

**Planning Board
January 19, 2005 Meeting Minutes
Commission Chambers**

MEMBERS PRESENT: Kenneth Spillias, Chairperson
Wayne Villavaso, Vice Chairperson - *arrived late
Todd J. Bonlarron, Member
Deborah Nichols, Member
Carla Bryant, Member
Charles Walsey, Member

MEMBERS ABSENT: Theodore Towson, Alternate

STAFF PRESENT: Eric Schneider, Acting P&Z Administrator
Ana Maria Aponte, Senior Urban Design Planner
Ednasha Bowers, Planner
John Roach, Planner
Samuel Thomas, Senior Specialist Attorney
Laura Aral, Board Secretary

I. CALL TO ORDER/ ROLL CALL

The regular meeting of the Planning Board (PB) was called to order at 6:02 p.m., by Mr. Kenneth Spillias, Chairperson, in the Commission Chambers on the first floor, 200 2nd Street, West Palm Beach, Florida. Laura Aral, Board Secretary, called the roll and it was determined that a quorum was present.

II. APPROVAL OF THE MINUTES

Mr. Charles Walsey made a motion to approve the December 21, 2004 Meeting Minutes. Seconded by Mr. Todd Bonlarron.

Executive Session.

Approved 5-0.

No opposition.

III. REPORT FROM THE PLANNING AND ZONING ADMINISTRATOR

Mr. Eric Schneider, Acting Planning and Zoning Administrator, had nothing to report.

a. COMMUNICATIONS AND PETITIONS

None.

b. DECLARATION OF EX-PARTE COMMUNICATION

- Mr. Kenneth Spillias had a brief phone conversation with Mr. James Brindell regarding **PB Case No. 1438**. He believed he would be able to make a decision based on the evidence presented.

VI. PUBLIC HEARING

a. Swearing in of the Speakers

Mr. Kenneth Spillias, Chairperson, swore in all of the members of the public and Staff who might wish to speak. He explained the rules of the meeting.

b. Continued Cases

Mr. Eric Schneider suggested moving **Code Revision Case No. 04-06** further down the agenda, due to the number of people present waiting to hear Agenda Item C-3.

Mr. Todd Bonlarron made a motion to move **Code Revision Case No. 04-06** to Code Revision Cases (Agenda Item D), preceding Code Revision Case 05-01.
Seconded by Ms. Carla Bryant.

Executive Session.

Approved 5-0.

No opposition.

**Mr. Wayne Villavaso entered the meeting. He had no ex-parte communications to declare.*

c. Planning Board Cases

Ms. Ana Maria Aponte, Senior Urban Design Planner, presented Planning Board Case Nos. 1437 and 1438. As companion resolutions, the two cases were presented together.

Planning Board Case No. 1437: A City-initiated request amending the Downtown Master Plan Regulating Plan to rezone approximately 0.26 acres from Building Type I to Building Type III. The property is generally located on the north-west side of Rosemary Avenue and 2nd Street.

Planning Board Case No. 1438: A request by James R. Brindell, of Gunster, Yoakley & Stewart P.A., on behalf of JHL, LLC for a) an amendment to the Downtown Master Plan Regulating Plan to rezone approximately 0.6 acres from Building Type I to Building Type III; b) a map amendment to Figure IV-1 TDR Map in Article IV Section 94-116 of the City of West Palm Beach Zoning and Land Development Regulations; and such other matter as may be contained in the application. The property is generally located on the west side of Rosemary Avenue between 2nd Street and Banyan Boulevard.

Ms. Aponte stated that the subject properties are part of the Northwest Neighborhood. She said that the Downtown Master Plan clearly states that “preserving, maintaining, and regenerating these neighborhoods is essential to the overall vitality of the City”, and that it specifically encourages promoting connectivity of the neighborhood (separated by two railroad tracks) with the rest of the downtown area.

Ms. Aponte said the City hired the consulting firm of Stull and Lee to do an in-depth study of the Northwest Neighborhood. The firm produced the ‘Northwest Neighborhood Strategic Development Plan’, which made the following recommendations:

1. To preserve the historic district and maintain intact the interior of the neighborhood, and to regenerate the surrounding, or ‘edge’ areas, consisting of Rosemary Avenue, Banyan Boulevard, and Tamarind Avenue.
2. To extend the commercial activity on Rosemary Avenue towards the Northwest Neighborhood.
3. To connect the neighborhood with east-west greenways along Third Street and Banyan Boulevard.

Ms. Aponte stated that the City has been implementing amendments to comply with these recommendations. The first was the extension of commercial activity along Rosemary Avenue. The City Commission passed an Ordinance to rezone the properties along Rosemary Avenue between the south sides of 4th Street and 7th street from Building Type I to Building Type II, to allow them to have Live/Work type uses on the ground level and residential uses on the second and third levels.

She said the current proposal is a second attempt to reconnect the neighborhood with the downtown and to improve the condition of Banyan Boulevard. She pointed out that the subject properties are located on the corner of Rosemary and Banyan, and said the Stull and Lee report clearly identified the Banyan Boulevard and Rosemary Avenue corridors as edge areas that are to have special treatment in the neighborhood. She displayed slides showing the condition of the site, which is currently vacant.

Ms. Aponte said this request is to rezone the subject property from the current Type I zoning, to Type III. The request will not only rezone the properties, but will designate the properties on Rosemary and Banyan with a primary street designation, and in addition, will preserve the landscape treatment area along Banyan Boulevard (one of the suggestions of the Stull and Lee Report). Staff is requiring that the property on the corner of Banyan and Rosemary be set back twenty (20) feet on the Banyan frontage to accomplish a special landscape treatment area.

In addition to rezoning, Ms. Aponte said the Applicant is requesting an amendment to the Figure IV-1 TDR map to designate the parcel located on the west side of Rosemary Avenue between Banyan Boulevard and Second Street as an eight-story receiving site. Currently, because the property is Type I, it is not designated as a receiving site for TDRs. However, as

a Type III property, the site will be eligible to be an eight-story receiving site. Ms. Aponte said the properties on the other three corners of Banyan Boulevard and Rosemary Avenue are already Type III, eight-story receiving sites.

Ms. Aponte stated that **the Planning Department recommends APPROVAL of Planning Board Case Nos. 1437 and 1438**, to amend the Downtown Regulating Plan to rezone the properties on the west side of Rosemary Avenue from Banyan Boulevard to the north side of Second Street from Building Type I to Building Type III, with a primary street designation on Rosemary Avenue and Banyan Boulevard, and a special landscape treatment area along Banyan Boulevard.

She said **the Planning Department recommends APPROVAL of Planning Board Case No. 1438, to amend the Figure IV-1 TDR Map** to designate the properties on the west side of Rosemary Avenue from Banyan Boulevard to Second Street as eight-story receiving sites.

Ms. Aponte stated that the Downtown Action Committee reviewed and approved this application at their November 10, 2004 meeting.

See the Staff report for history, background and analysis information pertaining to this case.

Board Questions to Staff.

- Mr. Kenneth Spillias asked Staff to clarify whether the statement on page 1 of the Staff Report for Planning Board Case No. 1438, stating that the application is a ‘City-initiated request by James Brindell’, was in error.

Ms. Aponte replied that the statement was an error; the request was initiated by James Brindell.

Mr. Kenneth Spillias asked if the Applicant would like to make a presentation.

