

MONTEREY COUNTY PLANNING COMMISSION

Meeting: October 12, 2011 Time:	Agenda Item No.: 2
Project Description: Consider a Request for Waiver of application fee and double fee for violation paid for PLN060768, an after-the-fact Combined Development Permit to clear a violation (CE070045) and allow the continued use of an educational facility consisting of: 1) A Use Permit for an educational program facility, which includes a barn, a classroom, a library, a storage area and an office; 2) An Administrative Permit for a caretaker unit; 3) A Use Permit for exceeding the height of a standard caretaker unit; 4) A Use Permit for maintaining and exhibiting of animals; 5) A Use Permit for assemblages of people and special events not involving permanent facilities; and "after-the-fact" grading of 912 cubic yards of cut and 1,377 cubic yards of fill for repaving of the access driveway and excavation for the placement of the multipurpose building and animal corral, which requires restoration.	
Project Location: 19014 Pesante Road, Prunedale	APN: 125-091-059-000
Planning File Number: PLN060768	Owner: Gayle and Mark Comer Agent: Gail Hatter-Crawford
Planning Area: North County Area Plan	Flagged and staked: No
Zoning Designation: : "LDR/2.5" [Low Density Residential/2.5 acres per unit]	
CEQA Action: Categorically Exempt per Section 15378(a)	
Department: RMA - Planning Department	

RECOMMENDATION:

Staff recommends that the Planning Commission adopt a resolution (**Exhibit A**) to:

- 1) Deny the Fee Waiver request for PLN060768, based on the findings and evidence contained in **Exhibit A**.

PROJECT OVERVIEW:

On September 24, 2008, the Planning Commission approved the Combined Development Permit consisting of: 1) A Use Permit for an Educational Program facility pursuant to Monterey County Code Sections 21.14.050.B and 21.14.050.X, which includes a barn, a classroom, a library, a storage area and an office; 2) An Administrative Permit for a caretaker unit pursuant to Sections 21.14.040.C and 21.64.030; 3) A Use Permit for exceeding the height of a standard caretaker unit per Section 21.64.030.E; 4) A Use Permit for maintaining and exhibiting of animals pursuant to Section 21.14.050.P; 5) A Use Permit for assemblages of people and special events not involving permanent facilities, pursuant to Section 21.14.050, and "after the fact" grading of 912 cubic yards of cut and 1,377 cubic yards of fill for repaving of the access driveway and excavation for the placement of the multi-purpose building and animal corral, which requires restoration to clear CE070045 relating to the building of structures and use of the property as an educational program facility before county permits were obtained.

In 2009, the applicant began applying for building permits for the barn, caretaker unit, electrical panel relocation (400 amps), multi-purpose room, library and storage, office conversion and grading of the access road. The subject building permits have not been issued. There are 29 conditions of approval and 1 mitigation measure. More specifically, 20 conditions require clearance prior to the issuance of grading and building permits. As of the date of the publication of this staff report, 14 of the 20 conditions have been complied with.

On April 23, 2010 the applicant, Mark and Gayle Comer of Educational Resources for Monterey County (ERMCO) school submitted a request for a fee waiver from the Director of Planning for discretionary permit fees and code violation fees in the amount of \$ 30,892.81 for Planning File

No. PLN060768. The fees paid were based on the Monterey County Land Use Fee Schedule for 2006. The applicant submitted a Fee Waiver Request (**Exhibit B**) because they believe that they qualify for a Fee Waiver as a non-profit organization.

A breakdown of the fees paid are as follows:

PERMIT FEES FOR PLN060768										
EH	PW	WR	PLN	CC	ADMIN FEES	FEE CREDIT	PERMIT FEES	INITIAL STUDY	VIOLATION FEE	TOTAL PAID
\$1132.20	\$824.50	\$1400.80	\$5515.65	\$1161.80	\$559.91	-\$433.00	\$10161.86	\$5348.00	\$15382.95	\$30892.81

The Fee Waiver policy is applicable to “discretionary permit applications.” The applicant has paid \$10,161.86 in total permit fees. Because the property is in violation of Monterey County Zoning Ordinance, the discretionary permit fee was doubled pursuant to Monterey County Code Section 21.84.160, which states that property, operated or has been otherwise established or initiated prior to the application for the permit, in violation of this Title, shall require a fee of twice the amount normally charged for the application. Lastly, because the project was not exempt from CEQA the applicant was required to pay an Initial Study fee for the preparation of environmental document. This amount was \$ 15,382.95. The Planning Commission has the jurisdiction to waive the application fee under the fee waiver. If the Planning Commission decides to waive the discretionary permit fee, this will include the discretionary permit application fee of \$ 10,161.86 and the subsequent violation fee of \$ 15,382.95 for a total of \$25,544.81.

