

## MEMORANDUM FROM STAFF

From: Oksana Polhuy, Planning Administrator  
To: Lapel Town Council  
Date: 07/15/2024  
RE: Clark's Final Plat

### PLAT-2024-02, Clark's Final Plat

#### Note on the Zoning District

Oksana was informed that the reason for stalling this application at the Council level is the zoning district. There is a belief that the plat should have been reviewed according to the Industrial zoning district standards due to the recommendation of the Comprehensive Plan for this lot to be Industrial.

It's zoned **Agricultural** and the subdivision (platting) procedures and requirements must follow the *existing zoning district's regulations*. The recommended use in the CP isn't considered during the platting process.

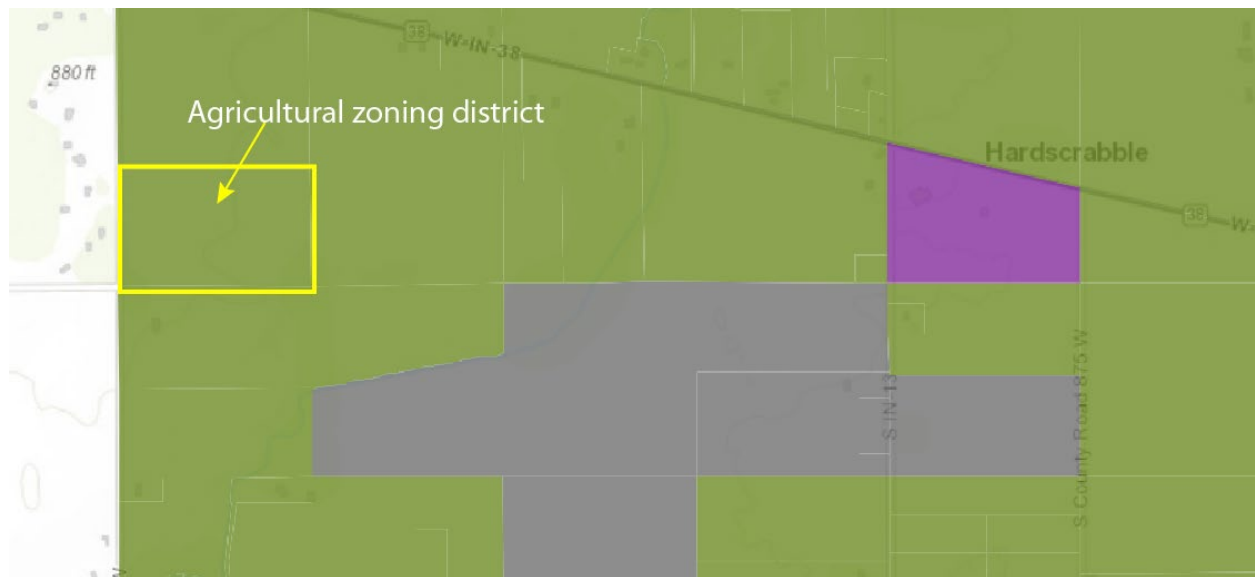


Figure 1. Lapel's Zoning Map. Location of Clark's Subdivision

**Side note on CP:** staff has a revised Comprehensive Plan with an updated Land Use recommendation map, the revised copy as of December 2022. *Exhibit 1* shows that the recommended use for this property is Agricultural.

#### Administrative Plat Application Steps per Lapel's UDO

This is an administrative subdivision because it's located in the Agricultural zoning district and is split into the maximum permitted number of lots (5) per [V 12.1.3.A.ii](#) (p. 16). The application and review steps are described on pages 18-20 of the UDO, Volume 12.

In short, the Administrative Plats go through the following steps:

1. **Primary Plat** (or as Lapel’s UDO calls it, a “Rural Concept Development Plan”). This one is reviewed and approved by staff and Plat Committee, and then signed by PC’s president and secretary.
2. **Final Plat**. This one is reviewed and approved by staff and Plat Committee, and signed by PC’s president and secretary. At this point, the applicant should have received approval from Madison County Drainage Board.

The Town Council isn’t mentioned in the Administrative Plat procedure. It is mentioned only as the agency that reviews road cuts if those are needed. However, since only the Town Council can accept dedicated ROW or public improvements, it’s still necessary to involve the Council at the end of the Final Plat step if the ROW is required to be dedicated.

