



Huntsville, Alabama

308 Fountain Circle
Huntsville, AL 35801

Cover Memo

Meeting Type: City Council Regular Meeting **Meeting Date:** 9/8/2022

File ID: TMP-2029

Department: City Attorney

Subject:

Type of Action: Approval/Action

Resolution to set a public hearing on the vacation of a right-of-way for Lot 20 in the Wakefield Subdivision; and introduction of a Resolution consenting to an introduction of an Ordinance vacating the right-of-way pertaining to the same. (Set October 27, 2022, Regular Council Meeting)

Resolution No.

Resolution No.

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: 20 Asbury Road, Wakefield Subdivision

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

Additional Comments:

RESOLUTION NO. 22-_____

BE IT RESOLVED by the City Council of the City of Huntsville, within the State of Alabama, as follows:

1. That **Hunter Johnson and Amanda Johnson**, are the sole landowners abutting the property hereinafter described, submitted an application for the vacation of Right-of-way being and lying in Madison County, and being more particularly described as follows (the “Right-of-way” or the “Property”):

**SEE EXHIBIT “A” - “DECLARATION OF VACATION OF RIGHT-OF-WAY” and
EXHIBIT “B” – “PUBLIC HEARING NOTICE”**

2. That a public hearing shall be held for purpose of allowing public comments on the proposed vacation of said Right-of-way at Huntsville City Hall in the Council Chamber, located at 308 Fountain Circle, Huntsville, Alabama 35801, at 5:30 p.m. on Thursday, October 27, 2022; and

3. That notice of the vacation of the Right-of-way has been or shall be provided to all adjacent landowners and any known entities with facilities or equipment lying in said Right-of-way in accordance with Section 23-4-1 *et seq.* of the Code of Alabama, 1975, as amended; and

4. That the Clerk-Treasurer is hereby ordered to have public hearing notice contained in Exhibit “B” attached hereto (“Public Notice”), immediately published in *The Huntsville Times* for four consecutive weeks, with said notice to run beginning on September 18, September 25, October 2, and October 9, 2022.

5. It is hereby ordered that copies of the Public Notice shall be posted on bulletin boards located in the Madison County Courthouse and Huntsville City Hall.

ADOPTED this the 8th day of September, 2022.

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

APPROVED this the 8th day of September, 2022.

Mayor of the City of
Huntsville, Alabama

STATE OF ALABAMA)
 :
 COUNTY OF MADISON)

DECLARATION OF VACATION OF RIGHT-OF-WAY

KNOW ALL MEN BY THESE PRESENTS: That the undersigned, **Jack W. Moore and wife Andrea G. Moore, and Hunter Johnson and wife Amanda Johnson**, (hereinafter collectively referred to as "Owners"), desiring to vacate a portion of that certain right-of-way hereinafter described, says as follows:

THAT WHEREAS, the undersigned Owners are the Owners of all the land abutting the effected portion of the hereinafter described right-of-way and do hereby give their consent to the City of Huntsville, Alabama for the vacation of such right-of-way; and,

THAT WHEREAS, convenient and reasonable means of ingress and egress are available to the Owners of all the surrounding property, and that this vacation of a portion of "St. Mark Road" should not adversely affect such ingress and egress; and,

THAT WHEREAS, the said right-of-way, hereinafter described, is situated within the corporate limits of the City of Huntsville, Alabama, and was heretofore dedicated to said City; and,

THAT WHEREAS, the undersigned Owners, by this instrument, declare their intent to vacate a portion of said right-of-way as hereinafter described.

NOW, THEREFORE, the undersigned, being the Owners of all property abutting the said right-of-way hereinafter described, do hereby petition and urge that the City Council of the City of Huntsville, Alabama, adopt a resolution hereby declaring said easement vacated and assenting to the vacation of a portion of the right-of-way, as hereinafter described, to-wit:

PARCEL "A"

All that part of Section 19, Township 3 South, Range 1 East of the Huntsville Meridian, Madison County, Alabama and being a part of St. Mark Road as shown on the record plat of Wakefield Subdivision as recorded in Plat Book 11, Page 69 in the Office of the Judge of Probate, Madison County, Alabama;

