

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2023-CZN-823 and 2023-CVC-823
Address: 1545 Van Buren Street and 2014, 2016 and 2018 Draper Street
(Approximate Address)
Location: Center Township, Council District #21
Petitioner: GSS, LLC, by Mary E. Solada
Request: Rezoning of 9.56 acres from the D-10 (TOD) and I-3 (TOD) districts to the I-2 (TOD) district.

Vacation of the first 15-foot wide alley west of Draper Street, from the north lot line of Lot 69 of The Justice C. Adams South Park subdivision as recorded in Plat Book 16, Page 177 in the Office of the Recorder of Marion County, Indiana, north 44 feet to the north lot line of Lot 70 in said subdivision.

Vacation of an irregular portion of right-of-way adjacent to the first north-south alley west of Draper Street, being part of Lot 57 in The Justice C Adams subdivision, as described in Instrument Number 76-53438 in the Office of the Recorder of Marion County, Indiana, all with a waiver of the Assessment of Benefits.

ADDENDUM FOR SEPTEMBER 20, 2023, METROPOLITAN DEVELOPMENT COMMISSION

The Metropolitan Development Commission continued these petitions from the August 2, 2023 hearing, to the September 20, 2023 hearing, without notice, at the request of the petitioner's representative.

ADDENDUM FOR AUGUST 2, 2023, METROPOLITAN DEVELOPMENT COMMISSION

The Metropolitan Development Commission acknowledged the automatic continuance by the petitioner's representative that continued these petitions from the July 5, 2023 hearing, to the August 2, 2023, hearing.

ADDENDUM FOR JULY 5, 2023, METROPOLITAN DEVELOPMENT COMMISSION

These petitions were heard by the Hearing Examiner on June 15, 2023. After a full hearing, the Hearing Examiner recommended denial of the rezoning and the vacation requests. Subsequently, the petitioner's representative filed an appeal of the Hearing Examiner's decision. A memorandum of her recommendation is attached.

A timely automatic continuance was filed by the petitioner's representative continuing these petitions from the **July 5, 2023 hearing, to the August 2, hearing**. This would require acknowledgement from the Metropolitan Development Commission.

(Continued)

STAFF REPORT 2023-CZN-823 and 2023-CVC-823 (Continued)

June 15, 2023

RECOMMENDATIONS

Staff **recommends denial** of these requests.

If approved, staff would request that approval be subject to the following commitment being reduced to writing on the Commission's Exhibit "B" forms at least three days prior to the MDC hearing:

1. The site and improved areas within the site shall be maintained in a reasonably neat and orderly manner during and after development of the site with appropriate areas and containers / receptables provided for the proper disposal of trash and other waste.
2. A site plan, landscape plan, and building elevations shall be submitted to Administrator Approval prior to the issuance of an Improvement Location Permit (ILP).

RECOMMENDED MOTION (denial): That the Metropolitan Development Commission find that the proposed vacation is not in the public interest and that the waiver of the assessment of benefits be denied.

RECOMMENDED MOTION (approval): That the Metropolitan Development Commission find that the 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 2023-CVC-823; 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:

LAND USE

- ◇ This 9.56-acre site, zoned D-10 (TOD) and I-3 (TOD), is undeveloped. It is surrounded by a railroad right-of-way to the north, zoned I-3; single-family dwellings to the south, zoned I-3; industrial uses to the east, zoned I-3; and single-family dwellings to the west, zoned D-5.

REZONING

- ◇ This request would rezone the site from the D-10 (TOD) and I-3 (TOD) Districts to the I-3 (TOD) classification. "The I-3 district is an intermediate district for industries that present moderate risks to the general public. Wherever practical, this district should be away from protected districts and buffered by intervening lighter industrial districts. Where this district abuts protected districts, setbacks are large and enclosure of activities and storage is required.

(Continued)

STAFF REPORT 2023-CZN-823 and 2023-CVC-823 (Continued)

- ◇ The Comprehensive Plan recommends heavy industrial typology. “The Heavy Industrial typology provides for industrial, production, distribution, and repair uses that are intense and may create emissions of light, odor, noise, or vibrations. This typology is characterized by freestanding buildings or groups of buildings, often within industrial parks. Outdoor operations and storage are common. Typical uses include food processing, milling, storage of petroleum products, recycling, welding, and concrete mixing. Industrial or truck traffic should be separated from local/residential traffic.”
- ◇ The Pattern Book lays out a land use classification system that guides the orderly development of the county, protects the character of neighborhoods and serves as a policy guide for development or redevelopment of a site.
- ◇ The following elements of the Pattern Book apply to this site:

Light Industrial Uses

- Industrial truck traffic should not utilize local, residential streets.
- Streets internal to industrial development must feed onto an arterial street.
- Removed as a recommended land use where they would be adjacent to a living or mixed-use typology.

