



***City of
Novato
Housing,
Zoning, and
Building
Codes
Appeal Board***

December 5, 2017

AGENDA

- **9 Boulevard Ct**
- **25 Boulevard Terr.**
- **3 Olive Ct.**
- **15 Amber Ct.**
- **23 Hillswood**
- **668 Tamalpais Ave**
- **2041 Carolyn Way**

NOVATO MUNICIPAL CODE

1-6 Public Nuisance Abatement

1-6.2 *Public Nuisances.* Any condition caused or permitted to exist in violation of the provisions of the Novato Municipal Code, resolution of the city council, or statute of the State of California, shall be deemed a public nuisance. A public nuisance further includes any unlawful obstruction or encroachment upon any public property, including but not limited to any public street, highway, right-of-way, park, building or any other condition that is injurious of the health, safety or general welfare of the community. Every day a public nuisance continues to exist shall be regarded as a new and separate offense.

NOVATO MUNICIPAL CODE

4-1 Building and Housing

4-1.2 Codes Adopted by Reference. The following codes or portions thereof hereafter set forth or hereinafter set out by amendment or revisions are hereby adopted and are made a part of this section by reference, without further publication or posting thereof.

CALIFORNIA BUILDING CODE

2016 California Building/Residential Code 105.1:

“Any owner or owner’s authorized agent who intends to construct, enlarge, alter, repair, move, demolish or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any electrical, gas, mechanical or plumbing system, the installation of which is regulated by this code, or to cause any such work to be performed, shall first make application to the building official and obtain the required permit.”

CALIFORNIA BUILDING CODE

2016 California Building/Residential Code

105.5:

Every permit issued shall become invalid unless the work on the site authorized by such permit is commenced within 180 days after its issuance, or if the work authorized on the site by such permit is suspended or abandoned for a period of 180 days after the time of work has commenced.
(If an inspection is not performed within 180 days of issuance, the permit is considered abandoned.)

RIGHT OF APPEAL

Any person having any record or legal Interest in the property may appeal the finding(s) of the Appeals Board to the Novato City Council, provided the appeal is made in writing, together with the established fee and filed with the City Clerk within **ten (10) days** from the date of this hearing.



**9
Boulevard Ct.**

Single Family Residence

Novato Municipal Code(s);

1-6.4 Property Nuisances. The following are expressly declared to be public nuisances: d. “Accumulation of debris or rank overgrowth constituting a fire hazard, potential to become a fire hazard, or likely harborage for vermin;”

19.20.100 - Setback Requirements and Exceptions.

Paragraph E. “*Limitations on the Use of Setbacks.* Required setback areas shall only be used in compliance with the following requirements, and as provided by 19.34.130 (Outdoor Dining Display and Sales):” **Section 2.** “*Storage.* No required setback shall be used for the storage of inoperable vehicles, scrap, junk, building materials, or similar material.”

CONTINUED...

AND...

19.34.170 - Vehicle Parking and Storage in Residential Zones. B.

Outdoors. A maximum of four vehicles including all types of operable or inoperable motor or recreational vehicles, motorcycles, campers, snowmobiles, jet skis, off-road vehicles, boats, and trailers may be parked or stored outdoors only under the following conditions:

1. Only operable vehicles may be parked in the front yard area. The parking area shall be on a paved driveway in compliance with Division 19.30.070 (Parking Design Standards), Section 19.20.100E (Limitations on the Use of Setbacks), and where adequate sight distance is maintained in compliance with Section 19.20.070 D (Sight Visibility Area Required).

2. Inoperable vehicles shall not be stored or parked within the required parking areas, front yard or street side yard areas. A person may park or store inoperable or non-operable vehicles only if completely confined within a building, garage or accessory structure; or, in a rear or side yard area where the vehicles are screened from view from adjacent streets and properties. An inoperable vehicle is defined as one which can legally be driven on the street, highway, freeway, road, and lane.



November 2016





FEBRUARY 2017



AUGUST 2016
From Complainant





NOVEMBER 2017



August of last year; Staff received a complaint alleging a 'junk yard' in the rear yard; several vehicles in a state of disrepair. Based on photos provided at the time, it did appear the property is in violation. An inspection also verified a violation of inoperable vehicles on the drive. Research of the property shows the property has been taken to a hearing as a Property Nuisance for similar violations in May of 2010.

