

VROW-2023-0001

BILL NO. G-23-01-02

GENERAL ORDINANCE NO. G-_____

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

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

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

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

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

A PORTION OF AVONDALE DRIVE AS PLATTED AS LAFAYETTE STREET IN THE PLAT OF SOUTHVIEW ADDITION AS RECORDED IN PLAT BOOK 11 PAGE 79 AND FURTHER DEDICATED IN 1971 BY STREET DEDICATION AS RECORDED IN DOCUMENT 71-06935 WITHIN THE OFFICE OF THE RECORDER OF ALLEN COUNTY INDIANA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE POINT OF INTERSECTION OF THE EAST RIGHT OF WAY LINE OF AVONDALE DRIVE AND THE SOUTH RIGHT OF WAY LINE OF SOUTHVIEW AVENUE, SAID POINT BEING THE NORTHWEST CORNER OF LOT 102 OF SAID SOUTHVIEW ADDITION; THENCE SOUTH 01 DEGREE 39 MINUTES 06 SECONDS EAST (BEARINGS BASED UPON INDIANA STATE PLANE COORDINATE, EAST ZONE, GRID), ON AND ALONG THE EAST RIGHT OF WAY LINE OF AVONDALE DRIVE, A DISTANCE OF 115.71 FEET (115 FEET, PLAT) TO THE SOUTHWEST CORNER OF SAID LOT 102, BEING ONE AND THE SAME AS THE NORTHWEST CORNER OF SAID 1971 STREET DEDICATION; THENCE NORTH 88 DEGREES 23 MINUTES 35 SECONDS EAST ON AND ALONG THE SOUTH LINE OF SAID LOT 102, A DISTANCE OF 5.00 FEET TO THE NORTHEAST CORNER OF SAID 1971 STREET DEDICATION; THENCE SOUTH 01 DEGREE 39 MINUTES 06 SECONDS EAST ON AND ALONG THE EAST LINE OF SAID 1971 STREET DEDICATION, A DISTANCE OF 113.64 FEET TO THE POINT OF INTERSECTION OF THE NORTH RIGHT OF WAY LINE OF PAULDING ROAD AND THE EAST RIGHT OF WAY LINE OF AVONDALE DRIVE; THENCE SOUTH 88 DEGREES 20 MINUTES 54 SECONDS WEST ON AND ALONG THE NORTH RIGHT OF WAY LINE OF SAID PAULDING ROAD, A DISTANCE OF 35.00 FEET TO A POINT ON THE WEST

1 RIGHT OF WAY LINE OF AVONDALE DRIVE, SAID WEST RIGHT OF WAY LINE BEING
2 ONE AND SAME AS THE WEST LINE OF THE SOUTHWEST QUARTER OF SECTION 24,
3 TOWNSHIP 30 NORTH, RANGE 12 EAST; THENCE NORTH 01 DEGREE 39 MINUTES 06
4 SECONDS WEST ON AND ALONG SAID WEST RIGHT OF WAY LINE, A DISTANCE OF
5 229.35 FEET TO THE POINT OF INTERSECTION OF SAID WEST RIGHT OF WAY LINE
6 AND THE WESTERLY EXTENSION OF THE SOUTH RIGHT OF WAY LINE OF
7 SOUTHVIEW AVENUE; THENCE NORTH 88 DEGREES 23 MINUTES 35 SECONDS
8 EAST, A DISTANCE OF 30.00 FEET TO THE POINT OF BEGINNING.
9 CONTAINING 0.171 ACRES AND BEING SUBJECT TO EASEMENTS OF RECORD.

