

Attachment A

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ATTACHMENT A DISCUSSION

Summary

Monterey County land use departments have reviewed their land use application fees. Changes to land use fees are not proposed by Environmental Health or the Monterey County Water Resources Agency at this time. As part of this fee update process, the following changes are recommended in the attached fee articles:

- Hourly rates are proposed to be increased for RMA-Planning, RMA-Environmental Services, and County Counsel.
- RMA-Environmental Services and RMA-Planning will separate the application fee from the condition compliance fee to allow the departments to align revenue more appropriately to the year that related work is actually conducted. This same separation was adopted for the other land use departments in last year's fee update. This will allow customers to be subject to a consistent approach from all the departments related to land use application fees.
- RMA-Planning will convert some flat fee projects to a deposit fee structure.
- RMA-Public Works will convert deposits for subdivision condition compliance to a flat fee.
- RMA-Public Works has incorporated their fee for Encroachments into their fee article.
- RMA-Building Services proposes changing the mechanism for calculating fees for projects valued over \$1,000,000.00 (\$1 million). The fee will be based on the value of the structure rather than the value of the structure plus amenities. This will result in lower permit costs.

In most cases, recommended fees are aligned with Board policy to recover costs for conducting services. Board Financial Policy 7.4 states "It is the policy of the Board that fees will generally be set at a level sufficient to cover both direct and indirect costs of the services provided or the service may be subsidized by the County as deemed necessary by the Board. Factors for subsidy consideration are whether a subsidy causes an inappropriate burden on property tax payers, the degree to which the service benefits a particular segment of the population, whether beneficiaries can pay the fee, and whether the service provides a broader benefit to the community."

However, there are a number of services where the County chooses not to recover costs through fees (code enforcement, front counter assistance, appeals, etc.). Other than hourly rate changes, no significant changes are recommended other than a few fees expected to be reduced. The cumulative effect of adjustments, due to the increase in hourly rate, is that fees are recommended to rise to recover increased salary and overhead costs.

Authority for Charging Fees

Land use fees are not a "tax" and are exempt from voter approval under section 1(e)(1)-(3), (5) and (6) of Article XIII C of the California Constitution (Proposition 26, excepting certain fees and charges from the definition of "tax".) These fees 1) are imposed for a specific government service provided directly to the applicant that is not provided to those not charged, 2) are imposed for the reasonable regulatory costs to the County for issuing permits for property development and the administrative enforcement thereof, and 3) do not exceed the reasonable or

actual costs to the County of performing the services, processing land use applications and associated permitting, monitoring, and enforcement activities.

Any and all of the adjustments to the fees reflect no more than the actual cost of the service or benefit received by the payor. To the extent that the fees do not result in full cost recovery, the discount does not result in increased charges to other payors. Lacking other funding sources, increased costs would require an increased subsidy from other funding sources or result in a reduction in service levels to ensure that departmental costs do not exceed available funding.

Detailed Discussion

Condition Compliance/Mitigation Monitoring

Historically, County land use fees have been based on actual staff time for monitoring of mitigation measures, and the fee for condition compliance (conditions other than mitigation measures) was included as part of the application fee. Last year, fees for condition compliance for most permit types were separated from the application fee for many of the land use departments, except for fees charged by RMA-Environmental Services and RMA-Planning.

With the fee resolutions approved last year, the permit application fees were reduced by the applicable condition compliance percentage, typically around 20%. This new structure reduced the upfront application costs for an applicant, and provides revenue for the condition compliance processing at the time the related work is actually conducted. In cases where an application is denied, the Condition Compliance fee would not be collected. In most cases, projects subject to a flat fee pay a flat fee for condition compliance. The flat fee is a fixed, one-time fee based on the estimated reasonable cost, averaged across all applications for that permit type. Fees for condition compliance are collected after project approval and after all administrative appeals have been exhausted.

To make collection of condition compliance fees uniform across all land use agencies, the fees for condition compliance for most permit types will be separated from the application fees charged by RMA-Environmental Services and RMA-Planning starting July 1st using the following formulas:

- *RMA-Planning*. 80% of the staff time, on average, is spent processing an application through the hearing process. The remaining 20% is spent after permit approval, documenting compliance with the conditions of approval.
- *RMA-Environmental Services*. With less than a year under the current fee schedule, RMA-Environmental Services is relying upon other departments' time estimates to support the split ratio. The 75% / 25% ratio was chosen for consistency with other departments. 75% of the fee will be collected to process an application through the hearing process. The remaining 25% will be collected after permit approval and used for documenting compliance with the conditions of approval.

RMA-Planning will continue to collect the flat fee for condition compliance for all land use agencies and will distribute the fees to all the land use departments in the same manner that application fees are currently collected and distributed.

Projects for which application fees collected are on an actual time and material basis will pay an upfront deposit for staff time incurred for condition compliance. Because compliance with conditions of approval on projects with mitigation measures can vary greatly between projects, a deposit is required for those projects, and the applicant is billed for actual staff time. Through this structure, projects that are more time intensive will continue to provide fees to cover actual cost, rather than basing the fee on the estimated reasonable cost averaged across all applications.

