



Office of *Attorney's Matters 12/20/2016*
**INDIAN RIVER COUNTY
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MEMORANDUM

TO: The Board of County Commissioners

FROM: William K. DeBaal, Deputy County Attorney *WKB*

DATE: December 14, 2016

SUBJECT: Approval of First Amendment to Declaration of Restrictive Covenants for Windsor PD.

In 2009, the County and Windsor Properties, (Windsor) with the permission of the Board of Trustees of the Internal Improvement Fund, completed a property exchange where Windsor deeded to the County a 9.287 acre parcel of property located on the north barrier island, between State Road A1A and the Atlantic Ocean, which is now Golden Sands Park. In exchange, the County deeded to Windsor a 9.287 acre parcel of property which was the former site of Golden Sands Park. The exchange made the property received by Windsor contiguous with the Windsor development, thus, physically consolidating Windsor's ownership. As part of the exchange, Windsor constructed a new Golden Sands Park for the County, as the old park had been badly damaged in the hurricanes of 2004 and 2005.

Before the exchange could be completed, an amendment to the County's Comprehensive Plan had to be made in order to change the future land use designation and the zoning of the parcels. At the time of the exchange, Windsor had planned to continue construction of large ocean front estates on the 9.287 acres obtained from the County, and subsequently platted it that way but did not sell the lots. A copy of the 2011 plat is attached to this memo as Exhibit A. Even though the underlying zoning on the Windsor property is RS-3, Residential Single Family, up to 3 single family residential units per acre, Windsor voluntarily agreed to limit the density to one unit per acre as outlined in the Declaration of Restrictive Covenants dated December 23, 2008, attached to this memo as Exhibit B.

Amendment of Restrictive Covenants Windsor Properties

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Six years later, at its meeting of December 8, 2015, Windsor asked the Board to consider a request to redevelop the southern 3.99 acre portion of the property obtained as part of the exchange. Windsor submitted a proposed PD plan attached as Exhibit C, that would reconfigure two oceanfront lots through the replat process creating a tract for seven "cottage homes" of approximately 4,000 square feet each, thus increasing the overall density on the parcel to 2.26 units per acre. The proposed density is less than the underlying 3 unit per acre zoning density but more than one unit per acre permitted by the Declaration of Restrictive Covenants. The Board gave its conceptual approval of the proposed increase in density (minutes of 12/8/15 meeting attached) and directed Windsor to prepare an amendment to the declaration of restrictive covenants permitting the density change and to have the proposed Planned Development/replat proceed through the process at the same time. Windsor has submitted the First Amendment to Declaration of Restrictive Covenants for Board approval. Staff has reviewed and approved the documents. No other changes to the restrictions are proposed. That PD change will require a public hearing before the Planning and Zoning Commission and the BCC.

Funding. There is no expenditure of County funds as a result of this matter.

Recommendations. Staff recommends that the Board approve the First Amendment to Declaration of Restrictive Covenants and direct staff to have the proposed PD change/replat scheduled for public hearings before the Planning and Zoning Commission and the Board of County Commissioners at a mutually convenient time. .

WKD

Attachments: Exhibit A: 2011 plat
Exhibit B: Declaration of Restrictive Covenants dated Dec. 23, 2008
Exhibit C: Proposed PD plan
First Amendment to Declaration of Restrictive Covenants
Minutes of 12/8/15 BCC meeting