

**REQUEST:**

Right-of-Way Vacation

<b>Case Number</b>	8P11
<b>Applicant</b>	Holman Automotive, Inc.
<b>General Location</b>	Southeast corner of Sunrise Boulevard and Federal Highway
<b>Property Size</b>	21,688 SF Row Vacation
<b>Zoning</b>	Boulevard Business (B-1)
<b>Existing Use</b>	Public Right-of-Way
<b>Future Land Use Designation</b>	Commercial
<b>Applicable ULDR Sections</b>	Sec. 47-24.6 Vacation of Right-of-Way
<b>Notification Requirements</b>	Sign Posting 15 days prior to meeting; Mail Notice 10 days prior to meeting.
<b>Action Required</b>	Recommend Approval of Vacation to City Commission, or Deny
<b>Project Planner</b>	Thomas Lodge, Planner II

**PROJECT DESCRIPTION:**

The applicant requests the vacation of a 40-foot, 21,688 SF portion of NE 7<sup>th</sup> Avenue right-of-way located south of Sunrise Boulevard and east of Federal Highway. A sketch and legal description is provided as part of the plan package.

**PRIOR REVIEWS:**

The request was reviewed by the Development Review Committee (DRC) on November 8, 2011. The Property and Right-of-Way (PROW) Committee recommended approval of the vacation on March 19, 2009, subject to conditions as stated in the conditions of approval herein. PROW Committee meeting Minutes are attached as EXHIBIT 1. The Planning and Zoning Board originally deferred this project from the April 18, 2012 meeting by a vote of 7-0 with subsequent deferrals, which took place on May 18, 2012, June 20, 2012 and July 18, 2012. Planning and Zoning Board minutes from the April 18, 2012 meeting are provided as EXHIBIT 2. Since the initial meeting, staff has been working with the applicant to discuss options for inclusion of a cross access easement for the benefit of the public for pedestrians, bicyclists, and other non-motorized modes of transportation within said right-of-way.

TECO Peoples Gas, Comcast and FP&L have existing facilities in the ROW, but have no objection to the vacation if new easements are provided, and the facilities are moved at the expense of the developer. AT&T indicated that there are no existing facilities in the alley and have no objection to the vacation, but request that a new easement be granted to support facilities AT&T may require.

**REVIEW CRITERIA:**

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

- 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; and
- 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.

Applicant's response narratives are attached to the plan package.

## **STAFF FINDINGS:**

The application meets the criteria as indicated in ULDR Section 47-24.6, Vacation of Right-of-Way, with the exception of the following: Section 47-24.6.A.4.a; Section 47-24.6.A.4.b; Section 47-24.6.A.4.d.

The City has long maintained a policy of not supporting requests for vacation of right-of-ways without a proposed redevelopment plan, in order to maintain circulation patterns and provide alternative vehicular and/or pedestrian access routes. The applicant was asked to provide a conceptual property redevelopment plan that maintains the existing 7<sup>th</sup> Avenue corridor and provides potential for future alternative access. The applicant has not provided a proposed development plan at this time.

Without a proposed redevelopment plan once vacated less opportunities may exist for integration of alternative pedestrian access. Often times redevelopment of complete blocks once a vacation is complete, results in more massive building scale, without breaking up the existing grid pattern or provide opportunities for light and air to the streets and inhibits design of alternative circulation routes, access easements, and/or back-of-house services that could be better integrated. With a proposed redevelopment plan, options for alternate pedestrian access, ingress/egress into garage structures, access to back-of-house facilities i.e. trash, loading, etc. could be established at time of associated site plan submittal. Staff has concerns that the vacation of this right-of-way eliminates future public access along this important existing right-of-way, which currently provides mid-block access at this location.

