

# EASEMENT VACATION – PUBLIC HEARING

## Department of Planning Services

|                      |                                                                                                    |                                 |
|----------------------|----------------------------------------------------------------------------------------------------|---------------------------------|
| VEAS 2018 0002       | Bill #G-18-02-23                                                                                   | Project Start: 27 February 2018 |
| APPLICANT:           | Brian and Wendy Simpson                                                                            |                                 |
| REQUEST:             | To vacate a portion of a 40-foot wide platted utility easement on Lot 174 in Wyndemere, Section V. |                                 |
| LOCATION:            | At 5427 Dyerbrook Pass (Section 20 of St. Joseph Township)                                         |                                 |
| COUNCIL DISTRICT:    | District 2 – Paul Ensley                                                                           |                                 |
| LAND AREA:           | Approximately 0.025 acres proposed to be vacated.                                                  |                                 |
| PUBLIC HEARING DATE: | March 13, 2018 (to be held by City Council)                                                        |                                 |
| NEXT COUNCIL ACTION: | If all agencies have responded, staff is recommending approval following the public hearing.       |                                 |

### PROJECT SUMMARY

The petitioner is making this request to allow for construction of a new in-ground swimming pool on their residential lot at 5427 Dyerbrook Pass. The easement is significantly larger than a typical rear yard easement. Review is requested from all utility agencies before seeking approval from Council.

|                             |                                                                                                                                                                                                                                                                                                                            |
|-----------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| City Plan:                  | Indiana Code (36-7-3-16 (b)) states that any public utility occupying a public way or easement shall not be deprived of the use of the public way for the location and operation of existing facilities. The petitioner shall provide all necessary easements (as approved) at the time the vacation petition is recorded. |
| Traffic Engineering:        | Approved                                                                                                                                                                                                                                                                                                                   |
| Stormwater Engineering:     | Under review                                                                                                                                                                                                                                                                                                               |
| Water Engineering:          | Approved                                                                                                                                                                                                                                                                                                                   |
| WPC Engineering – Sanitary: | Under review                                                                                                                                                                                                                                                                                                               |
| City Parks Department:      | Approved                                                                                                                                                                                                                                                                                                                   |
| Fire Department:            | Approved                                                                                                                                                                                                                                                                                                                   |
| Land Acquisition Agent:     | Approved                                                                                                                                                                                                                                                                                                                   |
| Frontier:                   | Approved                                                                                                                                                                                                                                                                                                                   |
| Comcast Cable:              | Approved                                                                                                                                                                                                                                                                                                                   |
| AEP:                        | Approved                                                                                                                                                                                                                                                                                                                   |
| NIPSCO:                     | Approved                                                                                                                                                                                                                                                                                                                   |

### Grounds for Remonstrance for Vacation Requests (I.C. 36-7-3-13):

- (1) The vacation would 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 make access to the lands of the aggrieved person by means of public way difficult or inconvenient.
- (3) The vacation would hinder the public's access to a church, school, or other public building or place.
- (4) The vacation would hinder the use of a public way by the neighborhood in which it is located or to which it is contiguous.

**VEAS-2018-0002**

Bill No. G-18-02-23

Easement Vacation – Notifications

**The Clerk's Office placed legal notification in the Fort Wayne Newspapers.**

**DPS Staff notified the following by Certified Mail:**

**PIN/Property Address:**

**Property Owner of Record:**

020820251003000072  
5427 Dyerbrook Pass

Brian and Wendy Simpson  
5427 Dyerbrook Pass  
Fort Wayne, IN 46835

020820251004000072  
5421 Dyerbrook Pass

Dana P. and Cathy Johns  
5421 Dyerbrook Pass  
Fort Wayne, IN 46835

020820251002000072  
5433 Dyerbrook Court

Stacey and Matthew Everse  
5433 Dyerbrook Court  
Fort Wayne, IN 46835

020820179003000072  
5514 N. Brookwood Drive

Gregory A. and Marcia K. Miller  
5514 N. Brookwood Drive  
Fort Wayne, IN 46835

020820179004000072  
5506 N. Brookwood Drive

Ruben A. and Graciela A. Tellez  
5506 N. Brookwood Drive  
Fort Wayne, IN 46835

020820179005000072  
5522 N. Brookwood Drive

Kristine M. DeGabriele  
5522 N. Brookwood Drive  
Fort Wayne, IN 46835

**DPS Staff notified the following by Regular Mail:**

Wyndemere Association

**DPS Staff notified the following by Email:**

Community Liaison, Palermo Galindo  
Northeast Area Partnership

# DEPARTMENT OF PLANNING SERVICES

SUITE 150, CITIZENS SQUARE  
200 EAST BERRY  
FORT WAYNE, IN 46802

260-449-7607  
260-449-7682  
WWW.ALLENCOUNTY.US

TO: All interested persons  
FROM: Michelle Wood, RLA  
Senior Land Use Planner  
RE: Public Hearing Notice  
DATE: March 26, 2018

We are sending this notice to let you know the Common Council of Fort Wayne, Indiana will hold a public hearing **Tuesday March 13, 2018 at 5:30 p.m.** The Council will hold the hearing in **Room 030 of the Citizens Square Building at 200 East Berry Street.** Room 030 is on the Garden Level (basement) of the building. The agenda for the hearing includes the following request.

