

**CITY OF GREEN**  
**PLANNING DEPARTMENT REVIEW**

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**PLANNING & ZONING COMMISSION**

June 20, 2012

**ITEM 12-29      WALNUT HILLS ALLOTMENT NO. 4**  
(B. Fitzgibbon, Property Owner)  
Location: Berna Road  
Petition to narrow existing right-of-way  
*Zoning: R-1*

**PLANNING DEPARTMENT**

The City of Green has received a petition from Brian Fitzgibbon, owner of Lot 36 of Walnut Hills Allotment No. 4, to narrow the right-of-way of an existing un-named street in this allotment. (A copy of the petition and plat are attached). The Law Director has determined that this action is legal pursuant to the provisions of Chapter 723 of the Ohio Revised Code. All contiguous property owners have been notified of this hearing.

The fundamental issue relative to this petition is access to residential property adjacent to the existing 50' wide x 300' long right-of-way that is located between Lots 34 & 36 on the south side of Berna Road. This un-named street (locally known as "Tim Drive") has not been constructed and currently provides access to the Fitzgibbon property (adjoining on the east side of the right-of-way) and un-platted land to the south owned by Sharon Wright and David Strittmatter via a privately installed gravel driveway. Issues have arisen over the use and maintenance of this driveway as it relates to the Schutte family, which owns the vacant Lot 34 (adjoining on the west side of the right-of-way) and un-platted land contiguous to the south. The driveway does not currently provide direct access to either Schutte property, which has an existing access drive through Lot 34. There is no intention by the City or other entity to construct a public road within this right-of-way area.

Per the petition to narrow, the request is for the transfer of a triangular, 2,995 SF parcel of land from the City to Mr. Fitzgibbon. The 25' wide parcel would begin at the centerline of the right-of-way at its intersection with Berna Road and narrow to 0' at the current southwest corner of Lot 36. This would give him ownership control over land that he is currently maintaining and considers as part of the side yard of the property, per the petition. The petitioner also has a concrete driveway that provides direct access from the gravel drive to his residence. The parcel of land he would receive contains a lawn area and the portion of the concrete driveway that lies within the right-of-way. The gravel driveway is not included in the petitioner's property request. The remaining right-of-way would widen from 25' at the Berna Road intersection to 50' at the south end. The existing frontages of the three other properties would remain unchanged at this time. There are no known utilities currently located within the existing right-of-way.

The PZC is being asked to review the proposed petition to narrow and make a recommendation to City Council.

**DESIGN REVIEW BOARD**

No review required.

**ENGINEERING**

**FIRE**

No comments requested.

## **ZONING**

No comments received.

## **STAFF RECOMMENDATION**

Staff recommends a favorable recommendation by the PZC to City Council to honor the petition to narrow the right-of-way as presented. The City believes this action would not be detrimental to the general welfare and, due to the lack of public roadway, would allow private control of land that is already considered part of the adjacent properties. This recommendation, however, should be made with a plan for the remaining right-of-way, which is only 25' wide at Berna Road. A current plan is to divide this area between the four contiguous property owners. This would create two landlocked parcels of land, however, and adequate provisions would need to be made for the perpetual access (and maintenance of such access) to those properties.

If approved, a replat of the allotment will be required to consolidate the 2,995 SF parcel with the existing Lot 36.