



**CITY OF HOLLADAY
COMMUNITY DEVELOPMENT DEPARTMENT**

**Before The
Administrative Appeals Officer
-Meeting of 29th June 2022-**

**HEARING ITEM NO. 1
STAFF REPORT**

Applicant(s)/Representative(s): Josh Swensen

Business License# 53386

PZ File No(s): 22-5-10

Case #1979

Planning Analyst: Jonathan Teerlink

Requested [Quasi-Judicial] Action(s): Appeal of Administrative Action – Legal, Non-Conforming Business License

1. To H.C.C. § 5.08) which establishes procedure of obtaining a business license

“No license shall be issued for the conduct of any business, and no permit shall be issued for anything or the performance of any act, if the premises and building to be used for the purposes do not fully comply with the city building and land use ordinances”

2. To H.C.C. § 13.88.080) which establishes limitations of non-conforming uses of land

“The nonconforming use of land, existing at the time this title became effective, may be continued; provided, that no such nonconforming use of land shall in any way be expanded or extended either on the same or abutting property”

3. To H.C.C. § 13.88.140) which established conditions to non-conforming uses of land

“In approving an application hereunder, the planning commission may set any conditions it deems necessary for protection of adjacent properties or the public welfare, including provisions limiting the period of time the use may continue”

Property/Location:

Appertaining to a certain of lot of land (Salt Lake County Parcel/Acct. No. 22-22-132-013 addressed as 6400 South 2300 East, comprising some 1.0 acres (43,560 sq. ft.) of land located in a R-1-8 Zone (Single Family Residential) in Holladay (hereinafter the “Property” -- see attached zoning Vicinity Map)

APPLICABLE REGULATIONS

13.14.020: PRIMARY USES:

- A. *Primary Uses Allowed: The permitted and conditional uses allowed in the Single-Family Residential (R-1) Zones shall be as set forth in [chapter 13.100](#), "Appendix A - Allowed Uses", of this title. Any primary land use not shown as a permitted or conditional use in [chapter 13.100](#), "Appendix A - Allowed Uses", of this title shall be prohibited.*

5.10.010: ENFORCEMENT POWERS:

The license official shall be responsible for the enforcement of this title. The license official may, on his own initiative or in response to complaints referred from the general public or otherwise, investigate and gather evidence of violations of the licensing provisions of this title. (1999 Code)

5.10.020: GROUNDS FOR LICENSE SUSPENSION, REVOCATION OR DENIAL TO RENEW LICENSE:

In addition to any fine imposed, every license or permit issued by the city may be revoked, suspended or renewal denied as prescribed herein. Upon recommendation of the license official or sheriff and upon a hearing held pursuant to [chapter 5.11](#) of this title, the mayor or hearings examiner may revoke, suspend or deny renewal of licenses or permits, if the licensee or permittee:

- A. *Has been convicted of a felony or any crime involving moral turpitude;*
- B. *Has obtained, or aided another to obtain, a license by fraud or deceit;*
- C. *Has failed to pay any applicable taxes or fees;*
- D. *Has violated the laws of the state, the laws of the United States, **the ordinances of the city, or the rules and regulations of any agency of the city or the state governing the operation of the business holding a license or permit; or***
- E. *Has refused to permit authorized officers or employees to make an inspection or to take a sample of a commodity, or has interfered with such officer or employee while in the performance of his duty in making such inspection. (1999 Code)*

5.10.030: NOTICE OF VIOLATION AND HEARING:

The license official shall send the licensee written notice by certified mail, return receipt requested, in care of the license or process agent specified in the license application, of the alleged violation and notice of hearing and the licensee's right to appear at the hearing, the consequences of the failure to appear and answer, and of the date, time and place set for the hearing. (1999 Code)

5.11.010: HEARING PROCEDURE:

- A. *Hearing Required: A suspension, revocation or denial to renew a license issued pursuant to the ordinances of the city shall not be imposed until a hearing is first held pursuant to this chapter before the chief executive or a hearing examiner.*
- B. *Notice To Licensee: At least ten (10) days prior to a hearing hereunder, the city shall cause notice of the time and place of the hearing to be served upon the licensee by mailing a copy to the licensee via certified mail, return receipt requested, in care of the licensee or the process agent specified in the license application.*
- C. *Failure To Appear: Failure to appear at such hearing or otherwise defend against suspension, revocation, or denial to renew a license shall constitute grounds for immediate suspension, revocation or denial to renew a license.*
- D. *Sworn Witnesses; Record Of Proceedings: All witnesses called at a hearing shall be sworn by a person authorized to administer oaths, and a record of such hearing shall be made by a recording or a court reporter. The licensee shall have the right to appear at the hearing in person or by counsel, or both, present evidence, present argument on the applicant's behalf, cross examine witnesses, and in all proper ways defend the licensee's position.*
- E. *Findings Of Fact And Conclusions Of Law By Hearing Examiner; Time Limit: If the hearing is before a hearing examiner, the hearing examiner shall, within ten (10) days after the conclusion of the hearing, submit to the chief executive proposed written findings of fact, and conclusions of law and order based upon and supported by the evidence presented at such hearing. (Ord. 2011-18, 10-7-2011)*

5.11.020: HEARING EXAMINER; APPOINTMENT AND POWERS:

The chief executive may appoint one or more hearing examiners upon the advice and consent of the city council, and the chief executive or any hearing examiner shall have power and authority to call, preside at and conduct hearings to consider the suspension, revocation or denial of license renewal, including the power to examine witnesses and receive evidence, compel the attendance of witnesses, and compel the production of documents. (Ord. 04-20, 10-21-2004)

5.11.030: CHIEF EXECUTIVE'S ACTION:

- A. *Upon receiving the hearing examiner's proposed findings of fact, conclusions of law and order, the chief executive may adopt and enter the proposed findings of fact, conclusions of law and order, or may enter his own findings of fact, conclusions of law and order, provided such order is based upon and supported by the record. Immediately after entry, the order shall be filed with the office of the city recorder and a copy served upon the licensee personally or by mailing a copy to the licensee via certified mail, return receipt requested.*
- B. *In the event the chief executive's order institutes a denial or a sanction of suspension, probation, denial to renew or revocation of a license, such action shall apply immediately after entry and shall apply to the licensee, the licenses issued by the city, and to the premises in question for the full term of the imposed sanction. (Ord. 04-20, 10-21-2004)*

5.11.040: UNLAWFUL TO OPERATE WITHOUT A LICENSE:

- A. *It shall be unlawful for any person to commence or conduct any business, trade or occupation within the city without first procuring all applicable city business licenses.*
- B. *If at any time a license issued under the provisions of this title is denied, suspended or revoked, it shall thereafter be unlawful for the holder of such license to conduct business on the premises described in such application or license until the old license is reinstated or a new license is issued. (1999 Code)*

5.11.050: APPEAL OF HEARING DECISION:

Any licensee aggrieved by an order entered by the chief executive may maintain a plenary action for relief therefrom in any court of competent jurisdiction; provided the action for such relief is filed with the court within thirty (30) days after such decision is deposited in the office of the city recorder. (Ord. 04-20, 10-21-2004)

13.88.080: NONCONFORMING USE OF LAND:

The nonconforming use of land, existing at the time this title became effective, may be continued; provided, that no such nonconforming use of land shall in any way be expanded or extended either on the same or abutting property; and provided, that if such nonconforming use of land, or any portion thereof, is abandoned or changed for a period of six (6) months or more, any future use of such land shall be in conformity with the provision of this title. (Ord. 2015-02, 2-5-2015)

13.88.13.88.140: APPLICATION TO HAVE A USE VIOLATION DECLARED A NONCONFORMING USE:

