

FILED

AUG 15 2018

SPECIAL ORDINANCE NO. 28, 2018

CITY CLERK

AN ORDINANCE VACATING A PORTION OF FOURTH STREET,
LOCATED IN THE CITY OF TERRE HAUTE, VIGO COUNTY, INDIANA.

BE IT ORDERED by the Common Council of the Cit of Terre Haute, Indiana.

SECTION 1. Pursuant to the provisions of I.C. 36-7-3-12, it is desired and deemed necessary to vacate a portion of Fourth Street located in the City of Terre Haute, Vigo County, Indiana, which is now laid out and existing in the City of Terre Haute, Indiana, and described as follows:

A part of the southeast quarter of Section 33, Township 12 North, Range 9 West, Vigo County, Indiana described as follows:

Beginning at the intersection of the West right-of-way line of Fourth Street with the Northeast right-of-way line the Indiana Railroad (formerly CSX railroad) being 66 feet wide centered on the main (single) track; thence South 39 degrees 59 minutes 18 seconds East along said Northeast right-of-way line a distance of 101.01 feet to the East right-of-way line of said Fourth Street; thence continuing said course a distance of 38.59 feet to the North right-of-way line of Preston Street; thence North 89 degrees 05 minutes 52 seconds West along said North line a distance of 43.65 feet to the centerline of said railroad; thence North 39 degrees 59 minutes 18 seconds West along said centerline a distance of 71.77 feet to the West right-of-way line of said Fourth Street extended; thence North 0 degrees 03 minutes 54 seconds East along said West line a distance of 51.28 feet to the point of beginning, containing 3,488 square feet, 0.08 acres more or less.

Vacating a portion of Fourth Street.

SECTION 2. Be it further ordained that said portion of said Fourth Street in the City of Terre Haute, Indiana, above described, be and the same is vacated and will revert to the Indiana Railroad Company, as the adjoining property owner, subject to the continuation of any and all existing easement rights for public utilities.

SECTION 3. Be it further ordained that the City Clerk be, and she is hereby directed to furnish a copy of this Ordinance to the Recorder of Vigo County, Indiana, for recording, and to the Auditor of Vigo County, Indiana.

WHEREAS, an emergency exists for the immediate taking effect of this Ordinance, the same shall be in full force and effect from and after its passage by the Common Council of Terre Haute, and its approval by the Mayor and publication as by law provided.

Presented by Council Member, _____
Amy Auler, Council Member

Passed in open Council this ____ day of _____, 2018.

Curtis DeBaun, Council President

ATTEST:

Michelle Edwards, City Clerk

Presented by me to the Mayor of the City of Terre Haute, this ___ day of _____, 2018.

Michelle Edwards, City Clerk

Approved by me, the Mayor of the City of Terre Haute, this ____ day of _____, 2018.

Duke A. Bennett, Mayor

ATTEST:

Michelle Edwards, City Clerk

**PETITION FOR VACATION OF PORTION OF
FOURTH STEET, TERRE HAUTE INDIANA**

TO THE PRESIDENT AND MEMBERS OF THE
COMMON COUNCIL OF THE CITY OF TERRE
HAUTE, VIGO COUNTY, INDIANA

LADIES AND GENTLEMEN:

The Indiana Rail Road Company, an Indiana Corporation, (hereinafter referred to as "INRD") is the owner of land abutting a portion of Fourth Street, which is a platted Public Road located in Terre Haute, Indiana and respectfully petitions and requests the legislative body of the City of Terre Haute, Indiana to vacate that portion of a Public Road described below pursuant to the various provisions of I.C. 36-7-3-12, and in support of this Petition would show to the Common Council of the City of Terre Haute as follows:

1. The Indiana Rail Road Company owns and operates a commercial railway which traverses the City of Terre Haute, Vigo County, Indiana legally described as part of the Southeast quarter of Section 33, Township 12 North, Range 9 West, Vigo County, Indiana including a portion of the railway that crosses 4th Street (hereinafter referred to as the "4th Street Crossing").
2. That a copy of a portion of the plat of the said Public Road which runs along the north and south side of the INRD property is attached hereto, made a part hereof and is marked as Exhibit "A".
3. That the portion of the Public Road to be vacated as set forth above may be more particularly described on the attached Exhibit "B".
4. Petitioner believes that no landowner adjoining and abutting the Public Road to be vacated would be adversely affected by the vacation of said Public Road, since the portion of the public road to be vacated terminates at the INRD railway and does not nor will not serve a functional purpose to the public.
5. Petitioner proposes the vacation of the Public Road in order to allow more efficient and effective use of Petitioner's real estate.

6. The proposed vacation would not hinder the use of a public road by the neighborhood in which the portion of 4th Street is located or to any contiguous roads since INRD is the owner of the land abutting the portion of 4th Street. The proposed vacation of a portion of 4th Street would not make access to any adjoining street more difficult or inconvenient as 4th Street terminates at the INRD railway. The vacation of a portion of 4th Street would not hinder or inconvenience any member of the public's access to any public or private improvement or public or private building or place. The vacation of a portion of 4th Street will not interfere in any way with fire protection or police protection of any improvements, buildings or property located within the City of Terre Haute, Indiana.

7. The names and addresses of all owners of land that abuts that portion of 4th Street proposed to be vacated are:

Ricky G. Lasure, PO Box 10602, Terre Haute, Indiana 47801;
Burger Caldwell Real Estate, LLC, 2600 S. 3rd Street, Terre Haute, Indiana 47802.

Notice of the proposed vacation of a portion of 4th Street has been sent by Federal Express Certified Delivery to Ricky G. Lasure and Burger Caldwell Real Estate, LLC at their address.

8. The Indiana Railroad agrees to pay all fees and costs associated with this Petition and comply with all statutory requirements and reasonable request or requirements of the Common Council necessary to vacate a portion of 4th Street as requested in this Petition.


9. The public good will not be disserved by the granting of this Petition. It is in the best interest of the general public of the City of Terre Haute to grant this Petition.

WHEREAS, Petitioner, The Indiana Railroad Company respectfully requests and petitions the Common Council of the City of Terre Haute, Indiana, after hearing on this Petition in accordance with applicable Indiana statutes to:

- a.) Adopt an Ordinance vacating that portion of 4th Street referred to and described on the attached Exhibit "B", subject to existing easement rights for public utilities;
- b.) Cause the Clerk of the City of Terre Haute to furnish copies of the Vacation Ordinance to the County Recorder of Vigo County, Indiana for recording and to the county Auditor, and to thereupon cause the Recorder to release said Ordinance to the Vigo County Area Planning Department for distribution in accordance with the City's Zoning Ordinance and Subdivision Code.
- c.) For all other proper relief in the premises.

PETITIONER:

The Indiana Rail Road Company


Micheal D. Engel, VP/CFO

Amy Auler, Terre Haute Common
Council, as Petition Sponsor

Petitioner's Address: 1500 S. Senate Avenue, Indianapolis, IN 46225.

