

STAFF REPORT (ADDENDUM AUGUST 24, 2023)

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2023-CZN-837 / 2023-CVR-837 / 2023-CVC-837
Address: 217 West 10th Street and 916, 918 & 922 North Capitol Avenue
(Approximate Addresses)
Location: Center Township, Council District #11
Petitioner: MTP – 922 North Capitol Ave., LLC, by Joseph D. Calderon
Request: Rezoning of 1.17 acres (217 West 10th Street) from the I-3 (RC) district to the CBD-2 (RC) district.

Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for two, mixed-use buildings, each with one 11' by 27' loading space (two loading spaces per building required, dimensions of 30' by 12' and 55' by 12' required), and to allow for buildings with frontages along 10th Street to meet the Sky Exposure Plane Three requirements (Sky Exposure Plane Two standards required).

Vacation of Roanoke Street, being 30 feet in width, from the south right-of-way line of 10th Street, south 253.10 feet.

ADDENDUM FOR HEARING EXAMINER, AUGUST 24, 2023

At the July 27, 2023, Hearing Examiner, 2023-CZN-837 was recommended for approval and was heard and approved by the Metropolitan Development Commission at their hearing on August 16, 2023. The City-County Council will hear this matter in September, 2023. Also, on July 27, 2023, the Hearing Examiner approved 2023-CVR-837. However, due to Legal Notice issues by the petitioner to send adequate notice to utility agencies, the vacation petition, 2023-CVC-837, was continued, with notice, to the August 24, 2023, Hearing Examiner. Subsequent to the publication of the staff report document for this hearing, staff received the appraisal of the subject site. Staff has reviewed the findings of the appraisal and agrees with its findings, therefore, an updated motion is provided below:

ASSESSMENT OF BENEFITS

Appraiser Used: Paul K. Schuster
Appraiser's Benefits: \$2,100.00
Appraiser's Fee: \$800.00

RECOMMENDED MOTION (approval): That the Hearing Examiner find that the proposed vacation is in the public interest; that the Hearing Examiner sustain, confirm, approve and adopt the Final Assessment Roll in 2023-CVC-837, assessing benefits in accordance therewith, in the amount of \$2,100.00 and that the petitioner pay the Appraiser's Fee of \$800.00;; that the Hearing Examiner confirm and ratify the adoption of Declaratory Resolution 2023-CVC-837; and that the vacation be subject to the rights of public utilities under IC 36-7-3-16.

(Continued)

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RECOMMENDATIONS

Staff recommends **approval of the rezoning** petition.

Staff recommends **approval of the variance** petition.

RECOMMENDED MOTION (approval): That the Hearing Examiner find that the proposed vacation is in the public interest; that a hearing upon the assessment of benefits be held on August 24, 2023; that the Hearing Examiner confirm and ratify the adoption of Declaratory Resolution 2023-CVC-837; and that the vacation be subject to the rights of public utilities under IC 36-7-3-16.

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation:

HISTORY

- ◇ In late 2022, 2022-VAC-008 was filed and approved, to vacate an east-west alley between 916 and 918 North Capitol Avenue. The Plat Committee approved this vacation on December 14, 2022. Also in late 2022, 2022-REG-077 was filed for design review of a mixed-use development, with 270 dwelling units, over 13,000 square feet of commercial office and retail space, a parking garage with 398 spaces and resident amenities, for the eastern portion of the subject site, plus a large portion of 902 North Capitol Avenue. That petition was withdrawn at a hearing on March 1, 2023. In early 2023, 2023-DV1-002 was granted that provided for one smaller loading space than required. That petition was granted on February 7, 2023.

LAND USE

- ◇ The request would provide for a redevelopment of the site, with demolition of most structures, except for the historic Stutz II building. The proposed development would comprise of a five-story building and a six-story building, for a mixed-use development with approximately 278 dwelling units, 26,571 square feet of leased office and retail space, 7,505 square feet of amenity space, a parking garage with approximately 358 spaces, and an outdoor courtyard. Stutz II would be renovated into dwelling units. The five-story building would be on the eastern portion of the site at 916, 918 and 922 North Capitol Avenue, with the six-story building on the eastern portion of the site at 217 West 10th Street. The request would also provide for the vacation of the northern portion of Roanoke Street for a proposed plaza area that would be used for events for residents and visitors and a variance of the Sky Exposure Plane Two requirements.