- A. *Application; Conditions For Approval: Whenever land or a structure is used in violation of this title, the owner may file an application with the planning commission to have the use declared nonconforming.*
- B. *Conditions May Be Set: In approving an application hereunder, the planning commission may set any conditions it deems necessary for protection of adjacent properties or the public welfare, including provisions limiting the period of time the use may continue. This section shall in no way be interpreted to permit the continuation of any violation which exists on the effective date hereof. Any person shall have the right to appeal to the city council a decision rendered by the planning commission pursuant to this section. (Ord. 2012-15, 9-20-2012)*

13.101.010: APPENDIX B LAND USE AND APPEAL AUTHORITIES

NARRATIVE

I. Narrative/Discussion:

Introduction:

R-1-8 zoning establishes allowed land uses as per Appendix A Land Use Table. Outdoor Storage is not listed as permitted or condition land use in the R-1-18.

Applicants who own or operate a legal non-conforming business within City of Holladay limits must maintain established standards of operation. The Community and Economic Development Dept. is charged to ensure that all businesses wishing to operate within the City are properly licensed and adhere to city standards (conditions).

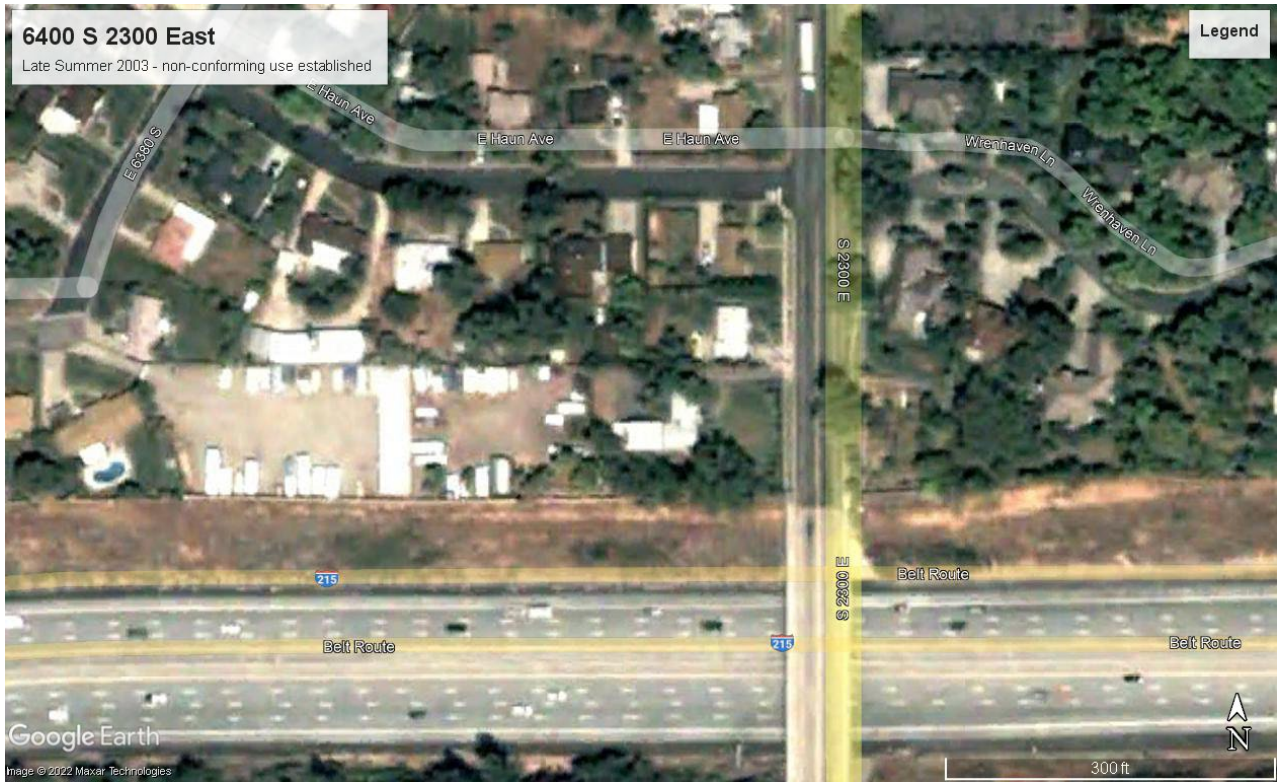
In 2003 the City of Holladay granted legal, non-conforming status to The Property to operate an outdoor storage service – under given conditions of operation. Current licensee applicant, Josh Swensen, has recently maintained a license to continue to provide outdoor storage services at The Property. Upon recent review, spurred by additional requests for licensure at The Property, this department has found evidence the legal, non-conforming services have exceed all conditions stated in the 2003 letter.

