

Ordinance No. 2021-4C

AN ORDINANCE VACATING A PUBLIC ROAD AND ALLEY

Whereas, the Board of Commissioners have received a petition from a contiguous landowner to vacate a public road AND public alley pursuant to IC 36-7-3-12 and, whereas notice of such hearing was given by publication in the Daily Reporter and certified mail to all adjacent landowners at least ten (10) days before the public hearing thereon, and

Whereas, the public hearing was properly held and all interested persons were given the opportunity to participate.

Now, therefore, be it ordained by the Board of Commissioners of Hancock County, that:

(1) The following described public road and alley as shown on Exhibit A, attached hereto and made a part hereof, is hereby vacated:

All that part of Pearl Street lying between Lot 8 and Lot 17 and part of Lot 18 and south of the south right-of-way line of Walnut Street; AND All that part of an unimproved alley lying between Lots 17 and 18; all in F. M. Clark's Addition to the Town of Philadelphia as per plat thereof recorded in Plat Book 1, Pages 56 & 57 in the Office of the Recorder of Hancock County, Indiana; said part being more particularly described as follows:

BEGINNING at the southeast corner of Lot 17 per said plat, said point being the southwest corner of Pearl Street; thence north 04 degrees 16 minutes 38 seconds west (assumed bearing) along the west line of said Pearl Street and the east line of said Lot 17 a distance of 106.93 feet to the northeast corner of said Lot 17, said point being on the south line of a platted alley; thence south 86 degrees 27 minutes 37 seconds west along the north line of said lot 17 and the south line of said alley a distance of 74.43 feet to the northwest corner of said lot 17; thence north 04 degrees 16 minutes 38 seconds west along the west line of said plat a distance of 16.50 feet to the southwest corner of said Lot 18, said point being on the north line of said alley; thence north 86 degrees 27 minutes 37 seconds east along the south line of said Lot 18 and the north line of said Lot 18 a distance of 74.43 feet to the west line of said Pearl Street, said point being the southeast corner of said Lot 18; thence north 04 degrees 16 minutes 38 seconds west along the east line of said Lot 18 and the west line of said Pearl Street a distance of 78.63 feet to the south line of Walnut Street per the easterly extension of the north line of a 0.5 acre parcel described in a Warranty Deed recorded as Instrument Number 140008915 recorded in the Office of the Recorder of Hancock County, Indiana; thence north 86 degrees 55 minutes 21 seconds east along the south line of said Walnut Street a distance of 49.50 feet to the northwest corner of Lot 8 per said plat, said point being the east line of said Pearl Street; thence south 04 degrees 16 minutes 38 seconds east along the east line of said Pearl Street and the west line of said Lot 8 a distance of 201.50 feet to the southwest corner of said Lot 8; thence south 86 degrees 27 minutes 37 seconds west a distance of 49.50 feet to the POINT OF BEGINNING.

(2) A portion of the western half of the Roadway and Alley as shown on Exhibit B, attached hereto and made a part hereof, and described as follows shall be titled to and hereafter owned by Tristen M. Bundy:

A west one-half of the vacated Pearl Street and a vacated Public Alley in F. M. Clark's Addition to the Town of Philadelphia as per plat thereof recorded in Plat Book 1, Pages 56 & 57 in the Office of the Recorder of Hancock County, Indiana per an Ordinance Vacating a Public Road and Alley by the Hancock County Board of Commissioners recorded as Instrument Number _____ in the Office of the Recorder of Hancock County, Indiana, and being more particularly described as follows:

COMMENCING at the southeast corner of Lot 17 per said plat, said point being the southwest corner of Pearl Street; thence north 04 degrees 16 minutes 38 seconds west (assumed bearing) along the west line of said Pearl Street and the east line of said Lot 17 a distance of 20.00 feet to the former (now abandoned) north right-of-way line of the P.C.C. & St. Louis Railroad, said point being the POINT OF BEGINNING of this description; thence continuing north 04 degrees 16 minutes 38 seconds west along said west line a distance of 86.93 feet to the northeast corner of said Lot 17, said point being on the south line of a platted alley; thence south 86 degrees 27 minutes 37 seconds west along the north line of said lot 17 and the south line of said alley a distance of 74.43 feet to the northwest corner of said lot 17; thence north 04 degrees 16 minutes 38 seconds west along the west line of said plat a distance of 16.50 feet to the southwest corner of said Lot 18, said point being on the north line of said alley; thence north 86 degrees 27 minutes 37 seconds east along the south line of said Lot 18 and the north line of said alley a distance of 74.43 feet to the west line of said Pearl Street, said point being the southeast corner of said Lot 18; thence north 04 degrees 16 minutes 38 seconds west along the east line of said Lot 18 and the west line of said Pearl Street a distance of 78.63 feet to the south line of Walnut Street per the easterly extension of the north line of a 0.5 acre parcel described in a Warranty Deed recorded as Instrument Number 140008915 recorded in the Office of the Recorder of Hancock County, Indiana; thence north 86 degrees 55 minutes 21 seconds east along the south line of said Walnut Street a distance of 24.75 feet to the centerline of said Pearl Street; thence south 04 degrees 16 minutes 38 seconds east along said centerline a distance of 181.70 feet to the former north right-of-way line of said P.C.C. & St. Louis Railroad; thence south 86 degrees 27 minutes 37 seconds west along said north right-of-way line a distance of 24.75 feet to the POINT OF BEGINNING.

