



## Legislation Text

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File #: 19-758, Version: 1

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**TO:** Mayor and Commissioners  
**FROM:** Steve Tobias, Interim Development Services Director  
**THROUGH:** Neal de Jesus, Interim City Manager  
**DATE:** September 5, 2019

RESOLUTION NO. 132-19: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, APPROVING THE ABANDONMENT OF RIGHT-OF-WAY OF A PORTION OF A 12 FOOT PLATTED ALLEY TOTALING APPROXIMATELY ONE-THOUSAND FIVE-HUNDRED AND NINETY (1,590) SQUARE FEET LYING NORTH OF LOT 15, OF BLOCK 87, AND SOUTH OF LOTS 2, 3, AND 4 OF BLOCK 87 OF THE PLAT OF LINNS ADDITION TO OSCEOLA PARK, AS RECORDED IN PLAT BOOK 1 PAGE 133 OF THE OFFICIAL RECORDS OF PALM BEACH COUNTY, FLORIDA, AND AS MORE PARTICULARLY DESCRIBED HEREIN; RETAINING A GENERAL UTILITY EASEMENT ENCOMPASSING THE SUBJECT AREA AS MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

### **Recommended Action:**

Consider Resolution No. 132-19 approving the abandonment of right-of-way of a portion of a 12-foot wide platted alley totaling approximately 1,590 square feet located approximately 125' south of the intersection of SE 2<sup>nd</sup> Street and SE 3<sup>rd</sup> Avenue, and lying north of Lot 15, and south of Lots 2,3 and 4 of block 87, of the Linns Addition to Osceola Park plat book 1, page 133 of the Official Records of Palm Beach County, Florida, and as more particularly described in exhibit "A".

### **Background:**

The area requested is a 12' wide x 132.5' long portion of a platted alley located in block 87, according to the plat thereof of the Linns Addition to Osceola Park (Linns Addition) plat book 1, page 133. The Linns addition plat was recorded in on March 29, 1912 and dedicates the rights-of-way to the public for perpetual use. The Osceola Park plat was recorded on January 17, 1913 and shows the blocks and lots of the entire Osceola Park neighborhood.

On December 6, 2006, the City Commission adopted the Osceola Park Redevelopment plan. The plan identifies the need to eliminate excessive through-traffic on residential streets in the neighborhood.

On August 31, 2017, the Delray Beach Community Redevelopment Agency (CRA) completed streetscape improvements in the area that included paving the 16' wide platted alley that runs north-south and perpendicular to the subject alley; however, improvements to the subject alley right-of-way were not included in the project. A public parking lot with access to the newly paved north-south alley was created.

On August 21, 2018, the City Commission adopted Ordinance 08-18, approving a small-scale land use amendment to change the future land use designation of Lot 15 (206 SE 3<sup>rd</sup> Avenue) located

south of the subject area 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 Services Department received the proposed application requesting the abandonment of the subject portion of the alley.

On July 15, 2019, the Planning and Zoning Board recommended approval (5-0) of the request for the abandonment of the alley right-of-way with the condition that the alleyway to be relocated by providing an easement through the CRA parking lot to prevent a potential deadend alleyway.

The Central Business District (the zoning district the subject alley is located within) has regulations regarding alleys in LDR Section 4.4.13(J) Streets and Blocks:

LDR Section 4.4.13(J)(c) states, "Streets and alleys may not be vacated or closed to accommodate new development."; and

LDR Section 4.4.13(J)(d) states, "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..."

The alley is not identified in an adopted bicycle and pedestrian master plan. If the abandonment is approved, the remaining alley system in the block will have three separate public access points: one from SE 3<sup>rd</sup> Street and two from SE 2<sup>nd</sup> Avenue. The two access points from SE 2<sup>nd</sup> Avenue are: (1) a 12' platted unpaved alleyway adjacent to Lots 1 and 5 that is not useable in its current condition and, (2) through a CRA-owned public parking lot.

LDR Section 2.4.6.(M)(5)(a)-(c) requires the City Commission must make the following findings prior to granting approval of an abandonment:

- a) That there is not, nor will there be, a need for the use of the right-of-way for any public purpose;

The City has no record of the alleyway ever having been paved. A utility pole and 8" sewer line are located within the portion of the alley requested for abandonment. Both the utility pole and sewer line provide service to adjacent properties. However, if a general utility easement (GUE) is provided, the City and utility companies' access to the infrastructure would be maintained with a recorded GUE, a positive finding can be made.

- b) That the abandonment does not, nor will not, prevent access to a lot of record;

If the abandonment is granted, all lots of record within the block will have access from a public right-of-way. The lots adjoining the subject portion of the alley will have access from SE 2<sup>nd</sup> Street and/or SE 3<sup>rd</sup> Avenue. 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.

If a GUE is provided, the proposed abandonment will not prevent the City or the Utility companies the ability to access the utility infrastructure; a positive finding can be made.

LDR Section 2.4.6(M)(4)(d) provide that conditions, such as replacement easements, may be imposed upon an abandonment. To satisfy the City's needs for access and maintenance of the referenced infrastructure, an easement is required to be recorded prior to the recordation of the proposed abandonment, if approved.

**City Attorney Review:**

Approved as to form and legal sufficiency.

**Funding Source/Financial Impact:**

N/A

**Timing of Request:**

N/A