



Department: Community Development
Cost Center: 4006
For Agenda of: 7/2/2024
Placement: Public Hearing
Estimated Time: 20 Minutes

FROM: Timmi Tway, Community Development Director
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SUBJECT: PUBLIC HEARING TO DETERMINE EXISTENCE OF A PUBLIC NUISANCE AT 205 CASA STREET AND 1067 MURRAY AVENUE AND ORDER ABATEMENT THEREOF

RECOMMENDATION

Adopt a Draft Resolution entitled, "A Resolution of the City Council of the City of San Luis Obispo, California, declaring that the property at 205 Casa Street and 1067 Murray Avenue constitutes a public nuisance, and ordering abatement of same."

POLICY CONTEXT

The Code Enforcement Division is charged with promoting health and safety within the City of San Luis Obispo through various enforcement methodologies. In general, the procedures are designed to gain compliance at the lowest enforcement level possible; however, enforcement may escalate when necessary. San Luis Obispo Municipal Code (SLOMC) Section 8.24 "Nuisance Abatement" sets forth a process to address public nuisances identified within the city to protect public peace, health, safety and general welfare. SLOMC 8.24 clearly designates scenarios in which a public nuisance exists and outlines the steps required for declaring a nuisance and abatement by the city.

The Community Development Director is granted authority to take action to address health and safety violations in the City, including abatement of nuisance conditions (SLOMC 1.24.050). This authority is often delegated to the Deputy Director/Chief Building Official to carry out such relevant duties. SLOMC 1.24 authorizes the City to issue Administrative Citations for code violations and outlines the policies and procedures regarding escalating code enforcement action.

REPORT-IN-BRIEF

Code Enforcement staff has documented the property at 205 Casa Street and 1067 Murray to be vacant, in a state of disrepair, and largely unmaintained since January 2022. The lack of maintenance and control from the property owner has led to over 80 calls for service to the Police Department since 2018, as well as recent Code Enforcement actions

Item 7b

related to the state of the property. Since January 2022 the City of San Luis Obispo's Code Enforcement Division has monitored the decline of the property maintenance and the structures on site while maintaining continued communication with the property owner. While minimal efforts to clean up portions of the property were completed by the property owner, the overall substandard conditions have been allowed to continue for over thirty months. The lack of compliance and condition of the property resulted in the issuance of fines totaling \$48,400¹ and rendering it necessary for the issuance of an order for the structure to be vacated and secured.

In November of 2023, the Chief Building Official (CBO) determined the conditions of the property presented an unmitigated, imminent danger to the life and health of entrants to the structure and surrounding neighbors. As a result of the imminent danger associated with this structure, the CBO authorized, through contracted services, the installation of temporary safeguards including disconnection of electrical services and physical boarding of all entry points in compliance with the Boarding Standards found in Appendix A of the International Property Maintenance Code (IPMC) to prevent harm caused by further entry upon the dangerous and unsecured property.

While the structure is currently secured, it is recommended that the property be declared a public nuisance as defined in SLOMC 8.24.020 due to the overgrown vegetation, the accumulation of junk debris from dumping, and the substandard and structural deficiencies on the exterior and interior of the property.

The lack of compliance with cited codes and maintenance of the property has led staff to request that Council review the history and facts of the case in order to determine if a public nuisance exists at this location. The declaration of a public nuisance will allow a final timeframe in which the property owner may address the violations on site and will ultimately give staff the authority to remediate any remaining violations at the end of the given timeframe.

DISCUSSION

Background

SLOMC section 8.24.020 describes the scenarios that constitute a public nuisance which, at the discretion of the city, may be abated in accordance with the nuisance abatement process. These scenarios are as follows:

- A. Any structure, as defined in the Building Code, which exists, or which is maintained or used upon any premises in violation of any requirement or prohibition of any law, ordinance or permit, including, without limitation, requirements or prohibitions related to location, construction, condition, maintenance, use, or time period limitation.

