

MINUTES

**PROPERTY AND RIGHT-OF-WAY COMMITTEE MEETING
MONDAY, SEPTEMBER 20 1:00 P.M.
CITY HALL 4TH FLOOR – LARGE CONFERENCE ROOM**

Members Present:

Peter R. Partington, P.E., Acting City Engineer
Bob Dunckel, Assistant City Attorney
Tony Irvine, City Surveyor
Chris Barton, Principal Planner, representative for Construction Services
Tom Terrell, Maintenance Manager
Greg Thornburgh, PBS Distribution & Collections Manager
Lin Bradley, Community Inspections Supervisor, substituting for Lori Milano

Staff Present:

Ed Udvardy, Manager of General Services
Mehrdad "Mike" Fayyaz, P.E., Assistant City Engineer
Victor Volpi, Senior Real Estate Officer
Maureen Barnes, Administrative Assistant I
Rafeela Persaud, Word Processing Secretary

Guests Present:

Eugenia Ellis
Karl Gloeckner
Hamilton Forman
Anthony Bawidamann
Frank Bawidamann
Chuck Ritchie
Larry Atwell
Kevin Kichar
Ray Dettman
Cal Deal
Wendy Walker
Jeryl Madfis
Suzanne Coleman

Peter Partington called the meeting at 1:10 P.M. and stated that this item was referred by the City Commission on the construction of the parking area in the median area of S.E. 13th Street. Peter Partington stated that he was on vacation and asked a Committee member to communicate as to what had transpired at the City Commission meeting that led to this meeting.

PROPERTY AND RIGHT-OF-WAY COMMITTEE

September 20, 2004

Page 2

Victor Volpi stated that the City Manager had received a letter from Cal Deal, a resident of Fort Lauderdale, which was then forwarded to him. He stated that according to the letter, there was a petition to place parking spaces in a median isle and the applicant had received a permit and plans with seven spaces on each side. Victor Volpi said that the letter also indicated that no process was taken in consideration and Mr. Deal, along with people from the neighborhood, would like green space.

Mike Fayyaz stated that Commissioner Hutchinson questioned whether this item came before the PROW Committee and had gone through the process.

It was established that this item was placed on the Commission Reports on the Conference Agenda by Commissioner Hutchinson and a short discussion ensued as to whether the engineering permit followed the standard procedure, and due to the question being unanswered, the item was then forwarded to the PROW Committee by the City Manager for consideration.

Peter Partington suggested that the Committee should look at this item as a new item and then consider it in light of the present situation. Tony Irvine asked if this item was looked at from a process point-of-view to determine if the correct process was followed. Bob Dunckel said that the City Attorney was advised that a permit had been issued pursuant to City Code, Right-of-Way Administration, Chapter 25 and there was no requirement on the issuance of an engineering permit for a public hearing or any other process. He said that this item did not rise to the dignity of a Street Closure Ordinance which would have required a public hearing. He then stated that it was a question as to whether the Property and Right-of-Way Committee should have been informed of this matter, the City Attorney did advise that it was a discretionary matter and the City Engineer at that time, did not deem it appropriate to place it on the PROW Agenda.

Peter Partington said that the function of the Property and Right-of-Way (PROW) Committee is to advise the City Commission on matters affecting the public rights-of-way and City-owned properties.

Peter Partington said that an engineering permit was issued and there was a meeting as to the design standards which was attended by Greg Kisela, former Assistant City Manager and Dennis Girisgen, former Acting City Traffic Engineer.

Hamilton Forman said that he is the founder and represented the First Christian Church/Charter School of Excellence. Mr. Forman said that sometime ago, a complaint was made and No Parking signs were placed in the median. Mr. Forman said that he contacted Commissioner Hutchinson and informed her of the problems he was having regarding parking spaces. Mr. Forman said that on the original plat, the median was designated for street purposes, and not as a greenway or park. Mr. Forman said he spent approximately \$2,000 in landscaping the median. Mr. Forman said that at Commissioner Hutchinson's request, the Traffic Engineer drew up the plans for the parking spaces, and later received a permit for fifteen parking spaces in the median isle. Mr. Forman said the neighborhood has changed and was no longer a residential area. Mr. Forman said that the area was becoming a business district. Mr. Forman said he had complied with the rules and regulations of the City. Mr. Forman said the parking spaces were needed for the safety of the kids and his church had been parking there for 75 years. Peter Partington asked when the signs were placed in the median. Mr. Forman stated about 6-8 weeks before the permit was issued. Mr. Forman said he was not notified prior to the placing of the No Parking signs.

