

RESOLUTION NO. 54-17

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, PROVIDING FOR THE ABANDONMENT OF A FORTY (40') FOOT WIDE PORTION OF RIGHT-OF-WAY ALONG SOUTH MILITARY TRAIL ADJACENT TO NORTHWEST CORNER OF DELRAY SQUARE II SHOPPING CENTER AS DEEDED TO PALM BEACH COUNTY BY RIGHT-OF-WAY WARRANTY DEED RECORDED AT OFFICIAL RECORDS BOOK 5031, PAGE 70 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, AND AS MORE PARTICULARLY DESCRIBED IN EXHIBIT "A"; PROVIDING FOR CONFORMANCE WITH ABANDONMENT PROCEDURES SET FORTH IN CITY OF DELRAY BEACH CODE OF ORDINANCES AND PALM BEACH COUNTY CODE OF ORDINANCES; PROVIDING DIRECTIONS TO THE CLERK; PROVIDING FOR EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the City of Delray Beach, Florida received an application for abandonment of a 40' wide right-of-way reservation along South Military Trail for a portion of right-of-way shown on the Plat of Delray Square II recorded at Plat Book 82, Pages 63 and 64 of the Public Records of Palm Beach County, Florida, (the "Plat") and as more particularly described in Exhibit "A"; and

WHEREAS, the portion of right-of-way requested for abandonment is owned by Palm Beach County by way of *Right-Of-Way Warranty Deed* recorded at ORB 5031, Page 70 of the Public Records of Palm Beach County; and the City of Delray Beach has determined that there is not now, nor will be in the future, any use of this right-of-way for public purposes, with such finding being required by the City's Comprehensive Plan at Policy A-6.3 of the Transportation Element and Sec. 2.4.6(M) of the Land Development Regulations of the City of Delray Beach; and

WHEREAS, Sec. 22-47(12) of the Palm Beach County Code of Ordinances requires that a certified municipal resolution abandoning any interest it might have in a right-of-way portion which lies within the corporate limits of a municipality shall be attached to a petition to the County to also abandon its interest in such right-of-way prior before County action on such abandonment petition; and

WHEREAS, the subject portion of right-of-way has been shown as a portion of Tract 1A on the Plat since its recording in 1998 and has been utilized as planting area, parking spaces and driveway entrance since that time; and the area will continue as such once the abandonment petition has been acted upon by the local governments at interest; and

WHEREAS, the entire 120' portion of Military Trail right-of-way lying within the City of Delray Beach corporate limits is within the jurisdiction of the County pursuant to Table T-1, entitled *Street Network Classifications and Improvements*, set forth in the Transportation Element of the City's Comprehensive Plan, and as a result, the City appears to have no jurisdiction, reservation of rights over, nor ownership of the subject right-of-way parcel, but is willing to abandon any interest it might have under law, if any exists, in

order to expedite such abandonment under County regulations; and

WHEREAS, the City Commission of the City of Delray Beach supports the abandonment of right-of-way by both the City and Palm Beach County, thus enabling the return for private purposes of this portion of right-of-way entirely to the adjacent property owner, TSLF DELRAY JV LLC, located at 14530 South Military Trail within the Delray Square II Shopping Center.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AS FOLLOWS:

Section 1. That the forgoing recitals are hereby incorporated herein by this reference and are approved and adopted.

Section 2. That pursuant to Policy A-6.3 of the Transportation Element and Sec. 2.4.6(M) of the Land Development Regulations of the City of Delray Beach, along with Sec. 22-47(12) of the Palm Beach County Code of Ordinances, the City hereby determines that said lands are not being used now, nor will be used in the future, for Public Purposes and thus agrees to vacate and abandon such rights and interests it might hold, if any, to the following portion of right-of way lying adjacent to the northwest corner of the Delray Square II Shopping Center site, as more particularly described as follows:

See Exhibit "A" attached hereto

Section 3. The City Clerk, or designee, is directed to send a certified copy of this Resolution to Mark Rickards, AICP, 1615 S. Congress Avenue, Suite 201, Delray Beach, Florida 33445, for attachment to petition to Palm Beach County for right-of-way abandonment.

Section 4. This Resolution shall be effective immediately upon adoption.

PASSED AND ADOPTED in regular session on the 15th day of August, 2017.

Cary D. Glickstein, Mayor

ATTEST:

City Clerk

Approved as to form and legality:

R. Max Lohman, City Attorney