

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2022-CPL-856 / 2022-CVC-856
Address: 6102 Carvel Avenue (*Approximate Address*)
Location: Washington Township, Council District #2
Petitioner: Buckingham Companies, by Mike Timko
Requests: Approval of a subdivision plat to be known as Monon Court combining 1.40 acres into one lot.

Vacation of a fourteen-foot wide portion of Carvel Avenue, along the western edge of said right-of-way, from the northwest corner of the intersection of 61st Street and Carvel Avenue, north 280.70 feet.

ADDENDUM OR FEBRUARY 23, 2023, HEARING EXAMINER

The Hearing Examiner continued petition 2022-CVC-856 from the December 29, 2022 hearing, to the February 23, 2023 hearing, at the request of staff to provide additional time for submittal of the appraiser report for the assessment of benefits.

Staff contacted the petitioner's representative and was told that a new appraiser has been engaged to conduct the appraisal.

No information has been submitted but staff will provide an update if documents are submitted prior to the hearing.

ADDENDUM FOR DECEMBER 29, 2022, HEARING EXAMINER

The Hearing Examiner continued petition 2022-CVC-856 from the December 1, 2022 hearing, to the December 29, 2022^h hearing, at the request of staff to provide additional time for submittal of the appraiser report for the assessment of benefits.

No information has been submitted so staff is requesting a **continuance from the December 29, 2022 hearing, to the January 26, 2023 hearing**. In the event that the report and all related documents are submitted in time for review for the December 29, 2022 hearing, staff will update the staff report to include the information and motion.

ADDENDUM FOR DECEMBER 1, 2022, HEARING EXAMINER

An appraiser has been selected but the required information has not been submitted in time to be included in this addendum. Consequently, staff is requesting a **continuance from the December 1, 2022 hearing, to the December 15, 2022 hearing**.

Staff will provide an update in the event the information is submitted in time for review prior to the hearing.

(Continued)

STAFF REPORT 2022-CPL-856 / 2022-CVC-856 (Continued)

ADDENDUM FOR NOVEMBER 10, 2022, HEARING EXAMINER

The Hearing Examiner approved petition 2022-CPL-856 and continued petition 2022-CVC-856 from the October 13, 2022 hearing to the November 10, 2022 hearing, to provide time for assessment of benefits to be conducted.

Because the required information has not been submitted for the assessment of benefits, petition 2022-CVC-856 will need to be **continued to the December 1, 2022 hearing**.

October 13, 2022

The petitioner's representative **withdrew** the proposed vacation along East 61st Street on September 27, 2022, leaving only the approval of the vacation along Carvel Avenue. The petitioner's representative will make that request at the hearing, which will require acknowledgement from the Hearing Examiner.

RECOMMENDATIONS

Staff **recommends approval** of the plat request.

Staff recommends that the Hearing Examiner **approve** and find that the plat, file-dated June 1, 2022, complies with the standards of the Subdivision regulations, subject to the following conditions:

1. Subject to the Standards and Specifications of Citizens Energy Group, Sanitation Section.
2. Subject to the Standards and Specifications of the Department of Public Works, Drainage Section.
3. Subject to the Standards and Specifications of the Department of Public Works, Transportation Section.
4. That addresses and street names, as approved by the Department of Metropolitan Development, be affixed to the final plat prior to recording.
5. That the Enforcement Covenant (Section 741-701, of the Consolidated Zoning and Subdivision Ordinance) be affixed to the final plat prior to recording
6. That the Site Distance Covenant (Section 741-702, of the Consolidated Zoning and Subdivision Ordinance) be affixed to the final plat prior to recording.
7. That the Sanitary Sewer Covenant (Section 741-704, of the Consolidated Zoning and Subdivision Ordinance) be affixed to the final plat prior to recording.
8. That the Storm Drainage Covenant (Section 741-703, of the Consolidated Zoning and Subdivision Ordinance) be affixed to the final plat prior to recording.
9. That the plat restrictions and covenants, done in accordance with the rezoning commitments, be submitted prior to recording the final plat.
10. That all the standards related to secondary plat approval listed in Sections 741-207 and 741-208 of the Consolidated Zoning and Subdivision Ordinance be met prior to recording the final plat.

(Continued)

STAFF REPORT 2022-CPL-856 / 2022-CVC-856 (Continued)

Staff **recommends approval** of the vacation request and offers the follow motion:

RECOMMENDED MOTION: That the Hearing Examiner finds that the proposed vacation is in the public interest. That a hearing upon the assessment of benefits be held on November 10, 2022; that the Hearing Examiner confirm and ratify the adoption of Declaratory Resolution 2022-CVC-856; and that the vacation be subject to the rights of public utilities under IC 36-7-3-16.

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation:

LAND USE ISSUES

- ◇ This 1.40-acre site, zoned D-P, is developed with a multi-family complex. It is surrounded by multi-family dwellings to the north, zoned C-1; multi-family dwellings to the south, across East 61st Street, zoned D-P; multi-family dwellings to the east, across Carvel Avenue, zoned D-7; and the Monon Trail to the west, zoned D-5.
- ◇ Petition 2021-ZON-043 rezoned the site from the C-1 district to the D-P district to provide for a four-story, 200-unit, multifamily building.

