

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

<b>Case Number</b>	6P13
<b>Applicant</b>	BAC Home Loans
<b>General Location</b>	2401 NE 27 Avenue
<b>Property Size</b>	372.5 square-foot Portion of Right-of-Way
<b>Zoning</b>	Residential Single Family/Low Density District (RS-4.4)
<b>Existing Use</b>	Public Right-of-Way
<b>Future Land Use Designation</b>	Low
<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>	Yvonne Redding, Planner II

**PROJECT DESCRIPTION:**

The applicant requests the vacation of a 5-foot wide by 74.5-foot long portion of right-of-way located along the southern boundary of the subject property, where an existing pool, deck and fence currently encroach into NE 27<sup>th</sup> Avenue right-of-way. The right-of-way encroachment has existed since 1972, when the pool, brick deck and wall were installed and inspected. A sketch and legal description is provided as part of the site plan package.

**PRIOR REVIEWS:**

The request was reviewed by the Development Review Committee (DRC) on March 26, 2013. The Property and Right-of-Way (PROW) Committee recommended approval of the vacation on January 20, 2011. PROW Committee meeting Minutes are attached as EXHIBIT 1.

TECO Peoples Gas, Comcast, AT&T and FP&L have existing facilities in the ROW, but have no objection to the vacation if a new easement is provided, and the facilities are moved at the applicant's expense.

**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.

A right-of-way width of 20 feet to the centerline of the street will be maintained, providing for adequate travel lane at this location. Applicant's response narratives are attached to the plan package.

**STAFF FINDINGS:**

Staff recommends the Board approve the request, subject to conditions below and consistent with: ULDR Section 47-24.6, Vacation of Right-of-Way.

**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.

**CONDITIONS OF APPROVAL:**

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

1. 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;
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. 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.