

MEMORANDUM

Agenda Item No. 14(A)(1)

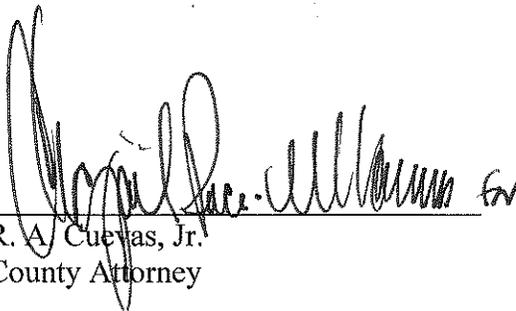
TO: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners

DATE: March 17, 2015

FROM: R. A. Cuevas, Jr.
County Attorney

SUBJECT: Resolution authorizing Second Amendment to Declaration of Restrictions between Miami-Dade County and Southeast Overtown/Park West Community Redevelopment Agency providing for a two year extension of certain deadlines set forth therein for retail development on Block 36 located in Miami-Dade County; authorizing such time extensions without cost to developer

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Audrey M. Edmonson.



R. A. Cuevas, Jr.
County Attorney

RAC/cp



MEMORANDUM

(Revised)

TO: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners

DATE: March 17, 2015

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County Attorney

SUBJECT: Agenda Item No. 14(A)(1)

Please note any items checked.

- "3-Day Rule" for committees applicable if raised
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Ordinance creating a new board requires detailed County Mayor's report for public hearing
- No committee review
- Applicable legislation requires more than a majority vote (i.e., 2/3's ____, 3/5's ____, unanimous ____) to approve
- Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 14(A)(1)
3-17-15

RESOLUTION NO. _____

RESOLUTION AUTHORIZING SECOND AMENDMENT TO DECLARATION OF RESTRICTIONS BETWEEN MIAMI-DADE COUNTY AND SOUTHEAST OVERTOWN/PARK WEST COMMUNITY REDEVELOPMENT AGENCY PROVIDING FOR A TWO YEAR EXTENSION OF CERTAIN DEADLINES SET FORTH THEREIN FOR RETAIL DEVELOPMENT ON BLOCK 36 LOCATED IN MIAMI-DADE COUNTY, FLORIDA; AUTHORIZING MAYOR OR MAYOR'S DESIGNEE TO EXECUTE SAME, SUBJECT TO SATISFACTION OF CONDITIONS; AND AUTHORIZING SUCH TIME EXTENSIONS WITHOUT COST TO DEVELOPER

WHEREAS, pursuant to Resolution No. R-294-13, this Board authorized the settlement of the lawsuit between the City of Miami, the Southeast Overtown/Park West Community Redevelopment Agency (the "CRA") and the County; and

WHEREAS, in accordance with the terms of the settlement agreement, the CRA and the County executed and recorded a Declaration of Restrictions (the "Declaration") against Block 36, which set forth requirements for development on such Block, including a retail component; and

WHEREAS, the settlement agreement preapproved The Gatehouse Group, LLC or its affiliate (in this case Lyric Development, LLC) as the Developer of Block 36 (the "Developer"), subject to the CRA entering into a development agreement in accordance with the provisions of the Declaration; and

WHEREAS, the Developer requested certain variances to the Declaration prior to entering into the development agreement, which were incorporated into an Amendment to Declaration of Restrictions (Declaration and Amendment collectively referred to as the

“Amended Declaration”), and the CRA subsequently entered into a development agreement with the Developer; and

WHEREAS, the Amended Declaration required the Developer to obtain all land use and zoning approvals for the Project by November 14, 2014 (the “Zoning Approval Deadline”); and

WHEREAS, the Amended Declaration required the Developer to commence vertical construction of the retail component on Block 36 no later than November 14, 2015 (the “Vertical Construction Deadline”), and for completion of construction no later than 24 months thereafter; and

WHEREAS, the Amended Declaration provides that the Zoning Approval Deadline can be extended for six months by paying \$250,000 each to the County and the CRA; and

