

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

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

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.

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- 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

Planning Commission Hearing: June 10, 2014
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
SPECIAL 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:

PROJECT AREA:

BUILDING AREA:

SITE COVERAGE

2.5 acres

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, Section 84.0615 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 staff's 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



Home Occupation Permit Application

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

New Renewal

General Information

APPLICANT DAVID FALOSI Phone _____ Fax P
 Mailing Address 6229 Hoot Owl trail Email FALOSI STUDIO @ 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 FALOSI 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 / Facebook / Press / Art Shows
 Applicant Signature [Signature]
 Property Owner Signature _____

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 occasional 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 178 sq ft of 35% of 3486

Total square feet of residence, including garage:

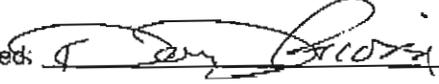
3486

Brief summary of business being conducted:

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

Owner/Applicant Authorization

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

Signed: 

Date: 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: 

Dated: 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 be 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 be added 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

CALIFORNIA STATE BOARD OF EQUALIZATION

SELLER'S PERMIT

ACCOUNT NUMBER

SR BPC 15-751160

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

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 DOES NOT GUARANTEE THE VENDOR TO ENACT OR OPERATE BUSINESS IN VIOLATION OF ANY STATE OR FEDERAL LAWS OR REGULATIONS. IT IS THE RESPONSIBILITY OF THE VENDOR TO OBTAIN ALL NECESSARY PERMITS AND LICENSES FROM THE APPROPRIATE AGENCIES.

THIS PERMIT IS VALID UNTIL REVOKED OR CANCELLED BUT IS NOT TRANSFERABLE
Not valid of any other address

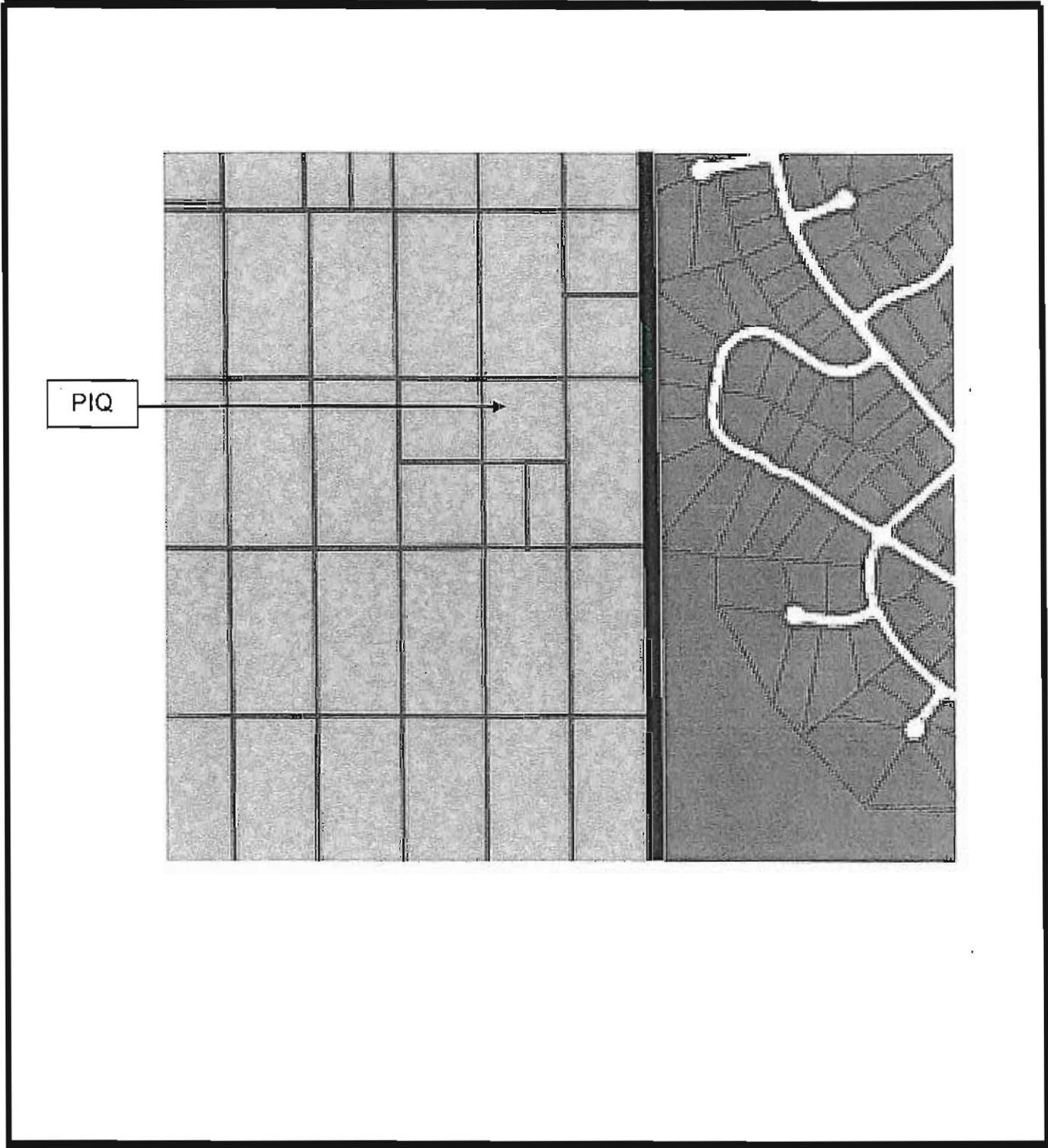
BT-12-R-FY-011-03

DISPLAY CONSPICUOUSLY AT THE PLACE OF BUSINESS FOR WHICH ISSUED

48 4721

TOWN OF YUCCA VALLEY

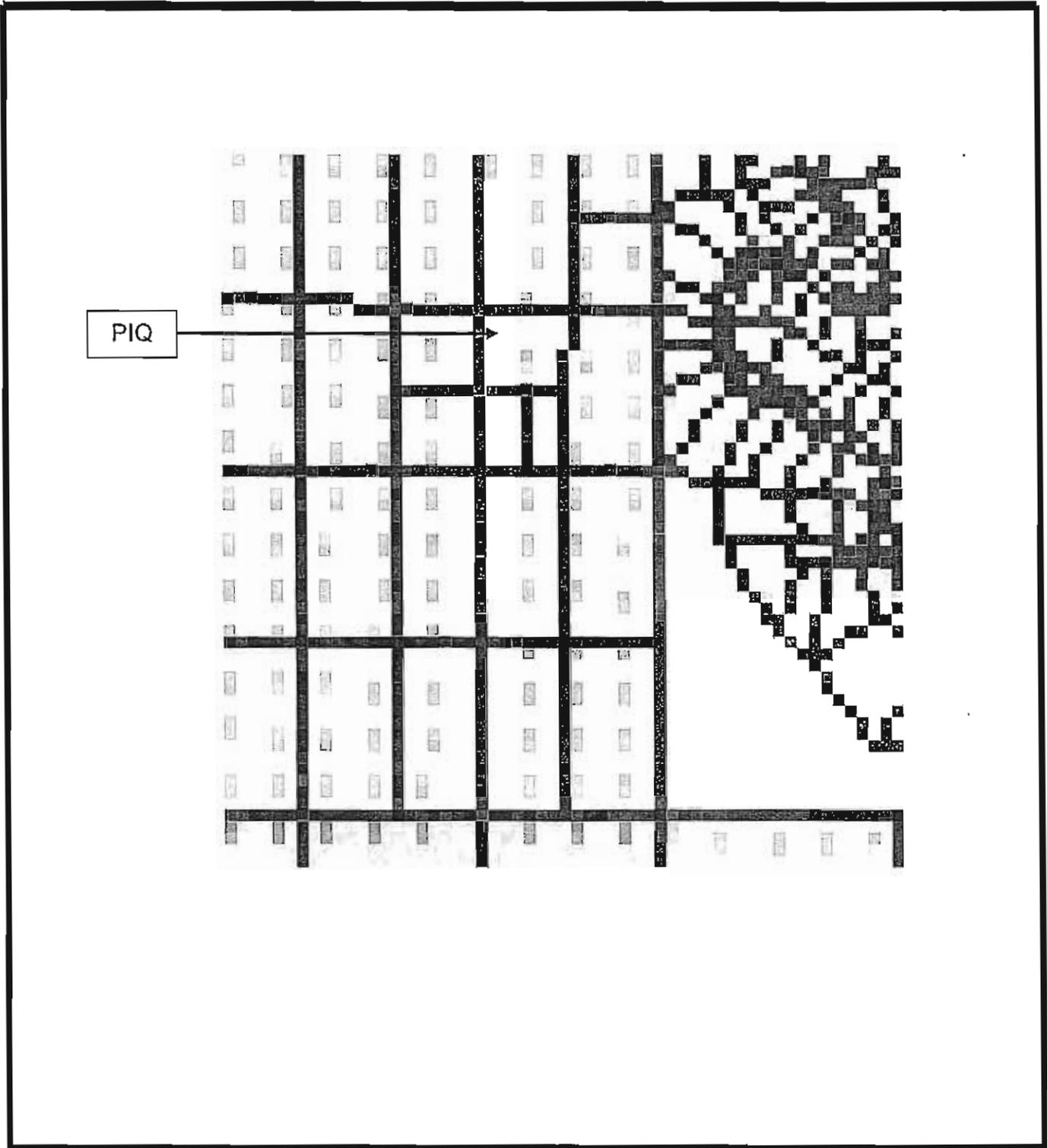
PROJECT NO.: HOME OCCUPATION PERMIT, HOP 01-14 FALLOSSI



ZONING MAP

TOWN OF YUCCA VALLEY

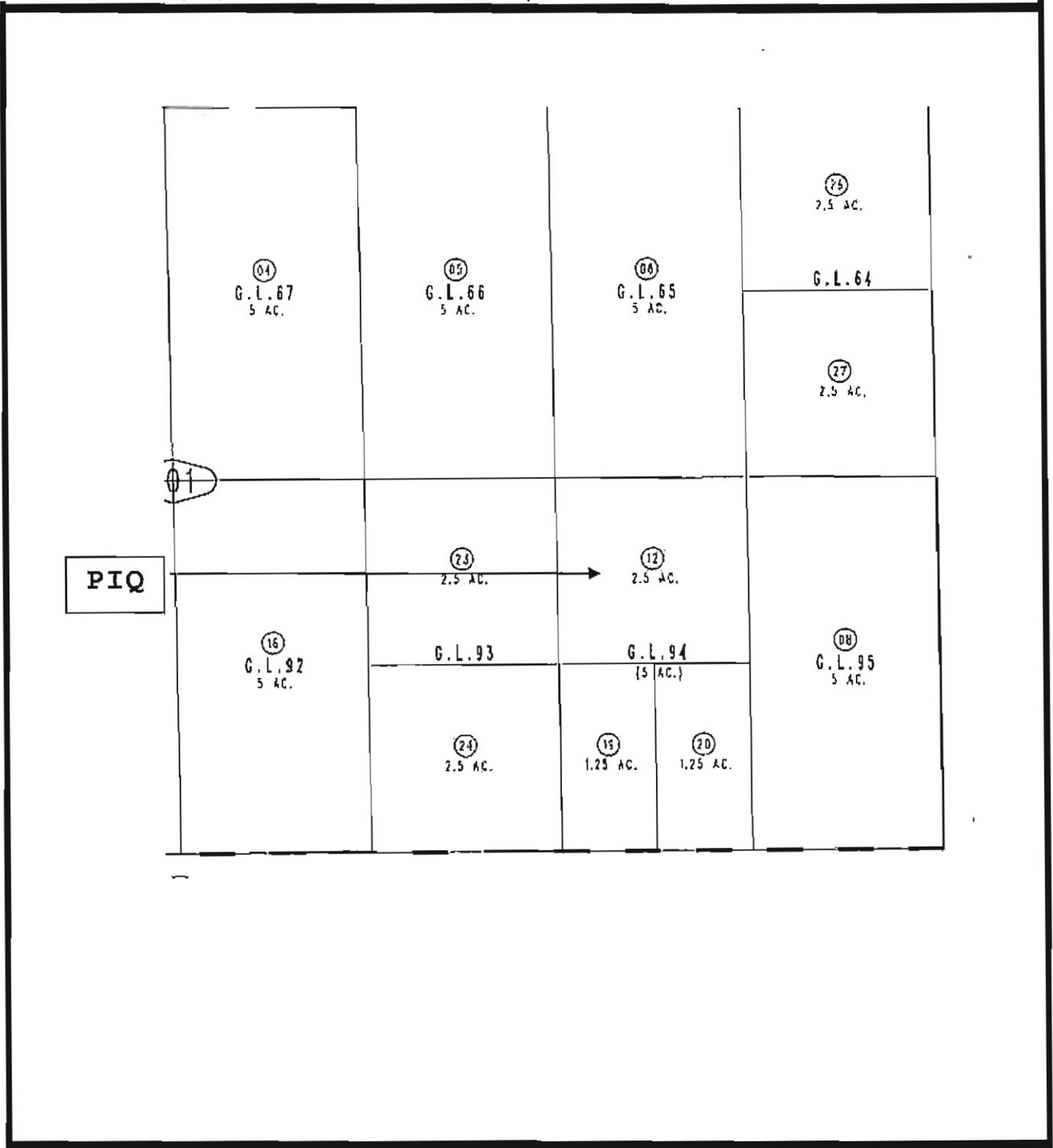
PROJECT NO.: HOME OCCUPATION PERMIT, HOP 01-14 FALOSSI



GENERAL PLAN LAND USE MAP

TOWN OF YUCCA VALLEY

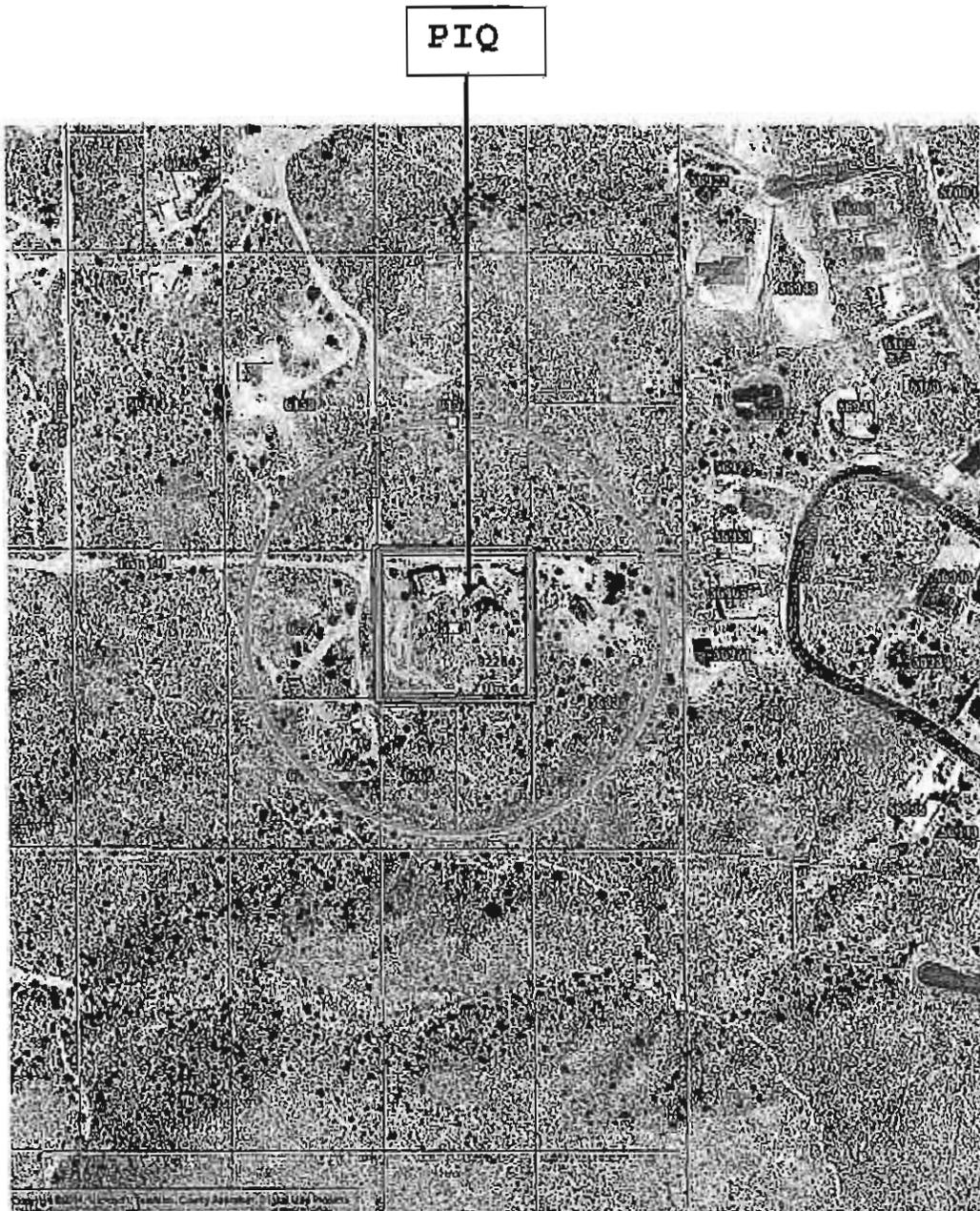
PROJECT NO.: HOME OCCUPATION PERMIT, HOP 01-14 FALOSSI



Assessor's Parcel Map

TOWN OF YUCCA VALLEY

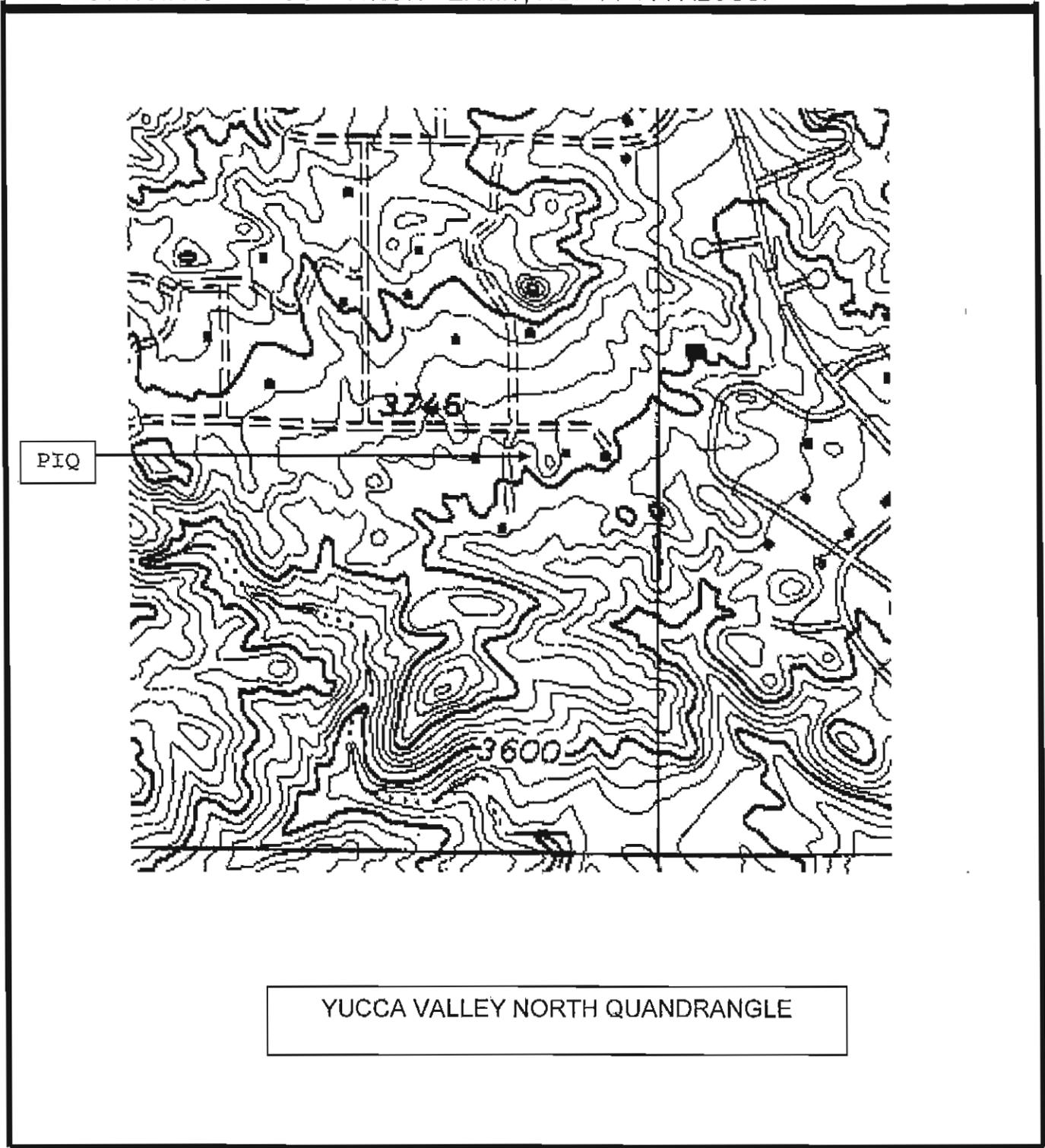
PROJECT NO.: HOME OCCUPATION PERMIT, HOP 01-14 FALOSSI



AERIAL PHOTO

TOWN OF YUCCA VALLEY

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



YUCCA VALLEY NORTH QUADRANGLE

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-1 (Rural Living) Use Classification		P CUP PD LSP	Permitted Conditional Use Permit Planned Residential Development Livestock Permit
Use	Zoning District	Additional Use Regulations	
	R-1-1, 2, 5, 10, 20 ac		
Residential:			
Family Day Care Homes:			Refer to Additional Uses Section of Development Code
Large	CUP		
Small	P		
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, 10, 20 ac	
Lot Size (acres)	see map suffix	Lot area measured in gross acres
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'	(1), (2)
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	

- (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

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

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

(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

**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: Davld 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

**TOWN OF YUCCA VALLEY
PLANNING COMMISSION MEETING MINUTES
May 27, 2014**

Chair Humphreville called the regular meeting of the Yucca Valley Planning Commission to order at 6:00p.m.

Commissioners present were Bridenstine, Drozd, Lavender, Whitten and Chair Humphreville.

The Pledge of Allegiance was led by Chair Humphreville.

Commissioner Whitten moved to approve the agenda. Commissioner Bridenstine seconded, and the motion passed unanimously.

PUBLIC COMMENTS

1. Margo Sturges, Yucca Valley, said that she likes the Planning Commission using the workshop format.

With no further individuals wishing to speak, Chair Humphreville closed public comments.

CLOSE PUBLIC COMMENTS

1. WORKSHOP – HOME OCCUPATION PERMIT REGULATIONS

Chair Humphreville opened the public workshop on Home Occupation Permit regulations. Deputy Town Manager Stueckle provided background on the Home Occupation Permit regulations and an overview of the purpose of the workshop. Chair Humphreville recessed the meeting for the workshop at 6:09, and one hour was dedicated to round table discussion with members of the public and the Commissioners. At 7:10, after the table discussion, Chair Humphreville resumed the meeting and opened the floor to reports from the table discussions and individual public comments. Posters listing each table's findings were displayed, and forms on which individuals wrote their suggestions were also submitted to the Commission.

