



City of San Juan Bautista

The "City of History"

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AGENDA **SPECIAL CITY COUNCIL MEETING**

TUESDAY ~ OCTOBER 25, 2022 ~ 5:00 PM

CITY HALL COUNCIL CHAMBERS
311 Second Street
San Juan Bautista, California

– HYBRID MEETING – PUBLIC PARTICIPATION BY ZOOM AND IN PERSON

THIS MEETING WILL BE CONDUCTED PURSUANT TO GOVT. CODE §54953(e)(1)(A).

In order to minimize the spread of the COVID 19 virus the City Council is conducting this meeting by Zoom webinar and will be offering alternative options for public participation. You are encouraged to watch the meeting live on Zoom or Facebook.

THIS MEETING WILL BE OPEN TO THE PUBLIC UNDER THE FOLLOWING CONDITIONS:

All Attendees must comply and wear a face covering if not fully vaccinated and show proof. If providing proof attendees will not need to wear a face covering. If you are exempt from the state face covering guidance or not fully vaccinated, you will be required to wear a mask to attend the meeting; All attendees must comply with any other rules of procedures/instructions announced by the Mayor and/or City Staff. Any violations of the above may result in the Mayor closing the meeting, effective immediately, or clearing the room, as well as other enforcement actions. The meeting will be available through Zoom for those who wish to join or require accommodations with the instructions below:

The meeting can also be accessed by the public in the following methods: Through Zoom (<https://zoom.us/join>) per the instruction stated below, and on Facebook.

Join Zoom Webinar <https://us02web.zoom.us/j/85212374133>
or call 1 (669) 900-6833
Webinar ID: 852 1237 4133

PUBLIC COMMENTS WILL BE TAKEN ON AGENDA ITEMS BEFORE ACTION IS TAKEN BY THE CITY COUNCIL. DURING THE MEETING: TO PROVIDE VERBAL PUBLIC COMMENTS ON AN AGENDA ITEM DURING THIS MEETING CALL THE PHONE NUMBER LISTED ABOVE OR LOG INTO ZOOM AND ENTER THE MEETING ID NUMBER AS LISTED ABOVE.

When the Mayor announces public comment is open for the item which you wish to speak, press *9 on your telephone keypad or if joining by Zoom, use the raise your hand icon. When called to speak, please limit your comments to three (3) minutes, or such other time as the Mayor may decide, consistent with the time limit for all other speakers for the particular agenda item. Comments from other platforms will not be considered during the meeting. If you would like to participate during the meeting you MUST use Zoom.

If you are unable to join the meeting, written comments may be mailed to the Deputy City Clerk at City Hall (P.O. Box 1420, San Juan Bautista, CA 95045), or emailed to deputycityclerk@san-juan-bautista.ca.us not later than 4:00 p.m. on October 25, 2022, and will be read into the record during public comment on the item.

In compliance with the Americans with Disabilities Act, the City will make reasonable arrangements to ensure accessibility to this meeting. If you need special assistance to participate in this meeting, please contact the Deputy City Clerk a minimum of 48 hours prior to the meeting at (831) 623-4661.

Materials related to all items on this agenda are available in the agenda packet on the City website www.san-juan-bautista.ca.us subject to Staff's ability to post the documents before the meeting, or by emailing deputycityclerk@san-juan-bautista.ca.us or calling the Deputy Clerk (831) 623-4661 during normal business hours.

1. Call to Order

**Pledge of Allegiance
Roll Call**

2. Public Comment

This portion of the meeting is reserved for persons desiring to address the Council on matters not on this agenda. The law does not permit Council action or extended discussion of any item not on the agenda except under special circumstances. If Council action is requested, the Council may place the matter on a future agenda.

