

Ordinance No. 2019-22

FILED  
CITY CLERK

**AN ORDINANCE VACATING A PUBLIC ALLEY  
AND UTILITY EASEMENT  
IN THE CITY OF LAFAYETTE, INDIANA**

2019 AUG 14 P 1:17

CINDY HURRAY

**WHEREAS**, the public alley is approximately twelve (12) feet wide and three hundred eighty and 84/100 (380.84) feet in length along the south sides of Lot 10 – 17 in O’Ferrall Park Addition and the north sides of Lots 2 – 9 in O’Ferrall Park Addition (the “Public Alley”) and the utility easement is approximately ten (10) feet in wide and four hundred forty-two and 21/100 (442.21) feet in length along the south side of Lots 10 – 18 in O’Ferrall Park Addition (the “Utility Easement”), the legal description of which are marked Exhibit “A”, attached hereto and made a part hereof. A drawing of the vacated Public Alley and Utility Easement is marked Exhibit “B”, attached hereto and made a part hereof; and

**WHEREAS**, the contiguous property to said area to be vacated is the property of the abutting landowner, Tippecanoe Development II, LLC; and

**WHEREAS**, Tippecanoe Development II, LLC, as an interested party pursuant to Indiana Code § 36-7-3-12(a)(1), petitioner for the vacation of such Public Alley and Utility Easement, has complied with the provisions of the Indiana Code; and

**WHEREAS**, Tippecanoe Development II, LLC, petitioner for the vacation of such Public Alley and Utility Easement, requests that the Public Alley and Utility Easement be vacated and title to the vacated Public Alley and Utility Easement be transferred to the abovementioned abutting landowner.

**NOW THEREFORE, BE IT ORDAINED** by the Common Council of the City of Lafayette, Indiana:

Section 1. The Public Alley of approximately twelve (12) feet wide and three hundred

eighty and 84/100 (380.84) feet long along the south side of Lots 10 to 17 (Key Numbers 79-07-22-360-010.000-004 [Lots 10 thru 14] and 79-07-22-360-012.000-004 [Lot 17]) and north side of Lots 2-9 (Key Numbers 79-07-22-360-002.000-004 [Lot 2], 79-07-22-360-003.000-004 [Lot 3], 79-07-22-360-004.000-004 [Lot 4], 79-07-22-360-005.000-004 [Lot 5], 79-07-22-360-006.000-004 [Lot 6], 79-07-22-360-007.000-004 [Lot 7], 79-07-22-360-008.000-004 [Lot 8], 79-07-22-360-009.000-004 [Lot 9]); the Utility Easement is approximately ten (10) feet wide and four hundred forty-two and 21/100 (442.21) feet long along the south side of Lots 10-18 (Key Numbers 79-07-22-360-010.000-004 [Lots 10 thru 14] and 79-07-22-360-012.000-004 [Lots 15-16-17 & PT 18]) depicted and shown on the abovementioned Exhibits "A" and "B", are hereby vacated.

Section 2. That the vacated Public Alley and Utility Easement as described in Exhibits "A" and "B" attached hereto and incorporated herein are hereby conveyed to the abutting landowner, Tippecanoe Development II, LLC.

Section 3: This ordinance shall be in full force and effect from and after its passage and signing by the Mayor.

**PASSED AND ADOPTED BY THE COMMON COUNCIL OF THE CITY OF LAFAYETTE, INDIANA, THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2019.**

\_\_\_\_\_  
Ronald Campbell, Presiding Officer

ATTEST:

\_\_\_\_\_  
Cindy Murray, City Clerk

Presented by me to the Mayor of the City of Lafayette, Indiana, on the \_\_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
Cindy Murray, City Clerk

This Ordinance approved and signed by me on the \_\_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
Tony Roswarski, Mayor

ATTEST:

\_\_\_\_\_  
Cindy Murray, City Clerk

Sponsored by Ed Chosnek

**EXHIBIT "A"**  
**EASEMENT DESCRIPTION**

DESCRIPTION OF PROPOSED VACATED ALLEY (0.105 OF AN ACRE):

