

SUSANVILLE PLANNING COMMISSION
Regular Planning Commission Meeting Minutes
TUESDAY, APRIL 26, 2022 – 6:30 PM

CALL TO ORDER: Chair Jambois calls meeting to order at 6:30 p.m.

ROLL CALL: Wayne Jambois, Linda Robinette, and Jeremiah Sturgeon. Absent: Commissioner DeBoer and Vice Chair Westbrook

Staff Present: City Planner Kelly Mumper, Code Enforcement Officer Cody Loflin and Building Permit Technician Ruth McElrath.

1. **APPROVAL OF AGENDA:** Motion by Commissioner Sturgeon, second by Commissioner Robinette to approve the agenda as submitted.
Motion carried: 3-0
Voting For: Sturgeon, Robinette and Jambois
Voting Against: None
Absent: DeBoer and Westbrook

2. BUSINESS FROM THE FLOOR:

3. CONSENT ITEMS:

- 3.A Receive and file minutes of the April 12, 2022, minutes Receive and file minutes of the April 12, 2022, minutes

[P.C. 4.12.22 minutes .pdf](#)

Motion by Commissioner Robinette, second by Commissioner Sturgeon to approve the April 12, 2022, minutes.

Motion Carried: 3- 0
Voting For: Robinette, Sturgeon, and Jambois.
Voting Against: None
Absent: DeBoer and Westbrook

4. PUBLIC HEARINGS:

- 4.A Consider **Resolution 22-1094** approving the Issuance of an Abatement Order for 63 South Weatherlow Street

Public hearing opened at 6:35 p.m.

Mr. Loflin explained the issue was regarding 63 S. Weatherlow St., Code Enforcement Case CE 2020-003, owners Ricardo and Susan Pellicer. He said Susan has since changed her name and would be referred to as Susan Morrison throughout the proceedings.

A March 14, 2019, fire damaged the building, which resulted in it being declared a dangerous building and subsequently a public nuisance pursuant to the Susanville Municipal Code. The action requested is to approve Resolution 22-1094.

Mr. Loflin provided a timeline of letters notifying the owners about the existence of a public nuisance have been sent with the first being mailed on March 21, 2014. He added the City Building Official has determined the building is irreparable and demolition must commence no later than 30 days of the approved order, and demolition shall be completed no later than 60 days from the date of this order. A demolition permit must be obtained through the City of Susanville Building Department. Failure to commence demolition or complete demolition within the provided timeframe will result in the property owner being assessed a daily civil penalty of \$100 per day and shall be assessed from the date of the issuance of Notice of Violation on Feb. 27, 2022. The penalties will cease once there is compliance.

Commissioner Robinette noted date the first Notice of Nuisance was mailed was five years prior to when the fire occurred, and this has been going on for eight years.

Chair Jambois asked if any representatives were present for the Pellicer family.

Mr. Loflin responded Joseph Hale called in via Zoom and he would like to speak regarding the matter.

Roland Zimmerman, who owns the neighboring property, spoke in favor of the abatement. He explained the March fire was not the first incident. The second fire spread to his building, and now his insurance has been cancelled. He had been complaining about the property and called the police because homeless people were there. He has taken a total loss and a loss of income.

Mr. Hale offered background information explaining his mother is disabled, elderly, and does not have the funds to abate the property. He asked if the City had an interest accepting a donation of his mother's portion of the property, he would ask Mr. Pellicer if he would want to donate his portion as well.

William Tezak spoke in opposition of the abatement.

Public hearing closed at 6:55 p.m.

Commissioner Sturgeon asked if the City gets to a point where it can take over the property.

Ms. Walsh responded there is a one-year statute of limitations and other options can be discussed.

Commissioner Robinette said she walked the properties on the list, there is a fence that has been pushed down, and there is a drop. In addition, there are piles of trash and people are living there. The property also abuts the high school, which can encourage bad decisions. In conclusion she said the problem has been there since 2019 and it is continuing. She asked what the next steps would be after the hearing.

Ms. Walsh responded a written order would be provided in writing to the respondent, the one-year statute of limitations begins and the City could proceed on abating, selling, foreclosing and recouping those costs.

[Staff Report 63 S Weatherlow St Abatement.pdf](#)
[Resolution 22-1094.pdf](#)

Moved by Commissioner Robinette, seconded by Commissioner Sturgeon to approve Resolution 22-1094.

Motion Carried: 3- 0

Voting For: Robinette, Sturgeon, and Jambois.