Applicant and Property Owner, were informed of the violations via a Notice and Order letter dated June 1st. A 10-day correction period was established. On approximately June 16th Officer Dallof investigated the property and verified minor actions toward correcting the violation. Soon after June 16th the business owner contacted this department inquiring of the violations. He was instructed that the given time frame had expired and a business license revocation/suspension hearing will be set to give him opportunity to describe his actions toward compliance.

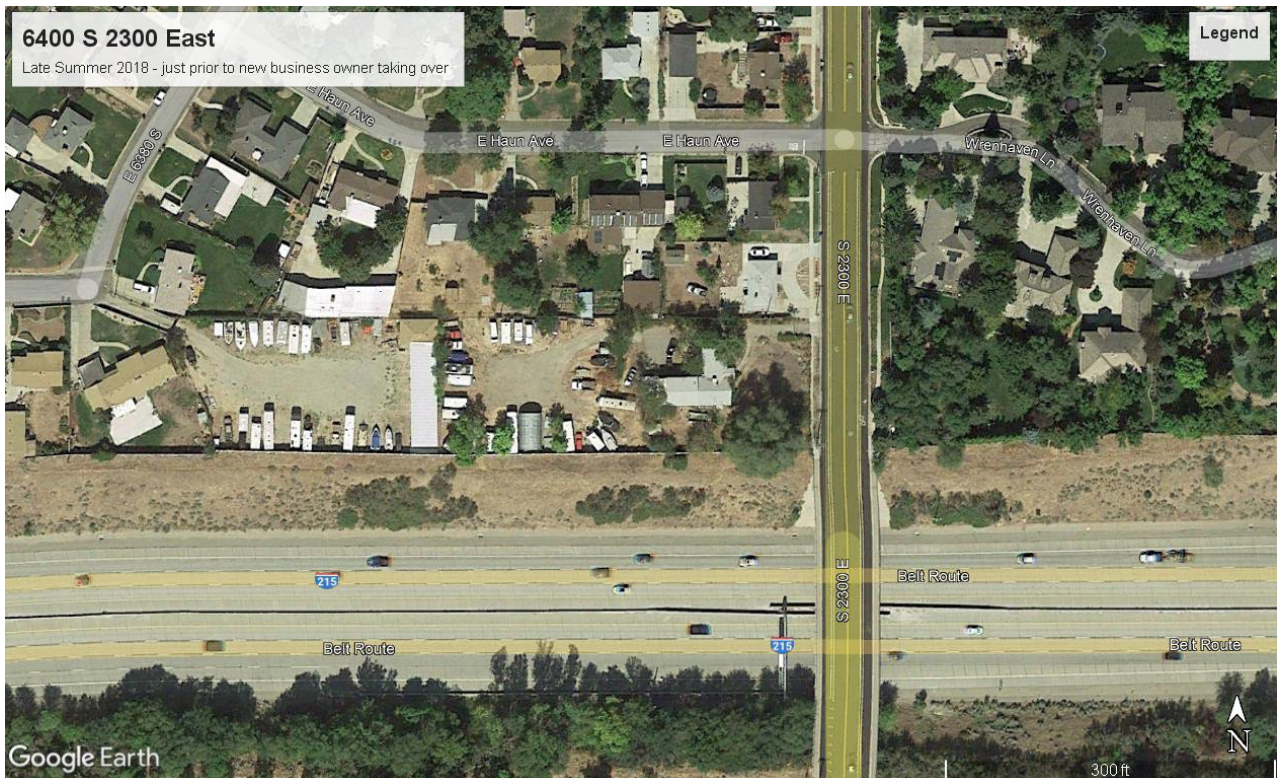
ATTACHMENT(S)

