



DEVELOPMENT SERVICES

BUILDING | HISTORIC PRESERVATION | PLANNING & ZONING

PLANNING & ZONING BOARD

Abandonment of Right-of-Way (Alley)

Meeting	File No.	Application Type
July 15, 2019	2019-209-ABR-CCA	Abandonment of Right-of-Way (Alley)

Board Action Options:

- A. **Move a recommendation of approval** of the request for the abandonment of right-of-way of a 1,590 sf portion of a 12' wide platted alley located north of 206 SE 3rd Avenue, which is Lot 15, of block 87, as recorded in the plat of Linns Addition to Osceola Park, 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 Section 2.4.6(M)(5) of the Land Development Regulations, subject to a 12' x 132.5' general utility easement being recorded for the abandonment area, which would require City Commission approval if it ever need to be amended.
- B. **Move a recommendation of approval, as amended**, of the request for the abandonment of right-of-way of a 1,590 sf portion of a 12' wide platted alley located north of 206 SE 3rd Avenue, which is Lot 15, of block 87, as recorded in the plat of Linns Addition to Osceola Park, 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 Section 2.4.6(M)(5) of the Land Development Regulations, subject to the following conditions of approval:
1. That a 12' x 132.5' general utility easement be recorded for the abandonment area.
 2. (Board condition)
- C. **Move a recommendation of denial** of the request for the abandonment of right-of-way of a 1,590 sf portion of a 12' wide platted alley located north of 206 SE 3rd Avenue, which is Lot 15, of block 87, as recorded in the plat of Linns Addition to Osceola Park, by finding that the request and approval thereof is not consistent with the Comprehensive Plan and does not meet the criteria set forth in Section 2.4.6(M)(5) of the Land Development Regulations.

D. Move to continue with direction

Project Description

The item before the board is a privately initiated "Abandonment of Right-of-Way" request for a portion of a platted alley (subject area). The subject area is an unimproved portion of a 12' wide platted alley located north of Lot 15, block 87 (206 SE 3rd Avenue), and south Lots 2,3,4, of block 87 (206 SE 2nd Street), as recorded in the plat of Linns Addition to Osceola Park in Plat Book 1, Page 133 of the Official Records of Palm Beach County, Florida. The subject area requested is approximately 1,590 sf. The legal description of the subject area is described more specifically in Appendix "A" of the attachments. The requested abandonment would allow the owner of 206 SE 3rd Avenue and 206 SE 2nd Street to incorporate the alley into their parcel and use it for private purposes.

Map / Photos



Project Planner:

Kent Walia, waliak@mydelraybeach.com, 561-243-7365

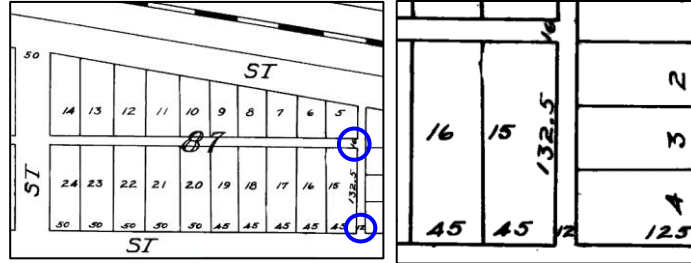
Attachments:

- Survey and legal description
- Linns Addition to Osceola Park plat
- Engineering comments
- Draft Resolution
- Draft Easement Agreement

Background Information

The following is a list of actions related to the subject area:

- On March 29, 1912, the Linns Addition to Osceola Park plat which was recorded according to the Palm Beach County Property Appraiser. Since the plat was recorded, the City has no records that the portion of the alley being requested was ever paved. The plat shows a 16' and a 12' wide platted alleyways intersecting block 87.



