



LAND USE SERVICES DEPARTMENT PLANNING DIVISION PLANNING COMMISSION STAFF REPORT

HEARING DATE: October 23, 2014

AGENDA ITEM #2

Project Description

Vicinity Map 

APN: 3067-431-33-0000
 Applicant/
 Applicant: C.R. JOHNSON
 Community: PHELAN/1ST SUPERVISORIAL DISTRICT
 Location: NORTHEAST CORNER OF PHELAN & MINERO ROAD.
 Project No: P201400310/APLPCAVG
 Staff: NINA SHABAZZ
 Proposal: APPEAL TO THE PLANNING COMMISSION OF A DENIAL OR MODIFICATION OF PAVING REQUIREMENTS.



16 Hearing Notices Sent On: October 10, 2014
 P.C. Field Inspection Date: September 11, 2014

Report Prepared By: Nina Shabazz
 Field Inspected By: Commissioner Coleman

SITE INFORMATION:

Parcel Size: 4.85 acres
Terrain: Generally flat
Vegetation: Native desert vegetation

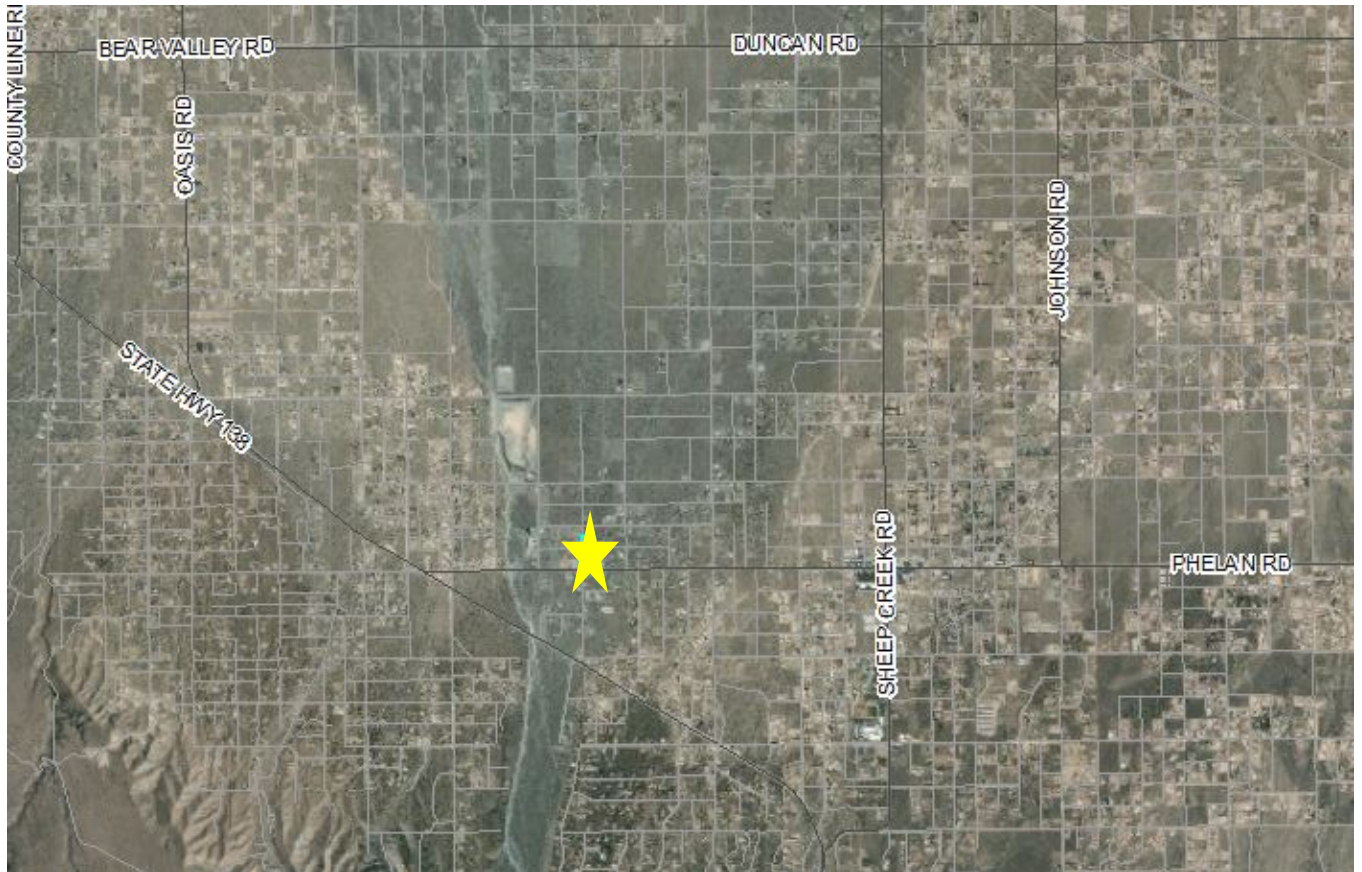
SURROUNDING LAND DESCRIPTION:

AREA	EXISTING LAND USE	OFFICIAL LAND USE DISTRICT
Site	Single Family Residence	Phelan/Pinon Hills Community Industrial (PH/IC)
North	Vacant	Phelan/Pinon Hills Community Industrial(PH/IC)
South	Vacant	Phelan/Pinon Hills Rural Living (PH/RL)
East	Auto Salvage Yard	Phelan/Pinon Hills Community Industrial (PH/IC)
West	Vacant	Phelan/Pinon Hills Community Industrial (PH/IC)

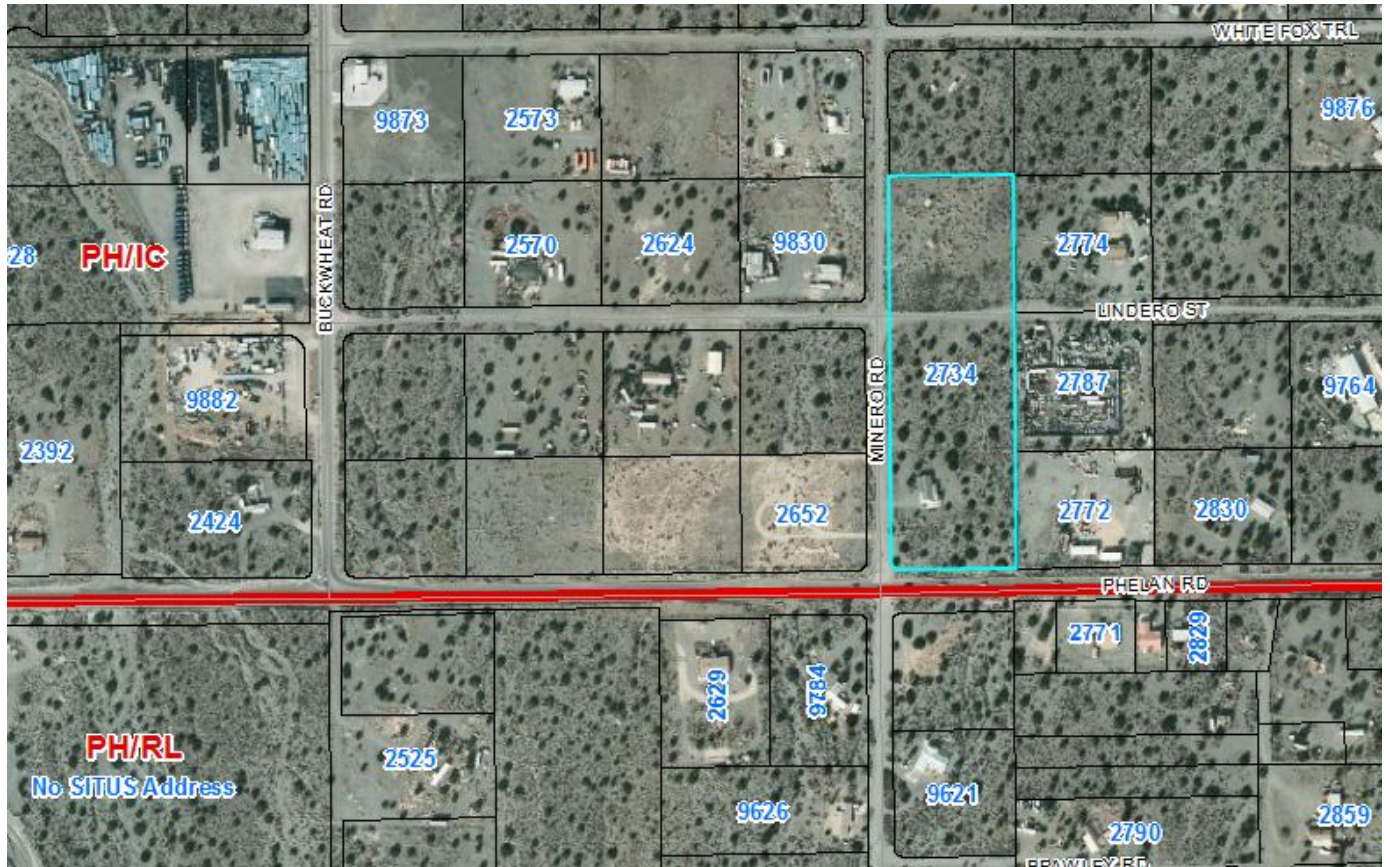
	<u>AGENCY</u>	<u>COMMENT</u>
City Sphere of Influence:	N/A	N/A
Water Service:	Phelan CSD	Already Served
Sewer Service:	Phelan CSD	N/A

STAFF RECOMMENDATION: That the Planning Commission **DENY** the Appeal and **UPHOLD** Staff's determination that the findings for the waiver were not met.

