

IN THE PROBATE COURT OF BALDWIN COUNTY, ALABAMA

In re: City of Foley
Deannexation
13-0443-RES

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Case No. 30341

ORDER OF DEANNEXATION

It appearing to the Court that on August 19, 2013, the Council of the City of Foley adopted Resolution No. 13-0443-RES approved by the Mayor of said City, to exclude or deannex from the territory within the corporate limits of the City of Foley under the provisions of Article 7, Chapter 42, Title 11, Code of Alabama, described in the Attachment A hereto.

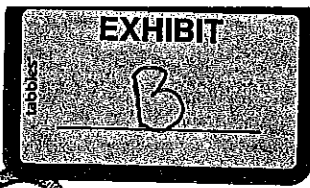
It further appearing to the Court that John E. Koniar, Mayor of the City of Foley, has certified a copy of said Resolution No. 13-0443-RES together with a map (Attachment B hereto) of the territory to be deannexed, and petitioned the Court to enter an Order reducing the boundaries of the City of Foley so as to omit therefrom by deannexation, the property described.

It further appearing to the Court that the owners and the qualified electors residing on the territory proposed to be excluded have consented to said deannexation by executing waivers and consent regarding deannexation. A hearing was held on September, 17, 2013 and no one having shown up to contest said matter:

It is therefore, **ORDERED, ADJUDGED AND DECREED**, pursuant to the provisions of Section 11-42-203, Code of Ala. 1975, that all of the territory and property described in Attachment A hereto is hereby excluded from the corporate limits of the City of Foley and that said map be recorded in the Office of the Probate Court of Baldwin County, Alabama.

DONE THIS THE 23rd DAY OF SEPTEMBER, 2013.


TIM RUSSELL, PROBATE JUDGE



City of Foley, AL

30341
407 E. Laurel Avenue
Foley, AL 36535

Signature Copy

Resolution: 13-0443-RES

File Number: 13-0932

Enactment Number: 13-0443-RES

Reducing the City's Corporate Limits

WHEREAS, Robert J. Lay and Dianne C. Lay were advised of the proposed Annexation by Legislative Act along U.S. Hwy. 98 and had made known their wishes of not being included in the expansion of the City of Foley's corporate limits, and

WHEREAS, the property known as Lot 5, Sandy Creek Acres Subdivision, was included in Legislative Act 2013-230 annexing various properties along U.S. Hwy. 98 east of Foley, and

WHEREAS, it is the City's desire to decrease the City's corporate limits by de-annexing Lot 5, Sandy Creek Acres Subdivision in accordance with the procedures set forth in the *Code of Alabama, 1975, Section 11-42-200*.

NOW THEREFORE BE IT RESOLVED that the City Council of the City of Foley, Alabama, as follows:

SECTION 1: Approves the de-annexation of "Lot 5, Sandy Creek Acres Subdivision, as shown on map or plat thereof recorded in Map Book 10, Page 134, in the Office of the Judge of Probate of Baldwin County, Alabama" as noted in the recorded deed.

SECTION 2: The qualified electors that own the property are Robert J. Lay and Dianne C. Lay.

SECTION 3: Approves the new corporate limits as set forth in the attached Exhibit "A".

SECTION 4: A certified copy of this resolution defining the City's proposed corporate limits will be sent to the Judge of Probate, Baldwin County, Alabama, who will hold a hearing at which the owners of record, Mr. and Mrs. Robert Lay, may appear before the Judge of Probate to show just cause as to why the proposed reduction of corporate limits should not take place (Section 11-42-202, Code of Alabama, 1975).

SECTION 5: This Resolution shall become effective immediately upon its adoption as required by law.

PASSED, APPROVED AND ADOPTED this 19th day of August, 2013.



President's Signature

Date

8-20-13

Attest by City Clerk

Date

8-20-13

Mayor's Signature

Date

8/21/2013

I, the undersigned qualified and City Clerk of the City of Foley, Alabama, do hereby certify that the above and foregoing is a true copy of a resolution lawfully passed and adopted by the Foley City Council named therein, at a regular meeting of such Council held on the 19th day of August, 2013, and that such resolution is on file in the City Clerk's Office.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City on this 22nd day of August, 2013.


Victoria Southern
City Clerk



PETITION REQUESTING DE-ANNEXATION
(MUST BE COMPLETED BY PROPERTY OWNER)

To the Mayor and Council of Foley, Alabama:

We, the undersigned owners of the property described in "Appendix A" hereby petition the City of Foley and request that said City de-annex the described property from the corporate boundaries of Foley.

