TOWN OF YUCCA VALLEY
TOWN COUNCIL MEETING

The Mission of the Town of Yucca Valley is to provide a government that is responsive to its citizens to ensure a safe and secure environment while maintaining the highest quality of life.

TOWN COUNCIL: 6:00 p.m.
TUESDAY, AUGUST 19, 2014
YUCCA VALLEY COMMUNITY CENTER
YUCCA ROOM
57090 - 29 PALMS HIGHWAY
YUCCA VALLEY, CALIFORNIA 92284

CLOSED SESSION: 6:00 p.m.
(Immediately following the Regular Meeting)
TUESDAY, AUGUST 19, 2014
TOWN HALL CONFERENCE ROOM
57090 - 29 PALMS HIGHWAY
YUCCA VALLEY, CALIFORNIA 92284

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TOWN COUNCIL
Robert Lombardo, Mayor
George Huntington, Mayor Pro Tem
Merl Abel, Council Member
Robert Leone, Council Member
Dawn Rowe, Council Member

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TOWN ADMINISTRATIVE OFFICE:
760-369-7207
www.yucca-valley.org

AGENDA
MEETING OF THE
TOWN OF YUCCA VALLEY COUNCIL
TUESDAY AUGUST 19, 2014
6:00 P.M.

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.

An agenda packet for the meeting is available for public view in the Town Hall lobby and on the Town's website, www.yucca-valley.org, prior to the Council meeting. Any materials submitted to the Agency after distribution of the agenda packet will be available for public review in the Town Clerk's Office during normal business hours and will be available for review at the Town Council meeting. Such documents are also available on the Town's website subject to staff's ability to post the documents before the meeting. For more information on an agenda item or the agenda process, please contact the Town Clerk's office at 760-369-7209 ext. 226.

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 Town Clerk. The Mayor/Chair will recognize you at the appropriate time. Comment time is limited to 3 minutes.

(WHERE APPROPRIATE OR DEEMED NECESSARY, ACTION MAY BE TAKEN ON ANY ITEM LISTED IN THE AGENDA)

OPENING CEREMONIES

CALL TO ORDER

ROLL CALL: Council Members Abel, Huntington, Leone, Rowe, and Mayor Lombardo

PLEDGE OF ALLEGIANCE

INVOCATION Led by Pastor Matt Jennings, Good Shepherd Lutheran Church

PRESENTATIONS

1. Employee of the Quarter
2. Capital Projects Update

AGENCY REPORTS

3. Yucca Valley Chamber of Commerce

4. Hi Desert Water District

APPROVAL OF AGENDA

Action: Move_____2nd_____Vote_____.

CONSENT AGENDA

5. Waive further reading of all ordinances (if any in the agenda) and read by title only.

Recommendation: Waive further reading of all ordinances and read by title only.

1-12 6. Project No.8340 – 2014/2015 Town Wide Slurry Seal Project
Acceptance of Project as Substantially Complete

Recommendation: Accept the project as substantially complete, authorizes staff to file the Notice of Completion, authorizes the reduction of the Faithful Performance Bond to 10%, and directs staff to retain the Labor and Material Bond for six (6) months for Project No.8340.

13-15 7. Fall/Winter 2014-15 Program Offerings- Community Services Department

Recommendation: Receive and file the report outlining the fall and winter 2014-15 programs and events to be organized and conducted by the Community Services Department

16-17 8. 2014 Veterans' Tribute Planning Update

Recommendation: Receive and file the Community Services planning update for the 2014 Veterans' Tribute event

18-22 9. Fiscal Year 2012-13 Single Audit Report Certification

Recommendation: Receive and File the FY 2012-13 Single Audit Report on Federal Awards Certification.

23-24 10. 4th Quarter FY 2013-14 Treasurer's Report

Recommendation: Receive and file the Treasurer's Report for the fourth quarter of FY 2013-14

25-30 11. AB 1234 Reporting Requirements

Recommendation: Receive and file the AB 1234 Reporting Requirement Schedule for the months of June 2014 and July 2014

31-51 12. Warrant Register

Recommendation: Ratify the Payroll Registers Total of $272,814.04 for checks dated July 3, 2014 and July 18, 2014 and ratify the Warrant Registers total of $2,671,672.38 for checks dated July 9, 2014 thru August 7, 2014

All items listed on the consent calendar are considered to be routine matters or are considered formal documents covering previous Town Council 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 Town Council 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 Town Clerk/Deputy Town Clerk before the consent calendar is called.

Recommendation: Adopt Consent Agenda (items 5-12)

Action: Move_____2nd_____Vote _____

PUBLIC HEARINGS

52-268 13. Resolution No. 14-
Appeal, A-01-14, Koenig
Appeal of Planning Commission Action
Home Occupation Permit Request for Approval,
HOP 11-05/HOP 01-14, Falossi
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

Recommendation: Adopt the Resolution, upholds the Planning Commission action, and deny the appeal

Action: Move_____2nd_____Vote _____

FUTURE AGENDA ITEMS

PUBLIC COMMENTS

In order to assist in the orderly and timely conduct of the meeting, the Council takes this time to consider your comments on items of concern which are on the Closed Session or not on the agenda. When you are called to speak, please state your name and community of residence. Notify the Mayor if you wish to be on or off the camera. Please limit your comments to three (3) minutes or less. Inappropriate behavior which disrupts, disturbs or otherwise impedes the orderly conduct of the meeting will result in forfeiture of your public comment privileges. The Town Council is prohibited by State law from taking action or discussing items not included on the printed agenda.

STAFF REPORTS AND COMMENTS

MAYOR AND COUNCIL MEMBER REPORTS AND COMMENTS

14. Council Member Abel

15. Council Member Leone

16. Council Member Rowe

17. Mayor Pro Tem Huntington

18. Mayor Lombardo

ANNOUNCEMENTS

Time, date and place for the next Town Council meeting.

The next regularly scheduled meeting of the Town Council is 6:00 p.m., Tuesday, September 2, 2014, at the Yucca Valley Community Center Yucca Room.

CLOSED SESSION

(Public Comments will be taken before the Council adjourns to Closed Session)

1. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

   Significant exposure to litigation pursuant to paragraphs (2) and (3) of subdivision (d) of Government Code Section 54956.9 (one potential case)

2. PUBLIC EMPLOYEE PERFORMANCE EVALUATION

   Pursuant to Government Code Section 54957, Public Employee Performance Evaluation (Town Manager) - goals and objectives

REPORT OUT FROM CLOSED SESSION

ADJOURNMENT

Yucca Valley Town Council

Meeting Procedures

The Ralph M. Brown Act is the state law which guarantees the public's right to attend and participate in meetings of local legislative bodies. These rules have been adopted by the Town of Yucca Valley Town Council in accordance with the Brown Act, Government Code 54950 et seq., and shall apply at all meetings of the Yucca Valley Town Council, Commissions and Committees.

Agendas - All agendas are posted at Town Hall, 57090 Twentynine Palms Highway, Yucca Valley, at least 72 hours in advance of the meeting. Staff reports related to agenda items may be reviewed at the Town Hall offices located at 57090 Twentynine Palms Highway, Yucca Valley.

Agenda Actions - Items listed on both the "Consent Calendar" and "Items for Discussion" contain suggested actions. The Town Council will generally consider items in the order listed on the agenda. However, items may be considered in any order. Under certain circumstances new agenda items can be added and action taken by two-thirds vote of the Town Council.

Closed Session Agenda Items - Consideration of closed session items, *excludes* members of the public. These items include issues related to personnel, pending litigation, labor negotiations and real estate negotiations. Prior to each closed session, the Mayor will announce the subject matter of the closed session. If final action is taken in closed session, the Mayor shall report the action to the public at the conclusion of the closed session.

Public Testimony on any Item - Members of the public are afforded an opportunity to speak on any listed item. Individuals wishing to address the Town Council should complete a "Request to Speak" form, provided near the Town Clerk's desk at the meeting room, and present it to the Town Clerk prior to the Council's consideration of the item. A "Request to Speak" form must be completed for *each* item when an individual wishes to speak. When recognized by the Mayor, speakers should be prepared to step forward and announce their name and address for the record. In the interest of facilitating the business of the Council, speakers are limited to up to three (3) minutes on each item. The Mayor or a majority of the Council may establish a different time limit as appropriate, and parties to agenda items shall not be subject to the time limitations.

The Consent Calendar is considered a single item, thus the three (3) minute rule applies. Consent Calendar items can be pulled at Council member request and will be brought up individually at the specified time in the agenda allowing further public comment on those items.

Agenda Times - The Council is concerned that discussion takes place in a timely and efficient manner. Agendas may be prepared with estimated times for categorical areas and certain topics to be discussed. These times may vary according to the length of presentation and amount of resulting discussion on agenda items.

Public Comment - At the end of the agenda, an opportunity is also provided for members of the public to speak on any subject with Council's authority. *Matters raised under "Public Comment" may not be acted upon at that meeting. The time limits established in Rule #4 still apply.*

Disruptive Conduct - If any meeting of the Council is willfully disrupted by a person or by a group of persons so as to render the orderly conduct of the meeting impossible, the Mayor may recess the meeting or order the person, group or groups of person willfully disrupting the meeting to leave the meeting or to be removed from the meeting. Disruptive conduct includes addressing the Council without first being recognized, not addressing the subject before the Council, repetitiously addressing the same subject, failing to relinquish the podium when requested to do so, or otherwise preventing the Council from conducting its meeting in an orderly manner. *Please be aware that a NO SMOKING policy has been established for all Town of Yucca Valley meetings. Your cooperation is appreciated!*

ACRONYM LIST

ADA	Americans with Disabilities Act
CAFR	Comprehensive Annual Financial Report
CALTRANS	California Department of Transportation
CEQA	California Environmental Quality Act
CCA	Community Center Authority
CDBG	Community Development Block Grant
CHP	California Highway Patrol
CIP	Capital Improvement Program
CMAQ	Congestion Mitigation and Air Quality
CMP	Congestion Management Program
CNG	Compressed Natural Gas
COP	Certificates of Participation
CPI	Consumer Price Index
DOJ	Department of Justice
DOT	Department of Transportation
ED	Economic Development
EIR	Environmental Impact Report (pursuant to CEQA)
GAAP	Generally Accepted Accounting Procedures
GASB	Governmental Accounting Standards Board
HDWD	Hi Desert Water District
HUD	US Department of Housing and Urban Development
IEEP	Inland Empire Economic Partnership
IIPP	Injury and Illness Prevention Plan
IRC	Internal Revenue Code
LAIF	Local Agency Investment Fund
LLEBG	Local Law Enforcement Block Grant
LTF	Local Transportation Fund
MBTA	Morongo Basin Transit Authority
MBYSA	Morongo Basin Youth Soccer Association
MDAQMD	Mojave Desert Air Quality Management District
MOU	Memorandum of Understanding
MUSD	Morongo Unified School District
PARSAC	Public Agency Risk Sharing Authority of California
PERS	California Public Employees Retirement System
PPA	Prior Period Adjustment
PVEA	Petroleum Violation Escrow Account
RDA	Redevelopment Agency
RSA	Regional Statistical Area
RTP	Regional Transportation Plan
SANBAG	San Bernardino Associated Governments
SCAG	Southern California Association of Governments
STIP	State Transportation Improvement Program
STP	Surface Transportation Program
TEA-21	Transportation Enhancement Act for the 21st Century
TOT	Transient Occupancy Tax

COUNCIL COMMITTEE MEETING TIMES

COMMITTEE	REPRESENTATIVE	TIMES	LOCATION
SANBAG	HUNTINGTON ROWE (ALT)	10:30 am 1st Wed	San Bernardino
MEASURE I	HUNTINGTON ROWE (ALT)	9:30 am 3rd Fri.	Apple Valley
DESERT SOLID WASTE JPA	HUNTINGTON LOMBARDO (ALT)	10:00am 2nd Thurs Feb, May, Aug, Nov	Victorville
SOLID WASTE ADVISORY TASK FORCE	HUNTINGTON	3rd Wed. April & October	Highland
LEAGUE OF CALIFORNIA CITIES DESERT/MOUNTAIN DIVISION	LOMBARDO ROWE (ALT)	10:00 am. 4th Fri quarterly	Various Locations
MORONGO BASIN TRANSIT AUTHORITY	ABEL LEONE ROWE (ALT)	5:00 pm 4th Thurs	Joshua Tree
MOJAVE AIR QUALITY DISTRICT	LEONE ROWE (ALT)	10:00 am 4th Mon	Victorville
LEAGUE OF CALIFORNIA CITIES LEGISLATIVE DELEGATE	MAYOR		
LEGISLATIVE TEAM	HUNTINGTON ROWE	Proposed for Council Member to work with Town Manager meeting with legislators when necessary.	
CITY/COUNTY ANIMAL SERVICES JPA	HUNTINGTON LOMBARDO	12:00 p.m. last Thurs.	Yucca Valley
SPORTS COUNCIL	HUNTINGTON	March, June, Sept., Oct.	Yucca Valley
SBCO HOMELESS PARTNERSHIP AND INTERAGENCY COUNCIL ON HOMELESSNESS	LEONE LOMBARDO (ALT)	9:00 a.m. 4th Wed	San Bernardino

AD HOC COMMITTEES

SENIOR HOUSING	HUNTINGTON ROWE
SEWER FINANCING	ROWE LEONE
COUNCIL RULES & PROCEDURES	HUNTINGTON LOMBARDO
MORONGO UNIFIED SCHOOL DISTRICT	ROWE
AUDIT	
BREHM PARK	ABEL LOMBARDO
COUNTY BUDGET COMMITTEE	ROWE HUNTINGTON
SUBDIVISION COMMITTEE	HUNTINGTON LEONE
RDA BOND COMMITTEE	ROWE LEONE
ONLINE VIDEO COMMITTEE	HUNTINGTON EVANS (PRCC)

TOWN COUNCIL STAFF REPORT

To: Honorable Mayor & Town Council
From: Shane Stueckle, Deputy Town Manager
Alex Qishta, Project Engineer
Date: August 11, 2014
For Council Meeting: August 19, 2014

Subject: Project No.8340 – 2014/2015 Town Wide Slurry Seal Project
Acceptance of Project as Substantially Complete

Prior Council Review: The Town Council appropriated funds for this project with adoption of the FY 2014/2015 Budget. On April 1, 2014, the Town Council approved plans and specifications for Project No.8340 and authorized the Town Clerk to advertise and receive bids.

On June 3, 2014, the Town Council awarded Project No.8340 to Pavement Coatings Company of Jurupa Valley, California.

On June 23, 2014 the Town Council approved a contract amendment per Section 1.10 of the original Contract between the Town of Yucca Valley and Pavement Coatings Company to add Joshua Lane from Joshua Drive to Yucca Trail, Cape Seal, to the scope of work in the amount of $128,558.74

Recommendation: That the Town Council accepts the project as substantially complete, authorizes staff to file the Notice of Completion, authorizes the reduction of the Faithful Performance Bond to 10%, and directs staff to retain the Labor and Material Bond for six (6) months for Project No.8340.

Executive Summary: : Project No. 8340 involves the application of a cape seal on designated streets throughout the Town of Yucca Valley specifically set forth in the Bid Documents and includes but not limited to mobilization, traffic control, removal of pavement striping, markings and legends, application of slurry and cape seal, and includes all appurtenant labor, materials and equipment.

Order of Procedure:

Request Staff Report
Request Public Comment
Council Discussion/Questions of Staff
Motion/Second
Discussion on Motion

Reviewed By:	Town Manager	Town Attorney	Mgmt Services	SRS Dept Head

___ Department Report	___ Ordinance Action	___ Resolution Action	___ Public Hearing
X Consent	X Minute Action	___ Receive and File	___ Study Session

Call the Question (Roll Call Vote, Consent Agenda)

Discussion: The Town Wide Slurry Seal Project provided slurry and cape seal for streets throughout the Town, and appurtenant work as necessary. All work required for the project has been satisfactory completed. Approximately eleven lanes miles of road maintenance were completed with this project.

It is appropriate for the Town to accept the work and file a Notice of Completion. It is also appropriate to reduce the Faithful Performance Bond being as held as a surety to 10%. The Labor and Material Bond shall be retained for a period of six (6) months, and then released provided no liens or stop notices have been filed.

Alternatives: Staff recommends no alternative action.

Fiscal impact: The following outlines project costs of completion of the work as bid.

Estimated Project Cost	
Base Bid Amount	$370,700.00
Construction Contingency	$37,300.00
Contract Amendment	$128,558.74
Contract Amendment Contingency	$12,855.26
Total Contract Work	**$549,414.00**

Total Contract Costs:	$492,700.74
Contract Remaining Balance:	**$ 56,713.26**
Indirect Cost Allocation	$ 24,700.00
Direct Engineering Staff Costs	$ 1,100.00
Total Project Savings	**$ 30,913.26**

The funds remaining from this project will be returned to the source fund(s) for future appropriation by the Town Council.

Attachments:
April 1, 2014 Town Council Minutes
June 3, 2014 Town Council Minutes
June 23, 2014 Town Council Minutes
CIP Pages
Budget Pages

City-County Delegate Agency Agreement with San Bernardino County for fiscal years 2015-16, 2016-17 and subsequently automatically renew unless terminated, and authorize the mayor to execute the agreement

5. **Approve** Resolution No. 14-08 directing the preparation of an assessment engineer's report describing any new improvements or any substantial changes in the existing improvements in the existing assessment districts.

6. **Ratify** the Payroll Register total of $126,315.94 dated March 14, 2014.
Ratify Warrant Register total of $336,373.69 for checks dated March 6, 2014.

Mayor Lombardo opened public comment for items on the Consent Agenda. With no other members of the public wishing to speak, Mayor Lombardo closed public comments.

Mayor Pro Tem Huntington moved to approve consent agenda items 2-6. Council Member Rowe seconded. Motion carried 4-0-1 moved on a roll call vote.

AYES:	Council Members Huntington, Leone, Rowe and Mayor Lombardo
NOES:	None
ABSTAIN:	None
ABSENT:	Council Member Abel

DEPARTMENT REPORTS

7. **Town-Wide Slurry Seal Project- Town Project No. 8340; Approval of Plans and Specifications; Authorization to Advertise for Construction**

Town Project Engineer Qishta presented the staff report for the 2014-15 Town-Wide Slurry Seal Project, known as Town Project No. 8340. The benefits of applying slurry to regularly maintained roads were explained. The goal of the street maintenance program is to have streets in sufficient condition to slurry seal every street in the Maintained Road System every five to seven years. Several local roadways have deteriorated beyond the slurry stage and require more expensive maintenance and repair. Estimated costs for slurry treatment is $0.20 per square foot, cape seal treatment is $0.45 per square foot and road reconstruction at $8.00 per square foot. The 2014-2015 fiscal year slurry program is estimated at $550,000.

Mayor Lombardo opened public comments.

Charles McHenry, Yucca Valley questioned the inclusion of partial roadways in the schedule instead of maintaining the entire section of road.

With no other members of the public wishing to speak, Mayor Lombardo closed public comments.

In response to public comment, Deputy Town Manager Stueckle explained the section of roadway questioned as omitted in the 2014-15 slurry schedule was maintained a couple of years ago under a separate project and is not on the same maintenance schedule as the rest of the roadway.

Mayor Lombardo asked for clarification on the ongoing maintenance cost if all the roads were up to the same standard to be maintained by the slurry process. Deputy Town Manager Stueckle stated that a slurry process for all Town maintained roadways would be approximately $1 million per year.

Council Member Rowe questioned how many square feet are lost from the slurry to cape seal category each year a road is unfunded. Rowe continued and requested this information for the upcoming budget discussions to explain the monetary effects when roadway conditions move beyond the level of routine slurry maintenance. The current year impacts would be nice to have included in budget discussion.

Council Member Rowe moved to adopt Resolution No. 14-09, approve the plans and specifications for Project No. 8340, and authorize the Town Clerk to advertise and receive bids. Mayor Pro Tem Huntington seconded. Motion carried 4-0-1 on a roll call vote.

AYES: Council Members Huntington, Leone, Rowe and Mayor Lombardo
NOES: None
ABSTAIN: None
ABSENT: Council Member Abel

8. **Council Manual of Procedural Guidelines**

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF YUCCA VALLEY AMENDING SECTIONS OF CHAPTER 2.05 AND TITLE 4 REFERRING TO THE PROCEDURES FOR TOWN COUNCIL AND COMMITTEE MEETINGS AND COMMISSION APPOINTMENTS AND REPEALING CHAPTER 4.02 OF THE TOWN OF YUCCA VALLEY MUNICIPAL CODE RELATING TO BOARD AND COMMISSION MEMBERS

Town Clerk Copeland presented the staff report for the Council Manual of Procedural Guidelines explaining that the recommended changes from prior Town Council review have been included in the current document.

Mayor Lombardo opened public comments.

Ron Cohen, Yucca Valley commented on Section 8.1 to consider moving the questions of

APPROVAL OF AGENDA

Mayor Pro Tem Huntington moved to approve the agenda for the Regular Town Council Meeting of June 3, 2014. Council Member Rowe seconded. Motion carried 5-0 on a roll call vote.

AYES:	Council Members Abel, Huntington, Leone, Rowe and Mayor Lombardo
NOES:	None
ABSTAIN:	None
ABSENT:	None

CONSENT AGENDA

4. **Waive** further reading of all ordinances and read by title only

5. **Adopt** Resolution No. 14-15 calling and giving notice of a General Election on November 4, 2014, and adopt Resolution No. 14-16 adopting regulations for candidates, subject to non-substantial modifications, and authorizes the Mayor, Town Manager and Town Attorney to execute the document as required

6. **Approve** the Contract between the County of San Bernardino and the Town of Yucca Valley for providing animal shelter services for FY 2014-15.

7. **Award** the 2014/2015 Town Wide Slurry Seal Project – Town Project No. 8340 construction contract to Pavement Coatings Company, in the amount of $370,700 and authorizes a construction contingency in the amount of $37,300, for a total contract amount of $408,000, authorizing the Mayor, Town Manager and Town Attorney to sign all necessary documents, and authorizing the Town Manager to expend the contingency fund, if necessary, to complete the project.

8. **Find** that the Five Year Capital Improvement Program is exempt from CEQA in accordance with Section 15378(b) (4) and Section 15061 (b) (3) of the California Environmental Quality Act. The Capital Improvement Program (CIP) is not a project nor is there possibility of a significant effect on the environment from the program. Further the CIP does not result in a commitment to any specific project. And;

   Adopt the Five Year Capital Improvement Program for Fiscal Years 2014/2015 through 2018/2019

9. **Ratify** the Payroll Register total of $126,560.41 dated May 9, 2014.
   Ratify Warrant Register total of $1,144,348.49 for checks dated May 15, 2014.

Mayor Lombardo opened public comment for items on the Consent Agenda.
Susan Simmons, Yucca Valley provided comment on Item #5, calling the General

Election of November 2014.

With no other members of the public wishing to speak, Mayor Lombardo closed public comments.

Mayor Pro Tem Huntington moved to approve consent agenda items 4-9. Council Member Abel seconded. Motion carried 5-0 on roll call vote.

AYES: Council Members Abel, Huntington, Leone, Rowe and Mayor Lombardo
NOES: None
ABSTAIN: None
ABSENT: None

DEPARTMENT REPORTS

10. FY 2014-16 Proposed Budget Adoption

Administrative Services Director Yakimow presented the staff report for the FY 2014-16 Proposed Budget, including an overview of the complete budget document developed with the Town Council's guiding principles. The balanced budget includes an anticipated transfer towards the Town's infrastructure needs of approximately $120,000.

Deputy Town Manager Stueckle presented a visual report on the current conditions of local roadways and explained the costs of maintaining the Town's streets based on the roadway's current condition.

Administrative Services Director Yakimow continued the report by presenting three possible funding options to accomplish reaching the Town Council's goal of applying 10 percent or approximately $900,000 toward the backlog of infrastructure maintenance.

Mayor Lombardo opened the public hearing.

Ron Cohen, Yucca Valley commented on the presented budget and presented a list of several suggested items to possibly reduce expenditures.

Gideon Smith, Yucca Valley and President of the Morongo Basin Tennis Association thanked the Town Council for their consideration toward the community partnerships.

With no other members of the public wishing to speak, Mayor Lombardo closed public comments.

Council Member Abel commented on the list of items presented by Mr. Cohen and thanked Mr. Smith for his commitment to the youth of the community and the world of tennis. Abel thanked

With no other members of the public wishing to speak, Mayor Lombardo closed public comments.

APPROVAL OF AGENDA

Mayor Pro Tem Huntington moved to approve the agenda for the Special Town Council Meeting of June 23, 2014. Council Member Leone seconded. Motion carried 5-0 on a roll call vote.

AYES:	Council Members Abel, Huntington, Leone, Rowe and Mayor Lombardo
NOES:	None
ABSTAIN:	None
ABSENT:	None

CONSENT AGENDA

3. **Waive** further reading of all ordinances and read by title only

4. **Approve** the Town Council Meeting Minutes for the regular meeting of May 6, 2014, the special meeting (budget workshop) of May 10, 2014, the special meeting (budget workshop) of May 20, 2014 and the regular meetings of May 20, 2014 and the regular meeting of June 3, 2014

5. **Approve** Final Parcel Map No. 19525, authorizing the Town Clerk and Town Manager to sign the Subdivision Improvement Agreement, subject to non-substantive changes, between the Town of Yucca Valley and Wal-Mart, and directs the Town Clerk to forward Final Parcel Map No. 19525 to the San Bernardino County Recorder for recordation.

6. Item Pulled.

7. Item Pulled

8. **Approve** the Amended and Restated Community Development Block Grant Cooperation Agreement and the City-County Delegate Agency agreement with San Bernardino County for fiscal years 2015-16, 2016-17, and 2017-18 and subsequently automatically renew unless terminated, and authorize the mayor to execute the agreement

9. **Receive and file** the End of Service Report related to the professional services contract for Museum Registrar activities.

10. **Adopt** Resolution No. 14- , approving the Measure I Five-Year Capital Improvement Plan and Expenditure Strategy for Fiscal Years 2014-15 to 2018-19 under Measure I 2010-2040

11. **Receive and file** the AB1234 Reporting Requirement Schedule for the month of May 2014

12. **Ratify** Payroll Register total of $130,219.68 dated May 23, 2014.
Ratify Warrant Register total of $84,458.99 for checks dated May 29, 2014

Mayor Lombardo opened public comments on the consent agenda.

Herb Orban, Yucca Valley spoke in opposition to the slurry project (Item 6) and objects to maintenance on a decent road, when other roads are in need of repair.

Gina Orban, Yucca Valley spoke in opposition to the slurry project (Item 6).

With no other members of the public wishing to speak, Mayor Lombardo closed public comments.

Council Member Abel moved to approve consent agenda items 3-5 and 8-12. Mayor Pro Tem Huntington seconded. Motion carried 5-0 on roll call vote.

AYES:	Council Members Abel, Huntington, Leone, Rowe and Mayor Lombardo
NOES:	None
ABSTAIN:	None
ABSENT:	None

Item 6. Mayor Pro Tem Huntington explained the item was pulled to allow for staff comment. Town Project Engineer Qishta provided information of the slurry project, the different types of road construction and associated costs.

Council Member Abel inquired on the cost difference between maintaining a street with slurry or cape seal, instead of allowing the road to deteriorate to the point of needed more extensive repair. Abel also commented on the relationship with Hi Desert Water District and the scheduled road repairs in conjunction with the wastewater system project.

Mayor Pro Tem Huntington moved to approve a contract amendment per Section 1.10 of the original Contract between the Town of Yucca Valley and Pavement Coatings Company to add Joshua Lane from Joshua Drive to Yucca Trail, Cape Seal, to the scope of work in the amount of $128,558.74; and authorize the Town Attorney, Mayor and Town Manager to sign all necessary agreements. Council Member Rowe seconded. Motion carried on a roll call vote.

AYES:	Council Members Abel, Huntington, Leone, Rowe and Mayor Lombardo
NOES:	None
ABSTAIN:	None
ABSENT:	None

Item 7. Administrative Services Director Yakimow introduced Administrative Assistant III Rice

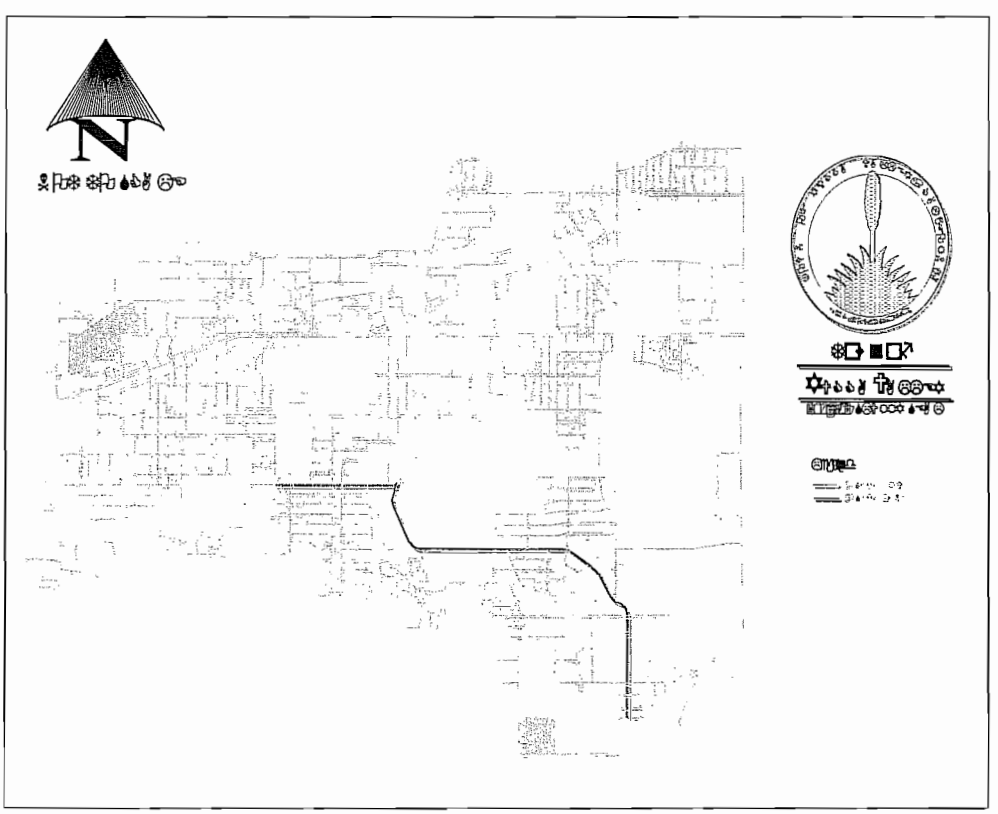
2014-2015 SLURRY SEAL

Fiscal Year 2014/2015

Project No:	**8340**
Category:	**Streets & Highways**
Description:	Installation of slurry seal/cape seal, hot mix asphalt repairs and replace street striping, markings and legends on designated streets.
Limit:	Joshua Lane: Joshua Drive /San Marino Drive Joshua Drive: Church Street/Joshua Lane
Status:	Last Improvements: 2005/06 & 2009/10. Bid Opening – May 22, 2014
Schedule:	Construction to start July 2014

Project Cost Estimate	
PA/ED	N/A
PS&E	N/A
ROW/Property Acquisition	N/A
Construction	480,631
Total	**480,631**

Fund Source	**Prior FY 2013/2014**			**FY 2014-15**	**FY 2015-16**	**FY 2016-17**	**FY 2017-18**	**FY 2018-19**
	Budget	**Expended**	**Balance**					
Local Measure I – Unrestricted 524				480,631				
Total				**480,631**				



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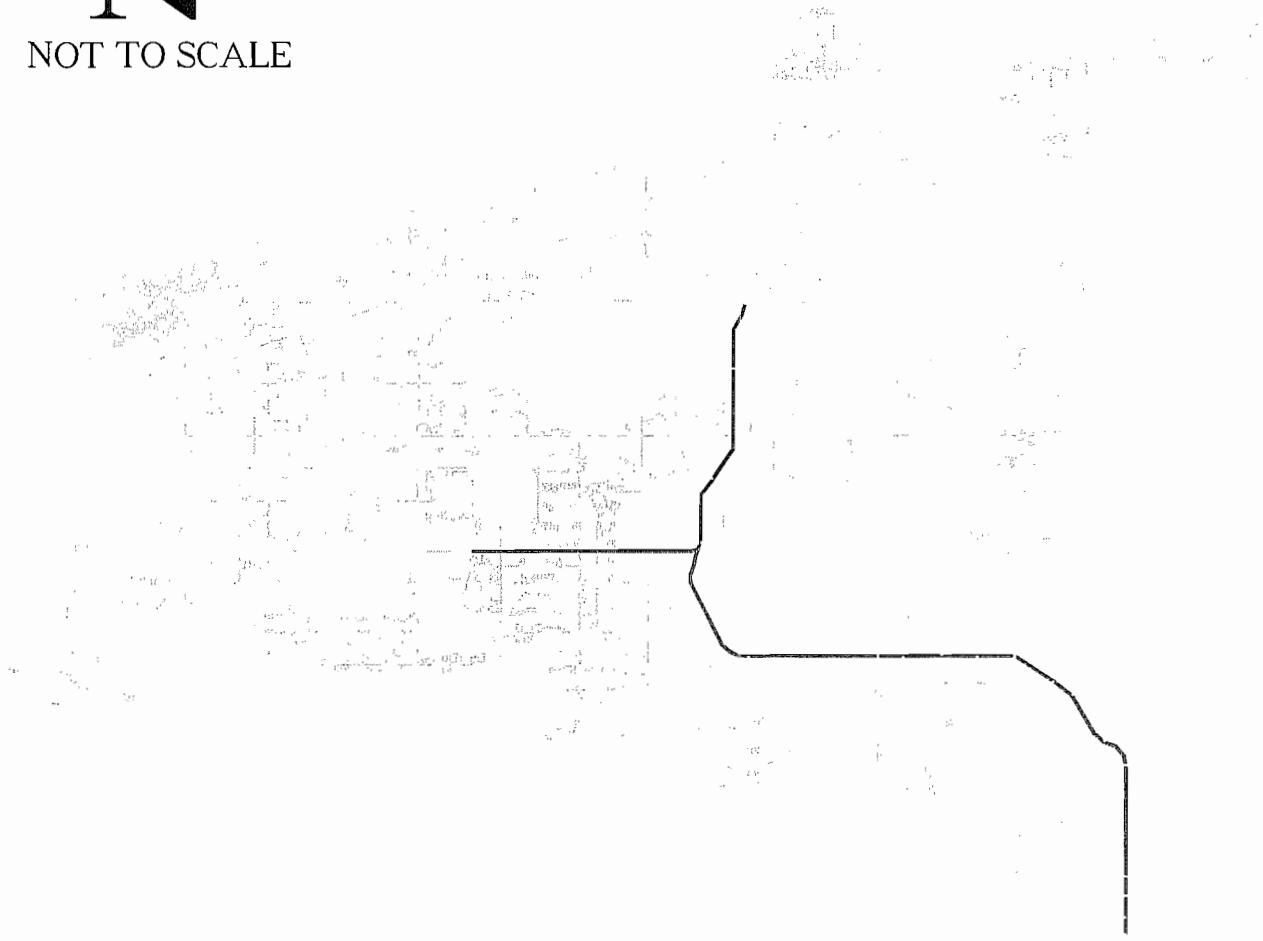


Town of

YUCCA VALLEY

2014-15 SLURRY SEAL

Legend

Base Bid

- Joshua Dr Church St to Joshua Ln
- Joshua Ln San Marino Dr to Joshua Dr

Additional Work

- Joshua Ln Joshua Dr to Yucca Trail

Town of Yucca Valley
FY 2014-16 Proposed Budget
Special Revenue Funds

524 - Measure I - 2010 Unrestricted		2012-13 Year-end Actual	2013-14 Amended Budget	2013-14 Projected Actual	2014-15 Proposed Budget	2015-16 Proposed Budget
RECEIPTS						
Revenue SANBAG 2010 Unrestricted		$ 760,820	$ 612,000	$ 612,000	$ 675,000	$ 695,000
Other Revenue		240	-	-	-	-
Interest		735	400	400	400	400
TOTAL RECEIPTS		**761,795**	**612,400**	**612,400**	**675,400**	**695,400**
EXPENDITURES						
Indirect Cost Recovery	524 00-00 7999 0000-000		-	42,624	31,500	32,750
TOTAL EXPENDITURES		**-**	**-**	**42,624**	**31,500**	**32,750**
CAPITAL OUTLAY						
Work in Progress		517,606	853,208	852,473	630,000	655,000
TOTAL CAPITAL OUTLAY		**517,606**	**853,208**	**852,473**	**630,000**	**655,000**
OPERATING TRANSFERS IN (OUT)						
Transfer OUT - Fund 513		-	(170,000)	(170,000)	-	-
Transfer IN - Fund 516		-	-	-	-	-
Transfer IN - Fund 528		-	-	-	-	-
TOTAL OPERATING TRANSFERS IN (OUT)		**-**	**(170,000)**	**(170,000)**	**-**	**-**
INCREASE (DECREASE) IN FUND BALANCE		**244,189**	**(410,808)**	**(452,697)**	**13,900**	**7,650**
BEGINNING FUND BALANCE		**315,447**	**559,636**	**559,636**	**106,939**	**120,839**
ENDING FUND BALANCE		**$ 559,636**	**$ 148,828**	**$ 106,939**	**$ 120,839**	**$ 128,489**

		2012-13	2013-14		2014-15	2015-16
		Year-end Actual	Amended Budget	Projected Actual	Proposed Budget	Proposed Budget
524 - Measure I - Unrestricted						
Annual Traffic Census	524 55-59 8310 8097	6,300	7,435	7,500	7,500	7,500
SANBAG STP	524 55-59 8310 8098	-	5,000	5,000	5,000	5,000
Street Lights	524 55-59 8310 8103-000	49,420	50,000	50,000	50,000	50,000
Traffic Studies	524 55-59 8310 8105	4,258	8,565	8,565	9,000	9,000
Town Wide Slurry Seal	524 55-59 8310 8340	335,520	276,069	276,069	500,000	525,000
SHOPP, proj applic thru CT	524 55-59 8310 8347	-	5,000	5,000	5,000	5,000
Palomar, Yucca Tr to Juarez	524 55-59 8310 8457	-	158,839	158,839	-	-
Natoma, Del Monte to East En	524 55-59 8310 8458	-	30,000	30,000	-	-
Free Gold, Amador to West En	524 55-59 8310 8459	-	30,000	30,000	-	-
Desert Gold, Amador to Grand	524 55-59 8310 8460	-	40,000	40,000	-	-
Apache, SR 62 to Sante Fe	524 55-59 8310 8461	-	13,800	13,000	-	-
Yuma, Cibola to Church	524 55-59 8310 8462	-	30,000	30,000	-	-
Pueblo, Condalia to Valley Vist	524 55-59 8310 8463	-	45,000	45,000	-	-
Deer, SR 62 to Pueblo	524 55-59 8310 8464	-	50,000	50,000	-	-
Lucerne Vista, Onaga to Pueb	524 55-59 8310 8465	-	50,000	50,000	-	-
Signal Maintenance Contract	524 55-59 8310 8466	-	50,000	50,000	50,000	50,000
Joshua Lane-A-San Marino to I	524 55-59 8310 XXXX	-	-	-	-	-
Acoma: Golden Bee to Onaga	524 55-59 8310 8422	76,886	-	-	-	-
Amador: Kismet to Joshua Dr	524 55-59 8310 8423	21,698	-	-	-	-
Grand: Kismet to Joshua Dr.	524 55-59 8310 8424	22,191	-	-	-	-
Congestion Management Plan	524 55-59 8310 8507	1,333	3,500	3,500	3,500	3,500
		517,606	**853,208**	**852,473**	**630,000**	**655,000**

TOWN COUNCIL STAFF REPORT

To: Honorable Mayor & Town Council
From: Curtis Yakimow, Town Manager
Sue Earnest, Recreation Supervisor
Stefanie Ritter, Museum Program Supervisor
Date: August 15, 2014
For Council Meeting: August 19, 2014

Subject: Fall/Winter 2014-15 Program Offerings – Community Services Department

Recommendation: That the Town Council receives and files the report outlining the fall and winter 2014-15 programs and events to be organized and conducted by the Community Services Department.

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-Consent Agenda)

Discussion: The programming staff of both the Hi Desert Nature Museum and the Recreation division of the Community Services Department has developed a schedule of programs and events that will be offered in the fall and winter of 2014-15 (September, October, November, December, January & February). These activities are currently planned for the printed Experience Yucca Valley fall and winter activity guide that will be distributed throughout the community in late-August. This edition of the guide will be the first semi-annual production of the guide providing for longer-term planning and announcement of Town activities in the most efficient way possible.

The Parks, Recreation and Cultural Commission will review and ratify the list of program offerings at their September 9th meeting and offer comments as appropriate.

Alternatives: None recommended.

Fiscal impact: Current schedule of activities is accommodated by the FY 2014-16 adopted budget.

Attachments: Experience Yucca Valley fall & winter 2014-15 program summary

Reviewed By:	Town Manager	Town Attorney	Admin Services	Dept Head

___ Department Report	___ Ordinance Action	___ Resolution Action	___ Public Hearing
X Consent	___ Minute Action	X Receive and File	___ Study Session

Community Services Department
Planned Recreation Programs - Fall/Winter 2014-15

Special Events

Holiday Events

Saturday, October 25, 2014	Halloween Spooktacular	no charge
November 10 - December 5	Letters to Santa	no charge
Saturday, December 06, 2014	Santa Visits	no charge
Saturday, December 06, 2014	Tree Lighting Ceremony	no charge
Saturday, December 06, 2014	Holiday Craft Faire	vendors: $25 per table
Saturday, December 13, 2014	17th Annual Light Parade - Town Entry	n/a

Fitness Fun Runs

Saturday, February 21, 2015	Healthy Hearts 5k Run and Health Walk	$20, $18

Senior Dances

Dates TBD	Dance for Seniors & Adults	$4.00 per person

Youth Programs

Classes

Bellydance (Beginning)	10 & older, Wednesday evenings	$35/6 weeks
Bellydance (Intermediate)	10 & older, Wednesday evenings	$35/6 weeks
Gymnastics (Beginning)	6 & older, Monday afternoons	$40/4 weeks
Gymnastics (Beg. Rhythmic)	6 & older, Monday afternoons	$40/4 weeks
Gymnastics (Intermediate)	10 & older, Monday afternoons	$40/4 weeks
Kinder Gym	3-5 year olds, Monday afternoons	$30/4 weeks
Mommy, Daddy & Me	2-5 year olds, Monday mornings	$2 per session
Table Tennis	14 & older, Friday afternoons	$2 per session

Paradise Park Recreation Days

Saturday, November 8, 2014	Fall Family Fun Day	no charge

Youth Basketball League

Grades 1-8 (ages 6-14), Weeknight practices, Saturday Games; December through early March.	$60 per child

Adults & Seniors

Enrichment Classes

Bellydance (Beginning)	10 & older, Wednesday evenings	$35/6 weeks
*Bellydance (Intermediate)	10 & older, Wednesday evenings	$35/6 weeks
Yucca Valley Bridge Club	18 & older, Friday afternoons	$2 per session
Dog Obedience (Beginning)	18 & older, Thursday evenings	$135/6 weeks
*Dog Obedience (Advanced)	18 & older, Thursday evenings	$135/6 weeks
Pinochle	18 & older, Friday afternoons	$2 per session
Knit & Crochet	18 & older, Thursday mornings	$2 per session
Stretch N Tone	18 & older, Monday thru Friday mornings	$2 per session
Open Table Tennis	18 & older, Wednesday afternoons	$2 per session
*Table Tennis	14 & older, Friday afternoons	$2 per session
Tai Chi Chuan	All ages, Wednesday evenings	$30 per month
Thursday Bridge	18 & older, Thursday afternoons	$2 per session
Open Art Studio Workshop	18 & older, Thursday mornings	$2 per session
Line Dancing (Instructional)	18 & older, Thurs afternoons	$3 per session
Western Line Dancing (Social)	18 & older, Mon evenings	$2 per session
Woodcarving	16 & older, Tuesday mornings	$2 per session
Wii for Seniors	Wednesday afternoons	no charge
Self Defense Workshop	Saturday, February 21, 2015, 9am -11:30am	$15/free for students

Seniors & Adult Trips

November	Fall Trip - Destination TBD	TBD
February	Winter Trip - Destination TBD	TBD

* New

Community Services Department
Planned Museum Programs - Fall/Winter 2014 - 2015

Exhibits and Events

Holiday Events		Notes
Saturday, October 25, 2014	Museum Spooktacular	
Exhibits		
Exhibit #1 May - September	Hatching the Past - Dinosaur Exhibit	
Exhibit #2 October - November	Open Studio Collective Show	
Exhibit #3 December	Seaweed, Salmon, and Manzanita Cider - an Indian Feast	
Exhibit #4 January - February	Season of Light - Holiday Exhibit	
Craft Programs		
Saturday, November 22, 2014	Fall Craft for Children	
Saturday, December 13, 2014	Kis Winter Craft Day	
Wednesday, December 10, 2014	Adult Craft Program	
Workshops		
Wedenesday, October 29	Photograph Preservation Workshop	new program
Kid EdVentures		
Every third Saturday of the month	Youth Education Program	new program
MBHS Presents		
Wednesday, September 10, 2014	Bill Keyes History	
Wednesday, October 8, 2014	The Life Archaeologist Mark Harrington	
Wednesday, November 12, 2014	For Love of Live and Country	
Wednesday, December 10, 2014	Homesteading History	
Wednesday, January 14, 2014	Joshua Trees Biology	
Wednesday, February 11, 2014	History of Prospecting	
Brown Bag Lunch Lecture Series		
Thursdays, once a month	Noon lectures once a month featuring high desert topics	

TOWN COUNCIL STAFF REPORT

To: Honorable Mayor & Town Council
From: Curtis Yakimow, Town Manager
Maureen Randall, Admin Asst. III
Date: August 15, 2014
For Council Meeting: August 19, 2014

Subject: 2014 Veterans' Tribute Planning Update

Recommendation: Receive and file the Community Services planning update for the 2014 Veterans' Tribute event.

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, Consent Agenda)

Discussion: The annual Morongo Basin Veterans' Tribute will be held in Yucca Valley on November 11, 2014. The organizational responsibilities for the event rotate each year between the City of Twentynine Palms and the Town of Yucca Valley.

Since 2010, the primary elements of the Veterans' Tribute are as follows:

- Pancake Breakfast to honor Veterans, Military and Public Safety, hosted by the Young Marines in the Town's Senior Center
- A Veterans' tribute reception and speaking event at the Community Center with invited state and local dignitary guests and representatives from the MCAGCC.
- Static display of military and public safety vehicles and equipment at the Community Center.
- Young Marines flag folding ceremony.
- Community BBQ lunch event for the public.

Staff is underway with planning for the 2014 Veterans' Tribute with many elements of the event confirmed or invited. It is recommended that Council review the update and provide input and/or direction regarding the event as appropriate.

Fiscal impact: This event is accommodated by the FY 2014-16 Amended Budget.

Attachments: Event Informational Postcard Draft

Reviewed By:	Town Manager	Town Attorney	Mgmt Services	Dept Head

___ Department Report	___ Ordinance Action	___ Resolution Action	___ Public Hearing
X Consent	X Minute Action	___ Receive and File	___ Study Session

Veterans' Tribute
2014

★ ★ ★ ★ ★ ★ ★ ★ ★ ★ ★ ★

Tuesday, November 11

10:00 am - 1:00 pm

Free ~ Public invited
at the Yucca Valley Community Center

★ ★ ★ ★ ★ ★ ★

The Town of Yucca Valley presents a

VETERANS' TRIBUTE

Military and Public Safety Equipment Display, Veterans' Recognition,
Community Bar-B-Que, Young Marines Flag Folding Ceremony

Breakfast served by the Young Marine, 8:00am-10:00am at the Yucca Valley Senior Center
Free to Veterans, Military & Public Safety

For more information contact the Town of Yucca Valley
Community Services Department at **760-369-7211**

Continue the celebration and enjoy the City of Palm Springs;
17th Annual Veterans' Day Parade at 3:30pm In Downtown Palm Springs

★ ★ ★ ★ ★ ★ ★

TOWN COUNCIL STAFF REPORT

To: Honorable Mayor & Town Council
From: Curtis Yakimow, Town Manager
Sharon Cisneros, Senior Accountant
Date: August 14, 2014
For Council Meeting: August 19, 2014

Subject: Fiscal Year 2012-13 Single Audit Report Certification

Prior Council Review: The Town Council received the Single Audit Report for FY 2012-13 on February 4, 2014, and directed staff to file with the various governmental entities as required.

Recommendation: Receive and File the FY 2012-13 Single Audit Report on Federal Awards Certification

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, Consent Agenda)

Discussion: The Single Audit Act and Office of Management and Budget (OMB) Circular A-133, *Audits of States, Local Governments, and Non-Profit Organizations,* requires non-federal entities that expend equal to or in excess of $500,000 in a fiscal year in federal awards (grants) to have an audit performed in accordance with the Single Audit Act. Single Audit reporting packages are due nine months after the entity's fiscal year end.

For the FY 2012-13, the Town of Yucca Valley expended greater than $500,000 in federal funds and therefore required an audit of the Fiscal Year 2012-13 expenditures of Federal Awards. The audit was conducted by Rogers, Anderson, Malody and Scott, LLP, a firm of independent CPAs appointed by and reporting to the Town Council. The purpose of the audit is to state an opinion with regards to the accuracy of the Town's financial statements and in doing so, perform tests of compliance with certain provisions of laws, regulations, contracts, and grant agreements.

Reviewed By:	Town Manager	Town Attorney	Admin Services	Finance

___ Department Report	___ Ordinance Action	___ Resolution Action	___ Public Hearing
X Consent	___ Minute Action	X Receive and File	___ Study Item

After the Council received the report on February 4, 2014, the report was distributed to the California State Controller's office as required. On July 17, 2014, the Town received the report certification and audit finding resolution, a copy of which is included as an attachment to this staff report. Staff is pleased to note that the certification identified no findings needing resolution. Further, the certification identifies that:

> *"Your audit satisfies all financial and compliance audit requirements under individual federal award programs..."*

This is a result of Council's sound fiscal policies, procedures, and financial management at the Town of Yucca Valley. Staff anticipates the completion of a Single Audit report for the next three to five years as the Town's federally funded projects move forward.

Alternatives: None.

Fiscal impact: While there is no direct fiscal impact, receiving an unqualified audit opinion and compliance with Federal Grant requirements is an indicator to external parties such as Federal granting agencies of the Town's financial policies and practices, and assist the Town in meeting its eligibility requirements for continued receipt of awarded grant funds.

Attachments:
Fiscal Year 2012-13 Single Audit Report on Federal Awards Certification

JOHN CHIANG

California State Controller

July 17, 2014

Director of Finance
Town of Yucca Valley
57090 - 29 Palms Highway
Yucca Valley, CA 92284

Re: 2012-13 Fiscal Year Single Audit Report Certification and Audit Finding Resolution

We completed a desk review of your single audit report for the year ended June 30, 2013. We determined that the report meets the requirements of the United States Office of Management and Budget (OMB) Circular A-133. OMB Circular A-133, *Audits of States, Local Governments, and Non-Profit Organizations*, prescribes the audit and reporting standards for state and local governments that expend federal awards.

OMB Circular A-133 requires federal and state funding agencies to resolve any audit findings cited in the report that may affect federal award programs. The attachment to this letter identifies those findings that require resolution. The findings are referenced by enclosure and page number.

OMB Circular A-133 also requires pass-through state agencies to follow up on the resolution of findings that affect federal programs administered by these agencies. The state agency referenced in the attachment will be in contact to follow up on the resolution of the applicable findings.

The State Controller's Office is responsible for resolving most cross-cutting findings or audit leads. A cross-cutting finding is one that affects the programs of more than one agency. If cross-cutting findings are identified in your report, our office will contact you. An audit lead is a specific issue identified in your report that may require additional investigation by federal or state agencies. Federal or state agencies may ask you to provide additional information related to the audit lead.

Your audit report may also contain general internal control findings not referenced in the attachment to this letter. These findings do not appear to affect the federal award programs. Therefore, we have not identified them for resolution action; however, you should ensure that your audit report for the 2013-14 fiscal year addresses the resolution of these findings.

MAILING ADDRESS P.O. Box 942850, Sacramento, CA 94250-5874
SACRAMENTO 3301 C Street, Suite 700, Sacramento, CA 95816 (916) 324-8907
LOS ANGELES 901 Corporate Center Drive, Suite 200, Monterey Park, CA 91754 (323) 981-6802

Your audit satisfies all financial and compliance audit requirements under individual federal award programs. This does not preclude state and federal agencies from making any additional audits that are necessary to carry out their responsibilities under federal laws and regulations. State and federal agencies may contact you to arrange for additional audits.

If you have any questions regarding this letter or any other single audit issue, please contact a member of my Single Audits staff by telephone at (916) 324-6442 or by email at singleaudits@sco.ca.gov.

Sincerely,

Carolyn Baez

CAROLYN BAEZ, Chief
Financial Audits Bureau
Division of Audits

Attachment

cc: State Funding Agencies

ATTACHMENT

AUDIT REPORT FINDING(S)--STATE AGENCIES

Town of Yucca Valley
2012-13 Fiscal Year

Program Name	*CFDA #*	*Finding #*	*Page #*	*Enc. #*
No Findings Noted				

TOWN COUNCIL STAFF REPORT

To: Honorable Mayor & Town Council

From: Curtis Yakimow, Town Manager
Sharon Cisneros, Senior Accountant

Date: August 12, 2014

For Council Meeting: August 19, 2014

Subject: Treasurer's Report for the Quarter Ending June 30, 2014

Recommendation: Receive and file the Treasurer's Report for the fourth quarter of FY 2013-14.