On August 29, 2000, the Board of Supervisors adopted criteria (**Exhibit C**) giving the Director of Planning the authority to waive application and appeal fees for discretionary permit applications for:

1. Small Day Care Centers (less than 12 children);
2. Inclusionary portions of proposed residential developments;
3. Special Handling affordable housing projects;
4. Persons age 62 or over on a fixed, very low income;
5. Reclassification applications to bring property into conformance with the General Plan;
6. County or other government agencies;
7. Permit fees for the repair or reconstruction when Board of Supervisors declares a disaster;
8. Community facilities by a non-profit organization meeting certain criteria;
 - a. The proposed project is available for use by the general public; and
 - b. Provides a scope of benefit beyond the residents of the immediate vicinity; and,
 - c. Is of obvious public benefit. Evidence of public benefit includes, but not limited to, projects that:
 - i Meet a public need previously identified or recognized by the Board of Supervisors;
 - ii. Provide a public facility not presently available in the community;
 - iii. Have generated obvious, substantial community support; or,
 - iv. Would either reduce County costs or increase County revenue
9. General Plan Amendments where land is inaccurately or inappropriately designated.

The project does not meet the criteria for a non-profit in that the project is not “available for use by the general public.” ERMCO school is a fee-based school primarily geared for home-schooled children. Access to the property is limited to appointments or when a program is

offered for members of the school. According to ERMCO's website, the program is currently \$100 annually per family, therefore not freely available for the general public.

The second criteria for a non-profit requires that the project "provides a benefit beyond the residents of the immediate vicinity." In this case, the applicant has not demonstrated the project would provide a benefit beyond the immediate vicinity. As an educational program, staff finds that other educational facilities open to the general public for students on a no-fee basis are available. Not every student or family will be able to afford to attend the program therefore staff does not believe ERMCO can be considered as a program that provides a benefit beyond the immediate vicinity.

The applicant has not provided evidence that the Board of Supervisors has identified this program as a non-profit meeting an identified need in the community. The applicant has not provided evidence substantiating that the program is a public facility. The subject program is a fee-based facility and, therefore, staff does not find to be available to the community at large. The applicant has not provided evidence that the program has generated substantial community support or that the program would either reduce County costs or increase County revenue. Staff was not provided evidence that there is "substantial" community support for the program. The project was approved in 2008 and staff has spent the funds in processing the application and generating the Initial Study that was adopted for the project. Staff will continue to process condition compliance, review restoration plans for work done without permits, despite the fact that there are no funds to cover staff time.

The last criteria for a non-profit is that the project "would either reduce County costs or increase County revenue." Since Fiscal Year 2005 to present, the Planning staff alone has spent approximately 370 hours of staff time towards processing and drafting the environmental document, which, at the hourly rate approved by the Board of Supervisors, is the equivalent of approximately \$ 55,000.00. The project would not reduce county costs or increase county revenue.

Because the request for the fee waiver does not meet the above mentioned criteria, specifically the criteria provision for a non-profit organization, the request is subject to consideration by the Planning Commission per the Fee Waiver Policy adopted by the Board of Supervisors on August 29, 2000.

According to the Fee Waiver Policy, all fees shall be paid at the time of filing the application. In this case, discretionary permit fees and violation fees of \$25,544.81 was paid on May 14, 2007.

OTHER AGENCY INVOLVEMENT: The following agencies and departments reviewed this Fee Waiver Request:

RMA - Public Works Department
Environmental Health Bureau
Water Resources Agency
Fire Protection District

All agencies that have received fees for the processing of the project have recommended that their fees not be waived.

