

Sep 14 2022 - BNT

Danny Goat

Auditor of Clark County



ORDINANCE NO. 2022-OR-023

AN ORDINANCE VACATING A PUBLIC WAY

**AN ORDINANCE FOR THE VACATION OF THE PUBLIC WAYS PURSUANT TO
A PETITION FILED BY FIFTH THIRD NATIONAL ASSOCIATION**

BE IT ORDAINED by the Town Council of the Town of Sellersburg, Indiana,
("Town") pursuant to I.C. § 36-7-3-12 that:

SECTION 1. The application filed by Hogan Property Development Co.
("Hogan") is requesting the vacation of a public alleyway located in the Town of
Sellersburg, Clark County, Indiana, and being more particularly described as that
14' alleyway dedicated to public use on the plat recorded in Plat Cabinet 3, Page 108,
in the office of the Recorder for Clark County, Indiana.

SECTION 2. That alleyway concerns real estate located on our around 392
Indiana Avenue, Sellersburg, IN 47172, more specifically described as follows (the
"Real Estate"), to-wit:

PARCEL I
(10-17-11-000-485.000-031)

COMMENCING AT AN IRON PIN MARKING THE INTERSECTION
OF THE EASTERN RIGHT OF WAY LINE OF INTERSTATE
HIGHWAY #65 (NORTHBOUND EXIT RAMP) AND THE WESTERN
RIGHT OF WAY LINE OF OLD U.S. HIGHWAY 31W, AS CALLED
FOR IN DEED DRAWER 18, INSTRUMENT #4043, DEED DRAWER
13, INSTRUMENT #290, AND DEED DRAWER 16, INSTRUMENT
#8441; THENCE WITH THE EASTERN RIGHT OF WAY LINE OF
INTERSTATE #65, NORTH 27 DEGREES 59 MINUTES 04 SECOND
EAST 374.68 FEET, THENCE NORTH 15 DEGREES 31 MINUTES 37
SECONDS EAST 208.84 FEET TO AN IRON PIN FOUND AT THE
SOUTHWEST CORNER OF TRACT "C" AS CALLED FOR IN DEED
DRAWER 1, INSTRUMENT #2170; THENCE CONTINUING WITH
SAID EASTERN RIGHT OF WAY NORTH 15 DEGREES 58 MINUTES
04 SECONDS EAST 70.61 FEET TO A #4 REINFORCING BAR,
THENCE LEAVING SAID RIGHT OF WAY SOUTH 68 DEGREES 44
MINUTES 37 SECONDS EAST 221.26 FEET TO A #4 REINFORCING
BAR; THENCE NORTH 21 DEGREES 15 MINUTES 23 SECONDS
EAST 77.11 FEET TO A #4 REINFORCING BAR, THENCE NORTH 81
DEGREES 02 MINUTES 27 SECONDS EAST 69.69 FEET TO AN
IRON PIN FOUND MARKING THE SOUTH WESTERNMOST

A. M. M. R.
CLARK CO, IN ASSESSOR

CORNER OF THAT PROPERTY RECORDED IN DEED DRAWER 28, INSTRUMENT #9925, THIS BEING THE TRUE POINT OF BEGINNING; THENCE WITH THE WESTERN LINE OF SAID TRACT NORTH 18 DEGREES 15 MINUTES 50 SECONDS EAST 37.97 FEET TO A #4 REINFORCING BAR; THENCE NORTH 52 DEGREES 56 MINUTES 54 SECONDS EAST 335.56 FEET TO THE EASTERN LINE OF SAID TRACT; THENCE WITH SAID EASTERN LINE SOUTH 32 DEGREES 38 MINUTES 00 SECONDS EAST 41.34 FEET TO A #4 REINFORCING BAR, THENCE THE WESTERN RIGHT OF WAY LINE OF US 31 E, THENCE WITH SAID RIGHT OF WAY AND A CURVE TO THE LEFT HAVING A RADIUS OF 669.62 FEET, THE CHORD OF WHICH MEASURES SOUTH 26 DEGREES 16 MINUTES 42 SECONDS EAST 151.71 FEET TO A #4 REINFORCING BAR, THENCE CONTINUING WITH SAID RIGHT OF WAY SOUTH 32 DEGREES 12 MINUTES 59 SECONDS EAST 92.50 FEET TO A #4 REINFORCING BAR; THENCE LEAVING SAID RIGHT OF WAY AND WITH THE RIGHT OF WAY OF SOUTH NEW ALBANY STREET SOUTH 58 DEGREES 00 MINUTES 44 SECONDS WEST 305.91 FEET TO AN IRON PIN FOUND, THENCE NORTH 42 DEGREES 36 MINUTES 20 SECONDS WEST 234.72 FEET TO THE POINT OF BEGINNING, CONTAINING 2.051 ACRES, MORE OR LESS.

