



Planning Commission Staff Report:

Hearing of July 20, 2023 *(Continued from May 18, 2023)*

County of Ventura · Resource Management Agency · Code Compliance Division
800 S. Victoria Avenue, Ventura, CA 93009-1760 · (805) 654-2463 · vcrma.org/divisions/code-compliance

Paw Works

Western Ag Group, LLC

595 Wolff Rd, Oxnard

APN #s 218-0-011-025 & 218-0-011-485

Code Compliance Case No. CV22-0832

Planning Appeal No. PL23-0023

A. DECISION SUBJECT TO APPEAL

This matter comes before your Commission as an appeal of the issuance of a Notice of Violation (NOV) for establishing a use (kennel/cattery) without the appropriate Conditional Use Permit (CUP) and the inability of the Planning Division, under the Noncoastal Zoning Ordinance (NCZO), to accept an application for a CUP to remedy the kennel/cattery violation due to the additional violation(s) on the subject lot.

B. STANDARD ON APPEAL

Pursuant to NCZO § 8111-7.2 and 8111-7.2 (a), all appeals shall be filed with the Planning Division on the appropriate application forms and be addressed to the decision-making authority hearing the appeal. Appeals of Administrative Decisions (by the Planning Director or designee) shall be heard by the Planning Commission.

Appeals before the Planning Commission are heard de novo. Accordingly, the Commission is not required to give any deference to the Code Compliance Director's findings or decision regarding the issuance of the NOV, the Planning Director's decision not to accept an application of a CUP for the proposed (preexisting) project, or to the staff recommendations provided in this report.

However, the Commission is free to make the same findings and decision 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 property owner(s), the Commission is not limited by them. Whether or not the appeal should be granted is a consequence of the Commission's decision on the merits of the evidence of the violation and not on the merits of the appeal points.

Your Commission may approve, deny or modify, wholly or partly, the request (NCZO § 8111-4.2). The Commission "shall either approve, deny, or approve with modifications, the appeal request" (NCZO § 8111-7.5).

C. APPELLANT AND SITE INFORMATION

1. **Appellant:** Western Ag Group, LLC, 1746-F S Victoria Ave Ste 245, Ventura, CA 93003
2. **Property Owner:** Western Ag Group, LLC, 1746-F S Victoria Ave Ste 245, Ventura, CA 93003
3. **Appellant’s Representative:** Neal Maguire, 1050 S. Kimball Road, Ventura CA, 93004
4. **Violation Site Location and Parcel Number:** The approximate 159.2-acre project site is located at 595 Wolff Road, Oxnard in unincorporated Ventura County. It is approximately one mile east of the City of Oxnard boundary. Tax Assessor’s parcel number for the parcel that comprises the site of the violation is 218-0-011-025 (Exhibit 2).
5. **Violation Site Land Use and Zoning Designations (Exhibit 2):**
 - a. Countywide General Plan Land Use Map Designation: Agricultural
 - b. Zoning Designation: AE-40 ac (Agricultural Exclusive, 40-acre minimum lot size)
6. **Adjacent Zoning and Land Uses/Development (Exhibit 3):**

Location in Relation to the Violation Site	Zoning	Land Uses/Development
North	AE-40 ac (Agricultural Exclusive, 40-acre minimum lot size)	Agricultural
East	AE-40 ac (Agricultural Exclusive, 40-acre minimum lot size)	Agricultural
South	AE-40 ac (Agricultural Exclusive, 40-acre minimum lot size)	Agricultural
West	AE-40 ac (Agricultural Exclusive, 40-acre minimum lot size)	Agricultural

D. ENFORCEMENT AUTHORITY AND HISTORY

1. Enforcement Authority:

Pursuant to NCZO § 8114-3 Enforcement, 8114-3.6 Notice of Violation and Notice of Noncompliance, 8114-3.6.1 Notice of Violation, 8114-7 Civil

Administrative Penalties, and 8114-3.7.1 Notice of Pending Civil Administrative Penalties, the Planning Director or their designee, in this case the Code Compliance Director, is the enforcement agent for the NCZO and as such has the responsibility to investigate reported violations of the NCZO and the duty to issue Notices of Violation and Impending Civil Penalties to the owners of the property on which violation(s) are found to exist and, if applicable, to a permittee responsible in whole or in part for the violation(s).

