

CITY OF HIGHLAND REGULAR MEETING OF THE PLANNING COMMISSION AGENDA

MEMBERS

Randall Hamerly, Chair
Chandra Thomas, Vice Chair
Edward Amaya, Commissioner
Jarrod Miller, Commissioner
Jessica Sutorus, Commissioner

REGULAR MEETING

April 4, 2023
6:00 p.m.
City Hall
Donahue Council Chambers
27215 Base Line
Highland, California

STAFF

Lawrence A. Mainez, Community Development Director
Kim Stater, Assistant Community Development Director
Ash Syed, Associate Planner
Angela Tafolla, Assistant Planner
Angelica Martinez, Planning Technician II
Camille Goritz, Administrative Assistant III



MISSION STATEMENT

Highland is dedicated to the betterment of the individual, the family, the neighborhood and the community. The City Council and the staff of Highland are dedicated to providing the quality of public facilities and services that its citizens are willing to fund and will do so as efficiently as possible.

Visit the City's Website at: www.cityofhighland.org

CITY OF HIGHLAND • 27215 BASE LINE • HIGHLAND, CALIFORNIA 92346 • (909) 864-6861 ☎ • (909) 862-3180 📠

In compliance with the Americans with Disabilities Act (ADA), if you need special assistance, please contact the City Clerk's office at (909) 864-6861, ext. 226, at least 72 hours prior to the meeting for any requests for reasonable accommodation to include interpreters.

Pursuant to Government Code Section 54957.5, any disclosable public records related to an open session item on a regular meeting agenda and distributed by the City of Highland to all or a majority of the Planning Commission, less than 72 hours prior to that meeting, are available for public inspection at Highland City Hall, 27215 Base Line, Highland, CA 92346, during normal business hours.

Submission of Public Comments: For those wishing to make public comments by email, please submit your comments by email to be read aloud at the meeting. Email comments must be submitted by 5:00 p.m. on April 4, 2023 to publiccomment@cityofhighland.org. If you are submitting a public comment pertaining to an item on the April 4, 2023 agenda, please identify the agenda item number in the subject line.

For those wishing to make public comments regarding a public hearing item please identify the agenda item in the subject line. Comments can be submitted any time prior to the meeting, as well as during the meeting up until the close of the public hearing on the corresponding item to be considered part of the record. Please email your comments at publiccomment@cityofhighland.org.

Members of the public will be permitted to make public comments in person.

**PLANNING COMMISSION
REGULAR MEETING AGENDA
April 4, 2023 - 6:00 P.M.**

CALL TO ORDER

PLEDGE OF ALLEGIANCE

COMMUNITY INPUT (ITEMS NOT ON THE AGENDA)

To address the Planning Commission, please complete a speaker form located at the entrance and give it to the Administrative Assistant prior to the beginning of the meeting. Your name will be called when it is your turn to speak. Individual speakers are limited to three minutes each. Comments received via email by April 4, 2023, 5:00 p.m., will be read into the record, provided that the reading shall not exceed three (3) minutes.

PUBLIC HEARINGS

1. A Public Hearing to Consider the Appeal of Administrative Citation No. 15897 issued due to Business License Regulations related to operating a Home-Based Business without having obtained a business license in accordance with Chapter 2.56 of Title 2.

of the Highland Municipal Code, at the property generally located at 27178 Messina St, Highland, CA 92346. Tax Assessor's Parcel Number 1191-501-12. Cited: Joel A Deleon. [Continued from January 17, 2023]

RECOMMENDATION: Staff recommends the Public Nuisance Hearing Board (PNHB) conduct the required Public Hearing and adopt Resolution No. 2023 - _____, approving the subject Appeal and voiding Administrative Citation No. 15897.

2. Review and comment on the Airport Gateway Specific Plan (AGSP) Draft Program Environmental Impact Report (Draft PEIR).

RECOMMENDATION: Staff recommends the Planning Commission review the Draft PEIR and provide comments to the Inland Valley Development Agency (IVDA), the Lead Agency for the project.

ANNOUNCEMENTS

ADJOURN

I, Camille Goritz, Administrative Assistant III of the City of Highland, California, certify that I caused to be posted this agenda on or before the 30th of March 2023 by 5:30 p.m. on our website at www.cityofhighland.org and in the following designated areas:

Highland Branch Library
7863 Central Avenue

Fire Station No. 1
26974 Base Line

City Hall
27215 Base Line

Date: March 30, 2023



Camille Goritz Administrative Assistant III



STAFF REPORT

TO THE APPEALS BOARD

DATE: April 4, 2023

FROM: Lawrence Mainez, Community Development Director

SUBJECT: A Public Hearing to Consider the Appeal of Administrative Citation No. 15897 issued due to Business License Regulations related to operating a Home-Based Business without having obtained a business license in accordance with Chapter 2.56 of Title 2, of the Highland Municipal Code, at the property generally located at 27178 Messina St, Highland, CA 92346. Tax Assessor's Parcel Number 1191-501-12. Cited: Joel A Deleon. [Continued from January 17, 2023]

PROPERTY OWNER: Rosalina A Adams and Joel A Deleon.

