

APPROVED
PROPERTY AND RIGHT-OF-WAY COMMITTEE MEETING
CITY HALL 8TH FLOOR
COMMISSION CONFERENCE ROOM
THURSDAY, APRIL 15, 2010 – 10:00 A.M.

Committee Members Present

Peter Partington, Chairman
Mark Darmanin, Utilities
Anthony Fajardo, Planning and Zoning
John Gossman, Code Enforcement
Carol Ingold, Supervisor, Parks and Recreation
Tony Irvine, City Surveyor
Tom Terrell, Public Works

Staff

Victor Volpi, Liaison, Senior Real Estate Officer
Diana Alarcon, Director, Parking and Fleet Services
Gene Groves, Housing and Community Development
Dennis Girisgen, Land Development Manager
Barbara Hartmann, Recording Secretary, Prototype, Inc.

Communications to City Commission

None at this time.

Call to Order

Mr. Partington called the meeting to order at 10:07 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 rights-of-way.

At this time the Committee members introduced themselves and stated the Departments they represent. It was noted that Mr. Gossman was representing Code Enforcement in lieu of Michael Maloney.

ITEM ONE

APPROVAL OF MARCH 18, 2010 MINUTES

Motion made by Mr. Darmanin, seconded by Mr. Terrell, to approve the March 18, 2010 minutes. In a voice vote, the **motion** carried.

ITEM TWO

VACATION OF RIGHT-OF-WAY

ADDRESS: 2909 S Andrews Avenue B-3

Mr. Volpi explained that this Item had been deferred from the December 17, 2009 meeting. It is a request to vacate SW 29th Street from Andrews Avenue west to the FEC Railroad track. He introduced Jim McLaughlin, representing the Applicant.

Mr. Partington asked why the Item had been previously deferred. Mr. Irvine stated there had been questions regarding FEC access to the alley; they have since been resolved.

Mr. McLaughlin advised that a 40 ft. easement will be dedicated to allow for access to the alley. The Applicant also has a letter from FEC, stating they have no objection to this vacation. The right-of-way will consist of 80 ft. total, 40 of which will be dedicated to the easement.

Mr. Partington requested clarification that the 40 ft. easement will not be developed, as it will effectively remain right-of-way. This was confirmed as true. Mr. McLaughlin asserted that “nobody is using [this property],” which is presently fenced off.

Mr. Irvine asked if it is necessary to create an easement, or if the property in question might be left as right-of-way and not vacated. He stated that “a right-of-way is an easement” unless owned by the state, and asked if there is any advantage to the plan of vacating and rededicating the space.

Mr. McLaughlin pointed out that there is no current intent to use the property, which is presently fenced off and used for parking. The property could also be used as fee simple, and the City will have the right to use it as such in the future. He clarified that if the property is an easement, the City will pay taxes on it; if it remains a right-of-way, however, taxes will not be paid on that portion.

Mr. Volpi noted that an easement can be fenced, while a right-of-way cannot. Mr. Irvine asserted that a right-of-way “is nothing more than an easement to use a strip of land for roadway purposes,” with no material differences between the two; his concern was for “future zoning” and the placement of setbacks on this and adjoining properties. As these adjacent parcels are owned by FEC Railroad, he pointed out that FEC would have to grant an easement for them, rather than the Applicant.

Mr. McLaughlin advised that FEC has already agreed to execute this easement, and the Applicant has a letter from the Railroad stating they have no objection. He explained that FEC wants access to the alley, as does the City.

Mr. Partington observed there is “minimal risk,” as FEC has agreed to dedicate the piece as an easement as well. Mr. Irvine noted that FEC’s vacation would not take effect until the City grants an easement.

Mr. Darmanin commented that there are two utility meters on the property that would need to be relocated outside the property line. This would be done "at the customer's expense."

Motion made by Mr. Irvine, seconded by Mr. Darmanin, to recommend approval of the vacation of right-of-way as submitted, with certain conditions to be built into the final vacation, including the relocation of any and all utilities necessary for operation as the appropriate Departments see fit; another condition being the dedication of an easement for access from south Andrews Avenue to the 16 ft. alley in block 13, and the configuration of that easement will be subject to review by Engineering and Land Development.

