

September 26, 2023
Board of Supervisors Hearing

Appeal
of the Planning Director's Denial
of Zoning Clearance Application
Billiwhack Ranch, LLC., Appellant

Case No. PL20-0032
Agenda Item No. 74



Resource Management Agency, Planning Division
Franca A. Rosengren, Senior Planner
Winston Wright, Planning Manager

Central Question



**Were all of the interior and exterior walls
and the floor of Building H2
“involuntarily” or “voluntarily” destroyed?**



Location and Vicinity Map

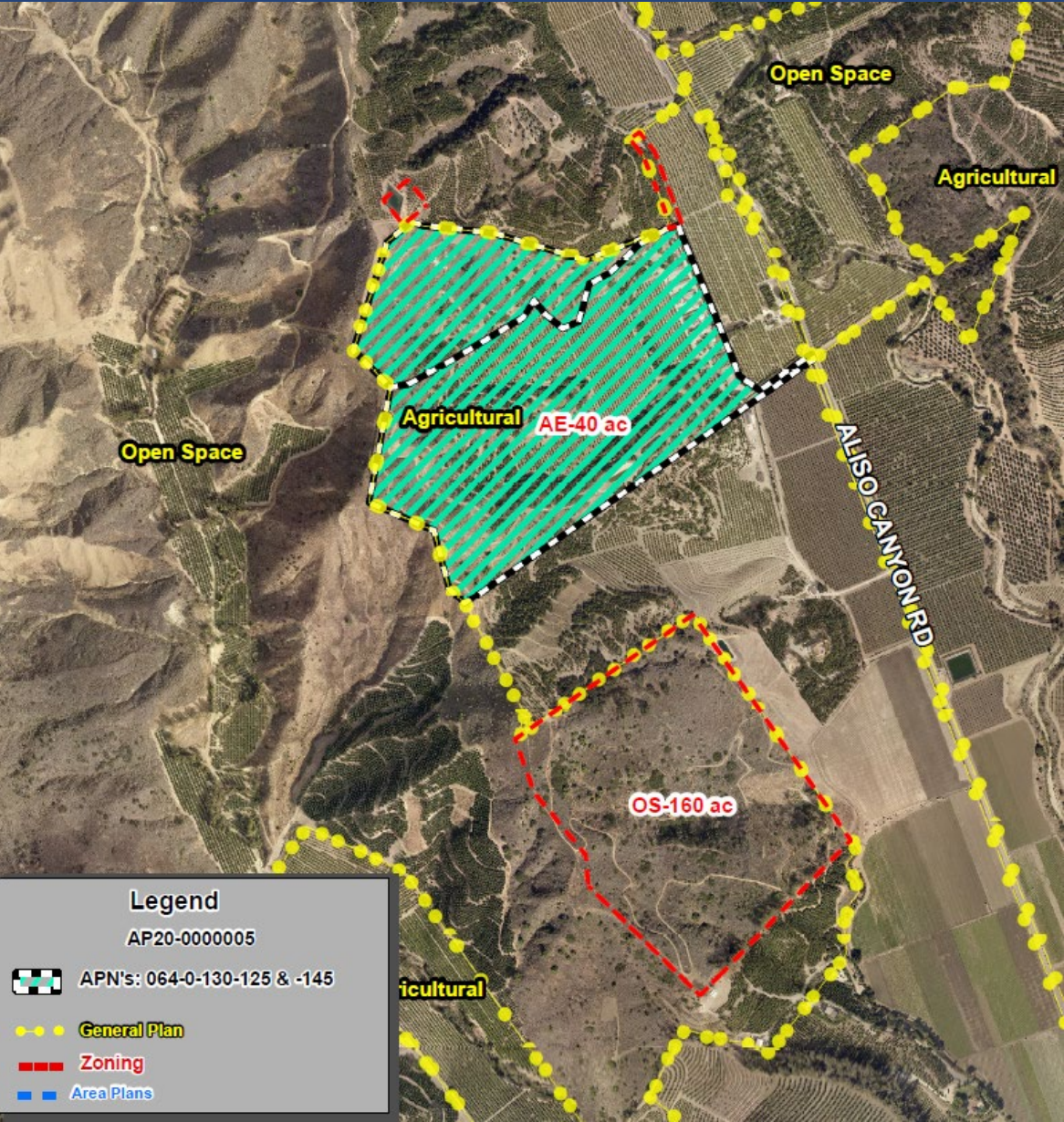


2275 Aliso Canyon Road
(Area of Interest of the City of Ventura)

site



Land Use Map and Aerial



Description of Today's Appeal



Appellant appeals the Planning Director's denial of ZC19-0684

- After-the-fact demolition of more than 50% of the floor and walls of Bldg H2
- Reconstruct Bldg H2 to its nonconforming size of 2,646 sq. ft. and use as a

For your Board to approve the requested appeal, you must find that the historic nonconforming building was involuntarily destroyed.



