

1 VALY-2013-0124

2 BILL NO. G-13-10-03

3 Plat Book: 19

4 Page No: 39

5 GENERAL ORDINANCE NO. G-13-14

6 AN ORDINANCE amending the Thoroughfare
7 Plan of the City Comprehensive ("Master")
8 Plan by vacating public right-of-way.

9 WHEREAS, a petition to vacate public right-of-way within the City of Fort Wayne, Indiana, (as
10 more specifically described below) was duly filed with the City Clerk of the City of Fort Wayne,
11 Indiana; and

12 WHEREAS, Common Council of the City of Fort Wayne, Indiana duly held a public hearing
13 and approved said petition, as provided in I.C. 36-7-3-12.

14 NOW THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF
15 FORT WAYNE, INDIANA:

16 SECTION 1. That the petition filed herein to partially vacate a public right-of-way within the
17 City of Fort Wayne, Indiana, more specifically described as follows, to-wit:

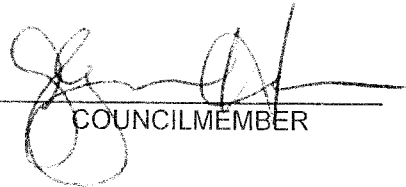
18 A PORTION OF A 14' ALLEY AS REPRESENTED ON THE PLAT OF McADAMS HIGHLAND
19 GROVE ADDITION AS RECORDED IN PLAT RECORD 19, PAGE 39 IN THE OFFICE OF THE
20 RECORDER OF ALLEN COUNTY, INDIANA, ALSO BEING A PORTION OF THE SOUTHWEST
21 QUARTER OF SECTION 27, TOWNSHIP 32 NORTH, RANGE 12 EAST, ALLEN COUNTY,
22 INDIANA MORE PARTICULARLY DESCRIBED AS FOLLOWS:

23 COMMENCING AT THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER OF SECTION
24 27, TOWNSHIP 32 NORTH, RANGE 32 EAST, ALLEN COUNTY, INDIANA, SAID NORTHWEST
25 CORNER BEING MARKED BY A MAG NAIL FOUND WITH "ANDERSON" IDENTIFICATION
26 WASHER; THENCE NORTH 88 DEGREES 27 MINUTES 44 SECONDS EAST ON AND ALONG
27 THE NORTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 27, A DISTANCE OF
28 81.08 FEET; THENCE SOUTH 01 DEGREES 32 MINUTES 16 SECONDS EAST A DISTANCE OF
29 25.00 FEET TO A POINT ON THE SOUTH RIGHT OF WAY LINE OF UNION CHAPEL ROAD
30 (SAID SOUTH RIGHT OF WAY LINE BEING COINCIDENT WITH THE NORTH LINE OF
McADAMS HIGHLAND GROVE ADDITION AS RECORDED IN PLAT BOOK 19, PAGE 39 WITHIN
THE OFFICE OF THE RECORDER OF ALLEN COUNTY, INDIANA; THENCE NORTH 88
DEGREES 27 MINUTES 44 SECONDS EAST ON AND ALONG THE SOUTH RIGHT OF WAY LINE
OF UNION CHAPEL ROAD A DISTANCE OF 127.94 FEET TO THE POINT OF INTERSECTION
OF THE SOUTH RIGHT OF WAY LINE OF UNION CHAPEL ROAD AND THE WEST RIGHT OF
WAY LINE OF A 14' ALLEY RUNNING NORTH-SOUTH REPRESENTED ON THE
AFOREMENTIONED PLAT OF McADAMS HIGHLAND GROVE ADDITION AND BEING MARKED
BY A SURVEY MARKER NAIL WITH "FORESIGHT-CONSULTING, LLC - BOUNDARY"
IDENTIFICATION WASHER; THENCE CONTINUING NORTH 88 DEGREES 27 MINUTES 44
SECONDS EAST ON AND ALONG THE SOUTH RIGHT OF WAY LINE OF UNION CHAPEL ROAD,

1 A DISTANCE OF 14.00 FEET TO THE POINT OF BEGINNING OF THE HEREIN DESCRIBED
2 PLAT VACATION REAL ESTATE DESCRIPTION, SAID POINT OF BEGINNING BEING THE
3 POINT OF INTERSECTION OF THE SOUTH RIGHT OF WAY LINE OF UNION CHAPEL ROAD
4 AND THE EAST RIGHT OF WAY LINE OF A 14' ALLEY RUNNING NORTH-SOUTH
5 REPRESENTED ON THE AFOREMENTIONED PLAT OF McADAMS HIGHLAND GROVE
6 ADDITION AND BEING MARKED BY A 5/8" BY 24" REBAR WITH "FORESIGHT-CONSULTING,
7 LLC - BOUNDARY" IDENTIFICATION CAP; THENCE SOUTH 01 DEGREES 46 MINUTES 39
8 SECONDS EAST ON AND ALONG THE WEST LINE OF LOT NUMBER 1 OF McADAMS
9 HIGHLAND GROVE ADDITION, A DISTANCE OF 239.50 FEET TO A POINT ON THE NORTH
10 LINE OF THE UNIMPROVED ALLEY MARKED BY A 5/8" BY 24" REBAR WITH "FORESIGHT-
11 CONSULTING, LLC - BOUNDARY" IDENTIFICATION CAP; THENCE SOUTH 01 DEGREES 47
12 MINUTES 04 SECONDS EAST, A DISTANCE OF 14.00 FEET TO THE NORTHEAST CORNER OF
13 LOT NUMBER 21, OF McADAMS HIGHLAND GROVE ADDITION BEING MARKED BY A 5/8" BY
14 24" REBAR WITH "FORESIGHT-CONSULTING, LLC - BOUNDARY" IDENTIFICATION CAP;
15 THENCE SOUTH 88 DEGREES 27 MINUTES 44 SECONDS WEST ON AND ALONG THE
16 AFOREMENTIONED SOUTH RIGHT OF WAY LINE AN ALLEY RUNNING EAST-WEST A
17 DISTANCE OF 114.00 FEET TO A POINT LYING ON THE WEST RIGHT OF WAY LINE OF AN
18 ALLEY RUNNING NORTH-SOUTH AS REPRESENTED ON THE PLAT OF McADAMS HIGHLAND
19 GROVE ADDITION, SAID POINT BEING MARKED BY A 5/8" BY 24" REBAR WITH "FORESIGHT
20 CONSULTING, LLC - BOUNDARY" IDENTIFICATION CAP; THENCE NORTH 01 DEGREES 46
21 MINUTES 39 SECONDS EAST ON AND ALONG THE AFOREMENTIONED WEST RIGHT OF WAY
22 LINE OF THE NORTH-SOUTH ALLEY A DISTANCE OF 253.50 FEET TO THE POINT OF
23 BEGINNING, CONTAINING 0.11 ACRES (4,956.00 SQUARE FEET) OF LAND, MORE OR LESS.