¹ If this sum remains unpaid, the City's options are: refer these unpaid fines to a collections agency; file a civil lawsuit and record the judgment as a lien against the property; or, should the City pursue a receivership, ask the Court to disburse this sum from the proceeds of a receivership sale.

Item 7b

- B. Any premises upon which there exists any condition, thing or use in violation of any requirement or prohibition of any law, ordinance or permit related to the condition, maintenance or use of the premises.
- C. Any unlawful encroachment which obstructs or interferes with the free passage or use by the public of any public sidewalk, street, alley or right-of-way.
- D. The occurrence of more than two loud or unruly assemblages in any sixty-day period that threatens the public peace, health, safety or general welfare and requires a police response to control the threat to the public peace, health, safety, or general welfare. The determination of a public nuisance under this subsection shall expire eighteen months after the date of the resolution ordering abatement as set forth in Section 8.24.110 of this chapter.
- E. As applied to this chapter, the determination of a “response” will be when the police department responds to a location, observes a violation of applicable state or municipal violations, and the tenant is issued a disturbance advisement card, a citation, or is arrested for the applicable violation.
- F. Anything constituting a public nuisance as specifically defined or declared by any other law or ordinance.

Process for Abatement of a Public Nuisance

The process for abatement of a public nuisance involves three City Council actions. The first step is the adoption of a resolution by Council declaring that a nuisance may exist at a given parcel (SLOMC 8.24.040.) In this case, the City Council adopted this initial Resolution at the May 21, 2024, City Council meeting. Notification of the public hearing was posted on the premises on and mailed to the owner on June 6, 2024, in compliance with SLOMC sections 8.24.050-8.24.060 (owner does not live within City limits; SLOMC 8.24.060(B).) Proof of posting and service are included as Attachment O.

The second Council action occurs during the public hearing, for which this report is being prepared. During this hearing, City staff are to present evidence to the Council regarding the existence of a public nuisance. Staff also presents the cost associated with potential abatement of the declared nuisance. The property owner and any other witnesses or interested parties will also have the opportunity to present any statements or evidence to Council during the public hearing. (SLOMC 8.24.080.) If Council finds that a nuisance exists and there is sufficient cause to require abatement of the nuisance, the property owner will be given 30 days, or such other time limit as Council may specify, to remediate the identified violations. (SLOMC 8.24.090.) If the property owner fails to remediate the violations by the time specified in the Resolution declaring the property a public nuisance, the City is authorized to abate the nuisance conditions. (see SLOMC 8.24.100-8.24.120.) Additionally, a certification of the outstanding nuisance will be recorded against the property with the Office of the County Clerk Recorder (SLOMC 8.24.110.)

The third Council action will need to occur only if staff remediates the violations. In this case, all costs associated with an abatement performed by the City will be accounted for and brought back to Council for confirmation. (SLOMC 8.24.130-140.)

Item 7b

The property owner shall be personally liable to the City for the abatement costs confirmed by the resolution of Council and, if left unpaid, the abatement costs shall constitute a special assessment against the property, and upon recordation in the office of the County Recorder of a notice of lien, shall constitute a lien on the property for the amount of such assessment. (SLOMC 8.24.150.)

Basis of Staff's Recommendation

The following information is provided so Council may consider, based on staff's recommendation, whether to declare that a nuisance exists at 205 Casa Street/1067 Murray Avenue, pursuant to SLOMC 8.24.040.

Site description

The site is a rectangular lot located at the southwest corner of the Casa Street and Murray Avenue intersection, Parcel # 001-031-016 consisting of a duplex with addresses 205 Casa Street & 1067 Murray Avenue. It is 102 feet deep and 60 feet wide, comprising of approximately 6,120 square feet. Presently the lot is zoned Office (O) and is developed with a single-story residence facing Murray Avenue and two-story residence with attached two car garage facing Casa Street. County assessor records show the owner to be D. Ryan who has come to be known as Diller Ryan. The GIS division prepared the following map that outlines the parcel for reference:



Enforcement Timeline and Action

Code Enforcement Staff first received an investigation request regarding the subject property in January of 2022. The reporting party raised concerns regarding an accumulation of trash and debris as well as transient activity on the property. Initial inspection of the property found a vacant and abandoned property with a moderate accumulation of debris visible from the public right of way. Damage to the exterior doors, stairway, handrails, windows, and siding was also observed from the public right of way. It appeared that some doorways were inadequately boarded as they had been broken open giving way to allow unauthorized entry into the structure (Attachment B). No action was taken at this time due to staffing changes within the Code Enforcement Division.

