



June 3, 2025

Board of Supervisors
County of Ventura

SUBJECT: De Novo Hearing to Consider Approval of a Conditional Use Permit (CUP) and Planned Development (PD) Permit to Authorize Development of a Single-Family Dwelling, an Accessory Dwelling Unit (ADU), Residential Accessory Structures, and Animal Husbandry / Keeping Accessory Structures; to Consider the Related Appeal of the Planning Commission's Approval of the Project (Case No. PL23-0009); and to Consider Finding the Project is Categorically Exempt from the California Environmental Quality Act (CEQA) Pursuant to CEQA Guidelines Section 15303; Supervisorial District No. 1. (Levine Act Item)

RECOMMENDED ACTIONS

1. **CERTIFY** that your Board has reviewed and considered this letter, the attached Planning Commission staff report dated December 19, 2024 (Exhibit 1), all exhibits thereto, and all other documents in the record and comments received;
2. **FIND** that the project is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15303 (New Construction and Conversion of Small Structures), and that none of the exceptions set forth in Section 15300.2 of the CEQA Guidelines apply to the project;
3. **MAKE** the required findings to grant the requested Conditional Use Permit (CUP) and Planned Development (PD) Permit pursuant to Sections 8111-1.2.1.1, 8111-1.2.1.5, and 8109-4.8.3.8 of the Ventura County Non-Coastal Zoning Ordinance (NCZO), based on the substantial evidence presented in Exhibit 5, this Board letter, and the entire record;
4. **GRANT** CUP and PD Permit No. PL23-0009, subject to the attached conditions of approval (Exhibit 6);
5. **DENY** the appeal of the Planning Commission's decision to approve the project (Exhibit 7) in its entirety and decline to refund any appeal fees;
6. **SPECIFY** that the Clerk of the Board is the custodian, and 800 South Victoria Avenue, Ventura, CA 93009 is the location, of the documents and materials that

constitute the administrative record of proceedings upon which the foregoing decisions are based.

EXECUTIVE SUMMARY

The applicant, Keeley Mircetic, seeks approval of a Conditional Use Permit (CUP) and Planned Development (PD) Permit. The CUP and PD Permit would rectify a code compliance violation (File No. CV22-0510), resulting from the unpermitted construction of 11 structures between 2007 and 2022. The Planning Director approved the CUP and PD Permit on July 17, 2024.

The appellant, Mr. Rich Howard, appealed that action to the Planning Commission (Exhibit 1.3). The appellant's objections related to the proximity of animal keeping/husbandry operations to a home he plans to build. The Planning Commission continued the hearing to allow the applicant to consider the feasibility of relocating animal keeping structures farther from the appellant's proposed residence. The applicant submitted a revised site plan that would move two of the animal shade structures to a location more than 300 feet away from the appellant's intended location of the proposed residence (Exhibit 1.6). Table 1 and Figure 1, below, provide additional information regarding the applicant's revised site plan and the associated increase in distance between the appellant's proposed home and animal-keeping facilities.

Table 1:
Setbacks from Appellant's Proposed Home to Nearest Animal Keeping Facility

Minimum Setback ¹	Original Setback	Revised Setback
40 feet	63 feet	112 feet

The Planning Commission considered the revised site plan during the continued hearing on February 20, 2025. The appellant was not present at the continued hearing. At that hearing, the Planning Commission approved the CUP and PD Permit and determined that the appellant would receive no refund of his appeal deposit. Mr. Howard has now appealed the Planning Commission's action to your Board.

