

ORDIANCE #10419-16

Alley Vacation

Date Vacated: January 25, 2016

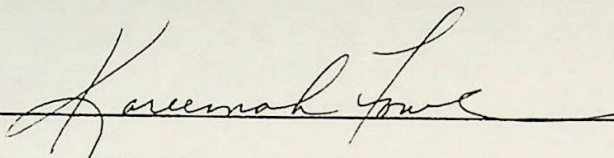
Description: First East/West Alley North of California Avenue from the East Right of Way Line of Sherman Avenue to the First North/South Alley for a Distance of 128 Feet and a Width of 10 Feet. Being Part of Wards Subdivision and a Part of Muessel's 1st Addition to the City of South Bend, Portage Township, St. Joseph County, Indiana

ORDINANCE No. 10419-16

Passed by the Common Council of the City of South Bend, Indiana _____

January 25, 20 16

Attest: _____



City Clerk

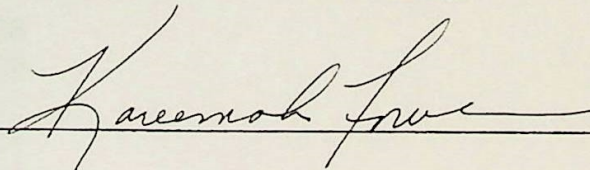
Attest: _____



President of Common Council

Presented by me to the Mayor of the City of South Bend, Indiana _____

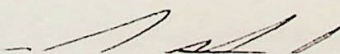
January 25, 20 16



City Clerk

Approved and signed by me _____

January 26, 20 16



ORDINANCE NO. 10419-16

AN ORDINANCE TO VACATE THE FOLLOWING DESCRIBED PROPERTY:

FIRST EW ALLEY NORTH OF CALIFORNIA AVE. BETWEEN SHERMAN AVE.
AND THE NORTH/SOUTH ALLEY

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 ORDERED 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 FIRST EAST/WEST ALLEY NORTH OF CALIFORNIA AVENUE FROM THE EAST RIGHT OF WAY LINE OF SHERMAN AVENUE TO THE FIRST NORTH/SOUTH ALLEY FOR A DISTANCE OF 128 FEET AND A WIDTH OF 10 FEET. BEING A PART OF WARDS SUBDIVISION AND A PART OF MUESSEL'S 1ST ADDITION TO THE CITY OF SOUTH BEND, PORTAGE TOWNSHIP, ST. JOSEPH COUNTY, INDIANA.

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:

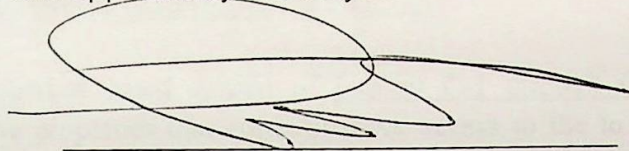
- 018-1085-3608
- 018-1085-3609
- 018-1085-3610
- 018-1085-3611
- 018-1085-3597

SECTION IV. The purpose of the vacation of the real property is

to repurpose an unused alley, increase vehicular safety, to improve the quality of life and to address public safety concerns.

This is an east/west cross alley which has not been maintained with either asphalt or gravel. It is currently grass area, with neighbors maintaining. Vehicles could not safely access the alley in its current condition. The vacation will additionally help to contain trash and provide ownership of an unused alley easement.

SECTION V. This ordinance shall be in full force and effect from and after its passage by the Common Council and approval by the Mayor.



Member of the Common Council

Attest:

Karenal Loe
City Clerk

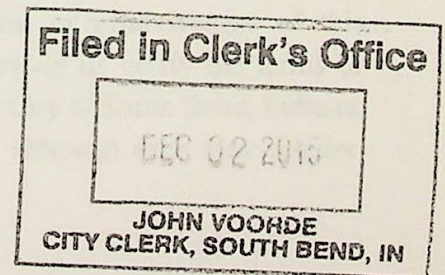
Presented by me to the Mayor of the City of South Bend, Indiana on the 26th day of Jan., 2016, at 9:30 o'clock a.m.

Karenal Loe
City Clerk

Approved and signed by me on the 26th day of January, 2016, at 9:30 o'clock a.m.

[Signature]
Mayor, City of South Bend, Indiana

1st READING 12-14-15
PUBLIC HEARING 01-25-16
3rd READING 01-25-16
NOT APPROVED
REFERRED
PASSED 1/25/16



CROSS ACCESS EASEMENT AGREEMENT

This 22 day of January, 2016 between Kimberly Bonenfant-Juwong, an individual, the owner of the Applicant Property (as defined below) and the Adjacent Owners (as defined below).

RECITALS

1. The Applicant hereby represents that it owns the real property described as Exhibit A.
2. The Applicant desires for the first public alley running East/West, North of California Avenue from the East right-of-way line of Sherman Avenue to the first North/South alley in South Bend, Indiana, and more particularly described as Exhibit B (to be vacated).
3. The Applicant represents that the properties listed consist of Exhibit C-1 through C-4 (collectively, "Exhibit C") are all of the properties that currently have access to the to be Vacated Area (the "Adjacent Properties"), and that the four owners of these Adjacent Properties listed on Exhibit C consist of all of the owners of the Adjacent Properties (the "Adjacent Owners"). Where applicable, the Adjacent Owners and the Applicant shall be referred to collectively as the "Property Owners".
4. The Applicant represents that she has legally obtained the signature of all of the Adjacent Owners, and that any omission of a Property Owner currently having access to the Vacated Area or an individual or entity with an ownership interest therein is inadvertent.
5. Any Owner of property adjacent to the Vacated Area may become a party to this Agreement by recording an Affidavit cross-referencing this Agreement, agreeing to be bound by its terms, and attaching a plat evidencing that the Property Owner at issue had and continues to access the Vacated Area. The signatures of the Applicant and/or the Adjacent Owners to this original Agreement are not necessary for such an Affidavit to amend the Agreement. However, only the owners of a property adjacent to the vacated area may become a party to this Agreement.
6. This Agreement shall not be recorded until it has been acknowledged by the City of South Bend, Indiana Board of Public Works (the "Board"). Said Agreement shall not be effective until said Agreement is recorded.
7. The Applicant hereby acknowledges that she is solely responsible for the accuracy, and completeness of this Agreement. The Applicant, the Adjacent Owners and any other interested party hereby acknowledge that the Board, in its Acknowledgement of Receipt of this Agreement, is in no way verifying the accuracy, completeness or effectiveness of this Agreement. The Board expressly disclaims any obligation to review or verify the terms or effectiveness of this Agreement. Any decision by the Board or the City of South Bend, Indiana, is made independent from the effectiveness of this Agreement, although each may require

receipt of such an Access Easement Agreement or similar document as part of its decision-making process prior to making its determination as to whether to grant Applicant's request to vacate the public alley at issue herein.

