PERMANENT RECORD

RECORDER
VANDERBURGH COUNTY
Z TULEY
2016R00008967
04/01/2016 3:42 PM
RECORDING FEES: 19.00
PAGES: 5

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Tx:4193164

ORDINANCE NO. G – 2016 - 11

INTRODUCED BY: JONATHAN WEAVER
COMMITTEE: PUBLIC WORKS

PETITIONER: CITY OF EVANSVILLE

AN ORDINANCE TO VACATE CERTAIN PUBLIC WAYS OR PUBLIC PLACES WITHIN THE CITY OF EVANSVILLE, INDIANA, COMMONLY KNOWN AS THE RIGHT-OF-WAY OF THIRD AVENUE, IN THE CITY OF EVANSVILLE, INDIANA.

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF EVANSVILLE, INDIANA, AS FOLLOWS, TO WIT:

Section I: That pursuant to MCE Section 12.05.450, et seq., a sworn petition was presented to the Common Council of the City of Evansville, Indiana, requesting that the public place or public way described in Section III below be vacated by the City of Evansville, Indiana.

Section II. That after due and proper notice a timely public hearing was convened by the Common Council of the City of Evansville, Indiana, at which time all interested persons were permitted to address the Common Council regarding said vacation.

Section III. That the Common Council of the City of Evansville, Indiana, after due investigation and consideration has determined that the nature and extent of the public use and the public interest to be subserved is such as to warrant the vacation of that part of the public way or public place described as follows, and further indicated by the words "To Be Vacated" on the drawing hereto attached as Exhibit A, which is made a part of this Ordinance:

> A portion of Third Avenue lying between First Street and Riverside Drive, also lying between Hornby's Enlargement, as per plat thereof, recorded in Plat Book "A", Page 33 and re-transcribed of record in Plat Book "E", Page 66, and Lower Enlargement, as per plat thereof, recorded in Plat Book "A", Page 120 and re-transcribed of record in Plat Book "E", Page 24, in the office of the Recorder of Vanderburgh County, Indiana and further described as follows:
>
> Beginning at the northeast corner of Lot 14 of said Hornby's Enlargement; thence
>
> 1st South 59°49'17" East a distance of 60.65 feet to the northwest corner of Lot 9 of said Lower Enlargement; thence along the Westerly line of said

DULY ENTERED FOR TAXATION SUBJECT TO FINAL ACCEPTANCE FOR TRANSFER

APR 01 2016

Brian Gerth 15900
AUDITOR

FILED
FEB 18 2016
Laura Windhorst
CITY CLERK

Lower Enlargement, also being the Easterly Right of Way of Third Avenue,

2nd South 38°34'09" West a distance of 312.14 feet to the southwest corner of Lot 8 of said Lower Enlargement, also being the Northerly Right of Way of Riverside drive as per State Project U-877; thence along said Northerly Right of Way,

3rd North 50°16'39" West a distance of 60.01 feet to the southeast corner of Lot 15 of said Hornby's Enlargement; thence along the Easterly line of said Hornby's Enlargement, also being the Westerly Right of Way of Third Avenue,

4th North 38°34'09" East a distance of 302.08 feet to the point of beginning.

The above description is based on a ALTA survey performed by Bernardin Lochmueller and Associates as per Document Number 2007R00005848, recorded in the Vanderburgh County Recorder's Office and State of Indiana Department of Transportation Project U-877 Right of Way Plans

(the "Public Way")

Section IV. That the vacation of the public way described in Section III above shall be subject to the following easements:

A. WOW! – An easement for the placement and maintenance of telecommunications facilities that lie within the Public Way;

B. Southern Indiana Gas & Electric Co., d/b/a Vectren Energy Delivery of Indiana, Inc. (the "Company") for an electric line – An electric line easement with the right to construct, inspect, maintain, operate, repair, alter, relocate, enlarge, rebuild and remove one or more electric lines above or below ground, whether facilities are above or below ground, together with all appurtenances and appliances, fixtures or equipment as may be convenient or necessary for the transmission of electric energy, upon, over, under and across the Public Way, together with the right of ingress and egress over the lands to and from said facilities in the exercise of the rights herein granted. The Company also reserves the right to trim or remove, at Company's sole discretion, any and all trees located within the Public Way, and the right to trim or remove, at Company's sole discretion, any and all trees located outside the Public Way that are of such height that in falling directly to the ground they could come in contact with said above ground facilities, and the right to remove brush or other obstructions from the Public Way;

C. Southern Indiana Gas & Electric Co., d/b/a Vectren Energy Delivery of Indiana, Inc. (the "Company") for a gas line – A gas line easement with the right to lay, construct, inspect, maintain, operate, repair, alter, relocate, enlarge, rebuild and remove a pipe line, together with drips, tie-overs, valves, anodes, protective facilities and all other

appurtenance thereto, whether above or below the surface, convenient or necessary for the transportation of gas or other substances which can be transported through a pipe line, in, under, over, across, upon, and through the Public Way, together with the right of ingress and egress over adjoining land to and from said pipe line in the exercise of the rights herein granted. The Company also reserves the right to trim or remove, at Company's sole discretion, any and all trees, brush or other obstructions located within the Public Way;

D. Evansville Water and Sewer Utility – An easement for an existing six inch (6") water line within the Public Way, which six inch (6") line also serves a hydrant near 517 N.W. Riverside Drive and a two inch (2") meter for 18 S. Third Avenue, including an easement around the two (2) service lines, meters and hydrants;

E. Evansville Water and Sewer Utility – An easement for an existing twenty-four inch (24") water line within the Public Way;

F. Evansville Water and Sewer Utility - An easement for an existing eight inch (8") sewer line within the Public Way to serve 601 N.W. Riverside Drive;

G. AT&T–Indiana Bell Telephone Company, Incorporated – An easement within the Public Way in favor of Indiana Bell Telephone Company, Incorporated, d/b/a AT&T Indiana, an Indiana coronation, and its affiliates and licensees, successors and assigns, in, under, over, upon and across the Public Way, for the purposes of and in order to construct, reconstruct, modify, supplement, maintain, operate and/or remove facilities for the transmission of signals used in the provisions of communications, video and/or information services and/or any other services or uses for which such facilities may be used, including, but not limited to, equipment cabinets or enclosures and support posts or pads, cables,, wires, pedestals or other above-ground cable or wire enclosures, marker posts and signs, and other related or useful equipment, fixtures, appurtenances and facilities, together with the right to have commercial electrical service extended across the Public Way to provide service to such facilities, the right to remove or trim trees or brush as is necessary to exercise the rights conveyed herein, and the right of ingress and egress across the adjacent property and the Public Way; and

H. Time Warner Cable – An easement for existing facilities of Time Warner Cable for the purpose of future construction or maintenance of its facilities.

Therefore, the Common Council of the City of Evansville, Indiana, does hereby find the above-described public way or public place is no longer required for public use and the public interest will be served by such vacation, and the Common Council of the City of Evansville does hereby vacate that portion of the public way or public place described in Section III above subject to the terms and conditions as stated in this Ordinance.

PASSED BY the Common Council of the City of Evansville, Indiana, on the 28 day of March, 2016, and on said day signed by the President of the Common Council and attested by the City Clerk.

Missy Mosby, President of the Common Council,
City of Evansville, Indiana

ATTEST: Laura Windhorst
Laura Windhorst, City Clerk
City of Evansville, Indiana

Presented by me, the undersigned City Clerk of the City of Evansville, Indiana, to the Mayor of said city, this 29 day of March, 2016, at 2:30 o'clock p.m. for his consideration and action thereon.

Laura Windhorst
Laura Windhorst, City Clerk
City of Evansville, Indiana

Having examined the foregoing ordinance, I do now, as Mayor of the City of Evansville, Indiana, approve said ordinance and return the same to the City Clerk this 30th day of March, 2016, at 10:00 o'clock A.m.

