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**The Hutt LLC**  
**213 SE 2<sup>nd</sup> Avenue, Delray Beach, Florida**  
**Waiver Request and Justification**  
**Section 4.4.13(J)(1)(c)**

The Hutt LLC (“Petitioner”) is the owner of the +/- 0.05-acre parcel located at 213 SE 2<sup>nd</sup> Avenue (“Property”) (PCN: 12434616040870050), which is generally located on the south side of SE 2<sup>nd</sup> Street and east of SE 2<sup>nd</sup> Avenue and the railway in the City of Delray Beach (“City”). The Property is designated Mixed-Use Commercial Core (CC) on the City’s Future Land Use Map and is zoned Central Business District – Railway Corridor (CBD-RC). The Property is currently developed with an unoccupied 1 story Quonset hut.

The Property abuts two (2) segments of the same alleyway. The segment to the north of the Property is a 12’ wide alley and the segment to the east of the Property is a 16’ wide alley. There is no alley segment east to SE 3<sup>rd</sup> Avenue as the eastern portion of the 12’ wide alley was previously abandoned. As a result, the alley system within the block is broken. Both segments are platted on the Linn’s Addition to Osceola Park Plat (“Plat”). The Property is unique due to its small size and irregular configuration. The Property fronts the SE 2<sup>nd</sup> Avenue right-of-way to the west, the undeveloped alleyways adjoining the north and east boundaries, and the public parking lot owned by the Delray Beach Community Redevelopment Agency (CRA) to the south. Currently, there is no need for the use of the alleyways for any public purpose because they don’t exist. They alleyways only exist on paper and do not provided access to the Property or adjacent parcels. The depictions below show the 16’ alley to the east of the Property, which is not paved or in use. The vehicular access to the alley ends at the Property’s southeastern boundary line. The City has located three (3) signs signaling the end of the alley.



Section 4.4.13(J) of the Land Development Regulations (LDR) states: “the highly connected street and block structure of the downtown CBD area is a critical component of the cultural and historic character of the city. The network fosters multi-modal options, by reducing bike and walk distances, and allowing traffic to disperse.” Currently, neither of the alleyway segments serve the purposes described above or are functioning for their intended purpose. As such, Petitioner is seeking to abandon both the north and

east segments of the existing alleyway and has submitted an application for approval of same. As a result of current conditions and in order to facilitate the request, Petitioner is seeking a waiver from Section 4.4.13(J)(1)(c) of the Land Development Regulations (LDR), which states “streets and alleys may not be abandoned, vacated or closed to facilitate new development.” While the abandonment would potentially facilitate redevelopment, the construction of the alleyways as shown on paper would create an unsafe condition, not facilitate the LDR’s intended purpose and would require additional dedication by neighboring parcels in order to function properly and meet the minimum standards.

In support of the Waiver, the Petitioner will demonstrate compliance with LDR Section 2.4.7(B)(5) and LDR Section 4.4.13(K)(5)(b)(2) of the LDRs. Pursuant to LDR Section 2.4.7(B)(5), the Petitioner will demonstrate that the waiver a) will not adversely affect the neighboring area; b) will not significantly diminish the provision of public facilities; c) will not create an unsafe situation; and d) will not result in the grant of a special privilege in that the same waiver would be granted under similar circumstances on other property for another petitioner or owner. Further, pursuant to LDR Section 4.4.13(K)(5)(b)2., the Petitioner will demonstrate that the waiver a) will not result in an inferior pedestrian experience along a primary street, such as exposing parking garages or large expanses of blank walls; b) will not allow the creation of significant incompatibilities with nearby buildings or uses of land; c) will not erode the connectivity of the street and sidewalk network or negatively impact any adopted bicycle/ pedestrian master plan; and d) will not reduce the quality of civic open spaces provided under the LDR.