8. The purpose of this easement is to allow traffic flow between the properties and to allow the Adjacent Owners to continue having access to their garages or other improvements and to allow access for maintenance of said properties.

NOW, THEREFORE, IT IS HEREBY AGREED AS FOLLOWS:

1. The Property Owners hereby grant and convey to each other, their successors and assigns, permanent, exclusive and perpetual easements in, on, under, over and across their respective interest in the Vacated Area for the limited purpose of allowing Property Owners, their guests or tenants access to their respective garages or other improvements or for periodic maintenance equipment.
2. The easement to be created shall burden and benefit both the Applicant's property as well as property of Adjacent Owners. The easement shall run with the land and shall be binding on and shall inure to the benefit of the Applicant and the Adjacent Owners as well as the respective heirs, successors or assigns of the Applicant and the Adjacent Owners.
3. Any agreement to terminate or modify the easements to be granted must be approved and executed by the Applicant, all Adjacent Owners and/or their successors and/or the successors in interest to the Applicant and the Adjacent Owners. Said Agreement to terminate or modify the Easement Agreement must be approved in writing by the City of South Bend in order to be effective.
4. The Applicant and the Adjacent Owners have agreed to make all necessary improvements to their respective properties so that said properties do not interfere with the Applicant and/or Adjacent Owners' ability to use the vacated area as set forth in this Agreement.
5. The Property Owners agree to maintain the vacated area that will be located adjacent to their respective properties in a reasonable manner and at their sole expense. The Applicant shall be solely responsible for constructing or otherwise providing for any improvements required by the Board but may seek indemnification from the Property Owners for the cost related to such improvements their pro-rata share (which each pro-rata share determined by each Property Owner's portion of the total frontage along the Vacated Area).
6. Any violation or breach of this Agreement shall be considered a breach and any Property Owner shall have the authority to enforce this Agreement in any manner permitted by law.

7. This Agreement to create a Cross Access Agreement shall be recorded immediately upon execution by the Property Owners and acknowledged of the Board.
8. Any Property Owner executing this Agreement on behalf of another person or entity hereby certifies that he or she is duly authorized to approve and execute this Agreement on behalf of said person or entity.
9. This Agreement may be executed in counterpart signature pages, and an executed Exhibit B of this Agreement by an Adjacent Owners shall be considered a binding counterpart signature page.
10. The Applicant shall insure that the Agreement is recorded in a manner so as to cross-reference all of the deeds of record or the most recent plat for the Adjacent Properties.

The individual executing this Agreement as the Applicant hereby affirms under the pains and penalties of perjury that the foregoing representations are true and accurate to the best of her knowledge.

WITNESSED that the Property Owners have duly executed this Agreement for the benefit of each other and the City of South Bend, Indiana.

APPLICANT

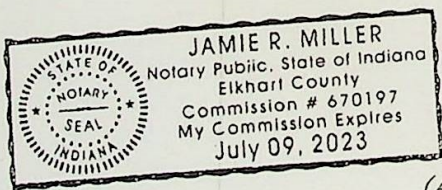
By: *Kimberly Bonenfant-Juwong*
 Kimberly Bonenfant-Juwong

STATE OF INDIANA)
)SS:
 COUNTY OF ST. JOSEPH)

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared Kimberly Bonenfant-Juwong, known to me to be the Applicant specified above and acknowledged the execution of the foregoing Agreement.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal on this 22 day of January, 2016.

Jamie R Miller
 _____, Notary Public
 Residing in Elkhart, Indiana



(Applicant Signature Page)

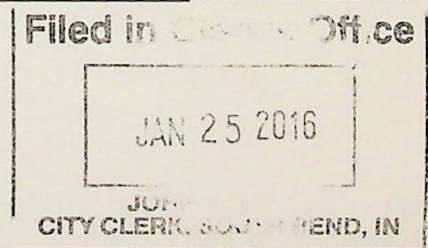


EXHIBIT A

Description of Applicant Property

Street Address: 1015 California Avenue, South Bend, Indiana

Tax Id. Number(s): 018-1085-3611

Recording No. of
Applicant's Deed: 1314473
Doc. No. _____ or Deed Book _____, Page _____

Applicant's Deed
Recording Date: 05/15/2013

EXHIBIT B

Legal Description of Vacated Area

The alley to be vacated is the first East/West alley North of California Avenue from the East right of way line of Sherman Avenue to the first North/South alley for a distance of 128 feet and a width of 10 feet. Being a part of Wards Subdivision and a part of Muessel's 1st Addition to the City of South Bend, Portage Township, St. Joseph County, Indiana.

EXHIBIT C-1

Description of Adjacent Owner and Adjacent Property

Adjacent Property

Owner(s) of Record: Rachel L. Jonker

Interest Owned: Fee Simple

Street Address: 1023 California Avenue, South Bend, IN 46616

Tax Id. Number(s): 018-1085-3608

Record No. of Applicant's Deed: Doc. No. 1420261 or Deed Book _____, Page _____

Owner's Deed Recording Date: 08/19/2014

I am the owner of the property interest specified above. I have reviewed this Cross Access Easement Agreement and am duly authorized to approve and execute it.

DATE: January 23, 2016

ADJACENT OWNER

By: Rachel L Jonker

Printed Name: Rachel L. Jonker

STATE OF INDIANA)
)SS:
COUNTY OF ST. JOSEPH)

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared Rachel L. Jonker, known to me to be the Applicant specified above and acknowledged the execution of the foregoing Agreement.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal on this 23 day of January, 2016.

