



Broward County

Legislation Details (With Text)

File #: 22-576 **Version:** 1

Status: Agenda Ready

In control: Resilient Environment - Urban Planning Division

On agenda: 5/24/2022 **Final action:** 5/24/2022

Title: MOTION TO APPROVE Subordination Agreements related to the Declarations of Restrictive Covenants for Sailboat Bend II located at the corner of SW 4th Avenue and SW 4th Court in the City of Fort Lauderdale involving the waiver of certain impact fees and to authorize County Administrator to execute same. (Commission District 8)

Sponsors:

Indexes:

Code sections:

Attachments: 1. Exhibit 1 - Application, 2. Exhibit 2 - Location Map, 3. Exhibit 3 - Age Restricted Declaration of Restrictive Covenant, 4. Exhibit 4 - Affordable Housing Declaration of Restrictive Covenant, 5. Exhibit 5 - HUD Amendment to Declaration of Restrictive Covenant, 6. Exhibit 6 - Subordination Agreement, 7. Exhibit 7 - County Attorney Memorandum

Date	Ver.	Action By	Action	Result
------	------	-----------	--------	--------

Broward County Commission Regular Meeting

Director's Name: Leonard Vialpando

Department: Resilient Environment **Division:** Urban Planning Division

Information

Requested Action

MOTION TO APPROVE Subordination Agreements related to the Declarations of Restrictive Covenants for Sailboat Bend II located at the corner of SW 4th Avenue and SW 4th Court in the City of Fort Lauderdale involving the waiver of certain impact fees and to authorize County Administrator to execute same. **(Commission District 8)**

Why Action is Necessary

This action will meet the requirements of a new lender that the Declaration of Restrictive Covenants be subordinated to the new loan.

What Action Accomplishes

Subordinates the Declaration of Restrictive Covenants to the loan.

Is this Action Goal Related

No

Previous Action Taken

None

Summary Explanation/Background

THE RESILIENT ENVIRONMENT DEPARTMENT AND THE URBAN PLANNING DIVISION
RECOMMEND APPROVAL.

Sailboat Bend II, Ltd., a Florida limited partnership ("Owner") has requested to subordinate the Declarations of Restrictive Covenants for Age Restricted and Affordable Housing recorded at Instrument Nos. 115974883 and 115974930 in the Official Records of Broward County, Florida (collectively "Declarations") (Exhibit 1). These Declarations provided for waiver and exemption of transportation concurrency and school impact fees assessed for the 110-unit senior housing community.

The subject property is located at the corner of Southwest 4th Avenue and Southwest 4th Court in the City of Fort Lauderdale. The owners are in the process of refinancing the loan which will be secured by Fannie Mae with the permanent mortgage loan from JLL Real Estate Capital LLC ("New Lender"). The Owner is in an agreement with the State Housing Initiative Program (SHIP) for a thirty (30)-year affordability period.

Also, the Office of the County Attorney has reviewed the subordination agreements, and finds them in approvable form subject to disclosure to the Board of the following nonstandard provisions:

- Provide that any transfer of the property in connection with the event of a foreclosure or deed in lieu of foreclosure will not require the County's consent.
- Obligate County to provide Lender with a concurrent copy of each material notice under or with respect to each Declaration.
- Provide that Lender shall have the right (but not be obligated) to cure any default under each Declaration.
- Provide that County shall not be permitted to modify, amend, change, or alter the Declarations without the written consent of Lender.
- Provide that in the event of foreclosure, deed in lieu of foreclosure, or similar disposition of the property by Lender, no consent will be required of the County.
- Limit County's ability to enforce the terms of the Declarations by any remedy available in law or in equity that could result in (i) the transfer of the property, (ii) collection or possession of rent generated from the property; (iii) appointment of a receiver for the property; (iv) application of insurance or condemnation proceeds other than as approved by Lender; (v) removal or replacement of the current property manager of the property; or (vi) a material adverse effect on Lender's security interest in the property.

Please refer to the attached memorandum for further information and disclosure of the nonstandard provisions offered in the subordination agreements (Exhibit 7).

Source of Additional Information

Josie P. Sesodia, AICP, Director, Urban Planning Division, 954-357-6602.

Fiscal Impact

Fiscal Impact/Cost Summary

No fiscal impact.