

IV. JOSEPHINE COUNTY'S HISTORY

It appears clear that items are “placed before”, and part of the local record of the land use proceedings of the local decision maker if: (1) they are physically placed before the decision maker prior to the adoption of the final decision; (2) they are submitted to the decision maker through means specified in local regulations or through appropriate means in response to a request by the decision maker for submittal of additional evidence; or (3) local regulations require that the item be placed before the decision maker (see Section II.C.4.a)). However, what might be clear to some is not to others and probably best described by LUBA in its opinions that the term “Placed Before” is a term of art.

“As used in OAR 661-010-0025(1)(b), the term “placed before” is a term of art and does not merely describe the act of setting documents in front of the decision maker. Legislative decision making often involves less precisely defined procedures for compiling an evidentiary record than quasi-judicial decision making.” *Witham Parts and Equipment Co. v. ODOT*, 42 Or LUBA 589 (2002).

Written comments are “placed before” the final decision maker where the notice of a land use hearing invites written comments and parties to submit written comments in the manner set forth in the notice. OAR 661-010-0025(1)(b) provides that the local record include (see Section II.C.2.c)):

“(b) All written testimony and all exhibits, maps, documents or other written materials specifically incorporated into the record or **placed before, and not rejected by, the final decision maker**, during the course of the proceedings before the final decision maker.” [Emphasis added].

Josephine County’s history is mixed as it pertains to a citizen’s written testimony being “placed before” a hearing body in a land use proceeding. In many cases, especially for complex proposals involving demanding testimony, the testifier(s) will likely lose some procedural issue to their disadvantage (e.g., limited time to prepare testimony, standing and/or party status not accepted, written testimony not in record, written testimony in the record but not considered in detail, testimony rejected, missed deadlines, excessive costs, etc.).

A. Josephine County Rural Land Development Code (RLDC)

Where a local government has no established procedures for how documents must be submitted into the record in land use proceedings, the LUBA standard is whether the conduct of staff and the final decision maker could reasonably lead a party to believe the documents are being included in the record (see Section II.C.2.a)).

Items can be “placed before” the local decision maker if they are submitted to the final decision maker through means specified in local regulations, or local regulations require that the item be placed before the decision maker (see Section II.C.2.b)). The final decision maker can authorize a person to receive evidence on the decision maker's behalf. Where a local government designates a particular planner as the person to whom comments on a proposal should be directed, comments so directed are effectively “placed before” the final decision maker and are required to be included in the local record.

In Josephine County there are no “For The Record” procedures identified in the RLDC, except for some procedures on quasi-judicial, public notice, and public hearings, for how documents must be submitted into the record in land use proceedings (see Section II.B.) and no specific identification of a person, position, or department to receive evidence on the decision maker's behalf. Therefore, an analysis of the conduct of staff and the final decision maker is needed to understand the circumstances that could reasonably lead a party to believe written documents are being included in the record.

B. Analysis of Josephine County’s Notice of Public Hearing

ORS 197.763(3)(g) and (j) provide:

“(3) **The notice provided by the jurisdiction shall:**” [Emphasis added].

“(g) Include the name of a **local government representative** to contact and the telephone number where additional information may be obtained;” [Emphasis added].

“(j) Include a general explanation of the **requirements for submission of testimony** and the procedure for conduct of hearings.” [Emphasis added].

RLDC 32.030. A.2.f. and i. provide:

“f. Name of a **local government representative** to contact and the telephone number where additional information may be obtained;” [Emphasis added]

“i. A general explanation of the **requirements for submission of testimony** and the procedure for the conduct of hearings.” [Emphasis added]

LUBA has ruled that written comments are “placed before” the final decision maker within the meaning of OAR 661-010-0025(1)(b) where the notice of hearing invites written comments and parties to the case to submit written comments in the manner set forth in the notice (see Section II.C.2.c)). For example, LUBA has ruled that petitioners’ attorney’s letter to the county’s attorney is properly excluded from the record where the letter is not submitted for the record in the manner specified in the notice of hearing.

