



**CITY OF DANIA BEACH  
COMMUNITY DEVELOPMENT DEPARTMENT  
STAFF REPORT**

**DATE:** September 8, 2015

**TO:** Robert Baldwin, City Manager

**VIA:** Marc LaFerrier, AICP, Director *[Signature]*

**FROM:** Corinne Lajoie, AICP, Principal Planner, LEED G.A. *[Signature]*

**SUBJECT:** **OT-72-15/VC-45-15:** Bonnie Miskel, Esq. at Dunay, Miskel and Backman, LLP, on behalf of the property owner Archdiocese of Miami, Church of the Resurrection C/O Suzanne Dockerty, Esq., is requesting to vacate NE 4 Court right-of-way, located between NE 2 Street and Dania Cut Canal (SECOND READING).

**WAIVER OF REPLAT**

To waive the replatting requirement for vacation of a public street; code requires dedicated streets to be vacated by plat, per Section 655-30(D).

**VACATION OF RIGHT-OF-WAY**

To vacate NE 4 Court right-of-way.

The applicant is proposing to develop a marina on the north end of the Resurrection Church property. As part of this development, the applicant is requesting vacation of the adjacent, unimproved right-of-way on the west side of the property. This right-of-way is unimproved, but does connect to the Dania Cut Canal waterway.

**WAIVER OF REPLAT**

The City's Land Development Code (LDC) stated that "no platted street, alley or other property dedicated to the public use shall be vacated or abandoned except by a new plat submitted to and approved by the city commission, showing the condition of the area after such vacation and abandonment; however, if it is determined by the city commission that the submission and approval of such new plat would cause an undue hardship to the property owner requesting such a vacation or abandonment, the submission and approval of such new plat may be waived by the city commission."

The applicant's justifications statement says the Broward County Planning Council has confirmed that based on Broward County regulations, platting is not required. They further state that granting the plat waiver is not contrary to the public interest.

## VACATION OF RIGHT-OF-WAY

The vacation of right-of-way process is identified in the City's Land Development Code (LDC) in Section 655-20. This code provision requires the applicant to provide evidence of notification to all utilities (public and private) that may have an interest in the area to be vacated. Below is a list of all public utilities and the action taken by the applicant.

- Comcast – Applicant sent contact letter dated June 10 2015.
- Teco Peoples Gas – Applicant sent contact letter dated June 10, 2015. NO objection response received June 22, 2015.
- Broward Sheriff's Office: Police – Applicant sent contact letter dated July 1, 2015.
- Florida Power & Light – Applicant sent contact letter dated March 25, 2015, and June 19, 2015.
- BellSouth/AT&T – Applicant sent contact letter dated March 25, 2015. No objection letter received June 25, 2015.
- Broward Sheriff's Office: Fire Marshal – Reviewed as part of the DRC process and had no objections.
- Dania Beach Public Services – Reviewed as part of the DRC process and has one remaining comment that must be addressed (see below discussion).

## VACATION CRITERIA

Section 655 of the Land Development Code states, the city commission shall hold its public hearing and, after consideration of the application, staff findings, and information presentation at the public hearing. The City Commission may deny, approve or approve with conditions the application for vacation, based upon its determination that the request meets the criteria identified in Section 655-40, which are identified below.

1. "Whether the vacation will adversely affect access to neighboring properties."
2. "Whether the subject right-of-way or easement is needed for any public purpose."

The applicant has provided written justification indicating the request is consistent with the criteria.

### Development Review Committee (DRC)

The vacation request was reviewed by the Development Review Committee, which includes representatives from the Fire Marshal's office, Public Services, the City's landscape consultant and the Planning Division. Each discipline reviewed the plans for consistency with regulatory requirements. The applicant has addressed all of the DRC comments, with the exception of an access easement, which the applicant is in the process of addressing.

At staff's request, the applicant has agreed to provide a twelve and a half (12.5) foot easement to the city for any public access and utilities in the future, in a form acceptable to the City. The easement must be recorded in Broward County Public Records prior to issuance of a building permit.

Staff has requested the applicant provide access to the property during construction via NE 4 Court. Staff is further requesting this requirement to be articulated in a deed restriction recorded in Broward County Public Records prior to issuance of a building permit.

This application requires two (2) readings at the City Commission. Additional request for the property will include, but may not be limited to, site plan approval at which time additional conditions may be applied.

#### **CITY COMMISSION PREVIOUS ACTION**

On August 25, 2015 the City Commission approved this item on first reading.

On July 28, 2015 the City Commission continued this item to allow the Planning and Zoning Board to reconvene and provide a recommendation.

#### **PLANNING AND ZONING BOARD RECOMMENDATION**

On August 19, 2015 the Planning and Zoning Board recommended approval of the vacation request.

On July 15, 2015 the Planning and Zoning Board continued the item to August 19, 2015 to allow a full board to consider the request as well as to allow the developer and neighborhood to meet and discuss the project.

#### **STAFF RECOMMENDATION**

##### **WAIVER OF REPLAT**

The waiver of replat meets all applicable regulations as illustrated by the applicant's justification statement. Approve the waiver of replat.

##### **VACATION OF RIGHT-OF-WAY**

The vacation application was reviewed by the DRC and has remaining outstanding comments identified below. The vacation of right-of-way meets applicable regulations as identified by the applicant's justification statement. Therefore, approve the vacation of right-of-way request provided that applicant identifies in the deed restriction that access to the property during construction will occur via NE 4 Court and further provided an access easement of twelve and a half (12.5) feet is provided to the city prior to issuance of a building permit.