



# DEVELOPMENT SERVICES

BUILDING | HISTORIC PRESERVATION | PLANNING & ZONING

## PLANNING AND ZONING BOARD STAFF REPORT

### Abandonment of the Davis Road Right-of-Way Terminus

Meeting	File No.	Application Type
May 16, 2022	2021-128-ABR-CCA	Abandonment of Right-of-Way (Street)
Applicant	Property Owner	Authorized Agent
Chad Shoemaker	The City of Delray Beach	N/A

#### Request

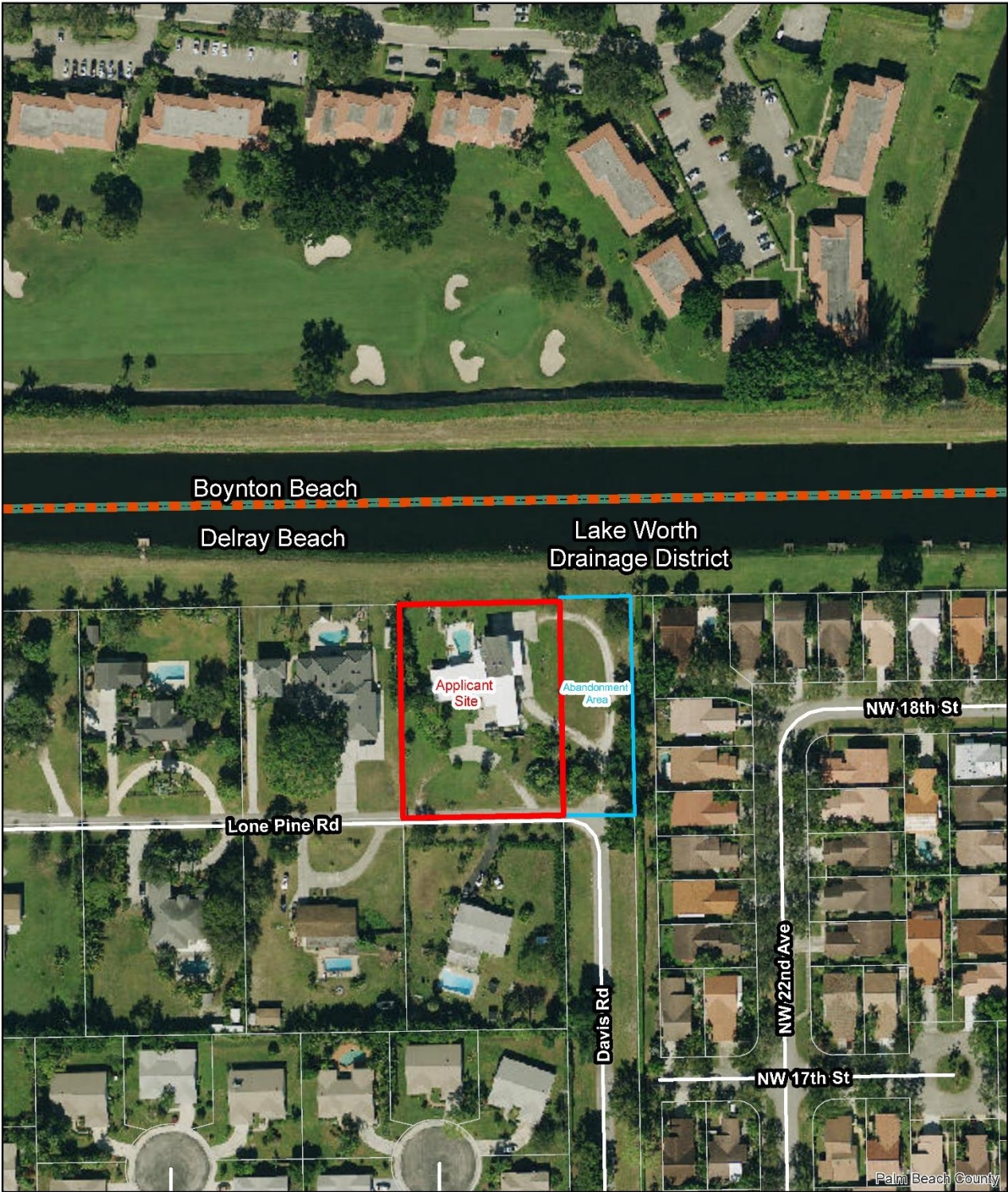
Provide a recommendation to the City Commission regarding the abandonment of a 17,059 square foot area of unimproved City-owned right-of-way (street) located at the terminus of Davis Road.






