

PLAT COMMITTEE

July 8, 2026

Case Number:	2026-VAC-005
Property Address:	2607 West 78 th Street (<i>Approximate Address</i>)
Location:	Pike Township, Council District #1
Petitioner:	Apex Realty Augusta LLC & ATC Watertown LLC, by David Retherford
Request:	Vacation of a portion of Onyx Avenue, being a maximum of 40 feet in width, beginning at the south right-of-way line of 78 th Street, south 103.86 feet to a point, with a waiver of the assessment of benefits.
Waiver Requested:	Assessment of Benefits
Staff Reviewer:	Michael Weigel, Principal Planner I

PETITION HISTORY

This is the first public hearing for this petition.

STAFF RECOMMENDATION

Staff finds the **vacation** would be in the public interest and recommends the vacation be **approved**. Staff also supports the **waiver of the Assessment of Benefits** and recommends **approval**.

RECOMMENDED MOTION (approval of waiver request): 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 2026-VAC-005; and that the vacation be subject to the right of public utilities under IC 36-7-3-16.

PETITION OVERVIEW

SUMMARY

Approval of this request would allow for the vacation of 103.86 feet of Onyx Street located between a portion of 78th Street that is currently unimproved and a 50.5-acre parcel containing a telecommunications tower. The 40-foot right-of-way is currently and historically unimproved, and was originally platted almost a century ago (most recent replat was in 2024). Surrounding lots are also unimproved but are planned for residential development, with eight variances approved in 2024 to allow for lots with deficient size setbacks (among other development standards unrelated to platting).

Findings of Fact provided by the applicant indicate that partial vacation of the street would remove the need for maintenance from the City, would allow for placement of storm drainage retention in this area, and that residential development to the south of the property requiring a 'stub' connection would be unlikely. Staff would note that even if the large telecommunications tower parcel to the south was developed residentially, frontage access from both the east and west would exist.

Additionally, staff would note that no dead-end street or negative impact on public circulation would be created given (a) that the planned 78th Street extension running east-west to the north of the proposed vacation area would terminate in a cul-de-sac and (b) that the unimproved portion of Onyx Avenue between 78th and 79th Street would remain in place allowing for potential access and interruption of the long cul-de-sac. For these reasons, staff finds that the vacation would be in the public interest and recommends **approval** of the request.

PROCEDURE

Neither the Division of Planning nor the Plat Committee, Hearing Examiner, nor 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

