



Huntsville, Alabama

308 Fountain Circle
Huntsville, AL 35801

Cover Memo

Meeting Type: City Council Regular Meeting **Meeting Date:** 12/15/2022

File ID: TMP-2379

Department: City Attorney

Subject:

Type of Action: Approval/Action

Ordinance authorizing the vacation of Sanitary Sewer Easements, The Willows at Wilson Cove off of Cherry Tree Road.

Ordinance No.

Finance Information:

Account Number: NA

City Cost Amount: NA

Total Cost: NA

Special Circumstances:

Grant Funded: NA

Grant Title - CFDA or granting Agency: NA

Resolution #: NA

Location:

Address: The Willows at Wilson Cove off of Cherry Tree Road.

District: District 1 District 2 District 3 District 4 District 5

Additional Comments:

This item will need to be published after approval by City Council.

ORDINANCE NO. 22-_____

BE IT ORDAINED by the City Council of the City of Huntsville, Alabama, as follows:

Section 1. The City Council of the City of Huntsville, Alabama, finds that an application has been presented to the City of Huntsville requesting the vacation of a utility and drainage easement and sanitary sewer easement; that the applicant has represented to the City of Huntsville that **Lost Boys Land Company II, LLC**, is the owner of the property across which said easements lie; that said easements, or the portions being vacated, are not presently used and are no longer needed for a public or municipal purpose.

Section 2. Pursuant to the findings in Section 1 hereinabove, the Mayor of the City of Huntsville, Alabama, is hereby authorized, requested and directed to execute a quitclaim deeds vacating the easements hereinafter described, said deeds being substantially in words and figures as follows, to-wit:

STATE OF ALABAMA
COUNTY OF MADISON

NO TITLE EXAMINATION HAS BEEN
PERFORMED IN CONNECTION WITH
THIS TRANSACTION

KNOW ALL MEN BY THESE PRESENTS, that THE CITY OF HUNTSVILLE, a municipal corporation, hereinafter referred to as the Grantor, for and in consideration of the sum of Ten Dollars (\$10.00) in hand paid by LOST BOYS LAND COMPANY II, LLC, An Alabama Limited Liability Company, hereinafter referred to as the Grantees, the receipt whereof is hereby acknowledged, and other good and valuable consideration, does hereby remise, release, quitclaim and convey unto the said Grantees all of its right, title, interest, and claim in and to the following described real estate situated in the County of Madison, State of Alabama, to-wit:

SEE EXHIBIT "A" ATTACHED HERETO FOR LEGAL DESCRIPTION AND EXHIBIT "B"
FOR COPY OF SURVEY.

TO HAVE AND TO HOLD the same unto the said Grantee, and to its successors and assigns, forever.

IN WITNESS WHEREOF, the City of Huntsville, Alabama, has caused this instrument to be duly executed by its Mayor and Clerk-Treasurer, pursuant to Ord. No: _____, as of this the 15th day of December, 2022.

THE CITY OF HUNTSVILLE, ALABAMA,
a municipal corporation

By: _____ (SEAL)
Tommy Battle, Mayor

ATTEST: _____
Kenneth Benion City-Clerk Treasurer

STATE OF ALABAMA
COUNTY OF MADISON

I, the undersigned, a Notary Public in and for said County and in said State, hereby certify that Tommy Battle and Kenneth Benion, whose names as Mayor and City Clerk-Treasurer, respectively, of the City of Huntsville, Alabama, are signed to the foregoing conveyance, and who are known to me, acknowledged before me on this day that, being informed of the contents of this conveyance, they, as such officers and with full authority, executed the same voluntarily for and as the act of the City of Huntsville, Alabama, a municipal corporation.

Given under my hand and official seal this 15th day of December, 2022.

