

ORDINANCE #07-17

AN ORDINANCE OF THE CITY OF DE LEON, TEXAS CLOSING A PORTION OF EAST SHORT AVENUE LYING BETWEEN BLOCK 8 OF THE EDGEWOOD ADDITION TO THE CITY OF DE LEON AND BLOCK F OF THE HIGHLAND ADDITION TO THE CITY OF DE LEON AND LYING WEST OF SOUTH COMANCHE DRIVE; FINDING THAT THE DESCRIBED STREET IS NO LONGER NECESSARY FOR USE AS A PUBLIC THOROUGHFARE; RELEASING ANY AND ALL PUBLIC RIGHTS TO USE THE TRACT AS A PUBLIC RIGHT-OF-WAY; AUTHORIZING AND DIRECTING THE CONVEYANCE OF THE STREET PROPERTY TO ADJACENT PROPERTY OWNERS BY DEED WITHOUT WARRANTY; AND PROVIDING FOR A SEVERABILITY CLAUSE.

WHEREAS, pursuant to Chapter 311 of the Texas Transportation Code, the City of De Leon has exclusive control over the highways, streets, and alleys of the City and has the authority to vacate, abandon, or close a street or alley;

WHEREAS, the City of De Leon is the owner of a street located between Block 8 of the Edgewood Addition to the City of De Leon and Block F of the Highland Addition of the City of De Leon and lying west of South Comanche Drive, as shown on the Plat recorded in Cabinet A at Slide 38, Plat Records of Comanche County, Texas and commonly known as East Short Avenue;

WHEREAS, while this property has been dedicated for use as a public thoroughfare, only a portion of East Short Avenue has been used as a public street and, on January 11, 2016, the City Council approved a request to close the undeveloped and unused portion of East Short Avenue;

WHEREAS, the owners of a majority of the property adjacent to the unused street to be abandoned herein, Devin and Anna Wells, have requested that the City of De Leon convey the property to them and the City has determined that neither of the other two adjacent property owners wish to receive a portion of the street property;

WHEREAS, Chapter 272 of the Texas Local Government Code authorizes political subdivisions to sell and convey abandoned public right-of-ways to abutting owners at fair market value and the City has established the fair market value of the above described street as being \$1.00 per running foot along any abutting property;

WHEREAS, the City Council of the City of De Leon, Texas (the "City Council") wishes to abandon the use of this tract of property as part of the public right-of-way and to convey the property to Devin and Anna Wells;

WHEREAS, the City Council approved a Resolution abandoning the use of this tract of property as part of the public right-of-way and to convey the property to Devin and Anna Wells in March of 2016, but no executed copy of said Resolution could be found, nor was an executed, recorded Deed Without Warranty conveying the property located either in the City or County records;

WHEREAS, the City Council wishes to take official action again to ensure that proper records of the abandonment and conveyance authorized by this Ordinance are maintained by the City and filed with the Clerk of Comanche County, Texas; and

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DE LEON, TEXAS:

1. **FINDINGS OF FACT:** The foregoing recitals are hereby found to be true and correct and are incorporated into this Ordinance by reference as findings of fact as if set forth herein at length.
2. **RIGHT-OF-WAY CLOSURE:** The City Council hereby vacates, abandons, and closes the following tract as a public thoroughfare.

The undeveloped portion of East Short Avenue lying between Block 8 of the Edgewood Addition to the City of De Leon and Block F of the Highland Addition to the City of De Leon and lying West of South Comanche Drive, as depicted in yellow on the attached Exhibit "A" and labeled, therein, as "East Short Street (Not in Use)".

3. **ABANDONMENT OF RIGHTS:** The City Council of the City of De Leon, Texas hereby abandons any and all public rights and interest, if any, to the utilization of the described tract as a public right-of-way across the surface.
4. **CONVEYANCE OF PROPERTY INTEREST:** Upon final approval of this Ordinance, the Mayor and the City Secretary are hereby authorized, empowered, instructed and directed to execute a deed without warranty conveying the rights and interests of the City in the above described abandoned and vacated tract to Devin and Anna Wells according to the provisions of the Local Government Code, provided that the purchase price to be paid for such property shall be \$1.00 per running foot along the abutting properties. Upon payment of the purchase price and execution of such deed, the deed shall be and become a valid and binding action of the City.
5. **SEVERABILITY:** If any word, article, phrase, paragraph, sentence, clause or provision of this Ordinance shall be adjudged by a court of competent jurisdiction to be invalid, the invalidity shall not affect other provisions or application of this Ordinance which can be given effect without the invalid provision, and to this end the provisions of this Ordinance are declared to be severable.
6. **PROPER NOTICE & OPEN MEETING:** It is hereby officially found and determined that the meetings at which this Ordinance was passed were open to the public as required and that public notice of the time, place and purpose of said meetings was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.


