

ORDINANCE NO. 17, 2018

AN ORDINANCE TO RESCIND ORDINANCE NO. 5-2018 AND TO APPROVE THE VACATION OF A PORTION JACKSON AVENUE PURSUANT TO R.C. 723.05

WHEREAS, pursuant to the provisions of R.C. 723.05, when the Village determines there is good cause to vacate a street or alley and that such vacation will not be detrimental to the general interest it may do so by Ordinance; and

WHEREAS, the Board of Education St. Bernard-Elmwood Place City School District is undertaking a school building project in the vicinity of Jackson Avenue; and

WHEREAS, the Village finds and determines that the school building project constitutes good cause for the vacation of the portion of Jackson Avenue more fully described in the legal description and plat attached hereto as Exhibits A and B respectively; and

WHEREAS, the Village further finds that vacation of this portion Jackson Avenue will not be detrimental to the public interest; and

WHEREAS, prior to approving any such vacation, the Village must provide notice of its intent in a newspaper of general circulation for six consecutive weeks unless the Village receives written consent from all property owners abutting the portion Jackson Avenue to be vacated; and

WHEREAS, the Village has received written consent from the Board of Education St. Bernard-Elmwood Place City School District, which is the only owner abutting this portion Jackson Avenue; and

WHEREAS, the Village previously approved said vacation through Ordinance No. 5-2018; and

WHEREAS, A new legal description and plat were required and hence a new approval of the vacation; now therefore

BE IT ORDAINED BY THE VILLAGE OF ST. BERNARD, STATE OF OHIO:

Section 1. Ordinance 5-2018 is hereby repealed.

Section 2. The Village hereby finds and determines that good cause exist for the vacation of the portion Jackson Avenue (being a 40' wide Right-of-Way), located between Tower Avenue and Burnett Avenue. The North portion of Jackson Avenue, being adjacent to a tract of land owned by the Board of Education of the St. Bernard-Elmwood Place City School District, fka, City of St. Bernard School District No. 4, and the South portion of Jackson Avenue, being adjacent to a tract of land owned by the Board of Education of the St. Bernard-Elmwood Place City School District, fka, the Board of Education of the St. Bernard, Ohio Village School District, all as more fully described in Exhibits A & B attached hereto. The Village Further finds that such vacation shall not be detrimental to the general interest.

 ORIGINAL

Section 3. The Village hereby approves the vacation of Jackson Avenue described herein and as set forth in Exhibits A and B attached hereto. Pursuant to R.C. 723.05, the Village hereby authorizes the filing of a certified copy of this Ordinance with the Hamilton County Recorder as required by law. The Village hereby authorizes the Building, Development & Planning Director to forward a certified copy of this Ordinance to the Board of Education of the St. Bernard-Elmwood Place City School District for that purpose.

Section 4. That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety. The reason for the emergency is the immediate need to vacate the portion of Jackson Avenue to begin the building project. Therefore, this

Ordinance shall take effect immediately by and upon its passage, and the approval of two-thirds of the members of said Council. However, this Ordinance shall take effect on the earliest date provided by law if approved by no more than a majority of the members of Council and in that event the emergency provisions herein are set at naught.

Section 5. It is hereby certified that all formal actions of the Council of the Village of St. Bernard relating to the adoption of this Ordinance were taken in an open meeting of the Council of the Village of St. Bernard and that all deliberations of this Council were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Dated: 5.3, 2018.

John Estep
John Estep, Mayor

ATTEST:

M. Sue Kathman
Clerk

Passed this # 3rd day of May, 2018.

Sten Aslach
President of Council

ATTEST:

M. Sue Kathman
Clerk of Council

Approved this 3rd day of May, 2018.

John Estep
Mayor

I, M. SUE KATHMAN, CLERK OF COUNCIL, VILLAGE OF ST. BERNARD, STATE OF OHIO, DO HEREBY testify that the publication of Ordinance No. 17, 2018, was made by posting true copies of the same in the most public places designated by Council: St. Bernard Square Bus Stop; Vine Street and Washington Avenue; Bertus Street Park; Greenlee Avenue and Johnson Alley; Park on Heger Drive; each for a period of fifteen (15) days or more commencing 5.3, 2018.

