

MONTEREY COUNTY PLANNING COMMISSION

Meeting: June 13, 2012 Time: <i>10:30 a.m</i>	Agenda Item No.: <i>6</i>
Project Description: Fee Waiver Request to waive code violation fees for PLN060666 which includes a Use Permit and Design Approval to clear code violations (CE030390) consisting of a 1,064 square foot garage extension with a second-story guesthouse and gazebo, jungle-gym structure and decks located at the southern end of the property.	
Project Location: 13060 Corte Barranco, Salinas	APN: 161-511-024-000
Planning File Number: REF120037 (PLN060666)	Owner: Charles Wilson Agent: Taluban Engineering, Inc.
Planning Area: Toro Area Plan	Flagged and staked: No
Zoning Designation: : LDR/B-6-D [Low Density Residential with a Building and Design Control Overlays]	
CEQA Action: Not a project under CEQA	
Department: RMA - Planning Department	

RECOMMENDATION:

Staff recommends that the Planning Commission adopt a resolution (**Exhibit A**) to deny REF120037, subject to the findings and evidence.

PROJECT OVERVIEW:

A Fee Waiver Request was received on April 20, 2012 requesting that the Code Enforcement Violation Fee of \$7,638.24 be waived. According to the justification letter submitted with the Fee Waiver Request (**Exhibit B**), during the construction of the detached garage, a building inspector advised the owner that the expansion of the garage with the second-story element could be built with only a building permit.

According to County records, a stop work notice was placed on the property for the expansion of the detached garage with a second-story area on November 10, 2003. A Building Permit (BP032793) and Design Approval application (DA030558) were applied for to correct the violation. Staff determined at the time that the expansion would require a Use Permit for development on slopes over 30% and a variance for exceeding the 15 foot height limit for accessory structures. The owner submitted an Application Request Form for a Use Permit in 2006 (PLN060666).

Staff conducted a site visit on August 31, 2012 by request from the project agent, Belinda Taluban, to reassess the project in order to clear the code violations on the property. During the site visit, staff identified a water heater addition to the illegally expanded area. Also, staff identified an enclosed gazebo, jungle gym and decks at the top of the property which were built without a Design Approval or Building Permit.

Based on review of the project and pursuant to the Fee Waiver Policy adopted by the Board of Supervisors August 29, 2000 (**Exhibit C**), the code enforcement violation fee does not qualify for a fee waiver because the project is not a daycare facility, inclusionary/affordable housing development, owned by non-profit organization, part of a government agency project, due to an emergency, or a zoning/general plan amendment correction.

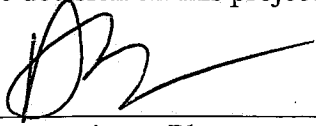
OTHER AGENCY INVOLVEMENT: The following agencies and departments reviewed this project:

- √ RMA - Public Works Department
- √ Environmental Health Bureau

√ Water Resources Agency
Monterey County Regional Fire Protection District

Agencies that submitted comments are noted with a check mark ("√"). All agencies have recommended denial of the fee waiver request.

Note: The decision on this project is appealable to the Board of Supervisors.



Dan Lister – Assistant Planner
(831) 759-6617, listerdm@co.monterey.ca.us
May 24, 2012

cc: Front Counter Copy; Planning Commission; Monterey County Regional Fire Protection District; Public Works Department; Environmental Health Bureau; Water Resources Agency; Wanda Hickman, Planning Services Manager; Dan Lister, Project Planner; Carol Allen, Senior Secretary; Charles Wilson, Owner; Belinda Taluban, Agent; The Open Monterey Project; LandWatch; Planning File PLN120037.

Attachments: Exhibit A Draft Resolution, including:
• Site Plan (BP032793P), Assessor's Parcel Map and Photo
Exhibit B Fee Waiver Request/Justification Letters
Exhibit C Fee Waiver Policy

This report was reviewed by Bob Schubert, Senior Planner and Wanda Hickman, Planning Services Manager.

