



Metropolitan Development Commission Plat Committee (February 8, 2023) Meeting Agenda

Meeting Details

Notice is hereby given that the Plat Committee of the Metropolitan Development Commission of Marion County, IN will hold public hearings on:

Date: Wednesday, February 08, 2023 **Time:** 1:00 PM

Location: Room 260, 2nd Floor, City-County Building, 200 E. Washington Street

At which time and place the following petitions requesting approval of subdivision plats and petitions and resolutions for the vacation of Streets, Alleys, Plats, or Public Grounds, will be heard, pursuant to Indiana Code 36-7-4-700, series and action thereon determined.

Business:

Adoption of Meeting Minutes:

Special Requests

PETITIONS REQUESTING TO BE CONTINUED:

Petitions for Public Hearing

PETITIONS TO BE EXPEDITED:

1. 2022-PLT-094 | 401 North Hamilton Avenue | Center Township, CD #17

Approval of Subdivision Plat to be known as Hogshire's Hamilton Townhomes, a Replat of Lot 94 in Johnson and Hogshire's East Washington Street Addition, dividing 0.12-acre into two single-family attached lots.

2. 2022-PLT-095 | 3850 DePauw Boulevard | Pike Township, CD #1

Approval of Subdivision Plat to be known as College Park Shops Subdivision, dividing 9.657 acres into three lots.

3. 2022-PLT-096 | 649 North Oxford Street | Center Township, CD #17

Approval of Subdivision Plat to be known as North Oxford Townhomes, a Replat of Lot 22 in J. W. Estep and Co's. Addition, dividing 0.13-acre into two single-family attached lots.

PETITIONS FOR PUBLIC HEARING (Continued Petitions):

4. 2022-VAC-005 | 1105 Prospect Street and 1121 Shelby Street | Center Township, CD #21

Vacation of the first east-west alley north of Morris Street, being 15 feet in width, beginning at the east right-of-way line of Shelby Street, east 159.53 feet to the southeast corner of Lot 4 of Block 2, Martindale's South Addition, with a waiver of the Assessment of Benefits.

Vacation of the first east-west alley north of Morris Street, being 12.88 feet in width, beginning at the southeast corner of Lot 4 of Block 2, Martindale's South Addition, east 39.13 feet to the southwest corner of Lot 6 of Block 2, Martindale's South Addition, with a waiver of the Assessment of Benefits.

PETITIONS FOR PUBLIC HEARING (New Petitions):

Additional Business:

**The addresses of the proposals listed above are approximate and should be confirmed with the Division of Planning. Copies of the proposals are available for examination prior to the hearing by emailing planneroncall@indy.gov. Written objections to a proposal are encouraged to be filed via email at dmdpubliccomments@indy.gov before the hearing and such objections will be considered. At the hearing, all interested persons will be given an opportunity to be heard in reference to the matters contained in said proposals. The hearing may be continued from time to time as may be found necessary. For accommodations needed by persons with disabilities planning to attend this public hearing, please call the Office of Disability Affairs at (317) 327-5654, at least 48 hours prior to the meeting. Department of Metropolitan Development - Current Planning Division.



Department of Metropolitan Development
Division of Planning
Current Planning

PLAT COMMITTEE

February 8, 2023

Case Number: 2022-PLT-094
Property Address: 401 North Hamilton Avenue (*Approximate Address*)
Location: Center Township, Council District #17
Petitioner: Michael and Rachel Heldt, by Matt Walker
Zoning: D-5
Request: Approval of a Subdivision Plat, to be known as Hogshire's Hamilton Townhomes, a Replat of Lot 94 in Johnson and Hogshire's East Washington Street Addition, dividing 0.12-acre into two single-family attached lots.
Waiver Requested: None
Current Land Use: Two-Family Dwelling
Staff Reviewer: Allison Richardson, Senior Planner

PETITION HISTORY

This is the first hearing for this plat petition.

STAFF RECOMMENDATION

Staff recommends that the Plat Committee **approve** and find that the plat, file-dated December 22, 2022, complies with the standards of the Subdivision regulations, subject to the following conditions:

1. Subject to the Standards and Specifications of Citizens Energy Group, Sanitation Section.
2. Subject to the Standards and Specifications of the Department of Public Works, Drainage Section.
3. Subject to the Standards and Specifications of the Department of Public Works, Transportation Section.
4. That addresses and street names, as approved by the Department of Metropolitan Development, be affixed to the final plat prior to recording.
5. That the Enforcement Covenant (Section 741-701, of the Consolidated Zoning and Subdivision Ordinance) be affixed to the final plat prior to recording
6. That the Site Distance Covenant (Section 741-702, of the Consolidated Zoning and Subdivision Ordinance) be affixed to the final plat prior to recording.
7. That the Sanitary Sewer Covenant (Section 741-704, of the Consolidated Zoning and Subdivision Ordinance) be affixed to the final plat prior to recording.
8. That the Storm Drainage Covenant (Section 741-703, of the Consolidated Zoning and Subdivision Ordinance) be affixed to the final plat prior to recording.



**Department of Metropolitan Development
Division of Planning
Current Planning**

9. That the plat restrictions and covenants, done in accordance with the rezoning commitments, be submitted prior to recording the final plat.
10. That all the standards related to secondary plat approval listed in Sections 741-207 and 741-208 of the Consolidated Zoning and Subdivision Ordinance be met prior to recording the final plat.
11. No detached single-family dwellings shall be built on the individual lots.

PETITION OVERVIEW

SITE PLAN AND DESIGN

The subject site is zoned D-5 and developed with a two-family dwelling. This proposed plat would divide the existing parcel into two lots. Lots One and Two would each contain half of the two-family dwelling with the lot line following the common wall and continuing through the rear of the lot. The subject site has been developed with a two-family dwelling since at least 1915 as shown on historic Sanborn maps. This replat would allow the property owner to sell each of the parcels individually, rather than as one parcel, with minimal impact on the surrounding property owners.

STREETS

Lots One and Two would front on Hamilton Avenue, with alley access on the rear. Lot Two will also have alley access to the south. No new streets are proposed.

PROCEDURE

This plat petition, if approved, only legally establishes the division of land. In the event that the existing duplex were to be removed, any new construction that does not conform to the site plan approved by variance would be required to meet all development standards of the D-5 Dwelling District, including, but not limited to, setbacks, minimum lot width and frontage, and minimum open space.

