

APPROVED
PROPERTY AND RIGHT-OF-WAY COMMITTEE MEETING
CITY HALL, 8TH FLOOR
COMMISSION CONFERENCE ROOM
THURSDAY, APRIL 16, 2009 – 10:00 AM

COMMITTEE MEMBERS PRESENT

Peter Partington, City Engineer
Tom Terrell, Public Works
Tony Irvine, Engineering
Mark Darmanin, Public Works
Anthony Fajardo, Planner III
Carol Ingold, Parks & Recreation Supervisor
Bob Dunkel, Attorney

STAFF

Victor Volpi, Senior Real Estate Officer
Dennis Girisgen, Public Works
Earl Prizlee, Engineering Design Manager, CRA
Hilda Testa, Recording Clerk, Prototype, Inc.

CALL TO ORDER

Mr. Partington called the meeting to order at 10:11 a.m., and stated this was a Committee with the responsibility of advising the City Manager and City Commission on matters connected with City property and public rights-of-way.

As of this date there were eight appointed members to the Committee, which means four would constitute a quorum. Following a roll call it was determined that a quorum was present.

COMMUNICATIONS TO CITY COMMISSION

None.

ITEM ONE: **APPROVAL OF MARCH 19, 2009 MINUTES**

Motion made by Mr. Darmanin, seconded by Mr. Irvine, to approve the March 19, 2009 minutes.

In a voice vote, the motion passed unanimously.

ITEM TWO: **IMPROVEMENTS IN RIGHT-OF-WAY**

ADDRESS OR GENERAL LOCATION: 2501 NW 11th Street & 2330 NW 12th Court

Mr. Volpi explained the School Board of Broward County would like a positive recommendation to improve the right-of-way of NW 11th Street from NW 23rd Terrace to NW 27th Avenue (on the north side) with an "F" curb and gutter, some replacement of sidewalk, landscaping and regrading to prevent vehicles from parking in the right-of-way.

Mr. Frank Alfieri, representing the School District, introduced David Bennett with Kimley-Horn. Ms. Ingold noted forty-six mahogany trees to be placed along the street and suggested alternate species be planted due to the tripping hazard resulting from the mahogany seed pods falling on the sidewalk. Mr. Dunckel asked who would be responsible for the maintenance of the trees. Ms. Ingold explained the City would be responsible for any "street" trees.

Mr. Darmanin asked about plans for the south side of the road and the impact to the adjoining neighborhood. Mr. Darmanin pointed out if the north side was curbed people would switch and park on the south side. Mr. Bennett explained the parking on the north side created safety concerns when the students were coming and going from the school. Mr. Bennett stated the "F" curb and gutter would be a raised six inch curb which would deter people from parking. Signage would also be added to the area indicating no parking. Mr. Bennett stated he did not have an answer to the problem of parking on private property on the south side, but the north side was creating maintenance and safety issues. Mr. Partington asked about the possibility of posting signage instead of making changes to the right-of-way, noting beautification could still be done in the swale.

Mr. Terrell reminded the Committee the area already contributed to storm water drainage problems at 11th Street and 23rd Avenue. Mr. Terrell felt the project would increase problems to the area. Mr. Partington asked for details regarding the plans for drainage. Mr. Banner stated the area would include curb cuts. Mr. Irvine stated the applicant was solving one problem by creating a problem for the neighborhood. Mr. Irvine suggested the applicant meet with the Civic Association to receive input from the neighbors. There followed a discussion regarding the pros and cons regarding changes to the area versus increasing the existing "No Parking" signage.

Mr. Partington noted there were two issues to discuss, the specifics of the proposal, including a declaration of maintenance and drainage, and the issue of parking simply moving to the opposite side of the street. Mr. Partington asked if the Broward County safety team had been consulted. Mr. Banner explained the safety team review was part of the approval process, and the application was approved before coming to the Committee.

Mr. Terrell asked if the application was in response to any type of enforcement issues. Mr. Banner stated there were no citations or enforcement issues, and the application

had come from a concern over the maintenance of the swales and the safety concerns for the students.

Mr. Partington stated the District Commissioner and the neighborhood association should be consulted on the proposed changes. Mr. Terrell felt the drainage issue could be left for the engineering permitting process, and suggested the applicant would need to “look more than a block away” regarding the drainage. Mr. Darmanin explained in the past the flood waters would sometimes be knee high at the pump station on 23rd Avenue.

