

**CITY OF KERRVILLE, TEXAS
ORDINANCE NO. 2024-10**

AN ORDINANCE VACATING, ABANDONING, AND CLOSING ALL RIGHT, TITLE, AND INTEREST IN A SEGMENT OF A PUBLIC RIGHT-OF-WAY KNOWN AS KNAPP RD; THIS SEGMENT OF KNAPP RD IS LOCATED SOUTH OF THE GUADALUPE RIVER, CONSISTS OF AN APPROXIMATE .744 ACRES, AND EXTENDS ACROSS LOTS 13, 902, AND 903 OF THE LANDING SUBDIVISION, A SUBDIVISION WITHIN THE CITY OF KERRVILLE, KERR COUNTY, TEXAS, AND RECORDED IN THE PLAT IN FILE NO. 19-05337, PLAT RECORDS OF KERR COUNTY, TEXAS; FINDING THAT SAID RIGHT-OF-WAY IS NOT REQUIRED FOR FUTURE USE AS A PUBLIC RIGHT-OF-WAY; ORDERING RECORDING; PROVIDING AN EFFECTIVE DATE; AND PROVIDING OTHER MATTERS RELATED TO THIS SUBJECT

WHEREAS, Knapp Rd. is a street within the City of Kerrville, Texas, and currently exists on both sides of the Guadalupe River; and

WHEREAS, City Council annexed the segment of Knapp Rd. that exists on the south side of the Guadalupe River on or about October 23, 2018, following a request for annexation (Ord. No. 2018-23), such segment of Knapp Rd. referred to herein as the "Knapp Rd. Segment" and not including any other part of this road; and

WHEREAS, the property owner who owns a portion of the property that the Knapp Rd. Segment extends across has applied to the City for the City to vacate, abandon, and close this right-of-way (the "Applicant"); and

WHEREAS, the Knapp Rd. Segment is in need of significant maintenance and repairs, which condition has existed for a number of years; and

WHEREAS, the Knapp Rd. Segment is located entirely in the floodplain, which would significantly limit future development, if any; and

WHEREAS, the Knapp Rd. Segment extends from its intersection with James Rd. and ends at the City limits, as marked by a gated property; and

WHEREAS, the Knapp Rd. Segment is used by this property owner and the Applicant provided this owner with an alternative, direct access through the Applicant's property, such access as evidenced by easements filed in the county's property records; and.

WHEREAS, the Knapp Rd. Segment crosses property (Lot 903) previously dedicated to the City for its use as a public park, and the City would most likely act to legally remove this road from its property at some point in the future; and

WHEREAS, following the Applicant's request to the City, City staff determined that the Knapp Rd. Segment, based upon its existing use, future use, and current condition, is not required for public use as the City has no plans to improve or maintain it as a public right-of-way; and

WHEREAS, City staff believes that the City would need significant funds to improve and maintain the Knapp Rd. Segment; and

WHEREAS, City staff recommends that City Council formally vacate, abandon, and close the Knapp Rd. Segment, subject to terms of this Ordinance; and

WHEREAS, the City of Kerrville, Texas, is a home-rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the of the Texas Constitution and Chapter 9 of the Texas Local Government Code; and

WHEREAS, Texas Transportation Code Section 311.007 authorizes any such city to vacate, abandon, or close a street; and

WHEREAS, City Council held a public hearing beginning at approximately 6:00 p.m. on April 9, 2024, as advertised in a newspaper of general circulation and on the City's website, to consider public comments regarding the issue of vacation, abandonment, and closure of the Knapp Rd. Segment; and

WHEREAS, City staff, based upon research of City records and records within the real property records of Kerr County, Texas, believes the Knapp Rd. Segment exists by prescriptive easement, that is, that the road essentially became a public road based upon public use, which dates to at least the early 1970s; and

WHEREAS, as the Knapp Rd. Segment likely exists as a prescriptive easement, the rights vacated, abandoned, and closed by the City pursuant to this Ordinance will unburden the underlying fee ownership by the underlying property (lot) owner (the Applicant) and thus, the City, pursuant to Section 272.001, Texas Local Government Code, is not required to receive fair market value for this action; and

WHEREAS, such vacation, abandonment, and closure will unburden the City of needing to improve and maintain the Knapp Rd. Segment at significant cost; and

WHEREAS, pursuant to the actions contemplated to be taken below and in order to avoid any future cost to the public required with respect to the future

improvement and maintenance of the Knapp Rd. Segment, City Council, acting pursuant to state law, finds it to be in the public interest and advisable to vacate, abandon, and close the Knapp Rd. Segment, subject to the limitations and conditions which follow;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KERRVILLE, KERR COUNTY, TEXAS:

SECTION ONE. The facts and matters set forth in the preamble to this Ordinance are hereby found to be true and correct.

