

RESOLUTION 2010-81

A RESOLUTION DECLARING CERTAIN RIGHT OF WAY ON EVANS STREET, NAMELY THE ALLEY BETWEEN 817 EVANS STREET AND 108 LEWISBURG PIKE, AS SURPLUS PROPERTY AND QUITCLAIMING SAID PROPERTY TO JAMES AND MADELINE JEWELL

WHEREAS, the Board of Mayor and Aldermen has determined that a portion of the public right of way for the alley between 817 Evans Street and 108 Lewisburg Pike as described in the attached Quitclaim Deed, Exhibit A, Property as prepared by J. Bryan Echols, Esq. (“Property”), and which lies in the City limits of Franklin, is no longer needed by the City; and

WHEREAS, Mr. James Jewell and Mrs. Madeline Jewell have approached the City wishing to have the Property transferred to them, evidenced by the attached Quitclaim deed; and

WHEREAS, the City now desires to declare the Property as surplus.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF FRANKLIN, TENNESSEE, that the Property, the portion of the public right of way for the alley between 817 Evan Street and 108 Lewisburg Pike and as described in attached Quitclaim Deed, Exhibit A, Property Description as prepared by J. Bryan Echols, Esq., is declared surplus.

BE IT FURTHER RESOLVED BY THE BOARD OF MAYOR AND ALDERMEN that the Property is quitclaimed to Mr. James Jewell and Mrs. Madeline Jewell. The Quitclaim Deed shall be executed by the Mayor and City Administrator upon execution of this resolution.

IT IS SO RESOLVED AND DONE on this 23rd day of November 2010.

ATTEST:

CITY OF FRANKLIN, TENNESSE

By: _____

By: _____

ERIC S. STUCKEY
City Administrator

JOHN C. SCHROER
Mayor

This instrument was prepared by:
J. Bryan Echols, Esq.
Stites & Harbison PLLC
401 Commerce Street, Suite 800
Nashville, Tennessee 37219

QUITCLAIM DEED

FROM: CITY OF FRANKLIN, TENNESSEE, Grantor

TO: JAMES W. JEWELL, JR. and wife, MADELINE C. JEWELL, Grantee

Address New Owner(s) as Follows:	Name and Address of the Person or Entity Responsible for the Payment of Real Property Taxes	Map-Parcel Numbers
James W. Jewell, Jr. and wife, Madeline C. Jewell 108 Lewisburg Avenue Franklin, Tennessee 37064	Same	N/A

STATE OF TENNESSEE)
)
COUNTY OF _____)

The actual consideration for this transfer is ZERO DOLLARS (\$0.00).

Affiant

SUBSCRIBED AND SWORN TO before me, this the ____ day of _____, 2010.

Notary Public
My Commission Expires: _____

FOR AND IN CONSIDERATION OF the amount set forth above and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, CITY OF FRANKLIN, TENNESSEE, a municipality ("Grantor"), does quitclaim unto JAMES W. JEWELL, JR. AND WIFE, MADELINE C. JEWELL ("Grantee"), their heirs, successors and assigns, all of Grantor's rights, title and interest in and to a certain tract or parcel of land in

Franklin, Williamson County, State of Tennessee, more particularly described on Exhibit A attached hereto and incorporated herein by this reference (the "Land"), together with all buildings, structures and other improvements of any and every nature located on the Land and all fixtures attached or affixed to the Land or to any such buildings, structures or other improvements (collectively with the Land, the "Property").

The Property is unimproved property constituting a portion of a public alleyway between 817 Evans Street and 108 Lewisburg Pike, Franklin, Tennessee, the City of Franklin having abandoned such alleyway by action of the Board of Mayor and Aldermen on September 28, 2010.

The Property is conveyed subject to such limitations, restrictions and encumbrances as may affect the Property.

This instrument has been prepared based on information provided by Grantor and Grantee.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

Witness my hand this _____ day of _____, 2010.

