

ORDINANCE NO. 2020- 11
OF THE TOWN OF ZIONSVILLE, INDIANA

**AN ORDINANCE VACATING TWO DRAINAGE EASEMENTS, CLASSIFIED AS
A PUBLIC 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, Daniel Towriss ("Petitioner"), petitioned the Town of Zionsville ("Town") to vacate two 7.5 feet wide drainage easements located on each side of the shared lot line between Lots 19 & 20 in Lost Run Farm Subdivision 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 said drainage easements, 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 Drainage Easements. The two 7.5 feet wide drainage easements legally described herein and schematically illustrated on Exhibit A attached hereto, under the terms set forth herein, is hereby vacated;

Drainage Easements, each being 7.5 feet in width, laying on each side of the shared Lot Line between Lots 19 and 20 in Lost Run Farm, a subdivision in the Town of Zionsville, Boone County, Indiana, as per plat thereof recorded on July 26, 2004, in Plat Book 15, Page 8, as Instrument No. 0409452 and Certificate of Correction

recorded November 23, 2004, as Instrument No. 0414448, in the Office of the Recorder of Boone County, Indiana (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 right-of-way vacated by this Ordinance.

Section 3: Costs. Petitioner for this drainage easement 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 drainage easements, 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 2nd 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.

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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 ^{Ordinance} ~~Resolution~~ was delivered to Town of Zionsville Mayor Emily Styron on the 6th day of October 2020, at 11:00 ~~A~~ m.

ATTEST: _____

Amelia Anne Lacy,
Municipal Relations Coordinator

MAYOR'S APPROVAL

Emily Styron, Mayor



Date:

10/06/2020

MAYOR'S VETO

Emily Styron, Mayor

Date:

THIS INSTRUMENT PREPARED BY:
DENNIS D. OLMEAD
STOEPPELMERTH AND ASSOCIATES INC.
9940 ALLISONVILLE ROAD
FISHERS, INDIANA 46038
PHONE: (317)-849-5935
FAX: (317)-849-5942