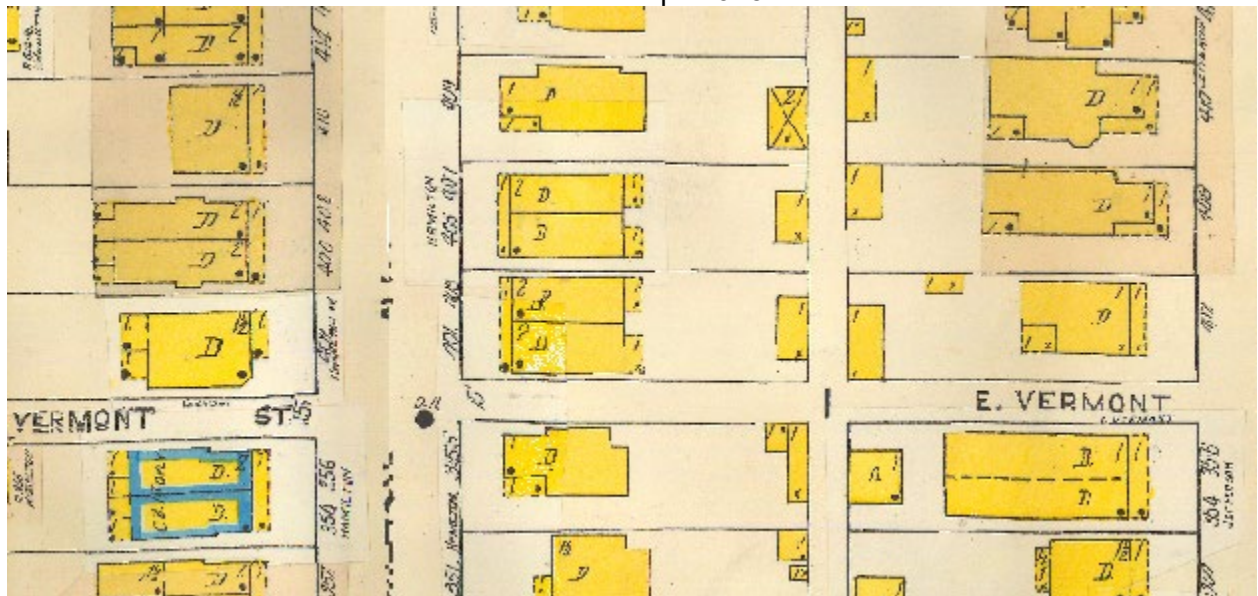
GENERAL INFORMATION

Existing Zoning	D-5	
Existing Land Use	Two-family dwelling	
Comprehensive Plan	Traditional Neighborhood	
Surrounding Context	<u>Zoning</u>	<u>Land Use</u>
North:	D-5	Two-Family residential
South:	D-5	Single-Family residential
East:	D-5	Single-Family residential
West:	D-5	Single-Family residential
Thoroughfare Plan		
Hamilton Avenue	Local Street	60-feet existing and proposed
Petition Submittal Date	December 22, 2022	

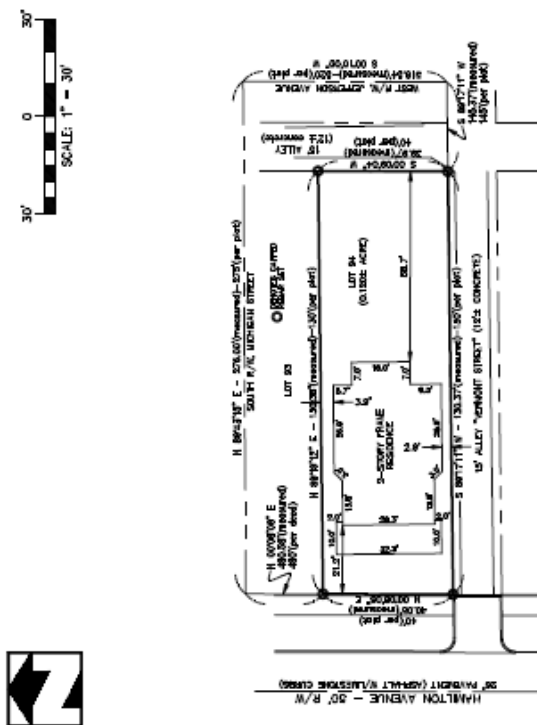
EXHIBITS



Sanborn Maps 1915



BOUNDARY RETRACEMENT SURVEY OF:
LOT 94, JOHNSON & HOGSHIRE'S EAST WASHINGTON STREET ADDITION
INDIANAPOLIS, CENTER TOWNSHIP, MARION COUNTY, INDIANA
PROPERTY ADDRESS: 401 NORTH HAMILTON AVENUE
FOR: AEION GROUP



QUAL DESCRIPTION

at 64 in Johnson & Hegelbre's East Washington Street Addition, as per plat thereof recorded in Plat Book 8, page 175 in the Office of the Recorder of Marion County, Indiana.

SURVIVOR'S REPORT

in accordance with Title 285, Article 1.1, Chapter 12, Sections 1 through 19 of the Indiana Administrative Code ("Minimum standards for competent practice for land surveyors"), the following observations and opinions are submitted regarding the various uncertainties in the locations of the lines and corners established on this survey as a result of

- Variances in the Reference Measurements;
- Discrepancies in Record Descriptions and Plots;
- Inconsistencies in Uses of Occupation and
- Relative Positional Accuracy.

The Relative Positional Accuracy (due to random errors in measurement) of the corners of the subject tract established during this survey is within the specifications for a "Suburban" Survey (0.13 feet/100pm) as defined in IAC 886.

GENERAL INFORMATION

- [illegible]

THEORY OF LOCATION

The physical addresses of Hamilton Avenue, New York Street, Jefferson Avenue, and Vermont Street were derived from the measurements of the building corners on these streets. The distances were then checked to see if they corresponded to the block measurements of the building corners. The distances were then checked to see if they corresponded to the block measurements of the building corners. The distances were then checked to see if they corresponded to the block measurements of the building corners.

UNIVERSITY OF MARYLAND

As a result of the above observations, and the application of the above theory of location, it is to the best of my knowledge and belief that the uncertainties in the locations of the fires and corners established on this survey area are as follows:

- DUE TO VARIANCES IN REFERENCE MEASUREMENTS: WITHIN TOLERANCE OF A "SUBURBAN" SURVEY
 DUE TO DISCREPANCIES IN THE RECORD DESCRIPTION: NONE APPARENT
 DUE TO INCONSISTENCIES IN LINES OF OCCUPATION: NONE APPARENT

and fences are to be installed. It should be kept in mind the uncertainties of carriers found or not.

NOTE: This survey was prepared without the benefit of a current title policy or title binder which may reveal additional information, encumbrances, etc. not shown on this drawing.

MOLECULAR SUBSTITUTION

I certify to the best of my knowledge and belief that the above Plat and Surveyor's Report represents a survey completed under my direction.


further certify to the best of my knowledge and belief this report conforms with the requirements contained in Sections 1 through 19 of REG 14C 1.1-12 for a rebranding survey.

ERIC
Full Text Provided by ERIC

Eric Browning, Indiana Rep., Listed Survivor No. 18200000001

Date of Survey August 26, 2021



	ARE SURVEYING CONSULTANTS, INC. 129 South 9th Avenue Beach Grove, Indiana 46107 (317) 407-5000 Fax: (317) 568-4247		PROJECT: 1 OF 1 DRAWN BY: BSB CHECKED BY: BSB DATE: 10/06/01 PROJECT NO.: 00-063-1779 SHEET NO.: 00-063-1779-01 COUNTY: MADISON - MISSOURI	
			REVISIONS	

LOT ADDRESSES:
Lot 1: 403 North Hamilton Avenue, Indianapolis, IN
Lot 2: 401 North Hamilton Avenue, Indianapolis, IN

LEGEND
3/4"X4" STUDY BEARS WITH
YELLOW PLASTIC COATINGS
SURVIVABLE FOR 30 YEARS

SUBMITTAL NOTE:
This plat is for the subdivision and is subject to a final subdivision map. The plat is subject to the final subdivision map. The plat is subject to the final subdivision map.

