

PLAT COMMITTEE

May 14, 2025

Case Number: 2025-VAC-004 (Amended)
Property Address: 1301 East 16th Street (*Approximate Address*)
Location: Center Township, Council District #13
Petitioner: Oaks Community Center, Inc., by Timothy Ochs and Jennifer Milliken
Zoning: SU-2
Request: Vacation of portion of Dr. A. J. Brown Avenue, being a maximum of 69.37 feet in width, beginning at the south right-of-way line of 16th Street, south 467.14 feet to the north right-of-way line of Interstate 70, with a waiver of the assessment of benefits.
Waiver Requested: Assessment of benefits (Amended to 50% waiver at the hearing)
Current Land Use: Improved alley
Staff Reviewer: Jeffrey York, Principal Planner II

PETITION HISTORY

PLAT COMMITTEE

The Metropolitan Development Commission, at their hearing on May 7, 2025, acknowledged the withdrawal of the petitioner's appeal of the Plat Committee's approval of the 50% waiver of the assessment of benefits. On **May 1, 2025**, the appraisal report was submitted to the file. Staff has reviewed the findings and agrees with its findings.

ASSESSMENT OF BENEFITS

Appraiser Used: Murphy Appraisal Services, Paul Schuster, Appraiser
Appraiser's Benefits: \$7,300.00 (apply 50% to the assessment of benefits)
Appraiser's Fee: \$950.00

RECOMMENDED MOTION (approval): That the Plat Committee find that the proposed vacation is in the public interest; that Metropolitan Development Commission sustain, confirm, approve and adopt the Final Assessment Roll in 2025-VAC-004, assessing benefits in accordance therewith, in the amount of \$3,650.00 and that the petitioner pay the Appraiser's Fee of \$950.00; that the Plat Committee confirm and ratify the adoption of Declaratory Resolution 2025-VAC-004; and that the vacation be subject to the rights of public utilities under IC 36-7-3-16.

METROPOLITAN DEVELOPMENT COMMISSION

This petition was heard and approved by the Plat Committee on April 9, 2025, with a recommendation for the assessment of benefits to be applied to 50% of the appraised value of the street right-of-way. The petitioner amended the waiver of the assessment of benefits to request a 50% waiver of the assessment of benefits, prior to the vote. Subsequently, the petitioner appealed the Plat Committee's recommendation of a 50% waiver of the assessment of benefits. As of this writing, the appraisal report has not been submitted to the file. Staff anticipates that the appraisal will be received after publication of this staff report and will provide comment at the hearing.

ASSESSMENT OF BENEFITS

Appraiser Used:
Appraiser's Benefits: \$
Appraiser's Fee: \$

RECOMMENDED MOTION (approval): That the Metropolitan Development Commission find that the proposed vacation is in the public interest; that Metropolitan Development Commission sustain, confirm, approve and adopt the Final Assessment Roll in 2025-VAC-004, assessing benefits in accordance therewith, in the amount of \$____. and that the petitioner pay the Appraiser's Fee of \$____.; that the Metropolitan Development Commission confirm and ratify the adoption of Declaratory Resolution 2025-VAC-004; and that the vacation be subject to the rights of public utilities under IC 36-7-3-16.

STAFF RECOMMENDATION

Staff finds the **vacation** would be in the public interest and recommends the vacation petition be **approved**. Staff does not support the waiver of the assessment of benefits and recommends **denial of the waiver of the assessment of benefits**.

RECOMMENDED MOTION (denial of waiver request): That the Plat Committee find that the proposed vacation is in the public interest, that the waiver of the assessment of benefits be denied; that a hearing upon the assessment of benefits be held on May 14, 2025; that the Plat Committee confirm and ratify the adoption of Declaratory Resolution 2025-VAC-004; and that the vacation be subject to the rights of public utilities under IC 36-7-3-16

RECOMMENDED MOTION (approval of waiver request): 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 2025-VAC-004; and that the vacation be subject to the rights of public utilities under IC 36-7-3-16.

PETITION OVERVIEW

SUMMARY

This petition, if approved, would vacate an improved street right-of-way between 16th Street and Interstate 70. This street, which dead-ends at Interstate 70, is the southern end of Dr. A. J. Brown Avenue. Two unimproved alleys, which connect to this street, near the southern end, were vacated in 2024, under 2024-CVC-833.

This vacation would provide for improved access to the school, which is undergoing an expansion.

The vacation of this portion of this street right-of-way would be in the public interest.

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.