## Application History

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Clark’s subdivision went through the following steps:

1. **PLAT-2023-04. Primary Plat**. It was reviewed and approved by staff and Plat Committee at the end of 2023. (Lapel’s UDO calls this step “Rural Concept Development Plan” (see page 18 of Lapel’s UDO, [Chapter 12, V 12.1.3 Administrative Subdivision](#)). A copy of approved Primary plat is attached in *Exhibit 2*.
2. **Notice**. State law ([IC 36-7-4-701\(d\)](#)) permits administrative subdivisions to be reviewed without a public hearing as long as the applicant sends out mailed notices and publishes a newspaper notice within 10 days of the Primary Plat approval to let the surrounding property owners that they have the right to appeal this approval. The applicant completed this step in December 2023 (see attached *Exhibit 3*). No requests for appeal were made.
3. **Drainage Approval**. The applicant has received County’s drainage approval in January 2024. See attached *Exhibit 4*.
4. **PLAT-2024-02. Final Plat**. The plat is at this stage (*Exhibit 5*). It was reviewed by staff, Plat Committee and Plan Commission in May, 2024, and got approval from all of them.
  - a. **ROW Dedication**. While Council doesn’t have the authority to deny/approve subdivision plats, it does have a role in the platting process as the agency that considers dedication of public improvements, public easements for utilities, or right-of-way dedications and such. This plat application requires dedication of 50 feet of ROW along the County Road 1000.
    - i. **ROW amount**. Hamilton County has jurisdiction over this road, so staff believes that when it comes to the requirement of *how much* ROW to dedicate, Hamilton County’s Thoroughfare Plan recommendation should be used. This property is required to dedicate 50 feet ROW along the County Road 1000, or “Atlantic Road” as Hamilton County calls it.
    - ii. **Council’s role**. However, the dedication of this land is done to Lapel, and the Council’s role is to consider acceptance of dedicated right-of-way. See *Exhibit 6* with emails from Dave Lucas, Hamilton County’s traffic engineer, that confirms that Hamilton County Commission doesn’t need to accept this dedication per their legal counsel.