PASSED AND APPROVED on first reading on this the 27th day of February, 2017 by the City Council of the City of De Leon, Texas.

PASSED, APPROVED AND ADOPTED on second and final reading on this the 27th day of March, 2017 by the City Council of the City of De Leon, Texas.

CITY OF DE LEON

By: 
Michael Reyna, Mayor

ATTEST:

By: 
Melenda K. Harbour, City Secretary


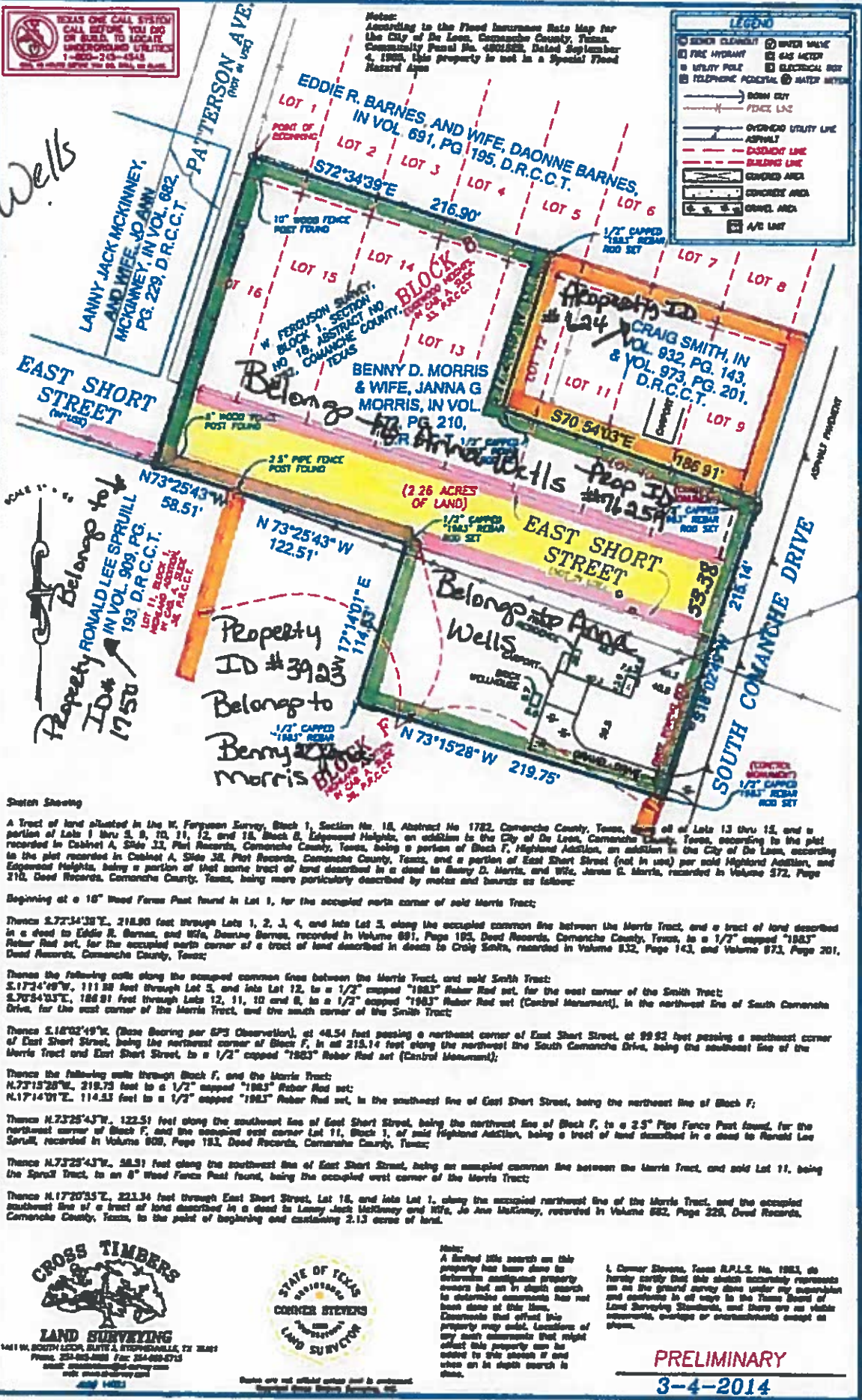


Exhibit "A"



