

## **ORDINANCE 9-2020**

**AN ORDINANCE CLOSING A PORTION OF THE SOUTH RIGHT-OF-WAY OF WEST FIFTH STREET ON THE NORTH SIDE OF THE PROPERTY LOCATED AT 1008 WEST FIFTH STREET, OWENSBORO, KENTUCKY AND CONTAINING 0.022 ACRES, AT THE REQUEST OF VISHA, LLC.**

**WHEREAS**, VISHA, LLC has petitioned the City of Owensboro, pursuant to KRS 82.405(2) for the closing of a 0.022-acre portion of the right-of-way located on the south side of West Fifth Street and on the north side of the property located at 1008 West Fifth Street, Owensboro, Kentucky, attached hereto and incorporated herein by reference as Exhibit A; and

**WHEREAS**, other than the Petitioner, VISHA, LLC, there are no adjoining and/or abutting property owners, and no further consent is required to be granted for closure of the portion of the right-of-way; and

**WHEREAS**, pursuant to KRS 82.405(2), the Board of Commissioners of the City of Owensboro, Kentucky, makes the following findings:

1. That the Petitioner, VISHA, LLC is the only owner abutting the public right-of-way sought to be closed and has consented to the closing, a copy of the Applicant's Request for Closure of Public Right-of-Way is attached hereto.

2. That the closing of the public right-of-way to be abandoned herein would be in the best interest of the residents of the City of Owensboro, Kentucky, and will not create a hardship on any of the adjoining property owners or any person with any interest therein.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF OWENSBORO,  
KENTUCKY, AS FOLLOWS:**

**Section 1.** That the findings of fact recited hereinabove are hereby adopted, affirmed and incorporated by reference herein.

**Section 2.** Pursuant to the provisions of KRS 82.405(2), the City of Owensboro does hereby abandon and close a 0.022-acre portion of the right-of-way located on the south side of West Fifth Street and on the north side of the property located at 1008 West Fifth Street, Owensboro, Kentucky as more particularly described:

Beginning at a calculated point being in the south right-of-way line of West Fifth Street, said south right-of-way varies in width from its centerline and being the northeast corner of a 20-foot alley; thence severing the right-of-way of West Fifth Street North 03°17'35" West, 15.56 feet to a calculated point; thence continuing to sever said right-of-way North 86°51'30" East, 62.82 feet to a calculated point being in the North line of the Visha, LLC property, as recorded in Plat Book 49, page 90 in the Office of the Daviess County Clerk; thence with said North line of said property South 03°14'30" East, 15.56 feet to a calculated point; thence continuing with said North line South 86°51'30" West, 62.81 feet to the point of beginning and containing 0.022 acres or 977 square feet.

**Section 3.** All easements as shown on the aforesaid Plat will be retained on the property closed by this ordinance and of the property owner.

**Section 4.** A copy of this Ordinance shall be recorded in the Office of the Daviess County Court Clerk.

**Section 5.** That all ordinances or parts of ordinances in conflict herewith, are to the extent of such conflict, hereby repealed.

**INTRODUCED AND PUBLICLY READ ON FIRST READING**, this 21st day of July, 2020.

**PUBLICLY READ AND FINALLY APPROVED ON SECOND READING**, this 4th day of August, 2020.

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Thomas H. Watson, Mayor

ATTEST:

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Beth Cecil, City Clerk

### **CERTIFICATION**

I, Beth Cecil, City Clerk of the City of Owensboro, Kentucky, do hereby certify that the foregoing is a true and correct copy of Ordinance 9-2020 duly adopted by the Board of Commissioners of the City of Owensboro, Kentucky, on the 4<sup>th</sup> day of August, 2020, the original of which is on file in the Office of the City Clerk, on this the 4th day of August, 2020.

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Beth Cecil, City Clerk

**CITY OF OWENSBORO**

**COMMISSION MEETING DATE:** 7/21/20<sup>20</sup>~~19~~

**AGENDA REQUEST AND SUMMARY SUBMITTED BY: City Engineering Department  
– Michael Hamilton**

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**TITLE:** PROPOSED CLOSING OF A PORTION OF STREET RIGHT OF WAY ALONG  
THE SOUTH SIDE OF WEST 5<sup>TH</sup> STREET AT 1008 WEST 5<sup>TH</sup> STREET

**Ordinance Prepared by:** ☒ **City Staff** ☐ **Other Preparer** ☒ **Attachments:** Request for Closure of Public Right of Way Form, Consent of Abutting Property Owner to Closure of Public Right of Way Forms, Ordinance for Closure, Alley Description and Exhibit Plat

