

# **CITY OF HIGHLAND REGULAR MEETING OF THE PLANNING COMMISSION AGENDA**

## **MEMBERS**

Randall Hamerly, Chair  
Chandra Thomas, Vice Chair  
Craig Graves, Commissioner  
Nicole McCance, Commissioner  
Jarrod Miller, Commissioner

## **REGULAR MEETING**

December 17, 2024  
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  
Angela Tafolla, Associate Planner  
Travis Trejo, Assistant Planner  
Tiffany Martinez, Assistant Planner  
Camille Duarte, Administrative Assistant III  
Matt Bennett, Assistant Public Works Director  
Matt Wirz, Building Official  
Scott Rice, City Landscape Architect

## **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](http://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 December 17, 2024 to [publiccomment@cityofhighland.org](mailto:publiccomment@cityofhighland.org). If you are submitting a public comment pertaining to an item on the December 17, 2024 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](mailto:publiccomment@cityofhighland.org).

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

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**PLANNING COMMISSION  
REGULAR MEETING AGENDA  
December 17, 2024 - 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 December 17, 2024, 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. 15255 issued due to land use violations related to the unpermitted parking and storage of trucks and tractor-trailers in accordance with Chapter 2.56 of Title 2, of the Highland Municipal Code, at the property generally located at 27356 5th Street, Highland, CA 92346, Tax Assessor Parcel Number 1201-301-16. Cited: William Graham 1, LLC. Continued from November 19, 2024, Planning Commission/Appeals Board Hearing  
RECOMMENDATION: Staff recommends the Planning Commission/Appeals Board conduct the required Public Hearing and uphold Administrative Citation No. 15255 and adopt Resolution No. 2024-\_\_\_\_\_.



## ANNOUNCEMENTS

### ADJOURN

I, Alondra Muñoz, City Clerk of the City of Highland, California, certify that I caused to be posted this agenda on or before the 12th of December 2024 by 5:30 p.m. on our website at [www.cityofhighland.org](http://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: December 12, 2024



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Alondra Muñoz, City Clerk



# STAFF REPORT

## TO THE PLANNING COMMISSION / APPEALS BOARD

**DATE:** December 17, 2024

**FROM:** Lawrence Mainez, Community Development Director

**PREPARED BY:** Gary Chambers, Code Compliance Officer *G.C.*

**SUBJECT:** A Public Hearing to Consider the Appeal of Administrative Citation No. 15255 issued due to Land use violations related to the unpermitted parking and storage of trucks & tractor-trailers in accordance with Chapter 2.56 of Title 2, of the Highland Municipal Code, at the property generally located at 27356 5<sup>th</sup> St., Highland, CA 92346, Tax Assessor Parcel Number 1201-301-16. Cited: William Graham 1 LLC. **Continued from November 19, 2024, Planning Commission/Appeals Board Hearing.**

**APPELLANT:** William Graham 1 LLC

**RECOMMENDATION:** Staff recommends the Planning Commission/Appeals Board conduct the required Public Hearing and uphold Administrative Citation No. 15255 and adopt Resolution No. 2024 - \_\_\_\_.

**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 William Graham I LLC on November 01, 2024 (attached hereto as Attachment "B" and incorporated herein by reference). In addition, on November 01, 2024, staff posted the Public Hearing Notice in the three designated posting locations, and a copy of said Notice was placed on the City's Website (see Affidavit of Posting / Mailing and attached hereto as Exhibit "5" and incorporated herein by reference).

|                |               |              |                          |
|----------------|---------------|--------------|--------------------------|
| Approved _____ | Motion _____  | Second _____ | Agenda Item No. <u>1</u> |
| Denied _____   | Ayes _____    |              | File No. _____           |
|                | Noes _____    |              |                          |
| Continue _____ | Abstain _____ |              |                          |
|                | Absent _____  |              |                          |

*[Signature]* Recording Secretary

*[Signature]* Community Development Director



## **BACKGROUND:**

**May 30, 2024**

This case was initiated due to a complaint received regarding an expired business license on the property generally located at 27356 5<sup>th</sup> St., Highland, CA 92346, Parcel number: 1201-301-16. Further research revealed that the business license for Matheson Postal Services, Inc., Entity #2367, expired on September 30, 2023, and had not been renewed. Code Compliance Officer Gary Chambers contacted Brad Yates, from William Graham 1 LLC, by phone. Mr. Yates stated that Matheson Postal Services Inc. was no longer operating from the property, but two other companies were operating. Further research revealed that Matheson Postal Service Inc. entered into lease agreements on September 23, 2024, with Falcon's trailer Repair, a trailer repair and maintenance company, and AJR Trucking Inc., a mail hauling service that contracts with the United States Postal Service. Both Falcon's Trailer Repair and AJR Trucking Inc. did not have City Land use/Zoning approval to operate on the property nor did they have a City of Highland Business License.

**Jun 03, 2024**

Analysis by the City's Planning Division determined that the non-conforming trucking company/parking business, Matheson Trucking, had been discontinued for more than 180 days. According to the City of Highland Municipal Code, any new proposed business would need to comply with the Employment District Land Use Table (Table 16.24.030A) and bring the site up to current code standards. Falcons Trailer Repair would not be permitted for trailer repair and storage because the site is not improved and in compliance with code standards for repair work, and storage is not a listed land use in the Industrial Zone District. Additionally, the operation of another trucking services company, AJR Trucking Inc., would not be permitted because the use is not a listed land use in the Industrial Zone District.

**Jun. 14, 2024**

Code Compliance Officer Gary Chambers arrived at the property to conduct an inspection and observed the parking and storage of semi-trucks and tractor-trailers without City approval or permits. A **Notice of Violation** was mailed to the property owner's address of record by certified mail. A copy of the Notice of Violation was also emailed to Mr. Brad Yates, William Graham I LLC.

**Aug. 07, 2024**

The City Attorney's Office sent a letter (attached hereto as Exhibit "3" dated August 06, 2024) to Benjamin S. Brown (Attorney At Law), Allen Matkins Leek Gamble Mallory & Natsis LLP, representing William Graham 1 LLC (property owner), in response to a letter that the City had received from Mr. Brown dated June 24, 2024. The City Attorney's Letter concluded that the current, primary use of the property for semi-truck and tractor-trailer parking and storage was not permitted and not in compliance with the City's Land Use & Development Code. Furthermore, the property owner, William Graham 1 LLC, was requested to cease the current non-permitted and illegal semi-truck and tractor-trailer parking and storage use of the Property.

