Centre City Development Corporation

DATE ISSUED:	April 4, 2012
ATTENTION:	Councilmember Zapf and Members of the Land Use and Housing (LUH) Committee Meeting of April 11, 2012
ORIGINATING DEPT.:	Centre City Development Corporation
SUBJECT:	Proposed Development Application Fee Schedule for the Downtown Community Plan area
COUNCIL DISTRICTS:	2 & 8
REFERENCE:	None
STAFF CONTACT:	Brad Richter, Assistant Vice President, Planning, 619-533-7115

REQUESTED ACTION: That the LUH Committee recommends to the San Diego City Council ("City Council") adoption of a Fee Schedule as outlined in this report in order to fully fund the development and land use entitlement functions that the Centre City Development Corporation ("Corporation") performs for the City of San Diego ("City") within the Downtown Community Plan area.

STAFF RECOMMENDATION: That the LUH Committee recommends to the City Council adoption of the attached Fee Schedule for development and land use applications within the Downtown Community Plan area.

SUMMARY: Since 1992 the Corporation has performed the planning and development entitlement functions for the City within the Downtown Community Plan area. These activities were part of the overall Corporation mission to foster the redevelopment of downtown. However, due to the passage of California Assembly Bill AB X1 26 (AB26) and the dissolution of redevelopment agencies, redevelopment tax increment funds will no longer be available to financially support these planning and development entitlement functions. Similar to the City and other governmental entities throughout the State of California, the Corporation proposes to collect fees from applicants for future development project and land use permit reviews. Based on a Fee Study methodology created by the Matrix Consulting Group ("Matrix"), Corporation staff has prepared a draft Fee Schedule for consideration by the City Council. Based on permit application history over the past ten years and current trends, staff estimates that the Corporation

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can fund anticipated Corporation costs associated with development entitlement functions, with supportive revision and maintenance activities associated with the Downtown Community Plan, the three downtown planned district ordinances (PDOs), and the Program Final Environmental Impact Report (FEIR), based on this Fee Schedule.

FISCAL CONSIDERATIONS: Once the various fees are established to recover full costs associated with permit processing, it is estimated that the Corporation will collect between $800,000 and $1.2 million annually.

ECONOMIC IMPACTS: None.

CORPORATION RECOMMENDATION: On March 28, 2012, the Corporation Board of Directors voted 5-0 to recommend that the City Council adopt the Fee Schedule for development applications within the Downtown Community Plan area.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: On March 21, 2012, the Centre City Advisory Committee (CCAC) voted 19-0, with one abstention, to recommend approval of the proposed Fee Schedule.

Staff has also met with committees of the Building Industry Association (BIA), the Building Owners' Maintenance Association (BOMA), the Downtown San Diego Partnership, and the Chamber of Commerce ("Chamber"). Staff has provided the original draft Fee Schedule and the revised proposed Fee Schedule attached to this report to the following additional groups for review and comment:

Little Italy Association
East Village Association
Gaslamp Quarter Association
American Institute of Architects San Diego Chapter

Unfortunately, while staff has spoken with several representatives and committees of these organizations and will continue to attend various meetings to educate these groups and the public, there has not been adequate time for most of the organizations to take official positions on the Fee Schedule. However, the general consensus has been that the organizations support the Corporation maintaining its development review processes and the proposed fixed-fee approach recommended by staff.

KEY STAKEHOLDERS AND PROJECT IMPACTS: The proposed application fees will impact local businesses and developers in the Downtown Community Plan area, ranging from small restaurants who desire a sidewalk café to developers of major urban development projects.

BACKGROUND

In 1992 the City delegated planning and development entitlement responsibilities to the Corporation for the downtown planning area. While the Corporation already performed Design Review services and entitlements for the Marina and Gaslamp Quarter Planned Districts, these services were expanded to include all of downtown with the adoption of the Centre City PDO. Developers and businesses apply for planning entitlements for new development and land use permits through the Corporation rather than the Development Services Department (DSD) at the City. This was delegated to the Corporation to create a "one-stop shop" to expedite development review in coordination with the goals of the Centre City and Horton Plaza redevelopment plans. Once these discretionary permits are approved, the developers and/or businesses then obtain the necessary ministerial building and other permits from the City's DSD. During the City's plan check of permit applications, Corporation staff also performs plan check services along with the other City disciplines.

