

FACTSHEET

TITLE: CHANGE OF ZONE NO. 04058, a text amendment to Title 27 of the Lincoln Municipal Code, requested by the Director of Planning and the Director of Public Works and Utilities, to amend Section 27.82.110 "Miscellaneous Provisions" of the impact fee ordinance, adopting a new method for reimbursement of impact fees for economic development.

STAFF RECOMMENDATION: Approval.

ASSOCIATED REQUESTS: Miscellaneous No. 03012 (04R-266).

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: 09/15/04
Administrative Action: 09/15/04

RECOMMENDATION: Approval (8-0: Carlson, Carroll, Krieser, Larson, Marvin, Taylor, Bills-Strand and Sunderman voting 'yes'; Pearson absent).

FINDINGS OF FACT:

1. This text amendment to Title 27 and Miscellaneous No. 03012 (the proposed Policy for Payment of Arterial Street Impact Fee to Promote Economic Development) were heard at the same time before the Planning Commission.
2. This amendment to the impact fee ordinance is to clarify that if the City Council adopts the proposed policy on the reimbursement of arterial street impact fees for economic development (Miscellaneous No. 03012), which is based on objective standards, then requests will be processed administratively rather than requiring Council hearings and action. The current system requires the City Council to have a hearing and vote of approval by at least five members to approve any reimbursement.
3. The staff recommendation of approval is based upon the "Analysis" as set forth on p.3-5, concluding that the proposed amendment to the impact fee ordinance is in conformance with the goals of the Comprehensive Plan. Impact fees provide for uniformity and equity among property owners and similar land uses. This amendment, as part of a proposed policy on reimbursement for economic development, will provide an incentive to primary employers to create new jobs and will aid in processing applications.
4. The minutes of the public hearing before the Planning Commission are found on p.7-8, including testimony by Michaela Hansen of Public Works and Dr. Rosenbaum, Professor of Economics at the University of Nebraska.
5. There was no testimony in opposition.
6. On September 15, 2004, the Planning Commission agreed with the staff recommendation and voted 8-0 to recommend approval.

FACTSHEET PREPARED BY: Jean L. Walker

DATE: September 20, 2004

REVIEWED BY: _____

DATE: September 20, 2004

REFERENCE NUMBER: FS\CC\2004\CZ.04058

LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT

for September 15, 2004 PLANNING COMMISSION MEETING

P.A.S.: Change of Zone #04058 Amendment to Impact Fee Ordinance

PROPOSAL: Amend Section 27.82.110 "Miscellaneous Provisions" of the impact fee ordinance to adopt a new method by which the reimbursement of arterial street impact fees, for qualifying economic development projects, shall only be made in conformance with a specific policy statement adopted by resolution of the City Council, rather than by a vote of at least five City Council members.

CONCLUSION: The proposed amendment to impact fee ordinance is in conformance with the goals of the Comprehensive Plan. Impact fees provide for uniformity and equity among property owners and similar land uses. This amendment, as part of a proposed policy on reimbursement for economic development, will provide an incentive to primary employers to create new jobs and will aid in processing applications.

RECOMMENDATION:

Approval

LEGAL DESCRIPTION: Amend Section 27.82.110 "Miscellaneous Provisions" subsection (h) "Discretion to Reduce Impact Fees."

ASSOCIATED REQUEST:

Misc. #03012; "City of Lincoln Program for Payment of Arterial Street Impact Fee to Promote Economic Development."

SUMMARY: The amendment to the Impact Fee Ordinance is to clarify that if the City Council adopts the proposed policy on the reimbursement of arterial street impact fees for economic development which is based on objective standards, then requests will be processed administratively rather than requiring Council hearings and actions. (The specific policy for reimbursement of impact fees for economic development is included in the staff report on Misc. #03012.) The current system requires the City Council to have a hearing and vote of approval by at least five members to approve any reimbursement.

COMPREHENSIVE PLAN SPECIFICATIONS:

This proposal is in conformance with the new 2025 Comprehensive Plan. Selected pertinent sections from the Plan include:

“Overall Guiding Principles

There needs to be a balance between new infrastructure in developing areas and the improvements and maintenance needs of the existing community. Funding for infrastructure improvements should not focus all of the funds into developing areas, leaving inadequate resources to address needs in other areas. The City and County need to adequately fund infrastructure maintenance and improvements in existing towns and neighborhoods.” (Page F 147)

Guiding Principles for Financing Urban Infrastructure

A Balanced Approach: The community at large should provide more financing of maintenance and improvements in existing areas. Both new and existing development should pay its fair share of improvement costs due to growth and maintenance. In general, improvements which are of general benefit to the whole community should be paid by the community while improvements which are of special benefit to a specific area should be paid by that area.

