

Planning & Zoning Commission

201 SE 3rd St.
Ocala, FL 34471

www.ocalafl.org

Regular Meeting Minutes

Monday, January 14, 2019
5:30 PM



1. Call to Order

a. Pledge of Allegiance

b. Roll Call for Determination of a Quorum

The Ocala Planning & Zoning Commission held a meeting at City Hall, 110 SE Watula Avenue, Second Floor - Council Chambers on Monday, January 14, 2019 at 5:30 PM.

| Attendee Name | Title | Status | Arrived |
|-------------------|---------------|---------|---------|
| Rus Adams | Chairman | Present | |
| Nathan Gibboney | Vice-Chairman | Present | |
| Andrea Ferro | Commissioner | Excused | |
| William Gilchrist | Commissioner | Present | |
| Andrew Hanley | Commissioner | Present | |
| Andy Kesselring | Commissioner | Present | |
| Crystal McCall | Commissioner | Present | |

Others Present: Planning Director Pete Lee; Planning and Zoning Manager Patricia Hitchcock; Senior Planner Nancy Smith; Planner I Francine Sutton; Redevelopment Analyst/Planner Ian Rynex; and Office Administrator Peggy Cash

c. Agenda Notes:

Cases heard by the Planning and Zoning Commission will be presented to City Council in accordance with the schedule provided after each case in the agenda. Please note that the City Council meetings will begin at 4:00 p.m., and are held at City Hall, City Council Chambers, Second Floor, located at 110 SE Watula Avenue.

2. **Proof of Publication** – It was acknowledged that a Public Meeting Notice was posted at City Hall (110 SE Watula Ave, Ocala, Florida, 34471) and published in the Ocala Star Banner on December 28, 2018.

3. Consideration of Minutes – December 10, 2018

RESULT: APPROVED
MOVER: Crystal McCall
SECONDER: Andrew Hanley
AYES: McCall, Hanley, Gibboney, Gilchrist, Kesselring, Adams
EXCUSED: Ferro

Motion to move Case ABR18-0002 to first item on the agenda

RESULT: APPROVED
MOVER: Andrew Hanley
SECONDER: Andy Kesselring
AYES: Hanley, Kesselring, Gibboney, Gilchrist, McCall, Adams
EXCUSED: Ferro

5. Abrogation

- a. **Denied ABR18-0002** a request to vacate all of the 12-foot wide alley as shown on the plat of Palmer's Addition as recorded in Plat Book 1, Page 179, of the public records of Marion County, Florida.

Petitioner: City of Ocala
Planner: Nancy Smith

Ms. Smith showed various photos of the alley, and maps while presenting staff comments and the following findings of facts [included in a staff report provided to Commission members]:

Background:

The City of Ocala is requesting that an unnamed alley be abrogated. The alley has not been improved and has not been used by the City for solid waste, utilities, emergency services, or to provide other public services. While the alley is designated on the Palmer's Addition Subdivision, it is only 12 feet wide and is obstructed by vegetation and partial fences. The alley has potential access from NE 11th Street, but it does not extend through to any other public street. The southern end of the alley stops at the rear of Block E, Lots 9 & 10, (PID 2617-005-008), in Poinsetta Heights subdivision. There are no utility lines or facilities within the designated space. All services to the properties are provided from the rights-of-way along NE Sanchez Avenue, NE 11th Street, and NE 8th Avenue.

Because this alley was established as part of a plat from which lots were subsequently conveyed, each adjacent property owner will receive one-half of the width (6 feet) of the alley as a result of this abrogation. A map of the existing ownership and lot configuration is included with this report. The City is not conveying the land within the alley, simply vacating that portion of the Palmer's Addition Plat. (*Florida Statutes* 177.101)

Palmer's Addition was recorded in Marion County records on October 26, 1912, Plat Book A, page 179. Poinsetta Heights subdivision was recorded on March 17, 192[4], Plat Book B, page 225.

Pictures of the land area visible from NE 11th Street are included at the end of this report. In the picture from Google maps dated June 2016, the survey stakes placed by the City's Engineering Department are visible and mark the location of the alley. A staff photo taken 1/10/2019 shows the same location, with the addition of a chain link fence on the west side of the platted alley.