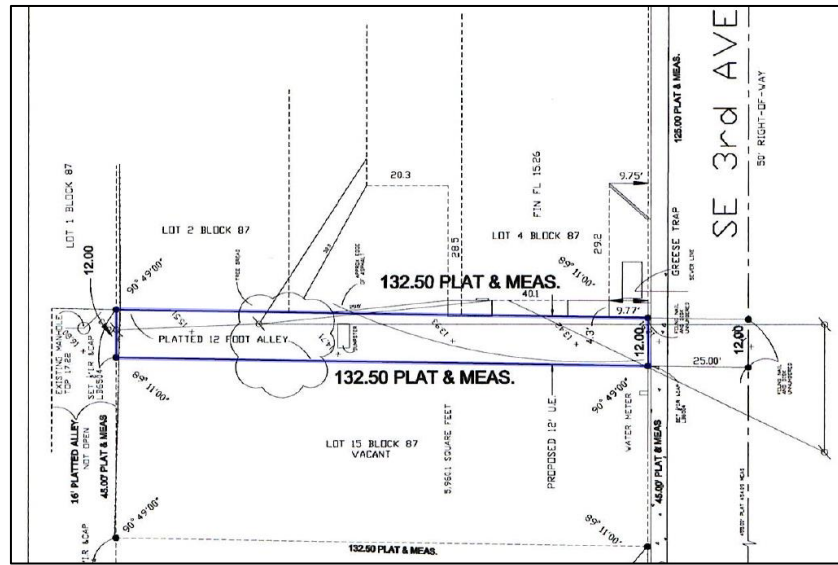
- On January 17, 1913, the Osceola Park plat was recorded according to the Palm Beach County Property Appraiser. The plat incorporates block 87 and shows the alleyways in the same locations as the previous Linns Addition plat.
- On December 6, 2006, the City Commission adopted the Osceola Park Redevelopment. The purpose of the plan *“is to identify the specific deficiencies and assets of the area, evaluate the existing and potential uses, and identify specific measures for arresting decline, facilitating new development, and enhancing the quality of life for the neighborhood.”*
- On August 31, 2017, the City completed streetscape improvements for SE 2nd Street and SE 2nd Avenue as part of the Osceola Neighborhood Business Area Revitalization project. The project included the paving of the 16' wide alleyway that runs perpendicular to portion of the 12' wide alleyway being requested.



- On August 21, 2018, the City Commission adopted Ordinance 08-18, approving a small-scale future land use map amendment to change the future land use designation of Lot 15 (206 SE 3rd Avenue) from Low-Density residential (LD) to Commercial Core (CC).
- On September 25, 2018, the City Commission adopted Ordinance 09-18, approving a rezoning of Lot 15 (206 SE 3rd Avenue) from Single-Family Residential (R-1-A) district to Central Business District (CBD), located within the Railroad Corridor sub-district.
- On June 3, 2019, the Development Service Department received the Abandonment of Right-of-Way application requesting abandonment of a 12' wide x 132.5' portion of a platted alley located in between Lot 15 (206 SE 3rd Avenue) and Lots 2 through 4 (206 SE 2nd Street), of block 87 of the Linns Addition to Osceola Park plat.

Analysis

The Planning and Zoning Board recommendation is based on determining if the request, and approval thereof, is consistent with the Comprehensive Plan and meets the criteria set forth in Section 2.4.6(M)(5) of the Land Development Regulations . Pursuant to LDR Section 2.4.6 (M)(3), the recommendation of the City Engineer shall be forwarded for review at an advertised public hearing before the Planning and Zoning Board. The City Engineer's comments are attached for the board's review.



The following Comprehensive Plan policies are related to alley rights-of way:

FLU Policy C-2.2: *Alleys located within the Old School Square Historic District on either side of Swinton Avenue shall remain and be made available for access to abutting properties. Accordingly, these alleys shall not be abandoned to private interests.*

The alley proposed for abandonment is not located within the Old School Square Historic District.

