



Town of Moraga

PLANNING DEPARTMENT

APPEAL FORM – MUST BE SUBMITTED IN PERSON

TOWN STAFF	File Number:	Project Name:
	Fee/Deposit:	Deposit Account Number:

General information on the filing of an Appeal:

Decisions of the Planning Director, Zoning Administrator, Design Review Administrator, Design Review Board or Planning Commission may be appealed. Any such appeal must be filed with the Town Clerk's Office on the 2nd floor of Town Offices at 329 Rheem Boulevard.

This form must be accompanied by a signed Agreement for Payment of Appeal Fees and a Check or money order payable to the Town of Moraga for the Planning Deposit of \$500, \$1,000, \$3,000. Pursuant to **Moraga Municipal Code Section**

8.12.180 - Finality of decision and time for appeal: A decision of a component member of the planning agency is not final until the time for appeal expires.

The Appellant holds the burden of proof in all cases. The time allotted for an appeal is as follows:

In the case of an appeal of a Planning Commission recommendation against changing property from one land use classification to another, within five calendar days after the Commission files its recommendation with the Town Council (Government Code Section 65856).

In the case of an appeal of an action by a component member of the planning agency, within ten (10) calendar days after the date of the decision. (In all cases, If the appeal period ends on a weekend or holiday, the time limit shall be extended to the end of the next working day).

APPELLANT INFORMATION: CIRCLE ONE: Applicant / Concerned Resident/Business Owner / Other: NAME _____ ADDRESS _____ CITY, STATE, ZIP _____ PHONE _____ EMAIL _____	PROPERTY OWNER/APPLICANT FOR PROJECT UNDER APPEAL: NAME _____ ADDRESS _____ CITY, STATE, ZIP _____ PHONE _____ EMAIL _____
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PROPERTY ADDRESS/LOCATION: _____

ASSESSOR'S PARCEL NO.: _____ **PARCEL SIZE (SQ. FT.):** _____

DATE OF ACTION: _____ **CIRCLE ONE: APPROVED DENIED**

BY WHAT DECISIONMAKING BODY? _____

PROJECT DESCRIPTION – Briefly describe the project and decision being appealed. *(Attach additional sheets if necessary)*

BASIS FOR APPEAL – List all grounds relied upon in making this appeal. *(Attach additional sheets if necessary)*

IF MORE SPACE IS NEEDED, YOU MAY ATTACH A SEPARATE SHEET OF PAPER DESCRIBING THE PROJECT/BASIS FOR APPEAL IN DETAIL TO THIS APPLICATION

PLANNING DEPARTMENT - AGREEMENT FOR PAYMENT OF PLANNING APPEAL FEES - REQUIRED

PROJECT DETAILS

PROJECT ADDRESS	
PROJECT NUMBER	
ASSESSOR'S PARCEL NUMBER	
DATE OF ACTION	(Circle one) APPROVED DENIED

APPELLANT INFORMATION

PRINT FULL NAME
MAILING ADDRESS
PHONE NUMBER
EMAIL

I (we) hereby agree to pay all direct costs as listed in the Town's adopted fee schedule for the review and processing of appeal(s) for the subject project, at such time as requested by the Planning Director. Direct costs include, but are not limited to, hourly personnel charges: legal fees: communications via telephone or written correspondence with the appellant, applicant, property owner, architect, engineer, etc.: analysis and preparation of staff reports and findings: and costs for preparation of an environmental document in compliance with the California Environmental Quality Act (CEQA).

A deposit (enumerated fee schedule information can be found on page three (3)) is required along with this form. Future payments are due and payable within 30 days. At the completion of the appeal process any unused balance will be returned to the appellant. Interest will accrue on all costs unpaid 30 days after billing at the maximum legal rate and the Town is entitled to recover its costs, including attorney's fees, in collecting unpaid accounts. Delinquent accounts may be sent to a collection agency.

Furthermore, I (we) agree to hold the Town harmless from all costs and expenses, including attorney's fees, incurred by the Town or held to be the liability of the Town in connection with the Town's defense of it's actions in any proceeding brought in any state or Federal Court challenging the City's actions with respect to my (our) project.

SIGNATURE:

DATE:

X _____

CHECK ONE: ☐ PROPERTY OWNER ☐ APPELLANT (if applicant signs then authorization signed by the property owner must be attached)

ADDITIONAL INFORMATION FOR APPEAL OF PLANNING AUTHORITY DECISION

FEE SCHEDULE FOR APPEALS, BY APPELLANT STATUS. FEE SCHEDULE EFFECTIVE JULY 23, 2023

Appeals: Appeal by Applicant of Planning Commission, Design Review Board or Town Manager Decision

(Note: Applicant must cover full cost to process appeal.) Cost of Service* less \$3,000 deposit

Appeal by Private Party (other than Applicant) of Planning Commission, Design Review Board, or Town Manager Decision (Note: Appellant must cover full cost to process appeal.) Cost of Service* less \$1,000 deposit

Appeal of Planning Director or Zoning Administrator Decision (Note: Applicant must cover full cost to process appeal.) Cost of Service* less \$500 deposit

* **Cost of Service Fees:** The cost for each application, except those which have a fixed fee as provided above, shall be the actual cost incurred by the Town based upon the time spent by staff, work performed by consultants and legal counsel for the Town, materials and other related incidental expenses such as printing, mailing and CEQA filing fees. The initial deposit specified for the application is based upon the average cost of previous applications; therefore, it may not be adequate to cover the actual cost incurred in processing a particular project. The initial deposit shall be the sum of the required deposits for all applications. If, after work has commenced, it is determined by the Town that the costs will exceed the original deposit, then the applicant shall be billed for the excess amount and an additional deposit shall be made based on an estimate by the staff on the amount of work remaining to complete the processing of the project. If the cost is less than the deposit, the excess of the deposit over the cost shall be refunded to the applicant 60-days after the close of the project. No processing by the Town shall occur unless all deposits called for above have been made by the applicant.

