

City of Coral Gables City Commission Meeting
Agenda Items E-4, E-5 and H-3, H-4, H-5 are related
June 2, 2009
City Commission Chambers
405 Biltmore Way, Coral Gables, FL

City Commission

Mayor Donald D. Slesnick, II
Vice Mayor William H. Kerdyk, Jr.
Commissioner Maria Anderson
Commissioner Rafael "Ralph" Cabrera, Jr.
Commissioner Wayne "Chip" Withers

City Staff

City Manager, Patrick Salerno
City Attorney, Elizabeth Hernandez
City Clerk, Walter J. Foeman
Deputy City Clerk, Billy Urquia
Assistant City Manager, Maria Jimenez

Public Speaker(s)

Mario Garcia-Serra, Greenberg Traurig, Representing The Palace
John Fullerton, Architect, Fullerton Diaz
Jacob Shaham, Owner/Applicant of The Palace

E-4, E-5 and H-3, H-4, H-5 are related [Start: 9:34:32 a.m.]

Mayor Slesnick: We are going to go to the Palace issues; these are E-4, E-5, H-3 through H-5.

Assistant City Manager Jimenez: Thank you Mr. Mayor, good morning Mayor, members of the Commission, this morning we have several items related to our Palace development, with us today are representatives from the Palace Group including owner Jacob Shaham, and our City group representatives as well. We would like to request that we start off with item H-3, which is entitled, resolution authorizing the execution of an amendment to the Lease and Development Agreement between The Palace Management Group, LLC and the City of Coral Gables, dated July 14, 2008. If you recall at the March 10, 2009 City Commission meeting you were presented with the status of the Palace development, which included a preview of some of the items we will be considering today. Today we are presenting the formal legislation for your consideration. The proposed amendments include, and again this is the proposed amendment to our existing lease with the Palace, number one, postponement of the possession date and ultimately the project opening by one year; possession date will now be July 2010; project opening date will be December 2011. This request is exclusively as a result in the difficulty in obtaining construction financing, and again I believe Ms. Swanson had addressed it in detail at our March 10th meeting. The second amendment to the lease further authorizes the City Manager at his sole and exclusive discretion to grant up to an additional six months extension for compliance. This provision is provided as a result of a proposed change and a desire of the developer to have this possible

additional time if in case we run into an issue with the review process. We don't anticipate any delays as a result of this change, however we would like to have the Manager have this opportunity to consider it, if needed. The third amendment also provides for the third party reimbursements of three hundred thousand (\$300,000) by this Friday, June 5th. The proposed amendment also provides a new section to the lease allowing for the City to manage the parking garage until the demolition is scheduled for, which is tentatively scheduled for July 2011, and the management of the Melody Inn parking lot until the start of the construction which is anticipated for January 2010, both will be managed and maintained by the City for public use, public parking use; and finally the last item is requested to be formally added at this time which comes as a result of a suggestion that was made at the March 10th City Commission meeting, which provides for the first right of refusal for the purchase of the Melody Inn property, if the project does not proceed. This final language is required to be reviewed by both parties and approved by our City Attorney. This concludes the amendments that are being proposed today and we ask you for your consideration at this time.

Mayor Slesnick: Let's put a motion on the floor and then we'll discuss it.

Commissioner Anderson: I'll move it.

Mayor Slesnick: Moved by Ms. Anderson.

Vice Mayor Kerdyk: Second.

Mayor Slesnick: Second by Mr. Kerdyk. Any questions for Maria on these particular aspects?

Commissioner Withers: What prompted all of this? What was the series of events that lead up to this? I know we had some issues with design, was that part of the delay, etc.?

Assistant City Manager Jimenez: Well actually the initial postponement of possession date is due to the difficulty in obtaining financing for the project, which was addressed at the March 10th meeting. In the process of discussing with the developer the design, there was a request made for some possible extension if in case they ran into a problem. We don't anticipate...the floor-plate of the building hasn't changed, its really just the design look of it; you'll be seeing it in an upcoming item, but again it doesn't necessarily provide it; it provides the City Manager the ability to extend it at his sole discretion if he feels there has been a delay as a result of the design.

