



CITY OF BURTON
BURTON CITY COUNCIL MEETING
JULY 19, 2021
MINUTES

Council Chambers

Public Hearing

6:30 PM

4303 S. CENTER ROAD
BURTON, MI 48519

This meeting was opened by President Steven Heffner at 6:30 PM.

A. CALL TO ORDER

Attendee Name	Title	Status	Arrived
Tom Martinbianco	Councilman	Present	
Steven Heffner	President	Present	
Danny Wells	Councilman	Present	
Vaughn Smith	Councilman	Present	
Gregory Fenner	Vice President	Late	6:45 PM
Deborah K Walton	Councilwoman	Present	
Christina Conley	Councilwoman	Present	

B. PRESENTATION

Mrs. Abbey stated the property in question is just north of 3273 Connecticut. We received a petition by the applicant, Jonathan Shaski to vacate an unapproved right of way. I provided the council with a map. It is 40 feet north of his property. The city has no public use for it. The properties across the street were vacated in 1990 as you see on the map. We recommend approval.

C. OPEN PUBLIC HEARING

THIS IS THE TIME FIXED FOR HEARING AND CONSIDERING ANY COMMENTS TO THE VACATING UNDER CONSIDERATION, TO-WIT:

Vacating all that part of Rose Avenue lying within the recorded plat of Country Gardens adjoining lot 17 on the North.

Steven Hendrickson, 3237 Connecticut Street stated I own 36 acres east of Rose Avenue. This is access to my property. There are two pieces of property there that are 80 feet wide. If you eliminate one of them, that limits the future development of the property. If this property was to be developed at a future date, it would be a benefit to the city. You could put one house or a whole subdivision back there. I have access to my home but if I wanted to build something on the rest of my property, I will need access. There may be access to my property at the end of Long Street but it is unclear. The title company will not guarantee the description of the property as it is listed with the city because they are two different descriptions. It has not been surveyed. If the city feels the property is not worth keeping as a right of way, I have been helping maintain it until 2019 when Mr. Shaski got a riding lawn mower and began mowing it. I am the only one that has a benefit from the property besides the city for future development. There is a road going through the property and there is a reason the developers put it there. It was for future development on the property directly to the west of it. In 2017, I inquired about buying this property and was told it wasn't for sale and I could not buy it. Other land owners that bordered it

were told the same thing when they inquired about buying it. If it is a burden to the City of Burton, I will be happy to take the property and maintain it. Mr. Shaski has no reason for taking over the property. I am the dominant beneficiary of the property and think it should be maintained for the future of the City of Burton.

Jonathan Shaski, 3273 Connecticut Street stated I have been there since 2015 maintaining the property. I have two big dogs who love to run. The property adjoins directly to my property. I checked with the city and there is another access point to Mr. Hendrickson's property on Long Street. I have maintained it for six years and already feel it is a part of my own property.

D. CLOSE PUBLIC HEARING

E. AGENDA ITEMS

Mr. Smith asked the administration what the benefits and negatives are for the city regarding this property.

Mrs. Abbey stated we have quite a few unapproved right of ways throughout the city that were future roads that were never developed. Throughout the years, you have seen vacating petitions. According to our ordinance, when a vacating petition is given, it is done based on everyone in that plat who is adjoining the property. In this particular case, the northern portion of the property is the end of the plat therefore, the only person who has the right to the property when vacated is 3273 Connecticut which is Mr. Shaski's property. No other person can purchase this. It is not a parcel of land, it is an unapproved right of way that can be vacated by ordinance. It would be absorbed by Mr. Shaski and paid for through his land taxes.

Mr. Smith asked for the history of 3249 Connecticut which is the city owned property adjacent to this property.

Mrs. Abbey stated that is not part of this application. I gave it to you for a reference. It is a 40 foot wide parcel of land that we will probably have to keep because it has a portion of the road that we own with it. I can't tell you the history or how it came to be what it is. There would be no reason to give this property away or sell the parcel due to the road going through it.

Mr. Smith stated the benefit to the city would be that the property would be taken care of and we would have the additional property taxes, correct?

Mrs. Abbey said, that is correct.

