

CITY OF KERRVILLE, TEXAS
ORDINANCE NO. 2021-09

AN ORDINANCE VACATING, ABANDONING, AND CLOSING ALL RIGHT, TITLE, AND INTEREST IN A PORTION OF A PUBLIC RIGHT-OF-WAY, CONSISTING OF AN APPROXIMATE .30 ACRE UNIMPROVED, DEDICATED ALLEY THAT EXTENDS ACROSS THE PROPERTY LOCATED AT 615 ELM STREET; SAID RIGHT-OF-WAY DEDICATED BY PLAT FOR THE WESTLAND PLACE ADDITION, A SUBDIVISION WITHIN THE CITY OF KERRVILLE, KERR COUNTY, TEXAS, AND RECORDED IN THE PLATS FILED AT VOLUME 43, PAGE 577 AND VOLUME 45, PAGE 335 OF THE REAL PROPERTY 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, an unimproved and unmarked portion of a public right-of-way extends across the property located at 615 Elm Street ("Alley"); and

WHEREAS, the Alley has not been, and will not be, required for public use as the City has no plans to improve or maintain it as a public right-of-way; and

WHEREAS, a property owner who owns property that the Alley extends across has asked the City to abandon and vacate the right-of-way; and

WHEREAS, the Alley is unimproved, is not needed as a future public right-of-way, and would require the expenditure of funds to improve and maintain; and

WHEREAS, City staff recommends that City Council formally vacate, abandon, and close the Alley, 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 or alley; and

WHEREAS, City Council held a public hearing beginning at approximately 6:00 p.m. on March 9, 2021, 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 Alley; and

WHEREAS, the Alley exists by easement (plat(s)) and as such, the rights vacated, abandoned, and closed by the City pursuant to this Ordinance will unburden the underlying fee ownership of the Alley by the adjacent property (lot) owner and thus, the City, pursuant to Section 272.001, Texas Local Government Code, is not required to receive value for this action; and

WHEREAS, in addition, the City never having to improve or maintain this alley provides a reasonable amount of value to the City to support its vacation, abandonment, and closure of the Alley; 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 Alley, City Council, acting pursuant to state law, finds it to be in the public interest and advisable to vacate, abandon, and close the Alley, 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 following Alley 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 abutting property owner, all of the City's right, title, and interest of the public in and to the Alley, which is identified as follows, subject however, to the conditions and restrictions provided below:

That portion of an unimproved twelve foot (12.0') wide alley as it extends across the property located at 615 Elm Street, and situated between Lots 2 and 10, Block 41, Westland Place Addition, and being pictured and depicted in the exhibits found in Exhibit A, attached hereto and incorporated herein by reference.

SECTION THREE. The Alley exists by virtue of the subdivision plats recorded at Volume 43, Page 577, and Volume 45, Page 335 of the Real Property Records of Kerr County, Texas, and as referenced in Volume 7, Page 429, Builder's and Mechanic's Lien Records, of Kerr County, Texas.

SECTION FOUR. The property abutting the Alley is:

615 Elm Street, Kerrville, TX 78028

The listing above is made solely to facilitate indexing this Ordinance in the Real Property Records of Kerr County, Texas. If the listing is inaccurate or not comprehensive, it does not affect the validity of this Ordinance or the vacation, abandonment, and closure of the Alley.

SECTION FIVE. The Alley exists by easement (plat(s)). The rights vacated, abandoned, and closed by the City pursuant to this Ordinance will unburden the underlying fee ownership of the Alley by the adjacent lot owner.

SECTION SIX. 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. The City hereby notifies the adjacent property owner and others that it currently maintains a water and wastewater main within the Alley. In addition, a natural gas main may also exist within the Alley. Any use by a private party of the area following approval of this Ordinance may not interfere with any such use. Should interference occur, City has the right, with respect to its water and wastewater mains, to terminate or remove the interfering use immediately, without notice, and without any duty to remediate or pay for damage, should any occur. Any person wanting removal of an existing utility line or facility must negotiate separately with the pertinent utility. Any person building on the Alley without first reaching an agreement with a utility having a line(s) or facility(s) within the segment does so at its own risk. This closure does not give up any right arising other than from the plat creating the Alley. Neither does this Ordinance create new easement rights.