PROPERTY AND RIGHT-OF-WAY COMMITTEE

September 20, 2004

Page 3

Discussion followed as to why parking in the median would create safety for the kids, four on-site parking spaces approved in June 1997 for the Charter School, parking on the median on a daily basis due to the different usage of the Church building.

Bob Dunckel said that the City has ultimate sovereignty as to the City rights-of-way usage and no individual could get a property right or grandfathered in to the use of the right-of-way, and it is appropriate for the City to place signs restricting or allowing parking in rights-of-way.

Peter Partington stated that he spoke with the Acting City Traffic Engineer who stated that he was directed by the Assistant City Manager in regard to the concept on the parking. The plans were drawn by the applicant's contractor based on the concept of the Acting City Traffic Engineer, with a few less parking spaces in an attempt to save some trees.

Discussion followed as to the bollards and "no parking" signs placed in the median and the drop-off area for the school children.

Cal Deal, is a resident of the area and was in support of the Homeowners association. Mr. Deal said that one of the great features of the neighborhood is the landscaped median. Mr. Deal said that according to a memo written by Mr. Hanberry in 1995, stated that "the landscaped medians are an aesthetic asset to this area. The Director of Parks and Recreation is opposed to allow parking because of the attractiveness of the median". Mr. Deal said that the South Andrews Master Plan repeatedly sites the median as one of the greatest assets of the area. Mr. Deal said that parking in the median was an eyesore.

Discussion followed as to the number of cars parked in the median on a typical Sunday and during a school day. Mr. Deal said that the bollards were placed by Parks and Recreation Department to preserve the beauty of the median. Chris Barton asked if the median was a designated City Park. Mr. Deal said he did not know. Mr. Deal said that initially, the neighborhood did not have a problem with the cars parking in the median but over the years, it had become worse due to the growth of the school. Mr. Deal said that the parking was destroying the median and the City should take the initiative to protect the median. Mr. Deal said that no courtesy was given to the property owners in the neighborhood regarding the permit to park in the median. It was established that the speed limit was 25 mph and the area was a school designated zone area.

Tony Irvine said that nothing on the plat of Croissant Park designated the median strip any differently from right-of-way and throughout the plat, there were some medians drawn in but in the area in question, between lots 13 and 19, there may not have been a platted median because the plat is very old and may not have shown on the copy (Tony Irvine) submitted to the meeting as an exhibit.

Greg Thornburg asked when the engineering permit was issued. Peter Partington said it was issued in July. Greg Thornburg asked when were the bollards and signs removed from the medians. Mr. Forman stated that he had knocked down the bollards (on the Church's side) the same day they were put in place so that the cars could continue parking. Chris Barton asked if the bollards were taken down after the permit was issued. Mr. Deal said that he believed that Mr. Forman knocking down the bollards had nothing to do with the permit. Peter Partington said that the bollards were officially installed and should have been taken out subsequent to the issuance of the engineering permit. Peter Partington said that there should be "No Parking" signs in the green areas and the Parking Division should issue tickets to cars parked in the green areas. Mr. Bawidamann stated that he had

PROPERTY AND RIGHT-OF-WAY COMMITTEE

September 20, 2004

Page 4

received a parking ticket for parking in the median 1 block away but cars parked in the median by the Church did not get ticketed.

Tony Irvine asked if there was any room for compromise in protecting the grass and to preserve the parking. Mr. Deal said that he would like to maintain the median. Peter Partington asked if there was any City funding involved. Mr. Forman said no; he is solely responsible.

Ray Dettman, 10 years as the President of Poinsettia Park Association and currently the President of Harbordale, stated that the area needs drainage. Mr. Dettman said that businesses need to provide parking on their own property and the City cannot give away public property, which was needed for drainage and beauty. Mr. Dettman said Poinsettia Park Association spent over \$100,000 in curb and "No Parking" signs had to be placed because they were being torn up. Mr. Dettman said that he would like to know when the City would stop giving away rights-of-way.

