

## STAFF REPORT

### Department of Metropolitan Development Division of Planning Current Planning Section

**Case Number:** 2023-CZN-824 / 2023-CVC-824  
**Address:** 1341 & 1401 Dr Martin Luther King Jr. Street and 453 West 14<sup>th</sup> Street  
(Approximate Addresses)  
**Location:** Center Township, Council District #11  
**Petitioner:** KTKF Holdings, LLC, by Jamilah Mintze  
**Request:** Rezoning of 0.696-acre from the SU-1 (RC) and D-8 (RC) districts to the D-9 (RC) district.

Vacation of West 14<sup>th</sup> Street, being 50 feet in width, from the east right-of-way line of Dr Martin Luther King Jr. Street, east 120.02 feet to the west right-of-way line of the first north-south alley east of Dr Martin Luther King Jr Street, with a waiver of the assessment of benefits.

Vacation of the first north-south alley east of Dr Martin Luther King Jr Street, being of variable width, from the north right-of-way line of West 14<sup>th</sup> Street, south 200.60 feet, with a waiver of the assessment of benefits

### **RECOMMENDATIONS**

Staff recommends **approval of the rezoning** petition.

**RECOMMENDED MOTION (approval):** That the Hearing Examiner find that the proposed vacation is in the public interest; that a hearing upon the assessment of benefits be waived; that the Hearing Examiner confirm and ratify the adoption of Declaratory Resolution 2023-CVC-824; and that the vacation be subject to the rights of public utilities under IC 36-7-3-16, and the following commitment:

That an access easement shall be provided to gain access to the Indianapolis Central Canal and to the existing dwelling to the north.

### **SUMMARY OF ISSUES**

The following issues were considered in formulating the recommendation:

#### **LAND USE**

- ◇ The request would provide for a demolition of a vacant church and undeveloped land for construction of a 36-unit multi-family residential development. The site is adjacent to the underground portion of the Indianapolis Central canal. East of the canal is Interstate 65.

(Continued)

## **STAFF REPORT 2023-CZN-824 / 2023-CVC-824 (Continued)**

- ◇ The site is across the street from an historic residential area named Flanner House Homes, which is mostly zoned D-8. This neighborhood is significant in that it is named on the *National Register of Historic Places* as a neighborhood that was developed by African Americans in the 1950s, with many of the current residents being the direct descendants of those who built their own homes.

### **REZONING**

- ◇ The rezoning request would rezone the site, from SU-1(RC) and D-8 (RC) to D-9 (RC).
- ◇ The Land Use Plan recommends City Neighborhood development. “The City Neighborhood typology consists largely of multifamily housing and is stepped down to other living typologies with attached housing. This typology is dense and walkable with a full range of city services and public amenities. Ideally, block lengths are shorter than 500 feet and publicly accessible pedestrian connections are provided through large developments. Access to individual parcels is generally by an alley or internal parking structures. Public spaces are typically of a smaller and more intimate scale in the form of smaller parks, streetscapes, and interior courtyards or rooftop spaces. Residential development activates the sidewalk with externalized doors and public or semi-public spaces. The City Neighborhood typology typically has a residential density in excess of 15 dwelling units per acre”. The request would comply with the Plan.

### **VACATION**

- ◇ This request would provide for the vacation of an unimproved portion of 14<sup>th</sup> Street, east of Dr. Martin Luther King, Jr. Street, and an unimproved north-south alley, internal to the site.
- ◇ The 14<sup>th</sup> Street right-of-way currently provides an access means from Dr. Martin Luther King, Jr. Street to the underground portion of the Indianapolis Central Canal. Additionally, a dwelling to the north of the site gains access to the rear of that property via this right-of-way. To remedy these two issues, the petitioner has submitted an access easement survey, which is included below. Staff requests that this easement be formalized via a commitment.
- ◇ The unimproved alley does not provide access to other property.
- ◇ The requested vacations would be in the public interest, as long as an access easement is provided to access private and public property to the east and north.

### **ASSESSMENT OF BENEFITS**

- ◇ Given these rights-of-way are unimproved, staff would support the requested waiver of the assessment of benefits.

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## **STAFF REPORT 2023-CZN-824 / 2023-CVC-824 (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 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.

### **REGIONAL CENTER OVERLAY DISTRICT**

- ◇ The site lies within the Regional Center overlay district. In this designated area, design of all new construction, sidewalk cafes, and signage in the Regional Center overlay district is subject to the approval of the Administrator of the Division of Planning. A Regional Center Approval petition has been filed, through 2023-REG-055 and is scheduled for public hearing on July 27, 2023.