SECTION TWO. City Council finds that the Knapp Rd. Segment is no longer essential to the safe and efficient flow of traffic or to any other authorized public use. As an exercise of its discretion, City Council hereby vacates, abandons, and closes in favor of the underlying property owner, all of the City's right, title, and interest of the public in and to the Knapp Rd. Segment, which is identified as follows, subject however, to the conditions and restrictions provided below:

That segment of a paved roadway known as "Knapp Rd."; encumbering 0.744 acres of land situated in Kerrville, Kerr County, Texas; being within original Survey No. 142, J.S. Sayder, Abstract No. 290 and original Survey No. 141, Joseph S. Anderson, Abstract No. 2, Kerr County, Texas; being approximately sixteen (16) feet wide and following the existing road base upon, over, and across Lots 13, 902, and 903, the Landing Subdivision, recorded in File No. 19-05337, Plat Records of Kerr County, Texas; and being more particularly described and depicted in Exhibits A and B, attached hereto and incorporated herein by reference.

Other than the Knapp Rd. Segment being vacated, abandoned, and closed as provided here, no other portion of Knapp Rd. is affected.

SECTION THREE. The Knapp Rd. Segment exists by easement, whether prescriptive, implied dedication, or otherwise. The rights vacated, abandoned, and closed by the City pursuant to this Ordinance will unburden the underlying fee ownership of Knapp Rd. by the underlying lot owner.

SECTION FOUR. All presently existing water and wastewater lines and facilities, electric transmission and distribution lines and facilities, gas lines and facilities, communication lines and facilities, or any other public utility lines and

facilities, if any, may remain in place despite this Ordinance and may continue to be used, repaired, enlarged, and maintained in the ordinary course of business.

SECTION FIVE. The following conditions precedent to the vacation, abandonment, and closure shall apply and be part of the consideration for the action authorized by this Ordinance:

A. Applicant and the other private property owner with direct access to the Knapp Road Segment shall provide the City with evidence of an agreement between these two parties as to the Applicant's completion of an alternative, direct access to the owner, such completion to include paving in compliance with the City's regulations.

B. Within 12 months of the adoption of this Ordinance, the Applicant or its successor in interest, shall submit, obtain approval, and officially record a subdivision plat absorbing all of the abandoned road into the underlying properties, meeting all requirements of the City's regulations. No plat will impair the rights retained by City pursuant to Section Four, above, if any, unless in the course of platting, the Applicant, at its own expense, otherwise accounts for those rights according to the City's regulations. Further, the plat shall note such previously established rights, if any. Finally, and if not previously accomplished another way, the plat shall convey a river trail easement to the City in the general vicinity of and aligned with the Knapp Rd. Segment.

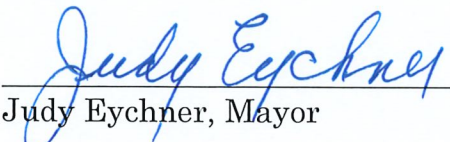
SECTION SIX. Following compliance with the conditions specified in Section Five, above, the City Secretary is authorized and directed to prepare a certified copy of this Ordinance and furnish the same to the underlying property owner(s), and in addition, record this Ordinance in the Real Property Records of Kerr County, Texas.

SECTION SEVEN. The City Manager and City Attorney, or designee(s), are authorized and directed to execute and deliver any document(s) and to take any action(s) necessary to complete the vacation, abandonment, and closure.


SECTION EIGHT. This Ordinance shall become effective immediately after its second reading and final passage.

PASSED AND APPROVED ON FIRST READING, this the 09 day of April, A.D., 2024.

PASSED AND APPROVED ON SECOND AND FINAL READING, this
the 23 day of April, A.D., 2024.


Judy Eychner, Mayor

APPROVED AS TO FORM:


Michael C. Hayes, City Attorney

ATTEST:

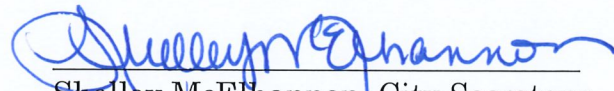

Shelley McElhannon, City Secretary

EXHIBIT "A"

FIELD NOTE DESCRIPTION OF A PAVED AREA ENCUMBERING 0.744 ACRES OF LAND SITUATED IN KERRVILLE, KERR COUNTY, TEXAS; BEING WITHIN ORIGINAL SURVEY NO. 142, J. S. SAYDER, ABSTRACT NO. 290 AND ORIGINAL SURVEY NO. 141, JOSEPH S. ANDERSON, ABSTRACT NO. 2, KERR COUNTY, TEXAS; BEING APPROXIMATELY SIXTEEN (16) FEET WIDE AND FOLLOWING THE EXISTING ROAD BASE OF KNAPP ROAD UPON, OVER AND ACROSS LOTS 13, 902 AND 903, THE LANDING SUBDIVISION RECORDED IN FILE NO. 19-05337, PLAT RECORDS OF KERR COUNTY, TEXAS; AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

