



City of Rialto

Legislation Text

File #: CC-19-417, **Version:** 1

City Council Meeting (April 23, 2019)

TO: Honorable Mayor and City Council

APPROVAL: Sean Grayson, Interim City Administrator

FROM: Robb Steel, Assistant CA/Development Services Director

Request City Council Approve a Development Impact Fee Deferral Agreement with Jack's Grill and Billiards Inc. deferring Development Impact Fee of \$33,013.47 for a proposed development at 148 S. Riverside Avenue.

(ACTION)

BACKGROUND:

In 2018, Jack's Grill and Billiards Inc. (Applicant) submitted a Precise Plan of Design (PPD 2018-0032) application to establish a billiards and eatery facility at 148 S. Riverside Avenue (APNs 0130-241-34 and 53). The project includes demolishing an existing 2,085 square foot building and constructing a new 3,880 square foot building - a 1,795 square foot increase ("Project").

On June 27, 2018, the Planning Commission approved a Conditional Development Permit (CDP 2018-0009 and 2018-0010) to allow billiard games and the sale of alcoholic beverages at the Project, which includes an enclosed outdoor patio, dining area, seven billiard tables, a kitchen, and bar facilities. Attached is the Planning Commission staff report (**Exhibit A**).

The Applicant submitted building plans to the Building Division that included the building expansion and the Tenant Improvements (BLD18-1389). In March 2019, the Building Division approved the building plans. The Building Division is ready to issue a building permit and the Applicant proposes to commence construction.

ANALYSIS/DISCUSSION:

Pursuant to the Rialto Municipal Code (RMC) Chapter 3.33, the Applicant shall pay Development Impact Fees (DIF) for the 1,795 square foot building expansion at the time the Building Division issues the building permit. Staff determined the Project's DIF fees of **\$33,013.47** (amount based on a total of \$54,578 for 3,880 square feet with a credit of \$21,564.71 for the existing 2,085 square feet). The DIF calculation worksheet is attached hereto as **Exhibit B**. The two main fees are the Regional Traffic Impact Fee (Measure I) and the Wastewater Treatment Impact Fee.

The Applicant requests to pay the DIF at the end of construction and prior to issuance of a Certificate of Occupancy. RMC 3.33.070(H) allows deferral of DIF only after the City Council approves a fee deferral agreement.

Deferring the payment of DIF has two concerns: (1) payment security and (2) the timing and amount

of fee payments.

Payment Security

Collecting DIF at building permit issuance ensures that the City collects the fees. Postponing payment until the certificate of occupancy carries some risk of non-payment. New owners may acquire projects unaware of the fee obligation and the project can encounter financial difficulties during construction. To ensure payment, the City proposes that the applicant enter into a binding agreement permitting recordation of a lien against the property. The City will release the lien upon payment of the DIF.

Timing and amount of fee payment

Building permits are valid for up to 12 months, but renewable. To avoid indefinite delays in DIF collection, staff recommends that applicants pay the DIF upon the earlier to occur of (a) issuance of the certificate of occupancy or (b) within 12 months after building permit issuance. The City adjusts its development impact fees annually.

Staff prepared a DIF fee deferral agreement that allows the Applicant to defer paying the DIF fee of \$33,013.47 (**Exhibit C**).

ENVIRONMENTAL IMPACT:

The proposed DIF fee deferral is administrative and fiscal actions by the legislative body, which do not constitute a “project” as defined by California Environmental Quality Act (CEQA). According to Section 15378(b), a project does not include organization or administrative activities of governments that will not result in direct or indirect changes in the environment.

The Project (PPD 2018-0032) is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15332, In-Fill Development Projects. Class 32 allows for the exemption of in-fill projects on a site of no more than five (5) acres within an urban area, adequately served by all required utilities, and provided that the project is consistent with the general plan, zoning regulations. No further environmental review is required. The City filed a Notice of Exemption with the Clerk of the Board.

GENERAL PLAN CONSISTENCY:

Approval of this action complies with the City of Rialto General Plan Goal and Policies:

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

LEGAL REVIEW:

The City Attorney reviewed and approved the staff report and Fee Deferral Agreement.

FINANCIAL IMPACT:

Operating Budget Impact

The DIF deferral has no negative impact to the City’s General Fund.

Capital Budget Impact

Deferring the receipt of the DIF will reduce interest income on funds otherwise deposited at building permit issuance. The delayed receipt could delay construction of proposed capital facilities and

contribute to increased costs of construction, although in this case the impacts are nominal.

RECOMMENDATION:

Staff recommends that the City Council approve a Development Impact Fee Deferral Agreement with Jack's Grill and Billiards Inc. deferring Development Impact Fee of \$33,013.47 for a proposed development at 148 S. Riverside Avenue.