



REQUEST: Vacation of Right-of-Way: Alley

Case Number	V18007
Applicant	100 Avenue of the Arts, LLC
General Location	North of Broward Boulevard, between NW 6 th Avenue and NW 7 th Avenue, South of NW 2 nd Street
Property Size	0.143 acres (6,250 SF) Row Vacation
Zoning	Regional Activity Center West Mixed Use District (RAC-WMU)
Existing Use	Public Right-of-Way
Future Land Use Designation	Downtown Regional Activity Center (D-RAC)
Applicable ULDR Sections	Sec. 47-24.6 Vacation of Right-of-Way
Notification Requirements	Sec. 47-27.6 Sign Posting 15 days prior to meeting; Sec. 47-27.6 Mail Notice 10 days prior to meeting. Sec. 47-24.2. Public Participation
Action Required	Recommend Approval of Vacation to City Commission, or Deny
Project Planner	Adam Schnell, Planner II

PROJECT DESCRIPTION:

The Applicant is requesting the vacation of a 10-foot wide, 6,250 SF alleyway located North of Broward Boulevard, between NW 6th Avenue and NW 7th Avenue, South of NW 2nd Street, to include the retainment of two utility easements. Sketch and legal descriptions are provided as Exhibit 1, and a location map and zoning map are provided as Exhibit 2. An associated Site Plan Level II – Development Review Committee (DRC) Application (Case Number R18053) is proposed at 100 NW 7th Avenue to construct a six (6) story commercial building with first-floor restaurant and retail space was reviewed on the August 14, 2018 DRC Agenda. The proposed building design utilizes the alleyway, requiring the vacation of the right-of-way. The development plans, which are subject to change, are attached as Exhibit 3 for reference.

PRIOR REVIEWS:

The alley vacation request was reviewed by the Development Review Committee (DRC) on July 10, 2018 and was recommended approval of the vacation subject to the conditions of approval found herein. The DRC Staff Report is attached as Exhibit 4.

In addition to the required public participation notifications, mail notices were provided via certified mail to all properties abutting the alleyway, requesting letters of no objection. Of the four abutting properties, three have provided letters of no objection to the alley vacation- Camm Educational Enterprises Inc., located at 120 N.W. 7th Avenue, City of Fort Lauderdale, located at 108 and 121, N.W. 6th Avenue and SunTrust Bank, located at 6021 West Broward Boulevard. The remaining property, Hess Retail Stores, LLC (Speedway), located at 621 W. Broward Boulevard, has been in correspondence with the Applicant, but a letter of no objection has not been formally received.

TECO Peoples Gas, Comcast, AT&T and FP&L have no objection to the vacation if easements are retained, service can continue to be provided, and the facilities are moved at the expense of the developer. FP&L further requires a complete set of plans prior to construction- to include a survey of the property, site plan, water, sewer and drainage plan, paving plan, and electrical plan. Letters of no objection and utility conditions are attached as Exhibit 5.

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.

The alleyway is mostly unimproved, with existing properties using alternative means of vehicle access. Based upon the placement of buildings, the narrowness of the blocks, and existing site improvements, i.e. parking lots and site layouts, the right-of-way is no longer needed for public purposes. Moreover, the alleyway fronts West Broward Boulevard, a heavily trafficked corridor. The vacation of the alleyway would eliminate an ingress and egress point onto a major corridor, reducing the number of pedestrian conflict points.

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

The northern portion of the alley is used as a point of egress for New River Child Care Learning Center, located at 120 NW 7th Avenue, and once vacated would require an easement across two (2) municipal properties, 121 NW 6th Ave and 108 NW 6th Ave. The Applicant and the New River Child Care Learning Center have agreed to seek an ordinance for a cross access agreement between the City and the New River Child Care Learning Center. The City has no objection to the alley vacation, as reflected in Exhibit 7, and has agreed to provide a cross-access easement to the New River Child Care Learning Center. Staff recommends the recording of the cross-access easement agreement with Broward County as a condition of approval, prior to the vacating ordinance being in effect.

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

The closure of the alleyway will not result in the need for a turn around. Adequate circulations for both vehicles and pedestrians currently exist.

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

The vacation of the alleyway will not affect the existing pedestrian travel ways. The existing blocks are very narrow, with multiple ingress and egress points. The Speedway gas station on the corner of N.W. 7th Ave and West Broward Boulevard and SunTrust Bank, fronting West Broward Boulevard, have driveways in close proximity to the existing alleyway. Therefore, vacating the alleyway will reduce the number of potential pedestrian conflicts.

- 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.

