

ORDINANCE NUMBER 001-16

AN ORDINANCE OF THE CITY OF DE LEON, TEXAS ABANDONING ALLEYWAY PROPERTY IN THE CITY OF DE LEON BEING OUT OF BLOCK 12 OF THE ORIGINAL ADDITION TO THE CITY OF DE LEON, TEXAS AND LYING BETWEEN ALMANTE AVENUE ON THE SOUTH, TRAVIS STREET ON THE WEST, BIVAR AVENUE ON THE NORTH, AND MCKINNEY STREET ON THE EAST; FINDING THAT THE DESCRIBED ALLEYWAY PROPERTY IS NO LONGER NECESSARY FOR USE AS PUBLIC THOROUGHFARES; RELEASING ANY AND ALL PUBLIC RIGHTS TO USE THE TRACTS AS PUBLIC RIGHT-OF-WAYS; AUTHORIZING AND DIRECTING THE CONVEYANCE OF THE ALLEYWAY PROPERTY TO THE 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 alleyway property located in Block 12 of the Original Addition of the City of De Leon, Texas and lying between Almante Avenue on the South, Travis Street on the West, Bivar Avenue on the North, and McKinney Street on the East, as shown on the Plat recorded in Cabinet A at Slide 37, Plat Records of Comanche County, Texas;

WHEREAS, the owners of all of the property adjacent to the alleys to be abandoned herein, Richard and Kelly Mohon and De Leon SG Nut Company, LLC, have requested that the City of De Leon abandon the right-of-ways and convey the property to them;

WHEREAS, the City Council of the City of De Leon, Texas has determined that the specified portions of the right-of-ways are no longer necessary for public use as thoroughfares and that there are no other owners of property abutting these right-of-ways;

WHEREAS, the City Council of the City of De Leon, Texas wishes to abandon the use of these tracts of property as part of the public right-of-way and to convey the tracts to the Mohons and De Leon SG Nut Company, LLC, in proportion to their respective ownership interests, and Richard Mohon, on behalf of the Mohons, and Randy Stephens, on behalf of De Leon SG Nut Company, LLC, have agreed, in writing, that the distribution included in this Ordinance is fair and equitable;

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

WHEREAS, the City has established the fair market value of the above described right-of-ways as being \$1.00 per running foot along any abutting property;

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-WAYS CLOSURE:** The City Council hereby vacates, abandons, and closes the following tracts as public thoroughfares.

a. **Alley A:** A 20 foot alley lying to the East of Lots 8 and 9 of Zone A of Block 12 of the Original Addition to the City of De Leon, Texas, as shown on the Plat recorded in Cabinet A at Slide 37, Plat Records of Comanche County, Texas, as marked in yellow on the Plat attached hereto as Exhibit "A".

b. **Alley B:** A 20 foot alley lying to the North of Lots 1, 2, 3, 4, and 5 of Block 12 of the Original Addition to the City of De Leon, Texas, as shown on the Plat recorded in Cabinet A at Slide 37, Plat Records of Comanche County, Texas, as marked in green on the Plat attached hereto as Exhibit "A".

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 tracts as public right-of-ways across the surface.

4. **CONVEYANCE OF PROPERTY INTEREST:** The Mayor and the City Secretary are hereby authorized, empowered, instructed and directed to execute two deeds without warranty conveying the rights and interests of the City in this alleyway property to Richard and Kelly Mohon and to De Leon SG Nut Company, LLC, as follows:

a. The Mohons will receive the 10 feet of Alley A adjacent to Lots 8 and 9 in Zone A of Block 12 on the East, the 10 feet of Alley B adjacent to Lot 8 in Zone A of Block 12 on the South, and an additional portion of Alley B sufficient to connect the Mohons' interests in Alley A and Alley B.

b. De Leon SG Nut Company, LLC will receive the 10 feet of Alley A adjacent to Lots 6 and 7 of Block 12 on the West, the 10 feet of Alley B adjacent to Lots 1, 2, and 3 on the North, and the portion of Alley B lying between Lots 3, 4, 5, and 6 in Block 12, excepting a portion sufficient to connect the Mohons' interests in Alley A and Alley B.

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 deeds, the deeds shall be and become valid and binding actions 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 meeting at which this Ordinance was passed was open to the public as required and that public notice of the time, place and purpose of said meeting 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 11th day of January, 2016 by the City Council of the City of De Leon, Texas.