**Aug. 26, 2024**

Code Compliance Officer Gary Chambers arrived at the property to conduct a reinspection and observed the parking and storage of semi-trucks and tractor-trailers without City approval or permits.

**Oct. 01, 2024**

Code Compliance Officer Gary Chambers arrived at the property to conduct a reinspection and observed the parking and storage of semi-trucks and tractor-trailers without City approval or permits. Due to continued non-compliance, **Administrative Citation #15255, \$100**, was issued to the property owner. A copy of the citation was emailed to Mr. Brad Yates, William Graham 1 LLC.

**Oct. 08, 2024**

Michael Johnson, representative for William Graham 1, LLC, submitted a City of Highland Administrative Citation **Notice of Appeal Request for Hearing** (attached hereto as Exhibit "4"). In response to the property owner's appeal, a stay was placed on further code enforcement action until the appeal is resolved.

**Nov. 01, 2024**

Code Compliance Officer Gary Chambers arrived at the property and posted a **Public Hearing Notice** informing the property owner that an Administrative Citation Appeal Hearing had been scheduled for November 19, 2024, at 6 pm, or soon thereafter. A copy of the Public Hearing Notice was also mailed to the property owner's address of record by certified mail, return receipt requested, and emailed to the property owner. While posting the Public Hearing Notice, Code Compliance Officer Gary Chambers also observed the parking and storage of semi-trucks and tractor-trailers as well as a large sign advertising, "Parking Available, Hiring Drivers."



**Nov. 19, 2024**

The Planning Commission/Appeals board held a public hearing to consider the appeal of Administrative Citation No. 15255. The Appellant notified the City on Monday, November 18, 2024, at 2:54 pm, that their Attorney would be present to represent them at the Appeals Board Hearing. Due to the short notice, the City's Attorney was unable to attend. During the hearing, staff requested that the hearing be continued to allow for the City's Attorney to be present. The Planning Commission/Appeals Board granted Staffs request and continued the hearing to December 17, 2024.

**Dec. 12, 2024**

Appellant submitted a letter (attached hereto as Exhibit "11" dated December 12, 2024) outlining their reasons as to why the Planning Commission/Appeals Board should overturn the issuance of citation No. 15255.

**CONCLUSION:** As evidenced by all inspections conducted and the exhibits incorporated herein by reference, Staff recommends the Appeals Board uphold Administrative Citation No. 15255 and approve the attached Resolution (Exhibit 1). Specifically, the Administrative Citation was issued for the following violations of the Highland Municipal & Development Code:

- I. Highland Municipal Code Section 5.04.030 (A) (Operating without a business license).
- II. Highland Municipal Code Section 8.32.020 (C) (A public nuisance is created by any building, structure, or property that is in violation of any provision of the Highland Municipal Code, including the Highland Development Code, or the statutes of the State of California).
- III. Highland Municipal Code Section 16.24.030 (Use Regulations for Employment Districts); There is no use specifically listed for the parking and storage of semi-trucks or tractor-trailers in Employment Districts. Furthermore, the City of Highland's Land Use and Development Code Title 16 is a permissive code, which means if a use is not specifically listed within in the applicable use tables it should be considered a 'not permitted' use. The land use of trucking services and terminals (i.e. semi-trucks and tractor-trailers) is only allowed in the Industrial "I" Zoning District if ancillary to a permanent warehousing or other related business on the property (Table 16.24.030.A (B)(2), Wholesale and Warehousing Uses). The subject property being used for the unpermitted parking and storage of semi trucking services and terminals (i.e. semi-trucks and tractor-trailers) not related to and/or ancillary to an on-site warehousing or similar type use constitutes a violation.

**Exhibit "1"** Appeals Board Resolution 2024-\_\_\_\_\_, inclusive of the following attachments:

**A.** Administrative Citation, 15255, issued October 01, 2024

**B.** Notice of Public Hearing dated November 01, 2024

**Exhibit "2"** Notice of Violation Letter dated June 14, 2024

**Exhibit "3"** City Attorney Letter dated August 06, 2024

**Exhibit "4"** Notice of Appeal, Request for Hearing, dated October 08, 2024

**Exhibit "5"** Notice of Public hearing (Affidavit of Mailing) dated November 01, 2024

**Exhibit "6"** Aerial / Site Location Map

**Exhibit "7"** Case photographs dated Jun 14, 2024

**Exhibit "8"** Case photographs dated August 26, 2024

**Exhibit "9"** Case photographs dated October 01, 2024

**Exhibit "10"** Case photographs, Notice of Public Hearing Posting, dated November 01, 2024

**Exhibit "11"** Appellant letter dated December 12, 2024



**EXHIBIT “1”**

Appeals Board Resolution No. 2024\_\_\_\_,  
Inclusive of the following Attachments

## RESOLUTION NO. 2024-

A RESOLUTION OF THE PLANNING COMMISSION/APPEALS BOARD OF THE CITY OF HIGHLAND, CALIFORNIA, DECLARING THAT THE VIOLATION EXISTED ON THE PROPERTY IDENTIFIED AS APN: 1201-301-16, GENERALLY LOCATED AT 27356 5<sup>th</sup> St., HIGHLAND, CA 92346, ON OCTOBER 01, 2024, THEREBY UPHOLDING ADMINISTRATIVE CITATION NO 15255.

WHEREAS, on, October 01, 2024, Highland Staff issued Administrative Citation No. 15255 which is attached hereto and incorporated herein by this reference, for violations of the Highland Municipal & Land Use Development Code on the property located at 27356 5<sup>th</sup> St., Highland, CA 92346 and,

WHEREAS, Highland Code Compliance Staff served the Citation on October, 01, 2024 to William Graham 1 LLC, who is the Property Owner, ("Appellant") by way of mail, which is attached hereto and incorporated herein by this reference, and,

WHEREAS, the Appellant timely submitted a Request for Hearing Form in order to appeal the Citation to the Planning Commission/Appeals Board, and,

WHEREAS, the Appellant timely submitted the Appeals Board Administrative Hearing Fee for the citation.

