

1 VALY-2023-0004

2 BILL NO. G-23-03-16

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 Part of the Alley between Fairfield Avenue and Ewing Street lying South of West Washington
18 Boulevard and North of West Jefferson Boulevard, located within Block 30 Ewing's Addition to
19 the City of Fort Wayne recorded in Plat Record 2, page 40 in the Office of the Recorder of
20 Allen County, Indiana described as follows:

21 Beginning at a cut X scribed on the intersection of the East right of way of Fairfield Avenue
22 and the North right of way line of a platted 14-foot wide alley, said beginning point being the
23 Southwest corner of Lot Number 6 in said Ewings Addition; thence along the North line of said
24 alley North 78 degrees 04 minutes 56 seconds East to a point on the South line of Lot 2;
25 thence South 11 degrees 55 minutes 04 seconds East 14.00 feet to the South line of said
26 alley and the North line of Lot 11 in said Ewings Addition; thence along the South line of said
27 alley, South 78 degrees 04 minutes 56 seconds West 214.37 feet to the East line of said
28 Fairfield Avenue; thence North 11 degrees 55 minutes 04 seconds West 14.00 feet to the
29 point of beginning, containing 0.069 acres (3001.25 square feet) more or less.

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

SECTION 2. That, pursuant to I.C. 36-7-3-16(b), there are hereby reserved easements in
the following described real estate, for the use by public utilities presently occupying and using

1 such real estate for the location and operation of their facilities:

2 Part of the Alley between Fairfield Avenue and Ewing Street lying South of West Washington
3 Boulevard and North of West Jefferson Boulevard, located within Block 30 Ewing's Addition to
4 the City of Fort Wayne recorded in Plat Record 2, page 40 in the Office of the Recorder of
Allen County, Indiana described as follows:

5 Beginning at a cut X scribed on the intersection of the East right of way of Fairfield Avenue
6 and the North right of way line of a platted 14-foot wide alley, said beginning point being the
7 Southwest corner of Lot Number 6 in said Ewings Addition; thence along the North line of said
8 alley North 78 degrees 04 minutes 56 seconds East to a point on the South line of Lot 2;
9 thence South 11 degrees 55 minutes 04 seconds East 14.00 feet to the South line of said
10 alley and the North line of Lot 11 in said Ewings Addition; thence along the South line of said
11 alley, South 78 degrees 04 minutes 56 seconds West 214.37 feet to the East line of said
12 Fairfield Avenue; thence North 11 degrees 55 minutes 04 seconds West 14.00 feet to the
13 point of beginning, containing 0.069 acres (3001.25 square feet) more or less.

14
15 SECTION 3. That this Ordinance shall be in full force and effect from and after its
16 passage, any and all necessary approval by the Mayor.

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COUNCILMEMBER

APPROVED AS TO FORM AND LEGALITY:

Malak Heiny, City Attorney

City of Fort Wayne Common Council

DIGEST SHEET

Department of Planning Services

Title of Ordinance: Right of Way Vacation
Case Number: VALY-2023-0004
Bill Number: G-23-03-16
Council District: 5-Geoff Paddock

Introduction Date: March 28, 2023

Public Hearing Date: April 11, 2023 to be heard by Council

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

Synopsis of Ordinance: To vacate a portion of a 14-foot wide alley located in Ewing's Addition (approximately 215 linear feet).

Location: Between Fairfield Avenue and Ewing Street, south of West Washington Boulevard and north of West Jefferson Boulevard.

Reason for Request: Applicant owns property on both sides of the alley. To allow for exclusive use of the alley adjacent to Salvation Army's north and south properties.

Applicant: Salvation Army

Property Owner: Salvation Army

Related Petitions: none

Effect of Passage: The vacation of the alley will allow for exclusive use by the adjacent property owner.

Effect of Non-Passage: The right of way will remain as platted.

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:

See attached Legal Description for the portion of the alley between Fairfield Avenue and Ewing Street lying south of West Washington Boulevard and north of West Jefferson Boulevard, which The Salvation is seeking to be vacated.