PLAT APPROVAL

- ◇ This petition would provide for the approval of a Subdivision Plat to be known as Monon Court.
- ◇ The request would combine 1.40 acres into one lot to provide for redevelopment of the site for multi-family dwellings.
- ◇ The existing structures would be demolished, and a new structure would be constructed that would provide for approximately 200 dwelling units and no less than 160 off-street parking spaces, which would be on the first, partially below-grade floor.

VACATION

- ◇ This vacation would vacate a fourteen-foot wide portion of Carvel Avenue, along the western edge of said right-of-way, from the northwest corner of the intersection of 61st Street and Carvel Avenue, north 280.70 feet.
- ◇ Due to proposed upgrade of electrical distribution in the area, additional space would be required to provide on-street parking for the proposed redevelopment of the site. The proposed vacated area, however, would require a transportation easement on behalf of the City of Indianapolis, Department of Public Works.

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STAFF REPORT 2022-CPL-856 / 2022-CVC-856 (Continued)

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 land owner 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.

GENERAL DESCRIPTION:

Street Vacation: Vacation of a fourteen-foot wide portion of Carvel Avenue, along the western edge of said right-of-way, from the northwest corner of the intersection of 61st Street and Carvel Avenue, north 280.70 feet.

UTILITIES AND AGENCY REPORT

Telephone:	No answer, retain easement
CEG, Gas:	No answer, retain easement
CEG, Water:	No answer, retain easement
CEG, Wastewater	No answer, retain easement
Power:	No answer, retain easement
Cable:	No answer, retain easement
DPR:	No answer, retain easement, if requested

(Continued)

STAFF REPORT 2022-CPL-856 / 2022-CVC-856 (Continued)

GENERAL INFORMATION

EXISTING ZONING AND LAND USE

D-P	Multi-family dwellings (to be demolished)
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SURROUNDING ZONING AND LAND USE

North -	C-1	Multi-family dwellings
South -	D-P	Multi-family dwellings
East -	D-7	Multi-family dwellings
West -	D-5	Monon Trail

COMPREHENSIVE LAND USE PLAN

The Envision Broad Ripple Plan for Indianapolis and Marion County (2012) recommends regional commercial typology.

The Red Line Transit-Oriented Development Strategic Plan (2015) provides for transit station within a ½ mile walk shed.

THOROUGHFARE PLAN

This portion of Carvel Avenue is designated in the Marion County Thoroughfare Plan as a local street with an existing 50-foot right-of-way and proposed 48-foot right-of-way.

This portion of East 61st Street is designated in the Marion County Thoroughfare Plan as a local street with an existing 50-foot right-of-way and proposed 48-foot right-of-way.

CONTEXT AREA

This site is located within the compact context area.

OVERLAY

This site is located within the transit-oriented development overlay.

PRIMARY PLAT

File-dated September 27, 2022

VACATION SITE PLAN

File-dated September 1, 2022

VACATION SITE PLAN (AMENDED)

File-dated September 27, 2022

FINDINGS OF FACT

File-dated September 1, 2022

ZONING HISTORY

2021-ZON-043; 6102 Carvel Avenue, requested rezoning of 1.4 acres from the C-1 district to the D-P district to provide for a four-story, 200-unit, multifamily building at a density of 142 units per acre, **approved**.

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STAFF REPORT 2022-CPL-856 / 2022-CVC-856 (Continued)

VICINITY

2007-ZON-129; 5900 Carvel Avenue and 1111 East 61st Street (south of site), requested rezoning of 13.67 acres, from the D-7 and C-1 Districts to the D-P classification to provide for a total of 286 apartment units and 12,450 square feet of commercial space for C-1 and C-3 uses, **approved**.

2007-ZON-083; 6159, 6161, 6165, 6171 and 6175 Winthrop Avenue (north of site), requested rezoning of 1.504 acres, from the D-5 District, to D-P classification to provide for 23 condominium dwelling units, with a density of 15.29 units per acre, **approved**.

