



Legislation Text

File #: 22-095, **Version:** 2

Ordinance No. 22-15 excluding a 12.234-acre parcel from the boundaries of the Powers & Woodmen Commercial Business Improvement District located along Woodmen Road.

(Legislative)

Presenter:

Carl Schueler, Comprehensive Planning Manager, Planning & Community Development
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Summary:

This is a request for approval of an ordinance to exclude a single parcel, totaling about 12.234 acres from the boundaries of the Power & Woodmen Commercial Business Improvement District (the "District"). The City received a Petition for an Exclusion of Property as executed by the owner.

Per Colorado State Statute, residentially assessed property cannot be taxed as part of a Business Improvement District and therefore needs to be excluded. The subject property is being developed with multi-family uses.

This Item was discussed by the City Council Budget Committee on February 8, 2022.

The project is located in City Council District No. 6.

Background:

BIDs are created under Colorado Statute and City Policy to finance and/or maintain certain public improvements in non-residential areas, utilizing a property tax mill levy as their primary revenue source. BIDs are separate legal entities into the City, but their budgets and operating plans must be approved annually by the City. Additionally, BID boundary changes must be approved by Council ordinance.

This BID was originally created in 2004. It is authorized to levy up to 25.0 mills in debt service and 1 mill for operations and maintenance. In 2010, this BID issued \$1,850,000 in privately placed tax-exempt debt at an interest rate of 8.5%. This BID has also accrued separate developer advances in the amount of approximately \$2,200,000. A similar residential property exclusion was approved by Council in 2013.

Changing the boundaries of a BID by exclusion of property is governed by C.R.S. 31-25-1220, which requires the property owner to petition the governing body of the municipality in which the BID is located. Upon receipt of a petition for exclusion, notice of the petition must be given in accordance with C.R.S. 31-25-1220. The notice must inform all persons having objections to the exclusion to appear at a hearing to show cause why the petition should not be granted. If the governing body (City Council) determines that changing the boundaries of the BID as requested by the petition does not

adversely affect the BID, the governing body may grant the petition by ordinance. A certified copy of the ordinance is then filed with the County Clerk and Recorder and the property is then excluded from the boundaries of the BID.

State Statute (Section 31-25-1220, C.R.S.) requires that any exclusions of property into Business Improvement Districts be approved by the City, by ordinance. In accordance with the statutory section cited above, the petition for exclusion has been verified and arrangements made with the City for legal publication.

This exclusion is contemplated in the BID's current (2022) Operating Plan and Budget.

This item was introduced at a February 8, 2022, meeting of the Budget Committee. There were no requests for changes or additional information.

Financial Implications:

There should be no direct financial implications to the City into this action. The applicant represents that the developable taxable property needed to be excluded from this District will not adversely impact the future obligations of the District. As represented by the District, the exclusion of this property should not have an adverse impact on the ability of this BID to continue to make timely payments on its existing debt obligations. Although it presumably derived benefit from certain of the public improvements financed by this BID, by law this property must be excluded free and clear of any obligation of the District (C.R.S. 31-25-1208(2)).

Board/Commission Recommendation:

The City's staff-level Special District Committee has been provided copies of these materials. All comments received have been in support and/or with no stated concerns.

Stakeholder Process:

N/A.

Previous Council Action:

The BID with its initial operating plan and budget, was established in 2004 by Ordinance 04-52. City Council subsequently approved a request for exclusion of Property from this BID in 2013 by Ordinance 13-15. In 2010, Council authorized the existing issuance of debt by this District.

This BID's Operating Plan and Budgets have been approved annually since that time in accordance with C.R.S. Section 31-25-1211, and most recently in October 2021.

Alternatives:

City Council could choose to approve or modify the proposed ordinance. At this juncture, not approving this exclusion is arguably not a valid legal option.

Proposed Motion:

Adopt an ordinance excluding certain property from the boundaries of the Powers & Woodmen Commercial Business Improvement District.

An ordinance excluding certain property from the boundaries of the Powers & Woodmen Commercial Business Improvement District.

