

MICHAEL P. HANLON



CITY CLERK

Michael.Hanlon@allentownpa.gov

435 West Hamilton Street

Allentown, PA 18101

Phone: (610) 437-7556

Fax: (610) 437-7554

September 20, 2021

Craig Messinger
Director, Public Works
City Hall, Allentown, PA 18101

Irene Woodward
Director, Planning and Zoning
City Hall, Allentown, PA 18101

Brian Hite
Senior Planning Technician
Lehigh Valley Planning Commission
961 Marcon Boulevard, Suite 310
Allentown, PA 18109

To All:

The attached street vacation petition was received from B. Land Co., LLC to vacate the following streets:

1. North Halstead from East Turner to East Webster
2. North Hart from Court Street to midpoint between Turner and Webster
3. North Fenwick from East Turner to East Linden
4. North Folk from East Turner to Court Street
5. North Gilmore from East Turner to Court Street
6. North Glynn from East Turner to Court Street
7. East Newton from North Glynn to North Grape
8. East Webster from North Glynn to North Hart
9. North Grape from East Turner to East Webster
10. East Linden from North Folk to North Hart
11. North Grape from East Linden to Court Street
12. North Hancock from Court Street to midpoint between East Webster and East Turner
13. East Turner from North Fenwick to North Halstead
14. North side East Linden from center of North Fenwick to North Folk Street
15. East Linden Street from Hart Street to North Irving Street

This petition is hereby referred to the City Engineer, the Planning Commission and the Lehigh Valley Planning Commission for review and recommendations.

Please submit your report to this office.

Very truly yours,

Michael P. Hanlon
City Clerk

Cc: Council
Christian Brown, Chairman of the Planning Commission
Brian Borzak, Engineering
Matthew Kloiber, City Solicitor
Frances Fruhwirth, Associate Solicitor
B. Land Co., LLC, joe@piperatolaw.com

*Council meetings are held on the first and third Wednesday of each month beginning at 7:00 pm in Council Chambers.
For copies of the agenda or meeting announcements, please visit our website at www.allentownpa.gov.*

STREET VACATION PETITION

Date _____

City Council, City Hall

435 Hamilton Street

Allentown, PA 18101

(610) 437-7556 Telephone

(610) 437-7554 Fax

EMAIL: Mike Hanlon

Michael.Hanlon@allentownpa.gov

Tawanna L. Whitehead

Tawanna.Whitehead@allentownpa.gov

Gentlemen:

We, the undersigned and interested parties hereby request your honorable body to vacate

See Exhibit "A"

_____ from _____

to _____ ~~with~~ without* utility easements. (*Strike inapplicable word.)

Reason for Vacation of Street (give details)

Applicant entered into a Settlement Agreement with the City of Allentown on May 13, 2010 to redesign the development known as Common Ridge to re-zone the capacity from 134 apartments to 50 Units. Applicant requests vacation for good and marketable title.

<u>NAME</u>	<u>ADDRESS</u>	<u>PHONE</u>	<u>EMAIL</u>
B. Land Co., LLC	2005 City Line Rd.	610-625-3825	joe@piperatolaw.com
	Bethlehem PA 18017		
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

NOTE: Send or deliver this petition to: City Clerk's Office
City Hall
435 Hamilton Street
Allentown, PA 18101
(610) 437-7556 Phone
(610) 437-7554 Fax

EMAIL: Mike Hanlon Michael.Hanlon@allentownpa.gov
Tawanna L. Whitehead Tawanna.Whitehead@allentownpa.gov

395.25 STREET VACATION FEES

Street Vacations: Petitions for street vacations can be found on the City website or by contacting the City Clerk's Office. A written Petition for a street vacation may be submitted to City Council by a citizen. The petition must be submitted together with a check in the amount of \$300.00 payable to the City of Allentown, to the City Clerk's Office, 435 Hamilton Street. Requests for Street Vacations shall be subject to a Three Hundred (\$300) Dollar fee. In addition, the petitioner must pay in full all costs incurred by the City in publishing the legally required advertising for the vacation prior to the final Council action. (14273 §1 3/3/05; 15173 §1 12/2/14)

Remittance/Check payable to the "City of Allentown"