Lloyd Winnecke, Mayor
City of Evansville, Indiana

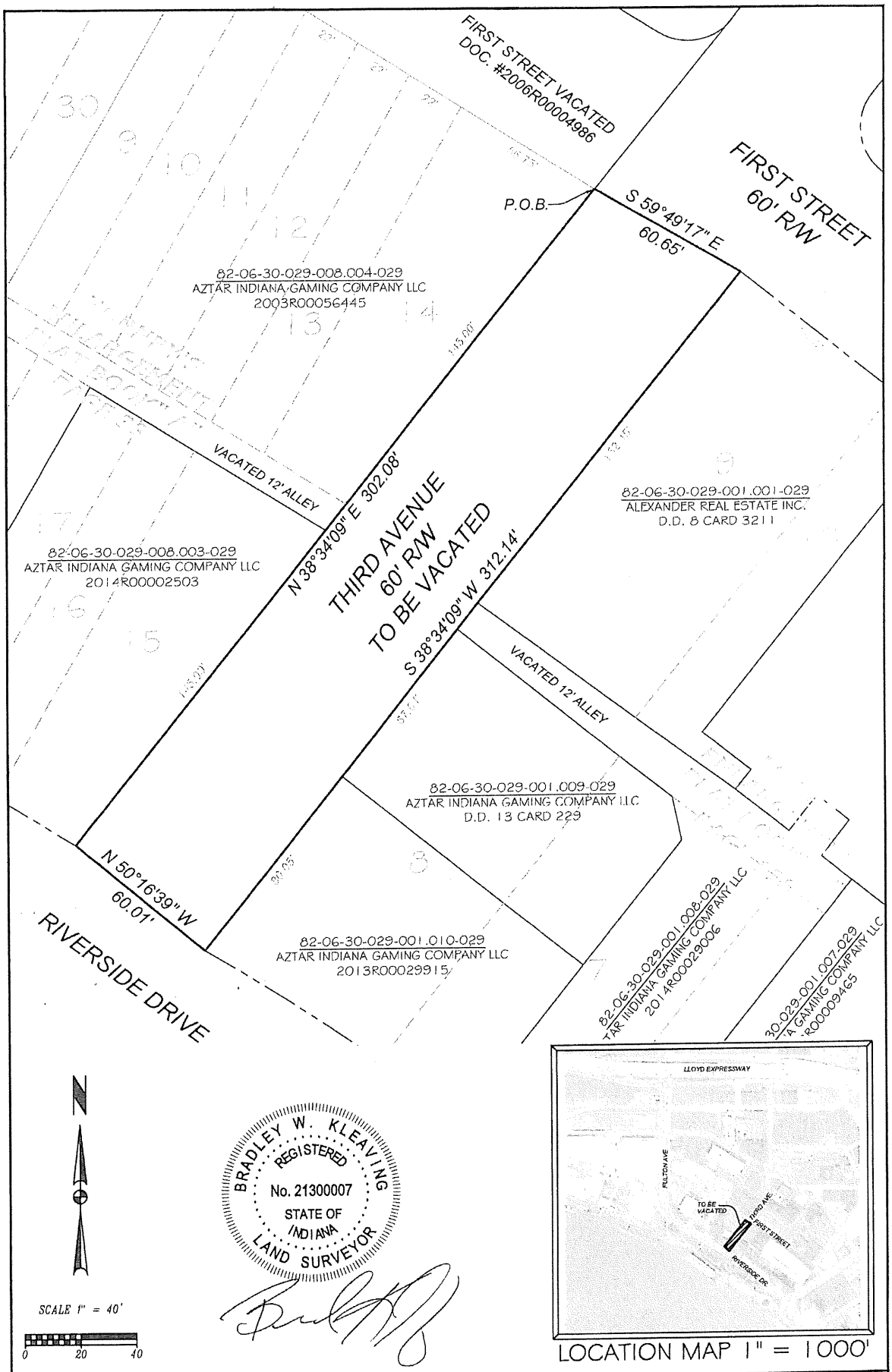
APPROVED AS TO FORM
BY TED C. ZIEMER, JR., CORPORATION COUNSEL

H:\Evansville, City of\Tropicanan-Third Ave Vacation\Ordinance\Ordinance.docx

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

(Name)

THIS INSTRUMENT WAS PREPARED BY _____



LOCATION MAP 1" = 1000'

Evansville WATER AND SEWER UTILITY 1931 ALLENS LANE - EVANSVILLE, IN 47720	EXHIBIT "A"	DRAWN BY: B.W.K.
	SITE PLAN/LOCATION MAP	SCALE: 1" = 40'
		DATE: 12/07/2015

PERMANENT RECORD

STATE OF INDIANA)
) SS:
COUNTY OF VANDERBURGH) ORDINANCE NO. G-2016-11

BEFORE THE COMMON COUNCIL OF THE CITY OF EVANSVILLE, INDIANA

IN THE MATTER OF THE PETITION FOR VACATION OF
A PLATTED PUBLIC WAY OR PLACE

PETITION FOR VACATION OF RIGHT-OF-WAY

The City of Evansville, Indiana (the "City of Evansville"), by counsel, hereby petitions the Common Council of the City of Evansville, Indiana, pursuant to the provisions of Section 12.05.450, et seq., of the Municipal Code of Evansville, to vacate the public right-of-way of Third Avenue, as described below, in the City of Evansville, Indiana (the "Public Way"). In support of this Petition, the City of Evansville states as follows.

1. The City of Evansville is a municipality and a political subdivision of the State of Indiana. The name and mailing address of its Mayor is set forth on Exhibit "A".

2. The City of Evansville currently has a right of way over and across the Public Way and desires to vacate the Public Way to facilitate the construction and operation of a land based casino in the area of the Public Way.

3. The Public Way is currently used and maintained as a public road or right-of-way.

4. The legal description of the Public Way, signed and certified by an Indiana registered surveyor, is attached hereto and incorporated herein as Exhibit "B".

5. The correct names, addresses and zip codes of all abutting owners of land are shown on Exhibit "C", attached hereto.

6. A site plan and location map showing the general location, the existing conditions and proposed changes with the Public Way marked "TO BE VACATED" is attached hereto and made a part hereof as Exhibit "D".

FILED
FEB 18 2016
Laura Windhorst
CITY CLERK

7. The following utilities have consented to the proposed vacation and do not require easements as evidenced by the letters attached hereto as Exhibit "E":

- City Engineer's Office and Department of Transportation Services
- Evansville Fire Department

8. The following utilities/departments have consented to the proposed vacation provided they are granted easements within the vacated Public Way as evidenced by their letters attached hereto as Exhibit "F":

- WOW!
- Southern Indiana Gas & Electric Company, d/b/a Vectren Energy Delivery of Indiana, Inc.
- Evansville Water and Sewer Utility
- AT&T
- Time Warner Cable

WHEREFORE, The City of Evansville, Indiana respectfully requests the Common Council of the City of Evansville, Indiana to vacate the Public Way.

CITY OF EVANSVILLE, INDIANA

By:_____

Marco L. DeLucio
ZIEMER, STAYMAN, WEITZEL & SHOULDERS, LLP
20 NW First Street, 9th Floor
P. O. Box 916
Evansville, Indiana 47706-0916
Phone: (812) 424-7575
Fax: (812) 421-5089

Attorney for Petitioner

APPROVED AS TO FORM

Ted C. Ziemer, Jr.

Ted C. Ziemer, Jr.
ZIEMER, STAYMAN, WEITZEL & SHOULDERS, LLP
20 NW First Street, 9th Floor
P. O. Box 916
Evansville, Indiana 47706-0916
Phone: 812-424-7575
Fax: 812-421-5089

STATE OF INDIANA)
) SS:
COUNTY OF VANDERBURGH)

SUBSCRIBED AND SWORN to before me, a Notary Public, this 17th day of February, 2016.

Debra L. Stevens

Debra L. Stevens, Notary Public

County of Residence

Vanderburgh

My Commission Expires

November 14, 2022

NOTARY PUBLIC NOTARY SEAL STATE OF INDIANA
DEBRA L. STEVENS
Vanderburgh County
My Commission Expires
November 14, 2022

H:\Evansville, City of\Tropicanan-Third Ave Vacation\Petition\Petition for Vacation of Right-of-Way.docx

EXHIBIT "A"

Mayor Lloyd Winnecke
1 NW MLK Jr. Blvd
Civic Center Complex Room 302
Evansville, IN 47708

EXHIBIT "B"

LEGAL DESCRIPTION OF PUBLIC WAY

A portion of Third Avenue lying between First Street and Riverside Drive, also lying between Hornby's Enlargement, as per plat thereof, recorded in Plat Book "A", Page 33 and re-transcribed of record in Plat Book "E", Page 66, and Lower Enlargement, as per plat thereof, recorded in Plat Book "A", Page 120 and re-transcribed of record in Plat Book "E", Page 24, in the office of the Recorder of Vanderburgh County, Indiana and further described as follows:
Beginning at the northeast corner of Lot 14 of said Hornby's Enlargement; thence

1st South 59°49'17" East a distance of 60.65 feet to the northwest corner of Lot 9 of said Lower Enlargement; thence along the Westerly line of said Lower Enlargement, also being the Easterly Right of Way of Third Avenue,

2nd South 38°34'09" West a distance of 312.14 feet to the southwest corner of Lot 8 of said Lower Enlargement, also being the Northerly Right of Way of Riverside drive as per State Project U-877; thence along said Northerly Right of Way,

3rd North 50°16'39" West a distance of 60.01 feet to the southeast corner of Lot 15 of said Hornby's Enlargement; thence along the Easterly line of said Hornby's Enlargement, also being the Westerly Right of Way of Third Avenue,

4th North 38°34'09" East a distance of 302.08 feet to the point of beginning.

