

**APPROVED**  
**PROPERTY AND RIGHT-OF-WAY COMMITTEE MEETING**  
**CITY HALL 8<sup>TH</sup> FLOOR**  
**COMMISSION CONFERENCE ROOM**  
**THURSDAY, FEBRUARY 18, 2010 – 10:00 A.M.**

**COMMITTEE MEMBERS PRESENT**

Mike Fayyaz, Acting Chair, Assistant City Engineer, Public Services  
Mark Darmanin, Utilities  
Robert Dunkel, Assistant City Attorney  
Anthony Fajardo, Planning & Zoning  
Carol Ingold, Parks & Recreation Supervisor  
Tony Irvine, Engineering  
Mike Maloney, Code Enforcement  
Tom Terrell, Public Works

**STAFF**

Victor Volpi, Liaison, Senior Real Estate Officer  
Dennis Girisgen, Land Development Manager, Public Works  
Randall Robinson, Planning & Zoning  
D'Wayne Spence, Assistant City Attorney  
Jennifer Picinich, Recording Secretary, Prototype, Inc.

**CALL TO ORDER**

Mr. Fayyaz called the meeting to order at 10:02 a.m. and stated this was a Committee of City Staff serving as an advisory panel to the City Manager on matters related to City properties and public right-of-ways.

At this time the Committee members introduced themselves and stated the department they represent.

**COMMUNICATIONS TO CITY COMMISSION**

None.

**ITEM ONE:**                      **APPROVAL OF JANUARY 21, 2010 MINUTES**

**Motion** made by Mr. Darmanin, seconded by Mr. Terrell, to approve the minutes of the January 21, 2010 meeting. In a voice vote, the **motion** passed unanimously.

**ITEM TWO:**                      **ROW LICENSE AGREEMENT**

Address:                              Various, B-1/RS-8

Mr. Volpi explained that First Presbyterian Church of Fort Lauderdale would like the Committee's positive recommendation for supporting the improvements to be made in the right-of-way and a possible license agreement for the improvements that are not necessarily in a right-of-way. He introduced Jeff Lis from Stiles Development.

Mr. Lis stated he would make a presentation on behalf of First Presbyterian of Fort Lauderdale. He indicated his team consisting of legal counsel, civil engineers, the architect of record, the constructive executive and the superintendent for the project who were present to answer technical questions. He stated that the application was straightforward with plans and applications regarding the following:

- improvements in the right-of-way by curbs and gutters
- parking spaces with ball bats
- landscaping
- irrigation
- stamped asphalt crosswalks
- a traffic pedestrian table with bollards
- a canopy which has already been provided for but will be reconstructed at a handicap drop-off area

Mr. Lis displayed a diagram to indicate the locations. He stated that the most important item was a "strange little 10x50 cut out" along Las Olas, which they would be improving the same way as the rest of the sidewalk along Las Olas. There would be street trees and pavers consistent with the existing pavers. They would not alter the curb line or the "parking situation" along Las Olas. He concluded it was the only improvement along Las Olas that would require permits for the purpose of making improvements consistent with the other improvements they would be doing along Las Olas.

Mr. Dunkel inquired if the "little cut out" was a private property improvement or part of public right-of-way. Mr. Lis responded that it is part of public right-of-way.

Mr. Irvine stated that the indicated lot had given additional right-of-way; the others have not yet.

Regarding right-of-way, Mr. Lis stated they have a traffic ways plan for Las Olas. He added that they have a letter that was given to the Committee and was

drafted by the Broward Planning Council, which addresses the issue, and they intend to comply with the requirement in the letter.

Mr. Lis explained the improvements as follows:

- The current canopy existed out to the street by agreement through the Board of Adjustment in 1966.
- The parking lot would be totally reconstructed.
- The existing encroachment to the right-of-way would be removed and landscape improvements would be made to the area.
- They would dedicate the sidewalk as required by easement.

