

STAFF REPORT

Department of Metropolitan Development
Division of Planning
Current Planning Section

Case Number: 2023-CZN-809 / 2023-CVR-809 / 2023-CVC-809 (Amended)
Address: 2357 Dr Martin Luther King Jr Street (*Approximate Address*)
Location: Center Township, Council District #11
Petitioner: Grundy Memorial Chapel, Inc., by David Kingen
Request: Rezoning of 0.70 acre from the C-1 district, to the MU-1 district to provide for a multi-family development.

Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for a zero-foot west front transitional yard (20-foot required), zero-foot north front yard (twelve-foot minimum required), five-foot south side yard (ten-foot side yard required), a five-foot south transitional yard (15-foot required), and a six-foot east transitional yard (15-foot required).

Vacation of the first north-south alley east of Dr Martin Luther King Jr Street, being twelve feet in width, from the south right-of-way line of 24th Street, south 134.54 feet to the first east-west alley south of 24th Street with a waiver of Assessment of Benefits.

This petition was continued from the March 23, 2023 hearing to the April 13, 2023 hearing to allow time for the petition to be amended and new notice to be sent. It is Staff's understanding that the vacation petition will be withdrawn.

RECOMMENDATION

The **vacation request should be withdrawn**. Staff **recommends approval of the rezoning and variance requests**, provided that the following commitments being reduced to writing on the Commission's Exhibit "B" forms at least three days prior to the MDC hearing:

1. Building height shall be limited to 50 feet, except within 15 feet of the south property line, where the height shall be limited to 38 feet.
2. Elevations of any building to be constructed on the site shall be submitted for Administrator' Approval prior to the issuance of an Improvement Location Permit for that building.
3. Landscape plans shall be submitted for Administrator' Approval prior to the issuance of any Improvement Location Permit for the site.

(Continued)

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4. The center line of the parking aisle that includes the alley right-of-way shall be marked with a yellow dashed line in accordance with Department of Public Works standards.
5. A traffic sign stating "To 24th Street" shall be erected at the south edge of the site where the alley bisects the site for the purpose of communicating that a public alley still exists and is open to the public.

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation.

LAND USE

- ◇ The subject site is seven lots with an intervening alley at the southeast corner of Dr. Martin Luther King Jr Street and 24th Street. As originally filed the petition also provided for the vacation of the intervening alley. The vacation portion of the petition is to be withdrawn.
- ◇ The site was platted as residential lots as part of Graceland Park subdivision in 1891. Historic aerial photography indicates that each parcel within the subject site was originally developed with a single-family or two-family dwelling. By the mid-1950s the three parcels at the intersection had been converted to a commercial use. By 2000, the dwellings on the remaining parcels had been demolished and these parcels have remained vacant since that time.
- ◇ The site is across Dr Martin Luther King Jr Street from Watkins Park and the Watkins Park Family Center. The site is two blocks west of IPS's George Washington Carver Montessori School #87.
- ◇ The site is served by an active north-south alley that parallels Dr. Martin Luther King Jr Street. The north-south alley is used by the neighbors to the south to access their backyards for parking. The alley is also used by the Department of Public Works for trash and heavy trash collection.
- ◇ The site also abuts an east-west alley. Historic aerial photography indicates that the east-west alley was in use as late as 1986. However, the east-west alley is now overgrown with vegetation and unpassable in its current condition.
- ◇ The United Northwest Neighborhood Plan, a segment of the Indianapolis/Marion County Comprehensive Plan, recommends eight to fifteen dwelling units per acre as the land use for the subject site and D-8 as the appropriate zoning district. The development proposed in the site plan would place 34 multi-family units on 0.76 acre for a density of 48 units per acre.

