DEPARTMENT: Planning and Building  BY: Duane Hall  PHONE: 966-5151

RECOMMENDED ACTION AND JUSTIFICATION: (Policy Item: Yes__ No_X__)

Resolution denying the appeal and upholding the determination of the Planning and Building Director regarding the definition of a duplex. Justification for the action is provided in the attached memorandum.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

The Board adopted the Coulterville Town Planning Area Specific Plan on November 12, 1980. Upon the Board’s adoption of the comprehensive Zoning Ordinance in March, 1988, the Specific Plan became the zoning regulations for the Coulterville TPA.

LIST ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

ALTERNATIVES: (1) Continue hearing; (2) Uphold appeal and overturn the Planning and Building Director’s determination.

NEGATIVE ACTION would result in the appeal being upheld and the Director’s determination being overturned.

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<th>COSTS:</th>
<th>(X) Not Applicable</th>
<th>$ __________________</th>
<th>SPECIAL INSTRUCTIONS:</th>
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<td>A.</td>
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<td>$ __________________</td>
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<td>B.</td>
<td>Total anticipated costs</td>
<td>$ __________________</td>
<td>the pages consecutively:</td>
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<td>C.</td>
<td>Required additional funding</td>
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<td>SOURCE:</td>
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<td>$ __________________</td>
<td>3. Appellant’s Notice of Appeal</td>
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<td>A.</td>
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<td>B.</td>
<td>Reserve for contingencies</td>
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<td>C.</td>
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<td>6. Letter from Planning Department outlining permitted uses</td>
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<td>Balance in Reserve for Contingencies, if approved:</td>
<td>$ __________________</td>
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CLERK’S USE ONLY:  NOT VOTING: Bagger
Res. No.: 9-3-241  Ord. No. __________________
Vote - Ayes: 4  Absent: __________________
Vote - Noes: 0  Abstained: __________________
(y) Approved  ( ) Denied  ( ) 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
MEMORANDUM

April 20, 1993

TO: Mariposa County Board of Supervisors

FROM: Duane Hall, Associate Planner

SUBJECT: Appeal of Planning and Building Director’s Determination
(James M. Upperman Sr., appellant)

Recommendation

Staff recommends the Board of Supervisors adopt a resolution denying
the appeal and upholding the determination of the Planning and
Building Director regarding the definition of a duplex.

Background

On February 23, 1993, Mr. James M. Upperman Sr. submitted a letter to
the Planning and Building Director (hereinafter referred to as the
Director) requesting a determination of whether he could place two
mobile homes on his parcel if both mobile homes were on a permanent
foundation system and connected by a pantry on a foundation system.
After determining the existing uses of the parcel and the uses
permitted on the parcel by the Coulterville TPA Specific Plan, the
Director formally determined and responded to Mr. Upperman that the
two mobile homes were not permitted on the parcel. The Director’s
formal determination is attached for the Board’s information. The
Director’s determination was based on the following:

(1) The parcel is located in the Central Commercial and Light
Commercial land use districts which permit one (1) single
family residence per parcel, one (1) guest house per parcel,
and one (1) duplex per parcel.

(2) Mr. Upperman presently has a house and a mobile home on the
parcel, and a duplex is the only additional residential use
which may be permitted on the parcel based on the use
standards of the Specific Plan.
(3) The two mobile homes, even if connected by a pantry, do not constitute a duplex and therefore are not permitted on the parcel as a duplex.

(4) No other types of residential uses are permitted on the parcel.

Mr. Upperman is appealing the Director's determination that the two connected mobile homes are not a duplex and therefore are not permitted on the parcel. The issue of the appeal is limited to the following:

"Do two (2) mobile homes on permanent foundations connected by a pantry on a foundation system constitute a duplex for the purposes of the Coulterville TPA Specific Plan?"

Discussion

The Coulterville TPA Specific Plan was the first specific plan adopted in Mariposa County, being adopted on November 12, 1980. The plan has not been significantly updated since 1980 and contains many unique development standards. The residential use standards of the Central Commercial and Light Commercial land use districts, in which Mr. Upperman's parcel is located, allows one (1) single family residence per parcel, one (1) guest house per parcel, and one (1) duplex per parcel. These land use districts permit certain types and number of residential structures and do not establish residential density standards. Therefore, only those types and number of residential structures specifically allowed by the land use district may be permitted on the parcel, and different types of residential structures (e.g. four-unit apartment building for the four residential units, two mobile homes for a duplex) cannot be substituted for the permitted residential structures under the present Specific Plan standards.