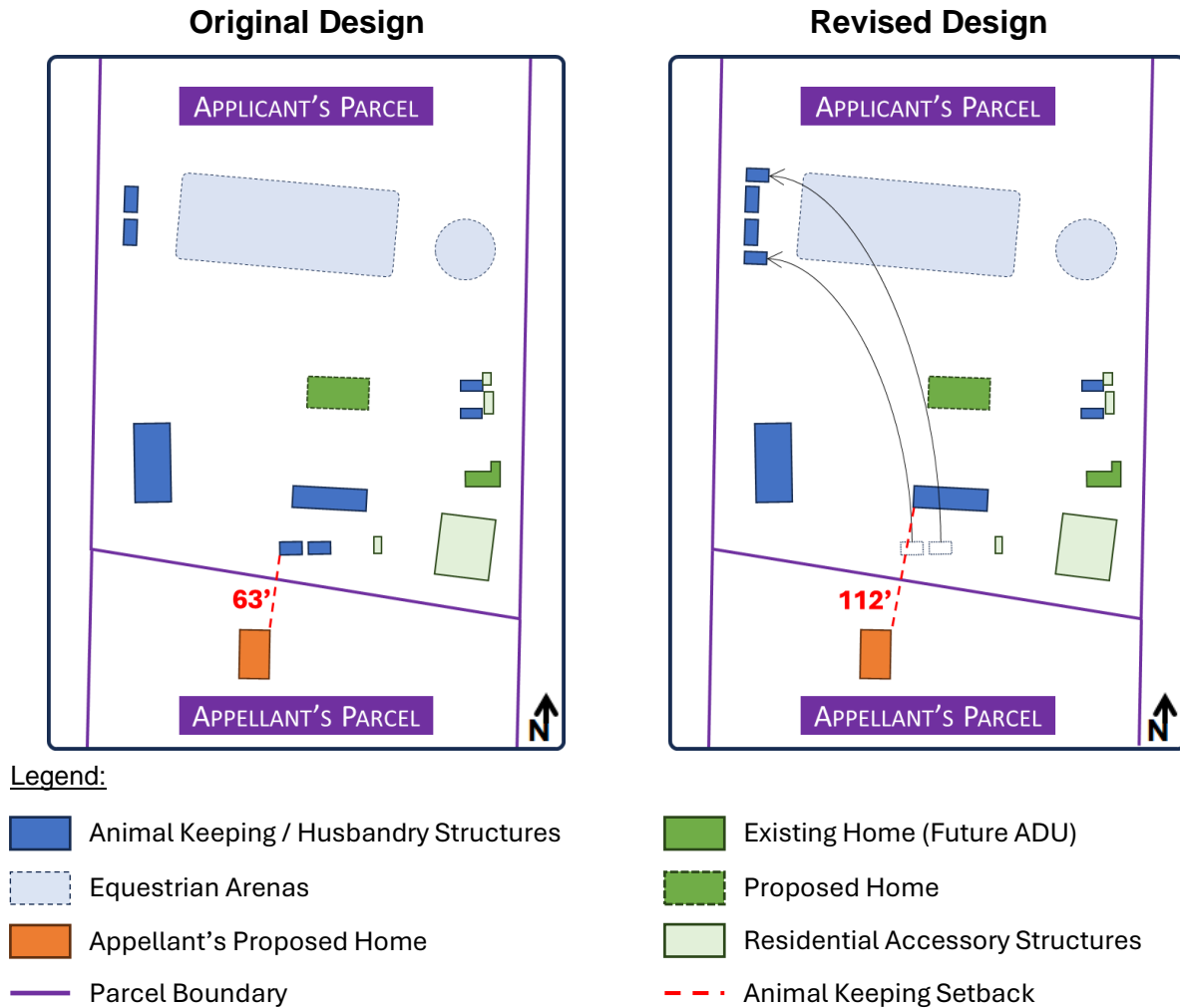
PROPOSED PROJECT

Project Site

The project site is a 5.66-acre parcel located along a private road, Topa Vista Road, south of State Route 150 in the Upper Ojai Valley, roughly halfway between Santa Paula and Ojai. The property's address is 11820 Topa Vista Road, with an assessor parcel

¹ See NCZO, Section 8107-2.5.1.

Figure 1:
Site Plan Comparison



number (APN) of 037-0-080-115 (Exhibit 2.2). The project site is presently used for animal husbandry and animal keeping.

A single-family dwelling had existed on the property from roughly 1960 until 2017, when the Thomas Fire destroyed it. Between 2007 and 2022, eleven structures were constructed on the property without permits.² These include six shade structures for animal keeping and husbandry purposes, a garage, two sheds, and a storage container. Additionally, a pre-existing unpermitted shed has been converted into a single-family dwelling.

² Several of these structures pre-date the applicant's ownership.

The Upper Ojai Valley area is characterized by scattered single-family dwellings on parcels ranging from one-half acre to 20 acres. The single-family dwellings in the area are intermixed with small-scale crop production and animal husbandry operations, oil wells, and open space. The subject parcel is designated Rural in the General Plan and Rural Residential, 5-Acre Minimum Parcel Size in the Ojai Valley Area Plan. The site is zoned Rural Exclusive with a 5-acre minimum parcel size (RE-5 ac.) and is within the Habitat Connectivity and Wildlife Corridor (HCWC) Overlay Zone. Portions of the site are within a surface water feature buffer.

