

REGULAR MEETING MINUTES  
APRIL 10, 2025

**1. CALL TO ORDER & ORDERS OF THE DAY**

**ROLL CALL**

**PRESENT:** Chair Karen Parsons, Commissioner Jon Budas, Commissioner David Hook, Commissioner Timothy Kenny and Commissioner Brett Williamson.

**ABSENT:** Vice Chair Ron Cabanayan

**STAFF:** Board Secretary Regina Lizaola, Code Enforcement Supervisor Maria Diaz-Perez, Code Enforcement Supervisor Amber Zenk, Code Enforcement Supervisor Donnie Timoteo, Code Enforcement Supervisor Roger Beaudoin, Code Enforcement Inspector Wayne Cirone, Code Enforcement Inspector Hector Ortiz, Code Enforcement Inspector Oscar Martinez, Code Enforcement Inspector David Parker, Code Enforcement Inspector Manuel Duarte, Code Enforcement Inspector Jose Segura, Planner Alexandre Hughes, Division Manager Eusebio Espitia, and Deputy City Attorney Leanne Bolaño.

**CALL TO ORDER**

Chair Parsons convened the Appeals Hearing Board at 6:31 p.m. in the City Council Chambers of City Hall, 200 E. Santa Clara Street, San José, CA 95113.

**2. OPENING REMARKS AND APPROVAL OF MINUTES**

**APPROVAL OF MINUTES**

Documents Filed: Draft Meeting Minutes from Appeals Hearing Board Regular Meeting on March 27, 2025.

Action: Upon motion by Commissioner Kenny, seconded by Commissioner Hook, the minutes for March 27, 2025 was approved. (5-0-1)

**3. REQUEST FOR DEFERRALS**

- a. **ITEM 6A: 1053 S WHITE RD (484-31-047) ADMINISTRATIVE REMEDY**  
(Hector Ortiz, Code Enforcement Inspector/ Jane C. Lee, Property Owner)

**Request for deferral from Property Owner email April 3, 2025**

**Deferral requested by Property Owner**

Upon a motion by Commissioner Kenny, seconded by Commissioner Williamson and carried, the item was deferred to the April 24, 2025 meeting. (5-0-1)

#### 4. CONSENT CALENDAR

- a. **1433 THE ALAMEDA (261-23-024) SUMMARY ABATEMENT**  
(Wayne Cirone, Code Enforcement Inspector/ Baku AS, Inc. c/o Azad Seyidov,  
Property Owner)

Documents Filed: Summary Abatement Order and Notice of Public Hearing dated  
March 24, 2025

Action: Code Enforcement Inspector Wayne Cirone made minor, nonsubstantive clerical corrections to the Notice of Hearing to delete extraneous wording and update Attachment 1 with proper heading.

Upon motion by Commissioner Kenny, seconded by Commissioner Hook and carried to affirm the summary abatement actions as set forth in the Staff Report dated March 24, 2025. (5-0-1)

#### 5. DEFERRED AND/OR CONTINUED ITEMS

There was no deferred and/or continued items.

#### 6. PUBLIC HEARINGS

- b. **1800 SEAVIEW DR (486-14-006) ADMINISTRATIVE REMEDY**  
(Oscar Martinez, Code Enforcement Inspector/ Shen Pengyu, Property Owner)

Documents Filed: Administrative Remedy and Notice of Public Hearing dated March 18, 2025

Action: Code Enforcement Inspector Oscar Martinez made the following clerical corrections to the Notice of Hearing: on page 3, confirmed the proper Compliance Order Inspection Dates as November 2, 2020 and November 9, 2020; on page 3, confirmed there was no reinspection date; on page 7, Section G confirmed Inspector Chad Callacinao received a request for a Director's Hearing on December 7, 2021; and on page 8 Section IV. A. 2, confirmed the Subject Property was in violation from November 2, 2020 to October 26, 2022. Mr. Martinez provided a summary of the case and current status of the Property as of April 10, 2025, confirming the Property Owner has submitted plans to Code Enforcement the Building Department but no permits have been issued pending technical review.

