



TO: Honorable Mayor & Members of the
Fort Lauderdale City Commission

FROM: Lee R. Feldman, ICMA-CM, City Manager

DATE: April 21, 2015

TITLE: Milton Jones Development Corporation Request to Amend to
Development Agreement and Authorize Conditional Site Control

Recommendation

It is recommended that the City Commission adopt a resolution authorizing the Mayor and City Manager to execute a Ninth Amendment to Development Agreement to extend the term of the Development Agreement for Phase II with the Milton Jones Development Corporation; and a Fourth Amended and Restated Assignment of Rights and Assumption of Obligations under Development Agreement and Conditional Consent permitting conditional site control in support of an application for Low Income Housing Tax Credits from the Florida Housing Finance Corporation for a mixed-use, multi-family project with ground floor retail and a parking garage.

Background

The action requested of the City Commission is in support of phase II of a project, proposed by the Milton Jones Development Corporation, commonly referred to as the Northwest Commercial Project. The project is now known as the Shoppes on Arts Avenue. The project was developed in two-phases, consistent with a Land Disposition and Development Agreement between the City of Fort Lauderdale and the Milton Jones Development Corporation.

In Phase I of the Milton Jones Development Corporation project a retail shopping center was constructed at the intersection of Sistrunk and NW 7th Avenue, that includes Save-a-Lot, Family Dollar and Bank of America. Phase II of the development project is proposed to be a residential development that will be constructed on city-owned property east of the new shopping center. The Developer proposes a 103-unit mixed-use, multi-family project with ground floor retail and a parking garage on site. The Developer's request to extend the term of the agreement and obtain conditional site control is in accordance with the intent of the Agreement between the parties.

The development program with Milton Jones contemplated a two-phased approach that was driven by an assumption that the commercial phase of the project would be developed before the mixed-use phase; and that the mixed-use phase would be difficult to develop without incentives and subsidized construction financing such as the low-income housing tax credit program.

The Development Agreement, entered into on February 5, 2008 for both phases of the project, will expire on June 1, 2015. If the request for a time extension is not approved or no action is taken, the Project Development Agreement becomes null and void and of no further force and effect on the expiration date.

Request for Time Extension to Development Agreement

The Developer is seeking an extension to continue to submit applications for project funding via low-income housing tax credits until September 1, 2018. This request would permit the developer to submit take advantage of any tax credit funding opportunities over the next three years.

More specifically, the Developer is requesting an extension to the Development Agreement to apply for low income housing tax credits from the Florida Housing Finance Corporation, in response to a recently issued Request for Applications (RFA) issued on March 26, 2015. The recently issued RFA is focused on projects and areas that are part of a local revitalization program. Applications in response to the RFA are due on May 5, 2015. A copy of the Developer's request for a time extension is attached as Exhibit A.

Under the terms of the Development Agreement, the entire site is owned by the City of Fort Lauderdale and will not be conveyed until all development conditions are satisfied. However, in order to apply for tax credits, the Developer must demonstrate site control at the time of submitting an application. This requires the conveyance process for Phase II to be modified to allow an application for tax credits to be submitted for the development site.

Request for Conditional Site Control

An important factor in the submission of a valid application for housing tax credits is that a developer or applicant must be able to demonstrate site control. In order to meet the site control requirement in accordance with the FHFC application rules, the Developer has also requested the conditional assignment of the rights to develop and receive fee simple title to Parcel No. 2 (Phase II). This conditional assignment will expire when the tax credit application process is over September 1, 2016.

City's Right to Entertain Alternative Development Proposals

A new provision is being added to agreement to allow for alternative The primary reason for the Developer's request is to extend the term of the Development Agreement. When the term of the existing Agreement expires, the City-owned site would have been under the exclusive control of the Milton Jones Development Corporation for over seven years.

The real estate development market has changed and continues to grow in the Fort Lauderdale area. As these type of market advances continue to occur the City will remove the exclusive approach to control of the site and provide for other development proposals to be considered after the May 5, 2015 Florida Housing Finance Corporation competitive application cycle is completed and the conditional conveyance expires. The tax credit application period is expected to be finalized by September 1, 2016.

The new provision will allow the City to reserve the right to entertain alternative proposals for the development the parcel identified under the existing development agreement after conditional site control expires on September 1, 2016. The City will provide 90 days written notice to the Developer if an alternative development proposal is received, negotiated and recommended for acceptance by the City Commission.

Resource Impact

No budgetary impact

Attachments:

Exhibit 1 – Developer’s Request

Exhibit 2 – Ninth Amendment to Development Agreement and Project Schedule

Exhibit 3 – Fourth Amended and Restated Assignment of Rights and Assumption of Obligations under Development Agreement and Conditional Consent Assumption and Assignment and Conditional Consent

Exhibit 4 - Resolution

Prepared by: Alfred G. Battle Jr., Deputy Director – Sustainable Development

Department Director: Jenni Morejon, Director - Sustainable Development