

# PLANNING AND ZONING BOARD

## CITY OF DELRAY BEACH

## --- STAFF REPORT---

**MEETING DATE:** November 27, 2017

**ITEM:** Abandonment of a portion of NW 1<sup>st</sup> Street east of the E-4 Canal. The area to be abandoned is 50.95 feet wide by approximately 180 feet long.

**RECOMMENDATION:**  
**Approval**

### GENERAL DATA:

Applicant..... Palm Beach County

Property Owners Adjacent to  
road Being Abandoned..... Palm Beach County

Agent..... Urban Design Kilday  
Studios

Location..... NW 1<sup>st</sup> Street between  
the E-4 Canal and  
Congress Avenue

Property Size..... 0.21 acres (9,171 sq. ft.)

Future Land Use Map..... CMR (Commerce)

Current Zoning..... MIC (Mixed Industrial and  
Commercial)

Adjacent Zoning.....North: CF (Community Facilities)  
East: MIC  
South: MIC  
West: RR (Rural Residential)  
RM (Residential Medium  
Density)

Existing Land Use..... improved road right-of-way

Proposed Land Use..... Abandoned area will be  
incorporated within  
adjacent South County  
Palm Tran Facility



## ITEM BEFORE THE BOARD

The item before the Board is a recommendation to the City Commission on the proposed abandonment of a portion of the NW 1<sup>st</sup> Street right-of-way west of Congress Avenue and east of the Lake Worth Drainage District E-4 Canal. The street right-of-way to be abandoned is 50.95 feet wide and extends 180 feet east of the E-4 Canal right-of-way.

This right-of-way abandonment is being processed pursuant to LDR Section 2.4.6(M), Abandonment of Rights-of-Way.

## BACKGROUND

This portion of the NW 1<sup>st</sup> Street was created from the original Model Land Company plat of the area. The area to be abandoned is 50.95 feet wide by approximately 180 feet deep.

The right-of-way contains existing utilities and is paved. With acquisition of the property on the south side of the area to be abandoned, the subject area will provide access only to Palm Beach County property. Replacement easements will need to be provided for the easement within the area to be abandoned. It is noted the development plans identify these easements.

## ABANDONMENT ANALYSIS

Pursuant to LDR Section 2.4.6(M)(1), public right-of-way may be abandoned (returned) to the fee description of adjacent property to the same degree in which it was originally obtained (i.e. property dedicated exclusively from a single parcel shall be returned to that parcel; property dedicated through subdivision shall be divided at the center line and returned equally to abutting parcels.)

As previously stated, the subject road right-of way was dedicated by the Model Land Company plat. The owner of the adjacent properties is Palm Beach County which is entitled to the entire area to be abandoned.

The City's Environmental Services Department (ESD) has reviewed the request and has no issues with the abandonment provided easements are provided to accommodate existing utilities. The utility companies, Florida Public Utilities, AT&T, Comcast and FP&L, have been notified and have no objection to the abandonment. With these easements, the provision of utilities will not be affected.

## REQUIRED FINDINGS

Pursuant to LDR Section 2.4.6(M)(5), prior to any right-of-way abandonment being approved, the following findings must be made:

**A) That there is not, nor will there be a need for the use of the right-of-way for any public purpose.**

The road right-of-way does not provide access to the adjacent properties east of the abandonment area and terminates on the west at the E-4 Canal. A cul-de-sac is provided at the side of the abandonment area to provide vehicle maneuvering at this is existing dead-end road. Therefore, a positive finding can be made.

**B) That the abandonment does not, nor will not, prevent access to a lot of record.**

As stated above, the road right-of-way to be abandoned is bordered to the north and south by properties owned by Palm Beach County. The abandoned area will be incorporated in the South County Palm Tran Facility for vehicle parking and maneuvering. Therefore, a positive finding can be made.

