

ORDINANCE NO. 2022 - 15

**AN ORDINANCE VACATING AN UNIMPROVED PLATTED ROW
WITHIN THE CITY OF HOBART, LAKE COUNTY, INDIANA**

WHEREAS, it was presented to the Plan Commission of the City of Hobart, Lake County, Indiana, under **Petition 22-18**, a request to vacate 1,039.59' x 60' of unimproved right of way consisting of 1.432 acres within the City of Hobart, Lake County, Indiana; and

WHEREAS, the Plan Commission of the City of Hobart, Indiana, pursuant to law, held a public hearing upon said Petition to Vacate after giving notice of the Petition and of the time and place of the hearing in the manner prescribed by law and by certified mail to each owner of land that abuts the property proposed to be vacated; and

WHEREAS, the Common Council of the City of Hobart, Indiana, being duly advised, now approves said Petition.

IT IS THEREFORE, NOW ORDAINED by the Common Council of the City of Hobart, Indiana, as follows:

SECTION 1. That the Petition to Vacate the following described real estate, to wit:

A TRACT OF LAND BEING THE NORTH 1039.39 FEET OF THE WEST 60 FEET OF THE FOLLOWING PARENT PARCEL. SAID PARCEL BEING DESCRIBED AS PART OF THE SOUTH 1/2 SECTION 1, TOWNSHIP 35 NORTH, RANGE 8 WEST OF THE 2ND P.M. IN LAKE COUNTY, INDIANA, DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHEAST CORNER OF THE SW 1/4 OF SAID SECTION 1; THENCE SOUTH 90°00'00" WEST ALONG THE SOUTH LINE OF SAID SECTION 1, A DISTANCE OF 161.63 FEET TO THE POINT OF BEGINNING OF THIS DESCRIBED PARCEL; THENCE CONTINUING NORTH 90°00'00" WEST, 1158.42 FEET TO THE SOUTHWEST CORNER OF THE EAST 1/2, SW 1/4 OF SAID SECTION 1; THENCE NORTH 00°11'48" EAST ALONG THE WEST LINE OF THE SW 1/4, SW1/4, 1341.45 FEET TO THE NORTHWEST CORNER OF THE SE 1/4, SW 1/4 OF SAID SECTION 1; THENCE NORTH 00°12'22" EAST ALONG THE WEST LINE OF THE NE 1/4, SW 1/4, A DISTANCE OF 844.55 FEET TO THE SOUTHWEST CORNER OF THE NORTH 15 ACRES OF THE NE 1/4, SW 1/4 OF SAID SECTION 1; THENCE NORTH 87°32'05" EAST ALONG THE SOUTH LINE OF THE NORTH 15 ACRES, A DISTANCE OF 1151.84 FEET TO A POINT ON A LINE BEARING NORTH 00°00'00" EAST FROM THE POINT OF BEGINNING; THENCE SOUTH 00°00'00" EAST, 1518.46 FEET; THENCE SOUTH 87°05'00" EAST, 490.83 FEET TO THE CENTERLINE OF

ARIZONA STREET; THENCE SOUTH 02°55'00" EAST ALONG THE CENTERLINE OF ARIZONA STREET, 295.30 FEET; THENCE NORTH 90°00'00" WEST, 475.17 FEET; THENCE SOUTH 00°00'00" EAST, 397.18 FEET TO THE POINT OF BEGINNING, CONTAINING 62.005 ACRES MORE OR LESS. SAID TRACT OF LAND CONTAINS 1.432 ACRES MORE OR LESS, EXCEPT THE NORTH 60 FEET THEREOF.

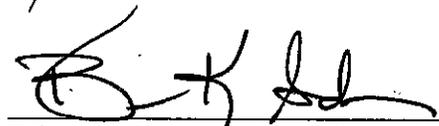
is now granted, and is now vacated.

SECTION 2. The Clerk-Treasurer is further authorized upon passage of this Ordinance to file a certified copy of said Ordinance with the Auditor of Lake County, Indiana for the Auditor to take all necessary action in connection with taxation of said median.

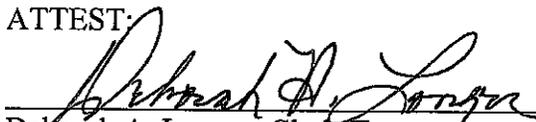
SECTION 3. The Clerk-Treasurer is further authorized and directed to record a copy of said Ordinance with the Lake County Recorder.