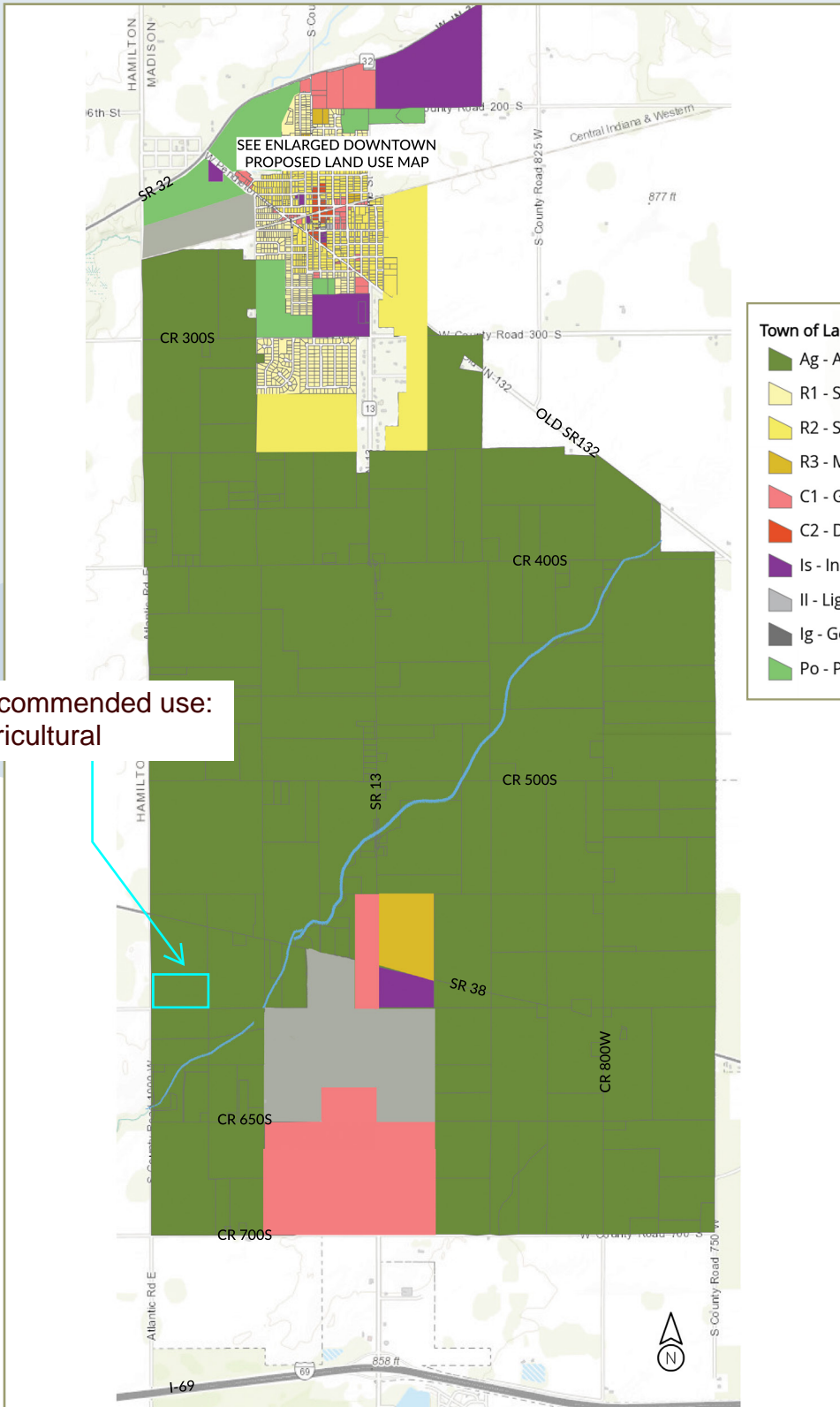
## Staff’s Recommendation

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Staff recommends acceptance of the ROW as depicted on the plat.

