



Board of Public Works and Safety

Agenda Item

Cover Sheet

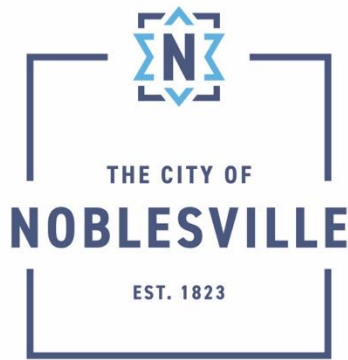
MEETING DATE: February 13, 2024

- Consent Agenda Item
- New Item for Discussion
- Previously Discussed Item
- Miscellaneous

ITEM #: 4

INITIATED BY: Sacha Lingerfeldt

- Information Attached
- Bring Paperwork from Previous Meeting
- Verbal
- No Paperwork at Time of Packets



TO: BOARD OF PUBLIC WORKS AND SAFETY
FROM: SACHA LINGERFELDT, ADMINISTRATIVE MANAGER
SUBJECT: PLEASANT STREET PHASE 1 (EN-231-13)
DECLARATION OF RESTRICTIVE COVENANTS
DATE: FEBRUARY 13, 2024

Information

Attached are the Declaration of Restrictive Covenants Concerning Limitation of Access to Walnut Street for the parcels below:

- Parcel 89 Ethan Charles Chappell
- Parcel 90 Erika Tobin, a/k/a Erica Chastain

I recommend the Board of Public Works and Safety accept the above Declaration of Restrictive Covenants Concerning Limitation of Access to Walnut Street and have them recorded by the Clerk's Office.

Your consideration in this matter is appreciated.

**DECLARATION OF RESTRICTIVE COVENANTS
CONCERNING LIMITATION OF ACCESS TO WALNUT STREET**

Document Cross Reference Number: **2020005218**

THIS DECLARATION OF RESTRICTIVE COVENANTS is made as of the 19th day of January, 2024, by Ethan Charles Chappell (“Declarant”).

WHEREAS, Declarant is the sole (and all) owner(s) in fee simple of certain real property located in Hamilton County, Indiana, more particularly described in **Exhibit A** (the “Property”); and

WHEREAS, the Declarant desires to execute this Declaration to impose certain restrictions on the Property from directly accessing Walnut Street in Noblesville, Indiana.

NOW THEREFORE, in consideration of the benefits to be derived by the Declarant, and as required by the City of Noblesville, Indiana, Declarant hereby makes this Declaration on the terms and conditions stated below.

1. **Restriction.** The Declarant agrees to the permanent extinguishment of all rights and easements of ingress and egress to, from, and across the road facility known as Walnut Street from and where they abut the Property.

2. **City of Noblesville.** These covenants shall be enforceable by the City of Noblesville and its boards, departments, agencies, and commissions, including but not limited to the City of Noblesville Department of Planning and Development, which shall also be entitled to recover its costs and attorneys’ fees from the owner of the Property in any action brought to enforce these covenants. Any notice, request for approval, or other communication pursuant to this Declaration to be sent to the City of Noblesville may be sent to the following address:

City of Noblesville
Department of Planning and Development
16 S 10th Street, Suite 150
Noblesville, IN 46060
Attn: Planning Director

3. **Modification.** These covenants may only be modified or terminated by a decision of the Noblesville Plan Commission or Noblesville Board of Zoning Appeals, as applicable, made at a public hearing after proper notice has been given.

4. **Covenant Running with the Land.** Declarant hereby declares that the Property shall be bound by, held, transferred, sold, conveyed, leased, improved, hypothecated, occupied or otherwise disposed of and used subject to the foregoing restrictive covenants, which shall be

perpetual and run with the land and be binding on all the Declarant's heirs, executors, administrators, successors, assigns, lessees, or other persons, firms, associations, corporations, or other entities having or hereafter acquiring any right or interest in the Property or any part thereof.

[Signature Page Follows]

Exhibit A

**EXHIBIT
"A"**

Project: Pleasant St. Ph. 1
Parcel: 89
Tax ID: 29-11-06-113-002.000-013

Sheet 1 of 1

Situated in Hamilton County, State of Indiana, to-wit:

Lot One (1) Square Four (4) in J.D. Cottingham's Addition to Noblesville, as per plat thereof recorded in Plat Book 1, page 2 in the Office of the Recorder of Hamilton County, Indiana.

Subject to any and all easements, highways, rights-of-way, covenants, conditions, restrictions, and other matters of record.

The above-described tract being that tract described in Instrument Number 2020005218, recorded January 29, 2020, in the Office of the Recorder, Hamilton County, Indiana.

