



# City of Rialto

## Legislation Details (With Text)

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**On agenda:** 2/12/2019    **Final action:**  
**Title:** Request City Council to Approve Resolution No. 7467 Accepting and Authorizing the Prepayment of Development Impact Fees by Ayres Hotel Rialto LLP for PPD 2018-0059 with the Condition that Ayres Hotel Rialto pulls Building Permits and Commences Construction not later than May 29, 2019. (ACTION)

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Exhibit A - Ordinance 1532, 2. Exhibit B - Application, 3. Exhibit C - Resolution - Prepay DIF

Date	Ver.	Action By	Action	Result
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For City Council Meeting [January 29, 2019]

TO: Honorable Mayor and City Council

APPROVAL: Sean Grayson, Interim City Administrator

FROM: Robb Steel, Assistant CA/Development Services Director

Request City Council to Approve **Resolution No. 7467** Accepting and Authorizing the Prepayment of Development Impact Fees by Ayres Hotel Rialto LLP for PPD 2018-0059 with the Condition that Ayres Hotel Rialto pulls Building Permits and Commences Construction not later than May 29, 2019. (ACTION)

### **BACKGROUND:**

On September 10, 2013, the City Council adopted Ordinance No. 1532, which replaced Chapters 3.34, 3.36, 3.40, 3.44, 3.48, 3.52, 3.56, 3.60, 3.64, 3.68, and 3.72 of the Rialto Municipal Code (RMC) and added a new Chapter (3.33 related to the imposition of Development Impact Fees (DIF) on new development projects. Ordinance 1532 is attached hereto as **Exhibit A**.

Ordinance 1532 added Section 3.33.070 of the RMC -- Payment of Development Impact Fees -- modifying the RMC to (1) delay the obligation for residential projects to pay the DIF until *"the date of the final inspection and/or prior to the issuance of a Certificate of Occupancy"* in compliance with Government Code Section 66007; and, (2) require non-residential projects to pay the DIF on the *"the date of issuance of the first building permit..., but before the building permit is issued unless otherwise modified by a Construction In-Lieu Agreement, Development Agreement or a Fee Deferral Agreement."* Prior to the adoption of Ordinance 1532, the RMC required that the DIF on all projects be paid *"prior to the issuance of a building permit"*.

Historically, the City accepted pre-payment of DIF from developers that were seeking to avoid significant fee increases in accordance with the authority granted under the former sections of the RMC. While the former sections of the RMC authorized prepayments, it did not establish guidelines for management of such a program.

#### **ANALYSIS/DISCUSSION:**

In early 2018, Ayres Hotel Rialto (AHR) submitted applications for development entitlements for a 135-unit hotel on a 2.74-acre site at the southwest corner of Renaissance Parkway and Linden Avenue (APN 0240-251-14 partial).

On December 12, 2017, the City Council/RUA approved a temporary reduction to the Sewage Treatment Development Impact Fee from \$1,919.00 to \$500.00 per hotel room with and without restaurants. On May 8, 2018, the City Council/RUA continued the temporary Sewage Treatment Fee reduction until December 31, 2018. The City Council approved the temporary fee reduction until the City could complete the Updated Water and Sewer Development Impact Fees study and reset rates based upon current market conditions. The high rates deterred potential hotel developers from proposing projects.

On December 11, 2018, the City County/RUA approved the Water and Sewer Development Impact Fee Update that established the Sewage Treatment Fee for hotels at \$1,094.67 per room. The following chart summaries the fee adjustments.