REZONING

- ◇ The rezoning request would rezone the western portion of the site, 217 West 10th Street, from I-3 (RC) to CBD-2 (RC).
 - ◇ The Land Use Plan recommends City Neighborhood development. “The City Neighborhood typology consists largely of multifamily housing and is stepped down to other living typologies with attached housing. This typology is dense and walkable with a full range of city services and public
- (Continued)

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amenities. Ideally, block lengths are shorter than 500 feet and publicly accessible pedestrian connections are provided through large developments. Access to individual parcels is generally by an alley or internal parking structures. Public spaces are typically of a smaller and more intimate scale in the form of smaller parks, streetscapes, and interior courtyards or rooftop spaces. Residential development activates the sidewalk with externalized doors and public or semi-public spaces. The City Neighborhood typology typically has a residential density in excess of 15 dwelling units per acre". The request would comply with the Plan.

VARIANCE

- ◇ This petition seeks to reduce the number of loading spaces to one per building and for each loading area to be 11' by 27', and for the building to encroach into the Sky Exposure Plane Two development standard for this proposed mixed-use development. The Ordinance would require a minimum of two loading spaces for each building and for the loading space to be 30-foot by 12-foot in size and the second loading space to be a minimum of 55-foot by 12-foot in size.
- ◇ The loading area for the east building would be located off of Senate Avenue and the loading area for the west building would be within the structure, with trucks entering and exiting from Capitol Avenue. The reduction of the number of loading spaces and reduced area would be an acceptable deviate of the Ordinance standards as the majority of the floor space of the development would be for residential use, which typically use less loading space area than large all-commercial or industrial developments.
- ◇ A variance to provide for encroachment into the Sky Exposure Plane Two development standard would permit the structure to meet the standard typically met on sites abutting Monument Circle. The Sky Exposure Plane development standard is intended to provide a mechanism to control height of structures near the street to allow sunlight to sidewalks. Specifically, the standard for Sky Exposure Plane Two is that, from the centerline of the street, an incline of 60 degrees from the ground to a vertical elevation of 200 feet, then continue vertically at an angle of 90 degrees. Sky Exposure Plane Three requires an incline of 67.5 degrees from the ground to a vertical elevation of 108 feet, then continue at an incline of 74 degrees for another 150 feet, then at an angle of zero degrees, or, essentially, a cap of the building height at this measurement. For reference, see the staff exhibits below. The encroachment would be slight and, therefore, supportable.

VACATION

- ◇ This request would provide for the vacation of the northern portion of a named alley, Roanoke Street, for a proposed pedestrian outdoor amenity space. As a means to provide for vehicle access to the rear of properties to the south, a proposed 16-foot wide, east-west alley, would be begin at the terminus of the vacated right-of-way, west to Senate Street. The proposed width of the proposed new alley would provide for adequate maneuvering of vehicles. Staff would consider this proposal to meet the Finding of the request to be in the public interest, therefore, staff recommends approval of the proposed vacation.

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PROCEDURE

Neither the Division of Planning nor the Plat Committee, Hearing Examiner or Metropolitan Development Commission determines how vacated right-of-way is divided. The approval of a vacation petition only eliminates the public right-of-way. The vacation approval does nothing more. A petitioner will not receive a deed or other document of conveyance after the approval of a vacation.

The general rule under Indiana case law is that when a street or highway is vacated or abandoned the title to the land reverts to the abutting property owners. This rule exists by virtue of the fact that the abutting landowner owns to the center of the street or highway subject only to an easement for the public to the use of the street or highway. *Gorby v. McEndarfer* 135 Ind.App. 74, *82, 191 N.E.2d 786, **791 (Ind.App.1963). However, there are possible exceptions to this general rule.

After a vacation of public right-of-way, the county assessor determines how the vacated right-of-way will be assessed for tax purposes.