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

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

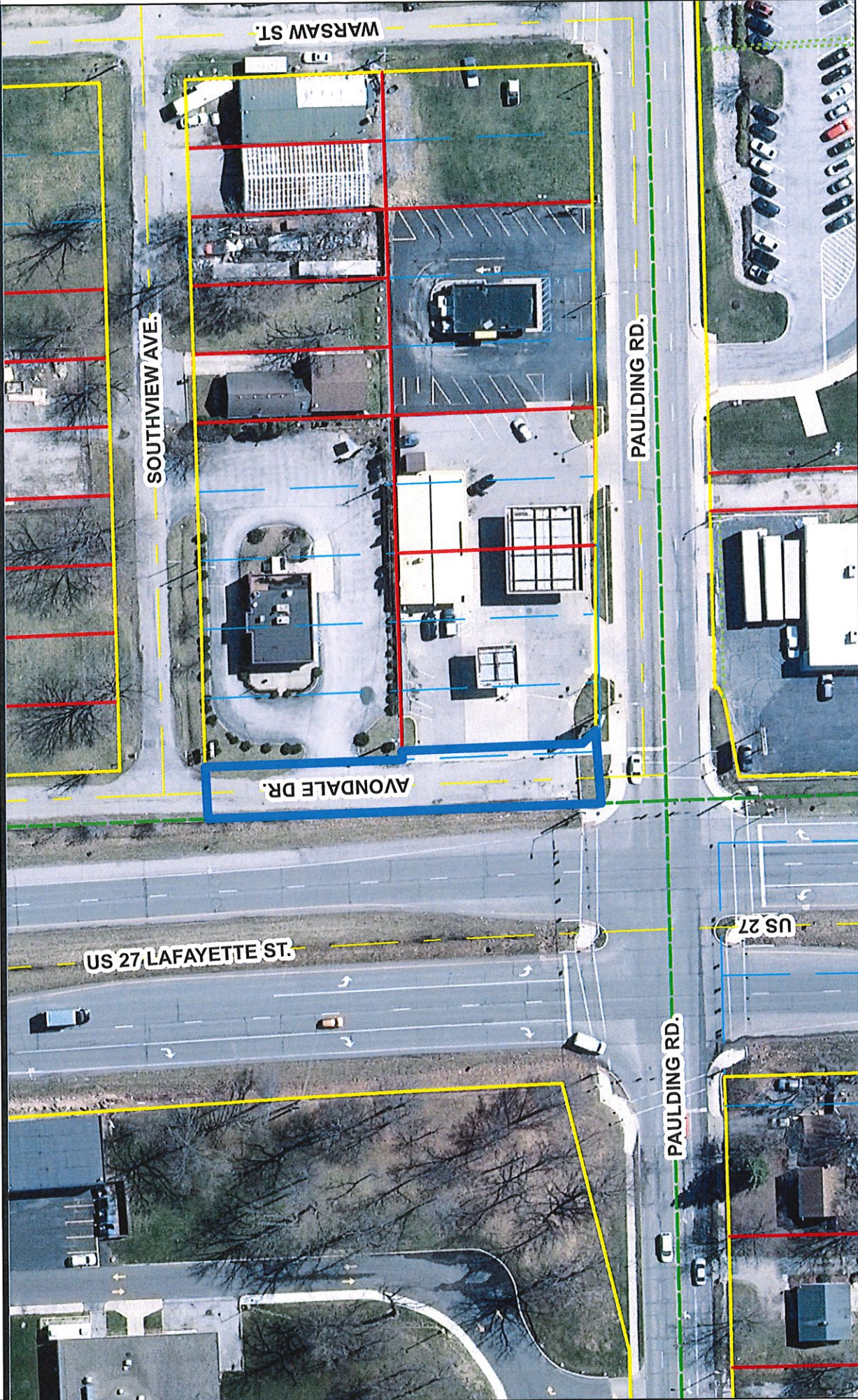
14 _____
15 COUNCILMEMBER

16 APPROVED AS TO FORM AND LEGALITY:

17 
18 _____
19 City Attorney



Right of Way Vacation Avondale Drive with 411 E Paulding Road Rezoning

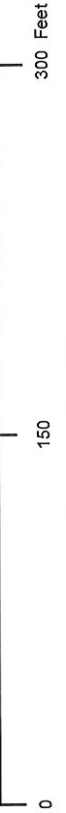


Although strict accuracy standards have been employed in the compilation of this map, Allen County does not warrant or guarantee the accuracy of the information contained herein and disclaims any and all liability resulting from any error or omission in this map.

© 2004 Board of Commissioners of the County of Allen
North American Datum 1983
State Plane Coordinate System, Indiana East
Photos and Contours: Spring 2009
Date: 1/4/2023



1 inch = 75 feet



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:

Avondale Drive from the south right-of-way line of Southview Avenue south to its terminus at Paulding Road.

(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: _____ **PAGE(S) NUMBER(S):** _____ (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:

Avondale Drive no longer connects with Paulding Road and is not used by the public as a right-of-way as it is a dead end.