Developed by:
HIGH GROVE DEVELOPMENT, INC.
10333 N. MERIDIAN ST.
INDIANAPOLIS, IN 46290

LOST RUN FARM

SECONDARY PLAT

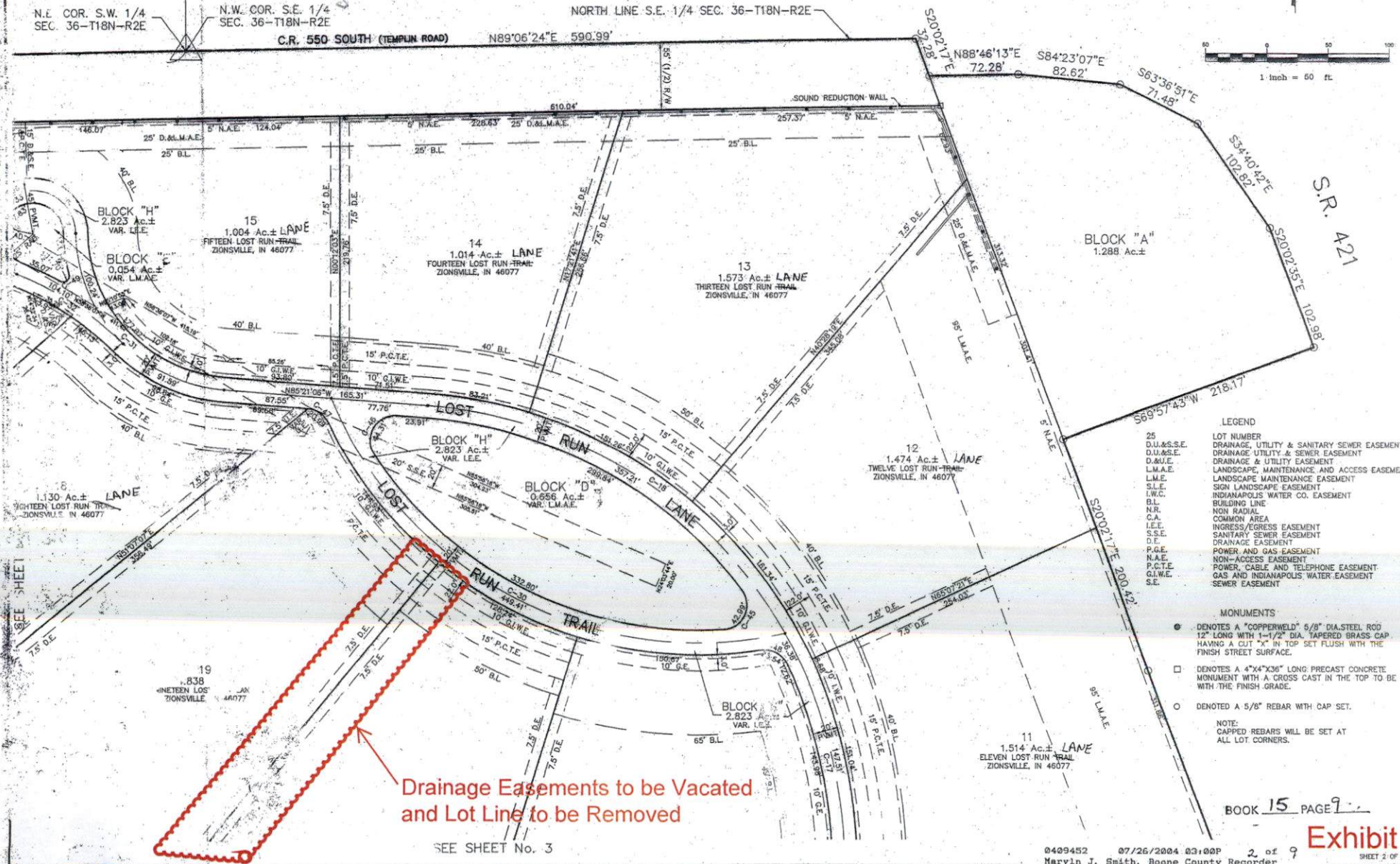
N.E. COR. S.W. 1/4
SEC. 36-T18N-R2E

N.W. COR. S.E. 1/4
SEC. 36-T18N-R2E

NORTH LINE S.E. 1/4 SEC. 36-T18N-R2E

C.R. 550 SOUTH (TEMPLE ROAD)

N89°06'24"E 590.99'



Drainage Easements to be Vacated
and Lot Line to be Removed

SEE SHEET No. 3

BLOCK "A"
1.288 Ac.±

S.R. 421

- LEGEND
- 25 D.U. & S.E. LOT NUMBER
 - D.U. & S.E. DRAINAGE, UTILITY & SANITARY SEWER EASEMENT
 - D.U. & S.E. DRAINAGE UTILITY & SEWER EASEMENT
 - D.U. & S.E. DRAINAGE & UTILITY EASEMENT
 - D.U. & S.E. LANDSCAPE, MAINTENANCE, AND ACCESS EASEMENT
 - D.U. & S.E. LANDSCAPE MAINTENANCE EASEMENT
 - D.U. & S.E. SIGN LANDSCAPE EASEMENT
 - D.U. & S.E. INDIANAPOLIS WATER CO. EASEMENT
 - D.U. & S.E. BUILDING LINE
 - D.U. & S.E. NON RADIAL
 - D.U. & S.E. COMMON AREA
 - D.U. & S.E. I.E.T. INGRESS/EGRESS EASEMENT
 - D.U. & S.E. SANITARY SEWER EASEMENT
 - D.U. & S.E. DRAINAGE EASEMENT
 - D.U. & S.E. POWER AND GAS EASEMENT
 - D.U. & S.E. NON-ACCESS EASEMENT
 - D.U. & S.E. POWER, CABLE AND TELEPHONE EASEMENT
 - D.U. & S.E. GAS AND INDIANAPOLIS WATER EASEMENT
 - D.U. & S.E. SEWER EASEMENT

- MONUMENTS
- DENOTES A "COPPERWELD" 5/8" DIA. STEEL ROD 12" LONG WITH 1-1/2" DIA. TAPERED BRASS CAP HAVING A CUT "X" IN TOP SET FLUSH WITH THE FINISH STREET SURFACE.
 - DENOTES A 4"x4"x36" LONG PRECAST CONCRETE MONUMENT WITH A CROSS CAST IN THE TOP TO BE SET WITH THE FINISH GRADE.
 - DENOTES A 5/8" REBAR WITH CAP SET.