(3) A portion of the eastern half of the Roadway as shown on Exhibit C, attached hereto and made a part hereof, and described as follows shall be titled to and hereafter owned by Mark Hammons:

The east one-half of the vacated Pearl Street in F. M. Clark's Addition to the Town of Philadelphia as per plat thereof recorded in Plat Book 1, Pages 56 & 57 in the Office of the Recorder of Hancock County, Indiana per an Ordinance Vacating a Public Road and Alley by the Hancock County Board of Commissioners recorded as Instrument Number _____ in the Office of the Recorder of Hancock County, Indiana, and being more particularly described as follows:

COMMENCING at the southeast corner of Lot 17 per said plat, said point being the southwest corner of Pearl Street; thence north 04 degrees 16 minutes 38 seconds west (assumed bearing) along the west line of said Pearl Street and the east line of said Lot 17 a distance of 20.00 feet to the former (now abandoned) north right-of-way line of the P.C.C. & St. Louis Railroad; thence north 86 degrees 27 minutes 37 seconds east along said former north right-of-way line of the abandoned P.C.C. & St. Louis Railroad a distance of 24.75 feet to the centerline of said Pearl Street, said point being the POINT OF BEGINNING of this description; thence north 04 degrees 16 minutes 38 seconds west along said centerline a distance of 181.70 feet to the south line of Walnut Street per the easterly extension of the north line of a 0.5 acre parcel described in a Warranty Deed recorded as Instrument Number 140008915 recorded in the Office of the Recorder of Hancock County, Indiana; thence north 86 degrees 55 minutes 21 seconds east along the south line of said Walnut Street a distance of 24.75 feet to the northwest corner of Lot 8 per said plat, said point being the west line of said Pearl Street; thence south 04 degrees 16 minutes 38 seconds east along the east line of said Pearl Street and the west line of said Lot 8 a distance of 181.50 feet to said former north right-of-way line of the abandoned P.C.C. & St. Louis Railroad; thence south 86 degrees 27 minutes 37 seconds west along said former north right-of-way line a distance of 24.75 feet to the POINT OF BEGINNING.

(4) All that portion of the Roadway lying south of the north right-of-way line of the former P.C.C. & St. Louis Railroad as shown on Exhibit D, attached hereto and made a part hereof, shall be titled to and hereafter owned by the John Bundy:

All that part of the vacated Pearl Street in F. M. Clark's Addition to the Town of Philadelphia as per plat thereof recorded in Plat Book 1, Pages 56 & 57 in the Office of the Recorder of Hancock County, Indiana per an Ordinance Vacating a Public Road and Alley by the Hancock County Board of Commissioners recorded as Instrument Number _____ in the Office of the Recorder of Hancock County, Indiana, lying south of the former (now abandoned) north right-of-way line of the P.C.C. & St. Louis Railroad and north of the south line of said vacated Pearl Street, being more particularly described as follows:

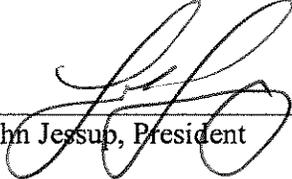
BEGINNING at the southeast corner of Lot 17 per said plat, said point being the southwest corner of Pearl Street; thence north 04 degrees 16 minutes 38 seconds west (assumed bearing) along the west line of said Pearl Street and the east line of said Lot 17 a distance of 20.00 feet to the former (now abandoned) north right-of-way line of the P.C.C. & St. Louis Railroad; thence north 86 degrees 27 minutes 37 seconds east along said former north right-of-way line of the abandoned P.C.C. & St. Louis Railroad a distance of 49.50 feet to the east line of said Pearl Street; thence south 04 degrees 16 minutes 38 seconds east along the east line of said Pearl Street and the west line of said Lot 8 a distance of 20.00 feet to said former north right-of-way line of the abandoned P.C.C. & St. Louis Railroad; thence south 86 degrees 27 minutes 37 seconds west along said former north right-of-way line a distance of 49.50 feet to the POINT OF BEGINNING.

(5) An access easement from Tristin M. Bundy, over a portion of the Roadway as shown in Exhibit E, granting John Bundy access shall be recorded upon the granting of this Petition.

This Ordinance is of full force and effect upon its passage and recording in the Office of the Hancock County Recorder.

Adopted this 20th day of April, 2021.

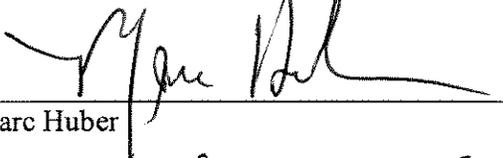
BOARD OF COMMISSIONERS OF HANCOCK COUNTY, INDIANA



John Jessup, President



Bill Spalding



Marc Huber

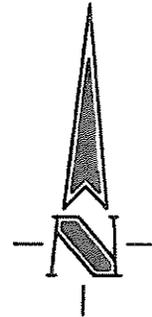
Attest: 