PUBLIC COMMENTS

1. Nalini Maharaj, Yucca Valley, said that she would like to see gun sales prohibited as a home occupation.
2. Margo Sturges, Yucca Valley, said that she appreciated the workshop process, and would like the public hearing on the ordinance to be delayed.
3. Mark Miller, Yucca Valley, said that he approves of the changes in the regulation that makes the process of acquiring a home occupation permit easier and clearer. He said that the intent of the revisions should be to make it easier not harder to do business in Yucca Valley. He said that the regulations should be administered equally and without

prejudice, and we shouldn't unfairly discriminate against some businesses just because they are unpopular.

4. Dennis Pask, Yucca Valley, said that he approves of the changes in the draft ordinances. He said that it is unfair that artists with a HOP aren't allowed to display art in their front yard when anyone else in town is able to.
5. James Walker, Yucca Valley, said that he appreciates the workshop process, and that he believes that the process should be directed towards the regulations as whole and not specific cases.
6. Fitz Koneig, Yucca Valley, said that he believes that home business should be limited only to equipment or structures normally found within the home. He also objects the Planning Commission being able to issue Conditional Use Permits. He also doesn't think the noise ordinance is sufficient.

With no further individuals wishing to speak, Chair Humphreville closed public comments.

CLOSE PUBLIC COMMENTS

Commissioner Whitten said that he appreciated the public coming out to participate. He said he wants a balanced approach to Home Occupation Permits. Property owners should be able to exercise their rights while respecting the rights of their neighbors. He believes that the Planning Commission need to work to fine tune the ordinance to make it a softer.

Commissioner Lavender said that some of the individuals he spoke with were concerned about the number of deliveries which might be made to some home occupations. He suggested providing some kind of public space for artists to use. He also said he was happy with the ordinance the way it was, but he would like to see gun sales prohibited.

Commissioner Drozd said that it was great to see so many people come out to participate. He asked staff if, under the current complaint driven process, complaints were made anonymously. Staff replied that complaints could be made either anonymously or not. Commissioner Drozd believes that it is important to keep neighborhood character, but also allow business. He said he like the graduated scale for different size lots. He said that home based business have been becoming more popular with the current economy. He also said that while different sized parcels should be treated differently, people on the same size parcels should be treated the same.

Commissioner Bridenstine also thanked everyone for coming out to participate. She agreed that we need a tiered system. Some business would not be appropriate for a multi-family zone, but would be appropriate on a five acre parcel. Someone on a five acre parcel who is operating a legal business, which is not effecting anyone, should be allowed the freedom to do so. She believes that we should be more concerned about illegal guns rather than legal, licensed sales. She also believes that that the concern about deliveries doesn't take into account the fact that trash trucks, which regularly travel these roads, weigh more than delivery trucks. Rather than creating nitpicky regulations, we should rely more on common sense. If you are causing a

nuisance in your neighborhood, your neighbors have the right to complain. There is a procedure in place for those complaints to be investigated and your permit possibly revoked. Having a clear procedure for addressing complaints is more important than a lot of overly specific regulation.

Commissioner Lavender said that plots that do not have maintained roads may create an issue.

Chair Humphreville asked staff to clarify the intent of the language prohibiting the storage or use of explosives or highly combustible or toxic materials beyond that permitted by the Building, Fire Code, or adopted restrictions. He pointed out that artists and welders use paint and material which may be combustible or toxic. Staff explained that the purpose of that section was to limit the amount of that kind of material to amounts more typically found in residential uses, so that we don't see the type of volume associated with large scale commercial operations. Chair Humphreville suggested further clarification to that language. He also asked about the fee schedule, particularly the \$750 fee for the appeal process. Deputy Town Manager Stueckle explained that the fee structure was based on total cost recovery, but that staff would look at the fees. Chair Humphreville said that he would like to see some kind of language differentiating between commercial welding and art welding. He also thought that allowing artists to display some art in their front yards is something the Commission should discuss. He also said that allowing 6 or 8 deliveries a year is reasonable, and he doesn't think that someone with a Home Occupation Permit should have greater weight restrictions than other property owners. He doesn't think gun sales should be prohibited; it is a legal and regulated business. He also believes that home occupations which are exempt from acquiring a permit are fine in multi-family zones, but an activity requiring a Home Occupation Permit should be prohibited.

RECESS

Chair Humphreville called a five minute recess at 7:45. The meeting resumed at 7:50.

PUBLIC HEARING

2. DEVELOPMENT CODE AMENDMENT, DCA 07-13 ARTICLE 3CEQA EXEMPTION, SECTION 15061

Deputy Town Manager Stueckle gave the staff report. He stated that there have been multiple meetings on this public hearing, and that the only outstanding issue is the pending answer from the Town Attorney's office regarding whether or not surface mining can be prohibited and that section removed from the regulations. Staff recommended that, after receiving any public comments, if there were no further questions from the Commission, the Commission not send the item forward to the Town Council until the full draft of the Code has been completed.

PUBLIC COMMENTS

None

CLOSE PUBLIC COMMENTS

MOTION

Commissioner Whitten moved that the Planning Commission finds that the project is exempt from CEQA in accordance with Section 15061 (b)(3) of the California Environmental Quality Act, and that the Commission recommends that the Town Council adopts the Ordinance, but delays forwarding that recommendation to the Council until the draft of the complete code is finished. Chair Humphreville seconded. The vote passes unanimously.

DEPARTMENT REPORTS**3. FIVE YEAR CAPITAL IMPROVEMENT PROGRAM**

Project Engineer Qishta presented the staff report. He provided a brief explanation of the purpose of a Capital Improvement Plan. The Capital Improvement Plan is a short-range, five year plan, which identifies capital projects, provides a planning schedule, and identifies options for financing the program. Staff went over the capital projects identified in the plan presented to the Planning Commission.

PUBLIC COMMENTS

None

CLOSE PUBLIC COMMENTS

Chair Humphreville said that he was concerned about the implications of doing work on Black Rock Canyon road without also putting in flood control measures. Staff explained that the original estimate for repairs was over \$600,000, much of which was due to the cost of the flood control measures. The flooding issue is a serious concern, and engineering is currently working on solutions. Chair Humphreville is concerned that maintaining that road as a gravel road without additional flood control measures will cause problems. Chair Humphreville also said that construction of the Safe Routes to School improvements on only one side of the street is better than nothing.

Commissioner Whitten asked about tiered catch basins at Black Rock Canyon. Staff said that basins are probably not a practical solution in this case. Commissioner Whitten agreed that improving one side of Sage Avenue for Safe Routes to School is better than nothing, but suggested that some money be set aside in the future to improve the upper end of Sage Avenue. He also asked if we had ADA park facilities, particularly playground equipment. Staff replied that Miracle Field is specifically designed for ADA access and that Staff believed that the playground equipment selected for the Brehm Park is ADA accessible. He also suggested that the Town might look into Rino Snot, a soil stabilization and dust abatement product, for use on Black Rock Canyon Road to increase its durability.

Commissioner Bridenstine asked if the Town was actively looking for new grants, particularly any federal grants, to help provide future funding. Staff replied that the Town was.

Commissioner Drozd asked about the signal synchronization project. He asked if signs informing drivers that the lights are synchronized had been considered as part of that project. Staff said that they would look into it.

Commissioner Lavender had no comments on this issue.

MOTION

Chair Humphreville moved that the Commission find the project except from CEQA in accordance with Section 15378(b)(4) and Section 15061 (b)(3), and that the Commission recommends to the Town Council that they adopt the Five Year Capital Improvement Plan for Fiscal Years 2014/2015 through 2018/2019. Commissioner Bridenstine seconded, and the vote passed unanimously.

STAFF REPORTS AND COMMENTS:

Staff provided an overview of the status of current land development projects.

COMMISSIONER REPORTS AND REQUEST:

1. Commissioner Drozd thought it was great that everyone came to the meeting. The process shows that the Town listens to its residents. The Alleyway improvement is an example of something that was brought up by public comment in a meeting. Thanks to everyone for their hard work.
2. Commissioner Lavender thought the meeting was interesting.
3. Commissioner Whitten thanked staff and the Commissioners. He approves of the volunteerism he has seen. In honor of Memorial Day, he thanked the veterans for their service. He also thinks that workshops are great, and that they need to balance the Home Occupation Permit regulations to what is best for the community not just a small group.
4. Commissioner Bridenstine thanked staff and thanked the public for showing up. She said that they may not be able to solve all of the problems associated with Home Occupation Permit regulations, but it is a balancing act to try and solve as many as possible. It is important to have the public bring forth all the issues. The Commission will have to do their best.
5. Chair Humphreville said that a home occupation ordinance is not going to be able to resolve a dispute between two individuals. He believes that the Commission needs to get the Home Occupation Permit regulations done.

ANNOUNCEMENTS:

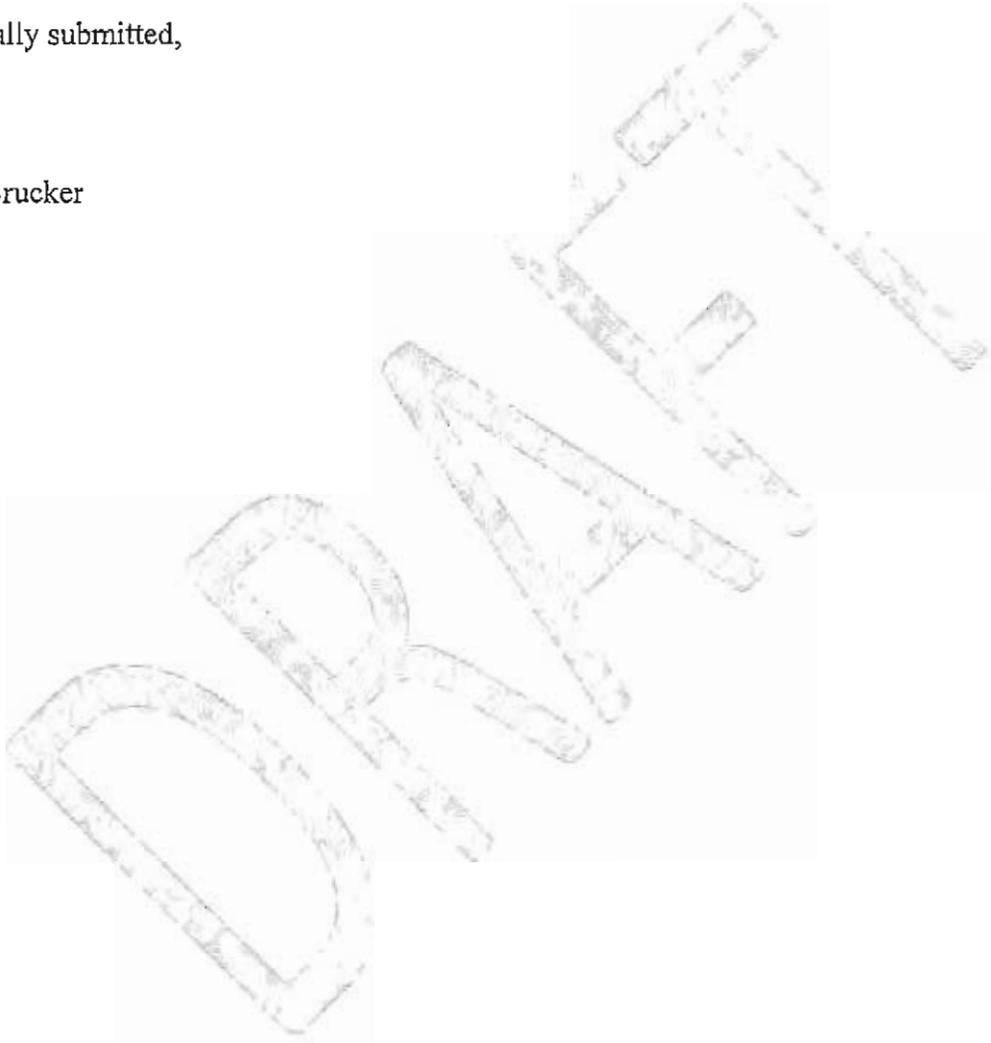
The next regular meeting of the Yucca Valley Planning Commission will be held on Tuesday, June 10, 2014.

ADJOURNMENT

There being no further business, the meeting adjourned at 8:34

Respectfully submitted,

Allison Brucker
Secretary



there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. And,

Moved to recommend to the Town Council to adopt the Ordinance, and repeals Sections 83.010105 thru 83.0103.15, Sections 83.010325 thru 83.010335, Section 83.010505, Sections 83.020105 thru 83.020210, Sections 83.030805 thru 83.030855, Sections 83.030145 thru 83.030175, Sections 83.030205 thru 83.030230, Sections 83.030310 thru 83.030325, Section 83.030405, Section 83.030505, Section 83.030605 Sections 83.030705 thru 83.030765, Sections 83.030905 thru 83.030955 of Division 3 of Title 8 from the Yucca Valley Development Code and Sections 41.151 thru 41.1569 from Chapter 15, Division 1 Title 4 of the Yucca Valley Municipal Code.

Commissioner Drozd Seconded. Motion carried 5-0 on a voice vote.

DEPARTMENT REPORT

2. HOME OCCUPATION PERMITS

Deputy Town Manager Stueckle presented the staff report, explaining the general findings within Ordinance 178 relating to Home Occupation Permits.

Chair Humphreville opened public comment.

Barry Shaw, Esther Shaw, and Voss Schwartz, all of Yucca Valley spoke in opposition to firearm sales in residential neighborhoods.

Frank Hubbard, Yucca Valley requested the prohibition of firearm sales in residential neighborhoods.

Bonnie Brady, Yucca Valley spoke favorably of Commissioner Lavender's public request for input on neighborhood gun sales using the local newspaper.

With no other members of the public wishing to speak, Chair Humphreville closed public comment.

Commissioner Lavender commented that as a Planning Commissioner he needs to listen to the people and stated that he has received 17 responses, (13 opposed, 4 in favor) of residential gun shops. Lavender recommends revising the ordinance to not allow gun shops in residential neighborhoods.

Commissioner Whitten thanked the public for attending the meeting and providing input.

Whitten commented the language on stamped page 99 relating to public health and safety and questioned what would be considered appropriate for residential neighborhoods. Whitten suggested to allow these types of businesses in more rural areas and suggested that the approval process for HOP's to be brought to the Planning Commission for an extra set of eyes.

Commissioner Drozd inquired about firewood businesses in residential neighborhoods. Drozd explained he understands the interest in gun sales due the recent commission activity and questioned if the ordinance language was changed, how would it affect the current permit holders.

Deputy Town Manager Stueckle explained that just because there is an opposition, it is not always are basis for change. If the application is consistent with the General Plan and the Development Code and all code requirements are met, public input is not always a basis for denial.

Vice Chair Bridenstine stated that it was a difficult decision and there is a need to be careful to not take away people's rights.

Chair Humphreville stated home based businesses are a viable part of a community and inquired on how an HOP is enforced. Deputy Town Manager Stueckle explained that once the permit is approved, the site is inspected but continual monitoring is usually on a complaint driven basis. Humphreville continued by stating from a land use issue, a day care facility has the potential of disrupting a neighborhood due to increased traffic more than many other types of businesses such as a gun shop.

Vice Chair Bridenstine recommended the commission look in defining the term gun shop to bring into perspective.

Chair Lavender stated he often hears gun shots in his neighborhood and that the Planning Commission should not add to the number of guns that are in the people's possession.

Deputy Town Manager Stueckle reminded the Commission that their purpose is to address land use issues, not second amendment issues. Staff will take the comments into consideration and the item will be brought back for public hearing.

No action was taken.

3. WIND ENERGY CONVERSION SYSTEMS

Deputy Town Manager Stueckle presented the staff report by explaining past commission discussions on wind energy conversion systems (WECS) and presented different types of

meeting, and make revisions. The staff recommends that the Planning Commission continues the public hearing to the March 25, 2014 Planning Commission meeting to allow staff to make final changes for Commission consideration.

Commissioner Whitten moved that the Commission continue the public hearing to the March 25th, 2014 Planning Commission meeting to allow staff to make final changes for Commission consideration. The motion was seconded by Chairman Humphreville and was approved unanimously.

DEPARTMENT REPORTS:

1. HOME OCCUPATION PERMIT REGULATIONS

Deputy Town Manager Stueckle provided the staff report. He reminded the Commission that there had previously been a lengthy discussion of the Home Occupation Permit Regulations over what are appropriate types of home based businesses as the result of home based businesses requesting federal and state firearms licenses. He provided an over view of the current ordinance for the three tiers of home based businesses. Staff would like input from the Commission on the issue of whether or not the ordinances address the physical differences between lots of different sizes, and provided the example of a business on a two and a half acre lot, which is far away from any neighboring structures, having a small amount of outdoor storage. He also acknowledged that due to the late hour, the Commission may choose to continue the discussion on this issue at a later date.

After the conclusion of the staff's report, Chairman Humphreville opened the floor to public comment.

PUBLIC COMMENTS

Margo Sturges, Yucca Valley, is concerned over this issue and believes this is a topic that needs to be work shopped. She is feels that selling weapons out of the home in rented locations like apartment complexes may affect the expectation of quiet enjoyment of renters and the liability of a landlord. She believes that the neighborhood dislikes the idea of weapon sales, and it should be limited to large lots.

Chairman Humphreville asked for staff discussion on this issue, and Deputy Town Manager Stueckle said that because this is a complex issue with many elements to be considered, staff believes that this item requires further discussion at a later date.

Chairman Humphreville asked if the ordinance as it is written now gives the town the flexibility to work with the businesses like the earlier example of a home based business on a two and a half acre lot with outside storage. Deputy Town Manager Stueckle replied that under the current ordinances staff was not able to find any way to address this issue, and staff believes there needs to be some modifications to the ordinance.

Commissioner Lavender said that he believes that most Yucca Valley citizens are against residential gun sales.

Commissioner Whitten believes that there should be a workshop, and that regulations need to be changed to reflect the changing climate regarding guns. He also believes that the Town should send a building inspector to make sure a home fits home occupation permit. He also suggest that these permits come to Planning Commission for review, and that permitted operating hours be changed. He believes that 7:00am

is too early and 8:00pm is too late. He also thinks that home animal rescue and home animal care and boarding should be prohibited, and believes that this should be revisited in a workshop.

Commissioner Drozd suggested that arm sales under a certain lot size should prohibit ammunition sales.

There was a consensus among the Commissioners that a workshop in this issue would be appropriate.

Deputy Town Manager Stueckle agreed that this will be revisited at a later date for further discussion.

There was no motion, but there was a consensus to hold a workshop at a later date

CONSENT AGENDA:

1. 2013 GENERAL PLAN ANNUAL REPORT

Government Code Section 65400 mandates that all cities and counties submit to their legislative bodies an annual report on the status of the General Plan and progress on its implementation. The report must then be filed with the state's Office of Planning and Research (OPR) and the Department of Housing and Community Development (HCD). This annual review addresses the January 1, 2013 through December 31, 2013 time period.

2. MINUTES

A request that the Planning Commission approve as submitted the minutes of the meetings held on October 08, 2013, November 12, 2013 and February 11, 2014.

PUBLIC COMMENTS

None

Commissioner Whitten moved that the Commission approve Consent Agenda items one and two. The motion was seconded by Commissioner Bridenstine and was carried unanimously.

STAFF REPORTS AND COMMENTS:

None

FUTURE AGENDA ITEMS:

Development Code Update - Article 3
Site Plan Review 01-24 – Phase 1 Hawks Landing

COMMISSIONER REPORTS AND REQUESTS:

Commissioner Drozd thanked everyone for their participation.

Commissioner Lavender stated that it was a good discussion and he appreciates that.

Commissioner Whitten said that he wanted to know where adult orientated businesses are covered in the code. Deputy Town Manager Stueckle replied that it is covered in Article 2, and that conversation will be coming forward. Commissioner Whitten also stated that the recent rainstorm may have identified some

**TOWN OF YUCCA VALLEY
PLANNING COMMISSION MEETING MINUTES
May 13, 2014**

Chair Humphreville called the regular meeting of the Yucca Valley Planning Commission to order at 6:00p.m.

Commissioners present were Bridenstine, Drozd, Lavender and Chair Humphreville. Commissioner Whitten was not present (excused).

The Pledge of Allegiance was led by Chair Humphreville.

PUBLIC COMMENTS

1. Margo Sturges, Yucca Valley, spoke and said that she thought that the Planning Commission had intended to hold a workshop on the Home Occupation Permit regulations, and she felt that they should hold a workshop.
2. Fritz Koenig, Yucca Valley, said that the Planning Commission had said that they would hold a workshop on the Home Occupation Permit regulations. He felt that a workshop was necessary as the issue was controversial. He said he would be holding his own workshop and submitted a sign-up sheet to the Commission.

With no further individuals wishing to speak, Chair Humphreville closed public comments.

CLOSE PUBLIC COMMENTS

PUBLIC HEARING

1. **VARIANCE, V 02-14 BALLINGER DEVELOPMENT**
A request to reduce the required 50 foot front yard setback to 30 feet for the construction of a single family residence. The property is located on the north side of Montecello Lane, west of Montecello Rd and is identified as APN 596-361-03.

Planning Technician Olsen presented the staff report. Staff recommended that the Commission find the project exempt from CEQA under section 15305, Class 5, Minor Alterations in Land Use Limitations, and that the Commission grant the Variation based upon the findings contained within the staff report. Staff's findings were as follows:

1. The granting of the variance would not be detrimental to other properties in the area. Several properties in the surrounding areas have been granted variances for a reduction in setbacks. The granting of the variance will have no impact on solar energy systems, either now or in the future.
2. The property would require significant land disturbance to construct a single family residence.

- 3. The strict application of the land use regulations would require extensive land disturbance on the site, would change the natural appearance of the site and could limit the ability to construct a single family residence on the property.
- 4. The variance is compatible with the following polices of the General Plan.

PUBLIC COMMENTS

None

CLOSE PUBLIC COMMENTS

Joanne Ballinger, the applicant, told the Commission that the intent of the project was to avoid disturbing as much of the landscape as possible, and that they were requesting the variance to avoid extensive changes given the limited size of the level portion of the lot.

Commissioner Lavender asked if they had considered alternative configurations which would allow them to build on that location without the variance.

The applicant said that they had looked at alternative options, but found that even a smaller home would require a variance, and that they wanted to keep the grading to a minimum.

Chair Humphreville said that he understood the issues with construction on that property, and that he appreciated their intent to preserve the attractive boulder piles.

Commissioner Bridonstine said that she felt a setback of 30 feet was reasonable given the circumstances.

MOTION

Chair Humphreville moved to approve variance, V 02-14. Commissioner Lavender seconded, and it passed unanimously.

2. DEVELOPMENT CODE AMENDMENT, DCA 02-14 HOME OCCUPATION REGULATIONS

Deputy Town Manager Stueckle presented the staff report. Staff presented the Commission with draft regulations for Home Occupation Permits for their consideration. A brief overview of the history of the Town's Home Occupation Permit regulations was provided. Staff stated that Article 4 of the development code was approved by the Town Council in October of 2013, but that the Commission had opted to defer Home Occupation Permits until they had received additional input from the community.

