

October 29, 1992
MPSSub.VG (ldt)

Introduced by: Laing

Proposed No.: 92-735

10665

ORDINANCE NO. _____

AN ORDINANCE relating to the road impact mitigation payment system (MPS) and amending Ordinance No. 9747, Sections 5, 8, 10, and 11 and K.C.C. 27.40.020, .050, .060, .080, .100, and .110.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. Ordinance 9747, Section 5, and K.C.C. 27.40.050 are hereby amended to read as follows:

Calculation of MPS Fees.

A. The department shall calculate the MPS fees set forth in the fee schedules, K.C.C. 27.40.040A., by means of a computerized modeling system that:

1. Incorporates the service areas adopted in K.C.C. 27.40.040B.;

2. Within each service area of the county, determines the standard fee for similar types of residential development, which shall be reasonably related to each development's proportionate share of the cost of the transportation improvement projects being funded by this chapter and shall reasonably reflect the average fee for similar development in the same service area; and

3. Reduces the proportionate share by applying the benefit factors set forth in this chapter.

B. When a development's fee is not determined by the fee schedules adopted in K.C.C. 27.40.040A., the department shall calculate the MPS fee by means of a computerized modeling system, which is the same system used to determine the fee schedules, and which:

1. Determines the development's proportionate share of the cost of the transportation improvement projects being funded by this chapter; and

2. Reduces the proportionate share by applying the benefit factors set forth in this chapter.

1 C. The department's computer model shall calculate
2 proportionate share for use in both the fee schedules and
3 individual calculations by:

4 1. Determining the number of peak hour vehicle trips
5 generated by development that will benefit from the vehicle
6 capacity added, or to be added, by the road improvements on the
7 MPS Project List;

8 2. Determining the unit cost of added capacity for each
9 MPS project by dividing the estimated cost of each project by the
10 amount of capacity added; and

11 3. Multiplying the number of peak hour trips added to each
12 MPS project by the unit cost of added capacity of those projects.

13 D. In calculating proportionate share, the department's
14 modeling system shall:

15 1. Recognize that a development's traffic will use a
16 corridor rather than a particular roadway;

17 2. Use trip generation rates published by the Institute
18 of Transportation Engineers (ITE) unless:

19 a. Actual measurements of the rate of trip generation
20 by similar developments in King County are available, and the
21 road engineer determines that these local measurements are more
22 accurate; or

23 b. ITE trip generation rates for the proposed
24 development are not available, in which case the road engineer:

25 (1) May use published rates from another source; or

26 (2) May calculate the rate from data about the
27 population of the proposed development; or

28 (3) May require the developer to obtain actual
29 measurements of trip generation rates by similar developments in
30 King County;

31 3. Reduce the trip generation rate to reflect reductions
32 in traffic that the developer can demonstrate will occur because
33 of programs or services at the development that promote transit
34 or high-occupancy vehicle use. The developer must prove the
35 extent to which such programs or services will reduce traffic

1 impacts and must prove that such programs or services will in
2 fact be implemented and maintained;

3 4. Identify all roadways and intersections that will be
4 impacted by traffic from each development for as far from the
5 development as the model can measure;

6 5. Identify when the capacity of an MPS project has been
7 fully utilized;

8 6. Update the data in the model as often as practicable,
9 but at least annually;

10 7. Estimate the cost of constructing the projects on the
11 MPS Project List as of the time they are placed on the list, and
12 then update the cost estimates at least annually, considering
13 the;

14 a. Availability of other means of funding
15 transportation facility improvements;

16 b. Cost of existing transportation facility
17 improvements; and

18 c. Methods by which transportation facility
19 improvements were financed;

20 8. Update the fee collected against a project which has
21 already been completed, through an advancement of county funds,
22 at a rate, determined annually, which is equivalent to the
23 county's return on its investments; and

24 9. Charge a development for the total traffic entering
25 and exiting the development during the peak hour.

26 E. The department's modeling system shall reduce the
27 calculated proportionate share by giving credit for the following
28 benefit factors:

29 1. A 15% (~~incentive factor for developers who pay the~~
30 ~~MPS fee, as set forth in the fee schedule or as individually~~
31 ~~calculated by the department, without initiating a challenge~~
32 ~~pursuant to K.C.C. 27.40.110,)) in recognition that some of the~~
33 trips from a development paying an MPS fee may begin or end
34 within a jurisdiction with which the county has executed a

1 reciprocal MPS agreement, or within another development which is
2 or has been subject to MPS requirements;

3 2. Past or future payments made or reasonably anticipated
4 to be made by a development to pay for particular transportation
5 improvements in the form of user fees, debt service payments,
6 taxes or other payments earmarked for or proratable to the same
7 projects being funded by such development's MPS fee; and

8 3. The value of any dedication of land for, improvement
9 to, or new construction of any system improvements provided by
10 the developer, to transportation facilities that are identified
11 in the MPS Project List and that are required by the county as a
12 condition of approving the development activity; provided that
13 when an MPS project is constructed on both on-site and off-site
14 land, the department shall determine, in light of all the
15 circumstances, what proportion of the developer's costs should
16 fairly and reasonably be attributed to the work done on off-site
17 land.

