

SPONSOR: Councilman Kalwinski

PETITIONED BY: Marina District Development, LLC

ORDINANCE NO. 9304

AN ORDINANCE VACATING A 859 FOOT PORTION OF 5<sup>th</sup> AVENUE, MORE OR LESS, LYING BETWEEN 112<sup>th</sup> STREET AND INDIANAPOLIS BOULEVARD, THE CITY OF HAMMOND, LAKE COUNTY, INDIANA.

WHEREAS, Marina District Development, LLC is the fee simple owner of the following described real estate, to wit:

Parcel Number 45-02-01-126-008.000-023: New Roby 1<sup>st</sup> Add. Lot 2  
Commonly known as 902-52 5<sup>th</sup> Avenue, Hammond, Indiana, 46326;

AND

Parcel Number 45-02-01-201-001.000-023: PT. W1/2 NE1/4 LY'G SW'LY IND BLVD & N. OF  
110<sup>TH</sup> & E'LY OF 5<sup>TH</sup> AVE. S.1 T.37 R.101.629AC.  
Commonly known as 10956 Indianapolis Blvd., Hammond, Indiana, 46320;

AND

Parcel Number 45-02-01-251-001.000-023: PT W ½ NE ¼ LY'G SW OF INDY BLVD E OF 5<sup>TH</sup>  
AVE & NW OF 112<sup>TH</sup> AVE. S.1 T37 R.10 Ex. R/W 9.493AC  
Commonly known as 1129 5<sup>th</sup> Avenue, Hammond, Indiana, 46326

WHEREAS, Wal-Mart Real Estate Business Trust is the fee simple owner of the adjacent real estate parcels, to wit:

Parcel Number 45-02-01-126-011.000-023: New Roby 1<sup>st</sup> Add. Lot 1  
Commonly known as 1100 5<sup>th</sup> Avenue, Hammond, Indiana, 46326;

AND

Parcel Number 45-02-01-126.010-023: New Roby 1<sup>st</sup> Add. Outlot B.  
Commonly known as 1008 5<sup>th</sup> Ave., Hammond, Indiana, 46326

WHEREAS, a (879.43) foot portion of 5<sup>th</sup> Avenue lies between said lots as described above, which (879.43) foot portion is more particularly described as follows:

All that part of 5<sup>th</sup> Avenue being in the North Half of Section 1, Township 37 North, Range 10 West of the Second Principal Meridian, in the City of Hammond, Indiana, Lake County, Indiana, being more particularly described as follows: Beginning at the Northeast corner of Lot 2 in New Roby 1<sup>st</sup> Addition, as per plat thereof recorded in Plat Book 104, Page 70, in the Office of the Recorder of Lake County, Indiana, said point being the intersection of the West line of 5<sup>th</sup> Avenue and the Southwesterly Right of Way line of Indianapolis Boulevard; thence South 38°37'45" East along said Southwesterly Right of Way line a distance of 63.32 feet to the centerline of said 5<sup>th</sup> Avenue; thence North 00°32'59" East along said centerline a distance of 20.42 feet; thence South 38d37'45" East 52.24 feet to the East Line of said 5<sup>th</sup> Avenue; thence South 00d32'59" West along said East line a distance of 707.44 feet to a non-tangent curve to the Left, (said curve having a Radius of 411.50 feet, a Chord Bearing South 17°52'36" West, and a Chord Length of 245.11 feet) an Arc Distance of 248.89 feet; thence North 00°32'59" East along the West line of said 5<sup>th</sup> Avenue a distance of 1010.58 feet to the Point of Beginning. Containing 1.37 acres, more or less.

WHEREAS, Marina District Development, LLC has filed a Petition for Vacation of a Street with the Common Council of the City of Hammond, Lake County, Indiana, requesting vacation of a (879.43) foot portion of 5<sup>th</sup> Avenue; and

WHEREAS, the Common Council of the City of Hammond, Lake County, Indiana upon investigation and Public Hearing in accordance with applicable law, finds and determines that the proposed vacation will not hinder the growth or orderly development of the City of Hammond, Lake County, Indiana, or the neighborhood in which it is located or to which it is contiguous; and

WHEREAS, the vacation will not make access to the lands of any persons by means of public way difficult to inconvenient; and

WHEREAS, the vacation would not hinder the public's access to a church, school, or other public building or place; and

WHEREAS, the vacation will not hinder the use of a public way by the neighborhood in which it is located or to which it is contiguous.

**NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF HAMMOND, LAKE COUNTY, INDIANA, THAT** it is desired and deemed necessary to vacate a (879.43) foot portion of 5<sup>th</sup> Avenue located in the City of Hammond, and more particularly described as follows:

All that part of 5<sup>th</sup> Avenue being in the North Half of Section 1, Township 37 North, Range 10 West of the Second Principal Meridian, in the City of Hammond, Indiana, Lake County, Indiana, being more particularly described as follows: Beginning at the Northeast corner of Lot 2 in New Roby 1<sup>st</sup> Addition, as per plat thereof recorded in Plat Book 104, Page 70, in the Office of the Recorder of Lake County, Indiana, said point being the intersection of the West line of 5<sup>th</sup> Avenue and the Southwesterly Right of Way line of Indianapolis Boulevard; thence South 38°37'45" East along said Southwesterly Right of Way line a distance of 63.32 feet to the centerline of said 5<sup>th</sup> Avenue; thence North 00°32'59" East along said centerline a distance of 20.42 feet; thence South 38d37'45" East 52.24 feet to the East Line of said 5<sup>th</sup> Avenue; thence South 00d32'59" West along said East line a distance of 707.44 feet to a non-tangent curve to the Left, (said curve having a Radius of 411.50 feet, a Chord Bearing South 17°52'36" West, and a Chord Length of 245.11 feet) an Arc Distance of 248.89 feet; thence North 00°32'59" East along the West line of said 5<sup>th</sup> Avenue a distance of 1010.58 feet to the Point of Beginning. Containing 1.37 acres, more or less.

and, therefore, the aforementioned (879.43) foot portion of 5<sup>th</sup> Avenue is hereby vacated, subject to easements, if any, for existing water, sewer, gas, telecommunications, and utilities in place and adjoining lot are extended by operation of law to include the proportionate part of 5<sup>th</sup> Avenue hereby vacated.

**BE IT FURTHER ORDAINED** that the Ordinance herein shall have full force and effect from and after Public Hearing hereon, passage and approval by the Common Council of the City of Hammond, Lake County, Indiana, signed by the President thereof, and the approval and signing by the Mayor. The Clerk shall furnish a copy of this Ordinance to the County Recorder for recording and to the County Auditor.

\_\_\_\_\_  
Michael Opinker, President /s/

Attest:

\_\_\_\_\_  
Robert J. Golec, City Clerk /s/

PRESENTED BY ME, the undersigned City Clerk of the City of Hammond to the Mayor of said City, for his approval on the 23<sup>rd</sup> day of June, 2015.

\_\_\_\_\_  
Robert J. Golec, City Clerk /s/

The foregoing Ordinance No. 9304, consisting of four (4) pages, including this page was approved by the Mayor on the 24<sup>th</sup> day of June, 2015.

\_\_\_\_\_  
Thomas M. McDermott, Jr., Mayor /s/  
City of Hammond, Indiana

PASSED by the Common Council on the 22<sup>nd</sup> day of June, 2015 and approved by the Mayor on the 24<sup>th</sup> day of June, 2015.

\_\_\_\_\_  
Robert J. Golec, City Clerk /s/

IN THE MATTER OF THE PETITION  
OF MARINA DISTRICT DEVELOPMENT, LLC  
FOR VACATION OF A STREET

2. Wal-Mart Real Estate Business Trust is the fee simple owner of the adjacent real estate parcels located within the City of Hammond, Lake County, Indiana, more

particularly described as follows:

Parcel Number 45-02-01-126-011.000-023: New Roby 1<sup>st</sup> Add. Lot 1  
Commonly known as 1100 5<sup>th</sup> Avenue, Hammond, Indiana, 46326;

AND

Parcel Number 45-02-01-126.010-023: New Roby 1<sup>st</sup> Add. Outlot B.  
Commonly known as 1008 5<sup>th</sup> Ave., Hammond, Indiana, 46326

3. That Petitioner requests the vacation of a (879.43) foot portion of 5<sup>th</sup> Avenue, more or less, located between 112<sup>th</sup> Street and Indianapolis Boulevard, which portion of 5<sup>th</sup> Avenue is more particularly described as follows:

All that part of 5<sup>th</sup> Avenue being in the North Half of Section 1, Township 37 North, Range 10 West of the Second Principal Meridian, in the City of Hammond, Indiana, Lake County, Indiana, being more particularly described as follows: Beginning at the Northeast corner of Lot 2 in New Roby 1<sup>st</sup> Addition, as per plat thereof recorded in Plat Book 104, Page 70, in the Office of the Recorder of Lake County, Indiana, said point being the intersection of the West line of 5<sup>th</sup> Avenue and the Southwesterly Right of Way line of Indianapolis Boulevard; thence South 38°37'45" East along said Southwesterly Right of Way line a distance of 63.32 feet to the centerline of said 5<sup>th</sup> Avenue; thence North 00°32'59" East along said centerline a distance of 20.42 feet; thence South 38d37'45" East 52.24 feet to the East Line of said 5<sup>th</sup> Avenue; thence South 00d32'59" West along said East line a distance of 707.44 feet to a non-tangent curve to the Left, (said curve having a Radius of 411.50 feet, a Chord Bearing South 17°52'36" West, and a Chord Length of 245.11 feet) an Arc Distance of 248.89 feet; thence North 00°32'59" East along the West line of said 5<sup>th</sup> Avenue a distance of 1010.58 feet to the Point of Beginning. Containing 1.37 acres, more or less.

4. That Petitioner respectfully requests vacation of a portion of 5<sup>th</sup> Avenue as per Exhibit A, in order to relocate 5<sup>th</sup> Avenue R/W, in conformance with all current and applicable laws and requirements, in the City of Hammond, Lake County, Indiana.

5. That the sole owners of the property adjacent to the proposed site of vacation have been provided with property notice of this Petition and are as follows:

Wal-Mart Real Estate Business Trust  
PO Box 8050  
Bentonville, AR 72716-8050

And

Marina District Development, LLC  
3592 North Hobart Road  
Hobart, IN 46342

WHEREFORE, the Petitioner, Marina District Development, LLC respectfully requests the Common Council of the City of Hammond, Lake County, Indiana after due notice and Public Hearing in accordance with the law, to enact an Ordinance pursuant to its authority under Indiana Code § 36-7-3-12, as amended from time to time, vacating the following (879.43) foot portion of 5<sup>th</sup> Avenue:

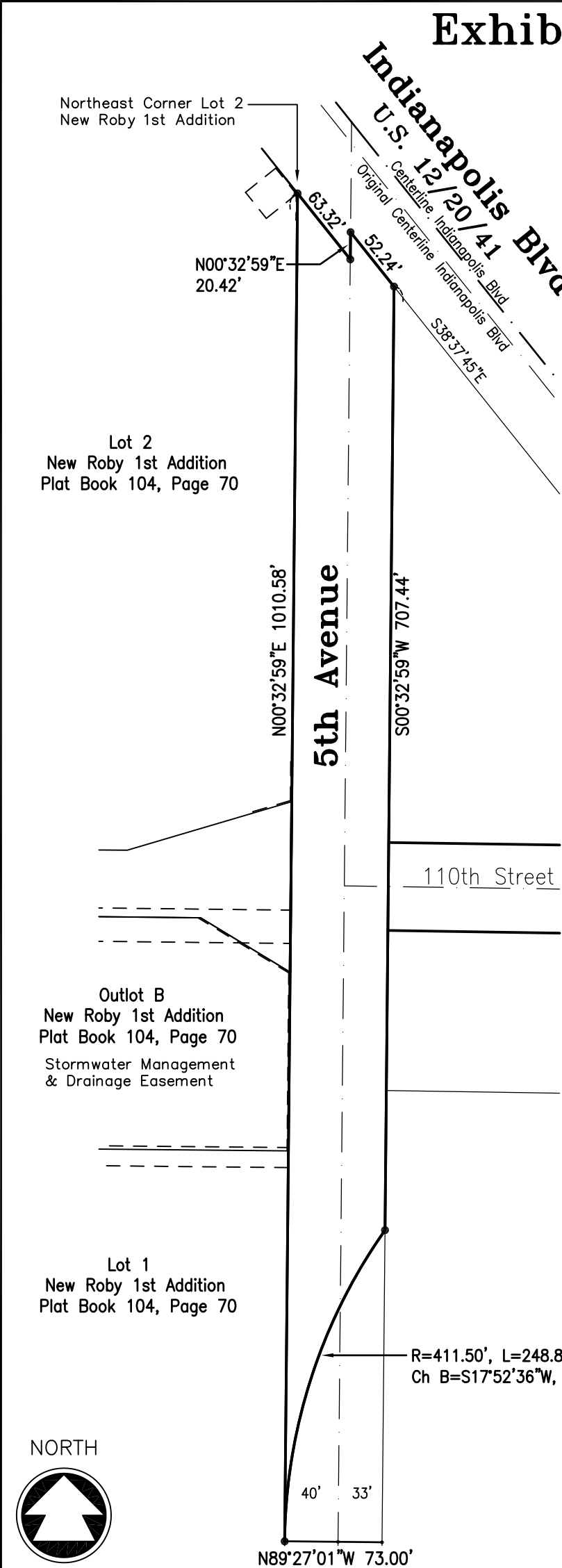
All that part of 5<sup>th</sup> Avenue being in the North Half of Section 1, Township 37 North, Range 10 West of the Second Principal Meridian, in the City of Hammond, Indiana, Lake County, Indiana, being more particularly described as follows: Beginning at the Northeast corner of Lot 2 in New Roby 1<sup>st</sup> Addition, as per plat thereof recorded in Plat Book 104, Page 70, in the Office of the Recorder of Lake County, Indiana, said point being the intersection of the West line of 5<sup>th</sup> Avenue and the Southwesterly Right of Way line of Indianapolis Boulevard; thence South 38°37'45" East along said Southwesterly Right of Way line a distance of 63.32 feet to the centerline of said 5<sup>th</sup> Avenue; thence North 00°32'59" East along said centerline a distance of 20.42 feet; thence South 38d37'45" East 52.24 feet to the East Line of said 5<sup>th</sup> Avenue; thence South 00d32'59" West along said East line a distance of 707.44 feet to a non-tangent curve to the Left, (said curve having a Radius of 411.50 feet, a Chord Bearing South 17°52'36" West, and a Chord Length of 245.11 feet) an Arc Distance of 248.89 feet; thence North 00°32'59" East along the West line of said 5<sup>th</sup> Avenue a distance of 1010.58 feet to the Point of Beginning. Containing 1.37 acres, more or less.