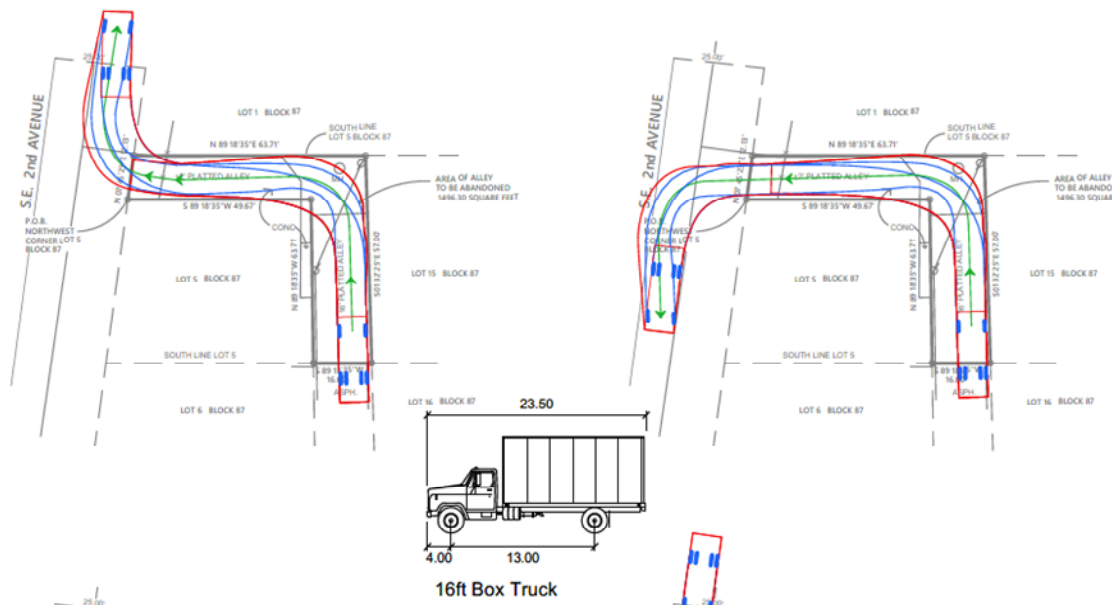
**Section 2.4.7(B)(5) Waiver Criteria:**

**a) The waiver will not adversely affect the neighboring area.**

The waiver will not adversely affect the neighboring area. The 12’ and 16’ alley segments only exist on paper. The alley segments do not provide access to the Property or the adjacent parcels because the alleys do not exist. As such, the proposed abandonment will not adversely effect access to the neighboring area. An analysis was completed on the existing blocks in the area between Swinton Avenue and the Intracoastal and between NE 4<sup>th</sup> Street and SE 4<sup>th</sup> Street. Seventy-five (75) blocks were analyzed to determine whether they retained the original alley configuration or if the alley configuration has been broken or modified. The overall analysis concluded that forty-four (44) of the seventy-five (75) blocks have either a broken alley system, modified alley system, or no alley system at all. More specifically, the analysis determined that there are eighteen (18) similarly situated blocks abutting the railroad tracks between NE 4th Street and SE 4th Street. Of the eighteen (18) blocks, fourteen (14) have either no alley system or a broken alley system, which equals 77% of the blocks along the railway corridor within the analysis area. This data confirms that 77% of the blocks located along the railroad corridor have not been adversely affected by the lack of a complete alley system. Petitioner is requesting that the block containing the subject Property be treated in the same manner as the vast majority of the other similarly situated blocks along the railway corridor.

Conversely, any additional dedication to widen and extend the alley would adversely affect the Property and the adjacent parcels. Additionally, the current alley segments are nonconforming and do not meet the minimum width requirements contained in the LDRs and do not allow standard left turn movements as better illustrated below. To bring the alley segments into compliance, additional dedications would be required from the Property and the adjacent parcels. The additional required dedications would make the Property and one of the adjacent parcels nonconforming with the LDRs. The Property to the north and contiguous to the 12’ alley (“North Parcel”) is a substandard lot and the existing building located thereon is noncompliant with the setback requirements. The trapezoidal shape has created a condition

