

RESOLUTION NO. 207-24

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, PROVIDING FOR THE ABANDONMENT OF THE RIGHT OF PUBLIC ACCESS TO OPEN SPACE TRACTS OS 3, OS 4, OS 5, OS 10, OS 12, AND OS 13, AS RECORDED ON THE PLAT OF OLD PALM GROVE IN PLAT BOOK 99, PAGES 63 THROUGH 67 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, AS MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the City of Delray Beach, Florida ("City") received an application (2023-168-ABE-CCA) from the Old Palm Grove Homeowners Association, Inc., ("Applicant"), for the abandonment of the right of public access to Open Space tracts OS 3, OS 4, OS 5, OS 10, OS 12, and OS 13, totaling 13,236.53 square feet, located within in the Plat of Old Palm Grove ("the Property"), as recorded in Plat Book 99, Pages 63 through 67 of the Public Records of Palm Beach County, Florida more particularly described in Exhibit "A"; and

WHEREAS, the abandonment of multiple utility and pedestrian ingress-egress easements were granted, with the requirement that the right of public access be provided in the Plat of Old Palm Grove; and

WHEREAS, the Delray Beach Community Redevelopment Agency transferred ownership of land to the City for use as a public park to supplement the pocket park in Old Palm Grove and the City subsequently developed 833 Lake Avenue North as La Hacienda Gardens Park; and

WHEREAS, the public right of pedestrian and bicycle ingress and egress is preserved for utilization by the general public to provide access to La Hacienda Gardens Park at 833 Lake Avenue North and Palm Trail through these aforementioned actions of the City Commission; and

WHEREAS, Section 2.4.9(B) of the Land Development Regulations ("LDR") requires the City Commission to make the following findings prior to granting an abandonment of right-of-way:

- (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.

WHEREAS, Section 2.4.9(C) of the Land Development Regulations ("LDR") requires the City Commission to make findings prior to granting an abandonment of an easement that must make a finding that the abandonment will not result in detriment for the provision of utility services to adjacent properties or the

general area; and

WHEREAS, pursuant to LDR Section 3.1.1, Findings shall be made by the body which has the authority to approve or deny the development application as to the Land Use Map, Concurrency, Consistency and Compliance with the LDRs.; and

WHEREAS, Comprehensive Plan Policy OPR 1.4.5 requires development to maximize public accessibility to open space, parks, and recreational facilities provided by requiring them to be strategically planned and located within new development; and

WHEREAS, the existing right of public access maximizes public accessibility to open space, parks, and recreational facilities that are strategically located within Old Palm Grove; and

WHEREAS, pursuant to Section 2.4.9 a recommendation of the City Engineer is required; and

WHEREAS, the City Engineer recommended that the right of public access not be abandoned due to inconsistency with the Comprehensive Plan; and

WHEREAS, pursuant to LDR Section 2.1.5(E)(5)(g), the Planning and Zoning Board acting as the Local Planning Agency, formally reviewed the request at a public hearing on October 21, 2024, and **voted** __ to __ to recommend **approval / denial** of the abandonment based on a review of the required findings; and

WHEREAS, the City Commission reviewed the application (2023-168-ABE-CCA) to abandon public right of access to open space tracts totaling approximately 13,236.53 square feet and has considered the required findings set in the Land Development Regulations and the Comprehensive Plan.

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

Section 1. The forgoing recitals are hereby incorporated herein by this reference and are approved and adopted.

Section 2. The City Commission makes findings that there is not, nor will there be, a need for the use of the right-of-way for any public purpose, that the abandonment does not, nor will not, prevent access to a lot of record, and 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.

Section 3. The City Commission hereby approves the abandonment of all public rights and interest in the right-of-way, as more particularly described in Exhibit “A”.

Section 4. This Resolution shall become effective immediately upon adoption and recordation.

Section 5. The City Clerk, or designee, is directed to send a certified copy of this Resolution to

Andrea M. Keiser, Esq., Keiser Legal, PLLC, 55 SE 2nd Avenue, Suite 102, Delray Beach, Florida 33444.

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

PASSED AND ADOPTED in regular session on the _____ day of _____, 2024.

ATTEST:

Alexis Givings, Interim City Clerk

Thomas F. Carney, Jr., Mayor

Approved as to form and legal sufficiency:

Lynn Gelin, City Attorney

EXHIBIT "B"



