

**Marion City Planning Commission
Special Meeting
Minutes
03/16/2021**

Call to Order and Roll Call –

- Present: Mr. Cumston (1st Ward), Mr. Hord (4th), Mrs. Russell (4th), Mr. Berry (6th), Rev. Worthen (6th), Mayor Schertzer, Service Director Chaffin
- Absent: Zucker (President of the Board of Park Commissioners)
- Vacant: 2nd, 3rd
- Unexpired Term: 5th (Mr. White's resignation)

Note: ORD 2020-77 was passed by council to reconstitute the current City Planning Commission to take back the administrative powers of the former Board of Zoning Appeals. The Mayor will be making appointments for two additional seats -- the 2nd and 3rd Wards -- so that each ward is represented on the Commission. The Commission will initially go to 11 members because of duplications in current wards represented. When those duplicative members terms expire, that member's position will be eliminated. The end result will be a Commission of 9 members.

Reverend Worthen, chairperson, called the special meeting to order on Zoom due to COVID-19. Marion County continues to be coded "red" through the Ohio Public Health Advisory System. This is the first meeting of the newly combined City Planning and Board of Zoning Appeals. It should be noted that Tom White has moved out of the City and has resigned from the commission.

Evelyn Warr-Cummings introduced new staff person at Regional Planning, Rich Fender. He has completed the staff reports for the two properties.

Special Meeting Business (Two Items):

Item 1. Application to vacate alley: Marion Court House

Map:



Regional Planning Staff Report:

APPLICANT: Court of Common Pleas, Marion County Commissioners

LOCATION: Alley between 114 N. Main 'St. and 134 E. Center St. outlined in red

REQUEST: Vacate 16.5' x 132.34' alley between the courthouse and the Prosecutor's Office for use by the courts. {Totals 0.5 Acres)

BACKGROUND:

The Marion County courthouse was built in in 1884 in the Renaissance Revival style and is on the National Register of Historic Places. To the East the former bank building at 134 E. Center St. was converted to offices for the County Prosecutor's office. The Courts often have prisoner transportation enter the east side of the courthouse through this existing 16.5' wide one-way alley. Generally speaking, due to its one-way southbound traffic direction, it is predominantly used by the court system.

COMMENT:

The applicant has contacted the utilities about the proposed alley vacation with the replies as follows:

- Aqua Ohio (Water) emailed approval (16" water line underneath alley)
- Columbia Gas of Ohio - phone call acknowledged approval
- Ohio Edison (electric) emailed approval (large power line over alley)
- Frontier (internet/cable) - no reply yet.
- City Engineer's Office: seeking comments; Catch basin with a line going north, Sanitary has an unmarked manhole
- City Fire Dept: seeking comments

In favor of the request, we find:

- The alley is already serving the court system and has limited use others.
- To the north is the courthouse public parking lot which has two drive approaches for ingress and egress into the mid-block area.
- The area to be vacated is one-way and the utilities are in agreement with the proposal.
- The county is the owner on both sides of the alley.
- Leapin' Ministries can still be accessed from Main St., Huber and N. State St.

RECOMMENDATIONS:

- Provide that the Director of Public Works and the Safety Director have not issues, approve the alley vacation because it does not negatively impact any other owners.
- There is still the issue of a formal application to be submitted by the County Commissioners, rather than the court.

Speaking on behalf of the County Court House, Judge W.T. Edwards explained that this request comes as result of a February 2019 physical security assessment by the Ohio Supreme Court of our court building. This vacation and corresponding plan will help to: 1. Reduce the possibility of escape as jail and prison vans are loading and unloading with a typical guard to inmate ratio of 1:4 or 1:5 (there have been some in the past), 2. Reduce the ability of inmates to receive contraband items from family and friends during the transfer, 3. Provide separate and secure parking for up to three judicial staff (one of the 16 security standards for courthouses). They have applied for a technology and security grant from the Supreme Court to fund the project.

Mrs. Warr-Cummings (Regional Planning) expressed concern regarding the water line, if there was going to be construction of a building or carport in the alley.

Judge Edwards said that they have no intent to construct any building-like structure. The current plan is for 12-foot fencing with some barbed wire across the top and automated security gates (on each end).

Mayor Schertzer stated that he believed that there is an automatic easement for utilities already in that right of way.

Mr. Lengeiza, Regional Planning, concurred and said that architects and the court have to be aware of that water line should utility repairs be needed. A 16" water line is large.

Judge Edwards said that they are not going to deny access for utilities. They want to keep the general public out and keep contraband out and make the courthouse and the jail system safer.

Mayor Schertzer asked who has the authority to make application for the alley vacation. He understands that they are waiting on the County Commissioners to pass a resolution to approve this. If that is so, he would make a motion to approve, contingent upon the County Commissioner's resolution of approval as the property owners.

