

PLAT COMMITTEE

July 12, 2023

Case Number: 2023-VAC-002
Property Address: 1515 North Senate Avenue (*Approximate Address*)
Location: Center Township, Council District #11
Petitioner: Indiana University Health, by Murray J. Clark
Zoning: CBD-S (RC)
Request: Vacation of the air rights of the south right-of-way line of 16th Street, above 755.33 feet, being at least 34 feet above the grade of 16th Street, which has an elevation of 721 feet, from a point 7.51 feet from the west right-of-way line of Capitol Avenue to a point 176.31 feet west of the starting point and a maximum width of 4.32 feet, with a waiver of the assessment of benefits.
Waiver Requested: Assessment of benefits
Current Land Use: Unimproved
Staff Reviewer: Jeffrey York, Principal Planner

PETITION HISTORY

This is the first hearing for this vacation petition.

STAFF RECOMMENDATION

RECOMMENDED MOTION (approval): That the Plat Committee find that the proposed vacation is in the public interest; that a hearing upon the assessment of benefits be waived; that the Plat Committee confirm and ratify the adoption of Declaratory Resolution 2023-VAC-002; and that the vacation be subject to the rights of public utilities under IC 36-7-3-16.

PETITION OVERVIEW

SUMMARY

This request would provide for a vacation of a small portion of air rights over 16th Street, just west of Capitol Avenue, for a proposed cantilevered podium, beginning at the third floor of a proposed hospital. The hospital is currently under construction. This podium would extend, at its maximum width, 4.32 feet into the existing right-of-way of 16th Street, over a length of 176.31 feet. The proposed structure obtained preliminary and conditional design approval through the filing of a Regional Center Approval petition on May 18, 2022, via 2022-REG-020.

The request would have no impact on pedestrians using the sidewalk or effect the use of 16th Street when the hospital building is complete.

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 land owner 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.

