



Sustainability and Transportation Committee Report

Date: May 20, 2019
To: Sustainability and Transportation Committee
Through: Kari Kent, Assistant City Manager
From: Christine Zielonka, Development Services Director
Subject: Appeal of Staff's Determination that Impact Fees Apply to Covered Recreational Vehicle Storage -- 8855 E. Main Street Council District 6

Issue and Staff Recommendation

This is an appeal of staff's determination that impact fees apply to covered recreational vehicle ("RV") storage. The applicant is appealing only the portion of the impact fees that apply to the covered RV storage.

The purpose of this report is to explain staff's determination that the Public Safety Impact Fee and the Fire Impact Fee apply to the covered RV storage development at 8855 East Main Street. In reviewing the Development Impact Fees ordinance (Title 5, Chapter 17 of the Mesa City Code), staff determined the Public Safety Impact Fee and the Fire Impact Fee apply to the area where the RV's are stored and assessed the fees based on the square footage of the covered area. The applicant disagrees with this assessment and filed this appeal.

The issue on appeal is whether the Public Safety Impact Fee and Fire Impact Fee apply to covered RV storage. The applicant is not challenging the impact fees the City assessed on the mini-storage facility. They are disputing only the portion of the impact fees applicable to the covered RV storage area. The Sustainability and Transportation ("SAT") Committee is charged with making a final determination on this issue.

Staff recommends upholding its determination that the Public Safety Impact Fee and the Fire Impact Fee apply to covered RV storage.

Background

In December of 2018 RV Renovators submitted a building permit application to construct a secured storage facility that included 98,628 square feet of commercial covered RV storage. Staff determined that RV Renovators had to pay the applicable impact fees for both the mini-storage facility and the covered RV storage. Staff provided RV Renovators with an estimate of the applicable impact fees which included the Public Safety Impact Fee and the Fire impact Fee for the covered RV storage.

RV Renovators questioned staff why they included the square footage of the covered RV storage area in the calculation of impact fees. Staff explained that pursuant to Mesa City Code Title 5, Chapter 17, any development requiring a building permit, unless an exemption applies, must pay the applicable impact fees. Staff further explained, because the mini-storage and covered RV storage areas each required a building permit, the applicable impact fees applied to each use, and the area of each use would be combined to calculate the fees. If the applicant did not cover the RV storage area, a building permit would not be required, and impact fees would not be assessed on this area. The applicant disagreed with staff's determination that impact fees apply to the covered RV storage area and appealed the determination.

Chase Carlile, the official for the City charged with the administration of Title 5, Chapter 17, of the Mesa City Code, reviewed the assessment and determined the impact fees were assessed correctly pursuant to Mesa City Code and that no exemption applied. A letter stating the fee was correct was sent to the applicant on February 4, 2019. A copy of that letter is included as Exhibit A. The letter indicated that staff's determination may be appealed pursuant to Mesa City Code 5-17-10(I).

The Applicant exercised his right to appeal the determination to the Assistant City Manager. The Assistant City Manager upheld staff's determination that impact fees apply to the commercial covered RV storage. A letter outlining the decision was sent to the applicant on March 11, 2019 (Exhibit B). On April 8, 2019, pursuant to City Code, the applicant filed an appeal of the Assistant City Manager's decision to the City Council SAT Committee.

According to RV Renovators notice of appeal, they are appealing the City's determination to assess public safety and fire development impact fees to the covered RV storage area. RV Renovators is not appealing the impact fees for the mini-storage facility.

Discussion

The State of Arizona has granted cities the ability to charge impact fees (A.R.S. § 9-463.05). Impact fees can only be assessed to offset costs to a city associated with providing the necessary public services to a development. Mesa, like other cities, assesses impact fees on various types of developments. The Development Impact Fees ordinance (Title 5, Chapter 17 of the Mesa City Code) ensures new development bears a proportionate share of the cost of improvements and guides staff on how to consistently apply impact fees for new construction projects.

Mesa City Code 5-17-5 requires that any person who obtains a building permit to pay the applicable impact fees, unless an exemption applies. For RV Renovators to construct the development on the property they were required to obtain a building permit for the mini-storage facility and for the covered RV storage. Because no exemption applied, the City required RV Renovators to pay the applicable impact fees for both the mini-storage facility and the covered RV storage. RV Renovators is disputing having to pay these impact fees for the covered RV storage area.

