

**ORDINANCE NO. 2021-07_
OF THE TOWN OF ZIONSVILLE, INDIANA**

**AN ORDINANCE VACATING A PORTION OF A PUBLIC RIGHT-OF-WAY
WITHIN THE ZIONSVILLE CORPORATE BOUNDARIES
PURSUANT TO INDIANA CODE § 36-7-3-12**

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

WHEREAS, on April 9, 2021, Christopher P. Parr and Jacqueline Nonweiler-Parr (collectively “Petitioner”), petitioned the Town of Zionsville (“Town”) to vacate a portion of a public right-of-way (an east/west platted alley) located between Oak Street and Pine Street, beginning approximately 263.0 feet west of the western right-of-way line of Ninth Street and extending westward 56.00 feet, pursuant to Indiana Code § 36-7-3-12; and,

WHEREAS, the Town caused to be published notice of the petition and the time and place of the public hearing in the May 4, 2021 issue of the Lebanon Reporter, a copy of which proof of publication was submitted to the Town Council of Zionsville, Indiana (“Town Council”) and the Petitioner notified by certified mail each owner of land abutting the portions of the public alley right-of-way proposed to be vacated; and,

WHEREAS, on May 17, 2021, the Town Council held a public hearing on the petition to vacate the portion of the right-of-way, 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 portion of the public alley right-of-way 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 Right-of-Way. The Right-of-way legally described herein and schematically illustrated on Exhibit A attached hereto, under the terms set forth herein, is hereby vacated:

Part of Malora Dye’s Addition, and Addition in Boone County, Indiana as per plat thereof recorded in Plat Book 4, page 98 in the Office of the Recorder of Boone County, Indiana, being described as follows:

Beginning at a point on the South line of Lot 14, said point being 4.00 feet West of the Southeast corner thereof; thence North 89 degrees 55 minutes 01 seconds West (assumed bearing) along the South line and Westerly extension thereof a distance of 56.00 feet to the West line of a vacated 10 foot Alley; thence South 00 degrees 28 minutes 09 seconds West along the West line thereof a distance of 15.00 feet to the South line of a 15 foot wide Alley; thence South 89 degrees 55 minutes 01 seconds East along the South line thereof and the North line of Lot 28 a distance of 56.00 feet; thence North 00 degrees 28 minutes 09 seconds East along the Southerly extension of Instrument Number 2020013242 as recorded in the Office of the Recorder of Boone County, Indiana a distance of 15.00 feet to the Point of Beginning, containing 840 square feet, more or less..

- Section 2: Ownership, Maintenance, Repair and Liability. The portion of the Alley to be vacated measuring 15.00 feet in width and 56.00 lineal feet (“Vacated Area”) is bordered on the north by property addressed as 985 W. Oak Street and bordered on the south by property addressed as 990 W. Pine Street. The Petitioner’s own both of said properties bordering the area to be vacated. This vacation will transfer the ownership of the entire Vacated Area, including all ongoing maintenance, repair obligations and all liability, to the Petitioners.
- Section 3: Utilities. The portion of the alley to be vacated currently contains a sewer lateral and manhole. This manhole is to be relocated to a point east of the vacated area as stated within a Letter from the Petitioner’s Attorney dated May 10, 2021, and attached as Exhibit B.
- Section 4: Costs. Petitioner for this public alley right-of-way 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 Right-of-way, including paving and curb returns abutting the vacated Right-of-way, if any.
- Section 5: Recording. The Municipal Relations Coordinator 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. All such filings shall be in compliance with Ind. Code § 32-21-2-3(a). The mailing address of the grantee, Christopher Parr and Jacqueline Nonweiler-Parr, 985 W. Oak Street, Zionsville, IN 46077.
- Section 6: 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 the appertain.
- Section 7: Repeal of Conflicting Ordinances. The provisions of all other Town ordinances in conflict with the provisions herein, if any, are of no further force or effect and are hereby repealed.

Section 8: 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 9: Duration and Effective Date. The provisions of this Ordinance shall become and remains in full force and effect upon passage and until its repeal by ordinance.

Introduced and filed on the _____ day of May, 2021. A motion to consider on First Reading was sustained by a vote of _____ in favor and _____ opposed, pursuant to Indiana Code § 36-5-2-9.8.