Heavy Industrial Uses

- The primary entrance should be served by an arterial street.
- Industrial truck traffic should not utilize local, residential streets.
- Streets internal to industrial development must feed onto an arterial street.
- Removed as a recommended land use where they would be adjacent to a living or mixed-use typology.

Overlays

- ◇ This site is located within an overlay, specifically Transit Oriented Development (TOD). “Overlays are used in places where the land uses that are allowed in a typology need to be adjusted. They may be needed because an area is environmentally sensitive, near an airport, or because a certain type of development should be promoted. Overlays can add uses, remove uses, or modify the conditions that are applied to uses in a typology.”
- ◇ The Transit-Oriented Development (TOD) overlay is intended for areas within walking distance of a transit station. The purpose of this overlay is to promote pedestrian connectivity and a higher density than the surrounding area.
- ◇ This site is located within a ½ mile walk to a transit stop located at the intersection of Shelby Street and Raymond Street, with a Community Center typology.

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STAFF REPORT 2023-CZN-823 and 2023-CVC-823 (Continued)

- ◇ This typology is described as walkable commercial centers with a range of commercial types (aging to new strip commercial, office, shopping malls, big box). It is a mixed of retail, entertainment, office and residential as desired. Surface parking should be consolidated and placed behind buildings, allowing a pedestrian orientation at the street, while still supporting drive-to business.
- ◇ Characteristics of the Community Center typology are:
 - A dense mixed-use neighborhood center
 - Minimum of two stories at core
 - No front or side setbacks at core; zero to 10-foot front setbacks and zero-to 10-foot side setbacks at the periphery.
 - Multi-family with a minimum of three units
 - Structured parking at the core and attractive surface parking at the periphery

Environmental Public Nuisances

- ◇ The purpose of the Revised Code of the Consolidated City and County, Sec.575 (Environmental Public Nuisances) is to protect public safety, health and welfare and enhance the environment for the people of the city by making it unlawful for property owners and occupants to allow an environmental public nuisance to exist.
- ◇ All owners, occupants, or other persons in control of any private property within the city shall be required to keep the private property free from environmental nuisances.
- ◇ Environmental public nuisance means:
 1. Vegetation on private or governmental property that is abandoned, neglected, disregarded or not cut, mown, or otherwise removed and that has attained a height of twelve (12) inches or more;
 2. Vegetation, trees or woody growth on private property that, due to its proximity to any governmental property, right-of-way or easement, interferes with the public safety or lawful use of the governmental property, right-of-way or easement or that has been allowed to become a health or safety hazard;
 3. A drainage or stormwater management facility as defined in [Chapter 561](#) of this Code on private or governmental property, which facility has not been maintained as required by that chapter; or
 4. Property that has accumulated litter or waste products, unless specifically authorized under existing laws and regulations, or that has otherwise been allowed to become a health or safety hazard.
- ◇ Staff would request a commitment that emphasizes the importance of maintaining the site in a neat and orderly manner at all times and provide containers and receptacles for proper disposal of trash and other waste.

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STAFF REPORT 2023-CZN-823 and 2023-CVC-823 (Continued)

Site Plan

- ◇ The site plan, file-dated April 10, 2023, provides for 13 buildings of various sizes with a total square footage of 99,795-square feet, along with 88 parking spaces located along the Van Buren Street frontage and the southeast portion of the site.
- ◇ With the exception of a dry retention basin at the northwest corner of the site, the site is covered with buildings and pavement. No landscape plan has been provided.
- ◇ A sidewalk is proposed along Van Buren Street but there are no internal sidewalks or any connections to the sidewalk along Van Buren.

Plan of Operation

- ◇ The Plan of Operation, file-dated April 10, 2023, describes the development as industrial warehouse space for small businesses.
- ◇ As proposed the site would offer storage space, distribution / warehouse facilities and office space.
- ◇ There would not be any permanent loading docks, but a forklift would be available for the tenants.
- ◇ Two to three large truck deliveries per day is anticipated.
- ◇ Although the property would be monitored 40 hours per week by an on-site manager, no hours or days of operation have been provided.

