

ALLEY VACATION
ORDINANCE NO. 10036-10
Status Vacated

Date 11/2/2010

Description:

The Alley to be Vacated is Described as the First North-South Alley West of Main Street and South of Colfax Avenue. The Portion to be Vacated Begins at the Southwest Corner of Lot Number 236 in the Original Plat of the City of South Bend to the North 131 Feet, to the West 10 Feet, to the South 131 Feet and Returns to the East 10 Feet to the Point of Beginning

ORDINANCE NO. 10036-10

AN ORDINANCE TO VACATE THE FOLLOWING DESCRIBED PROPERTY:

"The alley to be vacated is described as the first north-south alley West of Main Street and South of Colfax Avenue. The portion to be vacated begins at the southwest corner of lot number 236 in the original plat of the City of South Bend to the north 131 feet, to the west 10 feet, to the south 131 feet and returns to the east 10 feet to the point of beginning."

STATEMENT OF PURPOSE AND INTENT

Pursuant to Indiana Code Section 36-7-3-12, the Common Council is charged with the authority to hear all petitions to vacate public ways or public places within the City.

The following Ordinance vacates the above described public property.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, as follows:

SECTION I. The Common Council of the City of South Bend having held a Public Hearing on the petition to vacate the following property:

The alley to be vacated is described as the first north-south alley West of Main Street and South of Colfax Avenue. The portion to be vacated begins at the southwest corner of lot number 236 in the original plat of the City of South Bend to the north 131 feet, to the west 10 feet, to the south 131 feet and returns to the east 10 feet to the point of beginning.

Hereby determines that it is desirable to vacate said property.

SECTION II. The City of South Bend hereby reserves the rights and easements of all utilities and the Municipal City of South Bend, Indiana, to construct and maintain any facilities, including, but not limited to, the following: electric, telephone, gas, water, sewer, surface water control structures and ditches, within the vacated right-of-way, unless such rights are released by the individual utilities.

SECTION III. The following property may be injuriously or beneficially affected by such vacating: 018-1008-0313; 018-1008-0314; 018-1008-0315; 018-1008-0316