A 12'-wide Alley adjoining Lots 1 through 18 in Block 5 in O'Ferrall Park Addition to the City of Lafayette, Indiana, as recorded in Plat Book 3, Page 8, in the Office of the Recorder of Tippecanoe County, Indiana (ORTCI), as platted upon part of the Southwest Quarter of the Southwest Quarter of Section 22, Township 23 North, Range 4 West, described as follows (this description written by Todd Ashley Starr, LS20300028, Job Number 20196301, 07/26/2019): Beginning at the Southeast corner of Lot 10 in said O'Ferrall Park Addition; thence South 00° 11' 53" East (Bearings are based on WGS84) 12.00 feet along the West Right-of-Way line of 30th Street, to the Northeast corner of Lot 9 in said O'Ferrall Park Addition; thence South 89° 14' 45" West 380.72 feet along the North line of Lots 2 through 9 in said O'Ferrall Park Addition, to the Southeast corner of a Vacated Alley, as recorded in Document Number 93-01590 (ORTCI), and the Northwest corner of said Lot 2; thence North 00° 45' 45" West 12.00 feet along the East line of said Vacated Alley, to the Southwest corner of Lot 17 in said O'Ferrall Park Addition; thence North 89° 14' 45" East 380.84 feet along the South line of Lots 10 through 17 in said O'Ferrall Park Addition, to the Point of Beginning and containing 0.105 of an Acre.

DESCRIPTION OF UTILITY EASEMENT:

An easement for the construction and maintenance of a storm sewer, said easement being ten (10) feet of even width off of the entire South end of Lots Ten (10), Eleven (11), Twelve (12), Thirteen (13), Fourteen (14), Fifteen (15), Sixteen (16) Seventeen (17) and Eighteen (18) in Block Five (5) of the O'Ferrall Park Addition to the City of Lafayette, Indiana, as platted in Plat Book 3, page 8, as recorded in the Office of the Tippecanoe County Recorder, said easements also extend westerly across the vacated alley as platted in said addition, and terminates along the west line of said alley. Said Utility Easement, is shown on a Vester Survey, as recorded in Document Number 91-00679 in the Office of the Recorder of Tippecanoe County, Indiana.

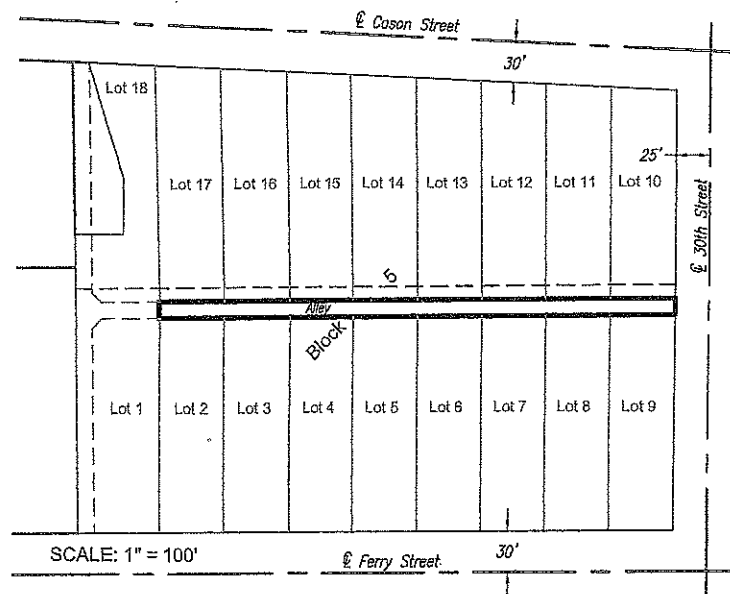
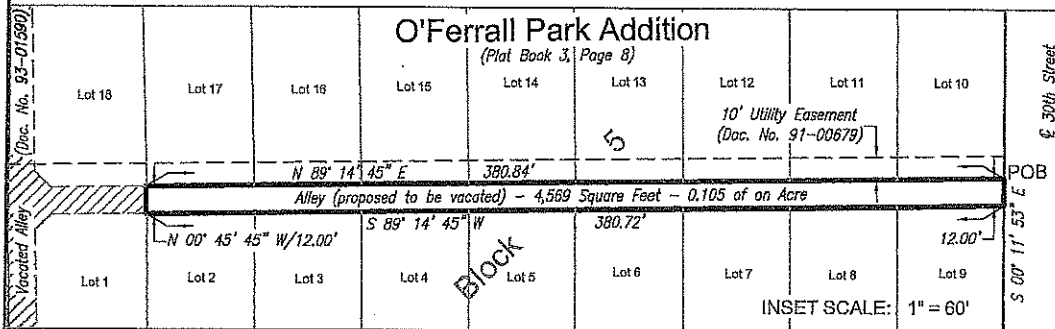
**EXHIBIT "B"**  
**VACATED EASEMENT DRAWING**

