

CITY OF FRANKLIN, KENTUCKY

ORDINANCE NO. 2019 - 001

AN ORDINANCE TO CLOSE THE PUBLIC WAY KNOWN AS THE 0.072 ACRE TRACT OF LAND BEING THE WESTERNMOST PORTION OF HILDEGARD AVENUE THAT HAS NOT BEEN PAVED OR SURFACED, LOCATED NEAR THE SOUTHWEST CORNER OF THE AREA KNOWN AS SENG SUBDIVISION, JUST WEST OF THE INTERSECTION OF HILDEGARD AVENUE AND WESTERN DRIVE

WHEREAS, at the request of Donald Gore and wife, Marilyn Gore, it has been determined that the 0.072 acre tract of land being the westernmost portion of Hildegard Avenue that has not been paved or surfaced, located near the southwest corner of the area known as Seng Subdivision, just west of the intersection of Hildegard Avenue and Western Drive will serve a more useful public purpose if the herein described portion is closed and no longer used as a public way; and,

WHEREAS, the Board of Commissioners of the City of Franklin has identified the property owners in or abutting the portion of the property to be closed to be Donald Gore and wife, Marilyn Gore, Anna Keen, unmarried, and Nancy Moseley, unmarried; and,

WHEREAS, pursuant to KRS 82.405(2) (b) and (c), written notices of the proposed closing were given to the property owners in or abutting that portion of the public way that is described in Exhibit A, and the property owners in or abutting that portion of the property have agreed to the closing of the public way, with said consents being attached collectively hereto as Exhibit B; and,

WHEREAS, the Board of Commissioners of the City of Franklin has determined that it is in the best interest of the City to close the public way which is described more specifically in the attached Exhibit A, and to authorize the City Attorney for the City of Franklin to take any and all actions necessary to convey a portion of the public way to be closed to Donald Gore and wife, Marilyn Gore; and,

NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners of the City of Franklin, Kentucky, as follows:

1. The preambles to this Ordinance are true and correct and incorporated herein by reference.
2. The portion of the public way commonly known as the 0.072 acre tract of land being the westernmost portion of Hildegard Avenue that has not been paved or surfaced, located near the southwest corner of the area known as Seng Subdivision, just west of the intersection of Hildegard Avenue and Western Drive, described in Exhibit A, is hereby accepted by the City as a public way, as having been opened to the unrestricted use of the general public for more than five (5) consecutive years pursuant to KRS 82.400 and, further, said portion of the public way shall be hereinafter closed as a public way, street, and/or thoroughfare, and shall no longer be maintained by the City of Franklin, Kentucky; provided that the City is allowed to retain any easements, conditions or restrictions, written or unwritten, that previously applies to this property, and they shall remain in effect and apply to this property as represented by the plat prepared by Robert G. May, LPLS #2142 dated December 5, 2018.
3. The City Attorney is hereby directed to take any and all actions necessary, and/or all of his actions with respect to this ordinance are hereby ratified pursuant to this ordinance to close said public way and to convey a portion of the public way, more particularly described in the attached Exhibit A, to Donald Gore and wife, Marilyn Gore.
4. The Board of Commissioners authorizes and directs the Mayor to sign any and all documents necessary to effectuate the intent of this ordinance.

If any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holdings shall not affect the validity of the remaining portions of Ordinance.

All ordinances or parts of ordinances in conflict herewith, are, to the extent of such conflict, hereby repealed.

January 14, 2019

FIRST READING

January 28, 2019

SECOND READING

At a meeting of the Franklin Board of Commissioners held on January 28, 2019 on motion made by Commissioner Powell and seconded by Commissioner Stewart, the foregoing ordinance was adopted, after full discussion, by the following vote:

Yes

HERBERT WILLIAMS

Yes

JAMIE POWELL

Yes

BROWNIE BENNETT

Yes

WENDELL STEWART

Yes

LARRY DIXON, MAYOR

APPROVED BY:

Larry Dixon

Larry Dixon, Mayor

ATTEST:

Cathy Dillard
Cathy Dillard, City Clerk
City of Franklin, Kentucky

EXHIBIT A

DESCRIPTION OF 0.072 ACRE TRACT BEING CLOSED

See attached Boundary Retracement Street Closure
Containing 0.072 Acres prepared by Robert G. May,
Licensed Surveyor No. 2142 dated 12/05/18.