**C) That the abandonment will not result in detriment to the provision of access and/or utility services to adjacent properties or the general area.**

The abandonment of the road will not result in a detriment to adjacent properties to adjacent properties since they are owned by Palm Beach County. The development proposal includes the relocation of the existing cul-de-sac to the east end of the area to be abandoned, which will continue the remaining properties so vehicles will not have back onto Congress Avenue. Therefore, the abandonment will not result in detriment to the provision of access or utility services to adjacent properties of the general area, and a positive finding can be made.

<b>REVIEW BY OTHERS</b>
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**Public Notice:**

Formal public notice has been provided to property owners within a 500' radius of the subject property and notice was published in a local newspaper on November 17, 2017. The Planning, Zoning and Building Department has not received any letters of opposition to the abandonment. Future letters of objection or support, if any, will be provided at the Planning and Zoning Board meeting.

<b>ASSESSMENT</b>
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The existing road right-of-way does not provide through access to adjacent properties to the west since it terminates at the E-4 Canal. An easement will be retained for the existing public utilities within the right-of-way. Based on these factors, there is no further public purpose for the existing right-of-way. Therefore, a positive finding can be made with respect to LDR Section 2.4.6(M)(5) and the request can be supported.

<b>ALTERNATIVE ACTIONS</b>
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1. Continue with direction.
2. Move a recommendation of approval of the request for the abandonment of a portion of the road right-of-way for NW 1<sup>st</sup> Street located east of the E-4 Canal, by adopting the findings of fact and law contained in the staff report, and finding that the request and approval thereof is consistent with the Comprehensive Plan and meets criteria set forth in Section 2.4.6(M)(5) of the Land Development Regulations.
3. Move a recommendation of denial of the request for the abandonment of a portion of the road right-of-way for NW 1<sup>st</sup> Street, east of the E-4 Canal, by adopting the findings of fact and law contained in the staff report, and finding that the request and approval thereof is not consistent with the Comprehensive Plan and that the required findings of LDR Section 2.4.6(M)(5) cannot be made.

<b>RECOMMENDED ACTION</b>
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Move a recommendation of approval of the request for the abandonment of a portion of the road right-of-way for NW 1<sup>st</sup> Street, east of the E-4 Canal, by adopting the findings of fact and law

contained in the staff report, and finding that the request and approval thereof is consistent with the Comprehensive Plan and meets criteria set forth in Section 2.4.6(M)(5) of the Land Development Regulations.

Attachments:

- Location Map
- Aerial Photo
- Street View Photo
- Proposed Resolution No. 01-18
- Sketch and Legal Description of Abandonment Area

# EXHIBIT "A"

I HEREBY CERTIFY THAT THE ATTACHED SKETCH AND DESCRIPTION OF THE HEREON DESCRIBED PROPERTY IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF AS PREPARED UNDER MY DIRECTION. I FURTHER CERTIFY THAT THIS SKETCH AND DESCRIPTION MEETS THE STANDARDS OF PRACTICE SET FORTH IN CHAPTER 5J-17.050 THROUGH 5J-17.052, FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 472.027, FLORIDA STATUTES AND THE PALM BEACH COUNTY STATE PLANE COORDINATE SYSTEM REQUIREMENTS AS SET FORTH IN PALM BEACH COUNTY RPM# CW-0-058.