PROPOSAL: VEAS-2018-0002  
BILL NO: G-18-02-23  
APPLICANT: Brian and Wendy Simpson  
REQUEST: To vacate a portion of a 40-foot wide platted utility easement on Lot 174 in Wyndemere, Section V, to install in-ground pool.  
LOCATION: At 5427 Dyerbrook Pass (Section 20 of St. Joseph Township)  
LAND AREA: approximately 0.025 acres to be vacated

We have additional information regarding this application at our office at Suite 150, Citizens Square, 200 East Berry Street.

We are sending you this notice because you own property that is adjacent to the above request. This public hearing is your chance to offer input you may have regarding the request.

**If you are unable to attend the hearing but want to be heard, or are planning to attend and want to submit information for the Council to review at the hearing, please have 11 copies of your written comments to our office before 12:00 p.m. March 13, 2018. You may also email comments to [michelle.wood@allencounty.us](mailto:michelle.wood@allencounty.us).**

**Correspondence may also be hand delivered to staff or the Council at the hearing. Please include your name and mailing address on all correspondence. Thank you for your attention to this matter. Please call this office if you have any questions.**

1 **VEAS-2018-0002**

2 **BILL NO. G-18-02-23**

3 **Doc. #200051687**  
4 **Cabinet E**  
5 **Page 105**

6 **GENERAL ORDINANCE NO. G-\_\_\_\_\_**

7 **AN ORDINANCE for the purpose of**  
8 **Vacating a platted utility easement.**

9 WHEREAS, a petition to vacate a platted utility easement within the City of Fort Wayne,  
10 Indiana, (as more specifically described below) was duly filed with the City Clerk of the City of Fort  
11 Wayne, Indiana; and

12 WHEREAS, Common Council of the City of Fort Wayne, Indiana, duly held a public hearing  
13 and approved said petition, as provided in I.C. 36-7-3-12.

14 NOW THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF  
15 FORT WAYNE, INDIANA:

16 SECTION 1. That the petition filed herein to vacate a portion of a platted utility easement  
17 within the City of Fort Wayne, Indiana, more specifically described as follows, to-wit:

18 Part of the existing 40.00 foot Utility and Surface Drainage Easement located in Lot Number  
19 174 as shown on the recorded plat of Wyndemere Section V, in Allen County, Indiana, being  
20 more particularly described as follows:

21 Commencing at the Northeast corner of said Lot 174; thence South 81 degrees 43 minutes  
22 14 seconds West (Plat bearing and basis of bearing to follow), a distance of 116.95 feet along  
23 the North line of said Lot 174 to the East line of said existing 40.00 foot easement, said point  
24 also being the POINT OF BEGINNING of the herein described easement vacation; thence  
25 South 00 degrees 10 minutes 00 seconds East, a distance of 75.00 feet (plat) along said East  
26 line also being parallel with the West line of said Lot 174 to the North line of an existing  
27 Utility Easement; thence North 86 degrees 06 minutes 39 seconds West, a distance of 15.04  
28 feet along said North line; thence North 00 degrees 10 minutes 00 seconds West, a distance  
29 of 71.80 feet parallel with the West line of said Lot 174 to the North line of said Lot 174;  
30 thence North 81 degrees 46 minutes 14 seconds East, a distance of 15.15 feet along said  
North line to the Point of Beginning. Containing 0.025 acres, more or less. Subject to  
easements of record.

and which vacating amends the Thoroughfare Plan of the City Comprehensive ("Master") Plan  
and is hereby approved in all respects.

SECTION 2. That this Ordinance shall be in full force and effect from and after its passage,  
any and all necessary approval by the Mayor.

---

COUNCILMEMBER

APPROVED AS TO FORM AND LEGALITY:

---

Carol T. Helton, City Attorney

# CITY OF FORT WAYNE

## Vacation Petition

City Clerk / Suite 110 / Citizens Square Building / 200 East Berry Street / Fort Wayne IN 46802 / 260.427.1221

I/We do hereby petition to vacate the following:

X Easement, \_\_\_\_\_ Public Right of Way (street or alley)

More particularly described as follows:

See attached legal description of portion of  
easement to be vacated. Basically we're requesting 40'  
easement be reduced back to original 25', which is  
sufficient based on sewer line location.