NOW THEREFORE, it is hereby found, determined, and resolved by the Planning Commission/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 Planning Commission/Appeals Board would be holding a Public Hearing on December 17, 2024, via certified mail; that Notice is attached hereto and incorporated herein by this reference. The Planning Commission/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 Planning Commission/Appeals Board during the above referenced Hearing, the Planning Commission/Appeals Board finds that violations of the Highland Municipal & Land Use Development Code, Sections 5.04.030(A), 8.32.020(C), & 16.24.030, existed on the Property on the Citation Date, as follows:



A. The Code Compliance Officer arrived at the property on October 01, 2024, to conduct a reinspection. The Code Compliance Officer observed the parking and storage of semi-trucks and tractor-trailers on the property without City approval or permits.

The aforementioned constitutes a Violation of the Highland Municipal & Development Code, and thus the Planning Commission/Appeals Board hereby upholds Administrative Citation No. 15255 and orders Appellant to abate the Violation.

Pursuant to Highland Municipal Code Section 2 56 130, Appellant may appeal this decision to the City Council within ten (10) days of the Planning Commission/Appeals Board's decision, by submitting an Administrative Citation Notice of Appeal Request for Hearing to the City Clerk.

PASSED, APPROVED AND ADOPTED this 17th day of December 2024

AYES

NOES:

ABSENT:

#### ATTEST

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Randall Hamerly  
Planning Commission/Appeals Board Chairman

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Lawrence Mainez  
Community Development Director

Attachment(s):

A. Administrative Citation, 15255, issued October 01, 2024

B. Notice of Public Hearing dated November 01, 2024

**ATTACHMENT "A"**

Administrative Citation, #15255, issued  
October 01, 2024



## ADMINISTRATIVE CITATIONS

Highland Municipal Code Chapter 2.56 allows designated City officials to issue administrative citations ("Citations") for Municipal Code violations. Unless otherwise specified in the Municipal Code, the fines for most violations are: \$100 for the first Citation, \$200 for the second Citation, and \$500 for the third Citation and subsequent Citations. The fines for most violations of the California Building Code, California Fire Code, Uniform Housing Code, Plumbing Code, Mechanical Code, Electrical Code, Uniform Sign Code and Uniform Code for Abatement of Dangerous Buildings, as adopted by the Municipal Code are: \$500 for the first Citation, \$750 for the second Citation, and \$1000 for the third Citation and subsequent Citations. These fines accumulate within a one-year period from the date of the first Citation. A warning, if issued, does not incur a fine.

## CONSEQUENCES OF FAILURE TO CORRECT VIOLATIONS

It is the City's desire to gain voluntary compliance to promote and maintain safe and desirable living and working conditions. When voluntary compliance is not achieved, a Citation may be issued. If the Citation does not result in compliance there are numerous enforcement options that can be used to encourage the correction of violations, including but not limited to civil penalties, abatement, criminal prosecution, civil litigation, recording the violation with the County Recorder, and forfeiture of certain State tax benefits for substandard residential rental property. These options can empower the City to collect fines, demolish structures or make necessary repairs at the owner's expense, and/or incarcerate violators. The City may use any of these options or multiple options to correct the violations.

## HOW TO PAY THE FINE

The amount of the fine is indicated on the front of this Citation. You can make a payment by mail or in person to the City of Highland located at 27215 Base Line, Highland, CA 92346. Payment should be made by personal check, cashier's check, or money order payable to the City of Highland. Please write the Citation number and violation address on your check or money order.

If you do not properly appeal the Citation within ten (10) calendar days from the date of service of the Citation as explained below, you have twenty-five (25) calendar days to pay the entire fine, or a penalty fee will be added to the Citation and the case referred to the City's collection agency for further legal action. Payment of the fine and/or penalty shall not excuse the failure to correct the violation nor shall it bar further enforcement by the City.

## CONSEQUENCES OF FAILURE TO PAY THE FINE

The failure of any person to pay the fine assessed by the Citation within the time specified may result in a claim being filed with the Superior Court of California, County of San Bernardino, or any other available legal remedy.

## RIGHTS TO APPEAL

You have the right to appeal the Citation within ten (10) calendar days from the date of service of the Citation. The date the Citation was personally issued to you is the date of service. Service by registered or certified mail is deemed effective on the date it is served; service by United States mail is deemed effective three (3) days after the date of the deposit. If you were served in multiple ways, the earliest date of service shall prevail.

The appeal must be delivered or mailed on the City's official form, which is available from the City of Highland Finance Department, to the City of Highland Finance Department, 27215 Base Line, Highland, CA 92346. At the time the appeal is filed, it must include a deposit in the amount of the fine specified on the Citation and the administrative hearing fee. Any person who is financially unable to make the advance deposit of the fine and the administrative hearing fee may file a request for an advance deposit hardship waiver available from the City Finance Department, with the appeal.

Failure of any person to properly file a written appeal, including either depositing the full fine amount specified in the Citation and the administrative hearing fee or filing a request for an advance deposit hardship waiver, within ten (10) calendar days from the date of service of the Citation shall constitute a waiver of his or her right to an administrative hearing and adjudication of the Citation, or any portion thereof and the total amount of the fine.

The appeal will result in an administrative hearing before a hearing board and is further appealable. The hearing board's decision is final if not appealed.

If you need further clarification about payment or appeal of the Citation, please call (909) 864-6861. If you need further information about the violations and/or how to comply, please call the issuing officer designated on the front of this Citation.



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

CITATION NO. 15255

## ADMINISTRATIVE CITATION

Date: 10-01-2024 Time: 2:19 pm (Violation Observed)

☐ WARNING

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

☐ 3rd Subsequent - \$ \_\_\_\_\_

The payment listed above is due by 10-26-2024 See reverse side for payment and appeal instructions.

Corrections indicated below are required by 10-31-2024. 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

William Graham I LLC

DL#:

N/A

DOB:

N/A

MAILING ADDRESS:

13681 Newport Ave #8201

Tustin, CA 92780

VIOLATION ADDRESS:

27356 5th St.

Highland, CA 92346

MUNI. / STATE CODE  
SECTION VIOLATED

VIOLATION DESCRIPTION

HMC

5.04.030 A

Business License required.

