



# City of Rialto

## Legislation Details (With Text)

**File #:** 21-0626      **Version:** 1      **Name:**  
**Type:** Resolution/Agreement      **Status:** Approved  
**File created:** 9/13/2021      **In control:** City Council  
**On agenda:** 9/28/2021      **Final action:** 9/28/2021  
**Title:** Request City Council to Adopt Resolution No. 7776 Authorizing the City Manager's Approval of a Fee Deferral Agreement of Development Impact Fees and Traffic Fair Share Fees to be Paid by Beyond Food Mart, Inc. Related to Precise Plan of Design No. 2018-0036.  
(ACTION)

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Exhibit A - Approval Letter for Precise Plan of Design No. 2018-0036, 2. Exhibit B - Signed Statement of Acceptance for Precise Plan of Design No. 2018-0036, 3. Exhibit C - Deferral Request Letter.pdf, 4. Exhibit D - Deferral Agreement, 5. Exhibit E - Resolution

Date	Ver.	Action By	Action	Result
9/28/2021	1	City Council		

For City Council Meeting [September 28, 2021]

**TO:** Honorable Mayor and City Council

**APPROVAL:** Marcus Fuller, City Manager

**FROM:** Daniel Casey, Acting Community Development Manager

Request City Council to Adopt **Resolution No. 7776** Authorizing the City Manager's Approval of a Fee Deferral Agreement of Development Impact Fees and Traffic Fair Share Fees to be Paid by Beyond Food Mart, Inc. Related to Precise Plan of Design No. 2018-0036.  
(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 added Section 3.33.070(C) of the RMC, which requires non-residential projects to pay the DIF on *"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."*

### ***Precise Plan of Design No. 2018-0036***

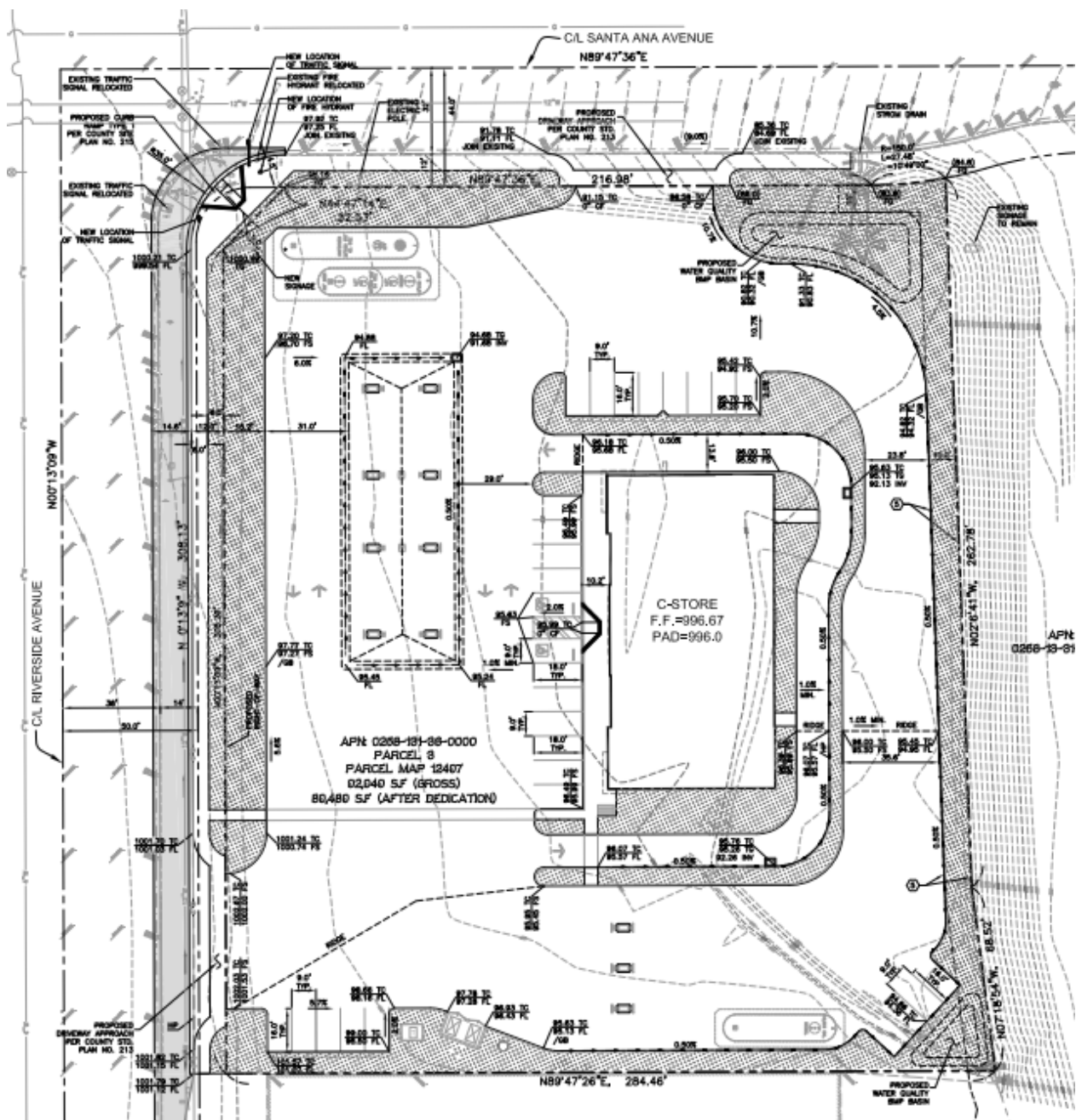
On August 21, 2019, the City's Development Review Committee approved Precise Plan of Design No. 2018-0036 for Beyond Food Mart, Inc. allowing the development of a vehicle fuel station