ATTEST: M. Sue Kathman DATE 5.3.18
Clerk of Council

Approved as to form Michael A. Paul Date 5.3.18
Director of Law

CERTIFICATION

I, M. Sue Kathman, Clerk of Council, Village of St. Bernard, State of Ohio, hereby certify that a true and exact copy of Ordinance No. 17, 2018 was passed by the Village of St. Bernard, Ohio at its regular meeting held on the 3rd day of May, 2018.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the Village of St. Bernard, Ohio this 3rd day of May, 2018.

M. Sue Kathman
Clerk

EXHIBIT A - Legal Description

Situated in Section 10, Township 3, Fractional Range 2, of the Miami Purchase, Millcreek Township, in the Village of St. Bernard, Hamilton County, Ohio, and being a portion of the Jackson Avenue Right-of-way as shown in the Subdivision of Stephan Kemper's Farm as recorded in Plat Book 8, Volume 2, Pages 33 and 34 in the Hamilton County Recorder's Office, being that portion of Jackson Avenue located west of Tower Avenue, and east of the easterly line of the City of St. Bernard, Ohio (PIDN 582-0012-0073) as recorded in DB 3610, Page 235, and being more particularly described as follows:

- Commencing at point in the intersection of the northerly right-of-way of Washington Avenue (R/W varies) and the westerly right-of-way of Tower Avenue (a 50' R/W), being a 5/8" iron pin (set) and referenced by a found iron pin (bent, no cap), being located S 80°51'46" W, a distance of 0.90 feet, and by a found X-notch being located N 08°51'38" E, a distance of 3.80 feet;
- Thence continuing with the westerly right-of-way of Tower Avenue, S 08°51'38" W for a distance of 247.00 feet to a point being in the northerly line of Jackson Avenue (a 40' platted R/W), being a cross notch (set) in a concrete sidewalk, and being the True Point of Beginning for the parcel described herein;
- Thence continuing with the westerly right-of-way of Tower Avenue, across Jackson Avenue to a point being in the southerly line of Jackson Avenue, being an X-notch (set) in a concrete sidewalk;
- Thence leaving the westerly right-of-way of Tower Avenue and continuing with the southerly right-of-way of Jackson Avenue, being the northerly line of the Board of Education of St. Bernard (PIDN 582-0012-0026 thru 0038), as recorded in DB 1097, Page 464 (dated March 9, 1912), N 81°04'30" W for a distance of 308.28 feet to a point in the easterly line of the City of St. Bernard, Ohio (PIDN 582-0012-0073) as recorded in DB 3610, Page 235;
