



MEMORANDUM

TO: FILE

FROM: BRIDGET KEAN, CRA DIRECTOR *BK*
AZLINA GOLDSTEIN SIEGEL, ASST. CITY ATTORNEY/CRA COUNSEL *AS*

DATE: DECEMBER 18, 2015

RE: SYNOPSIS OF THE CITY CENTER PROJECT

Project Background

The City Center Project was planned as a multi-year redevelopment project that would transform a suburban shopping center at the southeast intersection of U.S. Highway 1 and Walton Road in Port St. Lucie into a more traditional neighborhood development with a mix of uses, walkable streets, a civic center, and open space. The vision for the City Center Project is contained in the redevelopment plan for the City's Eastern Community Redevelopment Area (the "Eastern CRA"). The original development that existed on the lands that are involved in the City Center Project was the Village Green Shopping Center which was owned by Port St. Lucie Partners, LLC, a Florida limited liability company. The person behind the entities that acquired the land and promised to develop the vision of the City Center Project is George de Guardiola. Under PSL City Center, LLC, a Florida limited liability company ("PSL City Center"), Mr. de Guardiola purchased the Village Green Shopping Center, a suburban outdoor mall, and other properties in 2005 to serve as the canvas for the creation of the City Center Project. Mr. de Guardiola presented the City and CRA with a revised master plan and a proposal to develop City Center as a public-private partnership in accordance with the Community Redevelopment Plan.

In 2005 a Redevelopment Agreement was entered into between the City, the City of Port St. Lucie Community Redevelopment Agency (the "Agency"), PSL City Center (as the property owner), and De Guardiola Properties, Inc., a Florida corporation ("De Guardiola Properties"), as the Project developer. The Redevelopment Agreement and the amendments thereto (collectively, the "Redevelopment Agreement") contemplated a phased development plan, included a development timeline which involved certain property acquisition requirements, and outlined the financial obligations of all parties. In addition, De Guardiola Properties, as the developer, was required to contribute to the funding of the City's construction of the Civic Center which presently exists and serves as a multi-purpose center that provides the public with a wide-range of services and opportunities.

There are thirty-seven (37) lots associated with the City Center Project. The ownership of those lots are as follows: Twelve (12) lots are owned by the City of Port St. Lucie; twenty-two (22) lots (hereinafter referred to as the "City Center Parcels") are presently under the ownership of an entity associated with Ms. Lily Zhong, US1 Real Estate Developments, LLC, a Florida limited liability company ("US1 Real Estate"), two (2) lots are owned by OB Florida CRE Holdings, LLC, a Florida limited liability company ("OB Florida CRE Holdings"), and one (1) lot is owned by B. Davis Ventures, L.L.C., a Florida limited liability company ("B. Davis Ventures"). The ownership of the properties are depicted in the maps attached hereto as Exhibit "A."

For the parcel owned by B. Davis Ventures, it is included in the City Center Special Assessment District ("SAD") and Planned Unit Development (PUD) zoning. However, B. Davis Ventures is neither a party to nor has responsibilities under the Redevelopment Agreement that concerns Mr. de Guardiola's development of the City Center Project. It should be noted that B. Davis Ventures, LLC, is further discussed below under the section on the "Planning & Zoning Issues Concerning the City Center Parcels and Adjacent Lands."

OB Florida CRE Holdings owns two parcels, Lots 26 and 27, as a result of the foreclosure proceedings instituted against the previous owner, City Center Place, LLC, a Florida limited liability company ("City Center Place"). These two lots were originally owned by PSL City Center. However, the acquisition of the properties by the Agency and subsequently the City were part of a land swap deal for a stormwater project. The individuals behind the foreclosed upon owner, City Center Place, planned to build a hotel and office space on a 5-acre parcel the City desired to acquire for a major stormwater project. Therefore, a land swap deal was negotiated and enabled the owners to exchange their 5-acre parcel for the two lots, Lots 26 and 27, which are approved for a hotel and retail space under the Redevelopment Plan for the City Center Project. As part of the land exchange deal, it was agreed that the special assessments would be paid in full for Lot 26 by the City and the Agency. However, for Lot 27, the special assessment amount of \$130,000 that will be due for the final year payment will be required to be made by the owner of Lot 27 when said amount is due and payable. These properties are currently listed for sale by OB Florida CRE Holdings.

