

ORDINANCE NO. FCO-X**AN ORDINANCE VACATING A PLATTED EASEMENT
ON AND ACROSS PARCEL "D" AND PARCEL "E" OF
LaFOLLETTE STATION TOWNE CENTRE SUBDIVISION,
PLAT NO. 1198 OF THE FLOYD COUNTY, INDIANA RECORDS**

WHEREAS, petitioner, DSD Development, LLC, an Indiana limited liability company, has filed a petition for the vacation of a platted easement on its property located within the unincorporated territory of Floyd County, Indiana, pursuant to the provisions of I.C. § 36-7-3-12 and I.C. § 36-7-3-16; and,

WHEREAS, such petitioner has further caused a notice of public hearing on such petition before this Board to be properly published in accordance with Indiana law; and,

WHEREAS, this Board having held such public hearing at the date and time as stated in such published notification; and,

WHEREAS, there are no adjoining property owners to the easement proposed to be vacated, excepting petitioner.

NOW, THEREFORE, BE IT ORDAINED, that the Board of County Commissioners of Floyd County, Indiana, hereby finds all of the following:

1. The proposed vacation will not hinder the growth or orderly development of Floyd County, Indiana.
2. The proposed vacation will not make access to the lands of any aggrieved person by means of public way difficult or inconvenient.
3. The proposed vacation will not hinder the public's access to a church, school, or other public building or place.
4. The proposed vacation will not hinder the use of a public way by the neighborhood in which the easements are located or to which they are contiguous.
5. At the time that the petition for vacation was filed by the petitioner, and at the time of the holding of the public hearing thereon, no public utility was using any or all of the easement hereby vacated for the provision of utility service to any other property.

IT IS FURTHER ORDAINED, that the Board of Commissioners of Floyd County, Indiana, does accordingly hereby vacate the platted twenty (20) foot wide public utility and drainage easement located on and across Parcel "D" and Parcel "E" within LaFollette Station Towne Centre Subdivision, as shown of record in Plat No. 1198 of the

STATE OF INDIANA
COUNTY OF FLOYD
BEFORE THE BOARD OF COMMISSIONERS

IN RE THE PETITION TO VACATE)
AN EASEMENT ON PARCEL "D")
AND PARCEL "E" OF LaFOLLETTE)
STATION TOWNE CENTRE)
SUBDIVISION, PLAT NO. 1198,)
FLOYD COUNTY, INDIANA,)
DSD DEVELOPMENT, LLC, Petitioner.)

PETITION TO VACATE PLATTED EASEMENT

Petitioner, DSD Development, LLC, for its petition states as follows:

1. Petitioner, DSD Development, LLC (hereinafter "DSD"), has at all material times been organized and existing as an Indiana limited liability company with its principal office in Floyd County, Indiana.
2. DSD is the owner and developer of a commercial subdivision known as "LaFollette Station Towne Centre" ("LaFollette Station"), the approved plat of which is recorded as Plat No. 1198 in the Floyd County, Indiana records.
3. At present DSD owns numerous parcels of real estate within LaFollette Station, including without limitation, all of Parcel "D" and Parcel "E" within LaFollette Station.
4. Pursuant to the provisions of I.C. § 36-7-3-12 and I.C. § 36-7-3-16, DSD hereby seeks the vacation of a platted twenty (20) foot wide public utility and drainage easement located on and across Parcel "D" and Parcel "E" in LaFollette Station (the "Easement"). The Easement is more particularly shown in the survey drawing attached hereto and incorporated herein as Exhibit "A".

5. All of the Easement lies within the unincorporated territory of Floyd County, Indiana.
6. DSD owns all of the property that abuts the Easement.
7. DSD seeks to vacate the Easement on the following grounds:
 - a. The Easement was initially designed and platted for the purpose of installing a storm sewer pipe as a part of the surface water drainage system within LaFollette Station.
 - b. The surface water drainage system within LaFollette Station was subsequently redesigned such that a 48-inch diameter storm sewer pipe was installed in the revised easement shown on Exhibit "A".
 - c. The Easement is accordingly no longer needed for the construction or operation of surface water drainage facilities within LaFollette Station.
 - d. No other utilities have been located within Easement by any utility service provider to date, and no utility service provider objects to such vacation. Attached hereto as Exhibits "B-1", "B-2", "B-3", "B-4", "B-5", and "B-6", are letters of consent to such vacation by (i) Cinergy (electric service), (ii) SBC Ameritech (telephone service), (iii) Insight Communications (cable television service), (iv) Vectren (natural gas service), (v) City of New Albany, Indiana (sanitary sewer), and (vi) Floyds Knobs Water Company (water service), respectively.
8. DSD has caused notice of the filing of this petition and the scheduled hearing thereon to be published in *The Tribune* newspaper one (1) time at least ten (10) days before the scheduled date of such hearing as required by I. C. § 5-3-1-2(b).

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THIENEMAN'S
 (FAX) 812 282 7199

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9. DSD asks that the proposed vacation be granted by ordinance of the Board of Commissioners, and that such ordinance provide that subsequent to such vacation DSD shall own all of the property within the vacated Easement free and clear of any encumbrance by the Easement.

