

RESOLUTION NO. 132-19

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, PROVIDING FOR THE ABANDONMENT OF RIGHT-OF-WAY OF A PORTION OF A 12' FOOT PLATTED ALLEY TOTALING APPROXIMATELY ONE-THOUSAND FIVE-HUNDRED AND NINETY (1,590) SQUARE FEET LYING NORTH OF LOT 15 AND SOUTH OF LOTS 2, 3, AND 4 OF BLOCK 87 OF THE PLAT OF LINNS ADDITION TO OSCEOLA PARK, AS RECORDED IN PLAT BOOK 1 PAGE 133 OF THE OFFICIAL RECORDS OF PALM BEACH COUNTY, FLORIDA, AND AS MORE PARTICULARLY DESCRIBED HEREIN; RETAINING A GENERAL UTILITY EASEMENT ENCOMPASSING THE SUBJECT AREA AS MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the City of Delray Beach, Florida ("the City") received an application (2019-210-ABR-CCA) for the abandonment of an unpaved portion of a 12' wide platted alleyway totaling approximately one-thousand five-hundred and ninety (1,590) square feet, lying north of lot 15, of block 87, and south of lots 2, 3, and 4 of block 87 of the plat of Linns Addition to Osceola Park, as recorded in Plat Book 1, Page 133 of the Official Records of Palm Beach County, Florida, and as more particularly described in Exhibit "A"; and

WHEREAS, the portion of the right-of-way requested for abandonment was dedicated to the old townsite of Linton, now the City of Delray Beach, for public use, as recorded in Plat Book 1, Page 133 of the Public Records of Palm Beach County, Florida; and

WHEREAS, the City determined, except for a general utility easement, there is not now, nor will there be, any need for the use of this portion of the alleyway for public purposes, as required by the City's Comprehensive Plan at Policy A-6.3 of the Transportation Element and Sec. 2.4.6(M) of the Land Development Regulations; 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 matter at a public hearing on August 19, 2019, and vote 5 to 0 in favor of the abandonment, based upon positive findings with respect to LDR Section 2.4.6(M)(5); and

WHEREAS, the City Commission has reviewed the Right-of-Way abandonment application (2019-209-ABR-CCA) to abandon a portion of the platted alleyway and has considered the respective findings set forth in the LDRs.

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

Section 1. That the forgoing recitals are hereby incorporated herein by this reference and are approved and adopted.

Section 2. That pursuant to Policy A-6.3 of the Transportation Element and Sec. 2.4.6(M) of the Land Development Regulations of the City of Delray Beach, the City hereby determines that said lands are not being used now, nor will be used in the future, for public purposes and thus vacate and abandon such rights and interests it might hold, if any, to the following portion of the 12' alley right-of-way, north of Lot 15 and south of Lots 2, 3, and 4, of block 87, as recorded in the plat of Linns Addition to Osceola Park in Plat Book 1, Page 133, as more particularly described in **Exhibit "A"** attached hereto.

Section 3. That the City of Delray Beach hereby retains and reserves unto itself a general utility easement for the purpose of the construction and maintenance of public utilities/drainage facilities (including sewer lines), with full and free right, liberty, and authority to enter upon and to install, operate, and maintain such facilities under, across, through and upon, over, under, or within the following described property located in Palm Beach County, Florida, more particularly described in **Exhibit "B"** attached hereto, concomitant and coextensive with this right is the further right in the Grantee, its successors and assigns, of ingress and egress over and on that portion of land described above, to affect the purposes of the easement.

Section 4. The City Clerk, or designee, is directed to send a certified copy of this Resolution to Tyler Knight.; Knight Group, for attachment to petition to Palm Beach County for right-of-way abandonment.

Section 5. This Resolution shall be effective immediately upon adoption.

PASSED AND ADOPTED in regular session on the ____ day of _____, 2019.

