

## 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.

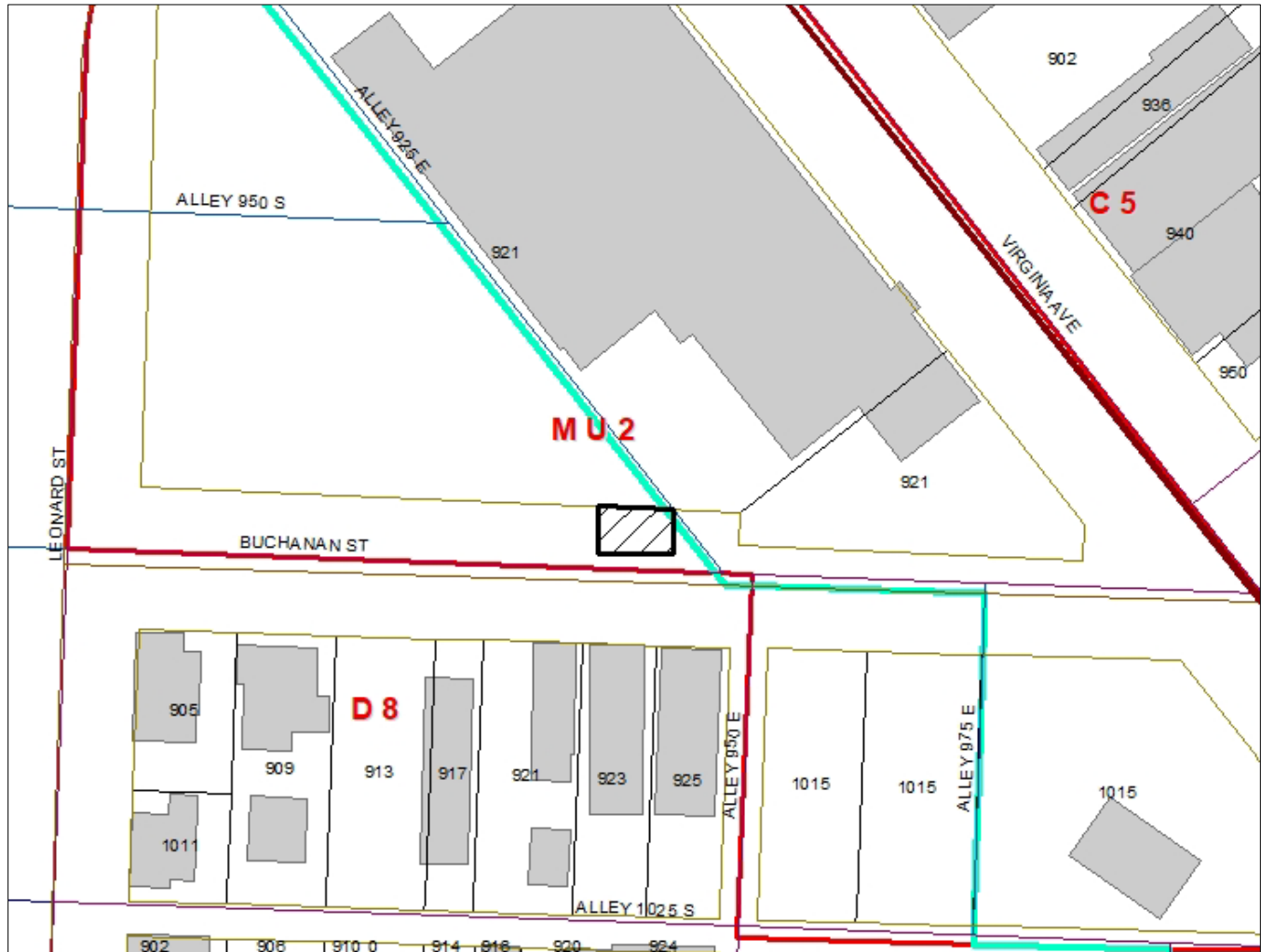
## **ASSESSMENT OF BENEFITS**

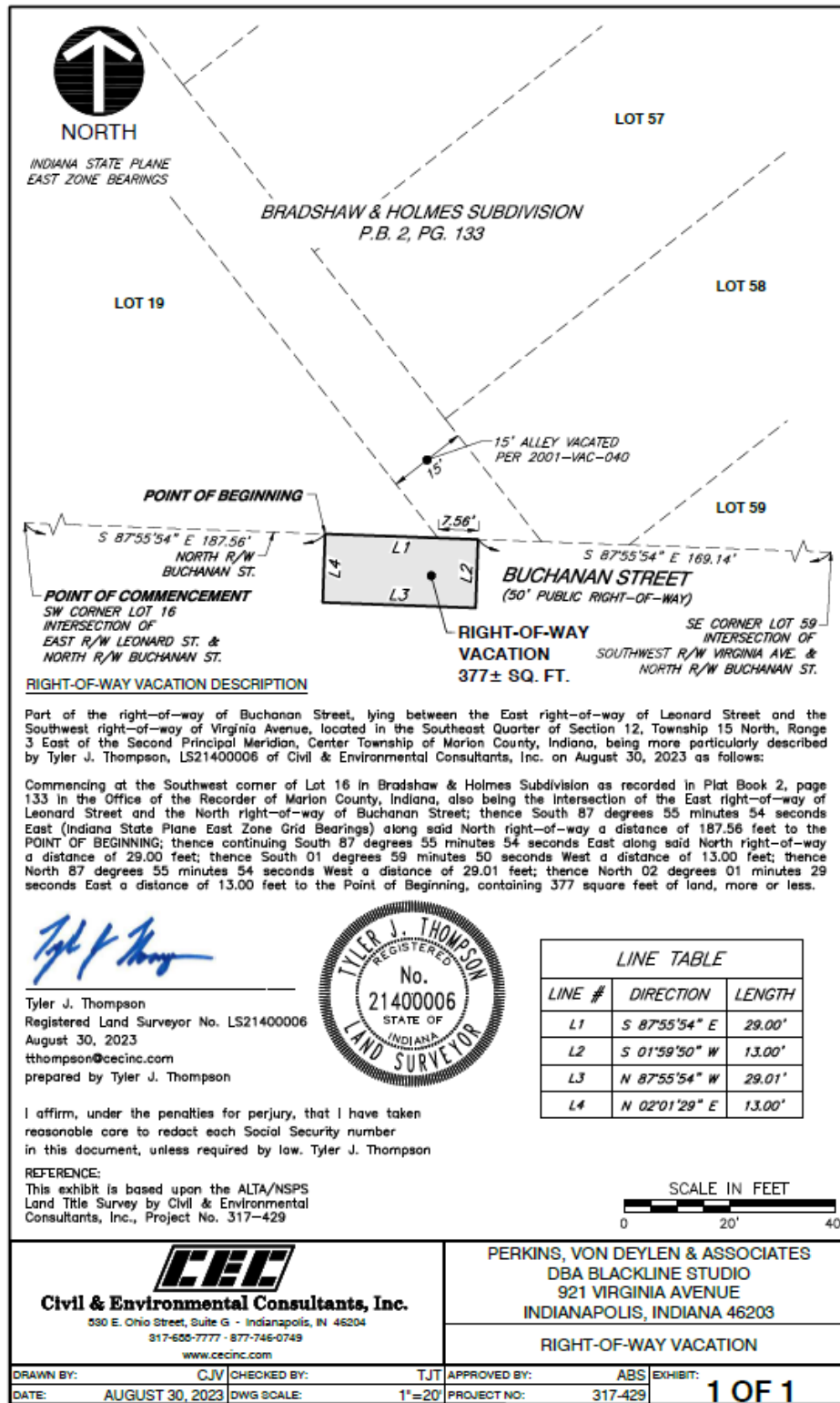
There is no request for a waiver of the assessment of benefits, therefore, an appraisal of the proposed vacated area is expected to be submitted to the file. If approved, a hearing upon the assessment of benefits would be held on November 8, 2023.