EXHIBIT 1

Comprehensive Plan Proposed Land Use - Entire Town of Lapel



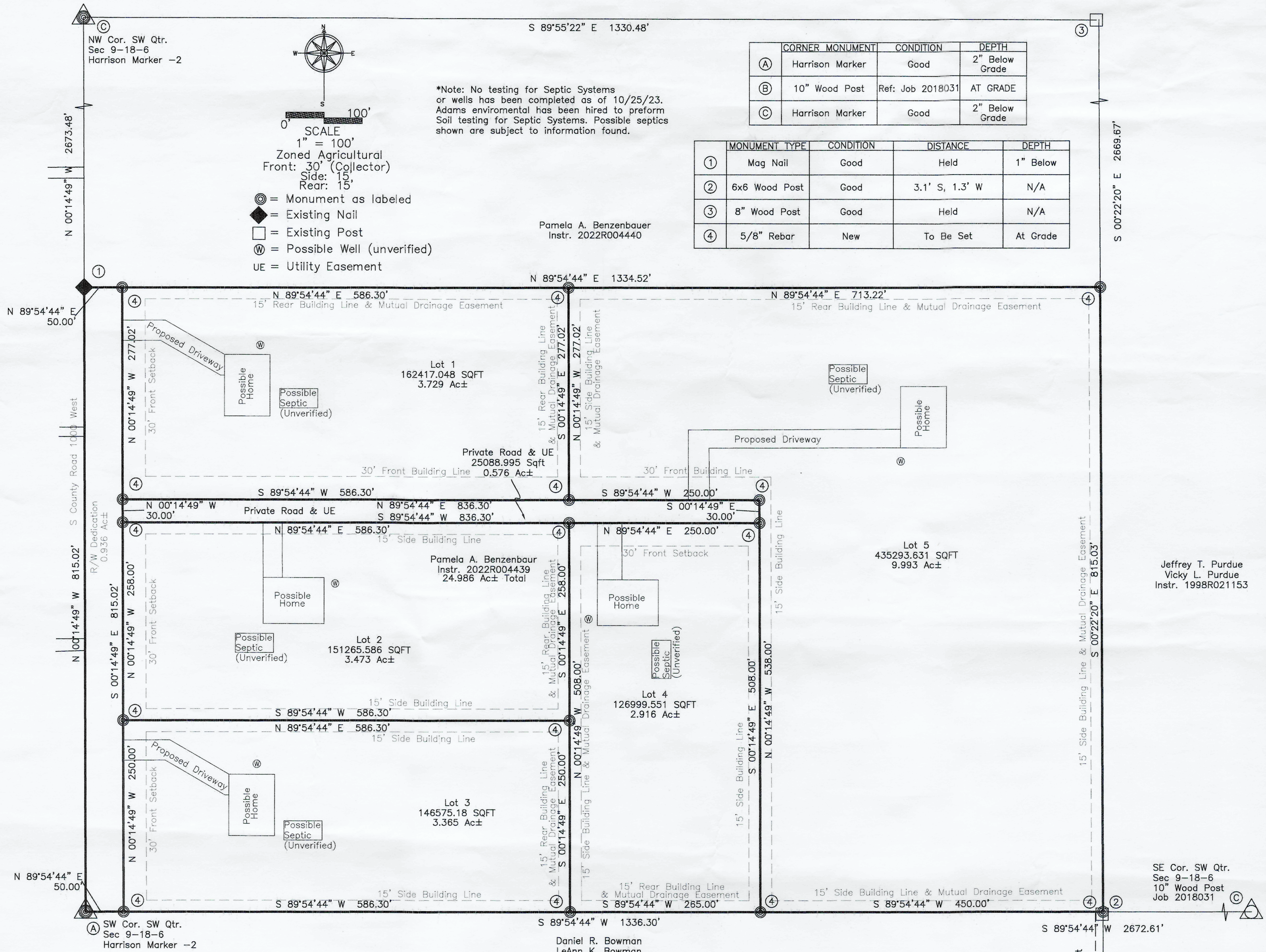
**Town of Lapel Zoning**

- Ag - Agriculture
- R1 - Single Family Residential: Suburban Neighborhood
- R2 - Single Family Residential: Traditional Neighborhood
- R3 - Multi-Family Residential
- C1 - General Commercial
- C2 - Downtown Commercial
- Is - Institutional and Social
- Ii - Light Industrial
- Ig - General Industrial
- Po - Parks and Open Space

Recommended use:  
Agricultural

# EXHIBIT 2 Rural Development Concept Plan Clark Homestead Subdivision

Part of the Southwest Quarter of Section 9,  
Township 18 North, Range 6 East  
Green Township, Madison County



A part of the West Half of the Southwest Quarter of Section 9, Township 18 North, Range 6 East in Green Township, Madison County, Indiana, described as follows:  
Beginning at a Harrison Marker at the Southwest corner of the Southwest Quarter of Section 9, Township 18 North, Range 6 East; thence North 00 degrees 14 minutes 49 seconds West 815.02 feet (assumed bearing) along the West line of said Quarter Section to a mag nail; thence North 89 degrees 54 minutes 44 seconds East 1334.52 feet parallel with the South line of said Quarter Section to a 5/8-inch rebar on the East line of the West Half of the Quarter Section; thence South 00 degrees 22 minutes 20 seconds East 815.03 feet to a 5/8-inch rebar on the Southeast corner of said Half-Quarter Section; thence South 89 degrees 54 minutes 22 seconds West 1336.30 feet to the point-of-beginning, containing 25.00 acres, more or less, and subject to the right-of-way for County Road 1000 West across the Westerly side, and to all easements of record.  
ALSO, a stormwater easement in Section 19, Township 18 North, Range 6 East being 10 feet wide on the West side of the following described line:  
Beginning at a 5/8 inch rebar on the North line of the Northwest Quarter of Section 19, Township 18 North, Range 6 East said rebar being North 89 degrees 54 minutes 44 seconds East 1336.30 feet from a Harrison Marker at the Northwest corner of said Quarter Section; thence South 00 degrees 14 minutes 49 seconds East 724.62 feet to the termination of said easement.

