



Planning Commission Staff Report Hearing on December 19, 2024

County of Ventura • Resource Management Agency

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APPEAL OF MIRCETIC CONDITIONAL USE PERMIT AND PLANNED DEVELOPMENT (PD) PERMIT CASE NO. PL23-0009

A. PROJECT INFORMATION

- 1. Request:** The applicant requests 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 structures accessory to an animal husbandry / keeping use. The PD Permit would authorize non-habitable residential accessory structures to cumulatively exceed 2,000 square feet (sq. ft.) and the development of five structures within a Surface Water Feature in the Habitat Connectivity and Wildlife Corridor (HCWC) Overlay Zone. The CUP would authorize animal husbandry / keeping accessory structures to exceed 2,000 sq. ft (Case No. PL23-0009).
- 2. Applicant:** Keeley Mircetic, 11820 Topa Vista Road, Santa Paula, CA 93060
- 3. Property Owner:** Neda Mircetic Revocable Trust, 8828 Tacoma Street, Ventura, CA 93004
- 4. Applicant's Representative:** Erik Nagy, Jensen Design and Survey, 1672 Donlon Street, Ventura, CA 93003
- 5. Appellant:** Richard Howard, 11700 Topa Vista Road, Santa Paula, CA 93060
- 6. Decision-Making Authority:** Pursuant to the Ventura County Non-Coastal Zoning Ordinance (NCZO) (Section 8105-4 and Section 8111-1.2 et seq.), the Planning Director is the decision-maker for the requested CUP and PD Permit. The Planning Director approved the CUP and PD Permit on July 17, 2024. The appellant then filed a timely appeal on July 29, 2024. In accordance with NCZO Section 8111-7.2(a), appeals of decisions by the Planning Director are heard by the Planning Commission.
- 7. Project Site Size, Location, and Parcel Number:** The 5.66-acre project site is located at 11820 Topa Vista Road, approximately 700 feet south of State Route 150 (Ojai-Santa Paula Road) in the unincorporated Upper Ojai Valley area of Ventura County. The Tax Assessor's parcel number for the parcel that constitutes the project site is 037-0-080-115 (Exhibit 1.2).

8. Project Site Land Use and Zoning Designations (Exhibit 2):

- a. Countywide General Plan Land Use Map Designation: Rural
- b. Ojai Valley Area Plan Land Use Map Designation: Rural Residential, 5-10 Acre Minimum Parcel Size
- c. Zoning Designation: RE-5 ac. / HCWC (Rural Exclusive, 5-Acre Minimum Parcel Size / Habitat Connectivity and Wildlife Corridor)

9. Adjacent Zoning and Land Uses/Development (Exhibit 2):

Location in Relation to the Project Site	Zoning	Land Uses/Development
North	RE-5 ac. / HCWC	Single-Family Dwellings; Residential Accessory Structures; Animal Keeping
East	OS-10 ac. / HCWC ¹	Single-Family Dwellings; Residential Accessory Structures
South	RE-5 ac. / HCWC	Vacant Land
	OS-10 ac. / HCWC ¹	Single-Family Dwellings, Residential Accessory Structures
West	RE-5 ac. / HCWC	Single-Family Dwelling
	M1-10,000 sq. ft. / HCWC ²	Oil and Gas Extraction, Processing, and Storage

10. History: The subject property is within the boundaries of the Ojai Oil and Gas Field, the field where the first production of oil in Ventura County was drilled in 1866. The project site includes three wells that are covered under CUP No. 15, two of which are plugged, and one of which is registered with the State as active but has been idle. Twelve additional wells are within 500 ft. of the project site’s boundaries. Of these, six are plugged and abandoned, four are idle, and two are active.

The subject parcel was created by deed in 1954. A Certificate of Compliance has since been recorded (No. CC-23-02-1579, recorded at Instrument No. 2023-000030984). According to assessment records, a house was constructed on the property around 1960. Zoning Clearances were issued for a porch addition in 1961 (File No. ZC 8209) and a detached accessory building in 1962 (File No. ZC 8735). The house was subsequently destroyed in the 2017 Thomas Fire and the accessory structure no longer remains on the property.

¹ Open Space, 10-Acre Minimum Parcel Size / Habitat Connectivity and Wildlife Corridor

² Industrial Park, 10,000 Sq. Ft. Minimum Parcel Size / Habitat Connectivity and Wildlife Corridor

Based on review of aerial imagery and permitting records, the Planning Division determined that several structures were established without obtaining permits:

- Between 2006 and 2007, a 2,780 sq. ft. accessory structure was constructed in the southeast corner of the parcel.
- Between 2007 and 2008, a 1,320 sq. ft. carport or shade structure was constructed adjacent to the then-present house.
- Between 2008 and 2009, a 105 sq. ft. shed was installed.
- Between 2012 and 2014, a 426 sq. ft. shed was installed. A 64 sq. ft. addition was made to this structure in 2022, and it was converted into a dwelling.
- In 2022, five open shade structures, totaling 3,408 sq. ft. were constructed. Additionally, an 88 sq. ft. shed, a 160 sq. ft. shipping container, and two equine grooming stations totaling 416 sq. ft. were placed on the property.

In 2019, the Board of Supervisors adopted the HCWC overlay zone. The HCWC zone's standards specify that a PD Permit is required for any development occurring within a "surface water feature," which is defined to include any area within 200 ft. of streams, creeks, or wetlands. Unnamed tributaries to Sisar Creek run through the northern portion of the subject parcel and on the adjacent parcels to the south and east. As a result, approximately 64 percent (~ 3.63 acres) of the parcel lies within a designated surface water feature. Development in these areas requires PD Permit approval.

In August 2022, in response to a complaint, the Code Compliance Division issued the applicant a Notice of Violation (File No. CV22-0510) for construction of several structures without permits (refer to Structure Nos. 2 through 14 in Table 1). The applicant is now seeking to abate this violation by retroactively permitting these structures.