See attached Boundary Survey depicting the proposed vacation area of the alley.

(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: Plat Record 2 **PAGE(S) NUMBER(S):** 40 (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 attached.

(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:

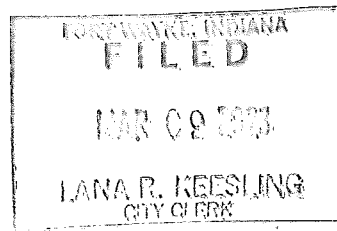
Property owner(s) Name(s); Street Address; City; State; Zip Code; Phone Number with Area Code.

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

Name: The Salvation Army

Street Address: 5550 Prairie Stone Parkway

City: Hoffman Estates State: IL Zip: 60192 Phone: 847-294-2154



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.


Signature

Bramwell E. Higgins
Printed Name Secretary

2/28/2023
Date

5550 Prairie Stone Parkway
Address

Hoffman Estates, IL 60192
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): Mitchell J. Melamed and Michael S. Nelson

Aronberg Goldgehn

Street Address: 330 N Wabash Avenue, Suite 1700

City: Chicago State: IL Zip: 60611 Phone: 312-755-3162 / 312-755-3136

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: _____

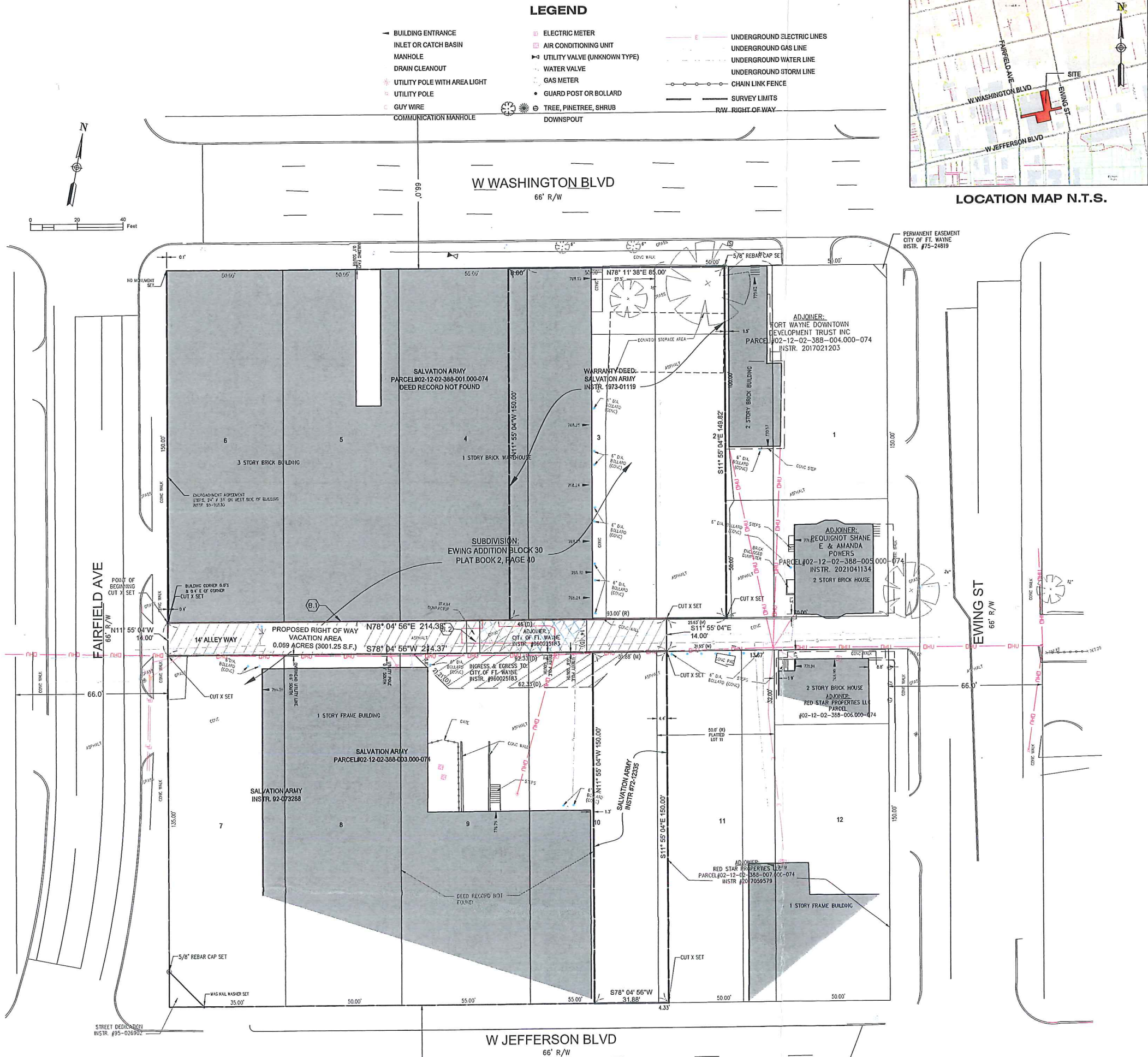
Map #: _____

Reference #: _____

Vacation Petition by The Salvation Army
to Vacate a Portion of the Alley between Fairfield Avenue and Ewing Street
(South of W. Washington Blvd and North of W. Jefferson Blvd)

The reasons for the proposed vacation are as follows:

The Salvation Army is seeking to vacate a portion of the public alley between Fairfield Avenue and Ewing Street, lying south of West Washington Boulevard and north of West Jefferson Boulevard. The portion of the alley The Salvation Army is seeking to vacate is contiguous with and abuts The Salvation Army's properties on both the north and south side of said portion of the alley. The Salvation Army has had exclusive use of this portion of the alley for an extended period of time and is now seeking the City of Fort Wayne vacate this portion of the alley to allow for The Salvation's Army's use of its existing parcels and that of the vacated portion of the alley being requested. Vacating this portion of the alley will not have any adverse impact on any adjacent or contiguous property owners. The owners of the properties