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

**FROM:** Lee Feldman, City Manager

**DATE:** October 2, 2012

**TITLE:** Ordinance – Vacation of a 40-foot Right-of-Way – Holman Automotive, Inc. -  
Case 8P11

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**Recommendation**

It is recommended that the City Commission adopt an ordinance vacating a 40-foot, 21,688 square foot portion of NE 7<sup>th</sup> Avenue right-of-way located south of Sunrise Boulevard and north of NE 9<sup>th</sup> Street effective upon the completion all conditions of approval.

**Background**

The City Commission held a public hearing and introduced the ordinance on first reading on September 18, 2012, with the condition that the applicant conveys to the City a 20-foot cross access easement along the eastern edge of applicant's property adjacent to NE 10<sup>th</sup> Avenue. The Commission shall consider the application and the record and recommendations forwarded by the Department and the Planning and Zoning Board ("PZB") and shall hear public comment on the application when determining whether the vacation request meets the criteria for right-of-way vacation.

The project was reviewed by the PZB on August 15, 2012, and approved by a vote of 6-0 with conditions.

The application and the record and report of the PZB are available as Exhibits 2, 3 and 4 respectively. The sketch and legal are provided in the attached ordinance.

The applicant requests the vacation of a 40-foot, 21,688 square foot portion of NE 7<sup>th</sup> Avenue right-of-way, located south of Sunrise Boulevard and east of Federal Highway. 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; 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.

The attached PZB report addresses these criteria.

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

1. Prior to recordation and the proposed vacation taking effect, the applicant shall convey to the City a 20-foot cross access easement for the benefit of the public for pedestrians, bicyclists, and other non-motorized modes of transportation along the eastern edge of applicant's property adjacent to NE 10th Avenue, as depicted on the attached Sketch and Description, and record the appropriate documents to memorialize the same. Should the existing site layout be reconfigured, property redeveloped in the future, or a proposal is submitted to alter the currently approved site plan, a more appropriate placement of said easement may be determined and agreed upon by the then property owner and City to continue to provide 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. 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 August 15, 2012 Planning and Zoning Board meeting

Exhibit 4 - Draft minutes from August 15, 2012 Planning and Zoning Board meeting

Exhibit 5 - Ordinance

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