**EXHIBIT A
DRAFT RESOLUTION**

**Before the Planning Commission in and for the
County of Monterey, State of California**

In the matter of the application of:

Wilson (REF120037)

RESOLUTION NO. _____

Resolution by the Monterey County Planning Commission to deny a Fee Waiver Request to waive code violation fees for PLN060666 which includes a Use Permit and Design Approval to clear code violations (CE030390) consisting of a 1,064 square foot garage extension with a second-story guesthouse and gazebo, jungle-gym structure and decks located at the southern end of the property.

[REF120037, Wilson, 13060 Corte Barranco, Salinas, Toro Area Plan (APN: 161-511-024-000)]

A Fee Waiver Request (REF120037) came on for public hearing before the Monterey County Planning Commission on June 13, 2012. Having considered all the written and documentary evidence, the administrative record, the staff report, oral testimony, and other evidence presented, the Planning Commission finds and decides as follows:

FINDINGS

1. **FINDING:** **INCONSISTENCY** – The fee waiver request is not consistent with the Fee Waiver Policy adopted by the Board of Supervisors August 29, 2000.
- EVIDENCE:** a) The proposed Fee Waiver Request to waive code enforcement violation fees for the construction of a 1,064 square foot garage expansion with a second-story area does not qualify for a fee waiver. Pursuant to the Fee Waiver Policy adopted by the Board of Supervisors August 29, 2000, project does not qualify for a fee waiver because the project is not a daycare facility, inclusionary/affordable housing development, owned by non-profit organization, part of a government agency project, due to an emergency, or a zoning/general plan amendment correction.
- b) The property is located at 13060 Corte Barranco, Salinas (Assessor's Parcel Number 161-511-024-000), Toro Area Plan. The parcel is zoned LDR/B-6-D [Low Density Residential with a Building and Design Control Overlays], which allows residential and accessory uses. The proposed project requires a Use Permit for modification to the height of a guesthouse (second story) and a Design Approval. The project requires review and approval by the Zoning Administrator.
- c) The project planner conducted a site inspection on August 31, 2011 to review the violations on the property. A water heater area was added to the illegal garage expansion without a permit. Also, at the top of the property, an enclose gazebo, jungle-gym and decks were constructed on

the property without the benefit of a Design Approval or Building Permit.

- d) The application, project plans, and related support materials submitted by the project applicant to the Monterey County RMA - Planning Department for the proposed development found in Project File REF120037.

2. **FINDING:** **CODE VIOLATIONS** - The subject property is not in compliance with all rules and regulations pertaining to zoning uses and any other applicable provisions of the County's zoning ordinance due to the illegal construction conducted to an existing detached garage.

- EVIDENCE:**
- a) Staff reviewed Monterey County RMA - Planning Department and Building Services Department records and is aware of a violation on the subject property that was opened in late 2003 (CE030390) for the illegal two-story expansion to an existing detached garage.
 - b) The project planner conducted a site inspection on August 31, 2011 to review the violations on the property. A water heater area was added to the illegal garage expansion without a permit. Also, at the top of the property, an enclosed gazebo, jungle-gym and decks were constructed on the property without the benefit of a permit.
 - c) The application, plans and supporting materials submitted by the project applicant to the Monterey County Planning Department for the proposed development are found in Project File REF120037.

3. **FINDING:** **FEE WAIVER REQUEST** - A fee waiver may be considered for projects identified within the Fee Waiver Policy adopted by the Board of Supervisors August 29, 2000

- EVIDENCE:**
- a) A Fee Waiver Request was submitted on April 20, 2012 requesting that the code enforcement violation fee of \$7,638.24 be waived. A justification letter was attached to the request which states during the construction of the detached garage, a building inspector advised the owner that the expansion of the garage with the second-story element could be built with only a building permit.
 - b) According to County records, a stop work notice was placed on the property for the expansion of the detached garage with a second-story area on November 10, 2003. A Building Permit (BP032793) and Design Approval Application (DA030558) were applied for to correct the violation. Staff determined at the time that the expansion would require a Use Permit for development on slopes over 30% and a variance for exceeding the 15 foot height limit which could not be supported. The owner submitted an Application Request Form for a Use Permit in 2006 (PLN060666).
 - c) Staff conducted a site visit on August 31, 2012 by request from the project agent, Belinda Taluban, to reassess the project in order to clear the code violations on the property. During the site visit, staff identified a water heater addition to the illegally expanded area. Also, staff identified an enclosed gazebo, jungle gym and decks at the top of the property which were built without a permit.
 - d) Based on review of the project and pursuant to the Fee Waiver Policy adopted by the Board of Supervisors August 29, 2000 (**Exhibit D**), the code enforcement violation fee does not qualify for a fee waiver.