The principal use on the project site is presently animal husbandry / keeping. The property currently accommodates ten horses, each of which measure more than 58 inches at the withers.³ The NCZO classifies these horses as "large equines," which would equate to 1.0 animal units each, for a total of 10 animal units. The parcel is zoned RE and sized at 5.66 acres, which allows a maximum of 11.8 animal units before a CUP is required for animal husbandry or animal keeping (see NCZO §§ 8105-4, 8107-2.5.2)⁴.

All uses and structures are clustered on the portion of the site south of the tributary to Sisar Creek. The northern 2.1 acres of the project site remains undeveloped.

³ Sourced from an email from Keeley Mircetic, dated February 16, 2023. NCZO § 8107-2.5.1 sets the number of animal units for each adult equine based on its height "at the withers," another term for shoulder blades. Small horses (< 36") are 0.3 animal units. Medium horses (36" – 58") are 0.5 animal units. Large horses (>58") are 1.0 animal unit.

⁴ For the RE zone, a parcel may have up to 3 animal units for the first 25,000 sq. ft. in area, plus one animal unit for every additional 25,000 sq. ft. of area.

On June 20, 2024, a Planning Director Hearing was held to consider the proposed CUP and PD Permit. Prior to the hearing, the Planning Division received requests to modify conditions from the applicant and several comments from the appellant expressing his concerns with the project. The hearing was continued to July 3, 2024, to consider the comments received and requested revisions (see Exhibit 2).

On July 3, 2024, the Planning Director Hearing was held. Planning Division staff recommended modifications to three conditions. During the hearing, four individuals spoke in support of the project, and one (the appellant) spoke against it. After considering all documentation in the record and comments received, including 15 public comment emails, the Planning Director granted the CUP and PD Permit in accordance with staff's recommendations on July 17, 2024. On July 29, 2024, the appellant filed a timely appeal.

11. Project Description: The applicant requests a Conditional Use Permit (CUP) and Planned Development (PD) Permit be granted to legalize the unpermitted construction of 11 structures.⁵

Through PD Permit approval, an existing single-family dwelling (SFD) (490 sq. ft.) would be authorized within a surface water feature in the HCWC overlay zone.⁶ The applicant proposes to construct a new single-family dwelling of 1,493 sq. ft.⁷ and to convert the existing 490-sq. ft. SFD into an accessory dwelling unit (ADU).⁸ The new SFD would be located outside of the surface water feature and can be permitted through Zoning Clearance approval once the existing violations are abated. Therefore, it is outside of the scope of this entitlement but is considered as part of the project for purposes of CEQA review.

The PD Permit would also authorize non-habitable structures accessory to the single-family dwelling to exceed a cumulative total of 2,000 sq. ft.⁹ These include a detached garage of 2,780 sq. ft., a shipping container of 160 sq. ft., and two sheds of 88 sq. ft and 105 sq. ft. each (total 3,133 sq. ft.). All residential accessory structures are under 15 feet in height except for the garage, which has a height of 21 feet.¹⁰

⁵ The site would involve a total of 14 structures. The proposed SFD and two existing grooming stations are outside of the scope of this CUP and PD Permit, because these structures are permissible with a Zoning Clearance once the applicant resolves the open violations.

⁶ See Table 1, Structure No. 2.

⁷ See Table 1, Structure No. 1.

⁸ For the purposes of this report, the newly proposed SFD, which is outside the scope of this permit, is referred to as the "SFD," while the principal SFD, which will be re-designated as an ADU upon construction of the new SFD, is referred to as the "ADU."

⁹ See Table 1, Structure Nos. 3 through 6.

¹⁰ Accessory structures may exceed a height of 15 feet and would instead be subject to the maximum height limit for a principal structure (here, 35 ft.) when located a minimum of 20 ft. from all property lines (NCZO § 8106-7.4).

The CUP would authorize accessory structures for animal husbandry / keeping to exceed a cumulative total of 2,000 sq. ft. This includes six animal husbandry / keeping structures of 2,352 sq. ft., 1,320 sq. ft., 240 sq. ft., 240 sq. ft., 288 sq. ft., and 288 sq. ft., each (totaling 4,728 sq. ft.).¹¹ Two corrals (“grooming stations”) that have temporary shade canopies, each of which cover an area of 208 sq. ft., were also constructed without permits.¹² Because these grooming stations are comprised of corrals and are only occasionally covered, they are considered “fences” as defined in the NCZO. All animal husbandry / keeping accessory structures are under 15 ft. in height except for one (Animal Husbandry Accessory Structure No. 3), which is 19 ft. tall.¹⁰

The project site is within the Habitat Connectivity and Wildlife Corridor (HCWC) overlay zone. The CUP and PD Permit would also legitimize the unpermitted construction of five structures within a “surface water feature”: the ADU, garage, one of the sheds, and two of the animal husbandry / keeping structures.

Table 1: Structures to Be Permitted

#	E/N	Label	Classification	Size (sq. ft.)	SWF	Permit Level
1	(N)	Single-Family Dwelling (SFD) ¹³	SFD	1,493	No	ZC
2	(E)	ADU ¹⁴	ADU	490	Yes	PD
<i>Total Dwelling Area</i>				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
<i>Total for Non-Habitable SFD Accessory Area</i>				3,133		
7	(E)	Animal Husbandry Accessory Structure No. 1	Animal Husbandry / Keeping Accessory ¹⁵	1,320	No	CUP
8	(E)	Animal Husbandry Accessory Structure No. 2		288	Yes	CUP
9	(E)	Animal Husbandry Accessory Structure No. 3		288	Yes	CUP

¹¹ See Table 1, Structure Nos. 7 through 12.

¹² See Table 1, Structure Nos. 13 and 14.

¹³ 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.

¹⁴ The proposed ADU would function as the principal SFD until the proposed SFD is constructed.

¹⁵ Though these structures are proposed to be used for shade in support of the principal animal husbandry / keeping use, these structures cannot be classified as “animal shade structures” under the NCZO, because they do not meet the criteria in NCZO § 8107-34. Under the NCZO criteria, an animal shade structure “may be attached to... portable structures,” but “shall not be anchored in the ground.” Since these structures do have permanent foundations, they are instead classified as accessory structures related to an animal husbandry use.

