



## COUNTY OF MENDOCINO

### DEPARTMENT OF PLANNING AND BUILDING SERVICES

860 NORTH BUSH STREET • UKIAH • CALIFORNIA • 95482  
120 WEST FIR STREET • FORT BRAGG • CALIFORNIA • 95437

JULIA KROG, DIRECTOR  
PHONE: 707-234-6650  
FAX: 707-463-5709  
FB PHONE: 707-964-5379  
FB FAX: 707-961-2427  
[pbs@mendocinocounty.gov](mailto:pbs@mendocinocounty.gov)  
[www.mendocinocounty.gov/pbs](http://www.mendocinocounty.gov/pbs)

## MEMORANDUM

**DATE:** MAY 20, 2025  
**TO:** HONORABLE BOARD OF SUPERVISORS  
**FROM:** LIAM CROWLEY, PLANNER II  
**SUBJECT:** APPEAL OF MENDOCINO HISTORICAL REVIEW BOARD APPLICATION MHRB\_2024-0009

**BACKGROUND:** A water tower staircase attached to a commercial building is currently located at 45040 Main Street, Mendocino. The water tower staircase provides access from ground level to the second floor of the commercial building which currently houses Flow Restaurant & Lounge. The water tower was originally constructed in 1904 at the Mendosa Store property at 10501 Lansing Street, Mendocino. In 1923, a windmill was removed from the tower and the existing water tank was replaced with a larger tank. In 1975, the water tower was deemed unsafe and the owners received permission from the Mendocino Historical Review Board (MHRB) to deconstruct the tower and replace it with a ground-level steel tank. The tower was ultimately purchased, deconstructed, and reconstructed at its current location in 1976. Some of the damaged beams were cut and the tower height was lowered by about six (6) feet. According to the owner at that time, the tower was “98 percent original” (see attached *Sverko Files* and *Kelley House Files*). The water tower has remained in this design since, though repairs were completed in 2012, 2018, and 2020 (see December 2, 2024 letter from Raymond in attached *Public Comments*).

On September 9, 2022, the applicants submitted a MHRB permit application to replace the existing water tower staircase with a new structure. The original design would have replaced the existing water tower with an enclosed structure that resembled the architecture of the attached commercial building (see attached *MHRB\_2022-0008 Proposed Design #1*). This proposal was rejected by the MHRB at their meeting on December 5, 2022. The hearing was continued to allow the applicants to prepare a revised design. Subsequently, the applicants proposed an enclosed faux water tower design that was intended to more closely resemble the architecture of the existing water tower and other water tower structures in Mendocino (see attached *MHRB\_2022-0008 Proposed Design #2*). At their meeting on February 6, 2023, the MHRB rejected this design and denied the permit application (see *MHRB\_2022-0008 Action Letter* for more information on the denial).

On August 22, 2024, the applicants submitted a second MHRB permit application (MHRB\_2024-0009, the subject of this appeal) with a third design proposal. Per Mendocino Town Zoning Code Section 20.760.100(B), the applicants also submitted a Hardship Waiver to demolish the existing water tower to the Board of Supervisors on October 16, 2024. However, at the November 5, 2024 Board of Supervisors meeting, it was determined that the Hardship Waiver was not applicable because the subject structure is not listed in the Inventory of Historic Structures within the Mendocino Town Plan and further that demolition of the structure was not a remedy provided for through the Hardship Waiver process (see attached *Hardship Waiver Letter to Owner*).

**THE PROJECT:** The proposed project under MHRB\_2024-0009 would involve demolishing the existing water tower staircase and replacing it with a new unenclosed staircase. The project would also involve rerouting an existing wooden path from underneath the water tower to the eastern side of the proposed staircase. The materials would remain the same. The project would also involve installing a new drainpipe under the existing sidewalk and new wooden park benches between the base of the staircase and the eastern wall of the existing commercial structure (see attached *Site Plan, Floor Plans, & Elevations*).

