



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Joseph Horwedel

SUBJECT: 2008-2009 PLANNING AND
BUILDING FEE PROGRAM
ADJUSTMENTS

DATE: March 9, 2009

Approved

Date

3/11/09

COUNCIL DISTRICT: City-Wide
SNI AREA: All

RECOMMENDATION

Adopt a resolution amending the FY 08-09 Fee Resolution to adjust certain Planning fees to cost recovery and make other minor fee changes.

BACKGROUND

On December 2, 2008, the Council received an Information Memorandum from Joseph Horwedel and Jennifer Maguire regarding a Development Services budget projected shortfall. In that memorandum, it was noted that the economic downturn had resulted in a significant decrease in development activity and associated revenues such that, even with numerous staff vacancies, development fee revenues were projected not to cover this fiscal year's development services expenses. On January 27, 2009, the Council considered and approved the adoption of an appropriation ordinance and funding sources resolution amendment that identified specific cost savings actions to prevent more aggressive actions later in the fiscal year. Those actions included the use of reserve funds, non-personal/equipment reductions, the elimination of vacant and filled positions, and miscellaneous personal services savings.

In the January 27, 2009 memo, the Department of Planning, Building, and Code Enforcement (PBCE) noted that it would work with its partners (Fire and Public Works Departments) and its customers to develop strategies to make targeted fee adjustments to improve cost recovery, as well as complete its analysis of services that are not cost recovery. This memorandum identifies specific Planning fees that are recommended for adjustment with Council approval to better approach a cost-recovery level.

The Department will also be bringing forward additional fee changes as part of the regular FY09-10 Proposed Fees and Charges process. Those changes will be discussed with Development customers at several meetings in March and April of this year.

ANALYSIS

The Department is proposing certain fee changes now, as summarized in Attachment A, prior to the annual Fees and Charges action in order to more nimbly adjust to the economic downturn, and increase or modify fees which are currently not set at a cost recovery level. Staff's recommendations for adjustments to these fees are discussed below.

Proposed Fee Changes

1. *Adjust the fee surcharges for the review of a Request for a Determination of Public Convenience or Necessity (PCN) and add a surcharge for Off-Sale of Alcohol Use.*

Currently, the After-Midnight Use and Drive-Through Use surcharge fees are each \$3,280, the PCN fee is \$1,270, and there is no surcharge at all for Off-Sale of Alcohol uses. Staff's experience with Off-Sale of Alcohol uses and PCN requests is that the staff time required to review, analyze and process these requests involves additional staff time beyond what the existing base fees cover to the same degree as After-Midnight Uses and Drive-Through Uses. For this reason, staff recommends that the Fee Schedule include the same surcharge of \$3,280 for each of these uses to ensure cost recovery across similar permit types.

2. *Remove the cap on Outdoor Use Surcharge for the Conditional Use Permits (CUP), Planned Development permits, and Special Use Permits (SUP).*

Staff recommends that there be no cap on the fees calculated for the outdoor primary use areas for any development permit involving large outdoor use areas and that the Fee Resolution be amended to allow staff to charge applicants a cost recovery amount to review and process applications for these uses. Outdoor Use fees are currently capped at \$8,870 for permit types other than Conditional Use Permits which are capped at \$9,870, restricting the ability for the Department to achieve cost recovery, since many conditional and special uses under the Zoning Code have large outdoor primary uses. Requests for permits under these circumstances typically entail complex review with multiple departments, such as storm water quality control or environmental issues. Outdoor Use fees are currently capped at \$9,870 for permit types other than Site Development Permits.

3. *Increase fees for Public Noticing*

Currently, the Fee Schedule includes a different base fee for each of three noticing radii: 300, 500 and 1,000 feet. Staff recommends that these base fees be increased as follows:

- (a) 300-foot noticing: Staff recommends that the base fee for 300-foot noticing be increased from \$122 to \$200, plus an additional per unit charge of \$1 per notice over 100 notices because of increasing postage and materials costs as well as the additional staff worked involved in processing additional notices when needed. Currently there is no maximum number of notices for 300-foot noticing.

- (b) 500-foot noticing: Staff recommends that the base fee for 500-foot noticing be increased from \$175 to \$300 with the base number of notices being increased from 100 to 200. The \$1 fee per notice over 200 will remain for the same reasons noted above.
- (c) 1000-foot noticing: Staff recommends this base fee be increased from \$475 to \$575. Staff further recommends that the additional notice charge be increased from \$0.93 per notice over 400 to \$1 per notice over 400, similar to the per notice charge for both 300-foot and 500-foot noticing, for the same reasons noted in those other two contexts.

