

2007.011 ORIGINAL

6. 11/11/07

ORDINANCE TO VACATE

A PART OF WALNUT STREET AND MURIEL STREET, IN THE TOWN OF WHEELING, WASHINGTON TOWNSHIP, DELAWARE COUNTY, INDIANA

Whereas, Robert H. Lutton and Phyllis Lutton, filed their Petition for Vacation of a part of Walnut Street, a public way in the town of Wheeling, Washington Township, Delaware County, Indiana, proposing to vacate the following described part of Walnut Street:

Lot 1 in Block 2 abutting said Walnut Street to the east, as well as Lots 1 through 5 in Block 2, in the Town of Wheeling, as shown in the Records of Delaware County; particularly to the north of the Eaton Wheeling Pike, as shown by a survey map prepared by Ashton Surveying Company, on January 8, 2006, revised January 18, 2007, a copy attached hereto, labeled Exhibit "A" incorporated herein and made a part hereof,

more commonly known as 6608 W. Eaton-Wheeling Pike, Gaston, IN 47342 and that portion of Walnut Street Petitioners would have vacated is located entirely between Lot 2 in Block 1 to the east, owned by James M. and Juanita C. Bunch and Lot 1 in Block 2, owned by Petitioners, an unused right of way 132 feet long and 60 feet wide, bounded on the south by Eaton-Wheeling Pike and to the north by a 6.88 acre parcel owned by James M. and Juanita C. Bunch, as shown on Petitioners' Exhibit "A".

And also, that portion of Muriel Street Petitioners would have vacated is bounded by Petitioners' Lot 5 in Block 2 to the west and Lot 1 in Block 3 to the east, Eaton-Wheeling Pike to the south by the north and by a 6.82 acre parcel owned by James M. and Juanita C. Bunch more particularly described as follows:

A part of the northeast quarter of Section 14, Township 22 North, Range 9 East in the Town of Wheeling, Delaware County, Indiana, being that portion of the unimproved Muriel Street as located between Block 2 and Block 3 in the Original Plat of the Town of Wheeling as shown by the records of Delaware County, Indiana, described as follows:

Beginning at a 5/8 inch rebar at the southwest corner of Lot 1 in Block 3 of the Original Plat of the Town of Wheeling as shown by the records of Delaware County, Indiana; thence south 83 degrees 21 minutes 27 seconds west 60.00 feet (assumed bearing) along the north line of the Eaton Wheeling Pike to a 5/8 inch rebar at the southeast corner of Lot 5 Block 2; thence north 05 degrees 39 minutes 07 seconds west 132.00 feet to a 5/8 inch rebar at the northeast corner of said Lot 5, Block 2; thence north 05 degrees 39 minutes 07 seconds west 132.00 feet to a 5/8 inch rebar at the northeast corner of said Lot 5, Block 2, thence north 83 degrees 21 minutes 27 seconds east 60.00 feet to a 5/8 inch rebar at the northwest corner of said Lot 1, Block 3; thence south 05 degrees 39 minutes 07 seconds east 132.00 feet to the point of beginning, containing 0.18 acres, more or less.

Whereas, Robert H. Lutton and Phyllis Lutton are the owners of land which abuts the property proposed for vacation; and

Whereas, a public hearing was held, after due notice was given as required by law, on June 4, 2007; and

Whereas, the vacation will not hinder the growth or orderly development of the neighborhood in which it is located; it will not make access to the lands of any person by public way difficult or inconvenient; it will not hinder the public's access to any church, school, or other public building or place; and it will not hinder the use of any public way by the neighborhood in which it is located or by which it is contiguous.