3. Action Items

A. Approve Affidavit of Posting Agenda

B. Adopt a Resolution of the City Council of the City of San Juan Bautista

(1) Declaring a Public Nuisance to Exist on the Parcel Commonly Known as 451 San Juan Hollister Road, and (2) Directing the City Manager to Post, Publish, and Mail Notice of Hearing to Consider Abatement of Said Public Nuisance

4. Adjournment

AFFIDAVIT OF POSTING

I, TRISH PAETZ, DO NOW DECLARE, UNDER THE PENALTIES OF PERJURY THAT I AM THE ACTING ADMINISTRATIVE SERVICES MANAGER FOR THE CITY OF SAN JUAN BAUTISTA, AND THAT I POSTED THREE (3) TRUE COPIES OF THE ATTACHED CITY COUNCIL MEETING AGENDA. I FURTHER DECLARE THAT I POSTED SAID AGENDA ON THE 21ST DAY OF OCTOBER 2022, AND I POSTED THEM IN THE FOLLOWING LOCATIONS IN SAID CITY OF SAN JUAN BAUTISTA, COUNTY OF SAN BENITO, CALIFORNIA.

1. ON THE BULLETIN BOARD AT CITY HALL, 311 SECOND STREET.
2. ON THE BULLETIN BOARD AT THE CITY LIBRARY, 801 SECOND STREET.
3. ON THE BULLETIN BOARD AT THE ENTRANCE TO THE UNITED STATES POST OFFICE, 301 THE ALAMEDA

SIGNED AT SAN JUAN BAUTISTA, COUNTY OF SAN BENITO, CALIFORNIA,
ON THE 21ST DAY OF OCTOBER 2022.



TRISH PAETZ, ACTING ADMINISTRATIVE SERVICES MANAGER



CITY OF SAN JUAN BAUTISTA CITY COUNCIL REPORT

AGENDA TITLE: **FURTHER CONSIDERATION OF A RESOLUTION
DECLARING A PUBLIC NUISANCE TO EXIST AT 451
SAN JUAN HOLLISTER ROAD AND DIRECTING THE
CITY MANAGER TO POST AND PUBLISH A NOTICE
OF HEARING TO CONSIDER ABATEMENT**

MEETING DATE: **OCTOBER 25, 2022**

DEPARTMENT HEAD: **CITY MANAGER, CITY ATTORNEY, ASSISTANT CITY
MANAGER/COMMUNITY DEVELOPMENT
DIRECTOR**

ADDENDUM TO THE STAFF REPORT SUBMITTED AT THE OCTOBER 18, 2022, REGULAR MEETING

During your regular meeting on October 18, 2022, Item 5.D., the matter of consideration of a Resolution declaring a public nuisance to exist at 451 San Juan Hollister Road and directing the City Manager to post and publish a notice of hearing to consider abatement came before the City Council. The matter on October 18 concluded with a motion to postpone further consideration of the matter until a special meeting could be convened for that purpose. The special meeting on October 25, 2022, at 4:00 p.m. was scheduled for that purpose and an agenda for the meeting will be posted per the Brown Act and prior notice will be provided to the owner of 451 San Juan Hollister Road.

At the October 18 meeting the administrative record consisted of the Staff Report and its attachments (a total of 134 pages). On October 18, several hours prior to the meeting, on behalf of the owner of the property Kulta Farms, LLC (“Property Owner”) 497 pages of additional documents were submitted for consideration which neither Council, staff nor the public had the opportunity to review¹. Those documents have now been reviewed and scanned and are available with the agenda for this special meeting. The administrative records for the October 25 special meeting now consists of the documents submitted on October 18 by the City staff and by the Property Owner, together with this Addendum, its Attachment and a proposed Resolution and Notice to Abate Nuisance.

¹ Staff has now reviewed each of the documents submitted by the Property Owner and comments are provided with Attachment A to this Addendum.

It is important at this juncture to recognize that the adoption of the Resolution declaring a nuisance is simply the first step of a multi-step process to abate the violations of the San Juan Bautista Municipal Code (SJBMC) on the property. The threshold for adoption merely requires the Council to determine that at present a violation exists on the property. When the matter was heard on October 18 the Property Owner's representative admitted in both her testimony and in the documents submitted that violations have and continue to exist on the property. It is uncontroverted that grading has been done without a permit and earth has been added to the embankment along the San Juan Creek and prior notices have been provided to the Property Owner of these conditions which have yet to be abated. As stated in the staff report presented on October 18, the violations of the SJBMC which occurred circa 2019-2021 have been functionally superseded by subsequent violations occurring in 2022. Abatement is not being sought for those previous violations through the actions staff is now recommending.