Particularly described as beginning at the Southwest corner of Lot 18, Block 6 of said Wakefield Subdivision, said point being at the end of St. Mark Road on the North right of way margin; Thence from the Point of Beginning and along the North right of way margin of said St. Mark Road, Due East 178.65 feet to the point of curve; Thence around a curve to the left, having a radius of 78.66 feet, a chord bearing and distance of North 76 degrees 23 minutes 41 seconds East 37.00 feet; Thence South 27 degrees 12 minutes 32 seconds East 25.00 feet to the centerline of said road; Thence along the centerline of said St. Mark Road, around a curve to the right, having a radius of 103.66 feet, a chord bearing and distance of South 76 degrees 23 minutes 41 seconds West 48.76 feet; Thence Due West 178.65 feet to the end of said road; Thence Due North 25.00 feet to the Point of Beginning and containing 5,548 square feet, more or less.

AND ALSO

PARCEL "B"

All that part of Section 19, Township 3 South, Range 1 East of the Huntsville Meridian, Madison County, Alabama and being a part of St. Mark Road as shown on the record plat of Wakefield Subdivision as recorded in Plat Book 11, Page 69 in the Office of the Judge of Probate, Madison County, Alabama;

Particularly described as commencing at the Southwest corner of Lot 18, Block 6 of said Wakefield Subdivision, said point being at the end of St. Mark Road on the North right of way margin; Thence Due South 25.00 feet to the Point of Beginning, said point being in the centerline of said St. Mark Road; Thence from the Point of Beginning, Due East 178.65 feet to the point of curve; Thence around a curve to the left, having a radius of 103.66 feet, a chord bearing and distance of North 76 degrees 23 minutes 41 seconds East 48.76 feet; Thence South 27 degrees 12 minutes 32 seconds East 25.00 feet to a point on the South right of way margin of said road; Thence along the South right of way margin of said St. Mark Road, around a curve to the right, having a radius of 128.66 feet, a chord bearing and distance of South 76 degrees 23 minutes 41 seconds West 60.52 feet; Thence Due West 178.65 feet to the end of said road; Thence Due North 25.00 feet to the Point of Beginning and containing 5,845 square feet, more or less.

The above-described property shall remain subject to any easement for utilities and drainage in favor of the City of Huntsville, Alabama.

(ALL SIGNATURES APPEAR ON THE FOLLOWING PAGE)

IN WITNESS WHEREOF, the undersigned Owners of all of the property abutting said right-of-way hereinabove described, has caused this instrument to be executed, on this 26th day of April, 2022.



Jack W. Moore (SEAL)

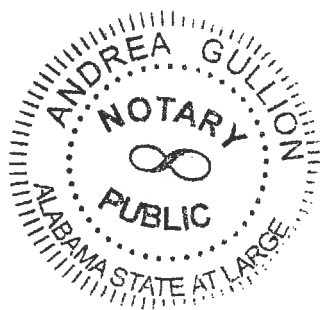



Andrea G. Moore (SEAL)

STATE OF ALABAMA)
 :
COUNTY OF MADISON)

I, the undersigned, a Notary Public in and for said county and in said state, hereby certify that, **Jack W. Moore and wife Andrea G. Moore**, whose names are signed to the foregoing instrument, and who are known to me, acknowledged before me on this day that being informed of the contents of this instrument, they executed the same voluntarily on the day the same bears date.

Given under my hand and official seal of office, this the 26th day of April, 2022.





Notary Public
My Commission Expires: 7-12-23

IN WITNESS WHEREOF, the undersigned Owners of all of the property abutting said right-of-way hereinabove described, has caused this instrument to be executed, on this 10 day of February, 2022.



Hunter Johnson (SEAL)

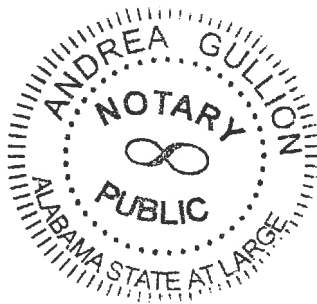


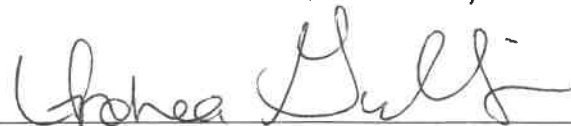
Amanda Johnson (SEAL)

STATE OF ALABAMA)
 :
COUNTY OF MADISON)

I, the undersigned, a Notary Public in and for said county and in said state, hereby certify that, **Hunter Johnson and wife Amanda Johnson**, whose names are signed to the foregoing instrument, and who are known to me, acknowledged before me on this day that being informed of the contents of this instrument, they executed the same voluntarily on the day the same bears date.