Mr. Lis stated that the most significant proposal was to take the existing alleyway, which is 10 ft. in width, and dedicate by easement an additional 5 ft. along the entire length. They created a separation between the existing alleyway and the entrance into their garage. This would then be 15 ft. in entirety and they would remove the overhead power (power, cable, telephone) and put it underground. They discussed with Public Works the existing sewer main that runs through the area and would be rerouting that main as requested by Public Works.

Mr. Lis added they would like for the City to close a section of the alleyway to landscape in ways that do not conflict with the underground utilities they would place in the area.

Mr. Volpi requested clarification on the bollards.

Mr. Dunkel explained that the item is a PUD application and is better implemented through the PUD master development agreement rather than a revocable license. One reason being that a revocable license would be “tied to the property” and there would be maintenance obligations. He added that the Committee would examine whether any of the items conflicted with a utility line in order to give recommendation to Planning and Zoning and the City Commission on how “it might be restructured.”

**Motion** made by Mr. Irvine that the Committee recommend vacation of the portion of alley lying west of the newly configured entrance as shown and a utility easement be retained over the portion of vacated alley and one condition being that the existing sewer be relocated down to S.E. 4<sup>th</sup> Street.

Mr. Darmanin requested that the design of the sewer be explained and include a review by Utilities.

Mr. Fayyaz stated that any motion should include Utilities and Engineering as far as review.

Mr. Irvine withdrew the **motion**.

**Motion** made by Mr. Irvine, seconded by Mr. Dunkel, that the Committee recommend vacation of the portion of the 10 ft. alley as shown on the sketch lying west of the newly configured 15 ft. entrance with proviso that the City retain a utility easement over that vacated portion of alley and that the applicant dedicate an access easement as shown on the drawing which would bring the remaining alley up to 15 ft. wide and provide an alternate entrance onto Tarpon Drive or from Tarpon Drive and that the relocation and operation of utilities within that alley as in City standard be subject to review and approval of Utilities Department and the Land Development section and Engineering permits.

Mr. Dunkel introduced Nectaria Chakas, Attorney for First Presbyterian. She stated that she understood the Committee's reasoning for wanting them to vacate that portion of the alley, which she added was not part of their request. They want to keep the alley in place and request that no vehicles be able to travel there. She stated they do not see a reason to vacate at this point; they are adding an easement diverting the alley to Tarpon Drive.

Mr. Irvine stated they want to retain a utility easement. He stated he did not see a reason to keep the alley if the City "would not operate but would have liability for trip and fall." Ms. Chakas responded that the neighborhood was adamant about not wanting to vacate any portion of the alley. They are trying to "make the neighborhood happy" and leave the alley in place and close it to vehicular traffic. Mr. Irvine stated that would be decided by Planning and Zoning and the City Commission. He added that in the best interest of the City and the citizens he would recommend to vacate the alley and retain an easement.

Mr. Volpi inquired if the City would have greater rights for an alley or an easement. Mr. Dunkel responded there would be greater rights for an alley because the alley implies the movement of vehicular traffic plus the use for utility purposes whereas the easement would be just for utility purposes.

Mr. Terrell inquired what the neighborhood envisions if they do not want to vacate. Mr. Girisgen stated they might want pedestrian access. Mr. Lis responded they are trying to accommodate the neighborhood while improving the conditions.

Mr. Irvine stated that it was not good to leave pedestrian traffic at the entrance of a parking building. He stated the City should operate the alley or vacate it. He expressed that it would be a "traffic hazard."

Mr. Dunkel inquired why the neighborhood would want to keep the alley open when the new one-way dedication would be wider and would give them "what they are looking for." Mr. Lis responded that it was "semantics more than actual use."

Mr. Lis inquired what the "timing logistics" were of going through a process of vacation. Mr. Dunkel responded it would be handled through the PUD process. Ms. Chakas stated they were ready to go to Planning and Zoning on a PUD next month. She stated they understand what Mr. Irvine had expressed, but they are "trying to satisfy a lot of people and it has been difficult."

Mr. Terrell stated it was the City that decided to vacate, not a request by First Presbyterian.

