

MEMORANDUM

DATE: July 28, 2020
TO: Mayor and Commissioners
FROM: Greg Harrison, City Manager *GH*
RE: Forbearance Agreements for Parcels C1 and C2 (Pier Development)

Background

In July 2014, the Pompano Beach City Commission approved the Amended and Restated Development Agreement between the City of Pompano Beach (City) and Pompano Pier Associates, LLC (PPA) relating to the City owned parcel near the pier known as the pier development site or as the new development will be called, the Pompano Beach Fishing Village. This agreement is for the development of approximately 6 acres between A1A, the Atlantic Ocean, Atlantic Boulevard, and NE 5th St. that used to be a parking lot just west of the Pier, bringing a higher and better use of this prime beachfront land. There are eight parcels that are part of the development referred to by letter and number: C1, C2, E, R1, R2, R3, R4, and R5. Below is a plan view of each of these parcels.



Since that time construction has been underway on the development and the two anchor restaurants, Beach House on Parcel C1 and Oceanic on Parcel C2, opened to rave reviews. These two restaurants have been major draws for the city, but like all businesses these restaurants have been greatly affected by the Covid-19 pandemic.

Agenda Item

In response to the pandemic caused by the corona virus known as Covid-19, the Governor of the State of Florida, following guidelines established by the federal government, has issued various executive orders requiring the closure or partial closure of businesses and sheltering at home by Florida residents. The pandemic has had deleterious effects on restaurants, including the Beach House on Parcel C1 and Oceanic on Parcel C2 at the pier development site. A Forbearance Agreement is being presented to address the financial situation the restaurants find themselves in due to the negative impacts of the pandemic.

In the Parcel Ground Leases, the tenant is obligated to pay Minimum Rent of \$75,000 per year for Parcel C1 and \$94,800 for Parcel C2, payable quarterly, and Percentage Rent of 1.25% of Gross Revenue in excess of \$6,000,000, together with Additional Rent as identified in the Lease. However, the tenants of Parcels C1 and C2 have notified the City that, due to the impacts of the pandemic, they are unable to pay the rent obligations under the Lease. The Forbearance Agreement provides a deferral and repayment period for Minimum Rent and includes the following provisions:

- Permits a reduction of the Minimum Rent by fifty percent (50%) for the months of April 2020 through December 2020
- Permits the Tenant to pay equal monthly payments for the next succeeding nine (9) months, the remaining fifty percent (50%) of the Minimum Rent due
- Offers the forbearance to the Minimum Rent only, it does not relieve the tenant of its obligation to pay Tenant's Base Rent, Proportionate Share of Operating Expenses and Taxes, Additional Rent, and all other sums (other than Minimum Rent) due under the lease

Impressively, construction of the pier development project is still moving along, but approval of this Forbearance Agreement demonstrates the City and developer's commitment to protect the assets at the pier development site and keep the Pompano Fishing Village as a world class destination. The Forbearance Agreements also ensure that ultimately the developer repays the City the full Minimum Rent.