



APPLICANT INFORMATION

Sandra Quigg and John McGehee

540-478-5669

Applicant's Name

Telephone

295 Franklin Street

quiggmcgehee@gmail.com

Street Address

E-Mail

Harrisonburg

VA

22801

City

State

Zip

APPLICANT'S REPRESENTATIVE INFORMATION (if applicable)

Kevin Rose

540-271-3516

Applicant's Representative

Telephone (work, fax, mobile)

krose@botkinrose.com

Street Address

E-Mail

City

State

Zip

Property Location: 295 Franklin St, Harrisonburg

Estimated Cost of Street/Alley Closing:

Estimated area to be closed (A): _____ sq. ft.

Estimated cost per sq. ft. (B): \$ _____ per sq. ft.

Estimated total cost (A x B): \$ 0¹

Estimated area to be closed can be obtained from the Department of Community Development, City Hall, 2nd Floor.

Estimated cost per sq. ft. must be obtained from the Real Estate Office, City Hall, 1st Floor and documented by e-mail or letter attached to this application, or by staff initials here. Staff Initials: _____ Date: _____

CERTIFICATION

I certify that the information supplied on this application and on the attachments provided (maps and other information) is accurate and true to the best of my knowledge. In addition, I hereby grant permission to the agents and employees of the City of Harrisonburg to enter the above property for the purposes of processing and reviewing this application. I also understand that, when required, public notice signs will be posted by the City on any property.

APPLICANT

3/10/2025

DATE

REQUIRED ATTACHMENTS

- ☒ Letter providing a description of the proposed closure and reason for the desired closure.
- ☒ Location sketch of the street/alley to be closed or a survey of the property.²
- ☒ Email or Letter from Real Estate Office providing estimated costs if staff initials are not provided above.

TO BE COMPLETED BY PLANNING & ZONING DIVISION

03-11-25
Date Application and Fee Received

Total Fees Due: \$ 50.00 AF
Application Fee: \$50.00³

Received By

¹ Adjacent property owners are entitled to purchase half of the street/alley and have 60-days to notify the City from the date of notification from the City following the first reading at City Council. If the adjoining property owners do not wish to purchase their half of the street/alley, the applicant will be required to purchase the remaining half. The final cost shall be a fair market value determined by the Real Estate Office and City Manager after the survey is provided by the applicant and after the first reading.

² The Department of Community Development can assist with the location sketch for this application. After the first reading, the applicant is responsible for providing a survey of property and metes and bound description (prepared by a surveyor, engineer, or other person duly authorized by the state). A survey is not required at the time of application for the first reading at City Council.

³ The applicant is responsible for additional fees for newspaper advertisements prior to the first hearing at City Council.

TO: Harrisonburg Department of Community Development

FROM: John McGehee and Sandra Quigg

RE: Alley Closure – 295 Franklin Street

Date: 5/9/2025

Please find our enclosed application to close the alleyway between my house (295 Franklin Street) and our neighbor's house at 291 Franklin Street.

Our attorney Kevin Rose exchanged emails with your office on this matter last August - see emails attached. Based on these email conversations and based on subsequent research done by City staff, we are requesting that the City close our alleyway and recognize our ownership of the land.

Please advise on next steps. I look forward to hearing from you!

FW: Old Town Alley between Franklin St. and prior portion of Ash Tree Lane

1 message

Kevin Rose <krose@botkinrose.com>
To: John McGehee <mcgehejs@gmail.com>

Thu, Aug 1, 2024 at 8:48 AM

Kevin M. Rose, Esquire
BotkinRose PLC
[3190 Peoples Drive](#)
[Harrisonburg, Virginia 22801](#)
(540) 437-0019 (main)
(540) 271-3516 (mobile)

From: Wesley D. Russ <Wesley.Russ@harrisonburgva.gov>
Sent: Tuesday, July 30, 2024 1:10 PM
To: Chris Brown <Chris.Brown@harrisonburgva.gov>; Kevin Rose <krose@botkinrose.com>; Thanh Dang <Thanh.Dang@harrisonburgva.gov>
Cc: Meghan T. Rupkey <Meghan.Rupkey@harrisonburgva.gov>
Subject: Re: Old Town Alley between Franklin St. and prior portion of Ash Tree Lane

Hi Kevin,

I've attached an old article, "Title to Vacated Streets in Virginia Cities and Towns," that covers title to vacated alleys. With these older alleys that weren't dedicated to the city in fee simple, title usually is vested in the adjoining landowners, but there's a strange period of time where title might be vested in the original dedicator of the subdivision.

