

MINUTES OF THE REGULAR MEETING
BOCA RATON COMMUNITY REDEVELOPMENT AGENCY
MONDAY, JUNE 12, 2006
*1:30 P.M.

*The Regular Meeting of the Boca Raton Community Redevelopment Agency was called to order by Chairman Baronoff at approximately 4:15 p.m.

PLEDGE OF ALLEGIANCE TO THE FLAG:

ROLL CALL:

Chairman Peter R. Baronoff
Vice Chairman M.J. Mike Arts
Commissioner Steven L. Abrams
Commissioner Bill Hager
Commissioner Susan Whelchel

Also attending the meeting were:

CRA Executive Director Jorge Camejo
Boca Raton City Manager Leif J. Ahnell
Boca Raton City Attorney Diana Grub Frieser, Attorney to the Agency

AMENDMENTS TO THE AGENDA:

Chairman Baronoff advised that a request had been received to move Item No. 3 for consideration immediately after Item No. 1. Seeing no objections, the agenda was re-ordered accordingly.

MINUTES:

Minutes of the Regular Meeting of May 22, 2006

Motion was made by Commissioner Whelchel, seconded by Commissioner Hager, to approve the minutes as presented. Motion carried unanimously on a voice vote; Chairman Baronoff, Vice Chairman Arts, Commissioners Abrams, Hager, and Whelchel voting yes.

REGULAR BUSINESS - PART I - QUASI-JUDICIAL & RELATED PUBLIC HEARINGS:

1. DDRI IDA No. CRP-06-01

An Individual Development Approval of the City of Boca Raton Community Redevelopment Agency granting an Individual Development Approval to permit a mixed use development that includes residential, hotel, retail and office uses with parking garages and technical deviations from Chapter 23 related to driveway design, turn lane requirements, and on-site circulation including a conversion of uses within a Subarea; located at 890 South Federal Highway

Chairman Baronoff provided an opportunity for the public to speak at this quasi-judicial public hearing; no one came forward. He advised that a request had been made to continue the hearing to July 24, 2006; there were no objections.

Motion was made by Chairman Baronoff, seconded by Commissioner Hager, to continue the public hearing to the CRA meeting of July 24, 2006. Motion carried unanimously on a voice vote; Chairman Baronoff, Vice Chairman Arts, Commissioners Abrams, Hager, and Whelchel voting yes.

3. DDRI IDA No. CRP-05-07

An Individual Development Approval of the City of Boca Raton Community Redevelopment Agency granting an Individual Development Approval, with a transfer of authorized development between Subareas, to develop a 43-unit multifamily building with an internal parking structure, located at 375 Royal Palm Road

a. Recommendation No. 2006-01-CRA

Staff recommendation for approval of the petition of Royal Palm Road Associates, Ltd. to purchase the site adjacent to 375 East Royal Palm Road

Chairman Baronoff advised that quasi-judicial procedure would govern the public hearing, a separate vote would be taken on the IDA and the Recommendation; the City Clerk administered the oath to those who wished to speak. It was noted that a court reporter from Esquire Reporting, retained by Mr. Kirshner, was in attendance. Under ex parte disclosures, Vice Chairman Arts and Commissioner Hager advised that they had spoken with Greg Talbott, Bob Eisen, Doug Mummaw, Mitch Kirshner, Mark Gensheimer, and Derek Vander Ploeg; Commissioner Whelchel and Chairman Baronoff advised that they had spoken with Mr. Talbott, Mr. Eisen, Mr. Kirshner, and Mr. Ginsheimer. Commissioner Abrams stated that he had previously submitted his disclosures.

Development Services Senior Planner Jennifer Simon began the PowerPoint presentation, providing location and acreage information. Ms. Simon advised that the applicant was also seeking, in conjunction with this petition, approval for the sale of City-owned property comprised of a portion of two lots fronting Royal Palm Road. She then gave the floor to the City's Property Specialist/Appraiser Lynn Bodor.

