

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS
ACTION AGENDA SUMMARY

DEPT: PLANNING AND COMMUNITY DEVELOPMENT
Urgent _____ Routine X
CEO Concurs with Recommendation YES _____ NO _____
(Information Attached)

BOARD AGENDA # 9:30 AM
AGENDA DATE: OCTOBER 2, 2001
4/5 Vote Required YES X NO _____

SUBJECT:

APPROVAL OF PLANNING AND COMMUNITY DEVELOPMENT FEE SCHEDULE INCREASES.

STAFF RECOMMENDATION:

1. ADOPT THE PROPOSED FEE INCREASES EFFECTIVE IMMEDIATELY;
2. ADOPT A POLICY THAT PROVIDES FOR RECOVERY OF COSTS FOR CEQA MITIGATION AND MONITORING; AND,
3. ADOPT THE PROPOSED \$14 INCREASE FOR BUSINESS LICENSE FEES.

FISCAL IMPACT:

Anticipated increases in revenue are estimated at approximately \$14,000 per year.

BOARD ACTION AS FOLLOWS:

No. 2001-776

On motion of Supervisor Blom, Seconded by Supervisor Mayfield
and approved by the following vote,
Ayes: Supervisors: Mayfield, Blom, Simon, Caruso, and Chair Paul
Noes: Supervisors: None
Excused or Absent: Supervisors: None
Abstaining: Supervisor: None

- 1) _____ Approved as recommended
- 2) _____ Denied
- 3) X Approved as amended

MOTION:

AMENDED THE ITEM TO ADD THAT IT BE RETURNED TO THE BOARD
WITHIN 6 MONTHS FOR CONSIDERATION OF ADDITIONAL REVISIONS TO
REFLECT ACTUAL COSTS

ATTEST: CHRISTINE FERRARO TALLMAN, Clerk

By: Deputy

Christine Ferraro

File No.

DISCUSSION:

The Board of Supervisors approved the Community Development Strategic Plan on June 19, 2001. As part of our evaluation, we included a discussion of shortfalls associated with the existing Departmental fee schedule. At the time of approval of the Strategic Plan, the Department indicated that we would bring a revised fee schedule to the Board as soon as possible. This item meets that goal, and proposes an increase in all fees charged by the Department for services and discretionary permits.

The Department of Planning and Community Development conducted a fee structure analysis in order to evaluate costs and revenues associated with our application and service fees. Based on this analysis, the current Planning Fees do not completely cover costs associated with staff time, materials, and expenses required to process applications. Because of the amount of work associated with processing land use applications, it is unlikely that fees could ever be raised to a level high enough to fully cover those costs. For example, the current fee for processing a Use Permit is \$1104. However, total real-costs are much higher. If we charged our adjusted hourly rate for labor to cover salary and benefits, the total cost of an average use permit would be over \$3900. This does not include any follow-up monitoring during construction or operation. The table below shows an estimate of actual time spent processing one use permit:

Associate/Assistant Planner	60 hours @ \$ 46.22/hr	\$2773.20
Senior Planner	4 hours @ \$61.46/hr	\$245.84
Director	1/2 Hour @ \$104.47/hr	\$52.23
Administrative Clerk	10 hours @ \$27.77/hr	\$277.70
Graphics Technician	10 hours @ \$39.40/hr	\$394.00
Copies, Postage, Advertising, Travel, etc		\$200.00
TOTAL		\$3942.97

All other land use application processing shows a similar discrepancy between actual time spent (not to mention the time that is actually needed to do a quality job) and the actual costs of that staff time. Obviously, we cannot regularly charge fees commensurate with our actual time spent on a project, although the Board has previously provided us with authority to charge actual costs to larger developments (such as Diablo Grande).

The fees have not been raised in approximately six years. Since then, salaries have increased by 16 percent, and relative costs of processing applications, including printing, postage, and advertising have also increased.

