

City of Fort Wayne Common Council

DIGEST SHEET

Department of Planning Services

Title of Ordinance: Vacation of Platted Right-of-Way
Case Number: VALY-2019-0001
Bill Number: G-19-01-02
Council District: 6-Glynn Hines

Introduction Date: January 8, 2019

Public Hearing Date: January 22, 2019 (to be held by Council)

Next Council Action: Ordinance will return to Council after approvals from reviewing agencies.

Synopsis of Ordinance: To vacate a platted alley north of Lots 1-5 of Ryan's Addition to Fort Wayne.

Location: The east-west alley lies along the northern property line of Lots 1-5 in Ryan's Addition, which is also located at 3101 New Haven Avenue.

Reason for Request: The property owner's building is partially located within the alley. Vacation of the unused alley will remove an unnecessary encumbrance on the property.

Applicant: MAFCO Leasing, LLC

Property Owner: MAFCO Leasing, LLC

Related Petitions: VALY-2019-0002 (G-19-01-03) for adjacent alley vacation

Effect of Passage: Vacation of the alley right-of-way will return the land to the adjacent property owners to the south and east of the alley, which is the same entity. The building is partially over the alley, which is unused.

Effect of Non-Passage: The platted right-of-way will remain under City jurisdiction. The applicant's survey shows an encroachment, which could cause title and/or financing issues.

1 VALY-2019-0001

2 BILL NO. G-19-01-02

3
4 GENERAL ORDINANCE NO. G-_____

5 AN ORDINANCE amending the Thoroughfare
6 Plan of the City Comprehensive ("Master")
7 Plan by vacating public right-of-way.

8 WHEREAS, a petition to vacate public right-of-way within the City of Fort Wayne, Indiana, (as
9 more specifically described below) was duly filed with the City Clerk of the City of Fort Wayne,
10 Indiana; and

11 WHEREAS, Common Council of the City of Fort Wayne, Indiana, duly held a public hearing
12 and approved said petition, as provided in I.C. 36-7-3-12.

13 NOW THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF
14 FORT WAYNE, INDIANA:

15 SECTION 1. That the petition filed herein to vacate a public right-of-way within the City of
16 Fort Wayne, Indiana, more specifically described as follows, to-wit:

17 **RYAN'S ADDITION PLATTED ALLEY VACATION REAL ESTATE DESCRIPTION**

18 AN ALLEY WITHIN THE PLAT OF EDWARD F. AND MARY M. RYAN'S ADDITION TO THE CITY
19 OF FORT WAYNE, INDIANA AS RECORDED IN PLAT BOOK 11 PAGE 65 WITHIN THE OFFICE
20 OF THE RECORDER OF ALLEN COUNTY, INDIANA. THIS REAL ESTATE DESCRIPTION HAS
21 BEEN PREPARED BY FORESIGHT CONSULTING, LLC DECEMBER 20TH, 2018 AS COMMISSION
22 NUMBER 182261 AND CERTIFIED BY TODD R. BAUER, INDIANA REGISTERED
23 PROFESSIONAL SURVEYOR NUMBER 29800007. THE SUBJECT REAL ESTATE IS FURTHER
24 DESCRIBED AS FOLLOWS:

25 **BEGINNING** AT THE NORTHWEST CORNER OF LOT NUMBER TWO (2) WITHIN THE
26 EDWARD F. AND MARY M. RYAN'S ADDITION, SAID NORTHWEST CORNER ALSO BEING
27 THE POINT OF INTERSECTION OF THE EAST RIGHT OF WAY LINE OF EDSALL AVENUE AND
28 THE SOUTH RIGHT OF WAY LINE OF A SIX (6) FOOT PLATTED ALLEY INCLUDED WITHIN
29 EDWARD F. AND MARY M. RYAN'S ADDITION AND BEING MARKED BY A 5/8" BY 24" REBAR
30 WITH "FORESIGHT-BOUNDARY" IDENTIFICATION CAP; THENCE NORTH 00 DEGREES 42
MINUTES 40 SECONDS WEST (INDIANA STATE PLANE ZONE EAST GRID BEARING AND
BASIS TO FOLLOW) ON AND ALONG THE EAST RIGHT OF WAY LINE OF EDSALL AVENUE A
DISTANCE OF 6.00 FEET TO THE POINT OF INTERSECTION OF THE EAST RIGHT OF WAY
LINE OF EDSALL AVENUE AND THE NORTH LINE OF EDWARD F. AND MARY M. RYAN'S
ADDITION, SAID NORTH LINE BEING COINCIDENT WITH THE NORTH RIGHT OF WAY LINE
OF THE AFOREMENTIONED SIX (6) FOOT PLATTED ALLEY; THENCE NORTH 87 DEGREES 23
MINUTES 56 SECONDS EAST ON AND ALONG THE NORTH LINE OF EDWARD F. AND MARY
M. RYAN'S ADDITION AND THE NORTH RIGHT OF WAY LINE OF THE SIX (6) FOOT
PLATTED ALLEY, A DISTANCE OF 230.50 FEET TO THE NORTHEAST CORNER OF EDWARD F.