Given under my hand and official seal of office, this the 10th day of February, 2022.





Notary Public
My Commission Expires: 7-12-23

(Public Hearing Notice to be Published)

In accordance with Section 23-4-1 et seq. of the Code of Alabama, 1975, as amended, you are hereby notified of a public hearing to be held at Huntsville City Hall in the Council Chamber, located at 308 Fountain Circle, Huntsville, Alabama 35801, at 5:30 p.m. on Thursday, October 27, 2022.

The purpose of the hearing is to receive public comments on an application submitted by the City of Huntsville for the vacation of Right-of-way along St. Mark Road which is more particularly described as follows:

STATE OF ALABAMA
MADISON COUNTY

PARCEL "A"

All that part of Section 19, Township 3 South, Range 1 East of the Huntsville Meridian, Madison County, Alabama and being a part of St. Mark Road as shown on the record plat of Wakefield Subdivision as recorded in Plat Book 11, Page 69 in the Office of the Judge of Probate, Madison County, Alabama:

Particularly described as beginning at the Southwest corner of Lot 18, Block 6 of said Wakefield Subdivision, said point being at the end of St. Mark Road on the North right of way margin; Thence from the Point of Beginning and along the North right of way margin of said St. Mark Road, Due East 178.65 feet to the point of curve; Thence around a curve to the left, having a radius of 78.66 feet, a chord bearing and distance of North 76 degrees 23 minutes 41 seconds East 37.00 feet; Thence South 27 degrees 12 minutes 32 seconds East 25.00 feet to the centerline of said road; Thence along the centerline of said St. Mark Road, around a curve to the right, having a radius of 103.66 feet, a chord bearing and distance of South 76 degrees 23 minutes 41 seconds West 48.76 feet; Thence Due West 178.65 feet to the end of said road; Thence Due North 25.00 feet to the Point of Beginning and containing 5,548 square feet, more or less.

AND ALSO

PARCEL "B"

All that part of Section 19, Township 3 South, Range 1 East of the Huntsville Meridian, Madison County, Alabama and being a part of St. Mark Road as shown on the record plat of Wakefield Subdivision as recorded in Plat Book 11, Page 69, in the Office of the Judge of Probate, Madison County, Alabama;

Particularly described as commencing at the Southwest corner of Lot 18, Block 6 of said Wakefield Subdivision, said point being at the end of St. Mark Road on the North right of way margin; Thence Due South 25.00 feet to the Point of Beginning, said point being in the centerline of said St. Mark Road; Thence from the Point of Beginning, Due East 178.65 feet to the point of curve; Thence around a curve to the left, having a radius of 103.66 feet, a chord bearing and distance of North 76 degrees 23 minutes 41 seconds East 48.76 feet; Thence South 27 degrees 12 minutes 32 seconds East 25.00 feet to a point on the South right of way margin of said road; Thence along the South right of way margin of said St. Mark Road, around a curve to the right, having a radius of 128.66 feet, a chord bearing and distance of South 76 degrees 23 minutes 41 seconds West 60.52 feet; Thence Due West 178.65 feet to the end of said road; Thence Due North 25.00 feet to the Point of Beginning and containing 5,845 square feet, more or less.

The above described property shall remain subject to any easement for utilities and drainage in favor of the City of Huntsville, Alabama.

This notice is being sent by United States mail at least 30 days prior to the scheduled hearing to all abutting owners, if any, and to all entities known to have facilities or equipment within the public Right-of-way of the street to be vacated, as their names and addresses appear on roll in the Madison County Revenue Commissioner's office or Madison County Tax Assessor's office, and shall be posted at the Madison County Courthouse and at Huntsville City Hall. Any citizen alleging to be affected by the proposed vacation may submit a written objection to the City Council or may request an opportunity to be heard at the public hearing held as required by law, any such objection or request may be directed to: Attn: Thomas Nunez, City Planning Department, 308 Fountain Circle, 2nd Floor, Huntsville, Alabama 35801 or thomas.nunez@huntsvilleal.gov.