Deposits are submitted to RMA-Planning and are held in the RMA. The individual departments draw from the deposit on a monthly basis as reimbursement for costs of related time and materials. In cases where departmental costs for conditions and mitigation measures exceed the amount held on deposit, an additional deposit may be required. Applicants will be reimbursed any funds remaining after all conditions are cleared. RMA-Environmental Services does not collect a set deposit; instead, they propose to charge \$164.00 per hour against these deposits for any condition compliance and mitigation monitoring that falls within their service responsibility.

Deposit Projects/Extraordinary Development Application

For certain projects and permit types, such as those determined by the Director of Planning to be Extraordinary Development Applications or those that require preparation of an Environmental Impact Report, the land use processing fee is based on actual time rather than a flat fee. For applications charged based on actual time, a deposit is collected against the actual time, and the applicant is charged over the course of the project for the cost of staff time. These are the so-called “deposit projects.” One deposit is submitted to RMA-Planning, and individual departments deduct from the deposit, on a monthly basis, for the time and materials expended by staff. As previously allowed, an applicant and the Director of Planning may elect, on a case-by-case basis, to agree to a different deposit amount based on the estimated actual cost of processing a specific application.

There are a small number of land use permit application types that are historically staff time-intensive to process. These permit types, listed below, were converted to “deposit projects” versus “flat fee” permits by most of the land use agencies last year. RMA-Planning will be converting these permit types to deposit projects beginning July 1st to align with the other agencies:

- Initial Studies for Minor Subdivisions;
- Most Minor Subdivision and Standard Subdivision applications (explained below);
- Condition Compliance for Minor and Standard Subdivisions;
- Condition Compliance for projects that required adoption of a Mitigated Negative Declaration, certification of an EIR, or carryover of mitigation measures from a previously adopted/certified environmental document;
- Amended Parcel and Final Maps; and
- Vested Rights Determinations

Permit fees for Minor and Standard Subdivisions were previously partitioned on the basis of the type of sewage disposal system or type of map proposed (existing sewers versus new septic system or tentative map versus vesting tentative map). Because most of these permit types are

now deposit projects, the revised RMA-Planning Fee Article consolidates the permit types and requires a smaller deposit than the previous Extraordinary Development Application deposit. A flat fee will remain for applications for Extensions, Revisions, and Amendments to Minor and Standard Subdivisions. Additionally, a new permit type for Minor Subdivisions within a Community Area with an adopted Community Plan was added for RMA-Planning. For those applications within an adopted Community Plan that do not require an Initial Study, the permit fee will be a flat fee.

Hourly Rate

The County charges fees for various services when appropriate and permitted by law to charge fees for services provided. It is the policy of the Board that fees will generally be set at a level sufficient to cover both direct and indirect costs of the services provided or the service may be subsidized by the County as deemed necessary by the Board. Factors for subsidy consideration are whether a subsidy causes an inappropriate burden on property tax payers, the degree to which the service benefits a particular segment of the population, whether beneficiaries can pay the fee, and whether the service provides a broader benefit to the community. The full cost of providing a service is calculated in order to provide a basis for setting the charge or fee. Full cost incorporates direct and indirect costs, including operations and maintenance, charges for the use of capital facilities, as well as depreciation. Other factors for fee or charge adjustments may also include the impact of inflation, other cost increases, the adequacy of the coverage of costs, current competitive rates, and contractual or statutory restrictions.

RMA-Planning's hourly rate of \$161.40 has remained unchanged since July 2012. The proposed increase in the hourly rate from \$161.40 to \$175.20 per hour is a result of negotiated increases to staff salaries and increases in overhead costs over the past three years and a static General Fund contribution to the RMA budget. RMA-Planning's fee for appeals will remain at the rate based on the Board's May 7, 2013 adoption of the appeal fee. In addition, the inspections fee for Surface Mining Annual Inspections will remain at the rate based on the Board's November 5, 2013 adoption of Surface Mining Annual Inspection fees.

RMA-Environmental Services' hourly rate for mitigation monitoring and code enforcement activities was rounded up to the nearest dollar from \$163.96 to \$164.00.

The County Counsel hourly rate for flat fees is proposed to be updated to \$212.00 to reflect fiscal year 2015-16 labor rates. It is an increase from the existing rate of \$195, which was based on fiscal year 2013-14 labor rates. The rate represents a weighted blend of the fully burdened labor rate for the Senior Deputy County Counsel and Deputy County Counsel IV, Step 7 job classifications, rounded to the nearest dollar. When fees are charged on the basis of actual time rather than flat fees, the fully burdened labor rates of the persons processing the permit applications will be used. County Counsel's hourly rate for appeal fees will remain at \$146 (rounded down from \$146.33), based on the Board's May 7, 2013 adoption of the appeal fee. While County Counsel fees do not achieve full cost recovery for County Counsel's advisory work on land use matters, updating the fees is a step towards recovering more of the costs.