that are contiguous to this public alley to the east of The Salvation Army's parcels would continue to have use of the alley from Ewing Street to the eastern edge of The Salvation Army's parcels, which will allow for the same access to those properties as currently exists and that has been in place for many years. Vacating the portion of this alley will not make access difficult or inconvenient for these adjacent properties. Additionally, the vacation will not hinder any growth or development in the neighborhood or in contiguous parcels, will not hinder the public's access to any church, school, or other public building or place, and will not hinder the use of any public way by the surrounding neighborhood.



RECORD DESCRIPTIONS

Source: Instrument Number 95-026902

Part of Lot #7 Block #30 Ewings Addition to the City of Fort Wayne, Indiana: Beginning at the southwest corner of said Lot #7; thence North along the west line of said Lot #7 a distance of 15 feet; thence Southeast a distance of 21.21 feet to a point on the north right of way line of Jefferson Blvd. located 15 feet east of the Southwest corner of said Lot #7; thence West along the north right of way line of Jefferson Blvd. a distance of 15 feet to the point of beginning containing 112.5 square feet more or less.

Source: Instrument Number 72-12335

Commencing at the South East corner of the West half of Lot 10, in Block 30 Ewings Addition to the City of Fort Wayne, Indiana; thence running North along the East line of said West half of said Lot 10 to the North line of said Lot; thence East along the North line of said Lot 10 and the North line of Lot 11, 31 feet and 10 1/2 inches to a point on the North line of Lot 11 in said Block 30; thence South parallel with the East line of Lot 10 to the South line of said Lot 11; thence West 31 feet and 10 1/2 inches to the place of beginning being a parcel of real estate fronting 31 feet and 10 1/2 inches on West Jefferson Street and extending North 150 feet to the alley.

Source: Instrument Number 92-073288

Lots Numbered 7 and 8, Block 30, Ewings Addition, an Addition to the City of Fort Wayne, according to the plat thereof recorded in Plat Record 2, Page 40, in the Office of Recorder of Allen County, Indiana.