STREET VACATIONS – COMMON RIDGE

1. North Haldstead from East Turner to East Webster
2. North Hart from Court Street to midpoint between Turner and Webster
3. North Fenwick from East Turner to East Linden
4. North Folk from East Turner to Court Street
5. North Gilmore from East Turner to Court Street
6. North Glynn from East Turner to Court Street
7. East Newton from North Glynn to North Grape
8. East Webster from North Glynn to North Hart
9. North Grape from East Turner to East Webster
10. East Linden from North Folk to North Hart
11. North Grape from East Linden to Court Street
12. North Hancock from Court Street to midpoint between East Webster and East Turner
13. East Turner from North Fenwick to North Halstead
14. North side East Linden from center of North Fenwick to North Folk Street
15. East Linden Street from Hart Street to North Irving Street

ORDINANCE NO. 14962

FILE OF CITY COUNCIL

BILL NO. 106 – 2011

DECEMBER 7, 2011st

Providing for the vacation of North Floyd Street from East Linden Street for a distance of 120 feet north, North Fenwick Street from East Linden Street to East Westminster Street, North Folk Street from East Court Street to East Turner Street, North Gilmore Street from East Court Street to East Turner Street, North Glynn Street from East Court Street to East Turner Street, North Grape Street from East Webster Street to East Turner Street, North Grape Street from East Court Street to East Linden Street, North Halstead Street from East Webster Street to East Turner Street, North Hancock Street from East Court Street to East Turner Street, North Hart Street from East Court Street to a point approximately 147.49 feet from the south right-of-way line of East Turner Street said point being at the south property line of 832 East Turner Street, East Turner Street from North Floyd Street to North Halstead Street, East Newton Street from North Glynn Street to North Grape Street, East Webster Street from North Glynn Street to North Hart Street, East Linden Street from North Floyd Street to North Hart Street, East Court Street from North Folk Street to North Hart Street, in the Fourteenth Ward of the City of Allentown:

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ALLENTOWN:

SECTION ONE: That North Floyd Street, a twenty (20') foot wide street, from the southerly right-of-way line of East Linden Street to a point a distance of 120 feet north of the northerly right-of-way of East Linden Street said point being at the dividing line between 111 and 113 North Filbert Street, in the Fourteenth Ward of the City of Allentown be and the same is hereby vacated.

SECTION TWO: North Fenwick Street, a forty (40) foot wide street, from the northerly right-of-way line of East Linden Street to the southerly right-of-way line East Westminster Street, in the fourteenth Ward of the City of Allentown be and the same is hereby vacated.

SECTION THREE: North Folk Street, a twenty (20') foot wide street, from the southerly right-of-way line of East Court Street to the southerly right-of-way line East Turner Street, in the Fourteenth Ward of the City of Allentown be and the same is hereby vacated.

SECTION FOUR: North Gilmore Street, a forty (40') foot wide street, from the northerly right-of-way line of East Court Street to the southerly right-of-way line East Turner Street, in the Fourteenth Ward of the City of Allentown be and the same is hereby vacated.

SECTION FIVE: North Glynn Street, a twenty (20') foot wide street, from the northerly right-of-way line of East Court Street to the southerly right-of-way line East Turner Street, in the Fourteenth Ward of the City of Allentown be and the same is hereby vacated.

SECTION SIX: North Grape Street, a twenty (20') foot wide street, from the northerly right-of-way line of East Webster Street to the southerly right-of-way line East Turner Street, in the Fourteenth Ward of the City of Allentown be and the same is hereby vacated.

SECTION SEVEN: North Grape Street, a twenty (20') foot wide street, from the southerly right-of-way line of East Court Street to the northerly right-of-way line East Linden Street, in the Fourteenth Ward of the City of Allentown be and the same is hereby vacated.

SECTION EIGHT: North Halstead Street, a forty-five (45') foot wide street, from the northerly right-of-way line of East Webster Street to the southerly right-of-way line East Turner Street, in the Fourteenth Ward of the City of Allentown be and the same is hereby vacated.

SECTION NINE: North Hancock Street, a forty-five (45') foot wide street, from the southerly right-of-way line of East Court Street to the southerly right-of-way line East Turner Street, in the Fourteenth Ward of the City of Allentown be and the same is hereby vacated.

SECTION TEN: North Hart Street, a sixteen (16') foot wide street, from the northerly right-of-way line of East Court Street to a point approximately 147.49 feet south of the southerly right-of-way line of East Turner Street said point being at the south property line of 832 East Turner Street, in the Fourteenth Ward of the City of Allentown be and the same is hereby vacated.

SECTION ELEVEN: East Turner Street, a forty (40') foot wide street, from the easterly right-of-way line of North Floyd Street to the westerly right-of-way line North Halstead Street, in the Fourteenth Ward of the City of Allentown be and the same is hereby vacated.