Debra A. Carnes, Hancock County Auditor

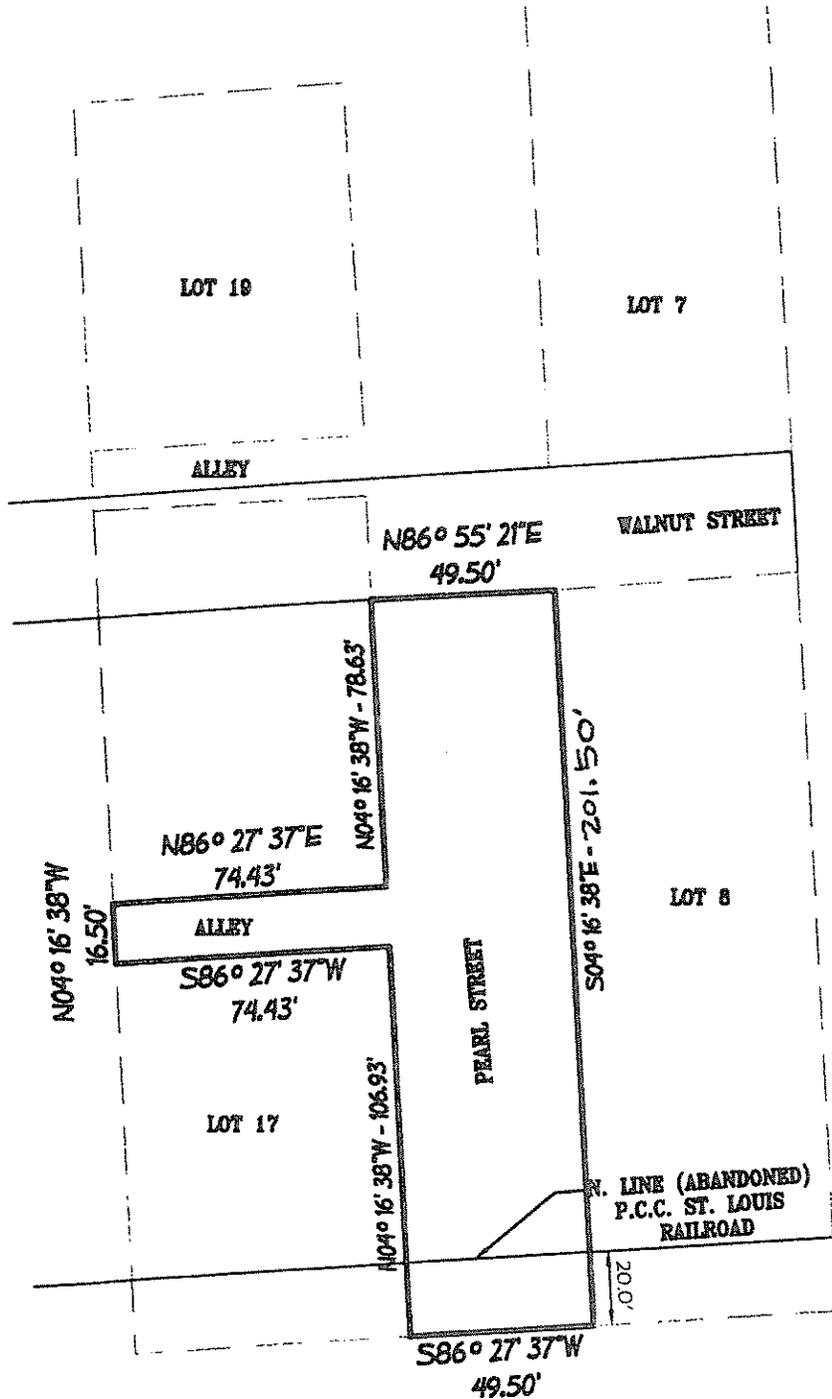
EXHIBIT ⁹⁹ A ⁹⁹

PETITION TO VACATE PUBLIC RIGHT-OF-WAY

CLARK'S ADDITION TO PHILADELPHIA
Plat Book 1, Plat Pages 56-57



Scale 1"=40'



H. GIBSON
LAND SURVEYING, LLC

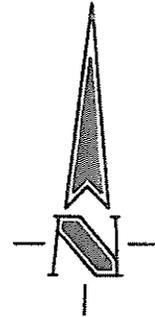
321 North State Street
Greenfield, In 46140
317-462-4055