For comparison we obtained fee schedules from Fresno, Kern, Monterey, Sacramento, San Joaquin, Solano, Sonoma, and Ventura Counties, and found that our fees are well below the average. For example, a Use Permit in Stanislaus County costs \$1,104. In Fresno County, the same permit can cost between \$4,486 and \$5,976 depending on the type of permit issued or whether a variance is also required. (As noted above, this is about the actual cost)

Similarly, tentative maps in Stanislaus County are processed for \$1,719 plus \$7 per lot. In San Joaquin County, vested Tentative Map Applications cost \$5,245 plus \$15 per lot, and in Fresno County, the charge is \$2208 plus \$225 per lot. Sonoma County charges actual cost for General Plan Amendments and Rezones, and Sacramento County charges over \$12,000 for a General Plan Amendment and over \$10,000 for a Rezone. Several of the Counties structure their fees so that other departments review time and any further action other than minimal processing require additional fees. Many fees are defined as "minimum" and have built-in mechanisms for recovering some, if not all, of the actual costs.

Stanislaus County's fees are among the lowest of those evaluated. The following summarizes our comparison between major application costs:

COUNTY	General Plan Amendment	Lot Line Adjustment	Parcel Map	Tentative Subdivision Map	Rezone	Use Permit	Variance
Stanislaus Co	\$ 1,489	\$ 424	\$ 954	\$1719 + \$7/lot	\$ 1,484	\$ 1,104	\$ 1,044
Monterey	\$ 4,927	\$ 2,411	\$ 7,876	\$12,792 + 238/lot	\$ 2,690	\$ 2,672	\$ 2,658
Kern	\$ 1,185	\$ 180	\$ 585	\$1155 + \$41/lot	\$850+ \$25/lot	570 +\$25/lot	\$ 285
Fresno	\$ 3,714	\$ 820	\$780 +16.50/lot	\$2208 +225/lot	\$ 3,055	\$ 4,486	\$ 2,975
San Joaquin	\$ 4,200	\$ 737	\$ 1,455	\$5245 + \$15/lot	\$ 2,850	\$ 2,800	\$ 1,935
Sonoma	COST	\$ 606	\$881 + \$144/lot	\$1730 + \$154/lot	COST	\$ 2,306	\$ 1,298
Solano	\$ 2,781	\$ 1,766	\$ 2,760	\$ 4,189	\$ 2,024	\$ 3,452	\$ 695
Sacramento	\$ 12,371	\$ 1,304	\$ 3,987	\$ 7,065	\$ 10,176	\$ 5,223	\$ 3,228
Ventura	\$ 2,500	\$ 460	\$ 1,760	\$2530 + \$40/lot	\$ 1,050	\$ 1,050	\$ 1,100

Proposed Sixteen Percent Increase in Existing Fees. In order to provide more balance between actual processing costs and the fees charged, we recommend an increase in Planning Application Fees. We believe, however, that raising fees commensurate with those of other Counties would not be appropriate. Nor do we believe that we can realistically propose to raise the fees to completely cover all staff costs associated with application processing. (As described above, this could result in some applications costing up to three or four times as much as they do now - and we do not believe that such a proposal would meet the goals and priorities of the Board of Supervisors.) We do however wish to retain the authority to charge actual processing costs for the larger development proposals such as Diablo Grande and others.

SUBJECT: APPROVAL OF PLANNING AND COMMUNITY DEVELOPMENT FEE INCREASES
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The Department's Strategic Plan described a phased approach to fee increases, resulting in a sixteen percent increase within 24 months. Rather than phasing the increases, and in order to provide a closer balance between application fees charged and the actual costs of processing the applications, we recommend increasing our fees by sixteen percent (16%) effective immediately. This equates to a 2.66% increase for each of the past six years. The Department will evaluate the fee structure every year, and come back to the Board of Supervisors with additional proposals if required. The proposed increases would affect the Planning Department Fees, and would also change the fees we collect for Public Works and the Department of Environmental Resources. The following provides a summary of the proposed changes:

FEES	PROPOSED FEES					OLD FEES	TOTAL FEE INCREASE
	PLANNING	P.W.	D.E.R.	BOARD	TOTAL		
Appeal (UP,VAR,EX,PM)	\$365			\$70	\$435	375	\$60
Appeal (Staff Det.)	\$365				\$365	\$315	\$50
Comb. App. (GP,REZ,ER)*	\$1,605	\$490	\$85		\$2,180	\$1,879	\$301
Combination App. (PD, PI)*	\$1,980	\$490	\$85		\$2,555	\$2,199	\$356
General Plan Amendment	\$1,380	\$260	\$85		\$1,725	\$1,489	\$236
Historical Site Review	\$350				\$350	\$300	\$50
Historical Site Permit	\$1,045	\$150	\$85		\$1,280	\$1,104	\$176
Landscape Plan Review	\$95				\$95	\$80	\$15
Lot Line Adjustment	\$365	\$40	\$85		\$490	\$424	\$66
Merger	\$50				\$50	\$40	\$10
Mines Inspections	\$580				\$580	\$420 to \$500	\$80 to \$120
plan-biologist review (3 hr min. if needed)	\$580 + \$70./hr				\$580. + \$70./hr	\$500 + \$60/hr	\$80 + \$10/hr
reinspection (if required, 3 hour min)**	\$70/hr				\$70/hr	\$50/hr	\$20/hr
Mining Reclamation (+ UP if needed)	\$1,235		\$85		\$1,320	\$1,139	\$181
Mobile Home Application	\$215				\$215	\$185	\$30
Mobile Home Renewal	\$30				\$30	\$25	\$5
Parcel Maps	\$835	\$185	\$85		\$1,105	\$954	\$151
Produce Stand Review	\$50				\$50	\$45	\$5
Rezone (non PD)	\$1,375	\$260	\$85		\$1,720	\$1,484	\$236
Rezone (PD)	\$1,630	\$260	\$85		\$1,975	\$1,704	\$271
Specific Plans, EIR, Development Agreement, Ag Grievances	actual cost				actual cost	actual cost	actual cost
Staff Approval Permit	\$360	\$60	\$85		\$505	\$434	\$71
Subdivision Ord. Exception	\$990	\$90	\$85		\$1,165	\$999	\$166
Tentative Subdivision Map*	\$1400 + \$10 per lot	\$520	\$85		2005+ \$10./lot	\$1,719 +\$7/lot	\$286 + 3/lot
Time Extensions	\$290				\$290	\$250	\$40
Use Permit & Modification	\$1,045	\$150	\$85		\$1,280	\$1,104	\$176
Variance	\$1,020	\$105	\$85		\$1,210	\$1,044	\$166
Verification Letter	\$30				\$30	\$25	\$5
Williamson Act Contract	\$100				\$100	\$85	\$15
Williamson Act Cancellation	\$385				\$385	\$330	\$55

multiple permits - pay largest fee plus \$50.00

*additional DER fees possible

**maximum not to exceed original fee

The fees charged for purchase of Planning Department documents will remain unchanged as follows:

Fees effective 06/01/95	PLANNING	TOTAL
General Plan (complete set)	57.00	57.00
1. General Plan	37.00	37.00
2. Support Document	15.50	15.50
3. Agricultural Element	4.50	4.50
Subdivision Ordinance	5.00	5.00
Zoning Ordinance	5.00	5.00
Airport Land Use Comm Plan	5.00	5.00
Community Plans	1.75	1.75
Economic Strategic Plan	5.00	5.00
LAFCO Policies & Procedures	5.00	5.00
Public Facility Fees	3.50	3.50
Salida EIR	10.00	10.00
Salida PD Guidelines	9.00	9.00
LAFCO-Policies & Procedures	5.00	5.00
Economic Strategic Plan	5.00	5.00
Planning Comm tape	10.00	10.00
Xerox Copy (1st.)	.50	.50
Xerox Copy (additional)	.10	.10
Specific Plan/EIR	actual cost	actual cost

Business License Fee Increase. We additionally propose to increase Business License fees from the existing \$36 to \$50. These fees are split between the Planning Department and Tax Collectors Office. Currently, the Tax Collector receives sixty-five percent (\$23.50) from each \$36 Business License and the Planning Department receives the remaining thirty-five percent (\$12.60). The new \$50 fee would be split along the same percentage between the two departments as follows:

Tax Collector: \$32.50 Planning: \$17.50

The Planning Department currently spends between 30 minutes to several hours on a single Business License Application, depending on specific locations, zoning requirements, or types of businesses. We typically try to issue these Licenses over the counter, but can run into complications, depending on specifics. Additionally, the Department is now responsible for tracking and reviewing all business license renewals. The Department plans to develop and maintain a GIS based business license tracking program that will add minor additional labor costs as well. If charged at an Assistant/Associate Planner's adjusted labor rate (\$46.22 per hour), the Planning Department's actual labor costs can range from \$23.11 to \$90, or more.