*David A. Bower*  
10/5/17

DAVID A. BOWER  
PROFESSIONAL SURVEYOR & MAPPER  
STATE OF FLORIDA  
CERTIFICATE NO. LS 5888

## DESCRIPTION:

A PARCEL OF LAND LYING WITHIN THE NORTHEAST ONE-QUARTER (NE 1/4) OF SECTION 18, TOWNSHIP 46 SOUTH, RANGE 43 EAST, PALM BEACH COUNTY, FLORIDA. BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF TRACT A, PALM-TRAN SATELLITE FACILITY, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 81, PAGES 187 AND 188 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; THENCE SOUTH 88°14'38" EAST, A DISTANCE OF 80.33 FEET TO A POINT BEING ON THE ARC OF A CIRCULAR CURVE TO THE RIGHT WHOSE RADIUS POINT BEARS SOUTH 58°14'38" EAST FROM SAID POINT; THENCE NORTHERLY AND EASTERLY ALONG THE ARC OF SAID CURVE HAVING A RADIUS OF 50.00 FEET, A CENTRAL ANGLE OF 120°00'00", FOR A DISTANCE OF 104.72 FEET; THENCE SOUTH 88°14'38" EAST, A DISTANCE OF 53.62 FEET TO A POINT BEING ON THE ARC OF A CIRCULAR CURVE TO THE LEFT WHOSE RADIUS POINT BEARS SOUTH 01°45'22" WEST FROM SAID POINT, THE PRECEDING THREE COURSES AND DISTANCES BEING COINCIDENT WITH THE SOUTH LINE OF SAID TRACT A; THENCE SOUTHERLY AND WESTERLY ALONG THE ARC OF SAID CURVE HAVING A RADIUS OF 50.75 FEET, A CENTRAL ANGLE OF 89°09'12", FOR A DISTANCE OF 78.97 FEET; THENCE NORTH 88°14'38" WEST, A DISTANCE OF 2.45 FEET TO A POINT BEING ON THE ARC OF A CIRCULAR CURVE TO THE RIGHT WHOSE RADIUS POINT BEARS NORTH 58°14'24" WEST FROM SAID POINT; THENCE SOUTHERLY AND WESTERLY ALONG THE ARC OF SAID CURVE HAVING A RADIUS OF 50.00 FEET, A CENTRAL ANGLE OF 119°59'32", FOR A DISTANCE OF 104.71 FEET; THENCE NORTH 88°14'38" WEST, A DISTANCE OF 90.57 FEET; THENCE NORTH 12°51'01" EAST, A DISTANCE OF 50.95 FEET TO THE POINT OF BEGINNING.

IN ALL CONTAINING 452,604.37 SQUARE FEET MORE OR LESS.

1	10/05/17	REVISE CERTIFICATION	DAB
NO.	DATE	REVISIONS	BY

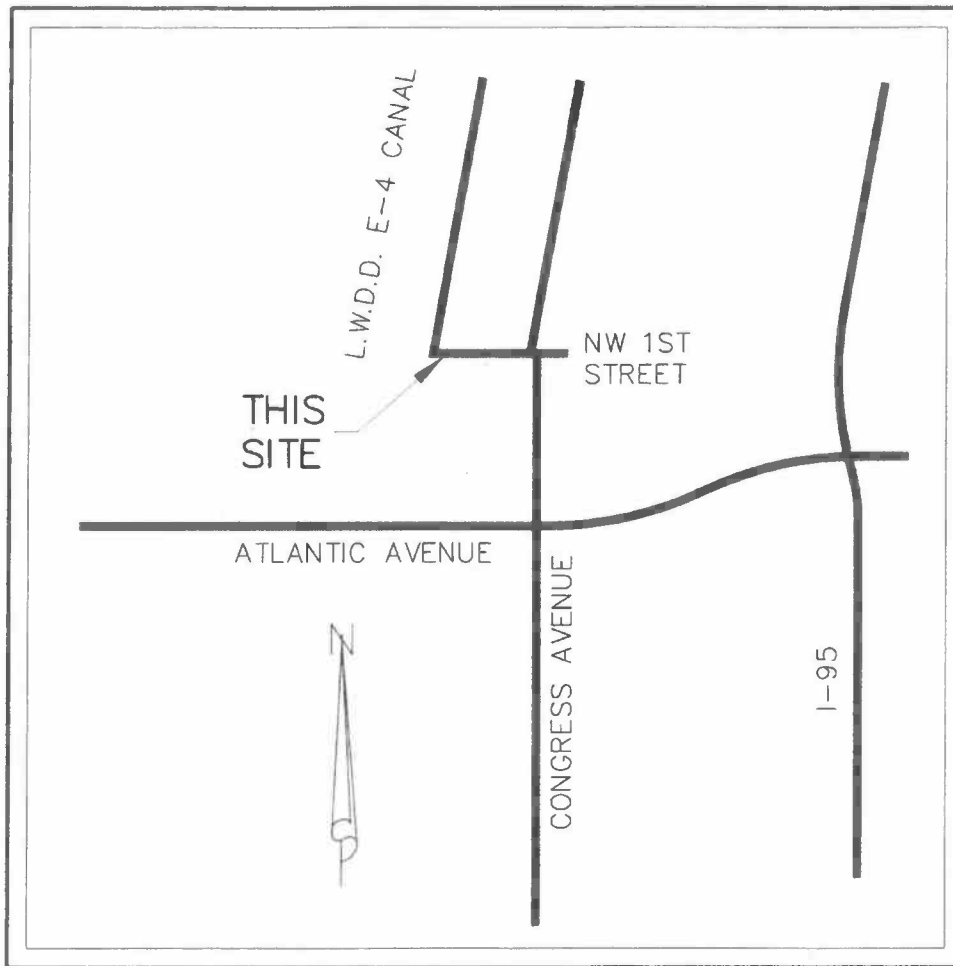
**Dennis J. Leavy & Associates, Inc.**  
Land Surveyors \* Mappers