WHEREAS, the Amended Declaration provides that certain time frames may be unilaterally modified by up to 10 percent by the Executive Director of the CRA; and

WHEREAS, the Amended Declaration provides that notwithstanding any other provision in the Amended Declaration, in the event that the Developer does not commence vertical construction by November 14, 2015, Block 36 would revert to the County upon request; and

WHEREAS, the Developer anticipates that it will be unable to comply with the current Vertical Construction Deadline in the Amended Declaration due to an unanticipated delay in its ability to immediately replat the property for reasons beyond its control, as set forth in the letter from the Developer attached as Exhibit “A” and preexisting liens on the property which were not associated with the Developer’s project; and

WHEREAS, the Zoning Approval Deadline has not been met due to the Developer's inability to replat and to obtain the necessary permits and approvals; and

WHEREAS, the Developer has requested that the CRA and the County agree to extend the Zoning Approval Deadline and the Vertical Construction Deadline by a two year period, thereby extending the date of reverter, and the retail completion date which is no later than two years after commencement of vertical construction; and

WHEREAS, the Developer has requested that such extensions be granted at no cost to the Developer asserting that the lengthy replat delay was unanticipated and was not caused by the Developer's own actions; and

WHEREAS, the Board finds that a two year extension is a reasonable period of time in which to comply with the zoning approval (including replatting) and vertical construction commencement, based upon the unanticipated delay, but that in light of such extensions, additional unilateral time extensions by the Executive Director of the CRA by 10 percent would not be required; and

WHEREAS, the requested extension and amendment to the Amended Declaration would require the approval of the respective boards of both the County and the CRA,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that:

Section 1. This Board incorporates and approves the foregoing recitals as if fully set forth herein.

Section 2. This Board authorizes an amendment to the Amended Declaration providing: (a) a two year extension of the Zoning Approval Deadline (including replatting) from

November 14, 2014 to November 14, 2016; (b) a two year extension of the Vertical Construction Deadline from November 14, 2015 to November 14, 2017, with completion of construction to occur no later than two years following the commencement of vertical construction; (c) a two year extension of the date of reverter to the County if vertical construction does not commence by the Vertical Construction Deadline, from November 14, 2015 to November 14, 2017; and (d) that the Executive Director of the CRA may not unilaterally modify the deadlines set forth in (a), (b) and (c) of this section. The Amended Declaration with these amendments shall be collectively referred to as the "Second Amendment to the Declaration."

Section 3. The Mayor or the Mayor's designee is authorized to execute such Second Amendment to Declaration subject to satisfaction of all of the following conditions: (a) full and binding authority by the CRA board authorizing such Second Amendment to Declaration, and (b) execution by the CRA of the Second Amendment to Declaration. In the event that the CRA board does not authorize the Second Amendment to Declaration on the identical terms and conditions set forth herein, then any such changes or additions shall be presented to this Board for consideration, and must be approved by this Board prior to the Mayor's or Mayor's designee's execution of a Second Amendment to Declaration.

Section 4. This Board authorizes the foregoing extensions without cost to the Developer, contingent upon a finding by the CRA board that such extensions are likewise without cost to the Developer. Any future extensions shall be subject to the payment of no less than \$250,000 to each the CRA and the County, as set forth in the Amended Declaration.

Section 5. Pursuant to Resolution No. R-974-09, the Board directs the County Mayor or the County Mayor's designee to record the Second Amendment to Declaration approved herein in the Public Records of Miami-Dade County, Florida; and to provide a recorded copy of

any such instrument to the Clerk of the Board within 30 days of execution of said instrument; and directs the Clerk of the Board to attach and permanently store a recorded copy together with this resolution, and to perform all acts necessary to effectuate the required actions set forth in this Resolution.

The Prime Sponsor of the foregoing resolution is Commissioner Audrey M. Edmonson.