In a voice vote, the **motion** carried 6-1 (Mr. Fajardo dissenting).

The following Item was taken out of order on the Agenda.

ITEM FOUR

ENCROACHMENT INTO RIGHT-OF-WAY

Address: 301 East Las Olas Boulevard

Mr. Volpi stated that on February 18, 2010, the Committee recommended approval of a revocable license agreement to allow sidewalk coverings and canopies on Las Olas Boulevard and 3rd Avenue; however, the recommendation of an encroachment of an architectural element attached to a building with a sign was deferred. The Applicant has returned to the Committee with a modified plan of the architectural element, which begins from the building and does not have a sign. The encroachment into Las Olas Boulevard would be 8 ft. He introduced Jeff Lis, representing the Applicant.

Mr. Lis showed a site plan of the block, calling the Committee's attention to a "space frame element" on the building's south side. This element had previously started at 52 ft. and projected 12 ft. into the right-of-way; it has been redesigned, along with other space frames, to start at 75 ft. and project 8 ft. toward the right-of-way.

He noted that he had previously appeared before the Committee before submitting his application to the Planning and Zoning Department for administrative review of the entire renovation package; after consulting that Department, it was decided to break that package into two separate packages, which would allow for the advancement of Package 1 through the permitting process and the separate resolution of issues related to Package 2. Package 1 contains "everything we wanted to do to the outside of this building" that did not affect the right-of-way, while Package 2 contained this information as well as elements that were in the right-of-way.

He advised that Package 1 has been approved, and all of its elements may be permitted, including all windows, some architectural elements, and changes in the fenestration of the building. Planning and Zoning has determined, however, that the space frame element projecting into the right-of-way is beyond their purview to approve, and must be approved by the Committee. Mr. Lis pointed out that the architectural element for which he is seeking approval has been approved elsewhere on the building by Planning and Zoning.

Mr. Fajardo confirmed that Package 1 has been approved for architectural elements that do not involve right-of-way, and it is the Planning and Zoning Department's position that they may not approve elements extending outside the property line.

Mr. Lis asked if the Committee's approval of an element such as the one in question was sufficient for an applicant to pull a building permit and construct a space frame element on the outside of a building. He recalled that typically, when applying for a building permit, if there is no accompanying site plan package approving the element then the application is rejected, and further documentation is required. He hoped that the Committee could clarify this question.

Mr. Partington stated that the Committee is only making a recommendation for a revocable license for the encroachment. Mr. Lis asked if this license could include "language with regard to the permitting of [an] encroachment."

Mr. Irvine asked if the element could be built with an engineering permit for the attachment, as this would include structural review of items in the right-of-way. Mr. Lis felt that consideration would include the structural and wind loads on the building, which are within the purview of the Building Department rather than Engineering. Mr. Partington advised that this would mean the Structural Inspector must "sign off" on the engineering permit review.

Mr. Lis clarified that the structural is "just appearance," and is intended to draw interest to the building as an architectural element. No signage is involved. He provided a graphic of what the element would look like.

He offered to continue working with Mr. Girisgen and Attorney Dunckel on clarification of the process of his ability to pull a building permit and construct an attached element, so the process would be clearer the next time such a request appears before the Committee.

Mr. Girisgen stated that if the permit is "signed and sealed by a structural engineer" to meet the 140 mph wind category and other Florida Building Code requirements, "that would be one factor." He did not feel, however, that it is possible to place "anything" in a right-of-way without "review from that end."

Mr. Fajardo explained that the only point of reference is the Downtown Master Plan. Although it does not apply to non-residential buildings, this Plan includes general planning principles, such as maintaining rights-of-way.

Mr. Partington observed that part of the architectural element is “over the building” as well as over the right-of-way, which he felt would fall within the Planning and Zoning Department’s purview. Mr. Lis reiterated that similar space frames were approved on other elevations of the building.

Mr. Irvine felt a “sign-off” might be an answer to the issue. He offered the example of a structure that “goes from a State road to a County road,” which would require two permit sign-offs.

Mr. Lis stated he is “more than willing to go back” to Planning and Zoning with the Committee’s support, particularly with what has been said regarding the portion of the element that is within the property, as this would provide an indication of where the Committee has jurisdiction. He would also work with Mr. Girisgen and Engineering to acquire a permit for the rest of the structure.

Mr. Volpi pointed out that it can be difficult to determine “how much is too much,” noting that the Committee might recommend approval of an 8 ft. structural encroachment of the right-of-way, but other properties might wish to have greater encroachments later on. He asked what length might be “unsafe.”

Mr. Partington responded that this “depends on circumstances,” noting that there are greater intrusions elsewhere in the City and Downtown area. Mr. Irvine agreed that the Committee must consider the aesthetics involved and use their best judgment.

Mr. Irvine recalled that the element now begins at 75 ft. and extends 8 ft., and asked if the 75 ft. is above grade or elevation. Mr. Lis clarified that this is above the sidewalk.

Motion made by Mr. Irvine, seconded by Mr. Darmanin, that the Committee recommends favorably that the City grant the Applicant a revocable license, the details of which will be worked out with the City Attorney’s Office, to allow the placement of a space frame structure in the air space above the right-of-way, starting at 74 ft. above grade to 110 ft. above grade; extending no more than 10 ft. into the right-of-way; and that permitting issues be worked out at Staff level between Engineering and the Building Department.

Mr. Fajardo stated that with only the Downtown Master Plan for background, he would not be able to support the **motion**. He explained that the Plan’s principles

are “broad,” but include maintaining air rights and view corridors, as well as not building over a right-of-way.

Mr. Irvine noted that raising the height of the structure to 75 ft. above the sidewalk would create an “open space frame structure” rather than the feeling of walking in a tunnel. He added that the license would also be revocable, so the City could ask the Applicant to remove the structure if necessary.

Mr. Fajardo maintained he was still uncomfortable with the proposal, and felt a study should be done to determine what rights-of-way would be “more appropriate” for the structure in question: for example, narrower or wider rights-of-way, other areas of the City, or within the Downtown area only. He concluded he was not comfortable with the proposal in the absence of such a study.

Mr. Partington pointed out that there could still be a need for the Planning and Zoning Department’s approval, considering that the structure is partially over the building; Mr. Fajardo’s explanation would fall under Planning and Zoning’s purview as well.

It was noted that Mr. Lis had pointed out the Downtown Master Plan does not apply to commercial development in the City: developers are asked to “embrace the Master Plan” when proceeding with further residential and commercial development, but a “line of distinction” remains between the two forms.

Mr. Irvine reiterated that with a revocable license, the City would not be “taking a step from which we cannot retreat.”

Mr. Girisgen asked if a road closure is associated with the revocable license. Mr. Lis noted that maintenance of traffic (MOT) was approved at the Application’s previous appearance before the Committee. He added that the Applicant does not plan to use a crane to install the structure; if this became necessary, a crane would be placed on the property rather than in the right-of-way. Mr. Partington noted that the Committee’s requirements associated with cranes are “more extensive” than in the past.

In a voice vote, the **motion** carried 6-1 (Mr. Fajardo dissenting).

ITEM THREE

SURPLUS PROPERTIES

Address: Various Properties

Mr. Volpi stated that the Real Estate Office does not make recommendations regarding the acquisition or disposition of properties: all properties come before the Committee. Many of the properties included under this Item are under the control of various Departments. Because there have been questions in past

years regarding how many properties the City owns and how they might be disposed of, the City Auditor has compiled a list of 105 such properties that he feels could be made available as surplus.

Mr. Volpi continued that the City Auditor was given a “fairly accurate” list of all City-owned properties, and has identified 105 of these from various Departments. The Departments in question, including Parks and Recreation, Planning and Zoning, Parking and Fleet Services, Community Development, and Utilities, have removed many of these properties from the list. He advised the Committee to direct any questions about these properties to the representatives of the Departments. The Committee’s larger information packet contains “what is left over” of the 105 properties, meaning those not identified for retention. These may be discussed as well as the individual properties identified by Departments.

Mr. Partington asked if the properties are listed with their assessed value. Mr. Volpi confirmed this, adding that square footage is included as well. He continued that “the market is not good,” and he would assume that the values listed may be somewhat high. Mr. Partington agreed that assessed values are often “85% or so” of the price they can be expected to receive.

Mr. Terrell pointed out that the Departments had collectively spent a great deal of time studying and removing properties from the list, and he felt the Committee should support their respective selections rather than discussing them.

Mr. Fajardo asked if the Departments’ individual reviews would be forwarded along with the Committee’s recommendations. Mr. Volpi replied that it was not yet decided what would be presented to the City Commission, but he has suggested a spreadsheet including a column indicating the Departments’ recommendations for properties. Mr. Fajardo stated he agreed with this approach.

Mr. Terrell noted that this left properties that “nobody wants in the first place,” which he did not feel it necessary to discuss. Mr. Partington asked if any of the Departmental representatives could identify lots that are “currently not in an active use,” and asked why these inactive lots could not be given up.

Mr. Darmanin offered the example of a well field that “may have been used five years ago as a well field” and may have the same use for “five potential years,” if there are no other spaces in which a well can be drilled: in other words, a space that could be active at a later date.

Ms. Alarcon stated that the Parking and Fleet Services Department has a helistop that is part of a capital improvements project; while it has not been activated, its activation is part of a CIP so it can support a bus station and other upcoming development.

Mr. Partington agreed that this was a good example of a reason to keep an inactive lot, but pointed out that the City Commission “might think differently,” as the site is “potentially valuable” and currently not in use. Mr. Terrell agreed that the City Commission might take exception to “several” of the properties that the Departments might wish to keep; however, he felt the Departments that own the properties could have plans to produce revenue from these properties in the future.

Mr. Volpi explained that the Mayor had requested identification of the properties, and the list came “from the Mayor via the City Manager to the Auditor.” He was not aware of the specific context that prompted the creation of the list.

Mr. Partington asked if the Committee would defer, as a group, to Ms. Alarcon’s stated need for the property. Mr. Irvine stated he agreed, as the Committee is “not charged with... raising [money],” but with looking at surplus properties for which the City’s Departments have “no basic use.” He observed that the City Manager may revisit the property at a later date to determine its best use.

Mr. Terrell asked how many properties were remaining after the Departments had identified those for which they have prospective uses. Mr. Volpi replied 11 such properties remain, for which the various Departments might have uses, and asserted that he planned to inform the City Commission of any such uses that were discussed as reasons to keep them.

Ms. Alarcon stated there are “a lot of” properties that are not currently in active use, but could be developed for use by Parking and Fleet Services. For example she cited “the Sebastian lot,” a piece of which could be used for parking, for a public/private partnership, or for other related uses.

Mr. Partington observed that the list does not necessarily contain all City properties, but those that the City Auditor felt were “worthy of consideration for retention:” in other words, “a subset of City property.” Mr. Volpi agreed with this assessment.

Mr. Partington explained he was attempting to move on to discussion of those properties not identified for retention by any Departments, as the Committee would defer to those Departments on this issue. Mr. Fajardo pointed out that many of the Committee members had already contributed to their Departmental Directors’ recommendations to retain properties. Mr. Volpi agreed the list was sent “from the bottom up and the top down” of Departments, so all members were aware of the list.

The Committee moved on to discussion of the properties not identified for retention by any Departments. Mr. Darmanin suggested that rather than

reviewing these properties individually, they “move them forward and let them go,” as the Departments had already reviewed these properties and found no uses for them.

Mr. Partington recommended that the Committee review the 11 properties “concentrating on the highest value ones.” The property with the greatest value was determined to be the Wingate property, which is a 60-acre mitigated site surrounded with residential properties on all sides and with a membrane underneath. Mr. Volpi stated he felt the highest and best use for the property would be warehousing, using “floating structures” without puncturing the membrane. He felt it would “have to be monitored the rest of its life,” and the City would not receive bids for residential development or golf courses. He noted that the property could be leased and monitored.

Mr. Partington asked if the City’s database for the 11 properties should indicate their respective zoning. Mr. Volpi pointed out that zoning is included on the spreadsheet. There are also several small residential properties originally intended to serve as a buffer zone around the Wingate property to “keep the dust down in the neighborhood;” he clarified that the Wingate property he was describing included these small properties as well, or “21 properties all told.”

The next property identified was a vacant piece of land along NW 8th Street. Mr. Volpi noted that the City has already taken bids on this property, so any discussion would be “a moot point.”

He moved on to property 51 on the list, which was a vacant green area between two residential lots. Gene Groves, representing Community Development, observed that there is a potential buyer for the property.

Ms. Alarcon noted that the property is located near Riverside Park, and stated there is insufficient parking. She felt the City should consider using this land as “a support mechanism for the Park.” Ms. Ingold, however, noted that Parks and Recreation had reviewed the list, but there was “not enough in the budget to support that.”

Mr. Terrell pointed out that the property is “not continuous to the Park” and could more easily be used to provide parking for an adjacent store. Ms. Alarcon agreed if the store’s proprietor should need a change of use in the future, he would need the area for parking.

Mr. Volpi moved on to property 68, a 3500 sq. ft. piece of vacant land along NW 11th Street. It is zoned RB-15 and “foreclosed or otherwise conveyed over to the City and Broward County.” No reason for retention of this property was offered.

Property 69, zoned RMM-25, is a vacant piece of land south of NW 7th Street on NW 10th Terrace. Mr. Volpi noted “there appears to be a vacant lot behind it.” It was noted that the current legal status of the lot to the west of this property could not be determined. The building to its north is a rental property owned by the Housing Authority; Mr. Groves advised that the Housing Authority “may or may not be a willing purchaser” of the property in question if it is made available.

Property 79 is zoned RD-15, and consists of 3600 sq. ft. It is not considered buildable. Mr. Groves stated that St. Anthony’s Methodist Church owns the property to the west of this parcel; he has spoken with the Church’s director, who is interested in this property.

Property 88 is located between two multi-family units on NW 8th Avenue, and is zoned RD-15. Mr. Volpi noted that with many small lots, abutting property owners often state they are not interested in purchasing the lot “even though they’re using it.” Mr. Irvine added that the cost of fencing this property may be greater than the money realized by its sale.

Property 96 is 3000 sq. ft., located between a vacant piece of ground on NW 30th Avenue and NW 19th Street, and zoned B-2.

Mr. Partington commented that none of the properties seem “very valuable” aside from the Wingate property. Mr. Volpi stated that these small parcels sell for \$2000-3000, and many of them represent “a liability to [the City] rather than an asset.”

Property 101 is 3375 sq. ft. located between two multi-family residential units on 740 NW 10th Terrace, zoned RMM-25. It is not considered a buildable lot.

The final property, 104, is an “extremely thin piece of property” between seven residential lots, which came to the City on a quick claim deed from Broward County. Mr. Irvine suggested that this property be apportioned and granted to the owners if they wished; Mr. Terrell stated this was not possible, as it must be “sold as one lot.” It was suggested that one of the adjoining owners could be interested in purchasing this lot.

Mr. Irvine pointed out that the City has previously “split up” a property such as this one and sold it in pieces, offering the “Cavalier property” as an example. It was noted, however, that this could create a “landlocked” piece of property. Mr. Groves advised that Florida statutes allow for a landlocked property if its creator provides access.

Mr. Volpi proposed the City try to sell the property as a single piece; if this cannot be done, other options could be pursued, although he noted this would create a

great deal of work on a property for which the City would not make much money. He advised they would “be lucky to have someone take it.”

Motion made by Mr. Darmanin, seconded by Mr. Irvine, to surplus all the properties that were not removed from the list by the individual and/or collective Departments.

Mr. Partington pointed out that the **motion** “doesn’t really speak” to the desirability of retaining those properties recommended by the Departments for retention. Mr. Darmanin explained the **motion** would only advance those properties not identified for retention. Mr. Partington stated that “as crafted,” the **motion** does not specifically cover “what the Mayor asked us to do.”

Mr. Terrell advised that the Committee **amend** the **motion** to surplus the 11 pieces of property and support the Departments’ recommendations on the remaining properties, or advance two resolutions, one to surplus the properties and one to retain the rest as recommended.

Mr. Darmanin withdrew his **motion**, but requested that if another motion is made, it should “not use the number 11,” as the Wingate site could be seen as consisting of multiple properties.

Motion made by Mr. Terrell, seconded by Mr. Darmanin, to support the Departments on their recommendations for retention of the properties, and to surplus all the remaining properties on the list.

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

There being no further business to come before the Committee at this time, the meeting was adjourned at 11:45 p.m.

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