

STAFF REPORT

Department of Metropolitan Development
Division of Planning
Current Planning Section

Case Number: 2022-CVC-840 (Amended)
Address: 5436 Brookville Road (Approximate Addresses)
Location: Warren Township, Council District #12
Petitioner: Baldeep Baidwan, by David Kingen and Emily Duncan
Request: Vacation of the first northwest-southeast alley north of Brookville Road, being fifteen feet in width, from the southwest corner of Lot 40 in Witz and Spannuth's Addition, as recorded in Plat Book 16, Page 6 in the Office of the Marion County Recorder, southeast 210.40 feet to the northeast corner of Lot 5 in said subdivision, with a waiver of the Assessment of Benefits.

April 27, 2023

This is the eighth hearing for this petition. This petition was continued from the July 28, 2022 hearing to the August 25, 2022 hearing, from the August 25, 2022 hearing to the October 27, 2022 hearing, from the October 27, 2022 hearing to the December 15, 2022 hearing, from the December 15, 2022 hearing to the February 9, 2023 hearing, from the February 9, 2023 hearing to the April 13, 2023 hearing, and from the April 13, 2023 hearing to the April 27, 2023 hearing.

At the April 13, 2023 hearing, the petitioner requested to withdraw the rezoning and variance portion of this request. Staff suggested a continuance to April 27, 2023 so that the vacation petition could be reviewed as a single petition, which was granted by the hearing examiner.

The subject alley has never been improved by the Department of Public Works, but it does contain overhead power lines. The petitioner has requested the vacation of the alley so that these parcels both addressed 5436 Brookville Road could be developed as one large site. The petitioner has provided an updated vacation survey where a 15.63-foot-wide alley will be dedicated along the west property line so that the improved portion of the alley to the west has a north-south connection to Greenfield Avenue to the north. The survey is shown below. However, there is a platted unimproved alley east of site that would not be accessible if the vacation is approved. Staff cannot recommend approval for a vacation that would leave a section of right-of-way with no access; therefore, staff has determined that the vacation is not in the public interest and is recommending denial.

If approved against staff's recommendation, utility easement rights must be maintained.

RECOMMENDED MOTION (denial): That the Hearing Examiner find that the proposed vacation is not in the public interest; and that the Hearing Examiner deny Declaratory Resolution 2022-CVC-840.

(Continued)

2022-CVC-840 STAFF REPORT (Continued)

April 13, 2023

The petitioner provided an amended variance request, and an amended site plan shown in the body of this report. The site plan includes a 20-foot front south setback, a 20-foot east side setback, a 25-foot west side setback, and a 30-foot north rear setback. The amended site plan would have the proposed L-shaped building placed at the west and rear of the site to provide a buffer between the residential uses. This would orient the loading bays to Brookville Road and the access drive to the east, which requires the amended variance. The surface parking would also be in the front yard. The proposed landscape plan would include a mound and evergreen trees in the front yard and a bio-retention area in the rear yard.

Staff continues to **recommend denial** of these petitions.

February 9, 2023

The petitioner and a registered neighborhood organization provided a written request for continuance from the February 9, 2023 hearing to the April 13, 2023 hearing to allow for additional time to meet with neighborhood organizations and to provide revised plans.

December 15, 2022

This petition was continued for cause at the request of the petitioner from the October 27, 2022 hearing to the December 15, 2022 hearing so the petitioner would be able to attend the hearing and to provide for plan revisions. An amended site plan was received, including parking areas with the required minimum number of parking spaces and required setbacks. The proposed building size was reduced. The variance portion of the request may be withdrawn.

Staff continues to recommend **denial of the rezoning and vacation requests**.

October 27, 2022

This petition was continued for cause at the request of the petitioner from the August 25, 2022 hearing to the October 27, 2022 hearing to allow time for plan revisions. An amended site plan was received, reducing the building size and increasing the number of parking spaces. The site plan now meets the minimum required parking per ordinance section 744-402. The variance request as proposed may be withdrawn.

