



**TO:** Honorable Mayor & Members of the  
Fort Lauderdale City Commission

**FROM:** Chris Lagerbloom, ICMA-CM, City Manager

**DATE:** January 22, 2019

**TITLE:** Quasi-Judicial – Ordinance Vacating an Alley Right-of-Way located North of Broward Boulevard South of NW 2<sup>nd</sup> Street, between NW 6<sup>th</sup> Avenue and NW 7<sup>th</sup> Avenue – 100 Avenue of the Arts, LLC – Case No. V18007

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**Recommendation**

It is recommended that the City Commission approve an ordinance vacating a 10-foot wide, 6,250 square foot alleyway located north of Broward Boulevard and south of NW 2<sup>nd</sup> Street, between NW 6<sup>th</sup> Avenue and NW 7<sup>th</sup> Avenue, retaining two utility easements.

**Background**

The proposed alley vacation is associated with a Site Plan Level II, Development Review Committee (DRC) Application (Case Number R18053) for a 6-story commercial building with restaurant and retail space proposed at 100 NW 7<sup>th</sup> Avenue. The proposed site plan, which is currently under review, was on the August 14, 2018 DRC Agenda and proposes utilizing the alleyway, requiring the requested vacation of the right-of-way.

Sketch and legal descriptions of the alley proposed to be vacated, location map and zoning map are provided as Exhibit 1. The proposed site plans are attached as Exhibit 2 for reference.

The alley vacation request was reviewed by the Development Review Committee (DRC) on July 10, 2018 and all comments have been addressed. The Planning and Zoning Board (PZB) recommended approval of the proposed alley vacation, on October 17, 2018, subject to staff conditions. The PZB staff report, and meeting minutes are attached as Exhibit 3.

In addition to the required public participation notifications required prior to the PZB public hearing, mail notices were provided via certified mail to all properties abutting the alleyway. Of the four abutting properties, three have provided letters of no objection to the alley vacation; CAMM Educational Enterprises Inc. located at 120 NW 7<sup>th</sup> Avenue, City of Fort Lauderdale located at 108 and 121 NW 6<sup>th</sup> Avenue and SunTrust Bank, located at 6021 West Broward Boulevard. The remaining property, Hess Retail Stores,

LLC (Speedway), located at 621 West Broward Boulevard, has been in correspondence with the applicant, but a letter of no objection has not been formally received.

TECO Peoples Gas, Comcast, AT&T and Florida Power and Light (FPL) have no objection to the vacation if easements are retained, service can continue to be provided, and the facilities are moved at the expense of the developer. FPL further requires a complete set of plans prior to construction to include a survey of the property, site plan, water, sewer and drainage plan, paving plan, and electrical plan. Utility letters of no objection and utility conditions are attached as Exhibit 4.

### **PUBLIC PARTICIPATION**

The alley vacation request is subject to the public participation requirements established in Sec. 47-27.4 of the Unified Land Development Regulations (ULDR). According to the Applicant, a public participation meeting was held on September 5, 2018, to offer the neighborhood associations surrounding the property the opportunity to learn about the proposed project.

The public participation meeting information and affidavit are provided as Exhibit 5.

### **Review Criteria**

Pursuant to the Section 47-24.6.A.4 of the ULDR, 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 alleyway is mostly unimproved, with existing properties using alternative means of vehicular access. Based upon the placement of buildings, the narrowness of the blocks, and existing site improvements, i.e. parking lots and site layouts, the right-of-way is no longer needed for public purposes. Moreover, the alleyway fronts West Broward Boulevard, a heavily trafficked corridor. The vacation of the alleyway would eliminate an ingress and egress point onto a major corridor, reducing the number of pedestrian conflict points.

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

The northern portion of the alley is used as a point of egress for New River Child Care Learning Center located at 120 NW 7<sup>th</sup> Avenue, and once vacated would require an easement across 2 municipal properties, 121 NW 6<sup>th</sup> Ave and 108 NW 6<sup>th</sup> Ave. The applicant and the New River Child Care Learning Center have agreed to seek an access agreement between the City and the New River Child Care Learning Center. The City has no objection to the alley vacation, as reflected in Exhibit 7, and has agreed to provide an access easement to the New River Child Care Learning Center.

