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December 18, 2020

VIA Electronic Mail
City of Fort Lauderdale
City Clerk's Office
Jeffrey A. Modarelli, City Clerk
100 N. Andrews Avenue, 7th Floor
Fort Lauderdale, Florida 33301

Re: Appeal of November 18, 2020 Planning and Zoning Board Agenda Item #4
Right-of-Way Vacation Application
Portion of NE 8th Street - Case No. V19008

Dear Mr. Modarelli:

On behalf of Holman Automotive, Inc. ("Applicant") and pursuant to the City of Fort Lauderdale's ("City") Unified Land Development Code ("ULDR") Section 47-26B, please accept this letter as a formal request to appeal the City's Planning and Zoning Board ("PZB") decision to deny the above-referenced right-of-way vacation application that was heard on November 18, 2020. Pursuant to Section 47-26B.1, the City Commission shall hold a public meeting on the record and shall determine if: a) there was a departure from the essential requirements of law in the proceedings appealed; or b) competent substantial evidence does not exist to support the decision. It is the position of the Applicant that the PZB's decision was not supported by competent substantial evidence as explained in detail below. Therefore, the Applicant very respectfully requests to appeal the PZB's decision.

At the November 18, 2020 PZB meeting, the undersigned presented the Applicant's request to vacate a portion of NE 8th Street containing an area that is 127.50 feet in length and 40 feet in width, east of NE 1st Avenue and west of Progresso Drive ("Right-of-Way") in the City. See attached Aerial Exhibit. The Right-of-Way was created by the Progresso Plat, recorded in Plat Book 2, Page 18 of the Public Records of Miami-Dade County, Florida. The Right-of-Way is subject to that certain Encroachment Agreement recorded in Official Records Book 12963, Page 490 of the Public Records of Broward County, Florida entered into between the City and Applicant (f/k/a Fort Lauderdale Lincoln Mercury, Inc. at that time) pursuant to which Applicant was given the right to utilize the Right-of-Way for paving, landscaping, and fencing for parking lot purposes mainly for overflow inventory for the Applicant. The City does not utilize the Right-of-Way except for utilities as described in the Right-of-Way vacation narrative that was enclosed with the application submission.

The undersigned presented a PowerPoint presentation to the PZB which included existing photographs of the Right-of-Way and surrounding area. The Right-of-Way abuts two properties owned by Applicant (between Folio 4942 3407 1500 and Folio 4942 34 06 2620). The Right-of-Way has been fenced off on both ends since 1987. As such, the Right-of-Way has not been utilized for public purposes for over 30 years. Additionally, Applicant's traffic engineer noted safety concerns if the Right-of-Way was to be opened for regular vehicular traffic as it will create a dangerous intersection. The Institute of Transportation Engineers (ITE) recommends intersecting angles to be at least 70 degrees or greater. Anything less than 70 degrees is considered unsafe. NE 8th Street and Progresso Drive currently intersect at approximately 45 degrees.

As reflected in the minutes, the Applicant received both letters of support and letters objecting. There was discussion by PZB members that it would be difficult to approve the vacation application without knowing what was planned for the site. Due to conditions related to the COVID-19 pandemic, the conceptual site plan that was submitted to the City was withdrawn and the Applicant is actively seeking a new project. However, in order to redevelop this blighted area, the approval of the Right-of-Way vacation is required as the southern parcel cannot be developed within the constraints and limitations of the ULDR. During the PZB meeting, there was also discussion regarding the above-referenced Encroachment Agreement as well as significant safety concerns if the Right-of-Way was to be reopened.

The Assistant City Attorney advised the PZB that there must be a basis within the code for its denial. The Chair advised that she would vote in opposition based on Section 47-24.6.A.4 due to being uncertain the property is no longer needed for public purposes. It is the Applicant's position that the Right-of-Way has not been utilized for a public purpose in over 30 years and that, in fact, the vacation will actually serve a public purpose as the Applicant would be reopening the Right-of-Way to pedestrians and emergency vehicles by simultaneously dedicating a replacement easement for such public purpose. Moreover, vacating the Right-of-Way will serve a public purpose in maintaining the health, safety, and welfare of the citizens in the City as reopening the Right-of-Way for general traffic would create a dangerous intersection.

As reflected in the minutes, the City's Transportation and Mobility representative stated that the vacation request was reviewed by city staff with pedestrian traffic in mind. At the time the Applicant originally submitted the vacation application, a pedestrian and emergency vehicle access easement had not been proposed. Transportation and Mobility explained that they are in favor of the proposed vacation request as the proposed easement would mitigate that issue and that closing the Right-of-Way would mitigate conflict related to approaches to the intersection point at Progresso Drive. As explained above, the subject property is currently serving no public purpose and has been closed off for over 30 years. The simultaneous dedication of an easement, which the Applicant is committed to provide, would serve a public purpose to the City and the community.