Mr. James Brindell spoke on behalf of the Applicant, Gary Lesser. He introduced the Project Architect, Rick Gonzalez. Mr. Brindell stated that Mr. Lesser is a third-generation West Palm Beach resident, and the managing partner of a law firm in the area.

Mr. Brindell stated that the location of the subject property, on the corner of Banyan Boulevard, a major east-west corridor, near the Palm Tran routes, is a logical location for an office project. He said to the east is the Courthouse parking garage, parking lot, and the whole Courthouse complex.

He said that Mr. Lesser wants to make a significant investment in the redevelopment of this property by constructing an office building that will house his firm and other users, along with the required street-level retail service uses. The plan is to include sufficient parking on-site, wrapped behind the building. He said that one of the reasons for the TDR map request is to

ensure that there is enough height to accommodate the parking and the retail service wrap on the street, and still have enough office space to have the project make sense.

Mr. Brindell stated that they have been working with the City for about two (2) years to try to bring about this project. Part of that effort was the purchase of the southern part of this parcel owned by the City at the corner of Banyan and Rosemary. He stated that they believe the request meets the Code requirements for rezoning, and that this project provides a good and logical transition between the more intense uses along the Banyan corridor with the residential uses that are located to the north and west of this area. He stated that it will enhance property values in the area and will encourage others to reinvest in new projects in the area, and he added that there are adequate public facilities available to handle it.

Board Discussion.

- Ms. Deborah Nichols asked how the eight-story receivership designation helps the plan to step down into the historic neighborhood.

Ms. Aponte replied that the rezoning has to be seen with the future development of the Banyan corridor. She displayed a slide of the City vision for the Banyan corridor, showing the landscape treatment area, and Type III buildings along Banyan Boulevard to Second Street. She said Staff is proposing to rezone the north side of Second Street to Type II.

Ms. Aponte said the two subject properties will be surrounded by Type III and Type II properties. Only the interior of the neighborhood, where the historic district starts, will be Type I. She pointed out that while the whole area is currently Type I, it is mostly vacant. The City's intention is to redevelop the whole area with a more dense use along Banyan Boulevard.

Public Comment.

None.

Executive Session.

Mr. Wayne Villavaso made a motion to APPROVE Planning Board Case No. 1437.

Seconded by Mr. Charles Walsey.

Approved 6-0.

No opposition.

Mr. Wayne Villavaso made a motion to APPROVE Planning Board Case No. 1438.

Seconded by Mr. Charles Walsey.

Approved 6-0.

No opposition.

Mr. John Roach, Planner, presented Planning Board Case Nos. 1087AAA and 1087BBB.

Planning Board Case Nos. 1087AAA and BBB: A two-part request by Jennifer Vail of Land Design South, on behalf of Lennar Land Partners, for the following:

Case No. 1087AAA: A Major Amendment to the Baywinds Residential Planned Development (RPD) to amend the design guidelines for the allowable height of the “Garden Home or Apartment.”

Case No. 1087BBB: A Major Subdivision to plat Tract I of the Baywinds RPD into one (1) multifamily residential parcel and one (1) water management parcel. The Baywinds RPD is located at the northeast corner of the current terminus of State Road 7 and Okeechobee Boulevard.

Mr. Roach displayed an overview of the Baywinds Residential Planned Development, located at the northeast terminus of State Road 7 and Okeechobee Boulevard. He pointed out Tract I, outlined on the display.

Mr. Roach gave a brief history of the property. He said that in November 29, 1993 the City Commission approved the future land use and zoning for the Baywinds Residential Planned Development, consisting of approximately 602 acres. He said Baywinds is primarily a 55-year-old and older community, currently approved for 1177 age-restricted dwelling units, 240 non-age-restricted dwelling units (multi-family), and a six-acre commercial area located in the southwest corner of the development.

Mr. Roach said Resolution No. 74-93 was the original development agreement, which allowed four (4) stories or sixty (60) feet throughout the entire planned development. It was adopted through Ordinance No. 2668-93, which created the Residential Planned Development, allowing four (4) stories or sixty (60) feet in height for the “Garden Home or Apartment”. It was amended in 1998, when the Development Order, Master Plan, and Design Guidelines were revised through Ordinance No. 3134-98 to set a maximum building height of five (5) stories or sixty (60) feet, which is the current designation for the “Garden Home or Apartment”. In 2002, the Master Plan was again amended by Ordinance No. 3615-02 to provide for multi-family development on Tract I.

Mr. Roach stated that more recently, on August 16, 2004, a major subdivision request went before the City Commission, to plat Tract I into one (1) multi-family and one (1) water management parcel. City Commission ultimately denied that petition unanimously, on the basis that the five (5) story buildings eligible for that site provided:

- An inconsistent character of development;
- A depreciation in the value of adjacent property;
- An impact on privacy;
- A loss of view.

**Mr. Roach noted to the Board that at the August 16, 2004 meeting, City Commission heard testimony from Mr. Bob Banting, a state-certified real estate appraiser, indicating his opinion based on the character of development as well as the affect on the surrounding property values. He said Mr. Banting was in the audience and available for any questions the Board might have.*

Mr. Roach said City Commission determined that at the time of the subdivision the developer had created a character of development that consisted of single-story residential homes, and that the proposed five (5) story project was not compatible with that character. They therefore recommended denial.

Regarding the proposed Major PD Amendment before the Board, Mr. Roach said the Applicant is proposing to change the current allowable maximum building height of five (5) stories or sixty (60) feet, to four (4) stories or fifty (50) feet. He said they are attempting to provide a more consistent character of development and to protect the adjacent properties by stepping down one level.

Mr. Roach stated that the Applicant is also proposing a Major Subdivision (Plat No. 13), creating a seven (7) acre developable tract and an eight (8) acre water management tract. He said their justification for this request is that the proposed development consists of approximately 108 multi-family condominium units, while a maximum of 151 units is allowable under the approved Master Plan. He said this development must be approved by the Formal Site Plan Review process, so that it would come back before Staff.

Mr. Roach presented an aerial photo of Tract I. He pointed out the Water Management tract, which currently consists of a lake but has never been platted, and also pointed out the seven (7) developable acres targeted for the multi-family condominiums.

Mr. Roach presented several graphics of the proposed plat. He said the Plans and Plats Review Committee reviewed the case on December 8, 2004, and the Applicant addressed all the comments. As far as traffic concurrency, Mr. Roach said the Baywinds RPD is vested based upon the maximum number of residential units. In regard to school concurrency, he said the age-restricted portion is exempt from that.

Mr. Roach concluded by stating that based upon the determination of the City Commission at the August 16, 2004 public hearing, **the Planning Department** finds that the request does not comply with the Amendment Standards found in Section 94-32, specifically relating to character of development (Staff Report pages 85-87), and **recommends DENIAL of Planning Board Case No. 1087AAA.**

He said **the Planning Department** also finds that the request does not comply with the Subdivision Design Standards found in Section 94-342, again specifically relating to character of development (Staff Report pages 91-92), and **recommends DENIAL of Planning Board Case No. 1087BBB.**

See the Staff report for history, background and analysis information pertaining to this case.

Board Questions to Staff.

- Mr. Todd Bonlarron asked what the highest building in the Baywinds development currently is, and if there are any multi-story buildings.

Mr. Roach replied that the actual Baywinds development is all single-story buildings. He said the only multi-story property is in the southwest corner, not within Baywinds itself, but within the PD.