The Tax Collector typically spends approximately one-half hour of staff time setting up the initial license, and is responsible for mailing final licenses, renewal applications, and tax bills associated with licenses each year. The current \$36 fee for business licenses was originally calculated in the mid-1970's to fully cover costs associated with only the Tax Collector's actual costs. Since then, there have been no increases in Business License fees, but staff salaries have increased, mailing costs have increased, there are MIS charges to the Tax Collector for mainframe use, and the Planning Department has become involved in approval. The additional funds will partially offset the actual costs, but is not intended to cover all staff or other costs for either department.

New Monitoring Fee Proposed. Further, there are no provisions within our existing fee structure to allow for recuperating costs associated with Mitigation Monitoring of approved projects. On larger projects, such as Diablo Grande, the applicant has been required as a condition of approval to provide funding for staff time associated with environmental monitoring. As a matter of practice, the Planning Department has rarely charged developers for costs associated with follow-up monitoring. In most cases, the time required is minimal and would not require any charges. However, on larger subdivisions or complex use permits, often a significant amount of staff time is expended.

In order to cover a portion of the costs associated with monitoring and follow-up on larger projects, the Department proposes to add a new fee for Monitoring Use Permits and follow-up work on larger developments. This fee would be similar to our on-going mine inspections fee, but would be charged at the adjusted hourly rate of the Planner performing the tasks and would be charged at actual cost. The fee would cover staff, travel, and documentation costs. (Overhead or "indirect costs" are also appropriate charges to include pursuant to Circular A-87).

Government Code Requirements for Fee Increases.

Government Code Section 66016 provides that:

"no local agency shall levy a new fee or service charge or increase an existing fee or service charge to an amount which exceeds the estimated amount required to provide the service for which the fee or service charge is levied." And,

"a local agency shall hold at least one open and public meeting, at which oral or written presentations can be made, as part of a regularly scheduled meeting. Notice of the time and place of the meeting, including a general explanation of the matter to be considered, and a statement that the data required by this section is available, shall be mailed at least 14 days prior to the meeting to any interested party who files a written request with the local agency for mailed notice of the meeting on new or increased fees or service charges." And,

"At least 10 days prior to the meeting, the local agency shall make available to the public data indicating the amount of cost, or estimated cost, required to provide the service for which the fee or service charge is levied and the revenue sources anticipated to provide the service, including General Fund revenues." And finally,

“ Any action by a local agency to levy a new fee or service charge or to approve an increase in an existing fee or service charge shall be taken only by ordinance or resolution.”

Based on the Department's measurements of actual time spent on various permit applications, none of the proposed fee increases exceed the amounts necessary to recover actual costs. Further, all necessary public notices and publications have been completed. With completion of the public meeting and adoption of the proposed fees by resolution to be effective immediately following final action by the Board of Supervisors, adoption of the proposed fee increases and adoption of the new mitigation monitoring fee are in compliance with all appropriate Government Code requirements.

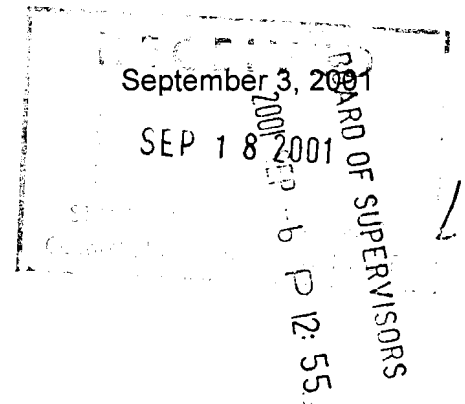
**POLICY
ISSUES:**

The Board of Supervisors must determine that a sixteen percent increase in Planning Department fees for discretionary permits, increasing Business License fees by \$14, and instituting a policy to collect the costs for monitoring larger projects for CEQA compliance is timely and appropriate, and meets the goals and priorities of the Board of Supervisors and the goals of the Department of Planning and Community Development's Strategic Plan.

**STAFFING
IMPACT:**

None.

