

PLAT COMMITTEE October 11, 2023

Case Number: 2023-VAC-006

Property Address: 921 Virginia Avenue (*Approximate Address*)

Location: Center Township, Council District #16

Petitioner: White Castle System, Inc., by Michael Rabinowitch

Zoning: MU-2 (Fountain Square Historic Commercial - IHPC)

Request: Vacation of a portion of Buchanan Street, being 13 feet in width, beginning

187.56 feet east of the east right-of-way line of Leonard Street, east 29 feet, to a point 169.14 feet from the west right-of-way line of Virginia Avenue.

Waiver Requested: None

Current Land Use: Improved sidewalk

Staff Reviewer: Jeffrey York, Principal Planner

PETITION HISTORY

This is the first hearing for this 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 be held on November 8, 2023; that the Plat Committee confirm and ratify the adoption of Declaratory Resolution 2023-VAC-006; and that the vacation be subject to the rights of public utilities under IC 36-7-3-16, and the following condition:

A permanent transportation easement shall be granted for use of the sidewalk along the north side of Buchanan Street.

PETITION OVERVIEW

SUMMARY

This request would vacate a small portion of improved right-of-way, along the south property line of 921 Virginia Avenue, approximately 170 west of Virginia Avenue. Specifically, this request would vacate a 13-foot by 29-foot portion of the north right-of-way of Buchanan Street for the placement of utility transformers, for a proposed mixed-use development. This development has received approval (2022-COA-027) from the staff of the Indianapolis Historic Preservation Commission.

The proposed vacated area includes a sidewalk, which would be replaced and re-routed around the proposed transformers. The Findings of Fact indicates that a transportation easement would be granted if this request is approved. Staff requests that approval of this request be conditioned upon the grant of



this easement. Due to the development receiving prior development approval by the IHPC and that a transportation easement would be granted to provide for continued public use of the sidewalk, staff supports the request.

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

There is no request for a waiver of the assessment of benefits, therefore, an appraisal of the proposed vacated area is expected to be submitted to the file. If approved, a hearing upon the assessment of benefits would be held on November 8, 2023.

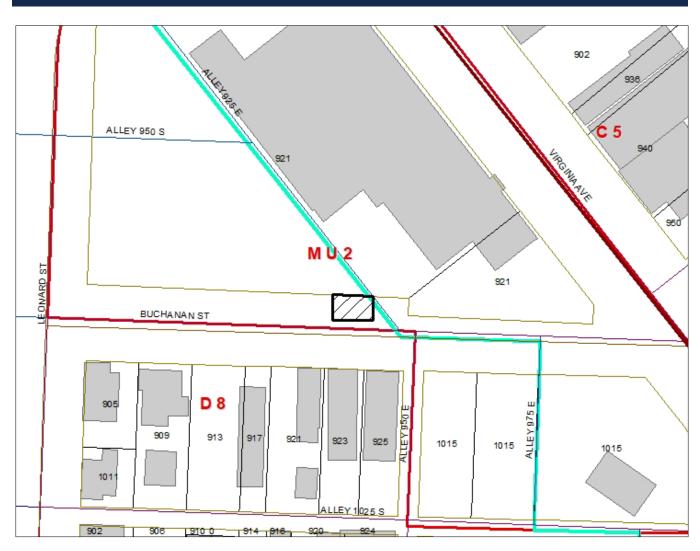


GENERAL INFORMATION

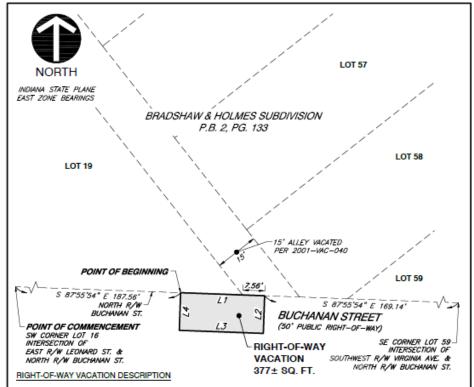
Existing Zoning	MU-2 (Fountain Square Historic Commercial District – IHPC)				
Existing Land Use	Sidewalk				
Comprehensive Plan	Village mixed-use development				
Surrounding Context	Zoning	Land Use			
North:	C-5 (FS - IHPC)	Commercial			
South:	D-8 / MU-2	Residential / commercial			
East:	st: C-5 (FS - IHPC) Commercial				
West:	D-8 (RC) Interstates 65 and 70				
Thoroughfare Plan					
Virginia Avenue	Primary arterial	56-foot existing and proposed			
Buchanan Street	Local street	48-foot existing and proposed			
Leonard Street	et Local street 48-foot existing and proposed				
Petition Submittal Date	September 1, 2023				



EXHIBITS







Part of the right-of-way of Buchanan Street, lying between the East right-of-way of Leonard Street and the Southwest right-of-way of Virginia Avenue, located in the Southeast Quarter of Section 12, Township 15 North, Range 3 East of the Second Principal Meridian, Center Township of Marian County, Indiana, being more particularly described by Tyler J. Thompson, LS21400006 of Civil & Environmental Consultants, Inc. on August 30, 2023 as follows:

Commencing at the Southwest corner of Lot 16 in Bradshaw & Holmes Subdivision as recorded in Plat Book 2, page 133 in the Office of the Recorder of Marion County, Indiana, also being the Intersection of the East right—of—way of Leonard Street and the North right—of—way of Buchanan Street; thence South 87 degrees 55 minutes 54 seconds East (Indiana State Plane East Zone Grid Bearings) along said North right—of—way a distance of 187.56 feet to the POINT OF BEGINNING; thence continuing South 87 degrees 55 minutes 54 seconds East along said North right—of—way a distance of 29.00 feet; thence South 01 degrees 59 minutes 50 seconds West a distance of 13.00 feet; thence North 87 degrees 55 minutes 50 seconds West a distance of 29.01 feet; thence North 02 degrees 01 minutes 29 seconds East a distance of 13.00 feet to the Point of Beginning, containing 377 square feet of land, more or less.

