

ELMORE COUNTY HIGHWAY DEPARTMENT

155 COUNTY SHOP ROAD • WETUMPKA, ALABAMA 36092

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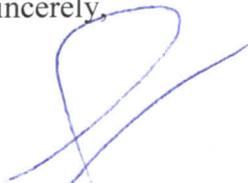
April 7, 2016

Re: Proposed Road Vacation

To Whom It May Concern,

This shall serve as notice that the Elmore County Commission has set a Public Hearing on May 9, 2016, at 5:00 p.m. at the Elmore County Courthouse to consider the proposed vacation of a portion of Poplar Drive as shown on the attached petition and survey. Should you have any questions please feel free to contact our office at (334) 567-1162.

Sincerely,



Walter R. Beyer, IV
Elmore County Engineer

Attachment #6
3.14.16 Reg mlg

STATE OF ALABAMA)
COUNTY OF ELMORE)

**PETITION TO THE ELMORE COUNTY COMMISSION
TO ABANDON RIGHT-OF-WAY AND ASSENT TO VACATION**

COME NOW Petitioners, SHARON JOHNSTON and LARRY O. BAIN, as owners of Lots 14 through 19, of Block 8; and Lots 7 through 11 of Block 7, of KOWALIGA BAY ESTATES, Unit 2, as same is recorded in Plat Book 3, Page 162 and 162A; and that certain parcel of land adjoining the north right-of-way line of Poplar Drive and the westerly right-of-way line of Big Oak Drive lying easterly Lots 13 and 14 of said Block 8, as shown on said KOWALIGA BAY ESTATES, Unit 2, being owned by Sharon Johnston and Larry O. Bain and described in that certain Quit Claim Deed recorded in RLPY Book 2015 Page 8424 (the "Quit Claim Parcel"), all of the above as found in the Office of the Judge of Probate, Elmore County, Alabama, and present unto the Elmore County Commission the following statements, to wit:

1. Petitioners are the sole owners of the above described Lots and Parcel. Their mailing address is 180 Birmingham Road, Eclectic, AL 36024.
2. On the above referenced plat of KOWALIGA BAY ESTATES, Unit 2, there is shown a road lying between said Blocks 7 and 8, named Poplar Drive. The eastern end of Poplar Drive terminates at the westerly right-of-way line of Big Oak Drive, between the above described lots, blocks and parcel.
3. Petitioners desire that Elmore County abandon and assent to vacation of that part of the right-of-way of Poplar Drive at its eastern terminus between Lots 14 through 19, of Block 8; Lots 7 through 11 of Block 7; and the Quit Claim Parcel, of said KOWALIGA BAY ESTATES, Unit 2. This area to be vacated and the surrounding lots, blocks and parcel, are as shown and described on the "Boundary

Survey, Sharon Johnston & Larry O. Bain, Poplar Drive,” attached to and made a part of this Petition.

4. There is no County maintained roadway surface in this portion of the right-of-way, this portion of the right-of-way is not physically open or accessible from Big Oak Drive, and this area is currently being used as part of petitioner’s gravel driveway between housing structures that petitioners live in or maintain.

5. Said property and portion of right-of-way to be vacated lies within Elmore County, and not within any municipality.

6. The vacation of the right-of-way, as above described, will not deprive other property owners of any right they may have to convenient and reasonable means of ingress and egress to and from their property.

7. Petitioner desires to vacate said right-of-way and to close same and to nullify the effect of any dedication of said right-of-way to the County for public use, and that said portion of right-of-way become part of the adjoining property, according to law. Provided, however, that if said right-of-way is now being used by entities with utility lines, equipment, or facilities in place at the time of vacation, said entities shall have the right to continue to maintain, extend, and enlarge their lines, equipment, and facilities to the same extent as if the vacation had not occurred.

8. The only adjoining landowners affected by this Petition are the undersigned Petitioners.

NOW THEREFORE, in consideration of the premises, Petitioners do hereby request that the Elmore County Commission assent to, approve, ratify and confirm the vacation of the above described portion of Right-of-Way and the annulment of the dedication of such property to the use of the public.

IN WITNESS WHEREOF the Petitioners have set their hand and seal on this the ___ day of July, 2016.

Sharon Johnston

Larry O. Bain

STATE OF ALABAMA)

COUNTY OF ELMORE)

I, the undersigned authority, a Notary Public in and for said County, in said State, do hereby certify that SHARON JOHNSTON whose name is signed to the foregoing instrument and who is known to me, acknowledged before me on this day, that, being informed of the contents of said instrument, she executed the same voluntarily on the day the same bears date.

