days following the date of the action appealed. Upon receipt of the notice of appeal, the Director Community Development shall schedule the matter on the agenda for the next possible regular Commission Meeting and shall cause notice of said appeal hearing to be given to the appellant not less than five (5) days prior to such hearing. The Planning Commission may affirm, revise or modify the action appealed from Town Staff. Any decision of the Planning Commission may be appealed to the Town Council within ten (10) days following Commission action. The notice of appeal shall be filed with the Community Development

Department who shall schedule the matter on the agenda for the next possible regular Council meeting and shall cause notice of said appeal hearing to be given the appellant not less than five (5) days prior to such hearing. The Council may affirm, revise, or modify the action appealed from the the Planning Commission. In ruling on the appeal, the findings and action of the Council shall be final and conclusive in the matter."

SECTION 2. PROVISIONS NOT AMENDED TO REMAIN. Except as specifically amended herein, all other provisions of section 84.0615 of the Town of Yucca Valley Development Code shall be and remain in effect.

SECTION 3. NOTICE OF ADOPTION. Within fifteen (15) days after the adoption hereof, the Town Clerk shall certify to the adoption of this Ordinance and cause it to be published once in a newspaper of general circulation printed and published in the County and circulated in the Town pursuant to Section 36933 of the Government Code.

SECTION 4. EFFECTIVE DATE. This Ordinance shall become effective thirty (30) days from and after the date of its adoption.

APPROVED AND ADOPTED by the Town Council and signed by the Mayor and attested by the Town Clerk this 20th day of April, 1995.

Mayor

ATTEST:

Steve Tsuda

Town Clerk

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

Town Attorney

Steve Tsuda

Town Manager

c:\data\wpdata\lhopord
3/21/95

ORDINANCE NO. 178

**AN ORDINANCE OF THE TOWN COUNCIL OF
THE TOWN OF YUCCA VALLEY, CALIFORNIA,
AMENDING TITLE 8, DIVISION 4, CHAPTER 6
SECTION 84.0615 OF THE SAN BERNARDINO
COUNTY CODE AS ADOPTED AND AMENDED BY
THE TOWN OF YUCCA VALLEY RELATING TO
HOME OCCUPATIONS (DCA-06-05)**

The Town Council of the Town of Yucca Valley does ordain as follows:

SECTION 1. Development Code Amended.

1.1 Title 8, Division 4, Chapter 6 Section 84.0615 of the San Bernardino County Code as adopted and amended by the Town of Yucca Valley is hereby further amended to read in its entirety as follows:

"84.0615

Home Occupations

84.0615

(a) PURPOSE AND INTENT:

The purpose and intent of this Section is to establish regulations allowing for the operation of certain business activities in single and multi-family residential neighborhoods. The standards and requirements are intended to ensure that home based business operations do not alter the character of any residential neighborhood, or create impacts or activities that are not typically and commonly associated within residential neighborhoods. It is the intent of this Section to allow for commercial uses that are accessory and incidental to the primary purpose of residential homes, which is that of providing a habitable dwelling for the owner or occupant as the primary use of the residential dwelling unit. Home Occupation permits may be allowed in multi-family zoning and in multi-family units, including duplexes, tri-plexes, and apartment units.

(b) No person shall engage in a home occupation without first obtaining a special use permit from the Planning Division consistent with the requirements of this Chapter, unless otherwise exempt.

(c) The Director of the Community Development Department, or his designee, shall review all applications for a Home Occupation Permit to determine if the proposed use meets all of the standards of subsection 84.0615 (j). If all standards are met after complying with the notice provisions of this subsection, the Community Development Director shall make the following findings prior to issuance of the permit:

- (1) That the proposed use is not prohibited;
 - (2) That the proposed use will comply with all applicable standards;
 - (3) That the issuance of the Home Occupation Permit will not be detrimental to the public health, safety, and general welfare;
 - (4) That the proposed use will be consistent with any applicable specific plan.
 - (5) That the proposed use will not alter the character of the neighborhood and will not induce physical or socioeconomic changes to the neighborhood that are inconsistent with the goals and objectives of the General Plan, and the development code, and that do not create characteristics more closely associated with commercial, office or industrial land use activities.
- (d)
- (1) In accordance with Section 83.010330 *Notice of Pending land Use Decision*, notice shall be given, except that such notice will be given at least fifteen (15) days prior to the scheduled hearing date. If no response has been received by the Town five (5) days prior to the scheduled hearing date and the applicant has no objections to the conditions of approval, the Community Development Director may elect not to hold a formal hearing.
 - (2) Home Occupation Permits are subject to review by the Community Development Director annually, or as a result of any written complaint.
 - (3) Telecommuting and internet or electronic based businesses, or other similar activities that are transparent inside the residential structure, and do not involve customer to site, employees, or any structural alteration are exempt from permitting requirements.
- (e)
- Subject to the authority and discretion of the Director, Home occupations that meet the following standards, after appropriate application and subject to a field investigation, may be permitted without notice or a hearing. Alternatively, the Director may schedule a hearing or forward the matter to the Planning Commission for action. The Director may establish any other special condition of approval for any Home Occupation Permit as necessary to carry out the intent of this subsection.
- (1) There is no visible or external evidence of the home occupation. The dwelling was not built, altered, furnished or decorated for the purpose of conducting the home occupation in such a manner as to change the residential character and appearance of the dwelling, or in such a manner as to cause the structure to be recognized as a place where a home occupation is conducted;

- (2) There are no displays, for sale, or advertising signs on the premises;
- (3) There are no signs other than one (1) unlighted identification sign containing the name and address of the owner attached to the building not exceeding two (2) square feet in area per street frontage;
- (4) All maintenance or service vehicles and equipment, or any vehicle bearing any advertisement, shall be in conformance with Town regulations regarding vehicle signs;
- (5) The home occupation does not encroach into any required parking, setback, or open space area;
- (6) Outside storage of stock, merchandise, scrap supplies, or other materials or equipment on the premises shall not be visible from surrounding properties or public rights of way. Any storage of hazardous, toxic, or combustible materials in amounts exceeding those typically found in residential uses shall be prohibited;
- (7) There is complete conformity with Fire, Building, Plumbing, Electrical, and Health Codes and all applicable State and Town laws and ordinances. Activities conducted and equipment or material used shall not change the fire safety or occupancy classification of the premises;
- (8) No pedestrian or vehicular traffic is generated in excess of that customarily associated with a residential use and the neighborhood in which it is located;
- (9) The Home Occupation has a current business registration certificate;
- (10) If the home occupation is to be conducted on rental property, the property owner's written authorization for the proposed use has been obtained prior to the submittal for a Home Occupation Permit;
- (11) The garage has not and shall not be altered externally;
- (12) The Home Occupation does not create or cause noise in excess of noise standards established for residential land use districts, dust, light, vibration, odor, gas, fumes, toxic or hazardous materials, smoke, glare, electrical interference, fluctuations in the line voltage outside the structure, or other hazards or nuisances;
- (13) There are no sales of products on the premises.
- (14) No customers or clientele may visit the residence.
- (15) All employees shall be members of the resident family and shall reside on the premises.
- (16) Up to twenty-five percent (25%) or two hundred fifty (250) square-feet, whichever is greater, of the total floor area of the dwelling unit and the related accessory structures may be used for storage of material and supplies related to the home occupation.
- (17) No employees and no vehicle parking, other than that normally associated with a single family residential structure, is provided.

- (f) Home occupation permit applications meeting the following standards shall be subject to notice and hearing. The Community Development Director is the review authority, and the Director may forward the application to the Planning Commission for consideration.
- (1) There may be sales of products on the premises.
 - (2) Customers may visit the residence and then only by appointment. This is restricted to a single appointment at a time. The monthly average of the total trip count for business activities shall not exceed 10 trips per day in all Land use Districts.
 - (3) All employees of the home occupation, except one (1), shall be members of the resident family and shall reside on the premises provided all the required findings can be made, in all RS land use districts. All employees of the home occupation, except two (2), shall be members of the resident family and shall reside on the premises provided all the required findings can be made in all RL land use districts. The applicant must demonstrate that the lot can accommodate the parking of all personal and employee vehicles on-site.
 - (4) Up to twenty-five percent (25%) or two hundred fifty (250) square-feet, whichever is greater, of the total floor area of the dwelling unit and the related accessory structures may be used for storage of material and supplies related to the home occupation in all RS land use districts. Up to thirty-five percent (35%) or five hundred (500) square-feet, whichever is greater, of the total floor area of the dwelling unit and the related accessory structures may be used for storage of material and supplies related to the use in all RL land use districts.
 - (5) Operating hours of a home occupation shall be between the hours of 7:00 a.m. and 8:00 p.m.
- (g) **Prohibited Home Occupations.** The following uses are not incidental to or compatible with residential activities and therefore shall not be allowed as home occupations:
- (1) Animal hospitals;
 - (2) Automotive and other vehicle repair (body or mechanical), upholstery, painting, or storage;
 - (3) Junk yards;
 - (4) Medical and dental offices, clinics, and laboratories;
 - (5) Mini-storage;
 - (6) Storage of equipment, materials, and other accessories to the construction trades;
 - (7) Welding and machining.
 - (8) Cabinet shop.

- (9) Uses which may include the storage or use of explosives or highly combustible or toxic materials beyond that permitted by the Building, Fire Code, or adopted restrictions.
- (h) The Home Occupation Permit may be revoked by the Community Development Director if any one of the following findings can be made that there exists a violation of a condition; regulation or limitation of the permit and said violation is not corrected within ten (10) days after a notice of violation is served on the violator or after repeated violations. The permit shall not be revoked without notice of hearing ten days in advance of the hearing for consideration of permit revocation. The Director may schedule the revocation hearing for consideration by the Planning Commission.
- (1) That the permitted home occupation use has changed in kind, extent or intensity from the use which received an approved Home Occupation Permit;
 - (2) That the use has become detrimental to the public health, safety, welfare or traffic, or constitutes a nuisance;
 - (3) That the use for which the permit was granted has ceased or was suspended for six (6) or more consecutive calendar months;
 - (4) That the use is not being conducted in a manner consistent with applicable operating standards described in Section 84.0618 *Operating Standards*, of this Chapter;
 - (5) That the permit was obtained by misrepresentation or fraud;
 - (6) That one (1) or more of the conditions of the Home Occupation Permit have not been met;
 - (7) That the property owner or tenant fails to permit entry onto the premises to allow periodic inspections by representatives of the Town at any reasonable time;
 - (8) That the home occupation is in violation of any statute, law, ordinance, or regulation;
 - (9) That two (2) or more valid complaints from at least two (2) different parties have been filed against the home occupation within any six (6) month period, and it is found that the use is causing harm or unreasonable annoyance or is otherwise detrimental to other property or its use in the area.
 - (10) That the applicant has not obtained a current business registration certificate from the Town.
 - (11) That the proposed use altered the character of the neighborhood and/or induced physical or socioeconomic changes to the neighborhood that are not consistent with the goals and objectives of the General Plan, that are not consistent with the development code, and that create characteristics more closely associated with commercial, office or industrial land use activities.

- (i) **Appeal.** Any affected person may appeal a decision of the Director of Community Development to the Planning Commission. Appeals shall be filed with the Community Development Department within ten (10) days following the date of the action appealed. Upon receipt of the notice of appeal, the Community Development Director shall schedule the matter on the agenda for the next possible regular Planning Commission meeting. The Planning Commission may affirm, revise or modify the action appealed from the Town staff. Any decision of the Planning Commission may be appealed to the Town Council within ten (10) days following the Commission action.

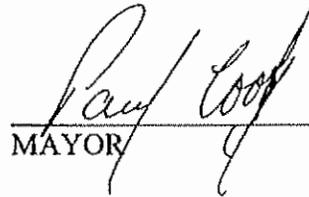
- (j) **General Standards.** All home occupations shall comply with all of the following operating standards at all times:
 - (1) There shall be no visible or external evidence of the home occupation. No dwelling shall be built, altered, furnished or decorated for the purpose of conducting the home occupation in such a manner as to change the residential character and appearance of the dwelling, or in such a manner as to cause the structure to be recognized as a place where a home occupation is conducted;
 - (2) There shall be no displays, sale, or advertising signs on the premises;
 - (3) There shall be no signs other than one (1) unlighted identification sign containing the name and address of the owner attached to the building not exceeding two (2) square feet in area per street frontage;
 - (4) All maintenance or service vehicles and equipment, or any vehicle bearing any advertisement, shall be in conformance with Town regulations regarding vehicle signs;
 - (5) The home occupation shall not encroach into any required parking, setback, or open space area;
 - (6) There shall be no outside storage of stock, merchandise, scrap supplies, or other materials or equipment on the premises visible from surrounding properties or public rights of way. Any storage of hazardous, toxic, or combustible materials in amounts exceeding those typically found in residential uses shall be prohibited;
 - (7) There shall be complete conformity with Fire, Building, Plumbing, Electrical, and Health Codes and to all applicable State and Town laws and ordinances. Activities conducted and equipment or material used shall not change the fire safety or occupancy classification of the premises;
 - (8) No home occupation shall generate pedestrian or vehicular traffic in excess of that customarily associated with a residential use and the neighborhood in which it is located;
 - (9) No home occupation shall be initiated until a current business registration certificate is obtained;
 - (10) A Home Occupation Permit shall not be transferable;

- (11) If the home occupation is to be conducted on rental property, the property owner's written authorization for the proposed use shall be obtained prior to the submittal for a Home Occupation Permit;
- (12) The garage shall not be altered externally;
- (13) No use shall create or cause noise in excess of noise standards established for residential land use districts, dust, light, vibration, odor, gas, fumes, toxic or hazardous materials, smoke, glare, electrical interference, fluctuations in the line voltage outside the structure, or other hazards or nuisances;
- (14) The Director may establish any other special condition of approval for any Home Occupation Permit as necessary to carry out the intent of this Chapter.

SECTION 2. NOTICE OF ADOPTION. Within fifteen (15) days after the adoption hereof, the Town Clerk shall certify to the adoption of this Ordinance and cause it to be published once in a newspaper of general circulation printed and published in the County and circulated in the Town pursuant to Section 36933 of the Government Code.

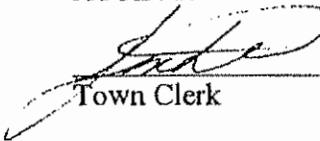
SECTION 3. EFFECTIVE DATE. This Ordinance shall become effective thirty (30) days from and after the date of its adoption.

APPROVED AND ADOPTED by the Town Council and signed by the Mayor and attested by the Town Clerk this 5th day of January, 2006.



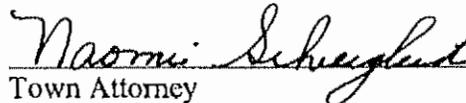
 MAYOR

ATTEST:



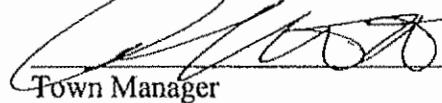
 Town Clerk

APPROVED AS TO FORM:



 Town Attorney

APPROVED AS TO CONTENT:



 Town Manager

STATE OF CALIFORNIA

COUNTY OF SAN BERNARDINO

TOWN OF YUCCA VALLEY

I, Janet M. Anderson, Town Clerk of the Town of Yucca Valley, California hereby certify that the foregoing Ordinance No. 178 as duly and regularly introduced at a meeting of the Town Council on the 8th day of December, 2005, and that thereafter the said ordinance was duly and regularly adopted at a meeting of the Town Council on the 5th day of January, 2006, by the following vote, to wit:

Ayes: Council Members Leone, Luckino, Mayes, Neeb and Mayor Cook

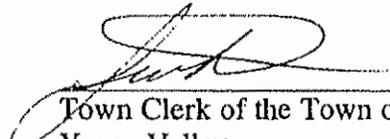
Noes: None

Abstain: None

Absent: None

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the Town of Yucca Valley, California, this 17th day of January, 2006.

(SEAL)


Town Clerk of the Town of
Yucca Valley



Can I Prepare Food at Home?

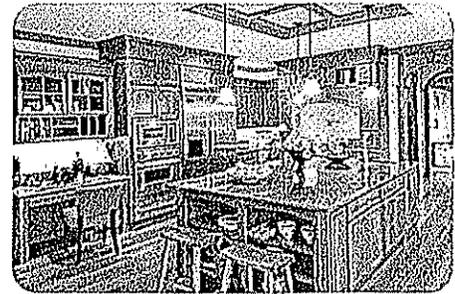
Assembly Bill 1616 (Food Safety: Cottage Food Operations) was signed into California law with an effective date of January 1, 2013. This law establishes requirements for limited preparation and distribution of low-risk food products from a business at a private home otherwise known as a Cottage Food Operation (CFO). Revenue and employee limitations apply.

What is meant by "private home?"

"Private home" means a dwelling, including an apartment or other leased space, where individuals reside. A commercial kitchen is not required.

Is a CFO operator required to obtain a health permit?

Yes, all CFOs are required to obtain either a valid health permit or a registration from the Division of Environmental Health Services (DEHS), depending on the type of operation. Additional permits may be required if cottage foods are sold outside the CFO.



What type of health permit or registration do I need?

Yes, a health permit is required. Furthermore, health permits are non-transferable and must be renewed annually. There are two types of health permits for a CFO:

1. A "Class A" registration is required for "Direct sales" between a CFO operator and a consumer. The operator must complete and submit a self-certification checklist as required by DEHS. The current fee for a "Class A" health permit is \$162.00.
2. A "Class B" health permit is required for "Direct Sales" and "Indirect sales" where the consumer purchases cottage food products from a permitted third-party retailer. The current fee for a "Class B" health permit is \$183.00.

Will I be inspected by the Health Department?

For "Class A" CFOs, no initial or routine health inspections will be required.

For "Class B" CFOs, an initial inspection will be conducted by DEHS, followed by routine inspections conducted annually.

All CFOs will be inspected on the basis of a consumer complaint or if DEHS has reason to suspect that adulterated or otherwise unsafe food has been produced by the CFO.

What types of foods can be prepared in a CFO?

Only "non-potentially hazardous" foods are approved for preparation in a CFO. These foods do not support the rapid growth of bacteria while held at room temperature. A few examples include:

- Baked goods without cream, custard, or meat fillings, such as bread, biscuits, churros, cookies, pastries, and tortillas
- Honey and sweet sorghum syrup
- Jams, jellies, preserves, and fruit butter
- Candy, such as brittle and toffee
- Nut mixes and nut butters

Where can I sell my food?

Foods may be sold through transactions in person at the CFO. With an additional temporary food facility health permit, foods may be sold at approved temporary events or certified farmers' markets (temporary food facility regulations will apply). Foods prepared in a "Class B" CFO may also be sold at other permitted food facilities.

What are the requirements for labeling the food?

Food that is prepared or packaged at a CFO must be labeled with:

1. The words "Made in a Home Kitchen" in 12-point type on the cottage food product's primary display panel
2. The name commonly used for the food product or an adequately descriptive name
3. The name of the CFO which produced the cottage food product
4. The registration or permit number of the "Class A" or "Class B" cottage food operation, respectively, which produced the cottage food product

"Class B" – In addition to the four requirements listed above, food from a "Class B" CFO must include the name of the county of the local enforcement agency that issued the permit number.



For additional information, contact DEHS at 1-800-442-2283 or visit us on the web at www.sbcounty.gov/dehs



HOW DO I OBTAIN A COTTAGE FOOD HEALTH PERMIT/REGISTRATION?

DO I QUALIFY AS A COTTAGE FOOD OPERATION?

Before you apply for a health permit or registration as a Cottage Food Operation, please verify that you meet the requirements. These requirements can be viewed on our website at:

www.sbcounty.gov/dehs/Depts/EnvironmentalHealth/GeneralInformation/cottage_food_operations.aspx

If you meet the criteria, you are eligible to become a permitted/registered cottage food operation.

HOW DO I OBTAIN A HEALTH PERMIT/REGISTRATION FOR A COTTAGE FOOD OPERATION?

In order to obtain a registration ("Class A") or a health permit ("Class B") for a cottage food operation, you must complete the following steps:

- 1) Obtain approval from your city planning department. You must do this prior to submitting a health permit/registration application to our office. If you live outside the city limits in a county area, you must obtain approval from the County of San Bernardino, Land Use Services Department.
- 2) After you have obtained approval from your city planning department or Land Use Services, download a copy of the Application for Cottage Food Operations Registration/Health Permit from the Division of Environmental Health Services (DEHS) website at:

www.sbcounty.gov/dehs/Depts/EnvironmentalHealth/BusinessServices/applications.aspx

- 3) Complete this application along with the self-certification checklist.
- 4) Submit the application and self-certification checklist to our office (DEHS) in addition to the required fee. Please note, if you are using a private well for water, you will be required to submit the latest test results along with your application (see application form for details). You may submit your application and fee to one of our three locations listed below.

If you are applying for a "Class A" Cottage Food Operation Registration, the registration process is complete and you are allowed to prepare cottage food. You will not be inspected by our office unless we receive a complaint regarding food that was prepared in your kitchen.

If you are applying for a "Class B" Cottage Food Operation Permit, an inspector will arrange to meet you at your residence to inspect your cottage food kitchen and storage areas before you are allowed to prepare cottage food. Once the inspector verifies that your kitchen and storage areas meet the requirements, you will be given approval to prepare food. The health permitting process is complete. If the inspector determines that your kitchen does not meet the requirements for a cottage food operation, you will be required to make corrections before you are allowed to prepare cottage food. "Class B" Cottage Food Operations will be inspected annually unless our office receives a complaint regarding food that was prepared in your kitchen.

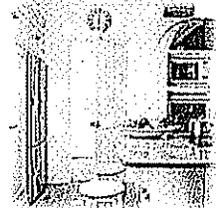
(continued on next page)

WHAT HAPPENS AFTER I AM ALLOWED TO PREPARE FOOD?

After you are allowed to prepare cottage food, you will be required to take a food processor course within 90 days. This course will be offered by the state. Although the course is currently not offered at any location, we will provide additional information as it becomes available.

THE HEALTH INSPECTOR IS COMING TO MY RESIDENCE, WHAT SHOULD I EXPECT?

The health inspector will visit your residence to ensure that your kitchen and food storage areas meet the requirements for a cottage food operation. If there is a problem, the inspector will tell you what the problem is and how you can correct it. You are welcome to ask the inspector additional questions during the inspection. In addition to verifying that your kitchen and storage areas meet the requirements, the inspector is there to provide education and information.



WHERE CAN I LEARN ADDITIONAL SAFE FOOD HANDLING PRACTICES?

If you wish to learn additional information regarding food safety, we encourage you to take our short course in food safety at <http://sbc.statefoodsafety.com>. Upon successful completion of the test at the end of this course, you will be able to print a food handler certificate. Although this certificate will not meet the requirement for the required food processor course offered by the state, you will be able to use the certificate to work at any food facility in the County of San Bernardino.

If you have additional questions, you are welcome to contact our office at any time (office hours are 8:00 AM to 5:00 PM, Monday through Friday). You can also visit us on the web at www.sbcounty.gov/dehs for additional information.

WHERE ARE THE DEHS OFFICE LOCATIONS?

- 385 N. Arrowhead Ave. 2nd Floor, San Bernardino, CA 92415-0160
- 15900 Smoke Tree St., Ste. 131, Hesperia, CA 92345
- 8575 Haven Ave., Ste. 130, Rancho Cucamonga, CA 91730

1-800-442-2283 or visit us on the web at
www.sbcounty.gov/dehs



COUNTY OF SAN BERNARDINO
Environmental Health Services
DEPARTMENT OF PUBLIC HEALTH

www.sbcounty.gov/dehs

APPLICATION FOR COTTAGE FOOD OPERATIONS REGISTRATION / HEALTH PERMIT

Return to:

- 385 N. Arrowhead Ave., 2nd Floor, San Bernardino 92415-0160 - (800) 442-2283
- 15900 Smoke Tree St., Ste. 131, Hesperia 92345 - (800) 442-2283
- 8575 Haven Ave., Ste. 130, Rancho Cucamonga 91730 - (800) 442-2283

This Section To Be Completed By Applicant - Please Print - Health Permits and Registrations Are NOT Transferable

FACILITY INFORMATION

Name of Cottage Food Operation (Business Name):		Business E-Mail Address:	
Address of Private Home:		City:	State: Zip:
Phone Number:	Alternative Phone Number:	Fax Number:	

LEGAL OWNER INFORMATION

Owner of Cottage Food Operation:		Phone Number:	
Owner E-Mail Address:		City:	State: Zip:

INVOICE INFORMATION

Mail To:		Care Of:	
Address:		City:	State: Zip:

TYPE OF COTTAGE FOOD OPERATION

Select One:	Type of Registration / Permit:	Allows for:
<input type="checkbox"/>	"CLASS A" Cottage Food Operation (Registration)	"Direct Sales" only
<input type="checkbox"/>	"CLASS B" Cottage Food Operation (Health Permit)	"Direct Sales" and "Indirect Sales" at permitted food facilities
Do you use water from a private well? <input type="checkbox"/> No <input type="checkbox"/> Yes		If yes, you <u>MUST</u> provide proof of potable water. Attach a copy of the latest water test results including Bac-T, nitrates, nitrites and other constituents of concern.

NOTE: ALL FEES ARE DUE AND PAYABLE PRIOR TO FIRST DAY OF OPERATION. MAKE CHECKS PAYABLE TO: SAN BERNARDINO COUNTY

Application and fee must be submitted prior to operation by any new owner. Failure to pay within 30 days of the first day of operation will result in the assessment of a delinquent fee.

I shall notify this agency in writing if I discontinue operation or change billing address. Failure to do so may result in obligation to pay health services fees and additional penalties.

I HEREBY MAKE APPLICATION FOR HEALTH SERVICES AND REGISTRATION / PERMIT to establish and/or operate the above mentioned business, use, or services in accordance with the laws, ordinances, and regulations that are now or may hereinafter be in force by the United States government, the State of California, and the County of San Bernardino pertaining to the above mentioned business. I hereby consent to all necessary inspections incident to the issuance of this registration/permit and operation of the business. I hereby grant the Division of Environmental Health Services (DEHS) the right to enter the domestic residence housing the cottage food operation during normal business hours, or at other reasonable times, for the purposes of inspection including the collection of food samples.

I understand that I am required to obtain an additional health permit if I choose to sell or distribute food made or packaged in my Cottage Food Operation at events including holiday bazaars or other temporary events, such as bake sales or food swaps, transactions at farm stands, certified farmers' markets, or through community-supported agriculture subscriptions.

Initial _____

Signature:	Date:
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Print Name:	Title:
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For Office Use Only For Office Use Only

FEES ENVISION INFORMATION	Fee:	Late Fee:	Total Fee Due:	Amount Paid:
	Received By:	Date:	Check Number:	EHS Receipt Number:
	*FA Number:	*PR Number:	SR Number:	PE Number:
	OW Number:	Permit Exp. Date:	District Number:	City Code:
	AR Number:	Designated Employee:		Contributor Number:
	Circle One: New Transfer Renewal		Envision Entered By:	Date:

AB 1616: COTTAGE FOOD OPERATIONS SELF-CERTIFICATION CHECKLIST

This self-certification checklist **MUST** be submitted to the Division of Environmental Health Services (DEHS) along with the *Application for Cottage Food Operations Health Permit / Registration*.

NAME OF COTTAGE FOOD OPERATION (BUSINESS NAME) _____

BY INITIALING AND SIGNING BELOW, I ACKNOWLEDGE THAT I WILL ABIDE BY THE REGULATIONS PERTAINING TO COTTAGE FOOD OPERATIONS.

- 1. The cottage food operation (CFO) is located in a private dwelling where the CFO operator currently resides.
- 2. All CFO food preparation will take place in the private kitchen within that home. Additional rooms may be used as storage but must be approved by DEHS. Sleeping quarters are excluded from areas used for CFO food preparation or storage.
- 3. CFO products shall be non-potentially hazardous (i.e. baked goods without cream, custard or meat fillings; breads; pastries, etc.) and on the California Department of Public Health (CDPH) approved list. All food ingredients used in CFO products must be from an approved source.
- 4. Kitchen equipment and utensils used to produce CFO products shall be clean and maintained in a good state of repair.
- 5. All food contact surfaces, equipment, and utensils used for the preparation, packaging, or handling of any cottage food products shall be washed, rinsed, and sanitized before each use.
- 6. All food preparation, food storage and equipment storage areas shall be maintained free of rodents and insects.
- 7. Hand washing with warm water, soap, and drying with a single use towel, is required immediately prior to handling foods and after engaging in any activity that contaminates the hands such as after using the toilet, coughing or sneezing, eating or smoking.
- 8. No cottage food preparation, packaging, or handling may occur in the home kitchen concurrent with any other domestic activities, such as family meal preparation, dishwashing, clothes washing or ironing, kitchen cleaning or guest entertainment.
- 9. No infants, small children, or pets may be in the home kitchen during the preparation, packaging, or handling of any cottage food products.
- 10. Smoking shall be prohibited in the portion of a private home used for the preparation, packaging, storage, or handling of cottage food products and related ingredients or equipment, or both, while cottage food products are being prepared, packaged, stored or handled.
- 11. A person with a contagious illness shall refrain from work in the registered or permitted area of the cottage food operation.
- 12. All persons preparing or packaging CFO products must obtain County of San Bernardino food handler certification within 3 months of being registered or permitted with DEHS. Only certification from the County of San Bernardino will be accepted.
- 13. No more than 1 full-time equivalent employee is allowed. Immediate family or household members are not included.
- 14. A CFO shall properly label all cottage food products with the following:
 - a. The words "Made in a Home Kitchen" in 12-point type on the cottage food product's primary label.
 - b. The name commonly used to describe the food product.
 - c. The city, state and zip code of the cottage food operation which produced the cottage food product. If the CFO is not listed in the current telephone directory, then a street address must also be declared.
 - d. The name of the CFO which produced the cottage food product (i.e. business name).
 - e. The registration or permit number of the CFO which produced the cottage food product and in the case of "Class B" CFOs, the name of the county where the permit was issued.
 - f. The ingredients of the food product, in descending order of predominance by weight, if the product contains two or more ingredients.
 - g. The net quantity (count, weight, or volume) of the food product. It must be stated in both English (pound) units and metric units (grams).
 - h. A declaration on the label in plain language if the food contains any of the eight major food allergens such as milk, eggs, fish, shellfish, tree nuts, wheat, peanuts and soybean. There are two approved methods: 1) in a separate summary statement immediately following or adjacent to the ingredient list, or 2) within the ingredient list.
 - i. If the label makes approved nutrient content claims or health claims, the label must contain a "Nutrition Facts" statement on the information panel so as to be in compliance with the Federal Food, Drug, and Cosmetic Act available at 21 U.S.C. Sect. 343 et seq. and 21 CFR Part 101.
 - j. Labels must be legible and in English (accurately translated information in another language may accompany it).
 - k. Labels, wrappers, inks, adhesives, paper, and packaging materials that come into contact with the cottage food product by touching the product or penetrating the packaging must be food-grade (safe for food contact) and not contaminate the food.
- 15. Potable drinking water shall be used during the preparation or as an ingredient in cottage food products. CFOs using a private well as a water source must provide evidence of potable drinking water including test results for: Bacteriological Test (*quarterly*), Nitrates (*annually*), Nitrites (*every 3 years*) and constituents of concern such as Fluoride or Arsenic (*once*).
- 16. Provide evidence of approval (i.e. business license or home occupancy license) from city planning and zoning (within city limits) or County of San Bernardino Land Use Department (unincorporated areas).
- 17. List the foods that will be prepared (attach additional paper if necessary):

I ACKNOWLEDGE THAT I HAVE READ AND WILL ABIDE BY THE REGULATIONS PERTAINING TO COTTAGE FOOD OPERATIONS. INITIAL _____

PLEASE READ - DECLARATION AND SIGNATURE

ALL FEES ARE DUE AND PAYABLE PRIOR TO THE FIRST DAY OF OPERATION. Make checks payable to: COUNTY OF SAN BERNARDINO

This checklist, along with the required application, and all subsequent fees must be submitted prior to operation. Failure to pay will result in the assessment of a delinquent fee or closure. I declare under the penalty of law, that to the best of my knowledge and belief, the statements made herein are correct and true. I have knowledge of, and commit to meet state law and relevant local regulations pertaining to the AB 1616: Cottage Food Operations. I acknowledge the rules and regulations set forth by the San Bernardino County, Division of Environmental Health Services. As the Cottage Food Operator, I shall ensure my operation is in compliance with the Cottage Food Operations requirements mentioned in this checklist. I hereby consent to all necessary inspections incident to the issuance of a registration / health permit and the operation of the business. I hereby grant DEHS the right to enter the domestic residence housing the cottage food operation during normal business hours, or at other reasonable times, for the purposes of inspection including the collection of food samples. Furthermore, I understand that failure to meet all requirements specific to the Cottage Food Operations and set forth by the County of San Bernardino may result in permit suspension and/or closure of the Cottage Food Operation.

SIGNATURE OF COTTAGE FOOD OPERATOR _____ DATE _____

PRINT NAME _____ TITLE _____



California.
LEGISLATIVE INFORMATION

AB-1616 Food safety: cottage food operations. (2011-2012)

Assembly Bill No. 1616

CHAPTER 415

An act to add Chapter 6.1 (commencing with Section 51035) to Part 1 of Division 1 of Title 5 of the Government Code, and to amend Sections 109947, 110050, 110460, 111955, 113789, 113851, 114021, 114023, 114390, 114405, and 114409 of, to add Sections 113758 and 114088 to, and to add Chapter 11.5 (commencing with Section 114365) to Part 7 of Division 104 of, the Health and Safety Code, relating to food safety.

[Approved by Governor September 21, 2012. Filed with Secretary of State September 21, 2012.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1616, Gatto. Food safety: cottage food operations.

Existing law, the Sherman Food, Drug, and Cosmetic Law (Sherman Law), requires the State Department of Public Health to regulate the manufacture, sale, labeling, and advertising activities related to food, drugs, devices, and cosmetics in conformity with the Federal Food, Drug, and Cosmetic Act. The Sherman Law makes it unlawful to manufacture, sell, deliver, hold, or offer for sale any food that is misbranded. Food is misbranded if its labeling does not conform to specified federal labeling requirements regarding nutrition, nutrient content or health claims, and food allergens. Violation of this law is a misdemeanor.

The existing California Retail Food Code provides for the regulation of health and sanitation standards for retail food facilities, as defined, by the State Department of Public Health. Under existing law, local health agencies are primarily responsible for enforcing the California Retail Food Code. That law exempts private homes from the definition of a food facility, and prohibits food stored or prepared in a private home from being used or offered for sale in a food facility. That law also requires food that is offered for human consumption to be honestly presented, as specified. A violation of these provisions is a misdemeanor.

This bill would include a cottage food operation, as defined, that is registered or has a permit within the private home exemption of the California Retail Food Code. The bill would also exclude a cottage food operation from specified food processing establishment and Sherman Law requirements. This bill would require a cottage food operation to meet specified requirements relating to training, sanitation, preparation, labeling, and permissible types of sales and would subject a cottage food operation to inspections under specified circumstances. The bill would require a food facility that serves a cottage food product without packaging or labeling to identify it as homemade. The bill would establish various zoning and permit requirements relating to cottage food operations.

This bill would incorporate additional changes in Section 113789 of the Health and Safety Code, proposed by AB 2297, to be operative only if AB 2297 and this bill are both chaptered and become effective January 1, 2013, and this bill is chaptered last.

By imposing duties on local officials and adding new crimes, this bill would create a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. The Legislature finds and declares all of the following:

(a) Small businesses have played an important role in helping slow economies recover and prosper as an engine of job creation. During the 1990s, small businesses created the majority of new jobs and now account for 65 percent of United States employment.

(b) California, and the United States as a whole, are facing growing obesity and obesity-related disease epidemics.

(1) Two-thirds of American adults and nearly one-third of children and teens are obese or overweight, placing them at risk for developing chronic diseases such as diabetes, heart disease, and cancer.

(2) One in every nine California children, one in three teens, and over half of adults are already overweight or obese. This epidemic affects virtually all Californians.

(3) These health conditions are preventable and curable through lifestyle choices that include consumption of healthy fresh foods.

(c) For decades, low-income and rural communities have faced limited opportunities to purchase healthy foods. Often, without cars or convenient public transportation options, low-income residents in these areas must rely for much of their shopping on expensive, fatty, processed foods sold at convenience and corner stores.

(d) There is a growing movement in California to support community-based food production, sometimes referred to as "cottage food," "artisanal food," "slow food," "locally based food," or "urban agriculture" movements. These movements seek to connect food to local communities, small businesses, and environmental sustainability.

(e) Increased opportunities for entrepreneur development through microenterprises can help to supplement household incomes, prevent poverty and hunger, and strengthen local economies.

(f) At least 32 other states have passed laws that allow small business entrepreneurs to use their home kitchens to prepare, for sale, foods that are not potentially hazardous.

(g) Even some bake sales are currently illegal in California.

(h) It is the intent of the Legislature to enact a homemade food act specifically designed to help address these challenges and opportunities.

SEC. 2. Chapter 6.1 (commencing with Section 51035) is added to Part 1 of Division 1 of Title 5 of the Government Code, to read:

CHAPTER 6.1. Cottage Food Operations

51035. (a) A city, county, or city and county shall not prohibit a cottage food operation, as defined in Section 113758 of the Health and Safety Code, in any residential dwellings, but shall do one of the following:

(1) Classify a cottage food operation as a permitted use of residential property for zoning purposes.

(2) Grant a nondiscretionary permit to use a residence as any cottage food operation that complies with local ordinances prescribing reasonable standards, restrictions, and requirements concerning spacing and concentration, traffic control, parking, and noise control relating to those homes. Any noise standards shall be consistent with local noise ordinances implementing the noise element of the general plan. The permit issued pursuant to this paragraph shall be granted by the zoning administrator, or if there is no zoning administrator, by the person or persons designated by the planning agency to grant these permits, upon the certification without a hearing.

(3) Require any cottage food operation to apply for a permit to use a residence for its operation. The zoning administrator, or if there is no zoning administrator, the person or persons designated by the planning agency to handle the use permits, shall review and decide the applications. The use permit shall be granted if the cottage food operation complies with local ordinances, if any, prescribing reasonable standards, restrictions, and requirements concerning the following factors: spacing and concentration, traffic control, parking, and noise control relating to those homes. Any noise standards shall be consistent with local noise ordinances implementing the noise element of the general plan. The local government shall process any required permit as economically as possible. Fees charged for review shall not exceed the costs of the review and permit process. An applicant may request a verification of fees, and the city, county, or city and county shall provide the applicant with a written breakdown within 45 days of the request. The application form for cottage food operation permits shall include a statement of the applicant's right to request the written fee verification.

(b) In connection with any action taken pursuant to paragraph (2) or (3) of subdivision (a), a city, county, or city and county shall do all of the following:

(1) Upon the request of an applicant, provide a list of the permits and fees that are required by the city, county, or city and county, including information about other permits that may be required by other departments in the city, county, or city and county, or by other public agencies. The city, county, or city and county shall, upon request of any applicant, also provide information about the anticipated length of time for reviewing and processing the permit application.

(2) Upon the request of an applicant, provide information on the breakdown of any individual fees charged in connection with the issuance of the permit.

(3) If a deposit is required to cover the cost of the permit, provide information to the applicant about the estimated final cost to the applicant of the permit, and procedures for receiving a refund from the portion of the deposit not used.

(c) Use of a residence for the purposes of a cottage food operation shall not constitute a change of occupancy for purposes of the State Housing Law (Part 1.5 (commencing with Section 17910) of Division 13 of the Health and Safety Code), or for purposes of local building and fire codes.

(d) Cottage food operations shall be considered residences for the purposes of the State Uniform Building Standards Code and local building and fire codes.

SEC. 3. Section 109947 of the Health and Safety Code is amended to read:

109947. "Food processing facility" means any facility operated for the purposes of manufacturing, packing, or holding processed food. Food processing facility does not include a food facility as defined in Section 113785, a cottage food operation that is registered or has a permit pursuant to Section 114365, or any facility exclusively storing, handling, or processing dried beans.

SEC. 4. Section 110050 of the Health and Safety Code is amended to read:

110050. The Food Safety Fund is hereby created as a special fund in the State Treasury. All moneys collected by the department under subdivision (c) of Section 110466 and Sections 110470, 110471, 110485, 114365, 114365.6, 111130, and 113717, and under Article 7 (commencing with Section 110810) of Chapter 5 shall be deposited in the fund, for use by the department, upon appropriation by the Legislature, for the purposes of providing funds necessary to carry out and implement the inspection provisions of this part relating to food, licensing, inspection, enforcement, and other provisions of Article 12 (commencing with Section 111070) relating to water, the provisions relating to education and training in the prevention of microbial contamination pursuant to Section 110485, and the registration provisions of Article 7 (commencing with Section 110810) of Chapter 5, and to carry out and implement the provisions of the California Retail Food Code (Part 7 (commencing with Section 113700) of Division 104).

SEC. 5. Section 110460 of the Health and Safety Code is amended to read:

110460. No person shall engage in the manufacture, packing, or holding of any processed food in this state unless the person has a valid registration from the department, except those engaged exclusively in the storing, handling, or processing of dried beans. The registration shall be valid for one calendar year from the date of issue, unless it is revoked. The registration shall not be transferable. This section shall not apply to a cottage food operation that is registered or has a permit pursuant to Section 114365.

SEC. 6. Section 111955 of the Health and Safety Code is amended to read:

111955. "Food processing establishment," as used in this chapter, shall mean any room, building, or place or portion thereof, maintained, used, or operated for the purpose of commercially storing, packaging, making, cooking, mixing, processing, bottling, canning, packing, slaughtering, or otherwise preparing or handling food except restaurants. "Food processing establishment" shall not include a cottage food operation that is registered or has a permit pursuant to Section 114365.

SEC. 7. Section 113758 is added to the Health and Safety Code, to read:

113758. (a) "Cottage food operation" means an enterprise that has not more than the amount in gross annual sales that is specified in this subdivision, is operated by a cottage food operator, and has not more than one full-time equivalent cottage food employee, not including a family member or household member of the cottage food operator, within the registered or permitted area of a private home where the cottage food operator resides and where cottage food products are prepared or packaged for direct, indirect, or direct and indirect sale to consumers pursuant to this part. In 2013, the enterprise shall not have more than thirty-five thousand dollar (\$35,000) in gross annual sales in the calendar year. In 2014, the enterprise shall not have more than forty-five thousand dollars (\$45,000) in gross annual sales in the calendar year. Commencing in 2015, and each subsequent year thereafter, the enterprise shall not have more than fifty thousand dollars (\$50,000) in gross annual sales in the calendar year. A cottage food operation includes both of the following:

(1) A "Class A" cottage food operation, which is a cottage food operation that may engage only in direct sales of cottage food products from the cottage food operation or other direct sales venues described in paragraph (4) of subdivision (b).

(2) A "Class B" cottage food operation, which is a cottage food operation that may engage in both direct sales and indirect sales of cottage food products from the cottage food operation, from direct sales venues described in paragraph (4) of subdivision (b), from offsite events, or from a third-party retail food facility described in paragraph (5) of subdivision (b).

(b) For purposes of this section, the following definitions shall apply:

(1) "Cottage food employee" means an individual, paid or volunteer, who is involved in the preparation, packaging, handling, and storage of a cottage food product, or otherwise works for the cottage food operation. An employee does not include an immediate family member or household member of the cottage food operator.

(2) "Cottage food operator" means an individual who operates a cottage food operation in his or her private home and is the owner of the cottage food operation.

(3) "Cottage food products" means nonpotentially hazardous foods, including foods that are described in Section 114365.5 and that are prepared for sale in the kitchen of a cottage food operation.

(4) "Direct sale" means a transaction between a cottage food operation operator and a consumer, where the consumer purchases the cottage food product directly from the cottage food operation. Direct sales include, but are not limited to, transactions at holiday bazaars or other temporary events, such as bake sales or food swaps, transactions at farm stands, certified farmers' markets, or through community-supported agriculture subscriptions, and transactions occurring in person in the cottage food operation.

(5) "Indirect sale" means an interaction between a cottage food operation, a third-party retailer, and a consumer, where the consumer purchases cottage food products made by the cottage food operation from a third-party retailer that holds a valid permit issued pursuant to Section 114381. Indirect sales include, but are not limited to, sales made to retail shops or to retail food facilities where food may be immediately consumed on the premises.

(6) "Private home" means a dwelling, including an apartment or other leased space, where individuals reside.

(7) "Registered or permitted area" means the portion of a private home that contains the private home's kitchen used for the preparation, packaging, storage, or handling of cottage food products and related ingredients or equipment, or both, and attached rooms within the home that are used exclusively for storage.

SEC. 8. Section 113789 of the Health and Safety Code is amended to read:

113789. (a) "Food facility" means an operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption at the retail level, including, but not limited to, the following:

(1) An operation where food is consumed on or off the premises, regardless of whether there is a charge for the food.

(2) Any place used in conjunction with the operations described in this subdivision, including, but not limited to, storage facilities for food-related utensils, equipment, and materials.

(b) "Food facility" includes permanent and nonpermanent food facilities, including, but not limited to, the following:

(1) Public and private school cafeterias.

(2) Restricted food service facilities.

(3) Licensed health care facilities.

(4) Commissaries.

(5) Mobile food facilities.

(6) Mobile support units.

(7) Temporary food facilities.

(8) Vending machines.

(9) Certified farmers' markets, for purposes of permitting and enforcement pursuant to Section 114370.

(10) Farm stands, for purposes of permitting and enforcement pursuant to Section 114375.

(c) "Food facility" does not include any of the following:

(1) A cooperative arrangement wherein no permanent facilities are used for storing or handling food.

(2) A private home, including a cottage food operation that is registered or has a permit pursuant to Section 114365.

(3) A church, private club, or other nonprofit association that gives or sells food to its members and guests, and not to the general public, at an event that occurs not more than three days in any 90-day period.

(4) A for-profit entity that gives or sells food at an event that occurs not more than three days in a 90-day period for the benefit of a nonprofit association, if the for-profit entity receives no monetary benefit, other than that resulting from recognition from participating in an event.

(5) Premises set aside for wine tasting, as that term is used in Section 23356.1 of the Business and Professions Code and in the regulations adopted pursuant to that section, that comply with Section 118375, regardless of whether there is a charge for the wine tasting, if no other beverage, except for bottles of wine and prepackaged nonpotentially hazardous beverages, is offered for sale for onsite consumption and no food, except for crackers, is served.

(6) Premises operated by a producer, selling or offering for sale only whole produce grown by the producer, or shell eggs, or both, provided the sales are conducted on premises controlled by the producer.

(7) A commercial food processing plant as defined in Section 111955.

(8) A child day care facility, as defined in Section 1596.750.

(9) A community care facility, as defined in Section 1502.

(10) A residential care facility for the elderly, as defined in Section 1569.2.

(11) A residential care facility for the chronically ill, which has the same meaning as a residential care facility, as defined in Section 1568.01.

(12) Premises set aside by a beer manufacturer, as defined in Section 25000.2 of the Business and Professions Code, that comply with Section 118375, for the purposes of beer tasting, regardless of whether there is a charge for the beer tasting, if no other beverage, except for beer and prepackaged nonpotentially hazardous beverages, is offered for sale for onsite consumption, and no food, except for crackers or pretzels, is served.

SEC. 8.5. Section 113789 of the Health and Safety Code is amended to read:

113789. (a) "Food facility" means an operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption at the retail level, including, but not limited to, the following:

(1) An operation where food is consumed on or off the premises, regardless of whether there is a charge for the food.

(2) Any place used in conjunction with the operations described in this subdivision, including, but not limited to, storage facilities for food-related utensils, equipment, and materials.

(b) "Food facility" includes permanent and nonpermanent food facilities, including, but not limited to, the following:

(1) Public and private school cafeterias.

(2) Restricted food service facilities.

(3) Licensed health care facilities, except as provided in paragraph (13) of subdivision (c).

(4) Commissaries.

(5) Mobile food facilities.

(6) Mobile support units.

(7) Temporary food facilities.

(8) Vending machines.

(9) Certified farmers' markets, for purposes of permitting and enforcement pursuant to Section 114370.

(10) Farm stands, for purposes of permitting and enforcement pursuant to Section 114375.

(c) "Food facility" does not include any of the following:

(1) A cooperative arrangement wherein no permanent facilities are used for storing or handling food.

(2) A private home, including a cottage food operation that is registered or has a permit pursuant to Section 114365.

(3) A church, private club, or other nonprofit association that gives or sells food to its members and guests, and not to the general public, at an event that occurs not more than three days in any 90-day period.

(4) A for-profit entity that gives or sells food at an event that occurs not more than three days in a 90-day period for the benefit of a nonprofit association, if the for-profit entity receives no monetary benefit, other than that resulting from recognition from participating in an event.

(5) Premises set aside for wine tasting, as that term is used in Section 23356.1 of the Business and Professions Code and in the regulations adopted pursuant to that section, that comply with Section 118375, regardless of whether there is a charge for the wine tasting, if no other beverage, except for bottles of wine and prepackaged nonpotentially hazardous beverages, is offered for sale for onsite consumption and no food, except for crackers, is served.

(6) Premises operated by a producer, selling or offering for sale only whole produce grown by the producer, or shell eggs, or both, provided the sales are conducted on premises controlled by the producer.

(7) A commercial food processing plant as defined in Section 111955.

(8) A child day care facility, as defined in Section 1596.750.

(9) A community care facility, as defined in Section 1502.

(10) A residential care facility for the elderly, as defined in Section 1569.2.

(11) A residential care facility for the chronically ill, which has the same meaning as a residential care facility, as defined in Section 1568.01.

(12) Premises set aside by a beer manufacturer, as defined in Section 25000.2 of the Business and Professions Code, that comply with Section 118375, for the purposes of beer tasting, regardless of whether there is a

charge for the beer tasting, if no other beverage, except for beer and prepackaged nonpotentially hazardous beverages, is offered for sale for onsite consumption, and no food, except for crackers or pretzels, is served.

(13) (A) An intermediate care facility for the developmentally disabled, as defined in subdivisions (e), (h), and (m) of Section 1250, with a capacity of six beds or fewer.

(B) A facility described in subparagraph (A) shall report any foodborne illness or outbreak to the local health department and to the State Department of Public Health within 24 hours of the illness or outbreak.

SEC. 9. Section 113851 of the Health and Safety Code is amended to read:

113851. (a) "Permit" means the document issued by the enforcement agency that authorizes a person to operate a food facility or cottage food operation.

(b) "Registration" shall have the same meaning as permit for purposes of implementation and enforcement of this part.

SEC. 10. Section 114021 of the Health and Safety Code is amended to read:

114021. (a) Food shall be obtained from sources that comply with all applicable laws.

(b) Food stored or prepared in a private home shall not be used or offered for sale in a food facility, unless that food is prepared by a cottage food operation that is registered or has a permit pursuant to Section 114365.

SEC. 11. Section 114023 of the Health and Safety Code is amended to read:

114023. Food in a hermetically sealed container shall be obtained from a food processing plant that is regulated by the food regulatory agency that has jurisdiction over the plant, or from a cottage food operation that produces jams, jellies, and preserves and that is registered or has a permit pursuant to Section 114365.

SEC. 12. Section 114088 is added to the Health and Safety Code, to read:

114088. A cottage food product, as defined in Section 113758, that is served by a food facility without packaging or labeling, as described in Section 114365, shall be identified to the consumer as homemade on the menu, menu board, or other location that would reasonably inform a consumer of its homemade status.

SEC. 13. Chapter 11.5 (commencing with Section 114365) is added to Part 7 of Division 104 of the Health and Safety Code, to read:

CHAPTER 11.5. Cottage Food Operations

114365. (a) (1) (A) A "Class A" cottage food operation shall not be open for business unless it is registered with the local enforcement agency and has submitted a completed, self-certification checklist approved by the local enforcement agency. The self-certification checklist shall verify that the cottage food operation conforms to this chapter, including the following requirements:

(i) No cottage food preparation, packaging, or handling may occur in the home kitchen concurrent with any other domestic activities, such as family meal preparation, dishwashing, clothes washing or ironing, kitchen cleaning, or guest entertainment.

(ii) No infants, small children, or pets may be in the home kitchen during the preparation, packaging, or handling of any cottage food products.

(iii) Kitchen equipment and utensils used to produce cottage food products shall be clean and maintained in a good state of repair.

(iv) All food contact surfaces, equipment, and utensils used for the preparation, packaging, or handling of any cottage food products shall be washed, rinsed, and sanitized before each use.

(v) All food preparation and food and equipment storage areas shall be maintained free of rodents and insects.

(vi) Smoking shall be prohibited in the portion of a private home used for the preparation, packaging, storage, or handling of cottage food products and related ingredients or equipment, or both, while cottage food products are being prepared, packaged, stored, or handled.

- (B) (i) The department shall post the requirements described in subparagraph (A) on its Internet Web site.
- (ii) The local enforcement agency shall issue a registration number to a "Class A" cottage food operation that meets the requirements of subparagraph (A).
- (C) (i) Except as provided in (ii), a "Class A" cottage food operation shall not be subject to initial or routine inspections.
- (ii) For purposes of determining compliance with this chapter, a representative of a local enforcement agency may access, for inspection purposes, the registered area of a private home where a cottage food operation is located only if the representative has, on the basis of a consumer complaint, reason to suspect that adulterated or otherwise unsafe food has been produced by the cottage food operation or that the cottage food operation has violated this chapter.
- (iii) Access under this subparagraph is limited to the registered area and solely for the purpose of enforcing or administering this chapter.
- (iv) A local enforcement agency may seek recovery from a "Class A" cottage food operation of an amount that does not exceed the local enforcement agency's reasonable costs of inspecting the "Class A" cottage food operation for compliance with this chapter, if the "Class A" cottage food operation is found to be in violation of this chapter.
- (2) (A) A "Class B" cottage food operation shall not be open for business unless it obtains a permit from the local enforcement agency in a manner approved by the local enforcement agency to engage in the direct and indirect sale of cottage food products.
- (B) (i) A "Class B" cottage food operation shall comply with the requirements described in clauses (i) to (vi), inclusive, of subparagraph (A) of paragraph (1) in addition to the other requirements of this chapter.
- (ii) The local enforcement agency shall issue a permit number after an initial inspection has determined that the proposed "Class B" cottage food operation and its method of operation conform to this chapter.
- (C) Except as provided in this subparagraph, a "Class B" cottage food operation shall not be subject to more than one inspection per year by the local enforcement agency.
- (i) For purposes of determining compliance with this chapter, a representative of a local enforcement agency, for inspection purposes, may access the permitted area of a private home where a cottage food operation is located only if the representative has, on the basis of a consumer complaint, reason to suspect that adulterated or otherwise unsafe food has been produced by the cottage food operation, or that the cottage food operation has violated this chapter.
- (ii) Access under this subparagraph is limited to the permitted area and solely for the purpose of enforcing or administering this chapter.
- (D) (i) A "Class B" cottage food operation shall be authorized to engage in the indirect sales of cottage food products within the county in which the "Class B" cottage food operation is permitted.
- (ii) A county may agree to allow a "Class B" cottage food operation permitted in another county to engage in the indirect sales of cottage food products in the county.
- (b) A registration or permit, once issued, is nontransferable. A registration or permit shall be valid only for the person, location, type of food sales, and distribution activity specified by that registration or permit, and, unless suspended or revoked for cause, for the time period indicated.
- 114365.2.** A cottage food operation that is registered or has a permit issued pursuant to Section 114365 shall be considered a restricted food service facility for purposes of, and subject to, Sections 113953.3, 114259.5, 114285, and 114286. A cottage food operation that is registered or has a permit also shall be subject to Sections 113967, 113973, 113980, 114259.5, 114405, 114407, 114409, 114411, and 114413, and to all of the following requirements:
- (a) A person with a contagious illness shall refrain from work in the registered or permitted area of the cottage food operation.
- (b) A person involved in the preparation or packaging of cottage food products shall keep his or her hands and exposed portions of his or her arms clean and shall wash his or her hands before any food preparation or packaging activity in a cottage food operation.

(c) Water used during the preparation of cottage food products shall meet the potable drinking water standards described in Section 113869, except that a cottage food operation shall not be required to have an indirect sewer connection. Water used during the preparation of cottage food products includes all of the following:

- (1) The washing, sanitizing, and drying of any equipment used in the preparation of a cottage food product.
- (2) The washing, sanitizing, and drying of hands and arms.
- (3) Water used as an ingredient.

(d) A person who prepares or packages cottage food products shall complete a food processor course instructed by the department to protect the public health within three months of becoming registered. The course shall not exceed four hours in length. The department shall work with the local enforcement agency to ensure that cottage food operators are properly notified of the location, date, and time of the classes offered.

(e) A cottage food operation shall properly label all cottage food products in compliance with the Federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 343 et seq.). Additionally, to the extent permitted by federal law, the label shall include, but is not limited to, all of the following:

- (1) The words "Made in a Home Kitchen" in 12-point type on the cottage food product's primary display panel.
- (2) The name commonly used for the food product or an adequately descriptive name.
- (3) The name of the cottage food operation which produced the cottage food product.
- (4) The registration or permit number of the "Class A" or "Class B" cottage food operation, respectively, which produced the cottage food product and, in the case of a "Class B" cottage food operation, the name of the county of the local enforcement agency that issued the permit number.
- (5) The ingredients of the cottage food product, in descending order of predominance by weight, if the product contains two or more ingredients.

114365.5. (a) The department shall adopt and post on its Internet Web site a list of not potentially hazardous foods and their ethnic variations that are approved for sale by a cottage food operation. A cottage food product shall not be potentially hazardous food, as defined in Section 113871.

(b) This list of nonpotentially hazardous foods shall include, but not be limited to, all of the following:

- (1) Baked goods without cream, custard, or meat fillings, such as breads, biscuits, churros, cookies, pastries, and tortillas.
- (2) Candy, such as brittle and toffee.
- (3) Chocolate-covered nonperishable foods, such as nuts and dried fruit.
- (4) Dried fruit.
- (5) Dried pasta.
- (6) Dry baking mixes.
- (7) Fruit pies, fruit empanadas, and fruit tamales.
- (8) Granola, cereals, and trail mixes.
- (9) Herb blends and dried mole paste.
- (10) Honey and sweet sorghum syrup.
- (11) Jams, jellies, preserves, and fruit butter that comply with the standard described in Part 150 of Title 21 of the Code of Federal Regulations.
- (12) Nut mixes and nut butters.
- (13) Popcorn.
- (14) Vinegar and mustard.
- (15) Roasted coffee and dried tea.

(16) Waffle cones and pizelles.

(c) (1) The State Public Health Officer may add or delete food products to or from the list described in subdivision (b), which shall be known as the approved food products list. Notice of any change to the approved food products list shall be posted on the department's cottage food program Internet Web site, to also be known as the program Internet Web site for purposes of this chapter. Any change to the approved food products list shall become effective 30 days after the notice is posted. The notice shall state the reason for the change, the authority for the change, and the nature of the change. The notice will provide an opportunity for written comment by indicating the address to which to submit the comment and the deadline by which the comment is required to be received by the department. The address to which the comment is to be submitted may be an electronic site. The notice shall allow at least 20 calendar days for comments to be submitted. The department shall consider all comments submitted before the due date. The department may withdraw the proposed change at any time by notification on the program Internet Web site or through notification by other electronic means. The approved food products list described in subdivision (b), and any updates to the list, shall not be subject to the administrative rulemaking requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(2) The State Public Health Officer shall not remove any items from the approved food products list unless the State Public Health Officer also posts information on the program Internet Web site explaining the basis upon which the removed food item has been determined to be potentially hazardous.

114365.6. (a) The State Public Health Officer shall provide technical assistance, and develop, maintain, and deliver commodity-specific training related to the safe processing and packaging of cottage food products to local enforcement agencies.

(b) Local enforcement agencies may collect a surcharge fee in addition to any permit fees collected for "Class B" cottage food operations. The surcharge fee shall not exceed the reasonable costs that the department incurs through the administration of the training described in subdivision (a) to protect the public health. The surcharge fees collected shall be transmitted to the department in a manner established by the department to be deposited in the Food Safety Fund. The department shall use the surcharge fees only to develop and deliver the training described in subdivision (a) to local enforcement agency personnel on an ongoing basis.

SEC. 14. Section 114390 of the Health and Safety Code is amended to read:

114390. (a) Enforcement officers shall enforce this part and all regulations adopted pursuant to this part.

(b) (1) For purposes of enforcement, any authorized enforcement officer may, during the facility's hours of operation and other reasonable times, enter, inspect, issue citations to, and secure any sample, photographs, or other evidence from a food facility, cottage food operation, or any facility suspected of being a food facility or cottage food operation, or a vehicle transporting food to or from a retail food facility, when the vehicle is stationary at an agricultural inspection station, a border crossing, or at any food facility under the jurisdiction of the enforcement agency, or upon the request of an incident commander.