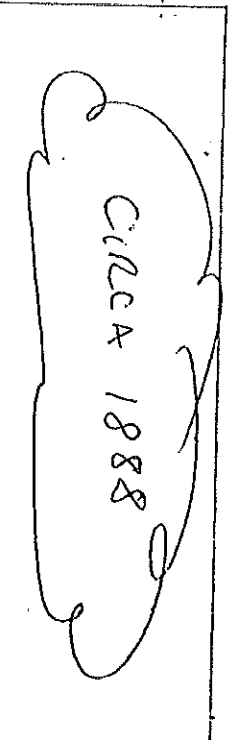
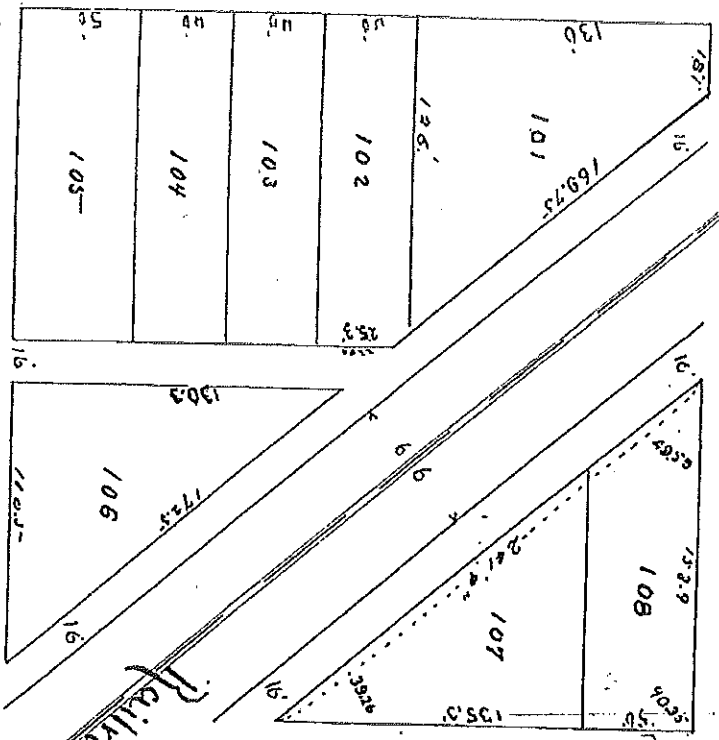
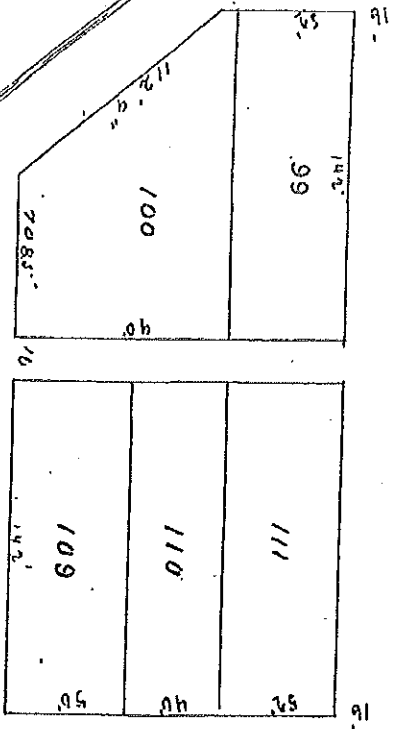
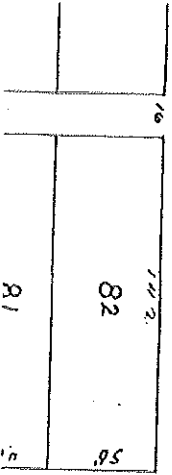
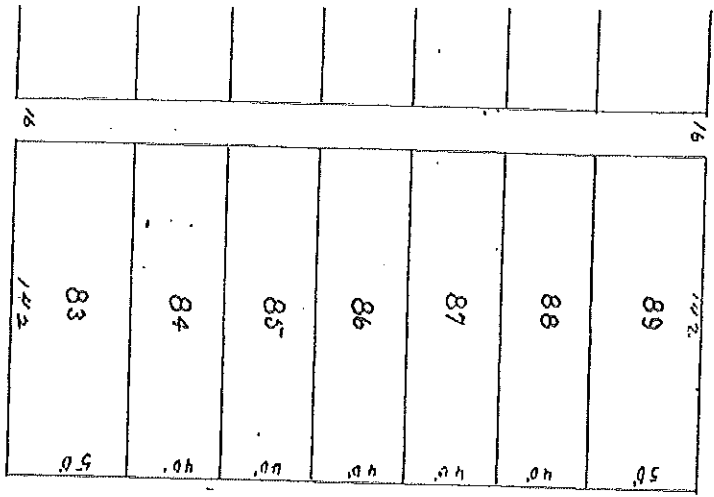
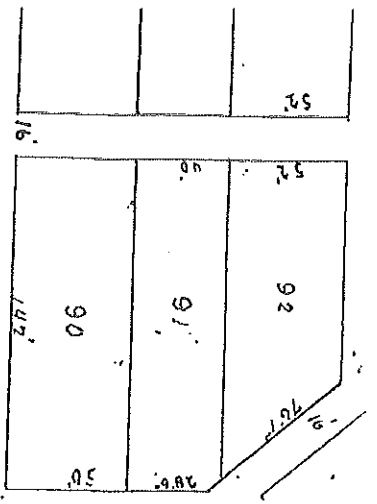
This Petition prepared by: Thomas E. Densford, Bauer & Densford, 608 W. Third Street, P.O. Box 1332, Bloomington, Indiana 47402-1332, (812) 334-0600.

