



PLANNING & BUILDING DEPARTMENT

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Date: June 19, 2019
To: Honorable Board of Supervisors
From: Tiffany Schmid, Director 
Department of Planning and Building
Subject: **Land Use Decision Appeal Fee**

The Board has directed Staff to explore ways to increase revenue and ensure that departments are recouping the cost of doing County business to the extent possible in an effort to reduce General Fund cost.

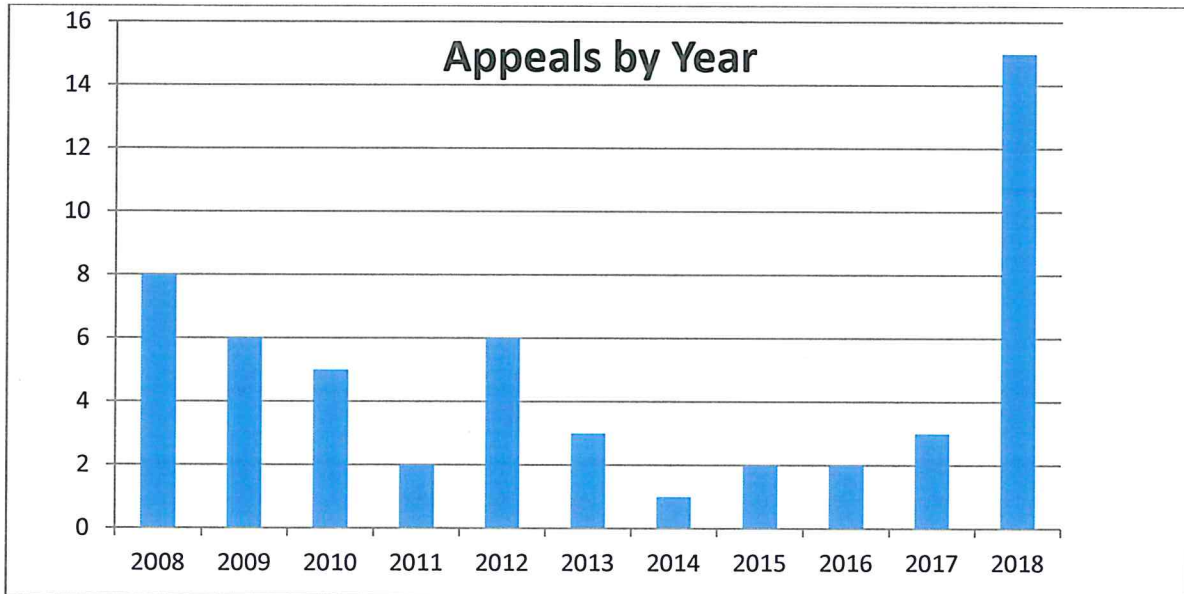
A fee of particular concern for the Department of Planning and Building is the Appeal fee. The County currently charges \$239 for the Appeal of a land use decision, which covers approximately 2 hours of staff time at the current hourly rate of \$119/hour.

Staff conducted a review of land use decision appeals sent to the Board from 2008 through 2018. The Planning and Building Department processed 53 appeals in this 11-year period (see graph below). Of these appeals, 31 were associated with Time and Materials (T&M) projects, 8 were associated with projects that had been converted to T&M, 11 were associated with Flat Fee projects, and 3 were "Other" Fee projects, including a grading permit, a fee waiver project, and a code case.

The appeals were on actions taken by the Director (1), Zoning Administrator (9), Planning Commission (39), Agricultural Commission-ag setbacks (2), Code Enforcement Hearing Officer (1), and a Court ordered re-hearing (1).

Below is a breakdown of the Board's actions taken on these 53 appeals:

- Denied: 37
- Approved: 11
- Denied/Approved "In Part": 2
- Referred Back to Planning Commission: 1
- Withdrawn at Board Hearing: 2



Staff reached out to other Counties for a comparison review. Sacramento, Placer, Butte, and Yolo provided information on the cost and number of appeals received by their Board of Supervisors for land use decisions for the same 11-year period and the current cost to submit an appeal. All four counties provided their fee and Placer County and Yolo County provided a summary of the number and type of appeals over a 4-year period and 10-year period, respectively.

Sacramento County charges a flat fee of \$1553 or \$3106 depending on the decision making body, Placer County charges a flat fee of \$602, Butte County charges a flat fee of \$676 or \$726 depending on the decision making body, and Yolo County charges a flat fee of \$941. The average of the low-end of the appeal fee for these four jurisdictions is \$943.

Below is a summary of this information:

El Dorado County

- Land Use Appeals filed from 2008 through 2018: **53**
- Current cost to file an Appeal: **\$239**

Total Appeal fees received in 11-year period: \$11,063

Total cost in staff time based on CDA 2014 fee study data: \$130,000

Placer County

- Land Use Appeals filed from 2015 through 2018: **8**
- Current cost to file an Appeal: **\$602**

Total Appeal fees received in 4-year period: \$4,816

Yolo County

- Land Use Appeals filed from 2009 through 2018: **12**
- Current cost to file an Appeal: **\$941**

Total Appeal fees received in 10-year period: \$11,292

The Community Development Agency conducted a comprehensive fee study in 2014. The study showed the average amount of Planning staff time spent on an appeal was 27.01 hours, which, at \$119/hour (the hourly rate of a Planner), equates to \$3221.48.

Due to regulatory timeframes to schedule an Appeal for hearing, they take priority over other high-priority, revenue-generating projects staff are processing. The effect of this can be very disruptive when the volume of appeals increases, as it did in 2018 when 15 appeals were received.

Staff is recommending the Board consider an increase to the Appeal fee from \$239 to \$943 (the low average of the four County comparison), which equates to approximately 8 hours of staff time at \$119/hour. While this does not fully recoup the full cost of staff time necessary to process the Appeal, it provides a balanced approach to cost recovery and due process.

Further, recognizing the Appeal process is a continuation of the application process and, but for the application, there would be no Appeal, staff is recommending the Board direct Staff to bill staff time and the cost of public notification to T&M projects once the Appeal fee is exhausted. For projects that were processed under a Flat Fee, staff is recommending the Board direct Staff to convert those into T&M projects and to bill staff time and the cost of public notification, once the Appeal fee is exhausted.

As an alternative the Board could choose to:

- A. Set the fee at \$943, Time and Materials, to recoup the cost of staff time;
- B. Set the fee at \$943 for projects appealed to the Planning Commission and \$3221 for those appealed to the Board of Supervisors;
- C. Set the fee at \$3221 to fully recoup the cost of staff time;
- D. Leave the Appeal fee at its current rate of \$239 and continue to use General Fund funding to cover staff time to process Appeals for development projects; or
- E. Set the fee at another amount deemed appropriate by the Board, but not to exceed the cost of providing the service.