

**CITY OF ELSMERE, KENTUCKY
ORDINANCE NO.: 1830-2023**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELSMERE,
KENTUCKY, VACATING A PORTION OF THE FUCHS ROAD RIGHT OF WAY
PURSUANT TO KRS 82.405.**

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 Elsmere North LLC (“Elsmere North”), this City Council has determined that the public right-of-way comprising a portion of Fuchs Road should be vacated and closed; and

WHEREAS, Elsmere North by virtue of its ownership of the real property located at 1731 Garvey Road, and the City of Elsmere, Kentucky (the “City”) by virtue of its ownership of the real property located at 7050 New Buffington Road have been identified as the only property owners in or abutting the portion of the public way to be closed; and

WHEREAS, the written notice required under KRS 82.405(2)(b) of the proposed closing was waived by each of the Elsmere North and the City as the only property owners in or abutting the portion of Fuchs Road to be closed; and

WHEREAS, each of Elsmere North and the City have agreed to the closing of said public-right-of-way; and

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

SECTION I

That the City Council hereby gives written consent to the vacation of a portion of Fuchs Road described and depicted on attached Exhibit A.

SECTION II

That the City Council hereby makes the following finds of fact with respect to the aforementioned vacation in accordance with KRS 82.405(2):

- (a) The City and Elsmere North have been identified as the only property owners in or abutting the portion of the public way to be closed;
- (b) The written notice required under KRS 82.405(2)(b) was waived by the City and Elsmere North as the only property owners in or abutting the portion of the public way to be closed; and
- (c) Elsmere North and the City as the only property owners in or abutting the portion of the public way being closed have given their written notarized consent to the closing, hereto attached as Exhibits B-1 and B-2.

SECTION III

That the City Council hereby vacates the portion of Fuchs Road described and depicted in attached Exhibit A.

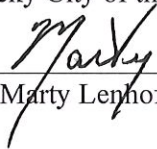

SECTION IV

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 V

Subject to Section III and V of this Ordinance, this Ordinance shall take effect and be in full force when passed, published, and recorded according to law. This Ordinance may be published in abbreviated form.

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

By:  
Marty Lenhof, Mayor

1st Reading – October 10, 2023
2nd Reading – November 14, 2023

Ayes: 5, Nays: 0, Abstain: 0

Published: _____, 2023

ATTEST:

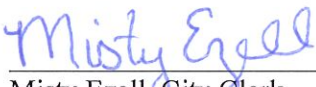
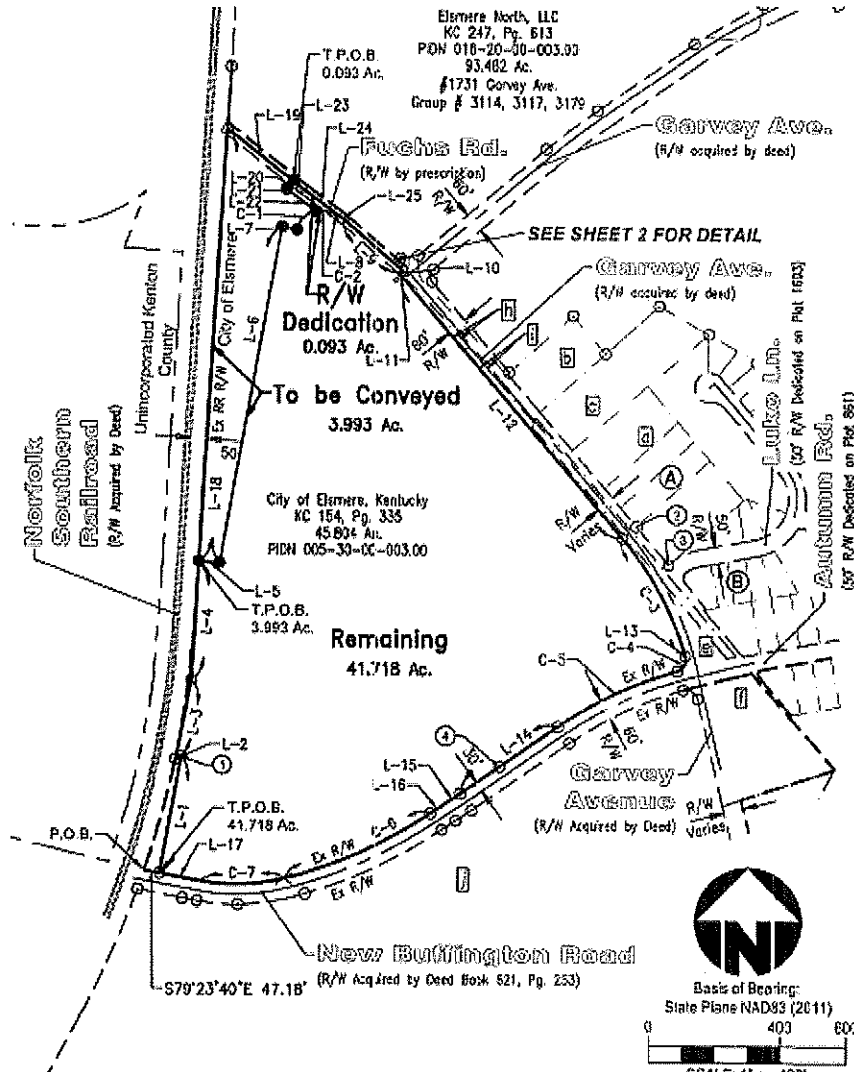

Misty Ezell, City Clerk

EXHIBIT A
DEPICTION OF RIGHT-OF-WAY TO BE CLOSED



NOTES:

- This plat is subject to all easements and rights-of-ways of record.
- This plat represents a boundary survey and complies with 201 KAR 18:150.
- All references are to the Kenton County Clerk's Records, unless noted otherwise.
- The subdivided parcels as shown on this Plat, have frontage along a public route making them subject to the permitting processes of the local jurisdiction having authority.

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MONUMENTATION:

- Found 5/8" Iron Pin ("Chris Gephart PLS#3292" - unless otherwise noted)
- △ Found MAG Nail (w/ ID Tag - "PLS#3292" - unless otherwise noted)
- × Found Cross Notch
- ⊗ Found Iron Pipe
- ⊙ Found Nag Spike
- Set 5/8"x30" Iron Pin (w/ Cap - "Chris Gephart PLS#3292")
- ▲ Set MAG Nail (w/ ID Tag - "PLS#3292")

Sheet 1 of 4

Drawing: 22-0139-SP2
 Scale: 1"=400'
 Drawn by: ARV

City of Elsmere, Kentucky
 7850 NEW BUFFINGTON RD.
 GROUP NO. 3011



EXHIBIT A
LEGAL DESCRIPTION OF RIGHT-OF-WAY TO BE CLOSED



Chris R. Gehart
10-4-23

bayerbecker.com
513.336.6600
meson | cincinnati | oxford | fort mitchell

DATE:

October 4, 2023

DESCRIPTION:

City of Elsmere, Kentucky
Right-of-Way – 0.093 Acres
Group 3011

LOCATION:

Garvey Avenue & Fuchs Road, Elsmere, Kentucky

Situated in the City of Elsmere, County of Kenton, Commonwealth of Kentucky, lying on the North side of New Buffington Road (60' R/W) and West side of Garvey Avenue (R/W varies) and being part of a 45.804 acre tract conveyed to City of Elsmere, Kentucky in KC 154, Page 335 of the Kenton County Clerk's Records at Covington, Kentucky, and being more particularly described as follows:

Begin at the intersection of the existing East right-of-way line of the Norfolk Southern Railroad (50' from centerline of the East track) with the existing North right-of-way line of New Buffington Road (60' R/W) as set out in Deed Book 621, Page 253; thence, with the existing North right-of-way line of New Buffington Road, South 79° 23' 40" East, 47.18 feet to the former centerline of Old Buffington Road (noted as abandoned on the plat attached to Deed Book 1198, Page 270); thence, departing the existing North right-of-way line of New Buffington Road, and with the former centerline of Old Buffington Road, North 10° 25' 08" East, 357.65 feet; thence, departing said former centerline and with the South line of said 45.804 acre tract, South 65° 25' 09" West, 18.73 feet to the existing East right-of-way line of the Norfolk Southern Railroad; thence, with the existing East right-of-way line of the Norfolk Southern Railroad the following two courses: North 11° 29' 36" East, 243.54 feet; thence, North 03° 33' 24" East, 356.36 feet; thence, continuing with the existing East right-of-way line of the Norfolk Southern Railroad, North 03° 33' 24" East, 1304.41 feet to the Northmost corner of said 45.804 acre tract and in the centerline of Fuchs Road (no defined width), the same being the Southwest corner of a 93.482 acre tract conveyed to Elsmere North, LLC in KC 247, Page 613; thence, departing said railroad and with the centerline of said Fuchs Road and the South line of said 93.482 acre tract, South 51° 40' 21" East, 252.95 feet to a set MAG nail at the Western terminus of a new right-of-way line of Fuchs Road and the TRUE POINT OF BEGINNING;

thence, from the TRUE POINT OF BEGINNING, thus found, continuing with said centerline and the South line of said 93.482 acre tract, the following two courses: South 51° 40' 21" East, 32.55 feet to a found MAG nail (PLS 3292);

thence, South 53° 19' 48" East, 151.32 feet to a point being referenced by a found MAG nail (PLS 3292) at S 53° 19' 48" E, 3.51';

thence, departing said centerline and said 93.482 acre tract, and with a new Southern right-of-way line of Fuchs Road, through said 45.804 acre tract, the following two courses: North 06° 11' 13" West, 39.29 feet;

thence, with a curve to the left, having a central angle of 34° 48' 49", a radius of 70.50 feet, an arc length of 42.84 feet, and a chord bearing North 83° 35' 37" West, 42.18 feet to a set iron pin;

thence, with a new Southern right-of-way line of Fuchs Road (30' from centerline), continuing through said 45.804 acre tract, the following two courses: North 53° 19' 48" West, 77.02 feet;

thence, North 51° 40' 21" West, 32.98 feet to a set iron pin;

thence, with the Western terminus of said new right-of-way line of Fuchs Road, continuing through said 45.804 acre tract, North 38° 19' 39" East, 30.00 feet to the TRUE POINT OF BEGINNING.



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513.336.6300
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Containing 0.093 acres and subject to all easements and rights-of way of record.

All set corners are 5/8" x 3/4" iron pins with a plastic cap stamped "Chris Gephart PLS 3282" or a Mag Nail with identification tag stamped "PLS 3202" unless otherwise noted. The reference meridian is NAD83(2011) Kentucky State Plane Coordinates, North Zone (1601).

The above description was prepared from a survey completed on September 29, 2023 under the direction of Chris R. Gephart, Licensed Professional Land Surveyor #3292 in the Commonwealth of Kentucky.

Prior Instrument Reference: KC 154, Page 335

EXHIBIT B-1
CONSENT OF ELSMERE NORTH

[To be attached prior to adoption]