- IWORQ report that contains the following:
 - Picture of property conditions
 - Copy of Business licenses
 - Copy of Non-Conforming Business License approval and Conditions
 - Code initial enforcement letter

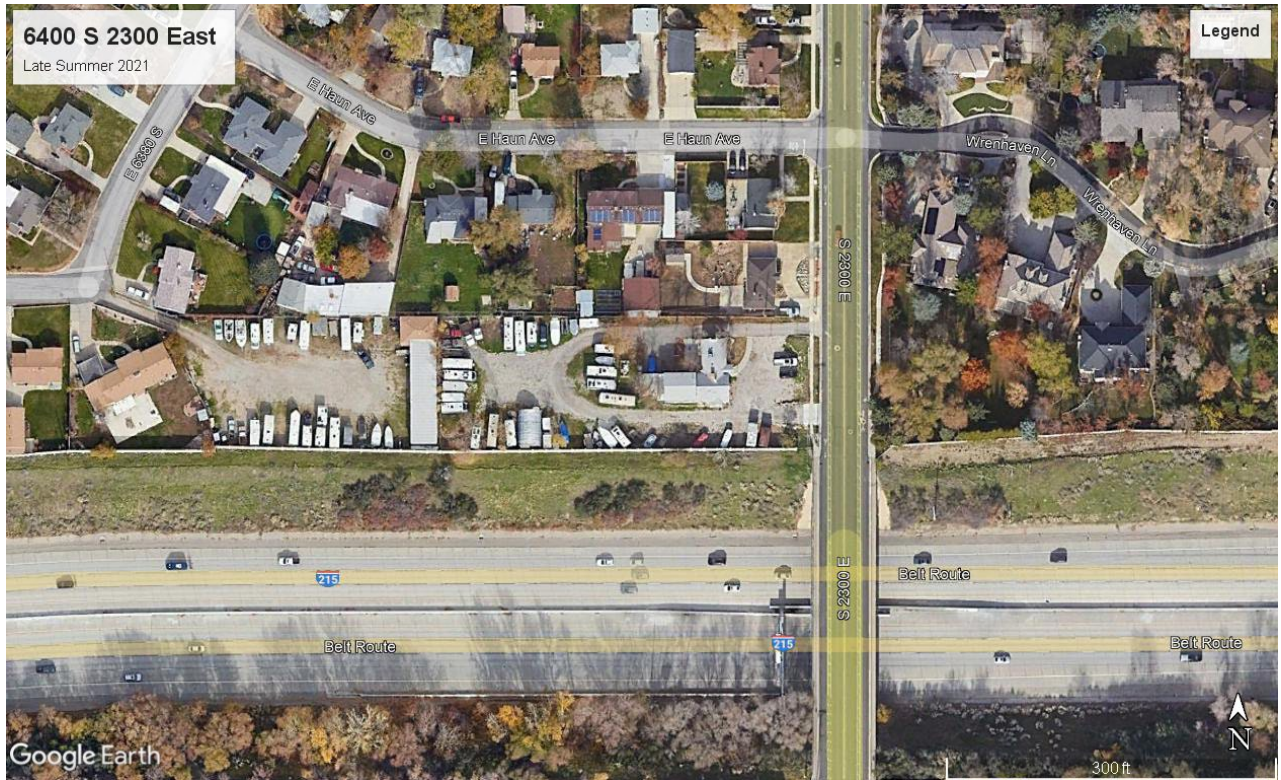
PROPERTY CONDITION Circa 2003 – at time Non-Conforming Letter Issued