Stanislaus County Board of Supervisors
1010 Tenth Street, Suite 6500
Modesto, CA 95354



SUBJECT: Proposed fee increases Planning Department

Dear Board Members,

I recently received a notice that fee increases, for various processes in the Planning Department, are being proposed at a public on September 11, 2001. The notice stated that I could obtain a staff report regarding these fee increases and respond to the Board of Supervisors. I can understand the desire to increase fees in these times but I have a real concerns with some of the amounts on certain processes and the process used to calculate these fee increases. I have been trying for years to get staff to initiate [on their own] a decrease in fees for Lot Line Adjustments. Obviously I have been totally ignored and the Planning Department has been non-responsive.

I strongly object to any fee increase regarding Lot Line Adjustments for the following reasons.

I have attached a highlighted copy of the Government Code regarding what the law allows with respect to Lot Line Adjustments. I would like to point out a few facts regarding Lot Line Adjustments as I understand the law and it's intent by the legislature.

The law for the process you are allowed, as per the Government Code, is short and very clear.

1: Please note that Lot Line Adjustments are exempt from the Subdivision Map Act. This means you have no authority to regulate and control the lot line adjustment process except as noted below. The Subdivision Map Act was part of the Business and Professions Code prior to 1965. It was then codified and became part of the Government Code in order to give local agencies authority over various land development processes. Lot line adjustments were specifically exempt so that local agencies could not have any authority in controlling lot line adjustments. Most local agencies did not like this so the State relented and allowed local agencies to review lot line adjustments mostly with respect to solely building and zoning ordinances.

2: Please note that local agencies "shall limit their review as to whether the resulting parcels meet building and zoning ordinances". Under the law "shall is mandatory" and "may" is permissive. This means that all you are allowed do, by law, is to review with respect to building and zoning ordinances.

I worked for Stanislaus County for over 22 years. As part of my work I had the responsibility for reviewing and approving lot line adjustments. I can not recall a lot line adjustment that I could

not review and approve [as per the Government Code] in less than five minutes. This is not a complicated or difficult process nor should it be.

Just before my retirement from the County the Board **properly** initiated studies to determine the fee structure for the various land development processes. Staff spent a great deal of time in order to do this fairly and correctly within the process allowed by the Government Code. At that time the Board decided to implement a very different review process for lot line adjustments. They [incorrectly] decided that lot line adjustments needed to get the same review process as Parcel and Subdivision Maps. They required a tentative map, Planning Commission review, public hearings, publishing in the newspapers for the public hearings, mailed notification to adjoining land owners, etc. The staff study for the Lot Line Adjustment fee **was based** on this erroneous process. [remember - they are exempt from the Map Act]. A few years later the Board decided that this was possibly more that was allowed or intended as per the Subdivision Map Act. The Board then changed the review and approval process to a **staff approval** process.

As you are aware [or should be], the law does not allow local agencies to recover any costs associated reviewing and processing beyond **that part of the processing the law requires and allows**. The reasoning is so that local agencies cannot create a bureaucratic process that allows excessive fees to be charged. This was recently brought to everyone's attention by the gentleman who, as I recall, took his cause as far as the state attorney general regarding copy fees that various agencies throughout the state were charging the public. So, it follows that your fee can only recover the cost for what is required to review and approve lot line adjustments with respect to building and zoning ordinances.

Several years ago, after the lot line adjustment process review was reinstated as a staff review and approval process and all previously required publishing, noticing, Planning Commission review, etc. was eliminated, I contacted Supervisor Paul. I explained to her that since this review process no longer took place then the **basis for the fee** [as per the original study] had changed and the fee needed to be reduced to reflect cost recovery as allowed by law. Her response was to vote for a fee increase a few weeks later. If your fee structure is still based on an approval process you no longer do and work you no longer perform than isn't this "fraud"? I would be concerned enough to ask County Counsel.

Remember, with respect to lot line adjustments, you "**shall limit your review process...**". I believe that this is all that you can base your fee on. Again, this should not be more than a 5 minute review by any competent staff member. Most lot line adjustments do not involve any buildings, improvements, or infrastructure near the adjusted areas so , by default, no building ordinance is involved. That leaves only zoning and in my opinion requires no more than a few minutes to determine and review.

Now, to summarize, I think you should take another look as to the proposed fee increases, particularly lot line adjustments. Why is DER getting \$80 for a 5 minute process [and why are

they even looking at lot line adjustments]? Why is DPW getting \$40 for a 5 minute process [and why are they even involved]? Why does Planning think it requires \$370 for a review and approval process that should be far less than 1 hour of time.