It sounds like here the alley is just an easement, although if there is any lingering question about the city's interest, a quit claim deed would be appropriate, assuming City Council were to approve closure.

Hope this helps.

Wesley

From: Chris Brown <Chris.Brown@harrisonburgva.gov>
Sent: Tuesday, July 30, 2024 11:20 AM
To: Kevin Rose <krose@botkinrose.com>; Thanh Dang <Thanh.Dang@harrisonburgva.gov>
Cc: Meghan T. Rupkey <Meghan.Rupkey@harrisonburgva.gov>; Wesley D. Russ <Wesley.Russ@harrisonburgva.gov>
Subject: RE: Old Town Alley between Franklin St. and prior portion of Ash Tree Lane

Good morning all,

I'll forward to our folks Kevin's email with the referenced deeds in case I didn't before. I've asked Wesley to jump into this discussion because he has researched the question of alley ownership in the past and has some materials which may be helpful.

Chris

From: Kevin Rose <krose@botkinrose.com>
Sent: Tuesday, July 30, 2024 11:15 AM
To: Thanh Dang <Thanh.Dang@harrisonburgva.gov>
Cc: Chris Brown <Chris.Brown@harrisonburgva.gov>; Meghan T. Rupkey <Meghan.Rupkey@harrisonburgva.gov>
Subject: RE: Old Town Alley between Franklin St. and prior portion of Ash Tree Lane

WARNING: External email. Be cautious when clicking on links or opening attachments.

Thanh,

Thank you. I look forward to hearing back from you and Meghan. I believe I previously sent relevant deeds to Chris Brown, but if you need me to send them directly to you or any other City staff, let me know and I am glad to do that. It might save them some time tracking down the relevant deeds.

Kevin M. Rose, Esquire

BotkinRose PLC

3190 Peoples Drive

Harrisonburg, Virginia 22801

(540) 437-0019 (main)

(540) 271-3516 (mobile)

From: Thanh Dang <Thanh.Dang@harrisonburgva.gov>
Sent: Tuesday, July 30, 2024 11:12 AM
To: Kevin Rose <krose@botkinrose.com>
Cc: Chris Brown <Chris.Brown@harrisonburgva.gov>; Meghan T. Rupkey <Meghan.Rupkey@harrisonburgva.gov>
Subject: RE: Old Town Alley between Franklin St. and prior portion of Ash Tree Lane

Thanks, Kevin, for sharing your position. This is helpful.

Also, I have CC:ed Planner Meg Rupkey on this email as I have asked her to take the lead on this and to receive comments from City staff and share them with you.

Thanh Dang, AICP | Deputy Director of Community Development

(540) 432-7700 | Thanh.Dang@HarrisonburgVA.gov

From: Kevin Rose <krose@botkinrose.com>
Sent: Tuesday, July 30, 2024 10:54 AM
To: Thanh Dang <Thanh.Dang@harrisonburgva.gov>
Cc: Chris Brown <Chris.Brown@harrisonburgva.gov>
Subject: RE: Old Town Alley between Franklin St. and prior portion of Ash Tree Lane

WARNING: External email. Be cautious when clicking on links or opening attachments.

Thanh,

Please note that it is my position that the McGehee-Quiggs already own half the alley, and the Littles own the other half. The deeds I reviewed dedicated a right of way over the alley as opposed to dedicating the alley as a separate parcel from the two lots. Many years ago, it was common practice for the property owners to maintain ownership of the underlying ground and only convey a public right of way over that ground. In more

recent times, that never occurs, i.e., Cities, Counties, the State (VDOT), and the federal government own the streets, highway, and interstates. Thus the old phrase "VDOT Right of Way." In the past, it was only a Right of Way, i.e., just and easement without the fee simple interest.

I need to know if the City contends that it owns this alley, notwithstanding that the title records support that the City does not own the alley based on my review. Rather, the title records support that the City only holds only an easement, i.e., a public right of way. That is just my interpretation of the title records, so I am just trying to determine if the City has a different interpretation.

If it is unclear, then the City would quit claim its interest as part of a closure. A quit claim is simply saying that if the City does in fact own the fee simple, which is unclear, then it quit claims its interest. That is only necessary if we cannot confirm who really owns the fee simple.

By the way, this is a good law school topic for real property class. In the end, it should not matter other than with respect to whether a deed is needed as part of the closure. If the City does not own the fee simple interest, it should be able to simply close the alley for use by the public, i.e., abandon its public easement. A deed would not be necessary because the McGehee-Quiggs and Littles already hold the fee simple interest (again, assuming my title analysis is correct).

