



DEVELOPMENT SERVICES

BUILDING | HISTORIC PRESERVATION | PLANNING & ZONING

PLANNING AND ZONING BOARD STAFF REPORT

Abandonment of Right-of-Way Bisecting 2001 South Federal Highway

Meeting	File No.	Application Type
May 20, 2024	2024-052-ABR-CCA	Abandonment of Right-of-Way
Applicant	Property Owner	Authorized Agent
MDR Motors LLC	City of Delray Beach	Michael Weiner, Sachs Sax Caplan PL

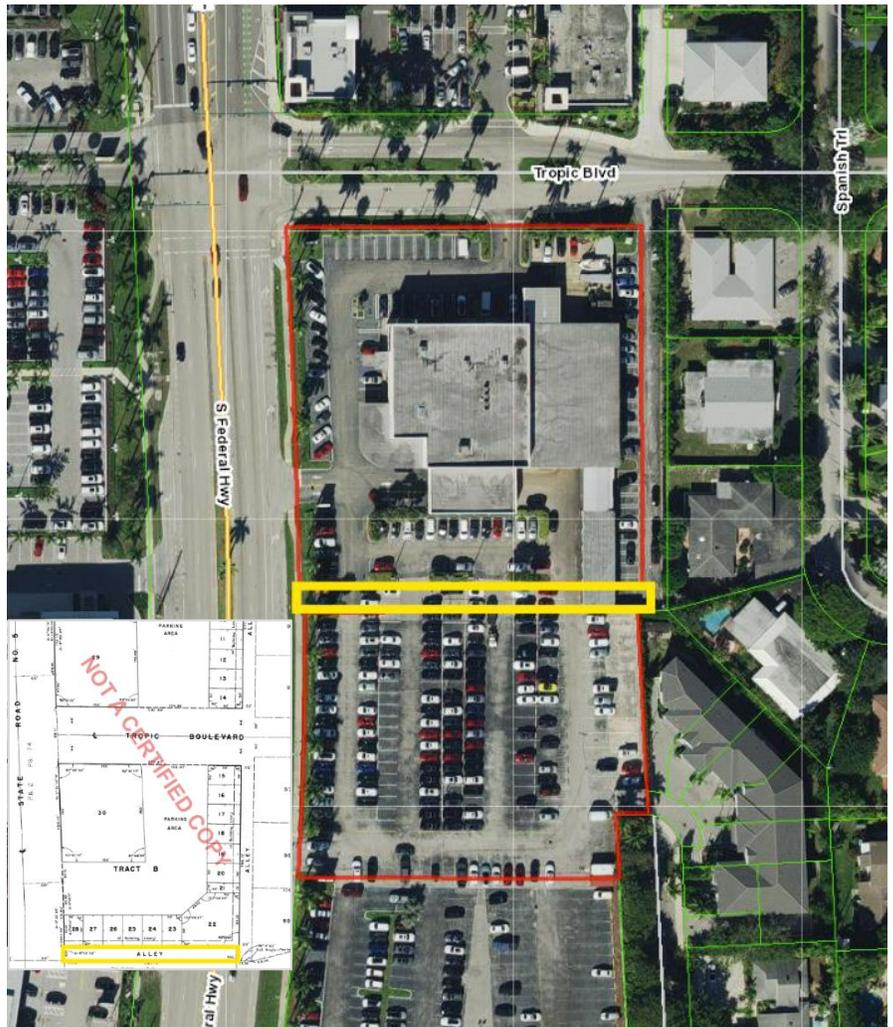
Request

Provide a recommendation to the City Commission regarding a privately initiated request to abandon a 20-foot-wide portion of City-owned Right-of-Way bisecting 2001 South Federal Highway, totaling approximately 5,302 square feet in area.

Background Information

The property under consideration bisects 2001 South Federal Highway, which consists of Lots 1-13, Block 38) and a portion of Avenue "A" of the Plat of Del-Raton Park (recorded in 1926 in Plat Book 14, Pages 9 and 10), and Lots 15-28, inclusive, Lot 30, and parcel designated as "Parking Area" in Tract B) of the Gateway Shopping Center Plat (recorded in 1957 in Plat Book 25, Page 76). The alley is depicted on the Gateway Shopping Center Plat as a 20-foot right-of-way south of Tract B (image below).

