




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

<b>Case Number</b>	V19003
<b>Applicants</b>	Edward and Better Kirwin
<b>General Location</b>	800 and 811 SW 6 <sup>th</sup> Street
<b>Existing Use</b>	Public Right-of-Way
<b>Zoning District</b>	Residential Single Family/Low Medium Density (RS-8), Residential Single Family and Duplex/Medium Density (RD-15)
<b>Future Land Use Designation</b>	Low-Medium and Medium
<b>Applicable Unified Land Development Regulations (ULDR) Sections</b>	Section 47-24.6, Vacation of Right-of-Way Section 47-25.2, Adequacy Review
<b>Notification Requirements</b>	Section 47-27.6, Sign Posting 15 days prior to meeting Section 47-27.6, Mail Notice 10 days prior to meeting Section 47-27.4, Public Participation
<b>Action Required</b>	Recommend Approval of Vacation to City Commission, or Deny
<b>Project Planner</b>	Tyler Laforme, Urban Planner II 

**PROJECT DESCRIPTION:**

The applicants, Edward and Betty Kirwin, request to vacate a 20-foot wide, 120-foot-long portion of a right-of-way for the north half of SW 6<sup>th</sup> Street and a 20-foot wide, 135-foot long portion of a right-of-way for the south half of SW 6<sup>th</sup> Street, which is located between 800 SW 6<sup>th</sup> Street and 811 SW 6<sup>th</sup> Street. The proposed vacation is associated with a future single-family development on the north parcel. A sketch and legal description of the proposed vacation is attached as Exhibit 1.

**PRIOR REVIEWS:**

The vacation request was reviewed by the DRC on April 9<sup>th</sup>, 2019. All comments have been addressed and are available on file with the Department of Sustainable Development (DSD).

**REVIEW CRITERIA:**

The following Unified Land Development Regulations (ULDR) criteria apply to the proposed request:

- Section 47-24.6, Vacation of Right-of-Way
- Section 47-25.2, Adequacy Requirements

**Vacation of Rights-of-Way:**

As per ULDR Section 47-24.6.A.4., Vacation of Rights-of-Way, the request is subject to the following criteria:

- The right-of-way or other public place is no longer needed for public purposes;*

The applicant has stated in their narrative that the right-of-way segment was originally part of a public purpose thoroughfare, however the majority of the thoroughfare has been vacated for another development and is no longer a distinct roadway used by vehicles or pedestrians. The applicant has also stated that there are two parks with waterfront access within 500 feet of the proposed area to be vacated.

The City's Parks and Recreation Master Plan (Master Plan), states "water access is currently one of the top priority amenities with the highest level of unmet need, and the demand for these facilities will only increase as the population grows." In alignment with the Master Plan, the vacation of the right-of-way limits public access to the water for city residence and nearby community members. See attached communication from the Parks and Recreation Deputy Director, Enrique Sanchez, attached as **Exhibit 2**.

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

The right-of way proposed to be vacated does not adversely impact vehicular circulation in the surrounding area as it is a dead-end condition. Properties adjacent to the proposed vacation of right-of-way would have continuing access to SW 8<sup>th</sup> Avenue which runs perpendicular to the proposed vacation.

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

In 1991, the City of Fort Lauderdale approved a right-of-way vacation of SW 6<sup>th</sup> Street in order for the private development to construct a tennis court and swimming pool for the townhome project directly east of this vacation request. The vacation resulted in the removal of the connection between SW 7<sup>th</sup> Ave and SW 8<sup>th</sup> Ave and dictated the construction of a three-quarter cul-de-sac to allow for cars traversing SW 8<sup>th</sup> Ave to turn around. The current application to vacate will provide the opportunity for a full turn around. A graphic illustrating the turn-around is attached **Exhibit 3**.

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

The applicant has stated that the closure of this portion of SW 6<sup>th</sup> Street will not adversely impact pedestrian traffic. The previous vacation of right-of-way of SW 6<sup>th</sup> Street connecting SW 8<sup>th</sup> Ave and SW 7<sup>th</sup> Ave eliminated the ability for pedestrians to access this portion of SW 6<sup>th</sup> Street without walking out of the way. The applicant has also stated there are alternate parks with water access in close proximity to the project site with sidewalks which lead to Lewis Landing Park, located just off of SW 7<sup>th</sup> Street at 630 SW 9<sup>th</sup> Ave. Closure of the right-of-way will remove a waterfront amenity for pedestrians that use this right-of-way.

As previously stated, City Staff is updating the Comprehensive Plan to increase the level of service of parks and open space to reflect the recommendations in the Master Plan. By removing the access to this waterway, the City would not be able to fully achieve the goals and intent of these plans.

- 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 applicant has obtained letters of no objection from impacted franchise utilities and the City's Public Works Department. The applicant will be relocating any and all existing utilities located within SW 6<sup>th</sup> Street. The utility letters are provided as **Exhibit 4**.

**Adequacy Requirements:**

The adequacy requirement criteria of ULDR Section 47-25.2 are used to evaluate the demand created on public services and facilities by a proposed vacation. The proposed vacation will

require a new utility access easement, and FPL will be relocating their utilities at the owner's expense.

The applicant has provided narrative responses regarding the project's compliance with ULDR Section 47-24.6.A.4., Vacation of Right-of-Way and Section 47-25.2, Adequacy Requirements, attached as **Exhibit 5**, to assist the Board in determining if the application meets the criteria.

**Public Participation**

The right-of-way vacation request is subject to the public participation requirements established in ULDR, Section 47-27.4. A public participation meeting was held on August 18, 2019 to offer the neighborhood surrounding the proposed vacation the opportunity to learn about the overall proposed project. The public participation meeting summary and affidavit are attached as **Exhibit 6**.

In addition, this request is subject to sign notification requirements established in ULDR Section 47-27.4. The applicant has installed two signs on the property and has submitted a sign affidavit indicating proper sign notification was provided. **Exhibit 7** contains the affidavit and photographs of the posted signs.

**CONDITIONS OF APPROVAL:**

1. Any City infrastructure known or unknown and found to be within the vacated area shall be relocated at the expense of the applicant, or easements granted, and the relocated facilities shall be required to be inspected and accepted by the City's Public Works Department;
2. Any other utility infrastructure known or unknown and found to be within the vacated area shall be relocated at the expense of the applicant, or easements granted, and the relocated facilities shall be required to be inspected and accepted by the applicable utility agency or service provider;
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. 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; and
4. The applicant will be required to complete the three quarter turnaround and provide the necessary right-of-way dedication needed to complete the turnaround.

**PLANNING & ZONING BOARD REVIEW OPTIONS:**

Pursuant to 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 Development Review Committee 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.

**EXHIBITS:**

1. Sketch and Legal
2. Email from Parks and Recreation Director
3. Turn Around Graphic
4. Utility Provider Letters



5. Project Narratives
6. Public Participation Meeting Summary and Affidavit
7. Public Notice Signs and Sign Affidavit