


REQUEST:

Right-of-Way Vacation

Case Number	7P12
Applicant	Downtown Flagler Village, LTD.
General Location	400 block NE 5 th Terrace
Property Size	Approx. 40' wide x 106' long ROW Vacation
Zoning	Regional Activity Center – City Center (RAC-CC)
Existing Use	Public Right-of-Way
Future Land Use Designation	Downtown Regional Activity Center (D-RAC)
Applicable ULDR Sections	Sec. 47-24.6 Vacation of Right-of-Way
Notification Requirements	Sign Posting 15 days prior to meeting; Mail Notice 10 days prior to meeting.
Action Required	Recommend Approval of Vacation to City Commission, or Deny.
Project Planner	Randall Robinson, Planner II 

PROJECT DESCRIPTION:

The applicant requests the vacation of a 40-foot by approximately 106-foot portion of public right-of-way located north of NE 4th Street and west of Federal Highway. A sketch and legal description is provided as part of the plan package. The proposed vacation is associated with the proposed Pearl at Flagler Village residential project.

The north 252' of NE 5th terrace south of NE 5th Street was vacated in February 2001 and retained as an easement to include a vehicular cul-de-sac turn-around at the south end of the property with a previous redevelopment proposal on the subject site. This proposal eliminates the cul-de-sac design of the previous submittal and provides a realigned public access/utility easement thru the property, essentially establishing a private street retaining pedestrian and vehicular access between NE 4th Street and NE 5th Street.

The Downtown Master Plan calls for the vacation and realignment of NE 5th Terrace to widen the narrow blocks between NE 5th Terrace and Federal Highway and make them more appropriate for redevelopment. This vacation is in keeping with that Master Plan intent. The vacation and westward realignment of 5th Terrace has already occurred between 5th Street and 6th Street. The new private segment of NE 5th Terrace proposed herein will align with that north of 5th Street.

PRIOR REVIEWS:

The request was reviewed by the Development Review Committee (DRC) on May 22, 2012. The Property and Right-of-Way (PROW) Committee recommended approval of the vacation on May 17, 2012. PROW Committee meeting Minutes are attached as EXHIBIT 1.

A letter of no objection has been provided by TECO Peoples Gas. Relocation agreements with FPL and ATT will be finalized by Engineering staff.

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
A perpetual access easement will be provided by the property owner to maintain public access from NE 4th Street thru to NE 5th Street.
- b. Alternate routes if needed are available which do not cause adverse impacts to surrounding areas;
and

The route will be modified to maintain public access and will not cause adverse impact to surrounding areas. The public access will be maintained through the new development site with improved asphalt drive and pedestrian improvements.

c. The closure of a right-of-way provides safe areas for vehicles to turn around and exit the area; and *The modified route will improve safety and access with asphalt drive lanes. Public access to NE 4th Street and NE 5th Street will be maintained with an access easement.*

d. The closure of a right-of-way shall not adversely impact pedestrian traffic; and *Pedestrian access will be improved with the proposed redevelopment of the project site. The improvements include new sidewalks and plazas that will enhance pedestrian 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.

A letter of no objection has been provided by TECO Peoples Gas. Relocation agreements with FPL and ATT will be finalized by Engineering staff.

Applicant's response narratives are included in the plan package.

STAFF FINDINGS:

Staff concurs with the applicant's findings. The application meets the criteria as indicated in ULDR Section 47-24.6, Vacation of Right-of-Way.

CONDITIONS:

Staff has reviewed the application request for the vacation and recommends approval subject to the following conditions:

1. Applicant shall dedicate a 40-foot public access and utility easement as provided on Sheet C1-0, Horizontal Control Plan, dated April 30, 2012 and prepared by Flynn Engineering Services, PA., for the subject site.
2. 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.
3. 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. This 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.