



Huntsville, Alabama

308 Fountain Circle
Huntsville, AL 35801

Cover Memo

Meeting Type: City Council Regular Meeting **Meeting Date:** 7/13/2023

File ID: TMP-3118

Department: Planning

Subject:

Type of Action: Approval/Action

Resolution to set a public hearing on the vacation of a portion of a 15-foot alleyway which runs between McKinley Avenue and Oakwood Avenue, 1505 Maysville Road; and introduction of a Resolution consenting to, and introduction of an Ordinance vacating the alleyway pertaining to the same.

Resolution No.

Resolution No.

Ordinance No.

Does this item need to be published? Yes

If yes, please list preferred date(s) of publication: 7/19; 7/26; 8/2; and 8/9

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: 1505 Maysville Road

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

Additional Comments:

RESOLUTION NO. 23-_____

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

1. That **East Huntsville Baptist Church of Huntsville, Alabama**, is the sole landowner abutting the property hereinafter described, submitted an application for the vacation of Alleyway being and lying in Madison County, and being more particularly described as follows (the "Alleyway" or the "Property"):

**SEE EXHIBIT "A" - "DECLARATION FOR VACATION OF ALLEYWAY"
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 Alleyway at Huntsville City Hall in the Council Chamber, located at 308 Fountain Circle, Huntsville, Alabama 35801, at 5:30 p.m. on Thursday, August 24, 2023; and

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

4. That the City Clerk is hereby ordered to have public hearing notice contained in Exhibit "B" attached hereto ("Public Notice"), immediately published in *The Speakin' Out News* for four consecutive weeks, with said notice to run beginning on July 19, July 26, August 2, and August 9, 2023.

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 13th day of July, 2023.

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

APPROVED this the 13th day of July, 2023.

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, **EAST HUNTSVILLE BAPTIST CHURCH OF HUNTSVILLE, ALABAMA**, an Alabama non-profit corporation (hereinafter referred to as "Owner"), desiring to vacate that certain right-of-way hereinafter described, says as follows:

THAT WHEREAS, the said Owner, **EAST HUNTSVILLE BAPTIST CHURCH OF HUNTSVILLE, ALABAMA**, an Alabama non-profit corporation, is the owner of all the land abutting the hereinafter described right-of-way and does hereby give its consent to the City of Huntsville, Alabama for the vacation of said right-of-way; and,

THAT WHEREAS, convenient and adequate means of ingress and egress are available to the owners of all surrounding property, and that this vacation of right of way should not adversely affect such surrounding property; and,

THAT WHEREAS, the said right-of-way, hereinafter described, is situated within the corporate limits of the City of Huntsville, Alabama, and was previously dedicated as an alley; and,

THAT WHEREAS, the undersigned Owner by this instrument, declares its intent to vacate the said right-of-way as hereinafter described.

NOW, THEREFORE, the undersigned, **EAST HUNTSVILLE BAPTIST CHURCH OF HUNTSVILLE, ALABAMA**, an Alabama non-profit corporation, being the Owner of all of the property abutting the right-of-way hereinafter described, does 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 said right-of-way, as hereinafter described, to-wit:

All that part of Section 30, Township 3 South, Range 1 East of the Huntsville Meridian and all that part of the A. W. Newson's Fairview Addition to the City of Huntsville as recorded in Plat Book 1, Page 131 in the Office of the Judge of Probate, Madison County, Alabama, more particularly described as beginning at a 1" pipe found at the northwest corner of Lot 38, Block 15, and on the south edge of a 15' alley; Thence from the True Point of Beginning and along the South line of said 15' alley and along the North property line of Lots 38, 40, 42, 44, 46 due East 211.55 feet to a point on the West acquired Right of Way for Maysville Road (Probate Case No. 17648); Thence along the West Right of Way North 00 degrees 16 minutes 09 seconds West 15.00 feet to a point; Thence leaving said Right of Way and along the North edge of said alley and along the South property line for Lots 45, 43, 41, 39, 37 due West 211.48 feet to the Southwest corner of Lot 37, Block 15; Thence due South 15.00 feet to the Point of Beginning and containing 3,162.6 square feet more or less.

SUBJECT TO all Right of Ways and any easements recorded or unrecord.

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

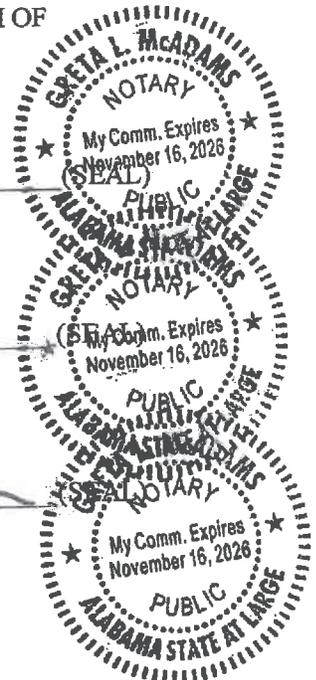
IN WITNESS WHEREOF, the undersigned Owner of all of the property abutting said right-of-way hereinabove described, has caused this instrument to be executed, on this _____ day of _____, 2023.

