



**CITY OF FORT LAUDERDALE
 PLANNING AND ZONING BOARD
 CITY HALL – CITY COMMISSION CHAMBERS
 100 NORTH ANDREWS AVENUE
 FORT LAUDERDALE, FLORIDA
 WEDNESDAY, SEPTEMBER 18, 2019 – 6:00 P.M.**

Cumulative

Board Members	Attendance	June 2019-May 2020	
		Present	Absent
Catherine Maus, Chair	P	4	0
Mary Fertig, Vice Chair (arr.6:10)	P	3	1
John Barranco	P	3	1
Brad Cohen	P	3	1
Coleman Prewitt	P	4	0
Jacquelyn Scott	P	4	0
Jay Shechtman	P	4	0
Alan Tinter	P	4	0
Michael Weymouth	P	4	0

It was noted that a quorum was present at the meeting.

Staff

Ella Parker, Urban Design and Planning Manager
 D'Wayne Spence, Assistant City Attorney
 Jim Hetzel, Principal Planner
 Tyler Laforme, Urban Design and Planning
 Yvonne Redding, Urban Design and Planning
 Brigitte Chiappetta, Recording Secretary, Prototype, Inc.

Communications to City Commission

None.

I. CALL TO ORDER / PLEDGE OF ALLEGIANCE

Chair Maus called the meeting to order at 6:00 p.m. and the Pledge of Allegiance was recited. The Chair introduced the Board members present, and Urban Design and Planning Manager Ella Parker introduced City Staff.

II. APPROVAL OF MINUTES / DETERMINATION OF QUORUM

Motion made by Mr. Prewitt, seconded by Mr. Barranco, to approve the minutes of the August 21, 2019 meeting. In a voice vote, the **motion** passed unanimously.

LOCATION:
ABBREVIATED
LEGAL ~~Nurmi Isles Island No. 4, Plat Book 24 Page 43 B,~~
DESCRIPTION: ~~LOTS 3 and 4~~
ZONING ~~Residential Multifamily Mid Rise/ Medium High Density~~
DISTRICT: ~~(RMM-25)~~
LAND USE: ~~Medium High Residential~~
COMMISSION ~~2- Steve Glassman~~
DISTRICT:
CASE PLANNER: ~~Yvonne Redding~~

~~Robert Lochrie, representing the Applicant, stated that this Item requests extension of a Site Plan Approval Application for a seven-unit residential project on Isle of Venice. The project was approved by the Planning and Zoning Board in January 2018 and received technical Development Review Committee (DRC) approval with a starting date of February 17, 2018. The requested expiration date is for one year from the previous date of August 17, 2020.~~

~~Motion made by Mr. Tinter, seconded by Mr. Prewitt, that the Staff Report be made part of the record. In a voice vote, the motion passed unanimously.~~

~~There being no further questions from the Board at this time, Chair Maus opened the public hearing. As there were no other individuals wishing to speak on these Items, the Chair closed the public hearing and brought the discussion back to the Board.~~

~~Motion made by Mr. Cohen, seconded by Mr. Tinter, to approve subject to Staff conditions. In a roll call vote, the motion passed 9-0.~~

4. CASE: **V19003**
REQUEST:** Vacation of Right-of-Way
APPLICANT: Edward and Betty Kirwin
PROJECT NAME: 800 and 811 SW 5th Street
GENERAL
LOCATION: East/West Right-of-Way between SW 8th Ave and Tarpon River

ABBREVIATED
LEGAL
DESCRIPTION: That portion of the north ½ (20') of SW 5th Street lying south of and adjacent to lots 7, 8 and 9, lying east of the canal known as Tarpon River as recorded in plat book 7, page 37 of the public records of Broward County, Florida; and that portion of the south ½ (20') of SE 5th street lying north of and adjacent to the replatted lot 10, as recorded in plat book 3, page 25 of

the public records of Broward County, Florida. Said lands lying in the City of Fort Lauderdale containing 5,100 square feet (0.117 acres) more or less.

ZONING	Residential Single Family/Low Medium Density (RS-8)
DISTRICT:	and Residential Single Family and Duplex/Medium Density (RD-15)
LAND USE:	Low-Medium Residential and Medium Residential
COMMISSION	4 – Ben Sorensen
DISTRICT:	
CASE PLANNER:	Tyler Laforme

Disclosures were made at this time. Mr. Shechtman recused himself from voting upon the Item, as he is a member of the Board of the Tarpon River Club.

Greg McAloon, representing the Applicant, stated that the request is for vacation of a right-of-way. The Applicant owns both the north and south sites. The intent is to prevent unwanted activity on the Applicant's property, including vagrancy and trespassing, most of which occurs in an alley.

