

ORDINANCE NUMBER 4169

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, APPROVING THE APPLICATION (AB-19-02) FROM BLP BLUE HERON, LLC. REQUESTING THE ABANDONMENT OF APPROXIMATELY 57,520 SQUARE FEET OF CANAL RIGHT OF WAY LOCATED ADJACENT TO AND NORTH OF THE VACANT PARCEL OF LAND IDENTIFIED BY PARCEL CONTROL NUMBER 5643422937000030, LOCATED NORTH OF WEST BLUE HERON BOULEVARD, SOUTH OF WEST 23RD STREET, EAST OF RJ HENDLEY AVENUE, AND WEST OF AVENUE 'O'; ESTABLISHING A PERPETUAL CITY UTILITY ACCESS EASEMENT; PROVIDING FOR SEVERABILITY, REPEAL OF LAWS IN CONFLICT, AND CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, BLP Blue Heron LLC., desires to develop 3.59 acres of land located on the north side of Blue Heron Boulevard, east of R.J. Hendley Avenue (the "Property") to construct five commercial buildings; and

WHEREAS, it is the goal of BLP Blue Heron LLC. to develop the Property with first-class retail, restaurant and professional office uses, providing an opportunity for small businesses to operate within the City of Riviera Beach; and

WHEREAS, the Property is long and shallow, with a canal immediately adjacent to it, and both the Property and canal have remained vacant for decades; and

WHEREAS, the canal is situated within a platted right of way that conveys water east to west as part of the City's stormwater drainage system; and

WHEREAS, in order to fully develop the previously referenced 3.59 acres of land, BLP Blue Heron LLC., has requested that the City abandon approximately 57,520 square feet of right of way; that the stormwater be conveyed underground via a culvert system, with the applicant providing an easement to the City over the area; and that the surface area of the former canal be added to the existing vacant property to create a more viable development site; and

WHEREAS, the reconfiguration and expansion of the developable area will provide an opportunity for a commercial development on this highly visible property; and

WHEREAS, the Planning and Zoning Board reviewed the proposed abandonment (AB-19-02), along with corresponding documents and City staff report on February 13, 2020, and recommended approval with conditions to the City Council; and

WHEREAS, the City Council of the City of Riviera Beach finds that the proposed abandonment (AB-19-02) is consistent with the City's Comprehensive Plan, supports economic development and promotes the health, safety, and welfare of the residents of the City and the general public.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, that:

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SECTION 1. The foregoing recitals are ratified and confirmed as being true and correct and are made a specific part of this Ordinance.

SECTION 2. The City Council hereby approves the City Canal Right-of-Way Abandonment (AB-19-02), specifically described and shown within “Exhibit A”, attached hereto, and it is hereby abandoned, subject to the following conditions:

1. The applicant shall provide a City access and drainage easement identical to the legal description of the City Canal Right-of-Way abandonment area with the Book/Page referenced in order to ensure access in perpetuity. Following City Council approval and adoption, and prior to the City Canal Right-of-Way Abandonment becoming effective, the applicant shall prepare and record the City’s access easement within the official records of Palm Beach County, with proof provided to the City’s Development Services Department.
2. Following City Council approval and adoption of this Ordinance, and prior to the City Canal Right-of-Way Abandonment becoming effective, the applicant shall provide the City with a construction performance bond for 110% of the value of the cost to channelize (pipe) and fill the existing City Canal. This performance bond may be utilized by the City to pay for channelization (piping) of the City Canal in the event that the applicant fails to complete the channelization project within two years of the effective date of this Ordinance. If the City utilizes the construction performance bond, the applicant also authorizes the City to place a lien on the property for an amount equal to any additional channelization and fill construction costs that exceed the value of the bond. This condition intends to further incentivize the applicant to complete the channelization (piping) project and helps to protect the City from financial risk.
3. The applicant is responsible for any and all costs associated with channelization (piping) of the existing City Canal. The water management capacity of the newly piped canal shall be equal to or greater than the capacity of the existing canal. The final design of this infrastructure improvement shall be approved by the City’s Public Works Department. The applicant must apply for and be issued one or more City Building Permits prior to any site work commencing for channelization (piping) of the existing City Canal. The Applicant shall submit and acquire approval of a maintenance agreement prior to commencement of construction.
4. The applicant shall re-plot the City Canal Right-of-Way Abandonment (AB-19-02) with the adjacent parcel known by PCN: 56-43-42-29-37-000-0030 prior to the issuance of a Building Permit for this location. This re-plot shall include the City access easement that was required as a condition of approval for the abandonment.

SECTION 3. SEVERABILITY. If any section, subsection, sentence, clause, phrase or provision of this Ordinance, or its application, to any person or circumstance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a

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separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

SECTION 4. REPEAL OF LAWS IN CONFLICT. All Ordinances or parts of Ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 5. CODIFICATION. Specific authority is hereby granted to codify the Ordinance as it is the intention of the City Council and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of Riviera Beach, and sections of this Ordinance may be renumbered to accomplish such intentions.

SECTION 6. EFFECTIVE DATE. This Ordinance shall become effective immediately upon final passage and adoption by City Council.

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PASSED AND APPROVED on the first reading this _____ day of _____, 2021.

PASSED AND ADOPTED on second and final reading this _____ day of _____, 2021.

APPROVED:

RONNIE L. FELDER
MAYOR

SHIRLEY D. LANIER
CHAIRPERSON

ATTEST:

CLAUDENE L. ANTHONY,
CERTIFIED MUNICIPAL CLERK
CITY CLERK

KASHAMBA MILLER-ANDERSON
CHAIR PRO TEM

TRADRICK MCCOY
COUNCILPERSON

JULIA A. BOTEL, Ed.D
COUNCILPERSON

DOUGLAS A. LAWSON
COUNCILPERSON

MOTIONED BY: _____

REVIEWED AS TO LEGAL SUFFICIENCY

SECONDED BY: _____

DAWN S. WYNN, CITY ATTORNEY

T. MCCOY: _____

DATE: _____

K. MILLER-ANDERSON: _____

S. LANIER: _____

J. BOTEL: _____

D. LAWSON: _____

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1ST READING

MOTIONED BY: _____

SECONDED BY: _____

T. MCCOY _____

K. MILLER-ANDERSON _____

S. LANIER _____

J. BOTEL _____

D. LAWSON _____

2ND & FINAL READING

MOTIONED BY: _____

SECONDED BY: _____

T. MCCOY _____

K. MILLER-ANDERSON _____

S. LANIER _____

J. BOTEL _____

D. LAWSON _____