

MEMORANDUM

TO: CITY COUNCIL

FROM: TERESA MCCLISH, COMMUNITY DEVELOPMENT DIRECTOR

BY: KELLY HEFFERNON, ASSOCIATE PLANNER

SUBJECT: CONSIDERATION OF PRE-APPLICATION NO. 16-003 REGARDING AGRICULTURE LAND CONVERSION MITIGATION; LOCATION - EAST CHERRY AVENUE; APPLICANT – ARROYO GRANDE VALLEY JAPANESE WELFARE ASSOCIATION (AGVJWA)

DATE: JULY 26, 2016

RECOMMENDATION:

It is recommended the City Council provide the applicant with preliminary comments regarding whether specified uses on the subject property would satisfy agricultural conversion mitigation requirements given the historical use of the property.

FINANCIAL IMPACT:

No fiscal impact at this time.

BACKGROUND:

Project Location



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On December 9, 2003, the City Council adopted Ordinance No. 550 (Development Code Amendment 03-005) to implement the second in a series of recommendations initiated by Resolution 3699, incorporating regulations and amending the Zoning Map to create an Agricultural Preservation Overlay District (buffers) of 100 feet around all agriculturally zoned property, requiring adequate findings for subdivision or rezoning of agricultural lands, and implementing mitigation requirements and revising land use regulations for all agricultural districts.

In May 2010, the City Council adopted Ordinance No. 623 that amended Section 16.12.170 of the Municipal Code to clarify the definition of “Agricultural Land” and for the purposes of agricultural conversion and mitigation policies.

ANALYSIS OF ISSUES:

The Arroyo Grande Valley Japanese Welfare Association (AGVJWA) has owned the subject 1.51 acre property since the 1920's. In accordance with Arroyo Grande Municipal Code (AGMC) Section 16.12.020, the applicant has requested pre-application review in order to get preliminary comments on the issue of whether the historical use of this property and their proposed Japanese American Agricultural Legacy project, included as Subarea 3 of the Draft East Cherry Avenue Specific Plan (the “Draft Specific Plan”), can be considered adequate for the purpose of agricultural mitigation (see Attachment 1 for letter from applicant to the City).

According to AGVJWA, when AGVJWA purchased the property, it was developed with two (2) houses and accessory buildings. The site was surrounded on all sides by open fields and orchards. Historical aerial photos starting in the 1940's provide evidence that this property was one of the few lots developed and not used for agricultural production.

The use of this property is documented in the Draft Specific Plan, Appendix A (see Attachment 2). The property was originally purchased as a place for the Japanese American farming families to gather as a community, and was used as such until the 1960's. According to AGVJWA, at no time was the property used for agricultural cultivation. From the late 1960's to 2011 (when the last remaining building was burned by arson), the Boy Scouts and Judo Club rented the property from AGVJWA as a place to meet as a club and a place to hold martial arts practices and events.

In the 2001 General Plan, the City implemented specific requirements for agricultural resource protection in order to “avoid and/or mitigate loss of prime farmland soils and conserve non-prime Agriculture use and natural resource lands.” During public review of the 2001 General Plan, the applicant asserts that AGVJWA community members spoke about their opposition of changing the AGVJWA property from Mixed-Use to Agriculture. The oppositions were based on the property's historic uses, which include residential (detached house), cultural (assembly building, schoolhouse) and outdoor

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recreational and cultural activities (baseball, weddings, judo, etc.). According to the applicant, the property was not utilized for farming or agricultural uses at any time under AGVJWA ownership.

The current Agricultural land use designation restricts the potential for continuing the uses on the site as a cultural asset to the local Japanese American families. The goal of the AGVJWA is to return the property to its original intended use that can be enjoyed by generations to come.