where the northern portion of the property is extremely narrow. The North Parcel cannot afford to lose any additional square footage as the loss would be detrimental to the developable area of the property and parking configuration. If the 16' alley segment was built out to connect to SE 2<sup>nd</sup> Street, the alley would be forced to go through the North Parcel property line to get to SE 2<sup>nd</sup> Street. That would essentially render the North Parcel useless as the building located on the North Parcel is in the way. As mentioned, even if the North Parcel was one day redeveloped, the extension of the alleyway would not be possible due to the substandard lot size and configuration. Without expanding 12' wide alley segment, which does not currently provide for safe turning movements, the 16' alley would result in a dead end condition. The resulting dead end at the North Parcel property line would create an unsafe condition as large vehicles would be unable to safely maneuver the turn at the northeast corner of the Property and would risk colliding with the existing building. Please reference the autoturn diagrams below demonstrating the unsafe maneuvering for trucks and service vehicles.



Finally, the property to the east and contiguous to a portion of the 16' alley ("East Parcel") was previously comprised of several smaller parcels that were combined to create a single unified parcel. Upon doing so, the eastern portion of the 12' alley to the east of the Property was vacated. As a result, the East Parcel is large and configured in such a manner that all utility, loading, delivery and other services can be accommodated on site and have direct access from SE 2<sup>nd</sup> Street and SE 3<sup>rd</sup> Avenue, eliminating the need for an alley in the rear. The East Parcel was developed with the intention of eliminating any access to the property from the alley in the rear to secure the property better and to wholly contain service functions within the property. The East Parcel is not in support of the extension of the 16' wide alley. Considering the foregoing, the waiver will not adversely affect the neighboring area because the subject portions of the alleyway do not exist and therefore are not used for access or other service functions.



**b) The waiver will not significantly diminish the provision of public facilities.**

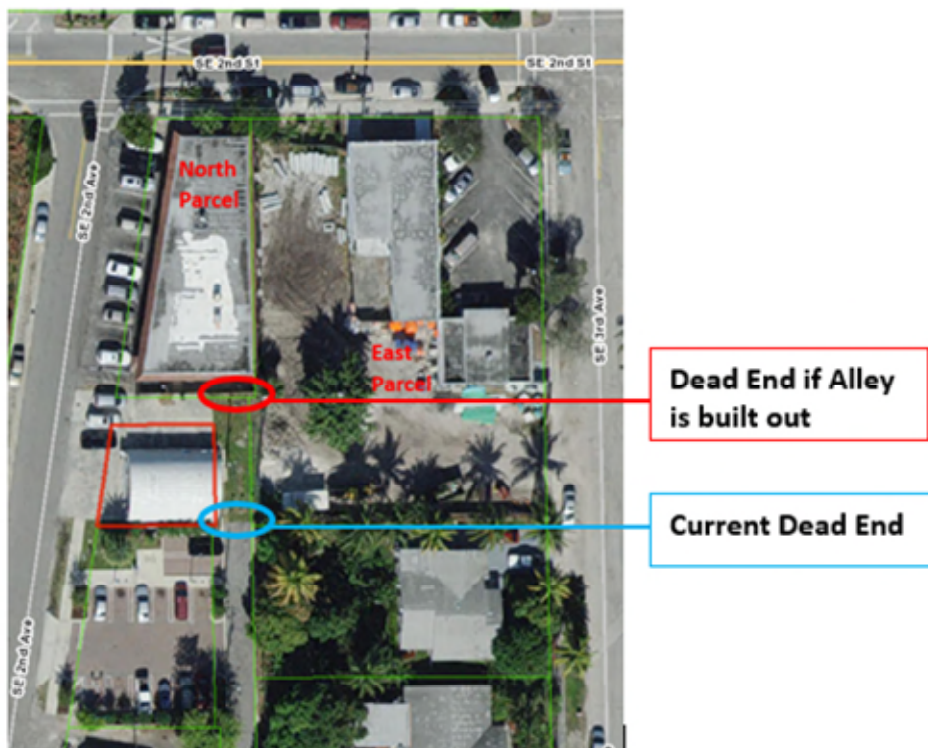
The Petitioner's request for the waiver will not impact the provision of public facilities. The abandonment will not result in a detriment to the provision of access and/or of utility services to adjacent properties or the general area because the alleyway doesn't exist. The service needs of the Property and the adjacent parcels are accomplished in the current configuration using the frontage along SE 2<sup>nd</sup> Avenue and these properties have never utilized the alley segments for the provision of public facilities. The waiver request will not diminish the provision of public facilities, as the alleys have never existed, therefore the removal of same on paper will not have any impact. Petitioner is aware that there are some existing overhead and underground utilities within the area to be abandoned. Petitioner intends to provide easements for the provision of these utilities.