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, Consent Agenda)

Discussion: The investment policy and Town Code of the Town of Yucca Valley requires that quarterly Treasurer's reports be filed with the Town Council. The attached Treasurer's Report is for the 4th Quarter of FY 2013-14.

Attachments: Treasurer's report 4th quarter FY2013-14

Reviewed By:	Town Manager	Town Attorney	Admin Services	Finance

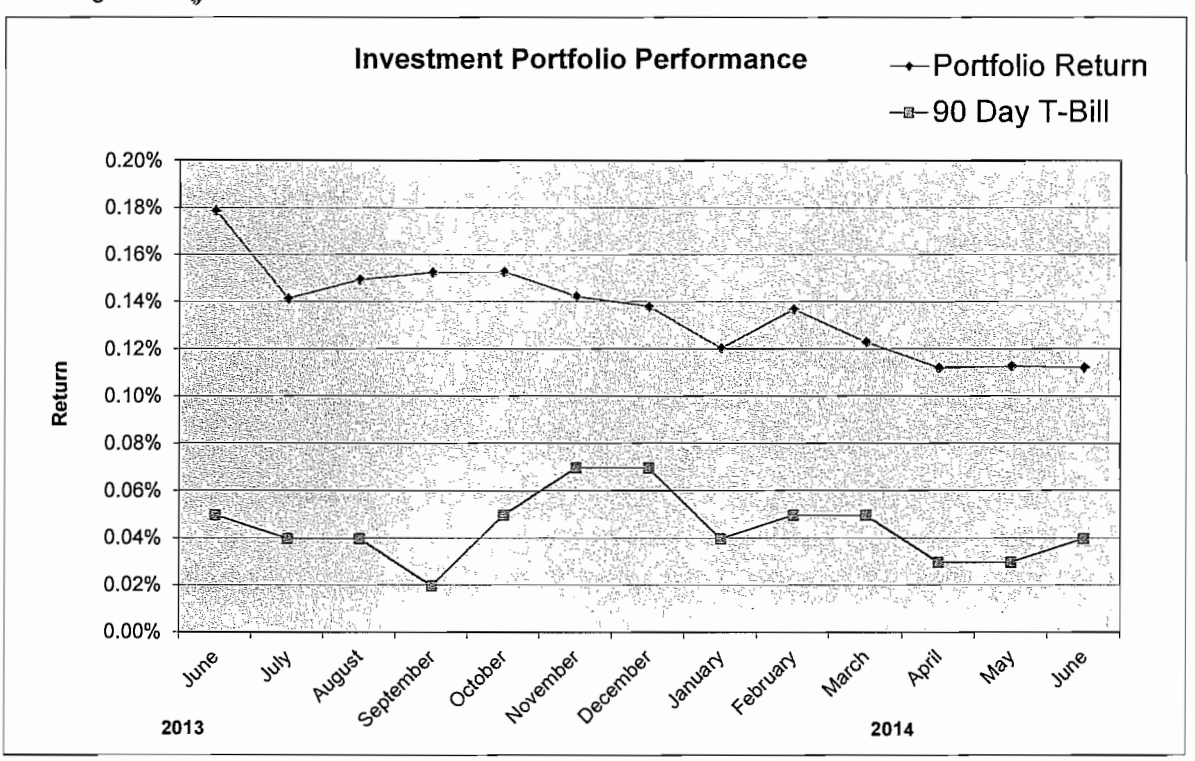
___	Department Report	___	Ordinance Action	___	Resolution Action	___	Public Hearing
X	Consent	___	Minute Action	X	Receive and File	___	Study Session

Town of Yucca Valley
Treasurer's Report
As of June 30, 2014

Institution/Investment		Market Value	Percent of Portfolio	Yield	Maturity Date
Pacific Western-Checking Acct	$	**4,118,673**	22.33%	0.00%	Liquid
Local Agency Investment Fund (LAIF)		**9,434,137**	51.16%	0.22%	Liquid
Pac Western-Successor Agency		**4,884,956**	26.49%	0.00%	Liquid
Petty Cash		**3,390**	0.02%	0.00%	Liquid
Total Cash & Investments	$	**18,441,156**	**100.00%**	**0.11%**	**Fully Liquid**

I certify that to the best of my knowledge, this report accurately reflects all pooled investments, and is in conformity with the Town's investment policy effective February 2010, which complies with the California Government Code. A copy of this investment policy, along with the supporting banking and investment statements, is available in the office of the Town Clerk. This investment program provides sufficient cash flow liquidity to meet the next six months of budgeted expenditures.

Curtis Yakimow
Town Manager



TOWN COUNCIL STAFF REPORT

To: Honorable Mayor & Town Council
From: Curtis Yakimow, Town Manager
Sharon Cisneros, Senior Accountant
Date: August 7, 2014
For Council Meeting: August 19, 2014

Subject: AB1234 Reporting Requirements

Prior Council Review: Current reimbursement policy for Council members and Redevelopment Agency members reviewed and approved by Council August 2006.

Recommendation: Receive and file the AB1234 Reporting Requirement Schedule for the month of June 2014.

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, Consent Agenda)

Discussion: AB1234 requires members of a legislative body to report on "meetings" attended at public expense at the next meeting of the legislative body. "Meetings" for purpose of this section are tied to the Brown Act meaning of the term: *any congregation of a majority of the members of a legislative body at the same time and place to hear, discuss, or deliberate upon any item that is within the subject matter jurisdiction of the legislative body or the local agency to which it pertains.* Qualifying expenses include reimbursement to the member related to meals, lodging, and travel.

An example of when a report is required is when a Town Council member represents his or her agency on a joint powers agency board and the Town pays for the official's expenses in serving in that representative capacity. Additionally, in the spirit of AB1234, the Yucca Valley Town Council also reports all travel related to conference and training attended at public expense.

Reviewed By:	Town Manager	Town Attorney	Admin Services	Finance

___ Department Report	___ Ordinance Action	___ Resolution Action	___ Public Hearing
X Consent	___ Minute Action	X Receive and File	___ Study Session

Although the AB1234 report can be either written or oral, this report must be made at the next meeting of the legislative body that paid for its member to attend the meeting.

Alternatives: None.

Fiscal impact: There is no anticipated financial impact associated with the recommended approval of AB1234 reporting requirements.

Attachments: AB1234 Reporting Requirement Schedule

Town of Yucca Valley

Councilmember AB1234 Meetings Schedule
Month of June 2014

Date of Travel	Organization	Description	Location
Mayor Lombardo			
	No Reportable Meetings		
Mayor Pro Tem Huntington			
	No Reportable Meetings		
Councilmember Abel			
	No Reportable Meetings		
Councilmember Rowe			
	No Reportable Meetings		
Councilmember Leone			
	SANBAG General Assembly		Ontario, CA
	San Bernardino County Homeless Committee	Monthly Committee Meeting	San Bernardino, CA

TOWN COUNCIL STAFF REPORT

To: Honorable Mayor & Town Council
From: Curtis Yakimow, Town Manager
Sharon Cisneros, Senior Accountant
Date: August 7, 2014
For Council Meeting: August 19, 2014

Subject: AB1234 Reporting Requirements

Prior Council Review: Current reimbursement policy for Council members and Redevelopment Agency members reviewed and approved by Council August 2006.

Recommendation: Receive and file the AB1234 Reporting Requirement Schedule for the month of July 2014.

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, Consent Agenda)

Discussion: AB1234 requires members of a legislative body to report on "meetings" attended at public expense at the next meeting of the legislative body. "Meetings" for purpose of this section are tied to the Brown Act meaning of the term: *any congregation of a majority of the members of a legislative body at the same time and place to hear, discuss, or deliberate upon any item that is within the subject matter jurisdiction of the legislative body or the local agency to which it pertains.* Qualifying expenses include reimbursement to the member related to meals, lodging, and travel.

An example of when a report is required is when a Town Council member represents his or her agency on a joint powers agency board and the Town pays for the official's expenses in serving in that representative capacity. Additionally, in the spirit of AB1234, the Yucca Valley Town Council also reports all travel related to conference and training attended at public expense.

Reviewed By:	Town Manager	Town Attorney	Admin Services	Finance

___	Department Report	___	Ordinance Action	___	Resolution Action	___	Public Hearing
X	Consent	___	Minute Action	X	Receive and File	___	Study Session

Although the AB1234 report can be either written or oral, this report must be made at the next meeting of the legislative body that paid for its member to attend the meeting.

Alternatives: None.

Fiscal impact: There is no anticipated financial impact associated with the recommended approval of AB1234 reporting requirements.

Attachments: AB1234 Reporting Requirement Schedule

Town of Yucca Valley

Councilmember AB1234 Meetings Schedule
Month of July 2014

Date of Travel	Organization	Description	Location

Mayor Lombardo
No Reportable Meetings

Mayor Pro Tem Huntington
No Reportable Meetings

Councilmember Abel
No Reportable Meetings

Councilmember Rowe
No Reportable Meetings

Councilmember Leone
No Reportable Meetings

TOWN COUNCIL STAFF REPORT

To: Honorable Mayor & Town Council
From: Curtis Yakimow, Administrative Services Director
Date: August 11, 2014
Council Meeting: August 19, 2014

Subject: Warrant Register August 19, 2014

Recommendation:

Ratify the Payroll Registers total of $ 272,814.04 for checks dated July 3, 2014 and July 18, 2014 and Warrant Registers total of $ 2,671,672.38 for checks dated July 9, 2014 to August 7, 2014.

Order of Procedure:

Department Report
Request Staff Report
Request Public Comment
Council Discussion
Motion/Second
Discussion on Motion
Call the Question (Roll Call Vote, Consent Agenda Item)

Attachments:

Payroll Register No. 52 dated July 03, 2014 total of $128,113.83
Payroll Register No. 02 dated July 18, 2014 total of $ 144,700.21
Warrant Register No. 01 dated July 09, 2014 total of $ 83,116.06
Warrant Register No. 03 dated July 10, 2014 total of $ 103,791.85
Warrant Register No. 05 dated July 23, 2014 total of $ 522,424.68
Warrant Register No. 07 dated July 25, 2014 total of $ 386,173.96
Warrant Register No. 09 dated August 07, 2014 total of $ 1,576,165.83

Reviewed By:	Town Manager	Town Attorney	Admin. Services	Finance

___ Department Report	___ Ordinance Action	___ Resolution Action	___ Public Hearing
X Consent	X Minute Action	___ Receive and File	___ Study Item

TOWN OF YUCCA VALLEY

PAYROLL REGISTER # 52
CHECK DATE - July 03, 2014

Fund Distribution Breakdown

Fund Distribution

General Fund	**$117,453.92**
Gas Tax Fund	**10,659.91**
Successor Agency	**0.00** **
Grand Total Payroll	**$128,113.83**

****This is not an obligation of the Town of Yucca Valley.**

Prepared by P/R & Financial Specialist: _____ Reviewed by H/R & Risk Mgr.: _____

Town of Yucca Valley

Payroll Net Pay & Net Liability Breakdown

Pay Period 52 - Paid 07/03/2014

(June 14, 2014 - June 27, 2014)

Checks: 4908 - 4917

	Employee	Employer	Total
Net Employee Pay			
Payroll Checks	$4,857.12		$4,857.12
Direct Deposit	63,428.26	-	63,428.26
Sub-total	68,285.38		68,285.38
Employee Tax Withholding			
Federal	10,644.80		10,644.80
Medicare	1,264.87	1,264.86	2,529.73
SDI - EE	-	-	-
State	3,177.13		3,177.13
Sub-total	15,086.80	1,264.86	16,351.66
Employee Benefit & Other Withholding			
Misc. Payroll Adjustment Credit's	-	-	-
Deferred Compensation	2,805.46	921.43	3,726.89
PERS Survivor Benefit	36.00		36.00
Health Café Plan	1,343.70	10,972.06	12,315.76
American Fidelity Pre-Tax	29.95		29.95
American Fidelity After-Tax	85.25		85.25
American Fidelity-FSA	564.52		564.52
PERS EE - Contribution 6.25 %	253.91		253.91
PERS EE - Contribution 7%	897.68		897.68
PERS EE - Contribution 8%	4,638.41		4,638.41
PERS Retirement - Employer 6.25 %	-	253.91	253.91
PERS Retirement - Employer 7.846 %	-	1,032.21	1,032.21
PERS Retirement - Employer 18.586 %	-	11,311.85	11,311.85
Wage Garnishment - Employee	11.54		11.54
Life & Disability Insurance		909.00	909.00
Other Post Employee Benefit's		2,330.89	2,330.89
Unemployment Insurance		1,545.78	1,545.78
Workers' Compensation		3,533.24	3,533.24
Sub-total	10,666.42	32,810.37	43,476.79
Gross Payroll	**$94,038.60**	**$34,075.23**	**$128,113.83**

Prepared by P/R & Financial Specialist: _____ Reviewed by H/R & Risk Mgr.: _____

WARRANT REGISTER # 1
CHECK DATE - JULY 9, 2014

FUND DISTRIBUTION BREAKDOWN

Checks # 45002 to # 45059 are valid:

GENERAL FUND # 001	$59,759.47
INTERNAL SERVICE FUND # 100	$1,148.19
COPS-LLESA FUND # 511	$38.01
GAS TAX FUND # 515	$18,004.61
MEASURE I 2010-2040 FUND # 524	$4,165.78
GRAND TOTAL	**$83,116.06**

Prepared by Shirlene Doten, Accounting Technician III
Reviewed by Sharon Cisneros, Senior Accountant
Approved by Curtis Yakimow, Administrative Services Director

Town of Yucca Valley
Warrant Register
July 9, 2014

Fund	Check #	Vendor	Description	Amount
001	GENERAL FUND			
	45002	Action Pumping, Inc.	Annual Septic Maintenance	$ 160.00
	45003	Aleshire & Wynder, LLC	05/14 Professional Services	13,327.30
	45004	Alsco/American Linen, Inc.	Uniform Maintenance Expense	74.64
	45005	Animal Action League	Spay & Neuter Services	1,930.00
	45006	Arrowhead Mountain Water	Office Supplies	337.04
	45007	Lasdenia Bird	Recreation Trip Refund	80.00
	45008	Builders Supply-Yucca Valley	Maintenance Supplies	178.79
	45009	Marilyn Campbell	Recreation Trip Refund	55.00
	45010	CDW Government, Inc.	Computer Maintenance	1,290.82
	45011	CIS Irrigation, Inc.	Parks Maintenance	759.60
	45012	Desert Pacific Exterminators, LLC	Facilities Maintenance	401.00
	45013	Desert Images Office Equipment	Toners	368.25
	45014	Dept of Justice	Livescan Services	98.00
	45015	Shirlene Doten	01-06/14 Mileage Expense	25.76
	45016	Ewing Irrigation, Inc.	Parks Irrigation Supplies	450.64
	45017	Farmer Bros. Co.	Office Supplies	182.80
	45018	Hengesbach & Dawson	Professional Services	2,035.00
	45019	Hi-Desert Water	Water Service	1,682.14
	45020	Hi-Desert Publishing	Legal Notice Advertising	3,310.25
	45021	Honeywell	Building Maintenance	3,404.76
	45022	Jimmy's Equipment & Turf Supply	Parks Equipment	189.66
	45023	Knorr Systems, Inc.	YVHS Pool Maintenance	533.74
	45024	Legacy Office Products	Office Supplies	183.36
	45025	Bob Leone	Mileage Reimbursement	73.02
	45028	Mr. Sandman	Parks Maintenance	500.00
	45029	Oasis Office Supply, Inc.	Office Supplies	300.94
	45030	Petty Cash	Museum Miscellaneous Exp.	287.96
	45031	Phone Solutions	Telephone System Maint.	507.50
	45032	Pro Security	Annual Security Monitoring	1,015.00
	45033	Pro Video	Town Council Taping	200.00
	45034	PSTC, Inc.	Jacobs Park Tennis Court Project	8,865.00
	45036	Quick Scores	Recreation Program Supplies	84.00
	45037	SBCO Library-Yucca Valley Branch	FY 13/14 Partnership Agreement	3,000.00
	45038	SCE	Electric Service	5,550.05
	45040	Signs by Wanda	YVHS Pool Program	167.40
	45041	Smith Pipe & Supply, Inc.	Parks Irrigation Supplies	706.32
	45042	Sprint	Phone Service	5.65
	45043	Star2Star Communications, LLC	06/14 Shelter Phone Svs.	389.22
	45044	Stater Bros	Recreation Program Expense	98.85
	45045	Betty Stirratt	Recreation Trip Refund	80.00
	45046	Stone Company.com, Inc.	Temporary Museum Exhibit	3,000.00

Fund	Check #	Vendor	Description	Amount
	45047	Tease Shirts	Uniform Expense	122.80
	45048	VCA Yucca Valley Animal Hospital	Veterinary Services	60.00
	45049	Verizon	Long Distance Phone Service	420.10
	45051	Valley Independent	Printing Service	209.03
	45052	US Bank Voyager Fleet Systems	Natural Gas Vehicle Fuel	178.79
	45053	Walmart Community	Recreation Expense	677.36
	45054	Garrett Ward	Parks Supply Delivery	270.00
	45055	Laura Wilson	Recreation Trip Refund	80.00
	45056	Woods Auto Repair	Fleet Vehicle Maintenance	51.50
	45057	Guy Wulf	Sports Referee	750.00
	45058	YV Chamber of Commerce	Grubstake Days Parade	874.00
	45059	Yucca Valley Auto Parts, Inc.	Vehicle Maintenance	176.43
Total 001	**GENERAL FUND**			**$ 59,759.47**
100	INTERNAL SERVICE FUND			
	45013	Desert Images Office Equipment	Service Contract Overages	$ 240.03
	45026	Mail Finance	FY 13/14 Postage Meter Lease	528.12
	45029	Oasis Office Supply, Inc.	Copy Paper	380.04
Total 100	**INTERNAL SERVICE FUND**			**$ 1,148.19**
511	COPS-LLESA FUND			
	45050	Verizon Wireless	Sheriff's Office Cell Phone	$ 38.01
Total 511	**COPS-LLESA FUND**			**$ 38.01**
515	GAS TAX FUND			
	45004	Alsco/American Linen, Inc.	Streets Uniform Service	$ 18.90
	45008	Builders Supply-Yucca Valley	Maintenance Supplies	18.35
	45019	Hi-Desert Water	Water Service	78.16
	45027	Matich Corporation	Streets Maintenance Supplies	11,783.66
	45035	Quality Street Services, Inc.	Street Sweeping Service	5,340.00
	45038	SCE	Electric Service	745.68
	45059	Yucca Valley Auto Parts, Inc.	Vehicle Maintenance	19.86
Total515	**GAS TAX FUND**			**$ 18,004.61**
524	MEASURE I - 2010-2040 FUND			
	45038	SCE	Electric Service	$ 3,915.78
	45039	Siemens Industry, Inc.	Signal Maintenance Service	250.00
Total 524	**MEASURE I - 2010-2040 FUND**			**$ 4,165.78**
***	**Report Total**			**$ 83,116.06**

TOWN OF YUCCA VALLEY

PAYROLL REGISTER # 02
CHECK DATE - July 18, 2014

Fund Distribution Breakdown

Fund Distribution

General Fund	**$133,228.35**
Gas Tax Fund	**11,471.86**
Successor Agency	**0.00** **
Grand Total Payroll	**$144,700.21**

****This is not an obligation of the Town of Yucca Valley.**

Prepared by P/R & Financial Specialist: _____ Reviewed by H/R & Risk Mgr.: _____

Town of Yucca Valley

Payroll Net Pay & Net Liability Breakdown

Pay Period 02 - Paid 07/18/2014

(June 28, 2014 - July 11, 2014)

Checks: 4918 - 49

	Employee	Employer	Total
Net Employee Pay			
Payroll Checks	$5,532.36		$5,532.36
Direct Deposit	70,424.54	-	70,424.54
Sub-total	75,956.90		75,956.90
Employee Tax Withholding			
Federal	11,354.66		11,354.66
Medicare	1,436.99	1,436.95	2,873.94
SDI - EE	-	-	-
State	3,478.21		3,478.21
Sub-total	16,269.86	1,436.95	17,706.81
Employee Benefit & Other Withholding			
Misc. Payroll Adjustment Credit's	-	-	-
Deferred Compensation	3,750.99	2,978.36	6,729.35
PERS Survivor Benefit	47.00		47.00
Health Café Plan	1,343.70	11,745.22	13,088.92
American Fidelity Pre-Tax	29.95		29.95
American Fidelity After-Tax	85.25		85.25
American Fidelity-FSA	564.52		564.52
PERS EE - Contribution 6.25 %	301.32		301.32
PERS EE - Contribution 7%	968.13		968.13
PERS EE - Contribution 8%	5,105.57		5,105.57
PERS Retirement - Employer 6.25 %	-	301.32	301.32
PERS Retirement - Employer 7.846 %	-	1,107.13	1,107.13
PERS Retirement - Employer 18.586 %	-	13,570.55	13,570.55
Wage Garnishment - Employee	11.54		11.54
Life & Disability Insurance		906.16	906.16
Other Post Employee Benefit's		2,581.45	2,581.45
Unemployment Insurance		1,716.00	1,716.00
Workers' Compensation		3,922.34	3,922.34
Sub-total	12,207.97	38,828.53	51,036.50
Gross Payroll	**$104,434.73**	**$40,265.48**	**$144,700.21**

Prepared by P/R & Financial Specialist: _____ Reviewed by H/R & Risk Mgr.: _____

WARRANT REGISTER # 3
CHECK DATE - JULY 10, 2014

FUND DISTRIBUTION BREAKDOWN

Checks # 45060 to # 45086 are valid:

GENERAL FUND # 001	$97,190.27
INTERNAL SERVICE FUND # 100	$6,601.58
GRAND TOTAL	**$103,791.85**

Prepared by Shirlene Doten, Accounting Technician III
Reviewed by Sharon Cisneros, Senior Accountant
Approved by Curtis Yakimow, Administrative Services Director

Town of Yucca Valley
Warrant Register
July 10, 2014

Fund	Check #	Vendor	Description	Amount
001 GENERAL FUND				
	45060	BPTCB, LLC	Summer Music Performance	$ 1,500.00
	45061	CALED	FY 14/15 Membership Dues	465.00
	45062	Cyberspike	FY 14/15 Museum Web Hosting	120.00
	45064	Farmer Bros. Co.	Office Supplies	93.84
	45065	Roland Gagne	Summer Music Sound System	500.00
	45066	Roland Gagne	Summer Music Sound System	500.00
	45068	Gov't Finance Officers Assoc.	FY 14/15 Membership Dues	190.00
	45069	Government Outreach	FY 14/15 Software License	6,600.00
	45070	Graphic Penguin	Website Maintenance	340.00
	45071	Adrianna Marie Hansen	Summer Music Performance	1,000.00
	45072	Healthy Generations	FY 14/15 Partnership Agreement	6,000.00
	45073	Hi-Desert Water	Water Service	315.98
	45074	Hi-Desert Publishing	Public Notice Advertisement	63.00
	45075	Navitas Lease Corp.	Shelter Phones Lease	1,054.38
	45076	Oasis Office Supply, Inc.	Office Supplies	74.04
	45077	Pacific Telemanagement Svs.	Public Phone Service	82.64
	45078	SANBAG	FY 14/15 Membership Dues	2,071.00
	45079	SBCO-Auditor/Controller	FY 14/15 LAFCO Apportionment	1,830.50
	45080	SBCO Sheriff's Dept	FY 14/15 CAL-ID Assessment Fee	22,081.50
	45081	Southwest Networks, Inc.	FY 14/15 IT Services Contract	49,860.00
	45082	Storage Solutions	FY14/15 Storage Unit Rental	1,322.00
	45083	Time Warner Cable	07/06-08/05/14 Cable Service	467.78
	45084	VCA YV Animal Hospital	Veterinary Services	60.00
	45085	YV Chamber of Commerce	FY 14/15 Joint Marketing	595.00
	45086	Yucca Valley Auto Parts, Inc.	Vehicle Maintenance	3.61
Total 001	**GENERAL FUND**			**$ 97,190.27**
100 INTERNAL SERVICE FUND				
	45063	Desert Images Office Equipment	Maintenance Contracts	$ 3,272.50
	45067	GE Capital Corporation	Copier Lease	3,329.08
Total 100	**INTERNAL SERVICE FUND**			**$ 6,601.58**
***		**Report Total**		**$ 103,791.85**

WARRANT REGISTER # 5
CHECK DATE - JULY 23, 2014

FUND DISTRIBUTION BREAKDOWN

Checks # 45087 to # 45131 are valid

GENERAL FUND # 001	$519,964.58
INTERNAL SERVICE FUND # 100	$897.55
GAS TAX FUND # 515	$607.19
MEASURE I 2010-2040 FUND # 520	$955.36
GRAND TOTAL	**$522,424.68**

Prepared by Shirlene Doten, Accounting Technician III
Reviewed by Sharon Cisneros, Senior Accountant
Approved by Curtis Yakimow, Administrative Services Director

Town of Yucca Valley
Warrant Register
July 23, 2014

Fund	Check #	Vendor	Description	Amount
001	GENERAL FUND			
	45087	Ace Alternators	Vehicle Maintenance	$ 157.16
	45088	Alsco/American Linen, Inc.	Uniform Maintenance	174.84
	45089	Janet Anderson	08/14 Medical Insurance	1,317.60
	45090	Boys & Girls Club	FY 14/15 Partnership Agreement	16,000.00
	45091	Big 5 Corp.	Program Supplies	19.42
	45092	Haile Blackman	Summer Music Festival	1,500.00
	45093	Builders Supply-Yucca Valley	Maintenance Supplies	176.10
	45094	CA Department of Housing	Commercial Modular Registration	47.00
	45095	Companion Animal Clinic	Veterinary Services	95.00
	45096	Dept. of Toxic Substances	2014 EPA ID Renewal	150.00
	45097	Desert Regional Tourism	FY 14/15 Partnership Agreement	11,250.00
	45098	Eisenhower Occupational	Employment Physicals	310.00
	45099	Exhibit Envoy	Museum Exhibition Rental	743.75
	45100	Roland Gagne	Summer Music Sound System	1,200.00
	45101	Hi-Desert Water	Water Service	613.80
	45102	Brett Hutchison	Summer Music Festival	1,500.00
	45103	Jacobsen West	Parks Equip. Maintenance	1,709.14
	45104	Jump N Party Inflatables	Paradise Park Family Fun Day	718.00
	45105	Wiki Lovett	Museum Program Lecturer	50.00
	45107	Marlink	FY 14/15 Satellite Phone Svs.	652.84
	45108	Mojave Desert & Mtn. Integ.	FY 14/15 Member Contributions	4,798.00
	45109	Navitas Lease Corp.	Shelter Phone Lease	527.19
	45110	Oasis Office Supply, Inc.	Office Supplies	406.71
	45111	OnTrac	Delivery Service	7.18
	45112	Carl Otteson	Median Island Services	665.00
	45113	PARSAC	FY 14/15 Liability Program Ins.	52,340.00
	45114	PARSAC	FY 14/15 Property Insurance	21,434.00
	45115	PARSAC	FY 14/15 Commercial Crime Bond	1,112.00
	45116	PARSAC	FY 14/15 Worker's Compensation	79,738.00
	45117	Rock Industries Unlimited, Inc.	Paradise Park Family Fun Day	1,155.00
	45118	SBCO Sheriff's Dept	07/14 Professional Services	308,544.00
	45119	SBCO Fire Protection District	07-09/14 Hazardous Waste Fee	6,920.00
	45120	Signs by Wanda	Summer Concert Signage	77.19
	45121	Southwest Networks, Inc.	Technology Equipment	1,746.17
	45122	Steven Enterprises	Office Supplies	408.87
	45123	Michael Summers	Museum Event Assistant	150.00
	45124	The Sun Runner	Museum Advertisement	100.00
	45125	Vagabond Welding Supply	YVHS Pool Expense	68.04
	45126	Verizon Business	07/14 Animal Shelter Internet	390.26
	45127	Valley Independent	Brochure Printing	410.40
	45128	Walmart Community	Recreation Program Supplies	295.64

Town of Yucca Valley
Warrant Register
July 23, 2014

Fund	Check #	Vendor	Description	Amount
	45130	Guy Wulf	Sports Referee	250.00
	45131	Yucca Valley Auto Parts, Inc.	Vehicle Maintenance	36.28
Total 001	**GENERAL FUND**			**$ 519,964.58**
100	INTERNAL SERVICE FUND			
	45106	Mail Finance	05-08/14 Mail Machine Lease	$ 543.33
	45110	Oasis Office Supply, Inc.	Copy Paper & Supplies	354.22
Total 100	**INTERNAL SERVICE FUND**			**$ 897.55**
515	GAS TAX			
	45088	Alsco/American Linen, Inc.	Uniform Maintenance	$ 37.80
	45093	Builders Supply-Yucca Valley	Maintenance Supplies	13.91
	45129	Woods Auto Repair	Vehicle Maintenance	161.42
	45131	Yucca Valley Auto Parts, Inc.	Vehicle Maintenance	394.06
Total 515	**GAS TAX FUND**			**$ 607.19**
520	MEASURE I-2010-2040 REGIONAL FUND			
	45110	Oasis Office Supply, Inc.	Office Supplies	$ 955.36
Total 520	**MEASURE I-2010-2040 REGIONAL FUND**			**$ 955.36**
***	**Report Total**			**$ 522,424.68**

WARRANT REGISTER # 7
CHECK DATE - JULY 25, 2014

FUND DISTRIBUTION BREAKDOWN

Checks # 45132 to # 45191 are valid

GENERAL FUND # 001	$76,097.10
DEPOSITS FUND # 200	$7,180.15
GAS TAX FUND # 515	$5,874.68
MEASURE I 2010-2040 FUND # 520	$3,720.64
PUBLIC LANDS FEDERAL GRANT FUND # 527	$293,301.39
CAPITAL PROJECTS RESERVE FUND # 800	
GRAND TOTAL	**$386,173.96**

Prepared by Shirlene Doten, Accounting Technician III
Reviewed by Sharon Cisneros, Senior Accountant
Approved by Curtis Yakimow, Administrative Services Director

Town of Yucca Valley
Warrant Register
July 25, 2014

Fund	Check #	Vendor	Description	Amount
001	GENERAL FUND			
	45132	Animal Care Equip. & Svs.	Shelter Supplies	$ 391.57
	45133	Ruth Alkire	Contract Instructor	56.00
	45134	Alliant Insurance Services	04-06/14 Facility Events Ins.	141.00
	45135	Division of the State Architect	04-06/14 SB 1186 Fees	277.00
	45136	Avalon Urgent Care	Pre-Employment Screening	190.00
	45137	Carol Boyer	Contract Instructor	60.20
	45138	California Building Standards	04-06/14 SB1473 Fees	42.30
	45139	Carquest Auto Parts	Vehicle Maintenance	27.17
	45140	CDW Government, Inc.	Technology Equipment	711.97
	45141	Charles Abbott & Assoc, Inc.	Plan Check Service	23,025.82
	45142	Carol Corbin	Contract Instructor	95.20
	45143	Corelogics Information	Property Search Information	165.00
	45144	Robert Cox	Contract Instructor	42.00
	45145	Data Ticket	Citation Processing Svs.	350.00
	45146	Theresa Deaver	Recreation Class Refund	40.00
	45147	Department of Conservation	04-06/14 Conservation Fee	93.19
	45148	Desert Arc	06/14 Professional Services	4,095.00
	45149	Desert Entertainer	Museum Program Advertising	99.00
	45151	Denise Dompke	Recreation Trip Refund	55.00
	45152	Ewing Irrigation, Inc.	Parks Irrigation Supplies	332.00
	45154	Catherine Fletcher	Contract Instructor	46.20
	45155	Gaylord Bros, Inc.	Museum Exhibit Expense	1,433.30
	45156	Golden State Overnight	Delivery Service	29.28
	45157	Duane Griffin	Contract Instructor	36.40
	45158	Joy Groves	Contract Instructor	123.23
	45159	Totalfunds by Hasler	Postage	1,000.00
	45160	Lori Herbel	Contract Instructor	850.00
	45161	Hi-Desert Water	Water Service	496.82
	45162	Hi-Desert Publishing	Recreation Program Advertising	1,547.00
	45163	Susan Jordan	Contract Instructor	168.00
	45165	Pat Lumbattis	Contract Instructor	56.00
	45166	David Luse	Contract Instructor	33.60
	45167	Maravilla Foundation	Building Permit Refund	76.00
	45169	Morongo Unified School District	Fleet Vehicle Fuel	2,911.07
	45170	NRO Engineering	Engineering Services	2,500.00
	45171	Sierra Oakes	Contract Instructor	34.30
	45172	Oasis Office Supply, Inc.	Office Supplies	322.60
	45173	Public Agency Retirement Svs.	05/14 Trust Administrator Svs.	300.00
	45174	PARSAC	01-03/14 Worker's Comp. Service	1,392.58
	45175	Pro Video	Video Taping Service	300.00
	45177	Linda Sande	Contract Instructor	60.90

Fund	Check #	Vendor	Description	Amount
	45178	SBCO - Information Services	06/14 Radio Access	2,072.11
	45179	SB County Recorder	Filing Fees	60.00
	45180	SCE	Electric Service	14,995.43
	45181	Beverly Schmuckle	Contract Instructor	56.00
	45182	So. Cal. Gas Co.	Natural Gas Vehicle Fuel	13.00
	45183	Southwest Networks, Inc.	Technology Support	1,020.00
	45184	That Shirt Place	Recreation Program Expense	2,696.51
	45185	The Planning Center, DC&E	General Plan Update Svs.	7,464.28
	45186	Tractor Supply	Shelter & Maintenance Supplies	1,911.82
	45187	Trophy Express	Recreation Program Expense	1,210.97
	45188	Valley Independent	Aquatics Program Advertising	199.80
	45189	Walmart Community	Recreation Supplies	372.12
	45191	Yucca Valley Auto Parts, Inc.	Vehicle Maintenance	18.36
Total 001	**GENERAL FUND**			**$ 76,097.10**
200	DEPOSITS FUNDS			
	45153	FedEx	Delivery Service	$ 70.15
	45170	NRO Engineering	Engineering Services	7,110.00
Total 200	**DEPOSITS FUNDS**			**$ 7,180.15**
515	GAS TAX			
	45150	Diesel Exhaust & Emissions, LLC	Vehicle Maintenance	$ 450.00
	45168	Matich Corporation	Streets Maintenance Supplies	4,777.57
	45176	Safetyline	Safety Equipment	505.68
	45186	Tractor Supply	Shelter & Maintenance Supplies	141.43
Total 515	**GAS TAX FUND**			**$ 5,874.68**
520	MEASURE I-2010-2040 FUND			
	45190	Albert A. Webb Assoc.	Dumosa Signal Project	$ 3,720.64
Total 520	**MEASURE I-2010-2040 FUND**			**$ 3,720.64**
527	PUBLIC LANDS FEDERAL GRANT FUND			
	45164	LandMark	PLHD Project Testing Svs.	$ 1,032.70
	45168	Matich Corporation	PLHD Project Services	292,268.69
Total 527	**PUBLIC LANDS FEDERAL GRANT FUND**			**$ 293,301.39**
***	**Report Total**			**$ 386,173.96**

WARRANT REGISTER # 9
CHECK DATE - AUGUST 7, 2014

FUND DISTRIBUTION BREAKDOWN

Checks # 45192 to # 45282 are valid:

GENERAL FUND # 001	$507,226.66
INTERNAL SERVICE FUND # 100	$653.67
DEPOSITS FUND # 200	$31,164.06
COPS - LLESA FUND # 511	$27,962.25
GAS TAX FUND # 515	$19,786.34
MEASURE I 2010-2040 FUND # 524	$468,095.81
PUBLIC LANDS FEDERAL GRANT FUND # 527	$428,762.47
SR 62 STATE SAFE ROUTES TO SCHOOLS FUND # 529	$92,514.57
GRAND TOTAL	**$1,576,165.83**

Prepared by Shirlene Doten, Accounting Technician III
Reviewed by Sharon Cisneros, Senior Accountant
Approved by Curtis Yakimow, Administrative Services Director

Town of Yucca Valley
Warrant Register
August 7, 2014

Fund	Check #	Vendor	Description	Amount
001	GENERAL FUND			
	45192	Charm and Happy.com	Recreation Program Expense	$ 1,200.00
	45193	Aleshire & Wynder, LLC	06/14 Professional Services	10,988.56
	45194	Ruth Alkire	Contract Instructor	81.20
	45195	Alliant Insurance Services	Calvary Christian Liability Ins	113.00
	45196	Alsco/American Linen, Inc.	Parks Uniform Service	75.48
	45197	Animal Action League	Veterinary Services	2,525.00
	45198	Arrowhead Mountain Water	Office Supplies	204.66
	45199	AT & T Mobility	Cell Phone Service	335.24
	45200	Bannerman	Equipment Maintenance	370.94
	45201	Best Signs	Town Sign Maintenance	701.96
	45203	Carol Boyer	Contract Instructor	50.40
	45204	Debra Breidenbach-Sterling	PARSAC Conference Expense	312.10
	45205	Brian's Lockshop	Key Service	211.42
	45206	Builders Supply-Yucca Valley	Tools & Equipment	44.54
	45207	Burrtec Environmental	Summer Music Festival Services	328.95
	45208	Chet's Appliances	Museum Equipment	989.32
	45210	Carol Corbin	Contract Instructor	103.60
	45212	Desert Pacific Exterminators	Pest Control Services	461.00
	45213	Desert Green Landscape	Streets Clean Up	2,480.00
	45214	Desert Images Office Equip.	Fax Machine Service	60.00
	45215	Department of Motor Vehicles	License Plate Replacement Fee	20.00
	45217	Joe Espinosa	Summer Music Festival	1,500.00
	45218	Farmer Bros. Co.	Office Supplies	272.44
	45219	FedEx	Delivery Service	18.78
	45220	Catherine Fletcher	Contract Instructor	64.40
	45221	Mary Lou Fulkerson	Recreation Program Refund	90.00
	45222	Roland Gagne	Summer Music Festival Sound	600.00
	45223	Roland Gagne	Summer Music Festival Sound	600.00
	45224	Gaylord Bros, Inc.	Museum Operating Expense	293.11
	45226	Graphic Penguin	Website Maintenance	520.00
	45227	Duane Griffin	Contract Instructor	79.80
	45228	Joy Groves	Contract Instructor	199.00
	45230	HdL Coren & Cone	CAFR Services	595.00
	45231	Hi-Desert Glass	Facilities Maintenance	124.56
	45232	Hi-Desert Water	Water Service	1,168.88
	45233	Hi-Desert Publishing	Legal Notice Advertising	378.00
	45235	Susan Jordan	Contract Instructor	147.00
	45238	Pat Lumbattis	Contract Instructor	47.00
	45239	David Luse	Contract Instructor	42.00
	45243	MISAC	Membership Dues	240.00
	45244	David Mueller /dba Touch 2	Tennis Court Key Chains	305.94

Fund	Check #	Vendor	Description	Amount
	45245	Sierra Oakes	Contract Instructor	6.00
	45246	Oasis Office Supply, Inc.	Office Supplies	602.78
	45247	Ole's Alignment & Brake	Vehicle Maintenance	65.00
	45248	Public Agency Retirement Service	03/14 Trust Administrator Svs.	300.00
	45249	Public Agency Retirement Service	06/30/2014 OPEB Payment	61,685.64
	45250	PARSAC	Claim Settlement Agreement	35,000.00
	45251	PARSAC	04-06/14 Worker's Comp. Claim	2,356.12
	45253	Petty Cash-Jessica Rice	Miscellaneous Supplies	558.56
	45254	Lynne Richardson	Contract Instructor	294.00
	45255	Stefanie Ritter	Museum Event Expense	140.26
	45256	Ron's Automotive	Vehicle Maintenance	262.34
	45257	Linda Sande	Contract Instructor	46.20
	45258	SBCO Animal Care & Control	FY 13/14 4th Qtr License Pass	3,472.00
	45259	SBCO Sheriff's Dept	04-06/14 OHV Overtime	10,833.47
	45259	SBCO Sheriff's Dept	04-06/14 Gen Svs & Overtime	43,910.42
	45259	SBCO Sheriff's Dept	04-06/14 LLESA Overtime Svs.	3,804.46
	45259	SBCO Sheriff's Dept	08/14 Professional Services	293,347.00
	45260	SCE	Electric Service	1,629.07
	45261	Beverly Schmuckle	Contract Instructor	82.60
	45262	Signs by Wanda	Signage	97.20
	45264	So. Cal. Gas Co.	Natural Gas Service	386.29
	45265	Sprint	Phone Service	12.79
	45266	Star2Star Communications	7/21-8/20/14 Shelter Phone Svs	388.95
	45267	Stater Bros	Program Expense	157.89
	45268	Steven Enterprises	Plotter Supplies	151.00
	45270	Time Warner Cable	08/06-09/05/14 Internet/Cable	467.78
	45271	Trophy Express	Engraving Service	286.34
	45272	VCA YV Animal Hospital	Veterinary Services	308.62
	45273	Verizon	Phone Service	4,306.60
	45275	Valley Independent	Printing Service	502.99
	45276	Walmart Community	Recreation Program Expense	192.99
	45278	Woods Auto Repair	Fleet Vehicle Repairs & Smog	1,555.38
	45279	Guy Wulf	Sports Referee	750.00
	45280	Yucca Valley Quick Lube, LLC	Vehicle Maintenance	363.06
	45281	Yucca Valley Auto Parts, Inc.	Vehicle Maintenance	15.06
	45282	Don Hoeber	Summer Music Performance	1,500.00
	EFT	The Home Depot	Facilities Maintenance	698.67
	EFT	First Bankcard	Meetings & Operating Supplies	7,745.85
Total 001	**GENERAL FUND**			**$ 507,226.66**

Fund	Check #	Vendor	Description		Amount
100 INTERNAL SERVICE FUND					
	45225	GE Capital Corporation	Copier Lease	$	653.67
Total 100 INTERNAL SERVICE FUND				**$**	**653.67**
200 DEPOSITS FUND					
	45202	Mara Blond	Deposit Account Refund	$	425.00
	45211	Danmark Development	Deposit Account Refund		7,381.49
	45216	Richard Elder	Deposit Account Refund		515.00
	45229	HBI Construction, Inc.	Deposit Account Refund		9,003.46
	45237	Jesse Lenaker	Deposit Account Refund		1,404.91
	45277	Walmart	Deposit Account Refund		12,434.20
Total 200 DEPOSITS FUND				**$**	**31,164.06**
511 COPS-LLESA FUND					
	45259	SBCO Sheriff's Dept	Tahoe Patrol Vehicle	$	15,192.00
	45259	SBCO Sheriff's Dept	04-06/14 LLESA Overtime Svs.		12,662.50
	45269	Time Warner Cable	7/17-8/16/14 Paradise Park		69.74
	45274	Verizon Wireless	Sheriff's Office Cell Phone Svs.		38.01
Total 511 COPS-LLESA FUND				**$**	**27,962.25**
515 GAS TAX FUND					
	45196	Alsco/American Linen, Inc.	Streets Uniform Service	$	18.90
	45209	Clark Construc/Hal Scott Clark	Street Shoulder Maintenance		10,725.00
	45232	Hi-Desert Water	Water Service		156.32
	45234	Hi-Grade Materials Co.	Streets Supplies		206.64
	45242	Matich Corporation	Road Repair Asphalt Supply		7,443.19
	45260	SCE	Electric Service		53.03
	45263	Simplot Partners, Inc.	Parks Supplies		1,026.00
	45281	Yucca Valley Auto Parts, Inc.	Vehicle Maintenance		157.26
Total 515 GAS TAX FUND				**$**	**19,786.34**
524 MEASURE I - 2010-2040 FUND					
	45252	Pavement Coatings Co., Inc.	Townwide Slurry Seal Project	$	468,065.70
	45260	SCE	Electric Service		30.11
Total 524 MEASURE I - 2010-2040 FUND				**$**	**468,095.81**
527 PUBLIC LANDS FEDERAL GRANT FUND					
	45236	LandMark	PLHD Professional Services	$	1,067.20
	45241	Matich Corporation	PLHD Project		427,695.27
Total 527 PUBLIC LANDS FEDERAL GRANT FUND				**$**	**428,762.47**

Fund	Check #	Vendor	Description	Amount
529	SR2S SAFE ROUTES TO SCHOOL FUND			
	45236	LandMark	Professional Services	$ 837.20
	45240	Matich Corporation	Safe Routes to Schools Project	91,677.37
Total 529	**SR2S SAFE ROUTES TO SCHOOL FUND**			**$ 92,514.57**
***	**Report Total**			**$ 1,576,165.83**

TOWN COUNCIL STAFF REPORT

To: Honorable Mayor & Town Council
From: Shane R. Stueckle, Deputy Town Manager
Date: August 12, 2014
For Council Meeting: August 19, 2014

Subject: Resolution No. 14-
Appeal, A-01-14, Koenig
Appeal of Planning Commission Action
Home Occupation Permit Request for Approval,
HOP 11-05/HOP 01-14, Falossi
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

Prior Council Review: There has been no prior Town Council review of this matter.

Recommendation: That the Town Council adopts the Resolution, upholds the Planning Commission action, and denies the appeal.

Executive Summary: The matter before the Town Council is an appeal of the Planning Commission's approval of the applicants request for the approval of a home occupation permit for an artist studio within an accessory structure at an existing single family residence; to include outdoor activity within a 53' x 58' screened area that also encompasses the workshop building.

The Town Council hears appeals of Planning Commission decisions.

Order of Procedure:

Request Staff Report
Open the Public Hearing, Request Public Comment
Close the Public Hearing
Council Discussion/Questions of Staff
Motion/Second
Discussion on Motion
Call the Question (Roll Call Vote)

Reviewed By:	Town Manager	Town Attorney	Mgmt Services	Dept Head
		L.L. by [illegible]		

___ Department Report	___ Ordinance Action	X Resolution Action	X Public Hearing
___ Consent	___ Minute Action	___ Receive and File	___ Study Session

Discussion: Sections 83.010605 through 83.010630 of the Yucca Valley Development Code prescribe appeal procedures. These sections provide the opportunity for any individual to appeal Planning Commission decisions. This matter is an appeal filed by an adjacent property owner of the Planning Commission's approval of a Home Occupation Permit for an artist studio within an accessory structure of an existing single family residence, to include outdoor activity within a 53' X 58' screened area that also encompasses the workshop building. The business hours for the home occupation are Monday thru Friday, 8 AM to 5:00 PM, as conditioned by the Planning Commission. The applicant currently has no customers visiting the site, but is requesting approval for two customers per week /8 customers per month. This would result in a vehicle trip generation of 16 trips per month.

Business activities that occur on site include the production of small pieces of sculpture inside the workshop. The smaller pieces are then assembled into larger pieces of artwork in the screened area of the property. Very limited work on larger art pieces occurs outside the workshop building. The only other activity that occurs outside of the screened area is the loading of artwork on to a vehicle or occasional photographing or filming of sculpture. All material related to the home occupation activity is stored completely out of public view from street grade.

The project is located at 6229 Hoot Owl Tr. and is identified as Assessor Parcel Number 596-101-12. Access to the site is through both a portion of the Town's Maintained Road System as well as on private non-maintained dirt roads.

The Home Occupation Permit is generally recognized as a commercial use which is accessory to an established residential land use and will not alter the character of the neighborhood. The basic intent of the HOP is to provide the homeowner with a business activity that is accessory and incidental to the use of the residential property as long as that activity does not conflict with the intent of the HOP Ordinance or the standard Conditions of Approval. Otherwise, it may be more appropriate to require a more suitable location that can accommodate this type of business, such as a commercial district. One primary objective of the Ordinance is to ensure the home based business activities associated with the business do not alter the character of the neighborhood and to provide minimal deviations from the atmosphere of single-family living environment.

A Home Occupation Permit application, HOP 11-05, was approved by the Town in December of 2005 to establish an artist studio within an accessory structure at this location. The permit was approved under Ordinance No. 54. The Town's ordinance was revised in January of 2006, 1 month following approval of HOP-11-05. The permit was not renewed from 2010 to 2013. The applicant requested renewal of the permit in 2013 and paid all fees retroactive to 2010. The Town renewed the permit in 2013 based upon the factors that a) there had been no complaints to the Planning Division or the Code

Compliance Division since the approval in 2005 until December 16, 2013, b) the business registration had been kept current, and c) the applicant paid all fees.

The applicant has maintained a current business registration since approval of the original application in 2005. Renewals were approved under Ordinance No. 54 which is no longer in affect. The Town's renewal approval in 2013 extended the permit until March of 2014, when the applicant again requested renewal. The Planning Commission approved the new home occupation permit at their meeting of June 10, 2014. A copy of that portion of the Planning Commission is attached to and incorporated as part of this staff report.

Home Occupation Permits are identified as Special Use Permits in the Development Code and as such, a request for renewal may be processed as a new application. This request for renewal/approval is evaluated with current regulations established in Ordinance No. 178. Regulations, standards and requirements are no different between renewals or new applications under Ordinance No. 178. The only difference between the renewal of a permit or the issuance a new permit is the cost of the application and the ability to impose additional or modified conditions of approval.

The Conditions of Approval as approved by the Planning Commission are attached, as well as the detailed Planning Commission staff report and backup material

Alternatives:

1. That the Town Council approves the continued operation of the home occupation permit until such time as the Town Council acts upon the home occupation permit regulations recommended by the Planning Commission at their meeting of August 12, 2014, and directs staff to return the project to the town council following adoption of the new home occupation permit regulations..

2. That the Town Council continues the public hearing based upon the need for additional information and analysis.

3. That the Town Council approves Appeal, A-01-14, and overturns the Planning Commission action, denying Home Occupation Permit, HOP-11-05/HOP-1-14.

Fiscal impact: Land use application fees cover typical costs associated with processing land development applications.

Attachments: June 10, 2014, Planning Commission Staff Report and Materials
June 10, 2014, Planning Commission Minutes
Resolution No.
Appeal Application Materials

RESOLUTION NO. 14-

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF YUCCA VALLEY, CALIFORNIA, UPHOLDING THE PLANNING COMMISSION'S APPROVAL OF HOME OCCUPATION PERMIT, HOP-11-05/HOP-01-14 AND DENYING APPEAL, A-01-14.