If the vacation of right-of-way is permitted, the Applicant plans to bring his seawall up to current Code standards, as flooding is a major concern within the community. Existing conditions do not allow access or views of the river, which is obstructed by foliage and landscaping. Mr. McAloon showed renderings of the subject area, pointing out that dead ends on SW 8 Street and another roadway contribute to a "path to nowhere," resulting in unsafe traffic conditions. Because the Tarpon River is only 30 ft. wide and has a very shallow depth in the subject area, it is impractical to construct a boat ramp or other structure there.

Mr. McAloon also showed the locations of previous vacations that affect the current request, including vacation of a portion of SW 6 Street by the Tarpon River Club in 1991 to construct a community tennis court and pool. The president of the Tarpon River Club has provided a letter of support to the Applicant. The closure of a portion of SW 6 Street also served to enhance security.

The future land use of this area is Medium/High Residential and its zoning is RD-15. A neighboring RM-15 district is the result of a rezoning in 1991 which coincided with the vacation of right-of-way on SW 6 Street. Although cluster dwellings of up to 15 units per acre are permitted within the zoning district, the subject parcel would have a single-family home.

The Applicant feels the request meets many of the specific criteria associated with a vacation of right-of-way request, including the following:

- No alternative routes
- Safe area for vehicles to turn and exit is provided
- No pedestrian traffic is adversely affected
- Utilities will be relocated at the Applicant's expense.

Regarding public purpose use, Mr. McAloon stated that the public purpose in this case is related to the purpose of the dedication. He pointed out that the public has an easement right for use of the original dedication, which provided use of the former SW 2 Street for use as a public thoroughfare. The 1991 vacation of right-of-way relieved the need to use this street as a thoroughfare. Mr. McAloon characterized it instead as an appendage following the 1991 vacation.

In addition to vacation criteria, practical considerations include improvement of the seawall at no cost to the City as a condition of approval. There is no allocation of funding or specific design for this area contemplated in local documents such as the Parks Master Plan or the Tarpon River Mobility Plan. The vacation would preserve low residential density by allowing construction of a single-family home rather than a cluster dwelling, subject to the approval of the vacation request.

The property in question would be returned to the tax rolls, and property values would improve as a result of the addition of a single-family home to the neighborhood. Mr. McAloon concluded that the vacation would result in safer living and driving conditions in the area. Letters of support from nearby neighbors were provided by the Applicant.

Chair Maus asked if the public is currently using the subject property, pointing out that the presentation referred to "noxious uses." Mr. McAloon explained that the public is not currently using the area as a thoroughfare, noting that this public purpose use was part of the area's original dedication.

Assistant City Attorney D'Wayne Spence advised that he did not agree with this argument, which he felt confused the purpose of dedication of the right-of-way with general public purpose. He felt it was incorrect to narrow the term "public purpose" as the Applicant's representative had done.

Chair Maus requested clarification that if the Application is granted, the Applicant would then take possession of the property and build a single-family home there. Mr. McAloon confirmed that the Applicant would make the subject property his homestead. The Applicant also owns the vacant land north of the subject parcel as well as the property to its south. The area to be vacated is 20 ft. by 40 ft. in size. No structure will be built on this lot, as there is an underlying drainage easement beneath it. A driveway will be constructed on this lot.

Mr. Tinter requested clarification of the condition of the seawalls to the north and south of the subject property, which are also owned by the Applicant. Mr. McAloon replied that the vacant land to the north has a new seawall that meets current Code standards. If

the vacation is approved, the Applicant plans to extend the improvements beginning in the north through to the south parcel, bringing the entire seawall for the three properties to current standards.

Mr. Tinter asked if the Applicant would be willing to commit to building only a single-family home on his lot as a condition of approval. Mr. McAloon replied that while the Applicant was willing to accept this condition, he was not certain it was enforceable. Attorney Spence confirmed that the condition could not be enforced.

Ms. Scott asked how the street is currently being used. Mr. McAloon stated that a letter of support from a neighboring family refers to nearby Lewis Landing as a better location from which to enter the waterway. At present, neighbors may walk on the existing roadway, but there is no access or use of the water at that point.

Mr. Barranco commented that the right-of-way goes through the Applicant's property, as he is the owner of both lots. He proposed that the Board consider recording a restrictive covenant limiting construction on the subject property to a single-family home.

Mr. Cohen asked if the Applicant has plans for the house located south of his vacant lot. Mr. McAloon replied that the house would remain on the property. Mr. Cohen observed that an easement could be dedicated back to the City on the south side of the southern property. Mr. McAloon replied that giving the easement back would defeat the purpose of the vacation request, which is intended to allow the Applicant to place a gate on the property to limit noxious activity. The easement proposed by Mr. Cohen could allow individuals to trespass and/or park on the Applicant's property.

Mr. McAloon continued that the public has the right to traverse a neighboring property owner's land for the purpose of the dedication. He added that he did not agree with Attorney Spence's estimation of the public purpose use, as the original purpose of the dedication was to provide a thoroughfare. Once the area cannot be used as a thoroughfare, he felt it was considered abandoned and will revert to the original owner.