Additionally, as mentioned above, there are fourteen (14) similarly situated blocks along the railroad tracks within the downtown area that do not have a functioning alleyway system for the provision of public facilities. There has been no disruption to the provision of public facilities on those fourteen (14) blocks. Rather, alternative points of access are utilized to service these properties and support secondary functions such as utility services, deliveries, trash pick-up, loading/unloading, and other activities that utilize larger vehicles and trucks. The fact that over 75% of the railway blocks do not rely on an ally system is evidence that alleys are not typical nor needed. Considering the foregoing, the waiver will not impact the provision of public facilities.

**c) The waiver will not create an unsafe situation.**

The Petitioner's request for the waiver will not create an unsafe situation. Rather, to construct alleys that would be substandard, unable to accommodate trucks, vans, or typical delivery vehicles would result in unsafe conditions. As mentioned above, if the 16' alley was built out without expanding the 12' wide alley, it would result in a dead end condition at the North Parcel property line creating an unsafe condition.

The alley could never extend further north to SE 2<sup>nd</sup> Street because a building has been constructed, which impedes any further extension to the north. Even if the North Parcel was redeveloped, the additional dedication requirements would render the property more nonconforming and undevelopable due to its irregular size and shape. The same is true for the 12' alley segment. Additional dedications for the expansion of the alley will render the Property and the North Parcel nonconforming and undevelopable. The current dead end situation is preferable because the dead end condition can be absorbed by and is currently being absorbed by the CRA parking lot. The current dead end is not impeding the flow of traffic, rather vehicles have a reasonably safe and logical alternative route. If the alley was extended to the North Parcel property line, trucks and other large vehicles would be unable to safely turn the corner without colliding with the existing building. As such, these vehicles would be forced to backout, posing significant danger to other vehicles and pedestrians, while also adversely impacting the flow of traffic.



The City has not identified unsafe conditions on any of the other fourteen (14) similarly situated blocks without complete alley systems. Each of these blocks are optimally functioning in manner that is compatible with their irregular sizes and shapes. In addition, as part of any future proposed development of the Property, the corresponding site plan review will require compliance with all applicable zoning, building and fire codes to ensure no part of the Project will create an unsafe situation. As there will be no alley serving the Property, the provision for utilities will be managed on site. Similarly, the Project will be reviewed by police to ensure that acceptable Crime Prevention Through Environmental Design (“CPTED”) standards will be met. Considering the foregoing, the waiver will not create an unsafe situation.

- d) The waiver will not result in the grant of a special privilege in that the same waiver would be granted under similar circumstances on other property for another Petitioner or owner.**

Approval of the waiver does not result in the grant of a special privilege. As discussed above, fourteen (14) of the eighteen (18) blocks that are adjacent to the railway corridor are not served by alleys nor are the oddly shaped parcels configured in such a way as to accommodate alleys. As a result, more than 75% of the blocks along the railroad corridor are fully functioning with adequate access and accessibility for the provision of public facilities without an alleyway. Furthermore, the condition of the subject block is unique because the alley system is already broken due to the prior abandonments that were approved pursuant to the development of the East Parcel. Petitioner is requesting that the block be treated in the same manner as the vast majority of the other similarly situated blocks along the railway corridor.

**Section 4.4.13(K)(5)(b)2. Waiver Criteria:**

- a) The waiver will not result in an inferior pedestrian experience along a Primary Street, such as exposing parking garages or large expanses of blank walls.**

The requested waiver will not result in an inferior pedestrian experience along a Primary Street. Neither of the alleys subject to this waiver request or SE 2nd Avenue are designated as a Primary Street on the Railroad Corridor Sub-District Regulating Plan. Therefore, the waiver will not result in an inferior pedestrian experience along a Primary Street.