PARCEL II
(10-17-11-000-487.000-031)

SITUATE IN THE COUNTY OF CLARK AND THE STATE OF INDIANA, DESCRIBED AS FOLLOWS, TO-WIT: COMMENCING AT AN IRON PIN MARKING THE INTERSECTION OF THE EASTERN RIGHT OF WAY LINE OF INTERSTATE HIGHWAY #65 (NORTHBOUND EXIT RAMP) AND THE WESTERN RIGHT OF WAY LINE OF OLD U.S. HIGHWAY 31 W, AS CALLED FOR IN DEED DRAWER 18, INSTRUMENT #4043, DEED DRAWER 13, INSTRUMENT #290, AND DEED DRAWER 16, INSTRUMENT #8441; THENCE WITH THE EASTERN RIGHT OF WAY LINE OF INTERSTATE #65, NORTH 27 DEGREES 59 MINUTES 04 SECONDS EAST 374.68 FEET, THENCE NORTH 15 DEGREES 31 MINUTES 37 SECONDS EAST 208.84 FEET TO AN IRON PIN FOUND AT THE SOUTHWEST CORNER OF TRACT "C" AS CALLED IN DEED DRAWER 1, INSTRUMENT #2170; THENCE CONTINUING WITH SAID EASTERN RIGHT OF WAY NORTH 15 DEGREES 58 MINUTES 04 SECONDS EAST 70.61 FEET TO A #4 REINFORCING BAR, THENCE LEAVING SAID RIGHT OF WAY SOUTH 68 DEGREES 44 MINUTES 37 SECONDS EAST 221.26 FEET TO A #4 REINFORCING BAR; THENCE NORTH 21 DEGREES 15 MINUTES 23 SECONDS

EAST 77.11 FEET TO A #4 REINFORCING BAR, THENCE NORTH 81 DEGREES 02 MINUTES 27 SECONDS EAST 69.69 FEET TO AN IRON PIN FOUND MARKING THE SOUTHWESTERNMOST CORNER OF THAT PROPERTY RECORDED IN DEED DRAWER 28, INSTRUMENT #9925, THENCE WITH THE WESTERN LINE OF SAID TRACT NORTH 18 DEGREES 15 MINUTES 50 SECONDS EAST 37.97 FEET TO A #4 REINFORCING BAR; THENCE NORTH 52 DEGREES 56 MINUTES 54 SECONDS EAST 94.95 FEET TO THE TRUE POINT OF BEGINNING; THENCE NORTH 52 DEGREES 56 MINUTES 54 SECONDS EAST 240.61 FEET TO THE EASTERN LINE OF LAST MENTIONED TRACT, THENCE WITH SAID EASTERN LINE SOUTH 32 DEGREES 38 MINUTES 00 SECONDS EAST 41.34 FEET TO A #4 REINFORCING BAR ON THE WESTERN RIGHT OF WAY LINE OF US 31 E, THENCE WITH SAID RIGHT OF WAY AND A CURVE TO THE LEFT HAVING A RADIUS OF 669.62 FEET, THE CHORD OF WHICH MEASURES SOUTH 26 DEGREES 16 MINUTES 42 SECONDS EAST 151.71 FEET TO A #4 REINFORCING BAR, THENCE CONTINUING WITH SAID RIGHT OF WAY SOUTH 32 DEGREES 12 MINUTES 59 SECONDS EAST 9.48 FEET TO A #4 REINFORCING BAR IN SAME; THENCE LEAVING SAID RIGHT OF WAY LINE SOUTH 58 DEGREES 00 MINUTES 49 SECONDS WEST 225.09 FEET AND NORTH 31 DEGREES 59 MINUTES 11 SECONDS WEST 180.53 FEET TO THE POINT OF BEGINNING. CONTAINING 1.01 ACRES, MORE OR LESS.