Thomas E. Densford affirms under the penalties for perjury, that I have taken reasonable care to redact each Social Security Number and Date of Birth in this document, unless required by law.

EXHIBIT A

TO

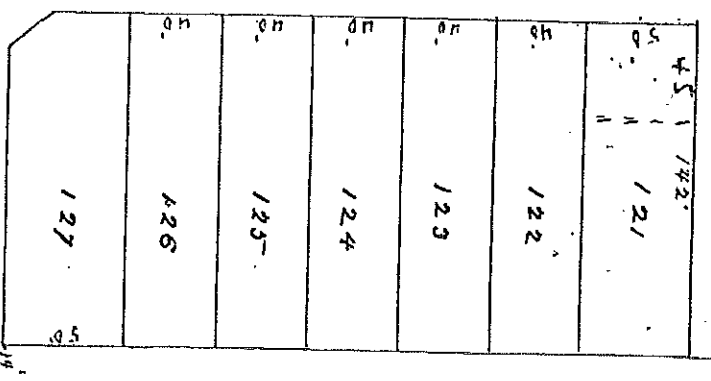
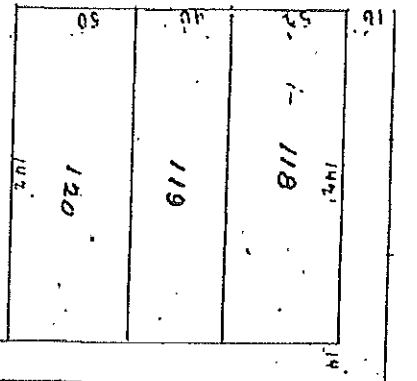
**PETITION FOR VACATION OF
PORTION OF FOURTH STREET,
TERRE HAUTE, INDIANA**