**THE DECISION:** At their meeting on December 2, 2024, the MHRB denied the permit application. Prior to their decision, the MHRB discussed possible modifications to the proposal, including the possibility of reinforcing the existing tower with steel or creating new public access to the second floor of the structure to avoid demolition of the water tower. The

MHRB discussed continuing the meeting to allow the applicant to consider these alternatives or other options to keep the tower. However, the applicant expressed a desire that the MHRB make a definitive decision rather than continuing the meeting. The MHRB ultimately voted to deny the project. Prior to the decision, the MHRB acknowledged the unsafe condition of the structure but maintained that its demolition and replacement with the proposed design would be insufficient to meet historical design standards. The MHRB also noted that most public comments wished for the structure to remain.

**THE APPEAL:** The applicant filed an appeal of the MHRB's decision on December 3, 2024. The applicant asserts that the water tower structure poses a clear and present danger to public safety and must be removed or completely rebuilt according to an engineer's report. The appellant contends that the cost to completely rebuild the structure would be cost prohibitive and would trigger accessibility requirements, which would involve the addition of a lift which cannot be incorporated into the current design of the structure.

The appellant also asserts that the application was denied unfairly due to an alleged conflict of interest because one of the MHRB members had previously made an unsuccessful offer to purchase the subject property.

Per County Code Section 20.760.072(C), for an application that has been denied, the appellant must provide a statement that demonstrates how the denied proposal would conform to the required findings contained in Section 20.760.065. The appellant submitted this statement (see attached *Appeal Statement of Findings*).

**STANDARD OF REVIEW:** Pursuant to Section 20.765.065, the granting or modification of any application pursuant to Chapter 20.760 shall be supported by findings which establish that:

- (A) *The exterior appearance and design of the proposed work is in harmony with the exterior appearance and design of existing structures within the District and that of the existing subject structure, if any.*
- (B) *The appearance of the proposed work will not detract from the appearance of other property within the District.*
- (C) *Where the proposed work consists of alteration or demolition of an existing structure, that such work will not unnecessarily damage or destroy a structure of historical, architectural or cultural significance.*

Per County Code Section 20.760.072(A), *"appeals from a decision of the Review Board shall be based upon the information available in the public record on the date of the Review Board's decision, and no new information shall be submitted except a statement supporting the grounds for appeal."*

Per County Code Section 20.728.015(B), the Board of Supervisors may *"remand, affirm, reverse or modify any such decision, determination or requirement as it finds in compliance with this Division and the Coastal Element of the General Plan. The Board of Supervisors shall adopt findings which specify the facts relied upon in deciding the appeal, and the findings shall state the reasons for any conditions imposed."*

As such, in taking action on the appeal, the Board may:

1. Affirm the action of the MHRB, stating which finding(s) cannot be made for the subject application; or
2. Reverse the action of the MHRB, making the findings to approve the subject application; or
3. Modify the action of the MHRB, though the modification must be based on the information available in the public record on the date of the Review Board's decision; or
4. Remand the application to the MHRB, such that the MHRB can consider the application as proposed to be modified by the Applicant, as provided herein.

**DISCUSSION:** The project's consistency with the Mendocino Town Zoning Code, Mendocino Town Plan, and Design Guidelines are discussed in the attached *MHRB\_2024-0009 Staff Report*, including the required findings copied above. Originally, staff recommended that the MHRB approve the proposal. Further analysis of the required findings is discussed below.

**Finding (C):** Per Mendocino County Code (MCC) Section 20.760.065(C), the Board of Supervisors should first consider whether the water tower staircase structure is of historical, architectural, or cultural significance. Within the original report, staff concluded that the structure was of historical, architectural, or cultural significance because it met the definition of a "historically important" structure. Per MCC Section 20.760.025(C), "historically important" means *"any structure where the construction date is known or closely estimated, research regarding its history is in progress, and the architecture has been modified"*. Staff originally concluded that the structure met this definition because its original

construction date is known (1904), research regarding its history has been conducted by Eleanor Sverko and the Kelley House Museum (see attached *Sverko Files & Kelley House Files*), and its original architecture has been modified due to its deconstruction at the Mendosa property and reconstruction at the current site, including lowering the overall height and replacement of some structural beams. Despite staff's original conclusion that the water tower structure was historically significant, staff also concluded that the proposal would not unnecessarily damage the water tower structure because its demolition was necessary due to the deterioration of the structure and infeasibility of restoration.