#### Background Information

Davis Road is an 80-foot-wide City-owned right-of-way that spans from the Lake Worth Drainage District's L-30 Canal to the neighborhoods just south of Lake Ida Road, which includes Delray Shores. The portion of Davis Road right-of-way that is under consideration was created by two right-of-way deeds, originally dedicated to Palm Beach County in 1959 as recorded in the Official Records Book (ORB) 370, pages 591 and 593 of Palm Beach County Clerk of the Circuit Court. ORB 370, page 591 indicates the eastern half of the 80-foot-wide by 213.24-foot-long right-of-way was dedicated by right-of-way deed, with the remaining western half recorded through a right-of-way deed dedicated on page 593. The eastern portion of the right-of-way was part of a larger area of land annexed into Delray Beach on October 24, 1972, through Ordinance No. 35-72. The western portion of the right-of-way was part of a larger area of land annexed into Delray Beach on July 26, 1988, through Ordinance No. 73-88.

Multiple subdivisions take access from Davis Road south of the requested abandonment area, this includes Riviera Drive, Northwest 10<sup>th</sup> Place, and Lone Pine Road. No direct access points to subdivisions are taken from the proposed abandonment area as it is the dead end of Davis Road. The surrounding area was developed as an entirely suburban residential area in the mid-1970s through the mid-1980s through the Rainberry and Lone Pine Road Subdivisions located between the L-30 Canal to the North, Rainberry Villas Home Owners Association Tract to the East, The Lone Pine Road Community and Sabal Lakes Communities to the West, and Lake Ida Road to the South. Lone Pine Road is a private road which takes access from Davis Road, south of the area proposed for abandonment and is an unrecorded platted area.