Jamie R Miller
_____, Notary Public

Residing in Elkhart, Indiana

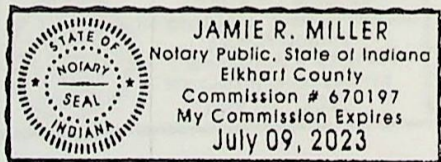


EXHIBIT C-2

Description of Adjacent Owner and Adjacent Property

Adjacent Property
Owner(s) of Record: Near Northwest Neighborhood, Inc.

Interest Owned: Fee Simple

Street Address: 1019 California Avenue, South Bend, IN 46616

Tax Id. Number(s): 018-1085-3609

The Near Northwest has been presented with a Resolution of the St. Joseph County Commissioners to transfer ownership of the property interest specified above. Legal efforts are in process at this time to effect the transfer. That Resolution is numbered R-16-C-2015 and dated September 1, 2015. I have reviewed this Cross Access Easement Agreement and am duly authorized to approve and execute it.

DATE: Jan. 22, 2016

ADJACENT OWNER
Near Northwest Neighborhood, Inc.

By: [Signature]

Printed Name: Kathy Schmitt

STATE OF INDIANA)
)SS:
COUNTY OF ST. JOSEPH)

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared Near Northwest Neighborhood, Inc. by _____, known to me to be the Applicant specified above and acknowledged the execution of the foregoing Agreement.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal on this 22 day of January, 2016.

[Signature]
_____, Notary Public

Residing in Elkhart, Indiana

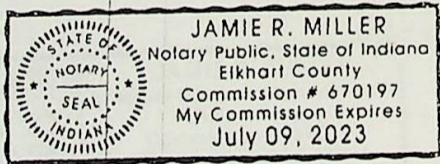


EXHIBIT C-3

Description of Adjacent Owner and Adjacent Property

Adjacent Property

Owner(s) of Record: Andrew and Jon Kara Shields

Interest Owned: Fee Simple

Street Address: 1017 California Avenue, South Bend, IN 46616

Tax Id. Number(s): 018-1085-3610

Record No. of Applicant's Deed: Doc. No. 1411327 or Deed Book _____, Page _____

Owner's Deed Recording Date: 05/20/2014

I am the owner of the property interest specified above. I have reviewed this Cross Access Easement Agreement and am duly authorized to approve and execute it.

DATE: 01/23/2016

ADJACENT OWNER

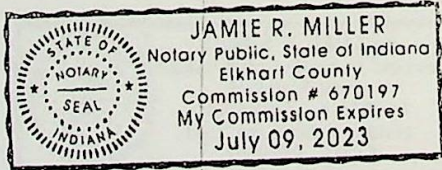
By: [Signature]
Printed Name: Andrew Shields

[Signature]
Jon Kara Shields

STATE OF INDIANA)
)SS:
COUNTY OF ST. JOSEPH)

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared Andrew, Jon Kara Shields known to me to be the Applicant specified above and acknowledged the execution of the foregoing Agreement.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal on this 23 day of January, 2016.



[Signature]
, Notary Public

Residing in Elkhart, Indiana

EXHIBIT C-4

Description of Adjacent Owner and Adjacent Property

Adjacent Property
Owner(s) of Record: Near Northwest Neighborhood, Inc.

Interest Owned: Fee Simple

Street Address: 1008 Sherman Avenue, South Bend, IN 46616

Tax Id. Number(s): 018-1085-3597

Record No. of
Applicant's Deed: Doc. No. 1303314 or Deed Book _____, Page _____

Owner's Deed
Recording Date: 02/04/2013

I am the owner of the property interest specified above. I have reviewed this Cross Access Easement Agreement and am duly authorized to approve and execute it.

DATE: Jan. 22, 2016

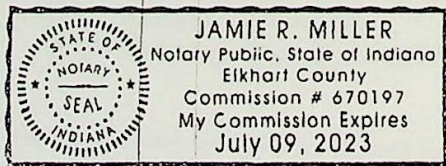
ADJACENT OWNER
Near Northwest Neighborhood, Inc.

By: [Signature]
Printed Name: Kathy Schuth

STATE OF INDIANA)
)SS:
COUNTY OF ST. JOSEPH)

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared Near Northwest Neighborhood, Inc. by Kathy Schuth, known to me to be the Applicant specified above and acknowledged the execution of the foregoing Agreement.

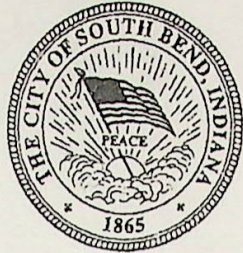
IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal on this 22 day of January, 2016.



[Signature: Jamie R. Miller]
_____, Notary Public

Residing in Elkhart, Indiana

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



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

CITY OF SOUTH BEND PETE BUTTIGIEG, MAYOR
BOARD OF PUBLIC WORKS

September 22, 2015

Ms. Kimberly Bonenfant-Juwong
1015 California Ave
South Bend, IN 46616

RE: Alley Vacation – First E/W Alley North of California Ave. between Sherman Ave. and the North/South Alley (Preliminary Review)

Dear Ms. Bonenfant-Juwong:

The Board of Public Works, at its September 22, 2015, meeting, reviewed comments by the Engineering Division, Area Plan Commission, Community Investment, Fire Department, Police Department, and the Solid Waste Division. The following comments and recommendations were submitted:

Area Plan stated that 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. The vacation **would** make access to the lands of the aggrieved person by means of public way difficult or inconvenient. The vacation would not hinder the public's access to a church, school or other public building or place. The vacation **would** hinder the use of a public right of way by the neighborhood in which it is located or to which it is contiguous.

Therefore, the Board of Public Works submitted a favorable recommendation for the vacation of half the alley from California to N/S Alley, not all the way to Portage Ave. Approval is also subject to an access agreement with the three (3) contiguous lot owners.

