

MINUTES OF THE REGULAR MEETING
BOCA RATON COMMUNITY REDEVELOPMENT AGENCY
MONDAY, JULY 22, 2002
4:30 P.M.

The regular meeting of the Boca Raton Community Redevelopment Agency was called to order by Chairman Dave Freudenberg at 4:30 p.m.

PLEDGE OF ALLEGIANCE TO THE FLAG:

ROLL CALL:

Chairman Dave Freudenberg
Vice-Chairman Susan Haynie
Commissioner Steven L. Abrams
Commissioner Bill Hager
Commissioner Carol Hanson

Also attending the meeting were:

City Manager Leif J. Ahnell
City Attorney Diana Grub Frieser
Executive Director Jorge Camejo
City Clerk Sharma Carannante

AMENDMENTS TO THE AGENDA:

There were no amendments to the agenda.

PRESENTATIONS:

There were no presentations.

MINUTES:

Minutes of the Regular Meeting of July 8, 2002.

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

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

1. **DDRI IDA No. CRP-02-02**

An Individual Development Approval of the City of Boca Raton Community Redevelopment Agency granting the petition of Derek Vander Ploeg for Individual Development Approval and technical deviation from the City's engineering design standards for driveway and parking design to develop a 10,771 square foot retail and office building at 197 South Federal Highway

The City Attorney explained the quasi-judicial procedures that would govern the public hearing. The Clerk administered the oath to those who indicated they would speak. There were no ex-parte disclosures.

The Executive Director made opening comments and then turned the presentation over to Senior Planner Jennifer Simon. The petitioner is seeking an IDA to construct a 10,771 square foot retail and office

building on an outparcel of the former Boca News site. The 0.27 acre parcel is zoned Downtown Development of Regional Impact (DDRI) with a compatible Comprehensive Plan Future Land Use designation of Central Business District (CBD). The City Engineer has reviewed the four proposed technical deviations to the City's Engineering Design Standards and cannot support three: a reduced reservoir, limited on-site circulation, and reduced parking aisle width. Of the 32 required parking spaces, 16 are being provided on-site in the open parking garage, eight are being provided on-site in the alleyway between this property and the Palacio Court Tower property, and the remaining eight in the parking garage of the Boca Grand residential/retail project. A parking agreement between the two owners, to be approved by the City Attorney, is a requirement of the approval.

Development Services staff and the Community Appearance Board recommended approval without conditions; the Planning and Zoning Board recommended approval with two conditions, which were agreed to by the petitioner: (1) a turn-around space shall be provided in the parking area off of the alley and the open parking garage; and (2) 26-foot aisles shall be provided in the open parking garage.

Derek Vander Ploeg, petitioner and project architect, provided additional information and responded to questions.

Motion was made by Commissioner Abrams, seconded by Commission Hager to approve DDRI IDA No. CRP-02-02.

Motion was made by Commissioner Abrams, seconded by Vice-Chairman Haynie, to amend DDRI IDA No. CRP-02-02 on Page 5, 8(f), Line 4 to change eight (8) parking spaces to (10) parking spaces, and to add a new sentence generally consistent with the following: "In addition, two parking spaces appearing on the site plan shall be deleted to accommodate turn around room, without the requirement for a technical deviation, and subject to PWRC approval." Motion carried unanimously on a voice vote; Chairman Freudenberg, Vice-Chairman Haynie, Commissioners Abrams, Hager and Hanson voting yes. (Prior to the vote, City Traffic Engineer C. Douglas Hess was asked to comment on the proposed amendment. He stated the turn around room would eliminate the backing situation.)

Motion was made by Commissioner Abrams, seconded by Vice-Chairman Haynie, to amend DDRI IDA No. CRP-02-02 to add on Page 5, at the end of 8(f): "No Certificate of Occupancy or occupancy of proposed retail space shall be permitted until Boca Grand's additional spaces are constructed and completed, and this requirement for a cross access and cross parking easement agreement can be effectuated." Motion carried unanimously on a voice vote; Chairman Freudenberg, Vice-Chairman Haynie, Commissioners Abrams, Hager and Hanson voting yes.

Motion was made by Vice-Chairman Haynie, seconded by Chairman Freudenberg, to amend DDRI IDA No. CRP-02-02 to require that twenty-six foot aisles shall be provided in the open parking garage, as recommended by the Planning and Zoning Board and the City Traffic Engineer. Motion carried unanimously on a voice vote; Chairman Freudenberg, Vice-Chairman Haynie, Commissioners Abrams, Hager and Hanson voting yes.