SECTION TWELVE: East Newton Street, a twenty (20') foot wide street, from the easterly right-of-way line of North Glynn Street to the westerly right-of-way line North Grape Street, in the Fourteenth Ward of the City of Allentown be and the same is hereby vacated.

SECTION THIRTEEN: East Webster Street, a street of variable width between thirty (30') feet and sixteen (16) feet, fro the easterly right-of-way line of North Glynn Street to the westerly right-of-way line North Hart Street, in the Fourteenth Ward of the City of Allentown be and the same is hereby vacated.

SECTION FOURTEEN: East Linden Street, a forty (40') foot wide street, from the westerly right-of-way line of North Floyd Street to the westerly right-of-way line North Hart Street, in the Fourteenth Ward of the City of Allentown be and the same is hereby vacated.

SECTION FIFTEEN: East Court Street, a street of variable width between twenty (20') feet and sixteen (16) feet, fro the westerly right-of-way line of North Folk Street to the easterly right-of-way line North Hart Street, in the Fourteenth Ward of the City of Allentown be and the same is hereby vacated.

SECTION SIXTEEN: That the property owner will construct a series of improvements as shown on the approved plans for the Common Ridge project prepared by Martin H. Schuler Co. and access must be maintained to adjoining properties until all improvements shown on the plans are completed.

~~SECTION SEVENTEEN: That if said plans are not recorded within one year from the effective date of this Ordinance, then this Ordinance shall become null and void.~~

SECTION EIGHTEEN: Subject to the provisions set forth in Ordinance No. 12245, passed April 6, 1977.

SECTION NINETEEN: That all Ordinances inconsistent with the above provisions are repealed to the extent of their inconsistency.

JOSEPH J. PIPERATO, III, ESQUIRE
I.D. NUMBER 40527
BENNER & PIPERATO
2005 City Line Road
Bethlehem, Pennsylvania 18017
(610) 867-3900

Attorney for B Land Co., LLC

IN THE COURT OF COMMON PLEAS OF LEHIGH COUNTY, PENNSYLVANIA
CIVIL DIVISION – LAW

B LAND CO., LLC,)
successor in title to)
BGP CRE HOLDINGS, LLC,)
Plaintiff,)

DOCKET NO.: 2009-C-0272

vs.)

CITY OF ALLENTOWN and CITY)
COUNCIL OF THE CITY OF)
ALLENTOWN,)
Defendants.)

STIPULATION AND AGREEMENT

IT IS HEREBY STIPULATED AND AGREED by and between **B LAND CO., LLC** ("Landowner") successor in interest to **BGP CRE HOLDINGS, LLC**, ("BGP") by and through its attorney Joseph J. Piperato, III, Esquire, and the **CITY OF ALLENTOWN** and the **CITY COUNCIL OF THE CITY OF ALLENTOWN** (collectively "City") by and through their attorney, Charles F. Smith, Jr.:

BACKGROUND:

- A. Landowner is the owner of approximately 16.628 acres located in the City of Allentown, referred to herein as "Common Ridge Estates" or the "Property."
- B. The Property is zoned R-M Medium Density Residential District.
- C. Landowner is the successor in title to BGP, by Deed dated December 14, 2009 and recorded December 15, 2009, in the Office for the Recorder of Deeds in and for Lehigh County at Allentown, Pennsylvania to Instrument No. 2009049030.
- D. Commonwealth Real Estate Development Company, Inc. ("Commonwealth") a predecessor in title to BGP obtained conditional final approval of the Final Major

Subdivision Plan sometimes referred to as "Common Ridge Estates – No. 06-28(S)" from the City of Allentown Planning Commission on August 14, 2007. A true and correct copy of the Approval Letter from Michael C. Hefele, AICP, Director of Planning for the City of Allentown, dated August 17, 2007 is attached hereto as Exhibit "A" and made a part hereof.

