

ORDINANCE 15-2023

**AN ORDINANCE CLOSING AN ALLEY RIGHT-OF-WAY
ADJACENT TO 1624 PARRISH COURT, 1625 CARY
COURT AND 1617 CARY COURT IN THE CITY OF
OWENSBORO, KENTUCKY.**

WHEREAS, Jordan Maddox (Petitioner) has petitioned the City of Owensboro pursuant to KRS 82.405(2) to close an alley right-of-way adjacent to 1624 Parrish Court, 1625 Cary Court and 1617 Cary Court, Owensboro, Kentucky, plat of which is attached hereto and incorporated by reference as Exhibit A; and

WHEREAS, adjoining and abutting property owners, John Maddox, Judy Maddox, Louis Bellamy, Vicki Bellamy, and Karen Mattingly have given written and notarized consents to the closing of said alley right-of-way as evidenced in the *Consent of Abutting Property Owner to Closure of Public Right-of-Way* heretofore filed, a copy of which is attached and incorporated by reference as Exhibit B; and

WHEREAS, the Petitioner understands and agrees to retain public utility easements in favor of Owensboro Municipal Utilities and Regional Water Resource Agency within the alley to be closed as shown on Exhibit A; 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, Jordan Maddox, has given written, notarized consent to the closing and abandonment of the public alley right-of-way described hereinabove, a copy of Applicant's *Request for Closure of Public Right-of-Way* is attached hereto.
2. That Jordan Maddox, the Petitioner herein, and John Maddox, Judy Maddox, Louis Bellamy, Vicki Bellamy, and Karen Mattingly are the only property owners abutting and adjoining the public alley right-of-way adjacent to 1624 Parrish Court, 1625 Cary Court and 1617 Cary Court sought to be closed, and have given written, notarized consents to the closure, copies of which are attached hereto.
3. That the closing of the public alley 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. The hereinafter described public right-of-way be, and is hereby ordered to be officially closed and abandoned pursuant to the provisions of KRS 82.405(2):

An alley right-of-way to be closed containing 0.042 acres located between 1617 & 1625 Cary Court, Owensboro, Daviess County, Kentucky more particularly described as follows:

Beginning at a point in the west right-of-way line of Parrish Court, said point having a Kentucky State Plane South Zone Coordinate N:2162407.23, E:1244120.08, said point also being the southeast corner of Karen Mattingly (D.B. 1032, Pg. 529); thence following the west right-of-way line of Parrish Court S 02°04'02" E, 15.18 feet to a point being the northeast corner of Jordan Maddox (D.B. 1022, Pg. 454); thence following the north lines of Maddox and Louis Bellamy (D.B. 557, Pg. 893) and the south right-of-way line of the alley to be closed S 78°59'09" W, 120.22 feet to a point in the east right-of-way line of Cary Court; thence following the east right-of-way line of Cary Court N 10°20'34" W, 15.00 feet to a point being the southwest corner of Karen Mattingly (D.B. 1032, Pg. 529); thence following the south line of Mattingly and the north right-of-way line of the alley to be closed N 78°59'09" E, 122.40 feet to the point of beginning containing 0.042 acres as shown on attached Exhibit A prepared by the City of Owensboro.

Section 3. The Petitioner shall dedicate by deed of easement or plat public utility easements in favor of Owensboro Municipal Utilities and Regional Water Resource Agency within the alley to be closed.

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 6th day of June, 2023.

PUBLICLY READ AND FINALLY APPROVED ON SECOND READING, this 20th day of June, 2023.

Thomas H. Watson, Mayor

ATTEST:

Beth Davis, City Clerk

EXHIBIT A



CARY COURT

1625

1617

LOUIS BELLAMY
VICKI BELLAMY
D.B. 557, PG. 893

PROPOSED ALLEY CLOSING
0.042 ACRES

KAREN MATTINGLY
D.B. 1032, PG. 529

JORDAN MADDOX
JOHN MADDOX
JUDY MADDOX
D.B. 1022, PG. 454

1624

S 02°04'02" E
15.18'

PARRISH COURT

POB
KY SPC SOUTH
N: 2162407.23
E: 1244120.08

N 10°20'34" W
15.00'