RECOMMENDATION: Staff recommends the Public Nuisance Hearing Board (PNHB) conduct the required Public Hearing and adopt Resolution No. 2023 - _____, approving the subject Appeal and voiding Administrative Citation No. 15897.

FISCAL IMPACT: There is no fiscal impact related to this Project, other than City Staffs time to research the individual projects / properties and to prepare the report.

PUBLIC NOTICE: Pursuant to Chapter 2.56, Public Hearing Notices were mailed via First Class Mail, and Certified Mail, Return Receipt Requested, to Rosalina A Adams and Joel A Deleon on December 16, 2022 (attached hereto as Attachment "E" and incorporated herein by reference). In addition, on December 16, 2022, staff posted the Public Hearing Notice in the designated posting location, and a copy of said Notice was placed on the City's Website (see Affidavit of Posting / Mailing and attached hereto as Attachment "F" and incorporated herein by reference). On January 17, 2023, a public hearing was conducted and continued to allow staff appropriate time to prepare a revised resolution approving the appellant's Appeal.

Approved _____	Motion _____	Second _____	Agenda Item No. <u>1</u>
Denied _____	Ayes _____		File No. _____
	Noes _____		
Continue _____	Abstain _____		
	Absent _____		
 Recording Secretary		 Community Development Director	

**Appeals Board Meeting of
April 4, 2023 – Deleon Appeal Application**

BACKGROUND:

- March 03, 2022** This case was initiated due to a complaint received regarding the unpermitted business on the property generally located at 27178 Messina St, Highland CA 92346, Parcel number: 1191-501-12.
- May 16, 2022** Code Compliance Officer Joel Ramos arrived at the property to conduct an inspection. Officer Ramos contacted property owner Joel A Deleon and discussed the complaint. Mr. Deleon stated that he owned a landscaping business and agreed to obtain a city business license if required.
- June 2, 2022** A **Notice of Violation** was mailed to the property owner's address of record by certified & regular mail. The notice requested the property/business owner to obtain a Home Occupation Business License.
- Jun. 13, 2022** The property owner visited City Hall and spoke with Code Enforcement staff regarding the case. Mr. Deleon owner stated that he only assisted two relatives with gardening tasks and received minimal payment for the assistance. He discussed the best methods for concealing the landscaping equipment, and the necessity of obtaining a Home Occupation business license.
- Sept 06, 2022** A **Final- Notice of Violation** was mailed to the property owner's address of record by certified & regular mail. The notice requested the property/business owner to obtain a Home Occupation Business License.
- Sept 19, 2022** The property/business owner failed to obtain a Home Occupation Business License for his landscaping business. Code Compliance Officer Joel Ramos issued **Administrative Citation #15897 (\$100)** for the violation of the Highland Municipal & Development Codes. A copy of the Citation was mailed to the property owner's address of record by certified and regular mail.
- Sept 27, 2022** The property owner submitted an **Appeal Application** to the City challenging the issuance of Administrative Citation by claiming the gardening activity for a selection of family and friends is not a business and therefore does

not require a City business license.

Jan 17, 2023

The Planning Commission conducted a **Public Hearing on the subject Appeal**, and took testimony from the Appellant. After careful consideration of the testimony and responses from staff concerning relevant municipal code provisions, the Appeals Board directed staff to prepare a revised resolution for the Board's consideration in approving the Appeal.

CONCLUSION:

As evidenced by testimony presented by the Appellant (and his representatives) on January 17, 2023, the Planning Commission concluded the Appellant was only providing gardening service to a family member and a small group of friends, similar to "domestic help" and therefore his services would be exempt from the City's business license requirements. The Planning Commission further cited the Highland Municipal Code Chapter 5.04, Business Licenses, Section 5.04.100, Exemptions, (G) Domestic Household Help which states, "*the license provisions of this chapter shall not be deemed to include or apply to domestic household help in the employ of an individual homeowner*".

In addition, the Highland Municipal Code Section 5.04.110, Filing for Exemption, requires any person claiming a business license exemption to file a sworn statement stating the facts upon which said exemption is claimed. That requirement was satisfied, due to the fact on January 17, 2023, staff administered the Oath to all parties giving testimony, and the Appellant confirmed in the record that he "*is just a gardener helping his aunt and the neighbor*", and he further stated he has "*no plans to grow his service and just needs to help his wife (and family)*."

At the conclusion of the hearing, the Appeals Board directed staff to prepare a revised Resolution for the Board's consideration in approving the proposed Appeal and recommended staff also void Administrative Citation No. 15897.

