

SULTAN CITY COUNCIL AGENDA ITEM COVER SHEET

ITEM NO: D-3
DATE: May 14, 2009
SUBJECT: Transportation and Park Impact Fees
CONTACT PERSON: Deborah Knight, City Administrator

ISSUE:

The issue before the City Council is whether to consider amending the City's impact fee regulations in Sultan Municipal Code Chapter 16.112.020 (Attachment A).

STAFF RECOMMENDATION:

Staff is seeking direction from Council on the interest in evaluating/revisiting some or all of the deferred policy questions related to transportation and park impact fees discussed during the 2008 Revisions to the 2004 Comprehensive Plan.

SUMMARY:

In 2008 the City Council and Planning Board discussed a number of policy questions related to the payment of park and transportation impact fees and credits for transportation frontage improvements during the year-long process to adopt the 2008 Revisions to the 2004 Comprehensive Plan. Given the time constraints for meeting the Growth Management Hearings Board deadline of September 30, 2008 a number of these policy questions had to be postponed:

1. When can impact fees be paid? Sultan Municipal Code 16.112.020 "Imposition of Impact Fees".

The City's regulations (past and present) do not allow developers to pay impact fees until building permit application. There is no "vesting" in impact fees under state law and court cases have upheld cities' right increase fees prior to building permit application¹.

Other jurisdictions such as Snohomish County do provide for "vesting" in impact fees at the time of final plat approval rather than building permit application.

Policy Question: Does the Council want to evaluate and consider changing when impact fees "vest"?

¹ RCW 58.17.030 see also New Castle v. City of LaCenter Court of Appeals Division 2

2. Should impact fees be based on proximity to Sultan's "core"? Sultan Municipal Code 16.112.030 and 16.112.040 "Impact Fee Formulas".

The City currently requires the same impact fee payment regardless of development's location in the city. Developments adjacent to the City's historic "core" pay the same impact fee as a development located at the most northern edge of the City limits. The City's comprehensive plan policies encourage in-fill development (growth from the core in concentric circles to the outer edges). One way to achieve this goal is to develop impact fees based on proximity to existing established infrastructure. The idea is residents who choose to live further out drive more and increase congestion and should have to pay more.

Policy Questions: Should developments further out pay higher impact fees?

3. How should traffic impact fee credits be managed? Sultan Municipal Code 16.112.085 "Traffic Impact Fee Credits".

Prior to the adoption of Ordinance 993-08 in September 2008, the City allowed developers to "carry forward" excess traffic impact fee credits to new developments and use the credits to off-set new development costs. In essence the prior regulation created a market for transportation credits. The credits could be used, traded or transferred to other developments.

Ordinance 993-08 eliminated the "carry forward" provision essentially capping any credit for excess frontage improvements required by the City at the value of the improvement. SMC 16.112.085 states, "A credit shall be limited to the total amount of the transportation impact fee for the particular development."

There may be developments (preliminary and final plat) who premised their development profit or breakeven point on the availability of the credit.

Policy Question: Should developments that have preliminary or final plat approval be allowed to carry forward credits under the previous regulations?

4. Should on-site recreation facilities be credited against park impact fees? Sultan Municipal Code 16.72 "Recreation and Open Space Standards"

City staff and the hearing examiner have distinguished between on-site recreation facilities to serve the development (e.g. tot lots) and impact fees which are collected to acquire and development community parks. The City Council reduced the park impact fee when it removed smaller parks from the parks capital needs and focused on developing a single community park in the Sultan Basin area. Prior Council decisions have distinguished between on-site facilities and regional facilities. Developers can receive credits against park impact fees for creation of community parks. SMC 16.72 was amended in 2008 to clarify this distinction: "The requirements of this chapter 16.72 are in addition to park impact fee requirements of chapter 16.112."

Policy Question: Does the City Council want to provide impact fee credits for recreation facilities and trails which are designed to serve the neighborhood or connect to a larger system?

DISCUSSION:

Each of the policy questions has potential fiscal impacts to the City's comprehensive plan and capital facilities plan. Under the Growth Management Act, the City is required to demonstrate how it will fund the projects needed to serve anticipated growth.

The Council went through an extended exercise and public discussion in 2008 as it struggled to develop a financing plan that would not overburden new growth and provide sufficient revenues to meet established levels of service for parks and streets. In the end, the Council had to make difficult decisions to ensure the comprehensive plan and capital improvement plan would balance financially.

However, the Council also understood during the discussion that given more time there might be an opportunity to fine-tune the development regulations and provide for a greater balance between funding and capital needs.

Another recent development is the economic downturn. Municipalities across the United States have considered waiving development impact fees for a short period of time to encourage economic development. A quick Internet search revealed mixed analyses of whether waiving development fees has any impact on stimulating local economies. The Council may want to consider a short, focused "relief" package with a sunset clause to encourage development in the community. However, this approach doesn't address the larger policy questions.

There is no quick-fix. If the Council chooses to move forward on any of the policy questions the process to amend the development regulations will require some level of analysis. Depending on the level and scope of proposed changes to the City's development regulations, revisions may need a public hearing and notification to the state Community Trade and Economic Development (CTED). Changes could be adopted in as little as 90 days or take as long as 12 months.

FISCAL IMPACT:

The short-term fiscal impacts are related to staff time and consultant support. The costs depend on what policy question(s) the City Council wants to pursue. Most of the questions will require a fiscal analysis. City staff recommend contracting with Pat Dugan to assist the city with calculating the impacts of various fee alternatives. Cost estimate \$2,500 to \$5,000.

Changing the City's one-size fits all traffic impact fee regulations to a set of regulations based upon where the development is located within the City will require assistance from a traffic planner such as Eric Irelan who assist the City with the transportation plan in 2008. The cost could range between \$5,000 and \$10,000.

The long-term fiscal impacts of changing the City's financing structure for capital improvements needed to serve growth won't be known until the City Council provides direction.

The fewer changes that are made especially if they are limited in scope and time, the less the overall impact to the City's financing strategy. Any long-term fundamental decisions to reduce impact fees will likely require either further reducing levels of service or increasing the financial burden on current residents.

ALTERNATIVES:

1. Evaluate policy questions in 2010 during comprehensive plan update.

One alternative is to address these policy questions as a part of the 2011 Comprehensive Plan Update which will get underway this year. The Council has already indicated an interest in evaluating the current "retail before rooftops" policy. And the policy to focus on in-fill development and restrict development in relatively undeveloped areas of the city. This approach would reduce costs since the policy questions and analysis would only need to be done once rather than addressed this year and then again in 2010 during the focus work to update the comprehensive plan.

2. Direct the Planning Board to study some or all of the policy questions and make recommendations.

The Planning Board is responsible for the City's comprehensive plan. The Planning Board is to assist the City Council with evaluating proposed development regulations to implement the comprehensive plan. The Council could direct the Planning Board to evaluate some or all of the policy questions and make a recommendation to the City Council. If the Council directs this work to begin in 2009, the Council will need to approve consulting contracts to assist the Board and staff with properly evaluating the impacts.

3. Direct staff to begin work on some or all of the policy questions.

City staff can begin to gather information regarding the Council's preferences and return at the May 28 or June 11 Council meetings. The Council could take this information and provide further direction to staff.

4. Add this work to the Council's 2009 work plan.

The Council could choose to make this a priority and direct staff to reprioritize other efforts and move along as quickly as possible. Timing to complete this work is based on the number policy questions the Council chooses to address and the scope of the proposed changes.

If the Council desires to implement changes quickly, keeping it simple will help move the process along.

RECOMMENDED ACTION:

Staff is seeking direction from Council on the interest in evaluating/revisiting some or all of the deferred policy questions related to transportation and park impact fees discussed during the 2008 Revisions to the 2004 Comprehensive Plan.

ATTACHMENTS

A – September 9, 2008 Mark-up Version of Proposed Changes to Development Regulations

B – Information from other municipalities on impact fees

C – Information from Garth York on impact fee concerns/City Response 10/13/2006

AMENDMENTS TO CITY CODE TO IMPLEMENT
COMPREHENSIVE PLAN POLICY REVISIONS

16.16 General Regulations

(New section) 16.16.045 New septic system reasonable use exception – future sewer connection required.

A. The purpose of this section is to allow reasonable use of the property where sewer infrastructure is not yet in place, while ensuring connection to sewer as soon as practicable.

B. Where a property owner proposes to build one (1) new single family home on an existing lot zoned for single family residences and a sewer extension is necessary, but not financially feasible, the property owner may apply for approval to construct and use an on-site sewage system, subject to approval by Snohomish County health department. Such request must be submitted to and approved by the community development director.

C. If denial of the request to build an on-site sewage system would deny all reasonable use of the property, development may be allowed which is consistent with the general intent of this title and the public interest; provided, that the director finds that:

1. This title would otherwise deny all reasonable use of the property;

2. The proposed on-site sewage system does not pose an unreasonable threat to the public health, safety or welfare on or off the property;

3. The property owner agrees to payment of

(a) the estimated cost for the collector sewer across the entire front of the property, as recommended by the city engineer;

(b) the current sewer facilities charge; and

(c) the estimated project cost for 100 feet of the sewer main or interceptor needed to reach the property, as recommended by the city engineer

4. The property owner must also construct the necessary connection stub from the residence to allow future connection to the sewer line when sewer becomes available.