To incentivize development within the Centre City and Horton Plaza Redevelopment Project areas, the Corporation did not collect development application fees for development entitlement services. In addition, the City did not collect Development Impact Fees (DIFs) within downtown until 2005, when the City completed a Public Facilities and Financing Plan (PFFP) for the Downtown Community Plan area. The PFFP established DIFs to provide funds for construction of fire stations and parks in the downtown area.

In 2008 the Corporation issued a Request for Qualifications/Proposals (RFQ/P) for a financial consulting firm to prepare an analysis of the appropriate fees that could be charged for planning entitlement and plan check services, which the Corporation performs for the City. In June 2008, the Corporation hired Matrix, which has broad experience in preparing such studies. Matrix worked with Corporation staff during 2009 to prepare the study based on work programs, number of applications processed, and amount of staff time necessary for the various planning entitlement and plan check functions. In 2009 a Performance Audit of the Corporation was commissioned by the City Council which included as one of its recommendations the establishment of cost recovery mechanisms such as establishing processing fees for land use applications.

Typically, land use entitlement applications require a wide variety of staff time, dependent on the level of review – either administrative review by staff or review by the CCAC, Corporation Board, Historical Resources Board, Planning Commission and/or City Council.

Typical tasks include:

- Review of application for completeness of submittal
- Prepare and mail/publish/post public notices
- Review for compliance with PDO and Downtown Community Plan

- Work with applicant on modifications
- Coordinate with consultants as applicable
- Coordinate with City staff
- Prepare Environmental Secondary Study
- Respond to inquiries from public
- Prepare staff reports
- Present at public meeting(s)
- Prepare/execute permits
- Plan check building plans
- Inspect construction sites

One of the first decisions in the preparation of the Fee Study was whether to collect development application deposits for development entitlements similar to the City's DSD or use a fixed-fee schedule. The City's DSD requires a deposit to be paid by the applicant to cover staff costs in processing the application to ensure full-cost recovery. Often times the City requests one or more additional deposits during application processing and then refunds the unused portion of the deposit at the completion of the project. However, the Corporation did not have a system or staff to track deposit accounts similar to the City at the time. In addition, the development community and other stakeholder groups indicated a preference for a fixed fee system over a deposit system similar to the City's. However, most groups, including the CCAC, BIA, Chamber of Commerce, and Downtown San Diego Partnership opposed the implementation of application fees since downtown was a redevelopment area and that the lack of processing fees was viewed as an incentive in attracting new development (which would then create tax increment funds to be used to fund the planning and development entitlement services).

Therefore, in 2010 staff recommended that a fixed-fee system be implemented that would provide applicants with a definitive cost associated with each specific application. There is no common method practiced by jurisdictions across the state, although most use a fixed-fee application system. In late 2010, the Corporation Board recommended that a Fee Schedule be adopted, but that it would be implemented over a five-year period starting in July 2011; however, the Fee Schedule did not proceed to the City Council due to a variety of factors. After AB26 and AB27 were passed in 2011, the Corporation Board once again considered the Fee Schedule in September 2011, but the item was tabled pending resolution of the litigation filed over AB26/AB27.

DISCUSSION

The Fee Study completed by Matrix in 2009 proposed application fees based on specific criteria for cost recovery purposes. As mentioned earlier, estimated Corporation costs were limited to only those directly related to development permit processing cost recovery for a specific application, with some overhead costs included. The fees proposed at the time were kept below

what is legally justifiable because the Corporation planning and development entitlement department had not charged fees in the past and had alternative funding sources through redevelopment tax increment for its more general public information, long-range planning, redevelopment, and public works activities. However, fees may include the following costs in establishing full-cost recovery:

1. Direct budgeted costs including salaries and benefits, operating services and supplies;
2. Department and Divisional Overhead Costs including supervision and administrative costs;
3. Cross Departmental Costs associated with support received from external functions, divisions, or departments within the area of focus;
4. Indirect Costs including the Planning Department's share of corporation overhead including rent, supplies, and utilities; and,
5. Plans, Policy, or Infrastructure Maintenance and Update Costs related to maintenance of plans (Downtown Community Plan and PDOs) and environmental documents (downtown's Program FEIR) which are applicable to the development review process. The maintenance and updating of these documents is crucial to maintain the expedited review process downtown and protect against legal challenges to project entitlement actions.