(Continued)

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ZONING

- ◇ This petition requests a rezoning to the MU-1 district. The MU-1 district is intended for the development of high-rise office uses and apartments, both in separate buildings and in the same building. This district is intended for use along arterials with high traffic counts and positive pedestrian experience or demand. Appropriate settings for the MU-1 district include midtown and uptown areas of the city, near rapid transit stops or in the midst of high intensity regional commercial complexes. The site is on a high traffic count arterial with pedestrian demand and in a mid-town location.
- ◇ The requested zoning district would permit development more intense than the land use plan recommends by way of height, land uses, and density.
- ◇ The MU-1 district permits unlimited building height. This standard is appropriate in most locations that are zoned MU-1. However, the development pattern in the area surrounding the subject site does not include high-rise buildings. As such, staff is requesting a height limitation on the site that is more in keeping with the area's tallest structures and that won't loom over the neighboring dwelling to the south.
- ◇ The MU-1 district provides for both residential and office uses. The site is currently zoned C-1, which is a district that provides for office uses. The proposed zoning district would be something of a compromise between the current zoning and that proposed by the neighborhood land use plan.
- ◇ The building proposed for the site would contain 34 multi-family units for a density of 48 units per acre. Since the neighborhood plan was adopted in 2008, higher density projects have been proposed and approved for this corridor, indicating a desire for some intensification of the street.

VARIANCE

- ◇ Five variances of development standards have been requested. They would provide for:
 - a zero-foot west front transitional yard where a 20-foot is required,
 - a zero-foot north front yard where a twelve-foot yard is required,
 - a five-foot south side yard where a ten-foot side yard is required,
 - a five-foot south transitional yard where a 15-foot yard is required, and
 - a six-foot east transitional yard where a 15-foot is required.

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- ◇ Within the last few years, multi-family structures have been approved along Dr Martin Luther King Jr Street with zero-foot front setbacks. This creates a “street wall” that is appropriate for an urban arterial such as Dr Martin Luther King Jr Street. The zero-foot front yard and front transitional yard requested by this petition would continue that development pattern. However, where a front setback is reduced in this manner, it’s especially important that the architecture of the building be appropriate for the site, the streetscape and the pedestrian experience. As such, staff is requesting Administrator’s Approval of the building elevations.
- ◇ The reduction in the side and side transitional yards will bring the proposed development to be located closer to the abutting neighbors that the Ordinance would permit. To mitigate the impact on the abutting properties, intense landscaping should be installed as a buffer. As such, staff is requesting Administrator’s Approval of the landscape plans.

VACATION

The Graceland Park subdivision plat laid out an alley paralleling Michigan Road (now Dr Martin Luther King Jr Street). This alley serves the rear yards of the lots facing the street, as well as connecting 24th Street to Myrtis and 23rd streets. The alley is used by the Department of Public Works for trash collection.

This vacation petition would vacate the portion of the alley from 24th Street south to the alley’s intersection with the east-west alley.

The request would allow for a larger buildable site. However, it would create situations that are poor platting practices or that cause access and travel burdens to others.

The alley is visibly well-used. The residents of the lots to the south park their vehicles in their backyards, which are accessed from the alley. Additionally, the vacation of the alley would hinder the redevelopment of the vacant lots fronting Myrtis Street. The vacation request does not account for the displacement of either current or future traffic, trash collection or existing utilities.

With the proposed removal of the buildings from the subject site, a development “clean slate” is created. No compelling reason has been put forward why the proposed use cannot be built without the use of a City asset or in a manner that doesn’t detract from the current and future utility of the abutting lots.

Staff believes that the petitioner intends to withdraw the vacation petition.

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With the alley right-of-way running through the proposed parking lot, it's important that alley users understand that the alley remains open for public use. As such the Department of Public Works has requested that commitments be made for appropriate signage and striping.

However, if the petitioner does not withdraw the vacation petition, staff finds that the vacation **would not be in the public interest** and recommends the vacation petition be **denied**.

ASSESSMENT OF BENEFITS

A request for the waiver of assessment of benefits has been made. The assessment of benefits compensates the City for the City's investment in public infrastructure that would become privately property. This waiver request is routinely recommended for denial wherever there is indication that an investment in infrastructure was made. Although the subject alley was constructed many years ago, there is indication that it was once paved, curbed and provided with a curb cut. As such, if the vacation petition is not withdrawn, and should the alley be vacated, staff recommends that **the waiver of assessment of benefits be denied**.