Because of the nature of the present violations, affecting the San Juan Creek watershed and potentially wetlands elsewhere on the property, as well as the violations of the SJBMC Floodplains Ordinance, these violations involve both the City and multiple regulatory agencies² and create concurrent jurisdiction. All the involved jurisdictions have determined to work in concert with, as the Assistant City Manager described on October 18, the City of San Juan Bautista taking the lead agency role in accordance with the California Environmental Quality Act with the other jurisdictions assuming roles as responsible agencies. The other jurisdictions are waiting for the Property Owner or the City to act to begin the abatement process. The Property Owner claims it cannot act and therefore, as described herein, the City should.

The adoption of the Resolution declaring that a public nuisance exists on the property does not preclude the Property Owner from taking action to abate the violation, it simply provides an alternate and unilateral method for the City to do so. The adoption of the Resolution is followed by issuance of the Notice of Abatement and a public hearing at a subsequent City Council meeting with not less than fifteen days' notice given to the Property Owner. At that hearing the Council would hear, consider and allow or overrule any objections to the proposed abatement by the City. The City then has the ability to abate the nuisance using its employees or independent contractors and to recover the full unreimbursed cost, after a report of those costs is confirmed by the City Council, as a special tax assessment on the property. In order that a property owner may avoid having a tax assessment placed on the property, SJBMC Section 13-1-400 provides "Prior to commencement of the abatement work by or on behalf of the City, the property owner may abate the nuisance at his own expense." At no point in the statutory abatement process is the Property Owner deprived of the ability to voluntarily abate the violation on its property and thereby reduce the City's cost to do so.

² Those agencies include the California Department of Fish & Wildlife, the Central Coast Regional Water Quality Control Board, and potentially the U.S. Army Corps of Engineers.

The matter of the civil engineering study performed and to be performed by Schaaf & Wheeler (“Study”) relative to the latest violation was the subject of considerable discussion on October 18. The topographical and hydrological components of the Study were always understood by the City and by the Property Owner to be integral and inseparable components of the Study.³ It is simply not correct that the City first raised the issue of the need for the second part of the study, the hydrological component, on August 15, 2022. Whether the violation is abated by the City or by the Property Owner the party conducting the abatement will need a complete Study. The City must have assurance that it will be both paid in full for the Study (which but for the violation it would not need to undertake) and have unfettered access to the completed Study for its use to abate the violation. The only options to ensure this are by declaring the property to be a public nuisance or entering into a reimbursement agreement with the Property Owner which has been refused on several occasions. Providing the incomplete draft of the Schaaf & Wheeler Study to the Property Owner upon Property Owner’s agreement to pay only the City’s “upfront costs ” for the incomplete draft study without having first declared the existence of a nuisance on the property could result in the city subsequently being in a position of having to complete the Study at its expense with no guarantee of reimbursement or subsequently finding itself without the principal tool needed for the City to proceed to abate the violation.

Declaring the property to be a public nuisance, moving on to the public hearing, and with direction given to the City Manager to abate the nuisance places the City in the position of being able to complete the Study with all costs to be assessed as costs of abatement under SJBMC Section 13-1-440. If the Property Owner wants to abate the violations and reduce the cost assessment the Property Owner can then pay the City for the full cost of the Study and receive a copy of the completed Study. If the Property Owner then fails to abate the violations the City has tool it needs to move forward.

Finally, it is understandable the Property Owner is concerned with the effect of a Notice to Abate Nuisance being posted on the property which is now listed for sale. Staff recognizes this action is a significant intrusion into a property owner’s “bundle of rights” and staff’s recommendation is only made with due consideration and after multiple attempts have been made to come to an accommodation with the Property Owner, all of which have been deflected or rebuffed. However, the action of declaring the property to be a nuisance and, after considering objections to the City abating the nuisance, authorizing the City Manager to abate the violations

³ Concerning the Property Owner’s understanding, this fact is evidenced by: (1) the response by Schaaf and Wheeler on August 26, 2021, to the Property Owner’s request for a hydrologic and hydraulic study of the property; and (2) the Right of Entry entered into on July 8, 2022 which cites the need to determine whether preparation of a hydrologic and hydraulic impact study is required.