13 and which vacating amends the Thoroughfare Plan of the City Comprehensive ("Master") Plan
14 and is hereby approved in all respects.

15 SECTION 2. That this Ordinance shall be in full force and effect from and after its passage,
16 any and all necessary approval by the Mayor.

17 
18 _____
19 COUNCILMEMBER

20 APPROVED AS TO FORM AND LEGALITY:

21 
22 _____
23 Carol T. Helton, City Attorney

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Public Hearing Date, if applicable 10-22-2013

Read the first time in full and on motion by Councilman Russ Jehl
Read the second time by title and referred to the Regulations Committee
Committee. Read the third time in full and on motion by Councilman
Tom Didier, placed on passage by the following vote:

	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>
<u>TOTAL VOTES</u>	<u>8</u>	<u> </u>	<u> </u>	<u>1</u>
BENDER	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>
CRAWFORD	<u> </u>	<u> </u>	<u> </u>	<u>✓</u>
DIDIER	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>
HARPER	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>
HINES	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>
JEHL	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>
PADDOCK	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>
SHOAFF	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>
SMITH	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>

DATED: 6-10-14 Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as
(ANNEXATION) (APPROPRIATION) (GENERAL) (SPECIAL) (ZONING) ORDINANCE
(RESOLUTION) NO. B-13-14 on the 10th day of
June, 2014

ATTEST:
Sandra E. Kennedy
SANDRA E. KENNEDY,
CITY CLERK

Robert A. Bender
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 11th day
of June, 2014, at the hour of 11:00 o'clock Am. E.S.T.

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this 12th day of June
2014, at the hour of 10:30 o'clock Am. E.S.T.

Thomas C. Henry
THOMAS C. HENRY, MAYOR

BILL NO. G-13-10-03

REPORT OF THE COMMITTEE ON REGULATIONS

JUNE 10, 2014

THOMAS DIDIER - CHAIR
MITCH HARPER- CO-CHAIR
ALL COUNCIL MEMBERS

WE, YOUR COMMITTEE ON REGULATIONS TO WHOM WAS REFERRED AN ORDINANCE AMENDING THE THOROUGHFARE PLAN OF THE CITY COMPREHENSIVE ("MASTER") PLAN BY VACATING PUBLIC RIGHT-OF-WAY WEST AND SOUTH OF LOT 1 NORTH OF LOT 21 IN McADAMS HIGHLAND GROVE ADDITION, BETWEEN UNION CHAPEL ROAD AND LADDIE LANE HAVE HAD SAID ORDINANCE UNDER CONSIDERATION AND BEG LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID ORDINANCE

DO PASS

DO NOT PASS

ABSTAIN

NO REC

Thomas Didier
Mitch Harper
[Signature]
[Signature]
[Signature]
[Signature]
[Signature]

SANDRA E. KENNEDY
CITY CLERK

City of Fort Wayne Common Council
DIGEST SHEET

Department of Planning Services

Title of Ordinance: Vacation of Public Right-of-way
Case Number: VALY-2013-0124
Bill Number: Z-13-10-03
Council District: 2 – Russ Jehl

Introduction Date: October 8, 2013
Public Hearing Date: October 22, 2013
Next Council Action: Ordinance will return to Council after approvals from reviewing agencies.

Synopsis of Ordinance: To vacate a portion of an unimproved platted alley within the McAdams Highland Grove Addition.
Location: West and south of Lot 1 and north of Lot 21 in McAdams Highland Grove Addition, between Union Chapel Road and Laddie Lane.
Reason for Request: Approval of the alley will allow the property owner to combine the lots into one parcel to aid in the development of Ted's Market, a fresh food market proposed on the property fronting Coldwater Road.
Applicant: Charles Lynn Properties, LLC
Property Owner: Union Chapel United Brethren in Christ Church

Related Petitions: Primary Development Plan, Ted's Market, REZ-2013-120, VPLAT-2013-121

Effect of Passage: Vacation of the alley will allow the parcels to be combined. This will aid in future development by creating a larger parcel, removing setbacks along the alley, and allowing for fencing and landscape screening of the proposed Ted's Market, on the property fronting Coldwater Road. It will also allow the location of a safe entrance on Union Chapel Road. The development proposes re-use of the existing church building.

Effect of Non-Passage: The alley will remain as platted and re-development capabilities may be limited, due to lot size and setbacks.