Office of the City Clerk

John Voorde, City Clerk

November 2, 2010

MEMORANDUM

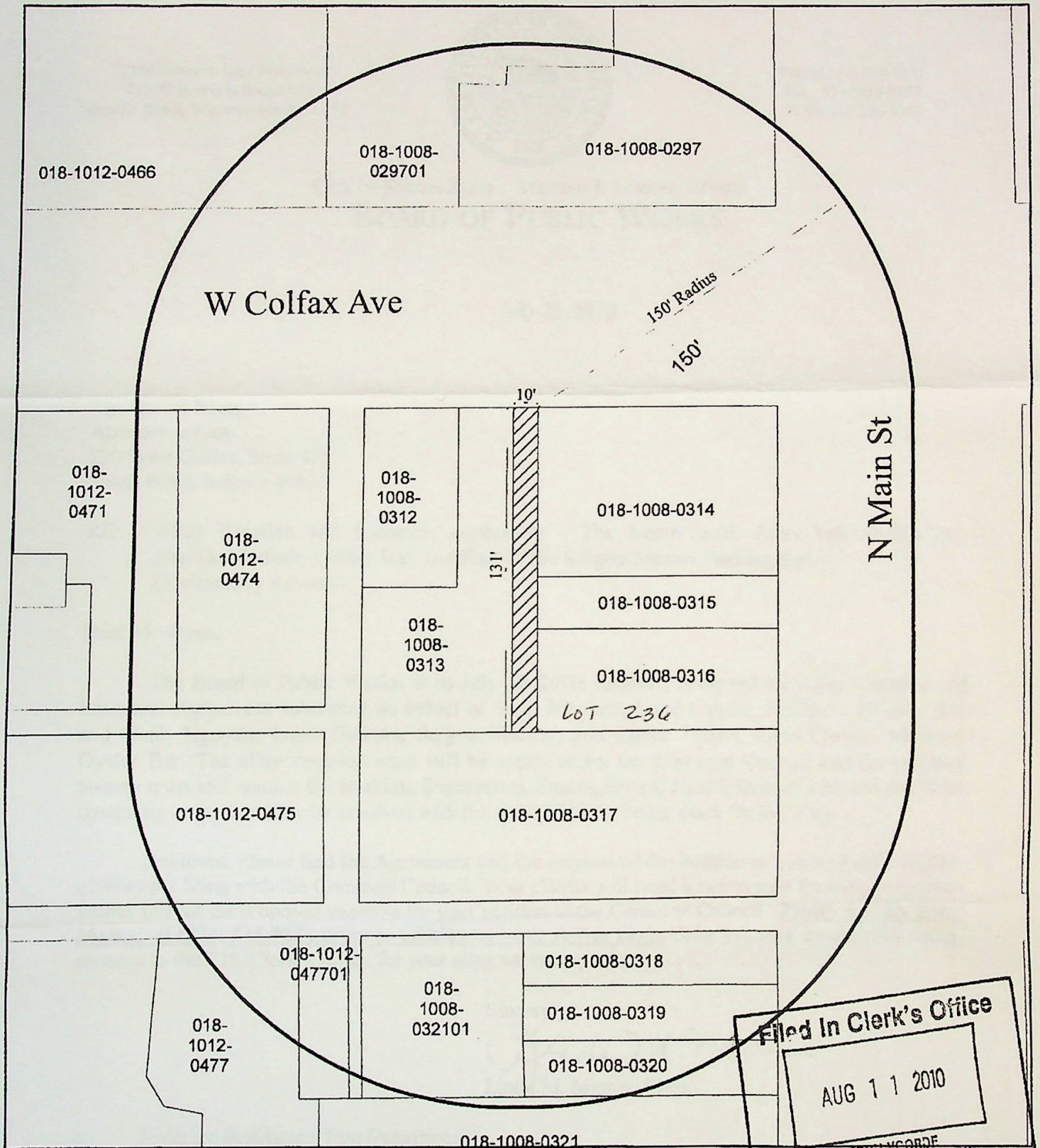
TO: Area Plan Commission
Board of Public Works/Engineering Dept.
Building Department
Fire Department
Northern Indiana Public Service Company
Police Department
Street Department
Bureau of Traffic & Lighting – Mark
Community & Economic Development – Pam Meyer
County Auditor – Paula
Water Works – North Station-Ed Herman

FROM: John Voorde, City Clerk

All proceedings with reference to Ordinance No. 10036-10 for the vacation of the following property:

THE ALLEY TO BE VACATED IS DESCRIBED AS THE FIRST NORTH-SOUTH ALLEY WEST OF MAIN STREET AND SOUTH OF COLFAX AVENUE. THE PORTION TO BE VACATED BEGINS AT THE SOUTHWEST CORNER OF LOT NUMBER 236 IN THE ORIGINAL PLAT OF THE CITY OF SOUTH BEND TO THE NORTH 131 FEET, TO THE WEST 10 FEET, TO THE SOUTH 131 FEET AND RETURNS TO THE EAST 10 FEET TO THE POINT OF BEGINNING

is closed and this area is vacated.



Legal Description:

The alley to be vacated is described as the first north-south alley West of Main Street and South of Colfax Avenue. The portion to be vacated begins at the southwest corner of lot 236 in the Original plat of the City of South Bend to the north 131 feet, to the west 10 feet, to the south 131 feet and returns to the east 10 feet to the point of beginning.