Robert G. May
Licensed Professional Land Surveyor ~ 1830 Witt Road ~ Franklin, KY 42134
Phone: 270-586-4562 Fax: 270-586-4562

A certain tract of land in Franklin, Simpson County, Ky. located near the southwest corner of the area known as Seng Subdivision just west of the intersection of Hildegard Avenue and Western Drive and further described from a survey made December 5, 2018, under the supervision of Robert G. May, LPLS # 2142, as follows;

Unless stated otherwise, any monument or reference referred to herein as a pin and cap is a set ½" x 18" rebar with yellow plastic cap stamped R G May 2142. All bearings stated herein are referred to the recorded bearing along the southeast line of Muriel Mosley et al shown in DB 261 PG 381 Parcel 2 in the Office of the Simpson County Court Clerk.

Beginning at a pin and cap in the southeast line of Muriel Moseley et al, the northwest corner to Donald & Marilyn Gore (DB 269 PG 307, and located N 09° 15' 00" W – 218.00 feet from a found ½ " iron pipe which is the southeast corner to Moseley;

Thence with the line of Moseley, N09 ° 15' 00" W – 31.43 feet to a pin and cap in the line of same, the southwest corner to Anna Keen (DB 116 PG 37), and located S09 ° 15' 00" E – 100.00 feet from a found ¾" iron pipe the northwest corner to Keen and the southwest corner to Jerry & Nancy Davis (DB 113 PG 408);

Thence with the south line of Keen, N 77° 27' 52" E – 93.43 feet to a pin and cap in the line of Keen and located (2) calls; (1) along the west side of Western Drive with the lines of Jerry Davis (DB 106 PG 151), Jerry & Nancy Davis (DB 113 PG 408), and Anna Keen (DB 116 PG 37), S 10° 33' 32" E – 300.00 feet and (2) with the south line of Keen along the north side of Hildegard Avenue, S 77° 27' 52" W – 136.36 feet, from a found ¾" iron pipe which is the northeast corner to Jerry Davis (DB 106 PG 151) and the southeast corner to Nancy Mosley (DB 82 PG 39);

Thence on a new line, along the west end of the existing pavement of Hildegard Avenue, S09 ° 16' 01" E – 35.38 feet to a pin and cap in the north line of Donald & Marilyn Gore (DB 269 PG 307), and located S 79° 53' 05" W – 137.08 feet from a found utility pole, the northeast corner to Robert & Sue Ragar (DB 157 PG 293);

Thence with the north line of Gore, S 79° 53' 05" W – 93.30 feet to the beginning point.

Containing 0.072 acres (3116.30 sq ft) Being the westernmost portion of Hildegard Avenue that has not been paved or surfaced.