Voting Against: None

Absent: DeBoer and Westbrook

4.B Consider **Resolution 22-1095** approving the issuance of an Abatement Order for 67 South Weatherlow Street.

Public hearing opened at 7:02 p.m.

Mr. Loflin explained the case regarding 67 S. Weatherlow St., Code Enforcement Case 2020-002, owners Roland and Joanna Zimmerman. The structure suffered damage related to a structure fire on May 24, 2020. It was declared a dangerous building and subsequently a public nuisance. Susanville Municipal Code Chapter 8.32 offers framework to address public nuisances on properties within the City. Staff is following the procedures and seeking a nuisance abatement order to tell property owners to abate their property of declared nuisances.

Mr. Loflin presented exhibits A through J. Exhibit I contained various photographs of the state of the property. He said there has been some compliance with the property owners cleaning up their property and they installed a 6-foot solid fence to prevent illegal trespassing on the property. The fence is already showing signs of damage caused by people or animal presence. In addition, the fire damaged a tree, and it is considered dangerous due to its size and damage received.

In conclusion, Mr. Loflin said the recommendation is to approve the nuisance abatement order directing property owners to abate all nuisances within date specified by the Planning Commission.

In the opinion of the City of Susanville Building Official the condition of the building is irreparable, and demolition must commence no later than 30 days of the approved order. Demolition must be complete within 60 days of the order and a permit obtained through the City of Susanville prior to the commencement of demolition. Failure to comply within 30 days, the property owner will be fined a daily civil penalty of \$100, which will be assessed from the issuance of notice of violation on Feb. 7, 2022. Daily accruals will cease once compliance is met.

Mr. Zimmerman told the Commission he never received any notifications Mr. Loflin referred to in his report, except for the letter received on April 1, 2022. He continued that he hasn't been at the Oregon address for 15 years, and it is just a shop where they store trucks, and he does not receive any mail there.

Two months ago, he inquired getting a demolition permit, but was told because it was a commercial building, a contractor licensed for demolition had to do the work. The property has been a residence for more than 30 years. Mr. Zimmerman stated he would like to demolish the building, and he has the equipment to do so.

In conclusion, Mr. Zimmerman stated COVID cut his income in half. If he can get a permit, he will demolish the building and he's not against it.

Chair Jambois asked Mr. Zimmerman if he received any notices.

Mr. Zimmerman responded the April 1, 2022, notices, sent to both he and his wife, were the first ones he received.

Mr. Loflin clarified all staff requests is an asbestos report and if there is no presence of asbestos, a demolition permit can be issued for Mr. Zimmerman to do the demo himself.

Chair Jambois asked staff who signed the certified letters.

Mr. Loflin responded the Dec. 2020 letter was rejected due to COVID-19, the letters sent to Cave Junction, OR were due diligence on his part to make notification and using as many addresses as possible he could find to notify the property owners of these proceedings.

Mr. Mumper added staff uses the County record as the most current address.

Mr. Tezak asked if he could cross examine Mr. Loflin.

Ms. Walsh responded it is not a formal judicial proceeding, it is an informal administrative hearing and the formal rules of evidence do not apply.

Mr. Tezak said Mr. Loflin's photos did not have a time date stamp, or where the pictures came from. Citing a public nuisance is subjective, and there are no objective criteria before the Planning Commission.

Public hearing closed at 7:28 p.m.

Commissioner Sturgeon clarified if the owner gets the asbestos report and it comes back negative, he could demo the building himself.

Ms. Walsh confirmed that was correct.

Mr. Mumper suggested if the Commission went that route, they should attach a timeframe.

Commissioner Robinette said the issue has been going on since June 1, 2020, and it is now April 2022. She asked Mr. Zimmerman how long it would take to get an asbestos report.

Mr. Zimmerman said he has been talking to a company in Reno, who had requested additional information.

Mr. Mumper explained that based on other code cases, it is not unreasonable to obtain an asbestos contract within 30 days.

Commissioner Robinette said all the commission wants is for the properties to be dealt with and she doesn't want the City to be a hindrance in dealing with these and if we can be an active partner with cleaning up these properties it is best for everybody concerned.

The Commission discussed timeline options for the owner time to obtain an asbestos report and decided to table the item to the May 24, 2022, meeting.

[Staff Report 67 S Weatherlow St Abatement.pdf](#)
[Resolution 22-1095.pdf](#)

Moved by Commissioner Robinette; second by Commissioner Sturgeon to table Resolution 22-1095 to the May 24, 2022, meeting.

