

**ORDINANCE # 10431-16**

Alley Vacation

Date Vacated: April 11, 2016

**Description:** First North/South alley West of Cushing Street from Lincoln Way West to the first East/West alley for a distance of 193 feet and a width of 14 feet. Said alley being part of Heintzman's Addition and Kunstman's Addition, City of South Bend, Portage Township, St. Joseph County, Indiana.

This ordinance amended  
by:

Ordinance 10516-17  
dated 5/22/17 w/  
corrected description.  
See envelope for  
Ordinance NO 10516-17

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ORDINANCE No. 10431-16

Passed by the Common Council of the City of South Bend, Indiana \_\_\_\_\_

April 11, \_\_\_\_\_ 20 16

Attest: Karenal Love \_\_\_\_\_ City Clerk

Attest: [Signature] \_\_\_\_\_ President of Common Council

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

April 11, \_\_\_\_\_ 20 16

Karenal Love \_\_\_\_\_ City Clerk

Approved and signed by me April 12, \_\_\_\_\_ 20 16

D S.

ORDINANCE NO. 10431-16

**AN ORDINANCE TO VACATE THE FOLLOWING DESCRIBED PROPERTY:**

The alley to be vacated is the first North/South alley West of Cushing Street from Lincoln Way West to the first East/West alley for a distance of 193 feet and a width of 14 feet. Said alley being a part of Heintzman's Addition and Kunstman's Addition, City of South Bend, Portage Township, St. Joseph County, Indiana.

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 the first North/South alley West of Cushing Street from Lincoln Way West to the first East/West alley for a distance of 193 feet and a width of 14 feet. Said alley being a part of Heintzman's Addition and Kunstman's Addition, City of South Bend, Portage Township, St. Joseph County, Indiana.

hereby determines that is it desirable to vacate said property.

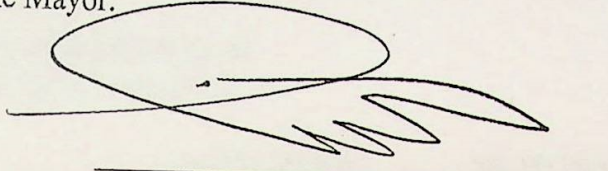
SECTION II. The City of South Bend hereby reserves the rights and easements of all utilities and the Municipal City of South Bend, Indiana, to construct and maintain any facilities, including, but not limited to, the following: electric, telephone, gas, water, sewer, surface water control structures 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 affecting by such vacating:

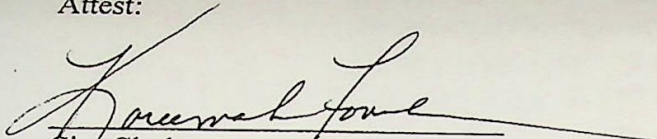
Lot Number	County Parcel ID Number	Current Owner
1 & 2	018-1028-1259	Wadad El-Ammori
3	018-1028-1260	Wadad El-Ammori
3	018-1028-1261	Lincoln Park Development LLC
4	018-1028-1262	George Kalafat
6	018-1029-1282	Wadad El-Ammori

SECTION IV. The purpose of the vacation of the real property is to allow for the development of such property as part as part of an overall site plan, consisting of approximately 0.87 acres, for use as a Family Dollar retail variety store and related improvements.

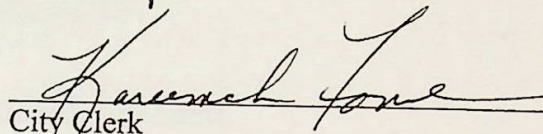
SECTION V. This Ordinance shall be in full force and effect from and after its passage by the Common Council and approved by the Mayor.

  
\_\_\_\_\_  
Member of the Common Council

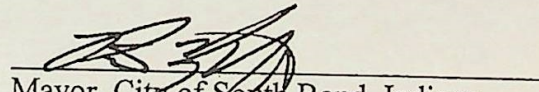
Attest:

  
\_\_\_\_\_  
City Clerk

Presented by me to the Mayor of the City of South Bend, Indiana on the 12<sup>th</sup> day of April, 2016, at 4:30 o'clock p. m.

  
\_\_\_\_\_  
City Clerk

Approved and signed by me on the 12<sup>th</sup> day of April, 2016, at 4:30 o'clock p. m.