EAST HUNTSVILLE BAPTIST CHURCH OF HUNTSVILLE, ALABAMA, an Alabama non-profit corporation

By: Brian Cole
Brian Cole
Its: Trustee

By: David Curry
David Curry
Its: Trustee

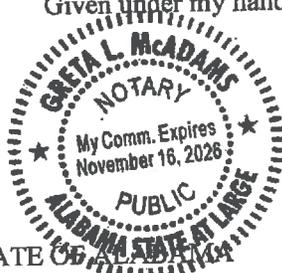
By: Jimmy Preston
Jimmy Preston
Its: Trustee



STATE OF ALABAMA)
 :
COUNTY OF MADISON)

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that BRIAN COLE, whose name as Trustee, of EAST HUNTSVILLE BAPTIST CHURCH OF HUNTSVILLE, ALABAMA, an Alabama non-profit corporation, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he, as such Trustee, and with full authority, executed the same voluntarily for and as the act of the said EAST HUNTSVILLE BAPTIST CHURCH OF HUNTSVILLE, ALABAMA, an Alabama non-profit corporation on the day the same bears date.

Given under my hand and official seal on the 16th day of June, 2023.



Greta L. McAdams
Notary Public
My commission expires: 11/16/2026

STATE OF ALABAMA)
 :
COUNTY OF COUNTY)

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that DAVID CURRY, whose name as Trustee, of EAST HUNTSVILLE BAPTIST CHURCH OF HUNTSVILLE, ALABAMA, an Alabama non-profit corporation is signed to the foregoing

instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he, as such Trustee, and with full authority, executed the same voluntarily for and as the act of the said **EAST HUNTSVILLE BAPTIST CHURCH OF HUNTSVILLE, ALABAMA, an Alabama non-profit corporation** on the day the same bears date.

Given under my hand and official seal on the 19th day of June, 2023.



Greta L. McAdams
Notary Public
My commission expires: 11/16/2026

STATE OF ALABAMA)
)
COUNTY OF MADISON)

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that **JIMMY PRESTON**, whose name as Trustee, of **EAST HUNTSVILLE BAPTIST CHURCH OF HUNTSVILLE, ALABAMA, an Alabama non-profit corporation**, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he, as such Trustee, and with full authority, executed the same voluntarily for and as the act of the said **EAST HUNTSVILLE BAPTIST CHURCH OF HUNTSVILLE, ALABAMA, an Alabama non-profit corporation** on the day the same bears date.

Given under my hand and official seal on the 14th day of June, 2023.



Greta L. McAdams
Notary Public
My commission expires: 11/16/2026

THIS INSTRUMENT PREPARED BY:
JAMES G. HARRISON
HARRISON & GAMMONS, P.C.
2430 L & N Drive
Huntsville, AL 35801
256-533-7711

EXHIBIT B

(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, August 24, 2023.

The purpose of the hearing is to receive public comments on an application submitted by the City of Huntsville for the vacation of Alleyway which runs between McKinley Avenue and Oakwood Avenue, 1505 Maysville Road which is more particularly described as follows:

STATE OF ALABAMA
MADISON COUNTY

Alleyway Vacation

All that part of Section 30, Township 3 South, Range 1 East of the Huntsville Meridian and all that part of the A. W. Newson's Fairview Addition to the City of Huntsville as recorded in Plat Book 1, Page 131 in the Office of the Judge of Probate, Madison County, Alabama, more particularly described as beginning at a 1" pipe found at the northwest corner of Lot 38, Block 15, and on the south edge of a 15' alley; Thence from the True Point of Beginning and along the South line of said 15' alley and along the North property line of Lots 38, 40, 42, 44, 46 due East 211.55 feet to a point on the West acquired Right of Way for Maysville Road (Probate Case No. 17648); Thence along the West Right of Way North 00 degrees 16 minutes 09 seconds West 15.00 feet to a point; Thence leaving said Right of Way and along the North edge of said alley and along the South property line for Lots 45, 43, 41, 39, 37 due West 211.48 feet to the Southwest corner of Lot 37, Block 15; Thence due South 15.00 feet to the Point of Beginning and containing 3,162.6 square feet more or less.

SUBJECT TO all Right of Ways and any easements recorded or unrecord.