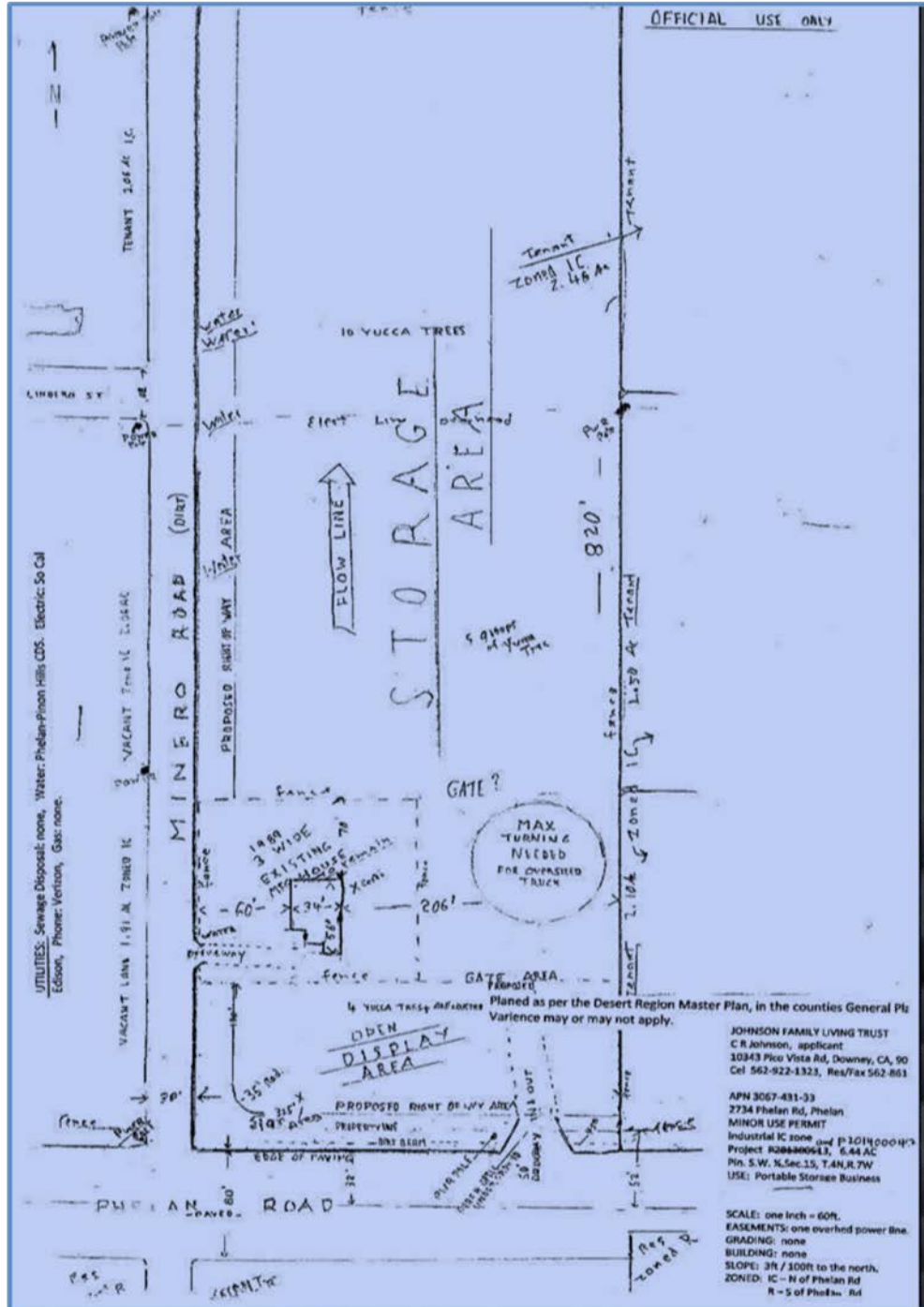
VICINITY MAP



LAND USE ZONING DISTRICT MAP



SITE PLAN



BACKGROUND:

C.R. Johnson (Applicant) is seeking approval of a Minor Use Permit (MUP) for a storage container yard (Project) on 4.85 acres located on the northeast corner of Phelan Road and Minero Road in the Community of Phelan.

