

ORDINANCE NO. 2019 - \_\_\_\_\_  
OF THE TOWN OF ZIONSVILLE, INDIANA

AN ORDINANCE VACATING PLATTED EASEMENTS  
WITHIN ZIONSVILLE'S CORPORATE BOUNDARIES  
PURSUANT TO INDIANA CODE §36-7-3-12 and §36-7-3-16(a)

WHEREAS, Indiana Code §36-7-3-12 provides for the process by which public ways may be vacated, and

WHEREAS, Indiana Code §36-7-3-16(a) provides that platted easements shall be vacated in the same manner as public ways and public places; and

WHEREAS, on August 27, 2019, Jerry Schafer, HWF Properties, LLC., WJF Properties, LLC. and HTF Properties, LLC (referred to hereinafter as "Petitioners"), the owners of Lots 250A-D and 251A-D in Stonegate Section VIII, petitioned the Town of Zionsville ("Town") to vacate a platted and recorded drainage and utility easement ("Easement"), on the properties pursuant to Indiana Code §36-7-3-12 and §36-7-3-16(a); and

WHEREAS, Petitioner caused to be published notice of the petition and the time and place of the public hearing in the September 04, 2019 issue of The Zionsville Times Sentinel, a copy of which proof of publication was submitted to the Town Council of the Town of Zionsville, Indiana ("Town Council") and notified by certified mail each owner of land abutting the Easement proposed to be vacated; and

WHEREAS, on September 16, 2019, the Town Council held a public hearing on the petition to vacate the Easement, with proper notice under Indiana Law to all interested and potentially aggrieved parties; and

WHEREAS, no potentially aggrieved individual has objected under the statutory grounds provided under Indiana Code §36-7-3-13; and

WHEREAS, the Town Council, after due investigation and consideration, has determined that the nature and extent of the public use and the public interest to be served is such as to warrant vacation of the Easement described herein.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the Town Council of the Town of Zionsville, Indiana, that:

Section 1. Description of the Easement. The Easement legally described herein and Schematically illustrated on Exhibit A attached hereto, under the terms set forth herein, is hereby vacated;

The 12 foot wide platted Drainage and Utility Sewer Easement (D.& U.S.E.) general running East-West paralleling the South property line of Boone County, Indiana parcel #0031425001 (Lot 250A Stonegate Section VIII), parcel #0031425002 (Lot 250B Stonegate Section VIII), parcel #0031425003 (Lot 250C Stonegate Section VIII), parcel #0031489250 (Lot 250D Stonegate Section VIII), parcel #0031489251 (Lot 251A Stonegate Section VIII), parcel #0031425102 (Lot 251B Stonegate Section VIII), parcel #0031425103 (Lot 251C Stonegate Section VIII), parcel #0031425104 (Lot 251D Stonegate Section VIII), containing 3,085 square feet, more or less.

Section 2. Utilities. The Town retains the right to maintain, operate, repair, and replace, by Itself or by any licensee or holder of a franchise from the Town, any poles, wires, pipes, conduits, sewer mains, water mains, or any other facility or equipment for the maintenance or operation of any utility now located in the Easement vacated by this Ordinance.

Section 3. Costs. Petitioner for the Easement vacation shall, within 90 days after the passage of this Ordinance, pay to the Town of Zionsville the amount necessary to defray all costs of removing any items from the Easement, including paving and curbs returns abutting the vacated Easement, if any.

Section 4. Recording. The Director of Finance and Records of the Town of Zionsville, Indiana shall provide a copy of this Ordinance to the Boone County Recorder for recording and shall file the same with the Boone County Auditor.

Section 5. Construction of Clause Headings. The clause headings appearing herein have been provided for convenience and reference and do not purport and shall not be deemed to define, limit or extend the scope of intent of the clause to which they appertain.

Section 6. Repeal of Conflicting Ordinances. The provisions of all other Town ordinance in conflict with the provisions hereof, if any, are of no further force or effect and are hereby repealed.

Section 7. Severability. If any part of the Ordinance shall be held invalid, such part shall be deemed severable and the invalidity thereof shall not affect the remainder of this Ordinance.

