

VROW-2024-0003

BILL. NO. G-24-05-01

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:

Tract 1- Part of McKinnie Avenue lying between South Anthony Boulevard and Euclid Avenue in Ostrowski's Subdivision, as recorded in Plat Record 17, page I, and in Anthony Wayne Village Subdivision, as recorded in Plat Record 16, page 136 all in the Office of the Recorder of Allen County, Indiana, based on an original survey by Brett R. Miller, Indiana Professional I Surveyor Number 20300059 of Miller Land Surveying, Inc., Survey No. 24027291, dated March 29, 2024, being more particularly described as follows:

BEGINNING at the Southwest corner of Lot Number 1 in said plat of Ostrowski's Subdivision, being referenced by a Mag Nail with a "Miller Surveying Firm #0095" identification ring; thence North '87 degrees 48 minutes 11 seconds East (Indiana Geospatial Coordinate System - Allen County bearing and basis of bearings to follow), a distance of 271.84 feet along the South line of said Lot Number 1, and the South line of Lot Number 18 in said plat to a 5/8"Steel Rebar with a "Miller Land Surveying Firm #0095" identification cap; thence South 02 degrees 11 minutes 49 seconds East, a distance of 25.00 feet being perpendicular to said South line to a 5/8"Steel Rebar with a "Miller Land Surveying Firm #0095" identification cap on a non-tangent curve, concave to the Southeast having a radius of 673.14 feet; thence Southwesterly a distance of 124.00 feet along said curve having a central angle of 10 degrees 33 minutes 16 seconds and a chord of 123.82 feet bearing South 69 degrees 21 minutes 29 seconds West to a 5/8"Steel Rebar with a "Miller Land Surveying Firm #0095" identification cap at the point of reverse curvature of a curve, concave to the Northwest having a radius of 327.39 feet; thence Southwesterly a distance of 159.00 feet along said curve having a central angle of 27 degrees 49 minutes 34 seconds and a chord of 157.44 feet bearing South 77 degrees 37 minutes 36 seconds West to a Mag Nail with a "Miller Surveying Firm #0095" identification ring on the Southerly extension of the West line of said Lot Number 1; thence North 01 degrees 49 minutes 48 seconds West, a distance of 92.00 feet along said extension to the Point of Beginning. Containing 0.415 acre, more or less. Subject to easements of record.

1
2
3 Tract 2 - Part of a 14 feet alley in Ostrowski 's Subdivision, as recorded in Plat Record J 7, page 1, in
4 the Office of the Recorder of Allen County, Indiana, based on an original survey by Brett R. Miller,
Indiana Professional Surveyor Number 20300059 of Miller Land Surveying, Inc., Survey No. 24027291, dated March 29, 2024, being more particularly described as follows:

5 Commencing at the Southwest corner of Lot Number 1 in said plat of Ostrowski's Subdivision, being
6 referenced by a Mag Nail with a "Miller Surveying Firm #0095" identification ring; thence North 87
7 degrees 48 minutes 11 seconds East (Indiana Geospatial Coordinate System - Allen County bearing and
8 basis of bearings to follow), a distance of 150.44 feet (150.00 feet plat) along the South line of said Lot
9 Number 1 to a Mag Nail with a "Miller Surveying Firm #0095" identification ring at the Southeast
10 corner of said Lot Number 1, said point being the POINT OF BEGINNING of the herein described
11 tract; thence North 01 degrees 52 minutes 46 seconds West, a distance of 145.16 feet along the East
12 line of said Lot Number 1 and the East line of Lot Number 2 in said plat to a 5/8"Steel Rebar with a
13 "Miller Land Surveying Firm #0095" identification cap; thence North 88 degrees 12 minutes 05
14 seconds East, a distance of 14.00 feet (plat) to a Mag Nail with a "Miller Surveying Firm #0095"
15 identification ring on the West line of Lot Number 17 in said plat, said point being 55.00 feet
16 Southerly of the Northwest corner of Lot Number 16 in said plat; thence South 01 degrees 52 minutes
17 46 seconds East, a distance of 145.06 feet along said West line and the West line of Lot Number 18 in
18 said plat to a Mag Nail with a "Miller Surveying Firm #0095" identification ring at the Southwest
19 corner of said Lot Number J 8; thence South 87 degrees 48 minutes 11 seconds West, a distance of
20 14.00 feet (plat) to the Point of Beginning. Containing 0.047 acre, more or less. Subject to easements
21 of record.

