ORDINANCE 2016-33

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF WHITESTOWN, INDIANA, VACATING A PORTION OF FORMER PERRY-WORTH ROAD

WHEREAS, the Town Council ("Council") of the Town of Whitestown ("Town"), Indiana, has received a petition ("Petition"), pursuant to Ind. Code § 36-7-3-12, requesting that the Town abandon and vacate a portion of the former Perry-Worth Road within the corporate limits of the Town from its former intersection at Whitestown Parkway to the relocated and newly constructed Perry-Worth Road ("Vacation"); and

WHEREAS, Ind. Code § 36-7-3-12(c) requires that the Town Council hold a hearing on the Petition; and

WHEREAS, the Town has provided notice of the Petition and the time and place of the hearing pursuant to Ind. Code § 36-7-3-12(c); and

WHEREAS, a copy of the Petition and corresponding descriptions and maps are attached hereto and incorporated herein as Exhibit 1; and

WHEREAS, the Town Council convened a public hearing on the Petition and Vacation on August 16, 2016, where any person aggrieved by the proposed Vacation was permitted to object.

NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Whitestown, Indiana, as follows:

1. The above recitals are incorporated herein by this reference as though fully set forth herein.

2. Having considered the Petition and all other evidence and testimony received at the public hearing, the Town Council hereby makes the following affirmative findings with regard to the Petition:

    a. The Vacation will not hinder the growth or orderly development of the Town or neighborhood in which the vacated area is located or to which it is contiguous;

    b. The Vacation will not make access to the lands of any aggrieved person by means of public way difficult or inconvenient;

    c. The Vacation will not hinder the public's access to a church, school, or other public building or place;

    d. The Vacation will not hinder the use of a public way by the neighborhood in which it is located or to which it is contiguous; and

    f. The Vacation is of public utility and benefit.

3. Pursuant to Ind. Code § 36-7-3-12, the Town Council, by Ordinance, hereby grants the Petition and vacates that portion of former Perry-Worth Road described in Exhibit A and depicted in Exhibit B to the Petition.

4. This Ordinance shall take effect immediately upon its adoption; provided, however, that the Vacation shall be effective (a) thirty (30) days from the date of adoption of the Ordinance if no appeal is filed pursuant to Ind. Code § 36-7-3-13 during said thirty (30) days ("Appeal"), or (b) upon final resolution of any timely Appeal.

5. The Clerk-Treasurer shall furnish a copy of this Ordinance to the County Recorder for recording and to the County Auditor.

6. The terms, paragraphs, sentences, words, and vacation area of this Ordinance are separable, and if a court of competent jurisdiction hereof declares any portion of this Ordinance or the vacation area unconstitutional, invalid, or unenforceable for any reason, such declarations shall not affect the remaining portions of the vacation area or this Ordinance.

Adopted by the Town Council of the Town of Whitestown, Indiana, on _____ _____ , 2016.

THE TOWN COUNCIL OF THE TOWN OF WHITESTOWN, INDIANA	YAY/NAY
_____ Eric Miller, President	_____
_____ Susan Austin, Vice-President	_____
_____ Kevin Russell	_____
_____ Clinton Bohm	_____
_____ Jeffrey Wishek	_____

ATTEST:

_____
Matt Sumner, Clerk-Treasurer
Town of Whitestown, Indiana
2465126

STATE OF INDIANA	)	BEFORE THE TOWN COUNCIL OF THE
	)SS:	TOWN OF WHITESTOWN
COUNTY OF BOONE	)	

IN THE MATTER OF A PETITION	)	
TO VACATE A PORTION OF	)	PETITION NO. _____
FORMER PERRY-WORTH ROAD	)	

PETITION TO VACATE A PORTION OF FORMER PERRY-WORTH ROAD WITHIN THE TOWN OF WHITESTOWN

Come now the Petitioner, Duke Construction Limited Partnership, and hereby petitions to vacate a portion of the former Perry-Worth Road from its former intersection at Whitestown Parkway and to the relocated and newly constructed Perry-Worth Road, and in support thereof, states as follows:

1. Petitioner desires to vacate that portion of former Perry-Worth Road, as described on the attached Exhibit A and depicted on the attached Exhibit B.

2. The vacation is appropriate due to the fact that this portion of Perry-Worth Road has been relocated to a new right-of-way, which right-of-way was granted to the Town in part by the Petitioner.

3. Furthermore, the vacated area is not needed for the growth or orderly development of Whitestown or the adjoining properties; the vacation will not make access to lands of the adjoining property owners difficult or inconvenient; the vacation will not hinder the public's access to a church, school, or other public building or place; and the vacation will not hinder the use of a public way by any neighborhood.