The Board confirmed with Mr. Martinez that the Property Owner has plans pending before the City, but no finalized permit has been issued. The Board also confirmed the recommended Order to Correct schedule is feasible for the Property Owner.

Upon a motion by Commissioner Hook, second by Commissioner Kenny and carried (5-0-1) the Board sustained the Director's decision dated March 8, 2023 that the Compliance Order of December 1, 2021 was not achieved by the updated final Compliance Due Date of August 30, 2023; and adopted the following Administrative Order:

**Order to Correct**

- a. **On or before May 10, 2025**, submit a copy of your proposed plans in digital format via email to Building Code Compliance Inspector at [BuildingCodeCompliance@sanjoseca.gov](mailto:BuildingCodeCompliance@sanjoseca.gov) for review.
- b. **On or before June 10, 2025**, submit the preapproved plans with all required documentation to the City of San Jose Building Division.
- c. **On or before July 10, 2025**, pay all required fees to and obtain a building permit from the City of San Jose Building Division to correct the above noted violation(s).
- d. **On or before October 10, 2025**, obtain a finalized permit (final clearance inspection) from the City of San Jose Building Division to correct the above noted violations. A final clearance inspection can be scheduled with a Building Inspector by emailing [CodeEnforcementInformation@sanjoseca.gov](mailto:CodeEnforcementInformation@sanjoseca.gov) or calling Code Enforcement

**2. Administrative Costs**

On or before May 10, 2025, **Shen Pengyu** shall pay Administrative Costs to the City of San Jose in the amount of **\$1,242.00**.

**3. Administrative Penalties**

On or before October 10, 2025 the Property Owner(s) shall pay Administrative Penalties to the City of San Jose, pursuant to San Jose Municipal Code Section 1.14.090, \$100 per day beginning on May 11, 2025 for each day full compliance with the Board's order is not achieved. If full compliance with the Board's Order is not achieved by October 10, 2025 Code Enforcement staff recommends the imposition of additional Administrative Penalties in the amount of \$250 per day starting on October 11, 2025 until the date of compliance with the Boards Order, up to a maximum of \$100,000. If the Administrative Penalties are not paid and are recorded as a lien on the real property pursuant to San Jose Municipal Code Sections 1.14.160 and 1.14.180, as may be amended, an interest rate of ten percent (10%) per annum shall be charged on the principal amount of the administrative lien, from the date the lien is first recorded until the date that payment is received by the City, consistent with California Code of Civil Procedure Section 685.010, as may be amended. These Administrative Penalty amounts are recommended in consideration of the following:

- a. The Code violations observed at 1800 Seaview Drive have been in existence since November 2, 2020; and
- a. The Property Owner(s) has not complied with the provisions of the Compliance Order, dated December 1, 2021; and
- b. The Property Owner(s) has failed in good faith towards correction of the Municipal code violations found on the Subject Property.

- c. **374 SURBER DR (689-25-109) ADMINISTRATIVE REMEDY**  
(David Parker, Code Enforcement Inspector/ Oksana Stepaneeva, as Trustee of the Oksana Stepaneeva Living Trust, Property Owner)

Documents Filed: Administrative Remedy and Notice of Public Hearing dated March 10, 2025

Action: Code Enforcement Inspector David Parker made the following clerical corrections to the Notice of Hearing: on page 3, confirmed the Compliance Order Inspection Date of August 21, 2024 and Compliance Due Date of February 28, 2025; on page 7 Section F, confirmed the Compliance Order was dated October 28, 2024; on page 9 Section B. 2, confirmed the Compliance Order was dated October 28, 2024 and in Section C. 3 Administrative Penalties, confirmed the start date for additional Administrative Penalties is June 3, 2025; on page 11, confirmed the Inspection Date was August 21, 2024 and the Compliance Order is dated October 28, 2024; and on page 16 confirmed the Inspection Date was August 21, 2024. Code Enforcement Inspector David Parker provided a summary and answered clarifying questions from the Commissioners regarding the allotted tree measurement under the San José Municipal Code ("SJMC") and the context behind Mr. Parker's exhibit photographs of the Property Owner's tree parts.