WHEREAS, the Planning Commission held a duly noticed public hearing on June 10, 2014; and

WHEREAS, the Planning Commission considered all testimony provided at the public hearing of June 10, 2014; and

WHEREAS, based upon the application before the Planning Commission and the public testimony provided, the Planning Commission approved the Home Occupation Permit for HOP-11-05/HOP-01-14; and

WHEREAS, an appeal of the Planning Commission's approval of HOP-11-05/HOP-01-14 was filed with the Town; and

WHEREAS, the Town Council held a duly noticed Public Hearing on August 19, 2014, to consider the appeal of the Planning Commission's decision; and

WHEREAS, the Town Council considered all evidence on the record before them for HOP-11-05/HOP-01-14; and

WHEREAS, the Development Code (Section 812.01005) defines Commercial as: "Commercial: A land use classification that permits facilities for the buying and selling of commodities and services. Commercial may include but not be limited to retail trade, personal services, lodging services, recreation and entertainment services, repair services, and convenience and support services.; and

WHEREAS, the Development Code defines industrial as: (84.0240 (a)) "Manufacturing Operations. The on-site production of goods by methods other than agricultural or extractive in nature including the production of: Food and Kindred products; Textile Mill Products; Apparel and Other Finished Products; Lumber and Wood Products; Furniture and Fixtures; Paper and Allied Products; Chemicals and

Allied Products; Petroleum Refining and Related Industries; Rubber and Miscellaneous Plastic Products; Stone, Clay, and Glass Products; Primary Metal industries; Fabricated metal products; Professional Scientific Goods; Miscellaneous Manufacturing." ; and

WHEREAS, the Development Code defines Residential Land Use Types (84.0220) as "The occupancy of living accommodations, where the accommodations are owned or are leased or rented on a monthly or greater basis. (a) Single dwelling unit. A detached structure or combination of structures designed and/or used to house not more than one family, including all domestic employees of such facility in which is provided provisions for sleeping, eating, cooking and sanitation as required by this Code and the Uniform Fire Code". The Development Code also defines residential as: "Residential: A land use category with the principal purpose of providing shelter for people on a long-term basis."; and

WHEREAS, the Development Code, Section 812.01005, Definitions, defines Principal Building as "A building in which the primary use of the lot on which the building is located is conducted; and defines Principal use as "The primary or predominant use of any lot, building or structure".; and

WHEREAS, based upon these Development Code definitions, the primary use of the property is residential and the principal building which contains the primary use of residential is a residential structure. The residential structure contains approximately 2,252 square feet and the accessory structure contains approximately 640 square feet; and

WHEREAS, the Town has adopted Ordinance No. 187, Home Occupations, which purpose and intent is to: "The purpose and intent of this Section is to establish regulations allowing for the operations 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 with residential neighborhoods. It is the intent of this Section to allow for commercial uses that are accessory and incidental to the primary purposes of residential homes, which is that of providing a habitable dwelling unit."; and

WHEREAS, home occupations are further defined (Section 812.01005, Definitions) as: "Home Occupation: A commercial activity conducted in compliance with Chapter 6, Section 84.0615 of this Development Code, carried out by an occupant and conducted as an accessory use within the primary dwelling unit; and

WHEREAS, the home occupation operating under HOP-11-05/HOP-01-14 is allowed by the Development Code as an accessory use to primary residential use; and

WHEREAS, the Town Council finds, based upon the Development Code and all evidence submitted and all public testimony provided, that the primary use of the property where HOP-11-05/HOP-01-14 operates is single family residential (Residential); and

WHEREAS, the Town Council, based upon the evidence submitted and all public testimony, finds that the accessory use under HOP-11-05/HOP-01-14, to the primary residential use of the property, is an artist's studio where stone art pieces and sculptures are created; and

WHEREAS, the Town Council, based upon the evidence submitted and all public testimony, and based upon review of the Development Code, finds that the accessory use under HOP-11-05/HOP-01-14, an artist's studio does not constitute industrial land use or manufacturing activity; and

WHEREAS, the Town Council, based upon the Development Code, finds that, as defined in the Development Code, that an artist's studio where stone sculptures are created does not meet the purpose, intent of industrial land use activities, which the typical uses anticipated and planned for in industrial land use districts including cabinet shops, garment shops, leather good production, petroleum refining, paper product production, paint manufacturing, asphalt batch plants, explosives, propellants, chemicals and plastic manufacturing, warehousing, and lumber yards; and

WHEREAS, the Development Code defines an Artist Studio as "Work space for artists and artisans, including individuals practicing one of the fine arts or performing arts, or skilled in an applied art or craft"; and

WHEREAS, the activities conducted under HOP-11-05/HOP-01-15 from the original application in 2005 identify the activity as an Artist's Studio; and

WHEREAS, there are no employees other than family members involved in the business activities associated with HOP-11-05/HOP-01-14; and

WHEREAS, if the activities conducted under HOP-11-05/HOP-01-14 were conducted strictly as a hobby purpose and not for the purpose of profit, there would be no violations of the Yucca Valley Municipal Code and no permit would be required to be obtained; and

WHEREAS, the Town Council finds, based upon all evidence submitted and the Development Code, that the business activities conducted under HOP-11-05/HOP-01-14 are consistent with the definition of Artist Studio and do not constitute industrial or manufacturing activities, but are the practicing of stone sculpture art work; and

WHEREAS, the Town Council finds, and as discussed by the Planning Commission at their meeting of June 10, 2014, Ordinance No. 178, Home Occupations, that outdoor work activity and storage is provided for and allowed; and

WHEREAS, the Planning Commission, in their evaluation of proposed regulation updates for home occupations discussed the definition in the Development Code which states, "Home Occupation: A commercial activity conducted in compliance with Chapter 6, Section 84.0615 of this Development Code carried out by an occupant and conducted as an accessory use, within the primary dwelling unit"; and

WHEREAS, the Planning Commission determined, based upon all public testimony and evidence, and review of the purpose and intent of Ordinance 178, Home Occupations, that outdoor activities were anticipated, planned and allowed for, and directed that the definition of Home Occupations established in Section 812.01005 be amended to reflect those outdoor activities associated with home occupations; and

WHEREAS, the Town Council finds, based upon all evidence and public testimony, and review of the purpose and intent of Ordinance 178, Home Occupations, that outdoor activities were anticipated, planned and allowed for; and

WHEREAS, the Town Council finds, based upon all evidence, public testimony, the Development Code, and Ordinance No. 178, that outdoor storage for home occupations is provided for and consistent with home occupations approved by the Town in that "(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"; and

WHEREAS, the Town Council finds, based upon all evidence, public testimony, the Development Code and Ordinance No. 178, that the outdoor storage of artist studio supplies for HOP-11-05/HOP-01-14 is consistent with the Development Code and Ordinance No. 178; and

WHEREAS, the Municipal Code does not limit the weight or size of vehicles making deliveries to or from any residential property within the Town boundaries; and

WHEREAS, the Town Council finds that commercial vehicles making deliveries to or from single family residential homes is common and not prohibited and by the Yucca Valley Municipal Code; and

WHEREAS, government lots were created by the federal government and in that process created public access around all parcels created in that process ranging in typical widths of 30' to 33' to provide access to and from all lots created in this process; and

WHEREAS, the roads are available for public use by property owners, residents and the public in general; and

WHEREAS, the Town does not exercise dominion and control over non-maintained dirt roads within the Town of Yucca Valley; and

WHEREAS, the use of commercial vehicles making deliveries to and from residential properties served by non-maintained dirt roads does not violate the Yucca Valley Municipal Code; and

WHEREAS, the Town Council finds, based upon all evidence submitted and all public testimony, that the vehicle trips associated with the home occupation are consistent with and do not exceed those vehicle trip generation rates commonly associated with single family residential land use activities; and

WHEREAS, the closest residential structure from the workshop and screened work area is approximately 260' away in distance; and

WHEREAS, the Town Council makes the following findings in their denial of Appeal, A-01-14 and in upholding the Planning Commission's approval of HOP-11-05/HOP-01-14.

Section 1: The Town Council finds as follows.

1. That the proposed use is not prohibited.

   The proposed use of artist studio is not listed as a prohibited use under Section 84.0615(f) of the Development Code.

2. That the proposed use will comply with all applicable standards.

The use as proposed complies with all applicable standards, such as limiting the number of customers to two per week, customers may only visit the residence by appointment, all employees are members of the resident family and live on the premises and the operating hours are limited to the hours of 8 AM to 5:00 PM.

3. That the issuance of the Home Occupation Permit will not be detrimental to the public health, safety and general welfare.

   The issuance of the HOP will not be detrimental to public health, safety and general welfare in that all materials will be screened from public view, traffic patterns will not be affected, hours of operation are between the hours of 8 AM to 5:00 PM and the number of customers to the site will be limited to two per week.

4. That the proposed use will be consistent with any applicable specific plan.

   There are no specific plans for the proposed location.

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.

   The proposed use will not alter the character of the neighborhood. The residence will not be altered to indicate the presence of a home based business. Traffic patterns will not be affected as there will be a maximum of two customers per week and all employees are members of the resident family and live on the premises. The vehicles used in conjunction with HOP-11-05/HOP-01-14 are consistent with all Town regulations and do not violate any provision of the Municipal Code.

6. 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 property is located in the Rural Living General Plan land use district and is developed with a single family residence. The property is developed in conformance with the setbacks, structure height, and lot coverage standards of the Development Code. The primary use of the property is as a single family dwelling. The home occupation has been in operation since 1989 and is secondary to the use of the property as a single family residence.

7. 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 property is located in a rural area of larger lots and is developed with a single family residence and related accessory structures. The structures on the property are single story, with flat roofs, and are constructed in conformance with Development Code standards for setbacks and lot coverage.

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

The property is located in an area of larger lots developed with single family residences. The structures on the property are single story, with flat roofs, and are constructed in conformance with Development Code standards for setbacks, height requirements and lot coverage.

9. 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 property is located in an area of single family residences and vacant lots. The structures are single story with flat roofs and are constructed in compliance with height standards of the Development Code. The structures do not block views from surrounding properties.

10. 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 property is located in the Rural Living district and is developed with a single family residence. The property is constructed in conformance with setback and lot coverage standards of the Development Code. There are no landscaping requirements contained with the Yucca Valley Development Code for residential properties.

11. 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;

The property is developed with an existing single family residence and related accessory structures. The structures are single story with flat roofs, constructed in the santa fe style of architecture.

12. 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 property is an existing single family dwelling. Electrical services are provided by Southern California Edison. Natural gas services are provided to by The Gas Company or propane is available from local propane distributors. 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 is served by Burrtec.

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

The property is located in a rural area of larger lots that are located in an area accessed by dirt roads. Circulation will not be affected as customers are limited to two per week and the use of large equipment is limited to six times per year. Vehicle trips generated by the home occupation are estimated at 16 per month associated with the home occupation activities. Traffic engineers commonly identify 10 vehicles trips per day attributable to a single family residential unit. Based upon the estimated 16 monthly vehicle trips associated with the home occupation, that these trips are consistent with single family residential vehicle trip generation rates.

14. 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 property is located in a rural area of larger lots that are located in an area accessed by dirt roads. Circulation will not be affected as customers are

limited to two per week and the use of large equipment is limited to six times per year. Commercial vehicles are not prohibited from making deliveries to and from any single family residential unit within the Town.

15. 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 located in an area developed with single family residences and no negative impacts created by the project have been identified, including biological resources. The project was reviewed under the California Environmental Quality Act (CEQA). The project is exempt from CEQA under Section 15301, Class 1, Existing Facilities.

16. 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.

The structure is an existing single family residence with a workshop, and no changes have been made to the structures to identify the existence of a home occupation. All storage of materials is screened from public view at the street level.

17. There shall be no displays, sale, or advertising signs on the premises;

There are no signs on the property identifying the home occupation.

18. There shall be no signs other than one (I) 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;

There are no signs on the property identifying the home occupation

19. All maintenance or service vehicles and equipment, or any vehicle bearing any advertisement, shall be in conformance with Town regulations regarding vehicle signs;

There are no vehicles associated with the home occupation that bear any

advertisement or signs.

20. The home occupation shall not encroach into any required parking, setback, or open space area;

    The home occupation is conducted in a workshop on the property and the workshop is built in compliance with the setback regulations of the Development Code.

21. 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;

    All home occupation activity and storage of material are located within the workshop or the 53' x58' screened area that contains the workshop.

22. 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;

    There is complete conformity with fire, building, plumbing, electrical and health codes on the property. Inspections of the property have been conducted by town personnel and no violations have been identified.

23. 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;

    The property is located in a rural area of larger lots that are located in an area accessed by dirt roads. Circulation will not be affected as customers are limited to two per week and the use of large equipment is limited to six times per year. There is no limitation on large equipment making deliveries to and from single family residential housing units in the Development Code, and therefore this HOP has more restrictions placed on it than other single family residential units in the community.

24. No home occupation shall be initiated until a current business registration certificate is obtained;

The applicant has maintained a current business registration since the approval of the original application in 2005.

25. The garage shall not be altered externally;

The structure is an existing single family residence with a workshop, and no changes have been made to the structures to identify the existence of a home occupation, including the garage.

26. 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;

No violations of adopted performance standards have been observed by Town staff during site investigations.

Section 2: The Town Council denies Appeal, A-01-14 and upholds the Planning Commission's approval of HOP-11-05/HOP-01-14.

APPROVED AND ADOPTED THIS 19th day of August, 2014.

_____
Mayor

ATTEST:

_____
TOWN CLERK

FINAL CONDITIONS OF APPROVAL
HOME OCCUPATION PERMIT, HOP 11-05
FALOSSI RENEWAL/APPROVAL HOP 01-14

GENERAL CONDITIONS

1. This Home Occupation Permit, HOP 11-05, HOP 01-14 is a proposal for an artist studio within an accessory structure at an existing single family residence to include outdoor activity within an approximately 53' x 58 screened area that also encompasses the workshop building. The property is located at 6229 Hoot Owl Trail and is further identified as assessor's parcel number 596-101-12.

   Renewal Date: June 10, 2014
   Expiration Date: June 10, 2016

2. 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.

3. The Applicant/owner shall ascertain and comply with requirements of all Federal, State, County, Town and local agencies and obtain any and all necessary approval and permits that are applicable to the project. 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. 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.

6. There shall be no displays, sale or advertising signs on the premises.

7. 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.

8. All maintenance or service vehicles and equipment, or any vehicle bearing any advertisement, shall be in conformance with Town regulations regarding vehicle signs.

9. The home occupation shall not encroach into any required parking, setback, or open space area.

10. There shall be no outside storage of stock, merchandise, scrap supplies, or other materials or equipment, except for architectural stone or similar material, 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.

11. 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.

12. 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.

13. Applicant shall maintain a current business registration certificate.

14. The garage shall not be altered externally.

15. 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.

16. Customers shall be limited to two per week and shall be by appointment only. This shall be restricted to a single appointment at a time.

17. 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 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.

18. 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.

19. A Home Occupation Permit is not transferable.

20. Hours of operation shall be limited to 8 AM to 5 PM.

21. Delivery of materials related to the home occupation shall be limited to one delivery per month. The use of a rental crane or rental forklift is permitted a maximum of six times per year.

22. The applicant shall be permitted to participate in public art tours as they occur in the Morongo Basin.

_____ _____

Signature Date

ARTICLE 6

Appeals.

Sections:

83.010605 Appeal of a Land Use Decision.
83.010610 Application for the Appeal of a Land Use Decision.
83.010615 Time for Filing an Appeal.
83.010620 Notice of Appeal.
83.010625 Authority of Appeal Body.
83.010630 Withdrawal of Appeal.

83.010605 Appeal of a Land Use Decision.

Prior to its effective date, any land use decision made in accordance with the provisions of this Code by a reviewing authority other than the County Board of Supervisors may be appealed by the applicant or other affected party, as follows:

(a) The Planning Officer's decision to require preparation of an Environmental Impact Report (EIR) is subject to appeal to the Planning Commission for final decision.

(b) The Planning Commission or Planning Commission Subcommittee shall consider appeals regarding land use decisions made by any County agency, department, office, official or officer.

The Planning Commission may refer consideration of an appeal to the Board of Supervisors, except for those decisions involving only a variance, determination as to the completeness of an application, or the requirement for preparation of an Environmental Impact Report. In these instances the Planning Commission decision shall be the final and conclusive decision. The Board of Supervisors will not accept nor consider an appeal of these Planning Commission decisions.

(c) The Board of Supervisors shall consider appeals regarding land use decisions made by the Planning Commission, except as specified above.

(d) The Board of Supervisors shall only conduct hearings regarding an EIR or other environmental action in conjunction with consideration of the subject land use application and project for which the EIR was prepared or other environmental action proposed.

83.010610 Application For The Appeal Of A Land Use Decision.

Applications for an appeal of a land use decision shall be made on forms supplied by the reviewing authority to which the appeal is being made. Applications for appeals shall be accompanied by a written statement of the grounds upon which the appeal is based. A uniform fee, as established by the Board of Supervisors, shall be paid to the County upon the filing of each appeal. The appeal application shall identify (1) the subject land use application, (2) the specific decision, condition of approval or other matter being appealed, (3) the date of such action, (4) the justification for the appeal and, (5) any remedy or solution for which the appellant petitions. A properly filed application for appeal stays proceedings in the matter appealed until a decision is rendered on the appeal.

83.010615 Time For Filing An Appeal.

The Planning Officer or, in the case of an appeal to the Board, the Clerk of the Board of Supervisors, shall be notified by the appellant of an appeal of a land use application decision prior to the date on which such land use application decision becomes effective. The appellant shall submit at the time of such notification, or on the next County business day following such notification, an application for the appeal.

83.010620 Notice Of Appeal.

Within thirty (30) days of the acceptance of an application for an appeal of a land use decision, the County Office of Planning or the Clerk of the Board of Supervisors shall set the matter for hearing and shall give notice of the date, time and place of the hearing to the appellant, the applicant, and to any other party who has requested in writing to be so notified. In addition, notice shall also be given in the same manner as notice was given for the land use decision being appealed.

83.010625 Authority Of Appeal Body.

Upon hearing the appeal, the appeal body shall consider the record and such additional evidence as may be offered, and may affirm, reverse or modify, in whole or in part, the decision appealed. The appeal body is subjected to all of the criteria, findings, and requirements imposed by this Code upon the original decision maker.

83.010630 Withdrawal Of Appeal.

An appeal may be withdrawn prior to the time that the reviewing authority issues a decision. The applicant or his/her representative must notify the Planning Office in writing that he/she wishes to withdraw the appeal.

Appeal Application

Date Received 06/18/14
By D OLSEN
Fee
Case # A-01-14

General Information

APPLICANT Friederich Koenig Phone 310-508-8794 Fax
Mailing Address 1819 Polk Street, #227 Email fritzkoenig@hushmail.com
City Yucca Valley State CA Zip 94109
REPRESENTATIVE John Barriage, Atty Phone 619.364.6537 Fax
Mailing Address 7850 S. Procyon Ave L.V. NV Email johnbarriage@aim.com
PROPERTY OWNER Friederich Koenig Phone Fax
Mailing Address same Email
City same State Zip

Project Information

Project Address 6229 Hoot Owl Trail Assessor Parcel Number(s) 0596-101-12
Project Location Yucca Valley Parcel Number 0596-101-12 and at least Plaza del Amigo and Farello Road.
Project Description: Application for Home Occupation Permit (HOP 01-14)
artist studio within an accessory structure at an existing single family residence to include outdoor activity within a 53' x 58' screened area that also encompasses the workshop building.

I/We are appealing the following project action taken:

- ☐ Denial of project
- ☐ Denial of project without prejudice
- ☒ Approval of the project
- ☐ Adoption of a Negative Declaration
- ☐ Modification to Conditions of approval
- ☒ Other, please describe

I/We are appealing:

- ☐ Staff Determination
- ☐ Hearing Officer Determination
- ☒ Planning Commission Determination

Appeal from Planning Commission approvasl on June 10, 2014 of HOP Permit 1-14 (David Falossi)

Aee attached Notice of Appeal and Designation of Record on Appeal.

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

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. All documents, maps, reports, etc., submitted with this application are deemed to be public records. I/We further understand that the Town might not approve the application as submitted, or might set conditions of approval. Further, I understand that all documents, maps, reports, etc., submitted with this application are deemed to be public records.

Signed: _____

Date: June 16, 2014

Property Owner/ Authorized Agent: 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 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 understand that all documents, maps, reports, etc., submitted with this application are deemed to be public records. I am hereby authorizing _____ to act as my agent and is further authorized to sign any and all documents on my behalf.

Signed: _____

Dated: _____

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 the letter, staff may stop processing of the application and/ or not schedule the project for action by the Planning Commission or Town Council.

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 time spent processing this application will be paid to the Town of Yucca Valley

Subject to the terms of Resolution 04-38

WHEREAS, a fee may not exceed the estimated reasonable cost of providing the service or facility for which the fee is charged which fees may include appropriate indirect costs; and WHEREAS, the Comprehensive Fee Study Report estimates the reasonable costs for providing various services;

Deposit Paid: $_____

Applicant's Signature: _____ Date: June 18, 2014

Applicants Name Friederich Koenig
(Please print)

Application modified 2-15-12

John B. Barriage, CSBN 120462
Attorney at Law
7850 S. Proycon Ave
Las Vegas, NV 89139
(619) 364-6537
johnbarriage@aim.com

Attorney for
Appellant
FRIEDERICH KOENIG

STATE OF CALIFORNIA
TOWN OF YUCCA VALLEY
PLANNING COMMISSION

IN RE THE MATTER OF THE HOME OCCUPATION PERMIT OF DAVID JOSEPH FALOSSI, ELENA FALOSSI doing business as FALOSSI STUDIOS Inclusive. Defendants'	HOP PERMIT 01-14 (Previous Permit No. 11-05) NOTICE OF APPEAL AND DESIGNATION OF RECORD ON APPEAL BY FRIEDERICH KOENIG APPEALING THE DECISION OF THE PLANNING COMMISSION GRANTING HOP 01-14 Planning Commission Hearing: June 10, 2014

To the Honorable Members of the Yucca Valley Town Council:

Mr. Friederich Koenig (Appellant) owner of adjoining property to the Falossi property respectfully submits the following Notice of Appeal and Designation of Record. This submission is to provide requested information of subject matter of Appeal and is not intended to exclude further/additional evidence, authority, or argument upon appeal.

NOTICE OF APPEAL/GROUNDS OF APPEAL

1. REQUEST FOR CONTINUANCE

Appellant Koenig as part of his submission to the Planning Commission and orally before the Commission requested that the Hearing on HOP 1-14 be continued because the volume of the staff prepared packet (175 pages) and the lateness of release of the staff packet, by Town Staff on the Friday evening before the Tuesday hearing deprived him of sufficient time to prepare for the hearing on June 10, 2014. This violated Appellant's due process right of adequate notice.

2. OBJECTIONS TO STAFF CENSORSHIP OF MATERIALS SUBMITTED

On April 1, 2014 Mr. Koenig spoke before the Yucca Valley Town Council during the public comment period. As part of Mr. Koenig's presentation he submitted a document entitled "Koenig Land Use Report to Yucca Valley Town Council Meeting April 1, 2014 (Report) dated April 1, 2014 (found at Staff Report pages 222-262, some of this report was removed from matter submitted to the Planning Commission.

The documents removed by staff are the found described as pages "Bates Numbers 000015 to Bates 000051 (Bates numbers pages are found at the bottom right of the document).

The 36 pages of material removed by staff was discovery matter provided to Mr. Koenig in Mr. Koenig's lawsuit against Mr. Falossi.[1]

The material removed from the Koenig Report was not removed at the request or permission of Mr. Koenig[2], the Report's author. Mr. Koenig has the lawful right by court order to use this material before a local permitting agency. Town Staff has no legal basis to exclude this material. (See copy of Order attached as Exhibit 1)

This removal of material from this Report is an unlawful prior-restraint and infringes upon Mr. Koenig's right of speech and right to petition the government in violation of the First

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[1] Lawsuit entitled Koenig v David Joseph Fallosi et al, San Bernardino Superior Court Case No. CIVDS1314309

Amendment of the United States Constitution and the California Constitution Article 1, Section 2 (a) (Speech) and, Section 3 (a) (Right to petition government). Mr. Koenig has speech rights before any public forum include Municipal Council and Planning Commission hearing.[3]

While reasonable restrictions may be imposed upon speech during public meetings/hearings within the body's subject matter jurisdiction-matters on which the public body has to act-does not abridge speech (i.e. planning commission may limit speech relevant to matters before it) for example the legislative body was allowed to disallow speech about a members personal life not related to the City's business. (78 Ops. Cal. Atty. Gen 218 (1995). A person removed from a City Council meeting for disruptive behavior may be stopped from speaking and removed is disruptive , however, viewpoint or content restrictions are disallowed under the First Amendment. (*Norse v. City of Santa Cruz*, 118 Fed. Appx. 177, 178–79 (9th Cir. 2004). However, the First Amendment does not allow content or viewpoint restriction.

In this case the unilateral action of staff in removing these 36 pages is a prior restraint restriction on speech/petition rights and is prohibited under the First Amendment.

As a result of being denied his right to submit material to the Planning Commission Appellant was denied due process.

3.HOP 01-14 SHOULD BE DENIED

In this case the granting of Home Occupation Permit No 01-14 should not be granted for the for the following reasons:

Falossi Studios previously operated under Home Occupation Permit 11-05. That use was in violation of the applicable Yucca Valley Ordinance 178 and 212 and the previous Home Occupation Permit. In the staff packet submission Report at pages 122 identifies specific violations of Ordinance 178 and 212.

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[3] A citizen's speech can only be limited in these types of forums when he is being disruptive or irrelevant or other otherwise in violation of reasonable rules.

At page 227 is a flow chart stating "Violations of Conditions of Approval of Home Occupation Permit 11-05). This flow chart from pages 227 to 229 lists the 17 Conditions of Home Occupation Permit 11-05 and documents 7 know violations. These violations have continued unabated until now.

4. GRANTING OF HOP 1-14 WAS IN EXCESS OF THE JURISDICTION OF THE PLANNING COMMISSION

Under ordinance 178 the proposed use is prohibited.

4.1.(A) FALOSSI'S USE IS INDUSTRIAL NOT COMMERCIAL AND THEREFORE PROHIBITED

Yucca Valley Ordinance 212 defines Home Occupation as "**A commercial activity conducted in compliance with Chapter 6, Section 84.0615 of this Development Code, carried out an occupant as an accessory use within the primary dwelling unit**" (Underline added for emphasis)

Yucca valley ordinance 178, (Found at page 236 of the Planning Commission Staff Report, also restricts Home Occupation Permits to "Commercial" uses. **"It is the intent of this Section to allow for commercial uses that are accessory and incidental to the primary purpose for residential homes..."**

4.1. (B) FALOSSI STUDIO IS AN INDUSTRIAL USE NOT COMMERCIAL

Falossi Studios is not primarily a commercial business it is industrial. Mr. Falossi is no merchant. Mr. Falossi sculpts large format objects, and uses tools, materials and through such uses fabricates what is identified as his work. Fabrication is an industrial use and as the following referenced pictorial depictions unquestionably show industrial use.

Pictures on pages 136 through 150 and 244 through 250 (Planning Commission Staff Report) shows not commercial activity but show industrial uses. Staff Report pages 138 to

140 show large blocks of stone used to fabricate produce and pages 142 and 143 shows an industrial shop. At page 250 a picture shows Mr. Falossi fabricating in his yard.

4.2. CURRENT LAW ONLY ALLOWS USES ACCESSORY WITHIN THE PRIMARY DWELLING UNIT

The above provided definition clearly restricts the Home Occupation to an accessory use "**within the primary dwelling unit.**" As can be seen from the pictorial evidence provided in the staff report Mr. Falossi engages in his Home Occupation activities in the yard, in a separate workshop that is not within his dwelling unit, also it can be seen from these 'photos that he is storing outside tools oh his trade, raw materials (i.e. large object blocks).

4.3. FALOSSI'S USE IN VIOLATION OF THE YUCCA VALLEY GENERAL STANDARDS AND CONTINUED USE AS IT HAS BEEN USED WOULD BE UNLAWFUL AS WELL

Moreover, the activities otherwise currently restricted to inside the dwelling unit have not been limited to what the law currently requires.

For example in Ordinance 178 (Section 84.0615 (j) ("General Standards") found at page 241 for Home Occupations states;

"(1) There shall be no visible or external evidence of the Home Occupation...

The pictorial evidence included in the staff report shows lots of visible external evidence of the Home Occupation in violation of general Standard No. 1.

See Staff Report of photos on pages 138, 139, 140, 141, 142, 143, 145, 146, 147, 148, 149, 150, 195 (Commercial dump-truck. Also see photos at 198 (large crane on property, 216 (large crane), 218 (Heavy duty truck). 222 (Large industrial forklift that was operated on Falossi property), 244 (outdoor storage of large blocks), 259 (Mr. Falossi working on top of large block outside), , 245 (picture showing use of crane to lift large and heavy format project), and last, but not least, p. 246 (large commercial truck) Falossi

Studios using the public street at Plaza del Amigo as a transfer points to deliver the large Forklift found on the next page 249.

Nothing could be more external evidence of the Home Occupation then these photographs.

Another example of Falossi's violation the General Standards is the following:

"(6) There shall be no outside storage of stock, merchandise, scrap supplies, or other materials or equipment on the visible from surrounding properties or public rights of way."

Mr. Koenig can see from his property some of the outside storage that has occurred including the following: forklifts, raw multi-ton blocks of stone, finished goods ready for sale.

A third violation of the General Standards is General Standard (8) found at Staff Report p. 241 **(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."**

The pictorial panels again shows that Falossi Studios has unlawfully generated vehicular traffic in excess of that customarily associated with residential use and the neighborhood in which it is located.

Unquestionably the vehicular traffic generated is not that customarily associated with the residential use.

See Staff Report of photos on pages 14) , 141, 142, (on site forklift) , 146 (commercial truck) , 147, 148, 149, 150. Also see photos at 216 (large crane), 218 (Heavy duty truck). 222 (Large industrial forklift that was operated on Falossi property), 245 (picture showing use of crane to lift large and heavy format project), and last, but not least, p. 246 (large commercial truck) Falossi Studios using the public street at Plaza del Amigo as a transfer points to deliver the large Forklift found on the next page 249.

Cranes, tractor trailers, medium and large forklifts, commercial trucks coming and going to deliver Falossi or ship out raw or finished product is not customarily associated with residential use.

4. 4. STAFF FINDINGS NOT SUPPORTED BY THE EVIDENCE OR THE RECORD

As stated in the Staff Report "**Ordinance 178 Home Occupations, contains five (5) Findings that must be made in order for the Town to approve a Home Occupancy Permit.**" (Staff Report at p 88). Those findings are:

"1. **That the proposed use is not prohibited.**"

Contrary to staff's conclusion Falossi's sculpture business is industrial and not commercial. Under Ordinance 178 and Ordinance 212, as discussed above Industrial uses are not allowed. Moreover, the use is not allowed because the use is not consistent with uses

"**2. That the proposed use will comply with all applicable standards.**"

Proposed use does not comply with standards in that Home Occupations are for "commercial use' and not "industrial uses." The use does not comply with Ordinance 212 which by its very terms requires that the Home Occupation be conducted within the primary dwelling structure.

The use does not comply with the Yucca Valley Municipal Code regulations relating to prohibition of commercial vehicles with gross vehicle weight in excess of 10,000 pounds on adjunct and connecting streets.

Evidence abounds that trucks with loads greater than 10,000 pounds are used as pasrt of operation of Falossi Studios see Photos (pages 198, 199, 218, 244, 245, 246, 248, 250) also see "DEFENDANT KOENIG'S LODGEMENT OF DAVID FALOSSI'S DISSEMINATION OF SELF PROMOTIONAL SPEECH VIA INTERNET, TELEVISION, NEWSPAPERS IN SUPPORT OF OPPOSITION TO FALOSSI'S MOTION FOR PROTECTIVE ORDER RESTRAINING SPEECH OF LITIGANTS" filed separately to this Hearing of HOP 01-14.

To the extent any evidence was proffered as to weights all weight certificates were for "tare weights" and not: gross weight"

"3. THAT THE ISSUANCE OF THE HOME OCCUPATION PERMIT WILL NOT BE DETRIMENTAL TO THE BPUBLIC HEALTH, SAFETY AND GENERAL WELFARE

Dimunition of Property Values

HOP 01-14 is also detrimental to the general public welfare in that an industrial use such as in the matter of Falossi Studios, diminishes property values of residential use of the underlying residential zone of Rural Living 5.

Non-Residential Emissions

Falossi Studios emits fumes, gases, chemicals, and particulates of metal, minerals.

DUST: The heavy weight of the trucks both create new dust by breaking and fracturing native substrates of the unpaved earth which support the trucks having gross vehicle with that exceed 20,000 pounds, and also these heavy trucks propel PM-10 class dirt from the ground into the air to then become "Fugitive Unhealthful Dust" regulated by Rule 403 of the Mojave Desert Air Quality Management District (MDAQMD) states:

RULE 403 Fugitive Dust states in part:

(a) A person shall not cause or allow the emissions of fugitive dust from any transport, handling, construction or storage activity so that the presence of such dust remains visible in the atmosphere beyond the property line of the emission source. (Does not apply to emissions emanating from unpaved roadways open to public travel or farm roads. This exclusion shall not apply to industrial or commercial facilities).

While residential uses are exempt from Rule 403 however commercial vehicles such as Falossi Studios are not exempt from its jurisdiction and a permit from the MDAQMD.

"5. THAT THE PROPOSED USE WILL NOT ALTER THE CHARCTEROF THE NEIGHBORHOOD AND WILL NOT INDUCE PHYSICAL OR SOCIOECONOMIC CHANGES TO THE NEIGHBORHOOD THAT ARE INCONSISTENT WITH GOALS AND OBJECTIVES OF THE GENERAL PLAN, AND THE DEVELOPMENT CODE, AND THAT DO NOT CREATE CHARCTERISTICS MORE CLOSELY ASSOCIATED WITH COMMERCIAL, OFFICE OR INDUSTRIAL LAND USE."

Allowing an industrial use, such as Falossi Studios, with the density of use creates *Defacto* inconsistency with the General Plan. The Home Occupation Permit creates an allowance that is analogous to "spot zoning." That is the Defacto zoning allowance for an industrial use with density and types of uses inconsistent with the RL-5 provisions in the General Plan. This is in violation of the California Zoning and Planning Law (Government Code Section 65000 et seq,) As noted in the case of *Debotteri v. City Council of the City of Corona 171 Cal.App.3d 1204, 1210-1210 (1985)*:

"State law prohibits enactment of a zoning ordinance that is not consistent with the **general plan**. (Gov. Code, § 65860.) Were the voters to repeal the zoning amendment at issue here, the result unquestionably would be a zoning ordinance inconsistent with the amended **general plan**. Hence the council contends that it has made the requisite "compelling showing that the substantive provisions of the [referendum] are clearly invalid." (*American Federation of Labor* v. *Eu, supra,* 36 Cal.3d at p. 696, fn. 11.) We agree.[1]

"State law requires that the legislative body of every county and city "adopt a comprehensive, long-term **general plan** for the physical development of the county or city, and of any land outside its boundaries which in the planning agency's judgment bears relation to its planning." (Gov. Code, § 65300.) Proposed subdivisions, together

with the provisions for their design and improvements must be "consistent with the **general plan**." (Gov. Code, § 66473.5.) County and city zoning ordinances must be "consistent with the **general plan**," as well. (Gov. Code, § 65860, subd. (a).)

"The impact of the legislation (Stats. 1971, ch. 1446, pp. 2852, 2858) which imposed the requirement that subdivisions and zoning ordinances be

"*1211 consistent with the **general plan** has been widely noted. As this court, in *City of Santa Ana* v. *City of Garden Grove* (1979) 100 Cal. App.3d 521, 532 [160 Cal. Rptr. 907], stated: "In 1971 the Legislature enacted [Gov. Code, §§ 66473.5, 65860] which transformed the **general plan** from just an `interesting study' to the basic land use charter governing the direction of future land use in the local jurisdiction.... *As a result,* **general** plans now embody fundamental land use decisions that guide the future growth and development of cities and counties. The adoption or amendment of **general** plans perforce have a potential for resulting in ultimate physical changes in the environment...." (Italics supplied.)

"In *Bownds* v. *City of Glendale* (1980) 113 Cal. App.3d 875, 880 [170 Cal. Rptr. 342], the court noted the "combined effect" of the State Planning and Zoning Law, "which is to require that cities and counties adopt a **general plan** for the future development, configuration and character of the city or county and require that future land use decisions be made in harmony with the **general plan**." (See also *City of Los Angeles* v. *State of California* (1982) 138 Cal. App.3d 526, 533 [187 Cal. Rptr. 893].) One commentator has gone so far as to conclude: "The focus of the legislative scheme in California's modern statutes ... seems to be the requirement that the exercise of the police power in the zoning and land-use permit area be *consistent* with the **general plan**." (Note, ***General Plan*** (1974) 26 Hastings L.J. 614, 622; italics supplied.)"

As such the California Zoning and Planning prohibits zoning

enactments that would allow the nose of the camel, a prohibited use,

from getting into the tent.

Allowing HOP 01-14 would allow a use in violation of the RL-5 Zoning and therefore such use violates the general plan.

6. Due Process: Failure to Tailor Hearing Procedures to Insure meaningful opportunity to present opposition.

Hearing panel did not consider the unusual circumstances of this case. As but one example, Mr. Falossi introduced new evidence about a purported crane on opponent Koenig's property. However, no procedure was in place for Koenig to "meet" that evidence. (Koenig was restrained as the transcript will show the Chairman threatened to eject Koenig if he uttered another word during the hearing without being recognized by the chair. The Chair never asked Koenig to reply to the new evidence. Thus Koenig was not allowed to meet the new evidence.)

There was zero "tailoring" of the procedures. Instead, the Town used procedures that are standard for a city council meeting, not a procedure designed for administrative hearings.

"All that is necessary is that the procedures be tailored, in light of the decision to be made, to `the capacities and circumstances of those who are to be heard' ... to insure that they are given a meaningful opportunity to present their case." *Mathews,* 424 U.S. at pp. 348-349 [47 L.Ed.2d at p. 41

As our Supreme Court stated in *People* v. *Ramirez* (1979) 25 Cal.3d 260 [158 Cal. Rptr. 316, 599 P.2d 622] (hereafter *Ramirez*): "[T]he extent to which due process [protections] will be available depends on a careful and clearly articulated balancing of the interests at stake in each context.

DESIGNATION OF RECORD ON APPEAL

Appellant respectfully requests the designation of the following items as

the record on appeal to the Town Council.

1) Staff prepared packet to the Planning Commission on HOP 1-14.

2) All written submissions to the Planning Commission at the hearing on June 10, 2014 on the matter of HOP 1-14. Including but not limited to written submission prepared by Appellant Koenig's Counsel John B. Barriage.

3) The transcript prepared by Court Reporter Sonia Renee Smith of Barrett Reporting paid for by appellant and to be provided to the Clerk of the Town for inclusion in the record.

4) Any Town created audio and or video recording of the Hearing on HOP 1-14 on June 10, 2014.

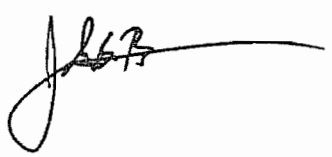
5) Any official minutes of the Hearing on HOP 1-14 taken on June 10, 2014.

6) Video and audio recording of the hearing paid for and taken for Appellant to be provided to the Clerk for inclusion in the transcript.

7) All related written submissions to the Planning Commission or its members provided before the June 10, 2014 hearing on the matter of HOP 1-14.

8) Additional evidence and material as may be submitted and lodged to the File of Appeal of HOP 01-14, and provided at the hearing on appeal.

Dated: June 16, 2014



John B. Barriage, Attorney for Appellant Friedrich Koenig.

PLANNING COMMISSION STAFF REPORT

To: Chairman and Commissioners
From: Shane Stueckle, Deputy Town Manager
Diane Olsen, Planning Technician
Date: June 05, 2014
For Commission Meeting: June 10, 2014

Subject: Home Occupation Permit, Request for Renewal, HOP 011-05
HOP 01-14, Falossi
Exempt from CEQA under Section 15301, Class 1, Existing Facilities

Prior Commission Review: There has been no prior Commission review of this item.

Recommendation: That the Planning Commission:

A) Finds the project exempt from CEQA pursuant to Section 15301 Class 1, Existing Facilities.

B) Approves 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 one year, expiring on June 10, 2015, unless a request for renewal and related approval are obtained prior to that date.

Alternative recommendations:

C) Approves 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

D) Continue the public hearing based upon the need for additional information and analysis.

Executive Summary: This request is for renewal/approval of a Home Occupation Permit for an artist studio within an accessory structure of an existing single family residence, to include outdoor activity within a 53' X 58' screened area that also encompasses the studio building. The business hours for the home occupation are Monday thru Friday, 8 AM to

4:30 PM. The applicant currently has no customers visiting the site, but is requesting approval for two customers per week /8 customers per month. This would result in a vehicle trip generation of 16 trips per month.

Business activities that occur on site include the production of small pieces of sculpture inside the workshop. The smaller pieces are then assembled into larger pieces of artwork in the screened area of the property. The only activity that occurs outside of the screened area is the loading of artwork on to a vehicle or occasional photographing or filming of sculpture.

All material related to the home occupation activity is stored completely out of public view.

Recommendation: That the Planning Commission:

A) Finds the project exempt from CEQA pursuant to Section 15301 Class 1, Existing Facilities.

B) Approves 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 one year, expiring on June 10, 2015, unless a request for renewal and related approval are obtained prior to that date.

Alternative recommendations:

C) Approves 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

D) Continue the public hearing based upon the need for additional information and analysis.

Order of Procedure:

Request Staff Report
Open Public Hearing, Request Public Comment
Close Public Hearing
Commission Discussion/Questions of Staff
Motion/Second
Discussion on Motion
Call the Question (Roll Call Vote)

Fiscal Impact: N/A. The applicant is responsible for costs associated with Planning Division applications.

Attachments: Planning Commission Detailed Staff Report and Backup Materials

TOWN OF YUCCA VALLEY
COMMUNITY DEVELOPMENT/PUBLIC WORKS DEPARTMENT
PLANNING DIVISION
STAFF REPORT

Case: HOME OCCUPATION PERMIT REQUEST FOR RENEWAL/APPROVAL, HOP 11-06
HOP 01-14, FALOSSI
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 SPEICAL USE PERMIT RENEWAL.

Request: APPLICANTS REQUEST FOR THE RENEWAL/APPROVAL OF A HOME OCCUPATION PERMIT FOR AN ARTIST STUDIO WITHIN AN ACCESSORY STRUCTURE AT AN EXISTING SINGLE FAMILY RESIDENCE TO INCLUDE OUTDOOR ACTIVITY WITHIN A 53' X 58' SCREENED AREA THAT ALSO ENCOMPASSES THE WORKSHOP BUILDING.

Applicant: DAVID FALOSSI
6229 HOOT OWL TRAIL
YUCCA VALLEY, CA 92284

Property Owner:
SAME

Representative:
SAME

Location: THE PROJECT IS LOCATED AT 6229 HOOT OWL TR AND IS IDENTIFIED AS ASSESSOR PARCEL NUMBER 0596-101-12.

Existing Land Use:
THE SITE IS CURRENTLY DEVELOPED WITH A SINGLE FAMILY RESIDENCE OF 2,258 SQUARE FEET, A WORKSHOP OF 640 SQUARE FEET AND A STORAGE BUILDING OF 588 SQUARE FEET.

Surrounding Land Use:

NORTH:	SINGLE FAMILY RESIDENTIAL
SOUTH:	VACANT, SINGLE FAMILY RESIDENTIAL
WEST:	SINGLE FAMILY RESIDENTIAL
EAST:	SINGLE FAMILY RESIDENTIAL

Zoning Designation:

THE PROPERTY IS CURRENTLY ZONED RURAL LIVING, 5 ACRE MINIMUM (RL-5).

Surrounding Zoning Designations

NORTH:	RL-5, RURAL LIVING
SOUTH:	RL-5, RURAL LIVING
WEST:	RL-5, RURAL LIVING
EAST:	RL-5, RURAL LIVING

General Plan Land Use Designation:

RL-5, RURAL LIVING

Surrounding General Plan Land Use Designations:

NORTH:	RL-5, RURAL LIVING
SOUTH:	RL-5, RURAL LIVING
WEST:	RL-5, RURAL LIVING
EAST:	RL-5, RURAL LIVING

Notice of Exemption:

PURSUANT TO SECTION 15301, CLASS 1, OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA), THE PROJECT IS DETERMINED TO BE CATEGORICALLY EXEMPT FROM FURTHER ENVIRONMENTAL ANALYSIS.

Public Notification:

PURSUANT TO SECTION 83.010330 OF THE DEVELOPMENT CODE, 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 MAY 27, 2014.

RECOMMENDATIONS:

HOME OCCUPATION PERMIT, HOP 01-14 FALOSSI

THAT THE PLANNING COMMISSION:

A) FINDS THE PROJECT EXEMPT FROM CEQA PURSUANT TO SECTION 15301 CLASS 1, EXISTING FACILITIES.

B) APPROVES 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 ONE YEAR, EXPIRING ON JUNE 10, 2015, UNLESS A REQUEST FOR RENEWAL AND RELATED APPROVAL ARE OBTAINED PRIOR TO THAT DATE.

ALTERNATIVE RECOMMENDATIONS:

C) APPROVES 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

D) CONTINUE THE PUBLIC HEARING BASED UPON THE NEED FOR ADDITIONAL INFORMATION AND ANALYSIS.

Project Manager: Diane Olsen, Planning Technician

Reviewed By: Shane Stueckle, Deputy Town Manager

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 Division of the Community Development Department.

I. GENERAL INFORMATION

REQUEST: This request is for renewal/approval of a Home Occupation Permit for an artist studio within an accessory structure of an existing single family residence, to include outdoor activity within a 53' X 58' screened area that also encompasses the workshop building. The business hours for the home occupation are Monday thru Friday, 8 AM to 4:30 PM. The applicant currently has no customers visiting the site, but is requesting approval for two customers per week /8 customers per month. This would result in a vehicle trip generation of 16 trips per month.

Business activities that occur on site include the production of small pieces of sculpture inside the workshop. The smaller pieces are then assembled into larger pieces of artwork in the screened area of the property. The only activity that occurs outside of the screened area is the loading of artwork on to a vehicle or occasional photographing or filming of sculpture.

All material related to the home occupation activity is stored completely out of public view from street grade.

LOCATION: The project is located at 6229 Hoot Owl Tr. and is identified as Assessor Parcel Number 596-101-12. Access to the site is through both a portion of the Town's Maintained Road System as well as on private non-maintained dirt roads. The site is accessed via Old Woman Springs Rd to El Cortez to Buena Suerte to Plaza Del Amigo to then to the site via Hoot Owl Trail.

PROJECT SYNOPSIS:	**SITE COVERAGE**
PROJECT AREA:	2.5 acres
BUILDING AREA:	Residence – 2,258 sq ft Workshop – 640 sq ft Storage – 588 sq ft Total – 3,486 sq ft
FLOOD ZONE	Zone X, Map 8120, areas determined to be outside the 0.2% annual chance floodplain
ALQUIST PRIOLO ZONE	No

II. PROJECT ANALYSIS

ENVIRONMENTAL REVIEW: The project is categorically exempt from CEQA pursuant to Section 15301, Class 1 Existing Facilities.

ADJACENT LAND USE/ZONING: The site is in an area developed with single family residences. The surrounding properties have the zoning designation of Rural Living, 5 acre minimum (RL-5).

SITE CHARACTERISTICS: The subject property is a 2.5 acre parcel that is developed with a single family residence of 2,258 square feet, a workshop of 640 square feet and a storage building of 588 square feet.

DISCUSSION: The Home Occupation Permit is generally recognized as a commercial use which is accessory to an established residential land use and will not alter the character of the neighborhood. The basic intent of the HOP is to provide the homeowner with a business activity that is accessory and incidental to the use of the residential property as long as that activity does not conflict with the intent of the HOP Ordinance or the standard Conditions of Approval. Otherwise, it may be more appropriate to require a more suitable location that can accommodate this type of business, such as a commercial district. One primary objective of the Ordinance is to ensure the home based business activities associated with the business do not alter the character of the neighborhood and to provide minimal deviations from the atmosphere of single-family living environment.

A Home Occupation Permit application, HOP 11-05, was approved by the Town in December of 2005 to establish an artist studio within an accessory structure at this location. The permit was approved under Ordinance No. 54. The Town's ordinance was revised in January of 2006, 1 month following approval of HOP-11-05. The permit was not renewed from 2010 to 2013. The applicant requested renewal of the permit in 2013 and paid all fees retroactive to 2010. The Town renewed the permit in 2013 based upon the factors that a) there had been no complaints to the Planning Division or

the Code Compliance Division since the approval in 2005 until December 16, 2013, b) the business registration had been kept current, and c) the applicant paid all fees. The applicant has maintained a current business registration since approval of the original application in 2005. Renewals were approved under Ordinance No. 54 which is no longer in affect. The Town's renewal approval in 2013 extended the permit until March of 2014, when the applicant again requested renewal.

Home Occupation Permits are identified as Special Use Permits in the Development Code and as such, a request for renewal may be processed as a new application. This request for renewal/approval is evaluated with current regulations established in Ordinance No. 178. Regulations, standards and requirements are no different between renewals or new applications under Ordinance No. 178. The only difference between the renewal of a permit or the issuance a new permit is the cost of the application and the ability to impose additional or modified conditions of approval.

The applicant is requesting approval for an artist studio in an accessory structure on a property that contains a single family residence, a workshop and a storage building, which also includes outdoor activity within a 53' X 58' screened area that also encompasses the workshop building.

The applicant is an artist who typically works with a variety of stone types. These may range from small to very large stones that may be multiple feet tall and as wide. The applicant has stated that tools such as hammers, chisels, polishers, sanders, drills, drill presses, air compressors, belt sanders, and tile saws are used in the formation of the art. There is also a forklift on the property used for material handling. The forklift, and a truck on the site, have been verified to weigh less than ten thousand (10,000) lbs and are therefore not classified as commercial vehicles per Development Code Section 87.0641(a).

The request for approval also includes outdoor activity within a 53' X 58' screened area that also encompasses the workshop building. The business hours for the home occupation are Monday thru Friday, 8 AM to 4:30 PM. The applicant currently has no customers visiting the site, but is requesting approval for two customers per week /8 customers per month. This would result in a vehicle trip generation of 16 trips per month. Section 84.0615(f) allows for a maximum of 10 trips per day or five customers per day.

Business activities that occur on site include the production of small pieces of sculpture inside the workshop. The smaller pieces are then assembled into larger pieces of artwork in the screened area of the property. The only activity that occurs outside of the screened area is the loading of artwork on to a vehicle or occasional photographing or filming of sculpture. All material related to the home occupation activity is stored completely out of public view.

After the permit renewal in November of 2013, the Planning Division received a complaint regarding the business activity on the site. On January 27, 2014, the Planning Division and the Code Compliance Division conducted an inspection of the property to determine compliance with the conditions of approval.

Section 812.01005, *Definitions* of the Development Code defines a Home Occupation as "*a commercial activity conducted in compliance with Chapter 6, Section84.0615 of this Development Code, carried out by an occupant and conducted as an accessory use within the primary dwelling unit*".

Section 84.0615(f)(4) identifies that 35% 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 storage of materials in the RL zoning district. The current ordinance does not identify the square footage allowed for the home occupation activity. The definition of "accessory building" is "A *subordinate building, the use of which is incidental to that of the main building or main use of the land and not designed for living or sleeping purposes. The use of an accessory building may be for either a primary or accessory use allowed by the appropriate land use district. An accessory building shall be located on either the same parcel as the main building or main use; or shall be located on a contiguous parcel that is owned by the same owner who owns the parcel which has the main building or use. An accessory building shall always exist in conjunction with and never without a legally established main building or main use that has the same common owner*". Therefore it is staffs interpretation that an accessory building can be utilized for the home occupation activity. The Planning Commission should discuss this issue.

Section 84.0615(e)(6) identifies that outside storage of materials or supplies shall be screened from public view, but does not discuss outdoor activity related to the home occupation. As discussed at the Planning Commission public hearing of May 13, 2014

on the Draft HOP Ordinance, existing regulations are vague and do not provide sufficient standards or details, and these ultimately need to be addressed. The current ordinance does not identify any size limitations on the square footage that can be used for the home occupation activity. Ordinance No. 178 also does not address whether home occupation activity should be permitted outside of any structures.

Ordinance No. 178 contains language that discusses outdoor home based business activities as follows.

> *(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;*
>
> *(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 exceed those typically found in residential uses shall be prohibited.*

During the Planning Commissions discussions over the past several months regarding revisions to home based business regulations, including the Commission's Public Hearing of May 27, 2014, the Commission discussed establishing regulations specific to the artist community. No specific direction was provided by the Planning Commission on regulations and standards for these types of home based businesses. The Commission also heard public testimony regarding the artist community and need for establishing clear standards are regulations for those home based business activities.

FINDINGS AND SUPPORTIVE EVIDENCE:

Ordinance 178, Home Occupations, contains five (5) Findings that must be made in order for the Town to approve a Home Occupation Permit. The Findings are as follows:

1. That the proposed use is not prohibited.

   The proposed use of artist studio is not listed as a prohibited use under Section 84.0615(f) of the Development Code.

2. That the proposed use will comply with all applicable standards.

   The use is proposed to comply with all applicable standards, such as limiting the number of customers to five per day, customers may only visit the residence by appointment, all employees are members of the resident family and live on the premises and the operating hours are limited to the hours of 8 AM to 4:30 PM.

3. That the issuance of the Home Occupation Permit will not be detrimental to the public health, safety and general welfare.

   The issuance of the HOP will not be detrimental to public health, safety and general welfare in that all materials will be screened from public view, traffic patterns will not be affected, hours of operation are between the hours of 8 AM to 4:30 PM and the number of customers to the site will be limited.

4. That the proposed use will be consistent with any applicable specific plan.

   There are no specific plans for the proposed location.

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.

   The proposed use will not alter the character of the neighborhood. The residence will not be altered to indicate the presence of a home based business. Traffic patterns will not be affected as there will be a maximum of five customers per day and all employees are members of the resident family and live on the premises

Attachments:

1. Application
2. Standard Exhibits
3. Development Code Section 84.0320 Rural Living District
4. Development Code Section 84.0635 Special Uses
5. Notice of Exemption
6. Notice of Hearing
7. Planning Commission minutes August 27, 2013 and March 11, 2014,
8. Planning Commission draft minutes May 13, 2014 and May 27, 2014
9. Ordinance 178
10. Ordinance 54
11. General Plan Land Use Policies-Residential and Implementation Actions
12. Photos

RECOMMENDED CONDITIONS OF APPROVAL
HOME OCCUPATION PERMIT, HOP 11-05
FALOSSI RENEWAL/APPROVAL HOP 01-14

GENERAL CONDITIONS

1. This Home Occupation Permit, HOP 11-05, HOP 01-14 is a proposal for an artist studio within an accessory structure at an existing single family residence. The property is located at 6229 Hoot Owl Trail and is further identified as assessor's parcel number 596-101-12.

   Renewal Date: June 10, 2014
   Expiration Date: June 10, 2015

2. 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.

3. The Applicant/owner shall ascertain and comply with requirements of all Federal, State, County, Town and local agencies and obtain any and all necessary approval and permits that are applicable to the project. 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. 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.

6. There shall be no displays, sale or advertising signs on the premises.

7. 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.

8. All maintenance or service vehicles and equipment, or any vehicle bearing any advertisement, shall be in conformance with Town regulations regarding vehicle signs.

9. The home occupation shall not encroach into any required parking, setback, or open space area.

10. 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.

11. 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.

12. 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.

13. Applicant shall maintain a current business registration certificate.

14. The garage shall not be altered externally.

15. 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.

16. Customers shall be limited to five per day and shall be by appointment only. This shall be restricted to a single appointment at a time.

17. All employees shall be members of the resident family and shall reside on the premises.

18. 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.

19. A Home Occupation Permit is not transferable.

20. Hours of operation shall be limited to 8 AM to 4:30 PM.

21. Delivery of materials related to the home occupation shall be limited to one delivery per month.

_____ _____

Signature Date

FINAL CONDITIONS OF APPROVAL
HOME OCCUPATION PERMIT, HOP 11-05
FALOSSI RENEWAL/APPROVAL HOP 01-14

GENERAL CONDITIONS

1. This Home Occupation Permit, HOP 11-05, HOP 01-14 is a proposal for an artist studio within an accessory structure at an existing single family residence to include outdoor activity within an approximately 53' x 58 screened area that also encompasses the workshop building. The property is located at 6229 Hoot Owl Trail and is further identified as assessor's parcel number 596-101-12.

   Renewal Date: June 10, 2014
   Expiration Date: June 10, 2016

2. 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.

3. The Applicant/owner shall ascertain and comply with requirements of all Federal, State, County, Town and local agencies and obtain any and all necessary approval and permits that are applicable to the project. 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. 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.