(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.

Solar Petroleum, LLC

By: [Signature] Mohammad Abdelghaffar, Member 11/15/2022
Signature Printed Name Date

624 McKinney Avenue Fort Wayne, IN 46806
Address City/State/Zip

A & M Enterprise LLC

By: [Signature] Mohammad Abdelghaffar, Member 11/15/2022
Signature Printed Name Date

624 McKinney Avenue Fort Wayne, IN 46806
Address City/State/Zip

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

Agent's Name (Print Legibly): Scott M. Federoff, Snyder Morgan Federoff & Kuchmay, LLP

Street Address: 4211 Clubview Drive

City: Fort Wayne State: IN Zip: 46804 Phone: 260-602-8000

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 #: _____



INTERIM AD DRAFT

This is the proof of your ad scheduled to run in **Journal Gazette**.

Notice ID: J4gYdwKOQHqGUJYNkINz | **Proof Updated: Jan. 11, 2023 at 08:04am EST**
Notice Name: G-23-01-02

See Proof on Next Page

This is not an invoice. Below is an estimated price, and it is subject to change. You will receive an invoice with the final price upon invoice creation by the publisher.

FILER

Lisa Petretta
lisa.petretta@cityoffortwayne.org
(260) 427-1221

FILING FOR

Journal Gazette

Columns Wide: 1

Ad Class: Legals

01/13/2023: Other

28.44

Subtotal \$28.44

Tax % 0

Total \$28.44

**NOTICE OF PUBLIC HEARING
FORT WAYNE COMMON COUNCIL**

ORDINANCE NO. G-23-01-02

NOTICE IS HEREBY GIVEN THAT THE FORT WAYNE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA, WILL CONDUCT A PUBLIC HEARING ON JANUARY 24, 2023 AT 5:30 P.M., IN ROOM 035 - COUNCIL CHAMBERS COURTROOM - GARDEN LEVEL CITIZENS SQUARE, 200 E. BERRY, FORT WAYNE, INDIANA 46802; A REQUEST TO VACATE AN AREA KNOWN AS:

LOCATION: Avondale Drive from Paulding Road to the south right-of-way line of Southview Avenue, East of 411 East Paulding and 412 Southview Avenue.

COMMON COUNCIL WILL CONDUCT A PUBLIC HEARING ON WHETHER THE ABOVE DESCRIBED RESOLUTION SHOULD BE CONFIRMED, MODIFIED AND CONFIRMED, OR RESCINDED ON TUESDAY, JANUARY 24, 2023.

ADDITIONAL INFORMATION CAN BE VIEWED AT THE DEPARTMENT OF PLANNING SERVICES OFFICE IN CITIZEN'S SQUARE: 200 E. BERRY ST, SUITE 150.

ALL INTERESTED PERSONS ARE INVITED TO ATTEND AND BE HEARD AT THE PUBLIC HEARING.

REASONABLE ACCOMMODATIONS FOR PERSONS WITH A KNOWN DISABLING CONDITION WILL BE CONSIDERED IN ACCORDANCE WITH STATE AND FEDERAL LAW. ANY PERSON NEEDING A REASONABLE ACCOMMODATION SHOULD NOTIFY PUBLIC INFORMATION OFFICE (260) 427-1120, TTY (260) 427-1200, AT LEAST SEVENTY-TWO HOURS PRIOR TO THE MEETING.

LANA R. KEESLING
CITY CLERK

1--13 hspaxlp

The Journal Gazette

Allen County, Indiana

Account Name
Gov: Fort Wayne City Clerk's Office

Notice ID: J4gYdwKOQHqGUJYNkINz

PUBLISHER'S CLAIM

LINE COUNT

Display Master (Must not exceed two actual lines, neither of which shall

total more than four solid lines of the type in which the body of the advertisement is set) - number of equivalent lines

Head - number of lines

Body - number of lines

Tail - number of lines

Total number of lines in notice

57

COMPUTATION OF CHARGES

57 lines, 1 column(s) wide equal:

57 equivalent lines at \$ 0.4990 cents per line

\$28.44

Additional charges for notices containing rule or tabular work
(50 percent of above amount)

\$

Electronic processing fee

\$0.00

TOTAL AMOUNT OF CLAIM

\$28.44

DATA FOR COMPUTING COST

Width of single column in picas 9.8 Size of type 7point.