(2) If a food facility is operating under an HACCP plan, the enforcement officer may, for the purpose of determining compliance with the plan, secure as evidence any documents, or copies of documents, relating to the facility's adherence to the HACCP plan. Inspection may, for the purpose of determining compliance with this part, include any record, file, paper, process, HACCP plan, invoice, or receipt bearing on whether food, equipment, or utensils are in violation of this part.

(c) Notwithstanding subdivision (a), an employee may refuse entry to an enforcement officer who is unable to present official identification showing the enforcement officer's picture and enforcement agency name. In the absence of the identification card, a business card showing the enforcement agency's name plus a picture identification card such as a driver's license shall meet this requirement.

(d) It is a violation of this part for any person to refuse to permit entry or inspection, the taking of samples or other evidence, access to copy any record as authorized by this part, to conceal any samples or evidence, withhold evidence concerning them, or interfere with the performance of the duties of an enforcement officer, including making verbal or physical threats or sexual or discriminatory harassment.

(e) A written report of the inspection shall be made and a copy shall be supplied or mailed to the owner, manager, or operator of the food facility.

SEC. 15. Section 114405 of the Health and Safety Code is amended to read:

114405. (a) A permit may be suspended or revoked by a local enforcement officer for a violation of this part. Any food facility or cottage food operation for which the permit has been suspended shall close and remain closed until the permit has been reinstated. Any food facility or cottage food operation for which the permit has been revoked shall close and remain closed until a new permit has been issued.

(b) Whenever a local enforcement officer finds that a food facility or cottage food operation is not in compliance with the requirements of this part, a written notice to comply shall be issued to the permit holder. If the permit holder fails to comply, the local enforcement officer shall issue to the permit holder a notice setting forth the acts or omissions with which the permit holder is charged, and informing him or her of a right to a hearing, if requested, to show cause why the permit should not be suspended or revoked. A written request for a hearing shall be made by the permit holder within 15 calendar days after receipt of the notice. A failure to request a hearing within 15 calendar days after receipt of the notice shall be deemed a waiver of the right to a hearing. When circumstances warrant, the hearing officer may order a hearing at any reasonable time within this 15-day period to expedite the permit suspension or revocation process.

(c) The hearing shall be held within 15 calendar days of the receipt of a request for a hearing. Upon written request of the permit holder, the hearing officer may postpone any hearing date, if circumstances warrant the action.

SEC. 16. Section 114409 of the Health and Safety Code is amended to read:

114409. (a) If any imminent health hazard is found, unless the hazard is immediately corrected, an enforcement officer may temporarily suspend the permit and order the food facility or cottage food operation immediately closed.

(b) Whenever a permit is suspended as the result of an imminent health hazard, the enforcement officer shall issue to the permit holder a notice setting forth the acts or omissions with which the permit holder is charged, specifying the pertinent code section, and informing the permit holder of the right to a hearing.

(c) At any time within 15 calendar days after service of a notice pursuant to subdivision (b), the permit holder may request in writing a hearing before a hearing officer to show cause why the permit suspension is not warranted. The hearing shall be held within 15 calendar days of the receipt of a request for a hearing. A failure to request a hearing within 15 calendar days shall be deemed a waiver of the right to a hearing.

SEC. 17. Section 8.5 of this bill incorporates amendments to Section 113789 of the Health and Safety Code proposed by both this bill and Assembly Bill 2297. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2013, (2) each bill amends Section 113789 of the Health and Safety Code, and (3) this bill is enacted after Assembly Bill 2297, in which case Section 8 of this bill shall not become operative.

SEC. 18. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because, in that regard, this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

However, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.



California
LEGISLATIVE INFORMATION

AB-1616 Food safety: cottage food operations. (2011-2012)

Assembly Bill No. 1616

CHAPTER 415

An act to add Chapter 6.1 (commencing with Section 51035) to Part 1 of Division 1 of Title 5 of the Government Code, and to amend Sections 109947, 110050, 110460, 111955, 113789, 113851, 114021, 114023, 114390, 114405, and 114409 of, to add Sections 113758 and 114088 to, and to add Chapter 11.5 (commencing with Section 114365) to Part 7 of Division 104 of, the Health and Safety Code, relating to food safety.

[Approved by Governor September 21, 2012. Filed with Secretary of State September 21, 2012.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1616, Gatto. Food safety: cottage food operations.

Existing law, the Sherman Food, Drug, and Cosmetic Law (Sherman Law), requires the State Department of Public Health to regulate the manufacture, sale, labeling, and advertising activities related to food, drugs, devices, and cosmetics in conformity with the Federal Food, Drug, and Cosmetic Act. The Sherman Law makes it unlawful to manufacture, sell, deliver, hold, or offer for sale any food that is misbranded. Food is misbranded if its labeling does not conform to specified federal labeling requirements regarding nutrition, nutrient content or health claims, and food allergens. Violation of this law is a misdemeanor.

The existing California Retail Food Code provides for the regulation of health and sanitation standards for retail food facilities, as defined, by the State Department of Public Health. Under existing law, local health agencies are primarily responsible for enforcing the California Retail Food Code. That law exempts private homes from the definition of a food facility, and prohibits food stored or prepared in a private home from being used or offered for sale in a food facility. That law also requires food that is offered for human consumption to be honestly presented, as specified. A violation of these provisions is a misdemeanor.

This bill would include a cottage food operation, as defined, that is registered or has a permit within the private home exemption of the California Retail Food Code. The bill would also exclude a cottage food operation from specified food processing establishment and Sherman Law requirements. This bill would require a cottage food operation to meet specified requirements relating to training, sanitation, preparation, labeling, and permissible types of sales and would subject a cottage food operation to inspections under specified circumstances. The bill would require a food facility that serves a cottage food product without packaging or labeling to identify it as homemade. The bill would establish various zoning and permit requirements relating to cottage food operations.

This bill would incorporate additional changes in Section 113789 of the Health and Safety Code, proposed by AB 2297, to be operative only if AB 2297 and this bill are both chaptered and become effective January 1, 2013, and this bill is chaptered last.

By imposing duties on local officials and adding new crimes, this bill would create a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. The Legislature finds and declares all of the following:

(a) Small businesses have played an important role in helping slow economies recover and prosper as an engine of job creation. During the 1990s, small businesses created the majority of new jobs and now account for 65 percent of United States employment.

(b) California, and the United States as a whole, are facing growing obesity and obesity-related disease epidemics.

(1) Two-thirds of American adults and nearly one-third of children and teens are obese or overweight, placing them at risk for developing chronic diseases such as diabetes, heart disease, and cancer.

(2) One in every nine California children, one in three teens, and over half of adults are already overweight or obese. This epidemic affects virtually all Californians.

(3) These health conditions are preventable and curable through lifestyle choices that include consumption of healthy fresh foods.

(c) For decades, low-income and rural communities have faced limited opportunities to purchase healthy foods. Often, without cars or convenient public transportation options, low-income residents in these areas must rely for much of their shopping on expensive, fatty, processed foods sold at convenience and corner stores.

(d) There is a growing movement in California to support community-based food production, sometimes referred to as "cottage food," "artisanal food," "slow food," "locally based food," or "urban agriculture" movements. These movements seek to connect food to local communities, small businesses, and environmental sustainability.

(e) Increased opportunities for entrepreneur development through microenterprises can help to supplement household incomes, prevent poverty and hunger, and strengthen local economies.

(f) At least 32 other states have passed laws that allow small business entrepreneurs to use their home kitchens to prepare, for sale, foods that are not potentially hazardous.

(g) Even some bake sales are currently illegal in California.

(h) It is the intent of the Legislature to enact a homemade food act specifically designed to help address these challenges and opportunities.

SEC. 2. Chapter 6.1 (commencing with Section 51035) is added to Part 1 of Division 1 of Title 5 of the Government Code, to read:

CHAPTER 6.1. Cottage Food Operations

51035. (a) A city, county, or city and county shall not prohibit a cottage food operation, as defined in Section 113758 of the Health and Safety Code, in any residential dwellings, but shall do one of the following:

(1) Classify a cottage food operation as a permitted use of residential property for zoning purposes.

(2) Grant a nondiscretionary permit to use a residence as any cottage food operation that complies with local ordinances prescribing reasonable standards, restrictions, and requirements concerning spacing and concentration, traffic control, parking, and noise control relating to those homes. Any noise standards shall be consistent with local noise ordinances implementing the noise element of the general plan. The permit issued pursuant to this paragraph shall be granted by the zoning administrator, or if there is no zoning administrator, by the person or persons designated by the planning agency to grant these permits, upon the certification without a hearing.

(3) Require any cottage food operation to apply for a permit to use a residence for its operation. The zoning administrator, or if there is no zoning administrator, the person or persons designated by the planning agency to handle the use permits, shall review and decide the applications. The use permit shall be granted if the cottage food operation complies with local ordinances, if any, prescribing reasonable standards, restrictions, and requirements concerning the following factors: spacing and concentration, traffic control, parking, and noise control relating to those homes. Any noise standards shall be consistent with local noise ordinances implementing the noise element of the general plan. The local government shall process any required permit as economically as possible. Fees charged for review shall not exceed the costs of the review and permit process. An applicant may request a verification of fees, and the city, county, or city and county shall provide the applicant with a written breakdown within 45 days of the request. The application form for cottage food operation permits shall include a statement of the applicant's right to request the written fee verification.

(b) In connection with any action taken pursuant to paragraph (2) or (3) of subdivision (a), a city, county, or city and county shall do all of the following:

(1) Upon the request of an applicant, provide a list of the permits and fees that are required by the city, county, or city and county, including information about other permits that may be required by other departments in the city, county, or city and county, or by other public agencies. The city, county, or city and county shall, upon request of any applicant, also provide information about the anticipated length of time for reviewing and processing the permit application.

(2) Upon the request of an applicant, provide information on the breakdown of any individual fees charged in connection with the issuance of the permit.

(3) If a deposit is required to cover the cost of the permit, provide information to the applicant about the estimated final cost to the applicant of the permit, and procedures for receiving a refund from the portion of the deposit not used.

(c) Use of a residence for the purposes of a cottage food operation shall not constitute a change of occupancy for purposes of the State Housing Law (Part 1.5 (commencing with Section 17910) of Division 13 of the Health and Safety Code), or for purposes of local building and fire codes.

(d) Cottage food operations shall be considered residences for the purposes of the State Uniform Building Standards Code and local building and fire codes.

SEC. 3. Section 109947 of the Health and Safety Code is amended to read:

109947. "Food processing facility" means any facility operated for the purposes of manufacturing, packing, or holding processed food. Food processing facility does not include a food facility as defined in Section 113785, a cottage food operation that is registered or has a permit pursuant to Section 114365, or any facility exclusively storing, handling, or processing dried beans.

SEC. 4. Section 110050 of the Health and Safety Code is amended to read:

110050. The Food Safety Fund is hereby created as a special fund in the State Treasury. All moneys collected by the department under subdivision (c) of Section 110466 and Sections 110470, 110471, 110485, 114365, 114365.6, 111130, and 113717, and under Article 7 (commencing with Section 110810) of Chapter 5 shall be deposited in the fund, for use by the department, upon appropriation by the Legislature, for the purposes of providing funds necessary to carry out and implement the inspection provisions of this part relating to food, licensing, inspection, enforcement, and other provisions of Article 12 (commencing with Section 111070) relating to water, the provisions relating to education and training in the prevention of microbial contamination pursuant to Section 110485, and the registration provisions of Article 7 (commencing with Section 110810) of Chapter 5, and to carry out and implement the provisions of the California Retail Food Code (Part 7 (commencing with Section 113700) of Division 104).

SEC. 5. Section 110460 of the Health and Safety Code is amended to read:

110460. No person shall engage in the manufacture, packing, or holding of any processed food in this state unless the person has a valid registration from the department, except those engaged exclusively in the storing, handling, or processing of dried beans. The registration shall be valid for one calendar year from the date of issue, unless it is revoked. The registration shall not be transferable. This section shall not apply to a cottage food operation that is registered or has a permit pursuant to Section 114365.

SEC. 6. Section 111955 of the Health and Safety Code is amended to read:

111955. "Food processing establishment," as used in this chapter, shall mean any room, building, or place or portion thereof, maintained, used, or operated for the purpose of commercially storing, packaging, making, cooking, mixing, processing, bottling, canning, packing, slaughtering, or otherwise preparing or handling food except restaurants. "Food processing establishment" shall not include a cottage food operation that is registered or has a permit pursuant to Section 114365.

SEC. 7. Section 113758 is added to the Health and Safety Code, to read:

113758. (a) "Cottage food operation" means an enterprise that has not more than the amount in gross annual sales that is specified in this subdivision, is operated by a cottage food operator, and has not more than one full-time equivalent cottage food employee, not including a family member or household member of the cottage food operator, within the registered or permitted area of a private home where the cottage food operator resides and where cottage food products are prepared or packaged for direct, indirect, or direct and indirect sale to consumers pursuant to this part. In 2013, the enterprise shall not have more than thirty-five thousand dollar (\$35,000) in gross annual sales in the calendar year. In 2014, the enterprise shall not have more than forty-five thousand dollars (\$45,000) in gross annual sales in the calendar year. Commencing in 2015, and each subsequent year thereafter, the enterprise shall not have more than fifty thousand dollars (\$50,000) in gross annual sales in the calendar year. A cottage food operation includes both of the following:

(1) A "Class A" cottage food operation, which is a cottage food operation that may engage only in direct sales of cottage food products from the cottage food operation or other direct sales venues described in paragraph (4) of subdivision (b).

(2) A "Class B" cottage food operation, which is a cottage food operation that may engage in both direct sales and indirect sales of cottage food products from the cottage food operation, from direct sales venues described in paragraph (4) of subdivision (b), from offsite events, or from a third-party retail food facility described in paragraph (5) of subdivision (b).

(b) For purposes of this section, the following definitions shall apply:

(1) "Cottage food employee" means an individual, paid or volunteer, who is involved in the preparation, packaging, handling, and storage of a cottage food product, or otherwise works for the cottage food operation. An employee does not include an immediate family member or household member of the cottage food operator.

(2) "Cottage food operator" means an individual who operates a cottage food operation in his or her private home and is the owner of the cottage food operation.

(3) "Cottage food products" means nonpotentially hazardous foods, including foods that are described in Section 114365.5 and that are prepared for sale in the kitchen of a cottage food operation.

(4) "Direct sale" means a transaction between a cottage food operation operator and a consumer, where the consumer purchases the cottage food product directly from the cottage food operation. Direct sales include, but are not limited to, transactions at holiday bazaars or other temporary events, such as bake sales or food swaps, transactions at farm stands, certified farmers' markets, or through community-supported agriculture subscriptions, and transactions occurring in person in the cottage food operation.

(5) "Indirect sale" means an interaction between a cottage food operation, a third-party retailer, and a consumer, where the consumer purchases cottage food products made by the cottage food operation from a third-party retailer that holds a valid permit issued pursuant to Section 114381. Indirect sales include, but are not limited to, sales made to retail shops or to retail food facilities where food may be immediately consumed on the premises.

(6) "Private home" means a dwelling, including an apartment or other leased space, where individuals reside.

(7) "Registered or permitted area" means the portion of a private home that contains the private home's kitchen used for the preparation, packaging, storage, or handling of cottage food products and related ingredients or equipment, or both, and attached rooms within the home that are used exclusively for storage.

SEC. 8. Section 113789 of the Health and Safety Code is amended to read:

113789. (a) "Food facility" means an operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption at the retail level, including, but not limited to, the following:

(1) An operation where food is consumed on or off the premises, regardless of whether there is a charge for the food.

(2) Any place used in conjunction with the operations described in this subdivision, including, but not limited to, storage facilities for food-related utensils, equipment, and materials.

(b) "Food facility" includes permanent and nonpermanent food facilities, including, but not limited to, the following:

(1) Public and private school cafeterias.

(2) Restricted food service facilities.

(3) Licensed health care facilities.

(4) Commissaries.

(5) Mobile food facilities.

(6) Mobile support units.

(7) Temporary food facilities.

(8) Vending machines.

(9) Certified farmers' markets, for purposes of permitting and enforcement pursuant to Section 114370.

(10) Farm stands, for purposes of permitting and enforcement pursuant to Section 114375.

(c) "Food facility" does not include any of the following:

(1) A cooperative arrangement wherein no permanent facilities are used for storing or handling food.

(2) A private home, including a cottage food operation that is registered or has a permit pursuant to Section 114365.

(3) A church, private club, or other nonprofit association that gives or sells food to its members and guests, and not to the general public, at an event that occurs not more than three days in any 90-day period.

(4) A for-profit entity that gives or sells food at an event that occurs not more than three days in a 90-day period for the benefit of a nonprofit association, if the for-profit entity receives no monetary benefit, other than that resulting from recognition from participating in an event.

(5) Premises set aside for wine tasting, as that term is used in Section 23356.1 of the Business and Professions Code and in the regulations adopted pursuant to that section, that comply with Section 118375, regardless of whether there is a charge for the wine tasting, if no other beverage, except for bottles of wine and prepackaged nonpotentially hazardous beverages, is offered for sale for onsite consumption and no food, except for crackers, is served.

(6) Premises operated by a producer, selling or offering for sale only whole produce grown by the producer, or shell eggs, or both, provided the sales are conducted on premises controlled by the producer.

(7) A commercial food processing plant as defined in Section 111955.

(8) A child day care facility, as defined in Section 1596.750.

(9) A community care facility, as defined in Section 1502.

(10) A residential care facility for the elderly, as defined in Section 1569.2.

(11) A residential care facility for the chronically ill, which has the same meaning as a residential care facility, as defined in Section 1568.01.

(12) Premises set aside by a beer manufacturer, as defined in Section 25000.2 of the Business and Professions Code, that comply with Section 118375, for the purposes of beer tasting, regardless of whether there is a charge for the beer tasting, if no other beverage, except for beer and prepackaged nonpotentially hazardous beverages, is offered for sale for onsite consumption, and no food, except for crackers or pretzels, is served.

SEC. 8.5. Section 113789 of the Health and Safety Code is amended to read:

113789. (a) "Food facility" means an operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption at the retail level, including, but not limited to, the following:

(1) An operation where food is consumed on or off the premises, regardless of whether there is a charge for the food.

(2) Any place used in conjunction with the operations described in this subdivision, including, but not limited to, storage facilities for food-related utensils, equipment, and materials.

(b) "Food facility" includes permanent and nonpermanent food facilities, including, but not limited to, the following:

(1) Public and private school cafeterias.

(2) Restricted food service facilities.

(3) Licensed health care facilities, except as provided in paragraph (13) of subdivision (c).

(4) Commissaries.

(5) Mobile food facilities.

(6) Mobile support units.

(7) Temporary food facilities.

(8) Vending machines.

(9) Certified farmers' markets, for purposes of permitting and enforcement pursuant to Section 114370.

(10) Farm stands, for purposes of permitting and enforcement pursuant to Section 114375.

(c) "Food facility" does not include any of the following:

(1) A cooperative arrangement wherein no permanent facilities are used for storing or handling food.

(2) A private home, including a cottage food operation that is registered or has a permit pursuant to Section 114365.

(3) A church, private club, or other nonprofit association that gives or sells food to its members and guests, and not to the general public, at an event that occurs not more than three days in any 90-day period.

(4) A for-profit entity that gives or sells food at an event that occurs not more than three days in a 90-day period for the benefit of a nonprofit association, if the for-profit entity receives no monetary benefit, other than that resulting from recognition from participating in an event.

(5) Premises set aside for wine tasting, as that term is used in Section 23356.1 of the Business and Professions Code and in the regulations adopted pursuant to that section, that comply with Section 118375, regardless of whether there is a charge for the wine tasting, if no other beverage, except for bottles of wine and prepackaged nonpotentially hazardous beverages, is offered for sale for onsite consumption and no food, except for crackers, is served.

(6) Premises operated by a producer, selling or offering for sale only whole produce grown by the producer, or shell eggs, or both, provided the sales are conducted on premises controlled by the producer.

(7) A commercial food processing plant as defined in Section 111955.

(8) A child day care facility, as defined in Section 1596.750.

(9) A community care facility, as defined in Section 1502.

(10) A residential care facility for the elderly, as defined in Section 1569.2.

(11) A residential care facility for the chronically ill, which has the same meaning as a residential care facility, as defined in Section 1568.01.

(12) Premises set aside by a beer manufacturer, as defined in Section 25000.2 of the Business and Professions Code, that comply with Section 118375, for the purposes of beer tasting, regardless of whether there is a

charge for the beer tasting, if no other beverage, except for beer and prepackaged nonpotentially hazardous beverages, is offered for sale for onsite consumption, and no food, except for crackers or pretzels, is served.

(13) (A) An intermediate care facility for the developmentally disabled, as defined in subdivisions (e), (h), and (m) of Section 1250, with a capacity of six beds or fewer.

(B) A facility described in subparagraph (A) shall report any foodborne illness or outbreak to the local health department and to the State Department of Public Health within 24 hours of the illness or outbreak.

SEC. 9. Section 113851 of the Health and Safety Code is amended to read:

113851. (a) "Permit" means the document issued by the enforcement agency that authorizes a person to operate a food facility or cottage food operation.

(b) "Registration" shall have the same meaning as permit for purposes of implementation and enforcement of this part.

SEC. 10. Section 114021 of the Health and Safety Code is amended to read:

114021. (a) Food shall be obtained from sources that comply with all applicable laws.

(b) Food stored or prepared in a private home shall not be used or offered for sale in a food facility, unless that food is prepared by a cottage food operation that is registered or has a permit pursuant to Section 114365.

SEC. 11. Section 114023 of the Health and Safety Code is amended to read:

114023. Food in a hermetically sealed container shall be obtained from a food processing plant that is regulated by the food regulatory agency that has jurisdiction over the plant, or from a cottage food operation that produces jams, jellies, and preserves and that is registered or has a permit pursuant to Section 114365.

SEC. 12. Section 114088 is added to the Health and Safety Code, to read:

114088. A cottage food product, as defined in Section 113758, that is served by a food facility without packaging or labeling, as described in Section 114365, shall be identified to the consumer as homemade on the menu, menu board, or other location that would reasonably inform a consumer of its homemade status.

SEC. 13. Chapter 11.5 (commencing with Section 114365) is added to Part 7 of Division 104 of the Health and Safety Code, to read:

CHAPTER 11.5. Cottage Food Operations

114365. (a) (1) (A) A "Class A" cottage food operation shall not be open for business unless it is registered with the local enforcement agency and has submitted a completed, self-certification checklist approved by the local enforcement agency. The self-certification checklist shall verify that the cottage food operation conforms to this chapter, including the following requirements:

(i) No cottage food preparation, packaging, or handling may occur in the home kitchen concurrent with any other domestic activities, such as family meal preparation, dishwashing, clothes washing or ironing, kitchen cleaning, or guest entertainment.

(ii) No infants, small children, or pets may be in the home kitchen during the preparation, packaging, or handling of any cottage food products.

(iii) Kitchen equipment and utensils used to produce cottage food products shall be clean and maintained in a good state of repair.

(iv) All food contact surfaces, equipment, and utensils used for the preparation, packaging, or handling of any cottage food products shall be washed, rinsed, and sanitized before each use.

(v) All food preparation and food and equipment storage areas shall be maintained free of rodents and insects.

(vi) Smoking shall be prohibited in the portion of a private home used for the preparation, packaging, storage, or handling of cottage food products and related ingredients or equipment, or both, while cottage food products are being prepared, packaged, stored, or handled.

- (B) (i) The department shall post the requirements described in subparagraph (A) on its Internet Web site.
- (ii) The local enforcement agency shall issue a registration number to a "Class A" cottage food operation that meets the requirements of subparagraph (A).
- (C) (i) Except as provided in (ii), a "Class A" cottage food operation shall not be subject to initial or routine inspections.
- (ii) For purposes of determining compliance with this chapter, a representative of a local enforcement agency may access, for inspection purposes, the registered area of a private home where a cottage food operation is located only if the representative has, on the basis of a consumer complaint, reason to suspect that adulterated or otherwise unsafe food has been produced by the cottage food operation or that the cottage food operation has violated this chapter.
- (iii) Access under this subparagraph is limited to the registered area and solely for the purpose of enforcing or administering this chapter.
- (iv) A local enforcement agency may seek recovery from a "Class A" cottage food operation of an amount that does not exceed the local enforcement agency's reasonable costs of inspecting the "Class A" cottage food operation for compliance with this chapter, if the "Class A" cottage food operation is found to be in violation of this chapter.
- (2) (A) A "Class B" cottage food operation shall not be open for business unless it obtains a permit from the local enforcement agency in a manner approved by the local enforcement agency to engage in the direct and indirect sale of cottage food products.
- (B) (i) A "Class B" cottage food operation shall comply with the requirements described in clauses (i) to (vi), inclusive, of subparagraph (A) of paragraph (1) in addition to the other requirements of this chapter.
- (ii) The local enforcement agency shall issue a permit number after an initial inspection has determined that the proposed "Class B" cottage food operation and its method of operation conform to this chapter.
- (C) Except as provided in this subparagraph, a "Class B" cottage food operation shall not be subject to more than one inspection per year by the local enforcement agency.
- (i) For purposes of determining compliance with this chapter, a representative of a local enforcement agency, for inspection purposes, may access the permitted area of a private home where a cottage food operation is located only if the representative has, on the basis of a consumer complaint, reason to suspect that adulterated or otherwise unsafe food has been produced by the cottage food operation, or that the cottage food operation has violated this chapter.
- (ii) Access under this subparagraph is limited to the permitted area and solely for the purpose of enforcing or administering this chapter.
- (D) (i) A "Class B" cottage food operation shall be authorized to engage in the indirect sales of cottage food products within the county in which the "Class B" cottage food operation is permitted.
- (ii) A county may agree to allow a "Class B" cottage food operation permitted in another county to engage in the indirect sales of cottage food products in the county.
- (b) A registration or permit, once issued, is nontransferable. A registration or permit shall be valid only for the person, location, type of food sales, and distribution activity specified by that registration or permit, and, unless suspended or revoked for cause, for the time period indicated.
- 114365.2.** A cottage food operation that is registered or has a permit issued pursuant to Section 114365 shall be considered a restricted food service facility for purposes of, and subject to, Sections 113953.3, 114259.5, 114285, and 114286. A cottage food operation that is registered or has a permit also shall be subject to Sections 113967, 113973, 113980, 114259.5, 114405, 114407, 114409, 114411, and 114413, and to all of the following requirements:
- (a) A person with a contagious illness shall refrain from work in the registered or permitted area of the cottage food operation.
- (b) A person involved in the preparation or packaging of cottage food products shall keep his or her hands and exposed portions of his or her arms clean and shall wash his or her hands before any food preparation or packaging activity in a cottage food operation.

(c) Water used during the preparation of cottage food products shall meet the potable drinking water standards described in Section 113869, except that a cottage food operation shall not be required to have an indirect sewer connection. Water used during the preparation of cottage food products includes all of the following:

- (1) The washing, sanitizing, and drying of any equipment used in the preparation of a cottage food product.
- (2) The washing, sanitizing, and drying of hands and arms.
- (3) Water used as an ingredient.

(d) A person who prepares or packages cottage food products shall complete a food processor course instructed by the department to protect the public health within three months of becoming registered. The course shall not exceed four hours in length. The department shall work with the local enforcement agency to ensure that cottage food operators are properly notified of the location, date, and time of the classes offered.

(e) A cottage food operation shall properly label all cottage food products in compliance with the Federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 343 et seq.). Additionally, to the extent permitted by federal law, the label shall include, but is not limited to, all of the following:

- (1) The words "Made in a Home Kitchen" in 12-point type on the cottage food product's primary display panel.
- (2) The name commonly used for the food product or an adequately descriptive name.
- (3) The name of the cottage food operation which produced the cottage food product.
- (4) The registration or permit number of the "Class A" or "Class B" cottage food operation, respectively, which produced the cottage food product and, in the case of a "Class B" cottage food operation, the name of the county of the local enforcement agency that issued the permit number.
- (5) The ingredients of the cottage food product, in descending order of predominance by weight, if the product contains two or more ingredients.

114365.5. (a) The department shall adopt and post on its Internet Web site a list of not potentially hazardous foods and their ethnic variations that are approved for sale by a cottage food operation. A cottage food product shall not be potentially hazardous food, as defined in Section 113871.

(b) This list of nonpotentially hazardous foods shall include, but not be limited to, all of the following:

- (1) Baked goods without cream, custard, or meat fillings, such as breads, biscuits, churros, cookies, pastries, and tortillas.
- (2) Candy, such as brittle and toffee.
- (3) Chocolate-covered nonperishable foods, such as nuts and dried fruit.
- (4) Dried fruit.
- (5) Dried pasta.
- (6) Dry baking mixes.
- (7) Fruit pies, fruit empanadas, and fruit tamales.
- (8) Granola, cereals, and trail mixes.
- (9) Herb blends and dried mole paste.
- (10) Honey and sweet sorghum syrup.
- (11) Jams, jellies, preserves, and fruit butter that comply with the standard described in Part 150 of Title 21 of the Code of Federal Regulations.
- (12) Nut mixes and nut butters.
- (13) Popcorn.
- (14) Vinegar and mustard.
- (15) Roasted coffee and dried tea.

(16) Waffle cones and pizelles.

(c) (1) The State Public Health Officer may add or delete food products to or from the list described in subdivision (b), which shall be known as the approved food products list. Notice of any change to the approved food products list shall be posted on the department's cottage food program Internet Web site, to also be known as the program Internet Web site for purposes of this chapter. Any change to the approved food products list shall become effective 30 days after the notice is posted. The notice shall state the reason for the change, the authority for the change, and the nature of the change. The notice will provide an opportunity for written comment by indicating the address to which to submit the comment and the deadline by which the comment is required to be received by the department. The address to which the comment is to be submitted may be an electronic site. The notice shall allow at least 20 calendar days for comments to be submitted. The department shall consider all comments submitted before the due date. The department may withdraw the proposed change at any time by notification on the program Internet Web site or through notification by other electronic means. The approved food products list described in subdivision (b), and any updates to the list, shall not be subject to the administrative rulemaking requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(2) The State Public Health Officer shall not remove any items from the approved food products list unless the State Public Health Officer also posts information on the program Internet Web site explaining the basis upon which the removed food item has been determined to be potentially hazardous.

114365.6. (a) The State Public Health Officer shall provide technical assistance, and develop, maintain, and deliver commodity-specific training related to the safe processing and packaging of cottage food products to local enforcement agencies.

(b) Local enforcement agencies may collect a surcharge fee in addition to any permit fees collected for "Class B" cottage food operations. The surcharge fee shall not exceed the reasonable costs that the department incurs through the administration of the training described in subdivision (a) to protect the public health. The surcharge fees collected shall be transmitted to the department in a manner established by the department to be deposited in the Food Safety Fund. The department shall use the surcharge fees only to develop and deliver the training described in subdivision (a) to local enforcement agency personnel on an ongoing basis.

SEC. 14. Section 114390 of the Health and Safety Code is amended to read:

114390. (a) Enforcement officers shall enforce this part and all regulations adopted pursuant to this part.

(b) (1) For purposes of enforcement, any authorized enforcement officer may, during the facility's hours of operation and other reasonable times, enter, inspect, issue citations to, and secure any sample, photographs, or other evidence from a food facility, cottage food operation, or any facility suspected of being a food facility or cottage food operation, or a vehicle transporting food to or from a retail food facility, when the vehicle is stationary at an agricultural inspection station, a border crossing, or at any food facility under the jurisdiction of the enforcement agency, or upon the request of an incident commander.

(2) If a food facility is operating under an HACCP plan, the enforcement officer may, for the purpose of determining compliance with the plan, secure as evidence any documents, or copies of documents, relating to the facility's adherence to the HACCP plan. Inspection may, for the purpose of determining compliance with this part, include any record, file, paper, process, HACCP plan, invoice, or receipt bearing on whether food, equipment, or utensils are in violation of this part.

(c) Notwithstanding subdivision (a), an employee may refuse entry to an enforcement officer who is unable to present official identification showing the enforcement officer's picture and enforcement agency name. In the absence of the identification card, a business card showing the enforcement agency's name plus a picture identification card such as a driver's license shall meet this requirement.

(d) It is a violation of this part for any person to refuse to permit entry or inspection, the taking of samples or other evidence, access to copy any record as authorized by this part, to conceal any samples or evidence, withhold evidence concerning them, or interfere with the performance of the duties of an enforcement officer, including making verbal or physical threats or sexual or discriminatory harassment.

(e) A written report of the inspection shall be made and a copy shall be supplied or mailed to the owner, manager, or operator of the food facility.

SEC. 15. Section 114405 of the Health and Safety Code is amended to read:

114405. (a) A permit may be suspended or revoked by a local enforcement officer for a violation of this part. Any food facility or cottage food operation for which the permit has been suspended shall close and remain closed until the permit has been reinstated. Any food facility or cottage food operation for which the permit has been revoked shall close and remain closed until a new permit has been issued.

(b) Whenever a local enforcement officer finds that a food facility or cottage food operation is not in compliance with the requirements of this part, a written notice to comply shall be issued to the permit holder. If the permit holder fails to comply, the local enforcement officer shall issue to the permit holder a notice setting forth the acts or omissions with which the permit holder is charged, and informing him or her of a right to a hearing, if requested, to show cause why the permit should not be suspended or revoked. A written request for a hearing shall be made by the permit holder within 15 calendar days after receipt of the notice. A failure to request a hearing within 15 calendar days after receipt of the notice shall be deemed a waiver of the right to a hearing. When circumstances warrant, the hearing officer may order a hearing at any reasonable time within this 15-day period to expedite the permit suspension or revocation process.

(c) The hearing shall be held within 15 calendar days of the receipt of a request for a hearing. Upon written request of the permit holder, the hearing officer may postpone any hearing date, if circumstances warrant the action.

SEC. 16. Section 114409 of the Health and Safety Code is amended to read:

114409. (a) If any imminent health hazard is found, unless the hazard is immediately corrected, an enforcement officer may temporarily suspend the permit and order the food facility or cottage food operation immediately closed.

(b) Whenever a permit is suspended as the result of an imminent health hazard, the enforcement officer shall issue to the permit holder a notice setting forth the acts or omissions with which the permit holder is charged, specifying the pertinent code section, and informing the permit holder of the right to a hearing.

(c) At any time within 15 calendar days after service of a notice pursuant to subdivision (b), the permit holder may request in writing a hearing before a hearing officer to show cause why the permit suspension is not warranted. The hearing shall be held within 15 calendar days of the receipt of a request for a hearing. A failure to request a hearing within 15 calendar days shall be deemed a waiver of the right to a hearing.

SEC. 17. Section 8.5 of this bill incorporates amendments to Section 113789 of the Health and Safety Code proposed by both this bill and Assembly Bill 2297. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2013, (2) each bill amends Section 113789 of the Health and Safety Code, and (3) this bill is enacted after Assembly Bill 2297, in which case Section B of this bill shall not become operative.

SEC. 18. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because, in that regard, this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

However, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.



**COUNTY OF SAN BERNARDINO
DEPARTMENT OF PUBLIC HEALTH
DIVISION OF ENVIRONMENTAL HEALTH SERVICES**

**AB 1616 – COTTAGE FOOD OPERATIONS
FREQUENTLY ASKED QUESTIONS**

1. When does the new law go into effect?
Assembly Bill 1616 – Cottage Food Operations was signed into law on September 21, 2012. The new law takes effect January 1, 2013.
2. What is a Cottage Food Operation (CFO)?
A CFO is an enterprise at a private home where low-risk food products are prepared or packaged for sale to consumers.
3. What is meant by “private home”?
“Private home” means a dwelling, including an apartment or other leased space, where individuals reside.
4. Are there limitations on the size of CFOs sales?
Yes. A CFO is restricted to the following gross annual sales amounts:
 - \$35,000 or less in gross sales in 2013
 - \$45,000 or less in gross sales in 2014
 - \$50,000 or less in gross sales in 2015 and beyond
5. Can a CFO have employees?
A CFO can have one full-time equivalent employee (not counting family members or household members).
6. What cottage food categories are permitted at a CFO?
Only foods that are defined as “non-potentially hazardous” are approved for preparation by CFOs. These are foods that do not require refrigeration to keep them safe from bacterial growth that could make people sick. The California Department of Public Health will establish and maintain a list of approved cottage food categories on their website and will implement a process by which new foods can be added or removed from the list. Click the link below to view the list of approved foods: [California Department of Public Health – Cottage Food Operations](#)
7. What are the two classifications of CFOs?
 - “Class A” CFOs are only allowed to engage in “direct sales” of cottage food.
 - “Class B” CFOs may engage in both “direct sales” and “indirect sales” of cottage food.
8. What is meant by “Direct Sale” of cottage food?
“Direct Sale” means a transaction within the state of California between a CFO operator and a consumer, where the consumer purchases the cottage food product directly from the CFO. Direct sales include, but are not limited to, transactions at holiday bazaars or other temporary events, such as bake sales or food swaps, transactions at farm stands, certified farmers’ markets, or through community-supported agriculture subscriptions, and transactions occurring in person in the cottage food operation.

9. What is meant by "Indirect Sale" of cottage food?

"Indirect Sale" means an interaction between a CFO, a third-party retailer, and a consumer, where the consumer purchases cottage food products made by the CFO from a third-party retailer that holds a valid permit issued by the local environmental health agency in their jurisdiction. Indirect sales include, but are not limited to, sales made to retail shops or to retail food facilities where food may be immediately consumed on the premises.

10. Do I need any special training or certification to prepare cottage foods?

A person who prepares or packages cottage food products must obtain Food Worker certification from the County of San Bernardino within three months of being registered or permitted. Online training must be taken at the following website: <http://sbc.statefoodsafety.com>.

11. Does a CFO need a permit to operate?

- Planning/Zoning:** All CFOs need to obtain approval from their local city or county planning department. The Cottage Food Bill gives planning departments several options to consider, so planning department requirements may vary between jurisdictions.
- Environmental Health:**
 - For "Class A" CFOs (direct sale only), a registration with DEHS and submission of a completed "Self-Certification Checklist" is required.
 - For "Class B" CFOs (direct and indirect sales), a health permit from DEHS is required.
- Registrations and permits are not transferable between:**
 - Persons
 - Locations
 - Type of food sold
 - Type of distribution

12. How much will the registration or permit cost the CFO?

- "Class A" CFO registration is currently \$162.00.
- "Class B" CFO permit is currently \$183.00.

13. Will my CFO Registration/Permit allow me to sell at other retail venues?

There may be health permits required to sell at other locations, such as Certified Farmer's Markets or Swap Meets. Please check with DEHS for additional permit requirements.

14. How often will a CFO be inspected?

- "Class A" CFO kitchens and food storage areas (referenced in the law as the "registered or permitted area") are not subject to initial or routine inspections.
- "Class B" CFO kitchens and food storage areas are inspected initially prior to permit issuance, and then annually thereafter.
- Class A and B (Other Inspections)** The local environmental health agency may access, for inspection purposes, the registered or permitted area where a cottage food operation is located only if the representative has, on the basis of a consumer complaint, reason to suspect that adulterated or otherwise unsafe food has been produced by the cottage food operation or that the cottage food operation is found to be in violation of California food safety laws on cottage food operations.

15. What are the CFOs operational requirements?

All CFOs must comply with the following:

- No domestic activity in kitchen during cottage food preparation
- No infants, small children, or pets in kitchen during cottage food preparation
- Kitchen equipment and utensils kept clean and in good repair
- All food contact surfaces and utensils washed, rinsed, and sanitized before each use
- All food preparation and storage areas free of rodents and insects
- No smoking in kitchen area during preparation or processing of cottage food
- A person with a contagious illness shall refrain from working
- Proper hand-washing shall be completed prior to any food preparation or packaging
- Water used in the preparation of cottage food products must be potable. This includes:
 - Washing, rinsing, and sanitizing equipment used in food preparation.
 - Washing and sanitizing hands and arms.
 - Water used as an ingredient of cottage food.

16. Can a CFO sell cottage food outside the operator's county of residence?

CFOs can only sell cottage food outside their county of residence when the local environmental health agency of the outside county allows it.

17. Can I press apples and sell apple cider?

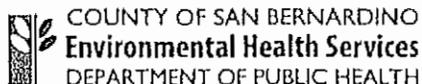
NO. There are no beverages included in the list of food products allowed to be produced in CFOs, so pressing apples to make and sell apple cider is not allowed under your CFO registration or permit.

18. What are my food labeling requirements?

All cottage food products must be properly labeled in compliance with the Federal, Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 343 et seq.). The label shall include:

- The words "Made in a Home Kitchen" in 12-point type
- The name commonly used for the food product
- Name of CFO which produced the food product
- The registration or permit number of the cottage food operation which produced the cottage food product and the name of the local enforcement agency that issued the number
- Product ingredients in descending order by weight

In a permitted food facility, cottage food products served without packaging or labeling shall be identified to the customer as homemade on the menu, menu board or other easily accessible location.



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LABELING REQUIREMENTS FOR COTTAGE FOOD PRODUCTS

<p>① <i>Chocolate Chip Cookies with Walnuts</i></p> <p>② <i>Decadent Delights</i></p> <p>③ <i>123 Sweet Treat Lane, Candyland, CA 92123</i></p> <p>④ Ingredients: Enriched flour (wheat flour, niacin, reduced iron, thiamine mononitrate, riboflavin and folic acid), butter (milk, salt), chocolate chips (sugar, chocolate liquor, cocoa butter, butterfat), walnuts, sugar, eggs, salt, artificial vanilla extract, and baking soda.</p> <p>⑤ Contains: Wheat, eggs, milk, walnuts</p> <p>⑥ Net Wt. 3 Oz (85.049 g)</p> <p>⑦ Made in a Home Kitchen</p> <p>⑧ Permit #: DEH2013-XXXXX</p> <p>⑨ Cottage Food Registration/Permit Issued by: Name of County where issued</p>

All labels of products from Cottage Food Operations (CFO) submitted for review must contain the information listed below. Labels missing any of the listed information will not be approved and will need to be resubmitted for review.

- ① Common name of the product.
- ② Name of Cottage Food Operation which produced the food that is registered or permitted with the local environmental health agency.
- ③ Physical address of Cottage Food Operation (street number, street name, city, state, zip code).
- ④ List of product ingredients in descending order by weight. If commercially made products are used as an ingredient, the ingredients of that product must also be listed (e.g. Chocolate chips [sugar, chocolate liquor, cocoa butter, butterfat]).
Note: The list of ingredients may be on a secondary label affixed to a different location on the product. All other information must be included on the primary label that is affixed to the top or front of the product.
- ⑤ A declaration on the label in plain language if the food contains any of the major food allergens allowed to be used as ingredients in Cottage Food Products such as milk, eggs, tree nuts, wheat, peanuts, or soybeans.
- ⑥ The net quantity (count, weight, or volume) of the food product. It must be stated in both English units (pounds) and Metric units (grams).
- ⑦ "Made in a Home Kitchen" or "Repackaged in a Home Kitchen" as applicable. This exact wording must be used, and must be printed in at least 12 point font.

Note: If labeled as "Repackaged in a Home Kitchen" then a description of any purchased whole ready-to-eat products not used as an ingredient must also be included on the label.

⑧ Registration or permit number issued by the Department of Environmental Health in the County where the Cottage Food Operator resides and operates.

Note: This number will be provided when the Cottage Food Application is approved. For label submittal purposes, a placeholder may be used.

⑨ Name of the county issuing the Cottage Food Registration or Permit

Note: The use of the following eleven terms are considered nutrient content health claims (nutritional value of a food): free, low, reduced, fewer, high, less, more, lean, extra lean, good source, and light. If the food label makes any nutrient content health claims, then a Nutrition Facts Panel must be incorporated into the label.

*For additional information, visit CDPH's Cottage Food webpage at:
www.cdph.ca.gov/programs/pages/fdbcottagefood.aspx*



COUNTY OF SAN BERNARDINO
Environmental Health Services
DEPARTMENT OF PUBLIC HEALTH

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ASSEMBLY BILL 1252

Retail Food Safety

Assembly Bill (AB) 1252 makes various technical, clarifying, and conforming changes to the California Retail Food Code (CRFC), the state's principal law governing food safety and sanitation in retail food facilities, and makes changes necessary to implement California's cottage food operations law. The bill takes effect January 1, 2014 and includes the following:

1. Cottage foods:
 - a. Clarifies that direct sales of cottage foods must take place within the state.
 - b. Requires "Class A" cottage food operations to renew their registrations annually.
 - c. Requires all cottage food operators to retain a copy of their registration or permit onsite at the time of either direct or indirect cottage food sale.
 - d. Requires Cottage Food Operators to complete a food processor course approved by the Department of Public Health (DPH). DPH is required to post the course on its website and this course must be completed every three years by the Cottage Food operator.

NOTE: The following portion of AB 1252 was repealed by AB 2130 on June 28, 2014.

2. Bare hand contact, handwashing and glove use:
 - a. Prohibits food employees from contacting exposed, ready-to-eat food with their bare hands.
 - b. Provides an exception to the prohibition in a) above, provided that the permit holder obtains prior approval from the local enforcement agency, and written procedures and documentation are maintained, as specified.
 - c. Requires food handlers to wash their hands before initially donning gloves for working with food and when changing tasks, as specified. Clarifies that handwashing is not required between glove changes when no contamination of the gloves or hands has occurred.
 - d. Requires an employee with a wound to take specified precautions when contacting food and prohibits an employee who has an open or draining wound from handling food.
3. Temporary food facilities and alternative food storage:
 - a. Allows temporary food facilities operating no more than four hours per day at a single event to provide an adequate supply of utensils in lieu of warewashing facilities, as specified, with approval of the local enforcement agency.
 - b. Allows up to eight temporary food facilities to share a warewashing sink, as specified, with the approval of the local enforcement agency.
4. Service animals:
 - a. Revises the definition of a "service animal" for purposes of the code to mean a dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability. The definition would specifically exclude other species of animals, as specified.

To view AB 1252 in its entirety, please visit the following link: <http://bit.ly/HqArDn>.



COUNTY OF SAN BERNARDINO
Environmental Health Services
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California
LEGISLATIVE INFORMATION

AB-1252 Retail food safety. (2013-2014)

Assembly Bill No. 1252

CHAPTER 556

An act to amend Sections 113758, 113818, 113903, 113949.2, 113953.3, 113973, 114047, 114099.7, 114268, 114271, 114294, 114295, 114299, 114325, 1143322, 114335, 114351, 114365, and 114365.2 of, to add Sections 113806, 113807, and 113975 to, and to repeal and add Section 113961 of, the Health and Safety Code, relating to food safety.

[Approved by Governor October 04, 2013. Filed with Secretary of State October 04, 2013.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1252, Committee on Health. Retail food safety.

(1) Existing law, the California Retail Food Code, reestablishes uniform health and sanitation standards for retail food facilities, including mobile food facilities and temporary food facilities, by the State Department of Public Health. Existing law provides that local health agencies are primarily responsible for enforcing these provisions. A person who violates any provision of the code is guilty of a misdemeanor, except as otherwise provided.

(2) The code requires a cottage food operation, as defined, to meet specified requirements relating to training, sanitation, preparation, labeling, and permissible types of sales. Existing law requires a "Class A" cottage food operation to register with the local enforcement agency in accordance with specified provisions. Existing law defines a "direct sale" with respect to cottage food operations as a transaction between a cottage food operation operator and a consumer, as specified.

This bill would redefine a "direct sale" for these purposes as a transaction within the state between a cottage food operation operator and a consumer, as specified. The bill would require a "Class A" cottage food operation to renew its registration annually.

The bill would require a cottage food operator to retain a registration or permit or an accurate copy thereof onsite at the time of either direct or indirect cottage food sale.

The bill would also make other related changes with respect to cottage food operations.

(3) The code requires that all employees of food facilities thoroughly wash their hands before engaging in food preparation and before donning gloves for working with food. The code requires that employees wear gloves when contacting food and food-contact surfaces under certain conditions, including when they have cuts, sores, or rashes. The code also requires owners of food facilities and others, as specified, to require food employees to report to the person in charge if a food employee has a lesion or wound that is open or draining, as specified, unless the lesion is covered or protected.

This bill would, among other things, revise the code to require handwashing when changing gloves, except as specified, and that employees wear single-use gloves, as specified, when contacting food and food-contact surfaces under the conditions described above. The bill would prohibit an employee who has a wound, as specified, that is open and draining from handling food, unless the wound is covered, as specified. The bill would make conforming changes to the reporting requirement described above.

This bill would require food employees to wash their hands in accordance with specified provisions, and would prohibit food employees from contacting exposed, ready-to-eat food with their bare hands, except under specified circumstances.

(4) The code requires that a mobile food facility have a water heater with a minimum capacity of 3 gallons, except as specified.

This bill would increase the required minimum amount of capacity for a water heater on a mobile food facility to 4 gallons, or, if the facility only utilizes the water for handwashing purposes, require only 1/2 gallon, except as specified. The bill would make other changes relating to mobile food facilities.

(5) The code requires that handwashing and utensil washing facilities approved by the enforcement officer be provided within nonprofit charitable temporary food facilities, except where food and beverage is prepackaged.

This bill would authorize the local enforcement agency to allow a nonprofit charitable temporary food facility to provide an adequate supply of utensils and spare utensils when they have been properly washed and sanitized at an approved facility, under specified circumstances.

(6) The code authorizes a warewashing sink to be shared by no more than 4 temporary food facilities that handle nonprepackaged food if the sink is centrally located and is adjacent to the sharing facilities.

This bill would authorize the local enforcement agency to authorize up to 8 temporary food facilities to share a warewashing sink under specified circumstances, and would authorize the local enforcement agency to instead allow a temporary food facility to provide an adequate supply of utensils and spare utensils when they have been properly washed and sanitized at an approved facility, under specified circumstances.

(7) The code requires a food facility to prevent the entrance and harborage of animals and prohibits a food employee from caring for or handling animals that may be present. The code permits a food employee with a service animal to handle or care for the service animal if the employee washes his or her hands as required. The code defines a service animal to mean a guide dog, signal dog, or other animal individually trained to provide assistance to an individual with a disability.

This bill would revise the definition of a "service animal" for purposes of the code to mean a dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability. The definition would specifically exclude other species of animals, as specified.

The bill would also define "highly susceptible population" and "hot dog" for purposes of the code and would make a clarifying change to the definition of "limited food preparation."

(8) By revising the standards that must be enforced by local health agencies and by expanding the scope of existing crimes, the bill would impose a state-mandated local program.

(9) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 113758 of the Health and Safety Code is amended to read:

113758. (a) "Cottage food operation" means an enterprise that has not more than the amount in gross annual sales that is specified in this subdivision, is operated by a cottage food operator, and has not more than one full-time equivalent cottage food employee, not including a family member or household member of the cottage food operator, within the registered or permitted area of a private home where the cottage food operator resides and where cottage food products are prepared or packaged for direct, indirect, or direct and indirect sale to consumers pursuant to this part. In 2013, the enterprise shall not have more than thirty-five thousand dollar (\$35,000) in gross annual sales in the calendar year. In 2014, the enterprise shall not have more than

forty-five thousand dollars (\$45,000) in gross annual sales in the calendar year. Commencing in 2015, and each subsequent year thereafter, the enterprise shall not have more than fifty thousand dollars (\$50,000) in gross annual sales in the calendar year. A cottage food operation includes both of the following:

(1) A "Class A" cottage food operation, which is a cottage food operation that may engage only in direct sales of cottage food products from the cottage food operation or other direct sales venues described in paragraph (4) of subdivision (b).

(2) A "Class B" cottage food operation, which is a cottage food operation that may engage in both direct sales and indirect sales of cottage food products from the cottage food operation, from direct sales venues described in paragraph (4) of subdivision (b), from offsite events, or from a third-party retail food facility described in paragraph (5) of subdivision (b).

(b) For purposes of this section, the following definitions shall apply:

(1) "Cottage food employee" means an individual, paid or volunteer, who is involved in the preparation, packaging, handling, and storage of a cottage food product, or otherwise works for the cottage food operation. An employee does not include an immediate family member or household member of the cottage food operator.

(2) "Cottage food operator" means an individual who operates a cottage food operation in his or her private home and is the owner of the cottage food operation.

(3) "Cottage food products" means nonpotentially hazardous foods, including foods that are described in Section 114365.5 and that are prepared for sale in the kitchen of a cottage food operation.

(4) "Direct sale" means a transaction within the state between a cottage food operation operator and a consumer, where the consumer purchases the cottage food product directly from the cottage food operation. Direct sales include, but are not limited to, transactions at holiday bazaars or other temporary events, such as bake sales or food swaps, transactions at farm stands, certified farmers' markets, or through community-supported agriculture subscriptions, and transactions occurring in person in the cottage food operation.

(5) "Indirect sale" means an interaction between a cottage food operation, a third-party retailer, and a consumer, where the consumer purchases cottage food products made by the cottage food operation from a third-party retailer that holds a valid permit issued pursuant to Section 114381. Indirect sales include, but are not limited to, sales made to retail shops or to retail food facilities where food may be immediately consumed on the premises.

(6) "Private home" means a dwelling, including an apartment or other leased space, where individuals reside.

(7) "Registered or permitted area" means the portion of a private home that contains the private home's kitchen used for the preparation, packaging, storage, or handling of cottage food products and related ingredients or equipment, or both, and attached rooms within the home that are used exclusively for storage.

SEC. 2. Section 113806 is added to the Health and Safety Code, to read:

113806. "Highly susceptible population" means a group of persons who are more likely than other people in the general population to experience foodborne disease because both of the following conditions exist:

(a) The group is comprised of immunocompromised persons, preschool age children, or older adults.

(b) The group obtains food at a facility, including, but not limited to, a kidney dialysis center, hospital, nursing home, or senior center, that provides services, such as custodial care, health care, assisted living, or socialization services.

SEC. 3. Section 113807 is added to the Health and Safety Code, to read:

113807. "Hot dog" means a whole, cured, cooked sausage that is skinless or stuffed in a casing, that may be known as a frankfurter, frank, furter, wiener, red hot, vienna, bologna, garlic bologna, or knockwurst, and that may be served in a bun or roll.

SEC. 4. Section 113818 of the Health and Safety Code is amended to read:

113818. (a) "Limited food preparation" means food preparation that is restricted to one or more of the following:

(1) Heating, frying, baking, roasting, popping, shaving of ice, blending, steaming or boiling of hot dogs, or assembly of nonprepackaged food.

(2) Dispensing and portioning of nonpotentially hazardous food.

(3) Holding, portioning, and dispensing of any foods that are prepared for satellite food service by the onsite permanent food facility or prepackaged by another approved source.

(4) Slicing and chopping of food on a heated cooking surface during the cooking process.

(5) Cooking and seasoning to order.

(6) Preparing beverages that are for immediate service, in response to an individual consumer order, that do not contain frozen milk products.

(b) "Limited food preparation" does not include any of the following:

(1) Slicing and chopping unless it is on the heated cooking surface.

(2) Thawing.

(3) Cooling of cooked, potentially hazardous food.

(4) Grinding raw ingredients or potentially hazardous food.

(5) Reheating of potentially hazardous foods for hot holding, except for steamed or boiled hot dogs and tamales in the original, inedible wrapper.

(6) Except as authorized in paragraph (3) of subdivision (a), hot holding of nonprepackaged, potentially hazardous food, except for roasting corn on the cob, steamed or boiled hot dogs, and tamales in the original, inedible wrapper.

(7) Washing of foods.

(8) Cooking of potentially hazardous foods for later use.

SEC. 5. Section 113903 of the Health and Safety Code is amended to read:

113903. (a) "Service animal" means any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability, or that is in training to do that work or perform those tasks. "Service animal" does not include any other species of animals, whether wild or domestic, trained or untrained.

(b) The work or tasks performed by a service animal shall include assisting individuals who are blind or have low vision with navigation and other tasks, alerting individuals who are deaf or hard of hearing to the presence of people or sounds, providing nonviolent protection or rescue work, pulling a wheelchair, assisting an individual during a seizure, alerting individuals to the presence of allergens, retrieving items such as medicine or the telephone, providing physical support and assistance with balance and stability to individuals with mobility disabilities, or helping persons with psychiatric and neurological disabilities by preventing or interrupting impulsive or destructive behaviors. The crime deterrent effects of an animal's presence and the provision of emotional support, well-being, comfort, or companionship do not constitute work or tasks for the purposes of this subdivision.

SEC. 6. Section 113949.2 of the Health and Safety Code is amended to read:

113949.2. The owner who has a food safety certificate issued pursuant to Section 113947.1 or the food employee who has this food safety certificate shall instruct all food employees regarding the relationship between personal hygiene and food safety, including the association of hand contact, personal habits and behaviors, and food employee health to foodborne illness. The owner or food safety certified employee shall require food employees to report the following to the person in charge:

(a) If a food employee is diagnosed with an illness due to one of the following:

(1) *Salmonella typhi*.

(2) *Salmonella spp.*

- (3) *Shigella* spp.
- (4) *Entamoeba histolytica*.
- (5) Enterohemorrhagic or shiga toxin producing *Escherichia coli*.
- (6) Hepatitis A virus.
- (7) Norovirus.

(b) If a food employee has a wound that is one of the following:

- (1) On the hands or wrists, unless an impermeable cover such as a finger cot or stall protects the wound and a single-use glove is worn over the impermeable cover.
- (2) On exposed portions of the arms, unless the wound is protected by an impermeable cover.
- (3) On other parts of the body, unless the wound is covered by a dry, durable, tight-fitting bandage.

SEC. 7. Section 113953.3 of the Health and Safety Code is amended to read:

113953.3. (a) Except as specified in subdivision (b), all employees shall thoroughly wash their hands and that portion, if any, of their arms exposed to direct food contact with cleanser and warm water by vigorously rubbing together the surfaces of their lathered hands and arms for at least 10 to 15 seconds and thoroughly rinsing with clean running water followed by drying of cleaned hands and that portion, if any, of their arms exposed. Employees shall pay particular attention to the areas underneath the fingernails and between the fingers. Employees shall wash their hands in all of the following instances:

- (1) Immediately before engaging in food preparation, including working with nonprepackaged food, clean equipment and utensils, and unwrapped single-use food containers and utensils.
 - (2) After touching bare human body parts other than clean hands and clean, exposed portions of arms.
 - (3) After using the toilet room.
 - (4) After caring for or handling any animal allowed in a food facility pursuant to this part.
 - (5) After coughing, sneezing, using a handkerchief or disposable tissue, using tobacco, eating, or drinking.
 - (6) After handling soiled equipment or utensils.
 - (7) During food preparation, as often as necessary to remove soil and contamination and to prevent cross-contamination when changing tasks.
 - (8) When switching between working with raw food and working with ready-to-eat food.
 - (9) Before initially donning gloves for working with food.
 - (10) Before dispensing or serving food or handling clean tableware and serving utensils in the food service area.
 - (11) After engaging in other activities that contaminate the hands.
- (b) If approved and capable of removing the types of soils encountered in the food operations involved, an automatic handwashing facility may be used by food employees to clean their hands.

SEC. 8. Section 113961 of the Health and Safety Code is repealed.

SEC. 9. Section 113961 is added to the Health and Safety Code, to read:

113961. (a) Food employees shall wash their hands in accordance with the provisions established in Section 113953.3.

(b) Except when washing fruits and vegetables, as specified in Section 113992 or as specified in subdivisions (e) and (f), food employees shall not contact exposed, ready-to-eat food with their bare hands and shall use suitable utensils such as deli tissue, spatulas, tongs, single-use gloves, or dispensing equipment.

(c) Food employees shall minimize bare hand and arm contact with exposed food that is not in a ready-to-eat form.

(d) Food that has been served to a consumer and then wrapped or packaged at the direction of the consumer, such as food placed in a take-home container, shall be handled only with utensils. These utensils shall be properly sanitized before reuse.

(e) Subdivision (b) does not apply to a food employee who contacts exposed, ready-to-eat food with bare hands at the time the ready-to-eat food is being added as an ingredient to a food that meets either of the following:

(1) Food that contains a raw animal food and is to be cooked in the food establishment to heat all parts of the food to the minimum temperatures specified in subdivisions (a) and (b) of Section 114004 or in Section 114008.

(2) Food that does not contain a raw animal food but is to be cooked in the food establishment to heat all parts of the food to a temperature of at least 165 degrees Fahrenheit.

(f) Food employees not serving a highly susceptible population may contact exposed, ready-to-eat food with their bare hands if all of the following occur:

(1) The permit holder obtains prior approval from the regulatory authority.

(2) Written procedures are maintained in the food facility and made available to the regulatory authority upon request, that include all of the following:

(A) For each bare hand contact procedure, a listing of the specific ready-to-eat foods that are touched by bare hands.