Original Grade



Floor Level



Level Before Cleanup



Building H2
Exterior Damage
Billiwhack Ranch



Background and History of Case



Date	Action
12/2018	Transfer of Ownership to Billiwhack Ranch, LLC (the appellant)
3/2019	Code Compliance complaint received by County
6/2019	Notice of Violation issued to Billiwhack (Building H2 is part of this violation)
6/2019	Zoning Clearance Application ZC19-0684 submitted to abate violations, including rebuilding Building H2.
4/14/2020	Planning Director denied the Zoning Clearance Application ZC19-0684
4/20/2020	Billiwhack filed an appeal to the Planning Commission
8/27/2020	Planning Commission Hearing; Unanimously voted 5-0 to Deny Appeal
9/8/2020	Billiwhack filed an appeal to your Board
12/2022	Billiwhack Ranch entered in a Compliance Agreement while postponing the Building H2 matter for a scheduled Board of Supervisors hearing (today's topic)
4/2023	New Zoning Clearance issued to resolve all violation except for Building H2
9/26/2023	Today's Board of Supervisors Appeal Hearing

Law Governing Decision



Building H2 Demolition of Nonconforming Historic Caretaker Dwelling



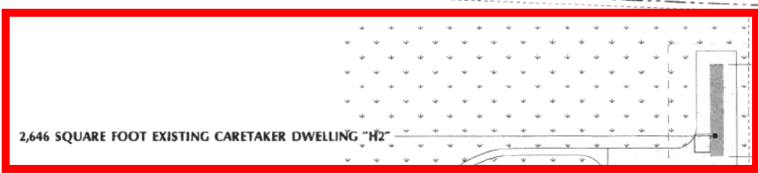
Cultural Site of Merit
Eligible for National Landmark Status

- County of Ventura Western Santa Clara Valley Historic Resources Survey, 1996
- 2,646 sq. ft. Milker's Dormitory, circa 1926
- Built prior to the County's first Zoning Ordinance (1947)
- Considered a "Nonconforming" caretaker dwelling because it is larger than what is currently allowed by the NCZO
- Building H2 is reviewed in light of:
 - Nonconforming Structures regulations of the NCZO (Article 13)
 - Cultural Heritage Ordinance (CHO)

Law Governing Decision



Building H2 Historic Caretaker Dwelling



5,341 SQUARE FOOT EXISTING RANCH EQUIPMENT STORAGE BUILDING '6'

9,350 SQUARE FOOT EXISTING RANCH MAINTENANCE BUILDING (5)

3,550 SQUARE FOOT EXISTING BARN

17,804 SQUARE FOOT EXISTING TWO STORY MAIN RESIDENCE (4)

4,564 SQUARE FOOT EXISTING EQUIPMENT STORAGE BUILDING (3)

543 SQUARE FOOT GRAIN SILO

4,564 SQUARE FOOT EXISTING CARETAKER DWELLING (2)

543 SQUARE FOOT GRAIN SILO

5,341 SQUARE FOOT EXISTING BEE KEEPER BUILDING (1)

2,385 SQUARE FOOT EXISTING GUEST HOUSE (H1)

543 SQUARE FOOT GRAIN SILO

EXISTING EDISON POWER POLE

RAISED TWO STORY MILKERS DORMITORY AND HOTEL

10,914 SQUARE FOOT RANCH MAINTENANCE AND STORAGE BUILDING (1A)

