

City of Fort Wayne Common Council

DIGEST SHEET

Department of Planning Services

Title of Ordinance: Vacation of Right-of-Way
Case Number: VALY-2019-0002
Bill Number: G-19-01-03
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 an alley within Lot 28 of the Partition of John A. Bird's Estate.

Location: The east-west alley lies along the southern property line of 1803 Edsall Avenue.

Reason for Request: The building at 3101 New Haven Avenue is partially located within the alley. Vacation of the unused alley will remove an unnecessary encumbrance on the property.

Applicant: MAFCO Leasing, LLC

Property Owners: MAFCO Leasing, LLC, Alberta Jordan

Related Petitions: VALY-2019-0001 (G-19-01-02) for adjacent alley vacation

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

Effect of Non-Passage: The 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-2019-0002

2 BILL NO. G-19-01-03

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 A PORTION OF LOT NUMBER TWENTY-EIGHT (28) WITHIN BIRD'S PARTITION OF THE EAST
18 HALF OF THE NORTHEAST QUARTER, SECTION 7, TOWNSHIP 30 NORTH, RANGE 13 EAST,
19 FORT WAYNE, INDIANA AS RECORDED IN DEED RECORD 71, PAGES 192 TO 195 WITHIN
20 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:

21 COMMENCING AT THE NORTHWEST CORNER OF LOT NUMBER TWO (2) WITHIN THE
22 EDWARD F. AND MARY M. RYAN'S ADDITION AS RECORDED IN PLAT BOOK 11, PAGE 65
23 WITHIN THE OFFICE OF THE RECORDER OF ALLEN COUNTY, INDIANA, SAID NORTHWEST
24 CORNER ALSO BEING THE POINT OF INTERSECTION OF THE EAST RIGHT OF WAY LINE OF
25 EDSALL AVENUE AND THE SOUTH RIGHT OF WAY LINE OF A SIX (6) FOOT PLATTED ALLEY
26 INCLUDED WITHIN EDWARD F. AND MARY M. RYAN'S ADDITION AND BEING MARKED BY A
27 5/8" BY 24" REBAR WITH "FORESIGHT-BOUNDARY" IDENTIFICATION CAP; THENCE NORTH
28 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 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, BEING THE **POINT
OF BEGINNING**; THENCE CONTINUING NORTH 00 DEGREES 42 MINUTES 40 SECONDS
WEST ON AND ALONG THE EAST RIGHT OF WAY LINE OF EDSALL AVENUE A DISTANCE OF

6.00 FEET; THENCE NORTH 87 DEGREES 23 MINUTES 56 SECONDS EAST EQUIDISTANT AND PARALLEL WITH 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 130.52 FEET TO A POINT ON THE WESTERN BOUNDARY LINE OF THE LANDS OF MAFCO LEASING, LLC AS RECORDED IN DOCUMENT NUMBER 2013064180 IN THE OFFICE OF THE RECORDER OF ALLEN COUNTY, INDIANA; THENCE SOUTH 00 DEGREES 42 MINUTES 31 SECONDS EAST ON AND ALONG THE WEST LINE OF MAFCO LEASING, LLC A DISTANCE OF 6.00 FEET TO A POINT ON THE NORTH LINE OF EDWARD F. AND MARY M. RYAN'S ADDITION BEING COINCIDENT WITH THE NORTH RIGHT OF WAY LINE OF A SIX (6) FOOT PLATTED ALLEY WITHIN EDWARD F. AND MARY M. RYAN'S ADDITION, SAID POINT BEING A POINT OF DEFLECTION OF THE BOUNDARY LINE OF MAFCO LEASING, LLC AND 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 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, A DISTANCE OF 130.52 FEET TO THE **POINT OF BEGINNING**, CONTAINING 0.018 ACRES (783 SQUARE FEET) OF LAND, MORE OR LESS.

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

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

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: 71 **PAGE(S) NUMBER(S):** 192-195 (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 For 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.