Now, Therefore, BE IT ORDAINED by the Board of Commissioners of Delaware County, Indiana, as follows:

Section 1. That the public ways more particularly described as follows:

That portion of Walnut Street sought herein to be vacated commences from a 5/8" rebar at the Northeast corner, proceeds in a southeasterly direction One Hundred Thirty-two (132) feet, then Thirty (30) feet west, then One Hundred Thirty-two feet in a northwesterly direction, then Thirty (30) feet back to the place of beginning, the Northeast corner of said Walnut Street, all as shown on a survey map by Ashton surveyors dated and certified on January 23, 2007, and located in the Town of Wheeling, Washington Township, Delaware County, Indiana,

A part of the northeast quarter of Section 14, Township 22 North, Range 9 East in the Town of Wheeling, Delaware County, Indiana, being that portion of the unimproved Muriel Street as located between Block 2 and Block 3 in the Original Plat of the Town of Wheeling as shown by the records of Delaware County, Indiana, described as follows:

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and hereby vacated as public ways.

Section 2. That the vacated parts of Walnut Street and Muriel Street, in the Town of Wheeling, Delaware County, Indiana described herein shall be subject to the right of any and all public utilities to construct, add to, maintain, replace and renew any facilities


which are now located in the area vacated with the same rights with respect to said facilities as if this vacation proceeding had not been had.

Section 3. That the eastern half of the vacated public way of (30 feet) shall become a part of the abutting property to the east known as Lot 1 of Block Two and the westerly half of the vacated public way (30 feet) shall become a part of the abutting property to the west known as Lot 2 of Block One.

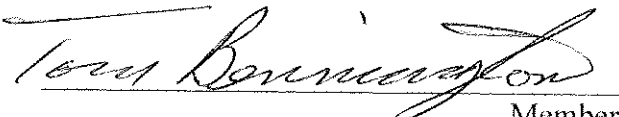
Section 4. That this ordinance shall be in full force and effect from and after its passage by the Board of Commissioners of Delaware County, Indiana, and such publication as required by law.

Section 5. That this ordinance is hereby passed this 18 day of JUNE, 2007.


BOARD OF COMMISSIONERS
DELAWARE COUNTY, INDIANA


_____, President


_____, Vice-President


_____, Member

ATTEST:


_____, Auditor
Delaware County, Indiana

6/15/07

ORIGINAL

STATE OF INDIANA)
)
DELAWARE COUNTY)

BEFORE THE BOARD OF COMMISSIONERS
OF THE COUNTY OF DELAWARE, INDIANA

PETITION FOR VACATION OF PUBLIC STREETS

Come now the Petitioners, Robert H. Lutton and Phyllis Lutton, and respectfully petition the Board of Commissioners of Delaware County, Indiana, to vacate portions of two public streets known as Walnut Street and Muriel Street, in the Town of Wheeling (Gaston) Washington Township, Delaware County, Indiana and state the following in support of said petition:

1. That the Petitioners are the owners of the following described real estate in Delaware County, Indiana:

Lot 1 in Block 2 abutting said Walnut Street to the east, as well as Lots 2 through 5 in Block 2, and Lots 1 through 5 in Block 3, in the Town of Wheeling, as shown in the Records of Delaware County; particularly to the north of the Eaton Wheeling Pike, as shown by a survey map prepared by Ashton Surveying Company, on January 8, 2006, revised January 18, 2007, a copy attached hereto, labeled Exhibit "A" incorporated herein and made a part hereof,

more commonly known as 6608 W. Eaton-Wheeling Pike, Gaston, IN 47342

and that portion of Walnut Street Petitioners would have vacated is located entirely between Lot 2 in Block 1 to the east, owned by James M. and Juanita C. Bunch, and Lot 1 in Block 2, owned by Petitioners, an unused right of way 132 feet long and 60 feet wide, bounded on the south by Eaton-Wheeling Pike and to the north by a 6.88 acre parcel owned by James M. and Juanita C. Bunch, as shown on Petitioners' Exhibit "A".

