

**METROPOLITAN DEVELOPMENT COMMISSION
HEARING EXAMINER**

May 29, 24, 2025

Case Number: 2025-CZN-811 (Amended) / 2025-CVC-811

Property Address: 1708 East 10th Street and 1017 Windsor Street (Approximate Addresses)

Location: Center Township, Council District #13

Petitioner: RG Holdings, LLC, and Jackson Control Properties, by David Kingen and Emily Duncan

Current Zoning: D-8 and C-3

Rezoning of 0.67-acre from the D-8 and C-3 districts to the MU-2 district for a mixed-use development.

Request: Vacation of the first east-west alley north of 10th Street, being 15 feet in width, beginning at the east right-of-way line of Windsor Street, east 150 feet, to the west right-of-way line of the first north-south alley east of Windsor Street, with a waiver of the assessment of benefits.

Current Land Use: Commercial

Staff Denial of the rezone request

Recommendations: Approval of the vacation request with proposed conditions for approval.

Staff Reviewer: Desire Irakoze, Principal Planner II

PETITION HISTORY

ADDENDUM FOR MAY 29, 2025 HEARING EXAMINER

The petition was continued from the May 15, 2025 hearing to the May 29, 2025 hearing due to a procedural error resulted in this vacation petition being scheduled separately from its companion rezoning petition. No additional public notice will be required for this continuance.

After the publication of the previous staff report, the rezoning portion of the request was amended to a rezoning to the MU-2 district instead of the MU-1 district..

While the rezoning is a represents a decrease in intensity the proposed use of the property is still not a mixed use. The petitioner's intended uses are permitted in their current C-3 zoning district.

ADDENDUM FOR MAY 15, 2025 HEARING EXAMINER

The petition was continued from the April 24, 2025 hearing to the May 15, 2025 hearing at staff's request to allow for thorough review of additional materials.

Staff is requesting a continuance for cause from the May 15, 2025 hearing to the May 29, 2025 hearing. A procedural error resulted in this vacation petition being scheduled separately from its companion rezoning petition. No additional public notice will be required for this continuance.

ADDENDUM FOR APRIL 24, 2025 HEARING EXAMINER

The petition was continued from the March 13, 2025, hearing to the April 24, 2025 hearing at staff request to allow for additional information to be reviewed.

The petition is seeking to amend the petition request, this request will require additional review as well as new notice. Therefore, petitioner is requesting a continuance for cause, continuing this petition from the April 24, 2025, hearing to the May 29, 2025 hearing.

MARCH 13, 2025

This is the first public hearing for this petition.

STAFF RECOMMENDATION

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

Staff recommends **approval** of the vacation petition, with proposed conditions for approval

PETITION OVERVIEW

LAND USE

This 0.67-acre site, zoned D-8 and C-3 is comprised of two (2) parcels, one (1) parcel is developed as a commercial property (Jackson Controls) and one (1) is developed as a parking lot. It is surrounded by single-family dwellings to the north and south, zoned D-8, D-5, multi-family uses to the east, zoned D-P and commercial uses to the west, zoned C-3.

REZONING

This request would rezone the site from the D-8 and C-3 district to the MU-2 to provide for the reconfiguration of the parking lot.

D-8 (Dwelling District Eight): A unique district that allows all forms of residential development except mobile dwellings. The district is designed to provide for the wide range and mixture of housing types found in older, inner-city neighborhoods, as well as along older residential/commercial thoroughfares.

C-3 (Neighborhood Commercial District): Is characterized extensive range of retail sales and personal, professional and business services required to meet the demands of the residential neighborhood in proximity. C-3 generally does not allow those businesses that require the outdoor display, sale or storage of merchandise; or require outdoor operations.

MU-2 (Mixed-Use District One): districts are intended to accommodate a mix of residential uses, offices, personal services, retail, and eating & drinking businesses that typically do not draw customers from beyond their neighborhood boundaries and do not generate substantial vehicle traffic. The corridor development pattern of the MU-2 district is neighborhood-focused; supportive of safe, vibrant pedestrian activity; and offers additional housing options.