Applicant's Request

The applicant requests approval of a CUP and PD Permit to legalize eleven unpermitted structures and abate a code compliance violation (File No. CV22-0510). The NCZO requires both a CUP and PD Permit for this project for the following reasons:

- **CUP: Animal Husbandry / Keeping Accessory Structures** – NCZO Section 8105-4 requires CUP approval for animal husbandry or keeping accessory structures which cumulatively total more than 2,000 sq. ft., up to 5,000 sq. ft. In this case, the applicant seeks retroactive approval of six shade structures, totaling 4,728 sq. ft., which are used in association with the existing animal husbandry and keeping operation.
- **PD Permit: Non-Habitable Residential Accessory Structures** – NCZO Section 8105-4 requires PD Permit approval for non-habitable residential accessory structures which cumulatively total more than 2,000 sq. ft. In this case, the applicant seeks retroactive approval of a garage, two sheds, and a storage container, which total 3,133 sq. ft.
- **PD Permit: Surface Water Feature Buffer** – NCZO Section 8109-4.8.3.4(a) requires PD Permit approval for development within a surface water feature buffer. These buffers apply within the HCWC Overlay Zone to land within 200 ft. of a wetland or watercourse. In this case, the applicant is seeking retroactive approval of a single-family dwelling and six additional accessory structures that are already subject to a CUP or PD Permit pursuant to NCZO Section 8105-4.

If granted a CUP and PD Permit, the applicant plans to apply for a Zoning Clearance for these structures. The Zoning Clearance will also include a new single-family dwelling, conversion of the existing SFD into an ADU, and retroactive authorization of two grooming stations. Table 2, below, summarizes the characteristics of each of the proposed structures.

Table 2: Structures to Be Permitted

#	E/N	Label on Exhibit 4 Site Plan	Classification	Size (sq. ft.)	SWF	Permit Level
1	(N)	Single-Family Dwelling (SFD) ³	SFD	1,493	No	ZC
2	(E)	Accessory Dwelling Unit (ADU) ⁴	ADU	490	Yes	PD
Total Dwelling Area				1,983		
3	(E)	Garage	Building Not for Human Habitation, Accessory to SFD	2,780	Yes	PD
4	(E)	Shed No. 1		88	No	PD
5	(E)	Shed No. 2		105	Yes	PD
6	(E)	Shipping Container		160	No	PD
Total for Non-Habitable SFD Accessory Area				3,133		
7	(E)	Animal Shade Structure No. 1	Animal Husbandry / Keeping Accessory ⁵	288	Yes	CUP
8	(E)	Animal Shade Structure No. 2		288	Yes	CUP
9	(E)	Animal Shade Structure No. 3		2,352	No	CUP
10	(E)	Animal Shade Structure No. 4		240	Yes	CUP
11	(E)	Animal Shade Structure No. 5		240	Yes	CUP
12	(E)	Animal Shade Structure No. 6		1,320	No	CUP
Total for Animal Husbandry Accessory				4,728		
13	(E)	Grooming Station No. 1	Fence	208	No	ZC
14	(E)	Grooming Station No. 2		208	No	ZC
Total for Fenced Grooming Stations				416		

Notes

- E/N – Indicates if structures is (E)xisting or (N)ew
- SWF – Indicates if structure is within a Surface Water Feature
- Permit Level – ZC = Zoning Clearance; PD = PD Permit; CUP = Conditional Use Permit

Infrastructure and Services

The project site is accessed using a private easement, which extends from Topa Vista Road, a private road. Topa Vista Road connects with State Route 150 (Ojai-Santa Paula

³ The proposed SFD is not subject to CUP or PD Permit approval, as it can be authorized through Zoning Clearance approval (NCZO § 8105-4) and is not located within the designated surface water feature.

⁴ The proposed ADU would function as the principal SFD until the proposed SFD is constructed.

⁵ Though these structures are proposed to be used for shade in support of the principal animal husbandry use, these structures cannot be classified as “animal shade structures” under the NCZO because they do not meet the criteria in NCZO § 8107-34. As such, they are classified as accessory structures related to an animal husbandry use.

Road) roughly 400 feet northwest of the project site. Sisar Mutual Water Company provides water service to the site, and wastewater is handled with individual onsite wastewater treatment systems (OWTS).