There being no further questions from the Board at this time, Chair Maus opened the public hearing.

Allison Foster, President of the Tarpon River Civic Association, advised that a position statement was submitted on behalf of this Association. They are not in favor of the proposed vacation, as the Fort Lauderdale Master Plan indicates efforts to increase access for various waterway uses. The vacation would directly undermine these efforts. The City's parks bond, which could affect the subject space, would also be negatively affected by the vacation.

Ms. Foster continued that the vacation negates a major aspect of the Tarpon River Mobility Master Plan, which focuses on improving walkability and bicycle access in the public realm. She felt removal of access to views in the area would have a detrimental

effect on public life. She concluded that during her time as a member of the Tarpon River Civic Association, she has not been aware of public safety issues in the subject area, although there is a regular Police presence at Association meetings.

It was noted that the position statement to which Ms. Foster had referred was not included in all members' backup materials. Ms. Foster provided a copy of the document at this time.

Ms. Scott asked if nearby Lewis Landing would still provide public waterway access. Ms. Foster replied that this area is not readily accessible on foot from the neighborhood.

Kulbeer Sanghera, private citizen, stated that he owns 616 and 620 SW 8 Avenue in the subject neighborhood. He noted that he has not seen members of the community use the subject space for waterway access. He expressed concern with speeding traffic and litter in the neighborhood.

Josh Podler, private citizen, commented that the subject area is visible from his home in the neighborhood. He agreed with Mr. Sanghera's comments regarding activity on the street, including vagrancy and unwanted parking. He was in favor of the proposed vacation.

Andy Ziffer, private citizen, stated that the subject area is not used by the public.

Mr. Barranco asked if the subject property would come before the Planning and Zoning Board in the future if the owner wished to develop it with up to 15 multi-family units per acre, which is permitted by Code. Tyler Laforme, representing Urban Design and Planning, replied that RD-15 zoning allows cluster development with Site Plan Level III approval, which would bring any such project before the Board.

Attorney Spence advised once again that he did not agree with the Applicant's interpretation of public purpose. He explained that the Applicant's representative argued that a right-of-way dedication could not be used by a city for any purpose other than that for which it was originally dedicated. This is not the same argument as public purpose use. The Staff Report states that the public continues to use the area for access. He concluded that he stands by his earlier guidance to the Board.

Mr. Prewitt asked if the current dedication of the subject property would permit its use as a pocket park. Attorney Spence replied that the property may only be used as a right-of-way under its current dedication.

Ms. Parker addressed the issue of Ms. Foster's communication, stating that it is part of the file regarding this Application and will be submitted to the City Commission as such after this Item has been reviewed by the Board.

Vice Chair Fertig requested further information regarding the drainage easement on the parcel. Mr. McAloon replied that the Applicant has no plans to build any structure on top of this easement, although a driveway may be constructed there. Attorney Spence noted that he was unaware of the location of the drainage easement on the property. Mr. McAloon replied that the parcel has been vetted by the City's Engineering Department. He reiterated the Applicant's agreement to grant easements for any known or unknown utilities.

Mr. Tinter advised that the Application referred to providing the "last quarter of a turnaround" and dedicating the right-of-way accordingly. Mr. McAloon replied that the Applicant wished to provide an easement for the necessary space for emergency vehicles to turn around. He added, however, that the specific offer of an easement has not been vetted by Staff. Attorney Spence confirmed that he was not opposed to the proposal of an easement as a legal mechanism in this case.

As there were no other individuals wishing to speak on these Items, the Chair closed the public hearing and brought the discussion back to the Board.

Motion made by Ms. Scott, seconded by Vice Chair Fertig, to approve subject to Staff conditions.

Mr. Tinter asked if the Board agreed to require a right-of-way dedication or easement as stated in the fourth condition. Ms. Scott agreed to accept this modification.

In a roll call vote, the **motion** passed 7-1 (Chair Maus dissenting). [Mr. Shechtman recused himself from the Item. A memorandum of voting conflict is attached to these minutes.]

~~V. COMMUNICATION TO THE CITY COMMISSION~~

~~None.~~

~~VI. FOR THE GOOD OF THE CITY OF FORT LAUDERDALE~~

~~Ms. Parker recalled that at the August 2019 meeting, Staff had discussed providing a brief introduction to the Downtown Master Plan before Code Amendments to that Plan are presented at the next Board meeting.~~

~~Jim Hetzel, Principal Planner, showed a PowerPoint presentation of the Downtown Master Plan, which was adopted in 2003 following an extensive public participation and approval process. The Plan was updated in 2007 and remained mindful of the "live, work, play" mixed-use environment promoted by the City.~~

~~One element of the Downtown Master Plan is the identification of different character areas based on their conditions and goals. These areas define the built form within~~