Based on the previous 2009 Matrix Fee Study Report, staff has utilized a cost calculation methodology, commonly referred to the "bottom-up" approach to establishing development application fees. This process includes the following steps:

1. Create a list of planning application and permitting fees.
2. Identify the average time to process each type of application.
3. Calculate the full cost of providing services to include all direct and indirect cost components.
4. Reallocate any additional support costs identified within the development review functions, such as public information, supervision, clerical support, and organizational overhead including rent, supplies, and utilities.

The result of these allocations provides detailed documentation for the reasonable estimate of the actual cost of providing the review of each of the different types of applications. It should be noted that long-range planning services, such as park planning and other long-range studies, are not factored into these allocations and those costs must be supported by other sources of revenue such as the City's General Fund, grants, or potentially development impact fees (DIFs) when the work performed is directly tied to the projects that the DIFs were established for in an adopted Public Facilities and Financing Plan (PFFP).

While the calculated average costs for processing each type of application can be achieved through this methodology, there are additional costs that can be incurred in the processing of applications. Therefore, in order to ensure that the costs of unusual or atypical applications are paid for by the applicant, the Corporation is proposing to establish a deposit system to recover additional costs associated with the following conditions:

1. Extended Review Process – One of the initial reasons that application fees were first proposed in 2007 was that a couple of applications were requiring an extraordinary amount of staff time due to certain applicants continually making significant changes to the application, including the changing of design firms. The Corporation provides an efficient review process based on PDOs tailored to the downtown high-density, mixed-use environment and the use of a Program EIR that streamlines the review process under the California Environmental Quality Act (CEQA). Therefore, the application fees have been established on the average process that involves the review of the initial application submittal and up to two complete reviews of re-submittals of drawing packages (based on changes to the project design and/or program). If the application requires further review cycles, either due to the applicant's changing design preferences or in reaction to review comments received from staff, the community planning group, and/or the Corporation Board, then a $5,000 deposit will be required to cover these additional processing costs. Staff time, associated public noticing, and other costs will be billed against the deposit account based on a time and materials basis, with a refund to the applicant of any deposit monies not used through project close-out.

2. Appeal of Review Decision – For discretionary permits (Process Two, Three and Four) which are subject to administrative appeal, an additional fee will be charged to the applicant if the decision on the application is appealed (either by the applicant or an interested party). An additional fee has been calculated based on the additional costs associated with staff time including analysis of the appellant's arguments, public noticing, and the processing of an additional public hearing before a higher decision-making body.

3. Environmental Review Document – the Downtown Community Plan area is covered by a Project FEIR certified in 2006, as well as four addenda to the FEIR. All projects are reviewed for statutory and categorical exemptions under CEQA and/or an initial environmental study is performed by staff to evaluate whether the proposed project has been covered by the Program FEIR's analysis. If the project's potential impacts have been covered by the Program FEIR, then no further analysis under CEQA is required. However, if for example the project requires amendments to the Downtown Community Plan or one of the PDOs and is outside of the scope of the Program FEIR's analysis, additional CEQA analysis may be required. The applicant will be required to provide an initial $10,000 deposit to cover the Corporation's costs for determining the type and

estimated costs for the preparation of any additional CEQA document. Based on this determination, a deposit to cover the estimated costs for the preparation of the specific CEQA document will be required.

It is estimated that these additional costs will affect a very small percentage of applications, estimated to be a maximum of five percent of all applications.

