

**CITY OF EAST LANSING
EAST LANSING CITY COUNCIL
RESOLUTION NO. 1994 - 5**

**VACATING A CERTAIN ALLEY AND PLATTED RIGHT-OF-WAY
LOCATED IN THE ASSESSOR'S PLAT OF A PART OF LOT 84
OAKWOOD AND IN THE PLAT OF BUNGALOW KNOLLS SUBDI-
VISION OF THE CITY OF EAST LANSING, INGHAM COUNTY,
MICHIGAN**

Introduced by: Councilmember Balas
Supported by: Councilmember Sharp

WHEREAS, the City Council of the City of East Lansing on September 20, 1994,, adopted a Resolution deeming it advisable and necessary for the health, welfare, comfort and safety of the people of the City of East Lansing to discontinue and vacate the following public alley and public rights-of-way:

That certain East/West platted alley lying South of and adjacent to Lots 6 and 7 of the Assessor's Plat of a part of Lot 84 Oakwood, City of East Lansing, Ingham County, Michigan according to the Plat recorded at Liber 11, Page 50 of Ingham County Records, including any portion of the platted right-of-way of Baldwin Court lying South of the South lot lines of Lots 6 and 7 of said Plat as extended to the centerline of Baldwin Court, and

That certain East/West alley lying within the Plat of Bungalow Knolls Subdivision, City of East Lansing, Ingham County, Michigan according to the Plat recorded at Liber 5, Page 23 of Ingham County Records, being the South 12 feet of Lot Twenty Four (24) of Bungalow Knolls Plat according to the recorded Plat thereof, and

Including all rights of the public for alley purposes conveyed to the City in that certain Warranty Deed executed and delivered by R. G. Callahan to the City of East Lansing dated May 18, 1916 and recorded at Liber 277, Page 165 of Ingham County Records described as the South 12 feet in width of Lot Twenty Four (24) of Bungalow Knolls Plat according to the recorded Plat thereof, and that certain Warranty Deed executed and delivered by Chace Newman and wife to the City of East Lansing dated May 6, 1916 and recorded at Liber 277, Page 161 of Ingham County Records described as a strip of land twelve (12) feet in width lying North of and adjacent to the North line of Lots 6, 7, 8 and 9 of Giltner-Hallman Subdivision of Lot 84 of

the Plat of Oakwood, and extending Eastward from the East line of Lot Twenty Four (24) of Bungalow Knolls Subdivision to the West line of Lot 1 of said Giltner-Hallman Subdivision, being a part of Lot 84 of the Plat of Oakwood, City of East Lansing, Ingham County, Michigan.

and,

WHEREAS, a Notice of Hearing on the proposed vacation of the above-described premises was published in the Towne Courier, a weekly newspaper published and circulated in the City of East Lansing, Michigan during the four consecutive weeks of September 24, 1994, October 1, 1994, October 8, 1994 and October 15, 1994, establishing the time and place of the Public Hearing as the 1st of November, 1994, at the Council Chambers, 54-B District Court Chambers, Courtroom No. 2, 101 Linden, East Lansing, Michigan 48823, at 7:30 p.m. and,

WHEREAS, the Public Hearing on the vacation on the above-described premises was held on this 1st day of November, 1994, at the Council Chambers in the City of East Lansing and where the City Council heard and considered any objections to said vacation of the premises, and,

WHEREAS the City Council hereby adopts the following written findings for this Resolution:

1. The subject alley was deeded to the City by deeds recorded on May 8, 1924 at Liber 27, Pages 161 and 165, as 12 feet in width. A portion of the alley was subsequently re-platted by the Assessor's Plat of Lot 84 of Oakwood on April 15, 1930 to be 11.8 feet in width.
2. The platted alley does not meet the minimum street standards of Section 5.34 of the City's Subdivision Regulations, Chapter 6, which require that a public alley be not less than 20 feet in width.

