

VROW-2023-0005

BILL NO. G-23-08-01

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:

Part of Betty Avenue as dedicated on the plat of Lincoln Park, as recorded in Plat Book 13, page 63, being situated in the North Half of Section 34, Township 31 North, Range 12 East, Second Principal Meridian, Washington Township, Allen County, Indiana, more particularly described as follows:

BEGINNING at the southeast corner of Lot Numbered 19 in Lincoln Park, as recorded in Plat Book 13, page 63; thence North 89 degrees 51 minutes 00 seconds West (recorded bearing and is the basis of bearings for this description) on the south line of Lots Numbered 19, 20, and 21 in said Lincoln Park, a distance of 106.8 feet to southwest corner of said Lot Numbered 21; thence South 00 degrees 00 minutes East on the west line of said Lincoln Park, a distance of 50.0 feet to the northwest corner of Lot Numbered 18 in said Lincoln Park; thence South 89 degrees 51 minutes East on the north line of Lots Numbered 18, 17, and 16 in said Lincoln Park, a distance of 106.8 feet to northeast corner of said Lot Numbered 16; thence North 00 degrees 00 minutes West, a distance of 50.0 feet to the Point of Beginning, containing 0.123 acres of land, more or less.

1 TOGETHER WITH:

2 The platted easements within Lincoln Park Lots 13 through 18 and the South 120
3 feet of Lots 19 through 21, Lincoln Park Amended, Lots 123, 124, 132 and 133, and
4 the North half of vacated Henry Avenue adjoining Lots 13, 14, and 15 in Lincoln Park
5 and the South half of vacated Henry Avenue adjoining Lots 132 and 133 in Lincoln
6 Park Amended.

7 TOGETHER WITH:

8 The platted easements within Winfree Manor, Lots 16, 17 and the North 50 feet of
9 Lots 18 through 26.

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 Malak Heiny, City Attorney
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City of Fort Wayne Common Council

DIGEST SHEET

Department of Planning Services

Title of Ordinance: Right of Way Vacation
Case Number: VROW-2023-0005
Bill Number: G-23-08-01
Council District: 3 – Tom Didier

Introduction Date: August 8, 2023

Public Hearing Date: August 22, 2023 to be heard by Council

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

Synopsis of Ordinance: To vacate the west 106.8 feet of Betty Avenue; platted easements within Lincoln Park Lots 13 - 18, and the South 120 feet of Lots 19 – 21; Lincoln Park Amended Lots 123, 124, 132 and 133; the North half of vacated Henry Avenue adjoining Lots 13 – 15 in Lincoln Park and the South half of vacated Henry Avenue adjoining Lots 132 and 133 in Lincoln Park Amended; and Winfree Manor Lots 16 and 17, and the North 50 feet of Lots 18 – 21.

Location: West of the 2700-2900 blocks of Poinsette Drive; generally east and south of Gateway Plaza.

Reason for Request: To accommodate potential future commercial development.

