



All comments in the report are advisory.

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## Planning & Zoning Staff Report to Allentown City Planning Commission

CPC Case : #22-05 Vacating a portion of N Lumber and N Refwal Street from Clay Street to Dead End.

Petitioner : 3 Dimensional Fabrication LLC (911-925 N. Lumber St.)

DATE : July 12, 2022

### Background

1. This request was filed by Johnny Khoury, 3 Dimensional Fabrication LLC, of 911-925 N. Lumber Street (Parcel B in Fig-1) and concurred by adjoining property owner Philip Ciminera, 1533 W. Walnut St. LLC, of 912-926 N. Lumber Street (Parcel A in Fig-1).
2. Subject roadways are in north Allentown just south of the border with Whitehall Township. N. Lumber Street extends 162.5' from Clay Street to Whitehall Street, and N. Refwal Street extends 154.5' from Clay Street to a dead end (Fig-1).
3. The petitioner contends that the purpose of the vacation is to limit access to the area to mitigate alleged illegal activity occurring on the streets proposed to be vacated.

*Figure 1. Aerial. Portions of N. Lumber and N. Refwal Streets proposed to be vacated.*



## Findings

1. The subject portions of N. Lumber and N. Refwal Streets are in the 8th Ward. N. Lumber Street has a 40' Right of Way and was opened and adopted by the City Ordinance Volume 1 Page 82 Section 5 on January 16, 1870. N. Refwal Street has a 10' wide Right of Way and was created and located by the Joseph Balliet Subdivision dated January 1898 and recorded in the City Map File #174.
2. Based on the City's plat maps, both street segments have been in existence since the immediate vicinity was subdivided in the early nineteenth century. Although the N. Refwal road segment appears in the official city street map it was never developed as a roadway and, therefore, was never opened to vehicular traffic. Such unimproved streets are usually referred to as paper streets -- i.e., they exist in official maps such that they are legal with metes and bounds just like a regular street but never developed as a roadway. The segment of N. Lumber Street, however, is paved and open to vehicular traffic, though it dead ends at Whitehall Street, a paper street that was never developed as a roadway or opened to vehicular traffic.
3. Lumber Street extends between the Petitioner's property located at 911-925 N. Lumber Street and the property at 912-926 N. Lumber Street. The street dead ends at the intersection of Whitehall Street, an undeveloped paper street (Fig-2).
4. Refwal Street is largely undeveloped (small portion paved with no gutters, no sidewalk). The paved portion is currently gated and allows private garage access to the two abutting properties. The remainder of Refwal Street includes vegetation and utility poles (Fig-3).
5. There are three parcels abutting the segment of **N. Lumber Street** (refer to Figure 1):
  - a. Parcel A (912-926 N. Lumber Street) is owned by Philip Ciminera of 1533 W. Walnut Street LLC. This parcel contains a pre-existing industrial building.
  - b. Parcel B (911-925 N. Lumber Street) is owned by Petitioner Johnny Khoury. This parcel contains a pre-existing industrial building.
  - c. Parcel D (929 N. 9<sup>th</sup> Street) is owned by Karpyn Family LLC. This parcel contains a pre-existing industrial building.

Figure 2. Current Utilization of N. Lumber Street.

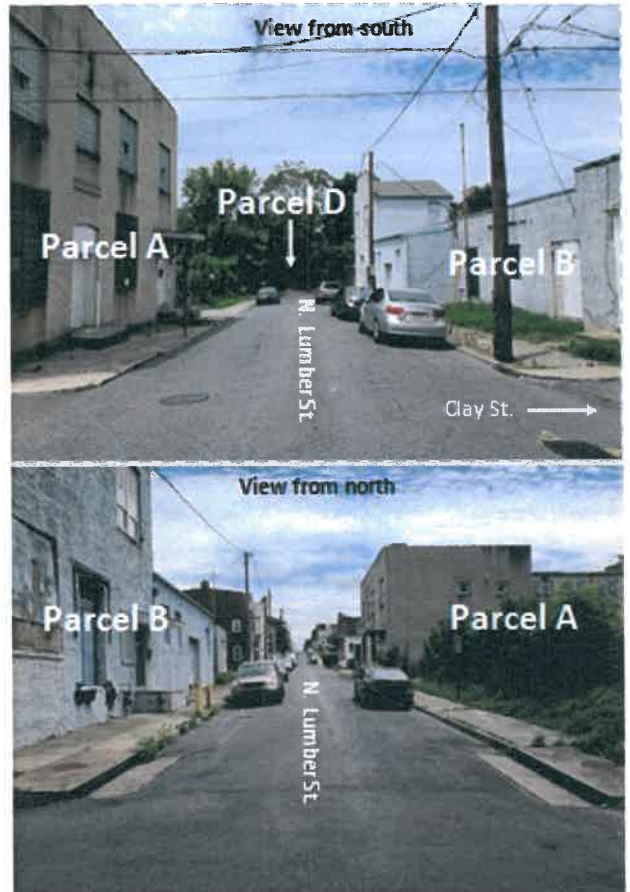


Figure 3. Current Utilization of N. Refwal Street.



6. There are two parcels abutting the segment of **N. Refwal Street** (refer to Figure 1):
  - a. Parcel B (911-925 N. Lumber Street) is owned by Petitioner Johnny Khoury. This parcel contains a pre-existing industrial building.
  - b. Parcel C (801-811 Greenleaf Street) is owned by 801 Greenleaf LP. This parcel contains a pre-existing industrial building.