VACATIONS

Summary

This petition, if approved, would vacate an improved alley right-of way (E Alley 1050 N) between Windsor Street and E 10th street. The rest of the alley from E 10th street with **86-VAC-23 and 2019-CVC-847**.

The vacation would be for 0.052 acres or 2,250 square feet (vacation exhibit dated 7/29/2024)

The petitioner owns properties on both sides of this right-of-way, this vacation would provide for redevelopment of the parking lot, to better align with the business needs and use as well as functionality.

The vacation of this portion of alley right-of-way, with the condition of easement to the north would serve the public interest as it would relocation the public use from between a parking lot and commercial use and place it between a parking lot and residential use.

Should the Hearing Examiner approve the vacation petition, staff recommends the following condition(s)

1. The addition of a transportation easement of 15' wide, east and west direction connection Windsor Street and E 10th Street.

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 with concrete; therefore, the city has invested in this alley. Due to previous investment into this right-of-way, the request to waive the assessment of benefits should be denied.

STAFF ANALYSIS

The Comprehensive Plan recommends **Village Mixed-Use** typology for this area, which includes neighborhood gathering places with a wide range of small businesses, housing types, and public facilities. The proposed use does not offer a mix of uses, but instead offers uses already permitted in the C-3 district.

The aim of the petitioner appears to be the reconfiguration of the parking lot located on the northern parcel #1091853, while zoned D-8 is allowed a parking lot via **69-V2-236**. As the layout was subject to the site plan, reconfiguration would be better remedy with a modification of commitments petition which staff would be supportive.

The petitioner has not provided a clear development plan or specific intended use for the site. Due to the uncertainty of the intended use, and the incompatibility with surrounding zoning districts, in lieu of the Comprehensive Plan recommendations, staff cannot support a blanket rezoning to the MU-2 district.

For these reasons, staff is recommending denial of the rezone request.

GENERAL INFORMATION

Existing Zoning	C-3 / D-8	
Existing Land Use	Commercial	
Comprehensive Plan	Village Mixed-Use/ Traditional Neighborhood	
Surrounding Context	<u>Zoning</u>	<u>Land Use</u>
North:	D-8	Single-Family Residential
South:	D-5	Single-Family Residential
East:	D-P	Multi-Family Residential
West:	C-3	Commercial
Thoroughfare Plan		
East 10 th Street	Primary Arterial	56-foot existing right-of-way and Proposed foot right-of-way
Windsor Street	Local Street	48-foot existing right-of way Proposed foot right-of-way
Context Area	Compact	
Floodway / Floodway Fringe	No	
Overlay	No	
Wellfield Protection Area	No	
Site Plan	2/4/2025	
Site Plan (Amended)	N/A	
Elevations	N/A	
Elevations (Amended)	N/A	
Landscape Plan	N/A	
Findings of Fact	3/4/2025	

Findings of Fact (Amended)	N/A
C-S/D-P Statement	N/A

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

- Marion County Land Use Pattern Book (2019)
- Near Eastside Quality of Life Plan (2020)

Pattern Book / Land Use Plan

The **Village Mixed-Use** typology creates neighborhood gathering places with a wide range of small businesses, housing types, and public facilities. This typology is intended to strengthen existing, historically small-town centers as well as to promote new neighborhood centers. Businesses found in this typology serve adjacent neighborhoods, rather than the wider community. This typology is compact and walkable, with parking at the rear of buildings. Buildings are one to four stories in height and have entrances and large windows facing the street. Pedestrian-scale amenities such as lighting, landscaping, and sidewalk furniture also contributes to a walkable environment in this typology. Uses may be mixed vertically in the same building or horizontally along a corridor. Public spaces in this typology are small and intimate, such as pocket parks and sidewalk cafes. This typology has a residential density of 6 to 25 dwelling units per acre.

