ORDINANCE NO. 2022-34

AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF LEBANON, BOONE COUNTY, INDIANA TO VACATE PUBLIC WAYS

WHEREAS, the City of Lebanon, Indiana (the "City") is a duly formed municipal corporation within the State of Indiana, governed by its duly elected Mayor and Common Council (the "Council"); and,

WHEREAS, it is the duty and responsibility of the Council to maintain public rights-of-way for the benefit of the citizens of the City and to vacate those no longer needed for the benefit of the public; and,

WHEREAS, there has been filed before the City of Lebanon Plan Commission (the "Plan Commission") a petition (Docket #22-61) to vacate a portion of public street right-of-way in the Ann M Williams Second Addition Plat, specifically a 20-foot wide portion of the Ann Street right-of-way directly east and adjacent to 623 E Main Street (collectively the "Real Estate"), more accurately described in Exhibits A and B; and,

WHEREAS, the Plan Commission voted (9-0) to send a favorable recommendation to the Council for its consideration; and,

WHEREAS, it has come to the attention of the Council that the request herein described is no longer necessary as a benefit to the general public and should be vacated.

NOW, THEREFORE, BE IT ORDAINED by the Common Council of the City of Lebanon, Boone County, Indiana, meeting in regular session, as follows:

Section 1. Pursuant to Indiana Code 36-9-2-5, the City has the authority to vacate public rights-of-way and now finds that the public right-of-way identified in Exhibits A and B, attached hereto and incorporated by reference herein, is no longer needed for the benefit of the public.

Section 2. After a duly advertised and published public hearing pursuant to Indiana Code 36-7-3-12, the Council finds it proper and necessary to vacate the public right-of-way identified in Exhibits A and B.

Section 3. The conveyance of the Real Estate shall be to Alexander H. and Kimberly A. Andrews.

Section 4. This Ordinance shall be in full force and effect in accordance with Indiana law, upon passage of any applicable waiting periods, all as provided by the laws of the State of Indiana.

PASSED AND ADOPTED THIS _____ day of_____, 2022.

LEBANON COMMON COUNCIL

Voting For	**Voting Against**	**Abstain**
Keith Campbell	Keith Campbell	Keith Campbell
John Copeland	John Copeland	John Copeland
Morris Jones	Morris Jones	Morris Jones
Mike Kincaid	Mike Kincaid	Mike Kincaid
Sierra Messenger	Sierra Messenger	Sierra Messenger
Dick Robertson	Dick Robertson	Dick Robertson
Brent Wheat	Brent Wheat	Brent Wheat

ATTEST:

_____
Tonya Thayer, Clerk-Treasurer

I hereby certify that ORDINANCE 2022-34 was delivered to the Mayor of Lebanon on the _____ day of _____, 2022, at ____ _____m.

_____
Tonya Thayer, Clerk-Treasurer

I hereby APPROVE ORDINANCE 2022-34 this ___day of _____, 2022.

_____
Matthew T. Gentry, Mayor

I hereby VETO ORDINANCE 2022-34 this ___day of _____, 2022.

_____
Matthew T. Gentry, Mayor

ATTEST:

_____
Tonya Thayer, Clerk-Treasurer

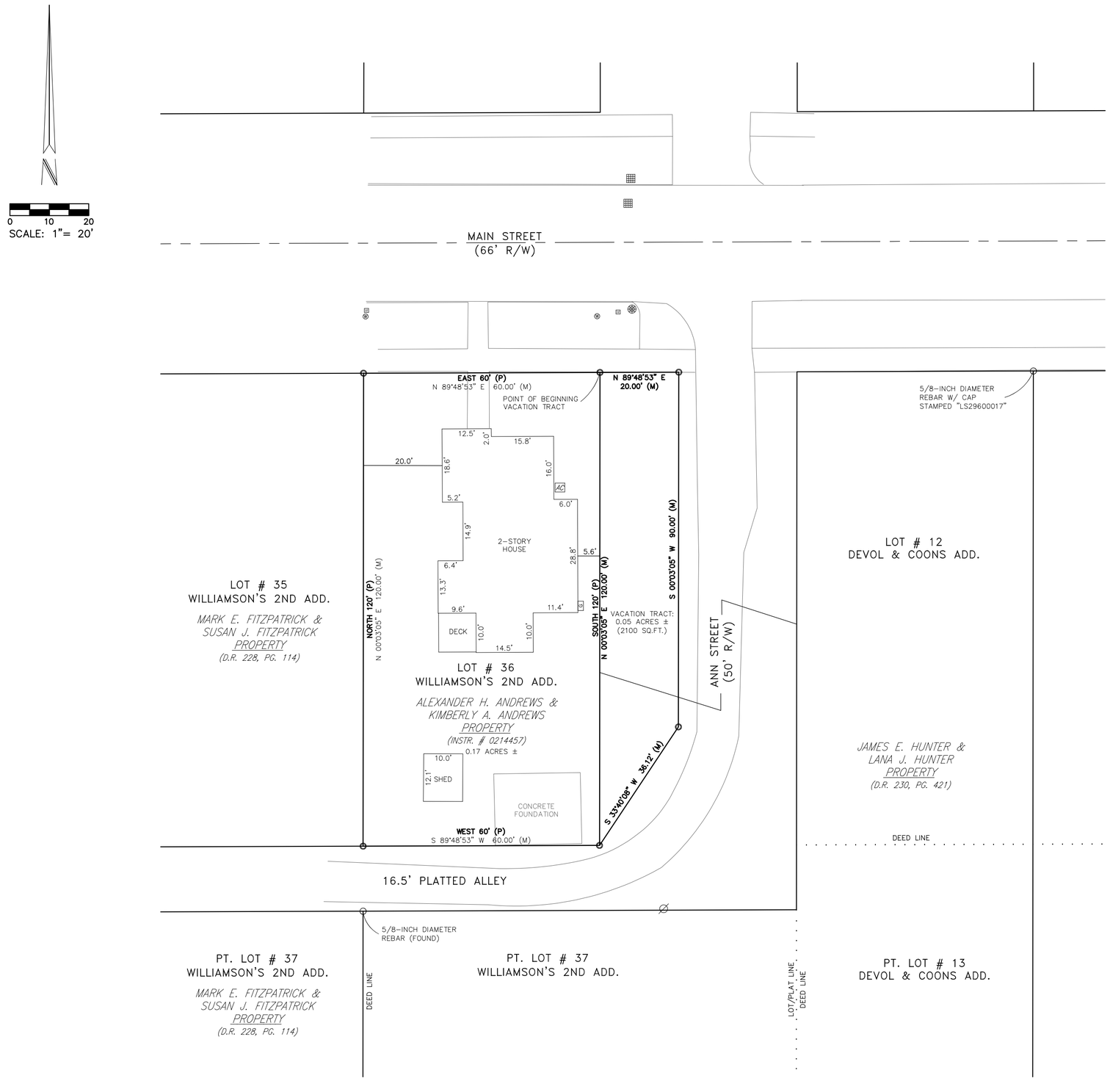
EXHIBIT A

A part of Ann Street located in Williamson's Second Addition to the City of Lebanon, Boone County, Indiana, as per plat thereof recorded in Plat Book 4, Page 18, in the Office of the Recorder of Boone County, Indiana, being that 0.05 acre parcel surveyed by Jonathan E. Hause, P.S. 20600040 and shown on a plat of survey certified on September 26, 2022 as Hause Surveying and Engineering Job Number 22S531 (all monuments herein referenced are as set or found on the aforesaid Hause Survey), being more particularly described as follows:

Beginning at a 5/8-inch diameter rebar with blue plastic cap stamped "HAUSE PLS20600040" (hereafter called capped rebar), marking the Northeast corner of Lot 36 in said Williamson's Second Addition; thence North 89 degrees 48 minutes 53 seconds East 20.00 feet along the Easterly extension of the North line of said Lot 36 to a capped rebar; thence South 00 degrees 03 minutes 05 seconds West 90.00 feet, parallel with and 20.00 feet East of the Eastern line of said Lot 36 to a capped rebar; thence South 33 degrees 40 minutes 08 seconds West 36.12 feet to the Southeast corner of said Lot 36 and a capped re bar; thence North 00 degrees 03 minutes 05 seconds East 120.00 feet along the East line of said Lot 36 to the Point of Beginning.

Containing 0.05 acres, more or less, and being subject to all Legal Highways, Rights-of-way and Easements of Record.

