

**COUNTY OF SAN LUIS OBISPO BOARD OF SUPERVISORS
AGENDA ITEM TRANSMITTAL**

(1) DEPARTMENT Planning and Building	(2) MEETING DATE 6/21/2016	(3) CONTACT/PHONE Stephanie Fuhs, Planner III/(805)781-5721	
(4) SUBJECT Submittal of a resolution partially upholding the appeal by Michael Peachey and partially approving the request by Michael Peachey for a waiver of construction permit processing fees for various permits associated with the construction of six 700 square foot single family rental units located at 164 South Mallagh Street in the community of Nipomo. District 4.			
(5) RECOMMENDED ACTION Consider the appeal by Michael Peachey and partially approve a fee waiver request for all six 700 square foot rental units associated with approved Minor Use Permit DRC2014-00014 based upon the findings in Attachment 1- Exhibit A.			
(6) FUNDING SOURCE(S) Current Budget/Applicant Fees	(7) CURRENT YEAR FINANCIAL IMPACT \$0.00	(8) ANNUAL FINANCIAL IMPACT \$0.00	(9) BUDGETED? Yes
(10) AGENDA PLACEMENT <input type="checkbox"/> Consent <input type="checkbox"/> Presentation <input checked="" type="checkbox"/> Hearing (Time Est. <u>30 minutes</u>) <input type="checkbox"/> Board Business (Time Est. <u> </u>)			
(11) EXECUTED DOCUMENTS <input checked="" type="checkbox"/> Resolutions <input type="checkbox"/> Contracts <input type="checkbox"/> Ordinances <input type="checkbox"/> N/A			
(12) OUTLINE AGREEMENT REQUISITION NUMBER (OAR) N/A		(13) BUDGET ADJUSTMENT REQUIRED? BAR ID Number: <input type="checkbox"/> 4/5 Vote Required <input checked="" type="checkbox"/> N/A	
(14) LOCATION MAP Attached	(15) BUSINESS IMPACT STATEMENT? No	(16) AGENDA ITEM HISTORY <input checked="" type="checkbox"/> N/A Date: _____	
(17) ADMINISTRATIVE OFFICE REVIEW Lisa M. Howe			
(18) SUPERVISOR DISTRICT(S) District 4			

County of San Luis Obispo



TO: Board of Supervisors

FROM: Planning and Building / Stephanie Fuhs, Planner III

VIA: Ellen Carroll, Environmental Coordinator/Planning Manager

DATE: 6/21/2016

SUBJECT: Submittal of a resolution partially upholding the appeal by Michael Peachey and partially approving the request by Michael Peachey for a waiver of construction permit processing fees for various permits associated with the construction of six 700 square foot single family rental units located at 164 South Mallagh Street in the community of Nipomo. District 4.

RECOMMENDATION

Consider the appeal by Michael Peachey and partially approve a fee waiver request for all six 700 square foot rental units associated with approved Minor Use Permit DRC2014-00014 based upon the findings in Attachment 1- Exhibit A.

DISCUSSION

Summary

Many local governments face the challenge of addressing the shortage of affordable housing. Many surveys suggest that while density bonus ranks highest among the incentives available from cities, other incentives—design flexibility, subsidies, and fast-track processing—contribute considerably but were *not* available from many cities and counties. Because few municipalities can offer subsidies, an option that can be considered by your Board is the waiver of permitting fees to encourage affordable housing.

The Peachey fee waiver is a unique request for a fee waiver for an 'affordable by design' project. The 'affordable by design' concept utilizes simpler construction techniques, provides for smaller, more efficient residential units where the units can be rented and/or sold to people who may not be able to afford to rent or buy a larger residence. The approved units will be 700 square feet, 2 bedroom and 2 bathroom units.

The Department denied the request based on the current policy that the applicant must ensure, by legal agreement or deed restriction, that the units remain affordable for a specified time period. Since the applicant could not provide this assurance, staff could not waive the fee. However, staff notes that the 'affordable by design' concept has merit since the market can dictate the asking price/rent for a home. Therefore, this staff report provides options for the Board to consider, including adjusting the affordable housing policy to recognize 'affordable by design' that would not require a legal agreement or deed restriction on the sale or rental prices but be based on size, location and provision of rental units so that a partial or full fee waiver could be approved.

