

RESOLUTION NO. 05-21

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, PROVIDING FOR THE ABANDONMENT OF INTEREST IN A PORTION OF THE CANAL STREET RIGHT-OF-WAY LYING EAST OF THE INTRACOASTAL WATERWAY AND ADJACENT TO THE PROPERTY LOCATED AT 824 NE 2<sup>ND</sup> STREET, DELRAY BEACH, FLORIDA, TOTALING APPROXIMATELY FOUR THOUSAND EIGHT HUNDRED AND NINETY ONE (4,891) SQUARE FEET, 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 (2021-006) for the abandonment of a portion of unimproved Canal Street (“the right-of-way”) totaling approximately four thousand eight hundred and ninety one (4,891) square feet, located west of the Intracoastal Waterway and east of the property located at 824 NE 2<sup>nd</sup> Street, and as more particularly described in Exhibit “A”; and

WHEREAS, the portion of right-of-way requested for abandonment was dedicated to the City for the perpetual use of the public the streets and highways as recorded in Plat Book 1, Page 3, Public Records of Palm Beach County, Florida; and

WHEREAS, in addition to the right-of-way described above, the United States of America has an easement over the right-of-way as part of the 300-foot wide Intracoastal Waterway as recorded in Plat Book 17, Page 16A of the Public Records of Palm Beach County, Florida; and

WHEREAS, the City determined, there is not now, nor will there be, any need for the use of this portion of the right-of-way for public purposes, as required by the City’s Comprehensive Plan and Section 2.4.6(M) of the Land Development Regulations (“LDR”); and

WHEREAS, pursuant to LDR Section 2.4.6(M)(3)(e), the Planning and Zoning Board, as the Local Planning Agency, formally reviewed the request at a public hearing on November 16, 2020, and voted 7 to 0 to recommend approval of the abandonment, based upon positive findings with respect to LDR Section 2.4.6(M)(5) and the Comprehensive Plan; and

WHEREAS, the City Commission of the City of Delray Beach, Florida, finds that its interest in the described property is no longer needed for the public good and deems it to be in the best interest of the City to abandon said right-of-way, based upon positive findings pursuant to LDR Section 2.4.6(M)(5).

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

Section 1. That the foregoing recitals are hereby incorporated herein by this reference.

Section 2. Pursuant to the Comprehensive Plan and Section 2.4.6(M) of the Land Development Regulations of the City of Delray Beach, the City hereby determines that there is not, nor will there be, a need for the use of the right-of-way for any public purpose, that the abandonment does not, nor will not, prevent access to a lot of record, and that the abandonment will not result in a detriment to the provision of access and/or of utility services to adjacent properties or the general area.

Section 3. The City Commission hereby vacates and abandons a portion of unimproved Canal Street, totaling approximately four thousand eight hundred and ninety one (4,891) square feet located west of the Intracoastal Waterway and east of the property located at 824 NE 2<sup>nd</sup> Street, as more particularly described in **Exhibit "A"** attached hereto and incorporated herein.

Section 4. The City Clerk, or designee, is directed to send a certified copy of this Resolution to the authorized agent, Jeff Costello at 981 Delray Lakes Drive, Delray Beach, FL 33444.

Section 5. This Resolution shall not be effective until a Consent to Easement Agreement between the applicant and the United States of America, Department of the Army, granting applicant permission to use and maintain the property particularly described in Exhibit "A", is recorded..

PASSED AND ADOPTED in regular session on the \_\_\_\_ day of \_\_\_\_\_, 2021.

ATTEST:

\_\_\_\_\_  
Katerri Johnson, City Clerk

\_\_\_\_\_  
Shelly Petrolia, Mayor

Approved as to form and legal sufficiency:

\_\_\_\_\_  
Lynn Gelin, City Attorney

Exhibit "A" Page 1 of 1

