

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
SOUTH CALIFORNIA ST., SUITE 200
VENTURA, CA 93001
(805)585-1800

Staff: JLA-V
Staff Report: 8/27/02
Hearing Date: 9/10/02
Commission Action:



RECORD PACKET COPY

STAFF REPORT: REQUEST TO WAIVE PERMIT APPLICATION FEE

APPLICATION NO.: 4-02-148

APPLICANT: Shelia Rudich-Rosenthal

AGENT: Alan Block

PROJECT LOCATION: 549 Live Oak Circle Drive, Calabasas Los Angeles County

DESCRIPTION OF APPLICANT'S REQUEST:

The applicant is requesting the Commission direct the Executive Director to waive the permit application fees for coastal development permit 4-00-148. Pursuant to §13055 (15)(f) of the California Code of Regulations (CCR), the Executive Director shall waive the application fee where requested by resolution of the Commission.

STAFF RECOMMENDATION:

MOTION: *I move that the Commission grant this request to direct the executive director to waive the permit application fee for Coastal Development Permit No. 4-02-148 pursuant to the staff recommendation.*

STAFF RECOMMENDATION OF REJECTION:

Staff recommends a **NO** vote. Failure of this motion will result in the rejection of the applicant's request to direct the Executive Director to waive the permit application fee and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

RESOLUTION TO REJECT THE PERMIT AMENDMENT APPLICATION:

The Commission hereby rejects the request to direct the Executive Director to waive the permit application fee for coastal development permit 4-02-148.

FINDINGS:

On April 11, 2002 the Commission denied permit application 4-99-267 for the after-the-fact construction of a 350-foot long, approximately three foot high concrete and rock retaining wall and approximately three to five foot wide dirt path that zig zag to the top of a hill, nine rock and concrete benches, stairway from the top of the bank of Cold Creek to the stream bed below, retaining walls along the stream bed of Cold Creek and an oak tree that are approximately two feet high, installation of an irrigation system, and approximately 97.8 cubic yards of grading (48.9 cubic yards cut/excavation and 48.9 cubic yards fill). The Commission denied the permit application on the basis it would adversely impact an environmentally sensitive riparian habitat along Cold Creek, disturb portions of the surround environmentally sensitive oak woodland habitat and result in adverse visual impacts from a scenic highway and public viewing areas which is not consistent with environmentally sensitive habitat protection, water quality and visual resource protection policies of the Coastal Act.

The applicant submitted a new permit application (4-02-148) on June 13, 2002 for a revised development proposal. The applicant has worked with Commission staff to revise the project description to remove the development in and adjacent to the Cold Creek and restore the areas disturbed by this development. In addition, the applicant revised the design of the pathway and retaining walls supporting the pathway that traverse a hillside on the property to minimize the visual impacts of this development.

The permit application was determined to be incomplete by commission staff on July 12, 2002 because the applicant did not pay the required \$600.00 permit fee. Pursuant to §13055(15)(b) of the California Code of Regulations fees for after the fact permits are doubled unless such added fees are waived by the Executive Director when it is determined that the permit could be processed by staff without significant additional review time resulting from processing the violation. In this case, the Executive Director waived the double permit application fee for the new permit application because the applicant was working cooperatively with staff and additional review time will not be required to process this after-the-fact application.

However, the applicant believes that in addition to waiving the double after-the-fact application fee the regular permit application fee should also be waived in this case. The applicant is requesting the Commission to direct the Executive Director to waive the permit application fees pursuant to § 13055(15)(f) of the California Code of Regulations. §13055(15)(f) states:

The executive director shall waive the application fee where requested by resolution of the Commission.

As outlined in the attached letter (Exhibit 1), dated July 19, 2002, the applicant asserts that the application fee should be waived in this case because the fee is excessive, punitive, and contrary to the spirit and intent of the Commission expressed during the

hearing on the permit that was previously denied. The applicant also indicates in her letter that she has spent a considerable amount of money preparing and processing the pervious permit application 4-99-267 and the new permit application 4-02-148.