SECONDARY PLAT OF:
HOGSHIRES HAMILTON TOWNHOMES
A RE-SUBDIVISION OF LOT 94 IN JOHNSON & HOGSHIRE'S EAST
WASHINGTON STREET ADDITION (PLAT BOOK 8, PAGE 173)
INDIANAPOLIS, CENTER TOWNSHIP, MARION COUNTY, INDIANA

UNITARY MAP
(NOT TO SCALE)

DECLARATION
The undersigned, Michael P. Hall, of Marion County, Indiana, the owner of record of the real estate described herein, do hereby certify that he has sold, parted and subdivided and does hereby sell, part and subdivide and will make on when shown in accordance with the plat.

This subdivision shall be known and designated as HOGSHIRE'S HAMILTON TOWNHOMES, a subdivision for single family residences in Marion County, Indiana, to be known and designated as HOGSHIRE'S HAMILTON TOWNHOMES.

SITE DESIGN COMMENT
The subdivision is shown and designated as HOGSHIRE'S HAMILTON TOWNHOMES, a subdivision for single family residences in Marion County, Indiana, to be known and designated as HOGSHIRE'S HAMILTON TOWNHOMES.

STORM SEWER COMMENT
It shall be the responsibility of the owner of any lot or parcel of land within the area of this plat to comply with the provisions of the storm sewer ordinance approved by the City of Indianapolis and the requirements of all drainage permits issued by the City of Indianapolis.

SUBDIVISION COMMENT
It shall be the responsibility of the owner of any lot or parcel of land within the area of this plat to comply with the provisions of the subdivision ordinance approved by the City of Indianapolis and the requirements of all drainage permits issued by the City of Indianapolis.

ENFORCEMENT COMMENT
The subdivision is shown and designated as HOGSHIRE'S HAMILTON TOWNHOMES, a subdivision for single family residences in Marion County, Indiana, to be known and designated as HOGSHIRE'S HAMILTON TOWNHOMES.

OWNER INFORMATION
Name of the owner of the subdivision and lot to be sold, subject to the elements, comments, and restrictions on when on the within plat.
Date this day of _____, 2023.

Michael P. Hall, Owner
STATE OF INDIANA
IN MARION COUNTY

Before me, the undersigned Notary Public, in and for said County and State, personally appeared Michael P. Hall, who acknowledged for the purpose of the foregoing in a voluntary and lawful manner the purpose herein expressed and that he is the owner of the same.

Witness my hand and Notary Seal this _____ day of _____, 2023.

My Name: _____
My Commission Expires: _____
My County of Notarization: _____
My Commission Number: _____

OWNER INFORMATION
Name of the owner of the subdivision and lot to be sold, subject to the elements, comments, and restrictions on when on the within plat.
Date this day of _____, 2023.

Michael P. Hall, Owner
STATE OF INDIANA
IN MARION COUNTY

Before me, the undersigned Notary Public, in and for said County and State, personally appeared Michael P. Hall, who acknowledged for the purpose of the foregoing in a voluntary and lawful manner the purpose herein expressed and that he is the owner of the same.

Witness my hand and Notary Seal this _____ day of _____, 2023.

My Name: _____
My Commission Expires: _____
My County of Notarization: _____
My Commission Number: _____

LEGAL DESCRIPTION
Lot 94 in Johnson & Hogshire's East Washington Street Addition, as per plat thereof recorded in Plat Book 8, page 173 in the Office of the Recorder of Marion County, Indiana.

SUBDIVISION DESCRIPTION
The subdivision consists of 2 lots, bounded by the following: The plat is shown on the within plat. The plat is shown on the within plat. The plat is shown on the within plat.

This plat is based on a measurement of the above described property (shown on the plat) and the plat is shown on the within plat. The plat is shown on the within plat.

Witness my signature this 15th day of September, 2023.

Notary Seal: _____
Notary Seal: _____
Notary Seal: _____

This instrument was prepared by:
K. P. Hall, Notary
100 North 10th Street, Suite 100
Indianapolis, Indiana 46202
Phone: (317) 634-1000
Fax: (317) 634-1001
www.kphall.com

LOT 93, JOHNSON & HOGSHIRE'S EAST WASHINGTON STREET ADDITION (PLAT BOOK 8, PAGE 173)

LOT 1
(2,672± SQUARE FEET)

LOT 2
(2,543± SQUARE FEET)

LOT 1
(2,672± SQUARE FEET)

LOT 2
(2,543± SQUARE FEET)

LOT 3
(2,543± SQUARE FEET)

PHOTOS



Subject site viewed from Hamilton Avenue, shown right



Subject site, alley shown right



Subject site viewed from rear alley



Department of Metropolitan Development
Division of Planning
Current Planning

PLAT COMMITTEE

February 8, 2023

Case Number: 2022-PLT-095
 Property Address: 3850 DePauw Boulevard (Approximate Address)
 Location: Pike Township, Council District #1
 Petitioner: College Park Shops, LLC, by Dillon Reynolds
 Zoning: C-4
 Request: Approval of a Subdivision Plat to be known as College Park Shops Subdivision, dividing 9.657 acres into three lots.
 Waiver Requested: None
 Current Land Use: Commercial
 Staff Reviewer: Allison Richardson, Senior Planner

PETITION HISTORY

This is the first hearing for this petition.

STAFF RECOMMENDATION

Staff recommends that the Plat Committee **approve** and find that the plat, file-dated December 23, 2022, complies with the standards of the Subdivision regulations, subject to the following conditions:

1. That the applicant provides a bond, as required by Section 741-210, of the Consolidated Zoning and Subdivision Ordinance.
2. Subject to the Standards and Specifications of Citizens Energy Group, Sanitation Section.
3. Subject to the Standards and Specifications of the Department of Public Works, Drainage Section.
4. Subject to the Standards and Specifications of the Department of Public Works, Transportation Section.
5. That addresses and street names, as approved by the Department of Metropolitan Development, be affixed to the final plat prior to recording.
6. That the Enforcement Covenant (Section 741-701, of the Consolidated Zoning and Subdivision Ordinance) be affixed to the final plat prior to recording
7. That the Site Distance Covenant (Section 741-702, of the Consolidated Zoning and Subdivision Ordinance) be affixed to the final plat prior to recording.
8. That the Sanitary Sewer Covenant (Section 741-704, of the Consolidated Zoning and Subdivision Ordinance) be affixed to the final plat prior to recording.
9. That the Storm Drainage Covenant (Section 741-703, of the Consolidated Zoning and Subdivision Ordinance) be affixed to the final plat prior to recording.



**Department of Metropolitan Development
Division of Planning
Current Planning**

10. That the plat restrictions and covenants, done in accordance with the rezoning commitments, be submitted prior to recording the final plat.
11. That all the standards related to secondary plat approval listed in Sections 741-207 and 741-208 of the Consolidated Zoning and Subdivision Ordinance be met prior to recording the final plat.