VACATION

Summary

- ◇ This request would Vacate a portion of the first 15-foot-wide alley west of Draper Steet, from the north lot line of Lot 69 of the Justice C. Adams South Park subdivision, north 44 feet to the north lot line of Lot 70 in said subdivision and an irregular portion of right-of-way adjacent to the first north-south alley west of Draper Street, being part of Lot 57 in the Justice C Adams subdivision. All with a waiver of the Assessment of Benefits.
- ◇ As proposed the vacated area would provide open space that would allow for the proposed redevelopment of the site.
- ◇ Staff does not support this vacation request because it is an integral component to the rezoning request for industrial uses that staff believes is not appropriate for this site.

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STAFF REPORT 2023-CZN-823 and 2023-CVC-823 (Continued)

Assessment of Benefits

- ◇ The petitioner has requested a waiver of the Assessment of Benefits for the subject right-of-way. Staff, however, does not support the waiver of the assessment of benefits because of its association with the industrial rezoning.

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.
- ◇ 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.

Planning Analysis

- ◇ The request would be consistent with the Comprehensive Plan recommendation of heavy industrial typology but would be wholly inappropriate at this location abutting residential uses because of the development guidelines provided in the Pattern Book. Furthermore, this proposed use would be in conflict with the transit-oriented Plan that generally recommends residential and a range of commercial uses. No industrial uses are recommended.
- ◇ The Pattern Book outlines seven development guidelines related to light and heavy industrial uses primarily related to site access that would mitigate the impact of industrial uses on adjacent residential uses.
- ◇ The guidelines state that local streets should not be used and entrance to industrial uses should feed into an arterial street. The only access to the site would be Van Buren Street, which is a local street with an existing 40-foot right-of-way. In other words, the industrial uses would create traffic patterns in the area that would compromise the safety and security of the surrounding land uses.

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STAFF REPORT 2023-CZN-823 and 2023-CVC-823 (Continued)

- ◇ Staff believes that existing D-10 district provides appropriate transitions from the industrial uses to the north and to allow rezoning to the I-3 district would be wholly inappropriate and would be detrimental to the surrounding residential neighborhood.
- ◇ If approved, staff would request Administrator Approval prior to the issuance of an Improvement Location Permit (ILP) that would provide for pedestrian connectivity both internally and to the sidewalk along Van Buren Street, year around landscaping along the site perimeter, and building materials that would be harmonious with the surround land uses.

GENERAL INFORMATION

EXISTING ZONING AND LAND USE

D-10 Undeveloped
(TOD) / I-3
(TOD)

SURROUNDING ZONING AND LAND USE

North -	I-3	Railroad right-of-way
South -	I-3	Single-family dwellings
East -	I-3	Industrial uses
West -	D-5	Single-family dwellings

COMPREHENSIVE PLAN The Comprehensive Land Use Plan for Indianapolis and Marion County (2018) recommends heavy industrial typology.

Marion County Land Use Pattern Book (2019).

Red Line Transit-Oriented Development Strategic Plan (2021)

THOROUGHFARE PLAN This portion of Van Buren Street is designated in the Marion County Thoroughfare Plan as a local street, with an existing 40-foot right-of-way and a proposed 48-foot right-of-way.

This portion of Draper Street is designated in the Marion County Thoroughfare Plan as a local street, with an existing 50-foot right-of-way and a proposed 48-foot right-of-way.

CONTEXT AREA This site is located within the compact context area.

OVERLAY This site is located within a transit-oriented development overlay (TOD).