In *Neighbors 4 Responsible Growth v. City of Veneta*, 50 Or LUBA 745 (2005) the court ruled that both the written and published notice of the July 5, 2005 hearing specified how comments were to be submitted, who they were to be submitted to, and the deadline for submitting such written comments:

“Written comments may be submitted at Veneta City Hall; * * * mailed to City of Veneta, * * * sent by FAX (541) 935-1838; or sent by e-mail message to dwalters@lane.cog.or.us. Written comments must be received by 5:00 p.m. on Friday, July 1st. * * *”

Josephine County’s notices of public hearing are improving, but unlike the notice in *Neighbors 4 Responsible Growth*, it is near impossible to clearly understand the process for how comments are to be submitted, who they were to be submitted to, and the deadline for submitting such written comments. For example, the November 17, 2006 notice of public hearing for the applicant Ward Ockenden focused on information concerning the hearing procedures. The notice identified the planner handling the file, but it did not explain what handling the file meant. It did not identify the planner as the “local government representative” (ORS 197.763(3)(g); RLDC 32.030. A.2.f.), and it did not explicitly identify him as authorized to receive evidence on the decision maker's behalf. **The notice also identified that, “This hearing will be fully open to the public and anyone interested in testifying or submitting other kinds of evidence may do so.”** The main focus was the public hearing with a cryptic opportunity for submitting other kinds of evidence.

In line with ORS 197.763(3)(j) the county’s content requirement of the notice prior to a decision identified at RLDC 32.030.A.2.i. require a general explanation of the requirement for submission of testimony.

RLDC 32.030.A.2.i. “A general **explanation of the requirements for submission of testimony** and the procedures for the conduct of hearings.” [Emphasis added]

The county’s notice did provide the procedures for the conduct of public hearings (reference to RLDC 31), but the RLDC 31 procedures do not explain how to “placed before” the hearing body written testimony. Even so, if the **opportunity in the notice for submitting other kinds of evidence** outside the hearing process was supposed to satisfy the notice requirement of explaining the requirements for submission of testimony, it failed miserably (ORS 197.763(3)(j); RLDC 32.030. A.2.i.).

The notice did not explain that its purpose is about the opportunity for affected or interested persons to participate in Josephine county's land use review and decision-making process (**decision-making process** is equivalent to the phrase "**during the course of the proceedings before the final decision maker**" - OAR 661-010-0025(1)(b) versus the testimony procedures for hearings - RLDC 31, Public Hearings). However, the purpose of public notice is clear and straightforward in the RLDC.

RLDC "32.010. - PURPOSE The purpose of public notice is to provide an opportunity for affected or interested persons to participate in Josephine **county's land use review and decision-making process.**" [Emphasis added].

According to the RLDC the purpose of public notice is an opportunity to participate in the county's land use review and decision-making process. In other words, for purposes of determining the composition of the local record of a decision on a permit application, the local land use proceedings begin when the permit application is submitted. The "course of the proceeding" is from the application point until after the local decision is reduced to written, signed and final decision for the purposes of a LUBA appeal (see Section II.C.1a)).

The quasi-judicial review procedures identified at RLDC 22.040.B.5 explicitly identify that comments or objections to a land use application must be submitted in writing prior to the scheduled public hearing, but they do not identify the procedures for how written testimony must be submitted.

RLDC 22.040.B.5. "The Planning Director is responsible to mail notice of an application to all persons within the notice area as required by RLDC 32. **All comments or objections relating to the application shall be submitted in writing within 15 days from the mailing of the notice in order to be included in the review, or to establish party status for appeal purposes.**" [Emphasis added].

When the notice requirements of ORS 197.763(3)(g) and (j) are considered with the local government's purpose of the "notice" of a public hearing (RLDC 32.010) and the requirement to comment or object (RLDC 22.040.B.5), and the actual notice of public hearing combined with the fact that the county has no established procedures for how documents must be submitted into the record in land use proceedings (except for some quasi-judicial procedures, notice, and public hearings), a reasonable person would assume that comments submitted to the contact planner identified in the local notice had been submitted into the record of land use proceedings. However, assumptions are deadly and LUBA's opinions are mixed. In hindsight, many times the only safe assumption is not to assume.

C. Conduct of Staff, Rural Planning Commission, and Final Decision Maker

1. Staff Report

The actual conduct of staff in developing the staff report normally adheres to the assumption that a reasonable person would assume - comments submitted to the contact planner had been submitted into the record. However, this is not always the case. For example, on November 28, 2006, in response to the November 17, 2006 notice of public hearing for the applicant Ward Ockenden, the HLUC submitted written comments to the planning office. The following testimony with a “√” was made part of the December 18, 2006 staff report by the contact planner as exhibits. Conversely, the following testimony without an “√” was not made part of the December 18, 2006 staff report by the contact planner as exhibits.

