**ORDINANCE 2016-35**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF WHITESTOWN, INDIANA, VACATING AN ALLEY BETWEEN 351 AND 401 E. PIERCE STREET WITHIN THE TOWN OF WHITESTOWN**

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 an alley within the corporate limits of the Town located between 351 and 401 E. Pierce Street ("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, the Town Council convened a public hearing on the Petition and Vacation on October 12, 2016, where any person aggrieved by the proposed Vacation was permitted to object; and

WHEREAS, a copy of the Petition is attached hereto and incorporated herein as Exhibit A, and a survey containing a legal description and map of the Vacation Area is attached hereto and incorporated herein as Exhibit B.

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 attached as Exhibit A and vacates the area described and depicted in the attached Exhibit B.

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.

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

THE TOWN COUNCIL OF THE TOWN
OF WHITESTOWN, INDIANA

_____
Eric Miller, President

_____
Susan Austin, Vice-President

_____
Kevin Russell

_____
Clinton Bohm

_____
Jeffrey Wishek

ATTEST:

_____
Matt Sumner, Clerk-Treasurer
Town of Whitestown, Indiana
3047729

# EXHIBIT 1

**Petition**

STATE OF INDIANA ) BEFORE THE TOWN COUNCIL
COUNTY OF BOONE COUNTY ) TOWN OF WHITESTOWN,
) BOONE COUNTY, INDIANA

IN THE MATTER OF THE PETITION OF: )

_____

# PETITION TO VACATE ALLEY

Comes now the Petitioner, MICHAEL JASIONOWSKI KATHRYN JASIONOWSKI, in person and for his/her/their Petition to Vacate certain undeveloped platted alley(s) located within the Town of Whitestown, Boone County, State of Indiana would allege and say:

1. The Petitioner is responsible for the property known as: (address) 401 E. PIERCE ST, WHITESTOWN, IN 46075, consisting of approximately .5 acres, in along E. PIERCE ST. and LINVILLE AVE, Whitestown, Indiana, legal address of 06-08-19-000-001.073-019 a copy of the most recent survey of said acreage and a copy of the plat is incorporated herein by reference and is attached hereto as Exhibit "A" and "B", respectfully.

EXHIBIT "A"

2. The Petitioner seeks to have vacated:

   a. A platted and undeveloped alley that commences approximately 12 feet east to west by 223 feet north to south, west of 401 E. PIERCE ST that consists of a strip of land unused and not maintained by the Town of Whitestown.

3. The following utility easement(s) exist in the alley

   a. None
   b. Power line to street lights for Pierce St (non-buried)

4. The alley Petitioner seeks to vacate although platted has never been developed.

5. The platted and undeveloped alley Petitioner seeks to vacate is located such that the following land owner(s) are appurtenant thereto:

Brandi N. Murphy

6. The Petitioner has provided written notice to all persons whose property touches the above described alley of Petitioner's intention to vacate alley.

7. The Petitioner requests that the Whitestown Town Council abandon and vacate the alley, excluding the rights to use the existing utility poles for any utility purpose as described in 2a above and highlighted on the attached survey.

WHERFORE, the Petitioner, MICHAEL JASIONOWSKI and KATHRYN JASIONOWSKI request that the Town Council of Whitestown, Indiana pursuant to I.C. 36-7-3-12, abandon and vacate the alley, enter an Order so vacating the property, and for all other proper relief requested

**I hereby certify under the penalties of perjury that the representations herein are true and accurate to the best of my knowledge and belief.**

Dated: 5-30-16

Petitioner(s), Signature

p.mapper Boone County GIS

Scale 1: 1300

Parcels
Subdivisions
Townships
Corporate

Zoning

| | |
|---|---|
| AB | AG |
| GB | I-1 |
| I-2 | LB |
| N.T. | PB |
| PUD | R-1 |
| R-2 | R-3 |
| R-4 | RE |
| UB | |

Buildings
Barns
Roads

N

EXHIBIT "B"

## EXHIBIT 2

### Legal Description of Vacation Area

## EXHIBIT "A"

## ALLEY VACATION

## TOWN OF WHITESTOWN, INDIANA

Alley Vacation

A part of the Northeast Quarter of the Northeast Quarter of Section 19, Township 18 North, Range 2 East in Boone County, Indiana, described as follows:

Beginning at the northeast corner of the land of John D. III and Brandi D.S. Murphy, State Parcel Number 06-08-19-00-001.008-019 also being the southwest intersection of East Pierce Street and an existing alley; thence east 16' to the northwest corner of the land of Michael and Kate Jasionowski, State Parcel Number 06-08-19-00-001.073-019 also being the southeast intersection of East Pierce Street and an existing alley; thence south along the west line of said Jasionowski to the southwest corner of the land of said Jasionowski also being the northeast intersection of Linville Avenue and an existing alley; thence west 16' to the southeast corner of said Murphy, also being the northwest intersection of Linville Avenue and an existing alley; thence north along the east line of said Murphy 221' to the Point of Beginning containing 3,536 square feet more or less.

