



REQUEST: Vacation of Right-of-Way

Case Number	UDP-V21001	
Applicant	Flagler Sixth, LLC.	
Agent	Robert Lochrie, Lochrie & Chakas, P.A.	
General Location	Portion of Northeast 5 th Terrace Lying North of the Westerly Extension of the South Line of Lot 32 and Lying South of the Westerly Extension of the North Line of Lot 36, Block 313, Progresso	
Property Size	5,000 square feet (.114 acres)	
Zoning District	Regional Activity Center – Urban Village (RAC-UV)	
Existing Use	Public Right-of-Way	
Future Land Use Designation	Downtown Regional Activity Center	
Applicable Unified Land Development Regulations (ULDR) Sections	Section 47-24.6, Vacation of Right-of-Way Section 47-25.2, Adequacy Requirements	
Notification Requirements	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	
Action Required	Recommend Approval of Vacation to City Commission, or Deny	
Project Planner	Yvonne Redding, Urban Planner III	YMR ER

PROJECT DESCRIPTION:

The applicant, Flagler Sixth, LLC., requests to vacate a 40-foot wide by 125-foot-long portion of public right-of-way running parallel to Federal Highway, also known as NE 5th Terrace, north of NE 6th Street and south of NE 7th Street. A sketch and legal description of the proposed vacation is attached as **Exhibit 1**.

PRIOR REVIEWS:

The request was reviewed by the DRC on May 25, 2021. All comments have been addressed and are available on file with the Department of Sustainable Development (DSD).

An associated site plan for a six-story building containing 444,656 square feet of mixed commercial space located at 627 North Federal Highway, Case R19037, was approved by the Development Review Committee (DRC) on April 15, 2020.

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 portion of NE 5th Terrace north of the proposed area to be vacated was previously vacated pursuant to City Ordinance No. C-19-41 and was found not to be needed for public purposes. The applicant owns the properties on either side of the proposed area to be vacated. The Applicant is proposing to grant a 20-foot public access easement over a portion of the vacated area. As part of the standard vacation certification, the City and franchise utility providers will be provided utility easements for their respective infrastructure. In addition, the City utility relocations have been permitted and building permits issued.

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

Alternative routes exist on NE 6th Street, NE 5th Avenue, and NE 7th Street. Although alternative routes exist, the applicant is proposing to grant a 20-foot public access easement over a portion of the vacated area to maintain two-way traffic.

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

The properties immediately to the east of the proposed area to be vacated (601 and 611 North Federal Highway) are served by backout parking. If this portion of NE 5th Terrace is vacated, the backout parking and turnaround area will not be affected. Additionally, the applicant is proposing to grant a 20-foot public access easement over the vacated portion of NE 5th Terrace which will allow vehicles to travel through NE 5th Terrace without the need for a turnaround.

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

There are currently no sidewalks on this portion of NE 5th Terrace. However, the applicant is constructing a public sidewalk along NE 5th Terrace and will grant a sidewalk easement over the sidewalks as required.

- 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;*

There are no utilities in the portion of the right-of way to be vacated. The applicant has obtained letters of no objection from the franchise utilities and the City's Public Works Department. The utility letters along with the applicant's narratives are provided as **Exhibit 2**.

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 has no impact on the City's infrastructure or services. The associated development project, Case R19037, which is evaluated separately, contains existing connections to the roadway network via NE 6th Street and NE 7th Street.

The application and 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 are attached as part of Exhibit 2, 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. According to the applicant, the public participation meeting was held on August 6, 2021, to offer the neighborhood surrounding the proposed vacation the opportunity to learn about the proposed right-of-way vacation along with the overall project. The public participation meeting summary and affidavit are attached as **Exhibit 3**.

In addition, this request is subject to sign notification requirements established in ULDR Section 47-27.4. The applicant has installed three signs on the property and has submitted a sign affidavit indicating proper sign notification was provided. The affidavit and photographs of the posted signs are attached as **Exhibit 4**.

CONDITIONS OF APPROVAL:

Should the Board approve the proposed vacation, the following conditions 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 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; 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 to the City.

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 Description
2. Project Application, Narratives and Utility Provider Letters
3. Public Participation Meeting Summary and Affidavit
4. Public Notice Signs and Sign Affidavit