

In the Court of Quarter  
Sessions of Cambria County  
Pennsylvania  
No. 1 Sent. Sessions, 1940

I RE LAYING OUT OF A  
PUBLIC HIGHWAY IN THE TOWN-  
SHIP OF UPPER YODER, COUNTY  
OF CAMBRIA, STATE OF PENN-  
SYLVANIA

*Filed*  
*Oct. 7, 1940*

PETITION FOR APPOINTMENT  
OF VIEWERS

LAW OFFICES  
BARNHART & ADAMS  
JOHNSTOWN, PENNA.

mas

IN RE LAYING OUT OF A  
PUBLIC HIGHWAY IN THE TOWNSHIP  
OF UPPER YODER, COUNTY  
OF CAMBRIA, STATE OF PENNSYLVANIA

! In the Court of Quarter  
: Sessions of Cambria County,  
: Pennsylvania  
: No. 1 September Sessions,  
! 1940

PETITION FOR APPOINTMENT OF VIEWERS

TO THE HONORABLE, THE JUDGES OF THE COURT OF QUARTER SESSIONS  
OF CAMBRIA COUNTY, PENNSYLVANIA:

The petition of the undersigned inhabitants of the said Township of Upper Yoder, County aforesaid, respectfully represents:

That your petitioners labor under great inconvenience for want of a public road or highway in the said Township of Upper Yoder, to begin at the end of Luzerne Street, a public highway in the Borough of Westmont, at the intersection of said Luzerne Street with the boundary line between Westmont Borough and Upper Yoder Township. The said proposed road extends in a southwesterly direction and ends at its junction with Goucher Street, also a public highway.

The exact distance from the point of beginning of the said proposed road to an intersecting public road or street, namely, Christopher Street, a public highway, is four hundred seventy-five (475) feet, measured from the center line of proposed Luzerne Street to the center line of said Christopher Street; and the exact distance from the point of ending of said proposed road from an intersecting road or street, namely, Christopher Street, measured from the intersection of the center line of said proposed road to the center line of said Christopher Street is three hundred eighty (380) feet.

A print showing the location of said proposed road as above described is hereto attached, made part hereof and marked "EXHIBIT A".

A copy of the written notice to the Supervisors of said Upper Yoder Township of the intended presentation of this application, with the acceptance of service thereon, is hereto attached, made part hereof and marked "EXHIBIT B".

A release of damages whereby the owners of property abutting the aforesaid proposed road, releasing the said Township of Upper Yoder from any damages they have sustained or may seem likely to sustain by reason of the said accepting, opening, grading, draining, improving and maintaining of said proposed highway, is hereto attached, made part hereof and marked "EXHIBIT C".

Your petitioners therefore pray the Court to appoint three members of the Permanent Board of Viewers of Cambria County to view the ground proposed for such road and if they see the necessity therefor, lay out the same and make report of this proceeding to the next session of Court.

D. H. Weir \_\_\_\_\_  
Clair Stombrough \_\_\_\_\_  
Carl Baschert \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

COMMONWEALTH OF PENNSYLVANIA :  
: COUNTY OF CAMBRIA :

SS:

Personally appeared before me, the subscriber, a <sup>Notary Public</sup> ~~Notary Public~~ in and for said state and county, CURT BARNHART WHO being duly sworn according to law, deposes and says that he is one of the petitioners within set forth and that the statements contained in the said petition are true and correct.