On November 26, 2013, a Pre-application Development Review meeting was held to discuss the Project and to satisfy and comply with several code violations that the subject property had received in September 2013. The Applicant was provided all of the requirements from the reviewing agencies that would be required to bring the subject property into code compliance, including a comment from Land Development that paving would be required for all of the property fronting on Phelan Road and Minero Road. In December 2013, the Applicant met with Sameh Basta and Chad Nottingham of Land Development to discuss the paving requirements and any available options for this Project. The Applicant was again instructed that paving of the frontage on the two public roads would be required for the Project to be approved.

In January 2014, the applicant filed an MUP application seeking to obtain approval for the Project. The MUP application and project notice was routed to various departments, including Land Development, for review and comments. In March 2014, as expected, one of the comments provided to the Applicant from Land Development was the requirement to provide paved roads along the project frontage.

On February 20, 2014, the Planning Commission recommended that the Board of Supervisors adopt an ordinance to amend the Development Code to provide for the waiver or modification of street improvement requirements. On March 25, 2014 (Item 81), the Board of Supervisors adopted this ordinance. The adopted changes were included as Section 83.05.070 of the Development Code, and require the Director of Land Use Services and the Director of the Department of Public Works to make five specific findings before such a waiver can be approved. Those required findings are:

- (A) The waiver or modification would not adversely affect the environment, public health or safety.
- (B) The waiver or modification would not create a financial impact to the County of San Bernardino or the San Bernardino County Flood Control District within ten (10) years from the date of the waiver or modification.
- (C) The request for a waiver or modification is not based solely on the financial hardship to the applicant.
- (D) The waiver or modification would not conflict with other County departments' or notified agencies' dedication and/or improvement requirements, or any foreseeable future needs for access or infrastructure.
- (E) There is good cause shown for the waiver or modification and such waiver or modification would serve a public purpose.

In April 2014, the applicant contacted staff planner, Nina Shabazz, to discuss the newly adopted Development Code provisions and if they could be applied such that the paving of the adjoining roads would not be required.

On May 28, 2014, Land Development received the written request from the applicant to waive the requirements for road improvements. The Departments of Public Works, County Fire and Land Use Services reviewed the request, and on June 30, 2014, a Notice of Director's Decision was sent to the applicant informing him that his Waiver Request was denied. A copy of this notice is included with the attachments for this item.

Based on an analysis of the justification given, and after careful review by the Directors of both the Department of Public Works and Land Use Services Department (Departments), it was the Director's determination that the original requirements, initiated by the Land Development Division, shall not be waived. County Code section 83.05.070 requires certain findings be met in order to approve a waiver or modification of road improvement requirements. Based on 83.05.070(a)(1)(E), this request does not properly show that there is good cause for the waiver; therefore, LUSD cannot approve a waiver of the road improvement requirements at this time.

APPEAL:

On July 23, 2014, the Applicant filed a timely appeal to the Planning Commission of the Directors' denial of the waiver. A copy of the appeal is included in the attachments with this item. The Applicant contends that the area is rural in character and that there are no other paved roads in this particular Industrial Park, with the exception of Buckwheat Rd., that has traffic to the dump's transfer station. The applicant further contends that he is compliance with the Phelan/Pinon Hills Community's Plan desire to maintain the rural nature of the community.

Having reviewed and evaluated the appeal, staff believes that the denial of the request to waive the requirement to complete the road improvements is still warranted.

RECOMMENDATION:

That the Planning Commission:

- 1) **DENY** the appeal and **UPHOLD** the determination that all of the required findings to Waiver or Modify the road improvements have not been met.

ATTACHMENTS:

Exhibit A: Appeal Application
 Exhibit B: Site Photos
 Exhibit C: Waiver Decision from Land Development

EXHIBIT A

Appeal Application

APPEAL APPLICATION

Complete all portions of this application. If you believe that an item does not apply to your appeal, mark it "N/A". Do not leave any blank spaces.

You may attach additional pages or other documentation to this application.

