

FEB 23 2017

**SPECIAL ORDINANCE NO. 14, 2017**

CITY CLERK

AN ORDINANCE VACATING A PORTION OF A PUBLIC ALLEY LOCATED IN THE CITY OF TERRE HAUTE, VIGO COUNTY, INDIANA.

BE IT ORDERED by the Common Council of the City of Terre Haute, Indiana.

SECTION 1. Pursuant to the provisions of I.C. 36-7-3-12, it is desired and deemed necessary to vacate a portion of a public alley located in the City of Terre Haute, Vigo County, Indiana, which is now laid out and existing in the City of Terre Haute, Indiana, and described as follows:

A portion of a public alley in Warren Place, an Addition to the City of Terre Haute, Indiana, being a Subdivision of the South 1/2 and Southeast 1/4 of Section 33, Township 12, Range 9 West, excepting the rights of way of the Southern Indiana Railroad and the Terre Haute & Southeastern Railroad (currently the Indiana Rail Road Company), as shown by the recorded plat thereof in Plat Record 10, Page 22 of the Records of the Recorder's Office of Vigo County, Indiana, and more particularly described as follows:


Commencing at a point on the Southern Indiana Railroad and the Terre Haute & Southeastern Railroad's (currently the Indiana Rail Road Company), south right of way line fifteen feet (15'), more or less, directly north of the northwest corner of Lot 282 in Warren Place Subdivision; thence south fifteen feet (15'), more or less to the northwest corner of Lot 282 in Warren Place Subdivision; thence east along the north line of Lots 282, 281, 280, 279, 278, 277, 276 and 275 in Warren Place Subdivision to the northeast corner of Lot 275 in Warren Place Subdivision; thence north fifteen feet (15'), more or less, to the Southern Indiana Railroad and the Terre Haute & Southeastern Railroad's south right of way line directly north of the northeast corner of Lot 275 in Warren Place Subdivision; thence west along the Southern Indiana Railroad and the Terre Haute & Southeastern Railroad's south right of way line to the place of beginning.

SECTION 2. Be it further ordained that said portion of said alley in the City of Terre Haute, Indiana, above described, be and the same is vacated and will revert to the abutting properties, subject to the continuation of any and all existing easement rights for public utilities.

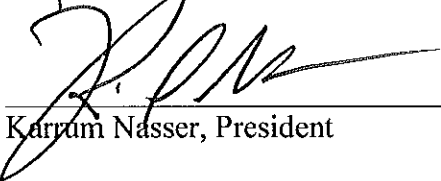
SECTION 3. Be it further ordained that the City Clerk be, and he is hereby directed to furnish a copy of this Ordinance to the Recorder of Vigo County, Indiana, for recording, and to the Auditor of Vigo County, Indiana.

WHEREAS, an emergency exists for the immediate taking effect of this Ordinance, the same shall be in full force and effect from and after its passage by the Common Council of Terre Haute, and its approval by the Mayor and publication as by law provided.


Presented by Council Member,

  
Amy Auler, Councilperson


Passed in open Council this 11<sup>th</sup> day of April, 2017.

  
Karrum Nasser, President

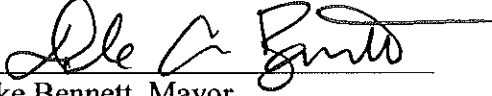
ATTEST:

  
Charles P. Hanley, City Clerk

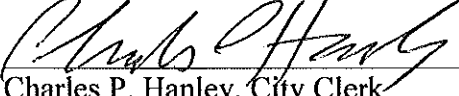
Presented by me to the Mayor of the City of Terre Haute, this 12 day of April, 2017.

  
Charles P. Hanley, City Clerk


Approved by me, the Mayor of the City of Terre Haute, this 12<sup>th</sup> day of APRIL, 2017.

  
Duke Bennett, Mayor

ATTEST:

  
Charles P. Hanley, City Clerk

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each social security number in this document, unless required by law.

  
Richard J. Shagley

This instrument prepared by Richard J. Shagley, Attorney-at-Law, Wright, Shagley & Lowery, P.C., 500 Ohio Street, P.O. Box 9849, Terre Haute, Indiana 47807.