Kevin M. Rose, Esquire

BotkinRose PLC

3190 Peoples Drive

Harrisonburg, Virginia 22801

(540) 437-0019 (main)

(540) 271-3516 (mobile)

From: Thanh Dang <Thanh.Dang@harrisonburgva.gov>
Sent: Tuesday, July 30, 2024 10:33 AM
To: Kevin Rose <krose@botkinrose.com>
Cc: Chris Brown <Chris.Brown@harrisonburgva.gov>
Subject: RE: Old Town Alley between Franklin St. and prior portion of Ash Tree Lane

Kevin,

You raise a good question/point about the ownership of the alley. I don't want to guess yet, but having dealt with alleys nearby, I believe this will require some extra steps for the McGehee-Quiggs to gain ownership of the land that has discouraged others from moving forward with the request to close the alleys. I will work with staff to look into this as well. I hope to be back in touch with you late next week with staff comments. Thanks.

Thanh Dang, AICP | Deputy Director of Community Development

(540) 432-7700 | Thanh.Dang@HarrisonburgVA.gov

From: Kevin Rose <krose@botkinrose.com>
Sent: Tuesday, July 30, 2024 10:02 AM
To: Thanh Dang <Thanh.Dang@harrisonburgva.gov>
Cc: Chris Brown <Chris.Brown@harrisonburgva.gov>
Subject: FW: Old Town Alley between Franklin St. and prior portion of Ash Tree Lane

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Thanh,

Thank you for the information regarding the procedure for closing alley ways, being set forth in the email string below. John McGehee and Sandra Quigg, the owners of TM 26 (L) 12, do intend to apply to the City seeking closure of the alley between their lot and the adjacent lot owned by John and Gail Little. The Littles own TM 26 (L) 11.

I would like to take you up on your offer to ask City staff if they have any concerns with closing the alley. You asked that we confirm that its location is between TM 26(L) 11 and TM 26 (L) 12, which in fact is the case. The City's records should show that the alley dead ends without connecting to another City alley or street. At one time, the alley in question connected to Ash Tree Lane. However, that portion of Ash Tree Lane was closed. Arguably, the alley no longer serves any public purpose.

One issue that may need to be addressed is the fee simple owner of the alley. As noted on the attached survey plat, the surveyor, Hal Benner, determined that the fee simple is not owned by the City, but, rather, the property boundary between TM 26(L) 11 and TM 26 (L) 12 runs down the middle of the alley. I know from using Mr. Benner on other projects that he researches the title to make these determinations. I also researched the title and came to the same conclusion as Mr. Benner. However, it may be that Mr. Benner and I are overlooking a deed or misinterpreting how the term "dedication" was used "back in the day." Thus, you may want to check with your real estate department to determine their position on the fee simple ownership. Assuming the City does not own the fee simple interest in the alley, the City should be able to close the alley without conveying any interest in the underlying "dirt."

The McGehees are going to speak to the Littles regarding the possible closure of the alley. We assume that the Littles will be on board with the closure, but we will confirm before filing the application. In the meantime, if you could let me know the City staff's positions on the potential abandonment, I would greatly appreciate the input. Also, let me know if the City maintains that it owns the fee simple interest in the alley.

Thank you again for your assistance with this matter.

Kevin M. Rose, Esquire

BotkinRose PLC

3190 Peoples Drive

Harrisonburg, Virginia 22801

(540) 437-0019 (main)

(540) 271-3516 (mobile)

From: Chris Brown <Chris.Brown@harrisonburgva.gov>
Sent: Wednesday, July 24, 2024 2:27 PM
To: Kevin Rose <krose@botkinrose.com>
Subject: FW: Old Town Alley between Franklin St. and prior portion of Ash Tree Lane

Kevin,

See comments from Thanh below, especially the comments and map under Number 1. Is this the area you're talking about? As you can see from my comments I didn't find where Dr. Arthur's request was ever finalized. Might be there but it would take some looking thru minutes.