PETITION OVERVIEW

SITE PLAN AND DESIGN

This site is zoned C-4 and developed with a commercial integrated center. The proposed plat would subdivide the property into three lots—Lot Three, Lot Four and Block A. The proposed plat meets the standards of the C-4 zoning classification.

STREETS

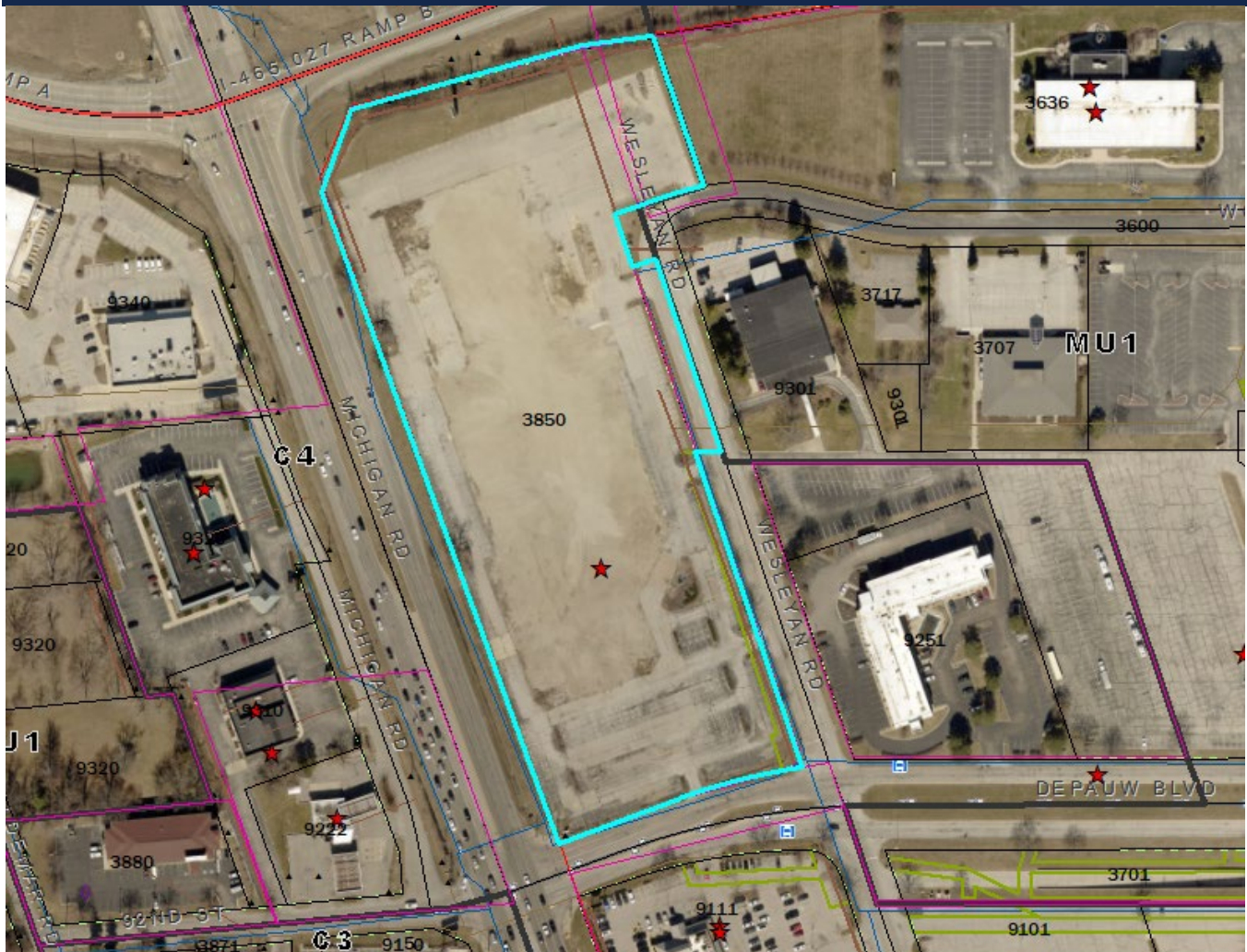
All lots front on Michigan Road to the west and Wesleyan Road to the east. Lot Three has frontage on DePauw Boulevard to the south. Internal access drives also provide access between properties. No new streets are proposed as part of this petition.

SIDEWALKS

Sidewalks are required on DePauw Boulevard, Michigan Road, and Wesleyan Road (except where existing).

GENERAL INFORMATION

Existing Zoning	C-4	
Existing Land Use	Commercial	
Comprehensive Plan	Community Commercial	
Surrounding Context	Zoning	Land Use
North:	C-4	Commercial
South:	C-4	Commercial
East:	C-4 / MU-1	Commercial
West:	C-4 / C-3	Commercial
Thoroughfare Plan		
Michigan Road	Primary Arterial	220-foot existing and proposed
DePauw Boulevard	Local Street	100-feet existing and proposed
Wesleyan Road	Local Street	75-feet existing and proposed
Petition Submittal Date	December 23, 2022	





PHOTOS



Proposed Block A viewed from Wesleyan Road



Proposed Lot Four



Proposed Lot Three viewed from Wesleyan Boulevard



Proposed Lot Four



South of site, DePauw Boulevard



Lot Four, Michigan Road Frontage



Department of Metropolitan Development
Division of Planning
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PLAT COMMITTEE

February 8, 2023

Case Number:	2022-PLT-096
Property Address:	649 North Oxford Street (<i>Approximate Address</i>)
Location:	Center Township, Council District #17
Petitioner:	Azteca Ventures, LLC, by Matt Walker
Zoning:	D-5
Request:	Approval of a Subdivision Plat, to be known as North Oxford Townhomes, a Replat of Lot 22 in J. W. Estep and Co's. Addition, dividing 0.13-acre into two single-family attached lots.
Waiver Requested:	None
Current Land Use:	Two-Family Dwelling
Staff Reviewer:	Allison Richardson, Senior Planner

PETITION HISTORY

This is the first hearing for this plat petition.

STAFF RECOMMENDATION

Staff recommends that the Plat Committee **approve** and find that the plat, file-dated December 28, 2022, complies with the standards of the Subdivision regulations, subject to the following conditions:

1. Subject to the Standards and Specifications of Citizens Energy Group, Sanitation Section.
2. Subject to the Standards and Specifications of the Department of Public Works, Drainage Section.
3. Subject to the Standards and Specifications of the Department of Public Works, Transportation Section.
4. That addresses and street names, as approved by the Department of Metropolitan Development, be affixed to the final plat prior to recording.
5. That the Enforcement Covenant (Section 741-701, of the Consolidated Zoning and Subdivision Ordinance) be affixed to the final plat prior to recording
6. That the Site Distance Covenant (Section 741-702, of the Consolidated Zoning and Subdivision Ordinance) be affixed to the final plat prior to recording.
7. That the Sanitary Sewer Covenant (Section 741-704, of the Consolidated Zoning and Subdivision Ordinance) be affixed to the final plat prior to recording.
8. That the Storm Drainage Covenant (Section 741-703, of the Consolidated Zoning and Subdivision Ordinance) be affixed to the final plat prior to recording.



