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**The City of Ashland**  
**PROPOSED LEGISLATION**  
**Ordinance To Vacate a Certain Alley – Washington-Walnut**

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**DATE:** April 15, 2015

**TO:** Honorable Mayor Glen P. Stewart & City Council

**FROM:** Shane Kremser, P.E., City Engineer

**LEGISLATION SUMMARY:** This Ordinance would vacate the public alley that bisects the block between W. Washington and W. Walnut from Claremont to the existing north/south alley to remain.

**LEGISLATIVE HISTORY:** Resolution 7-15 was passed, declaring Council's intention to vacate the alley and set a public hearing before Council and the Board of Revision of Assessments.

**LEGISLATIVE PURPOSE:** WXZ Development Inc., a preferred Developer for Rite Aid made application to vacate the existing 11.5' east/west alley that is situated between properties they purchased to develop a new Rite Aid store. I asked that they include the remaining portion of the alley that doesn't border property they purchased since the alley to remain would no longer serve a public purpose as a through alley. The petition was circulated to all adjacent property owners, as required, and is attached. The proposed development will encompass the abandoned Valero Gas station and several dilapidated houses.

**FISCAL IMPACT:** None

**DIRECTOR'S RECOMMENDATION:** After reviewing with the Mayor, it is recommended that this Resolution be passed so that WXZ Development can move forward with the development of the new Rite Aid store at this location.

ORDINANCE NO. 24-15

**AN ORDINANCE TO VACATE A CERTAIN ALLEY SITUATED IN THE CITY OF ASHLAND, OHIO AND DECLARING AN EMERGENCY.**

**WHEREAS**, petitions have been presented to the Council of the City of Ashland, Ohio, requesting the vacation of certain alley in said City of Ashland; and

**WHEREAS**, said Council has, by Resolution No. 7-15, heretofore declared its intention to vacate said alley; and

**WHEREAS**, notice was given to all parties, as required by law, of the passage of said Resolution declaring the intention of Council to vacate said alley and the place, time and date of the hearing thereon to be held by the Board of Revision of Assessments; and

**WHEREAS**, the Board of Revision of Assessments has held a public hearing regarding the proposed vacation of said alley; and

**WHEREAS**, the Board of Revision of Assessments has held a meeting and voted to approve the vacation of said alley; and

**WHEREAS**, Council is satisfied that there is good cause for such vacation, that it will not be detrimental to the general welfare and interest and ought to be made; and

**WHEREAS**, it is immediately necessary to vacate said alley for the reason that the properties abutting thereon are now restricted as to development thereof because of said alley, this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health, safety and welfare; now therefore

**BE IT ORDAINED** by the Council of the City of Ashland, State of Ohio, 5 members thereto concurring:

**Section 1.** That the following described alley situated in the City of Ashland, Ohio, be and the same are hereby, vacated:

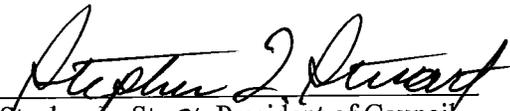
a certain 11.5 foot wide east-west alley, from the easterly right of way line of Claremont Avenue (60') to the easterly line of Lot No. 438 and Lot No. 402, South Ashland, situated between Lot Nos. 438, 439, 440, 440B and 441A, South Ashland, and Lot Nos. 402, 401, 400, 399, 399A, 398, 398A and 398B, South Ashland.

**Section 2.** For the reason that the continued existence of the alley herein vacated will prevent planned development of the properties abutting thereon or otherwise cause undue hardship on the owners of said properties, this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public health, safety, peace, property and welfare.

**Section 3.** That the vacation is to be subject to the right of the City to use all or any part of said alley for the construction, operation, and maintenance of waterline, sewer lines, and any other public utility, and the right of private utility companies including, but not limited to, gas, electric, cable and telephone, to use all or any part of said alley for the operation and maintenance of existing facilities, and if any costs in using said alley as aforesaid are incurred by said City or private utility companies at any time, which costs are greater than would otherwise be, as a result of the erection of buildings or any other structures or obstructions thereon, said costs shall be borne by the property owner or owners of said property of said alley.

**Section 4.** That this Ordinance shall take effect and be in force from and after its passage by Council and approval pursuant to Section 12 of the Charter of the City of Ashland, Ohio.

