

PERMANENT RESOLUTION NO. 21-159

RESOLUTION AUTHORIZING A PARTIAL RELEASE AND TERMINATION OF EASEMENT AND RIGHT-OF-WAY FOR SMITHFIELD GARDENS

WHEREAS, the City of Northport has been granted an easement and right-of-way in Smithfield Gardens which has been recorded in the Probate Office of Tuscaloosa County; and

WHEREAS, Birmingham LD, LLC (Rausch) has reconfigured this development and portions of this previous easement and right-of-way are no longer useful to the City; and

WHEREAS, Birmingham LD, LLC (Rausch) has requested a partial release and termination of easement and right-of-way for Smithfield Gardens for the property which is no longer needed by the City of Northport; and

WHEREAS, the Engineering Department and Utilities Department have no objection to the partial release and termination of this easement and right-of-way for Smithfield Gardens.

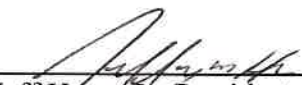
NOW, THEREFORE, IT IS HEREBY RESOLVED by the City Council of the City of Northport, Alabama as follows:

1. The City of Northport hereby agrees to the partial release and termination of easement and right-of-way for Smithfield Gardens as shown on the attached document (Exhibit "A")
2. The City Administrator is hereby authorized to sign all documents and take all other steps necessary to partially release and terminate this easement and right-of-way for Smithfield Gardens.
3. This shall be effective immediately upon publication.

RESOLVED AND DONE THIS 15TH DAY OF NOVEMBER, 2021.

CITY COUNCIL OF THE CITY OF NORTHPORT

BY:


Jeff Hogg, Its President

ATTEST:



Glenda D. Webb
City Administrator

APPROVED this the 15TH day of NOVEMBER 2021.



Bobby Herndon, Mayor

I hereby certify that the above and foregoing Permanent Resolution was published on November 24, 2021 in the Northport Gazette, a newspaper of general circulation published in the City of Northport.



Glenda D. Webb, City Administrator

1 st Reading:	Rules Suspended
Motion:	TO SUSPEND THE RULES
Motion By:	Hogg
Second By:	Dykes
2 nd Reading:	November 15, 2021
Motion:	TO PASS PERMANENT RESOLUTION
Motion By:	Hogg
Second By:	Washington
Publication:	November 24, 2021

EXHIBIT “A”

**THIS INSTRUMENT WAS PREPARED BY,
AND UPON RECORDING, RETURN TO:**

Lee L. Sheppard, Esq.
Maynard, Cooper & Gale, P.C.
1901 Sixth Avenue North, Suite 1700
Birmingham, Alabama 35203
(205) 254-1000

**PARTIAL RELEASE AND TERMINATION OF
EASEMENT AND RIGHT-OF-WAY**

This **PARTIAL RELEASE AND TERMINATION OF EASEMENT AND RIGHT-OF-WAY** (this "Release Agreement") is made this 16th day of November, 2021 (the "Effective Date"), by and between **BIRMINGHAM LD, LLC**, an Alabama limited liability company ("Rausch"), and **CITY OF NORTHPORT, ALABAMA**, a municipal corporation (the "City" and, together with Rausch, the "Releasers").

W I T N E S S E T H

WHEREAS, the City and Joseph H. Bell, III ("Bell"), entered into that certain Easement and Right-of-Way (the "Easement Agreement"), dated July 6, 1999, as recorded in Deed Book 1999, Page 10847, in the public records in the Office of the Judge of Probate for Tuscaloosa County, Alabama (the "Probate Office"), encumbering certain real property in Tuscaloosa County, Alabama, as more particularly described therein (the "Easement Property");

WHEREAS, the Easement Agreement created several easements burdening the Easement Property, including that certain access and utility easement more particularly described on Exhibit A attached thereto and attached hereto as Exhibit A (the "Access and Utility Easement");

WHEREAS, pursuant to that certain General Warranty Deed dated April 29, 2021, and recorded on May 24, 2021, in the Probate Office in Deed Book 2021, Page 12960, Rausch is now the owner of a portion of the Easement Property as more particularly described in Exhibit B-1 and depicted on Exhibit B-2 (the "Rausch Property"), together with any other privileges, easements, covenants and other rights appertaining thereto;

WHEREAS, the Releasers have determined that the Rausch Property (hereinafter defined) should not be benefitted or burdened by the Access and Utility Easement set forth in the Easement Agreement and therefore desire to terminate that portion of the Access and Utility Easement located on the Rausch Property and release the Rausch Property from the Access and Utility Easement under the Easement Agreement;

WHEREAS, the Releasers collectively hold all of the rights under the Easement Agreement with respect to the Rausch Property, there are no other parties holding valid rights in and to that portion of the Access and Utility Easement located on the Rausch Property, and the Releasers

collectively constitute all of the parties required to consent to the release of the Rausch Property from the Access and Utility Easement under the Easement Agreement and the termination of that portion of the Access and Utility Easement located on the Rausch Property.

NOW, THEREFORE, for and in consideration of Ten Dollars (\$10.00) and other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, the Releasers, hereby terminate that portion of the Access and Utility Easement located on the Rausch Property as depicted on Exhibit B-2 and hereby quitclaim and release from the Easement Agreement the rights, title, privileges, and authority granted in the Easement Agreement related to Rausch Property burdened by the Access and Utility Easement as depicted on Exhibit B-2.

The Releasers hereby reserve to themselves, their successors and assigns, all of their rights, title and interest in and to any and all portions of the Easement Property not hereby quitclaimed and released.

[Signature Pages Follow]

IN WITNESS WHEREOF, the City and Rausch have signed and sealed this Release Agreement on the date of the acknowledgement of the party's signature below to be effective as of the Effective Date.

CITY:

CITY OF NORTHPORT, ALABAMA,
a municipal corporation

By: 

Name: Glenda D. Webb

Title: City Administrator/City Clerk

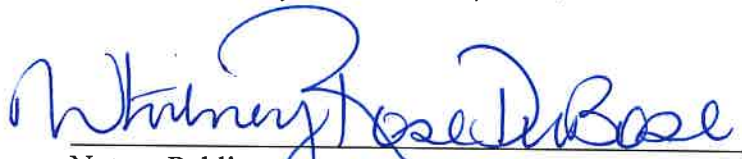
STATE OF ALABAMA)

ACKNOWLEDGEMENT

COUNTY OF TUSCALOOSA)

I, the undersigned, a Notary Public in and for said County and State, hereby certify that Glenda D. Webb, whose name as City Administrator of the City of Northport, Alabama, a municipal corporation, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day, that being informed of the contents of said instrument, s/he as such officer and with full authority, executed the same voluntarily for and as the act of the City of Northport.

Given under my hand and official seal on this 16th day of November, 2021.



Notary Public

Printed Name:

Whitney Rose DuBose

My commission expires: My Commission Expires

September 17, 2022

[SEAL]

RAUSCH:

BIRMINGHAM LD, LLC,
an Alabama limited liability company

By: _____

Name: _____

Title: _____

STATE OF ALABAMA)

COUNTY OF _____)

ACKNOWLEDGEMENT

I, the undersigned, a Notary Public in and for said County and State, hereby certify that _____ whose name as _____ of Birmingham LD, LLC, an Alabama limited liability company, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day, that being informed of the contents of said instrument, s/he as such officer and with full authority, executed the same voluntarily for and as the act of said limited liability company.

Given under my hand and official seal on this ____ day of _____, 2021.

Notary Public

Printed Name: _____

My commission expires: _____

[SEAL]

EXHIBIT A

Access and Utility Easement

Certain real property located in Tuscaloosa County, Alabama, as more particularly described as follows:

A 30 foot utility and access easement being 15 feet either side of a centerline located in the Southeast Quarter of the Northwest Quarter of Section 5, Township 21 South, Range 10 West in Tuscaloosa County, Alabama and being more particularly described as follows:

As a starting point start at the Southwest corner of said Southeast Quarter of Northwest Quarter; thence run in a Easterly direction and along the South boundary of said Southeast Quarter of Northwest Quarter for a distance of 398.36 feet to a point; thence with a deflection angle of 90 degrees and 00 minutes to the left run in an Northerly direction for a distance of 120.47 feet to the POINT OF BEGINNING of the easement herein described; thence with a deflection angle of 40 degrees and 34 minutes to the right run in a Northeasterly direction and along said centerline for a distance of 72.79 feet to a point; thence with a deflection angle of 31 degrees and 44 minutes to the right run in a Northeasterly direction and along said centerline for a distance of 86.72 feet to a point; thence with a deflection angle of 11 degrees and 48 minutes to the left run in a Northeasterly direction for a distance of 29.55 feet to a point; thence with a deflection angle of 04 degrees and 44 minutes to the left run in a Northeasterly direction and along said centerline for a distance of 51.12 feet to a point; thence with a deflection angle of 05 degrees and 18 minutes to the right run in a Northeasterly direction and along said centerline for a distance of 52.08 feet to a point; thence with a deflection angle of 06 degrees and 17 minutes to the right run in a Northeasterly direction and along said centerline for a distance of 56.33 feet to a point; thence with a deflection angle of 11 degrees and 30 minutes to the right run in a Northeasterly direction and along said centerline for a distance of 41.56 feet to a point; thence with a deflection angle of 19 degrees and 17 minutes to the right run in a Southeasterly direction and along said centerline for a distance of 27.46 feet to a point; thence with a deflection angle of 17 degrees and 55 minutes to the right run in a Southeasterly direction and along said centerline for a distance of 94.23 feet to a point; thence with a deflection angle of 27 degrees and 18 minutes to the left run in an Easterly direction and along said centerline for a distance of 22.57 feet to a point on the West Right-of-Way boundary of U.S. Highway 43 and the end of said easement.

EXHIBIT B-1

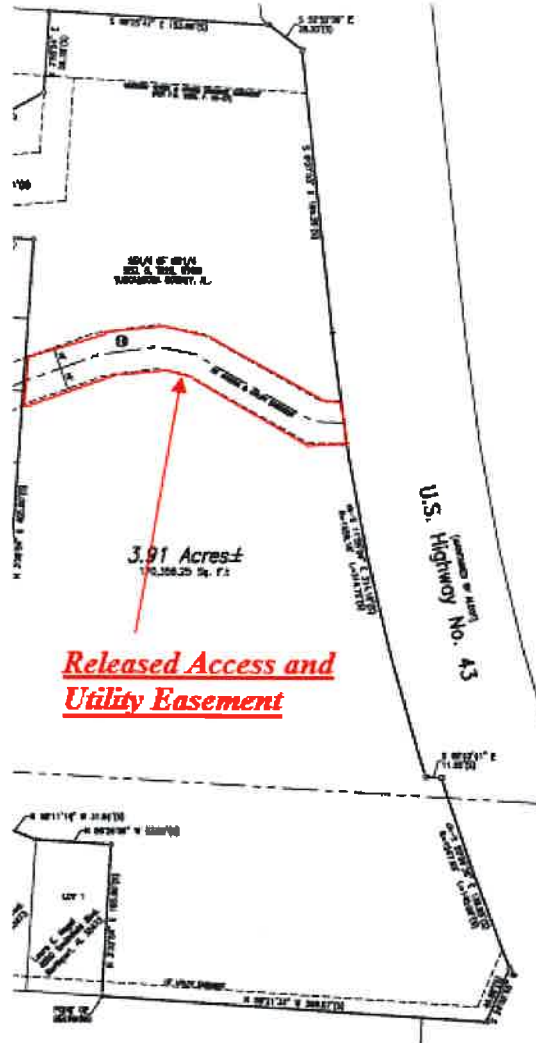
Legal Description of Rausch Property

Certain real property located in Tuscaloosa County, Alabama, as more particularly described as follows:

Beginning at a capped rebar at the southeast corner of Lot 1, according to the map of Smithfield Gardens Section One as recorded in Plat Book 2004 at Pages 91 and 92 in the Probate Office of Tuscaloosa County, Alabama; thence run N 3°33'54" E for 105.00 feet to a capped rebar; thence run N 86°26'06" W for 53.00 feet to a capped rebar; thence run N 68°11'14" W for 31.94 feet to a capped rebar; thence run N 3°58'54" E for 405.00 feet to a capped rebar; thence run N 86°26'06" W for 89.96 feet to a capped rebar on the east right-of-way of Smithfield Circle; thence run N 3°59'13" E for 7.65 feet along said east right-of-way to a capped rebar; thence run in a northerly direction along said east right-of-way, being the arc of a curve to the left, having a radius of 60.00 feet, an arc length of 32.72 feet, and a chord bearing and distance of N 11°38'06" W, 32.31 feet to a capped rebar; thence run N 61°10'45" E for 117.37 feet to a capped rebar; thence run N 3°58'54" E for 56.38 feet to a capped rebar; thence run S 86°25'47" E for 153.86 feet to a capped rebar on the west right-of-way of U.S. Highway No. 43; thence run S 52°52'09" E for 28.20 feet along said west right-of-way to a concrete right-of-way monument; thence run S 6°07'53" E for 196.29 feet along said west right-of-way to a capped rebar; thence run in a southeasterly direction along said west right-of-way, being the arc of a curve to the left, having a radius of 1558.16 feet, an arc length of 314.72 feet, and a chord bearing and distance of S 11°55'04" E, 314.19 feet to a concrete monument; thence run S 85°42'41" E for 11.02 feet to a concrete monument; thence run in a southeasterly direction along said west right-of-way, being the arc of a curve to the left, having a radius of 1547.93 feet, an arc length of 140.00 feet, and a chord bearing and distance of S 20°09'36" E, 139.95 feet to a capped rebar; thence run S 24°02'55" W for 40.88 feet to a capped rebar on the north right-of-way of Smithfield Boulevard; thence run N 86°21'33" W for 268.07 feet along said north right-of-way to the Point of Beginning. Said described property contains 3.91 acres, more or less and lies partly in the NE1/4 of the SW1/4 and partly in the SE1/4 of the NW1/4, all in Section 5, T21S, R10W, Tuscaloosa County, Alabama.

EXHIBIT B-2

Depiction of Rausch Property and the Access and Utility Easement located thereon





Mayor • Bobby Herndon

Council Members

District 1 • Christy Bobo

District 2 • Woodrow Washington, III

District 3 • John Hinton

District 4 • Jamie Dykes

District 5 • Jeff Hogg

City Administrator • Glenda D. Webb

CITY OF NORTHPORT

CERTIFICATION OF RECORD

I, Glenda D. Webb, as the City Administrator/Clerk of the City of Northport, Alabama, do hereby certify that the foregoing is a true copy of:

Permanent Resolution 21-159 Entitled: Authorizing a partial release and termination of easement and right-of-way for Smithfield Garden

The original of this document is filed in the office of the City Clerk.

I further certify that the said original was duly adopted by the Northport City Council in public session on November 15, 2021, a quorum being present, as recorded in the official minutes of the City Council.

Certified this 17th day of November, 2021.

SEAL

Glenda D. Webb
City Administrator/Clerk

**DEPARTMENTAL SUMMARY OF REQUESTED ACTION
THE NORTHPORT CITY COUNCIL AGENDA**

AGENDA ITEM NO. 8 (a) 1

MEETING DATE: November 15, 2021

SUBJECT: 1st Reading, Permanent Resolution authorizing a partial release and termination of easement and right-of-way for Smithfield Gardens

Consent Agenda	Action Agenda X	Public Hearing
First Reading X	Second Reading	Other

Prepared By: K. Braughton **Approved By: R. Davis**

Summary: In on July 6, 1999, the City of Northport and Mr. Joseph H. Bell entered into a certain easement and right-of-way encumbering certain real property located in Smithfield Gardens. The easement agreement created several easements burdening the easement property, which is now owned by Birmingham, LD, LLC (Rausch). It has been determined that the Rausch property should not be benefitted or burdened by the access and utility easement. Therefore, the City wishes to terminate that portion of the access and utility easement located on the Rausch property and release the Rausch property from the access and utility easement on the attached easement agreement.

Alternatives: Deny

Recommendation: To suspend the rules and adopt the attached Permanent Resolution authorizing a partial release and termination of easement and right-of-way for Smithfield Gardens.

Funding Source/GL Code: N/A City Administrator Approval: _____

Motion for Consideration: I move to suspend the rules to allow an immediate vote on this permanent resolution.

I move the adoption of the Permanent Resolution authorizing a partial release and termination of easement and right-of-way for Smithfield Gardens and authorizing the City Administrator to sign all documents related to said easement and right-of-way.