**Department of Metropolitan Development
Division of Planning
Current Planning**

9. That the plat restrictions and covenants, done in accordance with the rezoning commitments, be submitted prior to recording the final plat.
10. That all the standards related to secondary plat approval listed in Sections 741-207 and 741-208 of the Consolidated Zoning and Subdivision Ordinance be met prior to recording the final plat.
11. No detached single-family dwellings shall be built on the individual lots.

PETITION OVERVIEW

SITE PLAN AND DESIGN

The subject site is zoned D-5 and developed with a two-family dwelling. This proposed plat would divide the existing parcel into two lots. Lots One and Two would each contain half of the two-family dwelling with the lot line following the common wall and continuing through the rear of the lot. The subject site has been developed with a two-family dwelling since at least 1915 as shown on historic Sanborn maps. This replat would allow the property owner to sell each of the parcels individually, rather than as one parcel, with minimal impact on the surrounding property owners.

STREETS

Lots One and Two would front on Oxford Street, with alley access on the rear. No new streets are proposed.

PROCEDURE

This plat petition, if approved, only legally establishes the division of land. In the event that the existing duplex were to be removed, any new construction that does not conform to the site plan approved by variance would be required to meet all development standards of the D-5 Dwelling District, including, but not limited to, setbacks, minimum lot width and frontage, and minimum open space.

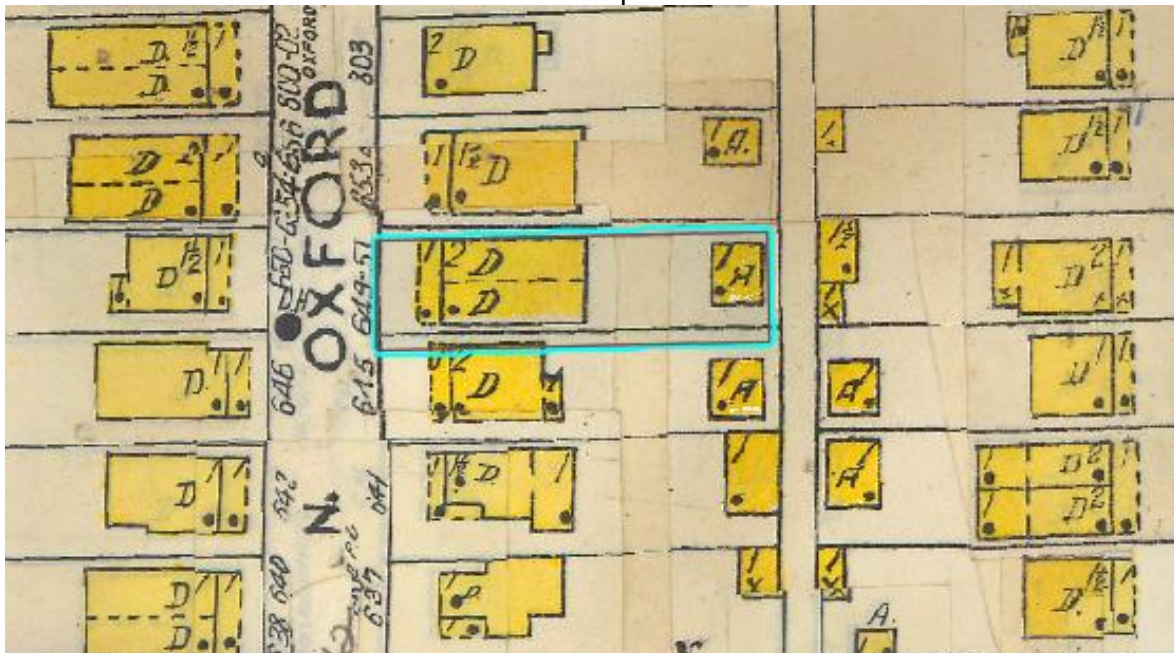
GENERAL INFORMATION

Existing Zoning	D-5	
Existing Land Use	Two-family dwelling	
Comprehensive Plan	Traditional Neighborhood	
Surrounding Context	<u>Zoning</u>	<u>Land Use</u>
North:	D-5	Single-Family residential
South:	D-5	Single-Family residential
East:	D-5	Single-Family residential
West:	D-5	Single-Family residential
Thoroughfare Plan		
Hamilton Avenue	Local Street	60-feet existing and proposed
Petition Submittal Date	December 22, 2022	