Chris

From: Thanh Dang <Thanh.Dang@harrisonburgva.gov>
Sent: Wednesday, July 24, 2024 11:49 AM
To: Chris Brown <Chris.Brown@harrisonburgva.gov>
Subject: RE: Old Town Alley between Franklin St. and prior portion of Ash Tree Lane

Hi Chris,

1. Thanks for the information.
2. I didn't provide comments in red text and forgot to delete that sentence in my previous email. Briefly, the comment I was going to make was that for zoning setback purposes, we measure setbacks from the "edge" of the public alley easement.
3. Yes, you can share my emails/comments with Kevin.
4. Here is the City webpage with instructions and the application form for street/alley closings - <https://www.harrisonburgva.gov/street-alley-closings>. Please share this with Kevin and he's welcome to contact me or Meg if he has any questions. If he wants, he can ask me/Meg to preliminarily ask city staff if they have any concerns with closing the alley before he submits a formal application. If he wants that, he can contact me, and I ask that he confirm that it's the alley between TM 26-L-11 and 12 that he is requesting to close (I assumed that, but wasn't 100% sure).

Thanks.

Thanh Dang, AICP | Deputy Director of Community Development

(540) 432-7700 | Thanh.Dang@HarrisonburgVA.gov

From: Chris Brown <Chris.Brown@harrisonburgva.gov>
Sent: Wednesday, July 24, 2024 11:12 AM
To: Thanh Dang <Thanh.Dang@harrisonburgva.gov>
Subject: RE: Old Town Alley between Franklin St. and prior portion of Ash Tree Lane

Just FYI, I took a look at the November 13, 1990 minutes. There were two street closings on the agenda; one for a portion of Massanutten Street requested by a poultry company, and one for Dr. Arthur for you reference below. Both were approved on a first reading. At the next Council meeting in December the Massanutten Street closing was approved on a second reading but there was no reference to the Dr. Arthur's request. I checked the last meeting in December and didn't see it there either. May have happened later, been overlooked, or withdrawn by Dr. Arthur.

Any objection if I share your comments with Kevin?

Chris

From: Thanh Dang <Thanh.Dang@harrisonburgva.gov>
Sent: Wednesday, July 24, 2024 10:09 AM
To: Chris Brown <Chris.Brown@harrisonburgva.gov>
Subject: RE: Old Town Alley between Franklin St. and prior portion of Ash Tree Lane

Good morning, Chris,

Saw your email that Pam found the ordinance, but I had already gathered this information below and started typing it up... so here you go!

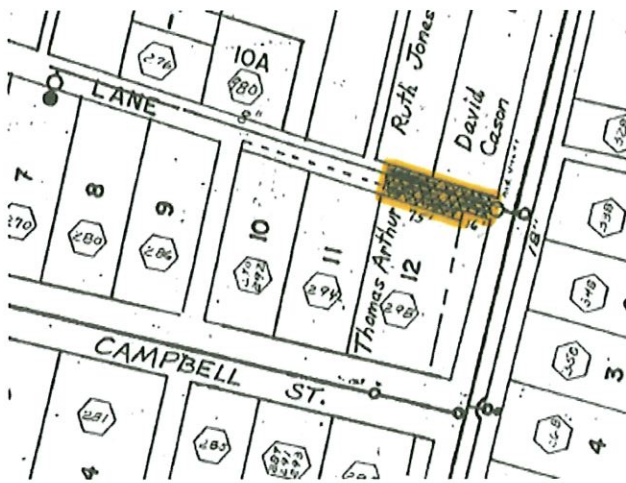
I will also offer that typically, staff has not been in support of closing alleys (as we want to reserve them for bike/ped, car access to rear yards, bike/ped facilities, etc.)... while I haven't asked other staff their opinion yet, I think staff support to close this alley is a good possibility.

I was able to find the City Ordinance closing the old portion of Ash Tree Lane (boxed in red in image below). I found no evidence of the alley between 26-L-11 and 12 being closed and no application for any previous request.