6. There shall be no displays, sale or advertising signs on the premises.

7. 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.

8. All maintenance or service vehicles and equipment, or any vehicle bearing any advertisement, shall be in conformance with Town regulations regarding vehicle signs.

9. The home occupation shall not encroach into any required parking, setback, or open space area.

10. There shall be no outside storage of stock, merchandise, scrap supplies, or other materials or equipment, except for architectural stone or similar material, 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.

11. 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.

12. 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.

13. Applicant shall maintain a current business registration certificate.

14. The garage shall not be altered externally.

15. 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.

16. Customers shall be limited to two per week and shall be by appointment only. This shall be restricted to a single appointment at a time.

17. 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 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.

18. 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.

19. A Home Occupation Permit is not transferable.

20. Hours of operation shall be limited to 8 AM to 5 PM.

21. Delivery of materials related to the home occupation shall be limited to one delivery per month. The use of a rental crane or rental forklift is permitted a maximum of six times per year.

22. The applicant shall be permitted to participate in public art tours as they occur in the Morongo Basin.

_____ _____

Signature Date

2. HOME OCCUPATION PERMIT REQUEST FOR RENEWAL/APPROVAL, HOP 11-06 HOP 01-14, FALOSSI 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 preformed 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 be 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.

Home Occupation Permit Application

Date Received _____
By _____
Fee _____
Case # HOP-01-14

☐ New ☒ Renewal

General Information

APPLICANT DAVID FALOSSI Phone _____ Fax P

Mailing Address 6229 Hoot Owl trail Email FALOSSISTUDIO @ AOL.com

City Yucca Valley State CA Zip 92284

REPRESENTATIVE _____ Phone _____ Fax _____

Mailing Address _____ Email _____

PROPERTY OWNER SAME Phone _____ Fax _____

Mailing Address _____ Email _____

City _____ State _____ Zip _____

Project Information

Business Name DAVID FALOSSI Assessor Parcel Number(s) 0596-101-12-0-000

Business Address 6229 Hoot owl Trail Yucca Valley CA 92284

Type of business Sculpture Artist

Type of Advertising to be uses Website / Face Book / Press / Art Shows

Applicant Signature [signature] Falossi

Property Owner Signature _____

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

Please provide detailed responses to the following:

Approximate volume, units sold, number of customers received per day, year or other time increments:

12-30 sculptures per year up to 12 customers per year

Description of equipment used (horsepower, voltage, etc.):

see Attached List

Materials used and their manner of delivery to Home Occupation location.

stone, glass, metals delivered by owner with some occational deliveries

How are contacts made with clients or customers?

word of mouth / art shows, web site,

Square feet of area used for storage and work area:

request 175 or 5% of 3486

Total square feet of residence, including garage:

3486

Brief summary of business being conducted:

the process of sculpting. I take stone glass and metals and create art work that I sell at art shows or to corporate or public collectors.

Application modified 09-17-12

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: [signature]

Date: 2-20-14

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

_____

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

Signed: [signature]

Dated: 2-20-14

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

Town of Yucca Valley Planning 2 -20-14

Dear Dianne Olsen

I am writing to request some updates and clarification to my Home Business conditions regarding HOP -11-05
I have operated my business here at 6229 Hoot Owl Trail since 1989.
When my original HOP permit was created in 2005 The Town of Yucca Valley was using an older version of the HOP ordinance. In January of 2006 a newer version was adopted with changes to the original requirements. Of course the new ordinance would apply to me but I request that my conditions be amended and clarified.

In my original conditions I would like section (4) where it says below,
The home occupation shall be confined to an enclosed structure, as described in the application but shall be limited to a maximum of 250 square feet for the purposes of operating the business.
To be amended to reflect the newer ordinance 178. Details below.
My property is zoned RL 5 acres and my property is 2.5 acres. My pueblo styled home, pueblo styled workshop and other pueblo styled structures under roof are 3486 square feet.
I request that my conditions of approval are amended to update them to the current ordinance where 35% of the total square feet of the dwelling is used for the calculation of allowable space for my home business. I calculate I am allowed 1220 square feet.

Also my art studio area is fenced, I would request that some reference to address the allowable use of my outdoor enclosed fenced in studio area for the handling and creation of my artwork.

I also load and unload my truck on the area in front of my home.. I typically will load and unload my artwork for a 2-4 hour period and then my truck is moved to an out of public view area.
I would like a reference to be added to my conditions to address the loading and unloading and washing of my truck in front of my home.

On my original conditions of approval section (6) below.
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 use and shall be in compliance with the Town's commercial Vehicle regulations.

I need to use a rental crane or truck for an hour or two a few times per year to move my material and or finished sculpture. I do not believe that this occasional use differs from normally associated RL 5 rural use. I have lived here in this rural area now for 25 years. The residents in my section occasionally hire delivery trucks for hay and other construction materials, propane delivery trucks, tractors and other construction equipment.
I request that section (6) be amended to clarify that rental cranes and trucks can both move my material and deliver material here up to 6 times per year.

Section (8,3)
I would also request to be able to participate in the Art Studio tours if I decide to participate.

I would also like the conditions address the use of metals in my work in combination with my stone

and glass. I use off site fabricators for most projects. I do however do assembly, some finishing and some small scale welding.

General standard section.

(1) I have sculpture outside of my home. These sculptures may be part of my private collection or for sale. I would like my conditions to reflect that I may place my art work in view of the public.

The above amendments are meant to avoid confusion and provide clarity for anyone requesting my HOP conditions.

Kindest regards, David Falossi

David Falossi
Sculptor

NOTICE OF PUBLIC HEARING
PLANNING COMMISSION HEARING
TUESDAY, JUNE 10, 2014
BEGINNING AT 6:00 P.M.
YUCCA VALLEY COMMUNITY CENTER
57090 29 PALMS HIGHWAY
YUCCA VALLEY, CALIFORNIA 92284

A PUBLIC HEARING HAS BEEN SCHEDULED BEFORE THE TOWN OF YUCCA VALLEY PLANNING COMMISSION TO CONSIDER THE FOLLOWING DESCRIBED APPLICATION:

CASE NUMBER: Home Occupation Permit, HOP 11-05 Falossi renewal/amendment

APPLICANT: David Falossi
6229 Hoot Owl Trail
Yucca Valley, Ca 92284

PROPOSAL: This request is for the renewal of an approval of a Home Occupation Permit for an artist studio in an accessory structure and a request to modify the Conditions of approval.

LOCATION: The property is located at 6229 Hoot Owl Trail and identified as APN 596-101-02.

ENVIRONMENTAL DETERMINATION: 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 Section 15301, Class 1, Existing Facilities.

Any person affected by the application(s) may appear and be heard in support or opposition to the proposal at the time of the hearing.

The environmental findings, along with the proposed project application(s) are available and may be reviewed at the Town of Yucca Valley Planning Division, 58928 Business Center Drive, Yucca Valley, CA 92284 from 7:30 a.m. to 5:30 p.m., Monday through Thursday or obtain information at (760) 369-6575.

The Planning Commission in its deliberation could recommend approval of the project, deny the project, approve the project in an alternative form, or forward the project to the Town Council for review.

If you challenge the project in court, you may be limited to raising only those issues you or someone else raised at the Public Hearing described in this notice, or in written correspondence delivered to the Town Planning Division at, or prior to the Public Hearing.

Publish Date: Published on May 21, 2014

May 19, 2014
Date

/s/ Lesley R. Copeland
Lesley R. Copeland
Town Clerk

Notice of Exemption

Form D

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

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

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

Project Title: Home Occupation Permit, HOP 01-14

Project Location - Specific:

6229 Hoot Owl Trail,
APN: 596-101-02

Project Location – City: Yucca Valley **Project Location – County:** San Bernardino

Description of Project:

A request for a Home Occupation Permit for the purpose of establishing an artist studio at an existing single family residence.

Name of Public Agency Approving Project: Town of Yucca Valley

Name of Person or Agency Carrying Out Project: David Falossi

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 Existing Facilities
☐ Statutory Exemptions. State code number:

Reasons why project is exempt:

The project is exempt from CEQA due to the fact that the project is located at an existing single family residence.

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

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: 06/10/14 Title: Deputy Town Manager

☑ Signed by Lead Agency
☐ Signed by Applicant

Date received for filing at OPR:

Revised May 1999

CALIFORNIA STATE BOARD OF EQUALIZATION

SELLER'S PERMIT

ACCOUNT NUMBER

SR ERC 15-751160

THIS PERMIT DOES NOT AUTHORIZE THE HOLDER TO ENGAGE IN ANY BUSINESS CONTRARY TO LAWS REGULATING THAT BUSINESS OR TO PROCEED OR OPERATE ANY LEGAL DEVICE

David J. Falossi
6226 Hoot Owl Trail
Yucca Valley, CA 92284

IS HEREBY AUTHORIZED PURSUANT TO SALES AND USE TAX LAW TO ENGAGE IN THE BUSINESS OF SELLING TANGIBLE PERSONAL PROPERTY AT THE ABOVE LOCATION

STATE BOARD OF EQUALIZATION

THIS PERMIT IS VALID UNTIL REVOKED OR CANCELLED BUT IS NOT TRANSFERABLE

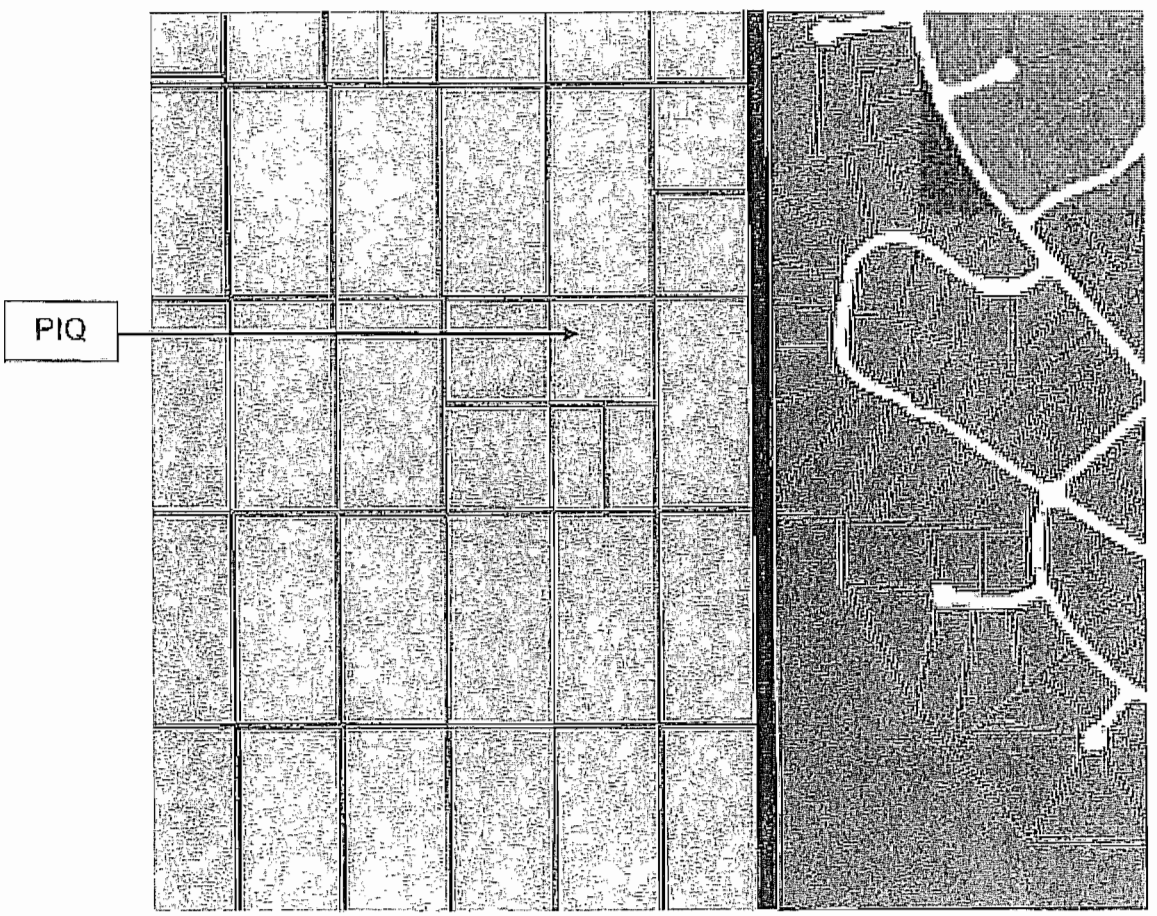
Not valid at any other address

BT-442-R REV. 9 (1-63)

DISPLAY CONSPICUOUSLY AT THE PLACE OF BUSINESS FOR WHICH ISSUED

TOWN OF YUCCA VALLEY

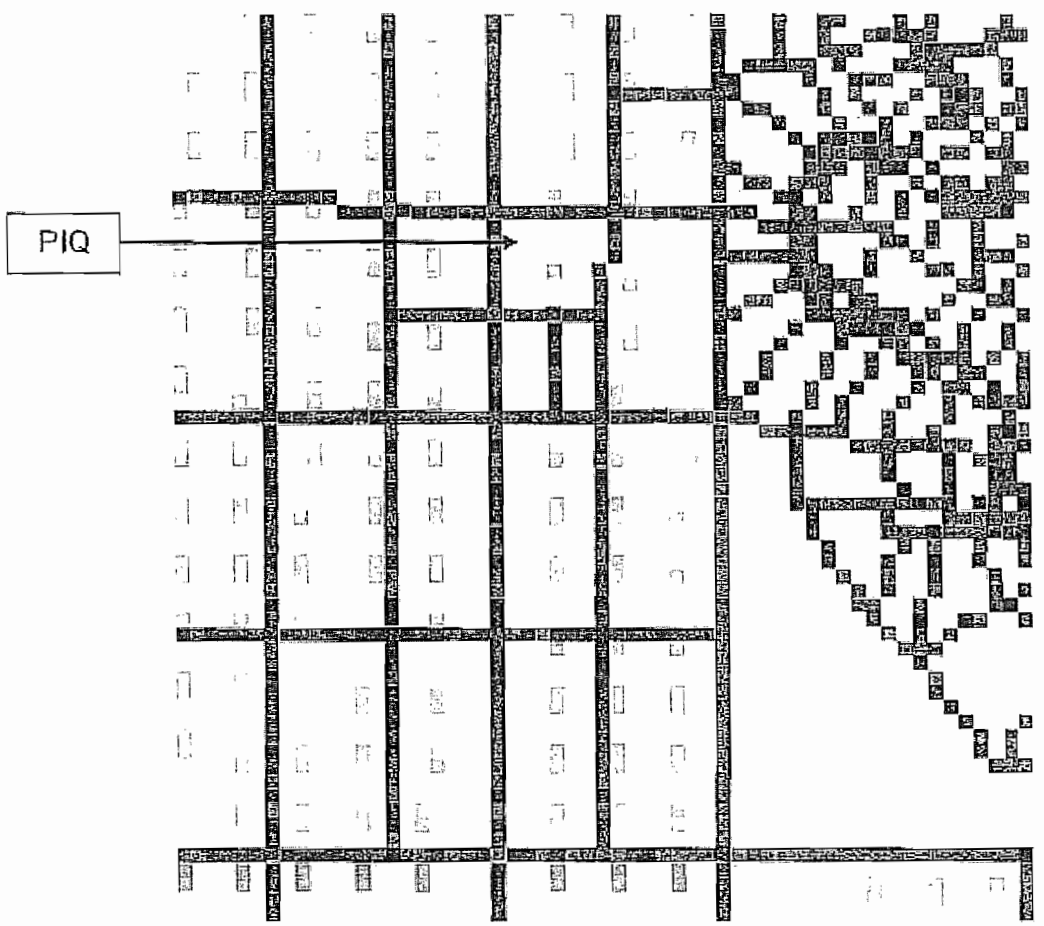
PROJECT NO.: HOME OCCUPATION PERMIT, HOP 01-14 FALOSSI



ZONING MAP

TOWN OF YUCCA VALLEY

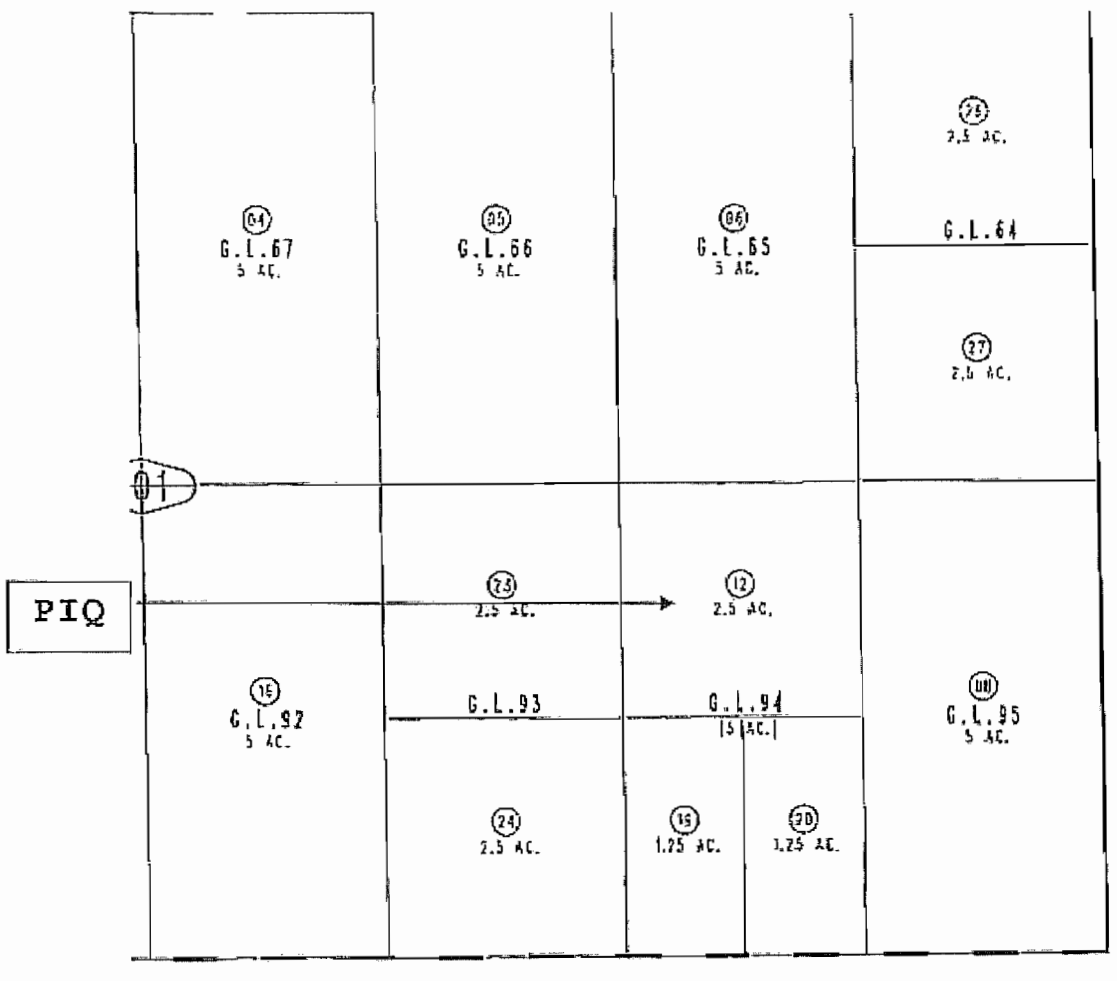
PROJECT NO.: HOME OCCUPATION PERMIT, HOP 01-14 FALOSSI



GENERAL PLAN LAND USE MAP

TOWN OF YUCCA VALLEY

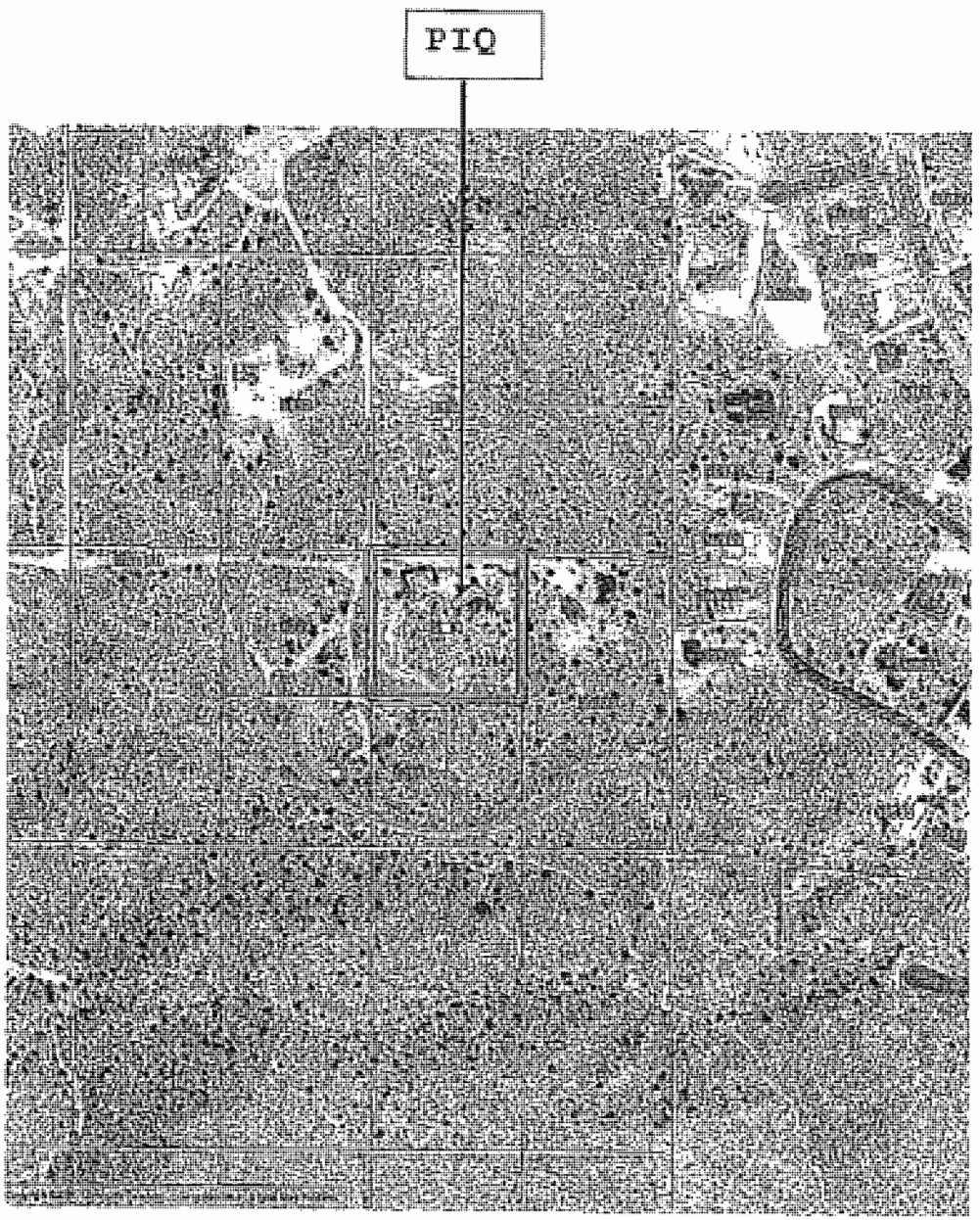
PROJECT NO.: HOME OCCUPATION PERMIT, HOP 01-14 FALOSSI



Assessor's Parcel Map

TOWN OF YUCCA VALLEY

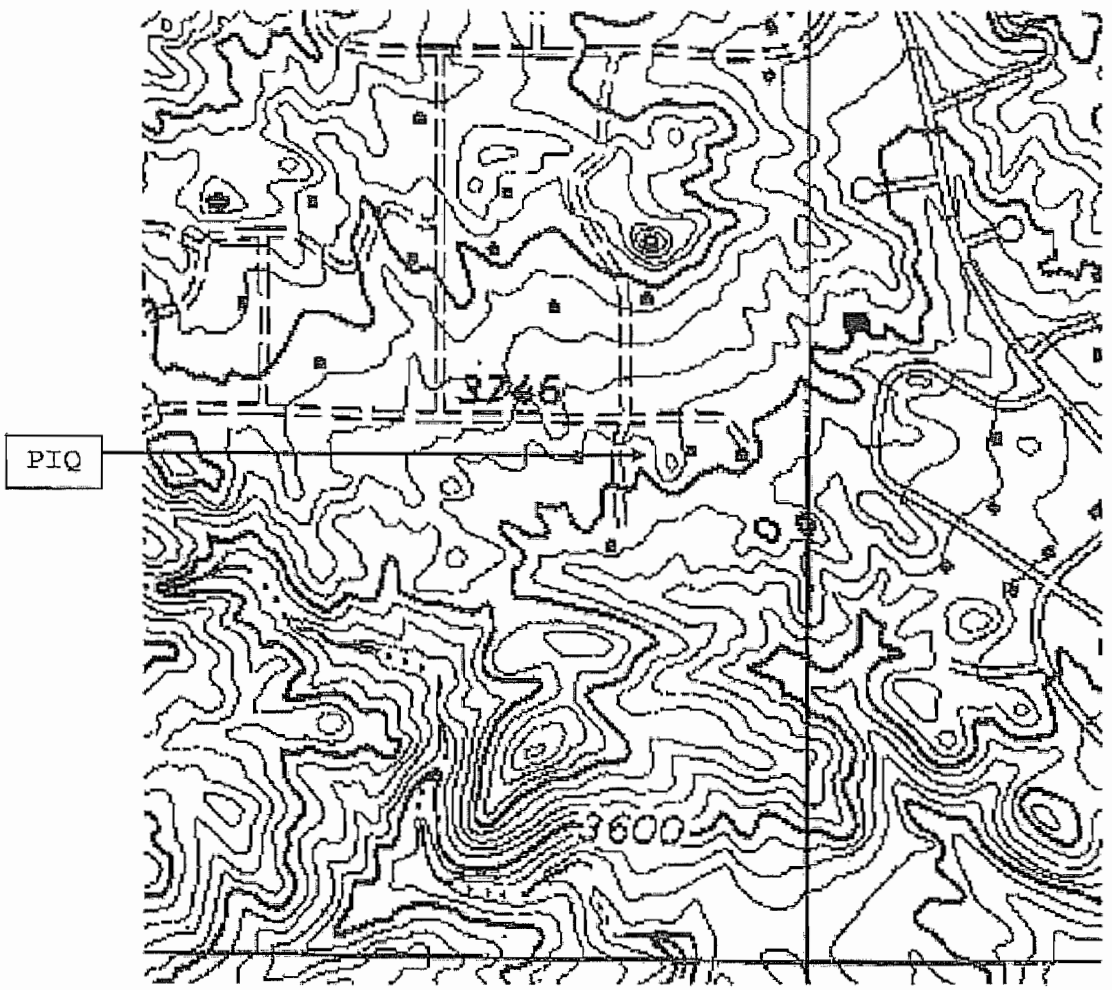
PROJECT NO.: HOME OCCUPATION PERMIT, HOP 01-14 FALOSSI



AERIAL PHOTO

TOWN OF YUCCA VALLEY

PROJECT NO.: HOME OCCUPATION PERMIT, HOP 01-14 FALOSSI



YUCCA VALLEY NORTH QUANDRANGLE

Alquist-Priolo Map

1.2 Section 84.0310 of Title 8, Division 4, Chapter 3 of the Development Code of the San Bernardino County Code as adopted by the Town of Yucca Valley is hereby repealed.

1.3 Section 84.0320 of Title 8, Division 4, Chapter 3 of the Development Code of the San Bernardino County Code as adopted and amended by the Town of Yucca Valley is hereby further amended to read as follows:

"Section: 84.0320 Rural Living (RL) District.
The Rural Living (RL) District shall be located as specified by the Town of Yucca Valley General Plan.

(a) GENERAL PROVISIONS: The specific purposes of the Rural Living District regulations are to:

(1) Provide appropriately located areas for single family dwellings that are consistent with the General Plan and the standards of public health and safety established by the Yucca Valley Municipal Code;

(2) Provide adequate light, air, privacy, and open space for each dwelling unit and protect residents from the harmful effects of excessive noise, population density, traffic congestion and other adverse environmental impacts;

(3) Provide sites for public and semipublic land uses needed to complement residential development or requiring a residential environment; and

(4) Insure the provisions of public services and facilities needed to accommodate planned population densities.

(b) USE CLASSIFICATIONS: In the following schedule, the letter "P" designate use classifications permitted in the RL District, the letters "PD" designate use classification allowed on approval of a Planned Development, the letters "LSP" designate use classification allowed on approval of a Livestock Permit, the letters "CUP" designate use classification allowed on approval of a Conditional Use Permit.

R-L (Rural Living) Use Classification	Zoning District R-L-1, 2.5, 5, 10, 20 ac.	P Permitted CUP Conditional Use Permit PD Planned Residential Development LSP Livestock Permit Additional Use Regulations
Residential:		
Family Day Care Homes: Large Small	 CUP P	Refer to Additional Uses Section of Development Code
Home Occupations	HOP	Refer to HOP Section of Development Code
Institutional Uses	CUP	Refer to Additional Uses Section of Development Code
Manufactured Housing	P	Refer to Single Residential Design Standard Section of the Development Code
Planned Residential Dev.	PD	
Single Family Dwellings	P	Refer to Single Residential Design Standard Section of the Development Code
Second Dwellings	CUP	Refer to Accessory Uses Section of Development Code
Mobile Home Parks	CUP	Not to exceed the underlying land use density on minimum parcel size of twenty (20) acres
Animal raising of densities greater than those specified by Section 84.0560	LSP	
Commercial Kennels & Catteries	CUP	Two (2) acre minimum parcel size

Row, field, tree, and nursery crop cultivation	P	Any structure associated with this activity is limited to 10,000 Sq. Ft. on parcels of 5 acres or less.

(c) **DEVELOPMENT STANDARDS:** The following schedule prescribes development regulations for the Rural Living Residential District:

Rural Living (RL) Property Development Regulations	
Use	Zoning District RL-1, 2.5, 5, 10, 20 ac
Lot Size (acres)	see map suffix
Minimum Lot Dimension (width/Depth in ft.)	150/150
Maximum Lot Dimensions (Width to depth ratio)	
Less than 10 ac	1:4
Greater than 10 ac	1:3
Yards (setbacks):	
Front	50'
Side	15'
Arterial/Collector Street Side	50'
Local Street Side	25'
Rear	15
Maximum Structure Height:	35
Maximum Lot Coverage	20%
Minimum District Size (Acres)	30

Lot area measured in gross acres
(1), (2)

(1) The setbacks delineated in this table shall be the standard unless a different setback is delineated on said Final Map, Parcel Map, or Composite Development Plan.

(2) Reduced setbacks may be allowed pursuant to Section 87.0510 unless otherwise stated in this Section.

(d) ACCESSORY STRUCTURES REGULATIONS: Residential accessory structures include any of those customarily related to a residence, including garages, greenhouses, storage sheds, studios, barns, workshops, and similar structures.

(1) Any new accessory building requiring a building permit shall be subject to the following standards:

(A) Any accessory structure shall be architecturally compatible with the primary structure.

(B) Any accessory building, excluding any authorized dependant housing or second unit as approved under a Conditional Use Permit, shall not have a floor area in excess of fifty (50%) percent of the footprint of the primary building nor shall the cumulative floor area of accessory buildings have a floor area in excess of one hundred (100%) percent of the footprint of the primary building.

(C) Lots in the RL land use district which are ten (10) acres in size or greater are exempt from the area requirements for accessory structures.

(D) All building setback standards of the land use district shall apply.

(E) Any accessory structure must be on the same parcel as the primary building.

(F) The maximum number of detached accessory structures shall be two, regardless of any requirement of a building permit.

(G) The maximum height of any accessory structure shall not exceed 20 feet.

(2) USE OF CARGO CONTAINERS: As storage for construction clean-up or construction material, a cargo container used as a temporary storage device may be located anywhere on the property, except in the "clear sight triangle" during the duration of the construction activity associated with an active building permit subject to the approval of a Temporary Use Permit."

Notice of Exemption

Form D

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

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

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

Project Title: Home Occupation Permit, HOP 01-14

Project Location - Specific:

6229 Hoot Owl Trail,
APN: 596-101-02

Project Location – City: Yucca Valley **Project Location – County:** San Bernardino

Description of Project:

A request for a Home Occupation Permit for the purpose of establishing an artist studio at an existing single family residence.

Name of Public Agency Approving Project: Town of Yucca Valley

Name of Person or Agency Carrying Out Project: David Falossi

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 Existing Facilities
- ☐ Statutory Exemptions. State code number:

Reasons why project is exempt:

The project is exempt from CEQA due to the fact that the project is located at an existing single family residence.

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

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: 06/10/14 Title: Deputy Town Manager

☑ Signed by Lead Agency
☐ Signed by Applicant

Date received for filing at OPR: _____

Revised May 1999

Residential Policies

Policy LU 1-6 Provide housing opportunities and a variety of residential densities, housing types, and tenure to meet the affordability, life stage, and amenity needs of the Town's diverse population.

Policy LU 1-7 Preserve and enhance the distinctiveness, character, and livability of residential neighborhoods.

Policy LU 1-8 Require adequate exterior housing structure and property maintenance to protect property values, neighborhood quality, and public safety.

Policy LU 1-9 Encourage infill residential development around public facilities and with pedestrian linkages to encourage walkable residential neighborhoods.

Leap-Frog Development: Development that occurs well beyond the limits of existing development and necessary services and facilities such as utilities, roads, parks, and schools.

Policy LU 1-10 Discourage the discontinuous or "leap-frog" development of residential subdivisions by requiring full improvement or payment of necessary fees to construct roadways and infrastructure to serve new development.

Policy LU 1-11 Encourage housing developments to include sites for recreational, open space, or educational uses.

Policy LU 1-12 Preserve the desert character of existing low density residential areas to the greatest extent possible.

Policy LU 1-13 Carefully plan transitions and design interfaces between residential and nonresidential land uses (walls, lighting and landscaping) to ensure compatibility.

Policy LU 1-14 Design new residential subdivisions so pads are above the adjacent street grade and drains to the street frontage of each lot, unless otherwise approved by the Town Engineer. Mass grading of properties designated Rural Residential (1 unit per 2.5 acres) or less intense is discouraged, and cross-lot drainage easements should be aligned with the existing natural topography to the greatest extent feasible.

Introduction Implementation Actions		Relevant Policies	Responsible Department	Time Frame
1.1 Administration				
I 1	Provide an annual report from the Planning Commission to Town Council on the status of the General Plan and make recommendations that address identified inadequacies or opportunities for updating the plan. The annual review of the General Plan should include a report on how land use decisions relate to adopted goals, policies, and implementation measures of the General Plan. Provide a copy of the annual report to the CA Office of Planning and Research and the Department of Housing and Community Development.	I 1-1	CDD	Annually, Due to OPR by April 1st each year
I 2	Annually review the Town's capital improvements program and check it for consistency with the General Plan (pursuant to Article 7 of the CA Government Code); provide recommendations if necessary.	I 1-1	CDD, TC	Annually, concurrent with the Town's budgeting process
I 3	Investigate and make recommendations to the Town Council regarding reasonable and practical means for prioritizing and implementing the General Plan when associated with spending public funds.	I 1-1	CDD	Ongoing
I 4	Review and revise the General Plan a maximum of 4 times per year to reflect the changing needs of the community, related documents, or state requirements.	I 1-1	CDD	Ongoing
I 5	Review and revise the Zoning Code to maintain consistency with the General Plan.	I 1-1	CDD	Ongoing
I 6	Communicate with local and regional agencies, such as the County of San Bernardino, SANDBAG, SCAG, and MBTA, regarding programs that may affect the Town of Yucca Valley; establish regular meetings as necessary.	I 1-2	CDD, TM	Ongoing

Land Use Implementation Actions		Relevant Policies	Responsible Department	Time Frame
2.1 Balanced Land Uses				
LU 1	Update Development Code and Zoning Map to reflect updated General Plan Land Use Map revisions, create mixed use development standards, and establish a process for applicants to submit projects in a Mixed Use land use designation or Special Policy Area (require Master Plan or Specific Plan).	LU1-15 LU2-1	CDD	1 year
LU 2	Amend Development Code to require new residential subdivisions to have pads above the adjacent street grade. All lots must drain to the street frontage of the individual lot, unless otherwise approved by the Town Engineer.	LU1-14	CDD	5 years
LU 3	Prioritize infrastructure improvements in areas with existing and expected concentrated forms of development, and consistent with the phasing of the Wastewater Treatment and Water Reclamation Plan developed by the Hi-Desert Water District.	LU1-1 LU1-3	TM, PW, CDD	Ongoing
LU 4	Enact a hillside ordinance to protect certain slopes and other natural topographic features.	LU1-5	CDD	5 years

Land Use Implementation Actions		Relevant Policies	Responsible Department	Time Frame
LU 5	Amend the Development Code to create standards addressing appropriate treatments to buffer industrial and commercial uses from residential and other sensitive uses.	LU1-13 LU1-16 LU1-18	CDD	5 years
LU 6	Evaluate the feasibility of providing administrative incentives, such as expedited processing, for lot consolidations in the Old Town Yucca Valley Specific Plan area.	LU1-1	CDD	2 years
LU 7	Identify a catalyst project in the Old Town Specific Plan Area and identify a strategy to implement it.	LU1-1	TM, CDD, PW, CS, FIN	2 years
LU 8	Maintain regular communication and coordination with Marine Corps Air Ground Combat Center through communication with Community Plan Liaison and monitoring of the General Plan and other plans and programs as possible.	LU1-7 LU1-27	CDD	Ongoing
LU 9	Continue to collaborate with the Chamber of Commerce to promote local business endeavors and general economic development within the Town.	LU1-15	CDD/ PW	Ongoing
LU 10	Support efforts to pursue federal, state, regional and county resources for business development in Yucca Valley.	LU1-15	TM, CDD	Ongoing
LU 11	Periodically meet with Morongo Unified School District representatives to assess the educational and recreational demands on Yucca Valley facilities and to determine if there are any opportunities to provide services that are of mutual benefit to the Town and school district.	LU1-24 LU1-25	TM, CDD	Ongoing
LU 12	Annually revisit public facility priorities through the Capital Improvements Program and annual budget process.	LU1-24	CDD	Annually
LU 13	Coordinate with the Southern California Association of Governments and the Governor's Office of Planning and Research to stay informed of legislation and documentation of the nexus between land use, housing, transportation, and sustainability.	LU1-5	CDD	Ongoing
2.2 Special Policy Areas				
LU 14	Require preparation of a conceptual Master Plan and/or a Specific Plan for new development proposed in the East Side, West Side, and Town Center SPAs.	LU2-3	CDD	2 years
LU 15	Establish a process and protocol to develop and review Master Concept Plans with Town staff.	LU2-3 LU2-4 LU2-5	CDD	2 years
LU 16	Rural Mixed Use SPA: Develop design guidelines for properties north of Skyline Ranch Road that includes guidance regarding: building design and materials, landscaping, walls and fences, lighting, and screening of outdoor storage. Special consideration should also be given to noise compatibility and circulation issues in the area by implementing design solutions (building and site design) that minimize conflicts between industrial and residential uses.	LU2-5 LU2-6	CDD	5 years
LU 17	West Side SPA: Initiate preparation of an Area Plan (a high level concept/master plan) to further refine the development concept for the Westside, including identification of a substantial community amenity that will serve as an anchor for the west side of Town and a conceptual circulation plan.	LU2-13 LU2-14	CDD	5 years

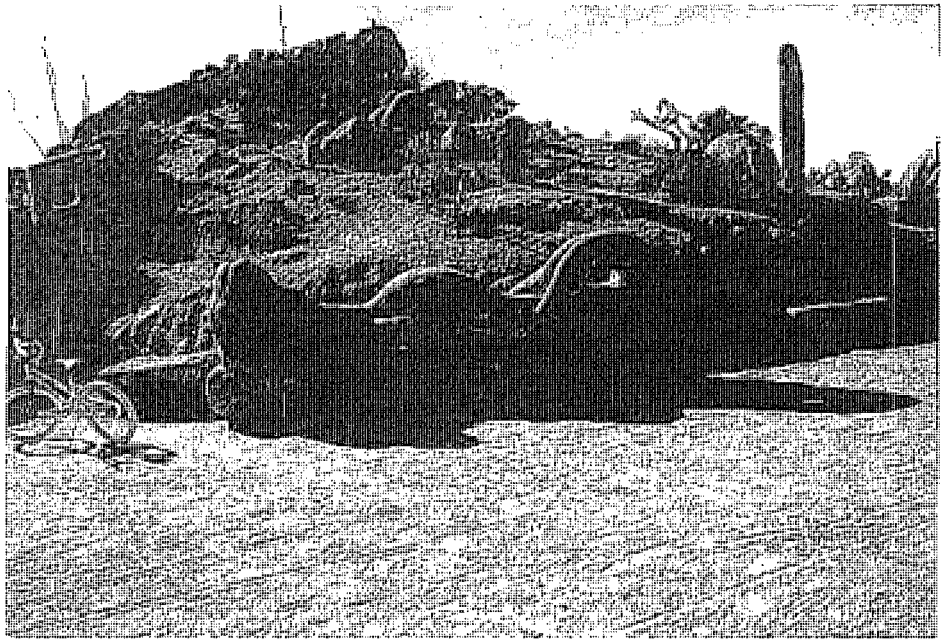
Land Use Implementation Actions		Relevant Policies	Responsible Department	Time Frame
LU 18	West Side SPA: Integrate the Area Plan into the General Plan once completed, and use it as the foundation for any future development proposals that come forth for consideration.	LU2-13 LU2-14	CDD	5 years
2.3 Yucca Valley Airport				
LU 19	Periodically coordinate with the Yucca Valley Airport District to stay informed of any operational or facility changes that could impact the community.	LU3-1 LU3-2	CDD/ PW	Ongoing

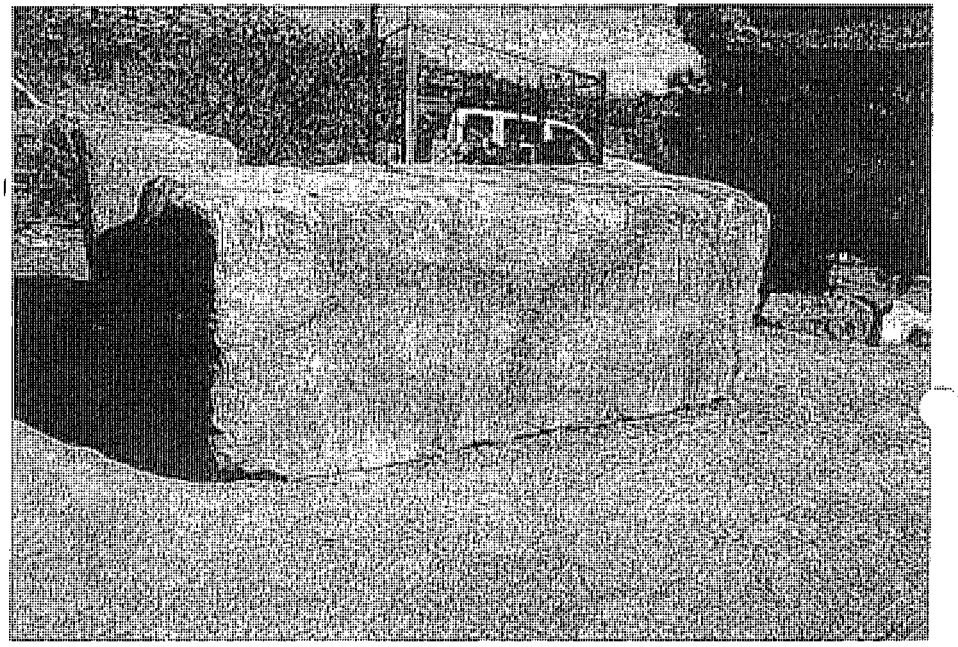
Housing Implementation Actions

The implementation actions, referred to as programs, for the Housing Element are provided in the General Plan Housing Element in accordance with state law and the California Department of Housing and Community Development.

Circulation Implementation Actions		Relevant Policies	Responsible Department	Time Frame
4.1 Roadway Classifications				
C 1	Prioritize and implement the changes to the roadway classifications in Town consistent with the Roadway Classification Map (General Plan Figure C-1) and the 2013 Traffic Study for inclusion in the Town's Capital Improvement Program.	C1-1 C1-3 C1-6 C1-7	CDD/PW	Annually
C 2	Review and revise the street and traffic impact mitigation fee program.	C1-2	CDD/PW	In conjunction with the next update to the Development Impact Fee Study
C 3	Develop and maintain a list of the Town's protected intersections and roadways where: • Acquiring the right-of-way is not feasible; • The segment is in the Old Town Specific Plan area where maintaining vehicle levels of service would not be consistent with the goals and policies of that plan; • The improvements would negatively impact the environment; • The improvements would negatively impact other community values or policies; • Other physical or fiscal factors limit the implementation of the proposed mitigation measure.	C1-4	CDD/PW	Annually

6229 HOOT OWL





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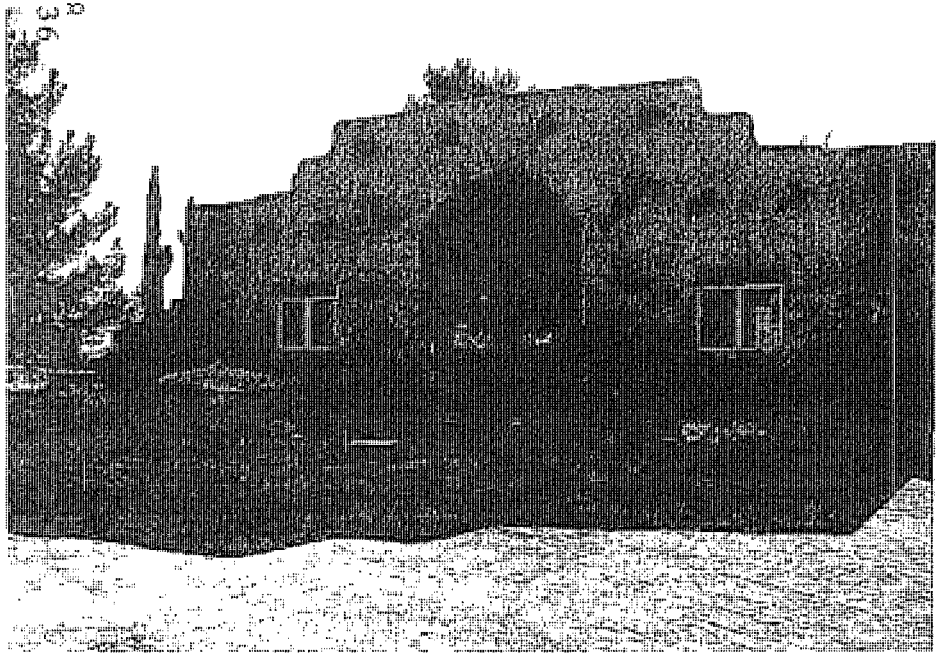
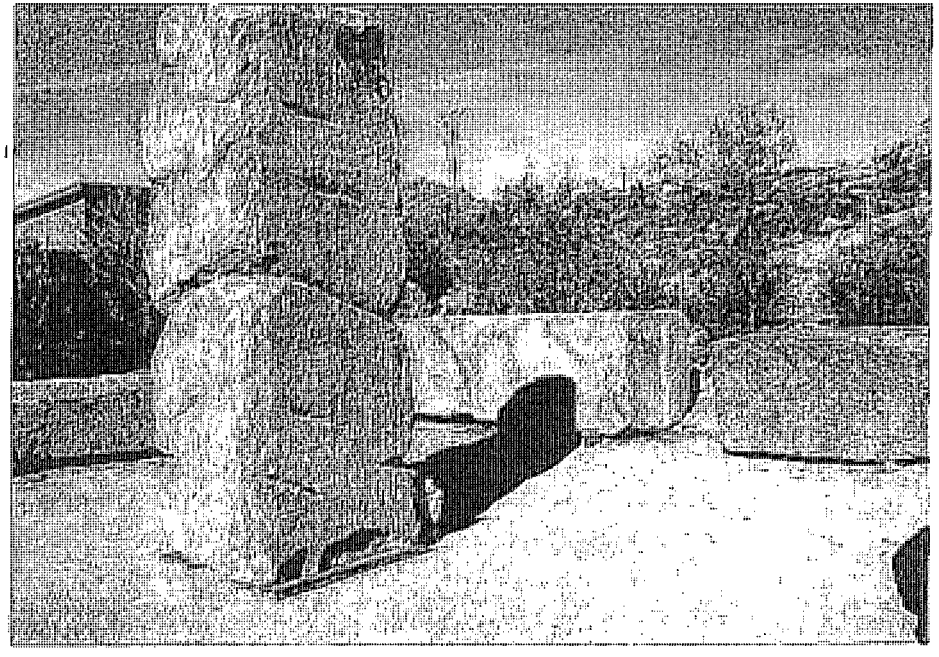
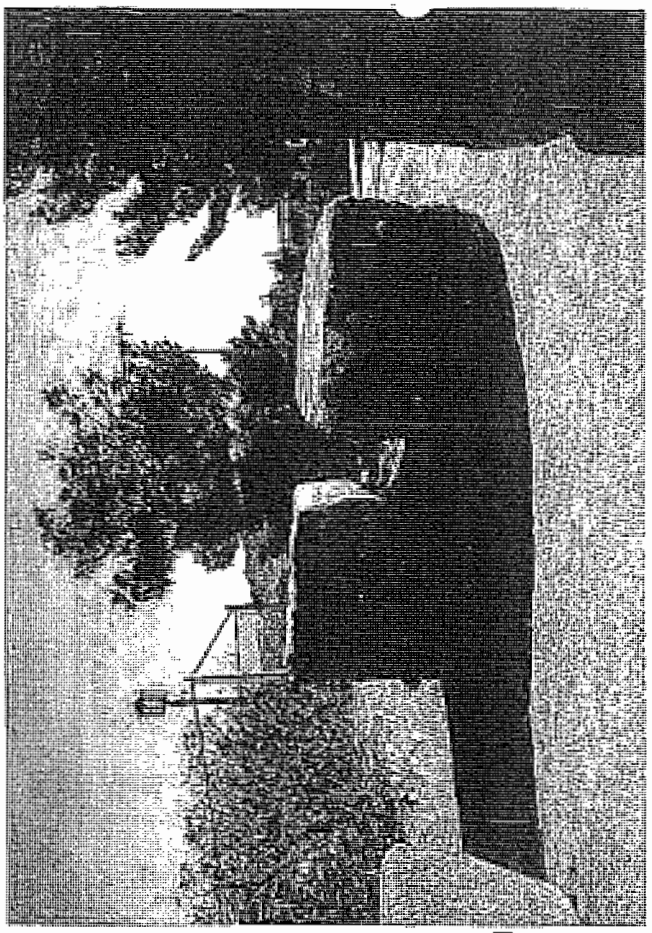
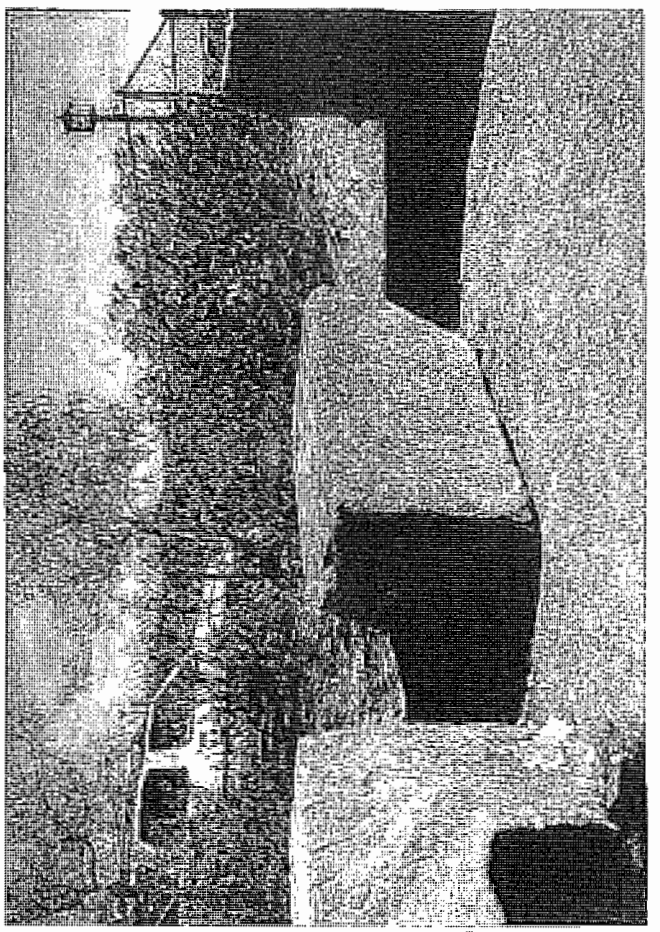
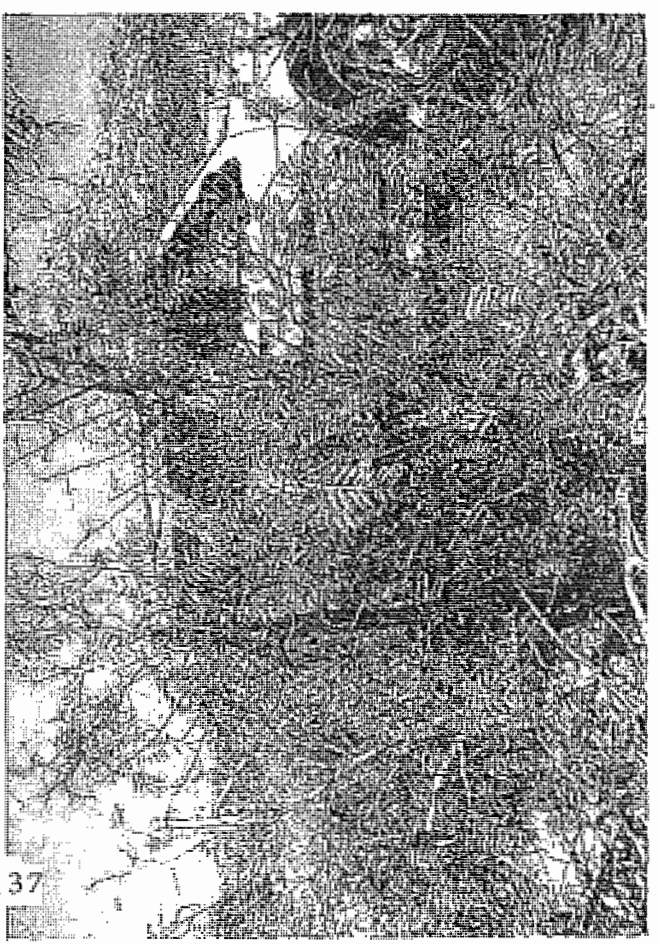
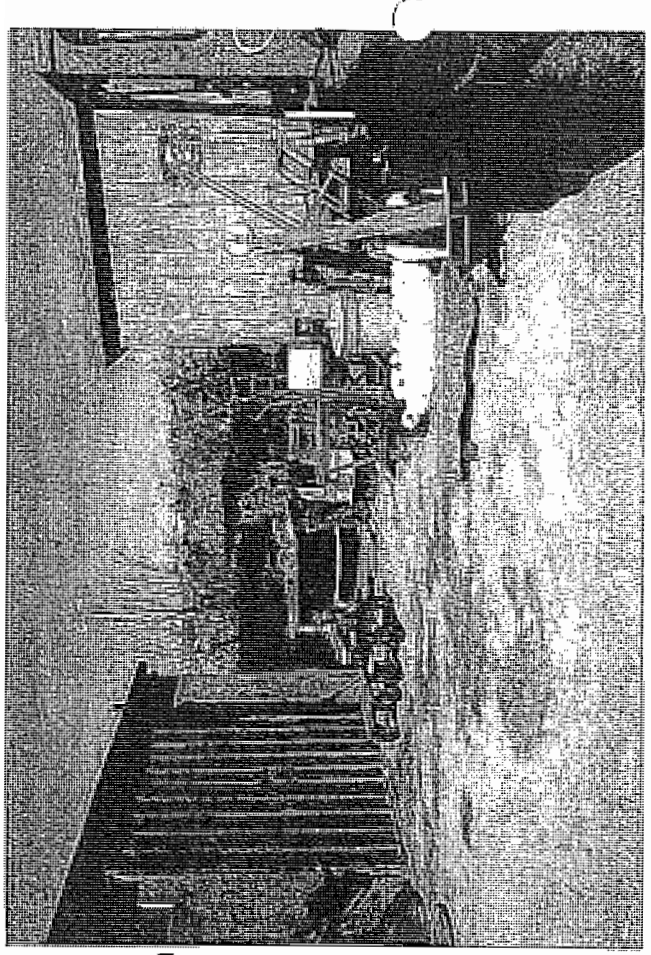


