

MEMORANDUM  
IMPACT FEE REVIEW BOARD  
AUGUST 13, 2019

The Zionsville Impact Fee Review Board (“Board”) met on August 13, 2019 to consider an Impact Fee Appeal filed by Cityscape Residential. Impact Fee Review Board members Jim Longest, John Demeree, and Emily Shilling reviewed the request. The minutes were approved as presented.

Factual Background: Cityscape Residential is constructing an approximately 218-unit apartment project consisting of three story buildings with associated amenity buildings at approximately 11005 Octave Drive (779 Lennox Court), and has been assessed a Road Impact Fee by the Town of Zionsville (the “Town”) in the amount of \$170,342.00.

Pursuant to Ind. Code § 36-7-4-1333, on May 3, 2019 Petitioner filed a Petition for Review of the amount of the Road Impact Fee. As required by Ind. Code § 36-7-4-1338(c), the Zionsville Impact Fee Review Board held a hearing on the Petition for Review on August 12, 2019, a quorum being present.

**THE BASIS FOR THE APPEAL (IC 36-7-4-1334):**

1. Whether a fact assumption used in determining the amount of an impact fee is incorrect.
2. Whether the amount of the impact fee is greater than the amount allowed under sections 1320, 1321, and 1322 of Indiana Code 36-7-4-1300 series.

**DECISION**

The initial grounds of the appeal, per the Petitioner, was (1) to reduce the estimated trips for the Aria Apartment project from 1,607 trips to 1,447 trips, since the project was a portion of a mixed-use development instead of a stand-alone multi-family residential development; (2) to calculate the Road Impact Fee only for the anticipated number of generated trips that will travel on public roads operated and maintained by the Town of Zionsville (i.e. for 30 percent of the total number of trips generated by the development); and (3) that the fee be credited for 30 percent of the private costs for public road improvements being constructed as part of the development (i.e. the construction of a new public street, the improvements to Michigan Road (State Road 421) and the installation of a stop light). This request was continued from the July meeting of the Impact Fee Review Board to allow the petitioner time to submit additional information to justify the request before it. On August 12, the petitioner submitted a revised request, which was (1) to reduce the estimated trips for the Aria Apartment project from 1,607 trips to 1,342 trips, since the project was a portion of a mixed-use development instead of a stand-alone multi-family residential development, and (2) to receive credit for the construction of Redd Road as an alternative for the reconstruction and extension of Andrade Drive.

Upon consideration of testimony offered at a public hearing by Petitioner and the Town, it was determined that, as a matter of policy, the Town would have to deny the request for a credit for the reconstruction of Redd Road before the Impact Fee Review Board could hear an appeal; therefore, that portion of the request was remanded back to the Town for a decision. It was the unanimous decision of the Board (based on a motion made by Jim Longest, Seconded by John Demeree) that the estimated trips for the Aria Apartment project be reduced from 1,607 trips to 1,342 trips and the Petitioner’s Road Impact Fee assessment BE REDUCED from \$170,342.00 to \$142,252.00 based on the findings, that 1) the fact assumptions used in determining the amount of the impact fee associated with the Facility were incorrect; the total number of trips associated with the Facility as determined by the Town was incorrect.

The Board concluded by indicating that the Road Impact Fee be refunded by an appropriate amount once the Town's decision of the pending credit is resolved.