NOTE:
CAPPED REBARS WILL BE SET AT ALL LOT CORNERS.

BOOK 15 PAGE 9

Exhibit 3

THIS INSTRUMENT PREPARED BY:
DENNIS O. CLAMSTEAD
STOEPPELWERTH AND ASSOCIATES INC.
9940 ALLISONVILLE ROAD
FISHERS, INDIANA 46038
PHONE: (317)-849-5935
FAX: (317)-849-5942

Developed by:
HIGH GROVE DEVELOPMENT, INC.
10333 N. MERIDIAN ST.
INDIANAPOLIS, IN 46220

LOST RUN FARM

SECONDARY PLAT

SEE SHEET No. 2

Drainage Easements to
be Vacated & Lot Line
to be Removed



LEGEND

- 25
D.U.&S.E.
D.U.&S.E.
D.U.E.
L.M.A.E.
L.M.E.
S.L.E.
L.W.C.
B.L.
N.R.
C.A.
I.E.E.
S.S.E.
D.E.
P.G.E.
N.A.E.
P.C.T.E.
G.L.W.E.
S.E.
- LOT NUMBER
DRAINAGE, UTILITY & SANITARY SEWER EASEMENT
DRAINAGE & UTILITY EASEMENT
LANDSCAPE, MAINTENANCE, AND ACCESS EASEMENT
LANDSCAPE MAINTENANCE EASEMENT
SIGN LANDSCAPE EASEMENT
INDIANAPOLIS WATER CO. EASEMENT
BUILDING LINE
NON RADIAL
COMMON AREA
INGRESS/EGRESS EASEMENT
SANITARY SEWER EASEMENT
DRAINAGE EASEMENT
POWER AND GAS EASEMENT
NON-ACCESS EASEMENT
POWER, CABLE AND TELEPHONE EASEMENT
GAS AND INDIANAPOLIS WATER EASEMENT
SEWER EASEMENT

MONUMENTS

- DENOTES A "COPPERWELD" 5/8" DIA STEEL ROD 12" LONG WITH 1-1/2" DIA. TAPERED BRASS CAP HAVING A CUT "X" IN TOP SET FLUSH WITH THE FINISH STREET SURFACE.
- DENOTES A 4"x4"x36" LONG PRECAST CONCRETE MONUMENT WITH A CROSS CAST IN THE TOP TO BE SET WITH THE FINISH GRADE.
- DENOTES A 5/8" REBAR WITH CAP SET.

NOTE:
CAPPED REBARS WILL BE SET AT
ALL LOT CORNERS.