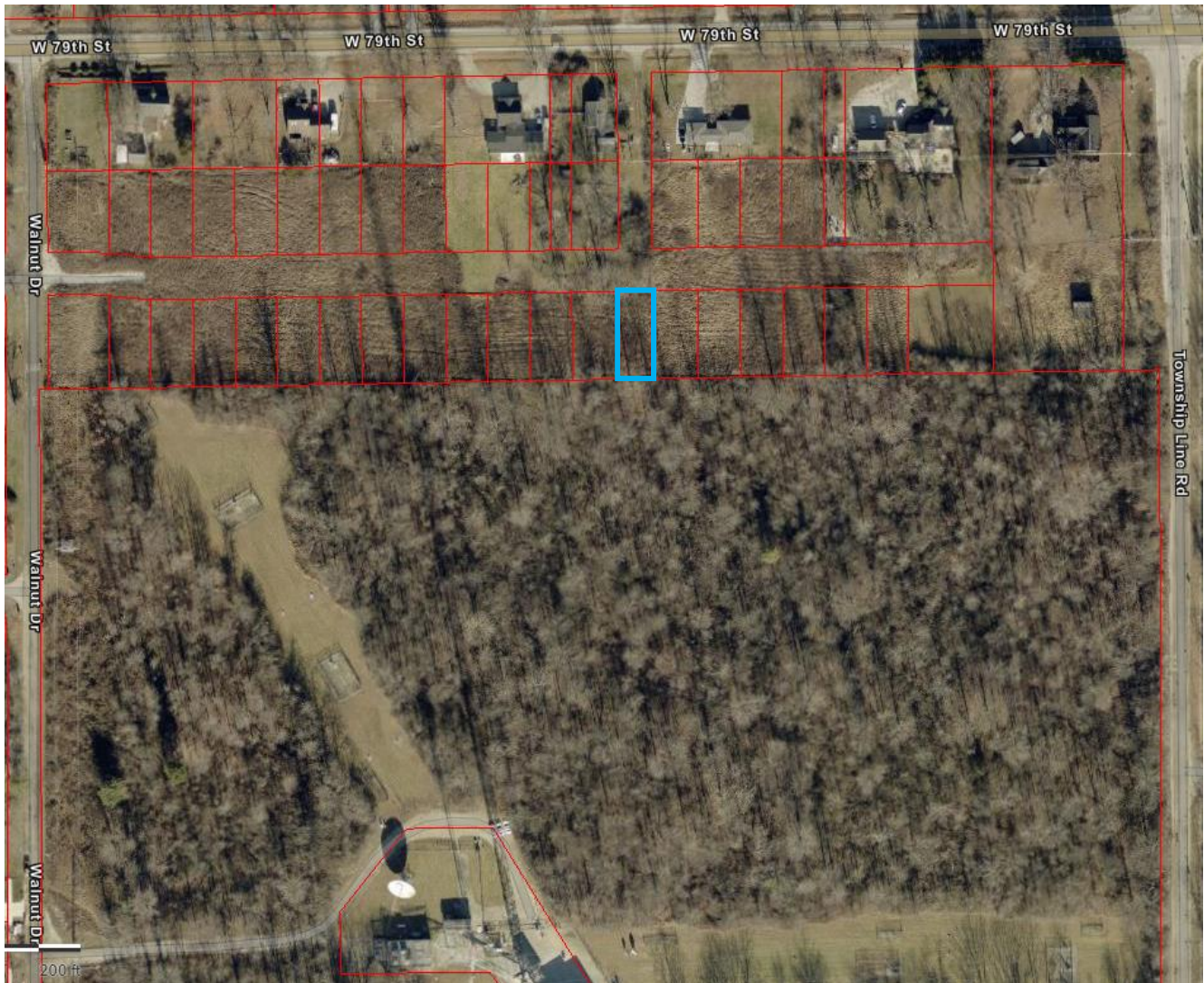
The petitioner has requested a waiver of the Assessment of Benefits. Approval of waivers of this nature would be appropriate in instances when an right-of-way has not previously been improved by the City. This portion of Onyx Street is currently unimproved, and previous aerial photography does not appear to imply any past improvements either. Given this context, staff recommends **approval** of the waiver.