4. **FINDING:** **APPEALABILITY** - The decision on this project may be appealed to the Board of Supervisors.
- EVIDENCE:** a) Section 21.80.040.C Monterey County Zoning Ordinance (Board of Supervisors).

DECISION

NOW, THEREFORE, based on the above findings and evidence, the Planning Commission does hereby deny the Fee Waiver Request to waive code violation fees for PLN060666 which include a Use Permit and Design Approval to clear code violations (CE030390) consisting of a 1,064 square foot garage extension with a second-story guesthouse and gazebo, jungle-gym structure and decks located at the southern end of the property.

PASSED AND ADOPTED this 13th day of June, 2012 upon motion of _____, seconded by _____, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

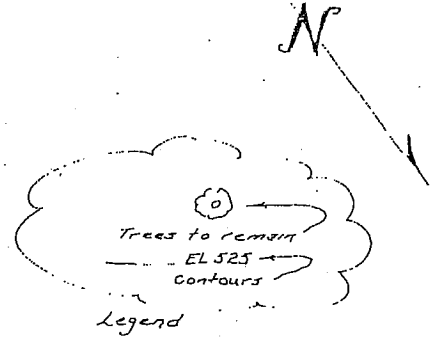
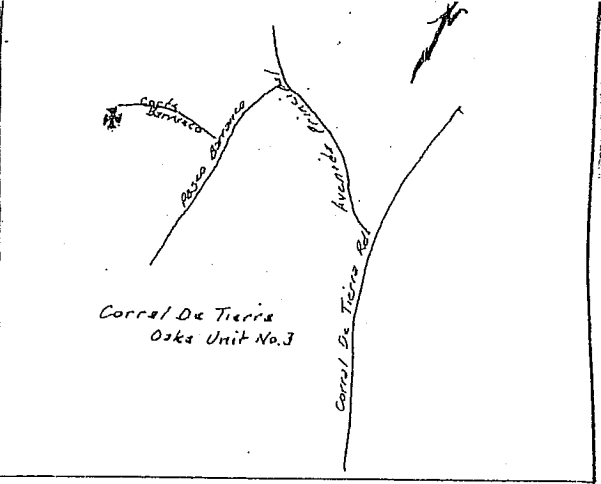
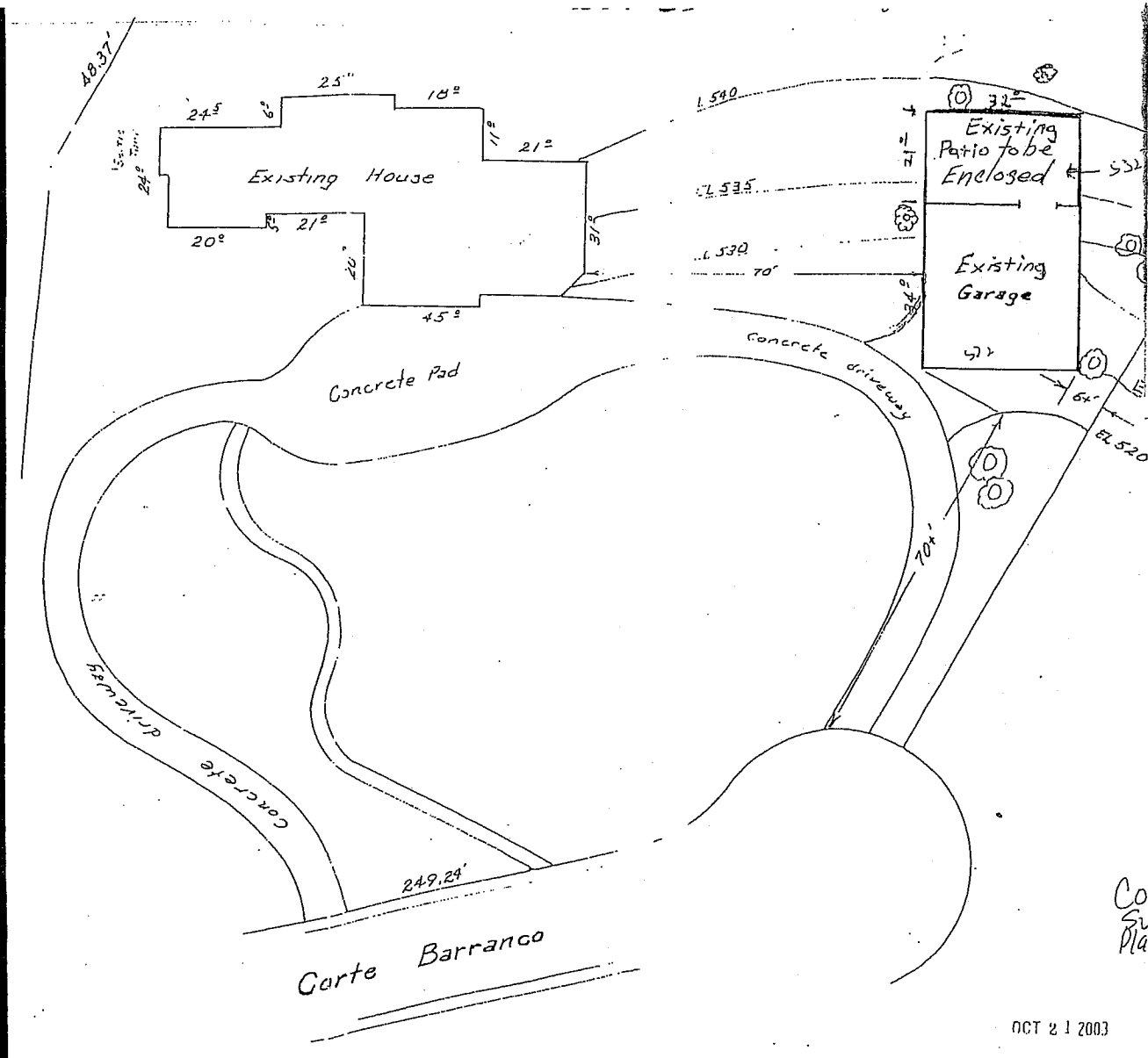
Mike Novo, Director of Planning