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

The closure of the alleyway will not result in the need for a turn around. Adequate circulation for both vehicles and pedestrians currently exist.

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

The vacation of the alleyway will not affect the existing pedestrian travel ways. The existing blocks are very narrow, with multiple ingress and egress points. The Speedway gas station on the northeast corner of NW 7<sup>th</sup> Ave and West Broward Boulevard and the SunTrust bank building on northwest corner of West Broward Boulevard and NW 6<sup>th</sup> Avenue have driveways in close proximity to the existing alleyway. Therefore, vacating the alleyway will reduce the number of potential pedestrian conflicts.

- 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;

If the alley vacation is approved, retention of utility easements to the north and south of 100 NW 7<sup>th</sup> Avenue (lots 6, 7, 18 and 19), will remain. As required by the ULDR, the Applicant has provided a relocation plan for 100 NW 7<sup>th</sup> Avenue, providing a utility easement along the south and east portion of the site, allowing continued utility service once the building has been constructed. As requested by the franchise utilities, the relocation and placement of easements shall be at the owner's expense and shall be reviewed by FPL prior to permits being issued for construction to ensure continued service. The utility relocation plan has been added as Exhibit 6.

Applicant's narrative responses to the criteria are attached as Exhibit 7.

Should the Commission approve the proposed vacation, the following conditions apply:

1. As to the portion of the alleyway fronting Lots 6,7,18 and 19: Florida Power and Light (FPL), AT&T and Comcast are known to have existing facilities within the alley. The applicant shall provide concurrency/correspondence from these utility owners regarding the proposed conceptual utility relocation plan and any easement requirements associated with the relocation/removal of their facilities. Prior to the Engineer certificate being executed, letters from these utility owners shall be provided to the City Engineer or designee, indicating utility owner satisfaction with the relocation and/or removal of their facilities and any other provisions required by the franchise utilities for utility relocation.

2. As to the portion of the alleyway fronting Lots 6,7,18 and 19: Any city infrastructure known or unknown and found to be within the vacated area shall be relocated at the expense of the applicant, and the relocated facilities shall be required to be inspected and accepted by the Public Works Department;
3. As to the portion of the alleyway fronting Lots 6,7,18 and 19: Any other utility infrastructure known or unknown and found to be within the vacated area shall be relocated at the expense of the applicant, and the relocated facilities shall be required to be inspected and accepted by the applicable utility agency or service provider; and,
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 by the applicant to the City.

The City Commission shall consider the application, the record, staff recommendation, and public comment on the application when determining whether the application meets the criteria for vacation.

### **Resource Impact**

There is no fiscal impact associated with this action.

### **Strategic Connections**

This item is a *Press Play Fort Lauderdale Strategic Plan 2018* initiative, included within the Business Development Cylinder of Excellence, specifically advancing:

- Goal 7: Be a well-positioned City within the global economic and tourism markets of the South Florida region, leveraging our airports, port, and rail connections.
- Objective 2: Facilitate a responsive and proactive business climate.
- Initiative 4: Incorporate Business First feedback into City business development efforts.

This item advances the *Fast Forward Fort Lauderdale Vision Plan 2035: We Are Prosperous*.

### **Attachments**

Exhibit 1 - Sketch and Legal Descriptions, Location Map and Zoning Map

Exhibit 2 - Development Plans

Exhibit 3 - Staff Report and Planning and Zoning Board October 17, 2018 Meeting Minutes

Exhibit 4 - Utility Letters of No Objection and Utility Conditions

Exhibit 5 - Public Participation Meeting Information and Affidavit

Exhibit 6 - Utility Relocation Plan

Exhibit 7 - Applicant's Narrative Responses

Exhibit 8 - Ordinance

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