Tol & Thong

Tyler J. Thompson Registered Land Surveyor No. LS21400006 August 30, 2023 tthompson@cecinc.com

prepared by Tyler J. Thompson

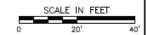
No.
21400006
STATE OF
SURVE

LINE IABLE			
LINE #	DIRECTION	LENGTH	
L1	S 87'55'54" E	29.00'	
L2	S 01"59"50" W	13.00'	
L3	N 87"55'54" W	29.01	
L4	N 02'01'29" E	13.00	

..... TIOLE

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law. Tyler J. Thompson REFERENCE:

This exhibit is based upon the ALTA/NSPS Land Title Survey by Civil & Environmental Consultants, Inc., Project No. 317-429

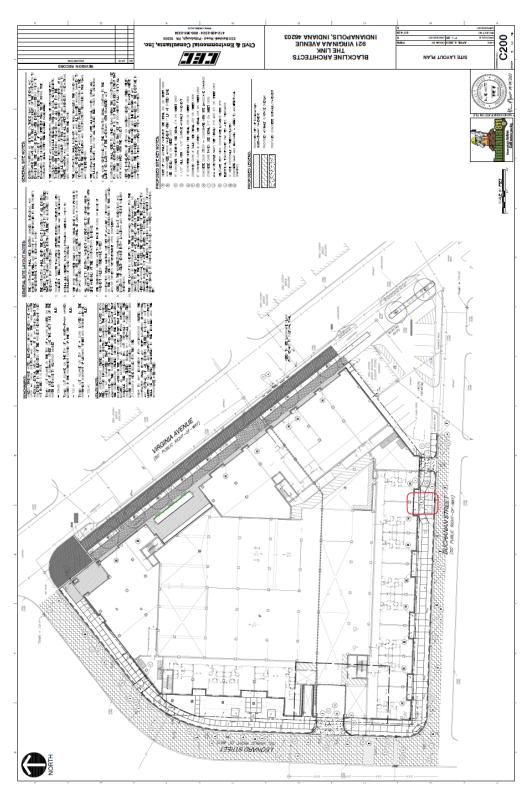


	<i> </i>	
Civil &	Environmental Consultants,	Inc.

530 E. Ohio Street, Suite G - Indianapolis, IN 46204 317-655-7777 - 877-746-0749 www.cecinc.com PERKINS, VON DEYLEN & ASSOCIATES DBA BLACKLINE STUDIO 921 VIRGINIA AVENUE INDIANAPOLIS, INDIANA 46203

DRAWN BY:	CJV	CHECKED BY:	TJT	APPROVED BY:	ABS	EXHIBIT:	4 0 = 4	
DATE:	AUGUST 30, 2023	DWG SCALE:	1"=20'	PROJECT NO:	317-429	1	1 OF 1	





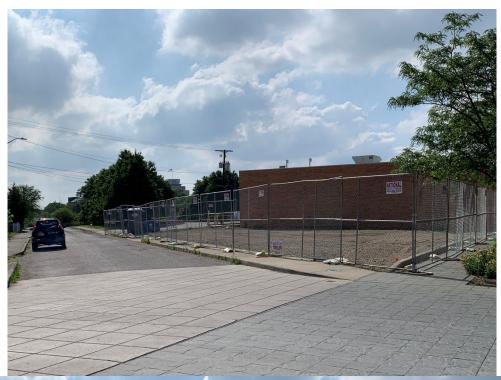


Department of Metropolitan Development Division of Planning **Current Planning**

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
THE PROPOSED VACATION IS IN THE PUBLIC INTEREST because:
Currently, the aubject property is a vacant, decaying, underutilized wavehouse property. The Petitioner is undertaking a \$50 million redevelopment of the site for a mixed use apartment
and retail building with a declosted parking garage. Adjacent to the Outural Trail along Virginia Ave., this tight urban site provides limited opportunity to locate utility transformers without
Interfering with the visual attraction of the Cultural Trail or interfering with the Cultural Trail when the transformers need to be maintained. The Petition seeks to vacate only 29 feet of frontage along
Buchanan Ave., a side street, which is away from the Cultural Trail and adjacent to a similar area that was vacated in 2021 to permit development of the adjacent parcel. For these reasons, the
purpose is served by locating transformers for the project along the Buchanan St. frontage. Moreover, a transportation easement will be granted to permit unimpeded public use of the sidewalk.
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
Adopted this day of, 20



Photos





Views of the proposed vacation area from Virginia Avenue and Buchanan Street





View of proposed vacation area from Buchanan Street