

SANTA MONICA MOUNTAINS CONSERVANCY

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June 18, 2018

Azeen Khanmalek
Department of City Planning
City of Los Angeles
201 N. Figueroa Street
Los Angeles, California 90012

CEQA Appeals Code Amendment
CPC-2018-2657-CA — CPC-2018-2658-CE

Dear Mr. Khanmalek:

The Santa Monica Mountains Conservancy understands that the City needs to tighten its process for appeals of administrative California Environmental Quality Act (CEQA) determinations to an elected body (the City Council). The public and the City's natural resources both benefit from the fact that CEQA requires all cities to allow appeals of administrative CEQA determinations to an elected body.

For a sense of perspective in regard to natural resource protection, Citywide, not even once in the last 25 years has the City adopted a CEQA review document in which it found that a project's biological impacts could not be mitigated below a level of significance.

Resource agencies, non-profits, community groups, and citizens fight a costly, perpetual, steep uphill battle to get adequate avoidance of natural resources and sufficient permanent protection of such resources in the City's environmental review and decision making processes. The City's ongoing track record on these issues begs for project appeals and CEQA appeals to the City Council when that is the last resort for resource protection and to exhaust administrative appeals. Given the clear proclivity of City staff and decision makers to near unequivocally favor development interests over science-based, balanced resource protection, as counter balance, a robust appeals process is vital to maintain a bare minimum of ecological resources within the City. Biological science-based decision making in the City processes would dramatically reduce the number of appeals filed for projects in the City's natural areas. Fewer appeals means less cost to City staff and less crowded public hearing agendas.

The existing general decision appeal fee of between \$108 and \$125 per decision and the requirement to file in person within a short time frame with multiple document copies is a

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reasonable deterrent to most frivolous or spiteful appeals. Because many filed appeals also encompass the appeal of a CEQA document, the cost of a CEQA appeal has remained reasonable and many significant permanent public benefits have been achieved every year. We cannot quote statistics, but our staff observations show that the number of appeals to the City Council based solely on the right to appeal administrative CEQA determinations is minuscule and in most case fully warranted. Hence the subject proposal to charge \$500 for all CEQA appeals on top of the basic appeal fee would severely suppress appeals that are critical to maintain Los Angeles' natural viewsheds, watersheds, wildlife habitats, and wildlife corridors. These are finite, significant, irreplaceable public trust resources that the Conservancy works to protect.

The Conservancy opposes the City's adoption of any implementing CEQA appeal ordinance with a fee greater than \$100. The outcome of most project appeals in the City are ones of a better project for the greater good. To show a dedication to a robust appeals process, the implementing ordinance should provide a hard cap to that not greater than \$100 fee for a minimum of ten years. The City should achieve cost saving by approving balanced projects that trigger less appeals.

The draft ordinance is unclear about what determines when a decision is final. To provide that clarity, the ordinance must be amended to state:

“that certification, approval, or determination may be appealed to the City Council provided the appeal is filed with the City Clerk within 30 days of the posting or distribution of notice that project approval has become final and provided the appeal is filed in a form and manner required by the City Clerk. Where no notice of a final approval is posted or distributed, the appeal may be filed within 90 days of the approval decision.”

Please contact Paul Edelman, Deputy Director of Natural Resources and Planning, at 310-589-3200, ext. 128 with any questions and future correspondence at the above address.

Sincerely,

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Azeen Khanmalek

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Chairperson