The above description is based on a ALTA survey performed by Bernardin Lochmueller and Associates as per Document Number 2007R00005848, recorded in the Vanderburgh County Recorder's Office and State of Indiana Department of Transportation Project U-877 Right of Way Plans.

EXHIBIT "C"

ABUTTING LANDOWNERS WITHIN 200 FEET OF PUBLIC WAY

City – Tropicana
Third Avenue Vacation

Listing of Landowners Within 200 Feet of the Property to be Vacated

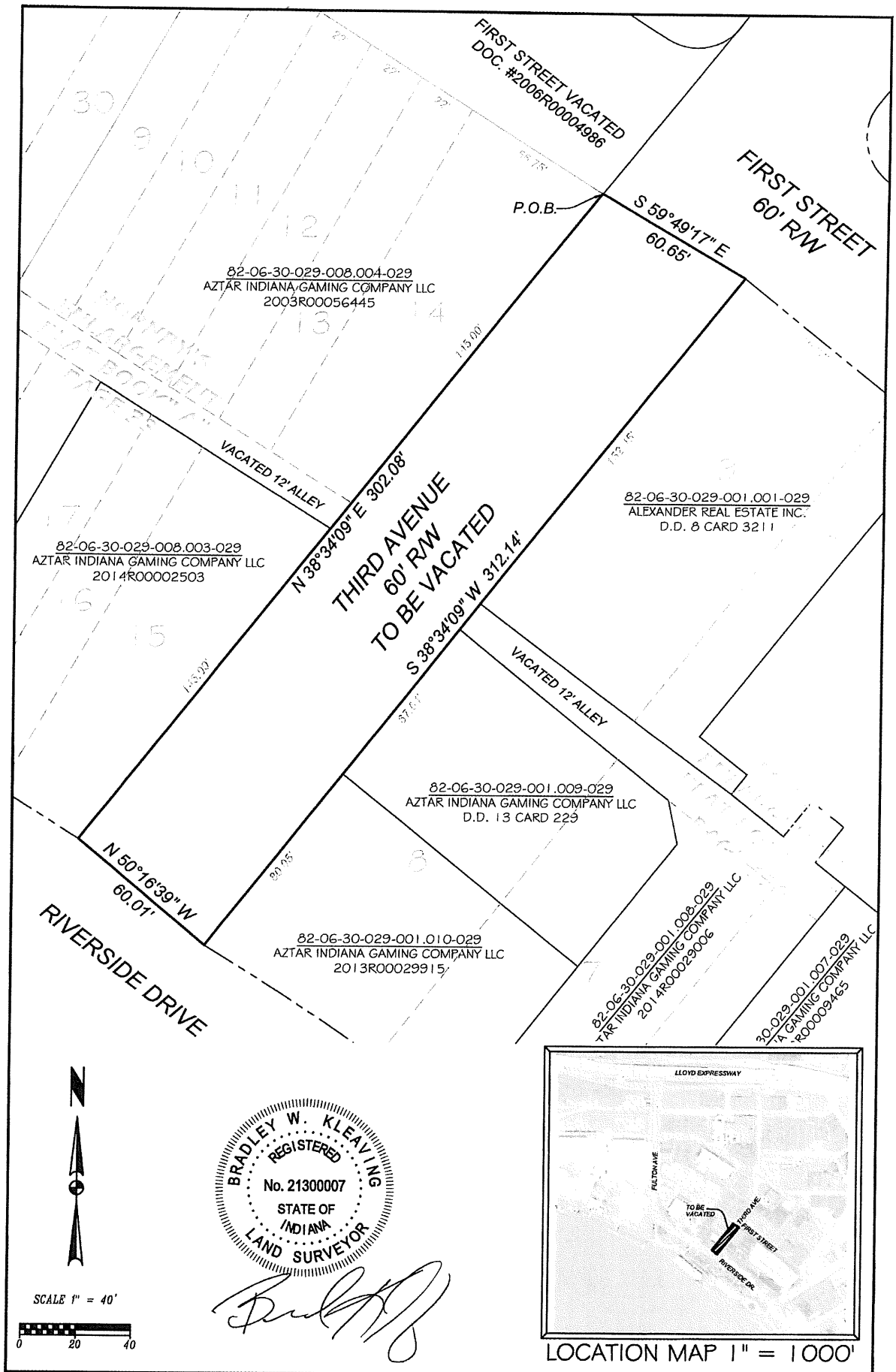
Landowner	Street Address	Tax Code
American General Finance Management Corporation 601 NW Second Street Evansville, IN 47708	**601 NW Second St**	**82-06-30-029-115.001-029**
Industrial Contractors, Inc. 401 NW First Street Evansville, IN 47708	**First and Third Street**	**82-06-30-029-117.003-029**
Alexander Real Estate, Inc. P. O. Box 14036 Evansville, IN 47728-4036	**522 NW 526 First Street**	**82-06-30-029-001.001-029**
Stagg Industrial Development Corp 6193 E Highway 351 Henderson, KY 42420	**163 S Third Street**	**82-06-30-029-003.015-029**
Aztar Indiana Gaming, LLC 421 NW Riverside Dr Evansville, IN 47708	**512 NW 514 First Street**	**82-06-30-029-001.002-029**
Aztar Indiana Gaming, LLC 421 NW Riverside Dr Evansville, IN 47708	**400 NW 428 First Street**	**82-06-30-029-002.001-029**
Aztar Indiana Gaming, LLC 421 NW Riverside Dr Evansville, IN 47708	**15 Third Avenue**	**82-06-30-029-001.009-029**
Aztar Indiana Gaming, LLC Tropicana Entertainment 421 NW Riverside Dr Evansville, IN 47708	**517 NW Riverside Drive**	**82-06-30-029-001.010-029**
Aztar Indiana Gaming Company, LLC Tropicana Evansville Director of Finance 421 NW Riverside Drive Evansville, IN 47708	**511 NW Riverside Drive**	**82-06-30-029-001.008-029**
Aztar Indiana Gaming Company LLC Tropicana Entertainment 421 NW Riverside Drive Evansville, IN 47708	**507 NW Riverside Drive**	**82-06-30-029-001.007-029**

Landowner	Street Address	Tax Code
Aztar Indiana Gaming Company LLC 507 NW Riverside Drive Evansville, IN 47708	**601 NW Riverside Drive**	**82-06-30-029-008.003-029**
Aztar Indiana Gaming Company LLC 421 NW Riverside Drive Evansville, IN 47708	**18 S Third Avenue**	**82-06-30-029-008.004-029**
Aztar Indiana Gaming Company LLC 421 NW Riverside Drive Evansville, IN 47708	**617 NW 625 Riverside Dr**	**82-06-30-029-008.001-029**
Aztar Indiana Gaming Company LLC 421 NW Riverside Drive Evansville, IN 47708	**405 NW Riverside Dr**	**82-06-30-029-001.012-029**
Other Required Notification:		
Downtown Neighborhood Association c/o Paul Black 508 Main Street, Unit 4H Evansville, IN 47708 812-483-8433 Paul_soho@yahoo.conm		

H:\Evansville, City of\Tropicanan-Third Ave Vacation\Listing of Landowners within 200 feet of proposed vacated premises v2.docx