4. *Expediting Small Planning Projects Pilot Program*

As an extension of the existing successful Small Projects Program, the Department is proposing to create a new fee to recover costs for Planning and Public Works staff to provide an enhanced level of service early in the development review process for a select group of projects, hereinafter described as a pilot program. This pilot program would focus on small economic and residential development applications and involve their expeditious review at the time of application submittal. The intent of this pilot program and fee would be to identify projects where the applicants can quickly and successfully resolve any issues related to development regulations and policies, in order to prepare for an accelerated public hearing schedule. The proposed pilot is in response to longstanding demand by development customers to have an option to pay higher fees for faster service.

A fee of \$704 is proposed for the pilot program fee. The fee accounts for two hours of Planner time and one hour of Public Works engineer time at 1.5 times their respective hourly rates. Applicants paying the fee would have an hour long meeting with the Small Projects Program Planning project manager and a Public Works engineer at the time of application submittal. Applicants would leave that meeting with a number of issues identified that would normally be part of the "30-day" letter. This allows them to begin addressing these issues up to four weeks faster than the typical process. This pilot services is intended to reduce the number of review cycles and get to hearing sooner than the targeted hearing date, but the accuracy of these assumptions will be monitored during this pilot process.

Council Approval to Keep 10% of BASFR State Pass-Through Fee

Effective January 1, 2009, the State of California passed a law establishing the Building Standards Administration Special Revolving Fund (BSASRF) that requires each city to collect a fee from any applicant for a building permit, assessed at the rate of \$4 per \$100,000 in valuation, as determined by the local Building Official. This fee is for the California Building Standards Commission to adopt, approve, codify, update, and publish green building standards for any occupancy for which no state agency has the authority or expertise to propose those standards. Funds received under the California Building Standards Law will be deposited into a fund for use by the Commission to carry out these provisions of existing law and certain other provisions of existing law that relate to building standards, with emphasis placed on the development, adoption, publication, updating, and educational efforts associated with green building standards. The bill

also authorizes cities to retain no more than 10% of the fees collected for related administrative costs and building code inspection education.

At this time, the Department of Planning, Building and Code Enforcement is requesting authorization from the City Council to retain the full 10% allowed by the law to cover the administrative costs associated with establishing and processing the fee collection, as well as Building Code inspection education. The Building Division would use this inspection education fee to educate and train inspection staff. For the first half of FY 2008-2009 the total building valuation to which this fee would have applied was \$489,980,353. With current economic and construction activity levels, the department anticipates a total BSASRF fee collection of approximately \$39,200 with the department's share being \$3,920.

EVALUATION AND FOLLOW-UP

The department will propose other fee updates for FY 2009-2010 as part of the regular Proposed Fees and Charges process.

POLICY ALTERNATIVES

Not Applicable

PUBLIC OUTREACH/INTEREST

- Criteria 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criteria 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the city. **(Required: E-mail and Website Posting)**
- Criteria 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

This memorandum has been posted on department website. Email and direct outreach has been conducted to the Developers Roundtable, Chamber of Commerce Development Subcommittee, and other customer groups. Feedback received from customer groups is that they are generally supportive of efforts to align and simplify the Fee Schedule whenever possible. They also indicated that it is better to increase the initial noticing fees than to have to pay additional noticing fees late in the review process as the project goes to hearing.

COORDINATION

This project was coordinated with the City Manager's Budget Office and the City Attorney's Office.

FISCAL/POLICY ALIGNMENT

Not applicable.

COST SUMMARY/IMPLICATIONS

Due to the low volume of applications the Department is currently experiencing the revenues that will result from the approved fees are not expected to significantly change projected revenues for FY 08-09.

BUDGET REFERENCE

Not applicable.

CEQA

Not a project.



JOSEPH HORWEDEL, DIRECTOR
Planning, Building and Code Enforcement

For questions please contact Joseph Horwedel at 408-535-7900.

Attachment A

Proposed Fee Modifications

<u>Fee Change Proposed</u>	<u>Current Fee</u>	<u>Proposed Fee</u>
1. Increase/Add surcharge for:		
a. Review of a Request for a Determination of Public Convenience or Necessity (PCN),	\$1,270	\$3,280
b. Off-Sale of Alcohol Use	\$0	\$3,280
2. Remove cap on outdoor use surcharge for:		
a. Conditional Use Permits	\$9,870 max.	No maximum
b. Planned Development Permits	\$8,870 max.	No maximum
3. Increase Fees for Public Noticing		
a. 300-ft Radius Noticing	\$122	\$200
Per notice charge over 100	\$0	\$1
b. 500-ft Radius Noticing	\$175	\$300
Per notice charge over 200	\$1	\$1
c. 1,000-ft Radium Noticing	\$475	\$575
Per notice charge over 400	\$0.93	\$1
4. Add Small Planning Projects Pilot	New Fee	\$704