**See Attached.**

# Alley Vacation Exhibit B

Prepared For: Tippecanoe Development II, LLC

See Sheet 3 for descriptions.



Bearings based on WGS84.

**SURVEYOR'S CERTIFICATION:**

I, Todd Ashley Starr, a Professional Surveyor of the State of Indiana, do hereby certify that this survey was completed under my direct supervision and to the best of my knowledge and belief this plat is an accurate representation of that survey.

*Todd Ashley Starr*  
Todd Ashley Starr

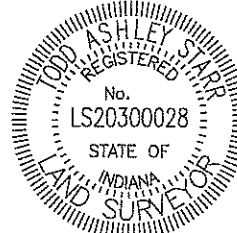
Professional Surveyor LS20300028

This instrument was prepared by Todd Ashley Starr

I affirm, under penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law. Todd Ashley Starr.

TITLE HOLDER: Tippecanoe Development II, LLC

TAX KEY NO.: 79-07-22-360-001.000-004, 79-07-22-360-002.000-004, 79-07-22-360-003.000-004, 79-07-22-360-004.000-004, 79-07-22-360-005.000-004, 79-07-22-360-006.000-004, 79-07-22-360-007.000-004, 79-07-22-360-008.000-004, 79-07-22-360-009.000-004, 79-07-22-360-010.000-004 & 79-07-22-360-012.000-004



DATE: 07/31/2019  
PROJECT NO. 20196301  
SHEET 1 of 3  
DRAWN BY: TAS



**STARR**  
**ASSOCIATES**  
LAND SURVEYORS & ENGINEERS

413 TEAL ROAD  
LAFAYETTE, INDIANA 47905  
(765) 471-8813  
(765) 471-0365 FAX

# Alley Vacation Exhibit B

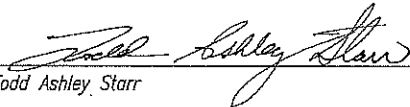
Prepared For: Tippecanoe Development II, LLC

DESCRIPTION OF PROPOSED VACATED ALLEY (0.105 OF AN ACRE):

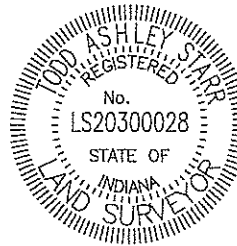
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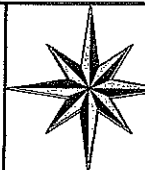
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Todd Ashley Starr