I would ask that you delay any fee increases until a **proper** study can be done with respect to basing your fees to only that **part of your processing procedures that is actually required by law**. In other words, a review of your review and processing procedures. As for the staff report, why does it show a chart of fees charged by other agencies for comparison purposes? I would think any study for fee increases, shown as supported by what other agencies charge, is an invalid because of the arbitrary way the different agencies were selected. Also, local agencies do not have the same cost basis and do not realistically reflect Stanislaus County's costs. I also have grave concerns regarding staffs determination of actual costs based on the times shown for processing and reviewing. Perhaps an independent review study is needed by an impartial person or group.

I would be happy to discuss this position with the Board and would make myself available, on an individual basis, to answer any questions regarding my concerns.

Please properly address these concerns, **particularly the lot line adjustment fees**.

Sincerely

A handwritten signature in black ink, appearing to read "Wayne G. Sutton", written over a light blue horizontal line.

Wayne G. Sutton

66411.5. Dedications and improvements for judicial partitions

(a) Notwithstanding any other provision of this division, whenever a parcel map or final map is required to effectuate a judicial partition of property pursuant to subdivision (b) and pursuant to Section 872.040 of the Code of Civil Procedure, the local agency approving the parcel map or final map may establish the amount of any monetary exaction or any dedication or improvement requirement authorized by law as a condition of approving the parcel map or final map, but shall not require payment of the exaction, the undertaking of the improvement, or posting of security for future performance thereof and shall not accept any required offer of dedication until the time specified in subdivision (b).

(b) This section applies to judicial partition of real property which is subject to a contract under Article 3 (commencing with Section 51240) of Chapter 7 of Part 1 of Division 1 of Title 5 and which will remain subject to that contract subsequent to the filing of the parcel map or final map. With respect to any parcel created by a parcel map or final map subject to this section, payment of exactions and acceptance of offers of dedication under this section shall be deferred by the local agency until the contract terminates or is canceled as to that parcel, except that no deferral is required under this subdivision as to fees and assessments that are due and payable for governmental services provided to the parcel prior to termination or cancellation of the contract. The applicants for a parcel map or final map subject to this section shall be personally liable for performance of obligations deferred under this section at the time they become due.

[Added, Chapter 494 Statutes of 1988]

66412. Map Act Exclusions

This division shall be inapplicable to:

(a) The financing or leasing of apartments, offices, stores, or similar space within apartment buildings, industrial buildings, commercial buildings, mobilehome parks, or trailer parks.

(b) Mineral, oil, or gas leases.

(c) Land dedicated for cemetery purposes under the Health and Safety Code.

(d) A lot line adjustment between two or more existing adjacent parcels, where the land taken from one parcel is added to an adjacent parcel, and where a greater number of parcels than originally existed is not thereby created, provided the lot line adjustment is approved by the local agency, or advisory agency. A local agency or advisory agency shall limit its review and approval to a determination of whether or not the parcels resulting from the lot line adjustment will conform to local zoning and building ordinances. An advisory agency or local agency shall not impose conditions or exactions on its approval of a lot line adjustment except to conform to local zoning and building ordinances, to require the prepayment of real property taxes prior to the approval of the lot line adjustment, or to facilitate the relocation of existing utilities, infrastructure, or easements. No tentative map, parcel map, or final map shall be required as a condition to the approval of a lot line adjustment. The lot line adjustment shall be reflected in a deed, which shall be recorded. No record of survey shall be required for a lot line adjustment unless required by Section 8762 of the Business and Professions Code.

(e) Boundary line or exchange agreements to which the State Lands Commission or a local agency holding a trust grant of tide and submerged lands is a party.

(f) Any separate assessment under Section 2188.7 of the Revenue and Taxation Code.

(g) Unless a parcel or final map was approved by the legislative body of a local agency, the conversion of a community apartment project, as defined in Section 11004 of the Business and Professions Code, to a condominium, as defined in Section 783 of the Civil Code, but only if all of the following requirements are met:

(1) At least 75 percent of the units in the project were occupied by record owners of the project on March 31, 1982.

(2) A final or parcel map of the project was properly recorded, if the property was subdivided, as defined in Section 66424, after January 1, 1964, with all of the conditions of that map remaining in effect after the conversion.