N 78°59'09" E 122.40'
S 78°59'09" W 120.22'



CITY OF OWENSBORO

ENGINEERING DEPARTMENT
P.O. BOX 10003
OWENSBORO, KY 42302

PHONE: 270-687-8641

FAX: 270-687-8579

EXHIBIT A

PROPOSED ALLEY CLOSING
BETWEEN CARY CT & PARRISH CT.
OWENSBORO, KENTUCKY

ALLEY R/W CLOSURE DESCRIPTION

Cary Court Alley R/W: 0.042 ACRES

An alley right-of-way to be closed containing 0.042 Acres located between 1617 & 1625 Cary Court, Owensboro, Daviess County, Kentucky more particularly described as follows:

Beginning at a point in the west right-of-way line of Parrish Court, said point having a Kentucky State Plane South Zone Coordinate N:2162407.23, E:1244120.08, said point also being the southeast corner of Karen Mattingly (D.B. 1032, Pg. 529); thence following the west right-of-way line of Parrish Court S 02°04'02" E, 15.18 feet to a point being the northeast corner of Jordan Maddox (D.B. 1022, Pg. 454); thence following the north lines of Maddox and Louis Bellamy (D.B. 557, Pg. 893) and the south right-of-way line of the alley to be closed S 78°59'09" W, 120.22 feet to a point in the east right-of-way line of Cary Court; thence following the east right-of-way line of Cary Court N 10°20'34" W, 15.00 feet to a point being the southwest corner of Karen Mattingly (D.B. 1032, Pg. 529); thence following the south line of Mattingly and the north right-of-way line of the alley to be closed N 78°59'09" E, 122.40 to the point beginning containing 0.042 Acres as shown on attached Exhibit A prepared by the City of Owensboro.


Kevin M. Simmons, PLS 3635 5-26-23
Date



EXHIBIT B

CITY OF OWENSBORO

COMMISSION MEETING DATE: 6/6/2023

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

TITLE: PROPOSED CLOSING OF A PORTION OF ALLEY RIGHT OF WAY BETWEEN 1624 PARRISH COURT, 1625 CARY COURT AND 1617 CARY COURT FROM CARY COURT TO PARRISH COURT

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 Jordan Maddox, for consideration to close a section of alley right of way adjacent to 1624 Parrish Court, 1625 Cary Court and 1617 Cary Court, being 15 foot wide and described below:

The proposed alley right of way is described as Beginning at a point in the west right-of-way line of Parrish Court, said point having a Kentucky State Plane South Zone Coordinate N:2162407.23, E:1244120.08, said point also being the southeast corner of Karen Mattingly (D.B. 1032, Pg. 529); thence following the west right-of-way line of Parrish Court S 02°04'02" E, 15.18 feet to a point being the northeast corner of Jordan Maddox (D.B. 1022, Pg. 454); thence following the north lines of Maddox and Louis Bellamy (D.B. 557, Pg. 893) and the south right-of-way line of the alley plot to be closed S 78°59'09" W, 120.22 feet to a point in the east right-of-way line of Cary Court; thence following the east right-of-way line of Cary Court N 10°20'34" W, 15.00 feet to a point being the southwest corner of Karen Mattingly (D.B. 1032, Pg. 529); thence following the south line of Mattingly and the north right-of-way line of the alley to be closed N 78°59'09" E, 122.40 to the point beginning containing 0.042 Acres

Jordan Maddox, John Maddox & Judy Maddox, owners of property at 1624 Parrish Court has signed and submitted a Request for Closure Form and Consent of Abutting Property Owner Form for the proposed closing. Louis & Vicki Bellamy, owns property at 1625 Cary Court that abuts the proposed alley to be closed and has signed and returned a Consent of Abutting Property Owner Form for the proposed closing. Karen Mattingly, owners of property 1617 Cary Court that abuts the proposed alley right of way to be closed has signed and returned a Consent of Abutting Property Owner Form.

The request has been forwarded to all City departments and City Utilities. No objections were noted to the closing of the public alley rights of way. A public utility easement was requested and will be retained on the right of way area proposed to be closed by OMU Electric and Water and Regional Water Resource Agency for their facilities within the proposed closed alley right of way adjacent to 1624 Parrish Court, 1625 Cary Court and 1617 Cary Court.

