ORDINANCE 2016-39

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF WHITESTOWN, INDIANA, VACATING AN ALLEY BETWEEN 505 AND 601 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 505 and 601 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 1, and a legal description and map of the Vacation Area is attached hereto and incorporated herein as Exhibit 2 (A & B), respectively.

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 1 and vacates the area described and depicted in the attached Exhibit 2.

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
3063052

EXHIBIT 1

Petition

STATE OF INDIANA	)	BEFORE THE TOWN COUNCIL
	)SS:	TOWN OF WHITESTOWN
COUNTY OF BOONE	)	BOONE COUNTY, INDIANA
IN THE MATTER OF THE PETITION OF:	)	
	)	APPLICATION NO. _____
_____	)	

PETITION TO VACATE ALLEY

Comes now the Petitioner, _____Susan M. Austin_____, in person and for her/his/their Petition to Vacate certain undeveloped platted alley(s) located with the Town of Whitestown, Boone County, State of Indiana, would allege and say:

1. The Petitioner is responsible for the property known as: (address) 601 E. Pierce Street, consisting of approximately 0.77 acres, in and along 601 E. Pierce Street , Whitestown, Indiana, 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", respectively.

2. The Petitioner seeks to have vacated:

   a. A platted and undeveloped portion of unnamed alley Street, having a foot right-of-way as it intersects with the west boundary of 505 E Pierce Street and proceeds east approximate 10 linear feet to where it intersects with 601 E Pierce Street and approximately 271 feet in length (north-to-south), or

   b. A platted and undeveloped alley that commences approximately west of the north west corner of 601 E Pierce Street and consists of a strip of land approximately 10 feet in width (east-to-west) and approximately 271 feet in length (north-to-south) along side the property of 601 E Pierce Street.

3. The following utility easement(s) exist within the alley: (circle)

   a. None

   b. List any and all existing utility easements within alley: _Water, sewer, electrical_____

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: (circle)

   a. such that no other land owners are appurtenant thereto, or

b. such that the following land owner(s) are appurtenant thereto: (name & address of every landowner touching the property Petitioner requests vacated): 505 E Pierce Street – Wayne Allen, owner

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 all utility easement, described as 2a & 2b above and highlighted on the attached survey.

WHEREFORE, the Petitioner, Susan M. Austin, requests that the Town Council of Whitestown, Indiana, pursuant to I.C. 36-7-3-12, abandon and vacate the alley/those portions of the above described alley located in the Town of Whitestown and, enter an Order so vacating the property, and for all other proper relief requested.

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

Dated: 9-1-16.

Susan M Austin
Petitioner's Signature

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the foregoing petition by U.S. Mail, first class postage prepaid, on or before the date of filing, on all landowners with property touching the alley requesting to be vacated as listed herein.

_____
Petitioner
Address: _____
_____
Phone: _____

1658365_1

EXHIBIT 2

Legal Description of Vacation Area

EXHIBIT "A"

