



STAFF REPORT – CITY COUNCIL MEETING

January 04, 2023

TO: Honorable Mayor and City Council Members

FROM: Danette Demello, Assistant City Manager

PREPARER: Karen T. Diemer, City Manager

DATE: November 29, 2022

TITLE: **Consider a Partial or Full Refund to the Appellant of the Westwood Garden Apartments Development Appeal Fee.**

RECOMMENDATION:

It is recommended that the Council consider the request to refund some or all of the appeal fee paid by the appellant for the Westwood Garden Apartments Development appeal process.

INTRODUCTION:

An appeal has been filed requesting that the Council reconsider a Planning Commission approval of the Westwood Garden Apartments Development. The appeal has been brought by a tenant of the existing multi-family complex. The appellant meets the qualification to file the appeal. The current fee as established by the City Fee Resolution, is \$1,867.38 and the appellant paid the fee in full at the time the appeal was submitted. The appellant has requested that the Council consider refunding the appeal fee.

BACKGROUND/ DISCUSSION:

The City's Land Use Code section 9.76.030 sets out the process by which planning decisions may be appealed in the City of Arcata.

An appeal may be initiated by:

1. **Aggrieved Persons.** An appeal may be filed by an aggrieved person, except that in the case of a decision on a Minor Use Permit, Use Permit, Variance, and/or other Planning Commission decision that followed a public hearing. An appeal may only be filed by an aggrieved person who, in person or through a representative, appeared at the public hearing in connection with the decision being appealed, or who otherwise informed the City in writing of the nature of their concerns before the hearing.
2. **Commission Review.** The Planning Commission may choose to review a determination by the Director or Flood Plain Administrator, or a decision by the Zoning Administrator.

- a) A member of the Planning Commission may request the opportunity to discuss any decision previously rendered; however, a majority vote of the Planning Commission is required to initiate an appeal of the decision.
 - b) Upon a majority vote by the Planning Commission to initiate an appeal, the Director shall schedule the matter for hearing.
3. Council Review. The Council may choose to review a determination by the Director or Flood Plain Administrator, or a decision by the Zoning Administrator or the Planning Commission.
- a) A member of the Council may request the opportunity to discuss any decision previously rendered; however, a majority vote of the Council is required to initiate an appeal of the decision.
 - b) Upon a majority vote by the Council to initiate an appeal, the City Clerk shall schedule the matter for hearing.

Timing and Form of Appeal. An appeal shall be in writing and shall specifically state the pertinent facts and the basis for the appeal.

An appeal shall be filed with the Department or City Clerk, as applicable, within 10 business days of the actual date of the final decision. An appeal shall be accompanied by the required filing fee identified in the City's Fee Schedule.

Westwood Garden Appeal

An appeal has been filed requesting that the Council reconsider a Planning Commission approval of the Westwood Garden Development. The appeal has been brought by a tenant of the existing multi-family complex. The appellant meets the qualification to file the appeal. The current fee as established by the City Fee Resolution is \$1,867.38 and the appellant paid the fee in full at the time the appeal was submitted. The appellant has requested that the Council consider refunding the appeal fee.

POLICY IMPLICATIONS:

The City's policy has an option for the Council to appeal any decision by the Planning Commission through a majority vote. In cases where a Council appeal is initiated there is no appeal fee required for the hearing. Although that did not occur in the case of this Planning Commission decision the Council does have the authority to refund a portion, or all of the appeal fee submitted for the hearing.

COMMITTEE/COMMISSION REVIEW:

The Planning Commission approved the Westwood Development Project. The appeal is being considered as a separate agenda item.

ENVIRONMENTAL REVIEW (CEQA):

This action is not a project as defined by CEQA.

BUDGET/FISCAL IMPACT:

The current fee as established by the City Fee resolution is \$1,867.38. The appeal fee is intended to cover the cost of bringing the appeal to hearing, including noticing and other fixed costs, as well as

staff time. Fixed costs for noticing, copying, and postage paid by the City for this appeal to date total approximately \$350.