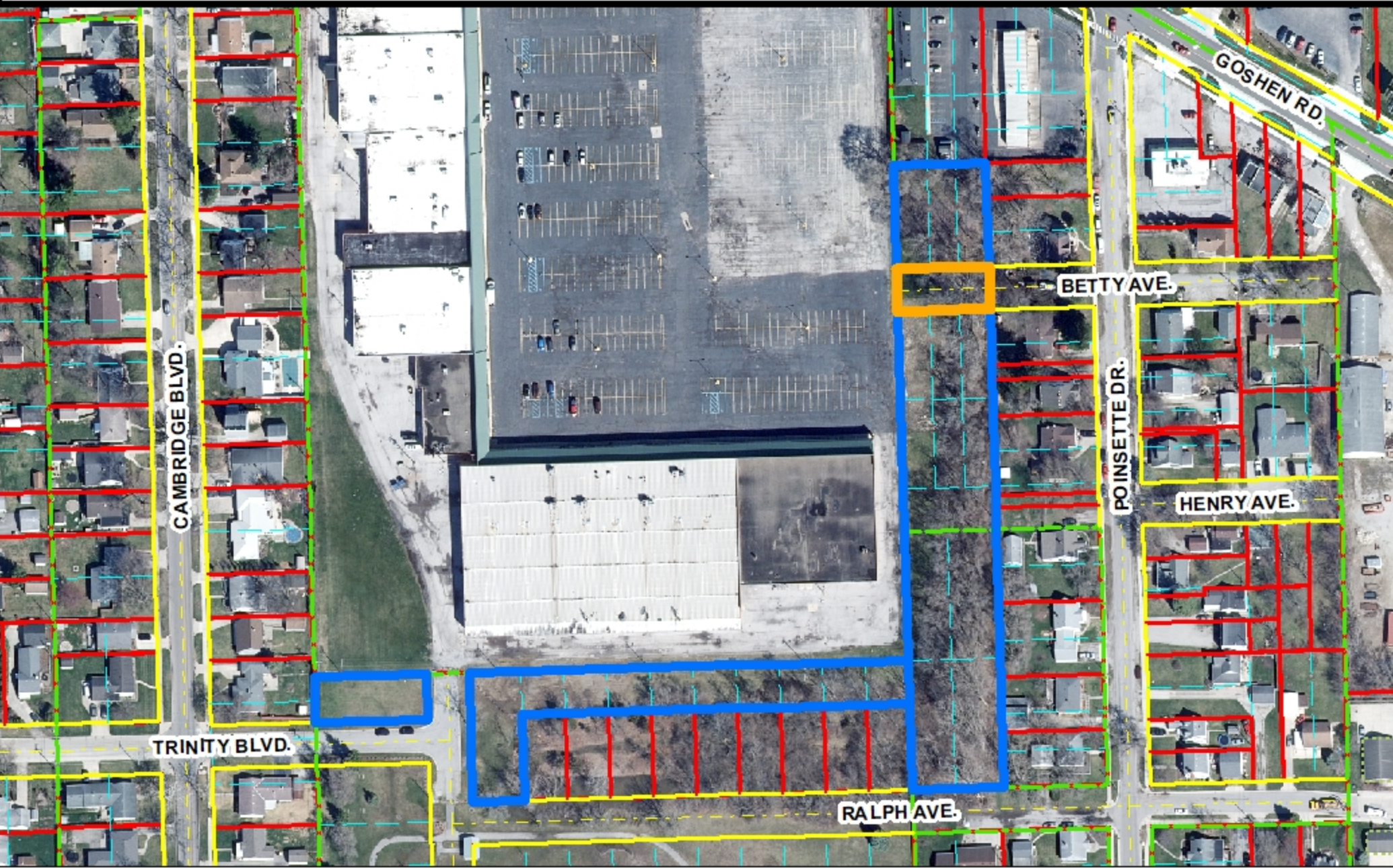
Applicant: Mark Bains (representing American Federated)

Property Owner: American Federated

Related Petitions: Plat Vacations VPLT-2023-0015 and 0016

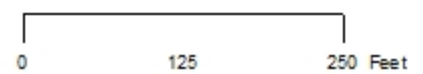
Effect of Passage: The vacation of Betty Avenue and associated easements will allow these underutilized properties to be developed and aid in the redevelopment of parcels within Gateway Plaza.

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



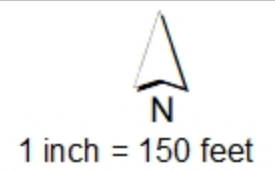
Although strict accuracy standards have been employed in the compilation of this map, Allen County does not warrant or guarantee the accuracy of the information contained herein and disclaims any and all liability resulting from any error or omission in this map.

© 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: 8/2/2023



Legend

-  Betty Avenue ROW Vacation
-  Easements within Plat



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 ☒ Public Right of Way (street or alley)

More particularly described as follows:

Betty Avenue and any platted easements in Lincoln Parkway, Lincoln Parkway Amended, and
Winfree Manor as described in Exhibit A.

(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:

See Exhibit B.

(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: See Exhibit C

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.


Signature

Mark H. Bains, Attorney for Applicant
Printed Name

7/5/23
Date

215 E. Berry St.
Address

Fort Wayne IN 46802
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 C
Vacation Application – Lincoln Park
Adjacent Property Owners

Donald J Ray
835 Donnell Ave
Fort Wayne IN 46808

Eugene B Milstead
2901 Poinsette Dr
Fort Wayne IN 46808

Richard Schwartz
2811 Poinsette Dr
Fort Wayne IN 46808

Robert Armour
2717 Poinsette Dr
Fort Wayne IN 46808

A-R Specialty Advertising LLC
1341 Goshen Rd
Fort Wayne IN 46808

Jack H & Alicia Peterson
2819 Poinsette Dr
Fort Wayne IN 46808

Justin Adams
2801 Poinsette Dr
Fort Wayne IN 46808

Exhibit C
Vacation Application – Lincoln Park Amended
Adjacent Property Owners

Robert B & Alison R Armour
2717 Poinsette Dr
Fort Wayne IN 46808

Aimee Osborne
2703 Poinsette Dr
Fort Wayne IN 46808

Elaine & Dawn Scott
2713 Poinsette Dr
Fort Wayne, IN 46808

Nancy K & Nancy Z Conti
271 Poinsette Dr
Fort Wayne IN 46808

Exhibit C
Vacation Application – Winfree Manor
Adjacent Property Owners

Rowan Greene
1703 Howell St
Fort Wayne IN 46808

Crecenciano Valencia
19089 High St
Fort Wayne IN 46808

Jacqueline Carroll
2419 Juliette Ave
Fort Wayne IN 46808

Timothy A Phelps II
2145 Miner St
Fort Wayne IN 46802

Marissa Renz
1321 Somerset Ln
Fort Wayne IN 46808

City of Fort Wayne
Board of Park Commissioners
705 E State Blvd
Fort Wayne IN 4805

