

RESOLUTION NO. 03-24

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, PROVIDING FOR THE ABANDONMENT OF INTEREST IN A PORTION OF UNIMPROVED RIGHT-OF-WAY LYING BETWEEN 1043 AND 1103 WALLACE DRIVE, TOTALING APPROXIMATELY EIGHT THOUSAND EIGHT HUNDRED AND NINETY-EIGHT SQUARE FEET, 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 (2023-182-ABR-CCA) from Jeffrey A. Costello (“Agent”) on behalf of 1107 Wallace, LLC (“Applicant”) for the abandonment of interest in a portion of unimproved right-of-way totaling approximately eight thousand eight hundred and ninety-eight square feet (8,898 sq. ft.) (“Right-of-Way”), located between 1043 and 1103 Wallace Drive, as more particularly described in Exhibit “A”; and

WHEREAS, the northern half of the Right-of-Way was dedicated in perpetuity to the public as public highways in the Plat of Esquire Subdivision as recorded in Plat Book 23, Page 43 of the Public Records of Palm Beach County, Florida; and

WHEREAS, the southern half of the Right-of-Way was dedicated in perpetuity to the public in the Deed recorded in Deed Book 1153, Page 127 of the Public Records of Palm Beach County, Florida; and

WHEREAS, there are existing water and sewer utilities in 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, on December 18, 2023, the Planning and Zoning Board reviewed the abandonment request and voted 5 to 0 to recommend approval; and

WHEREAS, the City Commission has reviewed the application (2023-182-ABR-CCA) to abandon an unimproved portion of right-of-way totaling approximately eight thousand eight hundred and ninety-eight square feet (8,898 sq. ft.), lying between 1043 and 1103 Wallace Drive 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 Composite Exhibit "A", subject to the condition replacement general utilities easements be properly executed and recorded.

Section 4. This Resolution shall not be effective until replacement general utility easements satisfactory to the City are executed by the owners of 1043 and 1103 Wallace Drive 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 Jeffrey A. Costello, 981 Delray Lakes Drive, Delray Beach, Florida 33444.

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

Shelly Petrolia, Mayor

Approved as to form and legal sufficiency:

Lynn Gelin, City Attorney

Exhibit "A"

That portion of S.W. 11th Street lying between Wallace Drive and S.W. 10th Avenue, as more particularly described herein:

DESCRIPTION — NORTH ONE-HALF OF RIGHT-OF-WAY:

A PORTION OF ESQUIRE SUBDIVISION, AS RECORDED IN PLAT BOOK 23, PAGE 43, A OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT OF INTERSECTION OF THE EAST RIGHT-OF-WAY LINE OF WALLACE DRIVE/GERMANTOWN ROAD AND THE NORTH LINE OF LOT 30, SECTION 20, TOWNSHIP 46 SOUTH, RANGE 43 EAST ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 1, PAGE 4 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; SAID POINT ALSO BEING THE SOUTHWEST CORNER OF THE SAID ESQUIRE SUBDIVISION; THENCE N22°26'33"W, ALONG THE EAST RIGHT-OF-WAY LINE OF WALLACE DRIVE, A DISTANCE OF 27.42 FEET; THENCE N88°11'02"E, ALONG THE SOUTH LINE OF LOT 16 OF, ESQUIRE SUBDIVISION, A DISTANCE OF 167.41 FEET; THENCE S00°09'44"E, ALONG THE WEST RIGHT OF WAY LINE OF S.W. 10TH AVENUE, A DISTANCE OF 25.01 FEET; THENCE S88°11'02"W, ALONG THE CENTER LINE OF S.W. 11TH STREET AND THE SOUTH LINE OF SAID ESQUIRE SUBDIVISION (ALSO BEING THE NORTH LINE OF SAID LOT 30), A DISTANCE OF 177.95 FEET TO THE **POINT OF BEGINNING**.

SAID LANDS SITUATE IN SECTION 20, TOWNSHIP 46 SOUTH, RANGE 43 EAST, CITY OF DELRAY BEACH, PALM BEACH COUNTY, FLORIDA
SAID LANDS LYING IN PALM BEACH COUNTY, FLORIDA
CONTAINING 4316.95 SQUARE FEET, MORE OR LESS.

Together with:

DESCRIPTION — SOUTH ONE-HALF OF RIGHT-OF-WAY:

A PORTION OF LOT 30, SECTION 20, TOWNSHIP 46 SOUTH, RANGE 43 EAST, AS RECORDED IN PLAT BOOK 1, PAGE 4, TOGETHER WITH A PORTION OF LOT 8, BLOCK D, SUNNY ACRES, AS RECORDED IN PLAT BOOK 21, PAGE 63, ALL OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT OF INTERSECTION OF THE EAST RIGHT-OF-WAY LINE OF WALLACE DRIVE/GERMANTOWN ROAD AND THE NORTH LINE OF LOT 30, SECTION 20, TOWNSHIP 46 SOUTH, RANGE 43 EAST ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 1, PAGE 4 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; THENCE N88°11'02"E, ALONG THE CENTER LINE OF S.W. 11TH STREET, A DISTANCE OF 177.95 FEET; THENCE S00°09'44"E, A DISTANCE OF 25.01 FEET; THENCE S88°11'02"W, A DISTANCE OF 188.49 FEET TO THE EAST LINE OF WALLACE DRIVE/GERMANTOWN ROAD; THENCE N22°26'33"E, A DISTANCE OF 27.42 FEET ALONG THE EAST LINE OF SAID WALLACE DRIVE **POINT OF BEGINNING**.

SAID LANDS SITUATE IN SECTION 20, TOWNSHIP 46 SOUTH, RANGE 43 EAST, CITY OF DELRAY BEACH, PALM BEACH COUNTY, FLORIDA
SAID LANDS LYING IN PALM BEACH COUNTY, FLORIDA
CONTAINING 4580.56 SQUARE FEET, MORE OR LESS.