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MEMORANDUM

Date: November 21, 2023

To: Mayor and City Councilmembers

Through: Kelly DiMartino, City Manager
Tyler Marr, Deputy City Manager
Caryn Champine, Director, Planning Development, and Transportation

From: Paul Sizemore, Director, Community Development & Neighborhood Services
Brad Yatabe, Senior Assistant City Attorney

Subject: **November 14, 2023 Work Session Summary – Process for Council Appeals to Quasi-Judicial Decisions**

The purpose of this memo is to document the summary of discussions during the November 14, 2023, Work Session. Five of Seven Councilmembers were present with Councilmembers Peel and Gutowski absent. Staff presenters included Paul Sizemore and Brad Yatabe.

At this work session, staff provided an overview of the Council appeals process for quasi-judicial items, reviewed historical data on appeals, discussed due process requirements, and noted issues and considerations as well as potential solutions and improvements. Staff sought feedback from Council on whether issues had been adequately captured and whether Councilmembers would like to see further development of any potential process improvements.

Summary of Discussion

- Councilmembers expressed interest in making sure there was agreement on the problems we are attempting to solve.
- Councilmembers discussed the cost of appeals and the purpose and history of the appeal fee. Staff indicated that additional information could be compiled and provided at a later date (information related to the fee itself is below).
- Several Councilmembers expressed interest in exploring an option with no new evidence, or at least clarifying current rules for evidence.

- Councilmembers indicated support for clarifying rules around notification and applying uniform rules for testimony.
- There was some interest in further exploring the creation of a pre-hearing conference for appeals participants and allowing staff review for defects such as lack of standing.
- There was some interest in refining the process for considering fair hearing issues and potentially exploring different options for addressing these allegations.
- Councilmembers recounted the discussions about neighborhood meetings and administrative reviews that occurred during the past year's Land Use Code process and requested a memo outlining that evolution in greater detail.

Follow-up Information

- During the work session, Councilmembers asked about the cost to file an appeal and when those fees had last been updated.
 - The fee for an appeal was last updated from \$75 to the current \$100 occurred effective April 13, 1990 via Ordinance No. 023, 1990.
 - Additionally, in terms of purpose, 2020 the title of the fee was changed to reflect it is a filing fee and not an appeal fee.

Next Steps

- Staff will continue to research and develop the concepts Council expressed interest in, anticipating another work session in spring 2024 (dependent upon Council priorities).
- Prior to the next work session, staff will research and develop an estimate of City costs associated with processing appeals.
- An additional memo will be provided to outline the evolution of neighborhood meetings in the current (2023) Land Use Code, the repealed Land Development Code, and the adopted code slated to go into effect in January 2024.