3. Baldwin Court as platted by the Assessor's Plat has a right-of-way of a width of 33 feet at its northern terminus with the subject alley.
4. Baldwin Court does not meet the minimum street standards of Section 5.341 of the City's Subdivision Regulations, Chapter 56, which require a minimum width for marginal access streets of not less than 50 feet.
5. Baldwin Court is currently a dead end street and fails to meet the street standards of Section 5.341 of the City Code since it does not have a cul-de-sac nor adequate arrangements for a turnaround as required by Section 5.341(11) of Chapter 56 of the City Code.
6. Insufficient right-of-way exists to construct a proper cul-de-sac or turnaround at the end of Baldwin Court as required by Section 5.341(12) of Chapter 56 of the City Code.
7. The sidewalks on either side of Baldwin Court are three feet in width which do not meet the minimum five foot requirement of Section 5.363(5) of the City Code.
8. Many pedestrians of all ages regularly use Baldwin Court.
9. Baldwin Court cannot reasonably and safely accommodate additional vehicular traffic emanating from properties fronting on Marshall Street.
10. The subject alley does not have sufficient width to safely allow two-way vehicular traffic.
11. The subject alley has never been opened and improved by the City as a public alley for vehicular traffic.
12. The subject alley is currently improved with gravel paving for a distance of approximately 60 feet east and west of the center line of Baldwin Court. The subject alley is a dead end alley.
13. Alleys are currently prohibited in single-family and two-family districts by Section 5.342 of Chapter 56 of the City Code, and dead end alleys are prohibited in all districts by the Code.
14. The paved portion of the subject alley serves exclusively as driveway access to the garages for the residences located at 620 and 621 Baldwin Court.
15. The unimproved portions of the subject alley is occasionally used by pedestrians circulating from Baldwin Court to Hillcrest Avenue.

16. The garage for the residence located at 622 Hillcrest Avenue is constructed on the north right-of-way of the unimproved portion of the subject alley.
 17. If the subject alley were improved through to Hillcrest Avenue, the paved alley would have a grade of 2.75 percent from Baldwin Court to Hillcrest Avenue, which grade would present road and maintenance difficulties during periods of ice and snow.
 18. If the subject alley were improved through to Hillcrest Avenue, it would require the removal or cause the destruction of at least 11 mature trees having a trunk diameter of between 6 inches and 35 inches.
 19. The City has a four inch water main in the westerly portion of the subject alley and a combined storm and sanitary sewer main running east and west through the subject alley.
 20. The City has not maintained the subject alley, except to occasionally remove snow from that east and west portion of the subject alley which serves as the driveway to 620 and 621 Baldwin Court.
 21. None of the premises fronting on Marshall Street or Hillcrest Avenue which abut the alley currently use the alley as a primary or secondary means of egress to their property.
 22. There is no evidence of regular use of the alley for ingress or egress to the properties on Marshall Street or Hillcrest Avenue since 1952.
 23. The current owner of 346 Marshall Street temporarily used the alley in Baldwin Court approximately 2 years ago for ingress to the rear of his premises during remodeling, however, the rear lot line is currently fenced and does not access the alley.
 24. The owners of 338, 346, and 352 Hillcrest Avenue (Johnson, Shaheen, and Morris), each have sufficient lot width, frontage and side yard width to allow the construction of driveways from Marshall Street to provide access to the rear of their lots for parking and garages.
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25. Possible administrative remedies exist for the owners of 346 and 352 to use or reconfigure their existing joint driveway so as to provide from Marshall Street to the rear of their properties, which administrative remedies these owners have failed to pursue.

NOW THEREFORE, BE IT RESOLVED, that pursuant to the authority granted by the statutes of the State of Michigan, to-wit: the Fourth Class Cities Act, being MCL 102.3, and the Subdivision Control Act, MCL 560.257; MSA 26.430(257), and §5.3 of the City Charter, the City Council of the City of East Lansing, Michigan hereby vacates and discontinues the above-described alley and public rights-of-way.