NOTARY PUBLIC
My Commission Expires:

THIS INSTRUMENT PREPARED BY:
Charles P. Helms, 912 Merchants Walk, Huntsville, AL 35801



5125A Research Drive
Huntsville, AL 35805

TEL 256.534.5512
FAX 256.534.5544

www.GarverUSA.com

EXHIBIT "A"

STATE OF ALABAMA)
MADISON COUNTY)

**THE WILLOWS AT WILSON COVE SANITARY SEWER IMPROVEMENTS - A PORTION OF A
SANITARY SEWER EASEMENT TO BE VACATED:**

I, Loyd W. Carpenter, a Professional Land Surveyor in the State of Alabama hereby certify that the foregoing is a true and accurate description of a tract of land lying and being in Section 32, Township 4 South, Range 2 East, of the Huntsville Meridian.

Said tract being a portion of a Sanitary Sewer Easement conveyed to the City of Huntsville, in Instrument 2015-338200 as recorded in the Office of the Probate Judge of Madison County, Alabama, and being more particularly described as follows:

Commencing at a railroad spike found in Esslinger Drive South 01 Degrees 29 Minutes 11 Seconds West a distance of 2741.59 feet from the center of the west boundary of Section 28, Township 4 South, Range 2 East of the Huntsville Meridian; thence South 23 Degrees 37 Minutes 35 Seconds West, a distance of 1574.76 feet to a #4 rebar found; thence South 33 Degrees 36 Minutes 14 Seconds West, a distance of 1069.01 feet to a 1-1/2 inch diameter pipe found; thence South 68 Degrees 44 Minutes 00 Seconds East 1129.69 feet to a #4 rebar found; thence South 08 Degrees 44 Minutes 20 Seconds West 609.19 feet to a #5 rebar with cap stamped "Garver LLC CA#445" (typical) found on the north boundary of a Sanitary Sewer Easement conveyed to the City of Huntsville, in Instrument 2015-338200 as recorded in the Office of the Probate Judge of Madison County, Alabama; thence along said north boundary South 81 Degrees 39 Minutes 34 Seconds East, a distance of 15.00 feet to a #5 rebar set, said point being the Point of Beginning of the herein described tract of land, having established grid coordinates of (N) 1508099.95, (E) 476227.62 of Zone East of the Alabama State Plane Coordinate System of the North American Datum of 1983 (NAD83);

Thence continue along said north boundary South 81 Degrees 39 Minutes 34 Seconds East a distance of 139.75 feet to a #5 rebar set; thence South 8 Degrees 43 Minutes 16 Seconds West a distance of 24.75 feet to a #5 rebar set marking the south boundary of said easement; thence along said south boundary North 82 Degrees 08 Minutes 10 Seconds West a distance of 92.54 feet to a #5 rebar set; thence South 56 Degrees 49 Minutes 31 Seconds West a distance of 46.87 feet to a #5 rebar set; thence South 9 Degrees 27 Minutes 24 Seconds West a distance of 90.67 feet to a #5 rebar set; thence North 81 Degrees 16 Minutes 44 Seconds West a distance of 11.33 feet to a #5 rebar set marking the west boundary of said easement; thence along said west boundary North 8 Degrees 47 Minutes 13 Seconds East a distance of 147.16 feet to the Point of Beginning.