PASSED: April 21, 2015

  
Stephen L. Stuart, President of Council

Attest:   
Elizabeth A. McClurg  
Interim Clerk of Council

Approved:   
Glen P. Stewart, Mayor

Approved as to form & correctness:

  
Richard P. Wolfe II, Director of Law

Date: April 21, 2015

Date: January 29, 2015

### PETITION

TO: COUNCIL OF THE CITY OF ASHLAND, STATE OF OHIO:

We, the undersigned, owners of the lots and lands bounding and abutting on: a certain 11.5 foot wide alley, situated between Lot Nos. 438, 439, 440, 440B and 441A, South Ashland, and Lot Nos. 402, 401, 400, 399, 399A, 398A and 398B, South Ashland;

do hereby petition your honorable body to vacate the alleys: being an east-west alley, from the easterly right of way line of Claremont Avenue (60') to the east line of Lot No. 438, South Ashland;

That this vacation is to be subject to the right of the City to use all or any part of said alley for the construction and maintenance of water lines, sewer lines, and any other public utility, and the right of public utility companies including, but not limited to, gas, electric, cable and telephone, to use all or any part of said alley for the operation and maintenance of existing facilities, and if any costs in using said alley as aforesaid are incurred by said City at any time, which costs are greater than would otherwise be, as a result of the erection of buildings or any other structures or obstructions thereon, said costs shall be borne by the property owner or owners of the respective alley.

Said alley is no longer of use to the public and its vacation will not be detrimental to the general interest.

We, the undersigned, hereby waive any notice of passage of the resolution declaring the intention of Council to vacate the above mentioned alley as specified, and we do further waive any notice of the time and place of the hearing before the board of Revision and Assessments.

OWNER	SPOUSE	LOT NO.
<u><i>Harry Austin</i></u> Signature	<u><i>Rebecca Austin</i></u> Signature	<u>399A, S.A.</u> <u>441A, S.A.</u>
<u>Cary Austin</u> Printed Name	<u>Rebecca Austin</u> Printed Name	<del>399A, S.A.</del> <u>440B, S.A.</u> <u>440, S.A.</u>
_____ Signature	_____ Signature	
_____ Printed Name	_____ Printed Name	
_____ Signature	_____ Signature	<u>439, S.A.</u>
_____ Printed Name	_____ Printed Name	

Date: January 29, 2015

**PETITION**

**TO: COUNCIL OF THE CITY OF ASHLAND, STATE OF OHIO:**

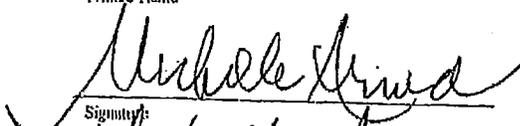
We, the undersigned, owners of the lots and lands bounding and abutting on: a certain 11.5 foot wide alley, situated between Lot Nos. 438, 439, 440, 440B and 441A, South Ashland, and Lot Nos. 402, 401, 400, 399, 399A, 398A and 398B, South Ashland;

do hereby petition your honorable body to vacate the alleys: being an east-west alley, from the easterly right of way line of Claremont Avenue (60') to the east line of Lot No. 438, South Ashland;

That this vacation is to be subject to the right of the City to use all or any part of said alley for the construction and maintenance of water lines, sewer lines, and any other public utility, and the right of public utility companies including, but not limited to, gas, electric, cable and telephone, to use all or any part of said alley for the operation and maintenance of existing facilities, and if any costs in using said alley as aforesaid are incurred by said City at any time, which costs are greater than would otherwise be, as a result of the erection of buildings or any other structures or obstructions thereon, said costs shall be borne by the property owner or owners of the respective alley.

Said alley is no longer of use to the public and its vacation will not be detrimental to the general interest.

We, the undersigned, hereby waive any notice of passage of the resolution declaring the intention of Council to vacate the above mentioned alley as specified, and we do further waive any notice of the time and place of the hearing before the board of Revision and Assessments.