Section 8. Duration and Effective Date. The provisions of this Ordinance shall become and remain in full force and effect upon passage and until its repeal by ordinance.

**DULY PASSED AND ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_ 2019, by the Town Council of the Town of Zionsville, Boone County, Indiana, having been passed by a vote of \_\_\_\_\_ in favor and \_\_\_\_\_ opposed.

**TOWN COUNCIL OF THE TOWN OF ZIONSVILLE,  
BOONE COUNTY, INDIANA**

**YEA**

**NAY**

	Signature	Signature
Josh Garrett, President Elizabeth		
Bryan Traylor, Vice-President		
Kevin Spees, Member		
Elizabeth Hopper, Member		
Thomas Schuler, Member		
Jason Plunkett, Member		
Susana Suarez, Member		

I hereby certify that the foregoing Resolution was delivered to Town of Zionsville Mayor Timothy R. Haak on the \_\_\_\_\_ day of \_\_\_\_\_ 2019, at \_\_\_\_\_ m.

ATTEST: \_\_\_\_\_ Amelia Anne Lacy, Director,  
Department of Finance and Records

**MAYOR'S APPROVAL**

\_\_\_\_\_  
Timothy R. Haak, Mayor

\_\_\_\_\_  
DATE

**MAYOR'S VETO**

\_\_\_\_\_  
Timothy R. Haak, Mayor

\_\_\_\_\_  
DATE

**EXHIBIT A**

**MAP OF PROPOSED EASEMENT VACATION**

BEEKMAN TERRACE

255  
4,062 SF

5'x5' U.E.

254  
3,332 SF

10'x10' U.E.

253  
3,375 SF

5'x5' U.E.

252  
3,375 SF

249  
3,375 SF

5'x5' U.E.

248  
3,638 SF

10'x10' U.E.

247  
3,688 SF

246  
3,885 SF

5'x5' U.E.

COMMON AREA FF-R1  
11,419 SF

REGENTS PARK  
DRIVE

251A  
3,773 SF

251B  
2,631 SF

251C  
2,630 SF

251D  
2,643 SF

250A  
2,642 SF

250B  
2,642 SF

250C  
2,630 SF

250D  
3,368 SF

10' U.E.  
10' B.S.L.  
20' S.D.&U.E.

10' B.S.L.

10' B.S.L.

10' U.E.

12' D.&U.S.E.

5' B.S.L.

12' D.&U.S.E.

5' B.S.L.

20' R.D.&U.E.  
10' B.S.L.

EASEMENT TO BE VACATED

COMMON AREA FF-R2  
18,479 SF

20' R.D.&U.E.

10' B.S.L.

30' R.D.&U.E.

50' R/W

BEEKMAN PLACE

50' R/W

10' R.D.E.

50' R/W

PETITION FOR A VACATION OF A  
PLATTED AND RECORDED EASEMENT

Jerry Schafer, HWF Properties, LLC., WJF Properties, LLC. and HTF Properties, LLC (referred to hereinafter as “Petitioners”), for their Petition for Vacation of a platted and recorded drainage and utility easement (referred to hereinafter as “Easement”), states as follows:

1. Petitioners are the owners of real estate commonly known as 6690 Beekman Place, as identified as parcel #0031425001 (lot 250A Stonegate Section VIII), 6688 Beekman Place, as identified as parcel #0031425002 (lot 250B Stonegate Section VIII), 6686 Beekman Place, as identified as parcel #0031425003 (lot 250C Stonegate Section VIII), 6684 Beekman Place, as identified as parcel #0031489250 (lot 250D Stonegate Section VIII), 6698 Beekman Place, as identified as parcel #0031489251 (lot 251A Stonegate Section VIII), 6696 Beekman Place, as identified as parcel #0031425102 (lot 251B Stonegate Section VIII), 6694 Beekman Place, as identified as parcel #0031425103 (lot 251C Stonegate Section VIII) and 6692 Beekman Place, as identified as parcel #0031425104 (lot 251D Stonegate Section VIII), in the records of the Boone County Indiana Auditors Office, containing approximately 0.527 acres more or less.

