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**230 NE 7th Avenue
Variance Request
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Step Brothers LLC ("Petitioner") is the owner of the +/- 0.19-acre parcel located at 230 NE 7th Avenue ("Property") (PCN: 12-43-46-16-01-114-0142), which is generally located on the NE 7th Avenue and Hofman Lane, and between NE 2nd Street and NE 3rd Street in the City of Delray Beach ("City"). The Property is designated Medium Density Residential 5 – 12 units per acre (MD) on the City's Future Land Use Map and is zoned Medium Density Residential (RM) pursuant to the City's Official Zoning Map.

The Property is currently developed with an existing +/- 1,904 square foot one-story duplex. Petitioner is proposing to redevelop the Property with a two-story duplex, each unit consisting of +/- 2,870 square feet. As part of the redevelopment, Petitioner is required to dedicate land for the two (2) adjacent rights-of-way, NE 7th Avenue and Hofman Lane. More specifically, Petitioner is required to dedicate five feet (5') of property for NE 7th Avenue and two feet (2') of Property for Hofman Lane. As a result, Petitioner is losing seven feet (7') of Property, which is severely limiting the Property's redevelopment potential due to the reduced buildable square footage of the lot. These right-of-way dedications significantly diminish the available land area for development and, consequently, directly impact Petitioner's ability to adhere to standard setback regulations, as it results in the creation of a substandard lot. While these right-of-way dedications will serve to improve the City's transportation network and allow the expansion of the public roads, they create a considerable challenge in maximizing the utility of the Property. Therefore, in order to alleviate the constraints imposed by these dedications, Petitioner proposes to construct the duplex development with a side setback of nine feet one inch (9'1") to both the north and south property lines in lieu of the required fifteen feet (15'). The reduction in setback is designed to still achieve compliance with all other setbacks so as to maintain the intent of the City's Land Development Regulations ("LDR") and overall amenity of the area.

In order to facilitate the proposed development, Petitioner is requesting the following variances:

1. Variance from LDR Section 4.4.6(F)(2)(a)(1)(b) to allow the north side setback nine feet one inch (9'1") in lieu of the required fifteen foot (15') side setback; and
2. Variance from LDR Section 4.4.6(F)(2)(a)(1)(b) to allow the south side setback of nine feet one inch (9'1") in lieu of the required fifteen foot (15') side setback.

Pursuant to LDR Section 2.4.11(A)(5), the Petitioner must demonstrate that the requested variances will satisfy the following criteria:

- (a) That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not generally applicable to other lands, structures, or buildings subject to the same zoning. Economic hardship shall not constitute a basis for the granting of a variance.**

The Property is unique as it is situated along two right-of-way (NE 7th Street and Hofman Lane), with one at the front of the Property and one at the rear. Further, both rights-of-way require

additional land to be dedicated and removed from the developable area. As a result of the required five foot (5') and two foot (2') dedications for additional rights-of-way along NE 7th Street and Hofman Lane, the depth of the Property is reduced by seven feet (7') to +/- one hundred twenty eight feet (128'). This is approximately 7' narrower than other adjoining platted lots surrounding the Property and within the same zoning district. This further reduces the Property's buildable square footage from 8,216 square feet to 7,789 square feet, which creates a substandard lot within the subject zoning district. These two (2) rights-of-way dedications, as requested and required by the City, create a substandard, narrow lot that poses challenges for any development on the Property. In an effort to help facilitate the City's efforts in expanding and improving its transportation network, the Property becomes a substandard lot and its development potential is significantly constrained, thus creating a special circumstance particular to the Property.

(b) That literal interpretation of the regulations would deprive the applicant of rights commonly enjoyed by other properties subject to the same zoning.

Literal interpretation of the regulations would require a fifteen foot (15') side setback along the north and south side property lines. As mentioned, the required five foot (5') and two foot (2') right-of-way dedications along NE 7th Street and Hofman Lane reduce the size of the lot and area that is available for development to 7,789 square feet, which is a substandard lot in the subject zoning district. Other platted lots adjacent to the Property are in excess of the minimum 8,000 square foot lot area required by the LDRs and could more reasonably be expected to comply with all of the required setbacks. While the building could have been designed to seek relief from the front setback in lieu of the sides, this would have had a more impactful result on the development pattern in the existing residential community. Rather, the development pattern will be maintained through the requested relief as the front setbacks will remain consistent with existing and new development along NE 7th Avenue. Literal interpretation of the fifteen foot (15') side setback requirement would reduce the available envelope for development on a Property that is becoming a substandard lot as a result of the required dedications, and thus deprives the Petitioner of rights commonly enjoyed by other properties to develop with a use that exists elsewhere throughout the area and is permitted in the zoning district.

(c) That the special conditions and circumstances have not resulted from actions of the applicant.

The special conditions have been created as a result of the City's requirement for the dedication of two (2) rights-of-way and are not a result of the actions of the Petitioner. The Petitioner has designed a proposed duplex that satisfies the regulations to the greatest extent possible, taking into consideration land area that is lost due to the required dedications.

(d) That granting the variance will not confer onto the applicant any special privilege that is denied to other lands, structures, and buildings under the same zoning. Neither the permitted, nor nonconforming use, of neighborhood lands, structures, or buildings under the same zoning shall be considered grounds for the issuance of a variance.

Petitioner proposes a duplex development which is a permitted use on the subject Property and in the RM zoning district. Granting of the side setback variances will not confer any special privilege that is denied to other lands, structures or buildings in the same zoning district. Other platted lots adjacent to the Property are in excess of the minimum 8,000 square foot lot area required by the LDRs and could more reasonably be expected to comply with all of the required setbacks. However, as a result of the dedications required along two (2) frontages, the Property is becoming a substandard lot within this zoning district. While the building could have been designed to seek relief from the front setback in lieu of the sides, this would have had a more impactful result on the development pattern in the existing residential community. Rather, the development pattern will be maintained through the requested relief as the front setbacks will remain consistent with existing and new development along NE 7th Avenue. Relief of the fifteen foot (15') side setback requirement would not confer any special privilege as the Property is becoming a substandard lot as a result of the required dedications. However, by dedicating land for two (2) City rights-of-way for the expansion of the City's road network, the Petitioner is assisting in the improvement and betterment of the City for its residents, at the Petitioner's own expense of losing almost five hundred (500) square feet of developable land.

(e) That the reasons established in the variance petition justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure.

Petitioner proposes a nine foot one inch (9'1") side setback on both the north and south property lines, which is only five feet eleven inches (5'11") less than the fifteen (15') required by the LDRs. The adjustments to the side setback will be less impactful than the alternative adjustment to a front setback, as it will maintain the development pattern and appearance of the community along the primary NE 7th Street frontage. This requested setback reduction constitutes the minimum variance required to make possible the reasonable use of the land without impacting adversely on adjoining properties.

(f) That the granting of the variance will be in harmony with the general purpose and intent of existing regulations, and will not be injurious to the neighborhood, or be otherwise detrimental to the public welfare.

Granting of the side setback variances is keeping the intent of the existing regulations to maintain the residential development pattern of the area and separation of buildings and will not adversely impact on the ongoing redevelopment of the area for compatible medium density residential uses. The adjustments to the side setback will be less impactful than the alternative adjustment to a front setback, as it will maintain the development pattern and appearance of the community along the primary NE 7th Street frontage. Additionally, by contributing land in both the front and rear of the Property for right-of-way purposes, Petitioner is assisting in the expansion and improvement of the City's transportation network for the betterment of the entire community.