GRANTOR:

CITY OF FRANKLIN, TENNESSEE

By: _____
JOHN C. SCHROER
Mayor

By: _____
ERIC STUCKEY
City Administrator

STATE OF TENNESSEE)
)
COUNTY OF WILLIAMSON)

Personally appeared before me, _____, a Notary Public in and for said State and County, JOHN C. SCHROER and ERIC STUCKEY, with whom I am personally acquainted, (or proved to me on the basis of satisfactory evidence), and who, after being first duly sworn, acknowledge themselves to be the Mayor and City Administrator of the City of Franklin, Tennessee, respectively, and that as such Mayor and City Administrator, being authorized so to do, executed the foregoing instrument for the purposes therein contained.

Witness my hand and seal, at Office in Franklin, Tennessee, this ____ day of _____, 2010.

Notary Public
My Commission Expires: _____

EXHIBIT A

PROPERTY DESCRIPTION

Being a portion of an Alley as recorded in Plat Book 1, Page 125, Register's Office for Williamson County, Tennessee, in the 9th Civil District of Williamson County, Tennessee bounded in general on the south by Jewell, west by Evans Street, north by House and east by Alley and being further described as follows.

Beginning at a PK nail (new) in the east margin of Evans Street, being N 89 deg. 43' E - 11.7' from the intersection of Evans Street and Blackburn Street. Said nail being the southwest comer of the herein described property.

Thence, with the east margin of Evans Street, N 09 deg. 00' 33" E - 16.00' to an iron rod (new) at the southwest comer of James E. and Charlotte House (DB 374, PG 985);

Thence, continuing with the south line of House for the next two calls:

S 80 deg. 59' 27" E - 110.00' to a PK nail (new); N 53 deg. 26' 10" E - 10.00' to an iron rod (new);

Thence, on a severance line of the Alley, S 08 deg. 06' 25" W - 23.14' to a iron rod (new) in the north line of the James W. and Madeline C. Jewell (DB 3135, Pg 213);

Thence, with the north line of Jewell, N 80 deg. 59' 27" W, passing through an existing iron rod at 104.45', for a total distance of 117.36' to the POINT OF BEGINNING and containing 1,901 square feet or 0.04 acres more or less according to a survey by S & A Surveying, Inc. dated August 3, 2010.

Being a portion of a public alley, said portion having been abandoned by resolution of the Board of Mayor and Alderman of the City of Franklin, Tennessee on September 28, 2010.



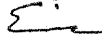
HISTORIC
FRANKLIN
TENNESSEE

ITEM #19
BOMA
09/28/2010

MEMORANDUM

August 31, 2010

TO: Board of Mayor and Aldermen

FROM: Eric J. Gardner, P.E., Director of Engineering
Eric S. Stuckey, City Administrator 
Kelly Dannenfelser, Part-Time Planner, AICP

SUBJECT: Evans Street Alley Abandonment Request

Purpose

The purpose of this memorandum is to bring forward to the Board of Mayor and Aldermen (BOMA) a request to abandon a portion of the public right-of-way (ROW) for the alley between 817 Evans Street and 108 Lewisburg Pike.

Background

On May 15th Alderman Moore forwarded an email to City staff from Pat Ross of 809 Evans Street. Mrs. Ross indicated that there was a large tree located in the public alley behind her house that appeared to be in need of removal. She proposed that she would be willing to incur the cost of removing the tree if the City would abandon the alley to her property. Todd Snackenberg, City Arborist, has recommended that the homeowner be allowed to proceed with the removal of the tree.

The "U"-shaped alley is unpaved and has been maintained by the adjacent property owners. It appears that there are no utilities that utilize the alley. The alley begins between 509 South Margin and 809 Evans Street and runs perpendicular to Evans Street. It then runs parallel to Evans Street and goes behind 813 and 817 Evans Street. Finally, it runs perpendicular to Evans Street between 817 Evans Street and 108 Lewisburg Avenue.

This item was originally discussed at the June 9, 2009 Board of Mayor and Aldermen (BOMA) Work Session. At that time, some of the adjacent property owners expressed a desire for the alley to be abandoned while others did not. The matter has sat idle while the City has looked at a general policy for abandoning ROW. The City did move forward with removing the tree as requested by Mrs. Ross.