ATTACHMENT

1. Appeals Board Resolution 2023-_____, approving the subject Appeal and voiding Administrative Citation No. 15897.
2. January 17, 2023, Planning Commission Minutes.

ATTACHMENT 1

Appeals Board Resolution No. 2023-_____, approving the subject Appeal and voiding Administrative Citation No. 15897.

RESOLUTION NO. 2023-_____

A RESOLUTION OF THE PLANNING COMMISSION/APPEAL BOARD OF THE CITY OF HIGHLAND, CALIFORNIA, APPROVING AN APPEAL FILED BY JOEL DELEON RELATED TO THE ISSUANCE OF ADMINISTRATIVE CITATION NO. 15897 ISSUED ON SEPTEMBER 16, 2022, AND DIRECTING STAFF TO VOID SAID CITATION RELATED TO A VIOLATION GENERALLY LOCATED AT 27178 MESSINA St., HIGHLAND, CA 92346.

WHEREAS, on, September 16, 2022, Highland Staff issued Administrative Citation No. 15897 which is attached hereto and incorporated herein by this reference, for violations of the Highland Municipal Code for not first obtaining appropriate business licenses on the property located at 27178 Messina St., Highland, California; and,

WHEREAS, Highland Staff served the Citation on September, 19, 2022 to Joel Deleon, who is the Property Owner, ("Appellant") by way of mail; and,

WHEREAS, the Appellant timely submitted a Request for Hearing Form and Administrative Hearing Fee on September 28, 2022, in order to Appeal the Citation to the Appeal Board.

NOW THEREFORE, it is hereby found, determined, and resolved by the Appeals Board of the City of Highland as follows:

1. All of the facts set forth in the Recitals of this Resolution are true and correct and are hereby incorporated into this Resolution by this reference.
2. Staff timely notified Appellant that the Appeals Board would be holding a Public Hearing on January 17, 2023, via certified mail, and the Appeals Board held a Public Hearing on that Hearing Date, at which time, with all written and oral evidence and testimony from the Appellant, the Public, and Staff were considered.
3. Based upon the evidence and testimony presented to the Appeal Board during the above referenced Hearing, the Appeals Board finds that no violation existed at the time Administrative Citation No. 15897 was issued due to the following facts:
 - A. the Appellant was only providing gardening service to a family member and a small group of friends, similar to "domestic help" and therefore his services would be exempt from the City's business license requirements.
 - B. The Planning Commission further cited the Highland Municipal Code Chapter 5.04, Business Licenses, Section 5.04.100, Exemptions, (G) Domestic Household Help which states, "*the license provisions of this chapter shall not be deemed to include or apply to domestic household help in the employ of an individual homeowner*".

C. the Highland Municipal Code Section 5.04.110, Filing for Exemption, requires any person claiming a business license exemption to file a sworn statement stating the facts upon which said exemption is claimed. That requirement was satisfied, due to the fact on January 17, 2023, staff administered the Oath to all parties giving testimony, and the Appellant confirmed in the record that he *"is just a gardener helping his aunt and the neighbor"*, and he further stated he has *"no plans to grow his service and just needs to help his wife (and family)."*

4. Based on the facts and finding outlined herein, the Appeals Board determines that Administrative Citation No. 15897 shall be voided and the fine or penalty deposited with the city (if applicable) shall promptly be refunded.

Pursuant to Highland Municipal Code Section 2.56.130, Appellant may appeal this decision to the City Council within ten (10) days of the Appeals Board's decision, by submitting an Appeal Application along with any fee as adopted by the City of Highland City Council.

PASSED, APPROVED AND ADOPTED this 4th day of April 2023.

ATTEST:

Randall Hamerly
Chair, Appeals Board

Lawrence Mainez
Community Development Director

Attachment(s):

Administrative Citation No. 15897



CITY OF HIGHLAND
FINANCE DEPARTMENT
27215 BASE LINE
HIGHLAND, CA 92346
(909) 864-6861

CITATION NO. 15897

ADMINISTRATIVE CITATION

Date: 09/19/2022 Time: 08:00 HRS (Violation Observed)

☐ WARNING

☒ 1st Citation - \$ 100.00 ☐ 2nd Citation - \$ _____

☐ 3rd Subsequent - \$ _____

The payment listed above is due by 10/19/2022. See reverse side for payment and appeal instructions.

Corrections indicated below are required by 10/19/2022. If you fail to make the indicated corrections by this date, the next level citation may be issued or the City may take other enforcement action or actions.

PERSON CITED: LAST FIRST MIDDLE

DECON, JEFFREY A

DL #:

CA C7333205

DOB:

01/08/1966

MAILING ADDRESS:

27175 NESSINA ST. 92376

VIOLATION ADDRESS:

27175 NESSINA ST 92376

CITY / STATE CODE
VIOLATION VIOLATED

VIOLATION DESCRIPTION

5.1.1.1 (A) HOME OCCUPATION
3.6.1.1

CORRECTIONS REQUIRED

OBTAIN A CITY OF
HIGHLAND HOME OCCUPATION
BUSINESS LICENSE FOR
LANDSCAPE BUSINESS.