OWNER	SPOUSE	LOT NO.
_____ Signature	_____ Signature	399A, S.A. 441A, S.A.
_____ Printed Name	_____ Printed Name	<del>399A, S.A.</del> 440B, S.A. 440, S.A.
_____ Signature	_____ Signature	439, S.A.
_____ Printed Name	_____ Printed Name	
 _____ Signature	_____ Signature	439, S.A.
 _____ Printed Name	_____ Printed Name	

OWNER	SPOUSE	LOT NO.
Signature	Signature	438, S.A.
Printed Name	Printed Name	
Signature	Signature	402, S.A.
Printed Name	Printed Name	
<i>Adrian Bauer</i> Signature	<i>Mary M. Koleno</i> Signature	401, S.A.
Adrian Bauer Printed Name	Mary M. Koleno Printed Name	
Signature	Signature	400, S.A.
Printed Name	Printed Name	
Signature	Signature	399, S.A.
Printed Name	Printed Name	
Signature	Signature	398A, S.A. 398B, S.A.
Printed Name	Printed Name	

OWNER

SPOUSE

LOT NO.

Signature \_\_\_\_\_ Signature \_\_\_\_\_ 438, S.A.  
Printed Name \_\_\_\_\_ Printed Name \_\_\_\_\_

Signature \_\_\_\_\_ Signature \_\_\_\_\_ 402, S.A.  
Printed Name \_\_\_\_\_ Printed Name \_\_\_\_\_

Signature \_\_\_\_\_ Signature \_\_\_\_\_ 401, S.A.  
Printed Name \_\_\_\_\_ Printed Name \_\_\_\_\_

*Barry L. Jackenheimer* Signature \_\_\_\_\_ 400, S.A.  
Signature \_\_\_\_\_ Printed Name \_\_\_\_\_  
*Barry L. Jackenheimer* Signature \_\_\_\_\_  
Printed Name \_\_\_\_\_  
*Rebecca M. Jackenheimer* Signature \_\_\_\_\_  
Printed Name \_\_\_\_\_

Signature \_\_\_\_\_ Signature \_\_\_\_\_ 399, S.A.  
Printed Name \_\_\_\_\_ Printed Name \_\_\_\_\_

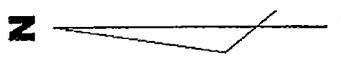
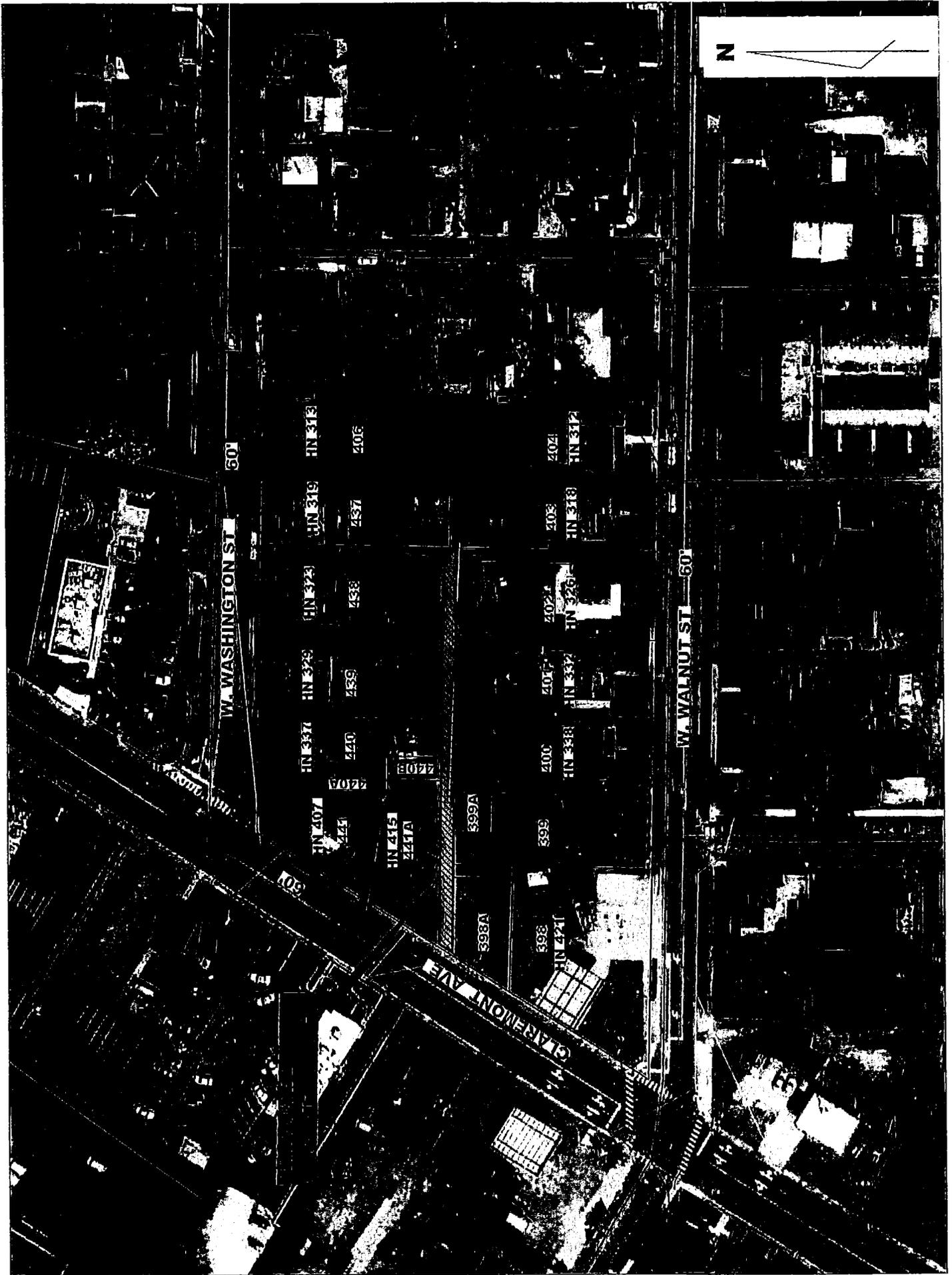
Signature \_\_\_\_\_ Signature \_\_\_\_\_ 398A, S.A.  
Printed Name \_\_\_\_\_ Printed Name \_\_\_\_\_  
398B, S.A.

