2014 Council Study Issue

CDD 14-15 Consideration of Appeal Process for Land Use Projects

Lead Department Community Development

Sponsor(s) City Council

History 1 year ago: 2 years ago:

1. **Scope of the Study**
   a. This study would examine the current regulations and procedures related to appeals of a planning permit decision. Currently the code provides that "any person aggrieved, including a member of the planning commission or city council, of a decision ... may file an appeal ..." This study would look at issues such as the valid grounds for filing an appeal (e.g. define an "aggrieved person"), the appropriate fee for an appeal and who must pay the fee, and whether "call-up" provisions by the City Council should be considered. The City costs for various types of appeals would be estimated and options on how high the fee should be would be provided. The study would also look at the scope of an appeal (limited to items raised in an appeal letter or a de novo hearing as is the current practice) and clarify circumstances under which a Councilmember should recuse him/herself.

   b. What precipitated this study? The City Council has recently considered several appeals of Planning Commission decisions. Some of those appeals have been from City Councilmembers and some have been from community members. Councilmember participation in the appeal process has differed based on the questions and possibly prejudicial statements contained in their appeal letter. The Council sponsored this study issue in order to clarify and resolve the issues covered above. A question was also raised about whether Councilmembers should pay the appeal fee and if the current fee ($150.50) paid by appellants is sufficient to cover the staff cost for processing an appeal.

   c. Is this a multiple year project? No Planned Completion Year 2014

2. **Fiscal Impact**
   a. Cost to Conduct Study
      i. Level of staff effort required (opportunity cost)
         ☐ Major ☒ Moderate ☐ Minor

      ii. Amount of funding above current budget required
         ☐ Will seek budget supplement ☐ Will seek grant funding

      iii. Explanation of Cost:

   b. Costs to Implement Study Results
      ☒ No cost to implement.
      ☐ Unknown. Study would include assessment of potential costs.
      ☐ Some cost to implement. Explanation:

3. **Expected participation in the process**
   ☐ Council-approved work plan
   ☐ Council Study Session
   ☒ Board/Commission Review by Planning Commission

4. **Staff Recommendation**

a. Position: Support. This study issue can be incorporated into the current Zoning Code Retooling effort.

b. Explanation: Several of the issues raised are already planned to be addressed in the zoning code retooling. Staff could expand that component of the Zoning Code Retooling project to include the additional items.

Reviewed By:		Approved By:	
12/19/13		12-20-13	
Department Director	Date	City Manager	Date