**PETITION FOR VACATION OF PORTION OF A PUBLIC ALLEY**

TO THE PRESIDENT AND MEMBERS OF THE  
COMMON COUNCIL OF THE CITY OF TERRE  
HAUTE, VIGO COUNTY, INDIANA

LADIES AND GENTLEMEN:

Dennis A. Atterson, as Trustee of the Dennis A. Atterson Revocable Trust, Kathleen A. Atterson, as Trustee of the Kathleen A. Atterson Trust, and Atterson Brothers, LLC, the owners of land abutting a certain Public Alley platted, which is located in Terre Haute, Indiana and respectfully petition and request the legislative body of the City of Terre Haute, Indiana to vacate that portion of a Public Alley described below pursuant to the various provisions of I.C. 36-7-3-12, and in support of this Petition would show to the Common Council of said City as follows:

1. Dennis A. Atterson, as Trustee of the Dennis A. Atterson Revocable Trust, and Kathleen A. Atterson, as Trustee of the Kathleen A. Atterson Revocable Trust, the Petitioners herein, are the owners of the following described real estate located in Vigo County, State of Indiana:

Lot Two Hundred Seventy-nine (279) and the East Half (112) of Lot Two Hundred Eighty (280) Warren Place, an Addition to the City of Terre Haute, Indiana, being a Subdivision of the South Half (1/2) of the South East Quarter (1/4) of Section Thirty-three (33), Township Twelve (12) North, Range Nine (9) West, excepting the right of ways of the Southern Indiana Railroad and the Terre Haute & Southeastern Railroad, as shown by the recorded plat thereof in Plat Record 10, Page 22, of the records of the Recorder's Office of Vigo County, Indiana.

Subject to easements, covenants, restrictions, leases and other matters of record affecting title to the subject real estate.

Commonly known as: 212 Helen Avenue, Terre Haute, Indiana 47802.

AND

Lots 275, 276, 277, and 278, Warren Place, an Addition to the City of Terre Haute, Indiana, being a Subdivision of the South Half of the Southeast Quarter of Section 33, Township 12 North, Range 9 West, excepting the right of ways of the Southern Indiana Railroad and the Terre Haute & Southeastern Railroad, as shown by the recorded plat thereof in Plat Record 10, Page 22, of the Records of the Recorder's Office of Vigo County, Indiana.

Commonly known as: 2749 S. Third Street, Terre Haute, Indiana 47802.

2. Atterson Brothers, LLC, the Petitioner herein, is the owner of the following described real estate located in Vigo County, State of Indiana:.

Lots 281, 282 and the West 1/2 of Lot 280 Warren Place, an Addition to the City of Terre Haute, Indiana, being a Subdivision of the South 1/2 of the Southeast 1/4 of Section 33, Township 12 North, Range 9 West, excepting the rights of way of the Southern Indiana Railroad and the Terre Haute & Southeastern Railroad, as shown by the recorded plat thereof in Plat Record 10, Page 22 of the Records of the Recorder's Office of Vigo County, Indiana.

Subject to any easements, agreements, streets, alleys, restrictions, covenants, building lines, and rights of way of public record including but not limited to:

a) Conditions, restrictions, covenants and easements as set forth on the Plat of Warren Place as shown in Plat Record 10, page 22.

Commonly known as: 208 Helen Avenue, Terre Haute, Indiana 47802

4. That a copy of a portion of the plat of the said Public Alley which runs along the north side of Owners' properties is attached hereto, made a part hereof and is marked as Exhibit A.

5. That the portion of the Public Alley to be vacated as set forth above may be more particularly described as follows, to-wit:

A portion of a public alley in Warren Place, an Addition to the City of Terre Haute, Indiana, being a Subdivision of the South 1/2 and Southeast 1/4 of Section 33, Township 12, Range 9 West, excepting the rights of way of the Southern Indiana Railroad and the Terre Haute & Southeastern Railroad (currently the Indiana Rail Road Company), as shown by the recorded plat thereof in Plat Record 10, Page 22 of the Records of the Recorder's Office of Vigo County, Indiana, and more particularly described as follows:

Commencing at a point on the Southern Indiana Railroad and the Terre Haute & Southeastern Railroad's (currently the Indiana Rail Road Company), south right of way line fifteen feet (15'), more or less, directly north of the northwest corner of Lot 282 in Warren Place Subdivision; thence south fifteen feet (15'), more or less to the northwest corner of Lot 282 in Warren Place Subdivision; thence east along the north line of Lots 282, 281, 280, 279, 278, 277, 276 and 275 in Warren Place Subdivision to the northeast corner of Lot 275 in Warren Place Subdivision; thence north fifteen feet (15'), more or less, to the Southern Indiana Railroad and the Terre Haute & Southeastern Railroad's south right of way line directly north of the northeast corner of Lot 275 in Warren Place Subdivision; thence west along the Southern Indiana Railroad and the Terre Haute & Southeastern Railroad's south right of way line to the place of beginning.