Request

Michael Peachey is appealing the Planning and Building Department denial of a fee waiver request for construction permits for two 700 square foot single family rental units associated with construction permits PMT2015-02033 and PMT2015-02152. The project site is located at 164 South Mallagh Street, (on the northwest corner of South Mallagh and Price Street in the community of Nipomo). The site is in the South County Sub-area of the South County planning area. (See Attachment 2 – Graphics).

Mr. Peachey has requested the fee waiver because the project is an 'affordable by design', infill project. The request is based on the 'affordable by design' concept that provides for smaller units where the units can be rented and/or sold to people who may not be able to afford to rent or buy a larger unit. The residences as approved will be provided as rental units and cannot be individually sold unless the applicant files, obtains approval and records a parcel/condominium map to allow the units for purchase.

Reasons for Denial

The fee waiver was denied because the fee schedule has criteria for granting a waiver, which the project did not meet. Although the project is proposed to be 'affordable by design', there is no long term assurance that the units will remain affordable. For other projects, fee waivers have been granted where there was assurance that the project would remain affordable for a period of time. Generally, a legal agreement or deed restriction is the mechanism to ensure long term affordability. After several discussions, Mr. Peachey was not willing to enter into a long term agreement. However, this project does present an opportunity to discuss adjusting the policy to include criteria for 'affordable by design'.

Fees

The construction permit fees associated with these permits cover staff time for the review of structural permits, reviews of local ordinances and California Building Codes, compliance with conditions of approval from the associated Minor Use Permit, and building inspections at milestones of development. The anticipated construction permit fees for the two permits total approximately \$24,500.

The associated Minor Use Permit that was approved at a Planning Department Hearing on January 16, 2015 allowed six, 700 square foot single family rental units. The first two construction permits based on this land use permit (PMTs 2015-02033 and 2015-02152) were applied for on January 27, 2016.

The Director of Planning and Building can waive fees up to \$5,000 pursuant to footnote 4 of the Planning and Building Department fee schedule (See Attachment 1, Exhibit B).

Background and Existing Policy

The Department received the fee waiver request on March 4, 2016. The Department reviewed and denied the request because it did not include assurance of long term affordability. The applicant is not a recognized volunteer, community non-profit organization, and there is no recorded agreement to ensure long term affordability of the units. The state density bonus law and the county's affordable housing ordinances both require that some guarantee be recorded on title to assure that the units will remain affordable.

Rental projects, such as this, are exempt from the Inclusionary Housing Ordinance (IHO). However, the project could meet the county's affordable housing standards if one or more of the units were deed restricted to ensure long term affordability by setting a maximum rent amount.

Staff has discussed and been working with the applicant to find a way to ensure this housing project remains affordable and waive the fees. Different options include deed restrictions and/or:

- waiving fees only on those units that are designated and are considered affordable based on the "low income" column of the table below,

- providing three units at the “moderate income” and three units at the “low income” level based on the table below,
- recording an agreement to ensure affordability with all of the units deed restricted at a low to moderate income rate, with the term of the agreement for a period less than the 55 years required by ordinance.

Unit Size (Bedrooms)	Extremely Low Income	Very Low Income	Low Income	Moderate Income	Workforce
2	\$521	\$868	\$1,041	\$1,909	\$2,603

The Department has policies to encourage affordable housing, however, there needs to be some assurance that the units will remain affordable not only in the short term, but for longer periods of time. Fee waivers cannot be conditioned, so there is not a mechanism to require any of the options listed above. However, the Board of Supervisors does have the authority to waive or partially waive the fees.

Opportunity to Review/Revise Policy

This project is somewhat unique in that it offers residential units of a size (2 bedroom, 2 bath, 700 square feet) and density that the County as a whole has not seen in recent years. Generally the trend has been for larger, detached single family houses on 6,000 square foot or larger parcels that do not meet the affordability standards outlined in the County’s Land Use Ordinance. The housing unit type proposed by the applicant provides an opportunity for smaller units that may be affordable.

