

MIAMI BEACH

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, www.miamibeachfl.gov

COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission

FROM: Jimmy L. Morales, City Manager

DATE: December 12, 2018

SUBJECT: **A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, APPROVING, FOLLOWING SECOND READING OF THE TITLE OF THIS RESOLUTION AND A DULY NOTICED PUBLIC HEARING, THE VACATION OF 6TH STREET, WEST OF ALTON ROAD AND EAST OF WEST AVENUE, IN FAVOR OF THE ABUTTING PROPERTY OWNERS, SOUTH BEACH HEIGHTS I, LLC, 500 ALTON ROAD VENTURES, LLC, AND 1220 SIXTH, LLC (COLLECTIVELY, THE "APPLICANTS"); CONDITIONING AND MAKING THE AFORESTATED VACATION SUBJECT TO SATISFACTION OF CERTAIN CONDITIONS, AS MORE SPECIFICALLY STATED IN THAT CERTAIN DEVELOPMENT AGREEMENT BETWEEN THE CITY AND SOUTH BEACH HEIGHTS I, LLC, 500 ALTON ROAD VENTURES, LLC, 1220 SIXTH, LLC, AND KGM EQUITIES, LLC (COLLECTIVELY, THE "DEVELOPER"), AND AS APPROVED BY THE CITY PURSUANT TO RESOLUTION NO. _____; WHICH CONDITIONS, AMONG OTHER THINGS, SHALL REQUIRE THE DEVELOPER TO: (1) GRANT TO THE CITY A 50 FOOT WIDE PERPETUAL NON-REVOCABLE UTILITY, ROADWAY AND PEDESTRIAN ACCESS EASEMENT ACROSS THE VACATED 6TH STREET RIGHT-OF-WAY; (2) CONVEY TO THE CITY, IN FEE SIMPLE, A MINIMUM OF 3.0 ACRES, WITHIN THE 5TH - 7TH STREET BLOCKS, BETWEEN WEST AVENUE AND ALTON ROAD, FOR A WORLD CLASS PUBLIC MUNICIPAL PARK, TO BE DESIGNED AND CONSTRUCTED AT THE DEVELOPER'S EXPENSE; AND (3) COMPLETE PHASE 1 OF THE AFORESTATED PARK PROJECT; FURTHER WAIVING BY 5/7THS VOTE, THE COMPETITIVE BIDDING REQUIREMENT, PURSUANT TO SECTION 82-39(a) OF THE CITY CODE, FINDING SUCH WAIVER TO BE IN THE BEST INTEREST OF THE CITY.**

RECOMMENDATION

The Administration, recommends that the City Commission approve, after second reading of the above-referenced Resolution title and a public hearing, the vacation of 6th Street, a 50 foot right of way east of Alton Road and west of West Avenue, subject to and contingent upon the terms set forth in the Resolution and in the Development Agreement between the City and Developer (as defined below), which Development Agreement is scheduled for second reading/public hearing on this December 12, 2018 City Commission meeting, as Agenda Item R7A. Additionally, the Administration recommends waiving, by a 5/7^{ths} vote, the requirements of an advertised public bidding process, finding such waiver to be in the best interest of the City.

BACKGROUND

The City holds a right of way dedication to a fifty (50) foot wide right-of-way, known as 6th Street, running from West Avenue to Alton Road, consisting of approximately 12,719.3 square feet in total lot area; as shown on (a) the Amended Plat of the Fleetwood Subdivision, recorded in Plat Book 28, page 34 of the Public Records of Miami-Dade County (the "Fleetwood Plat"); and (b) the Amended Plat of Aquarium Site, recorded in Plat Book 21, Page 83 of the Public Records of Miami-Dade County, and approved by the City (See also sketch attached as Exhibit "A" hereto).

South Beach Heights I, LLC, 500 Alton Road Ventures, LLC, 1220 Sixth, LLC, and KGM Equities, LLC (collectively, the "Developer") owns the property to the south of, north of, and adjacent to, the 6th Street right of way; which parcels are known as 500, 630 and 650 Alton Road, 1220 6th Street, and 659, 701, 703, 711, 721, 723, 727 and 737 West Avenue.¹ The Developer intends to develop the property as a mixed-use residential and commercial development (collectively, the "Proposed Development"),² pursuant to a Florida Statute Chapter 163 development agreement to be entered into with the City which, among other terms, shall require the Developer, as a condition of the City's vacation of 6th Street, to convey to the City a minimum of 3.0 acres on the development site upon which Developer will, in phases, design and construct, (at its sole cost and expense) a world class public municipal park.

