

ORDINANCE NO. _2 of 2023

AN ORDINANCE OF THE BOROUGH COUNCIL OF THE BOROUGH OF BIGLERVILLE, ADAMS COUNTY, PENNSYLVANIA, VACATING AND CANCELING THE LAYING OUT OF TWO UNOPENED ALLEY'S LOCATED AT 106 FOURTH STREET AND ONE LOCATED AT 112 FOURTH STREET CONSISTENT WITH THE GRANT OF A PETITION TO VACATE AN ALLEY FILED BY OWNERS OF ABUTTING REAL ESTATE.

WHEREAS, two unnamed and unopened alley's and strip of land (hereinafter referred to as the "Alleys") located at 106 Fourth Street and one located at 112 Fourth Street in the Borough of Biglerville, and appears on the Adams County tax assessment map, a portion of which is attached hereto as Exhibit "A" and made a part hereof for the purpose of identifying the Alley's which is the subject matter of this Ordinance; and

WHEREAS, while the Alley's have been previously plotted as "alleys" and is sometimes referred to in documents of record as "private alleys," the Borough of Biglerville has never taken any action, to the best of its information and belief, in order to lay out, ordain, open improve or maintain the Alleys for use by the traveling public; and

WHEREAS, pursuant to section 1732 of the Borough Code (8 Pa. C.S.A. § 1732), any person or persons constituting a majority in number and interest of the owner or owners of the real estate abutting upon an area not opened as a street or abutting upon an existing street or portion of a street may petition the council to vacate a street or a portion of a street (for purposes of the interpretation of the Borough Code, the use of the term "street" is defined as including any "alley"); and

WHEREAS, by Petition to Vacate an Alley dated November 28, 2022 (hereinafter referred to as the "Petition"), a majority in number and in interest of the property owners abutting the Alleys have requested that the Borough Council vacate the Alleys and

WHEREAS, after public notice and personal notice to the remaining abutting property owner not joining in the Petition consistent with section 1732 of the Borough Code, on February 7, 2023, the Borough Council conducted a public hearing on the Petition, which public hearing included a presentation on behalf of the Petitioners and a presentation by the remaining abutting property owner; and

WHEREAS, based on the Petition and the presentations at the public hearing, and consistent with section 1732 of the Borough Code, the Borough Council confirmed its intention to grant the Petition and directed that a motion be placed on the agenda for the February 7, 2023 monthly general business meeting for consideration and formal action by the Council; and

WHEREAS, at its February 7, 2023 monthly general business meeting, the Borough Council authorized the preparation and publication of an ordinance for enactment for the purpose

of vacating and canceling the laying out of the Alleys consistent with the granting of the Petition filed by a majority in number and interest of owners of real estate abutting the Alley; and

WHEREAS, it is the determination of the Borough Council that the opening for public use of the Alleys will not serve the best interests of the traveling public for its use as public passageways. The vacation and canceling of the laying out of the Alleys does not affect any private rights of use or access previously acquired by abutting property owners.

NOW, THEREFORE, the Borough Council of the Borough of Biglerville, Adams County, Pennsylvania, hereby enacts, adopts, and ordains the following:

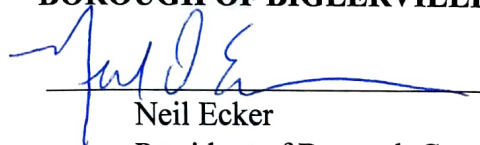
SECTION 1: Pursuant to Section 1732 of the Borough Code (8 Pa. C.S.A. § 1732), the Borough Council of the Borough of Biglerville, Adams County, Pennsylvania, does hereby vacate and cancel the laying out of the unnamed and unopened alleys (the Alleys) located at 106 Fourth Street and one located at 112 Fourth Street as shown and identified on Exhibit "A", consistent with the granting by the Borough Council of a Petition to Vacate an Alley filed by a majority in number and in interest of owners of real estate abutting the unopened alleys.

SECTION 2: The grant of the Petition to Vacate an Alley and the enactment of this Ordinance shall vacate the unopen alleys (the Alleys), located at 106 Fourth Street and one located at 112 Fourth Street as shown and identified on Exhibit "A", with the same force and effect as if said Alleys had never been laid out for use by the traveling public. However, the grant of the Petition and the enactment of this Ordinance shall not affect any private rights of use or access previously acquired by owners of abutting real properties.

SECTION 3: This Ordinance shall take effect upon enactment.

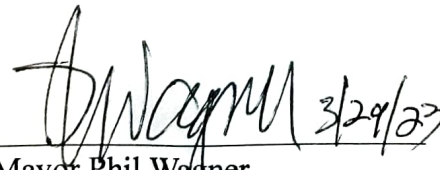
THIS ORDINANCE DULY ENACTED AND ORDAINED according to law on this 7th day of March 2023 at a duly advertised general monthly business meeting of the Borough Council of the Borough of Biglerville, Adams County, Pennsylvania.

BOROUGH OF BIGLERVILLE



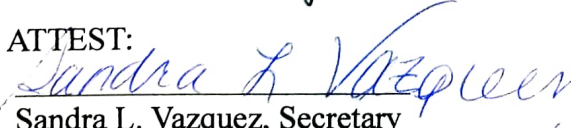
Neil Ecker
President of Borough Council

By:



Mayor Phil Wagner

ATTEST:



Sandra L. Vazquez, Secretary

APPROVED this 7th day of March 2023.