



PLAT COMMITTEE

January 8, 2025

Case Number: 2024-VAC-003
Property Address: 7212 North Rural Street and 7200 Sarto Drive (*Approximate Addresses*)
Location: Washington Township, Council District #3
Petitioner: Roman Catholic Archdiocese of Indianapolis Properties, Inc., by Paul J. Carroll
Zoning: D-5
Request: Vacation of North Rural Street, being 25.68 feet in width, beginning at the north right-of-way line of 73rd Street, north 305.47 feet to the south right-of-way line of Highland Creek Boulevard, South Drive.
Waiver Requested: Assessment of benefits
Current Land Use: Unimproved alley
Staff Reviewer: Jeffrey York, Principal Planner II

PETITION HISTORY

This petition was heard and approved by the Plat Committee on November 13, 2024, with a recommendation for the assessment of benefits to be applied to the improved portion (approximately 180 feet) of the subject site. The assessment of benefits hearing was set for **December 11, 2024**, however, that hearing was not held due to lack of quorum. As of this writing, staff has not received the appraisal of the land. Therefore, this petition should be **continued** to the **February 12, 2025**, hearing.

STAFF RECOMMENDATION

Staff finds the **vacation** would be in the public interest and recommends the vacation petition be **approved**. Staff does not support the waiver of the assessment of benefits and recommends **denial of the waiver of the assessment of benefits**.

RECOMMENDED MOTION (denial): That the Plat Committee find that the proposed vacation is in the public interest, that the waiver of the assessment of benefits be denied; that a hearing upon the assessment of benefits be held on December 11, 2024; that the Plat Committee confirm and ratify the adoption of Declaratory Resolution 2024-VAC-003; and that the vacation be subject to the rights of public utilities under IC 36-7-3-16

RECOMMENDED MOTION (approval): That the Plat Committee find that the proposed vacation is in the public interest; that a hearing upon the assessment of benefits be waived; that the Plat Committee confirm and ratify the adoption of Declaratory Resolution 2024-VAC-003; and that the vacation be subject to the rights of public utilities under IC 36-7-3-16.

PETITION OVERVIEW

SUMMARY

This petition, if approved, would vacate a remnant and mostly improved street right-of-way, from the north right-of-way line of 73rd Street, 305.47 feet to the north, a point of which is the south right-of-way line of Highland Creek Boulevard, an unimproved street right-of-way. On a site visit, staff noted that a chain link fence was constructed within this right-of-way, with a gate.

The petitioner owns properties on both sides of this right-of-way, including Lot 101, as shown in the survey, below under Exhibits. It is unlikely that development would occur on the lots west of this street, due to an existing large ditch to the north.

The vacation of this portion of this street right-of-way would be in the public interest.

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.