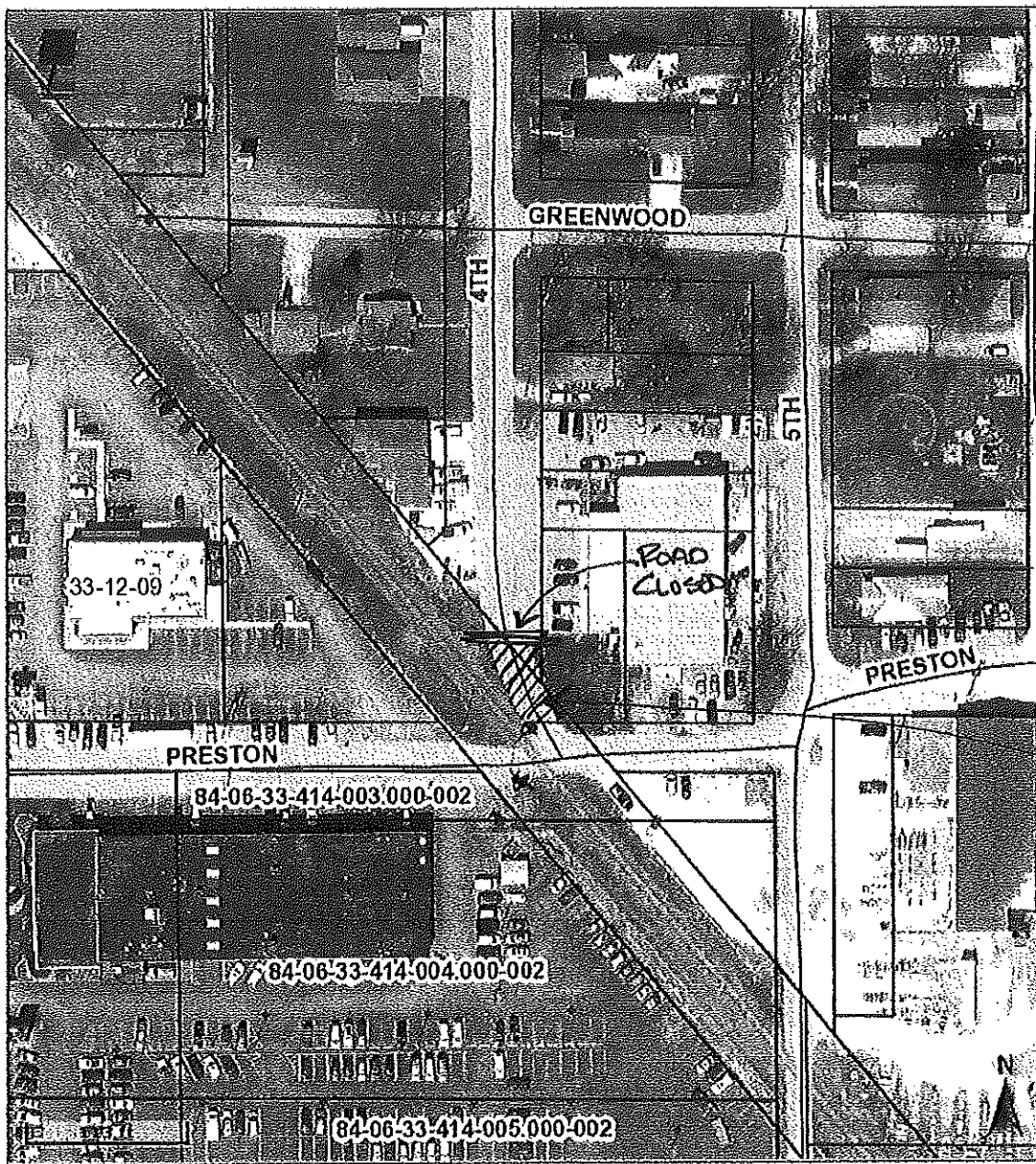
4TH

Street

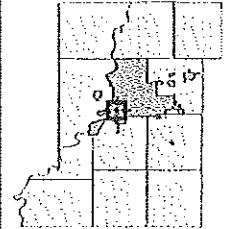
Street



Date Created: 11/4/2011



Overview



Legend

- Corporate Limits
- Political Townships
- Sections
- Blocks
- Parcels
- Road Centerlines