18 F. The department shall review the 15% ((incentive)) factor
19 annually and propose revisions to the factor when appropriate to
20 reflect the actual ((amount)) number of trips generated by new
21 development which also begin or end in other developments which
22 have previously been subject to a fee for the same impact.

23 G. If the credit determined pursuant to K.C.C. 27.40.050
24 E.3. exceeds the amount of the developer's MPS fee, the
25 department shall reimburse the developer from MPS fees collected
26 from other developers for the same MPS project.

27 H. The amount to credit determined pursuant to K.C.C.
28 27.40.050 E. shall be credited proportionately among all the lots
29 in the development, and the MPS fee for each lot for which a
30 building permit is applied ((fer)) shall be reduced accordingly.

31 I. The department shall use the information from the
32 computerized modeling system to prepare an annual draft fee
33 schedule list. The council shall, as often as is necessary but
34 at least annually, by ordinance establish the fee schedule

1 applicable to each service area in the county by adopting, with
2 or without modification, the department's draft fee schedules.

3 J. The department shall present to the council proposed
4 changes in the service area boundaries, set forth in K.C.C.
5 27.40.040 B., as often as is necessary to ensure that the service
6 area boundaries conform to sound planning or engineering
7 principles.

8 K. To the extent practicable, and in accordance with sound
9 planning or engineering principles, the department shall develop
10 and propose to the council for adoption precalculated fee
11 schedules applicable to types of development in addition to
12 residential development.

13 SECTION 2. Ordinance 9747 Section 8 and K.C.C. 27.40.080
14 are hereby amended to read as follows:

15 Funding of MPS Projects.

16 A. An MPS trust and agency fund is hereby created. This MPS
17 fund shall be a first-tier fund as described in King County Code
18 Chapter 4.10. The director of the department of public works
19 shall be the fund manager. MPS fees shall be placed in
20 appropriate deposit accounts within the MPS fund.

21 B. The MPS fees paid to the county shall be held and
22 disbursed as follows:

23 1. The fees collected for each MPS project shall be
24 placed in a deposit account within the MPS fund;

25 2. The roads and engineering division is authorized to
26 transfer the project fees held in the MPS fund to the CIP fund no
27 less than once a year in the year following receipt of the fees.

28 ~~3. ((When the council appropriates capital improvement~~
29 ~~project (CIP) funds for a project on the MPS Project List, the~~
30 ~~project fees held in the MPS fund will be transferred to the CIP~~
31 ~~fund.))~~ The non-MPS fee monies appropriated for the MPS project
32 shall comprise both the public share of the project cost and an
33 advancement of that portion of the private share that has not yet
34 been collected in MPS fees;

1 4. The first money spent by the department on an MPS
2 project after a council appropriation shall be deemed to be the
3 fees from the MPS fund;

4 5. Fees collected after a project has been fully funded
5 by means of one or more council appropriations shall constitute
6 reimbursement to the county of the public monies advanced for the
7 private share of the project. The public monies made available
8 by such reimbursement shall be used to pay the publish share of
9 other MPS projects or to pay for smaller-scale, growth-related
10 projects that are not placed on the MPS Project List; and

11 6. All interest earned on the MPS fees paid by developers
12 shall be retained in the account and expended for the purpose or
13 purposes for which the impact fees were imposed.

14 C. MPS fees for transportation facility improvements shall
15 be expended only in conformance with the capital facilities
16 element of the King County Comprehensive Plan.

17 D. MPS projects shall be funded by a balance between MPS
18 fees and other sources of public funds, and shall not be funded
19 solely by MPS fees.

20 E. MPS fees shall be expended or encumbered for a
21 permissible use within six years of receipt, unless there exists
22 an extraordinary or compelling reason for fees to be held longer
23 than six years. The department may recommend to the council that
24 the county hold fees beyond six years in cases where
25 extraordinary or compelling reasons exist. Such reasons shall be
26 identified in written findings by the council.

27 F. The department and the council may pool the MPS fees
28 already collected from a development whenever appropriate to help
29 finance a project with high priority among the projects impacted
30 by the development.

31 G. The department shall pool MPS fees whenever necessary to
32 ensure that the fees are expended or encumbered for a permissible
33 use within six years of receipt. Pooling for such purpose shall
34 be accomplished as follows:

1 1. The department shall determine which project has the
2 highest priority among the projects for which MPS fees were
3 collected for each such development, and the department shall
4 transfer the MPS fees paid by the development to the budget of
5 the project with the highest priority.

6 2. The department shall indicate in the TNR which
7 projects have funds in their budget that have been pooled to
8 ensure that they are expended or encumbered in a timely manner.

9 H. The department shall prepare an annual report on each
10 MPS fee account showing the source and amount of all moneys
11 collected, earned or received and transportation improvements
12 that were financed in whole or in part by MPS fees.

