

City of Bloomington Common Council

Legislative Packet – Addendum

Posted on Tuesday, 5 August 2025

Wednesday, 6 August 2025
Regular Session at 6:30pm

August 4, 2025

VICTORIA PARKER
Senior Counsel

Duke Energy Corporation
1000 E. Main Street
Plainfield, IN 46168

317.838.1839 office
Victoria.Parker@duke-energy.com

Via Email

Jackie Scanlan
Assistant Director
Planning and Transportation
City of Bloomington, Indiana
Email: scanlanj@bloomington.in.gov

**Re: Comments concerning Request to Comment - Petition to Vacate 12-Foot Public Alley
 Adjacent to 909 E. University Street ("Alley")**

Dear Ms. Scanlan:

This letter provides comments from Duke Energy Indiana, LLC ("DEI") to the City of Bloomington Planning Department concerning the referenced petition for public rights-of-way vacation in Bloomington. DEI received a copy of the petitioner's letter of support, along with a request to provide any comments, from you via email on July 23, 2025.

DEI owns and operates overhead electric distribution facilities located in the Alley. The DEI facilities in the Alley are active and serve parcels and customers.

IC 36-7-3-16(b) provides that "...vacation proceedings do not deprive a public utility of the use of all or part of a public way or public place to be vacated, if, at the time the proceedings are instituted, the utility is occupying and using all or part of that public way or public place for the location and operation of its facilities...." DEI is a public utility currently occupying the public way petitioned to be vacated with the location and operation of its facilities, as described above. Therefore, consistent with Indiana law, DEI should not be deprived of use of the Alley if it is vacated.

Additionally, DEI respectfully requests that the Planning Department and Common Council Members make the following findings in conjunction with any approval of this petition and vacation of the Alley:

- i. Reserve an easement in favor of Duke Energy Indiana, LLC, its successors and assigns, over, upon, and under the area petitioned to be vacated to access (ingress, egress, and regress), maintain, install, protect, operate, add to, modify, and replace its utilities;
- ii. Provide that Duke Energy Indiana, LLC, its successors and assigns, have the continuing right to trim and remove any vegetation on the area petitioned to be vacated, as needed, for the safe and reliable operation and maintenance of its facilities;

- iii. Provide that Duke Energy Indiana, LLC, its successors and assigns, have unhindered access to the area petitioned to be vacated; and
- iv. Provide that, excluding any existing encroachments in the Alleys, no permanent structure, improvements, gates, etc. shall be constructed or placed on the area petitioned to be vacated and that Duke Energy Indiana, LLC, its successors and assigns, may remove any such structures/improvements at the owner's expense, as needed, for the safe and reliable operation and maintenance of its facilities.

Thank you for your consideration of our comments. Please contact me with any questions.

Sincerely,

Victoria J. Parker

Victoria J. Parker
Senior Counsel

Ordinance 2025-30

To Vacate a Public Parcel Re:
A 12-Foot Public Alley
Adjacent to 909 E.
University St

Petitioner:
Dr. Veronika Bardonner

Represented by:
Daniel M. Cyr,
Paganelli Law Group

Overview

1. The Alley
2. Public Access Routes
3. Historic and Legal Framework of Alley Vacations
4. Alley Restoration
5. Petitioner's Commitment to the Alley Restoration
6. No Future Public Use
7. Draft Ordinance Review
6. City Benefits

Enclosed by Fencing 12-Foot Public Alley
Situating to the East of the 15-Foot Public Alley
(Photo Taken: February 21, 2024)