- Mr. Wayne Villavaso asked for clarification of the proposed height limits.

Mr. Roach replied that as the Design Guidelines currently exist, the Garden Apartment homes have a maximum height of sixty (60) feet and five (5) stories. He said the Applicant is proposing to drop that down to fifty (50) feet and four (4) stories.

Mr. Kenneth Spillias asked if the Applicant would like to make a presentation.

It was determined that the Applicant was not present at the hearing.

- Mr. Spillias noted that whichever way the Board decides, there needs to be competent evidence in the record supporting the Board's decision. He asked Mr. Samuel Thomas, Senior Specialist Attorney, if the Applicant does not appear and presents no evidence other than what has been presented by Staff, what choice the Board has.

Mr. Thomas stated that a basis for denial is the absence of the Applicant. He said the Board can proceed on the evidence presented to it, so long as the Board is able to determine that the Applicant was appropriately notified and aware of this hearing. He added that there are obviously people at the meeting waiting to be heard, and suggested that the Board establish a record, and base its decision on the record at that time.

- Ms. Spillias asked Mr. Roach to confirm that the Applicant was notified of the hearing, and as to its date on the agenda.

Mr. Roach stated that he discussed with the Applicants and they were aware of the public hearing and that it was on the agenda for this date.

Public Comment.

Mr. Bernard Barnett, of 2374 Harbour View Court in Baywinds, stated that he wanted to read a few statements taken from Lennar's web pages, which he thought might be appropriate in regard to their intentions. He read: "The corporation's goal was to build a better home that customers could cherish for a lifetime. Fifty years later, that founding principle remains

unchanged.” He continued: ‘We’ve built strong reputation on Wall Street with our excellent track record, superior balance sheet, high returns on capital and equity.’ Mr. Barnett said Lennar’s income has increased from \$142 million to \$4 billion; earnings have increased from \$12 million to \$945.6 million and revenues have increased from \$231 million to \$10.5 billion. He said: ‘I really believe what they’re trying to do is increase their profit on our backs.’

- Mr. Kenneth Spillias reminded members of the public that this case will proceed to City Commission with a recommendation, and if the Applicant wishes to pursue it there, the public will have another opportunity to speak at that time.

Mr. George Singer, of 9075 Bay Harbour Circle in Baywinds, stated that he spoke previously to the August Commission. He said all four (4) builders in Baywinds, Lennar being the most dominant, had the opportunity to build multi-story and chose not to until these last seven (7) acres of land (fifteen (15) acres of which eight (8) are water). He said they chose to put the most units in the smallest space, which speaks to the invasion of privacy with the multi-story homes overlooking the single-family homes. Mr. Singer said the water management parcel already exists and there are people present from Lighthouse Point, the area surrounding that lake, who paid a premium to another builder to have that lake view and the privacy that goes with it.

Mr. Singer stated that at the August 16th City Commission meeting, the City Commissioners and the Mayor realized that multi-story structures are inconsistent with the existing community, and he hoped that this Board would see the same.

Ms. Janice Levy, of 2381 Windjammer Way in Lighthouse Point, Baywinds, stated that she has served on the Master Advisory Committee representing Lighthouse Point for the past six (6) months. She said that their entire community, as of now, consists of single-story homes. If a multi-story building is built, it will change the character of the community and compromise their privacy and also decrease their property values.

Mr. John Mikus, of 9566 Lantern Bay Circle in Baywinds, identified himself as the President of the Estates Community within the Baywinds Master Association. He said that approximately one year ago, he and three (3) other residents from Baywinds spoke before this Board. At that time, they asked the Committee to deny the proposal on the basis that it did not fit the character of the development. They mentioned as well that it would adversely affect the property values within the community. He said the legal counsel at that meeting, Mr. Thomas, mentioned to the Planning Board that they could deny that proposal on the basis that it did not fit the character of the development. At that time the proposal was for a five (5) story building.

Mr. Mikus said that the residents now ask the Board to deny the current proposal for a four-story building, on the basis that this latest petition does not fit the character of the development, and will once again affect the property values within the community.

Ms. Kathryn Stellmack, of 9202 Clipper Court in Pelican Cove, Baywinds, stated that her home is about as far east as you can get in Baywinds, whereas the proposed development is

about as far west as you can get in Baywinds. So she said the development is not going to be in her backyard; she probably won't even see it. But she said they are one community, and what happens to one part of their community happens to all of them, and that is why the Board will hear from residents from all of their coves, not just those adjacent to this proposed high-story building. She said it is the whole community that will be negatively affected.

Ms. Stellmack stated that if Lennar is so proud of this development, they should have told the residents about it when they bought there.

Mr. Leonard H. Katz, of 9657 Great Egret Court in the Egret Court Cove development, stated that he would be directly impacted by this four-story development. He said that if he were to try to resell his home, and if someone were to sit in his backyard now, they would look out upon hedges and palm trees. If this multi-story building were built, they would look out on a four-story multi-level building. He believes that would definitely impact on the resale value of his home.

Mr. Al Tsacnaris, of 9288 Heron Cove Drive in the Heron Cove section of Baywinds, stated that he currently serves as the President of the Heron Cove Neighborhood Association. Mr. Tsacnaris said that he, too, had the honor of speaking last August on the issue before the Board (although it has been revised), and was quite pleased that the Commission understood the concerns of the entire community, and recognized that the intrusion of multi-story buildings in single-story locations would certainly affect the entire community and have an adverse appearance and create the potential of reduced property values.

Mr. Tsacnaris said that he hoped the Board would follow the comments of the Planning Staff, which were quite eloquently presented, and listen to the concerns of the community, and deny this application.

Ms. Louise Peterson, of 2320 Windjammer Way in Lighthouse Point, Baywinds, respectfully asked the Board to deny Lennar's request for multi-story buildings, based on the following reasons: it would impugn the character of the community; it would adversely affect property values; it would affect the view. Ms. Peterson said that her main concern is the view. The lake view for which she paid a high premium would now be a view of the back end of the proposed buildings. She added that she would no longer be able to have breakfast on her back porch in her pajamas, because people would be able to look down on top of her.

Ms. Peterson said that the project would affect density, and density is what they don't need anymore of in this county. Finally, she said this was never disclosed to her when she bought her home. She was led to believe that she would be looking out on other single-story homes. And referring to the previous comments about Lennar's bottom line, she said she could only ask: 'When is enough?'

Ms. Elaine Austin, of 2429 Windjammer Way, wrote that she is 'in support of Baywinds community', but declined to speak.

Mr. Nathan Slonin, of 2334 Sailfish Cove Drive, stated that his home is only about 1/8th of a mile away from the proposed multi-story building. He said that he would definitely be impacted if this building goes up, which he was told would never happen. He supports denial of the Applicant.

- Regarding Mr. Slonin's statement that he was led to believe there was going to be only single-story development, Mr. Todd Bonlarron asked Mr. Slonin if he was told this by the developers, or if a map was distributed by the developers to potential buyers.

Mr. Slonin replied that at the time he was looking to buy, he specifically asked what that green plot was going to look like, and the people in the sales office denied knowing anything. They said nothing relating to a multi-story development.

Ms. Karen Israel, of 9824 Galleon Drive in Lighthouse Point, Baywinds, stated that she brought with her some photographs as well as a site map showing her location when she took the photographs. She submitted them for the record. Ms. Israel said that at the August City Commission meeting, she and the real estate appraiser noted the proximity of the proposed construction to those Lighthouse Point residents who shared the lake. She said she could throw a stone across the narrowest portion of the lake.