However, staff would note that the current site plan does not meet the 10-foot front setback for parking in the front yard. This petition should either be continued to December 1, 2022 with notice for an amended variance, or the petitioner may commit to administrative approval of a compliant site plan. Additionally, the C-S development statement should be revised to reflect the revised site plan, prior to the hearing.

Staff continues to recommend **denial of the rezoning and vacation requests**.

August 25, 2022

This petition was continued for cause at the request of the petitioner from the July 28, 2022 hearing to the August 25, 2022 hearing for a possible amendment. No new information has been received. Staff continues to recommend denial of these requests.

(Continued)

2022-CVC-840 STAFF REPORT (Continued)

July 28, 2022

RECOMMENDATIONS

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

Staff recommends **denial of the variance** petition.

RECOMMENDED MOTION (denial): That the Hearing Examiner find that the proposed vacation is not in the public interest; and that the Hearing Examiner deny Declaratory Resolution 2022-CVC-840.

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation:

LAND USE

- ◇ The subject site is zoned C-3 and consists of two vacant parcels.
- ◇ This petition would rezone this property to the C-S district. This request would permit fifteen parking spaces where thirty-two spaces are required. This request would vacate the alley separating these parcels to allow these sites to be developed as one lot.

REZONING

- ◇ This petition would rezone this site from the C-3 district to the C-S district to permit truck or heavy vehicle repair and sales, and limited C-4 uses. The comprehensive plan recommends light industrial uses.
- ◇ Staff recommends denial of the rezoning. The light industrial recommendation removes heavy commercial uses where adjacent to a dwelling district. North and west of this site is zoned D-5 or developed with single-family uses. The use proposed would not be appropriate for this location.
- ◇ Additionally, the proposed use is C-7 or I-3 permitted use. The required transitional yards in those districts are much larger because of the intense nature of the district. The C-S classification only requires a ten-foot transitional yard. Ten feet would not be an adequate distance to buffer the proposed intense use from the adjacent dwelling uses. Because the C-S district does not require adequate transitional yards for the proposed intense use, staff would suggest the C-S should not be utilized for the proposed use/location.

VARIANCE

- ◇ This request would provide for a surface parking lot with fifteen parking spaces where thirty-two spaces are required. The ordinance requirement for parking for truck and heavy vehicle repair uses requires two parking spaces per service bay, plus one space for 250 square feet of sales and display area. The use proposes eleven service bays and 2,400 square feet of sales area.

(Continued)

2022-CVC-840 STAFF REPORT (Continued)

- ◇ Staff recommends denial of the variance. It is counter-intuitive to permit a vehicle-oriented use that does not provide the minimum parking for that use. Staff would also suggest that if the site cannot provide adequate parking for the use, the site is an inappropriate location.

VACATION

- ◇ The subject site includes the right-of-way for Alley 475 South, a platted alley that has never been improved. However, the alley to the west is improved, and the prior user on this property did pave this area for vehicle access. Overhead power lines are also existing within this platted alley. Therefore, staff would not support the vacation.

GENERAL INFORMATION

EXISTING ZONING, CONTEXT AREA, AND LAND USE

C-3	Compact	Undeveloped
-----	---------	-------------

SURROUNDING ZONING AND LAND USE

North	D-5	Undeveloped
South	I-4	Industrial
East	D-5 / C-7	Commercial
West	C-3	Residential

COMPREHENSIVE LAND USE PLAN Light Industrial

THOROUGHFARE PLAN Brookville Road is classified in the Official Thoroughfare Plan for Marion County, Indiana as a Primary Collector, with an 80-foot existing and an 88-foot proposed right-of-way.

VACATION SURVEY File-dated June 23, 2022

FINDINGS OF FACT (AMENDED) File-dated April 17, 2023

VACATION SURVEY (AMENDED) File-dated April 12, 2023

ZONING HISTORY – SITE

87-V1-29, 5436 Brookville Road, variance to provide for a gas station canopy with a 1.5-foot setback in the C-3 district, **approved**.