  
\_\_\_\_\_  
Mayor, City of South Bend, Indiana

1<sup>st</sup> READING 3/14/16  
PUBLIC HEARING 4/11/16  
3<sup>rd</sup> READING 4/11/16  
NOT APPROVED  
REFERRED  
PASSED 4/11/16

Filed in Clerk's Office  
MAR 09 2016  
KAREEMAH FOWLER  
CITY CLERK, SOUTH BEND, IN



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

**DATE SENT:** 10/19/2015

**TO:** ✓ Pete Kaminski, Street Department  
✓ Mike Bronstetter, Solid Waste  
✓ Corbitt Kerr, Engineering Department 10431-10  
✓ Jitin Kain, Community Investment  
✓ Federico Rodriguez, Fire Department  
✓ Larry Magliozzi, Area Plan Commission ([lmaglioz@co.st-joseph.in.us](mailto:lmaglioz@co.st-joseph.in.us) or 235-9813 fax)  
✓ Gene Eyster, Police Department  
Phil Griffin, NIPSCO ([pmgriffin@nisource.com](mailto:pmgriffin@nisource.com)) (FYI Only)  
Linda M. Martin, Clerk *LM*

**FROM:**

**SUBJECT:**

**REQUEST FOR RECOMMENDATION – ALLEY VACATION**

**APPLICANT:**

**David Younts Attorney/Dubin Singer**

**LOCATION:**

**First N/S Alley South of Lincolnway West to first E/W Alley  
between Cushing and Scott St.**

**DATE DUE:**

**October 20, 2015**

**FAX OR E-MAIL TO:**

**235-9171 / [lmartin@southbendin.gov](mailto: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**

November 10, 2015

David Yontz, Attorney  
Dubin Singer, PC  
123 N. Wacker Drive  
Chicago, IL 60606

RE: Alley Vacation – First North/South Alley South of Lincolnway West to the First East/West Alley between Cushing St. and Scott St. (Preliminary Review)

Dear Mr. Yontz:

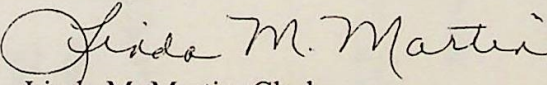
The Board of Public Works, at its November 10, 2015 meeting, reviewed comments by the Engineering Division, Area Plan Commission, Community Investment, Fire Department, Police Department, and the Solid Waste Division. The following comments and recommendations were:

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 not 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 not 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 this alley subject to all aggrieved property owners being notified prior to the vacation.

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 Dept.  
Tony Molnar, Engineering  
Janice Talboom, City Clerk's Office



## Elizabeth Horvath

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**From:** Eugene Eyster  
**Sent:** Tuesday, October 20, 2015 8:38 AM  
**To:** Elizabeth Horvath  
**Cc:** Pete Kaminski; Michael Bronstetter; Patrick C. Kerr; Jitin Kain; Federico Rodriguez; Larry Magliozzi  
**Subject:** Re: Alley Vacation - David Younts Attorney/Dubin Singer

Ms. Horvath,  
The Police Department would give this request a favorable recommendation.

*Lt. Eyster*

*Sent from my iPad*

On Oct 20, 2015, at 08:33, Elizabeth Horvath <[lhovath@southbendin.gov](mailto:lhovath@southbendin.gov)> wrote:

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](mailto:lhovath@southbendin.gov)



<Alley Vacation - David Younts Attorney-Dubin Singer.pdf>



## Elizabeth Horvath

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**From:** Federico Rodriguez  
**Sent:** Tuesday, October 20, 2015 8:48 AM  
**To:** Elizabeth Horvath  
**Subject:** RE: Alley Vacation - David Younts Attorney/Dubin Singer

Favorable S.B.F.D.



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

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**From:** Elizabeth Horvath  
**Sent:** Tuesday, October 20, 2015 8:34 AM  
**To:** Pete Kaminski <pkaminsk@southbendin.gov>; Michael Bronstetter <mbronste@southbendin.gov>; Patrick C. Kerr <pckerr@southbendin.gov>; Jitin Kain <jkain@southbendin.gov>; Federico Rodriguez <frodriagu@southbendin.gov>; Larry Magliozzi <LMAGLIOZ@co.st-joseph.in.us>; Eugene Eyster <eeyster@southbendin.gov>  
**Subject:** Alley Vacation - David Younts Attorney/Dubin Singer

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](mailto:lhovath@southbendin.gov)



## Linda Martin

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**From:** Michael Divita  
**Sent:** Wednesday, October 21, 2015 12:28 PM  
**To:** Linda Martin  
**Cc:** Jitin Kain  
**Subject:** FW: Alley Vacation - David Younts Attorney/Dubin Singer  
**Attachments:** Alley Vacation - David Younts Attorney-Dubin Singer.pdf

DCI recommends vacation of the alley near Lincolnway West and Cushing Street. Vacation of the alley would not appear to limit appropriate access (the alley is little used and does not have direct access to LWW), and its vacation would assist in creating a larger development site. The Lincolnway West frontage on both sides of this alley is owned by the same individual.