EXHIBIT B



LEGEND

AS APPLICABLE

- 5/8-inch REBAR w/ CAP STAMPED "HAUSE PLS20600040"
- MAGNETIC NAIL w/ WASHER STAMPED "HAUSE PLS20600040"
- UTILITY POLE
- TELEPHONE PEDESTAL
- WELL
- LIGHT POLE
- AIR CONDITIONER
- PRIVACY FENCE
- 4 FOOT FARM FENCE
- CLEAN OUT
- GUY WIRE
- ELECTRIC METER/BOX
- GAS ENTRANCE
- SANITARY MANHOLE
- TREE
- (D) DEED BEARING AND DISTANCE
- (M) MEASURED BEARING AND DISTANCE
- WATER VALVE
- FIRE HYDRANT
- STORM MANHOLE
- BEEHIVE INLET
- CURB INLET
- BOLLARD
- SATELLITE DISH
- POST FENCE POST

NOTES:

1.) This Document contains Two (2) Pages, both are Required for this to be a Survey.

2.) All physical improvements hereon are shown as they were located in the field on August 19, 2022. Not all Improvements on the Subject Parcel are shown.

3.) All Survey monuments set or found this Survey are flush with existing grade unless otherwise noted.

4.) Unless otherwise noted or depicted hereon, there is no evidence of occupation along the perimeter lines of the Subject Parcel.

Copyright © Hause Surveying and Engineering, LLC. All rights reserved. No part of this drawing may be reproduced by photocopying, recording or by any other means, or stored, processed or transmitted in or by any computer or other systems without the prior written permission of the surveyor. Copies of this plan without a dated and blue signature are not valid.

105 N. MERIDIAN ST.
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A SERVICE DISABLED VETERAN OWNED SMALL BUSINESS

HAUSE SURVEYING & ENGINEERING

DRAWN BY:	CHECKED BY:	DATE:	SCALE:
JEH	AK	09/26/2022	1" = 20'

No.	Date	Revisions

ORIGINAL SURVEY

ALEXANDER & KIMBERLY ANDREWS
LOT. 36, WILLIAMSON'S 2ND ADD.,
CITY OF LEBANON, BOONE CO., IN

SHEET NO. 1
OF 2 SHEETS

PROJECT NO.
22S531

CERTIFICATE OF SURVEY

I, the undersigned, hereby certify that this survey and the associated surveyor's report were executed under my supervision and to the best of my knowledge, information, and belief were performed in accordance with the current Indiana Minimum Survey Standards, 865 IAC 1-12, for the type of survey as indicated herein, on the following described real estate:

RECORD LAND DESCRIPTION: (INSTR. # 0214457)

Lot #36 in Williamson's Second Addition to the City of Lebanon, Boone County, Indiana, as recorded in Plat Record 4, Page 81, Recorder's Office, Boone County, Indiana.

Containing 0.17 acres, more or less, and being Subject to all Legal Highways, Rights-of-way and Easements of Record.

VACATION TRACT LAND DESCRIPTION: (PART OF ANN STREET)

A part of Ann Street located in Williamson's Second Addition to the City of Lebanon, Boone County, Indiana, as per plat thereof recorded in Plat Book 4, Page 18, in the Office of the Recorder of Boone County, Indiana, being that 0.05 acre parcel surveyed by Jonathan E. Hause, P.S. 20600040 and shown on a plat of survey certified on September 26, 2022 as Hause Surveying and Engineering Job Number 22S531 (all monuments herein referenced are as set or found on the aforesaid Hause Survey), being more particularly described as follows:

Beginning at a 5/8-inch diameter rebar with blue plastic cap stamped “HAUSE PLS20600040” (hereafter called capped rebar), marking the Northeast corner of Lot 36 in said Williamson's Second Addition; thence North 89 degrees 48 minutes 53 seconds East 20.00 feet along the Easterly extension of the North line of said Lot 36 to a capped rebar; thence South 00 degrees 03 minutes 05 seconds West 90.00 feet, parallel with and 20.00 feet East of the Eastern line of said Lot 36 to a capped rebar; thence South 33 degrees 40 minutes 08 seconds West 36.12 feet to the Southeast corner of said Lot 36 and a capped rebar; thence North 00 degrees 03 minutes 05 seconds East 120.00 feet along the East line of said Lot 36 to the Point of Beginning.