RESERVING HOWEVER, unto the parties hereinafter named the right to easements for the following uses and purposes:

1. To the City of East Lansing an easement for public utility purposes, including the right to maintain and continue any and all existing public or quasi-public utility easements thereover or thereunder, and the right hereafter to install and maintain public or quasi-public utilities thereon or thereunder including installation of cable and conduit for cable television systems and private telecommunication systems operated under any license or franchise issued by the City, and the right of ingress and egress thereto for any purpose whatsoever.
2. To Judith Johnson or her heirs, successors or assigns, an easement over, across and under that portion of the vacated alley as shown on the Assessor's Plat of a part of Lot 84 Oakwood, lying between the west right-of-way line of Baldwin Court, as extended to the north lot line of Lot 8 of the Plat of Giltner-Hallman Subdivision, and the east lot line of Lot 7 of the Plat of Giltner-Hallman Subdivision, as extended to the south lot line of Lot 6 of the Assessor's Plat of a part of Lot 84 Oakwood, according to the recorded plats thereof, for the purpose of installing and maintaining private sewer leads

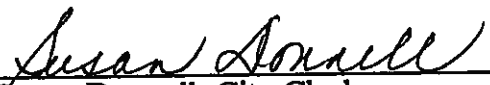
connecting said Lot 7 of the plat of Giltner-Hallman Subdivision to the public sanitary sewer system, and an easement over and across the above-described portion of the vacated alley for the purpose of maintaining, trimming and removing trees located on said Lot 7 of the plat of Giltner-Hallman Subdivision, and the right of ingress and egress thereto for such purposes.

3. To William R. Morris and Susan L. S. Morris, husband and wife, or their heirs, successors or assigns, an easement over, across and under that portion of the vacated alley as shown on the Assessor's Plat of a part of Lot 84 Oakwood, lying between the west plat line of the aforesaid Assessor's Plat and the east right-of-way line of Baldwin Court as extended to the north lot line of Lot 7 of the plat of Giltner-Hallman Subdivision according to the recorded plats thereof, for the purpose of installing and maintaining private sewer leads connecting Lot 9 of the plat of Giltner-Hallman Subdivision to the public sanitary sewer system and an easement over and across the above-described portion of the vacated alley for the purpose of maintaining, trimming and removing trees located on Lot 9 of the plat of Giltner-Hallman Subdivision, and the right of ingress and egress thereto for such purposes.
4. To George Shaheen, his heirs, successors or assigns, an easement over, across and under that portion of the vacated alley as shown on the Assessor's Plat of a part of Lot 84 Oakwood, lying between the east right-of-way line of Baldwin Court, as extended to the north lot line of Lot 7 of the plat of Giltner-Hallman Subdivision, and the west lot line of Lot 8 of the plat of Giltner-Hallman Subdivision as extended to the south lot line of Lot 7 of the

Assessor's Plat of a part of Lot 84 Oakwood, according to the recorded plats thereof, for the purpose of installing and maintaining private sewer leads connecting said Lot 8 of the plat of Giltner-Hallman Subdivision to the public sanitary sewer system, and an easement over and across the above-described portion of the vacated alley for the purpose of maintaining, trimming and removing trees located on said Lot 8 of the plat of Giltner-Hallman Subdivision and the right of ingress and egress thereto for such purposes.

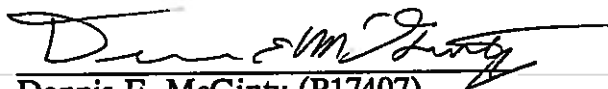
ADOPTED: Yeas: Balas, Juall, Phipps, Rosen, Sharp.
Nays: None.

CLERK'S CERTIFICATION: I hereby certify that the foregoing is a true and complete copy of a Resolution adopted by the East Lansing City Council at its regular meeting held on Tuesday, November 15, 1994, and reconsidered and amended by the East Lansing City Council at its regular meeting held on Tuesday, May 16, 1995, the original of which is part of the Council's Minutes, and further reconsidered and amended by the East Lansing City Council at its regular meeting held on Tuesday, July 18, 1995, the original of which is a part of the Council's Minutes.