EXHIBIT B
VACATION PETITION
PURPOSE FOR PROPOSED VACATION

The vacation of a portion of Betty Avenue and the platted easements within Lincoln Park, Lots 13 through 18 and the South 120' of Lots 19 through 21, Lincoln Park Amended, Lots 123, 124, 132, and 133, the North half of vacated Henry Avenue adjoining Lots 13, 14, and 15 in Lincoln Park and the south half of vacated Henry Avenue adjoining Lots 132 and 133 in Lincoln Park Amended in addition to the vacation of platted easements within Winfree Manor, Lots 16, 17, and the North 50' of Lots 18 through 21, to allow for potential future development given that the land at issue is already zoned SC, Shopping Center. The portion of Betty Avenue subject to the vacation petition has never been improved with a roadway and serves no purpose. In fact, the portion of Betty Avenue east of the portion subject to the vacation petition contains what appears to be a privately owned shed located in the middle of the right of way. Any utility improvements located within the same will be addressed by private easements or located within the new right-of-way.

STREET VACATION EXHIBIT

DESCRIPTION OF REAL ESTATE:

Part of Betty Avenue as dedicated on the plat of Lincoln Park, as recorded in Plat Book 13, page 63, being situated in the North Half of Section 34, Township 31 North, Range 12 East, Second Principal Meridian, Washington Township, Allen County, Indiana, more particularly described as follows:

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Prepared this 25th day of May, 2023

Prepared exclusively for: American Federated Title, Corp.

Job Number: 23-04-112



Eric J. Springer

ANDERSON SURVEYING, INC.

Registered Professional Engineers and Land Surveyors
Indiana Land Surveying Firm Identification Number: 294

