



DEVELOPMENT SERVICES

BUILDING | HISTORIC PRESERVATION | PLANNING & ZONING

PLANNING AND ZONING BOARD STAFF REPORT

Partial Abandonment of Unimproved SW 11th Street Right-of-Way Between 1043 and 1103 Wallace Drive

Meeting	File No.	Application Type
December 18, 2023	2023-182-ABR-CCA	Abandonment of Right-of-Way
Applicant	Property Owner	Authorized Agent
1107 Wallace, LLC	The City of Delray Beach	Jeffrey A. Costello

Request
Provide a recommendation to the City Commission on Resolution No. 03-24, to abandon 8,898 square feet of unimproved SW 11th Street right-of-way between SW 10th Avenue and Wallace Drive.

Background Information

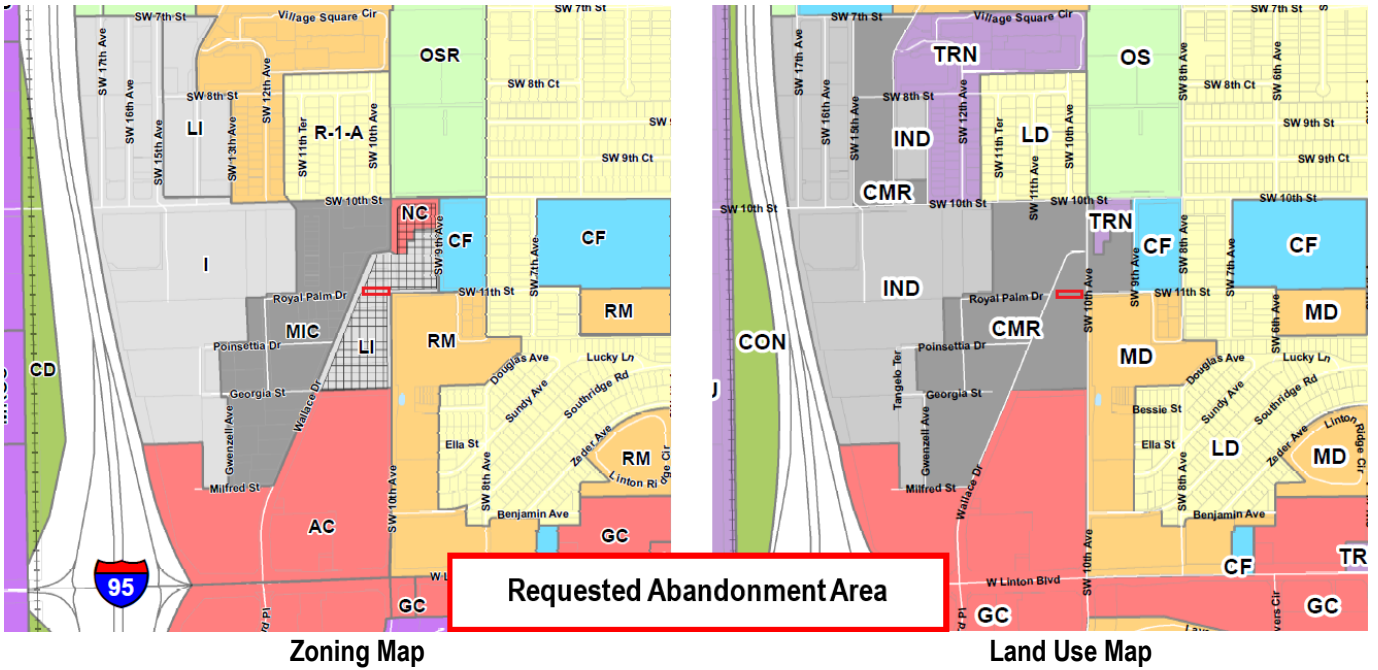
The subject area is an unimproved right-of-way segment associated with SW 11th Street between Wallace Drive and SW 10th Avenue. The unimproved right-of-way is bounded by 1043 Wallace Drive to the north and 1103 Wallace Drive to the south (map at right). There are single-family homes on both 1043 and 1103 Wallace Drive, built in 1950 and 1955. The property has Commerce (CMR) land use and Light Industrial (LI) zoning. The properties and abandonment area are located within the Wallace Drive Redevelopment Area/Overlay District.

The north 25 feet of SW 11th Street right-of-way was dedicated in 1950 via the Esquire Subdivision as recorded in Plat Book 23 Page 43 of the Public Records of Palm Beach County, Florida. The south 25 feet of the SW 11th Street right-of-way was dedicated via a separate instrument, and recorded in 1956 in Book 1153, Page 127.