PROPOSED DESCRIPTION FOR PROPOSED ALLEY VACATION

Part of the Alley between Fairfield Avenue and Ewing Street lying South of West Washington Boulevard and North of West Jefferson Boulevard, located within Block 30 Ewings Addition to the City of Fort Wayne recorded in Plat Record 2, page 40 in the Office of the Recorder of Allen County, Indiana described as follows:

Beginning at a cut X scribed on the intersection of the East right of way of Fairfield Avenue and the North right of way line of a platted 14-foot wide alley, said beginning point being the Southwest corner of Lot number 6 in said Ewings Addition; thence along the North line of said alley North 78 degrees 04 minutes 56 Seconds East to a point on the South line of Lot 2; thence South 11 degrees 55 minutes 04 seconds East 14.00 feet to the South line of said alley and the North line of Lot 11 in said Block 30; thence along the South line of said alley, South 78 degrees 04 minutes 56 Seconds West 214.37 feet to the East line of said Fairfield Avenue; thence North 11 degrees 55 minutes 04 seconds West 14.00 feet to the point of beginning, containing 0.069 acres (3001.25 square feet) more or less.

SURVEYOR'S REPORT

Job No. 2021-0085
Owner: Salvation Army
Parcel Number(s): 02-12-02-388-001.000-074 & 02-12-02-388-003.000-074
Address: 427 W Washington Blvd, Fort Wayne, IN 46802

In accordance with Title 865, Article 1, Chapter 12 of the Indiana Administrative Code ("Rule 12"), the following observations and opinions are submitted regarding the various uncertainties in the locations of the lines and corners established this survey as a result of:

- (A) Availability and condition of reference monuments
- (B) Occupation or possession lines
- (C) Clarity or ambiguity of the record description used and of adjoiners' descriptions and the relationship of the lines of the subject tract with adjoiners' lines.
- (D) The relative positional accuracy of the measurements.

There may be differences of deed dimensions versus measured dimensions along the boundary lines shown hereon and, likewise, there may be found survey markers near, but not precisely at, some boundary corners. In cases where the magnitude of these differences are less than the Theoretical Uncertainty stated below, less than the Positional Tolerance, or less than the uncertainty identified for the reference monumentation, the differences may be considered insignificant and are shown only for purposes of mathematical closure. Such differences that are greater than the Theoretical Uncertainty, Positional Tolerance and the uncertainty in reference monumentation should be considered worthy of notice and are therefore discussed further below.

Unless otherwise noted or depicted herein or on the survey drawing, there is no evidence of occupation along the perimeter lines of the subject tract. All survey monuments set or found in this survey are flush with existing grade unless otherwise noted.

Purpose:
The purpose of this survey was to complete a Retracement Boundary Survey and an Original Boundary Survey on the existing alley in Block 30 of Ewings Addition, using the Indiana Administrative Code, Title 865, Article 1, Chapter 12.

The plats and land descriptions in the record document is reprinted and drawn on this sheet. A modernized description was prepared to describe a portion of the alley that the client wishes to propose a vacation. The survey findings and theory of location is based on the following:

- A Availability and condition of reference monuments:
ORIGINAL OR PERPETUATED MONUMENTS - Block 30, Ewings Addition
1. The Original Plat from October 17, 1836 Recorded in Book B page 99 was not found. A redrawn copy was found that stated the original plat was mutilated and destroyed. A copy believed to be redrawn around February 17, 1896 was found and used for this survey. No dimensions were found on the redrawn copy.
 2. Streets were split using curbs and walks.

The basis of bearings as well as the coordinate control point values shown, are in the Indiana State Plan Coordinate System East Zone on the 1983 North American Datum utilizing the Continuously Operating Reference Stations (CORS adjustment as determined by NGS). The elevations were based on GPS observations using NAVD83 and the Geoid 18 model.