**Summary & Background:**

A request has been received from VISHA, LLC, for consideration to close a section of street right of way in front of 1008 West 5th Street, being approximately 15.56 feet wide and 62.82 feet long and as described below:

The proposed street right of way is described as beginning at a calculated point being in the south right of way line of West Fifth Street, said south right of way line varies in width from its centerline and being the northeast corner of a 20 ft. alley; thence severing the right of way of West Fifth Street N 03° 17' 35" W, 15.56 ft. to a calculated point; thence continuing to sever said right of way N 86° 51' 30" E, 62.82 ft. to a calculated point being in the north line of the Visha, LLC property, as recorded in Plat Book 49, at Page 90 in the Office of the Daviess County Clerk; thence with said north line of said property S 03° 14' 30" E, 15.56 ft. to a calculated point; thence continuing with said north line S 86° 51' 30" W, 62.81 ft. to the point of beginning and containing 0.022 acres or 977 Square Feet.

N.A. Patel with VISHA, LLC, owner of property at 1008 West 5th Street has signed and submitted the Request for Closure Form, and the Consent of Abutting Property Owner form for the proposed closing as the only abutting property owner to the proposed right of way closing.

The request has been forwarded to all City departments and City Utilities. No objections were noted to the closing of the public street right of way. No easement will need to be retained for the street right of way.

Charlie Kamuf, drafted ordinance for closure

**REQUEST FOR CLOSURE OF PUBLIC RIGHT-OF-WAY**

CITY ENGINEER:

The undersigned hereby requests that the right-of-way described below be closed and that the City Engineer's office make inquiry of all necessary City departments and utilities to determine if there are any reasons why the right-of-way located : \_\_\_\_ along W5th Street, north of 1008 W 5<sup>th</sup> Street as shown on Exhibit "A" \_\_\_\_\_

\_\_\_\_\_ should not be closed.

I understand that if I do not own all the land abutting the right-of-way proposed to be closed, I will obtain the consent of all other adjoining landowners on the appropriate form provided by the City. I also agree to provide the City with the names and addresses of all abutting or otherwise affected landowners by the proposed closure.

Once the appropriate consent forms have been executed by all fee simple property owners abutting the right-of-way proposed to be closed, and have been filed with the City, I understand and agree that it shall be my responsibility to obtain and pay for the services of a licensed attorney to prepare the legal documents necessary to close public right-of-way in accordance with KRS 82.405, subject to the approval of the City Attorney.

SIGNED BY:  And Milegh Kumar Patra

(PRINTED NAME) Amrik Jammu And N. A. Patra

DATE: 7/06/2020

ADDRESS: 2864 Brooks Parkway Owensboro KY 42303

STATE OF KENTUCKY )

COUNTY OF DAVIESS )

The foregoing instrument was duly signed and acknowledged before me in my said County and State by

AMRIK Jammu, on this the 6<sup>th</sup> day of July, 2020.  
And N.A. Patel

Dezette R. Cook  
Notary Public, State of Kentucky at Large

My commission expires: January 22, 2021

# 571016

**CONSENT OF ABUTTING PROPERTY OWNER (S)  
TO CLOSURE OF PUBLIC RIGHT-OF-WAY**

I (We), VISHA, LLC

, do Solemnly swear and affirm that I am (we are) the fee simple owner (s) of real property located at and known as 1008 W 5<sup>th</sup> Street

, part or all of which property abuts a part or all of public right-of-way that the City of Owensboro, Kentucky, proposes to abandon and close in conformity with **KRS 82.405**, which right-of-way is more particularly described as follows:

Existing Right-of-Way along W5th Street, north of 1008 W 5<sup>th</sup> Street as shown on Exhibit "A"

I (We), as fee simple owner (s) of property in or abutting the portion of public right-of-way proposed to be closed, do knowingly, voluntarily, and expressly waive my (our) right to written notice of the proposed closing otherwise required by **KRS 82.405 (2) (b)**, and hereby consent to, and join in the request for, the closure of said public right-of-way as proposed herein. I (We) further understand that I (we) are not required to consent to the closure of public right-of-way and may object to same. However, I (we) expressly waive any and all rights to object to the proposed closure.

I (We) further understand and acknowledge, that upon the enactment and publication of an ordinance by the Owensboro Board of Commissioners closing subject right-of-way, unless otherwise agreed, I (we) as abutting landowner (s), will receive by operation of law as my (our) own property, that portion of the right-of-way abutting my (our) property up to the center line of said right-of-way.

