

ORDINANCE NO. 5, 2002

AN ORDINANCE VACATING A UTILITY EASEMENT FOR PINE TREE VALPARAISO, LLC

WHEREAS, Pine Tree Valparaiso, LLC petitions the Valparaiso Common Council to vacate part of an easement for public utility; and

WHEREAS, this easement is located on part of Parcel 6 as per Replat of Parcels 1 and 6 in Ryan/TBS Center and generally located south of LaPorte Avenue and west of Silhavy Road; and

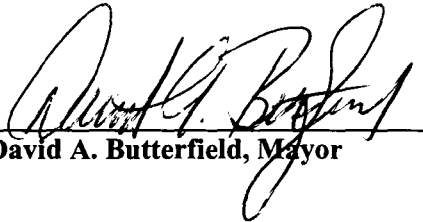
WHEREAS, the easement was intended for use by the Valparaiso Water Department, but is not occupying or using, nor does it need to occupy or use, the easement for any purpose,

NOW, THEREFORE, BE IT ORDAINED by the Common Council of the City of Valparaiso that the utility easement for part of Parcel 6 in Replat of Parcels 1 and 6 in Ryan/TBS Center, as per plat thereof recorded in Plat File 37-D-3A, Instrument Number 2001-035081 in the Office of the Recorder of Porter County, Indiana.

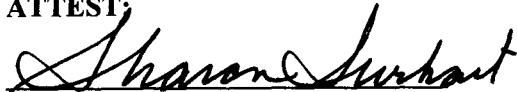
SEE ATTACHED LEGAL DESCRIPTION

This ordinance shall be in full force and effect from and after its adoption and approval by the Mayor.

PASSED by the Common Council of the City of Valparaiso, Indiana, by a 6-0 vote of all members present and voting this 11th day of March, 2002.


David A. Butterfield, Mayor

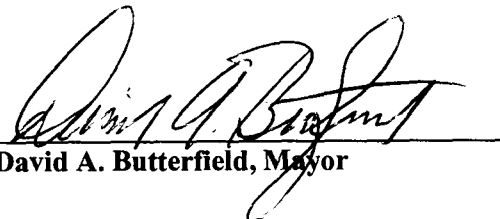
ATTEST:


Sharon Swihart, Clerk-Treasurer

Presented by me to the Mayor of the City of Valparaiso, Indiana, this 11th day of March, 2002, at 7:12 o'clock p.m.


Sharon Swihart, Clerk-Treasurer

This Ordinance approved and signed by me this 11th day of March 2002, at 7:12 o'clock p.m.

