

ORDINANCE NO. 2020- 10
OF THE TOWN OF ZIONSVILLE, INDIANA

**AN ORDINANCE VACATING PORTIONS OF PUBLIC RIGHTS-OF-WAY
WITHIN THE ZIONSVILLE CORPORATE BOUNDARIES
PURSUANT TO INDIANA CODE §36-7-3-12**

WHEREAS, Indiana Code § 36-7-3-12 provides for the process by which public ways may be vacated; and,

WHEREAS, on August 18, 2020, Henke Development Group, LLC ("Petitioner"), petitioned the Town of Zionsville ("Town") to vacate a portions of public rights-of-way (streets and alleys) located within a portion of the platted Town of Hamilton (formerly Clarkstown) pursuant to Indiana Code § 36-7-3-12; and,

WHEREAS, the Town caused to be published notice of the petition and the time and place of the public hearing in the September 10, 2020 issue of the Lebanon Reporter, a copy of which proof of publication was submitted to the Town Council of Zionsville, Indiana ("Town Council") and the Petitioner notified by certified mail each owner of land abutting the portions of the public alley right-of-way proposed to be vacated; and,

WHEREAS, on September 21, 2020, the Town Council held a public hearing on the petition to vacate the portion of the right-of-way, with proper notice under Indiana Law to all interested and potentially aggrieved parties; and,

WHEREAS, no potentially aggrieved individual has objected under the statutory grounds provided under Indiana Code § 36-7-3-13; and,

WHEREAS, the Town Council, after due investigation and consideration, has determined that the nature and extent of the public use and the public interest to be served is such as to warrant vacation of the portion of the public alley right-of-way described herein.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the Town Council of the Town of Zionsville, Indiana, that:

Section 1: Description of the Rights-of-way. The Rights-of-way legally described within the area legally described below and schematically illustrated on Exhibit A attached hereto, under the terms set forth herein, is hereby vacated;

Part of the Plat of Clarkstown (now Hamilton) recorded in Deed Record 3, Page 364 and re-recorded in Plat Book 1, Page 41 in the Office of the Recorder of Boone County, Indiana and being a part of the Northwest and Southwest Quarters of Section 25, Township 18 North, Range 2 East more particularly described as follows:

Beginning at the Southeast corner of Lot 8 in Block 2 of said Plat; thence along the southern boundary of Lot 8 and Lot 7 of said Block 2 South 69 degrees 12 minutes 03 seconds West 264.00 feet to the Southwest corner of said Lot 7; thence along the western boundary of Blocks 2, 14, and 15 of said Plat North 20 degrees 47 minutes 57 seconds West 750.00 feet to the Northwest corner of Lot 2 in said Block 15; thence along the northern boundary of Lot 2 and Lot 1 of said block 15 North 69 degrees 12 minutes 03 seconds East 264.00 feet to the Northeast corner of said Lot 1; thence along the eastern boundary of said Blocks 15, 14, and 2 South 20 degrees 47 minutes 57 seconds East 750.00 feet to the Point of Beginning containing 4.545 acres, more or less. (See survey attached as Exhibit A.)

Section 2: Utilities. The Town retains the right to maintain, operate, repair and replace, by itself or by any licensee or holder of a franchise from the Town, any poles, wires, pipes, conduits, sewer mains, water mains, or any other facility or equipment for the maintenance or operations of any utility now located in the portion of the public alley rights-of-way vacated by this Ordinance.

Section 3: Costs. Petitioner for this public street and alley right-of-way vacation shall, within 90 days after the passage of this Ordinance, pay to the Town of Zionsville the amount necessary to defray all costs of removing any items from the Rights-of-way, including paving and curb returns abutting the vacated Rights-of-way, if any.

Section 4: Recording. The Director of Finance and Records of the Town of Zionsville, Indiana shall provide a copy of this Ordinance to the Boone County Recorder for recording and shall file the same with the Boone County Auditor.

Section 5: Construction of Clause Headings. The clause headings appearing herein have been provided for convenience and reference and do not purport and shall not be deemed to define, limit or extend the scope of intent of the clause to which the appertain.

Section 6: Repeal of Conflicting Ordinances. The provisions of all other Town ordinances in conflict with the provisions herein, if any, are of no further force or effect and are hereby repealed.

