



SUSTAINABLE DEVELOPMENT – URBAN DESIGN PLANNING RIGHT-OF-WAY/EASEMENT APPLICATION

Rev: 2 | Revision Date: 10/01/2020 | I.D. Number: ROWEA

DEVELOPMENT REVIEW COMMITTEE (DRC) Right-of-way / Easement Application

Cover: Deadline, Notes, and Fees
Page 1: Applicant Information Sheet
Page 2: Required Documentation / Submittal Checklist
Page 3: Other Property & Right-of-Way related items for discussion

DEADLINE: Submittals must be received by 4:00 PM each business day. Pursuant to Section 47-24.1(1), the Department will review all applications to determine completeness within five (5) business days. Applicants will be notified via email, if plans do not meet the submittal requirements and if changes are required.

NOTES: Prior to formal submittal of applications, applicants are encouraged to schedule an appointment with Urban Design & Planning Division staff to obtain feedback regarding subject proposals, especially right-of-way vacation requests, as well as any other considerable development projects. The meetings provide an opportunity for applicants to obtain feedback and general direction, prior to expending significant effort on design and preparation of submittal documents.

Optional 15-minute time slots are available during DRC meetings for scheduling to applicants, to obtain signatures on completed DRC plans (including Pre-Planning and Zoning Board, Pre- City Commission and Final DRC plans) from all representatives at one time, in preference to scheduling individual appointments. Appointments are subject to availability. To make an appointment, please call 954-828-6531 latest by Friday at 12:00 noon prior to the meeting date.

Other Property & Right-of-Way related items for discussion: the application and submittal requirements are attached on the last page of this application.

FEES: All applications for development permits are established by the City Commission, as set forth by resolution and amended from time to time. In addition to the application fee, any additional costs incurred by the City including review by a consultant on behalf of the City, or special advertising costs shall be paid by the applicant. Any additional costs, which are unknown at the time of application, but are later incurred by the City, shall be paid by the applicant prior to the issuance of a development permit.

Any agreement with the City of Fort Lauderdale and other parties, such as, but not limited to, license, encroachment, water and sanitary sewer agreements, shall be preceded by the execution and filing of the following application form and the payment with said application fee of \$100.00, (Ordinance No. C-84-65), which shall be nonrefundable. This application must be presented and the fee paid before agreement is prepared or considered. If publication is necessary, applicant agrees to pay the cost of such publication

| | | |
|-------------------------------------|---|-------------------------|
| <input type="checkbox"/> | Easement Vacation | \$ 1,600.00 |
| <input checked="" type="checkbox"/> | Right-of-Way Vacation | \$ 1,600.00 |
| <input type="checkbox"/> | Development Agreements with the City * | \$ 150.00 / Hour |
| <input type="checkbox"/> | Other Property & Right-of-Way related items for discussion | \$ 150.00/Hour |

* Any agreement with the City of Fort Lauderdale and other parties, such as, but not limited to, revocable license, encroachment, water and sanitary sewer agreements)



Page 1: DRC Vacation / Agreements - Applicant Information Sheet

INSTRUCTIONS: The following information is requested pursuant to the City's Unified Land Development Regulations (ULDR). The application must be filled out accurately and completely. Please print or type and answer all questions. Indicate N/A if does not apply.

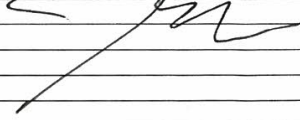
NOTE: To be filled out by Department

| | |
|----------------------------|--|
| Case Number | |
| Date of complete submittal | |

NOTE: For purpose of identification, the PROPERTY OWNER is the APPLICANT

| | |
|----------------------------|---|
| Property Owner's Name | David Ide |
| Property Owner's Signature | If a signed agent letter is provided, no signature is required on the application by the owner. |
| Address, City, State, Zip | 900 Coconut Drive |
| E-mail Address | JCRUSH@CRUSHLAW.COM |
| Phone Number | 954522010 |
| Proof of Ownership | <input type="checkbox"/> Warranty Deed or <input checked="" type="checkbox"/> Tax Record |