A review of General Plan policies, Municipal Code requirements and property components are included below regarding agricultural conversion mitigation. It should be kept in mind that at this stage the City Council is only providing preliminary comments as part of the applicant's request for pre-application review (AGMC Section 16.12.020) on the issue of whether mitigation is required. The adequacy of mitigation under the California Environmental Quality Act (CEQA) for the Specific Plan project, or any other potential agricultural conversion, cannot be fully determined until all potential project related environmental impacts and mitigation measures are fully identified, analyzed, disclosed, circulated for comment and findings are ultimately made for certification by the City Council.

The 2001 General Plan, including subsequent updates, specifies requirements for agricultural resource protection. Objective Ag1 states: "Avoid and or mitigate loss of prime farmland soils and conserve non-prime Agriculture use and natural resource lands." Other policies include requirements for agricultural buffers and maintaining overall protection of lands through a mitigation program by obtaining agricultural easements. Pertinent policies are described below:

- *Ag1-4 Establish and apply a significance criterion (threshold of significance) for CEQA analysis, as provided by CEQA Guidelines Section 15064.7, that considers loss of prime farmland soils as a significant adverse environmental impact.*
 - *Ag1-4.1 Loss of prime farmland soils shall refer to their unavailability for agricultural use. Loss may occur through natural causes or development such as coverage (e.g., paving, construction of buildings, etc.), or conversion to urban/suburban use (including residential yards/gardens and recreational areas). Cessation of agricultural use shall not constitute loss so long as the parcel remains fallow or is allowed to revert to a natural undeveloped state. Site improvements that are intended to support agricultural operations - such as grading, irrigation or drainage facilities, unpaved roads, or farm buildings and structures -- shall not constitute loss so long as the improvements do not substantially diminish the capability of*

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agricultural operations on the parcel or within the area and the improvements are directly related to agricultural production on the site.

- *Ag1-4.2 Possible mitigation for loss of areas having prime farmland soils may include permanent protection of prime farmland soils at a ratio of at least 1:1 and up to 2:1 with regard to the acreage of land removed from the capability for agricultural use. Permanent protection may involve, but is not limited to, dedication of a perpetual agriculture or conservation easement or other effective mechanism to ensure that the area chosen as mitigation shall not be subject to loss of its prime farmland soils. Suitability of location shall be determined by the City Council. The aim shall be to protect and preserve prime farmland soils primarily within and contiguous to City boundaries, secondly within the Urban Land Use Element area, and thirdly within the larger Arroyo Grande Valley and La Cienega Valley within the Area of Environmental Concern. Other potential mitigation measures for loss of areas having prime farmland soils include payment of in-lieu fees or such other mitigation acceptable to the City Council.*
- *Ag1-4.3 Since prime farmland soils occur naturally and are geographically specific, the only means for mitigation to less than significant is preservation. The City’s aim shall be to maintain contiguity of Ag and C/OS parcels and avoid fragmentation of areas having prime farmland soils. The City shall avoid development of prime farmland soil areas by directing growth potential to more suitable urban locations. Only after the imposition of available mitigation and consideration of alternatives to avoid the proposed action, may the City Council approve development on prime farmland soils subject to overriding considerations as permitted by California Government Code Section 15093.*

The original intent of General Plan policies, including Ag1-4, was to provide some flexibility on determining adequate mitigation to satisfy the goals and policies of the General Plan. General Plan Policy Ag1-4.2 specifically states that “other potential mitigation measures for loss of areas having prime farmland soils include payment of in-lieu fees or such other mitigation acceptable to the City Council.”

The following Municipal Code sections are also pertinent to the issue:

Section 16.04.070 Definitions – *“agricultural land or farmland” means those land areas of the county and/or city specifically designated or zoned as agriculture, agriculture preserve or agricultural general.*

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“Agricultural mitigation land” means agricultural land encumbered by a farmland deed restriction, a farmland conservation easement or such other farmland conservation mechanism acceptable to the city.

Subsection 16.12.170 F.

Agricultural Land Conversion.

1. The city shall require agricultural mitigation by applicants for discretionary entitlements which will subdivide or change the use of land zoned agriculture or agriculture preserve to any non-agricultural use.