In 1988, the properties contained within the Wallace Drive Redevelopment Area were annexed into the City as part of the Enclave Act. The area developed under the County's jurisdiction, and there was a mixture of incompatible land uses and inadequate public infrastructure. The Wallace Drive Redevelopment Plan was adopted in 2004, and further amended in 2012. Its main purpose was to provide strategies to revitalize the area and facilitate further economic development by creating the framework for the future redevelopment of the area. The Redevelopment Plan recommends aggregation of properties for development throughout the redevelopment area, including the properties east of Wallace Drive.



The surrounding area's zoning classifications and land uses are depicted below.



Project Description

The request is for the abandonment of approximately 8,898 square feet of an unimproved portion SW 11th Street right-of-way located between 1043 and 1103 Wallace Drive to the north and south. The area to be abandoned is trapezoid shaped, measuring roughly 50 feet by 181 feet, as depicted on the image below.



The right-of-way has been utilized and maintained as an extension of the side yards of the abutting properties for many years with landscaping (including mature trees), irrigation, fencing, parking with minor encroachments of a corner of the existing house located at 1043 Wallace Drive into the SW 11th Street right-of-way.

The intent is to include the right-of-way abandonment area with the assemblage of 1043 and 1103 Wallace Drive to accommodate a new light industrial building consistent with the current LI (Light Industrial) zoning district and Wallace Drive Overlay District regulations.

Aerial View - Pictometry of the Area Surrounding the Requested Abandonment Area



Review and Analysis

Pursuant to **LDR Section 2.1.5(E)(5)(g), The Planning and Zoning Board: Duties, powers, and responsibilities**, *the Board shall review and make recommendations to the City Commission the abandonment of rights-of-way or public easements excepting single purpose easements.*

The City Commission meeting date will be determined following the Board's recommendation of approval or denial.

Pursuant to **LDR Section 2.4.9(B)(1), Abandonment of right-of-way: Rule**, *public right-of-way may be abandoned (returned) to the fee description of adjacent property to the same degree in which it was originally obtained, i.e. property dedicated exclusively from a single parcel shall be returned to that parcel; property dedicated through subdivision shall be divided at the center line and returned equally to abutting parcels. Abandonment of right-of-way may be granted by a formal resolution enacted by the City Commission.*

A portion of the right of way will be returned to 1043 Wallace Drive, and a portion will be returned to 1103 Wallace Drive.

Pursuant to **LDR Section 2.4.9(B)(6), Abandonment of right-of-way: Findings**, *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.*

There are water and sewer utilities within the abandonment area. In consideration of the findings above, the City has identified no current or future need for this specific area of right-of-way, aside from the utilities. The City has agreed that the abandonment can be granted, if a General Utility Easement (GUE) is recorded. The applicant intends to develop 1043 and 1103 Wallace Drive as a unified

development and plans to relocate the water and utilities from the abandonment area at the time of building permit, at which time the GUE would be abandoned. Therefore, the abandonment will not impact the provision of utilities to adjacent properties.

Additionally, the subject abandonment request would not prevent access to a lot of record; the adjacent properties do not take access from the area.

Pursuant to **LDR Section 2.4.9(B)(5), Abandonment of right-of-way: Conditions**, conditions may be imposed upon an abandonment to:

- (a) *Ensure timely consummation.*
- (b) *Ensure compliance with required findings.*
- (c) *Require enhancement of the (to be) former right-of-way in order to accomplish certain objectives and policies of the Comprehensive Plan e.g., street beautification.*
- (d) *Require replacement easements and/or relocation of existing utilities, as may be appropriate.*
- (e) *Cause reversion or voiding of the abandonment in the event of a failure to comply with other conditions.*

The subject request contains a provisional requirement requiring the applicant to provide a General Utility Easement satisfactory to the City for each property owner receiving land over the abandonment area. The easement must be reviewed by City Commission concurrent with the abandonment request, and the easement recorded by the Palm Beach County Office of Public Records concurrent with the recordation of the right-of-way abandonment, if approved.

Pursuant to **LDR Section 3.1.1, Required Findings** the Planning and Zoning Board is also required to determine if the request is consistent with the Comprehensive Plan. The following Comprehensive Plan policies are related to abandonments of rights-of-ways and the Wallace Drive Redevelopment Plan:

Mobility Element

Policy MBL 2.7.7 *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.*

The subject right-of-way is an unimproved street portion that wedges between private properties. The City has no identified use for the right-of-way portion on any adopted roadway plans. A GUE for City water and sewer lines will be recorded in place of the right of way deed, as discussed above.