E

1316 COUNTY-CITY BUILDING
227 W. JEFFERSON BOULEVARD
SOUTH BEND, INDIANA 46601-1830



PHONE 574/235-9251
FAX 574/235-9171
TDD 574/235-5567

CITY OF SOUTH BEND STEPHEN J. LUECKE, MAYOR
BOARD OF PUBLIC WORKS

July 22, 2010

Mr. Shawn Ryan
Attorney at Law
220 West Colfax, Suite 425
South Bend, Indiana 46601

RE: Alley Vacation and Easement Agreement – The North/South Alley behind Fiddler's
Hearth, Madison Oyster Bar, and East of the Saigon Market Parking Lot
(Preliminary Review)

Dear Mr. Ryan:

The Board of Public Works, at its July 22, 2010, meeting, reviewed the Alley Vacation and Easement Agreement submitted on behalf of Sean Meehan, Land Owner, Fiddler's Hearth; Bao and Oanh Nguyen, Land Owners, Saigon Market; and Laura Simeri, Land Owner, Madison Oyster Bar. The alley vacation must still be approved by the Common Council and the property owners must still contact the Building Department, Zoning Board, Health Department, and any other governing entity that may be involved with the types of plans being made for the alley.

Enclosed, please find the Agreement and the original of the Petition to Vacate Public Rights-of-Way for filing with the Common Council. Your clients will need a radius map showing properties within 150' of the proposed vacation for your petition to the Common Council. **Please contact Tony Molnar at (574) 235-9254 prior to picking up your radius map.** Once you pick up the radius map, proceed to the City Clerk's office for your alley vacation packet.

Sincerely,

Linda M. Martin, Clerk

c: Federico Rodriguez, Fire Department
Tony Molnar, Engineering
Janice Talboom, City Clerk's Office
Carl Littrell, Engineering
Sean Meehan, Fiddler's Hearth
Bao and Oanh Nguyen, Saigon Market
Laura Simeri, Madison Oyster Bar.

RECEIVED

JUL 20 2010

CITY OF SOUTH BEND
DIV. OF ENGINEERING

PETITION TO VACATE PUBLIC RIGHTS-OF-WAY
(STREETS/ALLEYS)

TO THE COMMON COUNCIL
OF THE CITY OF SOUTH BEND, INDIANA



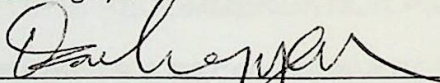
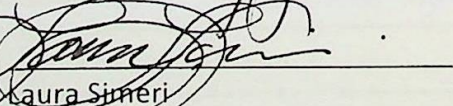
DATE: 7/13/10

WE, THE UNDERSIGNED PROPERTY OWNERS, PETITION YOU TO VACATE:

A. THE ALLEY DESCRIBED AS :

The existing alley with encroachments that runs North and South to the immediate west of (a) Fiddler's Hearth (parcel number 0180080316/8), (b) Madison Oyster Bar (parcel number 0180080315) and (c) Saigon Market parking lot (parcel 01810080314) and to the immediate east of Saigon Market (parcel 01810080313), as shown in the attached and incorporated Exhibit A.

B. THE STREET DESCRIBED AS: Not applicable.

NAME (signed & printed)	ADDRESS	LOT#
Ceol Mor, Inc. by:  Its authorized agent	127 N. Main Street South Bend, IN 46601	0180080316/8
 Bao Nguyen	208 W. Colfax Ave. South Bend, IN 46601	01810080313 01810080314
 Oanh Nguyen	208 W. Colfax Ave. South Bend, IN 46601	01810080313 01810080314
 Laura Simeri	129 N. Main Street South Bend, IN 46601	0180080315

CONTACT PERSON:
SHAWN P. RYAN
220 WEST COLFAX AVE. SUITE 425
SOUTH BEND, IN 46601
(574) 289-0909

RETURN TO: OFFICE OF THE CITY CLERK
JOHN VOORDE, CITY CLERK
ROOM 455 COUNTY-CITY BUILDING
SOUTH BEND, IN 46601
574-235-9221



**INTER-OFFICE MEMORANDUM
BOARD OF PUBLIC WORKS**

TO:

- Carl Littrell, Engineering Department
- John Byorni, Area Plan Commission (235-9813 fax) *o*
- Jeff Gibney, Community & Economic Development
- Chris Dressel, Community & Economic Development
- Bob Mathia, Community & Economic Development
- Federico Rodriguez, Fire Department
- Andre Price, Solid Waste *o*
- Stephen Goen, Police Department
- Cheryl Greene, City Attorney's Office
- Jim Bettin, NIPSCO (jrbettin@nisource.com or 284-2220 fax) **For Informational Purposes Only**