(B) Diagrams and other information showing that handwashing facilities that are installed, located, and maintained in accordance with Sections 113953, 113953.1, and 113953.2, are in an easily accessible location and in close proximity to the work station where the bare hand contact procedure is conducted.

(3) A written employee health policy that details the manner in which the food facility complies with Sections 113949, 113949.1, 113949.2, 113949.3, 113949.4, 113949.5, 113950, and 113950.5, including all of the following:

(A) Documentation that food employees acknowledge that they are informed to report information about their health and activities as they relate to gastrointestinal symptoms and diseases that are transmittable through food as specified in Section 113949.1.

(B) Documentation that food employees acknowledge their responsibilities as specified in Section 113949.4.

(C) Documentation that the person in charge acknowledges the responsibilities specified in Section 113949.5, subdivision (b) of Section 113950, and Section 113950.5.

(4) Documentation that food employees acknowledge that they have received training in all of the following:

(A) The risks of contacting the specific ready-to-eat foods with bare hands.

(B) Proper handwashing techniques and requirements, pursuant to subdivision (a) of Section 113953.3.

(C) Where to wash their hands, as specified in Section 113953.1.

(D) Proper fingernail maintenance, as specified in Section 113968.

(E) Prohibition of jewelry, as specified in subdivision (a) of Section 113973.

(F) Good hygienic practices, as specified in Sections 113974 and 113977.

(5) Documentation that hands are washed before food preparation and as necessary to prevent cross-contamination by food employees, as specified in Sections 113952, 113953.1, and 113953.3 during all hours of operation when the specific ready-to-eat foods are prepared.

(6) Documentation that food employees contacting ready-to-eat foods with bare hands use two or more of the following control measures to provide additional safeguards to hazards associated with bare hand contact:

(A) Double handwashing.

(B) Nail brushes.

(C) A hand antiseptic after handwashing, as specified in Section 113953.4.

(D) Incentive programs such as paid sick leave that assist or encourage food employees not to report to work if they are ill.

(E) Other control measures approved by the regulatory authority.

(7) Documentation that corrective action is taken when the requirements specified in paragraphs (1) to (6), inclusive, are not followed.

SEC. 10. Section 113973 of the Health and Safety Code is amended to read:

113973. (a) Single-use gloves shall be worn when contacting food and food-contact surfaces if the employee has any cuts, sores, rashes, artificial nails, nail polish, rings (other than a plain ring, such as a wedding band), uncleanable orthopedic support devices, or fingernails that are not clean, smooth, or neatly trimmed.

(b) Whenever gloves are worn, they shall be changed, replaced, or washed as often as handwashing is required by this part. Single-use gloves shall not be washed.

(c) If used, single-use gloves shall be used for only one task, such as working with ready-to-eat food or with raw food of animal origin, used for no other purpose, and shall be discarded when damaged or soiled, or when interruptions in the food handling occur.

(d) Except as specified in subdivision (e), slash-resistant gloves that are used to protect the hands during operations requiring cutting shall be used only with food that is subsequently cooked as specified in Section 114004, such as frozen food or a primal cut of meat.

(e) Slash-resistant gloves may be used with ready-to-eat food that will not be subsequently cooked if the slash-resistant gloves have a smooth, durable, and nonabsorbent outer surface or if the slash-resistant gloves are covered with a smooth, durable, nonabsorbent glove, or a single-use glove.

(f) Cloth gloves may not be used in direct contact with food unless the food is subsequently cooked.

SEC. 11. Section 113975 is added to the Health and Safety Code, to read:

113975. (a) Except as provided in subdivision (b), an employee who has a wound that is open or draining shall not handle food.

(b) A food employee who has a wound is restricted from food handling unless the food employee complies with all of the following:

(1) If the wound is located on the hand or wrist, an impermeable cover, such as a finger cot or stall, shall protect the wound. A single-use glove shall be worn over the impermeable cover.

(2) If the wound is located on exposed portions of the arms, an impermeable cover shall protect the wound.

(3) If the wound is located on other parts of the body, a dry, durable, tight-fitting bandage shall cover the wound.

(4) For purposes of this section, a wound also includes a cut, sore, rash, or lesion.

SEC. 12. Section 114047 of the Health and Safety Code is amended to read:

114047. (a) Adequate and suitable space shall be provided for the storage of food.

(b) Except as specified in subdivisions (c), (d), and (e), food shall be protected from contamination by storing the food in a clean, dry location, where it is not exposed to splash, dust, vermin, or other forms of contamination or adulteration, and at least six inches above the floor.

(c) Food in packages and working containers may be stored less than six inches above the floor on case lot handling equipment as specified under Section 114165.

(d) Pressurized beverage containers, cased food in waterproof containers such as bottles or cans, and milk containers in plastic crates may be stored on a floor that is clean and not exposed to moisture.

(e) Temporary alternate food storage methods and locations may be approved by the local enforcement agency.

SEC. 13. Section 114099.7 of the Health and Safety Code is amended to read:

114099.7. Mechanical sanitization shall be accomplished in the final sanitizing rinse by one of the following:

(a) By being cycled through equipment that is used in accordance with the manufacturer's specifications and achieving a utensil surface temperature of 160°F as measured by an irreversible registering temperature indicator.

(b) The mechanical application of sanitizing chemicals by pressure spraying methods using one of the following solutions:

(1) Contact with a solution of 50 ppm available chlorine for at least 30 seconds.

(2) Contact with a solution of 25 ppm available iodine for at least one minute.

(3) Contact with any chemical sanitizer that meets the requirements of Section 180.940 of Title 40 of the Code of Federal Regulations when used in accordance with the following:

(A) The sanitizer manufacturer's use directions as specified on the product label.

(B) The machine manufacturer's specifications as provided in the manufacturer's operating instructions.

(c) After being cleaned and sanitized, equipment and utensils shall not be rinsed before air drying or use unless:

(1) The rinse is applied directly from a potable water supply by a warewashing machine that meets the requirements of subdivision (b) of Section 114130 and is maintained and operated in accordance with the manufacturer's specifications.

(2) The rinse is applied only after the equipment and utensils have been sanitized by the application of hot water or by the application of a chemical sanitizer solution whose United States Environmental Protection Agency-registered, label use instructions require rinsing off the sanitizer after it is applied in an approved commercial warewashing machine.

SEC. 14. Section 114268 of the Health and Safety Code is amended to read:

114268. (a) Except in sales areas and as otherwise specified in subdivision (d), the floor surfaces in all areas in which food is prepared, prepackaged, or stored, where any utensil is washed, where refuse or garbage is stored, where janitorial facilities are located in all toilet and handwashing areas, except with respect to areas relating to guestroom accommodations and the private accommodations of owners and operators in restricted food service facilities, shall be smooth and of durable construction and nonabsorbent material that is easily cleanable.

(b) Floor surfaces shall be coved at the juncture of the floor and wall with a 3/8 inch minimum radius coving and shall extend up the wall at least 4 inches, except in areas where food is stored only in unopened bottles, cans, cartons, sacks, or other original shipping containers.

(c) Public or private schools constructed or remodeled after the effective date of this part shall comply with subdivision (b). Public and private schools constructed before the effective date of this part need not comply with subdivision (b), provided that the existing floor surfaces are maintained in good repair and in a sanitary condition.

(d) Except for dining and serving areas, the use of sawdust, wood shavings, peanut hulls, or similar materials is prohibited.

(e) This section shall not prohibit the use of approved dust-arresting floor sweeping and cleaning compounds during floor cleaning operations or the use of antislip floor finishes or materials in areas where necessary for safety reasons.

SEC. 15. Section 114271 of the Health and Safety Code is amended to read:

114271. (a) Except as provided in subdivision (b), the walls and ceilings of all rooms shall be of a durable, smooth, nonabsorbent, and easily cleanable surface.

(b) This section shall not apply to any of the following areas:

- (1) Walls and ceilings of bar areas in which alcoholic beverages are sold or served directly to the consumers, except wall areas adjacent to bar sinks and areas where food is prepared.
- (2) Areas where food is stored only in unopened bottles, cans, cartons, sacks, or other original shipping containers.
- (3) Dining and sales areas.
- (4) Offices.
- (5) Restrooms that are used exclusively by the consumers, except that the walls and ceilings in the restrooms shall be of a nonabsorbent and washable surface.
- (6) Dressing rooms, dressing areas, or locker areas.
- (c) Acoustical paneling may be utilized if it is installed not less than six feet above the floor. The paneling shall meet the other requirements of this section.
- (d) Conduits of all types shall be installed within walls as practicable. When otherwise installed, they shall be mounted or enclosed so as to facilitate cleaning.
- (e) Attachments to walls and ceilings, such as light fixtures, mechanical room ventilation system components, vent covers, wall mounted fans, decorative items, and other attachments, shall be easily cleanable.

SEC. 16. Section 114294 of the Health and Safety Code is amended to read:

114294. (a) All mobile food facilities and mobile support units shall meet the applicable requirements in Chapter 1 (commencing with Section 113700) to Chapter 8 (commencing with Section 114250), inclusive, Chapter 12.6 (commencing with Section 114377), and Chapter 13 (commencing with Section 114380), unless specifically exempted from any of these provisions as provided in this chapter.

(b) The enforcement agency shall initially approve all mobile food facilities and mobile support units as complying with the provisions of this chapter and may require reapproval if deemed necessary.

(c) Each mobile food facility that is either a special purpose commercial modular and coach as defined by Section 18012.5 or a commercial modular coach as defined by Section 18001.8 shall be certified by the Department of Housing and Community Development, consistent with Chapter 4 (commencing with Section 18025) of Part 2 of Division 13, and regulations promulgated pursuant to that chapter. In addition, the enforcement agency shall approve all equipment installation prior to operation.

SEC. 17. Section 114295 of the Health and Safety Code is amended to read:

114295. (a) Except as specified in subdivision (b), all mobile food facilities shall operate in conjunction with a commissary, mobile support unit, or other facility approved by the enforcement agency.

(b) This section does not apply to mobile food facilities that operate at community events as defined in Section 113755 and that remain in a fixed position during food preparation and its hours of operation, if potable water and liquid waste disposal facilities are available to mobile food facilities requiring potable water.

(c) Mobile food facilities shall be stored at or within a commissary or other location approved by the enforcement agency in order to have protection from unsanitary conditions.

(d) Mobile support units shall be operated from and stored at a designated commissary and shall be subject to permitting and plan review.

(e) Notwithstanding any other provisions of this section, a mobile food facility that is engaged in food preparation, other than limited food preparation, as defined in Section 113818, shall not operate in conjunction with a mobile support unit.

SEC. 18. Section 114299 of the Health and Safety Code is amended to read:

114299. (a) Except as specified in subdivision (c), the business name or name of the operator, city, state, ZIP Code, and name of the permittee, if different from the name of the food facility, shall be legible, clearly visible to consumers, and permanently affixed on the consumer side of the mobile food facility and on a mobile support unit.

(b) The business name shall be in letters at least 3 inches high. Letters and numbers for the city, state, and ZIP Code shall not be less than one inch high. The color of each letter and number shall contrast with its background.

(c) Notwithstanding subdivision (a), motorized mobile food facilities and mobile support units shall have the required identification on two sides.

SEC. 19. Section 114325 of the Health and Safety Code is amended to read:

114325. (a) Except on a mobile food facility that only utilizes the water for handwashing purposes, a water heater or an instantaneous heater capable of heating water to a minimum of 120°F, interconnected with a potable water supply, shall be provided and shall operate independently of the vehicle engine. On a mobile food facility that only utilizes the water for handwashing purposes, a minimum one-half gallon-capacity water heater or an instantaneous water heater capable of heating water to a minimum of 100°F, interconnected with a potable water supply, shall be provided and shall operate independently of the vehicle engine.

(b) A water heater with a minimum capacity of four gallons shall be provided for mobile food facilities that have a warewashing sink.

(c) A mobile food facility equipped with a three-gallon-capacity water heater that is in compliance with this section on January 1, 2014, is in compliance with this section after that date.

SEC. 20. Section 114332.2 of the Health and Safety Code is amended to read:

114332.2. (a) Except where all food and beverage is prepackaged, handwashing and warewashing facilities approved by the enforcement officer shall be provided for nonprofit charitable temporary food facilities. Each nonprofit charitable temporary food facility shall be equipped with a handwashing facility. Based on local environmental conditions, location, and similar factors, the local enforcement agency may, in lieu of warewashing facilities, allow a nonprofit charitable temporary food facility operating no more than four hours per day at a single event to provide an adequate supply of utensils and spare utensils when they have been properly washed and sanitized at an approved food facility and are stored and kept free of becoming soiled or contaminated.

(b) Facilities for the sanitary disposal of all liquid waste shall be subject to the approval of the enforcement officer.

(c) At least one toilet facility for each 15 employees shall be provided within 60 meters (200 feet) of each nonprofit charitable temporary food facility.

(d) Food contact surfaces shall be smooth, easily cleanable, and nonabsorbent.

SEC. 21. Section 114335 of the Health and Safety Code is amended to read:

114335. (a) Temporary food facilities that operate at a swap meet are limited to only prepackaged nonpotentially hazardous food and whole uncut produce, and shall meet the applicable requirements in Chapter 1 (commencing with Section 113700) to Chapter 8 (commencing with Section 114250), inclusive, Chapter 12.6 (commencing with Section 114377), and Chapter 13 (commencing with Section 114380), unless specifically exempted from any of these provisions.

(b) Temporary food facilities that operate at a community event shall meet the applicable requirements in Chapter 1 (commencing with Section 113700) to Chapter 8 (commencing with Section 114250), inclusive, Chapter 12.6 (commencing with Section 114377), and Chapter 13 (commencing with Section 114380), unless specifically exempted from any of these provisions.

(c) Food facility requirements shall be determined by the enforcement agency based on the food service activity to be conducted, the type of food that is to be prepared or served, the length of the event, and the extent of food preparation that is to be conducted at a community event within a temporary food facility.

(d) Notwithstanding subdivision (a), the enforcement agency may allow temporary food facilities at a swap meet, depending on the food service activity to be conducted, the type of food that is to be prepared or served, the duration of the swap meet, and the extent of food preparation that is to be conducted at the swap meet.

SEC. 22. Section 114351 of the Health and Safety Code is amended to read:

114351. (a) Notwithstanding Section 114095, a warewashing sink may be shared by no more than four temporary food facilities that handle nonprepackaged food if the sink is centrally located and is adjacent to the sharing facilities.

(b) Notwithstanding subdivision (a), based on the number and types of utensils used, the local enforcement agency may allow up to eight temporary food facilities to share a warewashing sink when easily accessible and located within 100 feet of each temporary food facility.

(c) Based on local environmental conditions, location, and similar factors, the local enforcement agency may, in lieu of a warewashing sink, allow a temporary food facility operating no more than four hours per day at a single event to provide an adequate supply of utensils and spare utensils when they have been properly washed and sanitized at an approved food facility and are stored and kept free of becoming soiled or contaminated.

SEC. 23. Section 114365 of the Health and Safety Code is amended to read:

114365. (a) (1) (A) A "Class A" cottage food operation shall not be open for business unless it is registered with the local enforcement agency and has submitted a completed, self-certification checklist approved by the local enforcement agency. The self-certification checklist shall verify that the cottage food operation conforms to this chapter, including the following requirements:

(i) No cottage food preparation, packaging, or handling may occur in the home kitchen concurrent with any other domestic activities, such as family meal preparation, dishwashing, clothes washing or ironing, kitchen cleaning, or guest entertainment.

(ii) No infants, small children, or pets may be in the home kitchen during the preparation, packaging, or handling of any cottage food products.

(iii) Kitchen equipment and utensils used to produce cottage food products shall be clean and maintained in a good state of repair.

(iv) All food contact surfaces, equipment, and utensils used for the preparation, packaging, or handling of any cottage food products shall be washed, rinsed, and sanitized before each use.

(v) All food preparation and food and equipment storage areas shall be maintained free of rodents and insects.

(vi) Smoking shall be prohibited in the portion of a private home used for the preparation, packaging, storage, or handling of cottage food products and related ingredients or equipment, or both, while cottage food products are being prepared, packaged, stored, or handled.

(B) (i) The department shall post the requirements described in subparagraph (A) on its Internet Web site.

(ii) The local enforcement agency shall issue a registration number to a "Class A" cottage food operation that meets the requirements of subparagraph (A).

(C) (i) Except as provided in (ii), a "Class A" cottage food operation shall not be subject to initial or routine inspections.

(ii) For purposes of determining compliance with this chapter, a representative of a local enforcement agency may access, for inspection purposes, the registered area of a private home where a cottage food operation is located only if the representative has, on the basis of a consumer complaint, reason to suspect that adulterated or otherwise unsafe food has been produced by the cottage food operation or that the cottage food operation has violated this chapter.

(iii) Access under this subparagraph is limited to the registered area and solely for the purpose of enforcing or administering this chapter.

(iv) A local enforcement agency may seek recovery from a "Class A" cottage food operation of an amount that does not exceed the local enforcement agency's reasonable costs of inspecting the "Class A" cottage food operation for compliance with this chapter, if the "Class A" cottage food operation is found to be in violation of this chapter.

(2) (A) A "Class B" cottage food operation shall not be open for business unless it obtains a permit from the local enforcement agency in a manner approved by the local enforcement agency to engage in the direct and indirect sale of cottage food products.

(B) (i) A "Class B" cottage food operation shall comply with the requirements described in clauses (i) to (vi), inclusive, of subparagraph (A) of paragraph (1) in addition to the other requirements of this chapter.

(ii) The local enforcement agency shall issue a permit number after an initial inspection has determined that the proposed "Class B" cottage food operation and its method of operation conform to this chapter.

(C) Except as provided in this subparagraph, a "Class B" cottage food operation shall not be subject to more than one inspection per year by the local enforcement agency.

(D) A "Class A" cottage food operation shall renew its registration annually.

(i) For purposes of determining compliance with this chapter, a representative of a local enforcement agency, for inspection purposes, may access the permitted area of a private home where a cottage food operation is located only if the representative has, on the basis of a consumer complaint, reason to suspect that adulterated or otherwise unsafe food has been produced by the cottage food operation, or that the cottage food operation has violated this chapter.

(ii) Access under this subparagraph is limited to the permitted area and solely for the purpose of enforcing or administering this chapter.

(E) (i) A "Class B" cottage food operation shall be authorized to engage in the indirect sales of cottage food products within the county in which the "Class B" cottage food operation is permitted.

(ii) A county may agree to allow a "Class B" cottage food operation permitted in another county to engage in the indirect sales of cottage food products in the county.

(b) (1) A registration or permit, once issued, is nontransferable. A registration or permit shall be valid only for the person, location, type of food sales, and distribution activity specified by that registration or permit, and, unless suspended or revoked for cause, for the time period indicated.

(2) The registration or permit or an accurate copy thereof shall be retained by the operator onsite at the time of either direct or indirect cottage food sale.

SEC. 24. Section 114365.2 of the Health and Safety Code is amended to read:

114365.2. A cottage food operation that is registered or has a permit issued pursuant to Section 114365 shall be considered a restricted food service facility for purposes of, and subject to, Sections 113953.3, 114259.5, 114285, and 114286. A cottage food operation that is registered or has a permit also shall be subject to Sections 113967, 113973, 113980, 114259.5, 114405, 114407, 114409, 114411, and 114413, and to all of the following requirements:

(a) A person with a contagious illness shall refrain from work in the registered or permitted area of the cottage food operation.

(b) A person involved in the preparation or packaging of cottage food products shall keep his or her hands and exposed portions of his or her arms clean and shall wash his or her hands before any food preparation or packaging activity in a cottage food operation.

(c) Water used during the preparation of cottage food products shall meet the potable drinking water standards described in Section 113869, or in accordance with the local regulatory authority. A cottage food operation shall not be required to have an indirect sewer connection. Water used during the preparation of cottage food products includes all of the following:

(1) The washing, sanitizing, and drying of any equipment used in the preparation of a cottage food product.

(2) The washing, sanitizing, and drying of hands and arms.

(3) Water used as an ingredient.

(d) A person who prepares or packages cottage food products shall complete a food processor course approved by the department and posted on the department's Internet Web site to protect the public health within three months of becoming registered and every three years during operation. The course shall not exceed four hours in length. The department shall work with the local enforcement agency to ensure that cottage food operators are properly notified of the location, date, and time of the classes offered.

(e) A cottage food operation shall properly label all cottage food products in compliance with the Federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 343 et seq.). Additionally, to the extent permitted by federal law, the label shall include, but is not limited to, all of the following:

(1) The words "Made in a Home Kitchen" or "Repackaged in a Home Kitchen," as applicable, with a description of any purchased whole ready-to-eat product not used as an ingredient in 12-point type on the cottage food product's primary display panel.

(2) The name commonly used for the food product or an adequately descriptive name.

(3) The name of the cottage food operation which produced the cottage food product.

(4) The registration or permit number of the "Class A" or "Class B" cottage food operation, respectively, which produced the cottage food product and the name of the county of the local enforcement agency that issued the permit or registration number.

(5) The ingredients of the cottage food product, in descending order of predominance by weight, if the product contains two or more ingredients.

SEC. 25. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because, in that regard, this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

However, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

facility for the elderly is a business run for profit or differs in any other way from a family dwelling.

This section shall not be construed to forbid any city, county, or other local public entity from placing restrictions on building heights, setback, lot dimensions, or placement of signs of a residential care facility for the elderly which serves six or fewer persons as long as the restrictions are identical to those applied to other family dwellings of the same type in the same zone.

This section shall not be construed to forbid the application to a residential care facility for the elderly of any local ordinance which deals with health and safety, building standards, environmental impact standards, or any other matter within the jurisdiction of a local public entity if the ordinance does not distinguish residential care facilities for the elderly which serve six or fewer persons from other family dwellings of the same type in the same zone; and if the ordinance does not distinguish residents of the residential care facilities for the elderly from persons who reside in other family dwellings of the same type in the same zone.

No conditional use permit, zoning variance, or other zoning clearance shall be required of a residential care facility for the elderly which serves six or fewer persons which is not required of a family dwelling of the same type in the same zone.

Use of a family dwelling for purposes of a residential care facility for the elderly serving six or fewer persons shall not constitute a change of occupancy for purposes of Part 1.5 (commencing with Section 17910) of Division 13 or local building codes. However, nothing in this section is intended to supersede Section 13143 or 13143.6, to the extent these sections are applicable to residential care facilities for the elderly providing care for six or fewer residents.

For the purposes of this section, "family dwelling," includes, but is not limited to, single-family dwellings, units in multifamily dwellings, including units in duplexes and units in apartment dwellings, mobilehomes, including mobilehomes located in mobilehome parks, units in cooperatives, units in condominiums, units in townhouses, and units in planned unit developments.

(Added by Stats. 1986, Ch. 844; Amended by Stats. 1987, Ch. 1092.)

FAMILY DAY CARE HOMES ZONING

(Division 2. Licensing Provisions, Chapter 3.4. California Child Day Care Act)

1596.70. Title

This chapter and Chapters 3.5 (commencing with Section 1596.90) and 3.6 (commencing with 1597.30) may be cited as the California Child Day Care Facilities Act.

(Added by Stats. 1984, Ch. 1615; Amended by Stats. 1985, Ch. 1064.)

1596.71. Applicability

This chapter applies to Chapters 3.5 (commencing with Section 1596.90) and 3.6 (commencing with Section 1597.30). This chapter also applies to Chapter 3.65 (commencing with Section 1597.70).

(Added by Stats. 1984, Ch. 1615.)

1596.72. Legislative intent

The Legislature finds all of the following:

(a) That child day care facilities can contribute positively to a child's emotional, cognitive, and educational development.

(b) That it is the intent of this state to provide a comprehensive, quality system for licensing child day care facilities to ensure a quality day care environment.

(c) That this system of licensure requires a special understanding of the unique characteristics and needs of the children served by child day care facilities.

(d) That it is the intent of the Legislature to establish within the State Department of Social Services an organizational structure to separate licensing of child day care facilities from those facility types administered under Chapter 3 (commencing with Section 1500).

(e) That good quality child day care services are an essential service for working parents.

(Added by Stats. 1984, Ch. 1615; Amended by Stats. 1985, Ch. 1064.)

1596.73. Purpose

The purposes of this act are to:

(a) Streamline the administration of child care licensing and thereby increase the efficiency and effectiveness of this system.

(b) Encourage the development of licensing staff with knowledge and understanding of children and child care needs.

(c) Provide providers of child care with technical assistance about licensing requirements.

(d) Enhance consumer awareness of licensing requirements and the benefits of licensed child care.

(e) Recognize that affordable, quality licensed child care is critical to the well-being of parents and children in this state.

(Added by Stats. 1984, Ch. 1615; Amended by Stats. 1985, Ch. 1064.)

1596.74. Definitions

Unless the context otherwise requires, the definitions contained in this chapter govern the construction of this chapter and Chapters 3.5 (commencing with Section 1596.90) and 3.6 (commencing with Section 1597.30).

(Added by Stats. 1984, Ch. 1615.)

1596.75. Child

"Child" means a person who is under 18 years of age who is being provided care and supervision in a child day care facility, except where otherwise specified in this act.

(Added by Stats. 1984, Ch. 1615.)

1596.750. Child day care facility

"Child day care facility" means a facility that provides nonmedical care to children under 18 years of age in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual on less than a 24-hour basis. Child day care facility includes day care centers, employer-sponsored child care centers, and family day care homes.

(Added by Stats. 1984, Ch. 1615; Amended by Stats. 1994, Ch. 690.)

1596.76. Day care center

"Day care center" means any child day care facility other than a family day care home, and includes infant centers, preschools, extended day care facilities, and school age child care centers.

(Added by Stats. 1984, Ch. 1615; Amended by Stats. 2002, Ch. 1022.)

1596.77. Department

"Department" means the State Department of Social Services.

(Added by Stats. 1984, Ch. 1615.)

1596.770. Director

"Director" means the Director of Social Services.

(Added by Stats. 1984, Ch. 1615.)

1596.771. Employer-sponsored child care center

"Employer-sponsored child care center" means any child day care facility at the employer's site of business operated directly or through a provider contract by any person or entity having one or more employees, and available exclusively for the care of children of that employer, and of the officers, managers, and employees of that employer.

(Added by Stats. 1994, Ch. 690.)

1596.773. Probation; Revocation

(a) "Probation" means the period of time that a licensed child day care facility is required to comply with specific terms and conditions set forth by the department in order to stay or postpone the revocation of the facility's license.

(b) "Revocation" means an administrative action taken by the department to void or rescind the license of a child day care facility because of serious or chronic violations of licensing laws or regulations by the facility.

(Added by Stats. 2004, Ch. 358.)

1596.775. Findings

The Legislature finds and declares all of the following:

(a) There is a severe shortage of child care for school age children throughout California, with many school age children going home to an empty, unsupervised setting after school.

(b) For nearly five years several counties have participated in a pilot program that allows for a family day care home to

care for two additional children above the current number allowed pursuant to licensing regulations.

(c) As part of the pilot program, a study was conducted by the Assembly Office of Research. The results of the study demonstrated that the pilot program achieved all of the following results:

(1) Increased access to care for school age children.

(2) Participating providers encountered few problems and strongly support expansion of the program.

(3) Parents of children in the pilot program family day care homes strongly support the program.

(4) Participating providers with additional children were no more likely to receive substantiated complaints from licensing officials than nonparticipants.

(5) Local governments and planning officials saw little or no impact on their licensing policies and procedures.

(6) Overall quality of care was not adversely affected.

(Added by Stats. 1996, Ch. 18.)

1596.78. Family day care home

(a) "Family day care home" means a home that regularly provides care, protection, and supervision for 14 or fewer children, in the provider's own home, for periods of less than 24 hours per day, while the parents or guardians are away, and is either a large family day care home or a small family day care home.

(b) "Large family day care home" means a home that provides family day care for 7 to 14 children, inclusive, including children under the age of 10 years who reside at the home, as set forth in Section 1597.465 and as defined in regulations.

(c) "Small family day care home" means a home that provides family day care for eight or fewer children, including children under the age of 10 years who reside at the home, as set forth in Section 1597.44 and as defined in regulations.

(Added by Stats. 1984, Ch. 1615; Amended by Stats. 1989, Ch. 70.)

1596.79. Person

"Person" means an individual, partnership, association, corporation, limited liability company, or governmental entity, such as the state, a county, city, special district, school district, community college district, chartered city, or chartered city and county.

(Added by Stats. 1984, Ch. 1615; Amended by Stats. 1985, Ch. 1064; Amended by Stats. 1994, Ch. 1010.)

1596.790. Planning agency

"Planning agency" means the agency designated pursuant to Section 65100 of the Government Code.

(Added by Stats. 1984, Ch. 1615.)

1596.791. Provider

"Provider" means a person who operates a child day care facility and is licensed pursuant to Chapter 3.5 (commencing

with Section 1596.90) or 3.6 (commencing with Section 1597.30).

(Added by Stats. 1984, Ch. 1615.)

1596.792. Inapplicability

This chapter, Chapter 3.5 (commencing with Section 1596.90), and Chapter 3.6 (commencing with Section 1597.30) do not apply to any of the following:

- (a) Any health facility, as defined by Section 1250.
- (b) Any clinic, as defined by Section 1202.
- (c) Any community care facility, as defined by Section 1502.
- (d) Any family day care home providing care for the children of only one family in addition to the operator's own children.

(e) Any cooperative arrangement between parents for the care of their children when no payment is involved and the arrangement meets all of the following conditions:

(1) In a cooperative arrangement, parents shall combine their efforts so that each parent, or set of parents, rotates as the responsible caregiver with respect to all the children in the cooperative.

(2) Any person caring for children shall be a parent, legal guardian, stepparent, grandparent, aunt, uncle, or adult sibling of at least one of the children in the cooperative.

(3) There can be no payment of money or receipt of in-kind income in exchange for the provision of care. This does not prohibit in-kind contributions of snacks, games, toys, blankets for napping, pillows, and other materials parents deem appropriate for their children. It is not the intent of this paragraph to prohibit payment for outside activities, the amount of which may not exceed the actual cost of the activity.

(4) No more than 12 children are receiving care in the same place at the same time.

(f) Any arrangement for the receiving and care of children by a relative.

(g) Any public recreation program. "Public recreation program" means a program operated by the state, city, county, special district, school district, community college district, chartered city, or chartered city and county that meets either of the following criteria:

(1) The program is operated only during hours other than normal school hours for kindergarten and grades 1 to 12, inclusive, in the public school district where the program is located, or operated only during periods when students in kindergarten and grades 1 to 12, inclusive, are normally not in session in the public school district where the program is located, for either of the following periods:

(A) For under 16 hours per week.

(B) For a total of 12 weeks or less during a 12-month period. This total applies to any 12 weeks within any 12-month period, without regard to whether the weeks are consecutive.

In determining "normal school hours" or periods when students are "normally not in session," the State Department

of Social Services shall, when appropriate, consider the normal school hours or periods when students are normally not in session for students attending a year-round school.

(2) The program is provided to children who are over the age of four years and nine months and not yet enrolled in school and the program is operated during either of the following periods:

(A) For under 16 hours per week.

(B) For a total of 12 weeks or less during a 12-month period. This total applies to any 12 weeks within any 12-month period, without regard to whether the weeks are consecutive.

(3) The program is provided to children under the age of four years and nine months with sessions that run 12 hours per week or less and are 12 weeks or less in duration. A program subject to this paragraph may permit children to be enrolled in consecutive sessions throughout the year. However, the program shall not permit children to be enrolled in a combination of sessions that total more than 12 hours per week for each child.

(h) Extended day care programs operated by public or private schools.

(i) Any school parenting program or adult education child care program that satisfies both of the following:

(1) Is operated by a public school district or operated by an individual or organization pursuant to a contract with a public school district.

(2) Is not operated by an organization specified in Section 1596.793.

(j) Any child day care program that operates only one day per week for no more than four hours on that one day.

(k) Any child day care program that offers temporary child care services to parents and that satisfies both of the following:

(1) The services are only provided to parents and guardians who are on the same premises as the site of the child day care program.

(2) The child day care program is not operated on the site of a ski facility, shopping mall, department store, or any other similar site identified by the department by regulation.

(l) Any program that provides activities for children of an instructional nature in a classroom-like setting and satisfies both of the following:

(1) Is operated only during periods of the year when students in kindergarten and grades 1 to 12, inclusive, are normally not in session in the public school district where the program is located due to regularly scheduled vacations.

(2) Offers any number of sessions during the period specified in paragraph (1) that when added together do not exceed a total of 30 days when only schoolage children are enrolled in the program or 15 days when children younger than schoolage are enrolled in the program.

(m) A program facility administered by the Department of Corrections and Rehabilitation that (1) houses both women and their children, and (2) is specifically designated for the purpose of providing substance abuse treatment and

maintaining and strengthening the family unit pursuant to Chapter 4 (commencing with Section 3410) of Title 2 of Part 3 of the Penal Code, or Chapter 4.8 (commencing with Section 1174) of Title 7 of Part 2 of that code.

(n) Any crisis nursery, as defined in subdivision (a) of Section 1516.

(o) This section shall remain in effect only until January 1, 2014, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2014, deletes or extends that date.

(Added by Stats. 1984, Ch. 1615; Amended by Stats. 1985, Ch. 1064; Amended by Stats. 1987, Ch. 1487; Amended by Stats. 1989, Ch. 413; Amended by Stats. 1990, Ch. 388; Amended by Stats. 1991, Ch. 316; Amended by Stats. 1992, Ch. 625; Amended by Stats. 1993, Ch. 280; Amended by Stats. 1995, Ch. 372; Amended by Stats. 1997, Ch. 942; Amended by Stats. 2004, Ch. 664; Amended by Stats. 2005, Ch. 22; Amended by Stats. 2007, Ch. 288 [Effective January 1, 2008, Repealed July 1, 2011]; Amended by Stats. 2010, Ch. 519 [Repealed January 1, 2014].)

1596.792. Inapplicability (Part 2)

This chapter, Chapter 3.5 (commencing with Section 1596.90), and Chapter 3.6 (commencing with Section 1597.30) do not apply to any of the following:

(a) Any health facility, as defined by Section 1250.

(b) Any clinic, as defined by Section 1202.

(c) Any community care facility, as defined by Section 1502.

(d) Any family day care home providing care for the children of only one family in addition to the operator's own children.

(e) Any cooperative arrangement between parents for the care of their children when no payment is involved and the arrangement meets all of the following conditions:

(1) In a cooperative arrangement, parents shall combine their efforts so that each parent, or set of parents, rotates as the responsible caregiver with respect to all the children in the cooperative.

(2) Any person caring for children shall be a parent, legal guardian, stepparent, grandparent, aunt, uncle, or adult sibling of at least one of the children in the cooperative.

(3) There can be no payment of money or receipt of in-kind income in exchange for the provision of care. This does not prohibit in-kind contributions of snacks, games, toys, blankets for napping, pillows, and other materials parents deem appropriate for their children. It is not the intent of this paragraph to prohibit payment for outside activities, the amount of which may not exceed the actual cost of the activity.

(4) No more than 12 children are receiving care in the same place at the same time.

(f) Any arrangement for the receiving and care of children by a relative.

(g) Any public recreation program. "Public recreation program" means a program operated by the state, city, county, special district, school district, community college district, chartered city, or chartered city and county that meets either of the following criteria:

(1) The program is operated only during hours other than normal school hours for kindergarten and grades 1 to 12, inclusive, in the public school district where the program is located, or operated only during periods when students in kindergarten and grades 1 to 12, inclusive, are normally not in session in the public school district where the program is located, for either of the following periods:

(A) For under 16 hours per week.

(B) For a total of 12 weeks or less during a 12-month period. This total applies to any 12 weeks within any 12-month period, without regard to whether the weeks are consecutive.

In determining "normal school hours" or periods when students are "normally not in session," the State Department of Social Services shall, when appropriate, consider the normal school hours or periods when students are normally not in session for students attending a year-round school.

(2) The program is provided to children who are over the age of four years and nine months and not yet enrolled in school and the program is operated during either of the following periods:

(A) For under 16 hours per week.

(B) For a total of 12 weeks or less during a 12-month period. This total applies to any 12 weeks within any 12-month period, without regard to whether the weeks are consecutive.

(3) The program is provided to children under the age of four years and nine months with sessions that run 12 hours per week or less and are 12 weeks or less in duration. A program subject to this paragraph may permit children to be enrolled in consecutive sessions throughout the year. However, the program shall not permit children to be enrolled in a combination of sessions that total more than 12 hours per week for each child.

(h) Extended day care programs operated by public or private schools.

(i) Any school parenting program or adult education child care program that satisfies both of the following:

(1) Is operated by a public school district or operated by an individual or organization pursuant to a contract with a public school district.

(2) Is not operated by an organization specified in Section 1596.793.

(j) Any child day care program that operates only one day per week for no more than four hours on that one day.

(k) Any child day care program that offers temporary child care services to parents and that satisfies both of the following:

(1) The services are only provided to parents and guardians who are on the same premises as the site of the child day care program.

(2) The child day care program is not operated on the site of a ski facility, shopping mall, department store, or any other similar site identified by the department by regulation.

(l) Any program that provides activities for children of an instructional nature in a classroom-like setting and satisfies both of the following:

(1) Is operated only during periods of the year when students in kindergarten and grades 1 to 12, inclusive, are normally not in session in the public school district where the program is located due to regularly scheduled vacations.

(2) Offers any number of sessions during the period specified in paragraph (1) that when added together do not exceed a total of 30 days when only schoolage children are enrolled in the program or 15 days when children younger than schoolage are enrolled in the program.

(m) A program facility administered by the Department of Corrections that (1) houses both women and their children, and (2) is specifically designated for the purpose of providing substance abuse treatment and maintaining and strengthening the family unit pursuant to Chapter 4 (commencing with Section 3410) of Title 2 of Part 3 of the Penal Code, or Chapter 4.8 (commencing with Section 1174) of Title 7 of Part 2 of that code.

(n) This section shall become operative on January 1, 2014.

(Added by Stats. 2004, Ch. 664; Amended by Stats. 2005, Ch. 22; Amended by Stats. 2007, Ch. 288 [Effective January 1, 2008, Operative July 1, 2011]; Amended by Stats. 2010, Ch. 519.)

1596.7925. *(Repealed by its own terms January 1, 2001.)*

1596.793. Exemption of specific recreation programs

This chapter and Chapters 3.5 (commencing with Section 1596.90) and 3.6 (commencing with Section 1597.30) do not apply to recreation programs conducted for children by the Girl Scouts, Boy Scouts, Boys Club, Girls Club, or Camp Fire, or similar organizations as determined by regulations of the department. Child day care programs conducted by these organizations and the fees charged for that specific purpose are subject to the requirements of this chapter, Chapter 3.5 (commencing with Section 1596.90), and Chapter 3.6 (commencing with Section 1597.30).

(Added by Stats. 1985, Ch. 1110; Amended by Stats. 1986, Ch. 714.)

1596.794. Department liaison

The department shall serve as the liaison to child day care facilities for the purposes of Sections 17608 to 17613, of the Education Code.

(Added by Stats. 2006, Ch. 865.)

1596.795. No smoking ordinance

(a) The smoking of tobacco in a private residence that is licensed as a family day care home shall be prohibited during the hours of operation as a family day care home and in those

areas of the family day care home where children are present. Nothing in this section shall prohibit a city or county from enacting or enforcing an ordinance relating to smoking in a family day care home if the ordinance is more stringent than this section.

(b) The smoking of tobacco on the premises of a licensed day care center shall be prohibited.

(Added by Stats. 1986, Ch. 407; Amended by Stats. 1993, Ch. 335.)

1597.40. Policy

(a) It is the intent of the Legislature that family day care homes for children should be situated in normal residential surroundings so as to give children the home environment which is conducive to healthy and safe development. It is the public policy of this state to provide children in a family day care home the same home environment as provided in a traditional home setting.

The Legislature declares this policy to be of statewide concern with the purpose of occupying the field to the exclusion of municipal zoning, building and fire codes and regulations governing the use or occupancy of family day care homes for children, except as specifically provided for in this chapter, and to prohibit any restrictions relating to the use of single-family residences for family day care homes for children except as provided by this chapter.

(b) Every provision in a written instrument entered into relating to real property which purports to forbid or restrict the conveyance, encumbrance, leasing, or mortgaging of the real property for use or occupancy as a family day care home for children, is void and every restriction or prohibition in any such written instrument as to the use or occupancy of the property as a family day care home for children is void.

(c) Except as provided in subdivision (d), every restriction or prohibition entered into, whether by way of covenant, condition upon use or occupancy, or upon transfer of title to real property, which restricts or prohibits directly, or indirectly limits, the acquisition, use, or occupancy of such property for a family day care home for children is void.

(d) (1) A prospective family day care home provider, who resides in a rental property, shall provide 30 days' written notice to the landlord or owner of the rental property prior to the commencement of operation of the family day care home.

(2) For family day care home providers who have relocated an existing licensed family day care home program to a rental property on or after January 1, 1997, less than 30 days' written notice may be provided in cases where the department approves the operation of the new location of the family day care home in less than 30 days, or the home is licensed in less than 30 days, in order that service to the children served in the former location not be interrupted.

(3) A family day care home provider in operation on rental or leased property as of January 1, 1997, shall notify the landlord or property owner in writing at the time of the

annual license fee renewal, or by March 31, 1997, whichever occurs later.

(4) Notwithstanding any other provision of law, upon commencement of, or knowledge of, the operation of a family day care home on his or her property, the landlord or property owner may require the family day care home provider to pay an increased security deposit for operation of the family day care home. The increase in deposit may be required notwithstanding that a lesser amount is required of tenants who do not operate family day care homes. In no event, however, shall the total security deposit charged exceed the maximum allowable under existing law.

(5) Section 1596.890 shall not apply to this subdivision.

(Renumbered from 1597.501 and Amended by Stats. 1983, Ch. 1233; Amended by Stats. 1996, Ch. 449.)

1597.41. *(Repealed by Stats. 1996, Ch. 11.)*

1597.43. Family day care homes; residentially zoned

The Legislature finds and declares all of the following:

(a) Family day care homes operated under the standards of state law constitute accessory uses of residentially zoned and occupied properties and do not fundamentally alter the nature of the underlying residential uses. Family day care homes draw clients and vehicles to their sites during a limited time of day and do not require the attendance of a large number of employees and equipment.

(b) The uses of congregate care facilities are distinguishable from the uses of family day care homes operated under the standards of state law. For purposes of this section, a "congregate care facility" means a "residential facility," as defined in paragraph (1) of subdivision (a) of Section 1502. Congregate care facilities are used throughout the day and night, and the institutional uses of these facilities are primary uses of the facilities, not accessory uses, and draw a large number of employees, vehicles, and equipment compared to that drawn to family day care homes.

(c) The expansion permitted for family day care homes by Sections 1597.44 and 1597.465 is not appropriate with respect to congregate care facilities, or any other facilities with quasi-institutional uses. Therefore, with these provisions, the Legislature does not intend to alter the legal standards governing congregate care facilities and these provisions are not intended to encourage, or be a precedent for, changes in statutory and case law governing congregate care facilities.

(Added by Stats. 1996, Ch. 18.)

1597.44. Small family day care homes; children

A small family day care home may provide care for more than six and up to eight children, without an additional adult attendant, if all of the following conditions are met:

(a) At least one child is enrolled in and attending kindergarten or elementary school and a second child is at least six years of age.

(b) No more than two infants are cared for during any time when more than six children are cared for.

(c) The licensee notifies each parent that the facility is caring for two additional school age children and that there may be up to seven or eight children in the home at one time.

(d) The licensee obtains the written consent of the property owner when the family day care home is operated on property that is leased or rented.

(Added by Stats. 1996, Ch. 18; Amended by Stats. 2003, Ch. 744.)

1597.45. Small family day care homes

All of the following shall apply to small family day care homes:

(a) The use of single-family residence as a small family day care home shall be considered a residential use of property for the purposes of all local ordinances.

(b) No local jurisdiction shall impose any business license, fee, or tax for the privilege of operating a small family day care home.

(c) Use of a single-family dwelling for purposes of a small family day care home shall not constitute a change of occupancy for purposes of Part 1.5 (commencing with Section 17910) of Division 13 (State Housing Law) or for purposes of local building codes.

(d) A small family day care home shall not be subject to Article 1 (commencing with Section 13100) or Article 2 (commencing with Section 13140) of Chapter 1 of Part 2, except that a small family day care home shall contain a fire extinguisher and smoke detector device that meet standards established by the State Fire Marshal.

(Added by Stats. 1983, Ch. 1233. Amended by Stats. 1989, Ch. 70.)

1597.46. All of the following shall apply to large family day care homes:

(a) A city, county, or city and county shall not prohibit large family day care homes on lots zoned for single-family dwellings, but shall do one of the following:

(1) Classify these homes as a permitted use of residential property for zoning purposes.

(2) Grant a nondiscretionary permit to use a lot zoned for a single-family dwelling to any large family day care home that complies with local ordinances prescribing reasonable standards, restrictions, and requirements concerning spacing and concentration, traffic control, parking, and noise control relating to those homes, and complies with subdivision (c) and any regulations adopted by the State Fire Marshal pursuant to that subdivision. Any noise standards shall be consistent with local noise ordinances implementing the noise element of the general plan and shall take into consideration the noise level generated by children. The permit issued pursuant to this paragraph shall be granted by the zoning administrator, or if there is no zoning administrator by the person or persons designated by the planning agency to grant these permits, upon the certification without a hearing.

(3) Require any large family day care home to apply for a permit to use a lot zoned for single-family dwellings. The zoning administrator, or if there is no zoning administrator, the person or persons designated by the planning agency to handle the use permits, shall review and decide the applications. The use permit shall be granted if the large family day care home complies with local ordinances, if any, prescribing reasonable standards, restrictions, and requirements concerning the following factors: spacing and concentration, traffic control, parking, and noise control relating to those homes, and complies with subdivision (c) and any regulations adopted by the State Fire Marshal pursuant to that subdivision. Any noise standards shall be consistent with local noise ordinances implementing the noise element of the general plan and shall take into consideration the noise levels generated by children. The local government shall process any required permit as economically as possible.

Fees charged for review shall not exceed the costs of the review and permit process. An applicant may request a verification of fees, and the city, county, or city and county shall provide the applicant with a written breakdown within 45 days of the request. Beginning July 1, 2007, the application form for large family day care home permits shall include a statement of the applicant's right to request the written fee verification.

Not fewer than 10 days prior to the date on which the decision will be made on the application, the zoning administrator or person designated to handle the use permits shall give notice of the proposed use by mail or delivery to all owners shown on the last equalized assessment roll as owning real property within a 100-foot radius of the exterior boundaries of the proposed large family day care home. No hearing on the application for a permit issued pursuant to this paragraph shall be held before a decision is made unless a hearing is requested by the applicant or other affected person. The applicant or other affected person may appeal the decision. The appellant shall pay the cost, if any of the appeal.

(b) In connection with any action taken pursuant to paragraph (2) or (3) of subdivision (a), a city, county, or city and county shall do all of the following:

(1) Upon the request of an applicant, provide a list of the permits and fees that are required by the city, county, or city and county, including information about other permits that may be required by other departments in the city, county, or city and county, or by other public agencies. The city, county, or city and county shall, upon request of any applicant, also provide information about the anticipated length of time for reviewing and processing the permit application.

(2) Upon the request of an applicant, provide information on the breakdown of any individual fees charged in connection with the issuance of the permit.

(3) If a deposit is required to cover the cost of the permit, provide information to the applicant about the estimated

final cost to the applicant of the permit, and procedures for receiving a refund from the portion of the deposit not used.

(c) A large family day care home shall not be subject to the provisions of Division 13 (commencing with Section 21000) of the Public Resources Code.

(d) Use of a single-family dwelling for the purposes of a large family day care home shall not constitute a change of occupancy for purposes of Part 1.5 (commencing with Section 17910) of Division 13 (State Housing Law), or for purposes of local building and fire codes.

(e) Large family day care homes shall be considered as single-family residences for the purposes of the State Uniform Building Standards Code and local building and fire codes, except with respect to any additional standards specifically designed to promote the fire and life safety of the children in these homes adopted by the State Fire Marshal pursuant to this subdivision. The State Fire Marshal shall adopt separate building standards specifically relating to the subject of fire and life safety in large family day care homes which shall be published in Title 24 of the California Administrative Code. These standards shall apply uniformly throughout the state and shall include, but not be limited to: (1) the requirement that a large family day care home contain a fire extinguisher or smoke detector device, or both, which meets standards established by the State Fire Marshal; (2) specification as to the number of required exits from the home; and (3) specification as to the floor or floors on which day care may be provided. Enforcement of these provisions shall be in accordance with Sections 13145 and 13146. No city, county, city and county, or district shall adopt or enforce any building ordinance or local rule or regulation relating to the subject of fire and life safety in large family day care homes which is inconsistent with those standards adopted by the State Fire Marshal, except to the extent the building ordinance or local rule or regulation applies to single-family residences in which day care is not provided.

(f) The State Fire Marshal shall adopt the building standards required in subdivision (d) and any other regulations necessary to implement this section.

(Added by Stats. 1983, Ch. 1233; Amended by Stats. 2006, Ch. 105.)

1597.465. Large family day care homes; children

A large family day care home may provide care for more than 12 children and up to and including 14 children, if all of the following conditions are met:

(a) At least one child is enrolled in and attending kindergarten or elementary school and a second child is at least six years of age.

(b) No more than three infants are cared for during any time when more than 12 children are being cared for.

(c) The licensee notifies a parent that the facility is caring for two additional school age children and that there may be up to 13 or 14 children in the home at one time.

(d) The licensee obtains the written consent of the property owner when the family day care home is operated on property that is leased or rented.

(Added by Stats. 1996, Ch. 18; Amended by Stats. 2003, Ch. 744.)

1597.47. Single family residential restrictions

The provisions of this chapter shall not be construed to preclude any city, county, or other local public entity from placing restrictions on building heights, setback, or lot dimensions of a family day care facility as long as such restrictions are identical to those applied to other single-family residences. The provisions of this chapter shall not be construed to preclude the application to a family day care facility for children of any local ordinance which deals with health and safety, building standards, environmental impact standards, or any other matter within the jurisdiction of a local public entity. The provisions of this chapter also shall not be construed to prohibit or restrict the abatement of nuisances by a city, county, or city and county. However, such ordinance or nuisance abatement shall not distinguish family day care facilities from other single-family dwellings, except as otherwise provided in this chapter.

(Added by Stats. 1983, Ch. 1233.)

MOBILE HEALTH CARE UNITS

(Division 2. Licensing Provisions, Chapter 9. Mobile Health Care Units)

1765.105. Parent facility; definition

As used in this chapter, the following definitions shall apply:

(a) "Parent facility" means a health facility licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2, or a clinic licensed pursuant to Chapter 1 (commencing with Section 1200) of Division 2.

(b) (1) "Mobile service unit" or "mobile unit" means a special purpose commercial coach as defined in Section 18012.5, or a commercial coach as defined in Section 18001.8, that provides services as set forth in Section 1765.110, and meets any of the following criteria:

(A) Is approved pursuant to this chapter by the state department as a service of a licensed health facility, as defined in Section 1250.

(B) Is approved by the state department pursuant to this chapter as a service of a licensed clinic, as defined in Section 1200.

(C) Is licensed pursuant to this chapter by the state department as a clinic, as defined in Section 1200.

(D) Is licensed pursuant to this chapter as an "other" type of approved mobile unit by the state department. "Other" types of approved mobile units shall be limited to mobile units performing services within new health facility or clinic licensure categories created after the effective date of this chapter. The State Department of Health Services shall not

create a new health facility or clinic licensure category under this subparagraph absent a legislative mandate.

(2) "Mobile service unit" or "mobile unit" does not mean a modular, relocatable, or transportable unit that is designed to be placed on a foundation when it reaches its destination, nor does it mean any entity that is exempt from licensure pursuant to Section 1206.

(Added by Stats. 1993, Ch. 1020.)

1765.155. Zoning approval

(a) The licensed parent facility or clinic shall be responsible for obtaining approvals for the site or sites of the mobile unit from the local planning, zoning, and fire authorities, as required.

(b) The mobile unit shall be situated for safe and comfortable patient access. The mobile unit shall comply with all local parking laws. Any parking restrictions developed by a parent facility or clinic for mobile units shall be strictly enforced by the parent facility or clinic.

(c) The parent facility or clinic shall ensure that there is sufficient lighting around the perimeter of the site from which the mobile unit provides any services.

(Added by Stats. 1993, Ch. 1020.)

LOCAL REGULATION OF ALCOHOLISM RECOVERY FACILITIES

(Division 10.5. State Department of Alcohol and Drug Programs, Chapter 7.5 Licensing)

11834.02. Definitions

(a) As used in this chapter, "alcoholism or drug abuse recovery or treatment facility" or "facility" means any premises, place, or building that provides 24-hour residential nonmedical services to adults who are recovering from problems related to alcohol, drug, or alcohol and drug misuse or abuse, and who need alcohol, drug, or alcohol and drug recovery treatment or detoxification services.

(b) As used in this chapter, "adults" may include, but is not limited to, all of the following:

(1) Mothers over 18 years of age and their children.

(2) Emancipated minors, which may include, but is not limited to, mothers under 18 years of age and their children.

(c) As used in this chapter, "emancipated minors" means persons under 18 years of age who have acquired emancipation status pursuant to Section 7002 of the Family Code.

(d) Notwithstanding subdivision (a), an alcoholism or drug abuse recovery or treatment facility may serve adolescents upon the issuance of a waiver granted by the department pursuant to regulations adopted under subdivision (c) of Section 11834.50.

(Added by Stats. 1984, Ch. 1667; Amended by Stats. 1988, Ch. 646; Amended by Stats. 1989, Ch. 919; Amended by Stats. 1992, Ch. 620; Amended by Stats. 1993, Ch. 219; Renumbered from 11834.11 and Amended by Stats. 1993, Ch. 741.)

**TOWN OF YUCCA VALLEY
PLANNING COMMISSION MEETING MINUTES
AUGUST 27, 2013**

Chair Humphreville called the regular meeting of the Yucca Valley Planning Commission to order at 6:00 p.m. All commissioners were present.

The Pledge of Allegiance was led by Chair Humphreville.

APPROVAL OF AGENDA

Commissioner Whitten moved to approve the agenda. Vice Chair Bridenstine seconded. Motion carried 5-0 on a voice vote.

PUBLIC COMMENTS

None

PUBLIC HEARING

1. DEVELOPMENT CODE AMENDMENT, DCA 06-13, ARTICLE 4

Chair Humphreville opened the public hearing for DCA 06-13, Article 4.

Deputy Town Manager Shane Stueckle presented the staff report regarding DCA 06-13. Stueckle explained that as part of the Development Code Update project, the Planning Commission has previously reviewed Article 4 at its meetings of April 9, 2013 and August 13, 2013. Article 4 Permit Procedures establishes the review authority and permit processing procedures for the land use permits established in the Yucca Valley Development Code. Processing applications including, but not limited to, General Plan Amendments, Development Code Amendments, Conditional Use Permits, Site Plan Reviews, and all other land use permits issued by the Town.

With no members of the public wishing to speak, Chair Humphreville closed the public hearing.

Commissioner Whitten moved to:

Find that the project is exempt from CEQA in accordance with Section 15061 (b)(3) of the California Environmental Quality Act. The proposed amendment to revise the Town's Permitting Procedures regulations has no potential to impact the environment. The proposed amendment does not alter the existing requirements that specific development projects must comply with the provisions of the California Environmental Quality Act. Development Code Amendment, DCA 06-13 meets the exemption criteria which states "that if an activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment and where it can be seen with certainty that

there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. And,

Moved to recommend to the Town Council to adopt the Ordinance, and repeals Sections 83.010105 thru 83.0103.15, Sections 83.010325 thru 83.010335, Section 83.010505, Sections 83.020105 thru 83.020210, Sections 83.030805 thru 83.030855, Sections 83.030145 thru 83.030175, Sections 83.030205 thru 83.030230, Sections 83.030310 thru 83.030325, Section 83.030405, Section 83.030505, Section 83.030605 Sections 83.030705 thru 83.030765, Sections 83.030905 thru 83.030955 of Division 3 of Title 8 from the Yucca Valley Development Code and Sections 41.151 thru 41.1569 from Chapter 15, Division 1 Title 4 of the Yucca Valley Municipal Code.

Commissioner Drozd Seconded. Motion carried 5-0 on a voice vote.

DEPARTMENT REPORT

2. HOME OCCUPATION PERMITS

Deputy Town Manager Stueckle presented the staff report, explaining the general findings within Ordinance 178 relating to Home Occupation Permits.

Chair Humphreville opened public comment.

Barry Shaw, Esther Shaw, and Voss Schwartz, all of Yucca Valley spoke in opposition to firearm sales in residential neighborhoods.

Frank Hubbard, Yucca Valley requested the prohibition of firearm sales in residential neighborhoods.

Bonnie Brady, Yucca Valley spoke favorably of Commissioner Lavender's public request for input on neighborhood gun sales using the local newspaper.

With no other members of the public wishing to speak, Chair Humphreville closed public comment.

Commissioner Lavender commented that as a Planning Commissioner he needs to listen to the people and stated that he has received 17 responses, (13 opposed, 4 in favor) of residential gun shops. Lavender recommends revising the ordinance to not allow gun shops in residential neighborhoods.

Commissioner Whitten thanked the public for attending the meeting and providing input.

Whitten commented the language on stamped page 99 relating to public health and safety and questioned what would be considered appropriate for residential neighborhoods. Whitten suggested to allow these types of businesses in more rural areas and suggested that the approval process for HOP's to be brought to the Planning Commission for an extra set of eyes.

Commissioner Drozd inquired about firewood businesses in residential neighborhoods. Drozd explained he understands the interest in gun sales due the recent commission activity and questioned if the ordinance language was changed, how would it affect the current permit holders.

Deputy Town Manager Stueckle explained that just because there is an opposition, it is not always are basis for change. If the application is consistent with the General Plan and the Development Code and all code requirements are met, public input is not always a basis for denial.

Vice Chair Bridenstine stated that it was a difficult decision and there is a need to be careful to not take away people's rights.

Chair Humphreville stated home based businesses are a viable part of a community and inquired on how an HOP is enforced. Deputy Town Manager Stueckle explained that once the permit is approved, the site is inspected but continual monitoring is usually on a complaint driven basis. Humphreville continued by stating from a land use issue, a day care facility has the potential of disrupting a neighborhood due to increased traffic more than many other types of businesses such as a gun shop.

Vice Chair Bridenstine recommended the commission look in defining the term gun shop to bring into perspective.

Chair Lavender stated he often hears gun shots in his neighborhood and that the Planning Commission should not add to the number of guns that are in the people's possession.

Deputy Town Manager Stueckle reminded the Commission that their purpose is to address land use issues, not second amendment issues. Staff will take the comments into consideration and the item will be brought back for public hearing.

No action was taken.

3. WIND ENERGY CONVERSION SYSTEMS

Deputy Town Manager Stueckle presented the staff report by explaining past commission discussions on wind energy conversion systems (WECS) and presented different types of

systems that are available. The draft ordinance proposes standards for the installation of WECS.

Chair Humphreville opened public comment. With no members of the public wishing to speak, the public comments were closed.

Vice Chair Bridenstine spoke of prior commission experience with wind energy system use decisions. There is a need to set zoning, parcel size and height restrictions.

Commissioner Drozd spoke of concern with slope between properties and the possibility of blocking the neighbor's views, even though property line setbacks are met.

Commissioner Whitten reported his witnessing of a variety of wind energy systems with little or no noise emitting from them. Whitten asked for clarification that the discussion is for residential use, not commercial use.

Commissioner Lavender spoke of the benefits of alternative energy systems.

Vice Chair Bridenstine requested the inclusion of noise requirements to deter certain systems.

Chair Humphreville spoke favorably on the use of alternative energy systems, but would like to take view shed into consideration. Humphreville stated he would like to see enough flexibility in the code to not limit a certain system if it happens to work on a specific parcel.

No action was taken.

4. UTILITY UNDERGROUNDING

Deputy Town Manager Stueckle opened discussion on utility undergrounding and gave background on the topic by reviewing Town Ordinance 233.

Chair Humphreville opened public comment on the item. With no members of the public wishing to speak, public comments were closed.

Vice Chair Bridenstine inquired about the restrictions relating to in-fill of Single Family and Multi-Family Residential development.

Commissioner Drozd questioned the in-fill cost of overhead lines versus undergrounding.

Chair Humphreville inquired about the effect on remodeling of commercial property.

Commissioner inquired if underground utilities were a requirement in the Old Town Specific Plan.

Chair Humphreville stated a statement of waiver for specific instances should be included, especially for soil or topography conditions.

No action was taken.