JOB NO. 19-259
SHEET 2 OF 2

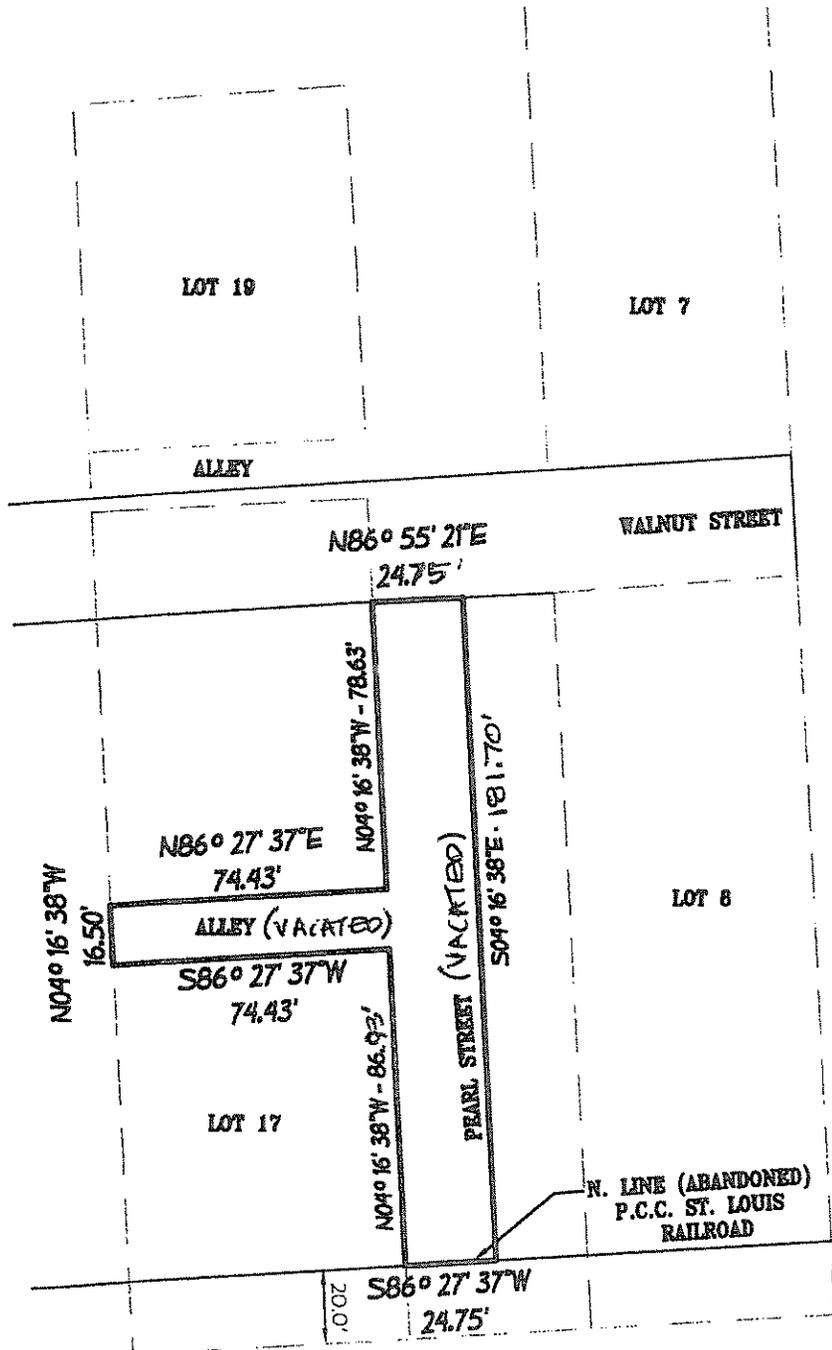
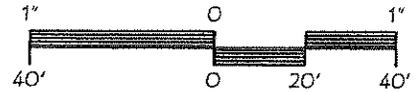
EXHIBIT ⁹⁹B⁵⁹

(WESTERN PARCEL)

CLARK'S ADDITION TO PHILADELPHIA
Plat Book 1, Plat Pages 56-57



Scale 1"=40'



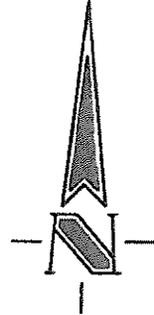
H. GIBSON
LAND SURVEYING, LLC

321 North State Street
Greenfield, In 46140
317-462-4055

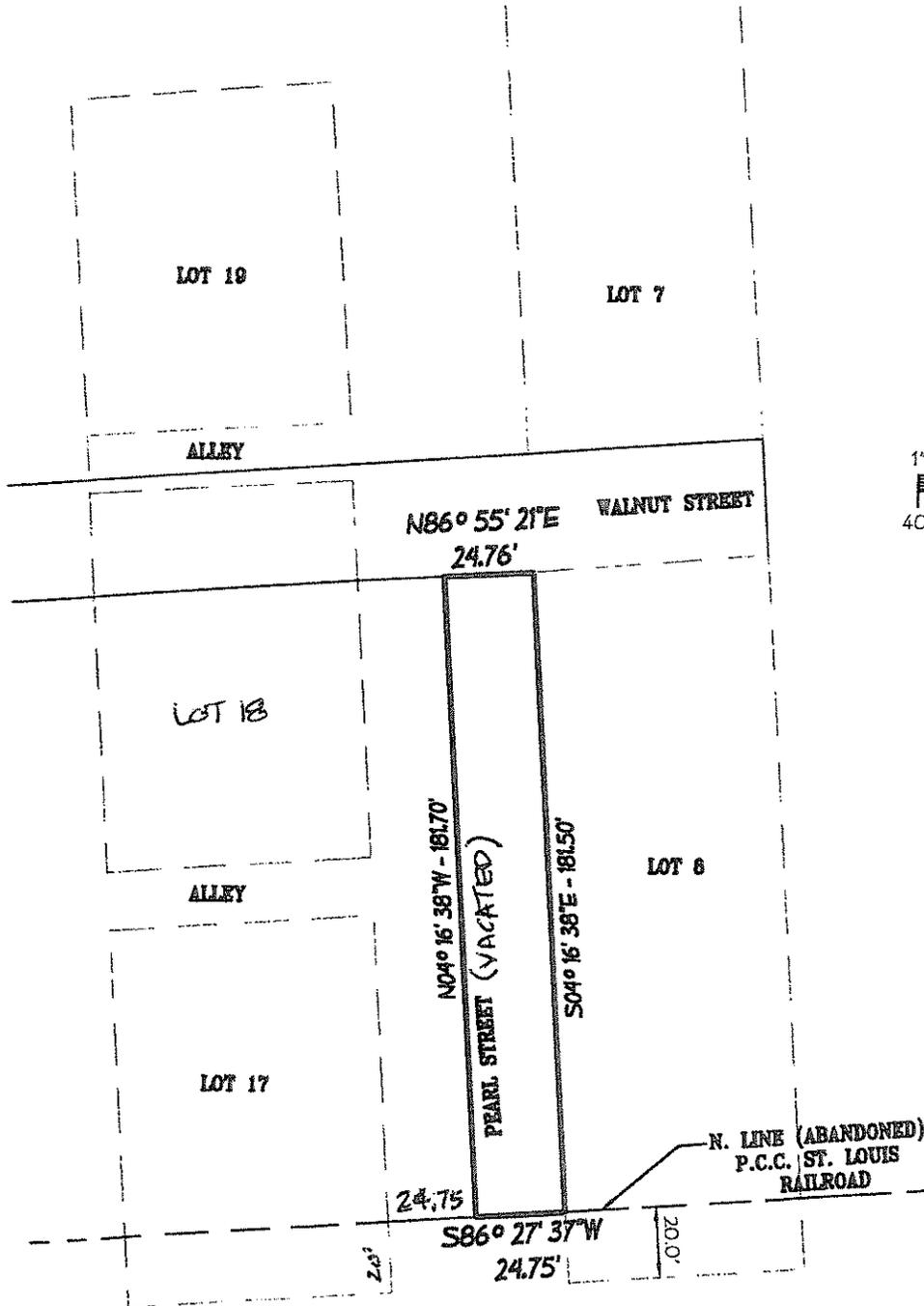
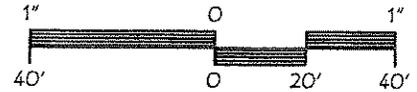
EXHIBIT ⁹⁹ C ⁹⁹

