

**CITY OF DELRAY BEACH, FLORIDA
DEVELOPMENT SERVICES MANAGEMENT GROUP**

**IN RE: 814 SE 2nd AVENUE, DELRAY BEACH, FL
 PCN #12-43-46-21-01-014-0070 ("Lot")**

**APPLICATION FOR
REDUCTION OF RIGHT OF WAY DEDICATION**

**APPLICATION FOR REDUCTION OF RIGHT OF WAY DEDICATION
[L.D.R. 5.3.1(7)]**

APPLICANT, KM ONE, LLC, a Florida limited liability company, by and through its agent, CRISTOFER A. BENNARDO, ESQ., of PADULA BENNARDO LEVINE, LLP, petitions the Development Services Management Group on behalf of the City of Delray Beach for relief under City of Delray Beach Land Development Regulation 5.3.1(7) to recommend and support a **three (3) foot reduction of the right of way width dedication** required on the northern property line of the Lot along an **unimproved right of way alley**.

As set forth below, the dedication of an additional right of way along the unimproved alley (1) would constitute a significant hardship to the Lot, **resulting in a loss of its permitted use**, (2) and **would constitute a significant hardship to minimize the buildable footprint of the Lot to below recommended standards**.

A reduction in width is further supported under L.D.R. 5.3.1(7) in that (4) **all required improvements on the Lot will be provided in a manner which will not endanger public safety and welfare** and (5) **acceptable, alternative provisions will be feasible and available, to the extent they are required, to accommodate features which would otherwise be accommodated within the right-of-way**.

A waiver of the dedication requirement upon the redevelopment of the Lot is the practical remedy to preserve the intent of the applicable Land Development Regulations and **to preserve the intended use of the Lot**.

Background

1. The Lot is lot 7 of Block 14, of OSCEOLA PARK (the "Plat") within the R-1-A single family residential district, which is owned by the Applicant. The Lot has a front and frontage along Southeast 2nd Avenue of 50' and a depth of 132.5'. The Lot has no other street frontage, abutted by Lot 8 to the south, and the subject unimproved right of way to the north (see Exhibit "A" Location Map of the Lot, and Exhibit "B" the Plat of Oceola Park).
2. The Lot is a "lot of record" pursuant to L.D.R. 1.3.2 and 4.1.4, which allows the Lot to be established in accordance with its original configurations for the construction of a single-family dwelling on the Lot. (See Exhibit "C", Survey depicting the Lot).
3. A single-family dwelling exists on the Lot, as is depicted on the Survey. A demolition permit is to be filed for the demolition of the dilapidated and blighted structure, which requires repair which exceeds the marketable value of the 71 year old dwelling as it currently exists. The Applicant intends to submit a permit application for the construction of a single-family dwellings on the Lot.

4. Almost all of the residential lots of the entire Plat of Osceola Park **are 50 foot in width and frontage**. Of these lots, many have existing single-family homes, all on 50' of front and frontage. There are no single family homes that the Applicant was able to identify that exist on the Plat on a Lot of less than 50' with the current setback and dimensional requirements met.
5. The Lot is abutted to the north by a 14' wide unimproved right of way alley, which extends from Southeast 1st Avenue to Southeast 2nd Avenue. The alley is 14 feet wide from west to east. **There have been no other dedications of additional right of way for any part of the alley from any other land owner. The alley is unimproved and not used for any vehicular traffic. There are currently no utilities existing in the alley.**
6. To dedicate the required additional 3 feet for the right of way alley and to otherwise adhere to the current land development regulations, the Applicant would not be able to construct a single family home. Even assuming the construction of a single family home, the dimensions of the building footprint would be impractical and unreasonable.