22
23 and which vacating amends the Thoroughfare Plan of the City Comprehensive ("Master") Plan
24 and is hereby approved in all respects.

25
26 SECTION 2. That this Ordinance shall be in full force and effect from and after its passage,
27 any and all necessary approval by the Mayor.

28
29 _____
30 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: VROW-2024-0003
Bill Number: G-24-05-01
Council District: 6 – Vacant

Introduction Date: May 14, 2024

Public Hearing Date: May 28, 2024 to be heard by Council

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

Synopsis of Ordinance: To vacate part of McKinnie Avenue lying between South Anthony Boulevard and Euclid Avenue in Ostrowski's Subdivision and in Anthony Wayne Village Subdivision and to vacate a portion of a 14 foot alley in Ostrowski's Subdivision

Location: Part of McKinnie Avenue lying between South Anthony Boulevard and Euclid Avenue (Section 18 and 19 of Adams Township)

Reason for Request: The land will be transferred to and maintained by the Parks Department.

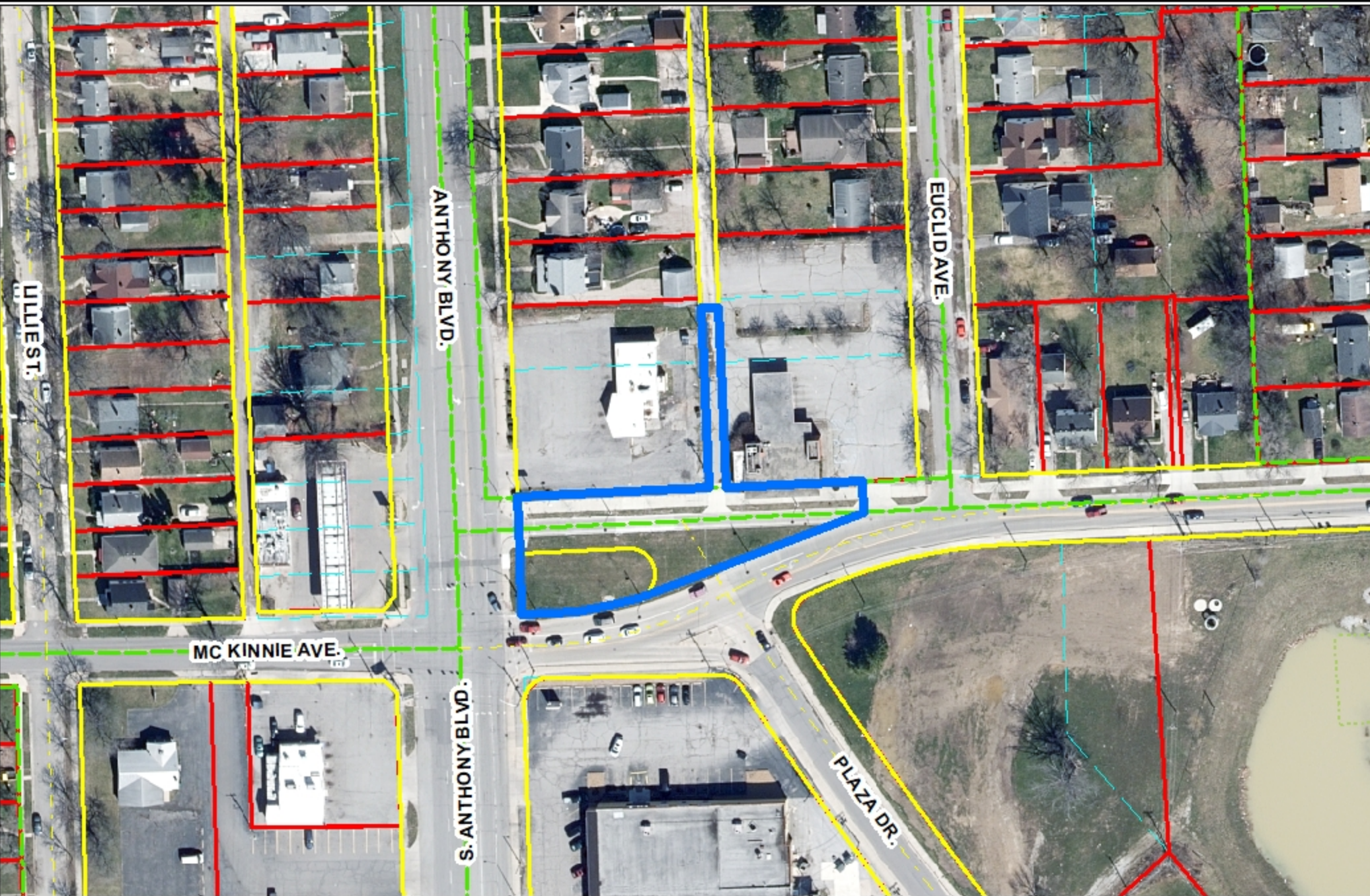
Applicant: City of Fort Wayne Redevelopment Department