Project Action Date: June 30, 2014

File/Index #: APN 3067-431-33, Project P201400042

Building Permit No.: N/A

Project Applicant(s): C.R. Johnson

Appellant's Name (s): C.R. Johnson

Appellant's Address: 10343 Pico Vista Rd

City: Downey CA

Zip: 90741

Phone: Cal 562-922-1323 FAX No.: 562-861-6038 E-Mail: CRJOHNSON.FREIGHT SVCS @ C.Mack. Com

Assessor's Parcel No. of Subject Property: 3067-431-33

General Location of Property: N/E corner Phelan Rd & Mvneto Rd

Community/Area: Phelan / Pinon Hills

1. I/We hereby appeal to the San Bernardino County: (check one)

Planning Commission from action by: (check one)

Director of Land Use Services and/or Director of Department of Public Works

Division Chief of Environmental Health Services (EHS)

Board of Supervisors from action by the County Planning Commission.

Chief Executive Officer from action by: (check one)

Director of the Land Use Services Department and the Director of the Department of Public Works

To be completed by County Staff: Filing Date: 7/23/14

Project No.: P201400310

JCS Project No.: _____

Leonor Amacho

2. I/We are appealing the project action taken to:

DENY the project/waiver or modification request DENY the project without prejudice

APPROVE the project

APPROVE the project with conditions. (Attached a copy of the conditions, if they are the subject of the appeal).

ADOPT a Negative Declaration

OTHER (specify) _____

3. Detail what is being appealed and what action or change you seek. Specifically address the findings, mitigation measure, conditions and/or policies with which you disagree. Also state exactly what action/changes you would favor.

see Attached

4. State why you are appealing. Be specific. Reference any errors or omissions. Attach any supporting documentation, including any Conditions of Approval that are being appealed.

See Attached

I/We certify that I/we are the:

Legal Owner(s)

C.R. Johnson

[Signature of Appellant(s)]

Authorized Legal Agent(s)

Beverly A. Johnson

[Signature of Appellant(s)]

Other Interested Person(s)

Date: 7-20-14

FISCAL ADMIN
2014 JUL 23 AM 11:17

AC 7/23/14

C R JOHNSON
 10343 Pico Vista Rd, Downey, CA, 90241
 Cel 562-922-1323

July 20, 2014

San Bernardino County
 395 Arrowhead Ave
 San Bernardino, CA, 92415

RE: Appeal of Waiver decision APN 3067-431-33, Project P201400042
 2734 Phelan Rd, Phelan

County Chief Executive Officer:

It is my wish to appeal the waiver decision that was denied . My reasons are herewith:

1. Any road improvements on Minero Rd at this time would not be compatible with any unknown future plans for me and others who use this street. This industrial area is undeveloped and there are no signs of any development coming. If the area changes in the future and road improvements are needed I would do my part and help promote the area. Minero Rd is hardly used and the traffic count is about one car per hour or less during the day and less during the night. For me, for now, there is too much unneeded access to the property . There is access from the house but I would like another limited access gate from Minero Rd.
2. Any road improvements or changes on Phelan Road (in my opinion) at this time would not be compatible with future unknown plans and for now would look out of place on Phelan Rd I can do with or without access or changes to the landscape along Phelan Rd. I would cooperate with road improvements etc. when needed. For my own use, I have no need for any improvements other than some landscaping on my own property Any setbacks are not important to me
3. The Phelan/Pinon Hills Community Plan suggests the community maintain a rural desert character. I agree, and I believe that a partial road paving at this time on one seldom used street (Minero) would be out of place and not yet wanted for this rural setting, There are no paved roads in this industrial park north of Phelan Rd except for Buckwheat Rd, that has traffic to the dump's transfer station.
4. I feel the best interests of the community and the Phelan/Pinon Hills Community Plan would best be served by not doing anything too permanent, (such as paving only the road along my property), in this area until such time that this Industrial Area has plans for improvement. Industrial Areas are scarce and this location will be needed, changed and improved – (sooner or later)

5. I am based in Downey and run the business from Downey. We serve the Hi Desert with portable storage containers and buildings. This location is to be used for a sign, display, and storage, (not for sales).

There will be no storage south of the house to Phelan Rd.

The storage area north of the house will be inclosed.

We will need limited access to the storage, and we need limited use of the roads.

Customers can see the containers that are on display and they are instructed to call me in Downey for information ,sales, deliveries, etc. There will be no necessary reasons for customers to use Minero or the roads in the area that would cause more traffic.

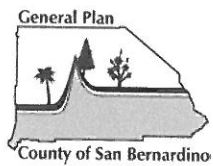
Sincerely,

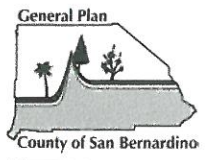
C R Johnson, trustee,
The Johnson family living trust.

