

PLAT COMMITTEE

November 9, 2022

Case Number: 2022-VAC-006
Property Address: 3320 Lindbergh Drive (*Approximate Address*)
Location: Perry Township, Council District #24
Petitioner: Samuel Smedley
Zoning: D-2
Request: Vacation of a utility easement, being eight feet wide, from a point four feet north of the southeast corner of Lot 46 of Lindbergh Highlands 93.05 feet to a point four feet north of the southwest corner of Lot 45 of said subdivision.
Waiver Requested: Assessment of Benefits
Current Land Use: Single-family dwelling
Staff Reviewer: Allison Richardson, Senior Planner

PETITION HISTORY

This is the first hearing for this vacation petition.

STAFF RECOMMENDATION

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 2022-VAC-006; and that the vacation be subject to the rights of public utilities under IC 36-7-3-16.

PETITION OVERVIEW

SUMMARY

The subject site is a single parcel made up of four platted lots (Lots 45, 46, 47, and 48 of Lindbergh Highlands) and part of the vacated Redfern Drive. The underlying plat includes an eight-foot wide utility easement as shown on the survey below. A one-story single-family dwelling with an attached garage was constructed over this easement in 1956.

Staff has confirmed that no sanitary sewer, water lines or storm drainage infrastructure exists within the easement. There was no evidence of any other utilities within the easement. Since the platted lots have been combined into one parcel and the easement is not being utilized, the vacation would be appropriate.

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 of 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. The subject easement is a utility easement and has not been improved or maintained by the City of Indianapolis. Therefore, a waiver of the Assessment of Benefits would be appropriate.

GENERAL INFORMATION

Existing Zoning	D-2	
Existing Land Use	Single-family residential	
Comprehensive Plan	Suburban Neighborhood	
Surrounding Context	<u>Zoning</u>	<u>Land Use</u>
	North: D-2	Single-family residential
	South: D-2	Single-family residential
	East: D-A	Single-family residential
	West: D-2	Single-family residential
Thoroughfare Plan		
Lindbergh Drive	Local Street	90-foot existing and proposed
Petition Submittal Date	September 23, 2022	

EXHIBITS



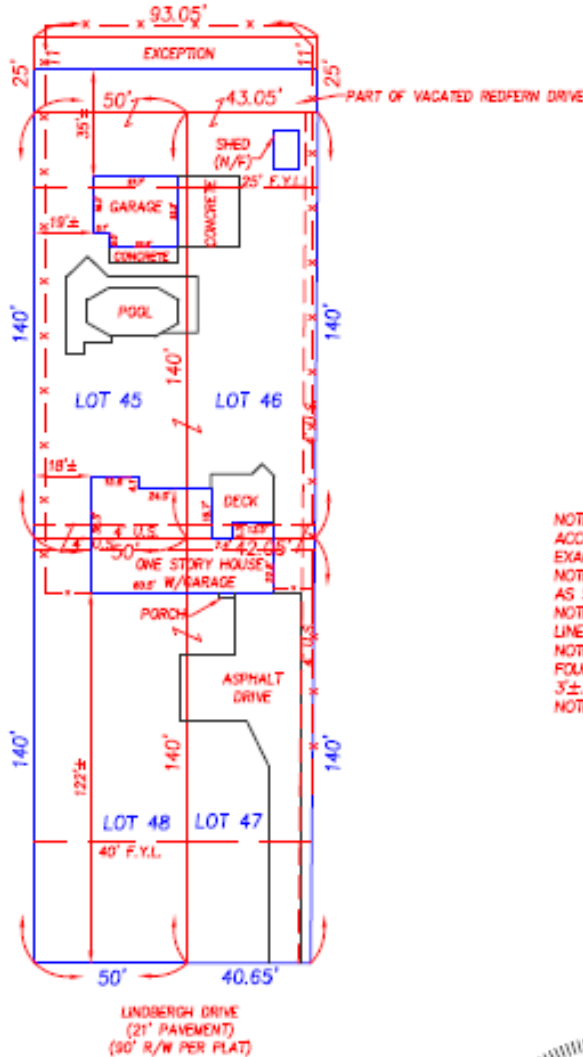
Aerial Map



Lindbergh Highlands Plat 1927

SURVEYOR LOCATION REPORT

I hereby certify to the parties named above that the real estate described herein was inspected under my supervision on the date indicated and that to the best of my knowledge, this report conforms with the requirements contained in Sections 27 through 29 of 865 IAC 1-1-12 for a SURVEYOR LOCATION REPORT. Unless otherwise noted there is no visible evidence of possession lines found.



SCALE: 1"=50'

LEGEND

R/W	RIGHT-OF-WAY
x	FENCE±
F.Y.L.	FRONT YARD LINE
N/F	NO FOUNDATION
U.S.	UTILITY STRIP

NOTE: FENCE LOCATIONS SHOWN ARE APPROXIMATE. AN ACCURATE BOUNDARY SURVEY IS REQUIRED TO DETERMINE EXACT LOCATIONS.
 NOTE: IMPROVEMENTS LIE WITHIN PLATTED UTILITY STRIPS AS SHOWN.
 NOTE: GARAGE AND SHED LIE PAST PLATTED FRONT YARD LINE AS SHOWN.
 NOTE: DUE TO THE LACK OF QUALIFIED MONUMENTATION FOUND, THE ACCURACY OF THIS REPORT IS LIMITED TO 3'±.
 NOTE: FENCE 15'± PAST NORTH LINE AS SHOWN.



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CERTIFIED: 04/14/2022

Chad L. Brown
 Chad L. Brown
 Registered Land Surveyor,
 Indiana #21100002
 Drawn By: JEC
 Job No.: S22-9803
 Sheet 2 of 3



METROPOLITAN DEVELOPMENT COMMISSION
PLAT COMMITTEE
HEARING EXAMINER
OF MARION COUNTY, INDIANA

PETITION FOR VACATION OF A PLATTED SUBDIVISION

FINDINGS OF FACT

1. THE CONDITIONS IN THE PLATTED AREA HAVE CHANGED SO AS TO DEFEAT THE ORIGINAL PURPOSE OF THE PLAT because:

The house built in 1956 was constructed on the combination of 4 lots (45, 46, 47, 48) over original property line utility easements.

2. IT IS IN THE PUBLIC INTEREST TO VACATE ALL OR PART OF THE PLAT because:

The request will only affect lots 45, 46, 47, and 48 of Lindbergh Highlands. The existing house built on the combination of lots 45, 46, 47, and 48 has been in place over the originally platted property line utility easements since 1956 without issue.

3. THE VALUE OF THAT PART OF THE LAND IN THE PLAT NOT OWNED BY THE PETITIONER WILL NOT BE DIMINISHED BY VACATION because:

The property is being used as a residential dwelling in accordance with the original planned use of the plat and the surrounding properties. The use of the property is not being altered and the current situation has been in place since 1956.

Photos



Subject site viewed from Lindbergh Drive. Existing house was built over the platted easement.