

94-200

MARIPOSA COUNTY
BOARD OF SUPERVISORS

AGENDA
ACTION FORM

DATE: May 24, 1994
AGENDA ITEM NO.: 12-8

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

RECOMMENDED ACTION AND JUSTIFICATION: (Policy Item: Yes ___ No X)

Resolution denying the appeal and upholding the Planning Director's action to authorize the issuance of the building permit for a mini-storage facility to APN 12-040-23. Justification for the recommended action is provided in the attached memorandum.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

None.

LIST ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

ALTERNATIVES: (1) Continue hearing; (2) Grant appeal and attach conditions to issuance of permit; (3) Grant appeal and deny issuance of appeal.

NEGATIVE ACTION would result in appeal being granted and building permit being conditioned or denied.

COSTS: () Not Applicable

A. Budgeted current FY \$ _____

B. Total anticipated costs \$ _____

C. Required additional funding \$ _____

D. Internal transfers \$ _____

SOURCE: () 4/5ths Vote Required

A. Unanticipated revenues \$ _____

B. Reserve for contingencies \$ _____

C. Source description: _____

Balance in Reserve for Contingencies, _____

if approved: \$ _____

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

1. Memorandum to Board
2. Notice of Appeal
3. Rural Home Industry standards
4. County Counsel Opinion on Appeal
5. County Counsel Opinion on Mini-Storage
6. County Counsel Opinion on RHI standards
7. Information on proposed use and building

CLERK'S USE ONLY:

Res. No.: 94-200 Ord. No. _____

Vote - Ayes: _____ Noes: _____

Absent: _____ Abstained: _____

() Approved () Denied

(X) 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

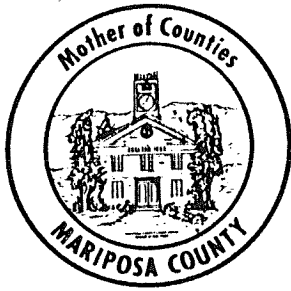
For Policy Determination

Submitted with Comment

Returned for Further Action

Comment: _____

A.O. Initials: W



Mariposa County Planning and Building Department

EDWARD J. JOHNSON
Planning Director

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Mariposa, CA 95338
(209) 966-5151
FAX No. (209) 966-5147

MEMORANDUM

May 17, 1994

TO: Mariposa County Board of Supervisors

FROM: Duane Hall, Associate Planner *DH*

SUBJECT: Appeal of Planning Director's Approval of Issuance of Building Permit to APN 12-040-23; John and Patricia Binon, appellants

Background

Thomas Archibald, the owner of the subject property, submitted to the Building Division a building permit application to construct mini-storage units. The subject property is 2.05 acres and is located on the north side of Highway 49 North approximately 1/3 mile west of Mykleoaks Road. The building permit application is for three buildings consisting of 68 mini-storage units and associated grading and parking/road improvements. As part of the County review of the building permit application, the Planning Director reviewed the application for consistency with the County Zoning Ordinance. Although there is no formal application process for home enterprises/rural home industries, Mr. Archibald prior to submitting his application requested information from this office as to whether a mini-storage facility was permitted on the property as a rural home industry. This office responded that a mini-storage facility was considered a rural home industry based on a legal opinion from County Counsel (Attachment #4) and that it would be permitted on the property if it complied with all Zoning Ordinance standards for rural home industries (Section 17.108.080). In addition, this office made several suggestions on how Mr. Archibald could reduce visual, traffic, and noise impacts which may result from operation of the mini-storage facility. As the building permit application complied with the rural home industry standards and there was no convincing evidence available to indicate the subsequent use would be detrimental or objectionable, the Planning Director authorized the issuance of the building permit. The appellants, John and Patricia Binon, are appealing the Planning Director's action authorizing the issuance of the building permit.

Recommendation

Staff recommends that the Board adopt a resolution denying the appeal and upholding the Planning Director's determination.

Discussion

The basis of the appellant's appeal is that the proposed mini-storage facility is not a rural home industry. The appellants bring up the issues that the owner of the property will not be living on the property which is one of the requirements for a rural home industry and that there are visual, dust, noise, and traffic impacts. The appellants' complete statement of grounds of appeal is provided in Attachment #1. In response to the appellant's first two statements, County Counsel has opined that mini-storage facilities are a rural home industry and are permitted subject to compliance with the rural home industry standards (Section 17.108.080 Zoning Ordinance). Since the buildings are located 50 feet from all property lines, there is a residence on the property, and no outdoor storage is proposed, the Planning Director authorized the issuance of the building permit. As for the statement regarding the owner of the property living on the property, County Counsel has opined that the rural home industry standards do not require the property owner to live on the property, only that the business is operated by a permanent resident living on the property (Attachment #5).

