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## OFFICE OF THE INDEPENDENT BUDGET ANALYST REPORT

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**Date Issued:** July 16, 2009

**IBA Report Number:** 09-65

**City Council Meeting Date:** July 21, 2009

**Item Number:** 54 & 55

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# Map and Permit Extension Ordinance and Ordinance Revising the San Diego Municipal Code by Amending and Adding Provisions Relating to FBA and DIF Fees

## OVERVIEW

On Tuesday, July 21, 2009, the City Council will be asked to consider an ordinance that would grant a two-year Tentative Map extension for projects approved prior to July 15, 2008 and would expire after July 15, 2008 (Item #55). In addition, the City Council is also being asked to adopt an ordinance that would allow the deferral of Facilities Benefit Assessments (FBA) and Developer Impact Fees (DIF) (Item #54). Both of these items were heard at the June 17, 2009 Land Use & Housing Committee (LU&H) meeting and approved by a 3-1 vote with the caveat that they would be heard by the Community Planners Committee before coming to the full City Council. These items were heard and approved at the Community Planners Committee on June 23, 2009.

The two proposed ordinances before the City Council are a result of a presentation given by the San Diego Chamber of Commerce to the LU&H Committee on their Housing Action Plan. Included in their recommendations were the extension of tentative maps and deferment of Developer Impact Fees. This report discusses the possible fiscal and policy impacts of implementing these ordinances if the City Council elects to approve them. In addition, the IBA has done a survey of other California cities to provide comparative information on how other jurisdictions are addressing the deferral of FBA and DIF (see attachment).

## FISCAL/POLICY DISCUSSION

The current economic environment has had an impact on many sectors of San Diego's economy. One sector that has experienced a substantial impact is the construction industry. The following table illustrates the decline in building permits pulled in the City of San Diego over the last three years:

<b>Fiscal Year</b>	<b>Bldg. Permits*</b>
2007	9,154
2008	8,217
2009	7,380

\*Does not include fire, miscellaneous, mechanical, electrical, or plumbing permits.

The primary reason for the decline, for both large development and single family residences, is the significant difficulty in obtaining financing. The financing that is available carries very high interest rates and is difficult to secure. If approved, the two proposed ordinance changes would provide relief to project owners who are in the permit process and are facing challenges completing their projects due to the economic climate. These changes will also provide a stimulus for construction projects by allowing developers to defer the payment of FBA and DIF thus freeing up limited capital.

### Map & Permit Extension Ordinance

Across the State of California many project owners have had to delay their projects due to the current economic environment. To address this, on July 15, 2008 Governor Schwarzenegger signed into law Senate Bill 1185 which extends the life of any tentative, vesting tentative, or parcel maps that have not expired as July 15, 2008, by one year. This legislation is similar to what was enacted in the 1990's to address the economic downturn at the time. The ordinance changes proposed by staff would provide project owners an additional one year Tentative Map extension to all maps that State Senate Bill 1185 allows, in addition to the one year map extension automatically granted by the bill. This ordinance would expire after two years. If approved the normal time between map and permit approval would be extended from three years to five years.

Development Services Department (DSD) management has stated that the fiscal and operational impacts to the department would be minimal. The same fees would be collected as under the existing Municipal Code. No new fee would be charged to extend the Tentative Map. The process to facilitate the requested extension would have a nominal impact on staff workload even if they experience a large number of requests, due to the ease of the process. DSD management has indicated that the new ordinance could stimulate additional requests for permits due to project owners wanting to qualify before the ordinance expires in December 2011.

## Deferral of Facilities Benefit Assessments (FBA) and Developer Impact Fees (DIF)

To ensure that the City is compensated for impacts of development on City services, new development properties and land proposed for development in the City of San Diego are assessed an amount for public facilities. The assessments are determined by the type, size, and location of the development for the permit being issued. The two significant fees charged are FBA or DIF. A developer usually pays FBA or DIF but not both. The fees must generally be paid to DSD's Information and Application Division *prior* to the issuance of a building permit. The proposed ordinance would defer the requirement to pay either FBA or DIF fees at the time of *final inspection*.

FBA generally provides 100% of funds for public facilities projects which service a designated area of benefit and are identified in Community Public Facilities Financing Plans (PFFP). The dollar amount of the assessment is based upon the cost of each public facility equitably distributed over a designated area of benefit in the community planning area. Each community PFFP includes an inflationary increase for FBA's.

DIF are collected within urbanized communities which are near buildout. DIF are collected to mitigate the impact of new development through provisions of a portion of the financing needed for public facilities identified in the PFFP and to maintain existing levels of service for the community. Currently, DIF communities *do not* provide for an inflationary increase. If approved, the proposed ordinance would provide for an annual inflationary increase based on the Los Angeles Construction Cost Index which is currently 6.51%.

One concern with the deferral of FBA and DIF is the possible loss of interest related to the fees. When collected, FBA's and DIF's are deposited in interest bearing accounts established by the City for each particular community. These accounts earn interest at the rate of return earned by the City's investment pool. However, it is important to note that possible interest earnings lost to proposed FBA and DIF deferrals (on average for a period of six to eight months according to Facilities Financing staff) would typically be more than offset by the annual upward inflationary adjustment to the FBA and the one proposed for DIF. In summary, FBA and DIF revenue would be slightly higher if a fee deferral program were implemented as proposed. In addition, because development is a cash flow intensive business, a temporary FBA/DIF deferral could have a significant positive impact on the financial feasibility of development projects in the current economic slowdown.

Additionally, it is important to note that the purpose of the FBA and DIF deferrals is to stimulate growth in a down economy. Without new construction, the City will collect no FBA or DIF. As the following table reflects, the economy has already had a significant impact of the FBA and DIF collected since 2006:

<b>Fiscal Year</b>	<b>FBA Fees Collected (Millions)**</b>	<b>DIF Fees Collected (Millions)**</b>
2006	\$39.9	\$7.7
2007	\$33.3	\$8.2
2008	\$24.6	\$14.6
2009*	\$6.9	\$5.1

\*Projected

\*\*Information provided by the City of San Diego's Facilities Financing Division.

Another concern with the deferral of fees is the impacts to the community and the City if a developer abandons a project. However, with this scenario, staff has pointed out that the purpose of FBA and DIF is to offset the impacts to City services. Under the proposed ordinance, FBA and DIF are due at the time of final inspection. If the fees are not paid then the final inspection would not occur and approval for occupancy would not be granted. In this situation, City services would not be impacted because residents would not be permitted to live in the new development. The City would have to look at other avenues to deal with the impacts of an abandoned project, but this is unrelated to these ordinance changes.

A final item for City Council consideration is the time period for the FBA and DIF deferrals. The proposed deferral for FBA is two years. For DIF, staff is proposing an indefinite deferral. Staff has stated that the reason for not putting a time limit on the DIF fee deferrals is that developers that tend to work on infill projects are smaller and the City wants to continue to encourage development in these areas after the economy has recovered. *The IBA recommends that the impacts of the deferral of FBA and DIF be reviewed annually.* The purpose of the review would be to gauge the economic benefit of the deferral of fees.

## CONCLUSION

The IBA supports staff's recommendation to extend tentative maps and the deferment of FBA and DIF. In the current economic climate, these changes could have a positive incentive for the construction industry that hopefully will result in additional jobs for the region. The IBA does recommend that the impacts of the deferral of FBA and DIF be reviewed annually to access the economic benefits of the deferral of fees.

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