460 Business Park Way \* Suite B  
Royal Palm Beach, Florida 33411  
Phone: 561 753-0650 Fax: 561 753-0290

**SKETCH & DESCRIPTION**  
For: BOARD OF COUNTY COMMISSIONERS  
PALM BEACH COUNTY, FLORIDA

DRAWN: DB	SCALE: N/A	DATE: 09/15/17
CHK: AV	JOB# 15-024 SD	SHEET: 1 OF 5

# EXHIBIT "A"



LOCATION MAP  
NOT TO SCALE

## LEGEND:

(C)	= CALCULATED	P.O.B.	= POINT OF BEGINNING
D	= CENTRAL ANGLE	P.R.M.	= PERMANENT REFERENCE MONUMENT
L	= ARC LENGTH	R	= RADIUS
LB	= LICENSED BUSINESS	U.E.	= UTILITY EASEMENT
O.R.B.	= OFFICIAL RECORDS BOOK	±	= MORE OR LESS
P.B.	= PLAT BOOK	(P)	= PER THE PLAT OF
P.B.C.R.	= PALM BEACH COUNTY RECORDS		PALM TRAN SATELLITE FACILITY
PCN	= PARCEL CONTROL NUMBER		(P.B. 81, PG. 187, P.B.C.R.)
PG.	= PAGE		

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## EXHIBIT "A"