Number of insertions 1

Pursuant to the provisions and penalties of IC 5-1-1-10-1, I hereby certify that the foregoing account is just and correct, that the amount claimed is legally due, after allowing all just credits, and that no part of the same has been paid.

I also certify that the printed matter attached hereto is a true copy, of the same column width and type size, which was duly published in said paper.

The dates of publication being as follows:

1/13/23

Additionally, Newspaper has a Web site and this public notice was posted on the same day as it was published in The Journal Gazette.

Date: 1/13/2023

Brenda McCreary
Legal Clerk

ATTACH COPY OF ADVERTISEMENT

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LANA R. KEESLING
CITY CLERK

1--13 hspaxlp

City of Fort Wayne Common Council

DIGEST SHEET

Department of Planning Services

Title of Ordinance: Right of Way Vacation
Case Number: VROW-2023-0001
Bill Number: G-23-01-02
Council District: 6 – Sharon Tucker

Introduction Date: January 10, 2023

Public Hearing Date: January 24, 2023 to be heard by Council

Next Council Action: Ordinance will return to Council after recommendation by reviewing agencies.

Synopsis of Ordinance: To vacate Avondale Drive from Southview Avenue to Paulding Road.

Location: West of 412 Southview Avenue.

Reason for Request: To allow the right-of-way to be combined with the adjacent commercial parcels.

Applicant: Solar Petroleum, LLC

Property Owner: Solar Petroleum, LLC

Related Petitions: REZ-2022-0068

Effect of Passage: The vacation of Avondale Drive will allow for the underutilized right-of-way to be returned as developable land. The access to Avondale from Paulding was recently closed by the City of Fort Wayne.

Effect of Non-Passage: The right of way will remain as platted. Redevelopment of the property may be hindered by retention of the unused right-of-way.

RIGHT-OF-WAY VACATION – DISCUSSION and PASSAGE

Department of Planning Services

VROW 2023 0001	Bill #G-23-01-02	Project Start: January 2023
APPLICANT:	Solar Petroleum, LLC	
REQUEST:	To vacate Avondale Drive from Paulding Road to the south right-of-way line of Southview Avenue.	
LOCATION:	East of 411 East Paulding and 412 Southview Avenue.	
COUNCIL DISTRICT:	6 - Sharon Tucker	
PUBLIC HEARING DATE:	January 24, 2023 (no public comments received)	