6. Petitioners believe that no landowner adjoining and abutting the Public Alley to be vacated would be adversely affected by the vacation of said Public Alley, since the real estate is the said Public Alley does not nor will not serve a functional purpose to the public.

7. Petitioners propose the vacation of the Public Alley in order to allow more efficient and effective use of Petitioners' real estate.

8. The proposed vacation would not hinder the use of a public way by the neighborhood in which said portion of the Public Alley is located or to which they are contiguous since the Petitioners are the owners of the lands abutting said portion of said Public Alley; as set forth above, the proposed vacation of said portion of said Public Alley would not make access to any land by any person by means of a public way difficult or inconvenient; nor would said vacation have an adverse affect upon the right of way of the Indiana Rail Road Company, formerly known as the Southern Indiana Railroad and the Terre Haute & Southeastern Railroad, or its successors; nor would said vacation hinder any member of the public's access to a church, school or other public building or place, nor will it interfere in any way with fire protection or police protection for property located within the City of Terre Haute, Indiana.

9. The names and addresses of all owners of land that abuts that portion of the Public Alley above proposed to be vacated are the Petitioners, and the Indiana Rail Road Company, formerly the Southern Indiana Railroad and the Terre Haute & Southeastern Railroad. That notice of said vacation has been sent by certified mail to the Indiana Rail Road Company, formerly known as the Southern Indiana Railroad and the Terre Haute & Southeastern Railroad.

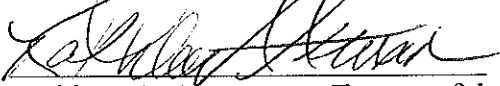
WHEREAS, Petitioners respectfully request and petition the Common Council of the City of Terre Haute, Indiana, after hearing on this Petition in accordance with law to:

- a) Adopt an Ordinance vacating that portion of the Public Alley referred to and described above, subject to existing easement rights for public utilities;
- b) Cause the Clerk of the City of Terre Haute to furnish copies of said Vacation Ordinance to the County Recorder of Vigo County for recording and to the county Auditor, and to thereupon cause the Recorder to release said Ordinance to the Vigo County Area Planning Department for distribution in accordance with the City's Zoning Ordinance and Subdivision Code.
- c) For all other proper relief in the premises.

**PETITIONERS:**

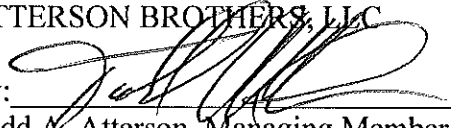


Dennis A. Atterson, as Trustee of the  
Dennis A. Atterson Revocable Trust



Kathleen A. Atterson, as Trustee of the  
Kathleen A. Atterson Revocable Trust

ATTERSON BROTHERS, LLC

By:   
Todd A. Atterson, Managing Member

Petitioners' Addresses:

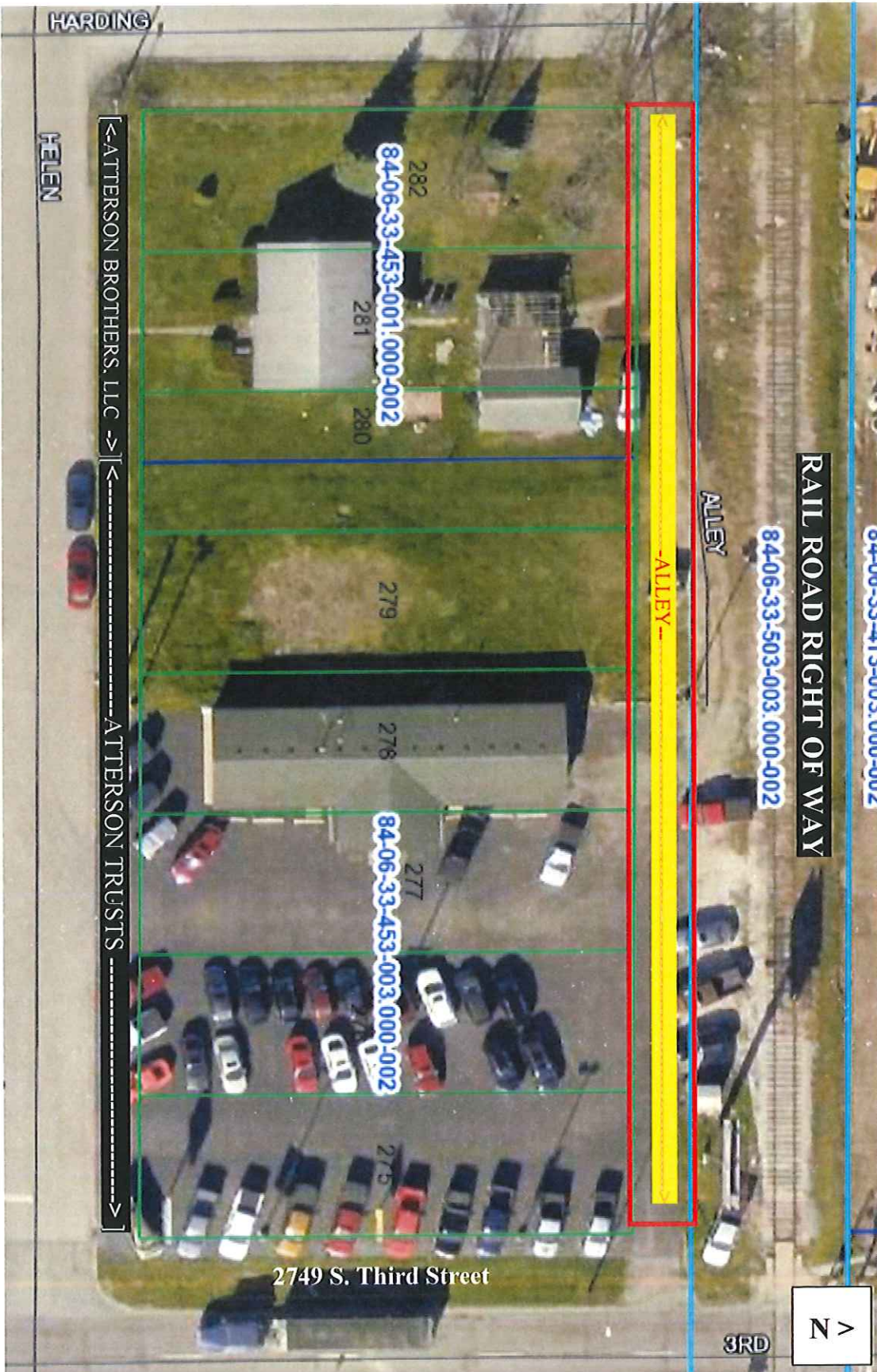
Dennis A. Atterson, Trustee of the Dennis A. Atterson Revocable Trust, and Kathleen A. Atterson, Trustee of the Kathleen A. Atterson Revocable Trust, 6806 Wabash Avenue, Terre Haute, IN 47803

Atterson Brothers, LLC, 6768 Wabash Avenue, Terre Haute, IN 47803

This instrument prepared by Richard J. Shagley, WRIGHT, SHAGLEY & LOWERY, P.C., 500 Ohio Street, P.O. Box 9849, Terre Haute, Indiana 47807.

**EXHIBIT A**

**SITE PLAN**



Receipt

The following was paid to the City of Terre Haute, Controller's Office

Date: 2/23/17

Name: Dennis Atterson (Property owner)

Reason: Vacating an alley \$5<sup>00</sup>

TERRE HAUTE, IN  
PAID  
FEB 23 2017  
CONTROLLER

Cash: \_\_\_\_\_

Check: 67626 \$5<sup>00</sup>

Credit: \_\_\_\_\_

Total: \$5<sup>00</sup>

Received By: [Signature]



CITY CLERK OF TERRE HAUTE  
ROOM 102 CITY HALL  
TERRE HAUTE, IN 47807  
812-232-3375

FILED  
MAR 13 2017  
CITY CLERK

To: TERRE HAUTE FIRE DEPARTMENT

Special Ordinance 14, 2017

March 13, 2017

In accordance with General Ordinance 7, 1990, the City Clerk's Office must poll various departments in regard to the closing of a street or alley. Please review the attached ordinance and indicate any problems you see with the proposed closing. If there are any problems, please write in the space below. Return to the City Clerk's Office by April 3, 2017.