BOOK 15 PAGE 12

0409452 07/26/2004 03:00P 5 of 9
Marylin J. Smith, Boone County Recorder

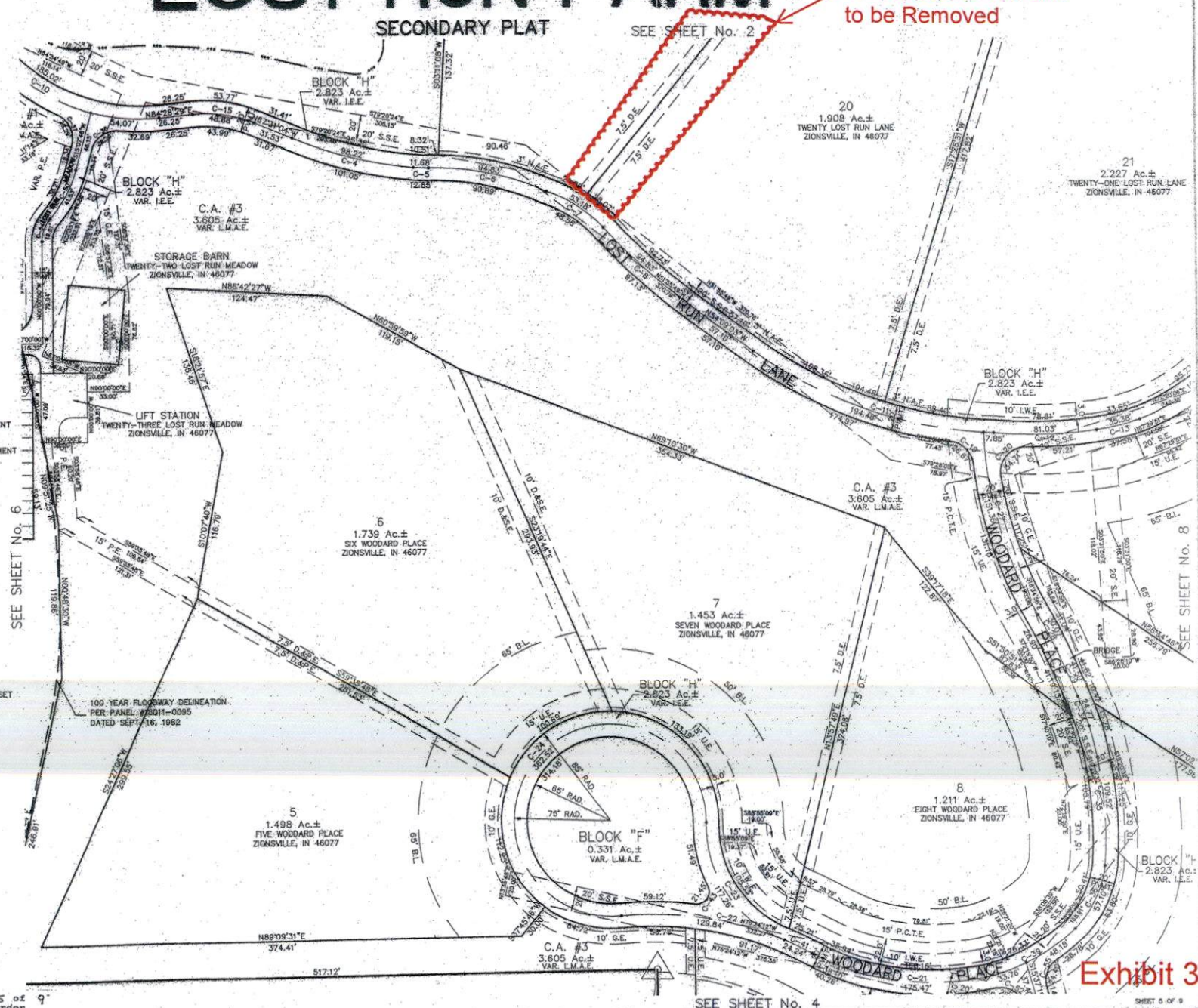


Exhibit 3

SHEET 5 OF 9

THIS INSTRUMENT PREPARED BY:
DENNIS D. OLMSTEAD
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PHONE: (317)-849-5935
FAX: (317)-849-5942

Developed by:
HIGH GROVE DEVELOPMENT, INC.
10333 N. MERIDIAN ST.
INDIANAPOLIS, IN 46290

LOST RUN FARM

I, the undersigned Registered Land Surveyor hereby certify that the included plat correctly represents a subdivision as a part of the Southwest and Southeast Quarter of Section 36, Township 18 North, Range 2 East, Elletts Township, Boone County, Indiana, being more particularly described as follows:

Commencing at the Northwest corner of said Southwest Quarter Section; thence North 89 degrees 01 minutes 28 seconds East (assumed-bearing) along the North line of said Quarter Section 1,524.56 feet to the POINT OF BEGINNING of this description; thence continuing North 89 degrees 01 minutes 28 seconds East along said North line 1,138.84 feet to the Northeast corner of said Southwest Quarter, said point also being the Northwest corner of the said Southwest Quarter Section; thence North 89 degrees 06 minutes 24 seconds East along the North line of the said Southwest Quarter Section 590.98 feet; thence South 20 degrees 02 minutes 17 seconds East 32.29 feet; thence North 84 degrees 46 minutes 13 seconds East 72.28 feet; thence South 84 degrees 23 minutes 07 seconds East 82.42 feet; thence South 83 degrees 36 minutes 51 seconds East 71.48 feet; thence South 34 degrees 40 minutes 42 seconds East 102.82 feet; thence South 20 degrees 02 minutes 35 seconds East 102.96 feet; thence South 69 degrees 57 minutes 43 seconds West 218.17 feet; thence South 20 degrees 02 minutes 17 seconds East 200.42 feet; thence South 20 degrees 21 minutes 17 seconds East 437.59 feet; thence South 21 degrees 11 minutes 07 seconds East 687.79 feet; thence South 89 degrees 37 minutes 19 seconds West 1,182.24 feet to a point on the West line of said Southwest Quarter, said point also being on the East line of Rollins Place, Section Two B recorded in Plat Book Six, Page Three, in the Office of the Recorder of Boone County, Indiana, the following two (2) courses on and along the northern boundary of said Rollins Place Section 2B; (1) North 00 degrees 20 minutes 46 seconds West along the West line of said Quarter Section, 221.94 feet to the Northeast corner of the Southwest Quarter of the Southwest Quarter of said Section 36; (2) South 89 degrees 09 minutes 31 seconds West along the North line of the Southwest Quarter of the Southwest Quarter of said Section 36, 1,325.54 feet to the Northwest corner of the Southwest Quarter of the Southwest Quarter; thence South 00 degrees 36 minutes 44 seconds East along the West line of the Southwest Quarter of said Southwest Quarter Section 767.82 feet; thence North 89 degrees 34 minutes 25 seconds West 514.33 feet to a point on the thread-line of Little Eagle Creek, the following sixteen (16) calls being on said thread-line: (1) North 05 degrees 22 minutes 21 seconds West 249.25 feet; (2) North 08 degrees 07 minutes 53 seconds East 221.53 feet; (3) North 12 degrees 51 minutes 18 seconds West 120.46 feet; (4) North 00 degrees 04 minutes 56 seconds East 50.78 feet; (5) North 49 degrees 34 minutes 43 seconds East 34.68 feet; (6) South 70 degrees 34 minutes 33 seconds East 31.21 feet; (7) South 50 degrees 16 minutes 46 seconds East 80.11 feet; (8) South 68 degrees 07 minutes 10 seconds East 57.66 feet; (9) North 50 degrees 31 minutes 49 seconds East 61.84 feet; (10) North 20 degrees 35 minutes 49 seconds East 124.34 feet; (11) North 49 degrees 19 minutes 55 seconds East 137.08 feet; (12) North 67 degrees 27 minutes 30 seconds East 71.75 feet; (13) North 32 degrees 07 minutes 45 seconds East 143.60 feet; (14) North 10 degrees 15 minutes 40 seconds West 118.21 feet; (15) North 17 degrees 57 minutes 58 seconds West 157.04 feet; (16) North 00 degrees 08 minutes 50 seconds West 69.50 feet; thence North 90 degrees 00 minutes 00 seconds East 40.07 feet; thence North 11 degrees 08 minutes 40 seconds East 294.89 feet; thence North 28 degrees 15 minutes 27 seconds East 274.05 feet to the solid thread-line of Little Eagle Creek, the following two (2) calls being on said thread-line: (1) North 34 degrees 01 minutes 12 seconds East 68.09 feet; (2) North 05 degrees 03 minutes 41 seconds East 185.28 feet to the place of beginning, containing 80.917 acres, more or less. Subject to all legal highways, rights-of-ways, easements, and restrictions of record.

This subdivision consists of 21 lots numbered 1-21 (both inclusive), 4 Common Areas labeled C.A.#1-4, and 8 Blocks labeled "Block A-H" (both inclusive). The size of lots and width of streets are shown in feet and decimal parts thereof.

I, the undersigned, hereby certify that I am a Registered Land Surveyor, licensed in compliance with the laws of the State of Indiana and that the within plat represents a subdivision of the lands surveyed within the cross referenced survey plat, and that to the best of my knowledge and belief there has been no change from the matters of the survey revealed by the cross-reference survey on any lines that are common with the new subdivision.

Witness my signature this 22ND day of JULY, 2004.