2. Enforcement History:

The subject property is currently developed under Special Use Permit (SUP) 186 with oil and gas facilities and related structures, many of which are being dismantled/demolished under a violation action from Planning Division Condition Compliance Section on August 7, 2019.

On December 20, 2022, the Code Compliance division received a report that an animal rescue facility had been established at the location without the required CUP.

On January 6, 2023, a Request to Inspect letter (Exhibit 4) was mailed to the property owner requesting that staff be allowed to inspect for the reported violation.

On January 31, 2023, with the consent of the owner, an inspection was conducted, and the violation, operation of a kennel/cattery (Paw Works), was verified. A Preliminary Notice of Violation CV22-0832 (Exhibit 5) was issued to the representatives onsite at the time of the inspection.

As the property was under SUP 186, the violation case was forwarded to the Planning Division's Condition Compliance Section for additional enforcement.

On February 17, 2023, Planning Condition Compliance issued a NOV of Conditional Use Permit (Exhibit 6) under Planning record PV23-0002.

On February 22, 2023, the Planning Condition Compliance PV23-0002 NOV was appealed (Exhibit 7).

On February 27, 2023, after numerous conversations with both representatives of the property owner(s) and the operators of the kennel/cattery (Paw Works), it was determined and confirmed by the property owner that the structures in which the kennel/cattery was located were no longer identified as being under SUP 186 and thereby not under the purview of Planning Condition Compliance.

As such, the PV23-0002 NOV issued by Planning Condition Compliance (Exhibit 6) was rescinded via a Letter of Recission (Exhibit 8) on March 2, 2023, and the violation case was returned to the Code Compliance Division for further enforcement.

On March 2, 2023, Code Compliance issued a NOV (Exhibit 9) under record CV22-0832 citing the following violations:

- a. Non-permitted operation of an animal kennel/animal rescue (“Paw Works”) without the required CUP.
- b. Non-permitted tenant improvements without the required building permit to include but not limited to demolition, electrical work, mechanical work, plumbing work, reconfiguration/installation of animal stalls/cages detached and exterior to and within the existing building.

On March 14, 2023, the owner(s) filed a timely appeal with the Planning Division (Exhibit 10) contesting the Code Compliance CV22-0832 NOV, specifically the violation related to the animal kennel/animal rescue (kennel/cattery) without the required CUP. This case is before you as Appeal PL23-0023. The Non-permitted tenant improvements (as outlined in item b above) were not appealed

3. Summary of Factual Support of Violation(s) (CV22-0832 and PL23-0023):

The Code Compliance Director’s decision to issue the CV22-0832 NOV of March 2, 2023 (Exhibit 9), was the result of an onsite inspection, in which the operation of the kennel/cattery was observed and photographed, and the admission of representatives of both the property owner(s) and the kennel/cattery operators (Paw Works) that a kennel/cattery operation had been established and was currently operating.

4. Applicable Ventura County Non-Coastal Zoning Ordinances:

The kennel/cattery which is the subject of CV22-0832 NOV requires a CUP to operate pursuant to NCZO § 8105-4 which states, “a property owner/applicant must obtain a Planning Director approved CUP for the operation of a kennel/cattery on a property within the AE zone.” The kennel/cattery does not have an approved CUP. Therefore, this use is currently prohibited pursuant to NCZO § 8101-3.1 which states, “no structure shall be moved onto a site, erected, reconstructed, added to, enlarged, advertised on, structurally altered or maintained, and no structure or land shall be used or maintained for any purpose, except as specifically provided and allowed by this Chapter, with respect to land uses, building heights, setbacks, minimum lot area, maximum percentage of building

coverage and lot width, and with respect to all other regulations, conditions and limitations prescribed by this Chapter as applicable to the same zone in which such use, structure or land is located.”

Pursuant to NCZO § 8114-3 Enforcement, the Planning Director or the Planning Director’s designee is hereby designated as the enforcing agent of this Chapter.