The relationship between the petitioner and any of the adjoining property owners is unclear. I assume the petitioner is the attorney for one of the adjacent property owners or a contingent purchaser.



**Michael Divita**  
Planner  
Department of Community Investment  
City of South Bend  
227 W. Jefferson Blvd., Suite 1400S  
South Bend, IN 46601  
(574) 235-5843  
[mdivita@southbendin.gov](mailto:mdivita@southbendin.gov)

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**From:** Jitin Kain  
**Sent:** Tuesday, October 20, 2015 3:48 PM  
**To:** Michael Divita <[mdivita@southbendin.gov](mailto:mdivita@southbendin.gov)>  
**Subject:** FW: Alley Vacation - David Younts Attorney/Dubin Singer

Mike- please review and forward your recommendation.

Thanks,  
Jitin



**Jitin Kain**  
Director, Planning  
Department of Community Investment  
(574) 235-5835  
[jkain@southbendin.gov](mailto:jkain@southbendin.gov)  
City of South Bend  
227 W. Jefferson Blvd., Suite 1400 S.  
South Bend, IN 46601

**SMART STREETS**

**Elizabeth Horvath**

From:  
Sent:  
To:  
Subject:

Solid Waste ser

Thanks,

Mike Bronstett  
Manager Of S

Sent via the Sar

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From: Eliz  
Date: 10/2  
To: Pete I  
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To: Pete Kaminski; Michael Bronstetter; Patrick C. Kerr; Jitin Kain; Federico Rodriguez; Larry Magliozzi; Eugene Eyster  
Subject: Alley Vacation - David Younts Attorney/Dubin Singer

Please provide your recommendations.

*Lizzy Horvath*

Secretary

Department of Public Works

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South Bend, IN 46601

574-235-3168

[lhovath@southbendin.gov](mailto:lhovath@southbendin.gov)



## Elizabeth Horvath

---

**From:** Michael Bronstetter  
**Sent:** Wednesday, October 21, 2015 9:28 AM  
**To:** Elizabeth Horvath; Pete Kaminski; Patrick C. Kerr; Jitin Kain; Federico Rodriguez; Larry Magliozzi; Eugene Eyster  
**Subject:** RE: Alley Vacation - David Younts Attorney/Dubin Singer

Solid Waste sends a favorable request. This alley vacation will not affect trash collection.

Thanks,

*Mike Bronstetter*  
Manager Of Solid Waste

Sent via the Samsung Galaxy Tab® S, an AT&T 4G LTE tablet

----- Original message -----

**From:** Elizabeth Horvath <lhorvath@southbendin.gov>  
**Date:** 10/20/2015 8:33 AM (GMT-05:00)  
**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>  
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Please provide your recommendations.

*Lizzy Horvath*

Secretary

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[lhorvath@southbendin.gov](mailto:lhorvath@southbendin.gov)



INTER-OFFICE MEMORANDUM  
BOARD OF PUBLIC WORKS

DATE SENT: 10/19/2015

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](mailto:lmagloz@co.st-joseph.in.us) or 235-9813 fax)  
Gene Eyster, Police Department  
Phil Griffin, NIPSCO ([pmgriffin@nisource.com](mailto:pmgriffin@nisource.com)) (FYI Only)  
Linda M. Martin, Clerk *LM*

FROM: Linda M. Martin, Clerk *LM*

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

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APPLICANT: **David Younts Attorney/Dubin Singer**

---

LOCATION: **First N/S Alley South of Lincolnway West to first E/W Alley between Cushing and Scott St.**

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DATE DUE: **October 20, 2015**

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FAX OR E-MAIL TO: **235-9171 / [lmartin@southbendin.gov](mailto:lmartin@southbendin.gov)**

