

1. Agenda And Packet

Documents:

[AUGUST 14, 2023 SPECIAL WORK SESSION AGENDA.PDF](#)
[AUGUST 14, 2023 SPECIAL WORK SESSION PACKET.PDF](#)

City of Excelsior
City Council Special Work Session

Agenda

Monday, August 14, 2023

City Offices – 350 Highway 7, Suite 230, Excelsior, MN 55331

5:30 P.M. – 6:30 P.M.

1. Call to Order/Roll Call
2. Agenda Approval
3. Parking Impact Fee for 301 Water Street
4. South Lake Minnetonka Police Department Joint Powers Agreement
5. Adjournment

Note: The purpose of a Special Work Session is for the Council to discuss matters informally and in greater detail than is allowed at formal Council meetings. All meetings of the Council, including Special Work Sessions, are open to the public. While the privilege of participating in these discussions is generally limited to the Council, staff, and consultants, the Mayor may open a discussion from the floor.

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MEMORANDUM

Item#3

Re: Parking Impact Fee for 301 Water Street

Date: August 14, 2023

Kevin Staunton,

To: City Council

From: City Attorney/Assistant City Manager

Background

At your July 17th, 2023, Council meeting, you considered a Conditional Use Permit application for Parking Impact Fee for Layline, a new restaurant located at 301 Water Street. Our Zoning Ordinance, Chapter 19-9 provides businesses in the downtown district that are unable to satisfy their parking requirements on site an option to pay a parking impact fee instead. According to this Ordinance, the annual parking impact fee for this new restaurant use is \$29,600 (see the July 17 memo from staff detailing how that figure was calculated). The pro-rated fee for calendar year 2023 is \$14,800 (July 1 – December 31).

The applicant attended the July 17 meeting and told the Council that the fee was significant for a restaurant to pay as part of the base cost of doing business. The applicant also suggested that the fee was also inequitably applied because it treated other restaurants in the city differently. The Council directed staff to bring some proposals for discussion to the August 14th Work Session that would provide some relief to this business, and be equitable and fair to other businesses in our downtown district that are paying parking impact fees or had made other arrangements to pay for parking prior to the adoption of our parking impact fee ordinance.

History

As we discussed at the July 17 meeting, the Parking Impact Fee calculation has evolved over time. As a result, some restaurants¹ who were subject to a parking impact fee early in the evolution of the ordinance paid relatively little, while other restaurants pay much more. An extreme example (which is a good illustration of the magnitude of the change since we first instituted a parking impact fee) is the comparison between one of the earliest users – Jake O'Connor's (now the Bull & Wren) – and the latest user – Layline.

When Jake O'Connor's utilized the first generation of the parking impact fee ordinance, the ordinance differed in three important ways from the current generation of the ordinance. First, it permitted shared uses – Jake's was able to share spaces between its office uses (which were, at least in theory, complete by 5 pm) and the portion of the restaurant use that would only take place after 5 pm. Second, it permitted long-term leases (i.e., at least 7 years) of off-site parking to satisfy the on-site parking requirements. And third, it required only a one-time fee (as opposed to the current annual fee). Accordingly, Jake O'Connor's paid a one-time fee of \$48,000 (payable over five years) for a shortage of 15 spaces on their site (after receiving credit for 36 spaces through off-site and shared parking arrangements and receiving a 44-space grandfather credit). Layline, by contrast will have to pay \$29,600 per year (after receiving no credits for shared or off-site parking and only a 5-space grandfather credit).²

¹ Although the parking impact fee may be utilized by any business or other use (assuming they satisfy the CUP criteria), the only businesses that have chosen to apply for the CUP are restaurants, largely because the parking requirements for restaurants with liquor licenses are so much greater than most other commercial uses.

² Another change to the code implemented after Jake O'Connor's CUP was issued and before Layline applied for a CUP was a change in the number of spaces required for restaurants with liquor licenses (such uses are now required to provide one off-street parking space for every three seats in the restaurant instead of the previously-require one space for every four seats).