- √ 1993 testimony from Dennis Hollaran (soils reports)
- √ 1995 testimony from Steve Wert (soils reports)
- √ January 30, 1995 testimony from Thor Thorson, Natural Resources Conservation Service
- √ November 16, 2005 testimony from Dennis Hutchison (soil reports)

April 4, 2006 Oregon DLCD “Notice of Proposed Amendment”

November 21, 2006 Oregon DLCD “Notice of Proposed Amendment”

- √ June 29, 2006 testimony from Chad McGrath, Natural Resources Conservation Service
- √ May 10, 2006 testimony from Dave Russell, BLM, Medford District Office
- √ June 30, 2006 testimony from Richard Lewman, Josephine Soil and Water Conservation District

√ November 17, 2006 Notice of Public Hearing

November 28, 2006. Mike Walker, Member, HLUC, hand-delivered the HLUC’s written testimony to the RPC c/o the Josephine County Planning Office on November 28, 2006. It was lengthy, but the HLUC was proud to be able to submit it for the RPC’s consideration over two weeks prior to the scheduled hearing. This would give the RPC time to adequately consider the testimony. James Black, Planner, Josephine County, accepted the testimony at the county planning office into the Ockenden file. After Black accepted it Walker asked him again if the testimony would be part of the record for the scheduled Ockenden hearing. Black responded that it would. However, the HLUC’s written testimony was not passed on to the hearing body in preparation of the December 18, 2006, or at the December 18, 2006 public hearing (Appendix FB) before the RPC. A simple summary of why it was not forwarded to the members of the RPC was that Michael Snider, Planning Director and contact planner, and Ron Wright, Chair, RPC, agreed that it was unreasonable to expect individual members of the RPC to give detailed consideration to the HLUC’s written testimony by using a single set for the record (Appendix F, Appendix FB, and Appendix G).

Therefore, the following November 28, 2006 critical and relevant written testimony from the HLUC was not before the RPC when it made its December 18, 2006 decision to recommend approval for a comprehensive plan text amendment to add Schefflein and Tallowbox soils to the county soils inventory.

- . Appendix H - April 13, 2006 testimony from Chad McGrath, Natural Resources Conservation Service, that 17 new map units were added to the Josephine County soil survey in order to match with the soil surveys of Curry, Douglas, and Jackson counties. The Schefflein and Tallowbox map units were not added to the county's soil survey.
- . Appendix I1 - Oregon Department of Forestry. *Land Use Planning Notes*. Technical Bulletin Number 3, April 1, 1998, on equivalent data to NRCS data.
- . Appendix I2 - Oregon Department of Forestry. Forest Practices Note #2 (Revised) on forest productivity standards for commercial forest lands.
- . Appendix J, Report J1 - Letter From Josephine Soil and Water Conservation District to Josephine County Planning Department, April 11, 2006, on "order" surveys and alternate methods for determining soil productivity of forest land.
- . Appendix J, Report J3 - NRCS Letter to Wayne McKy, January 14, 2004, on forest productivity and crop yields.
- . Appendix J, Report J4 - NRCS email to Mike Walker, February 4, 2004, on "order" surveys.
- . Appendix J, Report J5 - ODF Letter to Jackson County Planning Department, June 18, 2003, on commercial forest lands
- . Appendix J, Report J7 - ODF Letter to DLCD, December 24, 2001, on commercial forest lands.
- . Appendix J, Report J8 - NRCS Letter to Josephine County SWCD, January 30, 1995 (this material was selectively utilized by the planning staff as an exhibit).
- . Appendix J, Report J9 - Josephine County Pre-Application Letter to Mr. Hart, March 18, 2006, on conflicting soil surveys.
- . Appendix J, Report J10 - NRCS Email to Mike Walker, May 8, 2006, on forest productivity.
- . Appendix J, Report J12 - BLM Precipitation Measured at the CASSO Office, 1980 Russell Road, Merlin, Oregon 97532 (this material was selectively utilized by the planning staff and placed before the RPC, but not as an exhibit. It was obvious the RPC had reviewed this material that had been developed for the HLUC's testimony).
- . Appendix J, Report J13 - Schmidt Precipitation Data For Hugo Road (this material was selectively utilized by the planning staff and placed before the RPC, but not as an exhibit. It was obvious the RPC had reviewed this material that had been developed for the HLUC's testimony).
- . Appendix R - Lettia, Tallowbox and Shefflein Forestland Productivity (this material was for Jackson and Klamath counties).
- . Appendix U - BLM Commercial Forest Standards
Report U1 USDI, BLM, Medford District Office. August 1992. *Draft Medford District Resource Management Plan and Environmental Impact*