Current Application of Development Standards

7. L.D.R. 5.3.1(A) requires that right-of-way dimensions and dedications, whether public or private, be consistent with Table MBL-1 "Street Network and Classification and Improvements" of the Mobility Element, providing for coordinated rights-of-way dedications with the Florida Department of Transportation and Palm Beach County. **This would require that the alley to the north of the Lot be 20 feet, 6 feet more than its current width.**
8. Upon the anticipated demolition and redevelopment of the new single-family home on the Lot L.D.R Section 5.3.1(A)(3) requires that the development shall be responsible for providing one-half of the ultimate right-of-way or such portion of the ultimate right-of-way which is yet undedicated and which is on that development's side of the ultimate right-of-way center line. **This would require that upon the redevelopment of the Lot a 3' right-of-way dedication be made for the subject right of way alley.**
9. The City's L.D.R **provides a remedy** for when the coordinated rights-of-way dedications with the Florida Department of Transportation and Palm Beach County are **not appropriate** for a particular instance, **as is evident on the subject Lot**. L.D.R. 5.3.1(A)(7) provides:

Reduction in width. A reduction in the required right-of-way width may be granted by the body having the approval authority of the associated development application in developments in which new streets are created. For existing streets, reductions in right-of-way width may be granted by the City Engineer upon a favorable recommendation from the Development Management Services Group (DSMG). Reductions in the required right-of-way width may be granted pursuant to the following:

- (a) The reduction is supported by the City Engineer. Nonsupport by the City Engineer may be appealed to the City Commission.
- (b) That requiring full dedication would constitute a hardship in a particular instance and that all required improvements will be provided in a manner which will not endanger public safety and welfare; and
- (c) That acceptable, alternative provisions are made to accommodate features which would otherwise be accommodated within the right-of-way e.g. alternative

drainage systems, alternative pedestrian walkways, alternative on-street parking, etc.

Requested Relief

10. In accordance with L.D.R. 5.3.1(A)(7), it is requested that the **DSMG favorably recommend, and the City Engineer support, a reduction of the right of way dedication of 3 feet to 0 feet, along the northern boundary of the Lot along the right of way alley, preserving the existing width, front and frontage of the Lot.**
11. First, in accordance with L.D.R. 5.3.1(A)(7)(b), a further dedication of additional right of way **will cause a significant hardship to the Applicant and the Lot in that:**
 - a. The Lot has a current frontage of 50'. Upon a dedication of 3', the Lot will have a frontage of 47';
 - b. L.D.R. 4.1.4(B) requires that "A residential structure shall not be constructed on any lot, within a residential zoning district, which has frontage of less than 50 feet." Subsection (D) would allow the Lot having at least 40 feet of frontage to be used only for Workforce Housing;
 - c. The dedication of right of way would therefore **alter the permitted use of the Lot, and prohibit its current use as a single family residential structure.**
 - d. The alteration of permitted use constitutes a fundamental hardship to the Lot, not created by the act of the owner.
12. Second, in accordance with L.D.R. 5.3.1(A)(7)(b), all required improvements on the Lot will be provided **in a manner which will not endanger public safety and welfare.** In fact, this reduction request will allow the improvements of a single-family home **within the same building footprint and dimensions as all of the other situated lots in Ocoola Park.** Reducing the footprint of the anticipated improvements to 47' **would require a home of unreasonable layout, namely with a structure width of only 22', well below customary size dimensions for a single family home** (after application of the 15 and 10' side setbacks).
13. Third, in accordance with L.D.R. 5.3.1(A)(7)(c), acceptable, alternative provisions are feasible and available, to the extent they are required, to accommodate features which would otherwise be accommodated within the right-of-way. **The right of way is 14' as it currently exists, with barely measurable use for current utilities. No further use of the right of way has been allocated. The recent Public Works project completed in Osceola Park did not require any further utilities in the right of way.** Even so, the Lot will be subject to a 15 foot side setback, allowing the placement of any required utilities or facilities.
14. The recommendation of the DSMG and support of the City Engineer for the reduction of the right of way does not result in the grant of a special privilege in that the same reduction should be granted to the similarly situated residential lots throughout Ocoola Park.

[signatures appear on page 4]

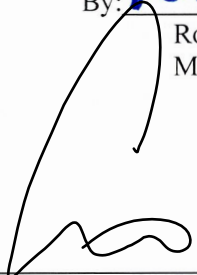
Based upon the grounds of this Application, KM ONE, LLC respectfully requests that the City Engineer and Development Services Management Group (DSMG) recommend and support the reduction of the required right-of-way width dedication for the existing right of way alley which abuts the Lot to the north.

