

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

<b>Case Number</b>	2P13
<b>Applicant</b>	New Mount Olive Baptist Church, Inc.
<b>General Location</b>	North side of NW 4 Street between NW 8 Avenue and NW 9 Avenue
<b>Property Size</b>	9,000 SF Right-of-Way Vacation
<b>Zoning</b>	Residential Mid Rise Multifamily/Medium High Density District (RMM-25) and Community Facility-House of Worship (CF-H)
<b>Existing Use</b>	Public Right-of-Way
<b>Future Land Use Designation</b>	Northwest Regional Activity Center
<b>Applicable ULDR Sections</b>	Sec. 47-24.6 Vacation of Right-of-Way
<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>	Thomas Lodge, Planner II

**PROJECT DESCRIPTION:**

The applicant requests the vacation of a 15-foot wide, 9,000 square-foot portion of right-of-way located north of NW 4<sup>th</sup> Street between NW 8<sup>th</sup> Avenue and NW 9<sup>th</sup> Avenue, associated with the proposed development of a new sanctuary and surface parking for the proposed New Mount Olive Baptist Church, also scheduled on this agenda. 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 March 26, 2013. All comments have been addressed. TECO Peoples Gas, Comcast and FP&L have no existing facilities in the right-of-way and have no objection to the vacation. AT&T has no objection, but requests the applicant grant a new easement, conduit and any other support facilities that AT&T may require.

**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; and
- b. Alternate routes if needed are available which do not cause adverse impacts to surrounding areas; and
- c. The closure of a right-of-way provides safe areas for vehicles to turn around and exit the area; and
- d. The closure of a right-of-way shall not adversely impact pedestrian traffic; and
- 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.

According to the applicant, a portion of the alley is currently being used to allow paved access to the church's handicapped parking spaces and the rest remains unimproved. The alley was originally intended to provide access between NW 4<sup>th</sup> Street and NW 5<sup>th</sup> Street, but was never improved. With this proposal, the alley will be vacated in order to permit the redevelopment of the narrow block to provide associated parking including circulation, associated with the expansion of the church. The vacation of the right-of-way will only be effective upon completion of the development and as evidenced by an Engineer's Certificate. Applicant's response narratives 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. Staff recommends the Board approve the request subject to conditions provided herein and consistent with ULDR Section 47-24.6, Vacation of Right-of-Way.

**CONDITIONS:**

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

1. Vacation of the right-of-way shall be effective upon completion of the development and evidenced by an Engineer's Certificate;
2. As per AT&T, the owner will be required to grant a new easement, conduit and any other support facilities required by the company within the 15-foot right-of-way to be vacated;
3. Any utilities required to be removed, replaced or relocated, shall be done so at the applicant's expense, and as approved by the City Engineer. All improvements constructed within the easement shall conform to City engineering standards;
4. 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.