- Statement*. Volume II, Appendix 3-T-1: Timber Production Capability Classification. provides, in relevant part, page Appendix 3-46.
- Report U2 USDI, BLM, Medford District Office. October 1994. Final - *Medford District Proposed Resource Management Plan and Environmental Impact Statement*. Volume I. provides, in relevant part, pages Chapter 2-20 - Chapter 2-22.
- Report U3 USDI, BLM, Medford District Office. June 1995. *Record of Decision and Resource Management Plan*. provides, in relevant part, pages 38, 39, 103, & 108.

December 18, 2006 Public Hearing Before the RPC

The contact planner had “placed before” the RPC during its December 18, 2006 public meeting testimony received from the public prior to the public meeting. This testimony was identified as exhibits in the staff report.

During the December 18, 2006 public hearing before the RPC the Planning Director went on to note written correspondence from others that he physically passed to the Chair of the RPC during the hearing:

- √ “Also, I received a letter from Andrew Aquilar and Susan Aquilar objecting to the zone change, and I believe their son-in-law is willing to testify or read it into the record, if you want, but I have given you the written copy.”
- √ “I have one here from Steve and Susy Lienberg who submitted a letter of objection.”
- √ “I have a page, a copy of the legend part of the aerial flight map and an example of that, just to make reference to this exhibit already in the record just so we will know what we are talking about later on.”
- √ “And then, actually today every late I received a letter from BLM in Medford by way of a FAX. To tell you I have not had a chance to read it, but I have included it.”

January 9, 2006 Email from Planning Director to HLUC

On January 9, 2007 the contact planner (Planning Director) sent an email to the HLUC (Appendix H). The Planning Director with the concurrence of Ron Wright, Chair, RPC, wrote that unless the HLUC submits copies of its two volume testimony for distribution to each planning commissioner, **they will not be able to consider them in detail.**

2. Conduct of Staff and Chair of Rural Planning Commission

A current example of undesirable county behavior is the Ockenden land use proceeding where the HLUC submitted written testimony two weeks prior to the first scheduled land use hearing (Appendix F). The day of the first hearing the HLUC heard from the Planning Director that he and the Chair of the RPC had not submitted the material to the RPC because **it was unreasonable for one copy of such lengthy materials to be reviewed by 10 members of the RPC** (Appendix G). Under the leadership of the Chair of the RPC the members of the RPC had not seen the testimony, but made deliberations and a recommended decision on updating the soils inventory without reviewing or considering the HLUC's relevant written testimony concerning that recommendation (Section IV.C.1).

The only person that can decide if testimony is relevant for the record is the final decision maker. The Planning Director is not authorized to make determinations about the length of the submitted written materials as a criteria for not passing it on to the hearing body. Even if the Planning Director is authorized to act for the final hearing body by local regulations or the notice of a land use hearing the only criteria for rejection is if the submitted testimony is not relevant. It appears that the Planning Director's budgetary constraints are becoming crucial criteria for accepting material submitted for the record rather than whether the information is relevant. These budget constraints also have adverse impact on state mandated planning (Appendix I).

“User Fees versus State Mandated Planning. In instances where State or other regulations limit the level of fees charged for county planning services, user fees will not apply. The level of user fee cost recovery should consider the community-wide versus special service nature of the service provided. The use of general-purpose revenues is appropriate for community-wide services. There is also the idea of the service recipient versus the service driver. For example, it could be argued that a land use applicant is not the beneficiary of the county's current planning service efforts; the community is the primary beneficiary.”

“Land use planning should be conducted by and for the people of Oregon. Citizens should have ample access to be involved in land use decision-making and planning processes, which should be conducted in a fully transparent manner. Oregon Statewide Goal One - Citizen Involvement (CI), the backbone of Oregon's statewide planning goals, is part of the “Oregon System” in which citizens should have a say in the governance of their state and their local communities. Citizen involvement in land use planning is more important than ever, which is exemplified by its being given top priority by our state, and labeled as such - *Goal One*. We need to get back to the basics: land use planning is for the citizens of Oregon, not just permit applicants or local governments. If Goal One fails, the entire system fails.”