5. The residence must be connected to the sewer line within 90 days of notice that the connection can be made.

D. Any decision of the director regarding this reasonable use exception shall be final unless appealed.

16.28 Subdivision Regulations

16.28.230 Minimum requirements and improvement standards.

A. General Standards. The public use and interest shall be deemed to require compliance with the standards of this subsection as a minimum, unless a modification is specifically approved by the council. The following minimum standards shall be met:

1. That each lot shall contain sufficient square footage to meet minimum zoning and health requirements;

~~2. If the lots are to be served by septic tanks, soil data and percolation rates may be required by the Snohomish health district. Notations regarding the conditions for health district approval may be required to be inscribed upon the short plat;~~

3. Where any abutting road has insufficient width to conform to minimum road width standards for the city of Sultan, sufficient additional right-of-way shall be dedicated to the city on the short plat to conform the abutting half to such standards;

~~4~~3. Short subdivisions located in special flood hazard areas as defined elsewhere in this code shall comply with the floodplain protection standards contained in this chapter.

B. Roadway Design Standards.

1. Access to Roads. Access to the boundary of all short subdivisions shall be provided by an opened, constructed and maintained city road or roads, except that access to the boundary of a short subdivision by private road may be permitted where such private roads are otherwise permitted. If the subdivider uses a private road, each lot having access thereto shall have a responsibility for maintenance of such private road. Any private road shall also contain a utilities easement.

2. Minimum access to all lots within a short subdivision shall be provided by an opened, constructed and maintained city road or private road sufficiently improved for automobile travel having right-of-way width as set forth in the following table:

Design Potential Minimum for Access Right-of-Way Widths

1 lot not exceeding

1 dwelling unit ~~20~~ feet

2 – 4 lots not exceeding

4 dwelling units ~~30~~ feet

5 or more lots or

dwelling units ~~60~~ feet

3. The maximum number of lots that may be served by a private road shall be four unless modification is granted by the council. In all other cases, access to any lot shall be by an opened, constructed and maintained city road or roads.

4. Road Standards. All plat roads shall be designed and constructed in conformance with the design standards and specifications as specified.

5. Sidewalk Standards. Sidewalks and/or walkways shall be provided to assure safe walking conditions for pedestrians and students who walk to and from school. Sidewalks shall be constructed in accordance with the design standards and specifications as specified.

C. Stormwater Drainage Design Standards. All plats shall comply with the requirements.

D. Design Standards for Areas with Steep Slopes. All plats shall comply with the requirements. (Ord. 840-04 § 1; Ord. 822-03 §§ 1, 2; Ord. 630 § 2[16.10.010(1)(a)(vii)(q)], 1995)

16.72 Recreational and Open Space Standards

16.72.010 Applicability.

All types of residential subdivisions shall be required to provide recreation. In addition to the recreation requirements, residential developments shall meet the open space requirements of this title. The requirements of this chapter 16.72 are in addition to park impact fee requirements of chapter 16.112. Residential developments include condominium, multifamily, manufactured home parks and subdivisions. (Ord. 716-00; Ord. 630 § 2[16.10.060(A)], 1995)

16.92 Stormwater Management Performance Standards

16.92.040 Stormwater management permits.

A stormwater management permit shall be applied for and obtained from the building and zoning official prior to commencement of development or redevelopment activity on land for which a permit waiver has not been issued and is described in SMC 16.92.030(A).

A. Applicability. A stormwater management permit is required for the development or redevelopment on land with more than 3,000 square feet of impervious area (roof, parking, etc.).

B. Application for Stormwater Management Permit. Anyone desiring to develop land shall apply for a stormwater management permit. In addition, the applicant shall submit copies of the following items which shall be prepared by a registered professional engineer.

1. A location map showing the location of the site with reference to such landmarks as major waterbodies, adjoining roads, estates, or subdivision boundaries.

2. A detailed site plan showing the location of all existing and proposed pavement and structures.

3. Topographic maps of the site before and after the proposed alterations.

4. Information regarding the types of soils and groundwater conditions existing on the site.

5. General vegetation maps of the site before development and a plan showing the landscaping to be performed as part of the project.

6. Construction plans and specifications necessary to indicate compliance with the requirements of these standards.

7. Runoff computations based on the most critical situation (rainfall duration, distribution, and antecedent soil moisture condition) using rainfall data and other local information applicable to the affected area.

8. Storage calculations showing conformance with the requirements of these standards.

9. Sufficient information for the building and zoning official to evaluate the environmental qualities of the affected waters, and the effectiveness and acceptability of those measures proposed by the applicant for reducing adverse impacts.

10. Such other supporting documentation as may be appropriate, including maps, charts, graphs, tables, specifications, computations, photographs, narrative descriptions, explanations, and citations to supporting references.

11. Additional information necessary for determining compliance with the intent of these standards as the building and zoning official may require.

C. Performance Standards. The performance standards for the development or redevelopment on parcels for which a stormwater management permit is required shall be as follows:

1. All projects shall provide treatment of stormwater. Treatment BMPs (best management practices) shall be sized to capture and treat the water quality design storm, ~~defined as the six-month, 24-hour return period storm.~~ The first priority for treatment shall be to infiltrate as much

as possible of the water quality design storm, only if site conditions are appropriate and groundwater quality will not be impaired. Direct discharge of untreated stormwater to groundwater is prohibited. All treatment BMPs shall be selected, designed, and maintained according to the adopted Washington State Department of Ecology's "Stormwater Management Manual for Western Washington."

Stormwater treatment BMPs shall not be built within a natural vegetated buffer, except for necessary conveyance systems as approved by the local government.

Stormwater discharges to streams shall control streambank erosion by limiting the discharge in accordance with the most current Washington State Department of Ecology's "Stormwater Management Manual for Western Washington" (WDOE Manual)~~peak rate of runoff from individual development sites to 50 percent of existing condition two-year, 24-hour design storm while maintaining the existing condition peak runoff rate for the 10-year, 24-hour and 100-year, 24-hour design storms.~~ As the first priority, streambank erosion control BMPs shall utilize infiltration to the fullest extent practicable, only if site conditions are appropriate and groundwater quality is protected. Streambank erosion control BMPs shall be selected, designed, and maintained according to the WDOE Manual~~an approved manual.~~

Stormwater treatment BMPs shall not be built within a natural vegetated buffer, except for necessary conveyance systems as approved by the local government.

2. The cumulative impact of the discharge from the site on downstream flow shall be considered in analyzing discharge from the site.

3. Where possible, natural vegetation shall be used as a component of drainage design. The manipulation of the water table should not be so drastic as to endanger the existing natural vegetation that is beneficial to water quality.

4. Runoff from higher adjacent land shall be considered and provisions for conveyance of such runoff shall be included in the drainage plan.

5. No site alteration shall cause siltation of wetlands, pollution of downstream wetlands, or reduce the natural retention or filtering capabilities of wetlands. This shall be deemed to include the requirement that no herbicides, pesticides, or fertilizers may be used within 150 feet of any stream or aquifer recharge area.

6. Stormwater runoff shall be subjected to best management practice (BMP) according to the Washington State Department of Ecology's guidelines prior to discharge into natural or artificial drainage systems.

7. All site alteration activities shall provide for such water retention and settling structures and flow attenuation devices as may be necessary to insure that the foregoing standards and requirements are met.

8. Design of water retention structures and flow attenuation devices shall be subject to the approval of the building and zoning official pursuant to the standards herein.

9. Runoff shall be treated to remove oil and floatable solids before discharge from the site in a manner approved by the building and zoning official.

10. Erosion by water shall be prevented throughout the construction process.

11. For the purpose of this section, it is presumed that the lowering of the water table to construct detention/retention basins and to permanently protect road construction does not conflict with the stated objectives of these standards, if all of the following are met:

a. The development site is not in a sole-source aquifer protection area or wellhead protection area.

b. If ditches, underdrains or similar devices are used to lower the water table, the lateral volumetric effect will be calculated, and the volume will be deducted from that allowed for retention areas.

c. The high water table may be lowered to two feet below the undisturbed ground in the vicinity of roads for the purpose of protecting the sub-base and base of the roadway.

d. The lowering of the water table has no adverse effect on wetlands as defined in this section.

e. The lowering of the water table does not increase flows to the detriment of neighboring lands.

12. Storm conveyance systems shall accommodate the peak discharge from the 25-year, 24-hour design storm based on post-development site conditions including storm water flowing through the site which originates onsite and off-site.

13. Setbacks from drainage facilities.

a. Open drainage facilities. A setback of at least fifteen (15) feet, measured horizontally, shall be provided between the plan view projection of any structure, on-site or off-site, and the top of the bank of a constructed open channel or open retention or detention pond.

b. Closed drainage facilities. A setback of at least ten (10) feet, measured horizontally, shall be provided between the plan view projection of any structure, on-site or off-site and the nearest edge of a closed drainage facility, unless the public works director determines that adequate accessibility can be provided otherwise.