SECTION 4. This Ordinance shall be in full force and effect upon its passage and adoption by the Common Council of the City of Hobart, Lake County, Indiana.

PASSED and ADOPTED by the Common Council of the City of Hobart, Lake County, Indiana on this 20th day of July, 2022.



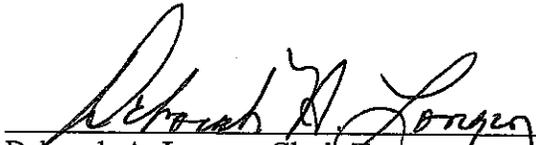
Brian K. Snedecor, Presiding Officer

ATTEST:


Deborah A. Longer, Clerk-Treasurer

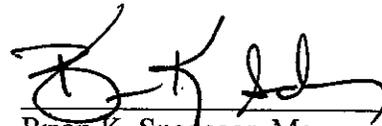
Presented by me to the Mayor of the City of Hobart, Indiana, for his approval and signature this 20th day of July, 2022 at

6:45 o'clock P.M.



Deborah A. Longer, Clerk-Treasurer

APPROVED and SIGNED by me, the Mayor of the City of Hobart, this 20th day of July, 2022.



Brian K. Snedecor, Mayor

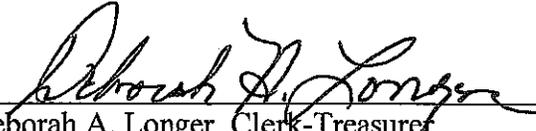
ATTEST:



Deborah A. Longer, Clerk-Treasurer

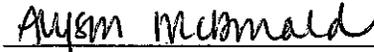
CERTIFICATION

I, Deborah A. Longer, Clerk-Treasurer for the City of Hobart, Lake County, Indiana, do hereby certify that the above Ordinance was duly passed by the Common Council of the City of Hobart, Lake County, Indiana, at a duly constituted meeting held on the 20th day of July, 2022 and that the Mayor of the City of Hobart approved the Ordinance as shown by her signature hereon.

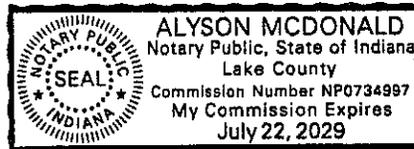

Deborah A. Longer, Clerk-Treasurer

STATE OF INDIANA)
) SS:
COUNTY OF LAKE)

Subscribed and sworn to before me, a Notary Public in and for said County and State.
Witness my hand and notarial seal this 20th day of July, 2022.


Notary Public
Resident of LAKE County

My Commission Expires: July 22, 2029



**CERTIFICATION AND REPORT TO
THE COMMON COUNCIL OF THE CITY OF HOBART ON
PETITION TO VACATE**

CERTIFICATION TO: Hobart Common Council Members

FROM: Ross Pietrzak
City Planner

RE: Request to vacate an unimproved right of way

DATE: June 8, 2022

PETITIONER: Hoepfner Wagner & Evans LLP
Todd Leath
103 E. Lincolnway
Valparaiso, IN 46383

REQUEST: Vacate 1,039.59' x 60' of unimproved right of way

GENERAL LOCATION: Located north of 61 Ave, east of Emerald Dr. & west of Arizona St.