Analysis

As the above comparison shows, it is apparent that there are inequities in the application of the parking impact fee. Some of those inequities might be reasonable – certainly earlier restaurant ventures took greater risk than those that opened later. Nonetheless, it is apparent to staff that there needs to be a comprehensive review of the parking impact fee model to ensure that we are equitably distributing the cost of public off-street parking provided to individual property owners who do not satisfy their parking requirements on their own properties.

To that end, earlier this month, we commenced a comprehensive review of our parking system. This review will be led by Walker Parking Consultants. While this review will include more than just our parking impact fee system, we anticipate that its conclusions will help us determine what, if any, changes we should make to the parking impact fee system currently in place. Because that holistic review is upcoming, staff recommends that you not modify the current rules until we have completed the study. Option 1 below provides the summary of what was recommended at your July 17 meeting – which results in Layline paying \$14,800 this year for a parking impact fee.

Option 2 provides staff’s recommendation if you want to make an interim modification to the parking impact fee system that provides a “lowest common denominator” for parking credits. This option attempts to address some of the existing inequities created by the “prior use” portion of our parking impact fee calculation. Remember that we determine how many spaces that a property owner has to provide by comparing the number of spaces that were required for the use of the property on January 1, 2003 to the number that will be required under the new use. In our example above, this means that Jake O’Connor’s gets a “grandfather” credit of 44 spaces while Layline only gets a credit of 5 spaces.³ See attached Parking Grandfather Chart. Note as well that 36 of the 77 properties in the Downtown Parking District have less than 10 “Grandfather Credit” parking spaces (and only Layline and 13 other properties have less than 6 Grandfather Credits).

Our recommendation is that you change the calculation to give 10 Grandfather Credits to all properties within the District. This new “Grandfather Credit Floor” would reduce the amount that Layline is required to pay annually by \$4,000 (and this year by \$2,000) while not reducing any of the other existing parking impact fee amounts. It would also provide some relief to similarly situated properties with fewer than 10 Grandfather Credits. The 10-space floor is somewhat arbitrary; you can certainly choose a different number but should think through where the line is in terms of fairness between the properties with lower Grandfather Credits and those with a higher number. In our view, however, creating a new minimum floor for Grandfathered Credits is preferable to some kind of fee cap that would incentivize greater impact without a corresponding increase in payments.

Option 1

This option recommends charging the parking impact fee as prescribed by our current Ordinance: annual fee of \$29,600, prorated for 2023 (July 1 – December 31) to \$14,800. The former auto repair use had 22 parking spaces on the parcel but only required 5. The newly redeveloped parcel has 6 spaces onsite. The required parking for the new restaurant use on the property is as follows:

Restaurant	
78 indoor seats /3 =	26 parking spaces
48 outdoor seats/3 =	16 parking spaces
TOTAL required parking spaces:	42 parking spaces

³ Note also that, since Layline is actually providing 6 spaces on site (one more than its Grandfathered Credits), it gets no benefit from the Grandfathered Credits.

LESS provided on-site parking spaces:	6 parking spaces
TOTAL # of spaces for PI fee:	36 parking spaces

Per the 2023 Excelsior Fee Schedule, the annual parking impact fee is \$1,000 per space required for indoor restaurant seats and \$600 per space required for outdoor restaurant seats. The resulting annual Parking Impact Fee is \$29,600 (20 indoor spaces x \$1,000/space [\$20,000] + 16 outdoor spaces x \$600/space [\$9,600] = \$29,600).

Option 2

This Option recommends a change to our parking impact fee ordinance that would provide every property in the Downtown Parking District with a minimum of 10 Grandfathered Parking Credits to count towards the new parking requirement when there is a change of use that requires more parking stalls than what currently is required. This provides the same minimum benefit to every property and provides some benefit to properties that are changing from a particularly low number of Grandfathered Parking Credits.

