



REQUEST FOR DUE PROCESS IN REGARD TO \$1,000 FILING FEE REQUIREMENT FOR APPEAL OF ENVIRONMENTAL DETERMINATION

The \$1,000 filing fee requirement for the Chollas Valley Community Planning Group is respectfully appealed. The fee is not submitted with the appeal form for Project Klauber/PRJ-693289 Environmental Determination. The Chollas Valley Community Plan area represents an area of the city of San Diego with an average median income significantly below the citywide median. We were surprised to discover that our CPG was required to pay a fee for this appeal because of our assumption of basic fairness but also because this requirement was not clearly communicated. The appeal form did not provide any indication of the fee or its amount. In addition, a current web page at the url, <https://www.sandiego.gov/development-services/forms-publications/information-bulletins/505#fees>, lists Appeal Criteria B: “Payment of identified appeal fee, if applicable, **or** signature of recognized Community Planning Group (CPG) Chairperson/designee.” This lack of clarity led to confusion and an unexpected albeit unaffordable financial burden on our members.

The imposition of this fee undermines several fundamental public policy objectives consistent with Due Process. Civil courts provide waivers for those who cannot afford filing fees in recognition that Due Process is not served when access to process is barred by income. Since courts require that administrative remedies are exhausted before a civil action can commence, it is submitted that such waivers should be offered by the City of San Diego in its administrative appeal process. It is requested that The City waives or funds the fee for this appeal based on the following principles:

1. Access to Justice and Public Participation:

The principle of access to justice ensures that all community members, regardless of their economic status, can participate fully in the environmental review process. CEQA is designed to protect the environment and public health by ensuring that community members have a voice in decisions affecting their surroundings. Requiring an unexpected fee that was not clearly disclosed limits our community’s ability to engage in this critical process. Waiving this fee will uphold the fundamental principle of equal access, ensuring that all citizens can engage in and influence decisions that impact their environment and well-being. Requiring a substantial filing fee from a community with an already low median income perpetuates existing economic disparities and unfairly penalizes our residents. Fairness dictates that all communities, regardless of their financial capacity, should have equal opportunities to seek environmental reviews and challenge potentially harmful projects. By waiving the filing fee, the city can demonstrate its commitment to equity, ensuring that all communities have a fair chance to protect their environment and health. Further, The City Planning Department states the following on its web page titled *How We’re Planning for Equity*:

“The City Planning Department is committed to advancing social equity as a foundational principle in the way that we plan our City and engage



community members in our many diverse neighborhoods. We acknowledge the effect of historical planning decisions on traditionally underserved communities and community members who are Black, Indigenous, or People of Color (BIPOC), and we are dedicated to developing equitable and anti-racist policies that provide access to opportunity and investments in the communities where the needs are the greatest.”

Our community plan area residents are approximately 90% BIPOC who experiencing the legacy of those unjust decisions, The \$1,000 fee is a barrier to our community being made whole from unjust environmental conditions caused by a long history of planning decisions and, indeed, serves to further entrench them.

2. Public Confidence in the Administrative Process:

Public trust in government is strengthened when administrative processes are transparent and clearly communicated. The lack of clarity regarding the appeal fee undermines public confidence in the fairness and openness of the administrative process. By waiving this fee and ensuring clear communication in the future, the city can enhance public trust and reinforce its commitment to inclusive and accessible decision-making processes. The importance of fees in supporting administrative functions is understood; however, it is crucial to ensure that these fees are communicated clearly and fairly applied. It is submitted that waiving the \$1,000 filing fee for CEQA determinations in low-income communities is a necessary step to promote justice, fairness, and public trust.

We look forward to a favorable disposition and remain committed to working collaboratively with the city to foster an inclusive and equitable community; a San Diego where there are no “bad areas.”

Sincerely,

A handwritten signature in black ink that reads "Andrea Hetheru". The signature is written in a cursive, flowing style.