If the alley vacation is approved, the retainment of utility easements to the north and south of 100 NW 7th Avenue (lots 8, 7, 17 and 18), should remain to continue utility service. As required by the ULDR, the Applicant has provided a relocation plan for 100 NE 7th Avenue, providing an easement along the south and east portion of the site, allowing continued utility service once the building has been constructed. As requested by the franchise utilities, the relocation and placement of easements shall be at the owner's expense and shall be reviewed by FP&L prior to permits being issued for construction to ensure continued service. The utility relocation plan has been added as Exhibit 6.

Applicant's narrative responses are attached as Exhibit 7.

PUBLIC PARTICIPATION

The alley vacation request is subject to the public participation requirements established in ULDR Sec. 47-27.4. According to the Applicant, a public participation meeting was held on September 5, 2018, to offer the neighborhood associations surrounding the property the opportunity to learn about the proposed project.

The public participation meeting information and affidavit are provided as Exhibit 8.

STAFF FINDINGS:

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

- ULDR Section 47-24.6, Vacation of Right-of-Way

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.

CONDITIONS OF APPROVAL:

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

1. A cross access easement shall be recorded along the west side of lots 13 and 14 to maintain adjacent property egress to NW 2nd Street;
2. Florida Power and Light (FPL), AT&T and Comcast are known to have existing facilities within the alley. The applicant shall provide concurrency/ correspondence from these utility owners regarding proposed conceptual utility relocation plan and any easement requirements associated with the relocation/ removal of their facilities. Prior to Engineer certificate being executed, letters from these utility owners shall be provided to the City Engineer or designee, indicating relocation and/or removal of their facilities, additional provisions and easements have been completed to the utility owners satisfaction;
3. 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;
4. 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,
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. The certificate shall state that all conditions of the vacation have been met. A copy of the recorded certificate must be provided by the applicant to the City.

EXHIBITS:

1. Sketch and Legal Descriptions
2. Location Map and Zoning Map
3. Development Plans

4. DRC Staff Report
5. Utility Letters of No Objection and Conditions
6. Utility Relocation Plan
7. Applicant's Narrative Responses
8. Public Participation Meeting Information and Affidavit



**PLANNING AND ZONING BOARD
CITY OF FORT LAUDERDALE
CITY HALL – CITY COMMISSION CHAMBERS
100 NORTH ANDREWS AVENUE
FORT LAUDERDALE, FLORIDA
WEDNESDAY, OCTOBER 17, 2018 – 6:30 P.M.**

Cumulative

Board Members	Attendance	June 2018-May 2019	
		Present	Absent
Catherine Maus, Chair (arr. 6:45)	P	4	1
Howard Elfman, Vice Chair	P	5	0
John Barranco	P	4	1
Brad Cohen	P	4	1
Mary Fertig	P	4	1
Jacquelyn Scott	P	5	0
Jay Shechtman	P	5	0
Alan Tinter	A	3	2
Michael Weymouth	P	5	0

It was noted that a quorum was present at the meeting.

Staff

Ella Parker, Urban Design and Planning Manager
D'Wayne Spence, Assistant City Attorney
Shari Wallen, Assistant City Attorney
Karlanne Grant, Urban Design and Planning
Florentina Hutt, Urban Design and Planning
Tyler Laforme, Urban Design and Planning
Yvonne Redding, Urban Design and Planning
Adam Schnell, Urban Design and Planning
Lorraine Tappen, Urban Design and Planning
Benjamin Restrepo, Department of Transportation and Mobility
Brigitte Chiappetta, Recording Secretary, Prototype, Inc.

Communications to City Commission

None.

I. CALL TO ORDER / PLEDGE OF ALLEGIANCE

Vice Chair Elfman called the meeting to order at 6:35 p.m. and all recited the Pledge of Allegiance. The Vice Chair introduced the Board members present, and Urban Design and Planning Manager Ella Parker introduced the Staff members.

II. APPROVAL OF MINUTES / DETERMINATION OF QUORUM

Individuals wishing to speak on tonight's Agenda Items were sworn in at this time.

III. PUBLIC SIGN-IN / SWEARING-IN

Motion made by Mr. Weymouth, seconded by Ms. Fertig, to accept the minutes from [September 2018]. In a voice vote, the **motion** passed unanimously.

IV. AGENDA ITEMS

Index

<u>Case Number</u>	<u>Applicant</u>
1. R18033**	Preferred Partners Yield, LTD
2. V18006**	Broward County Board of County Commissioners
3. R17058**	50 Isle of Venice, LLC. c/o John A. Brown
4. R17057**	94-96 Hendricks Isle, LLC.
5. PL18008**	Powerline Center, LLC.
6. R18004**	Orton Place LLC
7. Z18004* **	Mahyoub & Sons, Inc.
8. V18007**	100 Avenue of the Arts, LLC.
9. T18008*	City of Fort Lauderdale
10. T18009*	City of Fort Lauderdale

Special Notes:

Local Planning Agency (LPA) items (*) – In these cases, the Planning and Zoning Board will act as the Local Planning Agency (LPA). Recommendation of approval will include a finding of consistency with the City's Comprehensive Plan and the criteria for rezoning (in the case of rezoning requests).