Table 1: Structures to Be Permitted

#	E/N	Label	Classification	Size (sq. ft.)	SWF	Permit Level
10	(E)	Animal Husbandry Accessory Structure No. 4		2,352	No	CUP
11	(E)	Animal Husbandry Accessory Structure No. 5		240	No	CUP
12	(E)	Animal Husbandry Accessory Structure No. 6		240	No	CUP
<i>Total for Animal Husbandry Accessory</i>				4,728		
13	(E)	Grooming Station No. 1	Fence	208	No	ZC
14	(E)	Grooming Station No. 2		208	No	ZC
<i>Total for Fenced Grooming Stations</i>				416		

Notes

- E/N – Indicates if structure 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

The single-family dwelling and ADU will be within 500 ft. of approximately 16 existing oil wells that are part of CUP No. 15. The nearest well (Ojai Well No. 24) would be approximately 169 ft. southwest of the home and approximately 261 ft. southwest of the ADU; however, this well has been plugged and abandoned. The nearest active well (Ojai Well No. 27) would be approximately 267 ft. north of the proposed single-family dwelling and 344 ft. north of the ADU. The applicant has requested a reduced 100-ft. oil well setback pursuant to Non-Coastal Zoning Ordinance (NCZO) section 8106-6.3, and will be required to record a notice acknowledging the reduced setback (see Exhibit 5, Condition No. 19).

Infrastructure and Services

Access to the site is provided by Topa Vista Road, a private road that connects to State Route 150 (Ojai - Santa Paula Road). Sisar Mutual Water Company provides water to the project site. Wastewater will be handled through onsite wastewater treatment systems (OWTS). Earthwork is estimated to be less than 50 cubic yards. No off-site improvements are proposed. (Exhibit 1.3).

B. DE NOVO HEARING TO CONSIDER APPEAL

1. **Scope of the Planning Commission Hearing:** This land use matter comes before your Commission as an appeal of the Planning Director’s July 17, 2024, decision (Exhibit 4) to grant a CUP and PD Permit to authorize after-the-fact construction of structures that (1) exceed Zoning Clearance size limitations for residential accessory structures; (2) exceed Zoning Clearance size limitations for

animal husbandry / keeping structures; and (3) are located within a surface water feature in the HCWC overlay zone. The appeal was filed on July 29, 2024, by the appellant.

Under the NCZO (Section 8111-4), once appealed, the applicant's request comes before the Planning Commission for a *de novo* ("new") hearing. This means that the Commission must conduct a public hearing on the requested CUP and PD Permit as if the request were a new permit being considered for the first time. The Commission is not required to give any deference to the Planning Director's findings or decision on the applicant's request or to the staff recommendations outlined in this report. However, your Commission is free to make the same findings as the Planning Director if, based on your independent judgment, the Commission finds them to be persuasive and supported by substantial evidence in the record.

While the Commission should consider the appeal points raised by the appellant, the Commission is not limited by them. Whether or not the appeal should be granted depends upon the Commission's decision based on the merits of the requested CUP and PD Permit, and not the merits of the appeal points. Your Commission may approve, deny, or modify the CUP and PD Permit request in whole or in part (NCZO Section 8111-4.2). Your Commission will also decide whether to approve, approve with modifications, or deny the appeal request (NCZO Section 8111-7.5).

- 2. Ventura County Non-Coastal Zoning Ordinance (NCZO):** Pursuant to Sections 8105-4, 8109-4.8.3.5(a), and 8111-1.2.1.1a of the NCZO, the proposed project is allowed in the RE zone subject to the granting of a CUP and PD Permit. The proposed project meets the NCZO standards regarding animal husbandry / keeping and residential accessory uses. The project's consistency with relevant NCZO standards is addressed in Section D of the June 20, 2024, Planning Director staff report (Exhibit 1.1).

The structures proposed under this CUP and PD Permit are existing but were constructed or installed without the appropriate permits and authorizations, in violation of the NCZO. The applicant may abate the violation by obtaining the CUP and PD Permits, satisfying the conditions of approval, and obtaining the necessary construction permits. Though the structures are existing, and some have been in place for several years, the CUP and PD Permit applies the same standards and conditions as what would be applied currently to newly constructed structures. This approach ensures that unpermitted activities are not given favorable treatment.

C. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) COMPLIANCE

Pursuant to CEQA (Public Resources Code Section 21000 et seq.) and the CEQA Guidelines (Title 14, California Code of Regulations, Division 6, Chapter 3, Section 15000 et seq.), the proposed project was evaluated for compliance with 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. The proposed development consists of the legalization of an SFD and several accessory structures that have already been constructed without permits. The project qualifies for a Class 3 (New Construction or Conversion of Small Structures) Categorical Exemption. The Class 3 Categorical Exemption expressly includes “[o]ne single-family residence, or a secondary dwelling unit in a residential zone” (CEQA Guidelines § 15303(a)), which covers the SFD and ADU. The Class 3 Categorical Exemption also expressly includes “[a]ccessory (appurtenant) structures including garages [and] carports....” (CEQA Guidelines § 15303(e)), which covers all remaining structures accessory to either the residential use or animal husbandry / keeping use. Therefore, the project is determined not to have a significant effect on the environment pursuant to CEQA Guidelines Section 15303.

Further, the project will not trigger any of the exceptions to the exemptions listed under CEQA Guidelines Section 15300.2. The area of development does not include sensitive biological resources, as evidenced by the Initial Study Biological Assessment (ISBA) (see Exhibit 6). Though several of the structures are within the designated “surface water feature,” the project biologist concluded that no significant environmental impact would result for the following reasons:

- All development occurred in areas that were previously disturbed. The construction of the structures did not require a removal of native vegetation.
- No sensitive species were observed on the property, and no suitable habitat for sensitive species was present in the areas where structures were built.
- The structures do not constrain or inhibit wildlife movement along the two tributaries of Sisar Creek.
- All structures are a minimum of 100 ft. from wetlands, which a qualified biologist determined to be a sufficient setback, and which is also consistent with General Plan Conservation and Open Space Policy COS-1.11 (Discretionary Development Sited Near Wetlands).

