

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

<b>Case Number</b>	16P13
<b>Applicant</b>	Damon Ricks / Flynn Engineering, PA
<b>General Location</b>	South of NE 5 <sup>th</sup> Street Between Federal Highway and NE 7 <sup>th</sup> Avenue
<b>Property Size</b>	2,000 SF Right-of-Way Vacation
<b>Zoning</b>	Regional Activity Center – East Mixed Use (RAC-EMU)
<b>Existing Use</b>	Public Right-of-Way
<b>Future Land Use Designation</b>	Downtown 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>	Randall Robinson, Planner II

**PROJECT DESCRIPTION:**

The applicant requests the vacation of a 10-foot wide, 2,000 square-foot portion of right-of-way located south of NE 5<sup>th</sup> Street, between Federal Highway and NE 7<sup>th</sup> Avenue, associated with the proposed development of new retail/office space and surface parking proposed on the same block as the existing Fresh Market grocery store and PNC Bank. A sketch and legal description is provided as part of the submittal package. Associated conceptual Future Development Plan is provided as **Exhibit 1** for reference purposes.

**PRIOR REVIEWS:**

The request was reviewed by the Development Review Committee (DRC) on July 23, 2013. All comments have been addressed. Utility companies including TECO Peoples Gas, Comcast, AT&T and FP&L have no existing facilities in the right-of-way and have no objection to the vacation.

**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;
- 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.

Although the right-of-way is proposed to be vacated, a perpetual access easement will be provided by the applicant maintaining vehicular and pedestrian public access from NE 4<sup>th</sup> Street thru to NE 5<sup>th</sup> Street. The public access will be enhanced through an improved asphalt drive and pedestrian improvements, including walkways and shade trees. The modified route will improve safety and access to the site. A letter of no objection has been provided by utility companies as stated above and relocation agreements with FPL and AT&T will be finalized prior to final approval. Applicant's response narratives are provided as part of the submittal package to assist the Board in determining if the application meets the criteria.

**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 concept plan for future development pedestrian and vehicular circulation shall be maintained.
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.

Exhibit

1. Conceptual Future Development Plan