A Notice of Violation was mailed to the property owner and resident. Property owner paid the outstanding hearing fee from 2010 in September of 2016. Several attempts were made to speak with the resident and property owner to schedule an inspection. Owner states his son lives at the home, has medical issues, and as of late, feels he does not have control of the property.

Staff has continued to monitor the property. Due to noncompliance, the property owner has been assessed a penalty per NMC 1-5, Penalty, at \$100.00 per day from the date of October 1, 2016 to April 2017. Fees had reached a total amount of \$48,000.00.

The property was originally scheduled for the April 2017 board but due to staffing issues was removed.

As recently as 11/27/2017 City staff continued in the attempt to meet with the owner and/or resident for inspection at the property. Staff offered assistance in anyway possible to bring the property into compliance. Staff spoke with the property owner on 11/27/2017. The owner asked for the hearing to be postponed due to a scheduling conflict.

Since August of last year, staff has performed at least *11* inspections. At least *6* Notices have been mailed to the property owner including the Notice of Hearings. At least *20* conversations were held with the owner, either by phone or in person.



Staff recommends the board find **9 Boulevard Ct. APN 140-041-37** as a Property Nuisance as outlined in *Section 1-6.4* of the Novato Municipal Code; Order the property owner store all inoperable vehicles, including camper trailers, either offsite OR out of required setbacks, OR bring all to operable status, remove all debris and/or cut all overgrowth, within 14 days of this hearing; pay the assessed Nuisances fees per NMC 1-5 Penalty at the negotiated fee based on employee cost recovery rate, totaling \$2,707.81, and pay assessed fees of \$1,548.00 per Administrative Policy 2.3M5, (Appeals Board Abatement Fee), for a total of \$4,255.81, within 30 days of this hearing. All fees are separate and distinct from any other fees required. If within 6 months of abatement, the property falls out of compliance, a cost recovery fee based on the employee(s) cost recovery rate, up to and including any attorney cost recovery fees, will be assessed.

Board Action (1):
May proceed with Staff recommendation; find **9
Boulevard Ct.** as a Property Nuisance as outlined in
Section 1-6.4 of the Novato Municipal Code

And/or

Board Action (2):

The Board may impose further conditions on the
abatement, as the Board finds just and proper.

Failure to correct the violations within the time frame ordered by the board will result in the City Attorney seeking enforcement of the Board in Superior Court and obtain an inspection warrant. All cost and any fees associated with abatement of violations will be charged to the owner. Failure of the property owner to pay assessed fees; further assessment/lien against the property will be pursued.



**25
Boulevard Ter.**

Single Family Residence

Novato Municipal Code(s);

1-6.4 *Property Nuisances*. The following are expressly declared to be public nuisances:

- e. Buildings, fences, signs, or other structures that are or have been **ABANDONED**, boarded up, partially destroyed, or permitted to remain in a state of partial construction for a period of **90 DAYS** or more, except in the case of partial construction, in which case the time shall be for a period of 180 days or more while any required building permits are valid, and where continuation of the condition is unsightly or is hazardous to the public health, safety, or welfare;
- f. Unpainted buildings causing or tending to cause dry rot, warping, or termite infestation;
- m. Condition of premises that is so defective, unsightly, deteriorated, or in disrepair as to be materially detrimental to the use and enjoyment or value of nearby properties and improvements;





OCTOBER 2016





DECEMBER 2016





MARCH 2017





**November
2017**





November
2017



November
2017



May of last year; Staff received a complaint regarding tall weeds in the front and rear yards. An inspection verified the violation.

As it appeared the home is vacant, a Notice of Violation was posted on the home and mailed to the property owner. Due to noncompliance, the property was scheduled for a hearing in August. However, the owner did abate the issue prior to the hearing and assured staff the home would be reoccupied and needed repairs would be performed.

Staff continued to monitor the property; When it became obvious the home was not reoccupied a notice was mailed to the owners.

Due to noncompliance, the property owner has been assessed a penalty per NMC 1-5, Penalty, at \$100.00 per day from the date of the first notice of October 18, 2016. Fees had reached a total amount of \$16,000.00.

The property was originally scheduled for the April 2017 board. The property trustee came in prior to the hearing to obtain a permit for the repairs. Not enough information was provided but the trustee paid \$1,000.00 as a good faith gesture, that they would return the next week to obtain a permit and work would begin on paint and trimming the grass.

