



888 SE 3<sup>rd</sup> Ave., Suite 400  
Fort Lauderdale, FL 33316  
Office: 954.332.2358  
Email: [rabrums@abrams-law.com](mailto:rabrums@abrams-law.com)  
Website: [www.abrams-law.com](http://www.abrams-law.com)

September 2, 2022

SENT VIA EMAIL

City Commissioners  
100 NW First Ave.  
Delray Beach, FL 33444

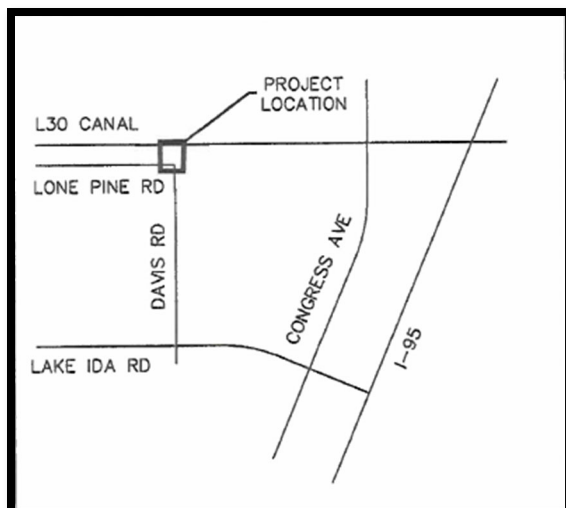
**RE: ROW ABANDONMENT APPLICATION NARRATIVE  
Chad Shoemaker (the "Applicant")  
Davis Road Right-of-Way – Abandonment (the "Application")  
City Commissioners Hearing**

Dear City Commissioners:

This firm represents the Applicant in regard to the application submitted for abandonment of the Davis Rd right of way as shown in the below depictions ("Davis ROW"). This narrative is respectfully submitted for the Commission's consideration and provides detailed explanations as to how the application satisfies the the criteria in Section 2.4.6(M) [Abandonment of rights-of-way] of the City of Delray Beach's Land Development Regulations ("LDR") and the good faith reasons the Applicant is requesting the Abandonment of the west 55 feet of the Davis Road right-of-way.

**Introduction**

The Applicant is the owner of the single-family home located at 3523 Lone Pine Road, Delray Beach, FL (the "Property"). The Property is directly to the west of the Davis ROW which is an 80-



foot-wide area of unimproved City-owned right-of-way (street) located at the terminus of Davis Road. The subject right-of-way borders the Lake Worth Drainage District's L-30 Canal and is the terminus of Davis Road.

The Applicant has maintained landscaping for the right-of-way since purchasing the Property in 2018. He has applied for abandonment of the Davis ROW to make ownership consistent with continuous use and maintenance of the property and a desire to fence the boundaries for privacy reasons. The interest in privacy is an important motivating factor because the public access to the

canal has led to individuals walking through the property at all hours of the day and evening. A larger buffer area that could be fenced in would be hugely beneficial for Applicant and his family from a privacy standpoint.

On May 16, 2022, the Planning and Zoning Board (“the Board”) held a hearing wherein the Application was heard and voted upon (Agenda item 8-A). At the time, the Application requested the abandonment of the entire right-of-way. Despite recommendation of approval by the City Engineer, the Board recommended a denial, citing to concerns of public access restrictions should the entire right-of-way be abandoned. The abandonment application has since been revised to address the Board’s concerns. Specifically, the application as amended requests the abandonment of the west 55-foot-wide portion, as opposed to the abandonment of the entire Davis Road right-of-way. Additionally, the previous application contained a provisional requirement that the Applicant provide a 40-foot-wide exclusive access easement to the Lake Worth Drainage District (“LWDD”) on the eastern half of the right-of-way. This requirement has been removed following a discussion with David A. Bends, Project Surveyor for the LWDD, who indicated that the LWDD only requires a 25-foot-wide easement, and it need not be exclusive as pedestrian access may be allowed. The proposed area to be abandoned is currently as follows:



## Background

The land subject to the requested abandonment was created by two right-of-way deeds. The eastern half of the 80-foot-wide by 213.24-foot-long right-of-way was originally dedicated to Palm Beach County (the “County”) in 1959 as recorded in the Official Records Book (ORB) 370, pages 591 and 592 of Palm Beach County Clerk of the Circuit Court. The remaining western half was dedicated to the County via a deed and recorded in ORB 370, page 593 and 594. Both portions were subsequently annexed into Delray Beach.

