



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

**#21- 0363**

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

**FROM:** Chris Lagerbloom, ICMA-CM, City Manager

**DATE:** April 6, 2021

**TITLE:** Second Reading - De Novo Hearing; Quasi-Judicial Consideration of an Ordinance for a Vacation of Right-Of-Way Application - Portion of NE 8th Street – Holman Automotive, Inc. - Case No. V19008 - **(Commission District 2)** – Requesting a Deferral to April 20, 2021

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**Recommendation**

Staff recommends the City Commission consider an ordinance to vacate a portion of right-of-way on NE 8th Street and retain a non-exclusive utility, pedestrian walkway, and emergency vehicle access easement, running 40-feet wide and 127.50 feet in length, totaling 5,100 square feet, located between NE 1st Avenue and Progresso Drive and north of 745 Progresso Drive and south of 810 NE 1st Avenue.

**Background**

The proposed right-of-way area to be vacated has been closed off from vehicular and pedestrian traffic since the approval of a 1987 encroachment agreement and used as car storage overflow for the dealership. The applicant is proposing to remove all existing encroachments and retain a non-exclusive easement for utilities, pedestrians, and emergency vehicles.

The vacation of right-of-way request was reviewed by the Development Review Committee (DRC) on July 23, 2019. The applicant originally proposed the vacation of the right-of-way along NE 8th Street without the retainment of access easements. Based upon staff's comments, the applicant revised the application to include the retainment of utility, pedestrian, and emergency vehicle easement rights. The applicant's Sketch and Legal Description, Survey, Zoning Map, and Pictures are attached as Exhibit 1. The applicant's Narrative Responses to Vacation of Right-of-Way Criteria, Adequacy Requirements, and Utility Letters of No Objection are attached as Exhibit 2. Neighborhood Correspondence is attached as Exhibit 3.

On November 18, 2020, the Planning and Zoning Board (PZB) held a public hearing and considered the Vacation of ROW Application. A motion was made to approve the Application, but the motion failed in a vote of 3-6 and resulted in a denial. The PZB Staff Report, Application and Exhibits are attached as Exhibit 4 and the PZB Meeting Minutes are attached as Exhibit 5. The applicant's Appeal Request Letter is attached as Exhibit 6.

On January 21, 2021, the City Commission deferred hearing the appeal upon the

applicant's request, setting a new meeting date of February 16, 2021.

On February 16, 2021 the City Commission set a De Novo Hearing for March 16, 2021.

**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 Right-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.

According to the applicant, this section of right-of-way has been fenced off and used for a dealership car storage area and has not been used for a public purpose, per a 1987 Encroachment Agreement (City Commission Resolution No. 87-262 and recorded in the Public Records of Broward County, Book 12963, Page 490). The applicant is proposing to remove the existing fence and retain a non-exclusive easement for utilities, a pedestrian walkway, and for emergency vehicle access, therefore increasing pedestrian and service vehicle access.

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

This section of the right-of-way has been closed since the 1987 Encroachment Agreement and used for a dealership car storage area. Therefore, the vacation of the right-of-way will not affect the existing traffic pattern of NW 8<sup>th</sup> Avenue, nor NW 1st Avenue and Progresso Drive, since this section of right-of-way has functioned without being opened for over three decades.

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

The vacation of the right-of-way will not change existing conditions and will not affect vehicle turn around or exiting of the area.

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

Granting of the vacation of the Right-of-Way and a simultaneous dedication of a pedestrian easement will reopen the area to pedestrian traffic increasing access from NE 1<sup>st</sup> Avenue to Progresso Drive.

- 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.

Should the Commission 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, and the relocated facilities shall be required to be inspected and accepted by the 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. 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.

#### **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 the City's infrastructure or services.

#### **Resource Impact**

There is no fiscal impact associated with this action.

#### **Strategic Connections**

This item supports the *Press Play Fort Lauderdale 2024* Strategic Plan, specifically advancing:

- The Business Development Focus Area
- Goal 5: Build an attractive global and local economic community marketplace.
- Objective: Create a responsive and proactive business climate to attract emerging industries

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

#### **Attachments**

Exhibit 1 - Sketch and Legal Description, Survey, Zoning Map, and Pictures

Exhibit 2 - Narrative Responses to Vacation of Right-of-Way Criteria, Adequacy Requirements, and Utility Letters of No Objection

Exhibit 3 - Neighborhood Correspondence

Exhibit 4 - November 18, 2020 Planning and Zoning Board Staff Report, Application, and Exhibits

Exhibit 5 - November 18, 2020 Planning and Zoning Board Meeting Minutes

Exhibit 6 - Applicant's Appeal Request Letter

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