Utility Responses

The utility responses are summarized in the table below. No utilities have facilities within this alley and have no objections to the abrogation.

| <i>Utility</i> | <i>Date</i> | <i>Response</i> |
|---------------------------------------|-------------|--|
| CenturyLink: Michael Pietlukiewicz | 12/6/2018 | No objection |
| TECO: Bruce Stout | 11/27/2018 | No facilities and No objection |
| Cox Communications: Craig Sanders | 11/13/2018 | No facilities and No objection |
| Charter/Spectrum: Ed Cannon | 11/13/2018 | No facilities in this area and No objection |
| Marcia Allen, Real Estate | 1/2/2019 | No objections, but reserve an easement for utilities in the Resolution |
| Donnie Fales, Electric | 1/8/2019 | No objections, no facilities but will discuss with Randy, new supervisor |
| Brian Cribbs, Fire | 12/31/18 | No objection |
| Oscar Tovar, Engineering | 1/8/2019 | No objection, no facilities |
| Jean Volcimus, Water & Sewer Utility | 1/3/2019 | No objection |

Recommendation:

Staff recommends approval of the request to abrogate an unnamed 12-foot wide alley in Palmer’s Addition, according to the plat thereof, as recorded in Plat Book A, Page 179, of the public records of Marion County, Florida.

Discussion:

William Daines, 1007 NE 8th Avenue, said the alley is a public access that is used every day. It is the only access to 1001 NE Sanchez Avenue. He noted in one of the photos, that was shown, how vehicles drive on the alley to access 1001 SE Sanchez Avenue. He doesn’t see why the City needs to abrogate the property and give the land to adjacent property owners. He said he believes this issue arose after he asked the City to cut down a tree so that a vehicle could use the alley. He said the City told him they couldn’t afford it. Mr. Daines said if the alley is abrogated, it will reduce his property’s value because there will be no access to it. He said ingress and egress will need to be obtained possibly with a lawsuit to gain access to the property. If the City intends on giving the property away, he would be willing to purchase the property from the City. He said if the City continues with wanting to abrogate the property, he will need more time to prepare for the February 5 City Council meeting.

Commissioner Adams asked how a property has an address on SE Sanchez Avenue when it doesn’t have access to the roadway. Mr. Daines said he doesn’t know. He noted that he owns four properties along the alley listing all the addresses. He said the City calls the alley unimproved, but he spends a lot of money every month on having the grass cut in the alley. He’s been maintaining the alley for a long time. Commissioner Adams asked Mr. Daines if he maintained the alley prior to 2017. Mr. Daines said he did not. He started maintaining the alley when he purchased the property located at 1001 NE Sanchez Avenue. Commissioner Adams confirmed that Mr. Daines purchased the property without access. Mr. Daines said he bought a lot with alley access. Commissioner Adams said the ally is not a road. It is for public services. Mr. Daines said it is still a public access. Commissioner Kesselring said he doesn’t believe that the alley was intended for public access. Mr. Daines asked if alleys aren’t used for public

access. Commissioner Kesselring said not that one. Commissioners suggested it was intended for utilities. Mr. Daines said it is not; it is a 12-foot alley that he drives on. He said he cannot find any records that the alley was intended for a utility access. Ms. Hitchcock interjected that when the lots were platted, they all had frontage on NE Sanchez Avenue. At some point the parcel was bifurcated where a front and back parcel were created. Ownership changed where they were owned by the same owner. Ownership changed again where different owners owned the parcels, and now Mr. Daines owns both parcels, having bought the front and back parcels in 2017. The back parcel is non-conforming because it has no frontage on a proper street.

Commissioner Gibboney asked if the properties are listed under one or two parcel numbers. Ms. Hitchcock responded that they have two parcel numbers. She explained that in the past the Property Appraiser would change parcel numbers based on the request of property owners. She reminded Commission members that within the last several months, the City adopted an ordinance concerning lot configuration and now when someone wants a new parcel number created, they are required to come to the City. There is no fee for the City to review conformance with zoning code requirements so that non-conforming lots cannot be created through the Property Appraiser's Office.

