



Cover Memorandum/Staff Report

File #: 22-715

Agenda Date: 11/1/2022

Item #: 7.A.

TO: Mayor and Commissioners
FROM: Anthea Gianniotis, Development Services Director
THROUGH: Terrence R. Moore, ICMA-CM
DATE: November 1, 2022

RESOLUTION NO. 59-22: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, PROVIDING FOR THE ABANDONMENT OF INTEREST IN A FIFTY FIVE FOOT WIDE PORTION OF RIGHT-OF-WAY LOCATED AT THE NORTHERN TERMINUS OF DAVIS ROAD, TOTALING APPROXIMATELY ELEVEN THOUSAND SEVEN HUNDRED AND THIRTY SQUARE FEET (11,730 SQ. FT.), AS MORE PARTICULARLY DESCRIBED HEREIN, PROVIDING FOR AN EFFECTIVE DATE, AND FOR OTHER PURPOSES.

Recommended Action:

Review and consider Resolution No. 59-22, abandoning the interest in a 55-ft. wide portion of right-of-way.

Background:

Davis Road is an 80-foot-wide City right-of-way that spans from the Lake Worth Drainage District's (LWDD) L-30 Canal, past the Rainberry Lake and Rainberry Bay Subdivisions to Lake Ida Road, which includes Delray Shores. The portion of Davis Road requested for right-of-way abandonment is currently unimproved and 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 through 594 of Palm Beach County Clerk of the Circuit Court. ORB 370, pages 591-592 indicate 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 pages 593-594. The eastern 40 feet of the subject right-of-way was annexed into Delray Beach on October 24, 1972, through Ordinance No. 35-72. The western portion of the right-of-way was annexed into Delray Beach on July 26, 1988, through Ordinance No. 73-88. Both annexations included large areas incorporated into the city.

Currently, residents of the area utilize the unimproved right-of-way for public access the LWDD L-30 canal for passive recreational activities (fishing, walking, bicycling) on the unimproved area as allowed by the LWDD. No motorized recreational activity is allowed on the LWDD L-30 Canal and any motor vehicles wishing to traverse the LWDD right-of-way must acquire a LWDD Permit.

The right-of-way dedication was created for "public highway purposes" according to the right-of-way deeds. There are no driveway access points to the area, and neither Boynton Beach nor the City plan to create such a roadway.

The applicant desires to secure the area as there is an unclear definition to the Davis Road right-of-way terminus and the LWDD L-30 Canal.

No direct access points to subdivisions are taken from the proposed abandonment area as it is the dead end of Davis Road. Multiple subdivisions take access from Davis Road between Lake Ida Road and the LWDD L-30 Canal south of the requested abandonment area, this includes Riviera Drive, Northwest 10th Place, and Lone Pine 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.

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. A location map including aerial photography and the approximate location of the requested abandonment area is attached for reference. A survey of the abandonment area is also attached.

Required Findings LDR Section 2.4.6(M)(5)

- (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.

Additional Comprehensive Plan Policies based on feedback provided at the Planning and Zoning Board Meeting.

Objective OPR 2.3 Beach, Waterways, and Natural Areas Access Public access to beach areas and the Intracoastal Waterway shall be retained and enhanced, while protecting the natural environment.

Public input received prior to and at the Board meeting on the request included:

- ☐ Support and opposition to the abandonment of the right-of-way
- ☐ Requests for public access to be retained as a condition of abandonment
- ☐ Community utilization of the space for recreational and maintenance purposes
- ☐ General inquiries regarding maintenance responsibilities of the area
- ☐ Fairness of abandoning rights-of-ways for any purposes, including access or development purposes

On May 16, 2022, the Planning and Zoning Board recommended denial by a vote of 6 to 1 and offered the following comments:

The Board was not supportive of:

- ☐ Abandoning the right-of-way in full without retaining access for passive recreational uses.
- ☐ Potentially abandoning the right-of-way where the fire or police department would require access.

The Board was supportive of:

- ☐ Retaining the eastern 40' of the 80' existing right-of-way for public access, including the Lake Worth Drainage District - creating a similar, yet smaller condition.
 - ☐ Requiring access for Lake Worth Drainage District, regardless of abandonment.
 - ☐ The Board discussed a potential option of only abandoning the western 40 feet and retaining a public access easement to preserve the 40 forty feet as a public access way. Ultimately, the Board considered a motion to deny the request, which passed 6-1.

City Attorney Review:

N/A

Funding Source/Financial Impact:

N/A

Timing of Request:

N/A