- E. A condition of the final approval obtained by Commonwealth for the Original Plan was for Commonwealth to obtain the vacation of certain existing paper streets by Allentown City Council as reflected on the letter dated August 13, 2007, from Michael C. Hefele, AICP, Director of Planning to Cheryl Endy, President, Commonwealth Real Estate Development Co., Inc., attached hereto as Exhibit "B" and made a part hereof (See General Comment No. 5 of Exhibit "B").
- F. On February 20, 2008, Allentown City Council voted to not vacate the existing paper streets within the Common Ridge Estates Subdivision thereby resulting in Commonwealth failing to satisfy one of the conditions of final subdivision approval.
- G. During the subdivision review process, Commonwealth defaulted on its financial obligation to its lender resulting in Commonwealth's rights being assigned to Peapack Gladstone Bank who then formed a wholly owned limited liability company, BGP, the Plaintiff herein.
- H. BGP filed a Complaint for Declaratory Relief in the Lehigh County Court of Common Pleas at the above-termed number on or about January 23, 2009 requesting the Lehigh County Court of Common Pleas issue an order declaring that a de facto taking had occurred by the City of Allentown and requesting the appointment of a Board of View for purposes of determining the damages suffered (the "Civil Action").
- I. The Civil Action between BGP and the City of Allentown and the City Council of the City of Allentown has been continued by Order of Court by the Honorable William E. Ford until January 3, 2011.
- J. Landowner, the successor in title to BGP, (by assignment by BGP of all of its right, title and interest in the Complaint for Declaratory Relief) desires to submit a Revised Preliminary/Final Subdivision Plan (the "Revised Plan") for the Common Ridge Estates Subdivision to the City of Allentown and has pursued negotiations with the City for the purpose of reaching a resolution of the Civil Action.
- K. The parties acknowledge that in order to resolve the Civil Action certain provisions of the City of Allentown Zoning Ordinance and City of Allentown Subdivision and Land Development Ordinance ("SALDO") will need to be waived, however, Landowner acknowledges the need of the City to know with certainty those provisions to be waived thus necessitating a process by which the Revised Plan may be reviewed and analyzed.

- L. Sheet Nos. 1 and 2 of the Preliminary/Final Plan for Common Ridge Estates/Condominiums dated August 28, 2006, are attached hereto and incorporated herein by referenced as Exhibit "C".
- M. The Revised Plan for the property proposed by Landowner entitled "Sketch Plan Subdivision Plan of Property prepared for Benner and Piperato" and dated April 13, 2010, is attached hereto and incorporated herein by reference as Exhibit "D".
- N. City acknowledges that Landowner requires a degree of certainty that the Revised Plan will be approved as a prerequisite to undertaking the expensive task of proceeding with the planning process.
- O. Accordingly, the parties agree to commence a process which shall be instituted by the execution of this Agreement and which entails the submission of the Revised Plan to the City prior to the withdrawal of the existing conditionally approved Original Plan, which withdrawal would be customary, and which shall meet all the requirements of a preliminary, and ultimately final plan submission under the SALDO and shall meet the other relevant provisions of the Zoning Ordinance and SALDO except as expressly waived herein.
- P. This Stipulation and Agreement is entered into for the purpose of achieving a just and equitable resolution of the Civil Action filed by BGP, Landowner's predecessor in title.

AGREEMENT:

1. The parties agree that the above recitals are accurate and form a part of this Stipulation and Agreement.
2. The parties agree that Landowner is the successor in title and interest to BGP and is the proper plaintiff in this action.
3. By this Stipulation and Agreement, the City and Landowner agree that the Zoning Ordinance and SALDO as well as other applicable Ordinances of the City of Allentown in effect at the time of submission of the Preliminary Plans for Common Ridge Estates on August 28, 2006 shall be applicable to the Revised Plan. Any amendment to the Zoning Ordinance and/or SALDO and any Ordinance enacted subsequent to August 28, 2006 shall be inapplicable to the Revised Plan.
4. Within sixty (60) days of the execution of this Agreement by the parties, Landowner shall submit the Revised Plan to the City Planning Commission which Revised Plan shall meet the requirements of the SALDO and Zoning Ordinance as set forth in Paragraph 3 above save for those provisions for which SALDO waivers and/or zoning variances are requested in writing or are otherwise waived by this Stipulation and Agreement.