The Planning Department conferred with County Counsel to determine the actions the Board may take in response to the appeal. It is County Counsel's opinion that the first time the Board can take action on determining if a rural home industry complies with Section 17.108.080 is at the permit issuing stage. At this time and upon appeal of the issuance of the permit, the Board may determine based on objective evidence that construction of the proposed buildings and the concomitant use thereof would create a violation of Section 17.108.080. Since it has been indicated by the property owner that these facilities are to be used for commercial purposes as a rural home industry, the Board of Supervisors as part of this appeal may determine whether the construction of the proposed buildings and their subsequent use would violate Section 17.108.080 and take action on the issuance of the building permit. This determination and action would have to be based on convincing objective evidence. Such evidence would consist of an evaluation by the Board of Supervisors of the appearance of the business operation and its anticipated and probable impacts which may cause noise, odor, dust, or smoke and a determination of whether those impacts are objectionable or detrimental to the surrounding area. Information on the building permit and proposed use as submitted by the applicant is provided to the Board for your review (Attachment #8).

In response to the appeal, the Board may take the following actions:

- Deny the appeal and uphold the Planning Director's action to authorize issuance of the building permit. (NOTE: The mini-storage facility must continue to comply with Section 17.108.080 and is subject to further review by the County for compliance with those standards.)
- Uphold the appeal, finding based on convincing objective evidence that the proposed building and its subsequent use would violate Section 17.108.080. In upholding the appeal the Board may attach conditions to the issuance of the building permit to mitigate appearance, dust, noise, odor, or smoke impacts or may deny the issuance of the appeal if the Board determines the proposed building and its subsequent use cannot comply with the standards of Section 17.108.080.

The Planning Department has not received any additional objective evidence since approval of the building permit application which demonstrates the building and its subsequent use will have a detrimental or objectionable impact on the surrounding area. Consequently, it is the Planning Director's opinion that the proposed building still complies with Section 17.108.080, and the Planning Director recommends that the Board deny the appeal and uphold the approval of the building permit.

MARIPOSA COUNTY BOARD OF SUPERVISORS

MINUTE ORDER

TO: EDWARD JOHNSON, Planning and Building Director
FROM: MARGIE WILLIAMS, Clerk of the Board *mw*
SUBJECT: Public Hearing Re Appeal On APN 12-040-23;
(Thomas Archibald, Property Owner); John and
Patricia Binon, Appellants
Resolution Number 94-200

THE BOARD OF SUPERVISORS OF MARIPOSA COUNTY, CALIFORNIA,
ADOPTED THIS Order on May 24, 1994

ACTION AND VOTE:

2:58 p.m. Edward Johnson, Planning and Building Director;
B) PUBLIC HEARING to Consider an Appeal of the
Planning Director's Action to Authorize the Issuance of a
Building Permit for a Mini-Storage Facility to APN 12-040-23
(Thomas Archibald, Property Owner); John and Patricia Binon,
Appellants
BOARD ACTION: Staff report was presented by Duane
Hall/Associate Planner. Staff responded to questions from
the Board relative to location of the property; proposed
size of the buildings; and whether a residence exists on the
property. Public portion of the hearing was opened. Input
was provided by John Binon/appellant, who stated he feels
there is a misunderstanding of what is permissible and what
is not; referred to his driveway and easements rights;
stated he feels the concrete is on his property; objects to
making the area commercial; feels this would create
environmental and traffic impacts and impact his privacy and
security. Persons speaking in support of the appeal: none.
Persons speaking in opposition to the appeal: Tom
Archibald/property owner, stated he plans to grade the
property to reduce the visual impacts and plant Toyon bushes
on the boundaries; the buildings will be low-profile with
neutral paint colors; they will have an on-site manager; and
most of the clients will be from businesses in the area who
will use the facility during the day. Mr. Archibald
responded to questions from the Board relative to Caltrans

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permit; driveway access; and planting proposal. Mary Lou Tiner stated she thought Rural Home Industry required residency by the property owner and expressed concern with visual impact. Mr. Binon offered rebuttal. Board commenced with deliberations. Staff introduced into evidence written correspondence received on this appeal and addressed residency requirements for Rural Home Industry; and responded to questions by the Board as to whether there were mitigation measures as a part of the permit, grading and site plan, and proposal for the structures. County Counsel responded to question from the Board as to whether there was any way the appeal could be upheld. (M)Balmain to deny the appeal, with direction to staff to work with the appellant and neighbors and property owner to try to mitigate the objections, died for lack of a second. (M)Parker, (S)Balmain, Res. 94-200 adopted denying the appeal and upholding Planning's decision. Staff responded to questions concerning zoning of the property and whether hours of operation were included in the permit application. Mr. Archibald responded to issue concerning hours of operation stating they would be willing to only operate eight hours a day (they may be staggered hours), with someone living on the premises. Vote was called for on the motion/Ayes: Baggett, Balmain, Erickson, Parker; Noes: Taber. Discussion was held concerning status of dealing with Rural Home Industry issues. Hearing was closed.

cc: File