CONSENT AGENDA

MINUTES

Vice Chair Bridenstine moved to approve the Yucca Valley Planning Commission minutes of May 14, 2013, June 11, 2013, June 25, 2013 and July 09, 2013 as presented. Commissioner Whitten seconded. Motion carried 5-0 on a voice vote.

STAFF REPORTS AND COMMENTS

Deputy Town Manager Stueckle presented a brief update on current commercial projects and noted that the Planning Commission will not be meeting on September 10, 2013 due to staff schedule conflicts.

FUTURE AGENDA ITEMS

None

COMMISSIONER REPORTS AND REQUESTS

Commissioner Drozd thanked staff for their assistance and also thanked the public for attending the meeting and providing input.

Commissioner Lavender thanked the public for their input.

Commissioner Whitten thanked staff and commented favorably regarding the Town Manager Updates being distributed to the community.

Vice Chair Bridenstine also thanked staff and the public for participation in the process.

ANNOUNCEMENTS

The next regular meeting of the Yucca Valley Planning Commission will be held on Tuesday, September 27, 2013 at 6:00 p.m. in the Yucca Room of the Yucca Valley Community Center.

ADJOURNMENT

There being no further business, Chair Humphreville adjourned the meeting at 7:51 p.m.

Respectfully submitted,

Lesley Copeland, CMC
Town Clerk

meeting, and make revisions. The staff recommends that the Planning Commission continues the public hearing to the March 25, 2014 Planning Commission meeting to allow staff to make final changes for Commission consideration.

Commissioner Whitten moved that the Commission continue the public hearing to the March 25th, 2014 Planning Commission meeting to allow staff to make final changes for Commission consideration. The motion was seconded by Chairman Humphreville and was approved unanimously.

DEPARTMENT REPORTS:

I. HOME OCCUPATION PERMIT REGULATIONS

Deputy Town Manager Stueckle provided the staff report. He reminded the Commission that there had previously been a lengthy discussion of the Home Occupation Permit Regulations over what are appropriate types of home based businesses as the result of home based businesses requesting federal and state firearms licenses. He provided an over view of the current ordinance for the three tiers of home based businesses. Staff would like input from the Commission on the issue of whether or not the ordinances address the physical differences between lots of different sizes, and provided the example of a business on a two and a half acre lot, which is far away from any neighboring structures, having a small amount of outdoor storage. He also acknowledged that due to the late hour, the Commission may choose to continue the discussion on this issue at a later date.

After the conclusion of the staff's report, Chairman Humphreville opened the floor to public comment.

PUBLIC COMMENTS

Margo Sturges, Yucca Valley, is concerned over this issue and believes this is a topic that needs to be work shopped. She is feels that selling weapons out of the home in rented locations like apartment complexes may affect the expectation of quiet enjoyment of renters and the liability of a landlord. She believes that the neighborhood dislikes the idea of weapon sales, and it should be limited to large lots.

Chairman Humphreville asked for staff discussion on this issue, and Deputy Town Manager Stueckle said that because this is a complex issue with many elements to be considered, staff believes that this item requires further discussion at a later date.

Chairman Humphreville asked if the ordinance as it is written now gives the town the flexibility to work with the businesses like the earlier example of a home based business on a two and a half acre lot with outside storage. Deputy Town Manager Stueckle replied that under the current ordinances staff was not able to find any way to address this issue, and staff believes there needs to be some modifications to the ordinance.

Commissioner Lavender said that he believes that most Yucca Valley citizens are against residential gun sales.

Commissioner Whitten believes that there should be a workshop, and that regulations need to be changed to reflect the changing climate regarding guns. He also believes that the Town should send a building inspector to make sure a home fits home occupation permit. He also suggest that these permits come to Planning Commission for review, and that permitted operating hours be changed. He believes that 7:00am

is too early and 8:00pm is too late. He also thinks that home animal rescue and home animal care and boarding should be prohibited, and believes that this should be revisited in a workshop.

Commissioner Drozd suggested that arm sales under a certain lot size should prohibit ammunition sales.

There was a consensus among the Commissioners that a workshop in this issue would be appropriate.

Deputy Town Manager Stueckle agreed that this will be revisited at a later date for further discussion.

There was no motion, but there was a consensus to hold a workshop at a later date

CONSENT AGENDA:

1. 2013 GENERAL PLAN ANNUAL REPORT

Government Code Section 65400 mandates that all cities and counties submit to their legislative bodies an annual report on the status of the General Plan and progress on its implementation. The report must then be filed with the state’s Office of Planning and Research (OPR) and the Department of Housing and Community Development (HCD). This annual review addresses the January 1, 2013 through December 31, 2013 time period.

2. MINUTES

A request that the Planning Commission approve as submitted the minutes of the meetings held on October 08, 2013, November 12, 2013 and February 11, 2014.

PUBLIC COMMENTS

None

Commissioner Whitten moved that the Commission approve Consent Agenda items one and two. The motion was seconded by Commissioner Bridenstine and was carried unanimously.

STAFF REPORTS AND COMMENTS:

None

FUTURE AGENDA ITEMS:

Development Code Update - Article 3
Site Plan Review 01-24 – Phase 1 Hawks Landing

COMMISSIONER REPORTS AND REQUESTS:

Commissioner Drozd thanked everyone for their participation.

Commissioner Lavender stated that it was a good discussion and he appreciates that.

Commissioner Whitten said that he wanted to know where adult orientated businesses are covered in the code. Deputy Town Manager Stueckle replied that it is covered in Article 2, and that conversation will be coming forward. Commissioner Whitten also stated that the recent rainstorm may have identified some

3. The strict application of the land use regulations would require extensive land disturbance on the site, would change the natural appearance of the site and could limit the ability to construct a single family residence on the property.
4. The variance is compatible with the following polices of the General Plan.

PUBLIC COMMENTS

None

CLOSE PUBLIC COMMENTS

Joanne Ballinger, the applicant, told the Commission that the intent of the project was to avoid disturbing as much of the landscape as possible, and that they were requesting the variance to avoid extensive changes given the limited size of the level portion of the lot.

Commissioner Lavender asked if they had considered alternative configurations which would allow them to build on that location without the variance.

The applicant said that they had looked at alternative options, but found that even a smaller home would require a variance, and that they wanted to keep the grading to a minimum.

Chair Humphreville said that he understood the issues with construction on that property, and that he appreciated their intent to preserve the attractive boulder piles.

Commissioner Bridenstine said that she felt a setback of 30 feet was reasonable given the circumstances.

MOTION

Chair Humphreville moved to approve variance, V 02-14. Commissioner Lavender seconded, and it passed unanimously.

2. DEVELOPMENT CODE AMENDMENT, DCA 02-14 HOME OCCUPATION REGULATIONS

Deputy Town Manager Stueckle presented the staff report. Staff presented the Commission with draft regulations for Home Occupation Permits for their consideration. A brief overview of the history of the Town's Home Occupation Permit regulations was provided. Staff stated that Article 4 of the development code was approved by the Town Council in October of 2013, but that the Commission had opted to defer Home Occupation Permits until they had received additional input from the community.

Deputy Town Manager Stueckle said that the Commission had talked about holding a workshop on the Home Occupation Permit regulations, and it was staff's interpretation that the Commission's intent was to receive maximum participation from the public. Staff explained that, in order to receive the maximum participation from the community, notice of the public hearing

on HOP regulations was provide not only through the usual notice of the meeting published in the newspaper and website, but also through the Community Updates, an additional press release, and through the Chamber Commerce. It was staff's opinion that this process met the Commission's intent for maximum participation, and if there are member of the community who are working on the regulations the Commission is always delighted to receive that information.

Staff provided an overview of the current Home Occupation Permit regulations and the changes presented in the draft regulations presented to the Commission. The changes in the draft regulations included:

- Staff recommended changing the approval authority from Director for all Home Occupation Permit's to two levels of approval authority including Director and Planning Commission, where the Planning Commission would be the approval authority for all home occupations involving sales activities from the home, customers visiting the home, or outdoor screened business activity.
- Staff recommended that the renewal authority is the same as the approval authority.
- Staff recommended that approvals be given for 2 or 3 years instead of for one unless a complaint is received and violations have been verified by a field investigation.
- Staff asked that the Commission consider any additional uses which should be added to the prohibited list.
- Staff recommended additional language to clarify what home based businesses are exempt from obtaining a permit.
- Staff said that the language allowing outside storage needed further clarification and standards. Staff recommended modifications which prohibited outside storage in smaller lots and allowed some outside storage on lots larger than one acre.
- Staff stated that the current standards only address the maximum areas for storage which can be used by a business and identify 25% and 35%, or 250 square feet or 500 square feet, as maximum areas for conducting home based businesses. Staff stated that the Commission may desire to discuss modifications to these standards.
- Staff asked that the Commission should discuss the standards regarding where business activities are to be conducted and direct staff as to the allowable locations for home based business activities.
- Staff recommended modifying the allowed business operating hours from between the hours of 7:00 a.m. and 8:00 p.m. to the hours of 9:00 a.m. and 5:00 p.m. for business which have sales on the premises or customers on the site. All other homes based business would be limited to between 7:00am and 7:00 pm. The Commission may desire to discuss the necessity for hours of operation where no customers visit the site, and when the business activity is in compliance with Town regulations.

PUBLIC COMMENTS

1. John Barriage, San Deigo, spoke. He stated that he is the attorney for Fritz Koenig. He said that he does not believe the staff's recommendations regarding where business activities are to be conducted were more restrictive. He also objected to allowing people to

apply for a Conditional Use Permit for uses which do not strictly comply with the Home Occupation Permit regulations.

2. Sabrina Peukert, Yucca Valley, asked if the regulations included provisions to make sure that sales tax was correctly paid to the jurisdiction when goods are sold. She said that she can't run the same business as the Fallosi's.
3. Fritz Koenig, Yucca Valley, asked that the public comment period be continued at the next meeting on this subject. He said that he believes the recommended changes presented by staff are less restrictive and that allowing Conditional Use Permits would allow the Planning Commission to permit any business they want, including a brothel. He believes home occupation business activities should be limited to the primary dwelling unit.
4. Margo Sturges, Yucca Valley, said that she believes that the regulations should prohibit more uses including gun sales, brothels, salons and mortuaries. She said that there should be a workshop on the issue and that the public hearing wasn't enough.
5. Barry Shaw, Yucca Valley, said that selling guns and/or ammunition in a residential area should be strictly prohibited. He said that no one wants to live in a neighborhood where guns and ammo are sold.
6. Janice Pask, Yucca Valley, spoke in support of the proposed changes to the HOP regulations that take into account the differences in lot sizes. She is a neighbor of David Fallosi, an artist, and feels that his home business is appropriate to the neighborhood.
7. David Cooper, Yucca Valley, commented on the proposed changes to the HOP regulations. He was on the planning commission when the current regulations were first drafted. He said he didn't have a problem with a properly licensed gun dealer operating a small home based business. He said that home occupation permits are not controversial, and that Yucca Valley is a rural area that doesn't face the same issues as a metropolitan area. He believes the regulations should have a light touch. Rural areas on large parcels should be allowed to do a lot of things that they can't do on small urban parcels. He also said he felt that the 9 to 5 retail hour limit was too restrictive. He also approved of the 2-3 year period for renewal.
8. David Fallosi, Yucca Valley, spoke asking the Commission to consider what is reasonable for artists. He is an artist with a home occupation business and the area has a large community of artists, and that this type of business improves the Town. He said that he doesn't think it is reasonable for a home owner to be discriminated against because they have a Home Occupation Permit. What is allowed for any home owner should not be prohibited simply because they have a HOP.

9. Herb Orban, Yucca Valley, said that he supports some home based businesses, but doesn't think the ordinance should be changed to allow a broader spectrum of home based businesses. He also does not support any home business which would increase traffic or increase crime related activities. He does not support residential gun sales.
10. Dennis Pask, Yucca Valley, spoke. He said he is a neighbor of David Fallosi and that he represents 30 residents of his neighborhood who support the proposed changes. He supports local artists who work out of their homes, and said that many of them may have developed their studios prior to incorporation. He believes the Town should encourage artists. He submitted a document for Commission review.
11. Bonnie Brady, Yucca Valley, said she thinks that any gun based businesses should be prohibited in residential areas. She also agreed with Fallosi about the needs of art based home businesses. She has participated in the art tours and believes they are important.
12. Ed Keesling, Yucca Valley, is a potter in Yucca Valley. He spoke in support for the new rules for rural areas with large lots. He encouraged the Commission to make it easier for artist to work in large areas. He said it wasn't clear to him whether or not the ordinance allowed artists to participate in art tours or open house type events. He also felt that the fee for the applying for a HOP is high.
13. Nora Fraser, said that she is a neighbor of David Fallosi and that his business is successful and should have a commercial space.
14. Marissa Corson, Yucca Valley, said that she felt that it is not fair that someone with a Home Occupation Permit is not allowed to have the same kind of commercial deliveries that someone without a home business would be allowed.
15. Esther Shaw, Yucca Valley, said that gun sales should be prohibited in residential neighborhoods with small lots. She said that gun shops have safety measures in place that residential homes do not have. She also spoke in support of regulations that support local artists.

With no further individuals wishing to speak, Chair Humphreville closed public comments.

END PUBLIC COMMENTS

Chair Humphreville opened the Commission discussion on the Home Occupation Permit regulations.

Commissioner Drozd said that he agreed with the graduated ordinance based upon lot size. The regulations need to take into account both the business owners and the neighbors, and a graduate ordinance is a good way to go. He also stated that, while he understand the concern caused by gun

sales, he does not believe that sale of disassembled, non-operational guns are a problem, particularly when limited to less than ten visits per month, but he does believe that prohibiting ammunition sales on small lots may be a good solution.

Commissioner Bridenstine suggested adding language to make it clear that only legal businesses are allowed. She also said that she thinks that firearm sales should only be allowed in residential lots one acre or larger. She also doesn't think that firearms and ammunition should be allowed to be sold together. She thinks that restricting the number of sales and the licensing requirements for gun sellers both need to be clearly reviewed. She also said that there are extenuating circumstances effecting artist. Art tours and open houses are important for artists, and many artist need to use accessory structures. She suggested either having a separate section addressing artist or liberating the ordinance enough to allow them to lit.

Commissioner Lavender said that he felt there needed to be a workshop on this item, and he didn't feel that there should be a decision in the next meeting. He said that the process needed more informal discussion. He also said that he did some research into the regulations of cities with similar demographics to Yucca Valley, and that most had regulations similar to what is currently in place. He also stated that some other communities go into much greater detail about what is allowed and what isn't allowed than what the Town currently has, and he felt that expanding that may create greater clarity. He also asked if staff has enough time to inspect properties to see if they are complying. Staff informed the Commission that currently inspections occur at the time the permit is granted, and subsequently only if there is a complaint. Commissioner Lavender also said that he felt that gun sales in general should be limited for personal reasons.

Chair Humphreville said that he agreed with Commissioner Bridenstine that language clarifying that only legal businesses are allowed should be included. He said that he doesn't believe that all gun businesses are the same. A legal home occupation business would have the same wait time requirements as a gun shop. He does understand the concerns caused by residential gun sales. He thought that were plenty of restrictions on the Home Occupation Permit previously issued by the Commission, and that gun sales are a legal business. He also said that he felt the Commission should consider prohibiting or restricting Home Occupation Permits in multi-family zones. He asked if there were currently any permits in multi-family zones, and was informed by staff that there are not.

Chair Humphreville called a recess at 7:35 p.m.

RECESS

The meeting resumed at 7:40 p.m.

Chair Humphreville opened a discussion on the exemption requirements. Staff stated that the draft language presented was intended only to clarify not modify what types of business are exempt from Home Occupation Permits. Commissioner Lavender said that he would like the businesses that are currently exempt to remain exempt.

Chair Humphreville opened a discussion on the conditions of approval.

Commissioner Bridenstine asked for clarification of the sign allowance. Staff provided clarification that the intent was that signage not change the character of the residential neighborhood and that sign size was limited to 2 square feet. Commissioner Bridenstine said that she agrees with small signs.

There was discussion on outside storage. Staff clarified that the intent of the proposed language was that all permits involving outside storage would go before the Planning Commission, but said that the language needs some fine tuning.

There was a discussion about the screening of storage. Commissioner Bridenstine and Commissioner Drozd agreed that the standard should be screened from the street level.

Commissioner Bridenstine also stated that she didn't want the rules to eliminate the possibility of having a separate studio. She stated that the rules either need to be permissive enough to allow for it, or there needs to be some kind of exception. She believes that the limit of 25% of the dwelling used for the operation of the business is too restrictive.

Chair Humphreville agreed that the 25% restriction was way too small. He said that he doesn't see any difference between allowing someone to use a barn for equestrian use and allowing them to use it for a home occupation. He stated that he would like to see storage size limited by parcel size.

Commissioner Lavender also agreed that the 25% or 250 square foot limitation is too small.

Chair Humphreville said that the average number of trips per day allowed may need to be modified to match the 12 trips per day which would occur in home daycare business with 6 or fewer clients.

There was a discussion of proposed changes to the sections addressing Review Authority. Staff provided an overview of the current process for Home Occupation Permit approval. Staff also explained that if sales taxes was an element of the business, it is included as part of the permit process. Both Commissioner Bridenstine and Chair Humphreville stated that they liked the change to a tiered approval authority.

There was a discussion of the proposed changes to the section addressing the Home Occupation Permit renewal. There was Commission consensus that the renewal authority should remain as the Director for both proposed tiers, provided that there were no complaints associated with the permit. The Commission also stated that they would like renewal notices be sent out when permits are due for renewal. Commissioner Lavender said that he would like to see inspections at the time of renewal. Commissioner Bridenstine agreed with a 3 year renewal period. Commissioner Lavender said that he would like to see inspections at the time of renewal.

Staff also explained that the language regarding permit revocation had been changed to a reference to Article 5, Chapter 9.84 to avoid duplication of that language.

Chair Humphreville asked if the Commissioners had any general comments regarding Home Occupation Permit Regulations.

Commissioner Drozd said that he thought it was a great process was glad that there was going to be another meeting on the topic.

Commissioner Bridenstine agreed with Commissioner Drozd and said that she hopes to hear more from the public at the next meeting.

Chair Humphreville said that he appreciates people attending the meeting, and that there will be another opportunity for community input, and that there was nothing nefarious on the part of staff to prevent comments.

Deputy Town Manager Stueckle provided a summary of the recommendations provided by the Commission.

Chair Humphreville said that they hadn't had a discussion on restrictions of deliveries. Chair Humphreville stated that he doesn't think that deliveries which would be allowed otherwise should be restricted by a HOP. Commissioner Drozd agreed, and pointed out how many UPS and trash deliveries go through residential areas. Commissioner Bridenstine said that the Commission needs to be careful in how the limit is worded and consideration should be given to the issue of size. There is a big difference between a semi-truck and a UPS truck. Commissioner Lavender thinks that the restrictions need to be relaxed.

Deputy Town Manager Stueckle asked if the Commission wished to hold a workshop on Home Occupation Permits on the 27th and continue the public hearing to the June 10th, meeting. The Commission agreed with this approach.

MOTION

Chair Humphreville moved that the Public Hearing on Development Code Amendment, DCA 02-14 Home Occupation Regulations, be continued to the June 10th meeting. It was seconded by Commissioner Bridenstine, and the vote passed unanimously.

RECESS

Chair Humphreville called a recess 8:12

The meeting reconvened at 8:17

3. DEVELOPMENT CODE AMENDMENT, DCA 07-13 ARTICLE 3 CEQA EXEMPTION, SECTION 15061

Deputy Town Manager Stueckle spoke on behalf of staff. He stated that this was a continuation of prior meetings on this issue and provided a brief overview. He stated that staff was still waiting for a response regarding whether or not the Town was able to prohibit mining. Staff recommended that, given the lateness of the hour, the Commission continue this issue until the next meeting. Staff also recommended that the Commission wait until the whole code is finished before forwarding their recommendations to the Council.

PUBLIC COMMENT

None

END PUBLIC COMMENTS

**TOWN OF YUCCA VALLEY
PLANNING COMMISSION MEETING MINUTES
May 27, 2014**

Chair Humphreville called the regular meeting of the Yucca Valley Planning Commission to order at 6:00p.m.

Commissioners present were Bridenstine, Drozd, Lavender, Whitten and Chair Humphreville.

The Pledge of Allegiance was led by Chair Humphreville.

Commissioner Whitten moved to approve the agenda. Commissioner Bridenstine seconded, and the motion passed unanimously.

PUBLIC COMMENTS

1. Margo Sturges, Yucca Valley, said that she likes the Planning Commission using the workshop format.

With no further individuals wishing to speak, Chair Humphreville closed public comments.

CLOSE PUBLIC COMMENTS

1. WORKSHOP – HOME OCCUPATION PERMIT REGULATIONS

Chair Humphreville opened the public workshop on Home Occupation Permit regulations. Deputy Town Manager Stueckle provided background on the Home Occupation Permit regulations and an overview of the purpose of the workshop. Chair Humphreville recessed the meeting for the workshop at 6:09, and one hour was dedicated to round table discussion with members of the public and the Commissioners. At 7:10, after the table discussion, Chair Humphreville resumed the meeting and opened the floor to reports from the table discussions and individual public comments. Posters listing each table's findings were displayed, and forms on which individuals wrote their suggestions were also submitted to the Commission.

PUBLIC COMMENTS

1. Nalini Maharaj, Yucca Valley, said that she would like to see gun sales prohibited as a home occupation.
2. Margo Sturges, Yucca Valley, said that she appreciated the workshop process, and would like the public hearing on the ordinance to be delayed.
3. Mark Miller, Yucca Valley, said that he approves of the changes in the regulation that makes the process of acquiring a home occupation permit easier and clearer. He said that the intent of the revisions should be to make it easier not harder to do business in Yucca Valley. He said that the regulations should be administered equally and without prejudice,

and we shouldn't unfairly discriminate against some businesses just because they are unpopular.

4. Dennis Pask, Yucca Valley, said that he approves of the changes in the draft ordinances. He said that it is unfair that artists with a HOP aren't allowed to display art in their front yard when anyone else in town is able to.
5. James Walker, Yucca Valley, said that he appreciates the workshop process, and that he believes that the process should be directed towards the regulations as whole and not specific cases.
6. Fitz Koneig, Yucca Valley, said that he believes that home business should be limited only to equipment or structures normally found within the home. He also objects the Planning Commission being able to issue Conditional Use Permits. He also doesn't think the noise ordinance is sufficient.

With no further individuals wishing to speak, Chair Humphreville closed public comments.

CLOSE PUBLIC COMMENTS

Commissioner Whitten said that he appreciated the public coming out to participate. He said he wants a balanced approach to Home Occupation Permits. Property owners should be able to exercise their rights while respecting the rights of their neighbors. He believes that the Planning Commission need to work to fine tune the ordinance to make it a softer.

Commissioner Lavender said that some of the individuals he spoke with were concerned about the number of deliveries which might be made to some home occupations. He suggested providing some kind of public space for artists to use. He also said he was happy with the ordinance the way it was, but he would like to see gun sales prohibited.

Commissioner Drozd said that it was great to see so many people come out to participate. He asked staff if, under the current complaint driven process, complaints were made anonymously. Staff replied that complaints could be made either anonymously or not. Commissioner Drozd believes that it is important to keep neighborhood character, but also allow business. He said he like the graduated scale for different size lots. He said that home based business have been becoming more popular with the current economy. He also said that while different sized parcels should be treated differently, people on the same size parcels should be treated the same.

Commissioner Bridenstine also thanked everyone for coming out to participate. She agreed that we need a tiered system. Some business would not be appropriate for a multi-family zone, but would be appropriate on a five acre parcel. Someone on a five acre parcel who is operating a legal business, which is not effecting anyone, should be allowed the freedom to do so. She believes that we should be more concerned about illegal guns rather than legal, licensed sales. She also believes that that the concern about deliveries doesn't take into account the fact that trash trucks, which regularly travel these roads, weigh more than delivery trucks. Rather than creating nitpicky regulations, we should rely more on common sense. If you are causing a nuisance in your

neighborhood, your neighbors have the right to complain. There is a procedure in place for those complaints to be investigated and your permit possibly revoked. Having a clear procedure for addressing complaints is more important than a lot of overly specific regulation.

Commissioner Lavender said that plots that do not have maintained roads may create an issue.

Chair Humphreville asked staff to clarify the intent of the language prohibiting the storage or use of explosives or highly combustible or toxic materials beyond that permitted by the Building, Fire Code, or adopted restrictions. He pointed out that artists and welders use paint and material which may be combustible or toxic. Staff explained that the purpose of that section was to limit the amount of that kind of material to amounts more typically found in residential uses, so that we don't see the type of volume associated with large scale commercial operations. Chair Humphreville suggested further clarification to that language. He also asked about the fee schedule, particularly the \$750 fee for the appeal process. Deputy Town Manager Stueckle explained that the fee structure was based on total cost recovery, but that staff would look at the fees. Chair Humphreville said that he would like to see some kind of language differentiating between commercial welding and art welding. He also thought that allowing artists to display some art in their front yards is something the Commission should discuss. He also said that allowing 6 or 8 deliveries a year is reasonable, and he doesn't think that someone with a Home Occupation Permit should have greater weight restrictions than other property owners. He doesn't think gun sales should be prohibited; it is a legal and regulated business. He also believes that home occupations which are exempt from acquiring a permit are fine in multi-family zones, but an activity requiring a Home Occupation Permit should be prohibited.

RECESS

Chair Humphreville called a five minute recess at 7:45. The meeting resumed at 7:50.

PUBLIC HEARING

2. DEVELOPMENT CODE AMENDMENT, DCA 07-13 ARTICLE 3CEQA EXEMPTION, SECTION 15061

Deputy Town Manager Stueckle gave the staff report. He stated that there have been multiple meetings on this public hearing, and that the only outstanding issue is the pending answer from the Town Attorney's office regarding whether or not surface mining can be prohibited and that section removed from the regulations. Staff recommended that, after receiving any public comments, if there were no further questions from the Commission, the Commission not send the item forward to the Town Council until the full draft of the Code has been completed.

PUBLIC COMMENTS

None

CLOSE PUBLIC COMMENTS

MOTION

Commissioner Whitten moved that the Planning Commission finds that the project is exempt from CEQA in accordance with Section 15061 (b)(3) of the California Environmental Quality Act, and that the Commission recommends that the Town Council adopts the Ordinance, but delays forwarding that recommendation to the Council until the draft of the complete code is finished. Chair Humphreville seconded. The vote passes unanimously.

DEPARTMENT REPORTS**3. FIVE YEAR CAPITAL IMPROVEMENT PROGRAM**

Project Engineer Qishta presented the staff report. He provided a brief explanation of the purpose of a Capital Improvement Plan. The Capital Improvement Plan is a short-range, five year plan, which identifies capital projects, provides a planning schedule, and identifies options for financing the program. Staff went over the capital projects identified in the plan presented to the Planning Commission.

PUBLIC COMMENTS

None

CLOSE PUBLIC COMMENTS

Chair Humphreville said that he was concerned about the implications of doing work on Black Rock Canyon road without also putting in flood control measures. Staff explained that the original estimate for repairs was over \$600,000, much of which was due to the cost of the flood control measures. The flooding issue is a serious concern, and engineering is currently working on solutions. Chair Humphreville is concerned that maintaining that road as a gravel road without additional flood control measures will cause problems. Chair Humphreville also said that construction of the Safe Routes to School improvements on only one side of the street is better than nothing.

Commissioner Whitten asked about tiered catch basins at Black Rock Canyon. Staff said that basins are probably not a practical solution in this case. Commissioner Whitten agreed that improving one side of Sage Avenue for Safe Routes to School is better than nothing, but suggested that some money be set aside in the future to improve the upper end of Sage Avenue. He also asked if we had ADA park facilities, particularly playground equipment. Staff replied that Miracle Field is specifically designed for ADA access and that Staff believed that the playground equipment selected for the Brehm Park is ADA accessible. He also suggested that the Town might look into Rino Snot, a soil stabilization and dust abatement product, for use on Black Rock Canyon Road to increase its durability.

Commissioner Bridenstine asked if the Town was actively looking for new grants, particularly any federal grants, to help provide future funding. Staff replied that the Town was.

Commissioner Drozd asked about the signal synchronization project. He asked if signs informing drivers that the lights are synchronized had been considered as part of that project. Staff said that they would look into it.

Commissioner Lavender had no comments on this issue.

MOTION

Chair Humphreville moved that the Commission find the project except from CEQA in accordance with Section 15378(b)(4) and Section 15061 (b)(3), and that the Commission recommends to the Town Council that they adopt the Five Year Capital Improvement Plan for Fiscal Years 2014/2015 through 2018/2019. Commissioner Bridenstine seconded, and the vote passed unanimously.

STAFF REPORTS AND COMMENTS:

Staff provided an overview of the status of current land development projects.

COMMISSIONER REPORTS AND REQUEST:

1. Commissioner Drozd thought it was great that everyone came to the meeting. The process shows that the Town listens to its residents. The Alleyway improvement is an example of something that was brought up by public comment in a meeting. Thanks to everyone for their hard work.
2. Commissioner Lavender thought the meeting was interesting.
3. Commissioner Whitten thanked staff and the Commissioners. He approves of the volunteerism he has seen. In honor of Memorial Day, he thanked the veterans for their service. He also thinks that workshops are great, and that they need to balance the Home Occupation Permit regulations to what is best for the community not just a small group.
4. Commissioner Bridenstine thanked staff and thanked the public for showing up. She said that they may not be able to solve all of the problems associated with Home Occupation Permit regulations, but it is a balancing act to try and solve as many as possible. It is important to have the public bring forth all the issues. The Commission will have to do their best.
5. Chair Humphreville said that a home occupation ordinance is not going to be able to resolve a dispute between two individuals. He believes that the Commission needs to get the Home Occupation Permit regulations done.

ANNOUNCEMENTS:

The next regular meeting of the Yucca Valley Planning Commission will be held on Tuesday, June 10, 2014.

ADJOURNMENT

There being no further business, the meeting adjourned at 8:34

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Allison Brucker".

Allison Brucker
Secretary

**TOWN OF YUCCA VALLEY
PLANNING COMMISSION MEETING MINUTES
June 10, 2014**

Chair Humphreville called the regular meeting of the Yucca Valley Planning Commission to order at 6:00p.m.

Commissioners present were Bridenstine, Drozd, Lavender, Whitten and Chair Humphreville.

The Pledge of Allegiance was led by Chair Humphreville.

Chair Humphreville moved to approve the agenda. Commissioner Whitten seconded, and the motion passed unanimously.

PUBLIC COMMENTS

None

CLOSE PUBLIC COMMENTS

PUBLIC HEARINGS

- 1. HOME OCCUPATION PERMIT, REQUEST FOR RENEWAL/APPROVAL, HOP 01-11 HOP 02-14, ZORAWICKI EXEMPT FROM CEQA UNDER SECTION 15301, CLASS 1, EXISTING FACILITIES 84.0635 (b) SPECIAL USE PERMITS MAY BE ISSUED FOR LIMITED TIME PERIODS. NEW APPLICATIONS MAY BE REQUIRED FOR SPECIAL USE PERMIT RENEWAL.**

The staff report was presented by Deputy Town Manager Stueckle. He provided an explanation of the home occupation and the location of the requested renewal. The request is for the renewal of a Home Occupation Permit for the assembly of firearms that are purchased in kit form, and the buying and selling of firearms to the public from a single family home. The home is located in an area zoned for rural living with a five acre minimum lot size, and the surrounding lots are either single family residences on five or more acres, or vacant land. Clients visit the residence by appointment only. The applicant is requesting to be allowed three client visits a day, which is less than the five visits permitted by the ordinance. The applicant is requesting business hours of 3 to 6PM. The storage area related to the business is 17% of the floor area. The permit was originally approved in March 22, 2011, and the home occupation was issued renewals at the director level in 2012 and 2013. All business registrations and state and federal licensing requirements are current, and there have been no complaints associated with this home occupation. At the time that the staff report was written, no comments on this issue had been submitted, but one comment has been submitted subsequently and distributed to the Planning Commission. There were also additional conditions added to the conditions of approval, including annual proof of an active alarm system, all doors and windows being equipped with glass break alarms, and that the applicant's home address shall not be used in any type of advertising or business promotion.

Staff recommended that the Planning Commission find the project exempt from CEQA, and approve the renewal of the Home Occupation Permit as recommendations A and B. Staff also provided the alternative recommendations that the Planning Commission either approve the continued operation of the Home Occupation Permit until such time as the Town Council acts upon the draft Home Occupation Permit regulations and directs staff to return the project to the Planning Commission following Town Council action on the draft regulations, or that the Planning Commission continue the public hearing based on the need for additional information.

After the presentation of the staff report Chair Humphreville opened the floor to public comments.

PUBLIC COMMENTS

- Jonathan Zorawicki, the applicant, said that the security and safety of the Morongo basin were his primary concern with regards to his business. He is selective with his customers, and exceeds all safety requirements. His business has all of the same safety features that large businesses are required to have. Chair Humphreville asked if Mr. Zorawicki had any issues with the additional Conditions of Approval. Mr. Zorawicki said that he did not have any problems with the conditions.
- Mike Reynolds, Yucca Valley, spoke in support of approving the Home Occupation Permit. He said that it is a light use in a rural area, and it is kept clean.
- Susan Simmons, Yucca Valley, said that the Zorawicki Home Occupation Permit is probably fine because it is on a five acre rural lot. She also said that gun sales should not be allowed in smaller lot sizes.
- Margo Sturges, Yucca Valley, said that she thought that gun sales on lots of five acres or more should be allowed but not on smaller lots, and she spoke in support of approving the Zorawicki Home Occupation Permit.
- David Cooper, Yucca Valley, spoke in support of approving the Zorawicki Home Occupation Permit. He also said that there is no reason to limit firearm sales to lots five acres or larger, as smaller lots would still be need to meet the same safety requirements.
- Bonnie Brady, Yucca Valley, said that there is a nationwide problem with firearms. She said that she doesn't see a problem with the renewal of the Home Occupation Permit given the safety measures and its location on a rural five acre lot.
- Fritz Koenig, Yucca Valley, said that firearm sales should not be allowed in residential areas.

With no further individuals wishing to speak, Chair Humphreville closed public comments.

CLOSE PUBLIC COMMENTS

Commissioner Drozd said that he saw no reason to delay the renewal of the permit, and that he was in favor of accepting staff's recommendations A and B.

Commissioner Lavender said that he doesn't think gun sales belong in residential areas. He believes there are too many guns in America. He also said that some provisions might be made for large parcels such five acre lots.

Commissioner Bridenstine said that the issue was not about gun control, and it wasn't the Commission's place to decide which types of guns are safe. She said it was an issue of a business permit. There is nothing in our current ordinance which would prohibit this home occupation, and given that there have been no complaints and the applicant has agreed to additional conditions to improve safety, she said she supported approving the Home Occupation Permit as described in staff's recommendations A and B.

Commissioner Whitten said they need to look at the application based on its own merit, and it had to be weighed against the current ordinance. The applicant has agreed to additional conditions to enhance security. He also asked staff about the renewal period. Staff said that the renewal period is one year, but that the Commission had discretion to modify that period. Commissioner Whitten said that he was in favor of the renewal of the Home Occupation Permit.

Chair Humphreville said that he respects the anti-gun opinion, but he believes the community feels that we are over regulated at it is. Chair Humphreville also said that, given that the business has had no complaints and that Mr. Zorawicki neighbors support his business, he would recommending renewing the permit for a period of two years.

Commissioners Whitten, Bridenstine, and Drozd said that they would support renewing the permit for a period of two years.

MOTION

Commissioner Whitten moved that the Planning Commission find the project exempt from CEQA pursuant to Section 15301 Class 1, existing facilities, and that the Planning Commission approve the Home Occupation Permit, HOP 02-14 based upon the information contained within the staff report, all evidence presented at the public hearing, and the required findings for a period of two years, expiring on June 10, 2016, unless a request for renewal and related approval are obtained prior to that date. Chair Humphreville seconded the motion. Motion carried 5-0 on a roll call vote.

- AYES: Commissioners Bridenstine, Drozd, Lavender, Whitten and Chair Humphreville.
- NOES: None
- ABSTAIN: None
- ABSENT: None

2. HOME OCCUPATION PERMIT REQUEST FOR RENEWAL/APPROVAL, HOP 11-06 HOP 01-14, FALOSSO EXEMPT FROM CEQA UNDER SECTION 15301, CLASS 1, EXISTING FACILITIES 84.0635 (b) SPECIAL USE PERMITS MAY BE ISSUED FOR LIMITED TIME PERIODS. NEW APPLICATIONS MAY BE REQUIRED FOR SPECIAL USE PERMIT RENEWAL

The staff report was presented by Deputy Town Manager Stueckle. This project is a request for a renewal/approval of a Home Occupation Permit for an artist studio within an accessory structure of an existing single family residence. The home occupation will also include outdoor activity within a 53' X 58' screened area that encompasses the studio building. The property in question and its surrounding lots are zoned rural living, five acre minimum, and are signal family residences or vacant land. Staff said that the Home Occupation Permit was first approved in December of 2005. Renewals were issued in 2009 and 2013, and the business registration was kept current. There had been no complaints associated with this property prior to the renewal in November 2013. The Town received its first complaint on this property was received on December 16, 2013.

Staff then provided a brief overview of places in the development code where the language was seeming contradictory, for the Planning Commission to consider. Staff also provided some modified Conditions of Approval for this Home Occupation Permit, which were drafted after the staff report was written. Those changes included:

- modifying COA 1 to include the language “to include outdoor activity within a 53' x 58' screened area that also encompasses the workshop building;”
- modifying COA 10 to include the language “except for architectural or similar stone;”
- modifying COA 16 to change the number of customers allowed from five per day to two per week;
- modifying COA 17 to read “All employees of the home occupation, except one (1), shall be members of the resident family and shall reside on the premises provided all the required findings can be made, in all RS land use districts. All employees of the home occupation, except two (2), shall be members of the resident family and shall reside on the premises provided all the required findings can be made in all RL land use districts. The applicant must demonstrate that the lot can accommodate the parking of all personal and employee vehicles on site;”
- modifying COA 18 to read “Up to thirty-five percent (35%) or five hundred (500) square feet, whichever is greater, of the total floor area of the dwelling unit and the related accessory structures may be used for storage of material and supplies related to the use;”
- modifying COA 20 to change the hours of operation to 8AM to 5PM;
- modifying COA 21 to include “The use of a rental crane or forklift is permitted a maximum of six times per year;”
- and adding COA 22, which will read “The applicant shall be permitted to participate in public art tours as they occur in the Morongo Basin.”

Staff recommended that the Planning Commission find the project exempt from CEQA, and approve the renewal of the Home Occupation Permit for the period of one year as recommendations A and B. Staff also provided the alternative recommendations that the Planning

Commission either approve continued operation of the Home Occupation Permit until such time as the Town Council acts upon the draft Home Occupation Permit regulations, and directs staff to return the project to the Planning Commission following Town Council action on the draft regulations, or that the Planning Commission continue the public hearing based on the need for additional information.

Chair Humphreville opened the floor to public comments.

PUBLIC COMMENTS

- David Fallosi, the applicant, said that he was there to ask for an update and clarification of his Home Occupation Permit. He said he has had his art studio on their rural two and a half acres lot in Yucca Valley since 1989, and art studios were exempt from permit at that time. The neighborhood has been important to him, and he has been active in helping to maintain neighborhood signs and roads. He also clarified that he does not sell art supplies, and does not have a gift shop, museum or welding shop. He said he participates in a limited number of events a year, exhibiting and delivering his artwork to collectors after these events. He said he completes 95% of his sculptures inside his workshop, but uses the enclosed fence area for assembly, storage and occasional carving. He doesn't use trucking companies to ship his artwork from his home, have scheduled deliveries, or violate the noise ordinance. He uses a rental crane or forklift to move finished large sculptures or stones one or twice a year. Any welding associated with the sculptures is performed off site. He is requesting reasonable conditions of approval, and is the only artist in town with a Home Occupation Permit.
- Dennis Pask, Yucca Valley, spoke in support of the approval of the Home Occupation Permit. He is a neighbor of Mr. Fallosi and said he was speaking on the behalf of other in his neighborhood. He said that Mr. Fallosi is an excellent neighbor and causes no trouble with his business.
- Edward Tucker, Yucca Valley, spoke in support of the approval of the Home Occupation Permit. He said that he has been a neighbor of the Fallosi family for over 20 years, and in that time there has never been a problem with excessive noise or traffic. He said that the property was well maintained and that the business was well camouflaged.
- Chris Bolin, Twentynine Palms, spoke in opposition of the approval of the Home Occupation Permit. He believes that there is favoritism and that acid runoff has killed nearby vegetation.
- Adam Fallosi, Yucca Valley, spoke in support of the approval of the Home Occupation Permit. He said that the practice of artistry has not had a negative impact on the neighborhood.

- Janice Pask, Yucca Valley, spoke in support of the approval of the Home Occupation Permit. They are neighbors of the Fallosi's, and said that they have had no problems with dirt from vehicles.
- Ernie Saenz, Yucca Valley, spoke in support of the approval of the Home Occupation Permit. He has been Fallosi's neighbor for two years and hasn't had any problems.
- Teresa Judd, Yucca Valley, spoke in support of the approval of the Home Occupation Permit. She objected to statements at a prior meeting that said that Fallosi should have a commercial space.
- David Cooper, Yucca Valley, spoke in support of the approval of the Home Occupation Permit. He suggested that Fallosi should be grandfathered in given that he started his home studio ten years before the town incorporated.
- John Barriage, San Diego, submitted a written report to the Commission. He said that he believes that there is no specific allowance in the ordinance for outdoor activity or use of an accessory structure in a home occupation. He also believes that the use is an industrial use and not a commercial use, so it should not be allowed.
- Fritz Koenig, Yucca Valley, objected to the procedures of the meeting. He objected to the fact that information was suppressed from release by a court order and not included in the packet and that information was redacted. He also felt that staff had impeded his ability to record the meeting.
- Robert Dunn, Yucca Valley, spoke in support of the approval of the Home Occupation Permit. He agreed with Mr. Cooper that it should be grandfathered in.

With no further individuals wishing to speak, Chair Humphreville closed public comments.

CLOSE PUBLIC COMMENTS

Deputy Town Manager Stueckle clarified that, based upon staff's conversations with the applicant, approximately 95% of the business activity taking place occurred indoors and 5% occurred in an enclosed outdoor area. Since 1989 there have been seven sculptures of a large enough size that they had to be worked on outdoors. Ordinance 178 is clear that accessory structures are included in the calculation of space allowed for storage as the regulations are written today. Staff has previously identified in discussions of the HOP regulations that the ordinances is not completely clear on the intent of outdoor activities. There is language in the ordinance that implies that outdoor activities will be ongoing. Staff did not feel that grandfathering existed in this particular case. He also stated that staff had not impeded the public's ability to record the meeting, and had provided an area for video equipment. He also stated that Mr. Koenig had received information from the Town Attorney regarding the court order, and that the action taken in redacting

information was directed by the Town Attorney's office and based upon court records. He also stated that this is a land use issue and not related to civil matters.

Chair Humphreville asked the applicant, Mr. Fallosi, if he had any objections to the additional conditions provided by staff. Mr. Fallosi said that he had no objections.

Commissioner Bridenstine asked about rumors that Mr. Fallosi intended to enlarge his business and add a gift shop. Mr. Fallosi said that they were false. His business is limited to the amount of art he can generate. He said he had no intent to expand his business or open a gift shop.

Commissioner Whitten asked what his average sales per year were. Mr. Fallosi said that it varies and can be just a few or up to 30. On average he has between 12 to 30 sales per year.

Commissioner Lavender said that they should change the ordinance to make it easier for Mr. Fallosi to do business. He said that what they were doing what creating a double standard, one for artists and one for everyone else. He believes it creates a precedence if we make an exception for artists. Mr. Fallosi said he was currently the only artist with a Home Occupation Permit, and if the Town wants more artist to have Home Occupation Permits, they should streamline the process to make it easier for artists to operate in Yucca Valley. The Planning Commission should not try and regulate the type of art created and instead should just look at the land use and what is decent and reasonable.

Commissioner Lavender said that because Mr. Fallosi is successful and prominent in the community he should have a commercial space. Mr. Fallosi said he could say the same of Mr. Lavender, who runs a successful business from his home.

Commissioner Whitten asked if Mr. Fallosi has participated in the Morongo Valley art tour. Mr. Fallosi replied that he hasn't participated in the past, but he was asking to be allowed to participate in the future. Mr. Fallosi said that he believes the current regulations would keep an artist with a Home Occupation Permit from being able to participate in the art tours.

Mr. Fallosi additionally stated that he had just purchased the property directly to the south of his, so it would not be effected by the land use. He also said that, because of the nature of the area and the need to maintain the roads, people frequently brought in equipment to do work. He submitted a photo of equipment on a nearby property to the Planning Commission.

Chair Humphreville opened the floor for the Commissioners to ask the staff questions. Chair Humphreville asked for clarification on the purpose of having both the Conditions of Approval item 3 and 11, as they seemed repetitive. Staff provided clarification.

Commissioner Bridenstine asked if it was staff's opinion that the outdoor activity that is currently taking place is implied by the current ordinance. Staff said that it was, and that was why staff has asked the commission to consider that issue with regards to Home Occupation Permits.

Chair Humphreville called a recess at 7:41.

RECESS

Chair Humphreville reconvened the meeting at 7:47

Commissioner Drozd stated that this is a complicated issue, but the Commission is just looking at the Home Occupation Permit. He said that it is not an unreasonable request for a Home Occupation Permit, and that he supports it, but there are some issues that need to be discussed.

Commissioner Bridenstine said that it was ironic that rock storage is an issue and Boulder Ridge. She said that we need to take into account the current ordinance. Commissioner Bridenstine said that Commissioner Lavender had stated that the Commission was making special rules for this home occupation, but she doesn't see it. The applicant is requesting fewer visitors and shorter hours than what is currently allowed by the ordinance. She doesn't see any reason to deny this request.

Chair Humphreville said that this type of business was the intent of the ordinance, and individuals who are opposed to a business can always find some kind of language to argue against. Chair Humphreville asked staff the approximate cost of the time and resources staff has spent on this project. Staff replied that approximately \$3,500 to \$3,700 in person hours had gone into this project. Chair Humphreville said that he didn't want to see Home Occupation Permits that do not have legitimate issues creating those kinds of costs for the town. For that reason, he suggested renewing the Home Occupation Permit for three years. He said that he has received dozens of calls in support of this home occupation.

Commissioner Whitten said that he likes this Home Occupation Permit, and it provides culture to our community. He also noted that if this activity was done as a hobby it would be allowed under the current ordinances. He said that he doesn't think that the permit should be approved for a renewal of three years, but would support a renewal for a period of two years.

Commissioner Lavender said he wanted to respond to some comments that had been made about thirty truckloads of rocks being dumped on the road way on a neighboring property. He clarified that only three loads of rocks had been dumped where they encroached on the road intersection, and the rest had been placed further in on the property. He said he would like more time to consider this issue.

Commissioner Drozd said that he would like to clarify that when he said he would approve the permit for one year it was because, while he is all for changing the Town ordinance for Home Occupation Permits to a period of three years, he doesn't want to jump the gun before the ordinance changes.

Commissioner Bridenstine said that she thinks that the Planning Commission set the precedent for a renewal for two years during this meeting.

Chair Humphreville said that he would be fine with a renewal for two years.

MOTION

Chair Humphreville moved that the Planning Commission find the project exempt from CEQA pursuant to Section 15301 Class 1, existing facilities, and that the Planning Commission approve Home Occupation Permit, HOP 01-14 based upon the information contained within the staff report, all evidence presented at the public hearing and the required findings for a period of two

years, expiring on June 10, 2015, unless a request for renewal and related approval are obtained prior to that date. Motion was seconded by Commissioner Bridenstine. Motion carried 4-1 on a roll call vote.

AYES: Commissioners Bridenstine, Drozd, Whitten and Chair Humphreville.
 NOES: Commissioner Lavender
 ABSTAIN: None
 ABSENT: None

**3. DEVELOPMENT CODE AMENDMENT, DCA 02-14
 HOME OCCUPATION REGULATIONS**

Deputy Town Manager Stueckle provided the staff report. He provided a brief summary of the history of this item, noting that there had been a prior public hearing on this issue on May 13, 2014 and a public workshop was held on May 27, 2014. It was staff's understanding that there was Planning Commission consensus that the ordinance should be tiered based upon lot size. Staff asked for direction from the Commission.

Chair Humphreville opened the floor to public comments.

PUBLIC COMMENTS

- David Cooper, Yucca Valley, said that from a general standpoint he would like to see the Commission relax the standards and extend the time frame for renewal. If all applicants have to go through the process they saw that night, people are either not going to comply or they will choose not move here.
- Margo Sturges, Yucca Valley, said that she believes that Home Occupation Permits should be limited to the home owner. She also said she believed that the requirement that a renter get approval from the landlord had been removed, and that the proposed ordinance would allow large truck signs. She believes that the appeal fee is too high and that multiple houses in the same area should not be allowed to operate the same type of business.
- Fritz Koenig, Yucca Valley, said that he would like agenda items 1 and 2 to be incorporated into the record for agenda item 3. He said that the Town does not inspect Home Occupation Permits each year, and that action is only taken when someone makes a complaint. He also objected to the language allowing the Planning Commission to grant Conditional Use Permits to activities which do not comply with the Home Occupation Permit regulations.

Seeing there were no more individuals wishing to speak, Chair Humphreville closed public comments.

CLOSE PUBLIC COMMENTS

Chair Humphreville introduced a discussion of firearm sales as a home occupation.

Commissioner Whitten said that a distinction should be made between home occupations and home based businesses. Commissioners Drozd, Bridenstine, Whitten and Chair Humphreville all said that gun sales should be allowed in some residential zones. There was Commission consensus that firearm sales should be prohibited in multifamily zones. Commissioner Whitten said that he felt that firearm sales should be allowed in RL5 zoning, and didn't think ammunition should be sold on site. Chair Humphreville said that he didn't think firearm sales should be limited to five acre lots, and that if the business was legal and meets the criteria, it should be allowed on half acre lots. He also said that he didn't object to ammo sales as long as it was done as drop shipments and not stored on the property, but he would be ok with restricting it. Commissioner Whitten said he thought firearm sales need the buffer provided by RL lot sizes.

Commissioners Drozd, Bridenstine, and Humphreville said that a half acre or greater lot size might be an appropriate lot size for gun sales. Commissioner Bridenstine clarified that she did not approve of allowing firearm sales, or any traffic generating business, in any of the RS zones, and that they should only be allowed in RL or above. Commissioner Lavender asked about the lot sizes in tracks. Commissioner Whitten said that he thought that firearm sales should be prohibited in RS and RN, but allowed in RL zones. He also said that he liked the additional safety features required in the Zorawicki Conditions of Approval. Chair Humphreville said that the Commission should not try to make standards based on gun size. Staff said they would take the Commission's direction to structure new recommended standards.

Chair Humphreville asked the Commissioners for comments on the purpose section of the draft regulations. Commissioner Whitten said he doesn't want to see any Home Occupations strictly prohibited. He also suggested that staff included language in the draft ordinance adding a sunset clause.

There was a discussion about how to address restrictions in multifamily zones. Commissioner Whitten said he would like to see definitions first and a tiered system. Staff asked if the Commission felt that exempt home occupations which are exempt from permitting should be allowed in multifamily zones. Commissioner Whitten said that he was ok with allowing the occupations listed as exempt allowed in multifamily zones, but would like to see a tiered table. Commissioner Drozd suggested having a set of standards rather than a list of exempt home occupations.

Commissioner Whitten said that he thought that the landlord should have to give approval for a renter's home occupation. Staff said that there was no intent to remove that requirement, and while staff may have missed including that language, getting landlord approval is a requirement of law. Staff said they would include that language.

Chair Humphreville asked for clarification from staff that a business which was listed as prohibited, could be allowed through a Conditional Use Permit. He thinks including a list of prohibited occupations helps clarify what is generally allowed.

Commissioner Bridenstine also suggested getting rid of the list of exempt occupations. There was commission consensus that they would like to see a tiered table.

Staff said that they will take the Commission's direction and work on a new draft of the regulations.

Commissioner Drozd suggested the Commission consider something to address allowing artist to participate in the art tours.

Commissioner Bridenstine said that she likes the tiered idea, and that she would prefer not to add more restrictions, and instead see it taken on a more case by case basis for Conditions of Approval.

Chair Humphreville asked if there were any comments on section G, Review. Commissioner Whitten asked staff if a single Commissioner could appeal a decision made at the Director level. Staff said that is not addressed in the code.

Chair Humphreville introduced a discussion of permit renewal. There was Commission consensus on a renewal period of three years. Commissioner Whitten said that he would like to see an option for extensions. Commissioner Bridenstine disagreed, and pointed out that the staff costs for approving an extension would be comparable to approving a renewal. There was Commission consensus that renewals would happen on the Director level provided that there are no complaints. Commissioner Whitten suggested removing the fee for renewal on permits with no complaints.

The Commissioners had no comments on the sections addressing revocation, or appeals.

Chair Humphreville asked the Commissioners for any general comments they had on Home Occupation Permits.

Commissioner Whitten asked if violation of property maintenance standards was included as a reason for revocation of a Home Occupation Permit. Staff said that being in violation of any code would be a reason for revocation.

CONSENT AGENDA

Chair Humphreville opened the floor to public comments.

PUBLIC COMMENT

- Margo Sturges, Yucca Valley, requested that the minutes submitted to the commission be amended. She felt that the reason for the recess during the May 13, 2014 meeting should be included in the minutes.

CLOSE PUBLIC COMMENT

MOTION

Chair Humphreville moved that the Planning Commission approve the submitted minutes of the meetings held on May 13, 2014 and May 27, 2014. Commissioner Bridenstine seconded. The motion passed unanimously.

COMMISSIONER REPORTS AND REQUEST:

Commissioner Drozd said that it was great seeing everyone at the meeting, but it is difficult to see a divided community. It is important that everyone is heard. He also thanked staff.

Commissioner Lavender apologized for his lack of preparation due to his recent health issues.

Commissioner Whitten thanked the citizens, and he said he appreciates the public coming out. He said that he appreciates what Margo does in the community. He said he would like a public announcement regarding the changed law regarding bicycles. He thanked staff, and said he is looking forward to progressing on the development code.

Commissioner Bridenstine thanked staff for their work, and thanked the public for coming out. She said we are not always going to agree, and that's ok. It take diversity to create a great community. She hopes not to see any more personal vendettas play out in front of the Commission, as it is a misuse of staff and Commission time.

Chair Humphreville thanked staff for their efforts. He said he hopes to complete the Home Occupation Permit regulations.

ANNOUNCEMENTS:

The next regular meeting of the Planning Commission is scheduled for June 24, 2014 and 6:00pm.

ADJOURNMENT

There being no further business, the meeting adjourned at 9:04pm.

Respectfully submitted,



Allison Brucker
Secretary

Approved by the Planning Commission on June 24th, 2014.

PLANNING COMMISSION STAFF REPORT

To: Honorable Chairman & Commissioners
From: Diane Olsen, Planning Technician
Date: July 31, 2014
For Commission Meeting: August 12, 2014

Subject: Extension of Time for Conditional Use Permit, CUP 09-07 Lupine Plaza

Prior Commission Review: The Planning Commission reviewed and approved this project at their meeting of May 06, 2008. On May 25, 2010, the Planning Commission approved a four year extension for the project, expiring on May 06, 2014.

Recommendation: That the Planning Commission approves the Extension of Time request for 3 years, expiring May 06, 2017.

Executive Summary: The original approval was for the construction of two office buildings, one of 6,460 square feet and one of 8,520 square feet on a two acre parcel. The project is located on the north side of Lupine Dr, approximately 95 feet north of Yucca Trail and is identified as APN's 595-172-01 thru 07. The property has a zoning designation of Office Commercial (C-O) and a General Plan Land Use designation of Mixed Use (MU). Pursuant to Development Code Section 9.63.110 staff is recommending a three year extension.

Order of Procedure:

- Request Staff Report
- Request Public Comment
- Commission Discussion/Questions of Staff
- Motion/Second
- Discussion on Motion
- Call the Question (Roll Call Vote)

Discussion: The original project was approved by the Planning Commission at their meeting of May 06, 2008. At that meeting the project was approved for two years, expiring on May 06, 2010. On May 25, 2010, the Planning Commission approved a four year extension for the project, expiring on May 06, 2014. Because the original approval was for two years, an additional year was approved with the first extension request. Development Code Section 9.63.110, Extension of Time allows for a three year extension of the project.

The Conditions of Approval have been updated to conform to the current format, but no additional infrastructure improvements are being required. Condition P2 has been modified to reflect the changes made to the Utility Undergrounding Ordinance and the language has been removed that required the undergrounding of utilities on the north property line.

Therefore, staff is recommending that the extension request be approved and the new expiration date will be May 06, 2017.

Alternatives: None recommended

Fiscal impact: N/A

Attachments:

1. Applicant's request
2. Planning Commission Staff Report and Minutes from May 06, 2008
3. Planning Commission minutes from May 25, 2010
4. Project Site Plan, Elevations and Aerial Photo
5. Development Code Section 9.63.110

**TOWN OF YUCCA VALLEY
CONDITIONS OF APPROVAL
CONDITIONAL USE PERMIT**

This approval is for Conditional Use Permit, CUP 09-07 Lupine Plaza, an approval to allow the development of two single story office building, one of 6,460 square feet and one of 8,520 square feet, on a two acre parcel. The project is located on the north side of Lupine Drive, north of Yucca Trail. APN: 595-172-04 thru 07

GENERAL CONDITIONS

- G1. The applicant shall agree to defend, indemnify and hold harmless the Town of Yucca Valley, its agents, officers and employees, at his sole expense, against any action, claim or proceedings brought against the Town or its agents, officers or employees, to attack, set aside, void, or annul this approval or because of the issuance of such approval, or in the alternative, to relinquish such approval, in compliance with the Town of Yucca Valley Development Code. The applicant shall reimburse the Town, its agents, officers, or employees for any court costs, and attorney's fees which the Town, its agents, officers or employees may be required by a court to pay as a result of such action. The Town may, at its sole discretion, participate at its own expense in the defense of any such action but such participation shall not relieve applicant of his obligations under this condition. The Town shall promptly notify the applicant of any claim, action or proceedings arising from the Town's approval of this project, and the Town shall cooperate in the defense.
- G2. This Conditional Use Permit shall become null and void if construction has not commenced within three (3) years of the Town of Yucca Valley date of approval. Extensions of time may be granted by the Planning Commission, in conformance with the Town of Yucca Valley Development Code. The applicant is responsible for the initiation of an extension request.

Approval Date: August 12, 2014

Expiration Date: May 06, 2017

- G3. The applicant shall ascertain and comply with requirements of all State, County, Town and local agencies as are applicable to the project. These include, but are not limited to, County of San Bernardino Environmental Health Services, County of San Bernardino Transportation/Flood Control, County of San Bernardino Fire Department, Yucca Valley Building and Safety, Caltrans, High Desert Water District, Airport Land Use Commission, California Regional Water Quality Control Board, Colorado River Region, the Federal Emergency Management Agency, MDAQMD-Mojave Desert Air Quality Management District, Community Development, Engineering, and all other Town Departments.

- G4. All conditions are continuing conditions. Failure of the applicant to comply with any or all of said conditions at any time may result in the revocation of any construction permits for the project.
- G5. No on-site or off-site work shall commence without obtaining the appropriate permits for the work required by the Town and the appropriate utilities. The approved permits shall be readily available on the job site for inspection by Town personnel.
- G6. The applicant shall pay all fees charged by the Town as required for application processing, plan checking, construction and/or inspections. The fee amounts shall be those which are applicable and in effect at the time work is undertaken and accomplished. Fees for entitlement prior to construction permits are based on estimated costs for similar projects. Additional fees may be incurred, depending upon the specific project. If additional fees for services are incurred, they must be paid prior to any further processing, consideration, or approval(s).
- G7. All improvements shall be inspected by the Town as appropriate. Any work completed without proper inspection may be subject to removal and replacement under proper inspection.
- G8. All refuse shall be removed from the premises in conformance with Yucca Valley Town Code 33.083.
- G9. During construction, the Applicant shall be responsible to sweep public paved roads adjacent to the project as necessary and as requested by the Town to eliminate any site related dirt and debris within the roadways. During business activities, the applicant shall keep the public right-of-way adjacent to the property in a clean and sanitary condition.
- G10. No staging of construction equipment or parking of worker's vehicles shall be allowed within the public right-of-way of streets or other public improvements that have been accepted into the Town's maintained system
- G11. All existing street and property monuments within or abutting this project site shall be preserved consistent with AB 1414. If during construction of onsite or offsite improvements monuments are damaged or destroyed, the applicant shall retain a qualified licensed land surveyor or civil engineer to reset those monuments per Town Standards and file the necessary information with the County Recorder's office as required by law (AB 1414).
- G12. Each phase of the project shall function independently of all other phases. All improvements shall be completed for each phase to ensure that each phase functions separate from the remainder of the project, and shall include, but not be limited to, street improvements, drainage and retention/detention facilities, water delivery systems, fire suppressions systems, post construction erosion and

sediment control systems, all utilities necessary to serve the project, and those improvements deemed necessary by the Town. All phasing plans shall be illustrated on rough and precise grading plans, erosion and sediment control plans, all plan required for obtaining native plant plan approval, and on any other plan as deemed necessary by the Town.