Property Owner Oksana Stepaneeva, was present and testified her tree measurement fell below the code threshold and presented additional photographic evidence for the Board's consideration.

Upon a motion by Commissioner Kenny, second by Commissioner Hook and carried (5-0-1) the Board sustained the Director's Decision dated January 16, 2025 to uphold the October 28, 2024 Compliance Order to achieve compliance by the Compliance Due Date of February 28, 2025; and adopted the following Administrative Order:

**1. Order to Correct**

On or before June 2, 2025, the Property Owner shall

- a) Make contact with a City Planner (408) 535-3555 and determine how to obtain a permit to remedy the tree removal violation including submitting an application and paying the associated fees, and
- b) Obtain a tree removal permit and complete all permit conditions/corrective work including planting any required replacement trees.

**2. Administrative Costs**

On or before June 2, 2025, the Property Owner(s) shall pay Administrative Costs to the City of San Jose in the amount of \$748.00.

**3. Administrative Penalties**

On or before August 2, 2025, the Property Owner(s) shall pay Administrative Penalties to the City of San Jose, pursuant to San Jose Municipal Code Section 1.14.090, in the amount of \$500.00. If full compliance with the Board's Order is not achieved by June 2, 2025 the Property Owner(s) shall pay additional Administrative Penalties in the amount of \$75.00 per day, from June 3, 2025 until

the date of compliance with the Board's Order, up to a maximum of \$100,000. If the Administrative Penalties are not paid and are recorded as a lien on the real property pursuant to San Jose Municipal Code Sections 1.14.160 and 1.14.180, as may be amended, an interest rate of ten percent (10%) per annum shall be charged on the principal amount of the administrative lien, from the date the lien is first recorded until the date that payment is received by the City, consistent with California Code of Civil Procedure Section 685.010, as may be amended. These Administrative Penalty amounts are recommended in consideration of the following:

1. The Code violations observed at 374 Surber Drive have been in existence since August 21, 2024.
2. The Property Owner(s) has not complied with the provisions of the Compliance Order, dated October 28, 2024.
3. The Property Owner(s) has failed in good faith towards correction of the Municipal code violations found on the Subject Property.

d. **163 W SANTA CLARA ST (259-35-062) ADMINISTRATIVE REMEDY**

(Manuel Duarte, Code Enforcement Inspector/ Masson Partners LLC C/O Michael Messinger, Property Owner)

Documents Filed: Administrative Remedy and Notice of Public Hearing dated March 12, 2025

Action: Code Enforcement Inspector Manuel Duarte made the following clerical corrections to the Notice of Hearing: on page 6 Section C. 3, confirmed the SJMC citation is to Section 20.70.010; on page 7 Section C. 5, confirmed the SJMC citation is to Section 20.100.610; and on page 8, the proper section for Administrative Penalties is Section G. Code Enforcement Inspector Manuel Duarte provided a summary and confirmed that during an inspection completed on April 10, 2025 the outdoor dining area was in use but the hand railing was removed. Mr. Duarte also provided more context behind the duration of violations and noncompliance from May 1, 2023 to March 22, 2025.

Acting Division Manager Eusebio Espitia discussed the timeline for the Order to Correct and welcomed changes to the recommended schedule by the Board.

Property Owner Michael Messinger was present and testified that he does not deny the alleged violations and intends to comply. Mr. Messinger stated the business cannot survive without the unpermitted late-night activity, which largely only occurs on Friday and Saturday evenings.

Property Owner representative Jonathan Vasquez testified to request leniency from the Board on the recommended Administrative Order; specifically, he requested the first compliance date in the Order to Correct be changed from April 11, 2025 to April 20, 2025; and the Administrative Penalties owed to the City by May 27, 2025 be reduced from \$10,000 to \$1,000.

