

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2022-CZN-876 / 2022-CVC-876 / 2022-CVR-876 (Amended)
Address: 1507 & 1517 West Vermont Street and 333 Koehne Street
(*Approximate Addresses*)
Location: Center Township, Council District #16
Petitioner: Own It Enterprise, LLC, by David Kingen and Emily Duncan
Request: Rezoning of 0.62 acre from the D-8 (RC) district to the CBD-2 (RC) district.

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for a side and rear yard setback of zero feet when abutting an alley (minimum ten-foot required), to legally establish a zero-foot front setback for vehicle areas (minimum eight-foot required), and for 31 off-street parking spaces (maximum of 23 off-street parking spaces permitted).

Vacation of the first alley east of Koehne Street, being 12 feet in width, from the south right-of-way line of Vermont Street, being the northeast corner of Lot 47 in Lentz Heirs Addition, Recorded in Plat Book 11, Page 69 in the Office of the Recorder of Marion County, Indiana, south a distance of 136 feet to the southeast corner of Lot 45 in said subdivision, with a waiver of the assessment of benefits.

Vacation of an irregular portion of White River Parkway West Drive located at the southwest intersection of Vermont Street and White River Parkway West Drive totaling 0.05-acre, with a waiver of the assessment of benefits.

RECOMMENDATIONS

Staff **recommends denial** of the rezoning request.

Staff **recommends denial** of the variance request, however, staff would support the variance petition, if subject to the submittal of a revised site plan, subject to Administrator's Approval. Said site plan shall indicate that the proposed alley right-of-way north of 329 Koehne Street be public, that fencing be removed from any existing or proposed right-of-way and that only one vehicle access to the site be provided, which shall be from Koehne Street.

Staff **recommends approval** of the vacation request and provides the following motion:

RECOMMENDED MOTION (Approval): That the Hearing Examiner find that proposed vacation is in the public interest; that a hearing upon the assessment of benefits be waived; that the Hearing Examiner confirm and ratify the adoption of Declaratory Resolution 2022-CVC-876; and that the vacation be subject to the rights of public utilities under IC 36-7-3-16.

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation:

(Continued)

REZONING PETITION / COMPREHENSIVE PLAN

- ◇ The subject site contains five lots, with 1507 West Vermont comprising of three lots, parcel numbers 1078767, which is undeveloped, 1022502, which is developed as a surface parking lot and 1089808, which is developed with a vacant commercial structure. The fourth lot is 1517 West Vermont Street, and the parcel number is 1081730 and developed with a vacant commercial structure and the fifth lot is 333 Koehne Street and the parcel number is 1088992 and is developed with a vacant residential structure. The overall site is 0.62-acre in size and is zoned D-8 (RC).
- ◇ The rezoning request would rezone the site to CBD-2 (RC). The site is surrounding by low-density residential lots to the south and west, zoned D-8 (RC). Higher density residential is to the north, zoned CBD-S (RC). To the east is White River Parkway, West Drive and White River.
- ◇ The Comprehensive Plan recommends Community Commercial uses for three of the lots (parcels 1022502, 1089808 and 1081730). As noted above, these lots contain a surface parking lot and two, vacant commercial structures. The Comprehensive Plan recommends residential uses of 8 to 15 units per acre for parcel 1078767 and residential uses of 5 to eight units per acre for parcel 1088992. The request to CBD-2 (RC) would not be responsive to the Plan recommendations of community commercial, and low- to medium-density residential uses.
- ◇ The petitioner has submitted restrictions of uses on the site, including only permitting MU-2 district uses, with several exclusions, such as emergency shelter, greenway, garden as a primary use, check cashing or validation service, outdoor advertising signs, tattoo parlors, night clubs, and firearm sales. The petitioner's Attachment "E", which states the restrictions in full, is below. In addition to the stated use restrictions, the petitioner has submitted three commitments that indicate that the site would also permit a mixed-use retail/office/residential development, with the maximum height of structures limited to 50 feet and that bike and scooter parking would be provided. The petitioner's Attachment "D", which states this in full, is below.
- ◇ The petitioner's restrictions provide limits to the permitted uses of CBD-2 (RC). However, the Plan recognizes that dense development should not occur south of Vermont Street, due to the existing and intact low- to medium-density residential neighborhood. The Plan recognizes the existing surface parking lot and commercial structures for community commercial uses, which provides a buffer of dense development to the neighborhood to the south and west.
- ◇ Staff believes that the Plan should be adhered to and would support a rezoning to C-3 (RC) for the lots that the Plan recommends community commercial uses. The two lots that the Plan recognizes for low- to medium-density residential, should not be rezoned as the existing zoning, D-8 (RC) is appropriate. As filed, staff recommends denial of the rezoning request.

