
CITY OF SUSANVILLE
66 N. Lassen Street • Susanville CA
Melanie Westbrook, Chair
James Merchant, Vice Chair
Tony Ardito • Wayne Jambois • Rod DeBoer

Susanville Planning Commission
**Regular Planning Commission Meeting • City Council Chambers 66
N. Lassen Street, Susanville, CA 96130**
Tuesday, September 26, 2023 - 5:30 PM

CALL TO ORDER
ROLL CALL

1. **APPROVAL OF AGENDA:** *(Additions and/or Deletions)*
2. **BUSINESS FROM THE FLOOR:** *Any person may address the Commission at this time upon any subject on the agenda or not on the agenda within the jurisdiction of the City of Susanville Planning Commission. However, comments on items on the agenda may be reserved until the item is discussed and any matter not on the agenda that requires action will be referred to staff for a report and action at a subsequent meeting.*
Presentations are subject to a five-minute limit.
3. **CONSENT ITEMS:** *All matters listed under the Consent Calendar are considered to be routine by the Planning Commission. There will be no separate discussion on these items. Any member of the public or the Planning Commission may request removal of an item from the Consent Calendar to be considered separately.*
 - 3.A Receive and file minutes from the September 12, 2023, meeting
4. **PUBLIC HEARINGS:**
 - 4.A Consider Resolution No. 23-1164 approving the assessment of administrative civil penalties against the property owner at 105 Russell Avenue for noncompliance with Nuisance Abatement Order NA2023-003.
 - 4.B Consider Resolution No. 23-1165 regarding the issuance of civil assessment penalties against the property owner at 713 Cottage Street for noncompliance with Nuisance Abatement Order NA2023-001
 - 4.C Consider Resolution No. 23-1166 regarding the assessment of administrative civil penalties against the property owner at 811 Cottage Street for noncompliance with Nuisance Abatement Order NA2023-002.
 - 4.D Conduct Public Hearing on CE2022-019 and consider Resolution No. 23-1167 approving the issuance of a Nuisance Abatement Order NA2023-007 and ordering the property owner of 335 Grand Avenue to abate nuisance conditions.
5. **NEW BUSINESS:**

6. CORRESPONDENCE:

7. COUNTY REFERRALS:

8. ADJOURNMENT: *The next regular meeting of the Susanville Planning Commission will be held on October 10, 2023 at 5:30PM.

Reports and documents relating to each agenda item are on file in the Office of the City Clerk and are available for public inspection during normal business hours and at the meeting. These reports and documents are also available at the City's website www.cityofsusanville.net, unless there were systems problems posting to the website.

***Accessibility:** An interpreter for the hearing-impaired may be made available upon request to the City Clerk seventy-two hours prior to a meeting. A reader for the vision-impaired for purposes of reviewing the agenda may be made available upon request to the City Clerk. The location of this meeting is wheelchair-accessible.*

I, Ruth McElrath, certify that I caused to be posted notice of the regular meeting scheduled for September 26, 2023 in the areas designated on September 22, 2023.

The Planning Commission's action on Use Permit (including Planned Development Use Permits) and Variance items may be appealed to the City Council within 5 business days of action. The Planning Commission's action on Tentative Subdivision items may be appealed to the City Council within 10 business days of action. Appeals of the Planning Commission's action must be made in writing on the form provided by the City and must be accompanied by a fee adopted by the City Council. Appeals of Planning Commission actions must be based on comments made known (either through written or verbal comment) at the Planning Commission Meeting. Please contact the Community Development Department for more information regarding appeals.

AGENDA ITEM NO. 3.A
Action Item

SUSANVILLE PLANNING COMMISSION AGENDA ITEM

Submitted By: Ruth McElrath, Building & Planning Division

Action Date: September 26, 2023

SUBJECT: Receive and file minutes from the September 12, 2023, meeting

PRESENTED BY: Ruth McElrath, Building Permit Technician

SUMMARY: Staff is presenting minutes from the September 12, 2023, meeting.

FISCAL IMPACT: None

ACTION REQUESTED: Receive and file minutes from the September 12, 2023, meeting

ATTACHMENTS:
[P.C. 9.12.23 min..pdf](#)

SUSANVILLE PLANNING COMMISSION
Regular Planning Commission Meeting Minutes
TUESDAY, SEPTEMBER 12, 2023 – 5:30 PM

Roll Call of Councilmembers Present: Rod DeBoer, Tony Ardito, Wayne Jambois, Melanie Westbrook, James Merchant

CALL TO ORDER: Meeting called to order at 5:30 p.m. by Chair Westbrook.

ROLL CALL: Rod DeBoer, Wayne Jambois, James Merchant, and Melanie Westbrook. Absent: Tony Ardito.

1. APPROVAL OF AGENDA:

Moved by Wayne Jambois; seconded by Rod DeBoer to approve agenda as submitted.

Motion Carried: 4-0

Voting For: DeBoer, Jambois, Merchant and Westbrook.

Voting Against: None

2. BUSINESS FROM THE FLOOR:

3. CONSENT ITEMS:

3.A Receive and approve minutes from the August 8, 2023, meeting.

[PC Min. 8.8.23.pdf](#)

Moved by James Merchant; seconded by Rod DeBoer to approve minutes.

Motion Carried: 4-0

Voting For: Merchant, DeBoer, Jambois and Westbrook.

Voting Against: None

4. PUBLIC HEARINGS: NONE

5. NEW BUSINESS:

5.A Consider Resolution No. 23-1163 canceling the assessment of civil penalties in the amount of \$10,0000 against Lloyd T. Harvey.

Motion to approve Resolution No. 23-1163 rescinding the assessment penalties issued against Lloyd T. Harvey.

Mr. Loflin explained the matter is a housecleaning item. He summarized that on Feb. 14, 2023, the Commission approved assessing \$10,000 in administrative fees against Lloyd T. Harvey, the owner of 10 Santa Paula. The subject was deceased at the time the process began.

Since the assessments, the property has been abated and special assessments have been levied against the current property owner Antonio Barrera, out of Lyon County, NV.

The City Council approved in the vicinity of \$23,000 be placed as a special assessment.

Vice Chair Merchant clarified that the assessments are still being assessed, but against the current property owner.

Mr. Loflin responded that was correct.

No public comment received.

[Resolution PC 23-1163 Resolution.pdf](#)

Moved by James Merchant; seconded by Rod DeBoer to approve Resolution 23-1163.

Motion Carried: 4-0

Voting For: Merchant, DeBoer, Jambois and Ardito.

Voting Against: None

5.B Discussion regarding upcoming state mandated ordinances related to housing projects and accessory dwelling units.

No Action is requested. Discussion/informational item only.

Mr. Mumper explained the City of Susanville would be considering adopting multiple zoning code amendments to further implement the 2019 through 2024 Housing Element to comply with State law.

The amendments include Accessory Dwelling Unit provisions, objective multi-family residential design and development standards, reasonable accommodations and amendments specified in the 2019-2024 Housing Element Action programs.

The City prepared the amendments in response to changes in California law requiring all cities and counties to adopt these provisions to increase housing supply and affordability.

Mr. Mumper explained because the action requires City Council approval, which will establish development regulations, the action is considered a project with the California Environmental Quality Act. As such, the City will be required to make an environmental determination prior to any action on the project.

The three draft ordinances addressing ADU's, reasonable accommodations, and the multi-family objective ordinance are ready to go to Council at its second regularly scheduled meeting in October.

Mr. Mumper summarized that ADUs will be allowed on every residential parcel. The process will be done over the counter with ministerial approval. The multi-family objective design ordinance codifies a punch list for developers, and if they meet all the criteria of design standards, then no use permit will be required. The reasonable accommodation ordinance is geared toward people with disabilities.

Staff are also cleaning up some of the errors that were made in the last housing cycle update, mainly regarding transitional, supportive and emergency housing. While they are not coming up in October, it is on staff's radar. Staff is also currently in process of putting out Request for Proposal's for housing element work and complete the work for a general plan update. If we can achieve all these things, we will have a 2025-2050 time stamp and put ourselves in a better position for economic development, Mr. Mumper said.

He concluded that in the interest of time and spending grant money, the ordinances will not be brought to the Planning Commission before City Council. A first and second reading will be held and bringing it to Planning Commission would only be a courtesy.

Chair Westbrook asked if staff has looked at the ordinance where \$25,000 triggers curb, gutter and sidewalk.

Erik Edholm, Assistant Public Works Director, responded staff has been looking at it, but there have been varying responses from different contractors. Staff are honing on a closer number right now and are also using some flexibility.

5.C Discussion regarding the Susanville Planning Commission's assignment as other various boards and commissions for the City of Susanville.

Discussion/Information Only

Mr. Loflin stated it's a good time to go through some of the assignments and get feedback from the Commission on whether it's something it wants to see move forward or if it has a stance to let Council and administration know to look at other directions.

He explained the Planning Commission may also serve as an advisory board to the City Council and act in various capacities for the City of Susanville. The Susanville Planning Commission serves as the: Abandoned Vehicle Abatement Board, Administrative Appeal Hearing Board, Administrative Nuisance Abatement Hearing Board, Graffiti Hearing Board, Dangerous Building Appeal Board, and Neglected Vacant Building Board.

Mr. Loflin continued there has been internal discussions regarding the Planning Commission serving on the following boards and Commissions: Design Review Committee, Tree Commission, Parking Appeal Hearing Board and the Towing Appeal Hearing Board.

Mr. Loflin summarized each board. The Design Review Committee was created when there was a big push for murals. The seven-person committee was appointed by the Council, and approved the design, when the murals were rehabilitated and helping the City Council and staff maintain the easements recorded for the facades for some of these buildings. Staff has concluded that the easements have expired and we're going to have to start from the ground up.

Chair Westbrook said she is a yes, something needs to come back around for these murals.

Vice Chair Merchant stated part of the commission's purview already so it makes sense we should expand this to make sure we are tidying up loose ends.

Mr. Loflin added staff can look at changing the requirement from seven members because moving forward to the tree commission, there is a nexus.

He explained the tree commission was formed when the City adopted a street tree program. It has not been enforced or administered to the intent of the code over the years. It is supposed to be a five-member commission with at least two people having technical skills, such as being an arborist, or having worked in a nursery, landscaping, etc.

The commission looks at permits being pulled, coming up with species list of approved trees, assisting staff with expertise in confirming if a tree is diseased and needs to be removed and replaced and where the replacement goes.

There was general discussion regarding City trees and who is responsible for them.

Mr. Loflin explained the intent of having the ordinance was to preserve trees in the public right of way and within the easements so the City can ensure that if they are removed, there is a replacement. He added tree permits are ministerial and approved at the staff level, but if there is an appeal, the Commission is the appeal hearing body.

Chair Westbrook commented about the overgrown trees hanging down everywhere and if staff would be looking into that.

Mr. Loflin responded yes, and they can be deemed a public nuisance and go through a public nuisance process.