Karl Gloeckner is the President of Poinsettia Park Association. Mr. Gloeckner said that they had collected grant monies for concrete curbing and landscaping in the medians. Mr. Gloeckner said that some medians are used as drive thru. Mr. Gloeckner stated that he himself does the weeding and the care of the medians. Mr. Gloeckner said his neighborhood is in transition and very unique in regards to the City. Mr. Gloeckner said that there are a few residential cores and he hopes that this would not start a trend.

Bob Dunckel said the area was mixed and characterized with these types of medians. Chris Barton said that the medians are common to the area.

Tony Bawidamann said that he has been a resident of Fort Lauderdale for 43 years. Mr. Bawidamann said that Mr. Forman did take care of the islands on a daily basis. Mr. Bawidamann said that himself and his son did spend time taking care of the medians. Mr. Bawidamann said he has no objections if used correctly but cars should stay off the median.

Jerry Madfis is the President of the South Andrews Business Association. Ms. Madfis said the reason she was there was to find out if the process was followed correctly. Ms. Madfis said that with development, comes great responsibility and keeping green space, providing parking for the neighborhood, growth, and schools. Ms. Madfis said parking has to be provided and did not want to lose green space. Ms. Madfis said that more residential and growth is needed in the area and the school became a critical element. Ms. Madfis said that no one advised the neighborhood of the issue.

Eugenia Ellis is the Council of Fort Lauderdale Civic Association. Ms. Ellis stated that she was asked to monitor the meeting. Ms. Ellis said that the City of Fort Lauderdale was providing parking for a not-for-profit or a business and was encumbered for the organizations to provide their own parking.

Ms. Ellis said that other churches and businesses were required to have adequate parking to support their congregations or meetings. Ms. Ellis stated that this appeared to be an exception to the rule if the City was providing parking for the church. Ms. Ellis said that she would ask for the Committee to consider what the requirements were for the Church's facility, for its use and size, and to make sure that the Church does have adequate parking.

Mr. Forman said that he owns the property and due to the City being the trustee, he was following the proper channel to get a permit to develop the property. Bob Dunckel said that Mr. Forman owns to

PROPERTY AND RIGHT-OF-WAY COMMITTEE

September 20, 2004

Page 5

the centerline. Peter Partington said it would be public parking even though it would be used mainly by the Church.

Ms. Ellis asked if it was customary for non-profit or business organizations to pay for the construction of parking. Tony Irvine said that there were cases brought before the PROW Committee asking for donation of public improvement and the City has a history of cooperation with civic and local organizations.

Mr. Dettman asked, as a taxpayer, if he would have to maintain the area with tax funds. Peter Partington said yes, but it would be minimal.

Larry Atwell stated that if safety issues were addressed, the area would need a traffic light to regulate traffic, and maybe speed bumps should be looked into.

Discussion followed as to the parked cars backing out to the street, disregard of the signs, other businesses parking in the median, vehicles parked in the median during the day and the neighborhood not having to give up green space.

Sgt. Lumm stated that the school did not present any problems that any other school did not present. Sgt. Lum said that if the area was paved, parking would be easier to enforce. Sgt. Lumm said he had no knowledge of the statement that was made that the Police Department was not allowed to issue tickets. Peter Partington asked if cars would be ticketed if parked on the grass areas. Sgt. Lumm said yes. Sgt. Lumm suggested placing pavers instead of pavement which would be more aesthetically pleasing.

Tony Irvine said there were two issues, one was parking in general and the second was parking in the grass. He suggested that bollards be placed around the green space areas.

Peter Partington asked Sgt. Lumm his thoughts about the green area. Sgt. Lumm said that it would be a community decision as far as aesthetics. Peter Partington asked about parking in the median during the course of the day. Sgt. Lumm said he would have to look at the area. He stated that parents park anywhere possible when they are picking up their children.

Discussion followed as to the construction in the area, different cases where parking was allowed in the swale area, street lighting in public parking areas, and the number of employees and parking spaces on school grounds.