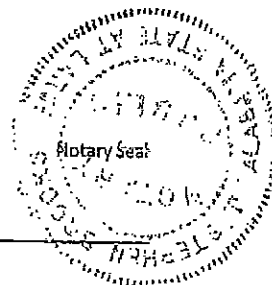
Said owners certify that they are the owners of the land identified in "Appendix A" and that there are no other owners or co-owners of any such property.

Bobby Lay 8-13-13
Signature of Owner (1) Date

Robert J. Lay
Print Name and Title

22629 U.S. Hwy 98 E Foley AL 36535
Address, City, State, Zip Code

J. Steph Buel
Notary My Commission Expires
May 24, 2016

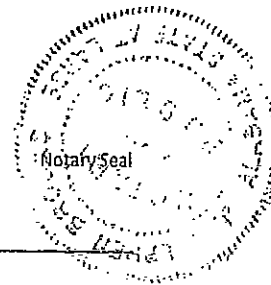


Dianne C. Lay 8-13-13
Signature of Owner (2) Date

Dianne C. Lay
Print Name and Title

22629 U.S. Hwy 98 E Foley AL 36535
Address, City, State, Zip Code

J. Steph Buel
Notary My Commission Expires
May 24, 2016



Signature of Owner (3) Date

Print Name and Title

Address, City, State, Zip Code

Notary

Notary Seal



ADDENDUM TO APPLICATION

Please answer the following:

1. Total population, including children and tenants, who live on the property to be de-annexed is: 2

2. Total number of dwelling on the property: 1

3. Total number of persons, including children and tenants, living on the property, by race:

☒ WHITE

☐ HISPANIC

☐ AFRICAN AMERICAN

☐ ASIAN

☐ NATIVE AMERICAN

☐ OTHER (SPECIFY) _____

4. Total number of persons, eighteen (18) years of age or older living on the property:

Two (2)

5. Total number of individuals, eighteen (18) years of age or older who are registered to vote in Baldwin County, Alabama, who live on the property: Two (2)

Please provide the complete name and age for each such person:

Robert J. Lay 58

Dianne C. Lay 57

6. What is the current use for the property to be de-annexed:

☒ Residential

☐ Commercial

7. State the reason(s) for requesting de-annexation by the City of Foley, Alabama:

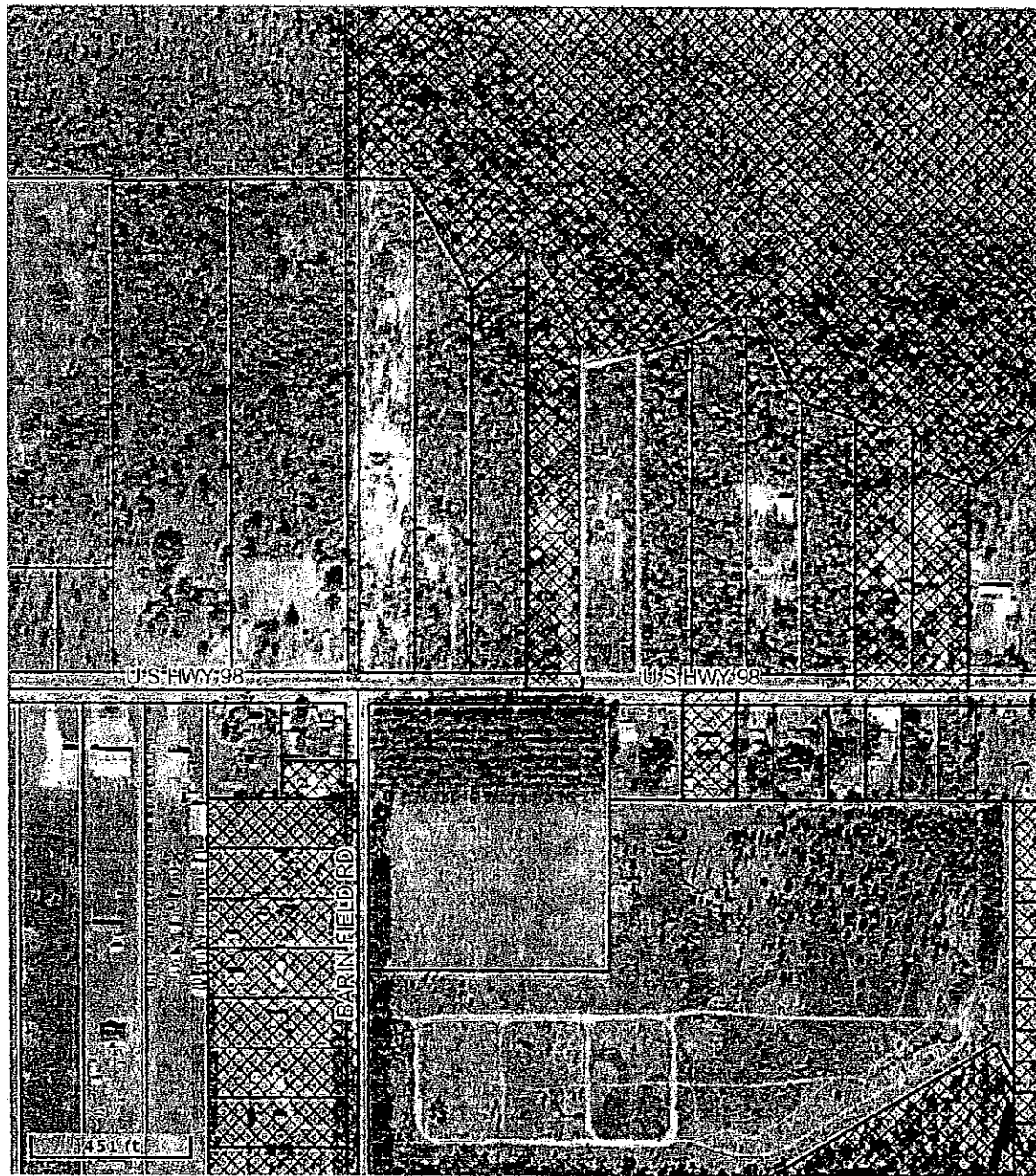
When we bought this property we wanted to be in the County. We have chickens & etc. We were Annexed even after we told the City that we wanted to remain in the County. We were told that we would remain in County.

