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REPORT RE:

**DRAFT ORDINANCE AMENDING SECTIONS 19.00 THROUGH 19.12 OF THE
LOS ANGELES MUNICIPAL CODE TO UPDATE FEES FOR APPLICATIONS AND
APPEALS FOR PLANNING APPROVALS**

The Honorable City Council
of the City of Los Angeles
Room 395, City Hall
200 North Spring Street
Los Angeles, California 90012

Council File No. 09-0969-S3

Honorable Members:

Pursuant to your request, this Office has prepared and now transmits for your consideration the enclosed draft ordinance, approved as to form and legality. The draft ordinance amends Sections 19.00 through 19.12 of the Los Angeles Municipal Code (LAMC) to update the Department of City Planning's (DCP) application and appeal fees.

Background

On December 2, 2020, the DCP transmitted its recommendations for fee adjustments, along with the NBS Comprehensive Fee Study (2016 NBS Fee Study) and with the corresponding Updated Fee Analysis and Schedule (dated November 2020), to the Planning and Land Use Management Committee (PLUM Committee) for consideration. The Updated Fee Analysis and Schedule analyzed recent trends in case filings and practices and accounted for increased staffing costs. Although the Fee Study identified costs commensurate with the full cost recovery by the DCP in providing project planning services, the DCP recommended proceeding with a subsidized fee structure similar to the fee update that the City Council adopted in 2009 for various policy reasons. Based on the Updated Fee Analysis and Schedule and associated policy recommendations, DCP recommended less than full cost recovery on various

planning and land use services fees, including filing and processing fees for Mills Act applications, historic resources and certificates of appropriateness, non-applicant initiated appeals, and entitlements involving single-family homes. The proposed fee increase will achieve 84% cost recovery and reduce the General Fund subsidy to \$6.1 million.

On February 24, 2021, the Office of the City Administrative Officer (CAO) analyzed the DCP's proposed recommendations and Updated Fee Analysis and Schedule and submitted a report (CAO File No. 0220-04851-0019). The CAO recommended updating fees to allow for full cost recovery to more accurately reflect its determination that the estimated cost of service should be adjusted to utilize a different assumption for the average rate of salary increases and to include updated cost calculations using the latest Cost Allocation Plan (CAP) rates. The CAO prepared a separate Updated Fee Analysis and Schedule, which is attached to its recommendation report.

On May 4, 2021, the PLUM Committee recommended that the City Council move forward with the DCP's policy recommendations to charge less than full cost recovery and requested that the City Attorney prepare and present a draft ordinance to amend LAMC Sections 19.01 through 19.12 to update the fees, as outlined in the Updated Fee Analysis and Schedule.

Summary of Ordinance Provisions

Based on the PLUM Committee's recommendation and the subsequent City Council amending motion that was adopted on May 18, 2021, this draft ordinance seeks to amend LAMC Sections 19.01 through 19.12 to allow for an increase in application and appeal fees. The purpose of the fee update is to more accurately represent the cost of providing planning and land use services.

If enacted, the level of cost recovery would increase from 63% to 84% of project planning costs, while continuing Planning's policy of subsidizing certain Planning fees to increase and encourage community participation and review, as well as provide Citywide benefits through community-based planning and small business support efforts. The draft ordinance also seeks to increase the hourly rates and staff costs for planning services required for each type of entitlement request. The draft ordinance also seeks to expand DCP's ability to charge full cost recovery for qualifying major projects and the corresponding environmental review that are processed through the Major Projects Section.

During the legislative process for this draft ordinance, the CAO requested that our Office prepare an amended ordinance to update the Home-Sharing Registration and Renewal Fees (CAO File No. 0220-05802-0000; Council File No. 14-1635-S7) to provide for full cost recovery. While the proposed Home-Sharing Registration and

Renewal Fees were not analyzed as part of the 2016 NBS Fee Study, they were developed and adopted based on an analysis that is part of the Home-Sharing Ordinance (Council File No. 14-1635-S7). This draft ordinance includes those updated fees.

The draft ordinance also updates LAMC Section 12.27.1 (Administrative Nuisance Abatement Proceedings) to change a few references from "Section 19.01 P" to "Section 19.01 N". As Planning Staff was reviewing the draft ordinance, Staff noticed these incorrect LAMC references in LAMC Section 12.27.1 and requested that the City Attorney's Office revise that portion of the Code accordingly to avoid any confusion.

The draft ordinance also contains the standard indemnification provisions that are included as conditions in the DCP's entitlements.

Charter Findings Not Required

The enclosed draft ordinance strictly relates to an increase in an existing fee in the fee schedule and is not a land use ordinance under City Charter Section 558. For this reason, this draft ordinance is not subject to approval by the City Planning Commission.

Fee Notice Requirements

Prior to adopting a new fee or increasing an existing fee, the City Council must conduct a public hearing concerning the matter, as required by Government Code Section 66016. Notice of the time and place of the meeting at which the hearing will be held, including a general description of the matter to be considered, must be published in accordance with Government Code Section 6062a. Those sections of State law require that prior to adoption of a new or increased fee a public hearing be held and notice of that hearing be published in a newspaper with two publications at least five days apart over a ten-day period. The notice period begins the first day of publication, and there must be at least five days intervening between the first and the second publications, not counting the dates of publication.

CEQA Determination

The DCP recommends that the City Council determine that the adoption of this ordinance does not constitute a "project," as defined by CEQA pursuant to CEQA Guidelines Section 15378(b)(4), which states that a "project" does not include "[t]he creation of government funding mechanisms or other government fiscal activities which does not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment."

Furthermore, even if it were found to be a "project" under CEQA, the DCP recommends that the adoption of this ordinance is exempt from CEQA based upon CEQA Guidelines Section 15061(b)(3), which states that a project is exempt from CEQA if "[t]he activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA." If you concur, you must comply with CEQA by making this determination prior to or concurrent with your action on the draft ordinance.

Council Rule 38 Referral

A copy of the draft ordinance was sent, pursuant to Council Rule 38, to the Department of Building and Safety with a request that all comments be presented directly to the City Council or its Committees when this matter is considered.

If you have any questions regarding this matter, please contact Deputy City Attorney Kimberly Huangfu at (213) 978-8257. She or another member of this Office will be available when you consider this matter to answer questions you may have.

Sincerely,

MICHAEL N. FEUER, City Attorney

By



DAVID MICHAELSON
Chief Assistant City Attorney

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Transmittal