- G13. At least one sign per fronting street shall be posted on the site and must contain the following information: the grading permit number, the project name, map number (if appropriate), the authorized dust controller phone number(s), the Town phone number and the Mojave Desert Air Quality Management District (MDAQMD) phone number. The signs must be obtained and installed by the developer using the sample format to be provided. The signs must be present at the pre-construction meeting or the grading permit will not be issued. The developer must keep the contact name and phone number active and current at all times. Failure of the contact system may be considered grounds for revocation of the permit.
- G14. At the time of permit issuance the applicant shall be responsible for the payment of fees associated with electronic file storage of documents
- G15. The Applicant shall reimburse the Town for the Town's costs incurred in monitoring the developer's compliance with the Conditions of Approval including, but not limited to, inspections and review of developer's operations and activities for compliance with all applicable dust and noise operations. This condition of approval is supplemental and in addition to normal building permit and public improvement permits that may be required pursuant to the Yucca Valley Municipal Code.
- G16. Prior to the issuance of a Certificate of Occupancy for any habitable structure in each phase of the project, all improvements shall be constructed, final inspection performed, punch-list items completed, and all installations approved by the appropriate agency.
- G17. After final plan check by the Town, original mylars (4 mil) shall be submitted to the Town for signature by the Town Engineer. All original mylars submitted for Town Engineer's signature must contain the design engineer's wet signature and stamp and all other required signatures.
- G18. For any import or export of material, the Project proponent shall provide the following for review by the Town Engineer: the route of travel, number of trucks, daily schedule, and length of time required. No hauling of material shall begin without the Town Engineer's approval.
- G19. Prior to any work being performed within the public right-of-way, the Project proponent shall provide the name, address, telephone, facsimile number, and e-mail address of the Contractor to perform the work. A description of the location,

purpose, method of construction, and surface and subsurface area of the proposed work shall be supplied. A plat showing the proposed location and dimensions of the excavation and the facilities to be installed, maintained, or repaired in connection with the excavation, shall be provided and such other details as may be required by the Town Engineer.

- G20. The site shall be developed in accordance with the approved plans on file with the Town of Yucca Valley, in accordance with the Conditions of Approval approved for the project, and in accordance with the General Plan and Development Code. Prior to any use of the project site or business activity being commenced thereon, all Conditions of Approval shall be completed to the satisfaction of the Town.
- G21. Prior to issuances of building permits, all site plans, grading plans, landscape and irrigation plans, drainage/flood control plans, public improvement plans, erosion and sediment control plans, shall be coordinated for consistency with this approval.
- G22. The Town may allow phased construction of the project provided that the improvements necessary to adequately serve or mitigate the impacts of each phase of development are completed prior to the issuance of a Certificate of Occupancy for that phase.
- G23. The applicant or the applicant's successor-in-interest shall be responsible for maintaining any undeveloped portion of the site in a manner that provides for the control of weeds, erosion and dust.
- G24. If archaeological, paleontological or historical resources are uncovered during excavation or construction activities at the project site, work in the affected area will cease immediately and a qualified person with appropriate expertise shall be consulted by the applicant regarding mitigation measures to preserve or record the find. Recommendations by the consultant shall be implemented as deemed necessary and feasible by the Town before work commences in the affected area. If human remains are discovered, work in the affected area shall cease immediately and the County Coroner shall be notified. If it is determined that the remains might be those of a Native American, the California Native American Heritage Commission shall be notified and appropriate measures provided by State law shall be implemented.
- G25. All street dedications shall be irrevocably offered to the public and shall continue in force until the Town accepts or abandons such offers. All dedications shall be free of all encumbrances as approved by the Town Engineer.
- G26. The street design and circulation pattern of this project shall be coordinated with adjoining developments.

- G27. The final conditions of approval issued by the approving authority shall be photographically or electronically placed on bond (blue/black line) paper and included in the Grading and Street Improvement plan sets on 24" x 36" bond (blue/ black line) paper and submitted with the plans for plan check. These conditions of approval shall become part of these plan sets and the approved plans shall be available in the field and during construction. Plan check fees shall not be charged for sheets containing the Conditions of Approval.
- G28. Prior to issuance of a certificate of occupancy, the applicant shall submit all improvement plans on compact disks in digital format acceptable to the Town Engineer.
- G29. Violations of any condition or restriction or prohibition set forth in these conditions, including all approved construction plans, public and private, for this project and subject to the Town's overall project approval and these conditions of approval, shall subject the owner, applicant, developer or contractor(s) to the remedies as noted in the Municipal Code. In addition, the Town Engineer or Building Official may suspend all construction related activities for violation of any condition, restriction or prohibition set forth in these conditions until such time as it has been determined that all operations and activities are in conformance with these conditions.

PLANNING CONDITIONS

- P1. The development of the property shall be in conformance with FEMA and the Town's Floodplain Management Ordinance requirements. Adequate provision shall be made to intercept and conduct the existing tributary drainage flows around or through the site in a manner that will not adversely affect adjacent or downstream properties at the time the site is developed. Protection shall be provided by constructing adequate drainage facilities, including, but not limited to modifying existing facilities or by securing a drainage easement.
- P2. Utility undergrounding shall be in accordance with Ordinance 233, or as amended.
- P3. All exterior lighting shall comply with the Ordinance 90, Outdoor Lighting and shall be illustrated on all construction plans.
- P4. **All mitigation measures identified in the Initial Study and included in the Mitigation Monitoring Program are included as conditions of approval by this reference.**
- P5. A final plan identifying all protected plants as well as a Native Plant Relocation Plan with any area proposed to be disturbed in accordance with the Town's Native Plant Protection Ordinance shall be submitted for approval prior to issuance of any construction permits, including grading and utility installations, for the project. **The applicant shall make every effort to relocate the native plants back onsite. The adoption of native plants shall be consistent with**

the Native Plant Ordinance in effect at the time of grading permits. The final native plant plan shall be reviewed and approved by the Planning Commission prior to the issuance of any construction permits for the project site.

- P6. Prior to the issuance of any permits the applicant/owner shall provide three (3) copies of a landscape and irrigation plan showing the size, type and location of all plant and irrigation systems. Said irrigation system shall incorporate a permanent automatic irrigation system, and all landscaping and irrigation systems shall be maintained in good condition at all times. All ground within proposed landscape planter areas shall be provided with approved ground cover. This shall include but not be limited to drought-tolerant plant materials or colored desert rock. The Landscape Plan shall be approved by Hi-Desert Water District. The Landscape and Irrigation review requires a separate application and a current Town fee of \$685. **The final Landscape and Irrigation Plan shall be reviewed and approved by the Planning Commission prior to the issuance of any permits.**
- P7. Unless additional parking can be provided, medical and dental office uses are prohibited in the project.

ENGINEERING CONDITIONS

- E1. **Construct curb and gutter, twenty (20) feet from centerline on Lupine Drive per Town of Yucca Valley Standard Drawing 102. Any existing pavement on Lupine Drive shall be removed and replaced to centerline. Construct a six (6) foot wide sidewalk along Lupine Drive per Town of Yucca Valley standard 220**
- Construct alley improvements per Town of Yucca Valley Standard Drawing 231 along the rear of the project. Alley improvements shall include new A.C. pavement and ribbon gutter.**
- E2. **Install one street light(s) at the project entrance on Lupine Drive per Yucca Valley Standard Drawing No. 302**
- E3. **If any buildings are proposed to cross existing property lines, a Lot Line Adjustment or Parcel Merger shall be submitted to the Town for approval.**
- E4. **If the lots are not merged, cross lot easements for access and parking shall be recorded on each lot.**
- E5. Prior to the issuance of a Grading Permit, a Grading Plan prepared by a recognized professional Civil Engineer shall be submitted, and the corresponding fees shall be paid to the Town prior to any grading activity. The rough and precise Grading Plans shall be reviewed and approved by the Town Engineer prior to issuance of grading permits. The applicant/owner is responsible for all

fees incurred by the Town. Prior to Certificate of Occupancy, the Engineer-of-Record shall survey and certify that the site grading was completed in substantial conformance with the approved Grading Plans.

- E6. **All manufactured slopes over the height of 3 feet shall be irrigated and landscaped immediately following grading. Prior to issuance of a grading permit for any portion of the site, the applicant/owner shall submit, for review and approval, an irrigation and landscaping plan or other appropriate treatment for all slope areas.**
- E7. The rough grading shall be certified by a civil engineer that it was completed in substantial conformance with the approved rough Grading Plans. Prior to the issuance of any building permits the project Engineer shall certify the finished lot was graded in conformance to approved plans.
- E8. The Engineer-of-Record or other civil engineer shall survey and provide pad certification for the site prior to issuance of building permits.
- E9. Prior to the issuance of Permits, the Applicant shall comply with the recommendations of a site-specific Geotechnical and Soils Report which shall be reviewed and subject to Town approval. The report shall include recommendations for any onsite and offsite grading, foundations, compaction, structures, drainage, and existence of fault zones. It shall include recommendations for retention basins, slope stability and erosion control. The soils engineering report shall include data regarding the nature, distribution and strength of existing soils, conclusions and recommendations for grading procedures and design criteria for corrective measures, when necessary and opinions and recommendation covering the adequacy of sites for development. The report shall identify if the site contains any areas susceptible to landslide risk, liquefaction potential and/or subsidence potential on the project site. The report shall identify and include the location of major geologic features, topography and drainage, distribution and general nature of rock and soils, a reasonable evaluation and prediction of the performance of any proposed cut or fill in relation to geological conditions, and the capability of soils and substrata to support structures.
- E10. All property corners, lots, easements, street centerlines, and curve radii shall be monumented and horizontally tied to identified control points. A copy of the monumentation survey and centerline tie notes shall be provided to the Town Engineer prior to certificate of occupancy.
- E11. All recommended approved measures identified in the Soils Report shall be incorporated into the project design.
- E12. A retention basin **and/or underground storage system** shall be constructed and functional prior to the issuance of certificate of occupancy for the any structure within the project. The applicant shall provide on-site retention for the incrementally larger flows caused by development of the site, pursuant to a final drainage report, subject to review and approval by the Town Engineer.

- E13. A **final** drainage report, prepared by a registered Civil Engineer, shall be prepared to determine the flows exiting the site under current undeveloped conditions compared to the incrementally larger flows due to the development of the site. The retention basin size will be determined, per County of San Bernardino Flood Control methodology, such that incremental 100 year 24-hour storm volume, plus 10%, is retained on-site.
- E14. In lieu of an engineered drainage report the retention basin and/or underground storage system shall be sized to retain 550 cubic feet of storm water for each 1,000 square feet, and increments thereof, of impervious area proposed (structures, driveways, parking areas, etc.).
- E15. Basin(s) shall be designed to fully dissipate storm waters within a 48 hour period.
- E16. A pre-filtration system shall be installed for all drain lines connected to any underground storage system to collect sediment and hydrocarbon material prior to discharge into the underground system.
- E17 Any grading or drainage onto private off-site or adjacent property shall require a written permission to grade and/or a permission to drain letter from the affected property owner. **The final grading plan shall show how the drainage in the alley will drain. If required by the Town Engineer a drainage acceptance letter from the downstream property shall be obtained.**
- E18. In conjunction with precise grading certification, all retention/detention basins shall be certified by a civil engineer that they have been constructed in substantial conformance with the approved plans, and shall be certified that they have the required capacity and will operate in accordance with the approved drainage reports for the project.
- E19. In conjunction with precise grading certification, all drainage systems, both public and private, shall be certified by a civil engineer that they have been constructed in substantial conformance with the approved plans, and shall be certified that they have the required capacity and will operate in accordance with the approved drainage reports for the project.
- E20. No on-site or off-site work shall commence without obtaining the appropriate permits for the work involved from the Town. The approved permits shall be readily available on the job-site for inspection by the Town personnel.
- E21. All grading activities shall minimize dust through compliance with MDAQMD Rules 402 and 403.
- E22. Prior to issuance of a grading permit, a Fugitive Dust and Erosion and Sediment Control Plan shall be submitted and approved by the Town Engineer. The Fugitive Dust and Erosion and Sediment Control Plan shall illustrate all proposed phasing for construction of the project.
- E23. Prior to any work being performed in the public right-of-way, fees shall be paid and an encroachment permit shall be obtained from the Town. The Applicant

shall apply for an encroachment permit from the Town for utility trenching, utility connection, or any other encroachment onto public right-of-way. The Applicant shall be responsible for the associated costs and arrangements with each public utility.

- E24. The Applicant shall restore any pavement cuts required for installation or extension of utilities for his project within the public right-of-way. In all cases where cuts are allowed, the Applicant is required to patch the cuts to Town standards and the approval of the Town Engineer. The patching shall include a grinding of the pavement to a width 4 feet beyond the edge of the trench on each side, or as determined by the Town Engineer, and replacement with a full-depth asphalt concrete recommended by the Soils Engineer.
- E25. In conjunction with the rough grading plan submittal, street plans prepared by a recognized professional Civil Engineer shall be submitted, and the corresponding fees shall be paid to the Town. The final street plans shall be reviewed and approved by the Town Engineer. The applicant/owner is responsible for all fees incurred by the Town. Prior to Certificate of Occupancy, the Engineer-of-Record shall survey and certify that the site grading was completed in substantial conformance with the approved Grading Plans.
- E26. The Applicant shall accept and properly dispose of all off-site drainage flowing onto or through the site.
- E27. The Applicant shall construct the replacement of any identified damaged curb and gutter, sidewalk, drive approach, asphalt concrete pavement, meter boxes, and other infrastructure that may be required by the Town Engineer or another Agency.
- E28. The Applicant shall install all water and sewer systems required to serve the project. All water and sewer systems shall be completed to the requirements of the Hi Desert Water District.
- E29. The Applicant shall observe the construction of this project to make certain that no damage or potential for damage occurs to adjacent roadway, existing improvements, adjacent property and other infrastructure. The applicant shall be responsible for the repair of any damage occurring to offsite infrastructure and/or property damage as determined by the Town Engineer. The applicant shall repair any such damage prior to certificate of occupancy. If the damage is such that it is not repairable within a reasonable amount of time as determined by the Town Engineer, the applicant may petition the Town Engineer for additional conditions that may allow him the time, amount of surety and other requirements to repair the damage.
- E30. The Applicant shall be responsible for all improvements constructed within the public right-of-way as required by the conditions of approval. The improvements shall be constructed to the standards and requirements as determined and approved by the Town Engineer. Any improvements not considered to be to the required standards shall be replaced by the Applicant. The Applicant shall be required to maintain and repair those improvements prior to and after acceptance

by the Town Council for the length of time required by the applicable conditions, standards and ordinances.

- E31. All improvement plans shall be designed by a Registered Civil Engineer.
- E32. Any area which remains undeveloped for a period of more than 30 days shall be stabilized using either chemical stabilizers or a desert wildflower mix hydroseed on the affected portion of the site.
- E33. Prior to the issuance of any grading permit to disturb, expose or stockpile an aggregate of more than one acre of land, an erosion and sediment control plan for the project shall be submitted to and approved by the Town Engineer.
- E34. The Applicant shall be responsible for inspection, modification, and proper maintenance of the erosion control devices as necessary. If the Applicant fails or refuses to properly maintain the erosion control devices, the Town official may cause emergency maintenance work to be done in order to protect potentially impacted property. The cost shall be deducted from the erosion control security posted for the project and shall include all costs related to the emergency maintenance including initial mobilization and performance of the work in addition to applicable administrative costs.
- E35. If construction of erosion control systems outside of the project boundaries is necessary, permission to construct such systems from the owner of such off-site property is required. Plans for the off-site system shall be included with the on-site plans submitted to the Town Engineer. The plans for the off-site erosion control system shall include permission to grade and maintain the erosion control system from all affected property owners and letters of clearance and/or permits from all appropriate governmental entities.
- E36. The Applicant shall submit a post construction erosion and sediment control plan which identifies and illustrates all necessary improvements to prevent the movement and or loss of any soil and sediment materials from the project site, including all individual lots for construction of habitable structures, all slope banks, and all areas of the site capable of resulting in the deposit of soils and sediments with the street or storm drain system. The post construction erosion and sediment improvements shall be certified by a civil engineer that they were constructed in substantial conformance with the approved plans and specifications.
- E37. The septic system shall be maintained so as not to create a public nuisance and shall be serviced by a DEHS permitted pumper. Soil testing for the subsurface disposal system shall meet the requirements of the Department of Environmental Health Services. Applicant shall submit a minimum of three (3) copies of percolation reports for the project site and an appropriate fee to DEHS for review and approval, a copy of the cover sheet with an approval stamp to Building and

Safety Division at the time of building permit application, and two (2) copies of the approved percolation report to the Building and Safety Division at the time of construction plan check. The location of the septic system shall be shown on the project grading plans. **It shall be the developer's responsibility to ensure that the location of the septic system and any proposed underground stormwater collection system meet applicable codes related to separation distances.**

- E38. It is understood that the **Conditional Use Permit** plans correctly shows all existing easements, traveled ways and drainage courses, and that their omission may require the Conditional Use Permit plans to be resubmitted for further consideration.
- E39. A construction area traffic control plan, including temporary and final permanent striping, shall be designed by a registered Civil Engineer or Traffic Engineer for review and approval by the Town Engineer for any street construction, closure, detour or other disruption to traffic circulation.
- E40. All street closures must be approved by Town Council action.
- E41. The following shall information regarding the presence of the Marine Corps Air Ground Combat Center (MGAGCC) shall be recorded on the title of each property contained within the boundaries of the Conditional Use Permit.
- "The Marine Corps Air Ground Combat Center is located in the Morongo Basin. To prepare Marines for future conflicts, the MGAGCC carries out realistic training with military munitions, both day and night. As a result, Military aircraft fly over the area, and military vehicles drive on and off the base every day. This property is located directly under two aircraft flying routes and is located approximately 13 miles from the installation boundary. Consequently, you should expect to hear military training, see low-flying military aircraft, and encounter other experiences associated with the important mission of the MCAGCC".
- E42. After final plan check by the Town, original mylars (4 mil) shall be submitted to the Town for signature by the Town Engineer. All original mylars submitted for the Town Engineer's signature must contain the design engineer's wet signature and stamp and all other required signatures.
- E43. Improvement plans shall be based upon a centerline profile, extending beyond the project boundaries a minimum distance of 300 feet at a grade and alignment approved by the Town Engineer.
- E44. In conjunction with the preparation of improvement plans, the Applicant shall cause to be formed or shall not protest the formation of a maintenance district(s)

for landscape, lighting, streets, drainage facilities or other infrastructure as required by the Town. The Applicant shall initiate the maintenance and benefit assessment district(s) formation by submitting a landowner petition and consent form (provided by the Town of Yucca Valley) and deposit necessary fees concurrent with application for street and grading plan review and approval and said maintenance and benefit assessment district(s) shall be established concurrent with the approval of the final map in the case of subdivision of land, or prior to issuance of any certificate of occupancy where there is no subdivision of land.

- E45. The Applicant shall record a non-opposition agreement to the future formation of a public safety assessment district on the property.

BUILDING AND SAFETY CONDITIONS

- B1. Prior to the delivery of combustible materials, the following items shall be accepted as complete:
- a. The water system is functional from the source of water past the lots on which permits are being requested (i.e. All services are installed, valves are functional and accessible, etc.); and
 - b. Fire hydrants are accepted by the County Fire Department and the Hi Desert Water District. The fire hydrants associated with each phase shall be functioning prior to issuance of building permits.
- B2. The applicant shall submit three sets of plans to the Building and Safety Dept. for plan check and approval.
- B3. At the time of building plan check submittal, the applicant shall provide approval from the San Bernardino County Fire Dept.
- B4. Prior to final inspection, all required improvements shall be constructed and finalized and accepted by the appropriate agency prior to the issuance of a Certificate of Occupancy.
- B5. The applicant shall pay Development Impact Fees in place at the time of pre-final inspection.

FIRE CONDITIONS

- F1. Prior to any construction occurring on any parcel, the applicant shall contact the Fire Department for verification of current fire protection requirements. All new construction shall comply with the current Uniform Fire Code requirements and all applicable statutes, codes, ordinances and standards of the Fire Department.

- F2. Prior to any land disturbance, the water systems shall be designed to meet the required fire flow for this development and shall be approved by the Fire Department.
- F3. The Applicant shall be responsible for all fees required by San Bernardino County Fire Department.
- F4. The Development shall have a minimum of two points of vehicular access. These are for fire/emergency equipment access and evacuation routes.
- F5. All buildings shall have access provided by approved roads, alleys and private drives with a minimum twenty six (26) foot unobstructed width and vertically to fourteen (14) feet six (6) inches in height. Other recognized standards may be more restrictive by requiring wider access provisions.
- F6. Not less than 2 complete sets of Building Plans shall be submitted to the Fire Department for review and approval.
- F7. The applicant shall provide the Fire Department with a letter from the serving water company, certifying that the required water improvements have been made or that the existing fire hydrants and water system will meet distance and fire flow requirements. Fire flow water supply shall be in place prior to placing combustible materials on the job-site.
- F8. An automatic fire sprinkler system complying with NFPA Pamphlet #13 and the Fire Department standards is required. The applicant shall hire a Fire Department approved fire sprinkler contractor. The fire sprinkler contractor shall submit three (3) sets of detailed plans to the Fire Department for review and approval. The plans (minimum 1/8" scale) shall include hydraulic calculations and manufactures specification sheets. The contractor shall submit plans showing type of storage and use with the applicable protection system. The required fees shall be paid at the time of plan submittal.

I HEREBY CERTIFY THAT THE APPROVED CONDITIONS OF APPROVAL WILL BE SATISFIED PRIOR TO OR AT THE TIMEFRAMES SPECIFIED AS SHOWN ABOVE. I UNDERSTAND THAT FAILURE TO SATISFY ANY ONE OF THESE CONDITIONS WILL PROHIBIT THE ISSUANCE OF ANY PERMIT OR ANY FINAL MAP APPROVAL.

Applicant's Signature _____ Date _____

Larry Fluet
56540 Chipmunk Trail
Yucca Valley, CA 92284

April 9, 2014

Town of Yucca Valley
58928 Business Center Dr.
Yucca Valley, CA 92284

Attn: Planning Department

Project- Lupine Professional Center
Yucca Valley, CA 92284

RE: EXTENSION OF TIME FOR CUP 09-07 LUPINE PLAZA

Dear Sirs,

I would like to request an extension of three (3) more years. I am investigating the market, and it seems to be improving somewhat. I have had some potential tenants showing some interest.

Thank you for your consideration,



Larry Fluet
Phone-(208) 676-8571
Fax (208) 771-2221

Planning Commission: May 6, 2008
TOWN OF YUCCA VALLEY
COMMUNITY DEVELOPMENT DEPARTMENT
CURRENT PLANNING DIVISION
STAFF REPORT-LUPINE PLAZA

Case: CONDITIONAL USE PERMIT 09-07
 ENVIRONMENTAL ASSESSMENT 22-07

Request: A CONDITIONAL USE PERMIT TO ALLOW THE CONSTRUCTION OF
 TWO OFFICE BUILDINGS, ONE OF 6,460 SQUARE FEET, AND ONE OF
 8,520 SQUARE FEET, ON A 2 ACRE PARCEL

Applicant: LARRY FLUET
 56540 CHIPMUNK TRAIL
 YUCCA VALLEY, CA 92284

Property Owner: LARRY FLUET
 56540 CHIPMUNK TRAIL
 YUCCA VALLEY, CA 92284

Representative: NONE

Location: THE NORTH SIDE OF LUPINE DRIVE, APPROXIMATELY 95 FEET
 NORTH OF YUCCA TRAIL, ASSESSOR'S PARCEL NUMBER 595-172-04
 THROUGH -07

Surrounding Land Use:

NORTH: EXISTING COMMERCIAL AND OFFICE DEVELOPMENT
SOUTH: LUPINE DRIVE, VACANT LANDS
WEST: EXISTING COMMERCIAL DEVELOPMENT
EAST: VACANT LANDS

Surrounding General Plan Land Use Designations:

NORTH: GENERAL COMMERCIAL
SOUTH: RESIDENTIAL MULTI-FAMILY, 10 UNITS PER ACRE (RM-10)
WEST: GENERAL COMMERCIAL
EAST: OFFICE COMMERCIAL AND RM-10

Existing General Land Use Designation:

OFFICE COMMERCIAL

Division Approvals:

Engineering _____ Building & Safety _____ Public Works _____

Project # CUP 09-07
Project Name LUPINE PLAZA
DATE May 6, 2008 Planning Commission Meeting

Surrounding Zoning Designations:

NORTH: GENERAL COMMERCIAL
SOUTH: RESIDENTIAL MULTI-FAMILY, 10 UNITS PER ACRE (RM-10)
WEST: GENERAL COMMERCIAL
EAST: OFFICE COMMERCIAL AND RM-10

Existing Zoning Designation:

OFFICE COMMERCIAL

Public Notification:

PURSUANT TO SECTION 83.010330, LEGAL NOTICE IS REQUIRED TO BE GIVEN TO ALL PROPERTY OWNERS WITHIN A THREE (300) HUNDRED FOOT RADIUS OF THE EXTERIOR BOUNDARIES OF THE SUBJECT SITE. AS REQUIRED, THIS PROJECT NOTICE WAS MAILED TO ALL PROPERTY OWNERS WITHIN A 300 FOOT RADIUS OF THE PROJECT SITE ON APRIL 23, 2008 AND PUBLISHED ON APRIL 23, 2008. PROPERTY OWNERS WITHIN 300 FEET WERE NOTIFIED. THERE HAS BEEN NO RESPONSE TO THE PUBLIC NOTICE FROM THE PROPERTY OWNERS AT THE WRITING OF THIS STAFF REPORT.

Project # CUP 09-07
Project Name LUPINE PLAZA
DATE May 6, 2008 Planning Commission Meeting

RECOMMENDATIONS:

CONDITIONAL USE PERMIT 09-07: That the Planning Commission approve CUP 09-07, based on the findings and conditions of approval in the staff report.

PROJECT MANAGER: NICOLE SAUVIAT CRISTE

REVIEWED BY: SHANE STUECKLE

Appeal Information:

Actions by the Planning Commission, including any finding that a negative declaration be adopted, may be appealed to the Town Council within 10 calendar days. Appeal filing and processing information may be obtained from the Planning Section of the Community Development Department. Town Staff cannot modify Planning Commission Actions except for substantial conformance determinations.

I. GENERAL INFORMATION

PROJECT DESCRIPTION: The applicant proposes the construction of two office buildings, one of 6,460 square feet, and one of 8,520 square feet, on a 2 acre site.

LOCATION: The parcel is located on the north side of Lupine Drive, approximately 95 feet north of Yucca Trail.

PROJECT SYNOPSIS:

PROJECT AREA
FLOOD ZONE
ALQUIST PRIOLO ZONE

SITE COVERAGE

2 Acres
Zone B
Yes

OFF-SITE IMPROVEMENTS REQ.

Half width of Lupine Drive; and improvements to Alley in rear, both to Town standard.

ON-SITE IMPROVEMENTS REQ.

Yes, on site drainage facilities.

ASSESSMENT DISTRICTS

Yes, street and drainage, landscape and lighting, and public safety assessment districts

RIGHT-OF-WAY DEDICATION REQ.

No

II. PROJECT ANALYSIS

GENERAL PLAN CONSIDERATION: The project is designated Office Commercial in the General Plan, and the applicant proposes the construction of 2 multi-tenant office buildings. The project is therefore consistent with the General Plan.

ENVIRONMENTAL CONSIDERATIONS: The project was reviewed under the California Environmental Quality Act (CEQA) and the Town's Guidelines to Implement same. The Town determined that the proposed project is exempt from CEQA under Guidelines Section 15332, Infill Development.

ADJACENT LAND USES: The site is located in an area which is the Town's central business core. There are existing commercial and office projects on the north and west. Lands to the south and southeast are vacant, and designated for multi-family development.

SITE CHARACTERISTICS: The site is flat and currently vacant. A number of paths or trails have been cut through the site as a result of off road and pedestrian use of the property.

BUILDING ELEVATIONS: The Applicant proposes a contemporary architectural style, discussed further below.

ON-SITE IMPROVEMENTS: The project will be required to retain the 100 year storm on site.

OFF-SITE IMPROVEMENTS: Conditions of approval include the half width improvement of Lupine Drive for the entire frontage of the project site, and the improvement of the Alley to the north and west. Both are conditioned to meet Town standards.

MAINTENANCE ASSESSMENT DISTRICTS: The approval is the project includes the requirement to form maintenance assessment district(s) for the purpose of maintaining such public improvements as pavement, drainage facilities, curb and gutter, sidewalk, landscaping, lighting, and other public improvements. In the case of this project, the maintenance district would include Lupine Drive, the Alley and other public improvements.

DISCUSSION: The proposed land use is a general office building. The project is located in a primarily office and commercial area of Town. The land uses proposed are consistent with the land uses contemplated in the General Plan, permitted in the Development Code, and currently existing in the area. The Conditional Use Permit findings can therefore be supported.

The site is located within an Alquist-Priolo Earthquake Fault Zone. The applicant contracted for extensive trenching on the property, and received approval of the investigation from the County Geologist. There is no fault on the site, although faulting does occur immediately east of the site.

The property currently consists of four small lots. The project is conditioned to merge lots if building structures cross existing lot lines (they currently do not); and to provide cross lot easements for access and parking if the lots are not merged. The property is also irregular in shape, making site planning challenging. The applicant has worked diligently to address staff issues associated with these challenges, and has submitted a plan for a unified site which will result in two office buildings with a centralized parking area.

Building A, located in the south end of the parcel, will be 6,460 square feet, and single story. Building B is proposed for the northern end of the site, will be 8,520 square feet, and will also be single story. The mass of the buildings will be 17 feet in height, with the central entry extending to 23'4" in height. The architectural style is contemporary, but reminiscent of southwestern styles. Windows will be covered by galvanized steel awnings, on stucco walls. The entry of each building will be finished with a stone veneer, which is proposed to extend around the base of the building. Finally, the "fins" or separators that extend to 18 feet in height at regular intervals in each building will also be of galvanized steel. The architecture is finished on all sides, so that an attractive view will be seen no matter the perspective.

A drought tolerant landscape palette has been selected for the project. The palette, however, does not include the relocation of any of the Joshua trees which currently occur on site. Although there are not many (23 shown on the grading plan) on the site, the Town's policies, and Native Plant Protection Ordinance, require their preservation or relocation wherever possible. A condition of approval is included which requires that as many Joshua trees as possible be translocated in the landscaping plan.

Between the two buildings will be a central common parking area, which will accommodate 63 parking spaces. For a total of 14,980 square feet of general office space, the project site requires 60 parking spaces. As the Planning Commission is aware, general or professional offices require less parking than medical or dental offices. Because the site does not

have room to accommodate additional parking, a condition of approval has been included which prohibits medical or dental offices within the project. A three foot wall is proposed along the Alley to screen parking. On the Lupine Drive side, a landscaped area is proposed. Trash enclosures are proposed adjacent to each of the buildings.

The primary access to the site will be from a central driveway located on Lupine Drive. Secondary access will also be available from the Alley, at the north and south ends of the site,. However, the applicant has configured all parking stall against the alley to face inward, so that no direct backing of vehicles will occur here. The Alley will be improved to Town standards, and improvements on the north half of the Alley will be shared with the Courtyard Commercial project, which was recently approved by the Commission.

As required by the Town, the applicant is required to underground utilities on or within 10 feet of the project site. The utility poles located on the west side of the Alley are outside that distance, and therefore are not required to be undergrounded. However, poles located on the south and north boundary are conditioned to be undergrounded prior to of pre-final building inspection. This includes the poles which occurs at the midpoint of the project at the post office, and the existing service on the northern line. The applicant has agreed to underground the poles on the north, and the service from the post office pole to the east, under Lupine to the single family home, but has expressed concern about undergrounding the utilities from the post office pole to the west, and may wish to address the Commission on the issue of a waiver.

FINDINGS:

1. The site for the proposed office complex is adequate in size and shape to accommodate the proposed use and all yards, open spaces, setbacks, walls and fences, parking areas, landscaping and other features pertaining to the application.
2. The site for the proposed use has adequate access, insofar as Lupine Drive is a local Town street with access for the property.
3. The proposed use will not have a substantial adverse effect on abutting property or the permitted use thereof, insofar as it is consistent with the Office Commercial land uses existing and potentially occurring in the area. In addition, the use will not substantially interfere with the present or future ability to use solar energy systems.

Project # CUP 09-07

Project Name LUPINE PLAZA

DATE May 6, 2008 Planning Commission Meeting

4. The proposed use is consistent with the goals, policies, standards and maps of the General Plan, insofar as the General Plan specifically lists general or professional offices as appropriate in the Office Commercial land use designation.
5. The conditions stated in the approval are deemed necessary to protect the public health, safety and general welfare.
6. The design of the site has considered the potential for the use of solar energy systems and passive or natural heating and cooling opportunities.

Attachments:

1. Standard Exhibits
2. Application materials
3. Site Plan
4. Grading Plan
5. Black and White Elevations (24x36)
6. Color Elevations (8x11)
7. Landscaping Plan

CONDITIONS OF APPROVAL
Conditional Use Permit 09-07 – Lupine Plaza

This approval is for Conditional Use Permit 09-07, an application to allow the development of two single story office buildings, one of 6,460 square feet and one of 8,520 square feet, on a two acre parcel. The property is identified as Assessor Parcel Number 595-172-04, -05, -06, &-07.

1. The Applicant/owner shall agree to defend at his sole expense any action brought against the Town, its agents, officers, or employees, because of the issuance of such approval, or in the alternative, to relinquish such approval, in compliance with the Town of Yucca Valley Development Code. The Applicant shall reimburse the Town, its agents, officers, or employees for any court costs, and attorney's fees which the Town, its agents, officers or employees may be required by a court to pay as a result of such action. The Town may, at its sole discretion, participate at its own expense in the defense of any such action but such participation shall not relieve Applicant of his obligations under this condition.
2. This Conditional Use Permit shall become null and void if substantial construction has not occurred within two (2) years of the Town of Yucca Valley date of approval. Extensions of time may be granted by the Planning Commission and/or Town Council, in conformance with the Town of Yucca Valley Development Code. The Applicant is responsible for the initiation of an extension request.

Approval date: May 6, 2008
Expiration date: May 6, 2010

3. The Applicant/owner shall ascertain and comply with requirements of all State, County, Town and local agencies as are applicable to the project area. These include, but are not limited to, Environmental Health Services, Transportation/Flood Control, Fire Department, Building and Safety, State Fire Marshal, Caltrans, High Desert Water District, Airport Land Use Commission, California Regional Water Quality Control Board, the Federal Emergency Management Agency, MDAQMD-Mojave Desert Air Quality Management District, Community Development, Engineering, and all other Town Departments.
4. All conditions are continuing conditions. Failure of the Applicant to comply with any or all of said conditions at any time shall result in the revocation of the approval on the property.
5. After final plan check by the Town, original mylars (4 mil) shall be submitted to the Town for signature by the Town Engineer. All original mylars submitted for Town

Engineer's signature must contain the design engineer's wet signature and stamp and all other required signatures.

6. An exterior lighting plan, in conformance with Town Outdoor Lighting Ordinance, and including a photometric plan, shall be submitted to the Town for approval prior to the issuance of building permits.
7. The Applicant shall pay all fees charged by the Town as required for processing, plan checking, construction and/or electrical inspection. The fee amounts shall be those which are applicable and in effect at the time the work is undertaken and accomplished.
8. All improvements shall be inspected by the Town's Building and Safety Division, as appropriate. Any work completed without proper inspection may be subject to removal and replacement under proper inspection.
9. Site shall be kept clean at all times. Scrap materials shall be consolidated, and a container must be provided to contain trash that can be carried away by wind.
10. At the time of permit issuance the Applicant shall be responsible for the payment of fees associated with electronic file storage of documents.
11. The Applicant shall pay Development Impact Fees in place at the time of pre-final inspection.
12. A plan identifying all protected plants as well as a Joshua Tree Relocation Plan with any area proposed to be disturbed in accordance with the Town's Native Plant Protection Ordinance shall be submitted for approval prior to issuance of grading permits for the project. A minimum 60 day adoption period before land disturbance in accordance with the grading plan may commence.
13. An irrigation system shall be installed in the landscaping areas around the project site, with an electric timer.
14. A final landscaping and irrigation plan shall be submitted to the Town for review and approval.
15. Prior to the delivery of combustible materials, the following items shall be accepted as complete:
 - a) The water system is functional from the source of water past the lots on which permits are being requested (i.e. All services are installed, valves are functional and accessible, etc.); and

- b) Fire hydrants are accepted by the Fire Marshal and the Department of Public Works.
16. In conjunction with the preparation of improvement plans, the Applicant shall cause to be formed or shall not protest the formation of a maintenance district(s) for landscape, lighting, streets, drainage facilities or other infrastructure as required by the Town. The Applicant shall initiate the maintenance and benefit assessment district(s) formation by submitting a landowner petition and consent form (provided by the Town of Yucca Valley) and deposit necessary fees concurrent with application for street and grading plan review and approval and said maintenance and benefit assessment district(s) shall be established concurrent with the approval of the final map in the case of subdivision of land, or prior to issuance of any certificate of occupancy where there is no subdivision of land.
 17. The Applicant shall form a public safety assessment district on the properties subject to Town Council adoption of a fiscal impact model.
 18. Utility undergrounding shall be required for all new service and distribution lines that provide direct service to the property being developed; existing service and distribution lines that are located within the boundaries being developed that provide direct service to the property being developed; existing service and distribution lines between the street frontage property line and the centerline of the adjacent streets of the property that provide direct service to the property being developed ; existing Service and Distribution lines located along or within 10 feet of the lot lines of the property that provide direct service to the property being developed; or existing service and distribution lines being relocated as a result of a project.
 19. **The final landscaping plan shall be amended to include as many Joshua trees as possible from the site, based on the native plant survey required above.**
 20. **Unless additional parking can be provided, medical and dental office uses are prohibited in the project.**
 21. **Construct curb and gutter and sidewalk 20 feet from centerline on Lupine Drive per Town of Yucca Valley Standard Drawing 102 and 220. The existing pavement on Lupine Drive shall be removed and replaced to centerline.**
 22. **Construct alley improvements per Town of Yucca Valley Standard Drawing 231 along the rear of the project. Alley improvements shall include new A.C. pavement and ribbon gutter.**
 23. **Install one street light at the project entrance on Lupine Drive per Town of Yucca Valley Standard Drawing 302.**

24. **If any buildings are proposed to cross existing property lines a lot line adjustment or parcel merger shall be submitted to the Town for approval.**
25. **If the lots are not merged, cross lot easements for access and parking shall be recorded on each lot.**
26. During construction, the Contractor shall be responsible to sweep public paved roads adjacent to the project as necessary and as requested by the Town staff to eliminate any site related dirt and debris within the roadways. During his business activities, the Applicant shall keep the public right-of-way adjacent to his property in a clean and sanitary condition.
27. No staging of construction equipment or parking of worker's vehicles shall be allowed within the public right-of-way.
28. Prior to the issuance of a Grading Permit for the onsite paved areas, a Grading Plan prepared by a recognized professional Civil Engineer shall be submitted, and the corresponding fees shall be paid to the Town prior to any grading activity. The final Grading Plan shall be reviewed and approved by the Engineering Division prior to issuance of grading permits. The applicant/owner is responsible for all fees incurred by the Town. Prior to Certificate of Occupancy, the Engineer-of-Record shall survey and certify that the site grading was completed in substantial conformance with the approved Grading Plans.
29. Prior to the issuance of Permits, the Applicant shall comply with the recommendations of a site-specific Geotechnical and Soils Report which shall be reviewed and subject to Town approval. The report shall include recommendations for any onsite and offsite grading, foundations, compaction, structures, drainage, and existence of fault zones. It shall include recommendations for retention basins, slope stability and erosion control.
30. All recommended approved measures identified in the Soils Report shall be incorporated into the project design.
31. Developer shall comply with NPDES requirements as applicable. The Applicant shall install devices on his property to keep erodible material, rocks, and gravel on the site. To eliminate any site related dirt and debris within the roadways, the Applicant shall be responsible to sweep public paved roads adjacent to the project as necessary and as requested by the Town Staff. It is recommended that the paved entranceway be extended to the south end of the truck scale.
32. The development of the property shall be in conformance with FEMA and the Town's Floodplain Management Ordinance requirements. Adequate provision shall be made to

intercept and conduct the existing tributary drainage flows around or through the site in a manner that will not adversely affect adjacent or downstream properties at the time the site is developed.

33. The Applicant shall be required to retain the incremental increase of water from improved surfaces, including but not limited the roof and any paved areas. A licensed Engineer shall submit a report which provides this information to the Town prior to occupancy. Prior to issuance of a Building Permit, a final Drainage Report shall be submitted that provides the following information:
 - a. A final drainage map of the property's tributary area, volume of property run-off, and location of drainage "pick-up" points. The project shall detain the required incremental increase in runoff generated by the improvements and conforming to the San Bernardino County Hydrology Manual.
 - b. Show how the drainage will be handled on the site and how the storm water will reach the retention basin **or underground storage system**. No runoff from one property is to enter adjacent property without an easement.
 - c. The retention basin **or underground storage system** will require ongoing maintenance by the Owner.

34. Any grading or drainage onto private off-site or adjacent property shall require a written permission to grade and/or a permission to drain letter from the affected property owner. **The final grading plans shall show how the drainage in the alley will drain. If required by the Town Engineer a drainage acceptance letter from the downstream property owner shall be obtained.**

35. No on-site or off-site work shall commence without obtaining the appropriate permits for the work involved from the Town. The approved permits shall be readily available on the job-site for inspection by the Town personnel.

36. All grading activities shall minimize dust through compliance with AQMD Rule 403.

37. Prior to any work being performed in the public right-of-way, fees shall be paid and an encroachment permit shall be obtained from the Town. The Applicant shall apply for an encroachment permit from the Town for utility trenching, utility connection, or any other encroachment onto public right-of-way. The Applicant shall be responsible for the associated costs and arrangements with each public utility.

PRIOR TO ISSUANCE OF A CERTIFICATE OF OCCUPANCY

38. The Applicant shall restore any pavement cuts required for installation or extension of utilities for his project within the public right-of-way. In all cases where cuts are allowed, the Applicant is required to patch the cuts to Town standards and the approval of the Town Engineer. The patching shall include a grinding of the pavement to a width 4 feet

- beyond the edge of the trench on each side, or as determined by the Town Engineer, and replacement with a full-depth asphalt concrete recommended by the Soils Engineer.
39. The retention basin or **underground storage system** shall be constructed and functional prior to the issuance of certificate of occupancy for the project.
 40. The Applicant shall submit written proof to the Building Official that the Applicant has complied with all conditions of approval or comments, as required, from the High Desert Water District, and Colorado Regional Water Quality Control Board. Applicant shall comply with applicable requirements of NPDES (Non-Point Pollution Discharge Elimination System).
 41. The Applicant shall construct the replacement of any identified damaged curb and gutter, sidewalk, drive approach, asphalt concrete pavement, meter boxes, and other infrastructure that may be required by the Town Engineer or another Agency.
 42. The Applicant shall install all water and sewer systems required to serve the project. **The location of the proposed septic system(s) shall be shown on the project grading plan.**
 43. Prior to the issuance of a Certificate of Occupancy all improvements shall be constructed, final inspection performed, punch-list items completed, and all installations approved by the appropriate agency.
 44. All existing street and property monuments within or abutting this project site shall be preserved consistent with AB 1414. If during construction of onsite or offsite improvements monuments are damaged or destroyed, the Applicant/ Developer shall retain a qualified licensed land surveyor or civil Engineer to reset those monuments per Town Standards and file the necessary information with the County Recorder's office as required by law (AB 1414).
 45. The Developer and his Contractor(s) shall observe the construction of this project to make certain that no damage or potential for damage occurs to adjacent roadway, existing improvements, adjacent property and other infrastructure. The Developer shall be responsible for the repair of any damage occurring to offsite infrastructure and/or property damage as determined by the Town Engineer. The Developer shall repair any such damage prior to certificate of occupancy. If the damage is such that it is not repairable within a reasonable amount of time as determined by the Town Engineer, the Developer may petition the Town Engineer for additional conditions that may allow him the time, amount of surety and other requirements to repair the damage.
 46. The Developer and his Contractor(s) shall be responsible for all improvements that he has constructed within the public right-of-way as required by the conditions of approval. The improvements shall be constructed to the standards and requirements as determined and

approved by the Town Engineer. Any improvements not considered to be to the required standards shall be replaced by the Developer. The Developer shall be required to maintain and repair those improvements prior to and after acceptance by the Town Council for the length of time required by the applicable conditions, standards and ordinances.

47. The septic system shall be maintained so as not to create a public nuisance and shall be serviced by a DEHS permitted pumper. Soil testing for the subsurface disposal system shall meet the requirements of the Department of Environmental Health Services. Applicant shall submit a minimum of three (3) copies of percolation reports for the project site and an appropriate fee to DEHS for review and approval, a copy of the cover sheet with an approval stamp to Building and Safety Division at the time of building permit application, and two (2) copies of the approved percolation report to the Building and Safety Division at the time of construction plan check.
48. All exterior lighting shall comply with the Outdoor Lighting Ordinance and shall be illustrated on all construction plans.
49. Prior to Certificate of Occupancy, the Applicant shall cause the beginning of proceedings or shall not protest the formation of a maintenance district(s) for landscape, lighting, streets, drainage facilities and/or other infrastructure as required by the Town.
50. The Applicant shall record a non-opposition agreement to the future formation of a public safety assessment district on the property.
51. The Applicant shall pay Development Impact Fees in place at the time of issuance of Building Permits.

I HEREBY CERTIFY THAT THE APPROVED CONDITIONS OF APPROVAL WILL BE SATISFIED PRIOR TO OR AT THE TIMEFRAMES SPECIFIED AS SHOWN ABOVE. I UNDERSTAND THAT FAILURE TO SATISFY ANY ONE OF THESE CONDITIONS WILL PROHIBIT THE ISSUANCE OF ANY PERMIT OR ANY FINAL MAP APPROVAL.

Applicant's Signature _____ Date _____

This project without the wall, due to the orientation of the houses, leaves it open for a mixture of rear yard fencing and the aesthetics along Acoma will be destroyed. The block wall will provide continuity. Also, no one will be able to back out onto Acoma Dr. Given that the land owners have some development rights and they have attempted to do it in accordance with the General Plan and the Development Code, he has a couple of apprehensions. The Commission asked the developer three times to provide some means and alternatives to this project. None were forthcoming. In accordance with the Native Plant ordinance, a development must take into account and try to preserve native plants in their present location. When you have over 1,200 trees on a property and not one is going to be maintained in its present location that is out of compliance with the ordinance. For that sole instance he would not vote for approval of the project.

Mr. Willman agreed with Mr. Huntington in that the Commission asked the applicant three times to come back with alternatives. Not once did the applicant do that. These 3 properties are very dense with native plants and trees and not one is going to remain in its native habitat. It is a pristine area and one of the most beautiful corridors in Town. He would vote for denial.

Mr. McKoy commented the applicants have been put through hoops, been to several meetings and have accommodated what the Commission has asked them to do. He is asking himself if the applicant was led down the wrong path in doing that. He would vote for approval.

Mr. Goodpaster stated he would be in favor of approving the project. This applicant brought forth a native plant plan which is not required anywhere in the ordinance. Something else to be acknowledged is that proper curb, gutters and drainage could not be accomplished if this project were just made consistent with the other communities in the area. This is the only way to properly grade these parcels to be consistent with the zoning and all the requirements. This body does not make policy and policy making issues have been raised tonight. The policy making body is the Town Council. The Planning Commission is the instrument of that policy. Based on that, he is in favor of the project.

Mr. Lombardo stated he does not feel that the Commission has seen alternatives or best efforts. There has to be some way to mitigate for aesthetics and the native plant problems. The buffer zone was a good alternative and was never looked at. He would like to see pad grading to leave the vegetation as natural as possible. He would deny the project.

Mr. Huntington moved that the Planning Commission adopt the Mitigated Negative Declaration for EA 17-05 and deny Tentative Tract Maps 13738 and 17379 based on the findings contained within the staff report finding that the project does not comply with Ordinance 140. The motion was seconded by Mr. Willman and passed by voice vote of 3 to 2. Mr. McKoy and Mr. Goodpaster voted no.

Mr. McKoy recessed the meeting at 8:45 p.m. and reconvened the meeting at 8:55 p.m.

3. CONDITIONAL USE PERMIT 09-07 – LUPINE PLAZA ENVIRONMENTAL ASSESSMENT EA 22-07

A request to allow the construction of two office buildings, one of 6,460 square feet, and one of 8,520 square feet, on a 2 acre parcel located on the north side of Lupine Drive, approximately 95 feet north of Yucca Trail, and identified as APN's 595-172-04 through -07

With reference to the complete printed staff report provided in the meeting packets and preserved in the project and meeting files, Contract Planner Nicole Criste presented the project discussion to the meeting. Ms. Criste stated the existing zoning is commercial, the site backs onto an alley and the project is conditioned to improve the alley and Lupine Dr. to Town standards. The project is located on 4 small lots, none of the buildings will cross a lot boundary and the project is conditioned to have cross lot parking and access easements recorded so no one lot can block parking or access to any other lot.

Both buildings are proposed to be single story and the mass of the buildings is proposed to be 17 feet which is consistent with the design guidelines. The entry accesses are 23.4 feet wide. The architecture is contemporary southwestern in style with interesting finishes. The entryway will have a covered portico area. Awnings will be installed on the windows. The architecture is detailed and interesting on all sides of the buildings. Drought tolerant landscaping is proposed but it does not currently include the Joshua Trees on the property. A condition has been added to incorporate the Joshua Trees into the landscape plan.

For the total square footage, 60 parking places are required and 63 are proposed. No specific tenants have been identified to staff; however, the project is conditioned to prohibit medical uses which have a higher parking requirement unless the applicant can demonstrate that additional parking can be provided.

Extensive fault trenching was conducted and no faults were found on site. Parking is oriented within the site so parking along the alley will not back onto the alley. There are two access points from the alley and one central driveway from Lupine Dr. The applicant is required to underground the utilities. The utilities extend on the north and south sides of the property. The applicant has begun conversations with Edison and there are issues with a portion of the undergrounding at the SW portion of the site. The applicant may request a waiver of the ordinance because of those issues. If the applicant is persuasive the COA for undergrounding will need to be amended. The project was reviewed under CEQA and was determined to be exempt under the in-fill provisions for a property of less than 5 acres. Staff recommends approval of the CUP.

Mr. Goodpaster questioned the 4 lots not being combined into 1 lot and the sufficiency of the access easement.

Ms. Criste replied as long as the structures don't cross lot lines the access and parking easements are recorded against all of the properties and is a formal document.

Mr. Goodpaster asked if the awnings are solid or perforated in some manner. Ms. Criste replied they appear to be shadowed in some manner and suggested he ask the applicant.

Mr. Goodpaster commented, on the plot plan, it looks as if both of the buildings cross into the set-backs. Ms. Criste commented the commercial zoning allows zero lot line development unless it is adjacent to residential areas so there is no problem with the Development Code.

Mr. Lombardo questioned the access from Lupine Dr. and was informed that it is a 2-way access point. He questioned the underground water storage and was informed that it is storm run-off which is retained there until it seeps into the ground and that solids are removed periodically.

Mr. Willman requested and received confirmation that the existing wall on the south of the project is the Post Office wall. He asked if the recently approved westerly adjoining project will also make improvements or are the improvements collective between these two projects.

Ms. Criste replied they would be done collectively if the development occurs simultaneously. They can be done separately if the two property owners agreed together to do that.

Mr. Huntington noted that the last sentence of COA #31 on page 268 is irrelevant to this project and should be deleted. Ms. Criste agreed and requested that it be amended in the motion, should the Commission act to approve the project.

Mr. McKoy opened the public hearing.

Applicant Larry Fluet of Yucca Valley stated all of the easements necessary to underground utilities already exist. The issue he has is two-fold, one of which is with the water district and the 4 inch water line currently in Lupine Dr. He will have to replace that water main from Yucca Trail to the edge of his last lot. That is a major cost. Because of that cost he has a major problem with the undergrounding. The pole directly west of lot 102, according to Edison, is full and nothing else can be added to it. He would have to go across the alley and then underground behind the Post Office to reconnect to the pole on the east side of Lupine Dr. In order to do that he would have to provide temporary service, probably with a generator, and possibly disrupt service to the Post Office which is 3 phase electrical while a manhole was installed. That would be a major inconvenience to the Post Office and cost to him. The expense of the water main installation and undergrounding all utility lines would make the project infeasible. He proposes that he underground all utilities except those on the south side at the back of the Post Office. He will install the conduit underground for future undergrounding when adjacent properties are developed but the wires in that area would stay above ground on the existing poles. The service drop will be underground.

Mr. Huntington commented he looked at the power situation there and it's a mess with lines that jog, go under a wall and cross at odd angles. He appreciates the problem.

Mr. Goodpaster asked if the awnings are open or solid.

Project architect Robert Carter stated the awnings are perforated metal shade material which blocks the sun but allows water through. Regarding medical usages and parking requirements, they have not integrated any compact spaces into the parking plan. That

inclusion would increase the total number of spaces. The setback lines were included on the plans as a drafting point of reference only.

Mr. McKoy closed the public hearing.

MS. Criste commented that if the Commission is inclined to modify COA #18 staff would propose that the condition read:

Undergrounding shall be required on the north property line. The applicant shall install conduit from the Post Office pole easterly but not drop the line. The service drop to Building A shall be underground. The applicant shall participate in his fair share for future undergrounding of the utility lines on the south property line.

Mr. Willman commented the project is well thought-out with pleasing architecture and aesthetics. He would like to see the Joshua Trees put back on the property pursuant to the COA.

Mr. Lombardo agreed that it is a beautifully designed project stating the applicant said the buildings were designed to keep the Joshua Trees in place. It is important that the lighting be appropriate and it seems to be well designed with nice looking fixtures. It's a good project.

Mr. Goodpaster commented it is a wonderfully designed project and will do wonders for that street and the area.

Mr. Huntington stated he is in favor of modifying COA #18 as stated above.

Mr. McKoy commented this project is a rose and we need more like it.

Mr. Willman moved that the Planning Commission approve CUP 09-07, based on the findings and conditions of approval in the staff report as amended, with the deletion of the last sentence in COA #31. The motion was seconded by Mr. Lombardo and passed unanimously by voice vote.

DISCUSSION ITEMS: None

4. CONSENT AGENDA: MINUTES –

Mr. Goodpaster moved that the Planning Commission approve as submitted the minutes of the Regular Planning Commission Meeting held on March 18, 2008. The motion was seconded by Mr. Lombardo and passed unanimously by voice vote.

Mr. Willman moved that the Planning Commission approve as submitted the minutes of the Special Planning Commission meeting held on April 8, 2008. The motion was seconded by Mr. Goodpaster and passed unanimously by voice vote.

STAFF REPORTS AND COMMENTS:

**TOWN OF YUCCA VALLEY
PLANNING COMMISSION MEETING MINUTES**

MAY 25, 2010

Chair Lombardo called the regular meeting of the Yucca Valley Planning Commission to order at 7:00 p.m.

Commissioners present: Chair Robert Lombardo, Commissioners Mike Alberg, Tim Humphreville and Dawn Rowe.

Chairman Lombardo led the Pledge of Allegiance.

APPROVAL OF AGENDA:

Mr. Alberg moved that the Agenda be approved, which motion was seconded by Ms. Rowe and passed unanimously by voice vote.

PUBLIC COMMENTS:

Margo Sturges of Yucca Valley commented on the lack of an audio tape from the previous Planning Commission meeting and requested that the meetings be videotaped. She also requested that the Commissioners be given an update on the Burrtec project.

PUBLIC HEARINGS: None

DISCUSSION ITEMS:

**1. CONDITIONAL USE PERMIT CUP 09-07 LUPINE PLAZA
EXTENSION OF TIME**

A request for a 4 year extension of time until May 6, 2014 pursuant to Development Code Section 83.010350 for the original project to allow the construction of two office buildings, one of 6,460 square feet and one of 8,520 square feet on a two acre parcel. The project is located on the north side of Lupine Dr, approximately 95 feet north of Yucca Trail and is identified as APN's 595-172-01 thru 07.

With reference to the complete printed staff report provided in the meeting packets and preserved in the project and meeting files, Deputy Town Manager Shane Stueckle presented the project discussion to the meeting. The original project was approved by the Planning Commission at their meeting of May 06, 2008. At that meeting the project was approved for two years, expiring on May 06, 2010. The Development Code allows for a total time period of 6 years, including the original approval and one extension. Staff recommends that the Planning Commission approves the Extension of Time request for 4 years, expiring May 06, 2014.

Mr. Lombardo opened the discussion to public comments. There being no one wishing to comment on the item, Mr. Lombardo closed the discussion to public comments.

Ms. Rowe moved that Conditional Use Permit CUP 09-07 extension of time be approved. The motion was seconded by Mr. Humphreville and passed unanimously by voice vote.

2. CONDITIONAL USE PERMIT CUP 02-04 SUPER WAL-MART EXTENSION OF TIME

A request for a 4 year extension of time until June 25, 2014 pursuant to Development Code Section 83.010350 for the original project to develop a Super Wal-Mart of 184,146 square feet, and two pads allowing 3,500 square feet of retail use and 4,000 square feet of fast food restaurant use on a 28 acre parcel. The southeast corner of Highway 62 and Avalon Ave. and identified as APN 601-201-37.

With reference to the complete printed staff report provided in the meeting packets and preserved in the project and meeting files, Deputy Town Manager Shane Stueckle presented the project discussion to the meeting. The project was approved by the Town Council. A request has been filed for an extension of that Conditional Use Permit. The Development Code allows for a maximum of 6 years between the original approval and one extension.

Staff distributed a copy of a letter regarding the "Negotiated Resolution of consolidated Civil Action, Coalition for Environmental Integrity in Yucca Valley, Center for Biological Diversity v. Town of Yucca Valley (San Bernardino County Superior Court, Case No.: CIVSS 810232) Walmart Supercenter, Yucca Valley Retail Specific Plan. The letter states that an agreement has been reach between the parties and as such the Town is not a party to that settlement agreement. We have no more information about what was included in that settlement than the letter.