Considering these features, the proposed project aligns with the purpose of the HCWC overlay zone, which is to minimize impacts on wildlife migration and to preserve the integrity of surface water features (see NCZO § 8104-7.7).

Furthermore, there is no evidence of any risk of cumulative impacts, nor any unusual circumstances present that would suggest the potential for the project to result in a significant environmental effect. The project would not be visible from a scenic highway (e.g., State Route 150), and no historical resources or hazardous waste sites are within the vicinity of the project site. Therefore, no exceptions under CEQA Guidelines Section 15300.2 preclude use of the Class 3 Categorical Exemption, and no further environmental review is required.

Accordingly, Planning Division staff recommend that your Commission find that this project is categorically exempt pursuant to Section 15303 of the CEQA Guidelines.

D. PD PERMIT AND CUP FINDINGS AND SUPPORTING EVIDENCE

The Planning Commission must make certain findings in order to grant a CUP and PD Permit pursuant to Sections 8111-1.2.1.1a, 8111-1.2.1.4, and 8109-4.8.3.8.c of the Ventura County NCZO. The ability to make the required findings is evaluated below.

1. The proposed development is consistent with the intent and provisions of the County's General Plan and of Division 8, Chapters 1 and 2, of the Ventura County Ordinance Code [Section 8111-1.2.1.1a.a].

Based on the information and analysis presented in Sections B and D of this staff report, and in Sections C and D of the June 20, 2024 staff report, the finding that the proposed development is consistent with the intent and provisions of the County's General Plan and of Division 8, Chapters 1 and 2, of the Ventura County Ordinance Code can be made.

2. The proposed development is compatible with the character of surrounding, legally established development [Section 8111-1.2.1.1a.b].

The 5.66-acre project site is located in the Upper Ojai Valley in an area the General Plan designates as Rural and the Ojai Valley Area Plan designates as Rural Residential with a 5-10 acre minimum parcel size. The site is zoned Rural Exclusive (RE), which is a zone intended “to provide for and maintain rural residential areas in conjunction with horticultural activities, and to provide for a limited range of institutional uses which are compatible with and complementary to rural communities.” (NCZO § 8104-2.2). The surrounding neighborhood consists primarily of rural residential development intermixed with animal husbandry and crop production. Parcel sizes vary from 0.25 to over 100 acres. Oil and gas wells are common throughout the area, and an 8.35-acre facility housing tanks, compressors, and other support facilities for oil and gas extraction is just 400 ft. west of the subject site. Oak woodlands are dominant in the higher elevations to the south up towards the Sulphur Mountain ridge, while chaparral vegetation is dominant in the Topa Topa foothills to the north.

The project site is also located in the Habitat Connectivity and Wildlife Corridor (HCWC) overlay zone, which is intended “to preserve functional connectivity for wildlife and vegetation... by minimizing direct and indirect barriers, minimizing loss of vegetation and habitat fragmentation, and minimizing impacts to those areas that are narrow, impacted, or otherwise tenuous with respect to wildlife movement.” (NCZO § 8104-7.7). The site is part of the Castaic-Sierra Madre Wildlife Corridor. An unnamed tributary to Sisar Creek runs through the northern portion of the site, and a second tributary runs just beyond the site’s southern and eastern boundaries. A wildlife crossing along Sisar Creek at Koenigstein Road near State Route 150 provides connectivity between Sulphur Mountain and the Topa Topas.

The proposed project consists of legitimizing 11 structures which were constructed without the appropriate land use permits.¹⁶ The project site is currently used for animal husbandry. The applicant is seeking to authorize an existing structure to serve as a principal SFD. Subsequently, the applicant will construct a new SFD and convert the prior SFD into an ADU. The project would recognize the existing structures as accessory structures in support of these principal uses. The applicant has requested a PD Permit to allow residential accessory structures to exceed a cumulative size of 2,000 sq. ft. and a CUP to exceed a cumulative size of 2,000 sq. ft. for animal husbandry accessory structures. Additionally, PD Permit approval is needed to authorize the unpermitted construction that occurred within a surface water feature.

The animal husbandry / keeping and single-family dwelling uses, and their associated accessory structures, would be compatible with surrounding development in the Upper Ojai Valley. Homes and equestrian ranches are common in the area. All structures are one story, and all but two are 15 ft. or less in height. No structure is closer than 20 ft. to any property line. The animal husbandry use satisfies the maximum allowable animal unit standard. The ADU (490 sq. ft.) and proposed single-family dwelling (1,493 sq. ft.) are smaller than average and appear aesthetically compatible with surrounding development.

The largest structure on the property is the garage, at 2,780 sq. ft. and with a height of 21 ft. The building, which is clad in corrugated steel, appears barn-like and is painted with earthtones (green and tan). The roof is low-pitched with a deep overhang. Since the garage was constructed (between 2007 and 2008), oak trees have established and grown to maturity adjacent to its north, south, and east facades. This provides partial screening when viewed from the adjacent parcels. Though the garage is relatively large, it is not uncommon to see this type of structure in the Upper Ojai Valley. For example, the neighboring parcel to the west contains a similar metal accessory building.

¹⁶ Of the 13 structures constructed without permits, two do not require discretionary permit approval and are outside of the scope of this permit (see Structure Nos. 13 and 14 in Table 1, above).

As discussed in Exhibit 1.5, Section No. 1 (Land Use, Design, and Community Character), the proposed project does not involve a change in use that would create land use conflicts with surrounding properties. Additionally, the project will not generate significant new traffic or introduce visually incompatible development. Therefore, the accessory structures are consistent with the rural residential character of the Upper Ojai Valley.

Based on the discussion above, this finding can be made.

3. The proposed development would not be obnoxious or harmful, or impair the utility of neighboring property or uses [Section 8111-1.2.1.1a.c].