COPY OF THIS DECISION MAILED TO APPLICANT ON _____.

THIS APPLICATION IS APPEALABLE TO THE BOARD OF SUPERVISORS.

IF ANYONE WISHES TO APPEAL THIS DECISION, AN APPEAL FORM MUST BE COMPLETED AND SUBMITTED TO THE CLERK TO THE BOARD ALONG WITH THE APPROPRIATE FILING FEE ON OR BEFORE **DATE**

This decision, if this is the final administrative decision, is subject to judicial review pursuant to California Code of Civil Procedure Sections 1094.5 and 1094.6. Any Petition for Writ of Mandate must be filed with the Court no later than the 90th day following the date on which this decision becomes final.



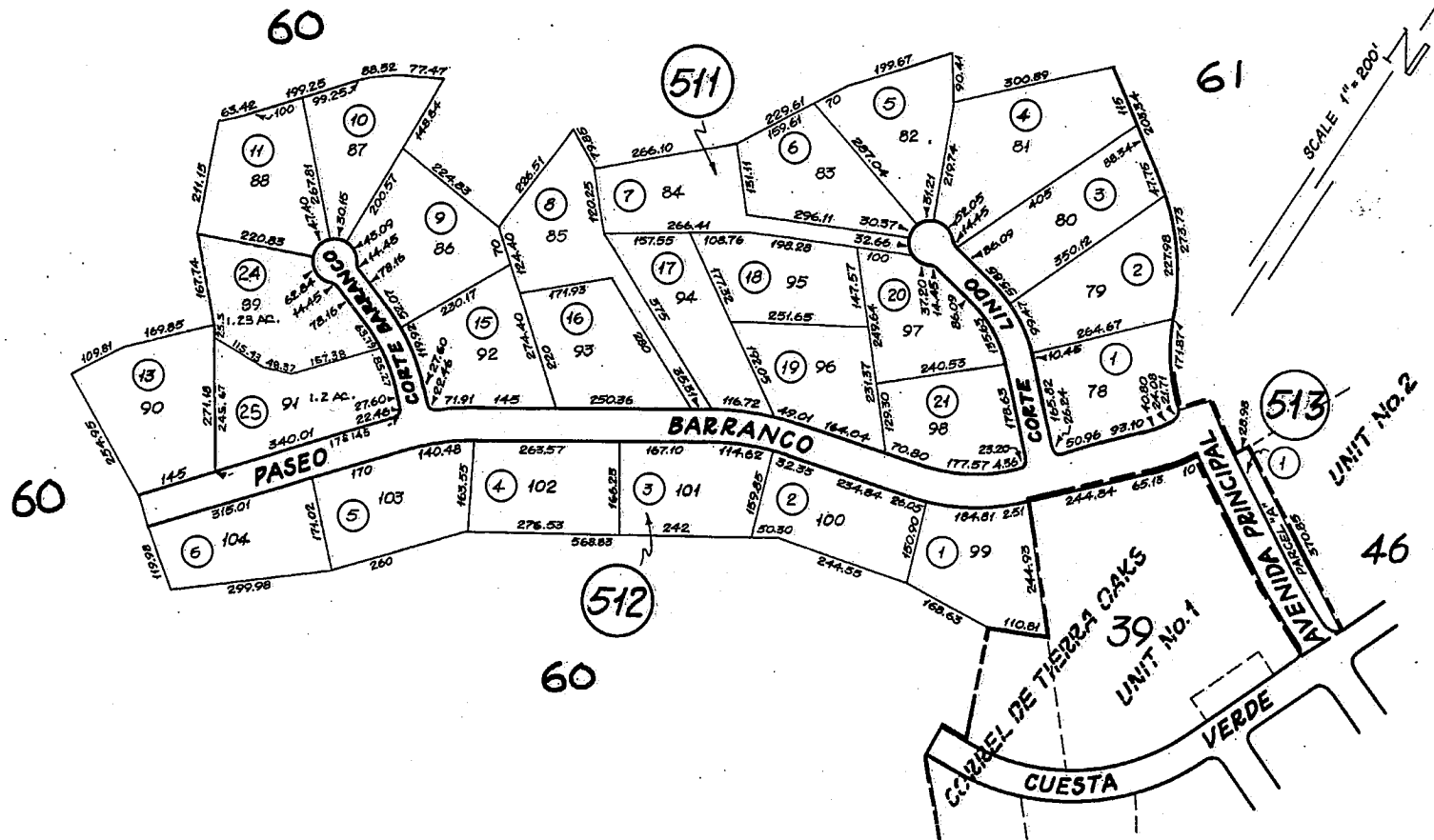
PLOT PLAN

Copy of plans
 Submitted w/ BP032793
 Plans do not accurately depict site

OCT 21 2003

Proposed.		APN 16121115 2-1
Mr. Mrs. Charles Wilson		
SCALE: 1" = 20'	APPROVED BY: Charles Wilson	DRAWN BY:
DATE: 10-18-03		REVISED

DEP. 4 BP032793



CORREL DE TIERRA OAKS UNIT No.3
TRACT No.660



4-12-12



MONTEREY COUNTY RESOURCE MANAGEMENT AGENCY

PLANNING DEPARTMENT

168. Alisal St., Second Floor, Salinas CA. 93901
(831) 755-5025; (831) 757-9516
<http://www.co.monterey.ca.us/planning>

FEE WAIVER REQUEST

Property Owner: Charles Wilson
Address: 13060 Corte Barranco
City/State/Zip: Salinas, CA 93908
Phone: _____
Email: _____

Agent: Taluban Engineering, Inc
Address: PO Box 292
City/State/Zip: Salinas, CA 93902
Phone: 831 754 0545
Email: taluban@sbcglobal.net

Assessors Parcel Number: 161-511-024-000
Description of Project: Addition of Guestroom / Recreation Room to detached garage
Fee Waiver Justification: See attached letter

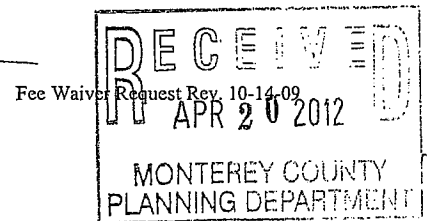
(attach additional information if needed)