Ms. Israel stated that all of Baywinds will feel the impact of the change in character of the community. Lighthouse Point will lose the view of the larger lake, openness of the property, and be impacted by the dominance of multiple tall structures in their backyards. Sailfish Cove and Sandpiper Walk will lose their beautiful sunsets, blocked by multi-story construction. Many residents of Lighthouse Point, Sailfish Cove, Egret Cove, and Sandpiper Walk will experience privacy infringements, as condo residents look down from their upper-level units. Ms. Israel stated that when they bought their property in Baywinds, they knowingly accepted the proximity of their neighbors and zero lot lines. They did not expect neighbors with a bird's-eye view. And she said Lighthouse Point residents will lose value in their property for which they paid premium rates.

Ms. Israel displayed slides taken from various points around the lake and in Lighthouse Point, demonstrating the proximity of the proposed structure to the single-family homes, and the impact it would have on the views of residents.

Ms. Eileen Behling, of 9828 Galleon Drive, wrote that she is 'against 1087AAA', but declined to speak.

Mr. J. R. Giroux, of 9938 Galleon Drive, wrote that he is 'opposing the construction of multi-story homes', but declined to speak.

Mr. Kermit D. Robey, of 9934 Galleon Drive in Lighthouse Point, Baywinds, stated that he agrees with most of what has already been said. He said that he lives on the north end of this lake, and his view would be to look directly across into this five-story building. He said he is not happy with that, because he was never told when he bought his property, that that would be his view. Mr. Robey stated that he was told that they might be continuing with villas on

that side, or single-family homes. He said he also paid a premium to live on that lake and to have that view. He said he does not want to be facing a fifty (50) foot tall building every morning, especially when they were not honest with him. Mr. Robey said they told all of the people in Lighthouse Point that there were going to be villas, or they didn't know what would be going over there. He said he did not think he would have bought his home if these things had been explained to him.

Mr. Stephen Wolfson, of 9947 Galleon Drive in Lighthouse Point, Baywinds, thanked the people outside of Lighthouse Point who came and spoke to the Board. He said what that shows him, and should show everyone present, is that this is a Baywinds issue, and not just a Lighthouse Point issue. Mr. Wolfson said that they have spoken to the continuity of the community, and the way in which it would be upset if these multi-story dwellings were to be built. But he stated that what he believes has not yet been mentioned is that the additional units would outstrip the resources that they currently have. He said there is one main access road coming into the community, which would obviously experience an increase in traffic; the Clubhouse would have its resources out-stripped as well.

Mr. Wolfson concluded by referring to a comment made earlier about the Applicant's directives of how proud they are of what they do and what they build. He said he would think that in deference to this Board, that if they were really that proud, they would have at least shown up.

Board Discussion.

- Mr. Charles Walsey asked Staff what the current land use is of the property today, other than the water management site.

Mr. Roach replied that the current zoning is a Residential Planned Development. The Future Land Use designation is single-family low density.

Executive Session.

Ms. Carla Bryant made a motion to DENY Planning Board Case No. 1087AAA.

Seconded by Mr. Charles Walsey.

- Mr. Spillias asked Ms. Bryant and Mr. Walsey if their motion is based on the elements of the Application that do not comply with the Land Development Code as Staff has set forth in pages 85-87.

Ms. Bryant and Mr. Walsey said yes.

Vote for Denial 6-0.

No opposition.

Ms. Carla Bryant made a motion to DENY Planning Board Case No. 1087BBB.

Seconded by Mr. Charles Walsey.

- Mr. Spillias asked if the motion was for the same reasons.

Ms. Bryant and Mr. Walsey replied yes.

Vote for Denial 6-0.

No opposition.

Mr. John Roach, Planner, presented Planning Board Case No.791U.

Planning Board Case No. 791U: A request by Frank Navarro of Centrepark Investment Corp. for a Major Amendment to the Centrepark Development of Regional Impact (DRI) development order to extend the built-out date to September 1, 2010. The Centrepark DRI is generally located on the east side of Australian Avenue, south of Interstate 95.

Mr. Roach presented an aerial view of the subject site. He said the Centrepark DRI is located on the east side of Australian Avenue, west of I-95, and just north of Belvedere road.

Mr. Roach gave a brief history of the project. He said the Centrepark DRI was originally a part of the Airport Industrial Park Commercial Planned Development (CPD), which encompassed everything currently within the DRI as well as a large portion of land west of Australian Avenue. The Centrepark DRI was removed from that CPD in 1985 through the adoption of Ordinance 1878-85. It was established as a separate development through Ordinance 1884-85 and Resolution No. 121-85, providing for over one (1) million square feet of office space and a hotel.

Mr. Roach stated that the approved development order did not have a build-out date, but did have threshold levels based on transportation improvements. Certain improvements had to take place in order to permit a certain level of development. Those transportation improvements were deemed satisfied on April 29, 1994, through Resolution 64-94, when the Applicant provided payment to Palm Beach County to take over responsibility for the improvements.

Mr. Roach said the original Development Order specified that the order would terminate for development in excess of 1.1 million square feet of office space and a 250-room hotel if the development did not exceed that threshold by December 31, 1995. That order was amended in 1992 through Resolution 90-92 to state:

Building permits for all construction permitted by the terms and conditions set forth in this Development Order shall be issued by the appropriate governmental authorities, on or before September 17, 2005 after which this Development Order shall be terminated.

Mr. Roach said the Applicant is proposing an amendment to extend the termination date from September 17, 2005 to September 1, 2010.

Mr. Roach displayed the overall Master Plan for the development. He said there are three (3) main parcels of land that remain undeveloped. Projects have been proposed, but have not yet been built. He said Two Lakeside (along Australian Avenue) and Plaza II have been approved but not yet constructed, and there is a future office just off of Mercer Avenue that the Applicant may build in the future.

Mr. Roach stated that this application went before the Plans and Plats Review Committee, on December 8, 2004, and the Applicant has addressed all comments. As far as traffic concurrency, he said the DRI is vested for 1.1 million square feet plus the hotel. School concurrency is not required because the development is non-residential.

Mr. Roach said the Treasure Coast Council has reviewed the application and has stated in a letter that it did not create any additional impacts on regional resources or facilities. The Department of Community Affairs also has no objection to the proposed change.

Mr. Roach stated that based on the finding that the petition meets all of the Amendment Standards found in Section 94-32 of the Zoning and Land Development Regulations (pages 97-98 of the Staff Report), **the Planning Department recommends APPROVAL of Planning Board Case No. 791U.**

See the Staff report for history, background and analysis information pertaining to this case.

Board Questions to Staff.

- Mr. Wayne Villavaso asked if a five-year extension was selected for a reason.

Mr. Roach replied that the Applicant selected an extension of just under five years. He said anything more than that might constitute a substantial deviation, which is a much more extensive review process as far as the regional council is concerned, as well as the DCA.

- Ms. Deborah Nichols asked if the two buildings that have been approved but not built plus the one proposed parcel, along with everything that has already been built, will meet the criteria for the amount of build-out.

Mr. Roach stated that it is significantly less than what is allowed.

- Mr. Todd Bonlarron asked if in 1992 when the Applicant applied for an extension, a more extensive review process took place.