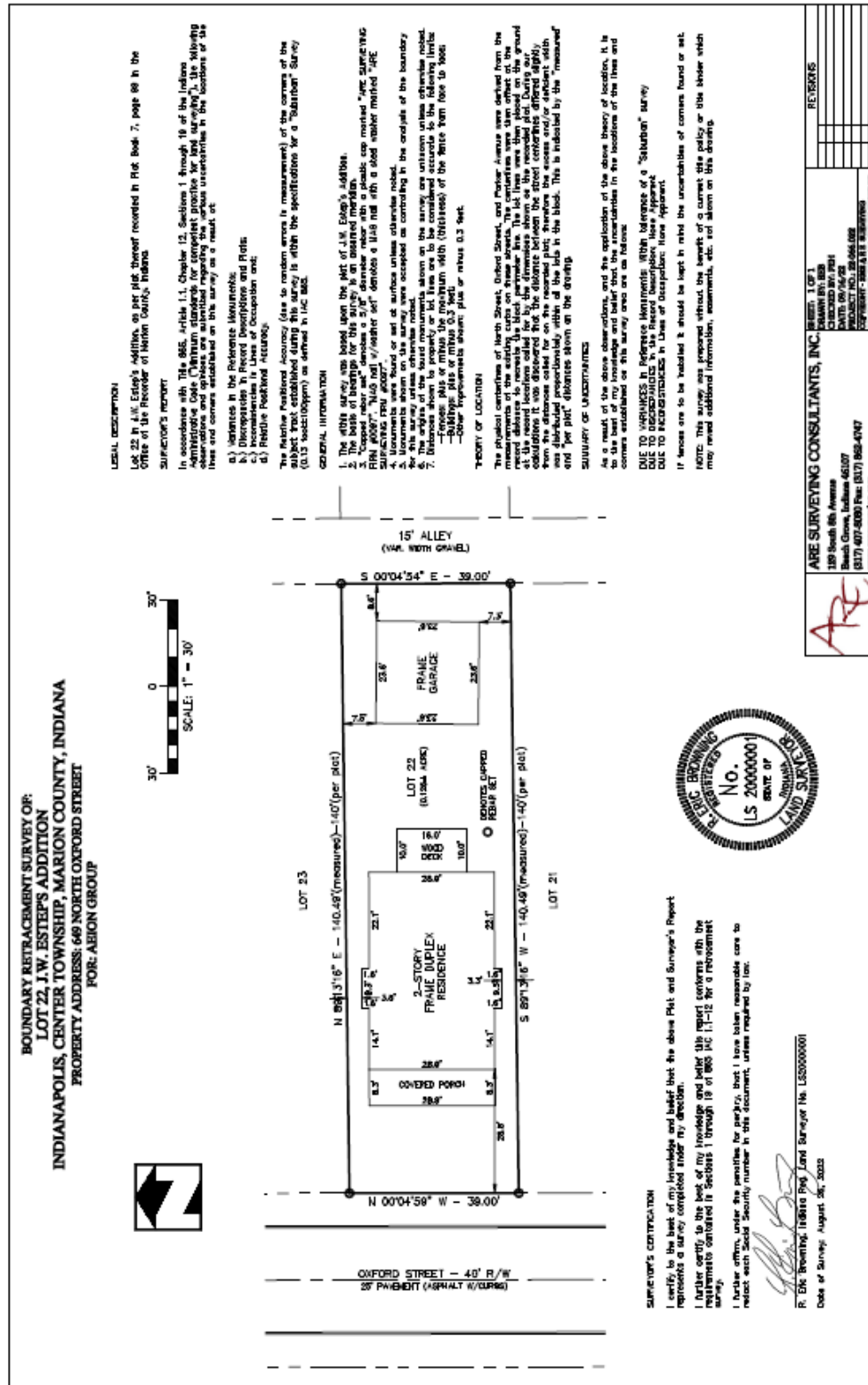
EXHIBITS



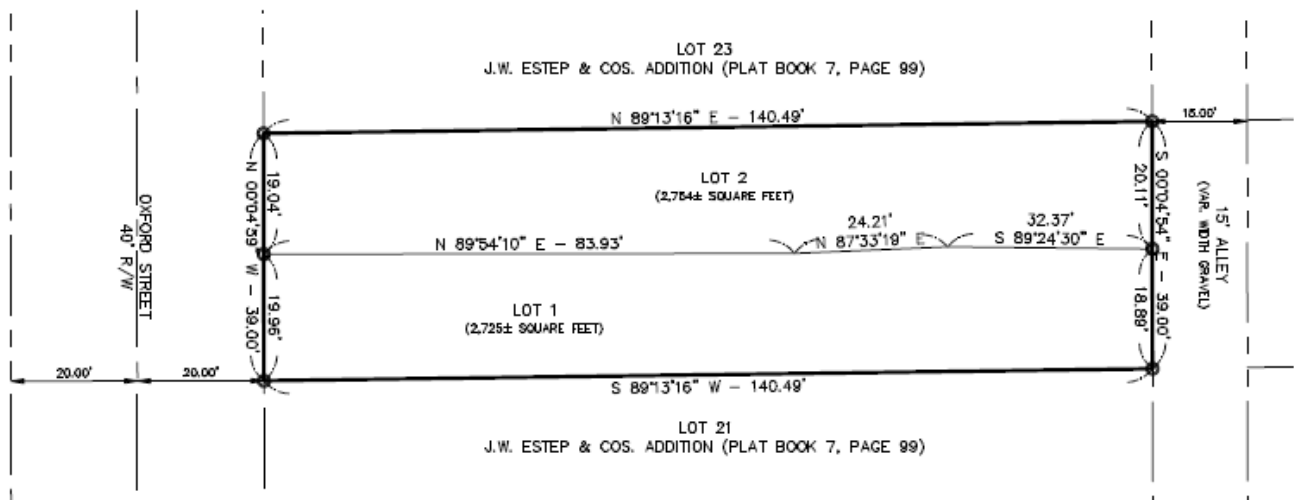
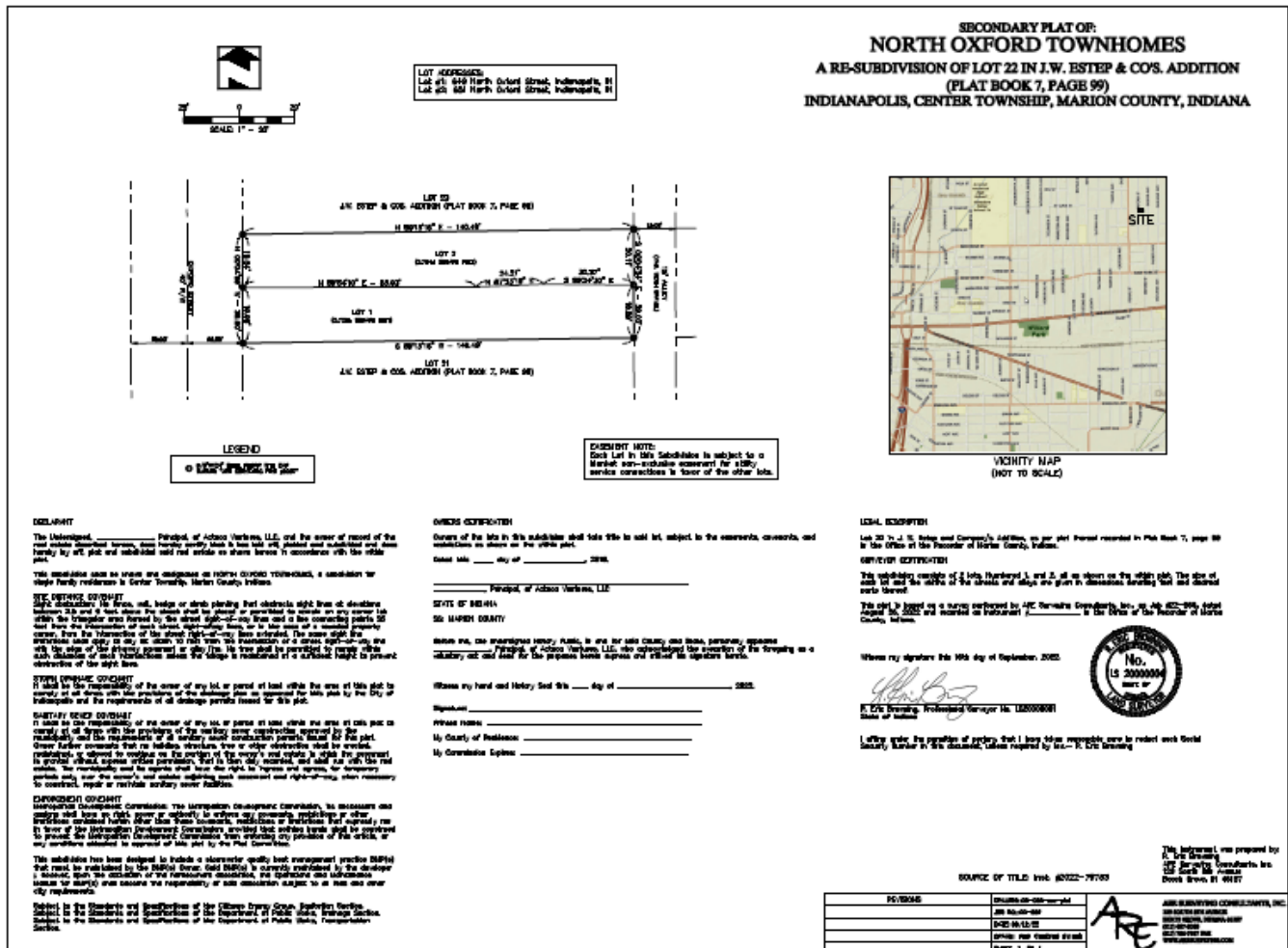
Sanborn Maps 1915



Site Plan



**Department of Metropolitan Development
Division of Planning
Current Planning**



PHOTOS



Subject site viewed from Oxford Street



Subject site viewed from alley, looking northeast



Subject site viewed from alley, looking southeast



Department of Metropolitan Development
Division of Planning
Current Planning

PLAT COMMITTEE

February 8, 2023

Case Number: 2022-VAC-005

Property Address: 1105 Prospect Street and 1121 Shelby Street (*Approximate Address*)

Location: Center Township, Council District #21

Petitioner: FS Theatre, LLC., by David Kingen and Emily Duncan

Zoning: C-S

Request: Vacation of the first east-west alley north of Morris Street, being 15 feet in width, beginning at the east right-of-way line of Shelby Street, east 159.53 feet to the southeast corner of Lot 4 of Block 2, Martindale's South Addition, with a waiver of the Assessment of Benefits.