Susan Donnell, City Clerk,
City of East Lansing
Ingham County, Michigan

Drafted by and approved as to form:



Dennis E. McGinty (P17407)
601 Abbott Road
East Lansing, Michigan 48823
(517) 351-0280

McGINTY, BROWN, JAKUBIAK, FRANKLAND, HITCH & HENDERSON, P. C.

M E M O R A N D U M

TO: Michael Benedict, Acting City Manager
FROM: Dennis E. McGinty, City Attorney *DEW*
SUBJECT: VACATION OF BALDWIN COURT ALLEY
DATE: September 15, 1994

Pursuant to City Council's resolution adopted on September 7, 1994, I have prepared a proposed resolution to commence the process to vacate the Baldwin Court alley. This action is taken pursuant to the authority granted to the City of East Lansing by §5.3 of its Charter and MCL 102.3. The proposed resolution follows the form and procedure which has been followed by the City since adoption of its present Charter, except that we have added provisions to reserve easements for the placement of cable and conduit for cable television systems and private telecommunications systems operated under license or franchise issued by the City Council.

The process is initiated by the City Council adopting this resolution determining the necessity of vacating the public right-of-way and scheduling a public hearing to meet and hear objections to the vacation. This initial resolution also directs that the City Clerk publish the required statutory notice of the meeting at least once each week for four consecutive weeks prior to the meeting. In order to allow the Clerk adequate time for publication, we have selected November 1, 1994 as the City Council meeting date at which this vacation will be considered.

At the November 1, 1994 meeting, a second resolution will need to be adopted in the standard form to actually accomplish the vacation. If written objections are filed with the City Clerk prior to or at the public hearing, the final resolution cannot be adopted except by a concurring vote of at least 2/3 of all of the members of the Council.

alb
enclosure

**CITY OF EAST LANSING
EAST LANSING CITY COUNCIL
RESOLUTION NO. 1994 - 5**

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LOCATED IN THE ASSESSOR'S PLAT OF A PART OF LOT 84,
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VISION OF THE CITY OF EAST LANSING, INGHAM COUNTY,
MICHIGAN**

Introduced by: Councilmember Sharp
Supported by: Councilmember Rosen

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3. **Baldwin Court as platted by the assessor's plat has a right-of-way of a width of 33 feet at its northern turn with the subject alley.**
4. **Baldwin Court does not meet the minimum street standards of Section 5.341 of the City's Subdivision Regulations, Chapter 56, which require a minimum width for marginal access streets of not less than 50 feet.**
5. **Baldwin Court is currently a dead end street and fails to meet the street standards of Section 5.341 of the City Code since it does not have a cul-de-sac nor adequate arrangements for a turnaround as required by Section 5.341(11) of Chapter 56 of the City Code.**
6. **Insufficient right-of-way exists to construct a proper cul-de-sac or turnaround at the end of Baldwin Court as required by Section 5.341(12) of Chapter 56 of the City Code.**
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8. **Many pedestrians of all ages regularly use Baldwin Court.**
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12. **The subject alley is currently improved with gravel paving for a distance of approximately 60 feet east and west of the center line of Baldwin Court. The subject alley is a dead end alley.**
13. **Alleys are currently prohibited in single-family and two-family districts by Section 5.342 of Chapter 56 of the City Code, and dead end alleys are prohibited in all districts by the Code.**
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15. **The unimproved portions of the subject alley is occasionally used by pedestrians circulating from Baldwin Court to Hillcrest Avenue.**


16. The garage for the residence located at 622 Hillcrest Avenue is constructed on the north right-of-way of the unimproved portion of the subject alley.
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 21. None of the premises fronting on Marshall Street or Hillcrest Avenue which abut the alley currently use the alley as a primary or secondary means of egress to their property.
 22. There is no evidence of regular use of the alley for ingress or egress to the properties on Marshall Street or Hillcrest Avenue since 1952.
 23. The current owner of 346 Marshall Street temporarily used the alley in Baldwin Court approximately 2 years ago for ingress to the rear of his premises during remodeling, however, the rear lot line is currently fenced and does not access the alley.
 24. The owners of 338, 346, and 352 Hillcrest Avenue (Johnson, Shaheen, and Morris), each have sufficient lot width, frontage and side yard width to allow the construction of driveways from Marshall Street to provide access to the rear of their lots for parking and garages.
-
25. Possible administrative remedies exist for the owners of 346 and 352 to use or reconfigure their existing joint driveway so as to provide from Marshall Street to the rear of their properties, which administrative remedies these owners have failed to pursue.