CITY OF FORT WAYNE

Vacation Petition

City Clerk / Suite 110 / Citizens Square Building / 200 East Berry Street / Fort Wayne IN 46802 / 260.427.1221

I/We do hereby petition to vacate the following:

 Easement Public Right of Way (street or alley)

More particularly described as follows:

The alley of McAdams Highland Grove Addition to the City of Fort Wayne adjoining Lots 1, 21 and 24 as described on Exhibit "B" attached hereto; including the vacation of any and all utility easements within said alley.

(Please Attach a Legal Description of the property requested to be vacated, along with a survey or other acceptable drawing showing the property.)

DEED BOOK NUMBER: 19 PAGE(S) NUMBER(S): 39 (This information can be obtained from the Allen County Recorder's Office on the 2nd Floor, City-County Building, One Main Street, Fort Wayne, IN)

The reasons for the proposed vacation are as follows:

To allow for the redevelopment and use on Lots 1, 2, 21, 22, 23 and 24 of McAdams Highland Grove Addition for commercial use.

See attached development plan.

(If additional space is needed please attach separate page.)

The applicant on an attached sheet must also provide the names and addresses of all adjacent property owner(s). The information on that sheet must be as follows:

Property owner(s) Name(s); Street Address; City; State; Zip Code; Phone Number with Area Code.

Applicant's name(s) if different from property owner(s):

Name: Charles Lynn Properties, LLC

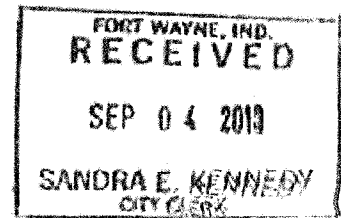
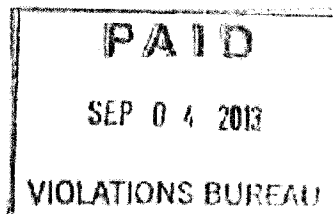
Street Address: 15921 Twin Eagles Cove

City: Huntertown

State: IN

Zip: 46748

Phone: 260-267-2106



I/We, your petitioners, file this petition pursuant to the authority granted in Indiana Code, and provisions of local ordinance. I/We agree to abide by all provisions of the Fort Wayne Zoning Ordinance and/or Subdivision Control Ordinance, as well as all procedures and policies of the Fort Wayne City Plan Commission as those provisions, and policies relate to the handling and disposition of this petition. I/We also certify that this information is true and accurate to the best of my/our knowledge.

See attached Exhibit "A"

Signature _____ Printed Name _____ Date _____

Address _____ City/State/Zip _____

See attached Exhibit "A"

Signature _____ Printed Name _____ Date _____

Address _____ City/State/Zip _____

If additional space is needed for signatures please attach a separate page.

Agent's Name (Print Legibly): Thomas M. Niezer / Barrett & McNagny LLP

Street Address: 215 East Berry Street

City: Fort Wayne State: IN Zip: 46802 Phone: 260-423-9551

NOTICE:

- Legal Description is to be the area to be vacated and must be complete and accurate. If necessary a licensed surveyor's legal description may be required.
- Applicant is hereby informed that in the case of a utility being located in a public way or easement, the applicant may be required to bear the cost of relocation, or of providing a replacement easement or easement's as needed.

For Office Use Only:

Receipt #: _____ Date Filed: _____

Map #: _____ Reference #: _____

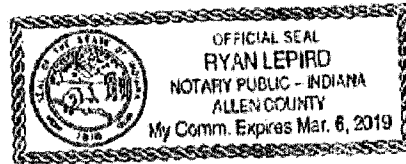
EXHIBIT "A"
City Council Vacation Petition

"APPLICANT"

CHARLES LYNN PROPERTIES, LLC

By: [Signature]
Printed Name: Brian Howell
Its: SIGNING MEMBER

STATE OF INDIANA)
)SS:
COUNTY OF ALLEN)



Before me, a notary public, in and for said County and State, personally appeared Brian Howell, the Member of CHARLES LYNN PROPERTIES, LLC, who acknowledged the execution of the foregoing Vacation Petition, and who, having been duly sworn, under the penalties of perjury, stated that the facts and the matters therein set forth are true and correct.

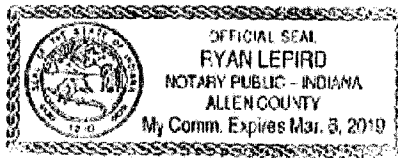
Witness my hand and notarial seal this 3 date of September, 2013.
[Signature]
Notary Public
My commission expires: 3-6-2019 County of residence: Allen

"OWNER"

UNION CHAPEL UNITED BRETHREN IN CHRIST CHURCH

By: [Signature]
Printed Name: Gary Reber
Its: Pastor

STATE OF INDIANA)
)SS:
COUNTY OF ALLEN)



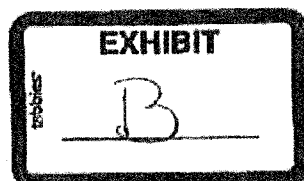
Before me, a notary public, in and for said County and State, personally appeared Gary Reber, the Pastor of UNION CHAPEL UNITED BRETHREN IN CHRIST CHURCH, who acknowledged the execution of the foregoing Vacation Petition, and who, having been duly sworn, under the penalties of perjury, stated that the facts and the matters therein set forth are true and correct.