Property Owner: City of Fort Wayne Redevelopment Department

Related Petitions: None

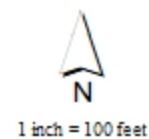
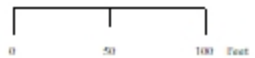
Effect of Passage: Vacation of right of way will allow the under-utilized ground to be available for development.

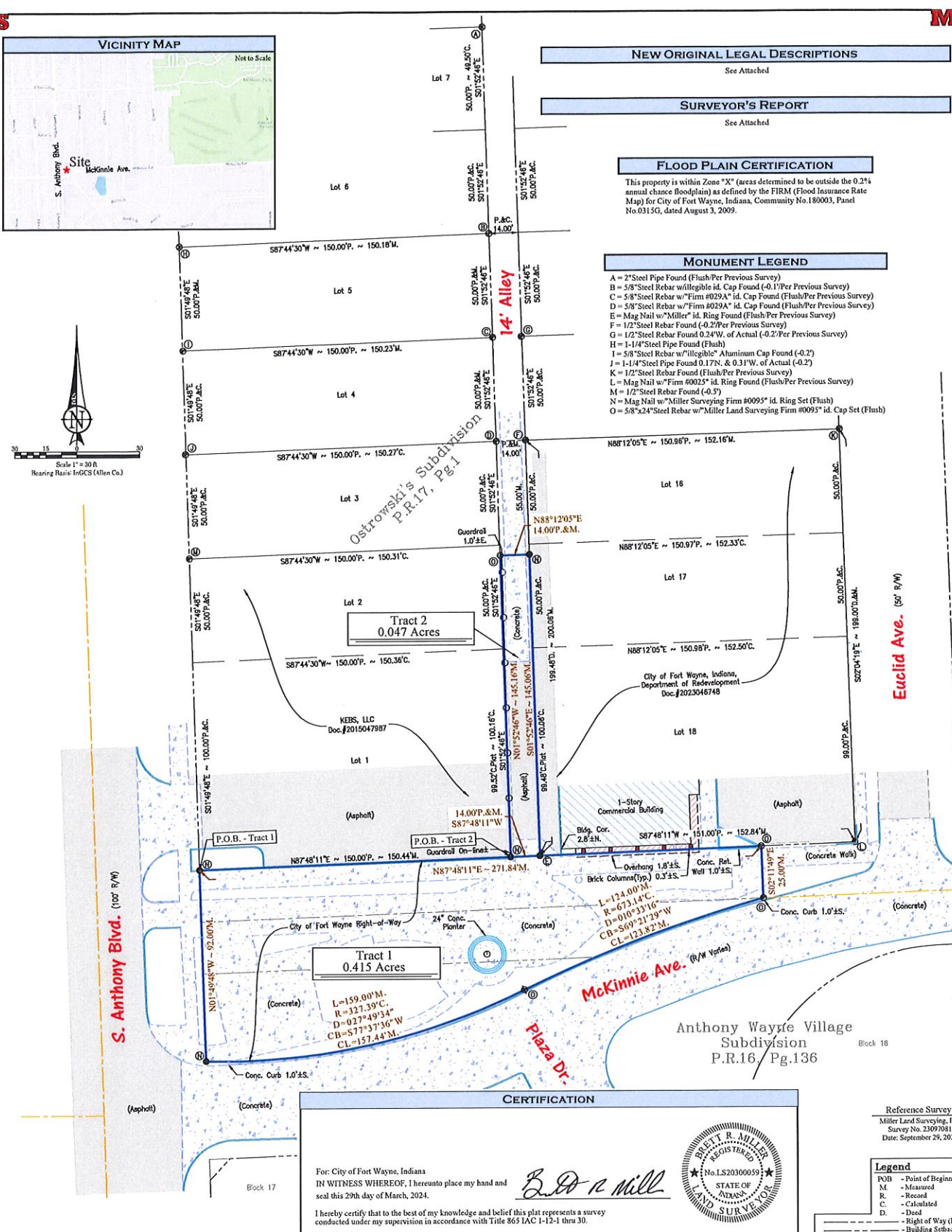
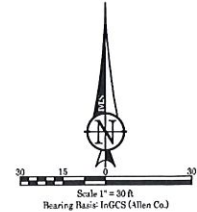
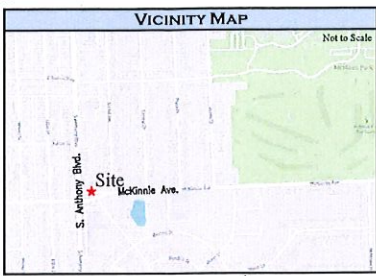
Effect of Non-Passage: The right of way will remain as mapped. Redevelopment of the property may be hindered by retention of the right-of-way.