Mr. Roach replied that he was not aware of the actual procedure that took place, but in going through the old ordinances it did not seem that there was any objection. He said it was primarily based on the Applicant satisfying all the transportation improvements through the payment.

- Ms. Nichols asked when the construction actually began for the development.

Mr. Roach stated that the Applicant could better answer that question.

Mr. Kenneth Spillias asked if the Applicant would like to make a presentation.

Mr. Frank Navarro, of Centrepark Investment Corp., stated that the initial developer (not their group) built a ten (10) story building in about 1986-1988. He said Centrepark bought the park in 1994, and the reason they are asking for the extension, is that although it has been highly successful, there was about a seven (7) to eight (8) year period where there was no demand for office space in this market, so they are behind in that sense. He said they do one building at a time as demand warrants.

- Mr. Spillias asked for the existing square footage.

Mr. Navarro responded that there is between 300,000-350,000 square feet existing. He did not believe they will approach the allowable square footage. He said the initial park was designed by the original developer to be ten (10) to twelve (12) story small-floor-plate solutions – very vertical, with not as much parking as they have found the market requires. He said they are doing larger-plate solutions which gobble up land more quickly.

Public Comment.

None.

Executive Session.

Mr. Charles Walsey made a motion to APPROVE Planning Board Case No. 791U.

Seconded by Ms. Carla Bryant.

Approved 6-0.

No opposition.

d. Code Revision Cases

Ms. Ana Maria Aponte, Senior Urban Design Planner, presented Code Revision Case No. 04-06.

Code Revision Case No. 04-06: A City-initiated request for a text amendment to Article IV Downtown West Palm Beach related to extending the expiration of the Residential Incentive Program.

Ms. Aponte stated that the City Commission adopted the Residential Incentive Program on April 2, 2001 in order to encourage housing in the downtown area and create a vibrant, twenty-four (24) hour City. The Program was created as an attempt to equate the difference

in property investment return between office use and residential use, by offering additional square footage for residential development.

Ms. Aponte said the Residential Incentive Program offers for Building Type III (a five (5) story mixed use building) a bonus of three (3) extra stories if they comply with certain requirements:

1. A percentage of the area must be used to provide open space at the ground-floor level.
2. There may be only residential uses above the first story;
3. There are additional architectural standards and guidelines for the buildings;
4. The developer must select one option from each column of a menu of physical and social criteria (1 physical and 1 social criteria).

She presented the following list of physical and social goals that the developers may choose from in the program as it exists today:

A. Physical

- Historic Preservation
- Landscape preservation
- Double the amount of open space
- Connection of open spaces

B. Social

- Art Galleries
- Day Care
- Green Architecture (LEED Standard)
- Public art
- 5% in units of 650 sq. ft. or less
- 10% Attainable Housing
- Grocery store
- USPS

Ms. Aponte stated that five (5) projects have been accomplished under the existing RIP, including: 1) 610 Clematis; 2) The Metropolitan building; 3) Archstone; 4) The Whitney; and 5) The Place Via Clematis. She said among the physical goals accomplished with these projects are a total of 1,191 new residential units added to the downtown, and an additional 17,743 square feet of open space. Among the social goals, Ms. Aponte said the Archstone opted to save an existing tree, 610 Clematis and the Whitney chose to do a piece of art on the open space, and both the Metropolitan and The Place Via Clematis chose to provide units of 650 square feet.

Ms. Aponte said that the City is satisfied with the added residential units and open space, but has some issues with the social goals. She said, for example, that the 650 square foot units which were included in the program with the intention of obtaining some attainable housing units, are not affordable at a price of approximately \$180,000-\$200,000. And the public artwork, although it enhances the City, does not provide a significant benefit to the City. Other options from Column B, such as attainable housing and cultural space, were never chosen by the Applicants.

Ms. Aponte stated that the Residential Incentive Program will expire April 30, 2005, and there is now an opportunity to extend the Program and modify the objectives according to the new goals of the City. She said that based on comments from the City Commission and past

recommendations by the DAC and Planning Board, **Staff is proposing the following modifications:**

1. *Extend the Program as is for six (6) months to provide some stability to developer's and property owners who already have projects in place.*

Ms. Aponte stated that the City is working on a new housing program that will probably impact upon the conditions offered for housing in the downtown, which is why the proposed extension is for only six (6) months.

2. *Allow all Building Type II properties to be eligible for the Residential Incentive Program.*

Ms. Aponte said that under the current program, only Building Type II properties adjacent to Building Type III properties are eligible for residential incentives. This proposal will allow all Type II which opted for courtyard-type buildings (the four (4) story buildings with a thirty (30) foot by fifty (50) foot courtyard) to add one extra story. In exchange, they will be required to increase the courtyard size to at least forty (40) feet by fifty (50) feet, to be more compatible with the added height.

Ms. Aponte stated that this will affect primarily the properties north of City Place, including the properties along Rosemary Avenue that were recently rezoned, and some properties on Providencia park north of Loftin Boulevard.

3. *Require further study of the Residential Incentive Projects which are adjacent to a Historic District or property.*

Ms. Aponte said this proposal is in place in order to protect historic buildings from the negative impact which the additional height of neighboring buildings may impose on them.

4. *Modify the criteria required from Building Type III projects in exchange for attaining an increase in building height of from five (5) stories to eight (8) stories.*

Ms. Aponte said the current proposal is to maintain the menu of physical and social objectives, but to strike through some of those which are no longer necessary or are better served by other programs. As an example, she cited the 'Historic Preservation' option, which she said is better served by the TDR program.

The proposed Physical criteria now include:

- Open space of 1 foot for every additional 25 feet of additional area on floors six, seven and eight;
- Add a cross-block connection;
- Preserve an important or significant tree on the site.

The proposed Social criteria now include:

- Preserve ten percent (10%) of the first story for arts and cultural uses;

Ms. Aponte stated that the original requirement was forty percent (40%) of the first floor for cultural uses. She believes this is too large an amount for the City to handle. She said the idea is that the developer will deed the 10% area to the City and the City will manage the property and find the tenants and the users for that property.

- Build a sustainable building according to Leadership, Energy and Environmental Design (LEED);
- Provide ten percent (10%) of the leasable/saleable building area above the fifth floor as attainable housing units.

Ms. Aponte stated that this requirement was already an option on the program. She said that the sale of those units would be at construction cost.

Ms. Aponte provided several examples of the projected dollar value of these options. She said the cost of the land was not included in the projections, as it was assumed to be absorbed by the rest of the project.

Ms. Aponte discussed the Attainable Housing option:

Ms. Aponte provided the definition of ‘attainable housing’ as currently worded in the Residential Incentive Program, as follows:

Housing units for which the household income is less than 150% of the census median income for Palm Beach County. The median income shall be adjusted periodically in accordance with the income data supplied by the US Department of Commerce Bureau of Census from time to time.

She said the Urban Land Institute offers a different definition:

Attainable workforce housing ...is defined as housing for households earning between 60% and 120% of AMI.

Ms. Aponte said the Attainable Housing Task Force put together by the Mayor last year, made a recommendation to modify the Residential Incentive Program to require a minimum amount of workforce housing on residential incentive projects. The Taskforce suggested between ten (10) and thirty (30) percent of the total project for an income level between fifty (50) and one hundred (100) percent of the area median income.