Given under my hand and official seal, this the _____ day of July, 2016.

Notary Public

My Commission Expires: _____

I, the undersigned authority, a Notary Public in and for said County, in said State, do hereby certify that LARRY O. BAIN whose name is signed to the foregoing instrument and who is known to me, acknowledged before me on this day, that, being informed of the contents of said instrument, he executed the same voluntarily on the day the same bears date.

Given under my hand and official seal, this the _____ day of July, 2016.

Notary Public

My Commission Expires: _____

ATTORNEY FOR PETITIONERS:

Jeffery N. Lucas, Attorney at Law

Post Office Box 361606

Birmingham, Alabama 35236-1606

Phone: 205-425-5200 Fax: 205-425-5253

SEE ATTACHMENTS NEXT TWO PAGES

**DESCRIPTION OF RIGHT-OF-WAY
TO BE VACATED**

A PORTION OF POPLAR DRIVE AS SHOWN ON THE PLAT OF KOWALIGA BAY ESTATES, UNIT 2, AS RECORDED IN PLAT BOOK 3, PAGES 162 AND 162A IN THE JUDGE OF PROBATE, ELMORE COUNTY, ALABAMA AS MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGIN AT A 1/2" REBAR (CAPPED) PURPORTED TO BE THE SW CORNER OF LOT 12, KOWALIGA BAY ESTATES, UNIT 2, AS RECORDED IN PLAT BOOK 3, PAGES 162 AND 162A IN THE OFFICE OF THE JUDGE OF PROBATE, ELMORE COUNTY, ALABAMA AND LOCATED ON THE NORTH RIGHT OF WAY OF POPLAR DRIVE (40' ROW); THENCE ALONG SAID RIGHT OF WAY OF SAID DRIVE SOUTH 89 DEG 54 MIN 30 SEC EAST A DISTANCE OF 190.91 FEET TO A 1/2" REBAR (SPEAKS); THENCE CONTINUE ALONG SAID RIGHT OF WAY OF SAID ROAD SOUTH 89 DEG 53 MIN 37 SEC EAST A DISTANCE OF 56.55 FEET TO A 1/2" REBAR (SPEAKS) ON THE WEST RIGHT OF WAY OF BIG OAK DRIVE (40' ROW); THENCE LEAVING SAID RIGHT OF WAY OF POPLAR DRIVE AND ALONG SAID RIGHT OF WAY OF SAID BIG OAK DRIVE SOUTH 21 DEG 41 MIN 25 SEC WEST A DISTANCE OF 43.05 FEET TO A 1/2" REBAR (SPEAKS) ON THE SOUTH RIGHT OF WAY OF POPLAR DRIVE AND MARKING THE NE CORNER OF LOT 11 OF SAID SUBDIVISION; THENCE LEAVING SAID RIGHT OF WAY OF SAID BIG OAK DRIVE AND ALONG THE SOUTH RIGHT OF WAY OF POPLAR DRIVE SOUTH 89 DEG 48 MIN 07 SEC WEST A DISTANCE OF 330.66 FEET TO A 1/2" REBAR (MARTIN) MARKING THE NW CORNER OF LOT 10 OF SAID SUBDIVISION; THENCE CONTINUE ALONG SAID SOUTH RIGHT OF WAY OF SAID DRIVE NORTH 89 DEG 45 MIN 38 SEC WEST A DISTANCE OF 149.89 FEET TO A 1" PIPE MARKING THE NW CORNER OF LOT 7 OF SAID SUBDIVISION. THENCE LEAVING SAID SOUTH RIGHT OF WAY OF SAID DRIVE NORTH 00 DEG 23 MIN 33 SEC EAST A DISTANCE OF 39.91 FEET TO A POINT MARKING THE SW CORNER OF LOT 19 OF SAID SUBDIVISION AND ON THE NORTH RIGHT OF WAY OF POPLAR DRIVE; THENCE ALONG THE NORTH RIGHT OF WAY OF SAID POPLAR DRIVE SOUTH 89 DEG 56 MIN 59 SEC EAST A DISTANCE OF 99.61 FEET TO A STEEL PIN MARKING THE SW CORNER OF LOT 17 OF SAID SUBDIVISION; THENCE CONTINUE ALONG THE NORTH RIGHT OF WAY OF SAID ROAD NORTH 89 DEG 34 MIN 25 SEC EAST A DISTANCE OF 149.11 FEET TO THE POINT OF BEGINNING. SAID RIGHT OF WAY CONTAINING 0.45 ACRES MORE OR LESS.