Deputy Town Manager Stueckle said that the Commission had talked about holding a workshop on the Home Occupation Permit regulations, and it was staff's interpretation that the Commission's intent was to receive maximum participation from the public. Staff explained that, in order to receive the maximum participation from the community, notice of the public hearing

on HOP regulations was provide not only through the usual notice of the meeting published in the newspaper and website, but also through the Community Updates, an additional press release, and through the Chamber Commerce. It was staff's opinion that this process met the Commission's intent for maximum participation, and if there are member of the community who are working on the regulations the Commission is always delighted to receive that information.

Staff provided an overview of the current Home Occupation Permit regulations and the changes presented in the draft regulations presented to the Commission. The changes in the draft regulations included:

- Staff recommended changing the approval authority from Director for all Home Occupation Permit's to two levels of approval authority including Director and Planning Commission, where the Planning Commission would be the approval authority for all home occupations involving sales activities from the home, customers visiting the home, or outdoor screened business activity.
- Staff recommended that the renewal authority is the same as the approval authority.
- Staff recommended that approvals be given for 2 or 3 years instead of for one unless a complaint is received and violations have been verified by a field investigation.
- Staff asked that the Commission consider any additional uses which should be added to the prohibited list.
- Staff recommended additional language to clarify what home based businesses are exempt from obtaining a permit.
- Staff said that the language allowing outside storage needed further clarification and standards. Staff recommended modifications which prohibited outside storage in smaller lots and allowed some outside storage on lots larger than one acre.
- Staff stated that the current standards only address the maximum areas for storage which can be used by a business and identify 25% and 35%, or 250 square feet or 500 square feet, as maximum areas for conducting home based businesses. Staff stated that the Commission may desire to discuss modifications to these standards.
- Staff asked that the Commission should discuss the standards regarding where business activities are to be conducted and direct staff as to the allowable locations for home based business activities.
- Staff recommended modifying the allowed business operating hours from between the hours of 7:00 a.m. and 8:00 p.m. to the hours of 9:00 a.m. and 5:00 p.m. for business which have sales on the premises or customers on the site. All other homes based business would be limited to between 7:00am and 7:00 pm. The Commission may desire to discuss the necessity for hours of operation where no customers visit the site, and when the business activity is in compliance with Town regulations.

PUBLIC COMMENTS

1. John Barridge, San Deigo, spoke. He stated that he is the attorney for Fritz Koenig. He said that he does not believe the staff's recommendations regarding where business activities are to be conducted were more restrictive. He also objected to allowing people to

- apply for a Conditional Use Permit for uses which do not strictly comply with the Home Occupation Permit regulations.
2. Sabrina Peukert, Yucca Valley, asked if the regulations included provisions to make sure that sales tax was correctly paid to the jurisdiction when goods are sold. She said that she can't run the same business as the Fallosi's.
 3. Fritz Koenig, Yucca Valley, asked that the public comment period be continued at the next meeting on this subject. He said that he believes the recommended changes presented by staff are less restrictive and that allowing Conditional Use Permits would allow the Planning Commission to permit any business they want, including a brothel. He believes home occupation business activities should be limited to the primary dwelling unit.
 4. Margo Sturges, Yucca Valley, said that she believes that the regulations should prohibit more uses including gun sales, brothels, salons and mortuaries. She said that there should be workshop on the issue and that the public hearing wasn't enough.
 5. Barry Shaw, Yucca Valley, said that selling guns and/or ammunition in a residential area should be strictly prohibited. He said that no one wants to live in a neighborhood where guns and ammo are sold.
 6. Janice Pask, Yucca Valley, spoke in support of the proposed changes to the HOP regulations that take in to account the differences in lot sizes. She is a neighbor of David Fallosi, an artist, and feels that his home business is appropriate to the neighborhood.
 7. David Cooper, Yucca Valley, commented on the proposed changes to the HOP regulations. He was on the planning commission when the current regulations were first drafted. He said he didn't have a problem with a properly licensed gun dealer operating a small home based business. He said that home occupation permits are not controversial, and that Yucca Valley is a rural area that doesn't face the same issues as a metropolitan area. He believes the regulations should have a light touch. Rural areas on large parcels should be allowed to do a lot of things that they can't do on small urban parcels. He also said he felt that the 9 to 5 retail hour limit was too restrictive. He also approved of the 2-3 year period for renewal.
 8. David Fallosi, Yucca Valley, spoke asking the Commission to consider what is reasonable for artists. He is an artist with a home occupation business and the area has a large community of artists, and that this type of business improves the Town. He said that he doesn't think it is reasonable for a home owner to be discriminated against because they have a Home Occupation Permit. What is allowed for any home owner should not be prohibited simply because they have a HOP.

9. Herb Orban, Yucca Valley, said that he supports some home based businesses, but doesn't think the ordinance should be changed to allow a broader spectrum of home based businesses. He also does not support any home business which would increase traffic or increase crime related activities. He does not support residential gun sales.
10. Dennis Pask, Yucca Valley, spoke. He said he is a neighbor of David Fallosi and that he represents 30 residents of his neighborhood who support the proposed changes. He supports local artists who work out of their homes, and said that many of them may have developed their studios prior to incorporation. He believes the Town should encourage artists. He submitted a document for Commission review.
11. Bonnie Brady, Yucca Valley, said she thinks that any gun based businesses should be prohibited in residential areas. She also agreed with Fallosi about the needs of art based home businesses. She has participated in the art tours and believes they are important.
12. Ed Koesling, Yucca Valley, is a potter in Yucca Valley. He spoke in support for the new rules for rural areas with large lots. He encouraged the Commission to make it easier for artist to work in large areas. He said it wasn't clear to him whether or not the ordinance allowed artists to participate in art tours or open house type events. He also felt that the fee for the applying for a HOP is high.
13. Nora Fraser, said that she is a neighbor of David Fallosi and that his business is successful and should have a commercial space.
14. Marissa Corson, Yucca Valley, said that she felt that it is not fair that someone with a Home Occupation Permit is not allowed to have the same kind of commercial deliveries that someone without a home business would be allowed.
15. Esther Shaw, Yucca Valley, said that gun sales should be prohibited in residential neighborhoods with small lots. She said that gun shops have safety measures in place that residential homes do not have. She also spoke in support of regulations that support local artists.

With no further individuals wishing to speak, Chair Humphreville closed public comments.

END PUBLIC COMMENTS

Chair Humphreville opened the Commission discussion on the Home Occupation Permit regulations.

Commissioner Drozd said that he agreed with the graduated ordinance based upon lot size. The regulations need to take into account both the business owners and the neighbors, and a graduate ordinance is a good way to go. He also stated that, while he understand the concern caused by gun

sales, he does not believe that sale of disassembled, non-operational guns are a problem, particularly when limited to less than ten visits per month, but he does believe that prohibiting ammunition sales on small lots may be a good solution.

Commissioner Bridenstine suggested adding language to make it clear that only legal businesses are allowed. She also said that she thinks that firearm sales should only be allowed in residential lots one acre or larger. She also doesn't think that firearms and ammunition should be allowed to be sold together. She thinks that restricting the number of sales and the licensing requirements for gun sellers both need to be clearly reviewed. She also said that there are extenuating circumstances effecting artist. Art tours and open houses are important for artists, and many artist need to use accessory structures. She suggested either having a separate section addressing artist or liberating the ordinance enough to allow them to fit.

Commissioner Lavender said that he felt there needed to be a workshop on this item, and he didn't feel that there should be a decision in the next meeting. He said that the process needed more informal discussion. He also said that he did some research into the regulations of cities with similar demographics to Yucca Valley, and that most had regulations similar to what is currently in place. He also stated that some other communities go into much greater detail about what is allowed and what isn't allowed than what the Town currently has, and he felt that expanding that may create greater clarity. He also asked if staff has enough time to inspect properties to see if they are complying. Staff informed the Commission that currently inspections occur at the time the permit is granted, and subsequently only if there is a complaint. Commissioner Lavender also said that he felt that gun sales in general should be limited for personal reasons.

Chair Humphreville said that he agreed with Commissioner Bridenstine that language clarifying that only legal businesses are allowed should be included. He said that he doesn't believe that all gun businesses are the same. A legal home occupation business would have the same writ time requirements as a gun shop. He does understand the concerns caused by residential gun sales. He thought that were plenty of restrictions on the Home Occupation Permit previously issued by the Commission, and that gun sales are a legal business. He also said that he felt the Commission should consider prohibiting or restricting Home Occupation Permits in multi-family zones. He asked if there were currently any permits in multi-family zones, and was informed by staff that there are not.

Chair Humphreville called a recess at 7:35 p.m.

RECESS

The meeting resumed at 7:40 p.m.

Chair Humphreville opened a discussion on the exemption requirements. Staff stated that the draft language presented was intended only to clarify not modify what types of business are exempt from Home Occupation Permits. Commissioner Lavender said that he would like the businesses that are currently exempt to remain exempt.

Chair Humphreville opened a discussion on the conditions of approval.

Commissioner Bridenstine asked for clarification of the sign allowance. Staff provided clarification that the intent was that signage not change the character of the residential neighborhood and that sign size was limited to 2 square feet. Commissioner Bridenstine said that she agrees with small signs.

There was discussion on outside storage. Staff clarified that the intent of the proposed language was that all permits involving outside storage would go before the Planning Commission, but said that the language needs some fine tuning.

There was a discussion about the screening of storage. Commissioner Bridenstine and Commissioner Drozd agreed that the standard should be screened from the street level.

Commissioner Bridenstine also stated that she didn't want the rules to eliminate the possibility of having a separate studio. She stated that the rules either need to be permissive enough to allow for it, or there needs to be some kind of exception. She believes that the limit of 25% of the dwelling used for the operation of the business is too restrictive.

Chair Humphreville agreed that the 25% restriction was way too small. He said that he doesn't see any difference between allowing someone to use a barn for equestrian use and allowing them to use it for a home occupation. He stated that he would like to see storage size limited by parcel size.

Commissioner Lavender also agreed that the 25% or 250 square foot limitation is too small.

Chair Humphreville said that the average number of trips per day allowed may need to be modified to match the 12 trips per day which would occur in home daycare business with 6 or fewer clients.

There was a discussion of proposed changes to the sections addressing Review Authority. Staff provided an overview of the current process for Home Occupation Permit approval. Staff also explained that if sales taxes was an element of the business, it is included as part of the permit process. Both Commissioner Bridenstine and Chair Humphreville stated that they liked the change to a tiered approval authority.

There was a discussion of the proposed changes to the section addressing the Home Occupation Permit renewal. There was Commission consensus that the renewal authority should remain as the Director for both proposed tiers, provided that there were no complaints associated with the permit. The Commission also stated that they would like renewal notices be sent out when permits are due for renewal. Commissioner Lavender said that he would like to see inspections at the time of renewal. Commissioner Bridenstine agreed with a 3 year renewal period. Commissioner Lavender said that he would like to see inspections at the time of renewal.

Staff also explained that the language regarding permit revocation had been changed to a reference to Article 5, Chapter 9.84 to avoid duplication of that language.

Chair Humphreville asked if the Commissioners had any general comments regarding Home Occupation Permit Regulations.

Commissioner Drozd said that he thought it was a great process was glad that there was going to be another meeting on the topic.

Commissioner Bridenstine agreed with Commissioner Drozd and said that she hopes to hear more from the public at the next meeting.

Chair Humphreville said that he appreciates people attending the meeting, and that there will be another opportunity for community input, and that there was nothing nefarious on the part of staff to prevent comments.

Deputy Town Manager Stueckle provided a summary of the recommendations provided by the Commission.

Chair Humphreville said that they hadn't had a discussion on restrictions of deliveries. Chair Humphreville stated that he doesn't think that deliveries which would be allowed otherwise should be restricted by a HOP. Commissioner Drozd agreed, and pointed out how many UPS and trash deliveries go through residential areas. Commissioner Bridenstine said that the Commission needs to be careful in how the limit is worded and consideration should be given to the issue of size. There is a big difference between a semi-truck and a UPS truck. Commissioner Lavender thinks that the restrictions need to be relaxed.

Deputy Town Manager Stueckle asked if the Commission wished to hold a workshop on Home Occupation Permits on the 27th and continue the public hearing to the June 10th meeting. The Commission agreed with this approach.

MOTION

Chair Humphreville moved that the Public Hearing on Development Code Amendment, DCA 02-14 Home Occupation Regulations, be continued to the June 10th meeting. It was seconded by Commissioner Bridenstine, and the vote passed unanimously.

RECESS

Chair Humphreville called a recess 8:12

The meeting reconvened at 8:17

3. DEVELOPMENT CODE AMENDMENT, DCA 07-13 ARTICLE 3 CEQA EXEMPTION, SECTION 15061

Deputy Town Manager Stueckle spoke on behalf of staff. He stated that this was a continuation of prior meetings on this issue and provided a brief overview. He stated that staff was still waiting for a response regarding whether or not the Town was able to prohibit mining. Staff recommended that, given the lateness of the hour, the Commission continue this issue until the next meeting. Staff also recommended that the Commission wait until the whole code is finished before forwarding their recommendations to the Council.

PUBLIC COMMENT

None

END PUBLIC COMMENTS

MOTION

Chair Humphreville moved that the Public Hearing on Development Code Amendment, DCA 07-13 Article 3 be continued until the May 27th meeting. Commissioner Bridenstine seconded. The motion passed unanimously.

There was Commission consensus that they should complete all sections of the code before forwarding their recommendations to the Council.

Commissioner Lavender stated that he still doesn't like the term unsightly in reference to structure maintenance standards.

Chair Humphreville started a discussion of how the workshop scheduled for May 27th would be structured. After discussion, the Commission requested a process that allowed for group discussion at tables, and written comment form, and a period of individual comments. There was consensus to allow one hour for table discussion and thirty minutes for formal statements.

DEPARTMENT REPORTS

4. DEVELOPMENT CODE AMENDMENT, DCA 01-14 ARTICLE 2 CEQA EXEMPTION, SECTION 15061

Staff recommended that this discussion was also continued to the May 27th meeting.

MOTION

Chair Humphreville moved that the Department Report on Development Code Amendment, DCA 01-14 Article 2 be continued until the May 27th meeting. Commissioner Bridenstine seconded. The motion passed unanimously.

CONSENT AGENDA

1. MINUTES - A request that the Planning Commission approves as submitted the minutes of the meeting held on April 22, 2014.

Commissioner Bridenstine moved to approve the minutes of the meeting held on April 22, 2014. Commissioner Drozd seconded. The motion passed unanimously.

STAFF REPORTS AND COMMENTS:

Staff provided an overview of the status of current land development projects.

COMMISSIONER REPORTS AND REQUEST:

1. Commissioner Drozd thanked the staff for their hard work.
2. Commissioner Lavender had no comments

3. Commissioner Bridenstine thanked staff.
4. Chair Humphreville thanked staff for their efforts, and thanked them for bringing out the map visual aids.

ANNOUNCEMENTS:

None

ADJOURNMENT

There being no further business, the meeting adjourned at 8:34

Respectfully submitted,



Allison Brucker
Secretary

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.
- 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.

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.

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 1 st 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

IMPLEMENTATION

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

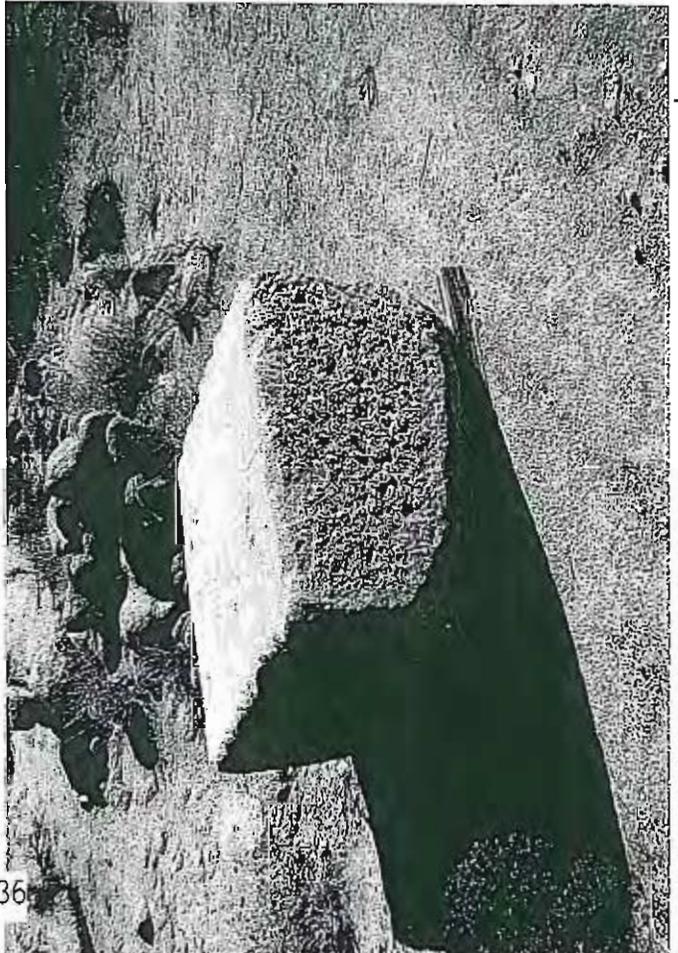
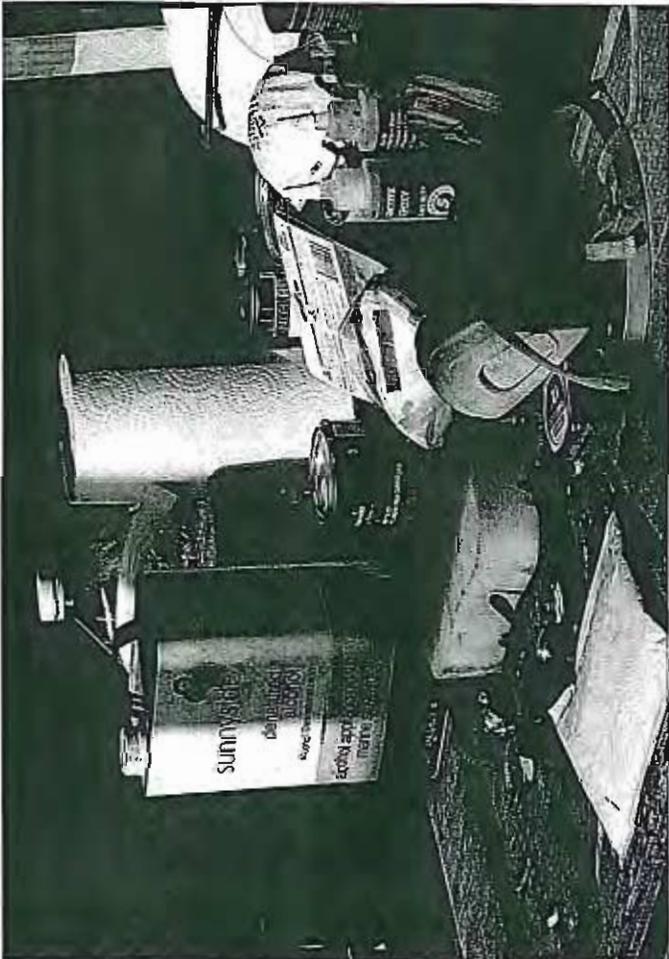
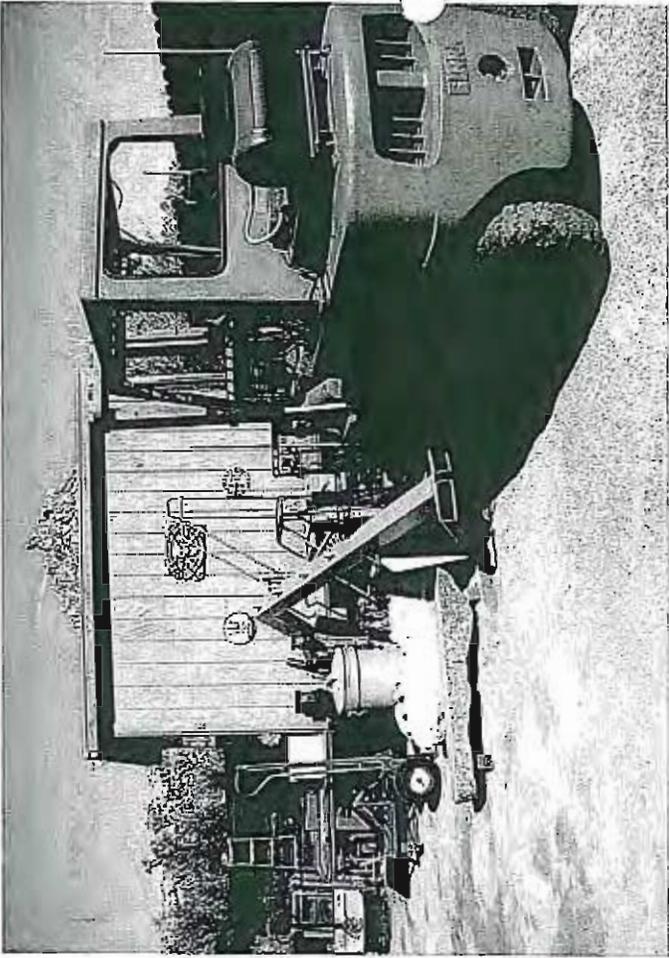
Land Use Implementation Actions		Relevant Policies	Responsible Department	Time Frame
LU 18	West Side SPA: Integrate the Area Plan into the General Plan once completed, and use it as the foundation for any future development proposals that come forth for consideration.	LU2-13 LU2-14	CDD	5 years
2.3 Yucca 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

