

RESOLUTION NO. 48-21

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, GRANTING A WAIVER TO SECTION 4.4.12(F)(2) OF THE LAND DEVELOPMENT REGULATIONS; APPROVING A REDUCTION TO THE MINIMUM FLOOR AREA REQUIRED FOR A FREE-STANDING STRUCTURE FOR A PROPOSED RACETRAC CONVENIENCE STORE WITH A FLOOR AREA OF 5,411 SQUARE FEET LOCATED AT 10 S. CONGRESS AVENUE, AS MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the City of Delray Beach (“the City”) received a Class IV Site Plan modification application (2020-270) attached hereto as Exhibit “A” associated with the property located at 10 S. Congress Avenue (“the Property”) as more specifically described in Exhibit “B”, from Congress Avenue Realty, LLC (“Applicant/Property Owner”), for the construction of a convenience store with a floor area of 5,411 gross square feet and construction of a gas station; and

WHEREAS, the Property is located within the Planned Commercial (“PC”) zoning district; and

WHEREAS, City Land Development Regulation (“the LDR”) Section 4.4.12(F)(2) sets forth a requirement that any free-standing structure within the PC zoning district must have a minimum floor area of 6,000 square feet; and

WHEREAS, the applicant is proposing construction of a convenience store with a floor area of 5,411 gross square feet; and

WHEREAS, LDR Section 2.4.7(B)(5), which governs waivers from development regulations, requires the approving body to make a finding that the granting of a waiver:

- (a) Shall not adversely affect the neighboring area;
- (b) Shall not significantly diminish the provision of public facilities;
- (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, the requested waiver of relief from LDR Section 4.4.12(F)(2) regarding minimum floor area for a free standing structure in the PC Zoning District, was presented to the City Commission at a quasi-judicial hearing conducted on April 6, 2021; and

WHEREAS, the City Commission considered the waiver request to LDR Section 4.4.12(F)(2), to waive the minimum floor area requirement to allow the applicant to construct a convenience store with a floor area

of 5,411 gross square feet as more particularly described in Exhibit “A” in accordance with the standards listed in LDR Sections 2.4.7(B)(5) 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 forgoing 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 similar circumstances on other property for another applicant or owner.

Section 3. The City Commission approves the waiver request to LDR Section 4.4.12(F)(2) to waive the minimum floor area requirement for a free-standing structure within the PC zoning district to allow the applicant to construct a convenience store with a floor area of 5,411 gross square feet as more particularly described in Exhibit “A”, which is incorporated herein.

Section 4. The City Clerk, or designee, is directed to send a certified copy of this Resolution to George A. Morgan, III of Congress Avenue Realty LLC at 1304 Ballantyne Corporate Pl., Suite 500, Charlotte, NC 28277.

Section 5. All resolutions or parts of resolutions in conflict herewith shall be and hereby are repealed.

Section 6. This Resolution shall be effective immediately upon adoption.

PASSED AND ADOPTED in regular session on the _____ day of _____, 2021.

ATTEST:

Katerri Johnson, City Clerk

Shelly Petrolia, Mayor

Approved as to form and legal sufficiency:

Lynn Gelin, City Attorney

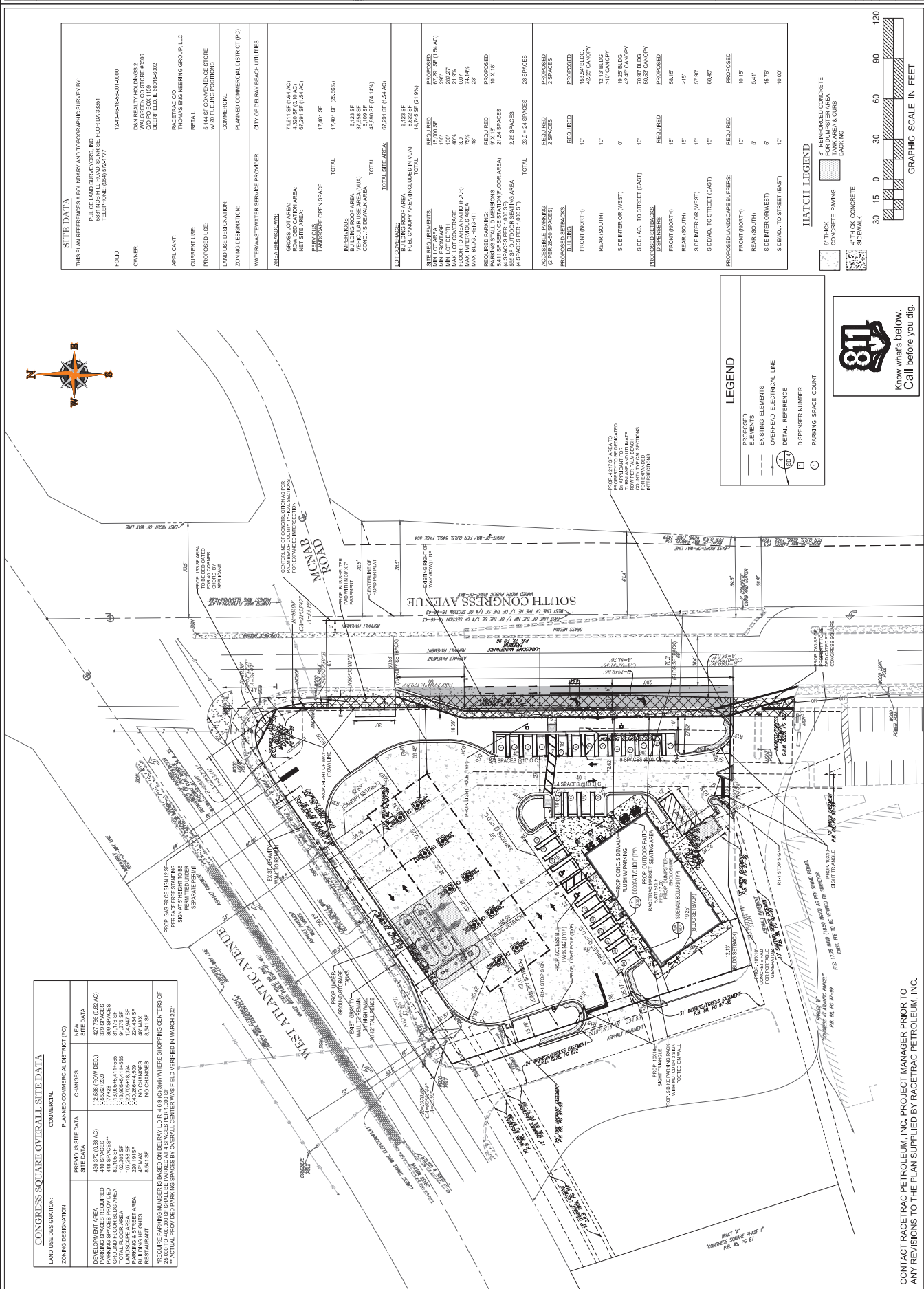


Exhibit B
Legal Description

A PORTION OF PARCEL "A" OF "CONGRESS AT ATLANTIC PARCEL", ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 88, PAGES 97, 98 AND 99 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE SOUTHWESTERLY CORNER OF SAID PARCEL "A"; THENCE NORTH 18°18'15" WEST ON THE WEST LINE OF SAID PARCEL "A" 234.83 FEET TO THE NORTHWESTERLY CORNER OF SAID PARCEL "A" ON THE SOUTHERLY RIGHT-OF-WAY LINE OF WEST ATLANTIC AVENUE AS DEPICTED ON STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION ROADWAY PLAN NUMBER 413841-2-52-01, SHEETS 34 AND 35, A POINT ON THE ARC OF A CIRCULAR CURVE CONCAVE NORTHWESTERLY, THE RADIUS POINT OF WHICH BEARS NORTH 32°21'25" WEST; THENCE ON SAID RIGHT-OF-WAY LINE THE FOLLOWING 8 NUMBERED COURSES AND DISTANCES: 1) NORTHEASTERLY ON THE NORTH LINE OF SAID PARCEL "A", AND ON THE ARC OF SAID CURVE, WITH A RADIUS OF 1970.08 FEET AND A CENTRAL ANGLE OF 00°41'44" AN ARC DISTANCE OF 23.92 FEET; 2) NORTH 67°54'52" EAST 47.30 FEET; 3) NORTH 55°11'19" EAST 177.75 FEET TO A POINT OF CURVATURE OF A CIRCULAR CURVE, CONCAVE SOUTHEASTERLY; 4) NORTHEASTERLY ON THE ARC OF SAID CURVE, WITH A RADIUS OF 89.00 FEET AND A CENTRAL ANGLE OF 21°32'34" AN ARC DISTANCE OF 33.46 FEET TO A POINT OF COMPOUND CURVATURE OF A CIRCULAR CURVE, CONCAVE SOUTHWESTERLY; 5) SOUTHEASTERLY ON THE ARC OF SAID CURVE, WITH A RADIUS OF 19.00 FEET AND A CENTRAL ANGLE OF 81°12'21" AN ARC DISTANCE OF 26.93 FEET TO A POINT OF COMPOUND CURVATURE OF A CIRCULAR CURVE, CONCAVE WESTERLY; 6) SOUTHERLY ON THE ARC OF SAID CURVE, WITH A RADIUS OF 89.00 