LEGAL DESCRIPTION: A TRACT OF LAND BEING THE NORTH 1039.39 FEET OF THE WEST 60 FEET OF THE FOLLOWING PARENT PARCEL. SAID PARCEL BEING DESCRIBED AS PART OF THE SOUTH 1/2 SECTION 1, TOWNSHIP 35 NORTH, RANGE 8 WEST OF THE 2ND P.M. IN LAKE COUNTY, INDIANA, DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHEAST CORNER OF THE SW 1/4 OF SAID SECTION 1; THENCE SOUTH 90°00'00" WEST ALONG THE SOUTH LINE OF SAID SECTION 1, A DISTANCE OF 161.63 FEET TO THE POINT OF BEGINNING OF THIS DESCRIBED PARCEL; THENCE CONTINUING NORTH 90°00'00" WEST, 1158.42 FEET TO THE SOUTHWEST CORNER OF THE EAST 1/2, SW 1/4 OF SAID SECTION 1; THENCE NORTH 00°11'48" EAST ALONG THE WEST LINE OF THE SW 1/4, SW1/4, 1341.45 FEET TO THE NORTHWEST CORNER OF THE SE 1/4, SW 1/4 OF SAID SECTION 1; THENCE NORTH 00°12'22" EAST ALONG THE WEST LINE OF THE NE 1/4, SW 1/4, A DISTANCE OF 844.55 FEET TO THE SOUTHWEST CORNER OF THE NORTH 15 ACRES OF THE NE 1/4, SW 1/4 OF SAID SECTION 1; THENCE NORTH 87°32'05" EAST ALONG THE SOUTH LINE OF THE NORTH 15 ACRES, A DISTANCE OF 1151.84 FEET TO A POINT ON A LINE BEARING NORTH 00°00'00" EAST FROM THE POINT OF BEGINNING; THENCE SOUTH 00°00'00" EAST, 1518.46 FEET; THENCE SOUTH 87°05'00" EAST, 490.83 FEET TO THE CENTERLINE OF ARIZONA STREET; THENCE SOUTH 02°55'00" EAST ALONG THE CENTERLINE OF ARIZONA STREET, 295.30 FEET; THENCE NORTH 90°00'00" WEST, 475.17 FEET; THENCE SOUTH 00°00'00" EAST, 397.18 FEET TO THE POINT OF BEGINNING, CONTAINING 62.005 ACRES MORE OR LESS. SAID TRACT OF LAND CONTAINS 1.432 ACRES MORE OR LESS, EXCEPT THE NORTH 60 FEET THEREOF.

PLAN COMMISSION PETITION NO.: 22-18

DATE OF PLAN COMMISSION ACTION: June 2, 2022

DEADLINE FOR CITY COUNCIL ACTION: September 6, 2022

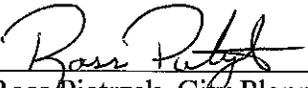
ACTION TAKEN BY PLAN COMMISSION:

Recommendation to the Common Council to **Approve** the plat of vacation as requested
(**Favorable** Recommendation)

CONDITIONS: Contingent on excluding the north 60' of right of way and requiring a dedication
to the City requesting the blue area identified in the exhibit provided

VOTE: 9-0

I certify that the foregoing information accurately represents the action taken on this matter by
the City of Hobart Plan Commission.



Ross Pietrzak, City Planner
City of Hobart

MEMORANDUM

DATE: JUNE 8, 2022

TO: COMMON COUNCIL MEMBERS
MAYOR BRIAN K. SNEDECOR
CITY ATTORNEY HEATHER McCARTHY

FROM: ROSS PIETRZAK, City Planner

RE: 22-18 Petition request to vacate 1,039.59' X 60' of unimproved platted right of way, zoned R-1, 1.432 acres

Please find below the minutes from the Plan Commission meetings related to the request. In addition, I have attached a certification and report from the Plan Commission with regard to their action.

PUBLIC HEARING MINUTES OF THE MAY 5, 2022 PLAN COMMISSION MEETING:

Present were Attorney Todd Leeth and John Hannon/Great Lakes Engineering requesting to vacate a 1,039.59'x60' of right of way located on the northwest corner of a proposed subdivision. Mr. Hannon provided a conceptual subdivision plan incorporating the proposed vacated right of way to increase the size of the western lots. Proposed is a new road allowing access to the north. Attorney Leeth stated he was aware of the concerns from the northern property owners and will also dedicate a 60' right of way to the west of the new proposed road for future access to the north. Ms. Galka opened the public hearing for Petition 22-18. *Attorney Glenn Kuchel/Green & Kuchel, P.C., 322 Indianapolis Blvd. Schererville, IN: Attorney Kuchel was present representing John & Jean Rakoczy, 3.37 & 29.2 acres; Rakoczy Trust, 3.37 acres; and Lake County Trust 3423, 69.8 acres and requested to speak for 10 minutes.* Mr. Vinzant motioned to waive the 3 minute rule in the Rules of Practice and Procedure and allow Attorney Kuchel to speak for 10 minutes including all discussion, seconded by Mr. Allen. All ayes, motion carried. (8-0) *Attorney Kuchel stated all the properties adjacent to the right of way will be landlocked if the right of way is vacated. He continued to cite State Statute Sec. 36-7-3-13(b) Grounds for filing of remonstrances: (b) If a remonstrance or objection is filed or raised by an aggrieved person under subsection (a)(2) and; (1) the lands of the aggrieved person do not abut any other public way other the public way to which the vacation petition applies; or (2) the vacation of the public way would cause the lands of the aggrieved person to become landlocked with no other convenient or reasonable means of ingress or egress via another public way; the appropriate legislative body shall deny the petition to vacate the public way. He stated since the right of way was dedicated 22 years ago, the Rakoczys have maintained, cut the grass. He also provided a map of the properties that will be considered landlocked. He felt that by landlocking the parcels or reducing access by vacating the right of way, will hinder the orderly development of the neighborhood, the orderly development of the properties and would constitute a taking under administrative taking.* Hearing no further public comments Ms. Galka closed the public hearing for Petition 22-18. Attorney Leeth stated there should not be any parcels that will be landlocked if the right of way is vacated. He felt what they are proposing will better serve the parcels with two points of future access. Mr. Hannon mentioned that Mr. Steiner has not yet purchased the property from the Redevelopment Commission and that the Redevelopment Commission could incorporate the language of the dedication of the 60' right of way into the land purchase contract. Mr. Pietrzak provided on the GIS, the proposed access points in

reference to the parcels of land in question. Also the claim that the Rakoczys utilize the right of way northeast of Emerald Drive for access is incorrect. This is a utility/ingress/egress easement on a private lot and the Rakoczy's driveway leading to their home is on that easement. He stated parcels that are under a different ownership may be considered landlocked. Mr. Pietrzak also mentioned that if the Rakoczys are using the proposed vacated right of way to access their property, it should have been improved by them. He read the December 27, 2000 minutes of the Board of Works when they approved the right of way stating *the City has no desire to construct or improve the public street but will permit any party to construct and improve the street at a private expense, provided it is constructed and improved in accordance with the designs of development standards of the Hobart Subdivision Ordinance.* Mr. Pietrzak suggested to table and allow for a subdivision plat that includes the vacation for the Commissioner's review. At that point, they would be running concurrently. He also stated that if the Commission felt the right of way should stay in place until the new access points are provided, to make the right of way a temporary easement that could be drawn up between all parties allowing the right of way to continue to be used as access until such point as when access is appropriate. Mr. Vinzant motioned to Table Petition 22-18 including all discussion, seconded by Mr. Lain. All ayes, motion carried. (8-0)

DRAFT MINUTES OF THE JUNE 2, 2022 PLAN COMMISSION MEETING: Present were Katie Kopf, Hoepfner, Wagner & Evans; Dan Steiner, Steiner Homes; Mark Lackey and John Hannon, Great Lakes Engineering. Ms. Kopf stated they are proposing a north/south temporary access easement through the proposed subdivision along with an east/west temporary access easement, which as the subdivision is platted, the temporary access easement will become a dedicated maintained street. Mr. Vinzant felt the proposed temporary access easement will need to be in place prior to vacating the right of way to allow access to the northern properties and inquired if the property owners to the north agreed to the proposal. Mr. Steiner noted the northern property owners were not pleased with the vacation of the unimproved right of way but felt what he is proposing will give them two points of access to their property which currently they do not have. Representing John & Jean Rakoczy and the other landowners of the two trusts was Glenn Kuchel/Green & Kuchel, P.C., 322 Indianapolis Blvd. Schererville. Mr. Kuchel stated Indiana law indicates properties cannot be landlocked and that public access is to be provided. He felt by vacating the unimproved right of way it will land lock approximately 70 acres +/- to the north. He also felt the proposed north/south access would be inadequate for future traffic flow and by vacating the right of way would render the northern property economically infeasible for development by eliminating an additional point of access. Mr. Steiner mentioned vacating the right of way will not hinder the development for the northern property since there are currently 2 points of access from the Amber Creek Subdivision. He noted that he is presenting the Rakoczys with an excellent option by providing services to their property which they did not have such as a road, sewer and water. Mr. Allen motioned for a Favorable Recommendation to the Common Council for Petition 22-18 contingent on excluding the north 60' of right of way and requiring a dedication to the City requesting the blue area identified in the exhibit provided including all discussion, seconded by Mr. Chhutani. All ayes, motion carried. (9-0)