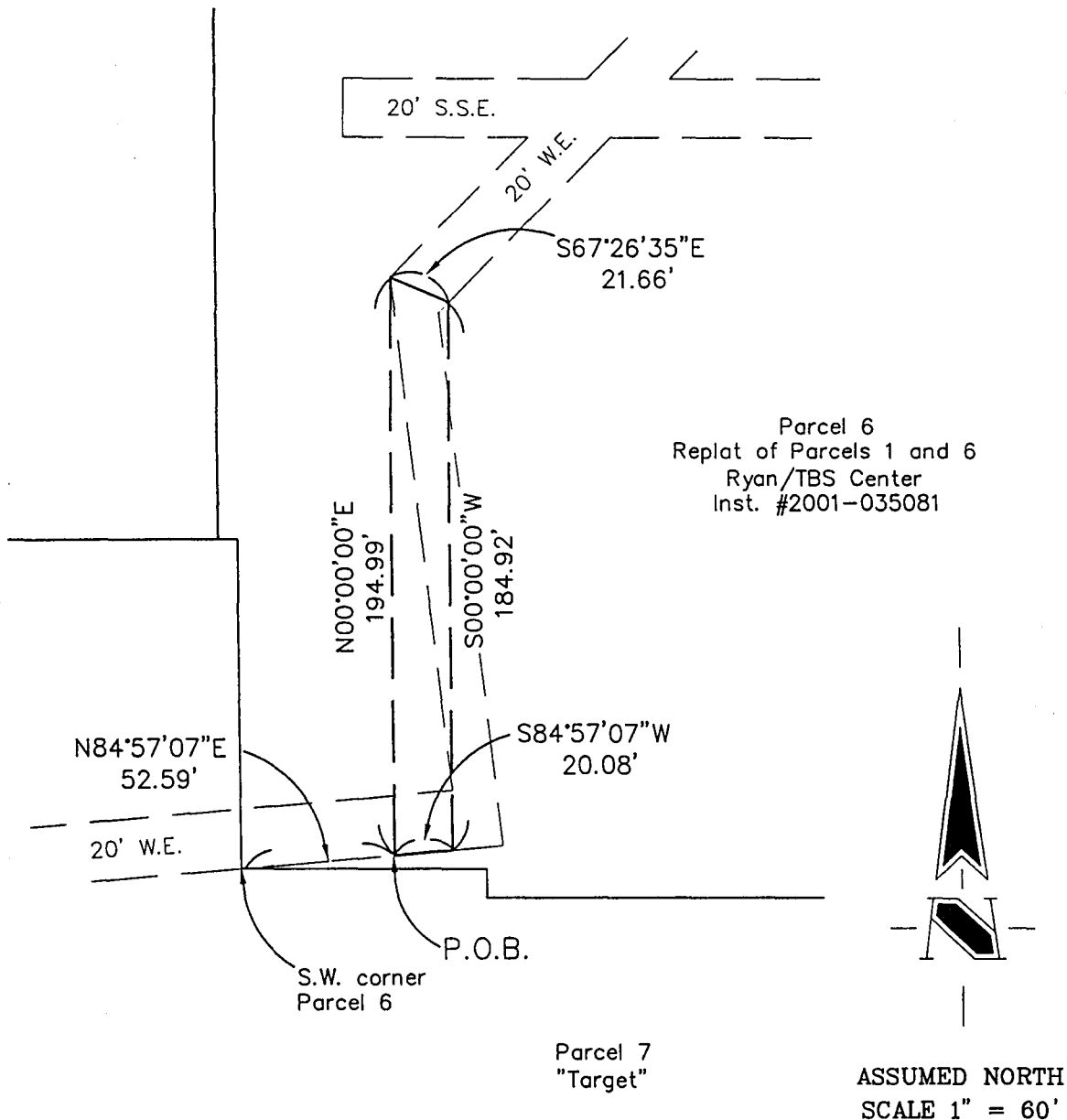

David A. Butterfield, Mayor



6845 East US 36
Suite 500
Avon, Indiana 46123
317-272-0108
317-272-0412 FAX

Engineering
Surveying
Landscape Architecture
GIS • LIS
Geology

EXHIBIT
Proposed Relocation of
20' Water Easement



LAND DESCRIPTION
(20 foot Water Easement)

Part of Parcel 6 in Replat of Parcels 1 and 6 in Ryan/TBS Center, as per plat thereof recorded in Plat File 37-D-3A, Instrument Number 2001-035081 in the Office of the Recorder of Porter County, Indiana, being more particularly described as follows:

Commencing at the southwest corner of said Parcel 6 and being on the south line of a 20 foot water easement per Ryan/TBS Center Water and Sanitary Sewer Easements, recorded in Instrument Number 2001-033119; thence North 84 degrees 57 minutes 07 seconds East (plat bearing) along said south line 52.59 feet to the Point of Beginning; thence North 00 degrees 00 minutes 00 seconds East 194.99 feet to a point on the northwestern line of the existing easement; thence South 67 degrees 26 minutes 35 seconds East 21.66 feet to a point on the southeastern line of said easement; thence South 00 degrees 00 minutes 00 seconds West 184.92 feet to the south line of said easement; thence South 84 degrees 57 minutes 07 seconds West along said south line 20.08 feet to the Point of Beginning.

Pine Tree Valparaiso, LLC

Application to Valparaiso City Council

for

Vacation of Easement

FILED

Jul 15 2002
Sharon Emerson Swick
CLERK-TREASURER

Purpose of Request and Circumstances of Case

Pine Tree Valparaiso, LLC ("Petitioner") hereby petitions the Valparaiso City Council to vacate part of an easement for public utility, more specifically defined below, ("Easement") on part of Parcel 6 as per Replat of Parcels 1 and 6 in Ryan/TBS Center and generally located south of LaPorte Avenue and west of Silhavy Road. The Easement was intended for use by the Valparaiso Department of Water Works ("Water Department"); however, the Water Department is not occupying or using, nor does it need to occupy or use, the Easement for any purpose.

Description of Property Proposed to be Vacated

The property proposed to be vacated, herein referred to as the Easement, is described as follows:

Part of Parcel 6 in Replat of Parcels 1 and 6 in Ryan/TBS Center, as per plat thereof recorded in Plat File 37-D-3A, Instrument Number 2001-035081 in the Office of the Recorder of Porter County, Indiana, being more particularly described as follows:

Commencing at the southwest corner of said Parcel 6 and being on the south line of a 20 foot water easement per Ryan/TBS Center Water and Sanitary Sewer Easements, recorded in Instrument Number 2001-033119; thence North 84 degrees 57 minutes 07 seconds East (plat bearing) along said south line 72.67 feet to the Point of Beginning; thence North 00 degrees 00 minutes 00 seconds East 152.15 feet to a point on the east line of said easement; thence South 06 degrees 32 minutes 58 seconds East along said east line 151.62 feet to a point on the south line thereof; thence South 84 degrees 57 minutes 07 seconds West along said south line 17.36 feet to the Point of Beginning.

Adjacent Property Owners

The names and addresses of all owners of land that abuts the property proposed to be vacated are as follows:

1. Mary Alice Klein
1400 Wood Street
Valparaiso, IN 46383
Dup No. 01-000282100
2. Silhavy Venture &
A M Investments
8600 W. Bryn Mawr, Ste. 550
Chicago, IL 60631
Dup. No. 01-000464658
3. Silhavy Venture
8600 W. Bryn Mawr, Ste. 550
Chicago, IL 60631
Dup. No. 01-000484648 and
Dup. No. 01-000484649
4. Target Corporation
T-1286 Attn: Tax Dept.
777 Nicollet Mall
Minneapolis, MN 55402
Dup. No. 01-000519560
5. City of Valparaiso
166 Lincolnway
Valparaiso, IN 46383

Petitioner respectfully requests the suspension of rules with regard to the Council's consideration of this Petition and requests the Common Council of the City of Valparaiso to vacate the real estate described herein.