Commissioner Withers: Do you know if there has been any sales efforts?- if any units have been sold or marketed or any deposits collected from individuals?

Assistant City Manager Jimenez: I don't believe these units are for sale. It maintains the same Palace concepts...

Commissioner Withers: OK, I'm sorry.

Assistant City Manager Jimenez:....right – as their other developments, whereas it's rented.

Mayor Slesnick: Any other questions?

Vice Mayor Kerdyk: How about the language for the option to purchase; the language for the option to purchase the piece of property on Andalusia?

Assistant City Manager Jimenez: We received yesterday proposed language by the developer...I'm sorry?

Vice Mayor Kerdyk: Can you circulate that?

Assistant City Manager Jimenez: Absolutely – we haven't had the opportunity to run it by Special Counsel or City Attorney; we just wanted to present it today as part of the lease agreement subject to final wording being approved by all entities.

Vice Mayor Kerdyk: I missed it, can you just elaborate again, when do we think we are going to break ground on this?

Assistant City Manager Jimenez: January 15, 2011 is their schedule date for time of possession and breaking ground, actually starting the construction of the project, and that would be the main building.

City Manager Salerno: Ten.

Assistant City Manager Jimenez: I'm sorry 2010.

Vice Mayor Kerdyk: I was going to say that's awfully long.

Assistant City Manager Jimenez: Forgive me; forgive me, 2010; January 15, 2010.

Mayor Slesnick: The projected completed date is December 2011.

Assistant City Manager Jimenez: Yes, thank you Mr. Mayor.

Vice Mayor Kerdyk: That makes sense, 2011 was getting a little bit too far; I know the financing is bad. That's good by me.

Mayor Slesnick: Any questions?

Mr. Clerk

Commissioner Anderson: Yes

Commissioner Cabrera: Yes

Vice Mayor Kerdyk: Yes

Commissioner Withers: Yes

Mayor Slesnick: Yes

(Vote: 5-0)

Assistant City Manager Jimenez: Thank you Mr. Mayor, I would like to suggest that we move on to items E-4 and E-5, which deal with the land use and the site plan approval.

Mayor Slesnick: Madam City Attorney E-4.

City Attorney Hernandez: An Ordinance of the City of Coral Gables for a change of land use from "Commercial Use, Mid-Rise Density" to "Commercial Use, High-Rise Density" on Lots 35-47 and Tract B, Block 4, and Lots 10-20, Block 5, Craft Section (83 Andalusia Avenue), Coral Gables, Florida; the change of land use is a prerequisite for Planned Area Development (PAD) site plan review; providing for a repealer provision, a savings clause, and a severability clause; and providing for an effective date. (Passed on First Reading on March 10, 2009).

Mayor Slesnick: This is our second reading, can I have a motion?

Commissioner Anderson: I'll move that.

Commissioner Cabrera: Second.

Mayor Slesnick: Moved by Ms. Anderson second by Mr. Cabrera.

Commissioner Cabrera: I want to compliment the changes that were made, the structural changes, the design changes, that's very nice that someone listened.

Mayor Slesnick: Any questions for Eric? Eric is there anything that you need to put on the record?

Mr. Riel: No. I just wanted to note that the changes that are made are shown in the supplemental packet of June 2nd, just for the record, it amends only those pages from your previous packet.

Mayor Slesnick: Why don't you go ahead and briefly outline the changes.

Mr. Riel: Absolutely – as the City Attorney indicated the City Commission recommended approval 5-0 on first reading. There were some issues and concerns brought up regarding the design, those design changes were made, it actually went to the Board of Architects, did secure Board approval last Thursday, those are included in your packet dated June 2nd, it's about seven or eight pages; those are the only changes to the original packet from first reading, just want to enter that into the record for your consideration.

Mayor Slesnick: Would it be fair to say that the changes that were made, I'd like to get this on the record for the public, the changes that were made are more in conformance with the first site plan that we saw on the early going than the last one we saw.

Mr. Riel: That's correct, yes.