Pursuant to the Redevelopment Agreement, the City and the Agency funded and constructed the 100,000 S.F. Port St. Lucie Civic Center, the Village Square public plaza and interactive fountain, the City Center parking garage, and four surface parking lots. Work on the City Center Project began around 2006/07. Such work included the demolition of the old Village Green Shopping Center, replatting of the property, sale of the special assessment bonds, and commencement of the City's construction of the Civic Center, warehouse, village square, parking garage, and various improvements funded through the creation of a Special Assessment District (SAD). These projects were completed in December 2008.

The public-private partnership that was supposed to create and develop the City Center Project became a one-sided venture for the City and the CRA. De Guardiola Properties,

failed to fulfill its obligations under the Redevelopment Agreement and never constructed any of the buildings or improvements contemplated therein. Accordingly, besides the structures and improvements constructed by the City, the land that composes the City Center Project has remained vacant but ready for development.

In 2010, National City Bank, which was the successor to Fidelity Federal Bank & Trust, became the owner and holder of the Note and Mortgage for the City Center Parcels (those twenty-two (22) parcels owned by PSL City Center). Foreclosure proceedings were initiated by National City Bank and a Final Judgment of Foreclosure pursuant to a Joint Stipulation for Entry of Final Judgment of Foreclosure was entered by the Court on February 5, 2010. However, a public sale by the Clerk of the Court, which was originally scheduled for December 1, 2010 at 11:00 AM per the Final Judgment, never occurred and was never rescheduled. The protracted uncertainty over the ownership of the City Center Parcels and the unfulfilled obligations of the Redevelopment Agreement, which run with the land, prompted the City to file a Motion to Intervene on November 15, 2011. On December 9, 2011 a Joint Stipulation for Dismissal without Prejudice and Termination of Lis Pendens was filed in the Foreclosure case. Said Stipulation was approved by the Court on December 21, 2011, which resulted in the ownership of the City Center Parcels remaining in the hands of the parties who are in default of the Redevelopment Agreement and are responsible for the City's unrealized plan and "lost" multi-million dollar investment in the City Center Project.

On the heels of a second year about to pass and no prospect of any movement whatsoever for a sale of the City Center Parcels or the development of the City Center Project, the City and the Agency initiated legal action against PSL City Center, De Guardiola Properties, and PNC Bank, N.A. PNC Bank is the successor by merger with National City Bank. The City and the Agency sought specific performance of the obligations set forth in the Redevelopment Agreement and a judgment against PSL City Center, De Guardiola, and PNC for damages and any other relief the Court would deem just and proper. The City and the Agency obtained a Final Default Judgment in excess of \$56 Million against PSL City Center and De Guardiola Properties on August 26, 2014.

During the pendency of the City's and the Agency's litigation, PSL City Center sold and conveyed the City Center Parcels for a purchase price of \$500,000 on August 15, 2013 to US Investment, LLC, a Delaware limited liability company ("US Investment"). US Investment is an entity associated with Ms. Lily Zhong. A review of documents obtained through discovery in the pending litigation show that PNC Bank consented to the short sale of the real property despite there being outstanding loan balances in excess of \$32 Million. Essentially, the consent to the short sale was conditioned upon PNC Bank's receipt of receiving not less than \$475,000.

The City and the Agency were not notified of the sale of the City Center Parcels and therefore did not provide approval of the sale which was required under Section 12.06 of the Redevelopment Agreement. The conveyance of the City Center Parcels also involved the assignment of rents and leases to US Investment as some of the land

owned by PSL City Center was improved with a commercial retail building. PNC Bank finally recorded the last of the Satisfactions of Mortgage in May 2015.