NOTE: If AGENT is to represent OWNER, notarized letter of consent is required

| | |
|-------------------------------|--|
| Applicant / Agent's Name | Crush Law, P.A. - Jason S. Crush |
| Applicant / Agent's Signature |  |
| Address, City, State, Zip | 600 SE 2nd Court, Fort Lauderdale, FL 33301 |
| E-mail Address | JCRUSH@CRUSHLAW.COM |
| Phone Number | 9545222010 |
| Letter of Consent Submitted | YES |

| | | |
|--|--|------------------------|
| Development / Project Name | RIGHT OF WAY VACATION | |
| Development / Project Address | Existing: 900 Coconut Drive | New: 900 Coconut Drive |
| Legal Description | VINIKS SUB 22-22 B LOT 1,2 BLK 5 TOGETHER WITH HARBOR ISLAND 59-29 B PARCEL 9-C | |
| Tax ID Folio Numbers (For all parcels in development) | 5042 09 20 0220, 5042 09 20 0230, AND 5042 09 20 0240 | |
| Request / Description of Project | Requests to vacate the 50-foot wide and 102.8-foot-long portion of Coconut Drive, as depicted in the aerial below. | |
| Applicable ULDR Sections | ULDR Section 47-24.7 | |
| Total Estimated Cost of Project | \$ (Including land costs) | |

| | |
|------------------------------|-------------------------|
| Current Land Use Designation | Medium-High Residential |
| Current Zoning Designation | RD-15 |
| Current Use of Property | Residential |

Additional property owners who wish to be included in the request, if applicable. Use additional sheets if necessary.

| Name and Signature | Folio Number | Subdivision | Block | Lot |
|---------------------------|--------------|-------------|-------|-----|
| David Ide and Lindsey Way | 504209200230 | SUB 22-22 | 4 | 5 |
| Peter Ide | 504209200220 | SUB 22-22 | 4 | 4,5 |
| | | | | |

NOTE: Applicant must indicate if/how the following provisions are met:

- All utilities (list below) located within the easement and/or right-of-way must be relocated pursuant to a relocation plan; and
- The owner of the utility facilities must consent to the vacation; or
- A utilities easement must be retained over the area or portion thereof; or
- An easement in a different location must be provided for the utility facilities by the owner to the satisfaction of the City; or
- Any combination of same and utilities maintenance are not disrupted.
- Applicants shall satisfactorily support vacation requests by addressing each point listed in Sections 47-24.6 and 47-24.7 of the city's Unified Land Development Regulations (ULDR) as applicable.

TECO, Peoples Gas
5101 NW 21st Avenue
Fort Lauderdale, FL 33309
(954) 453-0817, (954) 453-0804 fax

Florida Power and Light
Service Planning
3020 N.W. 19 St.
Fort Lauderdale, FL 33311
(954) 717-2057, (954) 717-2118 fax

BellSouth
8601 W. Sunrise Blvd., 2nd Floor
Plantation, FL 33322
(954) 476-2909

Comcast, Inc.
2501 SW 145 Ave, Suite 200
Miramar, FL 33027
(954) 534-7417, (954) 534-7083 fax

Updated: 10/01/2020



Page 2 of 4

Page 2: Required Documentation

INSTRUCTIONS: An application for a vacation of an easement, a right-of-way or other public place shall be reviewed in accordance with all applicable provisions of ULDR Sec. 47-24.6 Vacation of Rights-of-Way and/or Sec. 47-24.7 Vacation of Easement.

One (1) copy of the following documents:

- Completed application (all pages filled out as applicable)
- Proof of ownership (warranty deed or tax record), including corporation documents if applicable. Proof of ownership by Title Co. or written Attorney's opinion within the last 30 days.
- Property owners signature and/or agent letter signed by the property owner.
- Traffic study for projects that meet the trip threshold (see Sec. 47-24 or contact DRC Engineering Rep.)
- Color photographs of the entire property and all surrounding properties, dated and labeled and identified as to orientation.

The following number of Plans:

- One (1) original set, signed and sealed at 24" x 36"
- Six (6) copies sets, with plans at 11" x 17"
- One (1) electronic version of complete application and plans in PDF format

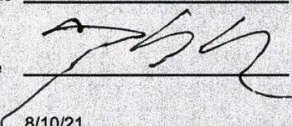
NOTE: For initial submittal one signed and sealed set is required. Copied sets will be requested after completion review. If the development site is separated by a public right-of-way including alley or alley reservations, a separate application must be completed for each parcel.