**Location Map (next page)**

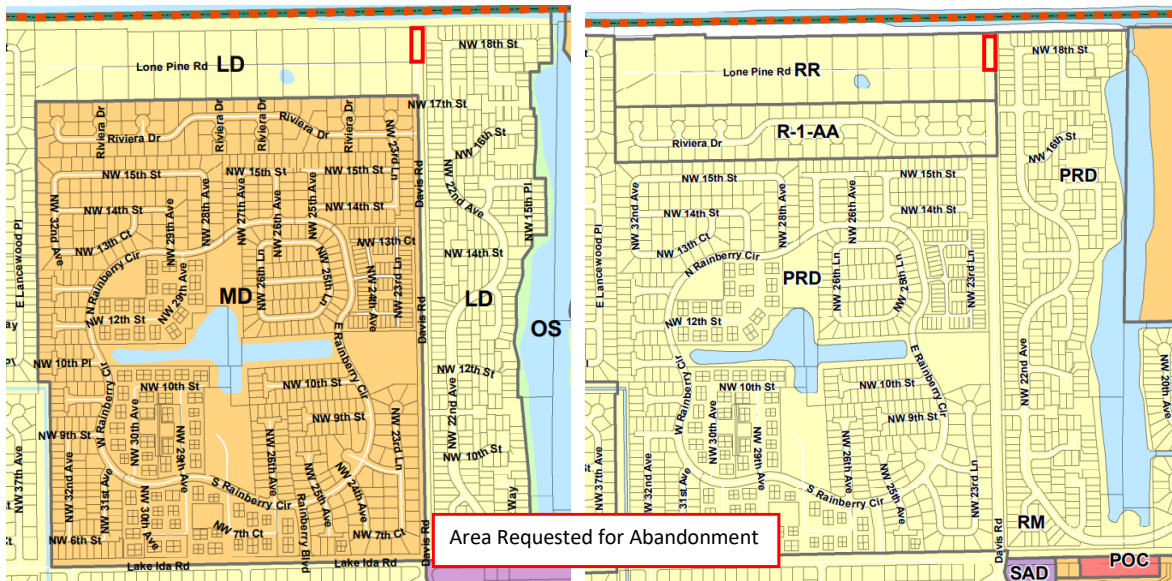


<b>3523 Lone Pine Abandonment</b>	 Municipal City Limits	 Applicant Site
	 Planning Area	 Abandonment Area
		 0 50 100 Feet



The Land Use in the surrounding area is either Low Density or Medium Density, and the Zoning is Rural Residential, R-1-AA, Planned Residential Development, or Residential Medium Density.

Pictured Below: Land Use Map (Left), Zoning Map (Right)



No area specific master plans or redevelopment plans have been identified for the area or are proposed in the Capital Improvements Plan. The interim Bicycle and Pedestrian Master Plan, recognized through the City Commission in Resolution 62-14 does not acknowledge the L-30 Canal or Davis Road for improvements. The City is undergoing an update to this plan to identify additional routes for consideration (information available at [www.walkbikedelraybeach.com](http://www.walkbikedelraybeach.com)).

### Project Description

The request is for the abandonment of an unimproved street right-of-way located adjacent to the single-family property at 3523 Lone Pine Road at the northern terminus of Davis Road totaling approximately 17,059 square feet. The subject area is an 80-foot-wide right-of-way tract dedicated exclusively via Right-of-Way Deed to Palm Beach County and was subsequently annexed into Delray Beach.

Attached is the survey of the property, engineering recommendation, and applicant justification statement. No site plan is associated with this request. The Lake Worth Drainage District has requested the City reserve in the District's favor a 40 exclusive access easement, which is included in the proposed resolution for consideration by the Commission, pending the recommendation of the Planning and Zoning Board.

### Area Images

Left: Facing northwest from property. Right: Aerial photo of the Abandonment Area



## Review and Analysis

Pursuant to **LDR Section 2.2.2(E)(3)(e), 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.

Pursuant to **LDR Section 2.4.6(M)(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.

The subject right-of-way was created via exclusive right-of-way deeds to Palm Beach County in 1959. The land was annexed into Delray Beach in 1972 and 1988. As the properties were dedicated via right-of-way deed, the properties will be returned to the heirs, successors, and assigns of the adjacent property owner at 3523 Lone Pine Road.

Pursuant to **LDR Section 2.4.6(M)(2), Abandonment of right-of-way: Required information**, the following is required for the request to be accepted for consideration.

- (a) An application form as promulgated by the City Engineer
- (b) A survey of the property which is to be abandoned with said survey showing all improvements (including utility locations) which are within or immediately adjacent to the property to be abandoned; and including adjacent property lines and identification of property owners and business located thereon.
- (c) A mailing list containing the information described in Section 2.4.2(B)(1)(m)

The applicant has satisfied the requirements of LDR Section 2.4.6(M)(2).

Pursuant to **LDR Section 2.4.6(M)(3), Abandonment of right-of-way: Procedure**, upon receipt of the above information, the following procedures shall be followed under the direction of the City Engineer:

- (a) Certification that the submittal is complete and accurate;
- (b) Distribution of the application and survey to all utilities who have or may have facilities within the easement or adjacent to it;
- (c) Distribution to appropriate City departments who may have an interest in the property, e.g. Fire Department, Police Department, Parks and Recreation Department;
- (d) Notification pursuant to [Section 2.4.2\(B\)\(1\)\(i\)](#).
- (e) 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;
- (f) If approved, the abandonment shall be evidenced 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.

The City Engineer and Development Services Department are responsible for the processing of applications for abandonments of rights-of-ways. Staff of these departments have completed the actions as required in (a), (b), and (c). Staff has provided notifications as required under (d) pursuant to LDR 2.4.2 (B)(1)(i) by the required times and dates. The Planning and Zoning Board will consider (e), the City Engineer's recommendation, which will be forwarded along with the Planning and Zoning Board's recommendation to the City Commission as required under (f).

