Communication from Public

Name: Westwood South of Santa Monica Blvd. Homeowners Association
Date Submitted: 03/31/2021 07:58 AM
Council File No: 09-0969-S3
Comments for Public Posting: As attached

WSSM
Westwood South of Santa Monica Blvd Homeowners' Association
P.O. Box 64213, Los Angeles, CA 90064
wssmhoa.org • info@wssmhoa.org
Est. 1971

March 30, 2021

Hon. Marqueece Harris-Dawson - Chair,
City Council Planning and Land Use Management Committee (PLUM)
Hon. Gilbert Cedillo - Vice-Chair;
Hon. Bob Blumenfield, John Lee and Mark Ridley-Thomas - Members, PLUM

Transmitted via email directly to each member and by submission to the Council File.

Re: Council File 09-0969-S3–OPPOSE proposal to increase land use appeal fee to $16,097; PLUM Agenda scheduled for April 6, 2021

Dear Honorable Council Members Harris-Dawson, Cedillo, Blumenfield, Lee, and Ridley-Thomas:

It is with a measure of disbelief that we find ourselves in the position of responding to a recommendation that seeks to raise the cost of a land use decision appeal to $ 16,097 – an approximate 18,000 percent increase! We have long understood that when it comes to representing our community before the City – often on complicated land use matters, that we are at a great disadvantage. As a volunteer organization with no paid staff, we invest significant time and effort to review projects in our community, to participate in policy discussions, and to represent our residents in hearings, and by filing an appeal when it is believed that an error or poor decision has been made by the City. Pursuing an appeal is not an action taken lightly. It is done only after serious consideration and entails investments of time, energy and financial resources.

The very process of filing an appeal is not an easy process for community members; that process in itself can be viewed by many as being a barrier to participation. (And, by the time the many required multiple copies are made, a considerable number of pulp producing tree branches have been sacrificed.) While we would certainly support a slight streamlining of the filing (copying) process, that is a different issue and topic for another day. **The purpose of this letter is to go on record to strongly oppose the CAO's recommendation to increase the land use decision appeal fee from $89 to $ 16,097.** This position is presented on behalf of the Board of Directors of the Westwood South of Santa Monica Blvd. Homeowners Association (WSSM) which represents an area consisting of over 3600 single-family and condominium households in West Los Angeles. j

Prior to learning of the CAO's recommendation, our Board voted to oppose the staff recommendation included in the Planning Department's fee study that proposed to raise the appeal fee from $89 to $ 158. In doing so we noted that the land use entitlement process is already such an UNEVEN playing field with developers, land use consultants, expediters, lobbyists and project contractors and labor often in lockstep advocating en masse for a project while laypersons in the community have a difficult time to present their concerns against this loud, well-organized and influential chorus. The community (individual residents and/or their

non-profit associations) has but one true opportunity to be heard – upon appeal. And, in order to preserve any rights for legal action, as you well know, all administrative remedies must be exhausted. If the fee for filing an appeal becomes so prohibitive (as recommended), then a community's and the adjacent property owners' rights to challenge a poor decision, an unfounded decision, or an error, will have effectively been taken away. Sadly, we have seen too often that the City fails to listen until and unless a community takes legal action. Filing an appeal is a necessary step in that ladder to justice.

Put simply, the recommendation of the CAO to increase the fee for a non-applicant to appeal a land use planning case, from $89 to$16,097, is unconscionable. Historically, the City has acknowledged that it has been inappropriate to seek full cost recovery fees for non-applicant appeals in order to ensure that this City's government provides project neighbors, non-profit community groups and affected individuals with an opportunity for administrative redress of a discretionary land use decision. This opportunity for administrative redress will be eliminated if the fee to bring such an appeal is raised to $16,097. It will also be reduced if the fee is raised to $ 158. (With additional fees the current fee of $ 89 goes over $100 and the $158 fee will be greater than that amount. Often those dollars are raised by neighbors "chipping in" to cover the cost. We can only hope that the presentation of the exorbitant $ 16,097 fee recommendation, does not suddenly serve to make the $ 158 fee appear reasonable, for it is not. Either increase will place appeals out of reach of many in communities across the City. <u>This type of exclusion is an injustice at a time when people here and nationwide are clamoring for social justice.</u>

The deck to obtain approval of a discretionary land use application is already heavily stacked in favor of project applicants who have a direct financial stake in the outcome. They have everything to gain while neighbors and the community are often in the opposite position facing a situation where there is much at risk and much to lose. The appeals process gives the community a critical opportunity to level the playing field.