Plan sets should include the following:

- Narrative** describing project specifics, to include: architectural style and important design elements, utilities affected and the plan to address them, trash disposal system, security/gating system, hours of operation, etc. Narrative response referencing all applicable sections of the ULDR, with point-by-point responses of how project complies with criteria. Narratives must be on letterhead, dated, and with author indicated.
- Cover sheet** including project name and table of contents.
- Land Use and Zoning maps** indicating all properties within 700 ft. of the subject property. These should be obtained from Urban Design & Planning Division. Site should be highlighted or clearly marked to identify the parcel(s) under consideration on all sets.
- Current survey(s)** of property, signed and sealed, showing existing conditions. The survey should consist of the proposed project site alone excluding adjacent properties or portions of lands not included in the proposal. A current certified boundary survey (within last 6 months) is required for "agreements with City of Fort Lauderdale applications".
- Most current recorded plat** including amendments, with site highlighted. This may be obtained from Broward County Public Records at 115 S. Andrews Ave.
- Aerial photo** indicating all properties within 700 ft. of the subject property. Must be clear and current with site highlighted.
- Sketch and legal description** of easement or ROW proposed to be vacated (must be prepared by Engineer or Surveyor).

NOTES:

- All plans and documents must be bound, stapled and folded to 8 1/2" x 11";
- All copy sets must be clear and legible and should include any graphic material in color;
- Civil Engineering plans are only required at Final-DRC sign-off. Contact DRC Engineering Representative for details;

| | |
|--|--|
| <p>Applicant's Affidavit I acknowledge that the Required Documentation and Technical Specifications of the application are met:</p> <p>Print Name <u>Jason S Crush</u></p> <p>Signature <u></u></p> <p>Date <u>8/10/21</u></p> | <p>Staff Intake Review For Urban Design & Planning Division use only:</p> <p>Date _____</p> <p>Received By _____</p> <p>Tech. Specs Reviewed By _____</p> <p>Case No. _____</p> |
|--|--|

Updated: 10/01/2020



Page 3 of 4

**SKETCH & LEGAL DESCRIPTION
RIGHT-OF-WAY VACATION - COCONUT DRIVE
LOT 1 & LOT 2, BLOCK 5, VINIKS SUBDIVISION, P.B. 22, PG. 22, B.C.R.
FOLIO: 5042-09-20-0240**

A parcel of land being a portion of the Coconut Drive right-of-way corridor lying South of S.W. 9th Street, VINIKS SUBDIVISION, according to the plat thereof as recorded in Plat Book 22, Page 22, of the Public Records of Broward County, Florida, said parcel being more particularly described as follows:

BEGIN at the Southeast corner of Block 5 of said VINIKS SUBDIVISION,

THENCE on an assumed bearing of N 00° 28' 02" W along the West right-of-way line of said Coconut Drive a distance of 84.66 feet to a point of curvature of a tangent curve concave to the East;

THENCE Northerly continuing along the said West right-of-way line of Coconut Drive, along the arc of said curve to the right, having a central angle of 20° 37' 11" and a radius of 282.98 feet for an arc distance of 101.84 feet to a point on a non-tangent line, said point being the intersection of the said West right-of-way line of Coconut Drive and the South right-of-way line of S.W. 9th Street;

THENCE N 88° 34' 53" E along the said South right of way line of S.W. 9th Street, a distance of 27.09 feet to a point on the arc of a non-tangent curve concave to the East, a radial line of said curve through said point having a bearing of N 67° 38' 06" W, said curve being the centerline of said Coconut Drive;

THENCE Southerly along the said centerline of Coconut Drive, along the arc of said curve to the left, having a central angle of 22° 49' 56" and a radius of 257.98 feet for an arc distance of 102.80 feet to a point of tangency;

THENCE S 00° 28' 02" E continuing along the said centerline of Coconut Drive, a distance of 84.26 feet to the South right-of-way line of Coconut Drive;

THENCE S 88° 34' 53" W along the said South right-of-way line of Coconut Drive a distance of 25.00 feet to the POINT OF BEGINNING.

Said land situate within the City of Fort Lauderdale, Broward County, FL, containing 4669 square feet, more or less.