Petitioners and abutters of the vacated right-of-way should consult their own attorneys for advice regarding the ownership of the vacated right-of way.

REGIONAL CENTER OVERLAY DISTRICT

- ◇ The site lies within the Regional Center overlay district. In this designated area, design of all new construction, sidewalk cafes, and signage in the Regional Center overlay district is subject to the approval of the Administrator of the Division of Planning. A Regional Center Approval petition has been filed, through 2023-REG-063 and is scheduled for public hearing on July 27, 2023.

GENERAL INFORMATION

EXISTING ZONING, CONTEXT AREA, AND LAND USE

I-3 (RC)	Compact	Light Industrial
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SURROUNDING ZONING AND LAND USE

North	CBD-S (RC)	Mixed-use (Stutz)
South	I-3 (RC)	Office
East	CBD-2 (RC)	Commercial retail / office
West	I-3 (RC)	Surface parking / commercial

COMPREHENSIVE LAND USE PLAN	The Center Township Land Use Plan recommends City Neighborhood development
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TRANSIT-ORIENTED DEVELOPMENT	A portion of the site lies within the Transit-Oriented Development Overlay
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THOROUGHFARE PLAN	10 th Street, Senate Avenue and Capitol Avenue are all classified in the Official Thoroughfare Plan for Marion County, Indiana as primary arterials, with 78-foot existing and proposed rights-of-way.
DEVELOPMENT PLAN	File-dated June 22, 2023
FINDINGS OF FACT	File-dated June 22, 2023
SITE PLAN	File-dated June 22, 2023
VACATION SURVEY	File-dated June 22, 2023

ZONING HISTORY – SITE

2023-REG-063; 217 West 10th Street and 916, 918 & 922 North Capitol Avenue, requests Regional Center Approval to provide for a mixed-use development, **pending**.

2023-DV1-002; 902, 916, 918 and 922 North Capitol Avenue, requested a Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a 243,000 square foot mixed-use building with one 24-foot by 28.5-foot loading space (two loading spaces with dimensions of 30-foot by 12-foot and 55-feet by 12-feet required), **granted**.

2022-REG-077; 902, 916, 918 and 922 North Capitol Avenue, requested Regional Center Approval to provide for the demolition of existing buildings and construction of a five-story, mixed-use development, with approximately 270 units, 13,840 square feet of office and retail space, a parking garage with approximately 398 spaces, and resident amenities, including an outdoor courtyard, **withdrawn**.

2022-VAC-008; 918 North Capitol Avenue; requested a vacation of the first east-west alley south of 10th Street, being 15 feet wide, beginning at the west right-of-way line of Capitol Avenue, west 194.79 feet, to the east right-of-way line of Roanoke Street, **approved**.