The subject site is located in a prominent City location nearby the intersection of Sunrise Boulevard and Federal Highway, the northern gateway to Downtown Fort Lauderdale, the Beach and nearby attractions such as Parker Playhouse, Holiday Park, and other adjacent destinations and uses. The Broward County Metropolitan Planning Organization (MPO) 2035 Long Range Transportation Plan has identified the corridors at this intersection for future bus rapid transit and premium high capacity transit routes, taking advantage of the proximity to the FEC corridor, which currently has plans underway for passenger rail service. In addition, a recent draft walkability analysis report prepared for the City by Speck and Associates, LLC provides some compelling justifications for becoming more pedestrian-friendly. The draft report includes the following observations:

“Most people have the choice to walk or to drive. Most will only make the choice to walk if that walk is useful, safe, comfortable, and interesting. The *useful walk* means having the best mix of uses all in close proximity. The *safe walk* means designing thoroughfares so that pedestrians feel safe, which includes: small blocks and streets, lanes of the proper width, limited turn lanes, bike lanes where appropriate, continuous on-street parking and shade trees, ample sidewalks, limited curb cuts, and pedestrian-friendly signals. The *comfortable walk* means bringing buildings up to the sidewalk edge, avoiding surface parking lots and missing teeth, and planting more shade trees. The *interesting walk* means requiring active building edges against principal walking streets...

Smaller blocks also make walking more convenient: the more blocks per square mile, the more choices a pedestrian can make, and the more opportunities there are to alter one's path to visit a useful address such as a coffee shop or dry cleaner. These choices make walking more interesting, while shortening the distances between destinations”

While staff recognizes that in it's current state and context NE 7<sup>th</sup> Avenue is not perceived as a pedestrian place, staff does not believe it would be appropriate to lose this important mid-block access for future public needs. An alternative access route could be determined with a future site or redevelopment plan, ultimately improving the block and creating a more successful development for the applicant, as well as the surrounding community.

The length of blocks and their impact on determining walkability and creating comfortable pedestrian environments is key to making this successful by providing for greater freedom of pedestrian movement and other alternatives such as bicycling. Properly scaled street blocks provide abundant street frontage opportunities for developments of varying scales, as well as options for pedestrian activity and street life and public access to a variety of destinations and areas. A greater variety of options allow for greater freedom of movement, less reliance on the automobile, and the possibility of pedestrian-friendly designs and other alternatives such as bicycling and regional greenway systems.

In response to staff's concerns, the applicant has offered the following:

"As a condition of the granting of the vacation, Holman agrees to record a document that grants to the City a 14' pedestrian access easement within the 20' of the 7th Avenue ROW that becomes Holman's as a result of the vacation. The parties understand and acknowledge that while Holman is the owner of the property, or while the property is used as an automobile dealership, that the easement shall not be used by the public for pedestrian access of any kind (walking, biking, etc). However, should use of the property change, the City and the new (non automobile dealership) owner shall determine the appropriate place to provide pedestrian access through the property from Sunrise Boulevard to Holiday Park, and the record the appropriate documents to memorialize same, should the final agreed upon location be different than 7<sup>th</sup> Avenue"

Staff has considered the applicant's proposed language, reviewed it at length and determined that it does not meet the intent of the above-described goals, but have come up with alternative language which staff would be comfortable with in support of the vacation:

"As a condition of the granting of the vacation, that applicant provides to the City a 14-foot cross access easement for the benefit of the public for pedestrians, bicyclists, and other non-motorized modes of transportation within said ROW and record the appropriate documents to memorialize same. Should the existing site layout be reconfigured or property redeveloped in the future and a proposal submitted to alter the currently approved site plan, a more appropriate placement of said easement may be determined and agreed upon to continue to provide mid-block access through the property from Sunrise Boulevard south depending on site layout and design of a proposed redevelopment plan"

### **CONDITIONS:**

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

1. The applicant provides to the City a 14-foot cross access easement for the benefit of the public for pedestrians, bicyclists, and other non-motorized modes of transportation within said ROW and record the appropriate documents to memorialize same. Should the existing site layout be reconfigured or property redeveloped in the future and a proposal submitted to alter the currently approved site plan, a more appropriate placement of said easement may be determined and agreed upon to continue to provide mid-block access through the property from Sunrise Boulevard south depending on site layout and design of a proposed redevelopment plan;
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. As per PROW Committee, the applicant shall create a cul-de-sac or T-turnaround where 7<sup>th</sup> Avenue intersects with 9<sup>th</sup> Street;
4. As per PROW Committee, appropriate treatment needs to be made to 7<sup>th</sup> Avenue to make an obvious transition from public to private (Staff notes that this condition shall not apply if condition1 is accepted)
5. 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.

### **PLANNING & ZONING BOARD REVIEW OPTIONS:**

As per 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 DRC, 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.