does not irretrievably deprive the Property Owner of the ability to do so. If after the actions recommended by staff are taken, Kulta Farms LLC can pay the City for the full cost of the complete Schaaf and Wheeler Study, proceed to timely take the actions set forth in the Notice to Abate Nuisance, pay what costs the Property Owner believes are due to the City⁴ with the balance of those costs assessed as a special assessment after review and confirmation by the City Council at a noticed regular public meeting. Conversely, issuing a Notice to Abate Nuisance under the authority provided by Chapter 13-1 of the SJBMC does not deprive the City of its ability to take further action by filing a complaint in San Benito County Superior Court seeking to have the court declare the property in violation of the SJBMC and for injunctive relief to permanently enjoin the owner of the property from causing, permitting or allowing any violation of the SJBMC to continue on the property with a corresponding *lis pendens* notice placed on file with the Office of the San Benito County Recorder.

Due to the lack of action by the Owner to correct the violation and the incomplete nature of the present pending Development Permit, the staff now suggests that the City Council again consider:

1. Declaring that a public nuisance presently exists on the property located at 451 San Juan Hollister Road (APN 002-550-008) in the City as a result of the violations of the Floodplains Ordinance and the maintenance of illegal uses by the business(es) or the owner currently in operation on the property; and
2. Directing the City Manager to cause the Notice to Abate Nuisance to be published and posted on the property as provided by the Municipal Code; and
3. Scheduling a public hearing, after notice to the Owner and the public as provided in the Municipal Code, for Tuesday, November 15, 2022, to consider all objections to the proposed abatement of the public nuisance.

Respectfully submitted:

Don Reynolds, City Manager

Robert Rathie, City Attorney

Brian Foucht, Assistant City Manager/Community Development Director

Attached:

Attachment A to the Addendum
Resolution Declaring a Public Nuisance
Notice to Abate Violation

⁴ On October 19, the City reviewed, made adjustment, and provided comprehensive documentation to the Property Owner which determined that through August 19, 2022 the amount due and owing to the City is \$39,871.79 without charges for Schaaf & Wheeler Study or City Attorney and staff time related to the violation.

ATTACHMENT A

Staff reviewed each of the documents provided by the Property Owner on October 18, 2022, and confirms receipt and provides these comments in response with reference to the alphabetically tabbed documents as follows:

Tab A- Letter from California Department of Fish & Wildlife (CDF&W). While CDF&W determined the Property Owner's culvert extension, if conducted as described in the Notification, did not substantially affect fish or wildlife resources, CDF&W required compliance with local law. Per San Juan Bautista Municipal Code §12-1-300 a development permit was required for any construction or other development in a special flood hazard area. Property Owner's installation of two 48-inch culverts and clean rock and riprap required a permit from the city. None was obtained.

Tab B- Grading Permit #74 issued on June 29, 2020 to permit the importation of 30,000 cubic yards of dirt. The Property Owner claims 29,800 cubic yards of this amount were not required for the proposed warehouse site but fails to explain the intended purpose outside of its placement in the floodplain for such a large quantity of dirt.

Tab C – Army Corps of Engineers violation inquiry. Also included with staff's report.

Tab D -Email from Army Corps of Engineers re inconclusive determination of wetlands. Note that the determination was inconclusive due to lack of precipitation. Inconclusive does not mean the property does not contain federally protected wetlands, just that we cannot tell at present.

Tab E -Army Corps of Engineers confirms site may be wetlands subject to Corps jurisdiction.

Tab F – Three Compliance Orders issued by the City. Also included with staff's report.

Tab G – Grading Permit No. 109 issued on March 1, 2021, to manage, i.e., to return the disturbed areas of the floodplain to its previous topographical condition.

There is no Tab H.

Tab I – Copies of red tags, stop work orders for “exceeding grading permit” issued July 17, 2020 and on March 28, 2022 for grading and electrical work performed without a permit.

Tab J – Photos circa 2020.

Tab K – Copies of emails between the City and Schaaf & Wheeler.

Tab L – Schaaf & Wheeler Scope Memo dated May 9, 2022 prepared for the City and including reference to an optional hydraulic impact analysis.