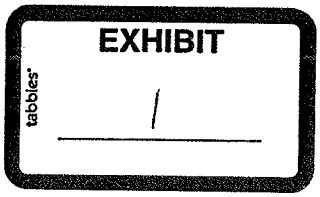
4. Pursuant to Indiana Code § 36-7-3-16, the vacation will not deprive any public utility of the use of all or part of the public way being vacated.

5. The portion of former Perry-Worth Road to be vacated is entirely within the jurisdiction of the Town of Whitestown as said roadway falls within the municipal boundary of the Town.

6. The following property owner (and its address), in addition to Petitioner, owns property that abuts the vacation area:

State of Indiana
41 West 300 North
Crawfordsville, IN 47933

Duke Construction Limited Partnership
600 East 96th Street, Suite 100
Indianapolis, IN 46240



7. The Petitioner requests that the Whitestown Town Council abandon and vacate that portion of former Perry-Worth Road, excluding any utilities, as described and depicted in the attached Exhibit A and Exhibit B.

WHEREFORE, the Petitioner, Duke Construction Limited Partnership, respectfully requests that the Town Council of the Town of Whitestown, Indiana, pursuant to Indiana Code § 36-7-3-12, abandon and vacate that portion of former Perry-Worth Road described and depicted in Exhibit A and Exhibit B, and provide for all other proper relief in the premises.

I HEREBY CERTIFY UNDER THE PENALTIES FOR PERJURY THAT THE FOREGOING REPRESENTATIONS HEREIN ARE TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF.