Witness my hand and notarial seal this 3 date of September, 2013.
[Signature]
Notary Public
My commission expires: 3-6-2019 County of residence: Allen

Partial Alley Vacation – McAdams Highland Grove Addition

A PORTION OF A 14' ALLEY AS REPRESENTED ON THE PLAT OF McADAMS HIGHLAND GROVE ADDITION AS RECORDED IN PLAT RECORD 19, PAGE 39 IN THE OFFICE OF THE RECORDER OF ALLEN COUNTY, INDIANA, ALSO BEING A PORTION OF THE SOUTHWEST QUARTER OF SECTION 27, TOWNSHIP 32 NORTH, RANGE 12 EAST, ALLEN COUNTY, INDIANA MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER OF SECTION 27, TOWNSHIP 32 NORTH, RANGE 32 EAST, ALLEN COUNTY, INDIANA, SAID NORTHWEST CORNER BEING MARKED BY A MAG NAIL FOUND WITH "ANDERSON" IDENTIFICATION WASHER; THENCE NORTH 88 DEGREES 27 MINUTES 44 SECONDS EAST ON AND ALONG THE NORTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 27, A DISTANCE OF 81.08 FEET; THENCE SOUTH 01 DEGREES 32 MINUTES 16 SECONDS EAST A DISTANCE OF 25.00 FEET TO A POINT ON THE SOUTH RIGHT OF WAY LINE OF UNION CHAPEL ROAD (SAID SOUTH RIGHT OF WAY LINE BEING COINCIDENT WITH THE NORTH LINE OF McADAMS HIGHLAND GROVE ADDITION AS RECORDED IN PLAT BOOK 19, PAGE 39 WITHIN THE OFFICE OF THE RECORDER OF ALLEN COUNTY, INDIANA; THENCE NORTH 88 DEGREES 27 MINUTES 44 SECONDS EAST ON AND ALONG THE SOUTH RIGHT OF WAY LINE OF UNION CHAPEL ROAD A DISTANCE OF 127.94 FEET TO THE POINT OF INTERSECTION OF THE SOUTH RIGHT OF WAY LINE OF UNION CHAPEL ROAD AND THE WEST RIGHT OF WAY LINE OF A 14' ALLEY RUNNING NORTH-SOUTH REPRESENTED ON THE AFOREMENTIONED PLAT OF McADAMS HIGHLAND GROVE ADDITION AND BEING MARKED BY A SURVEY MARKER NAIL WITH "FORESIGHT-CONSULTING, LLC - BOUNDARY" IDENTIFICATION WASHER; THENCE CONTINUING NORTH 88 DEGREES 27 MINUTES 44 SECONDS EAST ON AND ALONG THE SOUTH RIGHT OF WAY LINE OF UNION CHAPEL ROAD, A DISTANCE OF 14.00 FEET TO THE POINT OF BEGINNING OF THE HEREIN DESCRIBED PLAT VACATION REAL ESTATE DESCRIPTION, SAID POINT OF BEGINNING BEING THE POINT OF INTERSECTION OF THE SOUTH RIGHT OF WAY LINE OF UNION CHAPEL ROAD AND THE EAST RIGHT OF WAY LINE OF A 14' ALLEY RUNNING NORTH-SOUTH REPRESENTED ON THE AFOREMENTIONED PLAT OF McADAMS HIGHLAND GROVE ADDITION AND BEING MARKED BY A 5/8" BY 24" REBAR WITH "FORESIGHT-CONSULTING, LLC - BOUNDARY" IDENTIFICATION CAP; THENCE SOUTH 01 DEGREES 46 MINUTES 39 SECONDS EAST ON AND ALONG THE WEST LINE OF LOT NUMBER 1 OF McADAMS HIGHLAND GROVE ADDITION, A DISTANCE OF 239.50 FEET TO A POINT ON THE NORTH LINE OF THE UNIMPROVED ALLEY MARKED BY A 5/8" BY 24" REBAR WITH "FORESIGHT-CONSULTING, LLC - BOUNDARY" IDENTIFICATION CAP; THENCE SOUTH 01 DEGREES 47 MINUTES 04 SECONDS EAST, A DISTANCE OF 14.00 FEET TO THE NORTHEAST CORNER OF LOT NUMBER 21, OF McADAMS HIGHLAND GROVE ADDITION BEING MARKED BY A 5/8" BY 24" REBAR WITH "FORESIGHT-CONSULTING, LLC - BOUNDARY" IDENTIFICATION CAP; THENCE SOUTH 88 DEGREES 27 MINUTES 44 SECONDS WEST ON AND ALONG THE AFOREMENTIONED SOUTH RIGHT OF WAY LINE AN ALLEY RUNNING EAST-WEST A DISTANCE OF 114.00 FEET TO A POINT LYING ON THE WEST RIGHT OF WAY LINE OF AN ALLEY RUNNING NORTH-SOUTH AS REPRESENTED ON THE PLAT OF McADAMS HIGHLAND GROVE ADDITION, SAID POINT BEING MARKED BY A 5/8" BY 24" REBAR WITH "FORESIGHT-CONSULTING, LLC - BOUNDARY" IDENTIFICATION CAP; THENCE NORTH 01 DEGREES 46 MINUTES 39 SECONDS EAST ON AND ALONG THE AFOREMENTIONED WEST RIGHT OF WAY LINE OF THE NORTH-SOUTH ALLEY A DISTANCE OF 253.50 FEET TO THE POINT OF BEGINNING, CONTAINING 0.11 ACRES (4,956.00 SQUARE FEET) OF LAND, MORE OR LESS.