Staff is recommending the Commission reject the applicant's request to direct the Executive Director to waive the permit application fee in this case. The Commission denied the applicant's previous permit application 4-99-267 to retain all after-the fact development. A considerable amount of staff time was required to analyze and process this permit application and a double permit fee was appropriate in this case. As stated above, given the applicant has cooperated with staff to revise the project to remove the after-the-fact development in the environmentally sensitive resource areas resource areas and restore the areas disturbed by this development the new permit application will not require additional staff time to analyze and process the new permit application. Therefore, the Executive Director waived the double permit application fee for the new permit application. However, there is no basis to waive the regular permit application fee in this case. The California Code of Regulations provides a fee schedule for new coastal development permit applications based on the type of development or cost of the development. In this case the permit application fee is based on the cost of the development. Based on the Commission's fee schedule the permit application fee for the proposed project is \$600.00 dollars.

At the previous public hearing on permit application 4-99-267, the Commission did direct staff to work with the applicant in an expeditious manner to develop and process a new permit application that includes removal of the after-the-fact development in the environmentally sensitive habitat areas, restoration of those disturbed areas, and revisions to the development that minimize visual resource impacts. However, the Commission did not direct the Executive Director to waive the required permit application fees.

Therefore, based on the above findings, staff recommends the Commission reject the applicant's request to direct the Executive Director to waive the permit fee application fee for coastal development permit 4-02-148.

SENT BY MAIL AND FAX

California Coastal Commission
Attn: John Ainsworth
89 South California Street
Suite 200, Ventura, Ca. 93001

July 19, 2002

Subject: Waiver of Permit Application Fees for Coastal Development Permit V-4-99-006

Dear Commissioners:

This letter is a formal request to the Coastal Commission to waive the permit application fees for coastal development permit V-4-99-006. Pursuant to the California Code of Regulations, Title 14, Division 5.5, Section 13055(f) the Executive Director shall waive the application fee where requested by resolution of the Commission. We are asking the Commission to direct the Executive Director to waive the application fees in this case because we feel this additional expense is excessive, punitive, and, we believe, contrary to the spirit and intent of the Commission expressed during the April 11, 2002 hearing.

We have been through three years of responding to staff's directions and requirements to obtain Agency approvals, studies, reports, visits, re-examinations, all of which we did and complied with in good faith, the conclusions of which were nearly all rejected by Legal Staff's argument about "precedence". For what started out as an avowed naturalist's dream to buy this beautiful land and enjoy its natural wonders in peace and safety through the use of paths, protective retaining walls and artistically designed stone-covered benches, which she was naively led to believe was fully acceptable, this experience has not only damaged Sheila's health and spirit, but has already exacted tremendous cost and burdens.

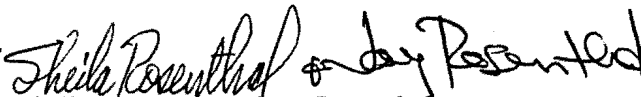
In addition to the approximately \$11,896.66 spent on the construction itself, we have had to pay \$ 1,200 to the Commission for the initial permits in April, 1999; \$21,022.34 on attorney expenses; \$ 7,539.29 on multiple building plans and engineering reports that the staff repeatedly wanted updated; \$ 718.75 for an arborist's report, \$ 1,505.36 to the L.A Departments of Public Works and of Regional Planning for ERB, site plan approval, geological and geotechnical approvals; \$ 1,350 for a Riparian biologist, and at least several hundred dollars on travel, phone calls, copying and other costs.

This does not even include the additional considerable expenses to be incurred by us to undo and remove those developments which, at your direction, we have agreed to do, including lowering the walls to agreed-upon heights, removing the considerable resulting debris, and removal of any "visual impact" by painting the walls in natural colors, and by covering hill and wall areas with natural vegetation to be purchased.

In short, while we still need your concurrence on the plan to save one isolated, non-visible bench by planting 10 new oak trees on the property, we are requesting at this time that you waive additional permit fees which we feel are grossly unfair and punitive in nature.

Thank you for your consideration of this matter.

Sincerely,



Sheila Rosenthal and Jay Rosenthal
5528 Fairview Place
Agoura Hills, California 91301

(818) 991-0899

(818) 645-8632 (cell)