



## Legislation Text

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**TO:** Mayor and Commissioners  
**FROM:** Anthea Gianniotis, Development Services Director  
**THROUGH:** Neal de Jesus, Interim City Manager  
**DATE:** November 5, 2019

RESOLUTION NO. 182-19: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, APPROVING THE ABANDONMENT OF A COMBINED PRIVATE RIGHT-OF-WAY AND PERPETUAL EASEMENT, CONTAINING APPROXIMATELY 2,500 SQUARE FEET, THAT WAS DEDICATED TO THE CITY OF DELRAY BEACH AS RECORDED IN THE ORIGINAL RECORDS BOOK 9937, PAGE 1474, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, AND AS SHOWN ON THE WALLACE FORD REPLAT, AS RECORDED IN PLAT BOOK 124, PAGE 151 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, AS MORE PARTICULARLY DESCRIBED IN EXHIBIT "A", FOR THE SITE KNOWN AS AUTONATION BMW DELRAY, PROVIDING AN EFFECTIVE DATE, AND FOR OTHER PURPOSES.

**Recommended Action:**

Review and consider Resolution No. 182-19, as presented.

**Background:**

The combined private right-of-way and perpetual easement, as recorded in ORB 9937, PG 1474 as shown on the Wallace Ford Replat, as recorded in PB 124, PG 151, of the public records of Palm Beach County, is requested to be abandoned. The easement is approximately 2,500 sf and was dedicated to the City of Delray Beach for the purpose of installation and maintenance of public utilities with full and free right to enter upon and to install, operate and maintain such utilities. Ingress and egress of the easement is for the City of Delray Beach, but not members of the public.

On February 22, 2017, the Site Plan Review and Appearance Board (SPRAB) approved a Class V Site Plan (2016-268) for Tract "A" of the Wallace Ford Subdivision for AutoNation BMW Delray. The parcel is zoned Automotive Commercial (AC) with a Future Land Use Map designation of General Commercial (GC). The property consisted of an existing automotive dealership (Wallace Ford). The Site Plan proposed the demolition of all existing improvements for the proposed construction of a 105,400-sf full service automotive dealership known as AutoNation BMW Delray. The proposed building location encroaches into the referenced easement area. The easement contains an existing water line; therefore, the line and easement need to be abandoned. A replacement water line location was shown on the approved plans and has been constructed, negating the need for the existing water line and easement. Wallace Ford Replat, PB 124. PG 151, provided an easement and easement dedication language for the line.

The Development Services Department received an Abandonment of Easement application to abandon the referenced combined right-of-way and perpetual easement. The abandonment is shown in Exhibit A of Resolution No. 182-19.

The abandonment application was reviewed in accordance with LDR Section 2.4.6(N), Abandonment of Public Easements. Per Section 2.4.6(N)(1), a utility easement dedicated to the City or to the Public may be abandoned. Per Section 2.4.6(N)(5), prior to granting an abandonment, the City Commission must make the following finding:

- a) That the abandonment will not result in the detriment for the provision of utility services to adjacent properties or the general area.

As a new waterline was constructed within a platted easement on Wallace Ford Replat, PB 124. PG 151, with the following dedication language “the water easement as shown hereon is dedicated exclusively to the City of Delray Beach for the purpose of access, construction, maintenance, and operation of activities of water mains”, the abandonment of the easement would not be a detriment to the adjacent properties or the general area as there is continuing water service in place.

**City Attorney Review:**

Approved as to legal form and sufficiency

**Funding Source/Financial Impact:**

N/A

**Timing of Request:**

Certificate of Occupancy cannot be issued until the abandonment request is approved.