14. Drainage Easements. Drainage facilities shall include easements to protect the public from flooding, water quality degradation, damage to aquatic habitat, and other drainage impacts. Easements shall be granted to the city for the right to enter property, at the city's discretion, for the purpose of inspecting, maintaining, modifying, or replacing the following drainage facilities when such drainage facilities are constructed to serve a proposed development activity and are located on the site of the proposed development activity:

a. All detention facilities, retention facilities, infiltration facilities, and storm water treatment facilities;

b. Conveyance systems that conduct storm water from a public or private right-of-way to detention facilities, retention facilities, infiltration facilities, and storm water treatment facilities;

c. Closed-conduit conveyance systems that conduct water downstream of a public or private right-of-way;

d. Closed-conduit conveyance systems that conduct storm water from detention facilities, retention facilities, and storm water treatment facilities downstream to a public right-of-way;

e. Any other privately-owned drainage system, if the public works director determines that damage to a public right-of-way or city property, or a threat to public health, safety, and welfare may occur if the drainage system does not function properly; and

f. Any other drainage easements offered by the owner of the subject property which may be accepted by the public works director if the public works director determines the easement serves the public interest.

D. Review Procedure. The building and zoning official will ascertain the completeness of the stormwater management permit application within 10 working days of receipt. Completeness shall only be insofar as all required exhibits have been submitted and shall not be an indication of the adequacy of these exhibits. Within 30 working days after the determination has been made that a completed permit application package has been submitted, the planning commission shall approve, with specified conditions or modifications if necessary, or reject the proposed plan and shall notify the applicant accordingly. If the planning commission has not rendered a decision within 60 working days after plan submission, the plan shall be deemed to be approved.

The planning commission, in approving or denying a stormwater management permit application, shall consider as a minimum the following factors:

1. The characteristics and limitation of the soil at the proposed site with respect to percolation and infiltration.

2. The existing topography of the site and the extent of topographical change after development.
 3. The existing vegetation of the site and the extent of vegetational changes after development.
 4. The plans and specifications of structures or devices the applicant intends to employ for on-site stormwater retention or detention with filtration, erosion control and flow attenuation.
 5. The impact the proposed project will have on the natural recharge capabilities of the site.
 6. The impact the proposed project will have on downstream water quantity and, specifically, the potential for downstream flooding conditions.
 7. The continuity of phased projects. (Projects that are to be developed in phases will require the submission of an overall plan for the applicant's total land holdings.)
 8. The effectiveness of erosion control measures during construction.
 9. Permits required by any governmental jurisdiction to be obtained prior to the issuance of a permit under this section.
 10. The adequacy of easements for drainage systems in terms of both runoff conveyance and maintenance.
 11. The method of handling upland flow which presently discharges through the site.
 12. The maintenance entity responsibility for upkeep of the system upon its completion.
- (Ord. 630 § 2[16.10.110(3)(b)], 1995)

16.108 Concurrency Management System

16.108.070 Facilities and services subject to concurrency.

A concurrency test shall be made of the following public facilities and services for which level of service standards have been established in the comprehensive plan:

- A. Roadways;
- B. Potable water;
- C. Wastewater;
- ~~D. Police protection;~~
- ED. Parks and recreation. (Ord. 630 § 2 [16.12.070], 1995)

16.108.120 Concurrency determination – Police protection (Reserved).

~~A. The city of Sultan will provide level of service (LOS) information as set forth in the city of Sultan comprehensive plan.~~

~~B. If the LOS information indicates that the proposed project would not result in a LOS failure, the concurrency determination would be that adequate facility capacity at acceptable LOSs was available at the date of application or inquiry.~~

~~C. If the LOS information indicates that the proposed project would result in a LOS failure, the concurrency determination would be that adequate facility capacity at acceptable levels of service was not available at the date of application or inquiry. (Ord. 630 § 2[16.12.120], 1995)~~

16.112 Development Impact Fees

(New Section) 16.112.015 Definitions

The following definitions apply to this chapter 16.112:

A. System Improvements – transportation capital improvements that are identified in the city’s latest adopted 20 year comprehensive plan and are designed to provide services to the community at large.

B. Project Improvements – site improvements and facilities that are planned and designed to provide service for a particular development project and that are necessary for the use and convenience of the occupants or users of the project, and are not system improvements.

C. Frontage – that portion of the development property adjacent to an existing or future roadway where access to the site or individual properties is permitted by the city.

D. Frontage Improvements – shall include all improvements as designed in the city comprehensive plan, city standards, or other adopted plan that can include roadway surfacing, curb & gutter, sidewalk, drainage, lighting, landscaping, and signs.

E. Designated City Official – shall be the public works director or their designee.

F. Local Access Classified Roadway – the designate roadway cross section as included in the city’s adopted standards, comprehensive plan, or a city area master plan.

G. Developer – any representative of a development that is the designated traffic impact fee payer.

16.112.020 Imposition of impact fees.

A. After the effective date of this code, any person who seeks to develop land within the city of Sultan by applying for a building permit ~~for a residential building or manufactured home installation~~, shall be obligated to pay an impact fee in the manner and amount set forth in this chapter.

B. The fee shall be determined and paid to the designated city of Sultan official at the time of issuance of a building permit for the development. For manufactured homes, the fee shall be determined and paid at the time of issuance of an installation permit. (Ord. 630 § 2[16.13.020], 1995)

16.112.030 Recreation facility impact fee formula.

A. Findings and Authority. The demand for parks and recreation facilities is proportionate to the size of the user population. The larger a population grows the greater the demand for city parks and recreation facilities. In order to offset the impacts of new residential development on the city’s park system, the city has determined to adjust the current park impact fee consistent with city standards as new development occurs. Impact fees are authorized under the State Environmental Policy Act (SEPA) and the Growth Management Act (GMA) to help offset the cost of capital facilities brought about by new growth and development. Impact fees imposed will be used to acquire and/or develop parks, open space and recreation facilities that are consistent with the capital facilities and park and recreation elements of the Sultan comprehensive plan.

B. The impact fee component for recreation facilities shall be calculated using the following formula:

$$\text{Fee} = (T/P \times U) - A$$

1. “Fee” means the recreation impact fee.

2. “T” means the total development cost of new facilities. Such costs shall be adjusted periodically, but not more than once every year.

3. “P” means the new population to be served.

4. "U" means the average number of occupants per dwelling unit.

5. "A" means an adjustment for the portion of anticipated additional tax revenues resulting from a development that is proratable to facility improvements contained in the capital facilities plan. ~~Such adjustment for a recreation facility impact fee will be established by city council ordinance and at this time is established at \$130.00. Such adjustment rates shall be updated periodically, but not more than once every year.~~

~~C. Park Impact Fees Imposed. The amended park impact fee based on the parks and recreation needs and impact fee analysis and recreation facility impact fee ordinance, calculated in accordance with this section, is \$3,415 for each single-family, duplex and multifamily residential dwelling unit. (Ord. 929-06 §§ 1, 2, 3; Ord. 630 § 2[16.13.030], 1995)~~

16.112.040 Traffic impact fee formula.

The impact fee component for roads shall be calculated using the following formula:

$$\text{TIF} = F \times T \times A$$

A. "TIF" means the traffic impact component of the total development impact fee.

B. "F" means the traffic impact fee rate per trip in dollar amounts. Such rate shall be established by estimating the cost of anticipated growth-related roadway projects contained in the capital facilities plan divided by the projected number of growth-related trips, as adjusted for other anticipated sources of public funds. Such rates shall be adjusted periodically, but not more often than once every year, to reflect changes in the prevailing construction cost index, facility plan projects, and anticipated growth.

C. "T" means the trip generated by a proposed development.

~~D. "A" means an adjustment for the portion of anticipated additional tax revenues resulting from a development which is proratable to system improvements contained in the capital facilities plan. (Ord. 630 § 2[16.13.040], 1995)~~

16.112.050 Calculation of impact fee.

A. The impact fee for nonresidential development shall be computed by applying the traffic impact fee formula set out in SMC 16.112.040. The impact fee for a residential development shall be computed by applying the traffic impact fee and recreation facility impact fee formulae set out in SMC 16.112.030 and 16.112.040, combining the results.

B. If development for which approval is sought contains a mix of uses, the impact fee must be separately calculated for each type of use.

~~C. The city council shall have the authority to adjust the standard impact fee at the time the fee is imposed to consider unusual circumstances peculiar to specific development activity to ensure that impact fees are imposed fairly.~~

~~D. Upon application by the developer of any particular development activity, the designated city official council may consider studies and data submitted by the developer, and if warranted, may adjust the amount of the impact fee. Such adjustment shall be deemed warranted if it can be demonstrated that:~~

~~1. Due to unusual circumstances, the system improvements would not reasonably benefit the proposed development;~~

~~2. The public facility improvements identified are not reasonably related to the proposed development; and~~

~~3. The formula set forth for calculating the impact fee does not accurately reflect impacts results in a fee that is not proportionate to the project's impacts. (Ord. 630 § 2[16.13.050], 1995)~~

16.112.080 Impact fee credits for other than traffic impact fees.

The developer shall be entitled to a credit against the applicable impact fee component for the present value of any dedication of land for improvement to or new construction of any system improvements provided by the developer (or the developer's predecessor in interest), to system facilities that are/were identified in the capital facilities plan and are required by the city as a condition of approval for the immediate development proposal.

The amount of credit shall be determined at the time of building permit issuance (or site plan approval where no building permit is required). A credit against the applicable impact fee shall be limited to the total amount of the applicable impact fee for the particular development. ~~In the event the amount of the credit is calculated to be greater than the amount of the impact fee due, the developer may apply such excess credit toward impact fees imposed on other developments within the city.~~ (Ord. 630 § 2[16.13.080], 1995)

(New section) 16.112.085 Traffic Impact Fee Credits

The developer shall be entitled to a credit against the transportation impact fee component for the present value of any dedication of land for improvement to or new construction of any system improvements provided by the developer (or the developer's predecessor in interest) whenever a particular system improvement is a condition of approval or terms of a voluntary agreement. A credit shall be limited to the total amount of the transportation impact fee for the particular development.