The applicant believes that impact fees do not apply to the covered RV storage area because it will not overburden the existing public fire facilities and equipment. Mesa City Code Section 5-17-1(F) states that "All types of development that are not explicitly exempted from the provisions of this ordinance generate demand for the types of facilities for which impact fees are being imposed pursuant to this Chapter." There are several exemptions in Section 5-17-6 of the Mesa City Code, but City staff found the commercial covered RV storage did not meet the criteria. In reviewing the development, staff determined the covered RV storage will produce an additional demand for service from both the fire and police departments, as explained below, and that is the reason staff assessed the RV covered storage with the Public Safety Impact Fee and the Fire Impact Fee.

1. Impact to Fire Facilities:

- a. Storage of closely parked covered RVs creates a considerable amount of combustible and flammable materials arranged in a manner that is difficult to conduct fire operations. RVs, like mobile homes are made of materials that burn at high temperatures and have the potential to be inhabited at any time.
- b. The canopy limits the fire department's ability to use an elevated master stream or ladder truck to apply heavy amounts of water to the fire from above. This is more challenging to fight the fire because it must be fought from the side, where there is high radiant heat exposure.

- c. The canopy and density increase the risk of fire spreading from one RV to the next and limits the ability for heat and smoke to travel vertically.
- d. Because of the life safety potential and amount of flammable and combustible materials, an RV fire will be dispatched with identical resources as a single-family home fire, which is a considerable resource allocation.

2. Impact to Public Safety Facilities:

- a. According to police department records, RV storage facilities generate vandalism and theft calls. Service calls for vandalism and theft require that the police department respond to these incidents.
- b. An RV storage facility can have millions of dollars of property left unattended for long periods of time making them a prime target for criminal activity.

Once staff determined that the Public Safety Impact Fee and the Fire Impact Fee applied to the covered RV storage, staff calculated the amount of the fees. Mesa calculated the applicable impact fees based on the Development Impact Fees table in Mesa City Code Title 5, Chapter 17. Pursuant to the Development Impact Fees table, a nonresidential use is charged an impact fee based on square footage. Based on the square footage of the covered RV storage area, staff determined the applicable impact fees for the covered RV storage is \$31,363 for the Public Safety Impact Fee and \$21,205 for the Fire Impact Fee.

When necessary to determine the area used to calculate the square footage, staff utilizes the definitions provided in the Code. For instance, there is a definition for Building Area. Because determining the “area” can be done in several ways, staff can utilize the definition of Building Area for calculation purposes. The definition of Building Area states that “Building area shall also include areas of buildings within the horizontal projection of the roof or floor above, which do not have surrounding exterior walls but exceed three feet in horizontal dimension. Building area shall also include basements, if provided, and outdoor patios without roofs for restaurants, bars or similar occupancies.” This definition indicates that an area does not have to be an actual building or have walls. The definition provides examples of areas that do not have walls or a roof. The list of examples is not intended to be exhaustive. Staff, in reviewing the covered storage and applying this definition, based the calculation of impact fees on the roof area.

Staff also looked at the historical application. Mesa has historically applied impact fees to other commercial storage facilities that have covered RV storage such as Power Self Storage and RV (May 2014) and Red Mountain Storage and RV (January 2019). This has been the City’s practice since at least 2004 and is consistent with the way the cities of Phoenix, Tucson, and Gilbert apply impact fees.

In conclusion, based on the reasons stated in this report, staff determined that the Public Safety Impact Fee and Fire Impact Fee apply to the proposed covered RV storage development.

The SAT Committee can uphold staff’s determination that the Public Safety Impact Fee and the Fire Impact Fee apply to covered RV storage. Alternatively, the SAT Committee can reverse and determine that these fees do not apply to covered RV storage.

Attachments

Exhibit A - Mesa City Code Title 5 Chapter 17

Exhibit B - Impact Fee Determination Letter 1 (Mesa - Chase Carlile)

Exhibit C - Impact Fee Determination Letter 2 (Mesa - Kari Kent)

Exhibit D - Impact Fee Appeal Letter (Applicant - Jeff Welker)