- **Artisan Manufacturing and Food Production**
 - Automotive uses are excluded.
 - **Resilient 3.4:** Compatibility between land uses is key to maintaining stable property values and resilient neighborhoods.
 - Mixed-use structures are preferred.
 - **Resilient 2.4:** Orienting uses toward the streets and other public spaces creates safer pedestrian environments.
 - **Competitive 2.2:** Neighborhoods that promote foot traffic ultimately generate more business for retail than areas that are only accessible by vehicle.
 - Operations should be fully contained within buildings.
 - **Resilient 3.4:** Compatibility between land uses is key to maintaining stable property values and resilient neighborhoods.
- Should be in harmony with the character of the surrounding neighborhood in terms of materials, building placement, entrance location, and vehicle and service areas.

- **Resilient 3.4:** Compatibility between land uses is key to maintaining stable property values and resilient neighborhoods.
- **Competitive 3.1:** Aesthetics are an important factor in ensuring that neighborhoods and individual properties hold their value over time.
- Should include a commercial component that is open to the public.
 - **Competitive 1.1:** Development should create vibrant, walkable places.

The **Traditional Neighborhood** typology includes a full spectrum of housing types, ranging from single family homes to large-scale multifamily housing. The development pattern of this typology should be compact and well-connected, with access to individual parcels by an alley when practical. Building form should promote the social connectivity of the neighborhood, with clearly defined public, semi-public, and private spaces. Infill development should continue the existing visual pattern, rhythm, or orientation of surrounding buildings when possible. A wide range of neighborhood-serving businesses, institutions, and amenities should be present. Ideally, most daily needs are within walking distance. This typology usually has a residential density of 5 to 15 dwelling units per acre.

- **Small-Scale Offices, Retailing, and Personal or Professional Services**
 - If proposed within one-half mile along an adjoining street of an existing or approved residential development, then connecting, continuous pedestrian infrastructure between the proposed site and the residential development (sidewalk, greenway, or off-street path) should be in place or provided.
 - Should be located at intersections and limited to an aggregate of 1 acre per intersection.
 - **Competitive 1.1:** Development should create vibrant, walkable places.
 - Should be limited to areas and parcels with adequate space for required screening and buffering.
 - **Competitive 3.1:** Aesthetics are an important factor in ensuring that neighborhoods and individual properties hold their value over time.

Red Line / Blue Line / Purple Line TOD Strategic Plan

- Not Applicable to the Site.

Neighborhood / Area Specific Plan

- Near Eastside Quality of Life Plan
- Placemaking & Infrastructure -Priority #1
 - Create stronger commercial corridor connectivity to create a connected and accessible community.
 - **Action 1.5:** Develop opportunities for placemaking which supports the development of mixed use and diverse businesses on the Near Eastside.

Infill Housing Guidelines

- Not Applicable to the Site.

Indy Moves

(Thoroughfare Plan, Pedestrian Plan, Bicycle Master Plan, Greenways Master Plan)

The Marion County Thoroughfare Plan (2019) “is a long-range plan that identifies the locations classifications and different infrastructure elements of roadways within a defined area.”

The following listed items describe the purpose, policies and tools:

- Classify roadways based on their location, purpose in the overall network and what land use they serve.
- Provide design guidelines for accommodating all modes (automobile, transit, pedestrians, bicycles) within the roadway.
- Set requirements for preserving the right-of-way (ROW)
- Identify roadways for planned expansions or new terrain roadways.
- Coordinate modal plans into a single linear network through its GIS database

ZONING HISTORY

2001-DV2-070; 1704-1738 East 10th Street (Subject Site), Variance of development standards of the Commercial Zoning Ordinance to provide for the placement of a nine-foot tall chain-link and barbed-wire fence located within the required front yard along 10th and Windsor Streets (maximum 6 feet in height permitted) (barbed-wire fencing not permitted within the required front yard). **Granted.**

