

ORDINANCE 21-2020

AN ORDINANCE CLOSING A PORTION OF THE NORTH RIGHT-OF-WAY OF EMORY DRIVE CONTAINING 0.023 ACRES WHICH IS LOCATED ON THE SOUTH SIDE OF THE PROPERTY LOCATED AT 2804 FEDERICA STREET, OWENSBORO, KENTUCKY, AT THE REQUEST OF 4 CATS, LLC.

WHEREAS, 4 Cats, LLC has petitioned the City of Owensboro, pursuant to KRS 82.405(2) for the closing of a 0.023-acre portion of the right-of-way located on the north side of Emory Drive and on the south side of the property located at 2804 Frederica Street, Owensboro, Kentucky, a plat of which is attached hereto and incorporated by reference as Exhibit "A";

WHEREAS, other than the Petitioner, 4 Cats, 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, 4 Cats, LLC is the only owner abutting the public right-of-way sought to be closed, and have given written, notarized consent to the closure.

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 0.023-acre portion of the right-of-way located on the north side of Emory Drive and on the south side of the property located at 2804 Frederica Street, Owensboro, Kentucky as more particularly described:

Beginning at a calculated point being in the north right-of-way line of Emory Drive, said north right-of-way line being 30 feet from its centerline and being the southwest corner of the 4 Cats, LLC, property as recorded in Deed Book 1032, page 383, in the Office of the Daviess County Clerk; thence with the south property line of said 4 Cats, LLC property south 64 degrees 39 minutes 46 seconds East, a distance of 163.63 feet to a calculated point being in said north right-of-way line; thence severing said right-of-way for the following three (3) calls:

- 1. In a curve to the right being subtended by a chord of south 89 degrees 54 minutes 18 seconds west, a chord distance of 14.56 feet and having a radius of 17.00 feet, in all an arc distance of 15.04 feet to a calculated point;**
- 2. North 64 degrees 44 minutes 38 seconds west, a distance of 151.05 feet to a calculated point;**
- 3. North 30 degrees 20 minutes 31 seconds east, a distance of 6.49 feet to the point of beginning and containing 0.023 acres or 1,016 square feet.**

This description was prepared for an alley closing only and not to be used for the transfer of real property.

AND BEING a part of the same property which was previously dedicated to the City of Owensboro, Kentucky and which abuts the property conveyed to 4 Cats, LLC, a Kentucky limited liability company, by a Deed from OWB Downtown, LLC, a Kentucky limited liability company, dated August 13, 2020, of record in Deed Book 1032, page 383, in the Office of the Daviess County Clerk.

Section 3. Any easements 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 17th day of November, 2020.

PUBLICLY READ AND FINALLY APPROVED ON SECOND READING, this 1st day of December, 2020.

Thomas H. Watson, Mayor

ATTEST:

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 21-2020 duly adopted by the Board of Commissioners of the City of Owensboro, Kentucky, on the 1st day of December, 2020, the original of which is on file in the Office of the City Clerk, on this the _____ day of _____, 2020.

Beth Cecil, City Clerk

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 Emory Drive, adjacent to 2804 Frederica 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: Sean M. Byrne

(PRINTED NAME) Sean M. Byrne

DATE: 10-16-2020

ADDRESS: 1215 Lyddlane Bridge Rd

STATE OF KENTUCKY)

)
COUNTY OF DAVIESS)

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

Sean M. Byrne, on this the 16th day of October, 2020.

Brighton R. Cook #571016
Notary Public, State of Kentucky at Large
My commission expires: January 23 2021

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

I (We), 4 Cats LLC

, do Solemnly swear and affirm that I am (we are) the fee simple owner (s) of real property located at and known as 2804 Frederica 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 Emory Drive adjacent to 2804 Frederica 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 to 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 19th Day of October, 2020

PROPERTY OWNER (S) :

4 Cats LLC
Sean M. Byrne



STATE OF KENTUCKY)
)
COUNTY OF DAVIESS)

The foregoing instrument was signed and acknowledged before me by Sean M. Byrne
On this the 19th day of October, 2020.

Gary Lewis
NOTARY PUBLIC, State at Large
My Commission expires: 03/23/2021

DESCRIPTION FOR CLOSING:

BEGINNING AT A CALCULATED POINT BEING IN THE NORTH RIGHT-OF-WAY LINE OF EMORY DRIVE, SAID NORTH RIGHT-OF-WAY LINE BEING 30 FEET FROM ITS CENTERLINE AND BEING THE SOUTHWEST CORNER OF THE 4 CATS, LLC. PROPERTY AS RECORDED IN DEED BOOK 1032, AT PAGE 383 IN THE OFFICE OF THE DAVIESS COUNTY CLERK, THENCE WITH THE SOUTH PROPERTY LINE OF SAID 4 CATS, LLC. PROPERTY SOUTH 64 DEGREES 39 MINUTES 46 SECONDS EAST, A DISTANCE OF 163.69 FEET TO A CALCULATED POINT BEING IN SAID NORTH RIGHT-OF-WAY LINE, THENCE SEVERING SAID RIGHT-OF-WAY FOR THE FOLLOWING THREE (3) CALLS:

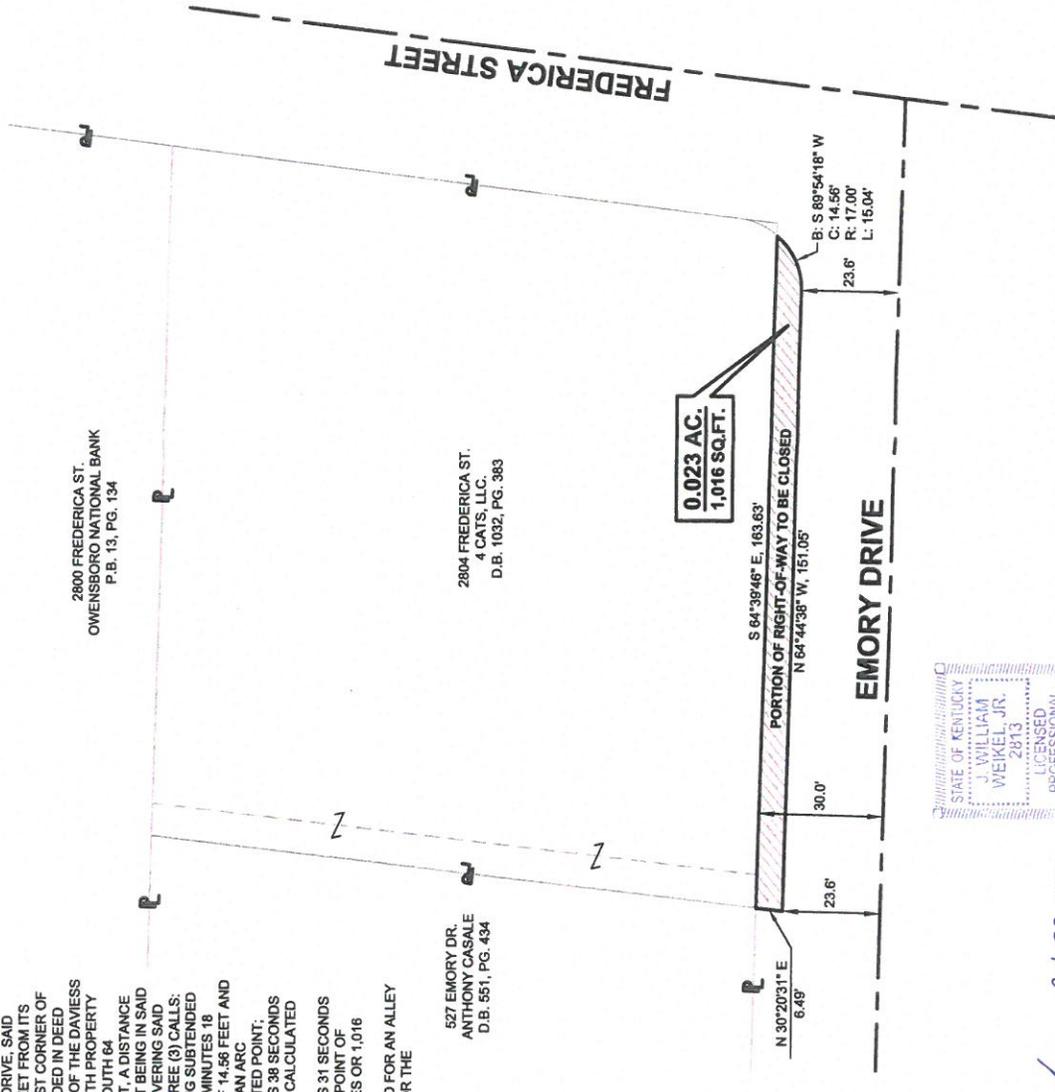
1. IN A CURVE TO THE RIGHT BEING SUBTENDED BY A CHORD OF SOUTH 89 DEGREES 54 MINUTES 18 SECONDS WEST, A CHORD DISTANCE OF 14.56 FEET AND HAVING A RADIUS OF 17.00 FEET, IN ALL AN ARC DISTANCE OF 15.04 FEET TO A CALCULATED POINT;
2. NORTH 64 DEGREES 44 MINUTES 38 SECONDS WEST, A DISTANCE OF 151.05 FEET TO A CALCULATED POINT;
3. NORTH 30 DEGREES 20 MINUTES 31 SECONDS EAST, A DISTANCE OF 6.49 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.023 ACRES OR 1,016 SQUARE FEET.

THIS DESCRIPTION WAS PREPARED FOR AN ALLEY CLOSING ONLY AND NOT TO BE USED FOR THE TRANSFER OF REAL PROPERTY.

527 EMORY DR.
ANTHONY CASALE
D.B. 951, PG. 434

2804 FREDERICA ST.
4 CATS, LLC.
D.B. 1032, PG. 383

2600 FREDERICA ST.
OWENSBORO NATIONAL BANK
P.B. 13, PG. 134



STATE OF KENTUCKY
J. WILLIAM WEIKEL, JR.
2813
LICENSED PROFESSIONAL LAND SURVEYOR

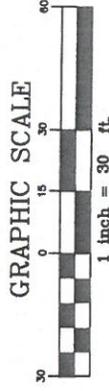
PREPARED BY:

J. William Weikel, Jr.
J. WILLIAM WEIKEL, JR., KY, P.L.S. NO. 2613

DATE
Oct. 29, 2020

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.



CLIENT

4 CATS, LLC.
1215 LYDDANE BRIDGE ROAD
OWENSBORO, KY 42301

COMPLIES WITH 201 KAR18:150 SECTION 13.
NOT A BOUNDARY SURVEY.
NOT FOR TRANSFER OF REAL PROPERTY.

EXHIBIT "A"

**PROPOSED
RIGHT-OF-WAY
CLOSING**

DATE: 10-15-2020



1635 FREDERICA STREET - P.O. BOX 21382
OWENSBORO, KENTUCKY 42304

270-685-2811