REQUIREMENTS OF THE CITY CODE IN ORDER TO VACATE A RIGHT-OF-WAY

In conjunction with Developer's Proposed Development, Applicants are requesting that the City vacate the 6th Street right of way. Pursuant to the City's existing administrative policies and procedures to consider the vacation of City streets, alleys, and/or rights of way, which also require compliance with Article II, Sections 82-36 through 82-40, of the City Code (which establish the procedures governing the sale or lease of public property), prior to considering a request for vacation, the following requirements must be satisfied:

(A) The title of the Resolution regarding the proposed vacation shall be read by the City Commission on two separate meeting dates, with the second reading to be accompanied by a duly noticed public hearing. (Note: First reading of the Resolution title occurred at the City Commission meeting of November 14, 2018);

(B) The proposed vacation shall be transmitted to the Finance and Citywide Projects Committee ("FCWPC") for its review (Note: The FCWPC reviewed the proposed vacation at its July 27th, 2018 meeting, and recommended a term sheet of conditions, which served as the basis for the City and Developer's negotiation of the resulting Development Agreement, which is scheduled to be heard at the same Commission meeting as Agenda Item R7A.);

¹ Two of the Developers, 500 Alton Road Ventures and 1220 Sixth, LLC, are the owners of the property adjacent to the south side of 6th Street; and the third, South Beach Heights I, LLC, is the owner of the property adjacent to the north side of 6th Street (collectively since these three entities are applying for and requesting the vacation, they shall be referred to as the "Applicants").

² The Proposed Development shall be developed as a unified development site.

(C) In order for the City Commission and the public to be fully appraised of all conditions relating to the proposed vacation, the City's Planning Department shall prepare a written planning analysis, to be submitted to the City Commission concurrent with its consideration of the proposed vacation (Note: The Planning Department analysis and as required pursuant to Section 82-38 of the City Code, is attached as Exhibit "B" hereto); and

(D) The City shall obtain an independent appraisal of the fair market value of the property proposed to be vacated, which shall include a definition of the property based on proposed and possible issues including, without limitation, the highest and best use (Note: An appraisal was obtained by the City's Public Works Department on June 24, 2018, and the 6th Street right of way was valued at \$7,600,000).

Although the City's procedures for the lease or sale of public property also require an advertised public bidding process, the requirement may be waived by 5/7th vote. Under Florida law, upon vacation of a right of way, it can only be conveyed to the property owners immediately abutting either side. The City Manager, therefore, recommends that the Mayor and City Commission waive the competitive bidding requirement under Section 82-39(a) of the City Code, finding that the public interest is served by waiving such condition.

CITY CHARTER REQUIREMENTS FOR VACATION

As the vacation of 6th Street will result in a "conveyance" to the Applicants it is therefore subject to the requirements of Section 1.03(b)(4) of the City Charter, which provides that the "...sale, exchange, conveyance or lease of ten (10) years or longer of all remaining City-owned property... shall, as provided by Ordinance, require approval by a majority 4/7 vote of all members of the Planning Board and 6/7 vote of the City Commission."

At its October 23, 2018 meeting, the Planning Board approved the proposed vacation by a 7-0 vote. At the November 14, 2018 City Commission meeting, as required by Section 82-37(a)(2) of the City Code, the City Commission heard first reading of the title of the Vacation Resolution. Now, following second reading of the title of the Vacation Resolution and a duly noticed public hearing to hear comment regarding the proposed vacation, approval of the Vacation Resolution will require a 6/7 vote of the City Commission.

CONCLUSION

Approve the Vacation Resolution, following second reading of the Resolution title and a public hearing, subject to satisfaction of the conditions set forth in this Resolution and, more specifically, in the Development Agreement between the City and South Beach Heights I, LLC, 500 Alton Road Ventures, LLC, 1220 Sixth, LLC, and KGM Equities, LLC (and which Development Agreement is scheduled for second reading/public hearing as this December 12, 2018 City Commission meeting as Agenda Item R7A). Because approval of the Vacation Resolution will require six (6) votes of the City Commission, the Commission will also be deemed to have waived the competitive bidding requirements (which only requires a 5/7th vote).