Mary Harberger
Signature

MAFCO LEASING, LLC

By: MARY HARBERGER-fox
Printed Name

1/2/19
Date

3101 New Haven Avenue
Address

Port Wayne, Indiana 46803
City/State/Zip

Laura D. Vandall POA
Signature

Alberta L. Jordan
Printed Name

12-31-18
Date

Laura D. Vandall POA

1803 Edsall Avenue
Address

Fort Wayne, Indiana 46803
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

NORTHERN SIX (6) FEET "ALLEY" VACATION REAL ESTATE DESCRIPTION

A PORTION OF LOT NUMBER TWENTY-EIGHT (28) WITHIN BIRD'S PARTITION OF THE EAST HALF OF THE NORTHEAST QUARTER, SECTION 7, TOWNSHIP 30 NORTH, RANGE 13 EAST, FORT WAYNE, INDIANA AS RECORDED IN DEED RECORD 71, PAGES 192 TO 195 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:

COMMENCING AT THE NORTHWEST CORNER OF LOT NUMBER TWO (2) WITHIN THE EDWARD F. AND MARY M. RYAN'S ADDITION AS RECORDED IN PLAT BOOK 11, PAGE 65 WITHIN THE OFFICE OF THE RECORDER OF ALLEN COUNTY, INDIANA, 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 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, BEING THE **POINT OF BEGINNING**;

THENCE CONTINUING NORTH 00 DEGREES 42 MINUTES 40 SECONDS WEST ON AND ALONG THE EAST RIGHT OF WAY LINE OF EDSALL AVENUE A DISTANCE OF 6.00 FEET;

THENCE NORTH 87 DEGREES 23 MINUTES 56 SECONDS EAST EQUIDISTANT AND PARALLEL WITH 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 130.52 FEET TO A POINT ON THE WESTERN BOUNDARY LINE OF THE LANDS OF MAFCO LEASING, LLC AS RECORDED IN DOCUMENT NUMBER 2013064180 IN THE OFFICE OF THE RECORDER OF ALLEN COUNTY, INDIANA;

THENCE SOUTH 00 DEGREES 42 MINUTES 31 SECONDS EAST ON AND ALONG THE WEST LINE OF MAFCO LEASING, LLC A DISTANCE OF 6.00 FEET TO A POINT ON THE NORTH LINE OF EDWARD F. AND MARY M. RYAN'S ADDITION BEING COINCIDENT WITH THE NORTH RIGHT OF WAY LINE OF A SIX (6) FOOT PLATTED ALLEY WITHIN EDWARD F. AND MARY M. RYAN'S ADDITION, SAID POINT BEING A POINT OF DEFLECTION OF THE BOUNDARY LINE OF MAFCO LEASING, LLC AND 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 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, A DISTANCE OF 130.52 FEET TO THE **POINT OF BEGINNING**, CONTAINING 0.018 ACRES (783 SQUARE FEET) OF LAND, MORE OR LESS.

EDSALL AVENUE

ALBERTA L. JORDAN
DOC NO. 73-1504
DOC NO. 73-1510

BUILDING ENCROACHMENT
PERMITTED UNDER ENCROACHMENT
LICENSE AGREEMENT RECORDED AS
DOCUMENT NO. 201808104
AREA FALLS OUTSIDE OF PLAT
AND DEEDS OWNERSHIP UNCERTAIN
NO RECORD OF ALLEY OPENING
1" PIPE FOUND
(1997-2018)
500' 42' 40" W-63' 55" (M)
N 87° 23' 56" E-130' 52" (M)
N 87° 23' 56" E-230' 50" (M)
N 87° 23' 56" E-230' 50" (M)

12 FT. UTILITY EASEMENT
83' DEED

NORTHERN SIX (6) FEET "ALLEY"
VACATION DESCRIPTION LIMITS

MAFCO LEASING, LLC

5/8" BY 24" REBAR WITH
"FORESIGHT-BOUNDARY"
I.D. CAP SET
45' 10.5" DEED
44' 9.4" DEED
45' 3" ACTUAL
40' DEED
#5 PIN (SET 1997)
NOT FOUND 2018
500' 42' 40" W-6' 00" (M)

ENCROACHMENT PLAT
PER DOC. NO. 201808104

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

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

MAFCO
LEASING, LLC

Doc. No.
85-6747
150' x 40'
152.09', 156', 152', 150' DEEDS
143' PLAT
DR 249 P 458
N 00° 42' 40" W-138.99' (M)

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

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

5/8" BY 24" REBAR WITH
"FORESIGHT-BOUNDARY"
I.D. CAP SET
10 FT. STREET WIDENING
MR 84 P 331 & 331
PB 18 P 27
X 110.5' PLAT - X
X 110.5' PLAT - X