The development being authorized under this CUP and PD Permit is already existing and consists of uses that are permissible in the RE zone. Residential accessory structures are generally used for parking, storage, offices, art studios, recreation rooms, and other such uses that are associated with residential dwellings. Accessory structures for animal husbandry are generally used for stables, feed and tack storage, shaded paddocks, grooming, etc. Because the number of animals on the project site complies with limitations in the NCZO, and these limitations are intended to minimize the risk of nuisance conditions arising, the use of the animal husbandry buildings would not be obnoxious or harmful to neighboring properties or otherwise inhibit their use.

Water is supplied by Sisar Mutual Water Company and wastewater is handled with OWTS. As discussed in Exhibit 1.5, Section Nos. 10 (Water Conservation), 11 (Transportation and Circulation), and 19 (Noise), the project has been analyzed for impacts to groundwater, transportation, and noise. No new significant impacts were identified. The project does not interfere with surrounding residential uses and will not result in a significant increase in traffic generation. Existing public services are adequate to serve the project along with pending and approved developments in the Upper Ojai Valley area. As discussed in Section D of the June 20, 2024, staff report (Exhibit 1.1), the project will comply with building coverage and property line setback standards for the RE zone. Therefore, the project would not be obnoxious, harmful, or impair the utility of neighboring properties or uses.

Based on the discussion above, this finding can be made.

4. The proposed development would not be detrimental to the public interest, health, safety, convenience, or welfare [Section 8111-1.2.1.1a.d].

As discussed in Exhibit 1.5, Section No. 12 (Public Utilities, Facilities, and Services), adequate public resources and infrastructure are available to serve the proposed project. Fire flow and emergency response times are adequate. The Ventura County Fire Protection District (VCFPD) reviewed this project and

requested that it be conditioned to require compliance with applicable fire safety standards (Exhibit 5, Condition Nos. 34 through 50).

Based on the discussion above, this finding can be made.

5. The proposed development, if allowed by a Conditional Use Permit, is compatible with existing and potential land uses in the general area where the development is to be located [Section 8111-1.2.1.1a.e].

Though the residential accessory structures do not require CUP approval, the animal husbandry accessory structures do. As discussed in Finding D.1 and in Exhibit 1.5, Section No. 1 – Land Use, Design, and Community Character, animal husbandry is a common use on rural residential properties in the Upper Ojai Valley. All animal husbandry-oriented structures and facilities are sufficiently set back from off-site residences, with the nearest such home being over 150 ft. away from the nearest animal husbandry accessory structure / corral. As noted in Section D of the June 20, 2024, staff report (Exhibit 1.1), the animal husbandry use complies with NCZO § 8107-2 (Standards Relating to Animal Keeping).¹⁷ Additionally, the applicant will be required to manage animal waste in a manner that prevents attraction or breeding of vectors (Exhibit 5, Condition No. 25). The site has been used for animal husbandry / keeping for several years without any documented complaints or concerns about the use.

Based on the discussion above, this finding can be made.

6. The proposed development will occur on a legal lot [Section 8111-1.2.1.1a.f].

The subject parcel was created by deed in 1958, at a time when subdivision by deed was legal. The parcel's legality has been documented through the recordation of a Certificate of Compliance (No. CC-23-02-1579; Instrument No. 2023-000030984).

Based on the discussion above, this finding can be made.

7. The proposed development is approved in accordance with the California Environmental Quality Act and all other applicable laws [Section 8111-1.2.1.1a.g].

As discussed in Section C of this report and of the June 20, 2024, staff report (Exhibit 1.1), the proposed project meets the criteria for a Class 3 Categorical Exemption (New Construction or Conversion of Small Structures), which applies to construction of an SFD, as well as to accessory structures. Exceptions to the categorical exemptions do not apply to the project site. As the project is

¹⁷ The two structures conditioned for compliance with the minimum six-foot setback between buildings are residential accessory structures and are not subject to CUP approval.

categorically exempt from CEQA, there is no need for any further environmental review.

Based on the discussion above, this finding can be made.

8. Development within any overlay zone having specific development standards must comply with such standards [Section 8111-1.2.1.4 and Article 9].

As discussed in Section D of the June 20, 2024, staff report (Exhibit 1.1), the project complies with all applicable standards for the HCWC overlay zone. The applicant will be required to submit a lighting plan prior to Zoning Clearance to document consistency with the HCWC outdoor lighting standards (Exhibit 5, Condition No. 20). Wildlife impermeable fencing standards do not apply, as the project site is zoned RE. The project aligns with the guidelines for discretionary permits in the HCWC overlay zone, as set forth in NCZO § 8109-4.8.3.8(b). Therefore, as conditioned, the project will satisfy all applicable HCWC overlay zone requirements.

Based on the discussion above, this finding can be made.

9. The development, including any resulting fuel modification required by 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 Sec. 8109-4.8.3.8.b to the extent feasible [Section 8109-4.8.3.8.c].

As set forth in Section D, Item 3 (HCWC Guidelines) of the June 20, 2024, staff report (Exhibit 1.1), the project complies with all HCWC guidelines set forth in NCZO section 8109-4.8.3.8(b). The project was reviewed by a qualified biologist, who prepared an Initial Study Biological Assessment (Exhibit 1.6). With the incorporation of standard conditions pertaining to nesting birds and protected trees, no significant biological impacts are anticipated. The biologist's assessment considered not only the project development, but also the fuel modification zones, driveways, and utility lines.

The development has been located outside of surface water features and wildlife crossing buffer zones to the extent feasible, because most development is focused in areas outside of the surface water feature that were previously disturbed. Even though some of the structures are within the surface water feature, the biologist concluded that the 100-ft. wetland setback provides an adequate buffer. The development minimizes biological impacts, because each structure was sited in a previously disturbed area and the biologist concluded that they would have minimal impact on wildlife movement. Additionally, the structures are clustered towards the southern portion of the site, allowing a large contiguous undeveloped surface water feature area at the north end of the site to remain undisturbed. Finally, the existing fencing does not form any large, enclosed wildlife-impermeable areas. No

new fencing is proposed, aside from the corrals for the grooming stations, which are permeable to wildlife. Therefore, the project complies with all HCWC guidelines.

Based on the discussion above, this finding can be made.