2. That there exists a Drainage and Utility Sewer Easement (D.&U.S.E.) along the South lot lines of lots 250A-D and 251A-D, currently undeveloped and not utilized and described as follows:

The 12 foot wide platted Drainage and Utility Sewer Easement (D.&U.S.E.) generally running East-West paralleling the South property line of Boone County, Indiana parcels #0031425001 (lot 250A Stonegate Section VIII), parcel #0031425002 (lot 250B Stonegate Section VIII), parcel #0031425003 (lot 250C Stonegate Section VIII), parcel #0031489250 (lot 250D Stonegate Section VIII), parcel #0031489251 (lot 251A Stonegate Section VIII), parcel #0031425102 (lot 251B Stonegate Section VIII), parcel #0031425103 (lot 251C Stonegate Section VIII) and parcel #0031425104 (lot 251D Stonegate Section VIII), containing 3,085 square feet, more or less.

3. That the “Easement” has never been utilized for drainage, sewer and utility purposes.

4. That the Petitioner proposes that the “Easement” be vacated.

5. That vacation of the “Easement” will not be detrimental to existing or proposed drainage, sewer and utility infrastructure.

WHEREFORE, the Petitioner respectfully requests that the Town Council for the Town of Zionsville vacate the "Easement" in accordance with Indiana Code Section 36-7-3-12 and 36-7-3-16(a) and for all other proper relief.

