



# City of Chula Vista

## Legislation Details (With Text)

**File #:** 15-0169      **Name:** Ordinance western DIF deferral  
**Type:** Consent Item      **Status:** Passed  
**In control:** City Council  
**On agenda:** 4/21/2015      **Final action:** 4/21/2015  
**Title:** ORDINANCE NO. 3344 OF THE CITY OF CHULA VISTA ADDING CHAPTER 3.56 TO THE CHULA VISTA MUNICIPAL CODE RELATING TO DEVELOPMENT IMPACT FEES IN WESTERN CHULA VISTA (SECOND READING AND ADOPTION)

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Item 4 - Ordinance 3.pdf

Date	Ver.	Action By	Action	Result
4/21/2015	1	City Council	approve	Pass

ORDINANCE NO. 3344 OF THE CITY OF CHULA VISTA ADDING CHAPTER 3.56 TO THE CHULA VISTA MUNICIPAL CODE RELATING TO DEVELOPMENT IMPACT FEES IN WESTERN CHULA VISTA (SECOND READING AND ADOPTION)

### RECOMMENDED ACTION

Council adopt the ordinance.

### SUMMARY

The proposed amendment to the municipal code will allow the City Council to defer development impact fees for projects within Western Chula Vista. The deferral of impacts fees can be accomplished by agreement or by projects annexing into a Community Facilities District (CFD). In a separate action, staff will propose establishing a CFD that would be available to projects located in industrial, commercial and high density residential zones located throughout Western Chula Vista and the Main Street Auto Park.

### ENVIRONMENTAL REVIEW

The Development Services Director has reviewed the proposed activity for compliance with the California Environmental Quality Act (CEQA) and has determined that the activity is not a "Project" as defined under Section 15378(b)(4) and( 5) of the State CEQA Guidelines because it involves only approval of a fee deferral agreement program for developments in Western Chula Vista and not any specific development project; Therefore, pursuant to Section 15060(c)(3) of the State CEQA Guidelines the activity is not subject to CEQA, and no environmental review is necessary.

### BOARD/COMMISSION RECOMMENDATION

Not Applicable

### DISCUSSION

Investment in Western Chula Vista continues to present a financing challenge for potential investors

and developers. Financing challenges derive primarily from the lending industry's increased equity requirements imposed upon infill development projects in Western Chula Vista. To help address the additional equity burden being placed on infill development in the subject area, staff proposes to allow the deferral of impact fees to incentivize future investment in this area. The proposed amendment to the Municipal Code will allow the City Council to defer development impact fees within Western Chula Vista. The deferral of impacts fees can be accomplished by agreement or by projects annexing into a Community Facilities District (CFD).

Prior to the establishment of a Western Chula Vista CFD this ordinance will allow the City Council to enter into a fee deferral agreement provided the project satisfies the following conditions:

1. The property is within the boundaries of Western Chula Vista as defined by the Ordinance; and
2. A request has been filed with the Development Services Director prior to the issuance of a building permit; and
3. The request identifies in detail the reason the project requires the deferral with enough detail that staff can evaluate that the project qualifies based on its location, public benefit and need; and
4. The property owner will not oppose the formation of a Western Chula Vista CFD; and
5. Interest will accrue at a fair market rate on the outstanding balance of the fee's being deferred from the date the fees were originally due and payable; and
6. The deferral agreement will be recorded against the property; and
7. If the property is sold or transferred the outstanding balance of the fee(s) will be paid in full prior to any sale or transfer

Within the next few weeks, staff will bring forward to the City Council a fee deferral agreement for the Stone Creek 97-unit apartment project located along Main Street consistent with the provisions contained within the proposed ordinance.

#### Proposed Community Facilities District:

The future action on the establishment of a CFD will also come forward in the near future. The voluntary annexing of individual project sites into the CFD for the payment of impact fees would reduce the additional equity burden by an amount equal to the fees. The CFD would also enable the developer to shift the impact fee burden from the construction/development cost side of their ledger to the operating side of the development. The CFD is not proposed to be utilized as a mechanism to issue debt but rather as a way to finance impact fees. It is not recommended that the CFD be available for more than a five year window or until a maximum number of units has been reached, whichever occurs first. It is anticipated that this limitation will provide enough time for projects currently in process and those previously approved to be constructed, sold and/or leased out. These projects will provide the comparables necessary to reduce the risk to the lending industry. Once lending standards are in accordance with other markets, the CFD financing mechanism will no longer be necessary. The establishment of a CFD will take approximately four to six months and is anticipated to be available to all multi-family, commercial and industrial zones located between Interstate 5 and the I-805, including the Palomar Gateway and Urban Core Specific Planning Areas and the Auto Park located east of I-805.

The proposed terms currently being considered for projects that annex into the CFD are as follows:

- City agrees to finance the Public Facilities Development Impact Fee, Parkland Acquisition and Development Fee and the Transportation Development Impact over thirty (30) years from the date of annexation into the CFD.
- The deferred fees will accrue interest at two percent (2%) per annum.
- No payments will be due during the first ten (10) years of annexation.
- Payments toward the deferred fee will be due following the tenth (10<sup>th</sup>) anniversary of the date of annexation and continue until the fees have been paid in full by 30<sup>th</sup> year.

Projects that annex into the CFD will still be required to mitigate the direct impacts associated with development (i.e. sidewalks, curb, gutter, sewer and water).

Over the next several months staff will work with our community partners and outside legal counsel on the development of the CFD provisions. We have heard from some of our partners that the proposed provisions may negatively impact homeowners (e.g. condominiums, townhomes) so we will take the next few months to work through some of these issues. Staff will return to the City Council in the late summer/early fall with a formal presentation on the final terms and conditions of the proposed CFD.

#### **DECISION-MAKER CONFLICT**

Staff has reviewed the property holdings of the City Council and has found no property within 500 feet of the boundaries of the property which is the subject of this action. Staff is not independently aware, and has not been informed by any City Council member, of any other fact that may constitute a basis for a decision maker conflict of interest in this matter.

#### **LINK TO STRATEGIC GOALS**

The City's Strategic Plan has five major goals: Operational Excellence, Economic Vitality, Health Community, Strong and Secure Neighborhoods and a Connected Community. The deferral agreement furthers the Economic Vitality initiative 2.1.2 to "foster opportunities for investment in Western Chula Vista" by removing impediments for development projects in the subject area, accelerating the completion of planned and future developments.

#### **CURRENT YEAR FISCAL IMPACT**

There is no fiscal impact in the current fiscal year. Fiscal impacts of fee deferrals will be analyzed in conjunction with future fee deferral agreements and annexations into the proposed CFD.

#### **ONGOING FISCAL IMPACT**

Fiscal impacts of fee deferrals will be analyzed in conjunction with future fee deferral agreements and annexations into the proposed CFD.

#### **ATTACHMENTS**

1. Proposed changes adding section 3.56 to the Chula Vista Municipal Code.

*Staff Contact: Eric Crockett, Economic Development Department  
Kelly Broughton, Development Services Department*