1 AND MARY M. RYAN'S ADDITION, SAID NORTHEAST CORNER ALSO BEING THE
2 NORTHEAST CORNER OF THE AFOREMENTIONED SIX (6) FOOT ALLEY AND BEING MARKED
3 BY A 5/8" BY 24" REBAR WITH "FORESIGHT-BOUNDARY" IDENTIFICATION CAP; THENCE
4 SOUTH 00 DEGREES 42 MINUTES 40 SECONDS WEST ON AND ALONG THE EAST LINE OF
5 EDWARD F. AND MARY M. RYAN'S ADDITION AND THE EAST LINE OF THE
6 AFORMENTIONED SIX (6) FOOT ALLEY, A DISTANCE OF 6.00 FEET TO THE NORTHEAST
7 CORNER OF LOT NUMBER FIVE (5) WITHIN EDWARD F. AND MARY M. RYAN'S ADDITION,
8 SAID NORTHEAST CORNER BEING MARKED BY A 5/8" BY 24" REBAR WITH "FORESIGHT-
9 BOUNDARY" IDENTIFICATION CAP; THENCE SOUTH 87 DEGREES 23 MINUTES 56 SECONDS
10 WEST ON AND ALONG THE NORTH LINE OF LOTS TWO (2) THROUGH FIVE (5) WITHIN
11 EDWARD F. AND MARY M. RYAN'S ADDITION, SAID NORTH LINE BEING COINCIDENT WITH
12 THE SOUTH RIGHT OF WAY LINE OF THE AFOREMENTIONED SIX (6) FOOT PLATTED ALLEY,
13 A DISTANCE OF 230.50 FEET TO THE **POINT OF BEGINNING**, CONTAINING 0.032 ACRES
14 (1,383 SQUARE FEET) OF LAND, MORE OR LESS.

15
16 and which vacating amends the Thoroughfare Plan of the City Comprehensive ("Master") Plan
17 and is hereby approved in all respects.

18 SECTION 2. That this Ordinance shall be in full force and effect from and after its passage,
19 any and all necessary approval by the Mayor.

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COUNCILMEMBER

APPROVED AS TO FORM AND LEGALITY:

Carol T. Helton, City Attorney

CITY OF FORT WAYNE

Vacation Petition

City Clerk / Suite 110 / Citizens Square Building / 200 East Berry Street / Fort Wayne IN 46802 /260.427.1221

I/We do hereby petition to vacate the following:

_____ Easement X Public Right of Way (street or alley)

More particularly described as follows:

Public Alley legally described in Exhibit "A" attached hereto.

(Please Attach a Legal Description of the property requested to be vacated, along with a survey or other acceptable drawing showing the property.)

DEED BOOK NUMBER: 7C **PAGE(S) NUMBER(S):** 120 (This information can be obtained from the Allen County Recorder's Office on the 2nd Floor, City-County Building, One Main Street, Fort Wayne, IN)

The reasons for the proposed vacation are as follows:

See Exhibit "B" attached hereto.

(If additional space is needed please attach separate page.)

The applicant on an attached sheet must also provide the names and addresses of all adjacent property owner(s). The information on that sheet must be as follows:

Property owner(s) Name(s); Street Address; City; State; Zip Code; Phone Number with Area Code.

Applicant's name(s) if different from property owner(s):

Name: _____

Street Address: _____

City: _____ State: _____ Zip: _____ Phone: _____

I/We, your petitioners, file this petition pursuant to the authority granted in Indiana Code, and provisions of local ordinance. I/We agree to abide by all provisions of the Fort Wayne Zoning Ordinance and/or Subdivision Control Ordinance, as well as all procedures and policies of the Fort Wayne City Plan Commission as those provisions, and policies relate to the handling and disposition of this petition. I/We also certify that this information is true and accurate to the best of my/our knowledge.