NOTES:

1. Lands described hereon were not abstracted and the ownership, easements and rights-of-way as shown hereon are per a diligent search of the that appear in the Public Records of Broward County, Florida.
2. Bearings shown hereon are based upon an assumed bearing of N 88°34'53" E along the South line of Parcel 9C, HARBOR ISLAND, according to the plat thereof as recorded in Plat Book 59, Page 29, Broward County Records.
3. The description contained herein does not represent a field boundary survey.

Steven M. Wattts

Digitally signed by Steven M. Wattts
DN: cn=Steven M. Wattts, o=AWN Design & Consulting Goup,
Inc., ou=PSM #4588, email=s_wattts@bellsouth.net, c=US
Date: 2021.06.07 05:23:34 -04'00'

Steven M. Watts
Professional Surveyor and Mapper
Florida Registration Number PLS 4588
AWN Design & Consulting Group, Inc., LB7260

Right-of-Way Vacation
Narrative
900, 905, and 910 Coconut Drive
Fort Lauderdale, FL 33315

Section 1: **Description of Right-of-Way Vacation Request**
Section 2: **Case Law**
Section 3: **Unified Land Development Regulations Analysis**
Section 4: **Public Utilities**
Section 5: **ULDR Sec. 47-24.5.D.1.h - Streets**
Section 6: **Conclusion**

This firm represents the owners of the properties located at 900, 905, 910 Coconut Drive, and the dock along the isle of South Fork New River ("the Properties"). The applicant respectfully requests to vacate the 50-foot wide and 102.8-foot-long portion of Coconut Drive, as depicted in the aerial below.



Section 1: **Description of Right-of-Way Vacation Request**

This request pertains to a vacation of a right-of-way located along a portion of Coconut Drive in Tarpon River where the Applicant owns Property on all three sides of the dead-end road. The Properties have a zoning classification of RD-15, with an underlying land use of Medium Density.



The Applicant proposes a vacation of a right-of-way pertaining to the dead-end portion of Coconut Drive, where the Property Owners own not only the single-family homes, but also the docks along the isle of South Fork New River, as previously described. The Applicant will maintain the existing single family uses.

Traffic patterns will not be disturbed, as the dead-end street provides no practical vehicular circulation. The relevant area does not contain any access point to the waterway, as the dock is owned by the Applicant and fenced with a landscape buffer.

The Applicants have been dealing vagrants and residents entering their Properties, under false assumption that the Properties are part of the pocket park located just north of the 900 Coconut Drive property. Further, the Applicants have had issues accessing their own driveways due to vehicles parked along the Properties.

Section 2: Case Law:

It is well established that the title of an owner of land abutting on a street or highway extends to the center of the road. *Florida State Tpk. Auth. v. Anhoco Corp.*, 107 So. 2d 51, 54 (Fla. 3d DCA 1958) (citing *Smith v. Horn*, 70 Fla. 484 (Fla. 1915); *Burns v. McDaniel*, 104 Fla. 526, (Fla. 1932)). Under a common law dedication, the fee does not pass from the grantor to the public entity. The public acquires only a right of easement in trust, so long as the dedicated land is used for the purpose of the dedication. *Robbins v. White*, 52 Fla. 613 (Fla. 1907). The title of the grantor is legal, but subject to the right of the public to the beneficial use of the land until such time as the dedication is rejected, surrendered or abandoned. A municipality abandons an easement when it is no longer being used for a public purpose, or the purpose defined in the dedication. *Leibowitz v. City of Miami Beach*, 592 So. 2d 1213 (Fla. 3d DCA 1992); *Robbins v. White*, 52 Fla. 613 (Fla. 1907).

Ownership of the underlying land of a dedicated right-of-way remains with the abutting property owners. A transfer of the land by the abutting property owners, subject to the right-of-way, passes title of the underlying fee to the grantee. Thus, the easement remains with the public body, but ownership of the fee follows the abutting property. See *United States v. 16.33 Acres of Land in County of Dade*, 342 So.2d 476, 478 (Fla. 1977); *Smith v. Horn*, 70 Fla. 484 (Fla. 1915); *Florida Southern Railway Company v. Brown*, 23 Fla. 104 (Fla. 1887); *Servando Building Co. v. Zimmerman*, 91 So.2d 289, 291 (Fla. 1956); *Emerald Equities, Inc. v. Hutton*, 357 So.2d 1071 (Fla. 2d DCA 1978).