Mr. Girisgen, Public Works, mentioned in the drawings of the area it was unclear if all utilities in the area were identified. Mr. Partington stated utilities would be identified during the engineering approval process. Mr. Girisgen stated the City Attorney’s office preferred a declaration of maintenance rather than a formal agreement. The declaration would not have to go to the City Commission, while an agreement would.

Mr. Dunckel proposed since the City should have been providing landscaping all along, the landscaping maintenance might be the City’s responsibility. Ms. Ingold explained the watering and mowing was the responsibility of the adjacent property owner, but the trees fell under Urban Forester for maintenance.

Mr. Alfieri provided a brief history of the proposed project. There followed a discussion regarding solutions used in other projects. The Committee also provided suggestions for materials to improve the aesthetics.

Mr. Partington summarized the discussion explaining the applicant would need to complete the following:

- Discussions with the neighborhood association
- Engineering permit
- A mechanism for providing maintenance, to be coordinated by Dennis Girisgen and the City Attorney’s office with the Urban Forester.

Mr. Girisgen noted typically the applicant would be required to maintain trees and landscaping. Mr. Dunckel pointed out the overall maintenance would be handled in a site plan, and in this case the application only covered one small right-of-way component.

Mr. Dunckel felt changes to the application could arise from the discussions with the neighborhood association, and suggested the matter come back before the Committee after those discussions. Mr. Dunckel also suggested a representative from the homeowners association be invited to the Committee meeting.

Motion made by Mr. Darmanin, seconded by Mr. Irvine, to defer the application.

In a voice vote, the motion passed unanimously.

ITEM THREE: **VACATION OF EASEMENT**

ADDRESS OR GENERAL LOCATION: 1801 SE 8th Street

Mr. Volpi explained McLaughlin Engineering Company would like a positive recommendation to vacate the twenty foot sanitary sewer easement extending east from the end of SE 8th Street. The easement was intended to service multiple properties which have now all been purchased by H. Wayne Huizenga, and therefore the easement is no longer needed. Any sewer lines could be made private.

Mr. Jerry McLaughlin, McLaughlin Engineering, explained the easement originally serviced five tracts on the plat before they were all combined as one parcel. At one time there was a sanitary sewer line and a manhole within the easement, but the line was abandoned and filled. In 1999 the intent was to vacate the easement, however the process was never completed for the vacation.

Mr. Darmanin stated Utilities checked the site and the terminal manhole was within the cul-de-sac and not on the property. Mr. McLaughlin provided a copy of the survey demonstrating the area being discussed.

Motion made by Mr. Irvine, seconded by Mr. Terrell, to approve the application as presented.

In a voice vote, the motion passed unanimously.

ITEM FOUR: **MASTER ARMS ON CITY OWNED PROPERTY**

ADDRESS OR GENERAL LOCATION: Riomar Street at Ocean (432N. Atlantic+)

Mr. Volpi explained Jose Guerrero with FDOT would like a positive recommendation to place three mast arms located at the end of Riomar Street, one on the southwest corner of Riomar and A1A, and two just west of the "Wave Wall". The placement of the master arms would allow a five foot walking area from the edge of the foundation to the wall on the beach side and a four foot walking area on the roadside. Mr. Volpi noted the item was tabled on November 20, 2008 until further information could be gathered by the applicant regarding the traffic turn around.

Mr. Juan Camacho, representing FDOT, provided a brief history of the project, and provided a revised design, including a change requested by the City adding two mast

arms to improve the aesthetics in the corridor. The mast arms were moved to the east to allow a seven foot clearance on the southeast quadrant and ten feet on the northeast quadrant.

Mr. Camacho stated in the previous meeting there were concerns regarding the ADA requirements for the walkway. In an earlier meeting with Mr. Partington, it was suggested an easement be obtained from the W Hotel to meet the recommendations by the City. Mr. Fajardo contacted the representative for the adjoining private property owner, Steve Tillbrook, but had not heard back regarding the easement. Mr. Camacho noted FDOT had safety concerns and wanted the issue resolved as soon as possible. Mr. Partington emphasized due to the aesthetics in the area the easement was highly desirable.

Mr. Prizlee felt the layout for the east side was typical of the corridor, and the poles and mast arms would match the existing poles. Mr. Darmanin asked about the utility layout drawing requested in the November meeting. Mr. Camacho stated no water utilities were found in the area of the two poles.

