



4-C)

## DEPARTMENTAL CORRESPONDENCE

TO: James R. O'Connor, City Manager  
DEPT: City Manager

VIA: Monte K. Falls, PE, Director  
DEPT: Public Works *MK Falls*

FROM: David Gay, PSM, Chief Surveyor *DG*  
DEPT: Public Works

DATE: October 22, 2015

RE: **Abandonment of Right-of-Way Application #2015-A/ROW-160  
10' Alley Lying Between Lots 14 & 15, Block 35  
Map of the Town of Indian River  
2101 14<sup>th</sup> Avenue (Pocahontas Building)**

### Background:

On September 10, 2015, we received an application for abandonment of the 10' alley lying west of the Pocahontas Building between Lots 14 & 15. The owners of the Pocahontas Building and the adjacent vacant lot are requesting abandonment of the alley so they can remedy drainage problems at the historic Pocahontas Building, as well as develop the property to the west of the alley for parking.

The abandonment application was routed to all utility providers, Fire Prevention, and City departments. All responses were favorable of the request; although the Planning Department has conditioned their approval with the applicant receiving development approval to bring the adjacent parking area on Lots 15 & 16 into compliance with the City's Land Development Regulations. Since the time of the Planning Department's comments, the applicant has begun the site plan process to bring the parking area into compliance. As such, the Planning Department has no objection with the abandonment proceeding. An easement will be retained over, under, and across this abandonment to cover the existing utilities.

### Recommendation:

- Place this item on the November 3, 2015 City Council agenda;
- Approve the abandonment of that portion of the 10 foot alley in Block 35, Map of the Town of Indian River, lying adjacent to and between Lots 14 and 15, Block 35,

conditioned upon the applicant receiving development approval to bring the adjacent parking area on Lots 15 & 16 into compliance with City LDRs. The City will retain an easement over, under, and across the abandoned right of way.

**Analysis:**

**Strengths:** Abandoning this right of way will facilitate the owner's ability to remedy drainage issues and develop the required improvements to the adjacent parking area.

**Weaknesses:** None. The City will retain a utility easement over, under and across the subject abandonment.

**Opportunities:** This abandonment will relieve the City of future maintenance of the alley.

**Threats:** The applicant could decide not to follow through with improvements to the parking area on the west side of the alley. If so, code enforcement action could be taken to ensure code compliance.

Attachments

DRG:MKF/ntn

This instrument prepared by and return to:  
City Attorney  
City of Vero Beach  
P.O. Box 1389  
Vero Beach, FL 32961-1389

**ORDINANCE NO. 2015-\_\_\_\_\_**  
(Application No. 2015-A/ROW-160)

**AN ORDINANCE OF THE CITY OF VERO BEACH, FLORIDA, ABANDONING THE 10 FOOT ALLEY LYING AND ADJACENT TO AND BETWEEN LOTS 14 AND 15, BLOCK 35, MAP OF THE TOWN OF INDIAN RIVER (ORIGINAL TOWN), AS RECORDED IN PLAT BOOK 2, PAGE 12, OF THE PUBLIC RECORDS OF ST. LUCIE COUNTY, FLORIDA, SAID LANDS NOW LYING AND BEING IN INDIAN RIVER COUNTY, FLORIDA; RETAINING A UTILITY EASEMENT; PROVIDING FOR CONFLICT AND SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.**

WHEREAS, the City of Vero Beach is authorized, pursuant to section 2-373 of the Code of the City of Vero Beach, to abandon city-held interests in real property by the City Council adopting an ordinance declaring such interests abandoned; and

WHEREAS, abandonment has been requested as to interests the City has or may have in that certain public right-of-way identified as the 10 foot alley lying and adjacent to and between Lots 14 and 15, Block 35, Map of the Town of Indian River (Original Town), as recorded in Plat Book 2, Page 12, of the Public Records of St. Lucie County, Florida, said lands now lying and being in Indian River County, Florida, said portion of right-of-way being as more fully described and depicted in “**Exhibit A**” attached hereto and incorporated herein; and

WHEREAS, the Public Works Department of the City has advised and the City Council has determined that said right-of-way is no longer needed by the City or other interested parties for vehicular right-of-way or other municipal uses except as otherwise provided herein below; and

WHEREAS, notwithstanding such right-of-way abandonment, the City of Vero Beach shall retain a utility easement over, under, and across the subject right-of-way,

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VERO BEACH, FLORIDA, THAT:**

**Section 1 – Adoption of “WHEREAS” clauses.**

The foregoing “WHEREAS” clauses are hereby adopted and incorporated herein.