Vacation of the first east-west alley north of Morris Street, being 12.88 feet in width, beginning at the southeast corner of Lot 4 of Block 2, Martindale's South Addition, east 39.13 feet to the southwest corner of Lot 6 of Block 2, Martindale's South Addition, with a waiver of the Assessment of Benefits.

Waiver Requested: Waiver of assessment of benefits

Current Land Use: Commercial

Staff Reviewer: Allison Richardson, Senior Planner

PETITION HISTORY

This is the sixth hearing for this petition.

This petition was granted a continuance for cause from the August 10, 2022 hearing to the September 14, 2022 hearing, from the September 14, 2022 hearing to the October 12, 2022 hearing, from the October 12, 2022 hearing to the November 9, 2022 hearing, and from the November 9, 2022 hearing to the December 14, 2022 hearing, and from the December 14, 2022 hearing to the February 8, 2023 hearing..

At the November 9, 2022 hearing, the plat committee asked Staff if any commitments should be adopted if they were to approve the vacation against Staff's recommendation. Staff suggested that if the alley is to be vacated, that vehicle access should be removed on Shelby Street by removing the curb cut and installing a sidewalk. The petition was continued to December 14, 2022 to provide time for the Petitioner to submit commitments. The Petitioner has submitted a commitment to install a chain or gate to limit vehicle access, but not remove it. This commitment does not meet the intent of Staff's suggestion as discussed during the hearing. If vehicle access is to remain, it is further evidence that the vacation is not in the public interest and that the alley should remain.

The Petitioner provided an updated site plan on January 30, 2023 showing proposed improvements for the outdoor seating and service areas. See exhibit in staff report. Staff continues to **recommend denial** of the vacation. If approved against Staff's recommendation the plan shall be amended so that the proposed gate must be setback from the sidewalk and include planter boxes or similar landscaping to



Department of Metropolitan Development Division of Planning Current Planning

separate the private and public space, and the wall between the outdoor dining and loading areas shall be no more than six feet tall.

STAFF RECOMMENDATION

RECOMMENDED MOTION (denial): That the Plat Committee find that the proposed vacation is not in the public interest, and that the Plat Committee deny the adoption of Declaratory Resolution 2022-VAC-005.

If approved against Staff's recommendation, the Petitioner must submit a commitment to remove the curb cut and install a sidewalk on Shelby Street.

PETITION OVERVIEW

SUMMARY

The subject site includes the right-of-way for a platted alley that separates 1105 Prospect Street and 1121 Shelby Street. This alley was platted prior to the construction of Morris Street to the south. This request would remove the alley from public use and is intended to be used for outdoor dining. Staff does not believe that the vacation is in the public interest. There are several loading and service areas within this alley that would be affected by a vacation; if approved, any expansion of the existing loading bays or mechanical systems would require variances for being located within a front yard.

Staff would suggest that the alley could be utilized temporarily using Special Event Permits. This could permit right-of-way closures for outdoor dining or other events without requiring a vacation petition.

It is unclear if the addition of outdoor dining would cause the existing loading and service bays to be removed at this site. The ordinance requires that loading areas and other equipment are within a rear yard or alleys rather than front yards or other public right-of-way. Staff would not support a vacation that would create a non-compliance. The vacation of this alley would also create buildable area, which is not supported by Staff. Expansion of the building would possibly require relocating of loading areas and equipment that would place them on busy streets with direct frontage. Staff would not support this type of development.

PROCEDURE

Neither the Division of Planning nor the Plat Committee, Hearing Examiner or Metropolitan Development Commission determines how vacated right-of-way is divided. The approval of a vacation petition only eliminates the public right-of-way. The vacation approval does nothing more. A Petitioner will not receive a deed or other document of conveyance after the approval of a vacation.

The general rule under Indiana case law is that when a street or highway is vacated or abandoned the title to the land reverts to the abutting property owners. This rule exists by virtue of the fact that the abutting landowner owns to the center of the street or highway subject only to an easement for the public to the use of the street or highway. *Gorby v. McEndarfer* 135 Ind.App. 74, *82, 191 N.E.2d 786, **791 (Ind.App.1963). However, there are possible exceptions to this general rule.



Department of Metropolitan Development
Division of Planning
Current Planning

After a vacation of public right-of-way, the county assessor determines how the vacated right-of-way will be assessed for tax purposes.

Petitioners and abutters of the vacated right-of-way should consult their own attorneys for advice regarding the ownership of the vacated right-of way.

ASSESSMENT OF BENEFITS

The Petitioner has requested a waiver of the Assessment of Benefits for the subject right-of-way. Since this is an improved alley, Staff would not recommend approval of the waiver.

GENERAL INFORMATION

Existing Zoning	C-S	
Existing Land Use	Commercial	
Comprehensive Plan	Suburban Neighborhood	
Surrounding Context	<u>Zoning</u>	<u>Land Use</u>
North:	C-3 / MU-2	Commercial
South:	C-4	Commercial
East:	D-5 / C-4	Single-Family Residential / Commercial
West:	C-4	Commercial
Thoroughfare Plan		
Kindig Road	Local Street	50-feet existing and proposed
Katherine Drive	Local Street	70-foot existing and 50-feet proposed
Petition Submittal Date	June 15, 2022	