Sworn and subscribed before me this 7<sup>th</sup> day of October, 1940

Curt Barnhart

J. Alvin Rose  
Alvin Rose

BY SOLE POWER OF OFFICE FIRST  
SIGNED AND DULY, 1940

IN RE LAYING OUT OF A  
PUBLIC HIGHWAY IN THE  
TOWNSHIP OF UPPER YODER,  
COUNTY OF CAMBRIA, STATE  
OF PENNSYLVANIA

| In the Court of Quarter Ses-  
: sions of Cambria County,  
: Pennsylvania  
: No. / September Sessions,  
| 1940

PRELIMINARY ORDER

NOW, October 7, 1940, the within petition having been presented and considered, a Rule is granted upon the Commissioners of Cambria County, Pennsylvania, to show cause, if any they have, why Viewers should not be appointed as within prayed for; and said Rule is returnable at ten o'clock, A. M. October 21, 1940. Service of the Rule, together with a copy of this petition, shall be made upon the said County Commissioners not less than ten (10) days before the said Return Day.

By *McLennan*  
*June*

\* \* \* \*

ACCEPTANCE OF SERVICE BY THE  
COMMISSIONERS OF CAMBRIA COUNTY, PENNSYLVANIA

Now, October 7, 1940, service of the above Rule is hereby accepted, together with a copy of the within Petition.

*H. L. Dow*  
*Clk.*

IN RE LAYING OUT OF A  
PUBLIC HIGHWAY IN THE  
TOWNSHIP OF UPPER YODER,  
COUNTY OF CAMBRIA, STATE  
OF PENNSYLVANIA

In the Court of Quarter  
Sessions of Cambria County,  
Pennsylvania

No.            September Sessions,  
                 1940

DE C R E E

And now, this *28* day of October, 1940, the within  
petition having been read and considered, the Court appoints  
*S. C. Dicks* and *James M. ...*  
and *W. M. ...* Viewers to view the road herein  
referred to and make a report of their proceedings to the next  
term of the Court of Quarter Sessions of said County.

*By the Court*  
*W. M. ...*  
*P. J.*

"EXHIBIT B"

IN RE LAYING OUT OF A  
PUBLIC HIGHWAY IN THE  
TOWNSHIP OF UPEER YODER,  
COUNTY OF CAMBRIA, STATE  
OF PENNSYLVANIA

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In the Court of Quarter Sessions  
of Cambria County, Pennsylvania  
No.           September Sessions,  
1940

NOTICE TO SUPERVISORS

TO CURT BARNHART, D. H. WEIMER AND EPHRAIM HERSHBERGER,  
SUPERVISORS OF UPPER YODER TOWNSHIP, CAMBRIA COUNTY, PENNSYLVANIA:

You will please take notice that there will be a petition presented to the Court of Quarter Sessions of Cambria County, at Ebensburg, Pennsylvania, in said County, at ten o'clock, A. M. the 7th day of October, 1940, asking the Court for the appointment of Viewers to view and lay out a proposed road in the said Township of Upper Yoder, to begin at the end of Luzerne Street, a public highway in the Borough of Westmont, at the intersection of said Luzerne Street with the boundary line between Westmont Borough and Upper Yoder Township. The said proposed road extends in a southwestly direction and ends at its junction with Goucher Street, also a public highway. The exact distance from the point of beginning of the said proposed road to an intersecting public road or street, namely, Christopher Street, a public highway, is four hundred seventy-five (475) feet, measured from the center line of proposed Luzerne Street to the center line of said Christopher Street; and the exact distance from the point of ending of said proposed road from an intersecting road or street, namely, Christopher Street, measured from the intersection of the center line of said proposed road to the center line of said Christopher Street is three hundred eighty (380) feet.

  
ATTORNEYS FOR PETITIONERS

October 7, 1940, service of the above stated Notice  
is hereby accepted.

L.H. Wimmer

Quart. Baschert

SUPERVISORS OF UPPER YODER TOWN-  
SHIP, CAMBRIA COUNTY, PENNSYLVANIA





*Filed Dec. 2, 1940*

December 2, 1940.

In the Court of Quarter  
Sessions of Cambria County,  
Pennsylvania.

No. 1, Sept. Sessions, 1940

REPORT OF VIEWERS

In Re: Laying out of a  
Public Highway in the  
Township of Upper Yoder,  
County of Cambria, and  
State of Pennsylvania.

