



## Legislation Text

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**File #:** 19-286, **Version:** 1

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An ordinance excluding certain property from the Interquest North Business Improvement District.

(Quasi-judicial)

**Presenter:**

Carl Schueler, Manager, Comprehensive Planning

**Summary:**

This is a request for approval of an ordinance to exclude approximately 3.855 acres of property from the boundaries of the Interquest North Business Improvement District (the "BID"). The property is being excluded because it is associated with the recent agreements tied to the proposed Scheels project site, and the board and bondholders of this BID have agreed to the exclusion. State Statute (Section 31-25-1220, C.R.S.) requires that any exclusions of property from BIDs be approved by the City, by ordinance. In accordance with the statutory section cited above, the petition for inclusion has been verified and arrangements made with the City for legal publication.

The City Council Budget Committee asked for a comparison of projected public improvement fee (PIF) and what would be foregone property tax revenues for this particular use. A response has been provided, and is attached. It may be further explained at this Work Session.

**Previous Council Action:**

The BID was established pursuant to Ordinance 04-237 adopted by Council on October 26, 2004, which approved the initial operating plan and budget ("Operating Plan") for the BID. Additional property was included in this BID in 2007 (Ordinance 07-147). In 2010 City Council approved Resolution 185-10 which authorized issuance of \$6,500,000 in privately placed bonded debt. May 24, 2016 Council authorized issuance of \$4,765,000 in additional privately placed debt by Resolution 54-16. On February 9, 2016 Council approved an ordinance excluding certain limited property from this BID (Ordinance No. 16-12). An additional 13.151 acres of property were excluded by Council Ordinance No. 17-27 on March 14, 2017. The BID's Operating Plan has been approved annually in accordance with Section 31-25-1211, C.R.S., and most recently in October 2018.

On May 28, 2019, this item was presented for introduction at the Council Work Session.

**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 the revenue source. BIDs are a separate legal entity from the City, but their budgets and operating plans must be approved annually by the City.

This BID is partially developed and active. It has outstanding debt in the form of its 2010 bonds which carry an interest rate of 8.5% and its 2016 bonds which carry an interest rate of 6.5%. The BID certifies its maximum allowable debt service mill levy of 50.0 mills which is pledged toward the BID's outstanding debt, along with the proceeds of a 1.25% public improvement fee (PIF). The BID also certifies a levy of 1.0 mill for operational/administrative purposes.

The petitioners are requesting exclusion of this property on the basis that it will continue to contribute sufficiently to meeting the financial obligations associated with this BID because the PIF covenant will continue to apply to the property. An e-mail from this BID's counsel, describing this justification, is attached. The property proposed to be excluded is currently vacant, but is anticipated to be occupied by a Scheels store. 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.

A final subdivision plat and PUD development plan have been approved for this property. A copy of the PUD plan is attached for reference.

This proposed property exclusion was not identified in the most recent Operating Plan and Budget for this BID (approved in October of 2018), presumably because this proposed use and agreement were not fully anticipated at that time.

This item was introduced to the City Council Budget Committee on May 14, 2019. They asked clarifying questions and requested additional information comparing modeled PIF revenue compared with modeled property tax revenues that will now be forgone. A response has been provided and is included as an attachment. It provides a comparison between this use and a potential fast food use combined with a commercial strip center and indicates that the 1.25% PIF-only calculation for the Scheels use will generate more revenue than a combined PIF and property tax for the other scenario.

Legal notice of the required City Council hearings is being published as required by Statute.

**Financial Implications:**

There should be no direct financial implications to the City from this action. As represented by the BID, the exclusion of this property will not have an adverse effect on the financial capability of the BID to meet its financing obligations. This is a relatively small part of the overall BID.

**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

**Alternatives:**

City Council could choose to approve, not approve or modify the proposed ordinance.

**Proposed Motion:**

Move to approve an ordinance excluding certain property from the boundaries of the Interquest North Business Improvement District.

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