1324 Henry Avenue
Fort Wayne, IN 46808
Phone: (260) 483-1724
Fax: (260) 482-6855
Toll Free: (888) 483-1724

EST. 1978
AS INC.
CIVIL ENGINEERING
LAND SURVEYING
LAND PLANNING
WWW.ANDERSONSURVEYING.COM

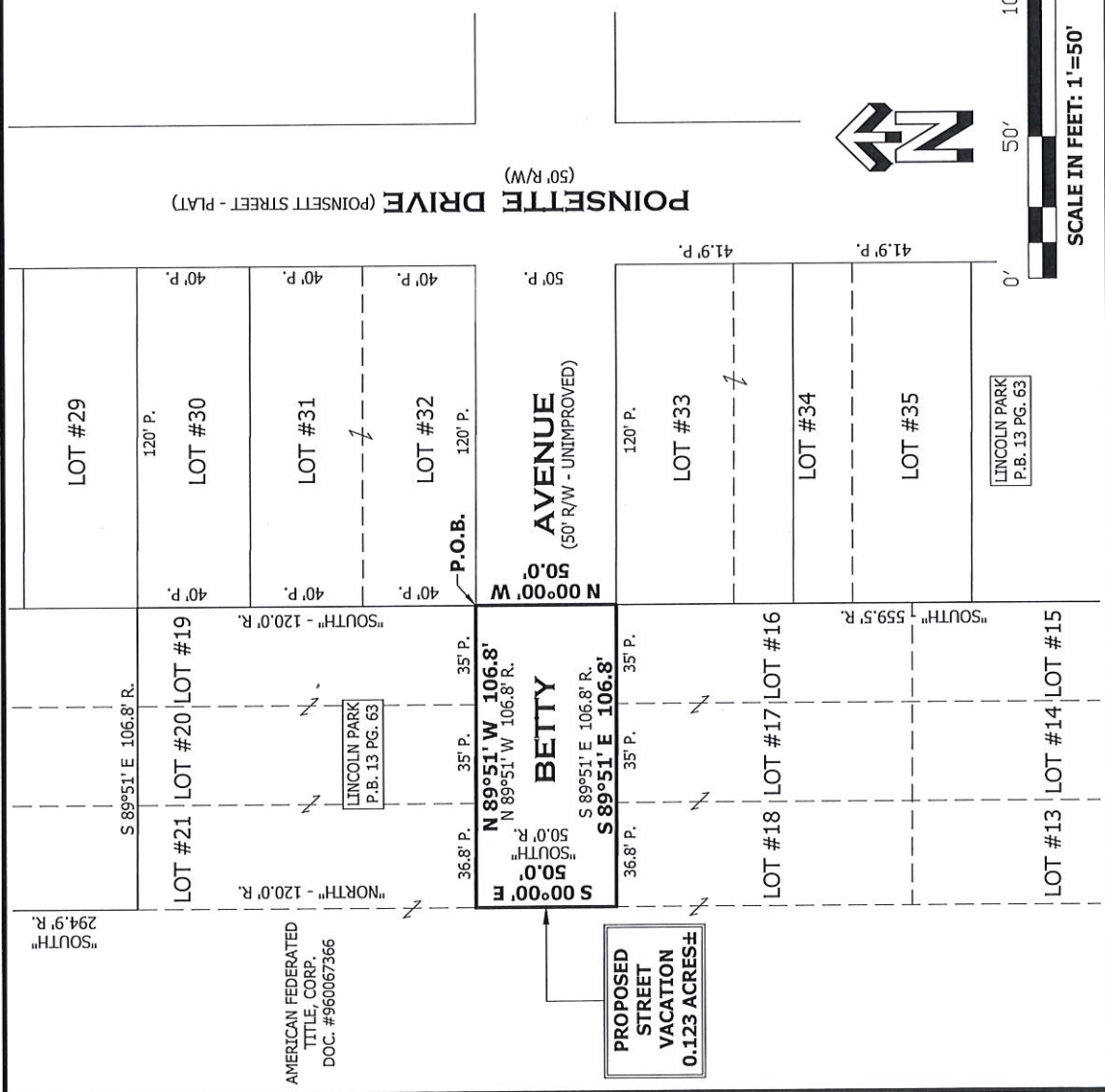


EXHIBIT A
VACATION PETITION
PURPOSE FOR PROPOSED VACATION

The vacation of the platted easements within Lincoln Park, Lots 13 through 18 and the south 120' of Lots 19 through 21, Lincoln Park Amended, Lots 123, 124, 132 and 133, and the north half of vacated Henry Avenue adjoining Lots 13, 14, and 15 in Lincoln Park and the south half of vacated Henry Avenue adjoining Lots 132 and 133 in Lincoln Park Amended to remove the entire Gateway Plaza parcel from all residential subdivision plats given the SC, Shopping Center, zoning attributed to the property to allow for potential future development. Any utility improvements located within the same will be addressed by private easements.

EXHIBIT A
VACATION PETITION
PURPOSE FOR PROPOSED VACATION

The vacation of the platted easements within Winfree Manor, Lots 16, 17, and the North 50' of Lots 18 through 26, to remove the entire Gateway Plaza parcel from all residential subdivision plats given the SC, Shopping Center, zoning attributed to the property to allow for potential future development. Any utility improvements located within the same will be addressed by private easements.

RIGHT-OF-WAY VACATION – DISCUSSION and PASSAGE

Department of Planning Services

VROW 2023 0005	Bill #G-23-08-01	Project Start: July 2023
APPLICANT:	Mark Bains (representing American Federated)	
REQUEST:	To vacate the west 106.8 feet of Betty Avenue; platted easements within Lincoln Park Lots 13 - 18, and the South 120 feet of Lots 19 – 21; Lincoln Park Amended Lots 123, 124, 132 and 133; the North half of vacated Henry Avenue adjoining Lots 13 – 15 in Lincoln Park and the South half of vacated Henry Avenue adjoining Lots 132 and 133 in Lincoln Park Amended; and Winfree Manor Lots 16 and 17, and the North 50 feet of Lots 18 – 21.	
LOCATION:	West of the 2700-2900 blocks of Poinsette Drive; generally east and south of Gateway Plaza.	
COUNCIL DISTRICT:	3 – Nathan Hartman	
PUBLIC HEARING DATE:	August 22, 2023	

PROJECT SUMMARY

The petitioner is requesting to vacate portions of land around Gateway Plaza that are platted on paper but never developed. The vacations include portions of Betty Avenue and various easements in Lincoln Park and Winfree Manor, and have been coordinated with previously approved partial plat vacations in Lincoln Park and Winfree Manor. Lincoln Park was platted in 1928, and Winfree Manor was platted in 1953. The petitioner is American Federated, owner of Gateway Plaza and adjacent properties. The purpose of the vacation is to clean up title work for all properties. Staff has sent requests for comment from all affected utility and reviewing agencies. All responses have been received and necessary easements granted.