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: 5/6/2024





NEW ORIGINAL LEGAL DESCRIPTIONS
See Attached

SURVEYOR'S REPORT
See Attached

FLOOD PLAIN CERTIFICATION
This property is within Zone "X" (areas determined to be outside the 0.2% annual chance floodplain) as defined by the FIRM (Flood Insurance Rate Map) for City of Fort Wayne, Indiana, Community No. 180003, Panel No. 0315G, dated August 3, 2009.

MONUMENT LEGEND

- A = 2" Steel Pipe Found (Flush/Per Previous Survey)
- B = 3/8" Steel Rebar w/illigible id. Cap Found (-0.1' Per Previous Survey)
- C = 5/8" Steel Rebar w/"Firm #029A" id. Cap Found (Flush/Per Previous Survey)
- D = 5/8" Steel Rebar w/"Firm #029A" id. Cap Found (Flush/Per Previous Survey)
- E = Mag Nail w/"Miller" id. Ring Found (Flush/Per Previous Survey)
- F = 1/2" Steel Rebar Found (-0.2' Per Previous Survey)
- G = 1/2" Steel Rebar Found 0.24' of Actual (-0.2' Per Previous Survey)
- H = 1-1/4" Steel Pipe Found (Flush)
- I = 5/8" Steel Rebar w/illigible Aluminum Cap Found (-0.2')
- J = 1-1/4" Steel Pipe Found 0.17'N. & 0.31'W. of Actual (-0.2')
- K = 1/2" Steel Rebar Found (Flush/Per Previous Survey)
- L = Mag Nail w/"Firm #0025" id. Ring Found (Flush/Per Previous Survey)
- M = 1/2" Steel Rebar Found (-0.3')
- N = Mag Nail w/"Miller Surveying Firm #0095" id. Ring Set (Flush)
- O = 5/8"x24" Steel Rebar w/"Miller Land Surveying Firm #0095" id. Cap Set (Flush)

CERTIFICATION

For: City of Fort Wayne, Indiana
IN WITNESS WHEREOF, I hereunto place my hand and seal this 29th day of March, 2024.