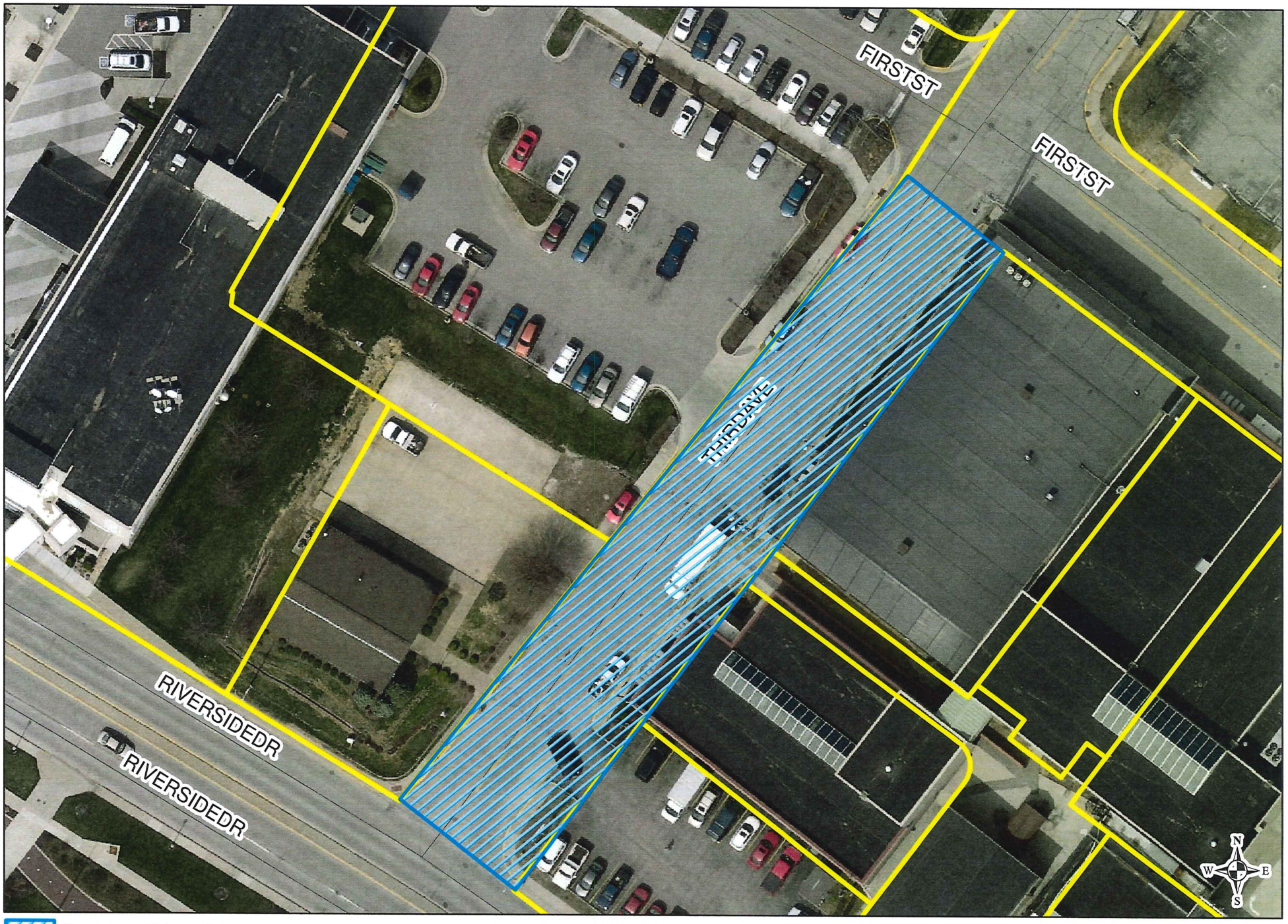
EXHIBIT "D"

SITE PLAN SHOWING PUBLIC WAY TO BE VACATED



LOCATION MAP 1" = 1000'

Evansville WATER AND SEWER UTILITY 1931 ALLENS LANE - EVANSVILLE, IN 47720	EXHIBIT "A"	DRAWN BY: B.W.K.
	SITE PLAN/LOCATION MAP	SCALE: 1" = 40'
		DATE: 12/07/2015



Proposed Vacation of Public ROW

No Scale

Disclaimer: The City Engineer's Office makes no representations in regards to the accuracy of the proposed vacation of public ROW. This information is not intended to take place of a legal survey or proper field investigation.

EXHIBIT "E"

UTILITY/DEPARTMENT LETTERS – NO EASEMENT REQUIRED

1. City of Engineer's Office
2. Evansville Fire Department

City Engineer's Office
CIVIC CENTER COMPLEX, ROOM 321
1 N.W. MARTIN LUTHER KING, JR BLVD.
EVANSVILLE, INDIANA 47708-1875
Phone: (812) 436-4990 FAX: (812) 436-4976
TDD/Hearing Impaired (812) 436-4934

LLOYD WINNECKE
MAYOR

BRENT A. SCHMITT, P.E.
CITY ENGINEER

November 13, 2015

Marco L. DeLucio
Ziemer Stayman Weitzel Shoulders LLP
20 NW First Street
Ninth Floor, PO Box 916
Evansville, IN 47706-0916

Re: Proposed Vacation of Public Way, Third Avenue from Riverside Drive to First Street (aerial attached)

Dear Mr. DeLucio,

With regard to the proposed vacation of the public Right-of-way of Third Avenue (between Riverside Drive and First Street), our office provides the following comments:

- Our record search found no public facilities under the jurisdiction of this office situated within the area proposed for vacation. As such, vacation of this area would have no effect on future plans of this office.

- The street light located within the public Right-of-Way of Third Avenue proposed for vacation is currently operated and maintained through a contract between the City of Evansville and Vectren. If the subject right-of-way is vacated, the City will have Vectren remove the existing street light – except at intersections that will remain public ROW. Future lighting needs would be the responsibility of the property owner.

- This office has no objections to the proposed vacation. Any plans for future improvements in this area will require the necessary submittals, approvals, and permitting procedures.

Thank you and please feel free to contact me if you have any questions.

Sincerely,

City Engineer's Office

By: Chris Weil, P.E.
Assistant City Engineer

Attachments

Cc: File

Marco DeLucio

From: Cruse, Jim
Sent: Wednesday, December 16, 2015 3:48 PM
To: Marco DeLucio
Subject: RE: City of Evansville/Petition for Vacation of Right-of-Way

Yes

From: Marco DeLucio [mailto:mdelucio@zsws.com]
Sent: Wednesday, December 16, 2015 3:45 PM
To: Cruse, Jim <jcruse@evansville.in.gov>
Cc: Schmitt, Brent A. <baschmitt@evansville.in.gov>; Weil, Christopher <cweil@evansville.in.gov>
Subject: RE: City of Evansville/Petition for Vacation of Right-of-Way

I already received a response from the Engineering Dept. Does this do it for you?

From: Cruse, Jim [mailto:jcruse@evansville.in.gov]
Sent: Wednesday, December 16, 2015 3:41 PM
To: mdelucio@zsws.com
Cc: Schmitt, Brent A.; Weil, Christopher
Subject: RE: City of Evansville/Petition for Vacation of Right-of-Way

Marco,

You will receive a reply from the City Engineering Department which will also cover the Traffic Dept.

Thanks,
Jim

From: mdelucio@zsws.com [mailto:mdelucio@zsws.com]
Sent: Monday, December 14, 2015 11:24 AM
To: Cruse, Jim <jcruse@evansville.in.gov>
Subject: City of Evansville/Petition for Vacation of Right-of-Way

Dear Mr. Cruse,

We represent the City of Evansville who is seeking to vacate the portion of Third Avenue between Riverside Drive and First Street in connection with the proposed development of property by Tropicana. Attached is a letter and attachments requesting your approval/input on the vacation request. We are attempting to get the Petition filed before Christmas. Accordingly, anything you can do to expedite your review of this request would be greatly appreciated.

Should you have any questions concerning the foregoing, please feel free to contact me.

MARCO L. DELUCIO

ZSWS

ZIEMER STAYMAN
WEITZEL SHOULDERS LLP

ATTORNEYS AT LAW

20 NW FIRST STREET 9TH FLOOR | PO BOX 916
EVANSVILLE INDIANA 47706 0916

PHONE **(812)424-7575** | FAX **(812)421-5089** | ZSWS.COM

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EVANSVILLE FIRE DEPT.

LLOYD WINNECKE
MAYOR

MIKE CONNELLY
FIRE CHIEF

550 S.E. Eighth St. · Evansville, IN 47713-1786
(812) 435-6235 · FAX: (812) 435-6248 · TDD/Hearing Impaired: (812) 436-4925

February 16, 2016

Marco L. Delucio
Ziemer, Stayman, Weitzel & Shoulders
20 NW First Street, 9th Floor
PO Box 916
Evansville, IN 47706

RE: Petition for Vacation of Right-of-Way – Streets and Alleys listed below;

Mr. Delucio;
We recognize & acknowledge request for Vacation of Right-of-way of Third Avenue, between First Street and Riverside Drive, as referenced on Exhibit "A" of the vacation documents, part of Hornsby's Enlargement, Vanderburgh County, Indiana.

1) Existing easement for Third Avenue, running southwest from First Street, approximate 302.08'on the northwest border and 312.14' on the southeast border at an approximate dimension of 61.00' give or take in width. This roadway dead ends into Riverside Drive. See vacation documents for exact dimensions.

Existing Conditions: Street/Roadway

Effect of Vacation on Fire Department: none

Recommendations: The Evansville Fire Department has no objection in closing of above referenced street/roadway.