E. DICKEY  
JAMES McCANN  
A. M. SHOEMAKER  
VIEWERS.

S. E. DICKEY & CO.  
CIVIL MINING AND CONSULTING ENGINEERS  
809-811 JOHNSTOWN TRUST BLDG.  
JOHNSTOWN, PENNA.

APPROVED BY THE  
COURT THIS 10<sup>th</sup> DAY  
OF DEC. A. D. 1940

BREADTH FIXED AT  
SIXTY FEET

By the Court  
*[Signature]*

map  
+ not in view

In Re: Laying out of a Public Highway  
in the Township of Upper Yoder,  
County of Cambria, and State of  
Pennsylvania.

In the Court of Quarter Sessions  
of Cambria County, Penna.  
No. 1, Sept. Sessions, 1940.

REPORT OF VIEWERS

To the Honorable, the Judges of the above named Court,  
we the undersigned Viewers, appointed by the annexed order of the  
Court to view the proposed Highway within mentioned, respectfully  
report:

That we have been duly sworn or affirmed as members of  
the Permanent Board of Viewers of Cambria County, as shown by the  
records of the Court; that having given due public notice of the  
time and place of meeting, by posting notices as required by law  
along the route and at the termini of the said proposed new Highway,  
as evidenced by copy of said notice hereto attached, and by service  
of such notice on the County Commissioners of Cambria County, and  
Solicitor for the Supervisor of Upper Yoder Township, service of  
said notice by the County Commissioners and the Solicitor for Upper  
Yoder Township being hereto attached; that we met in accordance  
with the notice given on the 29th. day of November A. D. 1940 at  
9:30 o'clock A. M. and proceeded with the duties of our appointment  
and Viewed the premises and route of the proposed new Highway; that  
S. E. Dickey, James McCann and A. M. Shoemaker, Viewers were all  
present; also the Supervisors of Upper Yoder Township and interested  
persons were represented. That the said proposed new Highway is  
now a dedicated Highway known as Luzerne Street in the John K. Miller  
Plan of Lots, said Luzerne Street being 60 feet in width as shown  
on the blue print attached hereto and made a part hereof; said proposed  
Highway being colored green thereon; that said proposed Highway is an  
extension of Luzerne Street an improved Highway in the Borough of  
Westmont and the proposed extension in Upper Yoder Township will afford

a more direct and shorter route from Goucher Street and this section of Upper Yoder Township to the Westmont Upper Yoder Township High School and will be convenient to the properties abutting thereon and for the traveling public; that there were no objections made against the proposed new Highway by the supervisors or any residents or property owners of Upper Yoder Township; that after Viewing the premises and the route of the proposed Highway we are of the opinion that a necessity exists for same, therefore, we proceeded to layout same as follows:

Beginning at the end of Luzerne Street, a Public Highway in the Borough of Westmont at the intersection of said Luzerne Street with the boundary line between Westmont Borough and Upper Yoder Township, at a distance of 415 feet measured along said boundary line and State Street in a Southeasterly direction from the intersection of Christopher Street the nearest intersecting Public Highway in Upper Yoder Township; thence by the center line of said proposed Highway S.55° 50'W., 540.07 feet to a point; thence S.58° 18'W., 555.52 feet to a point in the center line of Goucher Street the place of ending, said place of ending being at a distance of 380 feet, measured along the center line of Goucher Street in a Southeasterly direction from the intersection of Christopher Street the nearest intersecting Public Highway in Upper Yoder Township. The total length of said proposed new Highway is 1095.59 feet, all of which is colored green on the blue print hereto attached and made a part hereof. We recommend that the width of said proposed Highway shall be sixty (60) feet as dedicated and shown on the John K. Miller Plan of Lots.

That after taking into consideration all the matters before us, we are of the opinion that the road as prayed for by the Petitioners and laid out by us is necessary and convenient and will

not be burdensome to the taxpayers of Upper Yoder Township, therefore, we recommend that the prayer of the Petitioners be granted.

