TO: Chair and Members Planning Committee

WARD(S) AFFECTED: WARD 3

COMMITTEE DATE: December 7, 2010

SUBJECT/REPORT NO:
Request to Waive Fees at 53 Gibson Avenue (PED10263) (Ward 3)
(Outstanding Business List Item)

SUBMITTED BY:
Tim McCabe
General Manager
Planning and Economic Development Department

PREPARED BY:
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SIGNATURE:

RECOMMENDATION

a) That Committee/Council take no action with respect to the request from Abba Uno to waive fees associated with the re-use of 53 Gibson Avenue.

b) That the Request to Waive Fees at 53 Gibson Avenue be identified as completed and removed from the Outstanding Business List.

EXECUTIVE SUMMARY

As directed by the Economic Development and Planning Committee of September 7, 2010, this Report provides details of the required applications and fees related to the change of use of construction at 53 Gibson Avenue to a church and confirmation from Revenue Canada on the progress of the charitable status application.

Construction at 53 Gibson Avenue for the conversion of the existing industrial building to a Place of Worship was discovered by Building Services staff under an enforcement action for construction without a building permit on June 18, 2009. The matter has...
since progressed to prosecution and a requirement for the property owners to apply for a building permit.

On September 7, 2010, the committee received a request from the property owner seeking to waive all municipal fees associated with the construction.

The Building Code Act administration and enforcement service is a self funded program with no reliance on the general levy. Building permit fees collected by the Building Services Division are used to offset the costs to deliver Building Code Act administration and enforcement and ensure full cost-recovery. If fees associated with building permits were to be waived Committee and Council would be required to find an alternative source of funding to prevent an indirect form of taxation on or subsidization by the building construction industry.

Estimated building permit fees range from $12,195 to $24,195. Additional applications and fees may include site plan, committee of adjustment and/or cash-in-lieu of parking.

Privacy legislation prevents Revenue Canada from disclosing information to the public on the charity status of the application for ABBA UNO. However, a correspondence from Revenue Canada Agency dated November 1, 2010, acknowledged receipt of the application. Revenue Canada Agency staff indicated applications typically require five months for assessment by their Review Board. The date of application is unknown.

Alternatives for Consideration – See Page 5

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<tr>
<th>FINANCIAL / STAFFING / LEGAL IMPLICATIONS (for Recommendation(s) only)</th>
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**Financial:** As noted in alternative for consideration, waiving of building permit fees would require identifying an alternative funding source for the City to cover the cost of the fees.

Waiving of Planning fees would have an impact on the Development Fee Stabilization Reserve.

**Staffing:** None

**Legal:** None

**HISTORICAL BACKGROUND** (Chronology of events)

53 Gibson Avenue is recognized as a large, one storey, 16,385 ft\(^2\) industrial building. Building Services Division staff attended the property on June 18, 2009, in a response to an Action Request reporting construction without a permit. They discovered construction activity related to the conversion of the building to a church use under the
name of ABBA UNO. Enforcement was initiated and an Order to Comply was issued July 21, 2009. Construction continued to proceed and a Stop Work Order was issued September 18, 2009. This matter has now proceeded by way of prosecution. Construction appears to have been completed and no building permit application has been submitted to date. The property owner is now seeking to waive all municipal fees associated with the construction on the basis of being a charitable church organization with no available grants or government funding.

POLICY IMPLICATIONS

The self-funded Building Enterprise Zone program was established as a result of Bill 124 to ensure activities and services provided to the public that fall under the Building Code Act are fully cost-recovered.

The self-funded program has no reliance on the general levy and ensures program costs are supported and funded solely by each permit applicant in the construction industry. Funds collected from the fees are used to support the Building Enterprise program and are not used to subsidize other programs or stakeholders.

Waiving of the building permit fees would result in other stakeholders of the construction industry subsidizing the cost of this construction project.

