

ORDER NO. 2022-03

AN ORDER ABANDONING A PORTION OF AN UNOPENED PUBLIC RIGHT-OF-WAY KNOWN AS "OAK STREET" BETWEEN 517 AND 561 PARK AVENUE.

WHEREAS, on June 6, 2022, the City Council of the City of Brevard directed the City Clerk to publish a Resolution of Intent to close an unopened public right-of-way lying between 517 and 561 Park Avenue. Such Resolution, advising that a public hearing would be held at 5:30 PM, on Monday, August 15, 2022 in the Council Chambers at City Hall located at 95 W. Main Street, Brevard, North Carolina, was published in the Transylvania Times newspaper once a week for four (4) successive weeks; and,

WHEREAS, said right-of-way is represented and depicted upon the following plat:

SURVEY AND PLAT OF CLOSURE FOR A SECTION OF OAK STREET and a 20' wide Sanitary Sewer Easement, prepared for Richard C. Dowdy, Nancy C. Dowdy and Jillian Sapp, by Carolina Mountain Surveying, Firm License Number #F-1205, 137 North Broad Street, Suite 2, Brevard, North Carolina 28712. Dated 05/13/22, recorded in the Transylvania County Registry on ____/____/_____, in Plat File _____, Slide _____; and,

WHEREAS, the City Clerk has, in fact, sent notice to each of said abutting property owners advising them of the date, time and place of the public hearing, by copy of the City Council's Resolution of Intent, and advising said abutting property owners that the question as to the closing of said public right-of-way would be acted upon at the public hearing; and

WHEREAS, a notice of the closing and public hearing was prominently posted in at least two places along the street or alley; and

WHEREAS, after full and complete consideration of the matter and after having granted full and complete opportunity for all interested persons to appear and register any objections that they might have with respect to the closing of said public right-of-way, City Council find as follows:

1. The abandonment of said public right-of-way will in no way degrade the efficiency of the provision of any City service, including but not limited to garbage, fire, police, EMS, sewer / water; and
2. The closing of the public right-of-way is not contrary to the public interest and no individual owning property either abutting the alleyway or in the vicinity of said alleyway, will as a result of said abandonment, be thereby deprived of a reasonable means of ingress and egress.

WHEREAS, it appears to the satisfaction of the City Council that the abandonment of said public right-of-way will be in the public interest.

NOW, THEREFORE, BE IT HEREBY ORDERED BY THE CITY COUNCIL OF THE CITY OF BREVARD, NORTH CAROLINA THAT:

Section 1. A portion of the public right-of-way lying between 517 and 561 Park Avenue depicted and denoted upon the aforementioned plat is hereby abandoned and all rights, title, and interests that may be vested in the public to said area for public purposes is hereby released to the abutting property owners in accordance with Chapter § 160A-299, as amended, of the North Carolina General Statutes, with the exception of a portion of the 20-foot wide sanitary sewer easement that enters the right-of-way, as denoted on the aforementioned plat, as reservation of this utility easement is considered by the City to be in the public interest.

Section 2. The aforementioned plat shall serve as a plat of abandonment for the purposes of this order.

Section 3. The City Clerk is hereby authorized and directed to file in the Office of the Register of Deeds in Transylvania County a certified copy of this Order, a copy of the published Resolution of Intent and a notarized statement that all the abutting property owners were notified by certified mail.

Section 4. This Order shall become effective upon its adoption and approval.

Adopted and approved this the 15th day of August 2022.



Maureen Copelof
Maureen Copelof
Mayor

Jill Murray
Jill Murray, CMC
City Clerk

APPROVED AS TO FORM:

Mack McKeller
Mack McKeller
City Attorney

CERTIFICATION

I, Jill Murray, City Clerk of the City of Brevard, hereby certify that proper notice of public hearing was given to all adjoining property owners via Certified Mail, return receipt requested with no notices returned. Notice was provided to the following: Richard & Nancy Dowdy, 517 Park Avenue, Brevard, NC 28712; Richard & Nancy Dowdy, 2308 Tour Eiffel Drive, Tallahassee, FL 32308; Jillian Sap & Kent Moody, 561 Park Avenue, Brevard, NC 28712; Martha & Steven Smiley, 73 Woodlawn Avenue, Brevard, NC 28712; Edna Kopetz, 475 Park Avenue, Apt. 1, Brevard, NC 28712; Hubert & Nancy Carroll, 74 Woodlawn Avenue, Brevard, NC 28712; Robert & Janie Sargent, 550 Park Avenue, Brevard, NC 28712; Transrentals LLC, 109 Elm Bend Road, Brevard, NC 28712; Frances Bradburn, 673 Park Avenue, Brevard, NC 28712; Steven & Patricia Applebaum, 1817 Cottonwood Trail, Sarasota, FL 34232.

Jill Murray
Jill Murray, CMC
City Clerk

STATE OF NORTH CAROLINA
COUNTY OF TRANSYLVANIA

I, Denise Hodsdon, Notary Public, do hereby certify that Jill Murray, Brevard City Clerk, appeared before me this day and acknowledged the due execution of the foregoing certification, for the purposes therein expressed.

WITNESS my hand and notarial seal this 18th day of August, 2022.

Denise Hodsdon
Notary Public

My Commission Expires: 10/6/2024