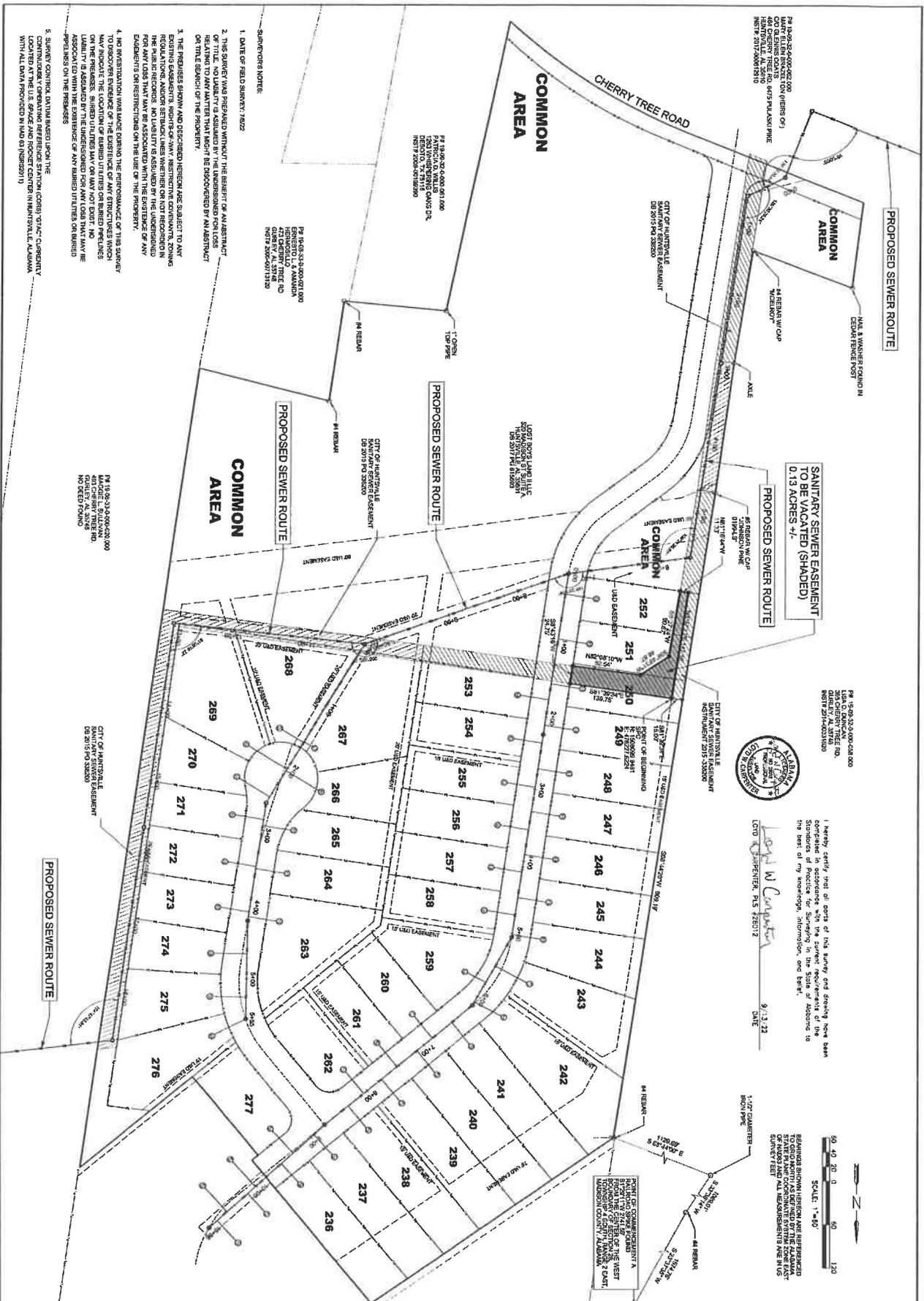
The above-described tract contains 0.13 acres (5531.71 sq. ft.)

All according to my survey this the 13th day of September

Loyd W. Carpenter
Loyd W. Carpenter, PLS
Alabama License No.26012



EXHIBIT "B"



- SURVEYOR'S NOTE:**
1. DATE OF FIELD SURVEY: 7/2022
 2. THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF AN ABSTRACT OR PLATS TO ANY MATTER THAT MAY BE SUCCESSFUL BY AN ABSTRACT OR TITLE SEARCH OF THE PUBLIC RECORDS.
 3. THE REQUISITS SHOWN AND DESCRIBED HEREON ARE SUBJECT TO ANY REVISIONS THAT MAY BE MADE BY THE CITY OF HUNTSVILLE IN THE PUBLIC RECORDS. NO LIABILITY IS ASSUMED BY THE UNDERSIGNED FOR ANY LOSS THAT MAY BE ASSOCIATED WITH THE PERFORMANCE OF THIS SURVEY.
 4. NO INVESTIGATION WAS MADE DURING THE PERFORMANCE OF THIS SURVEY TO DISCOVER EVIDENCE OF THE EXISTENCE OF ANY STRUCTURES WHICH ON THE PREMISES. SHOWN UTILITIES MAY OR MAY NOT EXIST. NO LIABILITY IS ASSUMED BY THE UNDERSIGNED FOR ANY LOSS THAT MAY BE ASSOCIATED WITH THE PERFORMANCE OF ANY BARRIED UTILITIES OR BARRIED UTILITIES ON THE PREMISES.
 5. SURVEY CONTROL DATA BASED UPON THE CONTINGENCY OPERATING REFERENCE STATION (CONS) STATION CURRENTLY WITH ALL DATA PROVIDED IN HAND IS (NEISSON)