Neighborhoods, Districts, and Corridors Element

Policy NDC 2.2.1 *Maintain and enhance the tightly gridded, interconnected street network that facilitates the dispersal of traffic and contributes to the character of Delray Beach using the following Complete Streets techniques, where appropriate:*

- *Design streets to be safe, comfortable, and attractive for pedestrians, cyclists, and drivers.*
- *Do not close or abandon streets or alleys and encourage connectivity of vehicular, pedestrian and bicycle routes.*
- *Provide links to regional bicycle/pedestrian networks.*
- *Reinvest in roadway infrastructure, such as intersections, signalization, and turning movements without increasing the number of through vehicular lanes.*

The proposed abandonment area does not serve any of the functions provided in NDC 2.2.1 of the Always Delray Comprehensive Plan. The gridded, interconnected street and alley network that facilitates the dispersal of traffic and contributes to the character of Delray Beach, especially in the Central Business District, is not impacted by this abandonment. No improvements are proposed by the City for the subject right-of-way, and the right-of-way segment is not identified on the Interim Bicycle and Pedestrian Master Plan. Additionally, there is already an existing nearby intersection, and creating another intersection at this location would only create traffic conflicts; this unimproved portion is not necessary as a circulation route for adjacent properties.

Policy NDC 2.7.15 *Evaluate and update the Wallace Drive Industrial Area Redevelopment Plan, which was adopted in 2004, and continue to encourage the development of light industrial uses, and limited commercial and office uses and support aggregation of parcels for new development. New improvements and development shall comply with the provisions of the adopted Plan until an updated plan is adopted.*

The Wallace Drive Redevelopment Plan recommends aggregation of properties for development throughout the redevelopment area, including the properties east of Wallace Drive. Per the Guidelines for Redevelopment of the Area, Aggregation of Property (Page 19), “...Unimproved and under-improved rights-of-way shall be abandoned when it facilitates the aggregation of parcels and larger scale development, provided that the right-of-way is not essential for traffic flow purposes.

Efforts shall be made to promote aggregation of parcels prior to any further development. However, given the existing development pattern, it is unlikely that abandonment of any right-of-ways will be necessary to facilitate property aggregation. However, it is recommended that the unimproved SW 11th Street right-of-way, between Wallace Drive and SW 10th Avenue, be abandoned. The existing roadway configuration does not warrant another intersection in this area, since the connection point is only 250 feet from the existing Wallace Drive/SW 10th Avenue Intersection. Additional access is not needed for the adjacent properties and another intersection would create unnecessary traffic conflicts. Since the City currently owns the property on the north side of the right-of-way, the abandonment will not in itself facilitate aggregation. It will, however, increase the size of the existing single-family parcel to the south and improve its redevelopment potential...”

The Redevelopment Plan recommends the abandonment of this unimproved portion of SW 11th Street right-of-way because the existing roadway configuration does not warrant another intersection in this area. The subject area is only 250 feet from the existing Wallace Drive/SW 10th Avenue intersection. Furthermore, additional access is not needed for the adjacent properties and adding another intersection would create unnecessary traffic conflicts. Granting the abandonment would support the Plan goal of fostering redevelopment through parcel / land assemblage.



Facing north from right-of-way



Facing south from right-of-way

Recommendation of the City Engineer

The recommendation of the City Engineer is to approve abandonment request, contingent upon the dedication of an exclusive General Utility Easement to the benefit of the City to maintain the provision of utilities.

Review By Others

The City Commission will review the abandonment request and make a determination at an upcoming meeting (anticipated for January 16, 2024).

Options for Board Action

- A. Move a **recommendation of approval** to the City Commission of **Resolution No. 03-24**, to abandon an unimproved right-of-way totaling approximately 8,898 square feet located on a portion of SW 11th Street between 1043 and 1103 Wallace Drive, by adopting the findings of fact and law contained in the staff report, and finding that the request and approval thereof is consistent with the Comprehensive Plan and meets the criteria set forth in the Land Development Regulations.
- B. Move a **recommendation of approval, as amended**, to the City Commission of **Resolution No. 03-24**, to abandon an unimproved right-of-way totaling approximately 8,898 square feet located on a portion of SW 11th Street between 1043 and 1103 Wallace Drive, by adopting the findings of fact and law contained in the staff report, and finding that the request and approval thereof is consistent with the Comprehensive Plan and meets the criteria set forth in the Land Development Regulations.
- C. Move a **recommendation of denial** to the City Commission of **Resolution No. 03-24**, to abandon an unimproved right-of-way totaling approximately 8,898 square feet located on a portion of SW 11th Street between 1043 and 1103 Wallace Drive, by adopting the findings of fact and law contained in the staff report, and finding that the request and approval thereof is not consistent with the Comprehensive Plan and meets the criteria set forth in the Land Development Regulations.

Public and Courtesy Notices

Courtesy Notices were provided to the following:

- No applicable homeowner associations.

Public Notice was mailed to property owners within a 500' radius 20 days before the meeting date.

The meeting agenda was published seven days before the meeting date.

Public Notice was posted to the City's website 10 days prior to the meeting.

Public Notice was posted in the main lobby at City Hall 10 days prior to the meeting.