**HWF Properties, LLC**

**Lot 250A**

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Member: Holly Weaver Fenech

**WJF Properties, LLC**

**Lot 250B**

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Member: Holly Weaver Fenech

**HTF Properties, LLC**

**Lots 251C and 251D**

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Member: Holly Weaver Fenech

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Member: Joseph Fenech

**Jerry Shafer**

**Lots 250C, 250D, 251A and 251B**

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Jerry Shafer

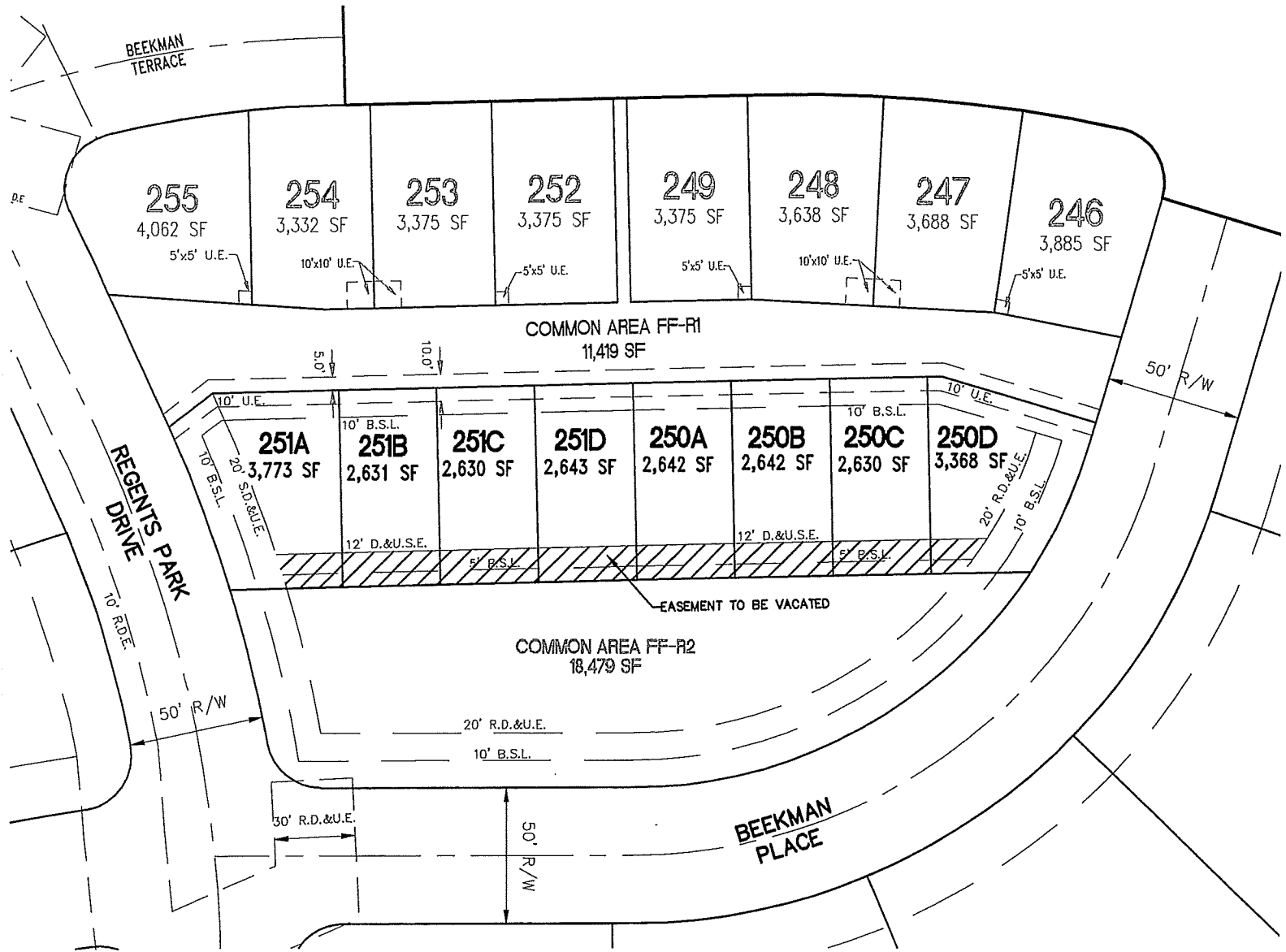
### **LEGAL DESCRIPTION**

**The 12 foot wide platted Drainage and Utility Sewer Easement (D.&U.S.E.) generally running East-West paralleling the South property line of Boone County, Indiana parcels #0031425001 (lot 250A Stonegate Section VIII), parcel #0031425002 (lot 250B Stonegate Section VIII), parcel #0031425003 (lot 250C Stonegate Section VIII), parcel #0031489250 (lot 250D Stonegate Section VIII), parcel #0031489251 (lot 251A Stonegate Section VIII), parcel #0031425102 (lot 251B Stonegate Section VIII), parcel #0031425103 (lot 251C Stonegate Section VIII) and parcel #0031425104 (lot 251D Stonegate Section VIII), containing 3,085 square feet, more or less.**



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20' R.D.&U.E.  
10' B.S.L.

30' R.D.&U.E.

50' R/W

BEEKMAN  
PLACE

## Ed Mitro

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**From:** Amy Lacy  
**Sent:** Tuesday, September 10, 2019 3:52 PM  
**To:** Ed Mitro; Wayne DeLong; Janice Stevanovic  
**Subject:** FW: Petition number 2019-38-RP (RE: Jerry Schafer)

Did you get this and who needs to answer it?

Amy Lacy, Director, IAMC  
Department of Finance and Records  
Phone: 317-733-2277  
Cell: 317-995-1763  
Fax: 317-873-8021

**From:** Brent Siesky <brentsiesky@hotmail.com>  
**Sent:** Tuesday, September 10, 2019 9:40 AM  
**To:** Amy Lacy <ALacy@zionsville-in.gov>  
**Subject:** Re: Petition number 2019-38-RP (RE: Jerry Schafer)

Dear Amelia,

In follow up after attending the Stonegate architecture committee meeting last night and meeting with several residents (and calming down a bit, forgive my passion in the previous email, I am sensitive to this issue due to a previous builders attempt to actually build on the park land itself) would be the following compromise:

The petition be allowed, but with stipulation of approximately 5 foot of easement to remain at the border of the common area for future utility use if a need ever arises and also to maintain a distinct separation of the common area from the petitioner's yard.

I believe this is a reasonable position both provide the petitioner with extended use of the majority of his land but also to maintain a narrow utility easement path and separation from the public park.

I would like this to be the official position of the Stonegate Townhome Property Owners Association (rather than just full opposition suggested in previous email).

Please let me know if I need to deliver this revised suggestion (in printed form) to the Town Hall or if this email is sufficient for the consideration during the pending debate.

Thank you for your time and allowing me to clarify our position.

Brent

President Stonegate Town Homes POA

Brent Siesky, PhD  
Assistant Director  
Glaucoma Research and Diagnostic Center