89-HOV-103, 5346 Brookville Road, variance to provide for a pricing sign on the canopy within the required 70-foot setback from the street centerline in the C-3 district, **approved**.

ZONING HISTORY – VICINITY

2020-PLT-090, 5565 Brookville Road, Approval of a Subdivision Plat, to be known as Indianapolis Central Logistics Park, dividing 89.66 acres into three lots.

2002-ZON-139, 5424 Brookville Road, rezoning from the D-5 district to the C-5 classification, **denied**.

(Continued)

2022-CVC-840 STAFF REPORT (Continued)

2000-SE1-005, 5402 Brookville Road, special exception to provide for the construction of a wheelchair lift addition for a religious use in the D-5 district, **withdrawn**.

2000-ZON-043, 5402 Brookville Road, rezoning from the D-5 district to the SU-1 classification, **approved**.

96-VAC-15, 5460 Brookville Road, vacation of a portion of the first north-south alley west of South Ritter Avenue, being approximately 15 feet in width, from the north right-of-way line of Brookville Road, extending approximately 310 feet northward, to the south right-of-way line of Greenfield Avenue, **approved**.

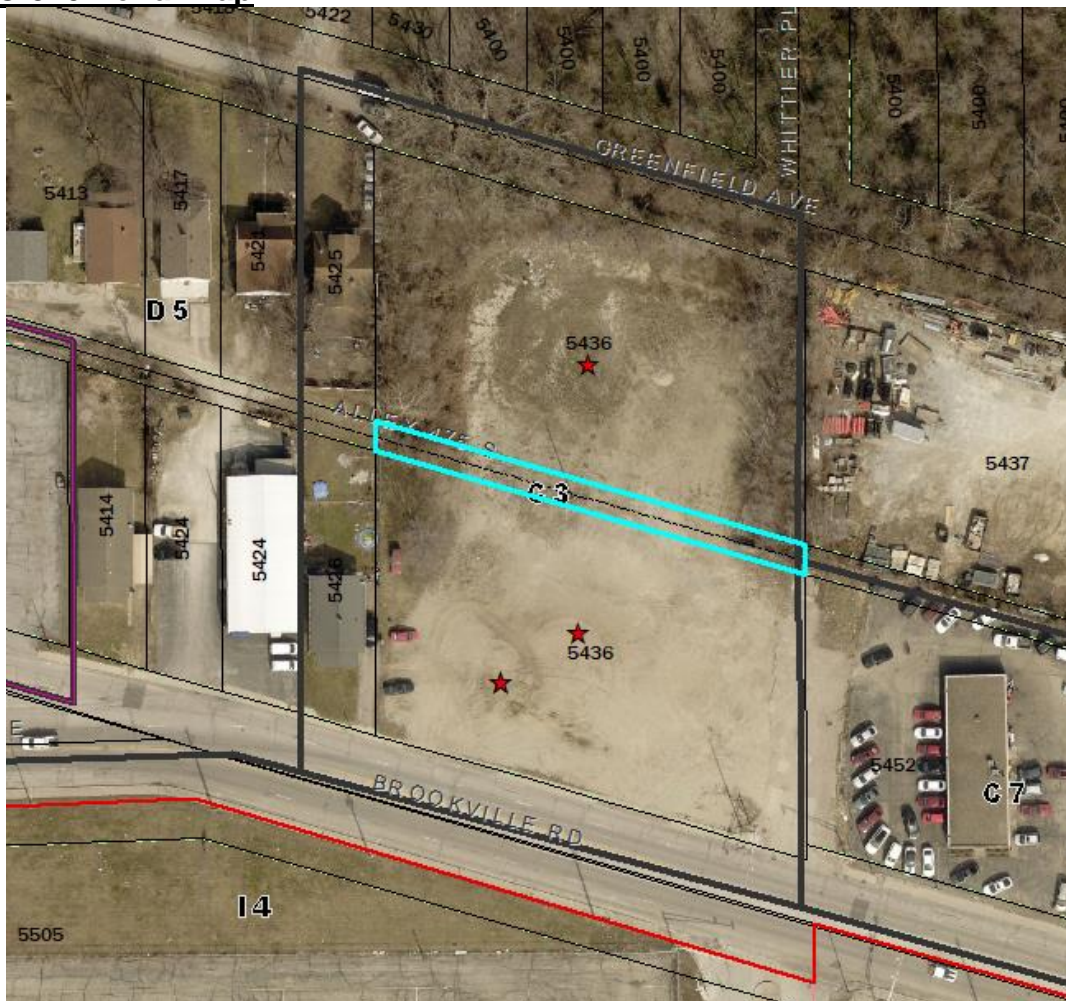
88-UV1-79, 450 South Ritter Road, variance to provide for an office expansion for a construction contractor in the C-5 district, **approved**.