AREA OF WORK

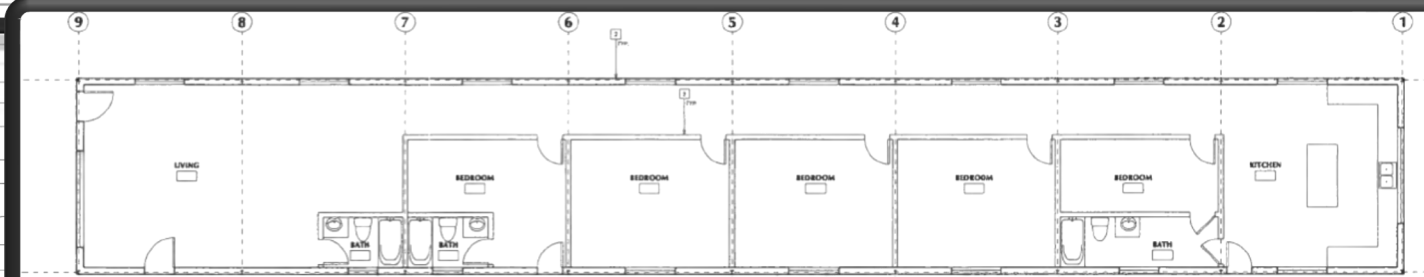
WEST EXISTING
SCALE 1/4"=1'-0"

AREA OF WORK

AREA OF WORK

BUILDING H2 EXISTING FLOOR PLAN

BUILDING H2 EXISTING FLOOR PLAN



- Nonconforming structures can be altered or remodeled and still retain their nonconforming status.
- Less than 50% of structure's roof or floor area
- Exceeds 50%, the structure loses its nonconforming status

Law Governing Decision



Why does it matter whether Building H2 was
“voluntarily” or “involuntarily” demolished?

If the nonconforming structure was:

"involuntarily damaged or destroyed in whole or in part, the structure may be restored to its original state existing before such removal, damage or destruction." [emphasis added] (Section 8113-6.1.1)

If the nonconforming structure was:

voluntarily removed, damaged or destroyed to the extent of more than 50 percent of its floor or roof area which existed before destruction, no structural alterations, repairs or reconstruction shall be made unless every portion of such structure and the use are made to conform to the regulations of the zone classification in which they are located. (Section 8113-6.1.2)

County's Analysis of Appeal



Current Permit Standards for Farmworker/Caretaker Dwellings

- 1,800 sq. ft. or less - Zoning Clearance
- Exceeds 1,800 sq. ft. – Planned Development Permit