SITE PLAN File-dated April 10, 2023

LANDSCAPE PLAN File-dated June 6, 2023

PLAN OF OPERATION File-dated April 10, 2023

FINDINGS OF FACT File-dated April 20, 2023

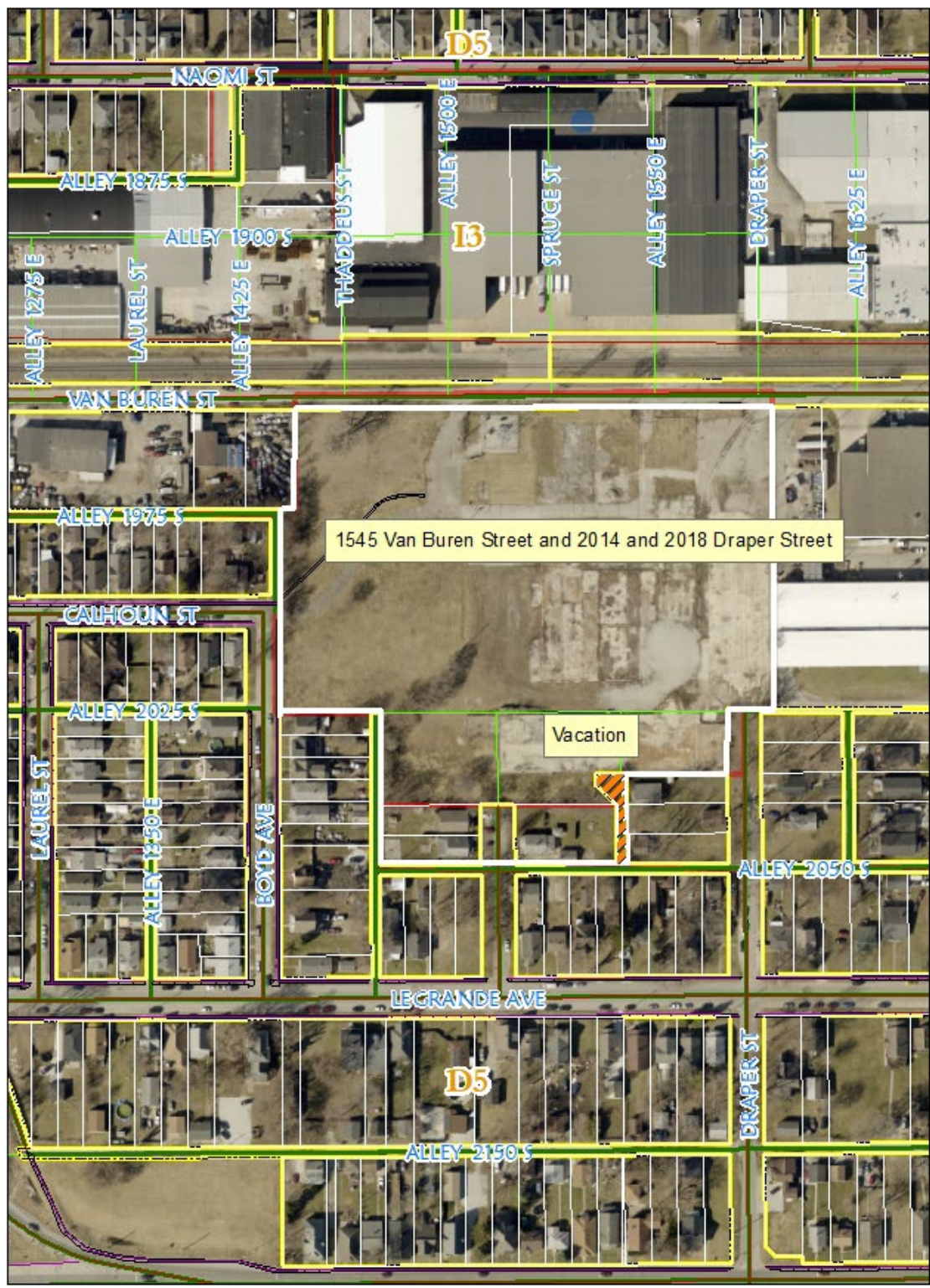
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STAFF REPORT 2023-CZN-823 and 2023-CVC-823 (Continued)

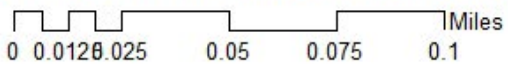
ZONING HISTORY

2013-ZON-058; 1545 Van Buren Street, requested rezoning of 9.0 acres from the I-3-U district to the D-10 district to provide for multi-family residential development, **approved**.

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1545 Van Buren Street and 2016 and 2018 Draper Street



MEMORANDUM OF EXAMINER'S DECISION

2023-CZN/CVC-823

1545 Van Buren St., 2014-2018 Draper St.

The petitions request the rezoning of 9.56 acres from the D-10 (TOD) and I-3 (TOD) districts to the I-2 (TOD) district, with the vacation of a portion of an alley and of an irregular portion of right-of-way.

Your Hearing Examiner visited the site prior to the hearing and noted the industrial uses north and east of the site and the residential uses west and south of the site.

