

TO: JAMES L. APP, CITY MANAGER

FROM: BOB LATA, COMMUNITY DEVELOPMENT DIRECTOR

SUBJECT: CONDITION OF APPROVAL REGARDING PARTICIPATION IN
COMMUNITY FACILITIES DISTRICT OR EQUIVALENT MITIGATION

DATE: MAY 3, 2005

Needs: For the City Council to consider the text of a revised standard condition of approval in relation to mitigation of fiscal impacts created by new residential development.

Facts:

1. The Fiscal Impact Analysis Model that was prepared and presented in two public workshops in 2003 in conjunction with the General Plan update documented the adverse fiscal impact of new residential development.
2. Consistent with adopted General Plan policy regarding “fiscal neutrality”, the City Council has taken a series of steps that resulted in formation of Community Facilities District (CFD) 2005-01.
3. The intent of the CFD is to insure that there are adequate revenues to pay for services to new residential development without having an adverse impact on existing residents.
4. Since November 16, 2004, the Planning Commission has established a condition of approval for new discretionary actions that requires new residential units to participate in the CFD.
5. Concerns have been expressed that if, for whatever reason, a CFD cannot be established or implemented, there would be an unmitigated impact resulting from new residential development. With this in mind, staff has been working with the City Attorney to provide a refined standard condition of approval regarding fiscal mitigation.
6. The attached proposal for a new standard condition of approval has been prepared with the assistance of the City Attorney. It is intended to insure that there will be adequate fiscal impact mitigation with or without implementation of a CFD.

Analysis
and

Conclusion:

The latest run of the City's Fiscal Impact Analysis Model, utilizing new home sales prices provided by the Home Builders Association and the most recent City budget figures, documents the need to mitigate an adverse fiscal impact of new residential development at the rate of \$657 per dwelling unit, per year. The adopted Rate and Method of Apportionment is based on this figure.

Participation in a CFD has been determined to be the most reasonable and appropriate means to provide the fiscal neutrality called for in the City's adopted General Plan. Through participation in a CFD, new residents can be assured of City services without adversely impacting existing residents.

The proposed revision to the standard condition of approval on discretionary applications creating new residential units is intended to provide fiscal mitigation even if, for whatever reason, participation in a CFD is not feasible.

Under the revised condition, it would be the obligation of the initial property owner who receives the discretionary approval to establish a "back-up" funding mechanism (e.g. a Home Owners Association) that would provide the same level of fiscal mitigation (\$657 / d.u. / year, subject to cpi adjustment) as would otherwise be provided by the CFD.

It should be noted that it is not practical or reasonable for a Home Owners Association to be formed for a relatively small project (e.g. a parcel map) or for an apartment development that is under a single ownership. A requirement for a Home Owners Association would, however, easily apply to a condominium or other larger residential development where there is common ownership or an economy of scale. The proposed text reflects this practical reality.

Policy

Reference:

General Plan; Council adoption of CFD related documentation

Fiscal

Impact:

Fiscal Neutrality is a key component of the 2003 General Plan update and makes it possible for the City to accommodate new residential development without an adverse fiscal or service impact on existing residents.

Options:

- a. For the Council to approve the proposed standard condition for fiscal impact mitigation, focusing on a CFD but providing alternative mitigation.
- b. Amend, modify or reject the foregoing option.

April 27, 2005 Revised CFD Condition

The applicant shall take the steps necessary to annex to or form a City Community Facilities District (CFD) in order to provide funding for City services for each new parcel or dwelling unit in the proposed development. The agreement to form or annex to a CFD shall be in a manner to be approved by the City Attorney. Participation in a City CFD for services is intended to fully mitigate the incremental impact of new residential development on City services and maintain such services at the standards established in the General Plan

If for any reason, applicant does not take the necessary steps to have the development included within a CFD, applicant shall, in a manner subject to approval by the City Council and City Attorney, provide for alternative means of fiscal mitigation at a level equal to the special taxes established in the Rate and Method of Apportionment applicable to CFD 2005-1, as they may be adjusted from time to time.

For any project resulting in the development of five (5) or more residential units on separate parcels, applicant shall also prepare and record the necessary documents to form a homeowners association (the "HOA") for such development, which HOA shall become active only if and when the CFD is terminated. The HOA documents shall provide that the HOA shall be required to fund the services provided by the CFD, and at the same level established in the Rate and Method of Apportionment for the CFD.