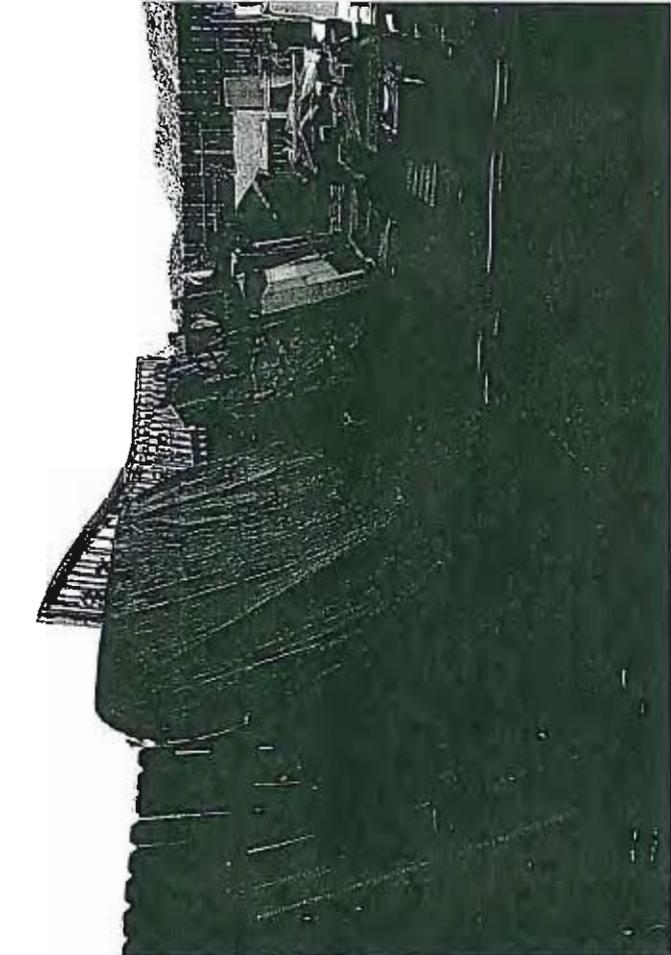
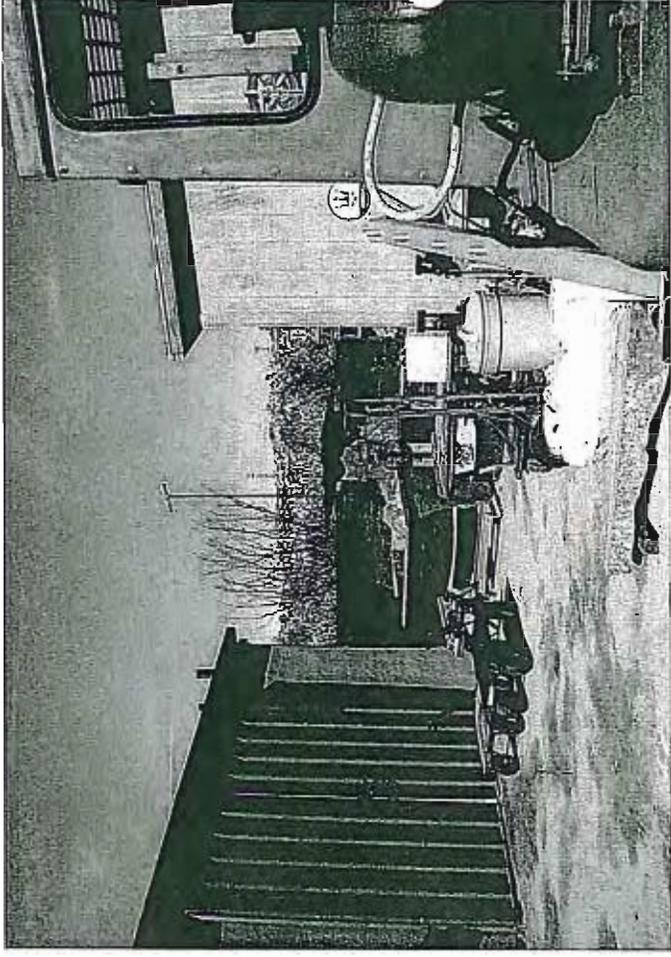
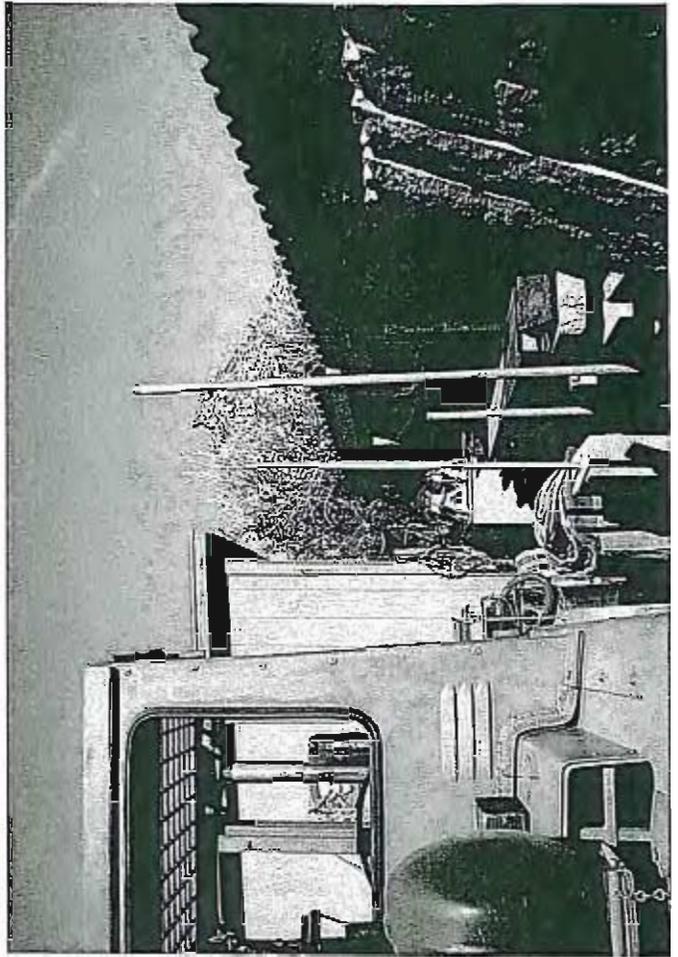
Housing Implementation Actions

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

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: <ul style="list-style-type: none"> • 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

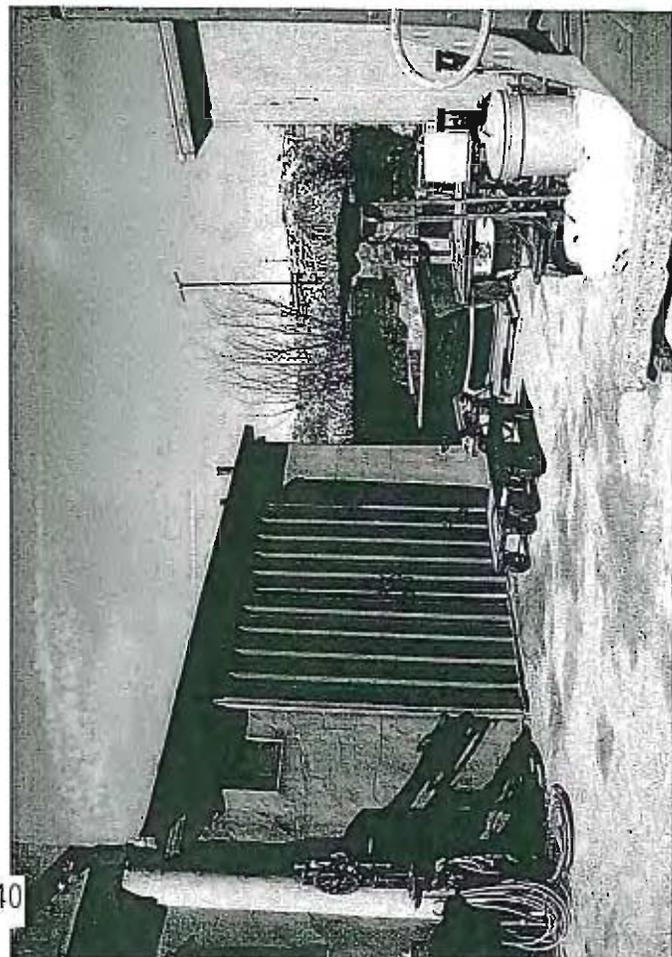
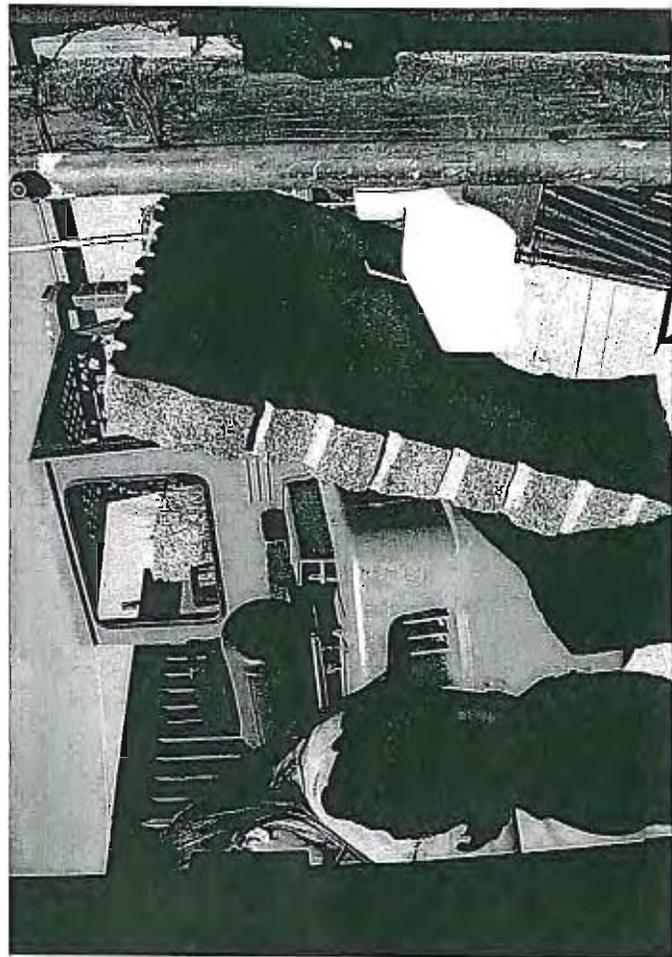
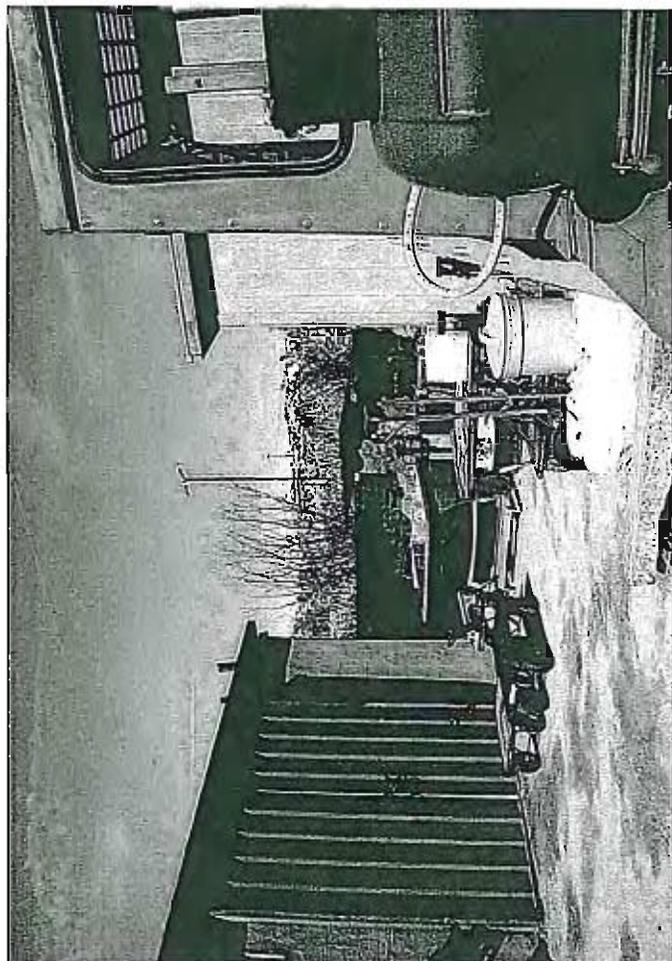
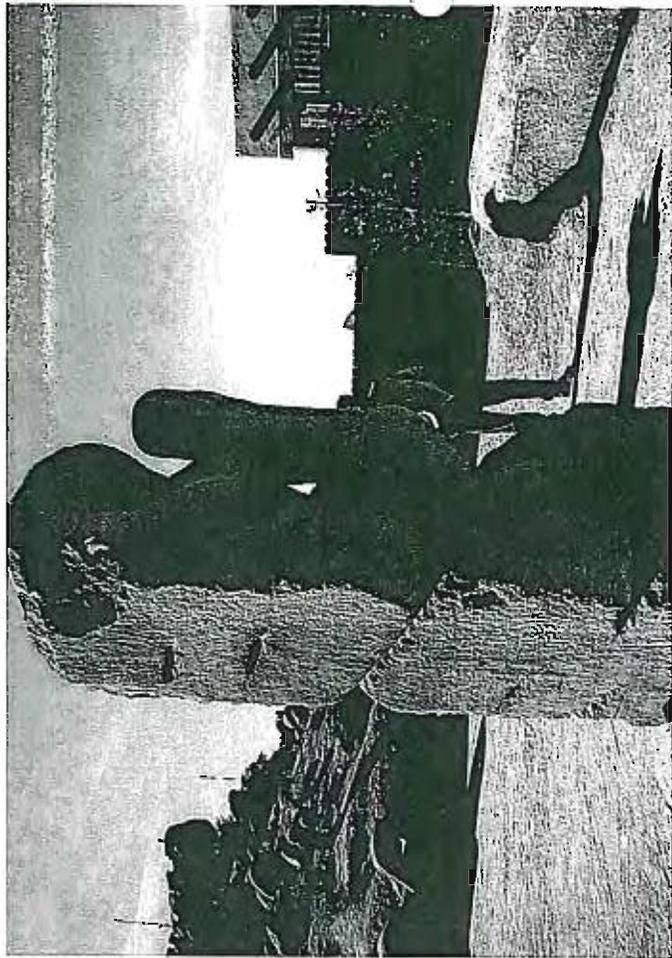


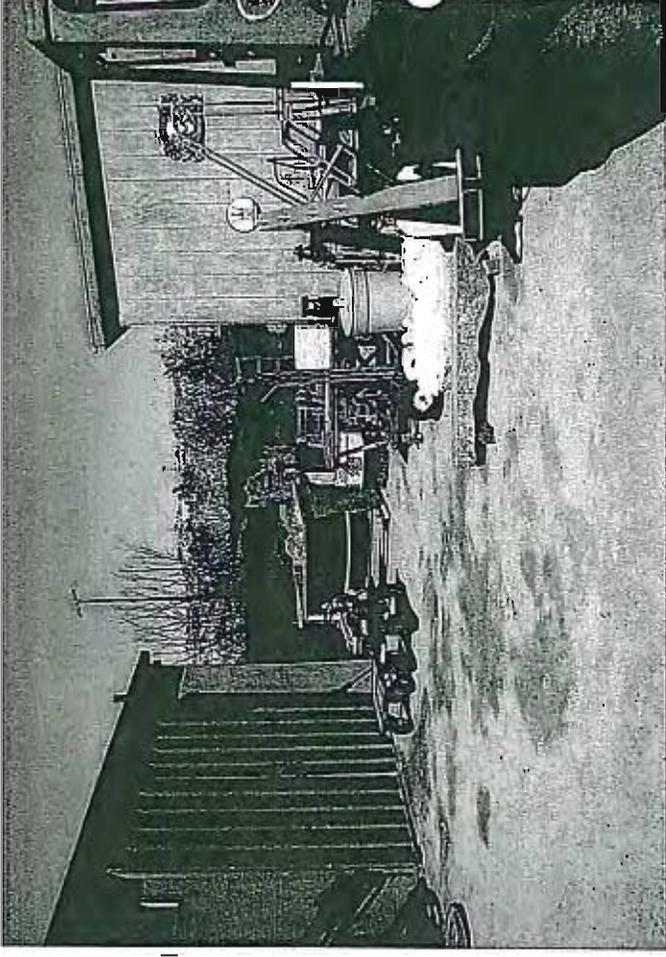
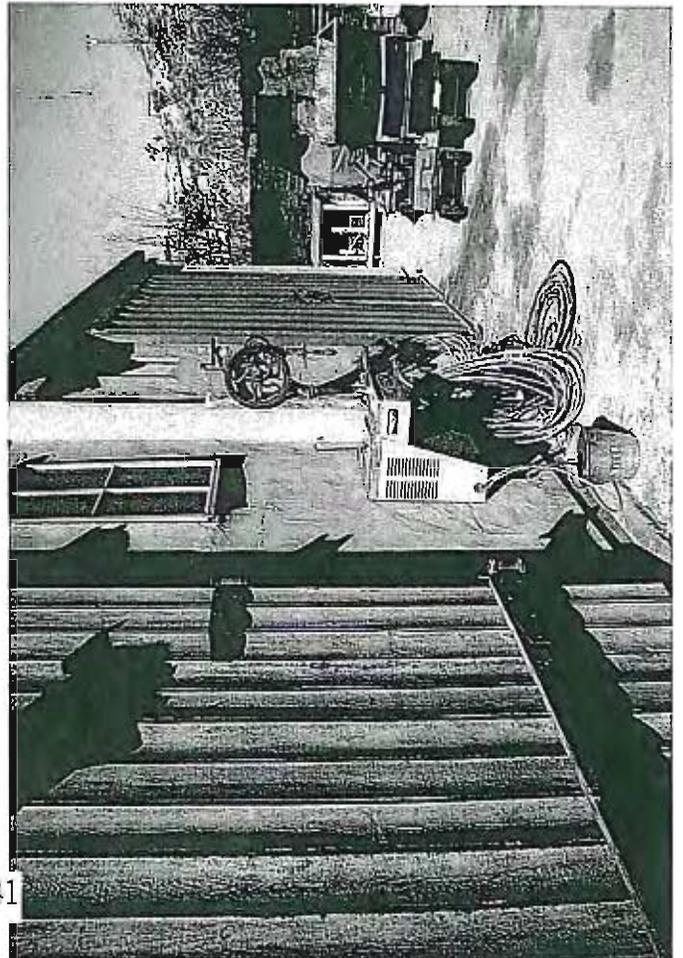
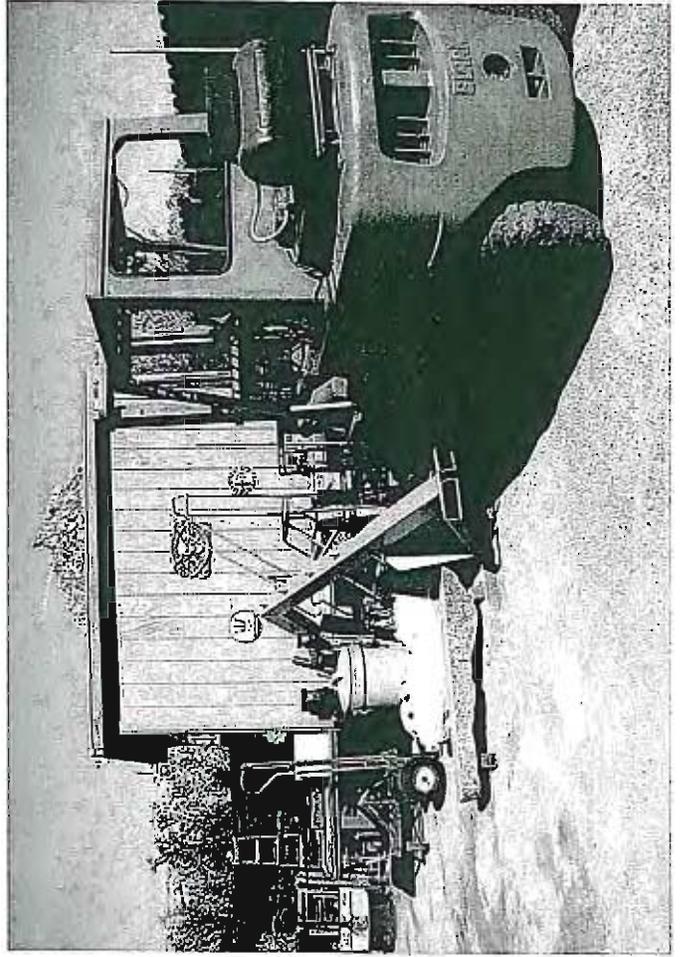