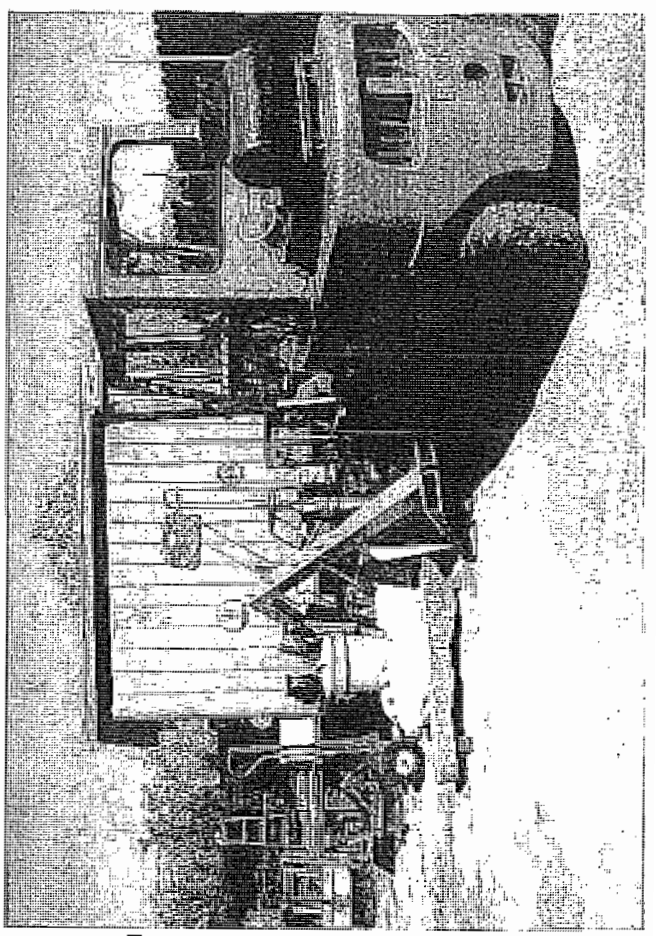


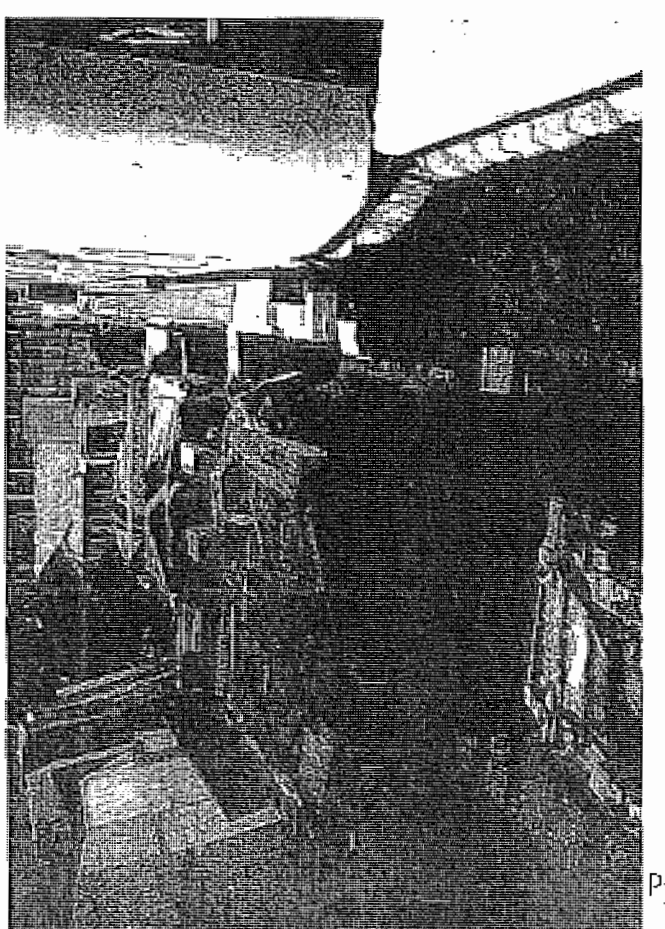


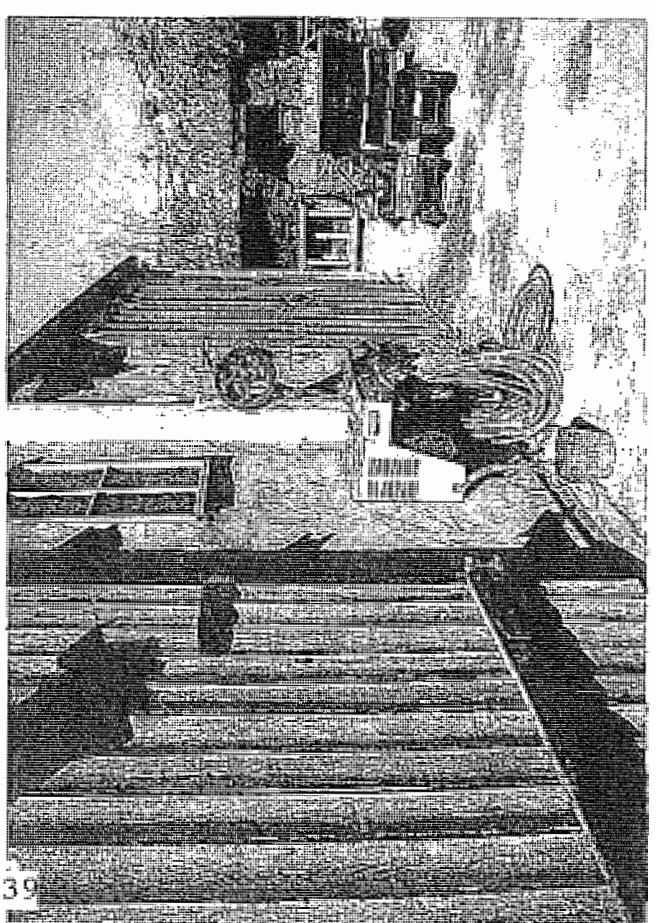


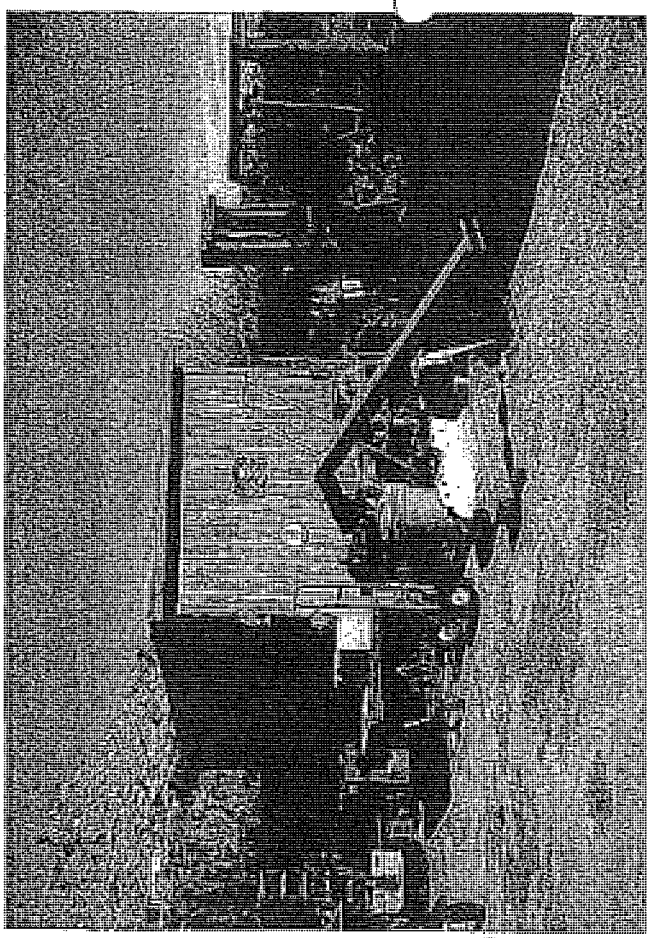


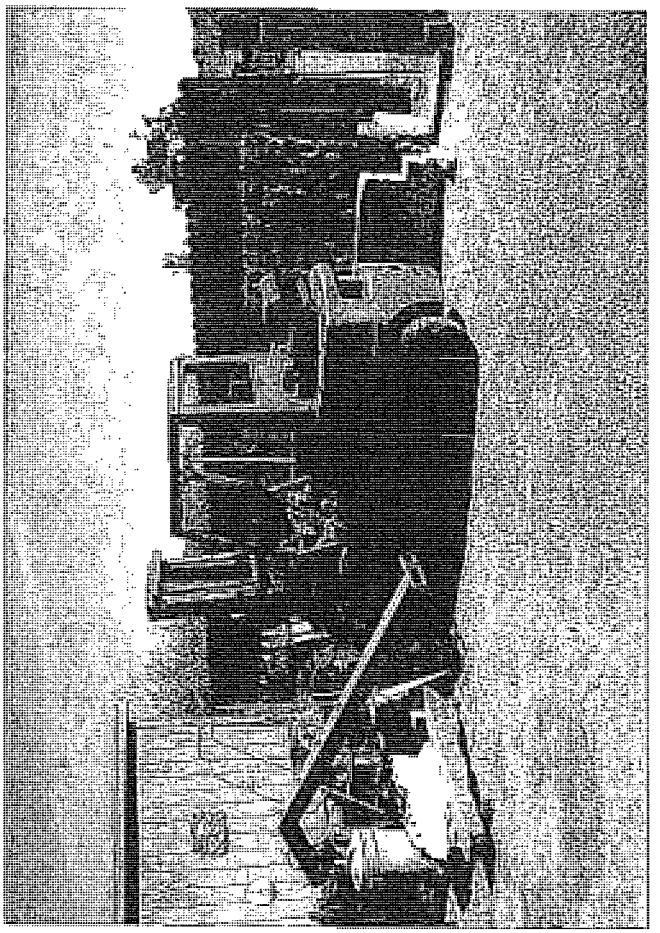


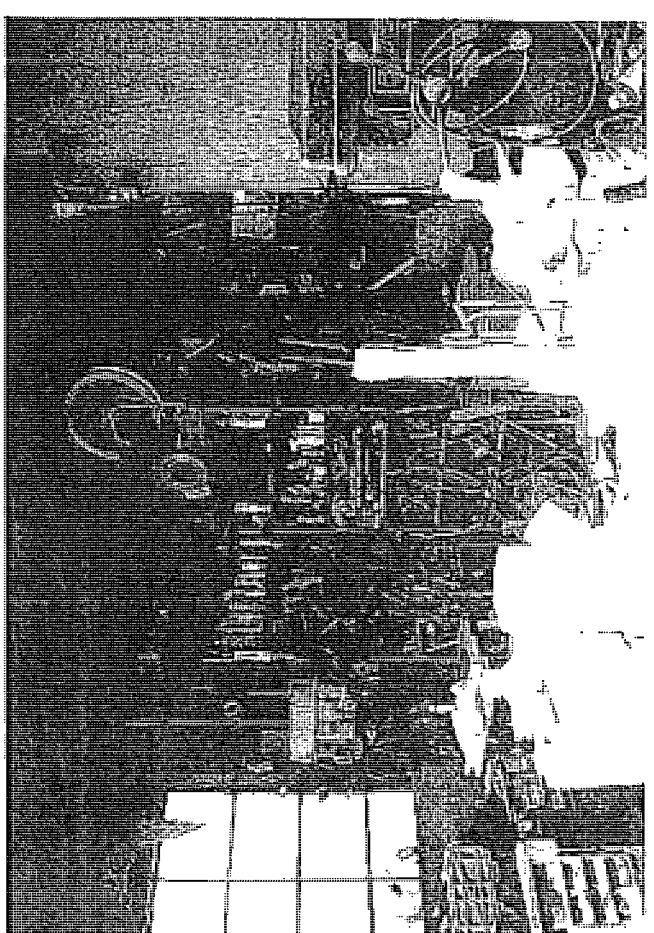


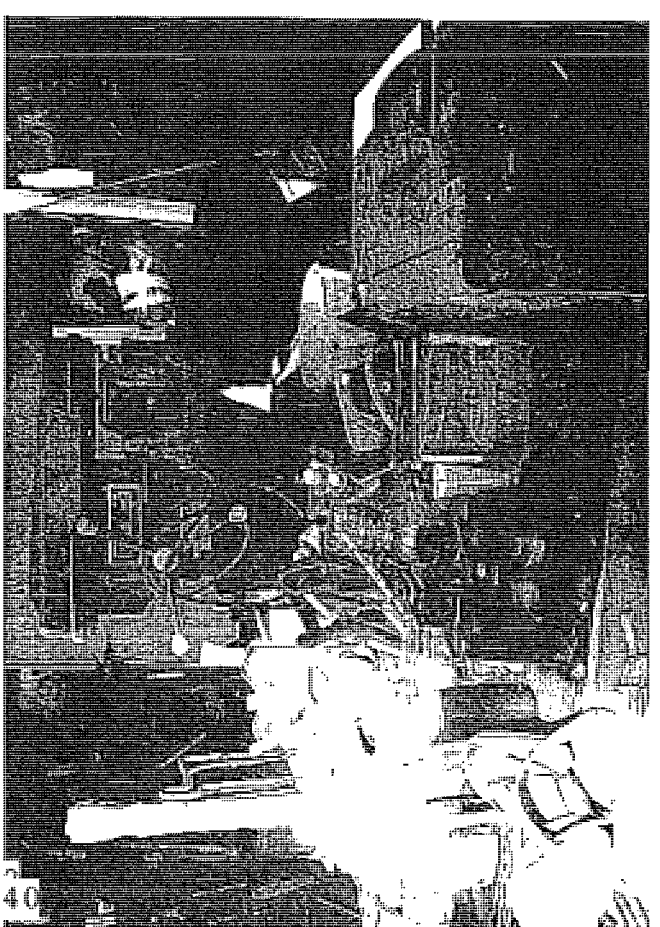


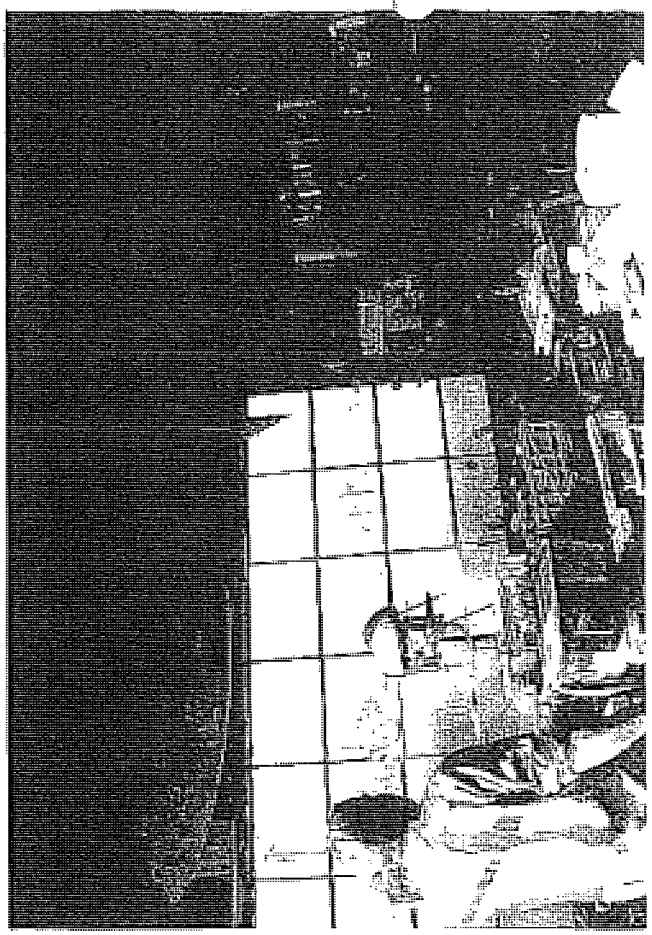


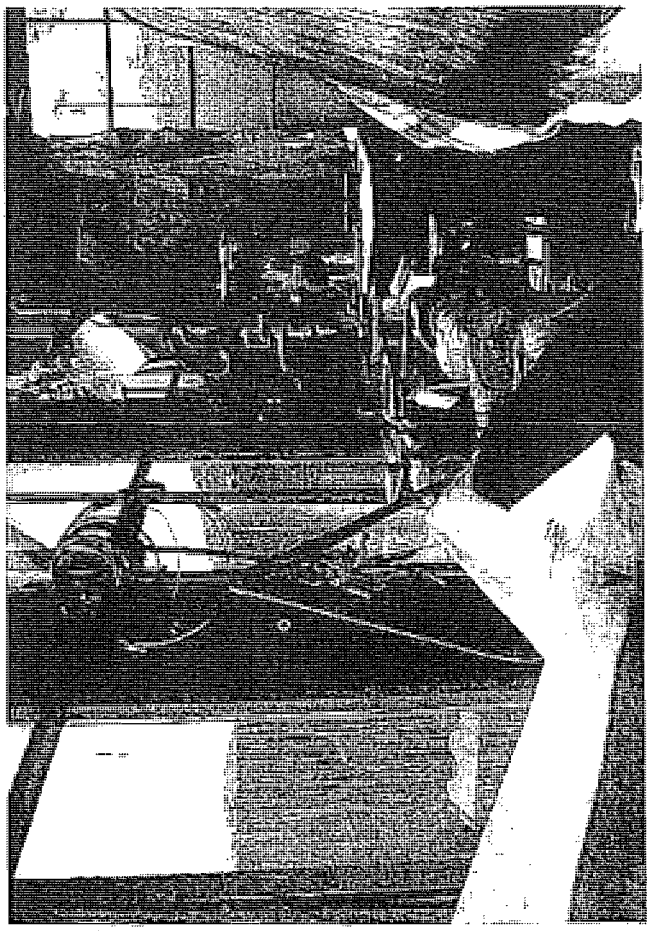


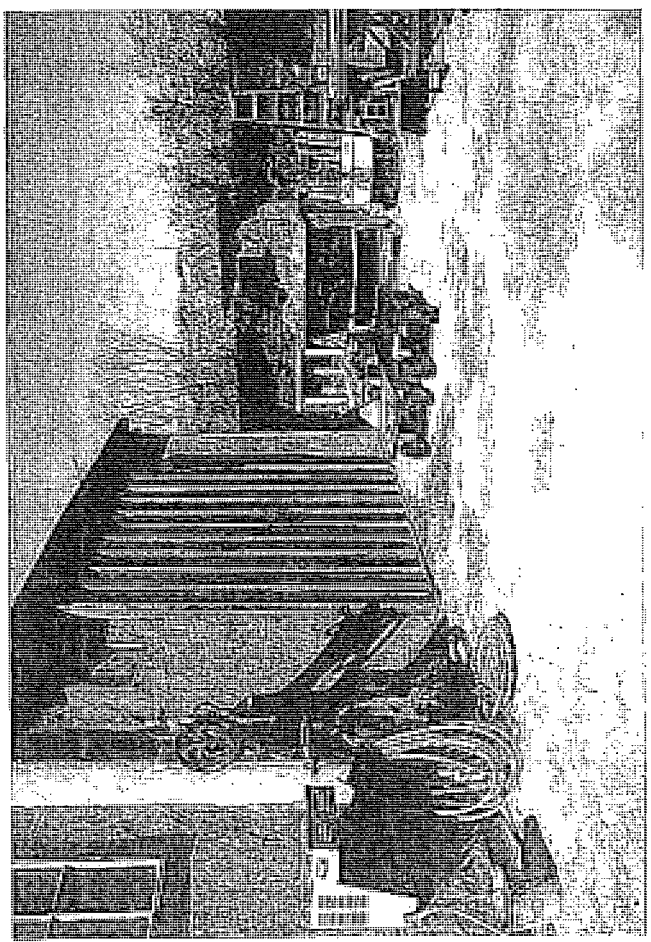


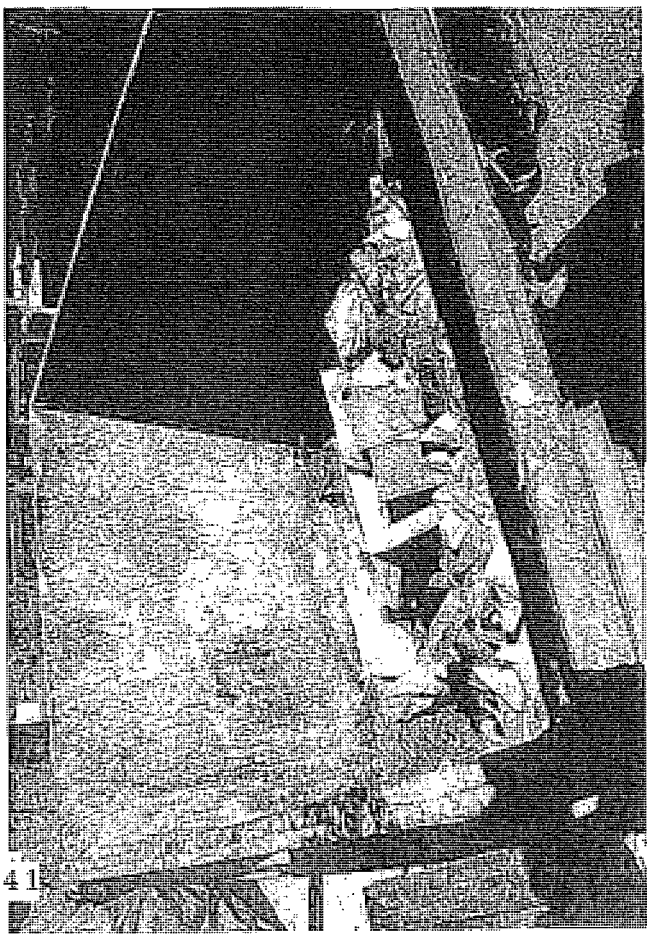


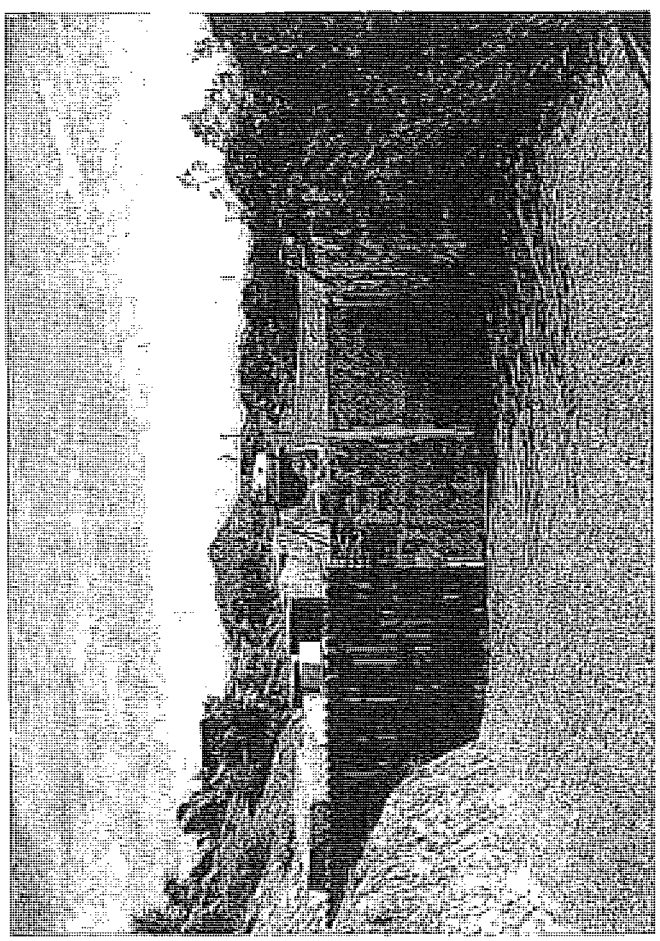


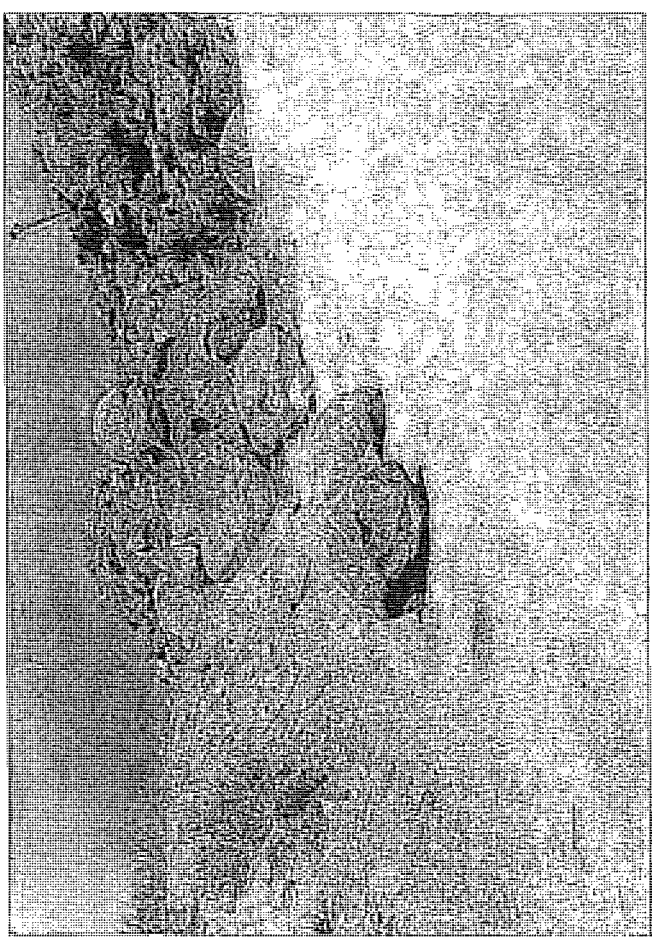


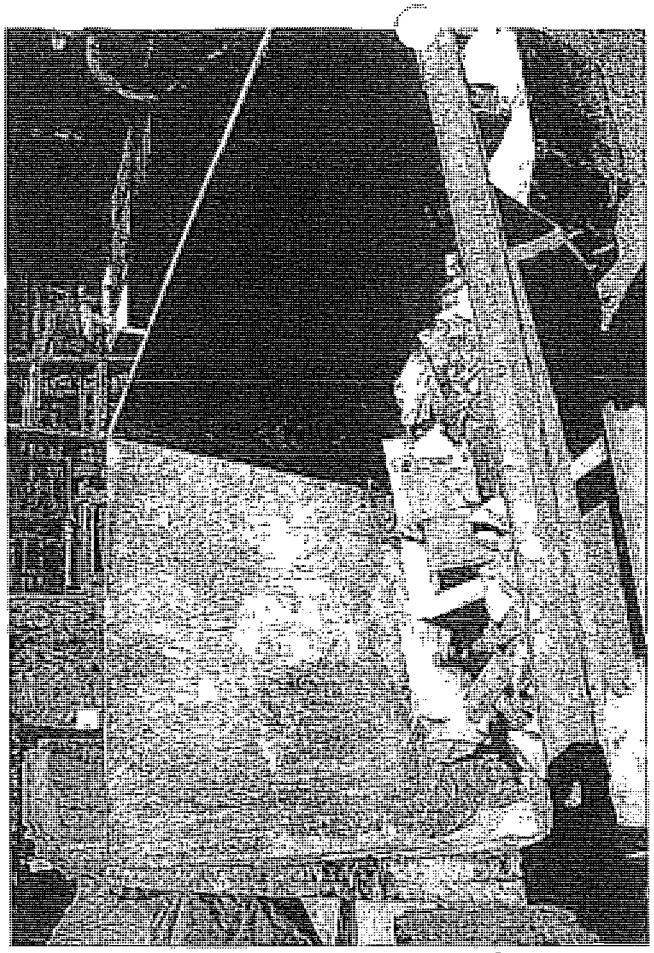


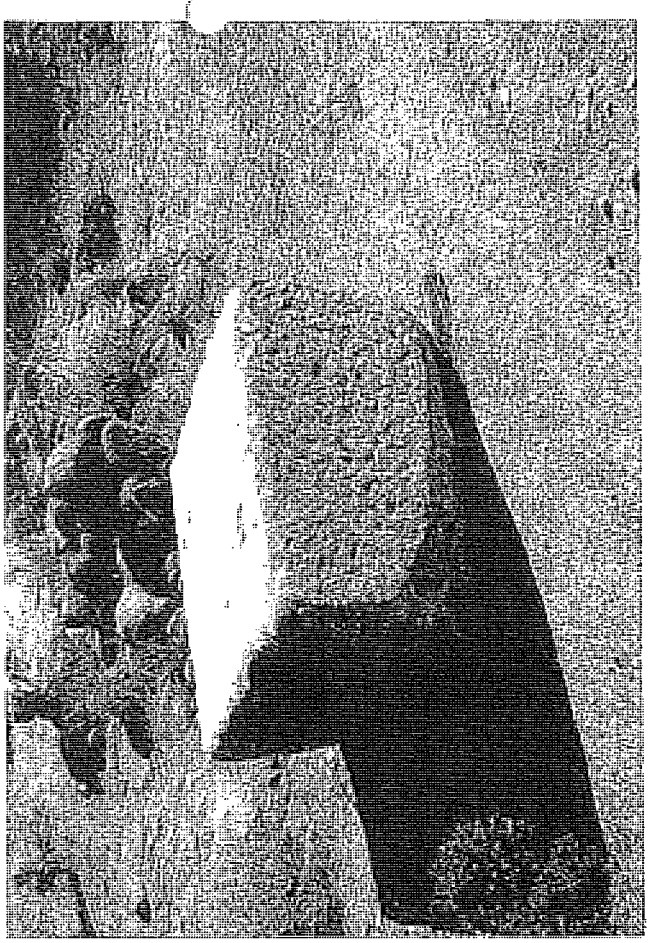


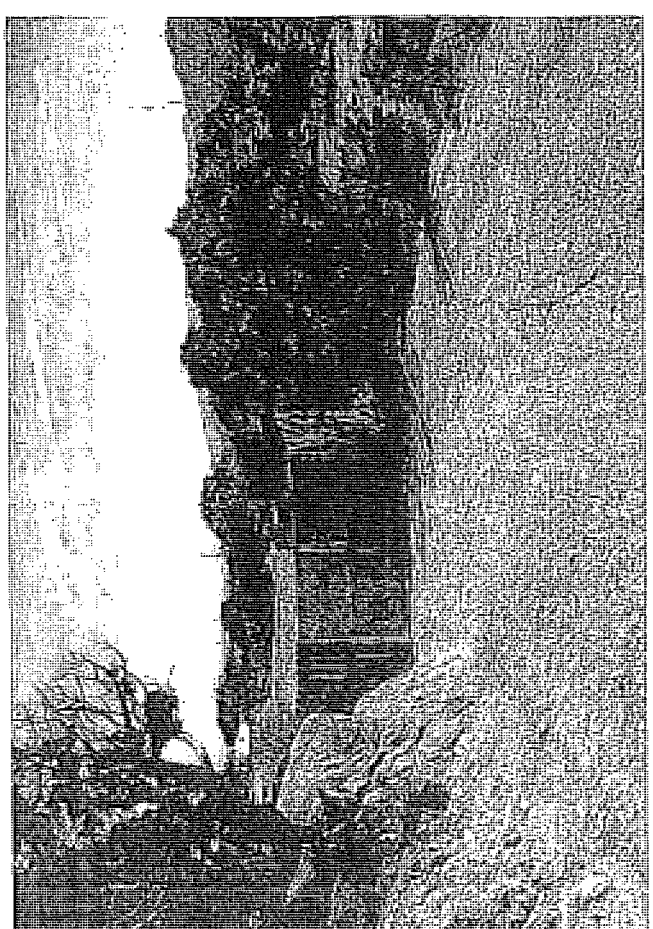


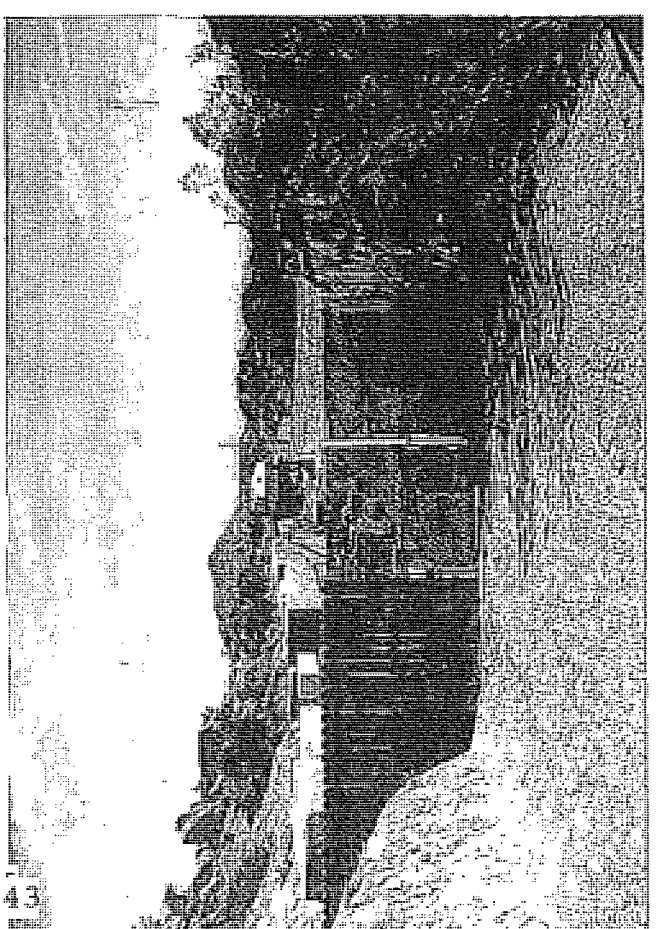


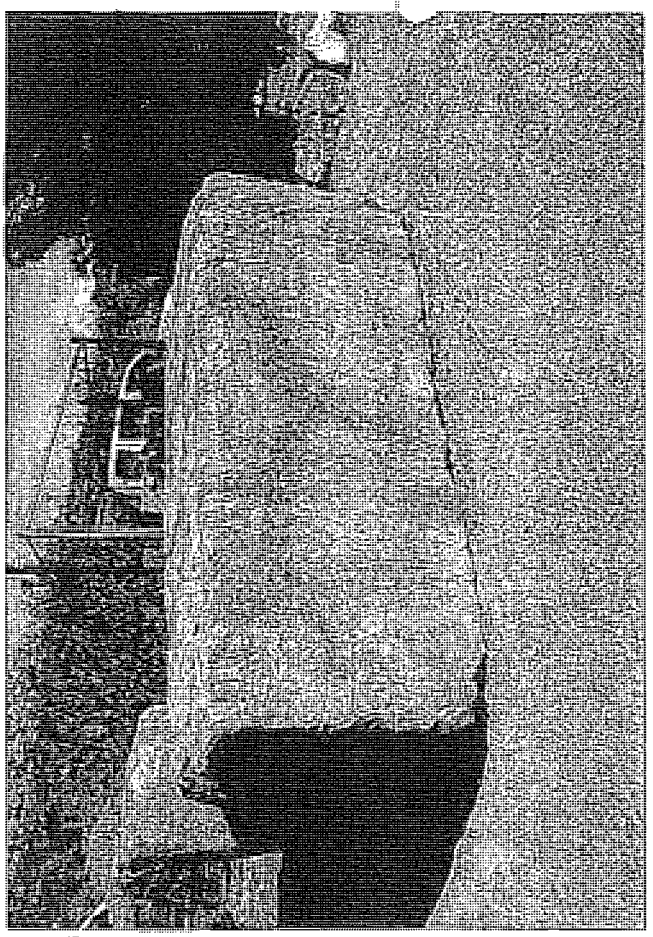


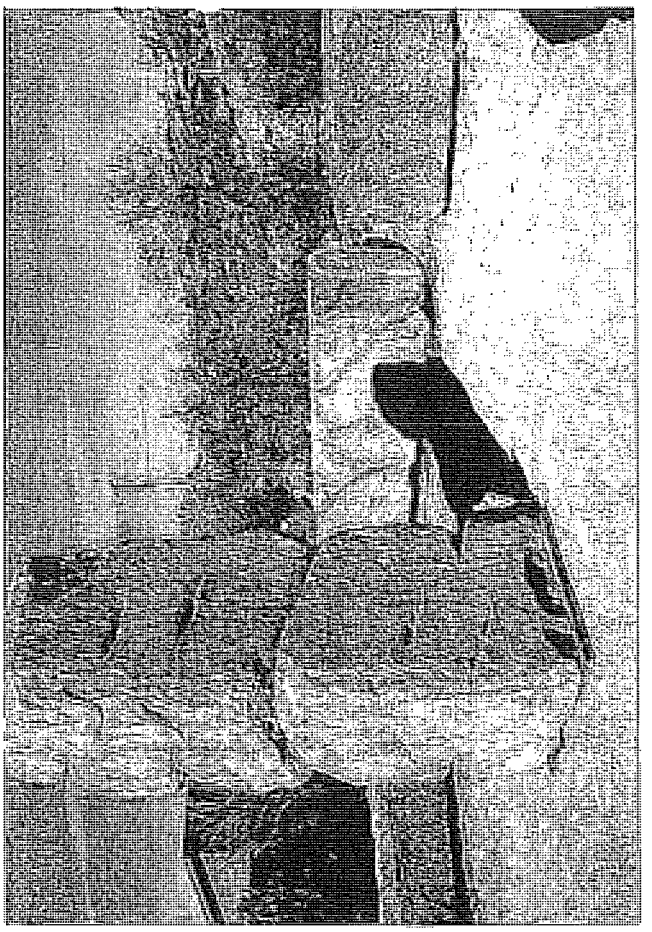


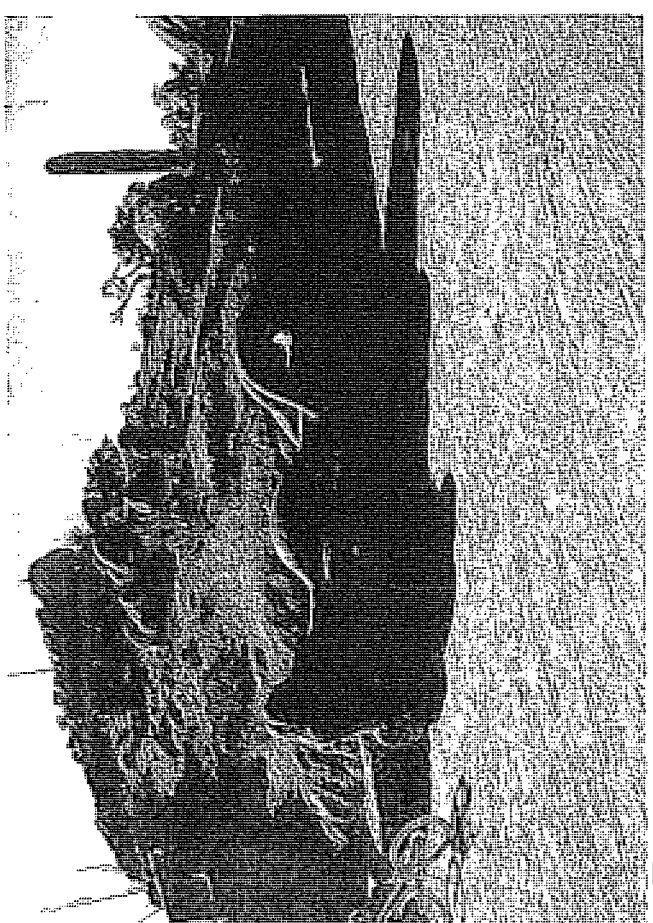


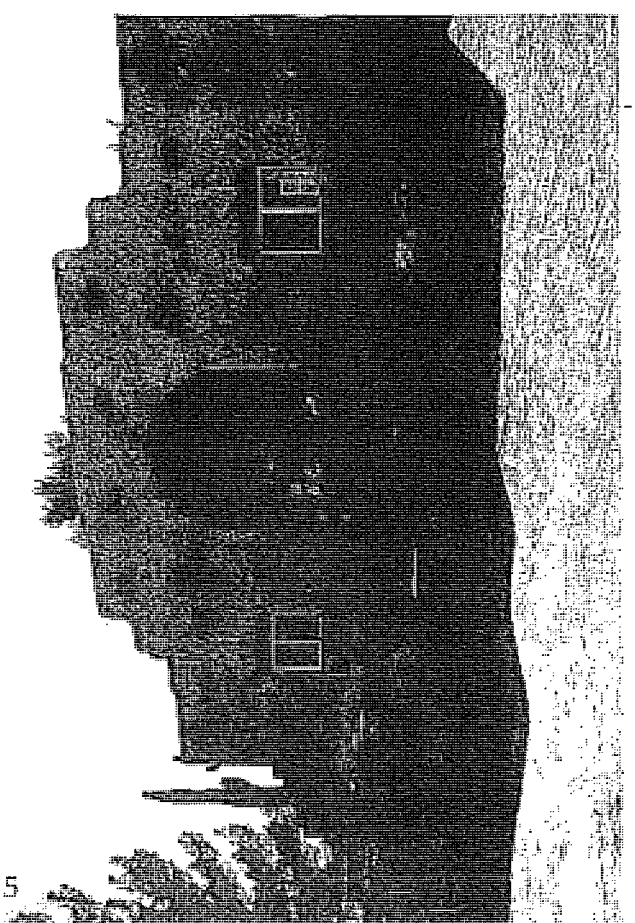


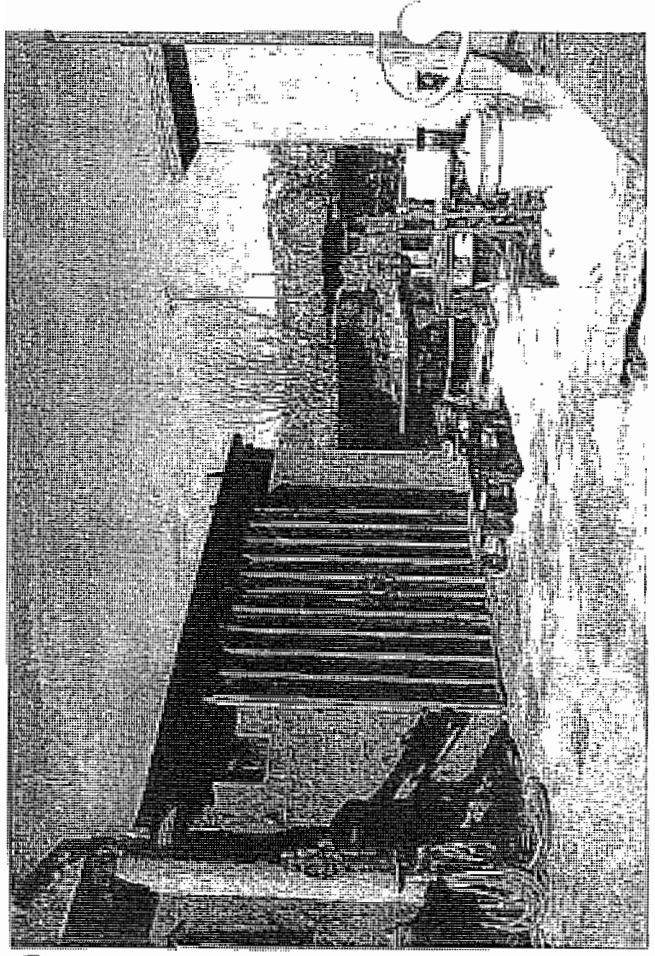


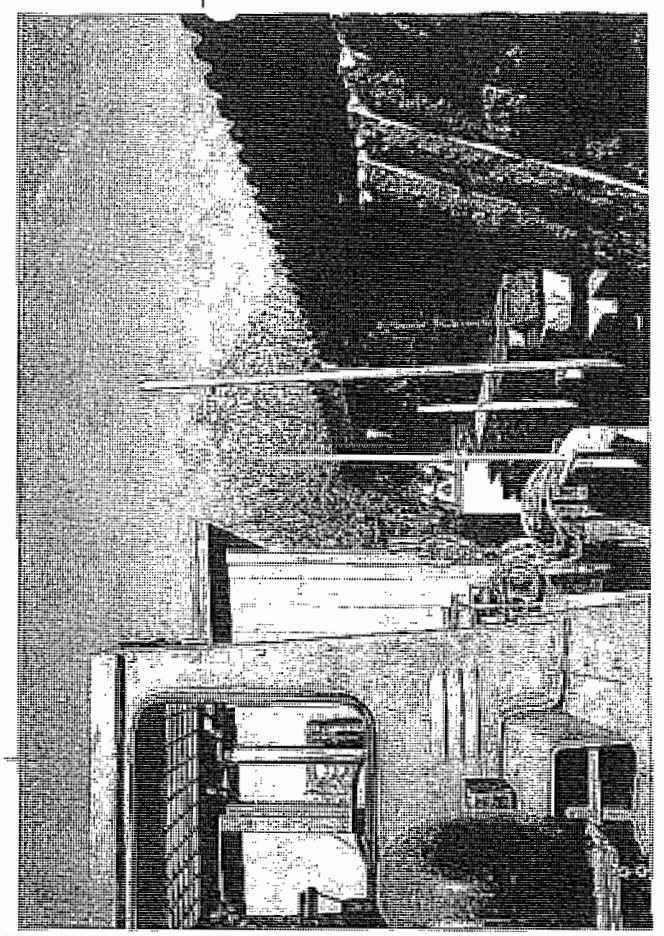


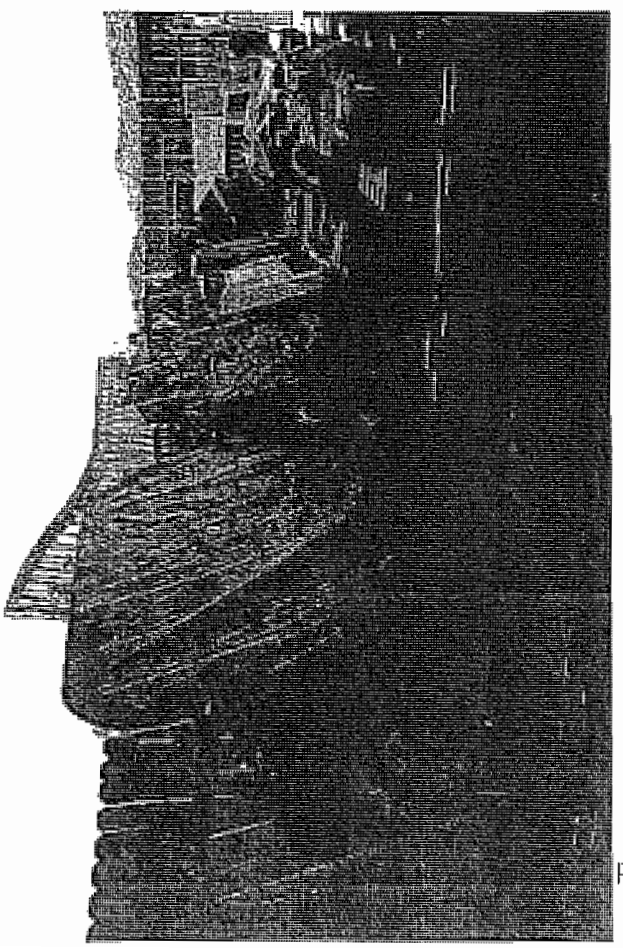


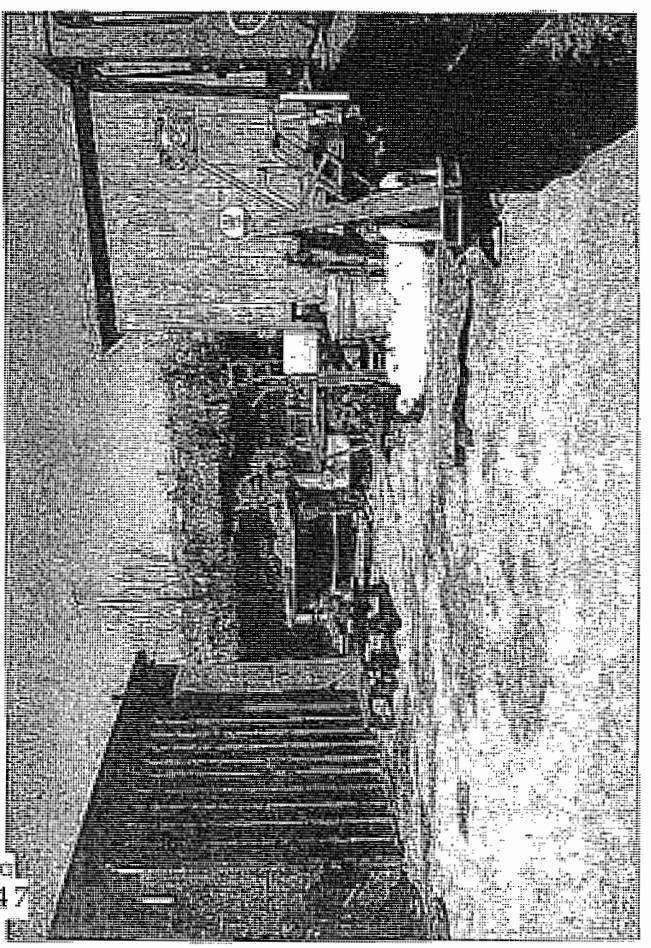












Ordinance No. 54

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.	The home occupation shall be confined to an enclosed structure The home occupation may be conducted in the garage to the dwelling unit but shall not use any space required for off-street parking. All employees, partners or operators of the home occupation, shall be members of the resident family and shall reside on the premises. 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)
Sales Activity	Restrict scope of business activity to ensure that residential use remains primary	Direct sales of products or merchandise shall be limited to seven (7) customers per week. 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).
Appearance	Maintain visual character of the existing structure as a primary residence.	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. The use shall not involve storage of materials outside any structures, nor shall merchandise be visible from outside of the home.

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.	Pedestrian and vehicular traffic will be limited to that normally associated with residential districts. 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.
Utilities	Maintain residential scale of utility services to limit business activity to an incidental use and avoid TV/radio interference.	The uses of utilities and community facilities shall be limited to that normally associated with the use of property for residential purposes. No equipment or process shall be utilized that causes electrical or reception interference to televisions or radios of neighboring residences.
Business Vehicle	Restrict number, size and keeping of vehicles to reduce parking demand and maintain residential streetscapes.	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. 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.
Storage	Ensure that stored material do not take up required parking space or accumulate in yards	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. 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).
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:

Sue Tsuda

Town Clerk

APPROVED AS TO FORM:

Town Attorney

APPROVED AS TO CONTENT:

Sue Tsuda

Town Manager

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

84.0635 Special Uses.

(a) Any use that is the subject of an approved Conditional Use Permit in accordance with the provisions of Division 3 may also be made subject to the issuance of a Special Use Permit.