Vice Chair Merchant asked if having an outside technical advisor would still be a requirement, what the cost estimate would be, and what would the appeal process look like.

Mr. Loflin responded that more than likely, a cost would be associated and would have to go through Council.

Commissioner Jambois commented that former Mayor Dave Foster was very protective of the trees. He added that Reno, NV is moving ahead quickly to grow trees appropriate for that climate. Trees are valuable.

He continued he still thinks the commission can do the job, but none of us are arborists. We will need some type of technical expertise defining what is an appropriate tree for this area.

Commissioner DeBoer asked if funding was available to assist people in getting rid of nuisance trees.

Mr. Loflin responded he has been looking for funds for any projects he has through code enforcement. There is a lot of money out there for trees.

There was discussion about using the Click & Fix app to report nuisance trees.

Mr. Mumper added there is an approved species tree list. Given staff time, we are going to have to get a grant to justify the time and cost. If we took an altered route and contracted with an arborist to review the current approved list and modify it, he is confident the Commission will get by without adding technical assistance.

Mr. Edholm added the list has been updated recently. We don't know who the tree commission is, it appears the commission is the most obvious choice without creating another one.

Chair Westbrook asked, does she want to take on trees, no, but it does seem to tie together.

Mr. Loflin summarized the Parking Appeal Hearing Board and Towing Appeal Hearing Board. He explained there is a Title 10 ordinance, City traffic and parking, amendment, placing the appeals process in the code. Currently there is an internal process that includes an administrative review, in which the Chief of Police reviews the citation for correctness, and if the elements of the violation were addressed. The cited individual can appeal against it in an administrative appeal hearing. Mr. Loflin said he can think of only one appeal happening since he has been involved with the Susanville Police Department.

At that time, the administrative appeal was made by the City Administrator. The third level of review is judicial review where a writ of mandate is filed with Lassen Superior Court and a judge makes the determination.

The towing appeal is the same way.

The Commission would be a more neutral body than the police department or the city administrator. It's going to be a similar process with administrative citation appeals. There will be a hearing for recommendation to the Council because the Council wants to be the final say for the City.

Chair Westbrook said she doesn't love it because it's not related to the planning commission. If you get your car towed because you get a D.U.I that has nothing to do with planning commission.

Mr. Loflin responded there is a need due to not having a hearing officer who would be doing these types of situations. The City would probably not be looking at getting a hearing officer because of the costs involved.

6. **CORRESPONDENCE: NONE**

7. **COUNTY REFERRALS: NONE**

8. **ADJOURNMENT:** Motion by Commissioner Jambois, seconded by Commissioner DeBoer to adjourn at 6:19 p.m.

Motion Carried: 4- 0

Voting For: Jambois, DeBoer, Merchant and Westbrook.

Voting Against: None

AGENDA ITEM NO. 4.A
Public Hearing

SUSANVILLE PLANNING COMMISSION AGENDA ITEM

Submitted By: Cody Loflin, Building & Planning Division

Action Date: September 26, 2023

SUBJECT: Consider Resolution No. 23-1164 approving the assessment of administrative civil penalties against the property owner at 105 Russell Avenue for noncompliance with Nuisance Abatement Order NA2023-003.

PRESENTED BY: Cody Loflin, Code Enforcement Officer

SUMMARY: On June 13, 2023, the Susanville Planning Commission, acting in the capacity of the Administrative Nuisance Abatement Hearing Board as defined in the Susanville Municipal Code § 8.32.030(A) and acting under authorization of Susanville Municipal Code §§ 8.32.120 – 8.32.130, upheld the City of Susanville’s declaration of nuisance conditions for real property at 105 Russell Avenue. The issuance of a Nuisance Abatement Order was approved by the Planning Commission which initiated a one-year jurisdictional period as authorized by Susanville Municipal Code § 8.32.140 to which the Planning Commission has the authority to make decisions regarding the public nuisance being fostered by the property.

As a condition of the Nuisance Abatement Order, the Planning Commission ordered that administrative civil penalties may be assessed for non-compliance with the nuisance abatement order. The Planning Commission approved the intention to assess administrative civil penalties as ordered in the nuisance abatement order in the amount of \$500.00 per day, effective from June 26, 2023, up to a maximum of \$10,000 for continued violations of the nuisance abatement order. The authority to assess administrative civil penalties by the Planning Commission is authorized by Susanville Municipal Code § 8.32.290.

- 8.32.290 SMC allows for the Planning Commission to impose penalties upon persons responsible for creating, maintain or fostering a public nuisance in an amount not to exceed a maximum of five hundred dollars per day for each day that the public nuisance occurs and shall not exceed ten thousand dollars.

In determining the amount of the penalty, the Planning Commission may take any or all of the following factors into consideration:

- The period of time during which the public nuisance occurred.
- The nature, frequency, and recurrence of the public nuisance.
- The ease with which the public nuisance could have been abated.
- Good faith efforts made to deter the public nuisance or ameliorate its effects.
- The economic impact of the penalty upon person responsible for payment.
- The impact of the public nuisance on the community.
- Such other factors as just may require.

The City of Susanville through all departments of the city have incurred costs associated with this subject property. Numerous calls to the police department and fire department have been made for various public safety issues that have expended resources allocated to these departments, additionally, the effect of the public works department and administrative services department have been felt with the amount of work created through enforcement efforts to bring the property into compliance with the Susanville Municipal Code and to abate the public nuisance that has been created.

The Planning Commission will conduct a public hearing into the matter to take into consideration the administrative civil penalties that were ordered in the nuisance abatement order, consider testimony from the city, responsible party, and from the public, and take into consideration the factors outlined within the Susanville Municipal Code to make a formal declaration and order to the assessment of the penalties.

As this is a formal decision of the Susanville Planning Commission, the aggrieved party to any order has the right to appeal the Planning Commission's decision to the Susanville City Council as authorized by § 8.32.160 SMC. A written appeal to the city council shall be received within 21 days of the decision by the planning commission. An appeal hearing deposit of \$200.00 is required for the appeal to be scheduled and heard by the Susanville City Council (§ 8.32.160 SMC).

FISCAL IMPACT:

If the Susanville Planning Commission orders the assessment of administrative civil penalties in the amount of \$500.00 per day effective from June 26, 2023, the 93 days of noncompliance with the nuisance abatement order will exceed the \$10,000.00 maximum as authorized by § 8.32.290 SMC. The fiscal impact would be an increase in revenues in the amount of \$10,000.00 to the General Fund.

ACTION REQUESTED:

Motion to approve Resolution No. 23-1164 approving the assessment of administrative civil penalties against the property owner at 105 Russell Avenue for noncompliance with Nuisance Abatement Order NA2023-003.

ATTACHMENTS:

[PC 23-1164 Resolution.doc](#)

[Nuisance_Abatement_Order_After_Hearing_NA2023-003_105_Russell_Ave.pdf](#)

RESOLUTION NO. 23-1164
A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SUSANVILLE
APPROVING THE ASSESSMENT OF ADMINISTRATIVE CIVIL PENALTIES AGAINST
THE PROPERTY OWNER OF 105 RUSSELL AVENUE (APN 105-320-013-000) FOR
NONCOMPLIANCE WITH NUISANCE ABATEMENT ORDER NA2023-003

WHEREAS, California Government Code Sections 36901, 38771, and 38773.5(a) authorizes the City of Susanville to enact ordinances declaring what constitutes a nuisance, the procedures for abating nuisance conditions, providing for the recovery of costs and attorney fees to abate the nuisance, and providing for the collection of civil penalties; and

WHEREAS, the Susanville City Council adopted Ordinance 17-1011 that declares conditions of real property that constitute a public nuisance and provides for the abatement of said nuisance conditions; and

WHEREAS, a public nuisance has been declared upon the property of 105 Russell Avenue and attempts to bring the property into voluntary compliance have been futile; and

WHEREAS, the City of Susanville intend to have the property abated to remove the nuisance conditions and therefore invoke Chapter 8.32 of the Susanville Municipal Code and request the Susanville Planning Commission issue a nuisance abatement order to compel the property owners to abate and remove nuisance conditions or the city of Susanville shall be authorized to perform the necessary abatement work.

WHEREAS, the Susanville Planning Commission approved the issuance of a Nuisance Abatement Order NA2023-003 at a duly noticed public hearing on June 13, 2023 which ordered The Tezak Family Trust & Marino Family Living Trust, to abate nuisance conditions at 105 Russell Avenue (APN 105-320-013-000); and

WHEREAS, the condition of real property remains a public nuisance and in violation of nuisance abatement order NA2023-003; and

WHEREAS, the assessment of administrative civil penalties is authorized by Section 8.32.290 of the Susanville Municipal Code which provides for a maximum daily penalty and a maximum total penalty when considering defined factors relating to the facts presented to the Susanville Planning Commission; and

WHEREAS, the assessment of civil penalties relating to a nuisance abatement order does not involved any commitment to any specific project which may result in a potentially significant physical impact on the environment and is not a project under the California Environmental Quality Act (CEQA) pursuant to Section 15378 of the CEQA Guidelines.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Susanville hereby approves the assessment of administrative civil penalties for violations of nuisance abatement order NA2023-003 as follows:

- A. Five hundred dollars (\$500.00) for each day the public nuisance existed on property located at 105 Russell Avenue.
- B. Effective date of the assessment of administrative civil penalties shall be June 26, 2023.

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BE IT FURTHER RESOLVED that the Planning Commission of the City of Susanville hereby orders the maximum administrative civil penalty in the amount of ten thousand dollars (\$10,000) for 93 total days of noncompliance with nuisance abatement order NA2023-003 and orders the payment of said administrative civil penalty due by Friday October 27, 2023 by 4:30 p.m.

APPROVED: _____
Melanie Westbrook, Chairperson

ATTEST: _____
Heidi Whitlock, City Clerk

The foregoing resolution was adopted at a regular meeting of the Planning Commission of the City of Susanville, held on the 26th day of September 2023, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Heidi Whitlock, City Clerk

1 Margaret E. Long SBN: 227176
2 City Attorney for City of Susanville
3 66 North Lassen Street
4 Susanville, CA 96130
5 Phone: 530-252-5100
6 attorney@cityofsusanville.org

7 Attorney for: Petitioner/City of Susanville

8 PLANNING COMMISSION
9 CITY OF SUSANVILLE

10 City of Susanville,
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Petitioner

Nuisance Abatement Order
NA2023-003

Hearing: June 13, 2023, at 5:30 p.m. in
Council Chambers
66 North Lassen Street
Susanville, CA 96130

The Tezak Family Trust and Marino
Family Living Trust
Respondent

1. This proceeding was heard:
 - a. On June 13, 2023, at 5:30 pm in the Council Chambers at 66 North Lassen Street, Susanville, CA 96130.
 - b. By the Planning Commission of the City of Susanville (also referred to as the Hearing Board or the Board) with the following commissioners of the Planning Commission present: Melanie Westbrook, James Merchant, Rod DeBoer, Wayne Jambois, and Tony Ardito.
 - c. Melanie Westbrook presided over the procedure as Chairperson.
 - d. This matter was set on a "Notice of Intention to Abate Public Nuisance & Notice of Public Hearing" dated May 5, 2023, and served on Respondent, The Tezak Family Trust and Marino Family Living Trust, by Certified Mail on May 5, 2023, and posted on the structure at 105 Russell Avenue on May 5, 2023.
 - e. Present at the hearing where:

- i. Cody Loflin, Code Enforcement Officer II, Kelly Mumper, City Planner, Ruth McElrath, Permit Technician / Secretary of the Planning Commission, Jolene Arredondo, Assistant to the City Administrator, Erik Edholm, Assistant Director of Public Works, and Robert Godman, Director of Public Works representing the City of Susanville and
- ii. Frank Marino, Trustee of the Marino Family Living Trust, Debra Marino of the Marino Family Living Trust, William Tezak of the Tezak Family Trust and David Williams, Attorney for William Tezak representing the Respondent.