Mayor Slesnick: So we've gone back to the original site plan.

Mr. Riel: Essentially yes – they include the cupola on top of the facility.

Mayor Slesnick: And other Mediterranean features.

Mr. Riel: And other Mediterranean features. As I indicated the Board did review it last Thursday and they did recommend approval, both Mediterranean bonuses as well.

Commissioner Cabrera: And let me take this opportunity to bring up the issue of parking because in a previous meeting with staff, I learned that the only loss of on-street parking is one space.

Mr. Riel: And actually the plan you have before you show the loss of three spaces on Giraldo, but Parking, myself and Public Service went out and we were able to provide modification only results in one space made.

Commissioner Cabrera: And I very much appreciate that and it shows that staff is not only listening, but reacting and making the necessary modifications, and so I'm very grateful for the work.

Vice Mayor Kerdyk: And just to add on to that, we've also decided to extend the landscaping along Galiano too?

Mr. Riel: Yes, actually that's where the loss occurred with the one space, by that extension, no loss on Andalusia at all.

Vice Mayor Kerdyk: Excellent.

Mayor Slesnick: Any other questions?

Mr. Clerk

Commissioner Cabrera: Yes

Vice Mayor Kerdyk: Yes

Commissioner Withers: Yes

Commissioner Anderson: Yes

Mayor Slesnick: Yes

(Vote: 5-0)

Mayor Slesnick: Madam City Attorney E-5.

City Attorney Hernandez: An ordinance of the City of Coral Gables approving the Planned Area Development (PAD) site plan referred as “The Palace at Coral Gables” on Lots 35-47 and Tract B, Block 4, and Lots 10-20, Block 5, Craft Section (83 Andalusia Avenue), Coral Gables, Florida, and including required conditions; providing for a repealer provision, a savings clause, and a severability clause; and providing for an effective date. (Passed on First Reading on March 10, 2009).

Mayor Slesnick: Can I have a motion?

Vice Mayor Kerdyk: So moved.

Commissioner Anderson: I'll second it.

Mayor Slesnick: Moved by Mr. Kerdyk second by Ms. Anderson. Mr. Riel.

Mr. Riel: Really, have nothing further to add, just want to introduce the applicant; they'd like to make some brief comments about the site plan on the record.

Mr. Garcia-Serra: Good morning Mr. Mayor, Commissioners, Mario Garcia-Serra with offices at 1221 Brickell Avenue, representing The Palace Group LLC, and accompanied today by the principal of The Palace Group, Mr. Jacob Shaham, as well as our project architects John Fullerton and Hector Fernandez of Fullerton Diaz, Tim Plummer our traffic engineer, and Jerry Knight our CDD Counsel. Commissioner Cabrera as you said earlier, you thanked us for having someone listen and I'll tell you what you heard, you and all your colleagues now to hear both the project team and City staff especially with the help of our new City Manager who helped us get through the process of doing this design change, which is coming at a considerable cost of about a million and fifty thousand dollars (\$1,000,050) in change and design and additional construction cost, but undoubtedly makes the project a better project, and makes the project one that we are delivering on as we originally promised; and one thing that I would just like to point out, Hector if you could just show the before and after pictures on the projector so you see what the design is right now. I don't know how well you can see it, but that's the original, I shouldn't say original, but that was what was presented to you on first reading, which is what had gone through Board of Architects approval. Now Hector, if you can go to the design that was included as part of the proposal; that's what you saw as part of the RFP proposal back in 2006, and that is when we came on first reading which you referenced as having remembered approved when you were approving the bid in your proprietary approval. Now if you'll show the design as it is now. As you can see that was approved by the Board of Architects last week, and incorporates many of the design features of what was proposed as part of the RFP, the difference being of course the acquisition of the.....which made the building considerably wider by about, I think, a hundred feet in width. We can go in further detail if you like, but I think the pictures tell the story here, same is true for the Comp Plan, PAD approvals; the Comp Plan approval is basically is to put one more story within the same linear foot height limitation that we have right now, just four feet higher, and then the PAD approval is to get some relief on step backs or setbacks for each of the buildings.