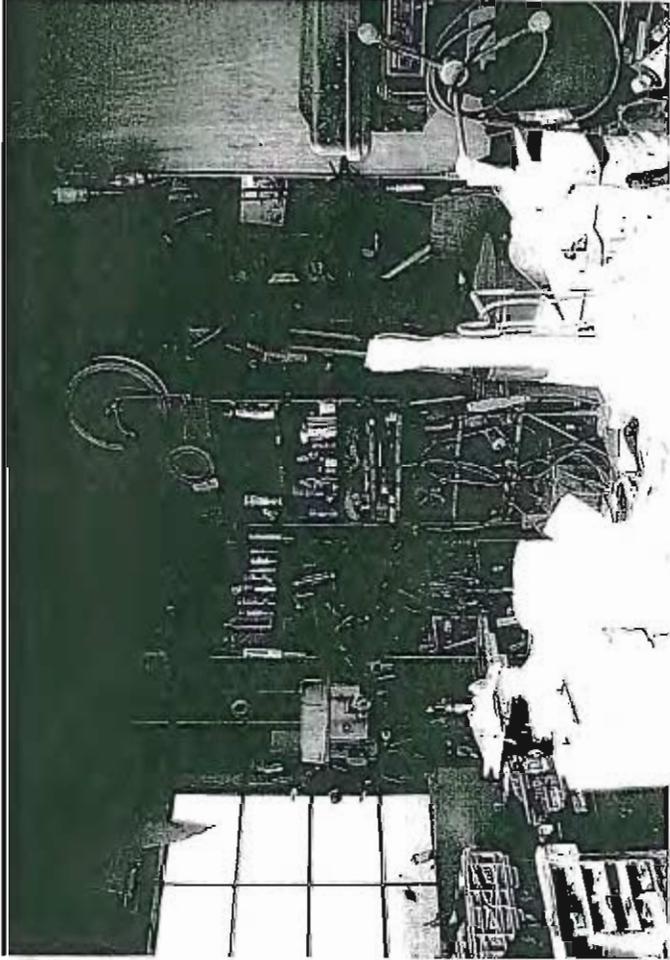
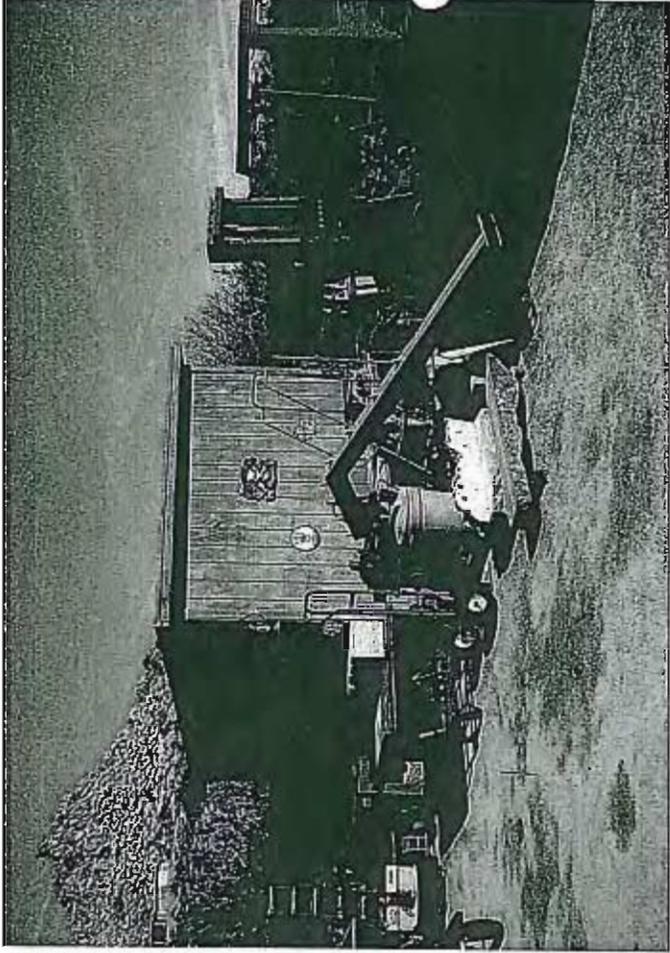
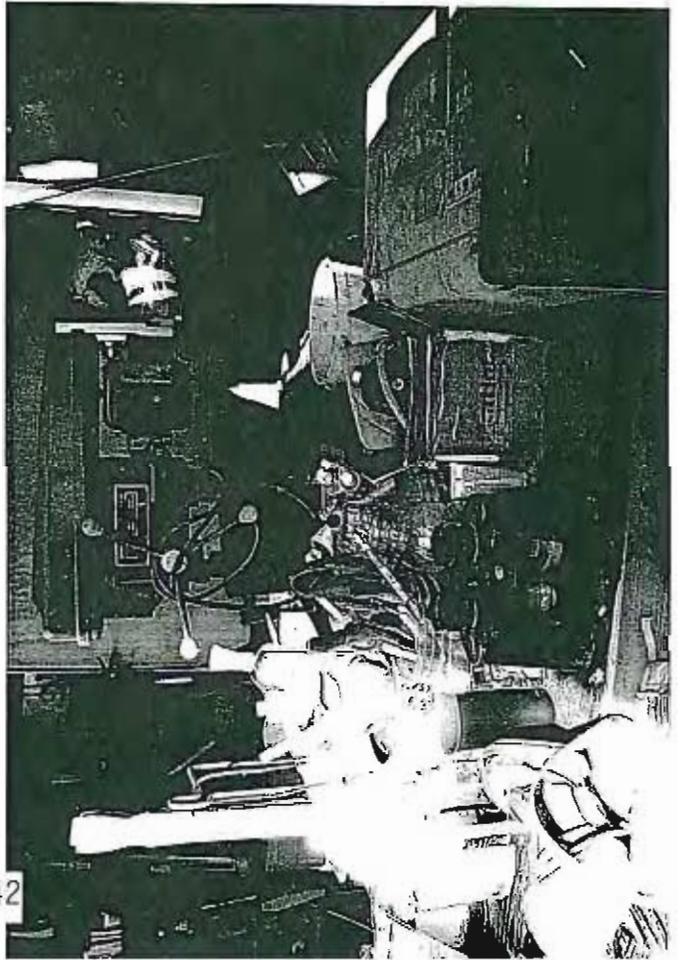
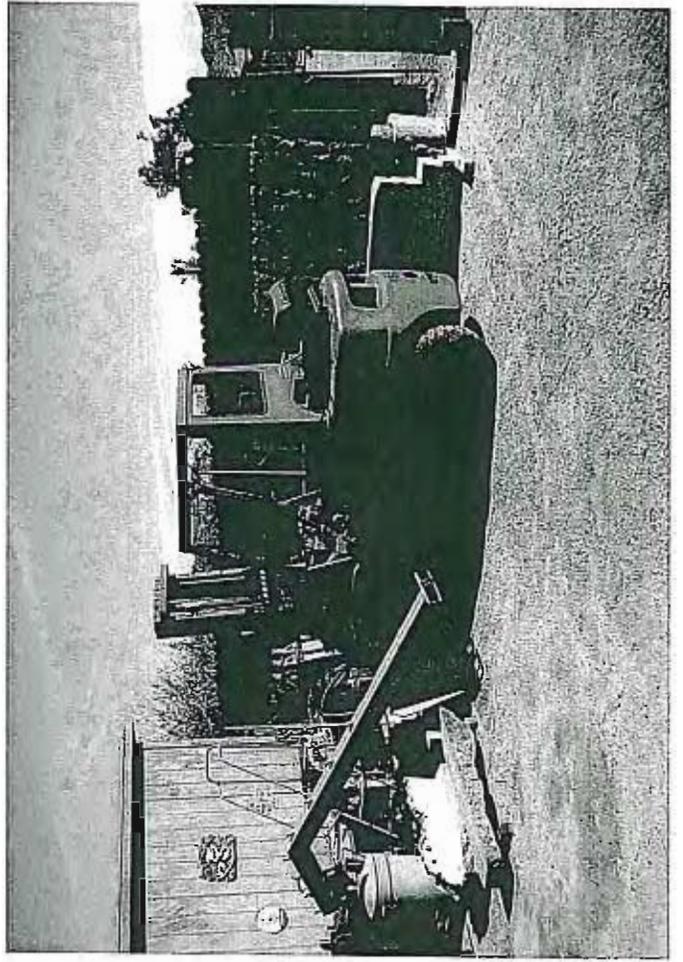
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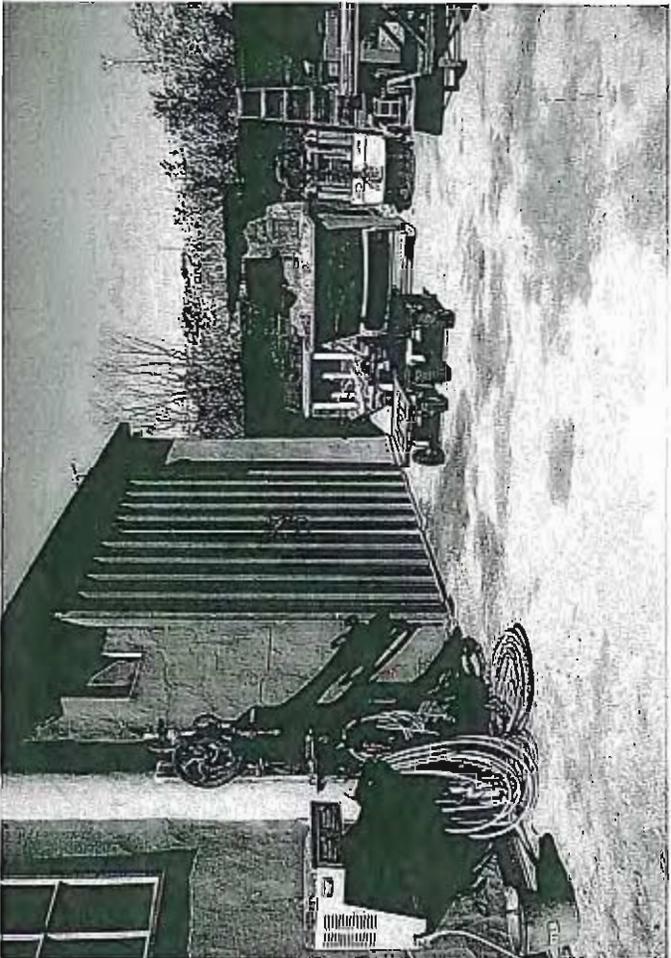
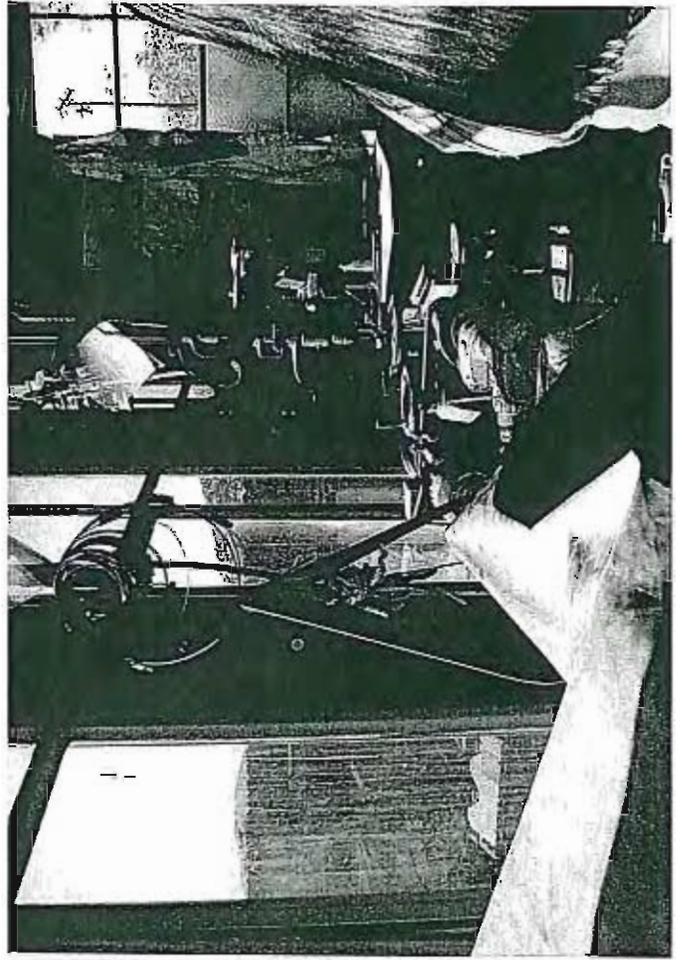


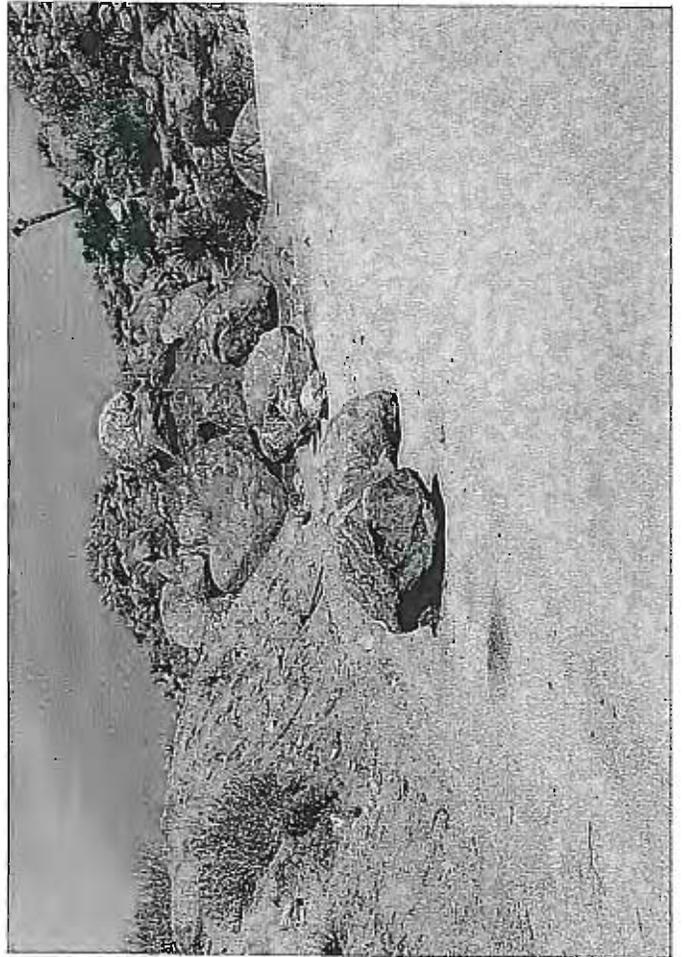


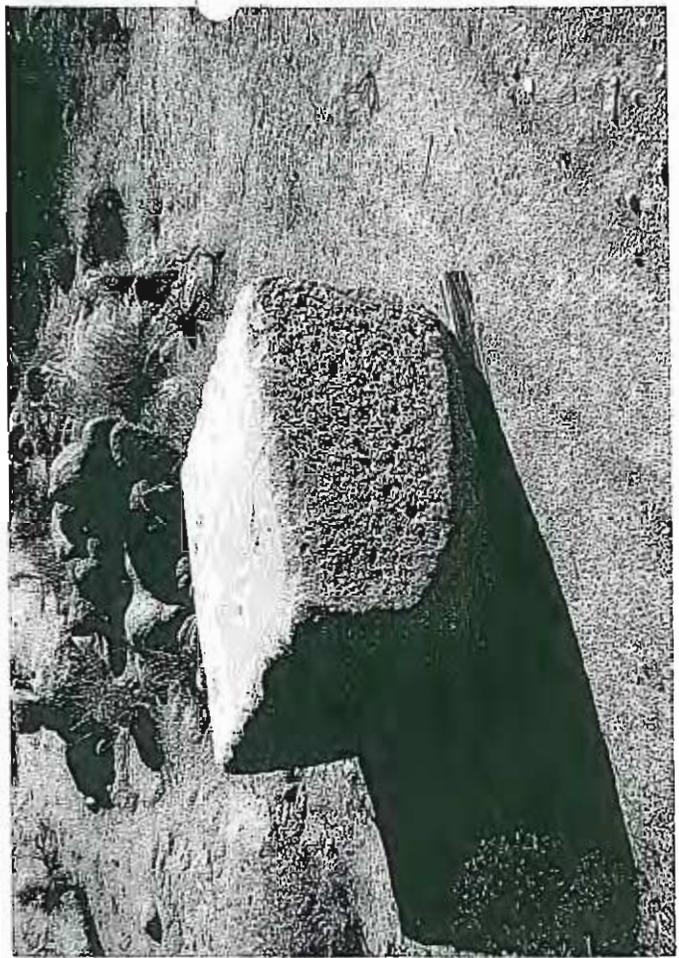
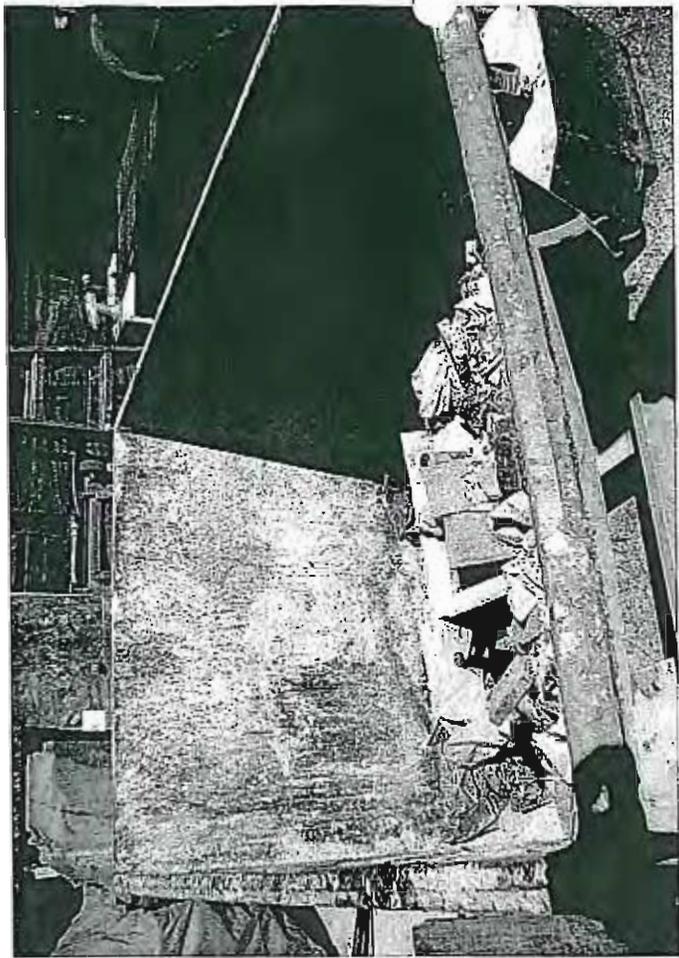




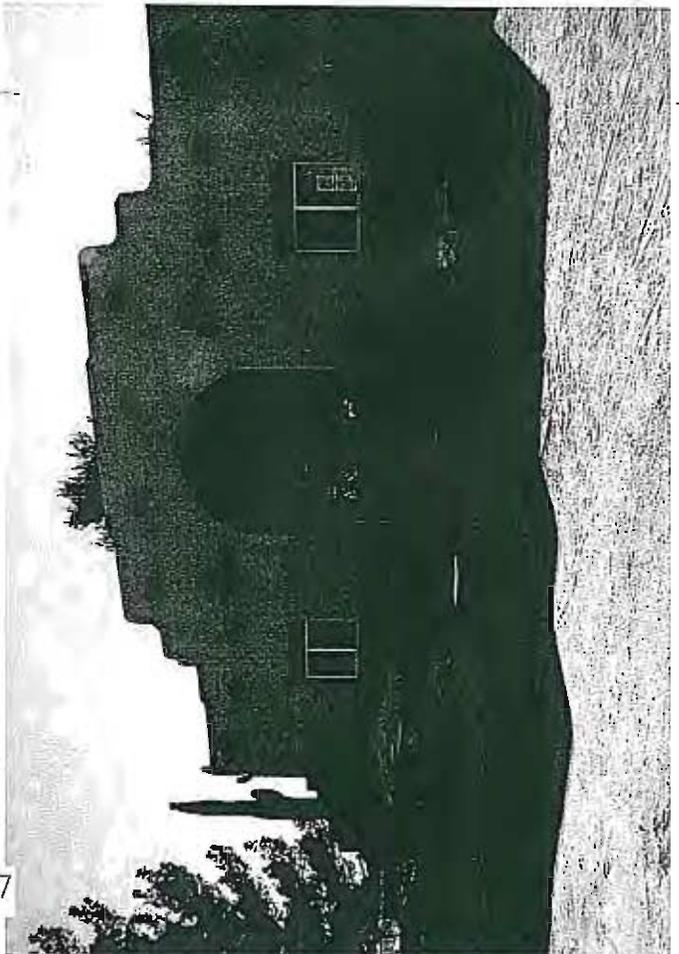
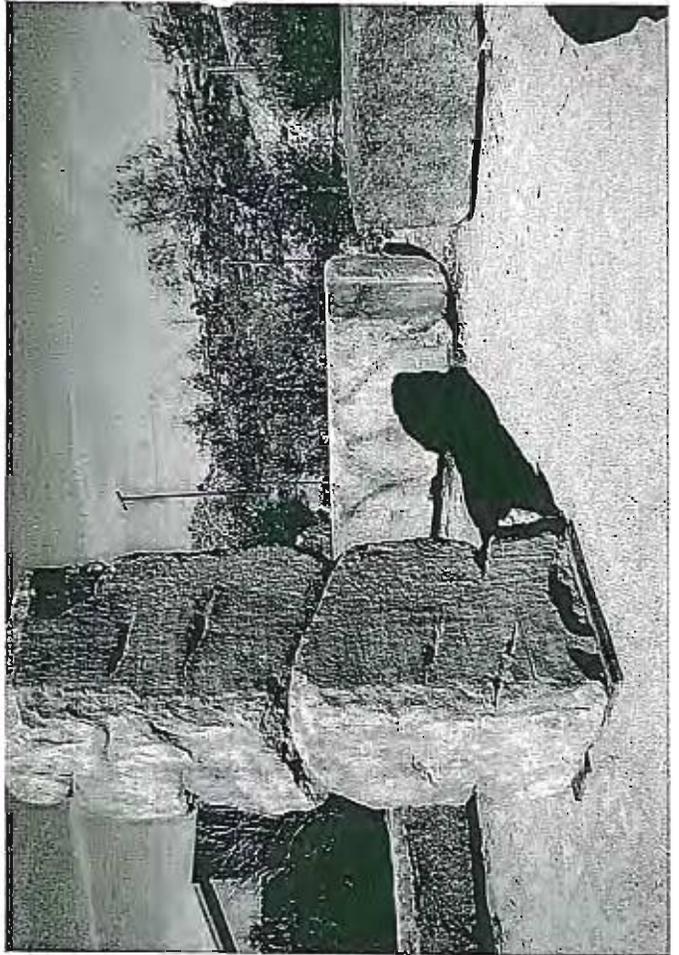




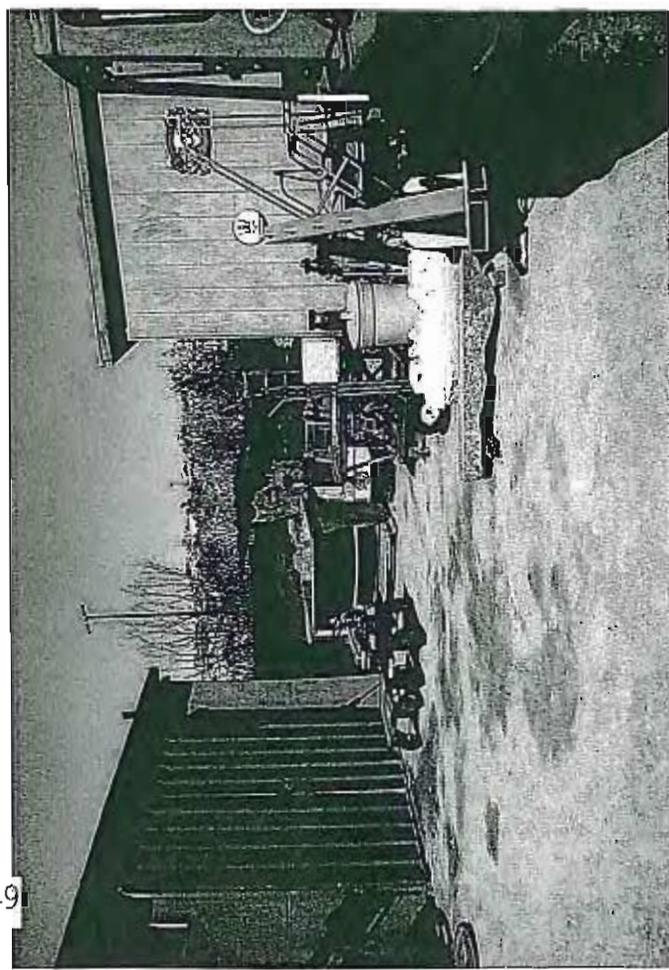
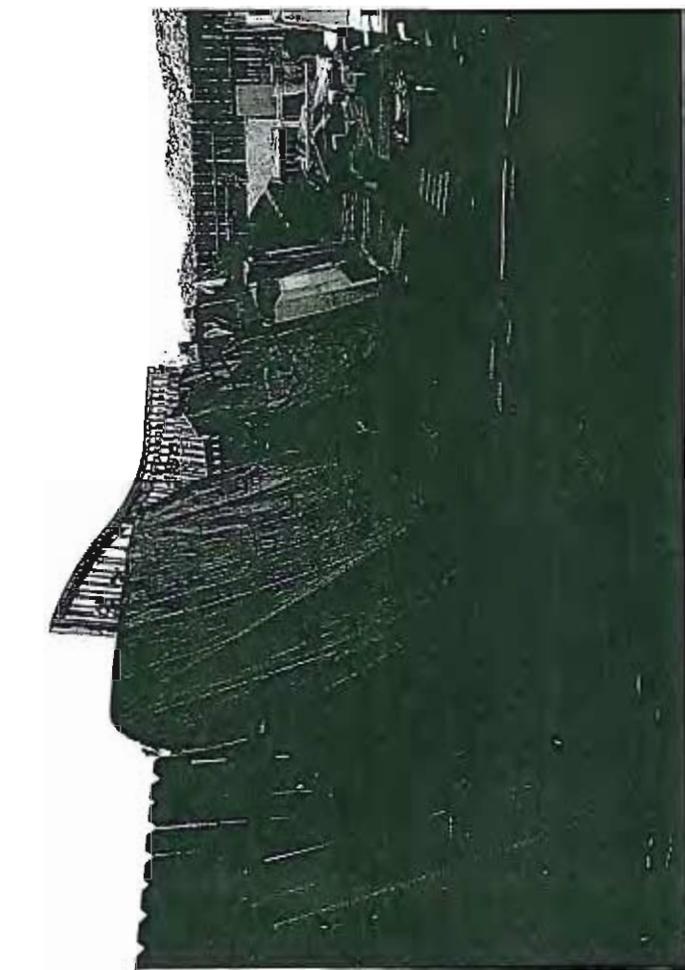
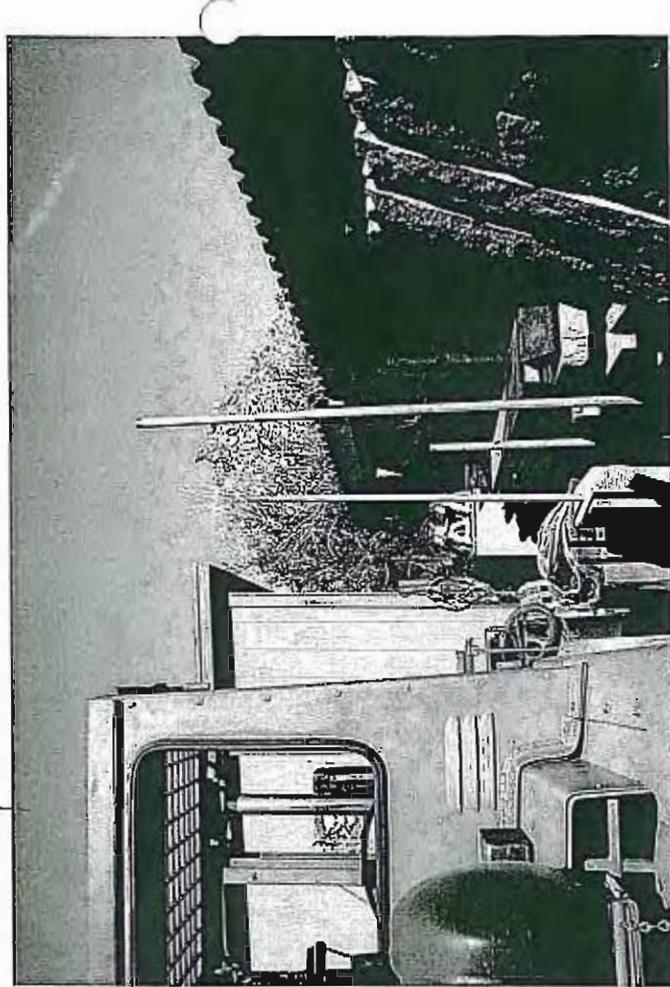
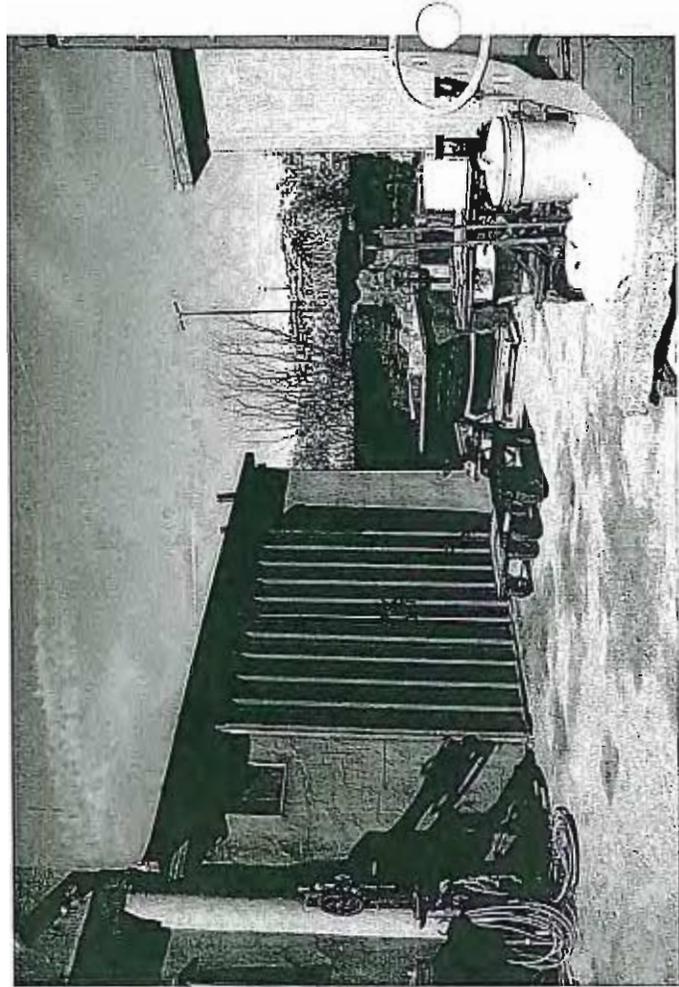