ALLEY VACATION

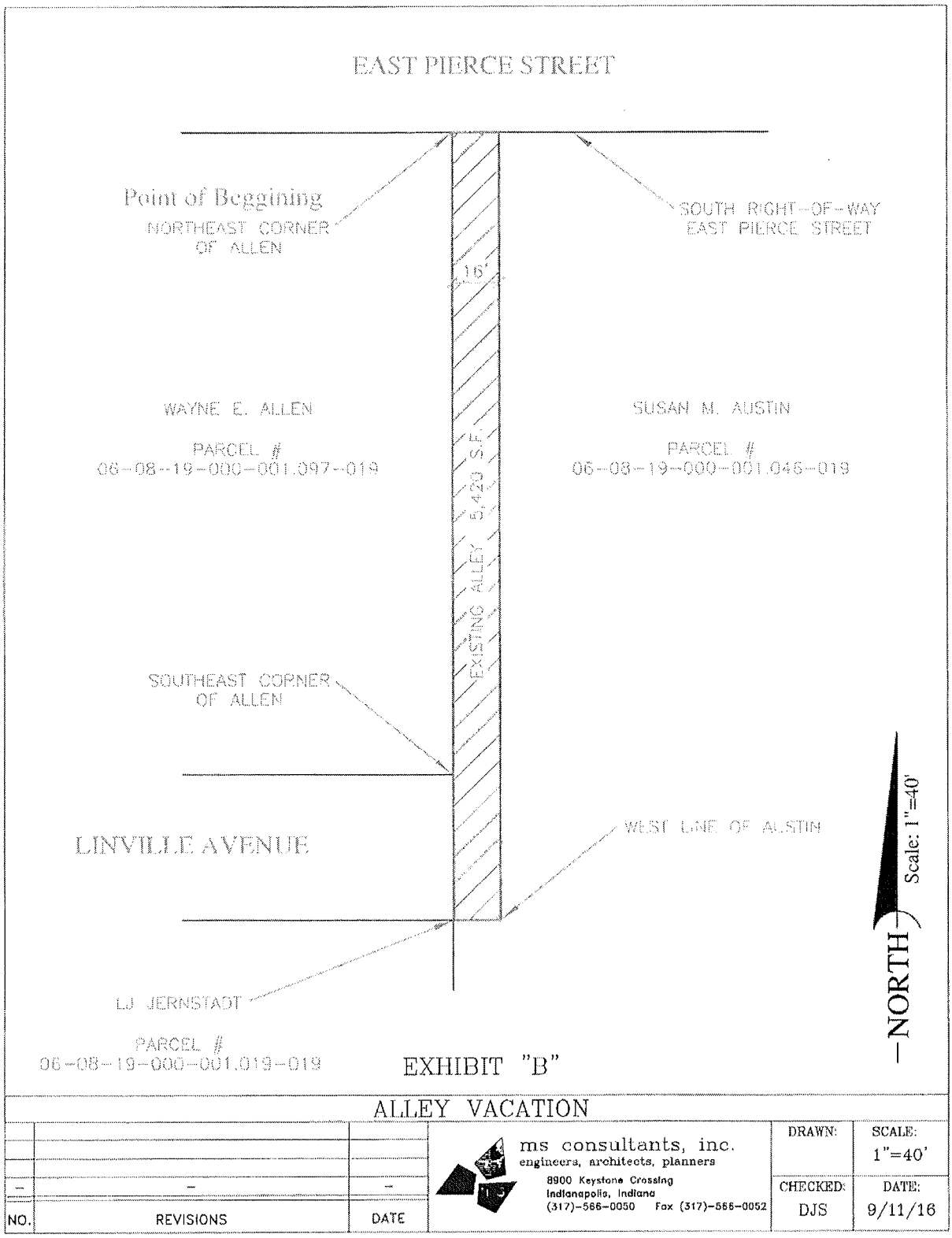
TOWN OF WHITESTOWN, INDIANA

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 Wayne E. Allen, State Parcel Number 06-08-19-00-001.097-019 also being the southwest intersection of East Pierce Street and an existing alley; thence south along the east line of said Allen 221' to the southeast corner of said Allen also being the northeast intersection of Linville Avenue and an existing alley; thence continuing south 50' to the northeast corner of the land of LJ Jernstadt, State Parcel Number 06-08-19-00-001.019-019 also being the northeast intersection of Linville Avenue and an existing alley; thence east 20' to the west line of the land of Susan M. Austin, State Parcel Number 06-08-19-00-001.046-019; thence north along the west line of said Austin 271' to the south right-of-way of East Pierce Street; thence west 20' to the aforesaid northeast corner of Allen also being the Point of Beginning of the herein described parcel containing 5,420 square feet more or less.

SEE EXHIBIT "B"

EXHIBIT 2 (cont.)

Map of Vacation Area