Plat Committee Certificate  
I, Oksana Polhuy, Zoning Administrator/Building Inspector for the Town of Lapel, on behalf of the Plat Committee, hereby certify that the application for approval of this plat meets all of the minimum requirements set forth in the Comprehensive Plan of Lapel, Indiana such other applications requirements contained in the Unified Development Ordinance of the Town of Lapel, August 20, 2015, as amended.  
Signature: [Signature]  
Printed: Oksana Polhuy  
Zoning Administrator/Building Inspector

**Haldon L. Ashton**  
Registered Land Surveyor  
ES80040149  
12-7-2023  
STATE OF INDIANA  
LAND SURVEYOR

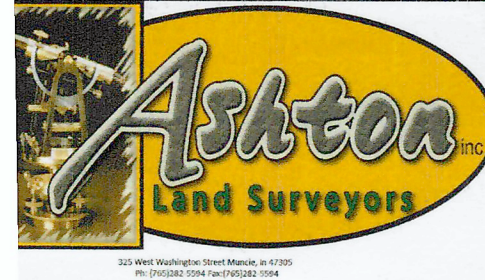
**COVENANTS:**

**-PRIVATE DRIVE AGREEMENT**  
The 30 foot wide ingress-egress and utility easement labeled 30' Private Road is for the benefit of Lots 1, 4, and 5 only. It shall be considered as a private drive and not for public access. There shall be a sign at the end of the drive designating it as a private drive. The owners and their successors agree to maintain the drive to as nearly as possible the same condition as existed when the drive was constructed. The Town of Lapel, IN is exempt from any maintenance or upkeep of this private drive. Ownership and maintenance shall be divided equally between lots 1, 4, and 5. It is further understood this 30 foot easement is also for utilities. It may be necessary to repair such utilities. At no time can any repair block access to any of the lots. When such repair is completed the drive is to be restored to the original condition or better.

**-MUTUAL DRAIN AGREEMENT**  
A 15 foot wide mutual drainage easement to cross and service the lots as reflected on the plat, said easement is restricted to use for drainage and for maintenance of the drainage easement and not for public access. Ownership and maintenance shall be divided by the lots serviced by said easement.

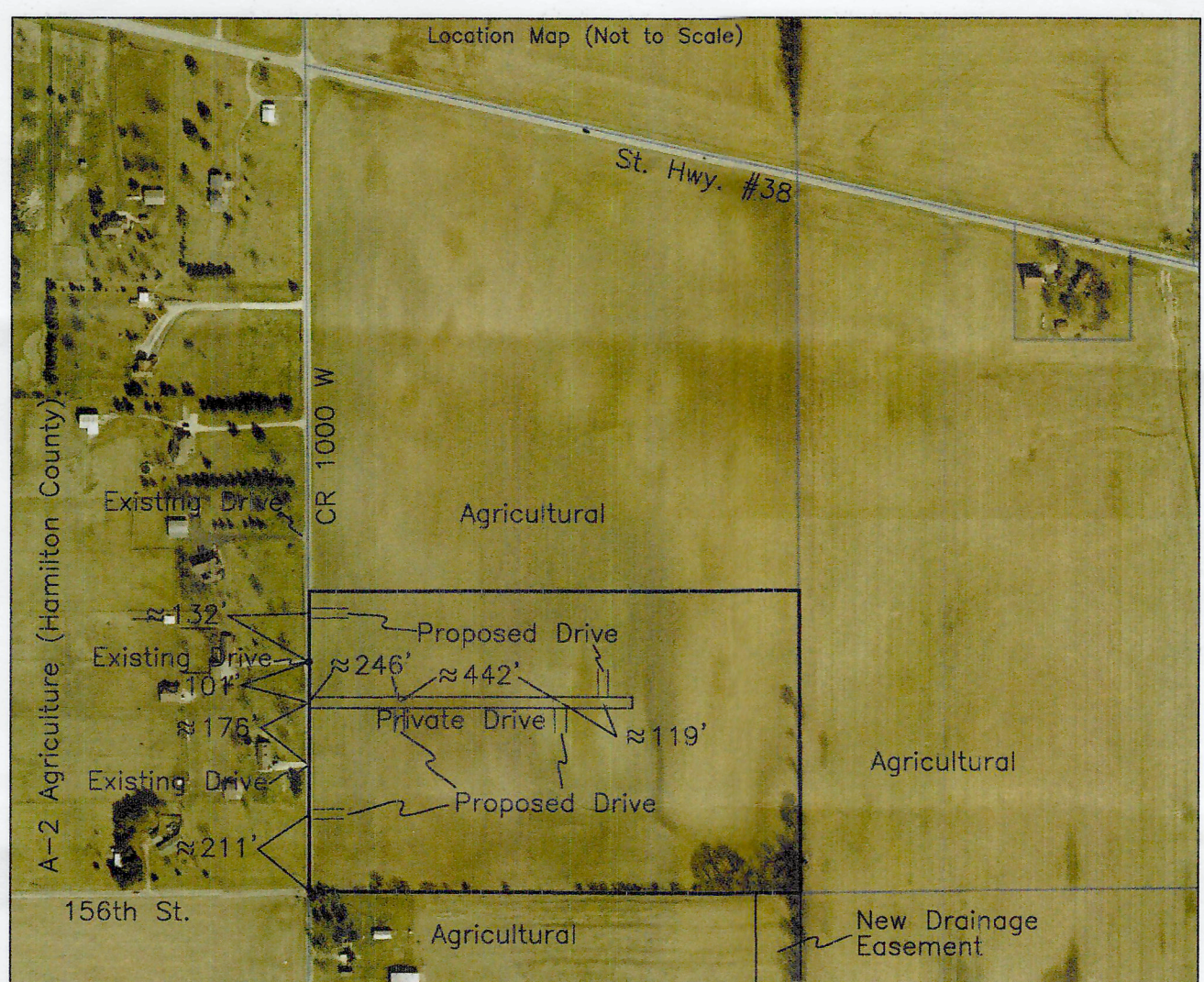
Ashton Land Surveyor, Inc.  
25 W. Washington St.  
Cancie, IN 47305  
t: 765-282-5594  
f: 765-282-5596

