

**ORDINANCE NO. 3733**

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF CUMBERLAND, MARYLAND, ENTITLED "AN ORDINANCE TO PROVIDE FOR THE CLOSURE OF A PORTION OF A 12.5 FEET WIDE ALLEY LOCATED ON THE SOUTH SIDE OF 514 CONRAD AVENUE ABUTTING THE EAST SIDE OF SILBERT PLACE AND RUNNING EAST 30.20 FEET, THE PORTION OF SAID ALLEY BEING CLOSED LYING BETWEEN THE LANDS OWNED BY GENEVA A. NAVE AND DENNIS A. NAVE (AS DESCRIBED IN THE DEED RECORDED AMONG THE LAND RECORDS OF ALLEGANY COUNTY, MARYLAND IN DEED LIBER 644, FOLIO 210) ON THE NORTH SIDE OF THE PORTION OF SAID ALLEY BEING CLOSED AND THE LANDS OWNED BY CORNERSTONE BAPTIST CHURCH OF CUMBERLAND, MARYLAND, INC. (AS DESCRIBED IN THE DEED RECORDED AMONG THE AFORESAID LAND RECORDS IN DEED LIBER 548, FOLIO 438) ON THE SOUTH SIDE OF SAID ALLEY BEING CLOSED, THE PORTION OF THE ALLEY BEING CLOSED BEING SHOWN ON THE AMENDED PLAT OF JERRY C. LONG'S ADDITION TO FREDERICK STREET (RECORDED AMONG THE PLAT RECORDS OF ALLEGANY COUNTY, MARYLAND IN PLAT BOX 97), THE PORTION OF SAID ALLEY BEING CLOSED BEING LOCATED IN THE CITY OF CUMBERLAND, MARYLAND."

**WHEREAS**, the Mayor and City Council of Cumberland received a petition from Dennis A. Nave and Geneva C. Nave (collectively, hereinafter referred to as the "Naves") requesting the closure of the portion of the alley generally described in the titling of this Ordinance;

**WHEREAS**, the property located on the north side of the portion of the alley being closed is owned by Dennis A. Nave subject to Geneva A. Nave's interest in the property as a life tenant, the other life tenant named in the deed referenced in the titling of this Ordinance, Charles A. Nave, having departed this life on or about February 4, 2000;

**WHEREAS**, the property located on the south side of the portion of the alley being closed is owned by Cornerstone Baptist Church of Cumberland, Maryland, Inc. ("Cornerstone");

**WHEREAS**, the City Clerk served a personal notice in writing upon each property owner to be affected by the passage of the proposed Ordinance more than ten (10) days before February 15, 2012;

**WHEREAS**, in the opinion of the Mayor and City Council of Cumberland, the public welfare and convenience require that the aforesaid portion of the aforesaid alley be closed; and

**WHEREAS**, in that the Naves and Cornerstone own the parcels of property adjacent to each side of the portion of the alley being closed by this Ordinance, the northern half of the portion of the alley being closed for the entire length of that portion

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of the alley will be conveyed to the Naves and the southern half of the portion of the alley being closed for the entire length of that portion of the alley will be conveyed to Cornerstone.

**NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF CUMBERLAND AS FOLLOWS:**

**SECTION 1:** The portion of the alley described in the metes and bounds descriptions attached hereto as Exhibits A and B and identified as Area 1 and Area 2 on the plat attached hereto as Exhibit C is closed. The said closure is not subject to any reservations or easements in favor of the City.

**SECTION 2:** The said Mayor and City Council of Cumberland shall ascertain whether any and what amount in value of damage shall be caused by the aforesaid closure for which the owners or possessors of any property located along said alley, or portions thereof, should be compensated, and shall assess and levy generally on the property of the persons benefitted by the closure of the alley the whole or any part of the expense which shall be incurred in closing the same.

**SECTION 3:** The City Administrator or his designee shall, within fifteen (15) days of the passage of this Ordinance, submit a report to the City Clerk setting forth his findings regarding what amount of damages shall have been caused by the aforesaid alley closure, and the names of the owners or possessors of such property along which said streets now pass, and the amount of damages for which they shall be compensated or benefits for which they shall be assessed, and whether said damages arising from the closure shall be assessed generally on the whole assessable property within the City of Cumberland or specially on the property of the person benefitted by the closure; and, in the event of any of said damages being assessed and levied in whole or in part on any property of the persons benefitted, the names of the owners of the property specially benefitted, with a description of said property by reference to the Land Records of Allegany County, and the amount so levied and assessed. The Mayor and City Council shall consider the matter of the City Administrator's/designee' report and shall make determinations regarding the subject matter of the said report at a meeting held no sooner than fifteen (15) days after the date of the passage of this Ordinance.

**SECTION 4:** Any person feeling aggrieved or injured by the decision of said Mayor and City Council of Cumberland regarding the subject matter of the aforereferenced report shall have the right of an appeal to the Circuit Court at a trial by jury, as provided in Section 128 of the Charter of the City of Cumberland (1991 Edition), upon filing a written notice of appeal with the City Clerk within thirty (30) days after the Mayor and City Council of Cumberland shall have made their return.

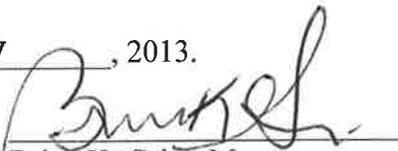
**SECTION 5:** The benefits assessed by said Mayor and City Council of Cumberland shall be liens upon the property of the persons benefitted to the extent of such assessment, and shall be payable within sixty (60) days after the date of the meeting at which the Mayor and City Council of Cumberland makes its determinations regarding

the subject matter set forth in the City Administrator's report, and the collection of the same shall be enforced by *scire facias* in the same manner as paving liens are collected by the Mayor and City Council; and a written record of the said Mayor and City Council's determinations shall be filed for record and reported in the Mechanics' Lien Record in the Clerk's Office in the Circuit Court for Allegany County, and the assessment therein shall be liens upon the properties respectively assessed from the time of such recording, such recording to be effected no sooner than the expiration of the aforesaid sixty (60) day period.

**SECTION 6:** Upon the collection of all benefits assessed and the payment of the damages ascertained, or the waiver of this provision by the parties interested, if applicable, the said alley particularly described in Section 1 hereof shall be closed and the Mayor shall be empowered to execute deeds effecting the conveyance of the property described in Exhibit A to Cornerstone and the property described in Exhibit B to the Naves (i.e., fee simple title to Dennis A. Nave, subject to the reservation of a life estate for Geneva A. Nave).

**SECTION 7:** This Ordinance shall take effect from the date of its passage.

Passed, the 12th day of February, 2013.

  
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Brian K. Grim, Mayor

ATTEST:  
  
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Marjorie A. Eirich, City Clerk

**1st reading: January 29, 2013**  
**2nd reading: January 29, 2013**  
**3rd reading: February 12, 2013**

**Effective: February 12, 2013**

**EXHIBIT A**

**AREA 1  
METES AND BOUNDS DESCRIPTION  
TO BE CONVEYED TO  
CORNERSTONE BAPTIST CHURCH**

Beginning at a point located 130.25 feet from the intersection of Silbert Place (a 20 foot alley) and Conrad Avenue and binding with a new division line of the 12.5 foot alley being closed

1. South 50 degrees 30 minutes 00 seconds East 30.20 feet to a point; thence
2. South 37 degrees 36 minutes 00 seconds West 6.25 feet to a point; thence
3. North 50 degrees 30 minutes 00 seconds West 30.20 feet to a point on the East limits of Silbert Place; thence with a portion of the East limits of Silbert Place
4. North 37 degrees 36 minutes 00 seconds East 6.25 feet to a point and the place of beginning.

Containing 188.65 square feet, more or less, as surveyed by SPECS, Inc. in July, 2012.

**EXHIBIT B**

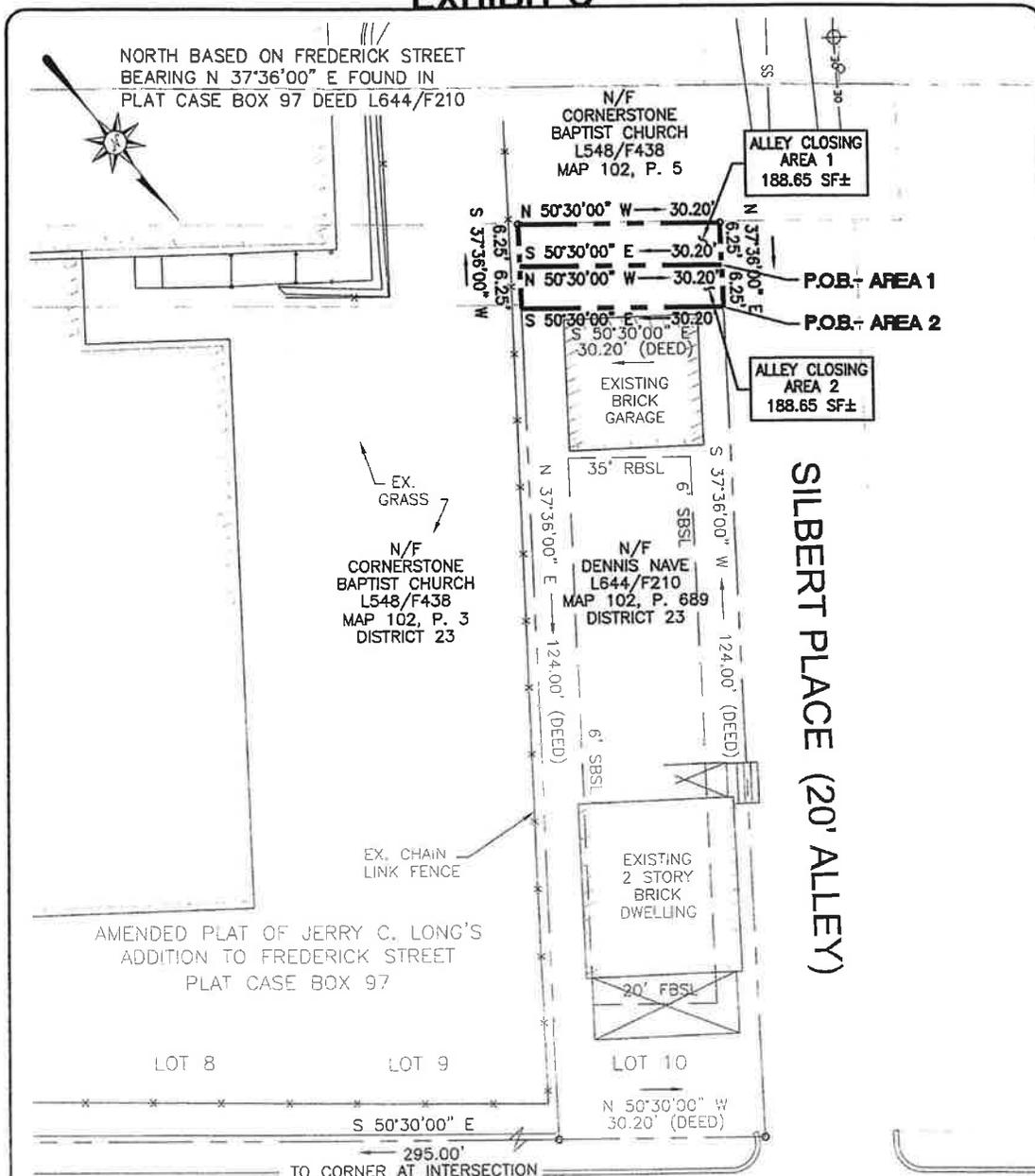
**AREA 2  
METES AND BOUNDS DESCRIPTION  
TO BE CONVEYED TO  
GENEVA A. NAVE AND DENNIS A. NAVE**

Beginning at a point located 124.00 feet from the intersection of Silbert Place (a 20 foot alley) with Conrad Avenue and binding with the third line of a deed recorded in Liber 644 Page 210 among the land records of Allegany County, Maryland, said line also being the northerly limits of a 12.5 foot alley being closed

1. South 50 degrees 30 minutes 00 seconds East 30.20 feet to a point; thence
2. South 37 degrees 36 minutes 00 seconds West 6.25 feet to a point; thence binding with a new division line of the 12.5 foot alley
3. North 50 degrees 30 minutes 00 seconds West 30.20 feet to a point on the East limits of Silbert Place; thence with a portion of the East limits of Silbert Place
4. North 37 degrees 36 minutes 00 seconds East 6.25 feet to the place of beginning.

Containing 188.65 square feet, more or less, as surveyed by SPECS, Inc. in July, 2012.

# EXHIBIT C



**SURVEYORS CERTIFICATION**  
I HEREBY CERTIFY THAT, IN JULY 2012, A SURVEY OF THE TRACT SHOWN HEREON WAS PREPARED UNDER MY DIRECTION AND THIS PLAT WAS PREPARED IN ACCORDANCE WITH THE FIELD NOTES AND COMPUTATIONS OF SAID SURVEY. I FURTHER CERTIFY THIS PLAT TO BE COMPLETE AND ACCURATE.

*James F. Hosken*  
JAMES F. HOSKEN, P.E., R.L.S.  
PROFESSIONAL LAND SURVEYOR  
MD REG. NO. 10673



**FLOOD PLAIN NOTE:**  
NOTE: THIS PROPERTY APPEARS TO BE LOCATED IN ZONE C OF THE 100 YEAR FLOOD BOUNDARY AS INDICATED BY THE NATIONAL FLOOD INSURANCE RATE MAP, COMMUNITY-PANEL NO. 240003 0005 C, DATED ON SEPTEMBER 1, 1983. IT WAS NOT THE INTENT OF THIS SURVEY TO STUDY AND/OR MAKE A DETERMINATION AS TO THE ACCURACY OF THE FLOOD ZONE CLASSIFICATION.

APPROVED BY:  
CITY ENGINEERING DEPARTMENT

<b>ALLEY CLOSING</b>		<b>SPECS</b> SURVEYING & PROFESSIONAL ENGINEERING CONSULTING SERVICES, INCORPORATED 105 South Centre Street - Cumberland, Maryland 21502 Tele.No. (301)-777-2510 Fax. No. (301)-777-8419 Joo No. 4318 Date 11 JULY 2012 CADD FILE: 4318BASE-EX.DWG Scale: 1"=20' Drawn By: CLW
PREPARED FOR: DENNIS NAVE 19529 LORRAINE TERR. HAGERSTOWN, MD 21742 PHONE: (240) 291-8869	PREMISES ADDRESS: 514 CONRAD AVENUE CUMBERLAND, MD 21502	