2. Agricultural mitigation shall be satisfied by:

a. Granting an agricultural conservation easement, a farmland deed restriction or other agricultural conservation mechanism to or for the benefit of the city and/or a qualifying entity approved by the city. Mitigation shall be required for that portion of the land which no longer will be designated or zoned agricultural land, including any portion of the land used for park and recreation purposes, that will 1) permanently protect prime agricultural and prime soils from development; 2) or will benefit preservation of agricultural land and operations through other means as determined by the city council. At least as many acres of prime agricultural land shall be protected as was changed to a non-agricultural use within city limits, or up to two times as many acres of agricultural land shall be protected outside the city but within the city's area of environmental concern, as was changed to a nonagricultural use, in order to mitigate the loss of agricultural land; or

b. In lieu of conserving agricultural land as provided above if the city council determines that the payment of in-lieu fees provide a superior opportunity to satisfy the goals and policies of the general plan, agricultural mitigation may be satisfied by the payment of a fee, established by the city council by resolution or through an enforceable agreement with the developer, based upon a farmland replacement factor of up to two-to-one (2:1) to be used for acquisition of a farmland conservation easement or farmland deed restriction. The in-lieu fee option must be approved by the city council. The fee shall be based upon current appraisal information for the acquisition of a conservation easement on replacement land plus all related city administrative and legal costs. The in-lieu fee, paid to the city, shall be used

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for farmland mitigation purposes, with priority given to lands with prime agricultural soils located within the city; or

c. Other mitigation measures may be determined acceptable by the city council.

3. It is the intent of this program to work in a coordinated fashion with San Luis Obispo County and state agencies, and, therefore, farmland conservation easement areas may overlap partially or completely with habitat easement areas approved by the state department of fish and game. Up to twenty percent (20%) of the farmland conservation easement area may be enhanced for wildlife habitat purposes as per the requirements of the state department of fish and game and/or San Luis Obispo County management programs; payment of appropriate maintenance, processing or other fees may also be required.

4. Comparable Soils and Water Supply.

a. To the greatest extent possible, the agricultural mitigation land shall be comparable in soil quality with the agricultural land whose use is being changed to nonagricultural use.

b. The agricultural mitigation land shall have an adequate water supply to support agricultural use and the water supply on the agricultural mitigation land shall be protected in the agricultural conservation easement, the farmland deed restriction or other document evidencing the agricultural mitigation.

5. Eligible Lands. The first priority for agricultural mitigation land shall be farmland located within city limits. The second priority for agricultural mitigation shall be farmland located adjacent to city limits, and the third priority, farmland located within the city's area of environmental concern, as shown in the 2001 General Plan. The criteria for preferred locations or zones for agricultural mitigation land shall be determined by the city council after receiving input from the planning commission and San Luis Obispo County Agricultural Commissioner. In making their determination, the following factors shall be considered:

a. The preferred locations shall be compatible with the 2001 General Plan and the general plan of San Luis Obispo County.

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b. The preferred locations shall include comparable soil types to that most likely to be lost due to proposed development.

c. Agricultural mitigation land consisting of contiguous parcels shall be preferred.

d. Land previously protected by a conservation easement of any nature or kind is not eligible to qualify as agricultural mitigation land.

6. Requirements of Instruments—Duration.

a. To qualify as an instrument encumbering agricultural mitigation land, all owners of the agricultural mitigation land shall execute the instrument.

b. The instrument shall be in recordable form and contain an accurate legal description setting forth the description of the agricultural mitigation land.

c. The instrument shall prohibit any activity, which substantially impairs or diminishes the agricultural productivity of the land, as determined by the planning commission.

d. The instrument shall protect the existing water rights and retain them with the agricultural mitigation land.

e. The applicant shall pay an agricultural mitigation fee to pay the costs of administering, monitoring and enforcing the instrument in an amount determined by city council.

f. Interests in agricultural mitigation land shall be held in trust by a qualifying entity and/or the city, in perpetuity. Except as provided in subsection (g) of this section, the qualifying entity or the city shall not sell, lease, or convey any interest in agricultural mitigation land which it shall acquire, except to continue agricultural uses in accordance with the encumbering instrument.