The initial amount of credit shall be determined by the designated city official at the time of building permit issuance or site plan approval where no building permit is required. The final amount of the credit may be adjusted with the approval of the designated city official to reflect actual costs.

Calculating a transportation impact fee credit shall be determined as follows:

A. When a development frontage abuts a designated system improvement roadway, any credit for this roadway section will be reduced by the cost for the required frontage improvement. Land dedication shall be credited for any additional right-of-way dedication exceeding the local access classified roadway right-of-way standard.

B. Credit shall not be given for project improvements that are primarily for the benefit of the development users or occupants, or that are not located on the frontage when identified in a city adopted plan. This could include access walkways to schools, centers, and parks. This could also include roadway or safety improvements not identified as system improvements.

C. Credit for land dedication shall be determined by an appraisal conducted by an independent professional appraiser chosen by the developer from a list of at least three such appraisers approved by the city. The cost of the appraisal shall be borne by the developer and is not subject to a credit. The appraisal shall only value the land dedicated and not any alleged damages to any abutting property.

D. Cost for facility construction for system and project improvements shall be based upon a construction cost worksheet provided by the city and completed by the developer, or the city may require actual costs provided by the developer's contractor.

For any residential portion of development, credit shall be determined on a per dwelling unit basis. The credit per dwelling unit shall be determined by calculating the total impact fee credit for the residential portion of generated trips and dividing by the number of dwelling units. Credit will then be applied at the time of permit issuance for each dwelling unit.

No refund or future credit will be allowed in the event that the impact fee credit calculated or actual construction costs exceed the amount of the impact fee.

16.112.090 Appeals.

A developer may appeal the impact fee determination to the designated city official within 20 days of the issuance of the determination of the impact fee.

The following is the process:

A. The developer shall submit a letter explaining the reason for the appeal. Any cited documents in the letter shall be included.

B. The designated city official shall review and respond to the developer within 30 calendar days of the submittal of the appeal letter. The city representative can approve, request additional information, or deny.

1. An approval will include an impact fee determination adjustment.

2. Requested additional information must be provided by the developer to the city within 20 calendar days or in a timeframe as agreed upon by the designated city official.

3. Denial of an appeal will provide an explanation of why this decision was made.

C. If a developer is not satisfied with the designated city official's determination, the developer may request a determination by the city's hearing examiner pursuant to SMC 16.120.100.

D. Impact fees must be paid at time of permit issuance. If the developer has or will be appealing the impact fees, the developer shall submit a letter of protest at the time of the impact fee payment is made.

E. When impact fees have been paid and a determination of a fee reduction is made in the appeal process, a refund or credit for future site fees will be made. No refund will be allowed to exceed the amount of the total impact fees paid for a particular development.

~~Any person aggrieved by the amount of the impact fee calculated and imposed upon a particular development activity may appeal such determination to the city council with 20 days of the issuance of the determination of the impact fee. (Ord. 630 § 2[16.13.090], 1995)~~

16.150 Definitions

16.150.040 "D" definitions.

1. Day Care Facility. The following definitions shall apply to the various day care facilities allowed in the different zoning districts:

a. "Day care center" means a structure used for the care of children under the age of 12 located in a facility other than a family dwelling of those individuals under whose direct care the child or children are placed which accommodates 13 or more children regardless of whether such services are provided for compensation.

b. "Family day care home" means a residence used for the care of children ~~under the age of 12~~ located in the family dwelling of the person or persons under whose direct care the child or children are placed, accommodating ~~six~~ 12 or fewer children ~~for full-time care and two children for part-time care~~, such numbers to include those ~~members~~ children of the resident family ~~who are under the age of 12 years old~~. This definition shall apply regardless of whether the care is provided for compensation.

c. "Mini-day-care facility" means a structure used for the care of children under the age of 12 located in a facility other than a family dwelling or located in the family dwelling of the person or persons under whose direct care the child or children are placed which accommodates 12 or fewer children including those of the resident family who are under the age of 12 years of age, regardless of whether said services are provided for compensation.

2. "Decision" means written notification to an applicant that his or her permit application has been approved or denied.

3. "Declaration of short subdivision" means a document signed by all persons having any real interest in the land being subdivided and acknowledged before a notary that they signed the same as their free act and deed. The declaration shall, as a minimum, contain the following elements:

- a. A legal description of the tract being divided and all parcels contained therein;
- b. An illustrative map; and
- c. If applicable, the restrictive covenants.

4. "Dedication" means the deliberate appropriation of land by an owner for the general and public uses, reserving to himself or herself no other rights than such as are compatible with the full exercise and enjoyment of the public uses to which the property has been devoted. The intention to dedicate shall be evidenced by the owner by the presentment for filing of a final plat or short plat showing the dedication thereon, and, the acceptance by the public shall be evidenced by approval of such plat for filing by the city.

5. "Deed" means a written instrument under seal by which an estate in real property is conveyed by the grantor to the grantee.

6. "Density" means the number of permitted dwelling units allowed on each acre of land or fraction thereof.

7. "Department" means the department of public works of the city of Sultan.

8. "Design storm" means a prescribed hyetograph and total precipitation amount (for a specific duration recurrence frequency) used to estimate runoff for a hypothetical storm of interest or concern for the purposes of analyzing existing drainage, designing new drainage facilities or assessing other impacts of a proposed project on the flow of surface water. (A hyetograph is a graph of percentages of total precipitation for a series of time steps representing the total time during which the precipitation occurs.

9. "Detention facility" means an above-ground or below-ground facility, such as a pond or tank, that temporarily stores stormwater runoff and subsequently releases it at a slower rate than it is collected by the drainage facility system. There is little or no infiltration of stored stormwater.

10. "Determination" means written notification to the issuing authority and all appropriate interested parties that the decision of the issuing authority has been affirmed or nullified.

11. "Developer" means any person, firm, partnership, association, corporation, company, or organization of any kind, engaged in any type of man-made change of improved or unimproved land.

12. "Development" means the placement, erection, or removal of any fill, solid material, or structure on land, in or under the water; discharge or disposal of any dredged material or of any liquid or solid waste; or the grading, removing, dredging, mining, or extraction of any materials, including mineral resources; the construction, reconstruction, removal, demolition or alteration of the size of any structure; or the removal or harvesting of vegetation. Development shall not be defined or interpreted to include activities related to or undertaken in conjunction with the cultivation, use, or subdivision of land for agricultural purposes that do not disturb the coastal waters or sea, or any improvement made in the interior of any structure.

13. "Development right" means a legal claim to convert a tract of land to a specific purpose by construction, installation, or alteration of a building or other structure.

14. Development, Substantial. With regard to projects that have been initiated, substantial development shall constitute at least 10 percent of the total expected cost (including architectural and engineering fees) to complete the project as it was approved. Development shall also be considered to be substantial if the developer of an approved project has secured financing for the project and can demonstrate, in writing, his or her financial commitments to the project in question.

15. "Director" means the superintendent of public works of the city of Sultan.

16. "District, zoning" means any portion of the city within which, on a uniform basis, certain uses of land and buildings are permitted and certain other uses of land and buildings are prohibited as set forth in this unified development code; and within which certain yards and other open spaces are required, certain lot areas are established, and a combination of such aforesaid conditions are applied.

17. "Domestic animal" means an animal normally kept incidental to a single-family dwelling. Included are dogs and cats; excluded are wild or exotic animals, horses and cows, chickens, goats, or other similar animals.

18. "Drainage" means the removal of surface water or groundwater from land by drains, grading, or other means. Drainage includes the control of runoff to minimize erosion and sedimentation during and after development and includes the means necessary for water supply preservation, prevention, or alleviation of flooding.

19. "Drainage basin" means a geographic and hydrologic subunit of a watershed.

20. "Drive-in establishment" means a business establishment so developed that its principal retail or service character is dependent on providing a driveway approach or parking spaces for motor vehicles so as to either serve patrons while in the motor vehicle, or intended to permit consumption in the motor vehicle of food or beverages obtained by a patron of said business establishment (restaurants, cleaners, banks, etc.).

21. "Drive-in or drive-through facility" means an establishment that, by design, physical facilities, service, or by packaging procedures, encourages or permits customers to receive services or obtain goods while remaining in their motor vehicles.

22. "Driving range (golf)" means an unconfined recreational facility (i.e., without netting overhead or along side the facility) situated on a plot of land at least 400 yards in length and a minimum of 300 feet wide. A golf driving range may be built with overhead netting, as well as netting (or other confining material) along the sides and the rear of the facility. In such cases, the land requirements shall be at least 100 yards in length and a minimum of 150 feet wide. The purpose of such facility is to allow golfers an opportunity to practice their golf shots.

23. "Driveway" means that space specifically designated and reserved on the site for the movement of vehicles from one site to another or from a site to a public street.

24. " Dwelling " means a building or portion thereof, occupied or intended to be occupied exclusively for residential purposes, but not including hotels or recreation vehicles. (See also "dwelling, multiple-family" and "family").

25. " Dwelling, attached " means a dwelling having any portion of a wall in common with adjoining dwellings.

26. " Dwelling, detached " means a dwelling that is entirely surrounded by open space on the same lot.