*Withdrawn
by Bettin
July 2008*

FROM:

Linda M. Martin, Clerk *LM*

RE:

Request for Recommendation - Alley Vacation
Location: First North-South Alley South of Colfax and West of Main Street
(Preliminary Review)

DATE:

April 25, 2008

DUE:

May 6, 2008

FAX OR E-MAIL TO:

235-9171 / lmartin@southbend.in.gov

RETURN RECOMMENDATION PAGE ONLY. ATTACHMENTS NOT REQUIRED.

COMMENTS & RECOMMENDATIONS:

BY: _____

DATE: _____

"A" KNOBLOCK'S SUB
 "B" MEDOW REPLAT OF LOTS 280-281 ORIGINAL PLAT'S BEND
 "C" HALL OF FAME & CHOCOLATE CAFE MINOR SUB
 "D" MORRIS CIVIC MINOR SUB
 "E" VALLEY AMERICAN BANK WASHINGTON ST MINOR SUB
 "F" ORIGINAL PLAT OF THE TOWN OF SOUTH BEND LEIGHTON PLAZA REPLAT
 "G" ORIGINAL TOWN OF SO BEND JEFFERSON & MAIN REPLAT

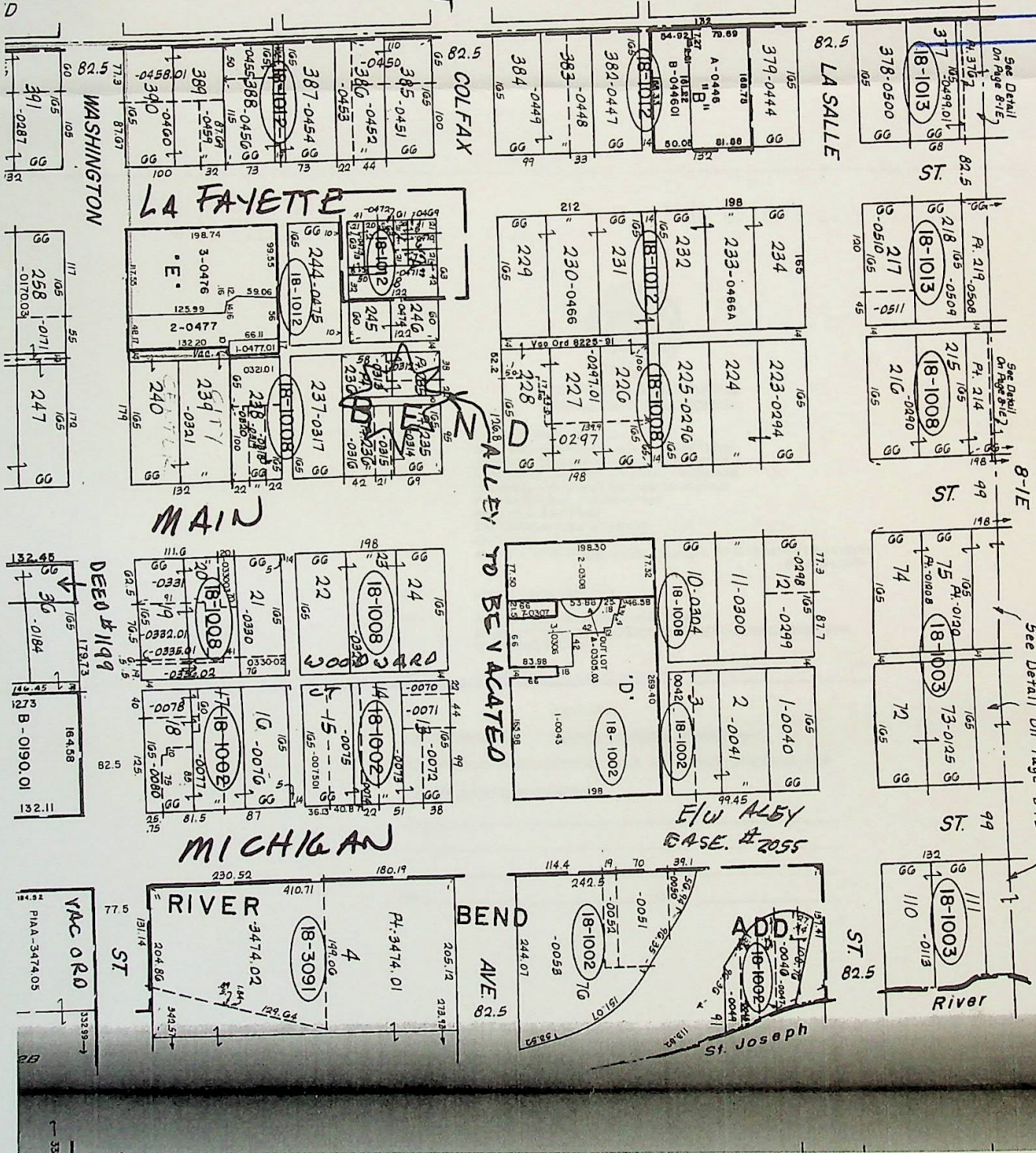
RETITLER:

TERRY MEENAN
 127 N MAIN ST

SOUTH BEND,
 IN 46601
 232-2853

PURPOSE:

USE FOR
 OUTDOOR
 SEATING



* * * Memory TX Result Report (Apr. 25. 2008 10:35AM) * * *

1) BRD PUB WORKS & SAFETY
2) BOARD OF PUBLIC WORKS & SAFETY

Date/Time: Apr. 25. 2008 10:34AM

File No. Mode	Destination	Pg(s)	Result	Page Not Sent
2090 Memory TX	82842220	P. 2	OK	

Reason for error

E. 1) Hang up or line fail	E. 2) Busy
E. 3) No answer	E. 4) No facsimile connection
E. 5) Exceeded max. E-mail size	



**INTER-OFFICE MEMORANDUM
BOARD OF PUBLIC WORKS**

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 Jeff Gibney, Community & Economic Development
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 Bob Mathia, Community & Economic Development
 Federico Rodriguez, Fire Department
 Andre Price, Solid Waste
 Stephen Goen, Police Department
 Cheryl Greene, City Attorney's Office
 Jim Betlin, NIPSCO (rbetlin@nisource.com or 284-2220 fax) **For Informational Purposes Only**

FROM: Linda M. Martin, Clerk *LM*

RE: Request for Recommendation - Alley Vacation
 Location: First North-South Alley South of Colfax and West of Main Street
 (Preliminary Review)

DATE: April 25, 2008

DUE: May 8, 2008

FAX OR E-MAIL TO: 235-9171 / lmartin@southbend.in.gov

RETURN RECOMMENDATION PAGE ONLY. ATTACHMENTS NOT REQUIRED.

COMMENTS & RECOMMENDATIONS:

BY: _____ **DATE:** _____



**INTER-OFFICE MEMORANDUM
BOARD OF PUBLIC WORKS**

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 Bob Mathia, Community & Economic Development
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 Cheryl Greene, City Attorney's Office
 Jim Bettin, NIPSCO (jrbettin@nisource.com or 284-2220 fax) **For Informational
Purposes Only**

FROM: Linda M. Martin, Clerk *LM*

RE: Request for Recommendation - Alley Vacation
Location: First North-South Alley South of Colfax and West of Main Street
(Preliminary Review)

DATE: April 25, 2008

DUE: May 6, 2008

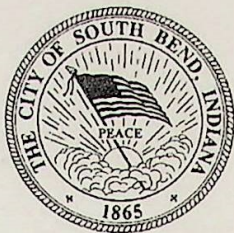
FAX OR E-MAIL TO: 235-9171 / lmartin@southbend.in.gov

RETURN RECOMMENDATION PAGE ONLY. ATTACHMENTS NOT REQUIRED.