Pursuant to NCZO § 8114-3.6 Notice of Violation and Notice of Noncompliance, the following definitions apply: (a) “violation” means the lack of compliance with a provision of Division 8, Chapter 1 of the Ventura County Ordinance Code or any term or condition of any permit entitlement, variance or amendment thereto issued pursuant to this Chapter or any term or condition imposed and adopted as mitigation measures pursuant to the California Environmental Quality Act, including restrictive covenants; (b) “violator” means the owner of the property on which a violation exists and, if applicable, a permittee responsible in whole or in part for the violation. All notices required by this section shall be sent by first class mail to the last known address of the violator and shall be deemed served three days after the date of mailing.

Pursuant to NCZO § 8114-3.6.1 Notice of Violation, whenever the Planning Director determines that a violation exists, the Planning Director shall send the violator a Notice of Violation. The Notice of Violation shall: 1) state the violation(s); 2) state how the violation(s) may be corrected; 3) advise that if the violation(s) is not corrected by the specified deadline, a Notice of Noncompliance may be recorded against the property in the Office of the County Recorder; 4) advise that all enforcement costs are recoverable pursuant to § 8114-3.4; 5) advise that civil penalties may be imposed pursuant to § 8114-3.7; and 6) advise that the determination that a violation exists may be appealed, but that the appeal must be filed in accordance with § 8111-7.

Pursuant to NZCO § 8111-2 Filing and Processing of Application Request and § 8111-2.2 – Applications f. Processing Applications Where Violations Occur, no application request for a new entitlement or extension of an existing entitlement whose initial term has expired shall be accepted if a violation of Chapter 1¹ or Chapter 2² exists on the lot, unless the acceptance of the application is necessary to abate the existing violation.

¹ Ventura County Non-Coastal Zoning Ordinance, Division 8, Chapter 1 of the Ventura County Ordinance Code.

² Ventura County Subdivision Ordinance, Division 8, Chapter 2 of the Ventura County Ordinance Code.

E. APPELLANT GROUNDS OF APPEAL AND COUNTY STAFF RESPONSES

On March 14, 2023, the property owner(s) filed a timely appeal (Exhibit 10) of the CV22-0832 NOV (Exhibit 9). Quoted excerpts from the grounds of appeal are provided below followed by staff's responses.

1. Grounds of Appeal – *(verbatim from appeal submission)*:

“Reserving all rights to supplement or add the ground for appeal, the NOV identifies the correct parcel number, but County staff is failing to allow the responsible parties to remedy the purported violations because of alleged violations on a separate parcel.”

Staff Response to Grounds of Appeal

There are two (2) contiguous parcels at issue, APN# 218-0-011-025 & 218-0-011-485 (Exhibit 2). These parcels make up one (1) legal lot as recognized by the County Tax Assessor, Tax Collector and Recorder. As such, a violation on either parcel³ impacts the entire legal lot⁴.

The appeal timeframe for violation(s) of SUP 186 on APN# 218-0-011-485 regarding the decommissioned oil refinery had expired in 2019, and the violations were not contested. As such, the violation(s) are thereby confirmed.

The violations cited in the CV22-0832 NOV (Exhibit 9) issued on March 2, 2023, against APN# 218-0-011-025 regarding the nonpermitted kennel/cattery are not being appealed/contested and are thereby confirmed.

Pursuant to NCZO § 8111-2.2 (f) no application request for a new entitlement or time extension of an existing entitlement whose initial term has expired shall be accepted if a violation of Chapter 1 or Chapter 2 exists on the lot, unless the acceptance of the application is necessary to abate the existing violation.

Based on the above information, staff determined this ground of appeal is without merit.

³ The NCZO defines a parcel as, “Parcel - For the purposes of this Chapter, the word "parcel" shall have the same meaning as the word "lot" and the two words shall be synonymous.”

⁴ The NCZO defines a lot as, “An area of land having fixed boundaries depicted on or described by a tentative map, final map, parcel map or instrument of conveyance for the purpose of defining land to be held, actually or potentially, in fee title as a discrete unit, or a permit area as determined by the Planning Director. Licenses, easements, and streets, alleys and similar rights-of-way are not lot.”