REGIONAL CENTER OVERLAY DISTRICT

- ◇ The site is located within the Regional Center overlay district. Design of all new construction, sidewalk cafes, and signage in the Regional Center overlay district is subject to the approval of the Administrator of the Division of Planning. A Regional Center Approval petition has not been filed.

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VARIANCE OF DEVELOPMENT STANDARDS

- ◇ The variance request seeks to eliminate the required side and rear yard setbacks, to legally establish a zero-foot front setback for vehicle areas and to provide for 31 off-street parking spaces. Side and rear yard setbacks are required to be ten feet, vehicle areas along the front yard is required to be eight feet, with landscaping, and the maximum number of off-street parking spaces is 23 for this development.
- ◇ A site plan was submitted with the filing. The site plan indicates a proposal to expand the existing parking area to the south, which would abut existing dwellings along White River Parkway, West Drive. The site plan also indicates an access drive from Vermont Street, between the existing commercial buildings. The east building would have a planned two-story addition. Outdoor dining would be proposed at the northeast corner of the site, fronting White River Parkway, West Drive. It is important to note that much of this area east of the existing buildings is a surface parking area and is within the right-of-way of White River Parkway, West Drive.
- ◇ The revised site plan indicates that the parking provided on the site would be 23, as opposed to the originally requested 31 spaces. Therefore, this particular variance request can be withdrawn. Additionally, the site plan indicates that the new alley north of 329 Koehne Street would be 10 feet in width, as opposed to the proposed dedication of 12 feet in width for this alley, and that a fence would be within alley right-of-way.
- ◇ Staff recognizes the existing surface parking lot. However, the site plan also indicates that vehicle access to the site would be from Vermont Street and Koehne Street, which raises the potential of pedestrian/traffic conflicts. A singular vehicle entrance and exit would be more appropriate, and that access should be from Koehne Street, not from Vermont Street. Therefore, staff recommends denial of the variance request, however, if the site plan would be revised to eliminate the vehicle access from Vermont Street, and address the proposed fence and alley, as noted above, staff would support the variance request.

VACATION SUMMARY

- ◇ This request would vacate an unimproved alley with direct access to Vermont Street and vacate a portion of the western-most right-of-way of White River Parkway, West Drive, that abuts the site. The petitioner has submitted a vacation exhibit noting the proposed vacation areas, plus two areas of right-of-way dedication, one of which would be along Koehne Street and the other along White River Parkway, West Drive. An amended legal description of the proposed rights-of-way was submitted to the file on June 5, 2023, which indicates that the portion of right-of-way along White River Parkway, West Drive, would align with the existing right-of-way north and south of the subject site. The Department of Public Works has requested that a revised plan be submitted that indicates dimensions for the elements within the proposed right-of-way, that large rocks be removed from the right-of-way and that any fencing be removed from the existing or proposed right-of-way.
- ◇ The dedication of the right-of-way along Koehne Street would be on parcel 1088992, or 333 Koehne Street, where the existing vacant dwelling is located. This dedication would be 12 feet in width, with a flaring portion at the east end to provide for maneuvering of vehicles making a 90-

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degree turn from the existing alley to the south. The other dedication of right-of-way, which is a remnant from a lot, appears to already be right-of-way along White Parkway, West Drive.

- ◇ The submitted Findings of Fact state that “much of the existing street and alley ways were used for private purposes for the bait shop that existed for many years at 1507 West Vermont Street”. Staff would concur with this statement.
- ◇ Therefore, staff **recommends approval** of the proposed vacation, with the submittal of a revised plan indicating that large rocks be removed from the right-of-way and that any fencing be removed from the existing or proposed right-of-way.