Motion was made by Chairman Freudenberg, seconded by Commissioner Hanson, to continue the public hearing on DDRI IDA No. CRP-02-02 to the August 26, 2002 meeting. Motion carried on a 4-1 vote; Chairman Freudenberg, Vice-Chairman Haynie, Commissioners Abrams and Hanson voting yes. Commissioner Hager voted no.

PUBLIC REQUESTS:

No one came forward to speak.

REGULAR BUSINESS - PART II - RESOLUTIONS:

2. Resolution No. 2002-06-CRA

A resolution of the Boca Raton Community Redevelopment Agency finding and determining there will be a deficiency in the amounts on deposit in the Sinking Fund for the Mizner Park Bonds for

the Fiscal Year 2002-2003 as provided for in the interlocal agreement with the City of Boca Raton; providing for severability; providing for repealer; providing an effective date

Executive Director Jorge Camejo advised that, pursuant to the interlocal agreement between the City and the CRA regarding the Mizner Park Bond Issue, the CRA must determine, prior to August 1 of each year, if there is a deficiency in the amounts on deposit in the Sinking Fund. This year's analysis indicates additional funding of \$1,356,600 will be needed. These monies are available in the Mizner Park Lock Box Fund.

No one wished to speak at the public hearing.

Motion was made by Commissioner Abrams, seconded by Commissioner Hager, to adopt Resolution No. 2002-06-CRA. Motion carried unanimously; Chairman Freudenberg, Vice-Chairman Haynie, Commissioners Abrams, Hager and Hanson voting yes.

3. Resolution No. 2002-07-CRA

A resolution of the City of Boca Raton Community Redevelopment Agency ("Agency") amending the rules of the Agency regarding public notice of public hearings on certain Individual Development Approvals; providing for severability; providing for repealer; providing an effective date

The City Attorney explained the revisions contained in the second revised version of the resolution. These revisions clarify the notice requirements. The resolution provides for mailed notice of public hearing in connection with certain Individual Development Approval (IDA) petitions.

Charles Siemon spoke in opposition, stating that he felt it would set an adverse precedent.

Motion was made by Commissioner Hanson, seconded by Vice-Chairman Haynie, to adopt Resolution No. 2002-07-CRA (second revised). Motion carried unanimously; Chairman Freudenberg, Vice-Chairman Haynie, Commissioners Abrams, Hager and Hanson voting yes.

4. Resolution No. 2002-08-CRA

A resolution of the Boca Raton Community Redevelopment Agency ("CRA") amending Resolution No. 2002-05-CRA to provide that the policy established by said resolution shall only apply to former officers of affected entities who have held office within the last three (3) years; providing for severability; providing for repealer; providing an effective date

The City Attorney advised that the amendment to previously adopted Resolution No. 2002-05-CRA provides clarification of the time period applicable to former officers convicted of a public entity crime.

No one wished to speak at the public hearing.

Motion was made by Commissioner Hanson, seconded by Commissioner Abrams, to adopt Resolution No. 2002-08-CRA. Motion carried unanimously; Chairman Freudenberg, Vice-Chairman Haynie, Commissioners Abrams, Hager and Hanson voting yes.

REGULAR BUSINESS - PART III - CONSENT AGENDA:

There was no business to consider.

OTHER BUSINESS:

There was no business to consider.

DIRECTOR'S REPORT:

5. RFI Responses – International Museum of Cartoon Art

The Executive Director summarized the three proposals that were received in response to the Agency's solicitation of interest regarding the disposition of the south end of Mizner Park, i.e. the current site of the International Museum of Cartoon Art. The three responses were from Argent Ventures, LLC, Mizner Hotel Group, LLC, and NASCAR Hall of Fame. Representatives from Argent Ventures and the NASCAR Hall of Fame were not present.

David S. Ross and Sam Susi, managing members of the Mizner Hotel Group, presented their proposal. It envisions a mixed-use project that includes restaurant, retail, office, and other commercial uses, a hotel/residential tower and a theater/concert hall. Architectural renderings were provided. Mr. Ross advised that while Lynn University's involvement in the project has changed from that of partner, the University would continue to play a role in the planned educational and cultural uses.

Carol Mandel read into the record a letter from Lynn University President Donald E. Ross, endorsing the project. Keith O'Donnell, with Codina Management Company, advised that the Mizner Park management company is supportive of the Mizner Hotel Group's proposal.