GENERAL INFORMATION

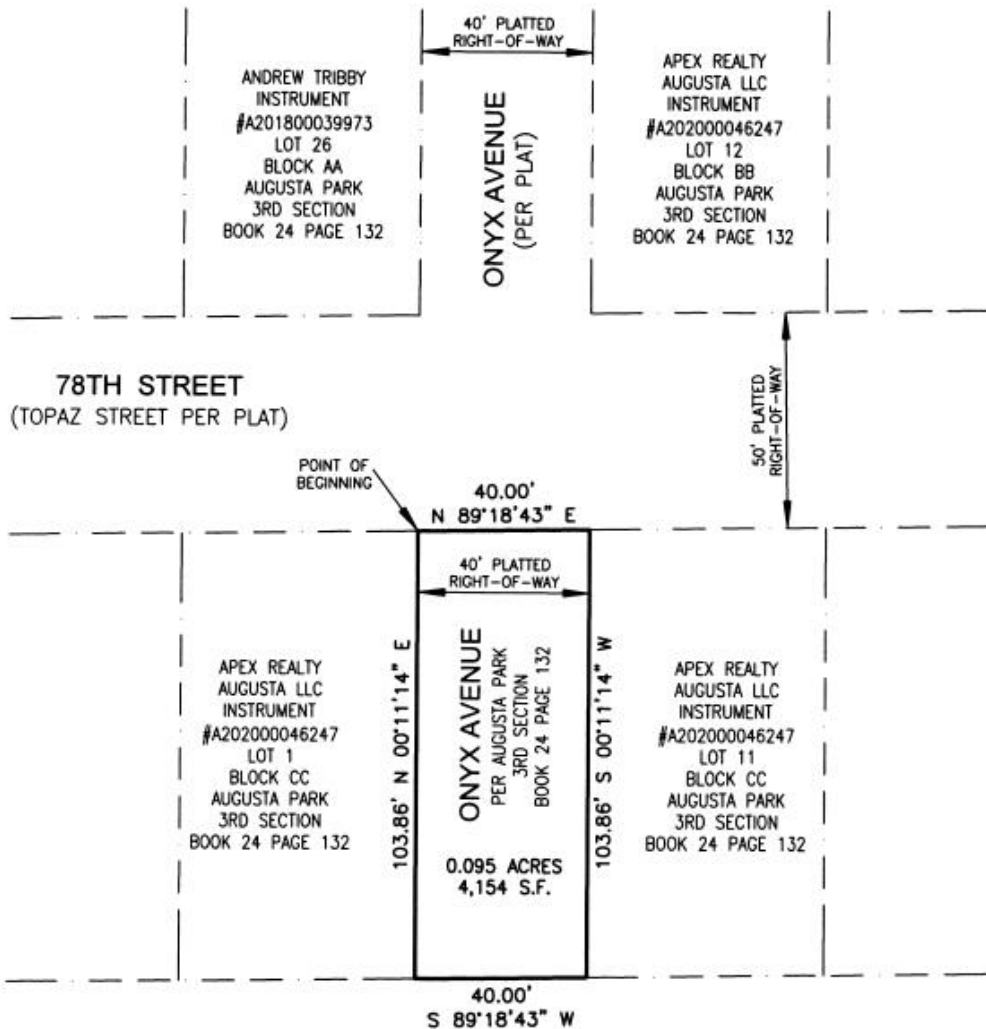
Existing Zoning	D-5	
Existing Land Use	Undeveloped	
Surrounding Context	<u>Zoning</u>	<u>Land Use</u>
North:	D-5	Undeveloped
South:	SU-35	Telecommunications Tower
East:	D-5	Undeveloped
West:	D-5	Undeveloped
Thoroughfare Plan		
Onyx Street	Local Street	40-foot existing and 50-feet proposed
78 th Street	Local Street	50-foot existing and 50-feet proposed

EXHIBITS

2026VAC005 ; Aerial Map



2026VAC005 ; Exhibits



2026VAC005 ; Findings of Fact

1. THE PROPOSED VACATION IS IN THE PUBLIC INTEREST because:

The area to be vacated has not been improved, and was originally dedicated upon the recordation of the Plat for the Augusta Heights/Park subdivision over 100 years ago. This portion of the subdivision was never developed, and now that it is planned for development, installing the proposed stub street would require that the City maintain a stub street which provides no public or private benefit. Most importantly, the vacation of this small are of unimproved right of way permits the proposed storm drainage retention pond to be located in the best location available to provide compliance with the applicable drainage ordinances; and upon completion that pond will become part of the City's drainage system which benefits the public and the residents in this area. The abutting properties to the East and West are the Petitioner, who has also signed a consent to such vacation. The abutting property to the South has also signed the Petition as an owner, and signed a consent documenting that the installation of the stub street would provide no benefit to that property, which is proposed for industrial development, and has existing access to improved public right of way along both its east and west property lines.

PHOTOS



Photo 1: Subject ROW Viewed from North



Photo 2: Adjacent ROW Viewed from South



Photo 3: Extension of 78th Street Viewed from Walnut to West



Photo 4: Existing 78th Street Viewed from Walnut to East