Warr-Cummings said that as the property owners, they are the ones that should legally be making the application. The Commissioners are now aware of the application. They were not aware of the application, maybe until today. They will need to go forward and perhaps the Judge could work with them to authorize the request and then we will let that paperwork catch up with us as this moves forward through Committee and Council.

The Judge said that he was surprised to hear that they are unaware, because it has been talked about. It was his understanding was they had to come through City Planning Commission (et al) get approval and then the County could take the land if the City was willing to give it up. He stated that this started in February 2019 and perhaps they had forgotten because of the lapse in time. He thought they had agreed to ask the City for the vacation of the alley and then they would make the resolution.

Judge Edwards stated that all law enforcement throughout the city/county have access to the door because they transport prisoners under various circumstances.

Mayor Schertzer said that the Safety Director, Fire Department, and Police Department were agreeable to the alley vacation.

Mr. Hord expressed concerns about the barbed wire fence and the appearance of that in Downtown. Judge Edwards said that it is optional and is a deterrent. The contractor he worked with put it in the specifications. Warr-Cummings concurred and asked about how to minimize that appearance.

Service Director Chaffin and the Director of Public Works had a discussion on this. She asked about any construction and how that might interfere with utilities. The City has an existing 8" storm sewer and existing 24" storm sewers, and an existing 12" sanitary sewer that all run through that alley. She agreed with camouflaging of the fence.

Mr. Cumston talked about some options to camouflage fence. Judge Edwards said that they want to keep defendants out of site of potential jurors, so they will want to camouflage it enough to assure that jurors do not see defendants in hand cuffs.

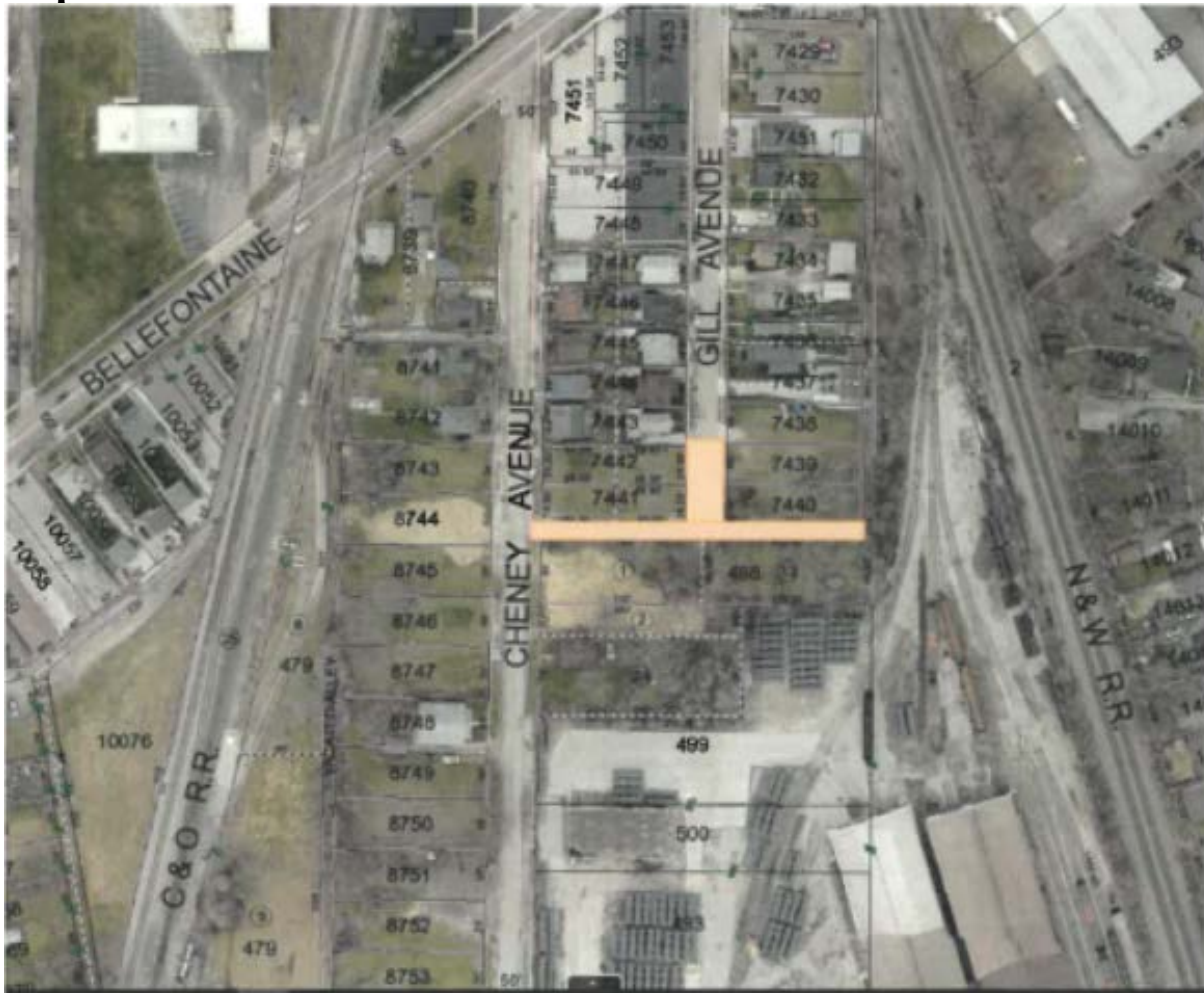
Mayor Schertzer made a motion to approve, contingent on the County Commissioners completing a resolution and with the stipulation that the fence be camouflaged for aesthetic purposes; Mrs. Chaffin 2nd; Roll Call: Ayes -- Cumston, Hord, Russell, Berry, Worthen, Schertzer, Chaffin. Nays – none