Ms. Bodor continued the presentation, advising that the site was conditioned upon the approval of the sale of a narrow portion of City-owned property proposed for incorporation into the Royal Palm Villas project. She explained that this strip of land, located adjacent to Royal Palm Road, was 10 feet wide and 103 feet long, and represented the southern 10 feet of two platted lots. A brief history of the land and the City's ownership of same followed. Ms. Bodor explained that in March 2006, an independent third-party appraiser valued the land at \$125,000. The appropriate City departments were contacted; they all support the proposal. Consequently, staff also recommended approval of the sale of this unused parcel for not less than \$125,000.

Ms. Simon resumed the presentation, explaining that the petitioner proposed to remove an existing structure to construct a 9-story, 100-foot residential building on the southeast corner of SE 4th Avenue and Royal Palm Road. Ms. Simon advised that, originally, the proposed building contained two towers that reached 135 feet in height. Due to reservations on the part of staff and the Planning and Zoning Board, the architect redesigned the towers; however, elevations were not ready at the time the plans were distributed to the CRA. She noted that the revised elevations would be reflected in this presentation; a condition to replace the elevations with those that are part of the official set of plans was recommended.

The development would consist of a mix of units including townhome villas, condominiums, and penthouses; details were provided related to square footage, parking, and landscaping. Additional elements of architectural design, landscaping, and setbacks were also reviewed, as were the north, west, south, and east elevations. Ms. Simon then focused on parking, open space, and amenities, which include a grand salon, pool area, and a lifestyle center. She noted that a transfer of 16,250 square feet of office equivalency is required in order to complete the proposed project. A transfer was requested from Subarea D to Subarea C; details were provided. Ms. Simon also reviewed information related to a subarea transfer analysis and a traffic analysis. She then advised that the Planning and Zoning Board and the Community Appearance Board reviewed the subject petition; both Boards unanimously recommended approval, as did staff with the conditions listed in the IDA. Ms. Simon added that Condition 1 of the IDA should be revised to reflect the corrected elevations presented today and concluded her presentation. Ms. Bodor then answered questions regarding the value of the City-owned property, explaining that it was valued as though it were incorporated into the site.

Derek Vander Ploeg, the architect for the project, spoke to the east setback line, advising that it was significant at approximately 70 feet from 4th Avenue. He added that 50,000 square feet could be built on that site but was not currently planned. Responding to Agency members, Mr. Vander Ploeg, stated that his client met with the neighbors.

Mitchell Kirshner, the counsel for the project, stated that Ordinance 4035 controls all of the DDRI, including the parcel in question, and then spoke to prior litigation, which determined that the underlying zoning is superseded by 4035. He advised that he was available for questions related to whether the zoning for this property is appropriate for its intended development. The CRA tendered questions to Mr. Kirshner regarding the price of the City-owned property.

Robert Eisen, a Vice President of Talbott Realty, voiced opposition to the project, stating that it was contrary to Ordinance 4035 and the City's design guidelines. Specifically, he opined that the project was too close to the 40-foot right-of-way of Royal Palm Road; too close to the residents across from Royal Palm Road; too close to the Talbott property on Palmetto Park Road, which would inhibit and limit redevelopment of that property; and it was too high at 100 feet to effect an appropriate transition from the downtown district to residential dwellings outside the district. Mr. Eisen produced pictures and provided arguments in support of his statements. He also spoke to prior litigation brought forward by Mr. Talbott, in regard to property located on Boca Raton Road, stating that history reveals concern for the area in question and these two boundary streets (East Boca Raton Road and Royal Palm Road) of the downtown.

Jeff Barker, a planner for Talbott Realty, utilized a PowerPoint presentation and spoke to 1) the impact of the project on the residentially-zoned district outside the downtown, and 2) the impact on the redevelopment of the Palmetto Park corridor behind the project. Mr. Barker referred to the East Boca Raton Road litigation, advising that the situations were similar; he explained that he would focus on review of the project as a DDRI-zoned property – not as any other different zoning district issue. Attention turned to the City's design guidelines and the goals of those guidelines; details were provided. Mr. Barker presented extensive information regarding setbacks, height, and lot coverage as they relate to density in the downtown and, specifically, to this project. He concluded his comments by advising that approval of this petition would be a departure from the planning practices used throughout the downtown, particularly where those properties are adjacent to residential property outside the district.