The subject is within the Downtown Delray Beach Master Plan (2002) study area, which extends south to SW 4th Avenue, and within the boundaries of the Osceola Park Redevelopment Plan.

FLU Policy C-3.2: *The “Downtown Delray Beach Master Plan” was adopted by the City Commission on March 19, 2002. Covering the downtown business districts surrounding the Atlantic Avenue corridor between I-95 and A-1-A, it represents the citizens’ vision for the growth and unification of Delray Beach, while still retaining the “village by-the-sea” character of the CBD. The Plan addresses a wide range of issues including infill development, neighborhood parks, shared parking, public art, the roadway and alleyway systems, marketing/economic development, and the need to modify the Land Development Regulations to include design guidelines to retain the character of Delray Beach. Future development and redevelopment in this area shall be consistent with the Master Plan.*

The Downtown Delray Beach Master Plan study area extends south to SW 4th Street. This area is within the boundaries of the Downtown Delray Beach Master Plan. The master plan makes several references to alleys:

Page 1: *Protect the integrity of the neighborhoods, improve all neighborhood streets (including alleys): Establish a street and alley improvement and preservation program.*

Page 36: *Although parking is crucial for the success of any downtown area, there are several reasons that justify the preservation of the existing structures, the streets and the alleys, as well as the addition of new structures and housing. This will help preserve:*

- *The Character of the Urban Setting*
- *The Locality and sense of Place*
- *Internal Proportions and Relations*
- *Style and Design*

Recently, this alley was analyzed and ultimately removed from a street and alley improvement project in the area; the north-south alley in the same block is scheduled for improvement in the Osceola Park Neighborhood Improvements project.

Policy C-1.11 *The following pertains to the area bounded by S.E. 2nd Street, Federal Highway, S.E. 5th Street, and Swinton Avenue (Osceola Park area): This area has industrial uses with inadequate parking to the west, commercial uses to the east, and a mixed*

residential area which has turned mainly into renter-occupied units. It is also encompassed by wellfield protection zones. The **Osceola Park Redevelopment Plan** was adopted by the City Commission on December 6, 2004. The primary focus of this redevelopment plan is to arrest deterioration, provide adequate parking and services for the existing industrial and commercial areas, and accommodate housing which is compatible with the other uses. The Plan establishes proposed Future Land Use Map designations for the area. Future development must be in accordance with the provisions of the Redevelopment Plan.

The Osceola Park Redevelopment Plan identifies traffic as a concern and states, "traffic problems within the neighborhood include speeding on some local residential streets, and commercial truck traffic through the neighborhood. Consideration must be given to eliminating excessive through-traffic on residential streets in the neighborhood, which are headed for the railroad commercial corridor. The integration of nonresidential development within the neighborhood presents a problem when dealing with the commercial truck traffic it generates. This traffic should be directed away from residential roadways."

In addition to 2.4.6(M), the Central Business District has regulations regarding alleys in LDR Section 4.4.13(J) Streets and Blocks:

(c) Streets and alleys may not be vacated or closed to accommodate new development.

(d) *Alleys provide an important tertiary support system. Alleys may be relocated provided access and service is maintained to all properties and the reconfigured alley maintains public access and has at least two separate access points for entry and exit within the same block. Alleys that are identified routes in the City's adopted bicycle and pedestrian master plan may not be relocated. Dead-end service courts are not permitted. In order to meet the City's sustainability goals, alleys that are improved as a result of redevelopment are encouraged to use permeable paving such as porous asphalt or concrete, subject to approval by the City Engineer. Development on property alongside an alley shall provide street lights as set forth in Section 6.1.5.*

If the alley abandonment is approved, the remaining alley right-of-way will have two separate access points within the same block: one from SE 2nd Avenue (via a public parking lot) and the other from SE 3rd Street. A dead end service court will not be created. The subject area is not currently identified in the an adopted bicycle and pedestrian master plan.

