

APPROVED
PROPERTY AND RIGHT-OF-WAY COMMITTEE MEETING
CITY HALL, 8TH FLOOR
COMMISSION CONFERENCE ROOM
THURSDAY, MAY 21, 2009 – 10:00 AM

COMMITTEE MEMBERS PRESENT

Peter Partington, City Engineer
Tom Terrell, Public Works
Tony Irvine, Engineering
Adrienne Ehle, Planning & Zoning (for Anthony Fajardo)
Yvonne Redding, Planning & Zoning (for Anthony Fajardo)
Mark Darmanin, Public Works
Carol Ingold, Parks & Recreation Supervisor
Mike Maloney, Code Enforcement
Bob Dunckel, Attorney

STAFF

Victor Volpi, Senior Real Estate Officer
Dennis Girisgen, Public Works\
Antoinette Butler, Parking
Hilda Testa, Recording Clerk, Prototype, Inc.
Jennifer Picinich, Recording Clerk, Prototype, Inc.

CALL TO ORDER

Mr. Partington called the meeting to order at 10:10 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 APRIL 16, 2009 MINUTES**

Motion made by Mr. Darmanin, seconded by Mr. Irvine, to approve the April 16, 2009 minutes.

In a voice vote, the motion passed unanimously.

ITEM TWO: **PROPERTY DEDICATION OF EASEMENT**

ADDRESS OR GENERAL LOCATION: 2224 NW 26th Street

Mr. Volpi explained Habitat For Humanity of Broward Inc. would like a positive recommendation to accept certain portions of their property as an easement so the water main in their development can be maintained by the City. There would be pavement in the easement (24 feet wide) and the entire proposed easement would be 36 feet wide. The "road" would be a private ingress/egress easement for the owners of the units only. The pavement curb gutter would be landscaping and drainage in this proposed easement would be maintained by the homeowners associations.

Ms. Courtney Crush with the Crush Law firm introduced Mr. Dan Fee with CDI Engineering and Mr. Jason Crush, representing Habitat for Humanity. Ms. Crush explained the applicant was requesting an easement to maintain water and sewer for the plat. Ms. Crush stated the community had requested the multi-family zoned property be converted to single family properties to be more compatible with the neighborhood. In order to modify the properties an interior road was necessary.

Ms. Crush noted the road does not currently meet City requirements. Ms. Crush stated Habitat for Humanity was adding thirty single-family affordable homes in the area, adding and maintaining private water and sewer would significantly increase the expenses.

Mr. Darmanin asked why Ms. Crush felt the cost would be greater for thirty single-family homes as opposed to one master meter. Mr. Fee stated in addition to the initial construction costs there would be the cost of the master meter, a service agreement with the City, and a double detector check valve assembly, which would add roughly \$40,000 to the up-front costs. There followed a discussion regarding the equipment needed to meet fire codes and the potential costs.

Mr. Partington noted either plan would involve additional costs to Habitat for Humanity. Mr. Darmanin stated the costs would be significantly by using the vault already installed in the ground and a six inch full flow meter, and the costs would be equal throughout regardless of whether the equipment was used for single family homes or for multi-family units. Ms. Crush emphasized if the City owned the right-of-way Habitat for Humanity would only be responsible for the initial costs, not for the ongoing maintenance. Mr. Darmanin stated the only time maintenance costs required for a water main would be in the event the main broke.

Mr. Partington requested additional information regarding costs Habitat for Humanity would incur under the proposed application. Mr. Darmanin stated either way the entire system would need to be built. Mr. Fee explained the on-site portion was already in the

ground up to the connection in the street, and Habitat would need to pay for the connections to the existing line in the street.

Mr. Darmanin stated the costs to Habitat for Humanity would be thirty individual tapping fees for the single family homes, approximately \$1,500 per home. If a master meter were used there would be one tapping fee. Mr. Terrell asked if this were a normal construction project, not Habitat for Humanity, which method would be used. Mr. Darmanin stated the entire project would be on a master meter. Mr. Terrell felt the application was requesting special treatment for Habitat for Humanity, and for the City to provide long-term special treatment in the form of maintenance. Mr. Terrell suggested the City waive the tap fee for a master meter instead of accepting long-term maintenance responsibilities. Mr. Dunckel explained waiving the fee was not possible as some other source of funds would need to be transferred.