SECTION 3. The Town hereby releases, assigns and quits any claim to the 14' alleyway on the plat recorded in Plat Cabinet 3, Page 108, in the office of the Recorder for Clark County, Indiana, and title to such 14' alleyway within the above-described Real Estate shall henceforth be vested in the owner of the Real Estate.

SECTION 4. This Ordinance shall be in the full force and effect from and after its passage by the Town Council of the Town of Sellersburg this ____ day of September, 2022.

DATED THIS 12th DAY OF SEPTEMBER 2022.

"Aye"

"Nay"

Brad Amos

Brad Amos
Council President

Brad Amos
Council President

Scott McVoy

Scott McVoy
Council Vice President

Scott McVoy
Council Vice President

Terry Langford

Terry Langford
Council 2nd Vice President

Terry Langford
Council 2nd Vice President

Matthew Czarnecki

Matthew Czarnecki
Council Member

Matthew Czarnecki
Council Member

Randall Mobley

Randall Mobley
Council Member

Randall Mobley
Council Member

Michelle D. Miller

Attested by: Michelle Miller
Sellersburg Clerk-Treasurer

FIRST READING

DATE: 9/12/2022

MOTION: Czarnecki

SECOND: McVoy

VOTE: 5 AYE 0 NAY 0 ABSTAIN

SECOND READING

DATE: 9/12/2022

MOTION: Czarnecki

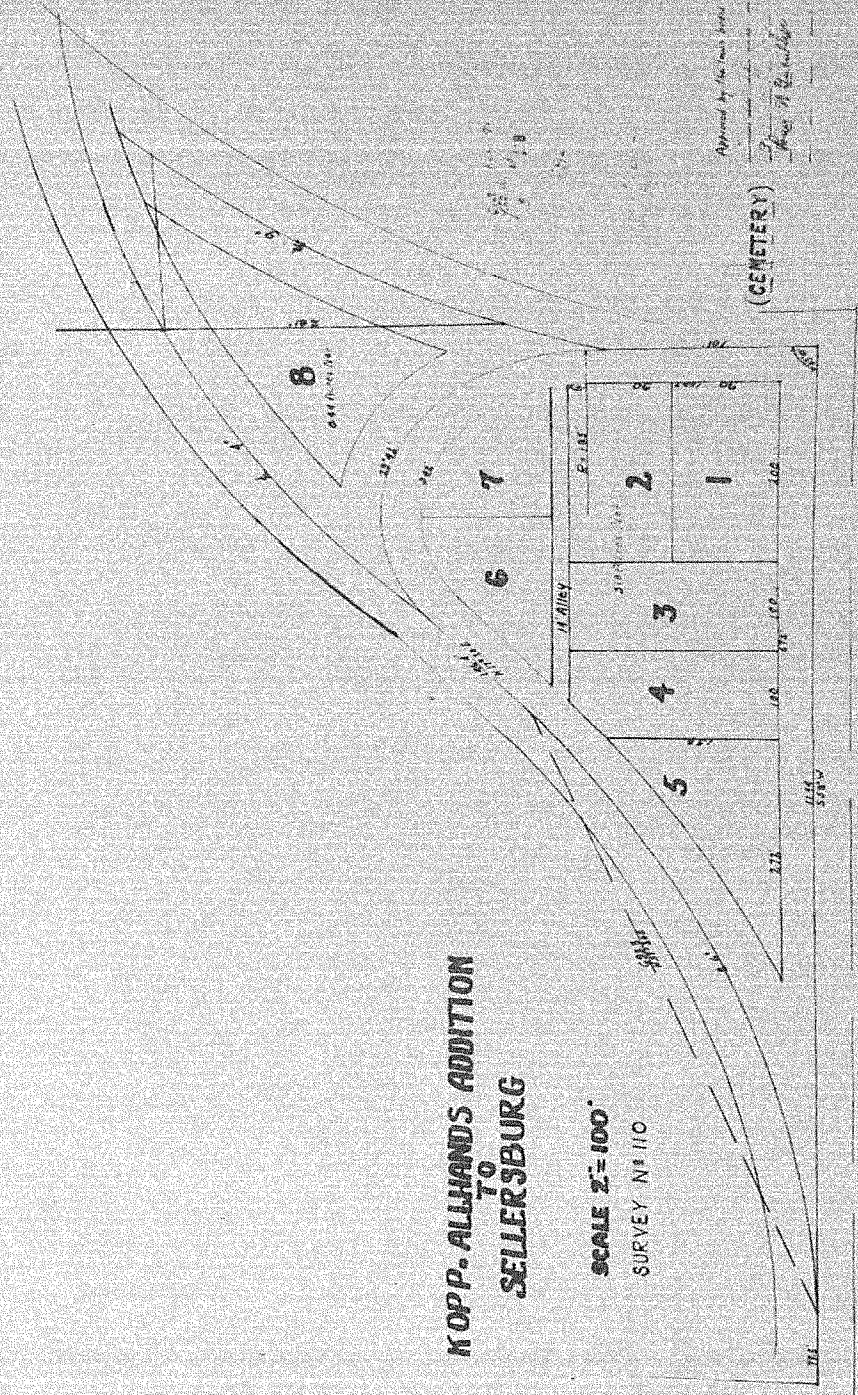
SECOND: McVoy

VOTE: 5 AYE 0 NAY 0 ABSTAIN

108

KOPP-ALLHANDS ADDITION TO SELLERSBURG

SCALE 2" = 100'
SURVEY N 1/2 110



(CEMETERY)

Approved by the town board of Sellersburg