Containing 0.05 acres, more or less, and being subject to all Legal Highways, Rights-of-way and Easements of Record.

I further certify that points were found or set at the locations on the subject real estate, as shown, and that this survey correctly shows the location of all visible easements of which the undersigned has been advised, and all visible encroachments, if any, across the established survey lines.

CERTIFIED September 26, 2022

JONATHAN E. HAUSE REGISTERED No. 20600040 STATE OF INDIANA LAND SURVEYOR

Jonathan E. Hause, P.S.
Professional Surveyor
Indiana No. PS20600040

NOTES:

1.) This Document contains Two (2) Pages, both are Required for this to be a Survey.

SURVEYOR'S REPORT

This Survey and report are based in part upon opinions formed in accordance with an Indiana Professional Surveyor's responsibility to conduct a Survey in accordance with "law or a precedent" (Title 865, Article 1, Rule 12, of the Indiana Administrative Code). Since Indiana has no statutes addressing how to resolve boundary lines, a solution based upon the principals derived from common law precedent must be relied upon as the basis for a boundary resolution. The following observations and opinions are submitted regarding the various uncertainties in the location of the lines and corners established on this survey as a result of:

a) Variances in the reference monuments;
b) Discrepancies in record descriptions and plats;
c) Inconsistencies in lines of occupation;
d) Random Errors in Measurement (Relative Positional Accuracy):

This Survey was commissioned by the client for the purposes of retracing and monumenting the Andrews Parcel described in Instrument Number 0214457, recorded in the Office of the Recorder of Boone County, Indiana, and creating a tract out of a portion of Ann Street in the City of Lebanon, Boone County, Indiana, for possible vacation.

The survey was controlled by the following monuments:
1.) The monuments called for as found or set on a Survey by Mr. Willard E. Johnson, P.S. 29600017, dated March 31, 2006, Accu-Line Surveying and Mapping Job Number 010-06. A copy of this Survey was provided to me by Mr. Johnson. This Survey was on Lot # 12 in Devol and Coons Addition to the City of Lebanon and a portion of the Southeast Quarter of the Northwest Quarter of Section 31, T19N, R1E, located to the South of said Lot # 12, these parcels are located to the East of Subject Parcel. Uncertainty in these monuments - 0.25 feet.
2.) The monuments shown hereon as found. These monuments are consistent with the types of monuments set by Surveyor in past, agree with deeded and platted distances, agree with each other, and agree with physical improvements in the area. Uncertainty in these monuments - 0.25 feet.
3.) The monuments called for as found or set on a Survey I performed dated January 31, 2022, Hause Surveying and Engineering Job Number 21S520. This Survey was on Lot # 10 in Devol and Coons Addition to the City of Lebanon and a portion of the Southeast Quarter of the Northwest Quarter of Section 31, T19N, R1E, located to the South of said Lot # 12, these parcels are located to the East of Subject Parcel and are not shown hereon. Uncertainty in these monuments - None.

The basis of bearings for this survey is based upon GPS Observations performed September 9, 2021 (prior Survey), with the South line of Main Street in the City of Lebanon, Indiana, bearing North 89 degrees 48 minutes 53 seconds East.

All Instrument Numbers shown hereon were the current deeds of record on file in said Recorder's Office on September 23, 2022.

There are no discrepancies in record descriptions and plats.

There are no inconsistencies in lines of occupation.

As a result of the above observations, it is my opinion that the uncertainties in locations of the lines and corners established on this survey are as follows:

a) Variance in reference monuments: As Noted Above
b) Discrepancies in record descriptions and plats: Negligible
c) Inconsistencies in lines of occupation: Negligible
d) Relative Positional Accuracy (RPA) of the corners of the subject tract established by this survey is within the specifications of a suburban survey (+/- 0.13 feet plus 100 parts per million) as defined in I.A.C. 865.

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Revisions	No.	Date

DRAWN BY: JEH
CHECKED BY: AK
DATE: 09/26/2022
SCALE: 1” = 20’

ORIGINAL SURVEY

ALEXANDER & KIMBERLY ANDREWS
LOT. 36, WILLIAMSON’S 2ND ADD.,
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SHEET NO. 2
OF 2 SHEETS

PROJECT NO. 22S531