Mr. Upperman presently has a "stick-built" house and a mobile home on his parcel, and these constitute the one (1) single family residence and one (1) guest house permitted on the parcel. The only other type of residential structure permitted on the parcel is a duplex. Mr. Upperman wishes to place one, and possibly two, additional mobile homes on his parcel, but staff has previously informed him that the only additional residential structure which may be placed on the parcel is a duplex. In his attempt to meet the requirements of the Specific Plan, Mr. Upperman proposed two (2) mobile homes on permanent foundation system connected by a pantry on a foundation as a residential duplex. Mr. Upperman has not provided any information or evidence to support his proposal being a duplex.

The Director formally determined that two mobile homes connected by a pantry was not a residential duplex. A duplex is not defined in the Uniform Building Code, the Zoning Ordinance, the Coulterville TPA Specific Plan, or any other County ordinance or resolution. The Director relied on definitions adopted by other California counties.
and cities, dictionary definitions, and common building practice to define a duplex. The Director defines a duplex as a detached building containing two dwelling units, the key to this basic definition being one (1) building with two (2) dwelling units. It is the Director's opinion that in order to be considered a duplex the two (2) dwelling units must be constructed or assembled together at initial construction to form a single building or an existing single building must be remodeled to create the two (2) dwelling units.

The Director determined that Mr. Upperman proposed only to connect two mobile homes with an addition to one of the mobile homes. The pantry area physically connected the two mobile homes but was only physically accessible to one of the mobile homes. The Director further determined that the two (2) mobile homes, even if physically connected by a pantry, were not a single building and were still in fact two separate buildings— the two dwelling units were not constructed or assembled together at initial construction to form a single building and they were not created from within a single building. Since Mr. Upperman's proposal does not meet the basic definition of a duplex as determined by the Director, the Director determined the mobile homes are not permitted on Mr. Upperman's parcel under present circumstances.

Attachments

1. Vicinity Map
2. Appellant's Notice of Appeal
3. Letter from Planning Director outlining determination
4. Letter from appellant requesting determination
5. Letter from Planning Department outlining permitted uses on property
MARIPOSA COUNTY

NOTICE OF APPEAL

APPELLANT/CONTACT PERSON

NAME
JAMES M. UPPERMANN SR.

MAILING ADDRESS
P.O. 191
Coulterville, Calif 95311

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

PLANNING DEPARTMENT

(Name)

☐ COUNTY DEPARTMENT HEAD OR OFFICIAL

(Title)

DATE OF DECISION
MARCH 9th 1993

(Date)
APPLICATION NUMBER OR TYPE OF PERMIT: DUBLEX-DETERMINATION

OTHER (Specify): 

SPECIFIC CONDITIONS, FINDINGS, AND/OR PORTIONS OF DECISION OR DETERMINATION BEING APPEALED:

NOT TO BE ALLOWED TWO MOBILES THAT ARE ON A PERMANENT FOUNDATION SYSTEM THAT'S CONNECTED BY A PANTRY AREA (THAT IS ON A FULL PERIMETER FOUNDATION) TO BE CALLED A DUBLEX.

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 APPEAL TONY LASH BROOK'S DETERMINATION ON HIS DECISION NOT TO ALLOW TWO MOBILE HOMES TO BE CONNECTED BY A PANTRY AND NOT BE CALLED A DUBLEX.

☐ 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 (20) calendar days prior to the hearing date of the appeal.

SIGNATURE OF APPELLANT: [Signature]

DATE: 3-12-93
March 9, 1993

James M. Upperman
P.O. Box 191
Coulterville, CA 95311

RE: Your letter dated February 22, 1993

Dear Mr. Upperman,

This office has reviewed your request for a formal determination on "Can I put two mobil (sic) homes on my front lot (see drawing) Main St. if both units are on a permanent foundation system." From your conversations with Duane Hall of my office, it is my understanding you want to know that if the two mobile homes are connected by "a pantry area that is on a full foundation around the perimeter of it", will they be considered a duplex and therefore be allowed on your parcel since a duplex is permitted in the Central Commercial district as contained in the Coulterville TPA Specific Plan.

After carefully evaluating your proposal and drawing, it is my determination that the mobile homes connected by a pantry area do not constitute a duplex and are not permitted on your parcel since you presently have a house and a mobile home on the parcel. Although a duplex is not defined in the Uniform Building Code nor the County Zoning Ordinance, it is my determination that a duplex is defined as a detached building containing two (2) dwelling units. The key to this definition is one (1) building with two (2) dwelling units. Your proposal shows two (2) mobile homes connected by an addition to one mobile home, and despite being connected by a "pantry area", they still constitute two (2) buildings. Therefore, they cannot be considered a duplex.