EXHIBITS



Aerial Photo 1972

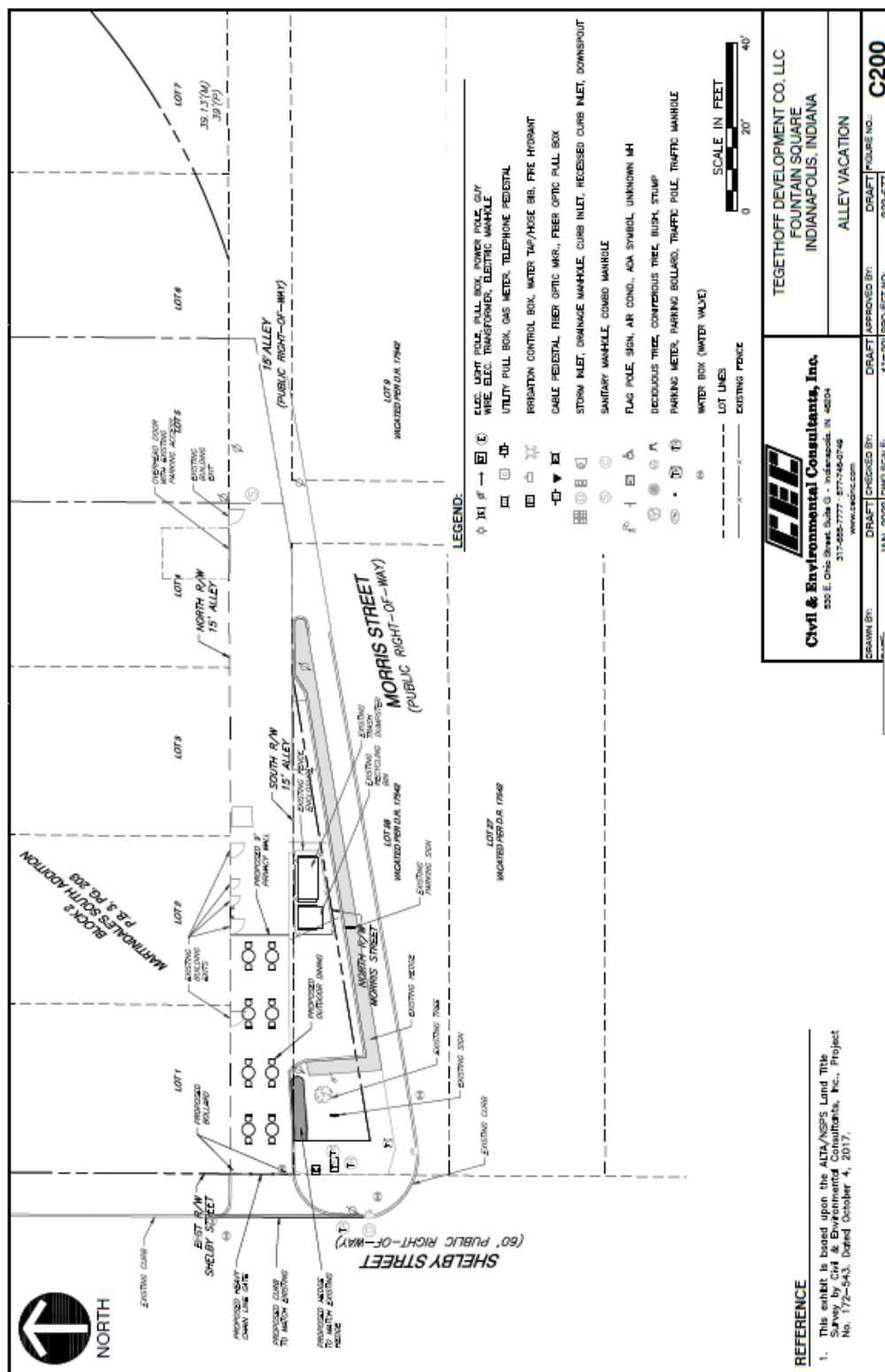
**Department of Metropolitan Development
Division of Planning
Current Planning**



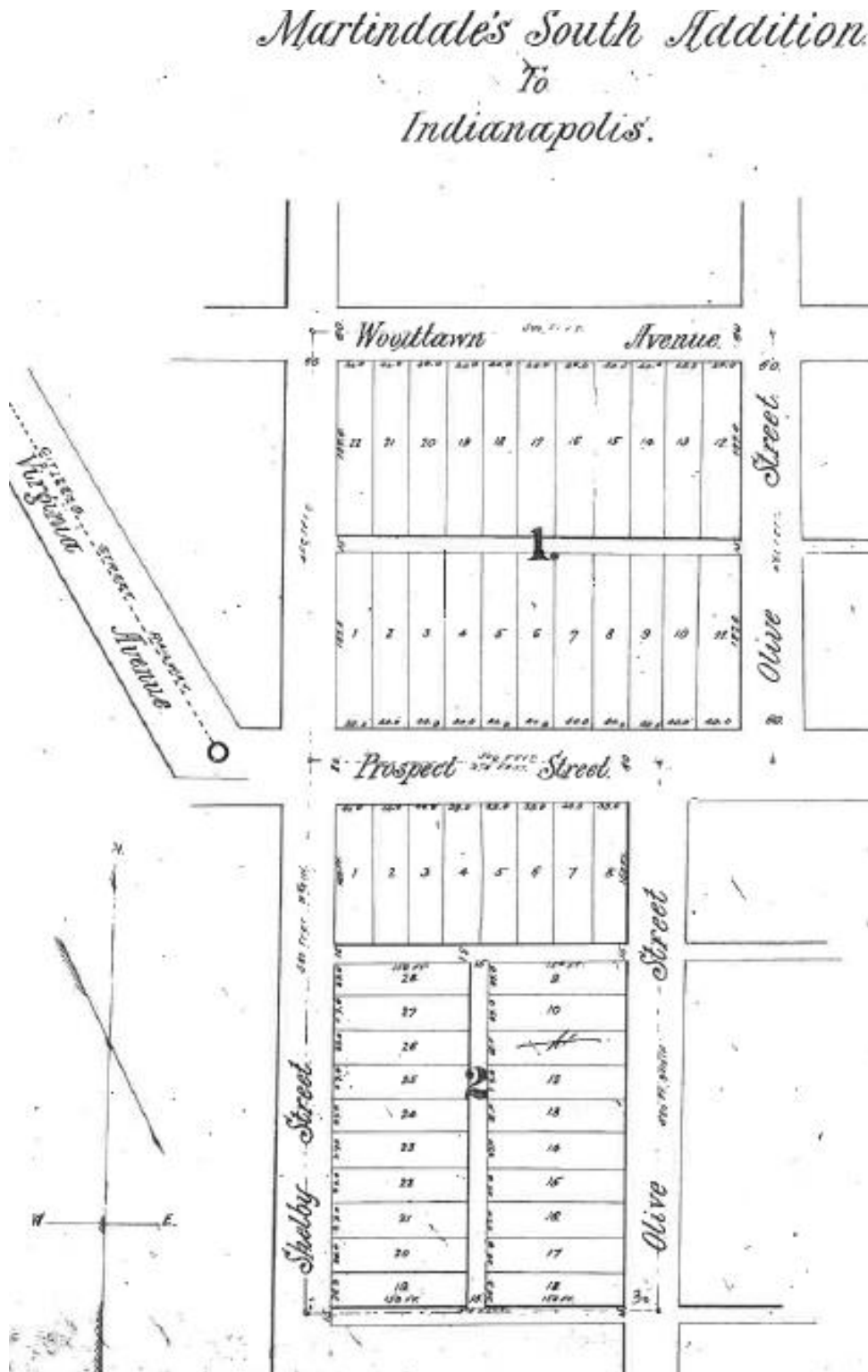
**Department of Metropolitan Development
Division of Planning
Current Planning**



Site Plan



Plat Map



PHOTOS



View of the intersection of the alley and Morris Street, facing west



East facing view of the alley. 1105 Prospect Street shown left, 1121 Shelby Street shown right.



View from intersection of the alley with Shelby Street; facing southeast



View from intersection of the alley with Shelby Street; facing northeast



View from the intersection of Shelby Street and Morris Street, facing east