**DECLARATION OF RESTRICTIVE COVENANTS
CONCERNING LIMITATION OF ACCESS TO WALNUT STREET**

Document Cross Reference Number: **2016020189**

THIS DECLARATION OF RESTRICTIVE COVENANTS is made as of the 10th day of January, 2024, by Erika Tobin, a/k/a Erika Chastain (“Declarant”).

WHEREAS, Declarant is the sole (and all) owner(s) in fee simple of certain real property located in Hamilton County, Indiana, more particularly described in **Exhibit A** (the “Property”); and

WHEREAS, the Declarant desires to execute this Declaration to impose certain restrictions on the Property from directly accessing Walnut Street in Noblesville, Indiana.

NOW THEREFORE, in consideration of the benefits to be derived by the Declarant, and as required by the City of Noblesville, Indiana, Declarant hereby makes this Declaration on the terms and conditions stated below.

1. **Restriction.** The Declarant agrees to the permanent extinguishment of all rights and easements of ingress and egress to, from, and across the road facility known as Walnut Street from and where they abut the Property.

2. **City of Noblesville.** These covenants shall be enforceable by the City of Noblesville and its boards, departments, agencies, and commissions, including but not limited to the City of Noblesville Department of Planning and Development, which shall also be entitled to recover its costs and attorneys’ fees from the owner of the Property in any action brought to enforce these covenants. Any notice, request for approval, or other communication pursuant to this Declaration to be sent to the City of Noblesville may be sent to the following address:

City of Noblesville
Department of Planning and Development
16 S 10th Street, Suite 150
Noblesville, IN 46060
Attn: Planning Director

3. **Modification.** These covenants may only be modified or terminated by a decision of the Noblesville Plan Commission or Noblesville Board of Zoning Appeals, as applicable, made at a public hearing after proper notice has been given.

4. **Covenant Running with the Land.** Declarant hereby declares that the Property shall be bound by, held, transferred, sold, conveyed, leased, improved, hypothecated, occupied or otherwise disposed of and used subject to the foregoing restrictive covenants, which shall be

perpetual and run with the land and be binding on all the Declarant's heirs, executors, administrators, successors, assigns, lessees, or other persons, firms, associations, corporations, or other entities having or hereafter acquiring any right or interest in the Property or any part thereof.

[Signature Page Follows]

IN WITNESS WHEREOF, Declarant has executed this instrument, on this 10th day of January, 2024.

Signature: *Erika Tobin*
Printed: Erika Tobin

STATE OF INDIANA)
) SS:
COUNTY OF HAMILTON)

SUBSCRIBED AND SWORN to me, a Notary Public in and for said County and State, 10th
this day of January, 2024.



Katie Repp
Signature
Printed: Katie Repp
NOTARY PUBLIC, a resident of Hamilton
County, Indiana
My Commission Expires: Feb. 3, 2024

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law. Jonathan W. Hughes

This instrument prepared by Jonathan W. Hughes, Attorney at Law, Bose McKinney & Evans LLP, 111 Monument Circle, Suite 2700, Indianapolis, Indiana 46204.

Exhibit A

Project: Pleasant St. Ph. 1
Parcel: 90
Tax ID: 29-11-06-113-003.000-013

Sheet 1 of 1

A part of Out Lot Number Seven (7) in John D. Cottingham's Addition to the City of Noblesville as recorded in Deed Record P, page 640, In the records of Hamilton County, Indiana, being more specifically described as follows: Beginning at a point on the West line of Out Lot Number Seven (7) in John D Cottingham's Addition to the City of Noblesville (Deed Record P, Page 640), said Point of Beginning being 20 feet East of the centerline of Catherine (now 9th) Street as located in March 1977 and 103.20 feet North of the Southwest corner of Out Lot Number Seven (7); thence East 12.90 feet parallel with the South line of the North Half of said Out Lot Number Seven (7) to an iron pin, said iron pin being 142.00 feet North of an iron rod found on the North line of land described in the second description of Deed Record 2301 page 173; thence East 53.10 feet parallel with the South line of the North Half of said Out Lot Number Seven (7) to an Iron pin, thence South 2.65 feet parallel With the West line of said Out Lot Number Seven (7) to an iron pin; thence East 80.75 feet parallel with the South line of the North Half of said Out Lot Number Seven (7) to an Iron pin and the West edge of an alley, said Iron pin being 36.00 feet North of an iron pipe found on the North line extended Easterly of land described in Deed Record 2831 page 178; thence North 56.65 feet on and along the West edge of said alley and the West edge of said alley extended Northerly to the North line of said Out Lot Number Seven (7); thence West 146.75 feet to the Northwest corner of said Out Lot Number Seven (7); thence South 54 feet to the point of beginning.

The above-described tract being that tract described in Instrument Number 2016020189, recorded May 5, 2016, in the Office of the Recorder, Hamilton County, Indiana.