PROPERTY CONDITION Circa 2018 – at time Mr. Swensen took over business



PROPERTY CONDITION Circa 2021



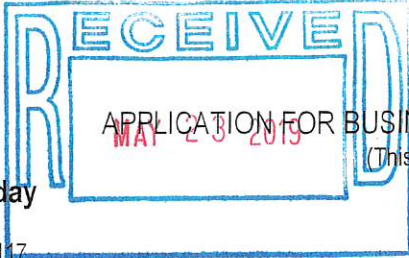
MAY 2022 ENFORCEMENT PHOTOS – Existing Conditions which initiated enforcement action











APPLICATION FOR BUSINESS LICENSE - **COMMERCIAL LOCATION**

(This is NOT a Business License)

City of Holladay
4580 S. 2300 E.
Holladay, Utah 84117
Phone: (801) 527-3890
Fax: (801) 527-3890

APPLICATION #: **53386**

Utah State Sales Tax ID Number: **1/9** --STC
(Please be sure this number is coded to the City of Holladay)

PLEASE PRINT CLEARLY AND FIRMLY AND FILL OUT COMPLETELY

Please provide all items required within 30 days of this application submittal or this application is considered null and void.

Business Name/DBA: **RV Storage Holladay** Phone: **801 598 5001** Fax: _____
Business Location (No PO Boxes): **6400 S. 2300 E.** Holladay, UT Zip: **84117**
Mailing Address (if different from above): **869 ea 4500 S.** City: **SLC** Zip: **84107**
E mail: **Josh Swensen @ gmail . com**
Local Agent/Contact Person: **↑** Phone: **801 598 5001** Fax: _____
Opening Date At This Location: **Aug 2019** Is this a new type of business at this location? Yes No
Location Type: Residential Commercial
Business Activity/Type: **RV storage**

*Does this business require any Utah State or Federal license or contract? If yes, please attach.

TYPE OF OWNERSHIP

Sole Owner: Name: **Josh & Rachel Swensen**
Partnership: Name(s) of General Partners: _____
Corporation: Name of Principal Officer: _____
Name of Corporation: _____
Other: Describe: _____
Address of Owner(s)/Partner/Principal Officer: **869 ea 4500 S.** City: **SLC** Zip: **84107**
Federal EIN #: **84-2057463** Utah State Entity (optional):

It is unlawful to operate a business without a current license (Holladay Municipal Ordinance Section 5.606.020). Failure to obtain a business license prior to opening such business will result in a penalty being assessed (Holladay Municipal Ordinance Section 5.06.100).

It is the responsibility of the Licensee to be familiar with the ordinances under which this license is applied, and applicant hereby agrees to conduct said business strictly in accordance with the laws and ordinances covering such business

All applications of business license are to be renewed yearly, on the anniversary date of original issue. Licenses renewed 30 days after the anniversary date of original issue will be assessed a penalty.

As per Holladay Municipal Code or Ordinance, Section 5.06.100, responsibility of renewal is totally the responsibility of the Licensee. Failure to receive a renewal notice does not excuse this responsibility.

Signature*: Print Name: **Josh P. Swensen** Date: **5/20/19**

PLEASE FILL OUT NUMBER OF EMPLOYEES - OTHER LINES ARE FOR OFFICE USE ONLY

Number of Employees: **0** (No charge) License Fee: \$ **225⁰⁰**
Vehicles/Units: \$ _____
Alcohol: \$ _____
Penalty: \$ _____
Zoning: \$ _____
Total \$ **225⁰⁰**

Category Fees & Codes:

Code	Description	Units	Amount
115	B, P + C		225⁰⁰

Ncsalpha #: **49319D**
Parcel ID#: **2222132013**
Zone: **R-1-8**

- STC Health Fire Police DBA Tax Coded Fee
- Zoning Professional License Local Consent DABC
- Conditional Use State License

Approving Signature: COMMENTS: **Grandfathered use 6/18/19**



March 28, 2003

Gary Thompson
6400 South 2300 East
Holladay, Utah 84121

Dear Gary,

As you are well aware, the City of Holladay incorporated in the last day of November 1999. Your property was included in the incorporation.

You currently operate a recreational vehicle equipment storage business in your back yard. As far as we know, you operated the business prior to the incorporation.