S/42015/legal/summe south
November 25, 2002
(R) KRK (F) GDK
Revised: January 31, 2003
Revised: June 2, 2003
BAH(R) EEF(F)
Revised: June 17, 2004
BAH(R) BMK(F)
Revised: July 15, 2004
BAH(R) EEF(F)

Dennis D. Olmstead
Registered Land Surveyor
No. 900012 1



PLAN COMMISSION APPROVAL

The Building Commissioner of the Town of Zionsville has reviewed this Plat for technical conformity with the standards set in the Zionsville Zoning Ordinance and the Zionsville Subdivision Control Ordinance and hereby certifies that this Plat meets all of the minimum requirements of the applicable ordinances and requirements of the Town of Zionsville, Boone County, Indiana.

By: Paula Pank-Hawser
Printed: LANA PANK-HAWSER

Date: 7/24/04

We, the undersigned, do hereby certify that under authority provided by the Indiana Planning Law, IC 36-7-4, et. seq., enacted by the General Assembly of the State of Indiana, and all other applicable laws, we have deposited this Plat with the Plan Commission of the Town of Zionsville at a meeting held on the 22ND day of JULY, 2004.

Witness my signature this 24th day of JULY, 2004.

TOWN OF ZIONSVILLE PLAN COMMISSION

Signature: Paula Pank-Hawser
Printed: LANA PANK-HAWSER
Title: President

Signature: Charles S. Jones
Printed: CHARLES S. JONES
Title: Secretary

SURVEYOR CERTIFICATION

I, Dennis D. Olmstead, hereby certify that:

The within Plat is a representation of the lands surveyed, subdivided, and plotted under my direct supervision and control and that it is true and correct to the best of my knowledge and belief.

This Subdivision consists of 21 lots, numbered 1 through 21, together with Common Areas, Streets, and Easements as shown on the within Plat.

The size of the Lots, Common Areas and Widths of Streets and Easements shown in figures depicting feet and decimal parts thereof.

All monuments shown on the within Plat actually exist and their location, size, type and material are accurately shown.

The boundary survey of this Plat is in conformity with 865 IAC 1-122 and:

The within Plat complies with the provisions of the Town of Zionsville Subdivision Control Ordinance.

Witness my signature this 22ND day of JULY, 2004.

Dennis D. Olmstead
Registered Land Surveyor
No. 900012



DEDICATION STATEMENT

We, Highgrove Development, Inc. and Lost Run Farms, LLC, (jointly and severally, the "Declarant"), do hereby certify that we are the Owner(s) of the real estate property located in the Town of Zionsville, Boone County, Indiana, according to deed recorded in Book 9409453, Page 9, of the official records of the Recorder of Boone County, Indiana, and further described as follows:

Now therefore know all persons by these presents that we do hereby lay off, plat and subdivide said Real Estate in accordance with the within Plat.

This Subdivision shall be known as Lost Run Farm, an addition to the Town of Zionsville, Boone County, Indiana.

All streets, alleys, ways and public open spaces shown on the within Plat, other than Tomplin Road, are designated as private on the plat and as approved by the Plan Commission shall be privately owned, opened and maintained.

Front building setback lines are hereby established as shown on the within Plat, between which lines and street right-of-way lines no building or structure (except for parking areas, driveways and interior access drives) shall be erected or maintained.

All storm water drainage, water and sanitary sewer easements shown on this Plat are hereby dedicated to the Town of Zionsville exclusively for, and limited to, storm water, drainage, water and sanitary sewer purposes, save and except for those storm water drainage, water, and sanitary sewer easements specifically identified as private on the plat and approved by the Plan Commission to be privately owned, opened and maintained. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities. The easement areas of such Lot shall be continuously maintained as a yield area by the Owner of the Lot, except for those improvements which are the responsibility of a public authority or utility company to maintain.

Any dedication of easements to the Town of Zionsville shall be limited to the purposes set forth by specific notation on the Plat or by separate instrument, including the Declaration of Covenants and Restrictions of Lost Run Farm. The plat legend for the location of private easements and dedicated easements merely show the location of the area for each private easement and dedicated easements on the Plat. Such areas are reserved for the use of the Declarant and for private utility, public, quasi-public and governmental agencies as set forth in the Declaration of Covenants and Restrictions for Lost Run Farm and this Plat. Any dedication of easements shall be subject to all easements granted by the Declarant or the subsequent developer of Lost Run Farm, including, without limitation, the common service easement and restrictions to be recorded by Declarant or its assigns. In addition, any communication and easements granted by Declarant or its assigns shall not be allowed to be installed, in, over or under the dedicated easements without the prior written consent of the Declarant, or its designees, successors or assigns, which may be granted in their sole and complete discretion.