Section 7: Severability. If any part of the Ordinance shall be held invalid, such part shall be deemed severable and the invalidity thereof shall not affect the remainder of this Ordinance.

Section 8: Duration and Effective Date. The provisions of this Ordinance shall become and remains in full force and effect upon passage and until its repeal by ordinance.

Introduced and filed on the 21st day of September, 2020. A motion to consider on First Reading was sustained by a vote of 7 in favor and 0 opposed, pursuant to Ind. Code § 36-5-2-9.8.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK

DULY PASSED AND ADOPTED this 5th day of ~~September~~ ^{October}, 2020, by the Town Council of the Town of Zionsville, Boone County, Indiana, having been passed by a vote of 7 in favor and 0 opposed.

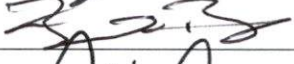
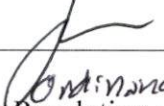
**TOWN COUNCIL OF THE TOWN OF ZIONSVILLE,
BOONE COUNTY, INDIANA**

YEA

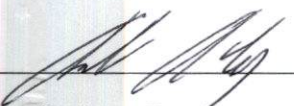
NAY

Signature

Signature

Josh Garrett, President		
Bryan Traylor, Vice President		
Brad Burk, Member		
Alex Choi, Member		
Joe Culp, Member		
Craig Melton, Member		
Jason Plunkett, Member		

I hereby certify that the foregoing ~~Resolution~~ ^{Ordinance} was delivered to Town of Zionsville Mayor Emily Styron on the 5th day of October 2020, at 11:00 ~~A~~ m.

ATTEST: 
Amelia Anne Lacy,
Municipal Relations Coordinator

MAYOR'S APPROVAL

Emily Styron, Mayor _____



Date:

10/6/2020

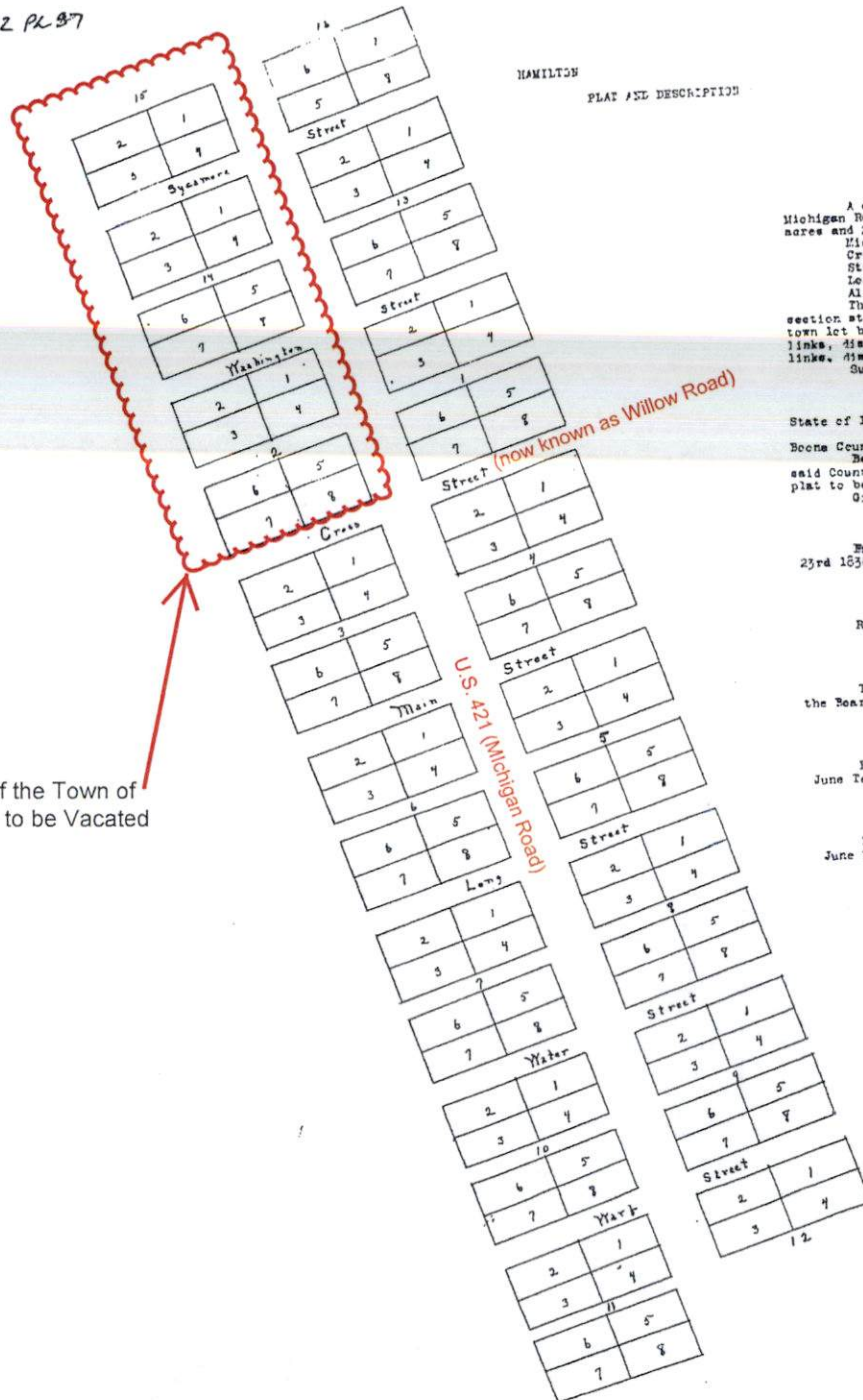
MAYOR'S VETO

Emily Styron, Mayor _____

Date:

HAMILTON

PLAT AND DESCRIPTION



A correct plat of Hamilton (formerly Clarkstown) lying on the Michigan Road in S. 25, T. 18 N. R. 2 East, containing an area of 32 acres and 22 poles.

Michigan Street 97 feet.

Cross Street 49 feet the other

Streets are 33 feet.

Lots 66 by 132 feet.

Alleys 12 feet.

The N.E. corner of the west 1/4 of the S.E. quarter of said section stands in lot No. 6, Block No. 2. The S.E. corner of said town lot bears from corner of land above mentioned N. 77° E. 107 links, distant, and the S.E. corner of said lot bears S. 64° W. 95 links, distant.

Surveyed by me March 31st, 1837.

J. H. Hacker, Co. Surveyor.

State of Indiana)
)Sot;

Boone County

Before me, Thomas Thompson a Justice of the Peace in and for said County Jacob Hoover and Benjamin Cox acknowledged the within town plat to be their voluntary act for the purpose therein mentioned.

Given under my hand and seal this 27th day of November 1837.

Thomas Thompson (Seal)

Endorsed: Rec'd for record Feb. 15th, 1838 and recorded Feb. 23rd 1838 in Deed Book 3 page 364.

James McCann,
R. B. C.

Re-recorded Sept. 2, 1857

Thomas P. Miller,
Recorder R. Co.

Transcribed and hereon recorded March 28th, 1867 by order of the Board of Commissioners of said County at their March Term 1867.

John Thomas,
R. B. C.

Re-recorded by order of the Board of Commissioners at their June Term 1892.

John S. Masters,
R. B. C.

Re-recorded by order of the Board of County Commissioners at their June Term 1936.

John S. Masters,
R. B. C.

Hank - Original Plat - Town of Hamilton (Clarkstown),
Vacation and confirmed. Plat

Exhibit A

EXHIBIT A

**TOWN OF ZIONSVILLE TOWN COUNCIL
BOONE COUNTY, INDIANA**

FINDINGS OF FACT

The Zionsville Town Council, after a Public Hearing held on September 21st, 2020,
has determined that the proposed Vacation of the Town of Hamilton (formerly Clarkstown)

is **is not** in the Public Interest because: _____

The original Town of Hamilton plat included multiple direct access points to US 421 which presumably would not be desired from the Town nor INDOT.

Additionally, This entire southeast corner can be developed in a safer, masterplanned and more cohesive way in accordance with the Holliday Farms PUD.

DECISION

IT IS THEREFORE the decision of this body that this VACATION PETITION is APPROVED, subject to any Conditions stated in the minutes (which Conditions are incorporated herein by reference and made a part of this decision).

ZIONSVILLE TOWN COUNCIL

The Vacation was APPROVED / DENIED on the 5th day of October, 2020, subject to any conditions agreed to at the public hearing.

President, _____