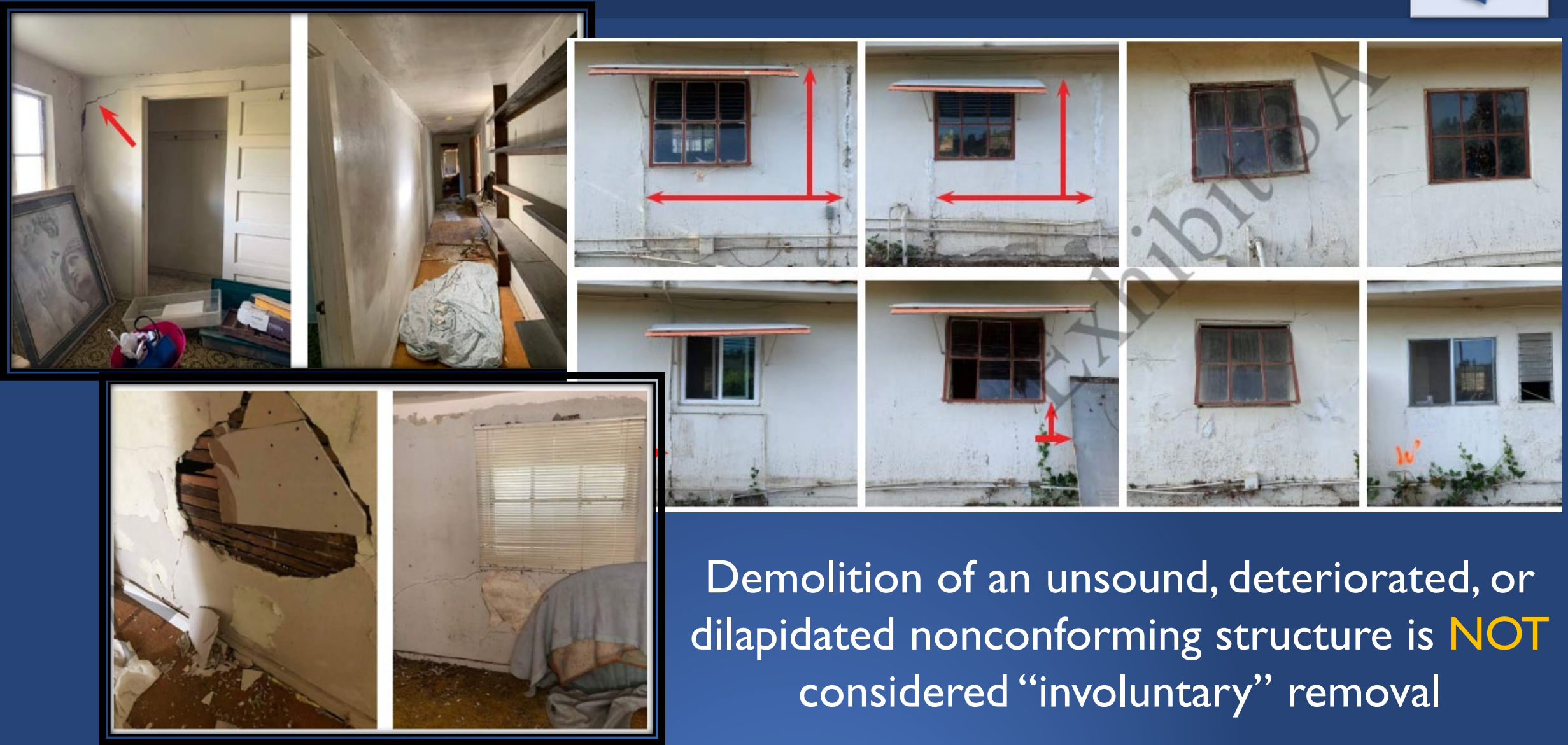


LOST NONCONFORMING STATUS

County's Analysis of Appeal



County's Analysis of Appeal



Demolition of an unsound, deteriorated, or dilapidated nonconforming structure is **NOT** considered “involuntary” removal

County's Analysis of Appeal



- Removed all walls and the floors
- Removed electrical, plumbing and mechanical devices



County's Analysis of Appeal



1. The appellant's justification was not supported by sufficient evidence:

- The photographs did not clearly show mudflow destruction to the point of requiring all of the walls and floors of the building to be removed.

2. No Zoning Clearance or demolition permit were obtained from the Planning Division and Building and Safety Division.

- No Safety Assessment Permit (SAP) inspection was conducted to verify the amount of damage to the structure.

3. No Certificate of Appropriateness or other approval from the Cultural Heritage Board.

- Local and state cultural heritage regulations were not followed.
- Destroyed the possibility of retaining/restoring any salvageable historic components of Building H2.

County's Analysis of Appeal



The Planning Division cannot make the 10 required findings to issue a Zoning Clearance, specifically findings 1 and 10:

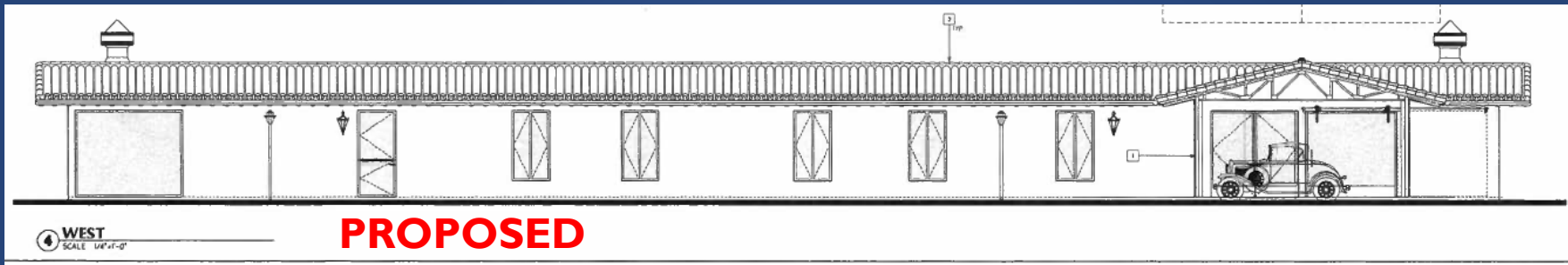
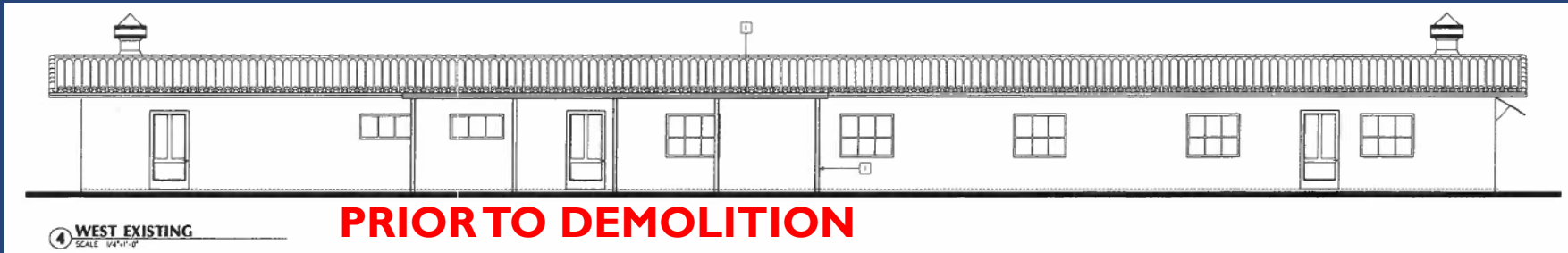
- rebuilding a 2,646 SF caretaker dwelling does not meet the Farmworker Dwelling Unit requirements, which exceeds the maximum allowed of 1,800 SF under a Zoning Clearance (Finding #1)
- rebuilding the dwelling does not meet the nonconforming provisions of Article 13 (Finding #1)
- a Certificate of Appropriateness or other authorization to proceed with the project under the Cultural Heritage Ordinance has not been satisfied (Finding #10)