Ordinance No. 54

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 I. SECTION 84.0615 AMENDMENTS

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

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

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

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

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

SUMMARY OF STANDARDS

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

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

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

"(b) GENERAL STANDARDS.

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

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

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

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

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

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

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

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

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

"(f) PROHIBITED HOME OCCUPATIONS/COTTAGE INDUSTRY.

The following home occupations are expressly prohibited as home occupations:

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

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

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

"(g) REVIEWING AUTHORITY AND ENFORCEMENT

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

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

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

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

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

"(h) APPEALS

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

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

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

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

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

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

Mayor

ATTEST:

Sheela

Town Clerk

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

Town Attorney

Sheela
Town Manager

o:\data\wpdata\lhb\pord
3/21/95

ORDINANCE NO. 178

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

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

SECTION 1. Development Code Amended.

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

"84.0615

Home Occupations

84.0615

(a) **PURPOSE AND INTENT:**

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

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

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

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

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

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

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

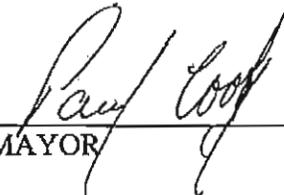
- (i) **Appeal.** Any affected person may appeal a decision of the Director of Community Development to the Planning Commission. Appeals shall be filed with the Community Development Department within ten (10) days following the date of the action appealed. Upon receipt of the notice of appeal, the Community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

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

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

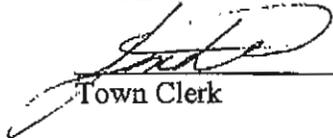
SECTION 3. EFFECTIVE DATE. This Ordinance shall become effective thirty (30) days from and after the date of its adoption.

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



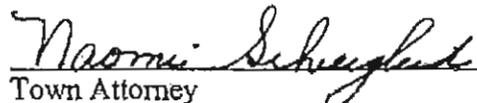
 MAYOR

ATTEST:



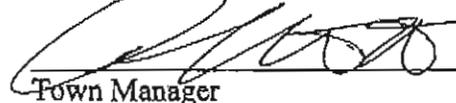
 Town Clerk

APPROVED AS TO FORM:



 Town Attorney

APPROVED AS TO CONTENT:



 Town Manager

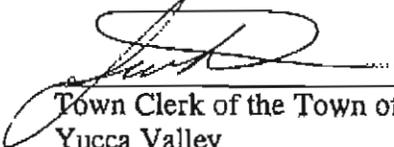
STATE OF CALIFORNIA
COUNTY OF SAN BERNARDINO
TOWN OF YUCCA VALLEY

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

Ayes: Council Members Leone, Luckino, Mayes, Neeb and Mayor Cook
Noes: None
Abstain: None
Absent: None

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

(SEAL)


Town Clerk of the Town of
Yucca Valley

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

RECEIVED

APR 24 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

RECEIVED

APR 14 2014

April 9, 2014

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

TOWN OF YUCCA VALLEY
PUBLIC WORKS

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

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

A. George Stoll

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 50 years 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

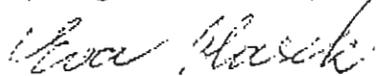
The Town of Yucca Valley

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.

A handwritten signature in cursive script that reads "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 travelling 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 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

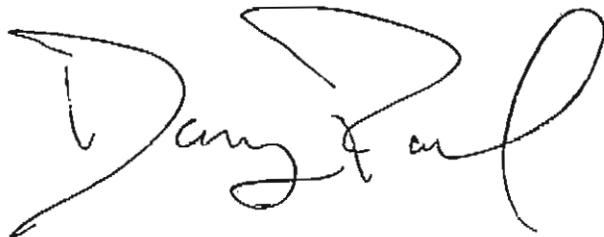
Someone left a typed yellow note/paper at my front door today with a hand written name of N.Fraser 760-774-3524 stating things that are not true in my neighborhood.

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

A handwritten signature in black ink that reads "Danny Paul". The signature is written in a cursive style with a large, stylized 'D' and 'P'.

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

Earnest Saenz
4-8-14

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

6262 Hoot Owl Trail- Yucca Valley

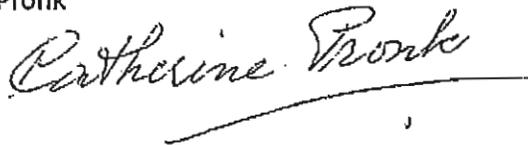
To Whom It May Concern:

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 discovered 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

A handwritten signature in cursive script that reads "Catherine Pronk". The signature is written in black ink and is underlined with a single horizontal stroke.

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 Owl 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,

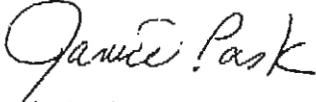
and his run-down cabin at 6224 Hoot Owl Trail, and their estimate of the value of the property around here would go down dramatically. (Frankly, we can't help but wonder whether some of Ms. Fraser's renters have complained about the poor condition of the road on her property. We feel sorry for her renters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

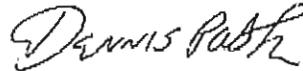
Shapiro and his foundation: *The Brent Shapiro Foundation – For Alcohol and Drug Awareness*. David Falossi donated a piece of his artwork to be auctioned at one of the foundation's fundraisers.

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
56599 Tish Trail
Yucca Valley



Dennis Pask

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 travelling by the front of your house.

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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 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)

Diane Olsen

From: falossistudio@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.

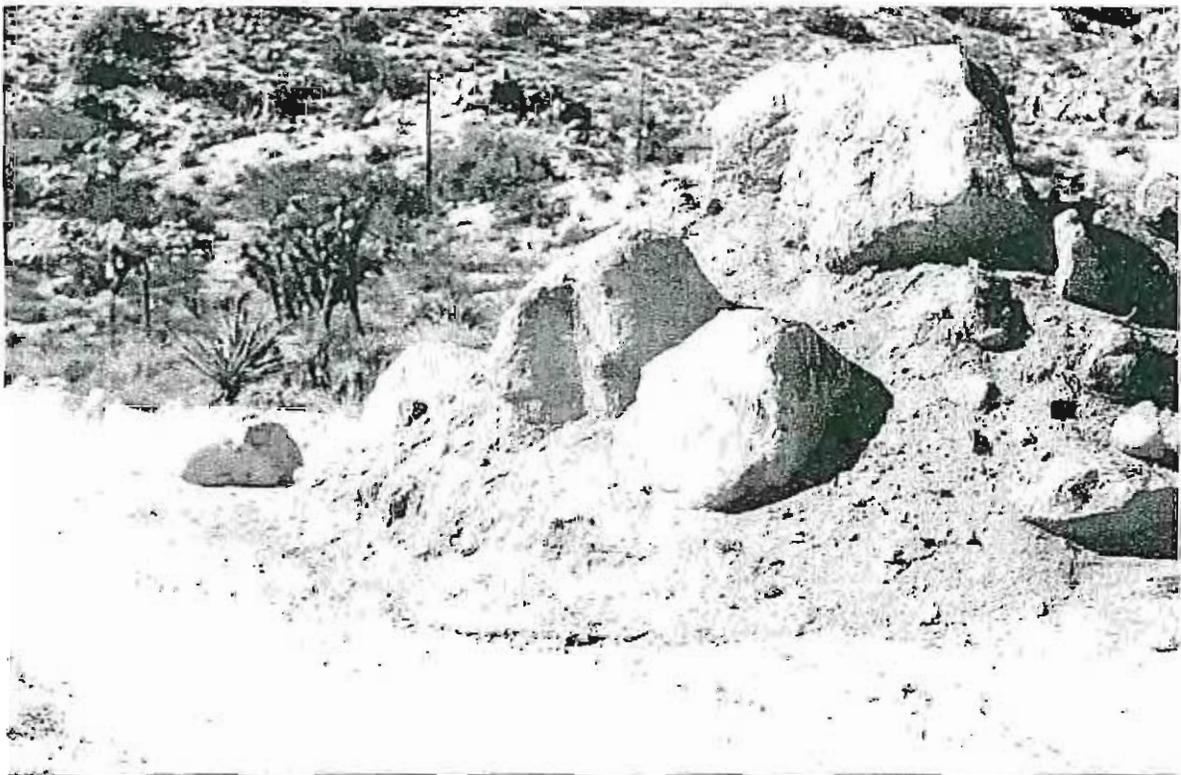
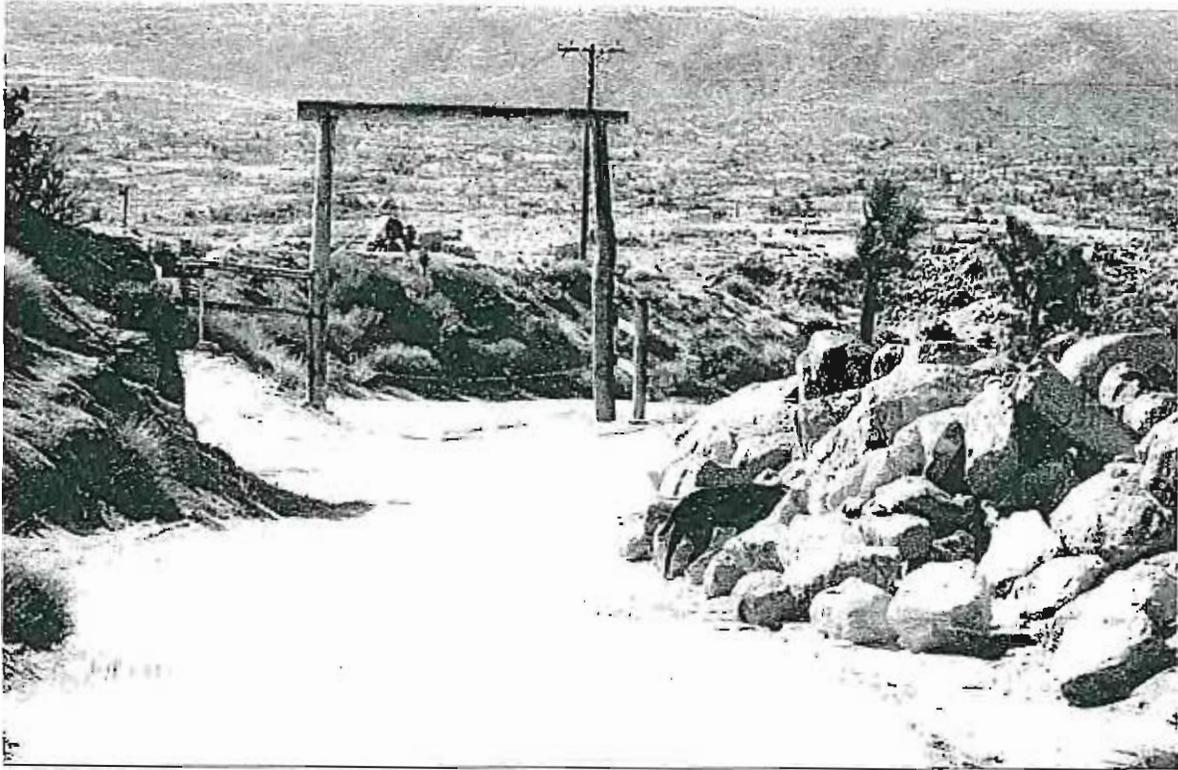
The home occupation shall not involve the use of commercial vehicles for the delivery of materials to or from the premises beyond those commercial vehicles normally associated with residential use and shall be in compliance with the Town's commercial Vehicle regulations.

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
HOOT OWL TRAIL UNDER THE DIRECTION OF FRITZ KOENIG**



**PICTURE OF ROCK PILE DUMPED RIGHT NEXT TO THE FALLOSSI
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	Jamie Pask	56599 Tish Trail	10
2	Loa Hasek	56567 Tish Trail	24
3	Karel Hasek	56567 Tish Tr	24
4	Catherine Prosk	56523 Tish TR	25
5	Marcus Frost	" "	25
6	Anthony Haid	56523 NELSON AVE.	36
7	DENNIS PASK	56599 TISH TRAIL	10
8	Douglas Magee	56612 NELSON	2.5
9	Margaret Magee	56612 Nelson	2.5
10	Jo Stae	56424 Sp. 188	10
11	Abbi Ostro	57242H NELSON	10

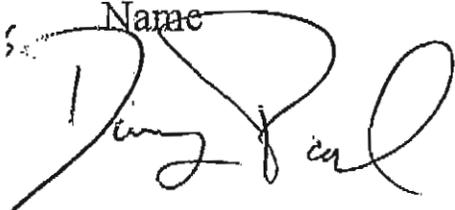
Boulder Ridge neighbors section 26

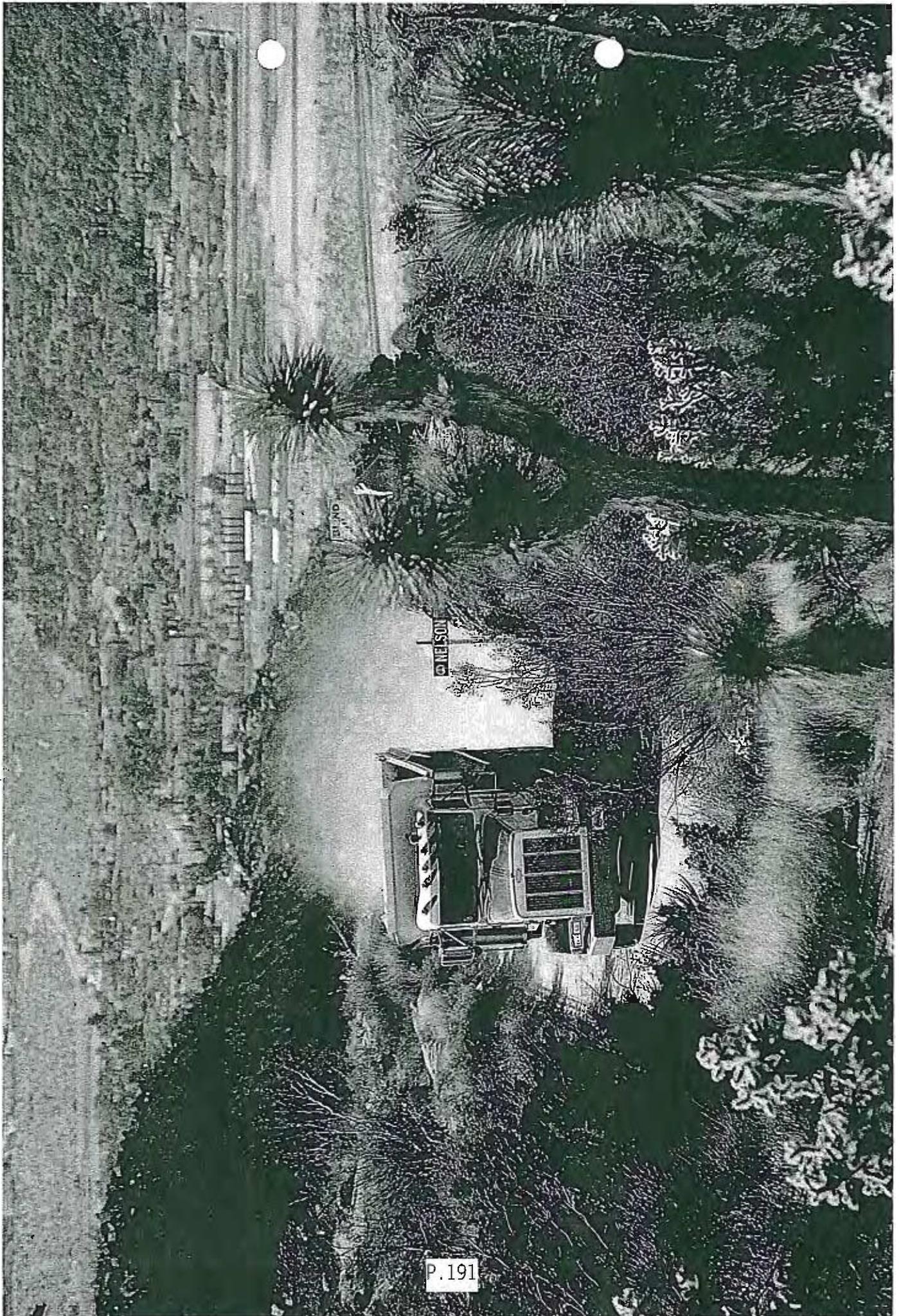
We are aware of the Falossi's art studio at 6229 Hoot Owl Trail and that it has been there since 1989. We do not feel it is a Public Nuisance and have not been bothered by his activity's. We do not feel his home or studio is unattractive or has lowered our property values. We have not seen unusual or 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
Edward W Dardisty	56648 Plaza Del Amigo	12
Mary Ann Benson	56724 Plaza del Aringo VV	10
Linda McCarter	56623 Tish Trl	26
David McCarter	56623 Tish Trl	26
Edward J. Suckler	6262 HOOT OWL TR	25
Rosemarie Flores	6262 HOOT OWL TR	1
Carla Flores	6262 HOOT OWL TR	4
ERNE & BEVERLY SANS - SIGNED ANOTHER LETTER OF THIS KIND.		
Toby & BEVEREE LARSSON	6020 Grand AVE VV	7
BARBARA NICHOL	5939 DEER HOP AVE PLAZA DEL AMIGO	7
Kathleen	56826 Plaza P. 189 Amigo	16
	56826 Plaza P. 189 Amigo	11