A follow up inspection occurred in March of 2022 when the case was reassigned to a Code Enforcement Officer. The Officer found the property in the same conditions as previously inspected (Attachment C). Code Enforcement staff issued a Notice of Violation citing violations of the International Property Maintenance Code for maintenance of vacant structures and premises, accumulation of rubbish, and damage to exterior walls, doors and stairway elements (Attachment D).

A follow up inspection in June of 2022 found the conditions of the property had declined including evidence that the structures was being utilized by unauthorized entrants and compromised exterior entry points such as broken and opened windows and doors (Attachment E). During the month of June, multiple inspections of the property confirmed continuing violations resulting in three citations totaling \$6,400 in fines (Attachment F). On June 23, 2022, the property owner was notified via a letter that daily citations would begin to accrue.

On June 27, 2022, the property owner, Diller Ryan, made contact via phone with code enforcement staff for the first time. Mr. Ryan stated that he was having trouble preventing transients from entering the property and structures. He advised that he work toward vegetation and trash removal as well as boarding of the structure.

During the months of July 2022 though November 2022, the property owner worked on clearing vegetation and removing accumulated debris. He remained in contact with the assigned code enforcement officer and ultimately corrected the violations related to overgrown vegetation and accumulation of debris and trash (Attachment G). Violations related to damaged siding, doors, windows and stairway had yet to be addressed.

Staff did not observe any signs of further abatement or maintenance of the property after November 2022 during the re-inspection of the property in March of 2023. The reinspection showed indications of continued unauthorized entrants utilizing the premises and further deteriorating conditions. The garage doors had been compromised, windows were broken, door hardware was missing, and new accumulation of debris was observed. Mold and missing drywall were visible from the public right of way on the interior ceiling area of the second story at 205 Casa Street. The vegetation was once again overgrown (Attachment H).

Item 7b

Between March and August of 2023, Code Enforcement staff documented the continued decline of property conditions (Attachment I), which resulted in the issuance of administrative citations assessing daily fines totaling \$42,000 (Attachment J). Prior to citation issuance, staff made contact with the property owner, who expressed frustrations with trespassing individuals. He advised that he would address the overgrown vegetation. The property owner was verbally advised of the potential abatement of this property if conditions were not addressed.

Growing concerns regarding the circumstances at the property sparked staff to formally request an interior inspection of the structures on October 17, 2023, to evaluate the interior conditions of the structure (Attachment K); however, no response was received regarding this request. Staff attempted to contact Mr. Ryan through multiple channels that include telephone calls and mailings to his P.O. Box

In October of 2023, San Luis Obispo Police performed a parolee check at 1067 Murray Avenue (which was listed by the parolee as their current address). Police Staff reported that numerous individuals were observed within the residence. These individuals were utilizing buckets and plastic jugs for human waste elimination and causing an accumulation of debris on the interior of the structure, which made egress paths difficult to navigate. As a result of the reported interior conditions and the continued exterior conditions, the structure was posted as unsafe to occupy. The second story unit at 205 Casa Street was also posted as unsafe to occupy due to multiple broken windows, an unsafe entry stairway and unsecured front door.

Following posting of the property, a Notice was issued to the property owner on October 26, 2023, ordering the vacation and boarding of the entire structure, which includes the 205 Casa unit, and 1067 Murray unit (Attachment L). An inspection was also completed on this date to document the condition of the property (Attachment M). No progress toward compliance was observed, nor did staff receive contact from the property owner after issuance of this notice.