#4 PIN FOUND 0.28' S
(1946 - 2018)
40' DEED

137.75 SUM DEEDS 139
139.15' PREV
S 87° 23' 56" W 615.75'

NEW HAVEN AVENUE

BIRD'S

ADDITION

RYAN'S

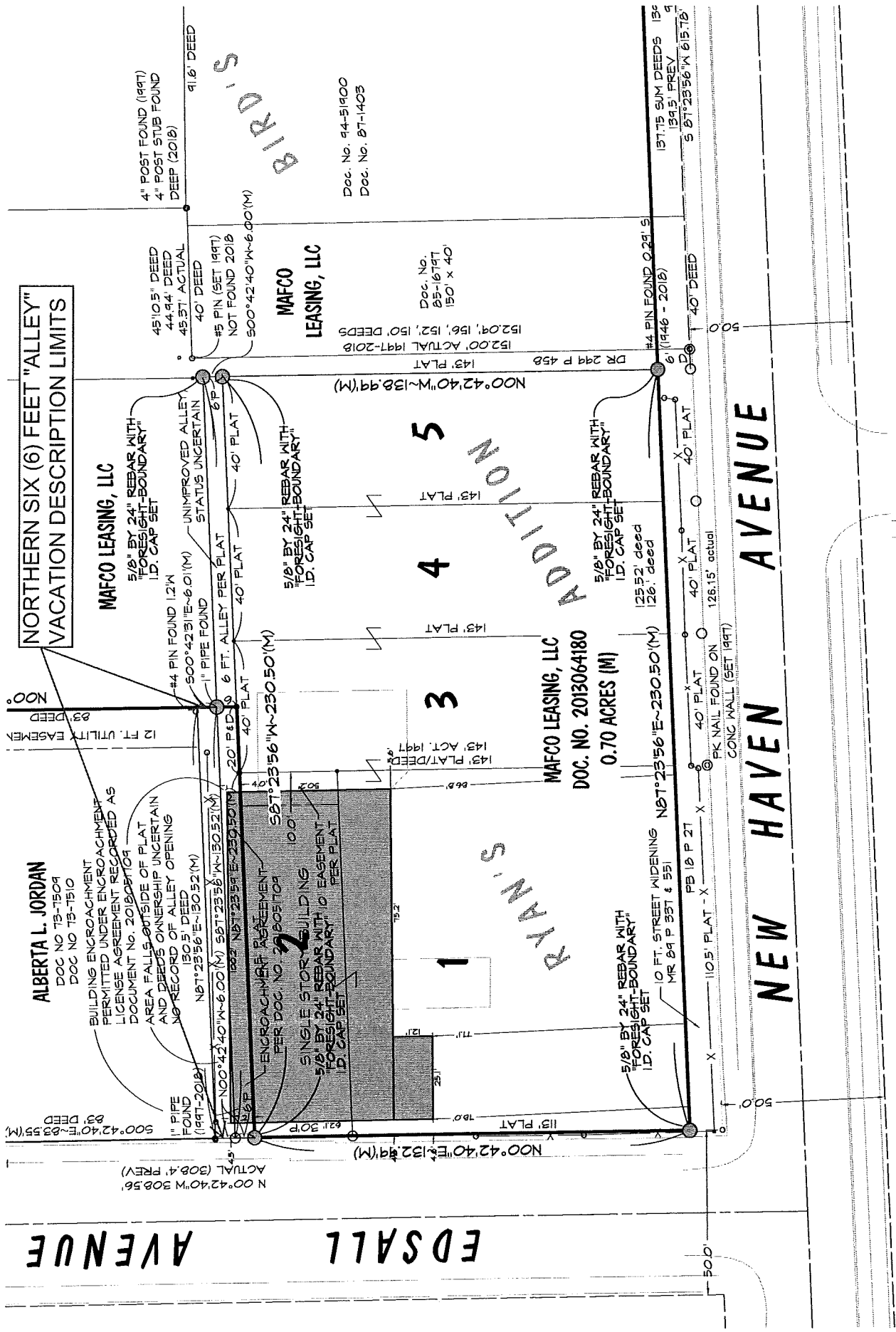


EXHIBIT "B"
To
Vacation Petition

The petitioners are Alberta L. Jordan ("Jordan") and Mafco Leasing, LLC ("Mafco"). Jordan's property abuts the north boundary line of the public alley sought to be vacated (the "Alley"). Mafco's property abuts the east boundary line of the Alley. Mafco is currently (and separately) petitioning to vacate the Ryan's Addition platted public alley which abuts the south boundary line of the Alley; upon the vacation of this other alley Mafco's property would be deemed to abut the south boundary line of the Alley. To the petitioners' knowledge, the Alley has never been used as an alley or public right-of-way. Mafco's building is located, in part, in the Alley. Mafco has continuously used the Alley believing the Alley was part of its own property. The petitioners are committed to grant any and all necessary replacement easements which the Common Council of Fort Wayne requires.