1888 SURVEY
PLAT SHOWS
RR IN PLACE

REMOVE
PAVEMENT

Last Data Upload: 11/4/2011 1:53:27 AM

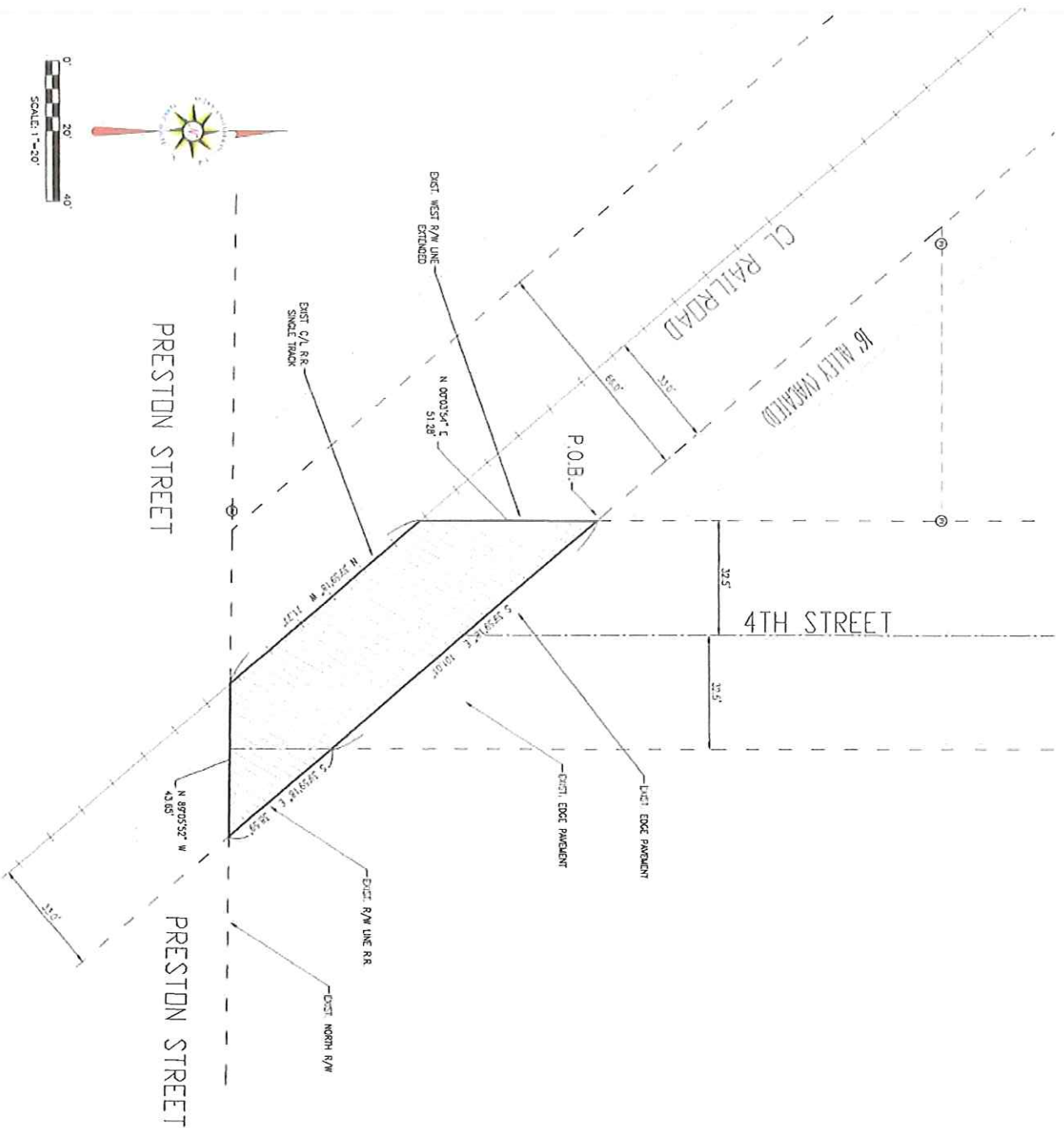


developed by
The Schneider Corporation
www.schneidercorp.com

EXHIBIT B

TO

**PETITION FOR VACATION OF
PORTION OF FOURTH STREET,
TERRE HAUTE, INDIANA**



Street Closure Legal Description


A part of the southeast quarter of section 33, Township 12 North, Range 9 West, Vigo County, Indiana described as follows:

Beginning at the intersection of the West right-of-way line of Fourth Street with the Northeast right-of-way line of the Indiana Railroad (formerly CSX Railroad) being 66 feet wide centered on the main (right) side; thence South 59 degrees 59 minutes 18 seconds bearing North 101.07 feet to the East right-of-way line of said Fourth Street; thence continuing said course a distance of 28.59 feet to the North right-of-way line of Preston Street; thence North 89 degrees 05 minutes 32 seconds West along said line a distance of 102.15 feet to the intersection of said railroad; thence North 19 degrees 59 minutes 18 seconds West along said centerline a distance of 71.77 feet to the West right-of-way line of said Fourth Street extended; thence North 0 degrees 05 minutes 54 seconds East along said West line a distance of 31.28 feet to the P.O.B. being a square containing 3,498 square feet, more or less.