(Please Attach a Legal Description of the property requested to be vacated, along with a survey or other acceptable drawing showing the property.)

Plat Cabinet E, Pg 105, Doc #200051687  
DEED BOOK NUMBER: \_\_\_\_\_ PAGE(S) NUMBER(S): \_\_\_\_\_ (This information can be  
obtained from the Allen County Recorder's Office on the 2<sup>nd</sup> Floor, City-County Building, One Main  
Street, Fort Wayne, IN)

The reasons for the proposed vacation are as follows:

Swimming pool construction. The 40' easement as  
shown on the developer's plat does not allow ~~any~~ enough  
room for pool location.

(If additional space is needed please attach separate page.)

The applicant on an attached sheet must also provide the names and addresses of all adjacent property owner(s). The information on that sheet must be as follows:

Property owner(s) Name(s); Street Address; City; State; Zip Code; Phone Number with Area Code.

Applicant's name(s) if different from property owner(s):

Name: See attached - Adjacent Owners

Street Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_ Phone: \_\_\_\_\_

FORT WAYNE, INDIANA  
**FILED**

**FEB 14 2018**

LANA R. KEESLING  
CITY CLERK

I/We, your petitioners, file this petition pursuant to the authority granted in Indiana Code, and provisions of local ordinance. I/We agree to abide by all provisions of the Fort Wayne Zoning Ordinance and/or Subdivision Control Ordinance, as well as all procedures and policies of the Fort Wayne City Plan Commission as those provisions, and policies relate to the handling and disposition of this petition. I/We also certify that this information is true and accurate to the best of my/our knowledge.

Brian Simpson  
Signature

Brian Simpson  
Printed Name

2-12-18  
Date

5427 Dyerbrook Pass  
Address

Ft. Wayne, IN 46835  
City/State/Zip

Wendy Simpson  
Signature

Wendy Simpson  
Printed Name

2-12-18  
Date

5427 Dyerbrook Pass  
Address

Ft. Wayne, IN 46835  
City/State/Zip

If additional space is needed for signatures please attach a separate page.

Agent's Name (Print Legibly): \_\_\_\_\_

Street Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_ Phone: \_\_\_\_\_

**NOTICE:**

- Legal Description is to be the area to be vacated and must be complete and accurate. If necessary a licensed surveyor's legal description may be required.
- Applicant is hereby informed that in the case of a utility being located in a public way or easement, the applicant may be required to bear the cost of relocation, or of providing a replacement easement or easement's as needed.

**For Office Use Only:**

Receipt #: \_\_\_\_\_

Date Filed: \_\_\_\_\_

Map #: \_\_\_\_\_

Reference #: \_\_\_\_\_

## Corporate Office

221 Tower Drive  
Monroe, IN 46772  
Phone: (260) 692-6166

# Miller Land Surveying, Inc.

## EASEMENT VACATION SKETCH

## Fort Wayne Office

217 Airport North Office Park  
Fort Wayne, IN 46825  
Phone: (260) 489-8571

Brett R. Miller, P.S. No.LS20300059

Robert J. Marucci, P.S. No.LS20400028

www.mlswebsite.us

Precision and Professionalism is where we draw the line.