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

Within 12 months of the adoption of this Ordinance, the owner(s) adjacent to the Alley shall submit, obtain approval, and officially record a subdivision plat absorbing all of the abandoned Alley into the adjacent lot and reconfiguration of said lot, meeting all requirements of the City's regulations. No plat will impair the rights retained by City pursuant to Section Six, above, unless in the course of platting, the owner(s), at its own expense, otherwise provides for those rights according to platting rules of general applicability. Further, the plat shall note such

previously established rights. Finally, the plat shall reaffirm and convey a water and wastewater easement to the City to account for the existing main(s) located within the Alley, in a width not to exceed ten feet (10.0').

SECTION EIGHT. The City Secretary is authorized and directed to prepare a certified copy of this Ordinance and furnish the same to the abutting property owner, and in addition, record this vacation, abandonment, and closure Ordinance in the Real Property Records of Kerr County, Texas of all the right, title, or interest of the City in and to the Alley specified in Sections Two and Three, but only to that interest that City Council may lawfully vacate, abandon, and close, and subject to the limitations and conditions of this Ordinance, including those found within Section Seven, above.

SECTION NINE. 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.

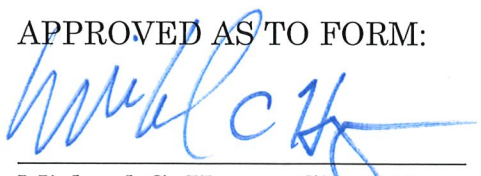
SECTION TEN. This Ordinance shall become effective immediately after its second reading and final passage.

PASSED AND APPROVED ON FIRST READING, this the 09 day of March, A.D., 2021.

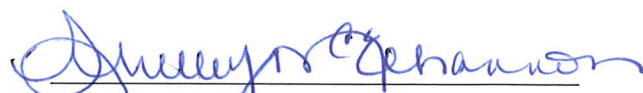
PASSED AND APPROVED ON SECOND AND FINAL READING, this the 23 day of March, A.D., 2021.


Bill Blackburn, Mayor

APPROVED AS TO FORM:


Michael C. Hayes, City Attorney

ATTEST:


Shelley McElhannon, City Secretary

BEING A 0.340 ACRE TRACT OR PARCEL OF LAND SITUATED IN KERRVILLE, KERR COUNTY, TEXAS; BEING PART OF LOT 10, BLOCK NO. 41, OF WESTLAND PLACE ADDITION TO THE CITY OF KERRVILLE, RECORDED IN VOLUME 45, PAGE 335, DEED RECORDS OF KERR COUNTY, TEXAS; AND VOLUME 1, PAGE 26-A, PLAT RECORDS OF KERR COUNTY, TEXAS

SUBJECT TO:

RESTRICTIONS AND MATTERS IN:

VOL. 45, PG. 335 D.R.K.C. TX.
VOL. 1, PG. 26-A P.R.K.C. TX.
VOL. 45, PG. 458 D.R.K.C. TX.
VOL. 65, PG. 491 D.R.K.C. TX.
VOL. 57, PG. 118 D.R.K.C. TX.
VOL. 70, PG. 271 D.R.K.C. TX.
VOL. 65, PG. 13 D.R.K.C. TX.
VOL. 452, PG. 503 R.P.R.K.C. TX.
VOL. 43, PG. 577 D.R.K.C. TX.
VOL. 84, PG. 215 D.R.K.C. TX.
VOL. 1, PGS. 1-6 P.R.K.C. TX.
VOL. 47, PG. 497 D.R.K.C. TX.
VOL. 7, PG. 429 B. & M. L.R.K.C. TX.