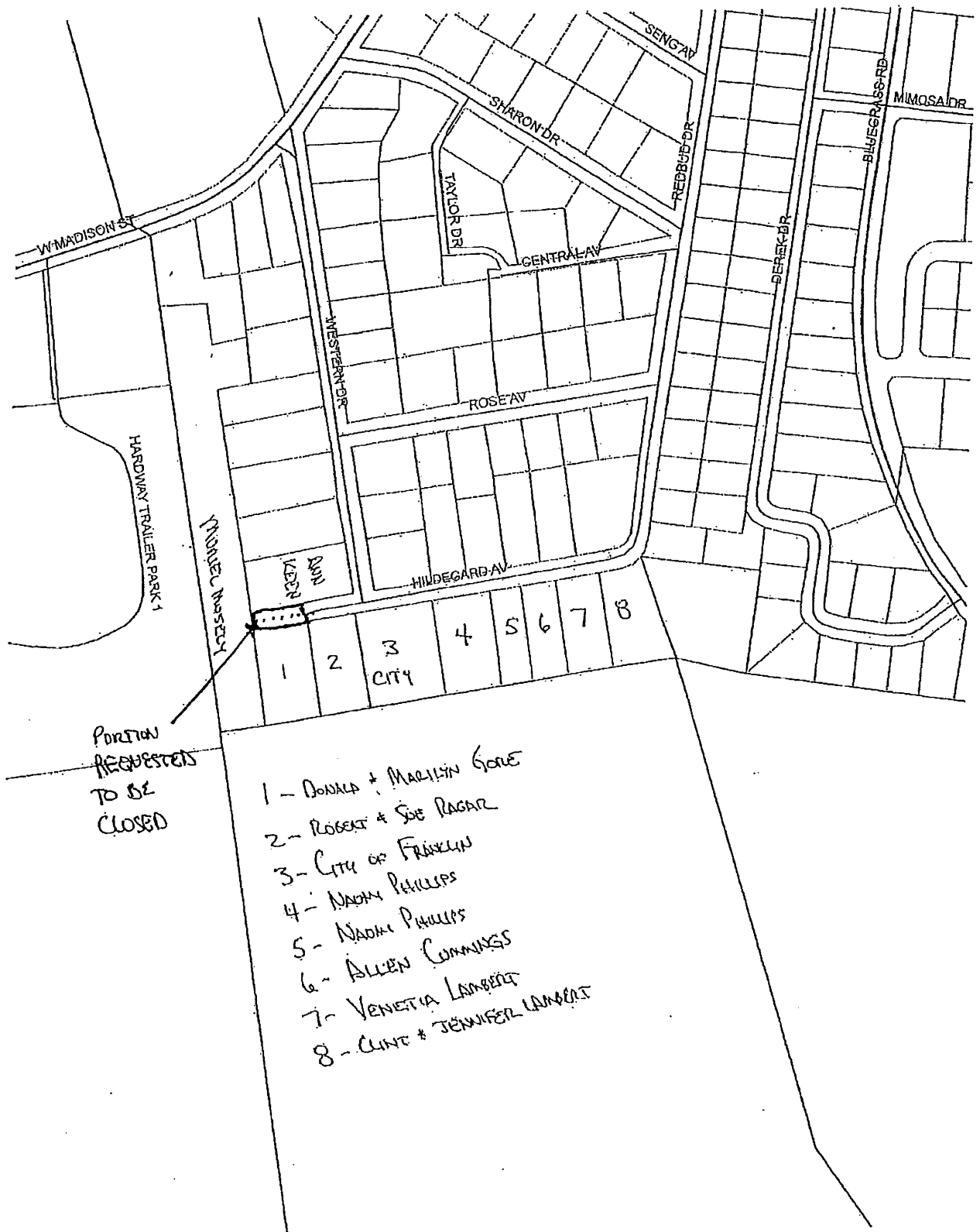


EXHIBIT B

**Copies of Consents to Closing a Public Way
from Donald Gore and wife, Marilyn Gore,
Anna Keen, unmarried, and
Nancy Moseley, unmarried**

CONSENT TO CLOSING A PUBLIC WAY

We, Donald Gore and wife, Marilyn Gore, 1103 Hildegard Avenue, Franklin, Kentucky 42134, property owners abutting the 0.072 acre tract of land being the westernmost portion of Hildegard Avenue that has not been paved or surfaced, located near the southwest corner of the area known as Seng Subdivision just west of the intersection of Hildegard Avenue and Western Drive, Franklin, Kentucky, hereby consent to the closing of that certain portion of the public way as provided in the Notice of Intent to Close a Public Way given to us on 01-02-19, 2019, and the undersigned understand, acknowledge, and agree that the portion of the public way to be closed shall remain the property of Donald Gore and wife, Marilyn Gore, but the City of Franklin shall retain any easements, conditions or restrictions, written or unwritten, that previously applies to this property, and they shall remain in effect and apply to this property as represented by the plat prepared by Robert G. May, LPLS #2142 dated December 5, 2018.

Dated this January 7, 2019.

Donald Gore

Donald Gore

Marilyn Gore

Marilyn Gore

STATE OF KENTUCKY

COUNTY OF SIMPSON

Subscribed and sworn to before me by Donald Gore and wife, Marilyn Gore, abutting property owners, on this January 7, 2019.

Jessie S. Watwood

Notary Public

Notary I.D. No. 553636

My Commission Expires: 04-23-20

NEWSPAPER CLIPPING

The following is a clipping from the New York Times, dated June 1, 1941, page 1. The clipping is from the article titled "The New York Times, June 1, 1941, page 1." The article discusses the situation in Europe and the United States at that time. It mentions the attack on Pearl Harbor and the subsequent entry of the United States into the war. The article also discusses the role of the United States in the war and the impact of the war on the United States. The article is a news report from the New York Times, dated June 1, 1941, page 1.

THE NEW YORK TIMES, JUNE 1, 1941, PAGE 1.

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CONSENT TO CLOSING A PUBLIC WAY

I, Anna Keen, unmarried, 904 Western Drive, Franklin, Kentucky 42134, a property owner abutting the 0.072 acre tract of land being the westernmost portion of Hildegard Avenue that has not been paved or surfaced, located near the southwest corner of the area known as Seng Subdivision just west of the intersection of Hildegard Avenue and Western Drive, Franklin, Kentucky, hereby consent to the closing of that certain portion of the public way as provided in the Notice of Intent to Close a Public Way given to me on 01-07, 2019, and the undersigned understands, acknowledges, and agrees that the portion of the public way to be closed shall become the property of Donald Gore and wife, Marilyn Gore, but the City of Franklin shall retain any easements, conditions or restrictions, written or unwritten, that previously applies to this property, and they shall remain in effect and apply to this property as represented by the plat prepared by Robert G. May, LPLS #2142 dated December 5, 2018.

