Community Planning and Economic Development Planning Division Report
Zoning Code Text Amendment

Date: May 4, 2009

Initiator of Amendment: Council Member Schiff

Date of Introduction at City Council: March 27, 2009

Specific Site: Citywide

Ward: Citywide **Neighborhood Organization:** Citywide

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Intent of the Ordinance: To amend the fee schedule for land use applications and subdivisions in recognition of the costs of services performed and work and materials furnished, and to establish application fees for new zoning applications that have been established by previously approved text amendments.

Appropriate Section(s) of the Zoning Code: Chapter 525, Administration and Enforcement, Chapter 598, Land Subdivision.

Background: The City has not comprehensively examined and adjusted its zoning application fees since 2003. A fee cost recovery assessment was performed by the PFM Group, an outside financial management firm, in 2005. The study demonstrated that there are opportunities for the City to move toward greater cost recovery in its land use application process. There has not been a complete revision to the City's land use application fees since the conclusion of this study. Furthermore, the current fee schedule does not reflect the rate of inflation from 2003-2009. These factors, as well as ongoing changes to the zoning code and staff review, results in a need to re-examine zoning application fees in an attempt to recover a greater share of the cost of providing services. Staff has conducted an analysis of zoning application fees and the recommended fees are illustrated in the attached amendment. The attached staff recommendation includes the following key changes:

- Increase most fees from 5-18 percent (some more, some less or not at all) based on the following:
  - The rate of inflation from 2003-2009 (14.75 percent).
  - The results and recommendations of a fee cost recovery assessment performed in 2005 by the PFM Group and the rate of inflation from 2005-2009.
  - Text amendments adopted by the City from 2003-2009 that affect the amount of staff time and resources required for certain land use applications, or establish new land use applications.
  - For certain application types, the City has implemented efficiencies that allow for substantial cost recovery using existing fees.

- Add new fees: administrative review of plazas, administrative reviews of wind energy conversion systems, conditional use permits related to freestanding wind energy conversion systems and future land use map amendments.

In addition to considering the cost of providing services related to reviewing zoning applications, staff also considered the issue within the context of fees charged by other municipalities for similar applications. Specifically, staff analyzed fees charged by mid-sized cities in other regions of the country. This recognizes that the City is in a regional and national marketplace related to development. Staff is also conscious of the fact that other City agencies (e.g., Inspections, Licenses) also charge fees for services related to new development. The increase in fees is intended to balance the need for cost recovery while not making it prohibitively expensive for applicants to go through the land use application process.

For those land use application fees that are not changing, staff has determined that the existing fees are sufficient to substantially cover costs. In addition to fees included in Chapter 525, the City also charges fees that are not codified in the Code of Ordinances. As part of this amendment, staff is proposing to increase the fee charged for zoning letters from $50.00 to $100.00.

Legal context:

The City's zoning fees are administered within the context of state statute 462.353, subd. 4, which states the following:

> "**Fees.** (a) A municipality may prescribe fees sufficient to defray the costs incurred by it in reviewing, investigating, and administering an application for an amendment to an official control established pursuant to sections 462.351 to 462.364 or an application for a permit or other approval required under an official control established pursuant to those sections. Except as provided in subdivision 4a, fees as prescribed must be by ordinance. Fees must be fair, reasonable, and proportionate and have a nexus to the actual cost of the service for which the fee is imposed.
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> (b) A municipality must adopt management and accounting procedures to ensure that fees are maintained and used only for the purpose for which they are collected. Upon request, a municipality must explain the basis of its fees.
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> (c) Except as provided in this paragraph, a fee ordinance or amendment to a fee ordinance is effective January 1 after its adoption. A municipality may adopt a fee ordinance or an amendment to a fee ordinance with an effective date other than the next January 1, but the ordinance or amendment does not apply if an application for final approval has been submitted to the municipality.
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> (d) If a dispute arises over a specific fee imposed by a municipality related to a specific application, the person aggrieved by the fee may appeal under section 462.361, provided that the appeal must be brought within 60 days after approval of an application under this section and deposit of the fee into escrow. A municipality must not condition the approval of any proposed subdivision or development on an agreement to waive the right to challenge the validity of a fee. An approved

application may proceed as if the fee had been paid, pending a decision on the appeal. This paragraph must not be construed to preclude the municipality from conditioning approval of any proposed subdivision or development on an agreement to waive a challenge to the cost associated with municipally installed improvements of the type described in section 429.021."