86-UV3-35, 5478 Brookville Road, variance to permit an adult cabaret limited to live entertainment within 500 feet of a residential district, **denied**.

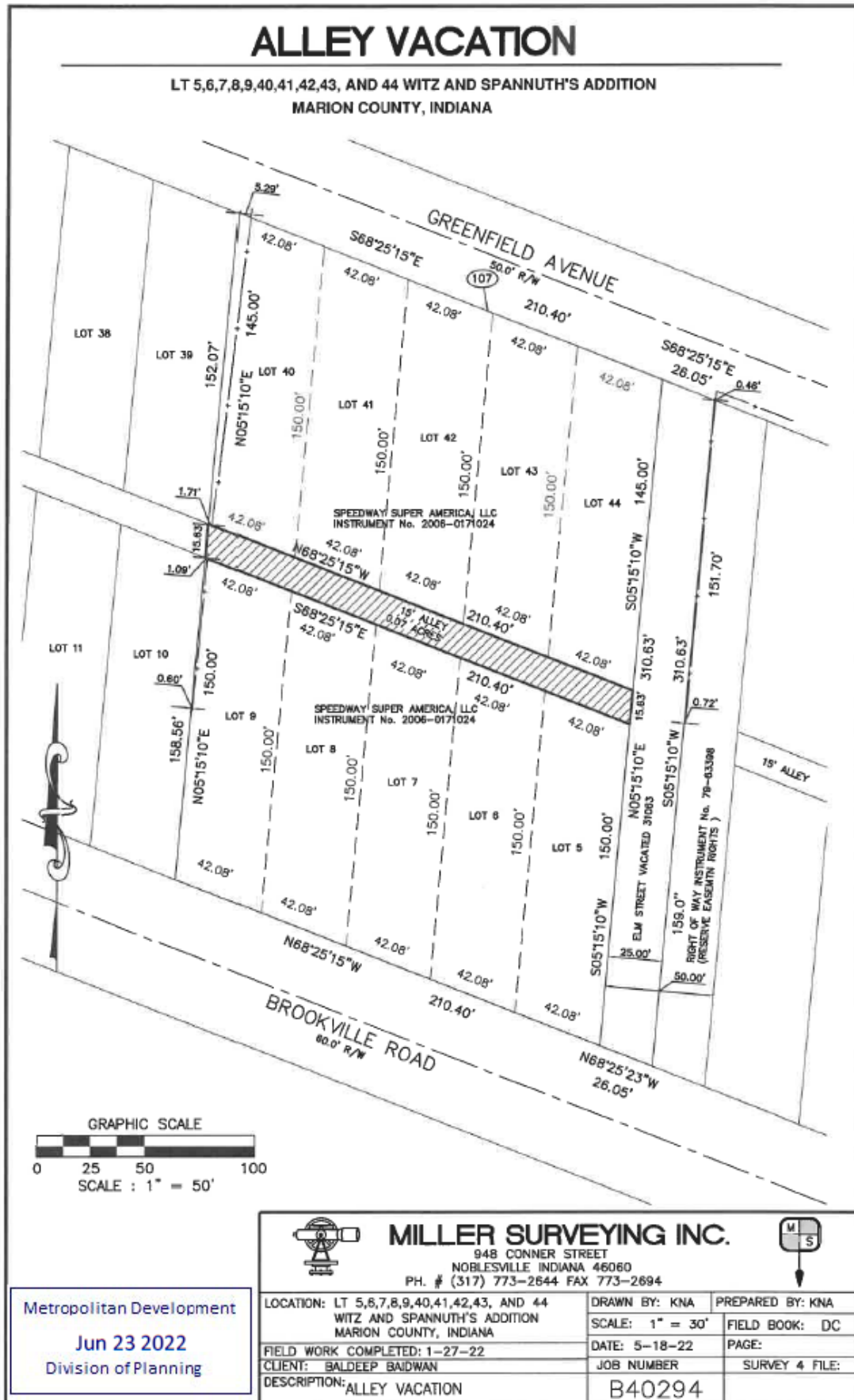
78-VAC-12, 450 South Ritter Road, vacation of part of Greenfield Avenue between Ritter Avenue and the First Alley west of Ritter Avenue, **approved**.