Procedure

- ◇ Neither the Division of Planning nor the Hearing Examiner or Metropolitan Development Commission determine 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.
- ◇ After a vacation of a 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. The subject rights-of-way are unimproved. The staff typically supports waiver requests when the proposed vacation areas are unimproved. Therefore, staff would support a waiver of the assessment of benefits.

GENERAL DESCRIPTION:

Vacation of the first alley east of Koehne Street, being 12 feet in width, from the south right-of-way line of Vermont Street, being the northeast corner of Lot 47 in Lentz Heirs Addition, Recorded in Plat Book 11, Page 69 in the Office of the Recorder of Marion County, Indiana, south a distance of 136 feet to the southeast corner of Lot 45 in said subdivision, with a waiver of the assessment of benefits.

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UTILITIES AND AGENCY REPORT

Telephone:	No answer, retain easement
CEG, Gas:	No answer, retain easement
CEG, Water:	No answer, retain easement
CEG, Wastewater	No answer, retain easement
Power:	No objection, retain easement
Cable:	No answer, retain easement
DPR:	No answer, retain easement
DPW, TS:	No answer, retain easement

GENERAL INFORMATION

EXISTING ZONING, CONTEXT AND LAND USE

D-8 (RC)	Compact	Two, vacant commercial buildings and a vacant dwelling
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SURROUNDING ZONING AND LAND USE

North -	CBD-S (RC)	Multi-family dwellings
South -	D-8 (RC)	Single-family dwellings
East -	D-5 (RC)	White River
West -	D-8 (RC)	Single-family dwellings

COMPREHENSIVE PLAN	The Comprehensive Plan recommends for community commercial uses for parcels 1022502 (1057 West Vermont Street), 1089808 (1507 West Vermont Street), and 1081730 (1517 West Vermont Street), and recommends residential development of five to eight units per acre for parcel 1088992 (333 Koehne Street) and recommends residential development of eight to fifteen units per acre for parcel 1078767 (1507 West Vermont Street)
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THOROUGHFARE PLAN	The Official Thoroughfare Plan for Marion County indicates that White River Parkway, West Drive is a primary street, with a 78-foot right-of-way existing and proposed. Vermont Street is a local street, with a 48-foot right- of-way existing and proposed.
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URBAN DESIGN GUIDELINES DISTRICT TYPOLOGY	The site is located within the Urban mixed-use typology.
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TRANSIT-ORIENTED DEVELOPMENT	The site is not located within a transit-oriented development area.
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SITE PLAN	File-dated, December 9, 2022
Revised	File-dated, June 14, 2023

FINDINGS OF FACT	File-dated, December 9, 2022 (Continued)
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VACATION EXHIBIT

Revised
Revised
Revised
Revised
Revised

File-dated, December 9, 2022
File-dated, December 16, 2022
File-dated, February 21, 2023
File-dated, March 1, 2023
File-dated, May 16, 2023
File-dated, June 5, 2023