COMMENTS & RECOMMENDATIONS:

Met with Terry Meachen the property owner to visit site. He is confident
 adjacent property owners are in favor. Favorable recommendation
 with encouragement to property owner to begin post-vacation discussion
 in order
 to accommodate
 patio.

BY: Chris Dressel **DATE:** 4/25/08



**INTER-OFFICE MEMORANDUM
BOARD OF PUBLIC WORKS**

TO: Carl Littrell, Engineering Department
John Byorni, Area Plan Commission (235-9813 fax)
Jeff Gibney, Community & Economic Development
Chris Dressel, Community & Economic Development
Bob Mathia, Community & Economic Development
Federico Rodriguez, Fire Department
Andre Price, Solid Waste
Stephen Goen, Police Department
Cheryl Greene, City Attorney's Office
Jim Bettin, NIPSCO (jrbettin@nisource.com or 284-2220 fax) **For Informational
Purposes Only**

FROM: Linda M. Martin, Clerk *LM*

RE: Request for Recommendation - Alley Vacation
Location: First North-South Alley South of Colfax and West of Main Street
(Preliminary Review)

DATE: April 25, 2008

DUE: May 6, 2008

FAX OR E-MAIL TO: 235-9171 / lmartin@southbendin.gov

RETURN RECOMMENDATION PAGE ONLY. ATTACHMENTS NOT REQUIRED.

COMMENTS & RECOMMENDATIONS:

I have no objection to this proposed vacation, however, petitioner should be asked to explain how he will deal with garbage storage and removal with the alley through the garbage trucks

BY: Robert P. Mathia

DATE: 4/28/08



**INTER-OFFICE MEMORANDUM
BOARD OF PUBLIC WORKS**

TO: Carl Littrell, Engineering Department
John Byorni, Area Plan Commission (235-9813 fax)
Jeff Gibney, Community & Economic Development
Chris Dressel, Community & Economic Development
Bob Mathia, Community & Economic Development
Federico Rodriguez, Fire Department
Andre Price, Solid Waste
Stephen Goen, Police Department
Cheryl Greene, City Attorney's Office
Jim Bettin, NIPSCO (jrbettin@nisource.com or 284-2220 fax) **For Informational
Purposes Only**

FROM: Linda M. Martin, Clerk *LM*

RE: Request for Recommendation - Alley Vacation
Location: First North-South Alley South of Colfax and West of Main Street
(Preliminary Review)

DATE: April 25, 2008

DUE: May 6, 2008

FAX OR E-MAIL TO: 235-9171 / lmartin@southbendin.gov

RETURN RECOMMENDATION PAGE ONLY. ATTACHMENTS NOT REQUIRED.

COMMENTS & RECOMMENDATIONS:

*From a public works viewpoint, there is no objection.
However, cross-access easement agreements with
neighbour will be necessary for the petitioner to occupy*

BY: _____ DATE: _____

the entire vacated space.

Carl P. Littrell 5/2/08



**INTER-OFFICE MEMORANDUM
BOARD OF PUBLIC WORKS**

TO: Carl Littrell, Engineering Department
John Byorni, Area Plan Commission (235-9813 fax)
Jeff Gibney, Community & Economic Development
Chris Dressel, Community & Economic Development
Bob Mathia, Community & Economic Development
Federico Rodriguez, Fire Department
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Jim Bettin, NIPSCO (irbettin@nisource.com or 284-2220 fax) **For Informational
Purposes Only**

FROM: Linda M. Martin, Clerk *LM*

RE: Request for Recommendation - Alley Vacation
Location: First North-South Alley South of Colfax and West of Main Street
(Preliminary Review)

DATE: April 25, 2008

DUE: May 6, 2008

FAX OR E-MAIL TO: 235-9171 / lmartin@southbendin.gov

RETURN RECOMMENDATION PAGE ONLY. ATTACHMENTS NOT REQUIRED.

