

RESOLUTION NO. 15-23

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, PROVIDING FOR THE ABANDONMENT OF INTEREST IN A PORTION OF RIGHT-OF-WAY ALLEY LOCATED ALONG THE EASTERN AND NORTHERN PROPERTY LINES OF 213 SOUTHEAST 2ND AVENUE, TOTALING APPROXIMATELY 1,496 SQUARE FEET, AS MORE PARTICULARLY DESCRIBED HEREIN; RETAINING GENERAL UTILITY EASEMENT; REQUIRING THE SUBMITTAL OF A PLAT TO CONSUMMATE THE ABANDONMENT; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the City of Delray Beach, Florida (“the City”) received an application (2021-236-ABR-CCA) from Tyler Knight, as owner of Hutt, LLC (“the Applicant”), for the abandonment of interest in a portion of right-of-way of a platted alley totaling 1,496 square feet located along the eastern and northern property lines of 213 Southeast 2nd Avenue (“Alley”), as more particularly described in Exhibit “A”; and

WHEREAS, the portion of the right-of-way requested for abandonment was dedicated to the old Town of Linton, now the City of Delray Beach, for public use, as recorded in Plat Book 1, Page 133 of the Public Records of Palm Beach County, Florida; and

WHEREAS, the Alley is L-shaped, borders three separately owned parcels, and is currently utilized by Florida Power and Light to provide utility services; and

WHEREAS, pursuant to LDR Section 2.4.6(4)(d), the City can require replacement easements and/or the relocation of existing utilities as a condition upon an abandonment of right-of-way; and

WHEREAS, pursuant to Section 2.4.6(3)(f), the City Engineer deemed it necessary to consummate the abandonment, if approved, through the filing of a boundary plat, or replat, of the property to be abandoned and the receiving properties because the Alley is L-shaped and borders three separately owned parcels; and

WHEREAS, LDR Section 2.4.6(4) 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 2.4.6(M)(3)(e), the Planning and Zoning Board, acting as the Local Planning Agency, formally reviewed the request at a public hearing on November 14, 2022, and voted 4 to 2 to recommend denial of the abandonment; and

WHEREAS, the City Commission has reviewed the Right-of-Way abandonment application (2021-236-ABR-CCA) to abandon a portion of the platted alleyway and has considered the respective findings set forth in the LDR and the Comprehensive Plan.

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 by this reference and are approved and adopted.

Section 2. The City Commission makes positive findings, as it pertains to the Alley as more particularly described in Exhibit "A", except for the retention of a general utility easement, (1) that there is not, nor will there be, a need for the use of the right-of-way for any public purpose, (2) that the abandonment does not, nor will not, prevent access to a lot of record, and (3) that the abandonment will not result in detriment to the provision of access and/or of utility services to adjacent properties of the general area.

Section 3. That a boundary plat, or replat, of the property to be abandoned and the receiving properties containing a reservation of a general utility easement to the City is required in order to consummate the abandonment of the Alley.

Section 4. The City Clerk, or designee, is directed to send a certified copy of this Resolution to Tyler Knight of 10 SE 1st Avenue, The Knight Group, Delray Beach, FL, 33444.

Section 5. All resolutions or parts of resolutions in conflict herewith shall be and hereby are repealed.

Section 6. This Resolution shall not be effective until the boundary plat or replat, approved by the City, is properly recorded.

PASSED AND ADOPTED in regular session on the ____ day of _____, 2023.

ATTEST:

Katerri Johnson, City Clerk

Shelly Petrolia, Mayor

Approved as to form and legal sufficiency:

Lynn Gelin, City Attorney

Exhibit "A"

Alley abandonment for a portion of a platted alley lying in Block 87 of the Plat of Linns Addition to Osceola Park as recorded in Plat Book 1, Page 3 of the Public Records of Palm Beach County, Florida, being more particularly described as follows:

Begin at the northwest corner of Lot 5, Block 87 of said Plat thence N 07 45'23"E along the west line of said Block 87 a distance of 12.13 feet to the southwest corner of Lot 1 Block 87 thence N 89 18'35"E a distance of 63.71 feet thence S 01 32'25"E along a line being the northerly extension of the west line of Lots 15 and 16 of said Block 87 also being the east line of 16 foot platted alley for a distance of 57.00 feet thence S 89 18'35"W along a line being the easterly extension of Lot 5 Block 87 for a distance of 16.00 feet thence N 01 32'25"W along the east line of said Lot 5 Block 87 a distance of 45.00 feet the S 89 18'35"W along the north line of Lot 5 Block 87 a distance of 49.67 feet to the point of beginning.