Andrea Hetheru

Chair, Chollas Valley Community Planning Group

FORM DS-3031 November 2022

Development Permit/ Environmental Determination Appeal Application

In order to ensure your appeal application is successfully accepted and processed, you must read and understand Information Bulletin (IB) 505. "Development Permits/Environmental

Determination Appeal Procedure."

- 1. Type of Appeal: [] Appeal of the Project [x] Appeal of the Environmental Determination
2. Appellant: Please check one [] Applicant [x] Officially recognized Planning Committee [] "Interested Person" (Per San Diego Municipal Code (SDMC) § 113.0103)

Name: Chollas Valley Community Planning Group E-mail: chollasvalleycpg@gmail.com

Address: N/A City: San Diego State: CA Zip Code: Telephone: 619-354-0558

3. Project Name: Klauber Development

4. Project Information: PRJ-0693289/1362 Klauber Avenue, San Diego, California 92114

Permit/Environmental Information Determination and Permit/Document No: Notice No. 24009740

Date of Decision/Determination: 6/13/24 City Project Manager: Andrew Murillo

Decision (Describe the permit/approval decision):

The project meets the requirements of CEQA State Guidelines section 15183 (Projects Consistent with a Community Plan or Zoning).

- 5. [x] Factual Error [] New Information [x] Conflict with other Matters [x] City-wide Significance (Process four decisions only) [x] Findings Not Supported

Description of Grounds for Appeal (Please relate your description to the allowable reasons for appeal as more fully described in the SDMC § 112.0501. Attach additional sheets if necessary.)

SEE ATTACHMENT

Visit our website: sandiego.gov/DSD.

Upon request, this information is available in alternative formats for persons with disabilities. DS-3031 (11-22)

6. Applicant's Signature: I certify under penalty of perjury that the foregoing, including all names and addresses, is true and correct.

Signature: *A R Kethary* Date: June 26, 2024
Chair, Chollas Valley Community Planning Group

Note: Faxed appeals are not accepted.

Reference Table

- [San Diego Municipal Code \(SDMC\)](#)
- [Development Permits/Environmental Determination Appeal Procedure \(IB-505\)](#)

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Development Permit/ Environmental Determination

Appeal Application

ATTACHMENT for Item 5 on Form DS-3031

FACTUAL ERROR and FINDINGS NOT SUPPORTED

- A) The project far exceeds the (0 – 4 dwelling units/acre) density for which the site is zoned.
- B) The project does not appear to be consistent with the Chollas Valley/Encanto Community Plan Update certified by the City Council on December 2, 2015, per Resolution No. 310077. The specific elements of the plan with which this project may not be consistent can be found in P-UD 26 which states the following:

"Preserve the existing single-family large lot development in areas where topographic conditions foster large lots and in areas located away from mass transit and transit corridors.

Preserve large-lot, single-family neighborhoods in order to retain the rural atmosphere which is characteristic of Encanto Neighborhoods."

Upon the foregoing, the determination by the City of San Diego that "The project meets the requirements of CEQA State Guidelines section 15183 (Projects Consistent with a Community Plan or Zoning)" is appealed on a factual basis. This project appears to be neither consistent with the Community Plan nor zoning for the site.

CITY-WIDE IMPLICATION

- C) Residents neighboring a proposed development may have due process rights connected to their property interests if they believe it will decrease their tangible or intangible property value. Chollas Valley/Encanto Planning Group (CVCPG) was not notified of this project by the applicant or by the City of San Diego before the CEQA determination was made. CVCPG is not aware of notice being given to the potentially affected neighbors by other substantive means. Thus, these residents may have been deprived of procedural due process on this matter because they were not given a chance to voice their concerns at a CVCPG meeting, public hearing or other procedural mechanism after substantive notice with respect to content and time. To the extent that this lack of notice of development applications or permits extends to other Community Plan areas, this matter has city-wide implications.