- (a) The following SALDO waivers will be requested of the Planning Commission, which waiver requests will receive the support of the City to the extent that said support does not encroach upon the authority of the Planning Commission, as set forth on Exhibit "E".
5. In the event Landowner submits its Revised Plan on or before May 25, 2010, the Revised Plan shall, to the extent possible, be on the June 8, 2010 Planning Commission Agenda and the Planning Department shall, to the extent possible, have its comments prepared and available for the June 8, 2010, meeting.
 6. Immediately upon receipt of the submitted Preliminary/Final Revised Plan and any written waiver requests, the City shall submit the Revised Plan and waiver requests to its professional staff, and Planning Commission for review and comment.
 7. Within thirty (30) days following the City's receipt of the submitted Preliminary/Final Revised Plan, the City, through its professional staff shall submit comments in writing, and the same shall be transmitted forthwith to the Landowner. Such comments shall include the professional analysis and opinions concerning compliance with the SALDO and all other applicable Ordinances and Resolutions of the City save those expressly set forth in Paragraph 3.(a) above.
 8. Within thirty (30) days following the submission of comments to Landowner, Landowner shall advise the City in writing as to those comments with which it agrees and those comments with which it does not agree. To the extent that additional information is required to resolve the issues, the parties shall exchange all necessary, additional information.
 9. Upon receipt of the Landowner's response to the City's comments in accordance with Paragraph 6 above, and within thirty (30) days, the parties shall take steps to meet and to the extent necessary resolve in good faith all the issues raised by the parties' professional staff and professionals.
 10. Following the parties' agreement to the Preliminary/Final Revised Plan, the City of Allentown Planning Commission, at a duly advertised public meeting, shall consider the Revised Plan for approval. Conditions of the Final Plan approval, if any, shall be agreed to by the parties.
 11. Prior to Landowner's filing of a praecipe to settle, discontinue and end the within action with prejudice at Lehigh County Civil Docket No. 2009-C-0272 under Paragraph 16(b) hereunder, to the extent that the parties are unable, in good faith to resolve disagreements or concerns regarding the Preliminary/Final Revised Plan or any terms hereunder, such disputes or concerns shall be submitted to the Lehigh County Court of Common Pleas in the within action.

12. At all times relevant hereto, the parties shall exercise good faith throughout the Revised Plan submission review process, not only with respect to the resolution of disputes, but with respect to analysis and the open and forthright exchanges of information.
13. Landowner agrees that the Preliminary/Final Revised Plan will provide for a maximum of fifty (50) dwelling units and conform substantially to Exhibit "D" attached hereto.
14. Landowner agrees to pay all applicable and lawful fees, pursuant to applicable laws and ordinances including but not limited to water and sewer connection and tapping fees, recreation fees, and traffic impact fees, if any. However, this Stipulation and Agreement shall not preclude the Landowner from challenging the amount, or imposition of the same in an appropriate forum.
15. If, as a result of the review process by the City's professional staff and/or Planning Commission; the design and layout of the Revised Plan must be amended by Landowner, in no event shall the Revised Plan be amended to exceed a maximum density of 50 residential units.
16. As part of this Stipulation and Agreement, City Council agrees to vote on whether to vacate the existing paper streets as set forth on Exhibit "F" attached hereto and made a part hereof at the first possible duly advertised public meeting of City Council.
- ✓ 17. Landowner agrees that as a condition of this Stipulation and Agreement and in consideration of this settlement, upon vacation by City Council of the paper streets set forth in Exhibit "F" attached here to and made a part hereof and receipt of conditional final approval of the Revised Plan, which conditions are acceptable to Landowner; Landowner shall do the following:
 - (a) Execute and deliver to the Planning Commission a written withdrawal of the Original Plan; and
 - (b) file a praecipe to settle, discontinue and end the within action with prejudice at Civil Docket No. 2009-C-0272.
18. It is the intention of the parties that this stipulation and agreement have no impact or effect on any requirement(s) Landowner may need to comply with under the Zoning Ordinance of the City of Allentown and is not intended to relieve Landowner of any obligation to pursue relief from said zoning requirements, if necessary, through the customary and usual procedures of the City. The City of Allentown shall indicate its support for the zoning relief requested by Landowner by either directing a representative to appear before the Allentown Zoning Hearing Board or to provide the appropriate documentation, evidencing its support of Landowner's application.
19. This Stipulation and Agreement shall be binding on and inure to the benefit of the parties hereto, their successors and assigns.

- 20. This Stipulation and Agreement may be executed in counterparts.
- 21. The parties agree that the time limitations set forth in paragraphs 3 through 8 inclusive, may be extended by Agreement.
- 22. The parties agree to an extension of all deadlines and time frames as set forth in the PMPC and City Ordinances governing the approval of the Revised Plan.
- 23. This Stipulation and Agreement shall not be in lieu of an appropriate Subdivision Improvements Agreement.

IN WITNESS WHEREOF and intending to be legally bound, Landowner, Landowner's Counsel, counsel for the City, and counsel for City Council have set their hands this 13th day of May, 2010.

WITNESS:

B LAND CO., LLC

By: _____



Member

Joseph J. Piperato, III, Esquire

CITY OF ALLENTOWN



Charles F. Smith, Jr., Esquire

CITY COUNCIL OF THE CITY
 OF ALLENTOWN



Charles F. Smith, Jr., Esquire