Trustees last contact with staff was in June of this year, via email. Last few inspections do show the weeds are kept down.

Further fees have not been assessed since April of this year.

Since May of last year, staff has performed at least **18** inspections. At least 9 Notices have been mailed to the property owner including the Notice of Hearings. As the property owners/trustee do not live in the area, contact has been limited to a handful of phone calls and emails.



Staff recommends the board find **25 Boulevard Ter. APN 140-041-26** as a Property Nuisance as outlined in *Section 1-6.4* of the Novato Municipal Code;

Order the property owner to maintain all grass, weeds, trees, bushes; dispose of all trash/debris within prescribed law(s), obtain permits to repair roof and eaves, immediately, with Condition Of Approval the work is to begin within 30 (thirty) days and finalized within 90 (ninety) days with the required inspections, pay the assessed Nuisances fees per NMC 1-5 Penalty (\$16,000.000 to date) and pay assessed fees of \$1,548.00 per Administrative Policy 2.3M5, (Appeals Board Abatement Fee), within 30 days of this hearing. These fees are separate and distinct from any other fees required. If within 6 months of abatement, the property falls out of compliance a cost recovery fee based on the employee(s) cost recovery rate, up to and including any attorney cost recovery fees, will be assessed.

Board Action (1):
May proceed with Staff recommendation; find **25
Boulevard Terr.** as a Property Nuisance as outlined in
Section 1-6.4 of the Novato Municipal Code

And/or

Board Action (2):

The Board may impose further conditions on the
abatement, as the Board finds just and proper.

Failure to correct the violations within the time frame ordered by the board will result in the City Attorney seeking enforcement of the Board in Superior Court and obtain an inspection warrant. All cost and any fees associated with abatement of violations will be charged to the owner. Failure of the property owner to pay assessed fees; further assessment/lien against the property will be pursued.



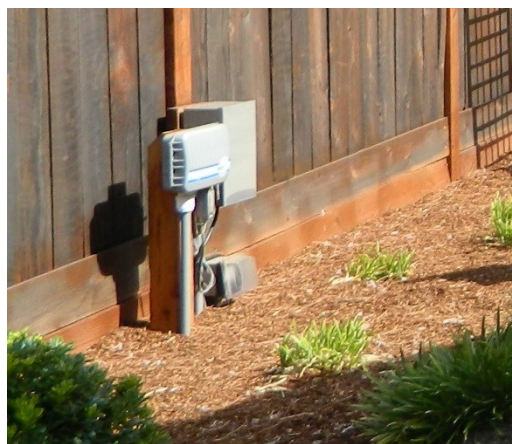
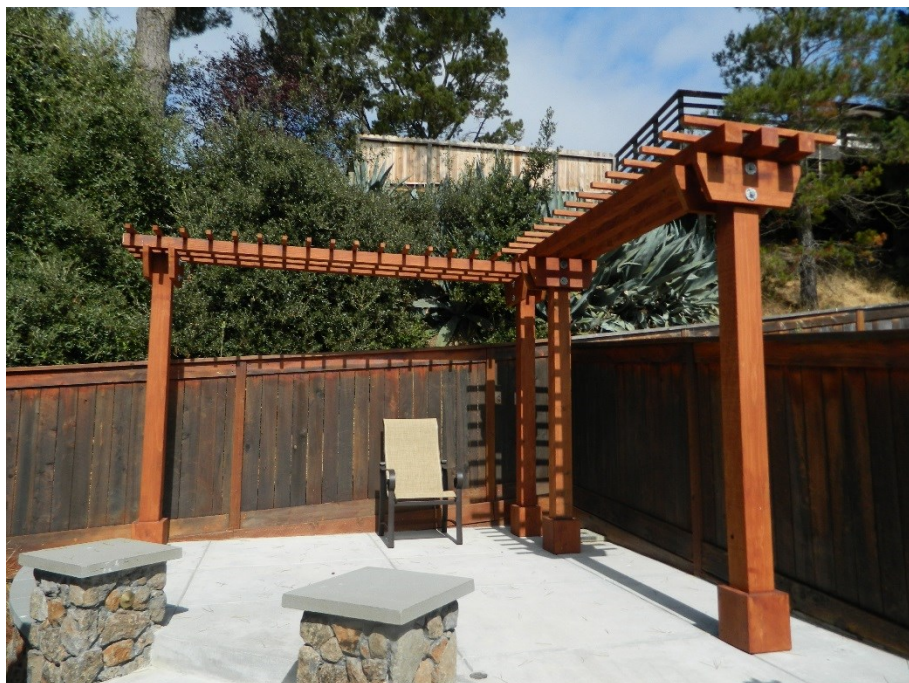
3 Olive Court
APN: 143-660-10