Sincerely,

Dan Grimm
Chief Fire Marshal
Fire Prevention & Education
Evansville Fire Department
550 SE 8th Street
Evansville, IN 47713
812.436.4428

EXHIBIT "F'

UTILITY/DEPARTMENT LETTERS – EASEMENTS REQUIRED

1. WOW!

2. Vectren

3. Evansville Water & Sewer Utility

4. AT&T

5. Time Warner Cable

WOW!

It's that kind of experience.

February 12, 2016

Marco DeLucio

Ziemer Stayman Weitzel Shoulders LLP.

20 NW FIRST STREET 9TH FLOOR PO BOX 916

EVANSVILLE INDIANA 47706 0916

Re: City of Evansville/Petition for Vacation of Right-of-Way

Mr. DeLucio,

The SIGECOM/WOW Outside Plant Engineering department reviewed the vacation letter request for the new land based casino for Tropicana as depicted on your drawing titled "WOW.pdf". The findings of this review determined that SIGECOM/WOW does have cabling facilities in the area of Third Avenue outlined in your supplied drawing.

As a result of these findings, SIGECOM/WOW does not object to the proposed vacation of the area of Third Avenue outlined in your supplied drawing. SIGECOM/WOW will need to retain an easement granted in its favor for the placement and maintenance of telecommunication facilities that lies within this said vacation petition. If utilities are requested to be relocated SIGECOM/WOW will relocate granting a mutually agreed upon easement for relocation and cost reimbursement plan for the SIGECOM/WOW facilities located within the subject right-of-way area.

This letter granted by Wide Open West for said vacation is valid for one hundred eighty (180) days. If the Evansville City Council passes this vacation request, I would like to receive a copy of the recorded ordinance to be used for the purpose of updating our records.

Please contact my office should you have any questions or need any additional information.

Sincerely,

Tom Cheski

Construction Engineer

WOW! Internet-Cable-Phone

Office – 812-437-0395

Mobile – 812-470-4572

Email – thomas.cheski@wowinc.com

VECTREN
Live Smart

Vectren Corporation
P.O. Box 209
Evansville, IN 47702-0209

December 14, 2015

Ziemer, Stayman, Weitzel, Shoulders, LLP
Attn: Marco Delucio
20 NW First Street, 9th Floor
P.O. Box 916
Evansville, IN. 47706

Re: Petition to Vacate a portion of Third Avenue lying between First Street and Riverside Drive, also lying between Hornby's Enlargement, as per plat thereof, recorded in Plat Book "A", Page 33 and re-transcribed of record in Plat Book "E", Page 66, and Lower Enlargement, as per plat thereof, recorded in Plat Book "A", Page 120 and re-transcribed of record in Plat Book "E", Page 24 in the office of the Recorder of Vanderburgh County, Indiana and being further described and shown on the attached exhibits.

Petitioner: City of Evansville

Dear Mr. Delucio:

Engineering representatives for Southern Indiana Gas and Electric Company, Inc. doing business as Vectren Energy Delivery of Indiana ("VEDI") have researched the above location requested for vacation and there are currently existing electric and gas facilities within the subject right of way. Therefore, the vacation request should include the following language to reserve our rights.

Southern Indiana Gas and Electric Company, Inc. d/b/a Vectren Energy Delivery of Indiana, hereinafter referred to as Company reserves the following easement rights:

Electric line:

An easement with the right to construct, inspect, maintain, operate, repair, alter, relocate, enlarge, rebuild and remove one or more electric lines above or below ground, whether facilities are above or below ground, together with all appurtenances and appliances, fixtures or equipment as may be convenient or necessary for the transmission of electric energy, upon, over, under and across said strips of land, as shown on the attached drawing, made a part hereof, and marked Exhibit "A", together with the right of ingress and egress over the lands to and from said facilities in the exercise of the rights herein granted. The Company also reserves the right to trim or remove, at Company's sole discretion, any and all trees located within said strips of land, and the right to trim or remove, at Company's sole discretion, any and all trees located outside said strip of land that are of such height that in falling directly to the ground they could come in contact with said above ground facilities, and the right to remove brush or other obstructions from said strip of land.

Gas line:

An easement with the right to lay, construct, inspect, maintain, operate, repair, alter, relocate, enlarge, rebuild and remove a pipe line, together with drips, tie-overs, valves, anodes, protective facilities, and all other appurtenances thereto, whether above or below the surface, convenient or necessary for the transportation of gas or other substances which can be transported through a pipe line, in, under, over, across, upon, and through said strips of land, as shown on the attached drawing, made a part hereof, and marked Exhibit "A", together with the right of ingress and egress over the lands of Grantor to and from said pipe line in the exercise of the rights herein granted. The Company also reserves the right to trim or remove, at Company's sole discretion, any and all trees, brush or other obstructions located within said strips of land.

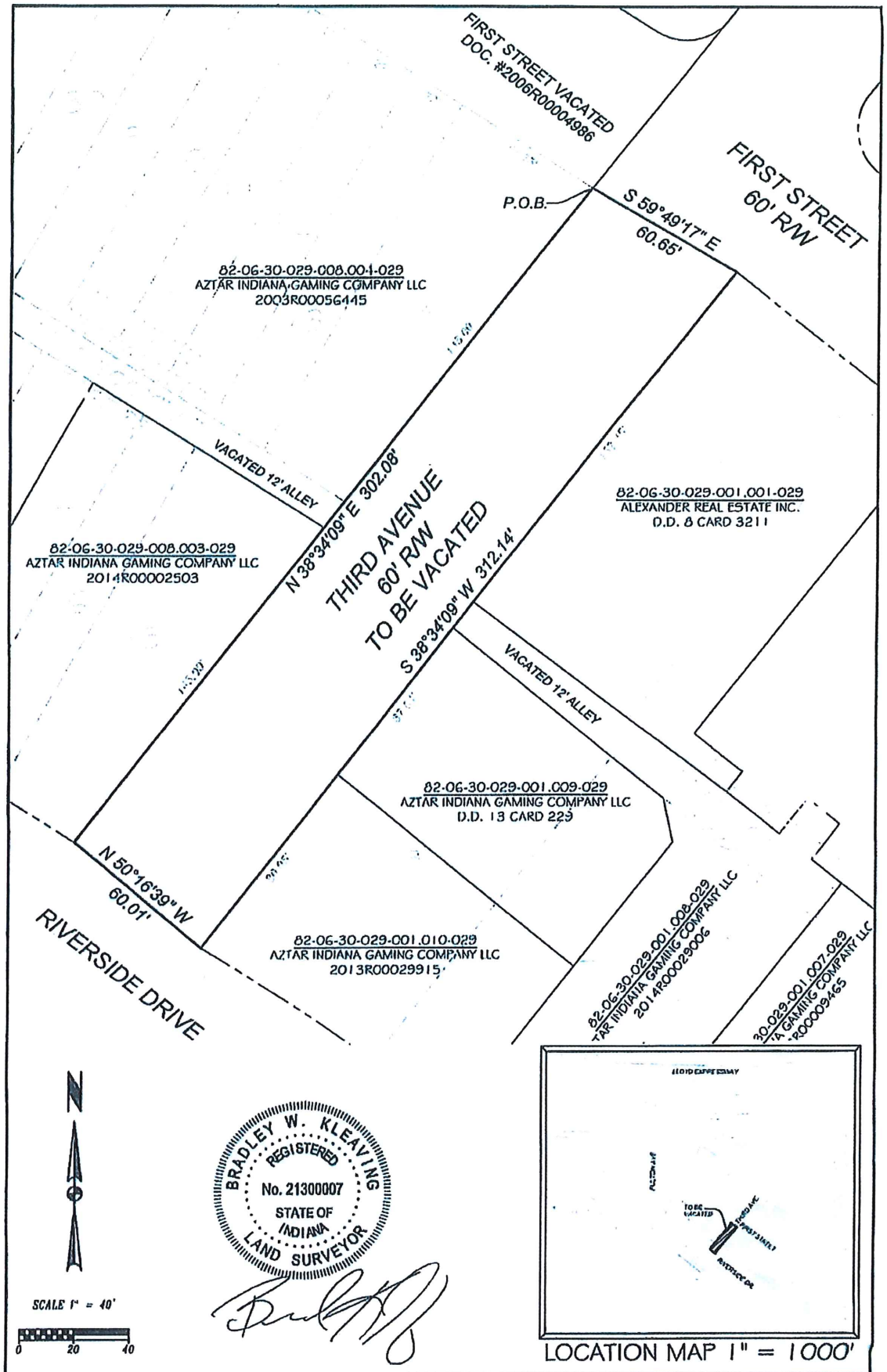
The above rights must be reserved in the ordinance for Southern Indiana Gas and Electric Company/Vectren to approve the said vacation.

