

ORDINANCE NO. 2023-635

AN ORDINANCE OF THE CITY OF SMITHVILLE, TEXAS CLOSING, VACATING, AND ABANDONING A STREET IN THE CITY DESCRIBED GENERALLY AS ALL OF PINE STREET BETWEEN MOUNT PLEASANT ADDITION BLOCK 36 LOT 4 AND BLOCK 37, LOTS 1; AUTHORIZING THE CITY MANAGER TO EXECUTE A QUITCLAIM DEED PERTAINING TO SUCH STREET; REPEALING CONFLICTING ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Smithville, Texas (the “*City*”) is a Texas general law municipality; and

WHEREAS, Texas Transportation Code § 311.008 authorizes a general law municipality to vacate, abandon, or close a street or alley of the municipality if a petition signed by all the owners of real property abutting the street or alley is submitted to the governing body; and

WHEREAS, the Smithville City Council has received a petition, attached as Exhibit A, which the petitioners have represented is signed by all the owners of real property abutting the following described portion of a street in the City (the “*Road*”):

All of Pine Street between Mount Pleasant Addition Block 36 Lot 4 and Block 37 Lot 1, as more particularly shown in Exhibit A;

WHEREAS, the City Council finds as follows:

1. The Road is no longer essential to the safe and efficient flow of traffic in the area in which the Road is located.
2. Closing, vacating, and abandoning the Road serves the public purpose of relieving the public of any maintenance obligations of the Road.

WHEREAS, the City Council finds and determines that adoption of this Ordinance promotes the health, safety, and welfare of the public; and

WHEREAS, the City Council finds and determines that the meeting at which this Ordinance was passed was open to the public, that public notice of the time, place and purpose of said meeting was given as required by the Texas Open Meetings Act, Chapter 551, Texas Government Code;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SMITHVILLE, TEXAS THAT:


1. **Findings of Fact.** The foregoing recitals are incorporated into this Ordinance by reference as findings of fact as if expressly set forth herein.
2. **Enactment.** By this Ordinance:
 - (A) The City vacates, abandons, and closes the Road subject to the following:
 - (1) All utility lines and facilities, including but not limited to water and wastewater lines, electric transmission and distribution lines, gas lines, and telecommunication lines,

within the Road on the effective date of this Ordinance may remain in place and may continue to be used, repaired, enlarged, and maintained in the ordinary course of business.

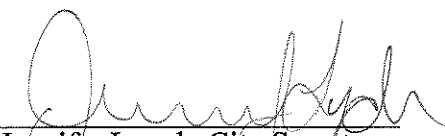
- (2) Any person wanting removal of an existing utility facility must negotiate such removal with the relevant utility.
 - (3) After the effective date of this Ordinance, no utility may add additional lines or facilities within the Road based on a claim that the Road is a public street right of way.
 - (4) All existing drainage rights in the Road are retained by the City.
- (B) The City Council authorizes and directs the City Manager to execute a Street Closure Quitclaim Deed and to execute and deliver all documents and to do all other things conducive to reflect the vacation, abandonment, and closure of the Road.
- 3. **Repealer.** All ordinances, resolutions, or parts thereof, that are in conflict or are inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict or inconsistency, and the provisions of this Ordinance shall be and remain controlling as to the matter regulated herein.
 - 4. **Severability.** Should any section, subsection, sentence, provision, clause, or phrase be held to be invalid for any reason, such holding shall not render invalid any other section, subsection, sentence, provision, clause, or phrase of this ordinance and same are deemed severable for this purpose.
 - 5. **Effective Date.** This Ordinance shall be effective as of the date of adoption.

PASSED, APPROVED, AND ADOPTED THIS 12th DAY OF JUNE, 2023.

APPROVED:


Sharon Foerster, Mayor

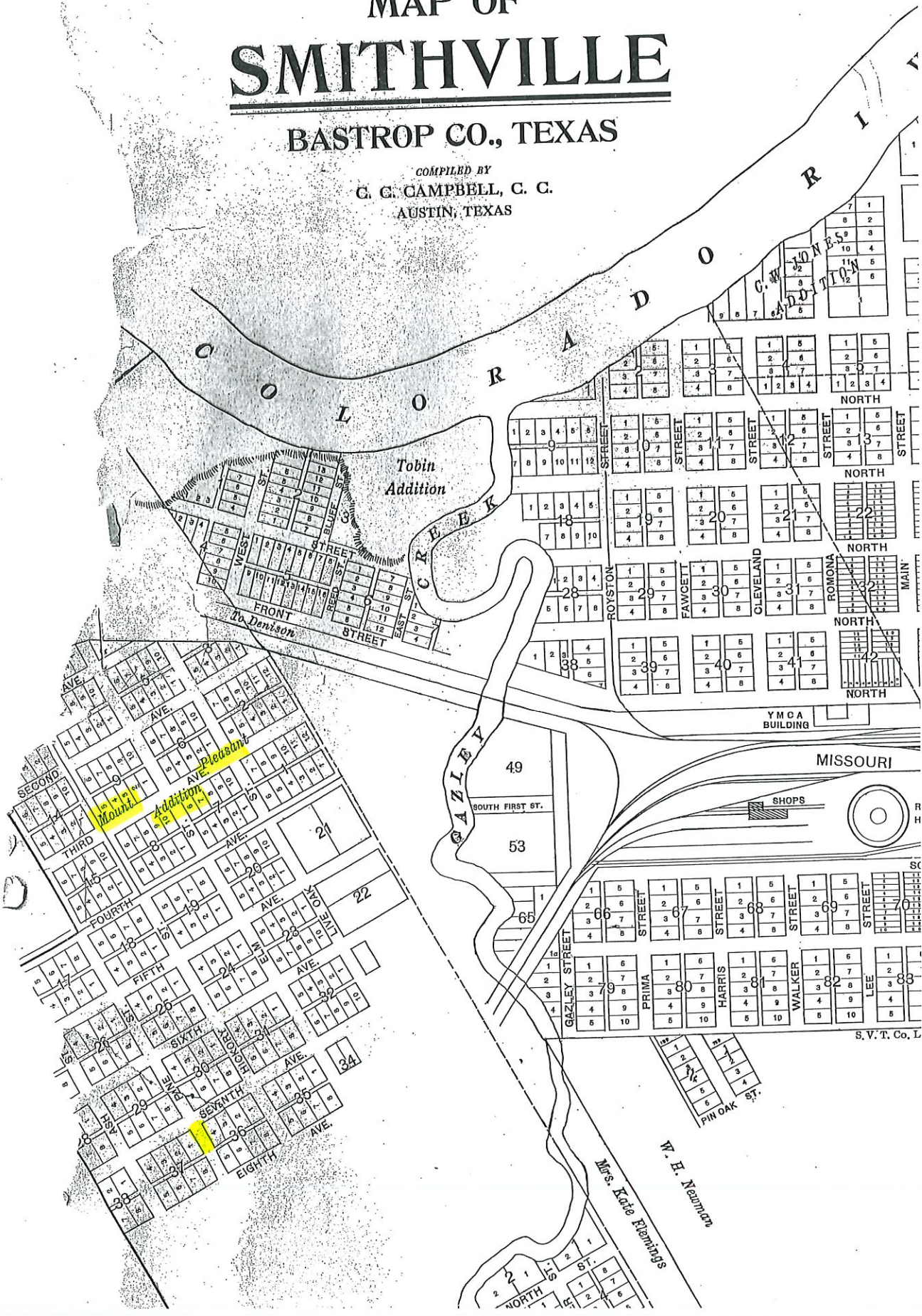
ATTEST:


Jennifer Lynch, City Secretary

MAP OF SMITHVILLE

BASTROP CO., TEXAS

COMPILED BY
C. G. CAMPBELL, C. C.
AUSTIN, TEXAS



To: The City of Smithville, Texas
317 Main Street
Smithville, TX 78957

From: Dennis Koch
201 5th Avenue
Smithville, TX 78957

Date: June 5, 2023

RE: Un-opened Pine street between Block 36 and Block 37

I waive the right to request ownership of the portion of the un-opened Pine Street between Lot 4 Block 36 and Lot 1 Block 37 of the Mt. Pleasant Addition of Smithville, Texas; and further, give this right to Elizabet Koch who owns the remaining portion of the un-opened Pine street between Lot 4 Block 36 and Lot 1 Block 37 in the Mt. Pleasant Addition of Smithville, Texas.

This gives Elizabeth Koch full rights to the ownership of Pine Street at this location.

Sincerely,

A handwritten signature in black ink, appearing to read "Dennis Koch", with a stylized, cursive script.

Dennis Koch

A handwritten signature in black ink, appearing to read "Beth Koch", with a stylized, cursive script.

Beth Koch

June 1, 2023

City of Smithville
317 Main Street
PO Box 449
Smithville, TX 78957

Re: Pine Street
Blk 37 Lot 1 (Kadlecek)
Blk 36 Lot 4 (Koch)

To whom it may concern,

This letter issued by Daniel and Donna Kadlecek, the property owners of Blk 37, Lot 1 hereby give their rights of Blk 37, Lot 1 to Liz Koch, giving her full ownership of Pine Street.

Sincerely,



Daniel Kadlecek



Donna Kadlecek

City of Smithville

I, Elizabeth Koch, at 706
Hickory Street in Mt. Pleasant
addition in Smithville, Texas
request the City of Smithville
to give me a quick claim
for the unopened Pine Street
Block 37 Lot 1 and Block 36 Lot 4.

Elizabeth Koch
June 6, 2023