ATTEST:

Katerri Johnson, City Clerk

Shelly Petrolia, Mayor

Approved as to form and legal sufficiency:

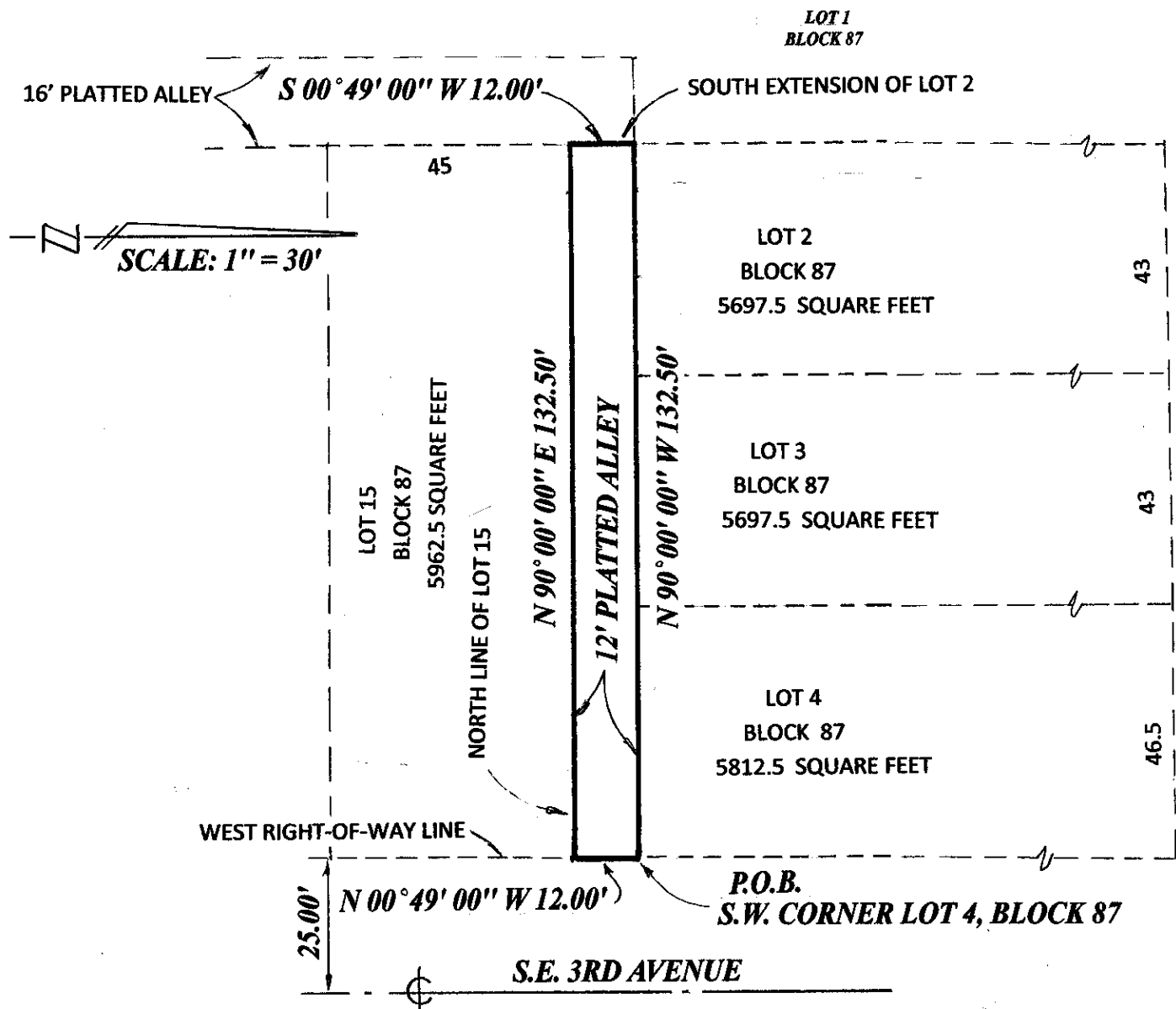
Lynn Gelin, City Attorney

COMPOSITE EXHIBIT “A” – SKETCH AND LEGAL DESCRIPTION

SKETCH OF DESCRIPTION

SHEET 1 OF 2

(THIS IS NOT A SURVEY)



I HEREBY CERTIFY THAT THIS SKETCH OF DESCRIPTION SHOWN HEREON MEETS THE STANDARDS OF PRACTICE SET FORTH IN CHAPTER SJ-17-050-052 FLORIDA ADMINISTRATIVE CODE PURSUANT TO SECTION 472.027, FLORIDA STATUTES

HARRY A BURGESS PLS 5089

Renner Burgess, Inc.
LAND SURVEYING

801 S.E. 6th Ave., Suite 101
Delray Beach, FL 33483

Phone 561-243-4624
Fax 243-4669

4-17-067

SKETCH OF DESCRIPTION

SHEET 2 OF 2

(THIS IS NOT A SURVEY)