The site is zoned Automotive Commercial (AC) with land use General Commercial (GC). The property has been used as a Mazda dealership since 1981 and consists of four buildings. Building 1 is a two-story, 30,314 square foot building, constructed in 1981, and consists of the main dealership building with attached service bays; Building 2 is a one-story 1,872 square-foot building constructed in 1991, and consists of the detail bays; Building 3 is a one-story, 456 square foot warehouse storage building, constructed in 1981; and Building 4 is a one-story, 200 square foot building used for warehouse storage.

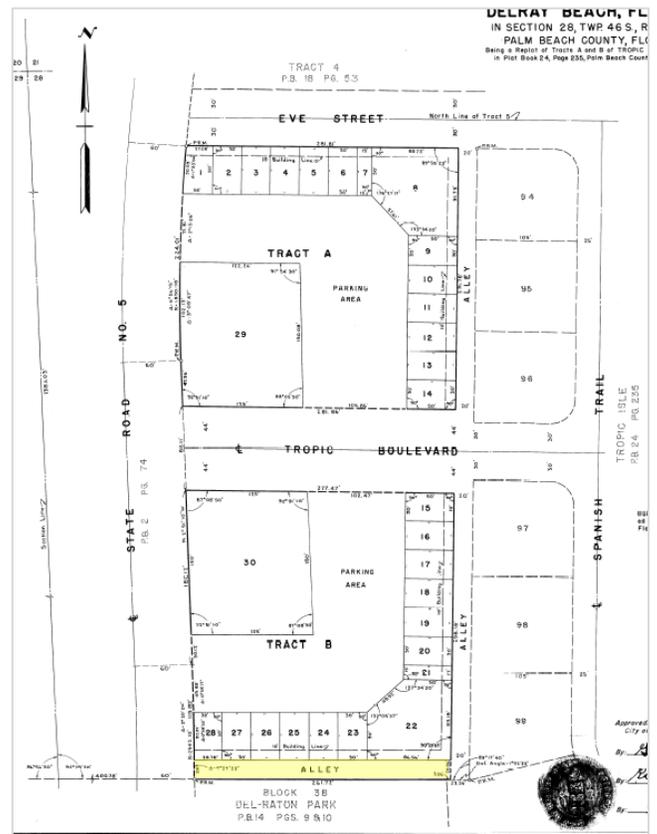


Project Description

The request is for the abandonment of City-owned right-of-way consisting of a 20-foot-wide alley bisecting 2001 South Federal Highway. The subject area is approximately 5,302 square feet.

The abandonment is requested to accommodate the expansion of the facility. A plat exemption is being simultaneously processed to legally combine the lots referenced above (which are only combined for tax purposes), pursuant to LDR requirements. The requested abandonment is a necessary precursor to the approval of the plat exemption and site plan consideration, due to the proposed configuration of the building.

In the event that the abandonment request is granted, obligations may be incurred (i.e. additional land or additional property taxes) as the abandoned area will become part of Tract B of the Gateway Shopping Center Plat, recorded in Book 25, Page 76. If approved, the receiving property owners will be obligated to maintain and develop the area in accordance with the City of Delray Beach Code of Ordinances, Land Development Regulations, and any other applicable local, state, and federal regulations.



Review and Analysis

LDR Section 2.4.9(B)(4)(d), Public Right of Way and Easement Abandonments

Upon receipt of all review comments, the application with the recommendation of the City Engineer shall be forwarded for review at an advertised public hearing before the Planning and Zoning Board. The recommendation of the Planning and Zoning Board shall be forwarded to the City Commission.

The Planning and Zoning Board recommendation is based on a determination that the request, and approval thereof, is consistent with the Comprehensive Plan and meets the criteria set forth in the Land Development Regulations. The City Engineer recommends the approval of the request for abandonment of the east-west alley right-of-way between S Federal Highway and the north-south alley at 2001 S Federal Highway (lettr attached). The Board's recommendation will be provided to the City Commission for consideration at an upcoming meeting; the date is pending.

LDR Section 2.4.9(B)(1), Abandonment of right-of-way: General

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.

The subject Right-of-Way was dedicated in perpetuity 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. In the event that the abandonment request is granted, the abandoned area will become part of Tract B.

LDR Section 2.4.9(B)(4)(f), Abandonment of right-of-way: Procedure

If approved, the abandonment shall be approved by a resolution of the City Commission. After adoption, the resolution shall be recorded in the public records of Palm Beach County. Where deemed necessary by the City Engineer, an abandonment shall be consummated through the filing of a boundary plat, or replat, of the property to be abandoned and the receiving properties.

