



County of Lassen
Department of Planning and Building Services

• Planning • Building Permits • Code Enforcement • Surveyor • Surface Mining

October 1, 2021

Maurice L. Anderson, Director
707 Nevada Street, Suite 5
Susanville, CA 96130-3912
Phone: 530 251-8269
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email: landuse@co.lassen.ca.us
website: www.co.lassen.ca.us

TO: Board of Supervisors
Agenda Date: October 12, 2021

Zoning & Building
Inspection Requests
Phone: 530 257-5263

FROM: Maurice L. Anderson, Director

SUBJECT: Request by Michael Frederick to refund of \$20,097.20 for Building Permit #2021-018 pursuant to Lassen County Code section 3.18.100 (Request for Waiver or Refund of Fees) for construction at 546-400 Old County Road (APN 013-020-078)

Summary:

Michael Frederick, who is the property owner and applicant for the above referenced building permit, has asked for a refund of \$20,097.020 of the application fees for the above referenced building permit (see attached refund application). Said building permit is intended to correct violations identified in Code Enforcement Case Number 2020-004. The attached Notice and Order dated June 1, 2020, provides pertinent background information, but, in summary, a 7,000 square foot primary structure/residence and a 2,800 square foot guesthouse were constructed without the required building permits. The intent of the above referenced building permit is to legally permit the improvements identified in the above Notice and Order that were constructed without the required permits. For the reasons detailed in this memorandum, the Department does not recommend a refund of any fees or costs that have been incurred by Lassen County.

The request has been submitted by Mr. Frederick to the Board of Supervisors in accordance with section 3.18.100 of the Lassen County Code (attached). Said section says in part "*The board of supervisors may waive or refund any fee paid to the county upon presentation of evidence that an exceptional circumstance exists*" (emphasis added). The attached refund application, submitted by Mr. Frederick, states that the exceptional circumstances for his request is follows:

I am respectfully requesting the refund of the noted fees in the amount of \$20,097.20, as they pose a significant financial hardship. The requested fee refund consists of the penalty portion of building, electrical, plumbing and mechanical fee. I am requesting the refund of the penalty portion of permit fees as I initiated contact with Lassen County Department of Planning and Building to discuss bringing the property into compliance and have been working with the department to bring the property up to code. Although the improvements were completed in 2015, I am having to complete additional improvements such as fire sprinkler system on the entire building and solar system installation to bring it to 2021 Compliance. The additional costs for these systems are further adding to the significant financial hardship I am already experiencing.

The barn was built in 2011 and the living quarters were completed in 2015. I would like to note that in 2019, I contacted the Lassen County Assessor at which time that office re-

assessed the property, including improvements, and issued corrected tax bill for the prior 4 years.

I am requesting you to take into consideration that I had initiated contact to make the corrections, versus Lassen County discovering them.

In accordance with the Lassen County Code, the Board of Supervisors must determine if Mr. Frederick's refund application and the above statement provide sufficient evidence of "exceptional circumstances" to justify refund of fees paid for the above referenced building permit.

Fees Paid:

The County record indicates that the total fee for Building Permit Number 2021-018 was \$27,806.42 (see attached summary provided by the Department's Fiscal Officer). In accordance with the recently adopted ordinance codified at Lassen County Code section 12.24.070 (attached), the penalty portion of the above application fee was \$20,097.20, which is the amount Mr. Frederick has asked to be refunded. In accordance with the above section of County Code, the permit fee was six times the normal fees because the structures built without permits are approximately 7,000 square feet and 2,800 square feet.

It is the Department's position that the penalties assigned to Mr. Frederick are appropriate and necessary to cover extraordinary costs incurred by Lassen County related to the code enforcement efforts that have been necessary to assure compliance and the extra efforts that will be needed to inspect structures that have already been constructed. For example, the case was first considered by the Lassen County Hearing Office on July 15, 2020, and has been continued on several occasions in an attempt to work with the property owner to bring the improvements into compliance. There is a cost to Lassen County to conduct hearings (in staff time, resources and hearing officer costs). Additionally, several site visits have been conducted and enforcement orders/letters have been issued. To date the hearing officer has not assigned penalties. However, the Board of Supervisors could consider recovery of administrative costs at a future date.

In addition to the code enforcement costs, approval of the construction will be more difficult because building inspectors will not be able to inspect as the structures are constructed. For example, during a typical construction project, a building inspector can confirm footing depths, steel reinforcement, vapor barrier and proper size and placement of hold down anchors, all in accordance with the engineered design, with just one inspection. For the subject permit, staff will be required to witness special stress test on hold down anchors, multiple inspections to confirm footing repairs in sections, as an existing building cannot withstand the stress of having the entire perimeter removed all at one time. This process could easily require six inspections or more just for the foundations.

It should also be noted that Mr. Frederick is a licensed contractor. His licensure requires direct knowledge and understanding of building permit requirements. The Department strongly recommends against refunding any permit fees.

APPLICATION FOR WAIVER OR REFUND OF APPLICATION FEES

Under the provisions of Section 3.18.100 of the Lassen County Code, the Board of Supervisors has the authority to waive or refund fees upon presentation of evidence that an exceptional circumstance exists.

I hereby request a waiver or refund of the fees as listed below:

- ☐ Waiver of fees in the amount of \$ _____ required for the following application(s): _____
- ☒ Refund of fees in the amount of \$ 20,097.20 submitted on 07/28/2021 (date) for the following application(s): BP2021-018

The exceptional circumstances for this request are as follows (attach additional pages as needed):

See enclosed regarding 546-400 Old County Road / Building Permit #BP2021-018.

Michael Frederick
Applicant (Please Print)

Atascadero, CA 93423
City/State/Zip

PO Box 573
Mailing Address

(805) 466-5060
Phone number

THIS REQUEST SUBMITTED BY:

☒ Applicant

Michael Frederick
Signature

August 10, 2021
Date

RECEIVED

☐ Planning and Building Services Director on behalf of applicant

AUG 17 2021

Signature

Date

Attachment to "Application for Waiver or Refund of Application Fees"

546-400 Old County Road / Building Permit #BP2021-018 – Michael Frederick (Applicant)


The exceptional circumstances for this request are as follows:

I am respectfully requesting the refund of the noted fees in the amount of \$20,097.20, as they pose a significant financial hardship. The requested fee refund consists of the penalty portion of building, electrical, plumbing and mechanical fees. I am requesting the refund of the penalty portion of permit fees as I initiated contact with Lassen County Department of Planning and Building to discuss bringing the property into compliance and have been working with the department to bring the property up to code. Although the improvements were completed in 2015, I am having to complete additional improvements such as fire sprinkler system on the entire building and solar system installation to bring it to 2021 compliance. The additional costs for these systems are further adding to the significant financial hardship I am already experiencing.

The barn was built in 2011 and the living quarters were completed in 2015. I would like to note that in 2019, I contacted the Lassen County Assessor at which time that office re-assessed the property, including improvements, and issued corrected tax bills for the prior 4 years.

I am requesting you to take into consideration that I had initiated contact to make the corrections, versus Lassen County discovering them.

Signed this 10th day of August, 2021 by applicant Michael Frederick


Michael Frederick



Maurice L. Anderson, *Director*
707 Nevada Street, Suite 5
Susanville, CA 96130-3912
Phone: 530 251-8269
Fax: 530 251-8373
email: landuse@colassen.ca.us
website: www.colassen.ca.us

NOTICE AND ORDER

CERTIFIED MAIL/RETURN RECEIPT
7017 1070 0000 7544 8436

June 1, 2020

Zoning & Building
Inspection Requests
Phone: 530 257-5263

Michael Frederick
P.O. Box 573
Atascadero, CA 93423

RE: Code Enforcement Case No. 2020-004
546-400 Old County Road
Lassen County
Assessor's Parcel Number: 013-020-78

Dear Mr. Frederick:

This letter is in regard to the above referenced property which is currently in violation of *Lassen County Code, California Health and Safety Code, Uniform Code for the Abatement of Dangerous Buildings, and Title 24 of the California Code of Regulations (California Building Standards Code)*. The above mentioned property is approximately 312 acres in size and is zoned U-C-B-160 (Upland Conservation, 160 acre Building Site Combining District).

CODE VIOLATIONS

On January 30, 2020, Code Enforcement Officers Jordan Guess and Robert Steen conducted a site visit at the above property. The site visit was conducted at the invitation and the request of Mr. Bill Pierce, who purported to be the property manager. Mr. Pierce provided access through a locked gate with a keyed security terminal.

All available building records were examined prior to the inspection. It was discovered that an "agricultural exemption" (as defined by County Code section 12.04.040 and Board of Supervisors Resolution Number 04-028) was approved on April 29, 2011, for a 40 foot by 100 foot building, limited to agricultural use. It was also discovered that an electrical service panel for agricultural use was approved and passed a final inspection on November 1, 2011. No other permits were found, nor was there record of any other improvements.

The January 30, 2020, inspection referenced above documents extensive improvements to the subject property made without building permits or any approval. Two large structures, a pump house, and exterior improvements were inspected:

- The first structure was approximately 7,000 square and contained extensive residential improvements. The officers observed that the building had a kitchen (with stone counter tops, large walk-in pantry), dining room, living room (with a fireplace), ½ bathroom, master bedroom (with an attached full master bath and shower), exercise room (with gym equipment), laundry room (with counters and cabinetry), and an enclosed garage (which housed two “conex” type shipping containers). Exiting the living room through the northwest side opened into a garage with concrete floors, two garage doors, wood stove, cabinets and sink, furniture, a basketball backboard and a full bathroom/shower in the northwest corner. On the northeast corner of the garage was a small room with an on-demand water-heater. Attached to the back of the main building was two open carport type bays with one containing a backhoe tractor.
- The second structure was approximately 2,800 feet and had the appearance of a guesthouse. A living/dining room/kitchen area was observed (with a wood burning fireplace), a bedroom (with a walk-in closet), full bath/shower room, and attached carports.
- A pump-house structure was observed with a service panel mounted on a pole with a meter. The Lassen County Building Division inspection tag applied for the above referenced agricultural electrical inspection was also observed.
- In summary, exterior improvements observed included air conditioning, buried propane tank and gas lines to each building.

Again, our records clearly demonstrate that no permits were obtained for the above improvements. Further, based on the following, it is clear said improvements were made at a time when permits were required:

- The Lassen County Assessor started assessing the above identified improvements in July of 2019 (the Assessor added the value of the residences and improvements to the assessment roll as of January 1, 2012). The Assessor routinely looks for, and is successful in identifying, improvements in order to capture tax revenue. The Assessor uses a multitude of tools to identify improvements, including site inspections, aerial photography, property records and other sources. It is extremely unlikely that the Assessor would miss more than \$510,628 of improvements for nearly 50 years (e.g. that said improvements have been present since before a building permit would have been required).
- Publically available satellite imagery from Google Earth was utilized to collect evidence of the above-identified violations. Said imagery readily shows that the subject structures were not present in September 2009, in addition, the imagery shows that the larger of subject structures was present and complete by July 2012, and that the smaller structure was partially complete by July 2012, and complete by July 2014. This imagery further illustrates that the improvements were constructed at a time when building permits were required.
- The two structures detailed above were not present in 2011 when Senior Building Inspector Mike Johnson conducted the inspection for the agricultural electrical panel. The subject

building permit also reflects that the above referenced improvements were not present in 2011.

- The above referenced improvements were not reflected on the 2011 agricultural exemption application or approval referenced above.
- Mr. Bill Pierce contacted this Department requesting information on how to bring the improvements into compliance so the owner can sell the property. This request to “bring the property into compliance”, effectively acknowledged that the improvements are currently not in compliance, was made to Officers Guess and Steen.
- It was readily apparent to the Code Enforcement Officers who inspected that both of these structures were placed well after the time when building permits were required. Building permits have been required in Lassen County for nearly 50 years. The improvements looked new and certainly did not show anywhere approaching 50 years of use.

Dangerous Buildings:

A structure that is built without structural plans, permits and inspections is considered a dangerous substandard building, as defined by Section §302.13 of the *Uniform Code for the Abatement of Dangerous Buildings* (UCADB). Said construction is also a violation of *Lassen County Code* Section §12.24.010 and section 105 of the *California Building Code* (CBC) which requires that a building permit first be obtained.

Subsection “(c)” of section 17920.3 of the California Health and Safety code states that the presence of any nuisance (see section below) is a substandard building to the extent that the building “...endangers the life, limb, health, property, safety or welfare of the public or occupants...”. As none of the required permits or building inspections have been conducted, it is not clear if the structures are safe. A purpose of building permits and inspections is to insure safety to the public and to occupants. It is also unknown if the structures and other improvements meet the other habitability standards detailed in section 17920.3.

Public Nuisance:

The above stated violation is considered a public nuisance pursuant to Lassen County Code section 1.18.020, as discussed below:

- A purpose of building permits is to insure that structures are constructed in accordance with applicable building codes and are safe. Currently, there is insufficient information to conclude that the improvements you have constructed without the required building permits are safe. As noted herein, the UCADB defines all buildings as dangerous if they are not constructed in compliance with applicable building codes. In part, subsection “(c)” of section 1.18.020 defines a public nuisance as “Anything, which is injurious to health...” Thus, the improvements you have made to the subject property are considered a “public nuisance” in accordance with said section.
- The above violations are also considered a public nuisance pursuant to subsection “(a)” of section 1.18.020 because the violations are specifically defined as a public nuisance pursuant

to the UCADB Section 202. Additionally, Lassen County Code section 18.126.040 limits use to that allowed by Title 18 (zoning). As stated, this Department has not approved any of the above referenced structures, constructed without any building permits. The above identified property is zoned U-C-B-160. Thus, uses of the property is subject to Chapters 18.68 (Upland Conservation) and 18.84 (Building Site), as well as the General (Chapter 18.102) and Special Provisions (Chapter 18.108) of Title 18 (zoning) and are subject to compliance with Title 18 in general. Lassen County Code section 18.126.040 declares in part that any building or structure "...set up, erected, constructed, altered, enlarged, converted, moved or maintained..." contrary to the provisions of this Title is a public nuisance. Because you have constructed the subject buildings without the required approvals the improvements are currently also in violation of section 18.126.040. If you successfully obtain and finalize building permits (see the "Remedy" section of this Notice, below) it will demonstrate that the improvements are in compliance with Title 18 (Zoning) and the UCADB.

NOTICE REQUIREMENTS

Notice requirements are provided in the following sections of Lassen County Code:

- This Notice is being issued in accordance with the authority delegated to the Building Official in Section §401.2 of the UCADB (adopted at Chapter 12.25 of the *Lassen County Code*).
- This Notice is issued in accordance with Lassen County Code section 12.24.035. A Notice of Noncompliance may be recorded in the Official Records of Lassen County pursuant to said section if the above identified violations are not corrected within 30 days.
- A "Notice of Administrative Order to Show Cause" is attached. Said Notice is issued pursuant to section 1.18.060 of the Lassen County Code. As detailed, thereon, if you fail to fully comply with said Notice, you will be subject to an Administrative penalty of \$1,000 per day until the violation is corrected (in addition to being responsible for Lassen County enforcement costs, as detailed by said Notice). Last, the Notice provides information regarding a hearing scheduled to start on or after 2:00 p.m. on July 15, 2020, to provide you an opportunity to show why this nuisance should not be abated by the enforcing officer.

REMEDY

In accordance with the authority delegated to the Building Official in the above identified sections of the Lassen County Code, you are hereby notified that you must, within 30 days of this Notice, have plans prepared by a qualified engineer or architect and submit a building permit application for the above identified improvements that were constructed without a building permit.

Please note that the U-C-B-160 allows second dwellings without first obtaining a use permit if the second residence is a "farm or ranch related dwelling..." (see subsection "(1)" of section 18.68.030). As such, if you propose a second residence, you will need to demonstrate that said residence is intended to facilitate the agricultural use of the property. Alternatively, if you propose a second residence that is not intended to facilitate the agricultural use of the property, a use permit may be

required (pursuant to Lassen County Code Chapter 18.112). You will need to submit additional information to allow a determination as to whether a use permit is required.

ENFORCEMENT

If permits have not been obtained and work has not commenced as detailed above, one or more of the following enforcement procedures will be utilized. The enforcement mechanisms detailed below are in addition to the hearing and actions detailed on the attached "Notice of Administrative Order to Show Cause" regarding the above identified public nuisances:

- The Building Official is authorized, and has, issued an order that the structures be vacated immediately (as authorized by section 401 of the UCADB).
- Additionally, section 402 of the UCADB provides the Building Official authority to record a notice with the Lassen County Recorder that the structures are dangerous (as described above) and that you, as the owner of the property have been so notified. Again, the UCADB, to summarize the above sections of this Notice, defines the structures as dangerous (in part) because a building permit was not secured. If recorded, this Notice will appear on any title report that may be prepared for the property.
- If you have not complied with this Notice within 30 days, a notice of noncompliance may be recorded with the Lassen County Recorder pursuant to section 12.24.035 of the Lassen County Code. If recorded, said notice of noncompliance will also appear on any title report that may be prepared for the property. A certificate of cancellation of the notice of noncompliance will be recorded only after a permit and appropriate Certificates of Occupancy have been issued and you pay the established fee for said notice (currently \$250 in accordance with Lassen County Code section 3.18.090).
- If you fail to comply within 30 days after the effective date of this Notice, this office may pursue demolition (or repair) of the structures in accordance with section 701.3 of the UCADB. Subsection "3" of said section states in part:

"...Any such repair or demolition work shall be accomplished and the cost thereof paid and recovered in the manner hereinafter provided in this code. Any surplus realized from the sale of any such building, or from the demolition thereof, over and above the cost of demolition and cleaning the lot, shall be paid over to the person or persons lawfully entitled to thereof."

A due process hearing will be conducted in accordance with section 12.25.045 prior to execution of any repair or demolition in accordance with the UCADB. If demolition or repair is executed by Lassen County, recovery of said demolition or repair costs will be pursued in accordance with the protocol detailed at Chapter 9 of the UCADB any other pertinent sections of state or local code or regulation.

- Abatement (demolition) may also be authorized by hearing officer pursuant to Chapter 1.18 (Public Nuisances) of the Lassen County Code if you fail to comply with the attached "Notice of Administrative Order to Show Cause."
- If the above described violations are also determined to be a violation of Title 18, in accordance with section 18.126 of the Lassen County Code, the violations identified in this Notice may be scheduled to be considered by the Board of Supervisors who may issue an order to the district attorney to commence legal proceedings as detailed in said section.
- If it becomes necessary because of you fail to comply, Lassen County could propose an order for injunctive relief to the Lassen County Superior Court.
- Alternatively, pursuant to Health and Safety Code sections 17980 et seq, Lassen County could propose the court issue an order for receivership. A judge would appoint a neutral third party receiver who would temporarily take legal control of the property to correct the identified violations (e.g. hire contractors, engineers and other professionals to secure the required permits and make any required improvements). Receiver costs (and County costs) are paid through the property's value once the violations are corrected.

There are also other enforcement mechanisms available to this Department and to Lassen County which may be utilized if you fail to comply. However, even if you comply with this Notice as directed, you will still be subject to the penalty described at section 12.24.070 of the Lassen County Code. Specifically, for the two structures built without permits, your permit fees will be six times the normal fee specified in Lassen County Code section 3.18.090.

NOTICE OF RIGHT TO APPEAL

As already stated, a hearing has been scheduled for July 15, 2020, in regard to the above identified public nuisances (to start on or after 2:00 p.m. as specified on the attached "Notice of Administrative Order to Show Cause"). Pursuant to subsection "(e)" of section 1.18.100 of the Lassen County Code, the hearing officer's decision is final once signed by the hearing officer.

This Notice is also issued in accordance with the UCADB. Pursuant to section 501 of the UCADB, a Notice and Order of the Building Official carried out under section 401, may be appealed by filing at the office of the Building Official a written appeal containing:


1. A heading in the words: "Before the board of appeals of the County of Lassen"
2. A caption reading: "Appeal of", giving the names of all appellants participating in the appeal.
3. A brief statement setting forth the legal interest of each of the appellants in the building or the land involved in the notice and order.
4. A brief statement in ordinary and concise language of the specific order or action protested, together with any material facts claimed to support the contentions of the appellant.

5. A brief statement in ordinary and concise language of the relief sought and the reasons why it is claimed the protested order or action should be reversed, modified or otherwise set aside.
6. The signatures of all parties named as appellants and their official mailing addresses.
7. The verification (by declaration under penalty of perjury) of at least one appellant as to the truth of the matters stated in the appeal.

In accordance with section 501, any appeal must be filed within 30 days of the date of service (the date of mailing). Additionally, be advised that Section 12.25.040 of the Lassen County Code has amended the Uniform Code for the Abatement of Dangerous Buildings to establish a Hearing Officer as the Board of Appeals.

Appeals must be submitted to the Lassen County Department of Planning and Building Services; 707 Nevada Street, Suite 5 Susanville CA with the appropriate appeal filing fee. If you have any questions, contact Code Enforcement Officer Robert Steen at (530) 251-8269.

Sincerely,



Maurice L. Anderson, Director,
Acting Building Official

MLA:gfn



3.18.100 Waiver or refund of fees.

(a) The board of supervisors may waive or refund any fee paid to the county upon presentation of evidence that an exceptional circumstance exists. Whenever a person believes that such exceptional circumstances exist, he/she may file a written application with the board of supervisors for a waiver or refund of fees. A department head may file such application on behalf of such person.

(1) Fees which are erroneously collected by a department may be refunded without board of supervisors approval regardless of amount and without the requirement that a written request by the original applicant be submitted requesting a refund.

(b) Notwithstanding subsection (a), a department head may authorize a refund of a fee paid to the department under their authority, upon receipt of a written request by the original applicant, received not later than one year after the date of fee payment.

(1) When refund of a fee is authorized by a department head, the authorized amount of the refund shall be based upon all costs incurred by the county including fees paid or owed to be paid to a county vendor.

(2) A department head shall not authorize a refund when the fee was paid is related to a violation or appeal or following the department's recommendation for a decision to be made on an application.

(3) A refund in excess of the department head's purchasing authority must be approved by the board of supervisors prior to payment. (Ord. 2019-010 § 8).

Frederick Building fees

Description	Date paid	Payment	Amount	Regular Fees	Penalty Portion
Plan check fee	3/10/2021	Credit card	\$2,478.61	\$2,478.61	
Building permit	6/16/2021	Check 7370	\$25,267.81		
		Building Permit fee (6x)		\$3,813.25	\$19,066.25
		Mechanical Permit fee (2x)		\$468.70	\$468.70
		Electrical Permit fee (2x)		\$306.25	\$306.25
		Plumbing Permit fee (2x)		\$256.00	\$256.00
		Sprinkler value		\$181.25	
		SMIP		\$80.81	
		Document scanning fee		\$35.35	
		CA Building Stds.		\$25.00	
		CASp fee		\$4.00	
Septic system fee	7/28/2021	Check 1840	\$60.00	\$60.00	
Total			\$27,806.42	\$7,709.22	\$20,097.20
				Total	\$27,806.42

Paid Willdan 65% of plan check fee

4/29/2021 Check 1163187 \$1,611.10

12.24.070 Work commenced without permit.

(a) When work that requires a building permit pursuant to this article or the California Building Standards Code (Title 24 of the California Code of Regulations) is initiated prior to securing the required building permit, the fee specified at Lassen County Code Section 3.18.090 shall be two times the normal fee. If the work that requires a building permit includes construction of a structure of any type, the fee specified at Section 3.18.090 shall remain two times the normal fee for structures between one hundred twenty and two hundred square feet. For structures between two hundred and one thousand square feet, the fee shall be four times the normal fee, and for structures over one thousand square feet, the fee specified in Section 3.18.090 shall be six times the normal fee.

(b) Work performed without a permit by or under the control of a prior owner is not subject to the penalty described herein but any subsequent owner is required to secure a permit for any unpermitted work in a timely manner when ordered to do so by the building official.

(c) The determination regarding the request to waive or reduce the penalty may be appealed in accordance with Chapter 12.22 of the Lassen County Code. (Ord. 2018-006 § 2; Ord. 427 § 6(G), 1977; Ord. 416 § 6(G), 1974; Ord. 369 § 6(G), 1965).

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