

SENSITIVE PROPERTY REPORT

To: City Council
From: Mayor's Office
Re: Sensitive Property Assessment/Proposed Ordinance 39-20
Date: September 4, 2020

According to the Sensitive Properties Ordinance recently enacted, a "sensitive property" is City-owned property which is adjacent to water or provides a water view, or has been determined by the City Council as having historical, archaeological, environmental or architectural significance either because of historic events in the vicinity or because of a structure on the property; or the property in question has been designated by the city council as having significance as an environmental resource for preservation. Before the City Council for second reading is an ordinance allowing city right-of-way to be vacated at 306 and 310 Bay Boulevard. This right-of-way is arguably a sensitive property; therefore, this report is submitted for consideration.

BACKGROUND:

The Harpers requested the City vacate a right-of-way adjacent to their property on Bay Boulevard. The Planning Board in July 2020 approved, 4-1, the request subject to a full-width utility easement being retained by the City of Pensacola. After public hearing on August 13 on the request to vacate the right-of-way, the City Council indicated approval by passing the ordinance at first reading.

Because the sensitive properties ordinance was not yet law, no report or recommendation as to this property was submitted. However, staff members have provided information to the Mayor's office to ensure that the City Council can review relevant information to make findings pursuant to the Sensitive Properties Ordinance.

The assessment has been prepared through efforts by staff members in the Planning Department, Public Works, and the City Attorney's Office with reference to a report prepared by UWF after archaeological research as well as a survey of the land and the minutes of the Planning Board meeting at which this property was discussed. The Sustainability Coordinator has also reviewed this item.

WHETHER THE PROPERTY IS SENSITIVE:

City staff reviewed the facts to determine whether the property in question (1) abuts a navigable waterway, has water access or has water views; (2) has any historical, archaeological, architectural, or environmental value; or (3) should remain undeveloped except for the public's passive enjoyment, education, and research as long as the property remains within the city's ownership and control.

A. Is the property in question adjacent to water or providing a water view?

Staff Findings:

- (1) The property arguably provides a water view; however, traversing the slope near the railroad tracks would be required;
- (2) A water view access is available via Pickens;
- (3) To access the water view via the right-of-way would involve trespassing over the railroad tracks;
- (4) Encouraging the public to use this property for a water view is not recommended for public safety reasons.

B. Is the property in question determined by the City Council to have historical, archaeological, or architectural significance either because of historic events in the vicinity or because of a structure on the property?

Staff Findings:

This is to be determined by the City Council. UWF has provided a report on a close-interval survey conducted in the right-of-way, which has been provided to City Council and reviewed by city staff. In reviewing the criteria for assessment to identify findings for consideration, staff has found that

- (1) no structure exists on the property;
- (2) material remains associated to a portion of a Native American archaeological site located elsewhere in the neighborhood have been located there;
- (3) material remains of or contemporaneous to the 1559 Spanish landing and settlement site of Tristán de Luna have been located there;
- (4) material remains of past settlements, fortifications, or occupations eligible or potentially eligible for listing in the National Register of Historic Places have been located there (these are the material remains mentioned in criterion (3) above);
- (5) UWF has concluded no additional work is warranted at this time, and the City Historic Resources Planner agrees with this assessment since few definitive materials contemporaneous to the 1559 Spanish landing and settlement site of Tristán de Luna remains were found;
- (6) UWF noted in its evaluation: "Since this strip of land lies immediately adjacent to the bluff, and is on the gentle slope below the upper terrace, it likely falls within an area of comparatively low Luna-era artifact density."

- (7) The applicants' site plan does not require disturbance of the property in question;
- (8) The applicants have expressed to a willingness to work with Dr. John Worth of UWF on any future exploration.

C. Has the property in question been determined by the City Council as having significance as an environmental resource for preservation?

Staff Findings:

This is to be determined by the City Council. No environmental or public safety reason for retaining ownership of the land has been identified. Public safety review has included the consideration that encouraging people to traverse the slope near the railroad tracks would be unwise.

MAYOR'S RECOMMENDATION:

The Mayor recommends the vacation and the finding that the property is not sensitive. Whether the land is "sensitive" depends on whether the property in question (A) abuts a navigable waterway, has water access or has water views; (B) has any historical, archaeological, architectural, or environmental value; or (C) should remain undeveloped except for the public's passive enjoyment, education, and research as long as the property remains within the city's ownership and control. Depending on the findings made, the property may not be considered to have significance for future educational, research, or archaeological purposes.

The approval of the applicants' request will not entirely dispose of all of the city's rights because a full-width easement will remain. It is not likely that significant and unknown archaeological deposits will be located at this site in the future; no additional work was recommended at this time at that location by UWF. However, granting the request to vacate the right-of-way will transfer ownership from the citizens to the Harpers not only of the right-of-way but also any artifacts found that may be located at that site in the future.

The land is not considered safely accessible because of the bluff, water view is available through alternate means via Pickens, and no environmental reason suggests the land must remain City-owned. Nonetheless, the UWF report should be carefully considered to determine whether the land is of such significance that the right-of-way is a sensitive property that should not be vacated.

Whether this report's findings are accepted or rejected in whole or in part, it is requested that findings as to the public purpose of the action taken in response to this request be made.