Also, Petitioners would have vacated that portion of Muriel Street bounded by Petitioners' Lot 5 in Block 2 to the west and their Lot 1 in Block 3 to the east, with Eaton-Wheeling Pike to the south and to the north a 6.82 acre parcel owned by James M. and Juanita C. Bunch more particularly described as follows:

A part of the northeast quarter of Section 14, Township 22 North, Range 9 East in the Town of Wheeling, Delaware County, Indiana, being that portion of the unimproved Muriel Street as located between Block 2 and Block 3 in the Original Plat of the Town of Wheeling as shown by the records of Delaware County, Indiana, described as follows:

Beginning at a 5/8 inch rebar at the southwest corner of Lot 1 in Block 3 of the Original Plat of the Town of Wheeling as shown by the records of Delaware County, Indiana; thence south 83 degrees 21 minutes 27 seconds west 60.00 feet (assumed bearing) along the north line of the Eaton Wheeling Pike to a 5/8 inch rebar at the southeast corner of Lot 5 Block 2; thence north 05 degrees 39 minutes 07 seconds west 132.00 feet to a 5/8 inch rebar at the northeast corner of said Lot 5, Block 2; thence north 05 degrees 39 minutes 07 seconds west 132.00 feet to a 5/8 inch rebar at the northeast corner of said Lot 5, Block 2, thence north 83 degrees 21 minutes 27 seconds east 60.00 feet to a 5/8 inch rebar at the northwest corner of said Lot 1, Block 3; thence south 05 degrees 39 minutes 07 seconds east 132.00 feet to the point of beginning, containing 0.18 acres, more or less.

2. That the portion of Walnut Street sought herein to be vacated commences from a 5/8" rebar in the northeast corner, then southeasterly 132 feet, then west 60 feet, then north 132 feet, then east 60 feet, to the place of beginning, and said portion of Walnut Street is located between Block Number 1 and Block Number 2. The above description represents the entire length of Walnut Street north of Eaton-Wheeling Pike in the Town of Wheeling, Washington Township, Delaware County, Indiana.

3. That the portions of Walnut Street and Muriel Street to be vacated is bare land, grass and weeds, and shall not effect the rights of any and all public utilities to gain entry, to construct, add to, maintain, replace and renew any facilities which are now located in the area being vacated with the same rights with respect to said facilities as if the vacation proceeding had not been made.

4. That the following named individuals own real estate which directly abuts that portion of Walnut Street to the west, in Block Number One (1) Lot 2 in the town of Wheeling, Washington Township, Delaware County, Indiana, being proposed to be vacated: James M. Bunch and Juanita C. Bunch, Block 1, Lots 1 and 2, immediately to the west of Walnut, the street to be vacated and that portion of Muriel Street is bounded by Petitioners' Lot 5 in Block 2 to the west, and their Lot 1 in Block 3 to the east, and to the north is a 6.88 parcel owned by James M. Bunch and Juanita C. Bunch, and to the south, Eaton Wheeling Pike.

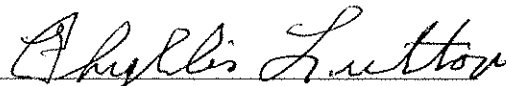
5. That the vacation of the above described portions of Walnut Street and Muriel Streets in the town of Wheeling (Gaston) will not hinder the growth or orderly development of the neighborhood in which it is located or to which it is contiguous; that the vacation will not make access to the lands of any person by means of a public way difficult or inconvenient; that the Petitioners, Robert Lutton and Phyllis Lutton have obtained agreement from the other property owners whom abut the portion of Walnut Street being proposed to be vacated; that the vacation of this section of Walnut Street and Muriel Streets will not hinder the public access to a church, school, or other public building or place; and that 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.

ORIGINAL

WHEREFORE, Robert Lutton and Phyllis Lutton pray that the Petition requesting a portion of Walnut Street and Muriel Streets, in the Town of Wheeling (Gaston) Washington Township, Delaware County, Indiana to be vacated be granted and that this section of Walnut Street and Muriel Streets described herein, be ordered vacated as a public ways.

Respectfully submitted,


Robert H. Lutton


Phyllis Lutton

This document prepared by: Steven R. Altland [11431-18], UAW-GM Legal Services
Plan, 1200 S. Tillotson Overpass, Ste. 1, Muncie, IN 47304. Telephone: (765) 288-8980

ORIGINAL

N.W. COR. NE. QTR. NE. QTR.
SEC. 14-22-9
NOTE: FLOODING OCCURRED PRIOR TO SETTING THIS MONUMENT, WILL BE SET WHEN WATER RECEDES.