91-UV3-1; 1704-1738 East 10111 Street (subject site), requests a variance of use of the Commercial Zoning Ordinance to permit the distribution and assembly of temperature and humidity control devices in a C-3 district, **Granted**

92-AP3-6; 1704-1738 East 10111 Street (subject site), requests the modification of a 91-UV3-1 condition to provide for an extension of time for installing the required landscaping, **Granted.**

88-Z-159 / 88-CV-24; 1015 North Windsor Street, (subject site), requested rezoning of 0.14 acre, being in the D-8 District, to the C-3 classification to provide for a commercial parking lot and a variance of development standards of the Commercial Zoning Ordinance to permit parking within the rear transitional yard and reduce the required landscape screen adjacent to a residential district, **withdrawn.**

69-V2-236; 1017-19 North Windsor Street (subject site), request variance of use, setback, side and rear yard requirements to permit accessory off-street parking on premises, **approved.**

67-V1-237; 1708 East 10th Street (subject site), Variance of use to permit a used car lot, **denied.**

60-V-79; 1708 East 10th Street, variance of use to permit the sale and storage of plumbing fixtures and tools, **denied.**

Zoning History Vicinity

2019-CZN-847; 1720, 1730 and 1740 East 10th Street; 1010, 1016 and 1020 Sterling Street (east of site), Rezoning of 1.53 acres from the D-8 and C-3 districts to the D-P districts to provide for 22 single-family attached dwelling at a density of 24.5 units per acre.

2019-CVC-847; 1720, 1730 and 1740 East 10th Street; 1010, 1016 and 1020 Sterling Street (east of site), Vacation of the portion of the first east-west ally north of 10th Street, being 15-feet wide, from the west right-of-way line of sterling street, being the southeast corner of lot 13 of Windsor Place, as recorded in Plat Book Eight, Page 139 of the Office of the Marion County Recorder, 149.99 feet to the southwest corner of Lot 13 of said subdivision, being the east line of the first north-south alley west of Sterling Street.

2018-ZON-124; 1604 and 1608 East 10th Street (west of site), Rezoning of 0.37 acre from the MU-1 district to the D-8 classification, **approved.**

2016-ZON-060; 1401 East 10th Street (southwest of site), Rezoning of 2.27 acres from the C-S (FF) district to the D-8 (FF) classification to provide for multi-family residential development, **approved.**

2016-ZON-004; 1322, 1326, 1330, 1405 and 1406 East 10th Street (north of site), requested rezoning of 0.42 acre, from the C-2 (FF) Districts to the D-8 (FF) classification to provide for single-family dwellings, **approved**.

2015-UV1-020; 1616 East 10th Street (east of site), requested a variance of use and development standards of the Commercial Zoning Ordinance to provide for the construction of a 721-square foot carport (not permitted), with a six-foot east side yard and to legally establish a 224-square foot storage shed, with a zero-foot west side yard, **granted**.

2013-HOV-035; 1526 East 10th Street (west of site), requested a variance of use and development standards of the Commercial Zoning Ordinance to legally establish a single-family dwelling, with a zero-foot west side setback, and a detached garage, **granted**.

2011-CAP-833 / 2011-CVR-833; 1500 East Michigan Street, requested a modification of the development statement related to 2010-ZON-099 to modify the requirement that all signs be compliant with the Sign Regulations and a variance of development standard of the Sign Regulations to provide for a four-foot tall freestanding sign with reduced setbacks and an eleven foot tall freestanding sign exceeding the required height and with reduced separation from a protected district, **approved**.

2010-ZON-099, 1401 East 10th Street, also known as 1500 East Michigan Street (south of site). Rezoning of 3.433 acres from the SU-2 (School) District to the C-S (Special Commercial) classification to provide for fire department headquarters, SU-9 uses (buildings and grounds used by any department of town, city, township, county, state, or federal government), SU-7 uses (charitable, philanthropic, and not-for-profit institutions), educational uses, C-1 uses, and commercial service and retail uses comprising a maximum area of 5,000 square feet, **approved**.

