



City Council Agenda Item Staff Report

CITY OF SAN BRUNO

DATE: June 25, 2020

TO: Honorable Mayor and Members of the City Council

FROM: Jovan D. Grogan, City Manager

PREPARED BY: Keith DeMartini, Finance Director
Darcy Smith, Community and Economic Development Director

SUBJECT: Adopt a Resolution Extending the Two Deadlines for a Development Project to Qualify for an Exemption from the Payment of Development Impact Fees

BACKGROUND:

The purpose of this item is to adopt a Resolution extending the two deadlines for a development project to qualify for an exemption from the City's Development Impact Fees. This extension would be a necessary condition for the City to approve the Development Agreement for the Mills Park property. For projects such as Mills Park that were in the pipeline when the DIF was approved, the City Council had previously made a policy decision to allow developers to enter into a Development Agreement or other negotiated contract with the City. As of the date of this report, no other applicants for development projects in the pipeline have requested the opportunity to negotiate a Development Agreement or other contract.

On February 26, 2019, the City Council adopted San Bruno Municipal Code Chapter 12.260 (Development Impact Fees) that imposes fees upon development projects to fully or partially offset the costs of public facilities and infrastructure that is needed to serve new demand created by development projects. Development impact fees are one-time charges on new development projects that are collected and may be used only to cover the cost of capital facilities and infrastructure needed to serve the new residential and development growth. Impact fees are regulated by Assembly Bill (AB) 1600 (Government Code Section 66000 et seq.). Fees collected are restricted for capital facility and infrastructure improvements only, used to fund facility needs created by new development rather than existing deficiencies, and the fees are to be based on a rational nexus between new development and the costs of the capital facilities and infrastructure needed to accommodate such development.

The related Resolution No. 2019-20 setting the fees and calculation methodology was approved by the City Council on February 12, 2019. These fees were effective on May 1, 2019. Resolution No. 2019-20 included the following provision:

ITEM 5.a.

4. The Fees shall not apply to any development project that meets both of the following conditions: (i) the development application for the project was deemed complete no later than May 1, 2019, and (ii) on or before August 1, 2019, the City and the developer of the development project have entered into a development agreement or other negotiated contract with the City for the project; provided however if the development project has not commenced construction in compliance with and prior to expiration or termination of the development agreement or other negotiated contract, then the Fees shall apply to the project.

This provision was included because at the time the Development Impact Fee Ordinance was presented to the City Council for adoption, there were a small number of development projects with submitted entitlement applications with the City. For example, the Mills Park project contemplated a Development Agreement with unrestricted community benefit payments that the City could use as directed by the City Council. However, the project did not garner the required votes at the July 9, 2019 City Council meeting. Since then, the Mills Park Center developer and City staff have been consulting regarding project details and the developer recently submitted certain revisions to the project and asked the City Council to take final action considering the project applications, which is scheduled to occur in the June 25, 2020 Council meeting. Under these circumstances it appears appropriate to extend the Development Impact Fees exemption deadlines as stated in the proposed new Resolution.

DISCUSSION:

Section 12.260.040 of the Municipal Code authorizes the City Council, by ordinance or resolution, to set the rates and methodology for the Development Impact Fees listed in Section 12.260.030 of the Municipal Code. Staff recommends extending the two deadlines in Resolution No. 2019-20 because the City is still processing the Mills Park Center development applications that were originally considered to fall under the former deadlines. The new deadlines would be (1) **June 1, 2020** instead of May 1, 2019 for a complete application, and (2) **August 1, 2020** instead of August 1, 2019 to enter into a development agreement or other negotiated contract.

Since the former August 1, 2019 deadline, the City has not approved any applications for large projects that requested that the City execute a development agreement or other negotiated contract with the City. At this point, the only project requesting a Development Agreement that falls within the window of deadlines specified in the proposed Resolution is the Mills Park Center project.

FISCAL IMPACT:

There is no direct fiscal impact from adopting the resolution. Extending the date as recommended is necessary for the City Council to approve the Mills Park project, including the negotiated Development Agreement which will provide the City the agreed-upon community benefits.