910 E 2nd Street



**Petitioner's
Property:**

909 E University
Street

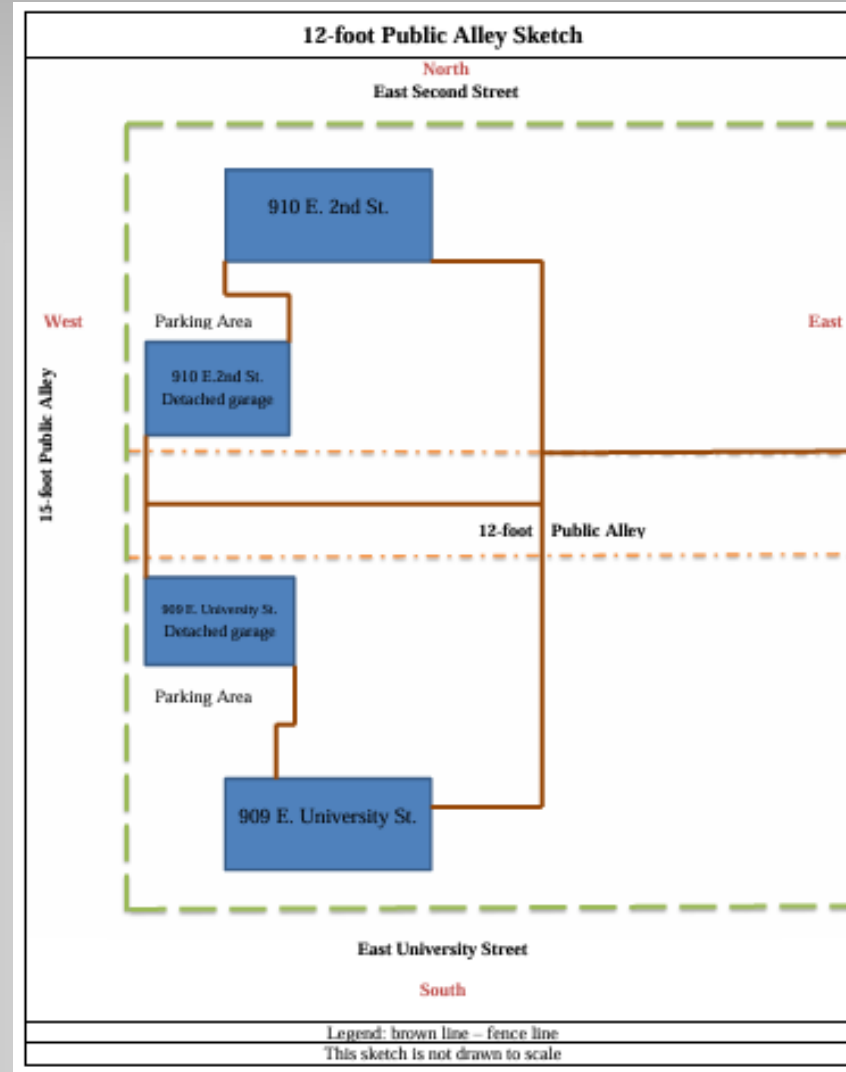
Fenced 12-Foot Public Alley

(Remained enclosed by fencing for several decades,
extending all the way to the end of the block at South
Hawthorne Drive)

Enclosed by Fencing 12-Foot Public Alley Access routes

The 15-Foot Public Alley Facilitates Various Modes of Transit:

- Pedestrian Transit: serves as walkways for pedestrians
- Bicycle Transit: accommodates bicycles
- Service Vehicles: facilitates access for delivery trucks and maintenance vehicles
- Emergency Access: provides critical access for emergency vehicles like fire trucks or ambulances
- Parking Access: provides entry to parking spaces and garages



The 12-Foot Public Alley:

- Nonfunctional Public Right-of-Way
- Historical Enclosure
- No Current or Future Public Use
- Private Utilization
- Maintenance Challenges

Access Routes:

- 15-foot public alley
- East University Street
- East Second Street
- South Woodlawn Avenue

Required Legal Documentation for a Petition To Vacate a Public Parcel

RE: A 12-Foot Public Alley Adjacent to 909 E. University Street

City of Bloomington Common Council Legislative		
Packet	Who issued	Entity
August 6, 2025		
(Page)		
Resolution 87-02 by the Bloomington City Common Council		
(pages 65 - 70)		
List of Abutting Property Owners		
(page 53)		
A Courtesy Letter about Vacation of Public Right-of-Way to the Abutting Property Owners	Daniel Cyr, Attorney at Law	Paganelli Law Group
(page 111 – 122)		
Petition for Vacation of Public Right-of-Way	Daniel Cyr, Attorney at Law	Paganelli Law Group
(page 54 – 108)		
Land Survey,		Bynum Fanyo & Associates, Inc.
Plat of Survey of 12-foot Public Alley Vacation, 6.23.2025 (page 88)		
Memorandum of Planning Review	Jacqueline Scanlan, Assistant Director	Planning and Transportation
(page 51)		
Memo from Council Administrator/Attorney	Lisa Lehner, Council Administrator/Attorney	Office of Common Council
(page 45 – 47)		
Ordinance Draft	Lisa Lehner, Council Administrator/Attorney	Office of Common Council
(page 48 – 50)		

Historic and Legal Framework of Ordinances Titled “To Vacate a Public Parcel”

Since the adoption of City of Bloomington **Resolution 87-02**, the Bloomington Common Council has enacted approximately **70 ordinances** authorizing the vacation of public parcels to private entities and individuals. These ordinances, typically titled “To Vacate a Public Parcel,” have been adopted in favor of adjacent or interested property owners. Several ordinances relevant to the Petitioner are listed below:

Ordinance	Status	Petitioner	Exhibit	City of Bloomington Common Council Legislative Packet August 6, 2025 (Page)
87-39	Adopted	Susan McDonald	Exhibit B	71 – 72
87-57	Adopted	Barry Elkins	Exhibit C	73 – 75
88-44	Adopted	L.D.Axsom	Exhibit D	76 – 78
89-18	Adopted	J. William Baus	Exhibit E	79 – 80
91-11	Adopted	Tim J. Henke	Exhibit F	81 – 83
91-28	Adopted	John I Byers	Exhibit G	84 – 85
96-30	Adopted	Charles R. Short	Exhibit H	86 - 87

Enclosed by Fencing 12-Foot Public Alley
Black Walnut Tree Removal – Alley Maintenance
(The Black Walnut tree was 32 inches in diameter)
(Photo Taken: May 20, 2023)



Professional Assessments Supporting the Tree Removal

Professional	Affiliation	Key Findings
Charley Nelson	Baker Stone Work	Cracks in garage floor and footer caused by tree roots
Kerry Bridges	ISA Board Certified Master Arborist	May necessitate tree removal
Matt Baldwin	ISA Certified Arborist IN-3202A	Tree causes structural damage and poses risk during weather events
Glen Inman	Equity Builders Roofing	Falling walnuts and branches cause roof damage; tree proximity voids roof warranty

Permits from City of Bloomington Authorities

- A **Tree Removal Permit** was issued by Haskell Smith, **Urban Forester**, City of Bloomington Parks and Recreation, on July 12, 2023, indicating that the removal has been deemed appropriate from a forestry perspective.

