

Item Title: Consent and Subordination in Granting a Deed of Easement for Sanitary Sewer Purposes to the City of Raleigh on Property Secured by a Wake County Housing & Community Revitalization Loan

Specific Action Requested:
That the Board of Commissioners:

- 1. Consents to Wakefield Manor, LLC and Wakefield Affordable Housing, LLC granting a Deed of Easement for Sanitary Sewer Purposes to the City of Raleigh on property secured by a Wake County Housing & Community Revitalization Loan; and**
- 2. Releases said portion of the Sanitary Sewer Easement Area conveyed to the City of Raleigh from the Wake County Deed of Trusts recorded in Deed Book 13629, Page 336, Deed Book 13231, Page 105 Wake County Registry; and**
- 3. Authorizes the Chair to execute the Subordination portion of the Deed of Easement for Sanitary Sewer Purposes (along with any other supporting documentation), subject to the terms and conditions acceptable to the County Attorney.**

Item Summary:

Purpose: The Board of Commissioners must approve all Wake County's property transactions.

Background: In FY 2005 the Board of Commissioners approved a loan of up to \$300,000 in County funds to DHIC, Inc. for the construction of Wakefield Hills Apartments, an 80-unit affordable development for families. In FY 2006, the Board also approved a loan of up to \$585,000 for the construction of Wakefield Manor Apartments, a 96-unit affordable housing development for seniors. The property is located at 10731 Common Oaks Drive, in the Wakefield area of northeast Raleigh. As a condition of the funding, the County secured deeds of trust on the property. Wake County is the named beneficiary in the attached deed of trusts recorded in the Wake County Registry. Homebuilder KB Homes is proposing a 94-unit townhome development directly south of this property referred to as Ponderosa Townhomes.

KB Homes and DHIC have requested Wake County consent to Wakefield Manor LLC and Wakefield Affordable Housing LLC conveying a Deed of Easement for Sanitary Sewer Purposes to the City of Raleigh.

Board Goal: This action supports routine County operations.

Fiscal Impact: There is no fiscal impact to the County associated with the execution of the subordination portion of the Deed of Easement for Sanitary Sewer Purposes.

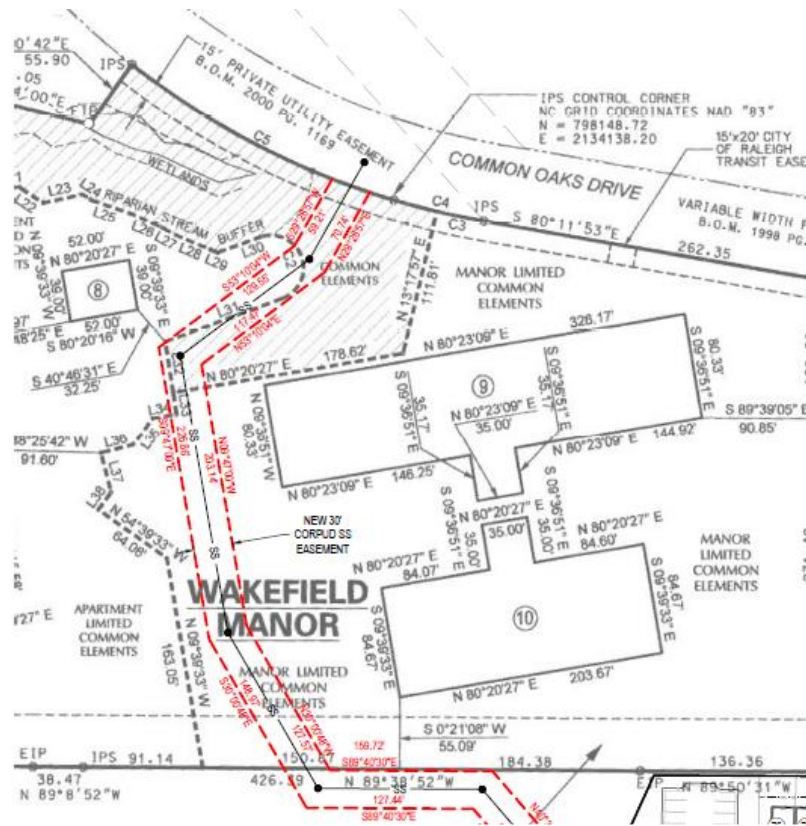
Additional Information:

KB, homes previously requested Wakefield Manor LLC and Wakefield Affordable Housing LLC convey a sanitary sewer easement to them across the property in 2019. Based on that request in August 2019 the Wake County Board of Commissioners approved a consent and subordination agreement with KB Homes in connection with the proposed sanitary sewer easement. After which, the City of Raleigh required KB Homes to change to the sanitary sewer easement alignment during their permit review of the Ponderosa Townhomes project. Because of this change, a new consent and subordination agreement was required. Subsequently in August 2020 the Wake County Board of Commissioner approved a revised consent and subordination which was part of the Sanitary Sewer Easement and Capacity Agreement. This document conveyed a Sanitary Sewer Easement from Wakefield Manor LLC and Wakefield Affordable Housing LLC to KB Homes. The sanitary sewer easement was recorded by KB Homes at the Wake County Register of Deeds in deed book 18581 page 1032. (See attached).

KB Homes has been informed by the City of Raleigh the City will not accept the previous recorded sanitary sewer easement from KB Homes. The developer recorded this Sanitary Sewer Easement in error as it was not on a City of Raleigh approved deed of easement form. Raleigh will now require KB Homes to record a Conditional Release of Sanitary Sewer Easement prior to the recordation of the Deed of Easement for Sanitary Sewer Purposes associated with this action. KB Homes and DHIC attorneys have informed County staff that there are no changes to the sanitary sewer easement.

As a condition of the sanitary sewer easement request, all lienholders must provide their consent and agree to a subordination of the easement area. The County is one of five lienholders being requested to consent and subordinate their respective Deeds of Trust. Wake County staff has determined that the borrowers are not in default and are current on annual payments and insurance. The subordination of the lenders is included in a portion of the Deed of Easement for Sanitary Sewer Purposes which will be executed by the aforesaid parties, and then subsequently recorded at the Wake County Registry.

The map inserted below shows the subject property along with the location of the proposed sanitary sewer easement (in red). The City of Raleigh sanitary sewer easement is also shown on the attached Exhibit A.



Staff from Facilities Design & Construction, Housing Affordability and Community Revitalization, and the County Attorney’s Office have reviewed the request and associated information provided by DHIC and KB Homes. Staff has concluded this conveyance will have no long-term adverse impact to the property or the County’s ability to recoup funds associated with the loans. Staff recommends approval of the specific actions requested, subject to the terms and conditions acceptable to the County Attorney.

Attachments:

1. Deed of Trust (DB 13629 Page 336 & DB 13231 Page 105)
2. Sanitary Sewer Easement and Capacity Agreement DB 18581 PG 1032
3. Deed of Easement & Subordination
4. Sanitary Sewer Easement Exhibit A