(EASTERN PARCEL)

CLARE'S ADDITION TO PHILADELPHIA
Plat Book 1, Plat Pages 56-57



Scale 1"=40'



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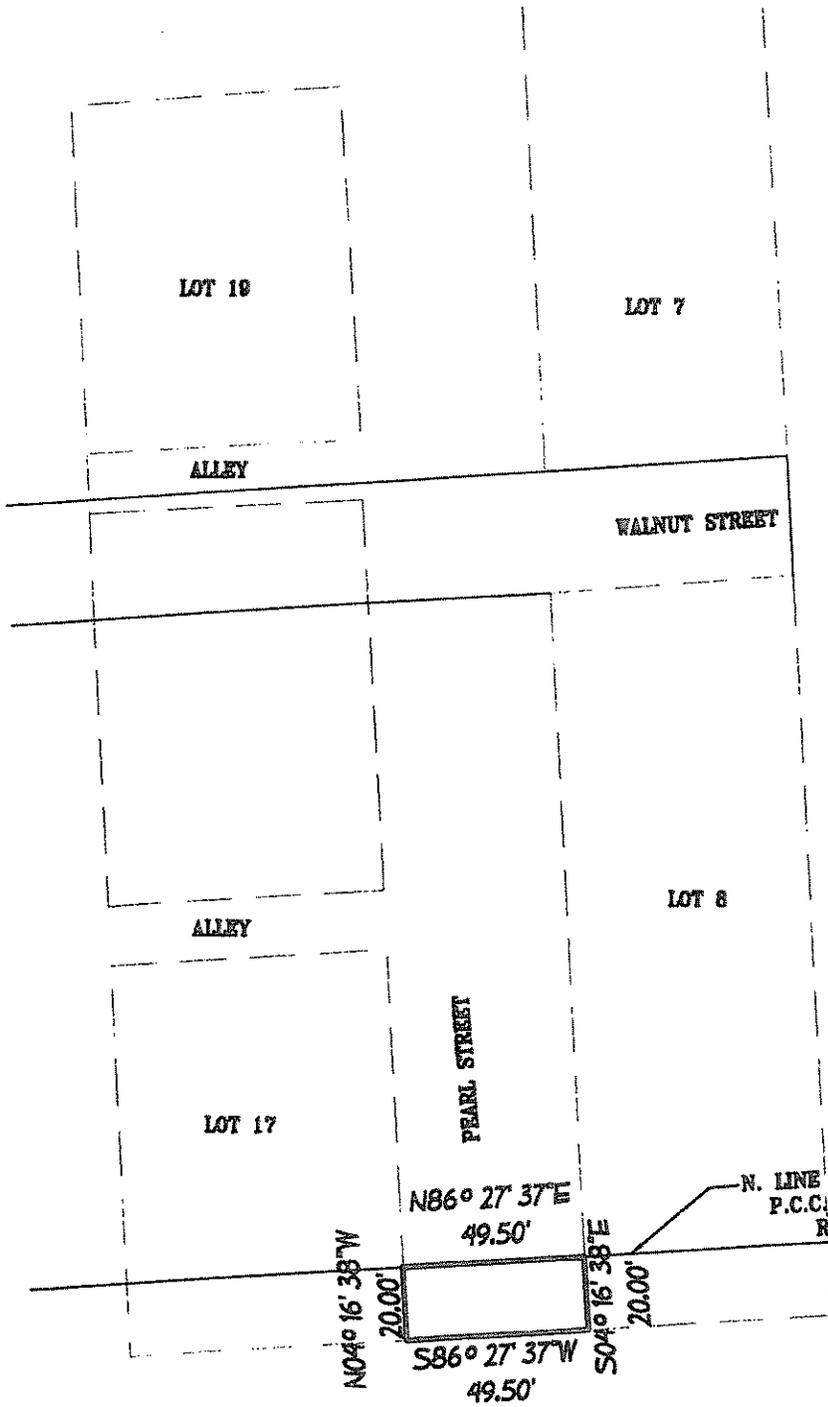
EXHIBIT ^{SS} D ^{SS}