Ms. Aponte said that based on these three (3) definitions, and the actual earnings of the workforce in the City (between \$33,000 - \$46,000), the City determined that the intention of

the Attainable Housing Unit is to provide housing options accessible to the workforce of the City of West Palm Beach. Therefore, the price of the Attainable Housing Unit is restricted to an amount that is affordable to singles and families earning between 80% and 120% of the Area Median Income.

Ms. Aponte said it has been determined that the maximum purchase price for a one bedroom unit will be at a construction cost of \$133,250, and the maximum purchase price for a two bedroom unit will be at a construction cost of \$164,000. The amendment proposes that of the ten percent set aside for attainable housing, forty (40) to sixty (60) percent will be one-bedroom units, a minimum of 650 square feet in size, and forty (40) to sixty (60) percent will be two-bedroom units, a minimum of 800 square feet in size.

She said consideration has been given to additional standards required to make the program successful. A maximum price has been set for the Home Owners Association fee. In addition, the units are required to have standard finishes, equivalent to that in all other units, and must include a parking space. The affordable housing units cannot all be located in a single floor.

Ms. Aponte said the Department of Economic and Community Development will pre-qualify the applicants, and will hold a lottery for the attainable housing units as they become available. There are restrictions as to the sale and resale of the units. The attainable housing must be the principle domicile of the applicant. It will be deed-restricted for a control period of ten (10) years. During that control period, the unit can only be resold to another pre-qualified applicant, at a restricted price. If the unit is resold within the control period, the control period starts again for another ten (10) years. After the control period, the unit can be resold at market price.

Ms. Aponte stated **that the Planning Department recommends APPROVAL of Code Revision Case No. 04-06**, a City-initiated request for a text amendment to Article IV Downtown West Palm Beach related to extending the expiration of the Residential Incentive Program. She noted that the Downtown Action Committee approved the extension of the Program for one (1) year only, but required the Attainable Housing component as a mandatory option, and removed the requirement for open space.

See the Staff report for history, background and analysis information pertaining to this case.

Board Questions to Staff.

- Mr. Charles Walsey asked if people who do not currently work in the downtown area are eligible for this program.

Ms. Aponte said yes, it is not limited specifically to people who work in the downtown.

Mr. Walsey stated that he did not see it as 'workforce' housing, then, but rather 'attainable' housing.

- Mr. Walsey asked if there have been any requests by developers to do workforce housing.

Ms. Aponte said there are several developers waiting for the extension of the Residential Incentive Program, but not specifically for the workforce housing.

Ms. Nichols stated that she believes what the City is trying to do is get a little more from developers for what they are giving.

Mr. Spillias stated that he believes the effort is not necessarily to provide housing only for people working in the City, but to provide a mix.

- Mr. Villavaso asked for clarification as to what in the Staff Report is up for approval.

Ms. Aponte responded that Attachment I is the original Ordinance proposed to City Commission last year. It was not approved, which is why the program has not been extended, and why Staff is before the Board again. She said Attachment II (page 47) is the proposal Staff is presenting to the Board.

- Mr. Villavaso asked if the open space requirement has been eliminated in order to force affordable housing.

Ms. Aponte said no, they are maintaining Columns A and B, and applicants need to select one option from each column.

- Mr. Villavaso asked if the affordable housing is mandatory.

Ms. Aponte, said no. She said at their November 10, 2004 meeting, DAC recommended requiring attainable housing as a mandatory option and striking through Columns A and B.

- Mr. Walsey asked if the Residential Incentive Program allows a mix of residential and office units above the fifth floor.

Mr. Aponte responded that the Residential Incentive Program requires only residential uses from the second floor to the top.

- Ms. Nichols asked Ms. Aponte to elaborate on what the dollar amounts used as examples in her presentation actually represent.

Ms. Aponte said she used a construction cost of \$205 per square foot, and applied it to the ten percent (10%) required square footage of floors five through eight that the

developer would have to provide as attainable housing, to come up with a dollar figure of what the developer might spend to provide attainable housing.

However, Ms. Aponte said that money would not be paid by the developer, because the units would be sold at that construction cost. The developer would recoup his expenses, but not receive a profit for those particular units.

- Ms. Nichols asked who would be managing the criteria for qualifying applicants.

Ms. Aponte said the intention is that Economic and Community Development would manage that.

- Ms. Nichols asked how the Residential Incentive Program fits in with other programs, such as the case heard earlier where a property on Rosemary Avenue asked to go to eight (8) stories. She asked if that property would be able to get another three (3) stories.

Ms. Aponte replied no. She said that the property referred to was a Type I property requesting to be rezoned to a Type III property. A Type III property is eligible to apply for the Residential Incentive Program, which allows it to go from five (5) stories to eight (8) stories. The property in question was requesting to be an eight-story receiving site for TDRs. Ms. Aponte said in either case, the maximum height for that property would be eight (8) stories; the residential incentive cannot be put on top of TDRs.

- Ms. Carla Bryant asked if there is a particular reason why Staff is recommending an extension of six (6) months as opposed to one (1) year.

Ms. Aponte said when Staff presented the program to DAC, they were requesting an extension of three (3) years. But after several discussions on the City level, they decided that is better to extend the program for only six (6) months, because the new housing program will be put into place shortly. Staff wants to allow the developers who have projects online to continue; they cannot apply for the Residential Incentive Program currently because it is sunset.

- Ms. Bryant said that she thought the attainable housing portion of the Residential Incentive Program was going to be mandatory.

Ms. Aponte said that Staff has been working with the Residential Incentive Program since last year. The requirements have been changing a lot. She said what Staff is currently trying to do is to leave the program basically the same, but strike through some of the options that do not work anymore.

- Ms. Bryant asked why DAC was interested in eliminating open space.

Ms. Aponte replied that DAC believes the City should get more from the developers. DAC thought that by eliminating the open space requirement, it would be more attractive to developers to do the attainable housing option.

- Mr. Todd Bonlarron asked if Staff considered it unreasonable to require developers to provide the attainable housing as well as a selection from Column A and Column B. He said that in his mind, he believes that the only way to get attainable housing in development downtown is to require it.

Ms. Aponte said that the City decided not to make drastic changes to the existing program at the current time, because they are drafting a new program to address the issue of attainable housing.

Mr. Bonlarron pointed out that at the same time DAC recommended making attainable housing mandatory for a year.

Ms. Aponte said that when Staff presented the proposal to DAC, it consisted of a Column A and B selection as one option, and a second option of only attainable housing. When those two options were presented, DAC wished to approve only the attainable housing option, not the option of choosing between Columns A and B. That is why open space was eliminated from their recommendation.

- Mr. Walsey asked how long this program has been in effect.

Ms. Aponte replied three (3) years, since 2001.

Ms. Walsey asked if anyone has applied under this program.

Ms. Aponte said there have been five projects utilizing the Residential Incentive Program. None of them have chosen the attainable housing option.

- Mr. Walsey asked if this proposal for the next six (6) months is any different than the original program.

Ms. Aponte said yes, they are striking through some of the options for Columns A and B. They are eliminating the options for public artwork and the 650 square foot units.

- Mr. Villavaso had a question about the wording on Page 50, Item g-1 indicating that existing four-inch caliper trees must be indicated on the landscape plan. He asked if those trees need to be saved.

Ms. Aponte said the City determines whether the trees need to be saved or not.

Mr. Villavaso asked what a 'landscape unit' is.

Ms. Aponte said it is a large potted plant.