RECOMMENDED MOTION: That the Hearing Examiner finds that the proposed vacation is not in the public interest; that a hearing upon the assessment of benefits be scheduled for August 25, 2022; and that the Hearing Examiner confirms and ratifies the adoption of Declaratory Resolution 2022-CVC-808; subject to the rights of public utilities under IC 36-7-3-16.

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 for 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 a 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.

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GENERAL DESCRIPTION:

Vacation of the first north-south alley east of Dr Martin Luther King Jr Street, being twelve feet in width, from the south right-of-way line of 34th Street, south 134.54 feet to the first east-west alley south of 24th Street.

UTILITIES AND AGENCY REPORT

Telephone:	No answer, retain easement
CEG, Gas:	Release
CEG, Wastewater:	Release
CEG, Water:	Release
Power:	No objection, retain easement
Cable:	Retain easement
DPR:	No answer, retain easement, if requested
DPW, TS:	No answer, retain easement

GENERAL INFORMATION

EXISTING ZONING, CONTEXT AREA, AND LAND USE

C-1, D-8	Compact	Funeral home, vacant lots
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SURROUNDING ZONING AND LAND USE

North	SU-7	Center for Leadership Development
South	C-1	Two-family dwelling
East	D-8	Single-family dwelling
West	PK-1	Watkins Park

COMPREHENSIVE LAND USE PLAN	The United Northwest Neighborhood Plan (2008) recommends 8 to 15 dwelling units per acre.
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THOROUGHFARE PLAN	Dr Martin Luther King Jr Street is classified in the Official Thoroughfare Plan for Marion County, Indiana as a Primary Arterial, with an 80-foot existing right-of-way and a 66-foot proposed right-of-way. 24 th Street is classified in the Official Thoroughfare Plan for Marion County, Indiana as a Local Street, with a 50-foot existing right-of-way and a 48-foot proposed right-of-way.
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FLOODWAY / FLOODWAY FRINGE	This site is not located within a floodway or floodway fringe. (Continued)
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WELLFIELD PROTECTION DISTRICT This site is located within the White River W-5 wellfield protection district.

STREAM PROTECTION CORRIDOR This site is not located within a Stream Protection Corridor.

ZONING HISTORY – SITE

None.