HMC

8.32.020 (c)

Violation of any provision of the Highland Municipal or Development Code

HMC

16.24.050

Use regulations for employment districts

CORRECTIONS REQUIRED:

Close operations

Unpermitted truck parking or storage business from property. Obtain land use approvals or any other applicable permits prior to the establishment of any future uses on the property.

Signature of Issuing Officer

10-01-2024  
Issued Date

Printed Name of Issuing Officer

"Mailed"

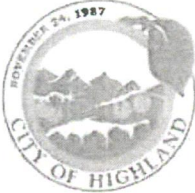
Acknowledgement of Receipt (Signature)

**READ REVERSE SIDE  
FOR IMPORTANT INFORMATION**

WHITE COPY: FINANCE

**ATTACHMENT “B”**

Notice of Public Hearing Dated November 01, 2024



## **CITY OF HIGHLAND NOTICE OF PUBLIC HEARING**

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27215 Baseline, Highland, CA 92346  
Telephone (909) 864-6861 FAX: (909) 862-3180

### **NOTICE OF PUBLIC HEARING BEFORE THE CITY OF HIGHLAND APPEALS BOARD (BOARD)**

**Date: November 01, 2024**

A PUBLIC HEARING HAS BEEN SCHEDULED BEFORE THE HIGHLAND APPEALS BOARD TO CONSIDER THE APPEAL OF ADMINISTRATIVE CITATION NO. 15255 ISSUED FOR THE FOLLOWING DESCRIBED PROPERTY DUE TO LAND USE VIOLATIONS RELATED TO THE UNPERMITTED PARKING AND STORAGE OF TRUCKS AND TRACTOR TRAILERS.

**File Number:** APPEALS BOARD ADMINISTRATIVE CITATION  
HEARING CASE # 11382

**SUBJECT:** A Public Hearing to consider the Appeal of Administrative Citation No. 15255 issued for the unpermitted parking or storage of trucks & tractor-trailers in accordance with Chapter 2.56 of Title 2, of the Highland Municipal Code on the following Assessor's Parcel Number: 1201-301-16.

**PROPERTY OWNER(S):** William Graham 1, LLC

**VIOLATION ADDRESS/APN:** 27356 5<sup>th</sup> St., Highland, CA 92346, Parcel number 1201-301-16.

**HEARING LOCATION:** Highland City Hall Council Chambers  
27215 Base Line  
Highland, CA 92346

**DATE AND TIME OF HEARING:** Tuesday November 19, 2024, at 6:00 PM  
(Or soon thereafter)



**EXHIBIT “2”**

Notice of Violation Letter dated June 14, 2024

# Notice of Violation

City of Highland - Community Development Dept.

27215 E. Base Line

Highland, CA 92346

(909) 864-6861

Case Number: 11382



06/14/2024

WILLIAM GRAHAM I LLC  
13681 NEWPORT AVE # 8301  
Tustin, CA 92780

Subject Property: 27356 5TH ST, HIGHLAND, CA 92346  
Property ID Number: 1201-301-16-0000

Dear Property Owner:

An inspection by our Division has determined the property listed above is in violation of following Ordinance(s):

**Any building, structure, or property that is in violation of any provision of the Highland Municipal Code, including the Highland Development Code, or the statutes of the state of California**  
8.32.020 C

**Discontinuation of Nonconforming Use;**  
16.08.150(C)

**Use regulations for employment districts**  
HMC 16.24.030

The following action must be taken to correct the above stated violation(s):

Tractor-trailer parking or storage is no longer permitted on the property due to the loss of the legal non-conforming use. Remove all tractor-trailers from the property. Cease any unpermitted business activity, Falcons Trailer Repair, that may be operating from property. Obtain land use approvals and any other applicable permits prior to the establishment of any future uses on the property. Please contact the Planning Division for any questions concerning Land Use.

**The correspondence will serve as official notification that the above state violations must be corrected before 07/14/2024. Fines, liens or special assessments may be placed on the property for noncompliance and/or the costs of abatement, repair or demolition by the City.**

For further information, you may contact me at (909) 864-6861 ext. 220.

Sincerely,

Gary Chambers  
Code Enforcement Officer

**EXHIBIT “3”**

City Attorney Letter dated August 06, 2024





Kevin G. Ennis

T 213.626.8484  
F 213.626.0078  
E [kennis@rwglaw.com](mailto:kennis@rwglaw.com)

350 South Grand Avenue  
37th Floor  
Los Angeles, CA 90071  
[rwglaw.com](http://rwglaw.com)

August 6, 2024

VIA ELECTRONIC MAIL  
[bsbrown@allenmatkins.com](mailto:bsbrown@allenmatkins.com)

Benjamin S. Brown  
Allen Matkins Leek Gamble Mallory & Natsis LLP  
600 West Broadway, 27th Floor  
San Diego, California 92101

Re: William Graham I LLC - Notice of Violation - Case Number 11382 - Truck and Tractor -  
Trailer Parking and Storage Use on 27356 5th Street, Highland CA 92346

Dear Mr. Brown:

The City of Highland is in receipt of your letter dated June 21, 2024. We understand that you represent William Graham I LLC, the owner ("Owner") of property in the City of Highland located at 27356 5th Street (the "Property"). You have responded to a Notice of Violation that the City issued to the Owner on June 14, 2024 regarding the use of the Property for truck and tractor-trailer parking and storage.

In your letter you begin by noting that the City staff indicated on August 8, 2021 and again on September 30, 2021, that the use of the property for truck and tractor-trailer parking and storage was a legal nonconforming use. The Notice of Violation issued by the City on June 14, 2024 also makes that assertion. It is a correct statement that City staff made those statements, and you have included copies of the form and an email from 2021 issued by the City in which those statements appear. However, upon further investigation of the background facts, the City has concluded that this conclusion was only partially correct, as explained below.

According to recent analysis by City staff, truck and tractor-trailer parking and storage has never been a permitted or conditionally permitted *principal* use of the property. It has only been allowed as an *accessory* use to a principally permitted use of property within the Industrial Zone. The City's zonings standards have not changed since truck and tractor-trailer parking and storage commenced on the Property and therefore the current use is not a *legal* nonconforming use but an *illegal* nonconforming use. For these reasons, the right to maintain and continue the use as a *principal* use of the Property does not exist and the use therefore violates the Zoning Code, unless and until it becomes an accessory use to an allowed principal use of the Property.