ENVIRONMENTAL CLEARANCE:

Adoption of this Resolution is found to be categorically exempt from the California Environmental Quality Act because the adoption of this Resolution is not a project, in that it is a government funding mechanism which does not involve any commitment to any specific project

(CEQA Guidelines Section 15378(b)(4)), and because it can be seen with certainty that there is no possibility that the fees may have a significant effect on the environment, in that this Resolution contains no provisions modifying the physical design, development, or construction of residences or nonresidential structures CEQA Guidelines Section 15061(b)(3)).

ALTERNATIVES:

1. Direct staff to modify the Resolution.
2. Do not adopt the Resolution.

RECOMMENDATION:

Adopt a Resolution Extending the Two Deadlines for a Development Project to Qualify for an Exemption from the Payment of Development Impact Fees

DISTRIBUTION:

None.

ATTACHMENTS:

1. Resolution

DATE PREPARED:

June 18, 2020

RESOLUTION NO. 2020 - _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN BRUNO EXTENDING THE TWO DEADLINES FOR A DEVELOPMENT PROJECT TO QUALIFY FOR AN EXEMPTION FROM THE PAYMENT OF DEVELOPMENT IMPACT FEES

WHEREAS, on February 26, 2019, the City Council adopted San Bruno Municipal Code Chapter 12.260 (Development Impact Fees) that imposes fees upon development projects to fully or partially offset the costs of public facilities and infrastructure that is needed to serve new demand created by development projects. The related Resolution No. 2019-20 setting the fees and calculation methodology was approved by the City Council on February 12, 2019. The fees are imposed upon the developer of each development project in the city as a requirement that must be met prior to building permit issuance. These fees were effective on May 1, 2019.

WHEREAS, Section 12.260.040 of the Municipal Code authorizes the City Council, by ordinance or resolution, to set the rates and methodology for the Development Impact Fees listed in Section 12.260.030 of the Municipal Code.

WHEREAS, Resolution No. 2019-20 authorized the City to exempt development projects from the Development Impact Fees if (1) the project's application was deemed complete by May 1, 2019, and (2) the applicant entered into a development agreement or other negotiated contract with the City by August 1, 2019, provided construction of the project commenced in compliance with and prior to expiration or termination of the development agreement or other negotiated contract.

WHEREAS, the City Council now desires to extend the two specified deadlines for developers to (1) have complete applications and (2) enter into a development agreement or other negotiated contract with the City for the project, and so qualify for exemption from the Development Impact Fees..

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of San Bruno as follows:

1. The foregoing recitals are true and correct and incorporated into this Resolution by this reference.

2. The Development Impact Fees shall not apply to any development project that meets both of the following conditions: (i) the development application for the project was deemed complete no later than **June 1, 2020**, and (ii) on or before **August 1, 2020**, t the developer of the development project has entered into a development agreement or other negotiated contract with the City for the project; provided however if the development project has not commenced construction in compliance with and prior to expiration or termination of the development agreement or other negotiated contract, then the Development Impact Fees shall apply to the project.

3. Adoption of this Resolution is found to be categorically exempt from the California Environmental Quality Act because the adoption of this Resolution is not a project, in that it is a government funding mechanism which does not involve any

commitment to any specific project (CEQA Guidelines Section 15378(b)(4)), and because it can be seen with certainty that there is no possibility that the fees may have a significant effect on the environment, in that this Resolution contains no provisions modifying the physical design, development, or construction of residences or nonresidential structures (CEQA Guidelines Section 15061(b)(3)).

NOW, THEREFORE, BE IT RESOLVED that the City Council hereby adopts the Resolution Extending the Two Deadlines for a Development Project to Qualify for an Exemption from the Payment of Development Impact Fees.

—oOo—

I hereby certify the foregoing Resolution No. 2020-
was introduced and adopted by the San Bruno City Council
at a special meeting on June 25, 2020 by the following vote:

AYES:

NOES:

ABSENT:

Mellissa Thurman, City Clerk