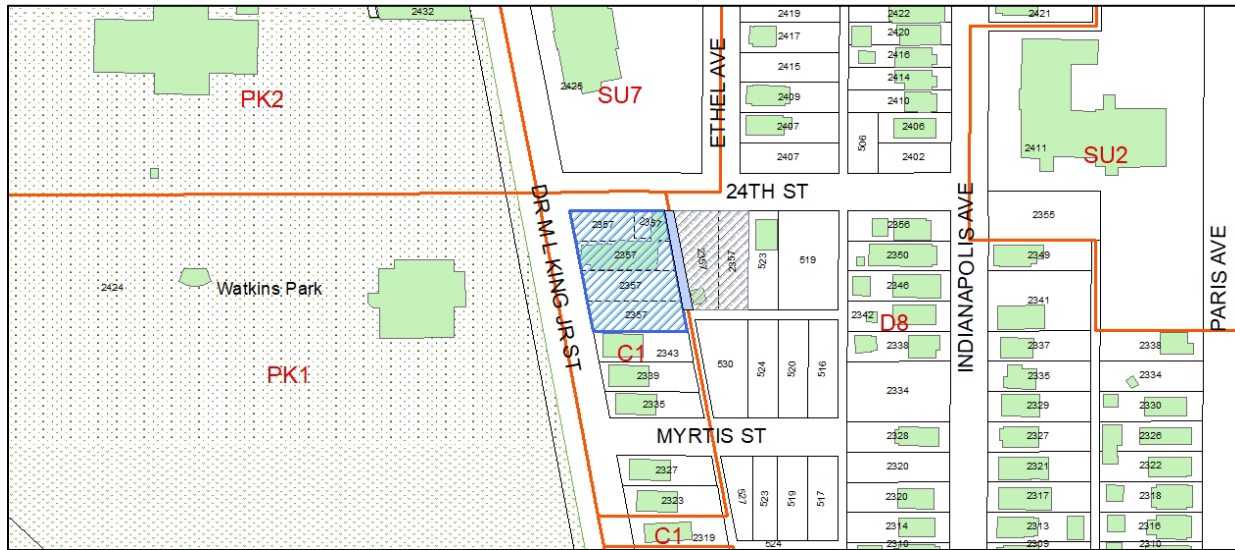
ZONING HISTORY – VICINITY

2007-ZON-021; 532 West 24th Street, four addresses on Dr. Martin Luther King, Jr. Street and eight addresses on Ethel Avenue (north of site), requested the rezoning of 1.95 acre from the D-8 & C-3 districts to the SU-7 district, **approved.**

95-SE1-8; 532 West 24th Street (north of site), requested a special exception for religious uses, **approved.**

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Blue hatching = area to be rezoned. Solid blue = Right-of-way to be vacated. Blue hatching, solid blue and grey hatching = area for variance.

STAFF REPORT 2023-CZN-809 / 2023-CVR-809 / 2023-CVC-809 (Amended), Aerial photograph (2022)



STAFF REPORT 2023-CZN-809 / 2023-CVR-809 / 2023-CVC-809 (Amended), Variance Findings of Fact

Petition Number _____

**METROPOLITAN DEVELOPMENT COMMISSION
HEARING EXAMINER
METROPOLITAN BOARD OF ZONING APPEALS, Division _____
OF MARION COUNTY, INDIANA**

PETITION FOR VARIANCE OF DEVELOPMENT STANDARDS

FINDINGS OF FACT

1. The grant will not be injurious to the public health, safety, morals, and general welfare of the community because:

The requested setbacks and setbacks of transitional yards on all four sides of the site are typical for a mixed use building along this mixed use corridor.

2. The use or value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because:

The use and value of the area adjacent shall be affected in a positive manner.

This is reflected primarily that the proposed mixed-use will replace the existing funeral home

The funeral can generate alot of traffic and parking needs all at one time.

The proposed mixed use will provide adequate parking.

The value of the adjoining properties to the west, south and east have all issued letters of

support to the petitioner to demonstrate that they believe that the proposed will be an asset to their properties

3. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property because:

If the strict application of the terms of the ordinance were held firm,

related to the reduction of side yards and transitional yards, then the number of dwelling units for the homeless veterans

and the related parking would not be possible. The use serves a need that both the United Northwest Area