Mr. Darmanin emphasized even at normal cost the master meter would be cheaper. Mr. Girisgen explained a full flow meter would be necessary, requiring the existing vault in the street to be replaced. Mr. Darmanin suggested a six inch full flow meter could be approved, allowing a by-pass to be built on the outside of the box instead of completely replacing the box.

Mr. Dunckel agreed special treatment was being requested. Mr. Dunckel felt the old Commission would have been amenable to accommodating Habitat for Humanity, but reminded the Committee it was "a new Commission, a new day, a new age," and some of the things taken for granted previously were no longer applicable. Mr. Dunckel suggested the Committee do whatever could be done to help Habitat for Humanity, but was opposed to the City assuming the burden.

Mr. Partington pointed out if the development had fifty foot rights-of-way this would not be special treatment. The special treatment stemmed from the fact the rights-of-way could only be thirty-six feet wide. Ms. Crush emphasized the smaller rights-of-way were to address a broader community concern and not to set off a private development distinct from the community.

Mr. Fee explained the original plan was for a cul-de-sac in the center with lots off both sides, zoned for seventeen duplex lots. Following the original plan approval by the Planning and Zoning Board, the District Commissioner requested the dwellings be changed to single family. The requested redesign caused a loss of four units, and created the existing right-of-way issue.

Mr. Terrell understood the issues laid out by Habitat for Humanity, but still felt the long-term maintenance should be maintained by the Habitat Homeowners Association and not by the City. Ms. Crush did not feel the property acted as a development, but as thirty single family homes. Mr. Partington felt Habitat for Humanity was forced into

making the changes and some accommodations should be made. Mr. Irvine stated the City had regulations, zoning codes and planning codes for a reason. The roadway was “shoe-horned” in substandard to the City’s requirements, then the City was being asked to provide long-term maintenance.

Mr. Terrell felt the properties “on paper” should be master-metered, and the question came down to should something special be provided for Habitat for Humanity. Mr. Darmanin noted the application assumed an undue hardship for Habitat for Humanity, and Mr. Darmanin felt there were ways to ease the burden for the differences in cost without causing a long-term expense to the City. There followed a discussion regarding what additionally needed to be done to accommodate master-metering.

Mr. Fee noted one of the problems associated with having a master meter was Habitat for Humanity then becomes a utility to thirty homeowners. Mr. Girisgen suggested the costs of the changes to full flow be calculated and all options be explored. Mr. Partington asked about an estimate for the cost of work on the master meter approach. Mr. Girisgen stated the inadequate size of the existing vault was an issue, the double detector check valve, and the service agreement for the eight inch line were the cost factors being evaluated.

Mr. Irvine asked for the cost to the City to “accept this free gift.” Mr. Partington suggested the issue be tabled to allow time for the applicant to work with Mr. Girisgen and Mr. Darmanin. Mr. Irvine reiterated when the issue came back he would still like to see the costs to the City. Mr. Dunckel pointed out a motion to table implied the issue would come back to the Committee, and if the issue were to be worked out at the Staff level the issue would not need to come back. Mr. Dunckel suggested a motion to recommend against the requested relief, allowing for a motion for reconsideration to bring it back to the Committee.

Ms. Crush asked if the issue could be deferred for a time certain and then withdrawn if the issue could not be worked out as opposed to a recommendation against the issue. Mr. Dunckel stated the wording was up to the discretion of the Committee.

Motion made by Mr. Dunckel, seconded by Mr. Terrell, to continue the application to the next meeting.

In a voice vote, the motion passed unanimously.

ITEM THREE: **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 Northwest First Street. Northwest First Street is owned by the City in fee simple and is not a right of way. Jeansusan would construct a parking lot and Broward County refused to allow them access from Andrews Avenue. This item was deferred from the last meeting (April 16, 2009) so that the City Attorney's Office could do further research as to the type of document necessary and the ramifications of such an agreement.

Mr. Dunckel asked if the parking was required under the ULDR. Mr. Charles Buckalew, Consulting Engineering Services, Inc., stated the zoning district was exempt from parking. Mr. Dunckel asked if Goodyear felt there was not adequate parking for the facilities. Mr. Buckalew stated Goodyear did not have control of the corner lot at Broward and Andrews. The lot was for sale, and the application was in anticipation of losing the ability to park in the lot.

Mr. Buckalew reminded members the question previously brought before the Committee was whether or not the alley could be used for parking. Another survey was performed showing the traffic flow from south to north. The width of the alley was only fourteen feet, and a fire lane required twenty feet. Mr. Buckalew did not see any method available to use the one-way alley.