“The present BCC policy is for the Planning Department to ultimately be 100 % self-supporting through applicant-driven user fees. However, the applicant-driven land use

user fees can not be regarded as "user fees" that fund all the services provided by the Planning Office. Many of the Planning Office's services have no relationship whatsoever to the resources devoted to servicing a particular land use application (i.e., administration, advance planning, and enforcement). By the very nature of current planning services being restricted to the "No More than the Actual or Average Cost of Providing That Service", user fees would exacerbate an already critical problem of almost no funding for advance planning and enforcement services."

"By Oregon law (ORS 215.416(1); ORS 215.422(1)(c)) user fees are restricted to "No More than the Actual or Average Cost of Providing That Service." Restricted user fees could not fund advance planning and enforcement services and, therefore, the county would be violating its state mandate under ORS 197 and ORS 215. Even more to the point, long-range planning services and enforcement are functions clearly intended to serve the broader county community."

It appears that the Planning Director's budgetary constraints are also becoming crucial criteria for controlling the long-range planning program of the Josephine County Planning Department (Appendix F):

"December 19, 2006. Another topic discussed between Walker and the PD was updating the total soil inventory which is a part of the comprehensive plan. The PD had mentioned a minimum of four times during the previous night's RPC meeting the fact that the applicant was following the county's RLDC procedures. He had legally applied for a land use application for a comprehensive plan text amendment to add Schefflein and Tallowbox soil mapping units to the county's soil inventory."

"It was ironic to Walker that the applicant had not proven that Schefflein and Tallowbox even existed on the applicant's property or anywhere in the county, but the land use application fee was the driving force for the requested update to the soils inventory. Walker specifically asked the PD on December 19, 2006 why the county did not update its existing 1983 SCS soils inventory with the new information that the author of the soils inventory had on the web. The SCS, now the Natural Resources Conservation Service (NRCS) has authored the position that the official version of Josephine County's soil inventory was the NRCS's posted web version. Walker wondered aloud to the PD why the county did not just spend an hour, such as it had done with the land use application for a comprehensive plan text amendment to add Schefflein and Tallowbox soils to the county's soil inventory to update the entire soil survey with the new NRCS data? The RPC had made the decision-recommendation to update the soil survey for Schefflein and Tallowbox based on a single witness' testimony from the land use applicant's hired soil scientist. The PD and the county did not have any soils expertise as explained by the PD. The RPC decision-recommendation was also in conflict with the oral testimony that Walker had submitted that the NRCS had updated Josephine County's soil survey to include 18 new mapping units in order to match it with the soil surveys of Curry,

Douglas, and Jackson counties. However, this 2006 updated inventory by the NRCS did not include either the Tallowbox nor the Schefflein soil series as being applicable to Josephine County. This NRCS position was in the written testimony of the Hugo Land Use Committee (i.e., attachment 2006 letters from the NRCS) that the PD had for two weeks prior to the RPC, but had not shared with the RPC.”

“The PD responded several times, “Who was going to pay for the soils survey update?” The reason that we are going through the process to update the soil survey to include the Schefflein and Tallowbox mapping units was because the applicant had paid a land use application fee. “Who was going to pay for the soils survey update?””

“For Walker the PD’s response of “Who was going to pay for the soils survey update?” was verification of the Hugo Land Use Committee’s concerns with a planning office 100 percent funded by land use application fees versus state mandated long range planning, including enforcement (see paper entitled, “*Perils of An Applicant-Driven User Fee Funded Planning Office*”). The following on “User Fees versus State Mandated Planning” is from the paper.”

“The present BCC policy is for the Planning Department to ultimately be 100 % self-supporting through applicant-driven user fees. However, the applicant-driven land use user fees can not be regarded as "user fees" that fund all the services provided by the Planning Office. Many of the Planning Office’s services have no relationship whatsoever to the resources devoted to servicing a particular land use application (i.e., administration, advance planning, and enforcement). By the very nature of current planning services being restricted to the “No More than the Actual or Average Cost of Providing That Service”, user fees would exacerbate an already critical problem of almost no funding for advance planning and enforcement services.”

“For Walker this example is a scary reality of the land use application(s) controlling the long-range planning program of the Josephine County Planning Department.”

The next day, December 19, 2006, after the first hearing the Planning Director’s position was that the HLUC’s testimony was not part of the record, but, under questioning, immediately changed his mind that it was part of the record (Appendix F, page 2). At that point the HLUC was uncertain about what the Planning Director’s position will be at the next scheduled hearing before the RPC.

