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Refer To File #: 502286-0001

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Re: *Proposed Resolution Adopting a Parking Impact Fee and Related Ordinances*

Michael,

It was good to see you at the City Council meeting last week. Thanks also for the phone call afterward; I appreciate that you are giving the "timing" of the adoption and effective date of the proposed ordinances and the resolution some additional thought.

As I stressed during our telephone call and in our letter to the City Council, we believe that under controlling law, the resolution adopting the increased parking impact fees can only be adopted after the ordinance replacing the existing fee ordinance and the ordinance expanding the geographic scope of the Parking Exempt Overlay District take legal effect (i.e., 30 days after adoption of the ordinances, assuming publication 15 days after adoption).

This is because the ordinances form the legal foundation and basis for the new parking fee resolution, which foundation will not be in existence until the new ordinances take legal effect.

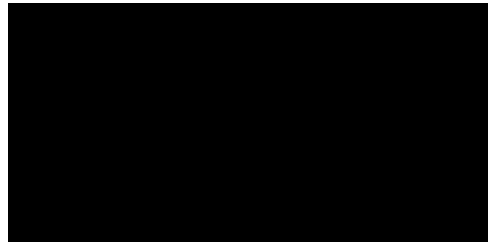
For example, as noted in our letter dated August 2, 2016, the new fee ordinance reads similarly to, and obviously was prepared in concert with, the new approach to parking fees set forth in the new fee resolution. Likewise, the nexus study for the new fee resolution assumed parking from the expanded Parking Exempt Overlay District to justify the new fee, which expansion (and increased parking need) does not take place until the new ordinance takes legal effect.

In short, adopting the parking impact fee resolution before the ordinance setting up the new legal protocol and justification takes legal effect and before the ordinance that expands the actual Parking Exempt Overlay District go into effect would place the City in the untenable position of adopting a new parking impact fee that does not follow the existing fee ordinance and that does not demonstrably bear a nexus to the existing area (pre-new expanded area) to which it applies.

Michael Barrett
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Thank you again for the opportunity to discuss this with you. Please make sure this letter is made a part of the administrative record.

Respectfully,



Michael Patrick Durkee
of Nossaman LLP

MPD:snc