Staff undertook further review of the historical significance of the water tower structure as part of the Board's November 5, 2024, review of the hardship waiver application made by the appellants. Section 20.760.100 provides additional context to the term "buildings of historical significance" by specifically referring to the Inventory of Historic Buildings, Appendix 14 of the Mendocino County Local Coastal Plan dated August 17, 1983, as amended. The water tower structure is not listed in the Inventory (see attached *Mendocino Town Plan Inventory of Historic Structures*). The water tower structure is attached to a Category IVb structure, which is considered non-historic. Additionally, because the water tower was deconstructed, moved, and reconstructed with a different architectural design, what significance it may have had has diminished. The water tower structure also does not meet the definition of a Landmark Structure, which is defined in MCC Section 20.608.031(B) as "*any structure that is listed in the Inventory of Historic Buildings (Appendix 1 of the Mendocino Town Plan), where the original construction date has been identified, its history has been substantiated, and only minor alterations have been made in character with the original architecture*".

During review of this appeal application, staff discovered additional information regarding the tower in Volume XVII of the Mendocino Historical Review journal titled *Water Towers and Windmills of Mendocino*, by Wally Smith. The volume was published in winter 1993 (see attached *1993 Mendocino Historical Review Excerpt*). An excerpt from the journal shows a photo of the subject water tower in its original location at the Mendosa property. Based on the photo, it appears the design or architecture of the tower was altered more significantly than quoted by Jim Coupe in the 1976 Mendocino Coast Beacon article referenced by the Kelley House Museum, who said it was "98 percent original" (see attached *Kelley House Files*).

Staff now concludes that the water tower structure is not of historical, architectural, or cultural significance because it is not a Landmark Structure, and its significance has been materially diminished due to the deconstruction, movement, and reconstruction of the structure in a different location with significant architectural modifications. By extension, the proposed work, including demolition of the water tower structure, would not unnecessarily damage or destroy a structure of historical, architectural, or cultural significance consistent with finding (C).

**Finding (A):** Per MCC Section 20.760.065(A), the material of the proposed staircase would remain the same (redwood) as the existing water tower staircase, though the existing water tower is constructed of large beams, whereas the newly proposed staircase would use smaller dimension lumber. The color and texture would remain similar (unpainted redwood lumber). Fenestration is not applicable because neither structure includes windows or doors. Both structures have little ornamentation, but any portion of the original water tower could be considered ornamentation that would be lost to demolition. The water tower design is not functionally necessary to allow access to the second floor. Therefore, the water tower design ornaments the functionality of the staircase. The proposed design would depart from the original architectural style and character of the water tower. However, the architectural style and character of water towers are not discussed in the Design Guidelines. The design and scale of the proposed staircase is similar to existing exterior staircases elsewhere in the District, including others along Main Street.

**Finding (B):** Pursuant to MCC Section 20.760.065(B), the appearance of the proposed work will not detract from the appearance of other property within the District. The proposed work would not impair views of other property. The scale of the proposed staircase is smaller than the existing water tower, which would allow greater visibility of nearby structures. The structure to be demolished is not historically significant.