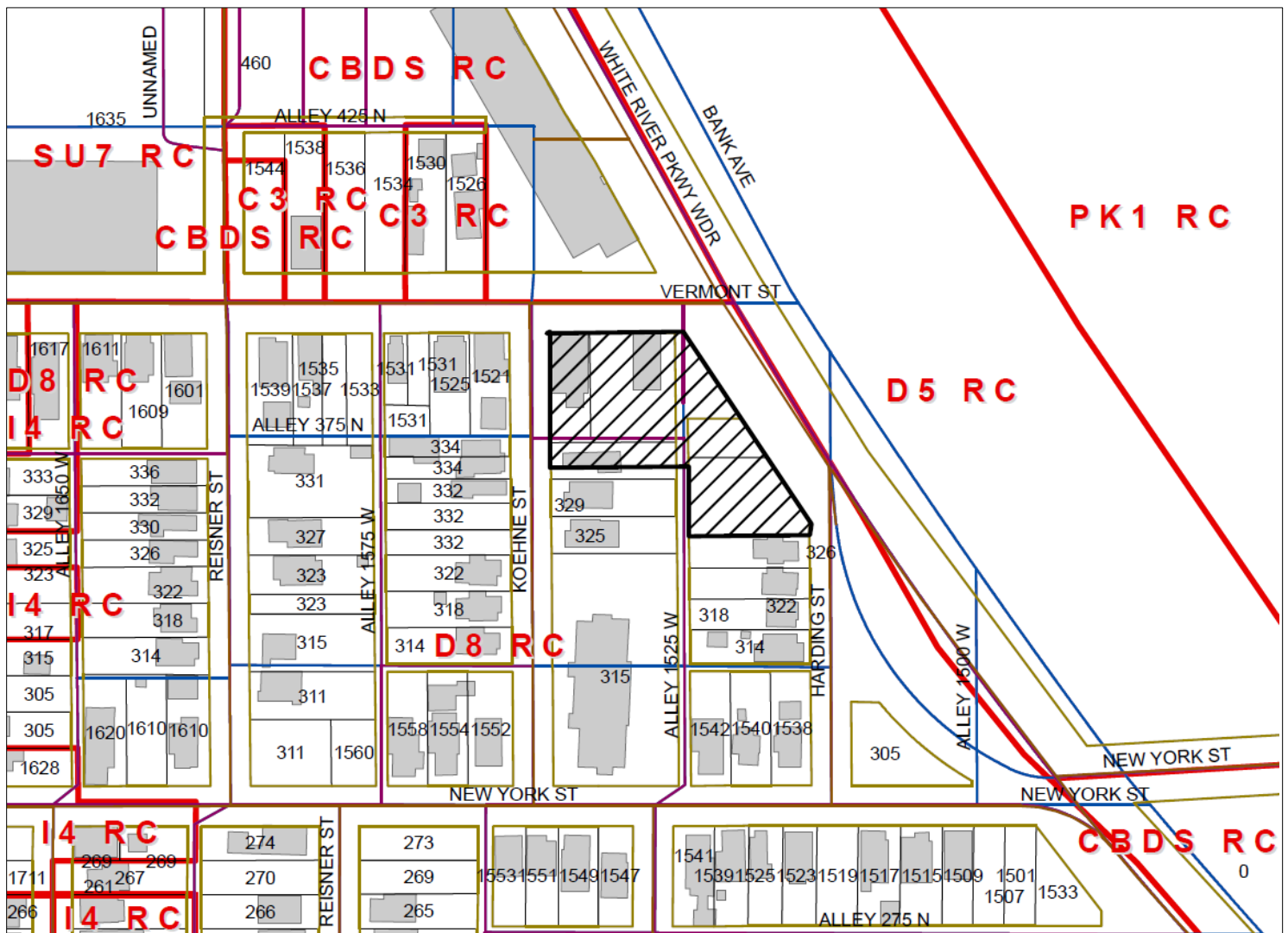
ZONING HISTORY – SITE

2017-REG-038; 333 Koehne Street, requested Regional Center Approval to provide for exterior renovation of a single-family dwelling, **approved**.