(NOTE: The following courses are based on an RTK/GNSS survey conducted on the ground, N.A.D.83 datum, Texas State Plane Coordinates, South Central Zone reduced to horizontal ground distances expressed in U.S. Survey feet. Where record or deed courses differ from the surveyed values, the record value is shown in parenthesis)

BEGINNING at a cotton spindle found at the reentrant corner of said Lot 903 and the northeast terminus of James Road, a City of Kerrville roadway per Resolution No. 80-121, recorded in Volume 235, Page 349, Official Public Records of Kerr County, Texas; from which said cotton spindle, a ½ inch diameter iron rod with cap stamped "Matkin Hoover" found marking the most southerly corner of said Lot 903 bears S 44°57'49" W, 241.98 feet (S 44°55'31" W, 241.88');

THENCE with the northwest line of James Road and southeast line of said Lot 903; S 44°57'49" W, 10.83 feet to an unmarked point on the southwest line of the herein described easement;

THENCE through the interior of said Lots 903, 902 and 13, respectively, with the southwest lines hereof; the following four (4) calls:

N 50°49'39" W, 424.46 feet to an unmarked point;

N 51°49'57" W, 348.14 feet to an unmarked point;

N 56°07'00" W, 926.31 feet to an unmarked point; from which said point, a ½ inch diameter iron with cap stamped "Matkin Hoover" found in the common boundary of said Lot 13 and Lot 902 bears S 31°58'38" W, 30.40 feet; and

N 74°30'27" W, 159.83 feet to an unmarked point in the northwest line of said Lot 13 in common with the southeast line of that certain 0.161 acre tract recorded in File No. 19-03106, Official Public Records of Kerr County, Texas;

THENCE with the common line of Lot 13 and said 0.161 acre tract, which forms the northwesterly terminus hereof; N 45°06'37" E, 28.42 feet to an unmarked point in the northeast line of the herein described easement;

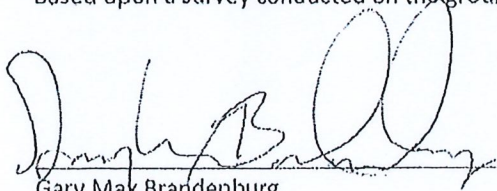
THENCE through the interior of said Lots 13, 902 and 903, respectively, with the northeast lines hereof; the following five (5) calls:

WELLBORN ENGINEERING & SURVEYING	TBPELS FIRM NO. 10194410	631 WATER STREET
	PHONE: 830.217.7100	KERRVILLE, TX 78028
	WWW.WELLBORNENGINEERING.COM	

S 74°44'28" E, 88.23 feet to an unmarked point;
S 67°26'06" E, 62.79 feet to an unmarked point;
S 55°56'24" E, 929.20 feet to an unmarked point;
S 52°04'32" E, 338.80 feet to an unmarked point; and
S 51°14'25" E, 455.62 feet to an unmarked point in the southeast boundary of said Lot 903;

THENCE with the southeast boundary of Lot 903, which forms the southeasterly terminus of the herein described easement; S 46°38'21" W, 11.12 feet to a survey nail with washer stamped "Matkin Hoover" in the northeasterly terminus of said James Road and N 44°57'11" W, 19.89 feet to the Point of Beginning encumbering 0.744 acres of land within these metes and bounds; a companion document to a plat of this survey dated February 1, 2024.

Based upon a survey conducted on the ground under my direction and supervision July 25, 2023.