### **GENERAL INFORMATION**

#### **EXISTING ZONING, CONTEXT AREA, AND LAND USE**

SU-1 / D-8 (RC)	Compact	Vacant church / undeveloped
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#### **SURROUNDING ZONING AND LAND USE**

North	SU-1(RC)/D-8(RC)	Single-family dwelling
South	D-8 (RC)	Multi-family dwellings
East	CBD-S (RC)	Interstate 65
West	D-8 (RC)	Single-family and multi-family dwellings

COMPREHENSIVE LAND USE PLAN	The Center Township Land Use Plan recommends City Neighborhood development
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TRANSIT-ORIENTED DEVELOPMENT	The site is not within a Transit-Oriented Development Overlay
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**STAFF REPORT 2023-CZN-824 / 2023-CVC-824 (Continued)**

THOROUGHFARE PLAN

Dr. Martin Luther King, Jr. Street is classified in the Official Thoroughfare Plan for Marion County, Indiana as primary arterials, with an 88-foot existing and proposed right-of-way.

DEVELOPMENT PLAN

File-dated, June 1, 2023

Revised

File-dated, July 12, 2023

FINDINGS OF FACT

File-dated, April 10, 2023

SITE PLAN

File-dated, June 22, 2023

Revised

File-dated, July 12, 2023

VACATION SURVEY

File-dated, June 10, 2023

Revised

File-dated, July 3, 2023

**ZONING HISTORY – SITE**

None

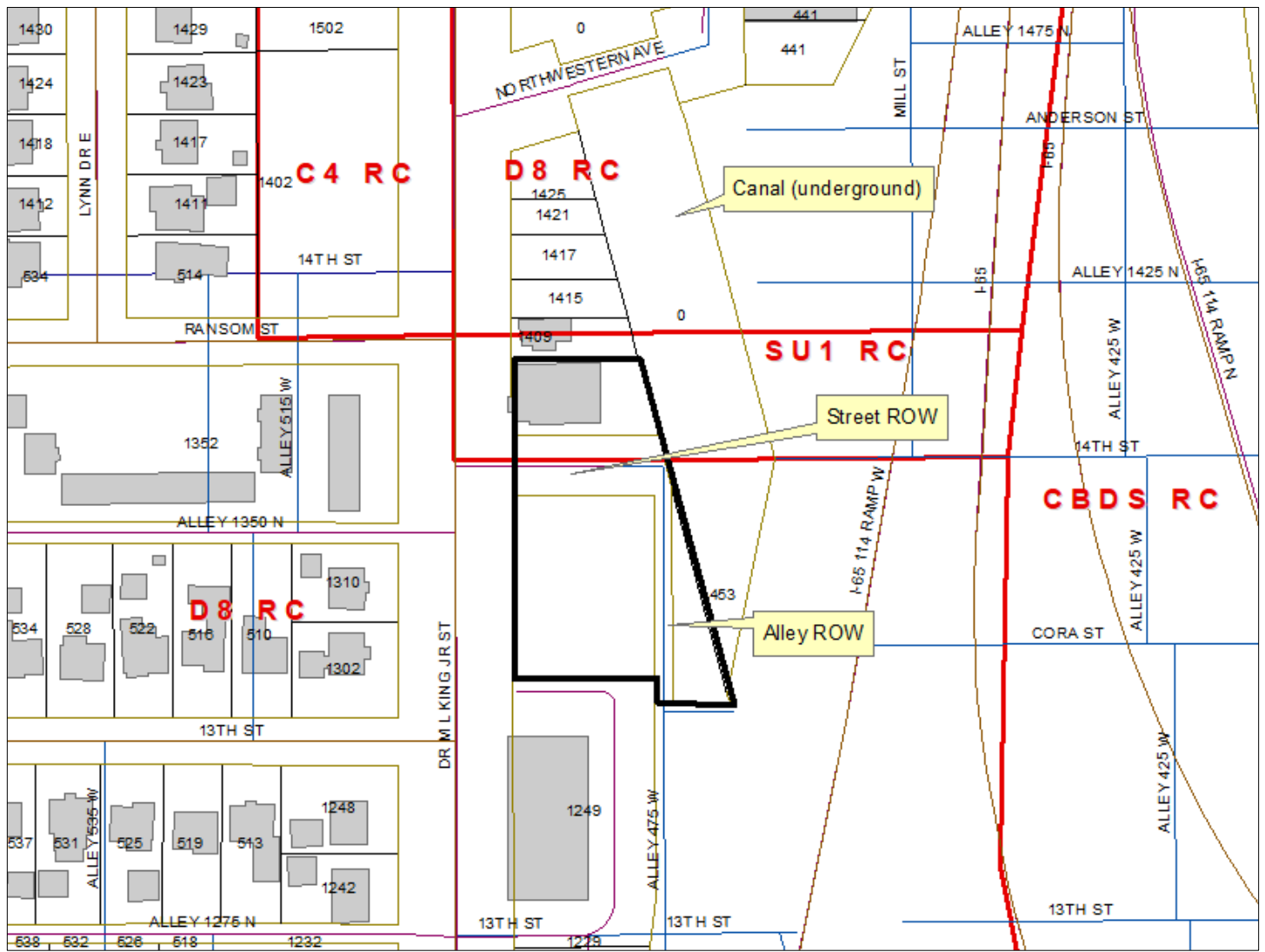
**ZONING HISTORY – VICINITY**

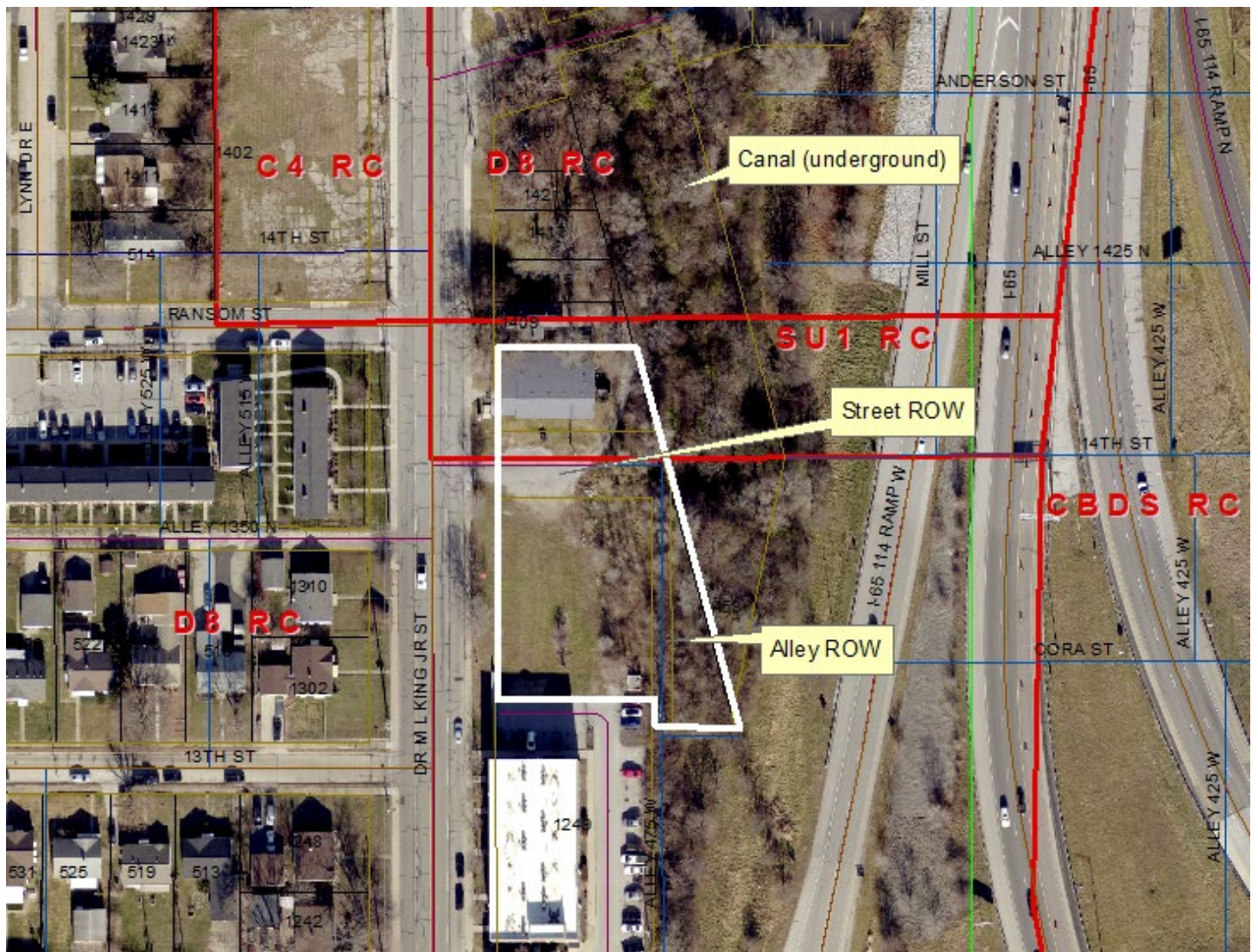
None.