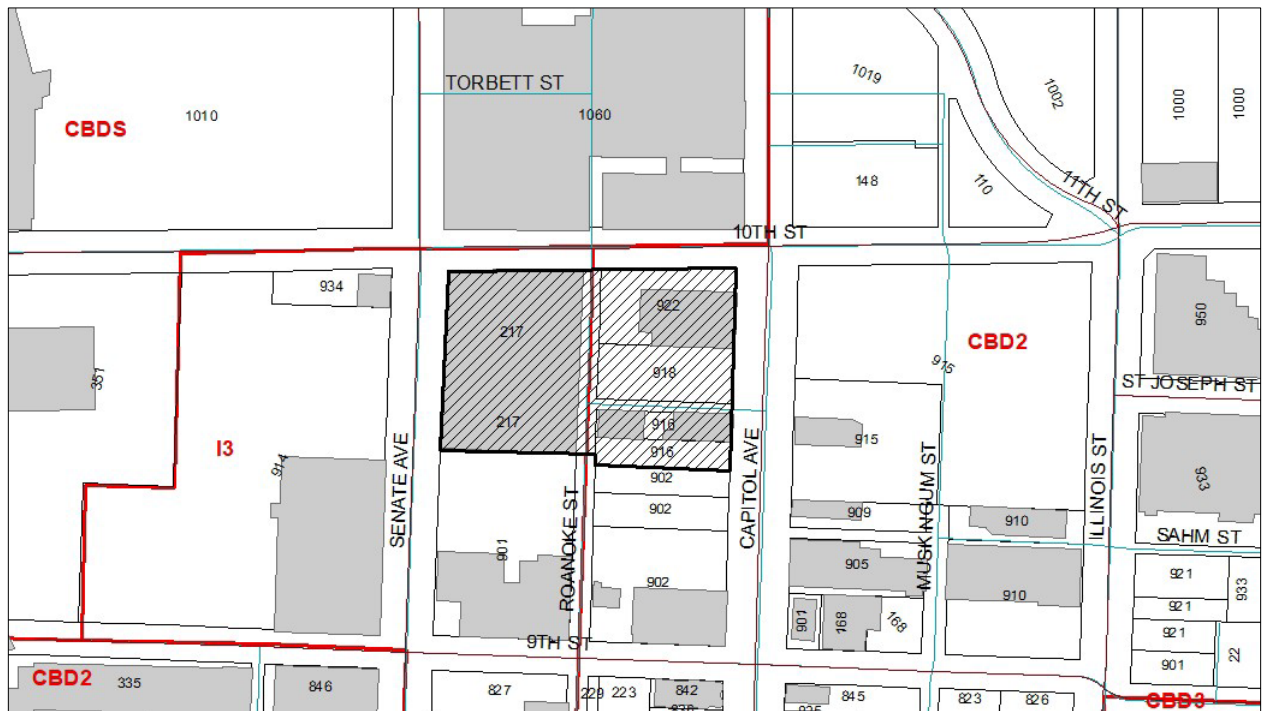
ZONING HISTORY – VICINITY

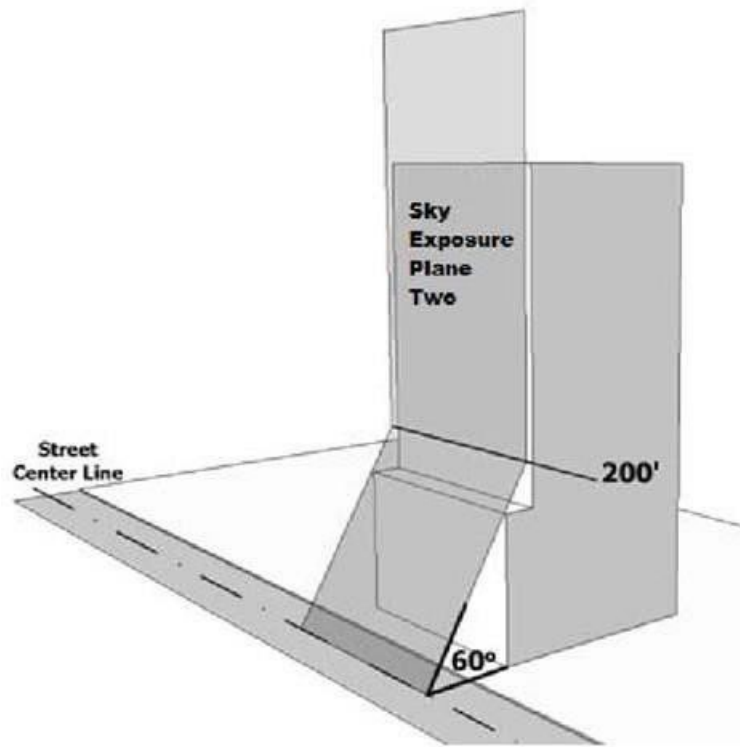
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Exhibits