PROJECT SUMMARY

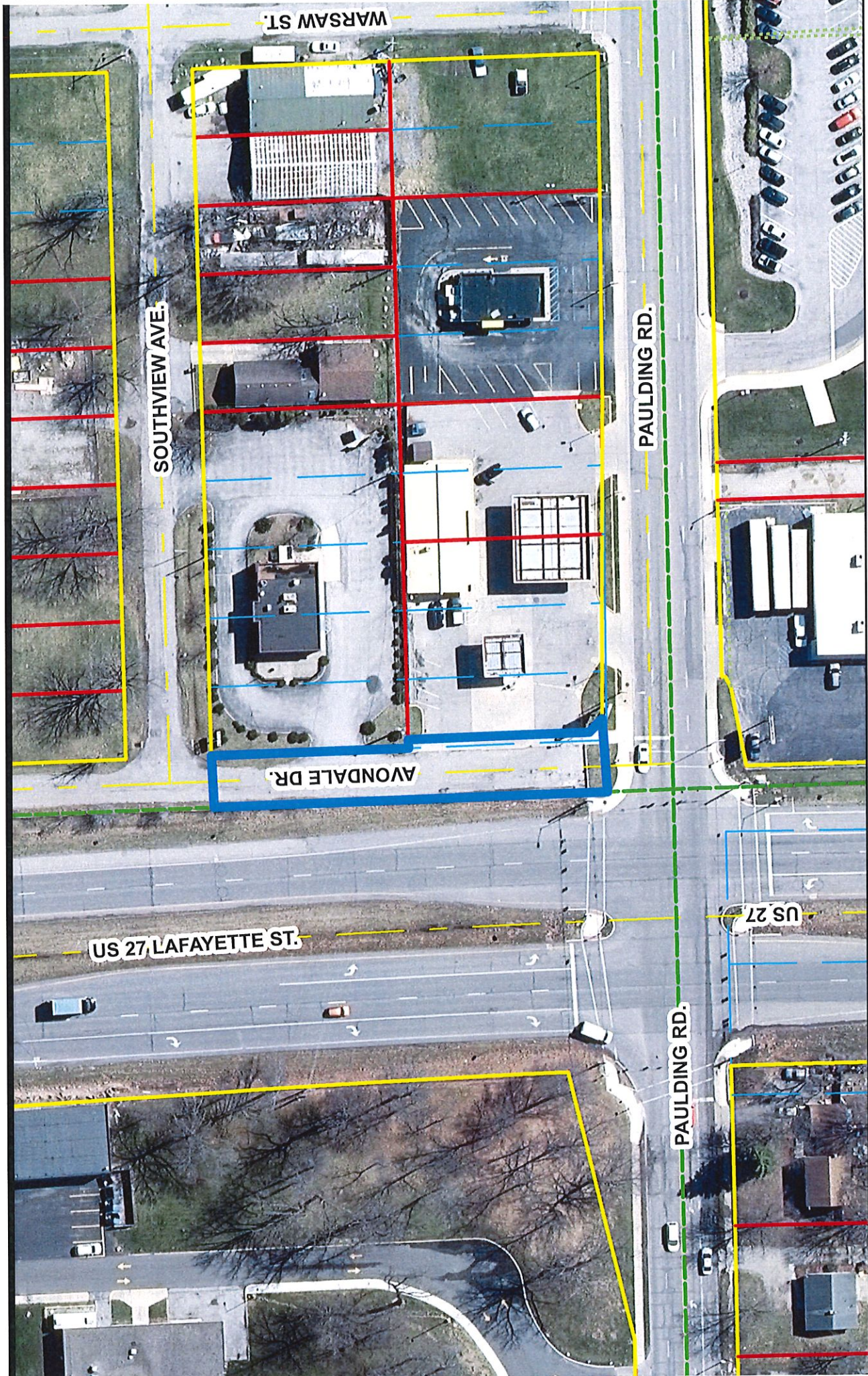
The portion of Avondale Drive to be vacated is located west of an existing Lassus Handy Dandy gas station and convenience store at the intersection of Paulding and US 27, and a former Dairy Queen building, at the intersection of Avondale and Southview Avenue. Access to Avondale Drive at Paulding has been closed by the City of Fort Wayne. The vacation of Avondale will allow the existing gas station and convenience store to make improvements to the site, and potential improvements or redevelopment of the Dairy Queen property. No existing access to other properties will be affected. Land on the northern portion of Avondale has access to Southview Avenue and Hawthorne Street. Staff has sent requests for comment from all affected utility agencies. City Utilities requires an easement and is currently working with the applicant to secure the necessary documentation. All other agencies have signed off or have no comments, allowing for this vacation to move forward.

City Plan:	Indiana Code (36-7-3-16 (b)) states that any public utility occupying a public way or easement shall not be deprived of the use of the public way for the location and operation of existing facilities. The petitioner shall provide all necessary easements (as approved) at the time the vacation petition is recorded.
Traffic/Transportation Engineering:	Approved
Right-of-Way:	Approved, with physical barrier to Avondale, or removal of pavement.
Stormwater Engineering:	Easement required
Water Engineering:	Easement required
WPC Engineering – Sanitary:	Approved
City Parks Department:	Approved
Fire Department:	No comment
Frontier:	Approved
Comcast Cable:	Lines to remain, no easement required.
AEP:	Approved
NIPSCO:	Approved

Grounds for Remonstrance for Vacation Requests (I.C. 36-7-3-13):

- (1) The vacation would hinder the growth or orderly development of the unit or neighborhood in which it is located or to which it is contiguous.
- (2) The vacation would make access to the lands of the aggrieved person by means of public way difficult or inconvenient.
- (3) The vacation would hinder the public's access to a church, school, or other public building or place.
- (4) The vacation would hinder the use of a public way by the neighborhood in which it is located or to which it is contiguous.

