

COUNTY OF SANTA CRUZ
STATE OF CALIFORNIA



AT THE BOARD OF SUPERVISORS MEETING
On the Date of June 28, 2007

BUDGET HEARING Item No. 26
AGENDA
PLANNING DEPARTMENT

Upon the motion of Supervisor Pirie, duly seconded by Supervisor Campos, the Board, by unanimous vote, continued to August 21, 2007 consideration of Fees for Planning Appeals

cc:
CAO
County Counsel
Auditor-Controller
Planning Department

State of California, County of Santa Cruz-ss.

I, Susan A. Mauriello, Ex-officio Clerk of the Board of Supervisors of the County of Santa Cruz, State of California, do hereby certify that the foregoing is a true and correct copy of the order made and entered in the Minutes of said Board of Supervisors. In witness thereof I have hereunto set my hand and affixed the seal of said Board of Supervisors.

by _____, Deputy Clerk ON July 10, 2007



COUNTY OF SANTA CRUZ

PLANNING DEPARTMENT

701 OCEAN STREET, 4TH FLOOR, SANTA CRUZ, CA 95060
(831) 454-2580 FAX: (831) 454-2131 TDD: (831) 454-2123

TOM BURNS, PLANNING DIRECTOR

June 22, 2007

LAST DAY BUDGET REPORT

Board of Supervisors
County of Santa Cruz
701 Ocean Street
Santa Cruz CA 95060

SUBJECT: Fees for Planning Appeals

Members of the Board:

During the Board's discussion of the Planning Department's budget, the cost of filing appeals was discussed. Several Board members expressed a concern that the fee for an appeal was set too high, resulting in a barrier to members of the public who might wish to appeal a project decision. Your Board directed that the department prepare a report on appeal fees for consideration on the Last Day of Budget deliberations.

Types of Appeals and Fees

The process under which appeals are handled is specified in County Code sections 14.01.312 through 314 for land divisions and County Code section 18.10.310 et seq for all other appeals. Besides the ability for Board members to bring an item before the Board for Special Consideration (at no charge to the public), there are five types of appeals for discretionary applications. One of these, Special Consideration by Board of Supervisors, does not require payment of an appeal fee. The four types of appeals that require payment of fees are described below.

1. Administrative Appeals - Administrative appeals are those appeals that a member of the public or an applicant may make for administrative decisions by staff. These decisions include staff actions on Level III and IV permits, decisions related to determinations of completeness and other determinations. The Planning Director, or a deputy, hears administrative appeals. The fee for an Administrative Appeal is \$539. Based on prior Board direction this fee has been kept at a lower level than full cost recovery due to the minor nature of most of the applications. The fee charged represents about one-third of the actual cost of processing the appeal. We would not recommend further reducing this particular appeal fee.

2. Appeals to the Planning Commission - This type of appeal is most often an appeal of the Zoning Administrator's decision, although appeals of the Environmental Coordinator's requirement for an EIR are also in this group (quite rare). These appeals are public hearings at the Planning Commission and often require extensive additional time to respond to the

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issues under appeal. Another site visit is required to photograph the key elements of the project for presentation to the Commission. Typically, there are 2-3 such appeals per year. A flat fee is charged to all appellants of \$2,566 (proposed at \$2,668 for FY 2007-08).

Appeals to the Board of Supervisors - There are two types of appeals that come before your Board: automatic jurisdiction and jurisdictional.

3. Automatic Jurisdiction Appeals – These appeals are for decisions of the Planning Commission on land divisions. These appeals are considered by the Board of Supervisors and require preparation of responses to the issues raised in the appeal as well as preparation of the full public hearing record. Because a significant amount of staff time is spent preparing the staff report and public hearing presentation materials for the Planning Commission, staff does not have to spend as much time on these appeals as they need to for appeals to the Planning Commission from the Zoning Administrator, resulting in a slightly lower appeal fee. These appeals occur rarely. A flat fee is charged to all appellants of \$2,216 (proposed at \$2,303 for FY 2007-08).

4. Jurisdictional Appeal – The jurisdictional appeal is a two-step process. The first step is the jurisdictional hearing where the appellant is required to present to your Board the reasons why the Board should consider the appeal. County Code section 18.10.340(c) lists the grounds for the Board to accept jurisdiction. If the Board determines that grounds exist to accept jurisdiction, a subsequent public hearing is scheduled and the appeal is considered. The staff time necessary to address a jurisdictional appeal is two-fold. The first staff report provides the Board with the complete public hearing record as well as the responses to the reasons stated for the Board to accept jurisdiction. The second staff report deals with the actual issues of the appellant. A flat fee is charged for the jurisdictional appeal of \$3,702 (proposed at \$3,849 for FY 2007-08). The fee schedule specifies that if the Board does not take jurisdiction, one-half of the appeal fee is refunded. Such appeals occur 2-3 times per year.

Discussion and Recommendation

The permit review fees, including most of the appeal fees, currently recommended for approval in the fee schedule reflect the Board's policy of full cost recovery from applicants for development on private property. In the past, the Board has recognized the need to keep certain fees, such as the over-height fence permits and the administrative appeal fee, at levels that are appropriate to the cost and size of the project approvals requested. Similar logic could be applied to non-applicant appeals based on the Board's interest in maximizing the public's opportunity to participate in the land use planning decision making process.

The current and proposed appeal fees reflect the time it takes a planner to research, prepare and present a complete staff report for consideration by the Planning Commission or Board of Supervisors. If your Board desires, you could set the fee for non-applicants filing an appeal at a level below full cost recovery. You should be aware that lowering the fee could increase the number of appeals and increase the amount of staff time not recovered by fees (increasing net County cost). An additional concern is that if the fees are too low, we will undoubtedly see a number of frivolous appeals.

If your Board wishes to lower the appeal fees for non-applicants, we would suggest lowering them by no more than 50% (except Administrative appeals which are already 113 of their true cost). This will significantly increase the opportunity for serious public appeals of planning decisions, maintain at least one-half of the cost recovery and still be high enough to deter frivolous appeals. Such a fee reduction will reduce the department's cost recovery by no more than \$10,000 annually.

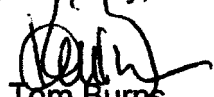
It is therefore RECOMMENDED that your Board take the following actions:

1. Accept and file this report;
2. Direct that, in the context of future fee adjustments, fees for non-applicant appeals to the Planning Commission and Board be set at 50% of estimated costs; and
3. Incorporate the following changes in the final Unified Fee Schedule (adopted as part of final budget actions) for Planning Department appeals fees as follows:

Administrative Appeals	\$ 539
Appeals Zoning Administrator/Env. Coord. (applicant)	\$2,668
Appeals Zoning Administrator/Env. Coord (non-applicant)	\$1,334
Appeals Planning Commission-automatic (applicant)	\$2,303
Appeals Planning Commission-Automatic (non-applicant)	\$1,151
Appeals Planning Commission-Jurisdictional (applicant)	\$3,849"
Appeals Planning Commission-Jurisdictional(non-applicant)	\$1,925*

*1/2 of fee refunded if jurisdiction not taken

Sincerely,



Tom Burns
Planning Director

RECOMMENDED:



SUSAN A. MAURIELLO
County Administrative Officer

TB:MMD:MMD\G:\Board Letters\Pending