COMMENTS & RECOMMENDATIONS:

No objections

BY: *Sept Goen*

DATE: *4-25-08*



**INTER-OFFICE MEMORANDUM
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TO: Carl Littrell, Engineering Department
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Andre Price, Solid Waste
Stephen Goen, Police Department
Cheryl Greene, City Attorney's Office
Jlm Bettin, NIPSCO (jrbettin@nlsource.com or 284-2220 fax) **For Informational
Purposes Only**

FROM: Linda M. Martin, Clerk *LM*

RE: Request for Recommendation - Alley Vacation
Location: First North-South Alley South of Colfax and West of Main Street
(Preliminary Review)

DATE: April 25, 2008

DUE: May 6, 2008

FAX OR E-MAIL TO: 235-9171 / lmartin@southbendln.gov

RETURN RECOMMENDATION PAGE ONLY. ATTACHMENTS NOT REQUIRED.

COMMENTS & RECOMMENDATIONS:

OK S.B. PD.

BY: A/C Federico Rodriguez **DATE:** 4-30-08

Area Plan Commission of St. Joseph County

1140 County-City Building
South Bend, Indiana 46601

John W. Byorni
Executive Director

Larry P. Maglozzi
Assistant Director

Phone 574 235-9571

www.stjosephcountyindiana.com/areaplan

Fax 574 235-9813

June 6, 2008

The Board of Public Works
13th Floor, County-City Building
South Bend, Indiana 46601

RE: Alley Vacation
First North-South Alley South of Colfax and West of Main Street

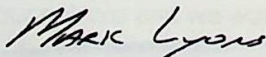
Dear Board Members:

The staff has reviewed this petition. It is the staff's opinion that:

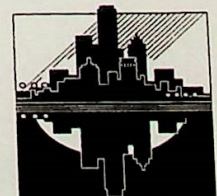
- (1) The vacation *would not* hinder the growth or orderly development of the unit or neighborhood in which it is located or to which it is contiguous.
- (2) The vacation *would not* make access to the lands of the aggrieved person by means of public way difficult or inconvenient.
- (3) The vacation *would not* hinder the public's access to a church, school, or other public building or place.
- (4) The vacation *would not* hinder the use of a public way by the neighborhood in which it is located or to which it is contiguous.

Staff recommends that the street be vacated subject to any further utility or access easements recommended by the Engineering and Building Departments.

Sincerely,



Mark Lyons
Planner



Jennifer Corle - Fwd: Alley Cafe

From: Carl Littrell
To: Jennifer Corle
Date: 6/5/2008 4:01 PM
Subject: Fwd: Alley Cafe

fyi

>>> Fiddler's Hearth Public House <fiddlershearth@gmail.com> 5/20/2008 5:40 PM >>>

Thank you for your patience while we've done our research with the city and discussed the issues with our neighbors surrounding the use and maintenance of the alley that runs behind our business. Some *conflicting information on maps received from the city* has slowed us down some, but after my last conversation with Tony Molnar at the Engineering Department, we understand that the alley is indeed owned by the city (contrary to a notation on one of the maps we found).

We are currently against the idea of vacating the alley as it would totally cut off our legal access to the back of our restaurant. We prefer to leave our garden in the alley under the sidewalk cafe provision with a variance that allows us to leave it up at night and year round as requested in our application. (This was approved last year per a letter from Linda Martin stating that we needed to also take care of a dangling wire on the back of the building.) The pergola in the alley conforms with the drawing that was submitted and approved by Public Works last year. We completed two applications and paid for two permits last year (one for the front sidewalk and one for the back alley), and paid for two permits again this year. If the sidewalk cafe avenue is not satisfactory, is there another avenue that would allow encroachment on public property?

Both Fiddler's and Oyster Bar are still receiving deliveries through the garden to our back doors, and the fire marshal has inspected and approved the structure. At this point, I need to know if there are any other issues with the garden that I need to address. We have invested over \$10,000 in the paving and pergola. It has proven extremely popular with our patrons and we would very much like to keep it. Please advise what else we need to do.

Best regards,
Carol Meehan
Fiddler's Hearth