The project was not referred to an Advisory Committee based on the Board of Supervisors guidelines Resolution 08-338 because the fee waiver is not a project.

Note: The decision on this project is appealable to Board of Supervisors.

/S/ Valerie Negrete



Valerie Negrete, Assistant Planner
(831) 755-5227, negretev@co.monterey.ca.us
October 6, 2011

cc: Front Counter Copy; Planning Commission, North County Fire Protection District; Public Works Department; Environmental Health Bureau; Water Resources Agency; Delinda Robinson, Senior Planner, Laura Lawrence, Planning Services Manager; Valerie Negrete, Project Planner; Carol Allen, Senior Secretary; Gayle and Mark Comer, Owner; Gail Hatter-Crawford, Agent; The Open Monterey Project; LandWatch; Planning File PLN060768

Attachments:	Exhibit A	Draft Resolution
	Exhibit B	Request for Fee Waiver dated April 31, 2010
	Exhibit C	Board of Supervisors Resolution 2000-342 for Director of Planning fee waiver criteria
	Exhibit D	Letter of Request Denial dated April 22, 2011
	Exhibit E	Letter Requesting Planning Commission decision dated August 3, 2011

This report was reviewed by Delinda Robinson, Senior Planner and Laura Lawrence, Planning Service Manager




EXHIBIT A

MONTEREY COUNTY PLANNING COMMISSION

COUNTY OF MONTEREY, STATE OF CALIFORNIA

Resolution No.

Planning Commission Resolution No.)
Consider a Request for Waiver of application)
fee and double fee for violation paid for)
PLN060768, an after-the-fact Combined)
Development Permit to clear a violation)
(CE070045) and allow the continued use of an)
educational facility consisting of: 1) A Use)
Permit for an educational program facility,)
which includes a barn, a classroom, a library, a)
storage area and an office; 2) An)
Administrative Permit for a caretaker unit; 3))
A Use Permit for exceeding the height of a)
standard caretaker unit; 4) A Use Permit for)
maintaining and exhibiting of animals; 5) A)
Use Permit for assemblages of people and)
special events not involving permanent)
facilities; and "after-the-fact" grading of 912)
cubic yards of cut and 1,377 cubic yards of fill)
for repaving of the access driveway and)
excavation for the placement of the)
multipurpose building and animal corral,)
which requires restoration. The property is)
located at 19014 Pesante Road, Prunedale)
(Assessor's Parcel Number 125-091-059-000),)
North County Area Plan.

WHEREAS, the property owners contacted the county in early January of 2007 to legalize their ongoing operations and voluntarily comply with building and zoning code requirements for the as built Educational Resources of Monterey County (ERMCO) program. The property contains several structures associated with the ERMCo operation including a multi-purpose building, barn, horse corrals and stables, classroom, single family residence, office and caretaker unit, and small storage buildings (CE070045).

WHEREAS, on May 14, 2007, the applicant applied for a Combined Development Permit to allow the continued use of the existing facility. The application, included: : 1) A Use Permit for an Educational Program facility pursuant to Monterey County Code Sections 21.14.050.B and 21.14.050.X, which includes a barn, a classroom, a library, a storage area and an office; 2) An Administrative Permit for a caretaker unit pursuant to Sections 21.14.040.C and 21.64.030; 3) A

PLN060768

Use Permit for exceeding the height of a standard caretaker unit per Section 21.64.030.E; 4) A Use Permit for maintaining and exhibiting of animals pursuant to Section 21.14.050.P; 5) A Use Permit for assemblages of people and special events not involving permanent facilities, pursuant to Section 21.14.050, and "after the fact" grading of 912 cubic yards of cut and 1,377 cubic yards of fill for repaving of the access driveway and excavation for the placement of the multi-purpose building and animal corral, which requires restoration; and

WHEREAS, the Planning Commission adopted a Mitigated Negative Declaration and approved the Combined Development Permit for PLN060768 on September 24, 2008 pursuant to Resolution No. 08040; and

WHEREAS, In 2009, the applicant began applying for building permits for the barn, caretaker unit, electrical panel relocation (400 amps), multi-purpose room, library and storage, office conversion and grading of the access road. The subject building permits have not been issued. There are 29 conditions of approval and 1 mitigation measure. More specifically, 20 conditions require clearance prior to the issuance of grading and building permits. As of the date of the publication of this staff report, 14 of the 20 conditions have been complied with; and