- Thence continuing with the said easterly line of the City, N 13°44'47" E for a distance of 11.74 feet to a cross notch (set) in a concrete stair;
- Thence continuing with the City's easterly line, N 06°12'02" E for a distance of 8.31' feet to a point in the centerline of said Jackson Avenue;
- Thence continuing with the City's easterly line, N 06°12'02" E for a distance of 8.31' feet to a point in the northerly right-of-way of Jackson Avenue, being the southwest corner of the St. Bernard School District (PIDN 582-0008-0147 thru 0150 and PIDN 582-0008-0154-0162), as recorded in DB 1169, Page 218;
- Thence continuing with the said northerly right-of-way of Jackson Avenue and southerly line of the St. Bernard School District S 81°04'30" E for a distance of 308.35 feet to the said Point of Beginning.
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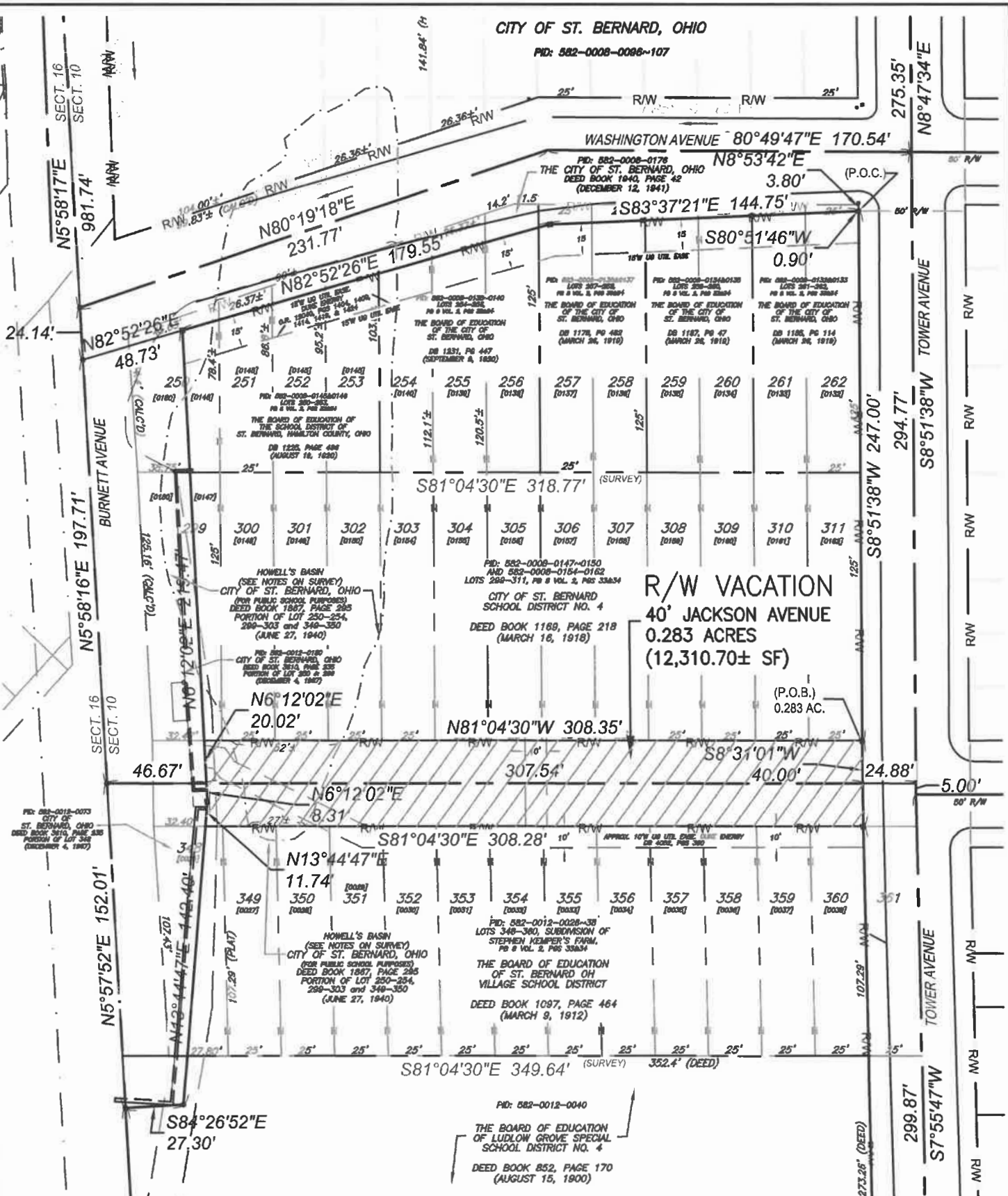
The above describe tract of land contains 0.283 acres (12,310.7 S.F.) of land and is visually depicted on the attached Exhibit B, and is hereby vacated, subject, however to the following terms and conditions which shall be as a covenant running with the land and be binding on all owners of this property, their successors and assigns, and all persons or corporations claiming by, through, or under said owners..

The Bearings for this survey are based on a State Plane Coordinates, with the west line of Section 10 being bearing N 05°58'17" E.

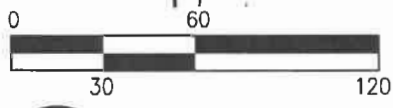
Survey iron pins denoted as "set" are 5/8" in diameter steel rebar with an orange plastic cap stamped "Byrnside Surveying Mack S-7964". This metes and bounds description is the result of an actual land survey performed by Byrnside Surveying in August of 2017.

CITY OF ST. BERNARD, OHIO

PID: 582-0008-0086-107



R/W VACATION
40' JACKSON AVENUE
0.283 ACRES
(12,310.70± SF)



**BRANDSTETTER
 CARROLL INC**
 ARCHITECTS-ENGINEERS-PLANNERS
 398 East 8th Street, Cincinnati, OH 45202
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EXHIBIT 'B'
VACATION OF JACKSON AVENUE
 THE BOARD OF EDUCATION OF THE
 ST. BERNARD-ELMWOOD PLACE CITY SCHOOL DISTRICT

Date	03-29-2018
Scale	1" = 60'
Drawn By	JLE
Proj. No.	17063