(SOUTHERN PARCEL)

CLARK'S ADDITION TO PHILADELPHIA
Plat Book 1, Plat Pages 56-57



Scale 1"=40'

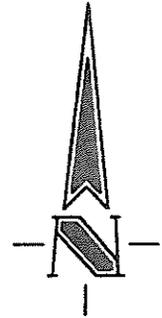
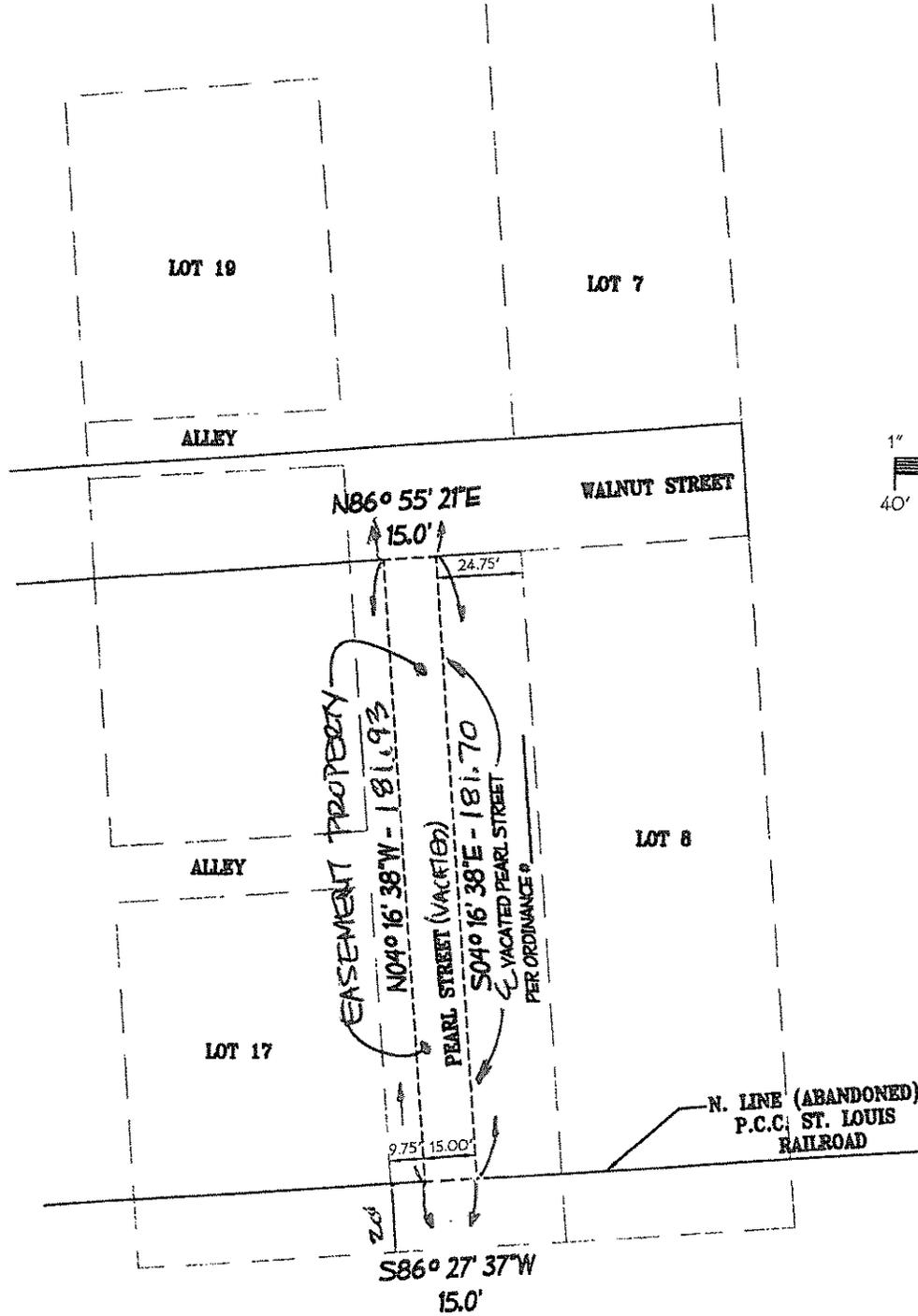


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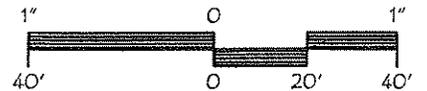
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EXHIBIT ⁹⁹E⁹⁹

CLARK'S ADDITION TO PHILADELPHIA
Plat Book 1, Plat Pages 56-57



Scale 1"=40'