I hereby certify that all parts of this survey and drawing have been completed in accordance with the current requirements of the Standards of Practice for Surveying in the State of Alabama to the best of my knowledge, information, and belief.

Logan W. Carver
 LICENSEE, PLS 128072
 DATE: 9/13/22

50' 10' 20' 0'
 SCALE: 1" = 50'
 50 100

JOB NO.: 18059560 DATE: JUN 2022 CHECKED BY: LWC DRAWN BY: SHP REVISIONS: * PART OF JOB NO. 18115125 * PART OF JOB NO. 18115125 * PART OF JOB NO. 18115125	WILLOWS AT WILSON COVE PHASE 1 SSE VACATE MADISON COUNTY, ALABAMA SECTION 32, TOWNSHIP 4 SOUTH, RANGE 2 EAST OF THE HUNTSVILLE MERIDIAN	REV. 1	DATE 8/16/22	DESCRIPTION COMMENTS RECEIVED FROM THE CITY OF HUNTSVILLE	BY LWC
		PREPARED FOR: WATER POLLUTION CONTROL			



STATE OF ALABAMA
COUNTY OF MADISON

NO TITLE EXAMINATION HAS BEEN
PERFORMED IN CONNECTION WITH
THIS TRANSACTION

KNOW ALL MEN BY THESE PRESENTS, that THE CITY OF HUNTSVILLE, a municipal corporation, hereinafter referred to as the Grantor, for and in consideration of the sum of Ten Dollars (\$10.00) in hand paid by LOST BOYS LAND COMPANY, LLC, An Alabama Limited Liability Company, hereinafter referred to as the Grantees, the receipt whereof is hereby acknowledged, and other good and valuable consideration, does hereby remise, release, quitclaim and convey unto the said Grantees all of its right, title, interest, and claim in and to the following described real estate situated in the County of Madison, State of Alabama, to-wit:

SEE EXHIBIT "A" ATTACHED HERETO FOR LEGAL DESCRIPTION AND EXHIBIT "B"
FOR COPY OF SURVEY.

TO HAVE AND TO HOLD the same unto the said Grantee, and to its successors and assigns, forever.

IN WITNESS WHEREOF, the City of Huntsville, Alabama, has caused this instrument to be duly executed by its Mayor and Clerk-Treasurer, pursuant to Ord. No: _____, as of this the 15th day of December, 2022.

THE CITY OF HUNTSVILLE, ALABAMA,
a municipal corporation

By: _____ (SEAL)
Tommy Battle, Mayor

ATTEST: _____
Kenneth Benion City-Clerk Treasurer

STATE OF ALABAMA
COUNTY OF MADISON

I, the undersigned, a Notary Public in and for said County and in said State, hereby certify that Tommy Battle and Kenneth Benion, whose names as Mayor and City Clerk-Treasurer, respectively, of the City of Huntsville, Alabama, are signed to the foregoing conveyance, and who are known to me, acknowledged before me on this day that, being informed of the contents of this conveyance, they, as such officers and with full authority, executed the same voluntarily for and as the act of the City of Huntsville, Alabama, a municipal corporation.

Given under my hand and official seal this 15th day of December, 2022.