We have not obtained any releases from the abutting property owners along the route of the proposed Highway but have been informed by the Supervisors of Upper Yoder Township that all of the abutting property owners have signed a release of damages in the petition for said proposed Highway which was filed with the Court. However, taking into consideration all benefits and damages sustained or that may seem likely to be sustained by the abutting property owners along the route of said proposed Highway by reason of opening, improving and maintaining same, we assess no benefits and no damages to any of the abutting property owners.

Witness our hands and seals this 2nd. day of December A. D.  
1940.

J. E. Dickey  
A. M. Shoemaker  
James M. Quinn  
Viewers.

In Re: Laying out of a Public Highway  
in the Township of Upper Yoder,  
County of Cambria and State of  
Pennsylvania.

In the Court of Quarter Sessions  
of Cambria County, Penna.

No. 1, Sept. Sessions, 1940.

To S. E. DICKEY, JAMES McCANN, A. M. SHOEMAKER Dr.

To S. E. DICKEY Dr.

1940

Nov. 16	- Data, dictating and preparing notice of view, letters etc. -----	\$ 12.00	
	Stenographer, stationery and stamps -----	2.60	
" 18	- Posting and serving notice of view -----	6.00	
	Mileage 8 mile @ 10 cts. -----	.80	
" 29	- Making view -----	12.00	
	Mileage 8 mile @ 10 cts. -----	.80	
" 30	- Data and preparing plan -----	12.00	
	Drawing material and Blue Prints -----	.60	
Dec. 2	- Data, dictating and preparing report -----	12.00	
	Stenographer, stationery and stamps -----	2.60	\$ 61.40

To James McCANN Dr.

Nov. 29	- Making view and data In Re: Report -----	\$ 12.00	
	Mileage 14 mile @ 10 cts. -----	1.40	

To ALFRED M. SHOEMAKER Dr.

Nov. 29	- Making view and data In Re: Report -----	\$ 12.00	
	Mileage 44 mile @ 10 cts. -----	4.40	16.40

Total cost of View \$ 91.20

I hereby certify that the above bill is an exact  
duplicate of the bill presented to the Cambria County Commissioners.

S. E. Dickey

In Re: Laying out of a Public Highway  
in the Township of Upper Yoder,  
County of Cambria, and State of  
Pennsylvania.

In the Court of Quarter Sessions  
of Cambria County, Penna.

No. 1, Sept. Sessions, 1940.

NOTICE OF VIEW

We, the undersigned Viewers appointed by the above named Court for the purpose of Viewing and laying out a Public Highway in the Township of Upper Yoder, County of Cambria and State of Pennsylvania, beginning at the end of Luzerne Street, a Public Highway in the Borough of Westmont at the intersection of said Luzerne Street with the boundary line between Westmont Borough and Upper Yoder Township and extending in a Southwesterly direction and ending at its intersection with Goucher Street also a Public Highway in Upper Yoder Township.

The exact distance from the point of beginning of the said proposed Highway to an intersecting Public Road or Street, namely, Christopher Street, a Public Highway is 475 feet, measured from the center line of Luzerne Street to the center line of said Christopher Street; the exact distance from the point of ending of said proposed Highway from an intersecting Public Road or Street, namely, Christopher Street, measured from the intersection of the center line of said proposed Highway along the center line of Goucher Street to the center line of said Christopher Street is 380 feet, will meet at the place of beginning on the 29th. day of November A. D. 1940, at 9:30 o'clock A. M. for the purpose of performing the duties of our appointment at which time and place all interested persons may appear and be heard.

S. E. DICKEY  
JAMES McCANN  
A. M. SHOEMAKER  
VIEWERS

November 16, 1940.

Now this 18<sup>th</sup> day of November A. D. 1940, service of the above notice is hereby accepted for the Commissioners of Cambria County.