Inclosed are: pictures of Minero Rd.and Phelan Rd.
Page 68 of The Phelan/Pinon Hills General Plan
My Appeal

Phelan/Pinon Hills Community Plan

Adopted March 13, 2007
Effective April 12, 2007





ECONOMIC DEVELOPMENT

9 ECONOMIC DEVELOPMENT

PH9.1 INTRODUCTION

As has been repeated throughout the various elements included within this community plan, one of the most important goals of the Phelan/Pinon Hills community is to protect their rural desert character. It will be important to ensure that future development protects and enhances the natural resources, scenic beauty and character in order to continue to appeal to both residents and visitors.

In input gathered from residents, there was a desire for increased opportunities for home-based businesses within the plan area. Residents feel that home-based businesses are one way to ensure protection of the rural character while also providing needed services. Residents have also recommended an increase in light industry to help promote job growth within the plan area. However, residents want to ensure that future development is unobtrusive and complements the character of the community.

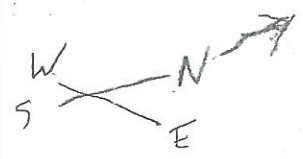
PH9.2 GOALS AND POLICIES

It is important to note that some of the key issues and concerns identified in Section 9.1 are also addressed in other elements of the community plan.

Goal PH/ED 1. Promote economic development that is compatible with the rural desert character of the Phelan/Pinon Hills community.

Policies

- PH/ED 1.1 Support commercial and light industrial developments that are of a size and scale that complement the natural setting, are compatible with surrounding development and enhances the rural character.
- PH/ED 1.2 Promote the expansion of home-based businesses within the plan area. This may be accomplished by the following:
 - A. Explore alternative provisions for home-based businesses that are compatible with the rural nature of the plan area. This may allow for relief from certain requirements in the event that the business will provide an overall benefit or needed service to the community and that the use is compatible and/or adequately buffered from adjacent uses.
 - B. Reevaluate the current permit process, development code standards and permit fees applicable to home-based businesses to ensure that the process is clear, reasonable and is not cost prohibitive.



Property Line ?