APPLICANT:

KM ONE, LLC, a Florida limited liability company

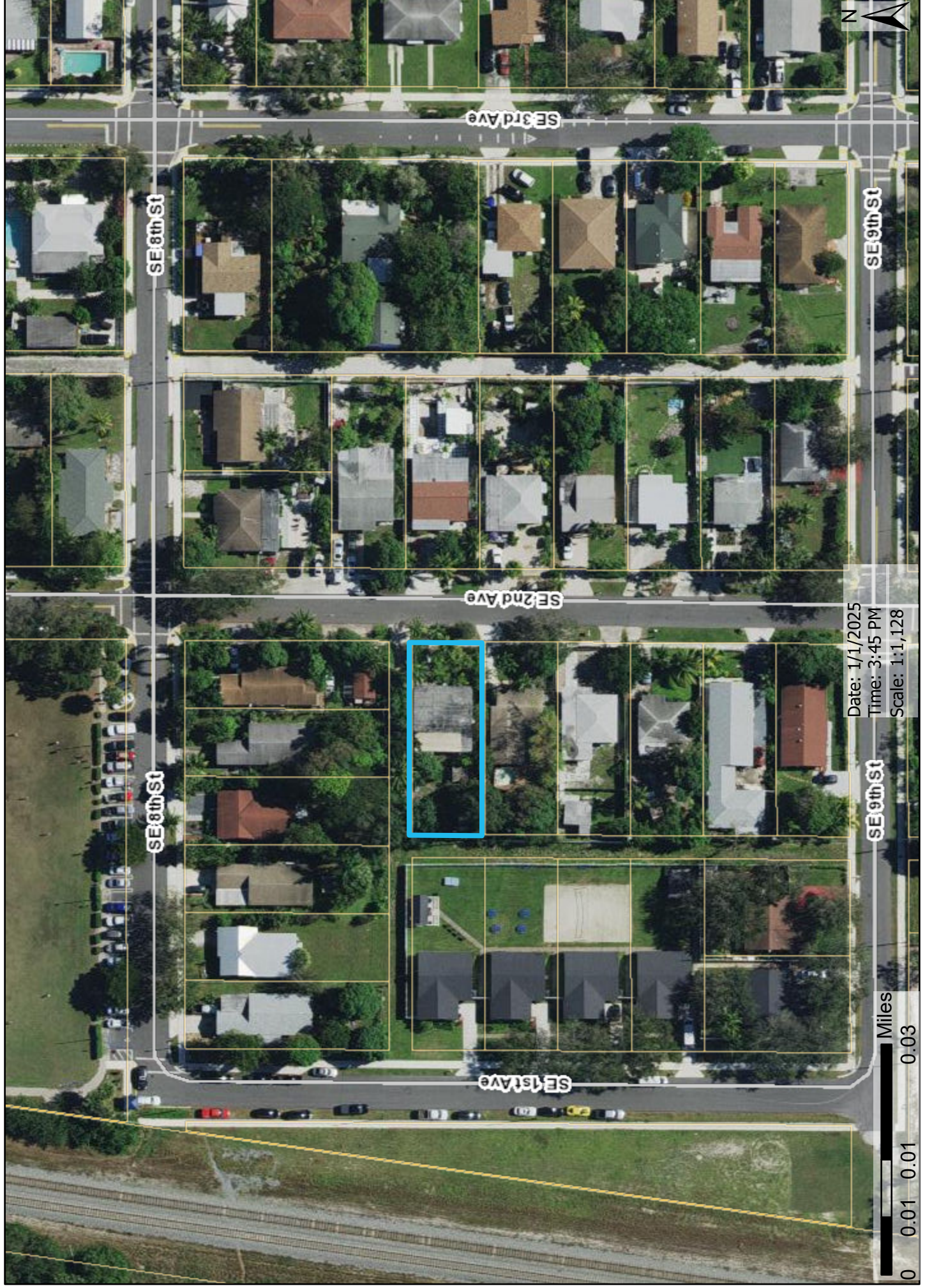
By: The Kolter Group, LLC,
a Florida limited liability company
its Manager

By: 
Robert Julien
Manager


Cristofer A. Bennardo, Esq.
Padula Bennardo Levine, LLP
Agent for Applicant
3837 NW Boca Raton Blvd.
Suite 200
Boca Raton, Florida 33431
Phone: (561) 544-8900
Email: cb@pbl-law.com