MAFCO LEASING, LLC

Mary Haezger
Signature

By: Mary Haezger
Printed Name

1/2/19
Date

3101 New Haven Avenue
Address

Fort Wayne, Indiana 46803
City/State/Zip

Signature

Printed Name

Date

Address

City/State/Zip

If additional space is needed for signatures please attach a separate page.

Agent's Name (Print Legibly): _____

Street Address: _____

City: _____ State: _____ Zip: _____ Phone: _____

NOTICE:

- Legal Description is to be the area to be vacated and must be complete and accurate. If necessary a licensed surveyor's legal description may be required.
- Applicant is hereby informed that in the case of a utility being located in a public way or easement, the applicant may be required to bear the cost of relocation, or of providing a replacement easement or easement's as needed.

For Office Use Only:

Receipt #: _____

Date Filed: _____

Map #: _____

Reference #: _____

EXHIBIT "A"
To
Vacation Petition

RYAN'S ADDITION PLATTED ALLEY VACATION REAL ESTATE DESCRIPTION

AN ALLEY WITHIN THE PLAT OF EDWARD F. AND MARY M. RYAN'S ADDITION TO THE CITY OF FORT WAYNE, INDIANA AS RECORDED IN PLAT BOOK 11 PAGE 65 WITHIN THE OFFICE OF THE RECORDER OF ALLEN COUNTY, INDIANA. THIS REAL ESTATE DESCRIPTION HAS BEEN PREPARED BY FORESIGHT CONSULTING, LLC DECEMBER 20TH, 2018 AS COMMISSION NUMBER 182261 AND CERTIFIED BY TODD R. BAUER, INDIANA REGISTERED PROFESSIONAL SURVEYOR NUMBER 29800007. THE SUBJECT REAL ESTATE IS FURTHER DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF LOT NUMBER TWO (2) WITHIN THE EDWARD F. AND MARY M. RYAN'S ADDITION, SAID NORTHWEST CORNER ALSO BEING THE POINT OF INTERSECTION OF THE EAST RIGHT OF WAY LINE OF EDSALL AVENUE AND THE SOUTH RIGHT OF WAY LINE OF A SIX (6) FOOT PLATTED ALLEY INCLUDED WITHIN EDWARD F. AND MARY M. RYAN'S ADDITION AND BEING MARKED BY A 5/8" BY 24" REBAR WITH "FORESIGHT-BOUNDARY" IDENTIFICATION CAP;
THENCE NORTH 00 DEGREES 42 MINUTES 40 SECONDS WEST (INDIANA STATE PLANE ZONE EAST GRID BEARING AND BASIS TO FOLLOW) ON AND ALONG THE EAST RIGHT OF WAY LINE OF EDSALL AVENUE A DISTANCE OF 6.00 FEET TO THE POINT OF INTERSECTION OF THE EAST RIGHT OF WAY LINE OF EDSALL AVENUE AND THE NORTH LINE OF EDWARD F. AND MARY M. RYAN'S ADDITION, SAID NORTH LINE BEING COINCIDENT WITH THE NORTH RIGHT OF WAY LINE OF THE AFOREMENTIONED SIX (6) FOOT PLATTED ALLEY;
THENCE NORTH 87 DEGREES 23 MINUTES 56 SECONDS EAST ON AND ALONG THE NORTH LINE OF EDWARD F. AND MARY M. RYAN'S ADDITION AND THE NORTH RIGHT OF WAY LINE OF THE SIX (6) FOOT PLATTED ALLEY, A DISTANCE OF 230.50 FEET TO THE NORTHEAST CORNER OF EDWARD F. AND MARY M. RYAN'S ADDITION, SAID NORTHEAST CORNER ALSO BEING THE NORTHEAST CORNER OF THE AFOREMENTIONED SIX (6) FOOT ALLEY AND BEING MARKED BY A 5/8" BY 24" REBAR WITH "FORESIGHT-BOUNDARY" IDENTIFICATION CAP;
THENCE SOUTH 00 DEGREES 42 MINUTES 40 SECONDS WEST ON AND ALONG THE EAST LINE OF EDWARD F. AND MARY M. RYAN'S ADDITION AND THE EAST LINE OF THE AFORMENTIONED SIX (6) FOOT ALLEY, A DISTANCE OF 6.00 FEET TO THE NORTHEAST CORNER OF LOT NUMBER FIVE (5) WITHIN EDWARD F. AND MARY M. RYAN'S ADDITION, SAID NORTHEAST CORNER BEING MARKED BY A 5/8" BY 24" REBAR WITH "FORESIGHT-BOUNDARY" IDENTIFICATION CAP;
THENCE SOUTH 87 DEGREES 23 MINUTES 56 SECONDS WEST ON AND ALONG THE NORTH LINE OF LOTS TWO (2) THROUGH FIVE (5) WITHIN EDWARD F. AND MARY M. RYAN'S ADDITION, SAID NORTH LINE BEING COINCIDENT WITH THE SOUTH RIGHT OF WAY LINE OF THE AFOREMENTIONED SIX (6) FOOT PLATTED ALLEY, A DISTANCE OF 230.50 FEET TO THE **POINT OF BEGINNING**, CONTAINING 0.032 ACRES (1,383 SQUARE FEET) OF LAND, MORE OR LESS.