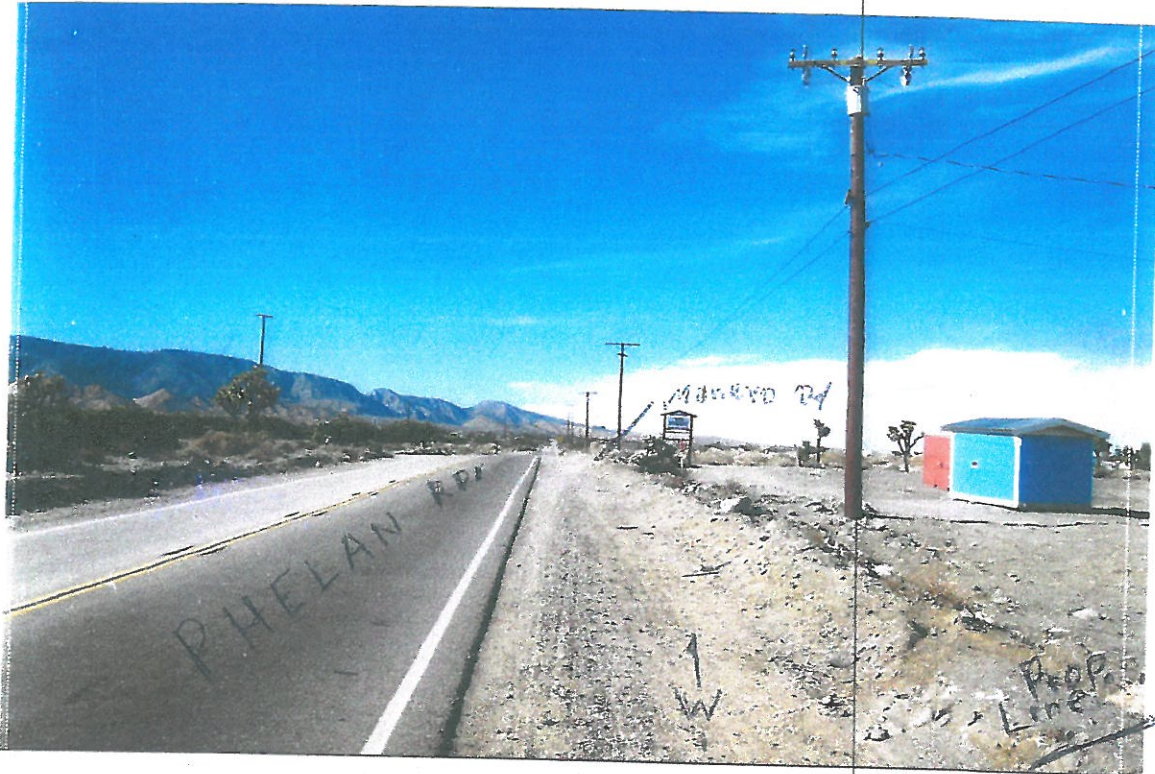


N

Looking East

Arbitr.
Property
Line

Sign to be buried
inside a rock planter





PR1400579

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Planning Division

Project No: P201400310
APPLICANT: C R JOHNSON
APPLICANT'S ADDRESS: 10343 PICO VISTA RD
 DOWNEY CA, 90241
PRIMARY PARCEL: 3067-431-33-0000
FEE PAYOR: CR JOHNSON FREIGHT SERVICES
LOCATION: PHELAN RD

TYPE: APLPCAVG
RECEIPT ISSUED BY: L1237
OFFICE: SB
PAYMENT DATE: 07/23/2014

ACCOUNT ITEM LIST:

Item#	Description	Account Code	Tot Fee	Paid	Prv. Pmts	Cur. Pmts
4146	L695 - Plng Com	AAA PLN PLN	1,490.00	1,490.00	.00	1,490.00

TRUST TRANS LIST:

TRANSACTION DETAILS:

Type	Method	Description	Amount
Payment	Check	4546	1,490.00

TOTAL RECEIVED: \$1,490.00

C R JOHNSON FREIGHT SERVICES
 10343 PICO VISTA RD.
 DOWNEY, CA 90241

4546

DATE 7-23-14 90-3582-1222

PAY TO THE ORDER OF

County of San Bernardino

\$ 1,490.00

fourteen hundred ninety & no/100

DOLLARS  Security Features Included. Details on Back.

usbank All of us serving you[®]