27. " Dwelling, duplex " means a detached building, designed for or occupied exclusively by two families living independently of each other, and shall not include a mobile home.

28. " Dwelling, multiple-family " means a building or portion thereof, used or designed as a residence for three or more families living independently of each other and each with facilities that are used or intended to be used for living, sleeping, and cooking in said building. This definition includes apartment houses but does not include hotels, trailers, or mobile homes.

29. " Dwelling, single-family " means a detached building designed for or occupied exclusively by one family.

30. " Dwelling unit " means any room or group of rooms located within a residential building and forming a single habitable unit with facilities that are used or intended to be used for living, sleeping, and cooking. (Ord. 630 § 2[16.05.276 – 16.05.334], 1995)

ORDINANCE NO. 1319

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BONNEY LAKE, PIERCE COUNTY, WASHINGTON, ADDING A NEW CHAPTER 3.70 TO THE BONNEY LAKE MUNICIPAL CODE RELATING TO TEMPORARY INCENTIVES TO ENCOURAGE BUSINESS INVESTMENT IN RETAIL COMMERCIAL BUILDING.

WHEREAS, Policy P 1.10 of the adopted Economic Development Element of the Comprehensive Plan provides that the City will review and update its zoning, impact fees, and incentives to better encourage prioritized economic development consistent with the adopted Economic Development Element; and

WHEREAS, in addition to the Traffic Impact Fee (TIF) funding source adjustment incentive provided in Chapter 19.04 of the Bonney Lake Municipal Code, the City Council finds it necessary to provide incentives to redevelop Downtown consistent with the adopted Downtown Plan and Design Guidelines, and the City's adopted Economic Development Element of the Comprehensive Plan; and

WHEREAS, the City Council desires to adopt temporary incentives to spur local economic development and investment in Bonney Lake during the current economic downturn;

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF BONNEY LAKE, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. A new BLMC Chapter 3.70 is hereby established to read as follows:

3.70.010 Development Incentives Authorized. A. There are hereby established a variety of tax and fee waivers and rebates to serve as incentives to encourage business investment in the City of Bonney Lake and the construction of new or expanded retail commercial buildings in the City in conformance with the adopted plans and ordinance of the City. These incentives are in addition to the Traffic Impact Fee (TIF) funding source adjustment incentive provided in BLMC Chapter 19.04.

B. In order to qualify for the incentives provided in this chapter, the applicant must construct a new retail commercial building or expand an existing retail commercial building within any Downtown Core (DC), Downtown Mixed Use (DM), or Commercial (C1, C2, C3) zoning district. In the case of mixed use buildings, at least fifty percent (50%) of the building space shall be devoted to retail commercial use.

3.70.020 Waiver of Land Use Fees. For businesses qualifying under Section 3.70.010(B), fifty percent (50%) of the total City land use fees contained in Chapter 3.68.010 shall be waived at time of permit application.

3.70.030 Waiver of Building Fees. For businesses qualifying under Section 3.70.010(B), fifty percent (50%) of the total building permit fees contained in BLMC Chapter 15.04.072 shall be waived at time of permit application, along with fifty percent (50%) of the building plan review fees contained in BLMC Chapter 15.04.080.

3.70.040 Construction Sales Tax Rebate. A. For businesses qualifying under Section 3.70.010(B), the business shall be entitled to a rebate of seventy five percent (75%) of the City portion of the sales and use taxes collected by the City for the City portion of construction of the project, including construction materials, fixed equipment or machinery installation, up to a maximum rebate amount of one hundred thousand dollars (\$100,000). It shall be the responsibility of the applicant to document the total construction related sales tax paid on the project.

B. At the expiration of a six month period commencing from the date of issuance of a certificate of occupancy, the city shall determine the City of Bonney Lake portion of construction related sales and use tax revenue received by the city during the construction of the project. Construction sales taxes received by the City for the project pursuant to this section shall then be rebated to the applicant within sixty days.

3.70.050 Application for Incentives. Any developer or business applying for or receiving a building permit which meets the criteria set forth in section 3.70.010(B) may apply to the city for the incentives established pursuant to this Chapter. Said application shall be on forms provided by the city and shall be accompanied by all information and data the city deems necessary to process the application. To the extent it is authorized by law the city shall endeavor to keep all proprietary information submitted with said application confidential; provided, however, this section shall not create or establish a special duty to do so.

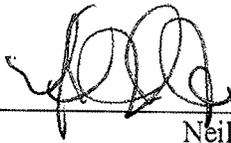
3.70.060 Appeals. Any applicant aggrieved by an action of the City concerning eligibility or computation of waivers or rebates under this chapter may file a written appeal to the City's hearing examiner as established by Chapter 2.18 BLMC. The city hearing examiner is hereby specifically authorized to hear and decide such appeals and the decision of the hearing examiner shall be the final action of the City and subject to further appeal pursuant to Chapter 2.18.180 BLMC.

3.70.070 Administration. The Mayor is here by authorized to develop and adopt such administrative policies, procedures, forms and interpretive guidelines deemed necessary to carry out the intent of this chapter.

Section 2. Severability. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 3. This Ordinance shall take effect thirty (30) days after its passage, subject to prior approval by the Mayor and prior publication for five days as required by law, and shall expire and sunset December 31, 2011 unless extended by a subsequent ordinance of the City Council.

PASSED by the City Council and approved by the Mayor this 21st day of April , 2009.



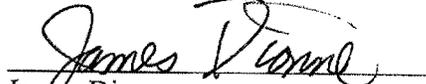
Neil Johnson, Jr.
Mayor

ATTEST:



Harwood T. Edvalson
City Clerk, CMC

APPROVED AS TO FORM:



James Dionne
City Attorney

Passed: 4/21/09
Valid: 4/21/09
Published: 4/29/09
Effective Date: 5/21/09

City of Bonney Lake, Washington
Council Agenda Bill (C.A.B.) Approval Form

* Tabled from
4/14 Council Mtg.

Department/Staff Contact: Don Morrison	Council/Wrkshp Mtg Date: April 14, 2009	Agenda Bill Number: AB09-62
Ordinance Number: D09-62	Resolution Number:	Councilmember Sponsor:
<u>BUDGET INFORMATON</u>		
<u>2009 Budget Amount</u>	<u>Required Expenditure</u>	<u>Impact</u>
		<u>Remaining Balance</u>
<u>Explanation:</u>		
<u>Agenda Subject:</u> Commercial Building Incentive Ordinance		

Administrative Recommendation: Approve

Background Summary: This ordinance creates a new section of code that would grant temporary commercial building stimulus incentives (to sunset December 31, 2011). Specifically, the ordinance would: 1) Waive 50% of certain land use fees; 2) Waive 50% of building and plan review fees; and 3) Grant a rebate of 75% of construction sales tax up to \$100K.

Council Committee Dates:	Commission Dates:	Board/Hearing Examiner Dates:
Finance Committee:	Planning Commission:	Park Board:
Public Safety Committee:	Civil Service Commission:	Hearing Examiner:
Community Development & Planning Committee:		
Council Workshops:		

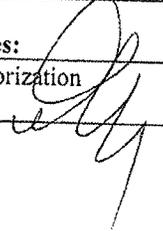
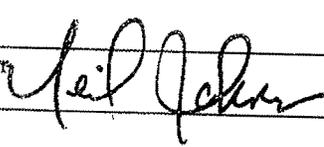
Council Action:

Council Call for Hearing: _____ Council Hearings Date: _____

Council Referred Back to: _____ Workshop: _____ Committee: _____

Council Tabled Until: _____ Council Meeting Dates: _____

Signatures:

Dir. Authorization 	Mayor 	Date City Attorney Reviewed:
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Parks in Duvall

Rob Millard, Duvall

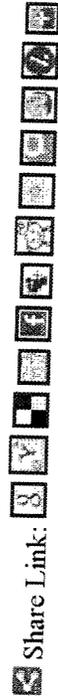


Parks, parks, everywhere and no one to pay for them. This seems to be the new motto of the Duvall City Council. Last night they approved an ordinance increasing the Park Impact Fee a staggering 122%. Essentially this will increase from approximately \$1900 per home to \$4100 per home. This fee will be applied to any new construction projects within the city. Not only will this fee cover new parks but it will also be used to cover some of the costs of our existing parks as well. The Council essentially said "No taxing my backyard; make the new guy pay for it, regardless of the primary goal of the lands committee which is to offer affordable housing in Duvall."

Two of the council members urged the council wait to take action on this until the economy could support the fee increase. Council Member Edwards asked that the council reconsider because "This is not a standard increase, this is a massive increase in fees, and no one can afford this in these economic times." Council Member Laughlin asked the council to poll the citizens before they act to see if this is really what the people wanted given the hard economic times. Of the dozen or so people who testified during the hearing only 2 supported the increase in fees and one of them was David Carson, Redmond City Councilman who praised Duvall for taking this action because it would drive builders to Redmond and would help that city to get out of the housing slowdown much faster. Long time citizen Ray Burhen asked the council if they were living in Never Never Land by proposing this fee and he urged them to come back to reality.

