



City of Las Vegas

Agenda Item No.: 19.

**AGENDA SUMMARY PAGE - PLANNING
PLANNING COMMISSION MEETING OF: MAY 10, 2011**

**DEPARTMENT: PLANNING
DIRECTOR: FLINN BACG, Acting**

☐ Consent ☒ Discussion

SUBJECT: ZON-41312 - REZONING - PUBLIC HEARING - APPLICANT/OWNER: R A SOUTHEAST LAND COMPANY, LLC - Redesigning Rezoning FROM: PD (PLANNED DEVELOPMENT) TO: PD (PLANNED DEVELOPMENT) - 23.40 acres at the southeast corner of Alta Drive and Rampart Boulevard (PN 188-32-725-001), Ward 2 (Wolfson). Staff recommends APPROVAL.

C.C. 06/15/2011

PROTESTS RECEIVED BEFORE

APPROVALS RECEIVED BEFORE:

Planning Commission Mtg.

5

Planning Commission Mtg.

3

City Council Meeting

0

City Council Meeting

0

RECOMMENDATION:

Staff recommends APPROVAL.

BACKUP DOCUMENTATION:

1. Location and Aerial Maps - ZON-41312 and SDR-41313
2. Conditions and Staff Report - ZON-41312 and SDR-41313
3. Supporting Documentation
4. Photos - ZON-41312 and SDR-41313
5. Las Vegas Renaissance Master Development Plan and Development Standards
6. Justification Letter - ZON-41312 and SDR-41313
7. Protest/Support Postcards and Protest Letter ZON-41312 and SDR-41313

Motion made by GLENN TROWBRIDGE to Approve

Passed For: 7; Against: 0; Abstain: 0; Did Not Vote: 0; Excused: 0

GUS FLANGAS, BYRON GOYNES, RICHARD TRUESDELL, STEVEN EVANS, GLENN TROWBRIDGE, VICKI QUINN, TODD L. MOODY; (Against-None); (Abstain-None); (Did Not Vote-None); (Excused-None)

Minutes:

CHAIR EVANS declared the Public Hearing open for Items 19 and 20.

STEVE GEBEKE, Planning, reported that a parcel map was recently recorded that separates this site from the commercial subdivision comprising Boca Park via the creation of a separate parcel, and this Rezoning and Site Development Plan Review would sever that parcel from the Boca Park III planned development and establish a new planned development with its own Master Development Plan and unique set of development standards. The subject site meets all Title 19

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requirements for rezoning to Planned Development, and the proposed uses to be permitted on the site are similar to the uses currently allowed at the site, which correspond to those allowed within a C-1 (Limited Commercial) district. Access to the site will be provided via a signalized intersection located east of the existing driveway. The applicant has submitted a traffic analysis comparing the current access through this site to the existing Boca Park III parking structure to the access of the proposed development after construction. The analysis concludes that ingress and egress to and from the existing structure will be enhanced, based on the proposed signalized intersection of Alta Drive and Tivoli Village, which will allow for left turns that are not currently allowed at the existing Boca Park intersection. In addition, the recently recorded parcel map preserves any vehicular and pedestrian access rights, sewer, and drainage rights that exist through recreation of the previous commercial subdivision map. A dense landscape buffer along the east property line that was previously required adjacent to a residential subdivision will also be preserved. As the proposed development meets all minimum requirements of Title 19 and is compatible with the surrounding adjacent development, staff is recommending approval. If the request is denied, the site will remain part of the Boca Park III Planned Development and must comply with all previous approvals and standards for that development. He read an amendment for Condition 4 b) of Item 20, should the Commissioners be inclined to approve this matter. LUCIEN PAET, Public Works, suggested a reference for Conditions 14 and 20 of Item 20.

ATTORNEY JAY BROWN, 520 South 4th Street, representing the applicant, was accompanied by GREG BORGEL, consultant TODD DAVIS, in-house counsel, and FRANK PANKRATZ, President of RA Southeast Limited Company, LLC. ATTORNEY BROWN pointed out that this is the same developer that built Tivoli Village, which is a wonderful development.

MR. BORGEL thanked staff for working with him on the conditions, and then clarified some of the conditions. On Condition 1, the additional lane requested would also serve as one of the driveway entries, which MR. PAET confirmed. On Condition 19 there are no special neighborhood drainage plans, as verified with Public Works, and, therefore, no additional burden being placed on the neighborhood. MR. PAET stated that regarding drainage, the applicant will be required to appropriately mitigate storm waters because there are no required facilities in the neighborhood study. MR. BORGEL assured the Commissioners that necessary studies will be completed.

Regarding Condition 2, MR. BORGEL stated the project is programmed to start during the latter part of 2013, at a time when lender and tenant negotiations could be underway and might require the proper zoning to be in place, and this is the reason for the three-year request.

MR. BORGEL then described this mixed-use project that will compliment the nearby Tivoli Village with its high-end retail, including three large anchors in an enclosed mall, underground parking and additional parking south of the property and a residential component. The mall will be linked to Tivoli Village by a pedestrian bridge over Alta Drive. Everything possible will be done to protect the neighbors, as previously promised, including the installation of a large landscape buffer. The architecture will resemble some of what is found in Milan, Italy, as

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depicted in photos he showed. Various neighborhood meetings were held, and the residents seemed to be supportive.