The relevant street (Coconut Drive) was dedicated to the public for use as a thoroughfare. A thoroughfare is defined as a road or path forming a route between two places. On Coconut Drive, the use a thoroughfare ended when the plat to the south was recorded.

The Applicant's own the underlying land and the public has an easement right until such time as the dedication is rejected, surrender, or abandon, as discussed above. Furthermore, it is impermissible to convert a dedication of a street into another use, such as a park. See *Judicial Order entered against the City of Fort Lauderdale in the 17th Judicial Circuit, Case No. 80-14749, O.R. Book 9607 Page 923.*



Section 3: Unified Land Development Regulations Analysis

In terms of the development review, the Properties and the proposed right-of-way vacation are subject to the following sections of the City of Fort Lauderdale Unified Land Development Regulations, (“ULDR”):

1. Section 47-5: Residential Zoning Districts

The Properties have an underlying land use designation of Medium Density and are zoned RD-15. Applicant intends to maintain the single-family homes that are on the Properties.

2. Section 47-13.10: List of Permitted and Condition Uses

Applicant will maintain a single-family residential use. Although the Properties affected are owned by a family the parcels will be maintained as the separate single-family residences pursuant to applicable ULDR codes and restrictions.

3. Section 47-24.6: Vacation of Rights-of-way

4. *Criteria. An application for a vacation of a right-of-way or other public place shall be reviewed in accordance with the following criteria:*

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

The portion of the right-of-way to be vacated is not needed for a public purpose. The property owners own the Properties on both sides of the street, as well as the dock at the end of Coconut Drive. Additionally, the Property Owners will dedicate utility easements to the City for the existing - and to remain water and sewer - and to the franchise utilities as appropriate.

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

Alternate routes are not necessary as previously stated, the property owners own the Properties on both sides of the street, as well as the dock at the end of Coconut Drive where the street dead ends.

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

As previously stated, the portion of Coconut Drive to be vacated is a dead end, therefore vehicles that need to turn around and exit the area would still make a right onto Coconut Drive and a slight right onto SW 8th Street to bring you back out onto the main road, which is SW 9th Avenue.

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

This portion of Coconut Drive is situated on a dead end and between the Properties without pedestrian access to the canal thus the closure of the portion of Coconut Drive shall not adversely impact pedestrian traffic.

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/property owners have requested and received letters of no objection from the appropriate utility facilities.

Section 4: Public Utilities

Applicants understand that to perfect the vacation that certain conditions will be required to be met for the City Engineer to authorize perfection of the vacation. To that end, Applicant agrees to rededicate a water and sewer (utility) easement back to the City of Fort Lauderdale.

Section 5: ULDR Sec. 47-24.5.D.1.h - Streets

ULDR Section: 47-24.5.D.1.h sets forth that: *... There shall be no private streets platted in any subdivision. Every subdivided lot or property shall be served from a publicly dedicated street. This requirement may be waived by the board in special situations where the board finds public safety, convenience and welfare can be adequately served.*

Based on the special situation outlined herein where the street only served the Applicant's properties and the existing "street" dead ends in an unsafe and unforeseen manner, the Applicant respectfully requests waiver of this ULDR provision. Additionally, since the intended purpose of the road dedication was frustrated by the subsequent construction of the River Reach community and surrounding canal the Applicant's properties would be best served by a private street for safety and traffic control purposes.

Section 6: Conclusion

The request for right-of-way vacation along the 50-foot wide, 102.8-foot-long dead-end portion of Coconut Drive will have minimal impact, if any, on the surrounding neighborhood. Granting the requested vacation would not alter the current use of the Properties, nor any existing traffic patterns. The dead-end street as currently constructed no longer serves a public use for use as a thoroughfare, as the portion connects to the Applicant's Properties on all three sides. Further, the area offers no vehicular access to properties other than those owned by Applicant, leading to an aesthetically displeasing dead-end street. The proposal will fit seamlessly within the Tarpon River neighborhood. Accordingly, the Applicant will meet standards and requirements set forth by the ULDR.