

RESOLUTION NO. 47-23

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, PROVIDING FOR THE ABANDONMENT OF INTEREST IN A PORTION OF RIGHT-OF-WAY LOCATED NORTH OF WITHERSPOON LANE AND SOUTH OF BOND WAY, TOTALING APPROXIMATELY 2,062.5 SQUARE FEET, AS MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the City of Delray Beach, Florida (“City”) received an application (2021-177-ABR) for the abandonment of interest in a portion of right-of-way totaling approximately two thousand sixty-two and one-half square feet (2,062.5 sq. ft.) (“Right-of-Way”), located between Witherspoon Lane and Bond Way, as more particularly described in Exhibit “A”; and

WHEREAS, a portion of the Right-of-Way was dedicated to the City for the perpetual use of the public as recorded in First Addition to Kenmont, Plat Book 22, Page 23, Public Records of Palm Beach County, Florida; and

WHEREAS, an additional two and a half (2.5) feet of the Right-of-Way was dedicated by Right of Way Quitclaim Deed recorded on October 9, 2018, in Official Records Book 30171, Page 1771, Public Records of Palm Beach County, Florida; and

WHEREAS, there are existing utilities within the Right-of-Way; and

WHEREAS, Section 2.4.6(M)(4) of the Land Development Regulations (“LDR”) requires City Commission to make the following findings prior to granting an abandonment of right-of-way:

- (a) That there is not, nor will there be, a need for the use of the right-of-way for any public purpose;
- (b) That the abandonment does not, nor will not, prevent access to a lot of record; and
- (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; and

WHEREAS, pursuant to LDR Section 2.4.6(M)(4)(d), as a condition of approval, the City can require replacement easements or the relocation of existing utilities; and

WHEREAS, pursuant to LDR Section 2.4.6(M)(3)(e), the Planning and Zoning Board, as the Local Planning Agency, formally reviewed the request at a public hearing on July 18, 2022, and voted 7 to 0 to recommend approval of the abandonment; and

WHEREAS, the City Commission has reviewed the application (2021-77-ABR) to abandon a portion of right-of-way totaling approximately two thousand sixty-two and one-half square feet (2,062.5 sq. ft.), located between Witherspoon Lane and Bond Way and has considered the respective findings set forth in the Land Development Regulations.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AS FOLLOWS:

Section 1. The foregoing recitals are hereby incorporated herein by this reference.

Section 2. The City Commission makes positive findings that there is not now, nor will there be, a need for the use of this portion of right-of-way for any public purposes; that the abandonment does not, nor will not, prevent access to a lot of record; and 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, subject to the condition that replacement utility easements are provided.

Section 3. The City Commission hereby vacates and abandons all City rights and interest in the right-of-way, as more particularly described in Exhibit "A".

Section 4. This Resolution shall not be effective until replacement general utility easements satisfactory to the City are executed by the owners of 905, 907, and 909 Witherspoon Lane and recorded in the Public Records of Palm Beach County, Florida.

Section 5. The City Clerk, or designee, is directed to send a certified copy of this Resolution to the Authorized Agent, Thomas F. Carney, Jr., at 135 S.E. 5th Avenue, Suite 202, Delray Beach, Florida 33483.

Section 6. This Resolution shall become effective immediately upon adoption.

PASSED AND ADOPTED in regular session on the ___ day of _____, 2023.

ATTEST:

Katerri Johnson, City Clerk

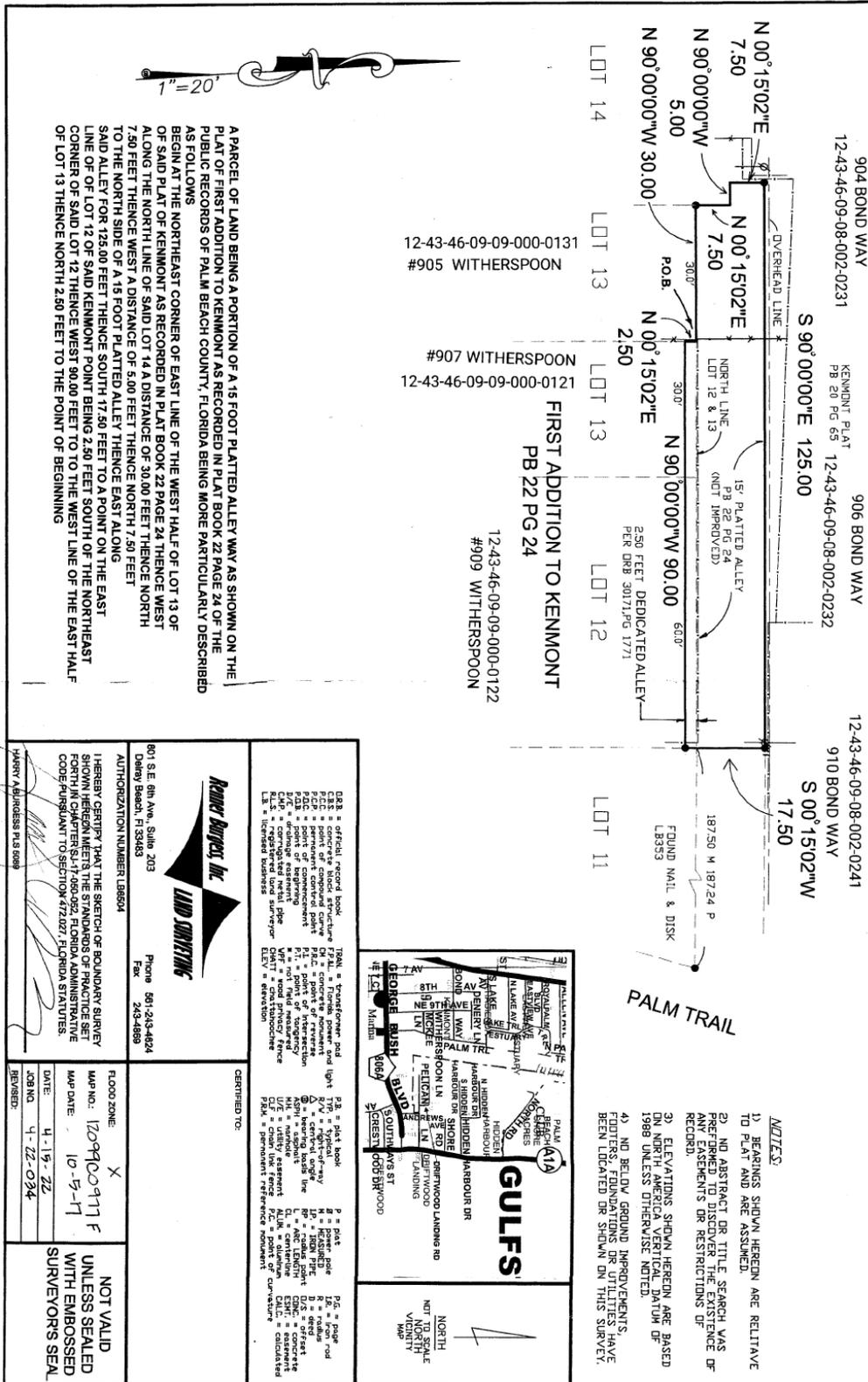
Shelly Petrolia, Mayor

Approved as to form and legal sufficiency:

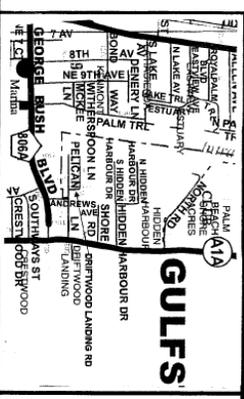
Lynn Gelin, City Attorney

Exhibit "A"

Survey of Right-of-Way



- NOTES:**
- 1) BEARINGS SHOWN HEREIN ARE RELIATIVE TO PLAT AND ARE ASSUMED.
 - 2) NO ABSTRACT OR TITLE SEARCH WAS PERFORMED TO DISCOVER THE EXISTENCE OF EASEMENTS OR RESTRICTIONS OF RECORD.
 - 3) ELEVATIONS SHOWN HEREIN ARE BASED ON NORTH AMERICA VERTICAL DATUM OF 1988 UNLESS OTHERWISE NOTED.
 - 4) NO BELOW GROUND IMPROVEMENTS, FOOTINGS, FOUNDATIONS OR UTILITIES HAVE BEEN LOCATED OR SHOWN ON THIS SURVEY.



KEY:

C.S. = official record book
 C.C. = point of compound curve
 P.C. = point of commencement
 P.T. = point of tangency
 P.I. = point of intersection
 P.O.B. = point of beginning
 S.C. = section corner
 C.A.P. = computed level pipe
 L.S. = licensed address
 T.M. = transformer pad
 F.M. = Florida monument
 P.M. = permanent monument
 P.I. = point of intersection
 M.F. = metal fence
 M.P. = metal pipe
 ELEV. = elevation
 S.B. = pick book
 R.V. = right-of-way
 M. = marker
 R.P. = rebar
 D.S. = distance
 D.M. = distance
 C.C. = concrete
 A.L.M. = aluminum
 C.V. = cast iron
 P.K. = permanent reference monument
 F.G. = flag
 R. = rebar
 N. = nail
 D.S. = distance
 D.M. = distance
 C.C. = concrete
 A.L.M. = aluminum
 C.V. = cast iron
 P.K. = permanent reference monument

Penny Berger Inc.
LAND SURVEYING

801 S.E. 8th Ave., Suite 203
 Delray Beach, FL 33483

Phone 561-263-4824
 Fax 243-4889

AUTHORIZATION NUMBER 198594

I HEREBY CERTIFY THAT THE SKETCH OF BOUNDARY SURVEY SHOWN HEREON MEETS THE STANDARDS OF PRACTICE SET FORTH IN CHAPTER 17, ARTICLES 1 AND 2, FLORIDA ADMINISTRATIVE CODE, PUBLISHED TO SECTION 47.207, FLORIDA STATUTES.

HARRY A. BURGESS, PLS. 8089

CERTIFIED TO:

FLOOD ZONE: X

MAP NO.: 120990009111 F

MAP DATE: 10-5-17

DATE: 4-19-22

JOB NO. 4-22-034

REVERSED:

NOT VALID UNLESS SEALED WITH EMBOSSED SURVEYORS SEAL