EDSALL

AVENUE

N 00°42'40"W 308.56'
ACTUAL (308.4' PREV)

500°42'40"E~83.55'(M),
83' DEED

ALBERTA L. JORDAN
DOC NO 73-7504
DOC NO 73-7510

BUILDING ENCROACHMENT
PERMITTED UNDER ENCROACHMENT
LICENSE AGREEMENT RECORDED AS
DOCUMENT NO. 201805104
AREA FALLS OUTSIDE OF PLAT
AND DEEDS OWNERSHIP UNCERTAIN
NO RECORD OF ALLEY OPENING
130.5' DEED
N87°23'56"E~130.52'(M)

12 FT. UTILITY EASEMENT
83' DEED
N00°

MAFCO LEASING, LLC

5/8" BY 24" REBAR WITH
"FORESIGHT-BOUNDARY"
I.D. CAP SET

UNIMPROVED ALLEY
STATUS UNCERTAIN

45'10.5" DEED
44'9.4" DEED
45'37" ACTUAL

4" POST FOUND (1997)
4" POST STUB FOUND
DEED (2018)

41.6' DEED

MAFCO
LEASING, LLC

DOC. NO. 44-51900
DOC. NO. 87-1403

BIRD'S

N00°42'40"E~132.99'(M)

113' PLAT

76.0'

25.1'

11.1'

12.1'

25.1'

11.1'

12.1'

25.1'

11.1'

12.1'

25.1'

11.1'

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11.1'

12.1'

25.1'

11.1'

12.1'

25.1'

11.1'

12.1'

25.1'

RYAN'S

ADDITION

RYAN'S ADDITION PLATTED ALLEY
VACATION DESCRIPTION LIMITS

MAFCO LEASING, LLC
DOC. NO. 2013064180
0.70 ACRES (M)

5/8" BY 24" REBAR WITH
"FORESIGHT-BOUNDARY"
I.D. CAP SET

125.52' deed
126' deed

44 PIN FOUND 0.291 S
6 (1946 - 2018)

137.75 SUM DEEDS 136
134.5' PREV
5 87°23'56"W 615.76

NEW HAVEN AVENUE

50.0'

X

110.5' PLAT - X

X

5/8" BY 24" REBAR WITH
"FORESIGHT-BOUNDARY"
I.D. CAP SET

10 FT. STREET WIDENING
MR 84 P 337 & 551

PB 18 P 27

X

40' PLAT

X

PR NAIL FOUND ON
CONC WALL (SET 1997)

