

# TOWN OF PALM BEACH

Information for Town Council Meeting on: October 13, 2020

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To: Mayor and Town Council

Via: Kirk Blouin, Town Manager

From: Wayne Bergman, Director of Planning, Zoning & Building

Re: Status on the Root Trail Beach Access

Date: October 2, 2020

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## **STAFF RECOMMENDATION**

The purpose of this memorandum is to provide the Town Council with an update on the status of Root Trail beach access. There is no recommended action at this time.

## **BACKGROUND**

The Planning, Zoning and Building Department received an inquiry from a fence contractor about closing off an approximate 20-foot wide beach access at the end of Root Trail with a six foot high fence and gate. The inquiry from Root Trail Partners, LLC, who owns the north 10 feet, and Ocean Towers North, who owns the south 10 feet, want to close off that beach access which stretches from North Ocean Boulevard to the Atlantic Ocean with a six foot tall gate and fence.

Staff questioned the closure as it had historically been open to the public. After reviewing the plat of Root Trail, staff advised the contractor that in order to construct the gate and fence, staff had to confirm ownership of the north 10 feet of the beach access as the plat for the Root Subdivision indicates that it is dedicated to the Root Trail lot owners. In addition, staff advised that once ownership is confirmed, that a variance is required if the proposed gate and fence is over 4 feet in height, as this is in the Beach Area zoning district.

Staff subsequently reviewed the plat and the Palm Beach County Property Appraiser's information on the subject property. The subject property was platted as part of the Root Subdivision in June of 1900. The subject property in question was platted as 10 feet wide and ran from Lot 1, Root Subdivision, to the Atlantic Ocean. The 10-foot wide strip of land on the south side of the subdivision that was dedicated as "private trail" runs from North County Road, east to the Atlantic Ocean and is dedicated on the plat for access to the lots and for the use of the lot owners in the subdivision. In addition, staff questioned how Root Trail Partners, LLC, took title to the subject property being that it is dedicated on the plat to all of the lot owners in the Root Subdivision.

Planning, Zoning and Building staff contacted John Randolph, Town Attorney, regarding this ownership issue and a joint meeting with Public Works was held to discuss beach accesses. Staff

was advised that Mr. Randolph had met with Peter Coleman, manager, and Barry Curtain, attorney, for Root Trail Partners, LLC, in February 2020 in regards to closing off the beach access. They advised Mr. Randolph that Root Trail Partners, LLC, owned the Root Trail beach access and wanted to close it off to the public. At that time, Mr. Randolph had Mark Dahlmeier, an attorney from his office, review two 1912 deeds provided by Mr. Curtain. He concluded that while he had not independently reviewed record title, his review and reliance on the deeds identify that the Quit Claim Deed dated July 1, 1912 from Enoch Root and Victoria A. Root, his wife, to and in favor of the Town of Palm Beach recorded on July 2, 1912 in Deed Book 22, Pages 408 and 409, dedicates the North 10 feet of Root Trail, extending from County Road on the West to the Atlantic Ocean on the East, as a public highway to be kept open and maintained by the Town of Palm Beach for the benefit of the public and the Root Trail lot owners.

Similarly, a Quit Claim Deed dated July 1, 1912, from Dorinda H. Brelsford to and in favor of the Town of Palm Beach recorded July 3, 1912 in Deed Book 22, Pages 410 and 411, which dedicates the South 10 feet of Root Trail, extending from County Road on the West to the Atlantic Ocean on the East, as a public right of way to be kept open and maintained by the Town of Palm Beach as a public highway.

Based on that information, Town staff questions, how three previous owners and Root Trail Partners, LLC, took title to the property since 1995. How could a private entity make application; pay the taxes and obtain a tax deed from the Palm Beach County Tax Collector on what appears to be public property? With all of these questions, staff requested that the Town Attorney's office have a title search conducted to determine what happened between 1912 and 1995 that could have released or abandoned the Town's rights to the subject property.

Staff received an email from Mark Dahlmeier yesterday regarding that title search report. He stated that the Title Search Report finds no recorded conveyance out, relinquishment or abandonment of the public right-of-way rights established by virtue of the Quit Claim Deed dated July 1, 1912 from Enoch Root and Victoria A. Root, his wife, recorded in Deed Book 22, Pages 408 and 409, and the Quit Claim Deed dated July 1, 1912, from Dorinda H. Brelsford recorded in Deed Book 22, Pages 410 and 411. This contradicts the claim of Root Trail Partners, LLC, that it privately owns title to the beach access property free and clear of any rights of the public. This raises questions about the validity of the 1995 Tax Deed as to this beach access property. It appears that that Tax Deed conveyance, which gave rise to this new chain of title now vested in Root Trail Partners, LLC, unknowingly conveyed title to the Town's public right-of-way to a private entity

Staff is in the process of determining what the next steps might be as it relates to this finding. Regardless, the Town will assist and coordinate with property owners in this area to provide controlled beach access across on the subject property.

cc: Kirk Blouin, Town Manager  
Jay Boodheshwar, Deputy Town Manager  
Paul Castro, Zoning Manager  
John Randolph, Town Attorney  
Mark Dahlmeier, Esq.  
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