

Planning and Zoning Board Meeting
December 4, 2023
[Meeting Video](#)

Present: Thomas Bien, Jon Hall, John Frankhauser, Stephen Yates, Curtis Hodges, Larry Wheatcraft, and Kip Hulvershorn. Approval of the October 2nd minutes was unanimous; approval of the November 6th Workshop minutes and November meeting minutes with one correction was unanimous.

Public Participation:

One resident asked the Board to consider re-examining the 24 neighborhoods that comprise NSB to see if they are still viable and to perhaps have a workshop to see what can be done about their descriptors since we have been growing. He also asked for them to look at the Beachside LDRs as it seems that there is a trend to subdivide lots and tear down a 1700SF home and build a 5000SF one which changes the area, especially Central Beach.

Old Business:

SV-2-23: The applicant's representative, attorney Glen Storch, gave a [presentation](#) asking for a positive recommendation to the City Commission to vacate the Cooper St. right-of way, which is south of SR A1A/3rd Ave. and west of Saxon Dr. To clarify, the subject portion of this public right-of-way is comprised of two separate parcels with one being 75' x 135' which is shown on the 1920's Detwiler subdivision, and the second is an additional 40' piece directly behind it, which was donated to the City in the 1970s by the Detweiler family, making the total size 75' wide x 175' deep. Since the right-of way easement was granted to the City on the plat dedication and is adjacent to two property owners, the Assistant City Attorney Shey McCurdy, stated that it must be split between the two even though the eastern property owner asked for the vacation. She added that no one has to pay for it since it was a dedication, but it is up to the City to decide if it's no longer needed as a right-of-way easement.

City Planner Robert Mathen presented a Summary Staff Report after reviewing the application. Staff looked at the city LDR for specifics regarding street vacation and consistency within the goals and Objectives of the City Comprehensive Plan. LDR Section (305.03 B.) states the following in regard to the City Commission's specific responsibilities concerning public right-of-way vacation requests:

- "The City Commission shall also determine whether the requested vacation would be in the interest of the public good,"
- "The City Commission shall deny the request if there is no evidence that the vacation would be in the interest of the public good."
- "The request shall not be approved for the sole reason of providing a benefit for the applicant or adjacent property owners."

Mr. Mathen then shared some portions of the City Comprehensive Plan that pertain to this specific request for vacation of public lands with two important ones below, along with Staff's comments:

- The requested vacation would offer a new 2-lane driveway access for each adjacent property and reduce traffic on E 3rd Ave. He explained that the 3rd Avenue Commercial District has some regulations in the Comprehensive Plan like one that discourages "proposals that would increase the frontage of existing commercial strips". FDOT which controls and maintains 3rd Ave. has limitations on where curb cuts/accesses can be and questioned how traffic would be eased since this adds an access point. The property is currently underdeveloped and used as a buffer between the two property owners.
- Planned is a public viewing pavilion that would provide visitors with an overlook of the mangrove estuary. Staff questioned who would construct and maintain that as well as stating that the

Comprehensive Plan states that the city should acquire and preserve lands lying within the Indian River estuarine system. The requested vacation contradicts that.

Mathen then referenced the city's LDRs and concluded that many requirements within them are not met by the vacation request, so he recommended denying the request.

Attorney Glen Storch stated that this plan would benefit NSB as it will create a more viable 3rd Ave. Commercial District and help give it an identity. It is "in the interest of the public good" and would preserve the estuary from run-off at no cost to the City while bringing in property tax. Items that he stressed were these:

- Besides a pavilion, there would be a boardwalk along the estuary along Callalisa Creek to Saxon (Note: CVS hasn't been asked about it yet, but the owner of Mon Delice supports the concept). Two public parking spaces would be dedicated to it.
- The construction of the pavilion, boardwalk, and landscaping will be paid for by the owner (\$100-200,000). And will maintain the property (\$10,000 per year), in perpetuity. (Member Hodges wants this in writing.)
- It will ease the exit access problem of Mon Delice, which is dangerous, as it will be directly in line with Cooper St. and with more access points, leading to less traffic back-up on 3rd Ave.

Questions from Board members:

- Member Frankhauser asked if the parking lot, pavilion, and boardwalk were all going to be built at the same time, and answer was, YES if approval for all is given.
- Chair Wheatcraft asked about the timeline, and answer was approximately a year after the Site Plan is approved, so 1-2 years. He also asked about the stormwater to which the response was it will be treated before it's funneled back and will be an underground system. He also asked if CVS didn't agree to this walkway, will there still be a boardwalk, to which the response was, Yes, but he will pursue getting them onboard.
- Member Hall asked Mr. Mathen if the City has plans for the property. Mathen's response was that engineering had no plans, but if the CC wants it to be a park, they will have to budget for it and it would have some parking.

Public Comments:

- One resident didn't see anything beneficial for the public good, only the two property owners, for residents haven't had a voice in this. Also, concerned with environmental issues and flooding due to all the concrete.
- One resident felt the plan was pre-mature as not even the Site Plan for the restaurant had been approved yet and was not sure if the Hyatt is still onboard. Would want things in writing as we need to be cautionary.
- One resident was confused about the access points regarding Diagrams A and B and how they would control traffic better. Also, no plan was shown for the pavilion or picnic area. Agreed that this may be pre-mature.

Before there was a discussion, Mr. Mathen wanted to clarify a few things. First, that when doing a Staff report, his priority is the people in NSB. Second, the presentation included new slides that Staff never saw when their recommendation was made. The Site Plan they were sent was preliminary, and they had no knowledge the walkway was to extend to Saxon until this evening.

Board discussion:

- Member Hulvershorn was not in support of the project and felt the area needed to remain open and keep it green.
- Member Hodges disagreed with him. The City isn't getting tax money for it; plus, we will not be paying for anything that will be done. He added that he would like the owner to put up a bond for driveway maintenance.
- Member Bien wanted to "nail down" the conditions that were talked about before the vote since every condition would be in the agreed plan.

Motion to approve SV-2-23 with the conditions of having two parking spaces open to the public by the pavilion; the property owner(s) is/are paying for all construction and maintenance of pavilion, boardwalk, vegetation/landscaping; a written agreement will be made between the property owner(s) and the City stating as such; a bond will be placed on the property for any maintenance that is not taken care of by the owner(s); there will be a one-year timeline stipulation from the Site Plan approval date. The motion failed by a three to four vote with Hodges, Bien, and Hall, voting YES; Frankhauser, Yates, Hulvershorn, and Wheatcraft voting, NO.

New Business:

A-20-23, annexation of 1100 Mary Ave. (0.14 acres); A-21-23 209 Hickory St. (0.21 Acres. Voluntary annexation, Comprehensive Plan amendment, and rezoning from Volusia County Future Land Use (FLU) designation of Urban Medium Intensity, and Volusia County zoning designation of R-4, Urban Single Family Residential with an "A" attached for Airport Height Notification Zone to City FLU designation of Medium Density Residential and City zoning designation of R-2, Single Family Residential with an "A" attached for Airport Height Notification Zone. Motion to recommend approval of both A-19-23 and A-20-23 to the City Commission was unanimous.