**McAdams Highland Grove Addition
Property Owners for City Council Vacation Petition**

#50314-01

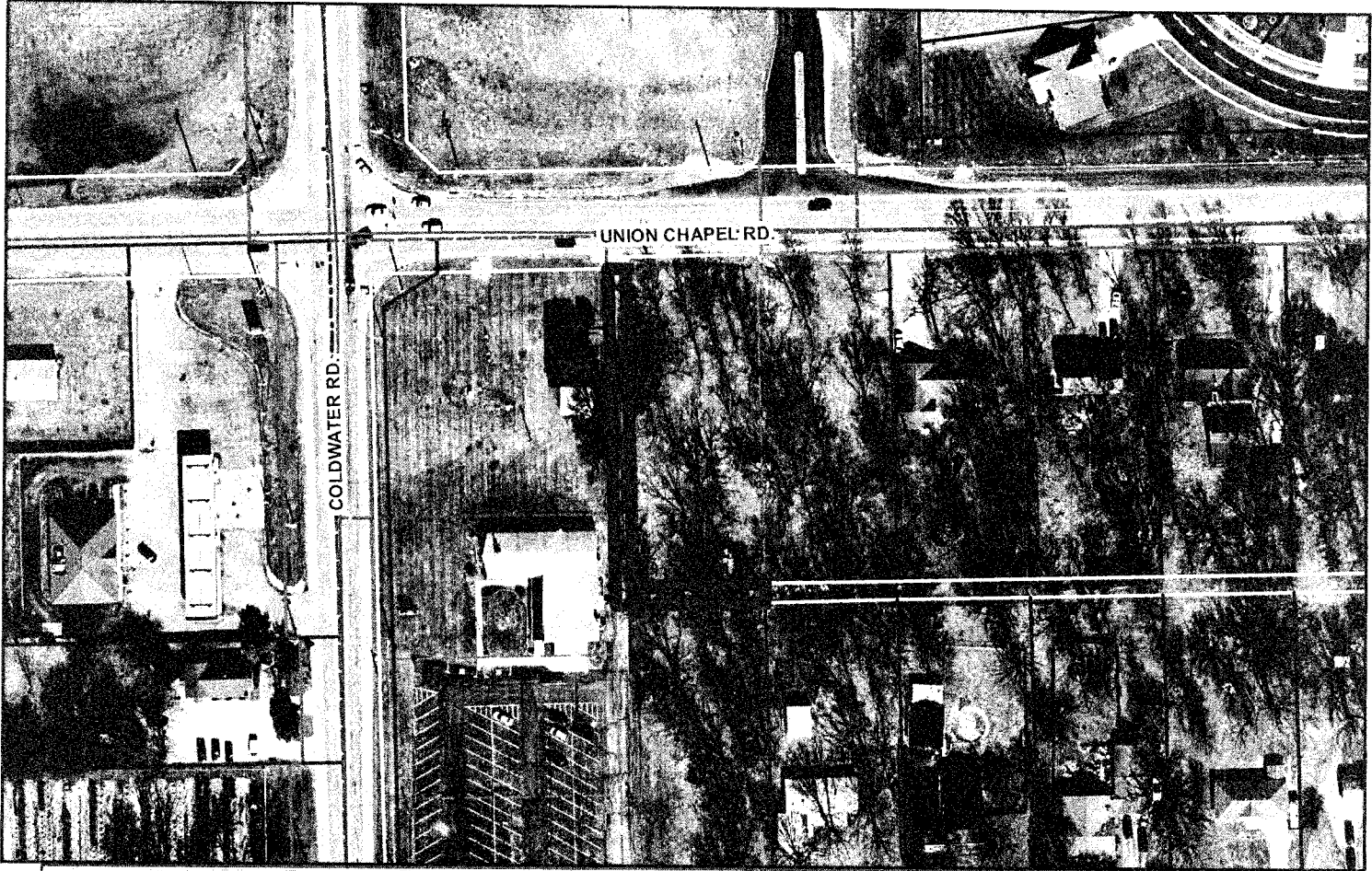
#	PIN	Property Address	Owner and Mailing Address	Lot #
	02-02-27-301-003,000-091	806 Union Chapel Road Fort Wayne, Indiana 46845	Union Chapel Church of The United Brethren In Christ 12638 Coldwater Road Fort Wayne, Indiana 46845	1 and 2
	02-02-27-301-004,000-091	812 Union Chapel Road Fort Wayne, Indiana 46845	R&B Enterprises LLC 6409 Oak Bridge Place Fort Wayne, Indiana 46835	3
	02-02-27-301-011,000-091	811 Laddie Lane Fort Wayne, Indiana 46845	Steven M. and Anne K. Steele 2112 Ransom Drive Fort Wayne, Indiana 46845	19
	02-02-27-301-010,000-091	801 Laddie Lane Fort Wayne, Indiana 46845	Union Chapel United Brethren In Christ Church 12628 Coldwater Road Fort Wayne, Indiana 46845	20
	02-02-27-301-001,000-091	12628 Coldwater Road Fort Wayne, Indiana 46845	Union Chapel United Brethren In Christ Church 12628 Coldwater Road Fort Wayne, Indiana 46845	21, 22, 23 and 24
	02-02-27-301-002,000-091	Behind 12628 Coldwater Road Fort Wayne, Indiana 46845	Verizon North Inc. Tax Department PO Box 152206 Irving, Texas 75015-2206	



Although strict accuracy standards have been employed in the compilation of this map, Allen County does not warrant or guarantee the accuracy of the information contained herein and declines any and all liability resulting from any error or omission in this map.