**A. Background Facts.**

The City's General Plan designation of the Property is Industrial (I) and the zoning designation is also Industrial (I). The Industrial Zone is a subset of the City's "Employment Districts," which is provided for in Chapter 16.24 of the Highland Municipal Code and the uses allowed in the Industrial Zone are set forth in Table 16.24.030 A of that City's Code. If a use is not listed, it is not allowed. (Highland Municipal Code Section 16.04.030).

According to City staff, the Property has had those same General Plan and zoning designations since 1988. Under the Industrial (I) zoning designation, truck and tractor-trailer parking and storage has never been listed as a permitted or conditionally permitted use since the adoption of the current zoning designation of Industrial (I) on June 28, 1988 (Highland Ordinance No. 26 adopted the San Bernardino Code by reference and then Highland Ordinance No. 26 was replaced by Ordinance No. 171, which adopted the Zoning Chapter of the Highland Municipal Code on March 8, 1994).

According to City records, prior uses of the Property included commercial office uses such as tax preparation. In your letter, you assert that the Property was then used by Matheson Postal Service, Inc. ("Matheson") from about 2016 in connection with its work for the United States Postal Service. During this time and until recently, Matheson maintained an office use on the property. Truck and tractor-trailer parking and storage was allowed at that time as an *accessory use* of the Property.

The City's Zoning Code defines an "accessory use" to mean "any use customarily incidental to, related and clearly subordinate to a principal use established on the same lot or premises." (Highland Municipal Code Section 16.06.010).

Under the more recent arrangements between the Property Owner and tenants and licensees, the office use (the prior permitted and principal use of the Property) has ceased and the accessory uses (truck and tractor-trailer parking and storage) are continuing but as the predominant and thus principal use of the Property.

In your letter, you recite the more recent history regarding the use of the Property, including a September 2023 license agreement between Matheson and Falcons Trailer Repair ("Falcons") by which Matheson allowed Falcons to use the Property for tractor-trailer parking and storage on the Property. You indicate that in November 2023, Matheson granted another license agreement, this time to AJR Trucking, Inc. ("AJR"), also for tractor-trailer parking and storage. Thereafter, on February 29, 2024, you indicate that Matheson terminated its lease with the Owner and then the Owner entered into license agreements directly with AJR and Falcons for tractor-trailer parking and storage. You attach copies of those documents to your letter.

The City is aware of no facts to contradict that history of license agreements from 2023 to the present. The City is also not currently aware of any facts to indicate that the truck and tractor-



trailer parking and storage has not continued as a use on the Property without an interruption for more than 180 days in the last few years. But as indicated above, and more fully explained below, that lack of interruption in truck and tractor trailer use over the last several years is not the relevant analysis as to whether that use may continue on the Property.

**B. Analysis.**

The principal issue is that truck and tractor-trailer parking and storage is occurring on the Property as the principal use and such use is not allowed on that site under the City's Zoning Code. You assert that your client is permitted to continue that operation as a *legal nonconforming use* because the use was lawfully commenced and has continued without cessation for many years. However, the use is actually not a *legal nonconforming use* but an *illegal nonconforming use* because truck and tractor-trailer parking has never been a permitted or conditionally permitted use on the property except as an accessory use to a principally permitted use. When the principal and permitted office use of the property ceased, the truck and tractor-trailer parking was no longer accessory to a principally permitted or conditionally permitted use. At that point, its continuance was not permitted and its continuance in a form that has become the principal use of the property violates the City's Zoning Code.

This is in contrast to a situation in which a permitted or conditionally permitted use commences, the zoning is changed so as to not allow the use, and the use becomes legal nonconforming and takes on the benefits and limitations of a legal nonconforming use. The classic definition of a legal nonconforming use is "one that existed lawfully before a zoning restriction became effective and that is not in conformity with the ordinance when it continues thereafter." (*Hansen Brothers Enterprises, Inc. v. Board of Supervisors* (1996) 12 Cal.4th 533, 540, fn. 1).

Here, it was not the City's change in its Zoning Code of the allowable uses in the applicable zone that made the use nonconforming but a change in the operation and use of the property from a commercial office use of the property, with truck and tractor-trailer parking as an accessory use, to a truck and tractor-trailer use of the property as the principal and remaining use. Just because a use commences as an accessory use does not mean that it can continue as a principal use when the principal use to which it is accessory ceases to exist on the property. If that were the case, then any accessory use of property would automatically be treated as a permitted principal use of property notwithstanding it commenced when it was only permitted to be an accessory use. Thus, the change in use from an accessory to a principal use converted the use from one authorized by the City's Zoning Code to one not permitted and unlawful, and it was the Property Owner's change of use, and not a change to the City's Zoning Code, that caused the Property to become non-compliant with the City's Zoning Code.

It is well settled that uses that are not permitted on property, even if legal at one point in time as an accessory use, cannot be expanded and become the principal use of the property. That is, an expansion or enlargement of the use from accessory to principal, even if it was legal when



commenced, loses that categorization when converted into a principal use of the property. This principal is explained in *Hansen Brothers Enterprises, Inc.*, at p. 552 as follows:

“When continuance of an existing use is permitted by a zoning ordinance, the continued nonconforming use must be similar to the use existing at the time the zoning ordinance became effective. (See *Rehfeld v. City and County of San Francisco* (1933) 218 Cal. 83, 21 P.2d 419; *City of Yuba City v. Cherniavsky* (1931) 117 Cal.App. 568, 4 P.2d 299.) Intensification or expansion of the existing nonconforming use, or moving the operation to another location on the property is not permitted. (*County of San Diego v. McClurken*, supra, 37 Cal.2d 683, 687–688, 234 P.2d 972. See also 8A *McQuillin*, supra, § 25.206, p.114.) “[I]n determining whether the nonconforming use was the same before and after the passage of a zoning ordinance, each case must stand on its own facts.” (*Edmonds v. County of Los Angeles* (1953) 40 Cal.2d 642, 651, 255 P.2d 772. See also, *Livingston Rock etc. Co. v. County of L.A.*, supra, 43 Cal.2d 121, 127, 272 P.2d 4; *City of La Mesa v. Tweed & Gambrell Mill* (1956) 146 Cal.App.2d 762, 768, 304 P.2d 803.)”