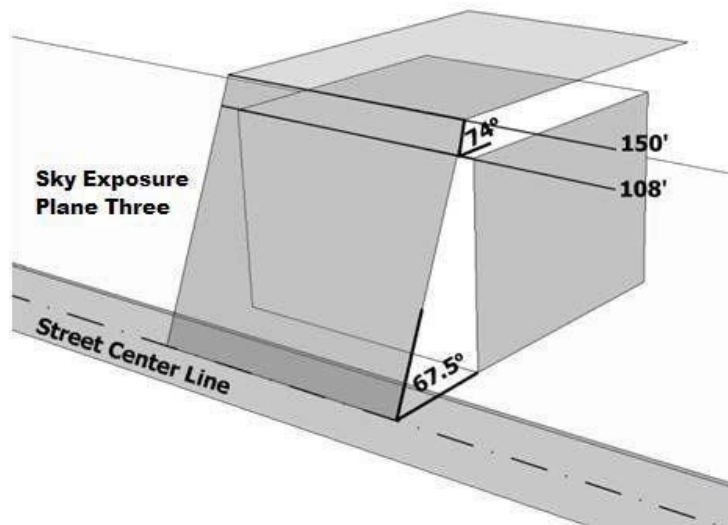




Sky Exposure Plane Two diagram



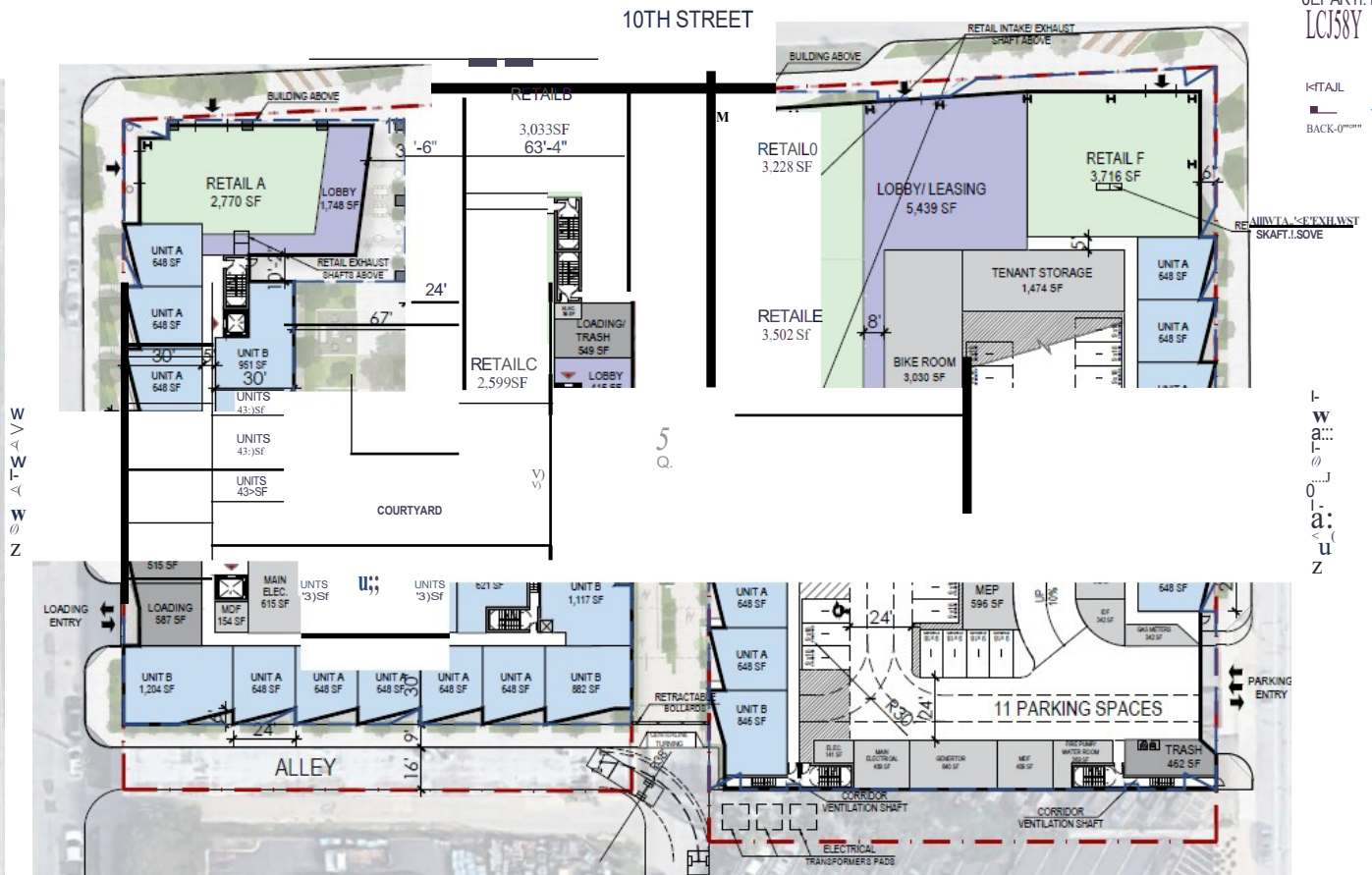
Proposed structure portion that would encroach upon Sky Exposure Plane Two standard