TODD FARLOW, asked if the residential component will be open like the mall.

CHRISTIAN DIAMANDIS, President of Tuscany Hills North, was pleased with the applicant's interactions with the residents and the concessions made. His only real concern is that the residential might be overlooking the existing residents of Tuscany Hills, so he requested that, if possible, it be reduced to three stories.

ATTORNEY NEAL WOLF, Neal Wolf and Associates, 155 North Wacker Drive, Chicago, Illinois, appeared representing Charleston and Associates, LLC, which owns Boca Park, located south of this proposed development. He alleged that the applications are illogical and based upon unfounded assertions, and the applicant is requesting the Commission to disregard prior positions with respect to allowable square footage and the pre-approval process. Moreover, the application is calculated to bring the City of Las Vegas and the Planning Commission into the middle of a lawsuit pending before the U.S. Bankruptcy Court. The request to extend the deadline for the start of this development is a tactic being used by the developer. JEFFREY FAIR EVANS advised ATTORNEY WOLF that his issues are litigation matters that should be addressed in the courts.

ATTORNEY WOLF commented that the developer falsely stated that the mall's large anchors will require less parking than a mall with no anchors. The developer proposes to bring delivery trucks through Charleston and Associates' property, and have access to it, yet the developer claims to be a separate development. The proposed development will in no way compliment the Boca Park development.

ATTORNEY WOLF stated that his client filed an application approximately seven years ago seeking to develop the site and objection was raised by ATTORNEY DAVIS about remaining square footage, and what he was referring to was a judgment entered by Clark County District Court limiting the square footage in the master development to approximately 1.1 million square feet. His client later withdrew that application.

ASSISTANT CITY ATTORNEY BRYAN SCOTT conceded that there is a pending matter before the courts, but the Planning Commission should only be concerned with the zoning and site development plan review matters. Although the Planning Commission can consider the competition aspect if it desires, normally competitors do not have standing on that type of objection. Regarding the square footage issue, that was part of an order in 1993 that says that regional malls shall be permitted to contain 1.1 million square feet of building area, but it does not say that this is the minimum or maximum allowed square footage.

ATTORNEY WOLF claimed that not permitting him to make a full record and approving this matter is arbitrary and capricious on the part of the Planning Commission. This developer proposes to integrate with Boca Park as it deems to be in its best interest, such as by attaching its property to Boca Park's parking structure, yet at the same time reject other aspects of the existing

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Master Development Plan, which he asserted does limit square footage to 1.1 million square feet.

JAMES GRINDSTAFF, Vice President, Charleston and Associates, LLC, stated that pursuant to the CC&R's and existing development agreement, Charleston and Associates is the declarant and this developer has to come before Charleston and Associates regarding any application prior to appearing before the Planning Commission. Also at issue is that connection will be made between Charleston and Associates' parking deck and the pedestrian bridge, and the entry off Rampart Boulevard shows a four-lane entry owned by Charleston and Associates. This is using the CC&R's capriciously. He requested Items 19 and 20 be held from 30 to 60 days to resolve some of the issues in a court of law and to allow for more discussion.

At the request of COMMISSIONER TRUESELL, MR. GRINDSTAFF pointed to a site map and described the property owned by Charleston and Associates. As for the CC&R's, they pertain to the entire 42 acres and the developer should have called about the access. The Commissioner stated that all the cross easements have been negotiated separately, and he would prefer to act upon what is before the Commission, not issues before the courts. MR. GRINDSTAFF requested approval for two years instead of three, as requested by MR. BORGE.

In rebuttal, MR. BORGE explained the parking requirements are being met for this development. The residential structure will be freestanding and L-shaped so as to not provide views toward the residential neighborhood. Every effort will be made to reduce the height of the anchor tenant most near the entrance. Regarding the issue about sharing the entry, a reciprocal easement pattern exists on the property, and Charleston and Associates will benefit from that. A connection between the two parking structures will be constructed only if Charleston and Associates is in agreement.

JOHN MASSEY, Senior Vice President of Triple Five Companies, stated that Triple Five owns the entrance by the Cheese Cake Factory, yet no one has contacted Triple Five, and that the Master Development Plan was done for the entire acreage for a reason.

COMMISSIONER TROWBRIDGE stated that his initial concerns regarding the landscaping, the view to the existing easterly residents and the traffic impact study have been addressed. He regards this development as an added art-piece to Tivoli Village that will create jobs and tax revenue.

COMMISSIONER QUINN said she met with the owner for lunch to see the proposed development, which she regards as vibrant and exciting.

COMMISSIONERS GOYNES and TRUESELL were very impressed with this incredible project, which is the bane of surrounding properties that are now struggling. COMMISSIONER TRUESELL noted that the project cannot be expected to be completed within two years; therefore, he supported the requested three years.

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ASSISTANT CITY ATTORNEY SCOTT advised the Commissioners to consider the application as presented, without any regard to the issues before the court.

CHAIR EVANS declared the Public Hearing closed for Items 19 and 20.