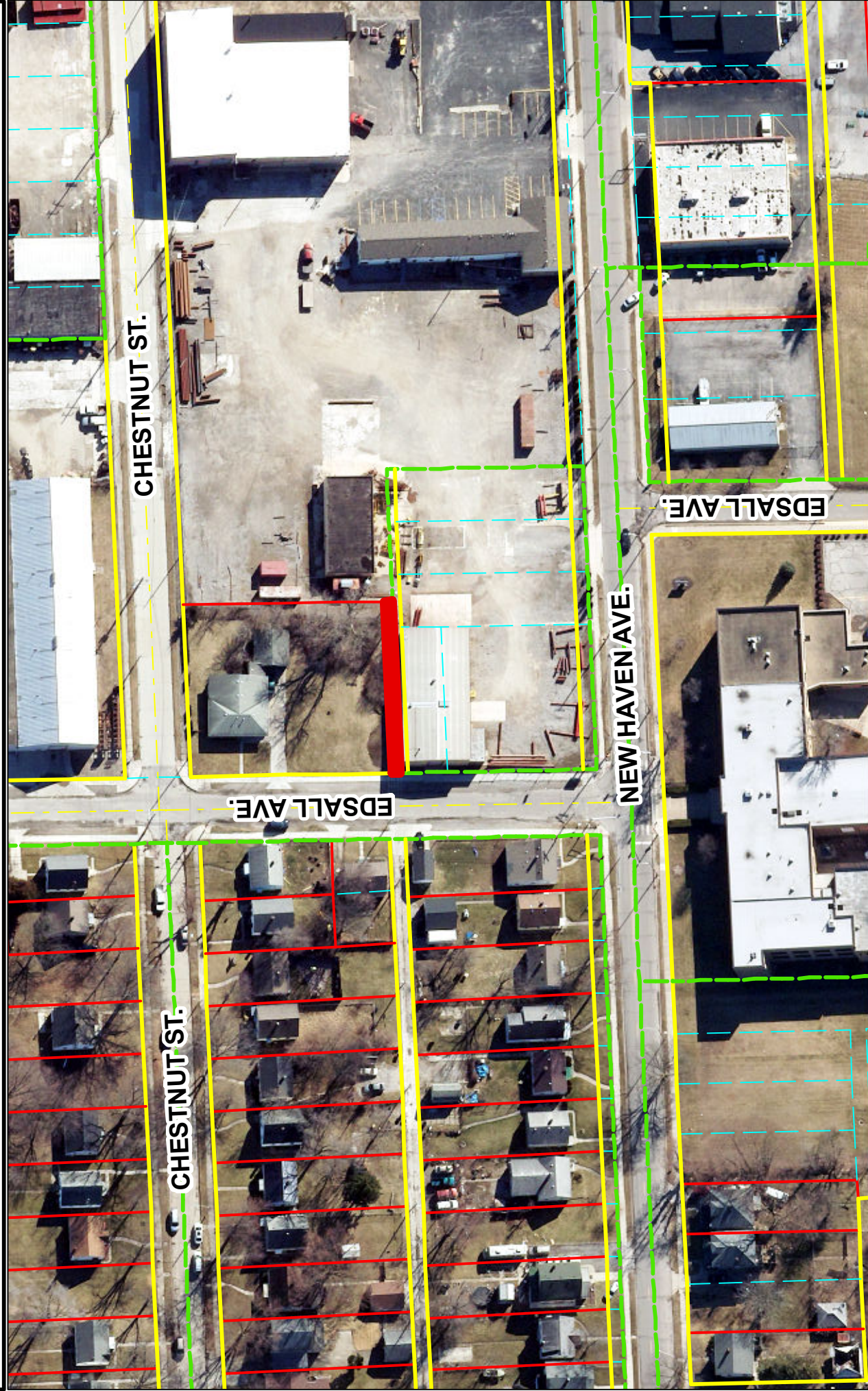
To supplement the above and foregoing, the petitioners state the following:

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

Alberta L. Jordan
1803 Edsall Avenue
Fort Wayne, IN 46803
260-433-1440



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