On January 9, 2007 prior to the second scheduled public hearing on January 22, 2007 the contact planner (Planning Director) sent an email to the HLUC (Appendix H). The Planning Director with the concurrence of Ron Wright, Chair, RPC, wrote that unless the HLUC submits copies of its two volume testimony for distribution to each planning commissioner, **the commissioners will not be able to consider them in detail.** The Planning Director’s budgetary constraints were

still dictating whether he and the Chair of the RPC would accepting material submitted for the record rather than whether the information was relevant.

In summary, the Planning Director and the Chair of the RPC's rejection of relevant written testimony (i.e., **will not be able to consider them in detail**) resulted in a failure of its responsibility to "place before" the RPC relevant written testimony received from the public on a land use application prior to the RPC making a land use decision recommendation (Appendix F; Appendix G; Appendix H). Although documents specifically rejected by a local government during its proceedings are not part of the local government record, the erroneous rejection of documents by the final decision maker will provide a basis for remand.

3. Conduct of Rural Planning Commission

A current example of undesirable RPC behavior is the Ockenden land use proceeding where the HLUC submitted written testimony two weeks prior to the first scheduled land use hearing (Appendix F and Appendix FB). The day of the first hearing the HLUC heard from the Planning Director that he had not submitted the material to the RPC because it was unreasonable for one copy of such lengthy materials to be reviewed by 10 members of the RPC. This decision was jointly concurred with by the Chair of the RPC (Appendix G), and through silence was agreed to the entire membership of the RPC. There was nothing said, or referred to by any member of the RPC during the December 18, 2006 public hearing to suggest that any member knew about, had seen or read, or considered the November 28, 2006 written testimony submitted by the HLUC. If true, the day of the hearing the RPC had not seen or considered the written testimony, but made deliberations and a recommendation on updating the soils inventory without reviewing or considering the HLUC's relevant written testimony concerning that recommendation (Section IV.C.2.).

It appears that the Planning Director's budgetary constraints are becoming crucial criteria for the Chair of the RPC for accepting or rejecting the detailed consideration of written material submitted for the record, rather than whether the information is relevant, and through acquiescence and/or active support the Chair's position is being accepted by all members of the RPC (Section IV.C.2.).

In summary, the RPC failed in its responsibility to receive and consider relevant written testimony **that will be considered in detail** from the public on a land use application (Appendix H). The RPC's acquiescence to the position of the Chair of the RPC and the Planning Director resulted in a failure to accept and consider relevant written testimony received from the public on a land use application prior to the RPC making a land use decision recommendation (Appendix F; Appendix FB; Appendix G; Appendix H). Although documents specifically rejected by a local government during its proceedings are not part of the local government record, the erroneous rejection of documents by the final decision maker will provide a basis for remand.

D. Perils of An Applicant-Driven User Fee Funded Planning Office

Alternate funding sources for the Planning Department should not be a political strategy of how to raise revenue without raising taxes. We believe the Planning Department performs critical land use service missions that are important to the strength of our community's economy and quality of life. We hope the BCC will reconsider its decision to make the Planning Department's budget 100 percent dependent on applicant-driven user fees (Appendix I).

We believe our Planning Department should be completely independent of funding sources that are subject to economic market fluctuations. Planning services should be equitably provided to citizens of Josephine County, who represent a wide range of financial income. The funding source should provide for voter approval of a system which leaves no doubt that planning is for the people of Josephine County, and that planning is not just servicing permits, but also includes long range-planning and enforcement.

Most important the BCC should recognized the difference between user fees for permit applicants with a personal and/or economic interest in the outcome, contrasted with appeal fees paid by an engaged public having a sense of civic commitment, shared beliefs that value public ends, and a sense of stewardship for each other and the places citizens call home. Appeals fees should not have a chilling effect on CI, but rather they should be commensurate with CI and its goals.

Moreover, a user fee system would limit BCC oversight, effectively removing the BCC from its role as the Planning Department's governors. A user fee system for any function of the Planning Department will be harmful to the entire community.

It appears that the Planning Director's budgetary constraints are becoming crucial criteria for the Chair of the RPC for accepting or rejecting the detailed consideration of written material submitted for the record, rather than whether the information is relevant, and through acquiescence this position is being accepted by all members of the RPC.