Tab M – Schaaf & Wheeler Scope Memo dated May 16, 2022, prepared for CSG and including reference to an optional hydraulic impact analysis.

Tab N – City Compliance Order issued May 24, 2022. Also included with staff's report.

Tab O – 10-day Notice of Violation issued June 6, 2022 re operation of a contractors yard and auto storage facility with abatement required through receipt of a Use Permit. No permit applied for or issued to date. Also included with staff’s report.

Tab O-1 – City Compliance Order issued June 6, 2022 for violation of Floodplain Ordinance. Also included with staff’s report.

Tab P – Schaaf & Wheeler Scope Memo dated August 26, 2021, prepared for the Property Owner (Midnight Express) for a hydrologic and hydraulic study.

Tab Q – Property Owner’s permission for a drone overflight on July 7, 2022.

Tab R – Property Owner’s Right of Entry, entered into on July 8, 2022, which cites the possible need for hydrologic and hydraulic studies.

Tab S – Schaaf & Wheeler Scope Memo dated August 15, 2022, prepared for the City for a creek survey, hydraulic conveyance capacity comparison to FEMA data.

Tab T -City’s invoices to Property Owner. Since October 18 these invoices have been subsequently reviewed by the City and a revised total provided to the Property Owner in the amount of \$39,871.79. In response to a Council question, a single payment in 2019 was returned for insufficient funds.

Tab U – Copies of City’s fee schedules.

Tab V – Various permits and payment receipts for same.

There is no Tab W or Tab x

Tab Y – Development Permit Application submitted October 13, 2022. A Grading Plan from November 2020 is attached. Application refers to the completed Schaaf & Wheeler Study and includes photos of the effects of flooding in the area of the property in 1998.

Tab Z – Copies of Administrative Citations issued by the City for violation of the SJBMC for grading in a floodplain area without a permit.

It should be noted here that the Property Owner did not provide copies of two separate agreements proffered by the City in its efforts to seek the Property Owner’s cooperation: (1) a Repayment and Reimbursement Agreement providing for repayment/reimbursement of the City’s costs through a minimum payment plan for costs incurred and a deposit for ongoing costs; and (2) an Agreement for Provision of Planning Engineering and Other Services providing for reimbursement of the City for its costs incurred to date through a security interest in the property and for monthly payment of ongoing costs with a provision addressing disputed invoices for those costs. Property Owner rejected both agreements (despite the second having been drafted in full accordance with a proposal from the Property Owner’s then attorney).

RESOLUTION NO. 2022-_____

**RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF SAN JUAN BAUTISTA (1)
DECLARING A PUBLIC NUISANCE TO EXIST
ON THE PARCEL COMMONLY KNOWN AS
451 SAN JUAN HOLLISTER ROAD, AND (2) DIRECTING
THE CITY MANAGER TO POST, PUBLISH,
AND MAIL NOTICE OF HEARING TO CONSIDER
ABATEMENT OF SAID PUBLIC NUISANCE**

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WHEREAS, this Council is informed by City staff that property situated at 451 San Juan Hollister Road (APN 002-550-008) (sometimes hereafter “the property”) in the City of San Juan Bautista, is in violation of provisions of the Municipal Code, all as more particularly described on the attached “Notice to Abate Public Nuisance”; and

WHEREAS, the Assistant City Manager/Community Development Director has determined that the owner of the property at issue, Kulta Farms, LLC, is in violation of Title 12 “Floodplains,” of the Municipal Code, specifically Sections 12-1-080 and 12-1-210, respectively “Methods of Reducing Flood Losses” and “Compliance”; and

WHEREAS, on October 13, 2022, the property owner, having been informed that such application may be made, submitted an application for a Development Permit, a discretionary permit, in accordance with Section 12-1-300 of the Floodplains Ordinance; and

WHEREAS, upon review of the application the Assistant City Manager/Community Development Director has determined that the application for the Development Permit submitted on October 13, 2022, lacks necessary information, and is therefore incomplete, including, but not necessarily limited to: (1) information required by parts A through E of Section 12-1-300 parts A through E of the Floodplains Ordinance; (2) information required by Section 12-1-310(A) of the Floodplains Ordinance; and (3) information necessary to comply with the California Environmental Quality Act Guidelines, Cal. Code Regs. Title 14 Secs. 15060 and 15063; and

