

**ORDINANCE 11-002**

**AN ORDINANCE CLOSING A RIGHT OF WAY BETWEEN US 62 AND MARSHALL PARK IN THE CITY OF GEORGETOWN, KENTUCKY**

**WHEREAS**, the Georgetown-Scott County Planning Commission made favorable recommendation at its March 10, 2011 meeting for City Council to approve the below right of way closing pursuant to KRS 100.324 and 82.405;

**NOW, THEREFORE BE IT ORDAINED, BY THE CITY COUNCIL OF THE CITY OF GEORGETOWN, KENTUCKY, AS FOLLOWS:**

**SECTION ONE**

Georgetown City Council hereby makes findings of fact pursuant to KRS 82.405(2): that Pinnacle Real Estate Group, LLC, the Commonwealth of Kentucky, for the use and benefit of the Transportation Cabinet, Department of Highways, and the City of Georgetown, Kentucky are the only owners of property abutting the right of way to be closed; that they were provided written notice of the proposed road closing; and, that said owners have given written, notarized consent to the right of way closing, copies of which are attached hereto and incorporated herein by reference as Exhibit A.

**SECTION TWO**

The right of way between US 62 and Marshall Park comprised of .939 acres and more particularly described in the plat recorded in Plat Cabinet 8, slide 327, Scott County Clerk's Office, a copy of which is attached hereto and incorporated herein by reference as Exhibit B be, and the same is hereby, closed as a public way.

**SECTION THREE**

If any section, subsection, sentence, clause, or phrase of this ordinance is held unconstitutional or otherwise invalid, such infirmity shall not affect the validity of the remaining portions of this ordinance.

**SECTION FOUR**

All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

**SECTION FIVE**

This Ordinance shall take effect after its passage and publication according to law.

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**PUBLICLY INTRODUCED AND READ FIRST TIME: May 9, 2011**

**PUBLICLY READ SECOND TIME AND PASSED: May 23, 2011**

**APPROVED:**

  
Everette Varney, Mayor

**ATTEST:**

  
Tracie Hoffman Chen, City Clerk

**VERIFIED REQUEST AND CONSENT FOR STREET CLOSING  
AND WAIVER OF DAMAGES**

COMES NOW the Commonwealth of Kentucky, Transportation Cabinet, Department of Highways, acting by and through James E. Ballinger, PE, Chief District Engineer, Department of Highways, Dist. 7, its duly authorized agent, and after being duly sworn, states as follows:

1. The Commonwealth of Kentucky [the "State"] is the owner of right of way over which US Highway 62 is located in Georgetown, KY.

2. The State is in receipt of written notice from the City of Georgetown of its proposed closure of the undeveloped, but dedicated right of way comprising .939 acres, which is described in the plat recorded in Plat Cabinet 8, slide 327, Scott County Clerk's Office.

3. The State owns land abutting said dedicated right of way is located which is to be closed by the City of Georgetown pursuant to: the deed from Nettie Bridges to Commonwealth of Kentucky, for the use and benefit of the Transportation Cabinet, Department of Highways, recorded on December 16, 1992 in Deed Book 197, page 780, same office; and, the deed from Eleanor S Wells to Commonwealth of Kentucky, for the use and benefit of the Transportation Cabinet, Department of Highways, recorded on March 1, 1993 in Deed Book 198, at page 761, same office.

4. The State agrees to the closure of said right of way and consents to this action.

5. The State acknowledges that it has been advised by the City that, under Kentucky law, the State may have a claim for damages in connection with the closing of the right of way.

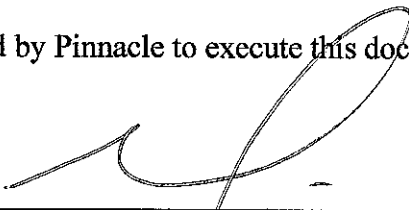
6. In consideration of the City's closure of this right of way, the State hereby waives any claim for damages against the City.

7. I certify that I have been authorized by the State to execute this document.

**VERIFIED REQUEST AND CONSENT FOR STREET CLOSING  
AND WAIVER OF DAMAGES**

COMES NOW Pinnacle Real Estate Group, LLC, acting by and through Matthew E. Welch, its duly authorized agent, and after being duly sworn, states as follows:

1. Pinnacle Real Estate Group, LLC ["Pinnacle"] is the owner of real property located on US Highway 62, Georgetown, KY.
2. Pinnacle is in receipt of written notice from the City of Georgetown of its proposed closure of the undeveloped, but dedicated right of way comprising .939 acres, which is described in the plat recorded in Plat Cabinet 8, slide 327, Scott County Clerk's Office.
3. Pinnacle owns the land on which said dedicated right of way is located pursuant to the deed from Grove Park, LLC to Pinnacle Real Estate Group, LLC dated November 28, 2007 and recorded in Deed Book 314, page 237, same office.
4. Pinnacle desires closure of said right of way.
5. On behalf of Pinnacle Real Estate Group, LLC, I request that the City of Georgetown close this dedicated right of way and Pinnacle consents to this action.
6. I acknowledge that I have been advised by the City that, under Kentucky law, Pinnacle has a claim for damages in connection with the closing of right of way.
7. In consideration of the City's closure of this right of way, Pinnacle hereby waives any claim for damages against the City.
8. I certify that I have been authorized by Pinnacle to execute this document.

  
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Matthew E. Welch, Authorized Member  
Pinnacle Real Estate Group, LLC

COUNTY OF SCOTT }  
STATE OF KENTUCKY }

Subscribed, acknowledged and sworn to before me by Pinnacle Real Estate Group, LLC, by and through Matthew E. Welch, its authorized member, this 18 day of April, 2011.

My commission expires: Apr 20, 2015

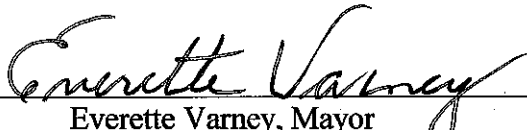
Greg Klaclis  
NOTARY PUBLIC

(SEAL)

**VERIFIED REQUEST AND CONSENT FOR STREET CLOSING**

COMES NOW the City of Georgetown, Kentucky, acting by and through Everett Varney, Mayor, and after being duly sworn, states as follows:


1. The City of Georgetown [the "City"] proposes to close the undeveloped, but dedicated right of way comprising .939 acres, which is described in the plat recorded in Plat Cabinet 8, slide 327, Scott County Clerk's Office.
2. The City owns land abutting said dedicated right of way pursuant to the deed from Kentucky Municipal Finance Corporation to the City of Georgetown, Kentucky recorded on May 5, 2011 in Deed Book 337, page 480, same office.
3. The City requests closure of said right of way and consents to this action.

  
\_\_\_\_\_  
Everett Varney, Mayor

COUNTY OF SCOTT    }  
                                  }  
STATE OF KENTUCKY }

Subscribed, acknowledged and sworn to before me by Everett Varney, Mayor, acting for and on behalf of the City of Georgetown, Kentucky, this 21<sup>st</sup> day of May, 2011.

My commission expires: January 20, 2015

  
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NOTARY PUBLIC

(SEAL)