At a Resale Inspection on August 21, 2013 the following work was discovered completed without a permit:

3 Olive Court

- 1. 2 Arbors (approx. 2x10x8h and 2x8x8h) May violate setbacks**
- 2. Added electrical branch (outlet/sprinklers) back yard**

Violation of California Building/Residential Code, Section 105.1-work without permits.



Inspection report and a letter noting the violations were sent to the previous owner immediately following the inspection. Staff had one contact with the homeowner via email October 30, 2014

Due to non-compliance follow up notices were mailed to the homeowner on:

- December 16, 2014
- May 13, 2016
- April 13, 2017
- November 10, 2017

The Notice of Hearing was mailed to the current owner first class and certified on November 21, 2017. The property was posted with a Notice of Hearing on November 21, 2017.

Staff recommends the board find **3 Olive Court APN: 143-660-10** as a Property Nuisance as outlined in *Section 1-6.2* of the Novato Municipal Code and obtain a building permit for:

3 Olive Court

- 1. 2 Arbors (approx. 2x10x8h and 2x8x8h) May violate setbacks**
- 2. Added electrical branch (outlet/sprinklers) back yard**

And pay assessed fees of \$1,548.00 per Administrative Policy 2.3M5 (Appeals Board Abatement Fee) within 14 days of this hearing. Work is to be finalized by a City of Novato Building Inspector within 90 days of permit approval.

Board Action(s)

- Proceed with Staff recommendation to deem **3 Olive Court** a Property Nuisance as outlined in *Section 1-6.2* of the Novato Municipal Code.

And/or

- Impose any additional conditions on the property, as the Board finds just and proper.

- Failure to correct the violations within the time frame ordered by the board will result in the City Attorney enforcing the Board Action in Superior Court via an inspection warrant.
- All costs and any fees associated with abatement of violations will be charged to the owner.
- Failure of the property owner to pay assessed fees may lead to additional fees or lien against the property.

RIGHT OF APPEAL

Any person having any record or legal Interest in the property may appeal the finding(s) of the Appeals Board to the Novato City Council, provided the appeal is made in writing, together with the established fee and filed with the City Clerk within **ten (10) days** from the date of this hearing.



25 Hillswood Drive
APN: 150-223-02

At a Resale Inspection on January 5, 2015 the following work was discovered completed without a permit:

25 Hillswood Drive

- 1. Replacement of retaining wall at side yard, approx. 3'h**
- 2. Patio cover approx. 10'x12'x8'h**

Violation of California Building/Residential Code, Section 105.1-work without permits.



Inspection report and a letter noting the violations were sent to the previous owner immediately following the inspection.

Staff had several contacts with owners via email, phone, or in person between January 2015-August 2017, however no permits have been issued.

Due to non-compliance follow up notices were mailed to the homeowner on:

- April 23, 2015
- June 10, 2016
- April 14, 2017
- November 10, 2017

The Notice of Hearing was mailed to the current owner first class and certified on November 21, 2017. The property was posted with a Notice of Hearing on November 21, 2017.

Staff recommends the board find **25 Hillswood Drive APN: 150-223-02** as a Property Nuisance as outlined in *Section 1-6.2* of the Novato Municipal Code and obtain a building permit for:

25 Hillswood Drive

- 1. Replacement of retaining wall at side yard, approx. 3'h**
- 2. Patio cover approx. 10'x12'x8'h**

And pay assessed fees of \$1,548.00 per Administrative Policy 2.3M5 (Appeals Board Abatement Fee) within 14 days of this hearing. Work is to be finalized by a City of Novato Building Inspector within 90 days of permit approval.

Board Action(s)

- Proceed with Staff recommendation to deem **25 Hillwood Drive** a Property Nuisance as outlined in *Section 1-6.2* of the Novato Municipal Code.

