

**CITY OF DAYTON, KENTUCKY
ORDINANCE NO. 2024-9**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DAYTON,
KENTUCKY, VACATING A PORTION OF KENTON STREET RIGHT OF WAY
PURSUANT TO KRS 82.405 (THE “ORDINANCE”).**

WHEREAS, KRS 82.405(1) provides a method for a municipality to vacate and close a public right-of-way or portion thereof; and

WHEREAS, at the request of MBCC Property Management (“MBCC”) and in furtherance of the City of Dayton Kentucky’s (the “City”) authorized economic development purposes, including the elimination of blight and the development of residential housing within the City, this City Council has determined that the public right-of-way comprising a portion of Kenton Street as further depicted and described on attached Exhibits A-1 and A-2 (the “Right-of-Way to be Vacated”) should be vacated and closed; and

WHEREAS, MBCC by virtue of its ownership of the real property located at 1023 7th Ave., Dayton, Kentucky 41074 and the City of Dayton (“City”) by virtue of its ownership as the owner of the portion of Kenton Street that is not being vacated have been identified as the only property owners in or abutting the Right-of-Way to be Vacated; and

WHEREAS, the written notice required under KRS 82.405(2)(b) of the proposed closing of the Right-of-Way to be Vacated was delivered to each of MBCC and the City as the only property owners in or abutting the Right-of-Way to be Vacated; and

WHEREAS, each of MBCC and the City have agreed to the closing of said Right-of-Way to be Vacated; and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DAYTON, CAMPBELL COUNTY, KENTUCKY, AS FOLLOWS:

SECTION I

That the City Council hereby makes the following findings of fact with respect to the Right-of-Way to be Vacated in accordance with KRS 82.405(2):

- (a) The City and MBCC have been identified as the only property owners in or abutting the Right-of-Way to be Vacated;
- (b) The written notice required under KRS 82.405(2)(b) was delivered to the City and MBCC as the only property owners in or abutting the Right-of-Way to be Vacated;
- (c) MBCC and the City as the only property owners in or abutting the portion of the Right-of-Way to be Vacated have given their written notarized consent to the closing (together, the “Consents”), attached hereto and incorporated by reference herein as Exhibits B-1 and B-2; and

- (d) That the vacation of the Right-of-Way to be Vacated and conveyance to the Developer will be in furtherance of the City's authorized economic development purposes, including the elimination of blight and the development of residential housing within the City.

SECTION II

That having made the above-referenced findings, the City Council hereby vacates the Right-of-Way to be Vacated and such Right-of-Way to be Vacated is deemed closed and vacated without further action pursuant to KRS 82.405(2). Also, pursuant to KRS 82.405(2), the City's Special Counsel is directed and authorized to record a copy of this Ordinance together with all of its attachments, including the Consents, map/plat, and legal description, with the Campbell County Clerk's office.

SECTION III

That once this Ordinance closing and vacating the Right-of-Way to be Vacated is recorded, the City shall convey the Right-of-Way to be Vacated to Developer, as required by law, so that the Right-of-Way to be Vacated may be developed in accordance with that certain Development Agreement entered between the Developer and City.

SECTION IV

That once this Ordinance closing and vacating this right-of-way is recorded, all plats and maps of the City of Dayton, Kentucky, including the official zoning map and all maps of the comprehensive plan of the City shall be considered amended to reflect the vacation.

SECTION V

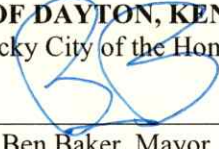
The provisions of this Ordinance are severable; and the invalidity of any provision of this Ordinance shall not affect the validity of any other provision thereof; and such other provisions shall remain in full force and effect, so long as they remain valid in the absence of those provisions determined to be invalid.

SECTION VI

Subject to Section III of this Ordinance, this Ordinance shall be signed by the Mayor, attested by the City Clerk/Treasurer, and take effect and be in full force when passed, published, and recorded according to law. This Ordinance may be published in abbreviated form.

[Balance of page left intentionally blank; signatures follow below]

CITY OF DAYTON, KENTUCKY,
a Kentucky City of the Home Rule Class

By: 
Ben Baker, Mayor

1st Reading - ~~July 9~~ ^{June 25}, 2024
2nd Reading - Aug 13, 2024

Ayes: 5, Nays: 0, Abstain: 0

Published: 8/21, 2024

ATTEST:


Tristan Klein, City Clerk/Treasurer

EXHIBIT A-1

DEPICTION OF RIGHT-OF-WAY TO BE CLOSED

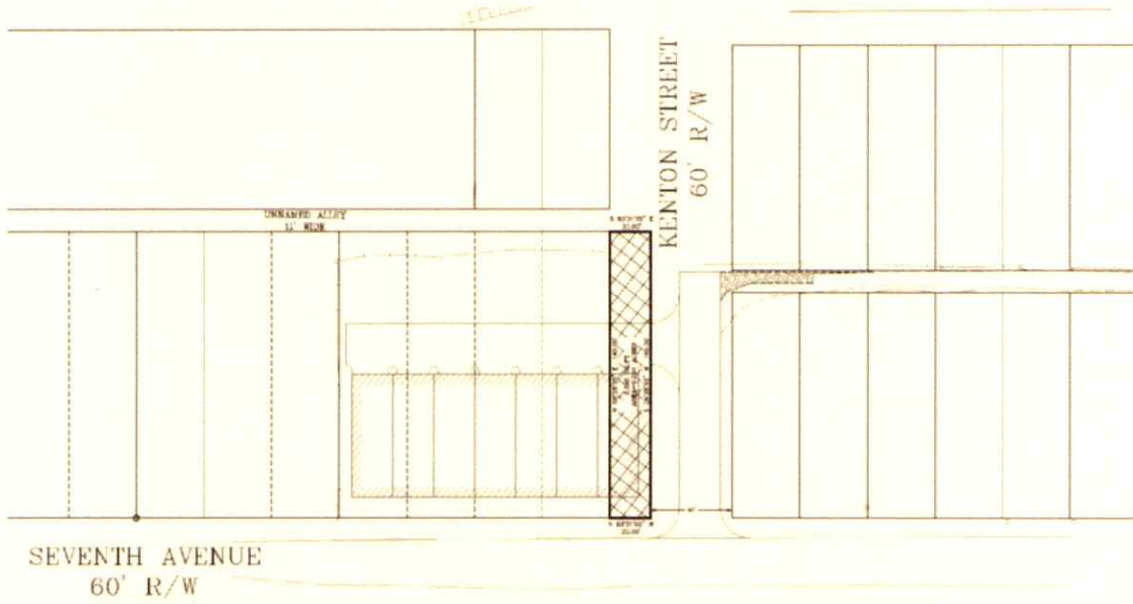


EXHIBIT A-2

LEGAL DESCRIPTION OF RIGHT-OF-WAY TO BE CLOSED

Right-of-Way - 0.064 Acres
Group
Kenton Street, Dayton, Kentucky

Situated in Campbell County, Kentucky, being part of Kenton Street as designated on the recorded plat of Jamestown, now part of the City of Dayton and being more particularly described as follows:

COMMENCING at a point being the northwest corner of Seventh Avenue and Kenton Street and the southeast corner of Lot Number One (1) in Block Thirty-Seven (37) as designated on the recorded plat of Jamestown, now the City of Dayton, Campbell County, Kentucky and conveyed by deed to MBCC Property Management, LLC as recorded in Deed Book D827, Page 167 in the Office of the Clerk of Campbell County;

Thence with the easterly line of said Lot Number One (1) and said MBCC Property Management, LLC North $06^{\circ}28'55''$ East, a distance of 140.00 feet to the northeast corner of said Lot.

Thence leaving said northeast corner for the next Three (3) courses and distances:

South $83^{\circ}31'05''$ East, a distance of 20.00 feet to a point;

South $06^{\circ}28'55''$ West, a distance of 140.00 feet to a point;

North $83^{\circ}31'05''$ West, a distance of 20.00 feet to the POINT OF BEGINNING.

Said herein description contains 0.064 acres.

Being part of Block Thirty-Seven (37) as designated on the recorded plat of Jamestown, now the City of Dayton, Campbell County, Kentucky. Said herein description being the result of a field survey by Cardinal Engineering Corporation. Bearings based on Kentucky State Plane coordinate system, North Zone, NAD83 (2011).

**CONSENT TO CLOSE AND VACATE STREET PORTION
IN THE CITY OF DAYTON, KENTUCKY
AND WAIVER AND DISCLAIMER OF INTEREST**

The undersigned hereby acknowledge receipt of written Notice from the City of Dayton, Kentucky ("City") proposing to close and vacate a portion the Kenton Street, as is more particularly described as set forth in the attached Exhibits "A" and "B," which are made a part hereof and incorporated by reference herein. This action is being undertaken by agreement of the parties in furtherance of a residential development project adjacent to the property to-be vacated and the City's authorized economic development purposes.

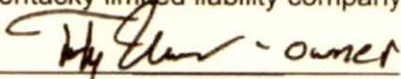
The undersigned representatives hereby waive and disclaim any interest they may have in this right-of-way to be closed by virtue of passage of an ordinance by the City to such effect. As abutting property owners thereto, the undersigned hereby each give written consent to the closing of a portion of Kenton Street thereto within the City.

This consent and acknowledgment of receipt of Notice is given pursuant to the provisions of KRS 82.405(2)(b) and (c).

The undersigned representatives acknowledge they have full authority to execute this Consent by and on behalf of MBCC Property Management, LLC, and the City of Dayton, Kentucky, as duly licensed organizations under Kentucky law.

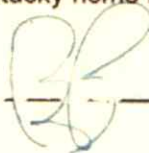
MBCC Property Management, LLC,
a Kentucky limited liability company

By:
Title:


_____ owner

City of Dayton, Kentucky,
a Kentucky home rule municipality

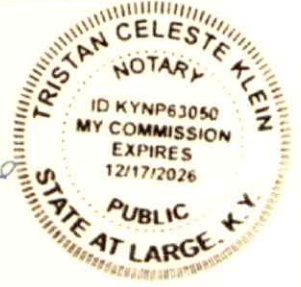
By:
Title:



STATE OF KENTUCKY)
)
COUNTY OF CAMPBELL)

Signed, acknowledged, and sworn to by Toby Moeves, member
of MBCC Property Management, LLC, before me, a Notary Public, on 6/4/24, 2024.

Tristan Klein
Notary Public
My Commission Expires: 12/17/26



STATE OF KENTUCKY)
)
COUNTY OF CAMPBELL)

Signed, acknowledged, and sworn to by Ben Baker, Mayor
of City of Dayton, Kentucky, before me, a Notary Public, on 7/1/24, 2024.

Tristan Klein
Notary Public
My Commission Expires:



EXHIBIT A

VACATION OF A PORTION OF KENTON STREET RIGHT OF WAY

0.064 Acres

Situated in Campbell County, Kentucky, being part of Kenton Street as designated on the recorded plat of Jamestown, now part of the City of Dayton and being more particularly described as follows:

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