DUKE CONSTRUCTION LIMITED PARTNERSHIP

By: Charles E Redell

Its: Senior VP Regional Mgr

Date: July 7th, 2016

Address: 600 E 96th St., Suite 300
Indianapolis, IN. 46240

2465127_2

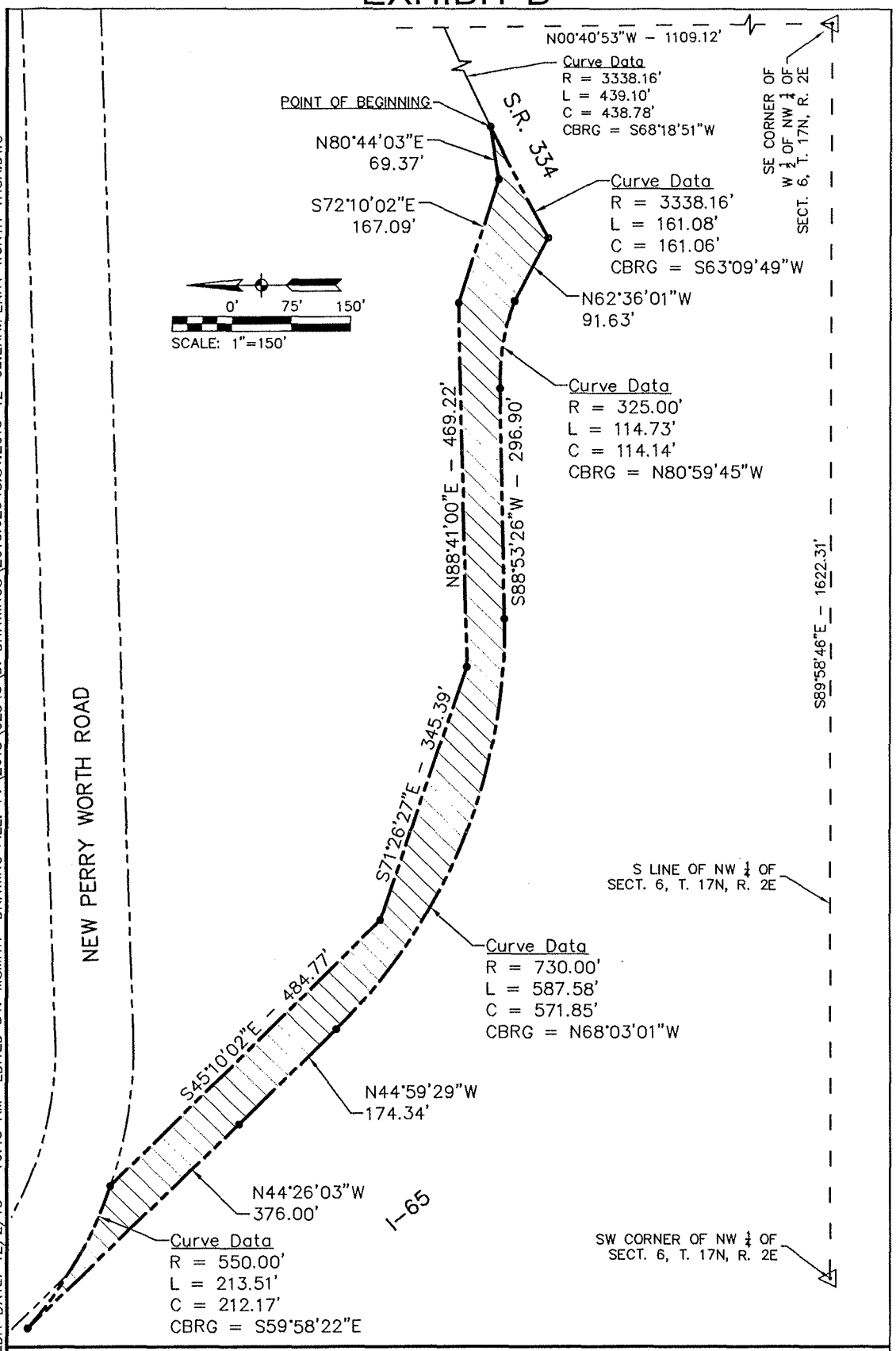
EXHIBIT A

LEGAL DESCRIPTION
Perry Worth Road Vacation

Part of the Northwest Quarter of Section 6, Township 17 North, Range 2 East and part of the Northeast Quarter of Section 1, Township 17 North, Range 1 East of the Second Principal Meridian, Boone County, Indiana, more particularly described as follows:

Commencing at the southwest corner of said Northwest Quarter; thence South 89 degrees 58 minutes 46 seconds East 1622.31 feet along the south line of said Northwest Quarter to the southeast corner of the West Half of said Northwest Quarter (the basis of bearings is the Indiana State Plane Coordinate System, West Zone); thence North 00 degrees 40 minutes 53 seconds West 1,109.12 feet along the east line of said West Half to the north right-of-way line of State Road 334 per INDOT Project Number STI-65-5(E), 1994; thence Westerly 439.10 feet along said north right-of-way line and a non-tangent curve to the left having a radius of 3,338.16 feet and subtended by a long chord having a bearing of South 68 degrees 18 minutes 51 seconds West and a length of 438.78 feet to the POINT OF BEGINNING; thence continue Southwesterly 161.08 feet along a curve to the left having a radius of 3,338.16 feet and subtended by a long chord having a bearing of South 63 degrees 09 minutes 49 seconds West and a length of 161.06 feet; thence North 62 degrees 36 minutes 01 second West 91.63 feet; thence Westerly 114.73 feet along a non-tangent curve to the left having a radius of 325.00 feet and subtended by a long chord having a bearing of North 80 degrees 59 minutes 45 seconds West and a length of 114.14 feet; thence South 88 degrees 53 minutes 26 seconds West 296.90 feet; thence Westerly 587.58 feet along a non-tangent curve to the right having a radius of 730.00 feet and subtended by a long chord having a bearing of North 68 degrees 03 minutes 01 second West and a length of 571.85 feet; thence North 44 degrees 59 minutes 29 seconds West 174.34 feet; thence North 44 degrees 26 minutes 03 seconds West 376.00 feet to the extension of the southwest right-of-way line of the new Perry Worth Road; thence Southeasterly 213.51 feet along said southwest right-of-way line and its extension and a non-tangent curve to the left having a radius of 550.00 feet and subtended by a long chord having a bearing of South 59 degrees 58 minutes 22 seconds East and a length of 212.17 feet to the northeast right-of-way line of Perry Worth Road per ISHC "I" Project Number 03-4(11), 1957, the following five (5) courses are along said northeast right-of-way line; 1)thence South 45 degrees 10 minutes 02 seconds East 484.77 feet; 2)thence South 71 degrees 26 minutes 27 seconds East 345.39 feet; 3)thence North 88 degrees 41 minutes 00 seconds East 469.22 feet; 4)thence South 72 degrees 10 minutes 02 seconds East 167.09 feet; 5)thence North 80 degrees 44 minutes 03 seconds East 69.37 feet to the POINT OF BEGINNING. Containing 2.056 acres, more or less.

EXHIBIT B



PARCEL EXHIBIT

AMERICAN STRUCTUREPOINT INC.	7260 SHADELAND STATION INDIANAPOLIS, IN 46256-3957 TEL 317.547.5580 FAX 317.543.0270 www.structurepoint.com	DATE: 12-2-15 DRAWN BY: MJS JOB NO. 15.02648	SHEET NO. 1 of 1

DESC. FILE: des.perry worth vaca

PLOT SCALE: 1:1 EDIT DATE: 12/2/15 – 10:13 AM EDITED BY: MSMITH DRAWING FILE: P:\2015\02648\D. DRAWINGS\2015.02648.SV.2015-12-02.EXH.PERRY WORTH VACA.DWG