Develop a Fair & Predictable System: Distribute infrastructure costs fairly among all property owners who benefit from the improvements. The goal of the financing system is that costs should be known in advance of development. (Page F 148)

Economic Future

The City of Lincoln and Lancaster County promote and foster appropriate, balanced, and focused future economic growth that maintains the quality of life features the community values and seeks to protect. The City and County will actively pursue economic development with an emphasis on household sustaining jobs. (Page F 12)

ANALYSIS:

1. At the time the impact fee ordinance was adopted in January 2003, it was noted that a policy in regards to economic development would need to be adopted at a later date. An initial policy was proposed in October 2003 based on the State of Nebraska economic development program. After testimony and discussion by the Planning Commission, this proposal was put on pending to allow a new policy to be developed that would not rely on the State program and would be available to businesses of varying size, not just those that make substantial investments.
2. As a result of the work of the past ten months, the previous proposal is withdrawn.
3. A new policy was developed through a committee of individuals, who met on several occasions to work out a new proposal that addressed the concerns stated. This committee included:

Bruce Bohrer
Jon Carlson
Jim Christo
Nadine Condello
Glenn Friendt
Monte Froehlich
Troy Gagner
Michaela Hansen

Dan Marvin
Darl Naumann
Steve Uttecht
Jane Raybould
Dr. David Rosenbaum
Jason Smith
Ken Svoboda
Terry Werner
Lana Zumbrumm

4. The new policy's main purpose to provide an incentive to new or existing firms that create quality jobs to promote economic development in the City of Lincoln.
5. To qualify employers must be engaged in business within the City of Lincoln, incur an Arterial Street Impact Fee, and meet the requirements of the program qualifications. To qualify, the median wage of the new jobs must be at least 110% of the median wage in Lancaster County – which currently would translate to \$33,300.00. They must also make 50% or more of their revenue from outside Lancaster County. The 50% revenue qualification is ensure that firms are adding jobs and revenue to the local area, not meeting existing needs. For instance, a new restaurant which gets almost all of its revenue from within the County would not qualify. While this restaurant does create jobs, it is serving an existing market. In addition, the new jobs would not meet the median wage threshold. The reason behind the reimbursement for economic development is that new higher paying jobs will bring in new revenue to Lincoln. Thus jobs from firms that derive a majority of their income from outside the County are bringing in new revenue to the city, via property and sales tax revenue.
6. Once it is confirmed that the firm qualifies, then the City will pay all or a portion of the Arterial Street Impact Fee. The amount of repayment depends on how many jobs are being created above the median wage. Higher paying jobs will increase the reimbursement as will having more jobs created. Unlike the previous proposal which had a minimum threshold of 30 new jobs to qualify, this policy will allow applications for firms creating only 1 job. The firm must apply at the time of building permit and show that the jobs are created and maintained over a three year period.
7. The amount of the fee paid shall be the lesser of the Arterial Street Impact Fee or two times the “free cash flow” (return on the investment to the City) to the general fund. Three examples are attached at the end of this report.
8. Qualified employers are entitled to the incentive payment before the job and investment are in place, conditioned upon the owners of the business executing and delivering a bond or security to the City of Lincoln in the amount of the Arterial Impact Fee to be paid by the City of Lincoln. If the firm fails to create the jobs, then the bond or security will be used to repay the City, including interest the funds would have earned at the interest rate of the impact fee accounts.

9. The amendment to 27.82.110 (h) "Miscellaneous Provisions" is in regards to the previously titled "Discretion to Reduce Impact Fees." This section is being revised to clarify that the Reimbursement of Impact Fees in this section should only be for economic development based on the objective criteria. The current language provides for the discretion of a super majority (5 of 7) of the City Council to reduce impact fees based on goals and objectives of the City Council.

