

RESOLUTION NO. 104-24

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, PROVIDING FOR THE ABANDONMENT OF INTEREST IN A PORTION OF RIGHT-OF-WAY BISECTING 2001 S. FEDERAL HIGHWAY, TOTALING APPROXIMATELY FIVE THOUSAND THREE HUNDRED AND TWO SQUARE FEET, AS MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the City of Delray Beach, Florida (the “City”) received an application (2024-052-ABR-CCA) from Michael Weiner, Esq., of Sachs Sax Caplan, P.L., on behalf of MDR Motors, LLC, for the abandonment of interest in a portion of right-of-way totaling approximately five thousand three hundred and two square feet (5,302 sq. ft.) (the “Right-of-Way”), bisecting the property located at 2001 S. Federal Highway, as more particularly described in Exhibit “A”, attached hereto and incorporated herein; and

WHEREAS, the Right-of-Way was dedicated in perpetuity to the public as public highways in the Plat of Gateway Shopping Center as recorded in Plat Book 25, Page 76 of the Public Records of Palm Beach County, Florida; and

WHEREAS, there are existing sewer utilities within the Right-of-Way; and

WHEREAS, Section 2.4.9(B)(6) of the Land Development Regulations (“LDR”) requires 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; and
- (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; and

WHEREAS, pursuant to LDR Section 2.4.9(B)(5)(d), as a condition of approval, the City can require replacement easements or the relocation of existing utilities; and

WHEREAS, pursuant to LDR Section 2.4.9(B)(4)(d), the application with the recommendation of the City Engineer shall be forwarded for review by the Planning and Zoning Board; and

WHEREAS, the City Engineer recommends that the abandonment be approved, with the condition replacement general utilities easements be properly executed and recorded; and

WHEREAS, the Planning and Zoning Board reviewed the abandonment request at its meeting on May 20, 2024, and **voted X to X to recommend denial/approval**; and

WHEREAS, the City Commission has reviewed the application (2024-052-ABR-CCA) to abandon a portion of right-of-way totaling approximately five thousand three hundred and two square feet (5,302 sq. ft.), bisecting the property located at 2001 S. Federal Highway and has considered the respective findings in the Land Development Regulations and Comprehensive Plans.

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

Section 1. The foregoing recitals are hereby incorporated herein by this reference.

Section 2. The City Commission makes positive findings that there is not, nor will there be, a need for the use of this portion of the right-of-way for any public purposes, 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 vacates and abandons all rights and interest the City holds in the Right-of-Way, as more particularly described in Exhibit "A", subject to the condition replacement easements be properly executed and recorded.

Section 4. This Resolution shall not be effective until a replacement drainage easement agreement satisfactory to the City is executed by the owner of 2001 S. Federal Highway and recorded in the Public Records of Palm Beach County, Florida.

Section 5. The City Clerk, or designee, is directed to send a certified copy of this Resolution to Michael Weiner, Esq., of Sachs Sax Caplan, P.L., 6111 Broken Sound Parkway NW, Suite 200, Boca Raton, Florida 33487.

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

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

ATTEST:

Katerri Johnson, City Clerk

Thomas F. Carney, Jr., Mayor

Approved as to form and legal sufficiency:

Lynn Gelin, City Attorney