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
	56862 PLAZA DEL ANISO	33





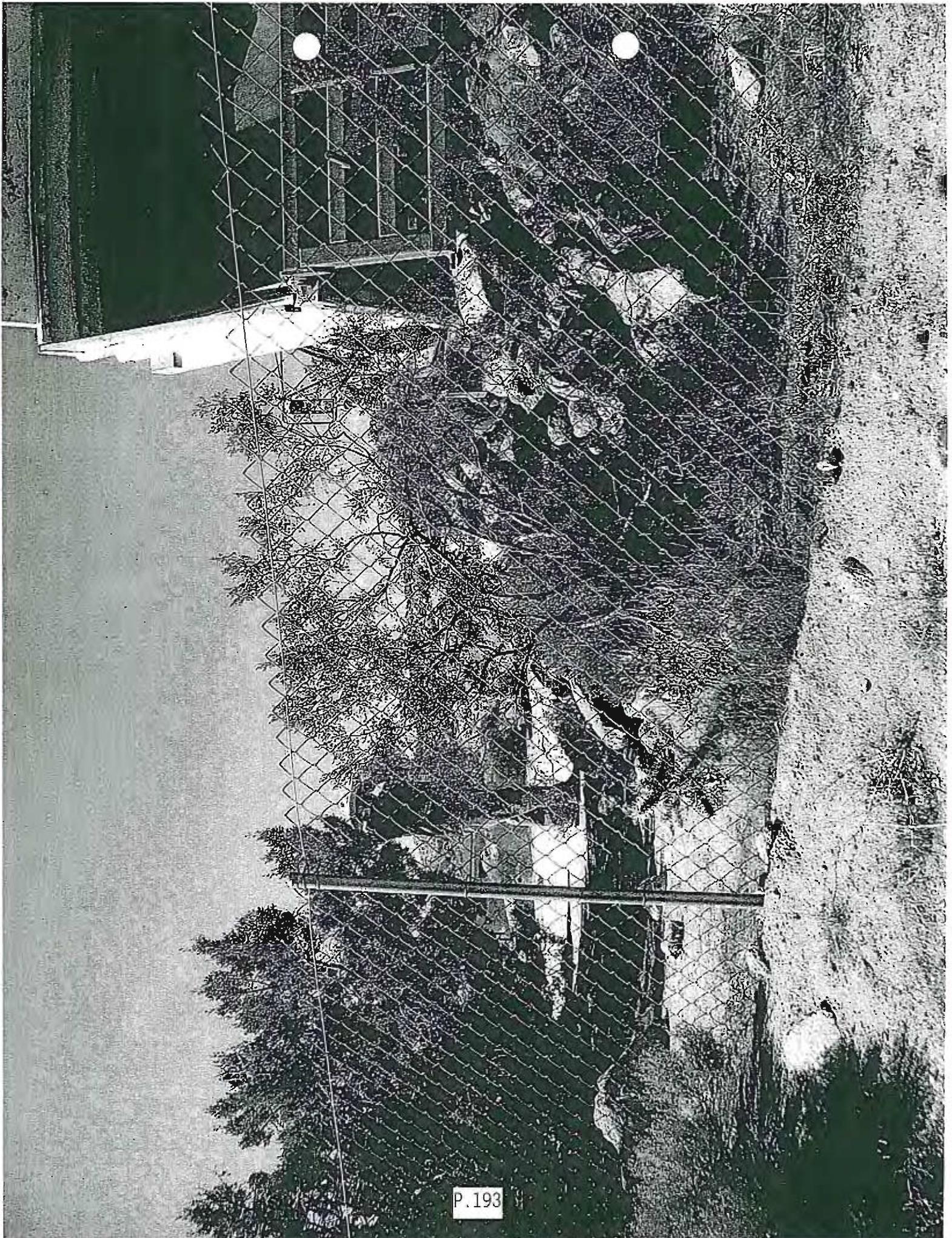
**Creatives
Present**

Desert
Blight
Gang
Abatement
and
Civilization
in Progress

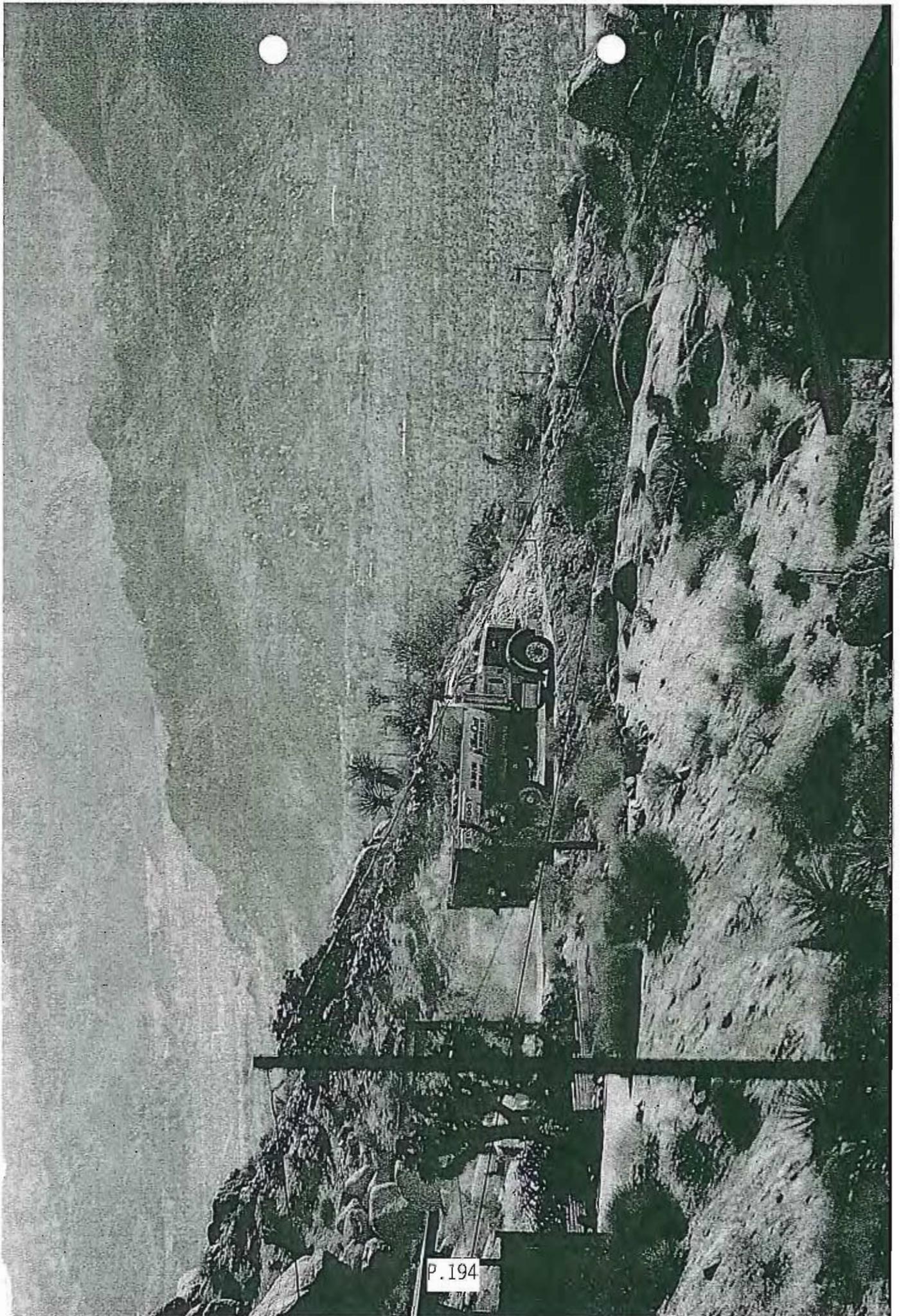
Private Property
No Trespassing
State Penal Code 602

Right to Pass by Permission
and
Control of owner
Section 1008, Cal. Civil Code

Use by



P.193



P. 194

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:

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 failing² 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

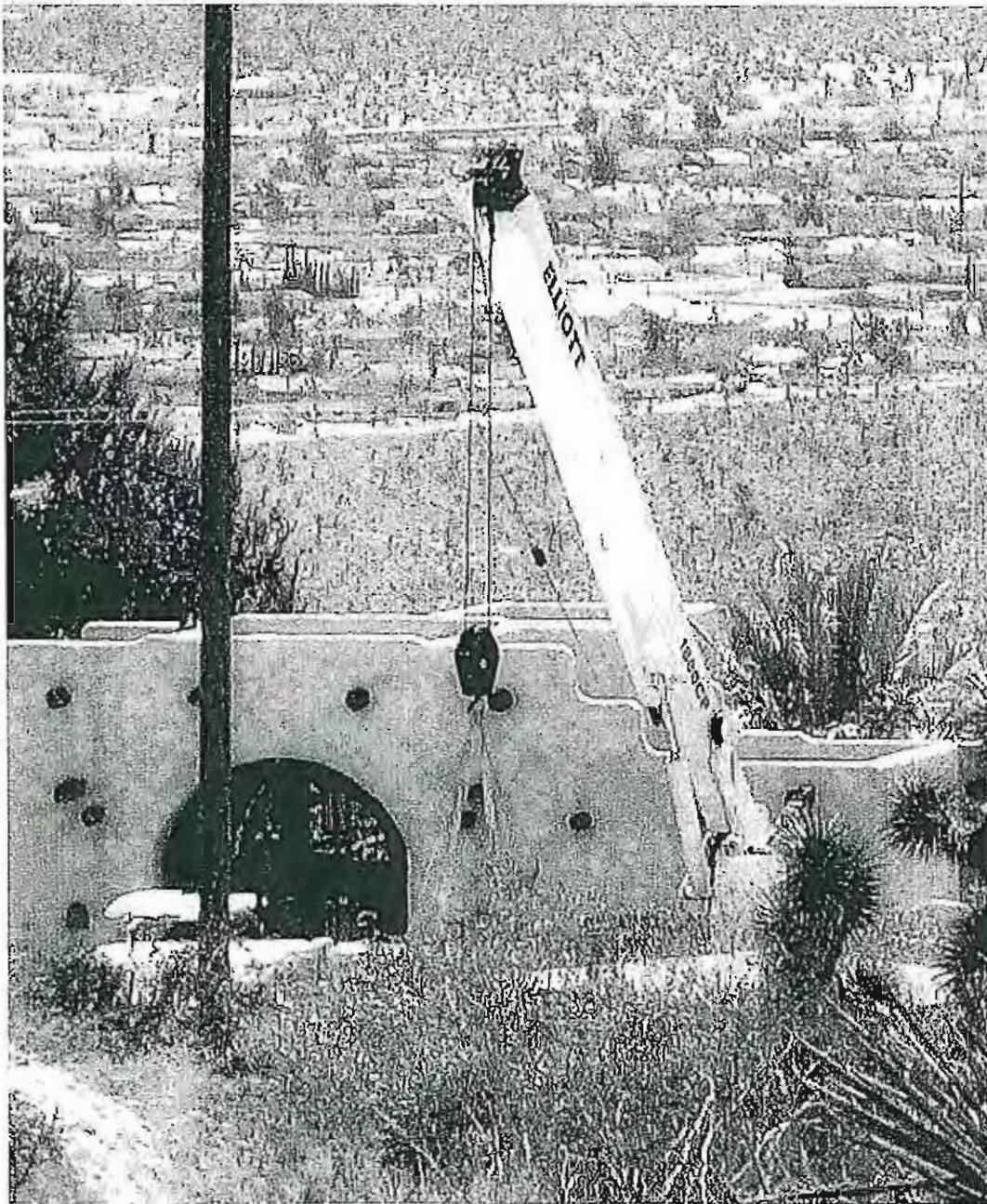
Most pertinent evidence of violation perhaps because they literally provide tons of evidence of violation which can not be easily hidden or moved are the multiple huge (often 5x5x10 feet) blocks of stone raw materials stored on the Falossi residential parcel in plain view of neighboring property which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

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

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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

SUPERIOR COURT OF CALIFORNIA
SAN BERNARDINO COUNTY
SAN BERNARDINO DISTRICT

131125-20174350

FILED BY FAX

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

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

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

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

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

26
27 a) alteration of the residential character of the single family residentially zoned
28 neighborhood surrounding Plaintiff's residential properties in ways inconsistent

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

5
6 b) Plaintiff's sense of hearing has been offended such that he has been forced
7 from sleep before 7AM due to the sounds of metal-to-metal clanking of
8 industrial waste disposal bins exceeding dimensions of 6 by 4 by 3 feet and
9 made of metal banging against the metal armature of large garbage trucks
10 specially ordered by Defendants, with the attendant sounds of throwing waste
11 into these bins. These sounds far exceed the volume and characteristics of
12 sounds of normal domestic trash collection and these offensive sounds occur on
13 days when normal domestic trash collection does not occur.

14
15 c) Plaintiff's sense of sight has been offended by the images which are clearly
16 visible from surrounding properties, including Plaintiff's recreational and dining
17 promontory of outside storage of business related stock, merchandise, scrap
18 supplies, and other materials or equipment some of which weighs multiple tons
19 located on the Falossi premises and traversing Plaintiff's property.

20
21 d) Plaintiff's ingress and egress related to Plaintiff's parcels 0596-101-23-0-00,
22 and 0596-101-19-0-00 have been blocked by Defendant's use of Plaintiff's
23 property for loading and unloading materials appurtenant to Defendant's
24 business, e.g. numerous heavy pieces of metal bars, sheets, rods, tubes, panels,
25 etc. exceeding length of ten feet.

26
27 e) Within the last 2 years and before that, Plaintiff's senses of hearing or vision
28 have been offended and Plaintiff's peace was disturbed between the hours of 7

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

8
9 f) Diminution of value of Plaintiff's residentially zoned parcels 0596-101-05-0-
10 00, 0596-101-23-0-00, and 0596-101-19-0-00.

11
12 g) Plaintiff's safety and Plaintiff's freedom from fear has been threatened by the
13 driving of vehicles for commercial purposes at unsafe speeds on blind corners
14 of a driveway Plaintiff must use for ingress and egress access to Plaintiff's
15 property, and Plaintiff's vehicles driven at unsafe speeds for uses accessory to
16 residential use have likewise threatened Plaintiff's safety and threaten Plaintiff's
17 freedom from fear.

18
19 h) Plaintiff's property characteristic of background noise level lower than
20 normal noise levels found in single family residentially zoned districts is
21 routinely interrupted by low frequency audible noise caused by Defendants
22 which is appropriately described as a "rumble" lasting up to 90 seconds in
23 duration which so alarms the occupants of Plaintiff's house that they wonder
24 whether an earthquake has arrived due to the similarity of the noise to that of an
25 actual earthquake starting. Plaintiff and occupants are so alarmed even when all
26 windows of the house are closed.

1 i) excessive and overly burdensome damage by application of extraordinary
2 weight of loaded commercial vehicles upon the substructure of the driveways
3 owned by Plaintiff.
4

5 11. As a result of Defendants' business operations on the single family
6 residentially zoned FALOSSİ PROPERTY, Defendants' suppliers, vendors, employees,
7 customers, and Defendants' commercial vehicles traverse private driveways located on
8 Plaintiff's single family residentially zoned property for purposes of servicing the
9 commercial and industrial activities on the Falossi property. Some of these commercial
10 vehicles are not normally associated with residential uses such as that depicted by the
11 photograph (Exhibit 2) of a flatbed commercial delivery truck carrying a multi-ton object
12 used for Falossi's commercial business traversing Plaintiff's single family residential zone
13 property to access the Falossi single family residentially zoned property.
14

15 12. Plaintiff has been harmed in that he has lost property because Defendants'
16 commercial and industrial use of their single family residentially zoned property has
17 diminished the value of Plaintiff's single family residentially zoned and used property.
18

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

25 14. The Staff Report identified the "Existing Land Use" as "RL-5, Rural Zoning" for
26 the FALOSSİ PROPERTY as well as "the properties surrounding (Staff Report pp. 20, 22).
27
28

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

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

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

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

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

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

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

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

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

15 23. The conditions caused and permitted to exist as described above in paragraphs 19,
16 20, 21 and 22 of this Complaint constitute a nuisance per se and are grounds for abatement under
17 California law.

18 FIRST CAUSE OF ACTION-PUBLIC NUISANCE

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

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

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

1 40. The aforementioned acts of the Defendants were willful and oppressive or
2 fraudulent in that in that Defendants were intentionally operating a commercial business on single
3 family residentially zoned property, causing trespass to plaintiff's real property by persons
4 operating commercial vehicles for commercial purposes. Defendants knew of plaintiff's use of
5 his real property for residential purposes and disregarded his use and quiet enjoyment of
6 plaintiff's property, moreover such use was fraudulent and oppressive in that Defendants engaged
7 in a commercial and industrial use of the FALOSSJ PROPERTY under the guise of a Home
8 Occupancy Use, when such use was, and is in violation of the laws and ordinances of Town of
9 Yucca Valley. Accordingly, plaintiff seeks punitive and exemplary damages in an amount to be
10 proved at trial.

11 41. Defendant's wrongful conduct in using and maintaining the FALOSSJ
12 PROPERTY as a commercial and industrial use, with its attendant causation of repeated and
13 continuing trespass to plaintiff's single family residentially zoned property, unless and until
14 enjoined and restrained by order of this court will cause great and irreparable injury through the
15 ongoing injury and will deprive plaintiff of his quiet enjoyment of his own residential property
16 and peace of mind.

17 42. Plaintiff has no adequate remedy at law for the injuries incurred by him in that
18 Defendants will continue to maintain and use the single family residentially zoned FALOSSJ
19 PROPERTY for commercial and industrial uses causing the repeated and continuing trespass of
20 commercial use vehicles across plaintiff's single family residentially zoned property.

21 **FOURTH CAUSE OF ACTION-UNLAWFUL BUSINESS PRACTICES-**
22 **(BUSINESS & PROFESSIONS CODE 17200 et. seq.)**

23 43. Plaintiff re-alleges and adopts by reference and incorporates paragraphs 1
24 through 42 of this Complaint as though fully set forth herein.

25 44. As described above, Defendants have and continue to operate, use, and maintain
26 their single family residentially zoned property for commercial and industrial uses in violation of
27 the zoning laws of the incorporated Town of Yucca Valley
28

1 45. Such acts as described above constitute unlawful, unfair, and fraudulent acts and
2 Practices prohibited by Business and Professions Code sections 17200 *et seq.*

3 46. Plaintiff has standing to bring this cause of action in that he has lost property, in
4 particular diminution of his property's value, as well as physical damage to his property in an
5 amount to be proven at trial.

6 47. Plaintiff seeks to abate Defendants' violations and therefore seeks injunctive relief
7 as allowed under Business and Professions Code section 17203.

8 48. Plaintiff seeks attorney's fees for bringing this action primarily for the benefit of
9 the public, as allowed under California Code of Civil Procedure section 1021.5.

10 WHEREFORE PLAINTIFF PRAYS FOR RELIEF AS FOLLOWS;

11

12 FIRST CAUSE OF ACTION:

13 1. For damages in an amount to be proved at trial.

14 2. For injunctive relief including a temporary restraining order, preliminary injunction,
15 and permanent injunction.

16 3. For attorney fees for bringing this action primarily to benefit the public as allowed
17 under Code of Civil Procedure section 1021.5

18 4. For costs of the suit.

19 5. For such other and further relief as this court deems just and proper.

20 SECOND CAUSE OF ACTION

21 1 For damages in an amount to be proved at trial.

22 2. For injunctive relief including a temporary restraining order, preliminary injunction,
23 and permanent injunction.

24 3. For costs of the suit.

25 4. For such other and further relief as this court deems just and proper.

26 THIRD CAUSE OF ACTION

27 1 For damages in an amount to be proved at trial.

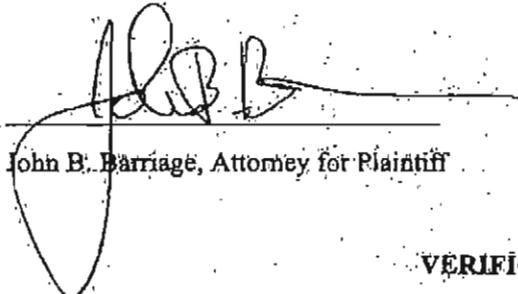
28 2. For punitive and exemplary damages.

1. 3. For injunctive relief including a temporary restraining order, preliminary injunction,
2. and permanent injunction.
3. 4. For costs of the suit,
4. 5. For such other and further relief as this court deems just and proper.

5. **FOURTH CAUSE OF ACTION**

6. 1. For injunctive relief including a temporary restraining order, preliminary injunction,
7. and permanent injunction.
8. 2. For attorney fees for brining this action primarily to benefit the public as allowed
9. under Code of Civil Procedure section 1021.5
10. 3. For costs of the suit,
11. 4. For such other and further relief as this court deems just and proper.

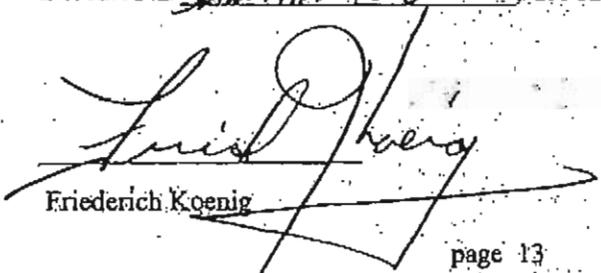
12. Dated: November 24, 2013

13. 
14. _____
15. John B. Barriage, Attorney for Plaintiff

16. **VERIFICATION**

17. I, FRIEDERICH KOENIG, am the plaintiff in the above-entitled action. I have read the
18. foregoing Complaint and know the contents thereof. The same is true of my knowledge, except
19. as to those matters that are therein alleged on information and belief, and as to those matters, I
20. believe it to be true. I declare under penalty of perjury under the laws of the State of California
21. that the foregoing is true and correct.
22.

23. Executed in SAN FRANCISCO, CA on November 25, 2013

24. 
25. _____
26. Friederich Koenig

27. page 13

28. COMPLAINT

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EXHIBITS

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EXHIBIT 1

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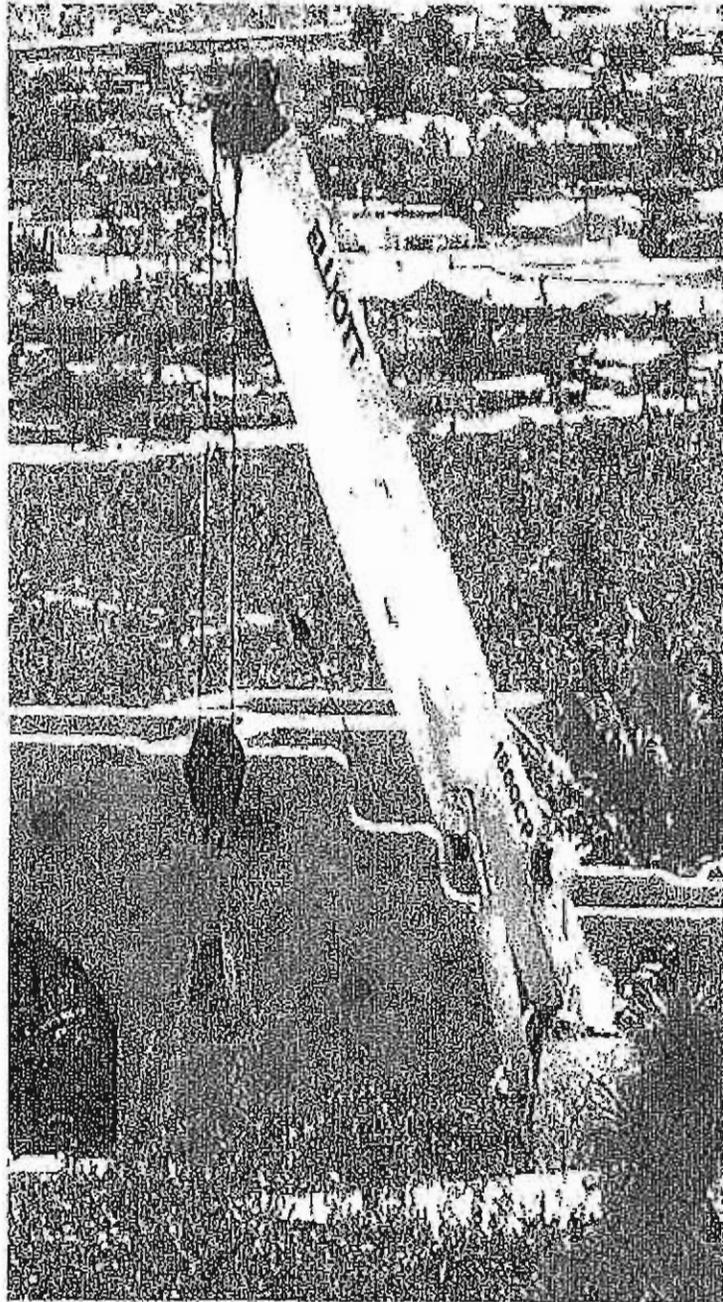


Exhibit 1

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EXHIBIT 2

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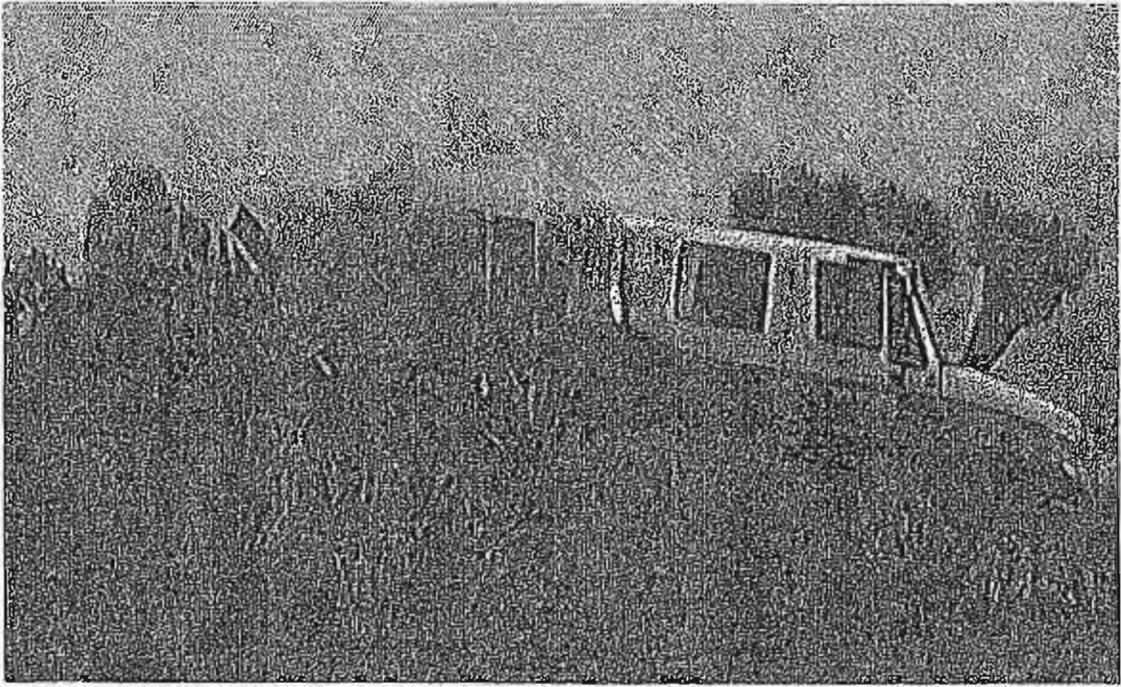


Exhibit 2

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 unrenowned 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.