Mr. Partington felt the pole maintenance was an ongoing issue, but should not be considered as a part of this proposal. Mr. Partington felt the current plan was acceptable. Mr. Terrell felt the maintenance should be part of the discussion, as all installations, including poles, mast arms, and street lights that were not plain galvanized or aluminum would be the responsibility of the City. Mr. Partington stated the County or the State would be responsible for maintaining this type of pole, and did not feel the maintenance could be part of the consideration for this one installation. Mr. Partington continued, FDOT wanted the work done as soon as possible, and an acceptable plan was presented, so the maintenance would have to play out separately.

Mr. Terrell stated one installation containing language contrary to all previous installations could be a problem. Mr. Partington did not feel the language was any different than previous installations, but a "lack of clarity" currently being experienced regarding beach installations. Mr. Camacho provided a letter that went out to all the counties from District Maintenance stating inspections would be completed, and the County would be responsible for rectifying any problems found in existing signals, including along A1A.

There followed a discussion regarding gaining the easement from the W Hotel. Mr. Girisgen asked about the perpetual easement on the east side. Mr. Dunckel stated the perpetual easement would be granted to FDOT under the current plan. Mr. Partington asked for clarification regarding the need for City Engineering permits. Mr. Dunckel stated a permit would be required on the east side. Mr. Dunckel explained the east side, for the most part, was carved out of fee simple lands owned by the City. Mr.

Girisgen noted an MOT permit would be needed if lanes on Riomar were to be shut down.

Motion made by Mr. Irvine, seconded by Mr. Dunckel, to approve granting of the easement.

Mr. Partington suggested the motion be amended to state the easement be granted for the trombone signal installations.

Motion amended by Mr. Irvine, seconded by Mr. Dunckel, to approve granting of the easement for black trombone signal installations.

In a show of hand vote, the amended motion passed, with Mr. Darmanin and Mr. Irvine opposed.

Motion amended by Mr. Irvine, seconded by Mr. Dunckel, to approve granting of the easement for trombone signal installations.

In a show of hand vote, the amended motion passed unanimously.

Mr. Partington emphasized the Committee recommended applicant work with the property owner on the southwest corner to obtain the easement, with help from Mr. Irvine and Mr. Partington.

ITEM FIVE: **ACCESS EASEMENT**

ADDRESS OR GENERAL LOCATION: 35 North Andrews Avenue

Mr. Volpi explained Jeansusan, Inc. would like a positive recommendation to access their property from NW 1st Street. NW 1st Street is owned by the City in fee simple and is not a right-of-way. Jeansusan intends to construct a parking lot and Broward County has refused to allow them access from Andrews Avenue.

Mr. Charles Buckle, representing Jeansusan, explained the property owner does not own the very corner of Broward and Andrews, and since the property was currently for sale, the owners were concerned about eventually losing access to their parking area. Mr. Buckle provided a copy of the site plan to the Committee.

Mr. Irvine explained 1st Street was not actually a street, but a City-held lot that was constructed as a street, and was basically a driveway across City owned property. Mr. Irvine stated there was no public right-of-way or any kind of public access easement. Using the provided drawings, Mr. Irvine demonstrated the area being discussed.

Mr. Irvine asked if the construction and operation of what appears to be a street confer any sort of public easement rights on the strip, or could it be construed there was some liability to the City. Mr. Dunckel was unable to give a definitive answer without doing some further research, and was reluctant to move forward with the application.

Mr. Partington reminded the Committee the area was blocked by the City at one time, and asked if someone could argue that public access rights were established. Mr. Terrell stated since the area is property and not right-of-way the request should not just be the discussed piece of property, but up to Andrews and NW 1st Avenue. Mr. Dunckel asked if Broward County was aware NW 1st Street was fee simple and not a public right-of-way. Mr. Buckle confirmed the County was aware of the matter.

Mr. Dunckel expressed a desire to do some further research on the issue. Mr. Dunckel put forth the possibility of structuring the area as a temporary easement with a terminal point triggered to future need for redevelopment. Mr. Dunckel felt more time was needed to do some research before a motion.

Motion made by Mr. Dunckel, seconded by Mr. Terrell, to continue the matter for one month.

Mr. Buckle requested the site plan go through to the Planning and Zoning and not have to wait for another month. Mr. Irvine strongly encouraged the applicant to look at redesigning the plan, using the alley for access. There followed a discussion of different options for access to the area.

In a voice vote, the motion passed unanimously.