Sketch Sheet

A Tract of land situated in the W. Ferguson Survey, Block 1, Section No. 18, Abstract No. 1782, Comanche County, Texas, being all of Lots 13 thru 16, and a portion of Lots 1 thru 5, 8, 10, 11, 12, and 18, Block 8, Edgewood Heights, an addition to the City of De Leon, Comanche County, Texas, according to the plat recorded in Cabinet A, Side 32, Plat Records, Comanche County, Texas, being a portion of Block F, Highland Addition, an addition to the City of De Leon, according to the plat recorded in Cabinet A, Side 30, Plat Records, Comanche County, Texas, and a portion of East Short Street (not in use) per said Highland Addition, and Edgewood Heights, being a portion of that same tract of land described in a deed to Benny D. Morris, and Wife, Janna G. Morris, recorded in Volume 210, Page 210, Deed Records, Comanche County, Texas, being more particularly described by metes and bounds as follows:

Beginning at a 16" Wood Fence Post found in Lot 1, for the occupied north corner of said Morris Tract;

Thence S.77°34'38"E, 218.80 feet through Lots 1, 2, 3, 4, and into Lot 5, along the occupied common line between the Morris Tract, and a tract of land described in a deed to Eddie R. Barnes, and Wife, Daonne Barnes, recorded in Volume 691, Page 195, Deed Records, Comanche County, Texas, to a 1/2" capped "1983" Rebar Rod set, for the occupied north corner of a tract of land described in deeds to Craig Smith, recorded in Volume 932, Page 143, and Volume 973, Page 201, Deed Records, Comanche County, Texas;

Thence the following calls along the occupied common lines between the Morris Tract, and said Smith Tract:

S.17°34'09"W, 111.89 feet through Lot 5, and into Lot 12, to a 1/2" capped "1983" Rebar Rod set, for the west corner of the Smith Tract;

S.70°54'03"E, 186.81 feet through Lots 12, 11, 10 and 8, to a 1/2" capped "1983" Rebar Rod set (Control Monument), in the northwest line of South Comanche Drive, for the east corner of the Morris Tract, and the south corner of the Smith Tract;

Thence S.18°02'49"W (Bearing per GPS Observation), at 48.54 feet passing a northeast corner of East Short Street, at 99.82 feet passing a southeast corner of East Short Street, being the northwest corner of Block F, in at 215.14 feet along the northwest line of South Comanche Drive, being the southeast line of the Morris Tract and East Short Street, to a 1/2" capped "1983" Rebar Rod set (Control Monument);

Thence the following calls through Block F, and the Morris Tract:

N.77°13'20"W, 219.75 feet to a 1/2" capped "1983" Rebar Rod set;

N.17°14'01"E, 114.53 feet to a 1/2" capped "1983" Rebar Rod set, in the southwest line of East Short Street, being the northeast line of Block F;

Thence N.77°25'43"W, 122.51 feet along the southwest line of East Short Street, being the northwest line of Block F, to a 2.5" Pipe Fence Post found, for the northeast corner of Block F, and the occupied east corner Lot 11, Block 1, of said Highland Addition, being a tract of land described in a deed to Ronald Lee Spruill, recorded in Volume 909, Page 193, Deed Records, Comanche County, Texas;

Thence N.77°25'43"W, 58.31 feet along the southwest line of East Short Street, being an occupied common line between the Morris Tract, and said Lot 11, being the Spruill Tract, to an 8" Wood Fence Post found, being the occupied west corner of the Morris Tract;

Thence N.17°20'25"E, 221.34 feet through East Short Street, Lot 16, and into Lot 1, along the occupied northwest line of the Morris Tract, and the occupied southeast line of a tract of land described in a deed to Lanny Jack McKinney and Wife, Jo Ann McKinney, recorded in Volume 682, Page 229, Deed Records, Comanche County, Texas, to the point of beginning and containing 2.13 acres of land.