



REQUEST: Vacation of Right-of-Way

Case Number	VI9007
Property Owner / Applicant	Initech Properties, LLC.
Agent	Celenski Architects
General Location	400 SE 9 th Court
Property Size	6,725 Square Feet
Zoning District	Regional Activity Center – Residential and Professional Office District (RAC-RPO)
Future Land Use Designation	Downtown Regional Activity Center
Applicable Unified Land Development Regulations (ULDR) Sections	Section 47-24.6, Vacation of Rights-of-Way Section 47-25.2, Adequacy Requirements
Notification Requirements	Section 47-27.6, Sign Posting 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	Nicholas Kalargyros, Urban Planner II

PROJECT DESCRIPTION:

The applicant, Initech Properties, LLC., requests to vacate a 50-foot wide portion of public right-of-way known as SE 4th Avenue located south of SE 9th Court and north of the Tarpon River. A sketch and legal description of the proposed vacation is attached as **Exhibit 1**. The associated development is also scheduled on the March 18, 2020, Planning and Zoning Board agenda as Case #R19034. The applicant proposes a six-story building containing nine multi-family residential units on the property located at 400 SE 9th Court.

PRIOR REVIEWS:

The right-of-way vacation request was reviewed by the Development Review Committee on September 10, 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:

- Section 47-24.6, Vacation of Rights-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 right-of-way is not needed for public purposes. At this location, SE 4th Avenue dead-ends into the Tarpon River. The right-of-way is not used for pedestrian or vehicular traffic. The applicant is proposing to improve this section of SE 4th Avenue to create an improved pedestrian experience to the waterway and is proposing to

grant a public access easement over the vacated right-of-way for the public to enjoy the improved views and streetscape.

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

The right-of-way is a dead-end and is not used for vehicular or pedestrian traffic. Therefore, no alternate routes are needed.

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

If the right-of-way is vacated, vehicles will be able to travel south on SE 4th Avenue and turn east on SE 9th Court to exit the area. The right-of-way to be vacated is already a dead-end street.

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

Pedestrian traffic will not be affected by the vacation of the right-of-way. Sidewalks do not currently exist in the area proposed to be vacated, and the right-of-way is not used for through-travel.

- 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;*

Applicant has obtained letters of no objection from the franchise utilities and the City's Public Works Department. Applicant will relocate all utilities to the satisfaction of the respective utility owners or will grant an easement over the existing right-of-way for the utilities that will remain. The utility letters along with the applicant's narrative responses 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 R19034, which is evaluated separately, contains existing connections to the roadway network via the proposed SE 4th Avenue vacation.

The applicant has provided narrative responses regarding the project's compliance with ULDR Section 47-24.6.A.4., Vacation of Rights-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, the public participation meeting was held on December 9, 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 photographs 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 Description
2. Utility Provider Letters and Project Narratives
3. Public Participation Meeting Summary and Affidavit
4. Public Notice Signs and Sign Affidavit