8. Voting District: _____

De-annexation - Robert J. Lay

Hwy. 98 Legislative Act

Created By: VSouthern
Date Created: 8/14/2013

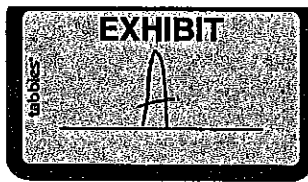


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WARRANTY DEED
SIMULTANEOUSLY

THIS INSTRUMENT
PREPARED BY:
Jule R. Herbert Jr.
Herbert & Harrell LLC
Attorneys at Law
P.O. Drawer 3889
Gulf Shores, AL 36547
(251) 968-4764

STATE OF ALABAMA)
COUNTY OF BALDWIN)

WARRANTY DEED

State of Alabama, Baldwin County
I certify this instrument was filed
and taxes collected on:
2003 October -15 9: 5AM
Instrument Number 765484 Pages 3
Recording 9:08 Mortgage
Deed 1:58 Min 121
Index 39 5.00
Archive 5.00
Adrian I. Johns, Judge of Probate

KNOW ALL MEN BY THESE PRESENTS, that ALFRED L. OULLIBER and MARILYN J. OULLIBER, husband and wife, hereinafter called the "Grantors," for and in consideration of the sum of TEN AND NO/100THS (\$10.00) DOLLARS in cash and other good and valuable consideration, in hand paid to the Grantors by ROBERT J. LAY and DIANNE C. LAY, hereinafter called the "Grantees," the receipt and sufficiency of which is hereby acknowledged, subject to all matters and things hereinafter set forth, have this day bargained and sold and by these presents do hereby GRANT, BARGAIN, SELL AND CONVEY unto the said Grantees, as tenants in common with equal interest during the period of their concurrent lives, and, upon the death of either of them, then to the survivor of the said Grantees, in fee simple, forever, all that real property situated in the County of Baldwin, State of Alabama, described as follows, to-wit:

Lot 5, Sandy Creek Acres Subdivision, as shown on map or plat thereof recorded in Map Book 10, Page 134, in the Office of the Judge of Probate of Baldwin County, Alabama.

LESS AND EXCEPT such oil, gas, and other mineral interests and all rights and privileges in connection therewith as may have been reserved or conveyed by prior owners, if any.

THIS CONVEYANCE IS MADE SUBJECT TO THE FOLLOWING:

1. Existing right-of-way for Highway 98.
2. Rights of other parties, the United States of America or State of Alabama, in and to the shore, littoral or riparian rights to the property described hereinabove lying adjacent to Sandy Creek.
3. Adverse claim, if any, based upon the assertion that some portion of the land described hereinabove is tide or submerged land, or has been created by artificial means or has accreted to such portion so created.
4. Adverse claim, if any, arising by reason of rules or regulations being imposed upon the property described hereinabove by any environmental agency of the State of Alabama or of the United States of America.
5. Restrictive covenants as set forth in Miscellaneous Book 31, Page 999, all amendments thereto.
6. Easement and Right of Way as set out in Deed Book 78, Page 524.
7. Reservation with reference to oil, gas and other minerals, and all rights in connection therewith, as contained in deed from Margaret S. Bach, et al., to Maintenance Unlimited, Inc., dated June 1, 1978, and recorded in Real Property Book 55, Page 1787.
8. Building setback line and drainage and utility line easements, as shown on the recorded plat of said subdivision.