OR

County of San Bernardino

C.R. Johnson

201400310

⑈004546⑈ ⑆122235821⑆ 163820716413⑈

EXHIBIT B

Site Photo



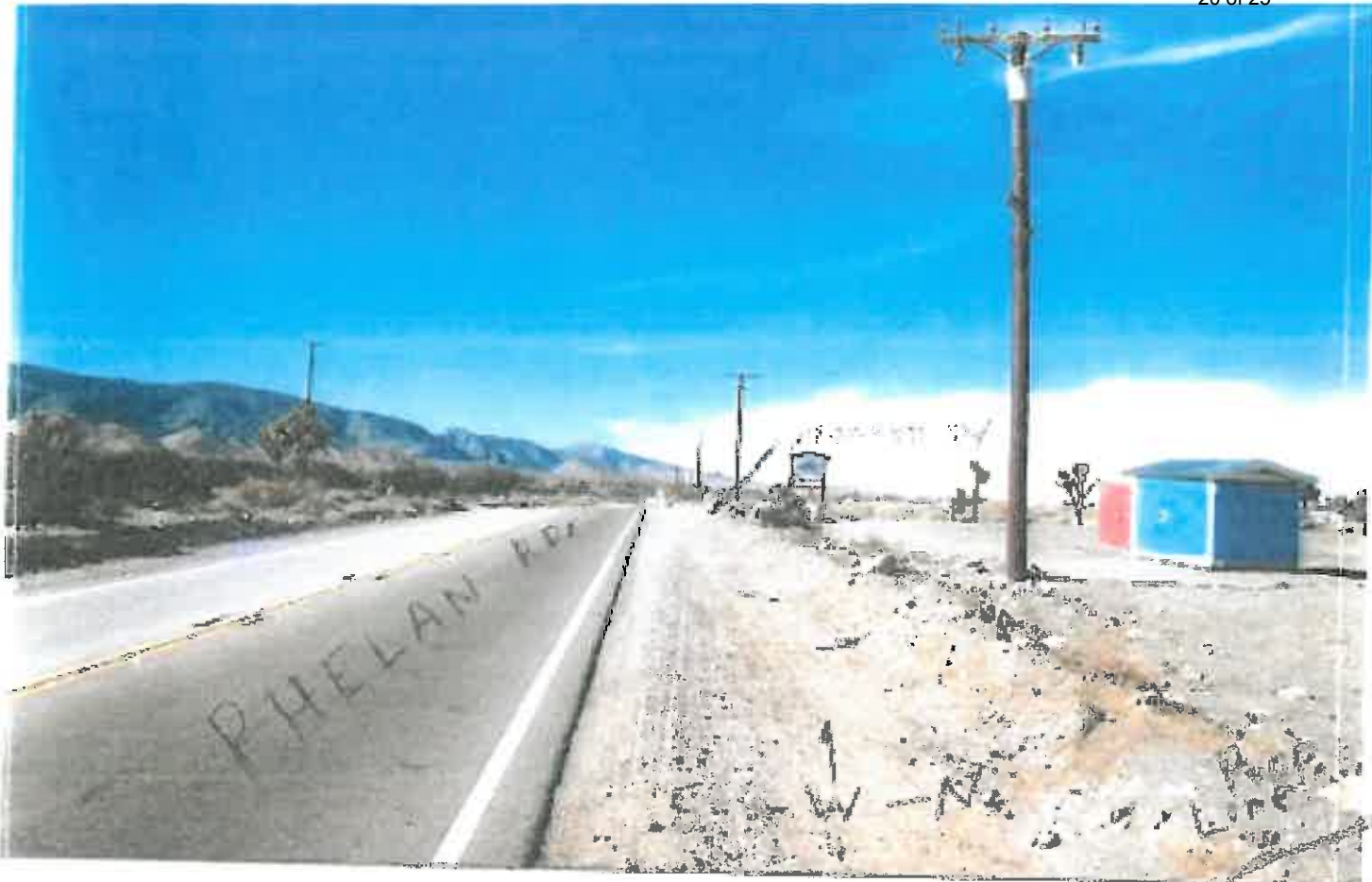
→ MONTE ROJO

→ 2

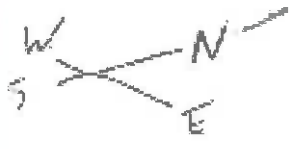


→ ALVIN

→ 1







Property Line



Looking East

Property Line

EXHIBIT C

Waiver Decision from Land Development

LAND USE SERVICES DEPARTMENT**BUILDING & SAFETY • CODE ENFORCEMENT • FIRE HAZARD ABATEMENT
LAND DEVELOPMENT • PLANNING****COUNTY OF SAN BERNARDINO**

- 385 N. Arrowhead Avenue, First Floor • San Bernardino, CA 92415-0187
(909) 387-8311 Fax (909) 387-3249
- 15900 Smoke Tree Street, First Floor • Hesperia, CA 92345
(760) 995-8140 Fax (760) 995-8167

**TOM HUDSON
Director****CERTIFIED MAIL – 7006 2760 0004 6573 1091
RETURN RECEIPT REQUESTED**

June 30, 2014

C.R. Johnson
10343 Pico Vista Road
Downey, CA 90241**RE: NOTICE OF DIRECTOR'S DECISION ON THE WAIVER REQUEST
APN: 3067-431-33**

Mr. Johnson,

Reference is made to your request, dated May 28, 2014, received by the Land Use Services Department (LUSD), which requests a waiver of road improvement requirements on Phelan and Minero Road for Project Number P201400042.

County Code section 83.09.050, under Infrastructure Improvements Standards for the Desert Region, requires road improvements/road dedications for this project.

Based on an analysis of the justification given and after careful review by the Directors of both the Department of Public Works and Land Use Services Department (Departments), it is the Director's determination that the original requirements, initiated by the Land Development Division, shall not be waived. County Code section 83.05.070, requires certain findings be met in order to approve a waiver or modification of road improvement requirements. Based on 83.05.070(a)(1)(E), this request does not properly show that there is good cause for the waiver; therefore, LUSD cannot approve a waiver of the road improvement requirements at this time.

Per County Code section 83.05.070(b), a decision by the Directors pertaining to a request to waive or modify required dedications and/or street improvements may be appealed to the review authority of the subdivision or the development project's land use decision within ten (10) calendar days of receipt of this decision.

In the event the development is not subject to any discretionary land use decision, an appeal of the decision made by the Directors pertaining to a request to waive or modify required dedications and/or street improvements may be made to the County's Chief Executive Officer or designee within ten (10) calendar days of receipt of this decision.

GREGORY C. DEVEREAUX
Chief Executive Officer

Board of Supervisors
 ROBERT A. LOVINGOOD.....First District
 JANICE RUTHERFORD, Chair.....Second District
 JOSIE GONZALES.....Third District
 JAMES RAMOS.....Third District
 GARY C. OVITT, Vice Chair.....Fourth District

C.R. Johnson
Waiver Request APN: 3067-431-33 P201400042
June 30, 2014
Page 2

Applications for an appeal shall be made on forms supplied by the Land Use Services Department and are available on the Land Use Services Website at:
<http://cms.sbcounty.gov/lus/Planning/Applications.aspx>

Sincerely,



SAMEH BASTA, P.E., Land Development Manager
Land Development Division

SB/CN/mp

Cc: Mohammad Qureshi, Traffic Engineer, DPW