Mrs. Walton asked if the land would become one parcel number if approved.

Mrs. Abbey stated yes, it would be combined.

Mr. Heffner asked if Mr. Hendrickson would still have a way to enter his property.

Mrs. Abbey said, yes. There is 60 feet of right of way at the dead end of Long Street that adjoins his property as well as the city's 40 feet that contains the portion of the road. He has two different options for access. He also has a parcel that adjoins it, so he has access there.

Mr. Heffner asked if Mr. Hendrickson can buy the other half of it.

Mrs. Abbey stated he is two houses away from it. We would be giving up our road if we sold him that parcel.

Mr. Abbey asked the City Attorney if it is possible to split the lot that we own next to the property.

Attorney Doyle stated without knowing more about it, I can't give you a definite answer. We would need some help from the Assessor. Mrs. Abbey and I can sit down and take a look at the history. As long as we retain the street, I am sure it could be possible.

Mr. Abbey asked, what if we sold a portion of it from the road access back to his parcel and he combined it with his existing 36 acres?

Attorney Doyle stated it may be something as simple as an easement through the city property.

Mrs. Abbey stated if we gave it to him as an easement, we would be fine but if not, we would have to offer it for sale and that would likely require a bid in this situation.

Discussion ensued regarding Long Street frontage and details of Mr. Hendrickson's property.

Mr. Martinbianco would like the City Attorney and Mrs. Abbey to get together and discuss this. This is not only a complex issue but a precedence setter. We need a recommendation. I would like to make a motion to table this issue.

Mr. Heffner stated this is a public hearing. You can't do that.

Mrs. Conley stated Mr. Hendrickson stated he approached the city to buy the property and nothing ever got done and tonight we want to give the property away. That doesn't make sense.

Mrs. Abbey stated this is not a parcel of land. You can't sell it. It is an unapproved right of way. You can only vacate it. By our ordinance, the only person who has a right to that property is the person within the subdivision and that is only 3273 Connecticut. If you did nothing, he still can't get the property legally by our ordinance. It is not a parcel of land.

Mr. Martinbianco stated that's not true of the parcel to the north.

Mrs. Abbey stated we are only here to talk about the vacating. The parcel to the north is not on this petition. The petition is to vacate 40 feet of unapproved right of way, that's it.

Mr. Fenner stated I have gone through the vacating process with one of my businesses so I do understand how it works. In my situation, half of the property went to the residential neighbor and half went to my business. The ordinance is pretty cut and dry. There is no other property adjoining this land. He is asking that it be vacated. The other two pieces of land were already vacated. They were not sold, they were vacated. I feel for Mr. Hendrickson that he is in this dilemma. We are not violating our ordinance but following our ordinance by vacating this. It would be setting a precedence by not vacating this property.

Mr. Heffner stated I think you missed the part about his 36 acres being land locked if he can't access it.

Mr. Fenner stated I thought the administration addressed that and he can access it.

Mr. Heffner stated there was an issue regarding his access on Long Street. That is why we think we need to talk about this a little more.

Mr. Fenner asked, who would answer this question for us?

Mrs. Abbey stated I have the plat right here and it shows he has it.

Mr. Fenner stated if that is not a definitive answer about his access off of Long Street, I don't know what would be.

Mr. Smith stated I like the idea of discussing the option for an easement. Can the administration come back to us to let us know how that works out?

Mrs. Abbey stated that is the property to the north that the city owns. We can try to work out a deal with him and the council would have to approve the easement anyway.

Mr. Wells stated these things are never easy. It seems like we never get the full story. We are in court right now for a sale of city property. I appreciate all the history of the property and I understand what Mr. Hendrickson is wanting to do with it. It makes sense. I don't want to get involved in a lawsuit that costs us 10 times more than what the property is worth by making a quick decision. Bring us the facts of what we can actually do. I would like to do a little more exploring and bring it back and we can make a final decision.

Mayor Haskins stated there is an action item on this agenda. Madam Attorney, does council have to act on it?

Attorney Doyle said, yes. They would either have to remove it at the beginning or table it.

Mr. Heffner stated I closed the Public Hearing. Madam Attorney, how does that work?