By November 30, 2023, the Chief Building Official (CBO) and Code Enforcement Officer observed conditions that were determined to be imminent dangers, such as structurally unsound stairs, missing door hardware, collapsed ceilings and electrical hazards. The Chief Building Official concluded that these hazards were all related to the unsecured nature of the structures. The conditions presented an unmitigated, imminent danger to the life and health of entrants to the structure and surrounding neighbors. On December 4, 2023, staff attempted to contact the property owner via phone and a voicemail was left advising that the structures were to be declared dangerous buildings by order of the Chief Building Official and that the structures were to be boarded by the City. As a result of the imminent danger associated with this structure, on December 5, 2023, the CBO authorized, through contracted services, the installation of temporary safeguards including disconnection of electrical services and physical boarding of all entry points in compliance with the Boarding Standards found in Appendix A of the International Property Maintenance Code (IPMC). The Chief Building Official determined this action was necessary to prevent harm caused by further entry upon the dangerous property.

Item 7b

Since boarding of the structures on site in December of 2023, multiple, periodic inspections have verified the continuation of the previously identified unresolved code violations (Attachment N). The emergency action taken to board up the structure has been successful in keeping out unauthorized entrants, and in preventing further declination of the structure. However, the exterior areas of the property remain open to the public and furniture continues to be dumped on site. The overall deteriorated state of the property and continued property maintenance violations meet the criteria for the existence of a public nuisance as described in SLOMC 8.24.020(A)-(B).

Staff has continued to reach out to the property owner and has several phone conversations regarding the state of the property since the property has been secured. Staff provided the property owner a courtesy notification prior to the May 21, 2024, City Council meeting that included authorization to hold the July 2, 2024, public hearing. Mr. Ryan reached out to staff and communicated that he saw an article about his property in the news and communicated that he was motivated to take action. Since May 21, 2024, staff has observed improvements on the property. Some junk and debris have been removed, and the overgrown weeds have been mowed. However, the property is still in need of further remediation due to overgrown vegetation that extends into the public right of way from hedges and trees, and there is still junk and debris visible from the public right of way. As recently as June 6, 2024, Mr. Ryan has refused to meet with staff and take responsibility for the security of the property. The structure remains secured and inaccessible.

Staff's recommendation is to address the continued activities at this location by declaring a public nuisance exists. If the City Council finds that a public nuisance exists, the property owner will be given 30 days, or such other time limit as Council may specify, to remediate the identified violations. If no remediation occurs by the stated deadline, the City Clerk will file with the County Recorder a certificate that the property is a public nuisance, and that the owner has been notified thereof. City staff will coordinate remediation, including removal of all debris and overgrown vegetation and installation of fencing to prevent future trespassing.

While the damaged and deteriorated structural elements and other substandard conditions of the residences should be considered when determining the existence of a public nuisance, remediation of these items are not being recommended as part of the abatement via this nuisance declaration because the costs, which would need to be fronted by the City, are significant and likely could only be recovered through a lien on the property and, if unpaid, foreclosure proceedings. Also, the City is not resourced, either directly or through retained contractors, for remediation of a residential structure. City staff has concurrently begun preparations for the application to the courts for the appointment of a receiver to address the structural deficiencies and substandard condition of the residences. These proposed concurrent processes – nuisance abatement and receivership – are both intended to compel voluntary compliance by the property owner in addressing, respectively, the dangerous exterior and structural conditions of the property, but will allow the City to commence remediation efforts should the property owner continue to decline to take such action themselves.

Estimates of cost for abatement are shown in the Fiscal Impact portion of this report. City staff will keep an accounting of actual abatement costs, which will be submitted to Council for confirmation and assessment against the property at a future Council meeting. (SLOMC 8.24.140-8.24.150.)

Previous Council or Advisory Body Action

Council adopted Resolution 11494 on May 21, 2024, finding that the subject property may constitute a public nuisance, and ordering this public hearing concerning same and abatement thereof.

Public Engagement

The property owner has been notified, by written notice sent via email, first-class mail and certified mail to the property owner’s last known address, and by telephone of the Public Hearing and staff’s recommendation to Council to declare that a public nuisance exists at this property.