ASSESSMENT OF BENEFITS

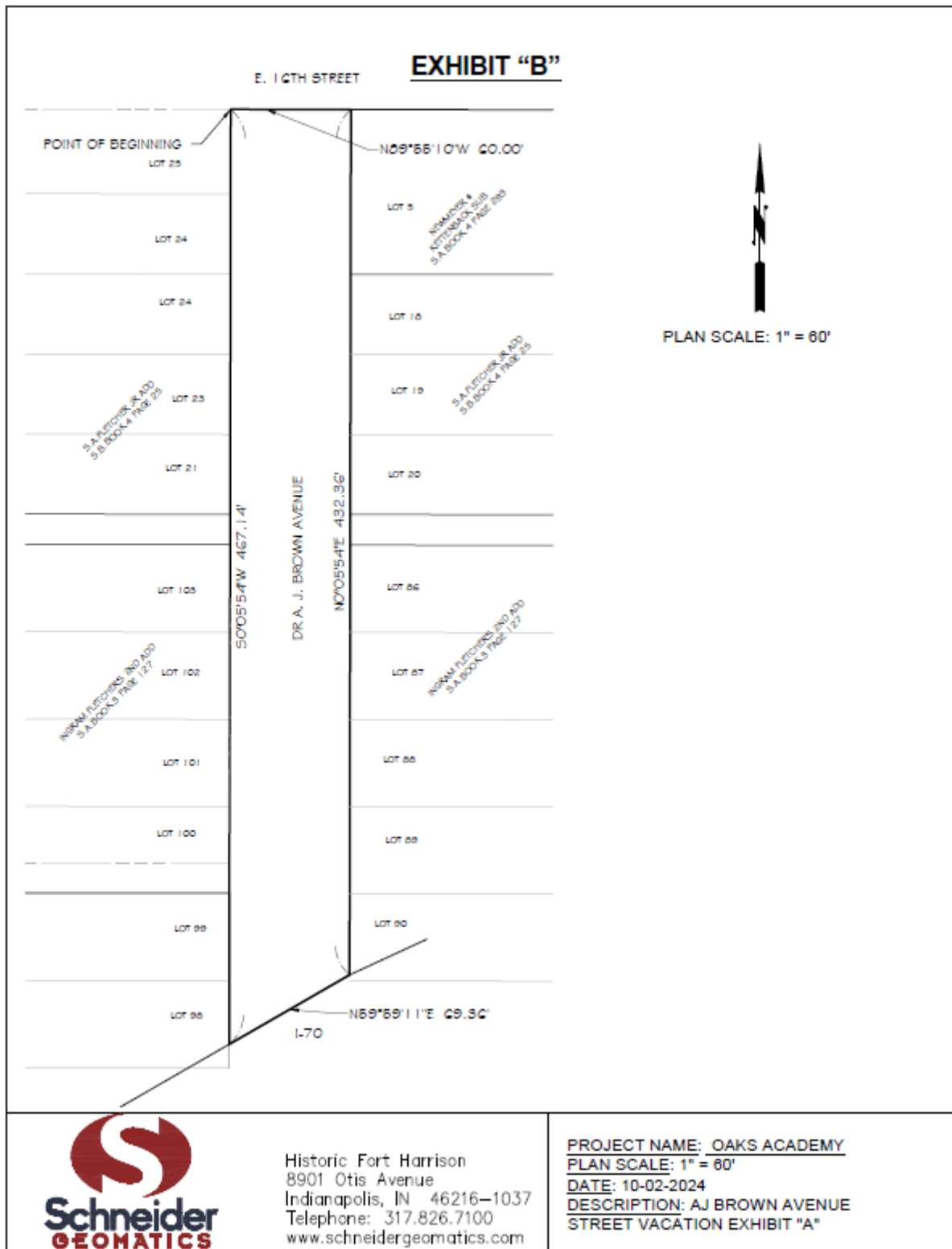
The entire right-of-way is improved and in excellent condition. Additionally, there are sidewalks on both sides of the improved street. Therefore, the city has invested in the street and sidewalks. Due to previous investment into this right-of-way, the request to waive the assessment of benefits should be denied.

GENERAL INFORMATION

Existing Zoning	SU-2	
Existing Land Use	School, undeveloped land, and vacant building with parking area	
Comprehensive Plan	Community Commercial and Traditional Neighborhood	
Surrounding Context	<u>Zoning</u>	<u>Land Use</u>
North:	C-5	Commercial

	South:	D-8	I-70
	East:	C-5 / D-8	Church
	West:	C-5 / D-8	Church / Commercial and Residential
Thoroughfare Plan			
	Dr A J Brown Avenue	Local Street	48-foot proposed right-of-way and 57.5-foot existing right-of-way
	16 th Street	Primary Arterial Street	78-foot proposed right-of-way and 61-foot existing right-of-way
	Columbia Avenue	Local Street	48-foot proposed right-of-way and 62-foot existing right-of-way
Petition Submittal Date		February 27, 2025	

[illegible]





Department of Metropolitan Development
Division of Planning
Current Planning

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:

It will provide space for more effective access and parking for both neighboring uses. The additional space available from the vacation will allow for a better and safer site plan with private driveway, parking, and sidewalks.

Removing the street from the City's costly maintenance responsibilities is also in the public interest.

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 _____, 20 ____

Findings of Fact

Photos



Photos of subject street and sidewalks



Photos of subject street and sidewalks



Photos of subject street and sidewalks