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law. Haldon L. Ashton



Drawn: SMK  
Date: 10/18/23  
Job: 2023562  
Client: Brad Clark  
Owner: Pamela A. Benzenbaur  
Crew: JTM  
Electronic Field Book  
Field Date: 09/25/23  
IUPPS REF. #

Client Info: Brad Clark  
Address: 9765 Randal Dr. Camel, IN  
Phone: 317-409-2565  
Email: brad.clark@corecapinv.com  
Owner Info: Pamela Benzenbaur  
Address: 5106 Park Road Anderson, IN  
Phone: N/A  
Email: N/A



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# EXHIBIT 3

## PETITIONER'S AFFIDAVIT OF NOTICE OF ADMINISTRATIVE PLAT APPROVAL

STATE OF Indiana

DATE: 12-19-2023

COUNTY OF Madison S.S.

I (we) Sandra Ashton, do hereby certify that notice of the primary plat for an administrative plat approval (case # PLAT-2023-04) to adjoining property owners, that is attached as Exhibit A to this Affidavit was sent via Certified Mail within ten (10) days of the approval to the last known addresses of each person listed in the attached Exhibit B.

The undersigned, having been duly sworn on oath, states that the information above is true and correct as they are informed and believe.

Applicant signature: Sandra Ashton

Subscribed and sworn to before me this 19 day of December, 20 23.



Notary printed name: Katherine M. Vannice

Notary signature: Katherine M. Vannice

My commission expires: 4-22-24

# Exhibit A

TOWN OF LAPEL PLANNING ADVISORY COMMISSION

Town Hall, 825 Main Street, Lapel, IN

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## **NOTICE OF ADMINISTRATIVE PLAT APPROVAL**

This notice is to inform you of the approval of an administrative plat application request (case # PLAT-2023-04), submitted by Brad Clark, for splitting an undeveloped 25-acre tract located on the east side of S County Road 1000 W (Atlantic Road), about 1,425 feet south of SR 38. The proposal is to split it into five residential lots ranging between 2.9 and 10 acres. The application was reviewed according to the Lapel Unified Development Ordinance zoning and subdivision control standards and met all applicable regulations.

The state statute IC 36-7-4-701(d) requires the Lapel Plan Commission to notify you of this approval and of your right to appeal it by filing an appeal with the Zoning Administrator in the Town Hall within five days of this notice being mailed. The Plan Commission would review the appeal at their regularly scheduled public meetings.

Copies of the proposal are on file in the Town Hall located at 825 Main Street, Lapel, IN for examination during business hours between 9:00 AM and 4:30 PM, Monday – Friday. For inquiries, please email the Zoning Administrator at [oksana@lapelindiana.org](mailto:oksana@lapelindiana.org).

