

**REQUEST:** Right-of-Way Vacation

<b>Case Number</b>	V14002
<b>Applicant</b>	Thomas Luken
<b>General Location</b>	West of NE 26 <sup>th</sup> Avenue between 5251 and 5301 NE 26 <sup>th</sup> Avenue
<b>Property Size</b>	50' Wide ROW Vacation
<b>Zoning</b>	Residential Single Family/Low Medium Density District (RS-8)
<b>Existing Use</b>	Public Right-of-Way
<b>Future Land Use Designation</b>	Low-Medium Residential
<b>Applicable ULDR Sections</b>	Sec. 47-24.6 Vacation of Right-of-Way Sec. 47-25.2 Adequacy Review
<b>Notification Requirements</b>	Sign Posting 15 days prior to meeting; Mail Notice 10 days prior to meeting.
<b>Action Required</b>	Recommend Approval of Vacation to City Commission, or Deny
<b>Project Planner</b>	Eric Engmann, Planner II

**PROJECT DESCRIPTION:**

The applicant requests to vacate a 50-foot wide portion of right-of-way located on the west side of NE 26<sup>th</sup> Avenue in the Golf Estates subdivision. The right-of-way is approximately 85 feet in length and terminates at a private property. The roadway was platted as part of this subdivision in the anticipation that the property to the west would also become platted and include another segment of roadway to complete the street. The property to the west was never platted and has been developed with multi-family units on a private property. This renders this right-of-way as a dead-end segment that has no functionality other than to the two adjoining properties. A sketch and legal description is provided as part of the submittal package.

**PRIOR REVIEWS:**

The request was reviewed by the Development Review Committee (DRC) on January 28, 2014. All comments have been addressed. Staff recommended and applicant has indicated agreement to dedicate, to the City of Fort Lauderdale, an easement to access and have the ability to maintain existing City utilities located below ground.

**REVIEW CRITERIA:**

As per ULDR Section 47-24.6.A.4, the request is subject to the following criteria:

- a. *The right-of-way or other public place is no longer needed for public purposes;*

The right-of-way does not currently serve as a thoroughfare and does not provide vehicular or pedestrian access. The approximately 85 foot segment does not have vehicular functionality other than to the abutting properties to the north and south who would receive the property if the right-of-way is vacated. Both of these lots have primary access onto NE 26<sup>th</sup> Avenue.

- b. *Alternate routes if needed are available which do not cause adverse impacts to surrounding areas;*

The right-of-way is currently not used for cross access as a fence exists at its western end. Adequate vehicular and pedestrian access to the neighborhood is provided on NE 55<sup>th</sup> Street, approximately 250 feet to the north. Therefore, no alternate routes will be required to serve this area.

- c. *The closure of a right-of-way provides safe areas for vehicles to turn around and exit the area;*

The closure of the right-of-way would not affect how vehicles turn around as the property does not function as a connecting roadway. The City right-of-way does not contain sufficient land to create a cul-de-sac or other type of safe turnaround area.

- d. *The closure of a right-of-way shall not adversely impact pedestrian traffic;*

The proposed vacation will not adversely affect pedestrian traffic. The private property to the west is separated by a fence, which inhibits pedestrians from utilizing the right-of-way for cross access.

- e. *All utilities located within the right-of-way or other public place have been or will be relocated pursuant to a relocation plan; and the owner of the utility facilities has consented to the vacation; or a utilities easement has been retained over the right-of-way area or portion thereof; or an easement in a different location has been provided for the utility facilities by the owner to the satisfaction of the city; or any combination of same and utilities maintenance shall not be disrupted.*

All utilities located within the vacation area, including any utilities held by the City, will remain in their existing location. A new easement will be provided to the City in order to continue their operation and maintenance. All affected utility franchises have provided letters of no objection to the vacation subject to receiving easements.

Applicant's response narratives to the criteria are provided as part of the submittal package.

**STAFF FINDINGS:**

The application meets the criteria as indicated in ULDR Section 47-24.6, Vacation of Right-of-Way and 47-25.2, Adequacy Review. Staff recommends the Board approve the request subject to conditions provided herein and consistent with the applicable ULDR Sections.

**CONDITIONS:**

Should the Board approve the proposed vacation, staff proposes the following conditions:

1. A City utility easement shall be retained over a portion of the right-of-way area in order to accommodate access for maintenance purposes.
2. The vacating ordinance shall be in full force and effect on the date a certificate, executed by the City Engineer, is recorded in the public records of Broward County, Florida. The certificate shall state that all conditions of the vacation have been met. A copy of the recorded certificate must be provided to the City.

**PLANNING & ZONING BOARD REVIEW OPTIONS:**

As per ULDR Section 47-24.6.3, the Planning and Zoning Board shall consider the application for vacation-of-right-of-way and the record and recommendations forwarded by the DRC, and shall hear public comment on the application.

If the Planning and Zoning Board determines that the application meets the criteria for vacation, the recommendation shall be forwarded to the City Commission for consideration. If the Planning and Zoning Board determines that the criteria for vacation have not been met, the Board shall deny the application and the procedures for appeal to the City Commission as provided in Section 47-26B, Appeals, shall apply.