All the other members of the council voted in favor of the fee increase but each having their own reasons for doing so. Council Member Brudnicki stated that she was voting to increase the fee so she could complete a campaign promise she made two years ago when the economy was flourishing. She quoted from her campaign flyer which states "I promise that tax dollars would be applied responsibly." And then went on to say that "this is what the people voted for." But from the reactions of the citizens it appears they don't agree. Council Member Walker agreed that the fee was "the way to go" because she has "come to the conclusion that the fees have little impact on the cost of a home." Yet she offered no support of her statement. Council Member Cattin was supportive of the plan because it provided a place for families to safely play and gather and "if we are going to delay economic growth then I'm OK with that." Council Member Gill said it was in the best long term interest of the community and that "going forward you have to bite the bullet to get things done. Council Member Kuntz said his job was to "do what's best for the community and you can't go wrong."

Which leaves us with the obvious question, Is this what's best for the community? Is it adding additional burden to the already depressed housing market to over commit for parks that aren't needed because current parks are under-capacity and can absorb additional growth? One question that wasn't answered by the council members last night - where will the city come up with its portion of the park fees? The parks plan commits existing users to funding \$1.8 million in the next 6 years. The current fund balance is \$73,000. If five of the council members are so quick to raise impact fees 122%, what will stop them from raising citizens' taxes? This is the principal question that the voters need to address in this November. Are these council members what's best for the community?



Share Link:

B.5

EXPLORER

NEWS

Fee debate could pit OV against city

Print Page

Tucson considers waiving impact fees to draw more development

By Patrick McNamara, The Explorer

Published:
February-18-2009

Lawmakers in Tucson recently debated the idea of suspending development impact fees as a way to spur the local economy.

At a Tucson City Council meeting last week, Ward 2 Councilman Rodney Glassman introduced the idea that he said could inspire local residential and commercial builders to start new projects and put people to work in the waning construction trades.

Glassman said getting the building sector back to work was import because of the number of jobs at stake.

"Every home that's built creates five new jobs," Glassman said.

The move stands in stark contrast with the actions of Oro Valley where impact fees have been increased twice since 2007.

"One of the things you have to consider when you do have impact fees is competing against other communities," Oro Valley Mayor Paul Loomis said.

Town leaders last September voted to increase development impact fees. The new charges total nearly \$14,000 for each new home, making the town arguably the most expensive jurisdiction in Southern Arizona to build in.

The mayor cast the sole vote against the increased fees, citing the bad economy as the reason.

"By having high impact fees, Oro Valley is driving the development somewhere else," Loomis said.

Glassman seems poised to have Tucson absorb any development Oro Valley's fees might drive away.

"This proposal would make Tucson the jurisdiction of choice for Southern Arizona," Glassman said in an interview last Friday.

Tucson City Council members on Feb. 10 decided to form a task force of local business leaders, construction industry officials, labor unions and community activists to come up with a local economic stimulus plan.

The group will explore numerous options to help the local economy, including the proposal to suspend development impact fees.

The plan to drop impact fees for as long as a year could make the difference for many developers unsure about starting new projects, Glassman said.

But similar proposals haven't been discussed in Oro Valley, in part because the town's financial model was based largely upon the fees associated with growth.

The town doesn't have a property tax and charges few taxes directly to residents. The fees tied to development make up a sizable share of the town's revenue.

B-6

For that reason, Loomis said he would not be in favor of waiving Oro Valley's impact fees as Tucson's leaders have discussed.

"The majority of one-time revenue used to come from the construction industry," Loomis said, referencing taxes and fees associated with building.

The growth of retail outlets and diminished residential development has helped to change that.

Still, in the current fiscal year that ends June 30, impact fees and sales taxes charged to new construction are estimated to bring in more than \$4.5 million, according to an analysis of budget documents.

That represents about 5 percent of the total town revenue.

Loomis said that suspending impact fees in Oro Valley would shift the burden of growth-related infrastructure needs to existing residents.

Other construction-related service fees like plan reviews and inspection charges are expected to bring in slightly more than \$2 million in fiscal 2009.

Only sales taxes, which this year could bring in more than \$14 million, make up a larger portion of locally generated revenue.

State and federal grants comprise the largest portion of town income, about 70 percent.

Tucson, however, has a property tax and therefore doesn't rely as heavily on impact fees and related charges.

Glassman believes the town could waive the fees without damage to city finances.

Tucson's proposal has even brought together two groups that rarely see eye-to-eye.

The Southern Arizona Home Builders Association, who first proposed the plan in a letter to city leaders last December, and UA Local 469 pipe fitters and plumbers union, have both endorsed the proposal.

"If SAHBA is not working, than we're not working," said union representative Jay Tripp at last week's Tucson City Council meeting.

When local construction was at peak levels a few years ago, Tripp said as many as 1,500 journeymen plumbers from out of state in addition to local plumbers were working in Southern Arizona.

Now, the journeymen have all left and more than 700 local union members are out of work, Tripp said.

Though historically in favor of impact fees, Tripp said the union would go along with any plan that could help the construction trades.

"I'm here to applaud the manager and council for even considering economic development that will put people to work," Tripp said.

Despite the intent, the move to waive impact fees in Tucson as a means to spark economic development could be an empty measure.

"The idea of stimulation by waiving development fees is not the solution," according to Marshall Vest, an economist at the University of Arizona Eller College of Management.

Vest, who tracks the state's economy and writes a quarterly report called "Arizona's Economy," said that what ails the local building sector today has little to do with the government fees and

B-7

everything to do with an excess amount of homes on the market.

Southern Arizona has a 10-month supply of homes on the market right now. In stable economic times there would be about a 4-to-5 month supply, Vest said.

Until the surplus of homes draws down, government incentives to build will have little effect, Vest said.

Still, Vest doesn't doubt the dire shape of what he calls the "growth industry" — the section of the local economy connected to commercial and residential construction.

The growth industry — including construction, real estate, material supplies, home furnishings and more — comprises at least 20 percent of the region's economy.

But Vest doubts the capacity for a local economic stimulus plan, like the one Tucson's leaders discussed, to do much of anything.

"There's really nothing that state or local government can do to stimulate the economy," Vest said.

He thinks the federal government is likely the only entity capable of making impacts on the local and national economies because of its ability to print money and spend more than it takes in.

"Given the challenges in the economy," Vest said, "infrastructure spending makes a lot of sense right now."

IMPACT FEES

Oro Valley charges impact fees for parks, police, libraries, transportation and general government functions. In addition, there is a 4-percent tax on construction materials.

Here's how much money the fees earned in recent years:

2005.....\$3.9 million

2006.....\$5 million

2007.....\$4.8 million

2008.....\$5.9 million

2009.....\$4.5 million*

Tucson, however, relies mostly on a property tax and state-shared revenues to fund various capital projects and government operations.

Since 2005, the city has collected about \$24 million in impact fees, including \$18 million for roads, \$5.8 million for parks and about \$300,000 for police, fire and public safety (started in 2008). That's represents about \$6 million per year.

* Projected

Sources: Local leaders

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B-8

Mayor Estick

City of Sultan

Memo

To: Rick Cisar
From: Deborah Knight
CC: Mayor Ben Tolson
City Council
Management Team
Date: 11/6/2007
Re: October 24, 2007 Letter from Garth York – Park Impact Fees

Rick,

Please review the attached letter from Garth York regarding his concerns with the payment of park impact fees for the Steen Park Estates plat.

You will need to work with the City attorney on a response to Mr. York.

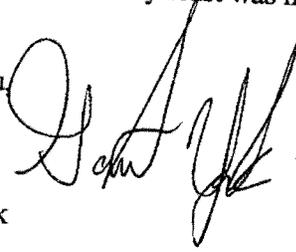
Thanks,

Deborah

Garth } met
Deborah } 2/1/08
Connie } 10:00am

and the Developer implied that payment at any time prior to building permit issuance was allowed and at the very least was not forbidden.

Thank you



- Pres.

Garth York
President

Steen Park, LLC

Enclosures (6)-City of Sultan Developers/Subdividers Agreement Steen Park Estates
Hearing Examiners Report Steen Park Estates
Snohomish County Building and Development Code Chapter
30.66A.020

Page 6 of Developers/Subdividers Agreement between Outlook Point
And Snohomish County

Letter Submitted to City of Sultan on September 8, 2006
Letter of Response from Mayor Tolson

GY

approved detention facility, or otherwise treated to protect water quality before, during, and after the development of this subdivision.

5. The platlor shall obtain Hydraulic Project Approval from the Washington Department of Fish and Wildlife prior to extending the outfall culvert under the Sultan Basin Road to the Type 4 stream in the southwest portion of the site.

Prior to initiation of any site development work-

1. In accordance with SMC 16.28.340, the developer/platlor shall prepare a developer agreement subject to approval by the City. The agreement shall specify the requirements for construction of all infrastructure improvements, including plan submittals, inspections, bonding, private improvements, right-of-way improvements and facilities associated with the subdivision, including improvements to all common areas. Site construction drawings shall be prepared consistent with the conditions of approval.
2. Construction Plans must be approved by the City of Sultan. The plans shall include, but not be limited to, designs for storm drainage, potable water, sanitary sewer, roads, street lighting, signage, landscaping, and other utilities. Said designs shall comply with the requirements of the Unified Development Code, City of Sultan Design Standards and Specifications, and Water/Sewer Design Standards.