Based on a recent search of Craigslist, rents for two bedroom, one to two bathroom units in Nipomo range from \$1,150 to \$1,500 per month.

The Board may wish to consider adjusting the affordable housing policy to accommodate ‘affordable by design’ projects based on size, location and the potential for affordable rental units.

Options

Below is a list of options the Board can consider:

1. **Waive all construction permit fees for two construction permits applied for** along with appeal fees (Total: \$25,350 – construction permit fees + \$850 appeal fee).
2. **Waive all construction permit fees for the six approved units approved under Minor Use Permit DRC2014-00014** along with appeal fees (Total: \$72,950 - \$72,100 + \$850 appeal fee).
3. **Waive a portion of the construction permit fees (50%) for the two construction permits applied for** along with appeal fees (Total: \$13,100 – 50% of the construction permit fees + \$850 appeal fee).
4. **Waive a portion of the construction permit fees (50%) for the six approved units approved under Minor Use Permit DRC2014-00014** along with appeal fees (Total: \$36,900 – 50% of the construction permit fees + \$850 appeal fee).
5. **Don’t waive the construction permit fees** and require the applicant to pay the fees for all of the units.
6. **Defer a decision on this matter** until hearings on housing related issues are completed this fall.

Options 1 through 4 allowing a full or partial waiver of permit fees could encourage construction of more affordable units by lowering the overall costs of developing such projects. Staff supports any of these options and notes that there could also be reference to ‘affordable by design’ based on size, location and provision of rental housing in future affordable housing policies.

Option 6 could allow the Board to potentially set criteria for “affordable by design” projects and make a determination if such projects should be eligible for full or partial fee waivers for future projects based on public hearings scheduled this summer and fall where the Planning and Building Department will be requesting to adjust policies regarding affordable and workforce housing.

Staffs recommendation is for a partial waiver of the construction permit fees (50%) for all six of the units approved under Minor Use Permit DRC2014-00014 to eliminate some of the costs for developing this project. Although there is no long term guarantee, it is recognized that based on the size and scale of the project and the current market, the units will be available at a rate that provides individuals an opportunity to afford to rent a small residential unit. Staff also recommends that the affordable housing policy be revised to recognize the concept of ‘affordable by design’. This could be included in the upcoming revisions to the affordable and workforce housing policies.

OTHER AGENCY INVOLVEMENT/IMPACT

County Counsel reviewed the resolution as to form and legal effect.

FINANCIAL CONSIDERATIONS

The estimated permit processing fees for the two construction permits total approximately \$24,500. If the Board chooses to waive these fees, along with the appeal fee, the total would be \$25,350.

If the Board chooses to waive all of the fees for the other four units that were approved under Minor Use Permit DRC2014-00014 along with the two requested with the fee waiver, those fees are approximately \$47,600, for a total of \$72,100 for all six units. If the appeal fee is waived with this option, the total would be \$72,950.

If the Board chooses to waive 50% of the permit processing fees, the total for all six units would be \$36,050. If the appeal fee is waived with this option the total would be \$36,900.

If the fees are waived, the cost for processing these permits will be funded by the Planning and Building Department budget.

RESULTS

Upholding the appeal and allowing a full waiver of construction permit processing and appeal fees would result in processing of construction permits associated with construction two (up to six) 700 square foot single family rental units using the Planning and Building Department budget (approximately \$72,950.00).

Upholding the appeal and allowing a partial waiver of construction permit processing and appeal fees (up to 50%) would result in processing of construction permits associated with construction two (up to six) 700 square foot single family rental units using the Planning and Building Department budget and applicant fees (approximately \$36,900).

Denying the appeal for the waiver of permit processing fees would result in the applicant having to provide the necessary funds to process these permits (approximately \$72,100.00).

This hearing is consistent with the countywide goals of encouraging livable and well-governed communities.

ATTACHMENTS

- Attachment 1 - Resolution with findings
- Attachment 2 - Graphics
- Attachment 3 – Fee Waiver appeal and request forms
- Attachment 4 - Fee Waiver denial letter