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SHEET 2 OF 2

GRANT OF EASEMENT FOR INGRESS/EGRESS AND UTILITIES

THIS INDENTURE WITNESSETH, that Tristen M. Bundy ("Grantor"), grant an convey to John Bundy, and his heirs, successors, transferees, assigns and public utilities ("Grantee") (collectively the "Benefitted Parties") for the sum of zero dollars (\$0) and other consideration, the receipt of which is hereby acknowledged, a perpetual non-exclusive easement for access, ingress and egress and utility purposes in, on, over and about the real estate in Hancock County, Indiana, more particularly described in Exhibit "A" attached hereto and made a part hereof ("Easement Property"), subject to the following:

1. Access Easement Grant. A perpetual non-exclusive easement over and across the Easement Property for the construction, maintenance, use, repair, and replacement of a driveway and related improvements (collectively, "Driveway") for pedestrian and vehicular traffic for the purpose of providing ingress and egress to property owned by the Benefitted Parties and each parcel owned thereof (the "Access Easement"). The Access Easement may be used by Grantor and Grantee in a manner for purposes which do not adversely affect the access rights granted herein to Grantee or Grantor's current use of Grantor's property. Parking shall be allowed in the Access Easement so long as the traffic flow is not blocked or impaired. No overnight parking shall be permitted.

2. Utility Easement Grant. A perpetual non-exclusive easement in, under, over and across the Easement Property for the installation, use, maintenance, repair, and replacement of utilities for the purpose of providing utilities to property owned by the Benefitted Parties and each parcel owned thereof (the "Utility Easement"). As a condition of installing a utility, Grantee shall promptly restore the Easement Property and any adjacent property disturbed upon completion of any work to a condition comparable to that existing prior to the commencement of said work.

3. Access Easement Maintenance. The Benefitted Parties shall be responsible for the maintenance of the Easement Property and shall share equally the cost of the Maintenance. Maintenance of the Easement Property shall be done in a proper, substantial and competent manner for the purposes described herein and include, but not be limited to, the general repair, upkeep, and replacement of the Driveway, the adding of stone and grading thereof, and the removal of snow and ice ("Maintenance") to .

- (a) All cost of Maintenance as required by this Access Easement shall be paid by each Benefitted Party in the respective proportions set forth above within thirty (30) days of the billing for Maintenance. Should one Benefitted Party pay the total costs for the Maintenance required by this

document, then that Benefitted Party shall give written notice of such payment to the other Benefitted Party and shall be reimbursed by the other Benefitted Party in the respective proportions set forth above within thirty (30) days of that written notice; and

- (b) The Benefitted Party shall use their best efforts to agree upon what Maintenance is necessary to keep the Driveway in good order, condition and repair. If the Benefitted Parties fail to agree upon the necessity for, or the extent of, any Maintenance, then the Grantor or its assignee or successor in interest shall make said decision and shall carry out such Maintenance and may recover from the other Benefitted Party their respective shares of the reasonable costs of the work reasonably necessary to keep the Driveway in good order, condition and repair. An action may be instituted in any court of competent jurisdiction in Hancock County, Indiana, against the non-contributing Benefitted Party for the recovery of such costs, together with attorneys' fees and interest on any judgment obtained at the rate of twelve percent (12%) per annum from the date of completion of the work sued upon until the date of payment of the judgment.

4. Appurtenance. This Grant of Easement for Ingress/Egress and Utilities and the terms and provisions hereof shall be appurtenant to and run with the land comprising the Easement Property and the property owned by the Benefitted Parties and shall be binding upon and inure to the benefit of all or any part of the property owned by the Benefitted Parties.

5. No Merger Intended. Grantor's current ownership of both the Easement Property and the a portion of the Benefitted Property is not intended to work a merger of title, it being Grantor's intent to sell or mortgage various parcels within the Benefitted Property at some time in the future.

In Witness Whereof, Grantor has caused this Grant of Easement for Ingress/Egress and Utilities to be executed this _____ day of _____, 2021.

Tristen M. Bundy

STATE OF INDIANA)
)
COUNTY OF HANCOCK) SS:

Before me, a Notary Public, in and for said County and State, personally appeared Tristen M. Bundy, who acknowledged the execution of the foregoing Grant of Easement for Ingress/Egress and Utilities, and who, having been duly sworn, stated that the representations therein contained are true.

Witness my hand and Notarial Seal this _____ day of _____, 2021.

_____, Notary Public

My Commission Expires:

County of Residence:

EXHIBIT A
(page 1 of 2)