126.15' actual

X

40' PLAT

X

40' PLAT

X

40' PLAT

X

40' PLAT

X

40' PLAT

X

40' PLAT

X

40' PLAT

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40' PLAT

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40' PLAT

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40' PLAT

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40' PLAT

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40' PLAT

X

40' PLAT

X

EXHIBIT "B"
To
Vacation Petition

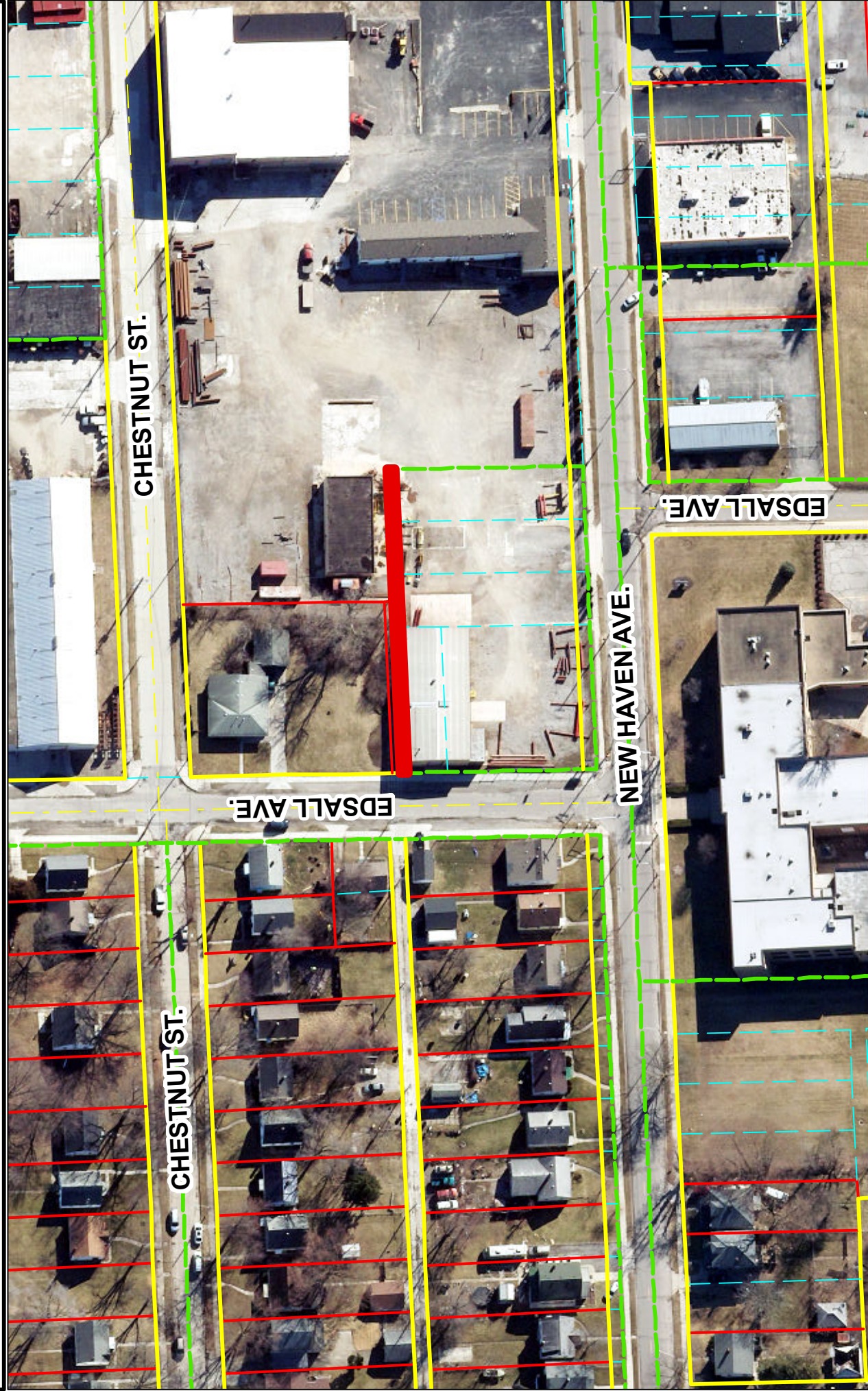
The petitioner is Mafco Leasing, LLC ("Mafco"). Mafco's property abuts the south, east and north boundary lines of the platted public alley sought to be vacated (the "Alley"). Mafco, in fact, owns all of the property comprising the pertinent Ryan's Addition plat. To the petitioner's knowledge, the Alley has never been used as an alley or public right-of-way. Mafco's building is located in the Alley. Mafco has continuously used the Alley believing the Alley was part of its own property. The petitioner is committed to grant any and all necessary replacement easements which the Common Council of Fort Wayne requires.

To supplement the above and foregoing, the petitioner states the following:

1. The vacation would not hinder the growth or orderly development of any neighborhood;
2. The vacation would not make access to the lands of other persons by means of public way difficult or inconvenient;
3. The vacation would not hinder the public's access to a church, school or other public building or place; and
4. The vacation would not hinder the use of a public way by any neighborhood.

List of adjacent property owners:

MAFCO Leasing, LLC
3101 New Haven Avenue
Fort Wayne, IN 46803
260-615-9105



Although strict accuracy standards have been employed in the compilation of this map, Allen County does not warrant or guarantee the accuracy of the information contained herein and disclaims any and all liability resulting from any error or omission in this map.

North American Datum 1983
State Plane Coordinate System, Indiana East
Photos and Contours: Spring 2009
Date: 1/22/19

Project Boundaries Represented with Bold Lines are for Representational Purposes Only