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**STAFF REPORT 2023-CZN-824 / 2023-CVC-824 - Exhibits**



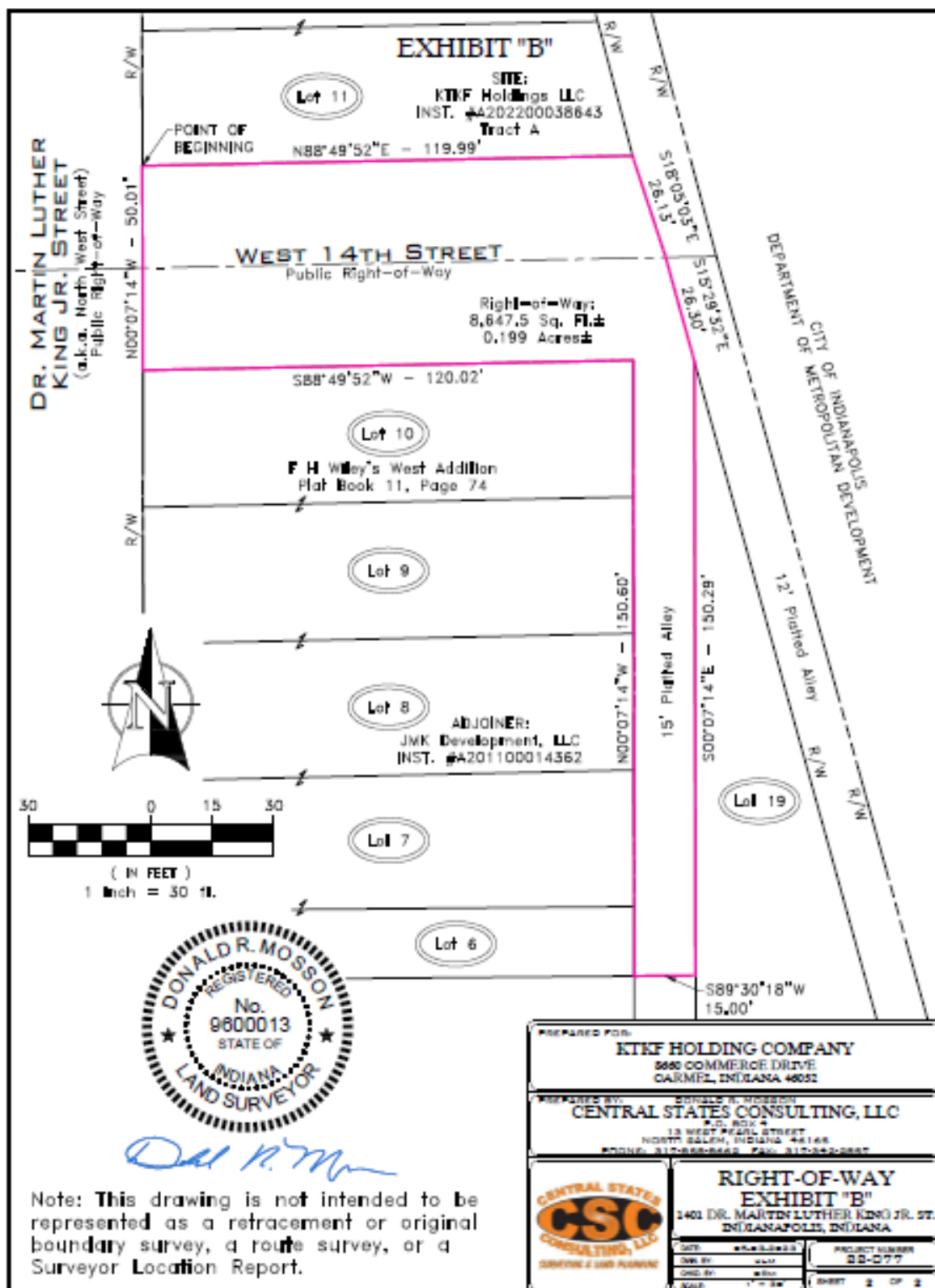




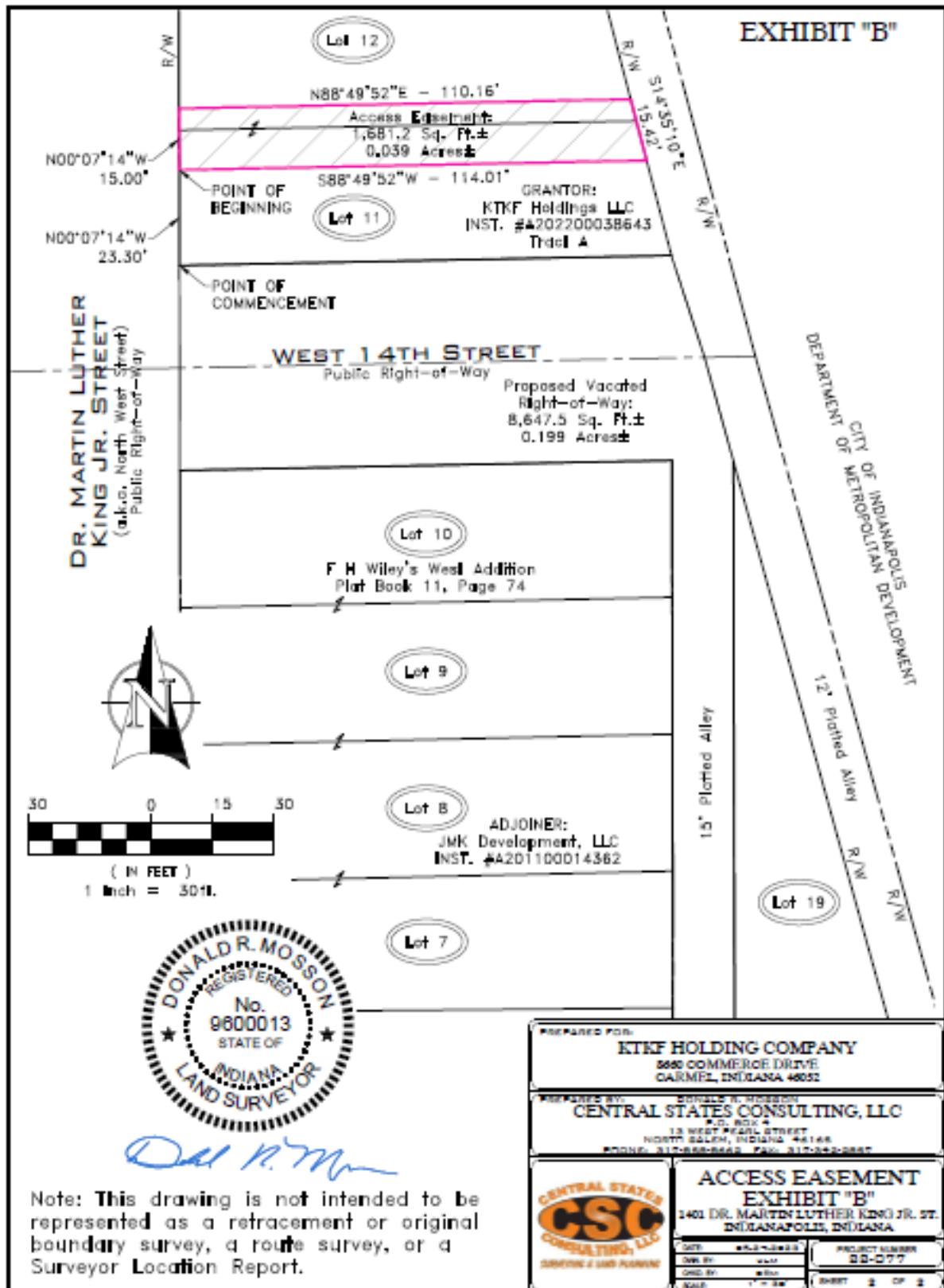








# EXHIBIT "B"



Note: This drawing is not intended to be represented as a retracement or original boundary survey, a route survey, or a Surveyor Location Report.





**STAFF REPORT 2023-CZN-824 / 2023-CVC-824 - Photos**



Views of the site along Dr. Martin Luther King, Jr. Street looking south (top); interior to the site





Views of the existing church





View of portion of 14<sup>th</sup> Street to be vacated (top), Interior to the site





View of unimproved alley to be vacated





Existing drive to rear of property to the north