Alley vacation approved contingent to receiving resolution from County Commissioners and with the stipulation that any fencing be camouflaged (7-0).

Clerk note: Survey has been received

Item 2. Application to vacate alley and portion of Gill Avenue: Nucor

Map:



Regional Planning Staff Report:

APPLICANT: Bryan Kresak on behalf of Nucor Steel Marion

LOCATION: Unnamed alleyway connecting Cheney Avenue and Gill Avenue along with the southern portion of Gill Avenue.

REQUEST: Vacate 12' wide x 306.41' long east-west alley and vacate southern 80' portion of Gill St. (has a 4-' wide R-O-W) (in orange)

BACKGROUND: Nucor Steel is located in an Industrial area (I-1 & I-2) between Barks Road on the South, Bellefontaine Ave. on the north, N & W Railroad on the east and C & O Railroad on the West. Parts of Cheney Avenue has already been vacated through the center of this industrial complex.

COMMENT:

The applicant has contacted the utilities about the proposed alley vacation: Aqua Ohio, Columbia Gas of Ohio, Ohio Edison, Frontier, City Engineer's Office. Waiting for comments.

The applicant owns 7 parcels adjoining the proposed vacation. However, Gill Avenue has about 12 single family homes fronting on the street as well as at least two businesses. If the road were terminated, it would create a 500-foot-long dead-end street. Section 4.033 of the subdivision regulations limits cul-de-sacs to 600'. If the road and alley is vacated, it would be best to have some sort of T-turn around or cul-de-sac with a turnaround on the closed end with a minimum right of way diameter of one hundred (100) feet. There is a proposal to improve alley way to Cheney Avenue as part of this to allow access between the two streets.

In favor of the request, we find:

- The applicant owns much of the adjoining land and would be most impacted by the alley vacation to provide useful land.
- If a proper turn around or cul-de-sac was placed at the south end of the street, the remaining Gill Ave. would be within the permissible street length for a cul-de-sac and may better segregate the residential use from, the industrial use and provide adequate ability to turn around on the resulting dead-end street.

Against the request, we find:

- Staff needs to hear from the utilities and the city offices before recommending if important utilities are located in the proposed vacated street and alley.
- While zoned industrial, Gill Avenue is used as residential street. Vacating the street and alley could permit potentially conflicting industrial uses to creep closer to the residences.

- The vacation would cut off a second ingress/ egress to the residents on Gill St. that are situated between two rail lines. This could pose a safety concern.

There is a proposal to improve the alley between Cheney and Gill Streets. The Fire Department said that they were fine with this proposal.

Additional comments regarding utilities. There is a pole on Gill Street and water goes to the hydrant at the end of the street. For storm sewer, there is a catch basin and storm that goes north. There is an 8" sanitary sewer line. There is paving to the end of the street. As far as utilities and the alley that is proposed to be vacated, there is a field tile storm water to the eastern segment of the alley. Sanitary continues 8" and 6" and 6" line from Gill Avenue. The alley is paving or stone and is unimproved. What is used as an alley is a stone surfaced lot 7441 and is designated as one way going west. Some of the stone may be in the alley, but if so, not much according to the tax map layered on the air photo.

Mrs. Warr-Cummings explained that NUCOR owns a number of the vacant parcels. With the exception of Cheney, we really have the railroad track. So, Gill Avenue is kind of isolated. Referring to the maps, she said there is an existing pathway that people have been using as kind of a de facto alley, but it really is not even on the alley right of way. The fact that they would be doing something to improve upon that is actually really great. Gill Avenue is really residential. There a little bit of commercial at the end closest to Bellefontaine. As you look east toward another kind of paper alley, you know it is not. You can see brush. Then there is an unpaved informal alley. If NUCOR is going to do some improvement, we will be much better and it will not lock the people inside Gill Avenue, which was a concern.