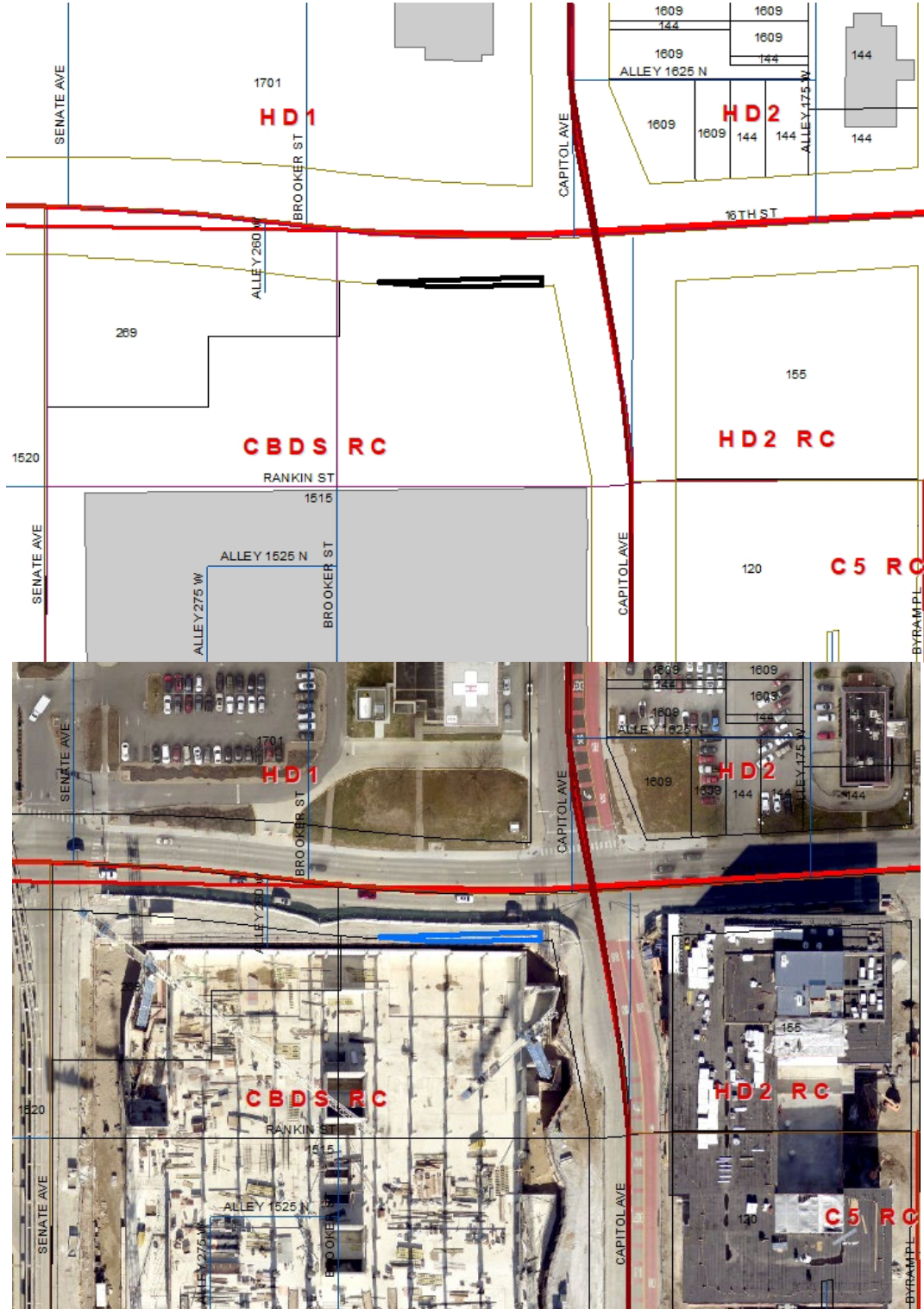
ASSESSMENT OF BENEFITS

A waiver of the assessment of benefits would be appropriate in that the proposed right-of-way vacation would not affect any improved right-of-way.

GENERAL INFORMATION

Existing Zoning	CBD-S (RC)	
Existing Land Use	Unimproved portion of public right-of-way	
Comprehensive Plan	Institution-oriented mixed-use (campus) development	
Surrounding Context	<u>Zoning</u>	<u>Land Use</u>
	North: HD-1	Methodist Hospital
	South: CBD-S (RC)	Retail (coffee shop)
	East: CBD-S (RC)	Developing medical office building and parking garage
	West: CBD-S (RC)	Medical Offices
Thoroughfare Plan		
16 th Street	Primary arterial	78-foot existing and proposed
Capitol Avenue	Primary arterial	78-foot existing and proposed
Petition Submittal Date	June 2, 2023	