BY

H. J. Dowd  
Chief Clerk

In Re: Laying out of a Public Highway  
in the Township of Upper Yoder,  
County of Cambria, and State of  
Pennsylvania.

In the Court of Quarter Sessions  
of Cambria County, Penna.

No. 1, Sept. Sessions, 1940.

NOTICE OF VIEW

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The exact distance from the point of beginning of the said proposed Highway to an intersecting Public Road or Street, namely, Christopher Street, a Public Highway is 475 feet, measured from the center line of Luzerne Street to the center line of said Christopher Street; the exact distance from the point of ending of said proposed Highway from an intersecting Public Road or Street, namely, Christopher Street, measured from the intersection of the center line of said proposed Highway along the center line of Goucher Street to the center line of said Christopher Street is 380 feet, will meet at the place of beginning on the 29th. day of November A. D. 1940, at 9:30 o'clock A. M. for the purpose of performing the duties of our appointment at which time and place all interested persons may appear and be heard.

S. B. DICKEY  
JAMES McCANN  
A. M. SHOENAKER  
VIEWERS

November 16, 1940.

Now this 18<sup>th</sup> day of November A. D. 1940, service of the above notice is hereby accepted for the Supervisors of Upper Yoder Township.

BY:

*Bartholomew Adams*  
Solicitors.

NOTE. "It shall be the duty of all persons appointed in the several counties of this Commonwealth to view and review any public or private road or bridge, if they shall decide in favor of locating said road or bridge, to endeavor to procure from the person or persons over whose land such location may be made releases from all claims for damages that might arise from the opening of such road or the building of such bridge; and in every case where said viewers shall fail to procure such releases, and it shall appear to them that any damages will be sustained, it shall be their duty to assess the damages and make report thereof signed by a majority of their number, and return the same, together with all releases obtained, to the Court of Quarter Sessions, and the damages so assessed shall be conclusive, or may be subject to appeal, review or modification, as may be provided by existing laws in the different counties of this Commonwealth."

"The persons appointed as aforesaid shall view such ground, and if they shall agree that there is occasion for a road, they shall proceed to lay out the same, having respect to the shortest distance, and the best ground for a road, and in such manner as shall do the least injury to private property, and also be, as far as practicable, agreeable to the desire of the petitioners."

"The viewers, as aforesaid, shall make report at the next term of said Court, and in the said report shall state particularly: First, who of them were present at the view, second, whether they were severally sworn or affirmed; third, whether the road desired be necessary for a public or private road; they shall also annex and return to the Court a plot or draft thereof, stating the courses and distances, and noting briefly the improvements through which it may pass; and, whenever practicable, the viewers shall lay out the said roads at an elevation not exceeding five degrees (except at the crossing of ravines and streams), where, by moderate filling and bridging, the declination of the road may be preserved within that limit."

No. 1 ..... Sept. .... SESSIONS, 1840

Order to view Laying out of a Public  
Highway in the Township of Upper  
Yoder, County of Cambria, and  
State of Pennsylvania.

Viewers

SeE. Dickey

James McGann

A. M. Shoemaker

Clerk *Joseph C. Miller* 90 cts.

Commonwealth of Pennsylvania, }  
County of Cambria. } SS.

At a Court of Quarter Sessions of the Peace of the County of Cambria held at Ebensburg, in the said County, on the 14 day of Nov. A. D. 1940, before the Honorable Judge of the said Court: Upon the petition of divers inhabitants of the Township of Upper Yoder, in the said County, setting forth that they labor under inconvenience for want of a Public road or highway, to lead from

To begin at the end of Luzerne Street, a public highway in the Borough of Westmont, at the intersection of said Luzerne Street with the boundary line between Westmont Borough and Upper Yoder Township. The said proposed road extends in a southwesterly direction and ends at its junction with Goucher Street, also a public highway.