The petitioner's representative explained that the petitioner purchased the site about 10 years ago and had been unable to obtain financing for multi-family housing, which was the use approved by the project agreement with the County Commissioners. Substantial remediation work was done, and the petitioner was released from the project agreement in 2022. The proposed development would provide self storage for small businesses. About one dozen letters of support were submitted, and three neighbors spoke in support of the proposed development and in opposition to subsidized housing.

Two residents remonstrated at the hearing, and there were letters of opposition from Fountain Square Alliance Neighborhood and from the Healthy Communities Coordinator. Remonstrators expressed concern with health and safety, quality of life, the need for senior/affordable housing, and disappointment with the lack of communication by the petitioner.

Staff stated that, while the Comp Plan recommends heavy industrial use for the site, the Pattern Book recommends that industrial use not be on local streets and should not be adjacent to residential use. Staff also explained that the TOD overlay recommends a walkable development with mixed uses, and that there is a strong push for affordable housing.

In your Hearing Examiner's opinion, the proposed development is not an acceptable deviation from the Pattern Book and from the TOD overlay. Your Hearing Examiner is also concerned with the impact the proposed development would have on residents. Denial of these petitions was recommended.

For Metropolitan Development Commission Hearing on July 5, 2023

PLAN OF OPERATION

GSS LLC
1545 Van Buren Street