AR

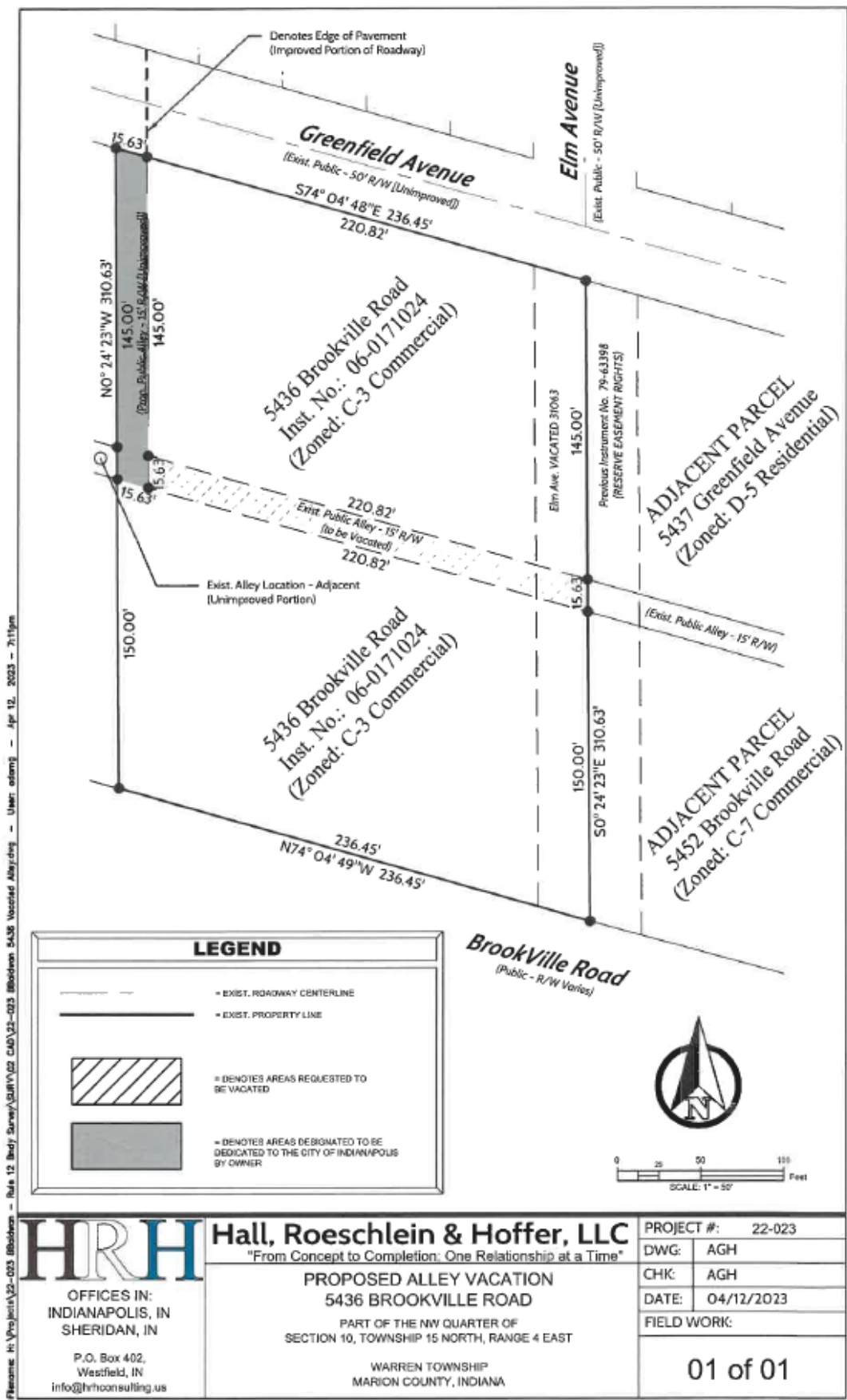
2022-CVC-840 Aerial Map



2022-CVC-840 Vacation Survey



2022-CVC-840 Vacation Survey (Amended)



2022-CVC-840 Findings of Fact (Amended)

**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: At the present this alley segment comes to a dead end at the east property line of 5436 Brookville Road. With the north/ south Elm Street formerly along the east property line of both parcels of 5436 Brookville Road, previously vacated as is the segment of the alley to the east of the former north/ south Elm Street, the alley segment that is the subject of this vacation petition continues to be the dead end of this alley going east. However with the dedication of the north/ south alley along the west property line of 5436 Brookville Road, going north from this existing alley to the west of 5436 Brookville Road; proceeding north along the west property line of northern parcel of 5436 Brookville Road to the intersection with the existing right of way of