The exact distance from the point of beginning of the said proposed road to an intersecting public road or street, namely, Christopher Street, a public highway, is four hundred ~~seventy-five~~ <sup>fifteen (415)</sup> (415) feet, measured from the center line of proposed Luzerne Street to the center line of said Christopher Street; and the exact distance from the point of ending of said proposed road from an intersecting road or street, namely, Christopher Street, measured from the intersection of the center line of said proposed road to the center line of said Christopher Street is three hundred eighty (380) feet.

and therefore praying the Court to appoint proper persons to view and lay out the same according to law. The Court, upon due consideration had of the premises, do order and appoint

S. E. Dickey, James McCann surveyor, and

A. M. Shoemaker

viewers, to view the ground proposed for said road, and if they view the same, and shall agree that there is occasion for such road, they shall proceed to lay out the same, having respect to the shortest distance and the best ground for a road, and in such manner as shall do the least injury to private property, and also be as far as practicable, agreeable to the desires of the petitioners, and that they make a report of their proceedings to the next Court of Quarter Sessions to be held for said County, stating particularly whether they judge the same necessary for a public or private road, together with a plot or draft thereof, and the courses and distances, and references to the improvements through which it may pass.

By the Court.

Attest:

McCann P. J.

Joseph C. Ness

Clerk.

C Rat Microfilm



RD#1 Ser. 1940

In Re: Laying out of a Public Highway  
in the Township of Upper Yoder,  
County of Cambria, and State of  
Pennsylvania.

In the Court of Quarter Sessions  
of Cambria County, Penna.

No. 1, Sept. Sessions, 1940.

NOTICE OF VIEW

We, the undersigned Viewers appointed by the above named Court for the purpose of Viewing and laying out a Public Highway in the Township of Upper Yoder, County of Cambria and State of Pennsylvania, beginning at the end of Luzerne Street, a Public Highway in the Borough of Westport at the intersection of said Luzerne Street with the boundary line between Westport Borough and Upper Yoder Township and extending in a Southwesterly direction and ending at its intersection with Goucher Street also a Public Highway in Upper Yoder Township.

The exact distance from the point of beginning of the said proposed Highway to an intersecting Public Road or Street, namely, Christopher Street, a Public Highway, is 475 feet measured from the center line of Luzerne Street to the center line of said Christopher Street; the exact distance from the point of ending of said proposed Highway from an intersecting Public Road or Street, namely, Christopher Street, measured from the intersection of the center line of said proposed Highway along the center line of Goucher Street to the center line of said Christopher Street is 380 feet, will meet at the place of beginning on the 15th day of November A. D. 1940 at 9:30 o'clock A. M. for the purpose of performing the duties of our appointment at which time and place all interested persons may appear and be heard.