F. APPELLANT'S RECOMMENDED ACTIONS

The appellant requests that the Planning Commission uphold the appeal and invalidate the CV22-0832 NOV (Exhibit 9) issued against APN# 218-0-011-025. Alternatively, the appellant requests that the Planning Commission determine that the preexisting violations on the adjoining parcel APN# 218-0-011-485 do not impact their ability to submit a CUP application for the kennel/cattery. Specifically, the appeal form states:

“Confirm the absence of violations by appellant, grant the appeal, and revoke the Notice of Violation. Alternatively, allow the responsible parties to remedy the alleged violations by submitting an application to the County in response to the NOV.”

Staff Response to the Requested Actions

In order to grant the requested action of the appellant to confirm the absence of violations, revoke the CV22-0832 NOV, and allow for the submitting of an application to the County, the Commission would have to make the required findings that the CV22-0832 NOV issued is invalid because:

1. The cited violations did not/do not exist on the property (NCZO § 8101-3.1, 8105-4, 8114-3.6) and/or;
2. The CV22-0832 NOV was issued against the wrong property (NCZO § 8114-3.6, 8114-3.6.1) and/or;
3. The NZCO section(s) listed within the CV22-0832 NOV, 8101-3 and 8105-4, do not apply or have been misapplied (NCZO § 8114-3.6.1).

If the Commission were to invalidate or modify the CV22-0832 NOV, the Commission must articulate the specific factual findings that support the decision. Appellant has not provided factual support to support the required findings as explained below.

The appellant has not asserted that the violation(s) did/does not exist on the property. They have admitted and confirmed that the violation(s), a kennel/cattery, is present at the location and in full operation. Neither has the appellant provided evidence that would justify the revocation of the CV22-0832 NOV (Exhibit 9) on any procedural technicality. Additionally, the property owner representatives, Clif Simonson and Blain Meith stated during a joint phone call with county staff on February 21, 2023, that their lease to Paw Works includes a clause requiring the

lessee to obtain all necessary permits for this facility before beginning operations. As this did not occur, staff believes that the property owner should take action to enforce the provisions in their contract.

There are two (2) contiguous parcels at issue, APN# 218-0-011-025 & 218-0-011-485 (Exhibit 2). These parcels make up one (1) legal lot as recognized by the County Tax Assessor, Tax Collector and Recorder. As such, a violation on either parcel impacts the entire legal lot.

Violations of SUP 186 on APN# 218-0-011-485 were not contested/appealed, are confirmed, and are currently under enforcement with Planning Condition Compliance. The SUP holder (CalNRG) is working diligently to abate this violation which may take up to one year to fully abate.

The appellant has requested that the County allow the responsible parties to remedy the alleged violations by submitting an application to the County in response to the CV22-0832 NOV. Pursuant to NCZO § 8111-2.2 (f) no application request for a new entitlement or time extension of an existing entitlement whose initial term has expired shall be accepted if a violation of Chapter 1 or Chapter 2 exists on the lot, unless the acceptance of the application is necessary to abate the existing violation. As stated in Section D (4) of this staff report, the kennel/cattery does not have an approved CUP and this use must be removed from the site to abate the CV22-0832 NOV. Pursuant to NCZO § 8111-2.2, once all violations on this legal lot are abated (CV22-0832 and PV23-0003), the appellant can apply for a CUP for a kennel/cattery.

Based on the above discussion, and the entirety of the information provided in the administrative record, staff recommends that the appeal be denied, and the CV22-0832 NOV (Exhibit 9) upheld.

G. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) COMPLIANCE

Pursuant to California Environmental Quality Act (CEQA) (Public Resources Code § 21000 et seq.) and the CEQA Guidelines, this enforcement action is exempt from environmental review. Specifically, under CEQA Guidelines § 15270(a), CEQA does not apply to projects that are disapproved by a public agency nor does CEQA apply to enforcement actions by regulatory agencies like the County pursuant to § 15321.

If the appeal is upheld, and the appellant subsequently applies for a CUP, an environmental analysis under CEQA will then be required.

