



Broward County

Legislation Text

File #: 21-1731, Version: 1

Broward County Commission Regular Meeting

Director's Name: Leonard Vialpando

Department: Resilient Environment

Division: Urban Planning

Information

Requested Action

MOTION TO APPROVE Subordination Agreements related to Declarations of Restrictive Covenants for the waiver of certain impact fees and to authorize County Administrator to execute same. **(Commission District 6)**

Why Action is Necessary

Requirement of lender that the Declaration of Restrictive Covenants be subordinate to the loan.

What Action Accomplishes

Subordinates the Declaration of Restrictive Covenants to the loan.

Is this Action Goal Related

No

Previous Action Taken

No previous action.

Summary Explanation/Background

THE RESILIENT ENVIRONMENT DEPARTMENT (RED) AND THE URBAN PLANNING DIVISION RECOMMEND APPROVAL.

Pinnacle at Peacefield, Limited (“Owner”) has requested to subordinate the Declarations of Restrictive Covenants for Age Restricted and Affordable Housing recorded at Instrument Nos. 115422168, -444, -487 and -527 in the Official Records of Broward County, Florida (collectively “Declarations”), see Exhibit 1. These Declarations provided for waiver and exemption of transportation concurrency and school impact fees assessed for the 120-unit senior housing community.

The subject property is located on three parcels at 2122, 2216 and 2314 Adams Street in the City of Hollywood (Exhibit 7). The development became operational this year. The Owner is now seeking refinancing of the original loan amount of \$3.5M, which is secured by the property through the Federal Home Loan Mortgage Corporation (“Freddie Mac”), by and through Citibank, N.A. (“Lender”). The Owner entered into the Declarations voluntarily and the Lender has required the subordination of the Declarations as part of the refinancing (Exhibits 2 through 5).

Additionally, the Owner is in an agreement with Florida Housing Finance Corporation that restricts the

development as affordable senior housing for 50 years, and under a similar restriction for 30 years with the City of Hollywood.

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 further information and disclosure of the nonstandard provisions offered in the subordination agreements (Exhibit 6).

Source of Additional Information

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

Fiscal Impact

Fiscal Impact/Cost Summary

No fiscal impact.