NOTES:

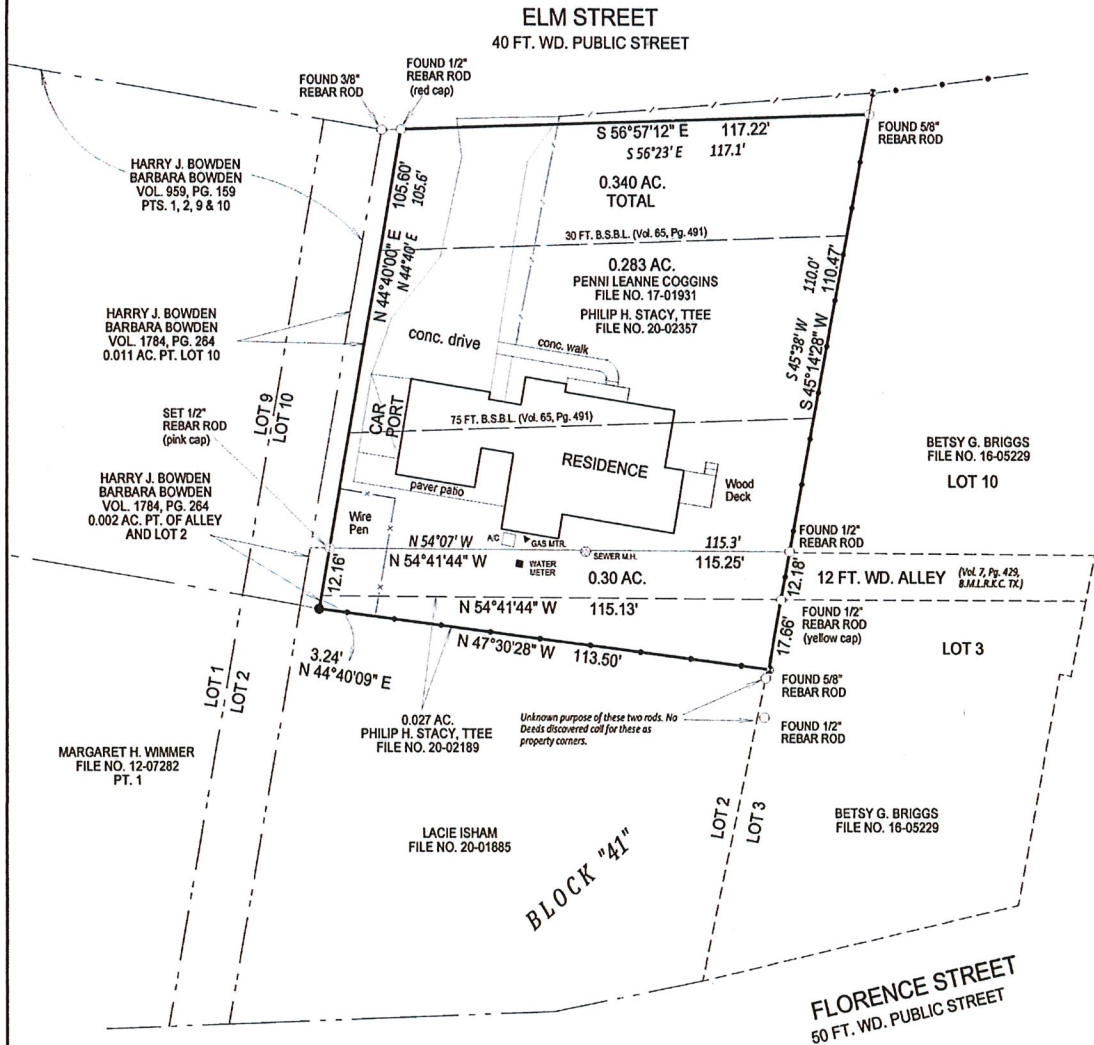
RECORD PLAT/DEED CALLS SHOWN IN SMALLER ITALIC TYPE NEAR MEASURED CALLS.

ALL IRON RODS SET CAPPED: "RPLS 5164"

THIS PLAT IS A COMPANION DOCUMENT TO A METES AND BOUNDS DESCRIPTION OF THIS SURVEY DATED JANUARY 20, 2020, AND OCTOBER 26, 2020.



