

RESOLUTION NO. 70-19

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, PROVIDING FOR THE ABANDONMENT OF INTEREST OF A SOUTHWEST PORTION OF THE HUNGERFORD CANAL TOTALING APPROXIMATELY THREE-THOUSAND EIGHT-HUNDRED AND FORTY-NINE (3,849) SQUARE FEET, LOCATED PERPENDICULAR TO THE C-15 CANAL, ABUTTING THE SOUTH PROPERTY LINE OF LOT 14, AS RECORDED IN THE REPLAT OF TROPIC PALM PLAT NO. 2, BOOK 33, PAGES 144 THROUGH 146 OF THE OFFICIAL RECORDS OF PALM BEACH COUNTY, FLORIDA, AND AS MORE PARTICULARLY DESCRIBED HEREIN; RETAINING A PERPETUAL EXCLUSIVE EASEMENT OVER THE EASTERLY PORTION OF THE SUBJECT PROPERTY AS MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the City of Delray Beach, Florida (“the City”) received an application for the abandonment of interest for a dry area of land totaling approximately three-thousand eight-hundred and forty-nine (3,849) square feet consisting of the Hungerford Canal (“the Canal”) right-of-way, located perpendicular to the C-15 canal, abutting the south of Lot 14, as recorded in the Tropic Palms No. 2, Plat Book 25, pages 135 through 136, and replat recorded in Plat Book 33, pages 144 through 146 of the Official Records of Palm Beach County, Florida, and as more particularly described in Exhibit “A”; and

WHEREAS, the portion of the canal requested for abandonment was dedicated to the public for perpetual use, as recorded in ORB 25, Pages 135 and 136 of the Public Records of Palm Beach County, Florida; and

WHEREAS, the City determined, but for access to a drainage pipe, there is not now, nor will there be, any need for the use of this portion of the canal for public purposes, as 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; and

WHEREAS, the City will retain a perpetual exclusive easement over a portion of the canal requested for abandonment so it can access and maintain the drainage pipe referenced above; and

WHEREAS, since the recording of the subject portion of the canal, the area of land has been used and maintain by the property owner of Lot 14 as an ancillary extension of the property and the subject area will be incorporated into the parcel once the abandonment petition has been acted upon by the local governments at interest; and

WHEREAS, the City Commission of City of Delray Beach supports the abandonment of interest, thus enabling the applicant to obtain ownership of the dry portion of the Hungerford canal located south of Lot 14,

with physical address 1300 Cormorant Road, as recorded in Tropic Palms No. 2 Replat ORB 33, Page 146, to be incorporated into the parcel and used for private purposes.

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 vacate and abandon such rights and interests it might hold, if any, to the following portion of the Hungerford Canal right-of-way, located south of Lot 656 Plat ORB 33, Page 146 or Lot 14 outside of the Replat ORB 33, Page 144 is publicly dedicated, meaning that the City of Delray Beach is the owner, as more particularly described in **Exhibit "A"** attached hereto.

Section 3. That the City of Delray Beach hereby retains and reserves until itself a perpetual exclusive easement for the purpose of the construction and maintenance of public utilities/drainage facilities (including ocean outfall line), with full and free right, liberty, and authority to enter upon and to install, operate, and maintain such facilities under, across, through and upon, over, under, or within the following described property located in Palm Beach County, Florida, more particularly described in **Exhibit "A"** attached hereto, concomitant and coextensive with this right is the further right in the Grantee, its successors and assigns, of ingress and egress over and on that portion of land described above, to affect the purposes of the easement.

Section 4. The City Clerk, or designee, is directed to send a certified copy of this Resolution to Rod A. Feiner, Esq.; Coker & Feiner, for attachment to petition to Palm Beach County for right-of-way abandonment.

Section 5. This Resolution shall be effective immediately upon adoption.

PASSED AND ADOPTED in regular session on the ____ day of _____, 2019.

ATTEST:

Katerri Johnson, City Clerk

Shelly Petrolia, Mayor

Approved as to form and legal sufficiency:

Lynn Gelin, City Attorney