As a side note, when the City Center Parcels were under foreclosure in 2010, there were attempts to negotiate a short sale with interested buyers. Ms. Lily Zhong was among those interested in acquiring the land for future development and entered into a contract to purchase the City Center Parcels from PSL City Center at that time. Ms. Zhong even made a presentation to the City Council and the Agency's Board at their respective meetings on August 21, 2010. Additional information was requested on the proposed development plans. For reasons that will likely remain unknown, Ms. Zhong canceled the contract to purchase the land in 2010. Then, as discussed above, Ms. Zhong apparently re-initiated discussions to purchase the City Center Parcels which resulted in PSL City Center's 2013 sale and conveyance of the property to US Investment.

As an additional side note, the real estate taxes for all of the City Center Parcels have not been paid since 2009. Tax certificates were issued for each year and many were struck off to St. Lucie County because there were no bidders. Since the County has tax certificates on sixteen (16) of the twenty-two (22) parcels that are two (2) years or older and the lands have an assessed value that is greater than \$5,000, the Board of County Commissioners approved and authorized, at their July 21, 2015, Meeting the initiation of tax deed applications for those sixteen (16) parcels. As of October 31, 2015, the estimated total amount due for the delinquent real estate taxes and the 2015 real estate taxes for all of the City Center Parcels is approximately \$18.1 Million. The estimated total amount that is due for all of the unpaid real estate taxes for just the sixteen (16) parcels that are slated to be auctioned off at a tax deed sale is approximately \$15.9 Million.

The sale of the City Center Parcels from PSL City Center to US Investment did not resolve the issue of the unpaid real estate taxes. As stated above, the City established a City Center SAD and issued special assessment bonds to fund the construction of the infrastructure and other improvements such as roadways, utility lines, etc. that would facilitate the development of the properties for the realization of the City Center Project by De Guardiola Properties. The special assessment bonds are secured by the proceeds of special assessments levied against the real properties within the City Center SAD. Further, the special assessment bonds are secured by the City's covenant to budget and appropriate ("CB&A") legally available non-ad valorem revenues. Under a CB&A, the City covenants and agrees to appropriate in its annual budget, even by amendment if necessary, such amounts of non-ad valorem revenues or other legally available funds to pay the debt service on the bonds in amounts sufficient to pay the principal and interest on the bonds as the same shall become due.

The special assessments levied against each parcel that are associated with the City Center SAD are non-ad valorem assessments that are collected annually on the real estate tax bill using the uniform method for collecting such assessments, as provided for under Florida Statutes 197.363. In past years, approximately forty percent (40%) of the

City Center special assessments that are due are paid each year. However, this year, the City's collection of payments for the City Center special assessments has decreased to twenty-eight percent (28%). The property owners paying the assessments are the City of Port St. Lucie and B. Davis Ventures. When tax certificates are held by the County, the non-ad valorem assessments remain unpaid. Accordingly, for the tax certificates that have been held by the County since 2009 for the City Center Parcels, the City has been required to pay in excess of \$10 Million to cover the annual debt service for these parcels. The City will continue to be responsible to pay the annual debt service for these properties unless the current and future taxes will be paid by the property owner.

Following the August 2013 sale of the City Center Parcels to US Investment, Ms. Zhong and her business associates engaged in conversations with City Staff. City Staff met with Ms. Lily Zhong and her associates on two occasions – December 20, 2013 and April 21, 2014. As part of a follow-up to the discussions at the second meeting, Ms. Zhong submitted on June 6, 2014 her proposed development program, timeline and conceptual master plan for the site. Ms. Zhong proposed the creation of a mixed-use International Trade Center, the development of which was going to be funded through the EB-5 Visa Immigrant Investment Program. Although the City's Staff was and remains open to development ideas that differ from the "new old downtown" concept and plan contemplated in the Redevelopment Agreement, the plan envisioned by Ms. Zhong would significantly increase the development intensity over the amounts allowed by the Redevelopment Agreement and current zoning restrictions.

In response to Ms. Zhong's June 2014 letter, a letter from City Staff was sent to Ms. Zhong's designated local representative, Butch Terpening, regarding her conceptual master plan and proposed creation of an International Trade Center Project through the establishment of an EB-5 Regional Center. The letter also sought specific information regarding the EB-5 Regional Center that Ms. Zhong stated would be involved in the proposed International Trade Center Project. Further, City Staff again requested information as to how Ms. Zhong proposed to satisfy the unpaid real estate taxes and the various financial and miscellaneous obligations imposed upon the owner of the City Center Parcels under the Redevelopment Agreement. To date, neither the City nor the Agency have received a response from Ms. Zhong to that July 30, 2014 letter.