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g. If judicial proceedings find that the public interests described in Chapter 16.28 of this title can no longer reasonably be fulfilled as to an interest acquired, the interest in the agricultural mitigation land may be extinguished through sale and the proceeds shall be used to acquire interests in other agricultural mitigation land in San Luis Obispo County, as approved by the city and provided in this chapter.

h. If any qualifying entity owning an interest in agricultural mitigation land ceases to exist, the duty to hold, administer, monitor and enforce the interest shall pass to the city or its designee.

i. Each qualifying entity shall monitor lands and easements it acquires under this chapter and shall review and monitor the implementation of the management and maintenance plans for these lands and easement areas.

The AGMC Section 16.12.170(B) requires that changing the land use designation from Agriculture to Mixed Use and the zoning designation from Agriculture to Village Mixed Use would require mitigation. However, given the history of this property of being used for residential, public assembly and cultural uses and not agricultural cultivation, and in consideration of proposed uses on the site that recognize and realize the historical use of the property, preliminary comments are being sought regarding the mitigation requirement.

ALTERNATIVES:

The following alternatives are presented for City Council consideration:

1. Provide preliminary comments and suggestions to the applicant regarding not requiring mitigation to convert the subject property from an Agricultural to a Mixed Use land use designation;
2. Provide preliminary comments and suggestions to the applicant regarding requiring mitigation to convert the subject property from an Agricultural to a Mixed Use land use designation; or
3. Provide direction to staff.

ADVANTAGES:

The applicant is currently seeking preliminary comments and suggestions from the City Council on whether mitigation is necessary to change the land use and zoning designations from Agricultural to Mixed Use and develop the site as a Japanese American Agricultural Legacy project. Not requiring agricultural conversion mitigation

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will assist AGVJWA in developing the site as envisioned given the anticipated large cost associated with obtaining a conservation easement or paying an in-lieu fee.

DISADVANTAGES:

Not requiring agricultural conversion mitigation could be setting a precedent with other properties within the City currently designated Agriculture but not cultivated.

ENVIRONMENTAL REVIEW:

No environmental review is required for this item.

PUBLIC NOTIFICATION:

The Agenda was posted at City Hall on Thursday, July 21, 2016. The Agenda and staff report were posted on the City's website on Friday, July 22, 2016.

ATTACHMENTS:

1. Letter from AGVJWA dated July 13, 2016
2. Appendix A of the Draft East Cherry Avenue Specific Plan

July 13, 2016

To: City of Arroyo Grande, Community Development

Attention: Teresa McClish, Kelly Heffernon, John Rickenbach

From: Arroyo Grande Valley Japanese Association (AGVJWA) Representatives

Pre-Application Purpose:

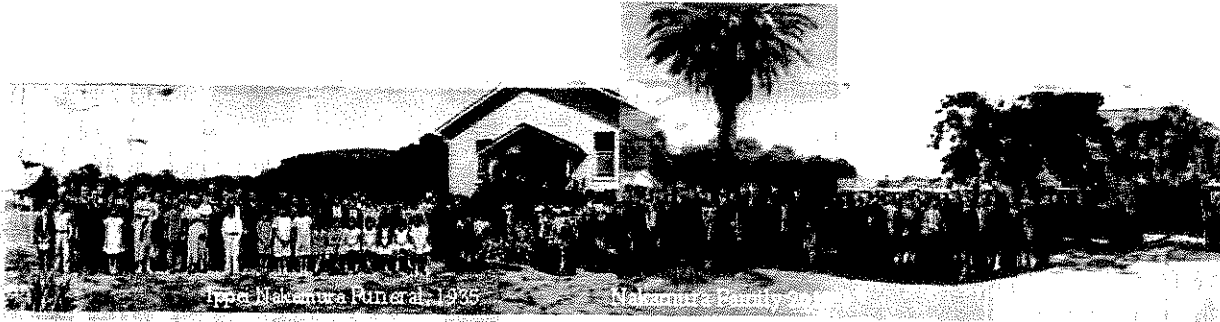
Arroyo Grande Valley Japanese Welfare Association is requesting a determination regarding whether the historical community use of their 1.51 acre property, since the 1920s, and their proposed Japanese American Agricultural Legacy project can be considered adequate for agricultural mitigation purposes.

