



**CITY OF FORT LAUDERDALE**  
**City Commission Agenda Memo**  
**REGULAR MEETING**

**#15-1274**

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

**FROM:** Lee R. Feldman, ICMA-CM, City Manager

**DATE:** November 17, 2015

**TITLE:** Quasi-Judicial – Ordinance Vacating a Right of Way North of 4<sup>th</sup> Street  
between NE 3<sup>rd</sup> Avenue and NE 4<sup>th</sup> Avenue – Putnam Realty Limited, et  
al. – Case Number V15003

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**Recommendation**

It is recommended that the City Commission adopt an ordinance vacating a 15-foot wide, 6,000 square-foot portion of alley right-of-way located north of NE 4<sup>th</sup> Street, between NE 3<sup>rd</sup> Avenue and NE 4<sup>th</sup> Avenue.

**Background**

The applicant is proposing to vacate the southernmost 400 feet of an operating alley right-of-way, which abuts the east and west sides of the development parcel associated with the Morgan on 3<sup>rd</sup> Avenue, multi-family residential project proposed between NE 3<sup>rd</sup> and 4<sup>th</sup> Avenues, north of NE 4<sup>th</sup> Street (please see Location Map attached as Exhibit 1). The development block is bisected by the subject 15-foot platted alley that extends from NE 4<sup>th</sup> Street north to NE 5<sup>th</sup> Street. In order to accommodate the proposed site plan, the portion of the alley which bisects the development parcel is proposed to be vacated.

Pursuant to Section 47-24.6 of the Unified Land Development Regulations (ULDR) (Vacation of Right-of-Way), the project was reviewed by the Planning and Zoning Board (PZB) on September 16, 2015, and recommended for approval by a vote of 6-0. The applicant's narrative, PZB staff report, and PZB minutes are attached as Exhibits 2, 3 and 4. The sketch and legal are provided within the Ordinance attached as Exhibit 5.

The application is subject to Section 47-24.6 of the ULDR, Vacation of Right-of-Way, which includes the following criteria under subsection 4:

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

The alley is located on a narrow City block within the urban village character area, where redevelopment options provide the opportunity to develop the land with internalized garages and active street frontages that promote a

positive pedestrian environment, in keeping with the City's adopted Downtown Master Plan. If the associated development application is approved, the existing right-of-way would be replaced by a multi-story residential structure with new access points, eliminating the need for a public right-of-way at this location. The applicant owns the property abutting both sides of the portion of the alley to be vacated as well as all of the property abutting the east side of the alley through the entire block. The portion of the alley that is not proposed to be vacated at this time abuts property belonging to other property owners, each with direct access from either NE 5th Street or NE 3rd Avenue. To prevent a "dead-end" alley condition, the applicant will grant an ingress-egress easement through the project site from the terminus of the proposed vacation to NE 4th Avenue. This will allow the remaining portion of the alley to continue to be used without a dead-end condition. In addition, the applicant will grant easements for existing or relocated utilities, as needed.

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

Vacating the right-of-way will not disrupt the grid pattern in the surrounding neighborhood. The existing street grid system provides alternative options for vehicular movement around the property as NE 3rd Avenue and NE 4th Avenue run parallel to the alley and provide full access to the lots fronting 3rd Avenue on the northwest corner of the block. The alley adjacent to these lots is not included in this vacation request, and consequently, those property owners will continue to have access to the alley abutting their respective properties. In order to accommodate the four lots on the northwest corner of the block which are not included in the project, and to maintain the balance of the alley as an alternative access, the applicant is proposing to grant an ingress/egress easement through the property providing a connection to NE 4th Avenue.

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

In lieu of a turnaround, a 15-foot wide ingress/egress easement is being proposed through the project site to provide a connection between the alley and NE 4th Avenue, preventing a dead-end situation.

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

The alley does not currently serve pedestrian traffic nor will the remaining alley segment be an appropriate pedestrian route. A sidewalk will be constructed along the project's frontage on NE 4th Avenue and sidewalks exist along NE 3rd Avenue and NE 4th and 5<sup>th</sup> Streets.

- 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 Florida Power & Light (FP&L) poles which are located within the portion of the alley to be vacated will be removed. There is existing sanitary sewer within the alley, a portion of which will be relocated. The upstream end of the sanitary sewer located in the alley will be vacated and new manholes and mains will be constructed at the north end of the vacation area to ensure continued sewer service to the existing properties from NE 5th Street. Utility facilities currently located within the vacation area will be relocated or a utility easement will be granted over the facilities, as appropriate.

Letters of no objection have been received from all of the franchise utilities and the applicant is working with them to address existing facilities and future service.

Applicant's response narratives to the criteria are provided as part of the submittal package.

The right-of-way vacation request is subject to the public participation requirements established in Section 47-27.4 of the ULDR. According to the applicant, they have held three public participation meetings during the months of July and August 2015 in order to offer the neighborhood association surrounding the property the opportunity to learn about the proposed project.

The information and affidavits are provided as Exhibit 6.

### **Staff Findings**

The application meets the criteria as indicated in Section 47-24.6 of the ULDR, Vacation of Right-of-Way and Section 47-25.2, Adequacy Review. Staff finds the request is consistent with the applicable ULDR sections and recommends the City Commission approve the request subject to conditions provided herein.

### **Conditions**

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

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 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, 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.
4. Applicant shall record the vehicular and pedestrian easements, including the ingress-egress easement through the project site from the terminus of the proposed vacation to NE 4th Avenue as agreed to by the City, prior to the issuance of the engineering certificate.

### **Resource Impact**

There is no fiscal impact associated with this action.

### **Strategic Connections**

This item is a *Press Play Fort Lauderdale Strategic Plan 2018* initiative, included within the Neighborhood Enhancement Cylinder of Excellence, specifically advancing:

- Goal 6: Be an exclusive community of distinct, complimentary, and diverse neighborhoods.
- Objective 2: Ensure a range of housing options for current and future neighbors.

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

### **Attachments**

Exhibit 1 - Location Map

Exhibit 2 - Applicant's Narratives

Exhibit 3 - PZB Staff Report

Exhibit 4 - PZB Meeting Minutes from 09/16/15

Exhibit 5 - Ordinance

Exhibit 6 - Public Participation Information and Affidavit

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Prepared by: Randall Robinson, Department of Sustainable Development

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