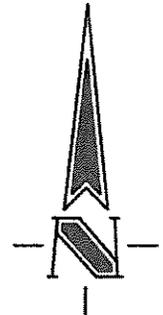
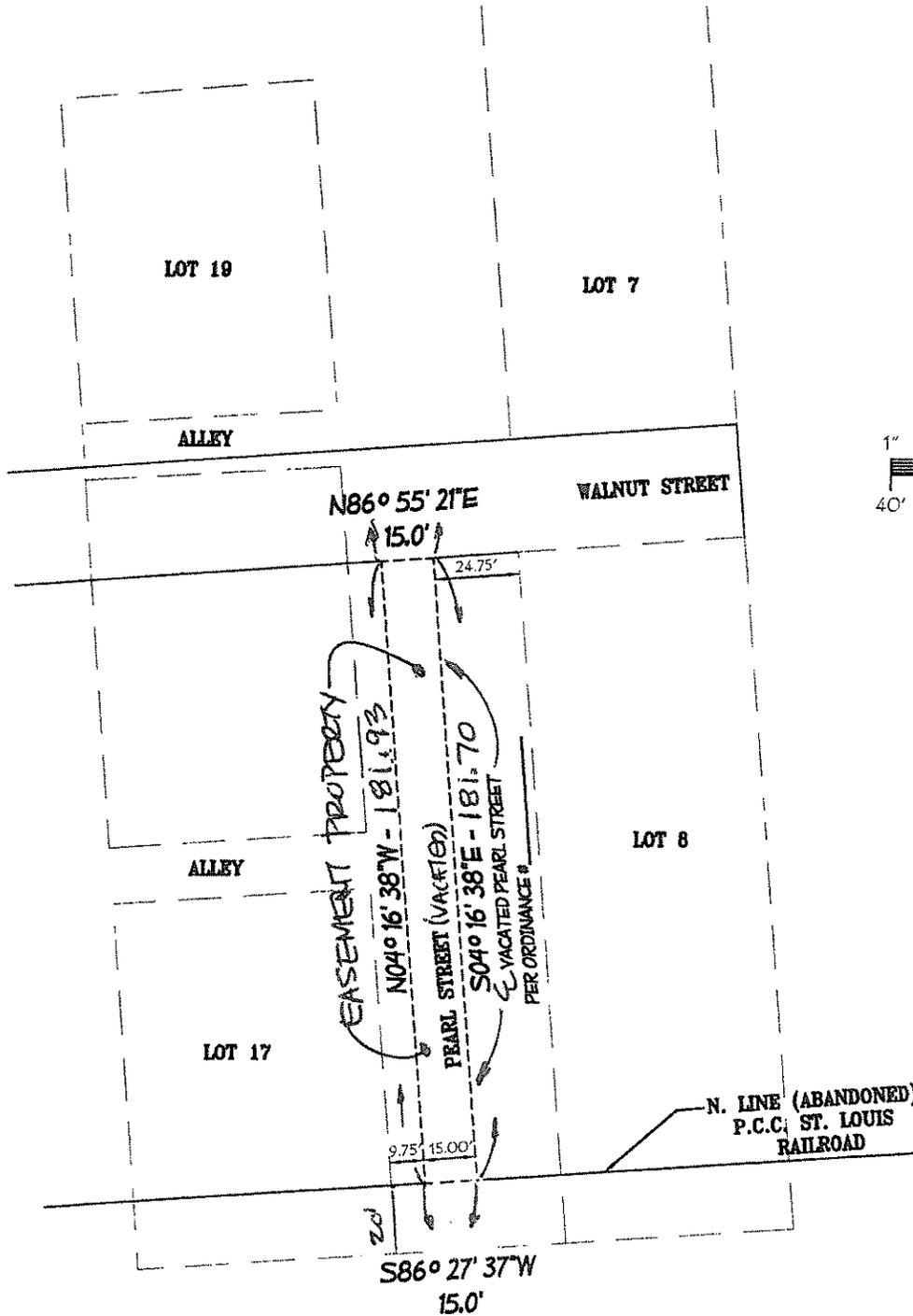
A part of the vacated right-of-way of Pearl Street in F. M. Clark's Addition to the Town of Philadelphia as per plat thereof recorded in Plat Book 1, Pages 56 & 57 in the Office of the Recorder of Hancock County, Indiana per an Ordinance Vacating a Public Road or Alley by the Hancock County Board of Commissioners recorded as Instrument Number _____ in the Office of the Recorder of Hancock County, Indiana, said part being more particularly described as follows:

COMMENCING at the southeast corner of Lot 17 per said plat, said point being the southwest corner of said vacated Pearl Street; thence north 04 degrees 16 minutes 38 seconds west (assumed bearing) along the west line of said vacated Pearl Street and the east line of said Lot 17 a distance of 20.00 feet to the north right-of-way line of the former (now abandoned) P.C.C. & St. Louis Railroad; thence north 86 degrees 27 minutes 37 seconds east along said north right-of-way line a distance of 9.75 feet to the POINT OF BEGINNING of this easement description; thence north 04 degrees 16 minutes 38 seconds west parallel with the west line of said vacated Pearl Street a distance of 181.93 feet to the north line of the vacated right-of-way of Pearl Street as per said Ordinance; thence north 86 degrees 27 minutes 37 seconds east along the north line of said vacated right-of-way line a distance of 15 feet to the centerline of said vacated right-of-way; thence south 04 degrees 16 minutes 38 seconds east along said centerline a distance of 181.70 feet to the north right-of-way of line of said abandoned railroad; thence south 86 degrees 27 minutes 37 seconds west along the north right-of-way line of said abandoned railroad a distance of 15.00 feet to the POINT OF BEGINNING.

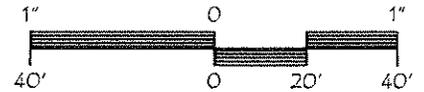
EXHIBIT "A"

PAGES 2 OF 2

CLARK'S ADDITION TO PHILADELPHIA
Plat Book 1, Plat Pages 56-57



Scale 1"=40'



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