The Planning Division recommends that your Commission make these findings based on the supporting evidence described above. Should the commission decide to deny or modify the requested CUP / PD Permit, your Commission must articulate the specific factual findings that support the decision.

E. SUMMARY OF GROUNDS FOR APPEAL AND RESPONSES

On July 29, 2024, the appellant filed a timely appeal of the Planning Director's decision granting the requested CUP and PD Permit. The appeal issues raised largely focus on the proximity of the applicant's animal husbandry / keeping operation to the appellant's proposed home. Planning Division staff has summarized and responded to each appeal issue the appellant has raised, which are enumerated below and cross-referenced with annotations in Exhibit 6.

- 1. Environmental Impacts:** The project "has unmitigated environmental impact[s]" and requires "additional environmental review" under CEQA.

Response: As discussed in Section B, above, the project qualifies for a Class 3 categorical exemption from CEQA. The animal husbandry / keeping use is existing and was lawfully established circa 2010, as indicated in aerial imagery. Pursuant to NCZO section 8105-4, animal husbandry and animal keeping of domestic animals is exempt from land use permits if the number of animals does not exceed the animal density set forth in NCZO Section 8107-2. Because the use adheres to the animal density limitations, no permit was needed to establish the use. The proposed CUP and PD Permit will authorize unpermitted structures to be used in association with the animal husbandry / keeping use that has been in place for years; therefore, the consideration of environmental effects of the request is limited to those pertaining to the structures and not the use itself.

Though the appellant did not identify specific environmental impacts that require mitigation, the appeal discusses impacts on public health and from potential exposure to hazardous waste. In accordance with the Initial Study Assessment Guidelines (ISAGs), a project is not considered to result in a significant public health impact where health impacts "can be reduced to less than significant by compliance with applicable state regulations enforced by environmental health." A similar threshold exists with respect to hazardous waste.

In this case, the Environmental Health Division has reviewed the proposal and concluded that it will not result in a significant public health or hazardous waste impact if the site is properly maintained – that is, if waste is managed appropriately

and the operator keeps the facilities clean and free of debris that would harbor vermin or allow them to breed. Similarly, the Watershed Protection District's Groundwater Section found no significant impacts on water resources would result if the applicant develops and implements a manure management plan. As required by Conditions No. 25 and 31 (see Exhibit 5), the applicant will need to maintain the site's cleanliness and follow a manure management plan, which will be subject to review and approval by the Watershed Protection District. The manure management plan will specify the protocols and performance requirements for the management of waste to ensure the operation will not create significant health or hazard-related impacts. Should the applicant fail to properly implement the manure management plan or fail to meet the performance standard for control of flies, vermin, and other vectors, the applicant may be subject to a condition compliance violation.

Based on this assessment, no significant environmental impacts have been identified. Therefore, no special circumstances exist that would preclude the use of a Class 3 categorical exemption.

2. Inconsistency with Zoning Laws: The project "violates local and state [zoning] laws."

Response: The project is consistent with the NCZO. Please refer to Section D of the Planning Director staff report (Exhibit 1.1). The appellant has not identified a specific NCZO provision that the project fails to comply with.

State zoning laws are general in nature and provide for counties and cities to adopt more specific zoning ordinances. The project does not conflict with the State Planning, Zoning, and Development Laws. The appellant has not identified a specific state law that the project fails to comply with.

3. Health Impacts on Occupants of the Neighboring Property: The project ignores medical guidance "pertaining to proximity to livestock and associated vermin." The project could expose "senior citizens and very young children... to... health and life-threatening situations on a 24/7 basis [from] deadly airborne microbes, bacteria, [and] infectious diseases in concentrated forms... due to the proposed extreme close proximity of livestock."

"[S]o many large animals nearby our living quarters is dangerous and should be strongly reconsidered." Risks of health complication may include:

- Exposure to biohazardous waste (e.g., urine, waste, concentration of flies/vermin).
- Exacerbation of allergy-related events (e.g., allergic Bronchial Asthma), which may be deadly to children or seniors.
- Exposure to viruses, bacteria, or other infectious diseases.
- Exposure to odors.

Response: The project site's animal husbandry / keeping use was lawfully established circa 2010, as indicated in aerial imagery. This use pre-dates the establishment of the appellant's home, which has yet to be constructed. All the structures to be authorized under the CUP and PD Permit comply with the NCZO's setback standard (NCZO §§ 8107-2.2.2 and 8107-2.5.1). This standard requires a minimum 40-ft. separation between any animal keeping facilities and any pre-existing off-site residences. Ventura County's animal keeping setback standard falls within the range of setback requirements imposed by other jurisdictions in the region, which are typically between 35 and 50 ft.

The appellant owns a 1.8-acre vacant parcel immediately adjacent to and south of the project site. A home previously existed on the appellant's parcel but was destroyed in the 2017 Thomas Fire. The appellant proposes to construct a new house approximately 40 ft. south of the subject property and approximately 60 ft. from the nearest horse corrals. The Planning Division approved a Zoning Clearance to authorize construction of the home; the Building and Safety Division issued building permits in November 2024. Though the appellant could choose to construct his home further away from the applicant's horse paddocks, stalls, and corrals, nearly every other suitable location on the appellant's property is within a surface water feature buffer and would require that he apply for a PD Permit.

Ventura County has a rich agricultural tradition and strong policies in place to preserve and encourage agricultural production. The NCZO recognizes several different agricultural uses, including crop production and animal husbandry. The NCZO defines animal husbandry to include "raising, nurturing, and management of any animal(s), through breeding, pasturing, or ranching, for such purposes as sale of animals, food production, fiber production, ornament, pleasure or beneficial use." The Ventura County Right-to-Farm Ordinance (Ordinance No. 4151), adopted in 1997, sets forth the County's policy with respect to land use conflicts involving commercial agriculture. The Right-to-Farm ordinance applies not only to commercial crop production, but also to other commercial agricultural activities, including the "raising of livestock" (i.e., animal husbandry) (see Sections 8114-2.1.1(b) and 8183-4.1(b) of the Ventura County Ordinance Code). Specifically, the ordinance is intended to:

- "enhance and encourage agricultural operations in the County" (Section 1(a));
- reduce the prevalence of agricultural operations becoming the subject of nuisance complaints, as this "discourage[s] investments in farm improvements to the detriment of agricultural uses and the economic viability of agriculture as a whole" (Section 1(b));
- "reduce the loss to the County of its agricultural resource by clarifying the circumstances in which agricultural operations may be considered a nuisance" (Section 1(b)); and

- “promote a good-neighbor policy by advising purchasers of property adjacent to or near agricultural operations of the inherent potential problems associated with such purchase or residence” (Section 1(d)).