13 SECTION 3. Ordinance 9747, Section 10 and K.C.C. 27.40.100
14 are hereby amended to read as follows:

15 Exemption or Reduction for Low Income Housing.

16 A. Public housing agencies or private non-profit housing
17 developers participating in publicly sponsored or subsidized
18 housing programs may apply to P,P, & R for exemptions from MPS
19 fee requirements. P,P, & R shall review proposed developments of
20 low income housing by such public or non-profit developers
21 pursuant to criteria and procedures adopted by administrative
22 rule. If P,P, & R determines that a proposed development of low
23 income housing satisfies the adopted criteria, P,P, & R shall
24 notify the department and such development shall be exempted from
25 the requirement to pay an MPS fee.

26 B. Private developers who dedicate residential units for
27 occupancy by low income households may apply to P,P, & R for
28 reductions in MPS fees. P,P, & R shall review such proposed
29 developments pursuant to criteria and procedures adopted by
30 administrative rule. If P,P, & R determines that a proposed
31 development satisfies the adopted criteria, P,P, & R shall notify
32 the department and the department shall reduce the calculated MPS
33 fee for the development by an amount that is proportionate to the
34 number of units in the development that satisfy the adopted
35 criteria.

1 C. Developers of individual low-income households who are
 2 building, contracting to build or siting a house may apply to P,
 3 P, & R for an exemption from MPS fees. P, P, & R shall review
 4 such proposed exemptions pursuant to criteria that include
 5 household income and assets, and the cost of the site, site
 6 improvements and the housing. The procedures used to evaluate an
 7 exception shall be adopted by administrative rule. If P, P, & R
 8 determines that a household qualifies for exemption per the
 9 adopted criteria, P, P, & R shall notify the department and such
 10 individual projects shall be exempted from the requirement to pay
 11 the MPS fee.

12 ~~((C.))~~ D. The amount of the MPS fees not collected from low
 13 income household development shall be paid from public funds
 14 other than impact fee accounts.

15 ~~((D.))~~ E. P, P, & R is hereby instructed and authorized to
 16 adopt, pursuant to K.C.C. chapter 2.98, administrative rules to
 17 implement this section. Such rules shall provide for the
 18 administration of this program and shall:

19 1. Encourage the construction of housing for low income
 20 households by public housing agencies or private non-profit
 21 housing developers participating in publicly sponsored or
 22 subsidized housing programs;

23 2. Encourage the construction in private developments of
 24 housing units for low income households that are in addition to
 25 units required by another housing program or development
 26 condition;

27 3. Ensure that housing that qualifies as low cost meets
 28 appropriate standards regarding household income, rent levels or
 29 sale prices, location, number of units, and development size; and

30 4. Ensure that developers who obtain an exemption from
 31 or reduction of MPS fees pursuant to paragraphs A and B of this
 32 section will in fact build the proposed low cost housing and make
 33 it available to low income households for a minimum of 15 years.

34 SECTION 4. Ordinance 9747, Section 11 and K.C.C. 27.40.110
 35 are hereby amended to read as follows:

1 Appeals.

2 A. A developer may appeal the amount of an MPS fee to the
3 King County zoning and subdivision examiner, who shall conduct a
4 hearing on the appeal pursuant to K.C.C. 20.24.080. The
5 developer shall bear the burden of proving:

6 1. The department committed error in calculating the
7 developer's proportionate share, as determined by an individual
8 fee calculation or, if relevant, as set forth in the fee
9 schedule, or in granting credit for the benefit factors; or

10 2. The department based its determination upon incorrect
11 data.

12 B. An appeal must be filed with the ((department))
13 zoning and subdivision examiner within 10 calendar days of the
14 ((department's)) road engineer or his designee's issuance of
15 ((its)) an appealable, final decision regarding the fee amount.
16 In order to obtain an appealable final decision the developer
17 must:

18 1. Request in writing a ((meeting to)) review of the
19 fee amount ((with)) by department staff ((, which meeting shall
20 be held within 10 working days of the department's receipt of the
21 request)). The department staff shall consider any studies and
22 data submitted by the developer seeking to adjust the amount of
23 the fee; and

24 2. Request in writing reconsideration by the road
25 engineer or his designee of an adverse decision by staff. Such
26 request for reconsideration shall state in detail the grounds for
27 the request. The road engineer or his designee shall issue a
28 final, appealable decision ((within 10 working days of receiving
29 a request for reconsideration unless the road engineer or his
30 designee determines that a meeting with the developer is needed
31 to properly consider the request, in which case the meeting shall

1 ~~be held within 10 working days of receipt of the request and a~~
2 ~~final decision issued within 10 working days of the meeting.)~~
3 after reviewing the request.

4 INTRODUCED AND READ for the first time this 28th day
5 of September, 1992.

6 PASSED this 7th day of December, 1992.

7 KING COUNTY COUNCIL
8 KING COUNTY, WASHINGTON

9 Judrey Guger
10 Chair

11 ATTEST:

12 Gerald A. Peterson
13 Clerk of the Council

14 APPROVED this 18th day of December, 1992

15 Jim Hill
16 King County Executive