Please contact Tony Molnar at (574) 235-9254 prior to picking up your radius map. You will need a radius map showing properties within 150' of the proposed vacation for your petition to the Common Council. 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

GARY A. GILOT

DAVID P. RELOS

KATHRYN E. ROOS

ELIZABETH A. MARADIK

BRIAN J. PAWLOWSKI



10419-14

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

DATE SENT: 8/28/2015

TO: ✓ Pete Kaminski, Street Department
✓ Mike Bronstetter, Solid Waste
✓ Corbitt Kerr, Engineering Department
Jitin Kain, Community Investment
✓ Federico Rodriguez, Fire Department
✓ Larry Magliozzi, Area Plan Commission (lmagloz@co.st-joseph.in.us or 235-9813 fax)
✓ Gene Eyster, Police Department
Phil Griffin, NIPSCO (pmgriffin@nisource.com) (FYI Only)
Linda M. Martin, Clerk *LM*

FROM:

SUBJECT: **REQUEST FOR RECOMMENDATION – ALLEY VACATION**

APPLICANT: **Kimberly Bonenfant-Juwong**

LOCATION: **First E/W Alley North of California Ave. between Sherman and Portage Ave**

DATE DUE: **September 1, 2015**

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

**PLEASE MAKE YOUR RECOMMENDATIONS BASED ON THE FOLLOWING
IC 36-7-3-13 CRITERIA:**

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

COMMENTS:

By _____ Date _____

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



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

CITY OF SOUTH BEND PETE BUTTIGIEG, MAYOR
BOARD OF PUBLIC WORKS

September 22, 2015

Ms. Kimberly Bonenfant-Juwong
1015 California Ave
South Bend, IN 46616

RE: Alley Vacation – First E/W Alley North of California Ave. between Sherman Ave. and the North/South Alley (Preliminary Review) –

Dear Ms. Bonenfant-Juwong:

The Board of Public Works, at its September 22, 2015, meeting, reviewed comments by the Engineering Division, Area Plan Commission, Community Investment, Fire Department, Police Department, and the Solid Waste Division. The following comments and recommendations were submitted:

Area Plan stated that 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. The vacation **would** make access to the lands of the aggrieved person by means of public way difficult or inconvenient. The vacation would not hinder the public's access to a church, school or other public building or place. The vacation **would** hinder the use of a public right of way by the neighborhood in which it is located or to which it is contiguous.

Therefore, the Board of Public Works submitted a favorable recommendation for the vacation of half the alley from California to N/S Alley, not all the way to Portage Ave. Approval is also subject to an access agreement with the three (3) contiguous lot owners.

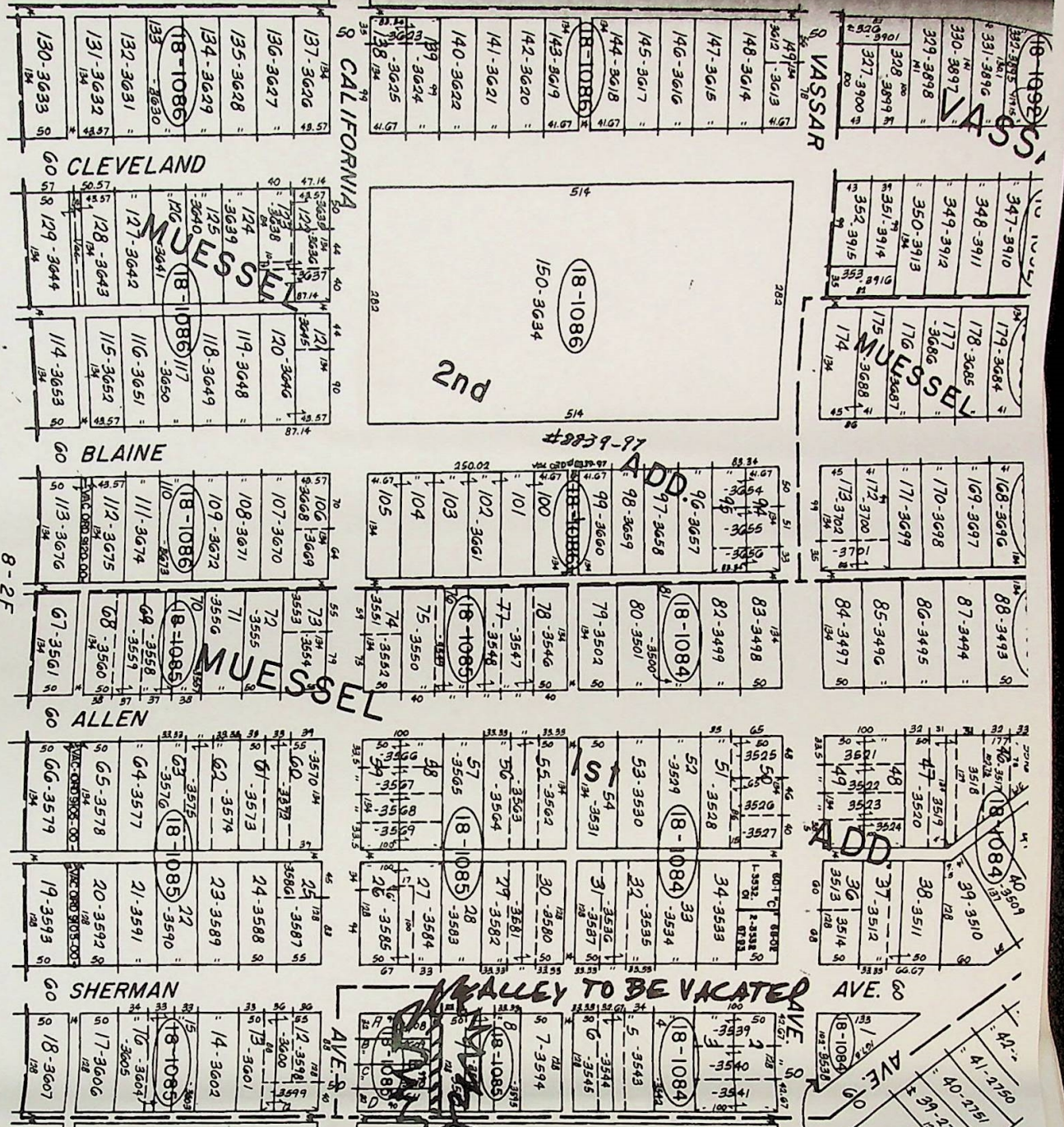
Please contact Tony Molnar at (574) 235-9254 prior to picking up your radius map. You will need a radius map showing properties within 150' of the proposed vacation for your petition to the Common Council. Once you pick up the radius map, proceed to the City Clerk's office for your alley vacation packet.

