RECOMMENDED ACTION AND JUSTIFICATION: (Policy Item: Yes____ No_X)

Resolution denying the appeal, upholding the Planning Director's determination the residential storage building is in violation of the County Zoning Ordinance and Coulterville TPA Specific Plan, and establishing a 30-day period for the appellant to receive the necessary design review approval for the building.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

None.

LIST ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

ALTERNATIVES: (1) Continue matter; (2) Grant appeal and overturn or modify Planning Director's determination.

NEGATIVE ACTION would result in appeal being granted finding the building is not in violation and that buildings not requiring a building permit are not subject to the historic design review standards.

COSTS:

<table>
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<tr>
<th>Item</th>
<th>Amount</th>
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<tr>
<td>A. Budgeted current FY</td>
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<tr>
<td>B. Total anticipated costs</td>
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<tr>
<td>C. Required additional funding</td>
<td>$</td>
</tr>
<tr>
<td>D. Internal transfers</td>
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SOURCE:

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
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</thead>
<tbody>
<tr>
<td>A. Unanticipated revenues</td>
<td>$</td>
</tr>
<tr>
<td>B. Reserve for contingencies</td>
<td>$</td>
</tr>
<tr>
<td>C. Source description:</td>
<td></td>
</tr>
<tr>
<td>Balance in Reserve for Contingencies, if approved:</td>
<td>$</td>
</tr>
</tbody>
</table>

SPECIAL INSTRUCTIONS:
List the attachments and number the pages consecutively:

1. Memo to Board
2. Notice of appeal from appellant
3. Planning Dept letter re: violation

CLERK'S USE ONLY:

Res. No.: 94-229
Ord. No.: 94-229
Ayes: 5
Noes: 0
Absent: 0
Abstained: 0
Approved: 5
Denied: 0
Minute Order Attached: ( )
No Action Necessary

The foregoing instrument is a correct copy of the original on file in this office.

Date:

ATTEST: MARGIE WILLIAMS, Clerk of the Board
                      County of Mariposa, State of California

By: Deputy

ADMINISTRATIVE OFFICER'S RECOMMENDATION:
This item on agenda as:

[ ] Recommended
[ ] Not Recommended
[ ] For Policy Determination
[ ] Submitted with Comment
[ ] Returned for Further Action

Comment:

A.O. Initials:

Action Form Revised 5/92
TO: EDWARD JOHNSON, Planning & Building Director
FROM: MARGIE WILLIAMS, Clerk of the Board
SUBJECT: Public Hearing Concerning
          Appeal On APN 02-050-35;
          James M. Upperman, Property Owner and Appellant
          Resolution Number 94-229

THE BOARD OF SUPERVISORS OF MARIPOSA COUNTY, CALIFORNIA,

ADOPTED THIS Order on June 14, 1994

ACTION AND VOTE:

11:03 a.m. Edward Johnson, Planning and Building Director
           A) PUBLIC HEARING to Consider an Appeal of Planning
           Director’s Determination of Zoning Ordinance Violation on
           APN 02-050-35; James M. Upperman, Property Owner and
           Appellant
           BOARD ACTION: Staff report was presented by Duane
           Hall/Associate Planner. Staff responded to questions from
           the Board relative to building permit requirements for the
           storage structure and design review requirements and
           processing. Public portion of the hearing was opened. Jim
           Upperman/appellant, presented his appeal. There was no
           other public input. Board commenced with deliberations.
           (M)Balmain, (S)Erickson, Res. 94-229 adopted denying the
           appeal and upholding the Planning Director’s
determination/Ayes: Unanimous.

cc: File
MEMORANDUM

June 6, 1994

TO: Mariposa County Board of Supervisors

FROM: Duane Hall, Associate Planner

SUBJECT: Appeal of Planning Director’s Determination of Zoning Ordinance Violation on APN 02-050-35; James M. Uperman, property owner and appellant

Background

On April 18, 1994 the Planning Department received a request from Supervisor Balmain to investigate and determine if a residential storage building on the subject property was constructed in compliance with the County Zoning Ordinance and Coulterville TPA Specific Plan. The Planning Director formally determined that the 16'x16' storage building was in violation of the County Zoning Ordinance since a design review application was not approved for the building and the building was subject to the standards of the Coulterville Historic Design Review Overlay district. The property owner is appealing the Planning Director’s determination on the grounds that the building does not require a building permit and therefore is not subject to the historic design review overlay standards.

Recommendation

The Planning Director recommends the Board of Supervisors adopt a resolution denying the appeal, upholding the Planning Director’s determination the residential storage building is in violation of the County Zoning Ordinance and Coulterville TPA Specific Plan, and establishing a 30-day period for the appellant to receive the necessary design review approval for the building.