Motion Carried: 3- 0

Voting For: Robinette, Sturgeon, and Jambois

Voting Against: None

Absent: DeBoer and Westbrook

4.C Consider **Resolution 22-1096** approving the issuance of an Abatement Order at 1540 Main Street

Public hearing opened at 7:37 p.m.

Mr. Loflin explained the item pertains to Code Enforcement case 2021-008, nuisance abatement order for property maintenance violations, specifically graffiti. Address is 1540 Main St.

He continued there have been multiple attempts seeking compliance to remove graffiti from the southern exterior wall and adjacent signpost. Staff has attempted getting compliance through letters and administrative citations to no avail.

Graffiti is classified as a public nuisance per ordinance Susanville Municipal Code Chapter 17.1011. Mr. Loflin presented exhibits A through J, provided a timeline of nuisance abatement notifications, and photographs of the graffiti. Not until the weekend of April 23 or April 24, did the property owners attempt to abate the nuisance. The sign has since been covered to the satisfaction of code enforcement, however, there is graffiti that had been attempted to be covered up but is still visible.

Staff recommends modifying the abatement order from the recommended 10 days to 30 days. Mr. Loflin explained the property owner contacted him and wanted to convey his displeasure regarding the response of the City. The building has been a victim of being tagged on multiple occasions, there are about 30 coats of paint on it with no redress from any City services. The owner has requested a meeting with Mr. Loflin and the City administrator when he is able to do so. In the interest of justice, Mr. Loflin said he would honor the request and modify the timeline to 30 days.

Commissioner Robinette said she didn't think the owner, Ryan Potter, was still in the area.

Mr. Loflin responded he was going to be back in the next 30 days.

Commissioner Sturgeon stated Mr. Potter does have a point about his building being a constant target for graffiti. It's a revolving problem that's not the owner's fault, and he asked what the options are.

Mr. Mumper responded it would be best for staff to discuss with the owner what they can do to improve the situation on that building.

Mr. Loflin stated this matter is where you try to do things informally and get voluntary compliance. The case began in April 2021, it's been a year and there has been no compliance. It has gotten to the point where the City has to do something to cover the graffiti, especially with a word that can be offensive to some people fronted on Main St.

Mr. Tezak urged the commission to seek a resolution and remedy outside of an abatement order for this kind of activity.

Motion by Commissioner Robinette, second by Commissioner Sturgeon, to approve Resolution 22-1096, reflecting the 30-day extension.

Motion carried: 3-0

Voting For: Robinette, Sturgeon and Jambois

Voting Against: None

Absent: DeBoer and Westbrook

[Staff Report 1540 Main St Abatement.pdf](#)
[Resolution 22-1096.pdf](#)

5. NEW BUSINESS:

5.A Conduct Administrative Appeals Hearing and Consider **Resolution 22-1097** Recommendation to the City Council on Planning Commission Decision to Uphold or Cancel Administrative Citations.

Motion to Approve **Resolution 22-1097** recommending to the City Council to uphold each administrative citation.

Public Hearing opened at 8:10 p.m.

Chair Jambois requests the parties identify themselves.

Mr. Loflin introduced himself as the City of Susanville Code Enforcement Officer.

Bill Tezak introduced himself on behalf of the Tezak Family Trust and Vice President of Caribbean Investment Corporation.

Chair Jambois explained the appeals hearing provided the opportunity to present evidence regarding the Administrative Citations issued to the applicant by the City of Susanville. The Commission will hear testimony and reveal documents and hear from any witnesses he may have. Mr. Tezak will have reasonable time to present his appeal, not to exceed one hour, unless more time was warranted and agreed upon by the Commission.

Mr. Tezak questioned due process and the Planning Commission being impartial as they are being paid by the City.

P.J. VanErt, City of Susanville attorney, explained that Mr. Tezak's governmental tort claims are a separate matter and not part of tonight's administrative hearing that he was entitled to have. A disqualification motion is not part of the Susanville Municipal Code, and she explained the Planning Commission has been adopted as a neutral hearing officer for his citations. Tonight's hearing is not to challenge the Susanville Municipal Code, it was his time to provide facts about the citations and what has been observed on his property. He could show his own photos, testify to those

photos and provide witnesses. As noted by Ms. Walsh, he was getting due process by having the hearing, and the formal rules of evidence do not apply.