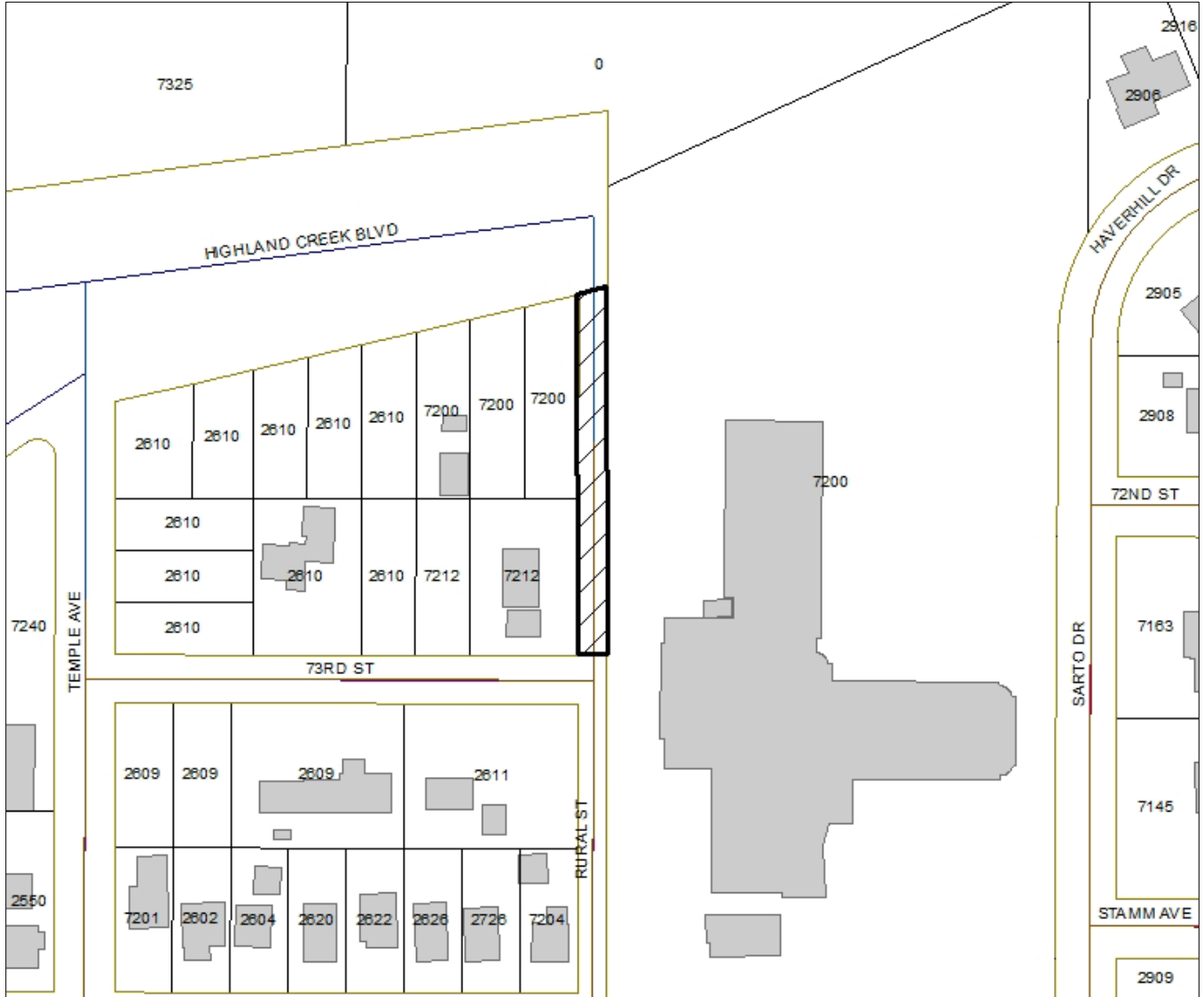
ASSESSMENT OF BENEFITS

Approximately 180 feet of the existing right-of-way is improved with pavement to the point where a chain link fence has been constructed. The remaining 125 feet of right-of-way is unimproved. Due to previous investment into this right-of-way, the request to waive the assessment of benefits should be denied.

GENERAL INFORMATION

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|--------------------------------|--|---|
| Existing Zoning | D-5 (RC) | |
| Existing Land Use | Church, school, and single-family dwelling | |
| Comprehensive Plan | Suburban neighborhood development | |
| Surrounding Context | Zoning | Land Use |
| North: | D-6 | Attached single-family residential |
| South: | D-5 | Single-family residential |
| East: | SU-1 | Church and school |
| West: | D-5 | Single-family residential / undeveloped |
| Thoroughfare Plan | | |
| Rural Street | Local street | 50-foot existing and proposed |
| Petition Submittal Date | September 11, 2024 | |

EXHIBITS







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 street sought to be vacated is between parcels owned by Petitioner, which operates St. Pius Church and School. The street does not extend all the way to the end of 7216 N. Rural St. and dead ends. The street would be unlikely to ever be extended as there is a ditch north of where the street dead ends and the only place it could extend is to the private residential community of Harbour Club Condos. No one besides Petitioner would have any use for the street, as the portion sought to be vacated does not connect to any other street north of 73rd Street or any other property besides those owned by Petitioner.