If that is the case, you came into the City as a non-conforming use. You can continue operating your business as a non-conforming use under the following conditions:

- The non-conforming use cannot be expanded.
- You must obtain a business license from the City of Holladay.

Concerning the latter, our records show you do not have a current business license. Therefore, please come to City Hall and apply for your license within ten days from the date of this letter.

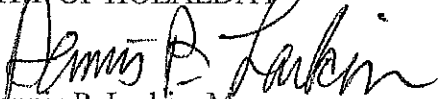
As a side note, your storage business provides a valuable service to residents. Our current zoning law prohibits parking of recreational vehicles/equipment in the front yards. Residents may only park these vehicles in the rear or side yards. As we enforce this regulation, you may find an increasing demand for your storage area.

In addition, we understand you recently had a break-in causing significant damage. Are you considering further security measures for your area? If so, the Community Development Department should be informed of your intentions in order to protect the interest of the adjacent residents.

We look forward to hearing from you.

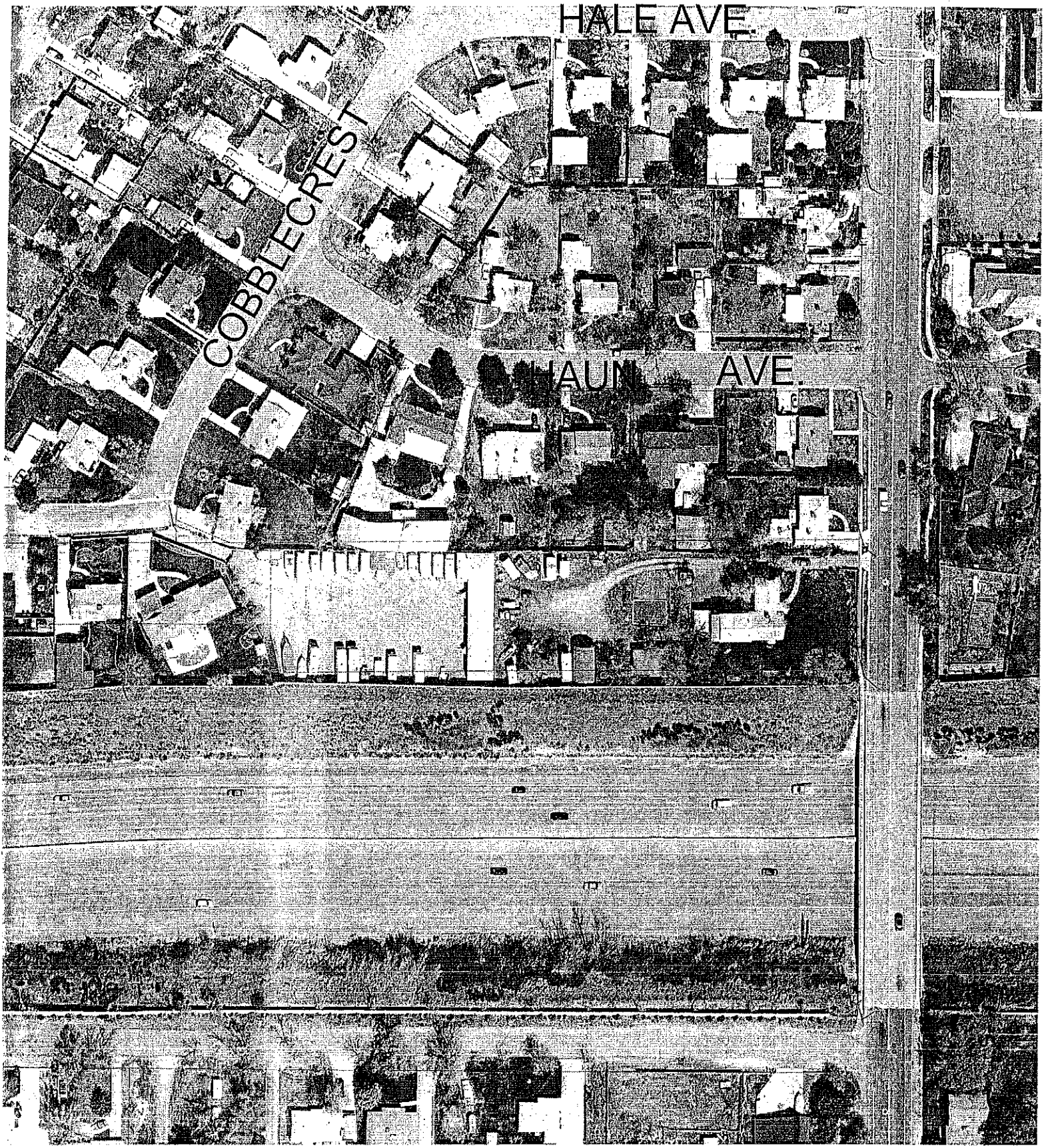
Sincerely,

CITY OF HOLLADAY

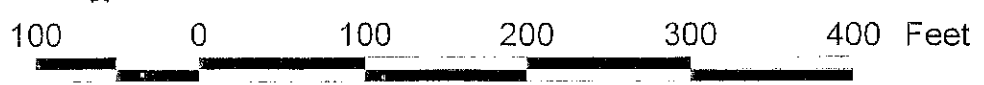

Dennis P. Larkin, Mayor

CITY of HOLLADAY

4707 S HOLLADAY BLVD · HOLLADAY UT · 84117 · p) 801.272.9450 · f) 801.272.9384



VICINITY MAP



City of Holladay
Community & Economic Development Department

Rob Dahle, Mayor
Gina Chamness, City Manager
Jonathan Teerlink, CED Director

June 1st 2022

Dany Matamoro, Inc.
Attn: Josh Swensen
6400 South 2300 East
Holladay Utah 84117

**RE: Notification of Business License Denial
Notification of Violation**

NOTICE AND ORDER

Mr Josh Swensen,

The City of Holladay Technical Review Committee has reviewed your application on June 1st 2022 for a Home-Based Business License to operate “Handyman” services with employees located at 6400 South 2300 East. The proposal was denied by the committee based upon following conditions found to be non-compliant with sections of Holladay Ordinances, 5.54.010, 13.76.730, 13.88

