

A Brief Primer on Appeals and Timelines for Building Permits and Discretionary Permits

It has come to my attention that the County of Santa Cruz does not inform the public properly of a number of the appeals processes and time lines required by various codes, nor does the county follow those codes in all instances. Below is a brief outline of some of these issues, it is not complete, but is accurate to the best of my knowledge.

Adopted in 1978 by the County of Santa Cruz:

Resolution Establishing County Policies for Permit Processing

#4. An applicant is to be provided with information concerning any and all appeals processes available concerning decisions made by the County of Santa Cruz which relate to the application.

Discretionary Permits:

California Government Code 65940-65945.7 dictates the appeal process.

Who hears the appeal?

California Government Code 65943 requires that appeal hearings be heard by the Board of Supervisors (or the Planning Commission at the Board's discretion) within 60 days of the appeal.

What information is required to be deemed "complete"?

California Government Code 65940 requires that the county "... compile one or more lists which shall specify in detail the information that will be required from the applicant...".

How is that list created?

Chapter 18 of the county ordinances lists the required information, other lists have been released by staff that are not consistent with ordinance. The legitimacy of these additional lists is questionable.

Is information not listed required to be provided in order to be complete?

California Government Code 65942 states “any revisions shall apply prospectively only and shall not be a basis for determining that an application is not complete....”.

Does information provided need to be “satisfactory” to county staff in order to be deemed complete?

California Government Code 65944 states that *after* the application is accepted as complete that the agency may “request the applicant to clarify, amplify, correct, or otherwise supplement the information required for the application.” The information provided merely needs to be the listed information, it does not need to be satisfactory to county staff.

Completeness Synopsis

Completeness is a basis for determining a time frame for an approval or denial on a “Discretionary Permit”, it specifically does not require that county staff needs to be “happy” with the information provided. Regardless, the applicant has the right to appeal county staff determinations on these issues to the Board of Supervisors, this is a right that the Santa Cruz County public has not been properly informed of.

Fees for Discretionary Permits

California Government Code 65943 dictates that the county may charge “a fee not to exceed the amount reasonably necessary to provide the service required by this section.the fee shall be collected as part of the application fee charged for the development permit.”

Discretionary Permit Fee Synopsis

Fees are by their nature “fixed”. Fees collected as part of an application fee are also “fixed” by their nature. “Reasonable fee” for reviewing information required in order to be deemed complete indicates that the fees are for reviewing documents listed/required in order to be deemed complete, not information and documents that are requested at the whim of county staff. The at cost fees charged by the County of Santa Cruz for Discretionary Permits do not follow state law.

Time Frames for Discretionary Permits

Time frames for denial or approval of discretionary permits vary but below are some basic ones (see California Government Code 65940 & 65950 for more complete information):

30 days after each submittal a determination of complete or incomplete must be supplied to the applicant. If that date is missed, the project is automatically deemed complete.

An appeal of completeness must be heard within 60 days or the application is automatically deemed complete.

Once a typical project (such as a single family dwelling in a developed area) is deemed complete, 60 days is the time limit for approval or disapproval to take place for the Discretionary Permit. If no approval or denial takes place in that time frame, there is a process for the approval to be automatic (see 65956 of California Government Code).

Building Permits:

Building Permit Appeals

County Code 12.12 allows for any applicant to appeal any decision by any county employee, dealing with the building regulations, to a Building Appeals Board. The Building Appeals Board is also the entity that reviews the relevant documents to determine whether the appeal has been properly presented, i.e. county employees do not have the authority to “block” an appeal to the Building Appeals Board.

It is also important to note that the building department by code is required to (108.3.1 2007 CBC Duties and powers) enforce all the provisions of law, and code...pertaining to construction of dwellings etc...i.e., virtually any county decision, that involves any code or law, regarding construction on one's property, can be appealed to the Building Appeals Board.

Process for filing an appeal

To date the Building Appeals Board has not met. This may be due to the fact that the public has not been informed of its' existence. I am currently making efforts to file appeals on two projects which staff is blocking despite the indication in code that it is the Appeals Board that reviews “the relevant documents to determine whether the appellant has properly presented a matter for consideration” (12.12.060).”

Plan Check “Excessive delay”

Under California Health and Safety Code Section 17960.1:

d) When there is an excessive delay in checking plans and specifications submitted as a part of an application for a residential building permit, the local agency shall, upon request of the applicant, contract with or employ a private entity or persons on a temporary basis to perform the plan-checking function...”

An “excessive delay” is considered to be 30 days for the original submittal, and 45 days total for review of both the first submittal and second submittal.

“Santa Cruz County is a anti-development community, thus it is a re-iterative process”

Tom Burns Planning Director, County of Santa Cruz

Susan Mauriello County of Administrative Officer, County of Santa Cruz

The process and timelines above can stop the re-iterations, they may not gain approval...but they do offer some relief. On August 12, this information, and other information regarding this issue, will be on the Board of Supervisors written correspondence list. Also a response to these concerns has been requested (in written form) by Supervisor Pirie to be presented to the Board. That response is to be provided through the County Administrative Office, Planning Director, and County Counsel and is to be provided on August 12.

Please attend the August 12 County Board of Supervisors hearing if the permit process is of concern to you. This item may be commented on at the Public Comment period at the beginning of the agenda (Approximately 9:00) and letters can be delivered or emailed in prior.