Greenfield Avenue, thus in the future, the dedication of the proposed alley could provide for right of way that removes the potential of a dead end alley. Furthermore, the amended vacation request would allow for the entire site (both parcels addressed as 5436 Brookville Road to become, with the merger of the two parcels, a created new larger parcel that would incorporate both existing parcels and allow for the total use of the site for a permitted C3 use. The northern half of the two parcels addressed as 5436 Brookville Road has no improved street frontage and thus although zoned C3. could not be issued an Improvement Location permit for a permitted C3 commercial building and use to be located on the northern half of the site (two parcels addressed as 5436 Brookville Road, until the proposed vacation is recorded and the two parcels are merged into one parcel addressed as 5436 Brookville Road)

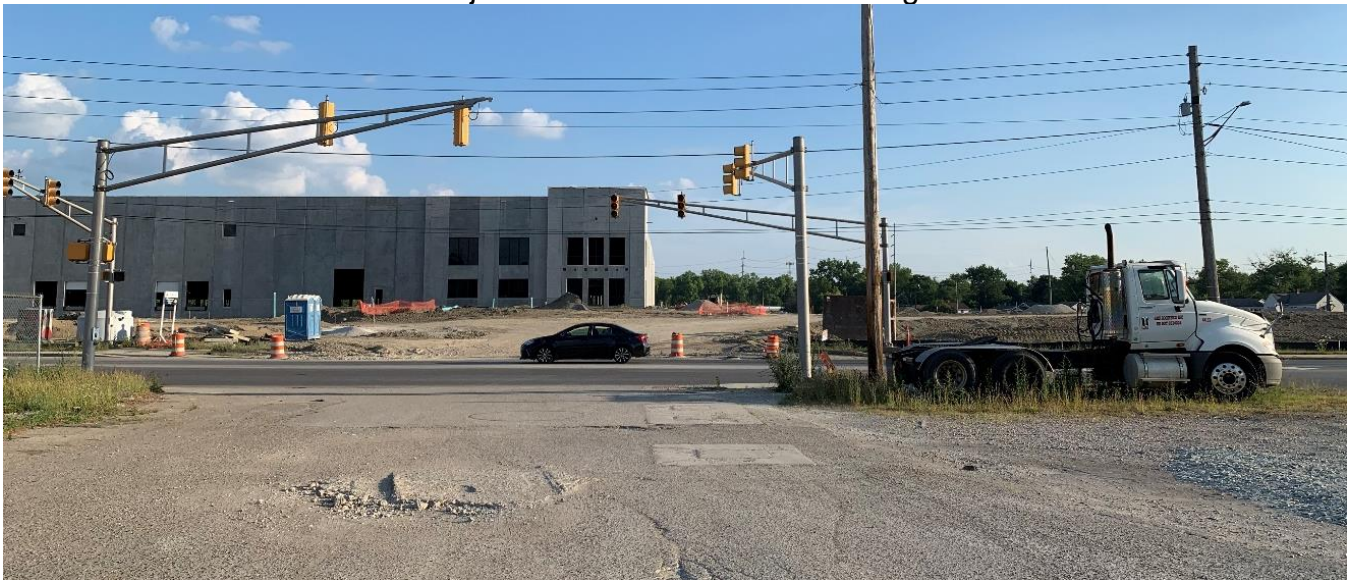
2022-CZN-840 / 2022-CVR-840 / 2022-CVC-840 Site Photos