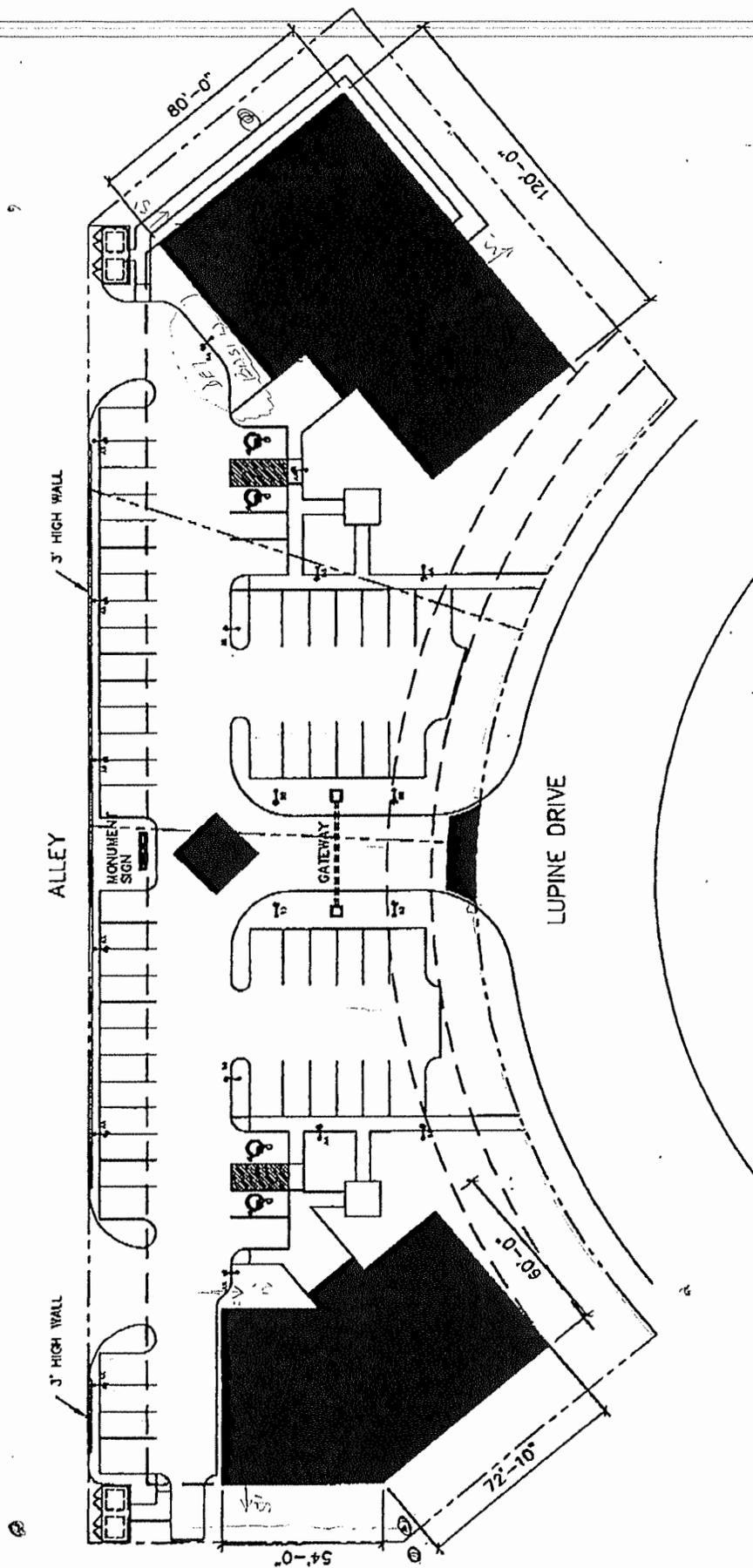
In terms of the administration of the Town's process all Conditional Use Permits are to be treated consistent with each other and the language of the Development Code. The recommendation is that the Planning Commission approves the Extension of Time request for 4 years, expiring June 25, 2014.

Mr. Lombardo opened the discussion to public comments.

David Fick of Joshua Tree, representing the MBCA, stated they are in favor of the motion because they agreed in the settlement not to oppose this. This is honoring the agreement in that they cannot meet their time-line without honoring the initiative.

There being no others wishing to comment on the project, Mr. Lombardo closed the discussion to public comments.

Ms. Rowe moved that the extension of time for Conditional Use Permit CUP 02-04 Super Wal-Mart be approved. The motion was seconded by Mr. Humphreville and passed unanimously by voice vote.



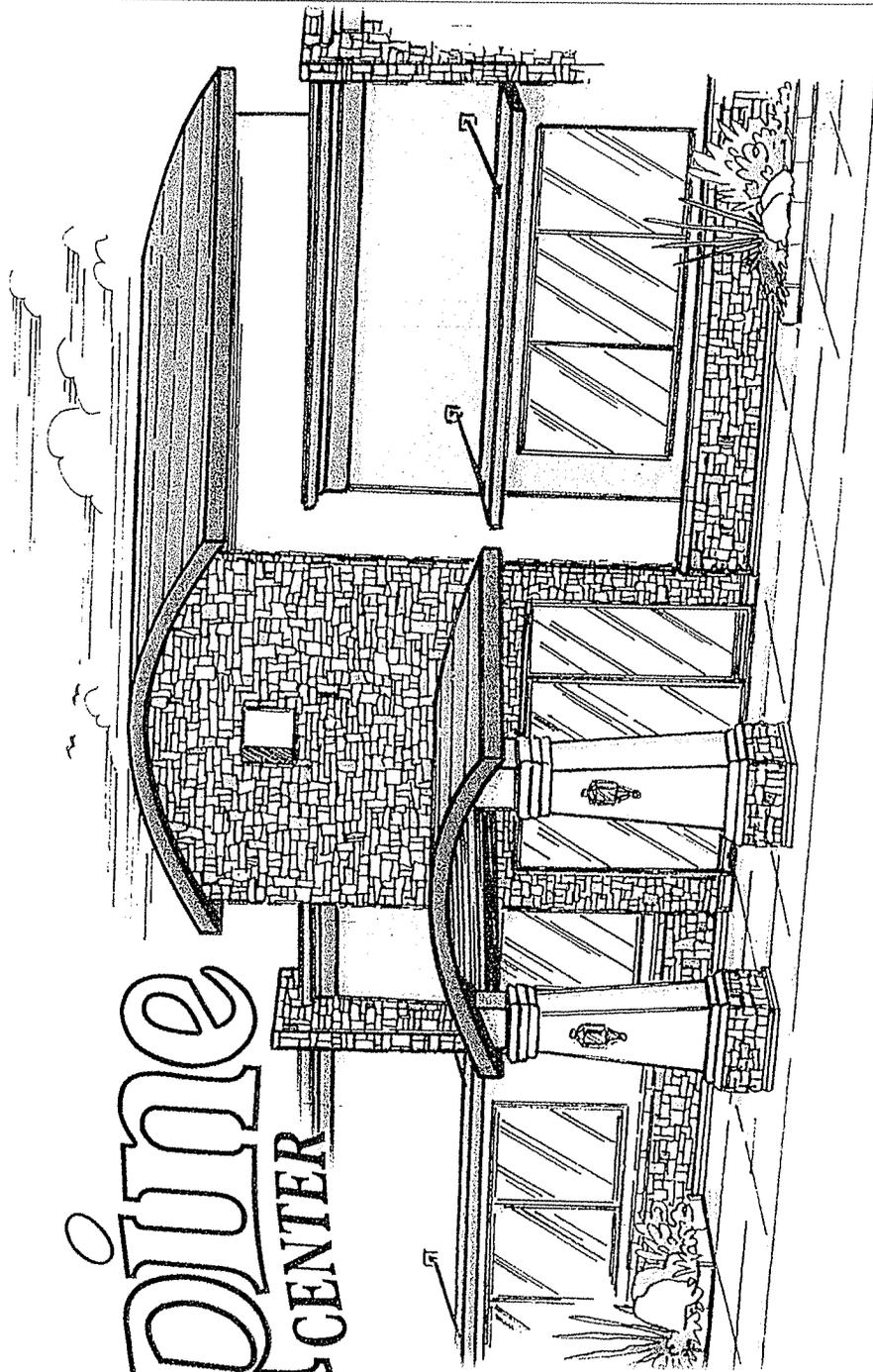
SITE PLAN
 SCALE: 1" = 40'-0"

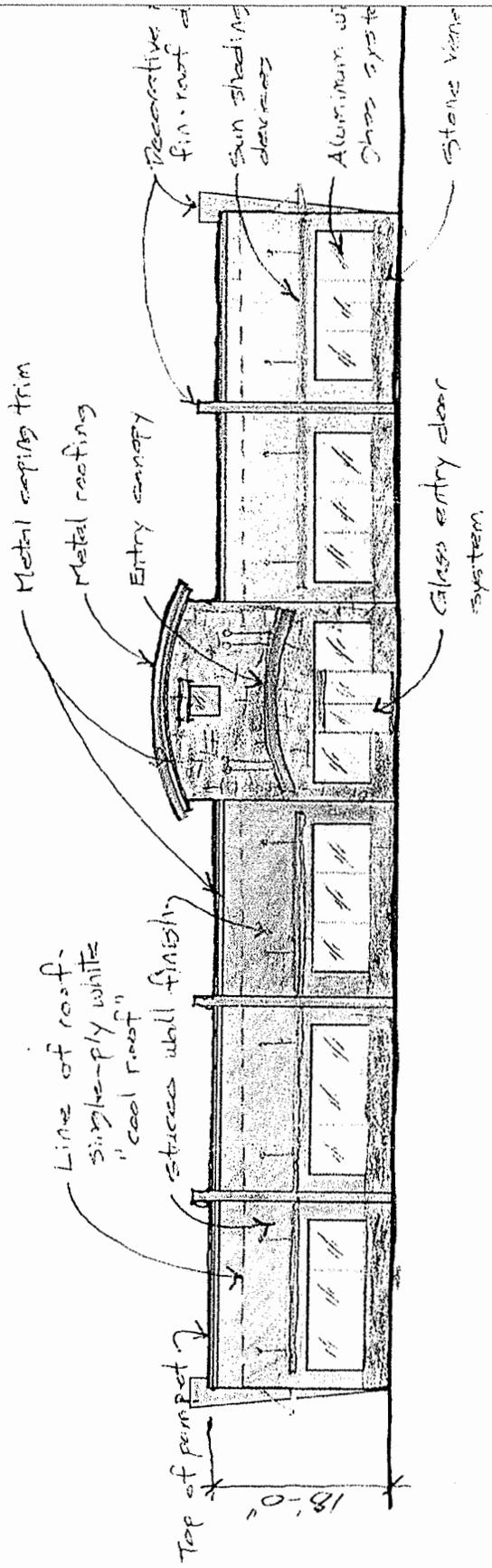
LUPINE PROFESSIONAL CENTER
 YUCCA VALLEY, CA

BUILDING AREA	6,460 SQ. FT.
BUILDING A	8,520 SQ. FT.
BUILDING B	14,980 SQ. FT.
TOTAL	
PARKING	
REQUIRED	60
PROVIDED	64

11/07/07

JUPITER PROFESSIONAL CENTER





Cobor Study
 Preliminary Elevation - Bldg. B
 1/16" = 1'-0" Fluct Commercial 08.15.07

Chapter 9.63 Conditional Use Permit

Sections:

- 9.63.010 – Purpose and General Plan Consistency
- 9.63.020 – Applicability
- 9.63.030 – Authority
- 9.63.040 – Application Submittal Requirements
- 9.63.050 – Application Fee
- 9.63.060 – Investigation and Report
- 9.63.070 – Action by Review Authority
- 9.63.080 – Required Findings
- 9.63.090 – Minor Modifications of Previously Approved Conditional Use Permit
- 9.63.100 – Lapse of Permits/Permit Expiration
- 9.63.110 – Extension of Time
- 9.63.120 – CUP Amendment
- 9.63.130 – CUP Revocation
- 9.63.140 – Development of Property Before Final Decision
- 9.63.150 – Alteration to Nonconforming Use
- 9.63.160 – Surface Mining and Reclamation

9.63.010 – Purpose and General Plan Consistency

The Conditional Use Permit Review procedure allows the Town to evaluate proposed development and determine its consistency with the General Plan, the Development Code and applicable Town ordinances. The Conditional Use Permit Review procedure is intended to protect and enhance the visual appeal, environment, economic stability and property values of the Town's residential, commercial, and industrial areas through the application of the provisions of this Code and the General Plan. Review of such uses is necessary and specific conditions of approval may be necessary to ensure that the uses are developed, operated, and located properly with respect to their effects on surrounding properties and so that any and all potentially adverse impacts are mitigated, and to ensure the general health, safety and welfare of the community through implementation of the General Plan through this Chapter.

9.63.020 – Applicability

- A. All new construction which is listed in the use classification charts for the underlying land use districts that require a Conditional Use Permit Review.
- B. Expansions which exceed the thresholds of Table 4.2 and are permitted subject to a Conditional Use Permit Review as specified in the use classification charts for the underlying land use district shall require a Conditional Use Permit.

TABLE 4.2
CONDITIONAL USE PERMIT
EXPANSION THRESHOLDS

SQUARE FOOTAGE OF EXISTING BUILDING	MAXIMUM SQUARE FOOTAGE	MAXIMUM PERCENTAGE
up to 5,000	1250 sq ft	50%
5,001 – 10,000	2000 sq ft	40%
10,001 +	2500 sq ft	25%

C. Change in use of an existing structure

D. Projects which fall within the thresholds of the Conditional Use Permit shall comply with the General Plan, the Development Code and applicable Town Ordinances and regulations, including but not limited to:

1. Half-width (½) street Improvements (curb, gutter, sidewalk, street lights, and pavement) on all streets fronting the project, except as defined by the parameters of the Council policies regarding Street Reconstruction
2. Onsite water retention of incremental increase
3. Dedication of easements for drainage facilities, streets, trails, avigation easements as required by this code and any adopted plans
4. Improvements to drainage facilities except as defined by the parameters of the Council policies regarding drainage facilities
5. Assessment Districts formation (including Landscape and Lighting, Street and Drainage, Community Facility District, and Public Safety)
6. Utility Undergrounding, pursuant to adopted standards
7. Landscaping and Landscaping Plan regulations (greater than 500 square feet of landscape area requires approval by Hi Desert Water District)
8. Commercial Design Guidelines
9. Outdoor Lighting regulations
10. Parking and screening requirements
11. Sign regulations
12. All other Development Code regulations
13. California Environmental Quality Act (CEQA) and any required mitigation measures

E. Expansions which fall within the thresholds specified in Table 4.2 shall be processed as a Land Use Compliance Review, pursuant to Chapter 9.66.

9.63.030 – Authority

A. Level of Review:

TABLE 4.3
CONDITIONAL USE PERMIT
LEVEL OF REVIEW

APPLICABILITY	LEVEL OF REVIEW	NOTICE REQUIREMENTS
New structures, including accessory structures and uses;	Commission	Public Hearing
Expansion of an existing structure in conformance with Table 4.2;	Director	None
Expansion of an existing structure which exceeds the thresholds in Table 4.2;	Commission	Public Hearing
Conversion of an existing structure (i.e. change in use);	Commission	Public Hearing
Construction or conversion of a structure(s) to allow a mixed-use development.	Commission	Public Hearing

Where the review for a Conditional Use Permit is not specified, the Director shall determine the appropriate review authority.

B Referral to Next Higher Review Authority. ; The Commission may refer an application for a Conditional Use Permit to the Council based upon the following criteria:

1. Impact upon public services and facilities greater than typical for the type of project proposed;
2. Impact upon surrounding properties greater than typical for the type of project proposed;
3. Floor or site square footage greater than typically found in the type of project;
4. Intensity of use greater than typically found in the type of projects;
5. Operating characteristics not typical of the type of project proposed.
6. Other factors including but not limited to public opposition to development of the project.
7. The need for Council interpretation of the General Plan and/or Development Code as related to the project.

C. General Authority. The Commission is authorized to approve, approve with conditions, or deny applications for Conditional Use Permits in compliance with the procedures established in this

Section. In approving an application for a Conditional Use Permit, the Commission may impose conditions to ensure compliance with this Code. Conditions may include, but shall not be limited to:

1. Requirements for special structure setbacks;
2. Open spaces;
3. Buffers;
4. Fences;
5. Walls and screening;
6. Requirements for the installation and maintenance of landscaping and erosion control measures;
7. Control of street improvements, other public infrastructure and related dedications;
8. Control of vehicular ingress and egress;
9. Control of traffic circulation;
10. Control of signs;
11. Control of hours of operation;
12. Control of potential nuisances;
13. Establishing standards for maintenance of buildings and grounds;
14. Establishing development schedules and development standards;
15. Control of periodic review;
16. Control of architectural and/or building design;
17. Any other conditions as may be deemed necessary to ensure the compatibility with surrounding uses, to preserve the public health, safety and welfare, and to enable the Commission to make the findings required by Section 9.63.080, *Required Findings*.

D. Performance Guarantee. In order to ensure implementation of conditions attached to a Conditional Use Permit, the applicant may be required to furnish a surety in a form of an instrument of credit, money or surety bond in the amount fixed by the authority granting or modifying the Conditional Use Permit.

E. Providing Required Improvements. Whenever a Conditional Use Permit is approved or modified subject to the condition that specified public improvements shall be installed by the applicant to meet Town standards and be accepted by the Town, the applicant may be required to

execute an agreement approved by the Town to make such improvements prior to the time/construction events specified in the Conditional Use Permit.

- F. **Conditions Declared Void.** Whenever any final judgment of a court of competent jurisdiction declares one or more of the conditions of a Conditional Use Permit to be unconstitutional or invalid, such decision shall not affect the validity of the approval as a whole, or any portion thereof other than the section so declared
- G. **Violation of Condition.** Whenever a Conditional Use Permit is approved or modified by the Commission subject to a condition(s), non-compliance with such condition(s) shall constitute a violation of this Code. Conditions which are not observed or which are violated may be enforced as provided in Chapter 9.82, *Enforcement and Violations* or said Conditional Use Permit may be revoked or modified under Chapter 9.83, *Permit Amendments* and 9.84, *Permit Revocations*.

9.63.040 – Application Submittal Requirements

Applications for Conditional Use Permits shall be filed on a form prescribed by the Planning Division and shall contain such information and reports as may be required by the application submittal package or by other applicable ordinances or by the Town in order for the Commission to make the required findings.

9.63.050 – Application Fee

The application shall be accompanied by a fee established by resolution of the Council to cover the cost of handling and processing the application as prescribed in this Chapter.

9.63.060 – Investigation and Report

The Director shall cause an analysis of each application for a Conditional Use Permit to be made. The level of detail of the analysis shall be appropriate to the type of project proposed and the needs of the Commission. The analysis shall examine the application's consistency with the content, intent and purpose of the General Plan, the Development Code, and any other applicable Town standards or policies. To insure effective implementation of General Plan policies and the provisions of this Code, applications may be reviewed by the Development Review Committee prior to consideration by the Commission. As a result of the analysis, the Director shall cause a report to be completed which shall include a listing of proposed conditions necessary to guarantee the public health, safety and welfare, should the proposed project be approved.

9.63.070 – Action by Review Authority

Commission Action. Pursuant to Section 9.63.030, *Authority*, the Commission shall review each application for a Conditional Use Permit. The applicant shall be provided with a copy of the Director's report regarding the application prior to the Commission's consideration. The Commission shall approve, deny, or conditionally approve applications for a Conditional Use Permit. Decisions by the Commission shall be final unless appealed as provided in Chapter 9.81, *Appeals*.

9.63.080 – Required Findings

Before approving a Conditional Use Permit, the Town and/or Commission shall find that the circumstances established below apply:

- A. That the location, size, design, density and intensity of the proposed development is consistent with the General Plan, the purpose of the land use district in which the site is located, and the development policies and standards of the Town;
- B. That the location, size, design and architectural design features of the proposed structures and improvements are compatible with the site's natural landform, surrounding sites, structures and streetscapes;
- C. That the proposed development produces compatible transitions in the scale, bulk, coverage, density and character of the development between adjacent land uses;
- D. That the building site and architectural design is accomplished in an energy efficient manner;
- E. That the materials, textures and details of the proposed construction, to the extent feasible, are compatible and consistent with the adjacent and neighboring structures;
- F. That the development proposal does not unnecessarily block views from other buildings or from public ways, or visually dominate its surroundings with respect to mass and scale to an extent unnecessary and inappropriate to the use;
- G. That the amount, location, and design of open space and landscaping conforms to the requirements of the Development Code, enhances the visual appeal and is compatible with the design and functions of the structure(s), site and surrounding area;
- H. That quality in architectural design is maintained in order to enhance the visual desert environment of the Town and to protect the economic value of existing structures;
- I. That there are existing public facilities, services, and utilities available at the appropriate levels and/or that new or expanded facilities, services and utilities shall be required to be installed at the appropriate time to serve the project as they are needed;
- J. That access to the site and circulation on and off-site is required to be safe and convenient for pedestrians, bicyclists, equestrians and motorists;
- K. That traffic generated from the proposed project has been sufficiently addressed and mitigated and will not adversely impact the capacity and physical character of surrounding streets;
- L. That traffic improvements and/or mitigation measures have been applied or required in a manner adequate to maintain a Level of Service C or better on arterial roads, where applicable, and are consistent with the Circulation Element of the Town General Plan;
- M. That there will not be significant harmful effects upon environmental quality and natural resources including endangered, threatened, rare species, their habitat, including but not limited to plants, fish, insects, animals, birds or reptiles;

- N. That there are no other relevant or anticipated negative impacts of the proposed use that cannot be mitigated and reduced to a level of non-significance in conformance with CEQA, the California Environmental Quality Act;
- O. That the impacts which could result from the proposed development, and the proposed location, size, design and operating characteristics of the proposed development, and the conditions under which it would be operated or maintained will not be considered to be detrimental to the public health, safety and welfare of the community or be materially injurious to properties and/or improvements within the immediate vicinity or be contrary to the General Plan; and
- P. That the proposed development will comply with each of the applicable provisions of the Development Code and applicable Town policies, except approved variances.

9.63.090 – Minor Modifications of Previously Approved Conditional Use Permit

An approved Conditional Use Permit may be modified upon the request of the property owner, or by the Town. Minor Modifications may be approved by the Director if it is determined that the changes would not affect the findings prescribed in Section 9.63.080, *Required Findings*, and that the subject of the proposed changes were not items of public controversy during the review and approval of the original permit; including modifications to phasing schedules for the project.

9.63.100 – Lapse of Permits/Permit Expiration

- A. **Expiration.** A Conditional Use Permit approval shall expire three (3) years from the date the permit is approved unless it is otherwise conditioned or unless prior to the expiration of the three (3) years the following have occurred:
 - 1. A building permit is issued and substantial construction is diligently pursued towards completion of the project which was the subject of the Conditional Use Permit application. After construction is commenced, if work is discontinued for a period of two (2) years, the Conditional Use Permit shall require review and reauthorization by the Commission; or
 - 2. A certificate of occupancy is issued for the structure which was the subject of the Conditional Use Permit application.
- B. **Phased Projects.** Projects may be built in phases if so approved by the Commission or Director pursuant to Section 9.63.090, *Minor Modifications of Previously Approved CUP*.

9.63.110 – Extension of Time

The Commission may grant a time extension not to exceed three (3) years. Applications shall be made on a form to be provided by the Planning Division. Prior to the granting of an extension, the Planning Division shall review the previously approved project to ensure it is consistent with all current provisions of the General Plan, Development Code and other Town Ordinances and that the findings for approval of a Conditional Use Permit in compliance with Section 9.63.080, *Required Findings*, can be made. Based upon this review, additional Conditions of Approval may be imposed upon the project by the review authority when the Extension of Time is approved.

The Commission may grant additional extensions of time provided that the project is consistent with the General Plan, Development Code, Master Plans and Specific Plans.

9.63.120 – CUP Amendment

Refer to Article 5, Chapter 9.83 Permit Amendments.

9.63.130 – CUP Revocation

Refer to Article 5, Chapter 9.84 Permit Revocations.

9.63.140 – Development of Property Before Final Decision

A building permit shall not be issued for, and no person shall commence to use, any structure until that structure and its accompanying development has received a Conditional Use Permit in compliance with the provisions of this Chapter. In addition, no other permits shall be issued for any use or structure requiring a Conditional Use Permit unless and until the Conditional Use Permit has been approved.

9.63.150 – Alteration to Nonconforming Use

- | | | |
|-----------|----------------------|------------------------------|
| A. | Procedure: | Administrative Review |
| | Reviewing Authority: | Director |

The Director shall review and act upon requests to alter nonconforming uses.

- B.** An existing nonconforming use may be altered to accommodate a new structure or accessory use, except where it is an existing nonconforming use of land with no structure thereon.
- C. Findings.** Before any modification in a nonconforming use may be granted, it shall be found that all of the following conditions shall exist in reference to the alteration being considered:
1. The remaining normal life of the existing nonconforming use shall be determined pursuant to provisions specified in this Code prior to consideration of the proposed alteration if in a residential district.
 2. The proposed alteration shall not prolong the normal life of the existing nonconforming use.

3. The alteration of the existing nonconforming use shall not be detrimental to nor prevent the attainment of objectives, policies, general land use and programs specified in the Town General Plan.
4. The granting of permission to alter the nonconforming use shall not be substantially detrimental to the public health, safety or welfare, or injurious to the property or improvements in the vicinity and district in which the use is located.
5. The alteration shall not change the primary use of the land nor increase the intensity of that use.
6. The existing nonconforming use shall comply with all other existing regulations.
7. Any alteration required by governmental or court action shall be exempt from these conditions.

9.63.160 – Surface Mining and Reclamation

State law requires a public hearing review for the Surface Mining and Reclamation process. The Mining and Land Reclamation Plan Application combine a Conditional Use Permit and Reclamation Plan into one application.

Planning Commission: August 12, 2014
TOWN OF YUCCA VALLEY
COMMUNITY DEVELOPMENT DEPARTMENT
PLANNING DIVISION STAFF REPORT
BILLINGS TRANSFER

Case: ENVIRONMENTAL ASSESSMENT, EA 01-13
SITE PLAN REVIEW, SPR 01-13 BILLINGS TRANSFER
THE PROJECT IS EXEMPT FROM CEQA UNDER SECTION 15301,
EXISTING FACILITIES.

Request: PROPOSAL TO ESTABLISH A ROCK, GRAVEL AND SAND YARD, TO
INCLUDE 21 BINS FOR THE STORAGE AND DISPLAY OF MATERIAL,
5 PAVED AND 5 UNPAVED PARKING SPACES AND LANDSCAPING.
THE SITE IS DEVELOPED WITH A 3,200 SQUARE FOOT BUILDING.

Applicant: ROBERT BILLINGS
PO BOX 314
YUCCA VALLEY, CA 92286

Property Owner:
JOEL HUGHES
PO BOX 137
YUCCA VALLEY, CA 92286

Representative:
JAY CORBIN

Location: THE PROJECT IS LOCATED AT 55525 YUCCA TRAIL AND IS
FURTHER IDENTIFIED AS APN: 586-381-04.

Existing General Plan Land Use Designation:
THE SITE IS DESIGNATED OLD TOWN INDUSTRIAL /COMMERICAL
(OTIC), HIGHWAYS ENVIRONS OVERLAY

Existing Zoning Designation:
THE SITE IS DESIGNATED OLD TOWN INDUSTRIAL /COMMERICAL
(OTIC), HIGHWAY ENVIRONS OVERLAY

Surrounding General Plan Land Use Designations:
NORTH: OLD TOWN INDUSTRIAL /COMMERICAL (OTIC)
MED HIGH DENSITY RESIDENTIAL (MHDR) 8.1-14 UNITS
SOUTH: OLD TOWN INDUSTRIAL /COMMERICAL (OTIC)

Division Approvals:
Engineering _____ Building & Safety _____ Public Works _____

WEST: OLD TOWN INDUSTRIAL /COMMERICAL (OTIC)
EAST: OLD TOWN INDUSTRIAL /COMMERICAL (OTIC)

Surrounding Zoning Designations:

NORTH: OLD TOWN INDUSTRIAL /COMMERICAL (OTIC)
MED HIGH DENSITY RESIDENTIAL (MHDR) 8.1-14 UNITS
SOUTH: OLD TOWN INDUSTRIAL /COMMERICAL (OTIC),
HIGHWAY ENVIRONS OVERLAY
WEST: OLD TOWN INDUSTRIAL /COMMERICAL (OTIC)
EAST: OLD TOWN INDUSTRIAL /COMMERICAL (OTIC),
HIGHWAY ENVIRONS OVERLAY

Surrounding Land Use:

NORTH: VACANT LOT AND MOBILE HOME PARK
SOUTH: MINI STORAGE FACILITY
WEST: ROCK AND SAND YARD
EAST: RECYCLING FACILITY

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA):

THE PROJECT WAS REVIEWED UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA). THE PROJECT IS EXEMPT FROM CEQA UNDER SECTION 15301, EXISTING FACILITIES.

RECOMMENDATIONS:

ENVIRONMENTAL ASSESSMENT, EA 01-13

That the Planning Commission finds the project exempt from CEQA under Section 15301, existing facilities

SITE PLAN REVIEW, SPR, SPR 01-13

That the Planning Commission approves Site Plan Review, SPR 01-13, based upon the required findings and the Conditions of Approval.

Appeal Information:

Actions by the Planning Commission, including any finding that a negative declaration be adopted, may be appealed to the Town Council within 10 calendar days. Appeal Application filing and processing information may be obtained from the Planning Division of the Community Development Department. Per Section 83.030145 of the Development Code, minor modifications may be approved by the Planning Division if it is determined that the changes would not affect the findings prescribed in Section 83.030140 of the Development Code, Required Findings, and that the subject of the proposed changes were not items of public controversy during the review and approval of the original permit, including modifications to phasing schedules for the project.

I. GENERAL INFORMATION

PROJECT DESCRIPTION. Proposal to establish a rock, gravel and sand yard on a property that contains an existing 3,200 square foot building. The project includes 21 concrete block bins for the storage and display of material, 5 paved and 5 unpaved parking spaces and landscaping.

LOCATION: The project is located at 55525 Yucca Trail and is further identified as APN: 586-381-04.

PROJECT SYNOPSIS:

SITE COVERAGE

PROJECT AREA:	1 acre
BUILDING AREA:	3,200 square foot existing building
PHASED CONSTRUCTION:	No
FLOOD ZONE	Map 8855, Zone A, special flood hazard areas subject to inundation by the 1% annual chance flood. No base flood elevations determined.
ALQUIST PRIOLO ZONE	No
OFF-SITE IMPROVEMENTS REQ.	No
ASSESSMENT DISTRICTS REQ.	No
RIGHT-OF-WAY DEDICATION REQ.	No
UTILITY UNDERGROUNDING:	All new service lines shall be underground in conformance to Ordinance No. 233, or as amended by the Town Council.
AIRPORT INFLUENCE AREA:	Located outside the Airport Influence area.
TRAILS & BIKE LANE MASTER PLAN:	Bike Route, Class III on Yucca Trail.
PUBLIC FACILITY MASTER PLAN:	No facilities on or adjacent to the project.

PARKS AND RECREATION MASTER PLAN:	No public facilities are identified for this site.
MASTER PLAN OF DRAINAGE:	No facilities on or adjacent to the project.
EROSION AND SEDIMENT CONTROL: PLAN REQUIRED	No
STREET LIGHTS:	No
SPECIFIC PLAN/ PLANNED DEVELOPMENT AREA/GENERAL PLAN SPA:	No
FUTURE PLANNING COMMISSION ACTION REQUIRED	No
FUTURE TOWN COUNCIL ACTION REQUIRED	No, unless appealed

II. PROJECT ANALYSIS:

General: The project proposal is to establish a rock, gravel and sand yard on a property that contains an existing 3,200 square foot structure. The project will contain 21 concrete block bins for the storage and display of material. The applicant is proposing 5 paved and 5 unpaved parking stalls.

The applicant moved onto the site and began business operations without approvals. The applicant has been preparing application materials, as well as addressing soil contamination issues which existed on the site prior to the applicants' business operations (pre-existing soil contamination). The applicant has not provided the soils investigation reports at this time. The site formerly operated as a recycling facility, and soil contamination exists on the site from batteries leaking into the soil.

The property is located in the Old Town Specific Plan. The land use tables do not specifically identify these types of facilities, but the tables do address a number of similar uses as permitted uses.

Motor Vehicle Storage Facilities
Public Utility Service Yards
Public Utility Structures and Service Facilities
Public Works Maintenance Facilities and Storage Yards
Hazardous Materials Storage

Recycling Facilities, Small Collection Facilities
Motor Vehicle Sales
Garden Center/Plant Nurseries

Based upon the above uses identified as permitted within the OTIC district, the operation of a sand, gravel, rock business which includes outside storage of materials is similar to and consistent with the uses identified above. Staff did not identify any incompatible land use issues created by the operation of this business in comparison to those identified above from the OTSP land use tables.

ADJACENT LAND USES: The site is bounded by Yucca Trail on the north and an alley to the south and east. Directly across Yucca Trail on the north is a vacant lot and to the northwest is a mobile home park. There is a rock and sand facility to the west, a recycling facility to the east and a mini-storage facility to the south.

Surrounding General Plan designations are Old Town Industrial Commercial (OTIC) and Med High Density Residential (MHDR) 8.1-14 units per acre to the north. To the south, east and west of the project site, the General Plan designations are Old Town Industrial Commercial (OTIC).

The surrounding Zoning designations are Old Town Industrial Commercial (OTIC) and Residential Multi-Family 10 units per acre (RM-10) to the north. The properties to the south, east and west are zoned and Old Town Industrial Commercial (OTIC).

SITE CHARACTERISTICS, GRADING, SETBACKS: The project is located on a site that was previously used as a recycling facility and has an existing structure of 3,200 square feet. No grading is proposed for the project.

Setback Area:	Required	Existing Building
North:	15'	30'
South:	10'	90'
East:	None	145'
West:	None	10'

PHASING: There is no phasing proposed for the project.

BUILDING ELEVATIONS:

The existing structure is a wood framed with stucco, one story structure with a flat roof. No alterations are proposed to the building as part of the project.

The OTSP prohibits the use of chain link fencing within the OTSP. This site has been fenced with chainlink fencing materials for a number of years. The recommended conditions of approval require slats to be installed in the existing chainlink fence materials.

ROADWAY IMPROVEMENTS: The proposed project is bounded by Yucca Trail to the north and an alley to the south and east. No off-site improvements are recommended as this project is located at an existing facility, and the existing road improvements are constructed at the appropriate locations.

The OTSP also identified a Highway Environs Overlay Zone. The Highway Environs Overlay Zone was created at that time to provide for thorough evaluation of the proposed SR 62 realignment through the Old Town area. With adoption of the General Plan in 2014, the proposed realignment of SR 62 through Old Town was eliminated. Therefore the Highway Environs zone is no longer applicable within the Old Town area. Future amendments to the OTSP should address this issue.

ASSESSMENT DISTRICTS: Staff is not recommending formation of maintenance assessment districts for this project, as this project is located at an existing facility.

CIRCULATION & PARKING: On site circulation as proposed includes one point of ingress/egress on Yucca Trail. Internal circulation provides access to required parking areas. The applicant is proposing five paved parking stalls and five unpaved parking stalls as part of the project

Rock and sand yards are not identified in the Parking Ordinance. Staff has figured the required number of parking stalls based upon the Salvage and Wrecking Yards requirement as this is the closest to the proposed use. The Salvage and Wrecking Yard requirement is one space per 5,000 square feet of lot area plus one per 300 feet of office and sales area. Staff has used the lot area requirement only to determine the number of stalls required, therefore nine (9) parking spaces are being required. All parking stalls shall be paved and striped in accordance with Ordinance 198 and parking shall meet ADA requirements.

FLOOD CONTROL/DRAINAGE: The property is located in a FEMA flood zone A, special flood hazard areas subject to inundation by the 1% annual chance flood, no base flood elevations determined.

UTILITIES: All new service lines shall be underground in conformance with Ordinance No. 233.

Each utility provider charges connection and service fees which are designed to include the need for additional facilities as growth occurs. The project applicant will be required to go through each utility company permitting processes, including SCE for street lighting.

Electrical services are provided by Southern California Edison. Natural gas services are provided to by The Gas Company. The Hi-Desert Water District (HDWD, District) serves the Town of Yucca Valley. Solid waste services are provided by Burrtec Inc. The

Town of Yucca Valley requires mandatory solid waste services and the project will be served by Burrtec.

LANDSCAPING: A conceptual landscape plan was provided with the application submittal. The applicant is proposing to install landscaping along Yucca Trail to include boulders, cactus and Red Yucca plants.

A final plan is required to be reviewed and approved by both the Town and Hi-Desert Water District.

ENVIRONMENTAL CONSIDERATIONS: The project was reviewed under the California Environmental Quality Act (CEQA). The project is exempt from CEQA under section 15301, existing facilities.

GENERAL PLAN CONSIDERATION: The project is designated Old Town Industrial Commercial (OTIC). This designation is intended to

The General Plan supports this project through the following goals and policies:

Policy LU 1-1

Encourage infill development to maximize the efficiency of existing and planned public services, facilities and infrastructure.

Policy LU 1-2

Require that adjacent land uses and development types complement one another.

Policy LU 1-15

Maintain Yucca Valley's position as the economic hub of the Morongo Basin. Support a broad range of commercial retail, service, office, business park, research and development, light industrial and industrial uses to provide employment opportunities and contribute to the Town's economic sustainability.

Policy LU 1-17

Encourage the renovation of existing commercial and industrial areas to improve appearance, environmental responsiveness, use of infrastructure and functionality.

CONCLUSION: Based upon the facts on the record, the project is consistent with the General Plan, the Development Code and the Old Town Specific Plan. Industrial type development was anticipated and planned for on this project site with adoption of the General Plan, and the development meets and satisfies the goals, policies and implementation strategies of the General Plan. The project, as designed, meets all requirements of the Development Code and no variances or deviations from adopted standards are required for approval.

SITE PLAN REVIEW FINDINGS:

- 1. That the location, size, design, density and intensity of the proposed development is consistent with the General Plan, the purpose of the land use district in which the site is located, and the development policies and standards of the Town;**

The General Plan designation for this parcel is Old Town Industrial Commercial and the Zoning designation is Old Town Industrial Commercial-Highway Environs Overlay. The development of industrial type uses was anticipated and planned for on this project site with adoption of the General Plan, and the development meets and satisfies the goals, policies and implementation strategies of the General Plan.

The site is bounded by Yucca Trail to the north and an alley to the south and east. The property is surrounded by a rock and sand yard to the west, a recycling facility to the east and a mini-storage facility to the south. A vacant parcel and a Mobile Home Park are across Yucca Trail to the north.

Surrounding General Plan designations are Old Town Industrial Commercial and Med High Density Residential (MHDR) 8.1-14 units per acre to the north. The properties to the east, west and south of the project site are designated Old Town Industrial Commercial.

The surrounding Zoning designations are Old Town Industrial Commercial and Med High Density Residential (MHDR) 8.1-14 units per acre to the north. The properties to the east, west and south of the project site are designated Old Town Industrial Commercial.

The use is consistent with the uses identified in the OTSP and is appropriate at the proposed location, as there are similar uses with primary outside storage and business operations adjacent and in proximity to the project site.

- 2. That the location, size, design and architectural design features of the proposed structures and improvements are compatible with the site's natural landform, surrounding sites, structures and streetscapes;**

The site is bounded by Yucca Trail to the north and an alley to the south and east. The property is surrounded by a rock and sand yard to the west, a recycling facility to the east and a mini-storage facility to the south. A vacant parcel and a Mobile Home Park are across Yucca Trail to the north.

Surrounding General Plan designations are Old Town Industrial Commercial and Med High Density Residential (MHDR) 8.1-14 units per acre to the north. The properties to the east, west and south of the project site are designated Old Town Industrial Commercial.

The surrounding Zoning designations are Old Town Industrial Commercial and Med High Density Residential (MHDR) 8.1-14 units per acre to the north. The properties to the east, west and south of the project site are designated Old Town Industrial Commercial.

The site was developed several decades ago, and has operated with outside storage and the existing building during this time period. No significant changes are proposed with this project.

- 3. That the proposed development produces compatible transitions in the scale, bulk, coverage, density and character of the development between adjacent land uses;**

The site is bounded by Yucca Trail to the north and an alley to the south and east. The property is surrounded by a rock and sand yard to the west, a recycling facility to the east and a mini-storage facility to the south. A vacant parcel and a Mobile Home Park are across Yucca Trail to the north.

Surrounding General Plan designations are Old Town Industrial Commercial and Med High Density Residential (MHDR) 8.1-14 units per acre to the north. The properties to the east, west and south of the project site are designated Old Town Industrial Commercial.

The surrounding Zoning designations are Old Town Industrial Commercial and Med High Density Residential (MHDR) 8.1-14 units per acre to the north. The properties to the east, west and south of the project site are designated Old Town Industrial Commercial.

No new structure construction is proposed as part of the project. The existing building is consistent with buildings in the OTIC in this area of the OTSP.

- 4. That the building site and architectural design is accomplished in an energy efficient manner;**

The site is being developed consistent with adopted set back and building height standards, allowing opportunities to maximize energy efficiency and conservation measures in construction and building operations.

The proposed project is located on a site with an existing wood framed with stucco, one story structure with a flat roof.

- 5. That the materials, textures and details of the proposed construction, to the extent feasible, are compatible with the adjacent and neighboring structures;**

The existing structure materials, colors, textures, height and bulk are consistent with the Development Code and OTSP standards and requirements and are consistent with surrounding development patterns.

The proposed project is located on a site with an existing wood framed with stucco, one story structure with a flat roof.

- 6. That the development proposal does not unnecessarily block views from other buildings or from public ways, or visually dominate its surroundings with respect to mass and scale to an extent unnecessary and inappropriate to the use;**

The existing structure materials, colors, textures, height and bulk are consistent with the Development Code and OTSP standards and requirements and are consistent with surrounding development patterns.

The proposed project is located on a site with an existing wood framed with stucco, one story structure with a flat roof.

- 7. That the amount, location, and design of open space and landscaping conforms to the requirements of the Development Code, enhances the visual appeal and is compatible with the design and functions of the structure(s), site and surrounding area;**

The proposed landscape plans indicate that a mix of cactus, Red Yucca and boulders will be installed along Yucca Trail. There are no native plants located on the site. This is consistent with Development Code requirements and compatible with surrounding development patterns.

- 8. That quality in architectural design is maintained in order to enhance the visual environment of the Town and to protect the economic value of existing structures;**

The proposed project is located on a site with an existing wood framed with stucco, one story structure with a flat roof.

- 9. That there are existing public facilities, services, and utilities available at the appropriate levels and/or that new or expanded facilities, services and utilities shall be required to be installed at the appropriate time to serve the project as they are needed;**

The project is an existing facility that is being renovated and utilities are existing on the project site.

Each utility provider charges connection and service fees which are designed to include the need for additional facilities as growth occurs. The project applicant will be required to pay these fees as applicable.

Electrical services are provided by Southern California Edison. Natural gas services are provided to by The Gas Company. The Hi-Desert Water District (HDWD, District) serves the Town of Yucca Valley. Solid waste services are provided by Burrtec Inc. The Town of Yucca Valley requires mandatory solid waste services and the project will be served by Burrtec.

- 10. That access to the site and circulation on and off-site is required to be safe and convenient for pedestrians, bicyclists, equestrians and motorists;**

On site circulation as proposed includes one points of ingress/egress along Yucca Trail. Driveway entrances are proposed at 30' and drive aisles are proposed at 26' meeting Town and Fire Department standards. Internal circulation provides access to required parking. The project contains the necessary on-site improvements as well as overall parking design and layout. A total of ten parking spaces are proposed for the project including 1 ADA designated parking space. Staff finds the project adequately parked and consistent with the Development Code and the OTSP. Existing improvements on Yucca Trail are developed to their ultimate widths.

- 11. That traffic generated from the proposed project has been sufficiently addressed and mitigated and will not adversely impact the capacity and physical character of surrounding streets;**

The project contains one point of ingress/egress and provides sufficient parking consistent with Development Code requirements. No negative impacts created by the project have been identified, including traffic impacts.

- 12. That traffic improvements and/or mitigation measures have been applied or required in a manner adequate to maintain a Level of Service C or better on arterial roads, where applicable, and are consistent with the Circulation Element of the Town General Plan;**

The project contains one point of ingress/egress and provides sufficient parking consistent with Development Code requirements. No negative impacts created by the project have been identified, including traffic impacts.

- 13. That there will not be significant harmful effects upon environmental quality and natural resources including endangered, threatened, rare species, their habitat, including but not limited to plants, fish, insects, animals, birds or reptiles;**

The property is a one acre site that previously contained a recycling facility. The property has an existing structure of 3,200 square feet and has been cleared of vegetation. No negative impacts created by the project have been identified, including biological resources.

- 14. That there are no other relevant or anticipated negative impacts of the proposed use that cannot be mitigated and reduced to a level of non-significance in conformance with CEQA, the California Environmental Quality Act;**

The property is a one acre site that previously contained a recycling facility. The property has an existing structure of 3,200 square feet and has been cleared of vegetation. No negative impacts created by the project have been identified, including biological resources.

The site has been developed and operating in the existing configuration for years. The transition to a use which proposed outside storage of sand and rock materials is consistent with prior use of the property.

- 15. That the impacts which could result from the proposed development, and the proposed location, size, design and operating characteristics of the proposed development, and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety and welfare of the community or be materially injurious to properties or improvements in the vicinity or be contrary to the adopted General Plan; and**

The General Plan designation for this parcel is Old Town Industrial /Commercial and the Zoning designation is Open Space. The development of industrial uses was anticipated and planned for on this project site with adoption of the General Plan, and the development meets and satisfies the goals, policies and implementation strategies of the General Plan.

The site is bounded by Yucca Trail to the north and an alley to the south and east. The property is surrounded by a rock and sand yard to the west, a recycling facility to the east and a mini-storage facility to the south. A vacant parcel and a Mobile Home Park are across Yucca Trail to the north.

Surrounding General Plan designations are Old Town Industrial Commercial and Med High Density Residential (MHDR) 8.1-14 units per acre to the north. The properties to the east, west and south of the project site are designated Old Town Industrial Commercial.

The surrounding Zoning designations are Old Town Industrial Commercial and Med High Density Residential (MHDR) 8.1-14 units per acre to the north. The properties to

the east, west and south of the project site are designated Old Town Industrial Commercial.

The project is located on a property that is developed with an existing structure consistent with adopted set back and building height standards, allowing opportunities to maximize energy efficiency and conservation measures in construction and building operations.

The existing structure is a wood framed with stucco, one story structure with a flat roof.

The project is located at an existing facility and utilities are existing on the project site.

Each utility provider charges connection and service fees which are designed to include the need for additional facilities as growth occurs. The project applicant will be required to pay these fees as applicable.

Electrical services are provided by Southern California Edison. Natural gas services are provided to by The Gas Company. The Hi-Desert Water District (HDWD, District) serves the Town of Yucca Valley. Solid waste services are provided by Burrtec Inc. The Town of Yucca Valley requires mandatory solid waste services and the project will be served by Burrtec.

On site circulation as proposed includes one point of ingress/egress along Yucca Trail. Driveway entrances are proposed at 30' and drive aisles are proposed at 26' meeting Town and Fire Department standards. Internal circulation provides access to required parking. The project contains the necessary on-site improvements as well as overall parking design and layout.

A total of ten parking spaces are proposed for the project including 1 ADA designated parking spaces. No negative impacts created by the project have been identified, including biological resources.

- 16. That the proposed development will comply with each of the applicable provisions of this code, and applicable Town policies; except approved variances.**

The project, as designed, complies with the standards and requirements set forth in the Yucca Valley Development Code, OTSP and the adopted General Plan policies, as identified and set forth in this Staff Report.

Attachments:

1. Application Materials
2. Standard Exhibits
3. Site Plan & Preliminary Landscape Plan
4. General Plan Land Use Policies
5. Notice of Exemption

**TOWN OF YUCCA VALLEY
CONDITIONS OF APPROVAL
ENVIRONMENTAL ASSESSMENT, EA 01-13
SITE PLAN REVIEW, SPR 01-13
BILLINGS TRANSFER, INC**

This approval is for the development of a rock, gravel and sand yard on a property that contains an existing 3,200 square foot building. The project includes 21 concrete block bins for the storage and display of material, 5 paved and 5 unpaved parking spaces and landscaping. The project is located at 55525 Yucca Trail, APN: 586-381-04.

GENERAL CONDITIONS

- G1. The applicant shall agree to defend, indemnify and hold harmless the Town of Yucca Valley, its agents, officers and employees, at his sole expense, against any action, claim or proceedings brought against the Town or its agents, officers or employees, to attack, set aside, void, or annul this approval or because of the issuance of such approval, or in the alternative, to relinquish such approval, in compliance with the Town of Yucca Valley Development Code. The applicant shall reimburse the Town, its agents, officers, or employees for any court costs, and attorney's fees which the Town, its agents, officers or employees may be required by a court to pay as a result of such action. The Town may, at its sole discretion, participate at its own expense in the defense of any such action but such participation shall not relieve applicant of his obligations under this condition. The Town shall promptly notify the applicant of any claim, action or proceedings arising from the Town's approval of this project, and the Town shall cooperate in the defense.
- G2. This Site Plan Review shall become null and void if construction has not commenced within three (3) years of the Town of Yucca Valley date of approval. Extensions of time may be granted by the Planning Commission, in conformance with the Town of Yucca Valley Development Code. The applicant is responsible for the initiation of an extension request.

**SPR 01-13 Approval Date: August 12, 2014
SPR 01-13 Expiration Date: August 12, 2017**

- G3. The applicant shall ascertain and comply with requirements of all State, County, Town and local agencies as are applicable to the project. These include, but are not limited to, County of San Bernardino Environmental Health Services, County of San Bernardino Transportation/Flood Control, County of San Bernardino Fire Department, Yucca Valley Building and Safety, Caltrans, High Desert Water District, Airport Land Use Commission, California Regional Water Quality Control Board, Colorado River Region, the Federal Emergency Management Agency,

MDAQMD-Mojave Desert Air Quality Management District, Community Development, Engineering, and all other Town Departments.

- G4. All conditions are continuing conditions. Failure of the applicant to comply with any or all of said conditions at any time may result in the revocation of any construction permits for the project.
- G5. No on-site or off-site work shall commence without obtaining the appropriate permits for the work required by the Town and the appropriate utilities. The approved permits shall be readily available on the job site for inspection by Town personnel.
- G6. The applicant shall pay all fees charged by the Town as required for application processing, plan checking, construction and/or inspections. The fee amounts shall be those which are applicable and in effect at the time work is undertaken and accomplished. Fees for entitlement prior to construction permits are based on estimated costs for similar projects. Additional fees may be incurred, depending upon the specific project. If additional fees for services are incurred, they must be paid prior to any further processing, consideration, or approval(s).
- G7. All improvements shall be inspected by the Town as appropriate. Any work completed without proper inspection may be subject to removal and replacement under proper inspection.
- G8. All refuse shall be removed from the premises in conformance with Yucca Valley Town Code 33.083.
- G9. During construction, the Applicant shall be responsible to sweep public paved roads adjacent to the project as necessary and as requested by the Town to eliminate any site related dirt and debris within the roadways. During business activities, the applicant shall keep the public right-of-way adjacent to the property in a clean and sanitary condition.
- G10. No staging of construction equipment or parking of worker's vehicles shall be allowed within the public right-of-way of streets or other public improvements that have been accepted into the Town's maintained system
- G11. All existing street and property monuments within or abutting this project site shall be preserved consistent with AB 1414. If during construction of onsite or offsite improvements monuments are damaged or destroyed, the applicant shall retain a qualified licensed land surveyor or civil engineer to reset those monuments per Town Standards and file the necessary information with the County Recorder's office as required by law (AB 1414).
- G12. Each phase of the project shall function independently of all other phases. All improvements shall be completed for each phase to ensure that each phase functions separate from the remainder of the project, and shall include, but not be

limited to, street improvements, drainage and retention/detention facilities, water delivery systems, fire suppressions systems, post construction erosion and sediment control systems, all utilities necessary to serve the project, and those improvements deemed necessary by the Town. All phasing plans shall be illustrated on rough and precise grading plans, erosion and sediment control plans, all plan required for obtaining native plant plan approval, and on any other plan as deemed necessary by the Town.

- G13. At the time of permit issuance the applicant shall be responsible for the payment of fees associated with electronic file storage of documents
- G14. The Applicant shall reimburse the Town for the Town's costs incurred in monitoring the developer's compliance with the Conditions of Approval including, but not limited to, inspections and review of developer's operations and activities for compliance with all applicable dust and noise operations. This condition of approval is supplemental and in addition to normal building permit and public improvement permits that may be required pursuant to the Yucca Valley Municipal Code.
- G15. Prior to the issuance of a Certificate of Occupancy for any habitable structure in each phase of the project, all improvements shall be constructed, final inspection performed, punch-list items completed, and all installations approved by the appropriate agency.
- G16. For any import or export of material, the Project proponent shall provide the following for review by the Town Engineer: the route of travel, number of trucks, daily schedule, and length of time required. No hauling of material shall begin without the Town Engineer's approval.
- G17. Prior to any work being performed within the public right-of-way, the Project proponent shall provide the name, address, telephone, facsimile number, and e-mail address of the Contractor to perform the work. A description of the location, purpose, method of construction, and surface and subsurface area of the proposed work shall be supplied. A plat showing the proposed location and dimensions of the excavation and the facilities to be installed, maintained, or repaired in connection with the excavation, shall be provided and such other details as may be required by the Town Engineer.
- G18. The site shall be developed in accordance with the approved plans on file with the Town of Yucca Valley, in accordance with the Conditions of Approval approved for the project, and in accordance with the General Plan and Development Code. Prior to any use of the project site or business activity being commenced thereon, all Conditions of Approval shall be completed to the satisfaction of the Town.

- G19. Prior to issuances of building permits, all site plans, grading plans, landscape and irrigation plans, drainage/flood control plans, public improvement plans, erosion and sediment control plans, shall be coordinated for consistency with this approval.
- G20. The Town may allow phased construction of the project provided that the improvements necessary to adequately serve or mitigate the impacts of each phase of development are completed prior to the issuance of a Certificate of Occupancy for that phase.
- G21. The applicant or the applicant's successor-in-interest shall be responsible for maintaining any undeveloped portion of the site in a manner that provides for the control of weeds, erosion and dust.
- G22. If archaeological, paleontological or historical resources are uncovered during excavation or construction activities at the project site, work in the affected area will cease immediately and a qualified person with appropriate expertise shall be consulted by the applicant regarding mitigation measures to preserve or record the find. Recommendations by the consultant shall be implemented as deemed necessary and feasible by the Town before work commences in the affected area. If human remains are discovered, work in the affected area shall cease immediately and the County Coroner shall be notified. If it is determined that the remains might be those of a Native American, the California Native American Heritage Commission shall be notified and appropriate measures provided by State law shall be implemented.
- G23. All street dedications shall be irrevocably offered to the public and shall continue in force until the Town accepts or abandons such offers. All dedications shall be free of all encumbrances as approved by the Town Engineer.
- G24. The street design and circulation pattern of this project shall be coordinated with adjoining developments.
- G25. Violations of any condition or restriction or prohibition set forth in these conditions, including all approved construction plans, public and private, for this project and subject to the Town's overall project approval and these conditions of approval, shall subject the owner, applicant, developer or contractor(s) to the remedies as noted in the Municipal Code. In addition, the Town Engineer or Building Official may suspend all construction related activities for violation of any condition, restriction or prohibition set forth in these conditions until such time as it has been determined that all operations and activities are in conformance with these conditions.

PLANNING CONDITIONS

- P1. The development of the property shall be in conformance with FEMA and the Town's Floodplain Management Ordinance requirements. Adequate provision shall be made to intercept and conduct the existing tributary drainage flows around or through the site in a manner that will not adversely affect adjacent or downstream properties at the time the site is developed. Protection shall be provided by constructing adequate drainage facilities, including, but not limited to modifying existing facilities or by securing a drainage easement.
- P2. Utility undergrounding shall be in accordance with Ordinance 233, or as amended.
- P3. All exterior lighting shall comply with the Ordinance 90, Outdoor Lighting and shall be illustrated on all construction plans.
- P4. Prior to the issuance of any permits the applicant/owner shall provide three (3) copies of a landscape and irrigation plan showing the size, type and location of all plant and irrigation systems. Said irrigation system shall incorporate a permanent automatic irrigation system, and all landscaping and irrigation systems shall be maintained in good condition at all times. All ground within proposed landscape planter areas shall be provided with approved ground cover. This shall include but not be limited to drought-tolerant plant materials or colored desert rock. The Landscape Plan shall be approved by Hi-Desert Water District. The Landscape and Irrigation review requires a separate application and a current Town fee of \$685. **The final Landscape and Irrigation Plan shall be reviewed and approved by the Planning Commission prior to the issuance of any permits.**
- P5. **Applicant shall construct a trash enclosure in compliance with Ordinance 40 of the Town's Development Code.**
- P6. **The applicant shall pay their portion of the Gateway Reimbursement District in the amount of \$15,039.**
- P7. Parking and on-site circulation requirements shall be provided and maintained as identified on the approved site plan. Areas reserved for access drive and/or fire lanes shall be clearly designated.
- a) Any occupancy, which requires additional parking that has not been provided for through this Site Plan Review, shall not be approved until a revision is submitted for review and approval showing the additional parking.
 - b) All marking to include parking spaces, directional designation, no parking designation and fire lane designations shall be clearly defined and said

marking shall be maintained in good condition at all times. The Town Traffic Engineer shall approve all signage and markings for the circulation related signage.

- c) All paved parking stalls shall be clearly striped and permanently maintained with double or hairpin lines with the two lines being located an equal 9 inches on either side of the stall sidelines. All regular parking stalls be a minimum 9' x 19'.
- d) A minimum of nine (9) parking spaces shall be provided.

- P8. The applicant shall install slatting in the chain link fence surrounding the project.**
- P9. Applicant shall return to the Planning Commission within 90 days for review of the soils investigation report.**

ENGINEERING CONDITIONS

- E1. The Applicant's engineer shall provide a signed and stamped letter certifying that the proposed improvements will not adversely affect the floodway. Pursuant to the Town's Floodplain Ordinance, not causing an adverse affect means the cumulative effect of the proposed development when combined with all other all other existing and anticipated development will not increase the water surface elevation of the base flood one foot or more. As part of the Floodplain Ordinance the Flood Plain Administrator is required to notify state and federal agencies of development within the floodplain if the Base Flood Elevation is changed due to physical alterations. The Applicants engineer shall be responsible to provide backup information, if requested by such state and federal agencies, supporting his certification.**
- E2. The applicant shall apply for a Town encroachment permit for any new driveways proposed with the development.**
- E3 Any grading or drainage onto private off-site or adjacent property shall require a written permission to grade and/or a permission to drain letter from the affected property owner.**
- E4. No on-site or off-site work shall commence without obtaining the appropriate permits for the work involved from the Town. The approved permits shall be readily available on the job-site for inspection by the Town personnel.**

- E5. All grading activities shall minimize dust through compliance with MDAQMD Rules 402 and 403.
- E6. The Applicant shall accept and properly dispose of all off-site drainage flowing onto or through the site.
- E7. The Applicant shall install all water and sewer systems required to serve the project. All water and sewer systems shall be completed to the requirements of the Hi Desert Water District.
- E8. The Applicant shall observe the construction and operation of this project to make certain that no damage or potential for damage occurs to adjacent roadway, existing improvements, adjacent property and other infrastructure. The applicant shall be responsible for the repair of any damage occurring to offsite infrastructure and/or property damage as determined by the Town Engineer. The applicant shall repair any such damage prior to certificate of occupancy. If the damage is such that it is not repairable within a reasonable amount of time as determined by the Town Engineer, the applicant may petition the Town Engineer for additional conditions that may allow him the time, amount of surety and other requirements to repair the damage.
- E9. The septic system shall be maintained so as not to create a public nuisance and shall be serviced by a DEHS permitted pumper. Soil testing for the subsurface disposal system shall meet the requirements of the Department of Environmental Health Services. Applicant shall submit a minimum of three (3) copies of percolation reports for the project site and an appropriate fee to DEHS for review and approval, a copy of the cover sheet with an approval stamp to Building and Safety Division at the time of building permit application, and two (2) copies of the approved percolation report to the Building and Safety Division at the time of construction plan check. The location of the septic system shall be shown on the project grading plans. **It shall be the developer's responsibility to ensure that the location of the septic system and any proposed underground stormwater collection system meet applicable codes related to separation distances.**
- E10. It is understood that the Site Plan Review plans correctly shows all existing easements, traveled ways and drainage courses, and that their omission may require the Site Plan Review plans to be resubmitted for further consideration.
- E11. All street closures must be approved by Town Council action.
- E12. Any grading or drainage onto private off-site or adjacent property shall require a written permission to grade and/or a permission to drain letter from the affected property owner.

I HEREBY CERTIFY THAT THE APPROVED CONDITIONS OF APPROVAL WILL BE SATISFIED PRIOR TO OR AT THE TIMEFRAMES SPECIFIED AS SHOWN ABOVE. I UNDERSTAND THAT FAILURE TO SATISFY ANY ONE OF THESE CONDITIONS WILL PROHIBIT THE ISSUANCE OF ANY PERMIT OR ANY FINAL MAP APPROVAL.

Applicant's Signature _____ Date _____



Site Plan Review Application

Date Received 2-7-13
By Robert
Fee 11,500
Case # SPR 01-13
EA # EA 01-13

General Information

APPLICANT Billings Transfer, Inc Phone 760-910-4425 Fax 866-533-1233
Mailing Address PO Box 314 Email billingstransfer@yahoo.com
City Yucca Valley State CA Zip 92286
REPRESENTATIVE _____ Phone _____ Fax _____
Mailing Address _____ Email _____
City _____ State _____ ZIP _____
PROPERTY OWNER Joel Hughes Phone 760-228-1127 Fax _____
Mailing Address _____ Email _____
City _____ State _____ Zip _____

Project Information

Project Address 55525 Yucca TR Assessor Parcel Number(s) 058 638-104
Project Location South side of Yucca TR, West of Hopi TR.
Project Description: Rock, gravel and sand display and sales

Please attach any additional information that is pertinent to the application.