FINDINGS

The Hearing Board makes the following findings.

1. Pursuant to City of Susanville Municipal Code chapter 8.32.040, “No person may maintain or use property or allow their property to be maintained or used in a manner that creates or fosters the creation of a public nuisance.”
2. The Tezak Family Trust and Marino Family Living Trust own the residential property and are the responsible parties for the property located at 105 Russell Avenue.
3. The Tezak Family Trust and Marino Family Living Trust were properly served with a Notice of Violation on March 21, 2023 with service pursuant to City of Susanville Municipal Code section 8.32.060.
4. The Tezak Family Trust and Marino Family Living Trust were properly served with a Notice of Intention to Abate Public Nuisance and Notice of Public Hearing on May 5, 2023, and that said notice was properly posted at 105 Russell Avenue on May 5, 2023, pursuant to City of Susanville Municipal Code section 8.32.090.
5. The condition of the property located at 105 Russell Avenue is a public nuisance as defined by City of Susanville Municipal Code section 8.32.050.

ORDERS

The Hearing Board orders the following.

1. The Tezak Family Trust and Marino Family Living Trust must abate the public nuisance at 105 Russell Avenue by doing the following at 105 Russell Avenue:

- a. Uniform Housing Code Violations:

- i. All items listed within this notice shall be complied with as the State of California has set the minimum housing standards for all people of this State. An inspection is required to verify the reasonable suspicion of the lack of these items. Please contact Code Enforcement staff to set up a reasonable time to inspect. If I do not hear back from you by the end of the compliance deadline, I will assume that consent has not been granted. An inspection warrant pursuant to California Code of Civil Procedures 1822.50 – 1822.60 shall be sought from the Lassen County Superior Court.
- ii. The building shall have the required utilities accessible to the building (electrical, water, sewer).
- iii. The building shall have access to hot and cold running water.
- iv. The building shall have adequate heating for all units.
- v. The building shall have adequate access to a kitchen sink, toilet, shower or bath.
- vi. All other building code violations shall be remedied and shall have all.

- b. Public Nuisances:

- i. Cease and desist the operation of any vehicle dismantling operation or the likes of any vehicle business without first obtaining any occupational license through the State of California, conditional use permits through the City of Susanville, and any business license required by the Susanville Municipal Code.
- ii. There were 14 vehicles on the property during the last site visit. All vehicles, boats, recreational vehicles, etc. shall be removed from the

- 1 property or placed within an appropriate building out of sight of the public.
- 2 Vehicles are inoperable or in a junk or dismantled state.
- 3 iii. Remove the approximately 15 commercial washers from the property and
- 4 dispose of properly and in accordance with state law.
- 5 iv. Remove the approximately 14 commercial driers from the property and
- 6 dispose of the properly and in accordance with state law.
- 7 v. Remove the token machine, vending machines, and refrigerators.
- 8 vi. Burning of vegetation shall be permitted and done during acceptable days.
- 9 vii. Cease and desist the burning of trash, rubbish, garbage.
- 10 viii. Cease and desist the allowance of using recreational vehicles for the
- 11 purposes of living quarters.
- 12 ix. Remove all limbs, downed trees, and branches from the property as this is a
- 13 potential fire hazard.
- 14 x. The outbuilding on the property will need to be inspected by a licensed
- 15 engineer to determine if the building is structurally sound. If the building
- 16 is structurally sound, then rehabilitation is ordered. If the building is not
- 17 structurally sound, then demolition is ordered. All required permits shall be
- 18 obtained.
- 19 xi. permits pulled for their inspection and completion.
- 20 c. Zoning:
- 21 i. Obtain all required conditional use permits from the City of Susanville for
- 22 operation of any business venture requiring conditional use permits in the
- 23 C-2 zoning district.
- 24 ii. Cease and desist the allowance of any resident from residing in any
- 25 recreational vehicle unless permits have been obtained from the State of
- 26 California and with the City of Susanville.
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2. The Tezak Family Trust and Marino Family Living Trust must fully abate and remove conditions contributing to the declaration of a public nuisance no later than Monday June 26, 2023 by 8:00 a.m.
3. The Tezak Family Trust and Marino Family Living Trust must obtain any and all required permits that may be required to abate public nuisance at 105 Russell Avenue.
4. After The Tezak Family Trust and Marino Family Living Trust abates the nuisance at 105 Russell Avenue, The Tezak Family Trust and Marino Family Living Trust must contact the Building and Planning Department at the City of Susanville and request that an official at the City of Susanville inspect the condition of the property and buildings at 105 Russell Avenue to determine if the public nuisance was abated.
5. If The Tezak Family Trust and Marino Family Living Trust does not abate the public nuisance at 105 Russell Avenue by 8:00 a.m. on June 26, 2023, the City of Susanville may have the property at 105 Russell Avenue abated.
6. The Tezak Family Trust and Marino Family Living Trust shall have no further violations of the Susanville Municipal Code and shall have no further violations of any state statute or regulation on the State of California while under the jurisdiction of the Hearing Board and while this nuisance abatement order is in effect.
7. If The Tezak Family Trust and Marino Family Living Trust does not abate the public nuisance at 105 Russell Avenue by 8:00 a.m. on June 26, 2023, the Susanville Planning Commission orders an administrative penalty pursuant to section 8.32.290 of the City of Susanville Municipal Code shall be assessed as followed:
 - a. Assessment of \$500.00 per day until the nuisance abatement order has been complied with.
 - b. Effective from June 26, 2023.
 - c. The maximum administrative penalty shall be \$10,000, exclusive of administrative costs and interest.
8. All costs of the City's abatement efforts, including the abatement work and administrative time to investigate and to hear and effect the abatement shall be charged against The

1 Tezak Family Trust and Marino Family Living Trust as a personal debt or may be assessed
2 upon 105 Russell Avenue and will constitute a lien or special assessment upon the
3 property until paid.

- 4 9. This Order shall be effective for one year after issuance. During such period, the hearing
5 board shall retain jurisdiction over the conditions of the building, structure or property
6 which constituted the nuisance established by this Order, as well as the abatement
7 thereof, to ensure that the nuisance does not reoccur and that the building, structure, or
8 property is maintained in such a manner so as not to create a nuisance. If, during this one-
9 year period, any enforcement official determines that the same or another nuisance, as
10 defined by this chapter exists with respect to the building, structure or property, he or she
11 may give notice to abate the nuisance as provided for in section 8.32.060 of the City of
12 Susanville Municipal Code. If The Tezak Family Trust and Marino Family Living Trust
13 does not abate the nuisance at any time within the abatement period, the City may
14 proceed with the abatement itself under the provisions of section 8.32.190 of the City of
15 Susanville Municipal Code without further action of the hearing board. The City of
16 Susanville may also recover all of its abatement effort costs as provided for in the City of
17 Susanville Municipal Code.

18 **APPEAL**

19 Whenever any person is aggrieved by this final order of the Hearing Board, this person may appeal
20 the Nuisance Abatement Order to the City Council of the City of Susanville. To request an
21 appeal, the person aggrieved by this order shall notify the City Clerk, in writing, within twenty-
22 one (21) days of the issuance of this order of their request to have this appeal heard by the City
23 Council. The aggrieved person shall deposit two hundred dollars (\$200.00) to the City of
24 Susanville. The appellant shall be responsible for all costs of such appeal which exceeds the
25 deposited amount. If the aggrieved person requests an appeal hearing, this hearing shall be
26 granted within forty-five (45) days of the filing appeal at a regularly scheduled meeting of the
27 Susanville City Council. The appellant shall be notified no less than ten (10) days of the
28 scheduled appeal hearing.

1 The foregoing order was adopted at a regular meeting of the Planning Commission of the city of
2 Susanville, held on the 13th day of June 2023.

3
4 Dated: June 13, 2023 /s/ Melanie Westbrook
5 Melanie Westbrook
6 Susanville Planning Commission
7

8 I, Cody Loflin, Code Enforcement Officer for the City of Susanville do attest that this copy of a
9 Nuisance Abatement Order issued by the Susanville Planning Commission and memorialized by
10 **Resolution of the Susanville Planning Commission No. 23-1148**, is a true and accurate copy of
11 the order to which was signed by Melanie Westbrook, Chairperson of the Susanville Planning
12 Commission. I declare under penalty of perjury that the foregoing is true and correct.

13
14 Dated: June 16, 2023 *Cody Loflin*
15 Cody Loflin, Code Enforcement Officer
16 City of Susanville
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AGENDA ITEM NO. 4.B
Public Hearing

SUSANVILLE PLANNING COMMISSION AGENDA ITEM

Submitted By: Cody Loflin, Building & Planning Division

Action Date: September 26, 2023

SUBJECT: Consider Resolution No. 23-1165 regarding the issuance of civil assessment penalties against the property owner at 713 Cottage Street for noncompliance with Nuisance Abatement Order NA2023-001

PRESENTED BY: Cody Loflin, Code Enforcement Officer

SUMMARY: On June 13, 2023, the Susanville Planning Commission, acting in the capacity of the Administrative Nuisance Abatement Hearing Board as defined in the Susanville Municipal Code § 8.32.030(A) and acting under authorization of Susanville Municipal Code §§ 8.32.120 – 8.32.130, upheld the City of Susanville’s declaration of nuisance conditions for real property at 713 Cottage Street. The issuance of a Nuisance Abatement Order was approved by the Planning Commission which initiated a one-year jurisdictional period as authorized by Susanville Municipal Code § 8.32.140 to which the Planning Commission has the authority to make decisions regarding the public nuisance being fostered by the property.

As a condition of the Nuisance Abatement Order, the Planning Commission ordered that administrative civil penalties may be assessed for non-compliance with the nuisance abatement order. The Planning Commission approved the intention to assess administrative civil penalties as ordered in the nuisance abatement order in the amount of \$500.00 per day, effective from June 13, 2023, up to a maximum of \$10,000 for continued violations of the nuisance abatement order. The authority to assess administrative civil penalties by the Planning Commission is authorized by Susanville Municipal Code § 8.32.290.