D. M. BAKER  
JAMES McBRIDE  
A. M. GILKESHAVER  
VIEWERS.

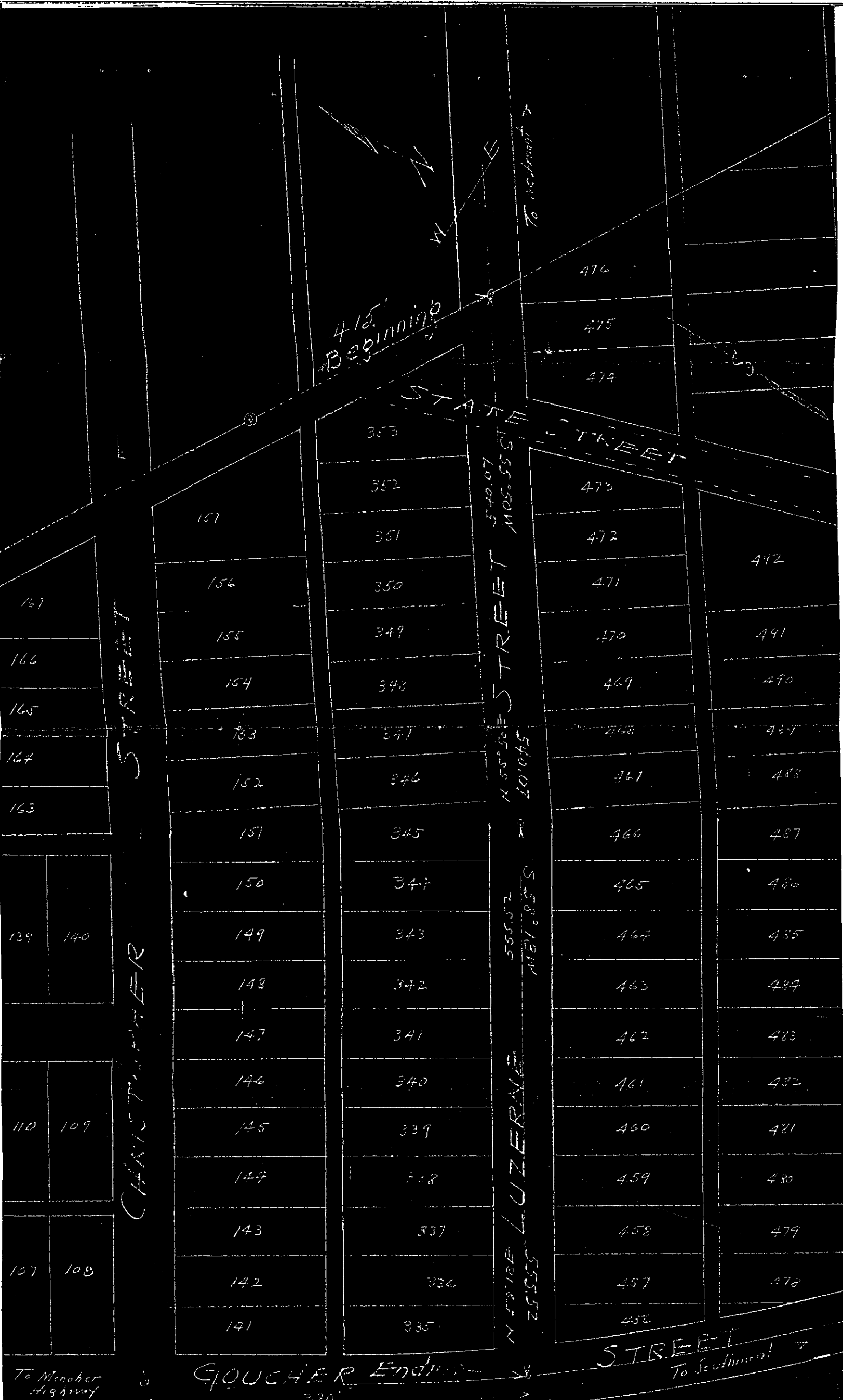
November 16, 1940.

Rat Microfilmed:

RO# 4 Sept. 1940

Upper Yoder. Twp

Layout of a Pub. Rd.



Proposed New Road  
Colored Green

UPPER YODER TWP.  
CAMBRIA COUNTY PENNA.  
PROPOSED NEW HIGHWAY  
LUZERNE STREET

Scale 1"=100' - J.E. Dickey & Co - Nov 30-1940  
Civil And Mining Engineers  
Johnstown Pa.

No. 1, Sept. Sessions, 1940.  
J.E. Dickey  
James McConn  
A.M. Shoemaker  
Viewers.

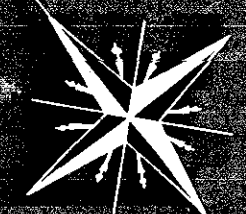
RD#1 Sept. 1940

Upper York Twp

Layout of a Pub. Rd.

Not Microfilmed

"EXHIBIT A"



To Be Vacated Colored Green  
" " " " " " " " " " " "

# PALLISER

# PLAN OF LOTS