Signature of Issuing Officer

Issued Date

Printed Name of Issuing Officer

Wedge of Receipt (Signature)

**READ REVERSE SIDE
FOR IMPORTANT INFORMATION**

WHITE COPY: FINANCE

ATTACHMENT 2

January 17, 2023, Planning Commission Minutes

PLANNING COMMISSION REGULAR MEETING MINUTES
January 17, 2023 – 6:00 P.M.

CALL TO ORDER

The regular meeting of the Planning Commission of the City of Highland was called to order at 6:00 p.m. by Chair Hamerly at the Donahue Council Chambers, 27215 Base Line, Highland, California.

Present:	Chair	Randall Hamerly
	Vice Chair	Chandra Thomas
	Commissioner	Edward Amaya
	Commissioner	Jarrold Miller
	Commissioner	Jessica Sutorus

Staff Present: Lawrence Mainez, Community Development Director
Kim Stater, Assistant Community Development Director
Joel Ramos, Code Enforcement Officer
Gary Chambers, Code Enforcement Officer
Barrie Owens, Code Enforcement Officer
Camille Goritz, Administrative Assistant III

The Pledge of Allegiance was led by Chair Hamerly.

COMMUNITY INPUT (ITEMS NOT ON THE AGENDA)

None.

CONSENT CALENDAR

1. Minutes from the January 3, 2023 Regular Meeting.

A MOTION was made by Vice Chair Thomas, seconded by Commissioner Amaya, to approve as amended. Motion carried, 5-0.

PUBLIC HEARING

2. A Public Hearing to Consider the Appeal of Administrative Citation No. 15897 issued due to Business License Regulations related to operating a Home-Based Business without having obtained a business license in accordance with Chapter 2.56 of Title 2, of the Highland Municipal Code, at the property generally located at 27178 Messina St, Highland, CA 92346. Tax Assessor's Parcel Number 1191-501-12. Cited: Joel A Deleon. {Continued from January 3, 2023}

Code Enforcement Officer Ramos presented the staff report.

Chair Hamerly opened the public hearing.

Vice Chair Thomas asked what is the cost for a Home Occupation Business License and are there additional inspection fees?

Community Development Director Mainez stated the fee is \$138, and the inspection fee is included in the Home Occupation Business License application.

Vice Chair Thomas asked are there also requirements for outdoor storage for the business that is taking place at the residence?

Code Enforcement Officer Ramos stated that is correct and that was stated on the violation.

Vice Chair Thomas asked if the owner was concerned about the outdoor storage or was it the fee?

Code Enforcement Officer Ramos stated I'm not able to answer.

Commissioner Miller asked what equipment was present?

Code Enforcement Officer Ramos stated when I first made the visit to the property, I was not able to confirm the equipment since a tree blocked my view.

Commissioner Miller asked were you able to identify equipment that was being used for business landscaping?

Code Enforcement Officer Ramos stated I was not able to confirm the equipment, but the resident stated that Joel DeLeon was performing business in the city.

Chair Hamerly stated I know the exhibits were small, but what are they purporting to illustrate other than the display of the violation notices and documenting the address in the street? What I was looking for in particular were any outward signs that there was an occupation or home-based business on site, and I did not observe that in the photographs.

Code Enforcement Officer Ramos stated there were no signs that stated he had operated a business.

Vice Chair Thomas asked then what was the complaint in regard to exactly?

Code Enforcement Officer Ramos stated as you may be aware, we received complaints on a daily basis, the complaint came in as someone operating a business on that particular property. When I made the first contact with Mr. DeLeon and asked him about the business, he confirmed that he was operating a business.

Vice Chair Thomas asked does Mr. DeLeon speak English fluently or is there a language barrier? I also heard in your statement that he then later changed his statement stating he is doing minimal business for some family members.

Code Enforcement Officer Ramos stated I had a great conversation with Mr. DeLeon, I did not have any issues understanding him, so he's very fluent in English.

Vice Chair Thomas stated ok, the first thing he told you was he had a business and later when he came to the city he stated that he wasn't really operating a business and that it was only for his two family members, correct?

Code Enforcement Officer Ramos stated yes, that is correct.

Vice Chair Thomas stated ok, so his stipulation changed.

Code Enforcement Officer Ramos stated yes.

Commissioner Sutorus asked if there was any signage on his vehicle that said it was a landscape business?

Code Enforcement Officer Ramos stated I was not able to confirm signage.

Commissioner Amaya asked was the complaint received on March 3, 2022?

Code Enforcement Officer Ramos stated that is correct.

Commissioner Amaya asked if that was the only complaint received?