2011-UV2-002; 1414 East 10th Street (east of site), requested a variance of use and development standards of the Commercial Zoning Ordinance to provide for a single-family detached dwelling, with reduced setbacks, **granted**.

2004-HOV-016; 1434 East 10th Street (east of site), requested a variance of use and development standards of the Commercial Zoning Ordinance to legally establish a single-family dwelling, with reduced setbacks, **granted**.

2002-UV2-019; 1323 East 10th Street (south of site), requested a variance of use and development standards of the Commercial Zoning Ordinance to legally establish a single-family dwelling and provide for the construction of a detached garage with reduced setbacks, **granted**.

2002-HOV-036; 1402 East 10th Street, requested a variance of use and development standards of the Commercial Zoning Ordinance to legally establish an 864-square foot single-family dwelling and a 528-square foot detached garage and to provide for a 138-square foot addition, **granted**

99-NC-4; 1414 East 10th Street (west of site), requested a certificate of legal non-conforming use to permit a single-family dwelling in a C-2 District, **granted**.



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92-Z-99; 1401 East 10 Street (west of site) request rezoning of 80 acres, being in the D-5 district to the SU-2 classification to legally establish an existing school, **approved**.

91-UV1-84; 1333 East 10th Street (south of site), requested a variance of use of the Commercial Zoning Ordinance to permits an addition to an existing single-family dwelling, **granted**.

86-VAC-23; 1700 East 10th Street (east of site), requested vacation of the first alley, being 15-feet wide, east of Windsor Street from the north right-of-way-line of East 10th Street to a point 140 feet south of the south right-of-way line of the first alley north of East 10th Street, **approved**.

83-HOV-47; 1027 Newman Street (west of site), requested a variance of development standards of the Dwelling Districts Zoning Ordinance, to allow the replacement of a gable roof with a gambrel roof on an existing garage that is 2.5 and 1.5 feet from the side property lines, **granted**.

57-Z-119 1880 East 10th Street (east of site), request rezoning of approximately 1.6 acres in block ,A,C B, in Fletcher's Homestead addition, being in the U2-H1-AG district to a U3-H1-A4 classification to permit the construction of a supermarket, retail sales and personal service shops, being extension of U3 use on the south.

EXHIBITS



Figure 1 Petitioner Commitments.

ATTACHMENT “E”:

Petitioner commits to exclude the following MU1 uses from the subject site:

Permitted Uses

1. Club or lounge
2. Community Center
3. Hotel, Motel or hostel
4. Substation and utility distribution node
5. Wireless communication facility
6. Transit center
7. Storage facility (self- storage (indoor and outdoor)

Special exception Uses

1. Parling Lot, commercial

Accessory Uses

1. Animal care/ boarding, veterinarian services
2. Bar or Tavern
3. Indoor recreation and entertainment
4. Amateur Radio Antenna
5. Museum, Library or art gallery
6. Public safety / post office
7. Drive through
8. Pick up station for dry cleaning or laundry
9. Recycling collection point
10. Renewable energy facility, solar and geothermal
11. Satellite dish antennae
12. Storage facility (self storage, indoor and outdoor)
13. Swimming pool or hot tub
14. Transportation facilities and accessories (ground)
15. Walk up window
16. Transitional living quarters
17. Night club /Cabaret

Temporary uses

1. Outdoor display and sales, Temporary
2. Portable storage
3. Produce sales
4. Temporary construction yard, office, or equipment storage
5. Temporary Outdoor event



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Figure 2 Findings of Fact Vacation

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:

The dedicated public alley has never been used for a public purpose and the vacation would allow for the merging of the existing dedicated alley where both side of the alley are owned and used by the petitioner.