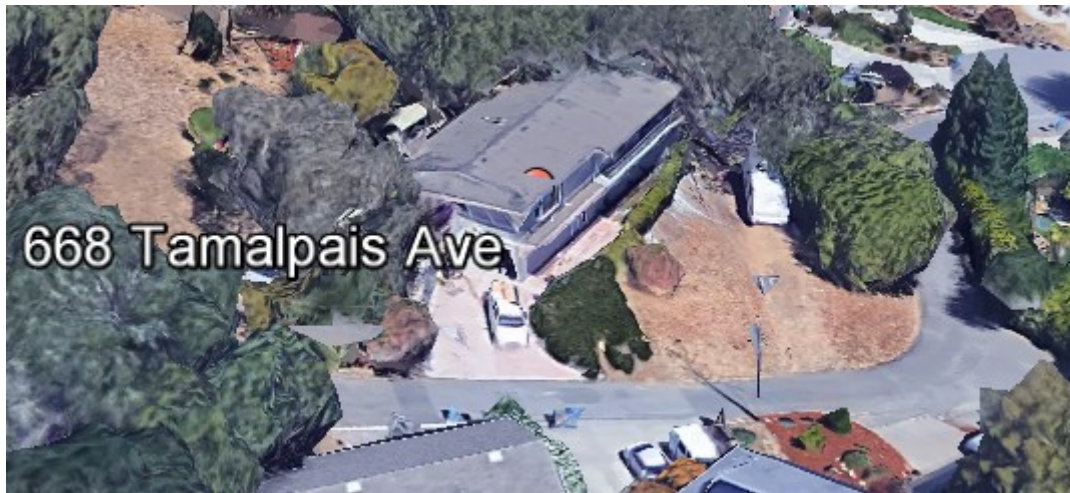
And/or

- Impose any additional conditions on the property, as the Board finds just and proper.

- Failure to correct the violations within the time frame ordered by the board will result in the City Attorney enforcing the Board Action in Superior Court via an inspection warrant.
- All costs and any fees associated with abatement of violations will be charged to the owner.
- Failure of the property owner to pay assessed fees may lead to additional fees or lien against the property.

RIGHT OF APPEAL

Any person having any record or legal Interest in the property may appeal the finding(s) of the Appeals Board to the Novato City Council, provided the appeal is made in writing, together with the established fee and filed with the City Clerk within **ten (10) days** from the date of this hearing.



668 Tamalpais Avenue
APN: 140-331-30

At a Resale Inspection on August 10, 2015 the following work was discovered completed without a permit:

668 Tamalpais Avenue

1. Keystone retaining wall at front right side-yard

Violation of California Building/Residential Code, Section 105.1-work without permits.



Inspection report and a letter noting the violations were sent to the previous owner immediately following the inspection. A permit was issued to previous owner for majority of permit violations in September 2015, however the retaining wall remains outstanding. Staff was in contact with owner via phone in July 2016.

Due to non-compliance follow up notices were mailed to the homeowner on:

- June 30, 2016
- April 17, 2017
- November 10, 2017

The Notice of Hearing was mailed to the current owner first class and certified on November 21, 2017. The property was posted with a Notice of Hearing on November 21, 2017.

Staff recommends the board find **668 Tamalpais Avenue APN: 140-331-30** as a Property Nuisance as outlined in ***Section 1-6.2*** of the Novato Municipal Code and obtain a building permit for:

668 Tamalpais Avenue

1. Keystone retaining wall at front right side-yard

And pay assessed fees of \$1,548.00 per Administrative Policy 2.3M5 (Appeals Board Abatement Fee) within 14 days of this hearing. Work is to be finalized by a City of Novato Building Inspector within 90 days of permit approval.

Board Action(s)

- Proceed with Staff recommendation to deem **668 Tamalpais Avenue** a Property Nuisance as outlined in *Section 1-6.2* of the Novato Municipal Code.

And/or

- Impose any additional conditions on the property, as the Board finds just and proper.

- Failure to correct the violations within the time frame ordered by the board will result in the City Attorney enforcing the Board Action in Superior Court via an inspection warrant.
- All costs and any fees associated with abatement of violations will be charged to the owner.
- Failure of the property owner to pay assessed fees may lead to additional fees or lien against the property.

RIGHT OF APPEAL

Any person having any record or legal Interest in the property may appeal the finding(s) of the Appeals Board to the Novato City Council, provided the appeal is made in writing, together with the established fee and filed with the City Clerk within **ten (10) days** from the date of this hearing.



City of Novato

Housing, Zoning, and Building Codes Appeal Board

**NEXT HEARING DATE
TO BE DETERMINED**