In addition, with respect to keeping track of the present ownership of the City Center Parcels, on January 29, 2015, US Investment conveyed via a Quit Claim Deed, all of its rights, title and interests in and to the City Center Parcels to US1 Real Estate Developments, LLC, for which Lily Zhong is the sole manager.

Planning & Zoning Issues Concerning the City Center Project and Adjacent Lands:

The original Redevelopment Agreement dated August 9, 2005 was entered into by and between the City, the Agency, PSL City Center, and De Guardiola Properties. The Redevelopment Agreement contemplated the construction of a mixed use project that

was to consist of residential, office, commercial developments, and civic and open space. The twenty-two (22) City Center Parcels comprise the 40.77-acre site that was to be developed into the City Center Project within the City's Eastern CRA. There have been five amendments to the original Redevelopment Agreement, with the Fifth Amendment having been entered into on or about January 25, 2008. The original Redevelopment Agreement together with all of its amendments is collectively referred to herein as the "Redevelopment Agreement." The City Center Project was to be developed in four (4) phases within the timelines set forth in the Redevelopment Agreement. There were specific deadlines for the various actions that each party was responsible to execute. Below is a brief summary of the City Center Project and status.

- The 4 phases of construction are Phases IA, IB, II and III
- Completion and Delivery of Phase IA was to be by December 31, 2009
- PSL City Center and De Guardiola Properties failed to complete Phase IA
- The only obligations of the Redevelopment Agreement that were fulfilled by either PSL City Center or De Guardiola Properties was the Like-Kind Exchange #1 concerning the exchange and conveyance of certain real property between the parties, and only two (2) out of the four (4) installment payments of \$250,000 were made to the City.

City Center Redevelopment Agreement Development Thresholds				
	Retail S.F.	Office S.F.	Dwelling Units	Parking Structures Spaces
Phase 1A	175,320	55,000	336	1,270
Phase 1B	64,500	145,000	114	620
Phase II	4,000	26,000	417	1,240
Phase III	10,000	21,000	258	0
Total Development Program	253,820	247,000	1,125	3,130

P05-492 - City Center Future Land Use Map Amendment. City Ordinance 06-60 involving the City Center Future Land Use Map Amendment was approved and adopted on June 26, 2006. The future land use designation for ±74 acres was amended from CG (General Commercial) to CG (Commercial General), RH (High Density Residential) and I (Institutional). The future land use amendment included properties other than the City Center Parcels as shown in Exhibit "B" to this Memorandum.

P05-528 - City Center PUD. City Ordinance 06-61 involving the City Center PUD was approved and adopted on June 26, 2006, and served to rezone ±69 acres. The City Center PUD includes the City Center Parcels and those properties that are included within the City Center SAD. Parking within the City Center PUD is based on a shared

parking methodology that reduces the number of required parking spaces within each development parcel. On-street parking, shared parking, and off-street parking in lots or parking garages may be counted towards the minimum requirements as approved on site plans and/or subdivision plans. The City Center PUD is attached to this memorandum as Exhibit "C."

City Center PUD Proposed Mixed Use Development Thresholds								
	Residential Multi-Family Dwelling Units	Retail Commercial S.F.	General Office Uses S.F.	Condominium Hotel Units	Civic Center	Restaurants S.F.	Police Station S.F.	Parking Structures Spaces
Total Development Program	932	193,500	393,000	150	750 Seats	15,000	25,000	3,350

P06-309 - City Center Plat. City Resolution 07-R02 was passed and approved on February 20, 2007. The City approved a replat of the old Village Green Shopping Center property to add seven (7) new tracts of land that correspond with the site plan for Phase 1A of the City Center Project .