(b) Special Use Permits may be issued for limited time periods. New applications may be required for Special Use Permit renewal.

84.0640 Hazardous Waste Facilities.

All specified hazardous waste facility applications shall be subject to a Special Use Permit with a copy of the disclosure statement required by Health and Safety Code Section 25200.4. The purpose of the Special Use Permit shall be to evaluate the operation and monitoring plan of the facility, to ensure the facility has adequate measures for monitoring on-going impacts to air quality, groundwater, and environmentally sensitive resources, to evaluate the types and quantities of wastes that will be treated or disposed of at the facility, and to require periodic inspections of the facility to ensure conditions of approval are implemented and monitored.

Nora Fraser
6026 Hoot Owl Trail
Yucca Valley, California
92284

APR 2 4 2014
TOWN OF YUCCA VALLEY
PUBLIC WORKS

Diane Olsen
Planning Technician
Town of Yucca Valley
Monterey Business Center
58928 Business Center Drive
Yucca Valley, California

Re:HOP-11-05

Dear Diane Olsen,

I am writing to you about the administrative hearing planned for HOP 11-05 and the possible expansion of a "home" business being operated from the bottom of our rustic dirt road, Hoot Owl Trail.
I have read the letter from David Falossi requesting several "amendments" to his home operating permit and am horrified at the thought of any of this being granted. In his letter, he admits that he intends to use even more heavy equipment, over Hoot Owl to serve his expanding business. His reasoning for why you should allow him such misuse of a RESTRICTED USE road is that we have UPS deliveries and propane deliveries, etc. to the homes in the area. I submit to you that those vehicles travel these private roads TO SERVE THE COMMUNITY. And we have no alternative to propane up here. Mr. Falossi's desired use of the dirt road is to SERVE ONLY HIMSELF at the EXPENSE OF THE COMMUNITY. And by that, I mean it is his neighbors who will suffer with the noise, dust and damage to the road. Our property values could be affected if he is allowed to run his operation outside of his house in full view and run a gift shop and studio from within 35% of his house. He claims in his letter that he would only be using this heavy equipment on the roads up to 6 times a year. Who will be keeping track of that number? He seems to have forgotten to renew his permit at times. He seems to have already made some of these changes to his advantage, without permission from city planners, town counsel, or anybody.
I had never been down to see the Falossi property up close. I drove down there and I was shocked at the sheer ugliness of the chain linked fence with cars, equipment, and I don't know what else because I don't believe in taking hostile photographs of my

neighbors and their property.
I have owned my property for 13 years and ONE TIME in 13 years I had gravel delivered for my driveway a couple of weeks ago. I am a single senior citizen and had to hire a bobcat which was delivered on a flatbed and was here for about 2 1/2 hours but long enough for Mrs. Falossi to linger on my property and photograph the flatbed on my driveway. At the time, I had no idea why she would do that.
Now I think I know. Do the Falossi's believe that because one old lady (me) has some gravel delivered and can't spread it herself that they now have license to operate an industry from their home?
And on a final note, I find it totally ironic that Mr. Falossi is requesting a permit to expand his operation when during the second of only two conversations I've ever had with him, he complained about my vacation rental in that it brings strangers into the neighborhood. My usual guests were middle aged couples from the East Coast, Canada or England and did not add to the noise, dust or road damage, but who only celebrated the quiet natural beauty of this tiny enclave. However, because of Mr. Falossi's remark, I TOOK MY VACATION RENTAL OFF THE MARKET. I have taken a financial hit since accommodating Mr. Falossi' complaint and needless to say, the City of Yucca is no longer collecting lodging tax on a nice vacation rental that brought tourists into the area, many of whom had even returned because they love the area.
In closing, it's not only Mr. Falossi's neighbors who will lose out if these requests are granted. The town of Yucca Valley will continue to be cheated out of having a legitimate business of this size, including A GIFT SHOP, operating from town, with the proper oversight, instead of one's house and yard.
Thank you for your kind attention to this matter.

Nora Fraser

APR 14 2014

April 9, 2014

Diane Olsen, Planning Technician
Community Development, Town of Yucca Valley
58928 Business Centre Drive
Yucca Valley, CA 92284

Re. David Falossi's Application for Modification of HOP 11-05 Permit (hearing April 23, 2014)

Dear Ms. Olsen, — Dear Diane

I am writing on behalf of my husband, George Stoll, and myself as the owners of the property at 6157 Hoot Owl Trail, Yucca Valley. My family has owned the property since 1958. My late cousin Carlotta Welles had the Rocky Roost cabin built on the land by Homestead Supplies in May, 1959. We have observed many changes in Yucca Valley over the years. The Town is growing up, and we appreciate the professional job you do to improve our community.

Our property line adjoins that of Mr. Falossi's and our cabin directly overlooks Mr. Falossi's residence and workshop. We are well aware of Mr. Falossi's business and artistic talents. The road, Hoot Owl Trail, which runs close to our cabin, is the most direct road leading to Mr. Falossi's business and residence. This road is unpaved dirt, quite steep and narrow, there is no place to park along it, and it is entirely unsuited for heavy loads or frequent vehicular traffic. We have heard tires spin on the road coming up many times.

Clearly, Mr. Falossi's art and sculpture business has grown over the years. It is our opinion that his operation is no longer appropriate for a neighborhood of cabins and small homes such as ours. The access road, Hoot Owl Trail, as described above, is not suited for *any* use by the heavy vehicles and cranes he says he needs for his business. We are concerned that Mr. Falossi wishes to have clients come to his property to view his studio and art works and that he has or intends to have an outdoor exhibit area that will generate more traffic and need for parking on this narrow dirt road. We are concerned about his operation in our neighborhood at its current level, much less at the expanded one he requests. We feel it's time for Mr. Falossi to grow and change as the Town of Yucca Valley has, and to move his business out of this strictly residential area of Western Hills Estates to an appropriate commercial location better suited to his need to exhibit his art. A showroom on the highway could be a real boon and maybe even a tourist attraction for the town, if only he would consider it.

I called your office yesterday requesting a call regarding Mr. Falossi and I sent you an email expressing our concerns about Mr. Falossi's request for a modification to his Home Occupation Permit. Today Mr. Falossi called my home and spoke with my husband. He has requested a letter from us in support of his application. To make our position crystal clear, we absolutely DO NOT SUPPORT his request and hope you will decline it.

Respectfully,

Anne Q. Stoll

A. George Stoll

Anne Q. Stoll
143 W. Monterrey Drive
Claremont, CA 91711-1741
annestoll@verizon.net

A. George Stoll

May 6, 2014

To the Town of Yucca Valley Planning Committee,
c/o Diane Olsen

re: Falossi H.O.P.

Dear Diane Olsen,

I am a property owner in section 26 north of the Falossi's property.I have owned this property for 50years and have never been adversely affected by David Falossi's art studio. I own another parcel as well in Boulder Ridge. I have seen over the years how David has maintained his property and helped maintain the roads since he built his home. He has one of the nicest homes in the area.

He has come to the aid of his neighbors with his four-wheel drive vehicle when they have been snowed in and he has personally helped me when my cabin was broken into.

I think the Falossi art studio is an asset to the town, and is a perfect example of a home business since they moved here in 1989. His work is behind a solid fence with landscaping so the business activity is unseen by the public.

Please allow the Falossi's to continue to create art in my neighborhood.

Sincerely,

Bill Downey

Bill Downey
1-310-283-7330

The Town of Yucca Valley

To Whom IT MAY CONCERN:

My name is Eva Hasek. I and my husband moved to the Boulder Ridge neighborhood before it was Boulder Ridge. It was a very nice neighborhood, beautiful and inspiring. We love to live here. David Falossi is an artist and he needs inspiration. He will not find it in downtown. We support David Falossi and his home business, Falossi Studios.

We have seen a flyer claiming that David Falossi's business is destroying property values here. We strongly disagree and think that Koenig is the one destroying our property values. He ruined one of our two escape roads, and possibly our only escape route depending on the situation. He put approximately 30 truck-loads of boulders and dirt on the road, making it more difficult for all of us to get out of the neighborhood in case of fire.

Please help us to maintain our neighborhood and let David Falossi work in this inspiring area. Thank you.

Eva Hasek

Sincerely Eva Hasek

April 28/2014

URGENT!!!

HEARING
Wednesday APRIL 23, 2014
8:30 AM

YOUR PROPERTY VALUES AND QUALITY OF LIFE COULD TAKE A NOSEDIVE TO BENEFIT ONE INDIVIDUAL IF YOU DONT ATTEND

An individual in the neighborhood who has been operating a business from his home (sometimes with, sometimes WITHOUT a permit to do so), is seeking to EXPAND. Unfortunately, his business requires heavy trucks, cranes and other loud and obtrusive equipment to ramble over our dirt roads kicking up dust and creating noise in our quiet neighborhood and most likely will be traveling by the front of your house.

DID WE MOVE HERE FOR THIS?

Nobody else in the neighborhood is allowed to run a huge operation like this from their home.
The Hardestys for example seem to be able to operate *their business from town. And their business licenses* and permits DONT LAPSE.
PERHAPS THE INDIVIDUAL SEEKING TO DESTROY THE QUIET BEAUTY OF BOULDER RIDGE SHOULD FOLLOW THE HARDESTY'S EXAMPLE and rent an appropriate space from which to run his evidently booming business.
Come to the hearing and and find out the truth about whats been going on and help us preserve the natural quiet and beauty that is
BOULDER RIDGE

(attached is the letter from said businessman to planning commission asking for a litany of home permit rule changes)

4-8-2014

To the Town of Yucca Valley

Someone left a typed yellow note/paper at my front door today with a hand written name of N.Fraser 760-774-3524 stating things that are not true in my neighborhood.

I have lived at the beginning of the dirt road on Plaza Del Amigo for almost 34 and own house next to me on the pavement and have had no dust or noise problems from this "individual"David Falossi. In fact Mr.Falossi Named & donated the Boulder Ridge rock and sign. As a UPS driver for over 30 years and now retired have delivered to Mr.Falossi many times over the years and have not seen nor heard of any of this. I have no problem with someone trying to make a honest living.I have no idea where this is coming from

Regards Danny Paul

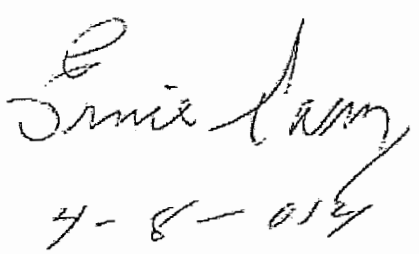
56862 Plaza Del Amigo

Yucca Valley

Town Of Yucca Valley Planning

We have lived on the east side of the Falossi's property for 25 years. We also attended the HOP meeting regarding the Falossi's art business in 2005. We still do not have any problems with the Falossi's business.
We do not think their home lowers our property value and is very nice. We have used Hoot Owl Trail for over 25 years to get to our home and it is the road we have used since we have lived here.

Earnest and Beverly Saenz 4-8-14



04/16/2014

TOWN OF YUCCA VALLEY PLANNING DEPT

To Whom It May Concern:

I have lived next door to the Falossi's for over 20 years. I have never found their business to be disturbing; by noise, excessive traffic, not disturbing in any way. Their property is well maintained and pleasant to view. In fact, there is more noise on any street down in Yucca Valley!

This was a peaceful neighborhood, except for an individual who moved in about 8 years ago. A little over a year ago Fritz Koenig had dump truck after dump truck load of rocks and large boulders dumped on Hoot Owl Trail from the Wal-Mart excavation. This started on a Friday and continued through the weekend. Evidently Mr. Koenig feels he is entitled to make noise for hour after hour, but complains if Falossi makes one or two round trips per week?! Did Nora Fraizer or Tomlinson Holman complain about that? And they have the nerve to say that David Falossi's business could possibly cause our property values and quality of life to 'take a nosedive'? Rather than worrying about what isn't they need to open their eyes to what is- like all the boulders and rocks that were dumped along Hoot Owl Trail creating a dangerous and unsafe obstacle course. That is something that definitely effects property values, but I didn't see that on the flyer! Hoot Owl Trail went from being safe to being dangerous, and now that a year of weathering has gone by rocks are rolling farther into the narrower parts of the road and drivers have to stop and remove them. The residents here are mostly seniors, and that isn't an easy thing to do if they happen to be in their 80's. In my opinion someone driving up here wouldn't even notice that Falossi has a business at his home, not just because it's a beautiful home and any work area well camouflaged, but because they would be too focused on just surviving the obstacle course Koenig created of the road.

In my opinion all these accusations that Koenig is making of Falossi's business, the road conditions that he has created, and the accusations made in the flyer (by proxy) are all his attempts to further harass those who were forced to get restraining orders on him. The Falossi family felt their children were in danger and the court found that Koenig had caused the Falossi family "severe emotional distress". The court also found Koenig had little credibility and the Falossi family was very credible. I was included on a separate restraining order, but unfortunately Koenig was able to get an appeal on it. The reason? Because the judge that heard the case made an error regarding the road, not because he hadn't been harassing us. I feel that now he is just trying to use you, the city, to harass a family business that has been a contributing and supporting member of this city. Please allow Falossi to continue to operate his business at his home. See this for what it really is, don't allow someone to bully the city as he has tried to bully his neighbors. And if you want to experience just a taste of what seniors are having to endure up here, I invite you all to take a drive along Hoot Owl Trail and ask yourselves if you would want your parents or grandparents to have to suffer like this as your head hits the roof of your car and your back is thrown out of joint. All the because of a vindictive malicious bully. And if you are brave enough to drive that road go back and get your parents and grandparents and take them for the ride, I am sure they will give you their opinion. And know that by doing nothing, you are condoning his course of action. Please help! The Falossi's need your support, and don't the seniors deserve your support?!

Sincerely

Edward J. Tucker

Edward J. Tucker
6262 Hoot Owl Trail- Yucca Valley

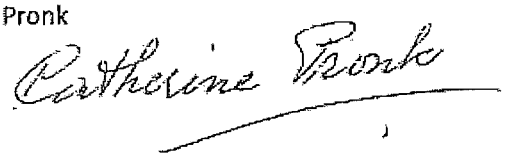
To Whom It May Concern:

David Falossi has been living as a great neighbor to us for 23 years here in Yucca Valley. He is not just a nature admirer, he is a GREAT artist with high talent.

His art of creating gorgeous statues, etc. – even countries like Switzerland have discoverd his art!!

We are happy to be living here with people who also adore the area, and we know how lucky we are to have those people living here in Yucca Valley.

Catherine Pronk



TO WHOM IT MAY CONCERN

I have known David Falossi since we moved to Yucca Valley in 1995.
I have always admired his work and I am proud to live in a town where the famous sculptor has his residence and art studio.

David and his wife have 7 children and it is a pleasure to be around them.
In order for David to provide for his family he has to live in the area that inspires him and where he has lived for 23 years.

David Falossi created a granite and glass sculpture entitled
'LIFE SPIRAL" that was auctioned for the Brat Shapiro Foundation
for Drug and Alcohol Awareness in Beverly Hills.
The sculptor was sold for a significant amount of money that will help fund the foundation's educational effort to end drug and alcohol abuse.

Having him living in Yucca Valley is an asset to our city.

.

Maria Broome
5675 Roberts Road
Yucca Valley, Ca 92284

Maria Broome

April 15, 2014

April 15, 2014

The Town of Yucca Valley

To Whom It May Concern:

We are writing this letter in support of David Falossi and his home business. We moved into the Boulder Ridge neighborhood almost ten years ago and live on Tish Trail, which intersects Hoot Owl Trail east of us. From our home we can see portions of Fritz Koenig's properties at 6158 Hoot Owl Trail and 6224 Hoot Owl Trail, including portions of the structures on the properties. We can see portions of the house at 6026 Hoot Owl Trail (including the garage door and the flat area in front of the garage where cars usually park), which is owned by Nora Fraser. We can also see the cabin on the property at 6157 Hoot Owl Trail, which is owned by George and Anne Stoll. We can see portions of the buildings on the Falossi property. In summary, we have a pretty good view of the east end of our neighborhood.

In considering the matter of David Falossi's home business, we feel it is very important to look at the larger context of this situation, and we would certainly hope that the Town of Yucca Valley would take the following points into consideration in deciding the status of Falossi Studios.

1. In 2009 David Falossi sought to obtain a restraining order against Fritz Koenig. Among other things, Mr. Koenig had been observed standing at the Falossi's fence line and filming their children, some of them being minors. The restraining order was granted on May 8, 2009, and was in effect for three years. In his closing comments, the Honorable J. David Mazurek said to Mr. Koenig: "So the Court does believe that you have caused Mr. and Mrs. Falossi and their family severe emotional distress." Mr. Koenig took the matter to the Appellate Court. The Appellate Court upheld the ruling of the Superior Court that a restraining order against Mr. Koenig should be granted. It is our opinion that Mr. Koenig's behavior since then has been obsessively focused on getting revenge against the Falossi's.

2. There are currently two active civil cases in the San Bernardino County Superior Court involving Mr. Koenig and David Falossi. According to information conveyed to me by David Falossi, in one of the cases Mr. Koenig has claimed that his primary residence is in the Bay Area (where his supposed partner, Tomlinson Holman, lives and works). Given the amount of time that Mr. Koenig has been observed here in our neighborhood the last few years, hearing that Mr. Koenig's main residence is in the Bay Area comes as quite a surprise to us. In making this claim, Mr. Koenig is essentially forcing the Falossi's attorney to fly to the Bay Area to do the deposition for the civil case, thereby making the deposition process much more costly for the Falossi's. And, if Mr. Koenig's main residence is in the Bay Area, why is he making such a fuss about David Falossi's business?

3. Attached is a copy of a flyer that was recently left at the door of one of our neighbors. On the back of the flyer, written by hand, it said: "Nora Fraser" and "760-774-3524". Included with the flyer was a copy of the email sent by David Falossi to Diane Olsen of the Yucca Valley Planning Division. Ms. Fraser owns property next to Mr. Koenig, and it was clear at the Restraining Order hearing that she was an ally of Mr. Koenig's. As indicated, we have lived in this neighborhood for almost ten years. When we first moved here, Ms. Fraser's mother was living in the house at 6026 Hoot Owl Trail. After Ms. Fraser's mother passed away, and for the last few years, Ms. Fraser has been renting the house. She has advertised it for rent on the Internet, and there has been a parade of different cars coming and going from people presumably renting the house. In the time that we have lived in the Boulder Ridge neighborhood we have never observed Ms. Fraser living at the house as a "full-time permanent resident". Indeed, Ms. Fraser has New Mexico license plates on her car. As a result, she has very little first-hand knowledge of what goes on in our Boulder Ridge neighborhood. (Presumably, her main source of information is Mr. Koenig.) So, we find it very peculiar that she would pass out a flyer with such a litany of complaints.

4. As for the contents of the Nora Fraser flyer, we find it very strange that she is accusing the Falossi's of bringing down the property values in our neighborhood. In our opinion, *the Falossi home is the most beautiful home in our entire neighborhood.* On the other hand, consider the condition of Mr. Koenig's properties. Attached is a photo of the roof of the Koenig-Holman property at 6224 Hoot Howl Trail. The roof is visible from our home at 56599 Tish Trail, and its shabby condition is obvious. It has been like this for quite a while. Secondly, during the WalMart construction, Mr. Koenig had numerous piles of mixed dirt and boulders dumped on Hoot Owl Trail. (See attached pictures.) The stream of trucks dumping these hideous piles of dirt and boulders on the road began on a Friday (a day when the Code Enforcement office was closed and hence all of the neighborhood calls to Code Enforcement that day to complain were futile) and continued on into the week-end. The trucks were noisy and kicked up a lot of dust on our roads. They speedily and recklessly drove up Grand Avenue to exit from the neighborhood – to the point that one neighbor told me she had to position herself in the middle of the road on Grand to force these trucks to slow down and drive more safely. By the end of the week-end, what had previously been a safe road where two cars could easily pass each other was now narrowed in places to one lane. It also created blind spots. Elena Falossi told me that she almost had a head-on collision with a UPS truck because of the rock piles. Another neighbor said she had to get out of her car to move a boulder that had come loose from the dirt pile; otherwise it would have damaged her car. It is quite likely that a heavy rain storm will loosen more boulders from the dirt piles, sending the rocks rolling into the area of the road where cars drive and hence potentially causing damage to cars. Despite numerous complaints to Code Enforcement from people in our neighborhood, nothing has been done. The dangerous dirt-boulder piles have been sitting in the road *for one and a half years* now. If someone were looking to buy property in the Hoot Owl Trail section of our neighborhood, undoubtedly they would look at Mr. Koenig's very unaesthetic dirt-rock piles, the unmaintained road along Mr. Koenig's properties,

and his run-down cabin at 6224 Hoot Owl Trail, and their estimate of the value of the property around here would go down dramatically. (Frankly, we can't help but wonder whether some of Ms. Fraser's renters have complained about the poor condition of the road on her property. We feel sorry for her renters having to put up with such a road.)

5. The Nora Fraser flyer complains about the dust kicked up by David Falossi's vehicles. I (Janice) happened to be driving home recently, and David Falossi was just in front of me on Plaza del Amigo, driving his large flatbed truck back home. Plaza del Amigo turns to dirt as one enters the Boulder Ridge neighborhood. David drives very slowly on our dirt roads (he has to protect his precious cargo of stone sculptures, after all), and as a result his vehicles do not kick up an excessive amount of dust. One can see a lot more dust being kicked up by services vehicles that come into our neighborhood on a regular basis than by David Falossi's occasional driving of his business vehicles. Has Mr. Koenig or Ms. Fraser lodged complaints about those service vehicles???

6. It is our understanding that George and Anne Stoll sent the Town a letter of support for Mr. Koenig. The Stoll's were also supporters of Mr. Koenig at the Restraining Order hearing. As with Ms. Fraser, in the entire time we have lived here, the Stoll's have never lived on their property as long-term permanent residents. Indeed, over the last few years, they have showed up a couple times a year, spent maybe 15 minutes to an hour checking on their property, and then they leave. So again, these people have very little first-hand knowledge of what happens in our neighborhood.

7. In all the time we have lived here, we have never heard noise coming from the Falossi property as David does his work. We all know that sound carries in the desert. At times one can hear the sounds of barking dogs coming from that end of the neighborhood. So if David's work noises were loud or excessive, we would certainly have heard them at some point. (And let us be very clear that our statements about the dogs are *not* to be construed as making any kind of complaint against the dogs in our neighborhood...)

8. A Petition has been circulated in our neighborhood in support of David Falossi's business and is being submitted with this and other letters of support. At the time of the writing of this letter, 26 signatures had been obtained from Boulder Ridge neighbors in support of Falossi Studios. In the Nora Fraser flyer, it is suggested that David Falossi adopt a business model like the Hardesty's. Please note that Ed Hardesty lives in our neighborhood and has signed the petition in support of David Falossi's business.

9. Finally, we would like to emphasize that David Falossi is a contributing member of this community and beyond. Every time we drive past the Morongo Basin Transit Authority transfer station on Yucca Trail, we are impressed with the magnificent job David did in creating artwork that so wonderfully fits the setting. In addition, David has donated his time and energy to support the philanthropic efforts of attorney David

Shapiro and his foundation: *The Brent Shapiro Foundation – For Alcohol and Drug Awareness*. David Falossi donated a piece of his artwork to be auctioned at one of the foundation's fundraisers.

Please, please - do not let Mr. Koenig and his cohorts destroy David Falossi's home business and the well-being of his family!

Regards –

Janice Pask

Dennis Pask

Janice Pask
56599 Tish Trail
Yucca Valley

P.S. If Mr. Koenig reads this letter of support for David Falossi, we have little doubt that he will do his best to convince you that we are some of the most evil people in the world. Given our previous interactions with Mr. Koenig, we have come to expect no less from him.

URGENT!!!

HEARING
Wednesday APRIL 23, 2014
8:30 AM

YOUR PROPERTY VALUES AND QUALITY OF LIFE
COULD TAKE A NOSEDIVE TO BENEFIT ONE
INDIVIDUAL IF YOU
DONT ATTEND

An individual in the neighborhood who has been operating a business from his home (sometimes with, sometimes WITHOUT a permit to do so), is seeking to EXPAND. Unfortunately, his business requires heavy trucks, cranes and other loud and obtrusive equipment to ramble over our dirt roads kicking up dust and creating noise in our quiet neighborhood and most likely will be traveling by the front of your house.

DID WE MOVE HERE FOR THIS?

Nobody else in the neighborhood is allowed to run a huge operation like this from their home.
The Hardestys for example seem to be able to operate their business from town. And their business licenses and permits DONT LAPSE.
PERHAPS THE INDIVIDUAL SEEKING TO DESTROY THE QUIET BEAUTY OF BOULDER RIDGE SHOULD FOLLOW THE HARDESTY'S EXAMPLE and rent an appropriate space from which to run his evidently booming business.
Come to the hearing and and find out the truth about whats been going on and help us preserve the natural quiet and beauty that is
BOULDER RIDGE

(attached is the letter from said businessman to planning commission asking for a litany of home permit rule changes)

Nora Fraser
760-774-3524

Diane Olsen

From: faldssistudio@aol.com
Sent: Thursday, January 23, 2014 8:26 PM
To: Diane Olsen; kheffernan@fhklegal.com
Subject: HOP 11-05

Town of Yucca Valley Planning 1-23-14

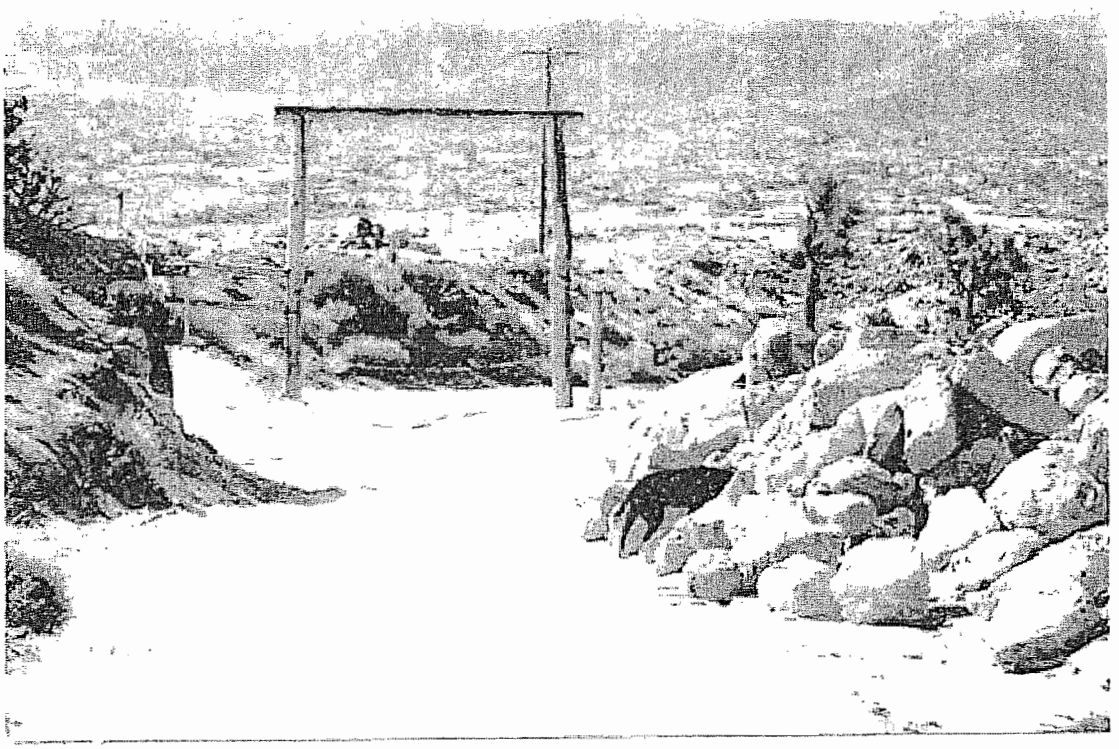
Dear Dianne Olsen
I am writing to request some updates to my Home Business conditions regarding HOP -11-05
I have operated my business here at 6229 Hoot Owl Trail since 1989.
When my original HOP permit was created in 2005 The Town of Yucca Valley was using an older version of the HOP ordinance. In January of 2006 a newer version was adopted with changes to the original requirements. Of course the new ordinance would apply to me but I request that my conditions be amended.

In my original conditions I would like section 4 where it says below,
The home occupation shall be confined to an enclosed structure, as described in the application but shall be limited to a maximum of 250 square feet for the purposes of operating the business.
To be amended to reflect the newer ordinance 178. Details below.
My property is zoned RL 5 acres and my property is 2.5 acres. My home is approximately 3000 square feet under roof and my workshop is another 640 feet under roof.
I request that my conditions of approval are amended to update them to the current ordinance where 35% of the total square feet of the dwelling is used for the calculation of allowable space for my home business. I calculate I am allowed 1274 square feet.

Also my work area is fenced I would request that some reference address the allowable use of my fenced in studio area for the handling and creation of my artwork. The "enclosed structure" statement of section 4 of my 2005 conditions has always to me referred to my enclosed and fenced studio area.
I have used this area since 1989 to create and handle my artwork. This same fenced area was originally inspected in 2005 when I had originally applied for my HOP.
I also load and unload my truck on the area in front of my home at the most weekly. I typically will load and unload my artwork for a 2 hour period and then my truck is moved to an out of public view area.
I would like a reference to be added to my conditions to be able to load and unload my truck in front of my home.

On my original conditions of approval section 6 below.
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 use and shall be in compliance with the Town's commercial Vehicle regulations.
I need to use a rental crane or truck for an hour or two a few times per year to move my material and or finished sculpture. I do not believe that this occasional use differs from normally associated RL 5 rural use. I have lived here in this rural area now for 25 years. The residents in my section occasionally hire delivery trucks for hay and other construction materials, propane delivery trucks, tractors and other construction equipment.
I request that section 6 be amended to clarify that rental cranes and trucks can both move my material and deliver material here up to 6 times per year.
The above amendments are meant to avoid confusion and provide clarity for anyone requesting my HOP conditions.

PICTURES OF ROCK AND DIRT PILES DUMPED ALONG
HOOT OWL TRAIL UNDER THE DIRECTION OF FRITZ KOENIG



PICTURE OF ROCK AND DIRT PILES DUMPED ALONG
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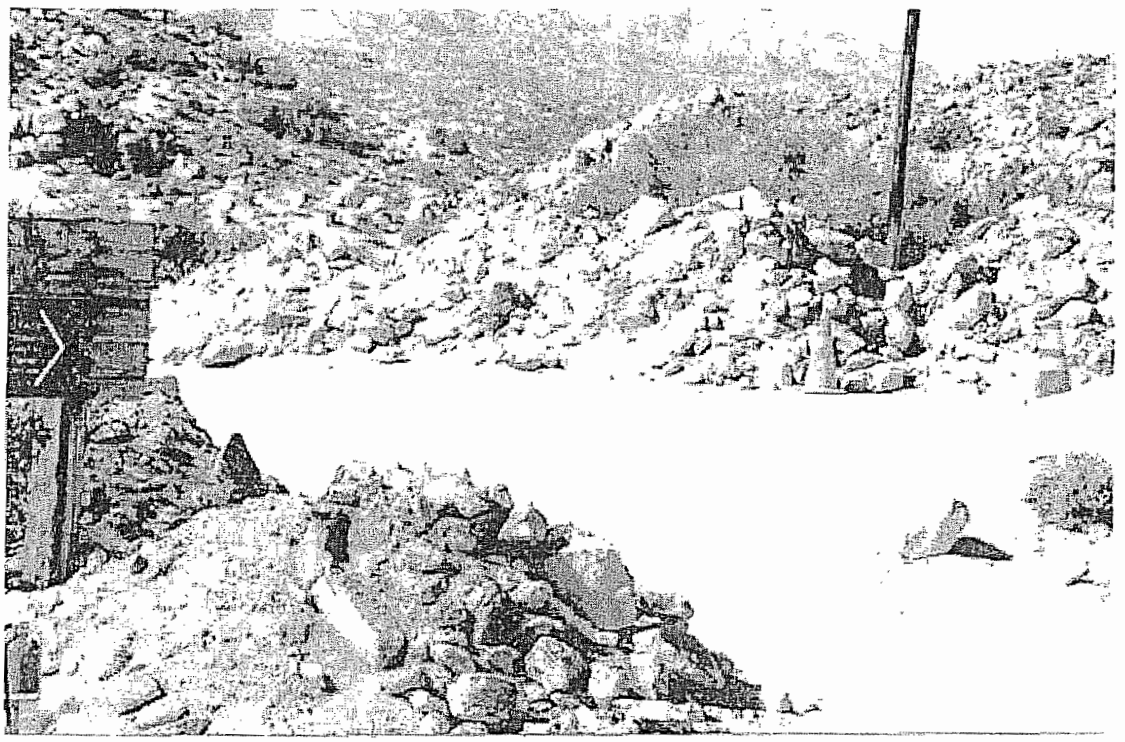
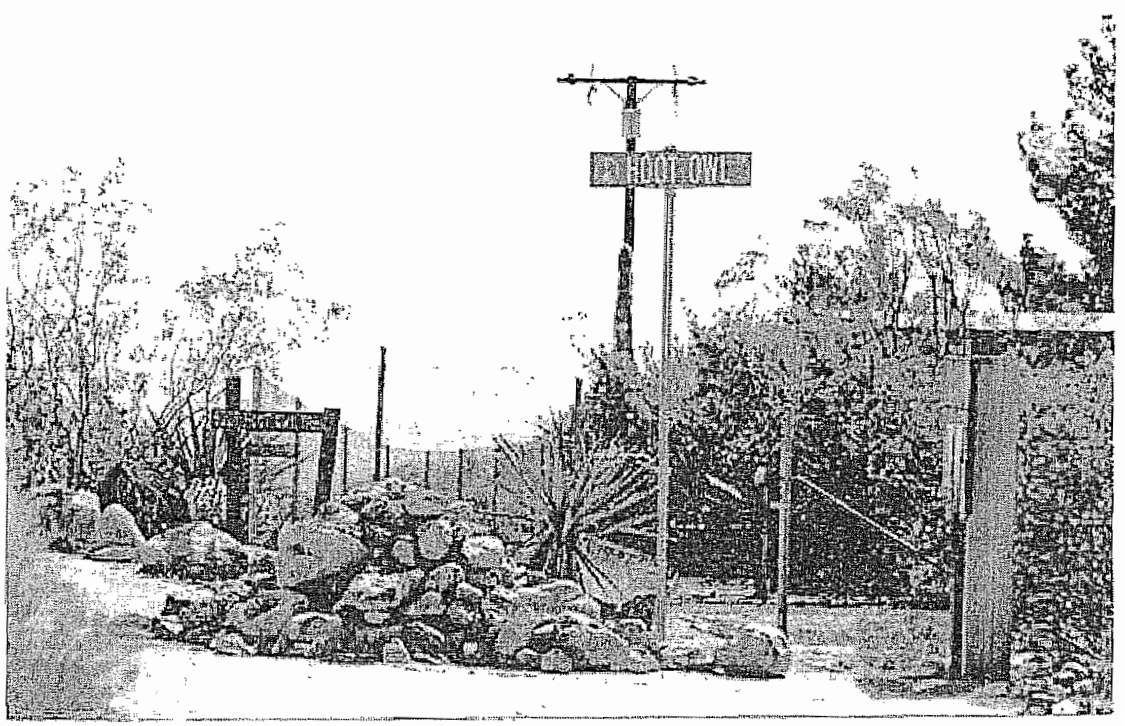
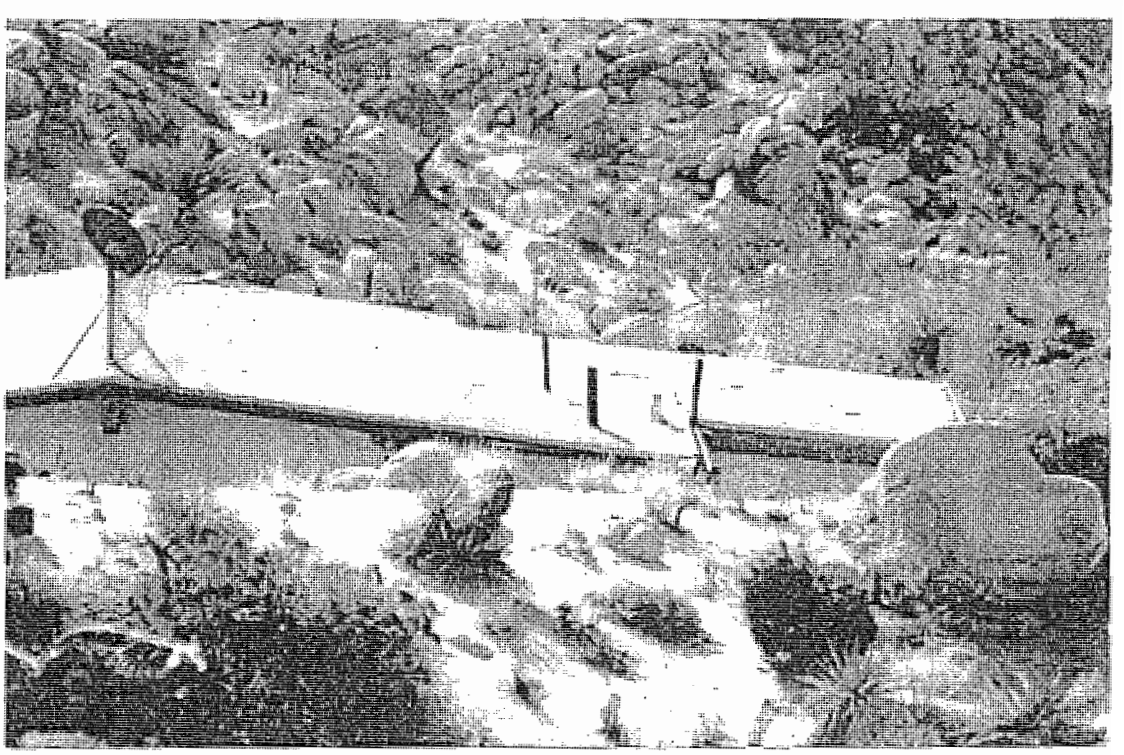


PICTURE OF ROCK PILE DUMPED RIGHT NEXT TO THE FALOSSI
FENCE LINE UNDER THE DIRECTION OF FRITZ KOENIG



THE FALOSSI RESIDENCE

THE ROOF OF THE CABIN AT 6224 HOOT OWL TRAIL OWNED BY
FRITZ KOENIG AND TOMLINSON HOLMAN
(THE CABIN IS NOT CURRENTLY OCCUPIED)



Boulder Ridge neighbors section 26

We are aware of the Falossi's art studio at 6229 Hoot Owl Trail and that it has been there since 1989. We do not feel it is a Public Nuisance and have not been bothered by his activity's. We do not feel his home or studio is unattractive or has lowered our property values. We have not seen unusual or excessive traffic, deliveries or visitors to their home. We have been told about the upcoming meeting regarding his business at 8:30 am on April 23 at the Town of Yucca Valleys planning department. At 58928 Business Center drive Yucca Valley CA. We are aware that he has requested clarification to his conditions issued in 2005 and is asking the town to update his allowed square footage for business activity to the 2006 ordinance. We are aware he would like his conditions to specify that it is allowable to place art work in front of his home, to load his truck in front of his home and to work within his enclosed fenced area. We are also aware he would like the conditions to specify occasional two axle truck delivery's up to 6 per year if needed and to have a rental crane or rental forklift to move his work and or materials up to 6 times per year if needed.

	Name	address	years
1	Janice Pask	56599 Tish Trail	10
2	Eva Hasek	56567 Tish Trail	24
3	Karel Hasek	56567 Tish Tr	24
4	Catherine Prosk	56523 Tish TR	25
5	Douglas Prosk	" "	25
6	Shirley Heil	56523 Nelson Ave.	36
7	DENNIS PASK	56599 TISH TRAIL	10
8	Douglas G Magee	56612 NELSON	2.5
9	Margaret L Magee	56612 Nelson	2.5
10	Jos Stone	56424 NELSON	10
11	[illegible]	56424 Nelson	10

Boulder Ridge neighbors section 26

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Name	address	years
Edward W Gardisty	56648 Plaza Del Amigo	12
Mary Ann Benson	56724 Plaza del Amigo YV	10
Linda McCarter	56623 Tish Trl	26
David McCarter	56623 Tish Trl	26
Edward J Tucker	6262 HOOT OWL TR	25
Rosemary Flores	6262 HOOT OWL TR	1
Carlos Flores	6262 HOOT OWL TR	4
ERNIE & BEVERLY SANS — SIGNED ANOTHER LETTER OF THIS KIND.		
TOBY & BEVEREE LARSSON	6020 Grand AVE YV	7
BARBARA NICHOL	5939 DEERHORN AVE & PLAZA DEL AMIGO	7
Kathleen Harrison	56825 Plaza Del Amigo	16

Boulder Ridge neighbors section 26

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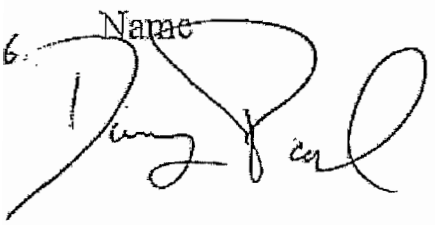
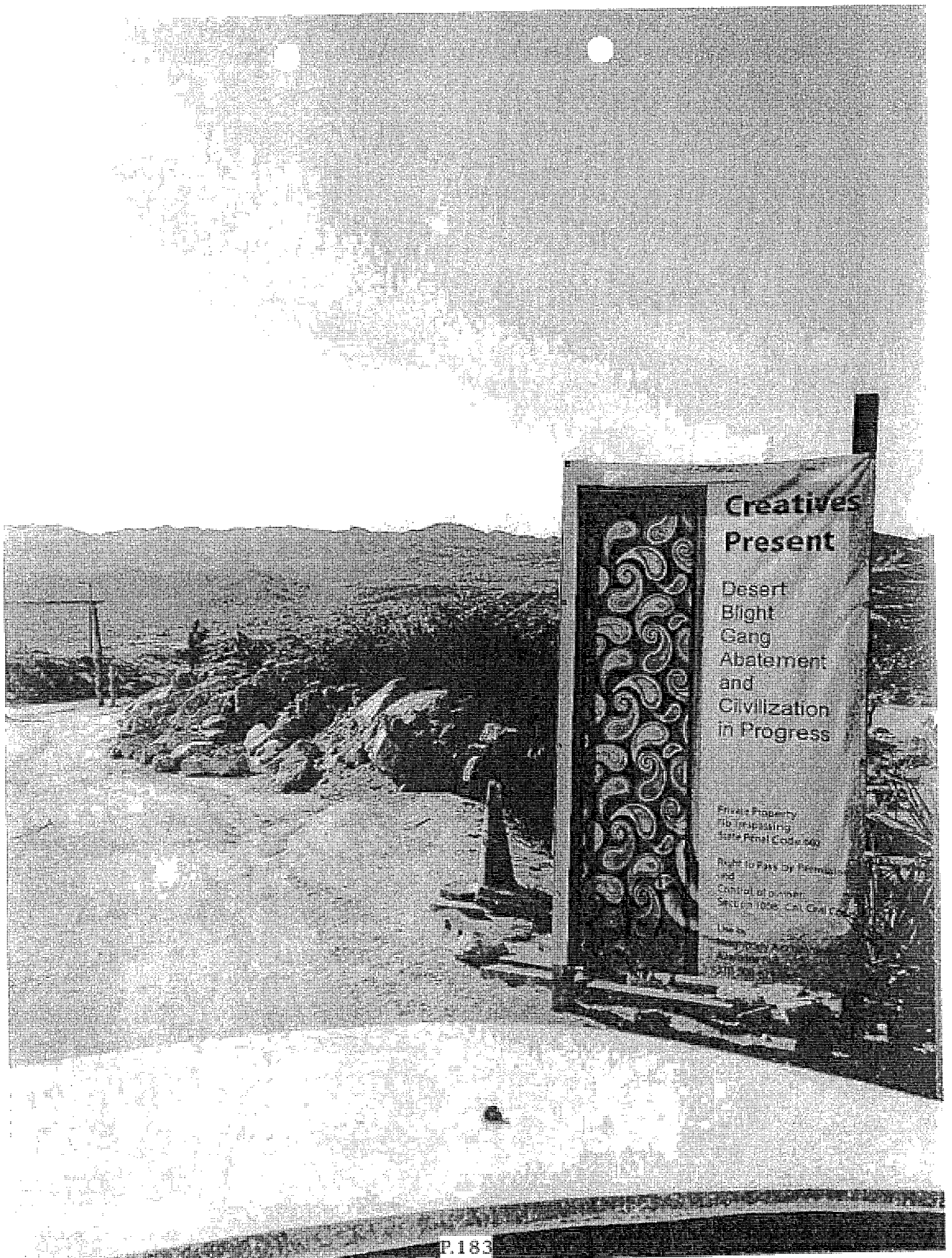
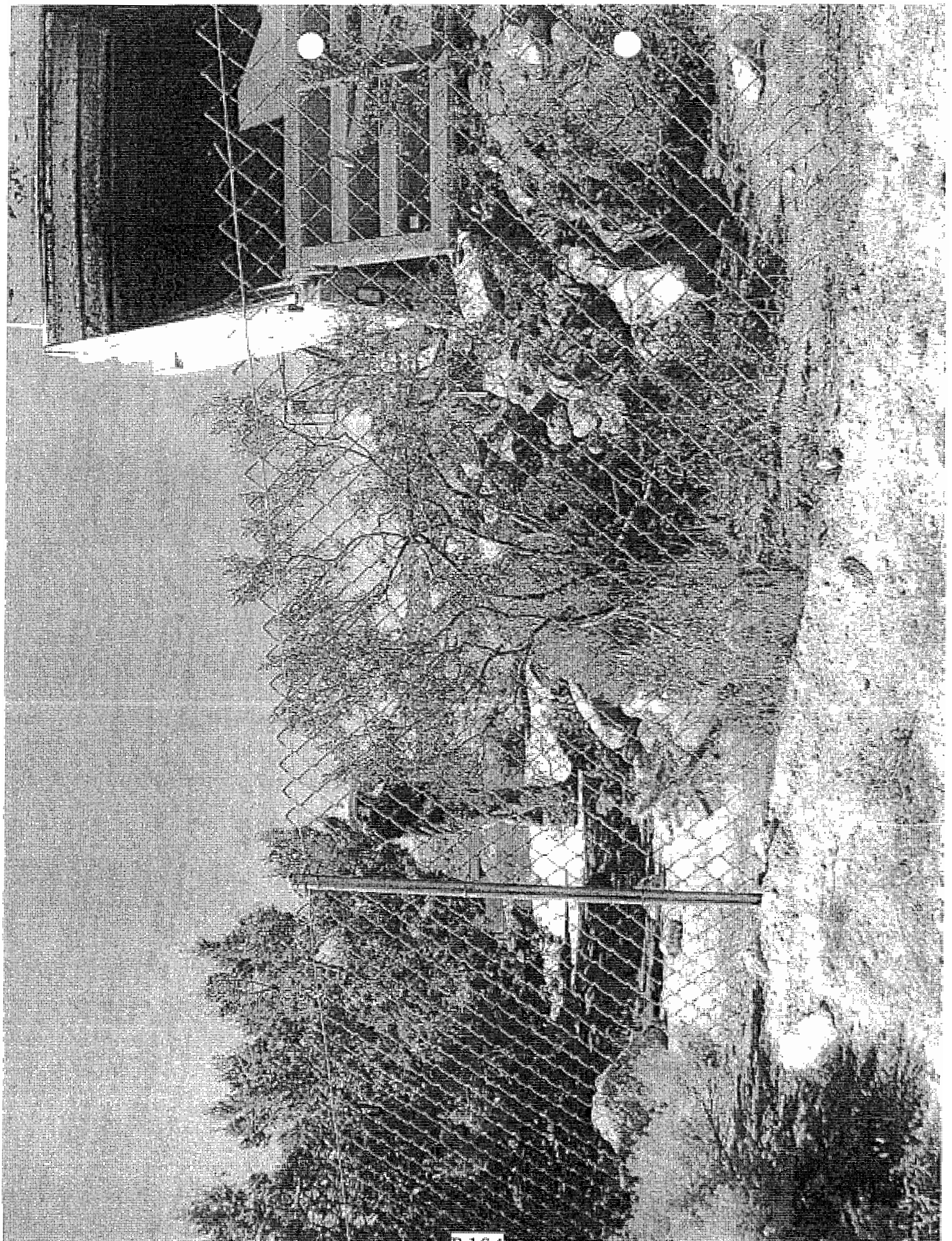
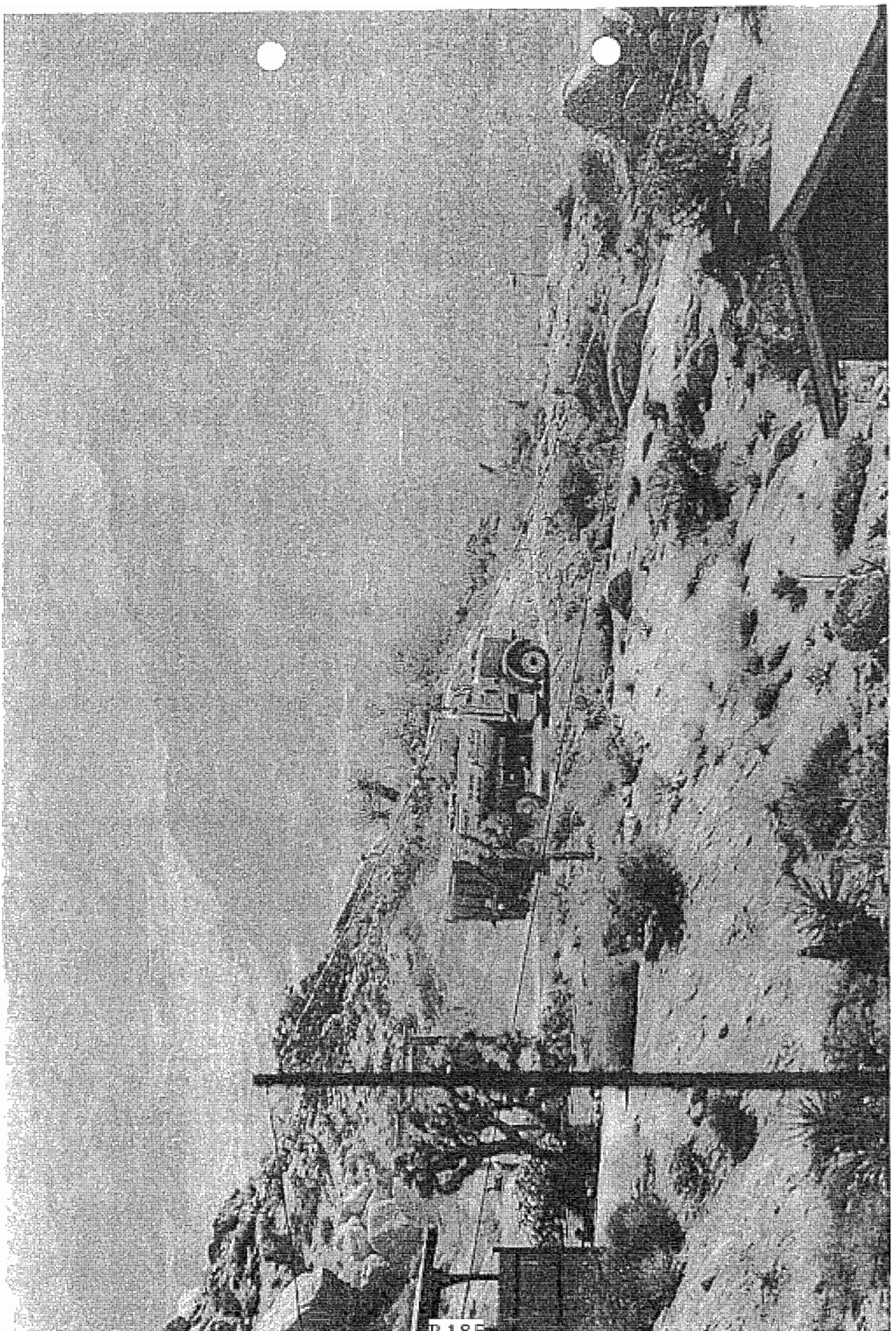
	Name	address	years
6.		56860 Plaza Del Anzo	33


Creatives
Present
Desert
Blight
Gang
Abatement
and
Civilization
in Progress





Fritz Koenig
1819 Polk Street, # 227
San Francisco, CA 94109
310-508-8794
fritzkoenig@hushmail.com

May 29, 2014 DELIVERED BY HAND TO PLANNING COUNTER

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

re: submittal advice of Notice of Appeal and Opposition for filing
in Packet for June 10, 2014 Planning Commission Hearing of Application for Renewal of HOP 11-05

Dear Ms. Olsen:

Attached please find a paper copy of the "Notice of Appeal and Notice of Opposition" dated March 28,2014 which I hereby submit for filing into the Planning Commission Packet for Hearing of Application for Renewal of HOP 11-05.

Please state whether Town of Yucca Valley intends to honor this request.