Date: Jan 10, 2002

Pine Tree Valparaiso, LLC

By:


Peter Borzak, Manager

PUBLIC HEARING NOTICE

Please take notice that the Valparaiso City Council shall on the 25th day of Feb., 2002, at 7 P.M., at City Hall, 166 Lincolnway, Valparaiso, IN., conduct a public hearing to vacate a utility easement in the Valparaiso Marketplace development, located on the southwest corner of LaPorte Ave. and Silhavy Road in Valparaiso, Indiana, and with a legal description as follows:

(see attached)

Interested persons desiring to present their views will be given an opportunity to be heard at the above mentioned time and place.

Nancy Pekarek
City Planner
166 Lincolnway
Valparaiso, IN 46383
219-462-1161

Vidette - Messenger: Please publish on Feb. 15th

Statement and Proof of Publication to Clerk-Treasurer, 166
Lincolnway

FILED

Pine Tree Valparaiso, LLC

Application to Valparaiso City Council

JUL 15 2002
Sharon Emerson
CLERK-TREASURER

for

Vacation of Easement

Purpose of Request and Circumstances of Case

Pine Tree Valparaiso, LLC ("Petitioner") hereby petitions the Valparaiso City Council to vacate part of an easement for public utility, more specifically defined below, ("Easement") on part of Parcel 6 as per Replat of Parcels 1 and 6 in Ryan/TBS Center and generally located south of LaPorte Avenue and west of Silhavy Road. The Easement was intended for use by the Valparaiso Department of Water Works ("Water Department"); however, the Water Department is not occupying or using, nor does it need to occupy or use, the Easement for any purpose.

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Commencing at the southwest corner of said Parcel 6 and being on the south line of a 20 foot water easement per Ryan/TBS Center Water and Sanitary Sewer Easements, recorded in Instrument Number 2001-033119; thence North 84 degrees 57 minutes 07 seconds East (plat bearing) along said south line 72.67 feet to the Point of Beginning; thence North 00 degrees 00 minutes 00 seconds East 152.15 feet to a point on the east line of said easement; thence South 06 degrees 32 minutes 58 seconds East along said east line 151.62 feet to a point on the south line thereof; thence South 84 degrees 57 minutes 07 seconds West along said south line 17.36 feet to the Point of Beginning.

STATE OF INDIANA)
) SS:
COUNTY OF PORTER)

AFFIDAVIT

Charles McIntire, on behalf of the Valparaiso Department of Water Works ("Water Department"), being first duly sworn upon oath, states as follows:

1. Affiant is the Distribution Supervisor of the Water Department.
2. Silhavy Venture, L.L.C. and other owners of real estate dedicated water and sanitary easements to the City of Valparaiso, and the City of Valparaiso accepted such water and sanitary easements, per the plat of Ryan/TBS Center Water and Sanitary Sewer Easements recorded as Document No. 2001-033119 on November 2, 2001 (the "Easement Plat").
3. Among the easements on the Easement Plat was part of an easement for water utility near the westerly end of Parcel 6 per the Easement Plat (the "Easement"), and more particularly described on Exhibit 1 attached hereto and made a part hereof.
4. The Water Department is not occupying or using any part of the Easement for the location and operation of its facilities.

This affidavit is made to notify the City of Valparaiso Common Council, persons with an interest in the land occupied by the Easement, and all owners of land abutting the Easement that the Water Department consents to the vacation proceedings instituted by the Application for Vacation of Easement by Pine Tree Commercial Realty, LLC and hereby waives its rights to any interest in the Easement pursuant to Ind. Code § 36-7-3-16.

Dated this 21 day of Dec., 2001.



Charles McIntire, Distribution Supervisor, City of
Valparaiso Department of Water Works

STATE OF INDIANA)
) SS:
COUNTY OF PORTER)

Before me, the undersigned, a Notary Public in and for said County and State, this 21
day of Dec., 2001, personally appeared Charles McIntire on behalf of the City of
Valparaiso Department of Water Works, who, being duly sworn, stated that the facts contained in
the foregoing Affidavit are true and correct and acknowledged the execution of the above and
foregoing Affidavit.

WITNESS my hand and Notarial Seal.

Mary K Woodworth
Mary K Woodworth, Notary Public

My Commission Expires: 4-7-2008 Resident of Porter County

This instrument prepared by Jon A. Schmaltz, Attorney at Law, 57 Franklin St., Suite 203,
Valparaiso, Indiana 46383-5670.

EXHIBIT 1

Part of Parcel 6 in Replat of Parcels 1 and 6 in Ryan/TBS Center, as per plat thereof recorded in Plat File 37-D-3A, Instrument Number 2001-035081 in the Office of the Recorder of Porter County, Indiana, being more particularly described as follows:

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