Chuck Ritchie stated that he is a resident of Fort Lauderdale. Mr. Ritchie said that an application was submitted for a private parking lot to be located in the dedicated right-of-way, public domain which was a special median parkway with special trees. Mr. Ritchie said that this should not have happened. Mr. Ritchie said SE 13 Street was a historic street and a connector street between 3rd Avenue and Andrews Avenue. Mr. Ritchie said the solution would be to leave the median alone and let it remain as one of the few historic streets that survived 80 years. Mr. Ritchie asked Chris Barton to read Code Section 47-21.14.a.2, Street Tree Planning which stated street medians form a special area of public park land. Mr. Ritchie said that park land could not be changed to a private parking lot, and could not be done by four (4) City employees. Mr. Forman said that the area was never designated as park land.

PROPERTY AND RIGHT-OF-WAY COMMITTEE

September 20, 2004

Page 6

Tony Irvine said that due to the zoning codes or a resolution, defacto cannot change the dedication made by a plat and if proven that the median was anything other than right-of-way, there could be a lawsuit for abandonment. Bob Dunckel said that there was a litigation several years ago where the City had attempted to convert public right-of-way into park space. Bob Dunckel said that if the area was dedicated on plat as public right-of-way, the City could not convert to park land. Bob Dunckel said that one option was to continue to use the public right-of-way, including a parking area or a parkway by establishing a beautiful character for the neighborhood, or to vacate the public right-of-way.

Peter Partington asked Cal Deal what he would like to see as the outcome of the median. Mr. Deal said that the green space was the neighborhood asset and placing parking in the middle of the median would lose the beauty of the area.

Bob Dunckel asked Jeryl Madfis what her recommendation would be. Ms. Madfis said that she would adhere to the neighborhood recommendation.

Greg Thornburg asked if there were others in the City where similar medians were used for parking. The answer was yes.

Peter Partington said that the function of the PROW Committee was to advise the City Manager/City Commission on matters affecting the public right-of-way. Peter Partington summarized item stating that:

- a) This was an area that was under parking pressure due to not being exclusively residential.
- b) For many years, parking occurred on the median, predominantly on Sundays and everyone was reasonably okay with the parking;
- c) As the parking demand picked up with the commercialization of the area and the school, the parking became more on a daily basis which in turn destroyed the medians;
- d) The City's reaction was to post the Keep Off the Median sign and put the fence in which created parking problems for the Church;
- e) No illegal action was taken by City Staff, but the City did not give the neighborhood the courtesy of informing them of the proposal;
- f) The Plan showed half of the area being paved over;
- g) The median was a very nice aesthetic amenity to the neighborhood and no favors were done by paving;
- h) The spectrum of the recommendations would be to either recommend to continue as is with additional signage for the green areas, or to remove the pavers, which would have a financial burden on the City.

Peter Partington said that traditionally, the City has helped people with the parking problems in the right-of-way, and this was rather a difficult issue due to the weight of the median.

Tony Irvine said this Committee has no enforcement power, the final decision would be made by the City Manager/City Commission. Peter Partington said that the policy decision was made by the Assistant City Manager which then became an implementation which then involved the City Engineer. Mr. Deal said that Mr. Kisela did not originally approve the permit. Peter Partington said that he was at the meeting when this item was discussed. Peter Partington stated that Dennis Girisgen would not have drawn up a concept of parking in the median unless directed to do so.

PROPERTY AND RIGHT-OF-WAY COMMITTEE

September 20, 2004

Page 7

Chris Barton suggested that if the median was to remain as is, and the bollard system might be unsafe and/or unattractive, a curb and gutter system should be looked at in the parking areas that would be restricted and the introductory of paver bricks which would be more aesthetically pleasing to the neighborhood. Chris Barton said that from a traffic safety standpoint, the curb and gutter system would work but from the aesthetics stand point, the bollards would be a better choice.

Suzanne Coleman said that she has been a resident of Fort Lauderdale for 31 years. Ms. Coleman said that her concern was to see the Committee address whether a particular process was or was not followed. Ms. Coleman said that neighborhoods have been fighting for a long time to receive notifications about projects that impact their community, the radius of the neighborhood that receives the notifications, and their rights regarding input to address the issue.

Bob Dunckel said that after looking at the requirements, there was no requirement for a public hearing, there was no requirement for the PROW Committee to visit this issue prior to the issuance of the permit. He said that the medians were an asset that described the essential character of the neighborhood. Bob Dunckel said that his recommendation would be that in the future, any consideration with respect to parking in the medians would first appear before the PROW.