- Home based businesses may not have employee(s)
- Property as an RV Storage yard use within a residential R-1-8 zone is found in violation of legal, non-conforming, “grandfathered” status granted and stipulated for this property as per the letter issued on March 28, 2003 – refer to the attached
- Property advertising signage is found in violation Holladay sign regulations

You are hereby placed on notice to remedy all violations within 10 days of this notice and order. Specifically, you are hereby required to;

- i. Remove the sign violation: the white banner mounted to the fence along the sidewalk of 2300 east
- ii. Relocate ALL vehicles, i.e. trailers, RVs, boats cars etc., to the rear of the home
- iii. Resubmit a Home-Based business license application as directed by City of Holladay Business license official
- iv. Submit a re-landscaping plan showing restoration of required residential standard front yard landscaping to the property as required by Holladay Ord. 13.77 (50% of the Front yard shall be landscaped). Landscaping is defined as:
“... a combination of planted trees, shrubs, vines, vegetative ground cover, perennial plants and annual plants or lawn, together with an irrigation system to maintain the plants alive and flourishing for the length of time the plantings are to be maintained if not in perpetuity. A maximum of fifty percent (50%) of the total required landscaped area may include permeable materials such as organic mulch, inorganic materials such as rocks, boulders, gravel, or other materials, and/or ornamental objects such as fountains, pools, statues, retaining walls, or benches.” 13.04.040

Failure to provide the above items within the time period described will result in fines as per Holladay Ordinance.

Within 10 days of receiving this notice you may file an appeal with the Holladay Community Development Department.

Sincerely,

Jonathan Teerlink
Community and Economic Development Director

Cc/ file, Holladay Code Enforcement, Business Licensing