- B Lines of occupation with respect to the alley are shown on the survey. The following items on are noted on the survey:
1. Existing building is along the North line of the alley in lots 3, 4, 5, and 6.
 2. Trash compactor is within the alley as shown.

- C Clarity or ambiguity of the record description used and of adjoiners' descriptions and the relationship of the lines of the subject tract with adjoiners' lines:
1. Record descriptions were clear.

- D The Relative Positional Accuracy for this survey was 0.07 feet (plus 50 parts per million) and defined as an Urban Survey by Title 865 IAC 1-12-7.

There may be unwritten rights associated with these uncertainties. The client should assume there is an amount of uncertainty along any line equal in magnitude to the discrepancy in the location of the lines of possession from the surveyed lines.

As a result of the above observations, it is my opinion that the uncertainties in the locations of the lines and corners established on this survey are as follows:

1. Due to Variations in reference monuments: 0.0 feet to 0.25
2. Due to Discrepancies in the record documents: 1.0 feet and as noted in survey report above under (C)
3. Due to Inconsistencies in lines of occupation: as shown on the survey and discussed under item (B).

FLOOD STATEMENT

The accuracy of any Flood Hazard Data shown on this survey is subject to map scale uncertainty and to any other uncertainty in location or elevation on the referenced flood insurance rate map. The Subject survey area lies within that Special Flood Hazard Zone X (areas outside of the annual 1% chance of flooding) as said land plots by scale on COMMUNITY PANEL # 18003C0284G of the flood insurance rate maps for TOWN OF FORT WAYNE, ALLEN COUNTY dated August 3, 2009.

Timothy D. Higbie
Timothy D. Higbie
Registered Land Surveyor #20100067
State of Indiana
DATE: 02/02/2023



Affirmation Statement: I affirm under the penalties of perjury, that I have taken reasonable care to redact each Social Security Number in this document, unless required by law. Timothy Higbie. PREPARED BY: Timothy D. Higbie

BOUNDARY SURVEY

SALVATION ARMY

427 W WASHINGTON BLVD, FORT WAYNE, IN 46808

BLOCK 30, EWINGS ADDITION, ALLEN COUNTY, WAYNE TOWNSHIP

REVISIONS

PROJ. NO.:	2021-0085
DATE:	02/02/2023
DRAWING:	20210085A-BNDY
DRAWN BY:	#/
SURVEYED BY:	Timothy D. Higbie P.S.
EMAIL:	lin@sarveyfirst.com

SURVEY

SHEET NO.:

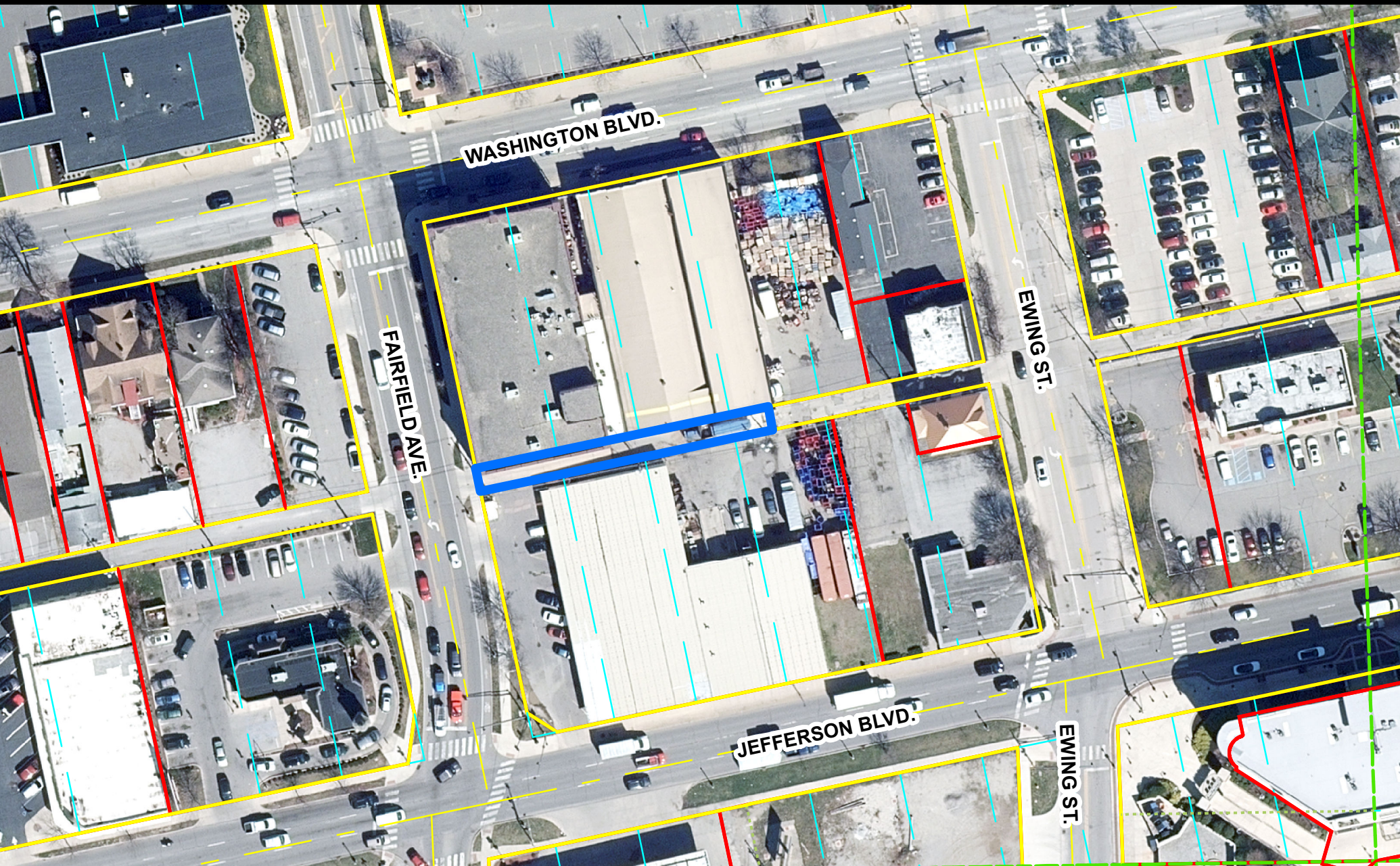
1 OF 1

SURVEY FIRST LLC

Surveying • Engineering • 3D Laser Scanning • Modeling

64 East Marion Street Danville, IN 46122

phone (317) 745-9000



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: 3/21/2023

0 25 50 Feet



1 inch = 77 feet

LEGAL DESCRIPTION FOR PROPOSED ALLEY VACATION

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ADJACENT PROPERTY OWNERS

Vacation Petition by The Salvation Army
to Vacate a Portion of the Alley between Fairfield Avenue and Ewing Street
(South of W. Washington Blvd and North of W. Jefferson Blvd)

1) PIN 02-12-02-388-005.000-074

Shane E. Piquignot
Amanda Powers
1014 Ewing St.
Fort Wayne, IN 46802
(260) 422-1900 (Eye Pix Photography)

2) PIN 02-12-02-388-006.000-074

Red Star Properties LLC
1018 Ewing St.
Fort Wayne, IN 46802

Tax bill mailing address:
P.O. Box 15086
Fort Wayne, IN 46885
(801) 701-0159
(801) 602-5224 cell

3) PIN 02-12-02-388-007.000-074

Red Star Properties LLC
402 W. Jefferson Blvd.
Fort Wayne, IL 46802

Tax bill mailing address:
P.O. Box 15086
Fort Wayne, IN 46885
(801) 701-0159
(801) 602-5224 cell

4) PIN 02-12-02-388-004.000-074

Fort Wayne Downtown Development Trust Inc.
407 W. Washington Blvd.
Fort Wayne, IN 46802

Tax bill mailing address:
c/o Summit Development Corp.
200 E. Berry Street, Suite 320
Fort Wayne, IN 46803
(260) 427-1127