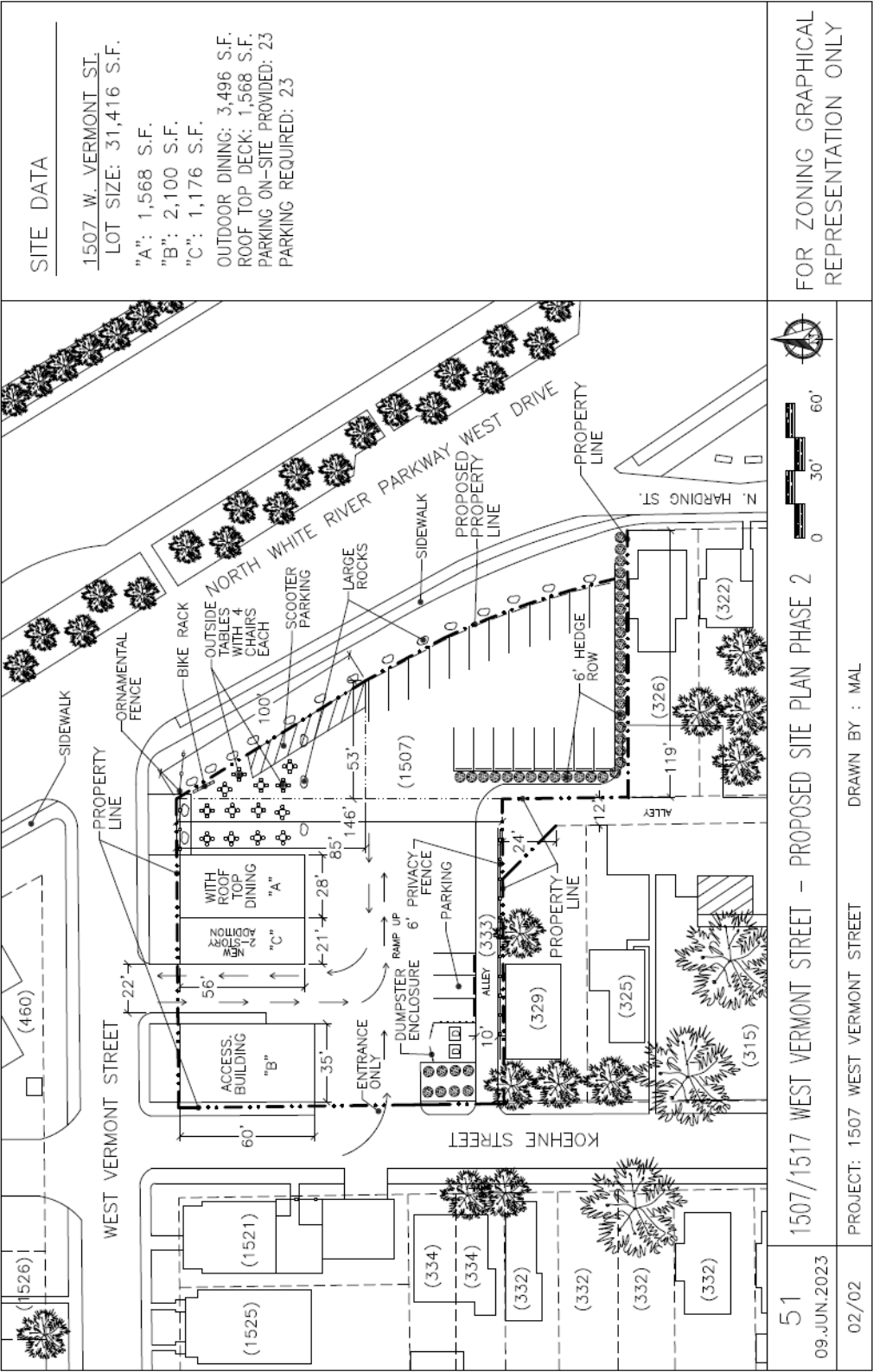
ZONING HISTORY - VICINITY

None.

JY



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Proposed Site Plan - revised



Proposed Commitments

ATTACHMENT “E”:

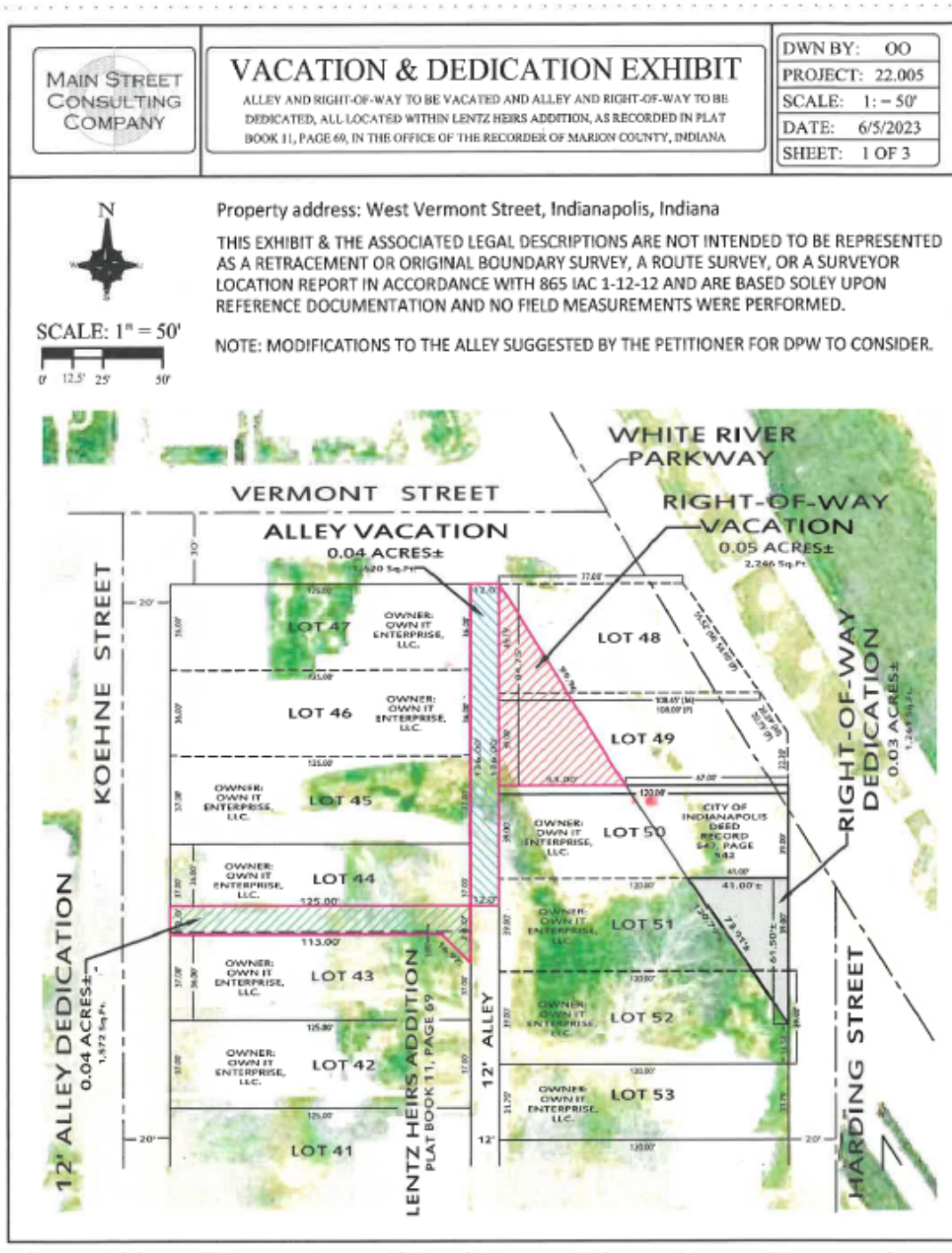
Petitioner commits to exclude the following MU2 uses from the subject site:

1. Emergency shelter
2. Greenway
3. Garden as primary use
4. Check cashing or validation service
5. Outdoor advertising off premise sign
6. Tattoo parlor
7. Adult entertainment use sales and services
8. Night club or cabaret
9. Firearm sales
10. Fireworks sales on-going
11. Pawn shop
12. Power generating facility
13. Automobile, motorcycle and light vehicle service or repair

ATTACHMENT “D”:

Petitioner commits to the following:

1. The only uses permitted on the site shall be mixed uses retail/ office and multifamily residential. All MU2 uses except those excluded in Attachment “E”
2. No New construction on the site shall exceed fifty (50) feet in height.
3. Bike and scooter parking shall always be provided on the site.

Proposed Vacation Exhibit – revised

MAIN STREET
CONSULTING
COMPANY

VACATION & DEDICATION EXHIBIT

ALLEY AND RIGHT-OF-WAY TO BE VACATED AND ALLEY AND RIGHT-OF-WAY TO BE DEDICATED, ALL LOCATED WITHIN LENTZ HEIRS ADDITION, AS RECORDED IN PLAT BOOK 11, PAGE 69, IN THE OFFICE OF THE RECORDER OF MARION COUNTY, INDIANA