NOTARY PUBLIC
My Commission Expires:

THIS INSTRUMENT PREPARED BY:
Charles P. Helms, 912 Merchants Walk, Huntsville, AL 35801



5125A Research Drive
Huntsville, AL 35805

TEL 256.534.5512
FAX 256.534.5544

www.GarverUSA.com

EXHIBIT "A"

**STATE OF ALABAMA
MADISON COUNTY**

WILSON COVE SUBDIVISION - REQUEST TO VACATE A PORTION OF A 15' WIDE PUBLIC UTILITY AND DRAINAGE EASEMENT:

I, Loyd W. Carpenter, a Professional Land Surveyor in the State of Alabama hereby certify that the foregoing is a true and accurate description of a tract of land lying and being in Section 33, Township 4 South, Range 2 East of the Huntsville Meridian.

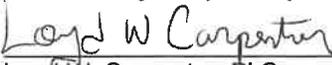
Said tract being a portion of Tract 1 of Wilson Cove Subdivision Phase 1 as recorded in the Office of the Judge of Probate of Madison County, Alabama in Instrument Number 2018-00001436 and being more particularly described as follows:

Commencing at a cotton picker spindle found at the southeast corner of Section 33, Township 4 South, Range 2 East of the Huntsville Meridian; thence along the south boundary of said Section 33 South 88 Degrees 07 Minutes 02 Seconds West a distance of 2609.90 feet to a #5 rebar found on the east boundary of Wilson Cove Subdivision Phase 1 as recorded in the Office of the Judge of Probate of Madison County, Alabama in Instrument Number 2018-00001436; thence leaving said south boundary and along said east boundary North 00 Degrees 13 Minutes 31 Seconds East a distance of 1893.81 to a #5 rebar with a cap stamped "GARVER LLC CA-445-LS"(typical) set at the northeast corner of Lot 17 of said Wilson Cove Subdivision; thence leaving said east boundary and along the north boundary of said Lot 17 North 89 Degrees 46 Minutes 29 Seconds West a distance of 175.00 feet to a #5 rebar set on the east right-of-way of Regency Lane; thence leaving said north boundary and along said right-of-way North 00 Degrees 13 Minutes 31 Seconds East a distance of 10.00 feet to a #5 rebar set; thence leaving said right-of-way North 89 Degrees 46 Minutes 29 Seconds West a distance of 50.00 feet to a #5 rebar set on the west right-of-way of Regency Lane; thence along said right-of-way North 00 Degrees 13 Minutes 31 Seconds East a distance of 157.50 feet to the Point of Beginning for the herein described tract of land, having established grid coordinates of (N) 1508434.10, (E) 479069.82 of the Alabama State Plane Coordinate System of NAD83 Zone East;

Thence leaving said west right-of-way North 89 Degrees 46 Minutes 29 Seconds West a distance of 3.53 feet to point on the south boundary of an existing 15' wide Public Utility and Drainage Easement; thence along said south boundary North 54 Degrees 52 Minutes 40 Seconds West a distance of 8.74 feet; thence North 89 Degrees 46 Minutes 29 Seconds West a distance of 139.30 feet; thence leaving said south boundary North 00 Degrees 13 Minutes 31 Seconds East a distance of 15.00 feet to the north boundary of said existing easement; thence along said north boundary South 89 Degrees 46 Minutes 29 Seconds East a distance of 144.01 feet; thence South 54 Degrees 52 Minutes 40 Seconds East a distance of 7.30 feet to the west right-of-way of Regency Lane; thence leaving said north boundary and along said right-of-way South 00 Degrees 13 Minutes 31 Seconds West a distance of 15.82 to the Point of Beginning.

The above described tract contains 0.05 acres (2273.09 sq. ft.), more or less.

All according to my survey this the 20th day of October 2022.


Loyd W. Carpenter, PLS
Alabama License No.26012



Ordinance No. 22-_____ (Cont.)

ADOPTED this the 15th day of December, 2022.

**President of the City Council
of the City of Huntsville, Alabama**

APPROVED this the 15th day of December, 2022.

**Mayor of the City of
Huntsville, Alabama**