Attorney Doyle stated you can simply reopen it and take action on it. The item should probably be on the City Council agenda and not the Public Hearing agenda.

Mr. Heffner stated I didn't know we did action items at a Public Hearing.

Attorney Doyle stated the action should probably have been to refer or suggest approval. I wasn't under the impression that action would be taken until the City Council meeting.

Mr. Heffner stated I have never seen us take action at a Public Hearing. Maybe someone will want to add it to our agenda at the Council Meeting. We are still adjourned.

1. Approve and Authorize vacating all that part of Rose Avenue lying within the recorded plat of Country Gardens adjoining lot 17 on the North.

No action was taken for this agenda item.

Meeting was adjourned at 7:06 PM.



Burton City Council
4303 S. Center Road
Burton, MI 48519

Meeting: 07/19/21 06:30 PM
Department: Department of Public Works
Category: Public Hearing
Prepared By: Amber Abbey
Department Head: Charles Abbey

E.1

SCHEDULED

AGENDA ITEM (ID # 5153)

DOC ID: 5153

**Approve and Authorize vacating all that part of Rose Avenue
lying within the recorded plat of Country Gardens adjoining
lot 17 on the North.**

COMMENTS - Current Meeting:

No action was taken for this agenda item.

ATTACHMENTS:

- Signed Pet (PDF)



City of Burton

Department of Public Works

4093 Manor Drive

Genesee County, Burton, Michigan 48519

(810) 742-9230



DATE: 5-28-2021

APPLICANTS NAME: Jonathan Shaski

APPLICANTS ADDRESS: 3273 Connecticut St. Burton, MI 48519

APPLICANTS PHONE NO: 810-397-0556

We, the undersigned, being freeholders in the City of Burton, County of Genesee and State of Michigan, hereby petition that a portion of a certain public unimproved right of way, which is not in use as such and is abandoned, be declared absolutely abandoned and discontinued in accordance with the provisions of the Laws of the State of Michigan, including Section 9.118 of Michigan Statutes as amended and supplemented, said portion of Rose Ave being described as follows:

ALL THAT PART OF ROSE AVE LYING WITHIN THE RECORDED PLAT OF COUNTRY
GARDENS ADJOINING LOT 17 ON THE N

Trusting that your honorable body will give this matter your careful consideration, your petitioners will ever pray:

Name	Mailing Address	Phone	Date
Jonathan Shaski	3273 Connecticut	810-397-0556	5-28-2021

Attachment: Signed Pet (5153 : Vacating- Rose Ave/Connecticut)

Signature

Date

STATE OF MICHIGAN } SS
 COUNTY OF GENESEE }

On May 28, 2021, Jonathan Shaski being duly sworn,
 deposes and says:

That the attached is a true and correct list of the names and mailing addresses of the owners of each
 parcel of land abutting the unimproved right of Way, as described on the attached
 petition, which is requested to be absolutely abandoned and discontinued.

RACHEAL K. ERVIN-BOGGS
 Notary Public, State of Michigan
 County of Genesee
 My Commission Expires 07-28-2021
 Acting in the County of Genesee

Racheal K. Ervin-Boggs
 Notary Public

Racheal K. Ervin-Boggs
 Name

My Commission Expires: 7/28/21

Genesee County, Michigan

Attachment: Signed Pet (5153 : Vacating- Rose Ave/Connecticut)

COUNTRY GARDENS

PART OF THE SW 1/4 OF SECTION 26,
T7N, R7E, BURTON TOWNSHIP, MICHIGAN
MERIDIAN, GENESEE COUNTY, MICHIGAN.

Surveyor's Office
Genesee County, Michigan
Plat of Country Gardens
Burton Township
was Recorded this 14th day of
November A.D., 1955, at 12 o'clock
A. M. in Liber 28 of Plat
in Page 23
Eugene E. Huntington
Surveyor

I hereby certify this copy is a true and correct copy of the plat forwarded to the Register of Deeds for recording.
Date November 7, 1955
Filed in Auditor General's Dept.
Date November 15, 1955
Examined and approved
Date November 7, 1955
Vladimir Targumski
Auditor General

DEDICATION

KNOW ALL MEN BY THESE PRESENTS, That we, Harry M. Long and Hildred L. Long, his wife, as proprietors, have caused the land embraced in the annexed plat to be surveyed, laid out and platted, to be known as "COUNTRY GARDENS", Part of the SW 1/4 of Section 26, T7N, R7E, Burton Township, Michigan Meridian, Genesee County, Michigan, and that the roads as shown on said plat are hereby dedicated to the use of the public.