N 83°15'23" E
991.30'

NOTE: FLOODING OCCURRED PRIOR TO SETTING THIS MONUMENT, WILL BE SET WHEN WATER RECEDES.

P.O.B.
S 88°15'23" W
341.65'

D.R. 1971, PG. 607

N 00°55'18" W
490.32'

D.R. 2002, PG. 3353

PHYSICAL OF EATON WHEELING PIKE
S 83°21'27" W
179.28'
EXISTING 5/8" REBAR (4x4L CAP)
LOT 1 LOT 2
BLOCK 10
REBAR/CAP
SET 5/8" REBAR/CAP
07°00'50" E 162.00'
LOT 1 LOT 2
BLOCK 1
JAMES M. BUNCH
JUANITA C. BUNCH
INST. 2006R13204
0.35 AC
120.77'
REBAR/CAP
SET 5/8" REBAR/CAP
S 06°37'26" E 60.0'
PLATTED WALNUT STREET
(UNIMPROVED)
(NOW HONEY ST)
60' R/W
N 08°37'29" W 132.00'
LOT 1
S 83°21'27" W 630.28'
LOT 2
ROBERT LUTTON
PHYLLIS A. LUTTON
D.R. 1990, PG. 5182
LOT 3
LOT 4
LOT 5
N 05°39'07" W 132.00'
60' R/W (MURAL ST)
0.18 AC±
REBAR/CAP
SET 5/8" REBAR/CAP
N 53°20'48" E 116.41'
145.36' (8.81 RODS)
DEED
S 50°57'25" W
139.26' (8.44 RODS)
02.11'
S 04°40'48" E
EXISTING 7 1/2" REBAR & 9" EAST

LUTTON TO BUNCH VACATED STREET R/W NOT RIGHTS TO LUTTON GIVING UP RIGHTS IN FUTURE WHEN COUNTY IS PETITIONED TO VACATE THE UNIMPROVED R/W.
30' X 132' (0.09 AC±)

JAMES M. BUNCH
JUANITA C. BUNCH
INST. 2006R13204
6.88 AC

BUNCH TO LUTTON
0.067 AC±

FLOOD ZONE A
FLOOD LINE

PLATTED MURIEL STREET
N 05°39'07" W 132.00'
LOT 1 LOT 2 LOT 3 LOT 4 LOT 5
BLOCK 9
EDGE OF PAVEMENT
FOUND R.R. SPIKE 6 1/2" EAST

PLATTED MAIN STREET
VACATED MAIN STREET
D.R. 1994, PG. 1645-46

PRO FORMA SURVEY
This drawing is not intended to be represented as a retracement or original boundary survey or route survey, or a Surveyor Location Report.

SCALE
1" = 100'



JOB #82-187-07
MARCH 16, 2007
DRAWN BY: DSL
OLD JOBS:
80-215
81-244
82-020
82-108



4/11/07

STATE OF INDIANA)
)
DELAWARE COUNTY)

BEFORE THE BOARD OF COMMISSIONERS
OF THE COUNTY OF DELAWARE, INDIANA

IN RE: PETITION TO VACATE
BY: Robert H. Lutton and Phyllis Lutton

COPY

NOTICE OF PUBLIC HEARING

On _____, the Board of Commissioners of Delaware County, Indiana, will hold a public hearing on the matter of a petition to vacate a portion of Walnut Street and Muriel Street, in the Town of Wheeling (Gaston) Washington Township, Delaware County, Indiana filed by Robert H. Lutton and Phyllis Lutton, requesting vacation of Walnut Street between Lot 2 in Block 1 and Lot 1 in Block 2 in the Town of Wheeling, Indiana, more particularly described as follows:

Lot 1 in Block 2 abutting said Walnut Street to the east, as well as Lots 1 through 5 in Block 2, in the Town of Wheeling, as shown in the Records of Delaware County; particularly to the north of the Eaton Wheeling Pike, as shown by a survey map prepared by Ashton Surveying Company, on January 8, 2006, revised January 18, 2007, a copy attached hereto, labeled Exhibit "A" incorporated herein and made a part hereof,

more commonly known as 6608 W. Eaton-Wheeling Pike, Gaston, IN 47342 and that portion of Walnut Street Petitioners would have vacated is located entirely between Lot 2 in Block 1 to the east, owned by James M. and Juanita C. Bunch and Lot 1 in Block 2, owned by Petitioners, an unused right of way 132 feet long and 60 feet wide, bounded on the south by Eaton-Wheeling Pike and to the north by a 6.88 acre parcel owned by James M. and Juanita C. Bunch, as shown on Petitioners' Exhibit "A".

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The public hearing will take place at _____ on the above date, in the Commissioners Courtroom, Delaware County Building, Muncie, Indiana. Interested persons may appear and voice their opinions. Copies of the petition to vacate may be examined at the Delaware County Auditor's office, Delaware County Courthouse, 100 W. Main Street, Muncie, Indiana, during normal office hours.

_____, Auditor
Delaware County, Indiana

This document prepared by:

Steven R. Altland [14131-18]
UAW-GM Legal Services Plan
1200 S. Tillotson Overpass, Ste. 1
Muncie, IN 47304
Telephone: (765) 288-8980

OFFICE OF THE DELAWARE COUNTY AUDITOR
100 W. Main Street County Building
Muncie, IN 47305

9

Receipt For Collection Of Fees

Transaction Date: May 21, 2007

Transaction #: 4,677

COPIES \$ 20.00

Total: \$ 20.00

Recieved From: ROBERT LUTTON

The Star Press

345 South High Street
Muncie, IN 47305
(765) 747-5700

Sales Receipt

Transaction #: 13417
Account #: 61610
Page: 1 of 1
Date: 5/21/2007
Time: 9:50:25 AM
Cashier: Michelle
Register #: 1

Bill To: Zoning

Ship To:

Rep	Item Lookup Code	Description	Quantity	Price	Extended
	LEGAL	LEGAL ADVERTISING AD 0005526668 CK 9300	1	\$421.64	\$421.64

Ad will Run 05/24/07

Josie James

Robert H. + Phyllis Lutton

Thank you for your patronage
The Star Press

Sub Total	\$421.64
Total	\$421.64
Check Tendered	\$421.64
Change Due	\$0.00

ORIGINAL

UAW LEGAL SERVICES PLANS

UAW-GM UAW-Ford UAW-Chrysler

1100 Martin Luther King, Jr. Blvd., Muncie, IN 47304

Phone: (765) 288-8980 Fax: (765) 288-8981

February 19, 2007

CERTIFIED MAIL

James M. and Juanita Bunch
6821 W. Eaton, Wheeling Pike
Gaston, IN 47342

Re: Public Way Vacation
My Client: Robert H. and Phyllis Lutton
Our Case No. 07-155-00162

Dear Mr. and Mrs. Bunch:

My clients, the Luttons, desire to vacate a portion of a public way, platted as Walnut Street, sixty (60) feet wide, abutting their property that touches your land as well. Ordinarily the result of this vacation, if successful, should be that each of you would take title to an equal portion, or to the center of Walnut Street.

It is my understanding that after the vacation is granted, the Luttons would deed their 30 feet of the vacated street to you in exchange for you deeding them a triangular property to the north of their lots 2 and 3 in Block three to the east of the street to be vacated.

Enclosed please find a map identifying the section of the portion of the street that we seek to vacate and the triangular parcel of land that you will exchange for the entire 60 feet of Walnut St.