### SURVEYOR'S NOTES:

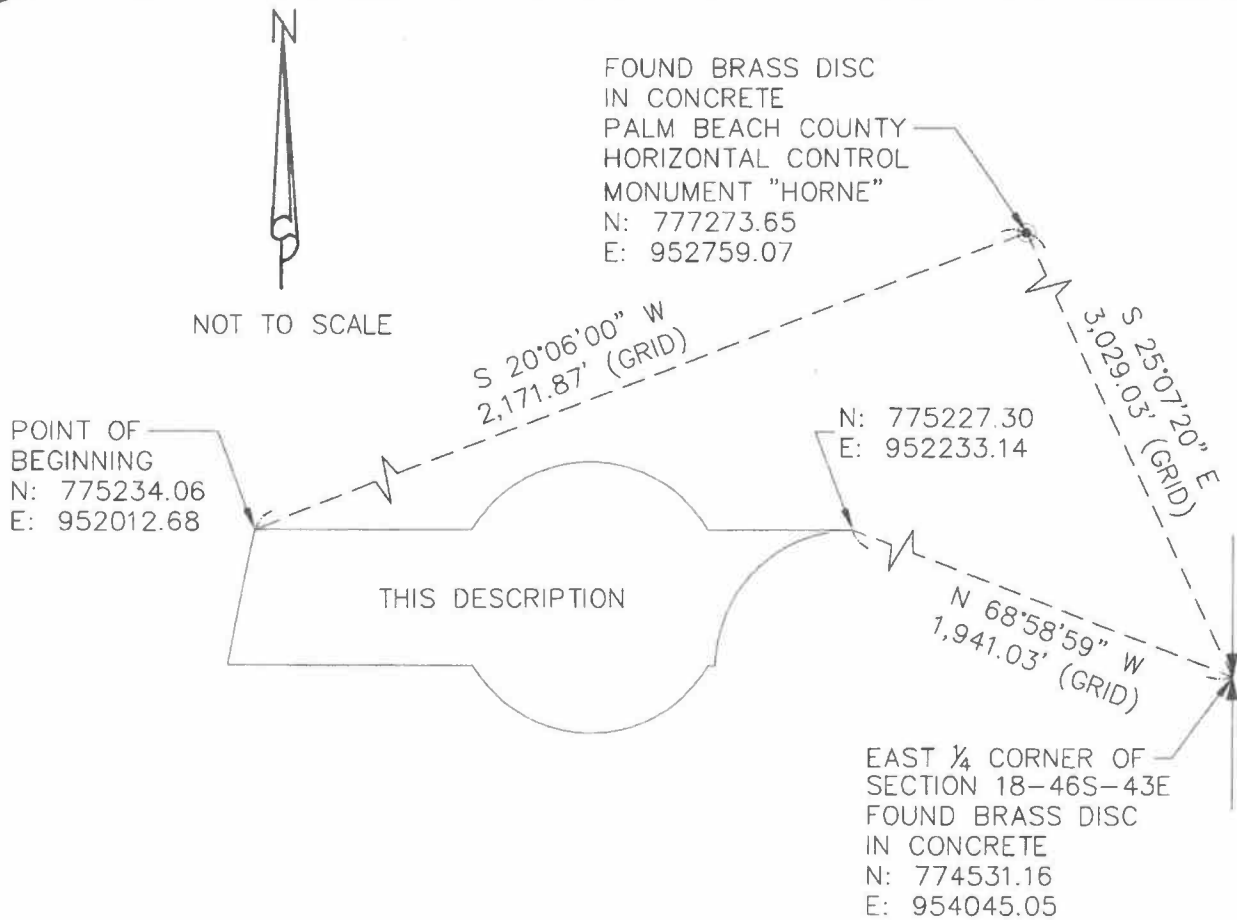
1. BEARINGS DEPICTED HEREON ARE BASED UPON THE LINE BETWEEN PALM BEACH COUNTY HORIZONTAL CONTROL MONUMENT "HORNE" AND THE EAST  $\frac{1}{4}$  CORNER OF SECTION 18, TOWNSHIP 46 SOUTH, RANGE 43 EAST, PALM BEACH COUNTY, FLORIDA. SAID LINE BEING MONUMENTED AND HAVING A GRID BEARING OF SOUTH 25°07'20" EAST (NAD 83/90).
2. THIS INSTRUMENT NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.
3. THE UNDERSIGNED MAKES NO REPRESENTATIONS OR GUARANTEES AS TO THE INFORMATION REFLECTED HEREON PERTAINING TO EASEMENTS, RIGHTS OF WAY, SETBACK LINES, AGREEMENTS AND OTHER MATTERS, AND FURTHER, THIS INSTRUMENT IS NOT INTENDED TO REFLECT OR SET FORTH ALL SUCH MATTERS. SUCH INFORMATION SHOULD BE OBTAINED AND CONFIRMED BY OTHERS THROUGH APPROPRIATE TITLE VERIFICATION. LANDS SHOWN HEREON WERE NOT ABSTRACTED FOR RIGHTS OF WAY AND/OR EASEMENTS OF RECORD.
4. THE LICENSED BUSINESS NUMBER FOR DENNIS J. LEAVY & ASSOCIATES INC. IS LB #6599, THE CERTIFYING SURVEYORS LICENSE NUMBER IS LS #5888.
5. THIS IS NOT A SURVEY.