WHEREAS, although the Assistant City Manager/Community Development Director has determined that the property owner may, pursuant to Title 11 “Zoning,” Title 11-20 “Use Permits,” apply for a conditional Use Permit, a discretionary permit, to allow the illegal components of a business, Kulta Farms, LLC, Midnight Express, Inc. and any other business or entity, to operate on the property, the property owner, having been informed that such applications may be made, has not done so; and

WHEREAS, the City Council of the City of San Juan Bautista at a regular meeting held on October 18, 2022, received information from City staff and from the representative of the owner of the property and directed that the matter be returned to the City Council for further consideration.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SAN JUAN BAUTISTA HEREBY RESOLVES AS FOLLOWS:

SECTION 1. Based on the recitals set out above, those recitals are hereby incorporated in the body of this Resolution by this reference as if fully set out herein, pursuant to Article 4 of Chapter 13-1 of the San Juan Bautista Municipal Code (“SJBMC”), this Council hereby declares that a public nuisance presently exists on the property as a result of the violation of the Floodplains Ordinance and the maintenance of the illegal uses by the business(es) or the owner currently in operation on the property.

SECTION 2. Pursuant to said Article 4 of Chapter 13-1 of the SJBMC, this Council hereby directs the City Manager to cause to be made all posting, publishing, and mailing of a “Notice to Abate Nuisance” as provided in said Article 4, with respect to the public nuisance hereinabove declared.

SECTION 3. The public hearing pursuant to said Notice shall be held at 6:00 p.m. (or as soon thereafter as the matter is reached on the agenda), Tuesday, November 15, 2022, at the San Juan Bautista City Hall, 311 Second Street, San Juan Bautista, California. The hearing shall be held as provided in said Article 4.

THE FOREGOING RESOLUTION was adopted at a special meeting of the San Juan Bautista City Council on the 25th day of October 2022, by the following vote:

- AYES:**
- NOES:**
- ABSENT:**
- ABSTAIN:**

Mayor

ATTEST:

Acting Deputy City Clerk

APPROVED AS TO FORM:

City Attorney



City of San Juan Bautista

The "City of History"

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City Council

Mayor
Leslie Jordan

Vice Mayor
Mary Edge

Councilmember
John Freeman

Councilmember
Scott Freels

Councilmember
Cesar Flores

City Manager
Don Reynolds

City Clerk
Vacant

City Treasurer
Michelle Sabathia

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NOTICE TO ABATE NUISANCE

NOTICE IS HEREBY GIVEN that on October 25, 2022, the City Council of the City of San Juan Bautista, by Resolution No. 2022-__, declared a public nuisance to exist on the property described as 451 San Juan Hollister Road (APN 002-550-008) in the City of San Juan Bautista, County of San Benito.

The conditions constituting such public nuisance and the actions to be taken for abatement thereof are as follows:

1. **CONDITION:** Grading, earthmoving and the placement of fill, spoils and debris on the property and in and along the San Juan Creek in violation of San Juan Bautista Municipal Code (SJBMC) Title 12 "Floodplains" Section 12-1-080 "Methods of reducing flood losses" specifically Sections (D) control filling, grading, dredging which may increase flood damage," violation of SJBMC Section 12-1-080 (E) "Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards in other areas;" and violation of SJBMC Section 12-1-210 "Compliance" "Any person filling, grading or constructing within a designated flood hazard area shall obtain all necessary permits prior to commencement of these activities."

CORRECTIVE ACTIONS: Restore to pre-violation topographic, hydrologic, and morphologic condition.

- a) Submit, as part of the application for Development Permit referenced in subsection (f) below, a study prepared by a Professional Engineer who is a Qualified Stormwater Pollution Prevention Plan Practitioner (QSP) or a Qualified Stormwater Protection Prevent Plan Developer (QSD) as the Engineer of Record, deemed acceptable in writing by the City Flood Plain Manager, characterizing the grading and fill in the floodplain including areas adjacent to the San Juan Creek and hydrologically connected drainages located on the property. The characterization shall determine the pre-violation creek morphology as a means of establishing a baseline to pre-violation values.
- b) Submit a plan, as part of the application for Development Permit referenced in subsection (f) below, prepared by the Engineer of Record, for corrective grading within the floodplain, including removal of grading spoils placed adjacent to or within the San Juan Creek sufficient to achieve pre-violation topographic contours identified in a 2018 topographic survey of the site.