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 know 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. 23-_____

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

1. That the East Huntsville Baptist Church of Huntsville, Alabama, is the sole landowner abutting the property hereinafter described, made application for the vacation of a portion of that certain Alleyway more particularly described as follows (the "Alleyway" or the "Property"):

See Exhibit "A" attached hereto and incorporated herein.

2. That notice of the vacation of the Alleyway 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 Alleyway 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 Alleyway 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 Alleyway and that the vacation of the designated portion of Alleyway 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 Alleyway 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 Alleyway. Title and all public rights shall vest in the abutting landowner, East Huntsville Baptist Church of Huntsville, Alabama.

6. That notice of this resolution shall be published in *The Speakin' Out News* 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 Alleyway and that the above described Property be and the same is hereby vacated and annulled and all public rights therein divested of the Property.

ADOPTED this the day of, 2023.

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

APPROVED this the day of , 2023.

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

EXHIBIT A

Alleyway Vacation

All that part of Section 30, Township 3 South, Range 1 East of the Huntsville Meridian and all that part of the A. W. Newson's Fairview Addition to the City of Huntsville as recorded in Plat Book 1, Page 131 in the Office of the Judge of Probate, Madison County, Alabama, more particularly described as beginning at a 1" pipe found at the northwest corner of Lot 38, Block 15, and on the south edge of a 15' alley; Thence from the True Point of Beginning and along the South line of said 15' alley and along the North property line of Lots 38, 40, 42, 44, 46 due East 211.55 feet to a point on the West acquired Right of Way for Maysville Road (Probate Case No. 17648); Thence along the West Right of Way North 00 degrees 16 minutes 09 seconds West 15.00 feet to a point; Thence leaving said Right of Way and along the North edge of said alley and along the South property line for Lots 45, 43, 41, 39, 37 due West 211.48 feet to the Southwest corner of Lot 37, Block 15; Thence due South 15.00 feet to the Point of Beginning and containing 3,162.6 square feet more or less.

SUBJECT TO all Right of Ways and any easements recorded or unrecorded.

ORDINANCE NO. 23-_____

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 an alleyway; that the applicants have represented to the City of Huntsville that **East Huntsville Baptist Church of Huntsville, Alabama**, is the owner of the property across which said alleyway lies; that said alleyway, 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 alleyway 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 **EAST HUNTSVILLE BAPTIST CHURCH OF HUNTSVILLE, ALABAMA, an Alabama non-profit corporation**, hereinafter referred to as "Grantee", and other good and valuable consideration, the receipt and sufficiency whereof is hereby acknowledged, does hereby **REMISE, RELEASE, QUITCLAIM AND CONVEY** unto the said Grantee, 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:

All that part of Section 30, Township 3 South, Range 1 East of the Huntsville Meridian and all that part of the A. W. Newson's Fairview Addition to the City of Huntsville as recorded in Plat Book 1, Page 131 in the Office of the Judge of Probate, Madison County, Alabama, more particularly described as beginning at a 1" pipe found at the northwest corner of Lot 38, Block 15, and on the south edge of a 15' alley; Thence from the True Point of Beginning and along the South line of said 15' alley and along the North property line of Lots 38, 40, 42, 44, 46 due East 211.55 feet to a point on the West acquired Right of Way for Maysville Road (Probate Case No. 17648); Thence along the West Right of Way North 00 degrees 16 minutes 09 seconds West 15.00 feet to a point; Thence leaving said Right of Way and along the North edge of said alley and along the South property line for Lots 45, 43, 41, 39, 37 due West 211.48 feet to the Southwest corner of Lot 37, Block 15; Thence due South 15.00 feet to the Point of Beginning and containing 3,162.6 square feet more or less.

SUBJECT TO all Right of Ways and any easements recorded or unrecord.

TO HAVE AND TO HOLD unto the said Grantee, its successors and assigns forever, all of Grantor's right, title, interest and claim in and to the above described real estate.

IN WITNESS WHEREOF, the Grantor has caused this quitclaim deed to be signed in its behalf by its Mayor and attested by its City Clerk, on this the day of 2023.

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

By: _____
Shaundrika Edwards, City Clerk

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 **SHAUNDRIKA EDWARDS**, whose names as Mayor and City Clerk, respectively, of the **CITY OF HUNTSVILLE, ALABAMA**, a **municipal corporation** 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 the instrument, 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 day of , 2023.

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: _____, 2023
Grantor's Address: 308 Fountain Circle, Huntsville, AL 35801
Grantee's Address: 1505 Maysville Road, Huntsville, AL 35801
Property Address: Vacation of easement at 1505 Maysville 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: JAMES G. HARRISON
HARRISON & GAMMONS, P.C.
2430 L&N Drive
Huntsville, AL 35801
256-533-7711

Ordinance No. 23-_____ **(Cont.)**

ADOPTED this the _____ day of _____, 2023.

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

APPROVED this the _____ day of _____, 2023.

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