



TO: Honorable Mayor & Members
Fort Lauderdale City Commission

FROM: Lee Feldman, City Manager

DATE: November 6, 2012

TITLE: Ordinance – Vacation of 40-foot by 375-foot long Right-of-Way – The Pearl at Flagler Village - Case 7P12

Recommendation

It is recommended that the City Commission adopt an ordinance, subject to conditions stated herein, vacating a 40-foot wide by approximately 375-foot long portion of NE 5th Terrace right-of-way, located south of NE 5th Street and west of Federal Highway effective upon the completion of all conditions of approval.

Background

The City Commission held a public hearing to consider the application and the record and recommendations forwarded by the Development Review Committee and the Planning and Zoning Board (“PZB”) on October 16, 2012, and shall hear public comment on the application when determining whether the vacation request meets the criteria for vacation of right-of-way.

The project was reviewed by the PZB on July 18, 2012, and approved by a vote of 5-0. The applicant’s narrative, minutes and report of the PZB are available as Exhibits 2, 3 and 4 respectively. The sketch and legal are provided in the attached ordinance.

NE 5th Terrace is being shifted and realigned to the west to increase the depth of the block between Federal Highway and NE 5th Terrace as per the Downtown Master Plan, which encourages “the re-platting of the constrained and under-developed blocks along the west side of Federal Highway between NE 4th Street and NE 9th Street to increase their depth and development potential.”

The application is subject to the criteria as indicated in ULDR *Section 47-24.6, Vacation of Right-of-Way*, which includes the following:

- 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;
- 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.

The attached PZB report addresses these criteria.

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

1. Applicant conveys a pedestrian and vehicular access easement, having a variable width ranging between 27 and 34 feet, connecting the remainder of NE 5th Terrace (not vacated by this ordinance) to NE 5th Street, subject to the approval of the City Engineer, in an instrument executed and delivered to the City in recordable form approved by the City Attorney. Said easement will allow, if requested by the applicant, the right to construct and maintain, within a portion of said easement area, footers/columns for the overhead pedestrian bridges, landscaping, irrigation, and lighting as shown on the approved site plan for the project known as The Pearl at Flagler Village ("Project"). The easement shall also provide that the right of the public to utilize the access easement shall take effect on the date a Certificate of Completion ("Certificate") is issued by the City's Engineer certifying that the construction of the access is completed in accordance with the site plan for Project and is ready for public use.
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.

Resource Impact

There is no fiscal impact associated with this action

Attachments

Exhibit 1 – Location Map

Exhibit 2 - Applicant's narrative

Exhibit 3 - Staff report from July 18, 2012 Planning and Zoning Board meeting

Exhibit 4 - Final minutes from July 18, 2012 Planning and Zoning Board meeting

Exhibit 5 - Ordinance

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