814 SE 2nd Ave Location Map

EXHIBIT A

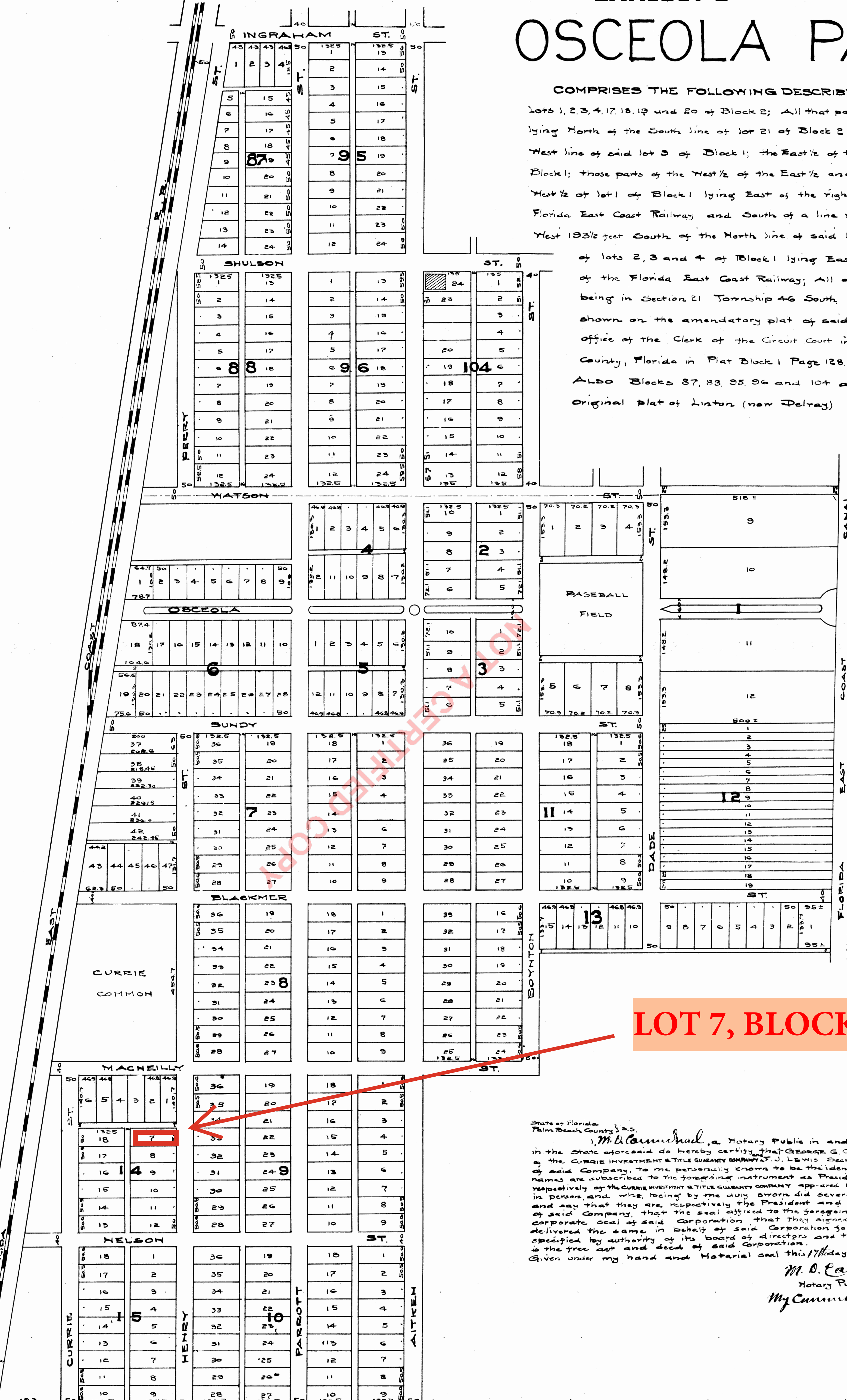


OSCEOLA PARK

COMPRISES THE FOLLOWING DESCRIBED PROPERTY

lots 1, 2, 3, 4, 17, 18, 19 and 20 of Block 2; All that part of lot 9 of Block 1 lying North of the South line of lot 21 of Block 2 produced West to the West line of said lot 9 of Block 1; the East 1/2 of the East 1/2 of lot 1 of Block 1; those parts of the West 1/2 of the East 1/2 and the East 1/2 of the West 1/2 of lot 1 of Block 1 lying East of the right of way of the Florida East Coast Railway and South of a line running East and West 193 1/2 feet South of the North line of said lot 1 Block 1; and all of lots 2, 3 and 4 of Block 1 lying East of the right of way of the Florida East Coast Railway; All of said lots lying and being in Section 21 Township 46 South, Range 43 East as shown on the amendatory plat of said Section on file in the office of the Clerk of the Circuit Court in and for Palm Beach County, Florida in Plat Block 1 Page 128.

Also Blocks 87, 88, 95, 96 and 104 according to the original plat of Linton (now Delray)



LOT 7, BLOCK 14

State of Florida,
Palm Beach County, S.S.

I, M. O. Carmichael, a Notary Public in and for said County
in the State aforesaid do hereby certify that GEORGE G. CURRIE, President
of the CURRIE INVESTMENT & TITLE GUARANTY COMPANY, J. LEWIS CURRIE, Secretary
of said Company, to me personally known to be the identical persons whose
names are subscribed to the foregoing instrument as President, Secretary, Treasurer
respectively of the CURRIE INVESTMENT & TITLE GUARANTY COMPANY appeared before me this 17th day
in person, and while being by me duly sworn did severally acknowledge
and say that they are, respectively the President and Secretary, Treasurer
