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**GREATER GRIFFITH PARK
NEIGHBORHOOD COUNCIL**

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November 18, 2009

Eva Yuan-McDaniel
Deputy Director
Department of City Planning
Room 525
City Hall
200 North Spring
Los Angeles, California 90012

Appeal Fees (Ordinances 180847, 180928)

Dear Ms. Yuan-McDaniel:

We write to you as we understand that you are, at the instruction of the City Council, considering the appropriateness of fees for appeals prescribed by section 19.01.B of the Municipal Code.

Our neighborhood council has considered the matter of appeals from actions by the Department of City Planning. (We have no views on the fees for appeals from actions by the Department of Building and Safety.)

We give you our views and request that they be carefully considered and discussed in any report your department makes to the City Council.

1. Fees Charged to Non-Applicant Appellants Should be Nominal.

We believe that the participation of the citizens of the City in planning matters should be encouraged rather than discouraged. We believe the fees in Ordinance 180847 acted as a deterrent to citizen involvement, and that the filing fee for any appellant from action by the department other than an applicant should be nominal and should be fixed at an amount no higher than \$100, and that maximum should be the aggregate to a citizen for all concurrent appeals from all actions on a single project.

2. There Should be no Difference in Fees Charged to Non-Applicant Appellants based on Situs of Residence or Property.

There does not seem to us a rational distinction to be made between an abutting landowner and an owner of property perhaps only 50 feet from a project seeking a variance or adjustment from the code.

We understand that this distinction has been proposed to discourage frivolous or bad faith appeals by competitors or malicious neighbors. We have no experience with such in our area, and find it difficult to believe it is a serious problem without substantial empirical evidence. In all events, we believe that it is more important to encourage the vast majority of citizens acting in good faith than to discourage a few who act in bad faith.

We believe this issue highlights the inadequate notice provisions of the code, and that a discussion of the matter should lead to a study of parties who should receive notice of proposed discretionary action. We believe that wider notice by mail should be required. Such notice will encourage citizen participation at essentially no cost to the City. We have many examples in our community where the code requires only notice to abutting landowners but in fact owners of property in the entire neighborhood are concerned about the proposed action.

The Office of Zoning Administration looks to permitted variances and adjustments as precedents for subsequent applications. Therefore, it is critical that the entire neighborhood subject to such precedents be given actual notice of proposed action.

3. Cost Recovery Should Not be Applied to the Right of Citizens to Correct Decisions of the Planning Department in Which They have no Direct Financial Interest; Rather Permit Fees Should Fund Appeals.

The appellate process is similar to dispute resolution in the court system. It is a fundamental function of government, and should not be looked at as a cost-recovery service such as trash pickup and sewage treatment. There is no cost recovery for response by the fire department or the police department. The court system does not recover its costs with its nominal filing fees.

Having said that, we believe the entire process of considering requests for discretionary permissions may be looked at from a cost-recovery standpoint. The applicant should bear the burden of the entire process, including the possibility that an appeal may be taken by a citizen. The department ought to be able to make an educated judgment of the probability of number of appeals from the type of application and adjust the filing fees for the application to cover the cost of an appeal.

4. Permit Fees Should be Fixed to Allow Successful Appellants to Recover their Costs.

Consistent with our view that citizens should be encouraged to participate in the planning process rather than be discouraged, you should consider the adjustment of the filing fees as suggested in our prior paragraph to build a fund from which the area planning commission could, at its discretion, award amounts to successful appellants (whether applicants or not) to offset their expenses in pursuing their appeals.

5. Appeals, if Permitted, by Neighborhood Councils should be without any fee.

Should neighborhood councils be authorized to file appeals as the representative of their stakeholders such appeals ought to be without fee.

The Appellate Process Should be Reconsidered.

We recognize that the current system is embedded in the City Charter and can not be changed without amendment. We think when the time comes for any amendment to the Charter relating to planning, consideration should be given to having appeals heard by a professional, paid non-political body such as administrative judges.

We ask the department to place such an item on any list it keeps for consideration of Charter amendments.

Pending such change, we believe the Department of Planning should consider advising the Mayor and City Council that the process of selection of members of the City Planning Commission and Area Planning Commissions should include consultation with neighborhood councils directly affected by the proposed appointments.

Very truly yours,

Charley Mims, President

By Kenneth E. Owen
Chair, Planning, Zoning and Historic Preservation Committee