Right of Way Vacation Avondale Drive with 411 E Paulding Road Rezoning

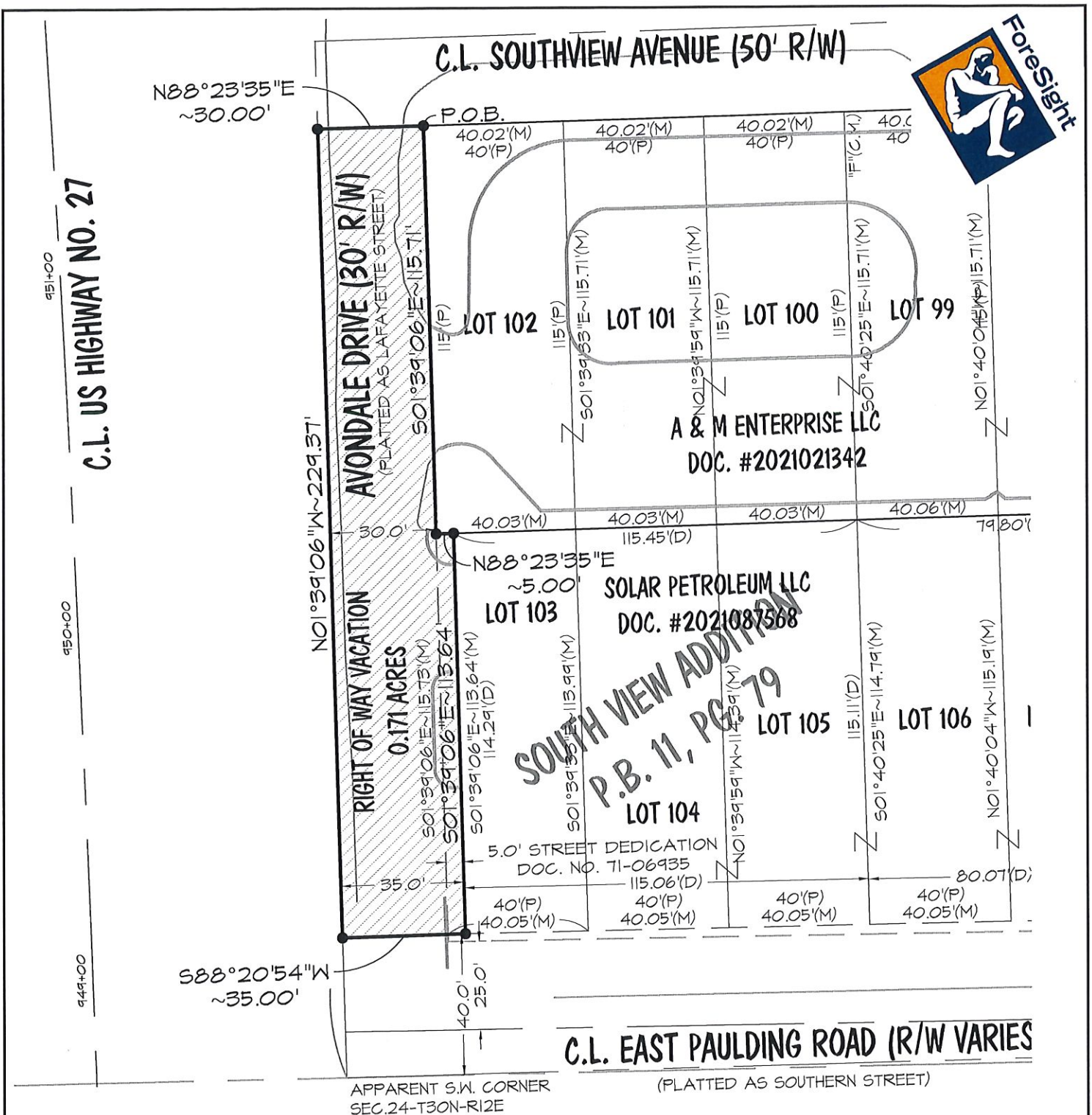


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North American Datum 1983
State Plane Coordinate System, Indiana East
Photos and Contours: Spring 2009
Date: 1/4/2023



1 inch = 75 feet



Right of Way Vacation Exhibit

SCALE: 1" = 40'

40 20 0 40

Commission Number
223515

Date
12/02/2022

Sheet
S2.2

Right of Way Vacation Exhibit

Southview Avenue, Fort Wayne, Indiana 46806

ForeSight Consulting, LLC

Professional Engineers & Surveyors
1910 St. Joe Center Road, Suite #51
Fort Wayne, Indiana 46825
260.484.9900 phone
260.484.9980 fax
www.4site.biz

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