RESOLUTION NO. 22-_____

BE IT RESOLVED by the City Council of the City of Huntsville, within the State of Alabama, as follows:

1. That the Hunter Johnson and Amanda Johnson, is the sole landowner abutting the property hereinafter described, made application for the vacation of a portion of that certain Right-of-Way more particularly described as follows (the "Right-of-Way" or the "Property"):

See Exhibit "A" attached hereto and incorporated herein.

2. That notice of the vacation of the Right-of-Way has been given as required by Section 23-4-1 *et seq.* of the Code of Alabama, 1975, as amended, and a public hearing held for purposes of allowing public comments on the proposed vacation before the City Council.

3. That after vacation of the designated portion of Right-of-Way and all public rights therein, convenient and reasonable means of ingress and egress to and from the respective property will be afforded to all property owners owning property in or near the Right-of-Way by the remaining streets, avenues, and highways.

4. That in the judgment and opinion of the City Council of the City of Huntsville that it is in the public interest and necessary and expedient that the City vacate the designated portion of Right-of-Way and that the vacation of the designated portion of Right-of-Way is in the best interests of the citizens of the City in that same will contribute to the health and general welfare of the citizens of the City of Huntsville, Alabama.

5. That the filing of the resolution with the Judge of Probate of Madison County, Alabama, shall operate as a declaration of the City's vacation of that portion of the Right-of-Way as described herein and shall divest all public rights and liabilities, including any rights which may have been acquired by prescription, in that part of the Right-of-Way. Title and all public rights shall vest in the abutting landowners, Hunter Johnson and Amanda Johnson.

6. That notice of this resolution shall be published in *The Huntsville Times* no later than fourteen (14) days from the date hereof.

NOW THEREFORE, be it resolved by the City Council of the City of Huntsville that they do hereby assent to the said vacation of the herein described portion of Right-of-Way and that the above described Property be and the same is hereby vacated and annulled and all public rights therein divested of the Property, with the City of Huntsville retaining a public utility and drainage Easements over, across and under subject property.

ADOPTED this the 27th day of October, 2022.

President of the City Council
City of Huntsville, Alabama

APPROVED this the 27th day of October, 2022.

TOMMY BATTLE
Mayor of the City of Huntsville, Alabama

EXHIBIT A

STATE OF ALABAMA
MADISON COUNTY

PARCEL "A"

All that part of Section 19, Township 3 South, Range 1 East of the Huntsville Meridian, Madison County, Alabama and being a part of St. Mark Road as shown on the record plat of Wakefield Subdivision as recorded in Plat Book 11, Page 69 in the Office of the Judge of Probate, Madison County, Alabama:

Particularly described as beginning at the Southwest corner of Lot 18, Block 6 of said Wakefield Subdivision, said point being at the end of St. Mark Road on the North right of way margin; Thence from the Point of Beginning and along the North right of way margin of said St. Mark Road, Due East 178.65 feet to the point of curve; Thence around a curve to the left, having a radius of 78.66 feet, a chord bearing and distance of North 76 degrees 23 minutes 41 seconds East 37.00 feet; Thence South 27 degrees 12 minutes 32 seconds East 25.00 feet to the centerline of said road; Thence along the centerline of said St. Mark Road, around a curve to the right, having a radius of 103.66 feet, a chord bearing and distance of South 76 degrees 23 minutes 41 seconds West 48.76 feet; Thence Due West 178.65 feet to the end of said road; Thence Due North 25.00 feet to the Point of Beginning and containing 5,548 square feet, more or less.

AND ALSO

PARCEL "B"

All that part of Section 19, Township 3 South, Range 1 East of the Huntsville Meridian, Madison County, Alabama and being a part of St. Mark Road as shown on the record plat of Wakefield Subdivision as recorded in Plat Book 11, Page 69, in the Office of the Judge of Probate, Madison County, Alabama;

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The above described property shall remain subject to any easement for utilities and drainage in favor of the City of Huntsville, Alabama.