Vice Mayor Kerdyk: I don't want to overkill this project here, but somebody has to tell me at staff level some day, I don't want to hear it now because we are in a hurry, but how we went from that one design to the institutional look back to this good design; I know how we got back to this good design, but I just want to make sure it doesn't ever happen again where we transition into what we all think the Commission thinks is a great design into something that the Commission doesn't like and of course we went back to that. So please make sure that never

happens again Mr. City Manager; and one last thing is, I'd like to commend the applicant for sticking with the process and look forward to him bringing this thing to fruition.

Mr. Garcia-Serra: It's a worthwhile project and we are committed to doing it.

Mayor Slesnick: Let me add my compliments on this design and this presentation.

Mr. Garcia-Serra: Thank you and as I mentioned earlier, we also have to thank your staff; the City Manager was key to getting things going so we could have this design, as was the Planning Director, the Building and Zoning Director, and your City Architect, as well as your City Attorney's office, and your Assistant City Manager Maria Jimenez.

Mayor Slesnick: Very good.

Commissioner Cabrera: But you know what?- that's happened before, its just that we caught it this time, I mean, I can tell you that we saw buildings beautiful, beautiful renderings of...

Vice Mayor Kerdyk: And it didn't turn out so beautiful.

Commissioner Cabrera: Well the perfect example is the building we approved in 2001 on Miracle Mile and Aragon, that we had this gorgeous arcade that's this little tiny hallway now that shrunk while the construction was going on. You didn't have anything to do with that Mr. Fullerton.

Mr. Fullerton: No. I just wanted to say that...

Mayor Slesnick: Can you introduce yourself.

Mr. Fullerton: John Fullerton, Fullerton Diaz Architects, offices at 366 Altara Avenue, Coral Gables. The City staff has worked with us all the way through this and it wasn't anybody's intention of course to change this building in any way except, and everybody was doing their job, we did ours, City staff did theirs, they reacted to the Zoning Code. So I would say that it's just part of the could that might be clarified, it might be better done through the Code and get it clarified, so we don't get caught in these kinds of situations.

Vice Mayor Kerdyk: I think that what shocked us John, was the fact that we saw one thing at the initial presentation and then sure enough when it came to the approval process we saw a whole different design, I mean, it wasn't even in the same....that's what caught me by surprise.

Mr. Fullerton: I agree; and I think there was some thought that there was some sort of a bait and switch, but that was certainly not the case. My client Mr. and Mrs. Shaham and The Palace always wanted the best building possible and location and so did we obviously, but the Code kind of conspired to change the building in its shape and massing. That being said, I think it would be a great idea to take a look at the Code and see how it can respond to massing and scale and height and stuff like that.

Vice Mayor Kerdyk: Maybe you can provide us with some thought processes of it and circulate it to the Commission so we can see what you are talking about.

Mr. Fullerton: I'd be happy to.

Commissioner Withers: I thought whenever we went though land use changes or zoning changes we required a site plan and a rendering just to make sure something like this doesn't happen, and in this case I think we did require a site plan and a rendering. But I think the Code pretty much speaks, this Commission put that safeguard in place before we move forward on rezoning or land change, use change, we asked for that.

Mr. Fullerton: I don't think it was a site plan issue, it was an architectural....

Commissioner Withers: Is that included in our requirement or is just a site plan?

Mayor Slesnick: But we saw an architectural presentation and that was a stunning thing is that we voted having seen an architectural presentation, and maybe what we need to do is make sure that when we vote on those things that we specifically say including the architecture.

Commissioner Withers: So Liz, you know the requirement that we have the site plan before we vote on land use changes, does it refer to specifically on architectural renderings or does it just refer to site plan?

City Attorney Hernandez: It refers to site plan.

Commissioner Withers: So maybe that's the caveat that we need to add to that to firm that up, maybe that's the way we firm that up, I don't know.

Mr. Fullerton: Also said that the architect's court struggled with this one for a long time; I think we went to the architect's court as of yesterday, as of last Thursday seven times, so it wasn't easy for them to get to this point either; everybody was doing their job.