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
Stormwater Engineering:	Approved
Water Engineering:	Approved
WPC Engineering – Sanitary:	Approved
City Parks Department:	Approved
Fire Department:	Approved
Frontier:	Approved with Easement
Comcast Cable:	Approved
AEP:	Approved with Easement
NIPSCO:	Approved

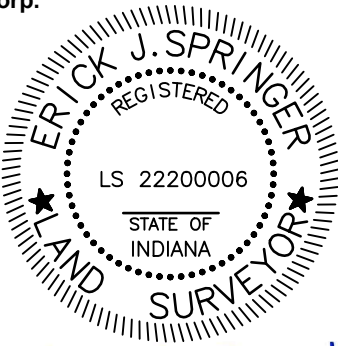
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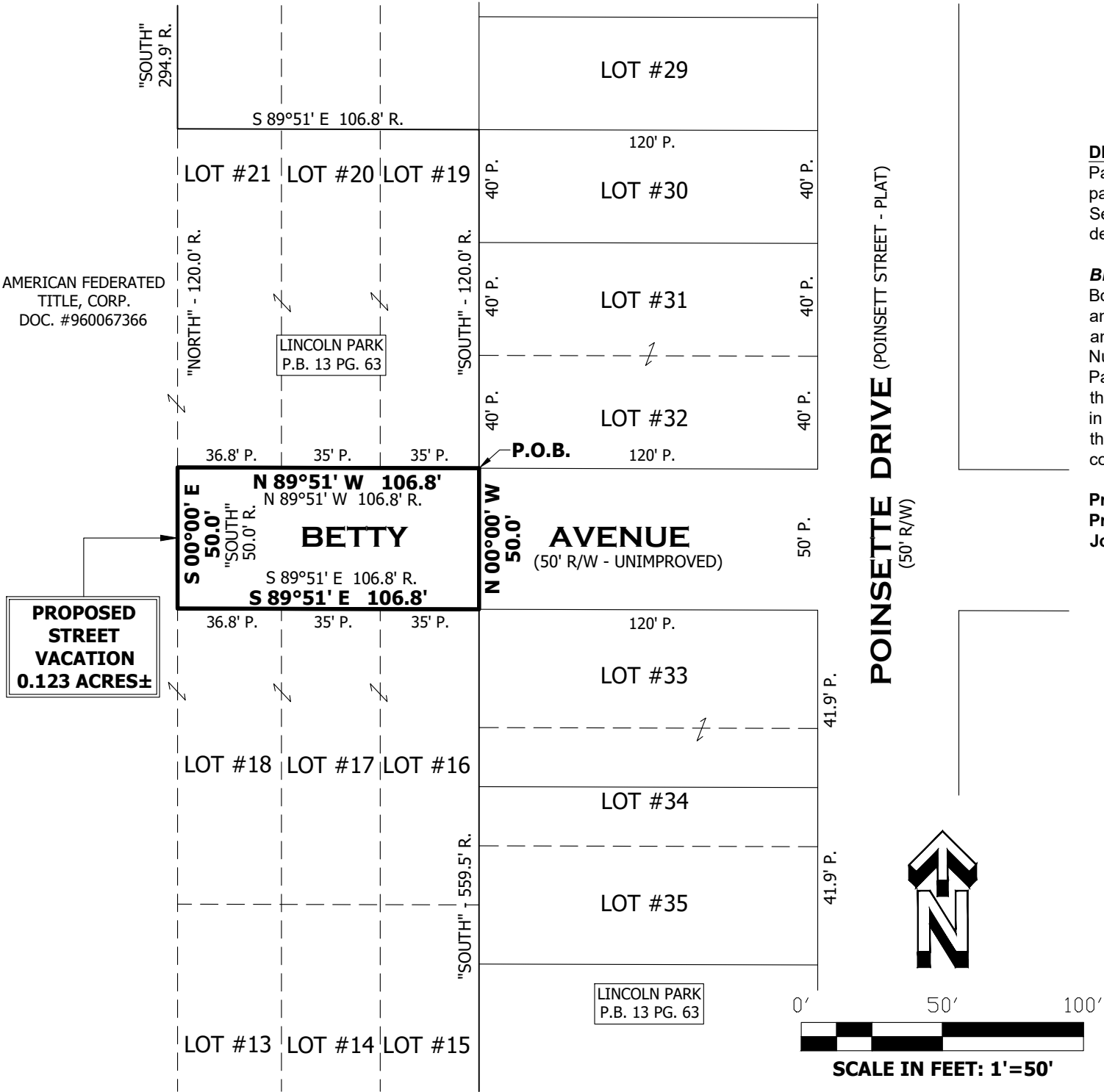
Registered Professional Engineers and Land Surveyors
Indiana Land Surveying Firm Identification Number: 29A