© 2001 Board of Commissioners of the County of Allen
 North American Datum 1983
 State Plane Coordinate System, Indiana East
 File 63 and Contours, Spring 2009

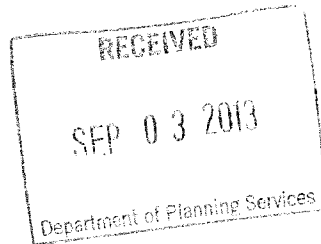




This map is for representational purposes only - Boundaries identified by bold colored lines represent the general location of the proposed project

	<p style="text-align: center;"><u>Vacation Petition VALY-2013-0124</u></p> <p style="text-align: center;">Dated August 09, 2013 © 2004 Board of Commissioners of the County of Allen South American Datum 1985 State Plane Coordinate System, Indian East Elevations 2006 / Contours 100m</p> <p style="text-align: center;"><small>Although strict accuracy standards have been employed in the compilation of this map, Allen County does not warrant or guarantee the accuracy of the information contained herein and disclaims any and all liability resulting from any error or omission in this map.</small></p>	
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September 4, 2013



Via Hand Delivery

Michelle B. Wood, RLA
Department of Planning Services
200 East Berry Street, Suite 150
Fort Wayne, Indiana 46802

**Re: Charles Lynn Properties, LLC; Teds Market Rezoning/Primary Development
Plan/Plat Vacation/Right of Way Vacation**

Dear Michelle:

The undersigned is counsel to Charles Lynn Properties, LLC ("Charles Lynn"). Charles Lynn is under agreement with Union Chapel United Brethren In Christ Church ("United Brethren") to purchase United Brethren's property at the southeast corner of Coldwater and Union Chapel Roads. The properties being purchase are Lots 1, 2, 20, 21, 22, 23 and 24 of McAdams Highland Grove Addition ("Real Estate") together with a roughly 1 acre exception parcel which is immediately north of Lot 24 and that is situated at the immediate southeast corner of Coldwater and Union Chapel Roads ("Exception Parcel"). The purchase does not include a small tract of land immediately east of the Exception Parcel that is owned by Frontier for one of its utility service buildings.

Enclosed with this letter please find the following:

1. Rezoning Petition Application seeking to rezone a portion of the Real Estate being purchased to CM-2 from its current AR designation;
2. Development Plan Application for the Real Estate being rezoned;
3. Vacation Petition seeking to vacate lots 1, 2, 21, 22, 23 and 24 of McAdams Highland Grove Addition together with the covenants for said lots;
4. Copy of Vacation Petition being filed this date with the Clerk for Common Council of City of Fort Wayne seeking to vacate the unimproved fourteen foot (14') alley which is immediately west of Lot 1 of McAdams Highland Grove

Addition and situated to the south of Lot 1 and to the north of Lot 21 of McAdams Highland Grove Addition; and

5. File fee check in the amount of \$1,500.00 for the Rezoning Application, Development Plan Application and Vacation Petition.

With respect to each application, I offer the following:

- A. Rezoning Application. Please note that the Rezoning Application does not include all of the Real Estate being purchased by Charles Lynn. Specifically, Lot 20 is not included within the Rezoning Application. The Exception Parcel is not included within the Rezoning Application. There is an existing house situated on Lot 20 which Charles Lynn intends to maintain with its current tenant. With respect to the Exception Parcel, this property currently houses what is commonly known as the "Union Chapel Cemetery". The existing gravesites are remaining in place.

Charles Lynn is seeking to rezone Lot 2 of McAdams Highland Grove Addition but solely for the purpose of allowing reconstruction of a new roadway that services the proposed development and that is in full alignment with the Watersong access onto Union Chapel Road. Our client will be submitting and is willing to furnish a written commitment for all of the land being rezoned to limit certain uses upon the land being rezoned and, specifically, as to Lot 2, limit any building improvement upon said lot other than the proposed driveway.

- B. Development Plan Application. The proposed development contemplates the following:
 - Redevelopment of the existing church structure with an addition of roughly 5,000 additional feet both to the north and west and adjacent to the church structure as shown on the development plan. Total square footage of the building will be 10, 045 square feet.
 - Realignment of the existing alleyway for Union Chapel Road to a point further east and in full alignment with Watersong's access. This internal access will provide access to the proposed fresh food market, Union Chapel Cemetery and the existing Frontier utility service building.
 - The total acreage of the development site is 3.25 acres. The proposed use under the development plan, primarily, is a fresh food market to be known as "Teds Market". Other ancillary uses consistent with the market will be developed initially or over time.
 - The development plan contemplates a internal walking path which runs along the internal access drive from Union Chapel Road to

Laddie Lane. No walkway improvements are planned or contemplated for any portion of the Exception Parcel as those improvements would encroach too closely to the existing Union Chapel Cemetery. As such, no sidewalk is contemplated along the development's western boundary and parallel to Coldwater Road. Please note, in this regard, that the Exception Parcel is not part of our development plan application.

- Monument signage will consist of the existing monument sign utilized by United Brethren along Coldwater Road as well as a new monument sign at the Union Chapel Road access. The development will utilize façade signage as well. Proposed renderings of this signage will be provided to you prior to the public hearing.
- Consistent with preliminary discussion with the City of Fort Wayne Traffic Engineer, roadway improvements are being shown for a portion of Laddie Lane.
- The subject site will be served by City of Fort Wayne Utilities for both water and sewer. All other utilities are readily available to the site. Lot 21 is being developed for the stormwater management system for the development. This feature not only serves as an aesthetic improvement for the entrance into the development off of Laddie Lane but also as a buffer for the residential homes to the east.
- All delivery and truck traffic will be routed off of Union Chapel Road. The projected store hours for Teds Market, at most, will be 8:00 am to 12:00 am (midnight) seven days a week at which the store is open to the public. The store will have roughly 12-20 employees as it ramps up to maximum utilization.
- The development plan will feature new parking lot lighting being no more than twenty feet (20') in height with sharp cut off fixtures being utilized. We believe this will be an overall improvement to the site as it will necessitate removal of the existing "cobra" style light fixtures currently utilized.
- Various façade treatments will be undertaken for the existing building. Renderings and elevation drawings will be provided to you prior to the public hearing.