Mayor Slesnick: Any other questions or comments?

Mr. Clerk

Vice Mayor Kerdyk: Yes

Commissioner Withers: Yes

Commissioner Anderson: Yes

Commissioner Cabrera: Yes

Mayor Slesnick: Yes

(Vote: 5-0)

Mayor Slesnick: Maria.

Assistant City Manager Jimenez: Thank you Mr. Mayor. The next item (H-4) is a resolution authorizing the execution of a Declaration of Restrictive Covenant required by Miami-Dade County, pursuant to the requirements as part of establishing a Community Development District (CDD) for the public portion of the parking garage, associated with The Palace Development at 50 Andalusia Avenue, Coral Gables, Florida.

Mayor Slesnick: May I have a motion?

Commissioner Anderson: I'll move that.

Vice Mayor Kerdyk: Second.

Mayor Slesnick: Moved by Ms. Anderson second by Mr. Kerdyk. Please go ahead.

Assistant City Manager Jimenez: The Palace has requested the City execute the declaration of restricted covenant along with them as required and requested by Miami-Dade County pursuant to requirements as part of establishing a Community Development District (CDD). On July 15, 2008, the City Commission adopted a resolution in support of creating the district, the County has requested both the City and The Palace to enter into this covenant running with the land. The purpose of the covenant is to require disclosure of the existence of a CDD to any third party purchasers or purchases. In this case however, the lease agreement between The Palace and the City does not permit the conversion of any units into condominium form of ownership nor their sales to third parties; therefore the execution of this declaration of restricted covenant is only being requested so as to comply with the necessary County requirements. We ask for your consideration.

Mayor Slesnick: OK, we have a motion and a second, any questions of Maria.

Mr. Clerk

Commissioner Withers: Yes

Commissioner Anderson: Yes

Commissioner Cabrera: Yes

Vice Mayor Kerdyk: Yes

Mayor Slesnick: Yes

(Vote: 5-0)

Assistant City Manager Jimenez: Thank you sir; and the final item (H-5) is a resolution authorizing the waiver of "short-term" parking fee payments for a period of twenty-four months during construction, pursuant to Section 74-140 of the City Code, in consideration for proposed streetscape improvements, beyond what is required by Code. The applicant, The Palace has requested that the City waive parking fee payments in consideration for the additional landscape or streetscape improvements requested by staff during the City's planning and review process which were not required by Code. The additional landscape improvements are proposed along Andalusia Avenue south of the Palace building west of the parking garage and wrapping around the southeast and northeast corners of Galiano Street. As its been mentioned previously these

improvements along Galiano will reduce the number of metered parking spaces by one. The value of this request is eighty-four thousand (\$84,000) for the twenty-four month period, while the additional landscape improvement has a value of ninety-five nine-fifty (\$95,950). We ask for your consideration of this request.

Mayor Slesnick: May I have a motion.

Vice Mayor Kerdyk: So moved.

Commissioner Anderson: I'll second it.

Mayor Slesnick: Moved by Mr. Kerdyk second by Ms. Anderson; any questions concerning this?

Mr. Clerk

Commissioner Anderson: Yes

Commissioner Cabrera: Yes

Vice Mayor Kerdyk: Yes

Commissioner Withers: Yes

Mayor Slesnick: Yes

(Vote: 5-0)

Assistant City Manager Jimenez: Thank you sir.

Mayor Slesnick: Thank you Ms. Jimenez.

Mr. Shaham: Good morning, Jacob Shaham, 11355 S.W. 84th Street, Miami. Commissioners to summarize at the end of the day, we love what we do, we thank you very much for all that...the City staff did an unbelievable job to bring us back to where we are today, and the new City Manager succeeded to take from me another million dollars; its nice, thank you Pat for everything. Again, we thank you very much and we are not going to let you down.

Commissioner Anderson: Thank you very much.

Commissioner Cabrera: Thank you sir.

Mayor Slesnick: We look forward to this as a great partnership and a service to the people of Coral Gables as well as South Florida.

[End: 9:58:42 a.m.]