Professional Surveyor LS20300028



DATE: 07/31/2019  
PROJECT NO. 20196301  
SHEET 2 of 3  
DRAWN BY: TAS



**STARR**  
**ASSOCIATES**  
LAND SURVEYORS & ENGINEERS

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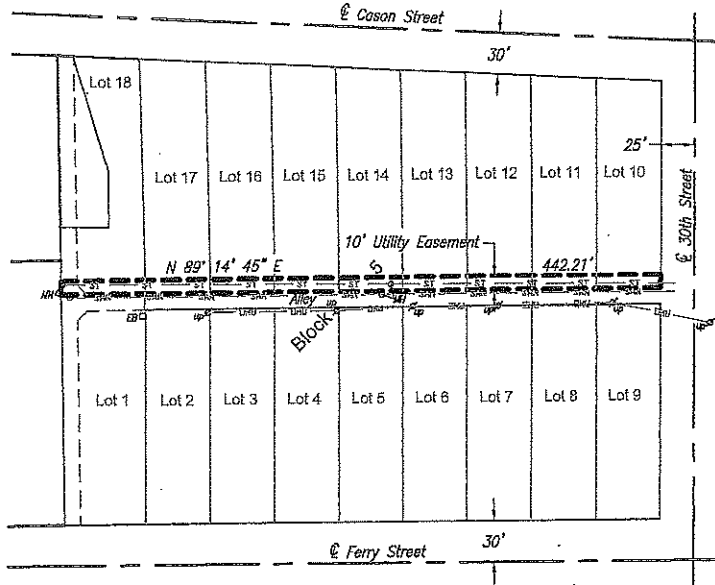
# Utility Easement Vacation Exhibit B

Prepared For: Tippecanoe Development II, LLC

SCALE: 1" = 100'



Bearings based on WGS84.



## LEGEND

- MH = Manhole
- EB = Electrical Box
- up = utility pole
- OHU = Overhead Utility Lines
- San = Sanitary Sewer Line
- ST = Storm Sewer Line

### UTILITY EASEMENT DESCRIPTION:

An easement for the construction and maintenance of a storm sewer, said easement being ten (10) feet of even width off of the entire South end of Lots Ten (10), Eleven (11), Twelve (12), Thirteen (13), Fourteen (14), Fifteen (15), Sixteen (16) Seventeen (17) and Eighteen (18) in Block Five (5) of the O'Ferrall Park Addition to the City of Lafayette, Indiana, as platted in Plat Book 3, page 8, as recorded in the Office of the Tippecanoe County Recorder, said easements also extend westerly across the vacated alley as platted in said addition, and terminates along the west line of said alley. Said Utility Easement, is shown on a Vester Survey, as recorded in Document Number 91-00679 in the Office of the Recorder of Tippecanoe County, Indiana.

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*Todd Ashley Starr*  
 Todd Ashley Starr

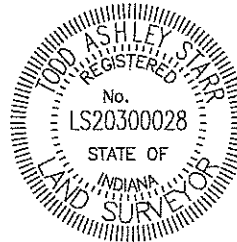
Professional Surveyor LS20300028

This instrument was prepared by Todd Ashley Starr

"I affirm, under penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law." Todd Ashley Starr.

TITLE HOLDER: Tippecanoe Development II, LLC

TAX KEY NO.: 79-07-22-360-001.000-004, 79-07-22-360-002.000-004, 79-07-22-360-003.000-004, 79-07-22-360-004.000-004, 79-07-22-360-005.000-004, 79-07-22-360-006.000-004, 79-07-22-360-007.000-004, 79-07-22-360-008.000-004, 79-07-22-360-009.000-004, 79-07-22-360-010.000-004 & 79-07-22-360-012.000-004

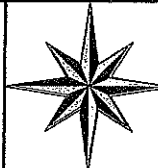


DATE: 07/31/2019

PROJECT NO. 20196301

SHEET 3 of 3

DRAWN BY: TAS



**STARR**  
**ASSOCIATES**  
 LAND SURVEYORS & ENGINEERS

413 TEAL ROAD  
 LAFAYETTE, INDIANA 47905  
 (765) 471-8813  
 (765) 471-0365 FAX



# RTS

REILING  
TEDER  
& SCHRIER, LLC

Renaissance Place, Sixth Floor  
250 Main Street, Suite 601  
P.O. Box 280  
Lafayette, IN 47902-0280