We have never abused or mis-used the appeals process and, in fact, we have proudly won a number of appeals – most recently (early last year) having participated in an appeal process brought by another community group that resulted in the overturning of a poor decision made by a zoning administrator that failed to preserve 39 units of existing workforce housing (that was proposed to be converted to permanent hotel /short term rental use).

A change such as the one recommended seems to ignore the position of the Courts (the California Supreme Court and the Courts of Appeal) that recognize that property owners, tenants, and business owners whose significant interests may be affected by a real estate development project have a Constitutional right to notice and a right to be meaningfully heard *before* the government can act to affect those rights. Further, it seems likely that a change so significant would require an analysis under the California Environmental Quality Act (CEQA) analyzing the implications on the environment resulting from the introduction of a financial tool that could and will preclude administrative appeals by neighbors to a project. Simply put, without addressing these gaps and the need for additional study and analysis, the CAO-proposed fee increase is an exercise in administrative overreach and an abuse of authority and process.

Our Board strongly urges you to oppose these proposed fee increases. We ask you to preserve our right of appeal without placing unreasonable barriers before us. We ask you to demonstrate your respect for our right to administrative redress. The $ 16,097 amount that has no basis in

reality and will prohibit the majority of stakeholders in the City of Los Angeles from having meaningful access to any city land use appeal procedure.

Please note that we wish to incorporate by reference all comments made and submitted by John Given in his correspondence to this Council File dated March 1, 2021.

Thank you for your consideration.

Sincerely,

Barbara Broide

Barbara Broide
President

cc: Hon. Paul Koretz, CD 5
Daniel Skolnick, CD 5 Planning Deputy
Angel Izard, CD 5 Field Deputy

Communication from Public

Name:	Marian Dodge Chairman Hillside Federation
Date Submitted:	03/31/2021 02:22 PM
Council File No:	09-0969-S3
Comments for Public Posting:	The Hillside Federation opposes the proposed non-applicant appeal filing fee.

P.O. Box 27404
Los Angeles, CA 90027
www.hillsidefederation.org

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THE FEDERATION
OF HILLSIDE AND CANYON ASSOCIATIONS, INC.

Honorable Marqueece Harris-Dawson, Chair
Planning and Land Use Management Committee
City Hall, Room 1010
200 N. Spring Street
Los Angeles, CA 90012

March 31, 2021

Re: Oppose Proposed Administrative Appeal Fee Increase Without Additional Public Review and Opportunity to be Heard
Council File 09-0969-S3

Dear Chair Harris-Dawson and PLUM Committee Members:

The Hillside Federation, founded in 1952 and representing 46 resident and homeowner associations with 250,000 constituents spanning the Santa Monica Mountains, voted to oppose the proposed appeal filing fee increase at its March 16th meeting.

The proposal to increase the non-applicant filing fee for an appeal from $89.00 to a jaw-dropping $16,097 is unconscionable. This would mean that neighbors and neighborhood associations would likely not be able to afford to file an appeal thus effectively denying them their constitutional right to participate in the public process.

The city attempted a similar filing fee increase in 2016. The public responded and vigorously opposed the increase. So this year, in the midst of COVID-19 shutdowns and no in-person council meetings, the city tried to surreptitiously slip an even larger increase through the PLUM Committee hoping that the public would not notice. There was nothing on the agenda to give a hint of the real intent of the agenda item. Isn't failure to notify the public of agenda items a violation of the Brown Act? This tactic plays into two great threats currently facing our democracy: the fear of disenfranchisement and distrust of government.

The City has an obligation to provide adequate and clear notification to the public so that we can exercise our right to participate in the public process. Neighborhood Councils need adequate notification so that they can review motions in committee before bringing it to their full boards for a vote. At the very least, this matter should be continued for 60 days so that neighborhood councils can properly review the proposal.

The Federation urges you to abandon this ill-conceived proposal to increase non-applicant appeal filing fees in order to ensure the public our full and valued voice in the land use process.

Sincerely,

Charley Mims

Charley Mims