I further understand and acknowledge that if other fee simple owner (s) of property in or abutting the public right-of-way proposed to be closed does (do) not approve of the proposed

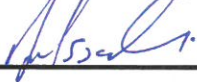
closure, the City reserves the right to withdraw from consideration any ordinance, or dismiss any lawsuit prosecuted herein, unless any one or all of the fee simple owner (s) of property in or abutting the right-of-way proposed to be closed, agrees (agree) to indemnify and hold the city of Owensboro harmless from any and all damages assessed against it by virtue of the initiation of eminent domain proceedings pursuant to **KRS 82.405 (3) and (4)**.

I (We) further understand and acknowledge that the City of Owensboro reserves the right to deny or qualify any request for closure of public right-of-way, if upon inquiry from all necessary City departments, utilities, and all abutting or affected property owners, it is determined that it is not in the best interest of the city to close public right-of-way or the retention of public or private utility easements or required to accommodate municipal services.

In testimony whereof, witness my (our) signature (s) on this July 06 Day of

\_\_\_\_\_, 2020

**PROPERTY OWNER(S) :**

  
N. A. Patel

**STATE OF KENTUCKY** )

**COUNTY OF DAVIESS** )

The foregoing instrument was signed and acknowledged before me by  
Amrik Taranu and N.A. Patel  
On this the 6th day of July, 2020.



**NOTARY PUBLIC, State at Large**

My Commission expires: January 22, 2021

#57016





WEST 5th STREET  
(RIGHT-OF-WAY VARIES)

SYCAMORE STREET  
(31' ± RIGHT-OF-WAY)

N 86°51'30" E 62.82' 15.56'  
0.022 AC. (977 SQ.FT.)  
S 86°51'30" W 62.81' 15.56'

VISHA, LLC  
D.B. 973, PG. 102  
D.B. 1008, PG. 644  
D.B. 1008, PG. 648  
P.B. 49, PG. 90

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D.B. 973, PG. 102  
D.B. 1008, PG. 644  
D.B. 1008, PG. 648  
P.B. 49, PG. 90

TAYONNA GREER  
D.B. 999, PG. 959

20' ALLEY

PURPOSE:  
TO SHOW AND DESCRIBE THE PROPOSED  
RIGHT-OF-WAY CLOSING.

SURVEYOR NOTES:  
THE PROPERTY AND DESCRIPTION SHOWN HEREON DOES  
NOT CONSTITUTE A BOUNDARY SURVEY AND SHALL NOT  
BE USED FOR THE TRANSFER OF REAL PROPERTY.

DESCRIPTION FOR CLOSING:

BEGINNING AT A CALCULATED POINT BEING IN THE SOUTH RIGHT-OF-WAY LINE OF WEST FIFTH STREET, SAID SOUTH RIGHT-OF-WAY LINE VARIES IN WIDTH FROM ITS CENTERLINE AND BEING THE NORTHEAST CORNER OF A 20-FOOT ALLEY, THENCE SEVERING THE RIGHT-OF-WAY OF WEST FIFTH STREET NORTH 03°17'35" WEST, 15.56 FEET TO A CALCULATED POINT; THENCE CONTINUING TO SEVER SAID RIGHT-OF-WAY NORTH 86°51'30" EAST, 62.82 FEET TO A CALCULATED POINT BEING IN THE NORTH LINE OF THE VISHA, LLC PROPERTY, AS RECORDED IN PLAT BOOK 49, AT PAGE 90 IN THE OFFICE OF THE DAVESS COUNTY CLERK; THENCE WITH SAID NORTH LINE OF SAID PROPERTY SOUTH 03°14'30" EAST, 15.56 FEET TO A CALCULATED POINT; THENCE CONTINUING WITH SAID NORTH LINE SOUTH 86°51'30" WEST, 62.81 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.022 ACRES OR 977 SQUARE FEET.

EXHIBIT "A"

PROPOSED  
RIGHT-OF-WAY CLOSING

DATE: 06-09-2020

CLIENT

VISHA, LLC  
1101 W. 9th STREET  
OWENSBORO, KY 42301

GRAPHIC SCALE



PREPARED BY:

*J. William Weikel, Jr.*  
J. WILLIAM WEIKEL, JR., KY P.L.S. NO. 2813  
DATE: June 9, 2020

**Bei** BRYANT ENGINEERING INC.  
Civil Engineering • Land Surveying  
1535 FREDERICA STREET - P.O. BOX 21382  
OWENSBORO, KENTUCKY 42304  
270-685-2811