Town of Yucca Valley
Community Development Department
Planning Division
58928 Business Center Dr
Yucca Valley, CA 92284
760 369-6575 Fax 760 228-0084
www.yucca-valley.org

Environmental Assessment

- 1. Property boundaries, dimensions and area (also attach an 8 1/2 x 11" site plan):
Approximately one acre, Parcel map attached
- 2. Existing site zoning: OT1/C 3. Existing General Plan designation: OT1/C(SP)
- 4. Precisely describe the existing use and condition of the site: _____
- 5. Existing Zoning of adjacent parcels:
North OT1/C South OT1/C East OT1/C West OT1/C
- 6. Existing General Plan designation of adjacent parcels:
North OT1/C South OT1/C East OT1/C West OT1/C
- 7. Precisely describe existing uses adjacent to the site: Recycling center, Mini storage; Commercial and industrial uses.
- 8. Describe the plant cover found on the site, including the number and type of all protected plants: One Cottonwood tree

Note: Explain any "Yes" or "Maybe" responses to questions below. If the information and responses are insufficient or not complete, the application may be determined incomplete and returned to the applicant.

Yes Maybe No

- 9. Is the Site on filled or slopes of 15% or more or in a canyon? (A geological and/or soils Investigation report is required with this application.)
- 10. Has the site been surveyed for historical, paleontological or archaeological resources? (If yes, a copy of the survey report is to accompany this application.)
- 11. Is the site within a resource area as identified in the archaeological and historical resource element?
- 12. Does the site contain any unique natural, ecological, or scenic resources?
- 13. Do any drainage swales or channels border or cross the site?
- 14. Has a traffic study been prepared? (If yes, a copy of the study is to accompany this application.)
- 15. Is the site in a flood plain? (See appropriate FIRM)

Project Description

Complete the items below as they pertain to your project. Attach a copy of any plans submitted as part of the project application and any other supplemental information that will assist in the review of the proposed project pursuant to CEQA.

1. Commercial, Industrial, or Institutional Projects:

A. Specific type of use proposed: Rock, gravel and sand display/sales

B. Gross square footage by each type of use: _____

C. Gross square footage and number of floors of each building: 3200 S.F.
one floor

D. Estimate of employment by shift: 1-2, generally daytime hours

E. Planned outdoor activities: Display of rock, gravel and sand

2. Percentage of project site covered by: $\frac{\text{Current}}{\text{Proposed}}$

$\frac{2}{5}$ % Paving, $\frac{8}{8}$ % Building, $\frac{0}{5}$ % Landscaping, $\frac{0}{5}$ % Parking

3. Maximum height of structures 14 ft. _____ in.

4. Amount and type of off street parking proposed: 5 paved (ADA)
5 unpaved

5. How will drainage be accommodated? _____
Drainage toward southwest portion of
property

6. Off-site construction (public or private) required to support this project: _____
None

7. Preliminary grading plans estimate 0 cubic yards of cut and 0 cubic yards of fill

8. Description of project phasing if applicable: N/A

9. Permits or public agency approvals required for this project: Town SPR

10. Is this project part of a larger project previously reviewed by the Town? If yes, identify the review process and associated project title(s) No

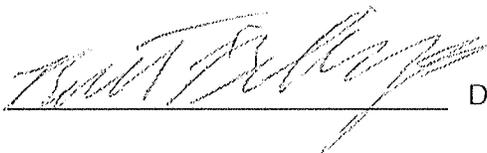
11. During construction, will the project: (Explain any "yes" or "maybe" responses to questions below – attach extra pages if necessary.)

Yes Maybe No

- A. Emit dust, ash, smoke, fumes or odors?
- B. Alter existing drainage patterns?
- C. Create a substantial demand for energy or water?
- D. Discharge water of poor quality?
- E. Increase noise levels on site or for adjoining areas?
- F. Generate abnormally large amounts of solid waste or litter?
- G. Use, produce, store, or dispose of potentially hazardous materials such as toxic or radioactive substances, flammable or explosives?
- H. Require unusually high demands for such services as police, fire, sewer, schools, water, public recreation, etc.
- I. Displace any residential occupants?

Certification

I hereby certify that the information furnished above, and in the attached exhibits, is true and correct to the best of my knowledge and belief.

Signature:  Date: 2-6-13

Owner/Applicant Authorization

Applicant/Representative: I/We have reviewed this completed application and the attached material. The information included with this application is true and correct to the best of my/our knowledge. I/We further understand that the Town may not approve the application as submitted, and may set conditions of approval. Further, I/We understand that all documents, maps, reports, etc., submitted with this application are deemed to be public records. This application does not guarantee approval or constitute a building permit application. Additional fees may be required depending on additional administrative costs.

Signed: *Walt Bulley*
Date: 2-6-13

Property Owner: I/We certify that I/We are presently the legal owner(s) of the above described property (If the undersigned is different from the legal property owner, a letter of authorization must accompany the form). Further, I/We acknowledge the filing of this application and certify that all of the above information is true and accurate. I/We understand that I/We are responsible for ensuring compliance with conditions of approval. I/We hereby authorize the Town of Yucca Valley and or/its designated agent(s) to enter onto the subject property to confirm the location of existing conditions and proposed improvements including compliance with applicable Town Code Requirements. Further, I/We understand that all documents, maps, reports, etc., submitted with this application are deemed to be public records. This application does not guarantee approval or constitute a building permit application. Additional fees may be required depending on additional administrative costs. I am hereby authorizing

_____ to act as my agent and is further authorized to sign any and all documents on my behalf.

Signed: *Janet Johnson*
Dated: 2-6-2013

Agreement to Pay All Development Application Fees

In accordance with Town Council Resolution 04-38 the Town collects certain fees based on the actual cost of providing service. The application deposit for this project (as indicated below) may not cover the total cost of processing this application. I/We are aware that if the account has 25% or less remaining prior to completion of the project, staff will notify the undersigned in writing, of the amount of additional deposit required to complete the processing of the application, based on Staff's reasonable estimate of the hours remaining to complete this application process.

Further, I understand that if I do not submit the required additional deposit to the Town within 15 business days from the date of notification by the Town, the Town will cease processing of the application and/ or not schedule the project for action by the Planning Commission or Town Council until the fees have been paid.

Any remaining deposit will be refunded to me at time of closeout after I have submitted any required approved project plans and forms, including signed conditions of approval, or upon my written request to withdraw the application.

As the applicant, I understand that I am responsible for the cost of processing this application and I agree that the actual costs incurred processing this application will be paid to the Town of Yucca Valley.

Deposit Paid: \$ 1,500

Applicant's Signature

Robert Billings

Date:

2-6-13

Applicants Name

Robert Billings

(Please print)

Developer Disclosure Statement

This portion of the application must be fully completed and signed by the applicant. If not fully completed and signed, the application will be deemed incomplete.

Address of subject property: 55525 Yucca Tr

Cross street: Hopi Tr

Date this Disclosure Statement is completed: 2/6/13

Name of Applicant: Billings Transfer, Inc.

The Applicant is a:

- Limited Liability Company (LLC)
- Partnership
- Corporation
- None of the above

Information for LLC, Partnership, Corporation

Name Robert Billings Phone 760.910.4425 Fax _____

Mailing Address PO Box 314 Email billings+transfer@yahoo

City Yucca Valley State CA Zip 92286

State of Registration CA

Managing member(s), General Partner(s) officer(s)

Name Jana Billings Phone _____ Fax _____

Mailing Address _____ Email _____

City _____ State _____ Zip _____

Attach additional sheets if necessary

Agent for Service of Process

Name Robert Billings Phone _____ Fax _____

Mailing Address _____ Email _____

City _____ State _____ Zip _____

For Corporations, Shareholder with Fifty Percent or More Share or Controlling Shareholder

Name _____ Phone _____ Fax _____

Mailing Address _____ Email _____

City _____ State _____ Zip _____

The Owner is a:

- Limited Liability Company (LLC)
- Partnership
- Corporation
- None of the above

Information for LLC, Partnership, Corporation

Name _____ Phone _____ Fax _____

Mailing Address _____ Email _____

City _____ State _____ Zip _____

State of Registration _____

Managing member(s), General Partner(s) officer(s)

Name _____ Phone _____ Fax _____

Mailing Address _____ Email _____

City _____ State _____ Zip _____

Attach additional sheets if necessary

Agent for Service of Process

Name _____ Phone _____ Fax _____

Mailing Address _____ Email _____

City _____ State _____ Zip _____

For Corporations, Shareholder with Fifty Percent or More Share or Controlling Shareholder

Name _____ Phone _____ Fax _____

Mailing Address _____ Email _____

City _____ State _____ Zip _____

The Party in escrow is a (if property is in escrow):

N/A

- Limited Liability Company (LLC)
- Partnership
- Corporation
- None of the above

Information for LLC, Partnership, Corporation

Name _____ Phone _____ Fax _____

Mailing Address _____ Email _____

City _____ State _____ Zip _____

State of Registration _____

Managing member(s), General Partner(s) officer(s)

Name _____ Phone _____ Fax _____

Mailing Address _____ Email _____

City _____ State _____ Zip _____

Attach additional sheets if necessary

Agent for Service of Process

Name _____ Phone _____ Fax _____

Mailing Address _____ Email _____

City _____ State _____ Zip _____

For Corporations, Shareholder with Fifty Percent or More Share or Controlling Shareholder

Name _____ Phone _____ Fax _____

Mailing Address _____ Email _____

City _____ State _____ Zip _____

For any deeds of trust or other liens on the property (other than real property tax liens) please state the following:

A. Name of beneficiary of the deed of trust or lien _____

B. Date of the deed of trust or lien. _____

I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on the date and location set forth below

Signature

Print Name: _____

Title: _____

Date of signing: _____

Location: _____



HAZARDOUS WASTE SITE STATEMENT

I have been informed by the Town of Yucca Valley of my responsibilities, pursuant to California Government Code Section 65962.5, to notify the Town as to whether the site for which a development application has been submitted is located within an area which has been designated as the location of a hazardous waste site by the Office of Planning and Research, State of California (OPR).

I am informed and believe that the proposed site, for which a development application has been submitted, is not within any area specified in said Section 65962.5 as a hazardous waste site.

I declare under penalty of perjury of the laws of the State of California that the foregoing is true and correct.

Dated: _____

Applicant/Representative printed name

Applicant/Representative signature

February 6, 2013

Planning Division
Town of Yucca Valley
Community Development Department
58928 Business Center Drive
Yucca Valley, CA 92284

**RE: Site Plan Review (SPR)
APN 058 638 104
Billings Transfer Inc.**

Dear Planning Division:

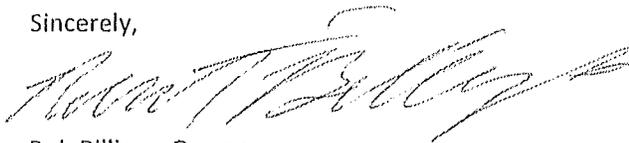
Attached is the Site Plan Review application for my rock and gravel storage yard.

At this time I have a contract with Earth Systems to conduct soils testing of the site and anticipate results of their investigation to be completed within 30 days. It is my intention to mitigate any environmental issues prior to the planning commission's review of my application. I will be in contact with you as progress is being made on the mitigation plan.

A site plan is currently being developed. It will depict the five paved (one to ADA standards) and five unpaved parking stalls. Landscaping will be proposed along the Yucca Trail frontage utilizing drought tolerant plants. Materials will be stored in bins to minimize visual impact; bins will be 12' wide x 15' deep and 6' high.

If additional information is required, please contact me at 760.910.4425.

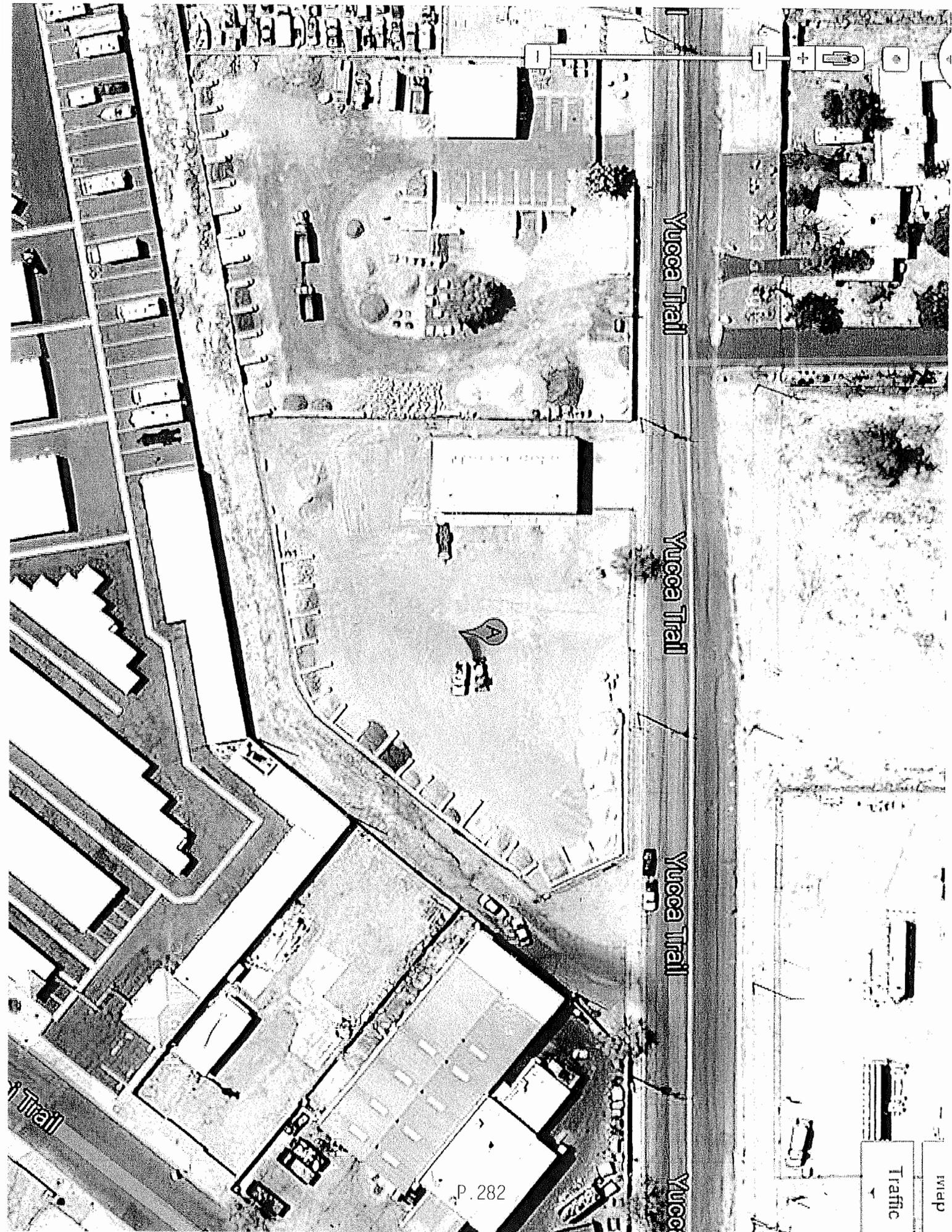
Sincerely,



Rob Billings, Owner

Billings Transfer, Inc.
PO Box 314
Yucca Valley, CA 92286

billingstransfer@yahoo.com
760.910.4425



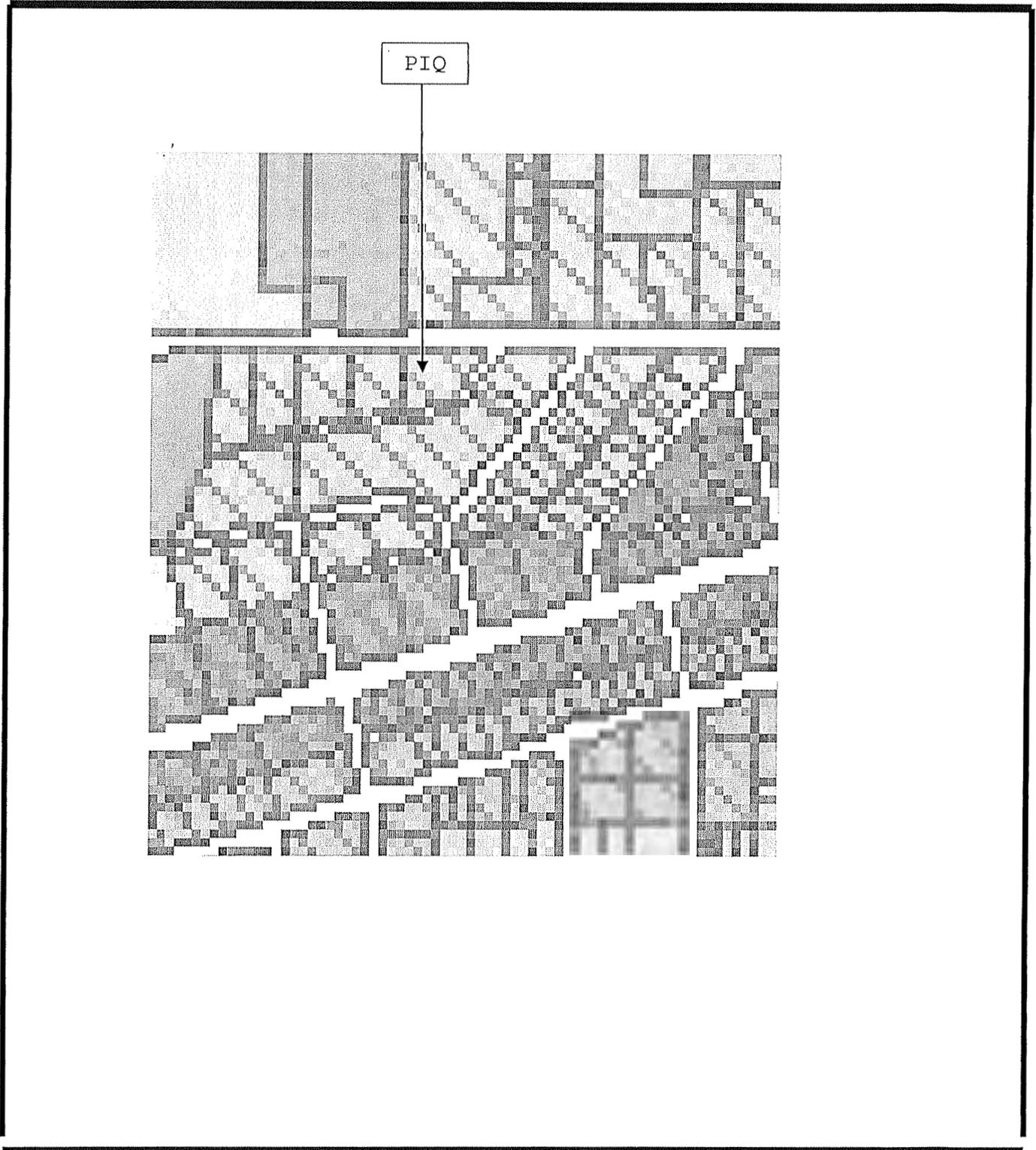
P. 282

Traffic

warp

TOWN OF YUCCA VALLEY

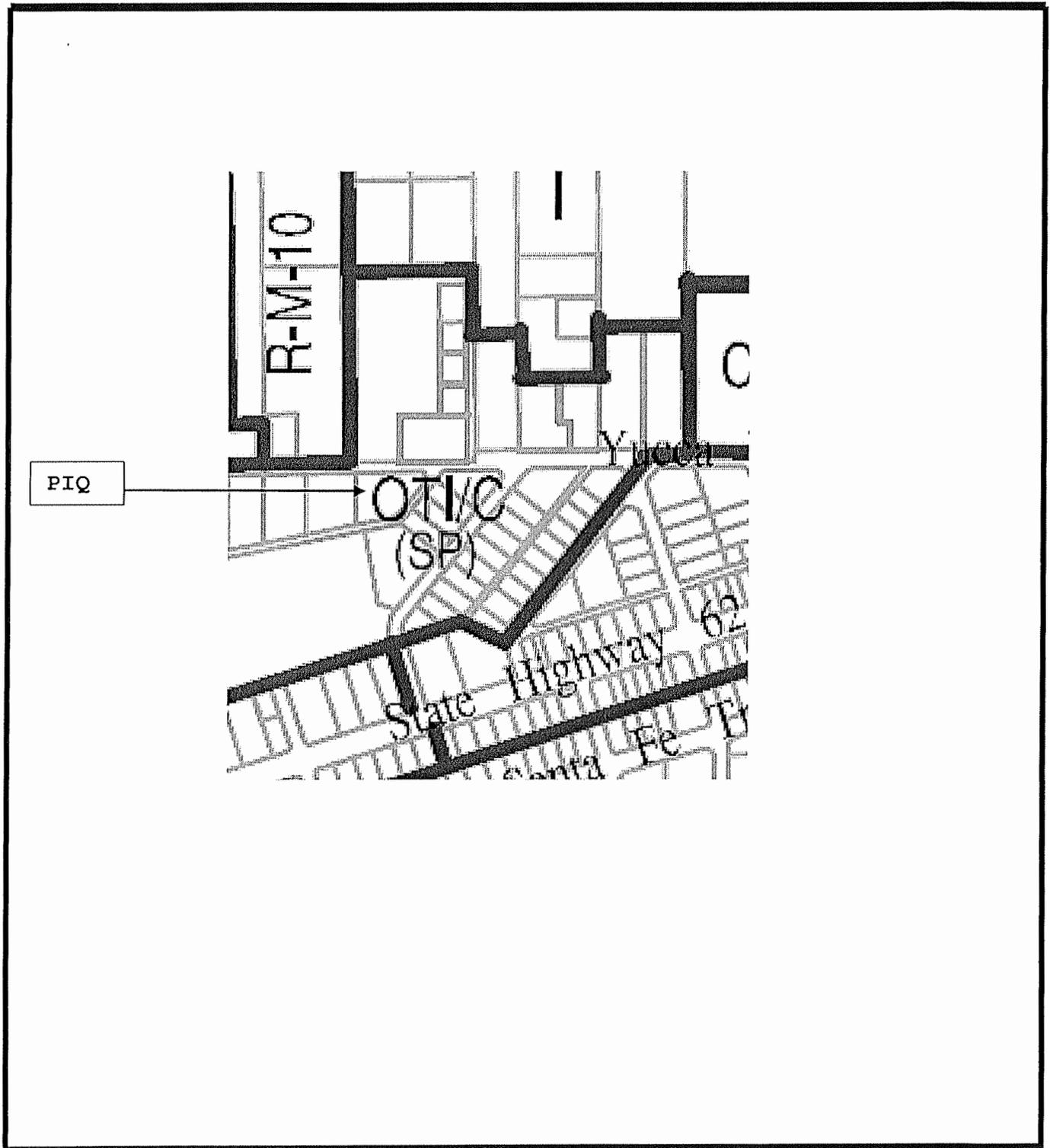
PROJECT NO.: SITE PLAN REVIEW, SPR 01-13 BILLINGS TRANSFER



GENERAL PLAN LAND USE MAP

TOWN OF YUCCA VALLEY

PROJECT NO.: SITE PLAN REVIEW, SPR 01-13 BILLINGS TRANSFER



TOWN OF YUCCA VALLEY

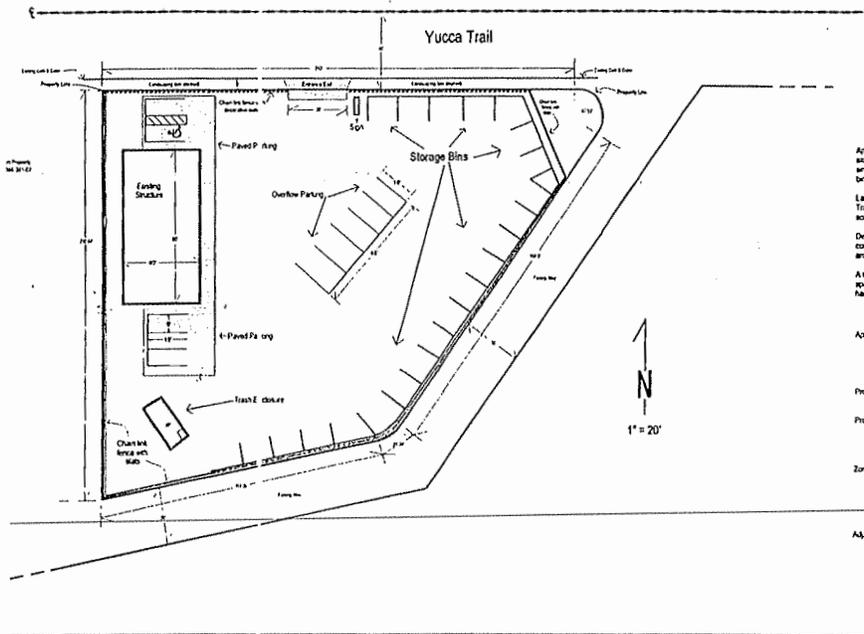
PROJECT NO.: SITE PLAN REVIEW, SPR 01-13 BILLINGS TRANSFER

Billings Transfer, Inc.

55525 Yucca Trail
APN 0586-381-04

Site Plan Review

Prepared for:
Town of Yucca Valley Planning Commission
Change of Use - Solid Greenflock storage and sales facility



Project Description

Applicant Robert Billings of Billings Transfer, Inc. proposes a change of use to utilize the existing structure and property for storage and sales of rock, sand, gravel, boulders and similar construction materials. Materials offered for sale will be stored in the storage bins shown on the site plan.

Landscaping, as shown on the attached landscape plan, will be placed along the Yucca Trail boundary and will consist of a combination of drought tolerant plants and plant sculptures.

Decorative fence materials will also be placed along the Yucca Trail boundary to complement the landscaping. Chain-link fencing with posts will provide visual relief around the perimeter of the property as shown on the site plan.

A total of ten (10) customer parking spaces will be provided, five (5) paved parking spaces and five unpaved spaces, as shown on the site plan. One (1) space will be handicap accessible per the requirements of the Americans With Disabilities Act (ADA).

Applicant:
Billings Transfer, Inc.
P.O. Box 314
Yucca Valley, CA 92286
billings@billings.com

Property Owner:
Jill Hughes

Project Site:
55525 Yucca Trail
Yucca Valley, CA 92286
South side of Yucca Trail, west of Hype Trail

Zoning/General Plan Designation:
SM - OTAC
North - OTAC
South - OTAC
East - OTAC
West - OTAC

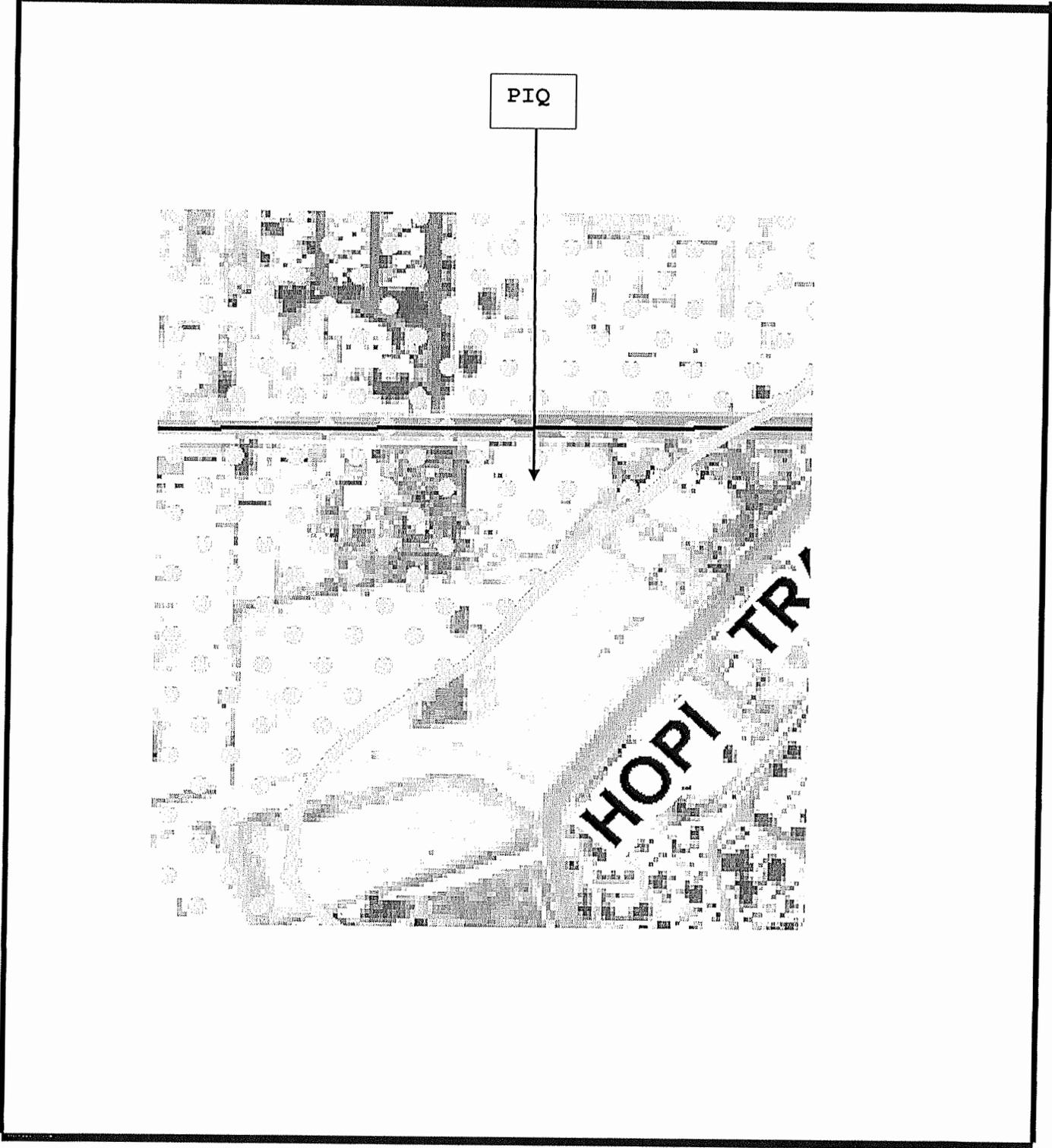
Adjacent Uses:
North - Vacant
South - Self storage
East - Recycling Center
West - Rock/Sand Sales

Site Plan Prepared by:
Robert Billings
P.O. Box 314
Yucca Valley, CA 92286
Prepared on 10/18/13
Full amount of \$1000 & 10%
Revised amount \$1000 on 11/13/13

SITE PLAN

TOWN OF YUCCA VALLEY

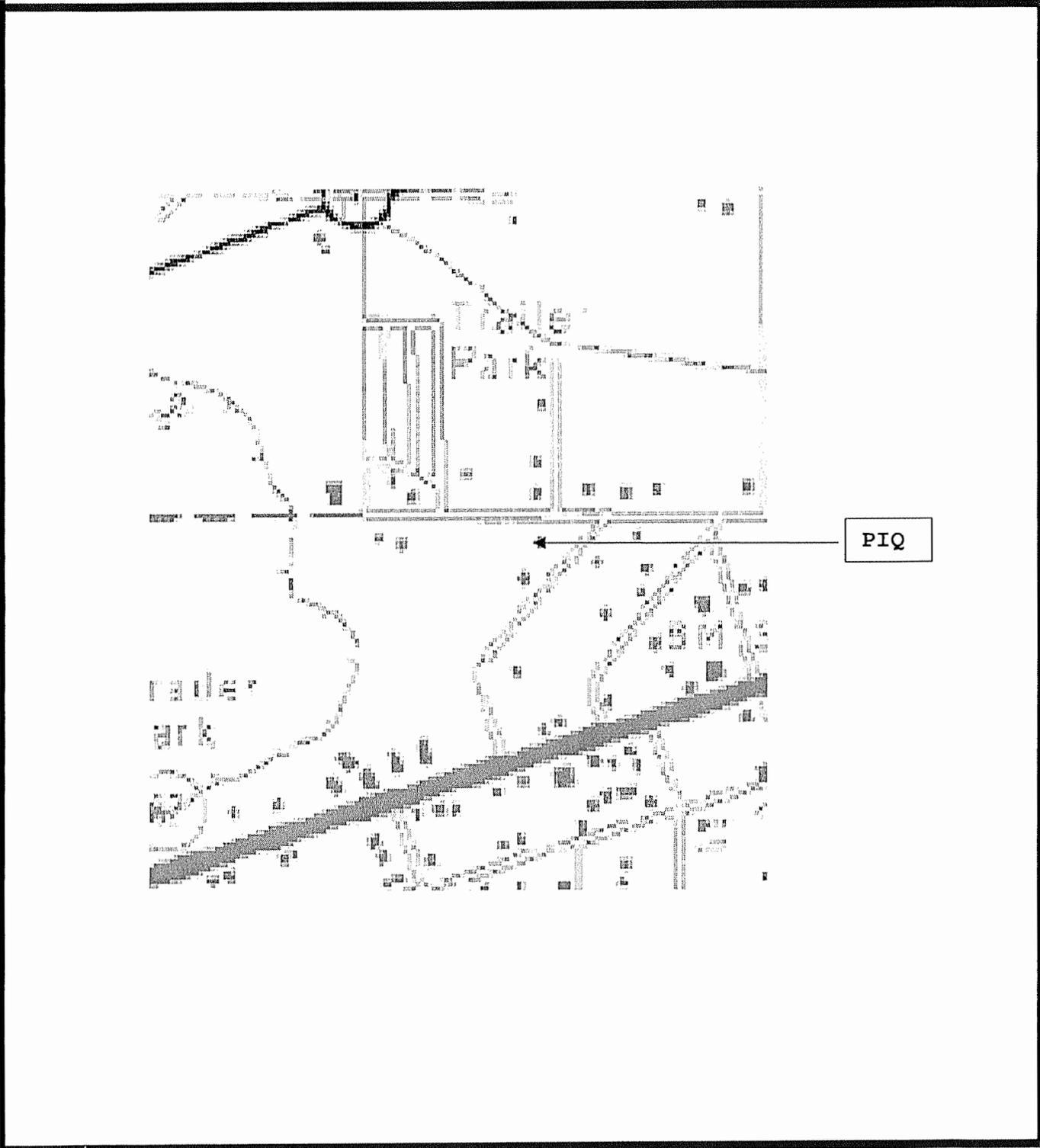
PROJECT NO.: SITE PLAN REVIEW, SPR 01-13 BILLINGS TRANSFER



FEMA FLOOD MAP

TOWN OF YUCCA VALLEY

PROJECT NO.: SITE PLAN REVIEW, SPR 01-13 BILLINGS TRANSFER



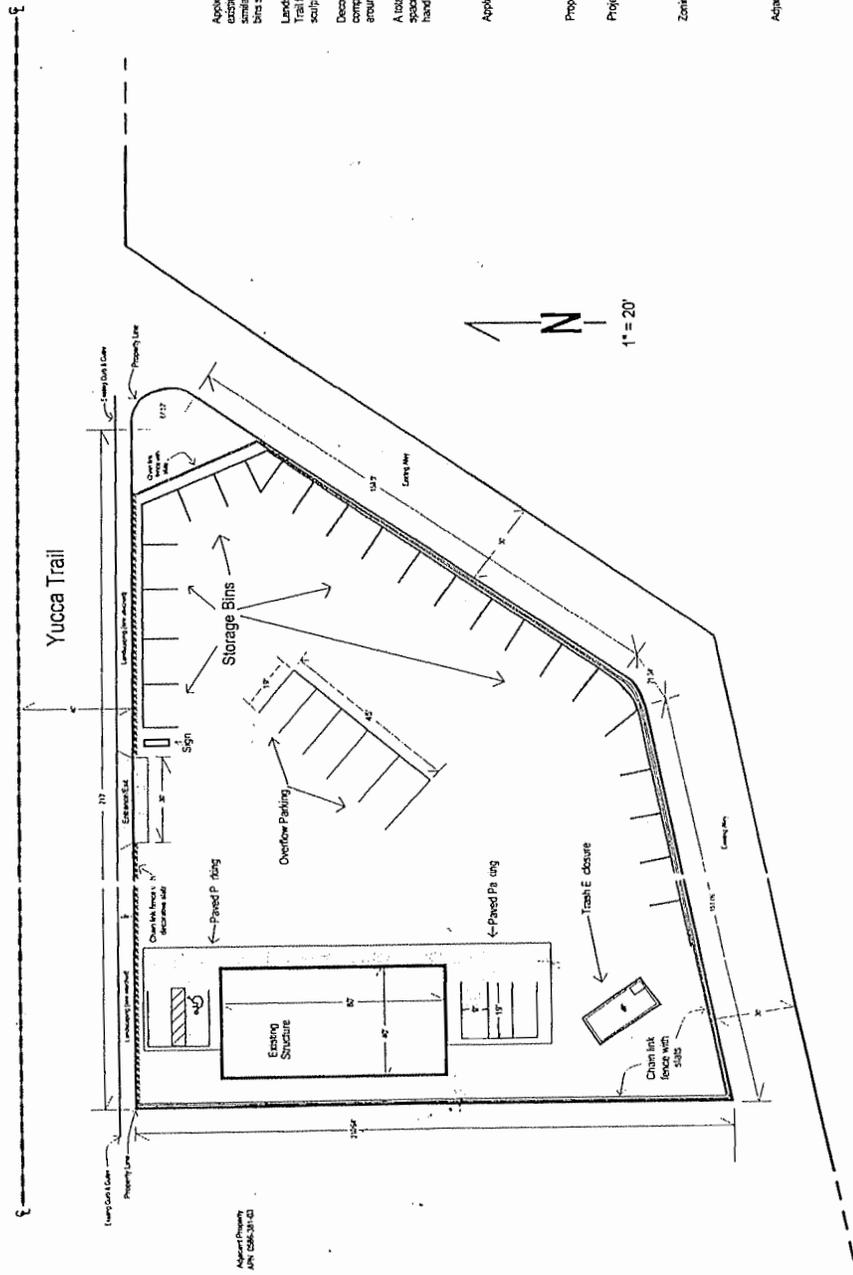
ALQUIST PRIOLO MAP

Billings Transfer, Inc.

55525 Yucca Trail
 APN 0586-381-04

Site Plan Review

Prepared for:
 Town of Yucca Valley Planning Commission
 Change of Use - Sand/Gravel/Rock storage and sales facility



Project Description

Applicant Robert Billings of Billings Transfer, Inc. proposes a change of use to utilize the existing structure and property for storage and sales of rock, sand, gravel, boulders and similar construction materials. Materials offered for sale will be stored in the storage bins shown on the site plan.

Landscaping, as shown on the attached landscape plan, will be placed along the Yucca Trail frontage and will consist of a combination of drought tolerant plants and park sculptures.

Decorative fence materials will also be placed along the Yucca Trail frontage to complement the landscaping. Chain-link fencing with signs will provide visual relief around the perimeter of the property as shown on the site plan.

A total of ten (10) customer parking spaces will be provided, five (5) paved parking spaces and five (5) overflow spaces, as shown on the site plan. The (5) overflow spaces will be handicap accessible per the requirements of the Americans With Disabilities Act (ADA).

Applicant:
 Billings Transfer, Inc.
 P. O. Box 314
 Yucca Valley, CA 92286
 billingsrtransfer@yahoo.com

Property Owner:
 Joel Hughes

Project Site:
 55525 Yucca Trail
 Yucca Valley, CA 92284
 South side of Yucca Trail, west of Hope Trail

Zoning (Current) Plan Designation:
 Site: OT1C
 North: OT1C
 South: OT1C
 East: OT1C
 West: OT1C

Adjacent Uses:
 North: Vacant
 South: Self-storage
 East: Recycling Center
 West: Rock/Sand Sales

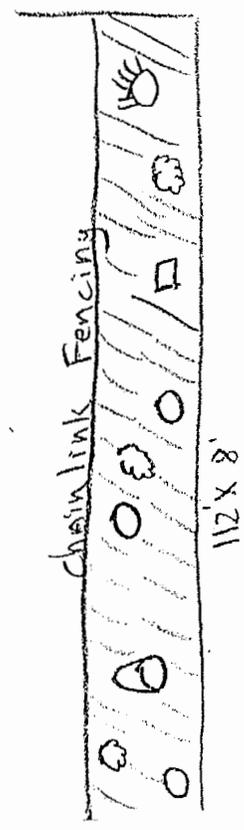
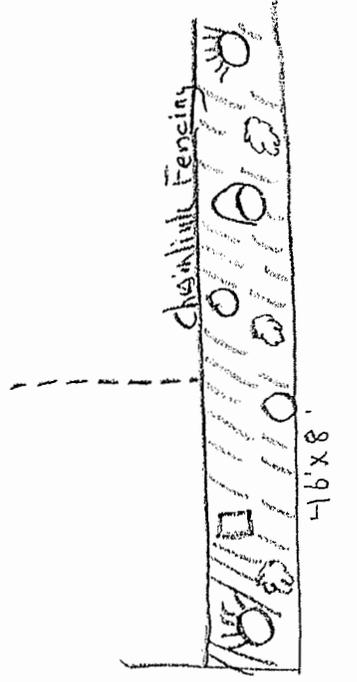
Site Plan Prepared by:
 Robert Billings
 P.O. Box 314
 Yucca Valley, CA 92286
 Prepared on: 10/13/11
 File Number: 10-000003-2011
 Record Number: October 20, 2011

- O = Golden Barrel cacti)
- W = Ocotillo cacti)
- A = Fat Boy cacti)
- = Red Yucca)
- ☁ = Boulders)
- //// = D+G decomposed Granite)

BTI Rock + Sand.

Desert Green Landscapes
 1425 Cambria Ave.
 Yucca Valley, CA 92284
 760-314-3019

MATERIAL - 1/4" rd



 YUCCA TRAIL

All plants are Desert Friendly.
 All plants are water tolerant.
 Plants + cacti need watering one time in the AM one time in the PM until established

growth with the Town's open space recreation and preservation needs. The Land Use Element must ensure that planning for or preservation of open space areas is taken into account, and can also help to identify areas that are located outside of a ½ mile walking distance from an existing park or open space area, and which areas should be prioritized when new recreational opportunities are identified.

Relationship to the Marine Corps Air Ground Combat Center

Although military installations are not located within Town limits, the operations at nearby Marine Corps Air Ground Combat Center in Twentynine Palms could potentially impact Yucca Valley since it is the largest Marine Corps base in the world. Considering the range of uses and training activities that could occur on site, it is important for the Town of Yucca Valley to be aware of operations that could affect the community. Coordination with the base is also essential to address ongoing noise or circulation impacts that are generated by periodic training exercises performed on the base.

GOAL LU 1

A balanced mixture of integrated land uses that provide desirable neighborhoods, vibrant commercial districts, passive and active open spaces, a strong economic and employment base, appropriate public facilities and services, and fiscal sustainability.

General Policies

- Policy LU 1-1 Encourage infill development to maximize the efficiency of existing and planned public services, facilities, and infrastructure.
- Policy LU 1-2 Require that adjacent land uses and development types complement one another.
- Policy LU 1-3 Require new projects to pay their fair share cost of or make necessary improvements to public facilities, infrastructure, and services that are impacted by the demands generated by new development.
- Policy LU 1-4 Encourage the development of public spaces within commercial mixed use and residential projects to contribute to the community's stock of gathering places and special event venues.
- Policy LU 1-5 Encourage land use development patterns that preserve the Town's scenic resources, such as ridgelines and hillsides.

For more detailed information related to ridgelines and hillsides, refer to the Open Space and Conservation Element.

Commercial and Industrial Policies

- Policy LU 1-15 Maintain Yucca Valley's position as the economic hub of the Morongo Basin. Support a broad range of commercial retail, service, office, business park, research and development, light industrial, and industrial uses to provide employment opportunities and contribute to the Town's economic sustainability.
- Policy LU 1-16 Require high quality building design, property maintenance, amenities for pedestrian access, and adequate circulation, utilities, and infrastructure.
- Policy LU 1-17 Encourage the renovation of existing commercial and industrial areas to improve appearance, environmental responsiveness, use of infrastructure, and functionality.
- Policy LU 1-18 Locate industrial uses near commercial uses when feasible to create synergy between the uses and established business nodes.
- Policy LU 1-19 Encourage the relocation of industrial operations that are not compatible with adjacent uses to areas that are conducive to such operations.
- Policy LU 1-20 Focus commercial development along SR-62 to take advantage of infrastructure improvements.
- Policy LU 1-21 Facilitate lot consolidation to create larger sites for higher performing commercial and industrial projects.
- Policy LU 1-22 Attract and retain nonpolluting, clean industrial development that expands the economic opportunities in the Town.
- Policy LU 1-23 Adequately buffer or otherwise ensure compatibility between commercial and industrial uses and residential areas (See also Policy LU 1-17).

Public/Quasi-Public Policies

- Policy LU 1-24 Plan for the adequate and logical expansion of public facilities that are compatible with surrounding land uses, reflect community character, are educationally enriching, and meet a broad range of local needs.
- Policy LU 1-25 Support a variety of educational opportunities and foster a culture of life-long learning through libraries, museums, schools, and other institutions.



Commercial Businesses are a vital part of the SR-62 corridor.

Notice of Exemption

Form D

To: Office of Planning and Research
PO Box 3044, 1400 Tenth Street, Room 222
Sacramento, CA 95812-3044

From: (Public Agency) Town of Yucca Valley
58928 Business Center Drive
Yucca Valley, CA 92284
(Address)

County Clerk
County of San Bernardino
385 N. Arrowhead, 2nd Flr.
San Bernardino, CA. 92415

Project Title: Site Plan Review, SPR 01-13 Billings Transfer

Project Location - Specific:

The project is at 55525 Yucca Tr and is identified as APN:586-381-04.

Project Location – City: Yucca Valley

Project Location – County: San Bernardino

Description of Project:

A proposal to develop a rock, sand and gravel yard at 55525 Yucca Trail.

Name of Public Agency Approving Project: Town of Yucca Valley

Name of Person or Agency Carrying Out Project: Billings Transfer, Inc

Exempt Status: (check one)

- Ministerial (Sec. 21080(b)(1); 15268);
- Declared Emergency (Sec. 21080(b)(3); 15269(a));
- Emergency Project (Sec. 21080(b)(4); 15269(b)(c));
- Categorical Exemption. State type and section number: Section 15301, Class 1 Existing Facilities
- Statutory Exemptions. State code number: _____

Reasons why project is exempt:

The project is located at an existing facility and no expansion of the existing building is proposed.

Lead Agency

Contact Person: Shane Stueckle Area Code/Telephone/Extension: (760) 369-6575 X305

If filed by applicant:

1. Attach certified document of exemption finding.
2. Has a Notice of Exemption been filed by the public agency approving the project? Yes No

Signature: _____ Date: _____ Title: _____

- Signed by Lead Agency Date received for filing at OPR: _____
- Signed by Applicant

Revised May 1999

PLANNING COMMISSION STAFF REPORT

To: Chairman & Planning Commission
From: Shane Stueckle, Deputy Town Manager
Alex Qishta, Project Engineer
Date: August 5, 2014
For Commission Meeting: August 12, 2014

Subject: Resolution No. 14-
Street Vacation SV-01-14, Sage Avenue
Approximately ten feet (10') by one hundred thirty- two feet (132') easement
on the southwest corner of Sage Avenue and Hidden Gold Drive

Prior Commission Review: There has been no prior Commission review of this matter.

Recommendation: That the Planning Commission finds that the street vacation, SV-01-14, is consistent with the General Plan and General Plan Circulation Element, and recommends to the Town Council to vacate an approximate 10' x 132' easement on the southwest corner of Sage Avenue and Hidden Gold Drive, as identified on Exhibit A to this staff report, being a portion of APN 585-362-01, and forwards that recommendation to the Town Council.

Executive Summary: The Streets and Highway Code Section 8300 et. el. permits the Town to vacate a street easement only upon a finding supported by substantial evidence that the easement is no longer needed for vehicular traffic and that the street is unnecessary for present or prospective public use.

The Planning Commission reviews all requests for street vacations for consistency with the General Plan, Circulation Element and all other Town circulation requirements and forwards a recommendation to the Town Council for their consideration.

Order of Procedure:

- Request Staff Report
- Request Public Comment
- Council Discussion/Questions of Staff
- Motion/Second
- Discussion on Motion
- Call the Question (Roll Call Vote)

Discussion: A proposal has been submitted to the Town of Yucca Valley by Copper Hills Homes, LLC/Sage Estates to vacate a 10 x 132' easement located adjacent to the westerly property line of APN 585-362-01.

Department Report Ordinance Action Resolution Action Public Hearing
 Consent Minute Action Receive and File Study Session

The General Plan Update refers to that segment of Sage Avenue as a Local road with 60 feet of right-of-way. The old General Plan refers to that segment of Sage Avenue as a Collector road with 80 feet of right-of-way.

Section 8300 et. el. of the Streets and Highways Codes requires the Town Council to set by resolution or ordinance, a public hearing date for action on the request for vacation. Adoption of a Resolution will set the date, time and place for the public hearing, and identified the location of the proposed easement vacation. The vacation is not final until Council action at the Public Hearing.

Alternatives: Staff recommends no alternative actions.

Attachments: Resolution PC-14-
Request to Vacate Easement
Exhibit A, Proposed Easement Vacation
Assessor's Parcel Map
Streets and Highways Code Section 8330
New General Plan Roadway Classification
Old General Plan Roadway Classification
Notice of Exemption
Circulation Element Map

RESOLUTION NO. PC-14-

A RESOLUTION OF THE PLANNING COMMISSION OF THE TOWN OF YUCCA VALLEY, CALIFORNIA, RECOMMENDING THAT THE TOWN COUNCIL APPROVES STREET VACATION SV-01-14, VACATING THAT PORTION OF EASEMENT ON ASSESSOR'S PARCEL NO. 585-362-01 AS IDENTIFIED ON EXHIBIT A TO THIS RESOLUTION

WHEREAS, the Planning Commission is considering the vacation of approximately 10' x 132' of access right of way on the southwest corner of Sage Avenue on APN 585-362-01; and

WHEREAS, the Planning Commission of the Town of Yucca Valley, California, has determined the easement identified is neither necessary for future circulation purposed nor needed for existing access by properties in the surrounding area; and

WHEREAS, the Planning Commission has considered the General Plan and General Plan Circulation Element, and the Planning Commission finds that the easement is not necessary for circulation purposes or for implementation of any portion of General Plan Policy; and

NOW, THEREFORE, THE PLANNING COMMISSION OF THE TOWN OF YUCCA VALLEY, CALIFORNIA, RESOLVES AS FOLLOWS:

Section 1: Street Vacation, SV-01-14, an area measuring approximately 10' by 132' at the southwest corner of Sage Avenue on APN 585-362-01, and as identified in Exhibit A, are recommended to be vacated by the Town Council.

PASSED, APPROVED AND ADOPTED this 12TH day of August 2014.

Planning Commission Chairman

Planning Commission Secretary



Street Vacation Application

Date Received	<u>09/16/14</u>
By	<u>DOLSEN</u>
Fee	<u>\$ 1340</u>
Case #	_____

Entire Street

Portion of Street

General Information

APPLICANT Copper Hills Homes, LLC / Sage Estates Phone 760.365.0649 Fax _____

Mailing Address 8514 Barberry Ave. Email edward878@cs.com or vgreengoif@aol.com

City Yucca Valley State CA Zip 92284

REPRESENTATIVE Nolte V5 / Bill Warner Phone 760.341.3101 Fax 760.341.5999

Mailing Address 42-829 Cook St., Suite 104 Email bill.warner@nv5.com

PROPERTY OWNER Shack WE Jr Family Trust Phone 760.365.0649 Fax _____

Mailing Address Same as applicant Email _____

City _____ State _____ Zip _____

Project Information

Street Name: Sage Ave.

Assessor Parcel Number(s) of adjacent parcels:
(Please provide a copy of the Assessor Parcel Map, with the portion to be vacated identified)
0585-362-01

Nearest cross street(s): Hidden Gold Drive

Length of street to be vacated: ~~± 152 feet~~ 132 feet

Width of street to be vacated: ~~± 7.00 feet~~ 10 feet

Legal description of street, alley, or public easement to be vacated (attach additional pages if needed)
See attached exhibits

Applicant Signature _____

Property Owner Signature _____

Owner/Applicant Authorization

Applicant/Representative: I/We have reviewed this completed application and the attached material. The information included with this application is true and correct to the best of my/our knowledge. I/We further understand that the Town may not approve the application as submitted, and may set conditions of approval. Further, I/We understand that all documents, maps, reports, etc., submitted with this application are deemed to be public records. This application does not guarantee approval or constitute a building permit application.

Signed: _____
Date: 4-16-14

Property Owner: I/We certify that I/We are presently the legal owner(s) of the above described property (If the undersigned is different from the legal property owner, a letter of authorization must accompany the form). Further, I/We acknowledge the filing of this application and certify that all of the above information is true and accurate. I/We understand that I/We are responsible for ensuring compliance with conditions of approval. I/We hereby authorize the Town of Yucca Valley and or/its designated agent(s) to enter onto the subject property to confirm the location of existing conditions and proposed improvements including compliance with applicable Town Code Requirements. Further, I/We understand that all documents, maps, reports, etc., submitted with this application are deemed to be public records. This application does not guarantee approval or constitute a building permit application. I am hereby authorizing

Nolte V5
to act as my agent and is further authorized to sign any and all documents on my behalf.

Signed: _____
Dated: 4-16-14

Town of Yucca Valley
Community Development Department
Planning Division
58928 Business Center Dr
Yucca Valley, CA 92284
760 369-6575 Fax 760 228-0084
www.yucca-valley.org

EXHIBIT 'A'

LEGAL DESCRIPTION

THAT PORTION OF THE EAST HALF OF SECTION 11, TOWNSHIP 1 SOUTH, RANGE 5 EAST, SAN BERNARDINO BASE AND MERIDIAN, IN THE COUNTY OF SAN BERNARDINO, TOWN OF YUCCA VALLEY, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF LOT 89 OF TRACT 5964, AS RECORDED IN MAP BOOK 76, PAGES 83 THROUGH 85, IN THE OFFICE OF THE RECORDER OF SAID COUNTY;

THENCE N 0° 26' 00" E ALONG THE EAST LINE OF SAID LOT 89 A DISTANCE OF 131.85 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE TO THE SOUTHWEST, HAVING A RADIUS OF 20.00 FEET;

THENCE ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 90° 41' 06", A DISTANCE OF 31.66 FEET;

THENCE N 89° 44' 54" E A DISTANCE OF 10.00 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE TO THE SOUTHWEST, HAVING A RADIUS OF 20.00 FEET;

THENCE ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 90° 41' 06", A DISTANCE OF 31.66 FEET TO A LINE WHICH IS 10.00 FEET EASTERLY OF , AND PARALLEL TO SAID EAST LINE OF SAID LOT 89;

THENCE S 0° 26' 00" W, ALONG SAID PARALLEL LINE A DISTANCE OF 131.97 FEET;

THENCE N 89° 34' 00" W A DISTANCE OF 10.00 FEET TO THE POINT OF BEGINNING.

PREPARED BY:

 6/10/14
DATE

WILLIAM H. WARNER, R.C.E. 23256
NOLTE ASSOCIATES, INC.



HIDDEN GOLD
DRIVE

CURVE TABLE		
CURVE	LENGTH	RADIUS
C1	31.66	20.00
C2	31.66	20.00

89

TRACT 5964
MB 76/83-85

POINT OF BEGINNING

106

IVANHOE
DRIVE

SAGE AVENUE

S89°44'54"W
10.00'

C1
C2

10'
131.85' N00°26'00"E
131.97' N00°26'00"E

10.00'
S89°34'00"E

40'

30'

NOLTE

BEYOND ENGINEERING

42-829 COOK STREET, SUITE 104
760.341.3101 TEL 760.341.5999 FAX

PALM DESERT, CA 92211
WWW.NOLTE.COM

EXHIBIT B

SHEET NUMBER

1

OF 1 SHEETS

PREPARED FOR: COPPER HILLS HOMES

DATE SUBMITTED: 05/08/14

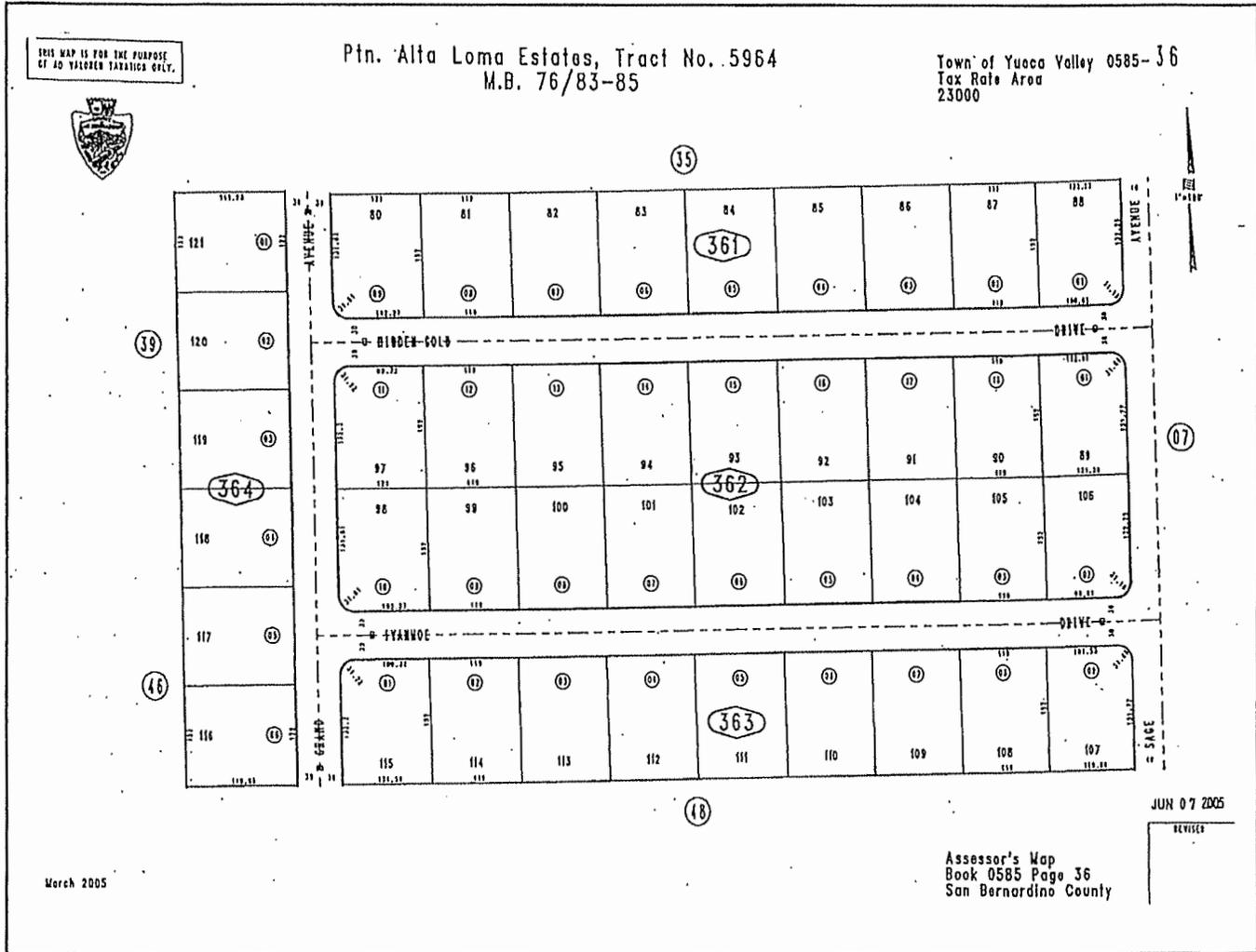
JOB NUMBER
YVB021300



First American

myFirstAm™ Tax Map

,, CA



Limitation of Liability for Informational Report

IMPORTANT - READ CAREFULLY: THIS REPORT IS NOT AN INSURED PRODUCT OR SERVICE OR A REPRESENTATION OF THE CONDITION OF TITLE TO REAL PROPERTY. IT IS NOT AN ABSTRACT, LEGAL OPINION, OPINION OF TITLE, TITLE INSURANCE COMMITMENT OR PRELIMINARY REPORT, OR ANY FORM OF TITLE INSURANCE OR GUARANTY. THIS REPORT IS ISSUED EXCLUSIVELY FOR THE BENEFIT OF THE APPLICANT THEREFOR, AND MAY NOT BE USED OR RELIED UPON BY ANY OTHER PERSON. THIS REPORT MAY NOT BE REPRODUCED IN ANY MANNER WITHOUT FIRST AMERICAN'S PRIOR WRITTEN CONSENT. FIRST AMERICAN DOES NOT REPRESENT OR WARRANT THAT THE INFORMATION HEREIN IS COMPLETE OR FREE FROM ERROR, AND THE INFORMATION HEREIN IS PROVIDED WITHOUT ANY WARRANTIES OF ANY KIND, AS-IS, AND WITH ALL FAULTS. AS A MATERIAL PART OF THE CONSIDERATION GIVEN IN EXCHANGE FOR THE ISSUANCE OF THIS REPORT, RECIPIENT AGREES THAT FIRST AMERICAN'S SOLE LIABILITY FOR ANY LOSS OR DAMAGE CAUSED BY AN ERROR OR OMISSION DUE TO INACCURATE INFORMATION OR NEGLIGENCE IN PREPARING THIS REPORT SHALL BE LIMITED TO THE FEE CHARGED FOR THE REPORT. RECIPIENT ACCEPTS THIS REPORT WITH THIS LIMITATION AND AGREES THAT FIRST AMERICAN WOULD NOT HAVE ISSUED THIS REPORT BUT FOR THE LIMITATION OF LIABILITY DESCRIBED ABOVE. FIRST AMERICAN MAKES NO REPRESENTATION OR WARRANTY AS TO THE LEGALITY OR PROPRIETY OF RECIPIENT'S USE OF THE INFORMATION HEREIN.