**Other Considerations:** During the December 2 MHRB hearing, a question was raised about whether reconstruction of the tower would require accessibility upgrades. After consulting with the Building Division, it was determined that reconstruction of the tower would require the installation of an accessible route to the second floor of the structure (i.e., an elevator or lift). However, there was no discussion about whether the proposed demolition of the tower and replacement with a staircase would also require accessibility upgrades. Chapter 11B of the 2022 California Building Code establishes accessibility requirements for commercial buildings. Per Section 11B-201.1, "*all areas of newly designed and newly constructed buildings and facilities and altered portions of existing buildings and facilities shall comply with these requirements.*" Therefore, the proposed project would require the installation of an accessible path of travel from ground level to the entrance of the restaurant. The designs originally proposed as part of MHRB\_2022-0008 included accessibility features, such as a proposed lift inside the staircase structures and a ramp. The current proposal under MHRB\_2024-0009 does not include these accessibility features.

However, if the adjusted construction cost of the proposed project, excluding any accessibility-related features, is less than \$200,399, the cost of compliance with the path of travel requirements is limited to 20% of the adjusted construction

cost in accordance with Building Code Section 11B-202.4. Therefore, if the cost of providing an accessible route (such as a ramp or elevator) to the second floor of the attached commercial building would exceed 20% of the construction cost, the applicant may not be required to install an elevator or ramp.

The applicant provided an estimate from a local contractor for the work proposed as part of MHRB\_2024-0009. The estimated construction cost is \$88,404. Therefore, the cost of compliance would be limited to approximately \$17,680. It is unlikely that an elevator could be installed for this amount. Regardless, the appellant has expressed interest in installing an elevator to the second floor. If the Board of Supervisors were to reverse the decision of the MHRB and approve the project, the applicant is willing to bring any replacement stairway into ADA compliance as a condition of permit approval (see attached *Attorney Letter to Board of Supervisors 03-19-2025*). However, MCC Section 20.760.072(A) states that “*appeals from a decision of the Review Board shall be based upon the information available in the public record on the date of the Review Board’s decision, and no new information shall be submitted except a statement supporting the grounds for appeal*”. Therefore, the Board of Supervisors would not be authorized to modify the project to match a previously proposed design because those designs were not included in the record or contemplated by the MHRB in the proceedings for the project subject to this appeal (MHRB\_2024-0009). The Board of Supervisors would be able to remand the project back to the MHRB to consider a previously proposed design and to consider the additional information regarding the water tower’s design reviewed by staff.

The project is categorically exempt from CEQA per Title 14 California Code of Regulations §15301(I) for “*demolition and removal of individual small structures*” and §15303(e) for “*new construction or conversion of small structures*”, including “*accessory (appurtenant) structures*”.

**RECOMMENDED ACTION:** Staff recommends that the Board of Supervisors reverse the MHRB’s denial of MHRB\_2024-0009 and approve the project in accordance with the attached resolution.

**ATTACHMENTS:**

- A. Appeal Application
- B. Appeal Addendum
- C. Appeal Statement of Findings
- D. MHRB\_2024-0009 Staff Report
- E. Site Plan, Floor Plans, & Elevations
- F. 45040 Main Street (APN 119-238-10) MHRB Permit History
- G. Engineering Assessment
- H. Wood Destroying Pest Inspection Report
- I. Kelley House Museum Article
- J. Contractor Rebuild Cost Estimate
- K. Original 1976 Water Tower Plans
- L. Hardship Waiver Letter to Owner
- M. November 9, 2024 Letter from Owner with Additional Information
- N. Sverko Files (Historical Information)
- O. Kelley House Files (Historical Information)
- P. Mendocino Town Plan Inventory of Historic Structures
- Q. MHRB\_2022-0008 Proposed Design #1
- R. MHRB\_2022-0008 Proposed Design #2
- S. MHRB\_2022-0008 Action Letter
- T. Letter to Board of Supervisors 01-24-25
- U. Refund Request 01-24-25
- V. Engineering Assessment Supplement 01-23-25
- W. 1993 Mendocino Historical Review Excerpt
- X. Letter to Board of Supervisors 03-07-2025
- Y. Adjusted Construction Cost Estimate
- Z. Attorney Letter to Board of Supervisors 03-19-2025
- AA. Public Comments