DISCUSSION

Standard of Review and Authority of Your Board

This land use matter is before your Board as an appeal of the Planning Commission's February 20, 2025, approval of the project. Your Board reviews Planning Commission appeals *de novo*, or anew. This means that your Board is not limited to consideration of the matters raised on appeal and would be acting on the project in the same manner as if the project were being considered for the first time. Therefore, your Board has the authority to approve, alter, or deny the project and to add, modify, or delete conditions of approval.

As this matter is *de novo*, your Board has no obligation to defer to the Planning Commission's findings or decision on the subject project. However, your Board is free to adopt the same findings if, after applying your independent judgment, you find the Planning Commission's action to be persuasive and its findings to be supported by substantial evidence. Your Board's decision must be made on the merits of the CUP and PD Permit request, rather than on the merits of the appeal issues raised.

Law Governing Decision

NCZO Section 8111-1.2.1.1 sets forth the required findings to grant a CUP and PD Permit. To approve a CUP and PD Permit, your Board must find that:

- a) The proposed development is consistent with the intent and provisions of the General Plan and of Division 8, Chapters 1 and 2, of the Ventura County Ordinance Code;
- b) The proposed development is compatible with the character of surrounding, legally established development;
- c) The proposed development would not be obnoxious or harmful, or impair the utility of neighboring property or uses;
- d) The proposed development would not be detrimental to the public interest, health, safety, convenience, or welfare;
- e) For Conditional Use Permits only, the proposed development is compatible with existing and potential land uses in the general area where the development is to be located;

- f) The proposed development will occur on a legal lot; and
- g) The proposed development is approved in accordance with CEQA and all other applicable laws.

Additionally, as the project site is located within the HCWC Overlay Zone, NCZO Sections 8111-1.2.1.5 and 8109-4.8.3.8.c require that your Board also make the following findings:

- h) Development within any overlay zone having specific development standards complies with those standards.
- i) The development, including any resulting fuel modification required by the Ventura County Fire Protection District (VCFPD) pursuant to VCFPD Ordinance 30, as may be amended, is sited and constructed in a manner consistent with the development guidelines set forth in Section 8109-4.8.3.8.b to the extent feasible.

Exhibit 5 provides the rationale for making these findings.

California Environmental Quality Act (CEQA)

Planning Division staff evaluated the proposed project pursuant to CEQA (Public Resources Code Sections 21000 *et seq.*) and the CEQA Guidelines (Title 14, California Code of Regulations, Sections 15000 *et seq.*).

As described more fully in Section C of the Planning Commission staff report of December 19, 2024, (Exhibit 1), the project qualifies for a Class 3 categorical exemption pursuant to CEQA Guidelines Section 15303 (New Construction or Conversion of Small Structures). A Class 3 categorical exemption applies to projects that involve the construction of a limited number of small-scale facilities and structures, including a single-family dwelling and accessory structures. The applicant's project consists of a single-family dwelling and several accessory structures, including a garage, two sheds, and a storage container. The project also includes six shade structures that are accessory to a pre-existing animal husbandry and animal keeping use. As the project involves the authorization of a single-family dwelling and accessory structures, it falls within the parameters of CEQA Guidelines Section 15303 subsections (a) and (e).

Planning staff have also evaluated the project to determine if the project's location or features would fall within an exception to the categorical exemptions, as set forth in CEQA Guidelines Section 15300.2. There are no particularly sensitive resources in the areas where the structures were built and where two of the shade structures will be relocated. Each structure maintains a minimum 100-foot setback from wetlands and would not impede wildlife migration. As such, no unusual circumstances apply to the project.

Therefore, no exceptions apply, and the project qualifies for a Class 3 categorical exemption. The project requires no further environmental review.

PLANNING COMMISSION ACTION

The project consists of a CUP and PD Permit. In accordance with NCZO Section 8105-4, the Planning Director is the designated decision-maker for this CUP and PD Permit. On June 20, 2024, the Planning Director held a hearing on the CUP and PD Permit. This hearing was continued to July 3, 2024, to allow the Planning Division to consider substantive comments received by both the applicant and the appellant.⁶ The Planning Director subsequently approved the project on July 17, 2024. The appellant filed a timely appeal on July 24, 2024, raising several issues including concerns that the project could expose nearby vulnerable residents to health complications due to the proximity of horse-keeping facilities.