Sincerely,

Fritz Koenig

attached: 25 page Notice of Appeal and Notice of Opposition which includes copy of pending legal action

Fritz Koenig
1819 Polk Street, #227
San Francisco, CA 94109

March 28, 2014
By MAIL and EMAIL

NOTICE OF APPEAL
NOTICE OF OPPOSITION

Mr. Shane Stueckle
Acting Town Manager
And Director of Community Development
Town of Yucca Valley
57090 Twenty-Nine Palms Highway
Yucca Valley, CA 92284

RE: HOP 11-5
David J. Falossi, dba Falossi Studios
Assessor's Parcel Number 0596-101-12

Dear Mr. Stueckle:

A)

Notice is hereby tendered of "appropriate legal action to abate such violations" as those terms are used in Yucca Valley Development Code 84.0601(c). See attached so called "PAGA-Private Attorney General Action[1]" San Bernardino Superior Court Complaint CIVDS1314309 with causes of action against Falossi Studios, David Falossi, et. al. *inter alia* for unlawful business practices in violation of Business and Professions Code 17200 *et. seq.*, Public Nuisance, etc.

Yucca Valley Development Code 84.0601(c) states:

> "Special Use Permit applications shall be denied if there are any violations of San Bernardino County Code Division 3, Chapters 1 through 11 on the property for which the application is filed and **appropriate legal action will be taken to abate such violation.**" (emphasis added)

Yucca Valley Development Code 84.0601(e) states:

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[1] So called "private attorney general actions-PAGA" are lawsuits where private citizens may stand on behalf of the general public to protect the rights of the public. They can be much the same form and substance as a judicial action Towns may file to enforce violations of municipal and zoning code. Likewise, in the case of violation of law and municipal code by businesses, the Town of Yucca Valley may upon its own volition deploy the provisions of Business and Professions Code 17200 *et. seq.* to carry out the Charter of the Town to provide for the health, safety, and welfare of the public.

> "Special Use Permits **shall be renewed annually**, unless otherwise specified by this chapter and inspections will be conducted by the Department of Environmental Health Services prior to each annual renewal."

Yucca Valley Development Code 84.0601(b) states:

> "Failure to comply with all conditions of this section **shall render the Special Use Permit to be null and void** and subject to all enforcement, criminal and civil penalty provisions of this Development Code and all other remedies and penalties provided by law, and are not limited or superceded by these sections."

Falossi Studios and David Falossi has failed and is currently failing[2] to comply with conditions of Yucca Valley Development Code Section 84.0601, the sections to which 84.0601 explicitly *or implicitly* refers , and other sections of the code. Since "the word 'shall' connotes a mandatory or directory duty" Woodbury v. Brown-Dempsey, 134 Cal. Rptr. 2d 124, 127, HOP 11-05, the Town of Yucca Valley **has and had no authority** to treat HOP 11-05 as vivid, effective, in force, or operative, or anything but "null and void" since the date of violation of the conditions of HOP 11-05.

B) CONTINUING VIOLATIONS

1) Storage of Raw Materials

Most pertinent evidence of violation perhaps because they literally provide tons of evidence of violation which can not be easily hidden or moved are the multiple huge (often 5x5x10 feet) blocks of stone raw materials stored on the Falossi residential parcel in plain view of neighboring property which are raw materials for operations conducted on that parcel.

Storage of such material has NEVER been authorized by the Town nor the County yet I am now informed such raw materials have been stored there continuously for over 20 years to this very day. Many of said blocks are currently stored on the property as I am certain a proper inspection by the Town would reveal.

During the 2005 hearings to receive HOP 11-05, Mr. Falossi claimed said blocks were "fencing". In fact, industrial processing has converted said "fencing material" into finished goods which was sold as product of the operations of Falossi Studios.

2) Use of Industrial Equipment which is **not ancillary nor incidental to residential living.**

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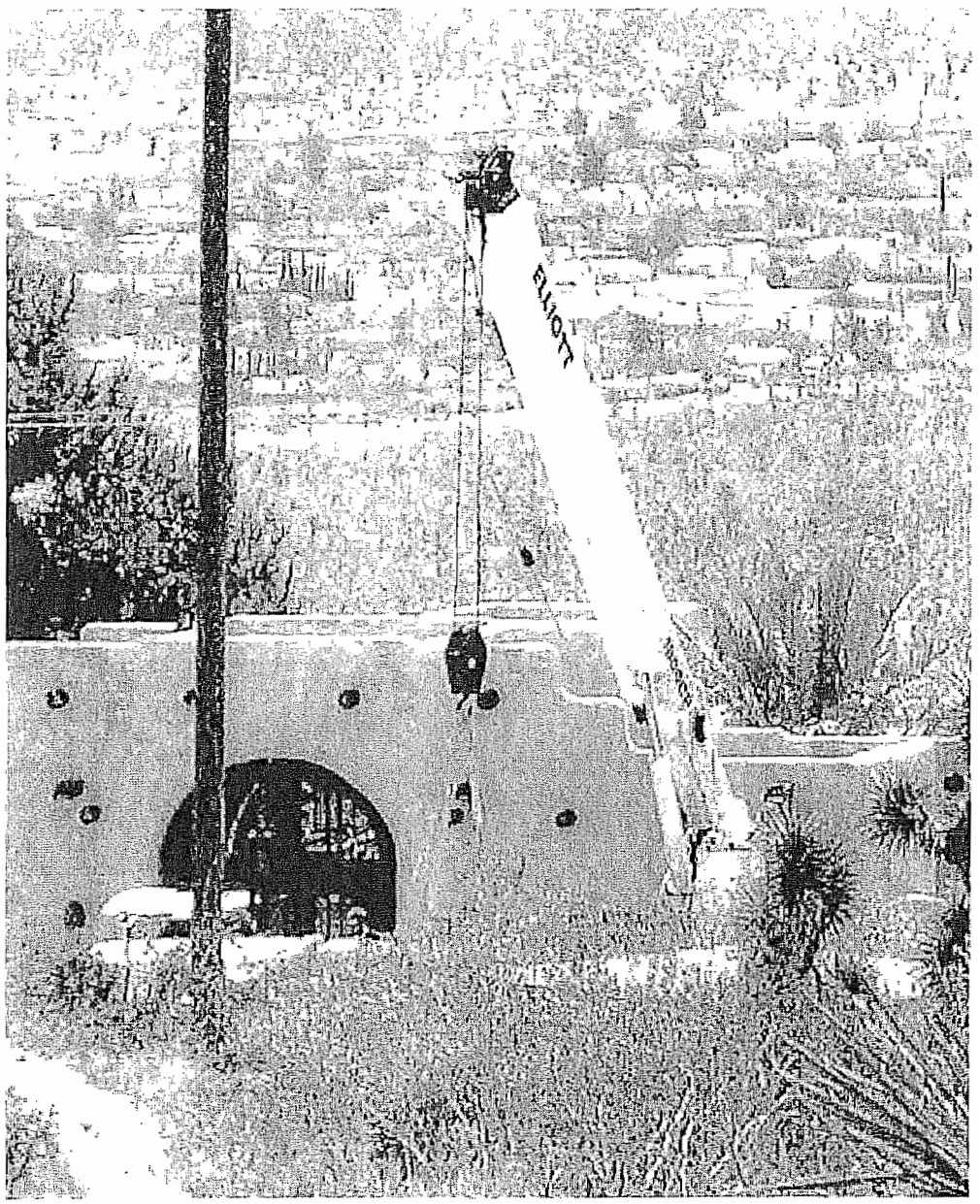
[2] See letters dated March, 3, 2014 and December 16, 2013 from Attorney John B. Barriage to Shane Stueckle stating numerous violations.



Heavy lifting crane in operation at situs of HOP 11-05.

27,000 pound Forklift used at situs of HOP 11-05, on public streets, and on property of adjacent parcels not owned by David Falossi (owned by Nora Fraser, Fritz Koenig, and others.)

C) CURRENT APPLICATION FOR RENEWAL

I am informed by Planning Technician Diane Olsen (as of Wednesday March 27, 2014) that the Town is holding a check from Mr. Falossi towards payment of fees to renew HOP 11-05 which expired March 25, 2014.

(I have previously lodged my opposition to same renewal and asked for procedures to oppose the renewal BEFORE the renewal takes place. The Town has failed to respond to said request. I have also requested whatever documents exist related to Mr. Falossi's latest application for renewal. I was told there are none.)

If the Town is still considering a renewing HOP 11-05 past its expiration of March 25, 2014, I repeat my objection to the renewal on the grounds that violations continue to exist, "appropriate legal action to abate such violations" are in progress, past violations voided HOP 11-05, past decisions to renew HOP 11-05 are themselves void, and the Town does not have authority to renew HOP 11-05.

If the Town has renewed HOP 11-05, I wish to appeal said decision. Please provide any required forms and procedures needed to perfect such appeal.

CONCLUSION

Since the operations of HOP 11-05 have been in violation during the entire period the Town has been considering renewal of the permit, are not characteristic of any Single Family Residential zones, and "appropriate legal action will be taken to abate such violation", the application for renewal of Special Use Permit HOP 11-05 **shall be denied.** (Yucca Valley Development Code 84.0601(c)).

Sincerely,

Fritz Koenig

cc. Attorney John B. Barriage
Attachment: San Bernardino Superior Court Complaint CIVDS1314309

SCANNED
ORIGINAL

FILED
SUPERIOR COURT
COUNTY OF SAN BERNARDINO
SAN BERNARDINO CIVIL DIVISION
NOV 25 2013
BY Gloria M. Greco
GLORIA M. GRECO, DEPUTY

John B. Barriage, SBN 120462
Attorney at Law
35784 Highway 18, Suite C
Lucerne Valley, CA 92356
(619) 364-6537
johnbarriage@aim.com

Attorney for Plaintiff
FRIEDERICH KOENIG

TRIAL SETTING CONFERENCE
Hearing Set for:
Date: 5/30/14
Time: 8:30am
Dept: S34

FILED BY FAX

SUPERIOR COURT OF CALIFORNIA
SAN BERNARDINO COUNTY
SAN BERNARDINO DISTRICT

131125-2017 $435.00

FRIEDERICH KOENIG Plaintiff, vs. DAVID JOSEPH FALOSSI, ELENA KUSKEY FALOSSI, FALOSSI STUDIOS, ADAM FALOSSI, DOES 1-100, Inclusive. Defendants.	Case No.: CIVDS1314309 COMPLAINT (PUBLIC NUISANCE, PRIVATE NUISANCE, TRESPASS, UNFAIR BUSINESS PRACTICES B&P SECTION 17200 ET SEQ)

COMMON FACTS AS TO ALL CAUSES OF ACTION

1. Plaintiff FRIEDERICH KOENIG is an individual with ownership interest in three parcels of residential property located in the Town of Yucca Valley in the County of San Bernardino of California. Plaintiff's residential property is identified as San Bernardino County Assessor's Parcel Numbers 0596-101-05-0-00, 0596-101-23-0-00, and 0596-101-19-0-00. Plaintiff's residential property is zoned R-L 5 (R-L for "Rural Living") for single family residential use.

2. Defendants DAVID JOSPEH FALOSSI and ELENA KUSKEY FALOSSI, married individuals, own and reside in residential property located in the incorporated Town of Yucca Valley in the County of San Bernardino of California. Defendant's residential property is identified as San Bernardino County Assessor's Parcel Number (0596-101-12-0-000) (FALOSSI PROPERTY). This residential property is zoned R-L 5 (R-L for "Rural Living") for single family residential use.

3. Defendant FALOSSI STUDIOS, also known as FALOSSI SCULPTURE STUDIOS, is a business entity unknown that operates a business located on the FALOSSI PROPERTY.

4. Defendant ADAM FALOSSI is believed to be an employee of Defendant FALOSSI STUDIOS and is sued as an agent or employee thereof.

5. Defendants DOES 1-100, inclusive, are persons and or entities unknown who are believed to be employees, agents, invitees, or guests of Defendants DAVID JOSEPH FALOSSI, ELENA KUSKEY FALOSSI, ADAM FALOSSI, and or FALOSSI STUDIOS. Plaintiff will amend his Complaint to state their true names and capacities when ascertained.

6. Plaintiff's and Defendants' single family residential properties are regulated by Town of Yucca Valley, an incorporated municipality, and its development code section 84.0320 relating to Rural Living ("RL"). More particularly the zoning for the FALOSSI PROPERTY is zoned RL-5; and the permitted use for the RL-5 zone is primarily single family residential or as otherwise permitted by code.

7 Defendants DAVID JOSEPH FALOSSI, ELENA KUSKEY FALOSSI, and FALOSSI STUDIOS operate on their single family residentially zoned property a commercial business described by David Falossi as an "artist's studio", more accurately described as a commercial and industrial business engaged in commercial and industrial activities including but not limited to fabricating metal, stone and glass into heavy multi-ton and large format sculpture. Said fabrication is effected *inter alia* by on-site welding, processing with chemicals, and machining. Welding and machining of metal is an integral part of the fabrication which was and is a continuing occurance on the Falossi single family residentially zoned property. Additionally, a flatbed delivery truck exceeding 20 feet in length, a rider fork-lift with internal combustion engine, and a hoisting crane are permanently stationed on the Falossi's single family residentially zoned property. Specially procured large cranes are routinely required to effect the transportation of items that weigh multiple tons that are fabricated on the property. Exhibit 1 is a photograph capturing such a large crane operating on Defendants' single family residentially zoned property.

8. Defendants advertise and distribute on the Internet the commercial and industrial uses of their single family residentially zoned property and market the products fabricated on their single family residentially zoned property by and through the Internet and at various shows. Defendants also advertise and market and hold out to the public, using the Internet, that their single family residentially zoned property is a "sculpture museum."

9. Defendants' commercial and industrial use of their single family residentially zoned property is far and beyond uses that are accessory and incidental to the residential use and alters the surrounding residential neighborhood and is deleterious to Plaintiff's use, enjoyment and value of Plaintiff's single family residentially zoned property.

10. As a result of Defendants' use of their single family residentially zoned property for commercial and industrial uses, Plaintiff's quiet enjoyment and use of his residentially zoned, and residentially used property has suffered as follows:

a) alteration of the residential character of the single family residentially zoned neighborhood surrounding Plaintiff's residential properties in ways inconsistent

with the goals and objectives of the General Plan, and the development code, by the Defendant's creation of characteristics more closely associated with commercial, office or industrial land use activities immediately adjacent to and on Plaintiff's property.

b) Plaintiff's sense of hearing has been offended such that he has been forced from sleep before 7AM due to the sounds of metal-to-metal clanking of industrial waste disposal bins exceeding dimensions of 6 by 4 by 3 feet and made of metal banging against the metal armature of large garbage trucks specially ordered by Defendants, with the attendant sounds of throwing waste into these bins. These sounds far exceed the volume and characteristics of sounds of normal domestic trash collection and these offensive sounds occur on days when normal domestic trash collection does not occur.

c) Plaintiff's sense of sight has been offended by the images which are clearly visible from surrounding properties, including Plaintiff's recreational and dining promontory of outside storage of business related stock, merchandise, scrap supplies, and other materials or equipment some of which weighs multiple tons located on the Falossi premises and traversing Plaintiff's property.

d) Plaintiff's ingress and egress related to Plaintiff's parcels 0596-101-23-0-00, and 0596-101-19-0-00 have been blocked by Defendant's use of Plaintiffs property for loading and unloading materials appurtenant to Defendant's business, e.g. numerous heavy pieces of metal bars, sheets, rods, tubes, panels, etc. exceeding length of ten feet.

e) Within the last 2 years and before that, Plaintiff's senses of hearing or vision have been offended and Plaintiff's peace was disturbed between the hours of 7

am - 8 pm and over several days including weekends by several episodes of several continuous hours of the sounds and/or images of industry such as: metal being cut, ground, or otherwise processed—whine, screech, scratch, bang, etc.; industrial equipment being cleaned; the internal combustion engine of rider fork-lifts operating, loading and unloading of objects weighing multiple tons attendant with shouts of employees communicating with each other and the vendors; impulse noise of impact of objects.

f) Diminution of value of Plaintiff's residentially zoned parcels 0596-101-05-0-00, 0596-101-23-0-00, and 0596-101-19-0-00.

g) Plaintiff's safety and Plaintiff's freedom from fear has been threatened by the driving of vehicles for commercial purposes at unsafe speeds on blind corners of a driveway Plaintiff must use for ingress and egress access to Plaintiff's property, and Plaintiff's vehicles driven at unsafe speeds for uses accessory to residential use have likewise threatened Plaintiff's safety and threaten Plaintiff's freedom from fear.

h) Plaintiff's property characteristic of background noise level lower than normal noise levels found in single family residentially zoned districts is routinely interrupted by low frequency audible noise caused by Defendants which is appropriately described as a "rumble" lasting up to 90 seconds in duration which so alarms the occupants of Plaintiff's house that they wonder whether an earthquake has arrived due to the similarity of the noise to that of an actual earthquake starting. Plaintiff and occupants are so alarmed even when all windows of the house are closed.

i) excessive and overly burdensome damage by application of extraordinary weight of loaded commercial vehicles upon the substructure of the driveways owned by Plaintiff.

11. As a result of Defendants' business operations on the single family residentially zoned FALOSSI PROPERTY, Defendants' suppliers, vendors, employees, customers, and Defendants' commercial vehicles traverse private driveways located on Plaintiff's single family residentially zoned property for purposes of servicing the commercial and industrial activities on the Falossi property. Some of these commercial vehicles are not normally associated with residential uses such as that depicted by the photograph (Exhibit 2) of a flatbed commercial delivery truck carrying a multi-ton object used for Falossi's commercial business traversing Plaintiff's single family residential zone property to access the Falossi single family residentially zoned property.

12. Plaintiff has been harmed in that he has lost property because Defendants' commercial and industrial use of their single family residentially zoned property has diminished the value of Plaintiff's single family residentially zoned and used property.

13. On October 7, 2005 Plaintiff David Joseph Falossi filed with the Town of Yucca Valley an application for a Home Occupation Permit (Home Occupancy Permit "HOP" -11-05) for commercial use of the FALOSSI PROPERTY, as described in the Staff Report to the Town of Yucca Valley for December 5, 2005 hearing on HOP application HOP-11-05 page 20 ("Staff Report"), for "purposes of establishing an artist studio within a single family residence."

14. The Staff Report identified the "Existing Land Use" as "RL-5, Rural Zoning" for the FALOSSI PROPERTY as well as "the properties surrounding (Staff Report pp. 20, 22).

15. "The applicant (Defendant David Joseph Falossi) has stated that tools such as a polisher, sander, drill, drill press, air compressor, belt sander, and tile saw are used in the formation of his art. There is also a forklift on the property used for material handling. The forklift and a truck on the site have been verified to weigh less than the ten thousand (10,000) lbs. and are therefore not classified as a commercial vehicle per Development Code Section 87.064 (a)." (Staff Report p. 23). The permit applications attachment further states that materials used for artwork include "Miscellaneous stone and marbles to include Onyx, Alabaster, Modeling clay, glass, Mounting bolts and glue, submersible pumps" (Staff Report p. 30). This document also states that there is a "Work shop/Garage 320 square foot with 50% storage for personal family storage, Partial use of 320 square ft. metal hay storage shed for Lapidary/Tile saw used for hay storage in inclement weather." (Staff Report p. 30)

16. The Staff Report listed fifteen (15) conditions for Defendant David Falossi to agree to as pre-conditions and pre-requisites for a grant of Home Occupancy Permit and the conditions of operating the permitted Home Occupation.

17. Based on Defendant David Falossi's agreement to the conditions mentioned above, the Town of Yucca Valley issued to Defendant David Falossi on March 24, 2005 a Home Occupancy Permit HOP-05-11 for one year subject to annual renewals.

18. Plaintiff is informed and believes and therefore alleges that Defendant David Falossi applied for and was granted additional extensions until March 24, 2010, at which time HOP-5-11 expired, and that since the expiration of the HOP-5-11 Defendant David Joseph Falossi has not reapplied for an extension.

19. Plaintiff is informed and believes and therefore alleges that since March 24, 2010, Defendant David Falossi has been operating a business on his single family residentially zoned property in violation of Town of Yucca Valley Municipal Codes, including but not limited to Section 84.0320.

20. Plaintiff is informed and believes and therefore alleges that since March 24, 2010, Defendant David Falossi has been operating a business on his single family residentially zoned property in violation of the Town of Yucca Valley Municipal Code, including Home Occupancy

Permit requirements, and in particular Town of Yucca Valley Ordinance 178 at Section 84.0615 (b).

21. Plaintiff is informed and believes and therefore alleges that prior to, and after March 24, 2010, and continuing all at times thereafter, Defendant Falossis' use of their single family residentially zoned property violated the Town of Yucca Valley Development Code Development Code Section 812.01005 established in Ordinance 212, at the definition of Home Occupancy; in that Ordinance 212 only allows Home Occupancy Permits, under Ordinance 178, for an occupation "as an accessory use within the primary dwelling unit." (Underline added for emphasis). Upon information and belief, Plaintiff alleges that at no time after the year 1990 did Defendants conduct their commercial and industrial business solely within the primary dwelling unit of their single family residentially zoned property.

22. Section 1.02.050 of the Municipal Code of the Town of Yucca states that "*any condition caused or permitted to exist in violation of any provision of this Code, or any such threatened violation, shall be deemed a public nuisance.*"

23. The conditions caused and permitted to exist as described above in paragraphs 19, 20, 21 and 22 of this Complaint constitute a nuisance per se and are grounds for abatement under California law.

FIRST CAUSE OF ACTION-PUBLIC NUISANCE

24. Plaintiff adopts by reference and incorporates paragraphs 1 through 23 of this Complaint as set forth above.

25. Defendants are, and at all times herein mentioned the persons conducting and maintaining a nuisance that is the subject of this Complaint.

26. At all times mentioned, and since March 24, 2010 Defendants and each of them, have occupied, used and maintained the FALOSSI PROPERTY for the purpose of conducting a commercial and industrial use on single family residentially zoned property and this use is a public nuisance pursuant to section 1.02.050 of the Town of Yucca Valley Municipal.

27. Defendants will unless restrained by this court, continue to operate, use and maintain the FALOSSI PROPERTY as a nuisance and continue the acts complained of, in violation of the rights of the public and the in violation of the rights of the Plaintiff.

28. Defendants' nuisance affects, at the same time, a considerable number of persons living in the adjunct RL-5 neighborhood in that Defendants' uses that are neither accessorial nor incidental to their residential use and such use alters the character, density, and quality, of the surrounding residential neighborhood as well as causes special injury to Plaintiff as described in this Complaint's Paragraph 10 parts (b), (c), (d), (e), (f) , (g), (h), which are incorporated herein.

29. As a proximate result of the nuisance created and maintained by Defendants, Plaintiff has been, and will be, damaged in that Defendant's operation, use, and maintenance of their single family residentially zoned property for commercial and industrial uses is a nuisance per se and have caused diminution of the value of Plaintiff's single family residentially zoned property. Plaintiff will establish his damages at the time of trial.

30. Plaintiff has no plain, speedy, or adequate remedy at law, and seeks injunctive relief including a temporary restraining order, preliminary injunction, and permanent injunction, to enjoin and abate Defendants' operation, use, and maintenance of their single family single family residentially zoned property for commercial and industrial uses in violation of the law as a public nuisance.

31. Plaintiff seeks attorney's fees for bringing this action to enforce the applicable municipal codes of Town of Yucca Valley primarily on behalf of the public, as allowed under California Code of Civil Procedure section 1021.5.

SECOND CAUSE OF ACTION-PRIVATE NUISANCE

32. Plaintiff adopts by reference and incorporates paragraphs 1 through 31 of this Complaint set forth above.

33. Civil Code section 3479 defines as a private nuisance:

> **"Anything which is injurious to health, including, but not limited to, the illegal sale of controlled substances, or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to**

interfere with the comfortable enjoyment of life or property ..."

(underline added for emphasis)

34. Since March 24, 2010 Defendants, and each of them have conducted their business on single family residentially zoned property in such as manner as to constitute a private nuisance, as defined in Civil Code section 3479, as described in this Complaint's Paragraph 10 parts (a), (b), (c), (d), (e), (f) , (g), (h), (i) which are incorporated herein and are generally injurious to Plaintiff's health, are offensive to the senses, and interfere with Plaintiff's comfortable enjoyment of life and property.

35. Plaintiff has no plain, speedy, or adequate remedy at law, and seeks injunctive relief including a temporary restraining order, preliminary injunction, and permanent injunction, to enjoin and abate Defendants' operation, use, and maintenance of their single family residentially zoned property for commercial and industrial uses.

36. Plaintiff seeks damages in an amount to be proved at trial for his personal injuries.

THIRD CAUSE OF ACTION-TRESPASS

37. Plaintiff adopts by reference and incorporates paragraphs 1 through 36 of this Complaint as set forth above.

38. During the past three years and without plaintiff's consent, Defendants have unlawfully used their single family residentially zoned (RL-5) property for commercial and industrial uses and have as a result, and without plaintiff's consent, caused Defendants' suppliers, vendors, customers, and Defendants' use of their own commercial vehicles for commercial purposes to traverse private driveways located on plaintiff's single family residentially zoned property.

39. As a proximate result of result of Defendants' conduct causing and allowing trespassory conduct (i.e. causing commercial vehicular traffic as described above) plaintiff's quiet enjoyment of his real property has diminished and such trespasses also impose additional burdens on plaintiff's real property such as destruction of structural integrity of driveway substrate, and crushing of vegetation.

40. The aforementioned acts of the Defendants were willful and oppressive or fraudulent in that in that Defendants were intentionally operating a commercial business on single family residentially zoned property, causing trespass to plaintiff's real property by persons operating commercial vehicles for commercial purposes. Defendants knew of plaintiff's use of his real property for residential purposes and disregarded his use and quiet enjoyment of plaintiff's property, moreover such use was fraudulent and oppressive in that Defendants engaged in a commercial and industrial use of the FALOSSI PROPERTY under the guise of a Home Occupancy Use, when such use was, and is in violation of the laws and ordinances of Town of Yucca Valley. Accordingly, plaintiff seeks punitive and exemplary damages in an amount to be proved at trial.

41. Defendant's wrongful conduct in using and maintaining the FALOSSI PROPERTY as a commercial and industrial use, with its attendant causation of repeated and continuing trespass to plaintiff's single family residentially zoned property, unless and until enjoined and restrained by order of this court will cause great and irreparable injury through the ongoing injury and will deprive plaintiff of his quiet enjoyment of his own residential property and peace of mind.

42. Plaintiff has no adequate remedy at law for the injuries incurred by him in that Defendants will continue to maintain and use the single family residentially zoned FALOSSI PROPERTY for commercial and industrial uses causing the repeated and continuing trespass of commercial use vehicles across plaintiff's single family residentially zoned property.

FOURTH CAUSE OF ACTION-UNLAWFUL BUSINESS PRACTICES-

(BUSINESS & PROFESSIONS CODE 17200 et. seq.)

43. Plaintiff re-alleges and adopts by reference and incorporates paragraphs 1 through 42 of this Complaint as though fully set forth herein.

44. As described above, Defendants have and continue to operate, use, and maintain their single family residentially zoned property for commercial and industrial uses in violation of the zoning laws of the incorporated Town of Yucca Valley

45. Such acts as described above constitute unlawful, unfair, and fraudulent acts and Practices prohibited by Business and Professions Code sections 17200 *et seq*.

46. Plaintiff has standing to bring this cause of action in that he has lost property, in particular diminution of his property's value, as well as physical damage to his property in an amount to be proven at trial.

47. Plaintiff seeks to abate Defendants' violations and therefore seeks injunctive relief as allowed under Business and Professions Code section 17203.

48. Plaintiff seeks attorney's fees for bringing this action primarily for the benefit of the public, as allowed under California Code of Civil Procedure section 1021.5.

WHEREFORE PLAINTIFF PRAYS FOR RELIEF AS FOLLOWS;

FIRST CAUSE OF ACTION:

1. For damages in an amount to be proved at trial.

2. For injunctive relief including a temporary restraining order, preliminary injunction, and permanent injunction.

3. For attorney fees for bringing this action primarily to benefit the public as allowed under Code of Civil Procedure section 1021.5

4. For costs of the suit.

5. For such other and further relief as this court deems just and proper.

SECOND CAUSE OF ACTION

1 For damages in an amount to be proved at trial.

2. For injunctive relief including a temporary restraining order, preliminary injunction, and permanent injunction.

3. For costs of the suit.

4. For such other and further relief as this court deems just and proper.

THIRD CAUSE OF ACTION

1 For damages in an amount to be proved at trial.

2. For punitive and exemplary damages.

3. For injunctive relief including a temporary restraining order, preliminary injunction, and permanent injunction.

4. For costs of the suit.

5. For such other and further relief as this court deems just and proper.

FOURTH CAUSE OF ACTION

1. For injunctive relief including a temporary restraining order, preliminary injunction, and permanent injunction.

2. For attorney fees for brining this action primarily to benefit the public as allowed under Code of Civil Procedure section 1021.5

3. For costs of the suit.

4. For such other and further relief as this court deems just and proper.

Dated: November 24, 2013

John B. Barriage, Attorney for Plaintiff

VERIFICATION

I, FRIEDERICH KOENIG, am the plaintiff in the above-entitled action. I have read the foregoing Complaint and know the contents thereof. The same is true of my knowledge, except as to those matters that are therein alleged on information and belief, and as to those matters, I believe it to be true. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed in San Francisco, CA on November 25, 2013

Friederich Koenig

EXHIBITS

EXHIBIT 1

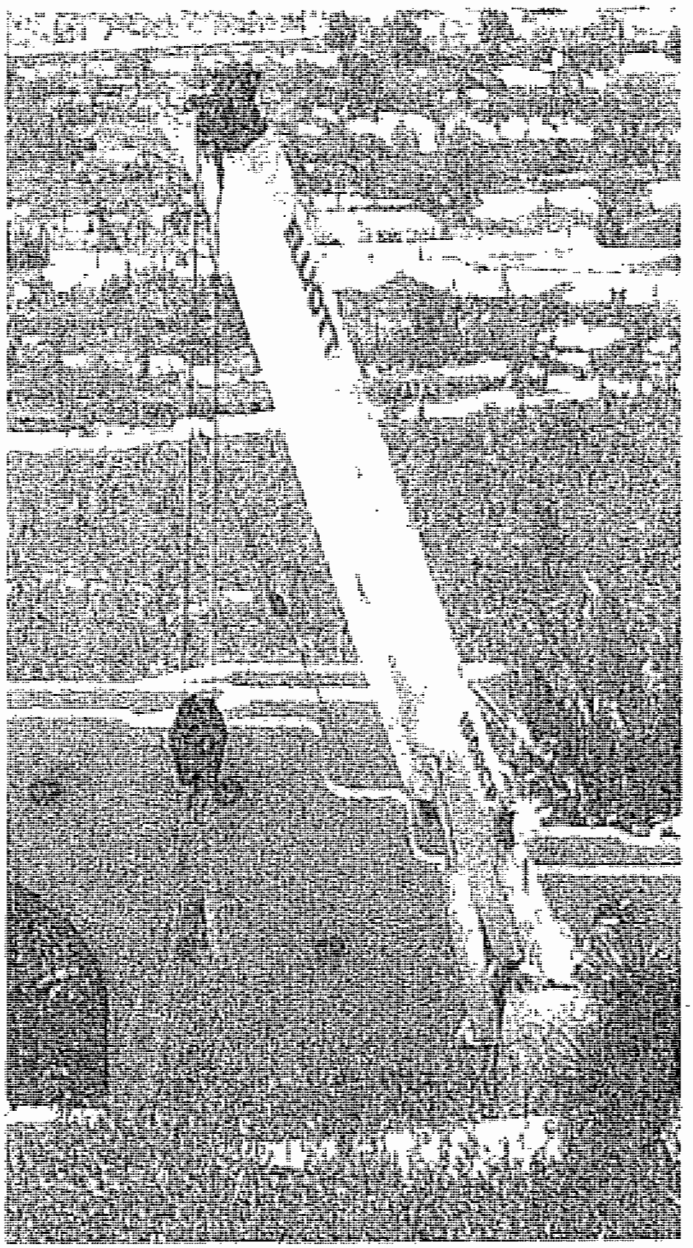


Exhibit 1

EXHIBIT 2

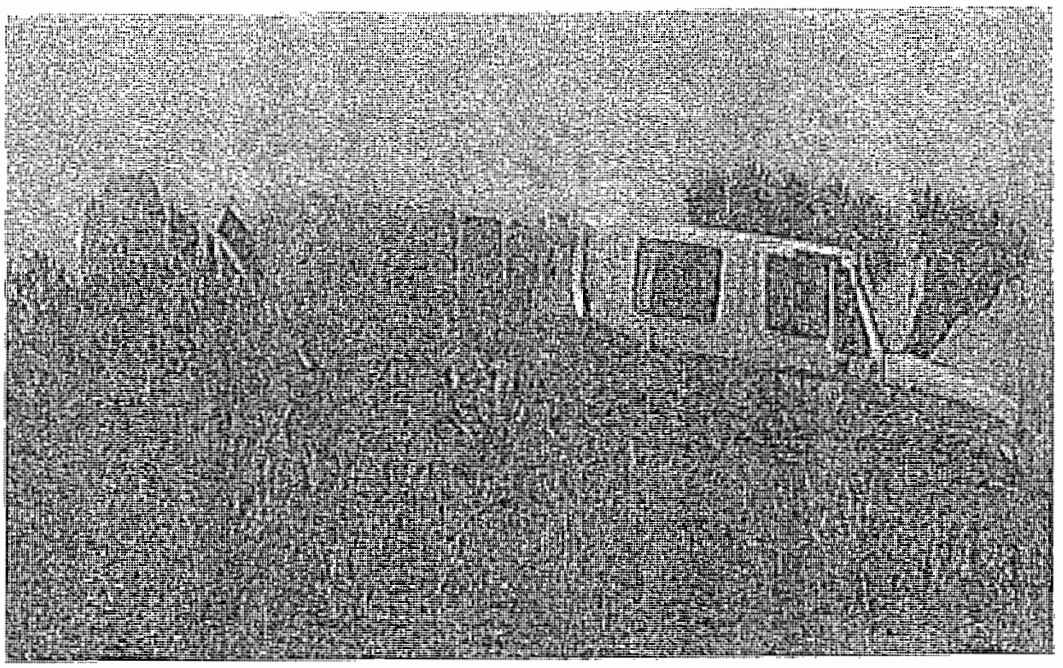


Exhibit 2

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN BERNARDINO

SCANNED

SAN BERNARDINO CIVIL DIVISION
303 WEST THIRD STREET
SAN BERNARDINO, CA 92415-0210

CASE NO: CIVDS1314309

NOTICE OF TRIAL SETTING CONFERENCE
and NOTICE OF CASE ASSIGNMENT

IN RE: KOENIG-V-FALOSSI

THIS CASE HAS BEEN ASSIGNED TO: JOHN M PACHECO IN DEPARTMENT S34 FOR ALL PURPOSES.

Notice is hereby given that the above-entitled case has been set for Trial Setting Conference at the court located at 303 West Third Street San Bernardino, CA.

HEARING DATE: 05/30/14 at 8:30 in Dept. S34

DATE: 11/25/13 Stephen H. Nash, Clerk of the Court
By: GLORIA GRECO

CERTIFICATE OF SERVICE

I am a Deputy Clerk of the Superior Court for the County of San Bernardino at the above listed address. I am not a party to this action and on the date and place shown below, I served a copy of the above listed notice:
( ) Enclosed in a sealed envelope mailed to the interested party addressed above, for collection and mailing this date, following standard Court practices.
( ) Enclosed in a sealed envelope, first class postage prepaid in the U.S. mail at the location shown above, mailed to the interested party and addressed as shown above, or as shown on the attached listing.
(X) A copy of this notice was given to the filing party at the counter
( ) A copy of this notice was placed in the bin located at this office and identified as the location for the above law firm's collection of file stamped documents.

Date of Mailing: 11/25/13
I declare under penalty of perjury that the foregoing is true and correct. Executed on 11/25/13 at San Bernardino, CA

BY: GLORIA GRECO

civ-ntsc-20130417

Notice 'NTSC' has been printed for the following Attorneys/Firms
or Parties for Case Number CIVDS1314309 on 11/25/13:

JOHN B BARRIAGE
35784 HIGHWAY 18 SUITE C
LUCERNE VALLEY, CA 92356

SCANNED

Fritz Koenig
1819 Polk Street, # 227
San Francisco, CA 94109
310-508-8794
fritzkoenig@hushmail.com

May 29, 2014 DELIVERED BY HAND TO PLANNING COUNTER

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

re: submittal advice of Land Use Report for filing
in Packet for June 10, 2014 Hearing of Application for Renewal of HOP 11-05

Dear Ms. Olsen:

Attached please find a paper copy of the "Land Use Report to Yucca Valley Town Council Meeting April 1" which I hereby submit for filing into the Planning Commission Packet for Hearing of Application for Renewal of HOP 11-05.

Please state whether Town of Yucca Valley intends to honor this request.

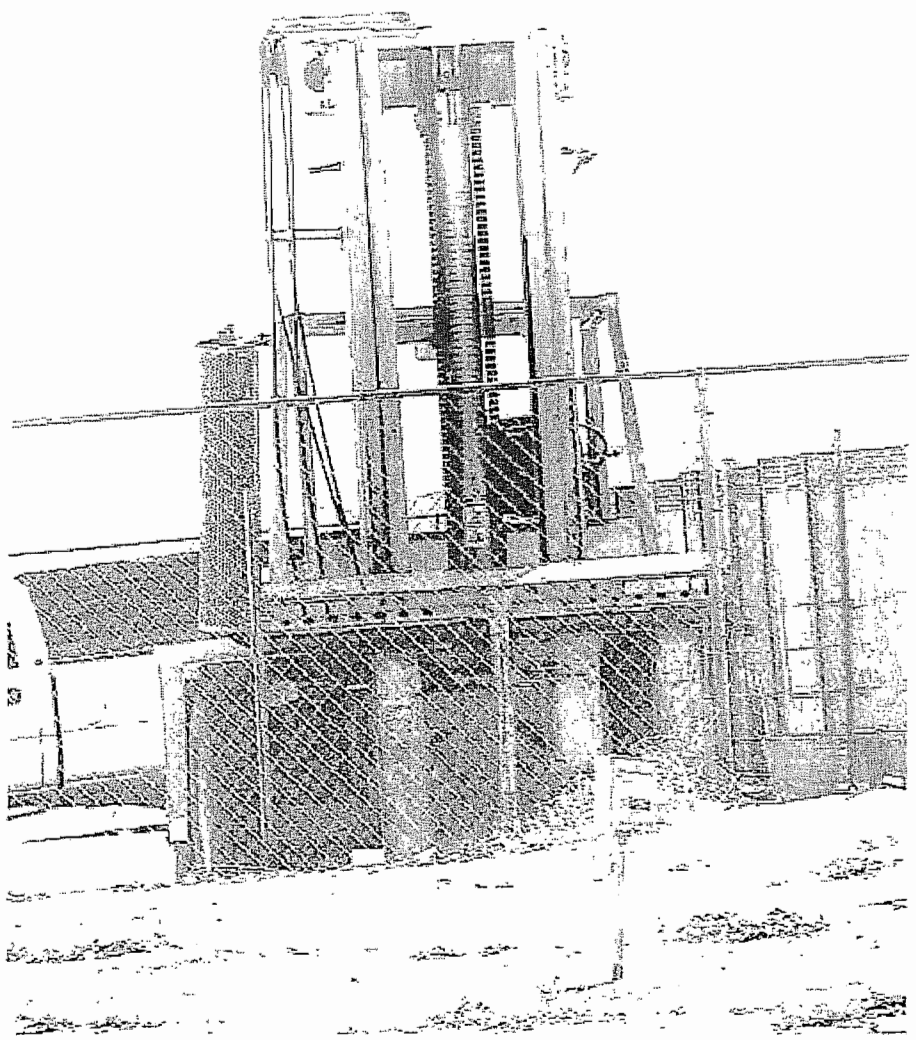
Sincerely,

Fritz Koenig

attached: 70 page Land Use Report

Land Use Report to Yucca Valley Town Council Meeting April 1, 2014 by Fritz Koenig

HOP 11-05



John B. Barriage, CSBN 120462
Attorney at Law
35784 Highway 18
Lucerne Valley, CA 92356
(619) 364-6537
johnbarriage@aim.com

April 1, 2014 Delivered to Meeting

To the Honorable Mayor Robert Lombardo
And Honorable Members of the Yucca Valley Town Council
Town of Yucca Valley, CA
57090 Twenty-Nine Palms Highway
Yucca Valley, CA 92284

Dear Mayor Lombardo and Council Members:

I am counsel for Mr. Friederich Koenig property owner of residentially zoned property with the zoning designation of R-L-5 within the jurisdiction of the Town of Yucca Valley. My client's property is described as Assessor's Parcel Number 0596-101-12-0-000.

This letter is to introduce my client's report relating to Yucca Valley Home Occupancy Permit Number 11-05, issued to Mr. David Joseph Falossi. This report demonstrates, in many material regards, that Mr. Falossi is in violation of the conditions of his permit issued by the Town in late 2005.

My client's complaints about the compliance with the Home Occupancy Permit and the Town's Home Occupancy Permit Ordinance include but are not limited to the following:

(1) Failure to Timely Renew Permit Annually

Home Occupancy Permit 11-05 expired on or about March 24, 2010 and was not timely (annually) renewed. It was renewed in December 2014, over three years later. The permit has the following provision:

"CONDITIONS OF PERMIT:

Term, Expiration Date: Permits shall be issued for a one-year period. Upon expiration, the permittee may apply for a new permit in the same manner as a new application"

Moreover, under the Yucca Valley Municipal Code section 84.0615 (b) it is unlawful to operate a Home Occupancy Permit without a permit. Operating on an unrenewned permit violates this provision of the Municipal Code.

(2) **Not Accessory to Primary Dwelling Unit**.

The operation of the subject business, Falossi Studios, is not in conformance with the requirements of the Yucca Valley Development Code section 812.01005 established in Ordinance 212, at the definition of Home Occupancy Permit, under Ordinance 178, for an occupation "as an accessory use within the primary dwelling unit." Falossi Studios's fabrication of product occurs not within the primary dwelling unit, but in a workshop, within the garage and within the yard of his residentially zoned property. Under code section 812.01005, unless the occupancy is accessory use within the primary dwelling unit, it cannot be allowed.

(3) **Conditions of Permit Violated**. HOP 11-05 has 15 conditions for approval and the applicant is in violation of conditions 1, 3, 4, 5, 6, 7, 8, 12, and 14,

Condition 1 states that the establishment is for an artist studio "within a residence" and that the permit is "subject to annual review and renewal." Contrary to this condition the establishment is not within a residence, as the establishment is conducted both in a workshop contained in a detached garage and in the yard, and it was not timely renewed.

Condition 3 states that pedestrian and vehicular traffic will be limited to that normally associated with residential districts. Contrary to this condition traffic is not so limited as it includes traffic relating to heavy trucking delivering materials and transporting large and heavy fabricated objects.

This includes as the accompanying report and attached evidence documents (1) use of a heavy industrial forklift to deliver materials to and from Mr. Falossi's studios. (2) The use of a heavy-duty commercial truck (Mercedes Mog-and possibly another flat bed commercial truck, and (3) and a large tractor-truck trailer parked at Plaza Del Amigo used for loading and unloading a 27,000 lb. forklift, and (4) the transportation of sculpture objects weighing 10,000 pounds or more, creating in vehicles used for transporting such objects "gross vehicle weight" in excess of

10,000 lbs as prohibited on Yucca Valley Streets (except for designated commercial routes) in violation of Yucca Valley Municipal Code section 12.30.03.

Condition 4 states that the home occupation shall be confined to an enclosed structure, as described in the application. Contrary to this condition Mr. Falossi has at times fabricated, or at least in part, fabricated his product in the yard of this residentially zoned property.

Condition 5 states that the home occupation shall be limited to one type of occupation per residence. Prior to the filing of Mr. Koenig's lawsuit last fall Mr. Falossi advertized "Falossi Studios" as sculpture museum, appearing to have a second business at his RL-5 zoned residence.

Condition 6 states that 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. Contrary to this condition Falossi Studios has materials delivered to and from the property by use of trucks and forklifts not normally associated with residential uses, has used cranes or cranes to load product for delivery from the premises, and has used special commercial disposal services to remove debris and by-product produced on the property.

Condition 7 prohibits conducting the business in a manner that would cause the premises to differ from its residential character by use of "materials, constructions…or the emission of sounds, noises, and vibrations." Contrary to this condition the property is used in a manner that causes it to differ from the residential character in particular there are sounds and vibrations and emissions from the property including, but not limited to, clanking and pounding, sounds of drills, and vibrations from other powered tools. My client reports that there are noises and rumbles from machinery and trucks used by David Falossi.

Condition 8 states that uses of utilities and community facilities shall be limited to that normally associated with the use of the property for residential purposes. Contrary to this condition the use of utilities and community facilities by this business is not for that associated with residential use. Utilities used include industrial fabrication and by-product waste disposal of a commercial nature.

Condition 12 states that noise emanations shall not exceed fifty-five (55) dba as measured at the property lines at all times. Mr. Falossi's trucks make noise in excess of 55 dba.

There may be other condition violations as to this premise.

Based on these specified violations my client respectfully requests the following relief:

That the town revoke or rescind HOP 11-05 for violation of conditions of that HOP and for violations Yucca Valley Municipal Code section 84.0615 subpart (j).

The HOP 11-05 is in completely inconsistent with the spirit and letter of the law of the Town's zoning requirements. Accordingly, my client petitions the Town of Yucca Valley to take the required remedial efforts to abate this condition.

Sincerely,

John B. Barriage

Violations of
Conditions of Approval of
Home Occupation Permit 11-05

Conditions signed by David Falossi	Violation? (Present or Recent Past)	Evidence
1. This Home Occupation Permit, HOP-11-05, is for the establishment of an artist studio within an accessory structure located at 6229 Hoot Owl Tr. This is a permit that is subject to annual review and renewal.	Yes.	Photo of Falossi on top of Stone (BATES 58) Photo of Outside Storage (BATES 52) Permit Holder Falossi Response to Request Admissions. (BATES Page 21, Admission 25)
2. The applicant shall agree to defend, indemnify, and hold harmless the Town, or its agents, officers, or employees from any claim, action, or proceeding against the Town or its agents, officers, or employees to attack, set aside, void, or annul an approval of the Town an advisory agency, appeal board or legislative body concerning the permit or any other action relating to or arising out of such approval when such action is brought within the applicable statue of limitation.	Unknown	
3. Pedestrian and vehicular traffic will be limited to that normally associated with residential districts.	Yes.	Photos of 27,000 pound Forklift (BATES 57) Mercedes Mog Truck (BATES 54) Tractor-Trailer Truck on Public

		Street (BATES 56)
4. The home occupation shall be confined to an enclosed structure, as described in the application but shall limited be to a maximum of 250 square-feet for the purposes of operating the business.	Yes.	Photo of Falossi on top of Stone (BATES 58) Photo of Outside Storage (BATES 52)
5. The home occupation shall be limited to one type of occupation per residence.	Uncertain	Art Museum
6. 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 use and shall be in compliance with the Town's Commercial Vehicle regulations	Yes.	Photos of 27,000 pound Forklift (BATES 57) Mercedes Mog Truck (BATES 54) Tractor-Trailer Truck on Public Street (BATES 56)
7. 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.	Yes.	
8. The uses of utilities and community facilities shall be limited to that normally associated with the use of property for residential purposes.	Uncertain	
9. No equipment or process shall be utilized that causes electrical or reception interference to televisions or radios of neighboring residences.	Unknown	
10. 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.	Unknown	
11. All required permits from other agencies and departments shall be submitted with the Home Occupation Permit	Unknown	

application.		
12. Noise emanations shall not exceed fifty five (55) dBA as measured at the property lines at all times.	Unknown	
13. 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.	Unknown	
14. No merchandise or sign shall be displayed for advertising. Public advertising (e.g. handbills) shall only list: phone number, fax number, Internet address, home occupation operator's name, post office box and description of business. Location information shall be limited to community name	Yes.	Advertised business address in public advertising.
15. Owner of the residence shall obtain necessary permits from the Building Division for any non-permitted structures on the property within 60 days of approval of the permit.	Unknown	
16. Owner of the property shall bring all Code Compliance violations into compliance with Town codes within 60 days.	Unknown	
17. All materials that may be used as part of the home based business are to be fully screened or placed as architectural features on the property.	Yes.	Photo of Falossi on top of Stone. (BATES 58)
Ordinance 212	Yes.	

CONDITIONS OF APPROVAL

1. This Home Occupation Permit, HOP-11-05, is for the establishment of an artist studio within an accessory structure located at 6229 Hoot Owl Tr. This is a permit that is subject to annual review and renewal.

2. The applicant shall agree to defend, indemnify, and hold harmless the Town, or its agents, officers, or employees from any claim, action, or proceeding against the Town or its agents, officers, or employees to attack, set aside, void, or annul an approval of the Town an advisory agency, appeal board or legislative body concerning the permit or any other action relating to or arising out of such approval when such action is brought within the applicable statue of limitation.

3. Pedestrian and vehicular traffic will be limited to that normally associated with residential districts.

4. The home occupation shall be confined to an enclosed structure, as described in the application but shall limited be to a maximum of 250 square-feet for the purposes of operating the business.

5. The home occupation shall be limited to one type of occupation per residence.

6. 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 use and shall be in compliance with the Town's Commercial Vehicle regulations

7. 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.

8. The uses of utilities and community facilities shall be limited to that normally associated with the use of property for residential purposes.

9. No equipment or process shall be utilized that causes electrical or reception interference to televisions or radios of neighboring residences.

10. 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.

11. All required permits from other agencies and departments shall be submitted with the Home Occupation Permit application.

12. Noise emanations shall not exceed fifty five (55) dBA as measured at the property lines at all times.

13. 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.

14. No merchandise or sign shall be displayed for advertising. Public advertising (e.g. handbills) shall only list: phone number, fax number, Internet address, 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.

15. Owner of the residence shall obtain necessary permits from the Building Division for any non-permitted structures on the property within 60 days of approval of the permit.

16. Owner of the property shall bring all Code Compliance violations into compliance with Town codes within 60 days.

17. All materials that may be used as part of the home based business are to be fully screened or placed as architectural features on the property.

APPLICANT SIGNATURE

12/16/15
DATE

THE FOREGOING INSTRUMENT IS A
CORRECT COPY OF THE ORIGINAL
ON FILE IN THIS OFFICE.
ATTEST
TOWN CLERK
TOWN OF YUCCA VALLEY, CALIFORNIA
December 2, 20 15

ORDINANCE NO. 212 pages 1, 12, 15, 35

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF YUCCA VALLEY, CALIFORNIA, REPEALING AND RESTATING TITLE 8, DIVISION 12, CHAPTERS 1 THROUGH 27 OF THE COUNTY OF SAN BERNARDINO CODE AS ADOPTED BY THE TOWN OF YUCCA VALLEY RELATING TO DEFINITIONS

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

SECTION 1. Code Amended

Chapters 1 through 27 of Division 12 of Title 8 of the San Bernardino County Code as adopted by the Town of Yucca Valley is hereby amended in its entirety to read as follows:

"Chapter 1

DEFINITIONS

Sections:
Definition: 812.01005

Abut or Adjacent: Having a common border, boundary, or lot line.

Access Rights: The right, claim, title or privilege of access by pedestrians or vehicles, or a public road or way.

Accessibility for the Disabled: Accessible services, structure or facilities are those which be entered and used by individuals despite handicapping conditions. Accessibility also includes responding to the needs of people with sight or hearing disabilities, in addition to those with developmental, activity, manual or mobility impairment, so that they may enjoy the full and free use of those services, structure or facilities.

Accessory Building: A subordinate building, the use of which is incidental to that of the main building or main use of the land and not designed for living or sleeping purposes. The use of an accessory building may be for either a primary or an accessory use allowed by the appropriate land use district. An accessory building shall be located on either the same parcel as the main building or main use; or shall be located on a contiguous abutting parcel that is owned by the same owner who owns the parcel which has the main building or use. An accessory building shall always exist in conjunction with and never without a legally established main building or main use that has the same common owner.

Acre: 43,560 square feet of the land area.

Disability: A physical or mental impairment that substantially limits one or more of the major life activities of individuals, there is a record of such an impairment, or the individual is regarded as having such an impairment. It is the intent of this definition to substantially comply with the term "disability" as defined by the Americans With Disabilities Act of 1990, as may be amended from time to time.

Discretionary Decision: An action taken by a governmental agency that calls for the exercise of judgment in deciding whether to approve and/or how to carry out a project.

Dormitory: A structure intended principally for sleeping accommodations where no individual kitchen facilities are provided, and where such structure is related to an educational or public institution or is maintained and operated by a recognized nonprofit welfare organization.

Driveway: A private roadway for the exclusive use of the occupants of a property and their guests or patrons, and which provides vehicular access to parking spaces, garages, dwellings or other structures on a site.

Duplex: A detached building under single ownership that is designed for occupation as the residence of two (2) families living independently of each other.

Dwelling: A structure or portion thereof designed for residential occupancy, not including hotels or motels.

Dwelling, Multiple: A structure containing two (2) or more dwelling units or a combination of two (2) or more separate single family dwelling units.

Dwelling Unit: A room or group of rooms (including sleeping, eating, cooking, and sanitation facilities), but not more than one kitchen, which constitutes an independent housekeeping unit, occupied or intended for occupancy by one family on a long-term basis.

Easement: A grant of one (1) or more property rights by the property owner for use by the public, a corporation or another person or entity.

Easement, Conservation: A tool for acquiring open space with less than full fee purchase, whereby a public agency buys or is granted only certain specific rights from the land owner. These may be positive rights (providing the public with the opportunity to hunt, fish, hike, or ride over the land), or they may be restrictive rights (limiting the uses to which the land owner may devote the land to in the future).

Eating and Drinking Establishments: Businesses serving prepared food or beverages for consumption on or off the premise. Also refer to "Food and Beverage Sales".