When the Arroyo Grande Valley Japanese Welfare Association purchased the property in the 1920s, the 1.51 acre property was the only developed parcel with two houses and accessory buildings, surrounded by open fields and orchards. Historical aerial photos starting in the 1940s provide evidence that this property was one of the few lots developed and not used for agricultural production.

The use of this property is well documented in the Draft Specific Plan, Appendix A. The property was bought as a place for the Japanese American farming families to gather as a community, not to farm, but as a place to meet, and was used as such until the 1960s. From the late 1960s to 2011 (when the last remaining building was burned by arson) the Boy Scouts and Judo Club rented the property from AGVJWA as a place to meet as a club and a place to hold martial arts practices and events.

In the *2001 General Plan*, specific requirements for agricultural resource protection was implemented by the City of Arroyo Grande in order to "Avoid and or mitigate loss of prime farmland soils and conserve non-prime Agriculture use and natural resource lands." During the public open sessions discussing the *2001 General Plan*, AGVJWA community members spoke, on the record, about their opposition of changing the AGVJWA property from mixed-use to agriculture. The oppositions were based on the property's historic uses, which are listed but which include residential (detached house), cultural (assembly building, schoolhouse) and outdoor recreational and cultural activities (baseball, weddings, judo etc.). Never was the property utilized for any farming/agricultural uses. The desire in making this request for this property is to retroactively correct the 2001 rezoning which removed all possible historic uses and further restricted the possibility for continuing the uses on the site as a valuable cultural asset to the local Japanese American families whose grandparents set up the property for the benefit of the local community. After close to one hundred years, our goal is to return the property back to its original intended use that can be enjoyed by our community and generations to come.

History of the Arroyo Grande Valley Japanese Welfare Association East Cherry Avenue Specific Plan Subarea 3



Excerpts from THE STORY OF JAPANESE PEOPLE AND THEIR CONTRIBUTION TO THE FARMING INDUSTRY IN ARROYO GRANDE, an article researched and written for Harvest Festival 1976 Edition by Kay T. Fukuhara, PhD, published on September 29, 1976 by Five Cities Time-Press-Recorder, Arroyo Grande, California. Edited in 2015 by Margaret Ikeda, niece of Kay T. Fukuhara.

Historical records show that Japanese people had settled in other parts of California prior to the turn of the 20th century. The earliest identifiable Japanese settler came to this region before 1903. Thereafter, entry of more Japanese to the Arroyo Grande valley began: first, as a trickle, then by multiples to eventually form an association of farmers spanning over a century. Now, in its fourth generation.

There is a common thread which weaves through the life of earliest settlers of all nationalities. That is life was severe, frugal, testy, and requiring unselfish arduous labor in their struggle for survival. The isolation, bleakness and loneliness, particularly plagued the women folk so far removed from their homeland.

The early arrivals were farmers and true pioneers. They cut down trees, filled the slews and crevices, cleared the wild growths, leveled the grounds, and dug wells for water. No modern conveniences existed and everything was done manually. Self-sufficiency was a necessity. A new comer was assisted in every way possible to help him establish himself and family. For they all needed each other not only at harvest time but also as neighbors and friends.

The women who came matched the determination of their men. They were stout-hearted and unafraid to work. They labored in the fields by day as well as running the household and feeding and caring for the family. Many of the women cooked for the boarding workers as well.

