

From: [Debbie Tarry](#)
To: [Keith Scully](#); [Tom McCormick](#)
Cc: [Carolyn Wurdeman](#)
Subject: RE: Shoreline City Council Meeting, March 21, 2016
Date: Thursday, March 17, 2016 11:04:35 AM

Keith & Tom –

To follow-up on Tom's questions.

1. "Vesting": Under current case law, a TIF does not vest as it is not a land use regulation. The City has set a "determination/vest" date and it is established in SMC 12.40.050(D) which provides that "impact fees shall be determined at the time the complete application for a building permit is submitted using the impact fees then in effect." So, the TIF fee is determined at the time of complete building permit application, not building permit issuance or the start of construction. Thus, if a complete application was submitted on December 30, 2018, it would be subject to the applicable TIF in effect for that application on December 30, which for the listed businesses would be the 100% exemption.
2. "Last Week's Permit": The Council has given no indication that they wish the exemption to apply retroactively – as they did for Ord. 716 which addressed vacancy. An ordinance is never assumed to apply retrospectively unless there is clear intent in this regard so any complete building permit application received prior to adoption of proposed Ordinance No. 717 would not be entitled to the exemption and would need to pay the applicable fee. Staff has informed me that there are currently no completed building permit applications in process that would qualify for the exemption and we don't anticipate any that will be submitted prior to the effective date of the ordinance. At this point since it is pretty clear that Council will be adopting an exemption for businesses, if there were a business that was going to file a complete application, and would be eligible for the exemption, we would advise them to file after the effective date of the ordinance (which should be a minimal delay if Council takes action on Monday and the ordinance summary is published next week).

Hope that this information is helpful.

Debbie Tarry
City Manager
City of Shoreline
17500 Midvale Ave N.
Shoreline, WA 98133

From: Keith Scully
Sent: Wednesday, March 16, 2016 8:13 AM
To: Tom McCormick
Cc: Debbie Tarry
Subject: Re: Shoreline City Council Meeting, March 21, 2016

Hi Tom,

Thank you for your comments. The ITE codes are drawn from the TIF ordinance, SMC 12.40.050 and the table found at SMC 3.01.015. The exemption tracks the admittedly clumsy language of the original ordinance, and in my view is necessary because just saying "business" might lead to uncertainty as to what is meant. Is a single home-based business in an apartment building enough, for example? The ITE codes answer that question and similar because the method for assigning an ITE code is well-established.

I don't know the answer to your question on vesting. And, some of the ITE codes that appear related to a business--light industrial and manufacturing, for example--are not included in the exemption. I've cc'd Debbie Tarry on this email, and will ask her staff to respond at the next council meeting.

Keith Scully
Councilmember, City of Shoreline
Sent from my iPad

On Mar 15, 2016, at 3:34 PM, Tom McCormick <tommccormick@mac.com> wrote:

Hi Keith,

I am pleased that the Council voted last night to get rid of the Transportation Impact Fee (TIF) for businesses (at least through 2018), thereby removing a key barrier to business growth in Shoreline.

At last night's meeting you discussed amending the TIF ordinance to get rid of red tape in 12.40.070(I)(1) and (4) (no one should be required to apply for a 100% exemption—just give it automatically), and to make some other changes. I would like to suggest two things, in addition to the red tape item just noted:

1. I don't see why the Ordinance lists a bunch of ITE codes in 12.40.070(I)(3). Can't it be reworded to exempt all businesses, and to provide that only developers of residential units have to pay the TIF?
2. Vesting. Section 4 of the Ordinance says that, "This Ordinance shall take effect five days after publication and shall expire and be of no further effect on December 31, 2018, unless otherwise extended by the City Council." Query: If a business submits a building permit application on December 30, 2018, but a permit is not granted until late 2019, and construction does not start until 2020, will the 100% TIF exemption still apply? Under current vesting law, it appears that the business will have to pay the TIF since the exemption expired before the permit was granted. See *NEW CASTLE INVS. v. CITY OF LaCENTER*, 98 Wn. App. 224 (Wash. Ct. App. 1999). Is this what the Council wants to happen? Or does Council want to vest a business in the TIF rules that exist at the time an application is submitted? And what about the front end? If a business applied for a permit last week, and a permit is granted in a couple of months, will a TIF fee be owed?

Thank you.

Tom McCormick

Begin forwarded message:

From: "City of Shoreline clk@shorelinewa.gov" <conf-94061508@everbridge.net>
Subject: Shoreline City Council Meeting, March 21, 2016
Date: March 15, 2016 at 2:34:54 PM PDT
To: "tommccormick@mac.com" <tommccormick@mac.com>
Reply-To: "City of Shoreline clk@shorelinewa.gov" <conf-94061508@everbridge.net>

The following is a message from Alert Shoreline, the City of Shoreline's mass communication system:

Shoreline City Council Meeting

Monday, March 21, 2016 – Regular Meeting 7:00 p.m.

Agenda Highlights

- Motion to Authorize the City Manager to Enter Into an Agreement with the Brickman Group, LTD, LLC for Right-of-Way Landscape Services
- Adoption of Ord. No. 739 – Development Code Amendments
- Adoption of Ord. No. 717 – Transportation Impact Fee Amendment for Business
- Discussion of the Parks Community Survey Results and Parks, Recreation and Open Space Plan Process
- Discussion of 145th Corridor Study Preferred Concept
- Discussion of the 2015 Annual Traffic Report
- Executive Session: Litigation – RCW 42.30.110(1)(i) to discuss with legal counsel matters relating to agency enforcement actions, or litigation

[Link to full Agenda](#)

[Comment on Agenda items](#)

[City Council Webpage](#)

Contact Us:

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