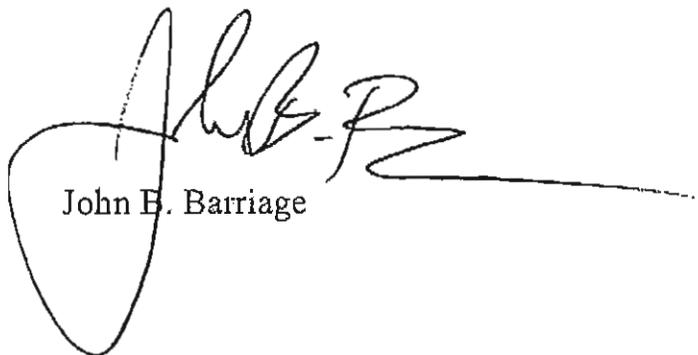
There may be other condition violations as to this premise.

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 E. Barriage

**Violations of
Conditions of Approval of
Home Occupation Permit 11-05**

Conditions signed by David Falossi	Violation? (Present or Recent Past)	Evidence
<p>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.</p>	<p>Yes.</p>	<p>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)</p>
<p>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 statute of limitation.</p>	<p>Unknown</p>	
<p>3. Pedestrian and vehicular traffic will be limited to that normally associated with residential districts.</p>	<p>Yes.</p>	<p>Photos of 27,000 pound Forklift (BATES 57) Mercedes Mog Truck (BATES 54) Tractor-Trailer Truck on Public</p>

Violations of Conditions of Approval of
Home Occupation Permit 11-05
Land Use Report to Yucca Valley Town Council Meeting April 1, 2014

<p>4. 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.</p>	<p>Yes.</p>	<p>Street (BATES 56) Photo of Falossi on top of Stone (BATES 58) Photo of Outside Storage (BATES 52) Art Museum</p>
<p>5. The home occupation shall be limited to one type of occupation per residence.</p>	<p>Uncertain</p>	<p>Art Museum</p>
<p>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</p>	<p>Yes.</p>	<p>Photos of 27,000 pound Forklift (BATES 57) Mercedes Mog Truck (BATES 54) Tractor-Trailer Truck on Public Street (BATES 56)</p>
<p>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.</p>	<p>Yes.</p>	
<p>8. The uses of utilities and community facilities shall be limited to that normally associated with the use of property for residential purposes.</p>	<p>Uncertain</p>	
<p>9. No equipment or process shall be utilized that causes electrical or reception interference to televisions or radios of neighboring residences.</p>	<p>Unknown</p>	
<p>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.</p>	<p>Unknown</p>	
<p>11. All required permits from other agencies and departments shall be submitted with the Home Occupation Permit</p>	<p>Unknown</p>	

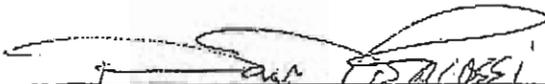
Violations of Conditions of Approval of
 Home Occupation Permit 11-05
 Land Use Report to Yucca Valley Town Council Meeting April 1, 2014

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 statute 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.

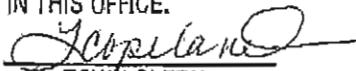


 APPLICANT SIGNATURE

12/16/05

 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, 2013

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.

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

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.

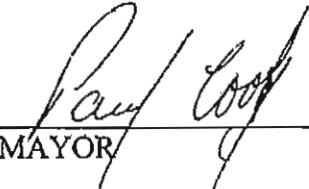
- (i) **Appeal.** Any affected person may appeal a decision of the Director of Community Development to the Planning Commission. Appeals shall be filed with the Community Development Department within ten (10) days following the date of the action appealed. Upon receipt of the notice of appeal, the Community 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.

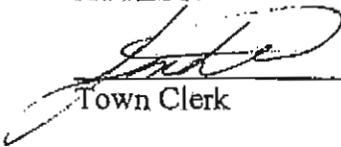
SECTION 3. EFFECTIVE DATE. This Ordinance shall become effective thirty (30) days from and after the date of its adoption.

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



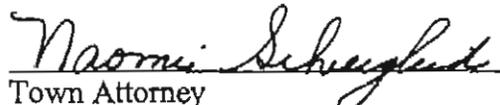
 MAYOR

ATTEST:



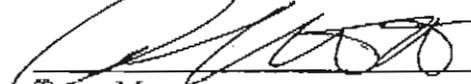
 Town Clerk

APPROVED AS TO FORM:



 Town Attorney

APPROVED AS TO CONTENT:



 Town Manager

STATE OF CALIFORNIA

COUNTY OF SAN BERNARDINO

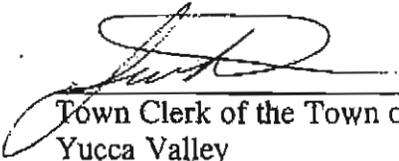
TOWN OF YUCCA VALLEY

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)



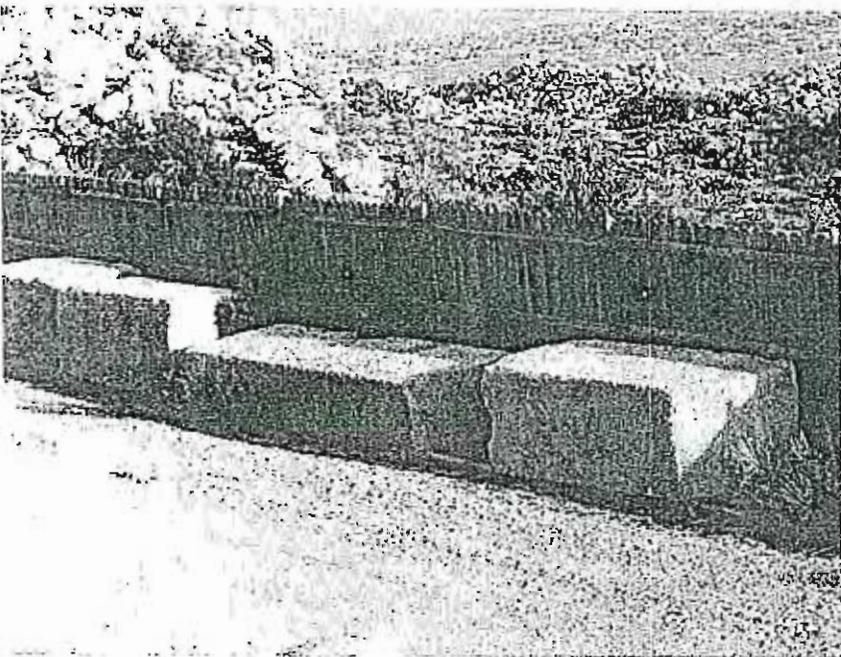
Town Clerk of the Town of
Yucca Valley

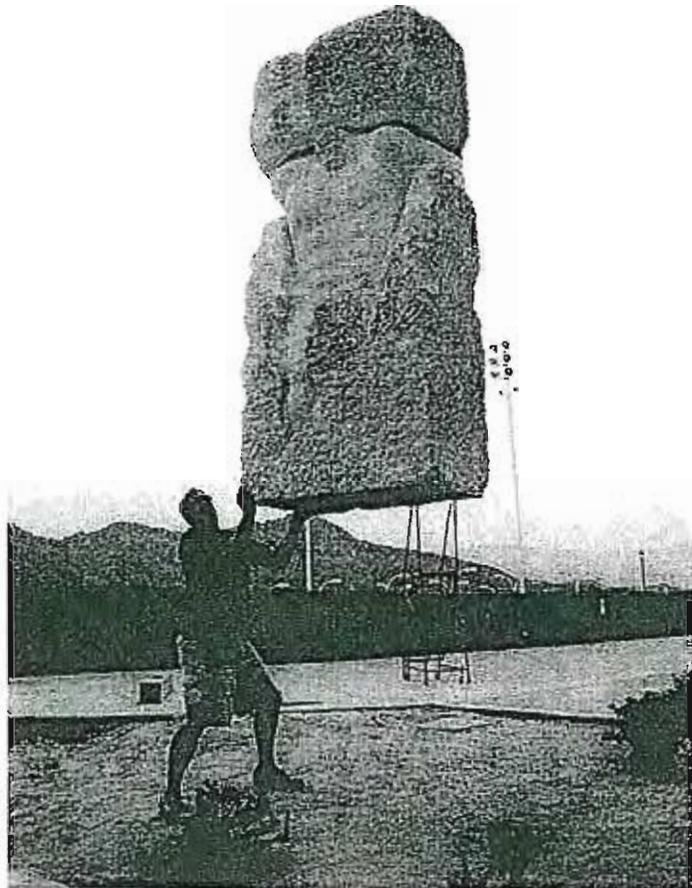


Falossi Studios
May 14, 2012

The middle block of solid limestone is to become the mermaid. It was 12,000 lbs.

Marissa Anne Corson likes this.





Faloss Studios
March 27

Heavy Burden (crane is photoshopped out!)

John Tam, Indian Wells Arts Festival, Jason Sumpter and 2 others like this.



Jeanette Porretta Funny!
March 28 at 6:04am



Fajossi Studios
January 23, 2013

David is off to quarry stone for his next sculpture!

Adam Fajossi, Joseph Harner, Mark Smith and 29 others like this.



Bethan Cantrell OMG. I want that truck.
January 23, 2013 at 9:46am · 1



William Garske best thing Mercedes ever made
January 23, 2013 at 5:52pm · 1



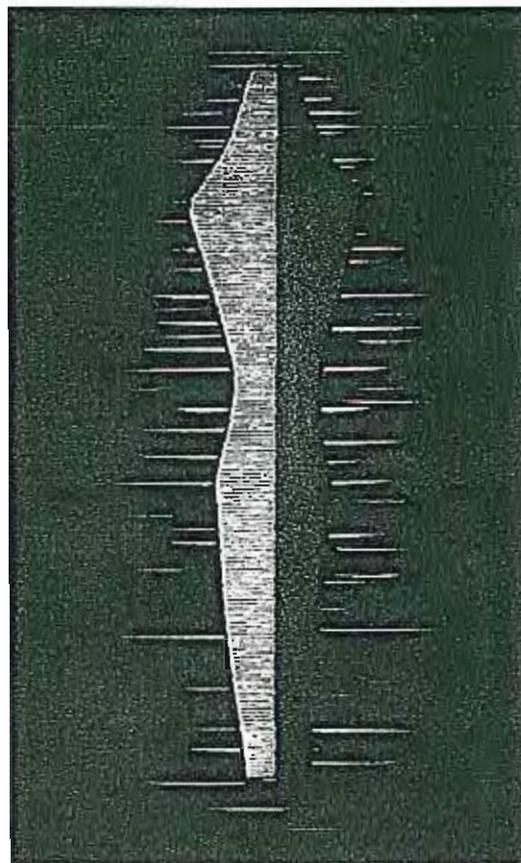
Rachael Kee Can't wait to check out his next sculpture!
January 23, 2013 at 7:17pm · 1



Fajossi Studios Garvan, yes it can go underwater.
January 25, 2013 at 10:06am

Public and Commercial Installations

- City of Beverly Hills, Beverly Hills, CA "Cloud Burst"
- Fedderly Development, Palm Desert, CA "Boulder Man"
- Minnisirell 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 "Lilo 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, Douglas Devl, Brea, CA "Sampson's Fall"
- Alpase 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"
- Baci's Restaurant, San Diego, CA "Neo Classical Torsos"
- Dr. Garvan 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 Aaronson MD
- Cathedral City CA, City Hall Installation, Cathedral City Art in Public Places "A New Beginning" Donated by Collector Mr. and Mrs. Caley Rhodes
- Morongo Basin Transit Association, Yucca Valley CA "The Spring"
- Prime Healthcare Services, Ontario CA, "Life Spiral" Dr. Prem Ready
- Imaginings Interior Design, Beverly Hills, Ca, Barbara Lazaroff
- Vejay Mallya Unhed 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" Ren and Teresa Newcomer
- Popperdine School of Law, Malibu, Ca. "Land and Sea" Donated by Meg Razi Attorney

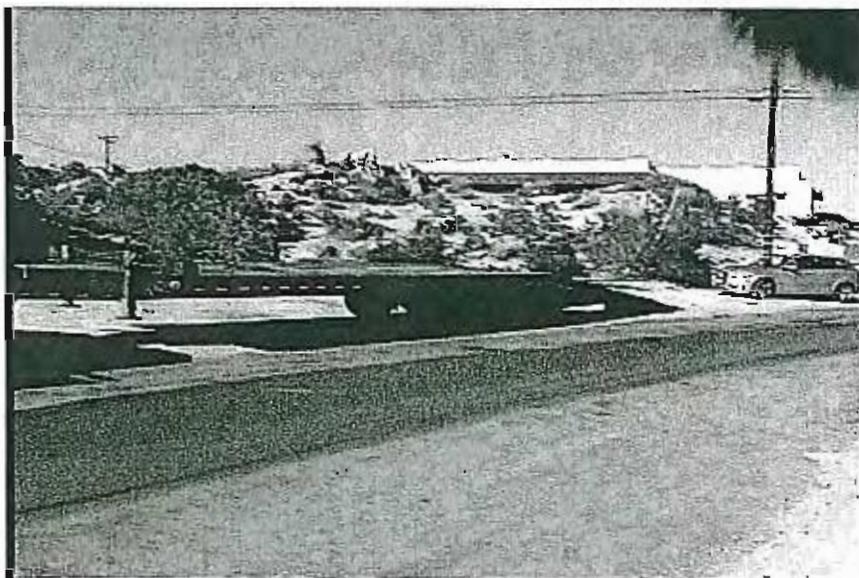


Private Collections

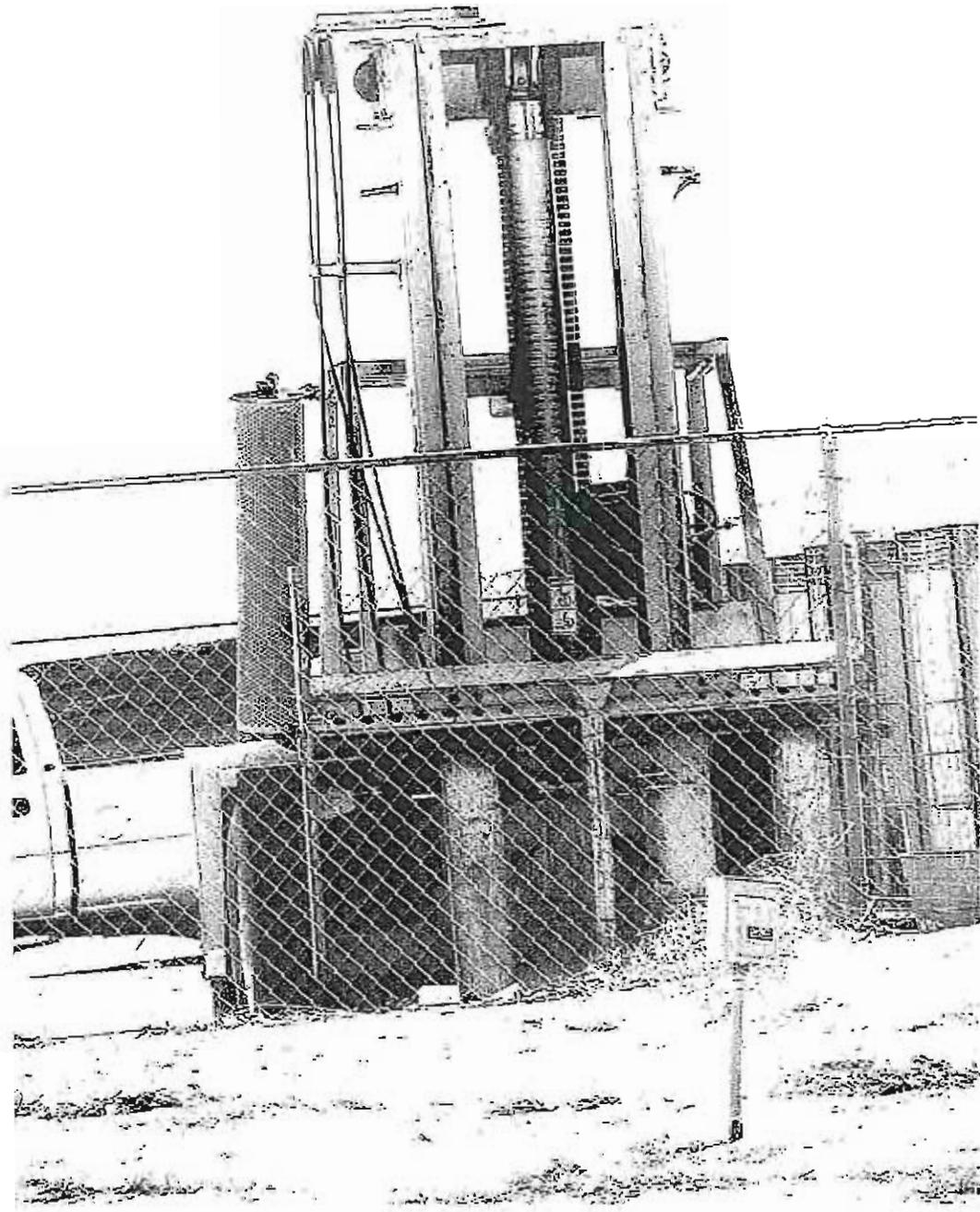
My residential collector list is extensive and remains unpublished to help insure the privacy of our collectors.



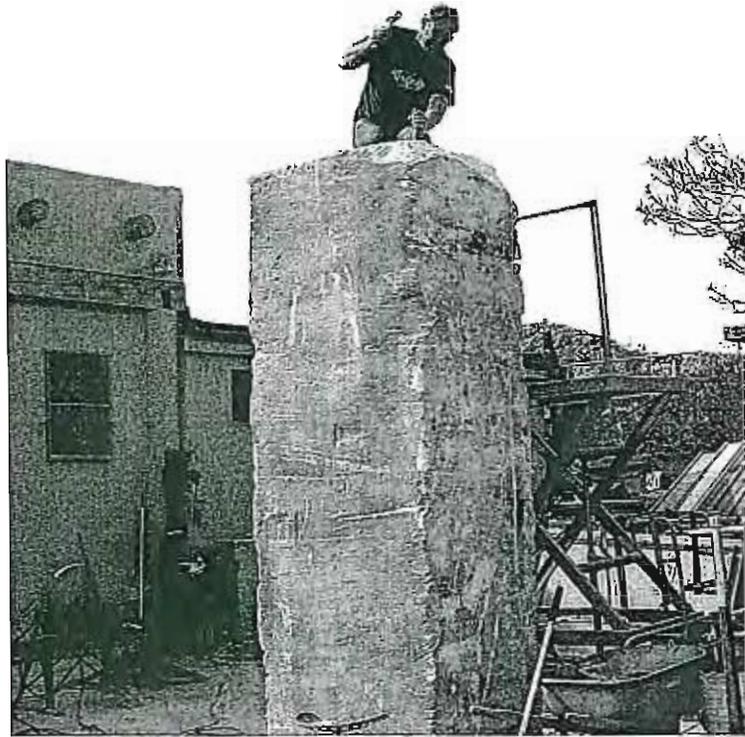
Tractor/Truck used to load and unload Heaving Equipment
On Public Street in Western Hills Estates



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)



Operations of Falossi Studios
outside of any structure on a residentially zoned parcel, in view of
neighboring residential parcels.

RECEIVED

DEC 16 2013

TOWN OF YUCCA VALLEY
TOWN CLERKS OFFICE

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

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 addition 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.

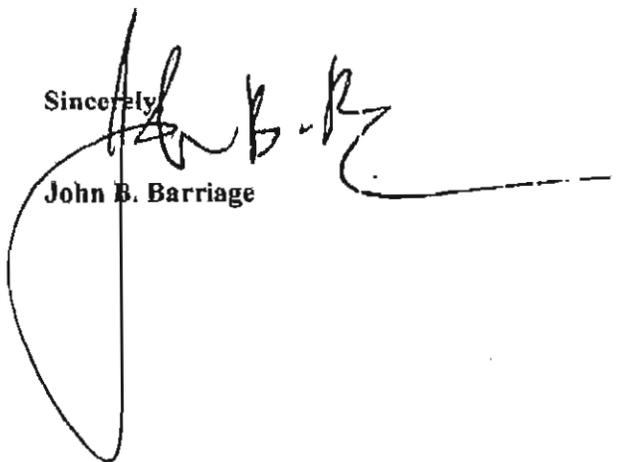
Based on these specified violations my client respectfully requests the following relief. First that the town revoke or rescind the renewal of HOP 11-05 or its successor permit as the permit expired, was not timely renewed, and needs to be reapplied for. Second, that HOP 11-05 should be rescinded, revoked 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

1 Page
Appeal of Renewal of HOP 11-05

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