of said Company, that the seal affixed to the foregoing instrument is the
corporate seal of said Corporation, that they signed sealed and
delivered the same in behalf of said Corporation for the purposes therein
specified by authority of its board of directors and that said instrument
is the free act and deed of said Corporation.

Given under my hand and Notarial seal this 17th day of January, A. D. 1913.

M. O. Carmichael
Notary Public.
My Commission Expires May 1st 1914

08.1999 a 668 Road meeting + along E-W 10' Alley in 816 7
 09.1942.8 Road meeting 330' of 15 of SE 5th St. (Ossoda St.) 1 cul-de-sac
 08.23513 Rd. 543 10/26/09
 Resolution - Vacating and Abandoning
 08.24257 18-353 12/13/2010
 Resolution - Vacating + Abandoning
 08.26309 16-1579 10/03/2019
 Resolution - Abandoning

BOUNDARY SURVEY

4.77' TO BLOCK CORNER

FOUND 2" X 2" CONC. MONUMENT

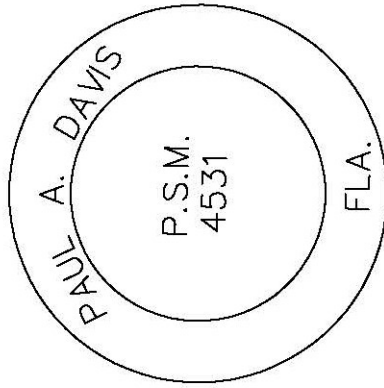
SANITARY SEWER MANHOLE
RIM ELEV. = 14.87

GRAPHIC SCALE
(IN FEET)
1 inch = 10 ft.

S.E. 2ND AVENUE

SITE # 84

S.E. 9TH STREET



HEREBY CERTIFY THAT THE ATTACHED SKETCH OF BOUNDARY SURVEY OF THE HEREON DESCRIBED PROPERTY IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF. I FURTHER CERTIFY THAT THIS SURVEY MEETS THE STANDARDS OF PRACTICE, AS SET FORTH BY THE FLORIDA BOARD OF LAND SURVEYORS, CHAPTER 5J-17, PURSUANT TO SECTION 472.027, FLORIDA STATUTES, SUBJECT TO THE QUALIFICATIONS HEREON.

PAUL A. DAVIS
P.S.M. #4531
STATE OF FLORIDA.

Land Surveyors • Land Development • Consultants • Planners
4710 N.E. 17TH AVE. POMPANO BEACH, FLA. 33064

Subdivisions & Condominiums • Land & Site Planning
 Int'l Surveys • Acreage Surveys • Topographic Surveys • Record Plans • Condominium Plans • Construction Layout