Tel: (765) 423-5333  
Fax: (765) 423-4564  
www.rtslawfirm.com

July 31, 2019

Ms. Cindy Murray,  
City Clerk  
20 N 6<sup>th</sup> Street  
Lafayette IN 47901

**Re: Petition to Vacate a Public Alley and Utility Easement  
in the City of Lafayette, Indiana  
Petitioner: Tippecanoe Development II, LLC**

Dear Ms. Murray,

Enclosed please find the following documents for filing with your office:

1. Petition to Vacate a Public Alley and Utility Easement in the City of Lafayette, Indiana;
2. An Ordinance Vacating a Public Alley and Utility in the City of Lafayette, Indiana;
3. A Waiver of Public Hearing Within 30 Days
4. Two (2) Notices of Public Hearing

Thank you for your assistance with this matter. Should you have any questions please contact me.

Sincerely,



Daniel A. Teder

DAT:arw  
Enclosures

***WAIVER OF PUBLIC HEARING WITHIN 30 DAYS***

Tippecanoe Development II, LLC hereby waives its right under Indiana Code 36-7-3-12 to a public hearing within 30 days of the filing of any Petition to Vacate a public way and utility easement and agree that the Lafayette Common Council may hold such public hearing at its next regularly scheduled Common Council meeting on September 2, 2019

PETITIONER:  
TIPPECANOE DEVELOPMENT II, LLC

  
\_\_\_\_\_  
John B. Scheumann, Member

7-31-19  
Date

**PETITION TO VACATE A PUBLIC ALLEY  
AND UTILITY EASEMENT  
IN THE CITY OF LAFAYETTE, INDIANA**

COMES NOW Tippecanoe Development II, LLC (“Petitioner”), and hereby respectfully petitions that a certain public alley and utility easement in the City of Lafayette, Tippecanoe County, Indiana more particularly described herein, be vacated and that the proper authorities schedule a public hearing on this petition, give proper notice of said public hearing at the expense of the Petitioner, and duly adopt an ordinance in the form and substance submitted herewith, and in support thereof states as follows:

1. This petition is filed pursuant to Indiana Code § 36-7-3-12 through Indiana Code § 36-7-3-16.
  
2. The Petitioner is the owner of property commonly known as the O’Ferrall Park Addition Lots 1-18, Lafayette, Tippecanoe County, Indiana (Key Numbers 79-07-22-360-001.000-004 [Lot 1], 79-07-22-360-002.000-004 [Lot 2], 79-07-22-360-003.000-004 [Lot 3], 79-07-22-360-004.000-004 [Lot 4], 79-07-22-360-005.000-004 [Lot 5], 79-07-22-360-006.000-004 [Lot 6], 79-07-22-360-007.000-004 [Lot 7], 79-07-22-360-008.000-004 [Lot 8], 79-07-22-360-009.000-004 [Lot 9], 79-07-22-360-010.000-004 [Lots 10 thru 14] & 79-07-22-360-012.000-004 [Lots 15-16-17 & PT 18]) (“Petitioner Real Estate”), pursuant to Indiana Code § 36-7-3-12(a)(1).
  
3. The Petitioner Real Estate is subject to a 12’ public alley (the “Public Alley”) and a 10’ utility easement (the “Utility Easement”), which said Public Alley and Utility Easement are shown in the drawing prepared by Starr Associates and attached hereto as **Exhibit A** and more particularly described in the attached **Exhibit B**.
  
4. The Petitioner hereby requests that the Public Alley and Utility Easement located on the Petitioner Real Estate be vacated, together with any other public easements therein.

5. The Public Alley and Utility Easement will be replaced with an apartment complex, together with a parking area and other appurtenances thereto to be built on Petitioner Real Estate.

6. The Public Alley and Utility Easement are not being used by the City of Lafayette or others for their intended purposes and are .105 acres and .170 acres, respectively.

7. Petitioner has provided a copy of this Petition to the City Engineer's office.


8. The following is a list of the names and addresses of all owners of land abutting the Public Alley:

Tippecanoe Development II, LLC  
PO Box 811  
Lafayette IN 47902

9. Upon vacation of the Public Alley and Utility Easement, the Public Alley and Utility Easement will become a part of the Petitioner Real Estate. Exhibit A hereto shows the approximate location of the Public Alley and Utility Easement that will vacated.