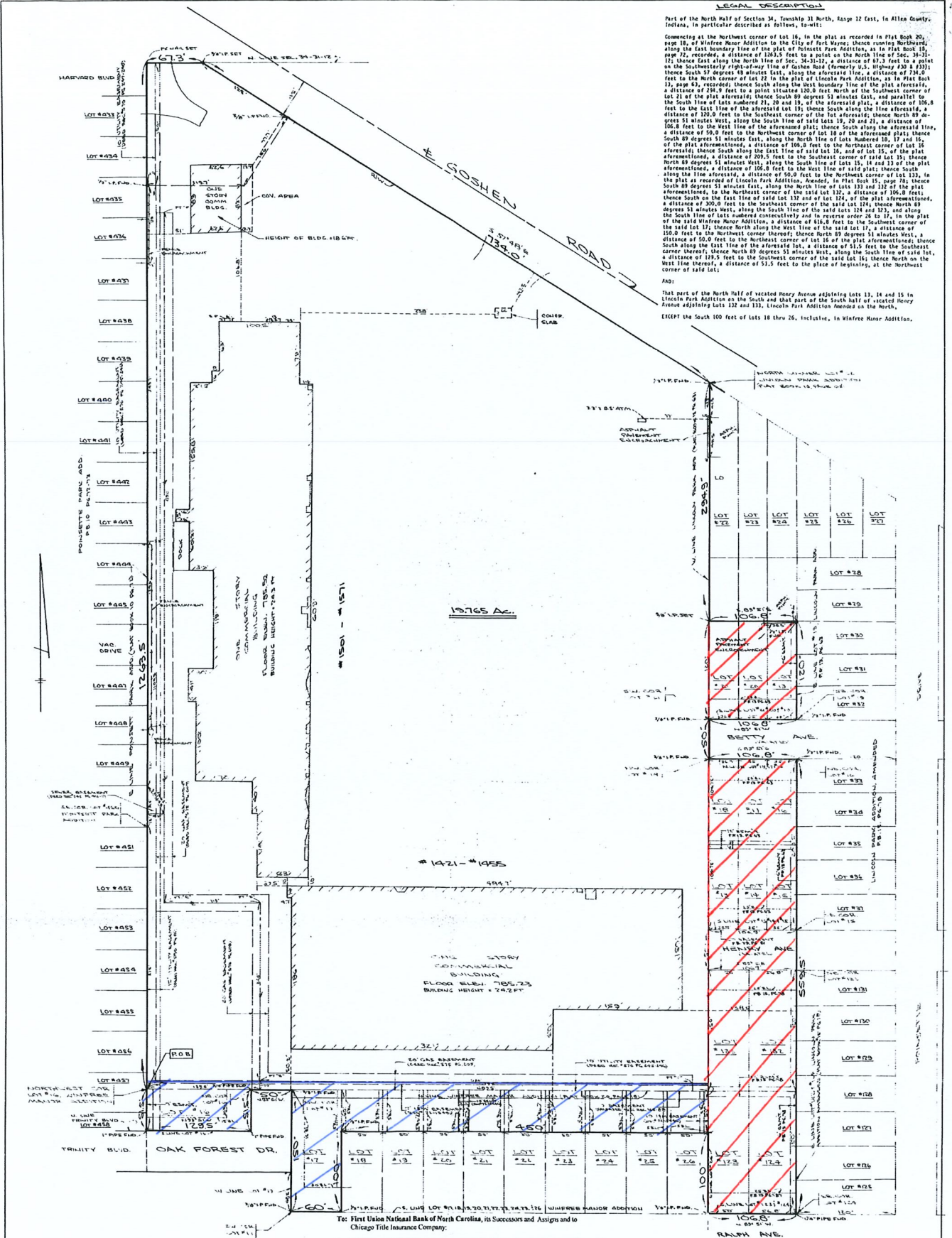
1324 Henry Avenue
Fort Wayne, IN 46808
Phone: (260) 483-1724
Fax: (260) 482-6855
Toll Free: (888) 483-1724

1947 E. Schug Road
Columbia City, IN 46725
Phone: (260) 691-3425
Fax: (260) 482-6855



WWW.ANDERSONSURVEYING.COM





Part of the North Half of Section 34, Township 31 North, Range 12 East, in Allen County, Indiana, in particular described as follows, to-wit:

Commencing at the Northwest corner of lot 16, in the plat as recorded in Plat Book 20, page 18, of Winfree Manor Addition to the City of Fort Wayne, thence running Northward, along the East boundary line of the plat of Winfree Manor Addition, as in Plat Book 15, page 72, recorded, a distance of 1205.5 feet to a point on the North line of Sec. 34-31-12, thence East along the North line of Sec. 34-31-12, a distance of 87.3 feet to a point on the Southwesterly right-of-way line of Goshen Road (formerly U.S. Highway 24 & 250); thence South 57 degrees 45 minutes East, along the aforesaid line, a distance of 736.0 feet to the North corner of lot 22 in the plat of Lincoln Park Addition, as in Plat Book 13, page 63, recorded; thence South along the West boundary line of the plat aforesaid, a distance of 234.8 feet to a point situated 120.8 feet North of the Southeast corner of lot 22 of the plat aforesaid; thence South 89 degrees 51 minutes East, parallel to the South line of lots numbered 20, 21 and 19, of the aforesaid plat, a distance of 106.8 feet to the East line of the aforesaid lot 19; thence South along the line aforesaid, a distance of 120.0 feet to the Southeast corner of the lot aforesaid; thence North 89 degrees 51 minutes West, along the South line of said lot 19, 20 and 21, a distance of 106.8 feet to the West line of the aforesaid plat; thence South along the aforesaid line, a distance of 50.0 feet to the North corner of lot 18 of the aforesaid plat; thence South 89 degrees 51 minutes East, along the North line of lots numbered 18, 17 and 16, of the plat aforesaid, a distance of 106.8 feet to the North corner of lot 16; thence aforesaid, a distance of 209.5 feet to the Southeast corner of said lot 15; thence North 89 degrees 51 minutes West, along the South line of lots 15, 14 and 13 of the plat aforesaid, a distance of 106.8 feet to the West line of said plat; thence South along the line aforesaid, a distance of 50.0 feet to the North corner of lot 13; in the plat as recorded in Lincoln Park Addition, recorded, in Plat Book 15, page 70; thence North 89 degrees 51 minutes East, along the North line of lots 13 and 12 of the plat aforesaid, a distance of 300.0 feet to the Southeast corner of the said lot 12; thence North 89 degrees 51 minutes West, along the South line of the said lot 12 and 11, and along the South line of lots numbered consecutively and in reverse order 26 to 17, in the plat of the said Winfree Manor Addition, a distance of 8.8 feet to the Southeast corner of the said lot 17; thence North along the West line of the said lot 17, a distance of 100.0 feet to the Northwest corner thereof; thence North 89 degrees 51 minutes West, a distance of 50.0 feet to the Northeast corner of the said lot 17; a distance of 50.0 feet to the East line of the aforesaid lot, a distance of 51.5 feet to the Southeast corner thereof; thence North 89 degrees 51 minutes West, along the South line of said lot, a distance of 119.5 feet to the Southwest corner of the said lot 16; thence North on the West line thereof, a distance of 51.5 feet to the place of beginning, at the Northwest corner of said lot.

That part of the North Half of vacated Henry Avenue adjoining lots 13, 14 and 15 in Lincoln Park Addition on the South and that part of the South and half of vacated Henry Avenue adjoining lots 132 and 133, Lincoln Park Addition bounded on the North, EXCEPT the South 100 feet of lots 18 thru 26, inclusive, in Winfree Manor Addition,

To: First Union National Bank of North Carolina, its Successors and Assigns to Chicago Title Insurance Company.

This is to certify that this plat and survey on which it is based were made in accordance with "Minimum Standard Detail Requirements for ALTA/ACSM Land Title Surveys", jointly established by ALTA and ACSM in 1992, and includes items #1 and 4 in Table A thereof, and pursuant to the accuracy standards (as adopted by ALTA and ACSM in effect on the date of this certification) of a suburban survey.

I further certify that this survey was completed under my direct supervision and to the best of my knowledge and belief, was executed according to the survey requirements set forth in 865 IAC 1-12.