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 ____

Figure 3 Original Plat

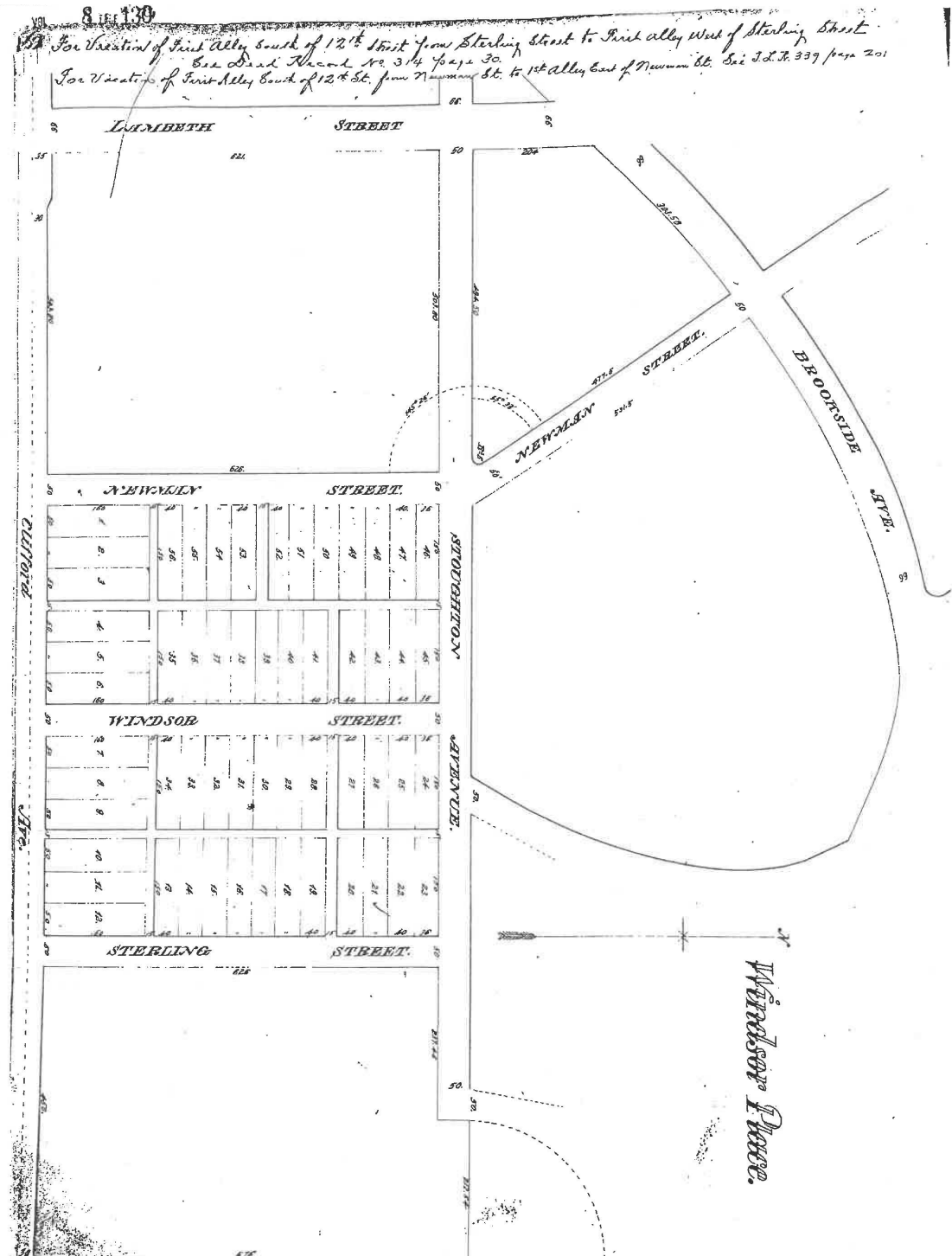




Figure 4 Alley North



Figure 5 Sidewalk along the front of the property



Figure 6 Subject Site side parking lot



Figure 7 Alley to be vacated



Figure 8 Delivery Entrance