8.32.290 SMC allows for the Planning Commission to impose penalties upon persons responsible for creating, maintain or fostering a public nuisance in an amount not to exceed a maximum of five hundred dollars per day for each day that the public nuisance occurs and shall not exceed ten thousand dollars.

In determining the amount of the penalty, the Planning Commission

may take any or all of the following factors into consideration:

- The period of time during which the public nuisance occurred.
- The nature, frequency, and recurrence of the public nuisance.
- The ease with which the public nuisance could have been abated.
- Good faith efforts made to deter the public nuisance or ameliorate its effects.
- The economic impact of the penalty upon person responsible for payment.
- The impact of the public nuisance on the community.
- Such other factors as just may require.

The City of Susanville through all departments of the city have incurred costs associated with this subject property. Numerous calls to the police department and fire department have been made for various public safety issues that have expended resources allocated to these departments, additionally, the effect of the public works department and administrative services department have been felt with the amount of work created through enforcement efforts to bring the property into compliance with the Susanville Municipal Code and to abate the public nuisance that has been created.

The Planning Commission will conduct a public hearing into the matter to take into consideration the administrative civil penalties that were ordered in the nuisance abatement order, consider testimony from the city, responsible party, and from the public, and take into consideration the factors outlined within the Susanville Municipal Code to make a formal declaration and order to the assessment of the penalties.

As this is a formal decision of the Susanville Planning Commission, the aggrieved party to any order has the right to appeal the Planning Commission's decision to the Susanville City Council as authorized by § 8.32.160 SMC. A written appeal to the city council shall be received within 21 days of the decision by the planning commission. An appeal hearing deposit of \$200.00 is required for the appeal to be scheduled and heard by the Susanville City Council (§ 8.32.160 SMC).

FISCAL IMPACT:

If the Susanville Planning Commission orders the assessment of administrative civil penalties in the amount of \$500.00 per day effective from June 13, 2023, the 107 days of noncompliance with the nuisance abatement order will exceed the \$10,000.00 maximum as authorized by § 8.32.290 SMC. The fiscal impact would be an increase in revenues in the amount of \$10,000.00 to the General Fund.

ACTION REQUESTED:

Motion to approve Resolution No. 23-1165 approving the issuance of

civil assessment penalties against the property owner at 713 Cottage Street for noncompliance with Nuisance Abatement Order NA2023-001.

ATTACHMENTS:

[PC 23-1165 Resolution.doc](#)

[Nuisance_Abatement_Order_After_Hearing_NA2023-001_713_Cottage.pdf](#)

RESOLUTION NO. 23-1165
A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SUSANVILLE
APPROVING THE ASSESSMENT OF ADMINISTRATIVE CIVIL PENALTIES AGAINST
THE PROPERTY OWNER AT 713 COTTAGE STREET (APN 103-321-020-000) FOR
NONCOMPLIANCE WITH NUISANCE ABATEMENT ORDER NA2023-001

WHEREAS, California Government Code Sections 36901, 38771, and 38773.5(a) authorizes the City of Susanville to enact ordinances declaring what constitutes a nuisance, the procedures for abating nuisance conditions, providing for the recovery of costs and attorney fees to abate the nuisance, and providing for the collection of civil penalties; and

WHEREAS, the Susanville City Council adopted Ordinance 17-1011 that declares conditions of real property that constitute a public nuisance and provides for the abatement of said nuisance conditions; and

WHEREAS, a public nuisance has been declared upon the property of 713 Cottage Street and attempts to bring the property into voluntary compliance have been futile; and

WHEREAS, the City of Susanville intend to have the property abated to remove the nuisance conditions and therefore invoke Chapter 8.32 of the Susanville Municipal Code and request the Susanville Planning Commission issue a nuisance abatement order to compel the property owners to abate and remove nuisance conditions or the city of Susanville shall be authorized to perform the necessary abatement work.

WHEREAS, the Susanville Planning Commission approved the issuance of a Nuisance Abatement Order NA2023-001 at a duly noticed public hearing on June 13, 2023 which ordered The Tezak Family Trust, to abate nuisance conditions at 713 Cottage Street (APN 103-321-020-000); and

WHEREAS, the condition of real property remains a public nuisance and in violation of nuisance abatement order NA2023-001; and

WHEREAS, the assessment of administrative civil penalties is authorized by Section 8.32.290 of the Susanville Municipal Code which provides for a maximum daily penalty and a maximum total penalty when considering defined factors relating to the facts presented to the Susanville Planning Commission; and

WHEREAS, the assessment of civil penalties relating to a nuisance abatement order does not involved any commitment to any specific project which may result in a potentially significant physical impact on the environment and is not a project under the California Environmental Quality Act (CEQA) pursuant to Section 15378 of the CEQA Guidelines.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Susanville hereby approves the assessment of administrative civil penalties for violations of nuisance abatement order NA2023-001 as follows:

- A. Five hundred dollars (\$500.00) for each day the public nuisance existed on property located at 713 Cottage Street.
- B. Effective date of the assessment of administrative civil penalties shall be June 26, 2023.

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BE IT FURTHER RESOLVED that the Planning Commission of the City of Susanville hereby orders the maximum administrative civil penalty in the amount of ten thousand dollars (\$10,000) for 93 total days of noncompliance with nuisance abatement order NA2023-001 and orders the payment of said administrative civil penalty due by Friday October 27, 2023 by 4:30 p.m.

APPROVED: _____
Melanie Westbrook, Chairperson

ATTEST: _____
Heidi Whitlock, City Clerk

The foregoing resolution was adopted at a regular meeting of the Planning Commission of the City of Susanville, held on the 26th day of September 2023, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Heidi Whitlock, City Clerk

1 Margaret E. Long SBN: 227176
2 City Attorney for City of Susanville
3 66 North Lassen Street
4 Susanville, CA 96130
5 Phone: 530-252-5100
6 attorney@cityofsusanville.org

7 Attorney for: Petitioner/City of Susanville

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PLANNING COMMISSION
CITY OF SUSANVILLE

City of Susanville,

Petitioner

v

The Tezak Family Trust

Respondent

Nuisance Abatement Order
NA2023-001

Hearing: June 13, 2023, at 5:30 p.m. in
Council Chambers
66 North Lassen Street
Susanville, CA 96130

1. This proceeding was heard:

- a. On June 13, 2023, at 5:30 pm in the Council Chambers at 66 North Lassen Street, Susanville, CA 96130.
- b. By the Planning Commission of the City of Susanville (also referred to as the Hearing Board or the Board) with the following commissioners of the Planning Commission present: Melanie Westbrook, James Merchant, Rod DeBoer, Wayne Jambois, and Tony Ardito.
- c. Melanie Westbrook presided over the procedure as Chairperson.
- d. This matter was set on a "Notice of Intention to Abate Public Nuisance & Notice of Public Hearing" dated May 5, 2023, and served on Respondent, The Tezak Family Trust, by Certified Mail on May 5, 2023, and posted on the structure at 713 Cottage Street on May 5, 2023.
- e. Present at the hearing where:

- i. Cody Loflin, Code Enforcement Officer II, Kelly Mumper, City Planner, Ruth McElrath, Permit Technician / Secretary of the Planning Commission, Jolene Arredondo, Assistant to the City Administrator, Erik Edholm, Assistant Director of Public Works, and Robert Godman, Director of Public Works representing the City of Susanville and
- ii. The Trustee of the Tezak Family Trust did not appear on behalf of the Respondent. William Tezak spoke on behalf of the Tezak Family Trust and was accompanied by his lawyer, David Williams.

FINDINGS

The Hearing Board makes the following findings.

1. Pursuant to City of Susanville Municipal Code chapter 8.32.040, “No person may maintain or use property or allow their property to be maintained or used in a manner that creates or fosters the creation of a public nuisance.”
2. The Tezak Family Trust owns the commercial property and is the responsible party for the property located at 713 Cottage Street.
3. The Tezak Family Trust was properly served with a Notice of Violation on March 21, 2023 with service pursuant to City of Susanville Municipal Code section 8.32.060.
4. The Tezak Family Trust was properly served with a Notice of Intention to Abate Public Nuisance and Notice of Public Hearing on May 5, 2023, and that said notice was properly posted at 713 Cottage Street on May 5, 2023, pursuant to City of Susanville Municipal Code section 8.32.090.
5. The condition of the property located at 713 Cottage Street is a public nuisance as defined by City of Susanville Municipal Code section 8.32.050.

ORDERS

The Hearing Board orders the following.

1. The Tezak Family Trust must abate the public nuisance at 713 Cottage Street by doing the following at 713 Cottage Street:
 - a. Removal of all conditions constituting a zoning violation within the City of Susanville
 - b. Removing and relocating all residents within any structure upon 713 Cottage that is in violation of the Uniform Housing Code.
 - c. All debris, garbage, junk, trash, rubbish, and miscellaneous items shall be removed from public view.
 - d. All vehicles that are within the parameters of the abandoned vehicle abatement ordinance, to wit, are within an abandoned, dismantled, junked, inoperative, or wrecked conditions shall be removed from the property and stored in accordance with all laws of the State of California and the Susanville Municipal Code.
 - e. All property maintenance violations shall be addressed.
 - i. Repair broken windows
 - ii. Bring all unpermitted work into compliance.
 - iii. Parking lot to be neat and presentable.
 - iv. Clean up the accumulated grease, oil, and other residues from the pavement.
2. The Tezak Family Trust must fully abate and remove conditions contributing to the declaration of a public nuisance no later than Monday June 26, 2023 by 8:00 a.m.
3. The Tezak Family Trust must obtain any and all required permits that may be required to abate public nuisance at 713 Cottage Street.
4. After The Tezak Family Trust abates the nuisance at 713 Cottage Street, the Tezak Family Trust must contact the Building and Planning Department at the City of Susanville and request that an official at the City of Susanville inspect the condition of the property and buildings at 713 Cottage Street to determine if the public nuisance was abated.