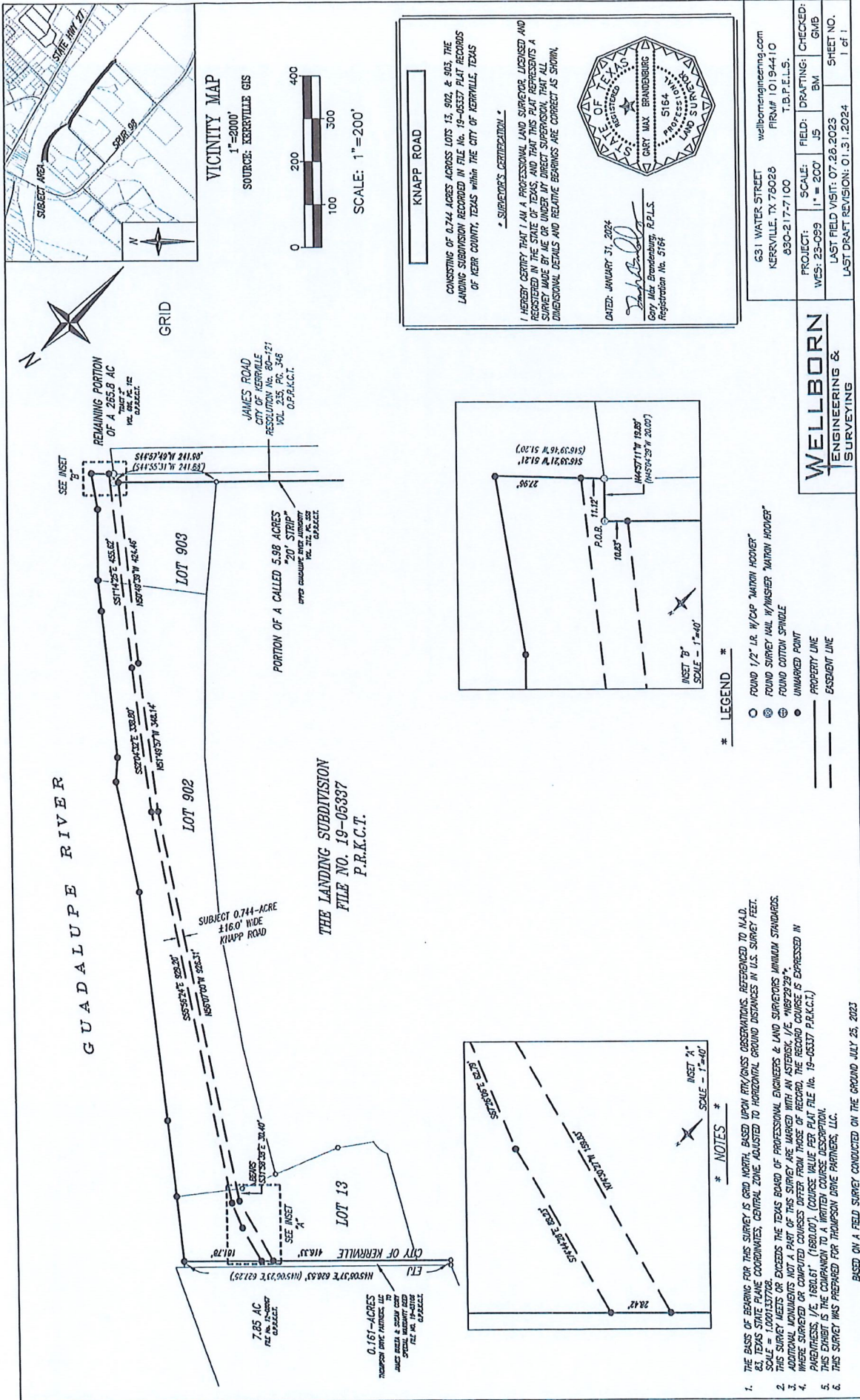
Dated: 01/31/2024.

Gary Mak Brandenburg
Registered Professional Land Surveyor
State of Texas
Registration No. 5164



WELLBORN ENGINEERING & SURVEYING	TBPELS FIRM NO. 10194410 PHONE: 830.217.7100 WWW.WELLBORNEENGINEERING.COM	631 WATER STREET KERRVILLE, TX 78028
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EXHIBIT "B"

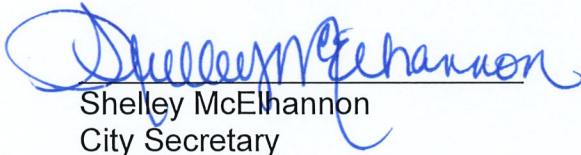


STATE OF TEXAS

COUNTY OF KERR

I, Shelley McElhannon, hereby certify that I am the City Secretary of the City of Kerrville, Kerr County, Texas, and that the minutes, resolutions, ordinances, regulations, codes, and laws of the City of Kerrville are kept under my custody and control, and that the attached is a true and correct copy of Ordinance No. 2024-10 as the original appears on file in the Office of the City Secretary, City of Kerrville, Texas.

In Testimony Whereof, I have hereunto set my hand and seal and affixed the official Seal of the City of Kerrville, Texas, this the 25 day of April 2024.



Shelley McElhannon
City Secretary
701 Main Street
City of Kerrville, Texas
830-258-1117



FILED AND RECORDED

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GRANTOR CITY OF KERRVILLE

GRANTEE PUBLIC, THE

Returned To: CITY OF KERRVILLE
701 MAIN ST
KERRVILLE, TX 78028

I hereby certify that this instrument was FILED on the date and times stamped hereon and RECORDED in the OFFICIAL PUBLIC RECORDS of Kerr County, Texas.



A handwritten signature in black ink, appearing to be "Ian Collum", written over a horizontal line.

Ian Collum, Clerk
Kerr County, Texas
By: ANA KELLER DEPUTY CLERK

NOTICE: It is a crime to intentionally or knowingly file a fraudulent court record or instrument with the Clerk.

DO NOT DESTROY - This document is part of the Official Public Record.