The following special requirements shall be included on the face of the final plat-

1. The development restrictions of SMC 16.80.080(D) shall apply to the Type 4 50-foot stream buffer. NGPA signs shall be posted on the buffer line in Tract 999 and along the boundaries of Tract 998, at the discretion of the Public Works Director. NGPA signs are available at the City of Sultan. An informative sign shall be placed at the northern boundary of Tract 996 to inform residents that their stormwater flows to a fish stream.
2. "Mitigation fees are required for park, traffic, and school impacts. The amount of those fees will be determined and collected prior to individual building permit issuance."
3. The following additional restrictions shall be indicated on the face of the final plat:
 - a. All Critical Areas shall be designated Native Growth Protection Areas (NGPA).
 - b. "All NATIVE GROWTH PROTECTION AREAS shall be left permanently undisturbed in a substantially natural state, and utilized for passive recreation only. No clearing, grading, filling, building construction or placement, or road construction of any kind, except removal of hazardous trees, shall be allowed."

HEARING EXAMINER RECOMMENDATION

RE: FPCUP05-003 (*Steen Park*)

April 18, 2006

Page 26 of 27

2. Construction Plans must be approved by the City of Sultan. The plans shall include, but not be limited to, designs for storm drainage, potable water, sanitary sewer, roads, street lighting, signage, landscaping, and other utilities. Said designs shall comply with the requirements of the Unified Development Code, City of Sultan Design Standards and Specifications, and Water/Sewer Design Standards.
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 - b. "All NATIVE GROWTH PROTECTION AREAS shall be left permanently undisturbed in a substantially natural state, and utilized for passive recreation only. No clearing, grading, filling, building construction or placement, or road construction of any kind, except removal of hazardous trees, shall be allowed."
- D. Prior to approval and recordation of the final plat:
1. The developer/plattor shall demonstrate that each lot conforms to all requirements of the Sultan Municipal Code and other standards and specifications that apply.
 2. Homeowners Association articles of incorporation shall have been submitted to and approved by the City. The articles shall provide for ownership and responsibility for all commonly owned tracts. The articles may provide that the Association may divest its interest in open space tracts to a willing municipality or land conservation trust provided that the tract must remain subject to all appropriate restrictions for such areas as set forth in the SMC. The Association shall be created contemporaneous with final plat recordation.
 3. Sight distance meeting City standards shall be available at the plat cul-de-sac's intersection with Sultan Basin Road.

Chapter 30.66A

PARK AND RECREATION FACILITY IMPACT MITIGATION

Reviser's Note: Chapter 30.66A consisting of sections; 30.66A.010, 30.66A.020, 30.66A.030, 30.66A.040, 30.66A.050, 30.66.052, 30.66A.055, 30.66A.060, 30.66A.070, 30.66A.090, 30.66A.100, 30.66A.110, 30.66A.120, 30.66A.130, 30.66A.140, 30.66A.150, and 30.66A.160 was repealed in its entirety effective March 11, 2005 and a NEW Chapter 30.66A was enacted (Amended Ord. 04-016, Feb. 23, 2005; Eff date March 11, 2005)

30.66A.010 Purpose and applicability.

- (1) The purpose of this chapter is:
 - (a) To ensure that adequate park land and park facilities are available to serve new growth and development as defined in SCC 30.91D.200;
 - (b) To require that new growth and development pay its proportionate share of the costs of new park land and park facilities identified in the capital facilities plan element of the comprehensive plan that are reasonably related to the new development;
 - (c) To ensure that impact fees are imposed through established procedures and criteria so that specific developments do not pay arbitrary or duplicative fees for the same impact; and
 - (d) To implement the policies established in the comprehensive park and recreation plan.
- (2) This chapter shall apply to all development, except for development that was subject to a prior SEPA threshold determination that provided for mitigation under chapter 30.66A SCC as codified prior to the effective date of this chapter. An applicant subject to a prior version of this chapter may consent in writing to the application of this chapter.

(Added Amended Ord. 04-016, Feb. 23, 2005, Eff date March 11, 2005)

30.66A.020 Park and recreation impact fee required.

- 1) Each development, as a condition of approval, shall be subject to the park and recreation impact fee established in Table 30.66A.040(1).
- (2) Payment of a park impact fee is required prior to building permit issuance. The amount of the fee shall be based upon the rate in effect at the time of filing a complete application for development; provided however, that those applications deemed complete before the adoption of the GMA-based impact fee contained in this section shall be required to pay the SEPA-based mitigation fee in effect at the time the application was deemed complete and further provided that if the building permit is not issued within five years after the application is deemed complete the fee shall be based upon the rate in effect at the time of building permit issuance.

(Added Amended Ord. 04-016, Feb. 23, 2005, Eff date March 11, 2005)

30.66A.030 Service areas established.

The county is divided into seven park service areas (PSAs) for purposes of calculating and imposing park impact fees. These PSAs correspond to year 2000 census tract boundaries.

(Added Amended Ord. 04-016, Feb. 23, 2005, Eff date March 11, 2005)

30.66A.040 Impact fee schedule.

Outlook Point Subdividers Agreement

CONDITIONS

- A. The revised preliminary plat received by PDS on May 12, 2006 (Exhibit 13) shall be the approved plat configuration. Changes to the approved plat are governed by SCC 30.41A.330.
- B. Prior to initiation of any further site work; and/or prior to issuance of any development/construction permits by the county:
- i. All site development work shall comply with the requirements of the plans and permits approved pursuant to Condition A, above.
 - ii. The platlor shall mark with temporary markers in the field the boundary of all Native Growth Protection Areas (NGPA) required by Chapter 30.62 SCC, or the limits of the proposed site disturbance outside of the NGPA, using methods and materials acceptable to the county.
- C. The following additional restrictions and/or items shall be indicated on the face of the final plat:
- i. "The dwelling units within this development are subject to park impact fees in the amount of \$1,244.49 per newly approved dwelling unit pursuant to Chapter 30.66A. Payment of these mitigation fees is required prior to building permit issuance; provided that the building permit has been issued within five years after the application is deemed complete. After five years, park impact fees shall be based upon the rate in effect at the time of building permit issuance."
 - ii. "The lots within this subdivision will be subject to school impact mitigation fees for the Snohomish School District to be determined by the certified amount within the Base Fee Schedule in effect at the time of building permit application, and to be collected prior to building permit issuance, in accordance with the provisions of SCC 30.66C.010. Credit shall be given for two existing parcels. Lots 1 through 2 shall receive credit."
 - iii. Chapter 30.66B SCC requires the new lot mitigation payments in the amounts shown below for each single-family residential building permit:
\$2,326.29 per lot for mitigation of impacts on county roads paid to the county,
\$330.17 per lot for mitigation of impacts on state highways paid to the county,
\$539.87 per lot for mitigation of impacts on city streets for the city of Mill Creek, paid to the city. Proof of payment is required.
These payments are due at the time of building permit issuance for each single-family residence. Notice of these mitigation payments shall be contained in any deeds involving this subdivision of the lots therein. Once building permits have been issued all mitigation payments shall be deemed paid.
 - iv. "On lots with more than one road frontage, the county Engineering Design and Development Standards (EDDS) of Snohomish County restrict lot access to the minor road, unless a formal deviation is granted by the Department of Public Works."
 - v. Additional right-of-way, parallel and adjacent to the right-of-way centerline of Seattle Hill Road shall be dedicated to the State along the development's frontage such that 40 37 feet of right-of-way exists from centerline of the Seattle Hill Road right-of-way.

¹ Per letter from WSDOT dated 9/10/07: 40 feet of right-of-way changed to 37 feet of right-of-way. (9/13/07)

Steen Park, LLC
P.O. Box 12
Startup, WA 98293
Phone (425)268-8816

RECEIVED
SEP - 8 2006

BY: 

September 8, 2006

Mayor & Members of the Sultan City Council
319 Main Street
Sultan, WA 98294

Dear Mayor and Members of the Sultan City Council:

Subject: Park Impact/Mitigation Fees and Providing of Parks and Recreational/Open Space within Plat of Steen Park Estates

On August 24th, 2006 City Council approved ordinance #929-06 establishing park impact fees in the amounts of \$3415.00 per residential dwelling unit. The conditions of approval for the plat of Steen Park Estates require footage of land and installation of equipment and landscaping for improvements to the parks/open space and recreational facilities for the residents of the community. As outlined in Chapter 16.112.010 section C specific developments are to be exempt from paying duplicate fees for the same impact.

In addition, Section 16.112.080 states that "The developer shall be entitled to a credit against the applicable impact fee component for the present value of any dedication of land for improvement to or new construction of any system improvements provided by the developer (or the developer's predecessor in interest) to facilities that are/were identified in the capital facilities plan and are required by the city as a condition for the immediate development proposal." During discussion for preliminary plat approval, the City stated their desire to have the parks and open space in the plat of Steen Park Estates to be dedicated to the City of Sultan and to thereby become a part of the Capital Facilities for the purpose of increasing acreage for the residents of Sultan. On August 31st, 2006 Mr. York Attempted to pay the \$300.00 per unit impact fee as originally assessed against the plat but payment was declined by City staff.