- 1 5. If the Tezak Family Trust does not abate the public nuisance at 713 Cottage Street by 8:00
2 a.m. on June 26, 2023, the City of Susanville may have the property at 713 Cottage Street
3 abated.
- 4 6. The Tezak Family Trust shall have no further violations of the Susanville Municipal Code
5 or violations of any statute or regulation for the State of California while under the
6 jurisdiction of the Hearing Board and subject to this nuisance abatement order.
- 7 7. If the Tezak Family Trust does not abate the public nuisance at 713 Cottage Street by 8:00
8 a.m. on June 26, 2023, the Susanville Planning Commission orders an administrative
9 penalty pursuant to section 8.32.290 of the City of Susanville Municipal Code shall be
10 assessed as followed:
 - 11 a. Assessment of \$500.00 per day until the nuisance abatement order has been
12 complied with.
 - 13 b. Effective from June 26, 2023.
 - 14 c. The maximum administrative penalty shall be \$10,000, exclusive of administrative
15 costs and interest.
- 16 8. All costs of the City's abatement efforts, including the abatement work and administrative
17 time to investigate and to hear and effect the abatement shall be charged against the Tezak
18 Family Trust as a personal debt or may be assessed upon 713 Cottage Street and will
19 constitute a lien or special assessment upon the property until paid.
- 20 9. This Order shall be effective for one year after issuance. During such period, the hearing
21 board shall retain jurisdiction over the conditions of the building, structure or property
22 which constituted the nuisance established by this Order, as well as the abatement
23 thereof, to ensure that the nuisance does not reoccur and that the building, structure, or
24 property is maintained in such a manner so as not to create a nuisance. If, during this one-
25 year period, any enforcement official determines that the same or another nuisance, as
26 defined by this chapter exists with respect to the building, structure or property, he or she
27 may give notice to abate the nuisance as provided for in section 8.32.060 of the City of
28 Susanville Municipal Code. If the Tezak Family Trust does not abate the nuisance at any

1 time within the abatement period, the City may proceed with the abatement itself under
2 the provisions of section 8.32.190 of the City of Susanville Municipal Code without further
3 action of the hearing board. The City of Susanville may also recover all of its abatement
4 effort costs as provided for in the City of Susanville Municipal Code.

5 APPEAL

6 Whenever any person is aggrieved by this final order of the Hearing Board, this person may appeal
7 the Nuisance Abatement Order to the City Council of the City of Susanville. To request an
8 appeal, the person aggrieved by this order shall notify the City Clerk, in writing, within twenty-
9 one (21) days of the issuance of this order of their request to have this appeal heard by the City
10 Council. The aggrieved person shall deposit two hundred dollars (\$200.00) to the City of
11 Susanville. The appellant shall be responsible for all costs of such appeal which exceeds the
12 deposited amount. If the aggrieved person requests an appeal hearing, this hearing shall be
13 granted within forty-five (45) days of the filing appeal at a regularly scheduled meeting of the
14 Susanville City Council. The appellant shall be notified no less than ten (10) days of the
15 scheduled appeal hearing.

16
17 The foregoing order was adopted at a regular meeting of the Planning Commission of the city of
18 Susanville, held on the 13th day of June 2023.

19
20 Dated: June 13, 2023

/s/ Melanie Westbrook

21 Melanie Westbrook

22 Susanville Planning Commission

23
24 I, Cody Loflin, Code Enforcement Officer for the City of Susanville do attest that this copy of a
25 Nuisance Abatement Order issued by the Susanville Planning Commission and memorialized by
26 **Resolution of the Susanville Planning Commission No. 23-1146**, is a true and accurate copy of
27 the order to which was signed by Melanie Westbrook, Chairperson of the Susanville Planning
28 Commission. I declare under penalty of perjury that the foregoing is true and correct.

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Dated: September 20, 2023

Cody Loflin
Cody Loflin, Code Enforcement Officer
City of Susanville

AGENDA ITEM NO. 4.C
Public Hearing

SUSANVILLE PLANNING COMMISSION AGENDA ITEM

Submitted By: Cody Loflin, Building & Planning Division

Action Date: September 26, 2023

SUBJECT: Consider Resolution No. 23-1166 regarding the assessment of administrative civil penalties against the property owner at 811 Cottage Street for noncompliance with Nuisance Abatement Order NA2023-002.

PRESENTED BY: Cody Loflin, Code Enforcement Officer

SUMMARY: On June 13, 2023, the Susanville Planning Commission, acting in the capacity of the Administrative Nuisance Abatement Hearing Board as defined in the Susanville Municipal Code § 8.32.030(A) and acting under authorization of Susanville Municipal Code §§ 8.32.120 – 8.32.130, upheld the City of Susanville’s declaration of nuisance conditions for real property at 811 Cottage Street. The issuance of a Nuisance Abatement Order was approved by the Planning Commission which initiated a one-year jurisdictional period as authorized by Susanville Municipal Code § 8.32.140 to which the Planning Commission has the authority to make decisions regarding the public nuisance being fostered by the property.

As a condition of the Nuisance Abatement Order, the Planning Commission ordered that administrative civil penalties may be assessed for non-compliance with the nuisance abatement order. The Planning Commission approved the intention to assess administrative civil penalties as ordered in the nuisance abatement order in the amount of \$500.00 per day, effective from June 26, 2023, up to a maximum of \$10,000 for continued violations of the nuisance abatement order. The authority to assess administrative civil penalties by the Planning Commission is authorized by Susanville Municipal Code § 8.32.290.

8.32.290 SMC allows for the Planning Commission to impose penalties upon persons responsible for creating, maintain or fostering a public nuisance in an amount not to exceed a maximum of five hundred dollars per day for each day that the public nuisance occurs and shall not exceed ten thousand dollars.

In determining the amount of the penalty, the Planning Commission

may take any or all of the following factors into consideration:

- The period of time during which the public nuisance occurred.
- The nature, frequency, and recurrence of the public nuisance.
- The ease with which the public nuisance could have been abated.
- Good faith efforts made to deter the public nuisance or ameliorate its effects.
- The economic impact of the penalty upon person responsible for payment.
- The impact of the public nuisance on the community.
- Such other factors as just may require.

The City of Susanville through all departments of the city have incurred costs associated with this subject property. Numerous calls to the police department and fire department have been made for various public safety issues that have expended resources allocated to these departments, additionally, the effect of the public works department and administrative services department have been felt with the amount of work created through enforcement efforts to bring the property into compliance with the Susanville Municipal Code and to abate the public nuisance that has been created.

The Planning Commission will conduct a public hearing into the matter to take into consideration the administrative civil penalties that were ordered in the nuisance abatement order, consider testimony from the city, responsible party, and from the public, and take into consideration the factors outlined within the Susanville Municipal Code to make a formal declaration and order to the assessment of the penalties.

As this is a formal decision of the Susanville Planning Commission, the aggrieved party to any order has the right to appeal the Planning Commission's decision to the Susanville City Council as authorized by § 8.32.160 SMC. A written appeal to the city council shall be received within 21 days of the decision by the Planning Commission. An appeal hearing deposit of \$200.00 is required for the appeal to be scheduled and heard by the Susanville City Council (§ 8.32.160 SMC).

FISCAL IMPACT:

If the Susanville Planning Commission orders the assessment of administrative civil penalties in the amount of \$500.00 per day effective from June 26, 2023, the 93 days of noncompliance with the nuisance abatement order will exceed the \$10,000.00 maximum as authorized by § 8.32.290 SMC. The fiscal impact would be an increase in revenues in the amount of \$10,000.00 to the General Fund.

ACTION REQUESTED:

Motion to approve Resolution No. 23-1166 approving the assessment of administrative civil penalties against the property owner at 811 Cottage Street for noncompliance with Nuisance Abatement Order NA2023-002.

ATTACHMENTS:

[PC 23-1166 Resolution.doc](#)

[Nuisance_Abatement_Order_After_Hearing_NA2023-002_811_Cottage.pdf](#)

RESOLUTION NO. 23-1166
A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SUSANVILLE
APPROVING ASSESSMENT OF ADMINISTRATIVE CIVIL PENALTIES AGAINST THE
PROPERTY OWNER AT 811 COTTAGE STREET (APN 103-323-015-000) FOR
NONCOMPLIANCE WITH NUISANCE ABATEMENT ORDER NA2023-002

WHEREAS, California Government Code Sections 36901, 38771, and 38773.5(a) authorizes the City of Susanville to enact ordinances declaring what constitutes a nuisance, the procedures for abating nuisance conditions, providing for the recovery of costs and attorney fees to abate the nuisance, and providing for the collection of civil penalties; and

WHEREAS, the Susanville City Council adopted Ordinance 17-1011 that declares conditions of real property that constitute a public nuisance and provides for the abatement of said nuisance conditions; and

WHEREAS, a public nuisance has been declared upon the property of 811 Cottage Street and attempts to bring the property into voluntary compliance have been futile; and

WHEREAS, the City of Susanville intends to have the property abated to remove the nuisance conditions and therefore invoke Chapter 8.32 of the Susanville Municipal Code and request the Susanville Planning Commission issue a nuisance abatement order to compel the property owners to abate and remove nuisance conditions or the city of Susanville shall be authorized to perform the necessary abatement work; and

WHEREAS, the Susanville Planning Commission approved the issuance of a Nuisance Abatement Order NA2023-002 at a duly noticed public hearing on June 13, 2023 which ordered William M. Tezak, President of Caribbean Investments, Inc., to abate nuisance conditions at 811 Cottage Street (APN 103-323-015-000); and

WHEREAS, the condition of real property remains a public nuisance and in violation of nuisance abatement order NA2023-002; and

WHEREAS, the assessment of administrative civil penalties is authorized by Section 8.32.290 of the Susanville Municipal Code which provides for a maximum daily penalty and a maximum total penalty when considering defined factors relating to the facts presented to the Susanville Planning Commission; and

WHEREAS, the assessment of civil penalties relating to a nuisance abatement order does not involved any commitment to any specific project which may result in a potentially significant physical impact on the environment and is not a project under the California Environmental Quality Act (CEQA) pursuant to Section 15378 of the CEQA Guidelines.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Susanville hereby approves the assessment of administrative civil penalties for violations of nuisance abatement order NA2023-002 as follows:

- A. Five hundred dollars (\$500.00) for each day the public nuisance existed on property located at 811 Cottage Street.
- B. Effective date of the assessment of administrative civil penalties shall be June 26, 2023.

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BE IT FURTHER RESOLVED that the Planning Commission of the City of Susanville hereby orders the maximum administrative civil penalty in the amount of ten thousand dollars (\$10,000) for 93 total days of noncompliance with nuisance abatement order NA2023-002 and orders the payment of said administrative civil penalty due by Friday October 27, 2023 by 4:30 p.m.