Sky Exposure Plane Three diagram



Proposed rendering indicating that the structure would not encroach into the Sky Exposure Plane Three standard



DEPARTMENTS
LCJ58Y ,NGC7

BACK-0

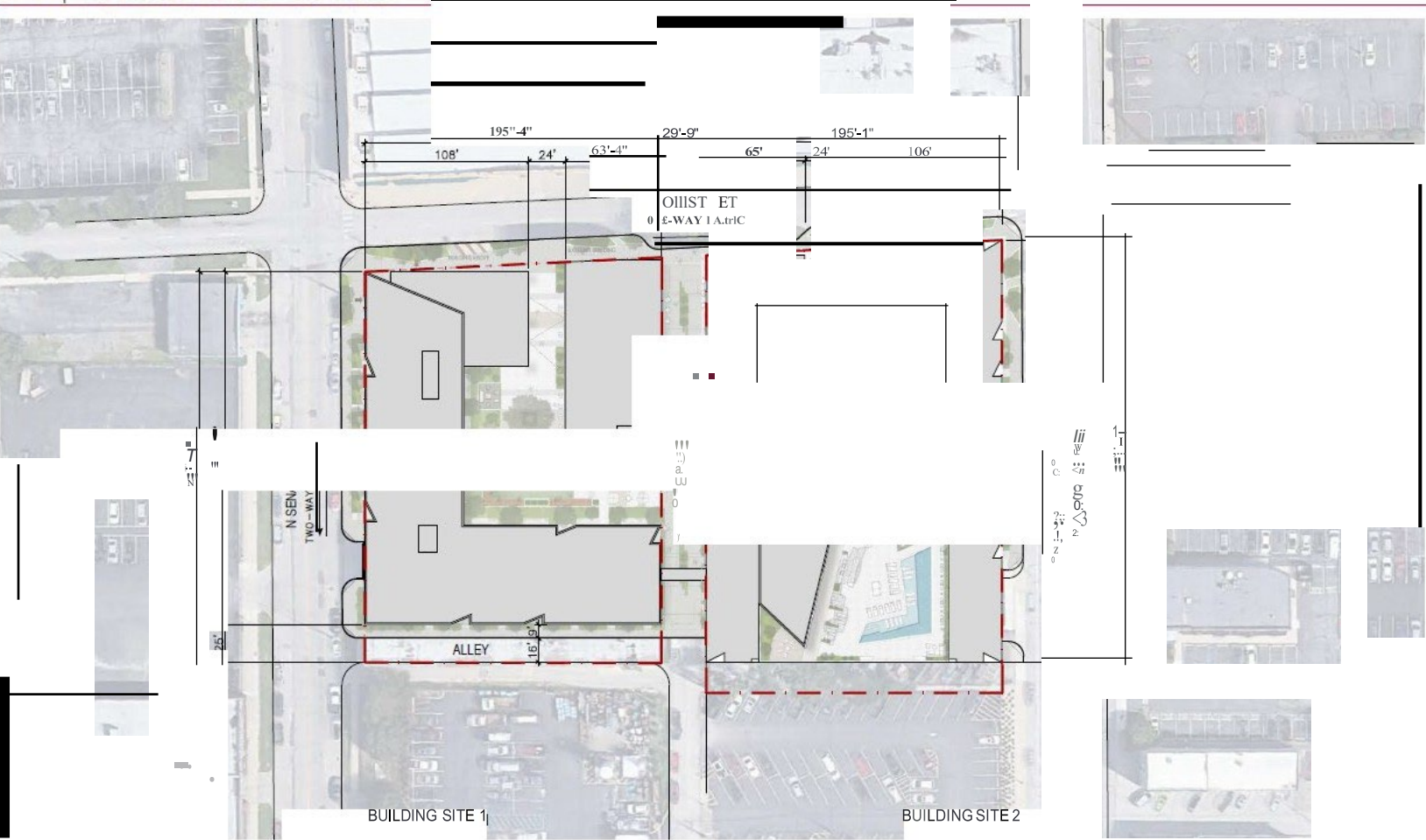
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SITE | ARCHITECTURAL SITE PLAN