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ORDINANCE NO: 2021- _07_

DULY PASSED AND ADOPTED this ____ day of June, 2021, 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 Signature	NAY Signature
Josh Garrett, President		
Jason Plunkett, Vice-President		
Brad Burk Member		
Alexander Choi, Member		
Joe Culp, Member		
Craig Melton, Member		
Bryan Traylor, Member		

I hereby certify that the foregoing Resolution was delivered to the Town of Zionsville Mayor Emily Styron on the _____ day of _____, 2021, at _____ .m.

ATTEST: _____
Amelia Anne Lacy,
Municipal Relations Coordinator

MAYOR'S APPROVAL

Emily Styron, Mayor

Date

MAYOR'S VETO

Emily Styron, Mayor

Date

ORDINANCE NO: 2021-07__

This instrument was prepared by: Heather H. Willey, Partner, Barnes & Thornburg LLP,
11 South Meridian Street, Indianapolis, IN 46202, (317) 231-6448.

This Ordinance contains no Social Security Numbers. As required by Ind. Code § 36-2-11-15, 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.

ORDINANCE NO: 2021-__

NOTARY

STATE OF INDIANA)

) SS:

COUNTY OF BOONE)

Before me, a Notary Public, in and for said County and State, personally appeared

_____,
_____,
_____,
_____,
_____,
_____,
_____.

who acknowledged the execution of the foregoing document.

WITNESS my hand and Notarial Seal this ____ day of _____, 20____.