DWN BY: 00
PROJECT: 22.005
SCALE: 1" = 50'
DATE: 6/5/2023
SHEET: 2 OF 3

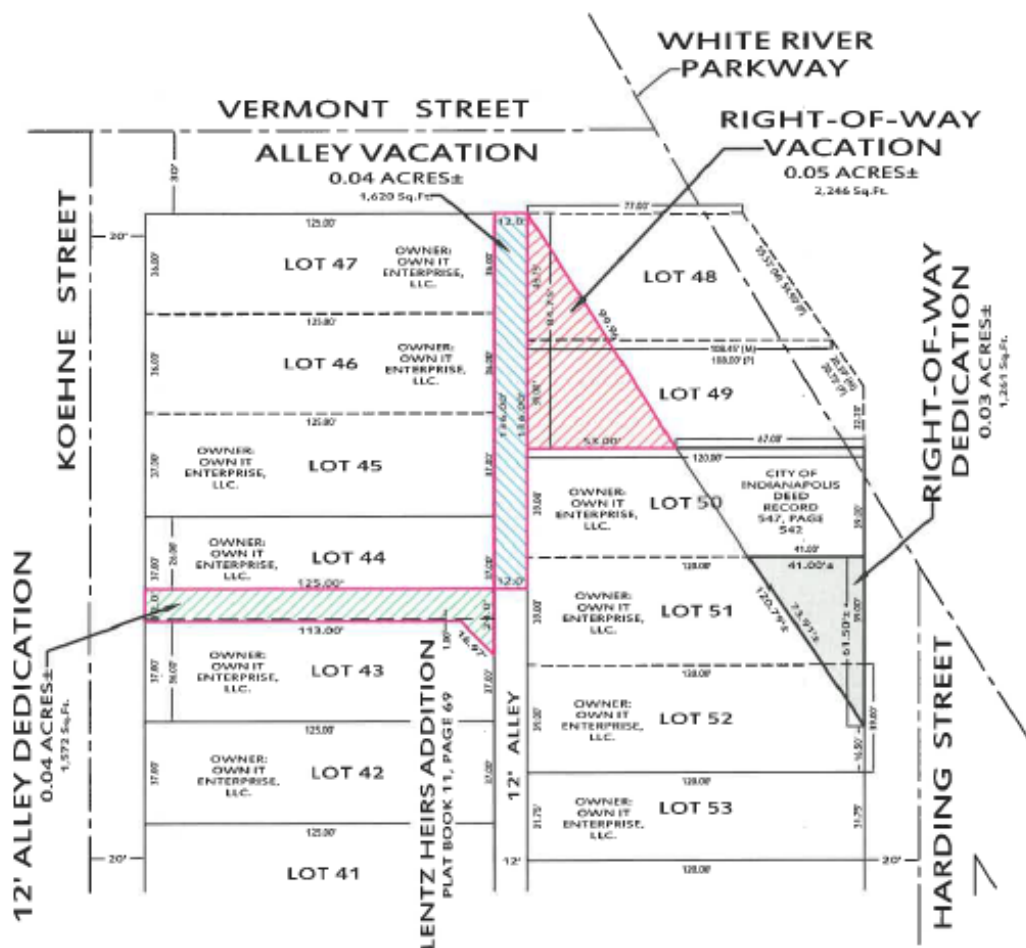


SCALE: 1" = 50'
0' 12.5' 25' 50'

Property address: West Vermont Street, Indianapolis, Indiana

THIS EXHIBIT & THE ASSOCIATED LEGAL DESCRIPTIONS ARE NOT INTENDED TO BE REPRESENTED AS A RETRACEMENT OR ORIGINAL BOUNDARY SURVEY, A ROUTE SURVEY, OR A SURVEYOR LOCATION REPORT IN ACCORDANCE WITH 865 IAC 1-12-12 AND ARE BASED SOLELY UPON REFERENCE DOCUMENTATION AND NO FIELD MEASUREMENTS WERE PERFORMED.

NOTE: MODIFICATIONS TO THE ALLEY SUGGESTED BY THE PETITIONER FOR DPW TO CONSIDER.



Photographs



Photographs of site from Vermont Street looking south



Photograph of large rocks within right-of-way, abutting subject site



Subject site (top); Vermont Street and White River Parkway, West Drive, looking west



Photograph along the west boundary of the site looking south (Koehne Street is to the right)



Photographs of neighborhood (top); and existing conditions



Existing alley conditions