Code Enforcement Officer Ramos stated that is correct.

Appellant Joel DeLeon stated I made a mistake expressing that landscaping is my job, it is only gardening. They write a check for gardener service; I only do three houses, and this only causes this problem because my neighbor is running a cleaning business and they spoke to this officer. They park their car everywhere and they block my mailbox. I know I made a mistake, nobody perfect. ✓

Chair Hamerly asked was your neighbor who was blocking your mailbox?

Appellant Joel DeLeon stated yes, they are cleaning houses and those cars are their workers and they park everywhere on the street.

Chair Hamerly asked did you communicate to the Code Enforcement Officer Ramos that you were running a landscape business?

Appellant Joel DeLeon stated Code Enforcement Officer Ramos came over and asked me and I made a mistake stating I have a landscape business, but my job is a gardener, and I only work on three houses. Code Enforcement Officer Ramos took a picture of myself, is that allowed? ✓

Chair Hamerly stated yes, he is documenting something based on a complaint, so he has to collect any evidence.

Commissioner Amaya asked if Mr. DeLeon had a business license with the City of Highland.

Appellant Joel DeLeon stated I do not have one.

Commissioner Miller asked do you get paid for the work you do?

Appellant Joel DeLeon stated yes, once a month.

Chair Hamerly asked are they family members?

Appellant Joel DeLeon stated yes, my aunt and next-door neighbor. The reason the neighbors complained is because I left a note on their car. ✓

Chair Hamerly asked if gardening is your means of supporting yourself or are there other jobs that you do?

Appellant Joel DeLeon stated that's all I do because, my wife is the one making money. I'm retired, I'm 67 years old and I'm falling apart.

Wife of Joel DeLeon stated when the officer came to the house and asked my husband what he does for a living, he was thinking landscaping, but he's not in a landscaping business, he used to work landscaping for a company before. I told him you're not doing landscaping because the landscaping people are doing a lot of things more than what you're doing and that's not the word you are supposed to say. I explained it to Code Enforcement Officer Ramos, and he said he already spoke to my husband in a sarcastic way and kind of said we are done talking. That is all he said. So that's why I'm here, to help him out to understand that what he's doing is not really a landscaping. It's just a gardener helping his aunt and the neighbor. You're stalking him, taking pictures, and to me it's like a harassment also, we are not doing anything wrong to the neighbors, it is just because we put the note on the car and they didn't like that. ✓

Niece of Joel DeLeon, Sheila Dillard stated the gardening services that he provides is also to my grandmother in Highland. This all started out with a complaint from one of his neighbors, my uncle called me and said I put a note on my neighbor's truck because he keeps parking in front of my mailbox. I need that parking space so when my son who goes to college comes home, he that parking space. I guess they got into a just a verbal altercation and the man who lives across the street filed the complaint hence that's how we started the whole he has a landscaping business. Clearly there might be a language barrier here, so he asked me to come and speak on his behalf. He's denied stating that he has a landscaping business, he is only providing domestic duty help for my grandmother. ✓

Chair Hamerly asked did you say that the neighbor with the truck did have a landscaping business?

Sheila Dillard stated no sir, it is cleaning services. In regard to the citation itself, it says that he violated section 5.12 020, and that states the provisions of this section shall apply to all home occupations as defined in HMC. 5.12 010 which defines home occupations. Any occupation customarily conducted entirely within a dwelling by its inhabitants, the purpose being incidental to use of the dwelling for dwelling purposes and provided that no articles sold or offered for sale, except that produced by 7 inhabitants. By the own definition of the citation, it says that the occupation is customarily conducted entirely within the dwelling, and that clearly if he has a "landscaping business" that is not conducted entirely within the dwelling. So, in my opinion, the definition alone does not apply in his case because his gardening business is not conducted entirely within his dwelling. Alternatively, I did look up section HMC section 5.04100 which states although the following may be exempt from a city business license fee, they shall apply for and obtain a city by business license, however, please note that the citation did not offer this. The exemption applies to G domestic household health, the license provisions of this

chapter shall not be deemed to include or apply to domestic household health in the employee of an individual homeowner Ordinance 239, section 21998. It is only Dr. Daniels who pays my uncle, my grandma will give him food. She might give him \$20 here and there, or whatever amount that she feels you know is reasonable, but that's like me helping my grandma. She's in her 80s, she we just lost her husband, who is my grandfather, so we all feel bad for her. My aunt called me a week ago and said she was scared I don't want to go outside; I feel like somebody's always watching me. So, with this I conclude and request that the board deny the requirement to have a license. If not, please in the alternative, consider that he provides domestic help. Thank you. ✓

Chair Hamerly stated when I was first reading this before I even heard any testimony, instantly on mind goes to the IRS standard. Is there a profit intent and that is demonstrated over a course of years and if there is no profit intent then it can be considered a hobby and it is generally not accepted as a business for tax purposes. Providing domestic assistance even on an ongoing basis if it's not being done for a profit motive even if he's not conducting it on site and there is not a home office it really doesn't fit the standard of a home based business. I am wondering if there is another provision in there or if in the opinion of staff, if the exception rule applies because we're really talking about one individual here that is not directly related to the appellant.

