

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

(1) DEPARTMENT Planning and Building		(2) MEETING DATE 1/17/2012		(3) CONTACT/PHONE John Busselle, Senior Planner/805-781-5154	
(4) SUBJECT Hearing to consider a request by Sunny Acres, Inc. and Dan DeVaul to waive building permit fees for permits to address unpermitted construction in three structures.					
(5) RECOMMENDED ACTION It is recommended that your Board adopt the resolution denying the request by Sunny Acres, Inc. and Dan DeVaul to waive fees for building permits to correct unpermitted construction in the fieldworker bathrooms, dairy barn and stucco barn based on the findings in Exhibit A.					
(6) FUNDING SOURCE(S) Department budget		(7) CURRENT YEAR FINANCIAL IMPACT \$2,764.00		(8) ANNUAL FINANCIAL IMPACT \$0.00	
(9) BUDGETED? Yes					
(10) AGENDA PLACEMENT <input type="checkbox"/> Consent <input type="checkbox"/> Presentation (Time Est. _____) <input checked="" type="checkbox"/> Hearing (Time Est. _60 min_) <input type="checkbox"/> Board Business					
(11) EXECUTED DOCUMENTS <input checked="" type="checkbox"/> Resolutions <input type="checkbox"/> Contracts <input type="checkbox"/> Ordinances <input type="checkbox"/> N/A			(12) BUDGET ADJUSTMENT REQUIRED? BAR ID Number: <input type="checkbox"/> 4/5th's Vote Required <input checked="" type="checkbox"/> N/A		
(13) OUTLINE AGREEMENT REQUISITION NUMBER (OAR) N/A			(14) W-9 <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes		
(15) LOCATION MAP N/A		(16) BUSINESS IMPACT STATEMENT? No		(17) AGENDA ITEM HISTORY <input checked="" type="checkbox"/> N/A Date _____	
(18) ADMINISTRATIVE OFFICE REVIEW Reviewed by Leslie Brown					
(19) SUPERVISOR DISTRICT(S) District 2 -					

County of San Luis Obispo



TO: Board of Supervisors

FROM: Planning and Building / John Busselle, Senior Planner

DATE: 1/17/2012

SUBJECT: Hearing to consider a request by Sunny Acres, Inc. and Dan DeVaul to waive building permit fees for permits to address unpermitted construction in three structures.

RECOMMENDATION

It is recommended that your Board adopt the resolution denying the request by Sunny Acres, Inc. and Dan DeVaul to waive fees for building permits to correct unpermitted construction in the fieldworker bathrooms, dairy barn and stucco barn based on the findings in Exhibit A.

DISCUSSION

Request

Sunny Acres, Inc., a California Non-Profit Corporation, is applying for a waiver of building permit fees for permits to correct unpermitted work in three structures as follows: PMT2011-00620(demo as built fieldworker bathrooms); PMT2011-00621(dairy barn - demo as built bathrooms and electrical and return building to agriculturally exempt status); and PMT2011-00622(stucco barn – demo as built 2nd and 3rd floors and partitions). Return the barn to agriculturally exempt status and obtain a permit for plumbing and electrical. The buildings were constructed and/or altered without permits for residential use. These construction and land use violations were the subject of code enforcement action, nuisance abatement hearings before your Board and pending litigation. The property is located at 10660 Los Osos Valley Rd, San Luis Obispo. The property is approximately 79 acres in size and is in the Agriculture land use category.

The building permit fees for all three permits total \$2,764.00. The Director of Planning and Building has the authority to waive up to \$5,000 in land use permit and building permit fees. The Board of Supervisors has the authority to waive land use and building permit fees exceeding \$5,000. The total amount for this request is less than \$5,000.00. It's coming to your Board because total (past and current) fee waiver requests related to this property exceed the \$5,000.00 limit.

Background

The Sunny Acres non-profit operates a sober living environment for adults. As described on their website: "the mission of Sunny Acres is to provide a successful clean and sober environment for the drug and alcohol addicted community of San Luis Obispo." It is primarily a residential program that incorporates living and working on the property with counseling to help clients overcome their addictions. Many of the clients have come to the program after becoming homeless.