Mr. Partington requested additional information regarding the alley not being a possibility. Mr. Buckalew explained using the one-way alley would force people to come off of Broward Boulevard and go north through an alley. Mr. Buckalew stated if Broward and Andrews were to be expanded there would be no access allowed on Andrews. There would also be a conflict with the traffic flow.

Mr. Dunckel asked if the surveyor was aware that Northwest First Street was fee simple and not a public right-of-way. Mr. Buckalew confirmed the surveyor was aware.

Mr. Irvine asked whether the parking was employee parking or public parking. Mr. Buckalew stated the lot was used for extra public parking. Mr. Irvine did not feel going up the alley provided a hardship. Mr. Irvine asked if access was allowed to run across the piece of property owned by the City, how would that affect future ability to close the area at will. Mr. Dunckel explained at some point in the future the City might want to use the property as fee simple land as part of a City Hall campus. Mr. Dunckel felt the City Hall campus might also entail acquisition of the Goodyear store in the future.

Mr. Dunckel felt the configuration dumping traffic onto Northwest First Street might be acceptable, as it could be wrapped up with a lease because black letter law said that a tenant could not challenge the landlord's fee simple ownership. Mr. Dunckel felt parking would need to be compensated due to the potential loss of some of the parking meters. Provisions could also be added to the lease allowing termination of the lease, but Mr.

Dunckel felt the lease should be relatively short, for instance five years with the option to renew. Mr. Dunckel also suggested the City be entitled to some revenue stream. For example the Goodyear property could be valued with and without the parking and factor in the loss of the corner. Mr. Dunckel felt the option of a lease should be given more thought.

Answering a question from Mr. Partington, Mr. Dunckel explained the lease would cover ingress and egress rights, including the full Northwest First Street corridor. Mr. Partington asked if other people could lease the rights since the entire street would be under the lease. Mr. Dunckel confirmed multiple leases could be done if someone wanted the same arrangement from the north side of the road. Mr. Irvine noted the Commission could vacate up the alley between and provide an access out to First Avenue as an alternate route, which would give the City the ability to co-op one large parcel for redevelopment. Mr. Irvine expressed concern that in an attempt to be helpful to a good business, the City would be “handcuffed” in the future by a lease. Mr. Dunckel stated a trigger mechanism would be in the lease whereby the lease could be terminated with advance notice to the lease holder.

Mr. Buckalew noted if the lease was too expensive, the business would probably walk away. Mr. Dunckel asked what the business would do then regarding the use of the property. Mr. Buckalew noted the applicant was attempting to buy the property, and in the meantime was trying to make the empty lot look decent. Mr. Dunckel felt there should be some equity involved in the decision, and the revenue stream decisions would be made by “others.” Mr. Buckalew asked if the access easement could be limited to year and be renewed annually. Mr. Dunckel explained the issue was discussed with the City Attorney, and the City preferred a lease.

Mr. Volpi pointed out the expense involved in obtaining an appraisal, and suggested the meters and a nominal cost would be more amicable to the property owner. Mr. Dunckel was sympathetic to the suggestion, but felt Economic Development would ultimately make the decision regarding rent, and expressed concern with “cutting them off at the knees” and define the approach to determine rent or lease today. Mr. Dunckel suggested appraisal costs would be at the property owner’s expense.

Motion made by Mr. Darmanin, seconded by Mr. Terrell, to allow the property to set up a lease through the City Attorney’s office, and any appraisals required would be at the property owner’s expense.

Mr. Darmanin explained the appraisal would be conducted only if needed. If Economic Development determined no appraisal was needed to set a revenue for the property there would be no cost passed on. Mr. Buckalew pointed out the owner was spending approximately \$150,000 to improve the lot, and if Goodyear felt the numbers were too high, they would not be interested. Mr. Partington stated it would ultimately be a

business arrangement, and the Committee was only providing an option for the business to have the necessary access.

Motion amended by Mr. Darmanin, seconded by Mr. Terrell, to allow the ingress/egress be resolved by virtue of a lease agreement that would include mitigation of parking for a five year term with options to renew. The lease would cover Northeast First Street from Andrews to First Avenue to the west. A termination clause would be included predicated upon the City's need to once again utilize Northwest First Street in the fee simple. The rents to be charged would be up to the determination of Economic Development.

In a voice vote, the motion passed unanimously.

There being no further business to come before the Committee the meeting adjourned at 10:56 a.m.

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