Sincerely,

A handwritten signature in cursive script that reads "Linda M. Martin".

Linda M. Martin, Clerk

c: Federico Rodriguez, Fire Department
Tony Molnar, Engineering
Janice Talboom, City Clerk's Office



PORTAGE TWP.
 E. 1/2 N.W. 1/4 SEC. 2 T. 37N. R. 2E.

APPROVED
 Board of Public Works
 SEP 22 2015
 8-2B

PURPOSE:
 ENLARGE LOTS
 (TO SOUTH) ALLEY
 NOT BEING USED

PETITIONER:
 KIMBELLY BONDEN FANT-
 JUNONG
 1015 CALIFORNIA AV
 SOUTH BEND, IN
 46616
 269-599-2141

Copyright 1986
 THE SIDWELL COMPANY
 SCALE: 1" = 100'
 2001

Elizabeth Horvath

From: Patrick C. Kerr
Sent: Monday, August 31, 2015 9:50 AM
To: Elizabeth Horvath
Subject: RE: Alley Vacation - Kimberly Bonenfant-Juwong

No objection.

From: Elizabeth Horvath
Sent: Friday, August 28, 2015 1:11 PM
To: Pete Kaminski <pkaminsk@southbendin.gov>; Michael Bronstetter <mbronste@southbendin.gov>; Patrick C. Kerr <pckerr@southbendin.gov>; Jitin Kain <jkain@southbendin.gov>; Federico Rodriguez <frodrigu@southbendin.gov>; Larry Magliozzi <LMAGLIOZ@co.st-joseph.in.us>; Eugene Eyster <eeyster@southbendin.gov>
Subject: Alley Vacation - Kimberly Bonenfant-Juwong

Please provide your recommendations.

Lizzy Horvath

Secretary

Department of Public Works

227 W. Jefferson Blvd., Suite 1316

South Bend, IN 46601

574-235-3168

lhovath@southbendin.gov





INTER-OFFICE MEMORANDUM
BOARD OF PUBLIC WORKS

DATE SENT: 8/28/2015

TO: Pete Kaminski, Street Department
Mike Bronstetter, Solid Waste
Corbitt Kerr, Engineering Department
Jitin Kain, Community Investment
Federico Rodriguez, Fire Department
Larry Magliozzi, Area Plan Commission (Imaglioz@co.st-joseph.in.us or 235-9813 fax)
Gene Eyster, Police Department
Phil Griffin, NIPSCO (pmgriffin@nisource.com) (FYI Only)
Linda M. Martin, Clerk

FROM: Linda M. Martin

SUBJECT: REQUEST FOR RECOMMENDATION – ALLEY VACATION

APPLICANT: Kimberly Bonenfant-Juwong

LOCATION: First E/W Alley North of California Ave. between Sherman and Portage Ave

DATE DUE: September 1, 2015

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

PLEASE MAKE YOUR RECOMMENDATIONS BASED ON THE FOLLOWING
IC 36-7-3-13 CRITERIA:

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

COMMENTS:

By Mike Bronstetter

Date 8-31-15

Elizabeth Horvath

From: Eugene Eyster
Sent: Monday, August 31, 2015 3:12 PM
To: Elizabeth Horvath; Pete Kaminski; Michael Bronstetter; Patrick C. Kerr; Jitin Kain; Federico Rodriguez; Larry Magliozzi
Subject: RE: Alley Vacation - Kimberly Bonenfant-Juwong

Ms. Horvath,
The Police Department would have no objection to the approval of this request.

Lt. Eyster

From: Elizabeth Horvath
Sent: Friday, August 28, 2015 1:11 PM
To: Pete Kaminski <pkaminsk@southbendin.gov>; Michael Bronstetter <mbronste@southbendin.gov>; Patrick C. Kerr <pckerr@southbendin.gov>; Jitin Kain <jkain@southbendin.gov>; Federico Rodriguez <frodrigu@southbendin.gov>; Larry Magliozzi <LMAGLIOZ@co.st-joseph.in.us>; Eugene Eyster <eeyster@southbendin.gov>
Subject: Alley Vacation - Kimberly Bonenfant-Juwong

Please provide your recommendations.

Lizzy Horvath

Secretary

Department of Public Works

227 W. Jefferson Blvd., Suite 1316

South Bend, IN 46601

574-235-3168

lhovath@southbendin.gov



Elizabeth Horvath

From: Federico Rodriguez
Sent: Monday, August 31, 2015 11:30 AM
To: Elizabeth Horvath; Pete Kaminski; Michael Bronstetter; Patrick C. Kerr; Jitin Kain; Larry Magliozzi; Eugene Eyster
Subject: RE: Alley Vacation - Kimberly Bonenfant-Juwong

unfavorable: Reason #2 The vacation would make access to the lands of the aggrieved persons by means of public way difficult or inconvenient for fire accessibility.



Federico (Chico) Rodriguez
Fire Marshal
Office: (574) 235-7564
Mobile: (574) 876-6734
1222 S. Michigan Street
City of South Bend, In 46601
frodrigu@southbendin.gov

From: Elizabeth Horvath
Sent: Friday, August 28, 2015 1:11 PM
To: Pete Kaminski <pkaminsk@southbendin.gov>; Michael Bronstetter <mbronste@southbendin.gov>; Patrick C. Kerr <pckerr@southbendin.gov>; Jitin Kain <jkain@southbendin.gov>; Federico Rodriguez <frodrigu@southbendin.gov>; Larry Magliozzi <LMAGLIOZ@co.st-joseph.in.us>; Eugene Eyster <eeyster@southbendin.gov>
Subject: Alley Vacation - Kimberly Bonenfant-Juwong

Please provide your recommendations.