Representatives from several cultural groups then came forward to present their position on the disposition of the property. Michael Hall of Caldwell Theater, Joseph Ferrer of Sunset Entertainment, and Dan Guin, Executive Director of Boca Ballet, commented. Among the comments were: an independent review by an architect found that the current building was not conducive to conversion to a theater; a theater on the second floor is problematic; and it is preferable that the site remains solely as a cultural use. Will Rae, President of the Palm Beach County Cultural Council, stated the three objectives of the Cultural Council are: (1) to see that the International Museum of Cartoon Art is treated fairly, conclusively and expeditiously; (2) to see the covenant made with the citizens of Boca Raton regarding cultural use be kept; and (3) to assure that the November 5, 2002 Palm Beach County bond issue for cultural and recreational uses contains funding designated for mixed cultural use of the Cartoon Art building. (Palm Beach County Commissioner Mary McCarty had advised City Council at the earlier workshop meeting of her intent, if the proposed Palm Beach County Cultural and Recreational bond issue is approved by voters in November, to earmark up to \$3,000,000 to be used for purchase of the International Museum of Cartoon Art, contingent on it being retained for a cultural use.) Mr. Rae stated the Cultural Council's willingness to help the City effectuate a conceptual plan for cultural use, as requested by Commissioner McCarty, and to act as a liaison with various cultural groups.

Mort Walker, Chairman of the Board for the International Museum of Cartoon Art, and Katherine Walker advised that an agreement has been signed with the Mizner Hotel Group, subject to approval by the CRA, for purchase of the building at \$2.75 million, which he stated is his bottom price. He also stated support of the new proposal brought forward by Commissioner McCarty.

Leon Rubin, Chairman of the Boca Raton Cultural Consortium, while applauding the efforts of the Mizner Hotel Group, stated that it is important to take a long-range look that takes into account the needs of the cultural community.

Wendy Larsen, representing the Center for the Arts, referenced the letter that had previously been sent in support of the Lynn University proposal and again stated the Center's support for whatever is determined to be in the best interest of Mizner Park.

In response to a query, the City Attorney stated that there is not a specific bond covenant of the Mizner Park Bond Issue that requires the lessee of the Cartoon Museum space to be a 501(c)(3); however, there are other issues relating to the transaction that are crucial to determining whether or not a strictly commercial user would be problematic under the Bonds. A very detailed public purpose analysis would be necessary to make that determination.

Motion was made by Commissioner Hager, seconded by Commissioner Hanson, to defer a decision on the disposition of the property at the south end of Mizner Park until the August 26,

2002 meeting. Motion carried on a 4-1 vote; Chairman Freudenberg, Vice-Chairman Haynie, Commissioners Hager and Hanson voting yes. Commissioner Abrams voted no.

ATTORNEY'S REPORT:

The City Attorney had no report.

COMMISSIONERS' REPORTS:

Chairman Freudenberg referenced the letter from Mort Walker, which all commissioners received, requesting that the International Museum of Cartoon Art be allowed to close completely without defaulting on the lease until there is a resolution about the disposition of the site. Available default remedies would not be exercised during the time period granted. Michael Kotler, Counsel for the Museum, received assurances that should the lease not be transferred by April 1, 2003, the Museum could reopen without any penalty. For the record, Commissioner Abrams noted the monthly operational costs of the Museum vs. limited revenue because many think it is already closed. The City Attorney clarified that all other provisions of the lease are unamended, i.e. all other obligations must be fulfilled.

Motion was made by Commissioner Hager, seconded by Commissioner Abrams, to not exercise any remedies of default of the International Museum of Cartoon Art lease during the period from now until April 1, 2003. Motion carried unanimously; Chairman Freudenberg, Vice-Chairman Haynie, Commissioners Abrams, Hager and Hanson voting yes.

ADJOURNMENT:

Motion was made by Commissioner Hanson, seconded by Vice-Chairman Haynie, to adjourn the meeting. Motion carried unanimously on a voice vote; Chairman Freudenberg, Vice-Chairman Haynie, Commissioners Abrams, Hager and Hanson voting yes..

The regular meeting of the Boca Raton Community Redevelopment Agency adjourned at approximately 7:42 p.m. Monday, July 22, 2002.

Dave Freudenberg, Chairman

ATTEST:

Sharma Carannante, City Clerk