As such, the Applicant is very respectfully requesting to appeal the City's PZB decision to the City Commission as no competent substantial evidence exists to support the denial.

Sincerely,

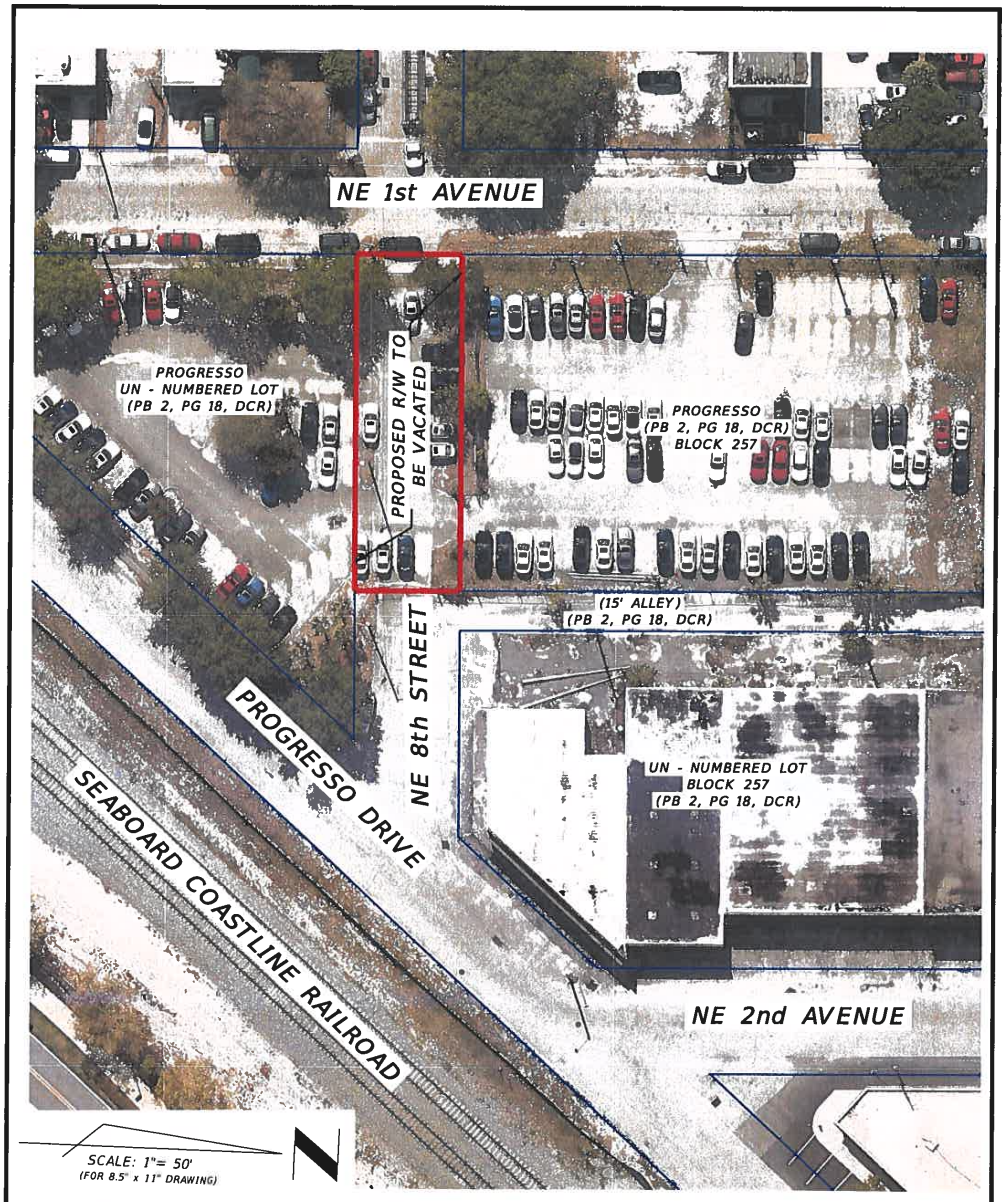
GREENSPOON MARDER LLP



Deena Pacelli Gray, Esq.
For the Firm

Enclosure

Cc: Ella Parker, Urban Design and Planning Manager, EParker@fortlauderdale.gov
Adam Schnell, Urban Planner II, ASchnell@fortlauderdale.gov
Robert Bamonte, Holman Automotive, bbamonte@holmanauto.com



PROPOSED VACATION PORTION OF N.E. 8TH STREET	AERIAL EXHIBIT				
WINNINGHAM & FRADLEY, INC. ENGINEERS - PLANNERS - SURVEYORS 111 N.E. 44th STREET, OAKLAND PARK, FL 33334 954-771-7440 FAX: 954-771-0298 www.winnfrad.com	EB-0002995 LB-0002995	DRAWN: AMF DATE: 10/2020 CHECKED: DATE:	PROJECT NUMBER 19019	SHEET EXHIBIT	

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