Under the Right-to-Farm Ordinance, an agricultural activity is not considered a nuisance if it has been in existence for more than one year without creating a nuisance and is managed in compliance with the NCZO using “proper and accepted customs and standards” (NCZO §§ 8114-2.1.1 and 8183-4.1).

The appellant acquired his property in August 2022, at a time when the Right-to-Farm Ordinance was already in effect. Pursuant to Section 9122 of the Ventura County Ordinance Code, the seller should have provided the appellant with a Right-to-Farm disclosure along with other real estate disclosures before the transaction closed. The Right-to-Farm disclosure outlines potential “inconveniences or discomfort arising from agricultural operations,” including noise, odors, insects, and dust. The disclosure warns prospective buyers that they “should be prepared to accept such inconveniences or discomfort as a normal and necessary aspect of living in a county with a strong rural character and active agricultural sector.”

The appellant has stated that the NCZO’s 40-ft. minimum separation from horse corrals to an offsite home is insufficient to avoid health-related impacts. Dr. Austin Howard, an internal medicine physician and co-owner of the appellant’s property, provided a letter specifically noting concerns regarding concentrations of urine and fecal matter and attraction of flies and vermin. Dr. Howard also referenced the potential to exacerbate allergy-related illness. As a condition of the CUP / PD Permit, the applicant will be required to prepare a manure management plan for review and approval by the Watershed Protection District (see Exhibit 5, Condition No. 31). Additionally, the applicant is required to maintain the property so as not to allow for breeding or harboring of flies, rodents, or other vermin (see Exhibit 5, Condition No. 25). These requirements are intended to minimize health effects from vermin and animal waste. Should the applicant fail to adhere to the manure management plan or to maintain the premises in compliance with the performance standard for flies and vermin, the appellant or another aggrieved party could file a complaint, which can result in enforcement actions.

The appellant also lists a variety of diseases that he states could be caused by residing near a horse-keeping operation. The appellant did not identify specific peer-reviewed academic studies that address appropriate buffer distances or that study health effects from residing near small equine facilities.

In prior communications, the appellant had suggested that a 400-ft. separation should be applied instead of the 40 ft. required in the NCZO. If an expanded setback were to be required, the applicant would have to significantly alter the use of their land. The horse-keeping operations would be forced into an undeveloped area within a surface water feature buffer at the north end of their property. This

could result in biological impacts and potential conflicts with HCWC overlay zone standards that have not been previously evaluated.

When a buffer is necessary to reduce the potential for conflicts between agricultural and non-agricultural uses, the General Plan (Land Use and Community Character Element Policy LU-6.1) requires that the non-agricultural use accommodate the buffer:

The County shall require non-agricultural land uses adjacent to agricultural uses to incorporate adequate buffers (e.g., fences, setbacks) to limit conflicts with adjoining agricultural operations. (Emphasis added.)

Imposing a wider buffer than what the NCZO otherwise calls for on an agricultural property to minimize the potential for land use conflicts with an adjacent non-agricultural property may be inconsistent with this policy.

In summary, the applicant's horse-keeping use, which is considered an agricultural use, was there first. The appellant is now building his house in a location of his own choosing. He chose this location, even though it is only 60 ft. from the applicant's nearest horse corral. He chose this location even though living near agricultural operations means he could experience discomforts or inconveniences like dust, odor, and noise. The appellant is now concerned about the health impacts from living near horses. He wants to see his neighbor's agricultural operation move further away from his yet-to-be-built house. However, the applicant's use meets the animal density and setback requirements in the NCZO, which are within the range of densities and setbacks used in jurisdictions across the state. The appellant has not identified a scholarly study that establishes what setback or buffer is appropriate to avoid or minimize health complications. If a greater buffer is appropriate, the General Plan would suggest that the non-agricultural property (i.e., appellant's property) should be the one to accommodate it.

- 4. Improperly Considered Testimony:** The Planning Director improperly considered testimony of neighbors regarding property upkeep, as these neighbors live too far to be impacted by odors, flies, and noise.

Response: The Planning Director is required to consider all public comments submitted prior to or during the public hearing. Several parties testified that the applicant uses appropriate and effective practices to "keep things clean," abate weed and vector control issues, and manage manure. Some based their testimony on their experiences in keeping or training horses on the property; others based their testimony on having visited the site as neighbors. This information is relevant and properly considered by both the Planning Director and your Commission and need not be dismissed simply because the commenters do not live as close to the project site as the appellant would, once his house is constructed.

5. **Spirit of the Law.** Allowing “11 horses in 6,000 ft. 40 ft. from my dwelling [is] [n]ot in the spirit of the law.”

Response: The NCZO contemplates potential conflicts between residential uses and animal husbandry / keeping operations. To minimize these conflicts, the NCZO limits animal density and requires a minimum 40-ft. separation from off-site residences. The applicant’s operation currently involves ten horses. Based on the parcel’s size and zoning, up to one additional large horse, for a total of 11 large horses, would be allowed on the property.¹⁸ The Right-to-Farm Ordinance clearly articulates its purpose and objectives in promoting the viability of commercial agricultural uses, which include animal husbandry. Furthermore, the General Plan establishes the County’s policy that a new non-agricultural use must accommodate an adequate buffer from a pre-existing agricultural use. Please refer to Appeal Issue No. 3 (Health Impacts on Occupants of the Neighboring Property), above, for a more complete discussion.

6. **Impact on Property Values.** The project “renders our property monetarily worthless.”