APPROVED: _____
Melanie Westbrook, Chairperson

ATTEST: _____
Heidi Whitlock, City Clerk

The foregoing resolution was adopted at a regular meeting of the Planning Commission of the City of Susanville, held on the 26th day of September 2023, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Heidi Whitlock, City Clerk

1 Margaret E. Long SBN: 227176
2 City Attorney for City of Susanville
3 66 North Lassen Street
4 Susanville, CA 96130
5 Phone: 530-252-5100
6 attorney@cityofsusanville.org

7 Attorney for: Petitioner/City of Susanville

8 PLANNING COMMISSION
9 CITY OF SUSANVILLE

10 City of Susanville,
11 Petitioner

12 v

13 William M. Tezak, President of
14 Caribbean Investments, Inc.
Respondent

Nuisance Abatement Order
NA2023-002

Hearing: June 13, 2023, at 5:30 p.m. in
Council Chambers
66 North Lassen Street
Susanville, CA 96130

15 1. This proceeding was heard:

- 16 a. On June 13, 2023, at 5:30 pm in the Council Chambers at 66 North Lassen Street,
17 Susanville, CA 96130.
- 18 b. By the Planning Commission of the City of Susanville (also referred to as the
19 Hearing Board or the Board) with the following commissioners of the Planning
20 Commission present: Melanie Westbrook, James Merchant, Rod DeBoer, Wayne
21 Jambois, and Tony Ardito.
- 22 c. Melanie Westbrook presided over the procedure as Chairperson.
- 23 d. This matter was set on a "Notice of Intention to Abate Public Nuisance & Notice
24 of Public Hearing" dated May 5, 2023, and served on Respondent, William M.
25 Tezak, President of Caribbean Investments, Inc., by Certified Mail on May 5, 2023,
26 and posted on the structure at 811 Cottage Street on May 5, 2023.
- 27 e. Present at the hearing where:
- 28

- i. Cody Loflin, Code Enforcement Officer II, Kelly Mumper, City Planner, Ruth McElrath, Permit Technician / Secretary of the Planning Commission, Jolene Arredondo, Assistant to the City Administrator, Erik Edholm, Assistant Director of Public Works, and Robert Godman, Director of Public Works representing the City of Susanville and
- ii. William Tezak and David Williams representing the Respondent.

FINDINGS

The Hearing Board makes the following findings.

1. Pursuant to City of Susanville Municipal Code chapter 8.32.040, “No person may maintain or use property or allow their property to be maintained or used in a manner that creates or fosters the creation of a public nuisance.”
2. William M. Tezak, President of Caribbean Investments, Inc. owns the commercial property and is the responsible party for the property located at 811 Cottage Street.
3. William M. Tezak, President of Caribbean Investments, Inc. was properly served with a Notice of Violation on March 21, 2023 with service pursuant to City of Susanville Municipal Code section 8.32.060.
4. William M. Tezak, President of Caribbean Investments, Inc. was properly served with a Notice of Intention to Abate Public Nuisance and Notice of Public Hearing on May 5, 2023, and that said notice was properly posted at 811 Cottage Street on May 5, 2023, pursuant to City of Susanville Municipal Code section 8.32.090.
5. The condition of the property located at 811 Cottage Street is a public nuisance as defined by City of Susanville Municipal Code section 8.32.050.

ORDERS

The Hearing Board orders the following.

1. William M. Tezak, President of Caribbean Investments, Inc. must abate the public nuisance at 811 Cottage Street by doing the following at 811 Cottage Street:
 - a. Uniform Housing Code Violations:

- 1 i. All items listed within this notice shall be complied with as the State of
2 California has set the minimum housing standards for all people of this
3 State. An inspection is required to verify the reasonable suspicion of the
4 lack of these items. Please contact Code Enforcement staff to set up a
5 reasonable time to inspect. If I do not hear back from you by the end of the
6 compliance deadline, I will assume that consent has not been granted. An
7 inspection warrant pursuant to California Code of Civil Procedures 1822.50
8 – 1822.60 shall be sought from the Lassen County Superior Court.
- 9 ii. The building shall have the required utilities accessible to the building
10 (electrical, water, sewer).
- 11 iii. The building shall have access to hot and cold running water.
- 12 iv. The building shall have adequate heat for all units.
- 13 v. The building shall have adequate access to a kitchen sink, toilet, shower or
14 bath.
- 15 vi. All other building code violations shall be remedied and shall have all
16 permits pulled for their inspection and completion.
- 17 b. Public Nuisances:
- 18 i. Cease and desist the operation of any vehicle dismantling operation or the
19 likes of any vehicle business without first obtaining any occupational
20 license through the State of California, conditional use permits through the
21 City of Susanville, and any business license required by the Susanville
22 Municipal Code.
- 23 ii. Clear all visible junk, trash, debris, household items, furniture, appliances,
24 and car parts from public view.
- 25 iii. All vehicles on property must be licensed and in an operable state.
26 Operable state as defined in the California Vehicle Code.
- 27 iv. All car parts to be removed from view.
- 28

- v. Chicken coop shall be removed from the required setbacks between the shop and the neighboring building.
 - vi. Recommendation of previous building official requested a railing be installed.
 - vii. Poultry cannot be kept within 75-feet from a dwelling.
 - viii. Burning of vegetation shall be permitted and done during acceptable days.
 - ix. Remove items that are on the lands of the Lassen County Arts Council.
- c. Zoning:
- i. Cease and desist the allowance of any resident from residing in the main structure or the accessory structure until all permits have been obtained and the use has been authorized for residential occupancy.
2. William M. Tezak, President of Caribbean Investments, Inc. must fully abate and remove conditions contributing to the declaration of a public nuisance no later than Monday June 26, 2023 by 8:00 a.m.
 3. William M. Tezak, President of Caribbean Investments, Inc. must obtain any and all required permits that may be required to abate public nuisance at 811 Cottage Street.
 4. After William M. Tezak, President of Caribbean Investments, Inc. abates the nuisance at 811 Cottage Street, William M. Tezak, President of Caribbean Investments, Inc. must contact the Building and Planning Department at the City of Susanville and request that an official at the City of Susanville inspect the condition of the property and buildings at 811 Cottage Street to determine if the public nuisance was abated.
 5. If William M. Tezak, President of Caribbean Investments, Inc. does not abate the public nuisance at 811 Cottage Street by 8:00 a.m. on June 26, 2023, the City of Susanville may have the property at 811 Cottage Street abated.
 6. William M. Tezak, President of Caribbean Investments, Inc shall have no further violations of the Susanville Municipal Code or violations of any statute or regulation for the State of California while under the jurisdiction of the Hearing Board and subject to this nuisance abatement order.

- 1 7. If William M. Tezak, President of Caribbean Investments, Inc. does not abate the public
2 nuisance at 811 Cottage Street by 8:00 a.m. on June 26, 2023, the Susanville Planning
3 Commission orders an administrative penalty pursuant to section 8.32.290 of the City of
4 Susanville Municipal Code shall be assessed as followed:
- 5 a. Assessment of \$500.00 per day until the nuisance abatement order has been
6 complied with.
 - 7 b. Effective from June 26, 2023.
 - 8 c. The maximum administrative penalty shall be \$10,000, exclusive of administrative
9 costs and interest.
- 10 8. All costs of the City's abatement efforts, including the abatement work and administrative
11 time to investigate and to hear and effect the abatement shall be charged against William
12 M. Tezak, President of Caribbean Investments, Inc. as a personal debt or may be assessed
13 upon 811 Cottage Street and will constitute a lien or special assessment upon the property
14 until paid.
- 15 9. This Order shall be effective for one year after issuance. During such period, the hearing
16 board shall retain jurisdiction over the conditions of the building, structure or property
17 which constituted the nuisance established by this Order, as well as the abatement
18 thereof, to ensure that the nuisance does not reoccur and that the building, structure, or
19 property is maintained in such a manner so as not to create a nuisance. If, during this one-
20 year period, any enforcement official determines that the same or another nuisance, as
21 defined by this chapter exists with respect to the building, structure or property, he or she
22 may give notice to abate the nuisance as provided for in section 8.32.060 of the City of
23 Susanville Municipal Code. If William M. Tezak, President of Caribbean Investments, Inc.
24 does not abate the nuisance at any time within the abatement period, the City may
25 proceed with the abatement itself under the provisions of section 8.32.190 of the City of
26 Susanville Municipal Code without further action of the hearing board. The City of
27 Susanville may also recover all of its abatement effort costs as provided for in the City of
28 Susanville Municipal Code.

The foregoing order was adopted at a regular meeting of the Planning Commission of the city of Susanville, held on the 13th day of June 2023.

Dated: June 13, 2023

/s/ Melanie Westbrook

Melanie Westbrook

Susanville Planning Commission

I, Cody Loflin, Code Enforcement Officer for the City of Susanville do attest that this copy of a Nuisance Abatement Order issued by the Susanville Planning Commission and memorialized by **Resolution of the Susanville Planning Commission No. 23-1147**, is a true and accurate copy of the order to which was signed by Melanie Westbrook, Chairperson of the Susanville Planning Commission. I declare under penalty of perjury that the foregoing is true and correct.

Dated: September 20, 2023

Cody Loflin

Cody Loflin, Code Enforcement Officer

City of Susanville

AGENDA ITEM NO. 4.D
Public Hearing

SUSANVILLE PLANNING COMMISSION AGENDA ITEM

Submitted By: Cody Loflin, Building & Planning Division

Action Date: September 26, 2023

SUBJECT: Conduct Public Hearing on CE2022-019 and consider Resolution No. 23-1167 approving the issuance of a Nuisance Abatement Order NA2023-007 and ordering the property owner of 335 Grand Avenue to abate nuisance conditions.

PRESENTED BY: Cody Loflin, Code Enforcement Officer

SUMMARY:

The administrative nuisance abatement process is intended to enable the city to respond effectively to public nuisance in the order to maintain and protect the public peace, safety, welfare, and order and to provide security and protection to the community from harms and wrongdoings. The process makes available an alternative remedy to instituting a civil suit to enjoin public nuisances by authorizing the administrative body to impose orders and conditions to abate and halt public nuisances.

The Susanville Planning Commission is defined as the Administrative Nuisance Abatement Hearing Board pursuant to § 8.32.030(A) of the Susanville Municipal Code and shall conduct a public hearing regarding the declaration by the City of Susanville of a public nuisance at 335 Grand Avenue.

The Susanville Planning Commission shall receive, hear, and consider all relevant evidence, objections, protests, and testimony of the responsible party and/or property owner, as well as that of other witnesses, city personnel and interested person relative to the alleged public nuisance and to any proposed abatement measures. The planning commission shall only consider evidence that is relevant to whether the violation or violations occurred and whether the responsible party and/or property owner has caused or maintained the violations. The authority provided to the Susanville Planning Commission relating to the conduct of the public hearing and their determination is defined within Section 8.32.120 and Section 8.32.130 of the Susanville Municipal Code.

The Susanville Planning Commission shall consider all evidence and other matters noted during the hearing and shall determine whether

the alleged public nuisance is in fact in existence. If the planning commission finds that a public nuisance exists and finds cause to abate the nuisance, the planning commission shall order a nuisance abatement order setting forth those finding and ordering the responsible party and/or property owner to abate the nuisance by the means that may be specifically set forth in the order. Additionally, the planning commission is empowered by § 8.32.290 SMC to provide the issuance of administrative civil penalties for noncompliance with the nuisance abatement order.

As this is a formal decision of the Susanville Planning Commission, the aggrieved party to any order has the right to appeal the Planning Commission's decision to the Susanville City Council as authorized by § 8.32.160 SMC. A written appeal to the city council shall be received within 21 days of the decision by the planning commission. An appeal hearing deposit of \$200.00 is required for the appeal to be scheduled and heard by the Susanville City Council (§ 8.32.160 SMC).

FISCAL IMPACT:

None at this time.