It was offered by Commissioner _____, who moved its adoption. The motion was seconded by Commissioner _____ and upon being put to a vote, the vote was as follows:

- | | |
|-------------------------------------|----------------------|
| Jean Monestime, Chairman | |
| Esteban L. Bovo, Jr., Vice Chairman | |
| Bruno A. Barreiro | Daniella Levine Cava |
| Jose "Pepe" Diaz | Audrey M. Edmonson |
| Sally A. Heyman | Barbara J. Jordan |
| Dennis C. Moss | Rebeca Sosa |
| Sen. Javier D. Souto | Xavier L. Suarez |
| Juan C. Zapata | |

The Chairperson thereupon declared the resolution duly passed and adopted this 17th day of March, 2015. This resolution shall become effective upon the earlier of (1) 10 days after the date of its adoption unless vetoed by the County Mayor, and if vetoed, shall become effective only upon an override by this Board, or (2) approval by the County Mayor of this Resolution and the filing of this approval with the Clerk of the Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: _____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.



Debra Herman



THE GATEHOUSE
GROUP, INC.

Nick Inamdar

Vice President, Florida Region

March 2nd, 2015

The Honorable Audrey Edmonson
Stephen P. Clark Center
111 NW 1st Street, Suite 220
Miami, FL 33128

Dear Commissioner Edmonson,

Over the last 15 years, we have developed 705 units in 4 different developments within the SEOPW-CRA boundaries. We are proud of this strong track-record of investing in new construction developments in this blighted, underserved, area that had not seen much other new investment for decades. Our commitment to the residents and stakeholders of the area has made us, by far, the most active developer within Overtown during this time period.

As you know, in addition to the 705 units that we have already completed, we were selected by competitive RFP to build a phased project on Block 25 and on Block 36.

We are excited to report that we are already under construction on Phase I which is located on Block 25. The Plaza at the Lyric will be a 158 unit new construction affordable housing development with ground floor retail that broke ground in early December 2014.

The second phase of the project, a commercial development of at least 55,000 square feet on Block 36, has been significantly delayed due to a replat on the block that is, unfortunately, completely out of our control. The replat has been underway for several years and was initiated and is being led by a third-party in conjunction with Miami-Dade County and the City of Miami. When we signed the Development Agreement in January of 2013, nobody (the County, the CRA, or us) could have anticipated that the replat would result in a delay of our project of over 2 years and still counting. At the time of signing the Development Agreement, all parties anticipated that the replat would be completed imminently.

We are optimistic that the County, the CRA, and other third-parties are now working diligently to pay outstanding liens (not associate with our project) and that the replat can again move forward towards completion. However, this delay has already cost us over 2 years. The site is encumbered by platted alley and roadways which are public domain. They need to be vacated in this replat process so that we have a site to develop. Unfortunately, we can not even obtain a certified survey until the replat is complete. In addition to the alley and roadway closures, there are also water and sewer easements that will need to be resolved once the new utility locations have been identified and this may affect the final layout of our site.

445 NW 4TH ST., SUITE 108
MIAMI, FL 33128
TEL • (305) • 372 • 3343
FAX • (305) • 372 • 3348

9
Exhibit A

It is in our strong interest and it is our unwavering commitment to break ground on the second phase of this project on Block 36 as soon as possible. However, due to the delay caused by the replat, which unfortunately again has been completely out of our control, we respectfully request a 2 year extension of the Zoning Approval Deadline and the Vertical Construction Deadline per the Development Agreement. These extensions will allow for a prudent timeframe for the replat to finish and will then provide reasonable, but not excessive, time for us to finalize the needed steps that have been stalled due to this replat.

We appreciate your assistance in this matter and we look forward to breaking ground on the second phase as soon as we have a clean site to develop and are able to move forward. We strongly believe that this phased development will be a significant step forward in serving the needs of the Overtown Community and its residents. Thank you for your leadership and, as always, thank you for your charge in taking on the many needs that weigh on a large segment of our community.

Together we will make significant strides forward.

Thank you,

A handwritten signature in black ink, appearing to read "N. Inamdar", with a long horizontal flourish extending to the right.

Nick Inamdar