C. Plat Vacation Petition. In addition to cleaning the title for the proposed development, it has become necessary to vacate both the plat and the covenants encumbering the Plat for McAdams Highland Grove Addition. Please note that

the covenants for McAdams Highland Grove Addition exempt lots 1, 21, 22, 23, and 24 from the requirement that those lots be used solely for residential purposes. It is only Lot 2 which maintains that current restriction. As mentioned above, Lot 2 is being used solely for use and development of a reconfigured access onto Union Chapel which is in full alignment with the Watersong access. Our client intends to restrict any building development upon Lot 2 by way of a written commitment to be furnished to you prior to the public hearing.

However, our client's ability to effectively utilize the Real Estate, undertake the expansion necessary and maintain the viability of the Union Chapel Cemetery has all necessitated that our client avoid utilization of Coldwater Road for direct access and a reconfigured internal roadway access that, for safety reasons, is setback further along Union Chapel Road from its Coldwater Road intersection and in full alignment with the Watersong access cut.

In this sense, our client believes that the conditions of Indiana Code 36-7-4-711(f) are applicable. Conditions in the platted area have changed as to defeat the original purpose of the Plat which was to house the church facility and the corresponding cemetery. With the decision being made by United Brethren to vacate the Real Estate, coupled with the corresponding traffic at both Coldwater Road and Union Chapel Road, a measured and controlled commercial development, such as the one being proposed, is best suited for this property. Further, allowing the reconfigured internal access road to be in full alignment with Watersong's access provides for a greater sense of public safety and traffic movement along Union Chapel Road. Our client's development, and the financing of that development, is conditioned on vacating of the Plat for McAdams Highland Grove Addition in order to allow the proposed development to move forward. Last, the value of the remaining land not being vacated is not going to be diminished either in value or utilization. In point of fact, the improvements contemplated by Charles Lynn will serve as a betterment and new investment for the entire McAdams Highland Grove Addition. The proposed fresh food market is designed to be pedestrian friendly and will provide a needed service for the surrounding area.

With respect to the covenants sought to be vacated, Charles Lynn believes the provisions of Indiana Code 36-7-4-714 are also met. At a minimum, the covenant vacation is needed to lessen or avoid congestion in the public ways by moving and realigning the proposed access cut further east away from Coldwater Road and in full alignment with the Watersong access cut. Vacation of the covenants will allow for recovery of property values in the area in that new and significant investment will be allowed to move forward with the Real Estate and the covenant vacation is needed in order to secure for the public adequate access and access which is safe. As mentioned previously, the Union Chapel Cemetery, given its location, prevents meaningful access along Union Chapel Road for this development as well as any pedestrian sidewalk or trail system. All access must be provided over, upon and across Lot 2 in alignment with the Watersong access

cut and the existing access cut onto Laddie Lane. The general public will be well served by these improvements. Charles Lynn intends to grant an easement for this pedestrian traffic along the trail system as shown on the development plan.

In addition to the enclosed, and by way of background, Teds Market will represent a small, neighborhood fresh foods market which will feature produce, fresh baked breads and quality meats. It will also offer a wide assortment of groceries, spices, dairy, juices, and frozen foods in order to fulfill a good portion of many customer shopping needs. The development plan contemplates a café, where patrons will find a selection of highly rated wines and craft beers.

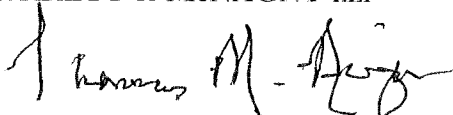
The principal of Teds Market is Brian Hench. Brian and his family are part of the Chief Supermarket chain of grocery stores in northwest Ohio and that is headquartered in Defiance, Ohio. Mr. Hench currently lives in Allen County with his spouse and children and grew up within the Chief Supermarket business overseeing many of the fresh food departments for Chief grocery stores. Our client is well positioned to bring an alternative to the larger grocery stores and the products they offer for Perry Township and the surrounding area. Our client's ability to redevelop the existing church structure, and add to it, demonstrates an approach that is reliant on creativity and the importance of a neighborhood concept which will be reflected in the day to day operations of the fresh food market itself. In all respects, we believe that this proposal is not only consistent with the area, but also sensitive to the surrounding property owner.

In addition, and last, our client will be conducting a neighborhood meeting with respect to the proposed development for September 17th at 6:00 pm at the United Brethren Church itself. I would appreciate your directing any inquiries from surrounding property owners to that meeting should you receive any telephone calls.

Thank you for your attention to this matter. If the applications are in order, I would request that they be placed on the agenda for public hearing by the City of Fort Wayne Planning Commission for its October 14th meeting and corresponding business meeting of October 21st. I look forward to working with you on this matter and please call should you have any questions. I am,

Very truly yours,

BARRETT & McNAGNY LLP



Thomas M. Niezer

TMN:ahc:1098726

enclosures

cc: Brian Hench (via email)
Todd R. Bauer, PE, PLS (via email)
Russ Jehl, City Council Member (with enclosures)

Public Hearing Date, if applicable _____

Read the first time in full and on motion by Councilman _____

Read the second time by title and referred to the _____

Committee. Read the third time in full and on motion by Councilman _____, placed on passage by the following vote:

	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>
<u>TOTAL VOTES</u>	_____	_____	_____	_____
BENDER	_____	_____	_____	_____
CRAWFORD	_____	_____	_____	_____
DIDIER	_____	_____	_____	_____
HARPER	_____	_____	_____	_____
HINES	_____	_____	_____	_____
JEHL	_____	_____	_____	_____
PADDOCK	_____	_____	_____	_____
SHOAFF	_____	_____	_____	_____
SMITH	_____	_____	_____	_____

DATED: _____ Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (ANNEXATION) (APPROPRIATION) (GENERAL) (SPECIAL) (ZONING) ORDINANCE (RESOLUTION) NO. _____ on the _____ day of _____, 2013

ATTEST: Sandra E. Kennedy
SANDRA E. KENNEDY,
CITY CLERK

T. Henry F. Didier
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the _____ day of _____, 2013, at the hour of _____ o'clock _____ E.S.T.