Discussion

The County Zoning Ordinance and Coulterville TPA Specific Plan were amended on February 19, 1991 establishing an “Historic Design Review Overlay (HDRO)” district for a portion of
Coulterville TPA and modifying the architectural and design review standards of the Coulterville historic district. The HDRO standards generally apply to properties along Main Street and are more restrictive than the Coulterville Design Review district standards. That portion of the subject property where the residential storage building is located is in the Historic Design Review Overlay district. Consequently, the Planning Director applied the standards of the HDRO to the subject building and determined that a design review application and approval was required for the building based on the following:

- Section VI(D)(3)(B)(1) of the Specific Plan states “all construction within the historical district shall comply with historical Coulterville architecture …”

- Section VI(D)(3)(B)(3) states “all buildings constructed within the district shall comply with the style of architecture typical to the region …”

- Section 17.67.010(C) of the County Zoning Ordinance states “no commercial, industrial or residential use shall be established, no development shall occur … in the HDRO district until an application for design review plan has been submitted to and approved by the planning director in accordance with the procedures established in this section.”

Since a design review application has not been submitted for the residential storage building, the Planning Director determined the building was in violation of the Zoning Ordinance and Specific Plan.

It is the appellant’s position that the residential storage building is not subject to the historic design review standards since the building does not require a building permit. The building is less than 400 square feet in size and the County Building Code exempts buildings less than 400 square feet from building permit requirements. The appellant quotes Section VI(D)(2) of the Specific Plan’s Design Review District which states “These standards shall apply to multi-family residential, commercial and industrial development within the Coulterville Town Planning Area and shall be applied to all new construction and building modifications/renovations requiring a building permit.” However, these standards are modified by the standards of the historic design review district for those properties located within the historic district, and the more restrictive standards of the historic design review district supersede the standards quoted by the appellant.

It is the Planning Director’s opinion that (1) the design review standard quoted above by the appellant does not apply to the subject property, and (2) the historic design review standards which require all construction and buildings to comply with historic Coulterville are applicable to the subject residential storage building. The Planning Director recommends the Board deny the appeal, uphold the Planning Director’s determination the residential storage building is in violation of the Zoning Ordinance and Coulterville TPA Specific Plan, and establish a 30-day period for the appellant to receive the necessary design review approval for the building.
MARIPOSA COUNTY

NOTICE OF APPEAL

APPELLANT/CONTACT PERSON

NAME
MR. JAMES M. UPPERMANN SR.

MAILING ADDRESS
P.O. 191

DAY TELEPHONE NUMBER
878-0520

☐ Check this box if the appeal form is being filed by additional appellants. Attach list with name, address, and signatures of appellants. You may designate two persons on the list to receive copies of all correspondence and staff reports related to the appeal. The list must contain a statement which states the person signing the list has reviewed the Notice of Appeal form.

☒ Check this box if appellant is also the application or permit applicant for the finding or decision being appealed.

APPEAL BODY

Decision, finding, or determination is being appealed to

☒ BOARD OF SUPERVISORS (Submit appeal form to Clerk of the Board of Supervisors)

☐ PLANNING COMMISSION (Submit appeal form to Planning Commission Secretary)

DECISION BODY

Decision, finding, or determination being appealed was made by

☐ PLANNING COMMISSION

☐ OTHER COUNTY COMMISSION OR BODY

☒ COUNTY DEPARTMENT HEAD OR OFFICIAL

DUANE HALL
(Name)

ASSOCIATE PLANNER
(Title)

DATE OF DECISION
MAY 3RD, 1994
(Date)
DECISION, FINDING, OR DETERMINATION BEING APPEALED
(Attach copy of decision/findings)

APPLICATION NUMBER OR TYPE OF PERMIT
NOT REQUIRED

OTHER (Specify)
STORAGE SHED

SPECIFIC CONDITIONS, FINDINGS, AND/OR PORTIONS OF DECISION OR DETERMINATION BEING APPEALED
I'M APPEALING FOR HALL'S DETERMINATION THAT I, (JAMES M. UPKIRK, SR.) NEED TO MAKE OR HAVE A HISTORIC DESIGN REVIEW.

STATEMENT OF GROUNDS OF APPEAL

(If additional space is needed, attach additional sheets to Notice of Appeal form. The grounds of appeal must clearly state those issues or portions of the finding, decision, or determination being appealed. The Board of Supervisors or Planning Commission will consider only those issues which are raised in the appeal form.)

I (PAGE 32) COUNTERSIE, T.P.A. SPECIFIC PLAN:

(2) ARCHITECTURAL, URBAN AND DEVELOPMENT GUIDELINES FOR THE COUNTERSIE T.P.A. DESIGN REVIEW. THESE STANDARDS APPLY TO MULTIFAMILY RESIDENTIAL, COMMERCIAL AND INDUSTRIAL DEVELOPMENT WITHIN THE COUNTERSIE TOWN PLANNING AREA AND SHALL APPLY TO ALL NEW CONSTRUCTION AND BUILDING MODIFICATIONS/RENOVATIONS REQUIRING A BUILDING PERMIT.

☐ Check this box if you request the right to submit additional reasons for appeal and amendments or supplements to the appeal. This additional information must be submitted no later than twenty-five (25) calendar days prior to the hearing date of the appeal.

SIGNATURE OF APPELLANT

DATE

4/13/93