A 12 FOOT PLATTED ALLEY LYING IN BLOCK 87 OF THE PLAT OF LINN'S ADDITION TO OSCEOLA PARK, RECORDED IN PLAT BOOK 1, PAGE 133, ALSO LYING IN BLOCK 87 OF OSCEOLA PARK AS RECORDED IN PLAT BOOK 3 AT PAGE 2 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA. BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

**BEGINNING AT THE SOUTHEAST CORNER OF LOT 4 OF SAID BLOCK 87;
THENCE 90 00' 00" W ALONG THE NORTH LINE OF SAID 12 FOOT PLATTED ALLEY,
A DISTANCE OF 132.50 FEET TO THE SOUTH EXTENSION OF THE WEST LINE OF
LOT 2 OF SAID BLOCK 87; THENCE S 00 49' 00" E ALONG SAID EXTENSION A
DISTANCE OF 12.00 FEET TO THE NORTHWEST CORNER OF LOT 15 OF SAID BLOCK 87;
THENCE S 90 00' 00" E ALONG THE NORTH LINE OF SAID LOT 15, BLOCK 87 A DISTANCE
OF 132.50 FEET TO THE WEST RIGHT-OF-WAY LINE OF S.E. 3RD AVENUE;
THENCE N 00 49' 00" W ALONG SAID RIGHT-OF-WAY LINE A DISTANCE
OF 12.00 FEET TO THE POINT OF BEGINNING.**

THE DESCRIBED PARCEL CONTAINS 1590 SQUARE FEET.

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COMPOSITE EXHIBIT “B” – EASEMENT AGREEMENT

Prepared by: RETURN:

City Attorney's Office
200 N.W. 1st Avenue
Delray Beach, Florida 33444

EASEMENT AGREEMENT

THIS INDENTURE, made this ____ day of _____, 2019, by and between 206 Delray Beach LLC, with a mailing address of 9905 Clint Moore Rd, Boca Raton, FL, 33496, Grantor, and the **CITY OF DELRAY BEACH**, with a mailing address of 100 N.W. 1st Avenue, Delray Beach, Florida 33444, a municipal corporation in Palm Beach County, State of Florida, Grantee:

WITNESSETH: That the Grantor, for and in consideration of the mutual promises herein contained and other good and valuable considerations, does hereby grant, bargain, sell and release unto the Grantee, its successors and assigns, a general utility easement for the purpose of the construction and maintenance of public utilities/drainage facilities with full and free right, liberty, and authority to enter upon and to install, operate, and maintain such facilities under, across, through and upon, over, under, or within the following described property located in Palm Beach County, Florida, to-wit:

DESCRIPTION

See Exhibit "A" (Easement Area -Sketch and Legal Description)

Concomitant and coextensive with this right is the further right in the Grantee, its successors and assigns, of ingress and egress over and on that portion of land described above, to affect the purposes of the easement, as expressed hereinafter.

That this easement shall be subject only to those easements, restrictions, and reservations of record. That the Grantor agrees to provide for the release or subordination of any and all mortgages or liens encumbering this easement. The Grantor agrees to erect no building or affect any other kind of construction or improvements upon the above-described property without prior consent of the Grantee. The Grantee shall have the right to remove any permanent or temporary structure in order to access the easement for maintenance or repair of the public utilities/drainage facilities; and Grantee shall not be responsible for repairing any structures damaged or destroyed while accessing the easement for maintenance or repair. The Grantee shall only be responsible for restoring the affected property area to a substantially similar condition utilizing substantially similar materials which were existing before repairs or maintenance took place, except that as to grass areas, the Grantee shall only be required to restore grass areas with either Bahia or St Augustine sod; and no specialty sod shall be installed without payment for same by Grantor to Grantee prior to the restoration of the grass areas.

Grantor does hereby fully warrant the title to said land and will defend the same against the lawful claims of all persons whomsoever claimed by, through or under it, that it has good right and lawful authority to grant the above-described easement and that the same is unencumbered except as provided above. Where the context of this Easement Agreement allows or permits, the same shall include the successors or assigns of the parties.

IN WITNESS WHEREOF, said Grantor has signed and sealed these presents the day and year first above written.