When the parking impact fee system was created and the Ordinance adopted, we used the existing “Parking Credits” determined by section 19-7(a) of the ordinance as an arbitrary assessment of how much each property should be considered to have for purposes of calculating how many more spaces they would be required to provide (or pay in parking impact fee). While creating a floor of Grandfathered Spaces is arbitrary in some senses, it is no more arbitrary than basing the deficit on the number of spaces they would have had to provide (whether they actually were providing them or not) as of January 1, 2003.

If you were to adopt such an interim plan, we would need to amend the ordinance (section 19-9 of the zoning code). Since it is a part of the zoning code, there would need to be a public hearing before the planning commission before the ordinance change could be considered by the city council. Such a change would affect the Layline CUP as follows:

The former auto repair use had 22 parking spaces on the parcel but only required 5. The newly redeveloped parcel has 6 spaces onsite (which is one more than the Grandfathered Credit amount). The required parking for the new restaurant use on the property under this option would be as follows:

Restaurant	
78 indoor seats /3 =	26 parking spaces
48 outdoor seats/3 =	16 parking spaces
TOTAL required parking spaces:	42 parking spaces
LESS the greater of provided or Grandfathered Credit spaces:	10 parking spaces
TOTAL # of spaces for PI fee:	32 parking spaces

Per the 2023 Excelsior Fee Schedule, the annual parking impact fee is \$1,000 per space required for indoor restaurant seats and \$600 per space required for outdoor restaurant seats. The resulting annual Parking Impact Fee is \$25,600 (16 indoor spaces x \$1,000/space [\$16,000] + 16 outdoor spaces x \$600/space [\$9,600] = \$25,600). When pro-rated for 2023, that would require a payment this year of \$12,800.

RECOMMENDED ACTION: Discuss the options and provide direction to staff regarding how to proceed.

Excelsior Parking District

<u>PIN</u>	<u>ti</u>	<u>Address</u>	<u>Business Name(s)</u>	<u>Parking Spaces Provided on Prop.</u>	<u>Parking Required by Zoning Use (i.e., "Grandfathered" Spaces)</u>	<u>Surplus (Deficit)</u>	<u>Parking Impact Fee?</u>	<u>Current Owner</u>
34	11723-	---	---					
110072		260 Water Street	Douglas Jewelers	0	2	-2		
110030		243 Water Street	Tony's Barbershop	4	2	2		
I 10060		350 Second Street	Paris Tailors	0	3	-3		
110071		266 Water Street	Abel B&C	3	3	0		
140026		371 Water Street	James H. Clark Bed & Breakfast	3	3	0		
110033		261 Water Street	Baytree	0	4	-4		
140037		356 Water Street	Annie Marie Photography	3	4	-1		
I 10018		31,33 Water Street	Licks Unlimited	1	5	-4		
140038		366 Water Street	Gray Gardens	1	5	-4		
110112		332 Second Street	Remax Realty	4	5	-1		
110066		240 Water Street	Antiques	5	5	0		
110029		239 Water Street	Leipold's	6	5	1		
110070		264 Water Street	Law Office	7	5	2		
140013		301 Water Street	First Class Car Care	22	5	17	Y	Layline

110032	251 Water Street	Excelsior Florist	0	6	-6
140036	344 Water Street	Knapp Radio & V	0	6	-6
110015	429 Second Street	Antiquity Rose	3	6	-3
140039	370 Water Street	State Farm Insurance Custom Frame Art Gallery	5	6	-1
140040	369 George Street	Antiques	6	6	0
I 10063	216 Water Street	Risk Control	4	7	-3
110014	441 Second Street	Bric n Brae Antiques	4	7	-3
I 10062	212 Water Street	Martin's Clothing	5	7	-2
110144	481 Second Street	Citgo Station	11	7	4
110123	219,221 Water St.	Roberto's Int'l Salon	0	8	-8
110073	274 Water Street	Lake Superior Mortgage	0	8	-8
110074	278 Water Street	Clothing & Office	0	8	-8
110053	347 Second Street	Kelly Law Bldg.	0	8	-8
110129	440 Second Street	Sala Architects	0	8	-8
110075	284 Water Street	The Color Center	1	8	-7

