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Bellingham council votes to end parks fee dispute with developer

JARED PABEN / THE BELLINGHAM HERALD

BELLINGHAM - City leaders have voted to settle a three-year-old dispute over whether developers should have to pay parks impact fees, and, if so, how much.

The City Council on Monday, June 21, voted 6-0 to settle a lawsuit by Skeers Construction over the development of the Lakeway Drive and east of Birch Street. Only 52 of the lots have developed, and the rest are waiting. Council member Stan Snapp was absent from the meeting.

"I think it's a win-win," developer Dick Skeers said. "I'm just glad it's over."

The City Council, when it first approved the project in 1999, required the developer to dedicate 31 acres of land, for parks. Doing so meant Skeers wouldn't pay the parks fee in place at the time. He agreed.

In February 2006, the City Council approved the new parks impact fee, and officials started charging it.

Skeers protested, arguing wording in the new law exempted him from the fee because he'd already dedicated land for parks facilities. The city disagreed, arguing the wording requires he get credit toward the impact fee for land already dedicated or built. The city decided he'd still owe money.

In May 2007, Skeers appealed to the hearing examiner, who ruled he'd have to pay impact fees. In June, he went to Superior Court, which sided with him and ordered the city to refund impact fees. The city refunded \$100,000. Skeers then appealed to the state court of appeals, where the case remains.

The settlement essentially calls it a wash. Skeers dedicated land, built a parking lot for trail access, signage, and he plans to build more trails. In the settlement, the parties agree that the value of his land, \$750,000, is equal to the impact fees he'd pay, meaning he won't have to pay fees for the project.

Both sides compromised in the estimated values to end the legal dispute, as is common in settlements, the city said.

This is the second recent case of this type locally. A state appeals court in May 2009 decided Bellingham Woods II LLC more than \$300,000 in parks impact fees for an apartment project. The developer had dedicated land for trails and pay \$9,000, making him exempt from the impact fees, he argued. The court ruled that the city must provide him a credit toward them for what's already done.

Leslie Bryson, design development manager for the parks department, said she hopes Skeers is the

"These are the two that were approved prior to us having a park impact fee, and nothing else has come up since."

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