**Section 2 – Abandonment of Right-of-Way.**

Except as provided in Section 3, the City of Vero Beach does hereby declare abandoned its right, title and interest in that certain right-of-way identified as the 10 foot alley lying and adjacent to and between Lots 14 and 15, Block 35, Map of the Town of Indian River (Original Town), as recorded in Plat Book 2, Page 12, of the Public Records of St. Lucie County, Florida, said lands now lying and being in Indian River County, Florida, said portion of right-of-way being as more fully described and depicted in “**Exhibit A**” attached hereto and incorporated herein.

**Section 3 – Easement Retained.**

The City of Vero Beach hereby retains a public utility easement over, under, and across the subject right-of-way abandoned herein.

**Section 4 – Conflict and Severability.**

In the event any portion of this Ordinance conflicts with any provision of the Code or any other ordinance or resolution of the City of Vero Beach on the subject matter of this Ordinance, the provisions of this Ordinance shall apply and supersede. If any provision of this Ordinance is held to be invalid, unconstitutional, or unenforceable for any reason by a court of competent jurisdiction, such invalidity shall not affect the validity of the remaining portions of this Ordinance, which shall be deemed separate, distinct, and independent provisions enforceable to the fullest extent possible.

**Section 5 – Effective Date.**

This Ordinance shall become effective upon final adoption.

**Section 6 – Codification.**

The provisions of this Ordinance, being of limited scope and affect, shall not be codified in the Code of the City of Vero Beach.

\*\*\*\*\*

This Ordinance was read for the first time on the \_\_\_\_ day of \_\_\_\_\_, 2015, and was advertised on the \_\_\_\_ day of \_\_\_\_\_, 2015, as being scheduled for a public hearing to be held on the \_\_\_\_ day of \_\_\_\_\_, 2015, at the conclusion of which hearing it was

moved for adoption by Councilmember \_\_\_\_\_, seconded by Councilmember \_\_\_\_\_, and adopted by the following vote:

Mayor Richard G. Winger \_\_\_\_\_  
Vice Mayor Jay Kramer \_\_\_\_\_  
Councilmember Amelia Graves \_\_\_\_\_  
Councilmember Pilar E. Turner \_\_\_\_\_  
Councilmember Randolph B. Old \_\_\_\_\_

ATTEST:

CITY OF VERO BEACH, FLORIDA

\_\_\_\_\_  
Tammy K. Vock  
City Clerk

\_\_\_\_\_  
Richard G. Winger  
Mayor

[SEAL]

STATE OF FLORIDA  
COUNTY OF INDIAN RIVER

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_ 2015 on behalf of the City of Vero Beach, Florida by Richard G. Winger, as Mayor, and attested by Tammy K. Vock, as City Clerk, of the City of Vero Beach, Florida. Both are personally known to me.

\_\_\_\_\_  
NOTARY PUBLIC  
Commission No.:  
My Commission Expires:

Approved as to form and legal  
sufficiency:

  
\_\_\_\_\_  
Wayne R. Coment  
City Attorney

Approved as conforming to municipal  
policy:

  
\_\_\_\_\_  
James R. O'Connor  
City Manager

Approved as to technical requirements:

A handwritten signature in black ink, appearing to read 'Monte K. Falls', written over a horizontal line.

Monte K. Falls  
Public Works Director

**EXHIBIT "A"**  
**PROPERTY DESCRIPTION**  
**ABANDONMENT RIGHT OF WAY #2015-AROW-160**  
**BLOCK 35, MAP OF THE TOWN OF INDIAN RIVER (Original Town)**

Situated in the State of Florida, County of Indian River, City of Vero Beach and being a part of Block 35 according to the plat of the Map of the Town of Indian River (Original Town), as recorded in Plat Book 2, Page 12 of the Public Records of St. Lucie County, said lands now lying and being in Indian River County and being more particularly bounded and described as follows:

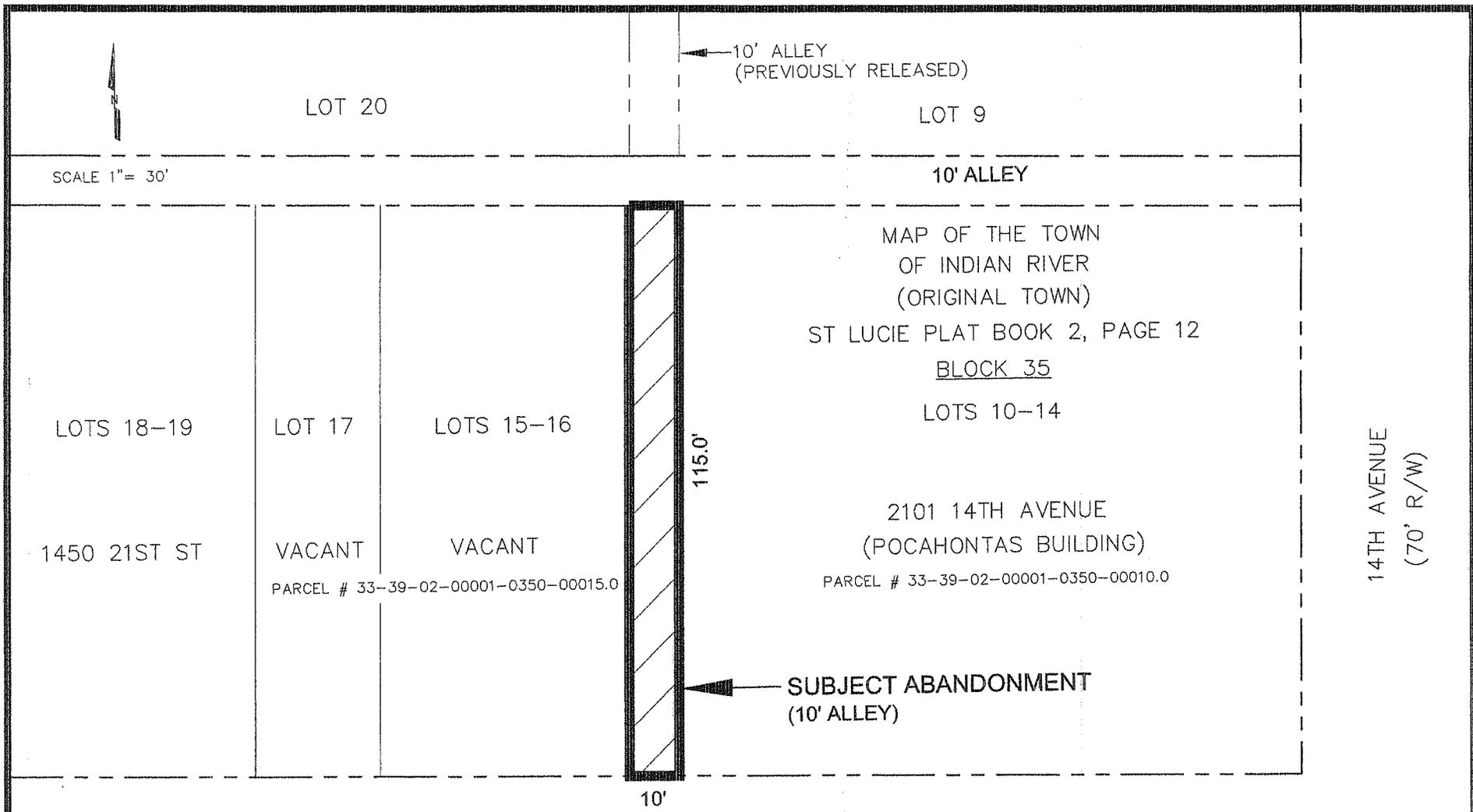
All of that portion of the 10 foot public alley in Block 35, Map of the Town of Indian River lying adjacent to and between Lots 14 and 15, Block 35;

Containing 1,150 square feet more or less.

**Note: The City of Vero Beach shall retain a public utility easement over, under, and across this abandonment of right of way.**

  
\_\_\_\_\_  
David R. Gay, PSM #5973





SCALE 1" = 30'

← 10' ALLEY  
(PREVIOUSLY RELEASED)

LOT 20

LOT 9

10' ALLEY

MAP OF THE TOWN  
OF INDIAN RIVER  
(ORIGINAL TOWN)  
ST LUCIE PLAT BOOK 2, PAGE 12  
BLOCK 35  
LOTS 10-14

LOTS 18-19

LOT 17

LOTS 15-16

115.0'

1450 21ST ST

VACANT

VACANT

2101 14TH AVENUE  
(POCAHONTAS BUILDING)

PARCEL # 33-39-02-00001-0350-00015.0

PARCEL # 33-39-02-00001-0350-00010.0

14TH AVENUE  
(70' R/W)

← SUBJECT ABANDONMENT  
(10' ALLEY)

10'

21ST STREET  
(70' R/W)

*David Gay* 9/23/15  
DAVID GAY, PSM #5973 DATE

SHEET 2 OF 2

THIS SKETCH IS NOT A SURVEY

CITY OF VERO BEACH	SKETCH OF PROPERTY DESCRIPTION ABANDONMENT OF RIGHT OF WAY 10' ALLEY- BLOCK 35 MAP OF THE TOWN OF INDIAN RIVER	EXHIBIT "A"		REV. NO. AUTHRZD. BY
DEPARTMENT OF PUBLIC WORKS		CITY PROJECT NO. 2015-AROW-160	DRAWN BY	DATE
SURVEY & ENGINEERING DIVISION		DATE 09/2015	DRWN BY DG	CHKD BY MKF

