

RESOLUTION NO. 97-22

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, APPROVING A WAIVER REQUEST TO SECTION 4.4.13(J)(1)(C) OF THE LAND DEVELOPMENT REGULATIONS, ALLOWING THE SUBMISSION OF A REQUEST TO ABANDON THE RIGHT-OF-WAY LOCATED IN THE 200 BLOCK OF SOUTHEAST SECOND AVENUE IN THE CENTRAL BUSINESS DISTRICT, AS MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the City of Delray Beach (City) received an application from Tyler Knight of the Hutt, LLC, represented by Bonnie Miskel, Esquire, of Dunay, Miskel and Backman, LLP (collectively referred to as the Applicant), to abandon a portion of an alley right-of-way (File No. 2021-236-ABR) in the eastern portion of the 200 block of Southeast Second Avenue (Subject ROW), as more particularly described in Exhibit "A"; and

WHEREAS, the Subject ROW is located within the Central Business District (CBD); and

WHEREAS, Section 4.4.13(J)(1)(c) of the Land Development Regulations (LDR) prohibits the abandonment of streets and alleys to accommodate new development; and

WHEREAS, LDR Section 2.4.7(B)(5) requires the approving body to make a finding that the granting of the waiver:

- (a) Shall not adversely affect the neighboring area; and
- (b) Shall not significantly diminish the provision of public facilities; and
- (c) Shall not create an unsafe situation; and
- (d) Does not result in the grant of a special privilege in that the same waiver would be granted under a similar circumstance on other property for another applicant or owner; and

WHEREAS, LDR Section 4.4.13(K)(5)(b)(2), which governs waivers from development standards in the CBD, also requires the approving body to make a finding that the granting of the waiver:

- (a) Shall not result in an inferior pedestrian experience along a Primary Street, such as exposing parking garages or large expanses of blank walls; and
- (b) Shall not allow the creation of significant incompatibilities with nearby buildings or uses of land;

and

(c) Shall not erode the connectivity of the street and sidewalk network or negatively impact any adopted bicycle/ pedestrian master plan; and

(d) Shall not reduce the quality of civic open spaces provided under this code; and

WHEREAS, LDR Section 4.4.13(K)(5)(a), requires the Site Plan Review and Appearance Board to make a formal recommendation to City Commission for any waivers in the CBD that can only be granted by the City Commission; and

WHEREAS, at its meeting of May 25, 2022, the Site Plan Review and Appearance Board recommended approval of the requested waiver and voted 7 to 0 as its recommendation to the City Commission of the requested waiver to LDR Section 4.4.13(J)(1)(c); and

WHEREAS, the requested waiver of relief from LDR Section 4.4.13(J)(1)(c) would allow the Applicant to submit its formal request to abandon the subject ROW to accommodate new development in the CBD, was presented to City Commission; and

WHEREAS, the City Commission considered the waiver request to LDR Section 4.4.13(J)(1)(c), at a quasi-judicial hearing conducted on August 9, 2022 as well as the respective findings as set forth in the Land Development Regulations.

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

Section 1. That the foregoing recitals are hereby incorporated herein by this reference and are approved and adopted.

Section 2. The City Commission makes positive findings that the requested waiver (1) does not adversely affect the neighboring area; (2) does not significantly diminish the provision of public facilities; (3) does not create an unsafe situation; and (4) does not result in the grant of a special privilege in that the same waiver would be granted under a similar circumstance on other property for another applicant or owner.

Section 3. The City Commission makes positive findings that the requested waiver (1) does not result in an inferior pedestrian experience along a Primary Street; (2) does not allow the creation of significant incompatibilities within nearby buildings or uses of land; (3) does not erode the connectivity of the street network or negatively impact any adopted bicycle/ pedestrian master plan; and (4) does not reduce the quality of civic open spaces provided under this code.