She concluded if he continued to bring up the Federal Constitution and the Constitution of the State of California, and why the Municipal Code is not Constitutional then she would direct him to move on to a factual presentation because they are not relevant to the administrative appeal. She added everyone is looking forward to hearing what factual objections he has to these citations and hoped we could move forward in a more expeditious manner.

Mr. Tezak responded she has been put on notice that his due process has been violated and she has libeled the City and Commissioners. He concluded he considers the matter a sham proceeding.

Mr. Loflin began his presentation explaining on Feb. 24, 2022, he issued citations 2022-003, through 2022-0012, for 10 citations per the Susanville Municipal Code, citations were issued to properties in control of the Tezak Family Trust. Mr. Tezak has identified himself as the agent to address the citations.

On March 16, 2022, Mr. Tezak requested invoking his right to an administrative hearing with the Susanville Planning Commission and it was received within the appropriate appeals window. An advanced hardship waiver was also received and approved, which allows a hearing to take place without a deposit.

The Planning Commission is tasked to determine if a violation of the Susanville Municipal Code existed and warranted the issuance of an administrative citation and that the Tezak Family Trust is responsible for the violations. The Planning Commission will make a recommendation to the Susanville City Council on Wednesday, May 4, 2022, to make a final decision on this matter.

Mr. Loflin presented Exhibits A through H and provided photographs and information regarding each citation.

- CQS-2022-0002 - 713 Cottage St. - Broken windows. Mr. Loflin explained the window was repaired, but was done without a permit obtained through the City Building Department.
- CQS-2022-0004 - 713 Cottage St. - Vehicle violation. Mr. Loflin said while vehicles may be parked in a legal driveway, they have to be in an operable state. In this matter, there are vehicles in various inoperable states.
- CQS 2022-0005 - 713 Cottage St. - Automotive parts on premises. Mr. Loflin explained it was observed multiple vehicles are being dismantled, and there are truckloads of tires and miscellaneous parts.
- CQS 2022-0006 - 811 Cottage St. - Improper storage of trash rubbish and junk/ vehicles on property
- COS 2022-0007 - 811 Cottage St. - Vehicles on property.

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- CQS 2022-0008 - 811 Cottage St. - Dismantling vehicle operation, not allowed in Uptown Business District and would require licensing through the California Department of Motor Vehicles.
- CQS 2022-0009 - 50/44 S Gay St. - Zoning violation - Unpermitted use within Uptown Business District.
- CQS 2022-0010 - 50 S. Gay St. - Dilapidated fence. Mr. Loflin explained the fence is in a dilapidated state, pieces of the chain link fence have been pulled apart or is falling down. There are areas that are coming into compliance and some repairs have been made.
- CQS 2022-0011 - 50 S. Gay St. Property maintenance, household items, trash and junk.
- CQS 2022-0012 - 801 Main St. - Broken window. Currently remains in this condition.

Mr. Loflin explained Mr. Tezak had been notified there were public nuisances on the properties. Staff tried to come to an understanding for voluntary compliance. The violations continued, and it became apparent voluntary compliance was not going to be achieved. Throughout the investigation, Staff's recommendation is to uphold all administrative citations and that recommendation goes to the City Council for a total of \$1100.

In his response, Mr. Tezak requested the matter be continued so he could provide a formal response, which he has not had the opportunity to do because he did not receive any procedures or processes through his public records requests. He requested an hour for each citation.

Ms. Walsh responded he had the opportunity to present his evidence and ask questions right now. The clock was ticking.

Mr. Tezak addressed the case photographs as presented in Exhibit H and asked the record show this was the first time he was receiving those and he didn't have time to respond.

Ms. Walsh responded the packet was part of the public agenda items.

Mr. Tezak described the photos as vague. He said his property has more than 20 different police reports for vandalism created by the vagrants and homeless people. Regarding the broken window, he explained the glass was removed and the frame was still there. It is a non-standard window he had to have glass specially cut for. He looked up the codes and it's considered non-permitted work. The matter was already abated because he doesn't want his buildings exposed to cold air.

Regarding the red building, Mr. Tezak said the tenants wanted to use the building as a shop, which is a compliant use under his rights of ownership. After receiving the notices, he started abating. The administrative citations are misinterpretations by code

enforcement as to what constitutes a public nuisance, and the Municipal Code doesn't have any legal definitions.

He said he took pictures when everything was removed from the properties, and they were gone long before the administrative citations. He stated some photos included in Mr. Loflin's report were not his property or he had the wrong addresses.

Commissioner Robinette asked Mr. Tezak when his pictures were taken.

