



REQUEST:

Right-of-Way Vacation

Case Number	V16011
Applicant	The Las Olas Company, Inc.
General Location	A portion of alley located within the existing Himmarshee Canal, east of Federal Highway, south of SE 1 st Street, west of SE 8 th Avenue, and north of SE 2 nd Street.
Property Size	1,100 square feet
Zoning	Regional Activity Center-East Mixed Use (RAC-EMU)
Existing Use	Public Right-of-Way
Future Land Use Designation	Downtown Regional Activity Center (D-RAC)
Applicable ULDR Sections	Section 47-24.6 Vacation of Right-of-Way Section 47-25.2, Adequacy Review
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	Randall Robinson, Planner III

PROJECT DESCRIPTION:

The applicant, The Las Olas Company, Inc., requests to vacate a portion of a 110-foot-long, alley right-of-way (R.O.W.), totaling approximately 1,100 square-feet, located east of Federal Highway, west of SE 8th Avenue, south of SE 1st Street and north of SE 1st Court. The sketch and legal description of the proposed vacation are included as part of Exhibit 1.

Only the unsubmerged portion of the alley is proposed to be vacated to allow for the construction of the Las Olas Walk development. The development will provide public access to the canal through a pedestrian access easement. Please see illustrative plan provided as Exhibit 2.

PRIOR REVIEWS:

The request was reviewed by the Development Review Committee (DRC) on October 25, 2016. All comments have been addressed and are available on file with the Department of Sustainable Development (DSD).

REVIEW CRITERIA:

As per the Unified and Land Development Regulations (ULDR), Section 47-24.6.A.4, Vacation of Rights-of-Way, the request is subject to the following criteria:

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

Since the greater part of this alley, between US 1 and SE 8th Avenue, has remained submerged since platting, the unsubmerged portion was never used or needed for public purpose. At time of platting it was probably assumed that the Himmarshee Slough, which pre-dated the canal, would eventually be filled. Further, the westernmost portion of the alley, intersecting with US 1 was vacated

several years ago, cutting of access to the portion of alley now requested to be vacated (see Exhibit 2, Illustrative Diagram).

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

N/A – See response to criteria a. above.

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

N/A – See response to criteria a. above.

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

N/A – See response to criteria a. above.

- 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 applicant is working with the utility providers to remove or to re-route any existing utilities. See attached letters of 'No Objection' provided by the utility companies.

Letters of no objection have been received from all of the franchise utilities and the applicant is coordinating how to address existing facilities and future service. The letters are attached as Exhibit 3.

Adequacy and Neighborhood Compatibility:

The adequacy 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 does not adversely impact or create additional demand on public services and facilities.

The applicant has provided a narrative response regarding the project's compliance with ULDR Sections 47-24.6.A.4., Vacation of Rights-of-Way and Section 47-25.2 Adequacy Requirements which are provided as Exhibit 4 to assist the Board in determining if the proposal meets the criteria.

Public Participation

The R.O.W. vacation request is subject to the public participation requirements established in ULDR Section 47-27.4. According to the applicant, two public participation meetings were held to present the proposed alley R.O.W. vacation together with the Las Olas Walk site plan to surrounding neighborhood associations. On January 19, 2017, the project was presented to the Downtown Civic Association and, on July 17, 2017, the project was presented to the Beverly Heights Association, to offer the neighborhood surrounding the property, the opportunity to learn about the proposed project. The public participation meeting summary and affidavit are provided as Exhibit 5.

In addition, this request is subject to sign notification requirements established in ULDR, Section 47-27.4. The applicant has installed a total of 3 signs on the property and has submitted a sign affidavit indicating proper sign notification was provided. Exhibit 6 contains the affidavit and pictures of the posted signs.

STAFF FINDINGS:

Staff recommends the Board approve this request with conditions as stated further below, and consistent with:

ULDR Section 7-24.6, Vacation of Right-of-Way; and
ULDR Section 47-25.2, Adequacy Review.

CONDITIONS OF APPROVAL:

Should the Board approve the proposed vacation, the following 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, 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; 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. 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 ULDR, Section 47-26B, Appeals, shall apply.

Exhibits

1. Sketch and Legal Description
2. Illustrative Plan
3. Utility Provider Letters
4. Applicant's Narratives
5. Public Participation Meeting Summary and Affidavit
6. Public Notice Signs and Sign Affidavit