Lizzy Horvath

Secretary

Department of Public Works

227 W. Jefferson Blvd., Suite 1316

South Bend, IN 46601

574-235-3168

lhovath@southbendin.gov





INTER-OFFICE MEMORANDUM
BOARD OF PUBLIC WORKS

DATE SENT: 8/28/2015

TO: Pete Kaminski, Street Department
Mike Bronstetter, Solid Waste
Corbitt Kerr, Engineering Department
Jitin Kain, Community Investment
Federico Rodriguez, Fire Department
Larry Magliozzi, Area Plan Commission (Imaglio@co.st-joseph.in.us or 235-9813 fax)
Gene Eyster, Police Department
Phil Griffin, NIPSCO (pmgriffin@nisource.com) (FYI Only)
Linda M. Martin, Clerk *LM*

FROM: **REQUEST FOR RECOMMENDATION – ALLEY VACATION**

SUBJECT: **REQUEST FOR RECOMMENDATION – ALLEY VACATION**

APPLICANT: **Kimberly Bonenfant-Juwong**

LOCATION: **First E/W Alley North of California Ave. between Sherman and Portage Ave**

DATE DUE: **September 1, 2015**

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

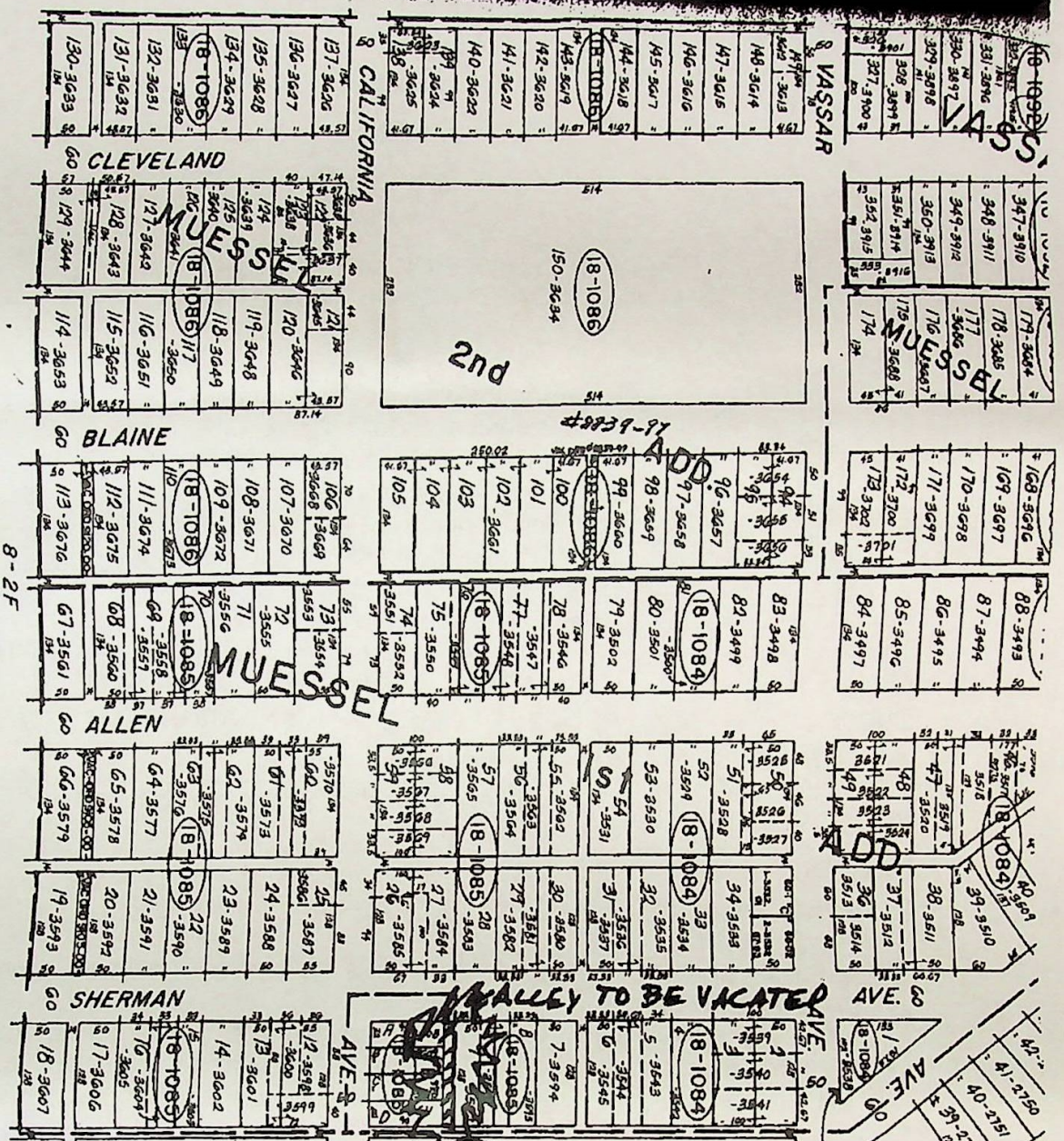
PLEASE MAKE YOUR RECOMMENDATIONS BASED ON THE FOLLOWING
IC 36-7-3-13 CRITERIA:

1. The vacation ~~would~~/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/~~would not~~ make access to the lands of the aggrieved person by means of public way difficult or inconvenient.
3. The vacation ~~would~~/would not hinder the public's access to a church, school or other public building or place.
4. The vacation would/~~would not~~ hinder the use of a public right-of-way by the neighborhood in which it is located or to which it is contiguous.

COMMENTS:

The alley provides access to 3 adjacent lots. The vacation should be subject to consent from the 3 contiguous lot owners.

By Angela Smith Date 9-8-15
Angela Smith - Area Plan Commission



PORTAGE TWP.
E 1/2 NW 1/4 SEC. 2 T.37N. R.2E.