- c) Submit a study, as part of the application for Development Permit referenced in subsection (f) below, prepared by a qualified Ecologist of the relative habitat values of the San Juan Creek as a means of establishing a baseline for restoration of habitat values to pre-violation values as a condition of the Development Permit referenced in subsection (f) below.
- d) Submit, as part of the Development Permit application referenced in Section (f) below, a Phase 1 cultural resources records search, reconnaissance-level field survey, and Native American Consultation in partial fulfillment of the requirements of the California Environmental Quality Act (CEQA).
- e) Submit, as part of the Development Permit application referenced in (f) below, a plan developed by the referenced Engineer of Record for remediation of the subject Nuisance, including removal of grading spoils and restoration of the hydrology and biological habitat values, and any actions necessary to protect cultural resources associated with the subject property including the San Juan Creek and hydrologically connected drainages on the property to the satisfaction of agencies with jurisdiction over those activities and the City of San Juan Bautista Flood Plain Manager.
- f) Complete the application for a Development Permit, a discretionary permit, submitted on October 13, 2022, as described herein, and execute a reimbursement agreement with the City for all costs associated with Development Permit to be issued by the City Floodplain Manager in accordance with Municipal Code Sections 12-1-210.
- g) Submit a cost estimate, prepared by the Engineer of Record of the cost of completing remedial actions.
- h) Provide a performance bond with the City of San Juan Bautista as the obligee in the amount of the Engineer of Record's estimate of completing the remedial actions plus 15% contingency and administration.

3. **CONDITION:** Operation a Contractor's Yard without a Use Permit in violation of SJBMC Title 11 "Zoning" Section 11-02-050 requiring a Use Permit in the Industrial District for a Contractor's Yard.

CORRECTIVE ACTION: Submit an application and pay fees for the required Use Permit, a discretionary permit, which conditions shall eliminate occurrences that may adversely affect public health and biological resources such as leaking oil or other fluids or accumulation of abandoned equipment and material, frontage improvements for traffic operations safety, and any flood hazard prevention improvements, including, but not necessarily limited to, a Phase I Soil Analysis, hydrological study, biological resource and cultural resource reconnaissance and mitigations.

4. **CONDITION:** Operation of a Automobile Storage Yard without a Use Permit in violation of SJBMC Title 11 "Zoning" Section 11-02-050 requiring a Use Permit in the Industrial Zone for a Automobile Storage Yard.

CORRECTIVE ACTION: Submit an application and pay fees for the required Use Permit, a discretionary permit, which conditions shall eliminate occurrences that may adversely affect public health and biological resources such as leaking oil or other fluids or accumulation of abandoned equipment and material, frontage improvements for traffic operations safety, and any flood hazard prevention improvements including, but not necessarily limited, to Phase I Soil Analysis, hydrological study, biological resource and cultural resource reconnaissance and mitigations, traffic study.

Upon failure to abate such public nuisance through the corrective actions described herein, the nuisance will be abated by the City of San Juan Bautista and all costs of abatement will be assessed against the property on which the nuisance exists and will constitute a special assessment upon and against such property until paid, said assessment to be collected at the same time and in the same manner as ordinary municipal taxes. A copy of the declaration of nuisance (Resolution No. 2022- __) is on file in the Office of the San Juan Bautista City Clerk.

Any property owner or other person(s) objecting to the proposed abatement by the City of San Juan Bautista is hereby notified to attend a meeting of the City Council of the City of San Juan Bautista to be held on November 15 2022, commencing at 6:00 p.m., at the San Juan Bautista City Hall, 311 Second Street, San Juan Bautista, California, when their objections will be heard and given due consideration.

Dated this ____ day of _____, 2022.

Don Reynolds
City Manager
City of San Juan Bautista