Lapel Planning Commission  
Teresa Retherford, Secretary

# Exhibit B

## Address List

PLAT-2023-04, Subject Parcel: 48-15-09-300-002.000-044, 0 S 1000 W

| Surrounding Property Address  | Owner's Mailing Address  |
|---|--|
| Parcel ID: 48-15-09-300-006.000-044<br>BENZENBAUER PAMELA A                       | Same as owner on this application  |
| Parcel ID: 48-15-09-300-001.000-044<br>0 SR 38<br>LAPEL, IN 46051                 | JEFFREY T & VICKY L PURDUE<br>4956 W COUNTY ROAD 400 S<br>PENDLETON, IN 46064-9177   |
| Parcel ID: 48-15-16-200-006.000-044<br>0 W SR 38<br>LAPEL, IN 46051               | PURDUE JEFFREY T & VICKY L<br>4956 W COUNTY ROAD 400 S<br>PENDLETON, IN 46064-9177   |
| Parcel ID: 48-15-16-200-005.000-044<br>6006 S 1000 W<br>PENDLETON, IN 46064       | DANIEL R & LE ANN K BOWMAN<br>9770 W COUNTY ROAD 650 S<br>PENDLETON, IN 46064-9737   |
| Parcel ID: 29-12-17-000-005.000-016<br>0 Atlantic Rd<br>Noblesville, IN 46060     | Filbrun, Anna Marie & Larry Joe Filbrun CoTrustees of Rev<br>Lvg Trust for Anna Marie Filbrun<br>5750 S 800 W<br>Lapel, IN 46051 |
| Parcel ID: 29-12-08-001-001.000-016<br>16703 E 156th St<br>Noblesville, IN 46060  | Sabrina L Harmon<br>16703 E 156th St<br>Noblesville, IN 46060  |
| Parcel ID: 29-12-08-001-002.000-016<br>15624 Atlantic Rd<br>Noblesville, IN 46060 | Bradley & Leslie Patterson<br>15624 Atlantic Rd<br>Noblesville, IN 46060   |
| Parcel ID: 29-12-08-001-003.000-016<br>15736 Atlantic Rd<br>Noblesville, IN 46060 | Reuben & Lauren McCracken<br>15736 Atlantic Rd<br>Noblesville, IN 46060  |
| Parcel ID: 29-12-08-001-004.000-016<br>15770 Atlantic Rd<br>Noblesville, IN 46060 | Charles Anton & Leigh Ann Dodd Meggenhofen<br>15770 Atlantic Rd<br>Noblesville, IN 46060   |
| Parcel ID: 29-12-08-001-005.000-016<br>15888 Atlantic Rd<br>Noblesville, IN 46060 | Cooper, Morgan & Chad<br>15888 Atlantic Rd<br>Noblesville, IN 46060  |



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| <input type="checkbox"/> Return Receipt (hardcopy)           | \$3.55 |
| <input type="checkbox"/> Return Receipt (electronic)         | \$0.00 |
| <input type="checkbox"/> Certified Mail Restricted Delivery  | \$0.00 |
| <input type="checkbox"/> Adult Signature Required            | \$0.00 |
| <input type="checkbox"/> Adult Signature Restricted Delivery | \$0.00 |

Postage \$0.66

Total Postage and Fees \$8.56

Sent To  
 Reuben & Lauren McCracken  
 15736 Atlantic Rd  
 Noblesville, IN 46060

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

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 16703 E 156th St  
 Noblesville, IN 46060

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Sent To  
 DANIEL R & LE ANN K BOWMAN  
 9770 W COUNTY ROAD 650 S  
 PENDLETON, IN 46064-9737

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

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 Cooper, Morgan V Child  
 15888 Wilshire Rd  
 Noblesville, IN 46060

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 15624 Atlantic Rd  
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| <input type="checkbox"/> Adult Signature Restricted Delivery | \$0.00 |

Postage \$0.66

Total Postage and Fees \$8.56

Sent To  
 Filbrun, Anna Marie & Larry Joe Filbrun  
 CoTrustees of Rev Lvg Trust for Anna  
 Marie Filbrun  
 5750 S 800 W  
 Lapel, IN 46051

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

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Postage \$0.66

Total Postage and Fees \$8.56

Sent To  
 JEFFREY T & VICKY L PURDUE  
 4956 W COUNTY ROAD 400 S  
 PENDLETON, IN 46064-9177

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions



## OFFICIAL AD PROOF

This is the proof of your ad scheduled to run in **Elwood Call-Leader** on the dates indicated below. If changes are needed, please contact us prior to deadline at **(765) 552-3355**.