I hereby certify that to the best of my knowledge and belief this plat represents a survey conducted under my supervision in accordance with Title 865 IAC 1-12-1 thru 30.

Brett R. Miller

BRETT R. MILLER
REGISTERED
STATE OF INDIANA
LAND SURVEYOR

Reference Survey
Miller Land Surveying, Inc.
Survey No. 23097081
Date: September 29, 2023

Legend

- POB - Point of Beginning
- M - Measured
- R - Record
- C - Calculated
- D - Deed
- Right of Way (R/W)
- Building Setback Line
- Center Line

Project City of Fort Wayne, Indiana McKinnie Commons 1815 McKinnie Ave., Fort Wayne, Allen County, IN 46806		Description IAC Title 865 Original Boundary Survey		REVISIONS _____ _____ _____	
Drawn By: JJB Date: March 29, 2024 Survey Number: 24027291 Approved By: BRM	Field Crew: JJK Fieldwork Completed: 03/28/2024 Drawing Name: 24027291.dwg For City of Fort Wayne, Indiana	Corporate Office 221 Tower Drive Monroe, IN 46772 Phone: (260) 692-6166		Miller Land Surveying, Inc. Brett R. Miller, P.S. No. LS20300059 Robert J. Marucci, P.S. No. LS20400028 www.mlswebsite.us Precision and Professionalism is where we draw the line.	
Fort Wayne Office 10960 Bent Creek Blvd. Fort Wayne, IN 46825 Phone: (260) 489-8571				Page 1 of 4	

"Exhibit A"

New Original Legal Descriptions

Tract 1 – Part of McKinnie Avenue lying between South Anthony Boulevard and Euclid Avenue in Ostrowski's Subdivision, as recorded in Plat Record 17, page 1, and in Anthony Wayne Village Subdivision, as recorded in Plat Record 16, page 136 all in the Office of the Recorder of Allen County, Indiana, based on an original survey by Brett R. Miller, Indiana Professional Surveyor Number 20300059 of Miller Land Surveying, Inc., Survey No. 24027291, dated March 29, 2024, being more particularly described as follows:

BEGINNING at the Southwest corner of Lot Number 1 in said plat of Ostrowski's Subdivision, being referenced by a Mag Nail with a "Miller Surveying Firm #0095" identification ring; thence North 87 degrees 48 minutes 11 seconds East (Indiana Geospatial Coordinate System - Allen County bearing and basis of bearings to follow), a distance of 271.84 feet along the South line of said Lot Number 1 and the South line of Lot Number 18 in said plat to a 5/8" Steel Rebar with a "Miller Land Surveying Firm #0095" identification cap; thence South 02 degrees 11 minutes 49 seconds East, a distance of 25.00 feet being perpendicular to said South line to a 5/8" Steel Rebar with a "Miller Land Surveying Firm #0095" identification cap on a non-tangent curve, concave to the Southeast having a radius of 673.14 feet; thence Southwesterly a distance of 124.00 feet along said curve having a central angle of 10 degrees 33 minutes 16 seconds and a chord of 123.82 feet bearing South 69 degrees 21 minutes 29 seconds West to a 5/8" Steel Rebar with a "Miller Land Surveying Firm #0095" identification cap at the point of reverse curvature of a curve, concave to the Northwest having a radius of 327.39 feet; thence Southwesterly a distance of 159.00 feet along said curve having a central angle of 27 degrees 49 minutes 34 seconds and a chord of 157.44 feet bearing South 77 degrees 37 minutes 36 seconds West to a Mag Nail with a "Miller Surveying Firm #0095" identification ring on the Southerly extension of the West line of said Lot Number 1; thence North 01 degrees 49 minutes 48 seconds West, a distance of 92.00 feet along said extension to the Point of Beginning. Containing 0.415 acre, more or less. Subject to easements of record.