PASSED AND APPROVED on second reading on this the 8th day of February, 2016, by the City Council of the City of De Leon, Texas.

CITY OF DE LEON



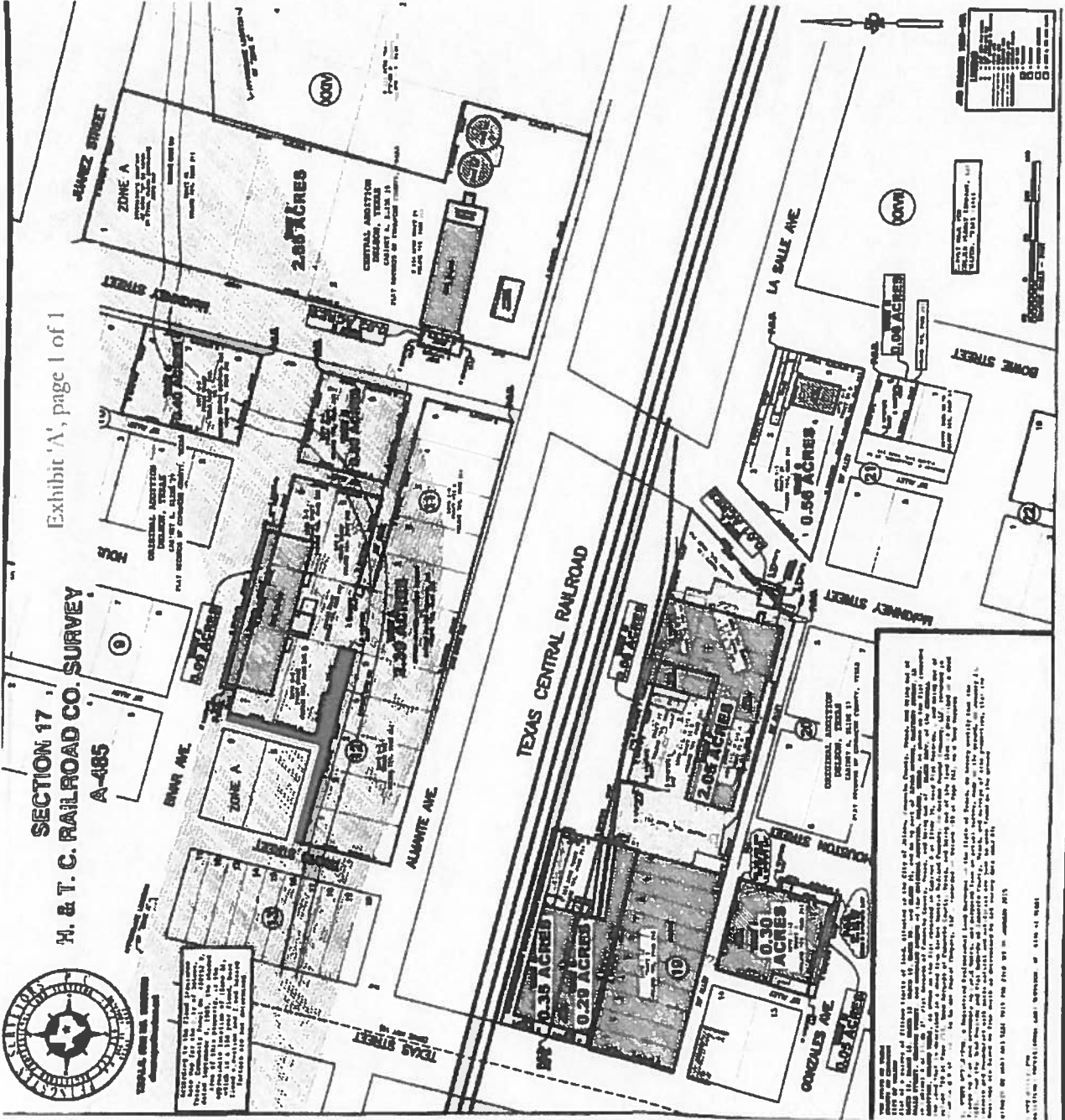
By: Ron Johnson
Ron Johnson, Mayor

By: Karen Wilkerson
Karen Wilkerson, City Secretary



Exhibit 'A', page 1 of 1

Alley A
 Alley B



THIS MAP WAS MADE BY THE TEXAS STATE SURVEY IN ACCORDANCE WITH THE ACTS OF THE LEGISLATURE PASSED AT THE REGULAR SESSION OF 1907 AND 1909. THE SURVEY WAS MADE BY THE TEXAS STATE SURVEY IN ACCORDANCE WITH THE ACTS OF THE LEGISLATURE PASSED AT THE REGULAR SESSION OF 1907 AND 1909. THE SURVEY WAS MADE BY THE TEXAS STATE SURVEY IN ACCORDANCE WITH THE ACTS OF THE LEGISLATURE PASSED AT THE REGULAR SESSION OF 1907 AND 1909.