STREETS AND HIGHWAYS CODE

SECTION 8330-8334.5

8330. (a) The legislative body of a local agency may summarily vacate a street or highway that has been superseded by relocation.

(b) A street or highway shall not be summarily vacated pursuant to this section if vacation would do either of the following:

(1) Cut off all access to a person's property which, prior to relocation, adjoined the street or highway.

(2) Terminate a public service easement, unless the easement satisfies the requirements of Section 8333.

8330.5. (a) Subject to subdivisions (b) and (c), the commission may retain, relinquish to a local agency pursuant to Section 73, or summarily vacate a state highway that has been superseded by relocation.

(b) The commission shall not vacate a state highway unless the commission has first given a notice of relinquishment pursuant to Section 73 and the legislative body of the local agency has protested within the prescribed 90-day period that the highway is not needed for public use and should be vacated by the commission.

(c) If vacation of a state highway would cut off all access to the property of any person which, prior to relocation, adjoined the highway, the commission shall either retain the highway or relinquish it pursuant to Section 73.

8331. The legislative body of a local agency may summarily vacate a street or highway if both of the following conditions exist:

(a) For a period of five consecutive years, the street or highway has been impassable for vehicular travel.

(b) No public money was expended for maintenance on the street or highway during such period.

8332. The legislative body of a local agency may summarily vacate a street or highway pursuant to an agreement entered into with the department pursuant to Section 100.2 to close the street or highway at or near the point of its interception with a state freeway.

8333. The legislative body of a local agency may summarily vacate a public service easement in any of the following cases:

(a) The easement has not been used for the purpose for which it was dedicated or acquired for five consecutive years immediately preceding the proposed vacation.

(b) The date of dedication or acquisition is less than five years, and more than one year, immediately preceding the proposed vacation, and the easement was not used continuously since that date.

(c) The easement has been superseded by relocation, or determined to be excess by the easement holder, and there are no other public facilities located within the easement.

8334. The legislative body of a local agency may summarily vacate any of the following:

(a) An excess right-of-way of a street or highway not required for street or highway purposes.

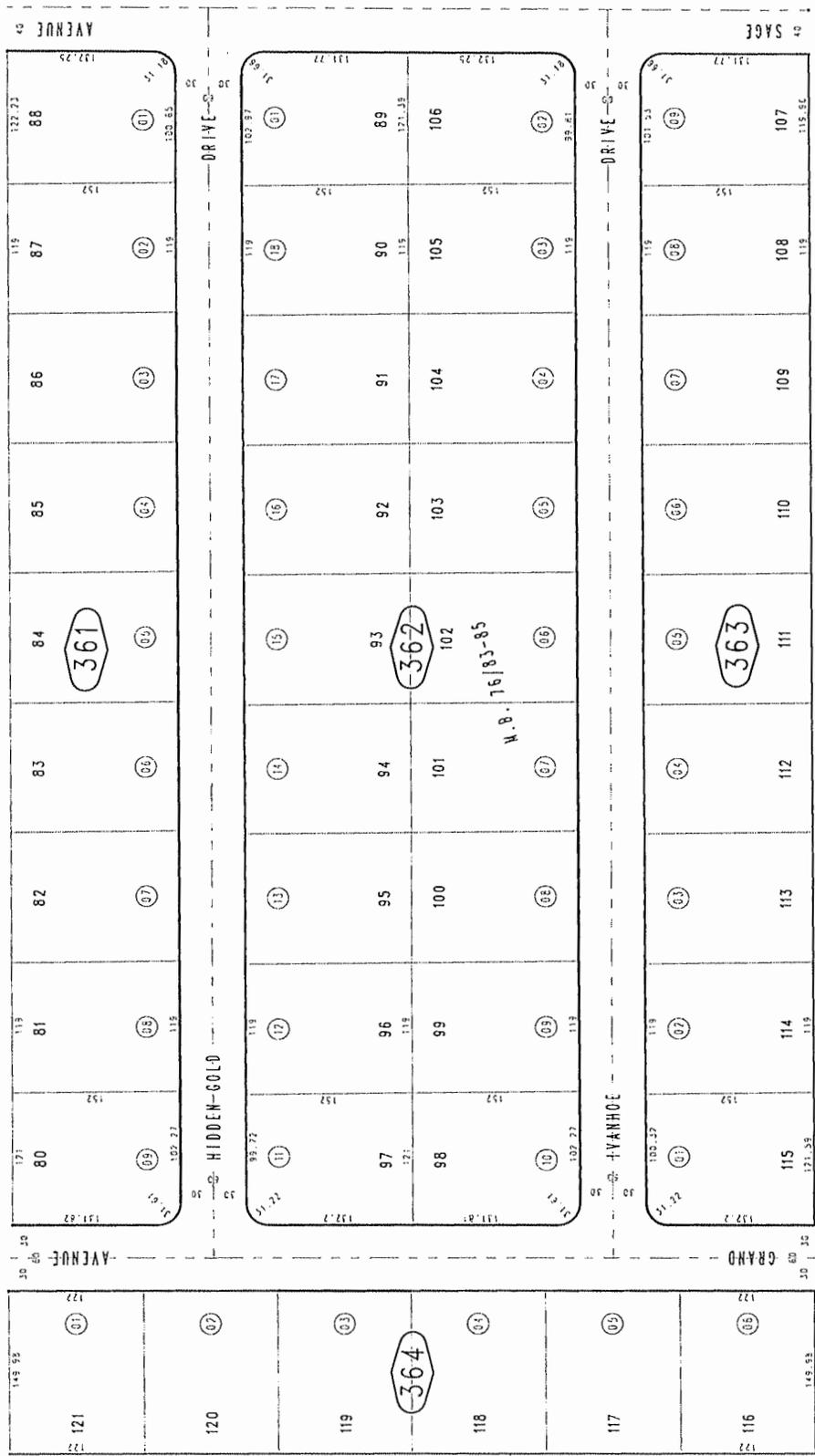
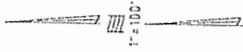
(b) A portion of a street or highway that lies within property under one ownership and that does not continue through such ownership or end touching property of another.

8334.5. Notwithstanding any other provision of this article, a street, highway, or public service easement may not be summarily vacated if there are in-place public utility facilities that are in use and would be affected by the vacation.

Ptn. Alta Loma Estates, Tract No. 5964
 M.B. 76/83-85

Town of Yucca Valley 0585-36
 Tax Rate Area
 23000

THIS MAP IS FOR THE PURPOSE
 OF AD VALOREM TAXATION ONLY.



REVISED

Assessor's Map
 Book 0585 Page 36
 San Bernardino County

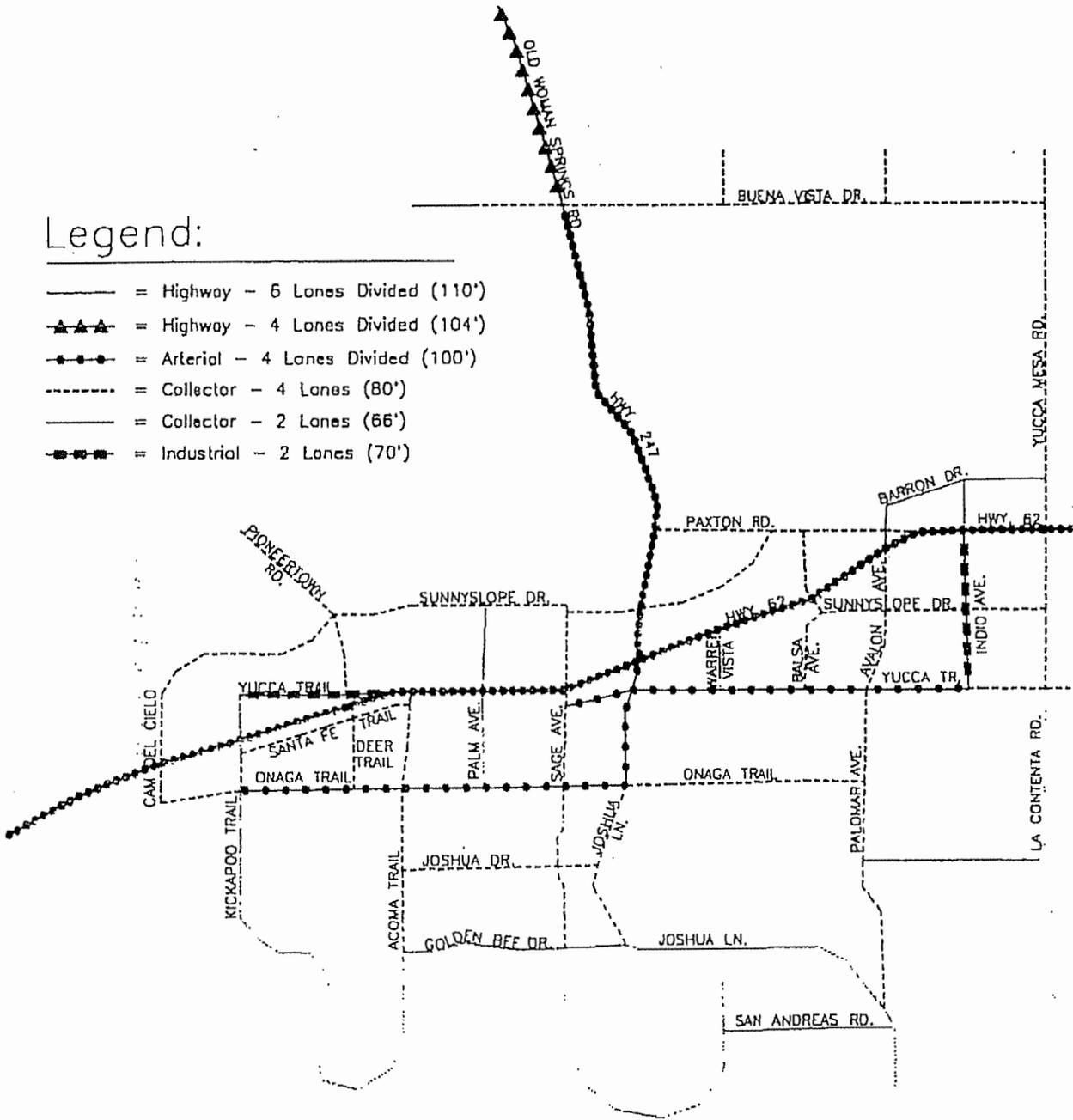
Ptn. S.E.1/4, Sec. 11
 T.1S., R.5E.

March 2005

TOWN OF YUCCA VALLEY CIRCULATION PLAN

Legend:

- = Highway - 6 Lanes Divided (110')
- ▲▲▲▲ = Highway - 4 Lanes Divided (104')
- = Arterial - 4 Lanes Divided (100')
- = Collector - 4 Lanes (80')
- = Collector - 2 Lanes (66')
- ■ ■ ■ = Industrial - 2 Lanes (70')



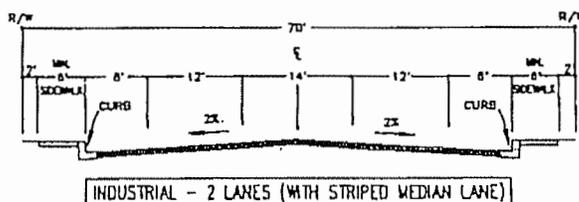
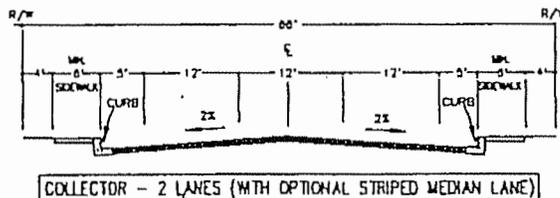
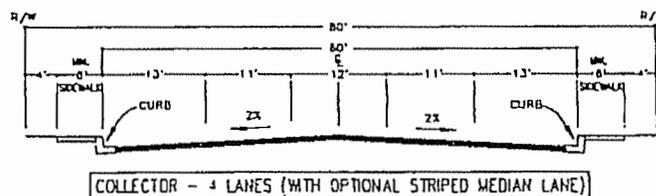
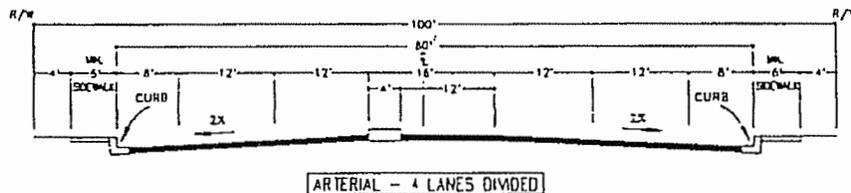
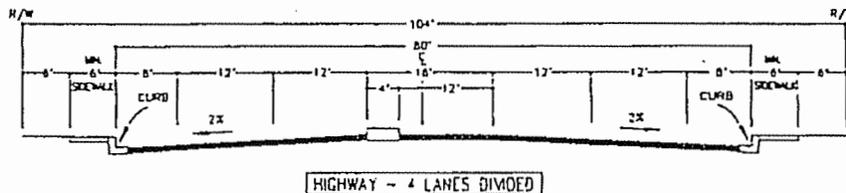
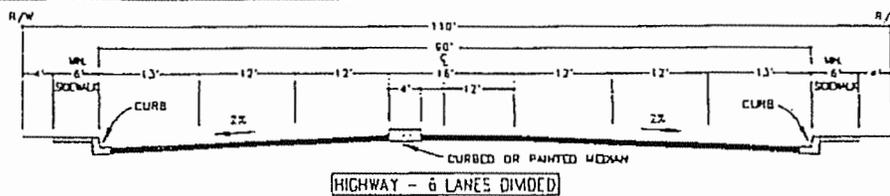
TOWN OF YUCCA VALLEY GENERAL PLAN CIRCULATION ELEMENT

EXHIBIT III-2

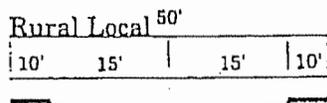
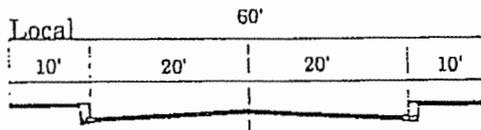
Robert Kahn, John Kain
& Associates, Inc.

636-94-001:26

PREFERRED PLAN ROADWAY CROSS-SECTION



*PART WIDTH STREET SECTION FOR ALL COLLECTOR STREETS - 34' IMPROVEMENTS ON 48' R/W



638-94-001:13A

EXHIBIT 111-3

Robert Kahn, John Kain & Associates, Inc.

roads and utility lines and services (Also see Public Buildings, Facilities and Utilities Element).

Functional Classification

The classification of a roadway is intended to establish its function or role in the overall circulation system. It establishes the hierarchy of streets in terms of their purpose in relation to movement of through traffic versus provision of access to adjacent land uses.

The hierarchy of roadway classifications ranges from highways (with control of access, high speed-high volume traffic and emphasis on longer-distance travel) to local streets/cul-de-sacs (with unlimited access to fronting properties, low speed-low volume traffic, emphasis on multi-purpose use of the paved street section for travel, parking, pedestrian, and bicycle activity).

The roadway classifications and typical sections required in support of the Town of Yucca Valley Circulation Plan are identified on Exhibit III-3. This exhibit presents recommended cross-sections which include new designations as compared to the previous circulation plan.

Relative to the previously circulated plan, the following roadway network changes are recommended:

- Extend Kickapoo Trail southeast as a 2-lane Collector creating a linkage with a southern extension of Acoma Trail.
- Extend Sage Avenue south as a 2-lane Collector, connecting east to the southern extension of Warren Vista Avenue.
- Create an additional east/west corridor north of Highway 62 by linking Sunnyslope Drive east from Sage Avenue as a 4-lane Collector continuing north of the airport to Paxton Road. Sunnyslope Drive would also extend west from Pioneertown Road as a 4-lane Collector to Camino Del Cielo.
- Add Sunnyslope Drive as 4-lane Collector from Balsa Avenue east to La Contenta Road.
- Extend Golden Bee Drive west from Palm Avenue as a 2-lane Collector to Acoma Trail.

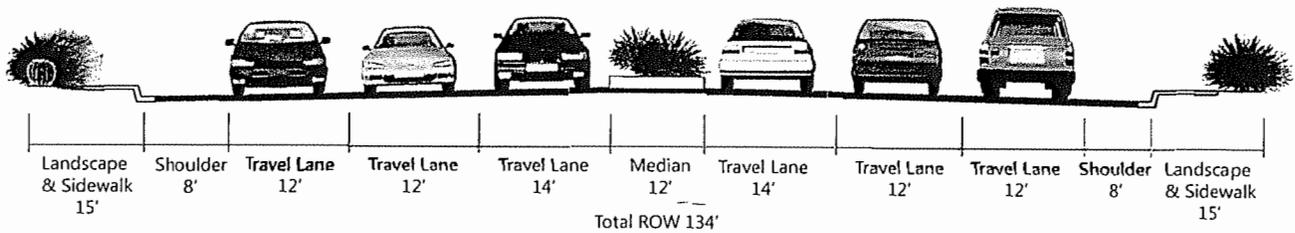
Revise the classification of the following previously circulated network map General Plan roadways:

- Downgrade Old Woman Springs Road/Highway 247 North of Buena Vista Drive from a 6-lane divided highway to a 4-lane divided highway.
- Downgrade Avalon Avenue between Highway 62 and Yucca Trail to a 4-lane Collector classification from a 4-lane divided Arterial classification.
- Upgrade Yucca Trail east of Palomar Avenue to Indio Avenue to a 4-lane divided Arterial classification from a 2/4 lane Collector classification.
Revise the classification of the following General Plan roadway segments to a 4-lane Collector classification from a 2/4 lane Collector classification:
 - Buena Vista Drive
 - Paxton Road
 - Sunnyslope Drive
 - Yucca Trail between Palomar Avenue and Indio Avenue
 - Yucca Trail east of Indio Avenue
 - Onaga Trail between Camino Del Cielo and Kickapoo Trail
 - Onaga Trail east of Sage to Palomar Avenue
 - Joshua Drive between Acoma Trail and Joshua Lane
 - Camino Del Cielo north of Onaga Trail
 - Kickapoo Trail between Onaga Trail and Santa Fe Trail
 - Santa Fe Trail
 - Acoma Trail south of Highway 62 to the extension of Golden Bee Drive
 - Sage Avenue south of Sunnyslope Drive to Golden Bee Drive
 - Balsa Avenue
 - Palomar Avenue
 - Yucca Mesa Road North of Yucca Trail

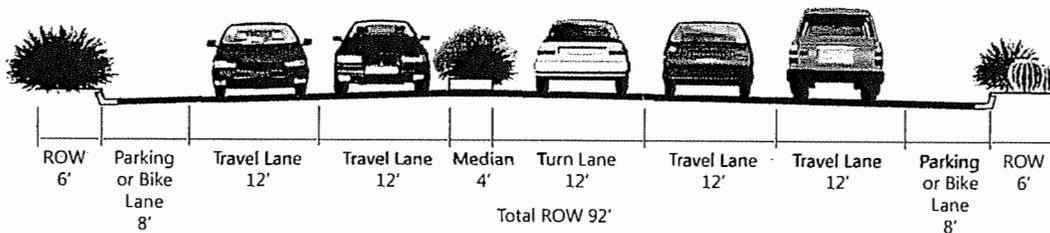
Adequate intersection performance during peak traffic hours can be insured with intersection geometrics which satisfy turning movement and through traffic capacity demands. In many instances, this may require dual left turn lanes, and right turn deceleration lanes on intersection approaches of the major roadway. By insuring that sufficient right-of-way is reserved at the critical intersections within the roadway system, it will be possible to implement the approach lane geometrics necessary to provide the required Level of Service.

As development within the Town of Yucca Valley occurs, the improvement of the area-wide roadway system must occur concurrently in order to provide an adequate Level of Service. To insure that funds from developers and/or area-wide fee programs are appropriately targeted to ongoing circulation

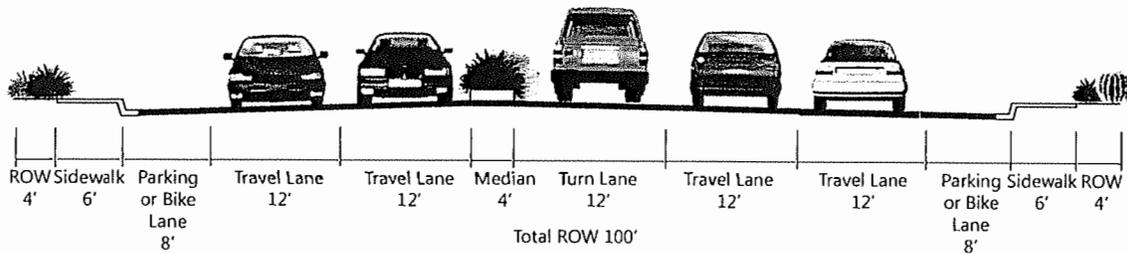
HIGHWAY - 6 LANES DIVIDED



HIGHWAY - 4 LANES DIVIDED

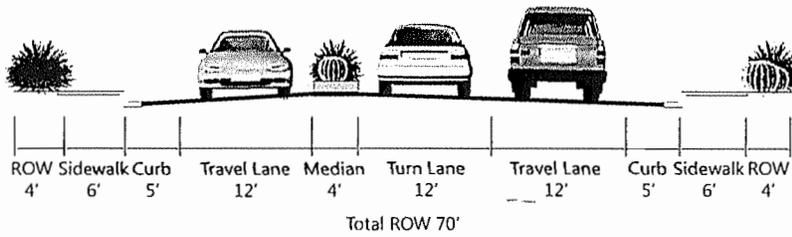


ARTERIAL - 4 LANES DIVIDED

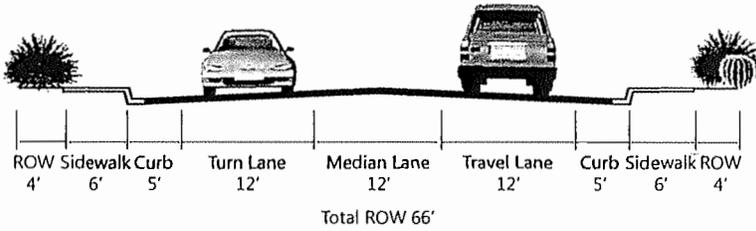


Yucca Valley Circulation Element - Transportation Impact Study

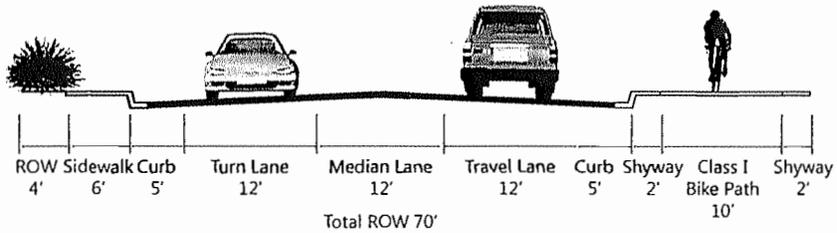
ARTERIAL - 2 LANES DIVIDED



COLLECTOR - 2 LANES (WITH OPTIONAL STRIPED MEDIAN LANE)

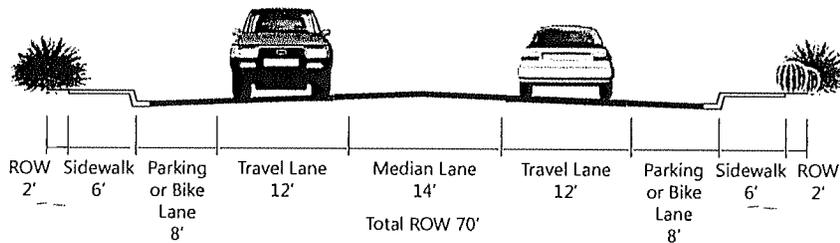


COLLECTOR WITH CLASS I BIKE PATH - 2 LANES (WITH OPTIONAL STRIPED MEDIAN LANE)

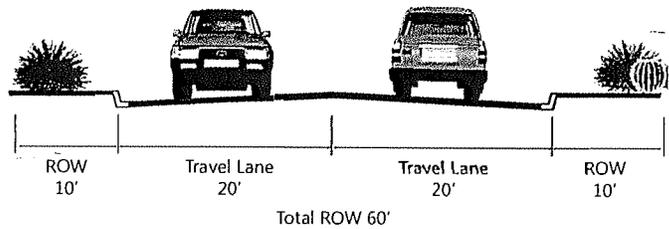


Yucca Valley Circulation Element - Transportation Impact Study

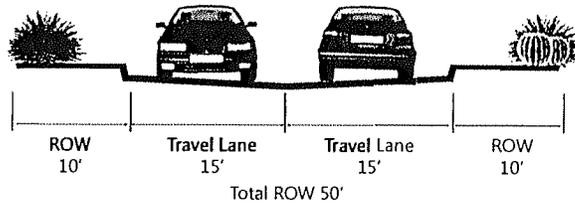
INDUSTRIAL - 2 LANES (WITH STRIPED MEDIAN LANE)



LOCAL



RURAL LOCAL



Yucca Valley Circulation Element - Transportation Impact Study

Notice of Exemption

Form D

To: Office of Planning and Research
PO Box 3044, 1400 Tenth Street, Room 222
Sacramento, CA 95812-3044

From: (Public Agency) Town of Yucca Valley
58928 Business Center Drive
Yucca Valley, CA 92284
(Address)

County Clerk
County of San Bernardino
385 N. Arrowhead, 2nd Flr.
San Bernardino, CA 92415

Project Title: Street Vacation, SV-01-14 Sage Avenue

Project Location - Specific:

The project is at the southwest corner of Sage Avenue and Hidden Gold Drive and is identified as APN:585-362-01.

Project Location - City: Yucca Valley Project Location - County: San Bernardino

Description of Project:

A proposal to vacate a 7' by 152' easement along Sage Ave, at the southwest corner of Sage Ave and Hidden Gold Dr.

Name of Public Agency Approving Project: Town of Yucca Valley

Name of Person or Agency Carrying Out Project: Copper Hills Homes, LLC

Exempt Status: (check one)

- Ministerial (Sec. 21080(b)(1); 15268);
- Declared Emergency (Sec. 21080(b)(3); 15269(a));
- Emergency Project (Sec. 21080(b)(4); 15269(b)(c));
- Categorical Exemption. State type and section number: Section 15301, Class 1 Existing Facilities
- Statutory Exemptions. State code number: _____

Reasons why project is exempt:

The project is an existing roadway and involves no expansion

Lead Agency

Contact Person: Shane Stueckle Area Code/Telephone/Extension: (760) 369-6575 X305

If filed by applicant:

1. Attach certified document of exemption finding.
2. Has a Notice of Exemption been filed by the public agency approving the project? Yes No

Signature: _____ Date: _____ Title: _____

- Signed by Lead Agency Date received for filing at OPR: _____
- Signed by Applicant

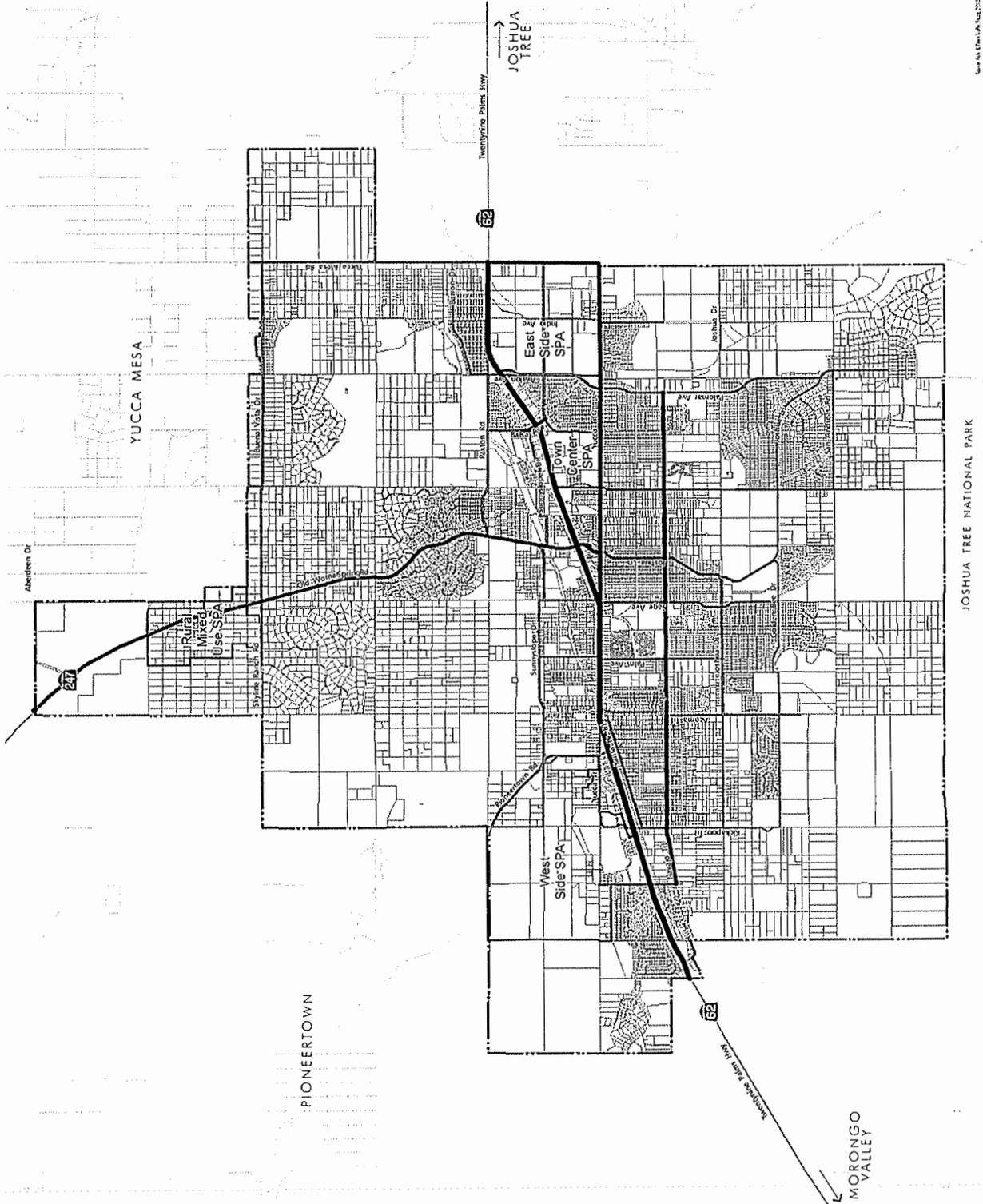
Revised May 1999

Figure C-1

**ROADWAY CLASSIFICATIONS
AT GENERAL PLAN BUILDOUT**

ROADWAY CLASSIFICATIONS

- Highway — 6 Lanes Divided — 134'
- Highway — 4 Lanes Divided — 92'
- Arterial — 4 Lanes Divided — 100'
- Arterial — 2 Lanes — 70'
- Industrial — 2 Lanes with Striped Median — 70'
- Collector — 2 Lanes — 66'
- SPA - Special Policy Area
- Town Limits



NOTE: Illustrations of roadway classifications needed to handle the vehicle flow presented as a result of the buildout of the General Plan and typically assigned from the Bureau of Transportation Planning at Level of Service D or Better.



PLANNING
DEPARTMENT
2014

0 1,000 2,000 Feet

**TOWN OF YUCCA VALLEY
PLANNING COMMISSION MEETING MINUTES
June 24, 2014**

Chair Humphreville called the regular meeting of the Yucca Valley Planning Commission to order at 6:00p.m.

Commissioners present were Bridenstine, Drozd, Lavender, Whitten and Chair Humphreville.

The Pledge of Allegiance was led by Chair Humphreville.

Commissioner Whitten moved to approve the agenda. Commissioner Bridenstine seconded, and the motion passed unanimously.

PUBLIC COMMENTS

Dennis Pask, Yucca Valley, thanked the Planning Commission for approving the Fallosi Home Occupation Permit application at their previous meeting. He said that he believes that home businesses will be an important issue in the future.

CLOSE PUBLIC COMMENTS

PUBLIC HEARINGS

**1. DEVELOPMENT CODE AMENDMENT, DCA 02-14
HOME OCCUPATION REGULATIONS
CEQA EXEMPTION, SECTION 15061**

Deputy Town Manager Stueckle provided the staff report. He provided a brief overview of the previous discussion on this issue and the proposed changes that the staff was presenting for the Commission's consideration. The proposed changes included adding additional activities to the prohibited list, including the sale of firearms in all residential zoning districts other than RL and R-HR, sales of ammunition and massage parlors. They also included establishing four classes of home occupations. Class I occupations would involve the activities which are exempt from permitting. Class II occupations would require a Home Occupation Permit and would be limited to RS, RL and R-HR zones but would not require a Planning Commission hearing. Class III occupations would require a Home Occupation Permit, would be limited to the RL or R-HR zones and would require a Planning Commission hearing. Class IV occupations would require a Conditional Use Permit to be issued by the Planning Commission.

After the presentation of the staff report Chair Humphreville opened the floor to public comments.

PUBLIC COMMENTS

- Janice Pask, Yucca Valley, spoke in support of the proposed inclusion of Conditional Use Permits to the regulations. She also said that she wasn't clear whether or not the use of accessory structures would be allowed.
- David Fallosi, Yucca Valley, said that he would like to see permits issued for a longer time period. He said that the permitting process can be very involved. He also asked if the proposed changes could be applied to business owners who already have permits.
- Curt Duffy, Yucca Valley, said that he was unclear about the higher standards required by the Conditional Use Permit. He also spoke against residential gun sales.

With no further individuals wishing to speak, Chair Humphreville closed public comments.

CLOSE PUBLIC COMMENTS

Following the public comments staff provided some additional information to address questions raised during public comments. Staff provided a brief explanation of the Conditional Use Permit process, and that its intent to provide flexibility to the code. Staff also stated that the use of accessory structures would be allowed by the proposed regulations.

Commissioner Drozd said that he is still in favor of regulations that are graduated based on parcel size, and he doesn't think the Commission should differentiate on anything but lot size and traffic generation. Very small parcels should not have any type of traffic generating business. He agreed with staff that the Conditional Use Permit created needed flexibility in the code, and clarified with staff that Conditional Use Permits could be appealed to the Town Council.

Commissioner Bridenstine said that she also likes the tiered structure. She said she felt that a three year time period for permits is appropriate. She asked staff about grandfathering in the currently active Home Occupation Permits. Staff said that grandfathering would require adding specific language to the regulations, and that there are currently five active permits, one of which would not conform to the proposed new regulations. Commissioner Bridenstine also suggested that the language in section E, Development Standards, be modified to include "from the exterior" with regards to changes in décor and appearance.

Chair Humphreville asked if it the Commission could retroactively apply the new regulations to the recently granted Home Occupation Permits. Staff said that the Commission could add language to extend the permits to three years, but also suggested that the Commission consider the specifics of the individual Home Occupation Permits before making a final decision on grandfathering.

Commissioner Whitten said he would like to remove the prohibited occupations from the ordinance, and would like to see a table similar to what appears in the ordinance addressing permitted uses in commercial zones. He also wanted the inclusion of the phrase "Home Based Businesses." He said that the Conditional Use Permit process gives the Commission the opportunity and flexibility to apply additional conditions to protect the public while helping businesses. Commissioner Whitten suggested replacing the language in the Development Standards addressing alteration of structures with a requirement to maintain architectural

compatibility. He said that he would like to see the recently renewed permits have their time extended to three years.

Chair Humphreville said that he thought it was a mistake to differentiate between firearms sales and other types of retail sales. He also doesn't think it is right to deny a permit to the currently permitted firearm business, which has been in business approximately four years without complaints, simply because it is on a half-acre lot. He also said, that while he agreed with restricting businesses on multi-family lots, he doesn't think that they should regulate the type of legal businesses allowed otherwise. He also said that he thinks the period of three is appropriate. He also said he would like the Commission to discuss the percentage of storage allowed and how it was tiered with the size of the properties. He also said that he likes the way staff had divided home occupations into classes.

There was Commission consensus that they would like to see a table of home occupations.

Chair Humphreville said that he thought it would be reasonable to allow individuals on half-acre lots to have some outside storage, provided it was properly screened from view. Commissioner Bridenstine and Commissioner Whitten agreed, provided that the storage was properly screened. Commissioner Whitten suggested that the requirement be that it is screened fully from public view, not just the street.

Commissioner Whitten said that he would like the regulations to say rental or leased property, instead of just rental property.

Commissioner Lavender said that he thinks firearms should be prohibited in residential areas. He would be willing to accept firearms on the larger parcels, but only reluctantly. Chair Humphreville commented, that an individual is allowed to own a large number of guns on a half-acre lot. Commissioner Whitten said that he doesn't have a problem with gun sales in general, but he thinks should be kept to the RL and R-HR zones. Commissioner Drozd said that he wasn't differentiating between gun sales and other kinds of sales, and he doesn't think that those kind of sales based businesses are appropriate on very small lots, and if the standard for gun sales is RL it should be RL for all sales. Chair Humphreville said the Commissioner Drozd made a good point that some tracts may have lots too small for any kind of traffic generating activities. Commissioner Bridenstine said that she didn't think it was the Planning Commission's job to address gun control, and that they should look at it from a land use perspective. She said that the currently permitted firearm business would be allowed as a Class II occupation if not for the firearm issue. Chair Humphreville and Commissioner Drozd agreed that any business that meets the requirements should be allowed.

There was Commission consensus that they would like to see some kind of language for applying the extended time period for renewal to some or all of the currently active permits.

The Planning Commission directed staff to take the direction given and return with further revisions.

2. DEVELOPMENT CODE AMENDMENT, DCA 01-14

**ARTICLE 2, ZONING DISTRICTS AND DEVELOPMENT STANDARD
CEQA EXEMPTION, SECTION 15061**

Deputy Town Manager Stueckle provided the staff report. He provided an overview of what regulations are encompassed in Article 2, and an overview of the history of the issue. Staff suggested that the Commission address the sections of the ordinance governing accessory structures and native plants. Staff provided an overview of the current standards for accessory structures, and suggested some issues for the Commission to consider and discuss.

Chair Humphreville opened the floor to public comments.

PUBLIC COMMENTS

- David Fallosi, Yucca Valley, spoke in favor of more lenient regulations and asked the Commission to consider what is reasonable.

With no further individuals wishing to speak, Chair Humphreville closed public comments.

CLOSE PUBLIC COMMENTS

Commissioner Drozd stated, that given that some five acre lot could be allowed up to twenty three horses, it would make sense to build either one very large barn or multiple smaller ones, in addition to other structures such as a detached garage or workshop. He suggested an option that would allow the staff to approve additional structures if they were for different purposes.

Commissioner Bridenstine said that there needed to be further definition of accessory structures. Greenhouses and patio covers can require building permits, and if you defined them as accessory structures you could create too many restrictions. She did agree that horse barns are an issue. Those structure can need to be quite large in order to provide adequate protection for the animals. She suggested considering the purpose of the structure. She also said that she thought the limit for the exemption on size should be lowered from ten acres to two and a half, and that it was reasonable to have multiple structures on a parcel two and a half acres or larger, provided all the structures fit and obey the setbacks.

Chair Humphreville said that the square footage allowed for a detached garage is often too small, when based on the square footage of the primary residence. He suggested a standard based on a percentage of coverage inside of the setback might be a good option, particularly for the smaller lot sizes. He also said that the requirements for architectural compatibility should be lenient, and suggested requiring matching colors. He didn't want to outlaw metal motorhome garages.

Commissioner Whitten suggested eliminating the limit on the number of structures. He also thought the term structure needed further definition. He also said that he thought color was sufficient for architectural compatibility. He thinks that screening from the public right away is important. He doesn't think the Commission should address the purpose of a structure. He also agreed with Chair Humphreville's suggestion of a standard based upon percentage of lot coverage.

He said he would like to see staff's recommendation on what would be reasonable to fit the community.

Commissioner Lavender asked for clarification on regulations regarding second unit, and asked if someone would be able to make a second unit available to rent. Staff said that there was a State mandate requiring municipalities to have a second dwelling unit ordinance in order to allow someone that opportunity.

Deputy Town Manager Stueckle said that staff would look into the definition of structure and habitable versus not habitable structures. He also suggested establishing guidelines rather than precise standards. Staff will do some additional research and return the information to the Commission.

Chair Humphreville asked for the staff report on the Native Plant regulations.

Deputy Town Manager Stueckle provided the staff report. He provided an overview the native plant regulations, specifically as they apply to residential zones, and provided some suggestions of issues the Commission might want to discuss.

PUBLIC COMMENT

None

CLOSE PUBLIC COMMENT

Chair Humphreville said that he was on the Commission when they last drafted the native plant regulations, and that he felt that it was a good compromise.

Commissioner Drozd asked if the yucca was protected by State or Federal regulations. Staff said that it was not, and that the Desert Native Plant Act was primarily intended to address the theft of plants from their native habitat. The Desert Native Plant Act states that development on property is exempt unless they are transplanting native plants off site. Commissioner Drozd said that he would be in favor of removing the yucca from the list of protected plants for infill and smaller lot sizes. He also said that requiring five percent undisturbed on a two and a half acre lot seemed like a token number. Chair Humphreville said that the five percent was based on the setback and had been included to incentivize maintaining some native plants. Commissioner Drozd also suggested including some kind of provision for when Joshua trees fall across drive or other access.

Commissioner Bridenstine said that the plant survey required for new development is costly, and suggested not requiring it be submitted until the applicant applies for their grading permit.

Commissioner Whitten said that he liked the ordinance as it was. He also agreed with Commissioner Drozd that there should be some flexibility for fallen Joshua trees.

Commissioner Lavender said that during construction projects he used to see a lot of damage caused to Joshua trees.

Chair Humphreville agreed with Commissioner Bridenstine about not requiring a detailed native plant survey until later on the process.

Chair Humphreville also suggested adding some sort of provision to allow someone with a five acre parcel to use the whole property for things like equestrian use. Staff said they would look into what kind of additional language would be necessary.

CONSENT AGENDA

Chair Humphreville opened the floor to public comments.

PUBLIC COMMENT

None

CLOSE PUBLIC COMMENT

MOTION

Commissioner Whitten moved that the Planning Commission approve the submitted minutes of the meetings held on June 10, 2014. Commissioner Drozd seconded. The motion passed unanimously.

COMMISSIONER REPORTS AND REQUEST:

Commissioner Drozd thanked the press, staff and audience for attending

Commissioner Lavender apologized for his recent lack of preparation due to his illness.

Commissioner Whitten thanked staff, and thanked the public and press for attending.

Commissioner Bridenstine thanked staff. She said that drafting the regulations is an onerous process and it is difficult to come up with something which pleases everyone. She thanked the public for coming out and caring.

Chair Humphreville said it was good to see the public come out to participate. He thanked staff and said he hopes to see the development code completed.

ANNOUNCEMENTS:

The next regular meeting of the Planning Commission is scheduled for July 8 at 6:00pm.

ADJOURNMENT

There being no further business, the meeting adjourned at 8:05.

Respectfully submitted,

Allison Brucker

Secretary

Approved by the Planning Commission on _____, 2014.

DRAFT

**TOWN OF YUCCA VALLEY
PLANNING COMMISSION MEETING MINUTES
July 8, 2014**

Chair Humphreville called the regular meeting of the Yucca Valley Planning Commission to order at 6:00p.m.

Commissioners present were Bridenstine, Drozd, Whitten and Chair Humphreville.

The Pledge of Allegiance was led by Chair Humphreville.

Commissioner Whitten moved to approve the agenda. Commissioner Bridenstine seconded, and the motion passed unanimously.

PUBLIC COMMENTS

None

CLOSE PUBLIC COMMENTS

PUBLIC HEARINGS

**1. STREET VACATION, SV-01-14
CEQA EXEMPTION, SECTION 15301, Class 1**

Staff requested that this item be continued to the next meeting due to an inaccuracy in the staff report. Staff had received a revision to the legal description of the property in question subsequent to the drafting of the staff report.

PUBLIC COMMENTS

None

CLOSE PUBLIC COMMENTS

MOTION

Chair Humphreville moved that the Planning Commission continue this item to the August 12, 2014 Planning Commission meeting. Commissioner Whitten seconded, and the motion passed unanimously.

**2. DEVELOPMENT CODE AMENDMENT, DCA 04-14
ARTICLE 1, AUTHORITY AND APPLICABILITY
CEQA EXEMPTION, SECTION 15061(b)(3)**

Deputy Town Manager Stueckle provided the staff report. He provided an overview of the purpose and scope of Article 1 in the development code, and provided an overview of recommended language being presented to the Commission. Staff also stated that they had been review this article with the Town's attorney's office, and there had been some discussion of moving some provision located in Article 5 to Article 1 or Article 4 for both legal reason and to improve clarity. Staff also recommended that the Planning Commission retain the article until such a time as the full code was completed before forwarding it to the Town Council.

Chair Humphreville opened the floor to public comments.

PUBLIC COMMENTS

- Susan, Simmons, Yucca Valley, wished to speak about the native plant ordinance. She was informed that the native plant ordinance was part of item number five on the agenda, and agreed to hold her comment until that time.

With no further individuals wishing to speak, Chair Humphreville closed public comments.

CLOSE PUBLIC COMMENTS

Commissioner Whitten asked if the rules regarding continuation of structure under Section 9.03.050, Nonconforming Structures, would still apply with a change of ownership. Staff said that they would, and that a change ownership does not affect non-conformance status. Commissioner Whitten also asked how non conformity was addressed in cases where there is a change of use. Staff said that in a case where someone applies for a change in use or expansion of use, non-conformance is an issue that the Commission can address. Commissioner Whitten also suggested using replacement value rather than reasonable value. Staff said that they would look into this language and review it with the attorney.

Chair Humphreville asked if the Town had a lot of non-conforming commercial lots. Staff said no, but it is something the Town will run into on a case by case basis, with setback issues being the most likely non-conforming element.

Commissioner Drozd asked if there were any non-conforming mobile home parks. Staff said that there were none. Chair Humphreville asked if the 20 year rule for mobile home parks would still apply if there were changes to the code. Staff said that it would probably need to go to the Commission and Council given the relocation issues and other complexities involved.

Commissioner Bridenstine suggested using traditional rounding in all case rather than rounding down in some cases. She also said that she thought that some of the non-conforming issues associated with setbacks would be alleviated by the new general plan. Chair Humphreville asked if changing all rounding to traditional round would be something that would need to be run through the attorney's office. Staff said it wouldn't need to go to the attorney, but explained that it was more common to round down to the nearest whole number when addressing issues such as density

is so that you are not exceeding the base general plan designation. Commissioners Bridenstine and Humphreville said that they agreed that it made sense to round down for density.

MOTION

Chair Humphreville moved that the Planning Commission finds the project except from CEQA in accordance with Section 15061(b)(3) of the California Environmental Quality Act, and that the Planning Commission recommends that the Town Council adopt the Ordinance and repeals Development Code Sections 81.0101-81.0195, Section 81.0305 and Sections 84.0801-84.0830 of Title 8, but retains Article 1 until such a time and the entire Development Code is complete before forwarding it to Town Council. The motion was seconded by Commissioner Whitten and passed unanimously.

**3. DEVELOPMENT CODE AMENDMENT, DCA 03-14
ARTICLE 5, ADMINISTRATION
CEQA EXEMPTION, SECTION 15061**

Deputy Town Manager Stueckle provided the staff report. He provided an overview of the purpose and scope of Article 5 in the development code, and provided an over view of recommended language being presented to the Commission. Staff also recommended that the Planning Commission retain the article until such a time as the full code was completed before forwarding it to the Town Council.

Chair Humphreville opened the floor to public comments.

PUBLIC COMMENT

None

CLOSE PUBLIC COMMENT

Commissioner Drozd asked for clarification on the Authority to Inspect included in Chapter 9.82. He asked if there was a requirement for the owner to be on the premises for the inspection. He felt that someone should have to be home to inspect something. Staff said that this is generally referring to inspections done during the construction process as part of general procedures, but later in that section it does state that the Town would have to obtain an inspection warrant in any situation in which they were unable to receive permission and access from the owner.

Commissioner Whitten asked about how hazardous waste, such as asbestos, in older buildings was addressed by the code. Staff said that those regulations are typically not part of the development code.

Based upon some issues being discussed with the attorney’s office, Staff recommended that the Commission continue this item to the August 12th meeting

MOTION

Commissioner Whitten moved that the Planning Commission continue this item to the August 12, 2014 Planning Commission meeting. Chair Humphreville seconded, and the motion passed unanimously.

**4. DEVELOPMENT CODE AMENDMENT, DCA 02-14
HOME OCCUPATION REGULATIONS
CEQA EXEMPTION, SECTION 15061(b)(3)**

Deputy Town Manager Stueckle provided the staff report. Staff was returning the draft of the Home Occupation Permit regulations with revision based upon direction given by the Planning Commission, and he provided an overview of the included changes. He also provided a summary of the history of this item.

PUBLIC COMMENTS

- Charles McHenry, Yucca Valley, said that he appreciates the effort put forth by the Planning Commission to listen to the public. He spoke in support of the recommended language.

END PUBLIC COMMENTS

Commissioner Whitten said that he thinks that the inclusion of the table of commercial uses make it clearer. He said that he would agree to allowing firearm sales in the RS zone provided that the lots were at a minimum of one acre. He would prefer that it be limited to the RL or greater zones, but felt that the one acre minimum would be a good compromise. He also asked about equestrian facilities, particularly boarding, and said that he didn't feel that those should be prohibited. Staff said that equestrian facilities are not prohibited, but require a livestock permits, not a Home Occupation Permit. Staff suggested revising the table to show that it was a use allowed with a livestock permit.

Chair Humphreville asked if the Conditional Use Permit process could be used to allow prohibited uses. Staff said that a Conditional Use Permit could not allow a prohibited use. Allowing a prohibited use would require a development code amendment.

Staff asked for clarification that the table needed to be changed regarding the equestrian issue. Staff said that historically commercial animal keeping has required a large animal permit through that ordinance. Staff will need to review this issue as it applies to zoning density standards and the large animal overlay district map. Staff suggested amending the table to list a Special Use Permit, and staff will confirm that livestock permits were listed under Special Use Permits.

Commissioner Whitten said that he didn't think that catering services should be allowed in the RM zones, and was unsure about allowing it in the RS zones. He also said that barber or beauty shops, fortune tellers, and dance or music studios should not be allowed in the RM zones. He also asked how home schooling would be addressed by the category for schools listed on the table. Staff said that this category was not intended to address home schooling.

Staff requested that the Commission discuss the issue of catering and bakeries. Staff stated that there were new County Health department regulations allowing commercial kitchens as part of residential operations. Staff will bring those regulations to the next meeting. Staff recommends that the Commission included a footnote for the Council to look specifically at the commercial kitchen question. Commissioner Whitten said that his objection was particularly to allowing it in RM.

Commissioner Drozd asked for clarification of the language listing "utility grade/primary use" under solar energy and wind energy system. Staff said that the language was intended to reflect commercial solar or wind power generation, which is prohibited in the Town. Staff suggested adding the term commercial to the definition in the table. Commissioner Drozd said that traffic generation should be the deciding factor, not type of sales. He also said that regulations shouldn't allow any traffic to go to really small lots.

Chair Humphreville suggested not allowing any traffic generating occupation which would require a Home Occupation Permit in RM zones or 18,000 sq. ft. or below. Commissioner Drozd, and Commissioner Bridenstine agreed.

Commissioner Bridenstine said that she didn't think the small family child day care should be exempt, and that large family child day care shouldn't be allowed in the RM zones. She also doesn't think that any business with clients visiting the residence should be allowed in RM zones. She also said that maintenance and repair (minor) might be allowable in the RL and RH zones, provided it was the repair of smaller items which could be worked on inside a garage. She also said that a welding and machining might be allowable in the RL and RH zones provided it was done inside.

Commissioner Bridenstine also said she didn't think that the Commission ever came to a consensus on the allowance of 25% or 250ft for RS zone and the 35% or 500ft for RL for the operation of the home business. Chair Humphreville thought that the commission had come to a consensus that anything inside a home would be allowed as long as it was not changing the residential nature of the outside appearance. Staff was not sure if there had been consensus. Chair Humphreville also suggested that RS zones should be allowed 10% of outside storage as long as it was screened.

Staff said that the language in the body of the regulations prohibited Class II and Class III occupations, which are those which require Home Occupation Permits, in the RM zones. Staff will have to clean up the table. Staff will also look into the state planning laws to see if it is required to allow small daycare in the RM zones, and they will also look into the regulations regarding residential commercial kitchens. Staff asked the Commission if they felt that fortune telling should be allowed in RS. There was Commission consensus that it should be allowed in RS.

There was a discussion over allowing maintenance and repair of small engines or appliances in the RL and RH zones provided that it is performed within a garage or other structure. There was Commission consensus that allowing this kind of occupation in RL and RH would be appropriate.

Commissioner Whitten suggested phrasing it as general maintenance and repair to include all types of minor maintenance and repair.

There was Commission discussion of the standards to apply to firearms sales. Commissioner Whitten said that he would like to see a one acre minimum. Commissioner Bridenstine said that she thought that the RS zoning is typically half acre lots or 18,000 sq. ft. and that it should be allowed in those zones. Commissioners Drozd and Humphreville agreed. Commissioner Whitten asked if there was any one acre RS. Staff said that while there may be some parcels in RS zones one acre in sizes there were no zones that required one acre parcels in RS. Chair Humphreville said that he doesn't want to see a currently active business, which has had no complaints, closed down. He suggested setting the limit for any HOP that generates traffic to lots 18,000 sq. ft. or greater, but also suggested grandfathering in the current retail business located on a lot smaller than 18,000 sq. ft. until it was no longer active. Commissioner Whitten said that he would prefer firearms limited to RL or RH. Commissioners Humphreville, Drozd and Bridenstine agreed that all Home Occupation Permits which would generate traffic, including firearm sales, should be limited to RS lots 18,000 sq. ft. or greater.

There was Commission consensus that no changes needed to be made to the hours of operation as presented.

There was Commission consensus that 10% of lot area would be allowed for screened outside storage in RS zones, and would not require coming before the Commission.

There was Commission consensus that the period of approval should be 3 years.

There was Commission consensus to remove the limit on the percentage of the residence which can be used as part of the home occupation provided that it doesn't change the residential character of the outside.

Commissioner Bridenstine asked for confirmation that use of accessory structures would be allowed under the current draft on the regulations. Staff confirmed that they would be allowed.

MOTION

Chair Humphreville moved that the Planning Commission continue this item to the August 12, 2014 Planning Commission meeting. Commissioner Whitten seconded, and the motion passed unanimously.

RECESS

Chair Humphreville called for a recess at 7:31 and the meeting reconvened at 7:39.

5. DEVELOPMENT CODE AMENDMENT, DCA 01-14 ARTICLE 2, ZONING DISTRICTS AND DEVELOPMENT STANDARDS CEQA EXEMPTION, SECTION 15061(b)(3)

Deputy Town Manager Stueckle provided the staff report. He provided an overview of the purpose and scope of Article 2 in the development code, and provided an over view of recommended language being presented to the Commission. He also provided a summary of the history and past discussion held by the Planning Commission relating to the native plant ordinance. Staff recommended that the Planning Commission review Article 2, take public comment, and provide direction to staff.

PUBLIC COMMENTS

- Susan Simmons, Yucca Valley, spoke against the proposed changes to the ordinance. She also said that she would like to see junipers and pinyon pines added to the list of protected plants.
- Curt Duffy, Yucca Valley, spoke against the removal of plants from the protected plant list. He said that he thought pinyon pines and junipers should be included.
- Bonnie Brady, Yucca Valley, spoke against making the native plant ordinance more lenient.

END PUBLIC COMMENTS

Staff briefly responded to the public comments. Staff noted that the last discussion about the native plant ordinance never moved past Town Council discussion. Staff also said that they were trying to find a balance between the differing desires of the community.

Chair Humphreville said that he has been on the Planning Commission for five years, and that there have been many discussion on how to draft the ordinance. He said that if the current draft of the ordinance had been in place at the time, the Copper Hills development wouldn't look like it does. The Story Park development looks as natural as it does because it was done with no mass grading, and new development of that type requires mass grading to deal with drainage issues, something which is a problem in Story Park. He also said that he feels that the ordinance strikes a balance between the concerns of both sides as it is drafted, but neither side is going to be totally happy.

Commissioner Drozd said that real conservation doesn't really include infill or individual residential lots. Conservation is more about land trusts or state parks. He agrees that the desert is slow to renew and that we have to be careful, but it is ridiculous to say what someone can do on a half-acre lot. He also pointed out that there were plants which were not even native to area on the list of protected native plant, and that while he agrees about the value of pinyon pine and junipers, it can be a slippery slope when you start adding too many plants to the list.

Chair Humphreville pointed out that there are additional incentives to leave open spaces in the draft ordinance. Staff said that the incentives, as well as other tools which can be used with developers, were created to increase native plant character. Staff also pointed out that some types of projects require controlled draining, and you can't retain native plants in our topography and develop in 18,000 sq. ft. lots while controlling drainage properly.

Commissioner Bridenstine said that she personally loves pinyon pines and junipers, and when she developed her last house, on a two and a half acre lot, she left as many of the native plants in place as possible, and only cleared enough space for the house and patio. However when there was a fire in 2005, and the lack of clear cutting endangered the house. She said she believes that the fire department recommends leaving at least 30 or 50 feet of clear space around structures. She also said that she doesn't have a problem adding junipers and pinyon pines to the list, but she doesn't think those plants can be transplanted. Those plants should not prohibit you from being able to build a house. She also said that she felt that the previous list of protected plants was excessive. She prefers incentives because we want people to want to preserve native plants more than we want to punish them for not preserving native plants. She wouldn't have a problem with adding junipers and pinyon pines as long as you didn't preclude development by doing so.

Commissioner Whitten spoke in support of the draft ordinance, and said that he thinks that the proposed native plant regulations are balanced. He said that he would be in support of adding pinyon pines and junipers to the list of protected plants if they can be transplanted.

Chair Humphreville said that the issue of transplanting junipers and pinyon pines had come up in a previous discussion, and that his recollection was that junipers couldn't be transplanted and that only very small pinyon pines could be transplanted. He also said that incentivizing clustered development in order to leave open space is desirable, but none of these things can take effect unless the Town is able to get a native plant ordinance in place. He said that, while it may not please everyone, it is a balanced ordinance.

Commissioner Whitten said that if the Town can get a native plant ordinance in town in will improve new developments, like the Sage Estates project.

MOTION

Chair Humphreville moved that the Planning Commission continue this item to the August 12, 2014 Planning Commission meeting. Commissioner Whitten seconded, and the motion passed unanimously.

CONSENT AGENDA

None

COMMISSIONER REPORTS AND REQUEST:

Staff provided an overview of the progress on current and upcoming projects. Staff also recommended that the Planning Commission cancel the second meeting of July.

Commissioner Drozd thanked everyone for being there, particularly the audience. It is great to see participation.

Commissioner Whitten thanked everyone who attended. He asked about releasing a press release about the speed limit change. He thanked the public for their community spirit.

Commissioner Bridenstine thanked staff, and thanked the public for participating.

Chair Humphreville said that the medians were badly in need of maintenance, and asked how staff was addressing the issue. Staff said that there have some structural changes in the parks and streets divisions which has effected staffing capabilities. Staff has been working on addressing this issue, both with staff efforts and contractors. Chair Humphreville thanked staff for their work.

ANNOUNCEMENTS:

The next regular meeting of the Planning Commission is scheduled for August 12, 2014 at 6:00pm.

ADJOURNMENT

There being no further business, the meeting adjourned at 8:41.

Respectfully submitted,

Allison Brucker
Secretary

Approved by the Planning Commission on _____, 2014.