Quasi-Judicial items ()** – Board members disclose any communication or site visit they have had pursuant to Section 47-1.13 of the ULDR. All persons speaking on quasi-judicial matters will be sworn in and will be subject to cross-examination.

Ms. Parker requested the deferral of Item 10. The Board agreed to the deferral by unanimous consensus.

Ms. Scott asked if it would be necessary for Staff to read the entire Staff Report into the record for each Agenda Item, as this information is already included in the Board members' backup materials. Ms. Parker advised that this information may be included as part of the record if that is the Board's desire.

Chair Maus informed the public that if the Item is approved at tonight's meeting, any resident may reach out to a City Commissioner and request that the Application be called up for a public hearing before the Commission.

In a roll call vote, the **motion** failed 4-4 (Chair Maus, Mr. Cohen, Mr. Shechtman, and Ms. Scott dissenting).

Ms. Parker clarified that the maximum structure height for most uses in the RMM-25 district is 35 ft., with 55 ft. allowed for multi-family uses.

Motion made by Mr. Shechtman, seconded by Mr. Weymouth, for reconsideration [of the Item's denial].

Assistant City Attorney D'Wayne Spence explained that the City Commission considers a failed motion to be the same as a denial. This failure would require the Applicant to appeal the Item to the City Commission. In order to allow for deferral of the Item, the Board must reconsider and vote upon the previous action, after which they may offer a motion for deferral. Mr. Cohen noted that it is also possible for Ms. Fertig to **withdraw** her earlier **motion** to approve the Item.

In a roll call vote, the **motion** for reconsideration passed 7-1 (Chair Maus dissenting).

Ms. Fertig **withdrew** her earlier **motion** for approval of the Item, requesting that the Board be provided with a copy of the notice given for any additional community meeting(s), as well as a record of attendance at the meeting(s) to ensure they do not hear conflicting information regarding this public outreach. She also requested that they be provided with backup materials related to previous meetings.

Motion made by Ms. Fertig, seconded by Mr. Cohen, to defer to the November meeting. In a roll call vote, the **motion** passed 8-0.

8. CASE:	V18007
REQUEST: **	Right-of-Way Vacation; Ten-foot wide alley between NW 6 th Avenue and NW 7 th Avenue, south of NW 2 nd Street and north of West Broward Boulevard
APPLICANT:	100 Avenue of the Arts, LLC.
PROJECT NAME:	100 Avenue of the Arts
GENERAL LOCATION:	100 NW 7 th Avenue
ABBREVIATED LEGAL DESCRIPTION:	A Tract of Land Being a Portion of the 10 Foot Wide Alleyway in Block 8 of "Bryan Subdivision", According to the Plat Therefore, as Recorded in Plat Book 1, Page 18,

of the Miami-Dade County Public Records.

ZONING DISTRICT: Regional Activity Center- West Mixed Use District (RAC-
WMU)
LAND USE: Downtown Regional Activity Center
COMMISSION
DISTRICT: 3 – Robert L. McKinzie
CASE PLANNER: Adam R. Schnell

Disclosures were made at this time.

Debbie Orshefsky, representing the Applicant, showed a PowerPoint presentation on the Application, which requests vacation of an alleyway. The Applicant contacted neighboring property owners to the north and south of the parcel in conjunction with the vacation. All owners have consented to the vacation. The subject site is located in the Downtown RAC and has undergone DRC review. Staff has worked closely with the Applicant to plan for the relocation of utilities.

Adam Schnell, representing Urban Design and Planning, stated that the Staff Report refers to two conditions of approval of the Application. A previous condition, which required a cross-access easement be recorded along the west side of Lots 13-14 to maintain adjacent property egress to NW 2nd Street, has been removed, replaced with an acknowledgement that a cross-access easement along the west side of these lots will be maintained to provide property egress to NW 2nd Street as part of a separate City Commission Agenda Item. Conditions 2, 3, and 4 will only apply to the portion of the alleyway fronting Lots 7, 6, 18, and 19.

There being no questions from the Board at this time, Chair Maus opened the public hearing. As there were no individuals wishing to speak on this Item, Chair Maus closed the public hearing and brought the discussion back to the Board.

Motion made by Mr. Cohen, seconded by Vice Chair Elfman, to approve with the amended Staff Condition. In a roll call vote, the **motion** passed 8-0.

9. CASE:	T18008
REQUEST: *	Amend City of Fort Lauderdale Unified Land Development Regulations (ULDR) Section 47-20, Parking and Loading Requirements to Permit Applications for Parking Reduction Requests for Affordable Housing Developments, Revising Parking Requirements, and Providing for a Review Process
APPLICANT:	City of Fort Lauderdale