NOW THEREFORE, BE IT RESOLVED, that pursuant to the authority granted by the statutes of the State of Michigan, to-wit: the Fourth Class Cities Act, being MCL 102.3, and the Subdivision Control Act, MCL 560.257; MSA 26.430(257), and §5.3 of the City Charter, the City Council of the City of East Lansing, Michigan hereby vacates and discontinues the above-described alley and public rights-of-way.

RESERVING HOWEVER, unto the City of East Lansing the right to an easement in the City of East Lansing for public utility purposes, including the right to maintain and continue any and all existing public or quasi-public utility easements thereover or thereunder, and the right hereafter to install and maintain public or quasi-public utilities thereon or thereunder including installation of cable and conduit for cable television systems and private telecommunication systems operated under any licensure or franchise issued by the City, and the right of ingress and egress thereto for any purpose whatsoever.

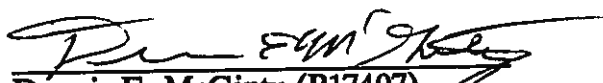
ADOPTED: Yeas: Juall, Phipps, Rosen, Sharp.
Nays: None.

CLERK'S CERTIFICATION: I hereby certify that the foregoing is a true and complete copy of a Resolution adopted by the East Lansing City Council at its regular meeting held on Tuesday, November 15, 1994, the original of which is part of the Council's Minutes.



Susan Donnell, City Clerk,
City of East Lansing
Ingham County, Michigan

Drafted by and approved as to form:



Dennis E. McGinty (P17407)
601 Abbott Road
East Lansing, Michigan 48823
(517) 351-0280

M E M O R A N D U M

TO: East Lansing City Council
FROM: Dennis E. McGinty, City Attorney *DEM*
SUBJECT: RECONSIDERATION OF RESOLUTION 1994-5
RESOLUTION TO VACATE THE BALDWIN COURT ALLEY
DATE: July 12, 1995

On November 15, 1994 the City Council adopted Resolution 1994-5 vacating the east-west public alley at the south end of Baldwin Court. As a result of this action three abutting property owners with addresses on Marshall Street filed suit against the City claiming a deprivation of vested property rights. We subsequently negotiated a settlement of this litigation with two of the plaintiffs, which settlement included an agreement to reserve an easement to them in the former alley to allow these owners the right to maintain and service their sewer leads in the alley, and access to the rear of their lots to trim trees.

Consequently on May 16, 1995 Resolution 1994-5 was reconsidered and amended to reserve an easement in the former alley to abutting owners at 338 and 352 Marshall Street for access for maintenance of sewer leads and tree trimming.

We have recently reached a settlement of this litigation with the third and final property owner on terms similar to those which were approved in May. Consequently it is now necessary to further amend Resolution 1994-5 to also reserve to the owner of 346 Marshall Street an access in the former alley for maintenance of sewer leads and tree trimming.

We therefore recommend that a motion be made and adopted to reconsider Resolution 1994-5. If the motion to reconsider is adopted, we would then recommend that Resolution 1994-5 be amended to add Paragraph 4 in the form appearing in Page 6 of the proposed resolution attached to this memorandum. Following amendment of the resolution, a motion would then be in order to again adopt Resolution 1994-5. Upon its adoption as reconsidered, we will then proceed to record the resolution with the Ingham County Register of Deeds, and this will complete all official steps necessary in order to vacate this former alley.

alb
enclosure
cc: Susan Donnell