Alley Petition  
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OWNER	SPOUSE	LOT NO.
Signature	Signature	438, S.A.
Printed Name	Printed Name	
Signature	Signature	402, S.A.
Printed Name	Printed Name	
Signature	Signature	401, S.A.
Printed Name	Printed Name	
Signature	Signature	400, S.A.
Printed Name	Printed Name	
Signature <i>X Gary Austin</i>	Signature <i>Rebecca A. Austin</i>	399, S.A.
Printed Name Gary Austin	Printed Name Rebecca Austin	
Signature	Signature	398A, S.A.
Printed Name	Printed Name	398B, S.A.

OWNER	SPOUSE	LOT NO.
_____ Signature	_____ Signature	438, S.A.
_____ Printed Name	_____ Printed Name	
_____ Signature	_____ Signature	402, S.A.
_____ Printed Name	_____ Printed Name	
_____ Signature	_____ Signature	401, S.A.
_____ Printed Name	_____ Printed Name	
_____ Signature	_____ Signature	400, S.A.
_____ Printed Name	_____ Printed Name	
_____ Signature	_____ Signature	399, S.A.
_____ Printed Name	_____ Printed Name	
<i>David L Swindell VP</i> Signature	_____ Signature	398A, S.A. 398B, S.A.
DAVID L. SWINDELL VP Printed Name	_____ Printed Name	
WX2 Acquisition LLC		

<b>Owner</b>	<b>Petition Signed</b>
Austin	yes
Schlingman	yes
Arnold	yes
Kerr	
Bowling	
Bauer	yes
Jackenheimer	yes
Austin	yes
WXZ	yes



60'

W. WASHINGTON ST

60'

W. WALNUT ST

60'

HN 313

HN 319

HN 323

HN 329

HN 337

HN 407

406

437

438

439

440

441

442

443

444

445

446

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449

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HN 415

441A

399A

398A

399

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HN 421

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423

424

425

426

HN 314

HN 318

HN 326

HN 332

HN 338

HN 344

HN 350

HN 356

HN 362

HN 368

HN 374

HN 380

HN 386

402

403

402A

402B

400

401

402A

402B

400

401

402A

402B

400

401

402A

402B

GARMENT AVE