I 10125	211 Water Street	Water Street Gallery	2	8	-6	
110005	426 Lake Street	Hour Glass Cleaners	6	8	-2	
230039	560 Second Street	US West	8	8	0	
130032	361 George Street	Union	9	8	1	
110013	449 Second Street	Retail Multi-Tenant	9	8	1	
110069	254 & 256 Water Street	Tonka Tot Shop	6	9	-3	
110023	474 Second Street	Excelsior Bay Spa	9	9	0	
110120	237 Water Street	Excelsior Appliance	4	10	-6	
110067	242 & 244	Cynthia Raes	5	10	-5	
110016	425 Second Street	Johnson's Dentistry Photo & Print Shop	5	10	-5	
110121	229,231 Water St.	Enchanted Treehouse BW	7	10	-3	
140024	345 & 347 Water Street	Artworks	10	10	0	
I 10087	300 Water Street	The Pump	16	10	6	
110124	217 Water Street	Simply Nuts	0	11	-11	Y Yumi's
110022	478 Second Street	Teen Clinic	4	11	-7	
110122	223,227 Water St.	Lavender Blue Excelsior Bay Boutique	12	11	1	
110017	409 Second Street	Beacon Bank	12	11	1	
110052	339 Second Street	Lake Country Builders	15	11	4	

110006	434 Lake Street	Ryan Building	12	12	0		
110142	470 Lake Street	Air, Inc.	12	12	0		
110115	352 Third Street	ABC Kitchens	18	13	5		
3511723	545 Second Street	Excelsior Market,	33	13	20		
110130	444 Second Street 443 Union Place	Excelsior Tille	0	15	-15		
110034	271,287 Water St.	Mtka. Interiors Water Street Clothing	10	15	-5	Y	Olives
110127	420 Second Street	M&M Auto Body	0	16	-16		
110126	205,207 Water St. 402,404 Second St	Ming Wok, Capers Shoe Storm, Mika Clothing	4	17	-13	Y	Brandow/Red Sauce
110076	339 Third Street	Firestation, Library City Hall	8	17	-9		
I 10065	228,234,&238	Envue Optical	10	17	-7		
110057	28,30 Water Street	Hair Salon	17	17	0	Y	Lago Tacos
110019	21 Water Street	Dunn Brothers Coffee Big Island Publishing	18	17	1		
110064	218,220,224,&226 Water Street	Cosccha Designs	13	21	-8		
110027	421 Third Street	Rich's Auto Body	29	21	8		
110128	436 Second Street	Multi Tenant Office	0	23	-23		

110024	464 Second Street	Hoyt Building	4	23	-19
110003	1 Water Street	Haskell's	23	23	0
3511723	500 Lake Street	Multi-Tenant Office	23	24	-1
120026	310 Water Street	Excelsior Mill Mall	70	24	46
230040	520 Second Street	Huber Funeral	21	25	-4
I 10137	348 Second Street	Excel. Professional	0	36	-36
140051	261 School Ave.	Offices	44	36	8
110059	324,334 Lake St. 10 Water Street	Pizza Hut Mall	46	39	7
110031	249 Water Street	Masonic Temple	0	40	-40
110061	200 Water Street	Frmr. Ace Hardware	2	44	-42
110068	252 Water Street	IOOF, Mika. Music	7	45	-38
110055	34,36,40,50 Water St.	Tonka Building	28	46	-18
140001	471 Third Street	Congregational Church	32	68	-36

Y Bull & Wren

110058	26 Water Street	Dock Cinema	34	68	-34
110143	322 Second Street	Trinity Episcopal Church	0	78	-78
			755	1200	-445