DECISION

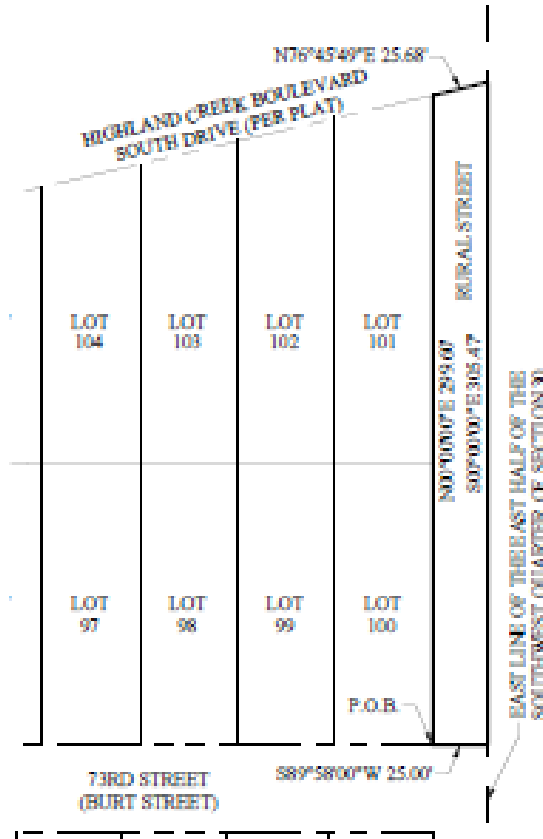
IT IS THEREFORE the decision of this body that this VACATION petition is APPROVED, subject to any conditions stated in the minutes (which conditions are incorporated herein by reference and made a part of this decision).

Adopted this _____ day of _____, 20 ____

Findings of Fact

Exhibit A

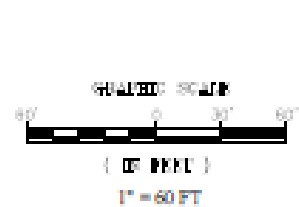
Prepared for: Weston Hoy, LLC
 Vacation Exhibit



PROPOSED VACATION DESCRIPTION

A part of Rural Street as per plat of Highland Creek Boulevard Addition, recorded as Plat Book 22, Page 168, and being located in the East Half of the Southwest Quarter of Section 30, Township 17 North, Range 4 East of the Second Principal Meridian, Washington Township, Marion County, Indiana, being more particularly described as follows:

Beginning at the Southeast corner of Lot Number 100 of said plat; thence North 00 degrees 00 minutes 00 seconds East (assumed bearing), along the East line of said Lot and Lot Number 101, also being the western extents of said Rural Street, a distance of 299.60 feet to the Northeast corner of said Lot Number 101, said corner also being on the southern extents of Highland Creek Boulevard South Drive as per said plat; thence North 76 degrees 45 minutes 49 seconds East, along the extension of said southern extents and the North lines of Lots Numbered 108 through 101, a distance of 25.68 feet to a point on the East line of the eastern extents of said Rural Street, also being the East line of said Half Quarter Section; thence South 00 degrees 00 minutes 00 seconds East, along said East line, a distance of 305.47 feet to a point on the extended South line of Lots Numbered 95 through 100; thence South 89 degrees 58 minutes 00 seconds West, along said extended line, a distance of 25.00 feet to the Point of Beginning, containing 0.174 acres, more or less.



THIS DRAWING IS NOT INTENDED TO BE REPRESENTED AS A RETRACEMENT OR ORIGINAL BOUNDARY SURVEY, A ROUTE SURVEY OR A SURVEYOR LOCATION REPORT.



William A. Neunzer
 William A. Neunzer
 Professional Land Surveyor
 Indiana No.: 22300018
 Certified: August 22nd, 2024



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|--|------------------------|------|
| STOEPPELWERTH ALWAYS ON <small>2015 East 10th Street, Tulsa, OK 74103-3325 phone: 918.438.9922 fax: 918.438.9922</small> | JOB NO. 112588 | PAGE |
| | DRAWN BY: WAN | |
| | CHECKED BY: BBS | |
| | DATE DRAWN: 08/01/2024 | |
| | FIELDWORK DATE: N/A | |
| | OF 1 SHEETS | |

Vacation exhibit.

Photos



Photograph of proposed alley with improved portion from 73rd Street looking north



Photograph of subject alley looking north



Photograph of the north end of the improved portion of the subject site, with the existing fence and gate constructed within the existing right-of-way. The terminus of the subject site is approximately at the tree line, beyond the fence.