Department use only	
Given out:	By:
Received:	By: <u>4/20/12</u>
Referred to other agencies: <u>YES</u>	
<u>WATER RESOURCES, ENVIRONMENTAL HEALTH, FIRE, COUNTY COUNCIL, PUBLIC WORKS</u>	
Fee waived by Director? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Date: <u>4/20/12</u>
<u>ADAPTED BY BUS ON 8/29/2020</u>	
Amount of Fees Waived: Planning & Building <u>4,426.13</u>	
<u>LE</u> Health <u>1081.24</u>	
<u>FEES</u> WRA <u>955.83</u>	
	PWD <u>627.58</u>
	CC <u>537.46</u>

\$7638.24

Exhibit B

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Justification for Fee Waiver

I am requesting the CE Violation Fee – Planning Permits (\$7,638.24) be waived. Our justification is that the owner, Charles Wilson was in the process of securing the proper permits for the work under the advice of a building inspector prior to the project being identified as a violation.

At the time, Mr. Wilson was building a detached garage under building permit number BP02-2230. Mr. Wilson enlarged the footprint of the detached garage and was informed by the building inspector to submit for a building permit for the enlargement (addition). He was assured that the addition to the detached garage was adequate and all he had to do was to make application for the addition.

Mr. Wilson submitted an application for the addition under application number BP03-2793. The application was reviewed and Mr. Wilson retained a licensed engineer to provide all the required engineering and specification as requested. It was months before the Planner, Mr. Floyd initiated the project review, made a field inspection, or contacted the owner or agent to discuss the project. The discussions and communication with Mr. Floyd were limited and undocumented.

The owner recalls a planner (not Mr. Floyd) coming out to the site and telling him that it was impossible to approve the project. At this time, the addition that was underway was already completed.

Mr. Wilson in good faith submitted plans and paid fees to secure the permit only to be told months later that it was impossible to get the application approved through the planning review process. The building inspector at the time was telling the owner that the addition was not big deal and could be approved as a patio enclosure.

Mr. Wilson is willing to take this project to completion. However due to the last planning department experience, he is hesitant to believe that the outcome of any submittal at this time will have a successful outcome.

I am respectfully requesting a waiver to the penalty fee and assistance in securing the required permit to allow for the retention of this structure. The ordinance allowing for the doubling the fees for "violators" is a penalty for individuals that opt to ignore the rules. Mr. Wilson attempted to follow the rules and did so under the advice of county staff. Therefore, I believe that relief from the double fee penalty is reasonable.

Exhibit B

Page 1 of 1 Pages

FEE WAIVER PROCEDURE

1. Applicant meets with staff member to receive application materials. If applicant wishes to request a waiver of fees, the staff member gives the applicant a "Request for Fee Waiver" form.
2. The Request for Fee Waiver can follow one of two different processes:
 - a. Process Waiver and Application Concurrently. Applicant must pay the full fee concurrently with the application submittal. The waiver will be processed concurrently with the project so that both items go to hearing at the same time. Any fees waived by the Planning Commission shall be refunded within thirty days of the final action.
 - b. Process Waiver before Application. Submit the Fee Waiver before submitting an application. If an application is submitted, it shall be held incomplete until action is taken on the fee waiver and, if required, the fees are paid. The Department policy is that requests shall be set for hearing before the Planning Commission within 30 days of submittal.
3. Request for Fee Waivers that conform to the adopted Board policy can be approved by the RMA-Planning Director. County land use department shall receive copies of the approved waiver.
4. Request for Fee Waivers that do not conform to the adopted Board policy are routed to the other land use departments for review and recommendation. Routed materials must include the Request for Fee Waiver, the project description and plans prepared by the applicant.
5. In the cases where the fee has been paid, County land use departments shall include their recommendations on the fee waiver as part of their interdepartmental review. If no recommendation is received it shall be deemed that the department concurs with the request.
6. After receiving the departments' recommendations the Director will consider the fee waiver request and forward a recommendation to the Planning Commission.
7. The applicant and land use agencies shall be notified of the date and time of the Planning Commission's consideration of the Director's recommendation.