- The **Certificate of Appropriateness (COA-23-55)** was issued by the **Bloomington Historic Preservation Commission**, City of Bloomington Housing and Neighborhood Development, on August 3, 2023.

Petitioner

paid in full the amount of \$6563.27 for the tree removal, relieving the City of Bloomington of any financial burden.

909 E University Street Before and After Restoration

(The fence was constructed circa 1990)
(After Photo Taken: July 15, 2025)



Fence Collapse in Public Alley – April 2025 (Photo Taken: April 13, 2025)



Petitioners Action Plan to Improve the Fence Situation

Remove Debris of Old Fence: Clear remnants of the collapsed and outdated fence to ensure a clean and safe area.

Funds: Personally financed fence replacement and debris removal, minimizing City expenses.

Install In-Kind Replica Fence: Constructed a new fence replicating the original design, compliant with Elm Heights Historic District Design Guidelines.

Secure Approval: Obtained permissions from the Historic Preservation Commission, adhering to City regulations.

Propose Maintenance Responsibility: Seeks to maintain the fence post-vacation, relieving City of costs and liabilities.

Preserve Historic Integrity: Ensure the fence supports the neighborhood's historical and aesthetic value.

Petitioners Ongoing Financial Commitments



Petitioner's Property:
909 E University Street

910 E 2nd Street

Petitioner (paid in full)	Types of Payments	910 E 2 nd Street
Diligent contributor to the City's property tax revenues	Property Taxes	History of tax delinquencies and non-compliance
\$6563.27	Black Walnut Tree Removal	Zero
\$500	ROW Planning Vacation Application Fee	Zero
\$630	12-Foot Alley Survey	Zero

Enclosed by Fencing 12-Foot Public Alley

(Line of Sight Through Collapsed Old Wooden Fence)

(Photo Taken: July 27, 2025)



Petitioner's Property:

909 E University Street

910 E 2nd Street

Petitioner's Commitment Supports Strategic City Benefits

- Mitigate the City's Liability
- Improve land use efficiency
- Maintain surrounding property values
- Preserve or increase tax revenue
- Sustain healthy, well-managed landscaping
- Support local historic preservation efforts

No Future Public Use

- The alley has been enclosed for at least 40 years
- The alley is too narrow to allow for future bike paths, or pedestrian paths
- The alley is fenced in and there are lawful nonconforming structures that block portions of the alleyway
- The neighborhood where the alley is located is a low traffic, residential zone

Ordinance 2025-30

(City of Bloomington Common Council Legislative Packet, August 6, 2025, p. 48–50)

We respectfully ask the Council to review this draft again, considering the ordinance draft we submitted. Our goal is to incorporate the stronger justification points and "Whereas" clauses from our proposed version. As follows:

Justification Point	"Whereas" Clause
Daniel M. Cyr, J.D., Paganelli Law Group	WHEREAS, on July 9, 2025, Daniel M. Cyr, Attorney at Law of the Paganelli Law Group, submitted the petition to vacate the alley on behalf of Dr. Veronika Bardonner; and
City of Bloomington Resolution 87-02	WHEREAS, Dr. Bardonner's petition to vacate the alley is submitted in accordance with, and is fully supported by, the criteria established in City of Bloomington Resolution 87-02
The Common Council of the City of Bloomington Practice	WHEREAS, the Common Council of the City of Bloomington has established a precedent for granting vacation requests when justified by the circumstances, having passed multiple ordinances titled "To Vacate a Public Parcel" in favor of property owners, and approval of the present petition would be consistent with those prior actions; and
Public Interest/City Benefits	WHEREAS, vacating the alley will preserve the historic integrity of the area, maintain property values, and serve the public interest by promoting the general welfare, improving land use efficiency, and supporting historic preservation; and

Responses to Comments

- CenterPoint Energy – No Objection
- Duke Energy Indiana is not opposing the vacation of the alley
– request customary findings (subject to legal review)

City Benefits of Vacating Enclosed, Nonfunctional Right-of-Way

- Reduced Long Term Municipal Costs
- Increased Revenue Potential
- Lower Legal and Liability Risks
- Supports Strategic Land Use
- Advances City Planning & Preservation Goals

Thank you for considering Dr. Bardonner's Petition!

Questions?

PAGANELLI LAW GROUP

Daniel M. Cyr

dcyr@paganelligroup.com

(812) 332-6556