The pioneers were a religious lot and their faith gave them the hope and courage to endure the difficulties which lay ahead. They were also generous in support of the church and in promoting welfare of their people.

Of course, there were happy times too. The rewards and blessings were fruits of hard labor and well earned.

History of the Japanese and farming has two parts—namely, the pre-war era and the post-war period with WWII in-between. The former starts around 1902-3 to 1941-42, while the latter includes 1945 up to the present. WWII (1941 to 1945) created a catastrophe which cannot be ignored or left untold. It is a fact of history US martial law was declared which decreed eviction of all members of Japanese ancestry from the Pacific coast states. By spring of 1942, all farming operations by the Japanese people came to an abrupt halt, and mass evacuation of farmers and others began. Farms with crops were left abandoned and incalculable loss was suffered due to the purge and confinement in WRA (War Relocation Authority) camps. Camps

were located on Indian Reservations in Arizona, Colorado, Idaho, Utah, Wyoming, Arkansas, and at Tule Lake and Manzanar in California.

In 1945 before the war ended, evacuees were allowed to return here under the cover of WRA. The S. Kobara family was the first to return home in 1945. They opened their home for lodging to friends who came to evaluate conditions in the valley before returning with their families. Their acts of kindness are not forgotten. Then, in turn friends helped friends to resettle. Only a small percent of the original evacuees from this area returned. Most farmers leased land before the war, only those who owned land before WWII had a home in which to return.

The post-war era of farming was ushered in without fanfare. Those who returned, picked up the pieces and in time resumed farming anew. The farms which survived are identifiable. Fortunately, due to the influx of new faces and the growth of families, the vegetable growing business has revitalized and modernized strawberry farming has developed.

Finally, for now we end this story of the contribution of the people of Japanese ancestry to the farming industry of this area. Their contributions are reflections seen in:

- a) every plot of ground along the countryside enriched by Japanese labor, which made land arable and fit for tilling there,
- b) all the vegetables and fruits introduced by them for growing in this valley,
- c) the jobs created by the mere fact of farming,
- d) the creation of an industry,
- e) the number of people fed by their products,
- f) the stimulation to related businesses supported by farming,
- g) the economics of beneficiaries from recycled revenue,
- h) the taxes made available for collection, and
- i) the dignity of self-support.

On the human side, it is the story of a heritage of enterprise, industry, stamina, resilience, vitality, endurance, triumph, and of faith and goodwill to live here.

1920s

On January 25th, 1928, officers signed the Articles of Association for ARROYO GRANDE VALLEY JAPANESE WELFARE ASSOCIATION. They purchased 1.5 acres with two existing houses and accessory buildings on the property. One house was used as a Japanese language school, the other house was the living quarters for the Japanese school sensei (teacher).

Founding officers: S. Kawaoka, T. Kumaki,
R.S. Kunitake, Hugh S. Dohi, K. Saruwatari

Excerpt from the original Articles of Association

The purpose for which it is formed were:

1. To promote the commercial, social, educational, and religious welfare of the members.
2. To own, lease and occupy houses, and to lease land for residential and commercial purposed to the extent authorized by law.
3. To own, conduct, operate, manage and control schools, places of worship, club houses, playgrounds, libraries, hospitals, sanatoriums, orphan asylums, homes for the aged, and other similar commercial, social, religious and philanthropic enterprises.



K. Saruwatari family

1930s

The site was a gathering place, a sanctuary for the local Japanese immigrant community. A place of assembly was needed for the growing Japanese farming community. Farmer Keisaku Fukuhara did well growing pole peas in the 1930s and donated \$1,500 to build a community hall in 1934. Weddings, funerals, church services, men's and women's clubs, baseball and basketball practice, judo, kendo, Japanese school, and community meals were held here.



Newspaper photo of the Japanese school & the newly built community hall (beyond).