- Mr. Villavaso referred to Page 55, Item h-1, which calls for one (1) tree for every three (3) parking spaces. He said a parking space can be nine (9) feet, or twenty-two (22) feet, depending on whether it is parallel or ninety degree. He suggested that the wording specify the number of feet rather than the number of parking spaces.

He noted that Item h-2 mentions that ‘every effort shall be made to avoid and/or mitigate the removal of such existing trees’. Item g-1 says only that they need to be indicated on the plan.

- Mr. Villavaso asked about the option to save a historic tree. He said he doesn’t believe there is such a thing as a historic tree designation in the City. He believes the Historic Preservation Board eliminated it.
- Ms. Bryant attempted to clarify what she believed Staff was requesting from the Board. She said she is assuming that because the RIP is expiring in April, Staff wants only to tweak it a little until the Economic Development department unveils its complete housing plan. She suggested that the Board consider making some recommendations that are of concern, but go with what Staff is proposing.

Ms. Bryant said, however, that she believes that workforce housing needs to be mandatory. She said there is no incentive in the current program to choose that option.

Public Comment.

None.

Board Discussion.

- Mr. Walsey asked why Staff is eliminating so much from the current program if their intent is only to extend the program for six (6) months.

Ms. Aponte said there are developers waiting in line for the eight (8) story buildings, and the program is going to sunset.

Mr. Walsey asked if any of them have spoken about providing the ten percent attainable housing.

Ms. Aponte said one developer has, but they want to do it without the open space.

Executive Session.

Mr. Charles Walsey made a motion to APPROVE Code Revision Case No. 04-06 as presented.

Seconded by Ms. Carla Bryant.

- Mr. Bonlarron stated that he believes the attainable housing portion of the program is the most important thing the Board is looking at. He said DAC recognizes that. He has attended several of their meetings, and knows that one of their priorities in the downtown area is attainable or workforce housing.

Mr. Bonlarron said he believes that DAC was on target in requiring attainable housing. He said West Palm Beach is an attractive place right now for developers to come into and build residential units in the downtown area. He believes there are many clamoring with one another to get into the downtown to find property to do so. He said the Board sees projects every month for new housing and development in the downtown area.

Mr. Bonlarron said the Board has an opportunity right now to focus in on the affordable housing issue. If the Board is ever going to really address the issue, he thinks the time to do so is now, before the opportunity is lost. He said he believes affordable housing is a priority of the Mayor, City Commissioners and City Board members.

He suggested creating a Column C, where the only option is providing ten percent of the units as attainable housing. He believes that it is not asking too much of developers to provide an option from each column – A, B, and C. He believes that it is time as a City to address some of the City’s needs while there are so many people wanting to come in and develop.

Mr. Bonlarron said ‘Why leave the window open for six (6) months?’ He said if we’re serious about attainable housing in the City of West Palm Beach, the opportunity to do it is now, to capitalize on what is going on with development.

- Mr. Wayne Villavaso said he agrees. He said this is basically a window of opportunity for six months to increase from four (4) to five (5) stories, and from five (5) to eight (8) stories, and the options are somewhat painless. He said the intent is not for it to be painful; the intent is to increase the workforce affordable housing for downtown.

Mr. Villavaso said he was at the workshop with the Commission and this is clearly where the City wants to go. He is not sure why a six-month window is being opened up with watered down options. He said he would like to see something like Mr. Bonlarron suggested, with attainable housing mandatory, before it goes forward to City Commission. He suggested requiring developers to at least choose from Column A as well.

- Mr. Bonlarron stated that he believes some of the options such as the open space and cultural space make the buildings more attractive to a lot of people, even though the cost of building is somewhat higher.

Mr. Todd Bonlarron made a substitute motion to APPROVE Code Revision Case No. 04-06, with the following amendment:

Column C will be added to the selection of eight-story requirements. The option to provide ten percent (10%) of the leasable/saleable building area above the fifth floor as attainable housing units, will be moved to Column C, and will be the only (mandatory) selection in Column C. Applicants must satisfy at least one of the requirements in Column A, Column B, and Column C.

Seconded by Mr. Wayne Villavaso.

**Mr. Spillias stated that procedurally, the substitute motion takes precedence over the motion already made. If the substitute motion passes, it supersedes the original motion. If it fails, the original motion is still on the table.*

- Mr. Spillias stated that if the Board chooses the mechanism suggested by Mr. Bonlarron, then whether or not the Board works out all the details of the available options the message sent to City Commission will clearly be that the Board wants affordable housing to be a mandatory element of the incentive program, in one form or another.
- Mr. Walsey asked if procedurally the Board can take Staff's recommendation and expand upon it to the point where land values might be affected.

Mr. Spillias stated that the Board is making a recommendation, not a final decision. He added that every decision the Board makes affects land values.

Ms. Nichols stated that the land values are being affected because this is an incentive through which the developer will gain more. By gaining something that they would not ordinarily get, the City is asking for something in return. She said the City is only demanding this if they desire to add three (3) more stories to their project.

Public Comment (re-opened).

Mr. Roderick Coleman, stated that he is somewhat neutral, but is present with people interested in a property downtown. He said the problem as he sees it is that the six month extension proposed by Staff is being requested so that projects that are already in the works can go forward. He said that while he commends what the Board is trying to do (and he believes these people want to put affordable housing in their project), if the Board does anything other than pass what is proposed, then they haven't done anything. There will be developers sitting in limbo for six months. He said he is not sure that is good for the City.

- Ms. Bryant stated that the Board needs to ask itself why there are fewer projects coming through. She said she is a big proponent of affordable housing, but she believes the Board needs to concern itself right now with getting the projects on the table through. She said a new housing plan is being worked on that will be far more comprehensive than any additional tweaking the Board might do, and that will be the

definitive plan for the next three (3) years. She said the Board might be sending a message to developers to go to another city.

- Mr. Villavaso stated that there is a balance. Type II properties are getting an additional floor, and Type III properties are getting three (3) additional floors. He said he doesn't believe that requiring attainable housing is telling developers not to come in. He said the Board wants developers coming in, wants to give them an incentive, and also wants an attainable housing program for that incentive.
- Mr. Spillias stated that this Board makes recommendations. He does not believe developers will make their decisions based solely on what the Planning Board says, but also on what City Commission does. He questioned the way in which this proposal has gone back and forth. He said DAC recommended that attainable housing be mandatory, but he does not recall that ever being presented to this Board to get this Board's view.

Ms. Aponte stated that the Board reviewed a proposal in December 2003 in which affordable housing was a mandatory condition, but it was a large amount, approximately twenty percent (20%) of the total project. She said that proposal did not pass City Commission.

Ms. Spillias asked what the Planning Board recommended.

Ms. Aponte replied that the Board supported the proposal.

Mr. Spillias stated that a recommendation of ten percent (10%) affordable housing then is consistent, and would be restating this Board's belief that it should be an element of the program. He said the issues as to whether the timing is right are not issues that can be resolved at this meeting. But he said one of the things he would like is for City Commission to get a flavor of the Board's concerns and discussion through the minutes, and through Staff indicating where the Board is coming from and how this evolved, in the Staff Report. Then the City can decide how to proceed.

Mr. Bill Jacobson, stated for the record that he has submitted to the Mayor his resignation from the Planning Board due to conflicts with many clients in the downtown. He stated that he appreciated his time on the Board, and he appreciates the opportunity to speak. Mr. Jacobson stated that he chaired the Mayor's task force on affordable housing in the downtown area. He said they have continued to work with the Mayor and with Staff to tweak the affordable housing element. But he said it is a more complex problem than to require ten percent of the units to be set aside in downtown as a solution to the affordable housing issue.