Responding to the Agency, Executive Director Jorge Camejo addressed the density and setback issues that were raised; he also identified the zoning designations of the areas in question (R3 and R1D) and provided information related to what is allowable.

Using a PowerPoint presentation, Mr. Kirshner gave an extensive rebuttal of statements made by Mr. Barker and Mr. Eisen. He also advised that he had received a letter from the City Attorney, which agreed with the City Code and Judge Baker's opinion of 1995; copies of the letter were distributed to Agency members at this time. Mr. Kirshner then proceeded with his rebuttal.

Seeing no one else come forward to speak, the public hearing was closed.

Motion was made by Commissioner Whelchel, seconded by Commissioner Abrams, to adopt DDRI IDA No. CRP-05-07.

In terms of the corrected elevations, the City Attorney advised that Page 3 of the IDA, Section 1, Line 4, should be amended to add the following language: "...based upon the plans dated, March 13, 2006, as amended by plans dated June 7, 2006, ..."

Responding to the CRA, the City Attorney provided her opinion as to whether this property was in compliance with applicable zoning and advised that she reaffirmed her original analysis of 2002. Ms. Frieser also compared the position of the CRA, prior to 2002 and today, and then opined on the issues of due process, the zoning change, and discretionary powers of the CRA, as requested by the Agency.

The motion on DDRI IDA No. CRP-05-07, as amended, carried unanimously. Chairman Baronoff, Vice Chairman Arts, Commissioners Abrams, Hager, and Whelchel voting yes.

Motion was made by Commissioner Abrams, seconded by Vice Chairman Arts on Recommendation No. 2006-01-CRA. Motion carried unanimously; Chairman Baronoff, Vice Chairman Arts, Commissioners Abrams, Hager, and Whelchel voting yes.

2. DDRI IDA No. CRP-06-02

An Individual Development Approval of the City of Boca Raton Community Redevelopment Agency granting the petition of 327 Development Co., LLC, with a transfer of authorized development between Subareas for Individual Development Approval to develop a 16-unit residential use, located at 327 East Royal Palm Road

Chairman Baronoff advised that quasi-judicial procedure would govern the public hearing; the City Clerk administered the oath to those who wished to speak. Under ex parte disclosures, Vice Chairman Arts and Chairman Baronoff advised that they had spoken with Derek Vander Ploeg.

Development Services Planner Daryl Johnson gave the PowerPoint presentation, explaining that IDA approval had previously been obtained to construct a two-story office building to be developed in phases. However, the IDA expired prior to the petitioner obtaining building permits. Information regarding acreage, location, frontage, and vehicular access was provided. Demolition of an existing single-family residence is required to allow for construction of a nine-story, 100-foot residential structure. Architectural features and amenities were then reviewed, as were proposed square footages and parking. Mr. Johnson advised that a transfer of development rights was required for 6,250 square feet of office equivalency from Subarea D to Subarea C; no negative impacts to roadways or City services are anticipated as a result of the transfer. The Community Appearance Board and the Planning and Zoning Board reviewed this petition and recommended approval of same, as did staff, subject to the conditions listed in the IDA.

Derek Vander Ploeg, the architect for the project, provided commentary on the previous approval, the current petition in question, and criteria related to setbacks.

Dan O'Connor, the attorney representing the applicant, advised that he was available for questions and reserved the right of rebuttal.

Robert Eisen, a Vice President for Talbott Realty, responded to the rebuttal made by Mr. Kirshner in the previous approval, advising that while the zoning issue was a major aspect, the objection was always to the size, mass, and bulk of the 375 East Royal Palm Road building and how it affects Palmetto Park Road. He had no objections to 327 East Royal Palm Road, by itself, since the building has greater setbacks. Following additional commentary, Mr. Eisen answered questions from the Agency.

Seeing no one else come forward to speak, the public hearing was closed.

Motion was made by Commissioner Whelchel, seconded by Commissioner Hager, to adopt DDRI IDA No. CRP-06-02. Motion carried unanimously; Chairman Baronoff, Vice Chairman Arts, Commissioners Abrams, Hager, and Whelchel voting yes.

