

RESOLUTION NO. 192-24

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, GRANTING AN APPEAL PURSUANT SECTION 5.3.1(A)(7) OF THE LAND DEVELOPMENT REGULATIONS; GRANTING A REDUCTION IN RIGHT OF WAY WIDTH FOR SE 8<sup>TH</sup> STREET AND ELIMINATING THE REQUIRED RIGHT-OF-WAY DEDICATION FOR THE PROPERTY LOCATED AT 731 SE 4<sup>TH</sup> AVENUE, AS MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, Avenue Investments, LLC (“Owner”) is the owner of a parcel of land measuring approximately 0.31 acres located at 731 SE 4<sup>th</sup> Avenue (“the Property”), as more particularly described in Exhibit “A”; and

WHEREAS, the City of Delray Beach, Florida (“City”) received an application for a Right-of-Way Width Reduction (Application No. 2024-178) from the Owner from the Owner’s Agent, Cristofer A. Bennardo, Esq., of Padula Bennardo Levine, LLP (collectively, “Applicant”); and

WHEREAS, the existing right-of-way known as SE 8<sup>th</sup> Street abutting the Property is 40 feet in width; and

WHEREAS, Section 5.3.1(A) of the City of Delray Beach Land Development Regulations ("LDR") states that right-of-way dimensions and dedications, whether public or private, shall be consistent with the Mobility Element of the Comprehensive Plan as outlined in Table-MBL-1, Street Network and Classification and Improvements; and

WHEREAS, LDR Section 5.3.1(A)(3) states that 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; and

WHEREAS, SE 8<sup>th</sup> Street is classified as a local street, which has an ultimate right-of-way width of 50 feet pursuant to Table MBL-1 of the City’s Comprehensive Plan; and

WHEREAS, the Applicant is required to dedicate five feet for the SE 8<sup>th</sup> Street right-of-way abutting the Property; and

WHEREAS, the Applicant requested a reduction in the required right of way dedication from five feet to zero feet for SE 8<sup>th</sup> Street, which will maintain the right-of-way at 40 feet in width; and

WHEREAS, pursuant to LDR Section 5.3.1(A)(7), reductions in the required right-of-way width for existing streets may be granted by the City Engineer upon a favorable recommendation from the Development Management Services Group (“DSMG”) 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; and
- (b) Requiring full dedication would constitute a hardship in this particular instance and that all required improvements will be provided in a manner which will not endanger public safety and welfare, and
- (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.

WHEREAS, at its meeting of August 8, 2024, the DSMG did not support the request to reduce the right-of-way of SE 8<sup>th</sup> Street by a 7 to 1 vote; and

WHEREAS, the City Engineer does not support the requested reduction in right-of-way width and, pursuant to LDR Section 5.3.1(A)(7)(a), the Applicant has appealed the decision of the DSMG to the City Commission; and

WHEREAS, the appeal was presented to the City Commission at a quasi-judicial hearing on October 1, 2024; and

WHEREAS, the City Commission considered the appeal and has considered the respective findings as set forth in the LDR.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AS FOLLOWS:

Section 1. The foregoing recitals are hereby incorporated herein by reference and are approved and adopted.

Section 2. The City Commission makes positive findings that (1) requiring full dedication would constitute a hardship in this particular instance and that all required improvements will be provided in a manner that will not endanger public safety and welfare and (2) That acceptable, alternative provisions are made to accommodate features which would otherwise be accommodated within the right-of-way.

Section 3. The City Commission grants a reduction of the right of way width of SE 8<sup>th</sup> Street abutting the property and requires no dedication for SE 8<sup>th</sup> Street, along the southern boundary of the Property.

Section 4. The City Clerk, or designee, is directed to send a certified copy of this Resolution to Cristofer A. Bennardo, Esq. at 3837 NW Boca Raton Boulevard, Suite 200, Boca Raton, FL 33431.

Section 5. All resolutions or parts of resolutions in conflict herewith shall be and hereby are repealed.

Section 6. This Resolution shall be effective immediately upon adoption.

PASSED AND ADOPTED in regular session on the \_\_\_\_\_ day of \_\_\_\_\_, 2024.

ATTEST:

\_\_\_\_\_  
Alexis Givings, Interim City Clerk

\_\_\_\_\_  
Thomas F. Carney, Jr., Mayor

Approved as to form and legal sufficiency:

\_\_\_\_\_  
Lynn Gelin, City Attorney

**Exhibit "A"**  
**LEGAL DESCRIPTION**

Lots 25 and 26, Block 13, OSCEOLA PARK, according to the map or plat thereof as recorded in Plat Book 3, Page 2, Public Records of Palm Records of Palm Beach County, Florida.

Parcel Identification Number: 12-43-46-21-01-013-0250