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<b>CHK:</b> AV	<b>JOB#</b> 15-024 SD	<b>SHEET:</b> 3 OF 5

# EXHIBIT "A"



## COORDINATE TRANSLATION DATA

- COORDINATES SHOWN ARE GRID
- DATUM = NAD 83 1990 ADJUSTMENT
- ZONE = FLORIDA EAST
- LINEAR UNIT = US SURVEY FEET
- COORDINATE SYSTEM 1983 STATE PLANE TRANSVERSE MERCATOR PROJECTION
- GROUND DISTANCE X SCALE FACTOR = GRID DISTANCE
- ALL DISTANCES ARE GROUND UNLESS OTHERWISE NOTED
- SCALE FACTOR = 1.0000410

S 89°21'29" E (PLAT) = 01°06'51" CLOCKWISE  
S 88°14'38" E (GRID) = BEARING ROTATION  
(PLAT TO GRID)

NORTH RIGHT-OF-WAY  
LINE OF NW 1st STREET

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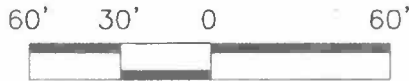
CHK: AV

JOB# 15-024 SD

SHEET: 4 OF 5

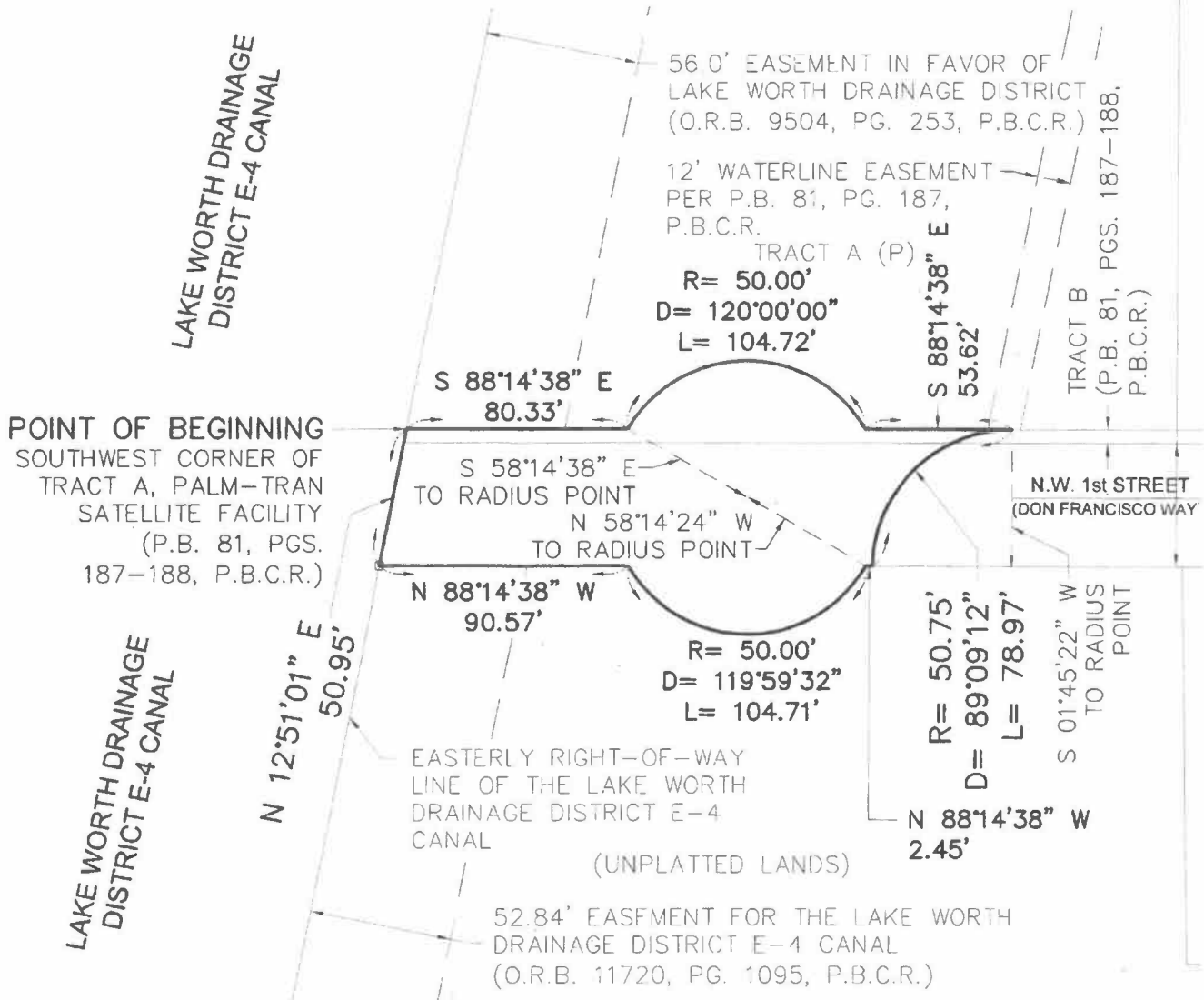


# EXHIBIT "A"



GRAPHIC SCALE IN FEET  
SCALE: 1" = 60'

(O.R.B. 2321, PG. 1894, P.B.C.R.)  
(O.R.B. 8891, PG. 570, P.B.C.R.)  
(O.R.B. 1846, PG. 963, P.B.C.R.)  
(O.R.B. 8883, PG. 5, P.B.C.R.)



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DRAWN: DB	SCALE: 1"=60'	DATE: 09/15/17
CHK: AV	JOB# 15-024 SD	SHEET: 5 OF 5

RESOLUTION NO. 01-18

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, VACATING AND ABANDONING A PORTION OF THE NW 1<sup>ST</sup> STREET ROAD RIGHT-OF-WAY, AS MORE PARTICULARLY DESCRIBED HEREIN, BUT RESERVING AND RETAINING TO THE CITY AN EASEMENT FOR PUBLIC UTILITIES OVER A PORTION OF THE ABANDONMENT AREA, AS MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING A REVERTER CLAUSE AND AN EFFECTIVE DATE.

WHEREAS, the City of Delray Beach, Florida received an application for the abandonment of a portion of the existing 50.95' road right-of-way for NW 1<sup>st</sup> Street as set forth on the plat for the Model Land Company, being more fully described in the sketch and legal description attached hereto as Exhibit "A"; and