Affidavit

STATE OF TEXAS §
 §
COUNTY OF COMANCHE §

BEFORE ME, the undersigned authority, on this day personally appeared the undersigned affiant, who, being by me duly sworn, on oath stated:

“My name is Devin G. Wells. I am at least eighteen years of age, of sound mind, capable of making this affidavit, and fully competent to testify to the matters stated herein.

“My address is 1024 E. Reynosa Avenue, De Leon, Texas, 76444.

“I am the owner of the real property identified as Property ID 76259 in the Comanche County Appraisal Districts (as shown in Exhibit “A”).

“I have been notified by the City of De Leon that the City Council is closing a street that is adjacent to the property which I own: more specifically, an undeveloped portion of East Short Avenue running along the south boundary line of the north portion of my property and along the north boundary line of the south portion of my property.

“I have been notified by the City that the City intends to sell whatever interest it holds in the street property, and that, as an adjacent property owner, I have the opportunity to purchase all or a portion of the City’s interest in that property. I further understand that should I choose to purchase all or a portion of the property, I will be responsible for all costs associated with the transfer of the property, including but not limited to attorney fees, surveying costs, and filing fees. I also understand that I will be able to select an attorney of my choice to prepare the necessary transfer documents or I will reimburse the City in the event I choose to have the City Attorney prepare the documents.

“I have had the opportunity to examine the property and to obtain all of the information I need to respond to the City concerning this property.

“I have made the decision to take the following action:
(Select one option by making an X in the appropriate space)

1. I have an interest in purchasing all or part of the property and understand the conditions under which I will be able to do so.

2. I do not have an interest in purchasing all or part of the property and hereby waive any opportunity or right I may have to do so.

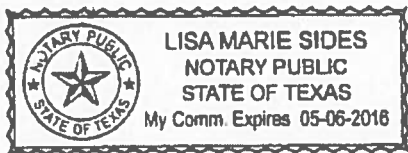
(Signature page follows)

SIGNED ON this the 2 day of February, 2016.

Devin G Wells
Signature

DEVIN G WELLS
Printed Name

SUBSCRIBED AND SWORN TO BEFORE ME on this the 2 day of February, 2016 by Devin G. Wells.



Lisa Marie Sides
Notary Public, State of Texas

Affidavit

STATE OF TEXAS §
 §
COUNTY OF COMANCHE §

BEFORE ME, the undersigned authority, on this day personally appeared the undersigned affiant, who, being by me duly sworn, on oath stated:

“My name is Anna Wells. I am at least eighteen years of age, of sound mind, capable of making this affidavit, and fully competent to testify to the matters stated herein.

“My address is 1024 E. Reynosa Avenue, De Leon, Texas, 76444.

“I am the owner of the real property identified as Property ID 76259 in the Comanche County Appraisal Districts (as shown in Exhibit “A”).

“I have been notified by the City of De Leon that the City Council is closing a street that is adjacent to the property which I own: more specifically, an undeveloped portion of East Short Avenue running along the south boundary line of the north portion of my property and along the north boundary line of the south portion of my property.

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“I have had the opportunity to examine the property and to obtain all of the information I need to respond to the City concerning this property.

“I have made the decision to take the following action:
(Select one option by making an X in the appropriate space)

1. I have an interest in purchasing all or part of the property and understand the conditions under which I will be able to do so.

2. I do not have an interest in purchasing all or part of the property and hereby waive any opportunity or right I may have to do so.

(Signature page follows)

SIGNED ON this the 2 day of February, 2016.

Anna Wells
Signature

Anna Wells
Printed Name

SUBSCRIBED AND SWORN TO BEFORE ME on this the 2 day of February, 2016 by Anna Wells.

Lisa Marie Sides
Notary Public, State of Texas