EXHIBITS



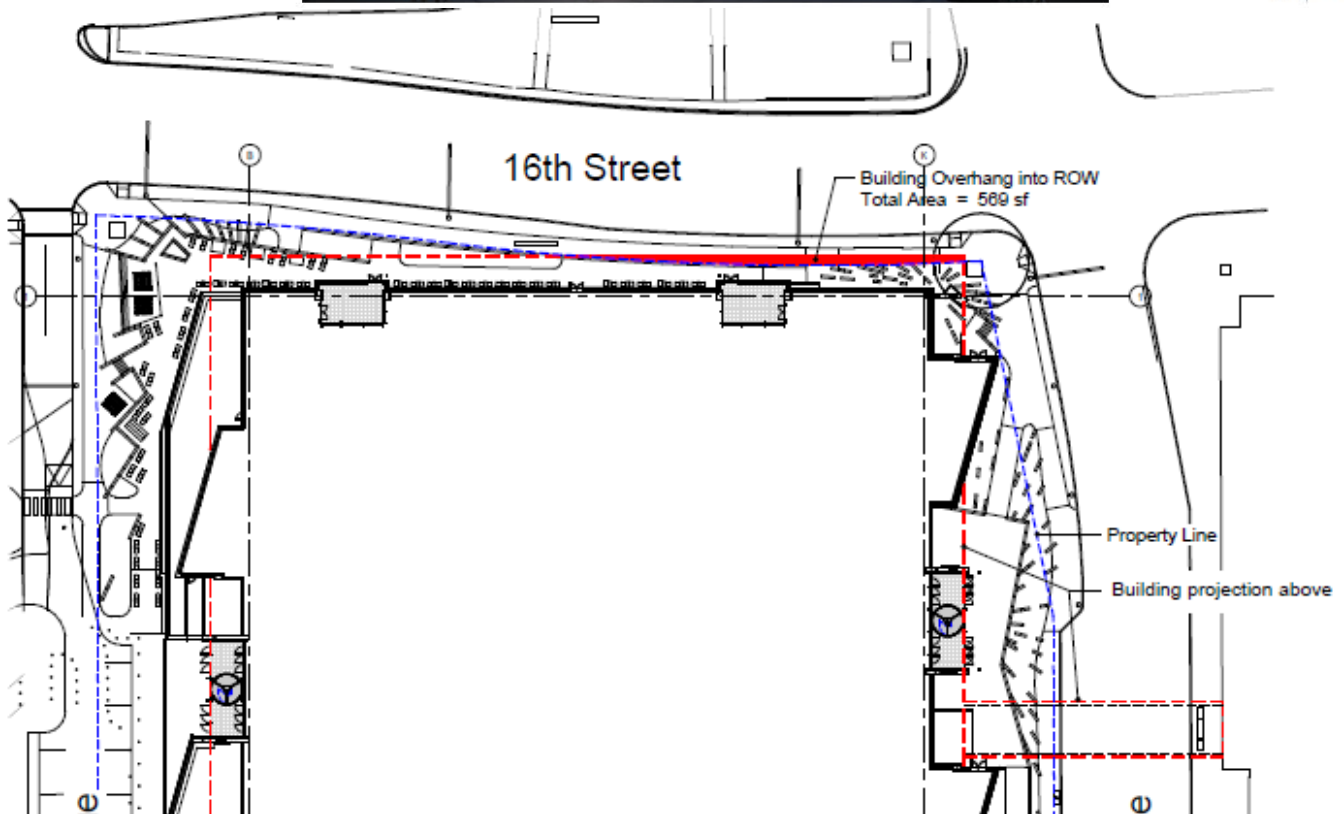
New downtown hospital renderings

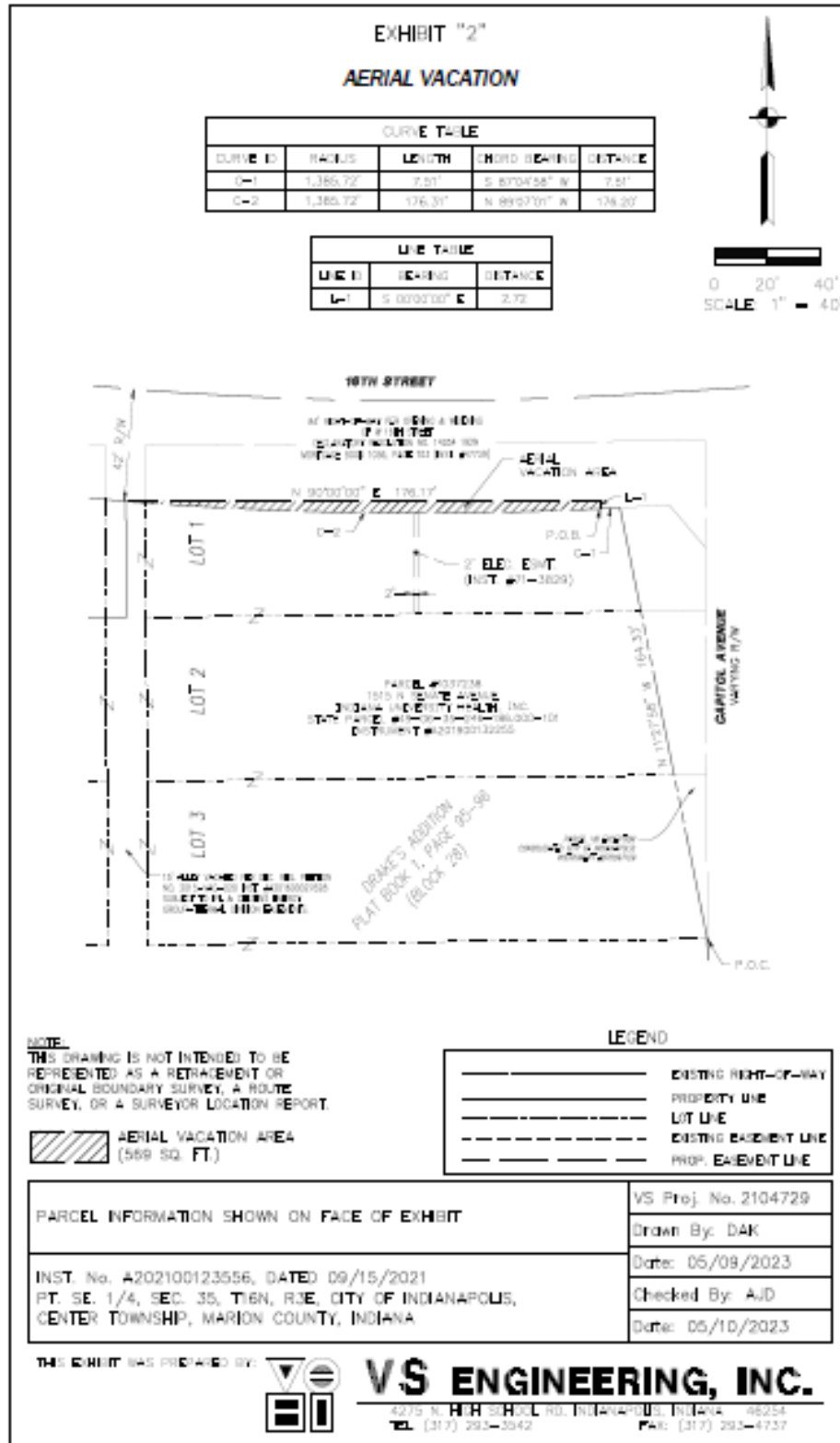
October 6, 2022

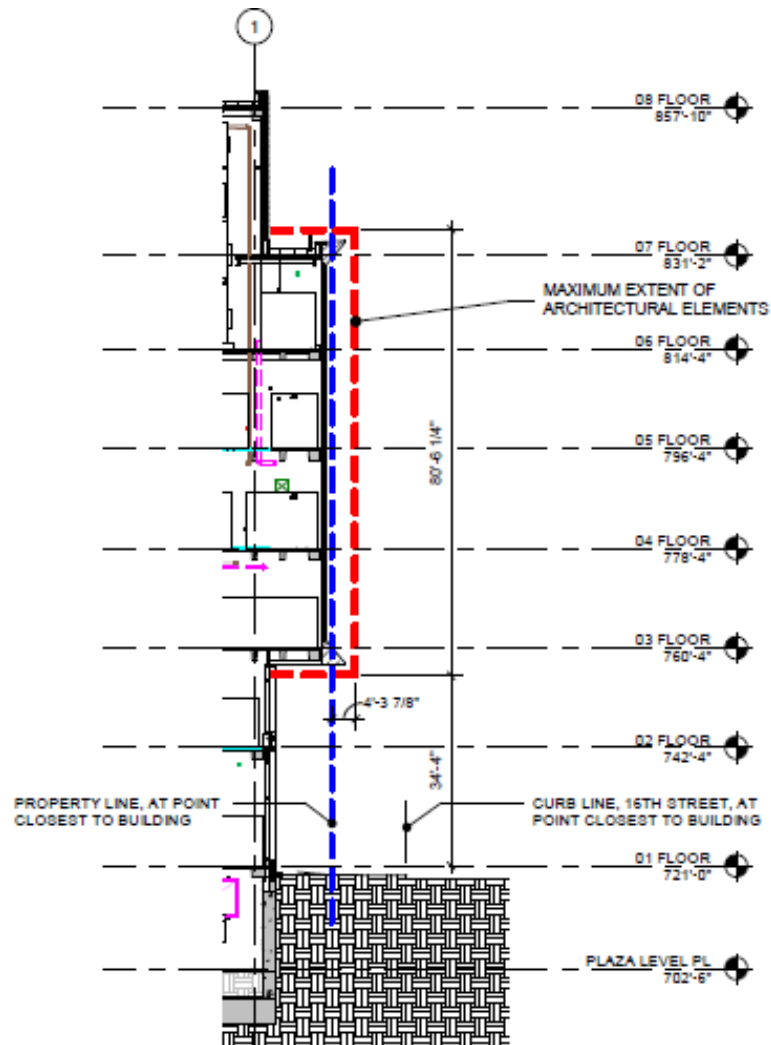
*Landscaping outside of construction limit is approximate.



CURIS DESIGN







Photos



Hospital structure under construction at 16th Street and Capitol Avenue, looking southwest



Approximate location of encroachment into the 16th Street right-of-way, looking west from the intersection of Capitol Avenue