Purpose for the Amendment:

What is the reason for the amendment?
What problem is the Amendment designed to solve?
What public purpose will be served by the amendment?
What problems might the amendment create?

The amendment would establish new zoning application fees and adjust current zoning application fees in recognition of the costs of services performed and work and materials furnished.

The problem that the amendment is trying to eliminate is to reduce the gap between the cost of providing services and the costs recovered through application fees. The study performed in 2005 examined the City expenditures related to various land use applications and the cost recovery achieved. Results of the 2005 study showed that the City did not achieve full cost recovery on any of the 12 land use applications analyzed. Upon adoption and publication of the staff recommendation, fees would cover a higher percentage of the cost of providing services to applicants.

Among the public purposes served by the amendment, the new and adjusted fees would allow the City to continue to ensure that new development and redevelopment meets public objectives while recovering the cost of the review from the direct user of the respective permits.

Staff does not expect that the amendment would create significant problems. Although increased fees will affect some applicants that may have limited resources, the majority of the fee increases are in line with the rate of inflation and the cost of staff time and resources.

Timeliness:

Is the amendment timely?
Is the amendment consistent with practices in surrounding areas?
Are there consequences in denying this amendment?

The amendment is timely given that it has been nearly six years since the last time the entire fee schedule was updated. Recent budget issues related to cuts in local government aid from the State of Minnesota also contribute to the timeliness of this amendment.

Examples of fees from other mid-sized cities in other regions of the country have been attached to this report. The cities of St. Paul, St. Cloud and Rochester are among those reviewed. The proposed fees are more or less consistent with practices in other mid-sized cities.

The consequence of denying the amendment is that the City will not shrink the gap between the cost of reviewing land use applications and the ability to recapture those costs through fees. Instead, zoning application reviews would continue to be subsidized with dollars from the general fund.

Comprehensive Plan:

How will this amendment implement the Comprehensive Plan?

The following policies of the *Minneapolis Plan* apply:

> Policy 9.18 of the Minneapolis Plan states, "Minneapolis will establish land use regulations, in order to achieve the highest possible development standards, enhance the environment, promote flexibility in approaches and otherwise carry out the comprehensive plan."

The following general implementation steps of the *Minneapolis Plan for Sustainable Growth* apply:

> **Zoning and subdivision ordinance**s – Continue to enforce existing ordinances, and make incremental changes as needed to respond to changing conditions and further implement policy. A text amendment incorporating airport safety zoning, height limitation and noise attenuation has been initiated and is expected to be acted on in 2008. Beyond that, no major changes are needed to ensure the ordinances are consistent with the comprehensive plan.
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> **Development review proces**s – Continue to use the development review process to ensure projects are consistent with the comprehensive plan and other city plans and ordinances. At this point, no major changes are needed to ensure the process is consistent.
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> **Annual budget—**The City of Minneapolis annual budget process integrates information from city-wide priority setting, capital improvements program, annual infrastructure operation and maintenance costs, and departmental review processes to establish annual resource allocations. Budgetary priorities are reviewed for consistency with comprehensive plan policy.

With the variety of regulations that are needed implement the comprehensive plan, and with the desire to encourage public awareness and participation through a public hearing process, there is a need to pay for the review of land use applications. A large portion of the development review cost has historically been recovered directly through land use application fees.

Recommendation of the Community Planning and Economic Development--Planning Division:

The Community Planning and Economic Development Planning Division recommends that the City Planning Commission and City Council adopt the above findings and **approve** the zoning code text amendment.

Attachments:

1. Ordinance amending Chapter 525 to adjust fees
2. Ordinance amending Chapter 598 to adjust land subdivision fees

3. Chart illustrating land use application fees in other mid-size cities
4. Chart illustrating current fees, inflation rate and proposed fees with percent increases