



Cover Memorandum/Staff Report

File #: 23-1191

Agenda Date: 9/18/2023

Item #: 7.B.

TO: Mayor and Commissioners
FROM: Anthea Gianniotis, Development Services Director
THROUGH: Terrence R. Moore, ICMA-CM
DATE: September 18, 2023

RESOLUTION NO. 186-23: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, GRANTING AN APPEAL AND APPROVING A WAIVER TO SECTION 5.3.1(A) OF THE LAND DEVELOPMENT REGULATIONS TO ALLOW FOR A REDUCTION OF THE REQUIRED RIGHT OF WAY DEDICATION FOR SE 1ST AVENUE, AS MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES. (QUASI JUDICIAL)

Recommended Action:

Review and consider Resolution No. 186-23, of an appeal to Section 5.3.1(A) of the Land Development Regulations to allow a reduction of a right-of-way along the west side of SE 1st Avenue associated with the construction of 5 new, 2-story, duplex buildings for the project known as Downtown Delray Villas.

Background:

The subject property consists of 130, 134, & 148 SE 1st Avenue and 19 SE 2nd Street and is within the Old School Square Historic District (OSSHD), is zoned Old School Square Historic Arts District (OSSHAD) with a Land Use Map designation of Historic Mixed Use (HMU). The existing property contains 3 structures that are considered non-contributing to the historic district and 1 vacant lot.

In July of 2023, the property owner of Downtown Delray Villas submitted Certificate of Appropriateness (COA), Waivers, Variances, and Plat applications to redevelop the property, which involves demolition of the 3 non-contributing structures and construction of 5 new, 2-story duplexes ranging in size from 6,584 to 6,644 sq. ft. per structure. During the Technical Advisory Committee (TAC) review process it was determined that a 5' right-of-way dedication is required along the west side of SE 1st Avenue where 45' exists and 50' is required.

Land Development Regulations (LDR) Section 5.3.1(A)(3), states "*when development is adjacent to an existing or planned street, the development shall be responsible for providing one-half of the ultimate right-of-way or such portion of the ultimate right-of-way which is yet undedicated and which is on that development's side of the ultimate right-of-way center line.*"

The Always Delray Comprehensive Plan Mobility Element Policy 2.7.1, states, "*Ultimate right-of-way shall be provided per the schedule in Table MBL-1 "Street Network and Classification and Improvements". Table MBL-1 identifies SE 1st Avenue as a local street with an ultimate right-of-way width of 50 feet. Objective 2.7 of the Mobility Element states to "provide for the acquisition and protection of existing and future public rights-of-way for pedestrian pathways, transit facilities, and*

roadways in the City's policies, standards and regulations."

It is important to note, right-of-way dedications have been made along the entirety of the east side of the 100 block of SE 1st Avenue where new development exists and dedications have also been provided by the 2 properties on the west side of the block (Sundy Village and Swinton Social), in the northern portion of the street. The subject property accounts for 325 feet of the western portion of the 615-ft long block. The existing overall right-of-way for the block varies between 45' and 50'.

The property owner requested a 5' reduction of the required right-of-way width (from 50' to 45') adjacent to the subject property and in-lieu of a dedication, proposes to provide a 5' public sidewalk easement.

Pursuant to LDR Section 5.3.1(A)(7)(a), states, *"For existing streets, reductions in right-of-way width may be granted by the City Engineer upon a favorable recommendation from the Development Management Services Group (DSMG). Reductions in the required right-of-way width may be granted pursuant to the following:*

- (a) *The reduction is supported by the City Engineer. Nonsupport by the City Engineer may be appealed to the City Commission.*
- (b) *That requiring full dedication would constitute a hardship in a particular instance and that all required improvements will be provided in a manner which will not endanger public safety and welfare.*
- (c) *That acceptable, alternative provisions are made to accommodate features which would otherwise be accommodated within the right-of-way e.g. alternative drainage systems, alternative pedestrian walkways, alternative on-street parking, etc."*

On August 17, 2023, the right-of-way reduction request was reviewed by the Development Services Management Group (DSMG), which includes the City Engineer, and denied by a vote of 7-0. The Board did not find positive findings for a hardship or find that alternative provisions were adequate. The Board noted other properties along SE 1st Avenue that redeveloped had provided the required dedication on both sides of the street.

On August 25, 2023, the Applicant filed an appeal of the decision of the DSMG.

City Attorney Review:

Approved to form and legal sufficiency.

Funding Source/Financial Impact:

N/A

Timing of Request:

N/A