Deposits for projects where the resources required exceed those available in the Planning Department:

When it is determined by the Planning Director that resources or technical skills beyond the capability of the resident staff are required to evaluate an application, the staff shall secure an estimate for the cost for such services by outside consultants. Time for Planning Department staff to manage such contracts shall be billed at the hourly rates indicated in the Master Fee Schedule, available on the Town Website.

Refunds: If an application is withdrawn before the Town does substantial work on it, and before any required notice is published or posted, a minimum of \$50 time and materials will be charged from the deposit or fee and the remaining balance will be refunded to the applicant.

Other Relevant Moraga Municipal Code Sections, Quoted in Full – Appellate Conditions and Process of Appeal, Notice, De Novo Hearing Action and Decision on Appeal. See page 4 for other appeal conditions.

8.12.190 - Designation of hearing body on appeal.

The planning commission shall hear an appeal from the decision of the planning staff, design review administrator, zoning administrator and design review board. The town council shall hear an appeal from the decision of the planning commission. The decision of the town council is final.

8.12.200 - Appeal of decision.

- A. Notice of Appeal.** A person desiring to appeal the decision of a component member of the planning agency shall file a written notice of appeal with the planning director within the time required by Section 8.12.180.
- B. Form of Notice of Appeal.** The notice of appeal shall contain the name and address of the person appealing the action, the decision appealed from and the grounds for the appeal. The planning director may provide forms of the notice of appeal. A defect in the form of the notice does not affect the validity or right to an appeal.
- C. Action on Appeal.** The planning director shall set the matter for hearing before the reviewing body and shall give notice of the hearing on the appeal in the time and manner set forth in Sections 8.12.060 and 8.12.070.
- D. De Novo Hearing.** The reviewing body shall hear the appeal as a new matter. The original applicant has the burden of proof. The reviewing body may act upon the application, either granting it, conditionally granting it or denying it, irrespective of the precise details of the appeal. In addition to considering the testimony and evidence presented at the hearing on the appeal, the reviewing body shall consider all pertinent information from the file as a result of the earlier hearings from which the appeal is taken.

- E. Decision on Appeal.** The reviewing body may reverse or affirm in whole or part, or may modify the order, requirement, decision or determination appealed from.

(Prior code § 8-506)

8.12.205 - Withdrawal or termination of appeal.

Once a written notice of appeal has been filed with the planning director in accordance with Section 8.12.200(A), the appeal may not be withdrawn or terminated, except in the following circumstances:

- A.** The person who filed the appeal may file a request to withdraw the appeal with the planning director, which request may be granted as follows: 1. If the withdrawal is made prior to the hearing by the town council, the request shall be granted, except as otherwise provided in subsection (A)(2) of this section, and the planning director shall provide written notice of such withdrawal to the appellant, the applicant, the city council and any interested parties. The time for filing another appeal on the underlying decision, as set forth in Section 8.12.180, shall recommence on the date written notice of a new appeal period is mailed and any person may file an appeal in accordance with the provisions of this article. However, the same party cannot file more than one appeal related to an underlying decision. 2. In the event that the process for withdrawal of an appeal set forth in subsection (A)(1) of this section is employed three times with respect to any one underlying decision, the city council shall hear and grant or deny all subsequent requests to withdraw appeals of such decision. In the event that the city council hears and grants such a request, the planning director shall provide written notice of such withdrawal and the time for filing an appeal shall recommence pursuant to Section 8.12.205(A)(1). 3. During the processing of a request to withdraw an appeal, the planning director shall suspend all processing of the appeal.
- B.** The applicant may terminate the processing of the appeal by withdrawing the relevant application and vacating the decision that was appealed.

8.12.210 - Appeal of agency's failure to act.

An applicant may appeal the failure of a component member of the planning agency to act on an application if the failure to act continues beyond a reasonable time and the time to act is not otherwise fixed by law. The reviewing body shall consider all of the circumstances surrounding the application in determining what is a reasonable time.

8.12.220 - Appeal of decision not otherwise provided for.

- A.** Any person may appeal a decision, requirement or determination made by the town staff in the administration of the land use regulations not otherwise provided for. The town manager shall hear the appeal in the first instance. The appeal shall be in writing, filed with the planning director and shall specifically set forth the decision appealed from and the grounds for the appeal. The notice of appeal shall be filed within thirty (30) calendar days of the date of the action appealed.
- B.** Upon receiving the notice of appeal, the town manager shall set the matter for hearing and shall give the person appealing written notice of the time and place of hearing at least fifteen (15) calendar days before the hearing. The hearing shall be held within thirty (30) calendar days before the hearing. The hearing shall be held within thirty (30) calendar days of the date the notice of appeal is filed. The parties may extend this time by agreement.
- C.** The decision of the town manager is final fifteen (15) calendar days after notice is given the appellant of the ruling on the appeal, unless an appeal is taken from the decision. Such an appeal is to the planning commission. The notice of appeal shall be in the form provided by Section 8.12.200(A) and (B) and shall be filed with the town manager within fifteen (15) calendar days after the date of the decision.
- D.** Upon receiving the appeal from the decision the town manager shall refer the matter to the planning director. The planning director shall schedule the appeal for consideration by the planning commission within thirty (30) calendar days and shall give the appellant fifteen (15) calendar days' notice of the time and place of the hearing. The decision of the planning commission may be appealed to the town council in the same manner and within the same time from its decision as is provided in the case of an appeal from the town manager's decision.

(Prior code § 8-508)