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PERSPECTIVES | NORTHEAST CORNER



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NE PERSPECTIVE | 10TH & ROANOKE WEST



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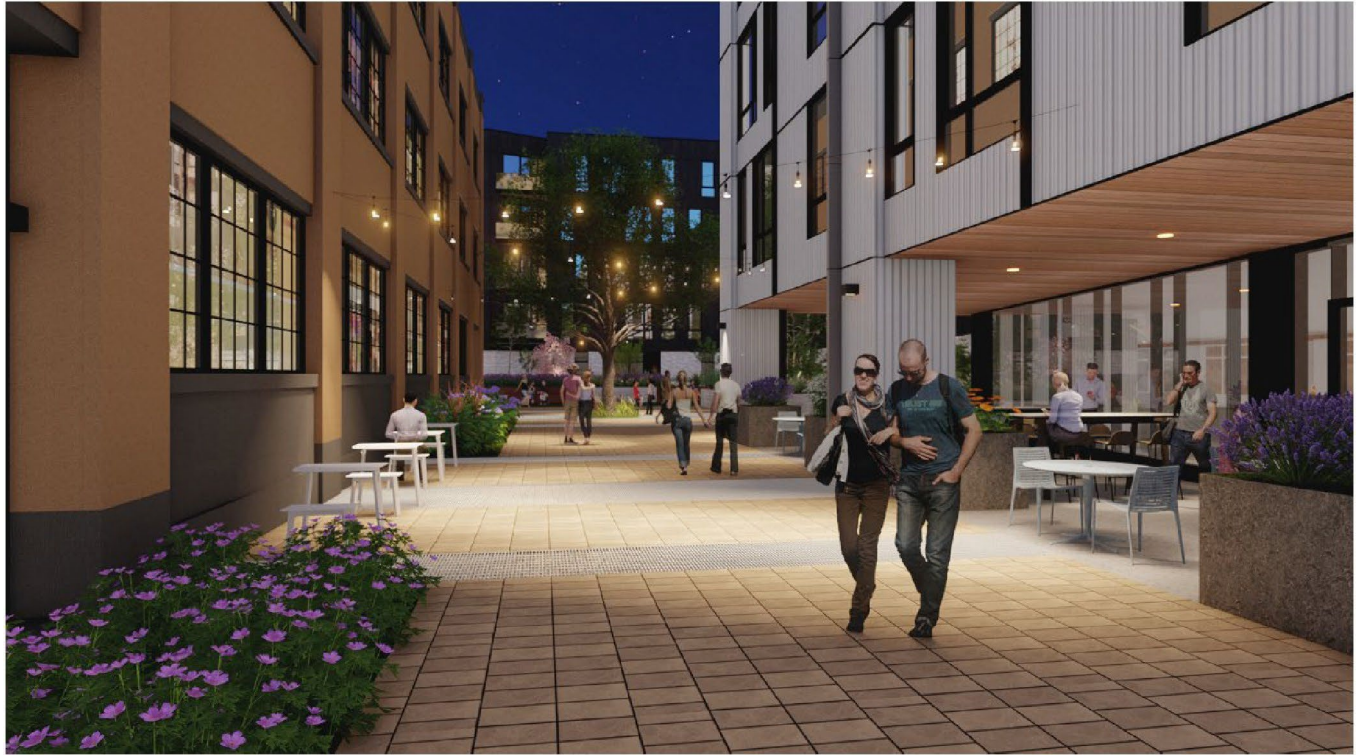
PERSPECTIVES | 10TH & ROANOKE EAST