Response: The appellant has not provided any documentation to substantiate that authorizing the proposed structures under the CUP and PD Permit would impact his property values. Regardless, property values are not a factor when determining whether a project conforms to the NCZO.

Based on the analysis provided above, the appellant’s grounds for appeal are without merit. The appellant has not raised any substantive issues that would invalidate or weaken the findings adopted by the Planning Director when the proposed CUP and PD Permit were approved (see Exhibit 1.1, Section E).

F. APPELLANT’S RECOMMENDED ACTIONS

The appellant asks that your Commission reverse the Planning Director’s granting of the CUP and PD Permit. If your Commission chooses to approve the CUP and PD Permit, the appellant asks that you establish a sufficient setback between the applicant’s animal husbandry / keeping facilities and his proposed home, to be based upon scientific evidence. In discussions with the appellant, he has indicated that a 400-foot setback would be sufficient.

Response: All proposed structures will comply with the NCZO’s setback standard (NCZO §§ 8107-2.2.2 and 8107-2.5.1) that requires a minimum 40-ft. separation between any animal keeping facilities and any off-site residences. Requiring the applicant to provide

¹⁸ The project site qualifies for a total of 11.8 animal units. Each large horse is 1.0 animal units. Therefore, the applicant could have up to 11 large horses. The remaining 0.8 animal units could be used on one medium horse (between 36-58 inches at the withers; 0.5 animal units) and one small horse (under 36 inches at the withers; 0.3 animal units).

a greater buffer could impact the viability of the applicant's commercial agricultural operations. Additionally, it could have biological impacts that were not previously assessed, as a greater setback would force the operation to move north into an undeveloped surface water feature buffer. Therefore, the Planning Division recommends that the appeal be denied.

G. APPEAL FEES

Pursuant to the current Board of Supervisors-adopted Planning Division Fee Schedule, the appellant is responsible for paying for costs up to \$1,000. The applicant is responsible for covering the next \$1,000 in costs. Any remaining costs will be borne by the County. If an appeal is granted, all fees paid by the appellant shall be refunded. If your Commission sustains one or more of the grounds for appeal or grants the appeal in part, resulting in a material change to the project, your Commission may decide to refund a portion of the appeal fees paid by the appellant. Therefore, if granting the appeal in part, your Commission must determine whether and what amount of appeal fees should be refunded to the appellant.

H. PLANNING COMMISSION HEARING NOTICE

The Planning Division provided public notice of the Planning Commission appeal hearing in accordance with Government Code Section 65091 and NCZO Section 8111-3.1. On December 6, 2024, the Planning Division mailed notices to owners of property within 300 ft. of the project site. On December 8, 2024, the Planning Division placed a legal ad in the *Ventura County Star*.

I. RECOMMENDED ACTIONS

Based upon the analysis and information provided above, Planning Division Staff recommends that the Planning Commission take the following actions:

1. **CERTIFY** that the Planning Commission has reviewed and considered this staff report, the Planning Director staff report of June 20, 2024 (Exhibit 1.1) and all exhibits thereto, and the continuance memo of July 3, 2024 (Exhibit 2), and has considered all comments received during the public comment process;
2. **FIND** that this project is categorically exempt from CEQA pursuant to Section 15303 (New Construction and Conversion of Small Structures) of the CEQA Guidelines, and that no unusual circumstances or other factor set forth in Section 15300.2 of the CEQA Guidelines preclude use of this exemption;
3. **MAKE** the required findings to grant the requested CUP and PD Permit pursuant to Sections 8111-1.2.1.1a, 8111-1.2.1.4, and 8109-4.8.3.8.c of the Ventura County NCZO, based on the substantial evidence presented in this staff report, the Planning Director staff report of June 20, 2024 (Exhibit 1.1), and the entire record;

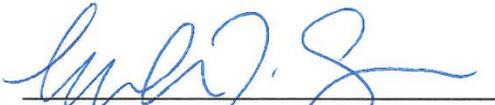
4. **GRANT** CUP and PD Permit Case No. PL23-0009, subject to the conditions of approval (Exhibit 5);
5. **DENY** the appeal in its entirety and decline to refund any appeal fees; and
6. **DESIGNATE** the Planning Division as the custodian, and 800 S. Victoria Avenue, Ventura, CA 93009 as the location, of the documents and materials that constitute the record of proceedings upon which this decision is based.

The decision of the Planning Commission is final unless appealed to the Board of Supervisors within 10 calendar days after the CUP/PD Permit has been approved, conditionally approved, or denied (or on the following workday if the 10th day falls on a weekend or holiday). Any aggrieved person may file an appeal of the decision with the Planning Division. The Planning Division shall then set a hearing date before the Board of Supervisors to review the matter at the earliest convenient date.

County Counsel has reviewed this Staff Report.

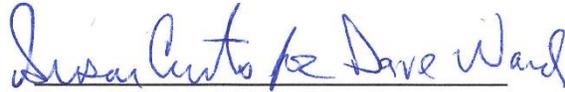
If you have any questions concerning the information presented above, please contact Michael Conger at (805) 654-5038 or Michael.Conger@ventura.org.

Prepared by:



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Ventura County Planning Division

Reviewed by:



Dave Ward, AICP, Director
Ventura County Planning Division

EXHIBITS

- Exhibit 1.1 Planning Division Staff Report (June 20, 2024)
- Exhibit 1.2 Maps
- Exhibit 1.3 Plans
- Exhibit 1.4 Draft Conditions of Approval
- Exhibit 1.5 General Plan Consistency Analysis
- Exhibit 1.6 Initial Study Biological Assessment (ISBA)
- Exhibit 1.7 Geotechnical Report
- Exhibit 1.8 Drainage Report
- Exhibit 2 Continuance Memo (July 3, 2024)
- Exhibit 3 Comments Received
- Exhibit 4 Approval Letter (July 17, 2024)
- Exhibit 5 Conditions of Approval
- Exhibit 6 Appeal from Richard Howard (July 29, 2024)
- Exhibit 7 Applicant's Response to Appeal