- b) The waiver will not allow the creation of significant incompatibilities with nearby buildings or uses of land.**

The requested waiver will not result in incompatibilities with nearby buildings or uses of land. As previously mentioned, the properties to the north and east will continue to function as currently existing, with all activities directed to the respective street frontages or contained within each of the properties. None of these properties currently utilize the alleys that are subject to this request because they don't exist, nor are they likely to in the future because they cannot be expanded in a manner that will not be detrimental to the surrounding parcels. All access to and from SE 2nd Avenue can be maintained consistent with the current configuration. The abandonment of the alley will enable the Petitioner to incorporate the land into their Property will allow the Property to be more compliant with the LDRs.

Additionally, the waiver will be compatible with the prior abandonment that was approved for the East Parcel. As mentioned above, this parcel was previously comprised of several smaller parcels that were combined to create a single unified parcel. Upon doing so, the eastern portion of the 12' alley to the east of the Property was vacated. The property owner's intent was to secure the rear of the Property and instead direct all service functions to the interior of the site. This is further evidenced by the security fence that has been erected along the rear of the Property to provide further security and restrict access to the site. If the alley was built out and extended, the neighboring property would not choose to connect to it and is of the opinion that the extension is significantly incompatible with the adjacent property owner's intention to secure the rear of the property. The same is true for the North Parcel. There is currently a fence constructed along the southern property line. The property owner has constructed the wall to secure the property and prevent trespassing. The construction of both of these walls confirms that neither parcel desires to have access to the internal alley system and the expansion of same would be significantly incompatible with the neighbor's intention to secure their respective parcels. As such, the waiver will not create any significant incompatibilities with nearby buildings or uses of land, but any

potential expansion of the subject alleyways will be contrary to the intentions of the adjacent property owners.

**c) The waiver will not erode the connectivity of the street and sidewalk network or negatively impact any adopted bicycle/ pedestrian master plan**

The requested waiver will not erode the connectivity of the street and sidewalk network or negatively impact any adopted bicycle or pedestrian master plan. Rather, existing connectivity from the formed alley and SE 2nd Avenue will be maintained, as well as along SE 2nd Avenue itself, in compliance with the LDR objectives to maintain a highly connected street and block structure in the downtown CBD area, as stated in Section 4.4.13(J). Currently, there are no sidewalks connecting the internal alleyways to the exterior sidewalks because there isn't enough space to construct the sidewalks. As such, abandonment of the alleyways will not erode connectivity to the sidewalk network because sidewalks do not exist and cannot be constructed. Pedestrians will have the ability to utilize the existing public sidewalk located within the CRA property. The waiver will have no impact on the pedestrian use of the existing sidewalk system.

In addition, the only adjacent block that retains the alleyway connectivity is the block to the south of SE 3<sup>rd</sup> Street. The proposed abandonment will not affect the function and connection to the adjacent block to the south. Vehicles and pedestrians will still be able to utilize the alleyway system in its existing configuration. On the other hand, the adjacent blocks to the north and east of the Property do not contain alleyways that would otherwise connect to the block. As such, the connectivity of the alley system is (1) already disrupted in this area and (2) was never contemplated for this area. As such, the proposed waiver will not negatively impact on the safe and effective operation of the pedestrian and bicycle network in the area.

Finally, while the City has initiated but not yet adopted its Bicycle & Pedestrian Masterplan, the waiver will maintain existing connectivity patterns in the area and will not negatively impact the City's vision for a connected, safe, comfortable, and convenient bicycle and pedestrian network for people of all ages and abilities.

**d) The waiver will not reduce the quality of civic open spaces provided under this code.**

Approval of the waiver does not reduce the quality of civic open spaces provided under the LDR. Section 4.4.13(G) establishes the civic open space requirement of the LDR and states that for sites less than 20,000 sq. ft. in area no civic open space is required. The Property has an area of only +/- 2,401 square feet and as such any future development would not trigger the LDR civic open space requirement.

Notwithstanding, the waiver will not reduce the quality of any existing civic open spaces in the locality, nor will it be detrimental to the future provision of any civic open spaces required as this current alley system provides no connection to nor does it serve any existing civic open space.