Tract 2 – Part of a 14 feet alley in Ostrowski's Subdivision, as recorded in Plat Record 17, page 1, in the Office of the Recorder of Allen County, Indiana, based on an original survey by Brett R. Miller, Indiana Professional Surveyor Number 20300059 of Miller Land Surveying, Inc., Survey No. 24027291, dated March 29, 2024, being more particularly described as follows:

Commencing at the Southwest corner of Lot Number 1 in said plat of Ostrowski's Subdivision, being referenced by a Mag Nail with a "Miller Surveying Firm #0095" identification ring; thence North 87 degrees 48 minutes 11 seconds East (Indiana Geospatial Coordinate System - Allen County bearing and basis of bearings to follow), a distance of 150.44 feet (150.00 feet plat) along the South line of said Lot Number 1 to a Mag Nail with a "Miller Surveying Firm #0095" identification ring at the Southeast corner of said Lot Number 1, said point being the POINT OF BEGINNING of the herein described tract; thence North 01 degrees 52 minutes 46 seconds West, a distance of 145.16 feet along the East line of said Lot Number 1 and the East line of Lot Number 2 in said plat to a 5/8" Steel Rebar with a "Miller Land Surveying Firm #0095" identification cap; thence North 88 degrees 12 minutes 05 seconds East, a distance of 14.00 feet (plat) to a Mag Nail with a "Miller Surveying Firm #0095" identification ring on the West line of Lot Number 17 in said plat, said point being 55.00 feet Southerly of the Northwest corner of Lot Number 16 in said plat; thence South 01 degrees 52 minutes 46 seconds East, a distance of 145.06 feet along said West line and the West line of Lot Number 18 in said plat to a Mag Nail with a "Miller Surveying Firm #0095" identification ring at the Southwest corner of said Lot Number 18; thence South 87 degrees 48 minutes 11 seconds West, a distance of 14.00 feet (plat) to the Point of Beginning. Containing 0.047 acre, more or less. Subject to easements of record.

Survey No. 24027291 For: City of Fort Wayne, Indiana
Date: March 29, 2024 Miller Land Surveying, Inc.

Surveyor's Report
Pt. of McKinnie Avenue in Ostrowski's Subdivision
& Anthony Wayne Village Subdivision
Also Pt. of a 14 feet alley in Ostrowski's Subdivision
City of Fort Wayne, Allen County, Indiana

PURPOSE OF SURVEY:

Tract 1 - The purpose of this survey was to create an original 0.415 acre tract from a portion of the right-of-way of McKinnie Avenue lying between South Anthony Boulevard and Euclid Avenue in Ostrowski's Subdivision as shown in Plat Record 17, Page 1 and Anthony Wayne Village Subdivision as shown in Plat Record 16, page 136, both in the Office of the Recorder of Allen County, Indiana. Located at 1815 McKinnie Avenue, Fort Wayne, Indiana, 46806.

Tract 2 - The purpose of this survey was to create an original 0.047 acre tract from a portion of a 14 feet alley in Ostrowski's Subdivision as shown in Plat Record 17, Page 1, in the Office of the Recorder of Allen County, Indiana.

In accordance with Title 865, Article 1, Rule 12, Section 1 through 30 of the Indiana Administrative Code, the above theory of location was based up the following opinions and observations a result of uncertainties in lines and corners because of the following:

A) AVAILABILITY AND CONDITION OF REFERENCE MONUMENTS

The monuments found are shown on the survey and listed on the survey under monument legend.

B) OCCUPATION OR POSSESSION LINES

There were uncertainties based on visual inspection of occupation or possession lines.

-A line of brick columns, a building overhang, and a concrete retaining wall extend a maximum of 1.8 feet, more or less, South of the North (271.84 feet) line of Tract 1.

