

ORDINANCE NO. 2023-4

Public Hearing
Introduced
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Approved

**AN ORDINANCE VACATING PORTER LANE, BEING A PUBLIC WAY
IN THE TOWN OF GENEVA, INDIANA**

WHEREAS, Petitioner, Biggs, Inc., an Indiana Corporation, owns lots and other lands in the Town of Geneva and desires to vacate Porter Lane, being a public way in the Town of Geneva, Indiana; and

WHEREAS, Biggs, Inc., has petitioned the Common Council of the Town of Geneva to vacate said street, with the Town retaining a general utility easement through the vacated portion of Porter Lane, the Town of Geneva being the municipality in which the public way to be vacated is located; and

WHEREAS, notice of the filing and pendency of the petition to vacate said street, being a public way, was given in the manner prescribed by IC 5-3-1 by publication of said notice in the Berne Witness, a newspaper of general circulation published in the City of Berne, Indiana, being the city with a newspaper of general circulation that is nearest to the Town of Geneva, and said notice having run on January ____, 2023, and by sending notice by certified mail to each owner of land that abuts the properties proposed to be vacated; and

WHEREAS, the notice of filing and pendency of petition to vacate said street, being a public way in the Town of Geneva, is in due form pursuant to IC 36-7-3-12(B); and

WHEREAS, Indiana Code 36-7-3-12(C) requires the Town of Geneva to hold a hearing on the petition within thirty (30) days after it is received, which hearing is subject to IC 5-14-1.5; and

WHEREAS, the street sought to be vacated is not of public utility and benefit as to public access and not necessary to the growth of the Town of Geneva and the vacation of the public way will not leave any owner of real estate within the Town of Geneva without access to lands by means of public ways and will not cut off the public access to any church, school or other public building or place; and

WHEREAS, it is to the benefit of the Town of Geneva, and its citizenry, however for the Town to retain a general utility easement within the vacated Porter Lane; and

WHEREAS, the Common Council of the Town of Geneva, now having held a hearing on the petition within thirty (30) days after it was received, being duly advised in the premises, and

having heard the evidence, now finds that the material allegations contained in the petition for vacation are true, and further finds that no objections have been filed by any person or persons owning property immediately adjoining the public way sought to be vacated, pursuant to IC 36-7-3-13.

NOW THEREFORE BE IT ORDAINED by the Common Council of the Town of Geneva, Indiana, to-wit:

Section 1.

That the following street, being a public way in the Town of Geneva, Indiana, is hereby vacated as more particularly described as follows:

A. Platted Porter Lane located south of Wabash Valley Drive / Old Hickory Lane within the Limberlost Trails Subdivision Section I.

Section 2.

The Town of Geneva hereby retains utility easements in the vacated Porter Lane set forth in Section 1A above, a public way for a combined or separated sanitary and/or storm water sewer, and water line. With the retention of the foregoing described easement, the Town and its officers, agents or employees may at all times, when necessary or convenient to do so, go over and upon the described land and perform all acts necessary or convenient to the carrying into effect of the purposes for which the retained utility easements are made. The fee simple owners of said vacated Porter Lane, and their successors and assigns, shall not disturb or in any way interfere with any pipeline or materials in, over or upon the described premises. The fee simple owners of said vacated Porter Lane, and their successors in title and interest, shall not build, place or erect any permanent structure upon or over the land subject to the easement herein retained without the express written consent of the Town of Geneva.

Section 3.

The Clerk-Treasurer of the Town of Geneva is hereby directed to furnish a copy of this vacation ordinance to the County Recorder for recording and to the County Auditor for their information and appropriate action pursuant to IC 36-7-3-12(E).

Section 4.

This Ordinance shall be in full force and effect upon passage.

**NOTICE OF FILING AND PENDENCY OF
PETITION TO VACATE PORTER LANE, A PUBLIC WAY
IN THE TOWN OF GENEVA, INDIANA**

To The Citizens of the Town of Geneva, Indiana and all Other Persons Concerned:

Notice is hereby given that Biggs, Inc. has filed with the Common Council of the Town of Geneva, Indiana, and the same is now pending before said legislative body, its petition for the vacation of Porter Lane, being a public way in the Town of Geneva, Indiana.

The petitioner is the owner of real estate that abuts the street proposed to be vacated. Other individuals may be owners of a number of tracts of real estate abutting some of the areas to be vacated. Said Petition sets forth that said street is not of public utility and benefit and not necessary to the growth of the Town of Geneva, that vacation of said public way will not leave any owner of real estate within the Town of Geneva without access to lands by means of public way, and will not cut off the public access to any church, school or other public building or place.

The Common Council of the Town of Geneva shall hold a hearing on said petition on February 14, 2023, at 6:30 o'clock P.M. at Town Hall, Geneva, Indiana during a regular meeting of the Common Council of the Town of Geneva, Indiana, at which time the petition will be heard and determined by the legislative body of the Town of Geneva, Indiana. At the hearing, any person aggrieved by the proposed vacation may object to it as provided by I.C. 36-7-3-13.

Agnes A. Schoch, President
Common Council of the Town of Geneva, Indiana