Commissioner Gibboney asked how the alley is accessed. Mr. Daines said the alley is accessed from NE 11th Avenue. Commissioner Gibboney noted from a photo that there is a gate with a lock at the entrance. Mr. Daines said that the gate and lock are his. He said there were a lot of homeless people living in tents on the property owned by Magnolia Properties and they were using the alley which gave them access to his properties. He added the gate to keep the homeless people from cutting through the properties to get to their tents. Commissioner Adams suggested that Mr. Daines closed public access to a public road for private benefit, which is a problem. Mr. Daines said it's been stated that it isn't public access and asked whether or not it is public access. Commissioner Adams told Mr. Daines that he's said it is public access, but he's made it private. Commissioner Gibboney said whether or not it is public access, it is city-owned property, and confirmed that access to Mr. Daines back lot comes from entering the alleyway at NE 11th Avenue. Mr. Daines said it is. Ms. Hitchcock noted from the photo that it doesn't look like a vehicle could use the access point off of NE 11th Avenue. Mr. Daines said a vehicle cannot use the alley at that point, people walk from that point. If a car is being driven, the alley is accessed from NE 8th Avenue. Commissioner Gibboney asked where the people in the rental property (back lot) park a vehicle after accessing it from NE 8th Avenue. Mr. Daines said they park by their house. After further discussion, it was determined that access to the alley for the back lot comes from another lot on NE 8th Avenue that is owned by Mr. Daines.

Commissioner Kesselring asked Ms. Smith if the City is recommending abrogation of the alley because it doesn't want to maintain it. Ms. Smith said as far as City staff knows, the City has never maintained the alley. Commissioner Kesselring suggested that there isn't an urgent need to abrogate the alley; it isn't needed by the City.

It was briefly discussed that Mr. Daines will acquire half the alley where his lots are located, but his lots on NE 8th Avenue are not across the alley from his lot on NE Sanchez Avenue.

Commissioner Gibboney suggested "if its not broke, don't fix it." Commissioner Kesselring agreed. Commissioner Gibboney said he understands the City not wanting to have to deal with it and that there may be some liability issues. Commissioner Adams pointed out that a cross-access was developed to get to Mr. Daines' property and he has also closed access to public use. Commissioner Gibboney said that

closing the access is an issue, but the cross-access is not. He said there are alleys all over the City and people use them for different reasons. A lot of people access their properties from a back alley. Some of the alleys are very small and not much can be done with them.

It was briefly discussed whether or not the back lot could be sold without access. Commissioner Adams asked if the City would be willing to sell a portion of the alley to Mr. Daines. He said the rest of the alley could then be abrogated. Discussion continued concerning other alternatives for access with Commissioners ultimately deciding to vote on abrogation of the alley, the issue before them.

Commissioner Gibboney suggested that a solution after today may be a flag access using part of the alley.

Ms. Hitchcock stated that the land locked parcel is in common ownership with the parcel that has frontage on NE Sanchez Avenue, and the property owner has the ability to provide direct access to the back parcel with owning both parcels. This is the proper solution for the provision of public services and public safety response to the back lot. Commissioner Kesselring said theoretically the parcels are separate and the front parcel could be sold to someone else. Ms. Hitchcock asked what would happen if someone in the back parcel needs EMTs or if there is a fire. How would emergency vehicles access the property? They're not going to be able to drive across a property located on NE 8th Avenue and turn onto a 12-foot wide dirt alley to provide an emergency response. Commissioner Kesselring said abrogation won't solve the problem.

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| RESULT: | DENIED |
| MOVER: | William Gilchrist |
| SECONDER: | Nathan Gibboney |
| AYES: | Gilchrist, Gibboney, Hanley, Kesselring, McCall, Adams |
| EXCUSED: | Ferro |

4. Zoning

- a. **Approved ZON18-0019** a request to change the zone from R-2, Two Family Residential to B-2, Community Business for property located at 1224 West Silver Springs Boulevard, approximately .39 acres.

Petitioner: City of Ocala

Planner: Ian Rynex

Mr. Rynex showed presented staff comments and the following findings of fact [included in a staff report provided to Commission members]:

Background: Petitioner aims to support the rezoning and redevelopment of this corridor to the lower intensity business and office zoning districts. This property is located directly across from Martin Luther King Recreation Complex on Silver Springs BLVD, SR-40. Properties to the north and east have Medium Intensity/Special District Future Land Use and GU and INST zoning. All properties to the South and West have Neighborhood Future Land Use and R-2 zoning. The building was constructed in 1964, before establishment of zoning in the area. The parcel in question meets the lot requirements for the B-2 zoning district.