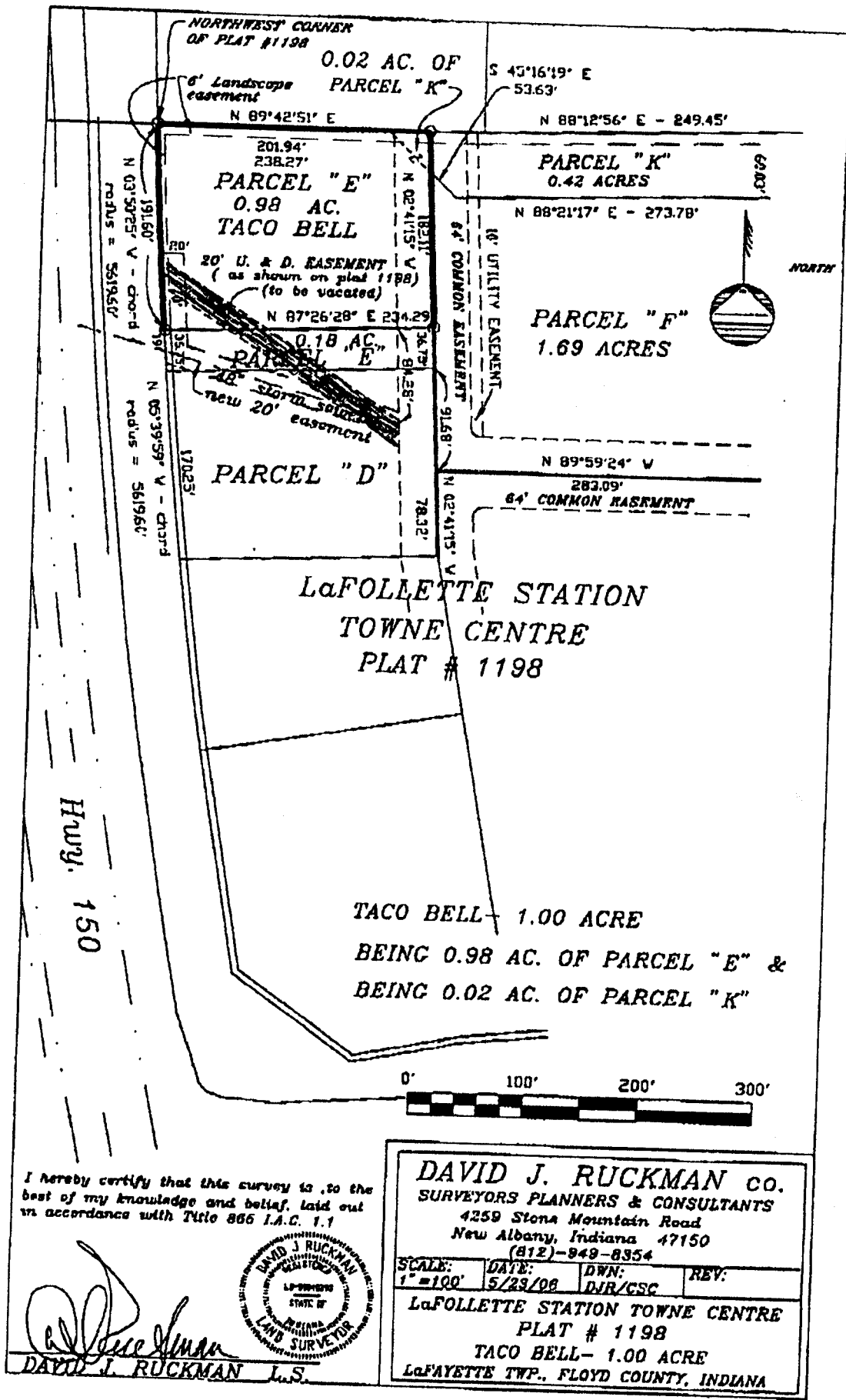
WHEREFORE, petitioner, DSD Development, LLC, an Indiana limited liability company, respectfully asks that the Board of Commissioners conduct a public hearing on this petition, and that following such petition enact and adopt an ordinance vacating the specified Easement as requested herein.

DSD DEVELOPMENT, LLC

By: Thieneman Development, LLC, its
 Member

By: 
 Donald J. Thieneman, Member

This petition prepared by:
 C. Gregory Fifer, #8121-98
APPLEGATE & FIFER
 428 Meigs Avenue
 Jeffersonville, Indiana 47131-1418
 (812) 284-9499
 Attorney for Petitioner



I hereby certify that this survey is, to the best of my knowledge and belief, laid out in accordance with Title 866 I.A.C. 1.1

David J. Ruckman
DAVID J. RUCKMAN L.S.



DAVID J. RUCKMAN CO.
 SURVEYORS PLANNERS & CONSULTANTS
 4259 Stone Mountain Road
 New Albany, Indiana 47150
 (812)-849-8354

SCALE: 1" = 100'	DATE: 5/23/08	DWN: DJR/CSC	REV:
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**LaFOLLETTE STATION TOWNE CENTRE
 PLAT # 1198
 TACO BELL - 1.00 ACRE
 LaFAYETTE TWP., FLOYD COUNTY, INDIANA**

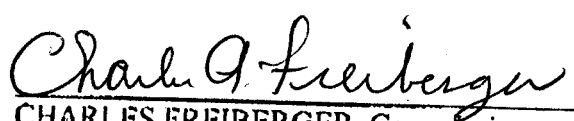
LaFolletteFinalPlat.dwg


Floyd County, Indiana Records, as more particularly shown in the survey drawing attached hereto and incorporated herein as Exhibit "A".

IT IS FURTHER ORDAINED that this vacation shall not deprive a public utility of the use of all or part of the easements hereby vacated to the extent that any such public utility was occupying all or part of such easements at the time that the petition for vacation was filed.

This Ordinance proposed, promulgated, and adopted this 17th day of OCTOBER, 2006, and shall be of full force and effect as of the date of its passage, and such ordinance shall be recorded by petitioner at its expense in the office of the Recorder of Floyd County, Indiana.


JOHN REISERT, Commissioner


CHARLES FREIBERGER, Commissioner


STEVE BUSH, Commissioner

Attested by:

Teresa Plaiss, Floyd County Auditor