WHEREFORE, all of the above is requested for the good and benefit of the City of Lafayette, Indiana.

TIPPECANOE DEVELOPMENT II, LLC

  
\_\_\_\_\_  
John B. Scheumann, Member  
P O Box 811  
Lafayette, IN 47902

STATE OF INDIANA )  
COUNTY OF Tippecanoe )SS:  
 )

Before me, the undersigned, a Notary Public in and for said County and State, this 31<sup>st</sup> day of July, 2019, personally appeared John B. Scheumann, Member on behalf of Tippecanoe Development II, LLC, and acknowledged the execution of the foregoing instrument.

In witness whereof, I have hereunto subscribed my name and affixed my official seal.



**TERRY L. KING**  
NOTARY PUBLIC - OFFICIAL SEAL  
Commission # 695281  
State of Indiana, Carroll County  
My Commission Expires January 17, 2022

Terry L King  
(written)

Terry L King  
(printed)

NOTARY PUBLIC

My Commission Expires:

1/17/2025

Resident of Carroll County

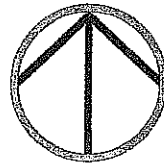
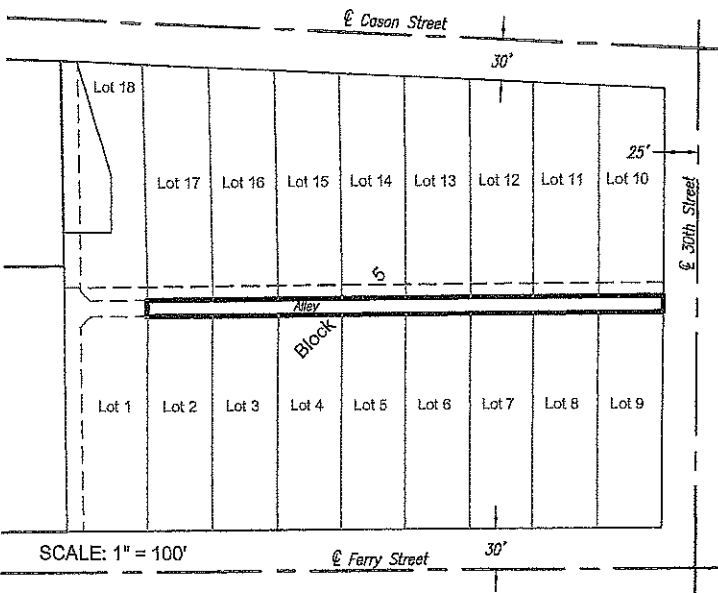
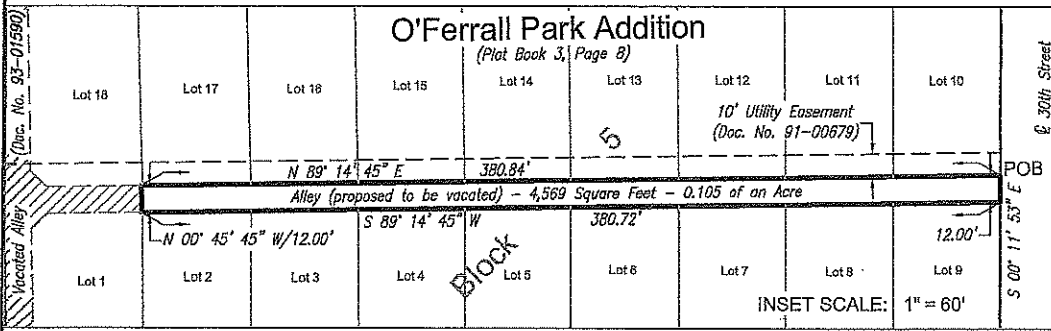
This instrument prepared by:  
Daniel A. Teder  
Reiling Teder & Schrier, LLC  
250 Main Street, Suite 601  
P.O. Box 280  
Lafayette, IN 47902-0280  
Telephone: (765) 423-5333  
E-mail: [dat@rtslawfirm.com](mailto:dat@rtslawfirm.com)

**EXHIBIT "A"**  
**PROPOSED VACATED PUBLIC ALLEY**  
**AND UTILITY EASEMENT DRAWING**

**See Attached.**

# Alley Vacation Exhibit A

Prepared For: Tippecanoe Development II, LLC



Bearings based on WGS84.