Factual Support:

1. The requested zoning designation of B-2, Community Business, is eligible to implement the land use designation of Medium Intensity/Special District.
2. Approval of this request will not adversely affect the health, safety, convenience, prosperity or general welfare of the community.

Basis for Approval:

The request is consistent with the Comprehensive Plan. The proposed zoning is consistent and compatible with the land use designation and surrounding area.

Discussion:

Commissioner Kesselring confirmed that the restaurant is a non-conforming use in R-2 zoning.

There were no public comments.

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| RESULT: | APPROVED |
| MOVER: | Andy Kesselring |
| SECONDER: | Crystal McCall |
| AYES: | Kesselring, McCall, Gibboney, Gilchrist, Hanley, Adams |
| EXCUSED: | Ferro |

6. Annexation/Land Use/Zoning

- a. **Approved ANX18-0007** a request to annex property located at 1820 SW 3rd Avenue, approximately .24 acres.

Petitioner: Beau Makarewicz
Planner: Francine Sutton

Ms. Sutton showed maps of the area while presenting staff comments and the following findings of fact for annexation, land-use, and zoning [included in staff reports provided to Commission members]:

ANX18-0007

Background:

- The subject property is contiguous to the city limits.
- Annexation will reduce the size of an existing enclave.
- Subject property is in common ownership with the property adjacent to the north.
- Annexation is requested in advance of submitting plan for development of medical office on the applicant's common ownership.
- Companion applications seek designation of future land use as Low Intensity and zoning of General Business.

Basis for Approval:

The proposed annexation is contiguous to the city limits and will reduce the size of an existing enclave.

LUC18-0007/ZON18-0023

Background:

Mack Chiropractic, LLC purchased the larger parcel (1.67 acres) and the adjacent parcel to the south (0.24 acres) in May 2018 which are in the city limits. The property owner's parcels were annexed into the city in January 1988 (Ordinance No 1971) and (30821-000-00) in March 1994 (Ordinance No.2440). The subject parcel (30818-000-00) was purchased in June 2018 and is in Marion County jurisdiction. Applicant applied for voluntary annexation to include the .24 acres with the parcels under common ownership for future site plan development. No development plans have been submitted at this time, though the applicant has discussed with staff the intent to build a chiropractic office on the property. Annexation would reduce the size of an existing enclave and would have no adverse effects on the surrounding community.

Factual Support:

1. The zoning designation of B-4, General Business, is compatible with the land use designation of Low Intensity.
2. Approval of this request will not adversely affect the health, safety, convenience, prosperity or general welfare of the community.

Basis for Approval

Subject property is proposed for annexation by the City of Ocala in a companion application. Upon annexation it is appropriate to assign a City land use designation and zoning category. The subject property is adjacent to other parcels owned by the applicant which are currently located within the city limits. Those parcels have the requested B-4, General Business, zoning and Low Intensity land use. The proposed zoning and land use are compatible with the surrounding area.

Discussion:

The applicant was present.

There were no comments from Commissioners or the public.

RESULT: APPROVED ANX18-0007
MOVER: Andy Kesselring
SECONDER: Crystal McCall
AYES: Kesselring, McCall, Gibboney, Gilchrist, Hanley, Adams
EXCUSED: Ferro

- b. Approved LUC18-0007** a request to change the land use from Commercial (County) to Low Intensity for property located at 1820 SW 3rd Avenue, approximately .24 acres.

RESULT: APPROVED
MOVER: Crystal McCall
SECONDER: William Gilchrist
AYES: McCall, Gilchrist, Gibboney, Hanley, Kesselring, Adams
EXCUSED: Ferro

- c. **Approved ZON18-0023** a request to change the zone from B-4 Regional Business (County) to B-4, General Business for property located at 1820 SW 3rd Avenue, approximately .24 acres.

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| RESULT: | APPROVED |
| MOVER: | William Gilchrist |
| SECONDER: | Andrew Hanley |
| AYES: | Gilchrist, Hanley, Gibboney, Kesselring, McCall, Adams |
| EXCUSED: | Ferro |

7. **Next meeting: February 11, 2019 at 5:30 pm.**

8. **Adjournment**

The meeting was adjourned at 6:02 pm.