Please forward to my attention a copy of the recorded ordinance upon passing for our records.

Sincerely,

Colby Morris

Colby Morris, SR/WA
Land Services, Right of Way Agent III
Vectren Energy Delivery of Indiana
(812) 491-4785



Evansville WATER AND SEWER UTILITY 1931 ALLENS LANE - EVANSVILLE, IN 47720	EXHIBIT "A"	DRAWN BY: B.W.K.
	SITE PLAN/LOCATION MAP	SCALE: 1" = 40'
		DATE: 12/07/2015

VACATION DESCRIPTION:

A portion of Third Avenue lying between First Street and Riverside Drive, also lying between Hornby's Enlargement, as per plat thereof, recorded in Plat Book "A", Page 33 and re-transcribed of record in Plat Book "E", Page 66, and Lower Enlargement, as per plat thereof, recorded in Plat Book "A", Page 120 and re-transcribed of record in Plat Book "E", Page 24, in the office of the Recorder of Vanderburgh County, Indiana and further described as follows:

Beginning at the northeast corner of Lot 14 of said Hornby's Enlargement; thence

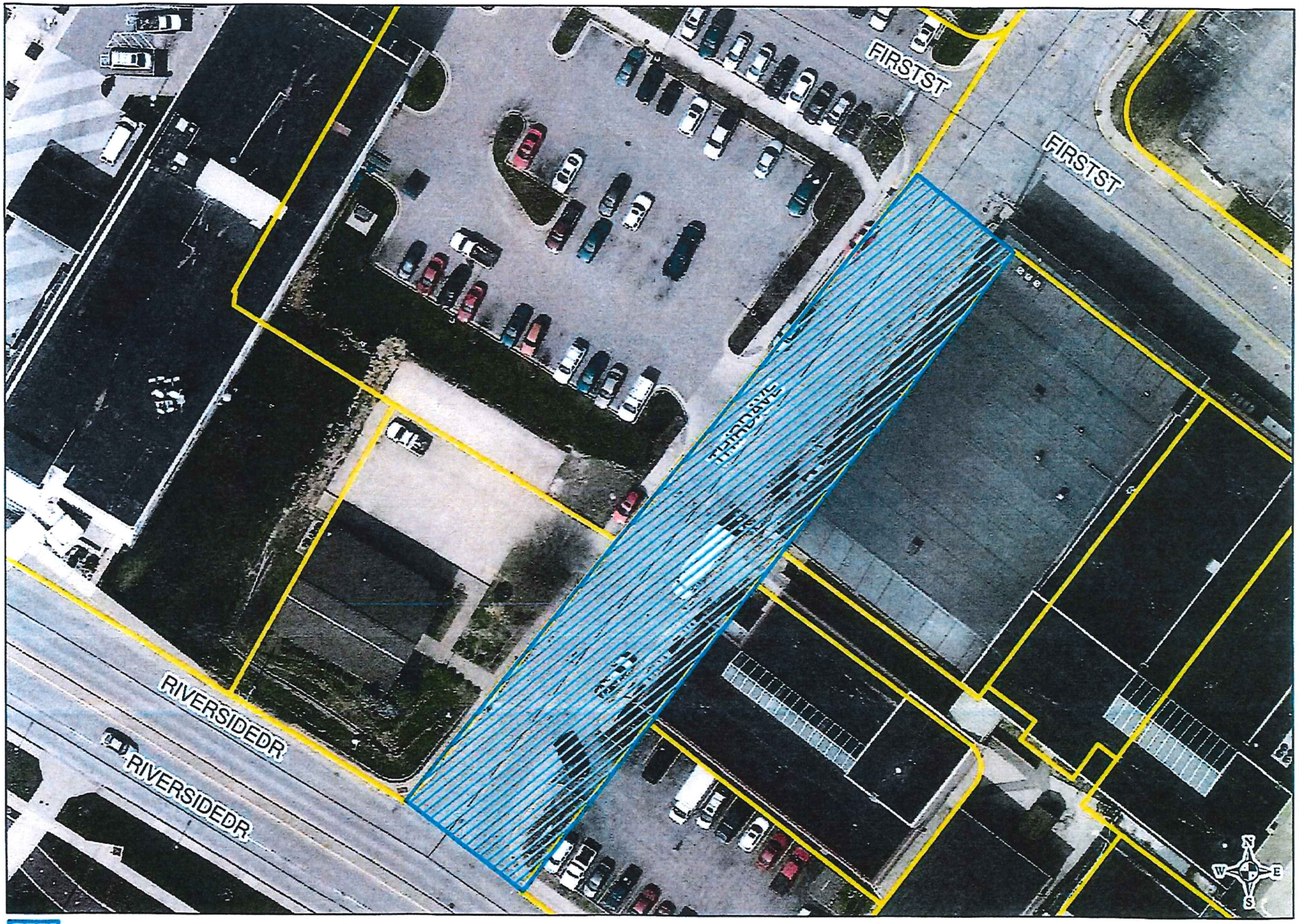
1st South 59°49'17" East a distance of 60.65 feet to the northwest corner of Lot 9 of said Lower Enlargement; thence along the Westerly line of said Lower Enlargement, also being the Easterly Right of Way of Third Avenue,

2nd South 38°34'09" West a distance of 312.14 feet to the southwest corner of Lot 8 of said Lower Enlargement, also being the Northerly Right of Way of Riverside drive as per State Project U-877; thence along said Northerly Right of Way,

3rd North 50°16'39" West a distance of 60.01 feet to the southeast corner of Lot 15 of said Hornby's Enlargement; thence along the Easterly line of said Hornby's Enlargement, also being the Westerly Right of Way of Third Avenue,

4th North 38°34'09" East a distance of 302.08 feet to the point of beginning.

The above description is based on a ALTA survey performed by Bernardin Lochmueller and Associates as per Document Number 2007R00005848, recorded in the Vanderburgh County Recorder's Office and State of Indiana Department of Transportation Project U-877 Right of Way Plans.



Proposed Vacation of Public ROW

No Scale

Disclaimer: The City Engineer's Office makes no representations in regards to the accuracy of the proposed vacation of public ROW. This information is not intended to take place of a legal survey or proper field investigation.

LLOYD WINNECKE
MAYOR

EVANSVILLE WATER & SEWER UTILITY

ALLEN R. MOUNTS
DIRECTOR

1 NW Martin Luther King Blvd. Room 104 · Evansville, Indiana 47708
P O Box 19, Evansville, Indiana 47740-0001
(812) 436-7846 · FAX (812) 436-7863 · TDD (812) 436-7864

December 2, 2015

Mr. Marco Delucio
Ziemer Stayman Weitzel & Shoulders
20 NW First Street, 9th Floor
P.O. Box 916
Evansville, IN 47706 0916

Re.: Proposed Vacation – South Third Street from NW Riverside Drive to NW First Street

Mr. Delucio,

This letter is in response to your request to vacate S. Third Street from NW Riverside Drive to NW First Street. The Evansville Water and Sewer Utility (EWSU) have the following requirements:

A six-inch (6") water line exists through the corridor. This line also serves a hydrant near 517 NW Riverside and a two-inch (2") meter for 18 S. Third Avenue. This line would require an easement through the vacated area and an easement around the two service lines, meter, and hydrant.

A twenty four inch (24") water line exists through the corridor. This line would require an easement through the vacated area.

An eight inch (8") sewer line exists across the corridor to serve 601 NW Riverside. This sewer alignment continues across the vacation and through 517 NW Riverside. This line would require an easement through the vacated area.

None of these service lines shall be allowed to be built over. If an easement is not feasible leaving unobstructed access free of foundational structure or pavement, each of these lines will need to be relocated to an adjacent public right-of-way corridor. It is possible the 6" water and 24" water line can be relocated as one line under this condition. Future review based on planned improvements would be required to verify this possibility. If you have any questions, please call me at 421-2130 x2228.

Sincerely,

Michael D. Labitzke, PE
Deputy Director of Utilities - Engineering

December 17, 2015

Marco Delucio
Ziemer Stayman Weitzel Shoulders LLP
20 NW First Street 9th Floor
PO Box 916
Evansville, Indiana 47706

Re: City of Evansville
Petition for Vacation of Right-of-Way – Third Avenue between
Riverside Drive and First Street

Dear Mr. Delucio,

I have reviewed our records related to your request for the vacation of the public way known as Third Avenue, between Riverside Drive and First Street as depicted on your drawing titled "Exhibit A", sent to AT&T on 12/14/15.