On August 9, 2010, a request was made again to abandon ROW in this alley. The applicant, Dwight Kizer, would like to see a portion of the ROW abandoned so that his client, the owner of 108 Lewisburg Pike, can subdivide their property. The driveway for 817 Evans Street is located within the alley ROW in this location. In order to meet certain acreage requirements from the Zoning Ordinance for subdividing, 108 Lewisburg Pike would need approximately an additional 0.04 acres added to their lot.

On August 16, 2010, Mr. Kizer met with five property owners that are adjacent to the alley. It is our understanding that all five of the property owners confirmed that they were in favor of abandoning the portion of alley ROW between 817 Evans and 108 Lewisburg, but were opposed to closure of the rest of the alley ROW. It is also our understanding that there is an agreement worked out between the property owners of 817 Evans and 108 Lewisburg where 108 Lewisburg would gain ownership of the abandoned



ROW and would grant an easement for the owners of 817 Evans to maintain access to their property and keep their driveway as is.

Unused City ROW Framework

Below is an analysis of the City's newly created framework for addressing unused ROW as it relates to this alley. *Italicized text throughout this memo is excerpted from the policy framework.*

PART ONE: DECIDING WHETHER TO DECLARE SURPLUS

The Board may declare surplus when:

1. *There is currently no public transportation infrastructure within the right-of-way, such as streets, alleys, bicycle paths or pedestrian walkways;*
2. *The right-of-way is not needed for future public transportation infrastructure;*
 - a. *The Board may dispose of right-of-way with the creation of easements as needed when there are existing or foreseeable future public utilities, emergency access, drainage areas, private driveways, or other uses within the existing right-of-way;*
3. *The right-of-way disposal serves the public interest through improved utilization of land made possible by this action;*
4. *The disposal reduces the City's maintenance liability on unused right-of-way not needed for public purpose.*

The Evans Street Alley ROW does serve as an alley, but it is not used as a means of public transportation. It is vegetated and appears to contain fencing, a driveway and part of an accessory structure. The City does hold liability and maintenance costs as shown by the need to remove a tree from the alley in 2009. Therefore, the ROW meets each criterion for deciding to declare surplus.

PART TWO: CHOOSING HOW TO DISPOSE OF IT

If the Board should decide to declare this ROW surplus as recommended by staff, then the next step would be to determine how to dispose of it. Here is an analysis of disposing of surplus ROW:

1. *If the property does not exceed \$25,000 in value, then the property may be sold or disposed of by negotiated contract, or by other means that will adequately protect the public interest (Franklin Municipal Code Sec. 5-802 (3)).*

This property (unused right-of-way after declaration of surplus) is likely to be worth less than \$25,000, allowing for several options for disposal. The three main options are as follows:

- i. *Vacate the surplus property equally (50/50) to property owners adjacent to both sides of the City right-of-way;*
 1. *When the right-of-way is not being used for access; or*
 2. *When a street was realigned elsewhere.*
- ii. *Vacate the surplus property equally (50/50) to property owners adjacent to both sides of the City right-of-way with the creation of the easements;*
 1. *When the City right-of-way contains private driveways or has properties using it for access;*
or



2. *When the City right-of-way contains public utilities, emergency access, drainage areas or other public uses.*
- iii. *Vacate 100% to one adjacent property owner when the City right-of-way serves as the existing driveway access to a single developed property that is located internally to the adjoining street.*
 1. *When there is the same ownership on both sides of the City right-of-way; or*
 2. *When the City right-of-way serves as the existing driveway access to a single developed property that is located internally to the adjoining street; or*
 3. *When it can be found that prior to the dedication of the City right-of-way, the property originally belonged to one of the adjacent properties.*

The Board also has the option to disperse the ROW in an alternate manner that still meets the City's goals. Criterion (2) of option iii is met as the driveway for 817 Evans Street is located within the ROW. However, by the adjacent property owners (817 Evans Street and 108 Lewisburg Pike) being in agreement that the entire ROW be vacated to 108 Lewisburg Pike, this allows the City to vacate in an alternate manner that is agreeable to all parties. This creates virtually no change for 817 Evans Street while allowing 108 Lewisburg Pike to subdivide their property and develop the portion that is adjacent to Evans Street.

Financial Impact

Costs with continuing to hold the ROW possibly include future maintenance and/or removal of trees and vegetation. Some costs are associated with vacating the property, including a property boundary survey and legal description. Costs to vacate would probably not exceed \$5,000.

In order to defray the initial costs, the following is recommended:

1. *If a property owner(s) initiates the disposal request, the benefitting property owner(s) should pay for and provide a current survey and may be required to reimburse the City for an appraisal.*
2. *If the Board initiates the disposal, the City should provide the current survey and may provide an appraisal.*

Because this request was initiated by the property owner, the benefitting property owner has provided a current boundary survey and encumbered all costs associated with preparing for the ROW to be abandoned. If the Board chooses to abandon the ROW, the remaining costs (i.e. preparing and recording legal documents) would also be encumbered by the benefitting property owner, leaving the no cost to the City beyond staff time.

Recommendation

Staff recommends abandoning the portion of ROW between 817 Evans Street and 108 Lewisburg for the alley to the owner of 108 Lewisburg Pike based on the property owners' proposal. Staff recommends that the alley ROW be vacated at the time that the agreement between 817 Evans and 108 Lewisburg gets recorded. Ideally, the entire alley should be declared surplus at the same time because eliminating one "leg" of this "U" will further reduce public accessibility if in the future the City should be required to perform maintenance within it. However, the remaining adjacent property owners do not want to take possession of the right-of-way and the City cannot give a private citizen surplus property that he or she does not want or agree to.

KISERVOGRINDESIGN

Land Planning + Landscape Architecture + Urban Design

August 9, 2010

Dear neighbor with property access to the Evans Street alley:

The intent of this letter is to officially notify you of our Clients intention to request abandonment by the City of Franklin of that part of the existing, platted alley that connects to Evans Street as indicated on the enclosed graphic plan. Please note that the requested abandonment affects only that portion of the alley directly adjacent to James H. & Charlotte House and James W. & Madeline C. Jewell; it being the southern "leg" of the alley. When observed on site, this is the same area that presently serves as the paved driveway (and parking area) used exclusively by James H. & Charlotte House for access to their garage.

I had the opportunity to speak or meet with the majority of you this past Spring when we were exploring the idea of requesting abandonment of the entire alley. This proposal received mixed support; some supported it and others opposed. Because there was no clear cut consensus by the neighbors, it was determined to drop the abandonment request for the entire alley and to concentrate only on that portion described above.

As you may know, the City of Franklin is assessing what to do with unutilized/undeveloped right-of-ways and easements within the City limits. Numerous proposals have surfaced including the sales or gifting of these properties to the adjacent homeowners, or in some cases a proposal to develop these properties with affordable housing when the property is large enough. Again, please rest assured that we are only proposing abandonment of the southern "leg" of the alley,

In keeping with my promise to follow up with you, I would like to invite you to meet with us on site so that I can more precisely explain our abandonment request. To that end, we will meet with all interested parties at the southern "leg" of the alley (James & Charlotte's driveway) on Monday, August 16 at 5:30 to discuss and field questions regarding our request. I hope you can attend.

Sincerely,



Dwight E. Kiser, ASLA
Partner

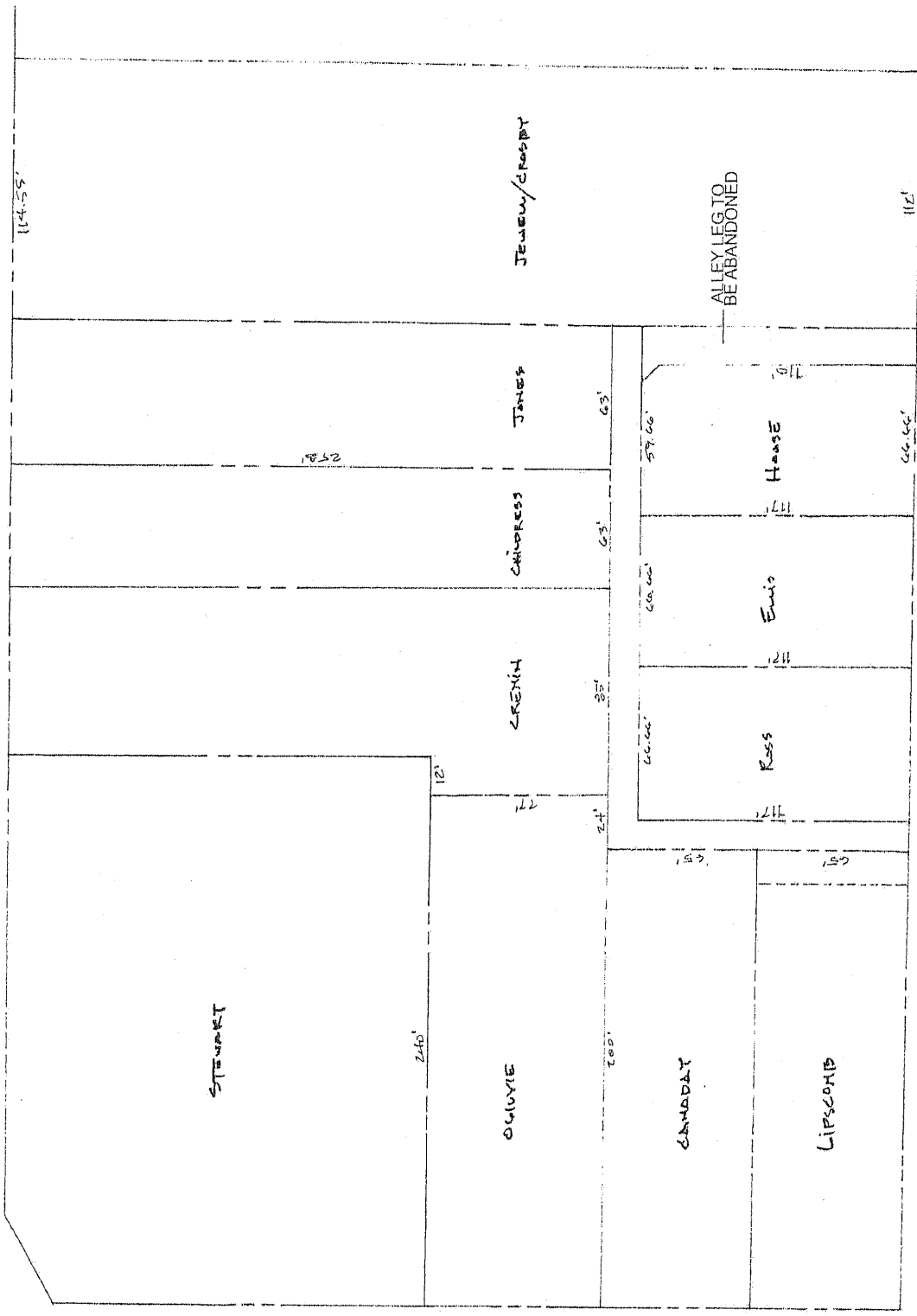
Direct: 615.620.7170
Cell: 615.948.8427

ERIC:

THIS IS A COPY OF THE INFORMATION
WE ARE PROVIDING TO ALL ADJACENT
EVANS STREET ALLEY HOMEOWNERS.

Dwight

LEWISBURG AVE.

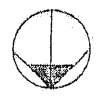


SOUTH KRENICK ST.

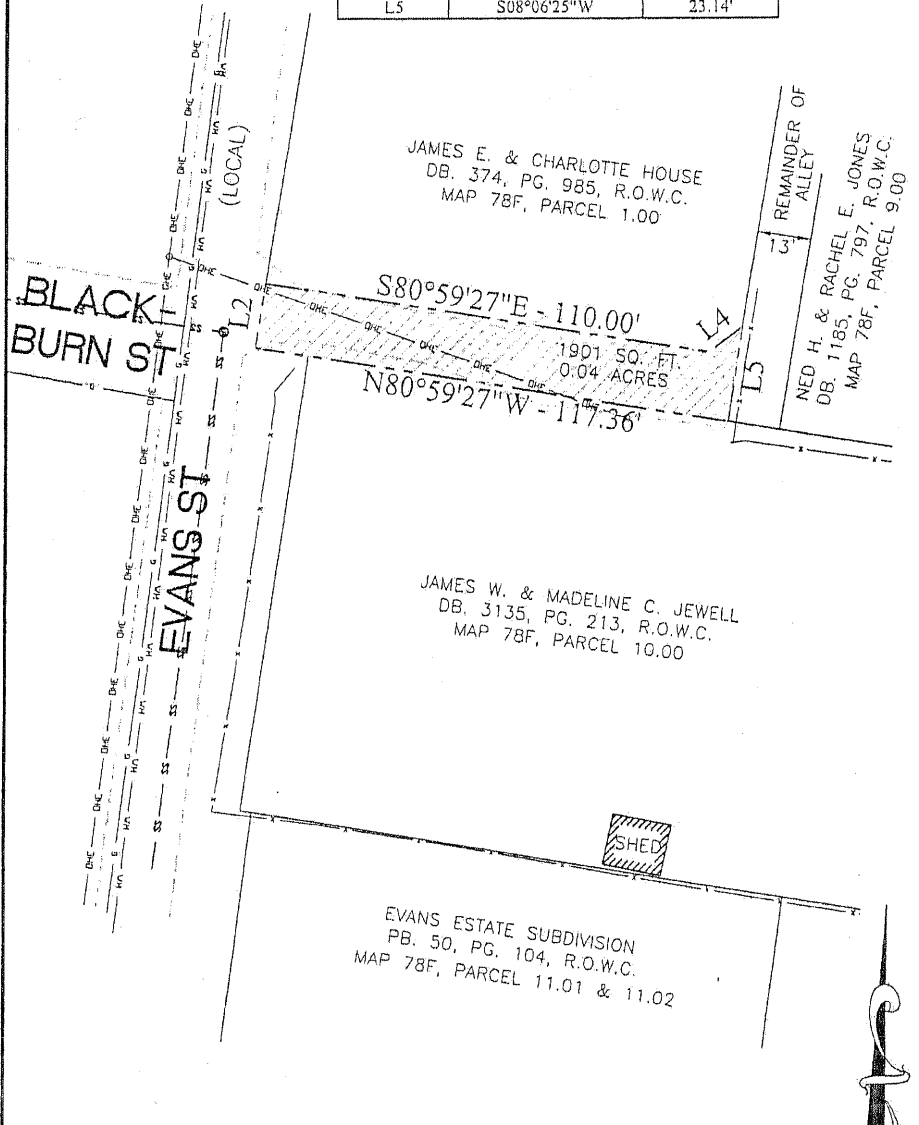
REBECCA VOGELIN
Land Planning + Landscape Architecture + Urban Design

EVANS STREET

EVANS STREET ALLEY ABANDONEMENT EXHIBIT
AUGUST 9, 2010



LINE TABLE		
LINE	BEARING	DISTANCE
L2	N09°00'33"E	16.00'
L4	N53°26'10"E	10.00'
L5	S08°06'25"W	23.14'



S & A SURVEYING, INC.
 306 Bluegrass Circle
 Lebanon, Tennessee 37090
 Phone: (615) 394-7854
 JOB#: 2010 Crosby

DATE: 8/03/10

EXHIBIT MAP
 EVANS STREET ALLEY
 9TH CIVIL DISTRICT
 FRANKLIN-WILLIAMSON COUNTY-TENNESSEE

To: City of Franklin Board of Mayor and Aldermen

Regarding: Request to Abandon a Portion of the Public Right-Of-Way (ROW) for the Alley
Between 817 Evans Street and 108 Lewisburg Pike

This correspondence acknowledges that I am aware that the City has proposed abandonment of the alley referenced above. I am also aware that the transfer of property resulting from the closure may permit subdivision of property adjacent to the alley and fronting Evans Street.

I have no objections to this planned closure.

 9/17/10

NED H. JONES