Mr. Jacobson said that while he respects the Board's decision and ability to make a recommendation, he believes that: 1) DAC exceeded its legal authority in making its recommendation to the City; and 2) that recommendation is not the solution. He urged the Board not to slap it on as a mandatory requirement, because it is a much deeper problem that will be solved in a far more complex way.

- Ms. Nichols stated that several years ago it was difficult to get anyone to build residential projects downtown. The Residential Incentive Program was formed to entice developers to do so. She does not believe anyone anticipated the response that was received. Ms. Nichols said she believes a strong statement needs to be made now; the City is already three (3) years into this. She said it is something of a learning process to get the right mix, but if residential development slows down, then you come back and change it.
- Mr. Bonlarron stated that he appreciates Mr. Jacobson's remarks and he agrees that the motion on the table is not the ultimate solution. He agrees that there are some complicated issues that will require more discussion and an in-depth review. However, he said the Board has a choice. It can move forward with a six-month opportunity without requiring attainable housing units and allow six months for that to be tweaked, or it can move forward tonight with a recommendation to require attainable housing and still continue to make those same tweaks in the same manner as if it hadn't required attainable housing.

Mr. Bonlarron said he continues to support the motion on the floor, and commends the work that Staff has done, and hopes that they will continue to work with the different committees throughout the City to determine what they think are the best ways to move forward on attainable housing.

Approved 4-2.

Mr. Kenneth Spillias, Mr. Wayne Villavaso, Ms. Deborah Nichols and Mr. Todd Bonlarron in favor.

Ms. Carla Bryant and Mr. Charles Walsey opposed.

*Mr. Spillias commended Ms. Aponte for the quality of her presentation.

Ms. Ednasha Bowers, Planner, presented Code Revision Case No. 05-01.

Code Revision Case No. 05-01: A City-initiated request for a Text Amendment to Article VII Special Districts of the Zoning and Land Development Regulations to extend the expiration date of the Northwood Mixed Use District (NMUD) Residential Incentive Program.

Ms. Bowers said that based on the finding that the petition meets all of the required amendment standards found in the Zoning and Land Development Regulations, Section 94-32, **the Planning Department recommends APPROVAL of Code Revision Case 05-01.**

Ms. Bowers presented a brief history. She said in 1996 the City Commission adopted the Northwood Master Plan to reinforce the unique character of the neighborhood and its retail corridors. This plan included guidelines for future development within the Northwood Mix-Use District, which itself was adopted in 2001. She said the regulations associated with NMUD designate buildings based on three (3) building types (I, II, and III) which follows the

building type model that is currently used within the Downtown. Ms. Bowers stated that a limited-duration residential incentive program is included as part of these regulations, to attract new investment and development and also to help compensate for the market imbalance between commercial and residential development. A direct result of the program is the creation of variations to the three (3) building types, that specifically address those residential incentives.

Ms. Bowers stated that the key features of the residential incentive program include:

1. It provides additional height for residential projects, based on building type.

As an example, Ms. Bowers said **Building Type I** is a two (2) story building which allows commercial on the ground floor, and a mix of commercial and residential uses on the second floor. She said the residential incentive program provides a **Building Type Ia**, which allows an extra story but requires residential uses for anything above the ground floor.

2. It creates a strong market for existing businesses and encourages residential and commercial investment.

Ms. Bowers stated that by allowing the extra height, new residents are attracted to the area which in return creates a more successful atmosphere for commercial projects.

3. The program is of limited duration.

Ms. Bowers said that Building Types Ia, IIa, IIIa, and IIIb are due to expire on September 30, 2005. Building Type IIIc will expire January 31, 2005. She said Staff is recommending that the expiration date for all buildings types be extended to September 30, 2007 in order to encourage more development in this area.

See the Staff report for history, background and analysis information pertaining to this case.

Board Questions to Staff.

- Mr. Walsey asked why there is no incentive program for affordable housing in this request.

Ms. Bowers stated that to her knowledge Staff has not investigated that option.

Mr. Eric Schneider, Acting Planning and Zoning Administrator, stated that when Northwood Renaissance (at the time Northwood Citizen's Planning Committee) looked at the Northwood area in conjunction with the City and came up with the residential incentive program for Northwood Road, they were desperate to get any kind of redevelopment, because the north end of the City, particularly Northwood Road, Broadway and Currie had not seen any development. He said the only program

that has come in to use the residential incentive program has been Northwood Renaissance. They are doing a five-story building and putting affordable units in there. Mr. Schneider said that there is no menu of options as in Columns A and B of the Downtown Residential Incentive Program.

Mr. Schneider said development is starting to take off now.

- Mr. Spillias stated that if all the residential development in the past few years, even in the downtown, were based on just the developer's choice to do affordable housing, Staff wouldn't be looking at incentives to do that. He asked if it is the belief that in Northwood at this point in time the market will sufficiently provide for attainable housing.

Mr. Schneider said yes, the land values on Northwood Road are such that the per square foot costs are not as great. He said the one project they have is a workforce type development on Northwood Road. He believes the market has provided for itself. He said Staff was approached by Northwood Renaissance about the potential of increasing the duration of the program.

Mr. Schneider said that as of now there has been no need for other tweaks to the program. Depending on how development goes down the road, some changes may be needed.

- Mr. Villavaso wished to affirm that this program has nothing to do with the RIP the Board just discussed.

Ms. Bowers said that is correct.

Public Comment.

None.

Executive Session.

**Mr. Wayne Villavaso made a motion to APPROVE Code Revision Case No. 05-01.
Seconded by Ms. Deborah Nichols.**

Approved 6-0.

No opposition.

**Mr. Spillias issued a welcome to both Ms. Bowers and Ms. Aponte as new presenters to the Board.*

e. Other Business

1. Planning Board Bylaws.

Executive Session.

Mr. Spillias stated that the December 21, 2004 minutes indicated the Bylaws were being continued until the February 15, 2005 Planning Board Meeting.

- Ms. Nichols commented that some time ago there was some discussion about requiring an Architect to be one of the members of the Board.

Mr. Schneider stated that if the Board wants to do that, a change would be required not only to the Bylaws, but to the Zoning Code as well. Staff would have to bring forward a text amendment to that regard.

- Mr. Spillias asked if the current Zoning Code addresses that.

Mr. Schneider said no.

- Ms. Bryant expressed a concern about mandating a professional, because she believes the Board needs to hear from citizens not representing clients and that kind of thing. She is not comfortable with a mandate.

Mr. Spillias stated that he has been on the Board for seven and one half years now, and there has always been at least one architect. He said the expertise from Board members, such as that of Mr. Villavaso regarding landscape plans, is a help to the Board. He said that perhaps this issue does not need to be addressed until such a time as the Board is lacking in a particular expertise.

- Mr. Walsey stated that he remembers the meeting where the suggestion was brought up, and there were some issues discussed.

Seconded by Mr. Todd Bonlarron.

Approved 5-0.

No opposition.

VII. Unfinished Business

VIII. New Business

IX. Adjournment

The meeting was adjourned at 8:25 p.m.

Please be advised the minutes are not verbatim. An audio taped copy of the meeting may be requested though the City of West Palm Beach City Clerk's office at 822-1210. There is a fee.