Notary Public – Signature

Notary Public – Printed

My Commission Expires: _____

County of Residence: _____

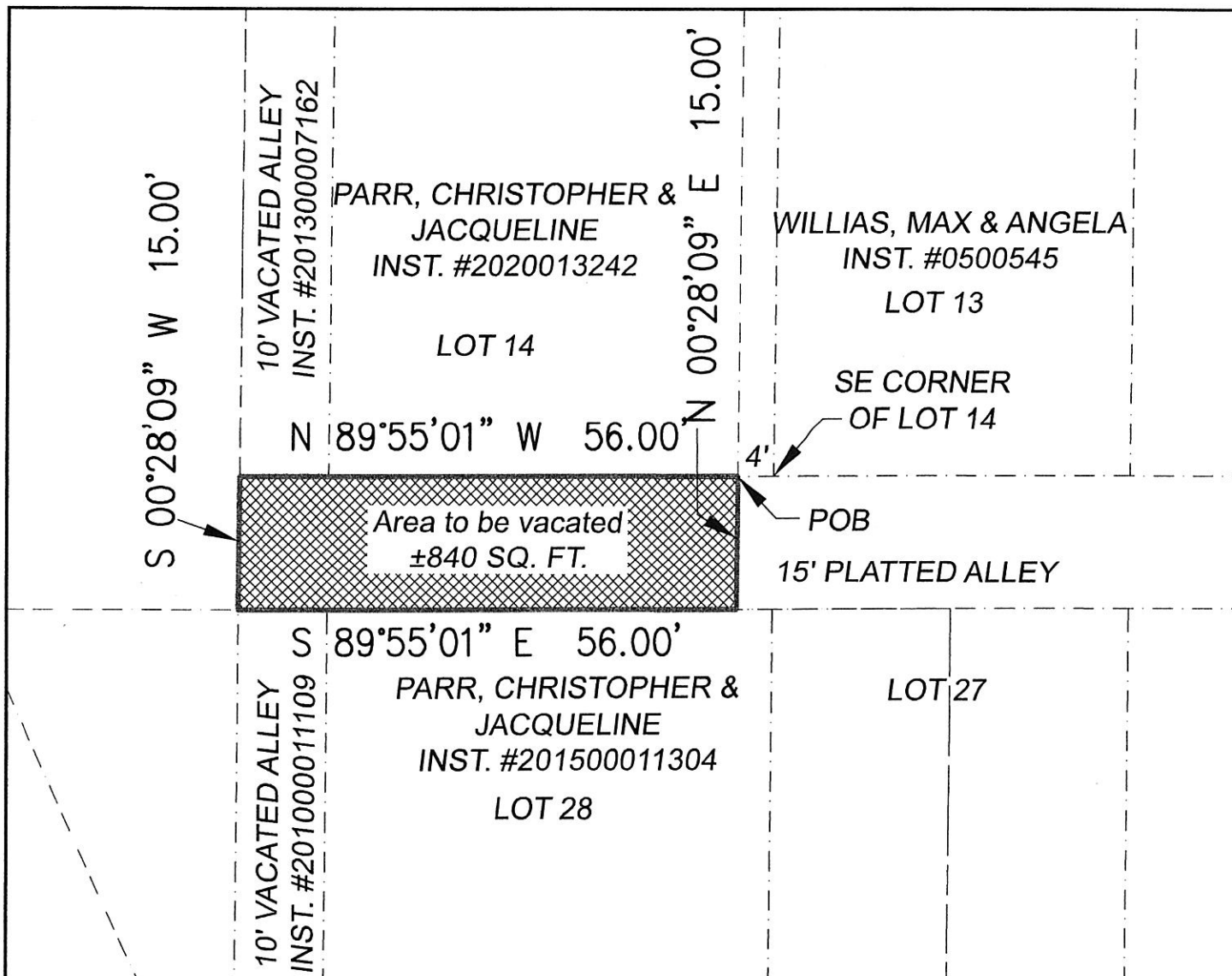
ORDINANCE NO: 2020-07_____

EXECUTED AND DELIVERED in my presence:

Signature

Printed Name

EXHIBIT A



15 Foot Alley Vacation

Part of Malora Dye's Addition, an Addition in Boone County, Indiana as per plat thereof recorded in Plat Book 4, page 98 in the Office of the Recorder of Boone County, Indiana, being described as follows:

Beginning at a point on the South line of Lot 14, said point being 4.00 feet West of the Southeast corner thereof; thence North 89 degrees 55 minutes 01 seconds West (assumed bearing) along the South line and Westerly extension thereof a distance of 56.00 feet to the West line of a vacated 10 foot Alley; thence South 00 degrees 28 minutes 09 seconds West along the West line thereof a distance of 15.00 feet to the South line of a 15 foot Alley; thence South 89 degrees 55 minutes 01 seconds East along the South line thereof and the North line of Lot 28 a distance of 56.00 feet; thence North 00 degrees 28 minutes 09 seconds East along the Southerly extension of Instrument Number 2020013242 as recorded in the Office of the Recorder of Boone County, Indiana a distance of 15.00 feet to the Point of Beginning, containing 840 square feet, more or less.


ALLEY VACATION EXHIBIT 990 W. Pine Street, Zionsville, IN		- Surveyors - Scientists - Engineers		494 Gradle Drive Carmel, IN 46032 Phone: 317.844.3333 Fax: 317.844.3383
SEA PROJECT NUMBER 20647	DATE: 1/11/21 DWN. BY: JMF			
SHEET 1 OF 1	CHKD. BY: JMF SCALE: NONE			

EXHIBIT B

MICHAEL J. ANDREOLI

ATTORNEY AT LAW
1393 West Oak Street
Zionsville, Indiana 46077-1839
(317) 873-6266
Fax (317) 873-6384
mandreoli@datlaw.com

May 10, 2021

Town of Zionsville
Attn: Roger Kilmer
1100 W. Oak St.
Zionsville, IN 46077

**RE: Christopher and Jacqueline Parr
Alley Vacation – 985 W. Oak Street and 990 W. Pine Street**

Dear Roger:

As you were aware Mr. Lance Lantz advised your office and the Applicant regarding his concerns relative to this Petition and an existing sewer in the Easement area. Lance was kind enough to meet with Mr. & Mrs. Parr, the builder and me at the site.

The Parr's will agree as a commitment and condition of the vacation to move the sewer lateral and manhole from the West end of the vacated area, they will install a sewer manhole further to the East and outside the area proposed to be vacated with the manhole so constructed at their cost and in compliance with all Town standards as approved by Mr. Lantz. My client's builder is now working on drawings to submit to the Town to further the Commitment so that the existing sewer lateral, and manhole to the West can be abandoned.

Very truly yours,



Michael J. Andreoli

MJA/nl

cc : Christopher and Jackie Parr
Lance Lantz