RELEVANT CONSULTATION

Revenue Canada Agency
Development Planning Division

ANALYSIS / RATIONALE FOR RECOMMENDATION

(include Performance Measurement/Benchmarking Data, if applicable)

The fees for a change of use to a church or place of worship are set out in Building By-law 08-161, as amended. The church use falls within the Group A (Assembly Occupancy) category of Schedule “A” to By-law 08-161. According to Schedule “A”, the following are the current and typical applicable fees:

- Building permit fee based on either:
  - $18.74/m² of gross floor area for new buildings and additions; or,
  - 1% of the construction value as determined by the CBO for general and extensive renovations or alterations
- Surcharge permit fee equivalent to 100% of the building permit fee for work commenced prior to permit issuance
The work at 53 Gibson Avenue appears to be limited to interior renovations and alterations with no new additions; the permit fees would be based on 1% of the estimated cost of construction for the proposed work. Unfortunately, since access to the site has been denied or restricted, a complete assessment of the scope of work cannot be determined. For the purpose of this Report, the estimated cost that has been provided is reflective of typical construction costs associated with similar work on a similarly sized building. This includes professional designer services, construction equipment, materials and labour.

Site inspections indicate the scope of work on the property included structural and extensive interior renovations to the existing industrial building. Depending on the scope of work, the conservative estimate would approximate typical costs to range between $600,000 and $1.2 million. Note, this cost may increase if additional Building Code requirements are necessary, such as the installation/retrofitting fire alarm and/or sprinkler systems. The associated building permit fee would be $6,000 - $12,000. Total estimated fees, including the surcharge and Applicable Law review fees, ranges from $12,195 to $24,195.

Building permit fees collected by the Building Services Division ensure activities performed by the Building Services Division that fall under the Building Code Act are fully cost-recovered. Accordingly, building permit fees are not waived as the activities related to Building Code administration and enforcement are supported from a self funded program (Building Enterprise Zone) with no reliance placed on the general levy for its operation. Any Committee or Council consideration for relieving an applicant of the associated permit fees is offset by the municipality finding an alternative funding source to recover the cost of the services provided and prevent an indirect form of taxation on the building construction industry.

Additional related fees that should be considered and may be applicable for this proposed change of use include:

- Site Plan approval - up to $5,890
- Committee of Adjustment - $1,005 to $1,215
- Cash-in-lieu of parking - $405 plus cost/parking space

There are many charitable organizations within the City, all of which have been subject to the Building Code Act requirements and have paid the associated fees for their construction projects. Waiving of Building and Planning fees for charitable organizations would have a far reaching effect on program recoveries and the general levy.

With respect to the status of the application of ABBA UNO for registration as a charity by Revenue Canada Agency, the correspondence in Appendix “A” confirms Revenue
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Values: Honesty, Accountability, Innovation, Leadership, Respect, Excellence, Teamwork

Canada’s receipt of their application. Staff from Revenue Canada indicated a typical application assessment time by their Review Board of five months from the date of receipt before a decision is rendered. Privacy legislation prevents Revenue Canada from disclosing further information to the public including the status of the application. The date of application to Revenue Canada is currently unknown.

**ALTERNATIVES FOR CONSIDERATION**

(include Financial, Staffing, Legal and Policy Implications and pros and cons for each alternative)

The committee could approve to waive applicable fees; however the Municipality would be required to identify an alternative funding source for the building permit fees to ensure cost-recovery for the Building Enterprise program.

This alternative would potentially establish a precedent for all similar and future developments resulting in additional pressures to the levy. Stakeholders and other building permit applicants in the building enterprise program would, in effect, be subsidizing a select sector/group within the construction industry.

**CORPORATE STRATEGIC PLAN** (Linkage to Desired End Results)


**Financial Sustainability**

- Delivery of municipal services and management capital assets/liabilities in a sustainable, innovative and cost effective manner

**APPENDICES / SCHEDULES**

Appendix “A”: Confirmation Letter from Revenue Canada Agency

:DO
Attach. (1)
November 01, 2010

Subject: Application for Registration under the Income Tax Act

We have received the application to register ABBA UNO as either a charity or a Canadian amateur athletic association.

Your application has been assigned file number 3044575 and has been placed in our inventory pending review and analysis by a Charities Officer. Based on the current number of applications in our inventory, we expect to assign your application to an officer within 5 months from the date that your application was made.

In the interim, should you have any questions, you may contact our Client Assistance Section at 954-0410 or 954-6215 for local Ottawa calls; 1-800-267-2384 or 1-888-892-5667 for toll-free, long distance calls. Please refer to the above file number in any contact.