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<b>Sewage Treatment Fee Chronology for Hotels*</b>	
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<b>Fee prior to December 12, 2017:</b>	<b>\$ 1,919.00</b>
<b>Temporary fee per December 12, 2017 City Council action:</b>	<b>\$ 500.00</b>
<b>Updated fee per December 11, 2018 City Council action:</b>	<b>\$ 1,094.67</b>
* Per Room	

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California Government Code Section 66017(a) specifies a fee increase is effective no sooner than 60 days following a city council approval. Since the City Council approved the updated Sewage Treatment Fee on December 11, 2018, the hotel fee increase is effective February 9, 2019. AHR acquired the site from the City in December 2018 and is in late stages of plan check on its construction plans (grading and building). AHR does not anticipate securing a building permit prior to February 9, 2019. All of the City's negotiations with AHR during 2018 were predicated upon the \$500 per room rate.

On January 24, 2019, AHR submitted a request to prepay (and actually prepaid) the Sewage Treatment Fee at \$500.00 per room (**Exhibit B**). At the \$500.00 rate, AHR pays total Sewage Treatment Fees of \$67,500.00. At the \$1,094.67 rate, the total amount is \$147,780.45. The difference is \$80,280.45 as calculated below:

Rate/ Room	Total Rooms	Total Amount
\$ 1,094.67	135	\$ 147,780.45
\$ 500.00	135	\$ 67,500.00
Difference		\$ 80,280.45

The revised RMC (Section 3.33.070) now states that all non-residential projects must pay the DIF “*on the date of issuance of the first building permit..., but before the building permit is issued*” unless it is modified by an Agreement.” While the previous sections of the RMC permitted payment of the DIF prior to the issuance of a building permit, currently RMC states that the DIF must be paid “*on the date of, but prior to the issuance of the building permit(s)*” for a project.

The City Attorney indicates that although the Mitigation Fee Act does not prohibit the prepayment of DIF fees, the revised RMC does not clearly authorize prepayment of DIF without a City Council resolution or agreement. The City Attorney therefore indicated that if the Developers wished to pay the fees, the City Council would need to approve their prepayment requests.

Staff recommends that the City Council grant the entitlement to prepay the Sewage Treatment Fee of \$500.00 per room, but only if AHR exercises the obligation to pull building permits and expeditiously commence construction thereby producing economic benefits to the City. Staff therefore recommends that the City Council condition the entitlement to pre-pay upon the pulling of building permits and the commencement of construction not later than May 29, 2019. If AHR does not pull building permits and commence construction by May 29, 2019 then it will pay the difference between the Sewage Treatment Fee in effect at the time it pulls the building permit and the Sewage Treatment Fee it prepaid.

#### **ENVIRONMENTAL IMPACT:**

The proposed action to accept the prepayment of the fees is a fiscal or administrative action taken by a legislative body, which is not a “project” as defined by the California Environmental Quality Act (CEQA). According to Section 15378(b), a project does not include organization of administrative activities of governments that will not result in direct or indirect changes in the environment. Each of the development projects have complied with CEQA. No further environmental review is warranted or necessary.

#### **GENERAL PLAN CONSISTENCY:**

The City of Rialto has identified several goals and objectives within the City’s recently adopted General Plan through which the City looks to improve the community. The proposed action to be consistent with the following goals and objectives contained in the General Plan:

Goal 3-1: Strengthen and diversify the economic base and employment opportunities, and maintain a positive business climate.

Goal 3-6: Require that all developed areas within Rialto are adequately served with essential public services and infrastructure.

Goal 3-7: Upgrade public infrastructure as an inducement to promote private investment.

#### **LEGAL REVIEW:**

The City Attorney has reviewed and approved the staff report and Resolution.

**FINANCIAL IMPACT:**

General Fund Impact

The prepayment has no impact to the General Fund.

Capital Improvement Budget Impact

The Prepayment of the Development Impact Fees reduces the amount of Development Impact Fee revenue collected by the City by \$80,280.45 to utilize for future Sewer Treatment capital improvement projects.

**RECOMMENDATION:**

Staff recommends that the City Council consider Adopting a Resolution approving the Prepayment of Development Impact Fees by Ayres Hotel Rialto LLP for PPD 2018-0059 with the condition that AHR pulls building permits and commences construction not later than May 29, 2019.