Property Owner representative Tom McEnery testified to ask the Board for flexibility in issuing its order in support of downtown San José small businesses.

The Commissioners discussed the recommended administrative order, and deliberated on the assessment of administrative penalties, considering the ongoing violations, pending permit applications, and testimony presented.

Upon a motion by Commissioner Hook, second by Commissioner Kenny and carried (5-0-1) the Board upheld the Director of Planning Building and Code Enforcement's determination that compliance with the Compliance Order of February 27, 2025 was not achieved by the Compliance Date of February 27, 2025; and adopted the following Administrative Order:

1. **Order to Correct**

- a) **On or before April 20, 2025**, cease all post-midnight business activities including but not limited to sales and consumption of food and alcohol, music, use of rear patio area and outdoor dining area on public right of way.
- b) **On or before May 27, 2025**, follow up on all requested information for pending Special Use Permit (SP25-003), as requested on 30 day review letter. If application is approved, a subsequent Building permit will be required.
- c) **On or before May 27, 2025**, submit an application for the Parklet and Sidewalk Seating Permit ("Parklet Permit"), along with all other required paperwork for the application, to the City of San Jose Public Works to legalize the outdoor seating area and associated railing. Obtain approval by **December 1, 2025**.

or

Remove the outdoor seating area and associated railing.

- d) **On or before December 1, 2025**, obtain an approved Special Use Permit for all zoning violations.
- e) **On or before December 15, 2025**, submit a copy of your proposed plans in digital format via email to Building Code Compliance Inspector Marlon Aviles at [buildingcodecompliance@sanjoseca.gov](mailto:buildingcodecompliance@sanjoseca.gov) for review. The plans shall address all above listed violations. If the plans are approved by Inspector, visit Online Permit Services | City of San Jose ([sjpermits.org](http://sjpermits.org)) and submit the approved plans using SJePlans to the Building Dept.
- f) **On or before January 15, 2026**, pay all required fees to and obtain a building permit from the City of San Jose Building Division to correct the above noted violation(s). Ensure permit is issued.
- g) **On or before April 15, 2026**, obtain a finalized permit (final clearance inspection) from the City of San Jose Building Division to correct the above noted violations. A final clearance inspection can be scheduled with a Building Inspector by emailing [CodeEnforcementInformation@sanjoseca.gov](mailto:CodeEnforcementInformation@sanjoseca.gov) or calling Code Enforcement at (408) 535-7770.

3. **Administrative Costs**

On or before May 27, 2025, the property owner shall pay Administrative Costs to

the City of San Jose in the amount of **\$1,916.00**.

**4. Administrative Penalties**

On or before May 27, 2025, the Property Owner shall pay Administrative Penalties to the City of San Jose, pursuant to San Jose Municipal Code Section 1.14.090, in the amount of **\$5,000.00**.

Full compliance with ***Municipal Code 20.70.510 Late Night Uses and Activity (open after midnight)*** shall be adhered to starting **April 20, 2025**. If future inspections confirm non-compliance, Code Enforcement staff recommends the imposition of additional Administrative Penalties in the amount of **\$2,500.00 per occurrence**, up to a maximum of \$100,000.

and

Full compliance with ***Municipal Code 13.37.200 Unauthorized Encroachments Prohibited (Ongoing use of the outdoor seating area and associated railing without a valid Parklet Permit)*** shall be adhered to starting **May 28, 2025**. If future inspections confirm non-compliance, Code Enforcement staff recommends the imposition of additional Administrative Penalties in the amount of **\$2,500.00 per occurrence**, up to a maximum of \$100,000.