The Planning Commission considered the appeal on December 19, 2024, with four of the five commissioners present. Following deliberation, it became apparent that without changes to the project to address concerns regarding the distance between appellant's proposed home and the closest animal-keeping facilities, that motions to act on the CUP and PD Permit would result in a 2-2 vote, which would amount to a denial. As a result, the Commission voted 3-1 to continue the matter to a new date certain, February 20, 2025, to allow the applicant time to consider the feasibility of relocating structures away from the appellant's property. The continued hearing date of February 20, 2025, was mentioned four times and was referenced in a subsequent email to the appellant.

The applicant developed a revised site plan (Exhibit 1.6), which would relocate two structures (corrals) such that the nearest animal-keeping facilities would be at least 112 feet from the appellant's proposed home. The applicant estimates the costs of relocating these structures at approximately \$22,000. The applicant concluded that relocating other structures would be infeasible, as costs of doing this would rise to approximately \$400,000. Planning Division staff sought feedback from the appellant on the revised plan in January, but the appellant declined to provide any such feedback. Planning Division staff also reminded appellant of the February 20, 2025, hearing date at least twice.

The Planning Commission opened the continued hearing on February 20, 2025, at 8:30 am. The appellant was not present, so the Commission heard another agenda item first. Planning Division staff attempted to reach appellant by phone, with no response. When the Planning Commission resumed the hearing for this item at approximately 11:00 am, the appellant was still not present. At the close of public testimony and deliberation, the Commission closed the public hearing and approved the project as revised on a 4-0 vote. As part of its action, the Planning Commission determined that none of the appellant's \$1,000 deposit would be refunded.

⁶ Mr. Howard was also the appellant on this matter.

APPEAL

Grounds for Appeal and Planning Division Responses

The appellant's appeal raises only two narrow issues: refund of the appeal deposit and environmental review.

- (1) **Refund of Appeal Fee:** The appellant asks that both of his appeal fees, totaling \$2,000, be returned, because the Planning Commission required a material alteration to the project in response to his appeal.

Response: The Board of Supervisors adopts and regularly updates the Planning Division's fee schedule. The fee schedule requires that an appellant pay a \$1,000 deposit, against which staff time is billed.⁷ The fee schedule also specifies:

[T]he decision-making body shall decide at the time the decision is rendered whether an appeal has been denied, granted in full, or granted in part. If an appeal is denied, there shall be no refund. If an appeal is granted in full, there shall be a refund of all appeal fees paid for that appeal hearing. If an appeal is granted in part, the decision-making body *may* decide to refund a portion of the appeal fees if one or more of the grounds for appeal that were raised by the appellant to the Resource Management Agency before filing the appeal were sustained and caused a material change in the matter being appealed. (Fee Schedule 2024-25, *emphasis added*)

In this case, appellant paid a \$1,000 deposit on July 29, 2024, to appeal the Planning Director's initial project decision to the Planning Commission. Though the Commission approved the applicant's request, the appellant's testimony did result in a material change in the project: the relocation of two structures. Under the above-stated appeal fee refund policy, the Commission therefore had the discretion to grant a refund of the appeal fees. As previously noted, the Planning Commission decided on a 4-0 vote not to refund any fees. Staff interprets the above-stated appeal fee refund policy as not authorizing your Board to now overturn the Planning Commission's refund decision because your Board was not the "decision-making body" for the Planning Commission hearing. Moreover, because the Commission's decision was entirely consistent with the appeal fee refund policy, the Planning Division recommends against granting appellant's requested refund of the \$1,000 Planning Commission appeal fees for this reason as well.

⁷ At the current hourly rate of \$195.81, this deposit is fully exhausted after 5.1 hours.

Mr. Howard paid a second \$1,000 deposit on March 3, 2025, to appeal the Planning Commission's project decision to your Board. Because appellant has not raised any new meritorious issues in his appeal to your Board, the Planning Division recommends that the appeal be denied in full along with the requested refund of the \$1,000 appeal fees deposited for the subject hearing.

- (2) **Environmental Review:** The appellant states that the project falls within the CEQA Guidelines and argues that additional CEQA review should be required to ensure health and safety, as the project may contaminate the air and soil.