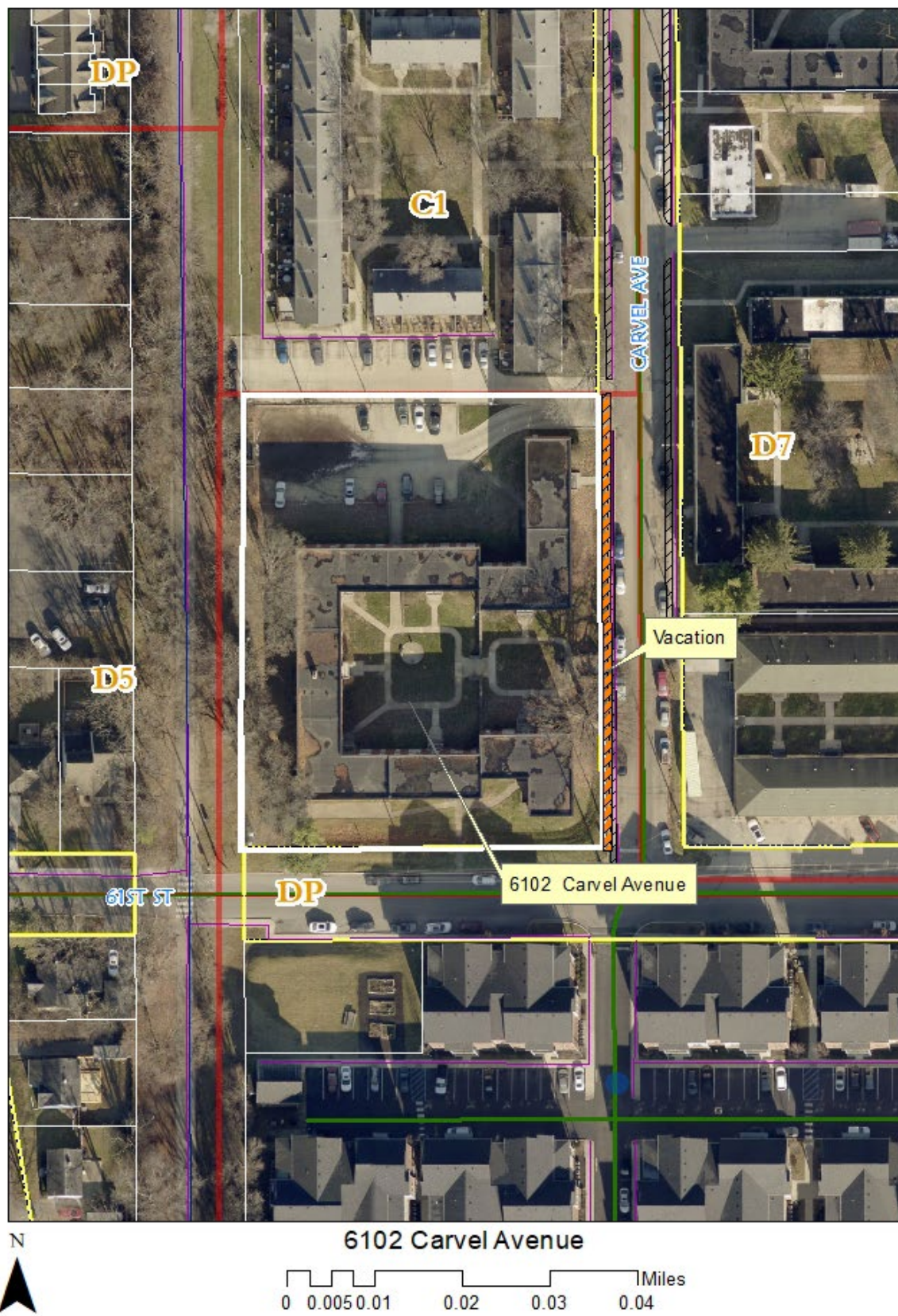
2007-ZON-024; 6159, 6161, 6165, 6171 and 6175 Winthrop Avenue (north of site), requested rezoning of 1.504 acres, from the D-5 District, to D-P classification to provide for 25 condominium dwelling units, with a density of 16.6 units per acre, **denied**.

2005-ZON-146; 6137 Winthrop Avenue (north of site), requested rezoning of 1.43 acres from D-5 to D-P to provide for the construction of 28 multi-family dwelling units at a density of 19.58 units per acre, **approved**.

2002-ZON-008; 5900 Carvel Avenue and 1111 East 61st Street (south of site), requested rezoning of 13.67 acres from C-1 and D-7 to D-P to provide for a mixed office, retail and multi-family residential development, with 18,000 square feet of commercial/retail space and 236 multi-family residential units, or 17.26 units per acre, **denied**.

2001-ZON-810; 1115 Broad Ripple Avenue (northeast of site), requested rezoning of 14 acres from D-5 to SU-2 to legally establish a school, **approved**.

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[illegible]

LOT 13
 AREA: 2,153.14 SQ. FT.
 2153.14 SQ. FT.
 2153.14 SQ. FT.

LOT 14
 AREA: 2,153.14 SQ. FT.
 2153.14 SQ. FT.
 2153.14 SQ. FT.

EXISTING RIGHT-OF-WAY
 200.00' R/W

RIGHT-OF-WAY TO BE VACATED
 0.09 ACRES

EXISTING RIGHT-OF-WAY
 200.00' R/W

RIGHT-OF-WAY AFTER EXISTING RIGHT-OF-WAY IS VACATED

CARVEL AVENUE
 200.00' R/W

EAST 81ST STREET
 200.00' R/W

MONON TRAIL
 200.00' R/W

GRAPHIC SCALE: FEET
 1" = 200'

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 allow for additional on street parking to be provided for the proposed apartment building project.
The addition of parking available to future tenants will help reduce congestion and traffic in the area.

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 ____



View looking west at intersection of East 61st Street and Carvel Avenue



View looking north across intersection of East 61st Street and Carvel Avenue



View looking south along Carvel Avenue



View looking east at intersection of East 61st Street and Carvel Avenue