James M. Kopp

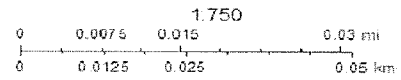
We, George C. Kopp, Francis N. Kopp and Clifford Williams, County Clerks of the County of Clark, Indiana, do hereby certify that we have caused to be laid out and returned to us the above and any other lots shown by this plat for the City of Sellersburg, Indiana.

STATE OF INDIANA
COUNTY OF CLARK
Before me, a Notary Public for the above said County of Clark, Indiana, this _____ day of _____, 1906, personally appeared George C. Kopp, Francis N. Kopp and Clifford Williams, all of whom are known to me to be the persons whose names are subscribed to the foregoing plat, and they acknowledged to me the execution of the same and their authority to do so and to bind themselves and their heirs and assigns to the same.

NOTARY PUBLIC

Witness My Hand and Seal
at Sellersburg, Indiana, this _____ day of _____, 1906.

James M. Kopp



**Proof of
Publication**

**STATE OF INDIANA
COUNTY OF CLARK -SS**

RECEIVED

SEP 6 2022

Theresa Wheatbrook on oath says that she is
bookkeeper of NEWS AND TRIBUNE and in
the employ of the publisher of

NEWS AND TRIBUNE,

a daily newspaper of general circulation printed and
published in the city of Jeffersonville, Clark County,
State of Indiana, and further says that the annexed
advertisement was published in said paper for
#(1) time(s) to-wit: In Issue of said NEWS AND TRIBUNE