This plat was prepared based on Myers Engineering survey Project TH103-238. This is not a retracement boundary survey. Field Work completed 6/14/2018 no monuments set.

5000 AND 5010 AND 5020 C.I.E. APPROVED BY STATE, HAS EXAMINED AND NOT RECORDED WITHOUT THE WRITTEN PERMISSION OF MYERS ENGINEERING, INC.

INRD - 4th Street Crossing



MYERS ENGINEERING, INC.
Company ©2018
1001 Myers Engineering Lane
1001 Myers Engineering Lane
1001 Myers Engineering Lane
1001 Myers Engineering Lane
1001 Myers Engineering Lane

DATE: 11/21/18
PROJECT NUMBER: TH103-238
DRAWN BY: 11-207
CHECKED BY: 11-207
SCALE: AS SHOWN
SHEET 1 OF 1

CLIENT: INRD
City of Terre Haute

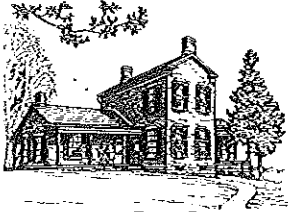
Exhibit Plat for Street Closure

Part of the S.E. 1/4, Section 33, T-12N, R-9W, 1990 County, Vigo County, IN

Street Closure Legal Description

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PRACTICING LAW IN
THE PARIS DUNNING HOUSE
NATIONAL HISTORIC REGISTER

BAUER & DENSFORD
ATTORNEYS AT LAW

JAWN J. BAUER
jbauerlaw@bauerdensford.com

THOMAS E. DENSFORD
tom@bauerdensford.com

August 14, 2018

Michelle Edwards
City Clerk, City of Terre Haute
Room 102, City Hall
17 Harding Avenue
Terre Haute, IN 47807

**RE: The Indiana Rail Road Company
Petition for Vacation of Portion of Fourth Street, Terre Haute, Indiana**

Dear Ms. Edwards:

Enclosed please find an original and thirteen (13) copies of a *Petition for Vacation of Portion of Fourth Street, Terre Haute, Indiana; Special Ordinance No. 28* and a check for the filing fee in the amount of Five Dollars (\$5.00) tendered to the City of Terre Haute.

Please secure the signature of Amy Auler as the Sponsor of the *Petition* and *Ordinance*, distribute the fully executed *Petition* and *Ordinance* to all interested parties and return a fully executed file stamped copy of the documents to this office in the self address stamped envelope provided.

Please confirm the *Petition* will be scheduled for hearing before the Common Council on September 6, 2018.

A copy of the *Petition* along with *Consents to Vacation of Portion of Public Road* were forwarded to Ricky G. Lasure and Kevin Caldwell as adjacent property owners. I will forward the fully executed *Consents* as soon as they are received.

Please do not hesitate to contact me, if additional information or documentation is necessary.

Sincerely,

A handwritten signature in black ink, appearing to read "Thomas E. Densford". The signature is fluid and cursive, with a large, stylized initial "T" and "D".

Thomas E. Densford

TED/af
CC: The Indiana Rail Road Company
Enclosures

Receipt

The following was paid to the City of Terre Haute, Controller's Office.

Date: 08-15-18

Name: Bauer & Densford

Reason: Petition for Vacation of Patricia of 4th fl.

TERRE HAUTE, IN
INDIANA
PAID

AUG 15 2018

Cash: _____

Check: \$ 500 183916

Credit: _____

Total: \$5.00

CONTROLLER

Received By: [Signature]