Thus, by expanding the accessory use into the principal use, the right to continue the accessory use in that altered relationship is not permitted and does not retain any rights as a legal nonconforming use. “Changes or additions to the existing use are not protected which make the use more noisome (*County of Orange v. Goldring*, supra, p. 446, 263 P.2d 321), or which enlarge it or tend to make it more permanent (*Dienelt v. County of Monterey*, 113 Cal.App.2d 128, 131, 247 P.2d 925; *Paramount Rock Co. v. County of San Diego*, 180 Cal.App.2d 217, 229, 4 Cal.Rptr. 317).” (*City of Los Altos v. Silvey* (1962) 206 CA 2d 606, 609, in which the court upheld the city’s decision to preclude a change from bottling wines to manufacture of boats and trailers.)

Here, the principal use of the Property was industrial office with accessory parking uses, whereas with discontinuance of the office use, the principal use has become truck and tractor-trailer parking and storage. This is a change in use as well as an alteration or expansion of an accessory use to a principal use.

Any inadvertent error in how City staff labeled the use on a form and email in 2021 does not now preclude the City from correcting that labeling error and enforcing the Code. It is well settled that any error in providing information to a property owner as to the allowed uses of one’s property does not preclude the City from having the ability to enforce its Zoning Code. (“[A]n estoppel will not be applied against the government if to do so would effectively nullify ‘a strong rule of policy, adopted for the benefit of the public....’” (*City of Long Beach v. Mansell* (1970) 3 Cal.3d 462, 493, *Golden Gate Water Ski Club v. County of Contra Costa* (2008), 165 Cal.App. 4th 249, 263). “It follows that the doctrine of equitable estoppel will not be invoked as a matter of law even where a property owner relies on a permit issued by the public entity but the permit

violates a zoning ordinance.” (*Golden Gate Water Ski Club* at p. 260, citing to *Pettitt v. City of Fresno*, 34 Cal.App.3d 813, 819 (1973)).

In this case, the City correctly informed the Property Owner that truck and tractor-trailer parking and storage was a nonconforming use, but mislabeled that use as *legal* non-conforming rather than *illegal* non-conforming. However, that error does not preclude the City from clarifying that issue now and seeking compliance with the City’s Zoning Code.

Therefore, the City now seeks to enforce its Zoning Code and hereby notifies the Property Owner that it must bring its Property into compliance with the Zoning Code by commencing a lawful and permitted use of the Property, ceasing the current non-permitted and illegal truck and tractor-trailer parking and storage use of the Property, or both.

The City’s Municipal Code states that “no use of land, and no use, construction, maintenance, operation, reconstruction or enlargement of any building structure shall be allowed unless permitted under the express provisions of this title or by applicable ordinance of the city.” (See Highland Municipal Code § 16.04.030).

Any violation of the City’s Municipal Code is a public nuisance *per se* and may be abated by the City through administrative, civil, or criminal proceedings. (See Highland Municipal Code § 16.04.040.)

**C. Appeal to City’s Notice of Violation.**

As part of your letter of June 21, 2024, you include a form entitled “City of Highland Administrative Citation Notice of Appeal Request for Hearing.” The City issued a “Notice of Violation” to your client asking the Owner to bring the Property into compliance with the Code by ceasing the truck and tractor-trailer parking and storage uses on the Property. The Notice was not labeled as an Administrative Citation. It did not list or impose any fine. The Notice says that fines may be placed on the property in the future. Chapter 2.56 of the City’s Code provides for the issuance and processing of Administrative Citations. Section 2.56.060 provides the contents of an Administrative Citation shall state the amount of the penalty imposed for the violation. (Section 2.56.060 (D)). The Notice provided to the Property Owner did not state the penalty that was being imposed. Accordingly, the Notice of Violation does not qualify as an Administrative Citation and thus the appeal of the “Administrative Citation” is not timely or applicable because the action appealed (issuance of an Administrative Citation) has not yet occurred. If and when the City issues an Administrative Citation, and the Property Owner seeks to appeal that Citation, the City will process that appeal up to the Planning Commission pursuant to Chapter 2.56 of the Highland Municipal Code.



Prior to having the need to issue any Administrative Citations to the Owner or taking other Code Compliance enforcement actions, the City looks forward to the Property Owner's prompt cooperation in bringing the Property into compliance with the Code.

If you have any questions, please feel free to contact me.

Very truly yours,



Kevin G. Ennis  
City Attorney's Office

cc: Maricela Marroquin, City Attorney  
Gary Chamber, Code Compliance Officer  
Lawrence Mainez, Community Development Director  
Kim Stater, Assistant Community Development Director

11026-0001\2987841v5.doc



**EXHIBIT "4"**

Notice of Appeal, Request for Hearing, dated October 08, 2024



**City of Highland**  
**Administrative Citation Notice of Appeal**  
**Request for Hearing**

In regards to property located at: 27356 5th Street, Highland, California, an Appeal is hereby made relative to Administrative Citation No. #15255 (the "Citation"). It is my desire to Appeal this Citation.

Please select one:

☒ This is my first Appeal, so I am appealing to the Public Nuisance Hearing Board.

I understand that I have the right to Appeal the Citation within ten (10) calendar days from the date of service of the Citation. The date the Citation was personally issued to me is the date of service. Service by Registered or Certified Mail is deemed effective on the date it is served; service by United States Mail is deemed effective three (3) days after the date of deposit. If I was served in multiple ways, I understand that the earliest service date will prevail.

☐ The Public Nuisance Hearing Board has already heard my Appeal, so I am appealing to the City Council.

I understand that my Appeal must be filed within ten (10) days from the date that the Public Nuisance Hearing Board made its determination on my first appeal.

I understand that if I do not properly file this Appeal by the appropriate deadline listed above; I have waived my right to an Administrative Hearing and accept that I must pay the total amount of the fine.

To process this Appeal, I am submitting this completed form, along with the following payment.

Select one:

☒ This is my first appeal, so I am submitting the advance deposit of the Citation fine and the \$35.00 Administrative Hearing Fee for the first appeal.

☐ This is my first appeal, but I am unable to pay the advance deposit of the Citation fine and the \$35.00 Administrative Hearing Fee, so I am filing an Administrative Citation Hardship Waiver Request.