The area surrounding the subject right-of-way was developed as a suburban residential area with the Rainberry Villas Homeowners Association Tract to the East and the Lone Pine Road

Community and Sabal Lakes Communities to the West. Davis Road ends in the right-of-way and what proceeds is Lone Pine Road, a private road which takes access from Davis Road.

### **The Application is Consistent With Land Development Regulations**

Pursuant to LDR Section 2.4.6(5)(M), prior to granting an abandonment the City Commission must make the following findings:

- (a) That there is not, nor will there be, a need for the use of the right-of-way for any public purpose;
- (b) That the abandonment does not, nor will not, prevent access to a lot of record;
- (c) That the abandonment will not result in detriment to the provision of access and/or of utility services to adjacent properties or the general area.

It is the Applicant's position that these finding are met. Per the Planning and Zoning Board Staff Report dated May 16, 2022 ("Staff Report")<sup>1</sup>, "the City has no need now, nor in the future for this specific area of right of way." Further, the requested abandonment "would not prevent access to a lot of record" as the property to the west of the right-of-way would be receiving the land, and access to the community "is already provided from Lone Pine Road." Lastly, the abandonment will not result in detriment to the provision of access or utilities to adjacent properties or the general area because the 25-foot-wide portion remaining with the City ensures that the LWDD has access to the L-30 Canal.

### **The Application is Consistent With the Comprehensive Plan**

The abandonment application as amended is also consistent with the Comprehensive Plan. Specifically, the application is consistent with the Mobility Element, Policy MBL 2.7.7, which states: "do not grant abandonment of right-of-way unless conclusively demonstrated that there is not, nor will there be, a need for the use of the right-of-way for any public purpose." Per the Staff Report, the City has no identified use for the L-30 Canal on any adopted plans. As the revised abandonment application does not include the 25-foot-wide eastern portion of the right-of-way, the LWDD and the public may continue to access the canal at the City's discretion.

The abandonment application as amended is further consistent with the Neighborhoods, Districts, and Corridors Element, Policy NDC 2.2.1. Pursuant to Policy NDC 2.2.1, the tightly gridded, interconnected street network that facilitates the dispersal of traffic and contributes to the character of Delray Beach is to be maintained and enhanced. The Staff Report concludes that this element is met because Davis Road is a dead-end street at Lone Pine Road and no improvements are proposed for this area, as such, the Central Business District is not impacted by the abandonment. The Staff Report goes on to list facts in support of abandonment, mainly: (1) the right-of-way is not presently used by the City, (2) the right-of-way could not be connected to any connection either north of the L-30 Canal or on either side of the right-of-way, (3) the link is not identified on the Interim Bicycle and Pedestrian Master Plan, and (4) no roadway infrastructure is needed for reinvestment at the abandonment location.

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<sup>1</sup> While the Application has been amended since the drafting of the May 16, 2022 Planning and Zoning Board Staff Report, due to the nature of the changes, it is the Applicant's belief that conclusions in the Staff Report remain true and accurate.

## Conclusion

In conclusion, the Applicant states that its Application as amended is consistent with LDR Section 2.4.6(5)(M) and the Comprehensive Plan. Due to the close proximity of the Applicant's Property to the right-of-way and ensuing safety concerns, the Applicant respectfully requested the Board of Commissioners approve the Application.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ryan', followed by a long horizontal line extending to the right.

Ryan Abrams, Esq.  
FOR THE FIRM