The Petitioner plans to operate a franchise of RISE Commercial District at 1545 Van Buren Street (the "Property"). The objective of RISE Commercial District is to make industrial warehouse space affordable and accessible for all small businesses.

The Property consists of approximately 9.56 acres, and is located north of Legrande Avenue. G.W. Berkheimer Co., Inc., a heating, ventilation, air conditioning, and refrigeration wholesaler, along with Snodgrass Sheet Metal are located on the parcels adjacent to the east of the Property. Originally zoned to the Medium Industrial District (I-3), the Property was rezoned to the Residential Zoning District (D-10) by an entity related to the Petitioner in 2013. Petition has expended considerable effort to attempt to redevelop the site with multi-family housing but has been unable to secure a development partner for same nor any feasible financing. The Property location has proven to be a better match with the Comprehensive Plan recommendation of General Industrial use and development.

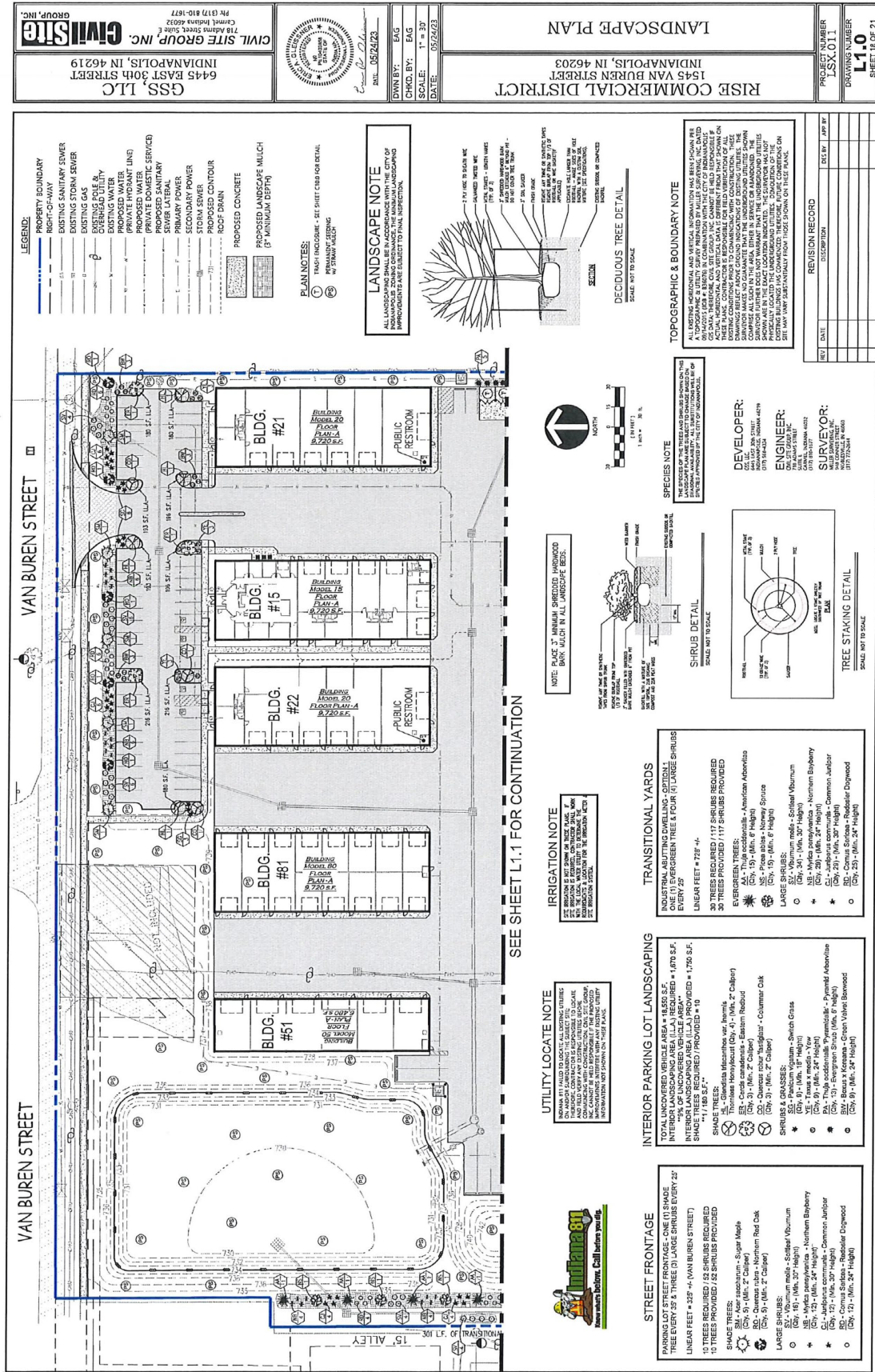
To a great extent, RISE Commercial District will function much like an industrial-warehouse-office facility for small businesses, providing storage space, distribution, and bookkeeping activities, all permitted in the requested Light Industrial District (I-2). RISE Commercial District will offer units ranging from 400 square feet to 1,400 square feet for rent, with the target tenant consisting of small businesses looking to accelerate their growth. RISE Commercial District intends each unit to be utilized as office space, warehouse space, and business storage space. Unlike mini storage facilities, RISE Commercial District is not meant for tenants to utilize units as personal storage space. Additionally, RISE Commercial District will offer tenants free wifi, the use of conference rooms, and access to public restrooms.