Chris Barton asked what would be the correct review and application process to create or use the median right-of-way for a public purpose. Peter Partington said that the decision would be at the City Engineer's discretion, who is also the Chairman of the PROW Committee. He stated that any proposal to convert landscape medians should come before the PROW Committee.

Tony Irvine said that without being insensitive to the neighborhoods' concerns, there was no legal flaw in the engineering permit issued for the parking lot.

Bob Dunckel left at 3:28 p.m. and returned at 3:45 p.m.

Victor Volpi said that any item pertaining to any items in the right-of-way should be on the agenda for the PROW meeting. He said that the median isles are pretty, the neighborhood's preference is more green space and paving them would not be safe.

Discussion followed as to businesses not being able to provide enough parking on their site, as to whether the Church has done everything on their site to provide parking, the City helping private entity to mitigate additional parking in the right-of-way, responsibility of other businesses to develop parking in the median, parking cars in the median did not create safety, business owners being sited for not having enough parking spaces, the City and neighborhood association being precluded in any NCIP action, liability and legal issues if median was restored to green space at the City's expense.

Peter Partington said that he would like to agenda the policy issues on the next PROW meeting.

Tony Irvine asked if Mr. Forman would agree to 13 parking spaces and larger green end caps. Mr. Forman said yes.

MOTION BY TONY IRVINE TO RECOMMEND TO THE CITY MANAGER THAT THE CITY ACCEPT THE PROJECT AS PERMITTED, WITH THE EXCEPTION THAT THE WESTERN MOST PARKING SPACE ON THE NORTH SIDE BE DELETED AND RETURN TO GRASS/LANDSCAPING, THE EASTERN MOST PARKING SPACE ON THE SOUTH SIDE BE DELETED AND RETURN TO GRASS/LANDSCAPING, AND THE AREA BE SUFFICIENTLY LANDSCAPED AND MAINTAINED

BY THE CHURCH/CHARTER SCHOOL, AND THE CITY LOOK INTO VIGOROUS ACTIONS TO ENFORCE THE NO PARKING ON THE GRASS AREAS IN THE MEDIAN,

Tony Irvine said that the parking space as permitted is City owned property and does not preclude the future conversion into other grass ways or medians as a result of a City or NCIP project.

Chris Barton said that any form of vigorous action to enforce the No Parking signs by Police Officers could include any physical means of design feature to restrict or protect the area.

Lin Bradley asked about the maintenance responsibility of the asphalt area.

Bob Dunckel asked if the Church would be maintaining the asphalt area. Tony Irvine said no. Mr. Forman said that he would maintain the asphalt area.

SECONDED BY TOM TERRELL.

Bob Dunckel suggested that a revocable license agreement would be developed in favor of the Church who would then take the responsibility of the maintenance of both the grass and paved areas.

Tom Terrell asked if the Church would have greater rights if a revocable license agreement was issued. Bob Dunckel said no.

Mr. Forman said that at this point, he was not in agreement with the motion.

Tom Terrell asked what would happen if the motion did not pass and Mr. Forman still has the permit. Bob Dunckel said another motion would have to be placed on the table.

Tony Irvine asked Mr. Forman if there was any other compromise he would like to make. Mr. Forman said none at this point. Mr. Forman said that he has a valid permit and he would complete the project.

Bob Dunckel said that this attribute was one of the defining assets to the neighborhood. He stated that Parks and Recreation had placed the bollards in the median, parking meters would be too costly to place but the City Manager would like to consider, the City Manager might also like to consider is reconstitution of the bollard system to prevent parking on the grass. Bob Dunckel said that Mr. Forman had received the permit and expended monies on the construction. Bob Dunckel said that he would rely on the Traffic Engineer's independent professional opinion and advise as to the safety conditions. Bob Dunckel said that he was prepared to vote in favor of motion, knowing that the City would retain the ultimate authority for the public right-of-way.

Yeas: Bob Dunckel, Tony Irvine, Tom Terrell, Peter Partington

Nays: Chris Barton, Linn Bradley, Greg Thornburg

MOTION PASSED.

Peter Partington said that the area is in the interface between a commercial and residential area and the City has been in the business to compromise and to maintain a balance.

Meeting adjourned at 4:25 P.M.