consisting of a 5,240 square foot canopy with sixteen (16) fuel dispensers, a 7,250 square foot convenience market, and three (3) diesel dispensers (the "Project"), on 2.06 acres of land (APN: 0258-131-36) located at the southeast corner of Riverside Avenue and Santa Ana Avenue, generally shown in Figure 1 on the next page.

A copy of the approval letter for Precise Plan of Design No. 2018-0036 is attached hereto as **Exhibit A**.

Condition of Approval No. 37 of Precise Plan of Design No. 2018-0036 requires the payment DIF for the Project in accordance with Chapter 3.33 of the RMC, and Condition of Approval No. 96 requires the payment of Traffic Fair Share Fees for the Project, as recommended by the Transportation Commission on April 3, 2019, prior to the issuance of a building permit.

On September 30, 2019, Beyond Food Mart, Inc. signed a Statement of Acceptance agreeing to all Conditions of Approval contained within Precise Plan of Design No. 2018-0036. A copy of the signed Statement of Acceptance is attached hereto as **Exhibit B**.



### ANALYSIS/DISCUSSION:

In August 2021, Beyond Food Mart, Inc. submitted a letter to the Community Development Department containing a request to defer the payment of certain DIF and Traffic Fair Share Fees until prior to the issuance of a Certificate of Occupancy instead of prior to the issuance of a building permit. A copy of the request letter from Beyond Food Mart, Inc. is attached hereto as **Exhibit C**.

Specifically, Beyond Food Mart, Inc. seeks to defer payment of the Regional Traffic DIF, Storm Drain Facilities DIF, and the Traffic Fair Share Fee. Utilizing the City's Development Impact Fee Schedule and the Traffic Fair Share Fee previously prescribed by the Transportation Commission, the exact fee amounts requested to be deferred are listed below:

Fee	Amount
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Regional Traffic Fee	\$104,409.44
Storm Drain Facilities Fee	\$77,328.88
Traffic Fair Share Fee	\$1,428,026.50
<b>Total:</b>	<b>\$1,609,764.82</b>

In accordance with Chapter 3.33 (Development Impact Fees) of the RMC, the Community Development Department, in coordination with the City Attorney, prepared an Agreement for Deferral of Payment of Development Impact Fees and Traffic Fair Share Fees ("Agreement") attached hereto as **Exhibit D**. The Agreement will defer the payment of Regional Traffic DIF, Storm Drain Facilities DIF, and Traffic Fair Share Fees until prior to issuance of Certificate of Occupancy. All other required DIF will still need to be paid prior to issuance of a building permit.