4. DDRI IDA No. CRP-04-05R1

A resolution of the Boca Raton Community Redevelopment Agency providing for an extension to Individual Development Approval No. CRP-04-05 for a mixed-use development consisting of 26,316 SF of Retail High, 47,102 SF of Office and 134 residential units, located at 401 East Palmetto Park Road; providing for severability; providing for repealer; providing an effective date (CRP-04-05R1)

Chairman Baronoff advised that quasi-judicial procedure would govern the public hearing; the City Clerk administered the oath to those who wished to speak. Under ex parte disclosures, Chairman Baronoff, Vice Chairman Arts, and Commissioner Abrams advised that they had spoken with Bob Eisen.

Development Services Senior Planner Chris Kerr began the PowerPoint presentation, advising that the petitioner was requesting a 12-month extension of the IDA for the Palmetto Promenade project, which was approved on June 27, 2005 and would expire on June 27, 2006.

The public hearing was opened and, seeing no one come forward to speak, closed. Agency members asked the petitioner what could be done to move this project forward.

Wendy Larsen, the attorney representing Palmetto Promenade, advised that this was the first extension requested for this project. Responding to the CRA, Ms. Larsen also acknowledged that this project was very important to the downtown and indicated that increasing construction costs had contributed significantly to time issues.

Motion was made by Commissioner Hager, seconded by Commissioner Whelchel, to adopt DDRI IDA No. CRP-04-05R1. Motion carried unanimously; Chairman Baronoff, Vice Chairman Arts, Commissioners Abrams, Hager, and Whelchel voting yes.

PUBLIC REQUESTS:

No one came forward to speak.

REGULAR BUSINESS - PART II - RESOLUTIONS:

There were no items for consideration.

OTHER BUSINESS:

There were no items for consideration.

DIRECTOR'S REPORT:

Pedestrian Spine

Mr. Camejo explained that staff had researched the pedestrian spine linkage between the north activity center and the south activity center and advised that it would take approximately 12 months before that opportunity could be realized; due to current legislation, options available to the CRA are limited, as is control. He added that the price range would be approximately \$20 to \$30 million and sufficient land would be required.

Commissioner Hager left the meeting at approximately 5:45 p.m.

Update on Mizner Park

Lee Davidson, the asset manager at Mizner Park, reported that the book deal with Vald Svekis has been signed. Staff was working with representatives for Mr. Svekis and General Growth Properties (GGP) to prepare a lease amendment to accommodate the encroachment into the second floor of the Cartoon Museum building that is anticipated. He noted that there is a substantial increase in the ground floor exhibition areas as well; the amendment may be presented at the next CRA meeting.

The Dubliner is replacing a deli in Mizner Park and is now under construction; it should be open by fall of this year. Herringbone and Hound, a pet accessories store, is coming soon, as is a bikini shop and Janie and Jack, a children's clothing store. In addition, a new roof is being installed at Robb and Stuckey; lightposts have been replaced in Garages A & B; and roof repairs are being made in Quadrants 3 and 4 along Federal Highway. Mr. Camejo stated that he would provide a follow-up memo of these updates and advised that Mr. Davidson should continue to provide these updates on a quarterly basis, as requested.

Chairman Baronoff advised that citizens have come forward to volunteer for the Festival of the Arts Boca; he suggested that a staff member be on the committee for this event, in order that the CRA might be kept apprised as to how it's progressing.

ATTORNEY'S REPORT:

The City Attorney had nothing to report at this time.

COMMISSIONERS' REPORTS:

The Commissioners had nothing to report at this time.

ADJOURNMENT:

Motion was made by Commissioner Abrams, seconded by Chairman Baronoff, to adjourn the meeting. Motion carried unanimously on a voice vote; Chairman Baronoff, Vice Chairman Arts, Commissioners Abrams and Whelchel voting yes.

The regular meeting of the Boca Raton Community Redevelopment Agency adjourned at approximately 5:50 p.m., Monday, June 12, 2006.

Peter R. Baronoff, Chairman

ATTEST:

Sharma Carannante, City Clerk