☐ This is my second appeal, and I have already submitted the advance deposit of the Citation fine and the \$35.00 first Administrative Hearing Fee, so I am submitting the \$35.00 Administrative Hearing Fee for the second appeal.

☐ This is my second appeal, and I have already been granted an Administrative Citation Hardship Waiver, so I do not need to submit any further payments.

I understand that payment should be made by personal check, cashier's check, or money-order or credit card payable to the City of Highland. I have written the Citation number on my check or money order. I further understand that the advance deposit of the Citation fine is refundable, if the case is decided in my favor.

I understand that without paying the appropriate payment option listed above, my Appeal cannot be processed. I further understand that I do not make that full payment by the appropriate deadline listed above; I have waived my right to an Administrative Hearing and accept that I may pay the total amount of the fine.

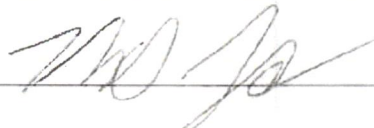
Basis or reason for this appeal? My property has been an industrial use for decades and most recently, had a tenant, Matheson Postal Services in occupancy since 2016 (which I think since 2008). My property had grandfathered legal, non-conforming status. When Matheson vacated in March 2020 I am delivering or mailing all my documents to: the City immediately issued a code violation. Shortly after Matheson vacated, we released the property to a similar user. The City has denied our new occupant's business license.

City of Highland  
Finance Department  
27215 Base Line  
Highland, CA 92346

Today's Date: 10/02/24

Name of Appellant: Michael Johnson - William Graham I, LLC

Address: 13581 Newport Ave, Ste 8301  
Tustin, CA 92780

Signature of Appellant: 





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

CITATION NO. 15255

### ADMINISTRATIVE CITATION

Date: 10-01-2014 Time: 2:17 p.m. (Violation Observed)

☐ WARNING

☒ 1st Citation - \$ 47.00 ☐ 2nd Citation - \$

☐ 3rd Subsequent - \$

The payment listed above is due by 10-21-14. See reverse side for payment and appeal instructions.

Corrections indicated below are required by 10-21-14. 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

William C. [unclear]

DL #: 11A DOB: 1/1

MAILING ADDRESS: 136 1st St. - Apt # 201  
Tustin, CA 92780

VIOLATION ADDRESS: 27326 Base Line  
Highland, CA 92346

| MUNI. / STATE CODE<br>SECTION VIOLATED | VIOLATION DESCRIPTION |
|----------------------------------------|-----------------------|
|----------------------------------------|-----------------------|

|                              |                     |
|------------------------------|---------------------|
| <u>HMC</u><br><u>5.04.02</u> | <u>2. [unclear]</u> |
|------------------------------|---------------------|

|                             |                     |
|-----------------------------|---------------------|
| <u>HMC</u><br><u>8.2.02</u> | <u>1. [unclear]</u> |
|-----------------------------|---------------------|

|                                |                     |
|--------------------------------|---------------------|
| <u>HMC</u><br><u>16.24.030</u> | <u>1. [unclear]</u> |
|--------------------------------|---------------------|

CORRECTIONS REQUIRED:

1. [unclear]

2. [unclear]

3. [unclear]

4. [unclear]

5. [unclear]

Signature of Issuing Officer [Signature] Issued Date 10-01-2014

Printed Name of Issuing Officer [Signature]

Acknowledgement of Receipt (Signature) [Signature]

**READ REVERSE SIDE  
FOR IMPORTANT INFORMATION**

City of Highland-Finance  
27215 Base Line  
(907)-864-6861

City Of Highland 12 / 107773  
10/08/2024 12:27:34.000 Reg CASHIER  
Validation Receipt  
Payer: LAKE CREEK INDUSTRIAL MICHAEL JOHNSON PRINCIPAL

CHARGES-  
3005 \$ 35.00

ADMIN CITE#15255 APPEAL

001.1450.8160

3005 \$ 100.00

ADMIN CITE#15255 PNT

001.1450.8160

Sub-total \*\*\*\*\*135.00

PAYMENT-

Check - 1399 \$ 135.00

Change \*\*\*\*\*0.00

*Incorrect  
Cashier  
Code  
R*

City of Highland-Finance  
27215 Base Line  
(907)-864-6861  
City of Highland 12 / 107774  
10/08/2024 12:33:29.000 Reg CASHIER  
Validation Receipt  
Payer: LAKE CREEK INDUSTRIAL MICHAEL JOHNSON PRINCIPAL  
CHARGES-  
3005 \$ 35.00  
ADMIN CITE#15255 APPEAL  
001.1450.8160  
5218 \$ 100.00  
ADMIN CITE#15255 PNT  
001.1450.8202  
Sub-total \*\*\*\*\*135.00  
PAYMENT-  
Check - 1399 \$ 135.00  
Change \*\*\*\*\*0.00

City of Highland-Finance  
27215 Base Line  
(907)-864-6861  
City Of Highland 12 / 107774  
10/08/2024 12:33:29.000 Reg CASHIER  
Validation Receipt  
Payer: LAKE CREEK INDUSTRIAL MICHAEL JOHNSON PRINCIPAL  
CHARGES-  
3005 \$ 35.00  
ADMIN CITE#15255 APPEAL  
001.1450.8160  
5218 \$ 100.00  
ADMIN CITE#15255 PNT  
001.1450.8202  
Sub-total \*\*\*\*\*135.00  
PAYMENT-  
Check - 1399 \$ 135.00  
Change \*\*\*\*\*0.00

**EXHIBIT “5”**

Notice of Public hearing (Affidavit of Mailing)  
dated November 01, 2024



**AFFIDAVIT OF MAILING**

STATE OF CALIFORNIA                     )  
COUNTY OF SAN BERNARDINO         )

I am employed in the County of San Bernardino, State of California. I am over the age of 18 and not a party to the within action. My business address is City of Highland, 27215 Base Line, Highland, CA 92346.

On November 01, 2024, I caused to be served a copy of the attached Public Hearing Notice, Case #11382, Certified Mail, Return Receipt Requested, to the following parties: William Graham 1 LLC. Said service was made by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the United States Mail, at Highland, California, and addressed to the Parties as more fully detailed below.

William Graham 1 LLC  
13681 NEWPORT AVE # 8301  
TUSTIN, CA 92780

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and this Declaration was executed at Highland, CA, on November 01, 2024.