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this _____ day of _____ 2013, at the hour of _____ o'clock _____ E.S.T.

THOMAS C. HENRY, MAYOR

**NOTICE OF PUBLIC HEARING
FORT WAYNE COMMON COUNCIL**

Bill No: G-13-10-03

Notice is hereby given that the Fort Wayne Common Council of the City of Fort Wayne, Indiana will conduct a public hearing on Tuesday, October 22, 2013 at 5:30 p.m. in Room 030 of the Citizen's Square Building at 200 East Berry Street.

This public hearing is to provide information regarding the vacation of a portion of a fourteen foot wide alley right-of-way west and south of Lot 1 and north of Lot 21 in McAdams Highland Grove Addition, (Section 27 of Perry Township).

All interested persons are invited to attend and be heard at the Public Hearing. If you are unable to attend the hearing but want to be heard, or are planning to attend and want to submit information for the Council to review before the hearing, please have 11 copies of your written comments to our office before 12:00 p.m. October 22, 2013.

"REASONABLE ACCOMMODATIONS" FOR PERSONS WITH A KNOWN DISABLING CONDITION WILL BE CONSIDERED IN ACCORDANCE WITH STATE AND FEDERAL LAW. ANY PERSON NEEDING A "REASONABLE ACCOMMODATION" SHOULD NOTIFY THE PUBLIC INFORMATION OFFICE (260) 427-1120, TTY (260) 1200, AT LEAST SEVENTY-TWO HOURS PRIOR TO THE MEETING.

**SANDRA E. KENNEDY
CITY CLERK**

DEPARTMENT OF PLANNING SERVICES

ALLIANCE COUNTY, INDIANA
200 EAST BERRY STREET
FORT WAYNE, INDIANA 46802

219-443-7801
260-443-7807
745 WALLACE DRIVE

TO: All interested persons
FROM: Michelle Wood, RLA
Senior Land Use Planner
RE: Public Hearing Notice
DATE: October 10, 2013

We are sending this notice to let you know the Common Council of Fort Wayne, Indiana will hold a public hearing **Tuesday October 22, 2013 at 5:30 p.m.** The Council will hold the hearing in **Room 035 of the Citizens Square Building at 200 East Berry Street.** Room 035 is on the Garden Level (basement) of the building. The agenda for the hearing includes the following request.

PROPOSAL: VALY-2013-0124
BILL NO: G-13-10-03
APPLICANT: Charles Lynn Properties, LLC
REQUEST: To vacate a portion of the fourteen foot wide alley right-of-way west and south of Lot 1 and north of Lot 21 in McAdams Highland Grove Addition. (Section 27 of Perry Township)
LAND AREA: Approximately 4,956 square feet proposed to be vacated.
SEWER PROVIDER: City of Fort Wayne
WATER PROVIDER: City of Fort Wayne

We have additional information regarding this application at our office at Suite 150, Citizens Square, 200 East Berry Street.

We are sending you this notice because you own property that is near the above request. This public hearing is your chance to offer input you may have regarding the request. You may either present information to the Council at the public hearing itself, or send information to the staff prior to the public hearing, as indicated below.

If you are unable to attend the hearing but want to be heard, or are planning to attend and want to submit information for the Council to review at the hearing, please have 11 copies of your written comments to our office before 12:00 p.m. October 22, 2013. You may also email comments to michelle.wood@allencounty.us.

Correspondence may also be hand delivered to staff or the Council at the hearing. Please include your name and mailing address on all correspondence. Thank you for your attention to this matter. Please call this office if you have any questions.

The Journal Gazette

Allen County, Indiana

Account # 1060008 - 1087383

FW Common Council

PUBLISHER'S CLAIM

LINE COUNT

Display Master (Must not exceed two actual lines, neither of which shall total more than four solid lines of the type in which the body of the advertisement is set) -- number of equivalent lines _____

Head -- number of lines _____

Body -- number of lines _____

Tail -- number of lines _____

Total number of lines in notice

44

COMPUTATION OF CHARGES

44 lines, 1 column(s) wide equals

44 equivalent lines at \$ 0.402 cents per line

\$ 17.69

Additional charges for notices containing rule or tabular work
(50 per cent of above amount)

Charge for extra proofs of publication
(\$1.00 for each proof in excess of two)

TOTAL AMOUNT OF CLAIM

\$ 17.69

DATA FOR COMPUTING COST

Width of single column in picas 9.8 Size of type 7point.

Number of Insertions 1

Pursuant to the provisions and penalties of IC 5-11-10-1, I hereby certify that the foregoing account is just and correct, that the amount claimed is legally due, after allowing all just credits, and that no part of the same has been paid.

I also certify that the printed matter attached hereto is a true copy, of the same column width and type size, which was duly published in said paper 1 times.

The dates of publication being as follows:

10/11/2013

Additionally, Newspaper has a Web site and this public notice was posted on the same day as it was published in The Journal Gazette.

T. Brown-Smith
Legal Clerk

Date: October 11, 2013

ATTACH COPY OF ADVERTISEMENT HERE

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SANDRA E. KENNEDY
CITY CLERK
10--11 1087383 hspaxlp

The News-Sentinel

Allen County, Indiana

Account # 1060008 - 1087383
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