The attached proposed Fee Schedule is anticipated to fully recover the operating costs of the Corporation's downtown development and land use entitlement activities related to the processing of development applications within the Downtown Community Plan area. Staff has analyzed development application levels over the last ten years, and specifically recent and anticipated activity over the next year, to estimate the amount of revenue which can be expected under the proposed Fee Schedule. Based on this analysis, revenue under the proposed Fee Schedule is anticipated to range between $800,000 and $1.2 million dollars annually.

Application fees are typically reviewed at periods not to exceed five years to ensure that full-cost recovery is being maintained. However, since these proposed fees are being established for the first time, staff will be closely monitoring actual revenue and will report back to the Corporation Board after a six-month period and in subsequent annual budget cycles. Staff has also included a seven percent operating expense reserve allocation to cover the potential fluctuation in development application levels and unanticipated costs associated with the development review functions in accordance with City Council Policy 100-20. Because of the recently adopted Downtown Community Plan, amendments to the PDOs, and Program FEIR, staff anticipates that this reserve will be sufficient. Staff is not recommending an automatic annual adjustment factor at this time, but may recommend one in subsequent years after the review of annual budgets.

The following proposed fees relate to the most common types of applications that the Corporation processes:

Development Permit – Administrative Review *(less than 50 units/100,000 sq. ft./85 feet in height)*	$21,021
Development Permit – Board Design Review *(most typical for new development projects)*	$36,957
Conditional Use Permit – Process III *(parking lots, nightclubs, off-site sale of alcohol)*	$9,857
Neighborhood Use Permit / Neighborhood Development Permit *(sidewalk cafes, outdoor dining areas)*	$1,321

It is important to note that the fees are directly related to the type of review (how many review meetings/public hearings) more than the size of a particular project. While the complexity of developments outside of downtown, especially those on vacant or raw land, vary on location (environmental conditions such as topography and sensitive lands) and the size of the project

(involving differing amounts of land), downtown projects are located on established blocks within a community fully developed with infrastructure. Therefore, the size of a project does not have the same potential review impacts as areas outside of downtown and a fixed fee system can be utilized more easily downtown.

The complete proposed Fee Schedule is included in Attachment A. Staff has attempted to compare these with the costs of processing applications through the DSD outside of downtown, but this is difficult as the processes between the City's Land Development Code and downtown's planned district ordinances are not exactly the same due to the fact that downtown districts allow a wide range of uses by right consistent with a dense, mixed-use urban community, as well as the Corporation's use of the comprehensive Program FEIR for environmental reviews. However, the City's DSD has indicated that estimated costs for large developments (over 100 units) comparable to downtown projects range from $40,000 to $200,000, depending on the type of required environmental review, neighborhood opposition and controversy (DSD works with 43 different community planning groups), and plan amendments needed due to outdated community plans. A specific example is the Atlas full-block, mixed-use project constructed a couple of years ago in Hillcrest which took nine months to process at a cost of $69,242. A similar project downtown would take approximately four months to process at a proposed application fee of $39,047. It should be noted that projects processed by the Corporation are also reviewed concurrently by City staff under a Preliminary Review application that costs approximately $3,000, and there may be additional City processing fees for other application, such as tentative maps for condominium projects or the vacation of public easements necessary to facilitate a development, which the City processes. Another type of application for a sidewalk café in downtown can be approved in four to six weeks with a proposed application fee of $1,395, compared to a three-four month process and up to a $3,000-$5,000 fee elsewhere in the City.

Environmental Impact: The establishment of processing fees is not a "project" for purposes of the California Environmental Quality Act (CEQA) because it does not fit within the definition of a "project" set forth in Public Resources Code Section 21065 or State CEQA Guidelines Section 15378. Thus, this activity is not subject to CEQA pursuant to State CEQA Guidelines Section 15060(c)(3). In addition, under CEQA Guidelines 15273, CEQA does not apply to the establishment of rates or other charges by public agencies if such fees are for the purpose of meeting operating expenses, including employees, supplies and financial reserve needs.

CONCLUSION

Staff is recommending that the Corporation recommends that the attached Fee Schedule be recommended to the City Council for adoption.