Dated: 11/01/2024

  
\_\_\_\_\_  
Nicole Subia, Administrative Assistant III  
City of Highland

**EXHIBIT “6”**

Aerial / Site Location Map





**27356 5th St., Highland**





**EXHIBIT "7"**

Case photographs dated Jun 14, 2024



**EXHIBIT "8"**

Case photographs dated August 26, 2024





**EXHIBIT “9”**

Case photographs dated October 01, 2024









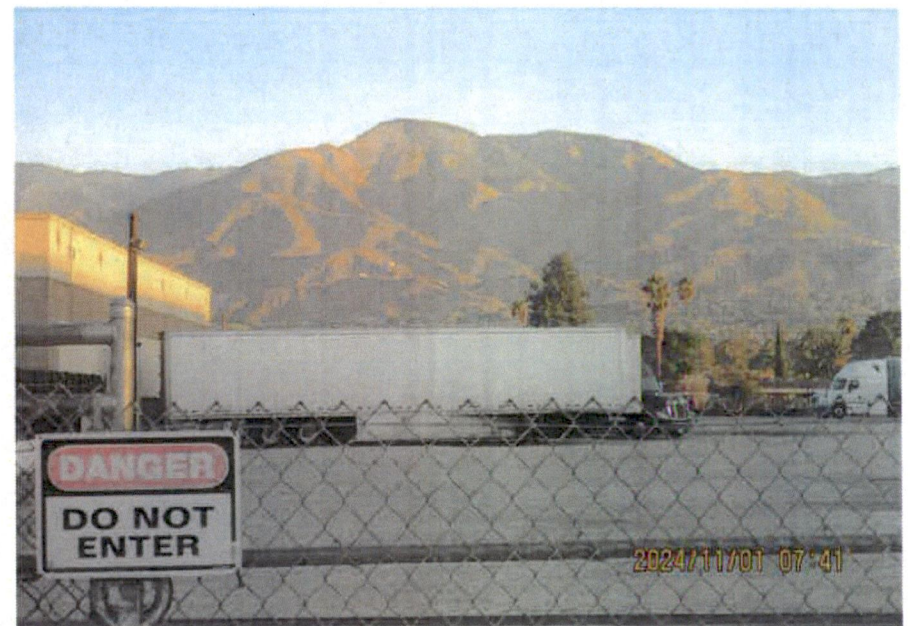
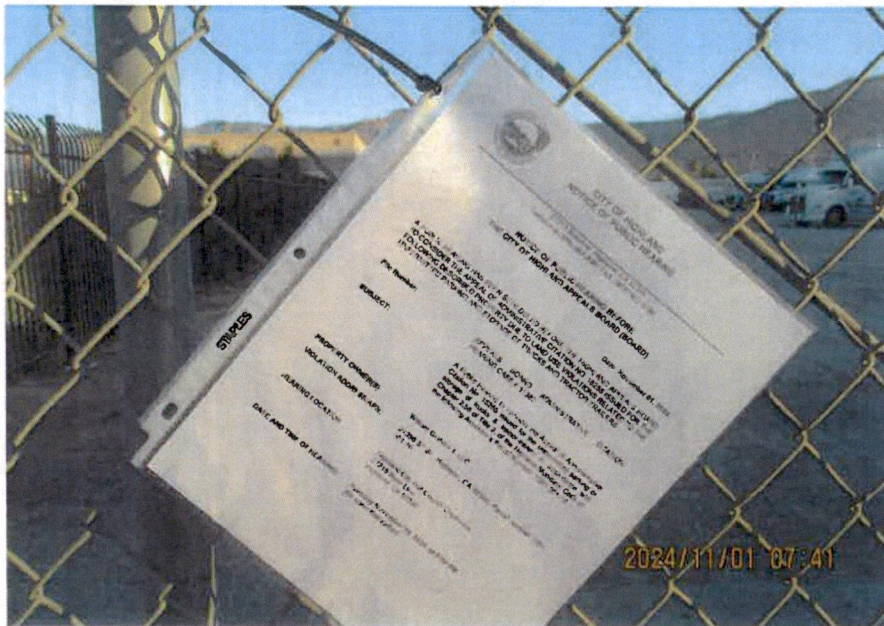
**EXHIBIT “10”**

Notice of Public Hearing Posting Dated November 01, 2024

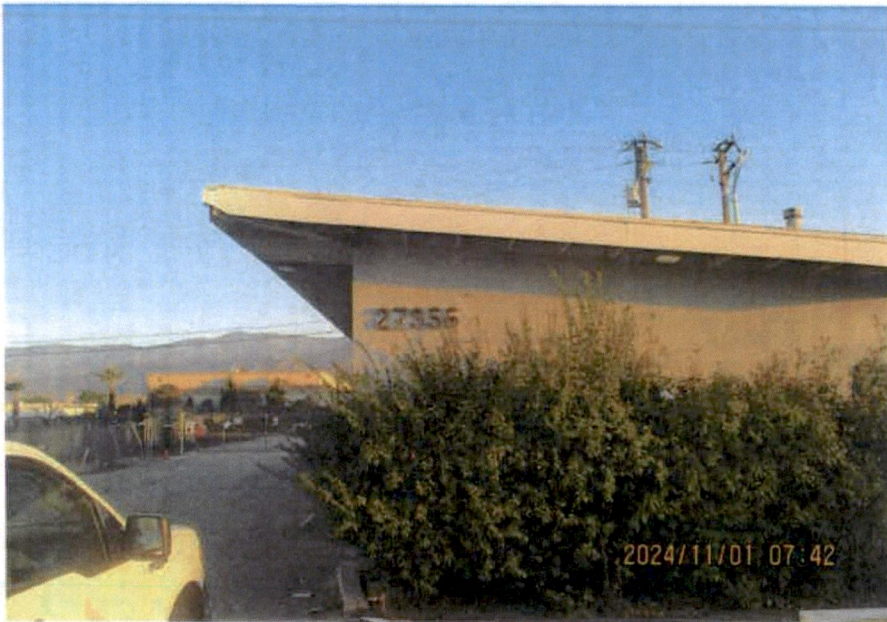












**EXHIBIT “11”**

Appellant letter dated December 12, 2024

(To be provided under separate cover)