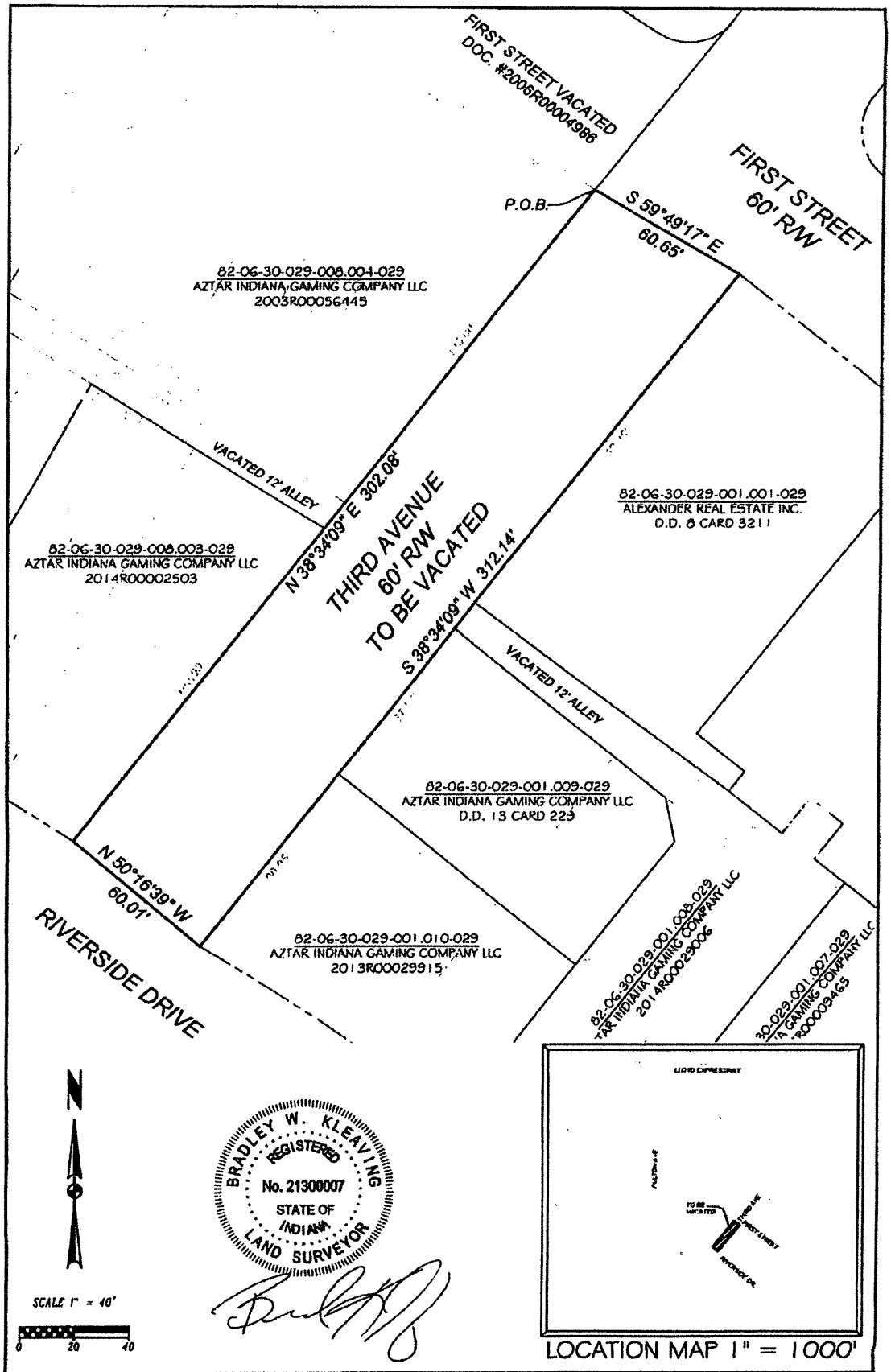
AT&T has no objections to the vacation of the indicated right-of-way, subject to reservations of easement as follows:
AT&T has existing facilities - consisting of a combination of poles, aerial and buried cables, conduit, manholes, and closures within portions of the indicated right-of-way. AT&T reserves easement rights therein for Indiana Bell Telephone Company, Incorporated dba AT&T Indiana, an Indiana Corporation, and its affiliates and licensees, successors and assigns a non-exclusive easement in, under, over, upon and across the Easement Area, for the purposes of and in order to construct, reconstruct, modify, supplement, maintain, operate and/or remove facilities for the transmission of signals used in the provision of communication, video and/or information services and/or any other services or uses for which such facilities may be used including, but not limited to, equipment cabinets or enclosures and support posts or pads, cables, wires, pedestals or other above-ground cable or wire enclosures, marker posts and signs, and other related or useful equipment, fixtures, appurtenances and facilities, together with the right to have commercial electrical service extended across the Property and Easement Area to provide service to such facilities, the right to remove or trim trees or brush as is necessary to exercise the rights conveyed herein, and the right of ingress and egress across the Property and the Easement Area for the purpose of access to and use of the easement.

If your client will require the relocation of AT&T's facilities please contact the AT&T Custom Work Order Group (1/888/901/2779) to obtain a cost estimate.

Please let me know if you have any questions or concerns.

Thanks,

Andy Folz
AT&T Engineering Department
Office: 812-464-6055
Email: af1896@att.com



Evansville WATER AND SEWER UTILITY 1931 ALLENS LANE - EVANSVILLE, IN 47720	EXHIBIT "A"	DRAWN BY: B.W.K.
	SITE PLAN/LOCATION MAP	SCALE: 1" = 40'
		DATE: 12/07/2015

TIME WARNER CABLE
THE POWER OF YOU™

750 CANYON DR, STE 500
COPPELL, TX 75019, 2015

December 15, 2015

Marco L. Delucio
Ziemer Stayman Weitzel Shoulders
20 NW First Street 9th Floor
PO Box 916
Evansville, IN 47706

RE: City of Evansville/Petition for Vacation of Right-of-way

Time Warner Cable (TWC) has aerial and underground facilities within the Property Description shown on the documents provided by the requestor, within the city of Evansville, IN. TWC does reserve the right to have access to any applicable utility easements on the property for the purpose of future construction or maintenance. The owner and/or lessee of said property may also be responsible for the relocation/removal of any structure interfering with access to these easements, if necessary.

If it has not already taken place, please call 1-800-DIG-TESS to have facilities marked and located within affected easements before any excavations are begun.

For future reference, please send all utility coordination, abandonments, encroachments, plat signatures, or serviceability requests, or notices of relocation to west-engineering-relo@twcable.com. Please share this information with whoever needs these services.

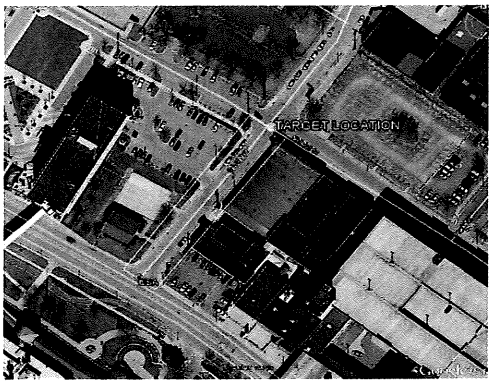
Sincerely,

Lisa N. Law
Date Operations Manager
West Region
Time Warner Cable
750 Canyon Drive
Coppell, TX 75019

City of Evansville/Petition for Vacation of Right-of-way - map Evansville, IN

Red-existing Time Warner aerial facilities within project limits.

Green-existing Time Warner underground facilities within project limits.


TARGET LOCATION

134 NW Sixth Street
Evansville, Indiana 47708

February 11, 2016

Marco Delucio
Ziemer Stayman Weitzel Shoulders, LLP
20 NW First Street - 9th Floor
Evansville, Indiana 47706

RE: Third Avenue Vacation

Mr. Delucio,

AT&T Indiana has no objection to the vacation of the Third Avenue right-of-way from Riverside Drive to First Street in Evansville, Indiana, as described in your letter of December 14, 2015 (attached).

AT&T Indiana has facilities within the aforementioned area, and therefore requests all easement rights therein.

Please email or call me at 812/464-6050 if you have questions.

Regards,

Marc Clark
AT&T Design Engineer
mc3429@att.com

USA Proud Sponsor of the U.S. Olympic Team

ZSWS

ZIEMER STAYMAN
WEITZEL SHOULDERS LLP

ATTORNEYS AT LAW

20 NW FIRST STREET NINTH FLOOR PO BOX 916
EVANSVILLE INDIANA 47706-0916
PHONE 812 424 7575 FAX 812 421 5089

ZSWS.COM

Writer's e-mail: MDeLucio@zsws.com

December 14, 2015

VIA E-MAIL: mc3429@att.com

AT&T
Marc Clark, Engineer
134 N.W. Sixth Street, Room 225
Evansville, IN 47708

RE: City of Evansville
Petition for Vacation of Right-of-Way – Third Avenue between Riverside Drive and First Street

Dear Mr. Clark:

A Petition for Vacation will be filed on behalf of the City of Evansville to vacate the public way known as Third Avenue between Riverside Drive and First Street in the County of Vanderburgh, Indiana. A site plan, aerial photo and legal description of the area to be vacated are enclosed herewith.

