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

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

**DATE:** July 5, 2022

**TITLE:** Second Reading - Ordinance Amending Ordinance C-21-37 Vacating Right-of-Way Identified as a 40-foot wide by 125-foot-long Portion of NE 5<sup>th</sup> Terrace Between North of NE 6<sup>th</sup> Street and South of NE 7<sup>th</sup> Street to Revise Conditions of Approval - Flagler Sixth, LLC - Case No. UDP-V21001 - **(Commission District 2)**

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**Recommendation**

Staff recommends the City Commission consider an ordinance amending Ordinance C-21-37 vacating a 40-foot wide by 125-foot-long portion of right-of-way also known as NE 5<sup>th</sup> Terrace located north of NE 6<sup>th</sup> Street and south of NE 7<sup>th</sup> Street to revise conditions of approval.

**Background**

On December 21, 2021, the City Commission adopted Ordinance C-21-37 vacating a portion of the right-of-way for NE 5<sup>th</sup> Terrace (Ordinance attached as Exhibit 1). The City Commission found that the application for vacation of a right-of-way met the criteria of Section 47-24.6– Vacation of Right-of-way of the City of Fort Lauderdale’s Unified Land Development Regulations (ULDR) subject to the following 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, and the relocated facilities shall be required to be inspected and accepted by the 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, and the relocated facilities shall be required to be inspected and accepted by the applicable utility agency or service provider; and,
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 by the applicant to the City.

The applicant worked with City staff to relocate the utility, and it was jointly determined

that it should not be relocated rather it should remain substantially in the same location. This conflicts with conditions 1 and 2 which indicate that the utilities must be relocated consistent with the criterion of Section 47-24.6.A.4.e.

The criterion language in Section 47-24.6.A.4.e states the following:

*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.*

Section 47-24.6.A.4.e allows an easement to be retained to allow existing utility infrastructure to remain within the existing area it is located today. Staff is proposing revised conditions of approval consistent with the language from Section 47-24.6.A.4.e.

Should the City Commission approve this amendment to Ordinance C-21-37, the following revised conditions shall apply:

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 a utilities easement shall be retained over the right-of-way area or portion thereof; or a utilities easement shall be provided in a different location to the satisfaction of the City; or any combination of same and utilities maintenance shall not be disrupted. Any relocated facilities or facilities provided in a different location shall be required to be inspected and accepted by the 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 a utilities easement shall be retained over the right-of-way area or portion thereof; or a utilities easement shall be provided in a different location to the satisfaction of the City; or any combination of same and utilities maintenance shall not be disrupted. and the relocated facilities shall be required to be inspected and accepted by the applicable utility agency or service provider; and,
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 by the applicant to the City.

It is the intent of staff to ensure this conflict does not occur again by utilizing the language provided above for all future conditions of approval associated with vacations of right-of-way as standard language.

**Resource Impact**

There is no fiscal impact associated with this action.

**Commission Priorities**

This item is a 2021 Commission Priority, advancing the Smart Growth initiative.

**Strategic Connections**

This item supports the *Press Play Fort Lauderdale 2024* Strategic Plan, specifically advancing:

- The Business Development Focus Area
- Goal 5: Build an attractive global and local economic community marketplace.
- Objective: Nurture and support existing local businesses

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

**Attachments**

Exhibit 1 – Ordinance C-21-37

Exhibit 2 – Location Map

Exhibit 3 – Ordinance

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Prepared By: Department Director Anthony Greg Fajardo, Development Services Department