Section 4. The City Commission approves the waiver request to LDR Section 4.4.13(J)(1)(c), allowing the Applicant to submit a formal request to abandon the right-of-way located in the 200 block of

Southeast Second Avenue in the Central Business District, as more particularly described in Exhibit "A", to accommodate new development in the Central Business District.

Section 5. The City Clerk, or designee, is directed to send a certified copy of this Resolution to Tyler Knight of The Hutt, LLC at 10 SE 1st Avenue, Delray Beach, FL, 33444.

Section 6. All resolutions or parts of resolutions in conflict herewith shall be and hereby are repealed.

Section 7. This Resolution shall be effective immediately upon adoption.

PASSED AND ADOPTED in regular session on the _____ day of _____, 2022.

ATTEST:


Katerri Johnson, City Clerk

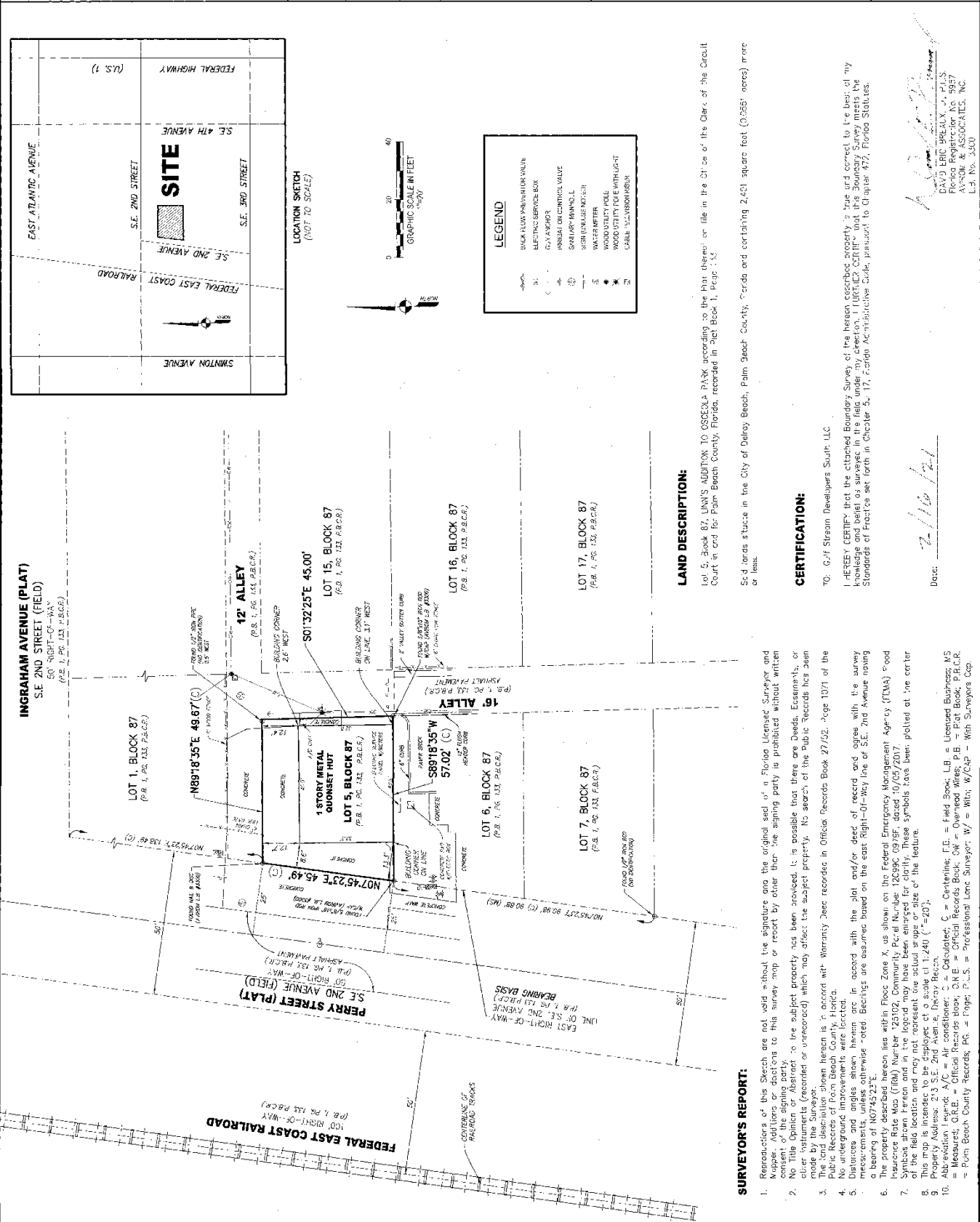
Shelly Petrolia, Mayor

Approved as to form and legal sufficiency:

Lynn Gelin, City Attorney

EXHIBIT "A"

<p>AVIROM & ASSOCIATES, INC. SURVEYING & MAPPING 80 S.W. 2ND AVENUE, SUITE 102 BOCA RATON, FLORIDA 33432 (561) 392-2594 / WWW.AVIROMSURVEY.COM</p>		<p>REVISIONS</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th>NO.</th> <th>DATE</th> <th>BY</th> <th>DESCRIPTION</th> </tr> <tr> <td>1</td> <td>08/20/2018</td> <td>BY</td> <td>PLAT PREPARED BY AVIROM & ASSOCIATES, INC.</td> </tr> </table>	NO.	DATE	BY	DESCRIPTION	1	08/20/2018	BY	PLAT PREPARED BY AVIROM & ASSOCIATES, INC.	<p>BOUNDARY SURVEY LOT 5, BLOCK 87 LINNS ADDITION TO OSCEOLA PARK 213 S.E. 2ND AVENUE (P.B. 1, PG. 133, P.B.C.R.) CITY OF PALM BEACH PALM BEACH COUNTY, FLORIDA</p>	<p>JOB # 10390-1 SCALE 1" = 20' DATE 08/20/2018 BY J.S.B. CHECKED D.E.B. F.B. # 1928 P.C. 54-65 SHEET 1 OF 1</p>
NO.	DATE	BY	DESCRIPTION									