WHEREAS, On April 23, 2010 the applicant, Mark and Gayle Comer of ERMCO school submitted a request for a fee waiver from the RMA-Director of Planning Department for discretionary permit fees and code violation fees in the amount of \$ 25,544.81 for Planning File No. PLN060768. The fees paid were based on the Monterey County Land Use Fee Resolution adopted for 2006; and

WHEREAS, the applicant is submitting a Fee Waiver Request because they believe that they qualify for a Fee Waiver as a non-profit organization in order for the RMA-Director of Planning to authorize a waiver for a non-profit organization the organization must meet the following criteria:

- a. The proposed project is available for use by the general public; and
- b. Provides a scope of benefit beyond the residents of the immediate vicinity; and,
- c. Is of obvious public benefit. Evidence of public benefit includes, but not limited to, projects that:
 - i. Meet a public need previously identified or recognized by the Board of Supervisors;
 - ii. Provide a public facility not presently available in the community;
 - iii. Have generated obvious, substantial community support; or,
 - iv. Would either reduce County costs or increase County revenue.

WHEREAS, The Director of Planning denied the Fee Waiver Request as the request does not meet the criteria established by the Board of Supervisors; and

WHEREAS, the project does not meet the first criteria in that the project is not "available for use by the general public". ERMCO school is a fee based school primarily geared for home schooled children. Access to the property is limited to appointments and/or when a program is running for members of the school. According to ERMCO's website, the program fee is currently \$100 annually per family. Therefore the program is not "available for use by the general public"; and

WHEREAS, the second criteria for a non-profit is that, the project "provides a scope of benefit beyond the residents of the immediate vicinity". In this case, the applicant has not demonstrated

the project. The Planning Commission finds that other educational facilities open to the general public on a no-fee basis is available. Therefore, the Planning Commission finds that ERMCO can not be considered as a program that provides a benefit beyond the immediate vicinity; and

WHEREAS, the applicant has not provided evidence that the Board of Supervisors has identified this program or non-profit meeting an identified need in the community. The applicant has not provided evidence substantiating that the program is a public facility. The subject program is a fee-based facility and, therefore, the Planning Commission find does not find it to be available to the community at large. The applicant has not provided evidence that the program has generated substantial community support or that the program would reduce County costs or increase County revenue.

WHEREAS, the Planning Commission was not provided evidence that there is "substantial" community support for the program. The project was approved in 2008 and Planning staff has spent the funds in processing the application and writing the Mitigated Negative Declaration that was adopted for the project; and

WHEREAS, the RMA-Planning Department referred the Fee Waiver Request to the Planning Commission as the Planning Commission shall consider waivers that do not meet the criteria of the Fee Waiver Policy adopted by the Board of Supervisors on August 29, 2000 for the RMA-Planning Director authorized fee waivers; and

WHEREAS, on October 12, 2011, the Monterey County Planning Commission conducted a public hearing for the Gayle and Mark Comer (ERMCO) Fee Waiver Request (PLN060768) for the Discretionary Permit fees and Violation fees for PLN060768, which was approved by the Planning Commission on September 24, 2008 pursuant to Resolution No.08040.

DECISION

THEREFORE, it is the decision of the Monterey County Planning Commission that the Fee Waiver Request (PLN060768) for the Discretionary Permit fees and Violation fees for Mark and Gayle Comer request be denied.

PASSED AND ADOPTED this 12th day of October, 2011 upon motion of ~~xxxxx~~, seconded by ~~xxxxx~~, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

MIKE NOVO, SECRETARY

COPY OF THIS DECISION WAS MAILED TO THE APPLICANT ON

IF ANYONE WISHE TO APPEAL THIS DECISION, AN APPEAL FORM MUST BE
COMPLETED AND SUBMITTED TO THE CLERK TO THE BOARD OF SUPERVISORS
ALONG WITH THE APPROPRIATE FILING FEE ON OR BEFORE



LETTER OF TRANSMITTAL

MONTEREY COUNTY RESOURCE MANAGEMENT AGENCY

☐ BUILDING SERVICES DEPARTMENT
☐ PLANNING DEPARTMENT

TO: Mike Noto

DATE: 4/23/10

FROM: PEDRO E. ROSADO, ARCHITECT PHONE #: (831) 663-0966

Property Address: 19014 PESANTE ROAD, SALINAS 93907

Assessor's Parcel Number: 125-091-059-000 Permit Number: 090107(BARN)

10CP00609(MULTIUSE)
10CP00610(OFFICE)

Name of Property Owner: Mark & Gayle Comer

Email of Property Owner: glcomer@gmail.com

Purpose of Submittal:

(Note: list the items attached/addressed in the submittal)

Fee waiver request

Letter from ERMCO

Letter from IRS - 501(c)(3) status for non-profit

Comments/Instructions:

Received By:

Data Entry Complete:

Date:

revised 03/03/2008

Initials:

Rev: 03-27-08

MONTEREY COUNTY RESOURCE MANAGEMENT AGENCY

PLANNING DEPARTMENT

168. Alisal St., Second Floor, Salinas CA. 93901
(831) 755-5025; (831) 757-9516
<http://www.co.monterey.ca.us/pbn/>



FEE WAIVER REQUEST

Property Owner:

Address:

City/State/Zip:

Phone:

Email:

Mark & Gayle Comer

19014 Meadow Ridge Rd.

Salinas CA 93907

831 261-4399

glcomer@gmail.com

Agent:

Address:

City/State/Zip:

Phone:

Email:

Assessors Parcel Number:

125-091-059

Description of Project:

use permit, building permits

Fee Waiver Justification:

We operate a nonprofit organization that serves the community. We do not live at the property and these projects are for the express use of Educational Resources of Monterey County (ERMCO)
(attach additional information if needed)

Department use only	
Given out:	By:
Received:	By: Lucy Bernal
Referred to other agencies:	
Fee waived by Director:	<input type="checkbox"/> Yes <input type="checkbox"/> No Date:
Basis for Waiver	
Amount of Fees Waived:	Planning & Building \$ 5,515.15
	Health 824.50
	WRA 1,400.04
	PWD 1,132.20

Planning Violation Fee 15,382.95
County Counsel Fee 1,161.80

Fee Waiver Request Revised 12/17/07 By: DH

ERMCO

At Hidden Hills Ranch

April 12, 2012

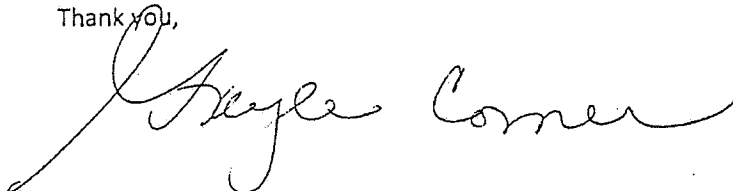
Dear Mr. McCormick,

It is our understanding that we are eligible for a fee waiver (and rebate for previously paid permits) since our use is for a 501c3 non-profit organization.

Currently, we are ready to submit plans for 3 buildings on the property – office, multipurpose building and barn. We would like to know how to proceed in light of the fee waiver.

Please let us know how to proceed at your earliest convenience.

Thank you,



Mark and Gayle Comer

Educational Resources of Monterey County
19014 Pesante Road Salinas, CA 93907 831-776-3524 www.ermco.net

INTERNAL REVENUE SERVICE
DISTRICT DIRECTOR
P. O. BOX 2508
CINCINNATI, OH 45201

DEPARTMENT OF THE TREASURY

Date: DEC 10 1998

Employer Identification Number:
77-0461327

DLN:
17053253062008

Contact Person:
SU YIM LEE

Contact Telephone Number:
(916) 974-5361

EDUCATIONAL RESOURCES OF MONTEREY
COUNTY
C/O GAYLE COMER
18394 MEADOW RIDGE ROAD
SALINAS, CA 93907-1642

Accounting Period Ending:

June 30

Form 990 Required:

Yes

Addendum Applies:

No

Dear Applicant:

Based on information supplied, and assuming your operations will be as stated in your application for recognition of exemption, we have determined you are exempt from federal income tax under section 501(a) of the Internal Revenue Code as an organization described in section 501(c)(3).

We have further determined that you are not a private foundation within the meaning of section 509(a) of the Code, because you are an organization described in sections 509(a)(1) and 170(b)(1)(A)(vi).

If your sources of support, or your purposes, character, or method of operation change, please let us know so we can consider the effect of the change on your exempt status and foundation status. In the case of an amendment to your organizational document or bylaws, please send us a copy of the amended document or bylaws. Also, you should inform us of all changes in your name or address.

As of January 1, 1984, you are liable for taxes under the Federal Insurance Contributions Act (social security taxes) on remuneration of \$100 or more you pay to each of your employees during a calendar year. You are not liable for the tax imposed under the Federal Unemployment Tax Act (FUTA).

Since you are not a private foundation, you are not subject to the excise taxes under Chapter 42 of the Code. However, if you are involved in an excess benefit transaction, that transaction might be subject to the excise taxes of section 4958. Additionally, you are not automatically exempt from other federal excise taxes. If you have any questions about excise, employment, or other federal taxes, please contact your key district office.

Grantors and contributors may rely on this determination unless the Internal Revenue Service publishes notice to the contrary. However, if you lose your section 509(a)(1) status, a grantor or contributor may not rely on this determination if he or she was in part responsible for, or was aware of, the act or failure to act, or the substantial or material change on the part of the organization that resulted in your loss of such status, or if he or she acquired knowledge that the Internal Revenue Service had given notice that

Letter 947 (DO/CG)

EDUCATIONAL RESOURCES OF MONTEREY

you would no longer be classified as a section 509(a)(1) organization.

Donors may deduct contributions to you as provided in section 170 of the Code. Bequests, legacies, devises, transfers, or gifts to you or for your use are deductible for federal estate and gift tax purposes if they meet the applicable provisions of Code sections 2055, 2106, and 2522.

Contribution deductions are allowable to donors only to the extent that their contributions are gifts, with no consideration received. Ticket purchases and similar payments in conjunction with fundraising events may not necessarily qualify as deductible contributions, depending on the circumstances. See Revenue Ruling 67-246, published in Cumulative Bulletin 1967-2, on page 104, which sets forth guidelines regarding the deductibility, as charitable contributions, of payments made by taxpayers for admission to or other participation in fundraising activities for charity.

In the heading of this letter we have indicated whether you must file Form 990, Return of Organization Exempt From Income Tax. If Yes is indicated, you are required to file Form 990 only if your gross receipts each year are normally more than \$25,000. However, if you receive a Form 990 package in the mail, please file the return even if you do not exceed the gross receipts test. If you are not required to file, simply attach the label provided, check the box in the heading to indicate that your annual gross receipts are normally \$25,000 or less, and sign the return.

If a return is required, it must be filed by the 15th day of the fifth month after the end of your annual accounting period. A penalty of \$20 a day is charged when a return is filed late, unless there is reasonable cause for the delay. However, the maximum penalty charged cannot exceed \$10,000 or 5 percent of your gross receipts for the year, whichever is less. For organizations with gross receipts exceeding \$1,000,000 in any year, the penalty is \$100 per day per return, unless there is reasonable cause for the delay. The maximum penalty for an organization with gross receipts exceeding \$1,000,000 shall not exceed \$50,000. This penalty may also be charged if a return is not complete, so be sure your return is complete before you file it.

You are required to make your annual return available for public inspection for three years after the return is due. You are also required to make available a copy of your exemption application, any supporting documents, and this exemption letter. Failure to make these documents available for public inspection may subject you to a penalty of \$20 per day for each day there is a failure to comply (up to a maximum of \$10,000 in the case of an annual return).

You are not required to file federal income tax returns unless you are subject to the tax on unrelated business income under section 511 of the Code. If you are subject to this tax, you must file an income tax return on Form 990-T, Exempt Organization Business Income Tax Return. In this letter we are not determining whether any of your present or proposed activities are unrelated trade or business as defined in section 513 of the Code.

Letter 947 (DO/CG)

EDUCATIONAL RESOURCES OF MONTEREY

You need an employer identification number even if you have no employees. If an employer identification number was not entered on your application, a number will be assigned to you and you will be advised of it. Please use that number on all returns you file and in all correspondence with the Internal Revenue Service.

If we have indicated in the heading of this letter that an addendum applies, the enclosed addendum is an integral part of this letter.

Because this letter could help resolve any questions about your exempt status and foundation status, you should keep it in your permanent records.

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely yours,



District Director

Letter 947 (DO/CG)

*Before the Board of Supervisors in and for the
County of Monterey, State of California*

Resolution 2000- 342

Resolution Amending the Monterey)
County Master Fee Resolution to)
Clarify the Fee for Appeals on)
Land Use Issues and Establish)
Criteria for the Waiver of Fees in)
Specific Circumstances.)

Whereas: Chapter 1.40 of the Monterey County Code establishes the Monterey County Master Fee Resolution (the Resolution) as the vehicle for setting and amending fees; and,

Whereas: The Board wishes to clarify the appeal fee for land use issues and to establish criteria and authority for the Director of Planning and Building Inspection to waive fees in specific cases; and,

Whereas: The Board has received a report and recommendations from the County Administrative Office and Planning and Building Inspection; and,

Whereas: The Board has held a public hearing as required by law and heard from all interested parties;

NOW, therefore, be it resolved that the Board clarifies that the appeal fee for appeals to the Planning Commission or Board of Supervisors on land use issues is \$671.00.

Be it further resolved that the Director of Planning and Building Inspection may waive application and appeal fees for discretionary permit and building permit applications for:

1. Small day care centers (less than twelve children).
2. Inclusionary portions of proposed residential developments.
 - a. Special Handling affordable housing projects, as detailed in the adopted Special Handling criteria (25% affordable housing). Amount of fees waived is based on the percentage of affordable housing provided, and may include additional fees beyond the original application fees.
 - b. Persons age 62 or over on a fixed, very low income as defined by Housing and Urban Development.

- c. Reclassification applications to bring property into consistency with existing General Plan land use designations.
 - d. County or other government agencies.
 - e. Permit fees for the repair or reconstruction of property and structures damaged or destroyed by an act or event that has been declared a disaster by the Board of Supervisors where insurance is inadequate to pay the applicable fees.
8. Development, enhancement, expansion or modification of needed community facilities by non-profit organizations and community groups meeting the following criteria:
- a. The proposed project is available for use by the general public; and
 - b. Provides a scope of benefit beyond the residents of the immediate vicinity; and,
 - c. Is of obvious public benefit. Evidence of public benefit includes, but is not limited to, projects that:
 - i. Meet a public need previously identified or recognized by the Board of Supervisors;
 - ii. Provide a public facility not presently available in the community;
 - iii. Have generated obvious, substantial community support; or,
 - iv. Would either reduce County costs or increase County revenue.
9. General Plan amendments for parcels with inappropriate or inaccurate land use designations provided the property has been field checked and verified that it is inaccurately or inappropriately designated.

Requests Not Conforming to Policy:

The Planning Commission shall consider all requests for fee waivers not meeting the above criteria.

Appeal of Director's Decision:

The Planning Commission shall consider all appeals of decisions of the Director on fee waiver requests.

Payment of Fees:

All fees shall be paid at the time of the filing an application or an appeal. Should the fees subsequently be waived, the fees shall be refunded.

On motion of Supervisor PENNYCOOK, seconded by Supervisor SALINAS, and carried by those members present, the Board hereby adopts this resolution amending the Monterey County Master Fee Resolution to clarify the fee for appeals on land use issues and establish criteria for the waiver of fees in specific circumstances.

PASSED AND ADOPTED this 29th day of August, 2000, by the following vote, to-wit:

AYES: Supervisors Salinas, Pennycook and Calcagno.

NOES: None.

ABSENT: Supervisors Johnsen and Potter.

I, SALLY R. REED, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof at page -- of Minute Book 70, on August 29, 2000.

DATED: August 29, 2000

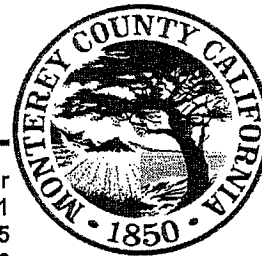
SALLY R. REED, Clerk of the Board
of Supervisors, County of Monterey, State of
California

By: Nancy Luckenbill

Deputy

Exhibit C
Page 3 of 3 Pages

MONTEREY COUNTY RESOURCE MANAGEMENT AGENCY



Planning Department

Mike Novo, AICP, Director of Planning

168 West Alisal Street, 2nd Floor
Salinas, CA 93901
(831) 755-5025
Fax: (831) 757-9516
www.co.monterey.ca.us/rma

April 22, 2011

Mark and Gail Comer
19014 Meadow Ridge Road
Salinas California 93907

RE: Comer -fee waiver request
PLN060768

Dear Mr. and Mrs. Comer:

Staff has reviewed your request for a fee waiver along with the documents you provided on April 23, 2010, unfortunately your request has been denied. Your operation does not qualify under our current fee policy adopted by the Board of Supervisor's on August 29, 2009. The policy specifies that applications for the development, enhancement, expansion or modification of needed community facilities by non-profit organizations and community groups meeting the following criteria may have discretionary application fees waived. One of the specific criteria that a non-profit must meet is that "The proposed project is available for use by the general public." Staff doesn't have any information supporting this requirement for your project (ERMCO). ERMCO is not a public school, rather a fee type based institution open to members of ERMCO.

If you would like a fee waiver to be considered further, it will be referred to the Planning Commission for consideration. Please advise staff as soon as possible so that we can schedule the item for hearing if you wish to proceed with the waiver request.

Respectfully,

Lucy Bernal
Land Use Technician

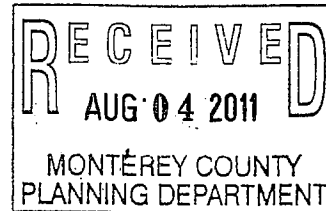
Anthony L. Lombardo
~~Jeffery P. Gilles~~

Dennis C. Beougher
Patrick S.M. Casey
Amy Purchase Reid
Jason S. Retterer
Paul A. Rovella
Bradley W. Sullivan
James W. Sullivan
Kelly McCarthy Sutherland

E. Soren Diaz
Of Counsel
Virginia A. Hines
Of Counsel



ATTORNEYS AT LAW
August 3, 2011



L&G, LLP
318 Cayuga Street
P. O. Box 2119
Salinas, CA 93902-2119
TEL 831-754-2444
TOLL FREE 888-757-2444
FAX 831-754-2011
WEB www.lomgil.com

530 San Benito Street
Suite 202
Hollister, CA 95023
TEL 831-630-9444
FAX 831-630-5935

File No. 04425.000

Ms. Lucy Bernal
Monterey County Planning
168 W. Alisal Street, Second Floor
Salinas, CA 93901

Re: **Comer Fee Waiver Request; PLN060768**

Dear Lucy:

I received your July 22, 2011 letter on August 1st. As I read the adopted fee waiver procedure, the Department will forward a recommendation to the Planning Commission. That needs to be done soon. The first fee waiver request was filed by Mr. Rosado a year and a half ago without response. The current request has been pending for six months. In that there are numerous permits waiting to be issued, we need to have this matter heard by the Planning Commission as soon as possible. Please advise us of the intended Commission hearing date.

Your July 22nd letter states only that the "request does not meet the Resource Management Agency Director's criteria for waiving of the fees." First, the Board adopted the criteria for fee waivers. Any other criteria does not apply. Second, a summary dismissal of our request makes it impossible to respond. We have provided the Department with a substantial amount of information that meets not only the specific criteria written in the Board's policy but also the spirit of the policy, yet the County has provided no basis for their denial. We look forward to our hearing before the Planning Commission so we can hear first hand from the Department why a non-profit agency providing educational services to the community does not meet the Board's adopted policy for fee waivers.

Sincerely,

Lombardo & Gilles, LLP

Dale Ellis, AICP
Director of Planning and Permit Services
DLE:ncs

cc: Supervisor Lou Calcagno
Mr. Mike Novo
Mr. John Villalpando
Ms. Gayle Comer

Exhibit E
Page 1 of 1 Pages