

ORDINANCE NO. 836

ORDINANCE TO VACATE ALLEYS AND/OR STREETS IN THE TOWN OF YORKTOWN, DELAWARE COUNTY, INDIANA

WHEREAS, Zina Lee Bartle (the “Petitioner”), having filed their Petition to Vacate Platted Alleys in the Town of Yorktown, Delaware County, Indiana (the “Petition”), the Town Council for the Town of Yorktown, Indiana, has provided notice pursuant to Ind. Code § 36-7-3-12(c) and Ind. Code § 5-3-1 stating that it now desires to vacate the Vacation Area, as described in the Petition and as illustrated in “EXHIBIT A” attached hereto, which said Vacation Area is legally described as follows:

Alley 1 –

A portion of a 15-foot-wide east/west alley east of Edith Street from heretofore vacated Edith Street to the first 15-foot-wide north/south alley east of said Edith Street in the Western Improvement Company's Addition to the Village of West Muncie, as shown by the plat of said Addition, recorded in Plat Book Two (2) at page 136 of the records of Delaware County, Indiana, more particularly described as follows:

BEGINNING at the northwest corner of Lot 11 in Block 52 of said Plat, thence North 89°35'25” East 180.0 feet along the north lines of Lots 11, 12, 13, and 14 in Block 52 of said Plat; thence North 00°23'18” West 15.0 feet; thence South 89°35'25” West 180.0 feet along the south lines of Lots 7, 8, 9, and 10 in Block 52 of said Plat; thence South 00°23'18” East 15.0 feet to the point of beginning.

Alley 2 –

A portion of a 15-foot-wide north/south alley north of Weller Street from Weller Street to the north line of the first 15-foot-wide east/west alley north of said Weller Street in the Western Improvement Company's Addition to the Village of West Muncie, as shown by the plat of said Addition, recorded in Plat Book Two (2) at page 136 of the records of Delaware County, Indiana, more particularly described as follows:

BEGINNING at the southeast corner of Lot 14 in Block 52 of said Plat, thence North 89°35'25” East 15.0 feet to the southwest corner of Lot 6 in Block 52 of said Plat; thence North 00°23'18” West 132.5 feet along the west lines of Lots 4, 5, and 6 in Block 52 of said Plat; thence South 89°35'25” West 15.0 feet to a point 7.5 feet north of the northeast corner of Lot 14 in Block 52 of said Plat; thence South 00°23'18” East 132.5 feet along the east line of Lot 14 in Block 52 of said Plat to the point of beginning.

WHEREAS, the notice further provided information regarding a public hearing on the proposed vacation, which said public hearing was held on May 15, 2023, consistent with, and pursuant to, Ind. Code § 36-7-3-12, which said hearing date was no more than thirty days from the date the Petition was received; and

WHEREAS, the Petitioner owns land which abuts the Vacation Area together with Jerry Kay Davis, Earnest N. Hogue, and Connie Jo Davis, respectively; and

WHEREAS, the Town Council for the Town of Yorktown, Indiana, having duly considered the proposed vacation of the Vacation Area, as stated in the Petitioner's Petition, now desires to adopt an ordinance in accordance with Ind. Code § 36-7-3-12 to formally vacate said Vacation Area as requested in Petitioner's Petition.

NOW THEREFORE, BE IT ORDAINED by the Town Council for the Town of Yorktown, Delaware County, Indiana, acting according to the authority granted to it pursuant to Ind. Code § 36-7-3-12, as follows:

SECTION 1. The Town Council for the Town of Yorktown, Indiana finds and determines that vacating the Vacation Area will not:

- A. Hinder the growth or orderly development of the unit or neighborhood in which said Vacation Area is located or to which the Vacation Area is contiguous;
- B. Hinder the public's access to a church, school, or other public building or place;
- C. Make access to the lands of any person by means of public way difficult or inconvenient; or
- D. Hinder the use of a public way by the neighborhood in which it is located or to which it is contiguous.

SECTION 2. The following described Vacation Area located within the boundaries of the Town of Yorktown, Delaware County, Indiana, is hereby vacated:

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Alley 1 –

A portion of a 15-foot-wide east/west alley east of Edith Street from heretofore vacated Edith Street to the first 15-foot-wide north/south alley east of said Edith Street in the Western Improvement Company's Addition to the Village of West Muncie, as shown by the plat of said Addition, recorded in Plat Book Two (2) at page 136 of the records of Delaware County, Indiana, more particularly described as follows:

BEGINNING at the northwest corner of Lot 11 in Block 52 of said Plat, thence North 89°35'25" East 180.0 feet along the north lines of Lots 11, 12, 13, and 14 in Block 52 of said Plat; thence North 00°23'18" West 15.0 feet; thence South 89°35'25" West 180.0 feet along the south lines of Lots 7, 8, 9, and 10 in Block 52 of said Plat; thence South 00°23'18" East 15.0 feet to the point of beginning.

Alley 2 –

A portion of a 15-foot-wide north/south alley north of Weller Street from Weller Street to the north line of the first 15-foot-wide east/west alley north of said Weller Street in the Western Improvement Company's Addition to the Village of West Muncie, as shown by the plat of said Addition, recorded in Plat Book Two (2) at page 136 of the records of Delaware County, Indiana, more particularly described as follows:

BEGINNING at the southeast corner of Lot 14 in Block 52 of said Plat, thence North 89°35'25" East 15.0 feet to the southwest corner of Lot 6 in Block 52 of said Plat; thence North 00°23'18" West 132.5 feet along the west lines of Lots 4, 5, and 6 in Block 52 of said Plat; thence South 89°35'25" West 15.0 feet to a point 7.5 feet north of the northeast corner of Lot 14 in Block 52 of said Plat; thence South 00°23'18" East 132.5 feet along the east line of Lot 14 in Block 52 of said Plat to the point of beginning.

SECTION 3. The vacation of the Vacation Area authorized by this Ordinance is subject to any easements of record or otherwise currently and lawfully enjoyed by any and all public utilities, including water, sewer, storm water, drainage, electricity, telecommunications, natural gas, cable television, and internet, which existing easement rights shall survive the vacation.

SECTION 4. Subject to the restrictions described in Section 3, above, relevant portions of the Vacation Area shall revert according to the laws of the State of Indiana and, more particularly, as follows:

Alley 1 –

To Zina Lee Bartle:

The south 7.5 feet of a portion of a 15-foot-wide east/west alley east of Edith Street from heretofore vacated Edith Street to the first 15-foot-wide north/south alley east of said Edith Street in the Western Improvement Company's Addition to the Village of West Muncie, as shown by the plat of said Addition, recorded in Plat Book Two (2) at page 136 of the records of Delaware County, Indiana, more particularly described as follows:

BEGINNING at the northwest corner of Lot 11 in Block 52 of said Plat, thence North $89^{\circ}35'25''$ East 180.00 feet along the north lines of Lots 11, 12, 13, and 14 in Block 52 of said Plat; thence North $00^{\circ}23'18''$ West 7.50 feet; thence South $89^{\circ}35'25''$ West 180.00 feet along the centerline of said Alley; thence South $00^{\circ}23'18''$ East 7.50 feet to the point of beginning.

Parcel No. 18-10-22-254-008.000-017

To Jerry Kay Davis:

The north 7.5 feet of a portion of a 15-foot-wide east/west alley east of Edith Street from heretofore vacated Edith Street to the first 15-foot-wide north/south alley east of said Edith Street in the Western Improvement Company's Addition to the Village of West Muncie, as shown by the plat of said Addition, recorded in Plat Book Two (2) at page 136 of the records of Delaware County, Indiana, more particularly described as follows:

BEGINNING at a point 7.5 north of the northwest corner of Lot 11 in Block 52 of said Plat; thence North $89^{\circ}35'25''$ East 180.0 feet along the centerline of said Alley; thence North $00^{\circ}23'18''$ West 7.5 feet; thence South $89^{\circ}35'25''$ West 180.0 feet along the south lines of Lots 7, 8, 9, and 10; thence South $00^{\circ}23'18''$ East 7.5 feet to the point of beginning.

Parcel No. 18-10-22-254-003.000-017

Alley 2 –

To Zina Lee Bartle:

The west 7.5 feet of a portion of a 15-foot-wide north/south alley north of Weller Street from Weller Street to the north line of the first 15-foot-wide east/west alley

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north of said Weller Street in the Western Improvement Company's Addition to the Village of West Muncie, as shown by the plat of said Addition, recorded in Plat Book Two (2) at page 136 of the records of Delaware County, Indiana, more particularly described as follows:

BEGINNING at the southeast corner of Lot 14 in Block 52 of said Plat, thence North 89°35'25" East 7.5 feet to the centerline of said Alley; thence North 00°23'18" West 132.5 feet along the centerline of said Alley; thence South 89°35'25" West 7.5 feet to a point 7.5 feet north of the northeast corner of Lot 14 in Block 52 of said Plat; thence South 00°23'18" East 132.5 feet along the east line of Lot 14 in Block 52 of said Plat to the point of beginning.

Parcel No. 18-10-22-254-008.000-017

To Ernest N. Hogue & Connie Jo Davis:

The east 7.5 feet of a portion of a 15-foot-wide north/south alley north of Weller Street from Weller Street to the north line of the first 15-foot-wide east/west alley north of said Weller Street in the Western Improvement Company's Addition to the Village of West Muncie, as shown by the plat of said Addition, recorded in Plat Book Two (2) at page 136 of the records of Delaware County, Indiana, more particularly described as follows:

BEGINNING at a point 7.5 feet east of the southeast corner of Lot 14 in Block 52 of said Plat, thence North 89°35'25" East 7.5 feet to the southwest corner of Lot 6 in Block 52 of said Plat; thence North 00°23'18" West 132.5 feet along the west lines of Lots 4, 5, and 6 in Block 52 of said Plat; thence South 89°35'25" West 7.5 feet to the centerline of said Alley; thence South 00°23'18" East 132.5 feet along the centerline of said Alley to the point of beginning.

Parcel No. 18-10-22-254-013.000-017

SECTION 5. This Ordinance shall be furnished to the Delaware County Auditor so the Vacation Area may be duly entered for taxation and recorded in the Office of the Recorder of Delaware County, Indiana.

SECTION 6. The provisions of this Ordinance shall become effective upon its adoption by the Town Council for the Town of Yorktown, Indiana, publication as required by law, and recording in the Office of the Recorder of Delaware County, Indiana.

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DULY ADOPTED by the Town Council for the Town of Yorktown, Indiana at a regularly scheduled public meeting held on this, the _____ day of _____, 2023.

THE TOWN COUNCIL OF THE
TOWN OF YORKTOWN, INDIANA

President

Vice President

Member

Member

Member

Member

Member

ATTEST:

Lance Turner, Clerk-Treasurer
Town of Yorktown, Indiana

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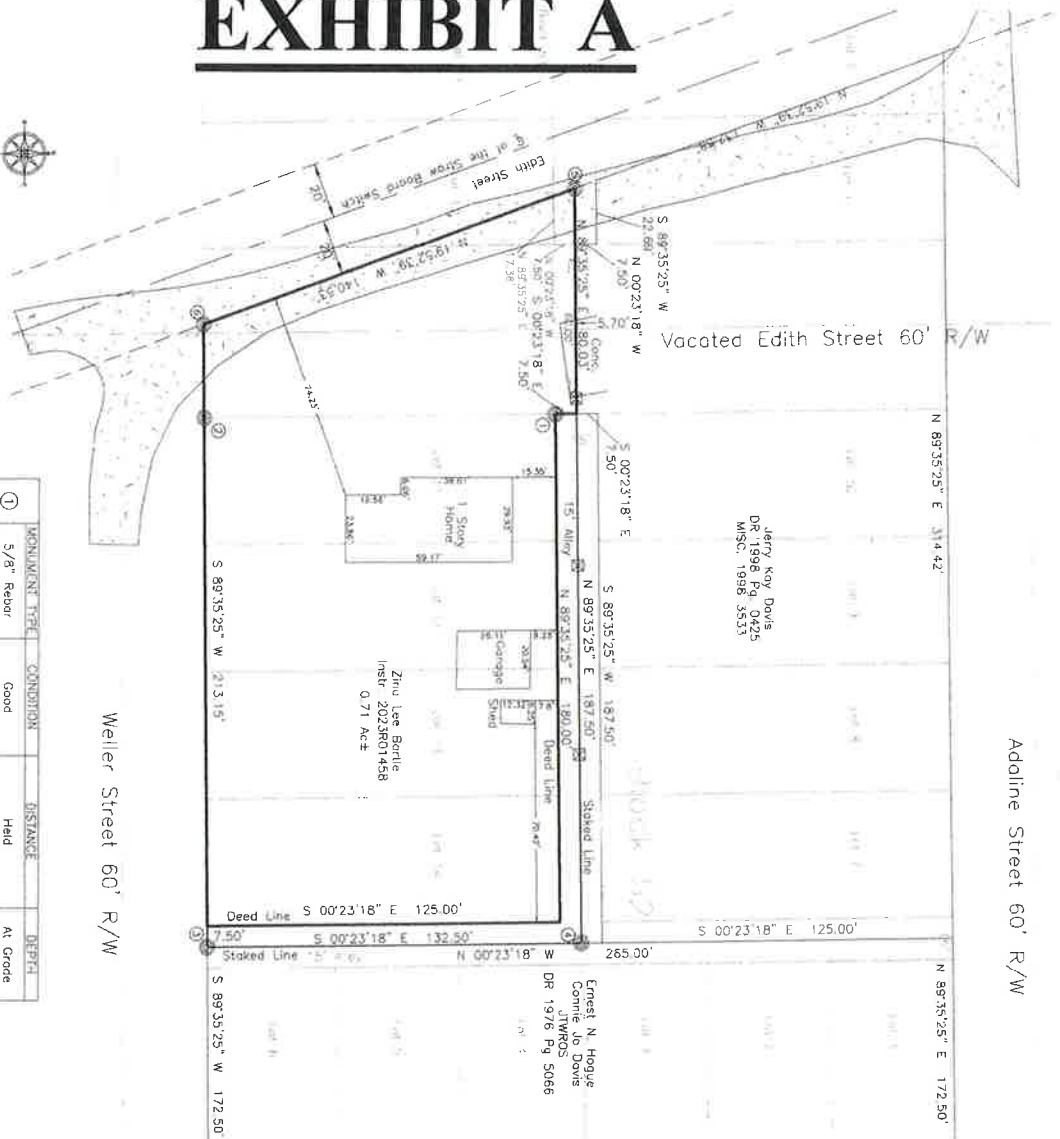
I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law.

*This instrument prepared by
and please return original to:*

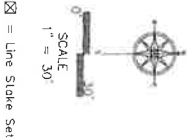
JOSEPH I. RHETTS #32733-24
ATTORNEY AT LAW

DEFUR VORAN LLP
Joseph I. Rhettts
400 South Walnut Street
Suite 200
Muncie, Indiana 47305

EXHIBIT A



NO.	MONUMENT TYPE	CONDITION	DISTANCE	DEPTH
①	5/8" Rebar	Good	Held	At Grade
②	5/8" Rebar	Good	Held	At Grade
③	5/8" H.A.	New	N/A	At Grade
④	5/8" H.A.	New	N/A	At Grade
⑤	Mag Nail	New	N/A	At Grade
⑥	Mag Nail	New	N/A	At Grade



☒ = Line Stake Set

This instrument prepared by Ashton L. Ashton
Accuracy or completeness of substance resources is not certified.

Adeline Street 60' R/W

Weller Street 60' R/W

Lots Eleven (11), Twelve (12), Thirteen (13), and Fourteen (14) in Block number Fifty-two (52) and all that part of Lot Twelve (12) in Block number Fifty-three (53) lying East of the Straw Board Switch in the Western Improvement Company's Addition to the Village of West Muncie, Indiana. ALSO, All that part of heretofore vacated Edith Street lying between Lot Twelve (12) in Block Fifty-three (53) and Lot Eleven (11) in Block Fifty-two (52).

I hereby certify that to the best of my information, knowledge and belief the within plat represents a survey, executed according to survey requirements in 865 IAC 1-12-7 made under my supervision and completed on March 16, 2023.

Ashton L. Ashton
Registered Land Surveyor LS#0010149
Holtan L. Ashton



Surveyor's Note
The Relative Positional Accuracy (due to random errors measurement) of the corners of the subject tract established this survey is within the specifications for a Suburban (more or less 0.13 feet) Survey.

1. In accordance with the Indiana Survey Standards as defined in Indiana Administrative Code 865 IAC 1-12-7 (Figure 127), the following opinions and observations are submitted regarding uncertainties in the location of the lines and corners established by this survey as a result of: a. Availability, condition and integrity of reference monuments; b. Record documents; c. Lines of occupation; and d. Measurements (Theoretical Uncertainty). There may be unwritten rights associated with these uncertainties.

Reference Monuments
Reference monuments on Lots 7-10 of Block 53, there was a rebar at the center of the alley located 7.5 feet West of the Northeast corner of Lot 7 and a spike on the North line of Lot 2 of Block 53. This spike and a spike found 33.15 feet West of the Southwest corner of Lot 11 of Block 52 were found marking the Eastern line of the Straw Board railroad switch. There is a rebar marking the Northwest corner of Lot 11. There is a rebar marking the Northwest corner of Lot 11.

Occupation

There is a 15-foot alley of the North side of Lots 11 thru 14 that has not been vacated. Consequently, the owner on the North has occupied the entire alley with a concrete pad and a small storage building. There is a public road of the West side that is partially located in vacated Edith Street and on Lot 12, Block 53.

Record Descriptions

The record does call for half the vacated alley East of Lot 14 for Lots 11 thru 14 of Block 52. The record description for the 1851 Deed Record 1876 page 5066 calls for half a vacated alley, but is not specific.

The record does call a part of Lot 12 of Block 53, also, vacated Edith Street between Lot 11 of Block 52 and Lot 12 of Block 53 being that part East of the Straw Board railroad switch.

In the year 1980, our firm described the public road which encroaches the subject tract to have this road legally dedicated as a street within the subject tract to obtain the described street. It remains as an encroachment. Town did not obtain the described street. The alley running east and west may not be accessible at either end. The North adjoining tract has already occupied a portion of the alley within Edith Street. The center of the alley would be the boundary if the alley is vacated. Stakes were placed at the centerlines of the above discussed alleys as though both were vacated, however, the only evidence of violation found has been discussed above. The verification of this survey is based on the Coordinate System, instead of assumed datum.

Flood Zone:

- The within tract does not lie within that Special Flood Hazard Zone as said tract plots by scale on Community Plan #18035003360 of the Flood Insurance Rate Maps for Delaware County, Indiana (Maps Dated: 07/04/2011).
- The minimum flood risk was verified by the INDNR Flood Plain Information Portal-dtd: March 16, 2023.
- The description shown hereon is per County Records or as indicated in the information provided by others.
- The above survey was performed without benefit of evidence of source of title and is subject to any state or federal notice of current title work and copies of Schedule B items in hand herein.

Boundary Survey
8510 W Weller Street
Yorktown, IN

1. I affirm, under the penalties for perjury, that I am a duly Licensed Professional Land Surveyor in the State of Indiana, and I am duly qualified to perform the services herein required by me, Ashton L. Ashton.

Drawn by: SJK
Job #: 2023/5245
Client: Zina Lee Bartle
Owner: Zina Lee Bartle
Crew: EA Filds Book
Field Date: 03/06/23
IUPPS REF: #
Sheet