RE-CERTIFIED 7-26-94
RE-CERTIFIED 2-10-97

RE-CERTIFIED 12-30-95
RE-CERTIFIED 4-18-97
RE-CERTIFIED 7-15-99
RE-CERTIFIED 4-10-00

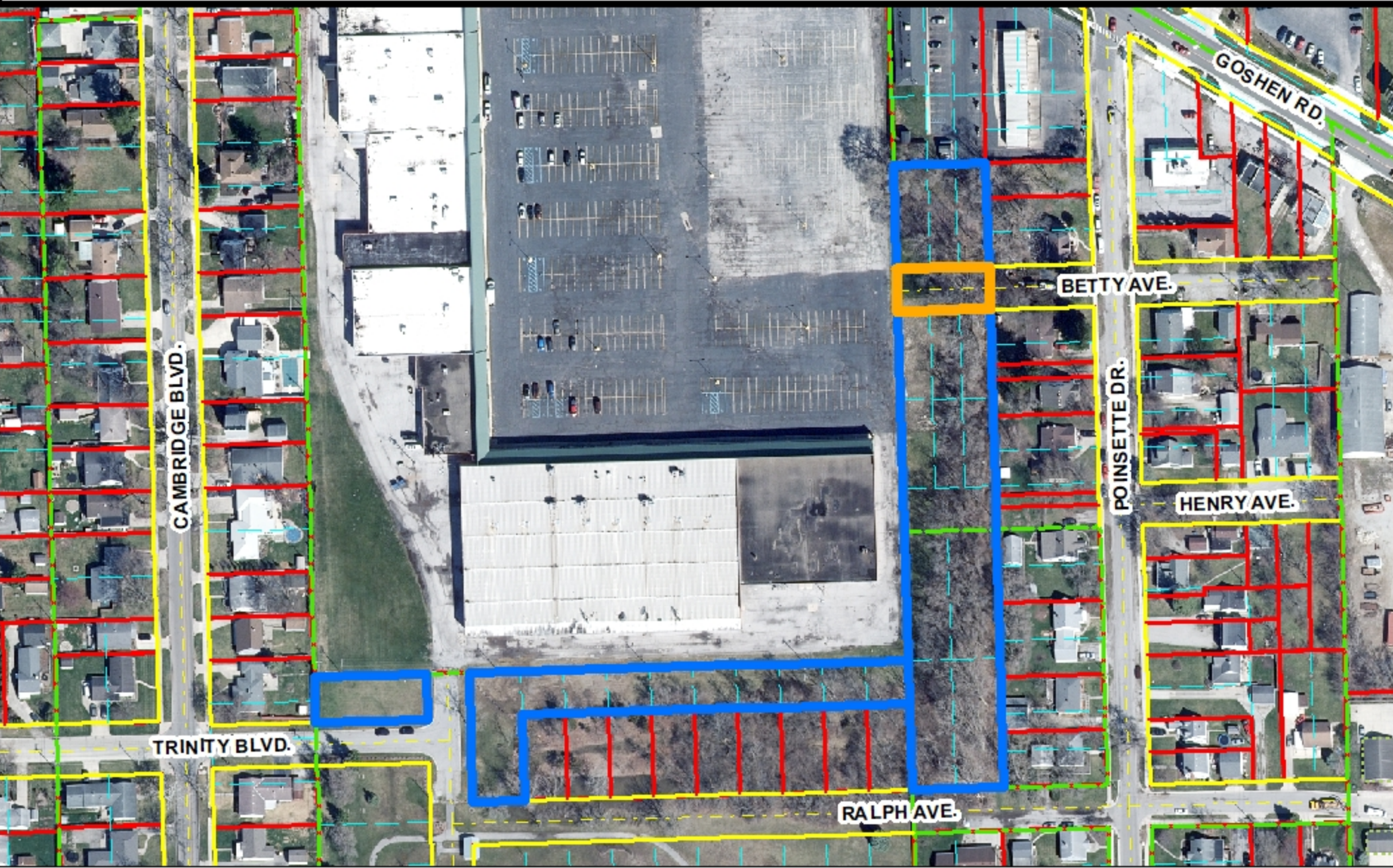
NOTE: According to the Flood Insurance Rate Map (FIRM) number 1806X00260 E, dated Feb. 16, 1995, the herein described real estate is located in Zone "X", and is not in a flood hazard area.

NOTE: This site contains 720 parking spaces
2) According to the City of Fort Wayne Plan Commission this site is Zoned B-2-C (Metropolitan Shopping Center)
3) The floor elevation of the West building is 785.52 NGVD
The floor elevation of the South building is 785.23 NGVD

NOTE: According to the Flood Insurance Rate Map (FIRM) number 1806X00260 E, dated Feb. 16, 1995, the herein described real estate is located in Zone "X", and is not in a flood hazard area.

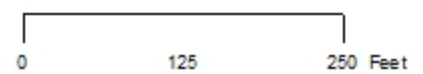
DONOVAN ENGINEERING, INC.
200 W. 10TH ST.
EASTVILLE, OHIO 43024
7607 WALKER DR.
UNIT 100
EASTVILLE, OHIO 43024

CERTIFICATE OF SURVEY
1:50
GATEWAY TO THE UNKNOWN
CORNFELD



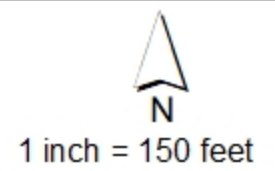
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-  Betty Avenue ROW Vacation
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Street, Fort Wayne, IN)

The reasons for the proposed vacation are as follows:

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

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Name: See Exhibit C

Street Address: _____

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

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Signature

Mark H. Bains, Attorney for Applicant
Printed Name

7/5/23
Date

215 E. Berry St.
Address

Fort Wayne IN 46802
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): _____

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For Office Use Only:

Receipt #: _____

Date Filed: _____

Map #: _____

Reference #: _____

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