ACTION REQUESTED:

Conduct Public Hearing on CE2022-019 and consider Resolution No. 23-1167 approving the issuance of Nuisance Abatement Order NA2023-007 and ordering the property owner of 335 Grand Avenue to abate nuisance conditions.

ATTACHMENTS:

[Staff Report](#)

[PC 23-1167 Resolution.doc](#)

[Draft Order](#)

**CITY OF SUSANVILLE PLANNING COMMISSION
STAFF REPORT
September 26, 2023**

FILE NUMBER	CE#2022-019		
OWNER	Arabella Ausmus PO Box 205 Doyle, California 96109		
REQUEST	Issuance of Nuisance Abatement Order NA2023-007		
ASSESSOR'S PARCEL NO.	105-042-002-000		
PARCEL SIZE	Approximately 6,400 square feet		
STRUCTURE SIZE	Approximately 1,000 square feet		
LOCATION	335 Grand Avenue		
EXISTING ZONING	R-1: Single Family Residential		
SURROUNDING ZONING AND LAND USE	ZONING		LAND USE
	North	R-1 S.F.R.	Residential
	South	R-2 Duplex/Triplex	Residential
	East	R-1 S.F.R.	Residential
	West	R-1 S.F.R.	Residential
GENERAL PLAN DESIGNATION	Single Family		
ENVIRONMENTAL DETERMINATION	In the matter of the approval of a nuisance abatement order and ordering the abatement of nuisance conditions, these actions are the result of a regulatory agency taking enforcement action and would be provided a Class 21 CEQA exemption (15321 CEQA Guidelines) and is an administrative function of the local government that will not result in direct or indirect physical changes in the environment CEQA Guidelines 15378(b)(5), (Public Resource Code Sections 21065 and 21080). No CEQA review is required. CEQA Guidelines 15060(c)(3).		

BACKGROUND:

During the second week in March 2022, City staff started to receive inquiries about the condition of the property located at 335 Grand Avenue. Community members were concerned regarding a dead/diseased tree in the front yard of the residence and well as the copious amounts of trash and debris located in the rear yard. On March 28, 2022, Code Enforcement Case # CE2022-019 was opened and a Notice of Public Nuisance was

issued on the property. The Notice of Public Nuisance declared certain conditions of the property to be a public nuisance pursuant to the Susanville Municipal Code. At this time, Chapter 8.52 was utilized for the declaration of nuisance conditions and requested the property owners abate these conditions.

On May 6, 2022, Code Enforcement was dispatched by the Lassen County Dispatch Center as well as requested by the Susanville Fire Marshal, to the alley adjacent to the subject property regarding an abandoned vehicle blocking access through the alley. The offending vehicle was located and towed pursuant to California Vehicle Code Section 22651(b). At this time, staff contacted a male subject who identified himself as a resident of the subject property. He stated that he was aware of staff from the city of Susanville requesting that the property be cleaned up. He stated that they would be done in a month. Additionally, when confronted about the use of trailers on the property for habitation, this subject advised that they were rehabilitating the inside of the residence and were using the trailers temporarily.

Through the remainder of 2022, the property was observed to improve before descending into noncompliance with the Notice provided by city staff.

In April 2023, renewed community involvement regarding the subject property were initiated and the investigation into the property resumed. Due to case management constraints, this case was not able to be moved forward until mid-July.

In July 2023, a Notice of Violation was issued which affirmed the previous declaration of public nuisance and provided the property owner with a list of violations, actions to correct violations, and the timeline required to abate the nuisance conditions.

On August 11, 2023, a Notice of Intention to Abate and Notice of Public Hearing was issued requiring the property owner to show cause for why a nuisance abatement order should not be issued by the Susanville Planning Commission. No response was received by any interested, responsible party or property owner.

On August 19, 2023, the property was noticed by the Susanville Fire Department regarding Chapter 8.28 of the Susanville Municipal Code regarding a 10-day notice for weed/rubbish abatement.

Due to a conflict with the proposed public hearing, the public hearing was re-*noticed and rescheduled for September 26, 2023.

ANALYSIS:

For the previous year and a half, attempts have been made to seek voluntary compliance with this subject property. Therefore, the City of Susanville seeks the issuance of a nuisance abatement order and further escalation through the nuisance abatement process as outlined in Chapter 8.32 of the Susanville Municipal Code.

The administrative nuisance abatement process is intended to enable the city to respond effectively to public nuisance in the order to maintain and protect the public peace, safety, welfare, and order and to provide security and protection to the community from harms and wrongdoings. The process makes available an alternative remedy to instituting a civil suit to enjoin public nuisances by authorizing the administrative body to impose orders and conditions to abate and halt public nuisances.

The Susanville Planning Commission is defined as the Administrative Nuisance Abatement Hearing Board pursuant to § 8.32.030(A) of the Susanville Municipal Code and shall conduct a public hearing regarding the declaration by the City of Susanville of a public nuisance at 335 Grand Avenue.

The Susanville Planning Commission shall receive, hear, and consider all relevant evidence, objections, protests, and testimony of the responsible party and/or property owner, as well as that of other witnesses, city

personnel and interested person relative to the alleged public nuisance and to any proposed abatement measures. The planning commission shall only consider evidence that is relevant to whether the violation or violations occurred and whether the responsible party and/or property owner has caused or maintained the violations. The authority provided to the Susanville Planning Commission relating to the conduct of the public hearing and their determination is defined within Section 8.32.120 and Section 8.32.130 of the Susanville Municipal Code.

The Susanville Planning Commission shall consider all evidence and other matters noted during the hearing and shall determine whether the alleged public nuisance is in fact in existence. If the planning commission finds that a public nuisance exists and finds cause to abate the nuisance, the planning commission shall order a nuisance abatement order setting forth those finding and ordering the responsible party and/or property owner to abate the nuisance by the means that may be specific set forth in the order. Additionally, the planning commission is empowered by § 8.32.290 SMC to provide the issuance of administrative civil penalties for noncompliance with the nuisance abatement order.

As this is a formal decision of the Susanville Planning Commission, the aggrieved party to any order has the right to appeal the Planning Commission's decision to the Susanville City Council as authorized by § 8.32.160 SMC. A written appeal to the city council shall be received within 21 days of the decision by the planning commission. An appeal hearing deposit of \$200.00 is required for the appeal to be scheduled and heard by the Susanville City Council (§ 8.32.160 SMC).

Susanville Municipal Code § 8.32.040 states that no person may maintain or use property or allow their property to be maintained or used in a manner that creates or fosters the creation of a public nuisance.

Susanville Municipal Code § 8.32.050 further defines conditions that can be declared a public nuisance. The condition of the property in addition to the structure is further declared to be a public nuisance as followed:

8.32.050(B)(1) SMC: A condition of real property or a building, structure, improvement, or tother thing on real property that endangers the public health, safety, or welfare, including, but not limited to, a tree that is subject to disease or inset infestation likely to spread or is structure unsound by reason of old age, disease, fire or other cause.

8.32.050(C)(1) SMC: A condition of real property or building, structure, improvement, or other thing on real property that is unsightly and by reason thereof, contributes to a diminution in the value of surrounding properties when visible from a public right-of-way or alley, including, but not limited to, an accumulation of lumber, unused equipment, or junk visible from a public right-of-way or surrounding properties.

8.32.050(C)(3) SMC: A condition of real property or building, structure, improvement, or other thing on real property that is unsightly and by reason thereof, contributes to a diminution in the value of surrounding properties when visible from a public right-of-way or alley, including, but not limited to dilapidated furniture in yards or on driveways, sidewalks, roofs, or unenclosed balconies or porches.

8.32.050(C)(4) SMC: A condition of real property or building, structure, improvement, or other thing on real property that is unsightly and by reason thereof, contributes to a diminution in the value of surrounding properties when visible from a public right-of-way or alley, including, but not limited to, the maintenance of property in the city in violation of Chapter 8.52 of this code.

8.52.030(A)(3) SMC: Fences or walls which are in a hazardous condition, which are in disrepair, or which hinder free access to public sidewalks or rights-of-way or are maintenance such a condition to have a tendency to degrade the appearance and property values of surrounding property. All fencing, including gates shall be maintained in sound condition free of damage, breaks, or missing structural members. Areas that are leaning, buckling, sagging, or deteriorating shall be repaired or replaced with material compatible with the undamaged

portions of the fence. Where fencing has been painted and it shall be maintained and kept free of chipping, peeling, scaling or missing paint.

8.52.030(B)(2) SMC: Vegetation, trees, landscaping or other plant materials which are subject to any of the following conditions: Dead, decayed, diseased, hazardous or in such a condition that they are or are likely to be injurious to the public health, safety, and welfare, or have a tendency to depreciate the appearance and property values of surrounding properties.

8.52.030(C) SMC: The parking or storage of trailers, campers, boats, vessels, watercraft, recreational vehicles, wood splitters or other similar vehicles and equipment on residentially used property is prohibited as follows:

1. In the front yard area. For the purpose of this section, the "front yard area" shall mean any area of the lot or parcel that is not a paved driveway, that is between the front elevation of the residential building and the front property line of the lot or parcel and that extends the entire width of the lot or parcel.
2. On a paved driveway surface when such parking or storage unreasonably prevents routine and useful access to a required garage parking space or prevents the utilization of the paved driveway area for off-street parking. For purposes of this section, "paved driveway" shall mean a paved strip of land which meets all applicable zoning and building regulations of the city, which provides access from the street to a garage, carport or parking space and which has a single access point. The paved driveway may have two access points only if the driveway is semi-circular in nature. For purposes of this section, "parking space" shall mean a paved area within the front yard area which meets all applicable zoning and building regulations of the city and which is of sufficient size to be used for the express purpose of parking a vehicle.
3. On a paved driveway area when such parking or storage unreasonably obstructs the cross visibility of vehicle or pedestrian traffic and creates an unsafe condition or traffic hazard or when the vehicle or equipment projects over or onto the sidewalk or street.
4. When stored directly on the ground and not upon a currently registered and operable vehicle, trailer or similar device designed to transport such vehicle or equipment.
5. In an abandoned, inoperative, wrecked or dismantled condition.

8.52.030 (E) SMC: Storage or scattering over any portion of the property of any of the following:

1. Debris, rubbish, rubble, construction debris, litter or trash which is not stored in trash receptacles, or which is scattered and blowing onto adjacent public or private property;
2. Abandoned, broken, wrecked, inoperative or discarded household or office furnishings, housewares, appliances, electronic equipment or devices, machines and tools or similar objects of equipment;
3. Abandoned, broken, wrecked, inoperative or discarded personal effects, including, but not limited to, books, magazines, newspapers, papers, knickknacks, ornamental objects, clothing or similar articles;
4. Outdoor storage of usable building materials for more than one hundred eighty (180) days, except where construction or remodeling is occurring under a valid permit or as may be permitted by the zoning classification of the property. The material shall be stored in a neat and orderly manner so as not to create a health or fire hazard;
5. Outdoor storage or scattering of cardboard, newspaper, magazines, scrap metal, tin, wire, aluminum, plastic or glass containers, except within approved refuse or recycling containers or as may be permitted by this code or the zoning classification of the property;
6. Abandoned, inoperative, wrecked, or dismantled vehicles or parts thereof in violation of Chapter 10.22 of this code;
7. Outdoor storage or scattering of materials, equipment or other items on residentially used property, which is not typically associated with such use, which is inconsistent with the zoning classification of the property and which creates a fire hazard or health hazard or which is otherwise injurious or potentially injurious to the public health, safety and welfare;
8. Excessive accumulation of animal waste or the presence of any animal carcass.