SEE EXHIBIT "B"

**EXHIBIT 2 (cont.)**

**Map of Vacation Area**

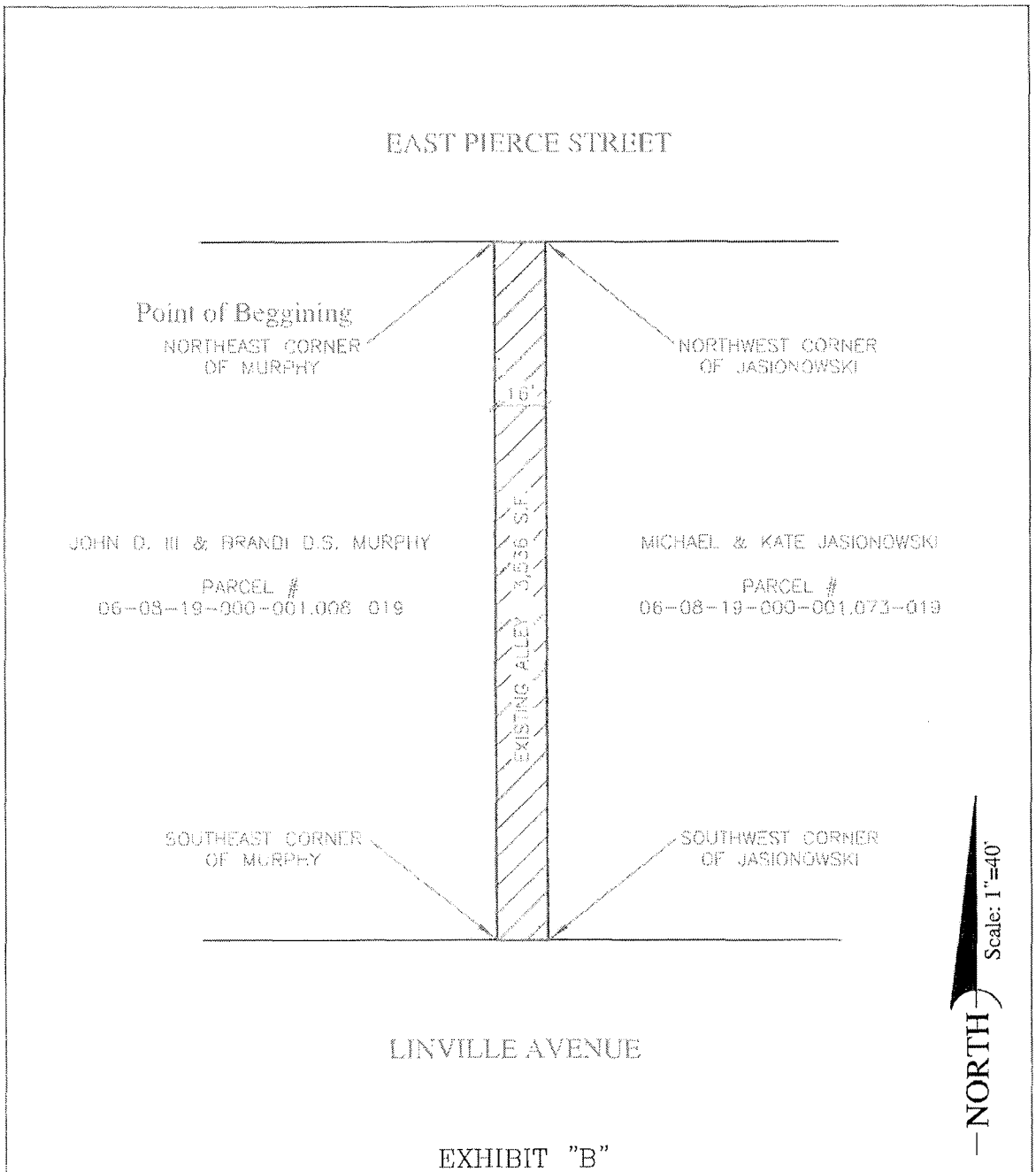


EXHIBIT "B"

ALLEY VACATION

| NO. | REVISIONS | DATE |
|---|---|---|
| – | – | – |

ms consultants, inc.
engineers, architects, planners
8900 Keystone Crossing
Indianapolis, Indiana
(317)-566-0050 Fax (317)-566-0052

| DRAWN: | SCALE: |
|---|---|
| | 1"=40' |
| CHECKED: | DATE: |
| DJS | 9/11/16 |