Beyond Food Mart, Inc. seeks City Council approval of the Agreement, which they indicate will allow the development of the Project to move forward and allow them additional time to analyze the fee calculations. Beyond Food Mart, Inc. believes that several new projects in the area will share in the costs required, which may warrant a recalculation of the Traffic Fair Share Fees.

A Resolution included as **Exhibit E** is recommended authorizing the City Manager's approval of the Fee Deferral Agreement, including an ability for the City Manager, in consultation with the City Attorney, to review the imposition of the Traffic Fair Share Fees of \$1,428,026.50 onto this project in relation to the various transportation improvements reflected in those fees being applied to a Measure I Regional Nexus Roadway for which the Regional Traffic Fee would otherwise apply.

#### *Other Non-Residential DIF Deferrals*

During preparation of the Agreement, staff discovered at least two (2) instances where the payment of DIF for non-residential development projects was deferred until prior to the issuance of Certification of Occupancy. The two (2) projects are as followed:

1. Precise Plan of Design No. 2411 - A vehicle fuel station proposed at the northwest corner of Alder Avenue and Renaissance Parkway.
2. Precise Plan of Design No. 2018-0061 - A vehicle fuel station proposed at the southwest corner of Riverside Avenue and Randall Avenue.

These two (2) projects were granted deferrals administratively by former Community Development staff, which is contrary to the provisions within Chapter 3.33 (Development Impact Fees) of the RMC. Both projects already obtained building permits and are well under construction. Community Development will continue to monitor their progress and will ensure that the required DIF is collected as early as possible, but no later than prior to the issuance of a Certificate of Occupancy. Going forward, Community Development will also ensure that all future DIF deferral requests are brought before the City Council in accordance with Chapter 3.33 (Development Impact Fees) of the RMC.

#### **ENVIRONMENTAL IMPACT:**

The proposed action to authorize the deferral of 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.

On July 10, 2019, in accordance with CEQA, the Planning Commission adopted a Mitigated Negative Declaration (Environmental Assessment Review No. 2019-0011) for the development associated with the fee deferral request. No further environmental review is necessary for the development.

**GENERAL PLAN CONSISTENCY:**

The proposed action to authorize the deferral of fees is consistent with the following General Plan Guiding Principles and Goals of the Economic Development Element:

**Guiding Principle:** Our City government will lead by example, and will operate in an open, transparent, and responsive manner that meets the needs of the citizens and is a good place to do business.

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

**LEGAL REVIEW:**

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

**FINANCIAL IMPACT:**

Operating Budget Impact

The deferral will have no impact to the General Fund. Once completed, the new development will generate annual recurring revenues to the General Fund in the form of increased property tax, business license fees, utility taxes, and sales taxes.

Capital Improvement Budget Impact

No City funds will be used to construct the new development. Prior to issuance of a building permit, Beyond Food Mart, Inc. will need to pay plan check, permit, and all required DIF, except for Regional Traffic, Storm Drain, and Traffic Fair Share. However, those remaining fees will be collected prior to issuance of a Certificate of Occupancy.

**RECOMMENDATION:**

Staff recommends that the City Council adopt the Resolution authorizing the City Manager to approve a Fee Deferral Agreement relating to certain Development Impact Fees to be paid by Beyond Food Mart, Inc., related to Precise Plan of Design No. 2018-0036 until prior to the issuance of a Certificate of Occupancy.