8-2F

2001
Copyright 1988
THE SIDWELL COMPANY

SCALE: 1" = 100'
8-2B

PURPOSE:
ENLARGE LOTS
(TO SOUTH) ALLEY
NOT BEING USED

ALLEY TO BE VACATED

1015 CALIFORNIA
SOUTH BEND, IN 46616

269-599-2141

KIMBERLY BONNEFANT
JUNIOR

PETITIONER?

DEED #432

NORTH



PORTAGE TOWNSHIP

1 in = 89 ft



CROSS ACCESS EASEMENT AGREEMENT

This 22 day of January, 2016 between Kimberly Bonenfant-Juwong, an individual, the owner of the Applicant Property (as defined below) and the Adjacent Owners (as defined below).

RECITALS

1. The Applicant hereby represents that it owns the real property described as Exhibit A.
2. The Applicant desires for the first public alley running East/West, North of California Avenue from the East right-of-way line of Sherman Avenue to the first North/South alley in South Bend, Indiana, and more particularly described as Exhibit B (to be vacated).
3. The Applicant represents that the properties listed consist of Exhibit C-1 through C-4 (collectively, "Exhibit C") are all of the properties that currently have access to the to be Vacated Area (the "Adjacent Properties"), and that the four owners of these Adjacent Properties listed on Exhibit C consist of all of the owners of the Adjacent Properties (the "Adjacent Owners"). Where applicable, the Adjacent Owners and the Applicant shall be referred to collectively as the "Property Owners".
4. The Applicant represents that she has legally obtained the signature of all of the Adjacent Owners, and that any omission of a Property Owner currently having access to the Vacated Area or an individual or entity with an ownership interest therein is inadvertent.
5. Any Owner of property adjacent to the Vacated Area may become a party to this Agreement by recording an Affidavit cross-referencing this Agreement, agreeing to be bound by its terms, and attaching a plat evidencing that the Property Owner at issue had and continues to access the Vacated Area. The signatures of the Applicant and/or the Adjacent Owners to this original Agreement are not necessary for such an Affidavit to amend the Agreement. However, only the owners of a property adjacent to the vacated area may become a party to this Agreement.
6. *This Agreement shall not be recorded until it has been acknowledged by the City of South Bend, Indiana Board of Public Works (the "Board"). Said Agreement shall not be effective until said Agreement is recorded.*
7. The Applicant hereby acknowledges that she is solely responsible for the accuracy, and completeness of this Agreement. The Applicant, the Adjacent Owners and any other interested party hereby acknowledge that the Board, in its Acknowledgement of Receipt of this Agreement, is in no way verifying the accuracy, completeness or effectiveness of this Agreement. The Board expressly disclaims any obligation to review or verify the terms or effectiveness of this Agreement. Any decision by the Board or the City of South Bend, Indiana, is made independent from the effectiveness of this Agreement, although each may require

receipt of such an Access Easement Agreement or similar document as part of its decision-making process prior to making its determination as to whether to grant Applicant's request to vacate the public alley at issue herein.

8. The purpose of this easement is to allow traffic flow between the properties and to allow the Adjacent Owners to continue having access to their garages or other improvements and to allow access for maintenance of said properties.

NOW, THEREFORE, IT IS HEREBY AGREED AS FOLLOWS:

1. The Property Owners hereby grant and convey to each other, their successors and assigns, permanent, exclusive and perpetual easements in, on, under, over and across their respective interest in the Vacated Area for the limited purpose of allowing Property Owners, their guests or tenants access to their respective garages or other improvements or for periodic maintenance equipment.
2. The easement to be created shall burden and benefit both the Applicant's property as well as property of Adjacent Owners. The easement shall run with the land and shall be binding on and shall inure to the benefit of the Applicant and the Adjacent Owners as well as the respective heirs, successors or assigns of the Applicant and the Adjacent Owners.
3. Any agreement to terminate or modify the easements to be granted must be approved and executed by the Applicant, all Adjacent Owners and/or their successors and/or the successors in interest to the Applicant and the Adjacent Owners. Said Agreement to terminate or modify the Easement Agreement must be approved in writing by the City of South Bend in order to be effective.
4. The Applicant and the Adjacent Owners have agreed to make all necessary improvements to their respective properties so that said properties do not interfere with the Applicant and/or Adjacent Owners' ability to use the vacated area as set forth in this Agreement.
5. The Property Owners agree to maintain the vacated area that will be located adjacent to their respective properties in a reasonable manner and at their sole expense. The Applicant shall be solely responsible for constructing or otherwise providing for any improvements required by the Board but may seek indemnification from the Property Owners for the cost related to such improvements their pro-rata share (which each pro-rata share determined by each Property Owner's portion of the total frontage along the Vacated Area).
6. Any violation or breach of this Agreement shall be considered a breach and any Property Owner shall have the authority to enforce this Agreement in any manner permitted by law.

7. This Agreement to create a Cross Access Agreement shall be recorded immediately upon execution by the Property Owners and acknowledged of the Board.
8. Any Property Owner executing this Agreement on behalf of another person or entity hereby certifies that he or she is duly authorized to approve and execute this Agreement on behalf of said person or entity.
9. This Agreement may be executed in counterpart signature pages, and an executed Exhibit B of this Agreement by an Adjacent Owners shall be considered a binding counterpart signature page.
10. The Applicant shall insure that the Agreement is recorded in a manner so as to cross-reference all of the deeds of record or the most recent plat for the Adjacent Properties.

The individual executing this Agreement as the Applicant hereby affirms under the pains and penalties of perjury that the foregoing representations are true and accurate to the best of her knowledge.

WITNESSED that the Property Owners have duly executed this Agreement for the benefit of each other and the City of South Bend, Indiana.

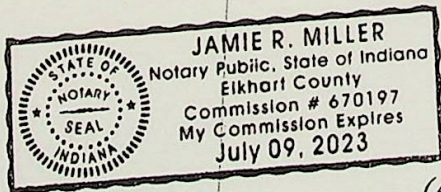
APPLICANT

By: *Kimberly Bonenfant-Juwong*
 Kimberly Bonenfant-Juwong

STATE OF INDIANA)
)SS:
 COUNTY OF ST. JOSEPH)

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared Kimberly Bonenfant-Juwong, known to me to be the Applicant specified above and acknowledged the execution of the foregoing Agreement.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal on this 22 day of January, 2016.