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**COMMENTS:**

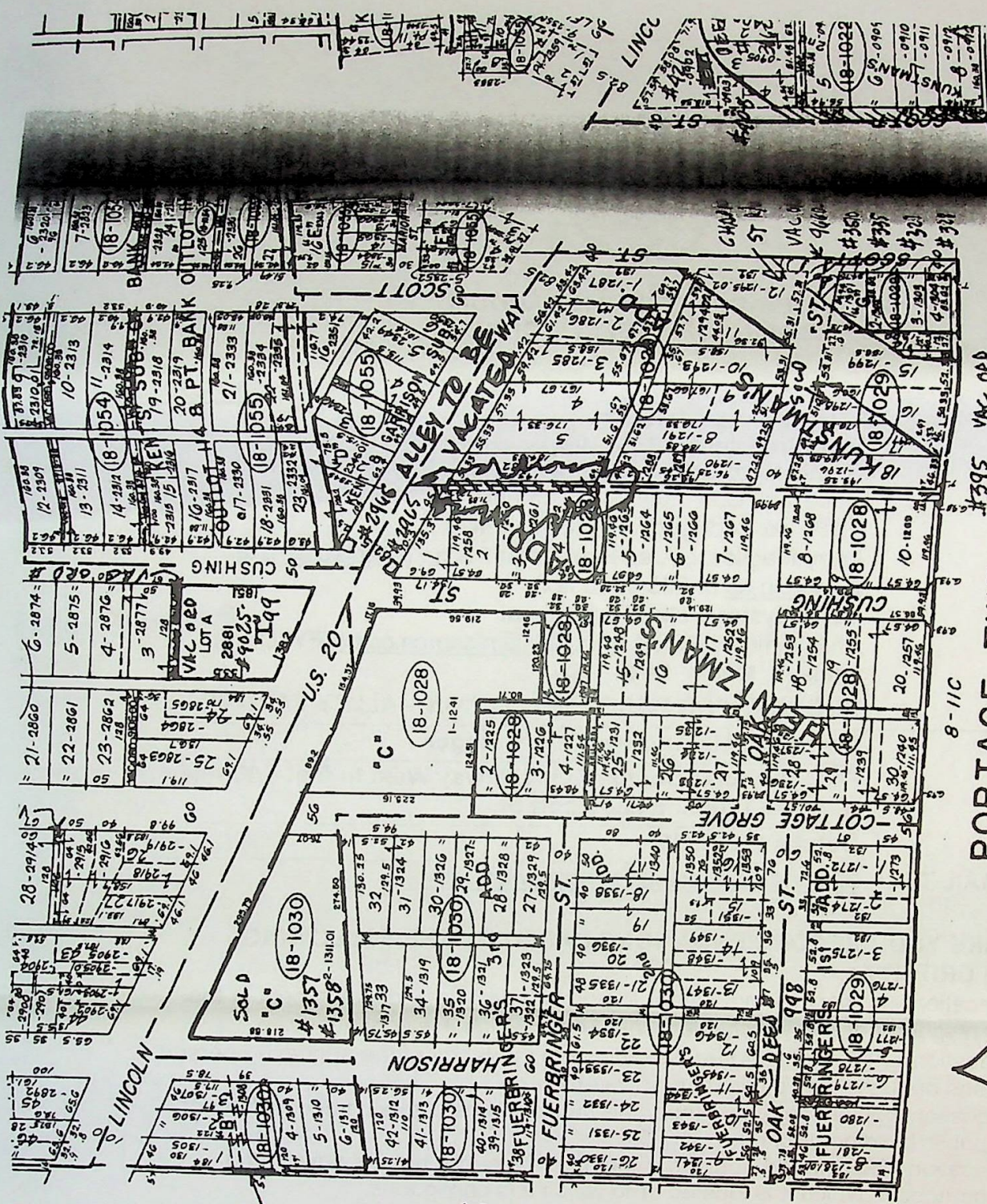
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By Matthew P. Chappuies, Planner Date 10/23/2015  
Area Plan Commission

PENTONER &  
CONTACTS

DAVID YOUNTS  
ATTORNEY DEED #40  
312-801-8752  
DUBIN SINGER  
123 WACKER DR  
CHICAGO, IL 60606

PURPOSE:  
RE-DEVELOPE  
SITE ON BOTH  
SIDES OF ALLEY



△ NORTH  
PORTAGE TWP.  
W.1/2 S.E.1/4 SEC. 2 T.37N. R.2E.  
8-11C

VAC #  
ORD #  
9-00  
EASE #

REVISED 2004  
Revised Copyright:  
Copyright 1986  
THE SIDWELL COMPANY

SCALE: 1" = 100'

8-26

## Elizabeth Horvath

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**From:** Patrick C. Kerr  
**Sent:** Thursday, November 05, 2015 10:19 AM  
**To:** Elizabeth Horvath  
**Subject:** RE: Alley Vacation - David Younts Attorney/Dubin Singer

No Objections

---

**From:** Elizabeth Horvath  
**Sent:** Tuesday, October 20, 2015 8:34 AM  
**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 - David Younts Attorney/Dubin Singer

Please provide your recommendations.

*Lizzy Horvath*

Secretary

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