Mark Pfeifer, City Attorney - DRAFTED THE 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 at:

Cary Ct, running east to west to Parrish Ct,
Adjacent properties: 1625 & 1617 Cary Ct & 1624 Parrish Ct.

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: Jordan Maddox

(PRINTED NAME) Jordan Maddox

DATE: 4/17/23

ADDRESS: 1624 Parrish Ct, Owensboro KY 42301

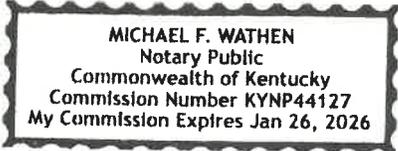
STATE OF KENTUCKY)

COUNTY OF DAVIESS)

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

Michael F. Wathen, on this the 17th day of April, 2023.

Michael F. Wathen
Notary Public, State of Kentucky at Large
My commission expires: 1/26/2026



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

I (We), Jordan Maddox, John M Maddox, Judy Maddox ,

do Solemnly swear and affirm that I am (we are) the fee simple owner (s) of real property located at and known as 1624 Parrish Ct, Owensboro, KY 42301

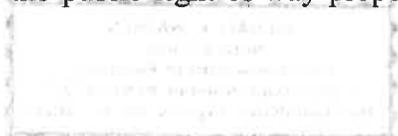
, part or all of which property abuts a part or all of public right-of-way that the City of Owensboro, Kentucky, proposes to abandon and close in conformity with **KRS 82.405**, which right-of-way is more particularly described as follows:

An alley running West to East between Cary Ct. & Parrish Ct. Adjacent Properties: 1625 & 1617 Cary Ct & 1624 Parrish Ct.

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 17th Day of April, 2023

PROPERTY OWNER (S) :

Jude Maddox
John M. Maddox, Jr. Judy Maddox

STATE OF KENTUCKY)

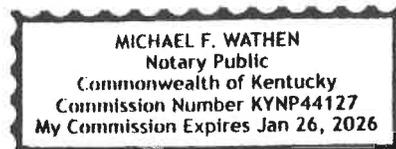
COUNTY OF DAVIESS)

The foregoing instrument was signed and acknowledged before me by ~~Michael F. Wathen~~ Jordan Maddox, John Maddox & Judy Maddox
On this the 17th day of April, 2023.

Michael F. Wathen

NOTARY PUBLIC, State at Large

My Commission expires: 1/26/2026



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

I (We), LOUIS D. & VIKKI BEST BELLAMY ,

do Solemnly swear and affirm that I am (we are) the fee simple owner (s) of real property located at and known as 1625 CARY COURT OWENSBORO KENTUCKY 42301

,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:

The alley running west to east between Cary Ct & Parrish Ct
Adjacent properties: 1625 & 1617 Cary Ct & 1624 Parrish Ct

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 18TH Day of APRIL, 2023

PROPERTY OWNER (S) :

[Signature]

Walter B. Bellamy

STATE OF KENTUCKY)
)
COUNTY OF DAVIESS)

The foregoing instrument was signed and acknowledged before me by LOUIS D. BELLAMY
On this the 18TH day of APRIL, 2023.



[Signature]

NOTARY PUBLIC, State at Large
My Commission expires: 5/12/2028

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

I (We), Karen Mattingly _____ ,

do Solemnly swear and affirm that I am (we are) the fee simple owner (s) of real property located at and known as 1617 Cary Court, Owensboro, KY 42301

, 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:

The alley running west to east between Cary Ct & Parrish Ct.
Adjacent properties: 1625 & 1617 Cary Ct. & 1624 Parrish Ct.

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 4/18/23 Day of _____, 2023

PROPERTY OWNER (S) :

Karen Mattingly

STATE OF KENTUCKY)

COUNTY OF DAVIESS)

The foregoing instrument was signed and acknowledged before me by Karen Mattingly
On this the 18th day of April, 2023.

Trevor Pierrard
NOTARY PUBLIC, State at Large

My Commission expires: 5-20-23