Community Development Director Mainez stated first, going back to the complaint, that's irrelevant tonight, just for the record, we do not have evidence whether that person that the Appellant is mentioning filed the complaint. They're not here to defend themselves, we don't have that as part of the record tonight, it could be anybody. We need to sever that from the discussion and in terms of the information provided concerning the domestic help, that was not noted in their application to appeal, so it's very interesting and new information that staff didn't have time to evaluate. It is a good finding on their part. Going back to your question about if there's any relief, the definition for business in HMC is as stated shall mean any employment, occupation, profession, trade, calling and lawful gain, show exhibition event, venture fundraising activity, commercial enterprise, company, corporation, joint enterprise, place of business, partnership, or other activity, or enterprise engaged in for gain, profit, benefit, advantage, or livelihood whether or not a gain, profit benefit, advantage or livelihood is earned thereby. So, whether they earn money or not, if that activity is occurring, it's considered a business in Highland. I want to go back to my comment about the domestic help if that's something you wanted to be tonight that surely will help guide our future citations when it comes to somebody that's claiming that they're doing service for a family or friend whether it could be cleaning their house, grocery shopping, running them errands, and taking to the doctors, etc. I think anybody from the street were to come in and have a basic understanding what domestic help is they would describe what I just described. This gentleman I believe is very honest.

Chair Hamerly stated yes, and it builds on what I was going to follow up with because even Staff's report, it paints a picture of a story that is growing or changing, or there seems to be a discrepancy. One time he is saying, it is a landscape business on May 16, 2022, but when he comes into the city, he says here's what I'm doing and from that interaction there was more time to kind of flesh out what was actually occurring. The Appellant is asking the question, how do I handle this situation because this is what is happening, and it's not detailed in the staff report.

Community Development Director Mainez stated yes, this is unusual, when we issue a citation, you are deciding that violation occurred that day we issued a citation. Here we're

getting into a little bit discussion about what is a business and what is a domestic help and I'm almost leaning towards domestic help at this point because he's hasn't put anything in the record that's indicated that this is a business that's going to grow and he's going to create a livelihood. He has identified one or two properties, if he puts in the record that this is all he's doing and he does not advertise then he could present that if you would like and state that in the record, that certainly will go a long way for us to conclude this as a domestic help.

Appellant Joel DeLeon stated I don't have any plans expanding my gardening service, I just need to help my wife. *

Vice Chair Thomas stated I think a lot of misunderstanding happened and to no fault at all for our wonderful Code Enforcement Staff. Even taking photos, I know it can make someone feel a little unsafe I just want to reassure you all, I welcome the Code Enforcement Officer to come outside my house because I will feel safer with them there. So, they don't want you to feel ever afraid for a Code Enforcement Officer showing up at your location. I can guarantee you that you are safer if they are there representing the city and you would get a very fast response if emergency was happening at your home. Thank you for the clarification and Code Enforcement Officer for doing his job and it was just a misunderstanding.

Chair Hamerly closed the public hearing.

A MOTION was made by Vice Chair Thomas, seconded by Commissioner Miller, to declare that it is not applicable to uphold Administrative Citation No. 15897 with the new information that was presented is domestic help defined in Chapter 5.04 Section 5.04.100 Exemption Item G Domestic Household Help. A business license should not be deemed to include or apply to domestic household in the employ of an individual homeowner, and direct staff to bring this item back to the Appeals Board with a revised resolution and findings to uphold the appeal and void the citation. Motion carried, 5-0.

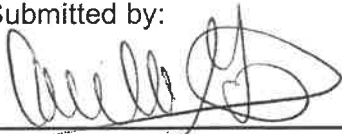
ANNOUNCEMENTS

The next regular meeting is scheduled February 2, 2023.

ADJOURN

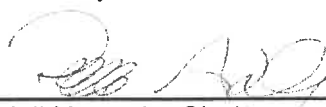
There being no further business, Chair Hamerly declared the meeting adjourned at 7:10 p.m.

Submitted by:



Camille Goritz, Administrative Assistant III
Community Development Department

Approved by:



Randall Hamerly, Chair
Planning Commission



STAFF REPORT

TO THE PLANNING COMMISSION

DATE: April 4, 2023

FROM: Lawrence A. Mainez, Community Development Director

PREPARED BY: Kim Stater, Assistant Community Development Director 

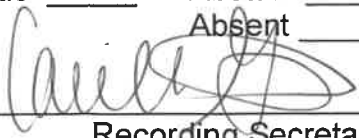
SUBJECT: Review and comment on the Airport Gateway Specific Plan (AGSP) Draft Program Environmental Impact Report (Draft PEIR).