Educational Institution: A college or university, supported wholly or in part by public funds or giving general academic instruction equivalent to the standards prescribed by the State Board of Education.

BATES 000004

Grade, Natural: The elevation of the surface of the ground before the ground elevation is altered by any grading, construction, or landscaping activities.

Habitable Structure: A structure which includes habitable space for living, sleeping, eating or cooking. Bathrooms, toilet compartments, closets, halls, storage or utility space, and similar areas are not considered habitable space.

Half Story: A story under a gable, hip or gambrel roof, plates of which are not more than two (2) feet above the floor of such story.

Home Occupation: A commercial activity conducted in compliance with Chapter 6, Section 84.0615 of this Development Code, carried out by an occupant and conducted as an accessory use within the primary dwelling unit.

Hospital: An institutional land use consisting of a facility licensed by the State Department of Public Health for the provision of clinical and temporary or emergency service of a medical, obstetrical, nursing, surgical, anesthesia, laboratory, radiology, pharmacy, and dietary services nature to human patients, including inpatient and outpatient care.

Hotel: A facility in which guest rooms or suites are offered for compensation to the general public for lodging with or without meals and where no provision is made for cooking in any individual guest room or suite.

Impact: The effect of any direct man-made actions or indirect repercussion of man-made actions on existing physical, social, or economic conditions.

Impervious Surface: Surface through which water cannot penetrate, such as roof, road, sidewalk, or paved parking lot. The amount of impervious surface increases with development and establishes the need for drainage facilities to carry the increased runoff.

Improvement: Any man-made, immovable item which becomes part of, placed upon, or is affixed to, real estate.

Industrial Park: A planned, coordinated development of a tract of land with two or more separate industrial buildings. Such development is planned, designed, constructed, and managed on an integrated and coordinated basis with special attention given to on-site vehicular circulation, parking, utility needs, building design and orientation, and open space.
An industrial park is designed as a coordinated environment for a variety of industrial and related activities. The project is developed or controlled by one proprietary interest. It has an enforceable master plan and/or CC&Rs.

Infill development: Development of vacant land within areas that are already largely developed.

Institutional Use

A. Publicly or privately owned and operated activities that are institutional in nature,

APPROVED AND ADOPTED by the Town Council and signed by the Mayor attested by the Town Clerk this 18th day of May, 2010.

MAYOR

ATTEST:

TOWN CLERK

APPROVED AS TO FORM:

TOWN ATTORNEY

BATES 000006

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.

BATES 000010

(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

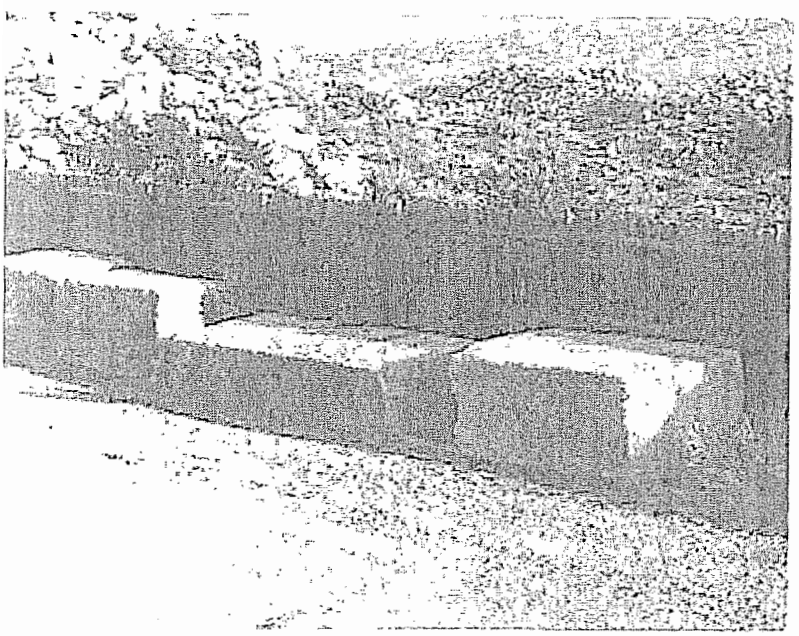
Abstain: None

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)

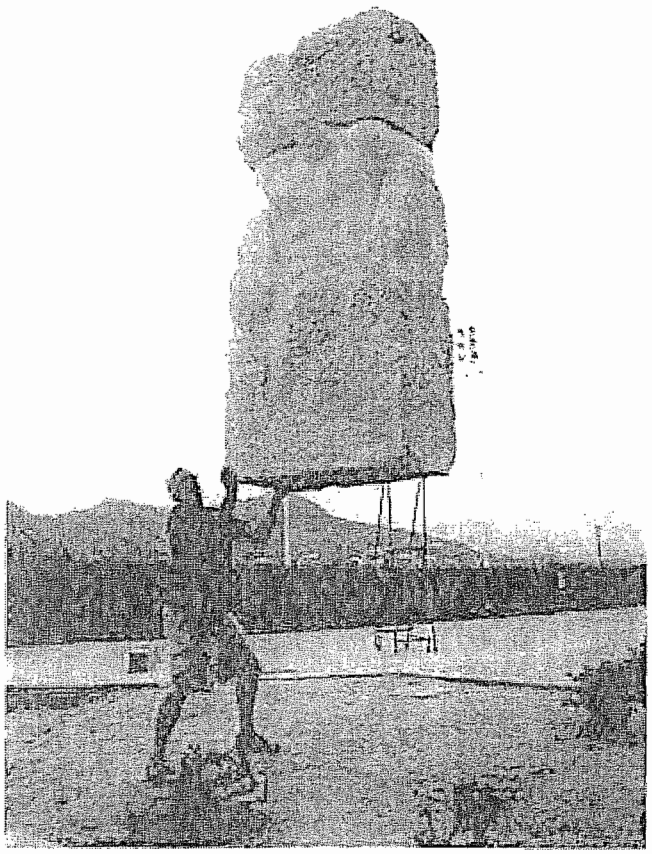
Town Clerk of the Town of
Yucca Valley



Fatossi Studios
May 14, 2012

The middle block of solid limestone is to become the mermaid. It was 12,000 lbs

Marissa Anne Carson likes this.



Falossi Studios
March 27

Heavy Burden (crane is photoshopped out)

John Tam, Fidian Wells, Arts Festival, Jason Sumner and [illegible] this

Jeanette Porretta Funny!
March 28 at 6:04am

Falossi Studios
January 23, 2013

David is off to quarry stone for his next sculpture!

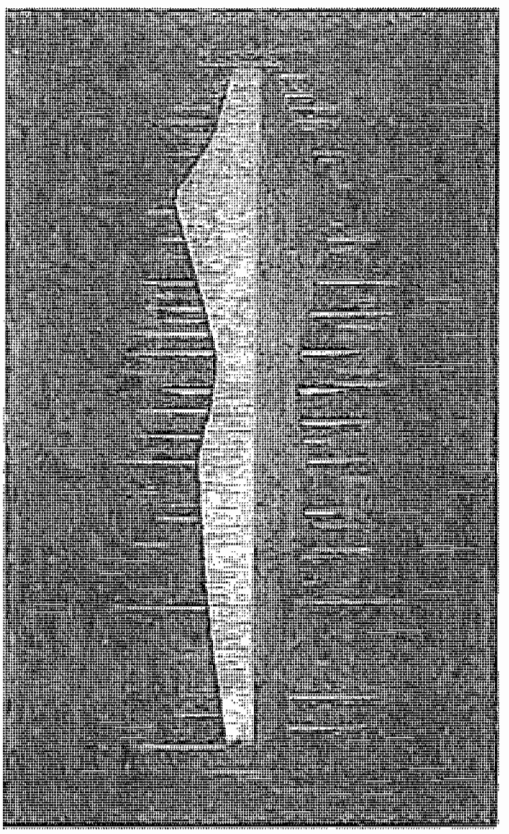
Adam Falossi, Joseph Hamer, Mark Smith and 29 others like this

Bethan Cantrell OMG I want that truck
January 23, 2013 at 5:46am 1

F William Garske best thing Mercedes ever made
January 23, 2013 at 5:52pm 1

Rachael Kee Can't wait to check out his next sculpture!
January 23, 2013 at 7:17pm 1

Falossi Studios Garvan, yes it can go underwater.
January 25, 2013 at 10:06am



City of Beverly Hills, Beverly Hills, CA "Cloud Burst"

Feldsley Development, Palm Desert, CA "Boulder Man"

Gunnaurelli Development, Indian Wells, CA "Cliff Diver"

Edwards and Lowell, Beverly Hills, CA "Summer Rain"

One Corporate Plaza, Ontario, CA "Fountain of Youth"

Day Break Plaza, Ontario, CA "Summer Rain"

University of Texas, San Antonio, TX "Life Spiral"

Jewish Home for the Aging, Encino, CA "Summer Rain"

Network Services LLC, El Segundo, CA "Space and Time" and "Soul Spring"

St. Mary of the Valley Church, Yucca Valley, CA "Our Lady of Guadalupe" and the Liturgical Furnishings: Altar, Baptismal, Tabernacle, Lectern, Sanctuary Lamp, Candelabra, Celebrants Chair, Processional Cross, Easter Fire, Crucifix

Brea Art in Public Places, Tour, Bagdas Revit, Brea, CA "Samposon's Fall"

Alpasa World Headquarters, Downey, CA "Wave of Technology"

San Juan Capistrano Mission, San Juan Capistrano, CA "St. Teresa of Avila"

City of Beverly Hills Public Library, Beverly Hills, CA "Wave Form 1"

Goleta Valley Community Hospital, Santa Barbara, CA "Santa Barbara Birth"

Santa Barbara Zoo, Santa Barbara, CA "How Green is Your Parrot"

Bacil's Restaurant, San Diego, CA "Neo Classical Torsos"

Dr. Gerwin Kuskey, Dental Office, Santa Barbara, CA "Water Feature"

The Hand Prop Room, Los Angeles, CA "Sculptures for TV Film Sets"

Ferrari Corporate Center, Ontario, CA "Joy"

Girl Scouts of America, Las Vegas, NV "Land and Sea"

Palm Springs Art in Public Places, Palm Springs, CA "Super Nova" Scott Anderson MD

Cathedral City, CA, City Hall Installation, Cathedral City Art in Public Places, "A New Beginning" Donated by Collector Mr. and Mrs. Daley Rhodes

Morongo Basin Transit Association, Yucca Valley, CA "The Spring"

Prime Healthcare Services, Ontario, CA, "Life Spiral" Dr. Prem Reddy

Imaginings Interior Design, Beverly Hills, Ca, Barbara Lazniak

Vijay Mallya, United Breweries Global

Seven Bridges Collection, Greenwich, C.T. "The Challenge" Richard McKenzie

The Sausalito Group, Inc. "Rain Temple"

Zenni Optical, San Rafael, CA, "Cloudburst"

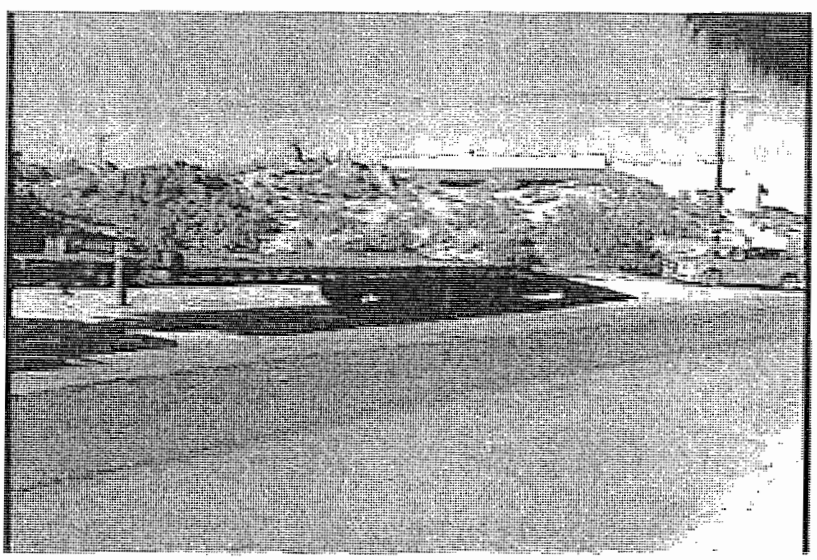
Mount Hope Cemetery, Topeka, Kansas, "Life Spirals" Ben and Teresa Newcomer

Pepperdine School of Law, Malibu, Ca, "Land and Sea" Donated by Meg Razi Attorney

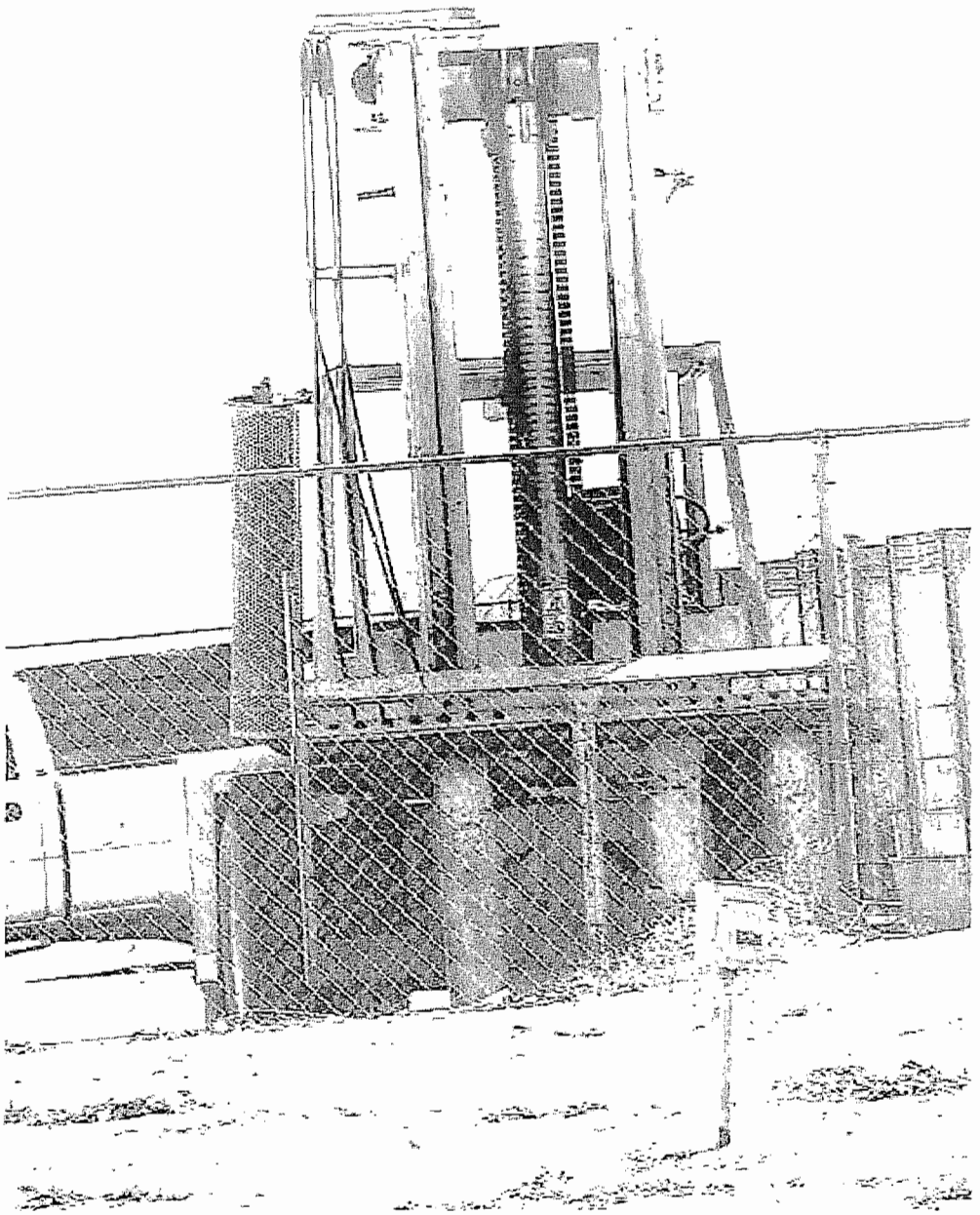
Private Collectors 1 of 2

My residential collector list is extensive and remains unpublished to help insure the privacy of our collectors

Tractor/Truck used to load and unload Heaving Equipment
On Public Street in Western Hills Estates



Trailer parked used to load and unload Heaving Equipment on Public Street
in Western Hills Estates (Plaza del Amigo and Farello)



27,000 pound forklift driven on Public Street of Western Hills Estates
(Plaza del Amigo and Farello)

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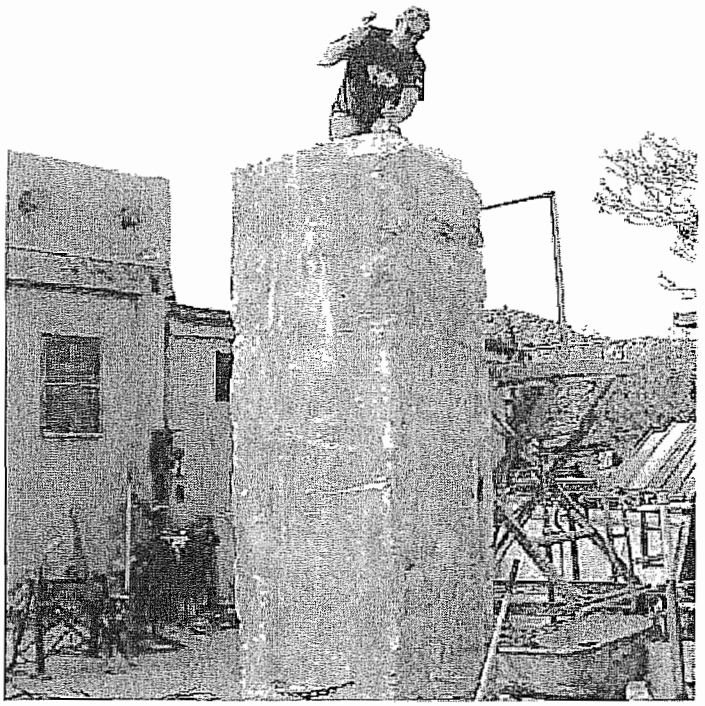

Operations of Falossi Studios
outside of any structure on a residentially zoned parcel, in view of neighboring resedential parcels.

RECEIVED
DEC 16 2013
TOWN OF YUCCA VALLEY
TOWN CLERKS OFFICE

John B. Barriage, CSBN 120462
Attorney at Law
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Lucerne Valley, CA 92356
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December 16, 2013 Hand Delivered

Mr. Shane Stuekle
Acting Town Manager and Director of
Community Development
Town of Yucca Valley
57090 Twenty-nine Palms Highway
Yucca Valley, CA 92284

NOTICE OF APPEAL

Dear Mr. Stuekle:

I am counsel for Mr. Friederich Koenig property owner of residentially zoned property, with the zoning designation of R-L-5 within the jurisdiction of the Town of Yucca Valley. My client's property is described as Assessor's Parcel Number 0596-101-12-0-000.

As allowed under Municipal Code Section 84.0615 (i) Mr. Koenig appeals to the Planning Commission the recent decision of the Director of Community Development to renew Home Occupancy Permit HOP 11-05, originally issued in 2005 to Mr. David Falossi for his residentially zoned (R-L-5) property with Assessor's Parcel Number 0596-101-12.. Mr. Koenig does not know when HOP 11-05 was renewed but received notice of this condition on or about December 10, 2013.

The basis of the appeal includes but is not limited to the following:

(1) **Permit Expired**. Home Occupancy Permit 11-05 expired on or about March 24, 2010 and was not timely (annually) renewed. The renewal Koenig hereby appeals was issued more than three years after the expiration of the permit. Municipal Code section 5.12.050 requires holders of expired permits to apply for a new permit; this section reads as follows:

"CONDITIONS OF PERMIT:

A. Term, Expiration Date: Permits shall be issued for a one-year period. Upon expiration, the permittee may apply for a new permit in the same manner as a new application"

(2) **Not Accessory to Primary Dwelling Unit**. The operation of the subject business, Falossi Studios, is not in conformance with the requirements of the Yucca Valley Development Code section 812.01005 established in Ordinance 212, at the definition of Home Occupancy Permit, under Ordinance 178, for an occupation "as an accessory use within the primary dwelling unit." Falossi Studios's fabrication of product occurs not within the primary dwelling unit, but in a detached structure and within the yard of his residentially zoned property. Under the code sections provided above, unless the occupancy is accessory to residential use and the accessory use occurs within the primary dwelling unit, it cannot be allowed.

(3) **Conditions of Permit Violated.** HOP 11-05 has 15 conditions for approval and the applicant is in violation of conditions 1, 3, 4, 5, 6, 7. 8, 12, and 14,

Condition 1 states that the establishment is for an artist studio "within a residence" and that the permit is "subject to annual review and renewal." Contrary to this condition the establishment is not within a residence, as the establishment is conducted both in a detached structure and in the yard, and it was not timely renewed.

Condition 3 states that pedestrian and vehicular traffic will be limited to that normally associated with residential districts. Contrary to this condition traffic is not so limited as it includes traffic relating to heavy trucking delivering materials and transporting large and heavy fabricated objects.

Condition 4 states that the home occupation shall be confined to an enclosed structure, as described in the application. Contrary to this condition Mr. Falossi has at times fabricated, or at least in part, fabricated his product in the yard of this residentially zoned property.

Condition 5 states that the home occupation shall be limited to one type of occupation per residence. Contrary to this condition Mr. Falossi in additional to use as an "artist studio" uses the residentially zone for the operation of a "sculpture museum" and for sales of "art supplies" and "art books".

Condition 6 states that 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. Contrary to this condition Falossi Studios has materials delivered to and from the property by use of trucks not normally associated with residential uses, has used cranes or cranes to load product for delivery from the premises, and used special commercial disposal services to remove debris and by-product produced on the property.

Condition 7 prohibits conducting the business in a manner that would cause the premises to differ from its residential character by use of "materials, constructions…or the emission of sounds, noises, and vibrations." Contrary to this condition the property is used in a manner that causes it to differ from the residential character in particular there are sounds and vibrations and emissions from the property including, but not limited to, clanking and pounding, sounds of drills, and vibrations from other powered tools.

Condition 8 states that uses of utilities and community facilities shall be limited to that normally associated with the use of the property for residential purposes. Contrary to this condition the use of utilities and community facilities by this business is not for that associated with residential use. Utilities used include industrial fabrication and by-product waste disposal of a commercial nature.

Condition 12 states that noise emanations shall not exceed fifty-five (55) dba as measured at the property lines at all times. Contrary to this requirement noises relating to the fabrication of product exceed this noise limitation.

Condition 14 states among other things that the business address should not be included in any public advertising. Contrary to this requirement Falossi Studios lists its address on its own and on other commercial web-sites.

There may be other condition violations as to this premise.

Based on these specified violations my client respectfully requests the following relief. First that the town revoke or rescind the renewal of HOP 11-05 or its successor permit as the permit expired, was not timely renewed, and needs to be reapplied for. Second, that HOP 11-05 should be rescinded, revoked or cancelled for violations of the applicable code sections and the required conditions. In the alternative should you not revoke, rescind or cancel HOP 11-05 and or require a new application my client will seek judicial remedies such as a writ of mandate as allowed under California Code of Civil procedure sections 1985 and 1994.5 if

applicable. Moreover, my client will seek attorneys' fees under California Civil Code section 1021.5 for his efforts to enforce the requirements of the Yucca Valley Municipal Code.

Please respond to this letter within ten days of receipt.

Sincerely,

John B. Barriage

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

Chapter 2

LAND USE CLASSIFICATIONS

Sections:

84.0205 General Provisions.
84.0210 Agricultural Land Use Types.
84.0220 Residential Land Use Types.
84.0230 Commercial Land Use Types.
84.0240 Industrial Land Use Types.
84.0250 Planned Development.

84.0205 General Provisions.

(a) A Land Use Classification system is utilized to group primary land uses into categories. The land use types contained within each use classification groups various land use activities into categories according to their common performance characteristics. These characteristics relate land uses by the type of commodity sold, scope of service provided, the method of operation, or extent of environmental impact.

(b) Accessory uses are classified in Chapter 5 of this Division.

(c) The Planning Agency shall develop and maintain an alphabetical listing of typical land uses allowed within each land use classification type. This administrative listing shall clarify the various land use classifications and may be updated periodically to reflect additional uses. The listed uses shall be considered as "typical" and in no way reflect an absolute list of the land uses allowed by the land use classification category. The list of typical uses represents a list of specific land uses that are normally associated with a given land use type category. The typical land use listed is accepted as meeting the land use type category.

(d) Where a term is not defined by this Chapter and/or further clarified by Division 12 of this Title, the common usage of that term shall be as defined by any current English dictionary and as interpreted by the Planning Agency.

84.0210 Agricultural Land Use Types.

(a) Row, Field, Tree and Nursery Crop Cultivation. A primary use of the land which includes cultivation of open field or greenhouse crops, fruits, vegetables, grain, fibers, flowers, ornamental and nursery plant materials for wholesale or retail sales and ultimate consumption by others.

(b) Animal Raising. A primary use of the land which includes animal husbandry activities for the production of animal products which will be consumed by others. Animal types and densities shall be specified by each land use district. Additional animals may be raised as accessory uses.

(c) Commercial Kennels and Catteries. The keeping of more than five (5) dogs or five (5) cats for breeding, boarding and/or sale.

(d) Wholesale Trade of Livestock (e.g., animal auctions).

(e) Cow and Goat Dairies. Any premises where milk is produced for sale or distribution and where ten (10) more cows or goats are in lactation.

(f) Hog Ranches and Calf Raising. Any premises used for the raising or keeping of ten (10) or more weaned animals.

(g) Agricultural Support Services. These uses are supportive of the farm community and are fully compatible with agricultural uses. These include but are not limited to:

(1) Farm machinery equipment and supplies, sale and repair,

(2) Farm produce sales and supply (feed, hay, grain and grain products, fertilizer),

(3) Farm products packaging and processing.

(4) Feed storage; farm products warehousing and storage (except stockyards).

(5) Animal husbandry services; veterinary services for large and small animals; horseshoeing; agricultural processing.

(6) Animal waste processing; stockyards; organic fertilizer; feed lots.

(7) The display and sales of farm machinery equipment and supplies.

(8) Agricultural chemicals; fuel and fuel oil; nonflammable bottled gas.

Agricultural support services are industrial or commercial uses which directly support or which are accessory or incidental to established agricultural uses within the general vicinity. Such services do not adversely offset surrounding properties, groundwater or infrastructure.

84.0220 Residential Land Use Types.

The occupancy of living accommodations, where the accommodations are owned or are leased or rented on a monthly or greater basis.

(a) Single dwelling unit. A detached structure or combination of structures designed and/or used to house not more than one family, including all domestic employees of such family in which is provided provisions for sleeping, eating, cooking and sanitation as required by this Code and the Uniform Fire Code.

(b) Multiple dwelling unit. A multiple dwelling unit is a series or combination of dwelling units, either attached or detached, designed to house more than one family with individual, shared or no kitchen privileges (e.g., apartments, condos, boarding houses, residential hotels.

(c) Mobilehome Park.

(d) Social care facility with six (6) or fewer clients.

(e) Social care facility with seven (7) or more clients.

84.0230 Commercial Land Use Types.

(a) PROFESSIONAL SERVICES. Establishments which provide advice, designs, information, medical treatment, commercial education, consultation, travel, job placement, advertising, finance, insurance and real estate services, generally from an office with no on-site storage of goods. This category includes all types of business offices and service-type businesses where service is basically on an individual-to-individual or firm-to-firm basis as opposed to services which are performed on objects or personal property.

(b) RETAIL TRADE/PERSONAL SERVICES. Establishments engaged in selling merchandise for personal or household consumption and rendering services incidental to the sale of the goods. Also includes activities which primarily provide for care of the person or their apparel, and which are typically needed frequently or recurrently.

(1) CLASS I — LIMITED RETAIL TRADE/PERSONAL SERVICES. Convenience goods outlets that sell items characterized by relatively short-term utility or consumption. Establishments that either provide for the day-to-day or frequent service needs of nearby consumers, or provide infrequent services for a segment or special sector of the community. The consumer generally purchases these items or acquires these services at the most convenient location rather than making extensive comparisons of the goods available at several stores.

Typical uses: Beauty salons, barbers, self-service laundry, groceries, restaurants, pharmacy, cosmetics, candy, frozen dessert shops, paper goods.

(2) CLASS II — GENERAL RETAIL TRADE/PERSONAL SERVICES. Market goods outlets that sell or rent items characterized by long-term utility. Also establishments that provide for the frequent or infrequent service needs of consumers located throughout the community or region. The scope of service or method of operation of these uses need additional design standards to insure compatibility with surrounding uses. The consumer does some comparison shopping and is willing to travel from throughout the community or region to make special purchases.

Typical uses: Department store, dry goods, auto accessories (tires and batteries), second hand merchandise, bicycles, garden shops, hobby shops, footwear, office supplies, electronics, appliances, music, books, toys, and photographic studios.

(c) OPEN LOT SERVICES — Commercial establishments which are primarily involved in the delivery of their service from an open lot with relatively few support structures.

(1) CLASS I — LIMITED OPEN LOT SERVICE. These uses are fully paved and do not attract a large number of people daily.

Typical uses: Car sales, small equipment rental, independent parking lots.

(2) CLASS II — GENERAL OPEN LOT SERVICE. These uses may attract a large volume of clients, may not be fully paved and may have large or diverse equipment for sale or rent.

Typical uses: Construction equipment sales, swap meets, open air markets, manufactured home sales.

(d) LODGING SERVICES — Establishments engaged in the provision of lodging services, normally on a daily or weekly basis with incidental food, alcoholic beverages, sales and service intended for the convenience of the guests at a hotel, motel, tourist court or recreational vehicle park. Recreational vehicle parks shall not exceed twelve (12) spaces per acre.

(e) RECREATION/ENTERTAINMENT SERVICES. Establishments that provide leisure time activities and services which involve many people in a public assembly use where people either participate individually or are entertained by an activity.

(1) CLASS I — LIMITED RECREATION/ENTERTAINMENT SERVICE. Minor sport, recreation or social activities that are wholly enclosed within a structure.

Typical uses: Arcades, pool hall, meeting halls for less than fifty (50) people.

(2) CLASS II — GENERAL RECREATION/ENTERTAINMENT SERVICES. Sport and recreational activities that attract large number of people in major indoor or outdoor recreational entertainment complexes.

Typical uses: Amusement park, drive-in theatre, motion picture theatre, miniature golf, sports stadium, convention or other meeting hall.

(f) REPAIR SERVICES. Establishments engaged in the provision of repair services to individuals, households and firms.

(1) CLASS I — LIMITED REPAIR SERVICES. Operations occupying less than 2,000 sq. ft. of floor area which are wholly enclosed without any discernible noise, odor, glare, vibration affecting adjoining shops or properties.

Typical uses: Watch repair, bicycle repair, audio and video equipment repair, locksmith.

(2) CLASS II — INTERMEDIATE REPAIR SERVICES. Operations within an enclosed building with exterior storage limited to no more than 500 sq. ft.

Typical uses: Auto servicing with no overnight repairs, appliance repair, reupholstery, furniture repair.

(3) CLASS III — GENERAL REPAIR SERVICES. Operations which require overnight exterior storage.

Typical uses: Motor vehicle repair and rebuilding; auto glass, paint, muffler and transmission shops, welding and metal repair, heavy equipment repair.

(g) CONVENIENCE/SUPPORT SERVICES. Establishments that provide convenience or support services to people in employment locations or to the traveling public in locations away from developed commercial centers. These limited services include food, beverage, gasoline, retail services and minor automobile service.

84.0240 Industrial Land Use Types.

(a) Manufacturing Operations. The on-site production of goods by methods other than agricultural or extractive in nature, including the production of:

Food and Kindred Products. The processing or production of a natural or man-made solid or liquid food substance used for human or animal internal consumption.

Textile Mill Products. The preparation of fiber and subsequent manufacturing, drying, finishing or coating of fiber, thread, yarn, woven, knit, or nonwoven fabrics or miscellaneous textiles.

Apparel and Other Finished Products. The manufacture of clothing and accessories by cutting and sewing purchased woven or knit textile fabrics and related materials.

Lumber and Wood Products. The cutting, planing, compression and finishing of wood articles, except furniture and related fixtures and miscellaneous household or office products made wholly or partially of wood.

Furniture and Fixtures. The construction or assembly of furniture and related fixtures.

Paper and Allied Products. The manufacturing of pulp, paper (both recycles and paper products from wood), other cellulose fibers, used paper, and rag cloth.

Chemicals and Allied Products. The manufacture or processing of basic, organic or inorganic chemicals. This includes chemicals to be used in making other products and finished chemical products used for direct consumption or as industrial supplies.

Petroleum Refining and Related Industries. The modification, refining, and mixing or storage of fossil fuels which are composed of petroleum or coal.

Rubber and Miscellaneous Plastic Products. The manufacture from natural, synthetic or reclaimed rubber; and from chemicals or rubber or plastic products.

Stone, Clay, and Glass Products. The manufacture of products from stone, clay, sand and other nonmetallic minerals, excluding fuels.

Primary Metal Industries. The smelting, refining, rolling, drawing and alloying of metals, manufacture of metal castings and production of coke.

Fabricated Metal Products. The fabrication or further processing and assembly of metal parts into equipment or machinery.

Professional and Scientific Goods. The manufacture of instruments for measuring, testing, sensing, analyzing and controlling natural or man-made objects, physical conditions or states.

Miscellaneous Manufacturing. The manufacture or repair of products not included in any other category and mainly consisting of small household or office luxuries, recreational goods or supplies and large-scale printing operations.

(1) CLASS I — LIMITED MANUFACTURING. Manufacturing operations which occupy less than 10,000 sq. ft. of enclosed floor area and employ fewer than twenty (20) employees on the largest shift with limited exterior storage.

Typical uses: Cabinet shop, garments, leather goods.

(2) CLASS II — GENERAL MANUFACTURING. Manufacturing operations which involve exterior storage, large equipment and/or large number of employees.

Typical uses: Petroleum refining, paper products, paint, asphalt batch plants, explosives, propellants, chemicals and plastics.

(b) WHOLESALE/WAREHOUSE OPERATIONS. Establishments which normally employ warehouses or display and office space for the assembly, storage, distribution and display of commodities for sale to community or regional retailers, manufacturers, agricultural, institutional or professional uses.

(1) CLASS I — LIMITED WHOLESALE/WAREHOUSE OPERATIONS. Operations which are compatible with a commercial environment and are wholly enclosed or screened.

Typical uses: Mini-warehouse storage, discount wholesale store. recreational vehicle storage.

(2) CLASS II — GENERAL WHOLESALE/WAREHOUSE OPERATIONS.

Typical uses: Warehouse, lumber yards.

(c) CONTRACT CONSTRUCTION SERVICES. Establishments mainly engaged in construction activities and storage on lots other than construction sites.

(d) TRANSPORTATION SERVICES. Activities of a public or commercial nature which move persons and goods from one place to another via roadways, railways, airways or waterways.

(1) CLASS I — LIMITED TRANSPORTATION SERVICES. Services which are compatible with commercial operations.

Typical uses: Bus depot, travel agency, parking lot.

(2) CLASS II — GENERAL TRANSPORTATION SERVICES. Activities primarily involved with the operation and maintenance of transportation facilities and equipment. These uses generally create significant environmental impacts.

Typical uses: Railroad classification yard, bus maintenance yard.

(e) SALVAGE OPERATIONS. Establishments involved in the storage, sale, wholesale and processing of salvage materials. These uses create major disruption to an area's environment even when carefully regulated. Dust, dirt, noise and unsightly conditions often prevail with these operations. This land use classification does not include recycling collection facilities.

84.0250 Planned Development.

A land use application which allows the modification of the development standards of a land use district to allow innovative design and layout. A planned development review may approve lot sizes smaller than those required by the Land Use District provided the overall lot density is not exceeded, except as otherwise allowed by this Title and/or the General Plan. A Planned Development Review may approve phased projects. The land uses allowed are limited to those listed in the Land Use District. The Planned Development (PD) Land use District allows an intermix of various land uses.

ORDINANCE NO. 212

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF YUCCA VALLEY, CALIFORNIA, REPEALING AND RESTATING TITLE 8, DIVISION 12, CHAPTERS 1 THROUGH 27 OF THE COUNTY OF SAN BERNARDINO CODE AS ADOPTED BY THE TOWN OF YUCCA VALLEY RELATING TO DEFINITIONS

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

SECTION 1. Code Amended

Chapters 1 through 27 of Division 12 of Title 8 of the San Bernardino County Code as adopted by the Town of Yucca Valley is hereby amended in its entirety to read as follows:

"Chapter 1

DEFINITIONS

Sections:
Definition: 812.01005

Abut or Adjacent: Having a common border, boundary, or lot line.

Access Rights: The right, claim, title or privilege of access by pedestrians or vehicles, or a public road or way.

Accessibility for the Disabled: Accessible services, structure or facilities are those which be entered and used by individuals despite handicapping conditions. Accessibility also includes responding to the needs of people with sight or hearing disabilities, in addition to those with developmental, activity, manual or mobility impairment, so that they may enjoy the full and free use of those services, structure or facilities.

Accessory Building: A subordinate building, the use of which is incidental to that of the main building or main use of the land and not designed for living or sleeping purposes. The use of an accessory building may be for either a primary or an accessory use allowed by the appropriate land use district. An accessory building shall be located on either the same parcel as the main building or main use; or shall be located on a contiguous abutting parcel that is owned by the same owner who owns the parcel which has the main building or use. An accessory building shall always exist in conjunction with and never without a legally established main building or main use that has the same common owner.

Acre: 43,560 square feet of the land area.

Amusement Device: A player operated electronic or electrical coin-operated game available for use in return for compensation, examples of amusement devices include pinball machines and video games.

Amusement Park: A permanent outdoor facility with rides for entertainment, as a merry-go-round, roller coaster, etc.

Ancillary Use: A use incidental to and customarily associated with a specific principal use, located on the same lot or parcel.

Animals, domestic: Animals of the type generally accepted as pets, including dogs, cats, rabbits, fish, birds, and the like, but not including hoofed animals, chickens, ducks, geese, pea fowl, or the like,. Domestic animals shall not include any animals, birds, or fish maintained for commercial purposes.

Animal Husbandry: Raising of animals or production of animal products, such as eggs or dairy products, on a commercial basis. Typical uses include grazing, ranching, dairy farming, and poultry farming.

Animal Sales and Service:

A. **Animal boarding**. Provision of shelter and care for domestic animals on a commercial basis. This classification includes activities such as feeding, exercising, grooming, and incidental medical care.

B. **Animal grooming**. Provision of bathing and trimming services for domestic animals on a commercial basis. This classification includes boarding of domestic animals for a maximum period of 48 hours per animal.

C. **Animal hospitals**. Establishments where domestic animals receive medical and surgical treatment. This classification includes only facilities that are entirely enclosed and soundproofed. Grooming and temporary (30 days) boarding of animals is included if incidental to the hospital use.

D. **Animals retail sales**. Retail sales and boarding of domestic animals, provided such activities take place within an entirely enclosed building. This classification includes grooming if incidental to the retail use.

Antenna: The arrangement of wires, metal rods or dish used in the sending and/or receiving of electromagnetic waves.

Antenna Height: The overall vertical distance from the base or pad to the highest point of the antenna mounted on its support structure.

Antenna Support Structure: A free-standing, guyed or building-mounted structure, mast, pole, tripod, or tower (including appurtenances) utilized for the purpose of supporting an antenna, antennas or dish intended for airway communication purposes.

Antique Shop: Any premises used for sale or trading of antiques of which 80 percent or more are over 50 years old or have collective value. Antique shops does not include "secondhand store."

Apartment:

A. One or more rooms of a building used as a place to live, in a building containing at least one other unit used for the same purpose.

B. A separate suite, not owner occupied, which includes kitchen facilities and is designed for and rented as the home, residence, or sleeping place of one or more persons living as a single housekeeping unit.

Applicant: Owner(s) or lessee(s) of property, or their agent(s), or person(s) who have contracted to purchase property contingent upon their ability to acquire the necessary permits under this Development Code, or the agent(s) of such persons.

Arcade: Any business, use, or structure containing 6 or more coin-operated or token-operated amusement machines, or viewing machines. Any use or business with 6 or more amusement machines shall be considered an amusement center or arcade in addition to any other principal or conditional use of the land. Amusement center or arcade does not include adult motion picture theaters or adult entertainment facilities.

Arterial Street: Any street so designated in the Yucca Valley General Plan, existing or proposed.

Artist Studio: Work space for artists and artisans, including individuals practicing one of the fine arts or performing arts, or skilled in an applied art or craft.

Attached: Any structure that has an interior wall or roof in common with another structure.

Automobile Sales and Service: An open area used for the display, sale and/or rental of new or used automobiles including incidental storage and maintenance.

Automobile Service Station: A business which provides for the servicing and/or fueling of motor vehicles, including tube and tire repairs, battery charging, storage of merchandise and supplies related to the servicing of motor vehicles, sale of gasoline and other fuel and lubricants, motor vehicle washing, grease racks, and minor motor vehicle repairs, excluding body and fender work, engine overhauling and replacement, transmission work and other similar activities.

Automobile Storage: Lots for the storage and parking of tow-away vehicles, impound yards, and storage lots for automobiles, trucks, buses and recreational vehicles.

Automobile Washing: Washing waxing, detailing, or cleaning of automobiles or similar light vehicles including the use of mechanical automobile washers.

Automobile Wrecking (Dismantling): The wrecking or dismantling of motor vehicles or trailers, or the storage of, sale of, or dumping of dismantled or wrecked motor vehicles or their parts.

Certified Farmers Market: A location, approved by the Agricultural Commissioner of San Bernardino County, where agricultural products are sold by producers or certified produces directly to consumers (See Farmer's Markets).

Chemical Manufacturing/Processing: An industrial process whereby substances are produced from or converted into other substances. In the process, the composition and properties of the starting material are altered.

Church (or place of religious worship): An institution that people regularly attend to participate in or hold religious services, meetings, and other activities. The Term "church" shall not carry a secular connotation and shall include buildings in which the religious services of any denomination are held. A place where religious worship is held.

Circuses and Carnivals: A temporary attraction including, but not limited to games, eating, and drinking facilities, live entertainment (but excluding adult entertainment facilities), animal exhibits, souvenir sales and rides.

Clinic: An establishment where patients, who are not lodged overnight, are admitted for examination and treatment by one or more of a group of physicians, dentists, psychologists, or social workers, practicing together or individually.

Clubs and Lodges (Public or Private): Meeting, recreational, or social facilities of a private or non-profit organization primarily for use by members or their guests, excluding "commercial recreation and entertainment." This classification includes union halls, social clubs and youth center.

Cluster Development: Development in which a number of dwelling units are placed in closer proximity than usual, or are attached, with the purpose of retaining an open space area .

Clustered Subdivision: A subdivision development in which building lots are sized to conform to the "footprint" of the structures and sited closer together than conventional development, usually in groups or clusters, provided that the total density does not exceed that which is permitted under conventional zoning and subdivision regulations. The additional land that remains undeveloped is preserved as open space and recreation land. Private development easements around the structures are permitted for inclusion of private landscaping, pools, spas, yards, etc.

Commercial: A land use classification that permits facilities for the buying and selling of commodities and services.

Commercial Recreation and Entertainment: This classification includes, but is not limited to, theaters, sports stadiums and arenas, amusement parks, bowling alleys, billiard parlors, ice/roller skating rinks, golf courses, miniature golf course, model courses, shooting galleries, tennis/racquetball courts, amusement centers or arcades and health/fitness clubs. Commercial recreation and entertainment does not include "adult entertainment facilities."

Grade, Natural: The elevation of the surface of the ground before the ground elevation is altered by any grading, construction, or landscaping activities.

Habitable Structure: A structure which includes habitable space for living, sleeping, eating or cooking. Bathrooms, toilet compartments, closets, halls, storage or utility space, and similar areas are not considered habitable space.

Half Story: A story under a gable, hip or gambrel roof, plates of which are not more than two (2) feet above the floor of such story.

Home Occupation: A commercial activity conducted in compliance with Chapter 6, Section 84.0615 of this Development Code, carried out by an occupant and conducted as an accessory use within the primary dwelling unit.

Hospital: An institutional land use consisting of a facility licensed by the State Department of Public Health for the provision of clinical and temporary or emergency service of a medical, obstetrical, nursing, surgical, anesthesia, laboratory, radiology, pharmacy, and dietary services nature to human patients, including inpatient and outpatient care.

Hotel: A facility in which guest rooms or suites are offered for compensation to the general public for lodging with or without meals and where no provision is made for cooking in any individual guest room or suite.

Impact: The effect of any direct man-made actions or indirect repercussion of man-made actions on existing physical, social, or economic conditions.

Impervious Surface: Surface through which water cannot penetrate, such as roof, road, sidewalk, or paved parking lot. The amount of impervious surface increases with development and establishes the need for drainage facilities to carry the increased runoff.

Improvement: Any man-made, immovable item which becomes part of, placed upon, or is affixed to, real estate.

Industrial Park: A planned, coordinated development of a tract of land with two or more separate industrial buildings. Such development is planned, designed, constructed, and managed on an integrated and coordinated basis with special attention given to on-site vehicular circulation, parking, utility needs, building design and orientation, and open space.

An industrial park is designed as a coordinated environment for a variety of industrial and related activities. The project is developed or controlled by one proprietary interest. It has an enforceable master plan and/or CC&Rs.

Infill development: Development of vacant land within areas that are already largely developed.

Institutional Use

A. Publicly or privately owned and operated activities that are institutional in nature,

Religious Assembly: Facilities for religious worship and incidental religious education, but not including schools as defined in this Section.

Religious Institution: A structure which is used primarily for religious worship and related religious activities.

Research and Development Services: Establishments primarily engaged in industrial or scientific research, including limited product testing.

Residential.: A land use category with the principal purpose of providing shelter for people on a long-term basis.

Residential Care Facilities (Congregate Care): Residential facilities in which group care, supervision and/or assistance are provided for persons who may or may not have a disability. Residential facilities do not include family day care, foster care or any medical services, including nursing services, beyond that required by the residents of the facility for sustaining the activities of daily living. Examples of residential care facilities include, but are not limited to, facilities for the following:

A. Elderly Residential Care Facility: Provides 24-hour care for adults 60 years of age and older.

B. Adult Residential Care facility: Provides 24-hour care for adults who are between 18-59 years of age.

C. Group Home: Provides 24-hour care for children under 18 years of age.

Resort Hotel: A group of buildings containing guest rooms and providing outdoor recreational activities.

Restaurant: A use providing preparation and retail sale of food and beverages; such uses include cafes, coffee shops, sandwich shops, ice cream parlors, fast food take-out (i.e., pizza), and similar uses, and may include licensed on-site provision of alcoholic beverage for consumption on the premises when accessory to such food service.

Restaurant, Drive-thru: A use providing preparation and retail sale of food and beverages, as defined under Restaurant with the added provision of one (1) or more drive-thru lanes for the ordering and dispensing of food and beverages to patrons remaining in their vehicles.

Retail: The exchange of goods directly to the ultimate consumer in exchange for financial or other consideration.

Retail Sales: The retail sale of merchandise or product.

Screening: The method by which a view of one site from another adjacent site is shielded, concealed, or hidden. Screening techniques include fences, walls, hedges, trees and/or other plantings, berms or other features. Screening should include materials of sufficient mass to be opaque or that shall become opaque after twelve (12) months and which shall be maintained in an opaque condition.

Second dwelling unit: A self contained living unit, either attached to or detached from, and in addition to, the primary residential unit of a single lot.

Secondhand Store: Any premises used or the sale or handling of used goods. Secondhand store includes establishments for the sale or trade of used clothing, furniture and appliances.

Senior (Senior Citizen): A person who is 55 years of age or older.

Setback: The horizontal distance between the property line and any structure.

Shopping Center: A group of 2 or more commercial establishments, the perimeter of which is clearly definable, developed on a continuous area of land, planned and developed as single unit and providing shared on-site parking, access, landscaping, and signage.

Sidewalk/Parking Lot Sale: A promotional sales event conducted by one or more businesses which is held outside the confines of the commercial or manufacturing structure(s) in which such business is normally conducted. Such sale involves outdoor display within a paved or concreted area on the same lot as the structure(s), of merchandise which is normally displayed within the structure(s). Sale events shall be conducted solely on private property and not encroach within public rights-of-way.

Site Plan Review: An review process conducted in accordance with Division 3, Chapter 3 of this Title.

Solar Facilities: The airspace over a parcel that provides access for a solar energy system to absorb energy from the sun.

Specific Plan: A detailed plan that includes the text and maps or diagrams that specifically follow a portion of the area covered by the General Plan:

A. Land use;

B. Distribution, location, and extent and intensity of major components of public and private transportation, sewage, water, drainage, solid-waste disposal, energy, and other public facilities and services;

C. Standards and criteria by which development will proceed; and

D. The relationship of the Specific Plan to the adopted General Plan.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Section 21084, Public Resources Code.

15301. EXISTING FACILITIES

Class 1 consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. The types of "existing facilities" itemized below are not intended to be all-inclusive of the types of projects which might fall within Class 1. The key consideration is whether the project involves negligible or no expansion of an existing use. Examples include but are not limited to:

(a) Interior or exterior alterations involving such things as interior partitions, plumbing, and electrical conveyances;

(b) Existing facilities of both investor and publicly owned utilities used to provide electric power, natural gas, sewerage, or other public utility services;

(c) Existing highways and streets, sidewalks, gutters, bicycle and pedestrian trails, and similar facilities (this includes road grading for the purpose of public safety).

(d) Restoration or rehabilitation of deteriorated or damaged structures, facilities, or mechanical equipment to meet current standards of public health and safety, unless it is determined that the damage was substantial and resulted from an environmental hazard such as earthquake, landslide, or flood;

(e) Additions to existing structures provided that the addition will not result in an increase of more than:

  (1) 50 percent of the floor area of the structures before the addition, or 2,500 square feet, whichever is less; or

  (2) 10,000 square feet if:

    (A) The project is in an area where all public services and facilities are available to allow for maximum development permissible in the General Plan and

    (B) The area in which the project is located is not environmentally sensitive.

(f) Addition of safety or health protection devices for use during construction of or in conjunction with existing structures, facilities, or mechanical equipment, or topographical features including navigational devices;

(g) New copy on existing on and off-premise signs;

(h) Maintenance of existing landscaping, native growth, and water supply reservoirs (excluding the use of pesticides, as defined in Section 12753, Division 7, Chapter 2, Food and Agricultural Code);

(i) Maintenance of fish screens, fish ladders, wildlife habitat areas, artificial wildlife waterway devices, streamflows, springs and waterholes, and stream channels (clearing of debris) to protect fish and wildlife resources;

(j) Fish stocking by the California Department of Fish and Game;

(k) Division of existing multiple family or single-family residences into common-interest ownership and subdivision of existing commercial or industrial buildings, where no physical changes occur which are not otherwise exempt;

(l) Demolition and removal of individual small structures listed in this subdivision:

  (1) One single-family residence. In urbanized areas, up to three single-family residences may be demolished under this exemption.

(2) A duplex or similar multifamily residential structure. In urbanized areas, this exemption applies to duplexes and similar structures where not more than six dwelling units will be demolished.

(3) A store, motel, office, restaurant, or similar small commercial structure if designed for an occupant load of 30 persons or less. In urbanized areas, the exemption also applies to the demolition of up to three such commercial buildings on sites zoned for such use.

(4) Accessory (appurtenant) structures including garages, carports, patios, swimming pools, and fences.

(m) Minor repairs and alterations to existing dams and appurtenant structures under the supervision of the Department of Water Resources.

(n) Conversion of a single family residence to office use.

(o) Installation, in an existing facility occupied by a medical waste generator, of a steam sterilization unit for the treatment of medical waste generated by that facility provided that the unit is installed and operated in accordance with the Medical Waste Management Act (Section 117600, et seq., of the Health and Safety Code) and accepts no offsite waste.

(p) Use of a single-family residence as a small family day care home, as defined in Section 1596.78 of the Health and Safety Code.

Note: Authority cited: Section 21083, Public Resources Code; References: Sections 21084, Public Resources Code; *Bloom v. McGurk* (1994) 26 Cal.App.4th 1307.

15302. REPLACEMENT OR RECONSTRUCTION

Class 2 consists of replacement or reconstruction of existing structures and facilities where the new structure will be located on the same site as the structure replaced and will have substantially the same purpose and capacity as the structure replaced, including but not limited to:

(a) Replacement or reconstruction of existing schools and hospitals to provide earthquake resistant structures which do not increase capacity more than 50 percent.

(b) Replacement of a commercial structure with a new structure of substantially the same size, purpose, and capacity.

(c) Replacement or reconstruction of existing utility systems and/or facilities involving negligible or no expansion of capacity.

(d) Conversion of overhead electric utility distribution system facilities to underground including connection to existing overhead electric utility distribution lines where the surface is restored to the condition existing prior to the undergrounding.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Section 21084, Public Resources Code.

15303. NEW CONSTRUCTION OR CONVERSION OF SMALL STRUCTURES

Class 3 consists of construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure. The numbers of structures described in this section are the maximum allowable on any legal parcel. Examples of this exemption include, but are not limited to:

(a) One single-family residence, or a second dwelling unit in a residential zone. In urbanized areas, up to three single-family residences may be constructed or converted under this exemption.

(b) A duplex or similar multi-family residential structure, totaling no more than four dwelling units. In urbanized areas, this exemption applies to apartments, duplexes and similar structures designed for not more than six dwelling units.