Please let me know as soon as possible whether the above-described property to be vacated is subject to an easement in favor of AT&T and if so, please provide me with the required easement language.

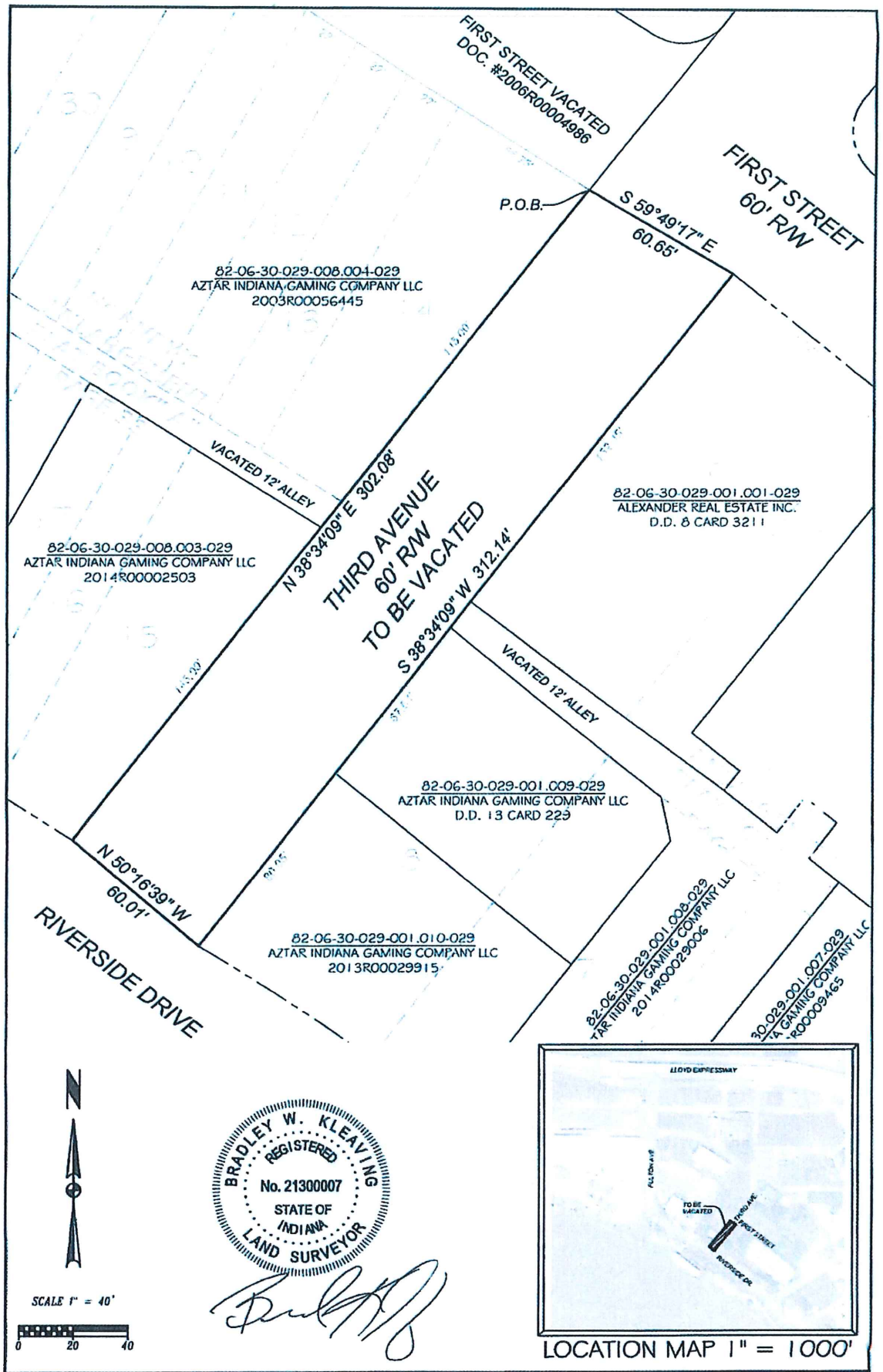
Should you have any questions or concerns with this matter, do not hesitate to contact me.

Very truly yours,

ZIEMER, STAYMAN, WEITZEL & SHOULDERS, LLP

Marco L. DeLucio
Attorney for Petitioner

Enclosures



LOCATION MAP 1" = 1000'

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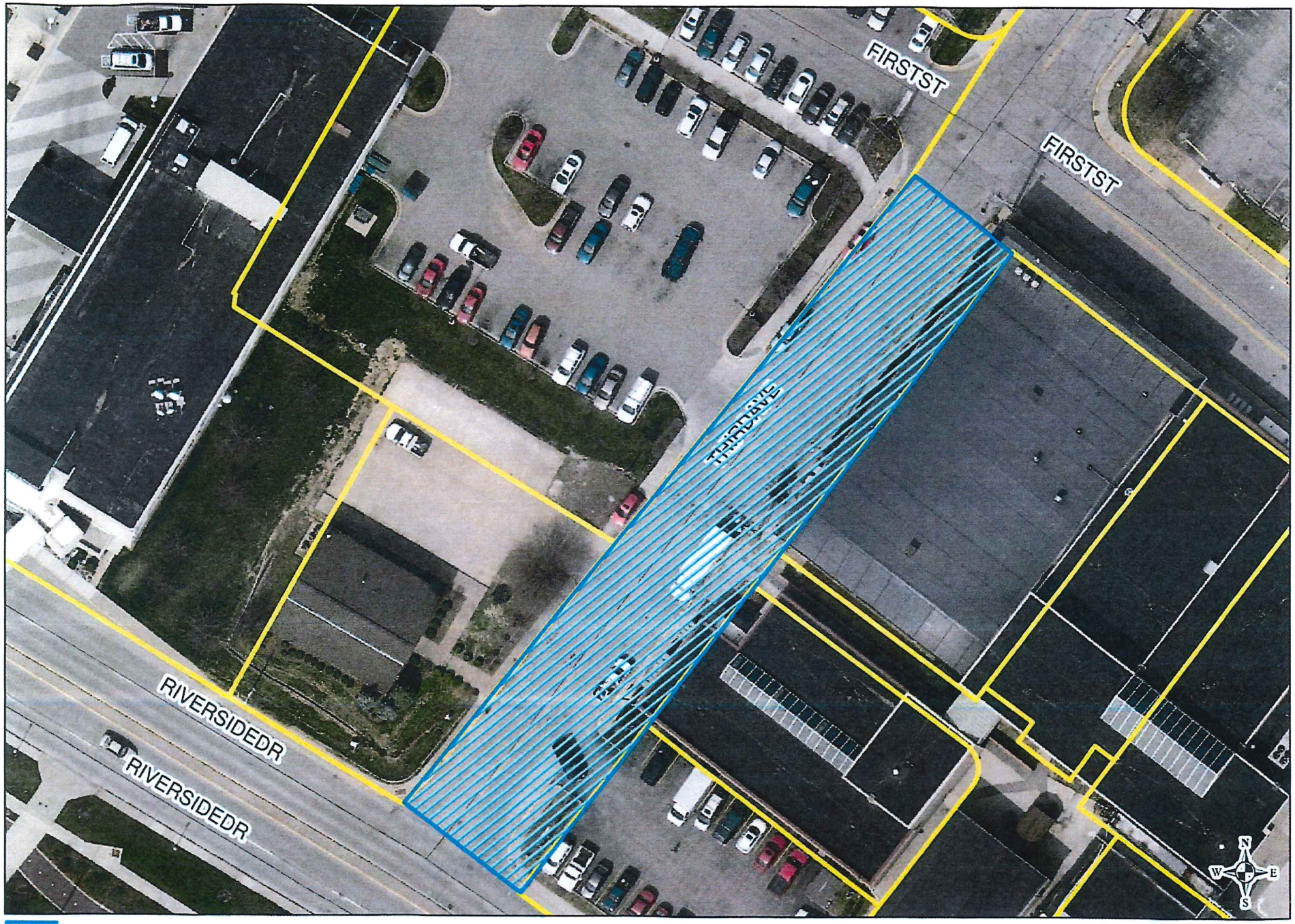

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No Scale

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