Mr. Lengeiza continued. The alley is basically where the trees are. That is lot 7441 and is owned by NUCOR. The city has it marked as if it is an actual alley. There is a do not enter from Cheney and then coming the other way, it has a one-way sign. NUCOR has talked about some different ideas, either improve this or move it further north. So, instead of putting in a turn around.

RECOMMENDATIONS:

Table the recommendation until all utilities and safety offices can provide input. If utilities respond in favor of the vacations, only vacate the alley and southern portion of Gill Ave. if a paved turn around is provided that is suitable for public vehicles & equipment such as snowplows, school buses and fire engines to navigate.

Speaking on behalf of Nucor, Bryan Kresak stated that they have a good relationship with the neighbors and want to continue that. They do not want to create a dead end per se where folks have to pull down Gill and turn their cars and go back around. What they propose doing is where the area is vacated would be exactly as described. Just to recreate

that alleyway a little bit further north so folks that are coming down North to South on Gill can, rather than having to turn around and go back up Gill, would be able to just simply make the loop through the new alleyway and head north again on Cheney.

They have contacted the utilities and the fire department. They have the fire hydrant numbers. If this were to proceed, they would relocate the southernmost hydrant so it would be outside of the new fence and still be accessible. The same thing with the power pole that appears to be on one of the houses on the vacant properties that they currently own. They would cap that off and make the southernmost pole accessible outside the fence line as well. They contacted Frontier and the Gas Company. They told them as long as they have access to our property, that is all they are looking for. Their guard shack is manned 24/7 to allow 24/7 access there. The gate on the north end is automatically operated where the police and the fire team already have access to the north gate and that would continue.

He asked if he should gather the responses in writing on the utilities and submit to the commission. Warr-Cummings said that would be helpful, along with a timeframe.

The area would not be used for processing. It would only extend their storage yard. It gives them a larger capacity. No industrial activity will take place there.

On the eastern side of the properties on the east side of Gill, it appears that the alleyway also goes up the east side of those properties. They would just be looking also if possible, having the other alley vacated on the first two properties that we owned as well. He can design that better on a subsequent drawing.

Rev. Worthen asked if they have talked to the neighbors. Kresek said they have talked to a couple neighbors that have been out and about but had not formally reached out door to door. They have not had any feedback.

Miss Rose explained that the notification process typically happens before this first meeting is held, but as a way to try to expedite some of these applications that were held up over the past several months, the notification is running concurrently with the overall alley vacation process from start to finish. Notices are just going out, but they include a scheduled public hearing where adjacent/adjoining property owners are able to participate.

It was noted that there is a paper alley on the east side of Gill behind the properties. Chaffin explained that is a concern if they close off the southernmost east-west alley. Lengeiza said that none of that alley is used and there was at least one building that is encroaching.

Warr-Cummings said that they did go out and look and wondered if it was a paper alley, it looks like it's actually been unimproved all these years and has encroachments.

Warr-Cummings acknowledged that Regional Planning's recommendation was to table it, however they are more comfortable with the proposal after discussion. It would be

their recommendation after this discussion approve the request, given the new information that the improvements to the alley itself being relocated so that the residents could still maintain some sort of exit off of Gill that would be ideal. That option rather than a cul-de-sac.

Chaffin said she would like to see the residents have the input on whether they want the alley just relocated or a cul-de-sac for Gill avenue. It is Gill Avenue residents that will be dealing with it. If NUCOR is willing to do one or the other based upon the recommendations of the residents of Gill, she does not see any reason that that the commission should hold this up.

Mayor said that they need to keep be mindful of the fact that snowplows, police cruisers, ambulances, and fire apparatus need to traverse that Gill Avenue. If that section of the alley that will be relocated, it has to be big enough for the larger fire apparatus to get out of there. They would mostly likely back out now, but that is not ideal in an emergency. He agreed about seeking more input from residents.

Mayor Schertzer made a motion to approve, pending the resident's input on a cul-de-sac or relocation of the alley and that the cul-de-sac and or alley relocation is consistent and approved by the engineer in order to have access for our fire apparatus and emergency vehicles; Mr. Cumston -2nd. Roll Call: Ayes -- Cumston, Hord, Russell, Berry, Worthen, Schertzer, Chaffin. Nays – none

Alley vacation approved contingent on taking input from residents regarding a cul-de-sac or allow relocation that is consistent and approved by the Engineer in order to have access for our fire apparatus and emergency vehicles (7-0).

Clerk note: Survey has NOT been received

Adjourn

With no other business on the other agenda, the meeting wads adjourned at 7:16PM.