The proposed plan for RISE Commercial District consists of 13 buildings, ranging in size from 2,340 square feet to 9,720 square feet. Each building will be of rectangle shape – ranging in lengths from 90 feet to 162 feet, and widths from 26 feet to 70 feet. Within the 13 buildings, the proposed plan contains 91 units that Petitioner anticipates to lease. There will be no permanent loading docks on site, and none of the units will contain a loading dock. However, there will be a forklift available on-site for use by tenants as needed for loading and unloading purposes.

There will be no large trucks based on-site. The only anticipated large truck traffic is from deliveries and pick-ups only – the Petitioner anticipates an average of 2 to 3 large deliveries per day. Additionally, the Property will be monitored 40 hours per week by an on-site manager.

RISE Commercial District already has 5 successful locations in Indiana, and hopes to add another at the Property. For more information on RISE Commercial District, visit their website at [Warehouse Space, Office Space, Business Storage Space | RISE Commercial District](#).

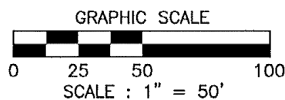
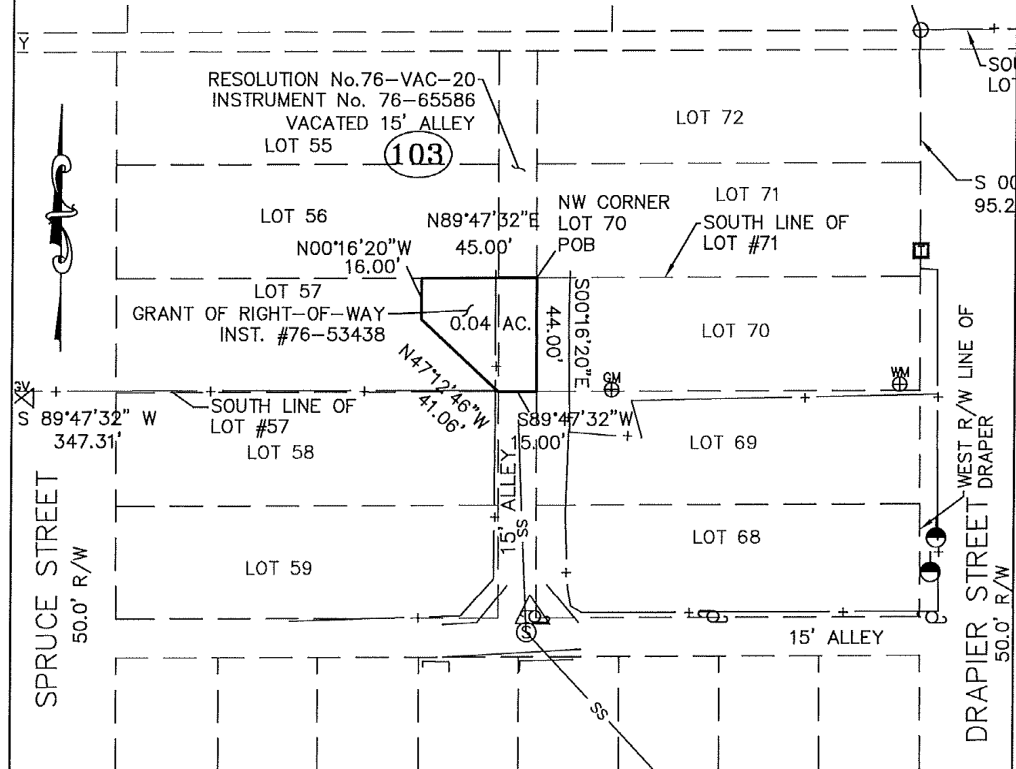
LANDSCAPE PLAN



[illegible]

VACATION EXHIBIT

PART OF LOT 57 AND 15.0' WIDE ALLEY LYING EAST OF SAID LOT 57
IN JUSTUS C. ADAMS' SOUTH PARK ADDITION TO THE CITY OF
INDIANAPOLIS, MARION COUNTY, INDIANA



THIS SURVEY IS NOT COMPLETE AND/OR
VALID WITHOUT BOTH PAGES.

PAGE 1 OF 2

R.L.S. LS20400007		4-4-23	
DATE:			
MILLER SURVEYING INC. 948 CONNER STREET NOBLESVILLE INDIANA 46060 PH. # (317) 773-2644 FAX 773-2694			
LOCATION: PART OF LOT 57 AND 15.0' WIDE ALLEY LYING EAST OF SAID LOT 57 IN JUSTUS C. ADAMS' SOUTH PARK ADDITION TO THE CITY OF INDIANAPOLIS, MARION COUNTY, INDIANA		DRAWN BY: MJJ	PREPARED BY: KNA
FIELD WORK COMPLETED: 3-13-23		SCALE: 1" = 80'	FIELD BOOK: DC
CLIENT: LOU SCHIESZ		DATE: 4-4-23	PAGE: DC
DESCRIPTION: RETRACEMENT SURVEY		JOB NUMBER: B40949	SURVEY 4 FILE: 26 SCHIESZ

Petition Number _____

**METROPOLITAN DEVELOPMENT COMMISSION
PLAT COMMITTEE
HEARING EXAMINER
OF MARION COUNTY, INDIANA**

PETITION FOR VACATION OF A PUBLIC WAY, EASEMENT OR PUBLIC PLACE

FINDINGS OF FACT

1. THE PROPOSED VACATION IS IN THE PUBLIC INTEREST because:
the alley has been underutilized for many years. Additionally, the Petitioner owns the surrounding property
and is proposing to develop a franchise of RISE Commercial District, with the objective being to make industrial warehouse space
affordable and accessible for small businesses. This industrial use will compliment surrounding property uses (Snodgrass
Sheet Metal and G.W. Berkhelmer Co.), and the proposed vacated property is intended to be incorporated into the development.

DECISION

IT IS THEREFORE the decision of this body that this VACATION petition is APPROVED, subject to any conditions stated in the minutes (which conditions are incorporated herein by reference and made a part of this decision).

Adopted this _____ day of _____, 20²³



View looking east along Van Buren Street



View looking west along Van Buren Street



View from site looking east



View of site looking southeast across Van Buren Street



View of site looking south across Van Buren Street



View of site looking south across Van Buren Street



View of site looking southeast across Van Buren Street



View from site looking northeast across Van Buren Street



View of site looking north from neighborhood to the south



View of site looking north from neighborhood to the south



View of site looking north from neighborhood to the south