7. Parcel A is a developed parcel with a pre-existing industrial building owned by 1533 W. Walnut Street LLC that fronts onto the block of N. Lumber Street proposed for vacation. An undeveloped portion of Clay Street abuts the property to the south (Fig-4). The property owner supports the proposed vacation.

Figure 4. Current access to Parcel A, 912-926 N. Lumber Street.



8. Parcel B is a developed parcel with a pre-existing industrial building owned by the Petitioner that fronts onto the block of N. Lumber Street proposed for vacation. It abuts a developed portion of Clay Street to the south. The property also abuts the portion of N. Refwal Street proposed for vacation at the east.

9. Parcel C is a developed parcel with a pre-existing industrial building owned by 801 Greenleaf LP. The property fronts onto Greenleaf Street and abuts N. Refwal Street to the west. A garage with gated access exists at the portion of N. Refwal Street proposed for vacation. The property owner opposes the vacation, because it is "not in the best interest of our use of the property."

10. Parcel D is a developed parcel with a pre-existing industrial building owned by Karpyn Family LLC. The property abuts the portion of N. Lumber Street proposed for vacation at the southern property line. It does not appear the property would be impacted by the proposed vacation.

11. Planning Staff also evaluated the proposed vacation against criteria prescribed under Article 915 (re: Street Vacations) of the Codified Ordinances of the City of Allentown, as follows:

- a. Whether the right-of-way vacation will adversely affect the street pattern or circulation of the immediate area or of the community.

- i. *No. The proposed street closures do not appear to have a disruptive effect on the existing street patterns and traffic circulation, since the subject streets dead end.*

- b. Whether the public need will be adversely affected.

- i. No. While it was observed<sup>1</sup> that the subject portion of N. Lumber Street accommodates street parking, it appeared to be used mainly by the businesses on Parcels A and B. There is currently no public access to the subject portion of N. Refwal Street.
- c. Whether the public right-of-way may be needed for future public use.
  - i. Planning Staff defers to the PW Staff as to future plans for this street segment.
- d. Whether any abutting property owner will become landlocked or will have his access substantially impaired.
  - i. None. No parcel will be landlocked if the vacation is granted.

12. Meanwhile, Staff Report from the City's Public Works Dept informs of the following:

- a. Comments from abutting properties were obtained with the following results:

Property Owner	Response
Johnny Khoury (Parcel A) -- Applicant	
Philip Ciminera (Parcel B)	Supports proposed vacation
Gary Grey (Parcel C)	Objects due to use of property

- b. Utility agencies were also polled with the following results:

Utility Agency	Response
PPL	Objects due to presence of facilities in ROW
Verizon	No response
UGI	Objects due to presence of facilities in ROW
LCA	Objects to N. Lumber St. vacation due to presence of facilities but does not object to the N. Refwal Street vacation

- c. City units that have a conceivable interest in vacating the subject street were also polled with the following results:

City Staff / Department	Response
A P D	No response
Communications /EMS	No response
A F D	No objection
Traffic Engineer	No objection
Stormwater Engineer	No objection

### Summary of Proposed N. Lumber Street Vacation

1. Bureau of Engineering has no objection to the subject street vacation of N. Lumber Street with the **condition that the City of Allentown reserves an easement over the vacated area for drainage and for passage of public utilities, together with the right of entry thereon for repairs, construction and reconstruction of the drainage facilities and the public utilities without any liability for damages on the part of the City. Where the easement is reserved, no construction, temporary or permanent, shall be made over or across without the approval of the City of Allentown.**

<sup>1</sup> July 6, 2022.

2. LVPC has no objection to the subject street vacation of N. Lumber Street with the recommendation that ***the existing cartway and storm sewer inlets be maintained and remain free and clear of any impediments*** to the designed capture of storm water as it currently exists. LVPC also recommended that the ***city and utility companies with essential infrastructure be granted access*** to the portion of the street proposed to be vacated.
3. Based on evaluation, Planning Staff endorses the proposed vacation of N. Lumber Street **provided easements are granted to the City of Allentown and utility companies with essential infrastructure** to allow for the maintenance of facilities therein.

#### **Summary of Proposed N. Refwal Street Vacation**

1. Bureau of Engineering objects to the proposed N. Refwal Street vacation due to the inability to secure easements from the objecting adjoining owner.
2. LVPC has no objection to the subject street vacation of N. Refwal Street with the recommendation that ***access be granted for the city and utility companies to maintain, repair, and service existing utilities above and potentially below ground***. LVPC also recommended that the petitioner ***get concurrence for the street vacation from the property owner of 801-811 Greenleaf Street*** since the property has rear frontage along the subject portion of N. Refwal Street.
3. Based on evaluation, Planning Staff would endorse the proposed vacation of N. Refwal Street, ***provided easements are secured from the adjoining property owner at 801-11 N. Greenleaf Street granting access to the city and utility companies to maintain, repair, and service existing utilities***.

In practice, if a proposed roadway vacation were granted, all parcel boundary lines of abutting properties are deemed extended up to the center of the vacated roadway. In this scenario, Parcels A/B/C property lines would be extended to meet the current centerline of the roadway parcel.