FEET AND A CENTRAL ANGLE OF 21°33'47" AN ARC DISTANCE OF 33.49 FEET TO A POINT OF TANGENCY; 7) SOUTH 00°29'59" EAST 9.59 FEET; 8) NORTH 89°30'01" EAST 4.00 FEET TO THE INTERSECTION WITH THE EAST LINE OF SAID PARCEL "A", ALSO BEING THE WEST RIGHT-OF-WAY LINE OF SOUTH CONGRESS AVENUE; THENCE ON SAID EAST LINE AND ON SAID WEST RIGHT-OF-WAY LINE THE FOLLOWING 3 NUMBERED COURSES AND DISTANCES: 1) SOUTH 00°29'04" EAST 179.89 FEET TO A POINT OF CURVATURE OF A CIRCULAR CURVE, CONCAVE WESTERLY; 2) SOUTHERLY ON THE ARC OF SAID CURVE, WITH A RADIUS OF 1,849.86 FEET AND A CENTRAL ANGLE OF 02°31'56" AN ARC DISTANCE OF 81.76 FEET TO A POINT OF REVERSE CURVATURE OF A CIRCULAR CURVE, CONCAVE EASTERLY; 3) SOUTHERLY ON THE ARC OF SAID CURVE, WITH A RADIUS OF 1,969.86 FEET AND A CENTRAL ANGLE OF 01°06'21" AN ARC DISTANCE OF 38.02 FEET TO THE SOUTHEAST CORNER OF SAID PARCEL "A"; THENCE NORTH 89°19'14" WEST ON THE SOUTH LINE OF SAID PARCEL "A" 139.93 FEET; THENCE SOUTH 73°41'05" WEST ON SAID SOUTH LINE 61.04 FEET TO THE POINT OF BEGINNING.
CONTAINING 71,611 SQUARE FEET, 1.6440 ACRES.

TOGETHER WITH EASEMENTS FOR DRAINAGE, WATER, UTILITY, RECIPROCAL PARKING AND ACCESS RIGHTS, LANDSCAPE MAINTENANCE, INGRESS-EGRESS AND SIGNAGE EASEMENTS AS SET FORTH IN DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS RECORDED IN O.R. BOOK 11681, PAGE 1850, PUBLIC RECORDS OF PALM

BEACH COUNTY, FLORIDA, OVER AND ACROSS THE FOLLOWING DESCRIBED PROPERTY:

PARCEL "B" OF "CONGRESS AT ATLANTIC PARCEL", ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN PLAT BOOK 88, PAGES 97, 98 AND 99 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.