



**REQUEST:** Vacation of Right-of-Way

<b>Case Number</b>	V19005
<b>Applicant</b>	Flagler Sixth, LLC.
<b>General Location</b>	Portion of NE 5 <sup>th</sup> Terrace, a North/South Right-of-Way parallel to North Federal Highway, located north of NE 6 <sup>th</sup> Street, and south of NE 7 <sup>th</sup> Street
<b>Property Size</b>	12,000 square feet (.275 acres)
<b>Zoning District</b>	Regional Activity Center – Urban Village (RAC-UV)
<b>Existing Use</b>	Public Right-of-Way
<b>Future Land Use Designation</b>	Downtown Regional Activity Center (D RAC)
<b>Applicable Unified Land Development Regulations (ULDR) Sections</b>	Section 47-24.6, Vacation of Right-of-Way Section 47-25.2, Adequacy Requirements
<b>Notification Requirements</b>	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
<b>Action Required</b>	Recommend Approval of Vacation to City Commission, or Deny
<b>Project Planner</b>	Yvonne Redding, Urban Planner III

**PROJECT DESCRIPTION:**

The applicant, Flagler Sixth, LLC., requests to vacate a 40-foot wide portion of public right-of-way running parallel to Federal Highway, also known as NE 5<sup>th</sup> Terrace, north of NE 6<sup>th</sup> Street and south of NE 7<sup>th</sup> Street. A sketch and legal description of the proposed vacation is attached as **Exhibit 1**. An associated site plan, Case R19037, is currently under review by the Development Review Committee (DRC). The site plan proposes a six-story building containing 444,656 square feet of mixed use commercial space for the property located at 627 North Federal Highway is also.

**PRIOR REVIEWS:**

The request was reviewed by the DRC on June 11, 2019. All comments have been addressed and are available on file with the Department of Sustainable Development (DSD).

**REVIEW CRITERIA:**

The following Unified Land Development Regulations (ULDR) criteria apply to the proposed request:

- Section 47-24.6, Vacation of Right-of-Way
- Section 47-25.2, Adequacy Requirements

**Vacation of Rights-of-Way:**

As per 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;

The portion of NE 5<sup>th</sup> Terrace abuts the applicant's property on both the east and west sides of the right-of-way. As part of the vacation and site plan process the applicant will provide a new access drive, which will be located approximately

nine feet west of the current right-of-way location to allow for vehicular access and utility easements.

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

It is not anticipated that the vacation of the right-of-way will cause adverse impacts to the circulation of the surrounding areas. A new east/west access drive will be provided with the proposed site plan. The applicant will provide a 22 foot wide access and utility easement for public access.

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

The right-of way vacation will not impose any adverse effects to the current flow of traffic in the area. The current flow of traffic will be shifted to the west 9 feet and still allow for ingress/egress to NE 6th and 7th Streets.

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

Pedestrian traffic will not be impacted by the right-of way vacation as there are no sidewalks provided along the existing right-of way and adjacent property. The proposed project will provide significant pedestrian improvements within the project.

- 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;*

There are no utilities in the portion of the right-of way to be vacated. The applicant has obtained letters of no objection from the franchise utilities and the City's Public Works Department. The utility letters along with the applicant's narratives are provided as **Exhibit 2**.

#### **Adequacy Requirements:**

The adequacy requirement 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 has no impact on City's infrastructure or services. The associated development project, Case R19037, which is evaluated separately, contains existing connections to the roadway network via NE 6<sup>th</sup> Street and NE 7<sup>th</sup> Street.

The applicant has provided narrative responses regarding the project's compliance with ULDR Section 47-24.6.A.4., Vacation of Right-of-Way and Section 47-25.2, Adequacy Requirements, attached as **Exhibit 2**, to assist the Board in determining if the application meets the criteria.

#### **Public Participation**

The right-of-way vacation request is subject to the public participation requirements established in ULDR, Section 47-27.4. According to the applicant, two public participation meeting were held on August 14, 2019 to offer the neighborhood surrounding the proposed vacation the opportunity to learn about the proposed right-of-way vacation along with the overall project. The public participation meeting summary and affidavit are attached as **Exhibit 3**.

In addition, this request is subject to sign notification requirements established in ULDR Section 47-27.4. The applicant has installed three signs on the property and has submitted a sign affidavit indicating proper sign notification was provided. **Exhibit 4** contains the affidavit and pictures of the posted signs.

**CONDITIONS OF APPROVAL:**

Should the Board approve the proposed vacation, the following conditions 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, or easements granted, 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, or easements granted, 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. 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.

**PLANNING & ZONING BOARD REVIEW OPTIONS:**

Pursuant to 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 Development Review Committee, 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.

**EXHIBITS:**

1. Sketch and Legal
2. Utility Provider Letters and Project Narratives
3. Public Participation Meeting Summary and Affidavit
4. Public Notice Signs and Sign Affidavit