If full compliance with the Board's Order is not achieved, the Property Owner(s) shall pay additional Administrative Penalties in the amount of **\$250.00** per day, starting the day after any due date listed in the Order to Correct [5/27/25, 12/1/25, 12/15/25, 1/15/26, 4/15/26] that is not met, until full compliance with the Board Order is achieved, up to a maximum of \$100,000.00. If the Administrative Penalties are not paid and are recorded as a lien on the real property pursuant to San Jose Municipal Code Sections 1.14.160 and 1.14.180, as may be amended, an interest rate of ten percent (10%) per annum shall be charged on the principal amount of the administrative lien, from the date the lien is first recorded until the date that payment is received by the City, consistent with California Code of Civil Procedure Section 685.010, as may be amended.

e. **1368 DUBERT LN (477-32-165) ADMINISTRATIVE REMEDY**

(Jose Segura, Code Enforcement Inspector/ Jimmy Lee, Property Owner)

Documents Filed: Administrative Remedy and Notice of Public Hearing dated March 26, 2025

Action: Code Enforcement Inspector Jose Segura made a clerical correction to the Notice of Hearing to confirm on page 3 that the Compliance Order Mailing Date was August 14, 2023. Code Enforcement Inspector Jose Segura provided a summary of the property and answered clarifying questions.

Code Enforcement Supervisor Roger Beaudoin gave the Board a fuller background of the history of this Property and the Property Owner's actions in response to the City's request for compliance.

Property Owner Jimmy Lee was present and testified he has attempted to achieve compliance with City staff for years. Mr. Lee also requested clarification on the recommended, outstanding corrective actions. City staff confirmed that per the matter brought before the Board, the only recommended corrective action at this time is to

obtain a finalized permit for the post by Unit 1 and the replaced balcony handrails, by May 30, 2025.

Upon a motion by Chair Parsons, second by Commissioner Hook and carried (5-0-1) the Board sustained the Director's Decision dated December 7, 2023 to uphold the August 11, 2023 Compliance Order and require the Property Owner to obtain a finalized building permit for the post by Unit 1 and the replaced balcony handrail materials on or before 120 days from December 7, 2024; and adopted the following Administrative Order:

**1. Order to Correct**

On or before **5/30/2025**, the Property Owner of the Subject Property shall obtain a finalized building permit for the post by unit 1 and the replaced balcony handrail materials.

**2. Administrative Costs**

On or before **5/30/2025**, the Property Owner shall pay Administrative Costs to the City of San Jose in the amount of **\$1,237.00**

**3. Administrative Penalties**

On or before **5/30/2025**, the Property Owner shall pay Administrative Penalties to the City of San Jose, pursuant to San Jose Municipal Code Section 1.14.090, in the amount of **\$10,000.00**. If full compliance with the Board's Order is not achieved by **5/30/2025**, the Property Owner shall pay additional Administrative Penalties in the amount of **\$100.00** per day, from **5/31/25**, until the date of compliance with the Board's Order, **up to a maximum of \$100,000**. If the Administrative Penalties are not paid and are recorded as a lien on the real property pursuant to San Jose Municipal Code Sections 1.14.160 and 1.14.180, as may be amended, an interest rate of ten percent (10%) per annual shall be charged on the principal amount of the administrative lien, from the date the lien is first recorded until the date that payment is received by the City, consistent with California Code of Civil Procedure Section 685.010, as may be amended. These Administrative Penalty amounts are recommended in consideration of the following:

1. The Code violations observed at 1368 Dubert have been in existence since 5/11/2023.
2. The Property Owner has not complied with the provisions of the Compliance Order, dated 08/11/2023.
3. The Property Owner has failed in good faith towards correction of the Municipal code violations found on the Subject Property.

**7. REQUEST FOR EXCUSED ABSENCE**

There was no request for excused absence.

**8. OTHER BUSINESS**

There was no other business.

**9. PUBLIC COMMENT**

There was no public testimony on the floor.

**10. ADJOURNMENT**

Upon a motion by Chair Parsons, seconded by Commissioner Williamson, and carried unanimously, the Hearing was adjourned at 8:38 p.m.