Witnesses:
Ronald Reid
Charles J. Housler
Clerk of Court
State of Michigan
County of Genesee

Harry M. Long
Harry M. Long
Hildred L. Long
Hildred L. Long

On this 10th day of Nov 1954, before me, a notary public, in and for said county, personally appeared the above named Harry M. Long and Hildred L. Long, his wife, known to me to be the above named persons who executed the above dedication and who acknowledged the same to be their free act and deed.

My commission expires Apr 6, 1957

Lytle P. Mod
Lytle P. Mod
Notary Public, Genesee Co., Michigan

DESCRIPTION OF LAND PLATTED

The land embraced in the annexed plat of "COUNTRY GARDENS", Part of the SW 1/4 of Section 26, T7 N, R7E, Burton Township, Michigan Meridian, Genesee County, Michigan, is described as: Beginning at a point on the NW 1/4 line of Section 26, T7N, R7E, Burton Township, Genesee County that is S 01°20'E, 2546.33 feet, S 53°02'E, 144.25 feet, and N 89°22'E, 1809.14 feet from the N. W. Corner of said Section 26; thence S 00°37'E, 982.44 feet; thence N 89°00'W, 948.97 feet; thence N 01°23'W, 406.2 feet to the NW 1/4 line of said Section 26; thence E 89°22'E, 753.18 feet along said NW 1/4 line to the place of beginning, containing 24 Lots.

CERTIFICATE OF MUNICIPAL APPROVAL

This plat was approved on the 13th day of September 1954, by the Township Board of the Township of Burton.

James P. Barker
James P. Barker
Twp. Clerk

CERTIFICATE OF APPROVAL BY BOARD OF COUNTY ROAD COMMISSIONERS

This Plat has been examined and was approved on the 29 day of Sept 1954, by the Genesee County Board of Road Commissioners.

Robert G. Stoddard
Robert G. Stoddard
Comm.

A. Harold Bergh
A. Harold Bergh
Comm.

G. M. Bullard
G. M. Bullard
Comm.

CERTIFICATE OF APPROVAL BY COUNTY BOARD

This plat was approved on the 3rd day of October 1954, by the Genesee County Plat Board.

Paul M. Smith
Paul M. Smith
Reg. of Deeds

James P. Barker
James P. Barker
County Treas.

Wm. H. Dunn
Wm. H. Dunn
County Clerk

B. E. O'Brien
B. E. O'Brien
Co. Drain Comm.

COUNTY TREASURER'S CERTIFICATE RELATING TO TAXES

Office of the County Treasurer, Genesee County, Michigan

I hereby certify that there are no tax liens or titles held by the State on the lands described hereon, and that there are no tax liens or titles held by individuals on said lands for the five years preceding the 29 day of November 1954, and that the taxes for said period of five years are paid as shown by the records of this office.

This certificate does not apply to taxes, if any, now in process of collection by township, City or Village collection officers.

James P. Barker
James P. Barker
Co. Treas.