Respectfully submitted,

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*Daniel J. Tursman*  
3580 N. Hobart Rd.  
Hobart, IN 46342  
(219) 962-7676

Exhibit A

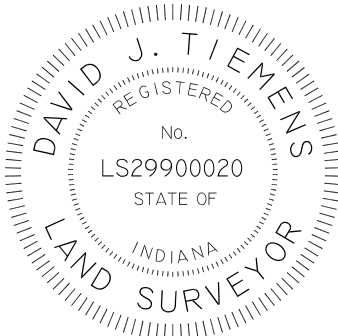


Legal Description: 5th Avenue Vacation

All that part of 5th Avenue being in the North Half of Section 1, Township 37 North, Range 10 West of the Second Principal Meridian, in the City of Hammond, Indiana, Lake County, Indiana, being more particularly described as follows: Beginning at the Northeast corner of Lot 2 in New Roby 1st Addition, as per plat thereof recorded in Plat Book 104, Page 70, in the Office of the Recorder of Lake County, Indiana, said point being the intersection of the West line of 5th Avenue and the Southwesterly Right of Way line of Indianapolis Boulevard; thence South  $38^{\circ}37'45"$  East along said Southwesterly Right of Way line a distance of 63.32 feet to the centerline of said 5th Avenue; thence North  $00^{\circ}32'59"$  East along said centerline a distance of 20.42 feet; thence South  $38^{\circ}37'45"$  East 52.24 feet to the East Line of said 5th Avenue; thence South  $00^{\circ}32'59"$  West along said East line a distance of 707.44 feet to a non-tangent curve to the Left, (said curve having a Radius of 411.50 feet, a Chord Bearing South  $17^{\circ}52'36"$  West, and a Chord Length of 245.11 feet) an Arc Distance of 248.89 feet; thence North  $00^{\circ}32'59"$  East along the West line of said 5th Avenue a distance of 1010.58 feet to the Point of Beginning. Containing 1.37 acres, more or less.

NH Vegas, LLC  
Document 2004-076097  
Recorded September 8, 2004

NH Vegas, LLC  
Document 2002-036487  
Recorded 2002, April 17, 2002  
Document 2004-076097  
Recorded September 8, 2004  
Document 2011-062211  
Recorded November 7, 2011



SCALE: 1" = 100'	DATE: 3/22/2015	Tiemens Land Surveying, Inc.	527 North Halleck Street Suite E DeMotte, Indiana 46310 Phone: 219-987-2828	DRAWN: DJT	CHECKED: DJT
SHEET NUMBER: 1 OF 1	Job Number 2015-			FILENAME: 5th Avenue Vacation	