The following items were reviewed in accordance with the Abandonment of right-of-way requirements listed in Land Development Regulations section 2.4.6 (M).

- Pursuant to LDR section 2.4.6 (M)(1) **Abandonment of right-of-way**, *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).*

The Osceola Plat ORB 3, page 2, indicates that Streets and Avenues are dedicated to the public for perpetual use. The plat shows Lots 2,3, and 4 platted adjacent to the 12' alleyway to the north and Lot 15 to the south. All of the lots adjacent to the portion of the alley requested to be abandoned to the north and south are owned by 206 Delray Beach LLC (the Applicant). The applicant is requesting the abandonment of a portion of a 12' wide alleyway that totals 1,590 sf. If the abandonment is granted, the subject area will be divided at the center line and the area will revert back into the adjacent properties. As such, a positive finding can be made in regard to the intent of this LDR section.

- Pursuant to LDR section 2.4.6 (M)(4)(d) **Conditions**, conditions may be imposed upon an abandonment to; "Require replacement easements and/or relocation of existing utilities, as may be appropriate."

Currently, an 8" sewer line and a utility service pole are located in the subject area requested for abandonment. The sewer line and the utility service pole provide service to the surrounding area.. As such, if the City Commission approves the abandonment, the utilities either need to be relocated or a General Utility Easment (GUE) be provided.

- Pursuant to LDR section 2.4.6 (M)(5)(a)-(c) **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.

Currently, the portion of the platted lot being requested is not a paved alleyway. The City has no records of the portion of the alley having been paved since it was platted in 1912. Situated in the middle of the portion of the alleyway being requested is a Utility service pole, 8" Sewer line and a dumpster enclosure. The Utility pole and sewer line both provide service to the adjacent properties. The City and Utility companies currently access the infrastructure in the alley from SE 3rd Avenue.

Notices of the application and surveys were sent to the utility providers: American Telephone & Telegraph (AT&T), Comcast, Florida Public Utilities Company (FPUC), and Florida Power and Light (FPL). In responses from FPL and AT&T, the companies requested an easement to access their utilities. As such, if the abandonment is granted a GUE would be needed from the applicant for the abandonment area or the utilities need to be removed. The GUE would allow the City and the utility companies to access the site to maintain their infrastructure. However, in the event the private properties were to modify the subject area or redevelop the property, the property owner would have to coordinate with the City and utility companies to relocate the infrastructure, and/or provide new easements.

Positive findings can be made if a General Utility Easement is provided for the utilities or if the utilities are relocated.

- b) That the abandonment does not, nor will not, prevent access to a lot of record.
If the abandonment is granted, the lots will have access from SE 2nd Street, SE 2nd Avenue, and SE 3rd Avenue. Thus, a positive finding can be made.
- 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.
As discussed above, if a general utility easement is provided, the proposed abandonment will not prevent the City or the Utility companies the ability to access the utility infrastructures, thus a positive finding can be made.

Review By Others

- ✓ Pursuant to 2.4.2 (C)(2)(a), utility providers were notified of the site plan submission. Responses from FPL and AT&T request an easement to access their utilities; no objections have been provided to date.

Public and Courtesy Notices

<input type="checkbox"/> Courtesy Notices are not applicable to this request	<input type="checkbox"/> Public Notices are not required for this request.
✓ Courtesy Notices were provided to the following: <ul style="list-style-type: none">• Osceola Park - July 5, 2019	N/A Public Notice was posted at the property on <ul style="list-style-type: none">✓ Public Notice was mailed to property owners within a 500' radius on July 5, 2019, at least ten days before the meeting date.✓ Public Notice was mailed to the adjacent property owners on June 24, 2019, at least twenty days before the meeting date.✓ Public Notice was published in the Sun Sentinel on July 3, 2019, at least ten days before the meeting date.✓ Public Notice was posted to the City's website on July 5, 2019.✓ Public Notice was posted in the main lobby at City Hall on July 5, 2019.