Wedding



Men's club



Women's club



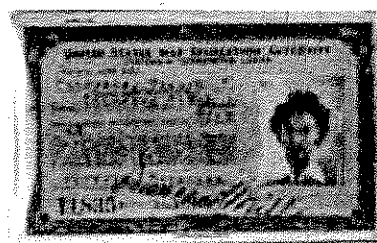
Japanese baseball team practice on the back of the site, with coach Vard Loomis.



Stone and Ayako Fujikawa wedding at the community hall, November 3, 1935. In the background from left to right, Japanese school house, guest house (in center), newly built community hall, basketball court and playground (far right).

1942

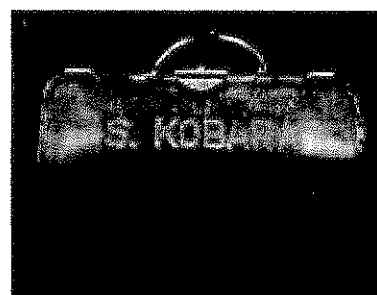
In 1942, the Japanese school and community hall became a temporary home for families that needed to move east of the wartime security demarcation line: first, all families of Japanese ancestry had to move east of Highway 1, then east of Highway 101. Later they were moved to central valley Assembly Centers before being moved to WRA incarceration camps. Many members stayed in the camp for the duration of the WWII.



Takaye Fukuhara's War Relocation ID card

1945

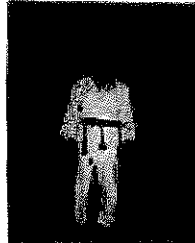
The S. Kobara family was the first to return to Arroyo Grande after WWII. The site becomes a central coordination point and shelter for those coming back from camps with no homes in which to return, or for those waiting for their home to be prepared for return.



Shigechika Kobara suitcase to camp #14440

1950s to 1960s

The site returned to its pre-war use as a Japanese school, a place for weddings, meeting space for clubs, judo, flower arranging, dance practice, social dances, and a variety of Japanese American community events and meals.



Nori Kawaoka
Judo teacher



Ikenobo Ikebana by
Sei Ikeda



Community outdoor barbecue.

1960s to 2011

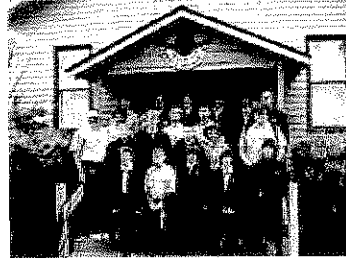
In the late 1960s, the Japanese American farming families were well integrated into the larger Arroyo Grande community. The site was used less and less. In 1968, Boy Scout Troop 413 became stewards of the site, and later with the Five-Cities Judo Dojo, until the community hall was burned down in 2011.



Community hall, 2008



Five-Cities Judo Dojo



Boy Scout Troop 413



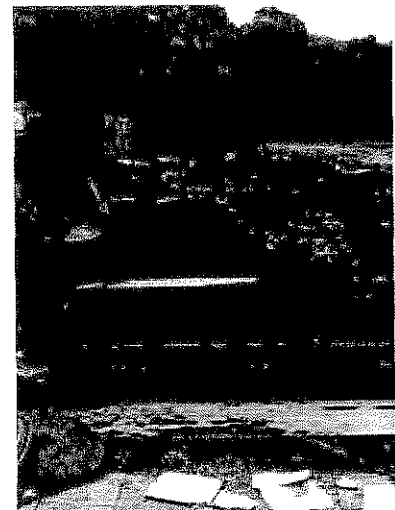
Cal Poly Ethic Studies students talk with
Japanese American community members
inside the hall, 2008.

2011

On May 1, 2011 at 4:30 am, the historical community hall was burned to the ground by an arsonist. A teapot, and other Japanese pottery and lacquer ware were found wrapped in linen amongst the ashes and charred wood. They were likely stored under the building's stage during the mass evacuation in 1942.



Teapot found in the ashes under the burned stage.



Stairs to the burned community hall.