C) CLARITY OR AMBIGUITY OF DESCRIPTIONS

There were no ambiguities found within the descriptions used for the survey. Documents used include:

- 1) Document Number 2023046748
- 2) Document Number 2015047987
- 3) Plat of Ostrowski's Subdivision (Plat Record 17, Page 1)
- 4) Plat of Anthony Wayne Village Subdivision (Plat Record 16, Page 136)
- 5) Survey completed by Miller Land Surveying, Inc., as Survey Number 23097081, dated September 29, 2023.

D) THEORETICAL UNCERTAINTY OF THE MEASUREMENTS

Based on the use of the property (commercial property, industrial property, condominiums, townhouses, apartments, multiunit developments-- single family residential subdivision lots--real estate lying in rural areas) the acceptable relative positional accuracy is urban survey 0.07 feet (21 millimeters) plus 50 ppm.



Miller Land Surveying, Inc.

Precision and Professionalism is
Where We Draw the Line.

Brett R. Miller, PS, President
Robert J. Marucci, PS

Page 4 of 4

THEORY OF LOCATION:

Tract 1 – The West (92.00 feet) line of the subject tract was established per the Southerly extension of the West line Lot Number 1 in Ostrowski's Subdivision, which was established per the Easterly right-of-way line of South Anthony Boulevard, between found monuments labeled "H", "I", and "M". The Southwest corner of Lot Number 1 was established at a plat distance of 500.00 feet Southerly of found monument labeled "H" at the Northwest corner of Lot Number 5 along the above established Easterly right-of-way of South Anthony Boulevard. The North (271.84 feet) line of the subject tract was established per the South lines of Lot Number 1 and Lot Number 18, which were established per the Northerly right-of-way line of McKinnie Avenue, between the above established Southwest corner of Lot Number 1 and found monument labeled "L" at the Southeast corner of Lot Number 18. The remaining East (25.00 feet) and South (124.00 feet & 159.00 feet) line and curves of the subject tract were established per the Client's request.

Tract 2 – The South (14.00 feet) line of the subject tract was established per the Northerly right-of-way line of McKinnie Avenue, as established in Tract 1 above. The West (145.16 feet) line of the subject tract was established per the East lines of Lot Number 1 and 2 in Ostrowski's Subdivision, which were established along a line of found monuments labeled "A", "B", "C", and "D". The East (145.06 feet) line of the subject tract was established per the West lines of Lot number 17 and 18 in Ostrowski's Subdivision, which was established along a line of found monuments labeled "F" and "N", as previously established in the above referenced Miller Land Surveying, Inc., survey. The remaining North (14.00 feet) line of the subject tract was established per the Client's request.

This survey is valid only with original signature and seal, full payment of invoice, and complete with all pages of survey. The information shown on the survey documents is intended for this transaction only as dated on said survey documents. Any reuse without written verification and adaptation by the land surveyor for the specific purpose intended will be at the users' sole risk and without liability or legal exposure to the land surveyor.

Since the last date of field work of this survey, conditions beyond the knowledge or control of Miller Land Surveying, Inc. may have altered the validity and circumstances shown or noted hereon.

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law, Brett R. Miller.

Survey No.24027291

Dated: March 29, 2024

For: City of Fort Wayne, Indiana

Miller Land Surveying, Inc.

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 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:

The excess right of way space on McKinnie Avenue was designed and built into a programmable public plaza. The land will be transferred to and maintained by the Parks Department.

(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:

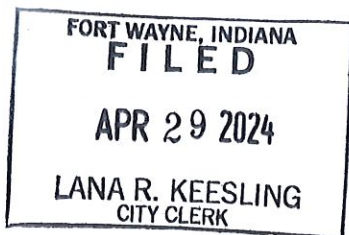
Property owner(s) Name(s); Street Address; City; State; Zip Code; Phone Number with Area Code.

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

Name: City of Fort Wayne Redevelopment Department - Danielle Wetzel

Street Address: 200 East Berry Street, Suite 320

City: Fort Wayne State: IN Zip: 46802 Phone: 260-427-5954



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

Jonathan Leist
Printed Name

4/3/24
Date

200 East Berry Street, Suite 320
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 #: _____