765484

9. Conveyance of oil, gas and minerals, as set out in instruments recorded in Deed Book 501, Page 94, and corrected in Deed Book 501, Page 536, and further corrected in Deed Book 505, Page 466.
10. Conveyance of 1/10 oil, gas and other minerals, and all rights in connection therewith, as contained in deed from John Sherrill, et al., to Rodney L. Hale, recorded in Deed Book 501, Page 592.
11. Conveyance of 1/10 oil, gas and other minerals, and all rights in connection therewith, as contained in deed from John Sherrill, et al., to Rodney L. Hale, recorded in Deed Book 473, Page 557, and corrected in Deed Book 501, Page 592.
12. Conveyance of 1/10 oil, gas and other minerals, and all rights in connection therewith, as contained in deed from Alan P. Sherrill, et al., to Jenie J. Sherrill, as Trustee dated September 20, 1976, and recorded in Deed Book 501, Page 538.
13. Conveyance of 1/10 oil, gas and other minerals, and all rights in connection therewith, as contained in deed from Mary A. Baranco, et al., to Fran Bartley, as Trustee, dated December 20, 1976, and recorded in Deed Book 505, Page 531.
14. Oil, gas and mineral leases recorded in Real Property Book 139, Page 509, Real Property Book 139, Page 513, and Real Property Book 139, Page 158.

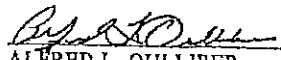
The recording references refer to the records in the Office of the Judge Probate of Baldwin County, Alabama, unless otherwise indicated.

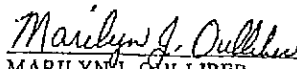
TOGETHER WITH ALL AND SINGULAR, the rights, members, privileges and appurtenances thereunto belonging, or in anywise appertaining.

TO HAVE AND TO HOLD the said above described property unto the said Grantees during the term of their concurrent lives, and upon the death of either of them, then to the survivor of them, in fee simple, and to the heirs and assigns of such survivor, forever, together with every contingent remainder and right of reversion.

And except as to taxes hereafter falling due which are assumed by the Grantees, and except as to the above mentioned encumbrances, the Grantors do, for themselves and their heirs and assigns, hereby covenant with the Grantees that they are seized of an indefeasible estate in fee simple in said property, are in peaceable possession thereof, that said property is free and clear of all encumbrances, and that they do hereby WARRANT AND WILL FOREVER DEFEND the title to said property and the peaceable possession thereof, unto the Grantees, and to the survivor of them, and to the heirs and assigns of such survivor, against the lawful claims of all persons whomsoever.

IN WITNESS WHEREOF, the Grantors have hereunto set their hands and seals on this the 5th day of October, 2003.

 (SEAL)
ALFRED L. OULLIBER

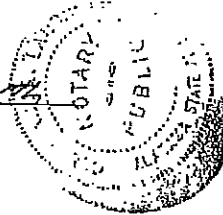
 (SEAL)
MARILYN J. OULLIBER

STATE OF Alabama
 COUNTY OF Baldwin

I, Cleveland L. Landrock, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that ALFRED L. OULLIBER, whose name is signed to the foregoing conveyance and who is known to me, acknowledged before me on this day, that being informed of the contents of said conveyance, he executed the same voluntarily on the day the same bears date.

Given under my hand and seal this the 9th day of October, 2003.

Cleveland L. Landrock
 Notary Public



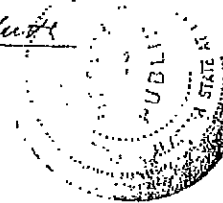
My Commission Expires: My Commission Expires Apr 12, 2005

STATE OF Alabama
 COUNTY OF Baldwin

I, Cleveland L. Landrock, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that MARILYN J. OULLIBER, whose name is signed to the foregoing conveyance and who is known to me, acknowledged before me on this day, that being informed of the contents of said conveyance, she executed the same voluntarily on the day the same bears date.

Given under my hand and seal this the 9th day of October, 2003.

Cleveland L. Landrock
 Notary Public



My Commission Expires: My Commission Expires Apr 12, 2005

Grantors' Address:

19301 Keller Road
 Foley, AL 36535

Grantees' Address:

21061 Emperor Phillips Lane
 Silverhill, AL 36576