Over the years Members of the Sultan City Council have discussed deleting 16.72.030 recreational standards which encourage "tot lots" and other small parks in favor of raising impact fees with the goal of creating larger parks and recreational facilities that would be of interest to a wider range of residents. Section 16.72.020 should be deleted as well so that each unit created in the city would be required to equally fund creation of recreational opportunities. Steen Park, LLC is willing to pay the new park impact fee in the amount of \$3415.00 per dwelling unit without contest if Sultan City Council agrees to

Cascade Breeze, Inc.
P.O. Box 12
Startup, WA 98293
Phone (425)268-8816

RECEIVED
SEP - 8 2006
BY: *RL*

September 8, 2006

Mayor & Members of the Sultan City Council
319 Main Street
Sultan, WA 98294

Dear Mayor and Members of the Sultan City Council:

Subject: Park Impact/Mitigation Fees and Providing of Parks and Recreational/Open Space within Plat of Cascade Breeze Estates

On August 24th, 2006 City Council approved ordinance #929-06 establishing park impact fees in the amounts of \$3415.00 per residential dwelling unit. The conditions of approval for the plat of Cascade Breeze Estates require footage of land and installation of equipment and landscaping for improvements to the parks/open space and recreational facilities for the residents of the community. As outlined in Chapter 16.112.010 section C specific developments are to be exempt from paying duplicate fees for the same impact.

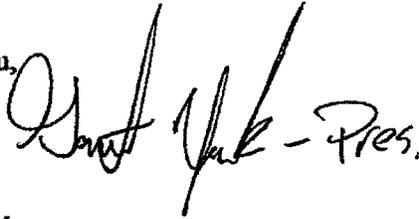
In addition, Section 16.112.080 states that "The developer shall be entitled to a credit against the applicable impact fee component for the present value of any dedication of land for improvement to or new construction of any system improvements provided by the developer (or the developer's predecessor in interest) to facilities that are/were identified in the capital facilities plan and are required by the city as a condition for the immediate development proposal." During discussion for preliminary plat approval, the City stated their desire to have the parks and open space in the plat of Cascade Breeze Estates to be dedicated to the City of Sultan and to thereby become a part of the Capital Facilities for the purpose of increasing acreage for the residents of Sultan. On August 31st, 2006 Mr. York Attempted to pay the \$300.00 per unit impact fee as originally assessed against the plat but payment was declined by City staff.

Over the years Members of the Sultan City Council have discussed deleting 16.72.030 recreational standards which encourage "tot lots" and other small parks in favor of raising impact fees with the goal of creating larger parks and recreational facilities that would be of interest to a wider range of residents. Section 16.72.020 should be deleted as well so that each unit created in the city would be required to equally fund creation of recreational opportunities. Cascade Breeze, Inc. is willing to pay the new park impact fee

in the amount of \$3415.00 per dwelling unit without contest if Sultan City Council agrees to delete the recreational standards currently imposed on the plat and release the footage impacted by the onsite park to revert from a tot lot to a building lot, thereby assisting the city with its long range goal of larger parks.

In the event however that City Council Members do not want to release the plat of Cascade Breeze Estates from the required recreational standards as per Section 16.112.010 and Section 16.112.080 as stated above, then this letter is to serve as notice under Section 16.112.090 to appeal the Park Impact Fees on the legal grounds that we would be paying a duplicate fee for the same service and that the impact of this development is already being mitigated onsite.

Thank you,

A handwritten signature in black ink, appearing to read "Garth York - Pres.", written in a cursive style.

Garth York
President
Cascade Breeze, Inc.
GY



City of Sultan

Mr. Garth York
Cascade Breeze, LLC
Steen Park, LLC
P.O. Box 12
Startup, WA 98293]

October 13, 2006

Subject: Recreation Standards; Development Impact fees; Potential Credit

Dear Garth:

By letter dated September 8, 2006, you questioned the City's adoption of Ordinance 929-06 increasing the City's Development Impact Fee for Parks, raised issues concerning the City's on-site recreational requirements, and sought credit now for trail and/or park dedications you might make. You have asked for a formal response from the City.

1. Ordinance 929-06.

City Staff does not intend to recommend either the repeal or the revision of this Ordinance. As such, unless the City Council takes a different course of action, when you request building permits for your lots, you will be expected to pay fees in accordance with this Ordinance, subject to any credits to which you may be entitled.

2. On-Site Recreational Requirements

Both of your developments exceed the ten (10) lot exemption of SMC 16.72.020, and accordingly are subject to the on-site requirements of Chapter 16.72 SMC. Accordingly, each of your projects is required to build one on-site recreation facility. Because it is the likely smallest and least expensive facility, we presume that you will chose to build a "tot lot" on each development. You are welcome to consider another, more expansive improvement if you desire.

City Staff have, as has the Hearing Examiner, distinguished between a small tot lot on-site and facilities built with the City's Development Impact Fee. The on-site facility provides an immediately available local improvement to mitigate the recreational impact of a development. The Development Impact Fee is designed to provide a resource to mitigate the impact on large neighborhood or community facilities, such as baseball and soccer fields. In the City's view, then, there is no duplication or double mitigation of impacts when the Chapter 16.72 facility is a tot lot, and the Development Impact Fee of Chapter 16.112 is for larger neighborhood and community facilities. Should you chose to build under Chapter 16.72 a facility that does provide a neighborhood or community benefit, then of course consideration of a credit would be given.

Mr. Garth York
October 13, 2006
Page 2 of 2

3. Credit

Your Park Development Impact Fees are due when you obtain building permits. A credit is available under SMC 16.112.080 as follows:

16.112.080 Impact Fee Credits.

The Developer shall be entitled to a credit against the applicable impact fee component for the present value of any dedication of land for improvement to or new construction of any system improvements provided by the developer (or the developer's predecessor in interest), to facilities that are/were identified in the capital facilities plan and are required by the City as a condition of approval for the immediate development proposal.

The amount of credit shall be determined at the time of building permit issuance (or site plan approval where no building permit is required). In the event the amount of the credit is calculated to be greater than the amount of the impact fee due, the Developer may apply such excess credit toward impact fees imposed on other developments within the City.

Staff understands that you may propose certain dedications and the creation of certain trails which might entitle you to a credit under this section. Indeed, Rick Cisar has attempted to sit down with you and secure more information about your proposals and their value/cost to give you some preliminary idea what your credit might be. You are encouraged to work with Rick to refine this information so a better sense could be gained of what your credit might be.

Very truly yours



Benjamin R. Tolson
Mayor

**AFTER RECORDING
PLEASE RETURN TO:**

**DEVELOPER AGREEMENT
TO ESTABLISH CONCURRENCY**

This Developer Agreement to Establish Concurrency is voluntarily made between Sultan 144, LLC (hereinafter "Developer") and the City of Sultan, Washington (hereinafter "City") to establish concurrency of a preliminary plat assigned processing number FPPUD 05-005 and named Skoglund Estates Planned Unit Development/ Preliminary Plat.

WHEREAS, Chapter 16.108 Sultan Municipal Code establishes Levels of Service for certain public services and establishes a concurrency management system;

WHEREAS, under Section 16.108.060 prohibits development approval when an adopted level of services fails as a consequence of development;

WHEREAS, the City's hearing examiner has found and ruled that the City currently has a failure in its level of service for Police;

WHEREAS, Sultan Municipal Code 16.108.060 C permits a finding of concurrency when:

- C. The necessary public facilities and services are guaranteed in an enforceable development agreement to be in place concurrent with development.

WHEREAS, Developer wishes to voluntarily enter into this Developer Agreement to Establish Concurrency to aid in obtaining preliminary plat approval at this time;

NOW, THEREFORE, it is agreed between Developer and City as follows:

1. Developer commitment to satisfy impacts of development. Developer's preliminary plat proposes the creation of 47 new plus one existing single family lots (or multiple family units). City, for planning purposes assigns a population of 2.7 to each lot/unit for a total population impact of 127. City has an adopted level of service for police of 2.6 officers per 1000 population. Developer's impact requires a contribution for

0.33 of an officer. City estimates the annual cost of an officer to be \$110,878. Developer therefore agrees to pay a cash contribution to City of \$36,612, consisting of 33 % of the first year annual cost of an officer and an additional \$9,964 to serve as a contribution to a reserve for future years of service. This contribution shall be divided equally among the lots/units approved, and shall be paid on a lot by lot/unit by unit basis as building permits are issued.

2. City's acceptance. City agrees to accept the contributions detailed above and for any cash contributions will place them in a separate fund. Cash contributions made will be used within six (6) years of payment to City or they will be refunded to Developer. City staff agree to issue a revised concurrency determination finding concurrency based upon this agreement and to support that determination in further proceedings before the hearing examiner and any appeal of a hearing examiner determination.
3. Effect of Level of Service change. Should City reduce or eliminate a Level of Service requirement prior to the conveyance occurring or the cash contribution being made, Developer's obligation under this agreement shall be adjusted or eliminated consistent with the reduction or elimination of the Level of Service. If however, a Level of Service is reduced or eliminated after the conveyance occurs or the cash contribution has been made, there shall be no return of the conveyed property or the cash contribution. If the Level of Service is increased prior to the conveyance occurring or the cash contribution being made, Developer's obligation under this agreement shall not be increased, and Developer shall be deemed to vest under the terms of this agreement.
4. Recordation. At the option of the City, City may cause a certified copy of this agreement, or a memorandum of this agreement to be recorded with the records of the Auditor of Snohomish County.
5. Enforcement. Besides any remedy City may have to enforce the terms of this agreement in court, Developer specifically agrees that City shall have no obligation to issue a building permit unless required cash contributions are made and City shall have no obligation to accept any final plat until the required deed for conveyance of park land has been delivered with irrevocable instructions allowing its recordation.
6. Complete Agreement. This is a complete agreement and all prior discussions and agreements are merged into this agreement.
7. Voluntary Agreement. Developer represents that he voluntarily and intentionally enters into this agreement to the goal of receiving preliminary plat or other development approval at this time.