1	08/20/2018	BY	PLAT PREPARED BY AVIROM & ASSOCIATES, INC.									



- SURVEYOR'S REPORT:**
1. Reproductions of this Sketch are not valid without the signature and the original seal of a Florida Licensed Surveyor and Mapper. Additions or deletions to this survey, map or consent by other than the signing party is prohibited without written consent of the signing party.
 2. No Title Opinion or Abstract to this subject property has been provided. It is possible that there are Deeds, Easements, or other instruments (recorded or unrecorded) which may affect the subject property. No search of the Public Records has been made.
 3. The land described herein is in accord with Warranty Deeds recorded in Official Records Book 277/52, Page 1071 of the Public Records of Palm Beach County, Florida.
 4. No underground improvements were located.
 5. Distances and angles shown herein are in accord with the plat and/or deed of record and agree with the survey measurements, unless otherwise noted. Bearings are assumed based on the east Right-Of-Way line of S.E. 2nd Avenue having a bearing of N07°45'23"E.
 6. The property described herein lies within Flood Zone X, as shown on the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map (FIRM) number 26099C 0929E, dated 10/05/2017.
 7. Symbols shown hereon are not to represent the actual shape or size of the feature.
 8. This map is intended to be displayed at a scale of 1:240 ("=20").
 9. Property Address: 213 S.E. 2nd Avenue, Delray Beach, Florida.
 10. Abbreviation Legend: A/C = Air Conditioner; C = Calculated; F.E. = Field Book; L.B. = Licensed Business; MS = Measured; O.R.E. = Official Records Book; O.W. = Overhead Wires; P.B. = Plat Book; P.B.C.R. = Palm Beach County Records; P.C. = Page; P.L.S. = Professional Licensure Surveyor; W/ = With; W/CAP = With Surveyors Cap.