ITEM SIX: VACATE REMAINING PORTION OF PLATTED FIFTEEN FOOT ALLEY

ADDRESS OR GENERAL LOCATION: 1251 N Federal Highway, Fort Lauderdale
Zoned: B-1

Mr. Volpi explained Scott Coleman with TSC Lake Ridge, LLC would like a positive recommendation to vacate the remaining portion of platted fifteen foot alley south of NE 13th Street just west of Federal Highway. All the surrounding property is owned by TSC Lake Ridge and any easements to FPL would be dedicated.

Ms. Nectaria Chakas, Lochrie and Chakas, provided aerial photographs, and described the area being discussed. Ms. Chakas stated in the past the alley extended further, and the owner vacated the alley. At the time, the owner did not own the piece being discussed, and was now seeking vacation of the remaining fifteen feet. Mr. Darmanin confirmed there were no City utilities in the alley.

Mr. Fajardo asked if the curbing would be corrected to remove the apron. Mr. Partington suggested the apron slope might not be ADA complaint.

Motion made by Mr. Fajardo, seconded by Mr. Irvine, to recommend approval of the vacation subject to the removal of the dropped curb, bringing the sidewalk into ADA compliance.

In a voice vote, the motion passed unanimously.

ITEM SEVEN: **SURPLUS PROPERTY**

ADDRESS OR GENERAL LOCATION: 1209 SE 12th Way

Mr. Volpi explained Ingo Pfothenauer, (property owner) would like a positive recommendation to surplus a portion of City-owned property located in the Evergreen Cemetery. This property is outside of the City's fencing of the cemetery. The Cemetery Board agreed the property will not be used for cemetery purposes at their meeting on March 18, 2009.

Mr. Ingo Pfothenauer, property owner, explained there were two fences, one erected by the City before the property was purchased. During the process of surveying for a garage to be built, the surveyor informed the owner the City property was actually within the owner's fenced area. Mr. Pfothenauer noted the land was well below the grade of the cemetery, and was within the fence the owner was maintaining. Using photographs, the property owner described the area being discussed.

Following a discussion with Mr. Julius Decisio, City of Fort Lauderdale Cemeteries, Mr. Dunckel explained Lauderdale Harbors was a re-subdivision of the predecessor plat. Under an earlier agreement, the portion of land being discussed was owned by the City.

Mr. Irvine suggested a parcel be surplussed rather than just a portion along the fence. Mr. Irvine asked for a guarantee no persons were interred in the strip being discussed. Mr. Decisio stated the cemetery records showed no interments, and the area being discussed was the last parcel acquired by the cemetery. The cemetery burials stop at the original cemetery fencing and do not extend to the chain link fence being discussed.

Mr. Dunckel stated if the plan was to surplus the land, proof would need to be provided the City owned the parcel. For survey purposes, Mr. Irvine defined the area as extending the north lot line no more than fifty feet westward to a point that would allow a line from the north line to the most westerly corner of lot three to clear the existing chain

link fence with not more than four feet of clearance. Mr. Irvine would prepare a legal description, and sell the property based on that description. The purchaser would then need to have the property surveyed. Mr. Partington asked if the land had value. Mr. Dunckel stated an appraisal would need to be done to allow for a minimum bid. Mr. Volpi explained there was a system by which property was surplussed. Mr. Volpi would then acquire an appraisal to go before the City Commission. Mr. Volpi was not aware of any other interested bidder, but noted the sale would need to be advertised.

Mr. Dunckel recommended the minimum bid include the fair market value as determined by the appraisal, the cost of the appraisal, and any survey costs. There followed a discussion regarding the possibility of other people being able to purchase the land for other reasons. Mr. Decisio stated the land had no value to anyone other than Mr. Pfothauer, but is valued by the cemetery. Mr. Decisio requested there be a stipulation that the cemetery would "like something" if the property was sold. Mr. Pfothauer pointed out a ridge along the fence line with a nine to ten foot grade level, making future burial impractical.

Mr. Dunckel stated an appraiser would look at the value of the homeowner's property before and after the addition of the requested parcel. Mr. Terrell pointed out the homeowner may not be the only bidder. Mr. Terrell did not feel the provision could be added regarding money going back to the cemetery. Mr. Dunckel agreed.

Motion made by Mr. Darmanin, seconded by Mr. Dunckel, to recommend surplussing the property. The cost of the appraisal and the soft costs of surveying would be added on top of the fair market value of the appraisal. The dimensions of the lot to be changed according to the description provided by the City surveyor.

In a voice vote, the amended motion passed unanimously.

There being no further business to come before the Committee the meeting adjourned at 11:45 a.m.

[Minutes prepared by K. Bierbaum, Prototype, Inc.]