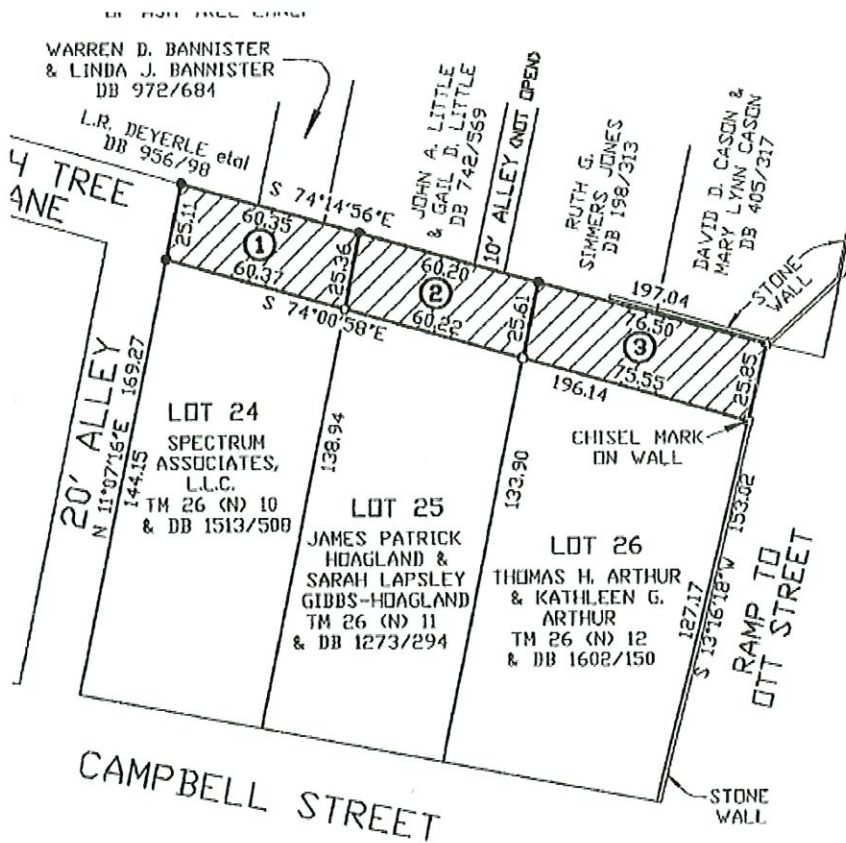
Attached are:

1. Minutes from the October 23, 1990 City Council meeting for "Council approves the Board of Viewers to Review the Closing of Ash Tree Lane and Sets a Public Hearing Date for November 13, 1990." It appears that this is only for a portion of the Ash Tree Lane behind TM 26-N-12/Lot 12. The file folder does not include minutes from the November 13, 1990 meeting so I do not know if a public hearing was held and/or if an ordinance was passed for this request.



2. Ordinance Closing A One Hundred Ninety-Six Foot Section of Ash Tree Lane, approved by City Council on March 23, 1999. What's odd here is that I can't find a file folder in Community Development records of the application, Board of Viewers or Planning Commission's review/recommendation to City Council, etc. By luck, I found the deed book and page number for this Ordinance on City tax maps.

Image below from the attached Ordinance:



I have also offered some comments in red text in Kevin Rose's email below.

Thanks.

Thanh Dang, AICP | Deputy Director of Community Development

(540) 432-7700 | Thanh.Dang@HarrisonburgVA.gov

From: Kevin Rose <krose@botkinrose.com>

Sent: Monday, July 15, 2024 3:21 PM

To: Chris Brown <Chris.Brown@harrisonburgva.gov>

Subject: Old Town Alley between Franklin St. and prior portion of Ash Tree Lane

WARNING: External email. Be cautious when clicking on links or opening attachments.

Chris,

As a follow up to the voicemail I just left you, the alley way in question is the one that is between Tax Map Parcel Nos. 26 L 11 and 26 L 12. Attached are deeds that show the history of the alley. Also is a recent plat prepared by Hall Benner.

The alley, which is 10 ft. wide, was dedicated for public use. The deed restricts building within ten feet of the western boundary of the lot. The western boundary was set in the middle of the alley. That would imply that only an easement was dedicated to the public, i.e., the easement was still owned by the adjoining lots.

If the lot is also still deemed a public easement, that might bring into play set backs that would be measured from the edge of the easement rather than the lot boundary that is the middle of the easement.

The alley extended to the 16 ft. alley behind the houses, which is Ash Tree Lane. However, that portion of alley, which extended to Ott Street, was given up by the City. Thus, this 10 ft. alley serves no purpose and it now dead ends at the back of the houses on the upper part of Campbell Street. However, I could not find where the 10 ft. alley was abandoned by the City. If it was, I figure you can find that much quicker than I can. If it was not abandoned, I want to discuss with you if the City would abandon it.

I will have my paralegal look again for any deed that might evidence that the 10 ft. alley was abandoned. It may be that abandonment occurred when the portion of Ash Tree Lane was abandoned. I was told that the City conveyed that portion to the owners of the lots on the upper part of Campbell Street. If so, it may be that the 10 ft. alley was conveyed or abandoned at the same time. I note that it could not be conveyed if the lots on Franklin Street retained the fee simple in the 10 ft. alley way. Thus, it would seem that an abandonment would be what would occur. If so, is a deed recorded to note the abandonment.

In any event, if you can let me know what you find on this 10 ft. alley, I would appreciate it. Thanks.

Kevin M. Rose, Esquire

BotkinRose PLC

[3190 Peoples Drive](#)

[Harrisonburg, Virginia 22801](#)

(540) 437-0019 (main)

(540) 437-1808 (direct)

(540) 271-3516 (mobile)

 **Title to Vacated Streets.pdf**
657K

Re: Alley Closure

From Little, John - littleja <littleja@jmu.edu>

Date Fri 5/2/2025 10:11 AM

To Meghan T. Rupkey <Meghan.Rupkey@harrisonburgva.gov>

WARNING: External email. Be cautious when clicking on links or opening attachments.

Hello Meghan,

Yes. I agree with the statements below, about closing the alley to public use while retaining mutual access to the alley for the two properties between which the alley runs. My main concern is the importance of retaining back yard access for both properties, mine and that of the McGehees (291 and 295 Franklin Street), continuing into the future. This agreement should do that.

Thank you.

John Little

Dr. John A. Little
Emeritus Professor of Music-Voice
Former Coordinator of Vocal Performance
James Madison University School of Music
291 Franklin Street
Harrisonburg, VA 22801
Phone: 540-421-6795

From: Meghan T. Rupkey <Meghan.Rupkey@harrisonburgva.gov>

Sent: Friday, May 2, 2025 8:37 AM

To: John and Sandra <quiggmcgehee@gmail.com>; Little, John - littleja <littleja@jmu.edu>

Subject: Re: Alley Closure

You don't often get email from meghan.rupkey@harrisonburgva.gov. [Learn why this is important](#)

Thank you!

Mr. Little, can you respond back to this email if you agree with this email? Thanks!

Meg Rupkey, CZO

Planner, City of Harrisonburg

540-432-7700 | She/Her/Hers

From: John and Sandra <quiggmcgehee@gmail.com>

Sent: Thursday, May 1, 2025 6:32 PM

To: Meghan T. Rupkey <Meghan.Rupkey@harrisonburgva.gov>; John Little <littleja@jmu.edu>

Subject: Alley Closure

WARNING: External email. Be cautious when clicking on links or opening attachments.

Hello Meg,

I would like to introduce you to Dr. John Little, owner of 291 Franklin Street. Dr. Little and I have spoken about the potential closing and have agreed that we both support the City abandoning the public easement on the alley on the condition that we establish a mutual private easement to ensure we both retain the same access to the alley that we currently enjoy. Our attorney Kevin Rose is ready to prepare a new deed to create this private easement.

Please let me know if there is anything you need from us at this time..

Many thanks!

--

Sandra Quigg & John McGehee
295 Franklin Street | 540-438-0707

Re: Alley Closure

From GREGORY SMITH <gks814@comcast.net>

Date Tue 5/6/2025 9:56 PM

To John and Sandra <quiggmcgehee@gmail.com>; Meghan T. Rupkey <Meghan.Rupkey@harrisonburgva.gov>

WARNING: External email. Be cautious when clicking on links or opening attachments.

Meg, this message confirms our call today regarding the alley closure from Franklin to the back of our property. We believe there is a possible solution.

Our property will require construction equipment access to the backyard and the back facade of our house. There is no access from the front due to the very narrow setbacks. Currently, the only legal access we have is the alley off Franklin. We have used Ash Tree Lane but technically that is a utility easement that we do not believe is guaranteed to us. We prefer to use Ash Tree Lane and will continue to do so as long as allowed but this could change in the future and we may not have any legal access for necessary equipment.

John, Meg mentioned that you and John Little are allowing each other access to the back of your properties but would like to close the alley for public access. If our property could be included in this agreement to ensure we have legal access for us, or any contractors we may hire, to access our property from Franklin Street, we would support closing the alley to public access. The agreement would need to be for the property not just us as current owners.

Please let me know your thoughts.

Thanks to all for listening to our concern.

Greg & Kim Smith

On 05/01/2025 6:22 PM EDT John and Sandra <quiggmcgehee@gmail.com> wrote:

Hello Meg,

I would like to introduce you to Mr. Greg Smith, owner of the property at 294 Campbell Street. The alley between my house and Dr. John Little's house (291 Franklin) terminates at his property line at the rear of our back yard.

Mr. Smith and I have spoken and he has some questions for you before he is prepared to formally support our application for the City to close the alley. Please let me know if there is anything you need from us.

Many thanks!

--

Sandra Quigg & John McGehee

295 Franklin Street | 540-438-0707