P06- 311 - City Center Phase 1A Site Plan. The site plan for Phase 1A of the City Center Project was approved by the City Council on February 20, 2007. This site plan was submitted on behalf of PSL City Center for Lots 8, 11, 15, 18, 20, 21, and 22 to allow for the following: a total of 44,387 S.F. for retail space, 15,000 S.F. for restaurant space, 116,448 S.F. for offices, and 301 residential units. Pursuant to Section 158.244 of the City’s Zoning Code, the approval of the site plan would remain valid for three years from the date of approval. However, since building permits were never issued for the Project the site plan approval for City Center Phase 1A is now expired. The subject site plan is attached hereto as Exhibit "D."

P06-444 - Davis Center Site Plan. A site plan for Lot 1, City Center 1st Replat, located in the northwest corner of the City Center Project was approved by the City Council on June 25, 2007. The property is owned by B. Davis Ventures, LLC. The property is located within the City Center SAD and is governed by the City Center PUD zoning document. However, the subject property is neither associated with the City Center Project nor is it involved in the Redevelopment Agreement. The site plan approval is for the development of a 25,000 S.F. two-story commercial, office, and retail building. The following condition is associated with the approval of the Davis Center Site Plan:

1. A reciprocal ingress/egress easement agreement will need to be granted by and between B. Davis Ventures, LLC, and PSL City Center, LLC, on the subject properties (Lots 1 and 2 as shown on the site plan) prior to the first building permit being issued for the subject site plan. A reciprocal ingress/egress easement is required because the site plan shows a shared driveway on the east side of the property between Lots 1 and 2.

There are two variances approved for this proposed project under Planning and Zoning File No. P07-23. The first variance is to the Landscape Code to allow for a five foot variance to the proposed landscape strip on the south side of the property due to utility line issues. The second variance concerns parking. The project received a variance of 95 parking spaces based on the shared parking methodology established in the City Center PUD because approval of the variance was based on the assumption that the development would utilize the parking garages that were to be constructed in accordance with the Redevelopment Agreement.

On December 1, 2014, B. Davis Ventures received approval of its request to the City Council to reactivate and extend the site plan approval date to June 25, 2016. The Davis Center Site Plan is attached hereto as Exhibit "E."

P07- 015 - City of Port St. Lucie Civic Center Site Plan. The site plan for the City's Civic Center was approved by the City Council on March 26, 2007. The subject site plan was submitted by the City for the City's construction of a 100,000 S.F. civic center on Lot 37, City Center, 1st Replat, which is located in the northeast portion of the City Center Project. The City of Port St. Lucie Civic Center was completed and opened to the public in December 2008.

P07-333 - City of Port St. Lucie Civic Center Warehouse Site Plan Amendment. This site plan amendment was approved by the City Council on December 8, 2008 and concerns the construction of a 7,400 S.F. warehouse adjacent to the Civic Center. The construction of the warehouse was also completed in 2008 and therefore increased the total square footage for the Civic Center to 107,400 S.F.

P07-400 – City Center Parking Garage. The site plan for the City's construction of the City Center Parking Garage was approved by the City Council on June 23, 2008. The site plan involved Lot 19 of the City Center 1st Replat and allowed the construction of a 276,937 S.F., six-story parking garage with 796 parking spaces. The construction of the City Center Parking Garage was completed in 2008.

P08-075 – City Center Village Square. The site plan for the City's construction of the City Center Village Square was approved by the City Council on June 23, 2008. The approval was for Lot 15 of the City Center 1st Replat for a 3,076 S.F. stage, two 380 S.F. restrooms/storage/electrical buildings, and an interactive fountain on a 55,582 S.F. plaza. The construction by the City of these improvements as part of the City Center Project was completed in 2008.

P08-142 – City Center Subdivision Plat. City Resolution 08-165 was passed and approved by the City Council on November 24, 2008. This subdivision plat served as a replat of the City Center plat creating thirty-seven (37) lots from the parcels and tract designations to correspond with the Redevelopment Plan. This subdivision plat also included minor changes to various easements. City Center 1st Replat is attached hereto at Exhibit "F."

The above summary provides a brief description of the various actions and activities that have involved the City Center Project. With the exception of the site plan approval of the Davis Center Site Plan, all of the efforts have been that of the City and the Agency. The City and the Agency have invested greatly in this City Center Project and desire to see the concept and vision fulfilled and realized for the benefit of the public.

