

# **TOWN OF PALM BEACH**

Information for Town Council Meeting on: August 9, 2022

---

TO: Mayor and Town Council

VIA: Kirk W. Blouin, Town Manager

FROM: H. Paul Brazil, P.E., Director of Public Works

RE: Suggested Modifications for Application for Abandonment of Dedicated Public Property Within the Town of Palm Beach

DATE: July 21, 2022

---

## **STAFF RECOMMENDATION**

Town staff recommends that Town Council consider modifications to the easement abandonment process, specifically in the rear of lots once the undergrounding of utilities in a phase has been completed.

## **GENERAL INFORMATION**

Staff was requested to look at the easement abandonment process to determine if there was a way within the existing ordinance to simplify the process for residents. The following recommendations are for easements that no longer have utilities located within them. Rear easements would not be available for abandonment when used for sanitary sewer, stormwater pipes, historical overland stormwater flows, undergrounding equipment, and underground utilities. In these cases, an "Easement Installation and Removal Agreement" could be applied for with the Town for a consented use.

The recommendations are listed below:

1. Seek letters of approval from AT&T, Comcast and FPL for all easements within the Town-wide Undergrounding Program that no longer have these utilities located in the easements.
2. Have Kimley-Horn and Associates identify the properties that have FPL, Comcast or AT&T utilities remaining in easements. This will be utilized to notify residents that these specific addresses are not available for abandonment.
3. Eliminate the requirement for residents to create a list of the neighbors within 300 feet. This will be done by Town staff. This was a duplicative effort.

Below is detailed description of how the Ordinance will be implemented in the future upon Town Council concurrence.

In accordance with Town Code of Ordinances, Chapter 106, Article IV, the owner of a property must make an application to abandon the public utility easement. The easement to be abandoned is shown on the application as Exhibit A of the application, which is a Sketch and Legal Description prepared by a Florida Licensed Surveyor, of the application. The applicant also needs to provide a reason for the abandonment (Exhibit B), and a list of the properties within 300-foot of the easement (Exhibit C), which would be used to send out certified letters of notification of the abandonment. Finally, the

applicant would also need to obtain consent for the abandonment from all utility providers that have a vested interest in the easement. The completed application is submitted with a fee in the amount of \$1,200 dollars. The fee is to cover all direct costs and processing by the Town. Attached is a copy of the Easement Abandonment Application and the Town's internal checklist outlining the procedures.

As undergrounding phases are completed, the Town has abandoned rear easements on properties that granted an easement for undergrounding equipment. The following abandonments were performed by the Town: Resolution No. 33-2018 (initial Undergrounding of Nightingale Trail and La Puerta Way), Resolution 33-2020 (Phase 1 North), Resolution 129-2020 (Phase 2 North), and Resolution 076-2021 (Phase 3 North).

The supplemental tasks proposed, when abandoning easements within a completed underground phase, would include the Town obtaining a Letter of No Objections / consent from all utility providers for the abandonment of specific platted easements that would no longer be needed, and sending out information packages within 300 feet of the platted easements to be abandoned via certified mail (not just the ones within 300-foot of the easements to be abandoned). A short form application for abandonment would also be made available to residents that come in after the undergrounding phase has been completed and the associate platted easements are established to be free and clear for abandonment. The applicant would need only provide: an Exhibit A, Sketch and Legal Description / Survey; an Exhibit B, reason for abandonment; and an application fee. This would only apply to the abandonment of an existing utility easement and no property would be gained by a property owner. Therefore, a privilege fee would not be applicable.

No change to the existing Town Code of Ordinances, Chapter 106, Article IV is requested.

### **FUNDING/FISCAL IMPACT**

The fiscal impacts to the Town should be minimal. The additional direct costs and processing by the Town for supplemental tasks should be offset by the future applications received. Publication notifications within the local paper, a Town Council Public Hearing, and recording a Resolution at the County would still be required for each abandonment application received.

### **TOWN ATTORNEY REVIEW**

A Resolution for each easement abandonment will need to be reviewed and approved by the Town Attorney for legal form and sufficiency.

### **Attachments**

cc: Eric B. Brown, P.E., Assistant Director of Public Works  
Patricia Strayer, P.E., Town Engineer  
Craig Hauschild, P.E., Civil Engineer