County's Analysis of Appeal



Apply the 2019 California Historical Building (HBC) Code to Project

- HBC may be used in the design and reconstruction of historic structures for “the purpose of replicating its appearance at a specific time period.”



- HBC does not trump the provisions of the Zoning Ordinance or dictate what is permissible on a property under present zoning standards.

California Environmental Quality Act/Public Noticing



Exempt from the California Environmental Quality Act (CEQA) :

- CEQA does not apply to a public agency's denial or disapproval of a requested land use project or permit. (Public Resources Code ("PRC"), § 21080(b)(5).)
- CEQA does not apply to a public agency's approval of a ministerial permit or project. (Public Resources Code § 21080(b)(1).)

Public Noticing:

- Mailed notices to at least 15 separate parcels
- Advertised appeal hearing in Ventura County Star
- Posted notice on Public Hearing Notification bulletin board at County Government Center

Recommended Actions



1. **CERTIFY** that your Board has reviewed and considered this Board letter and all exhibits hereto, and has considered all evidence, comments and testimony received during the public hearing process;
2. **FIND** that this project is statutorily exempt from the California Environmental Quality Act (CEQA) pursuant to sections 21080(b)(1) and 21080(b)(5) of the Public Resources Code;
3. **FIND** either:
 - a. Pursuant to County staff recommendation, that the subject nonconforming historic dormitory for farmworkers (i.e., “caretaker dwelling”; referred to as Building H2 herein) was voluntarily destroyed to an extent greater than 50 percent of its floor or roof area which existed before destruction, and therefore **DENY** Zoning Clearance Application No. ZC19-0684 (Sub-exhibit 2 of Exhibit 1) as it relates to Building H2, **DENY** related Appeal No. PL20-0032 (Exhibit 3) and **DECLINE** to refund any appeal fees; or
 - b. Alternatively, that Building H2 was involuntarily destroyed, and therefore **DIRECT** staff to accept a revised Zoning Clearance application for Building H2 after the applicant complies with the requirements of the Cultural Heritage Ordinance, and **CONSIDER** refunding a portion of appellant’s appeal fees.
4. **SPECIFY** that the Clerk of the Board is the custodian and 800 S. Victoria Avenue, Ventura, CA 93009 is the location of the documents and materials that constitute the record of proceedings upon which the above decisions are based.

Recommended Action#3



3. FIND either:

- a. Pursuant to County staff recommendation, that the subject nonconforming historic dormitory for farmworkers (i.e., “caretaker dwelling”; referred to as Building H2 herein) was voluntarily destroyed to an extent greater than 50 percent of its floor or roof area which existed before destruction, and therefore **DENY** Zoning Clearance Application No. ZC19-0684 (Sub-exhibit 2 of Exhibit 1) as it relates to Building H2, **DENY** related Appeal No. PL20-0032 (Exhibit 3) and **DECLINE** to refund any appeal fees; or
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Questions?