Additionally, a legal ad was placed in the local periodical notifying citizens of the public hearing. A certified copy of the resolution and Notice of Public Hearing was posted on the premises and mailed to the property owner as required by Section 8.24.050-8.24.060 of the Municipal Code.

CONCURRENCE

The City Attorney’s Office, Police Department, Fire Department, and Public Works Department concur with staff’s recommendation.

ENVIRONMENTAL REVIEW

The recommended action to declare this property a public nuisance and order abatement is exempt from the California Environmental Quality Act (CEQA) under Section 15321 (enforcement actions by regulatory agencies.) The recommended action to install a perimeter fence and the recommended nuisance abatement measures are exempt from CEQA under Section 15301 (existing facilities) and Section 15601 (no possibility that the activity in question may have a significant effect on the environment.)

FISCAL IMPACT

Budgeted: No

Budget Year: 2024-25

Funding Identified: Yes

Estimated costs to abate the landscaping on the property were received from a local landscaping company and total \$2,200. Estimates included the following services:

- Weed abatement for the entire lot.
- Trash removal for the entire lot (rates may change depending on potential increase of trash accumulation).
- Safety pruning of all trees including lifting and pushing back out of city right of way.
- Trimming of all bushes and shrubs/ pushing back out of city right of way.

Item 7b

Estimates associated with installation of perimeter fencing to prevent further access to the property totaled \$1,227.50 for six months.

Total estimated costs for full abatement are \$3,427.50 and will be paid directly from the Building and Safety Division's Other Contract Services budget. However, all abatement costs will be recorded as a lien upon the subject property. These costs, or portions thereof, will only be incurred if the property owner fails to remediate any nuisances established by the Council by the compliance date established by the Council.

Fiscal Analysis:

Funding Sources	Total Budget Available	Current Funding Request	Remaining Balance	Annual Ongoing Cost
General Fund	\$140,000		\$136,572.50	\$0
State				
Federal				
Fees				
Other:				
Total	\$140,000		\$136,572.50	\$0

While it is not captured in the fiscal analysis above, it should be noted that this property has had 50 code enforcement activities noted since January 2022, and 60 police calls in that same time. This property has continued to have a large impact on the City's operational resources.

ALTERNATIVES

1. ***Council could decline to declare that a public nuisance exists at the Property.*** This action is not recommended by staff because there remain several long-standing and unresolved code violations at the property, and the abandoned, vacant structure has caused and is expected to continue causing negative impacts to the surrounding area. The property owner has shown little to no evidence that he is willing and able to address the continued issues. If a public nuisance is not declared, then staff will continue to pursue enforcement through the administrative citation process, which has been unsuccessful thus far.
2. ***Council could declare a public nuisance exists at the Property and extend the timeline for compliance beyond 30 days.*** This action is not recommended due to the opportunities afforded to the property owner since March of 2022. Since this recommendation includes securing the property, extending the compliance date will provide more opportunities for further accumulation of junk and debris. The Council should not consider a timeline less than staff's recommendation because any aggrieved party can take action to object to this proceeding within 30 days (SLOMC 8.24.100).

ATTACHMENTS

- A - Draft Resolution declaring a public nuisance exists and abatement thereof at 205 Casa/1067 Murray
- B - Inspection Photos – January 10, 2022
- C - Inspection Photos – March 15, 2022
- D - Notice of Violation – April 12, 2022
- E - Inspection Photos – June 3, 2022
- F - Administrative Citations (June 3, 2022, June 6, 2022, June 16, 2022)
- G - Inspection Photos – November 15, 2022
- H - Inspection Photos – March 15, 2022
- I - Inspection Photos – May through August 2022
- J - Administrative Citations, Daily Fines (July 13, 2023, August 10, 2023)
- K - Site Inspection Request – October 17, 2023
- L - Notice of Violation – October 26, 2023
- M - Inspection Photos – October 26, 2023
- N - Inspection Photos – February and May 2023
- O - Proof of posting and service of Notice of Public Hearing