Response: The project was reviewed pursuant to CEQA. The State Legislature through the Secretary for Natural Resources has found that certain classes of projects are exempt from CEQA environmental impact review because they have been determined not to have a significant effect on the environment. These projects are declared to be categorically exempt from the requirement for the preparation of environmental impact documents. As noted above under the "Discussion" heading, the project falls under a Class 3 categorical exemption, which is established in CEQA Guidelines Section 15303. Because the project is exempt from CEQA, no further environmental review is required. The applicant has not documented any specific conditions or circumstances that would indicate that a Class 3 categorical exemption is inapplicable or that an exception to the categorical exemption applies.

Several agencies have reviewed the proposed project, including:

- Air Pollution Control District, which considers fugitive dust and odors;
- Environmental Health Division of the Resource Management Agency, which considers manure management; and
- Groundwater Section of the Watershed Protection District, which considers discharges to groundwater, surface water, and runoff.

Each of these agencies have concluded that the project, as conditioned, would not result in significant impacts to public health, safety, or welfare.

The project satisfies the provisions of CEQA and qualifies for a categorical exemption. The agencies charged with protecting public health, safety, and welfare conclude that the project would have no significant effect. Additional CEQA review is thus not required. Therefore, the appellant's arguments lack merit.

Planning Division Conclusions

Both the Planning Director and Planning Commission have held hearings on the project and concluded that it satisfies the required findings to grant a CUP and PD Permit. The appellant has not raised substantive issues in this appeal. The issues he does raise do

not conflict with the findings that the Planning Commission adopted (refer to Exhibit 5). Therefore, the Planning Division recommends that your Board deny the appeal and approve the project, subject to the proposed conditions of approval.⁸

NOTICE AND PUBLIC COMMENTS

The Planning Division provided public notice of the Board hearing on this matter in conformance with the requirements of Government Code Section 65091 and Ventura County NCZO Section 8111-3.1. On May 23, 2025, the Planning Division mailed notice to owners of property within 300 feet of the property on which the project site is located, posted a notice on the Planning Division website, and placed a legal ad in the *Ventura County Star*. The owners of 22 parcels, the City of Ojai, and the Upper Ojai Neighborhood Council were notified of the hearing by mail. Additionally, the Planning Division provided an email notice to all parties that submitted written comments on the project or asked to be on the list of interested parties for the project.

REVIEWING AGENCIES

This Board item was reviewed by County Counsel, the Auditor-Controller's office, and the County Executive Office. If you have any questions regarding this matter, please contact me at (805) 654-2481 or Dave.Ward@ventura.org or Case Planner Michael Conger at (805) 654-5038 or Michael.Conger@ventura.org.


Dave Ward, AICP, Director
Ventura County Planning Division

Attachments:

- | | |
|-------------|--|
| Exhibit 1 | Planning Commission Staff Report (December 19, 2024) |
| Exhibit 1.1 | Continuance Memo (February 20, 2025) |
| Exhibit 1.2 | Errata Memo (February 20, 2025) |
| Exhibit 1.3 | Appeal of Planning Director Action |
| Exhibit 1.4 | Applicant Response to Appeal |
| Exhibit 1.5 | Applicant's Narrative in Response to Planning Commission |
| Exhibit 1.6 | Revised Site Plan |
| Exhibit 1.7 | Additional Plans |
| Exhibit 1.8 | Letter from Biologist |
| Exhibit 2 | Planning Director Hearing Staff Report (June 20, 2024) |
| Exhibit 2.1 | Continuance Memo (July 3, 2024) |
| Exhibit 2.2 | Maps |
| Exhibit 2.3 | Original Plans |
| Exhibit 2.4 | Original Conditions of Approval |
| Exhibit 2.5 | General Plan Consistency Analysis |

⁸ The Planning Division recommends inclusion of a new condition of approval (Condition No. 51 – Avoidance of Nesting Birds), as the plans now call for relocating two structures.

- Exhibit 2.6 Initial Study Biological Assessment (ISBA)
- Exhibit 2.7 Geotechnical Report
- Exhibit 2.8 Drainage Report
- Exhibit 2.9 Public Comments
- Exhibit 3 Planning Commission Resolution (February 20, 2025)
 - Exhibit 3.1 Planning Commission Minutes (December 19, 2024)
 - Exhibit 3.2 Planning Commission Minutes (February 20, 2025)
- Exhibit 4 Plans
- Exhibit 5 Findings
- Exhibit 6 Conditions of Approval
- Exhibit 7 Appeal of Planning Commission Action