8.52.030 (M) SMC: Maintenance of buildings, structures or premises in such condition as to be detrimental to the public health, safety or general welfare or in such manner as to constitute a public nuisance as defined by Civil Code 3480 or other applicable law.

Chapter 8.32 of the Susanville Municipal Code outlines the process relating to the administrative abatement of public nuisance within the City of Susanville. The Planning Commission of the City of Susanville is tasked as the hearing body and may issue an Abatement Order directing the abatement of the property and to the assessment of civil penalties for failure to abate public nuisance as prescribed within this public hearing.

8.32.050(C)(5) SMC: A condition of real property or building, structure, improvement, or other thing on real property that is unsightly and by reason thereof, contributes to a diminution in the value of surrounding properties when visible from a public right-of-way or alley, including, but not limited to the outside storage of abandoned vehicles and vehicle parts as defined in Chapter 10.22 of the code.

Section 15.16.020 makes it unlawful and a public nuisance for any person to establish, keep, or maintain any recreational vehicle or tent trailer for occupancy as living quarters on any public road or private property other than in a legally established recreational vehicle park operated under permits from the state and the city.

Section 8.28.030 states that it is unlawful for the owner, agent, lessee, or other person having charge or control of any piece or parcel of land within the city to allow weeds or rubbish to grow or to remain thereon, or upon the street or sidewalk in front of such piece of parcel of land.

RECOMMENDATION:

Motion to Approve the issuance of a Nuisance Abatement Order NA2023-007 directing the property owners to abate all public nuisances upon the property prior to a date specified by the Planning Commission.

ATTACHMENTS:

A presentation will be provided to the Susanville Planning Commission with copies available to the public and commissioners at the time of the meeting.

RESOLUTION NO. 23-1167
A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SUSANVILLE
APPROVING THE ISSUANCE OF A NUISANCE ABATEMENT ORDER NA2023-007 AND
ORDERING THE PROPERTY OWNER OF 335 GRAND AVENUE (APN 105-042-002-000)
TO ABATE THE PROPERTY OF NUISANCE CONDITIONS

WHEREAS, California Government Code Sections 36901, 38771, and 38773.5(a) authorizes the City of Susanville to enact ordinances declaring what constitutes a nuisance, the procedures for abating nuisance conditions, providing for the recovery of costs and attorney fees to abate the nuisance, and providing for the collection of civil penalties; and

WHEREAS, the Susanville City Council adopted Ordinance 17-1011 that declares conditions of real property that constitute a public nuisance and provides for the abatement of said nuisance conditions; and

WHEREAS, city staff has declared a public nuisance existing upon the property of 335 Grand Avenue (APN 105-042-002-000); and

WHEREAS, the City of Susanville has not achieved voluntary compliance from the property owner and therefore invoke Chapter 8.32 of the Susanville Municipal Code and request the Susanville Planning Commission issue a nuisance abatement order to compel the property owners to abate and remove nuisance conditions or the city of Susanville shall be authorized to perform the necessary abatement work; and

WHEREAS, the issuance of a nuisance abatement order and the ordering of nuisance conditions are the result of a regulatory agency taking enforcement action to clear violations constituting a public nuisance which is consistent with a Class 21 CEQA exemption (CEQA Guidelines 15321), and as an administrative function of the local government that will not result in direct or indirect physical changes in the environment (CEQA Guidelines 15378(b)(5) and therefore is not a project pursuant to California Public Resource Code Sections 21065 and 21080. No CEQA review is required (CEQA Guidelines 15060(c)(3)).

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Susanville hereby approves issuance of nuisance abatement order NA2023-007 and orders the property owners of 335 Grand Avenue (APN 105-042-002-000) abate conditions of real property constituting a public nuisance by 8:00 a.m. on Tuesday October 10, 2023.

APPROVED: _____
Melanie Westbrook, Chairperson

ATTEST: _____
Heidi Whitlock, City Clerk

The foregoing resolution was adopted at a regular meeting of the Planning Commission of the City of Susanville, held on the 26th day of September 2023, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

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Heidi Whitlock, City Clerk

1 Margret E. Long SBN: 227176
2 City Attorney for City of Susanville
3 66 North Lassen Street
4 Susanville, CA 96130
5 Phone: 530-252-5100
6 attorney@cityofsusanville.org

7 Attorney for: Petitioner/City of Susanville

8 PLANNING COMMISSION
9 CITY OF SUSANVILLE

10 City of Susanville,

11 Petitioner

12 v

13 Respondent

14 Nuisance Abatement Order
15 NA2023-007

16 Hearing: September 26, 2023, at 5:30 p.m. in
17 Council Chambers
18 66 North Lassen Street
19 Susanville, CA 96130

20 1. This proceeding was heard:

- 21 a. On September 26, 2023, at 5:30 pm in the Council Chambers at 66 North Lassen
22 Street, Susanville, CA 96130.
- 23 b. By the Planning Commission of the City of Susanville (also referred to as the
24 Hearing Board or the Board) with the following commissioners of the Planning
25 Commission present:
- 26 c. Melanie Westbrook presided over the procedure as Chairperson.
- 27 d. This matter was set on a "Notice of Intention to Abate Public Nuisance & Notice
28 of Public Hearing" dated August 11, 2023, and served on Respondent, by Certified
Mail on August 11, 2023, and posted on the structure at 335 Grand Avenue on
August 11, 2023.
- e. Present at the hearing where:

- i. Cody Loflin, Code Enforcement Officer II, Kelly Mumper, City Planner, and Ruth McElrath, Permit Technician / Secretary of the Planning Commission, representing the City of Susanville and
- ii. Respondent

FINDINGS

The Hearing Board makes the following findings.

1. Pursuant to City of Susanville Municipal Code chapter 8.32.040, "No person may maintain or use property or allow their property to be maintained or used in a manner that creates or fosters the creation of a public nuisance."
2. RESPONDENT owns the residential property and is the responsible party for the property located at 335 Grand Avenue.
3. RESPONDENT was properly served with a Notice of Violation on April 26, 2023 with service pursuant to City of Susanville Municipal Code section 8.32.060.
4. RESPONDENT was properly served with a Notice of Intention to Abate Public Nuisance and Notice of Public Hearing on May 8, 2023, and that said notice was properly posted at 335 Grand Avenue on May 8, 2023, pursuant to City of Susanville Municipal Code section 8.32.090.
5. The condition of the property located at 335 Grand Avenue is a public nuisance as defined by City of Susanville Municipal Code section 8.32.050.

Orders

The Hearing Board orders the following.

1. RESPONDENT must abate the public nuisance at 335 Grand Avenue by doing the following at 335 Grand Avenue:
 - a. Removal of the dead/diseased tree from the front yard of the property. This tree may require a Tree Permit through the Public Works Department as required by Chapter 12.36.
 - b. Removal of any vehicle that is in an abandoned, dismantled, junked, inoperative, inoperable, wrecked condition and any vehicle parts of any vehicle from the

- 1 property. The removal of said vehicles and vehicle parts shall be in accordance
2 with state law.
- 3 c. All debris, junk, rubbish, trash, waste, and any household appliance, furnishing,
4 item stored outdoors shall be removed from public view.
- 5 d. All overgrown vegetation or weeds shall be removed from the property.
- 6 e. All persons residing out of recreational vehicles, trailers, or tent trailers shall cease
7 immediately and shall said vehicles shall be removed from the property.
- 8 f. All property maintenance concerns addressed through Chapter 8.52 shall be done
9 to satisfaction of the City of Susanville.
- 10 2. RESPONDENT must fully abate and remove conditions contributing to the declaration of
11 a public nuisance no later than Tuesday October 10, 2023 by 8:00 a.m.
- 12 3. RESPONDENT must obtain any and all required permits that may be required to abate
13 public nuisance at 335 Grand Avenue.
- 14 4. After RESPONDENT abates the nuisance at 335 Grand Avenue, RESPONDENT must
15 contact the Building and Planning Division at the City of Susanville and request that an
16 official at the City of Susanville inspect the condition of the property and buildings at 335
17 Grand Avenue to determine if the public nuisance was abated.
- 18 5. If RESPONDENT does not abate the public nuisance at 335 Grand Avenue by 8:00 a.m. on
19 October 10, 2023, the City of Susanville may have the property at 335 Grand Avenue
20 abated.
- 21 6. If RESPONDENT does not abate the public nuisance at 335 Grand Avenue by 8:00 a.m. on
22 October 10, 2023, the Susanville Planning Commission orders an administrative penalty
23 pursuant to section 8.32.290 of the City of Susanville Municipal Code shall be assessed as
24 followed:
- 25 a. Assessment of \$100.00 per day until the nuisance abatement order has been
26 complied with.
- 27 b. Effective from October 10, 2023.
- 28

- 1 c. The maximum administrative penalty shall be \$10,000, exclusive of administrative
2 costs and interest.
- 3 7. All costs of the City's abatement efforts, including the abatement work and administrative
4 time to investigate and to hear and effect the abatement shall be charged against
5 RESPONDENT as a personal debt or may be assessed upon 335 Grand Avenue and will
6 constitute a lien or special assessment upon the property until paid.
- 7 8. This Order shall be effective for one year after issuance. During such period, the hearing
8 board shall retain jurisdiction over the conditions of the building, structure or property
9 which constituted the nuisance established by this Order, as well as the abatement
10 thereof, to ensure that the nuisance does not reoccur and that the building, structure, or
11 property is maintained in such a manner so as not to create a nuisance. If, during this one-
12 year period, any enforcement official determines that the same or another nuisance, as
13 defined by this chapter exists with respect to the building, structure or property, he or she
14 may give notice to abate the nuisance as provided for in section 8.32.060 of the City of
15 Susanville Municipal Code. If RESPONDENT does not abate the nuisance at any time
16 within the abatement period, the City may proceed with the abatement itself under the
17 provisions of section 8.32.190 of the City of Susanville Municipal Code without further
18 action of the hearing board. The City of Susanville may also recover all of its abatement
19 effort costs as provided for in the City of Susanville Municipal Code.

20
21 The foregoing order was adopted at a regular meeting of the Planning Commission of the city of
22 Susanville, held on the 26th day of September 2023.

23
24 Dated: _____

25 _____
26 Melanie Westbrook

27 Susanville Planning Commission
28