In August and September of 2008 County Planning and Building staff waived land use permit fees (\$1,529.00) for a roadside stand and building permit fees (\$318.00) for electricity for the stand. The roadside stand is used to sell products grown on the property. This waiver was approved based upon the public benefit that the stand was providing in helping Sunny Acres employ its residents and increase revenue.

On December 9, 2008, the Board of Supervisors reviewed a request by Dan DeVaul and Sunny Acres for a fee waiver for a Conditional Use Permit (CUP) for a Residential Care Facility and a fee waiver (building permit and public facility fees) for building permits for an addition to a single family residence and a new single family residence/farm support unit. The Board approved the fee waiver for the CUP and denied the fee waiver for the building permit. To date, Mr. DeVaul has not submitted the information needed to process the CUP application for the residential care facility.

On October 18, 2011, the Board of Supervisors deferred building permit fees and Public Facility Fees for a new single family dwelling to be used by clients of Sunny Acres. The deferral of building permit fees was based on the finding that the new residence met a previously identified need for serving homeless individuals. It also provided a unique sober living environment serving individuals who are not sufficiently served by existing programs. For those reasons, the Board determined that the project had some public benefit. The Board attached numerous conditions to the deferral of fees focused on resolving ongoing land use and building code violations on the property as well as continuing to provide the sober living environment.

Justification

Sunny Acres is asking for the additional fee waivers for permits to address the unpermitted work based upon providing a benefit to the county. They argue that these three projects meet a need previously recognized by the Board of Supervisors for a rehabilitation and sober living environment serving primarily homeless individuals and that such a facility is not otherwise available in the county. Footnote 7 to the Planning and Building Department fee schedule (See Exhibit B) states that to qualify for a fee waiver a project must provide a public benefit using one of the criteria in paragraph b. The applicant is proposing that the project meets the requirements of b1 and b3.

While your Board has previously waived fees for a Conditional Use Permit and has deferred fees for the new single family dwelling to be used by Sunny Acres clients, the request before you today is a fee waiver for permits to address violations involving unpermitted construction work to two agricultural accessory buildings and some unpermitted fieldworker bathrooms. Two of the buildings (dairy barn and stucco barn) are being returned to an agriculturally exempt status after being altered without permits and one is being partially demolished (fieldworker bathrooms). The buildings (dairy barn and stucco barn) were never approved for any use other than agricultural use and the bathrooms never received permits of any kind. Mr. DeVaul altered the buildings for use by Sunny Acres clients as a dining/cooking facility (dairy barn) and nonagricultural storage, including an unpermitted second and third floor in the stucco barn.

It is staff's conclusion that there is no connection between correcting unpermitted construction violations and the existing or proposed sober living environment to justify a fee waiver or deferral. The unpermitted construction was never approved for any type of residential use or residential occupancy and has no direct connection to the use of the existing residence as a sober living residence or to the proposed new single family dwelling. The unpermitted construction is not part of an approved overall use that meets a previously identified need and the structures do not represent a facility not presently available in the county.

OTHER AGENCY INVOLVEMENT/IMPACT

Public Works – Reviewed the permits for drainage compliance.
County Counsel – Reviewed the resolution as to form and legal effect.

BUSINESS IMPACT STATEMENT

Not Applicable

FINANCIAL CONSIDERATIONS

The building permit fees total \$ 2,764.00. The applicant has already paid these fees.

RESULTS

Denying the waiver of building permit fees would result in the necessary funds to process the building permits.

ATTACHMENTS

- Exhibit A - Findings
- Exhibit B - Footnote 7 from Fee Schedule
- Exhibit C - Fee Waiver Requests
 - Exhibit C-1 Fieldworker Bathroom
 - Exhibit C-2 Dairy Barn
 - Exhibit C-3 Stucco Barn
- Exhibit D - Resolution