SCALE: 1" = 30 FEET



JOB NO. GMB-588

CLIENT PLC

BUYER:
PHILIP H. STACY, LEGACY TRUST

PROPERTY ADDRESS:
615 ELM STREET
KERRVILLE, TEXAS 78028

TITLE CO. KERRVILLE TITLE

G. F. NO. 2020107

FEMA F.I.R.M. NO. 48265C0470F

PANEL DATE 03/03/2011

FLOOD ZONE X NON-SHADED

DRAWN BY GMB

I, Gary Max Brandenburg, Registered Professional Land Surveyor No. 5164 hereby certify that this plat represents a survey made on the ground under my direct supervision and direction on January 20, 2020. That all visible improvements, easements, utilities, discrepancies in boundaries, set-backs and restrictive covenants are shown and/or cited hereon.

Gary Max Brandenburg
Registered Professional Land Surveyor No. 5164

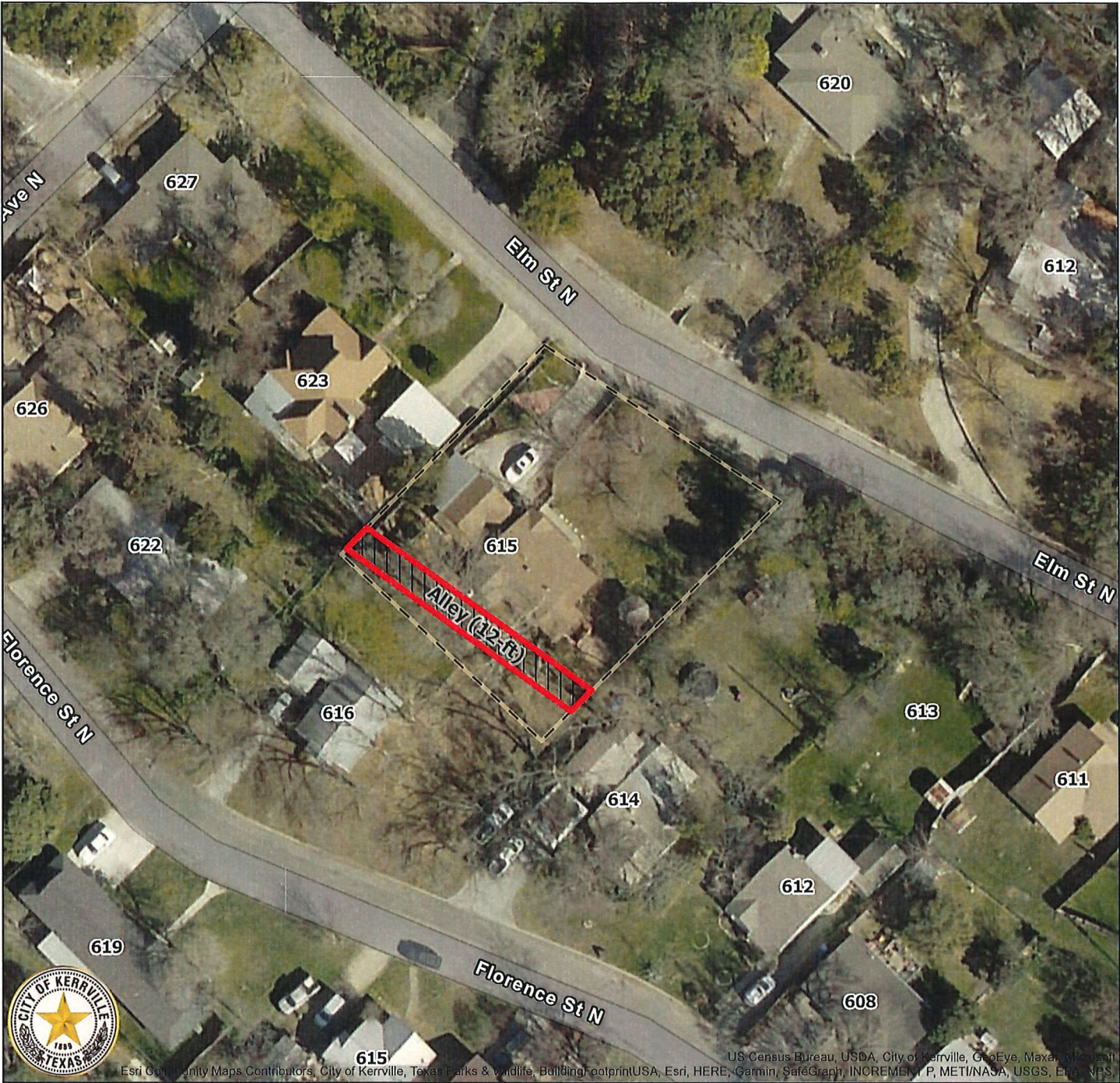


GARY MAX BRANDENBURG LAND SURVEYING
200 NIMITZ DR. KERRVILLE, TX. 78028 830 928-8220
gary.brandenburg50@yahoo.com

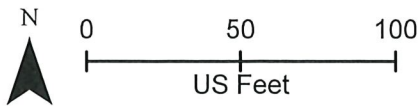
Texas Board of Professional Land Surveying
12100 Park 35 Circle, Bldg. A, Suite 156, MC-230
Austin, Texas 78753 512 239-5263



ORDINANCE 2021-09



- Lot
- Public Alley
- Alley To Be Abandoned



03/03/2021 05:20 PM

joyoung

This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only approximate relative locations.

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METES AND BOUNDS DESCRIPTION
0.340 ACRE

BEING A 0.340 ACRE TRACT OR PARCEL OF LAND SITUATED IN KERRVILLE, KERR COUNTY, TEXAS; BEING PART OF LOT 2 AND LOT 10, BLOCK NO. 41, OF WESTLAND PLACE ADDITION TO THE CITY OF KERRVILLE, RECORDED IN VOLUME 45, PAGE 335, DEED RECORDS OF KERR COUNTY, TEXAS; AND VOLUME 1, PAGE 26-A, PLAT RECORDS OF KERR COUNTY, TEXAS;

BEING COMPRISED OF THE FOLLOWING:

A PART OF THAT 0.3 (ZERO POINT THREE) ACRE TRACT HAVING BEEN CONVEYED FROM MARY ANN PARKER TO ROBERT SCHRAMKE AND RUTH SCHRAMKE BY DEED EXECUTED THE 27TH DAY OF JULY, 2007, RECORDED IN VOLUME 1621, PAGE 111, OFFICIAL PUBLIC RECORDS OF KERR COUNTY, TEXAS; SAID PART (0.283 AC.) BEING SUBSEQUENTLY CONVEYED FROM JANE COCHRANE MILLER, TRUSTEE OF THE JANE COCHRANE MILLER TRUST, TO PENNI LEANNE COGGINS BY A GIFT DEED EXECUTED THE 21ST DAY OF MARCH, 2017, RECORDED IN CLERK'S FILE NO. 17-01931, OFFICIAL PUBLIC RECORDS OF KERR COUNTY, TEXAS; THEN FROM PENNI LEANNE COGGINS TO THE PHILIP H. STACY, TTEE, BY A WARRANTY DEED EXECUTED THE 2ND DAY OF APRIL, 2020, RECORDED IN CLERK'S FILE NO. 20-02357, OFFICIAL PUBLIC RECORDS OF KERR COUNTY, TEXAS;

A 0.027 ACRE PART OF LOT 2, BLOCK 41 CONVEYED FROM LACIE ISHAM, ET AL, TO PHILIP H. STACY, TTEE, BY A WARRANTY DEED EXECUTED THE 27TH DAY OF MARCH, 2020, RECORDED IN CLERK'S FILE NO. 20-02189, OFFICIAL PUBLIC RECORDS OF KERR COUNTY, TEXAS;

AND A THE REMAINING PORTION OF A TWELVE (12) FOOT WIDE ALLEY IN SAID BLOCK 41 REFERENCED IN VOLUME 7, PAGE 429, BUILDER'S AND MECHANIC'S LIEN RECORDS OF KERR COUNTY, TEXAS, SITUATED BETWEEN SAID LOT 2 AND LOT 10;

BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at the North corner of the herein described tract, a capped (red) 1/2" rebar rod found in the southwest line of Elm Street, a forty (40) foot wide public street; said rod marking the East corner of that certain 0.011 acre tract having been conveyed to Harry J. Bowden and wife, Barbara Bowden by a Warranty Deed dated March 29, 2010 and recorded in Volume 1784, Page 264, Official Public Records of Kerr County, Texas; same being referenced as the SAVE AND EXCEPT parcel severed from said 0.3 acre tract in said Clerk's File No. 17-01931; said rod bears a record call of 4.7 feet, S 56°43' E from a 3/8" rebar rod marking the North corner of said 0.3 acre tract and 0.011 acre tract; and from said 3/8" rebar rod, the North corner of Lot 10, Block 41 bears a record call of 14.7 feet, N 45°20' W;

THENCE with southwest line of Elm Street and the northeast line of the herein described tract; along the arc of an irregular curve to the left; S 56°57'12" E, 117.22 feet (record: S 56°23' E, 117.10') to a 5/8" rebar rod found in a chain link fence along the northwest boundary of that certain 0.379 acre tract conveyed to Betsy G. Briggs as recorded in Clerk's File No. 16-05229 and marking the East corner said 0.3 acre tract and of the herein described tract;

THENCE along chain link fence with a portion of the northwest boundary of said 0.379 acre tract, which forms the southeast line of the herein described tract; S 45°14'28" W, 110.47 feet (record: S 45°38' W, 110.0 feet to a 1/2" rebar rod found in the northeast line of a 12 foot wide alley marking the South corner of said 0.3 acre tract and of the herein described tract;

THENCE with said northwest line of Briggs tract, along a chain link fence; S 45°14'28" W, 12.18 feet to a capped (yellow) 1/2" rebar rod found in the southwest line of said 12 foot wide alley and in the northwest boundary of said Briggs tract; said rod marking the East corner of Lot 2, Block 41;

THENCE continuing with the northwest boundary of said Briggs tract and with the common line of Lot 2 and Lot 3, Block 41, along a chain link fence; S 45°14'28" W, 17.66 feet to a chain link fence corner post marking the South corner of the herein described tract;

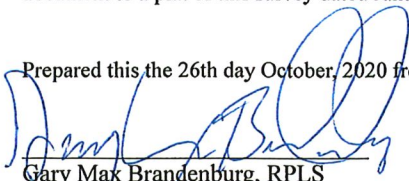
THENCE through the interior of said Lot 2 along a chain link fence; N 47°30'28" W, 113.50 feet to a 1/2" rebar rod marking the West corner of the herein described tract;

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THENCE with a fence and along the southeast line of a 0.002 acre tract conveyed to Harry J. Bowden and Barbara Bowden in Volume 1784, Page 264, Official Public Records of Kerr County, Texas; **N 44°40'09" E, 3.24 feet** a point in the southwest line of said alley and **N 44°40'09" E, 12.16 feet** a 1/2" rebar rod set (pink cap) marking the west corner of said 0.283 acre tract out of Lot 10, Block 41 having been conveyed to Penni Leanne Coggins and east corner of said 0.002 acre tract;

THENCE through the interior of said 0.3 acre tract with the southeast line of said 0.011 acre tract; **N 44°40'00" E, 105.60 feet** (record: N 44°40' E, 105.6') to the **POINT OF BEGINNING**, containing 0.340 acre of land, more or less, within these metes and bounds; a companion document to a plat of this survey dated January 20, 2020.

Prepared this the 26th day October, 2020 from a survey made the 20th day of January, 2020.


Gary Max Brandenburg, RPLS
Texas Registration No. 5164
GARY MAX BRANDENBURG
LAND SURVEYING
200 Nimitz Drive
Kerrville, Texas 78028
830 928-8220



ORDINANCE 2021-09

STATE OF TEXAS

COUNTY OF KERR

I, Kesha Franchina, hereby certify that I am the Deputy City Secretary of the City of Kerrville, Kerr County, Texas, and that records of the City of Kerrville, Texas are kept under my custody and control, and that the attached is a true and correct copy of Ordinance No. 2021-09 as the original appears in the records kept in the office of the City Secretary for the 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 26th day March, 2021.

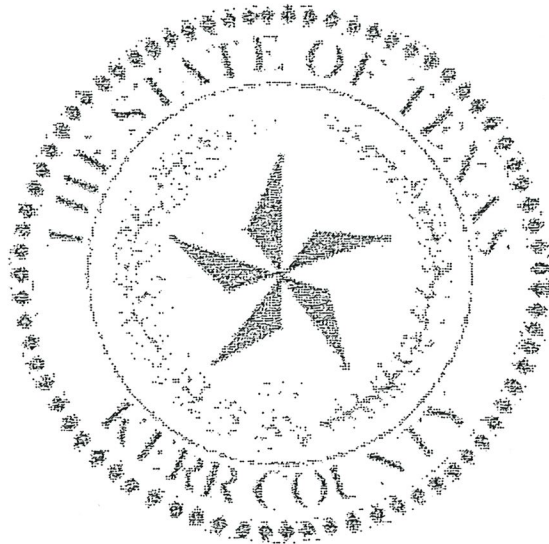


Kesha Franchina
Deputy City Secretary
City of Kerrville, Texas
701 Main Street
Kerrville, TX 78028



FILE AND RETURN TO:

Kesha Franchina
DEPUTY CITY SECRETARY
Kerrville City Hall
701 Main STREET
KERRVILLE TX 78028



Complete this form and return to:

Kerr County Clerk
Attn: Land Records
700 Main Street, RM 122
Kerrville, TX 78028

INCLUDE THIS FORM WITH YOUR RECORDS AND PAYMENT.

Call us with questions: 830-792-2255.



FILED AND RECORDED
At 9:34 o'clock A M
STATE OF TEXAS
COUNTY OF KERR

March 26, 2021

I hereby certify that this instrument was filed in the
numbered sequence on the date and time
stamped above by me and was duly recorded in
the Official Public Records of Kerr County Texas.
Jackie Dowdy County Clerk

Jackie Dowdy Deputy

**All Transactions Approved**

Bureau: 8088171 - Kerr County, TX Clerk

Case Number or Name	Amount	Quantity	Conv. Fee	Result
Court Fees and Fines: 21-02554 & 21-02555 9:34 AM Payment ID: 100217992865 Recordings	\$108.00	1	\$3.08	Approved
Total Amounts + All Fees:	\$111.08			

BILLING INFORMATION

Payment will be billed to:

KESHA FRANCHINA

Card ending in ...0300 (Visa)

Processed at 03/26/2021 9:46:02 AM CDT

LEGAL NOTICE

Certified Payments provides a service for consumers and businesses to make payments via their credit card for various types of services and taxes. By utilizing Certified Payments, you, the cardholder, are subject to the following terms and conditions. By submitting your payment through Certified Payments, you are agreeing to the terms and conditions listed in the Legal Notices link below. Please read all terms and conditions carefully.

Privacy Statement - www.certifiedpayments.net/PrivacyStatement.aspxLegal Notice - www.certifiedpayments.net/LegalNotices.aspx

Official Receipt (Original) Printed on 03/26/2021 at 9:47 am

Jackie Dowdy
Kerr County Clerk
700 Main St., Rm 122
Kerrville, TX 78028



Receipt Number : 141169
Date Paid : 3/26/2021 9:47:05AM
User: Nuvia

Payment No:137511 Paid Amount :108.00
Payment Type:Credit Card Payment Credit Card No :0300

Cost Code	Type	Amount Owed	Amount Paid	Balance Owed
<u>Instrument : Daily Non Cases Fees</u>		Inst Type:	Book:	Page:
COURT HOUSE SECURITY	CL	2.00	2.00	0.00
RECORDS ARCHIVAL	CL	20.00	20.00	0.00
RECORDS MANAGEMENT	CL	20.00	20.00	0.00
RECORDING FEE	CL	66.00	66.00	0.00
Totals		108.00	108.00	0.00

Paid By : KESHA FRANCHINA
Payment Remarks : 21-02554/21-02555 9:34 AM

Original Balance : 108.00
Amount Paid : 108.00
Amount Applied : 108.00
Amount Unapplied 0.00