Respectfully submitted,

Brad Richter
Assistant Vice President, Planning

Concurred by:

Jeff Graham
Vice President, Redevelopment

Attachment: Fee Schedule dated March 28, 2012

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PROPOSED APPLICATION FEE SCHEDULE FOR THE DOWNTOWN COMMUNITY PLAN AREA

APPLICATION TYPE	FEE
Development Permit (Minor[1]) – Administrative Review	$4,476
(less than 5 units or 10,000 sq. ft.)	
Development Permit (Minor[1]) Amendment/Extension – Administrative Review	$2,526
Development Permit – Administrative Review[2]	$21,021
(less than 50 units/100,000 sq. ft./85 feet in height)	
Development Permit Amendment/Extension – Administrative Review[2]	$5,832
Development Permit – Process II	$23,361
(permits in Coastal Zone)	
Development Permit – Process II Appeal[3]	$9,324
Development Permit – Process II Amendment/Extension	$11,680
Development Permit – Board Design Review	$36,957
(most typical for new development projects)	
Development Permit – Board Design Review Amendment/Extension	$18,478
Development Permit – Process III[4]	$45,908
(development projects requesting deviations, Board hearing)	
Development Permit – Process III Appeal[3]	$11,663
Development Permit – Process III Amendment/Extension	$22,954
Development Permit – Process IV	$52,112
(projects affecting historical resources, Planning Commission hearing)	
Development Permit – Process IV Appeal[3]	$11,663
Development Permit – Process IV Amendment/Extension	$26,056
Development Permit – Process V	$62,216
(projects requiring City Council hearing)	
Development Permit – Process V Amendment/Extension	$31,108
Community Plan Amendment or Planned District Ordinance Amendment	$62,216
Conditional Use Permit – Process III	$9,857
(parking lots, nightclubs, off-site sale of alcohol)	
Conditional Use Permit – Process III Appeal	$5,583
Conditional Use Permit – Process IV	$19,055
(transitional housing, homeless facilities)	
Conditional Use Permit – Process IV Appeal	$12,816

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APPLICATION TYPE	FEE
Conditional Use Permit – Process V	$26,446
Neighborhood Use Permit / Neighborhood Development Permit – Process II *(sidewalk cafes, outdoor dining areas)*	$1,321
Neighborhood Use Permit / Neighborhood Development Permit – Process II Appeal	$1,321
Substantial Conformance Review – Process I	$3,119
Wireless Communications Facility – Process I	$528
Temporary Use Permit – Process I	$528
Zoning Conformance Letter – Process I	$528
Administrative Appeals – Appellant Filing Fee[4]	$100[4]
CEQA Environmental Review Documents[5]	$10,000 Deposit [5]

NOTES:

When a project requires more than one application listed above, the applications will be consolidated and the highest applicable single fee will apply to the consolidated application. The CCDC President shall determine the fee that is applicable to the specific application.

All of the above fixed fees provide for a complete review and processing of the application and include two re-submittals of the project design package after the original application submittal. Any additional re-submittals of the project, whether required as a result of review comments, community input, or by alterations proposed by the applicant, will be required to submit a $5,000 deposit to cover additional staff costs based on a time and materials rate schedule.

[1] **Development Permits (Minor)** are those development permit applications involving new construction involving less than five dwelling units or 10,000 square feet of commercial square feet or.
[2] **Development Permits - Administrative Review** applies to those development permit applications which do not require CCDC Board Design Review (less than 50 dwelling units, 100,000 square feet, and/or 85 feet in height) approval or Process II, III, IV, or V reviews.
[3] **Appeals (Applicant Fee)** - Upon receipt of an appeal of the action on the application, the applicant (whether or not the applicant is the appellant) will be required to file this additional fee.
[4] **Appeals (Appellant Filing Fee)** – The $100 filing fee applies to the appellant.
[5] **Environmental Review Documents** require an initial $10,000 deposit to cover costs associated with determining the anticipated type of CEQA document which will be required for the application and the estimated costs for the preparation of the CEQA document. Based on this determination, an additional deposit will be required to cover all staff and/or consultant costs associated with the preparation/evaluation of any Negative Declaration; Mitigated Negative Declaration; Addendum, Supplemental EIR, or Subsequent EIR to the Program FEIR.

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