Dated: 09-01 2022

(X) *Theresa Wheatbrook*

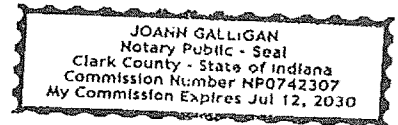
**STATE OF INDIANA
COUNTY OF CLARK**

RECEIVED
SEP 6 2022

Subscribed and sworn to before me this

2nd day of *September*, 2022

(X) *Joann Galligan*
Joann Galligan



Notary Public, Clark County, Indiana
My Commission expires July 12, 2030
Commission Number NP0742307

Publication
Fee \$ 662.18

ID # 04-3314494

1790061

THENCE CONTINUING WITH SAID RIGHT OF WAY SOUTH 32 DEGREES 12 MINUTES 59 SECONDS EAST 92.50 FEET TO A #4 REINFORCING BAR; THENCE LEAVING SAID RIGHT OF WAY AND WITH THE RIGHT OF WAY OF SOUTH NEW ALBANY STREET SOUTH 58 DEGREES 00 MINUTES 44 SECONDS WEST 305.91 FEET TO AN IRON PIN FOUND, THENCE NORTH 42 DEGREES 36 MINUTES 20 SECONDS WEST 234.72 FEET TO THE POINT OF BEGINNING, CONTAINING 2.051 ACRES, MORE OR LESS.

PARCEL II
(10-17-11-000-487.000-031)

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WAY LINE OF US 31 E, THENCE WITH SAID RIGHT OF WAY AND A CURVE TO THE LEFT HAVING A RADIUS OF 669.62 FEET, THE CHORD OF WHICH MEASURES SOUTH 26 DEGREES 16 MINUTES 42 SECONDS EAST 151.71 FEET TO A #4 REINFORCING BAR, THENCE CONTINUING WITH SAID RIGHT OF WAY SOUTH 32 DEGREES 12 MINUTES 59 SECONDS EAST 9.48 FEET TO A #4 REINFORCING BAR IN SAME; THENCE LEAVING SAID RIGHT OF WAY LINE SOUTH 58 DEGREES 00 MINUTES 49 SECONDS WEST 225.09 FEET AND NORTH 31 DEGREES 59 MINUTES 11 SECONDS WEST 180.53 FEET TO THE POINT OF BEGINNING. CONTAINING 1.01 ACRES, MORE OR LESS.

The street address of the property or general geographic area which is the subject of this petition is in the Town of Sellersburg, vacating the alleyway at 392 Indiana Avenue, Sellersburg, IN 47172.

The 14' alleyway being vacated was previously dedicated on the plat recorded in Plat Cabinet 3, Page 108, in the office of the Recorder for Clark County, Indiana and is more particularly described therein.

All persons are hereby notified that a public hearing BEFORE THE TOWN OF SELLERSBURG will be held on the 12th day of September, 2022, at 6:00 o'clock p.m. in the Town Hall, 316 E Utica St, Sellersburg, IN 47172.

A copy of the Petition is on file at the Office of the Town Council in the Town Hall. Written objections that are filed prior to the hearing will be considered. Oral comments will be heard at the hearing. The hearing may be continued from time to time as may be necessary.

Dated this ____ day of _____, 2022.

THE TOWN OF SELLERSBURG

BY _____

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

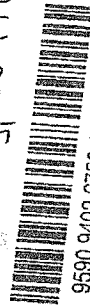
Rajjis12 LLC
362 Triangle Drive
Sellersburg, IN 47172

COMPLETE THIS SECTION ON DELIVERY

A. Signature
X X

B. Received by (Printed Name) _____
C. Date of Delivery _____

D. Is delivery address different from item 1? Yes
if YES, enter delivery address below: No



9590 9402 6756 1074 1986 19

2. Article Number (Transfer from item 1, 2, or 3)

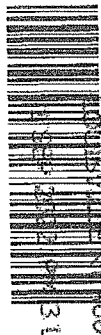
7020 3160 0000 3513 5871

PS Form 3811, July 2020 PSN 7530-02-000-9053

3. Service Type
- Adult Signature
 - Adult Signature Restricted Delivery
 - Certified Mail®
 - Certified Mail Restricted Delivery
 - Collect on Delivery
 - Collect on Delivery Restricted Delivery
 - Priority Mail Express®
 - Registered Mail™
 - Registered Mail Restricted Delivery
 - Signature Confirmation™
 - Signature Confirmation Restricted Delivery