Jamie R Miller
 _____, Notary Public
 Residing in Elkhart, Indiana

(Applicant Signature Page)

EXHIBIT A

Description of Applicant Property

Street Address: 1015 California Avenue, South Bend, Indiana

Tax Id. Number(s): 018-1085-3611

Recording No. of
Applicant's Deed: 1314473
Doc. No. _____ or Deed Book _____, Page _____

Applicant's Deed
Recording Date: 05/15/2013

EXHIBIT B

Legal Description of Vacated Area

The alley to be vacated is the first East/West alley North of California Avenue from the East right of way line of Sherman Avenue to the first North/South alley for a distance of 128 feet and a width of 10 feet. Being a part of Wards Subdivision and a part of Muessel's 1st Addition to the City of South Bend, Portage Township, St. Joseph County, Indiana.

EXHIBIT C-1

Description of Adjacent Owner and Adjacent Property

Adjacent Property

Owner(s) of Record: Rachel L. Jonker

Interest Owned: Fee Simple

Street Address: 1023 California Avenue, South Bend, IN 46616

Tax Id. Number(s): 018-1085-3608

Record No. of Applicant's Deed: Doc. No. 1420261 or Deed Book _____, Page _____

Owner's Deed Recording Date: 08/19/2014

I am the owner of the property interest specified above. I have reviewed this Cross Access Easement Agreement and am duly authorized to approve and execute it.

DATE: January 23, 2016

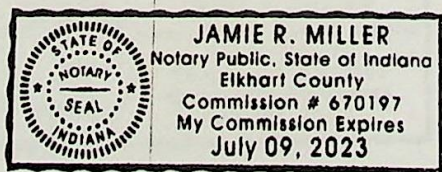
ADJACENT OWNER

By: Rachel L. Jonker
Printed Name: Rachel L. Jonker

STATE OF INDIANA)
)SS:
COUNTY OF ST. JOSEPH)

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared Rachel L. Jonker, known to me to be the Applicant specified above and acknowledged the execution of the foregoing Agreement.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal on this 23 day of January, 2016.



Jamie R Miller
_____, Notary Public

Residing in Elkhart, Indiana

EXHIBIT C-2

Description of Adjacent Owner and Adjacent Property

Adjacent Property

Owner(s) of Record: Near Northwest Neighborhood, Inc.

Interest Owned: Fee Simple

Street Address: 1019 California Avenue, South Bend, IN 46616

Tax Id. Number(s): 018-1085-3609

The Near Northwest has been presented with a Resolution of the St. Joseph County Commissioners to transfer ownership of the property interest specified above. Legal efforts are in process at this time to effect the transfer. That Resolution is numbered R-16-C-2015 and dated September 1, 2015. I have reviewed this Cross Access Easement Agreement and am duly authorized to approve and execute it.

DATE: Jan. 22, 2016

ADJACENT OWNER
Near Northwest Neighborhood, Inc.

By: [Signature]

Printed Name: Kathy Schuth

STATE OF INDIANA)
)SS:
COUNTY OF ST. JOSEPH)

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared Near Northwest Neighborhood, Inc. by _____, known to me to be the Applicant specified above and acknowledged the execution of the foregoing Agreement.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal on this 22 day of January, 2016.

[Signature]
_____, Notary Public
Residing in Elkhart, Indiana

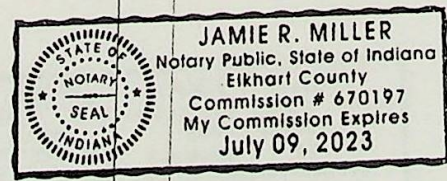


EXHIBIT C-3

Description of Adjacent Owner and Adjacent Property

Adjacent Property

Owner(s) of Record: Andrew and Jon Kara Shields

Interest Owned: Fee Simple

Street Address: 1017 California Avenue, South Bend, IN 46616

Tax Id. Number(s): 018-1085-3610

Record No. of Applicant's Deed: Doc. No. 1411327 or Deed Book _____, Page _____

Owner's Deed Recording Date: 05/20/2014

I am the owner of the property interest specified above. I have reviewed this Cross Access Easement Agreement and am duly authorized to approve and execute it.

DATE: 01/23/2016

ADJACENT OWNER

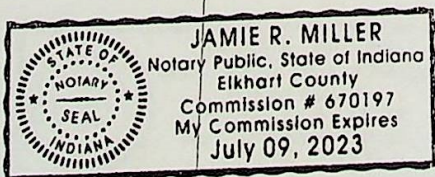
By: Andrew Shields
Printed Name: Andrew Shields

Jon Kara Shields
Jon Kara Shields

STATE OF INDIANA)
)SS:
COUNTY OF ST. JOSEPH)

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared Andrew Jon Kara Shields known to me to be the Applicant specified above and acknowledged the execution of the foregoing Agreement.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal on this 23 day of January, 2016.



Jamie R. Miller
_____, Notary Public

Residing in Elkhart, Indiana

EXHIBIT C-4

Description of Adjacent Owner and Adjacent Property

Adjacent Property

Owner(s) of Record: Near Northwest Neighborhood, Inc.

Interest Owned: Fee Simple

Street Address: 1008 Sherman Avenue, South Bend, IN 46616

Tax Id. Number(s): 018-1085-3597

Record No. of Applicant's Deed: Doc. No. 1303314 or Deed Book _____, Page _____

Owner's Deed Recording Date: 02/04/2013

I am the owner of the property interest specified above. I have reviewed this Cross Access Easement Agreement and am duly authorized to approve and execute it.

DATE: Jan. 22, 2016

ADJACENT OWNER
Near Northwest Neighborhood, Inc.

By: [Signature]
Printed Name: Kathy Schuth

STATE OF INDIANA)
)SS:
COUNTY OF ST. JOSEPH)

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared Near Northwest Neighborhood, Inc. by Kathy Schuth, known to me to be the Applicant specified above and acknowledged the execution of the foregoing Agreement.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal on this 22 day of January, 2016.

[Signature]
_____, Notary Public

Residing in Elkhart, Indiana