The proposed text states that the Impact Fee Administrator would reimburse arterial street impact fees for economic development only in conformance with the policy adopted by the City Council. (See staff report Misc. #03012 for the new policy text) This policy is designed to be completely objective and without any discretion or subjective judgements. The only caveat to the reimbursement is that the City will only be able to provide reimbursements if there are available funds. Initially, the City has set aside over \$200,000 of general revenue to be used for reimbursement of economic development applications. If these funds are expended, then the City Council would have to decide on setting aside additional funds for reimbursement. Impact fees funds paid by other parties may not be used for impact fee reimbursements.

10. The processing of impact fee reimbursements will be less time consuming and easier to administer by having the Impact Fee Administrator follow the City Council's measurable criteria. It will also provide more predictability for the companies investing in the community.

Prepared by:

Stephen Henrichsen, AICP
Principal Planner

September 7, 2004

APPLICANTS:

The Directors of Planning and Public Works & Utilities Departments

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AMENDMENT TO IMPACT FEE ORDINANCE

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27.82.110 Miscellaneous Provisions.

(h) ~~Discretion to Reduce Reimbursement of Impact Fees to Promote Economic Development.~~ In order to promote the economic development of the City, ~~or the public health, safety, and general welfare of its residents, the City Council by an affirmative vote of at least five of its members may agree to pay~~ the City shall reimburse a developer for some or all of the arterial street impact fees imposed on a proposed development or redevelopment from other funds of the City that are not restricted to other uses. Any such decision to pay ~~No such reimbursement of arterial street impact fees on behalf of a proposed development shall be at the discretion of the City Council and shall be made pursuant to goals and objectives adopted by the City Council to promote such development shall be made except in conformance with specific economic development criteria and qualifications adopted by resolution of the City Council which, if met, entitle a developer to a reimbursement of some or all of the arterial street impact fees imposed on the development.~~

**MISCELLANEOUS NO. 03012
AND
CHANGE OF ZONE NO. 04058**

PUBLIC HEARING BEFORE PLANNING COMMISSION:

September 15, 2004

Members present: Larson, Carroll, Marvin, Carlson, Krieser, Sunderman, Taylor and Bills-Strand; Pearson absent.

Staff recommendation: Approval.

Ex Parte Communications: Bills-Strand announced that both Jon Carlson and Dan Marvin served on the committee that drafted the proposed policy.

Proponents

1. Michaela Hansen of Public Works presented the applications, reminding the Commission that the previous amendment heard by the Planning Commission has been totally rewritten. The impact fee ordinance provides that the City Council can waive the payment of impact fees on behalf of a business. The proposed policy establishes criteria to provide an objective, structured way to determine who is eligible based on a return of tax revenue to the city. It must be a business in Lincoln and derive 50% or more of its income from outside of Lancaster County; the business must have made payment of arterial street impact fees and must submit an application for reimbursement, which is a non-refundable \$300 fee; the median wage of new employees must be 110% or more of median wage for Lancaster County; and the completion of new construction and certificate of occupancy must be within 18 months of the issuance of the building permit. The amount the city would pay to the business is the lesser of the arterial street impact fee paid or two times the cash flow.

2. Dr. Rosenbaum, Professor of Economics at the University of Nebraska, who assisted the committee with the criteria and formula, explained that the committee attempted to calculate the tax revenues in terms of real estate taxes and city sales tax that the company would generate. The real estate taxes are from the development of the property and the sales tax is either from the product that is sold by that company or the new employees who receive the payroll and spend the money (cash in-flow). The cash out-flow is the incremental cost of having more people in the city. There are some economic assumptions that are made, and the committee attempted to make fairly conservative assumptions. He believes they came up with a user-friendly formula to determine eligibility for the rebate on the impact fee.

There was no testimony in opposition.

MISCELLANEOUS NO. 03012

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

September 20, 2004

Larson moved approval, seconded by Marvin.

Carlson noted that the Commission was briefed on these applications at a noon meeting two weeks ago. He believes the proposal answers every question that was raised previously, with a couple of extra benefits attempting to reward companies that pay good wages and bring new monies into the community.

Motion for approval carried 8-0: Larson, Carroll, Marvin, Carlson, Krieser, Sunderman, Taylor and Bills-Strand voting 'yes'; Pearson absent. This is a recommendation to the City Council.

CHANGE OF ZONE NO. 04058

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

September 20, 2004

Marvin moved approval, seconded by Krieser and carried 8-0: Larson, Carroll, Marvin, Carlson, Krieser, Sunderman, Taylor and Bills-Strand voting 'yes'; Pearson absent. This is a recommendation to the City Council.