Pursuant to **LDR Section 2.4.6(M)(4), Abandonment of right-of-way: *Conditions***, conditions may be imposed upon an abandonment to:

- (a) *Insure timely consummation;*
- (b) *Insure 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 that the applicant provide a 40-foot-wide exclusive access easement to the Lake Worth Drainage District on the eastern half of the right-of-way. The access easement is required to consummate the abandonment of the right of way if the abandonment is approved.

Pursuant to **LDR Section 2.4.6(M)(5), 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.*

In consideration of the findings above, the City has no need now, nor in the future for this specific area of right of way. Additionally, the subject abandonment request would not prevent access to a lot of record; the adjacent property at 3523 Lone Pine Road will be receiving the land, where access is already provided from Lone Pine Road. Further, the abandonment will not impact the provision of access or utilities to adjacent properties. The easement required for the Lake Worth Drainage District to access the L-30 canal ensures that access is maintained.

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:

### **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 terminus that dead ends at the L-30 Canal. The City has no identified use for this canal on any adopted plans. The property in the past has been utilized by the Lake Worth Drainage District to maintain the Lateral-30 (L-30) Canal and requested the City reserve an exclusive access easement of the easterly 40' of right-of-way in the instance the public right-of-way is abandoned. The attached survey provides for "Exhibit B", the location of the easement area reserved for the LWDD for the purposes of maintaining the L-30 Canal.

### **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 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. Davis Road is a dead-end street at Lone Pine Road and no improvements are proposed for said area. Additionally, the proposed abandonment area does not serve any of the functions provided in NDC 2.2.1 The following are also provided as part of the Board's consideration:

- The street is not presently used by the City.
- The street could not be connected to any connection either north of the canal, or on either side of the right-of-way.
- The link is not identified on the Interim Bicycle and Pedestrian Master Plan.
- No roadway infrastructure is needed for reinvestment at this location.

#### Recommendation of the City Engineer

The recommendation of the City Engineer is to approve abandonment request, contingent upon the dedication of an exclusive access easement to the LWDD to maintain the L-30 Canal.

#### Review By Others

No additional review is required or deemed necessary.

#### Alternative Actions

- Move a **recommendation of approval** to the City Commission of **Resolution No. 59-22**, to abandon an eighty-foot-wide right-of-way totaling approximately 17,059 square feet located adjacent to the northern terminus of Davis Road, 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.
- Move a **recommendation of approval, as amended**, to the City Commission of **Resolution No. 59-22**, to abandon an eighty-foot-wide right-of-way totaling approximately 17,059 square feet located adjacent to the northern terminus of Davis Road, 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, subject to the submittal and consummation of an access easement reserved for the benefit of LWDD.
- Move a **recommendation of denial** to the City Commission of **Resolution No. 59-22**, to abandon an eighty-foot-wide right-of-way totaling approximately 17,059 square feet located adjacent to the northern terminus of Davis Road, 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.

#### Public and Courtesy Notices

<p><u><b>x</b></u> Courtesy Notices were provided to the following:</p> <ul style="list-style-type: none"> <li>• Villas of Rainberry Homeowners Association</li> </ul>	<p><u><b>-</b></u> Public Notices are not required for this request.</p> <p><u><b>N/A</b></u> Public Notice was posted at the property on (insert date)</p> <p><u><b>x</b></u> Public Notice was mailed to property owners within a 500' radius on (insert date), ten days before the meeting date.</p> <p><u><b>x</b></u> Public Notice was mailed to the adjacent property owners on (insert date), twenty days before the meeting date.</p> <p><u><b>x</b></u> Public Notice was published in the (insert newspaper) on (insert date), seven days before the meeting date.</p> <p><u><b>x</b></u> Public Notice was posted to the City's website on (insert date).</p> <p><u><b>x</b></u> Public Notice was posted in the main lobby at City Hall on (insert date).</p>
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