Mr. Tezak responded about two weeks ago.

She explained she walked his properties yesterday and took pictures of abandoned trucks, trash cans filled to the brim and a truck with no hood, and nothing but auto parts and trash on the property next to the Lassen County Arts Council.

Mr. Tezak said if we are seeking resolution over enforcement, he has been moving toward abatement since the notices came out.

Commissioner Sturgeon thanked Mr. Tezak for the abatement he has done and asked how much time he needed to complete the process.

Mr. Tezak responded about 60 days, as he is trying to find ways to move the vehicles, but parts are hard to find.

Commissioner Sturgeon said the Commissioners want to work with him and aren't there to make a pre-judgement.

Ms. VanErt explained the hearing was different than the cases heard earlier where the Commission heard abatement orders and working with the property owners. This hearing regards the past tense, and the Commission is considering whether the citations are valid and should they be transmitted to the City Council.

Commissioner Robinette thanked Mr. Tezak for the work he has done to clean up the properties. The Commission is doing its due diligence to polish up the town and attract businesses in Uptown.

Mr. Tezak's South Gay property bumps up to where people come all summer long for Farmer's Market. When tenants do not take care of the properties, people make complaints to the City. She continued she did not think anyone on the board was out to pick on Mr. Tezak, isolate him, or take away his rights. They just want the town looking good.

Mr. Tezak said he is in favor of that, but not how it is being performed. He has had to resort to the legal remedy because of adversity among City staff.

Commissioner Sturgeon said he wanted to give Mr. Tezak more time to complete his abatement.

Mr. Loflin clarified the purpose of the hearing. He continued his stance is to get voluntary compliance which is why a courtesy violation was issued. The City was waiting for compliance but wasn't getting it and therefore had to make a decision to issue a citation to get things moving.

Chair Jambois asked Mr. Tezak if he had any witnesses.

Rebecca Williams, identifying herself as Mr. Tezak's assistant, said she has been helping get his property into compliance, but it is not easy, they have been working toward this non-stop.

Commissioner Robinette, commented about CE 2022-0003, broken windows. She said there are no glass stores in town, and it is hard to get windows. She said both window citations should be removed. She was concerned about the vehicles on the property and the unpermitted use. She was also in favor of tossing out the fence violation.

Mr. Tezak said he had not completed his response.

Commissioner Robinette responded he had one hour and she stopped the clock at one hour and 13 minutes.

There was discussion regarding providing Mr. Tezak more time.

Mr. Tezak said he wanted one hour for each citation and needs time to responded in writing.

Ms. VanErt responded the Code allows for the Commission to provide reasonable time and in this case, the Commission has chosen one hour, but it is 10 p.m. Mr. Tezak has had more than one hour and notice and time to prepare. The public records requests are not relevant. The recommendation is to give Mr. Tezak another 30 minutes and put him on notice to provide the last information he would like the Commission to hear prior to a vote.

Commissioner Robinette said she did not want to continue the meeting any longer, and her opinion is to toss citations for the windows and fence, and the rest will go to City Council.

Commissioner Sturgeon said he wanted to squash the matter. He has issues and reservations about this and would like more time. If not allowed more time, he would vote no.

Chair Jambois said he thought Mr. Tezak had more than enough time. He heard a good presentation from staff and thanked Mr. Tezak for his presentation, and he made his case quite succinctly.

Commissioner Robinette provided a brief history of the Commission's work on getting code enforcement going, and it was a huge project. These are the first ones that we are launching off on. We need to move forward on this, but it needs to go to the City Council.

Motion by Commissioner Robinette to approve Resolution 22-1097 with the recommendation to cancellations 2022-0003, 2022-0010 and 2022-0012, and uphold citations 0004, 0005, 0006, 0007, 0008, 0009, and 0011, second by Chair Jambois.

Voting For: Robinette and Jambois.

Voting Against: Jeremiah Sturgeon

Absent: DeBoer and Westbrook

[Staff Report Administrative Appeals Hearing Tezak.pdf](#)

[Administrative Citations Tezak.pdf Resolution 22-1097.pdf](#)

6. CORRESPONDENCE: None

7. COUNTY REFERRALS: None

8. ADJOURNMENT: Motion by Commissioner Robinette, second by Commissioner Sturgeon to adjourn at 10:12 p.m.

Signed, Chair Wayne Jambois

Respectfully submitted by,

Ruth McElrath, Building Permit Technician

Heidi Whitlock, City Clerk

Approved On: