

APPROVED
PROPERTY AND RIGHT-OF-WAY COMMITTEE MEETING
CITY HALL 8TH FLOOR
COMMISSION CONFERENCE ROOM
THURSDAY, APRIL 21, 2011 – 10:00 A.M.

Committee Members Present

Peter Partington, Chair
Leona Lettsome, Parks and Recreation
John Gossman, Code Enforcement
Tom Terrell, Public Works
Tony Irvine, Engineering
Mark Darmanin, Utilities
Anthony Fajardo, Planning and Zoning
Robert Dunckel, Assistant City Attorney

Staff

Victor Volpi, Liaison, Senior Real Estate Officer
Jay Sajadi, Public Works
Diana Alarcon, Parking and Fleet Services
Paul Bohlander, Assistant Utilities Director
Carol Ingold, Parks and Recreation
Mark Almy, Parks and Recreation
Dennis Girisgen, Public Works
Barbara Hartmann, Recording Secretary, Prototype, Inc.

Communications to the City Commission

None.

Call to Order

Chair Partington called the meeting to order at 10:05 a.m., and stated this was a meeting of the City's Property and Right-of-Way Committee, a City Staff committee with the responsibility of advising the City Commission on matters affecting the dispensation of City property.

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

Mr. Volpi advised that Board and Committee training will be held on Thursday May 5, 2011, on the following topics: the Sunshine Law, public records, conflict of interest, and conducting a public meeting. Attorney Dunckel noted that the meeting would conflict with a meeting of the General Employees Retirement System.

Mr. Volpi thanked Ms. Ingold for her service on the Committee.

ITEM ONE

APPROVAL OF MARCH 17, 2011 MINUTES

Motion made by Mr. Darmanin, seconded by Mr. Terrell, to approve the March 17, 2011 minutes as presented. In a voice vote, the **motion** passed unanimously.

ITEM TWO

**LICENSE AGREEMENT TO ENCROACH INTO
EASEMENT**

Address: 3300 Commercial Boulevard

Mr. Volpi explained that the Applicant wishes to construct a patio, fence, and canopy in a 20 ft. easement at the former Roadhouse Grill. There are some existing encroachments at the site.

Damon Ricks of Flynn Engineering, representing the Applicant, said the project is directly on the Intracoastal Waterway, with Commercial Boulevard on its north side. A survey of the property shows a 20x30 ft. easement with encroachments. Utilities include a 24 in. storm drain that services Dupont Boulevard.

The new owners would like to renovate the existing site. Part of their design includes aspects of the previous use, such as the patio. Mr. Ricks showed a rendering of how the patio would be used in the new site. Other amenities include screen fences and a gate. He also provided aerial photos of the site. Mr. Ricks said the owners hope to reduce the amount of encroachments and make them "less imposing."

Mr. Irvine asked if the Applicant had contacted Utilities, Engineering, or WaterWorks 2011 for more information about a proposed 30 in. water main that may run through the easement. He did not see that the Application was compatible with the construction that would be necessary for the proposed water main, and was not prepared to sanction further encroachment into the easement until he had heard from representatives of these Departments.

Mr. Darmanin asked when the water main project is scheduled. Mr. Irvine said he was not certain how far the process had currently progressed. He said the water has been surveyed and the Departments are working on acquiring the necessary easements.

Mr. Darmanin said he had concerns as well, particularly with the storm drain. He recalled that Flynn Engineering had been asked to move the storm drainage to the FDOT right-of-way nearby if possible. Mr. Ricks said the Applicant has approached FDOT to lease a portion of their land in order to make

improvements, but FDOT had advised that they would accept no additional utilities in their easement. The Applicant also asked if they could connect to the FDOT outfall near the bridge; FDOT said while this was possible, it would mean they would have to “model that system back for miles.”

Attorney Dunckel said he shared Mr. Irvine’s concerns regarding the water main construction. He advised Mr. Ricks that the Committee was likely to defer the Item today and pass judgment on it after receiving input from WaterWorks 2011.

He asked what would go inside the screened wall on the site rendering. Mr. Ricks said the screen shielded the parking lot from the patio area. The screened area also includes the bar. The Applicant has not yet selected a material for the screened wall, although Mr. Ricks said it could have a shallow foundation or could be attached to the slabs. The gate would be an aluminum picket gate.

Mr. Irvine said the proposal is for an upscale improvement to the easement; however, should Utilities have to send equipment into the area, there will be complaints to the District Commissioner and the Mayor that the business was affected. Both the water main and the drain beneath the property could create this problem. Attorney Dunckel agreed with this assessment.

Joel Comerford, counsel for the Applicant, asked if there would be notice to the owner if equipment must be brought onto the property. Attorney Dunckel explained that this would depend upon the emergent nature of the problem.

Mr. Irvine said his concern was that the policy allowing pavers in a right-of-way requires an individual to sign a waiver that they are responsible for all damages, and the City will replace the asphalt. However, he advised he has seen public money spent replacing pavers due to complaints in the past.

Chair Partington noted that in this case the legal document would be stronger than the waiver to which Mr. Irvine referred. Mr. Irvine said because the issue can become a political one, this work is often done as a practical rather than a legal matter.

Chair Partington asked if these concerns, aside from the discussion regarding the water main, could lead the Committee to reject the Application. Mr. Irvine said he would prefer to see a utility relocation plan or a different easement, possibly on the other side of the property, if the Application is approved.

Attorney Dunckel said he did not think the issue of potential complaints would be sufficient for the Committee to deny the revocable license: the fee simple owner has use of the property provided it does not interfere with the utility easement. Should the owner plan to construct permanent improvements, however, it would be a basis for denial.

Mr. Irvine stated his main concern was for how the infrastructure would be affected by the prospective improvements. Chair Partington said if a significant emergency occurred and the City needed access to the easement while customers are dining in the area, the customers would have to move; in addition, should the City need to use heavy equipment, the area would have to be restored before it could reopen for business. Mr. Darmanin said if City officials became involved in the process and were alerted that a crew required access during business hours, he was certain that the workers would be asked to accommodate the business by waiting until after closing.

Paul Bohlander, Assistant Utilities Director, joined the meeting at this time. Chair Partington advised him of the potential issues, including the proposed subaqueous crossing. Mr. Bohlander advised that there are no plans at present for the subaqueous water main to cross either Commercial Boulevard or the adjacent area of the Intracoastal Waterway.

Chair Partington described the concerns raised by Mr. Irvine and Mr. Darmanin regarding the possibility of a utility issue disrupting business at the site. Mr. Bohlander suggested that any action the Committee took be contingent upon confirmation from Utilities that there are no plans to use the easement in question in the foreseeable future.

Mr. Girisgen asked that the Committee consider where they might draw the line on easements, such as allowing larger structures. He advised that they should remember how an easement is intended to be used, and asked at what point they would say there is no compatibility between private use and the public benefit of locating utilities within an easement.

Chair Partington noted that storm drains are often relocated. Mr. Darmanin said in this particular area, there is a lot of fall and a very shallow system. Mr. Irvine asked if it was possible to put an easement on the property that would allow for future crossing of the Intracoastal Waterway for the City and also allow the Applicant to use the property as they wished.

Chair Partington said this would require relocation of all utilities located in the easement. Mr. Darmanin advised that the City cannot relocate the easement, as it does not belong to them; however, if they relocate their lines outside of the easement, their concerns would be appeased.

Chair Partington said there were three possible scenarios:

- Consider the easement as proposed;
- Ask the Applicant to look into relocating the storm outfall into a new easement they would give the City, and negotiate with FPL on the remaining easement;

- Ask the Applicant to relocate both the storm outfall and the FPL easement, and move City utilities into a new easement.

Mr. Irvine said if it was made conditional that both FPL and the City get a new easement, any work the City might do would have less of an impact on operations. He noted that he was not aware of whether the cost involved made this a practical possibility.

Mr. Ricks said this had been considered, but it “gives you the same aspect” – even if a new easement was located to the south of the property line, it would still be located under the parking lot or another portion of the property. It would also still have proximity to the bar/patio area.

Attorney Dunckel said he felt the existing pipe was “probably in...decent condition now” and was not lined. Mr. Ricks said the Applicant would line the pipe and would accept future responsibility for both its maintenance and its repair. Mr. Terrell advised that the method of lining the pipe in question must be approved by Utilities. Mr. Ricks agreed to this.

Mr. Terrell said there have been many such easements given to other entities to maintain and repair, such as streetlights and guardhouses; he advised that this often results in the City resuming these responsibilities years later when the documents delegating responsibility cannot be found. Attorney Dunckel suggested that the revocable license could charge the Applicant with responsibility and grant the City lien rights against the property. Mr. Darmanin added that the ownership of the pipe could be listed as private so the City would not work on it.

Attorney Dunckel continued that if these provisions were made he would not have a problem with locating the bar in the easement.

Attorney Dunckel said there would still be an issue with regard to FPL, and said the granting of the revocable license would be contingent upon their approval. Mr. Ricks said he was working with FPL on a nondisturbance agreement. Attorney Dunckel explained that FPL would still have rights to go into the public utility easement, as the revocable license granted by the City would only apply to City facilities.

Mr. Irvine stated he would not be able to support the Application, as his preference would be for the easement and utilities moved to an area where there was “less conflict” between substantial improvements and the purpose of the easement. He did not feel there was a way to grant the Application in this case without “creating a problem.”

Chair Partington pointed out that the property has stood empty for many years, and due to the current economy, he felt the Committee should be in favor of bringing businesses and jobs to the area rather than creating “bureaucratic impediments.” Mr. Irvine emphasized that there should be no conflict between utility and development purposes when the utilities could easily be moved to the opposite side of the property.

Attorney Dunckel agreed that moving the easement to the south end of the property would be “smoother.” He pointed out that there are additional utilities that have a right to use the easement although they are not currently using it. He explained that he had never encountered a case similar to this one before.

Mr. Ricks asked if the license could include conditions that any other utilities provide documentation of their intentions for the site. He added that while moving the easement would be feasible, the Applicant would not be able to move the FPL utilities along with City utilities, as they cross the Intracoastal Waterway.

Attorney Dunckel said maintaining the FPL easement would result in the partial vacation of the utility easement and “a much narrower easement in favor of FPL,” which would be “less intrusive” to the Applicant’s overall property rights.

Mr. Irvine reiterated that there did not need to be a conflict between public utilities, FPL, and the Application, as “we can do both.” He felt acting otherwise would be a lack of common sense that could be questioned in the long term.

Mr. Darmanin said he would like to see the issue deferred and ask that the Applicant return to present other options.

Motion made by Mr. Irvine to defer this to allow the Applicant first to investigate other avenues of utility relocation and relocation of the easement, and discuss with FPL as well.

Chair Partington asked if a deferment would affect the progress of the development. Mr. Ricks said it would not create a problem.

Mr. Darmanin **seconded** Mr. Irvine’s **motion**.

Attorney Dunckel asked the Applicant to determine if a relocation to the southern part of the property would be feasible; if not, he asked that the Applicant enter into discussions with other utility providers regarding “what they might be willing to give” with respect to their future plans as well as the Applicant’s use of the easement.

Mr. Irvine pointed out that an application by another utility to use the easement could trigger a revocation of the Applicant’s license.

Mr. Volpi asked what difference would be created if the Application was for a residence instead of a business, particularly with respect to placing pavers in the easement.

Mr. Darmanin recommended that the Applicant remain in touch with Mr. Bohlander during the deferral period and further discuss the 30 in. water main.

In a show of hands, the **motion** passed 7-1 (Chair Partington dissenting).

ITEM THREE

**LICENSE AGREEMENT TO INSTALL BIKE
SHARE STATION**

Address: Various locations

Chair Partington noted that the Application has been previously considered by the Committee. The Applicant has conducted due diligence on many of the sites, and the Committee has provided them with survey and related information. The sites before the Committee today are considered “the easiest,” as they are located in City rights-of-way or other City property, as opposed to being located in the rights-of-way or on the property of other entities.

Jose Basulto, representing the Applicant, thanked the Committee members for their assistance and added that they have had numerous conversations with other members of City Staff as well. He characterized the Application as “a constantly evolving document,” noting that some sites would not be appropriate for the project but have been left in the Application as “placeholders.”

He added that the Applicant has asked Ms. Alarcon of Parking and Fleet Services for clarification of whether the 17 Street Causeway would be a feasible location. Ms. Alarcon advised that she had not been able to access all pertinent information on this site at this point. She explained that funds were donated to build “the park section,” and included with the donation came certain restrictions. In addition, a specific number of parking spaces must be retained in order to support the park. She is working to fully determine what restrictions apply to the site but has not been able to locate a copy of the agreement at present.

Mr. Terrell said the Application was “still a general statement,” and asked if the Applicant still plans to ask the City to provide the electricity at the locations. Mr. Basulto said he was not certain that the circuits could be accessed due to restrictions between the City and FPL. He noted that many of the sites would use solar power.

Mr. Terrell referred to the Application, pointing out that most of the sites listed require AC power. He said the City’s current position is that they would not pay

for or install power for the purposes of the business. Attorney Dunckel clarified that there are legal problems associated with paying for the electricity for a for-profit organization.

Mr. Basulto said the Applicant has received approval from the city of Hollywood to make a "\$40 a year payment for each station that is connected," which would cover the use of electricity for a particular kiosk. He said each kiosk uses roughly 18 watts of electricity, although it would be cost-prohibitive to meter each site separately.

Mr. Terrell said if there was a metering service on-site, sub-meters might present a solution; however, the City would not assume the responsibility of connecting the kiosks. In addition, tariffs do not permit attachment of anything else to streetlight circuits.

Mr. Volpi asked if all the kiosks could not be solar powered. Mr. Basulto said he did not know if this would be possible, and noted that they were looking into how far away from the kiosks the solar panels may be placed. If a site could not assure at least 6 hours of direct sunlight to a solar panel, AC power would be required.

Danielle DeJean, representing B Cycle, said each station would require custom configuration. Rod Feiner, counsel for B Cycle, said the Applicant understood the prohibition on the City paying for power, and added that the approval of a site would be subject to "any issue regarding electricity" and the understanding that the kiosks may not connect to City amenities.

Attorney Dunckel said placing the solar panels far away from the kiosks was possible "within the context of the revocable license;" however, the sketches and descriptions must then become more detailed and extensive.

Mr. Fajardo said one issue for all prospective sites was that he did not see that the proposed use is allowed under zoning Code, particularly in City parks. Public purpose use requires a public structure.

Attorney Dunckel agreed that Mr. Fajardo's concern is a valid one. Although it is not part of the conversations regarding a revocable license, he said this would be a hurdle that must be addressed. Mr. Feiner said the Applicant believes there would be "quasi-public purpose" for the stations, pointing out that the Applicant is receiving state dollars to run the program. Attorney Dunckel said while this is an arguable point, there is still no guarantee that the proposal fits into the City's existing zoning Code. Mr. Feiner said the Applicant is already working with zoning Staff on "the sponsorship issue" and will include discussions of Code in the future.

Mr. Fajardo continued that placement and setbacks are other potential concerns. Attorney Dunckel requested that all these concerns be included in the official record so they will be seen by the City Commission. He identified signage problems as another possible issue, as advertising for other businesses via B Cycle would raise the issue of off-premises advertising. Mr. Feiner said the Applicant is working with zoning Staff to address this issue as well, and feels that the Applicant is "separate from the billboard companies."

Attorney Dunckel explained that it is important the record reflect there are "a number of complexities" related to the proposal. The downside of making the wrong decisions would be that the signage regulations throughout the entire City could be negatively affected. Mr. Feiner said he understood these concerns and reiterated that the Applicant working with Staff on this and other issues.

Chair Partington asked Mr. Fajardo if there is "an additional step" when the proposed kiosks are located on City property as opposed to rights-of-way. Mr. Fajardo said this step would require approval of the Board of Adjustment or public purpose through the City Commission, while the rights-of-way proposals are simpler.

Mr. Volpi asked if a bicycle rental company could place the cycles "right up to the property line" and rent them. Mr. Fajardo said Code requires a business to be completely enclosed. Mr. Volpi added that this practice would be "really illegal" in a right-of-way. Mr. Fajardo agreed with this.

Attorney Dunckel observed that there is "a lack of adequate detail" throughout the Application for him to use in order to make judgment calls. He stated the accompanying materials were on too small a scale, and said he could not approve the Application as it is presently structured. Mr. Basulto said the documentation was written as it is because in some areas, "something's going to have to get moved," such as landscaping, if the Applicant is to use particular spaces.

Chair Partington asked Attorney Dunckel if he was comfortable writing the license agreement if the positions of the proposed kiosks were consistently shown on the documentation. Attorney Dunckel said he would not recommend writing a license with the current level of specificity provided.

Chair Partington noted that the City generally asks for surveys for plans such as the Applicant's, although they are not asking for this information with regard to the proposed kiosks. He agreed, however, that the information provided was too general for the Committee.

Mr. Irvine said the Committee could attach conditions to the plans, such as a requirement to meet setback requirements, which would affect where the kiosks

are located. Mr. Fajardo reiterated that the requested use must be allowed in the area as well.

Attorney Dunckel requested a copy of the Applicant's agreement with the city of Hollywood. Mr. Feiner said he would do so.

Mr. Feiner said the City's standard license agreement states if work has to be done, the City is indemnified for damage and the licensee is responsible for any damage; because of this standard clause of the agreement, and because the Applicant does not expect there to be a good deal of maintenance involved with the kiosks, he asked if the kiosks could be placed over the existing utilities. He assured the Committee that the Applicant understood the potential drawbacks and risks associated with this proposal.

Mr. Terrell said the Applicant might not be aware of specific facilities with which the City regularly experiences utility or other issues. Attorney Dunckel added that if a utility had to be accessed, the Applicant would not be able to differentiate between the cost of accessing the utility with or without impediments, and the City was likely to end up having to absorb these costs.

Mr. Feiner explained that the cost of a given build-out would be a significant issue determining whether or not the Applicant chose to build in a particular site. The Applicant would not be making money on the stations themselves, and has a very thin margin for their production, which meant any extra costs could result in a kiosk not being built.

Attorney Dunckel pointed out that the proposed kiosk site on Las Olas Circle would be in an area that has been fenced in during the Boat Show. Mr. Basulto said this issue has been addressed: during the Boat Show, B Cycle would equip their staff with hand-held scanners for the duration. Ms. Alarcon added that City Staff has been directed by the City Commission to look into creating an Intracoastal promenade in this area, and the station would need to be incorporated into this plan.

Cynthia Corbett-Elder, representing Broward County Transit, said she felt B Cycle would be "a great project for the City of Fort Lauderdale," and advised that any assistance the Committee could provide in making sure the cycle stations are developed would be appreciated. She expressed concern that there was not more agreement between B Cycle and City Staff on where the kiosks should be located.

Chair Partington explained that while the Committee hopes to help move the project along in accordance with the City Commission's wishes, they have to ensure that no mistakes are made in selecting locations and other criteria. He pointed out that the Committee is not requiring the Applicant to come before

them with full surveys and more extensive documentation. Attorney Dunckel added if some of the issues under discussion were not raised now, great problems could arise at a later time.

Mr. Basulto introduced Claudia Gill, permitting consultant for the Applicant. Ms. Gill stated she had been told the Committee was the only City advisory entity that would need to approve some of the sites and their attendant issues. Chair Partington clarified that the Committee deals with City rights-of-way; however, sites located in parks, parking lots, or other City properties would require approval from Planning and Zoning. The level of Planning and Zoning involvement would depend upon each particular location.

Mr. Basulto asked if the Applicant was on its way to being approved by Planning and Zoning. Chair Partington said if a proposed location is in a right-of-way, the Applicant can proceed with a revocable license from the Committee. Attorney Dunckel said the Committee hoped to issue a revocable license that is effective both for sites located in rights-of-way and on City-owned private property.

Mr. Girisgen asked if the Applicant will need an engineering permit for stations located in rights-of-way. Ms. Alarcon and Chair Partington confirmed this.

Chair Partington concluded that the Committee was "saying yes to these sites in principle," and asked if those approved would need to come before the PROW again. It was clarified that while there are still issues related to some of the sites, the Applicant could begin initial work with Attorney Dunckel regarding the revocable license. Attorney Dunckel pointed out that he had expected to have a greater level of detail to work with "rather than generalized [drawings]." He also noted that there were "individual contingencies that need to be taken into account" from specific Departments.

Chair Partington suggested naming an individual from the Committee to work with the Applicant and provide Attorney Dunckel with more detail. Mr. Irvine said the contingencies for each proposed site could include a more detailed site plan for the locations to address setback and zoning issues.

It was stated that the Applicant had been advised they were bringing sufficient information to the meeting to be allowed to proceed, and that it would be helpful if the Committee would tell them what further information is required. Mr. Irvine said while some of the documentation provided "good concepts," the Applicant would ultimately need to include numbers specifying dimensions, locations, and other specifics.

Mr. Feiner asked if the Committee could approve the final four sites listed in the Application, and when the Application moved forward, the Applicant would provide the additional documentation required.

Mr. Terrell said he could approve the final four sites listed because they would use solar power, but could not approve any of the stations that would require City participation in the use of AC power.

Motion made by Chair Partington, seconded by Attorney Dunckel, that they approve in principle the last four sites, and that the motion directs that the Applicant keep Tony Irvine in the loop on the status of the individual conditions and approvals that they are going to need; and when Mr. Irvine deems these four sites ready to be progressed to the City Attorney's Office, that he goes to the City Attorney and briefs him on the additional details that are needed.

Mr. Girisgen noted that if the Application is expedited and surveys are not required, it would not be possible to determine exactly whether the installations would be on private property or in rights-of-way. Chair Partington said the Committee members would work with the Applicant to assist in this specificity.

Mr. Darmanin noted that the Applicant had been asked to remain at least 10 ft. from any known utilities in rights-of-way, and added that this be included as a condition presented by Utilities in the revocable license agreement.

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

ITEM FOUR

**VACATION OF ACCESS EASEMENTS,
ABANDONMENT OF THE RIGHT TURN
LANE FROM SR 84 INTO THE ENTRANCE
TO TRACTS A & B OF THE BETA PLAT,
THE ABANDONMENT OF THE RIGHT TURN
LANE FROM WESTBOUND SR 84 ONTO SW
15 AVENUE & A CHANGE ON THE PLAT TO
PERMIT 136 MID-RISE DWELLING UNITS**

Address:

N side of SR 84, E side of SW 15 Avenue

Leigh Kerr, representing the Applicant, explained that the site was originally approved for 150,000 sq. ft. of office and commercial space; current plans call for a 136-unit residential project. To facilitate this development, the site plan requires "trimming" the access line in two locations on 15 Street and at the main entrance. The Applicant also wishes to vacate an access easement that traverses the site and vacate an abandoned lift station. Mr. Kerr said the Applicant has met with County representatives, who are supportive of the changes.

Attorney Dunckel asked if p.2 of the Application includes sufficient information on the lift station for the Committee to make an informed decision on this issue. Mr. Darmanin noted that there appears to be "[a] gravity [sewer system] on-property,"

and asked if the Applicant would be willing to relocate all the utilities within the plat.

Mr. Irvine explained that the gravity sewer serves the area to the east of the property. Attorney Dunckel pointed out that the portion under discussion begins at the west property line. Mr. Darmanin said Tract B on the diagram is serviced by either the lift station or the gravity sewer system; the existing gravity system runs through Tracts A, B, and C. He concluded that he would not want to maintain any utilities inside the tracts: any utilities in this site would need to become private if they continued to be used.

Mr. Darmanin requested clarification of the turning lanes the Applicant wished to abandon. Mr. Kerr showed these lanes on the Applicant's diagram. It was noted that while the turning lanes were plat requirements, they have not been constructed. Mr. Kerr said the Applicant did not currently know if FDOT was in agreement with the removal of these lanes, although the County has approved the removal as requested.

Attorney Dunckel asked if the utility easements dedicated on the face of the plat needed to be vacated. He pointed out that these are not specified on the Applicant's drawings as is usually done when a vacation is requested. Mr. Kerr said the lift station is not part of the plat.

Attorney Dunckel referred to the summary of the Applicant's requests on p.2, asserting that the Application lacks the level of specificity to which he is accustomed with PROW meetings. Mr. Darmanin said he has also not seen whether connections are made from Tracts A through D to 24 Port; he would need to see how this was done, and how the lift station was abandoned. He asked how Tract D is currently serviced by sewer, as the connection is not labeled on the diagram.

Chair Partington agreed that greater specificity was necessary for the Application.

Attorney Dunckel said he did not see an issue with the first request, which was to abandon the access easement between Tracts A, B, and C; he pointed out that in order for utilities to be serviced on the site, an additional easement would be required. Mr. Darmanin noted, however, that at times utilities are located in places where there are no utility easements, and that the Applicant has not seen a utility easement on any survey or plat.

Mr. Girisgen said he would look at how circulation on the site would be used, and ensure that any utilities remaining on the site are private.

Attorney Dunckel suggested that when the Application goes to the Development Review Committee (DRC), it could be required that an American Land Title Association (ALTA) survey be done, abstracted for easements. Mr. Darmanin advised that the owner is willing to vacate or abandon the existing gravity sewer main in order to build over it.

Jim McCulla, plumber for the Applicant, said he could provide the Committee with a survey of the property. Attorney Dunckel explained that it may not include all the easements on the site.

Chair Partington asked what condition Mr. Darmanin would attach to approval. Mr. Darmanin said the approval would be subject to the Applicant's agreement to abandon any existing utilities. Chair Partington said he was unsure that this condition could be associated with the plat amendment. Mr. Irvine said the plat note states it makes no representations or guarantees regarding easements, rights-of-way, setback lines, or other similar matters, but serves only as a boundary topographic survey. He noted, however, that a sewer easement is shown that seems to overrun another easement, but did not feel this would affect the access easement(s).

Motion made by Chair Partington, seconded by Mr. Irvine, to approve 1 and 3 from the beta plat exhibit.

It was confirmed that the Applicant would come before the Committee again at a later date for approval of abandonment of the lift station, and of the utility easement if one is found.

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

There being no further business to come before the Committee at this time, the meeting was adjourned at 12:37 p.m.

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