Dated this January 7, 2019.




Anna Keen

STATE OF KENTUCKY

COUNTY OF SIMPSON

Subscribed and sworn to before me by Anna Keen, an abutting property owner, on this January 7, 2019.



Notary Public
Notary I.D. No. 553636
My Commission Expires: 04-23-20



CONSENT TO CLOSING A PUBLIC WAY

I, Nancy Moseley, unmarried, 810 Western Drive, Franklin, Kentucky 42134, a property owner abutting the 0.072 acre tract of land being the westernmost portion of Hildegard Avenue that has not been paved or surfaced, located near the southwest corner of the area known as Seng Subdivision just west of the intersection of Hildegard Avenue and Western Drive, Franklin, Kentucky, hereby consent to the closing of that certain portion of the public way as provided in the Notice of Intent to Close a Public Way given to me on 01-02, 2019, and the undersigned understands, acknowledges, and agrees that the portion of the public way to be closed shall become the property of Donald Gore and wife, Marilyn Gore, but the City of Franklin shall retain any easements, conditions or restrictions, written or unwritten, that previously applies to this property, and they shall remain in effect and apply to this property as represented by the plat prepared by Robert G. May, LPLS #2142 dated December 5, 2018.

Dated this January 7, 2019.

Nancy Moseley
Nancy Moseley

STATE OF KENTUCKY

COUNTY OF SIMPSON

Subscribed and sworn to before me by Nancy Moseley, an abutting property owner, on this January 7, 2019.

Jeana S. Watwood
Notary Public
Notary I.D. No. 553636
My Commission Expires: 04-23-20

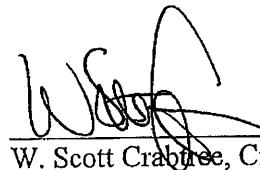


NOTICE OF INTENT TO CLOSE A PUBLIC WAY

TO: Anna Keen, unmarried
904 Western Drive
Franklin, Kentucky 42134

Pursuant to KRS 82.405(2)(b), notice is hereby given by the City of Franklin's Board of Commissioners that they intend to close a portion of the public way known as the 0.072 acre tract of land being the westernmost portion of Hildegard Avenue that has not been paved or surfaced, located near the southwest corner of the area known as Seng Subdivision just west of the intersection of Hildegard Avenue and Western Drive, Franklin, Kentucky, abutting your property. Attached hereto as Exhibit A is a description of the portion of the public way proposed to be closed.

This December 20, 2018.



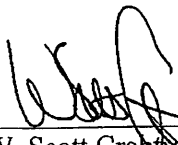
W. Scott Crabtree, City Attorney

NOTICE OF INTENT TO CLOSE A PUBLIC WAY

TO: Nancy Moseley, unmarried
810 Western Drive
Franklin, Kentucky 42134

Pursuant to KRS 82.405(2)(b), notice is hereby given by the City of Franklin's Board of Commissioners that they intend to close a portion of the public way known as the 0.072 acre tract of land being the westernmost portion of Hildegard Avenue that has not been paved or surfaced, located near the southwest corner of the area known as Seng Subdivision just west of the intersection of Hildegard Avenue and Western Drive, Franklin, Kentucky, abutting your property. Attached hereto as Exhibit A is a description of the portion of the public way proposed to be closed.

This December 20, 2018.



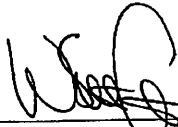
W. Scott Crabtree, City Attorney

NOTICE OF INTENT TO CLOSE A PUBLIC WAY

TO: Donald Gore and wife,
Marilyn Gore
1103 Hildegard Avenue
Franklin, Kentucky 42134

Pursuant to KRS 82.405(2)(b), notice is hereby given by the City of Franklin's Board of Commissioners that they intend to close a portion of the public way known as the 0.072 acre tract of land being the westernmost portion of Hildegard Avenue that has not been paved or surfaced, located near the southwest corner of the area known as Seng Subdivision just west of the intersection of Hildegard Avenue and Western Drive, Franklin, Kentucky, abutting your property. Attached hereto as Exhibit A is a description of the portion of the public way proposed to be closed.

This December 20, 2018.



W. Scott Crabtree, City Attorney