H. APPEAL FEES

Pursuant to the current Board of Supervisors-adopted Planning Division Fee Schedule, if any appeal is fully granted, all fees paid by the appellant shall be refunded. If the 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. Therefore, if your Commission decides to grant the appeal in part you should determine what portion of the appeal fees, if any, should be refunded to the appellant.

I. PLANNING COMMISSION HEARING NOTICE

The Code Compliance Division provided public notice of the Planning Commission hearing in accordance with the Government Code (§ 65091) and NCZO (§ 8111-3.1 et seq.). The Planning Division mailed notice to 31 owners of property within 1,500 feet of the subject project site⁵ and placed a legal ad in the Ventura County Star.

J. RECOMMENDED ACTIONS

Based on the information provided above, the Code Compliance Division recommends that the Planning Commission take the following actions:

1. CERTIFY that the Planning Commission has reviewed and considered this staff report and all exhibits thereto, has considered all evidence presented at the public hearing by staff and the appellant, and has considered any comments received during the public comment process;
2. FIND that the action is exempt from environmental review pursuant to § 15321 and § 15270(a).
3. MAKE the required findings that, based on the evidence presented in the Code Compliance Director staff report, the CV22-0832 NOV (Exhibit 9) issued against APN# 218-0-011-025 was proper and is valid and that the preexisting violations of the SUP 186 on APN# 218-0-011-485 impact the entire legal lot;

⁵ Pursuant to NCZO §8111-3.1.3(d) The owners of all real property situated within a radius of 300 feet of the exterior boundaries of the Assessor's Parcel(s) which is the subject of the application. If the 300-foot radius does not include 15 or more parcels of real property, the radius shall be expanded until the owners of at least 15 parcels will be notified.

4. DENY the appeal in its entirety and decline to refund any appeal fees; and,
5. DESIGNATE the Code Compliance Division as the custodian of the documents pertaining to the above-stated decisions and that the location of those documents shall be in the Code Compliance Division files.

K. NEXT STEPS

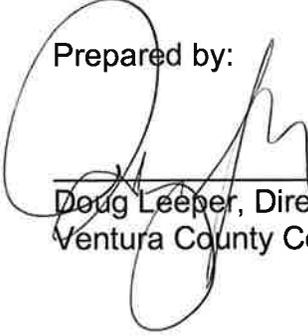
The decision of the Planning Commission is final unless appealed to the Board of Supervisors within ten (10) calendar days after the permit has been approved, conditionally approved, or denied (or on the following workday if the 10th day falls on a weekend or holiday). Any aggrieved person may file an 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.

If the appeal is upheld, and no appeal is filed within the above timeframe, the appellant may submit an application for a CUP to correct the kennel/cattery violation. That application would be subject to CEQA review and go through the normal evaluation process.

If the appeal is denied, and the Commission's decision is not appealed, it will become final. If the use continues to operate illegally, the Code Compliance Division may proceed with additional enforcement activities until compliance is achieved.

If you have any questions concerning the information presented above, please contact Amanda Ahrens at (805) 654-2800 or amanda.ahrens@ventura.org.

Prepared by:



Doug Leeper, Director
Ventura County Code Compliance Division

EXHIBITS

- Exhibit 2 Aerial Map for APN #'s 218-0-011-025 & 218-0-011-485 with Land Use and Zoning Designation
- Exhibit 3 Aerial Map with Adjacent Zoning and Land Uses/Development
- Exhibit 4 Code Compliance CV22-0832 Request to Inspect, dated January 6, 2023
- Exhibit 5 Code Compliance CV22-0832 Preliminary NOV, dated January 31, 2023
- Exhibit 6 Planning Condition Compliance PV23-0002 NOV, dated February 17, 2023
- Exhibit 7 Appeal of Planning Condition Compliance PV23-0002 NOV, received February 22, 2023
- Exhibit 8 Recission of Planning Condition Compliance PV23-0002 NOV, dated March 2, 2023
- Exhibit 9 Code Compliance CV22-0832 NOV, dated March 2, 2023
- Exhibit 10 Appeal No. PL23-003 of Code Compliance CV22-0832 NOV, received March 14, 2023