Rounding of Fees to nearest Whole Dollar amount

Except for the File Storage fee, the Technology fee, and the General Plan Update fee, some of the fees within the fee articles have been rounded to the nearest dollar in an effort to make collection and payment of the fees easier for staff and applicants alike.

Total Permit Fees

Cumulative changes to land use fees are generally higher due primarily to the increases in hourly rate for County Counsel, RMA-Environmental Services, and RMA-Planning. The Fee Matrix (**Attachment B-2**) shows the total proposed fees for all land use department for each permit type. **Attachment B-1** shows the existing fees for all land use departments.

Individual Department Summaries

RMA-Planning

Changes in Fees

In general, most of the application fees for RMA-Planning are rising due only to the increased hourly rate. Fees for Appeals and for Surface Mining and Reclamation inspections will remain unchanged.

Last year, staff evaluated the amount of staff time that is spent processing an application through the hearing process versus documenting compliance with conditions of approval. RMA-Planning proposes to implement splitting some discretionary permits fees into an application fee and condition compliance fee. This will reduce the upfront costs for applicants and provide revenue for condition compliance at the time the work is conducted. There are a number of land use permit application types that are historically staff time-intensive to process. These permit types, listed above, were converted to “deposit projects” versus “flat fee” permits by some of the land use agencies last year. RMA-Planning is proposing converting these permit types to deposit projects beginning July 1st.

Efficiency

On time performance for land use permit processing has increased for seven straight years from 40% in FY 08 to 84% last fiscal year and trending at 84% this fiscal year. It should be noted that those increases in performance have occurred during times of substantial personnel reductions. Even with reductions in staffing, RMA-Planning is continuing to find ways to increase efficiency in permit processing. Our goal is to close the gap between the desired number of hours to process and the actual number of hours, on average, it has taken to process permits. Proposed fees are based on the number of hours it should take to process a certain category of permit, not the actual time it has taken in the past.

RMA-Public Works

Fees for encroachment permits are being incorporated into Article X. Encroachment fees are established pursuant to Monterey County Code Section 14.04.080, and previously were updated by separate resolution. Encroachment fees were last updated in 2003 (Resolution No. 03-149). This update of Article X will include an update of the current encroachment fee schedule and

consolidate these encroachment fees into Article X along with the other RMA-Public Works fees. The update of the encroachment fees is based on an estimate of staff and inspection services costs, including a conservative estimate of travel time, and may not result in full cost recovery. The update is intended to provide a reasonable fee that can be applied consistently throughout the County, balanced with improved cost recovery.

The fee structure for parcel and final map processing is being changed from a deposit fee structure to a flat fee. Based on feedback from the public and County staff, processing a flat fee payment is more efficient for relatively routine work such as map-checking.

RMA-Environmental Services

RMA-Environmental Services proposes changes include splitting some discretionary permits fees into an application fee and condition compliance fee. This will reduce the upfront costs for applicants and provide revenue for condition compliance at the time the work is conducted. With less than a year under the current fee schedule, the 75% / 25% ratio was chosen for consistency with other departments. The hourly rate for mitigation monitoring and code enforcement activities was rounded from \$163.96 to \$164.00.

Several new building permit fees have been added which would create a tiered structure for residential and commercial/industrial projects. The changes more accurately reflect the variety of applications submitted to the County. Applicants that combine their grading permit and building permit applications will receive a discount with the proposed changes. Site inspections, required during the rainy season in the Carmel Bay Area of Special Biological Significance Watershed Protection Area, have been reduced from \$246 to \$164 each. Rather than charging the full building permit fee for minor projects, a significantly reduced fee of \$84 has been included to determine whether a project is minor and an erosion control plan is not required.

RMA-Building Services

In RMA-Building Services' ongoing effort to improve and enhance Building Services fee schedule and make it easier to comprehend, RMA-Building Services made some adjustments for clarification and removed duplicated information in the fee schedule. RMA Building Services recommends the following revisions to the Building permit fee schedule:

- Records fees indicated as being a fixed rate for clarification purposes.
- Remove duplicate footnotes in the matrix (footnotes 5&6).
- Add footnote to explain changes to the inspection table.
- Re-number the footnotes to align with the changes.

RMA-Building Services is also proposing to change the fee calculation values under the Inspection Valuation Table in an effort to more accurately estimate fees, which are closer to the cost of the structure. This will result in reduced costs to the customer, as the fees will be based on the structure rather than the structure plus amenities.

County Counsel

The only proposed change to County Counsel land use application fees (Article XVII) is an increase in the hourly rate from \$195 to \$212 for flat fees. The rate is a weighted blend of the fully burdened labor rate for the Senior Deputy County Counsel and Deputy County Counsel IV, Step 7 job classifications as of July 1, 2015, rounded to the nearest dollar. The current rate in effect, \$195, rate is based on the same weighted blend utilizing fiscal year 2013-14 labor rates. Fees for projects charged on the basis of actual time (“deposit projects”) will continue to be based on the fully burdened labor rate of the individual doing the work. While County Counsel fees do not achieve full cost recovery for County Counsel’s advisory work on land use matters, updating the fees is a step towards recovering more of the costs.

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