Subject site Brookville Road frontage



Subject site Brookville Road frontage



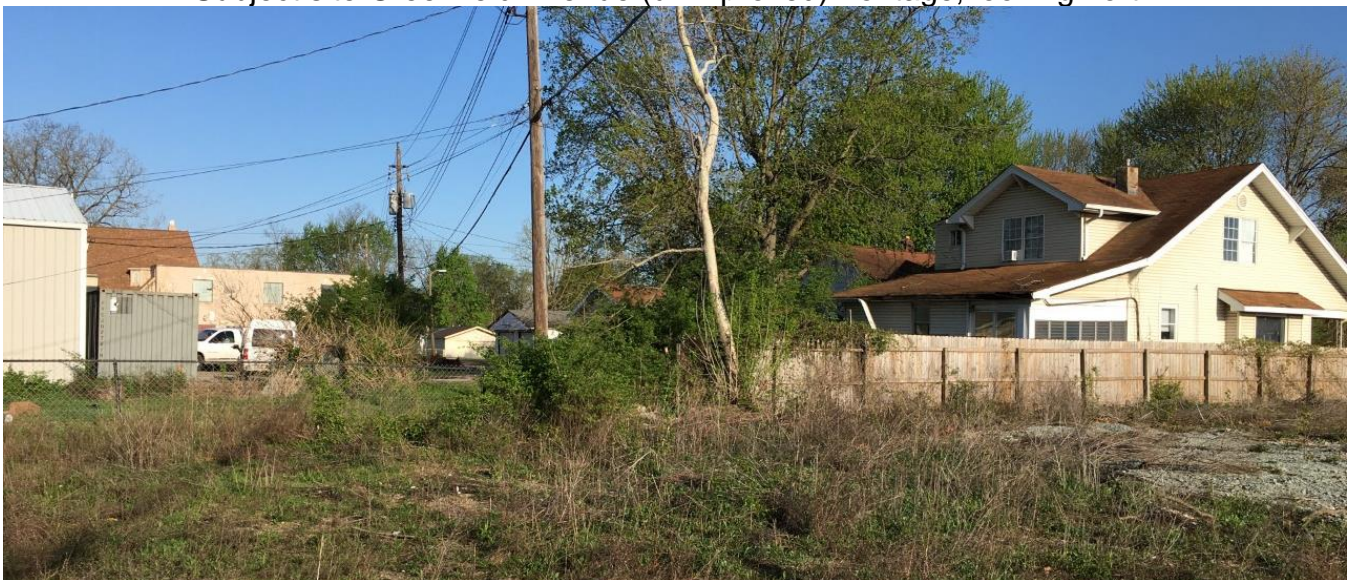
Existing site access and south of site



Alley to be vacated and overhead utility lines, looking east



Subject site Greenfield Avenue (unimproved) frontage, looking north



Alley to be vacated, looking west. Proposed dedication along fence line shown right



Proposed dedication along fence line. Looking southwest



Greenfield Avenue right-of-way, looking east. Proposed alley dedication south (right)



Alley west of site, looking east. Alley improvements end west of site