**SURVEYOR'S CERTIFICATION:**

I, Todd Ashley Starr, a Professional Surveyor of the State of Indiana, do hereby certify that this survey was completed under my direct supervision and to the best of my knowledge and belief this plat is an accurate representation of that survey.

*Todd Ashley Starr*

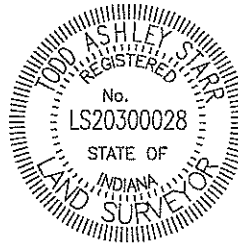
Todd Ashley Starr Professional Surveyor LS20300028

This instrument was prepared by Todd Ashley Starr

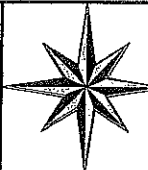
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TITLE HOLDER: Tippecanoe Development II, LLC

TAX KEY NO.: 79-07-22-360-001.000-004, 79-07-22-360-002.000-004, 79-07-22-360-003.000-004, 79-07-22-360-004.000-004, 79-07-22-360-005.000-004, 79-07-22-360-006.000-004, 79-07-22-360-007.000-004, 79-07-22-360-008.000-004, 79-07-22-360-009.000-004, 79-07-22-360-010.000-004 & 79-07-22-360-012.000-004



DATE: 07/31/2019  
PROJECT NO. 20196301  
SHEET 1 of 3  
DRAWN BY: TAS



**STARR**  
**ASSOCIATES**  
LAND SURVEYORS & ENGINEERS

413 TEAL ROAD  
LAFAYETTE, INDIANA 47905  
(765) 471-8813  
(765) 471-0865 FAX

# Alley Vacation Exhibit A

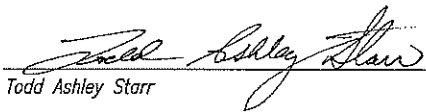
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Todd Ashley Starr

Professional Surveyor LS20300028



DATE: 07/31/2019

PROJECT NO. 20196301

SHEET 2 of 3

DRAWN BY: TAS



**STARR**

**ASSOCIATES**  
LAND SURVEYORS & ENGINEERS

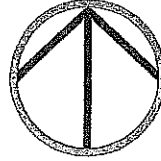
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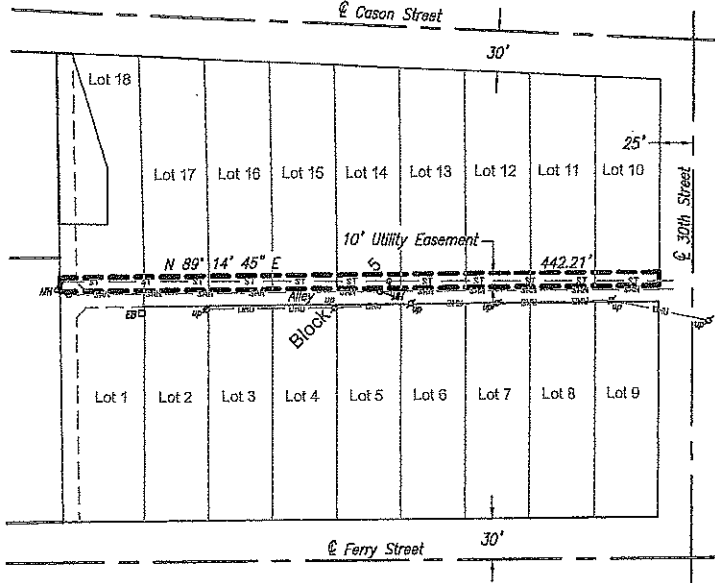
# Utility Easement Vacation Exhibit A

Prepared For: Tippecanoe Development II, LLC

SCALE: 1" = 100'



Bearings based on WGS84.