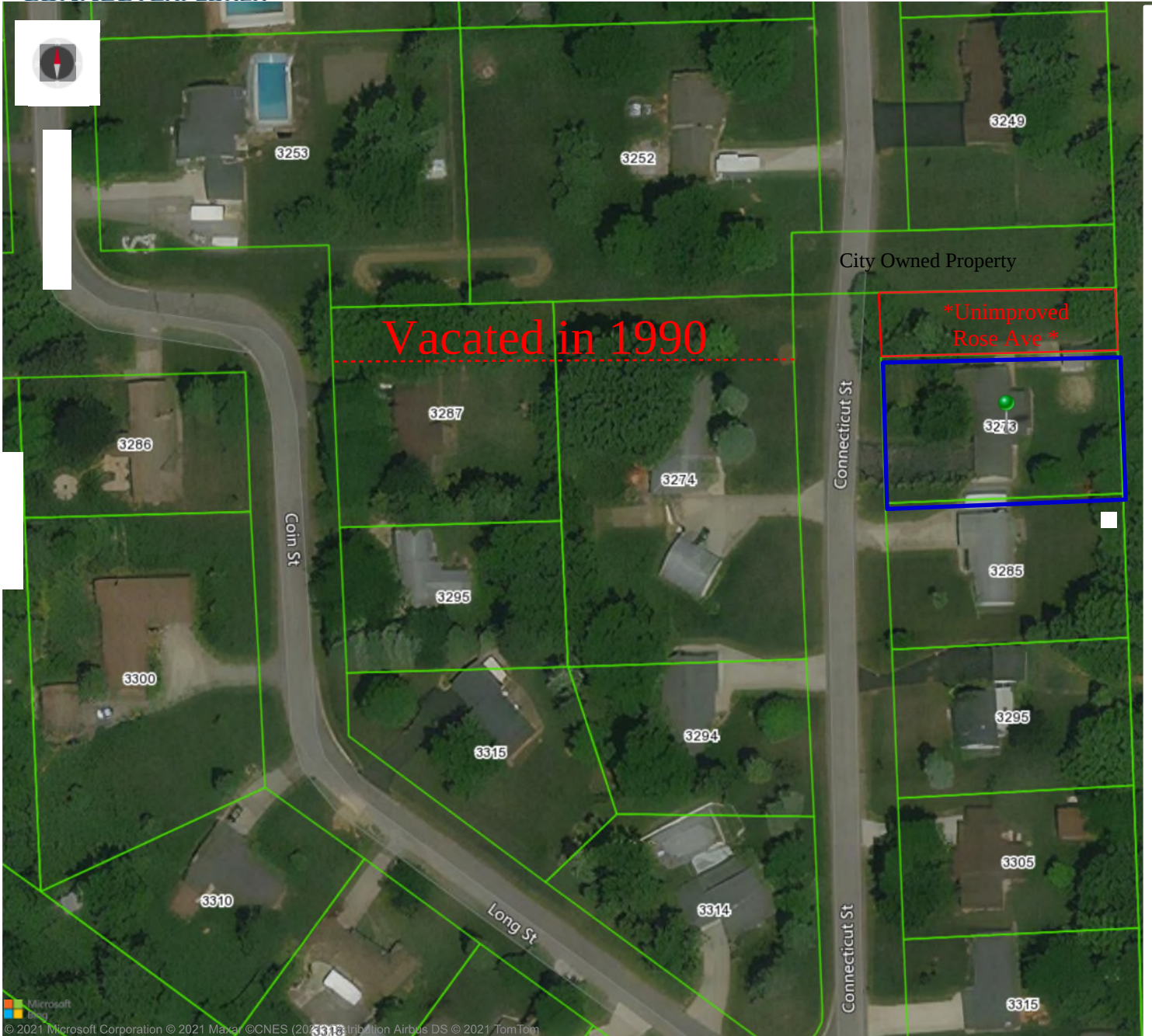
SURVEYOR'S CERTIFICATE

I hereby certify that the plat hereon delineated is a correct one, and that permanent monuments consisting of iron rods at least one-half inch in diameter and thirty-six inches in length, encased in concrete cylinders four inches in diameter and thirty-six inches in length have been set at all points marked thus (o) as thereon shown at all angles in the boundaries of the land platted, at all intersections of the lines of streets and at intersections of the lines of streets with the boundaries of the plat.

Richard C. West
Richard C. West
Registered Surveyor No. 6100



WEST ENGINE E RING 1665 N. CHEVROLET AVE. FLINT, MICH.



Microsoft
© 2021 Microsoft Corporation © 2021 Maxar © CNES (2021) Distribution Airbus DS © 2021 TomTom

map: Aerial

Dates: Latest

Attachment: Signed Pet (5153 : Vacating- Rose Ave/Connecticut)