LOCATION: The AGSP area is located immediately north of the San Bernardino International Airport (SBIA). It covers 678.13 acres extending from just north of the SBIA to the north side of 6th Street except at the southwest and southeast corners of Del Rosa Drive and 6th Street where the plan extends to the north side of 5th Street. The western boundary extends to the center line of Tippecanoe Avenue east to State Route 210. The Plan area includes parcels in both the City of Highland (485 acres) and the City of San Bernardino (193 acres).

RECOMMENDATION: Staff recommends the Planning Commission review the Draft PEIR and provide comments to the Inland Valley Development Agency (IVDA), the Lead Agency for the project.

PUBLIC NOTICE: The Planning Commission will provide comments to the IVDA, California Environmental Quality Act (CEQA) Lead Agency, who will consider certification of the PEIR, its contents, and Mitigation Monitoring and Reporting Program (MMRP). Because the City of Highland is reviewing and providing comments in its role as a CEQA Responsible Agency, there is no public notice required beyond the posting of the Agenda in three (3) locations and on-line in accordance with City policy.

PROJECT REVIEW: The following description is cited directly from the Draft PEIR. "The IVDA is a joint powers agency in the west San Bernardino Valley that was

Approved _____	Motion _____	Second _____	Agenda Item No. <u>2</u>
Denied _____	Ayes _____		File No. _____
	Noes _____		
Continue _____	Abstain _____		
	Absent _____		
 Recording Secretary		 Community Development Director	

created to facilitate redevelopment of the former Norton Air Force Base and the surrounding area. The AGSP represents a long-range plan for the development of the area immediately north of the Airport that functions as the front door to the San Bernardino International Airport, and when adopted will guide all future development proposals and other improvements in the Specific Plan area. This is particularly important because the Specific Plan must be implemented consistently across jurisdictional lines by two separate cities for it to be successful. After conferring, a group of local agencies and stakeholders agreed that the IVDA should assume the lead in managing the preparation of the AGSP and the environmental documentation required to comply with the California Environmental Quality Act (CEQA). The other participating agencies/entities in developing the AGSP include the City of Highland, City of San Bernardino, the San Manuel Band of Mission Indians, and the East Valley Water District (cooperating agencies). These stakeholders have jurisdictional and infrastructure ownership interests in the plan area and have invested significant time and resources in supporting the IVDA to complete the AGSP for the benefit of the region.”

“Realizing that a significant transition in the area could not occur one project at a time, a primary goal of group discussions held was to facilitate and encourage a potential economic development opportunity that could be beneficial to both cities, the Airport, and existing property owners interested in the transformation of the area. Collectively, the participants determined that the project area would benefit from the preparation and implementation of the AGSP.”

ENVIRONMENTAL REVIEW: Following a Scoping Meeting on July 7, 2022, the Draft Program EIR was completed in early December 2022. It was made available for public comment beginning on December 12, 2022 and ending April 28, 2023. The Highland Planning Commission will have an opportunity to provide comments on the document at their April 4, 2023 meeting, and the City Council on April 11, 2023. When the comment period ends, the Response to Comments will be prepared by IVDA staff and the final document presented to the IVDA Board for consideration at a public hearing.

If the PEIR is certified, the Airport Gateway Specific Plan will be considered by both the City of San Bernardino and City of Highland for adoption.

Although there are numerous “Areas of Controversy” including Section 1.7.3 Relocation Plan analyzed in the PEIR, there is one in particular for which staff is seeking Planning Commission and City Council input. The topic concerns a Mitigation Measure (MM) requiring future developers to pay for the relocation of residential property owners and their tenants. Staff asks the Planning Commission carefully read Section 4.12 Land Use of the PEIR beginning on page 4-349. Relocation assistance is also mentioned in the Specific Plan itself. (Attachment 4 – Specific Plan Section 4.2 Transition of Residential to Industrial Uses in the AGSP)

The identified impact presented in the PEIR is the potential for existing Highland residents to be displaced as the AGSP area transitions from residential to non-residential uses. To address the displacement, the proposed Mitigation Measure was recommended by the IVDA's CEQA consultant:

Environmental Category / Avoidance, Minimization and Mitigation Measures	Responsible Agency
POPULATION AND HOUSING PH-1: For any development actions that may cause displacement of conforming residential occupants (relevant to both tenants and homeowners alike), the Developer shall prepare a relocation plan that complies with the requirements of the California Relocation Assistance Law, California Government Code Section 7260 et seq, and if federal funding is anticipated, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970. As a component of the relocation plan, the Developer shall provide an explanation of the relocation requirements that they are complying with, and a detailed relocation plan consistent with one of the above-listed relocation guidelines to include: 1. Introduction. 2. Project description. 3. Assessment of the relocation needs of persons subject to displacement. 4. Assessment of available replacement housing units within proximity to the Project site. 5. Description of the relocation program and guidelines to be followed; and 6. Administrative Provisions to include: a. Informational Statement and Notices to be provided. b. Description of any citizen participation or outreach efforts. c. Grievance procedures. d. Project schedule or timelines of any proposed displacement e. Estimated budget to provide relocation benefits in accordance with the identified relocation program requirements. A sample outline of the components of the relocation plan to be prepared, incorporating the above, will include but not be limited to the outline, methodology, and information contained in the Model/Conceptual Relocation Plan Mitigation prepared by OPC (provided as Appendix 10 of Volume 2 of this DPEIR). Before proceeding with and causing displacement of individuals and households, general notice of the relocation plan shall be provided, and notice shall be designed to reach the occupants of all properties to be displaced, and shall be provided 30 days prior to submission to the Agency for approval.	City of Highland and/or City of San Bernardino

The MM above states that relocation benefits would be provided from areas that transition from “**conforming** residential” to non-residential uses. Areas of “conforming” residential uses include those generally in the neighborhood of Ward and Cunningham Streets that have an R-1 Single Family zoning as well as the Pinehurst Village condominium neighborhood immediately to its east which is zoned Planned Development (PD).

Commenters believe that relocation benefits should also be extended to “non-conforming” residential occupants. These would include all residentially occupied parcels that are currently zoned Business Park (BP), Planned Commercial (PC) or Industrial (I) since 2006. The City’s current Non-Conforming Land Use Code protects non-confirming single-family residential uses, Highland Municipal Code Section 16.08.150. They may continue as residential, they may expand their footprint by 25%, and they may add residential accessory structures such as sheds, pools, patio covers etc. They may not construct Accessory Dwelling Units under the current zoning policy.

Appendix 10 located in the PEIR is a model/conceptual Relocation Plan intended to guide the agencies through the proposed relocation concept (Attachment 2 – PEIR Appendix 10). Also attached for the Commission’s consideration is a copy of the California Government Code Section 7260 et seq. It is staff’s opinion that the Government Code Section 7260 only applies when the project is an agency project related to a public benefit therefore not applicable to private development envisioned for the AGSP (Attachment 3 – California Government Code Section 7260 et seq.).

Staff is seeking input from the Planning Commission and City Council regarding whether to require relocation plans and benefits to be provided by developers to displaced non-conforming land uses.

- Attachments:
1. Draft Program Environmental Impact Report. Technical Appendices provided on the accompanying flash drive.
 2. PEIR Appendix 10 – Model/Conceptual Relocation Plan
 3. California Government Code Section 7260 et seq.
 4. Specific Plan Section 4.2 Transition of Residential to Industrial Uses in the AGSP

ATTACHMENT 1

Draft Program Environmental Impact Report

Technical Appendices provided on the accompanying flash drive

ATTACHMENT 2

PEIR Appendix 10 – Model / Conceptual Relocation Plan

APPENDIX 10

Model / Conceptual Relocation Plan

Model/Conceptual Relocation Plan Mitigation

For any development actions that may cause displacement of residential occupants, the Developer shall prepare a relocation plan that complies with the requirements of the California Relocation Assistance Law, California Government Code Section 7260 et seq, and if federal funding is anticipated, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970. As a component of the relocation plan, the Developer shall provide an explanation of the relocation requirements that they are complying with, and a detailed relocation plan consistent with one of the above-listed relocation guidelines to include:

1. Introduction.
2. Project description.
3. Assessment of the relocation needs of persons subject to displacement.
4. Assessment of available replacement housing units within proximity to the Project site.
5. Description of the relocation program and guidelines to be followed; and
6. Administrative Provisions to include:
 - a. Informational Statement and Notices to be provided.
 - b. Description of any citizen participation or outreach efforts.
 - c. Grievance procedures.
 - d. Project schedule or timelines of any proposed displacement
 - e. Estimated budget to provide relocation benefits in accordance with the identified relocation program requirements.

A sample outline of the components of the relocation plan to be prepared, incorporating the above, will include but not be limited to the following outline, methodology, and information:

Section	Description/Detail
I. Introduction	• Introduce of the Project which is causing the displacement of residential households. • Identify the Agency partner(s) and any financial and/or development credits by the Agency(s). • Summarize the displacement(s). • Identify the preparer of the Plan. • Identify the guidelines being followed.
II. Project Description	• Provide a regional and project site location description with diagrammatic sketch or depiction of these areas.
III. Assessment of Relocation Needs	• Identify the survey method (i.e. personal interview, phone, questionnaire, etc.) used to obtain information of the aggregate relocation needs of all persons to be displaced. ○ Identify information queried. ○ Identify percentage of those to be displaced that were queried. • Provide data on current occupants to include: