

County of Santa Clara

Department of Planning and Development

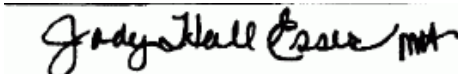


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DATE: March 19, 2009

TO: Supervisor Donald F. Gage, Chairperson
Supervisor Liz Kniss, Vice Chair
Housing, Land Use, Environment, & Transportation Committee (HLUET)

FROM: 
Jody Hall Esser
Director of Planning and Development

SUBJECT: Fiscal Year 2010 Department of Planning and Development Fee Adjustments

RECOMMENDED ACTION

Consider recommendations relating to fee adjustments in the Department of Planning and Development for Fiscal Year 2010 and forward to Board of Supervisors for consideration.

Possible action:

- a. Open public hearing and receive testimony.
- b. Close public hearing.
- c. Adopt Resolution adopting fees for services provided by or through the Department of Planning and Development. (Roll Call Vote)

FISCAL IMPLICATIONS

The fee revisions proposed in this transmittal are part of the continuing effort by the Department of Planning and Development to approach cost recovery for permit application review and processing, Planning Office (Planning, Planning and Zoning, Historical Preservation) and Fire Marshal services. The proposed fees are scheduled to become effective July 1, 2009.

Separately on the HLUET agenda for March 19, 2009 is consideration of recommended adjustments to Williamson Act fees. The last divisions' fee adjustments, Building Services and Land Development Engineering, will be presented to HLUET for consideration in April, 2009.

REASONS FOR RECOMMENDATION

Planning Office Fee Revisions

The Planning Office is proposing an increase in the hourly rate charged to more closely cover the cost of staff time. This increase is requested to cover the additional costs for employee benefits, which are projected to increase in Fiscal Year 2010 and to more closely achieve full cost recovery for the processing of land use applications and building permit applications reviewed by the Planning Office. The current hourly rate is \$160. The recommended hourly rate is \$165. Since any increase to employee salaries is unknown at this time, the requested increase does not include any salary increases that may occur in Fiscal Year 2010.

Revenues in Fiscal Year 2010 are projected to decrease from Fiscal Year 2009 revenue levels for two reasons - less development as a result of economic conditions, and an increase in the number of parcels annexed to cities. As parcels are annexed by cities, the Department will see a decrease in development activity in the urban areas.

The Planning Office is recommending increases or decreases to other fees, to more closely match the actual cost of staff time for application processing and review. Fees for obsolete functions or applications are recommended to be deleted.

It is recommended that some flat fees be designated as billable fees, so that the actual cost of review and processing are paid for by the project applicant. A billable fee is one in which the owner/applicant pays a minimum fee at the time of application and is then billed for the cost of additional staff time, in excess of the minimum fee paid. Those fees are discussed below in more detail.

Exhibit A lists all the current and proposed fees collected by the Planning Office, and also includes fees currently charged by other offices and departments, such as Roads and Airports, Land Development Engineering, the Fire Marshal Office and Environmental Health that are collected at the time an application fee is paid.

Revise Fees for Staff Consulting and Research

It is recommended that the fees for staff consulting and staff research be increased to the hourly fee of \$165, which is charged when staff are asked to research development regulations, old ordinances, maps, parcel, properties, file history and similar work. The current rates do not reflect the hourly rate and do not fully cover the cost of staff time for these functions. This increase will bring the Department closer to full cost recovery.

Designate Design Review and Variance Fees as Billable

It is recommended that the fees for Design Review and Variance be designated as billable fees, so that the cost of staff time in excess of the minimum fee is paid for by the project applicant/owner. The current fees are flat fees and do not always cover the cost of staff time associated with a project.

Revise the Zone Change Fees

The Zone Change fee encompasses two types of applications: a Zoning Ordinance Text Amendment and a change to the Zoning Designation of property. It is recommended that the fee for the Zone Change-Zoning Ordinance Text Amendment remain as is, at \$5,900. However, it is recommended that the Zone Change-Zoning Designation for a property be reduced from \$5,900 to \$3,500 minimum, and continue to be a billable fee. By reducing the minimum fee for a Zone Change-Zoning Designation for a property, the applicant will be charged a fee closer to actual cost, but will be billed for any time in excess of the minimum fee paid at the time of application.

Increase the Fee for Staff Level Zoning Interpretation

The current fee for a staff level Zoning Interpretation is \$220, which covers the cost of approximately 1.5 hours of staff time. An application for Staff Level Zoning Interpretation takes approximately 4 to 6 hours processing time, for review of the proposed use, ordinance review, analysis, correspondence, etc. It is recommended that this fee be increased to a minimum fee of \$660, to cover the cost of 4 hours of staff time, and that the fee be a billable fee so that the applicant is charged a fee closer to the actual cost.

Increase the Fee for Design Review Tier III

An application for Design Review Tier III is heard and decided by the Planning Commission. These applications are for projects proposing more than 12,500 square feet of floor area on properties in highly visible areas. Since the Design Review Tier III process went into effect, a review of completed applications shows that they cost between \$7,000 and \$10,000 to review, process and bring to hearing. The current fee is \$2,120. It is recommended that the fee be increased to \$7,000 minimum fee, so it is closer to the actual cost. Since the current fee is a billable fee, the cost of staff time in excess of the minimum fee will be billed to the applicant, so that the applicant will be charged a fee closer to the actual cost.

Revise Fees for Special Permits and Designate them as Billable Fees

Due to changes in the Zoning Ordinance, most Secondary Dwellings are now allowed as a matter of right, and not subject to a Special Permit, except under limited circumstances (separation from the main dwelling, second driveway, or attached to an accessory building per section 4.10.340D of the Zoning Ordinance). The current fee is based on review processes and procedures that are no longer in effect. It is recommended that this fee be deleted.

It is also recommended that fees for all Special Permits be designated billable fees, so that when the minimum fee is exhausted, the applicant will be charged to cover the cost of additional staff time.

It is recommended that the fees for Special Permit-All Others be revised from the current fee of \$1,490 to a minimum fee of \$1,700. This amount more closely approximates the cost of staff time to review and process applications for a Special Permit and hold a public hearing. The category Special Permit-All Others includes Special Permits to consider limited circumstances for a secondary dwelling, pursuant to section 4.10.340D, and certain detached buildings.

Delete Obsolete Fees

It is recommended that fees for Architecture and Site Approval Variation to Standards, Administrative Variance, EIR Monitoring and EIR File Maintenance be deleted. Due to changes in ordinances and procedures, these functions are no longer performed. As a result, the associated fee is no longer necessary.

Correct the discrepancy between fees for Architecture and Site Approval for Single Family Residence and Architecture and Site Approval with Building Site Approval

The current fee for Architecture and Site Approval (ASA) for a Duplex or Single Family Residence is a minimum fee of \$6,420. The fee for Architecture and Site Approval with Building Site Approval (for a single family residence on slope of 30%) is a minimum fee of \$6,400. The application process, the scope of review and the hearing process by the ASA Committee are the same for these two types applications. At one time, these applications were charged the same fee, but over time, these fees have become different by \$20. It is recommended that the fees be the same minimum fee of \$6,400.

Reduce minimum fee for ASA filed concurrently with a Use Permit

The current minimum fee for an ASA filed concurrently with a Use Permit is \$3,410. During the past three years, the Planning Office has completed ordinance revisions and implemented procedures to improve the review process, by bundling applications, assigning one project planner, and holding one public hearing on the project before the highest approval authority. In the case of a Use Permit with an ASA, the application is heard by the Planning Commission. Previously, the application would have been heard by the Planning Commission and then by the ASA Committee, at a second public hearing.

Because of efficiencies achieved in the application and hearing process, it is recommended that the fee for ASA filed concurrently with a Use Permit be reduced to a minimum of \$2,200. The fee will continue to be a billable fee, so that when the costs associated with the Use Permit and ASA have exceeded the initial application fee, the applicant will be billed for any additional costs, so that the applicant will be charged a fee closer to actual cost.

Historic Preservation Ordinance and Mills Act Contract Fees

Adopted on October 17, 2006, the Historic Preservation Ordinance provides that the Board of Supervisors may establish fees for processing applications for owner-initiated landmark designation; landmark alteration permits to alter or demolish a landmark or historic resource listed in the Heritage Resource Inventory; small project review; economic hardship determinations; and appeals to the Board of Supervisors.

Fees may also be adopted for Mills Act contract applications as established by Government Code Section 50281.1. There are currently no fees for these activities. Staff recommends establishing these fees in order to increase Planning Office cost recovery.

The following new fees are recommended based on the number of staff hours required to process the applications (Exhibit B):

- \$900 for Repeal or Amendment of Landmark Designation;
- \$742 for Landmark Alteration Permit;
- \$495 for Small Project Review;
- \$805 for Hardship Determination;
- \$850 for an Appeal; and,
- \$941 for Mills Act Contract

It is recommended that the fees for landmark alteration permit, small project review, and determination of hardship be designated as billable fees. Staff recommends that no fee be charged for landmark designation in order to provide an incentive to property owners to apply for designation. The proposed fee of \$900 would be charged when a property owner applies to remove the landmark designation, change the boundaries or alter the designation in another manner. It is recommended that the fee for the appeal of any determination under the Historic Preservation Ordinance be the same as the existing Planning Office fee (\$850) for appeals related to single-family residences.

Staff conducted a survey of historic preservation program fees in other jurisdictions and the proposed fees fall within the range of established fees for similar activities (Exhibit 1). Attached is Exhibit 2 which lists the productive hourly rates.

Fire Marshal Fees

The County contracts with the Santa Clara County Central County Fire Protection District to provide Fire Marshal services for private development to conduct review of land use proposals for fire department access, fire protection water supply regulations and non-residential building permit applications. The County also contracts with the County Fire Marshal to provide inspections of County-owned and leased facilities.

The County's contract with County Fire stipulates that any salary and benefits increases negotiated by County Fire for staff can be passed on to the County. The County has been notified that salary and benefit increases of 5% for County Fire staff have been negotiated for Fiscal Year 2010.

Increase Hourly Rates

The current Fire Marshal hourly rate for private development is \$140 per hour. The County is proposing an increase of 5% in the hourly rate, raising the hourly rate for private development to \$147. A five (5%) increase will cover the escalated cost due to negotiated salary and benefits for Fire Marshal staff.

The current Fire Marshal hourly rate for plan review and inspections on County-owned and leased facilities is \$127. This fee is only charged to non-General Fund departments. The County proposes to raise the hourly rate to \$147 in order to be consistent with the private development hourly rate, to recoup money for non-billable administrative time and to increase the cost recovery of plan review and inspections on County-owned and leased facilities. Currently, only 40% of these expenses are cost recovery.

Other miscellaneous fees based on hours of work multiplied by hourly rate will also increase as demonstrated in Exhibit C.

Implement New Fees

The County proposes a fee of \$588 for the expungement of violation records. This fee is based on four hours of work at the hourly rate. This new fee will help achieve cost recovery.

The County proposes the implementation of a fee for Wharf Hydrant/Tank Permits. Based on three hours of required work, the County recommends a flat fee equal to three hours at the hourly rate. The new fee will be \$441, closer to the actual cost.

The County proposes to issue burn permits in the wild land and urban interface as required by the Fire Code. The County proposed fee is equal to two hours of work and will be \$294. This will be a flat fee to recover the actual cost to issue the permit.

The Fire Code requires regulation of storage of explosives through annual permits. There are very few permits expected to be issued as they are limited to active quarries, and the County proposes a two hour base rate to recover anticipated staff costs. The fee will be a minimum \$294 and the applicant will be billed for any time in excess of the two hour minimum, so that the applicant will be charged a fee closer to the actual cost.

The County proposes a New Construction Site Safety Plan review fee. Previous experience in reviews of these plans require a minimum of four hours to complete. The County proposes a minimum four hour fee and will bill the applicant for any time in excess of the four hour minimum.

The Department of the Controller-Treasurer has reviewed and approved the Fiscal Year 2010 Department of Planning and Development proposed fee adjustments.

BACKGROUND

Planning Office Fee Adjustments

The Planning Office strives to establish fees as close to full cost recovery as possible. To that end, it is recommended that fees be adjusted as described in this transmittal.

Fire Marshal Fee Adjustments

New and increased fees for Fire Marshal services are based on the department's efforts at full cost recovery for Fire Marshal services. An increase in the hourly rate has been proposed to recoup additional costs for negotiated salary and benefit rates and to bring the cost of services to non-General Fund departments closer to cost recovery.

The department has identified several areas where permits are not currently being issued. The issuance of these appropriate permits and fees will bring the department closer to full cost recovery.

CONSEQUENCES OF NEGATIVE ACTION

Failure to approve the recommended action will adversely impact the Department's ability to achieve cost recovery.

STEPS FOLLOWING APPROVAL

The Department will notice the adjusted fees in accordance with local mandates and implement the fee adjustments effective July 1, 2009.

ATTACHMENTS

- Resolution

- Exhibit

- Exhibit