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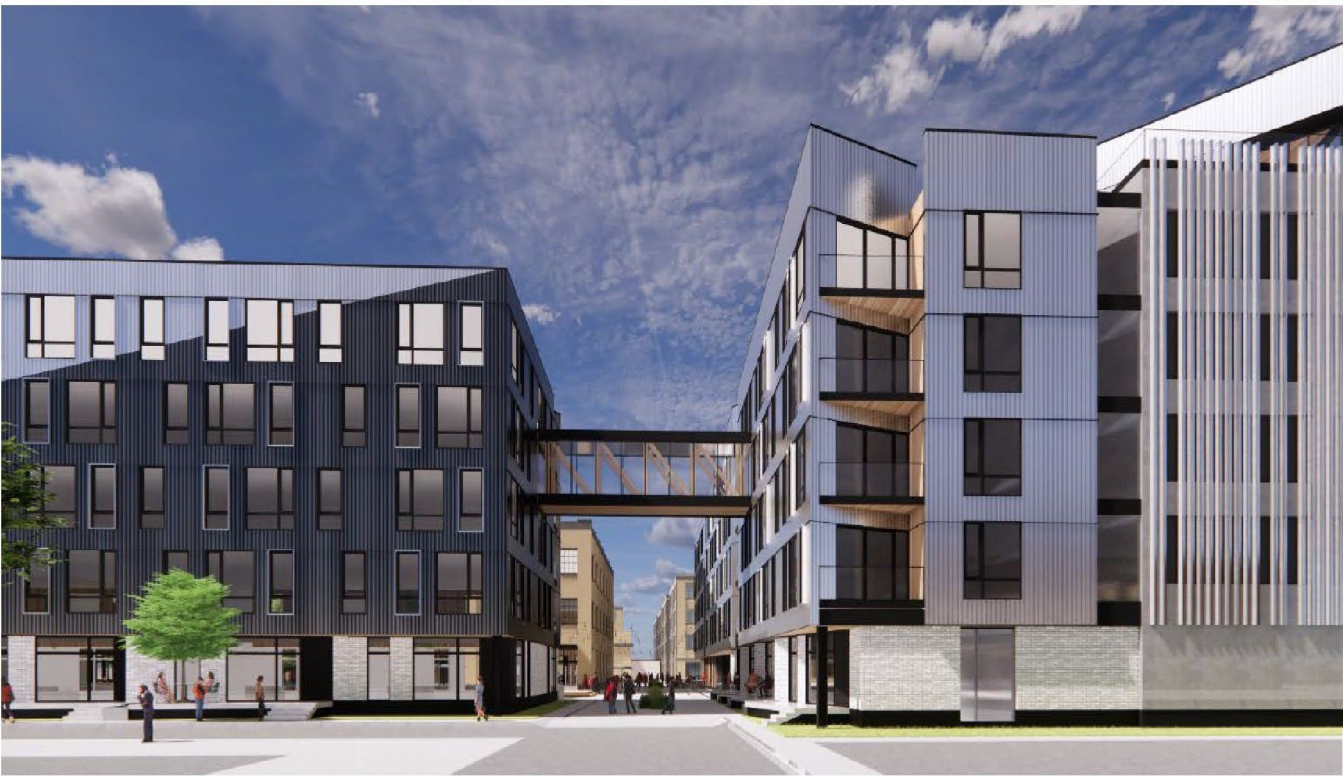
NW PERSPECTIVE | 10TH & SENATE



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Photos



Views of the north end of the site from Capitol Avenue and 10th Street intersection



View of site along Capitol Avenue, looking south



Stutz II building, at the southwest corner of 10th Street and Roanoke Street



Roanoke Street, from 10th Street looking south



View of one-story warehouse at the southeast corner of Senate Avenue and 10th Street (proposed to be demolished)



View of southwest portion of the site looking east from Senate Avenue (where the proposed new alley would be constructed)



View of Roanoke Street, from the approximate location of the south terminus of the proposed vacation area, looking north



View of the proposed new alley location, from Roanoke Street, looking west