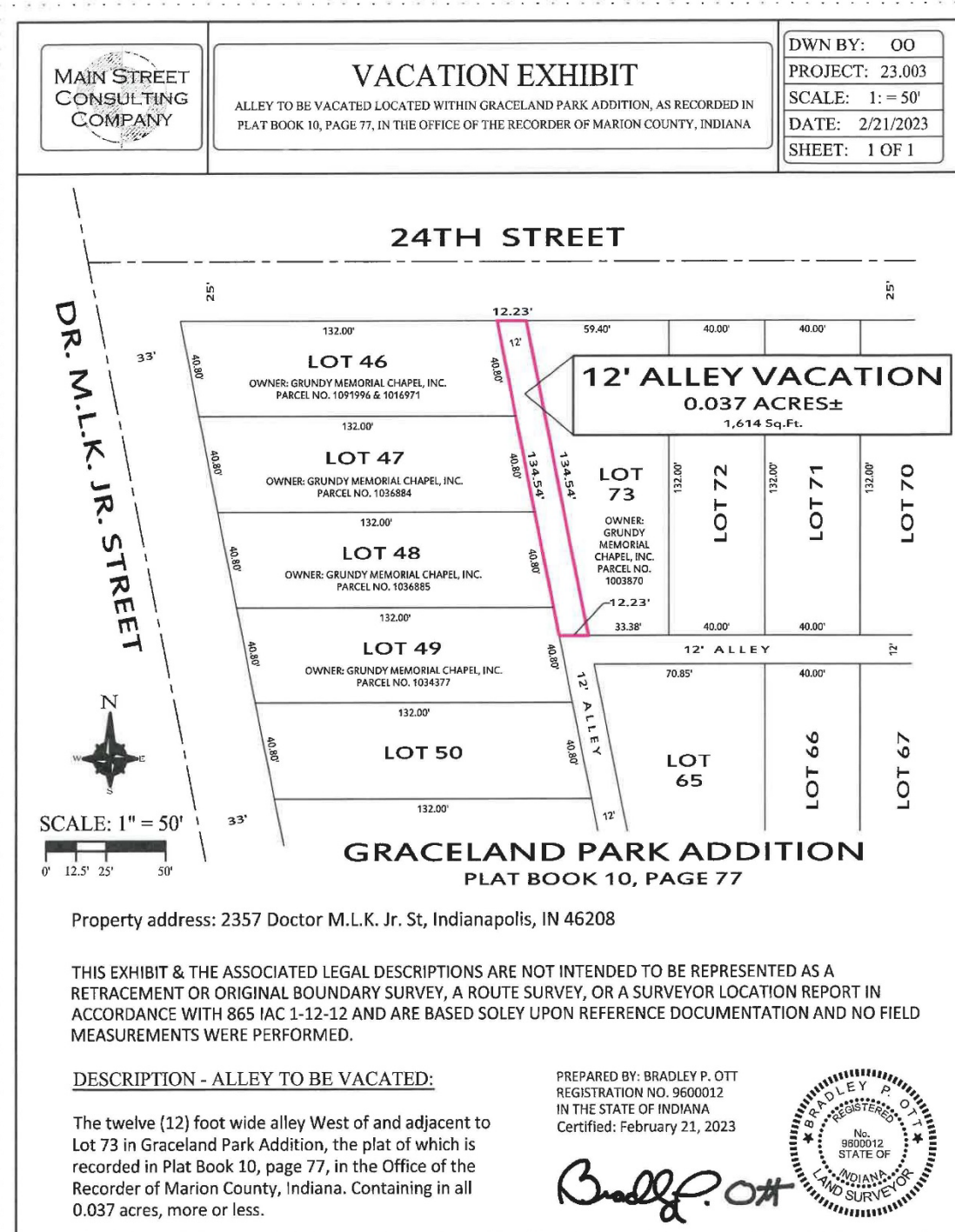
and the community have a need to provide.

DECISION

IT IS THEREFORE the decision of this body that this VARIANCE petition is APPROVED.

Adopted this _____ day of _____, 20 ____

STAFF REPORT 2023-CZN-809 / 2023-CVR-809 / 2023-CVC-809 (Amended), Proposed vacation



STAFF REPORT 2023-CZN-809 / 2023-CVR-809 / 2023-CVC-809 (Amended), Vacation Findings of Fact

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 unimproved alleys to the east, southeast and to the south of the subject site are only twelve feet in width and have very sharp turns, not conducive to accepting increased traffic of the proposed redevelopment project.

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 ____

_____	_____
_____	_____
_____	_____

STAFF REPORT 2023-CZN-809 / 2023-CVR-809 / 2023-CVC-809 (Amended), Photographs



Looking southeast at the subject site from the intersection of Dr Martin Luther King Jr Street and 24th Street.



Looking east along 24th Street from the intersection with Dr Martin Luther King Jr Street.



Looking east across the south portion of the subject site.



Looking south along Dr Martin Luther King Jr Street from the subject site.



Looking west across Dr Martin Luther King Jr Street to the Watkins Park Family Center.



Looking north across 24th Street to the neighbor to the north.



Looking east along 24th Street from the subject site toward IPS School #87.



Looking north from the subject site along Ethel Street.



Looking south from 24th Street at the portion of the north-south alley that is requested to be vacated. Note the overhead utility lines, curbcut, alley curb and alley pavement.



Looking south from the south boundary of the subject site along the north-south alley. This portion of the alley would remain. Google Streetview from June 2011.



Looking east from the north-south alley to the east-west alley. Google Streetview from June 2011.