

ORDINANCE NO. 2023-16

AN ORDINANCE OF THE CITY OF BRECKENRIDGE, TEXAS CLOSING, VACATING, AND ABANDONING THE REMAINING PORTION OF NORTH OAKWOOD AVENUE LYING BETWEEN BLOCKS 44 AND 45 OF THE LAKEWOOD ADDITION TO THE CITY OF BRECKENRIDGE; PROVIDING FOR CONVEYANCE OF SAID ABANDONED STREET PROPERTY; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Breckenridge (the “City”) is a home rule municipality operating under its Charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Texas Local Government Code;

WHEREAS, Section 311.007 of the Texas Transportation Code provides that a home rule municipality may vacate, abandon, and close a street or alley, and Sections 253.001(a) and 272.001 of the Texas Local Government Code provide that a city may convey abandoned street or alley property to the adjacent property owners without complying with notice and bidding requirements;

WHEREAS, in 1971 and 1978, the City closed the majority of North Oakwood Avenue lying between Blocks 44 and 45 of the Lakewood Addition to the City of Breckenridge, Stephens County, Texas and conveyed the closed street property to adjacent property owners, but an eleven-foot-wide portion adjacent to Lot 9, Block 44 of said Lakewood Addition (the “Street Property”) was not closed;

WHEREAS, the City received a request to close, abandon and vacate the Street Property by Chester Bussell, the owner of the property abutting said Street Property;

WHEREAS, pursuant to Section 2-25 of the Breckenridge Code of Ordinances, the Planning and Zoning Commission considered this request on August 28, 2023 and has recommended that the City Commission of the City of Breckenridge (the “City Commission”) approve said request; and

WHEREAS, the City Commission has considered the recommendation of the Planning and Zoning Commission and has determined that it would be to the public benefit to abandon, vacate, and close the Street Property, that said land is not needed for public use and therefore constitutes a public charge without a corresponding public benefit, and that the Street Property should be abandoned, vacated, and closed, and conveyed to the adjacent property owners as hereinafter provided.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF BRECKENRIDGE, TEXAS THAT:

SECTION 1. Incorporation of Premises. The above and foregoing premises are true and correct and are incorporated into the body of this Ordinance as if fully set forth herein.

SECTION 2. Findings. After due deliberations, the City Commission has concluded that the adoption of this Ordinance is in the best interest of the City of Breckenridge, Texas and of the public health, safety, and welfare.

SECTION 3. Street Abandoned. The following portion of North Oakwood Avenue in the Lakeview Addition to the City of Breckenridge is hereby closed, vacated, and abandoned:

Beginning at the Southwest corner of Lot 9, Block 44, Lakeview Addition to the City of Breckenridge, Stephens County, Texas, as shown by the map or plat now located in the Plat Cabinet in Slide 94B of the Plat Records of said Stephens County, Texas,

Thence West 11 feet;

Thence North to a point which is 11 feet west of the Northwest corner of Lot 9;

Thence East 11 feet to the Northwest corner of Lot 9;

Thence South along the West boundary of Lot 9 to the place of beginning.

SECTION 4. Fair Market Value. The City Commission finds that the street was originally dedicated to the public at no cost to the City and any fair market value that the Street Property may have is offset from the City's release from the obligation to maintain the Street Property.

SECTION 5. Extent of Abandonment. The abandonment, vacation, and closure provided for herein shall extend only to the public right, title, easement, and interest, and shall be construed to extend only to that interest which the City may legally and lawfully abandon, vacate, and close, and may be subject to recorded reversionary interests.

SECTION 6. Release of Easements. All public easements and rights-of-way on the Street Property are hereby released.

SECTION 7. Conveyance. The City Secretary is authorized and directed to prepare and record a copy of this Ordinance in the Real Property Records of Stephens County, Texas. The Mayor is hereby authorized and directed to convey by Deed Without Warranty, in "As Is" condition, all of the interest of the City in and to the Street Property, to the property owner abutting said Street Property.

SECTION 8. Savings/Repealing Clause. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 9. Effective Date. This ordinance shall take effect upon its adoption.

DULY PASSED AND APPROVED by the City Commission of the City of Breckenridge, Texas, this the 5th day of September, 2023.

Bob Sims, Mayor

ATTEST:

Jessica Sutter, City Secretary