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 right-of-way; that the applicants have represented to the City of Huntsville that **Hunter Johnson and Amanda Johnson**, are the owners of the property across which said right-of-way lies; that said right-of-way, or the portion being vacated, is not presently used and is 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 deed vacating the right-of-way hereinafter described, said deed being substantially in words and figures as follows, to-wit:

STATE OF ALABAMA)
 :
COUNTY OF MADISON)

QUITCLAIM DEED

KNOW ALL MEN BY THESE PRESENTS: That the undersigned, **CITY OF HUNTSVILLE, ALABAMA**, an Alabama municipal corporation, hereinafter referred to as "Grantor", in consideration of the sum of TEN DOLLARS (\$10.00), in hand paid to it by **Hunter Johnson and Amanda Johnson**, hereinafter referred to as "Grantees", and other good and valuable consideration, the receipt and sufficiency whereof is hereby acknowledged, does hereby remise, release, quitclaim and convey unto the said Grantees all of the Grantor's right, title, interest and claim in and to the following described real estate situated in the City of Huntsville, County of Madison, State of Alabama, to-wit:

PARCEL "A"

All that part of Section 19, Township 3 South, Range 1 East of the Huntsville Meridian, Madison County, Alabama and being a part of St. Mark Road as shown on the record plat of Wakefield Subdivision as recorded in Plat Book 11, Page 69 in the Office of the Judge of Probate, Madison County, Alabama;

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AND ALSO

PARCEL "B"

All that part of Section 19, Township 3 South, Range 1 East of the Huntsville Meridian, Madison County, Alabama and being a part of St. Mark Road as shown on the record plat of Wakefield Subdivision as recorded in Plat Book 11, Page 69 in the Office of the Judge of Probate, Madison County, Alabama;

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TO HAVE AND TO HOLD unto the said Grantees, and unto their heirs, successors and assigns forever.

IN WITNESS WHEREOF, the Grantor has caused this quitclaim deed to be signed on its behalf by its Mayor and attested by its Clerk-Treasurer, on this the 27th day of October, 2022.

ATTEST:

**CITY OF HUNTSVILLE, ALABAMA,
a municipal corporation**

By: _____
Kenneth Benion, Clerk-Treasurer

By: _____
Tommy Battle, Mayor

STATE OF ALABAMA)
 :
COUNTY OF MADISON)

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that **TOMMY BATTLE** and **KENNETH BENION**, whose names as Mayor and Clerk-Treasurer, respectively, of the **CITY OF HUNTSVILLE, ALABAMA, a municipal corporation** 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 the conveyance, they, as such officers and with full authority, executed the same voluntarily for and as the act of said corporation on the day the same bears date.

Given under my hand and official seal this the 27th day of October, 2022.

Notary Public
My Commission Expires: _____

Pursuant to and in accordance with Section 40-22-1 of the *Code of Alabama (1975)*, the following information is offered in lieu of submitting Form RT-1:

Date of Sale: _____, 20____
Grantor's Address: 308 Fountain Circle, Huntsville, AL 35801
Grantee's Address: 8487 Sedgebrook Dr SE, Owens Cross Roads, AL 35763
Property Address: Easement at St. Mark Road, Huntsville, AL 35801
Purchase Price: \$0 – Nominal for vacation of easement

THIS INSTRUMENT WAS PREPARED BASED UPON INFORMATION PROVIDED BY THE GRANTEE. NO TITLE EXAMINATION HAS BEEN PERFORMED BY THE PREPARER OF THIS DEED AND NO OPINION HAS BEEN EXPRESSED OR RENDERED WITH RESPECT TO THE TITLE OR LEGAL DESCRIPTION OF THE ABOVE DESCRIBED REAL PROPERTY.

THIS INSTRUMENT WAS PREPARED BY: ANDREA GULLION
HARRISON & GAMMONS, P.C.
2430 L&N Drive
Huntsville, AL 35801
256-533-7711
CW21-JOHNSON

Ordinance No. 22-_____ (Cont.)

ADOPTED this the 27th day of October, 2022.

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

APPROVED this the 27th day of October, 2022.

Mayor of the City of
Huntsville, Alabama