



## Legislation Text

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File #: 19-855, 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 17, 2019

RESOLUTION NO. 148-19: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, PROVIDING FOR THE ABANDONMENT OF A PORTION OF OLD DIXIE HIGHWAY RIGHT-OF-WAY, LYING WEST OF AND ADJACENT TO THE NORTH 20 FEET OF LOT 14 AND ALL OF LOTS 15, 16 AND 17, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 21, PAGE 13, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, LOCATED APPROXIMATELY 415 FEET SOUTH OF GULFSTREAM BOULEVARD, 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:**

Review and consider Resolution No. 148-19, approving the abandonment of a 20' wide portion of Old Dixie Hwy Right-Of-Way (ROW) totaling 6,482 sf, lying west of and adjacent to the north 20' of Lot 14 and all of Lots 15, 16, and 17, as recorded in the Delray Beach Estates Plat Book 21, Page 13, subject to a 20.25' x 324.12' General Utility Easement (GUE) being recorded for the abandonment area.

### **Background:**

The area requested for abandonment is a 20.25' x 324.12' portion of Old Dixie Hwy totaling 6,482 sf (subject area), lying west of and adjacent to the north 20' of Lot 14 and all of Lots 15, 16, and 17 (subject lots) as recorded in the plat of Delray Beach Estates, approximately 415' south of Gulfstream Blvd.

On July 1, 1946, the Plat of Delray Beach Estates was recorded in Plat Book 21, Page 13 according to the public records of Palm Beach County. The land platted was located in section 4, of Palm Beach County Unincorporated. The Plat shows an 80' wide platted portion of Dixie Hwy perpendicular to subject lots.

On March 22, 1994, the City Commission adopted Ordinance No. 11-94, annexing subject lots with physical addresses 2612 & 2650 N. Federal Highway, into the City of Delray Beach municipal boundary from Palm Beach County Unincorporated. The subject lots were zoned Automotive Commercial (AC).

Based on information from the property appraiser, the portion of Old Dixie Hwy ROW requested for abandonment is owned by the City of Delray Beach.

Since the platted area was annexed, the City Commission granted the following abandonments:

October 7, 1999 - Resolution 78-99 approving a 20' x 80' ROW abandonment with a GUE adjacent to Lot 18.

February 19, 2002 - Resolution 19-02 approving a 20.25' x 303.75' ROW abandonment with a GUE adjacent

to Lot 6.

April 2, 2002 - Resolution 29-02 approving a 20.25' x 189.2' ROW abandonment with a GUE adjacent to Lots 13 and 14.

June 17, 2003 - Resolution 13-03 approving a 20.25' x 101.25' ROW abandonment with a GUE adjacent to Lot 5.

September 7, 2004 - Resolution 65-04 approving a 20' x 81' ROW abandonment with a GUE adjacent to Lot 4.

November 15, 2005 - Resolution 84-05 approving a 20' x 162' ROW abandonment with a GUE adjacent to Lots 2 and 3.

Records show that since the subject lots were annexed on March 22, 1994, the Lots were used as an automobile dealership.

In March of 2018, the subject lots were purchased by James O'Neill, and they have been apparently used for automobile storage for automotive dealerships. It is important to note that automobile storage is not a permitted primary use in the AC zoning district.

On April 4, 2019, the Development Services Department received the referenced ROW abandonment application for a portion of Old Dixie Hwy adjacent to 2612 & 2650 N. Federal Highway.

According to table T-1 on page TR-14 in the Future Land Use Element of the Comprehensive Plan, local streets without curb and gutter in the City shall be a minimum of 60 feet in width. As a result of the earlier abandonments, the ROW width along Old Dixie Hwy within the platted area varies between 60 feet to 80 feet. If the abandonment is granted, the remaining ROW would be 60 feet, which meets the minimum Comprehensive Plan requirement.

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 subject area is an unpaved grassy swale area of Old Dixie Hwy that has two utility poles, and one fire hydrant. The infrastructure located in the area provides service to the surrounding properties. If the abandonment is granted, a GUE would need to be provided to allow the City and Utility providers access to the infrastructure. The City has no current plans to improve the subject area.

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

If the abandonment is granted, the subject lots will have access from Old Dixie Hwy and N. Federal Hwy.

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 infrastructure.

LDR Section 2.4.6(M)(4)(d) provides conditions, such as replacement easements, which can be imposed upon granting an abandonment. To satisfy the City's needs for access and maintenance of the referenced infrastructure, a GUE must 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