Return Re
Reques

USPS TRACKING#



9590 9402 6756 1074 1986 19

First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

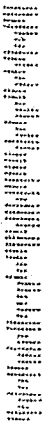
United States
Postal Service

Sender: Please print your name, address, and ZIP+4® in this box*

Justin E. Endres
YOUNG, LIND, ENDRES & KRAFT
126 West Spring Street
New Albany, IN 47150

Hogan Woodstock

RECEIVED
SEP 3 2002





August 8, 2022

VIA ELECTRONIC MAIL

Town Council for the Town of Sellersburg, Indiana
316 E. Utica Street
Sellersburg, IN 47172
E-mail: towncouncil@sellersburg.org

Re: Petition to Vacate 14' alley located within the real property located at 392 Indiana Avenue, described as Parcel ID Nos. 10-17-11-000-485.000-031 and 10-17-11-000-487.000-031 (collectively, the "**Subject Property**"), which is depicted on draft ALTA Survey (Second Draft) prepared by Mark L. Wilmoth, IN PLS of Willmoth International, PSC (the "**Survey**"), a copy of which Survey is included with this transmittal

Dear Sir or Madam,

The undersigned Hogan Property Development Co. ("**HPDC**") is under contract with Fifth Third Bank, National Association ("**Fifth Third**") to purchase the above-described Subject Property. The legal description for the Subject Property is reflected on the Survey, and as shown on the Survey, the Subject Property is bounded to the North by Triangle Drive (*a public right-of-way*), to the East by S. Indiana Avenue/IN State Road 31E (*a public right-of-way*), to the South by S. New Albany Street (*a public right-of-way*), and to the West by 362 Triangle Drive (*Parcel ID No. 10-17-11-00-483.000-31*), which is owned by Rajjis12 LLC (*whose mailing address per the IN Secretary of State is 363 Triangle Dr., Sellersburg, IN 47172*). As noted above, the Subject Property is currently owned by Fifth Third (*who is also successor-in-interest to Fifth Third Bank, an Ohio banking corporation*), whose mailing address is Attn: Erica Kojetin, 38 Fountain Square Plaza, Mail Drop 10909F, Cincinnati, OH 45263.

In connection with HPDC's diligence on the Subject Property, a title exam and the Survey were prepared for the Subject Property. These diligence items reflected that (i) the Subject Property was part of the property depicted on the plat recorded in Plat Cabinet 3, Page 108, in the Office of the Recorder for Clark County, Indiana (the "**Plat**"), a copy of which Plat is included with this transmittal, and (ii) a 14' alley crossed through the Subject Property for which no recorded ordinance of vacation could be located.


It is the understanding of HPDC that the 14' alley depicted on the Plat and the Survey is within the corporate boundaries of the Town of Sellersburg. HPDC is requesting, subject to the approval of and on behalf of Fifth Third, that the portion of the 14' alley crossing through the Subject Property be properly vacated by the Town of Sellersburg and that such vacated alley is then conveyed in fee to Fifth Third ahead of HPDC's purchase of the Subject Property.

HOGAN

REAL ESTATE

Please do not hesitate to reach out should you have any questions or find that anything is missing or incorrect.

Sincerely,
HOGAN PROPERTY DEVELOPMENT CO.


W. Glenn Hogan
Sole Officer

Enclosures

cc Charlie Smith, Town Manager (via e-mail at csmith@schlersburg.org)
Jacob C. Elder (via e-mail at jelder@elderlawoffice.us)
Nick Lawrence (via e-mail at nick@thewheatlevgrp.com)
Daniel M. Walter (via e-mail at dwalter@vcifirm.com)
Justin Phelps (via e-mail at jphelps@hogandev.com)
Edith Sommer (via e-mail at esommer@hogandev.com)