It has been determined by the City Engineer that if the City Commission approves the request to abandon the subject right-of-way, the abandonment should be approved concurrent with a general utility easement agreement to provide public and private utilities. The easement will be considered by Commission concurrent with the abandonment request. The proposed general utility easement is provided as an attachment for information purposes only.

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 right-of-way proposed for abandonment 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 applicant must provide a general utility easement agreement. The abandonment will be approved and recorded concurrently with the GUE.

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.*

While the abandonment of the subject right-of-way is not anticipated to have adverse effects, surrendering City-held property to private landowners impedes the ability of the City to control the land and decisions made around it, at least in part. This could include direct impact, such as traffic circulation, location of waste service or utilities, and other possibilities not yet known. As the 20-foot-wide City-owned Right-of-Way has an existing structure and parking spaces and has not been useable as a Right-of-Way for several decades, staff does not, however, anticipate that the granting of the abandonment would further impede the use of the right-of-way for public purposes more than it already has been. As noted above, a general utility easement will be recorded, granting the City of Delray Beach a perpetual exclusive easement for the purpose of the construction and maintenance of public utilities/drainage facilities with full and free right to enter upon and to install, operate and maintain such facility.

Abandonment of rights-of-way could indirectly impact the scale, massing, density, intensity, and layout of a given site. For example, if the abandonment is approved, the receiving property would have an additional 5,302 square feet of developable area added to the 3-acre property. However, the Right-of-Way is already being used for other purposes, and the impacts are already realized.

The subject property is adjacent to Multiple Family Residential (RM) zoned properties to the east. The subject alley was connected to a north/south alley that divides the adjacent residential homes from the automotive dealership. Abandoning the subject alley would continue to support the separation of uses.

The abandonment of this right-of-way is not anticipated to create an unsafe situation, as there is no existing ingress/egress to the alley, and the necessary utility infrastructure can still be provided. If further site plans modifications are necessitated or proposed, reviews of safety issues will be reviewed at such time.

Comprehensive Plan

In addition to the findings for the abandonment of rights-of-way, the following Comprehensive Plan policies are related to abandonments of rights-of-way:

Mobility Element

Policy MBL 1.2.2 *Implement context-sensitive Complete Streets principles, where appropriate, in the planning, programming, and construction of new City roadways, redesigns, and resurfacing of existing roadways to address the needs of all users, including motorists,*

bicyclists, transit riders, and pedestrians of all ages and abilities. Provide landscaping, shading, protected lanes, pedestrian scale lighting and speed-reduction measures that support a pleasant environment for pedestrians and bicyclists.

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.

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 alley is not currently useable as such; existing parking, landscaping, and a portion of Building 2 are located in the alley. The majority of the alley network platted in the 1926 Del-Raton plat has been eliminated with the parcel agglomeration in the area. While initially platted for residential use, and utilized an extensive alley network and small blocks, the block pattern has since been reconfigured to support the automobile dealership industry, which requires large lots (image below).



Abandonment of the alley is consistent with the long-established development pattern of the area.

Board Considerations

The following should be considered by the Board in making a recommendation to the City Commission:

Whether the request meets the findings for abandonments, including:

- (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.*

Review By Others

The **City Commission** will review the subject ROW Abandonment at an upcoming meeting pending confirmation of approval from Utility Providers.

Alternative Actions

- A.** Move a **recommendation of approval** to the City Commission regarding a privately initiated request to abandon a 20-foot-wide portion of City-owned Right-of-Way bisecting 2001 South Federal Highway totaling approximately 5,302 square feet, 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 Section 2.4.9(B)(6) of the Land Development Regulations.
- B.** Move a **recommendation of approval, as amended**, to the City Commission regarding a privately initiated request to abandon a 20-foot-wide portion of City-owned Right-of-Way bisecting 2001 South Federal Highway totaling approximately 5,302 square feet, 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 Section 2.4.9(B)(6) of the Land Development Regulations.
- C.** Move a **recommendation of denial** to the City Commission regarding a privately initiated request to abandon a 20-foot-wide portion of City-owned Right-of-Way bisecting 2001 South Federal Highway totaling approximately 5,302 square feet, by finding that the request and approval thereof is not consistent with the Comprehensive Plan and does not meet the criteria set forth in Section 2.4.9(B)(6) of the Land Development Regulations.

Public and Courtesy Notices

NA Courtesy Notices

 x Public Notice was mailed to adjacent property owners and property owners within a 100' radius on April 30, 2024, 20 days before the meeting date.

 x Public Notice was posted to the City's website on May 10, 2024.

 x Public Notice was posted in the main lobby at City Hall on May 10, 2024.