WHEREAS, the application for abandonment of said road right-of-way was processed pursuant to Section 2.4.6(M), "Abandonment of Rights-of-Way", of the Land Development Regulations of the City of Delray Beach, Florida; and

WHEREAS, pursuant to LDR Section 2.4.6(M)(3)(e), the Planning and Zoning Board, as Local Planning Agency, formally reviewed the matter at a public hearing on November 27, 2017, and voted to recommend approval of the abandonment, based upon positive findings with respect to LDR Section 2.4.6(M)(5), subject to the condition that an easement be retained for the public utilities within the area to be abandoned.

WHEREAS, pursuant to LDR Section 2.4.6(M), the application was forwarded to the City Commission with the recommendation that the abandonment be approved, based upon positive findings; and

WHEREAS, the City Commission of the City of Delray Beach, Florida, finds that it to be in the best interest of the City of Delray Beach to vacate and abandon said road right-of-way, based upon positive findings pursuant to LDR Section 2.4.6(M)(5), and reserves unto itself an easement within the abandonment area for the purpose of public utilities.

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

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

Section 2. That pursuant to Chapter 177.101(5) and Chapter 166 of the Florida Statutes, it is hereby determined by the City of Delray Beach Commission to vacate and abandon all rights and interests it holds to the real property described in Exhibit "A" except as provided for in Section 3 of this Resolution.

Section 3. The abandonment shall not be effective until both this Resolution and an Easement Deed over the public utilities have been recorded in the Public Records of Palm Beach County, Florida.

PASSED AND ADOPTED in regular session on this the \_\_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
CITY CLERK