No Problems Noted

Problems as noted below

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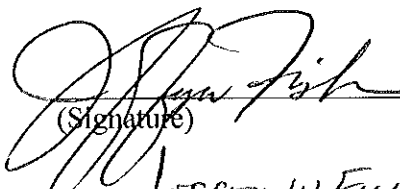
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(Signature)  
JEFFERY W FISHER  
(Printed name)

FIRE CHIEF  
(Title)  
3/14/17  
(Date)

FILED

MAR 13 2017

CITY CLERK OF TERRE HAUTE  
ROOM 102 CITY HALL  
TERRE HAUTE, IN 47807  
812-232-3375

CITY CLERK

To: Building Inspector, City of Terre Haute

Special Ordinance 14, 2017

March 13, 2017

The street/alley as noted on attached ordinance needs posting at least ten (10) days prior to passage of ordinance. Please indicate posting date and return to the City Clerk's Office by April 3, 2017.

*Daniel Bell*  
(Signature)

LEAD INSPECTION  
(Title)

Daniel Bell  
(Printed name)

3/14/2017  
(Date Posted)

**CITY CLERK OF TERRE HAUTE  
ROOM 102 CITY HALL  
TERRE HAUTE, IN 47807  
812-232-3375**

**FILED**  
MAR 16 2017  
**CITY CLERK**

To: Street Department, City of Terre Haute

Special Ordinance 14, 2017

March 13, 2017

In accordance with General Ordinance 7, 1990, the City Clerk's Office must poll various departments in regard to the closing of a street or alley. Please review the attached ordinance and indicate any problems you see with the proposed closing. If there are any problems, please write in the space below. Return to the City Clerk's Office by April 3, 2017.

  /   No Problems Noted

       Problems as noted below

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Dwight E. Woodard Jr  
(Signature)

Townman  
(Title)

Dwight E Woodard Jr  
(Printed name)

3/14/17  
(Date)

**CITY CLERK OF TERRE HAUTE  
ROOM 102 CITY HALL  
TERRE HAUTE, IN 47807  
812-232-3375**

**FILED**  
MAR 16 2017  
**CITY CLERK**

To: **TERRE HAUTE CITY POLICE DEPARTMENT**

Special Ordinance 14, 2017

March 13, 2017

In accordance with General Ordinance 7, 1990, the City Clerk's Office must poll various departments in regard to the closing of a street or alley. Please review the attached ordinance and indicate any problems you see with the proposed closing. If there are any problems, please write in the space below. Return to the City Clerk's Office by April 3, 2017.

No Problems Noted

Problems as noted below

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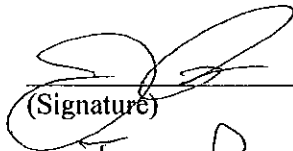
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(Signature)  
JOHN PLASSE  
(Printed name)

CHIEF OF POLICE  
(Title)  
3-15-17  
(Date)

**CITY CLERK OF TERRE HAUTE  
ROOM 102 CITY HALL  
TERRE HAUTE, IN 47807  
812-232-3375**

**FILED  
MAR 17 2017  
CITY CLERK**

To: Engineering Department, City of Terre Haute

Special Ordinance 14, 2017

March 13, 2017

In accordance with General Ordinance 7, 1990, the City Clerk's Office must poll various departments in regard to the closing of a street or alley. Please review the attached ordinance and indicate any problems you see with the proposed closing. If there are any problems, please write in the space below. Return to the City Clerk's Office by April 3, 2017.

No Problems Noted

\_\_\_\_\_ Problems as noted below

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Josey Daugherty  
(Signature)

Staff Engineer  
(Title)

Josey Daugherty  
(Printed name)

3-17-17  
(Date)