Within drainage easements, no structure, planting or other material shall be placed or permitted to remain which may change the direction of flood or drainage channels in the easements or which may obstruct or retard the flow of water through drainage channels in the easements. The drainage easement of each Lot and all improvements in the drainage easement, including slope and drainage pattern, shall be continuously maintained as a yield area by the Owner of the Lot, except for those improvements which are the responsibility of a public authority or utility to maintain.

1-4

Town of Zionsville

The first five (5) feet of any utility easement which is located along a street right-of-way shall be reserved for use as a Town of Zionsville utility easement exclusively for sewer and water purposes, and shall be used for the installation and maintenance of the hydrants, meter pits, and similar appurtenances approved by the Town Engineer. Any utility that has obtained an easement from Declarant or its assigns shall have the right to cross the first five (5) feet of said utility easement at or near perpendicular; provided, however, such right to cross utility easements shall be subject to all easements granted by the Declarant or its successors and assigns, including, without limitation, the common service easements and restrictions to be entered into and recorded by Declarant or its assigns. No other utilities or appurtenances thereto shall be installed within the first five (5) feet of said utility easement without the written approval of the Town Engineer and Declarant or its successors or assigns.

Title to the foregoing plat and plat is subject to a certain Declaration of Covenants, Conditions and Restrictions of Lost Run Farm dated July 23, 2004 as Instrument Number 9409453, in the Office of the Recorder of Boone County, Indiana, as the same may be amended or supplemented. Such Declaration and the covenants and restrictions set forth therein run with the land described herein and are incorporated herein by reference. Each Owner of the lots depicted on this Plat shall take title to such lots subject to the terms and conditions of such Declaration.

In Witness Whereof, Declarant has executed this instrument this 23rd day of July, 2004.

HIGHGROVE DEVELOPMENT, INC.

By: Richard D. Summe Printed: R. Michael Henderson
Printed: Richard D. Summe Title: President Title: Treasurer

LOST RUN FARMS, LLC
By: Richard D. Summe Printed: R. Michael Henderson
Printed: Richard D. Summe Title: Member Title: Member

NOTARY PUBLIC

We hereby lay off and plat this subdivision, which shall be known and designated as Lost Run Farm in the Town of Zionsville, Boone County, Indiana.

This plat is subject to the declaration of covenants, conditions and restrictions of Lost Run Farm recorded as Instrument No. 9409453, and any amendments thereto.

In Testimony whereof, witness the signatures of Owner and Declarant this 23rd day of July, 2004.

Owner/Developer
High Grove Development, Inc.

Richard D. Summe
Richard D. Summe, President

R. Michael Henderson
R. Michael Henderson, Secretary/Treasurer

State of Indiana)
County of Marion) SS

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared Richard D. Summe, President, R. Michael Henderson, Secretary/Treasurer of High Grove Development, Inc., and acknowledged the execution of this instrument as his voluntary act and deed and affixed his signature thereto.

Witness my signature and seal this 23rd day of July, 2004.

Charles S. Jones
Notary Public:
Charles S. Jones
Print Name:

County of Residence: Hendricks
My commission expires July 18, 2006
FORMS/OWNERS

BOOK 15 PAGE 16
0409452 07/26/2004 03:00P 9 of 9
Marylin J. Smith, Boone County Recorder

Exhibit 3

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

FINDINGS OF FACT

Petition by Daniel Towriss for Vacation of Drainage Easements

The Zionsville Town Council, after a Public Hearing held on September 21, 2020, has determined that the proposed Vacation of:

*The 7.5' wide drainage easements which exist on each side of the shared lot line
between Lots 19 and 20 in Lost Run Farm Subdivision,*

is / ~~is not~~ in the public interest because:

1. *The drainage easements are not needed for drainage of the subject lots or any other property.*
2. *Petitioner owns both lots and there is no impact on any other owner.*
3. *Vacating the drainage easements will allow for the owner to construct additional improvements and landscaping on the property.*

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

President, _____