U.S. Postal Service™ CERTIFIED MAIL™ RECEIPT (Domestic Mail Only; No Insurance Coverage Provided) For delivery information visit our website at www.usps.com		SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
OFFICIAL USE		2, and 3: Also complete if delivery is desired and address on the reverse turn the card to you. On the back of the mailpiece, space permits.		A. Signature <i>James M. Bunch</i>	
Postage \$		B. Received by (Printed Name) <i>James M. Bunch</i>		<input type="checkbox"/> Agent <input checked="" type="checkbox"/> Addressee	
Certified Fee		C. Date of Delivery <i>2-22-07</i>		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Return Receipt Fee (Endorsement Required)		D. Is delivery address different from item 1? If YES, enter delivery address below:		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Restricted Delivery Fee (Endorsement Required)		3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.		4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes	
Total Postage & Fees \$		Postmark Here		7002 2030 0001 6944 9087	
Send To James M. and Juanita Bunch Street, Apt. No., or PO Box No. 6821 W. Eaton, Wheeling Pike City, State, ZIP+4 Gaston, IN 47342		PS Form 3800, June 2002		See Reverse for Instructions	

STATE OF INDIANA §: BEFORE THE BOARD OF
COMMISSIONERS OF THE
COUNTY OF DELAWARE, INDIANA

DELAWARE COUNTY §:

N RE: PETITION TO VACATE
BY: ROBERT H. LUTTON AND PHYLLIS LUTTON

NOTICE OF PUBLIC HEARING

On June 4, 2007, the Board of Commissioners of Delaware County, Indiana, will hold a public hearing on the matter of a petition to vacate a portion of Walnut Street and Muriel Street, in the Town of Wheeling (Gaston) Washington Township, Delaware County, Indiana filed by Robert H. Lutton and Phyllis Lutton, requesting vacating of Walnut Street between Lot 2 in Block 1 and Lot 1 in Block 2 in the Town of Wheeling, Indiana, more particularly described as follows:

Lot 1 in Block 2 abutting said Walnut Street to the east, as well as Lots 1 through 5 in Block 2, in the Town of Wheeling, Indiana, as shown in the Records of Delaware County; particularly to the north of the Eaton Wheeling Pike, as shown by a survey map prepared by Ashton Surveying Company, on January 8, 2006, revised January 18, 2007, a copy attached hereto, labeled Exhibit "A" incorporated herein and made a part hereof,

more commonly known as 6608 W. Eaton-Wheeling Pike, Gaston, IN 47342 and that portion of Walnut Street Petitioners would like vacated is located entirely between Lot 2 in Block 1 to the east owned by James M. and Juanita C. Bunch and Lot 1 in Block 2 owned by Petitioners, an unused right of way 132 feet long and 132 feet wide, bounded on the south by Eaton-Wheeling Pike and to the north by a 6.88 acre parcel owned by James M. and Juanita C. Bunch, as shown on Petitioners' Exhibit "A".

And also, that portion of Muriel Street Petitioners would like vacated is bounded by Petitioners' Lot 5 in Block 2 to the west Lot 1 in Block 3 to the east, Eaton-Wheeling Pike to the south by the north and by a 6.82 acre parcel owned by James M. and Juanita C. Bunch more particularly described as follows:

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The public hearing will take place at 9:30 a.m. on the above date in the Commissioners Courtroom, Delaware County Building, Muncie, Indiana. Interested person may appear and voice their opinion. Copies of the petition to vacate may be examined at the Delaware County Auditor's Office, Delaware County Courthouse, 100 W. Main Street, Muncie, Indiana, during normal office hours.

Judy Rust, Auditor Delaware County, Indiana

This document prepared by:
Steven R. Allland (14131-18)
UAW-GM Legal Services Plan
1200 S. Tillotson Overpass, Ste. 1
Muncie, IN 47304
Telephone: (765) 288-8980

S055266

ORIGINAL

LIST OF PROPERTY OWNERS

That the following named individuals own real estate which directly abuts that portion of Walnut Street between Block Number One, Lot 2 and Block Two, Lot 1 in the town of Wheeling, Washington Township, Delaware County, Indiana, being proposed to be vacated:

James M. Bunch and Juanita Bunch,
6821 W. Eaton-Wheeling Pike
Gaston, IN 47342