WITNESSES:

GRANTOR

By: 206 Delray Beach LLC

Signature

Name: Stephen Thomas

Print Name

Its: Sole Manager

Date: _____

Signature

Print Name

STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before me this ____ day of _____, 20__ by _____ (name of officer or agent), of _____ (name of corporation), a _____ (State or place of incorporation) corporation, on behalf of the corporation. He/She is personally known to me or has produced _____ (type of identification) as identification and did/did not take an oath.

Signature of Notary Public -

State of _____

(SEAL)

ATTEST:

CITY OF DELRAY BEACH, FLORIDA

City Clerk

By: _____
Shelly Petrolia, Mayor

Approved as to Form:

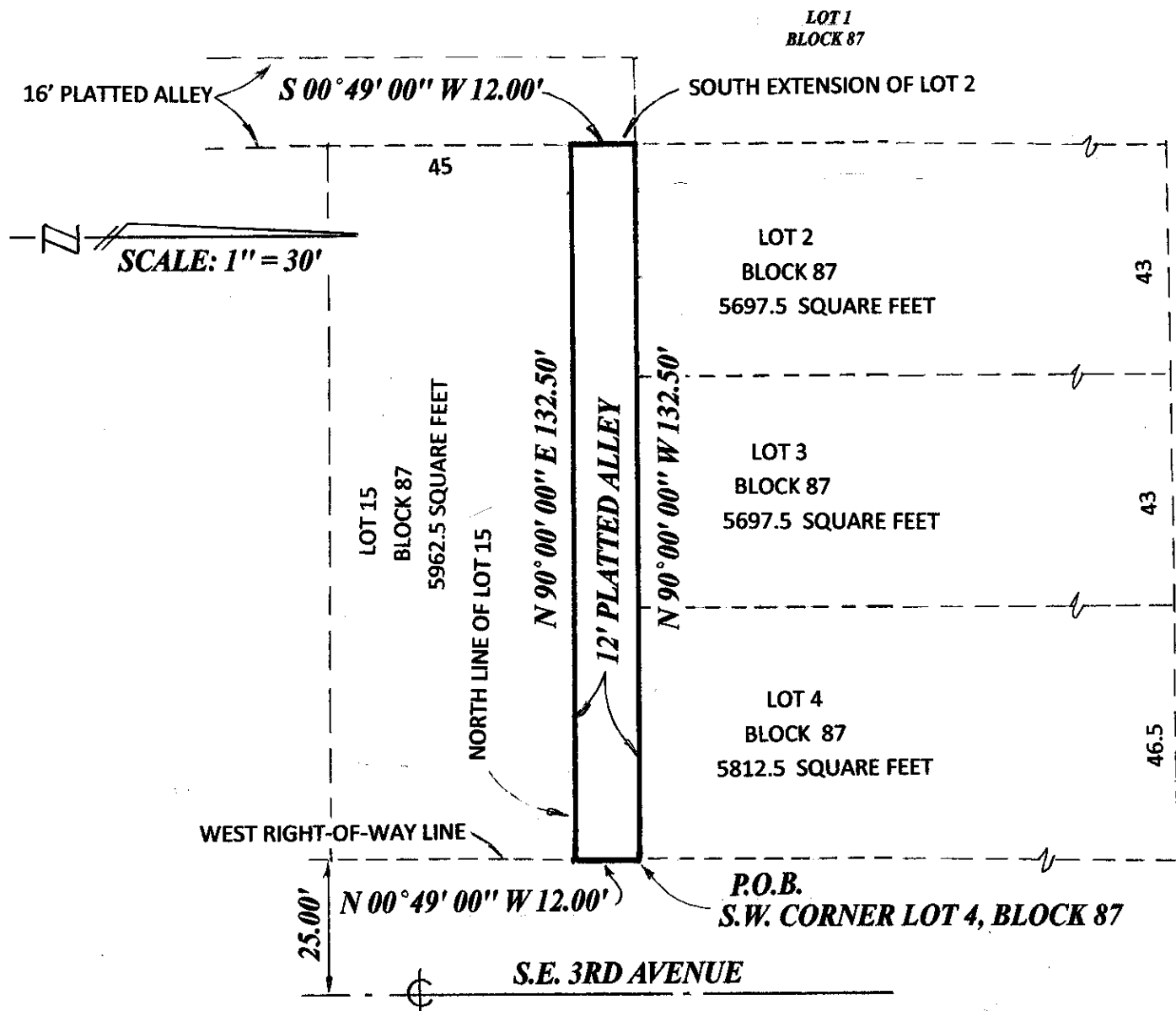
City Attorney

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