This determination may be appealed to the Planning Commission or Board of Supervisors. Enclosed for your information is a handout of the appeals procedure and an appeal form.
I hope this determination answers your question. If you have any further questions or would like to discuss this determination, please contact Duane Hall of my office.

Sincerely,

Tony Nashbrook
Planning and Building Director

CRRR

Enclosures/Appeals Procedure and Form
Upperman Letter dated 2/22/93
Planning Department Letter dated 11/5/92

CC: County Counsel
    Building Division
    Coulterville PAC Chairman
To Whom it May Concern,

I.E. Duplex

Can I put two mobile homes on my front lot (see drawing) main's?

If both units are on a permanent foundation system? Also they will be connected by a pantry area that is on a full foundation around the perimeter of it (i.e. pantry area)

Please note: parking is for four cars only.

Both units will have Ti-11 siding, compost roof, eves will be 12 ins.

Thank you.

[Signature]
Both units are mobiles using state approved ABESC0 co. Permanent Foundation System.

Panhel 1-916-783-8831 Patent No. 4681097

Both units 18" off ground grade

Both units using TI-11 siding

Carp roof

Parking area: 4 cars

Well house

52 ft. from center of road

10 ft. from well house

Existings

Well house: 20 ft.

EN 3-TI-11 Siding

PROPNIE

Blue water

Green sewage

RED: Elc.

Black gas

Skirtings around trailers units 1/8" clapboard siding

NOTE:

Using existing water and sewer lines from driver that burnt down in 1985.

Using existing P&G meters from two mobile homes.

New gas lines

Use red brick walkways

Steps

SIDE

43 ft.

To center of road

EXISTING

DRIVE WAY

FRONT

24 FT.

24 FT.

24 FT.

24 FT.

# 6" G A R D E

# 10 G A R D E

FRONT

P A R M R Y

B O L T T O C O D E

2 H 2

UNIT

UNIT

EXISTING

DWELLING

G R A S S

G R A S S

G R A S S

G R A S S
November 5, 1992

James M. Upperman  
P.O. Box 191  
Coulterville, CA 95311

RE: Planning Approval Application for Mobile Home on APN 02-050-35

Dear Mr. Upperman,

After further review of your planning approval application to place a mobile home on APN 02-050-35 and conferring with County Counsel, this office has determined that the mobile home will exceed the residential density established on your parcel by the Coulterville TPA Specific Plan. Consequently, this office cannot authorize the issuance of the permit for the mobile home. Your parcel is located in the Central Commercial and Light Commercial districts and the residential uses allowed on your parcel are as follows:

1. One (1) single family residence per parcel is permitted.
2. One (1) guest house per parcel is permitted.
3. One (1) duplex per parcel is permitted.

There is presently a single family residence which is undergoing repair and a mobile home located on your parcel, and as you can see, the only other type of residential use which may be allowed on your parcel is a duplex. Since the mobile home is not a duplex, it is not permitted on the parcel with your existing residential uses.

Although this mobile home was located on your parcel as recently as April 1992, the mobile home cannot be relocated to the parcel unless it complies with all standards of the Coulterville TPA Specific Plan and County Zoning Ordinance. All zoning rights the previous mobile home use may have had under the non-conforming use provisions of the County Zoning Ordinance (Section 17.08.020) were forfeited when you voluntarily removed the mobile home from the parcel.
One option available to you to place the mobile home on your property are is to remove or convert your existing single family residential house to a non-residential use. If this house is converted to a commercial structure or a storage building and is not used as a residence, then it would not be counted towards your allowed residential density and you could place the mobile home on your property as the allowed second residence. Of course, the converted house will have to comply with all applicable building code standards for the proposed use. If you decide to proceed with this option, you will need to revise your site plan and obtain the necessary building permits. In addition, the mobile home will have to comply with all development standards of the Coulterville TPA Specific Plan as outlined in my letter to you dated October 1, 1992.

I hope this information is of assistance to you. If you have any questions, please do not hesitate to contact me.

All determinations made by this office may be appealed to the Planning Commission or Board of Supervisors. Enclosed for your information is a handout of the appeals procedure.

Sincerely,

Duane Hall
Associate Planner

CRRR/Enclosure

CC: County Counsel