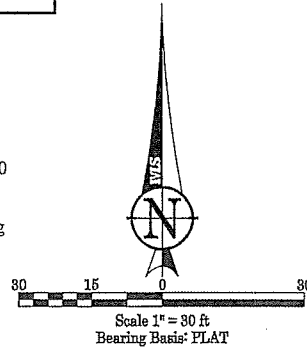
**MLS**

Page 1 of 1

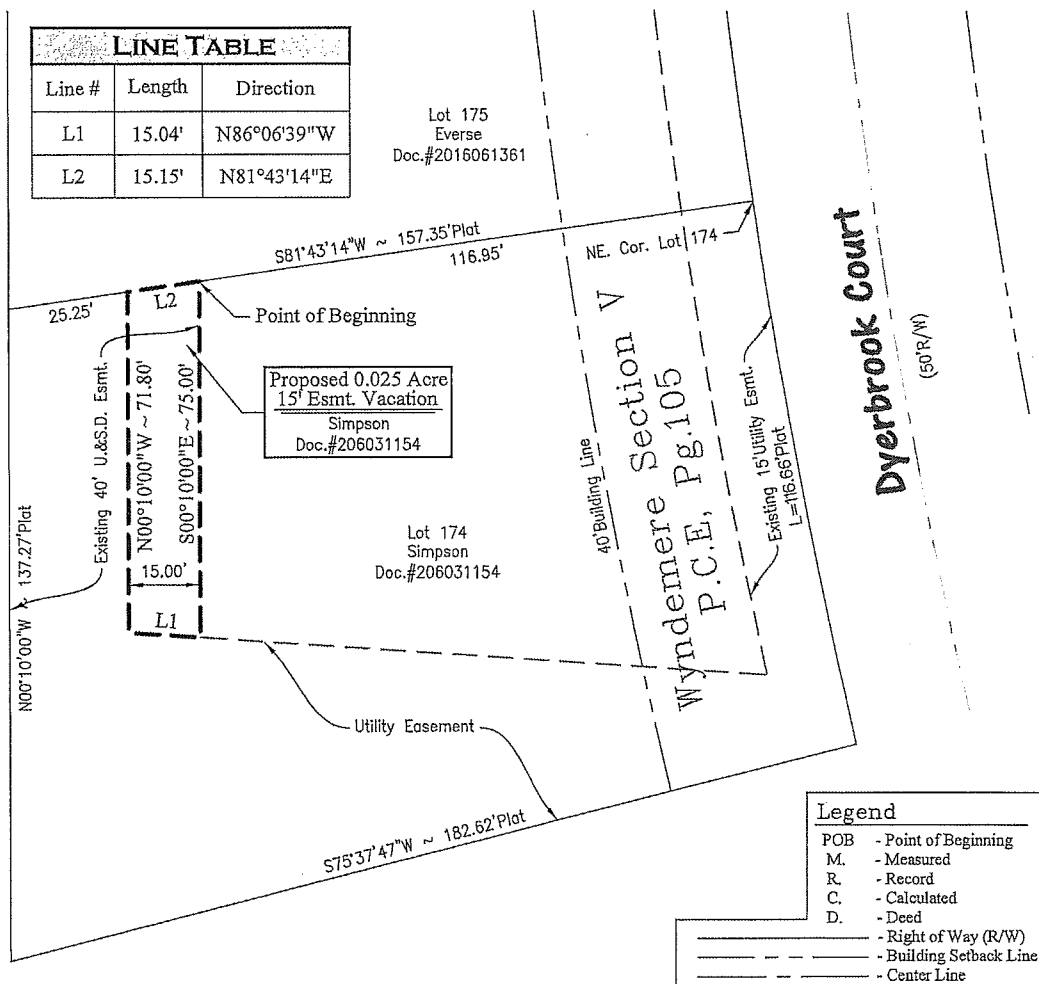
**EASEMENT VACATION DESCRIPTION**

Part of the existing 40.00 feet Utility and Surface Drainage Easement located in Lot Number 174 as shown on the recorded plat of Wyndemere Section V, in Allen County, Indiana, being more particularly described as follows:

Commencing at the Northeast corner of said Lot 174; thence South 81 degrees 43 minutes 14 seconds West (Plat bearing and basis of bearing to follow), a distance of 116.95 feet along the North line of said Lot 174 to the East line of said existing 40.00 feet easement, said point also being the POINT OF BEGINNING of the herein described easement vacation; thence South 00 degrees 10 minutes 00 seconds East, a distance of 75.00 feet (Plat) along said East line also being parallel with the West line of said Lot 174 to the North line of an existing Utility Easement; thence North 86 degrees 06 minutes 39 seconds West, a distance of 15.04 feet along said North line; thence North 00 degrees 10 minutes 00 seconds West, a distance of 71.80 feet parallel with the West line of said Lot 174 to the North line of said Lot 174; thence North 81 degrees 46 minutes 14 seconds East, a distance of 15.15 feet along said North line to the Point of Beginning. Containing 0.025 Acres, more or less. Subject to easements of record.



| LINE TABLE |        |             |
|------------|--------|-------------|
| Line #     | Length | Direction   |
| L1         | 15.04' | N86°06'39"W |
| L2         | 15.15' | N81°43'14"E |

**Legend**

- POB - Point of Beginning
- M. - Measured
- R. - Record
- C. - Calculated
- D. - Deed
- Right of Way (R/W)
- Building Setback Line
- Center Line

Survey No. 18014417

County: Allen

Subdivision: Wyndemere Section V

For: Simpson

Date: January 29, 2018

(Drawing Name: 18014417.dwg)

**MLS****MLS**



Although strict accuracy standards have been employed in the compilation of this map, Allen County does not warrant or guarantee the accuracy of the information contained herein and disclaims any and all liability resulting from any error or omission in this map.

© 2004 Board of Commissioners of the County of Allen  
North American Datum 1983  
State Plane Coordinate System, Indiana East  
Photos and Contours: Spring 2009  
Date: 2/19/2018

**Project Boundaries Represented with Bold Lines are for Representational Purposes Only**