Mr. Irvine stated that when the utilities were relocated to Mr. Darmanin's satisfaction, they would have the necessary review and dedicate the necessary easements, and then the vacation would come into effect. Mr. Lis inquired if that would hold up the current process. Mr. Dunkel stated that Planning and Zoning "may or may not embrace" the recommendation from the Committee.

Mr. Irvine added that the City Commission "may or may not embrace either."

Mr. Darmanin stated that it would be a "net gain to the public." Mr. Lis stated that what they were giving they want to keep in the form of easements because he did not want to "trigger additional set-back calculation issues." Regarding the vacation, they are dealing with the issue of the perception in the neighborhood and are concerned that the timing of the project would not be impacted. He continued that the church is working from donations to expand their ministry and "it is a great time to construct something." Mr. Lis added he is waiting for sign-off by Planning and Zoning. He stated they have had many meetings, and he hopes to make application to Planning and Zoning by March 12 for an agenda and "to be through the process by the end of June or July."

Mr. Irvine stated that timing could not influence his opinion of what is for the public good. He expressed concern about "having an open dedicated alley empty out right into an access point for a parking garage."

For clarity, Mr. Darmanin stated that his interpretation was that they would close the alley down to vehicular traffic and pedestrian traffic.

Mr. Fayyaz stated that the motion in place does not cover the other issues.

Mr. Dunkel wanted to state for the record that he has been a member of First Presbyterian Church for over 25 years.

Mr. Girisgen requested a point of clarification on the motion regarding dedicating an access easement. He stated that typically it was received as an alley easement, he would like to continue the alley as an alley easement, and it would not affect their setbacks.

**Motion amended** by Mr. Irvine, seconded by Mr. Dunkel, to read “alley easement” instead of “access easement.” In a voice vote, the **motion** passed unanimously.

Mr. Lis stated that their civil plans provide for a 10 ft. sidewalk easement.

**Motion** made by Mr. Irvine, seconded by Mr. Darmanin, that the Committee recommend that all the other elements before them on the plans be moved through and handled in the PUD process and that no other action be recommended by the Committee.

Mr. Dunkel stated the Committee was deferring recommendation and sending [the plan] to Planning and Zoning.

Mr. Irvine withdrew his **motion**.

Mr. Irvine stated that he is in favor, but the Committee should not be micro-managing. Mr. Dunkel stated that to the contrary, they should be micro-managing if the Committee sees a conflict.

**Motion** made by Mr. Irvine, seconded by Mr. Dunkel, that the Committee recommend the favorable forwarding of the plan as presented to the Committee with the exception of the one motion on vacation and send the plan to Planning and Zoning for its adoption and that the details be ironed out in the PUD process and the Engineering permit process.

Mr. Girisgen requested a point of clarification regarding the intent of the applicant in terms of satisfying the traffic ways and whether they would be requesting an exemption or waiver from the County. Mr. Lis responded that they have a letter.

Ms. Chakas stated that the traffic ways plan shows the area as a 70 ft. section. They would work with the Broward County Planning Council regarding a 5 ft. easement along Las Olas. She added they would either dedicate right-of-way by easement or they would seek a waiver from Broward County.

In a voice vote, the **motion** passed unanimously.

**ITEM THREE:**                    **LICENSE AGREEMENT – AIR RIGHTS**

Address:                            301 East Las Olas Boulevard

Mr. Volpi explained that Third Avenue Associates would like the Committee's positive recommendation to obtain building permits and license agreements for air rights and proposed construction including signs and awnings.

Mr. Lis explained that Stiles was moving their corporate headquarters and had made arrangements with Templeton to occupy their building. Stiles' plan is to modernize the exterior skin of the building. He added they would not make any changes to the "hardscape" or the landscape. All of the changes they are proposing were to the exterior skin. Mr. Lis stated that Pete Daltner is the architect of record, Randy Zerrs is the senior executive with the construction company and Tom Callan is the superintendent. Mr. Lis stated he had worked with this team on their corporate headquarters at 200 Las Olas Circle, and they have had a lot of experience working downtown and on very tight sites.

Mr. Lis explained they would be replacing the windows in the building and modernizing it by taking the building from a vernacular of architecture to a more modern, contemporary look. Along those lines, the building sits right on the property lines and it appears that there is an encroachment into the right-of-way; however, there is an agreement in place. They are proposing metal canopies on the west side of the building and on the south side of the building into the right-of-way. In addition, they are proposing an aluminum super-structure coming off the building in a wedge form on the Las Olas side as shown on the diagram he presented. He added that the wedge would hold an identifying logo and signage. There were similar shed canopies on the south side for pedestrian cover that protrude 5 ft. from the building.

Mr. Lis stated they had met with the Building Department and the Planning and Zoning Department and had made an application for administrative approval. The application has been filed and is being reviewed. He stated that [the application] goes for "call up" as it had been approved in 1996, as the site exists today. Mr. Lis added he would like to vacate air rights on the south side of the

building, similar to what they had done previously. They would be replacing the existing canopy with a more modern canopy.

Mr. Irvine inquired if the existing canopies were subject to a license agreement. Mr. Lis responded that he was not aware of that. He thought the canopies were the subject of a site plan approval, but he did not know as he “did not handle that in 1995.”

Mr. Dunkel stated that his recommendation in regard to the canopies would be that they be implemented through a revocable license. He added that it potentially would have interference with future uses of the right-of-way. Mr. Lis stated they do not protrude to the curb line. Mr. Dunkel stated that the dimensions being proposed might be different than what an existing revocable license allows.

Mr. Dunkel stated that the wedge does not meet criteria for a variance, and that if it were an integral part of construction he might take a different view. He stated he could not justify vacating the air rights for signage. He thought they should have stayed within the four corners of the canvas. He was not in favor of vacating the public right-of-way to enhance the building with a logo and signage.

Mr. Lis stated the proposed wedge was not only to facilitate signage, but was an architectural element. Pete Daltner, the architect of record, explained that the wedge would create dimension on the building, and they were applying additional similar elements to provide dimension and to provide sunshade. He used the diagram to point out where the elements would be located.

Mr. Fajardo stated that sign regulations might qualify the element as a projecting sign. He added that the downtown Master Plan addresses maintaining corridors and step-back requirements for buildings. The element they want to add violates the recommendations of the Master Plan that has been approved by the City. He added that he agreed with Mr. Dunkel regarding the canopies on the lower level, but he could not support the sign projecting out over the right-of-way.

After further discussion, Mr. Irvine suggested that the Committee wait for the project to be reviewed in call-up before making a recommendation.

**Motion** made by Mr. Irvine, seconded by Mr. Dunkel, to defer the item until after administrative review plus 30 days for call-up. In a voice vote, the **motion** passed unanimously.

Mr. Lis stated they were not requesting any road closures, and the walkway would provide covered protection and would not be closed. Mr. Girisgen stated it could “take awhile” to craft a revocable license, which could affect the schedule of the project. Mr. Terrell pointed out that even if the wedge were not approved, a covered walkway would still be needed for the rest of their construction.

**Motion** made by Mr. Dunkel, seconded by Mr. Terrell, that the Committee recommend approval of a revocable license for the sidewalk coverings and canopies on Las Olas and Third. In a voice vote, the **motion** passed unanimously.

Mr. Lis stated they would complete the administrative review process, fulfill the obligations of the call-up period and depending on the outcome, he would return to the Committee regarding the wedge.

Mr. Girisgen requested clarification that Mr. Dunkel would start on the revocable license after Mr. Dunkel receives an email from Mr. Volpi. Mr. Volpi stated he would send his file and the minutes of the meeting to Mr. Dunkel.

Mr. Darmanin requested an update on the process and timeline of the City’s potentially saleable properties. Mr. Volpi responded that the Committee has “until the meeting in March” to provide comments to him on each of the 110 properties, and to decide if the City wants the properties for utility or park purposes.

There being no further business to come before the Committee, the meeting adjourned at 11:08 a.m.

[Minutes prepared by J. Picinich, Prototype, Inc.]