## LEGEND

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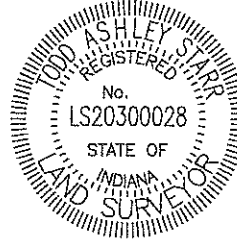
Professional Surveyor LS20300028

This instrument was prepared by Todd Ashley Starr

"I affirm, under penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law." Todd Ashley Starr.

TITLE HOLDER: Tippecanoe Development II, LLC

TAX KEY NO.: 79-07-22-360-001.000-004, 79-07-22-360-002.000-004, 79-07-22-360-003.000-004, 79-07-22-360-004.000-004, 79-07-22-360-005.000-004, 79-07-22-360-006.000-004, 79-07-22-360-007.000-004, 79-07-22-360-008.000-004, 79-07-22-360-009.000-004, 79-07-22-360-010.000-004 & 79-07-22-360-012.000-004

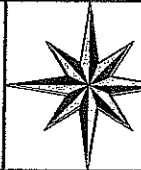


DATE: 07/31/2019

PROJECT NO. 20196301

SHEET 3 of 3

DRAWN BY: TAS



**STARR**  
**ASSOCIATES**  
 LAND SURVEYORS & ENGINEERS

413 TEAL ROAD  
 LAFAYETTE, INDIANA 47905  
 (765) 471-8813  
 (765) 471-0365 FAX

**EXHIBIT "B"**  
**PROPOSED VACATED PUBLIC ALLEY  
AND UTILITY EASEMENT DESCRIPTION**

DESCRIPTION OF PROPOSED VACATED ALLEY (0.105 OF AN ACRE):

A 12'-wide Alley adjoining Lots 1 through 18 in Block 5 in O'Ferrall Park Addition to the City of Lafayette, Indiana, as recorded in Plat Book 3, Page 8, in the Office of the Recorder of Tippecanoe County, Indiana (ORTCI), as platted upon part of the Southwest Quarter of the Southwest Quarter of Section 22, Township 23 North, Range 4 West, described as follows (this description written by Todd Ashley Starr, LS20300028, Job Number 20196301, 07/26/2019): Beginning at the Southeast corner of Lot 10 in said O'Ferrall Park Addition; thence South 00° 11' 53" East (Bearings are based on WGS84) 12.00 feet along the West Right-of-Way line of 30th Street, to the Northeast corner of Lot 9 in said O'Ferrall Park Addition; thence South 89° 14' 45" West 380.72 feet along the North line of Lots 2 through 9 in said O'Ferrall Park Addition, to the Southeast corner of a Vacated Alley, as recorded in Document Number 93-01590 (ORTCI), and the Northwest corner of said Lot 2; thence North 00° 45' 45" West 12.00 feet along the East line of said Vacated Alley, to the Southwest corner of Lot 17 in said O'Ferrall Park Addition; thence North 89° 14' 45" East 380.84 feet along the South line of Lots 10 through 17 in said O'Ferrall Park Addition, to the Point of Beginning and containing 0.105 of an Acre.

DESCRIPTION OF UTILITY EASEMENT:

An easement for the construction and maintenance of a storm sewer, said easement being ten (10) feet of even width off of the entire South end of Lots Ten (10), Eleven (11), Twelve (12), Thirteen (13), Fourteen (14), Fifteen (15), Sixteen (16) Seventeen (17) and Eighteen (18) in Block Five (5) of the O'Ferrall Park Addition to the City of Lafayette, Indiana, as platted in Plat Book 3, page 8, as recorded in the Office of the Tippecanoe County Recorder, said easements also extend westerly across the vacated alley as platted in said addition, and terminates along the west line of said alley. Said Utility Easement, is shown on a Vester Survey, as recorded in Document Number 91-00679 in the Office of the Recorder of Tippecanoe County, Indiana.