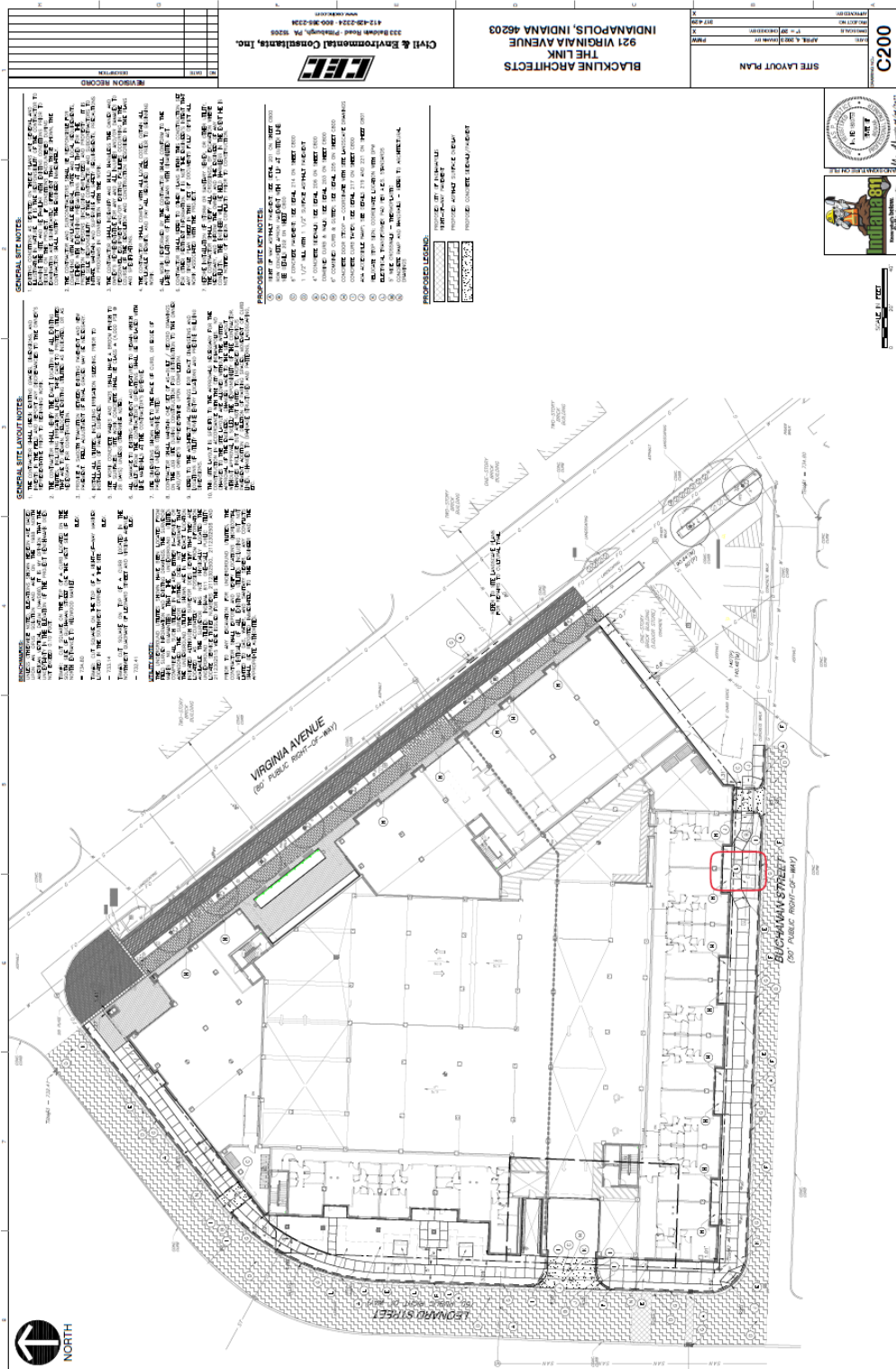
## GENERAL INFORMATION

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

EXHIBITS









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:

Currently, the subject property is a vacant, decaying, underutilized warehouse property. The Petitioner is undertaking a \$60 million redevelopment of the site for a mixed use apartment and retail building with a dedicated parking garage. Adjacent to the Cultural 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 20 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 of this decision).

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