Notice ID: RpvZia40k7ljLPvUrau0 | **Proof Updated: Dec. 18, 2023 at 05:36pm EST**  
Notice Name: 2023-562 Clark Plat | Publisher ID: 1793540

See Proof on Next Page

**This is not an invoice. Below is an estimated price, and it is subject to change. You will receive an invoice with the final price upon invoice creation by the publisher.**

| FILER   | FILING FOR         |
|---|--------------------|
| Aaron Huddleston<br>ahuddleston@ashtonlandsurveyors.com<br>(765) 282-5594 | Elwood Call-Leader |

|                        |                         |
|------------------------|-------------------------|
| <b>Columns Wide:</b> 1 | <b>Ad Class:</b> Legals |
|------------------------|-------------------------|

|                          |       |
|--------------------------|-------|
| 12/27/2023: Other Notice | 52.49 |
|--------------------------|-------|

|              |                |
|--------------|----------------|
| Subtotal     | \$52.49        |
| Tax          | \$0.00         |
| <b>Total</b> | <b>\$52.49</b> |

# LEGAL NOTICE

**TOWN OF LAPEL, INDIANA  
NOTICE OF ADMINISTRATIVE  
PLAT APPROVAL  
LAPEL PLAN COMMISSION**

This notice is to inform you of the approval of an administrative plat application request (case # PLAT-2023-04), submitted by Brad Clark, for splitting an undeveloped 25-acre tract located on the east side of S County Road 1000 W (Atlantic Road), about 1,425 feet south of SR 38. The proposal is to split it into five residential lots ranging between 2.9 and 10 acres. The application was reviewed according to the Lapel Unified Development Ordinance zoning and subdivision control standards and met all applicable regulations.

The state statute IC 36-7-4-701(d) requires the Plan Commission to notify you of this approval and of your right to appeal it by filing an appeal with the Zoning Administrator in the Town Hall within five days of this notice being mailed. The Plan Commission would review the appeal at their regularly scheduled public meetings.

Copies of the proposal are on file in the Town Hall located at 825 Main Street, Lapel, IN for examination during business hours between 9:00 AM and 4:30 PM, Monday – Friday. For inquiries, please email the Zoning Administrator at oksana@lapelindiana.org.  
Town of Lapel, Plan Commission  
Teresa Retherford, Secretary  
PUBLISH: December 27, 2023  
1793540  
hspaxlp

# EXHIBIT 4

## MADISON COUNTY INDIANA

Madison County Drianage Board  
16 East 9th Street  
Anderson, Indiana 46016

Phone: 765-641-9687  
Fax: 765-641-9578



Date: January 10, 2024  
To: Town of Lapel  
From: Madison County Drainage Board

Project: Clark Homestead

Members of the Town of Lapel:

  X   The above stated has been approved by the Madison County Drainage Board. This project has no pending issues with the Drainage Board. This project is forwarded to the Planning Commission for their action. **Plat approved on the following conditions: Mutual drain easement across private drive to be on plat; an 8-inch tile to be supplied to all lots; and all infrastructure must be complete before any further construction.**

       The above stated project has submitted conceptual plans that have been received and accepted by the Madison County Drainage Board.

       The above stated project has been submitted to the Madison County Drainage Board for its approval. This project has pending issues with the Drainage Board. The project's developer is cooperating with the Drainage Board during the review process. At this time, a final decision has not been made on the approval of this project. However, the Drainage Board feels this project can be forwarded to the Planning Commission for their approval. This project should not be sent to the County Commissioners for a hearing until the Drainage Board makes a final decision.

       The above stated project has been submitted to the Madison County Drainage Board for its approval. This project has pending issues with the Drainage Board. The project's developer is cooperating with the Drainage Board during the review process. At this time, a final decision has not been made on the approval for this project. However, the Drainage Board feels this project can be forwarded to the Planning Commission for approval of the project's primary plat. This project should not be sent to the Planning Commission or County Commissioners for final approval, until the Drainage Board makes a final decision.

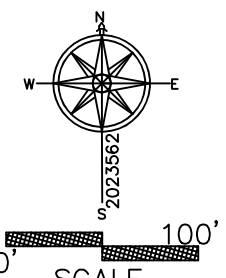
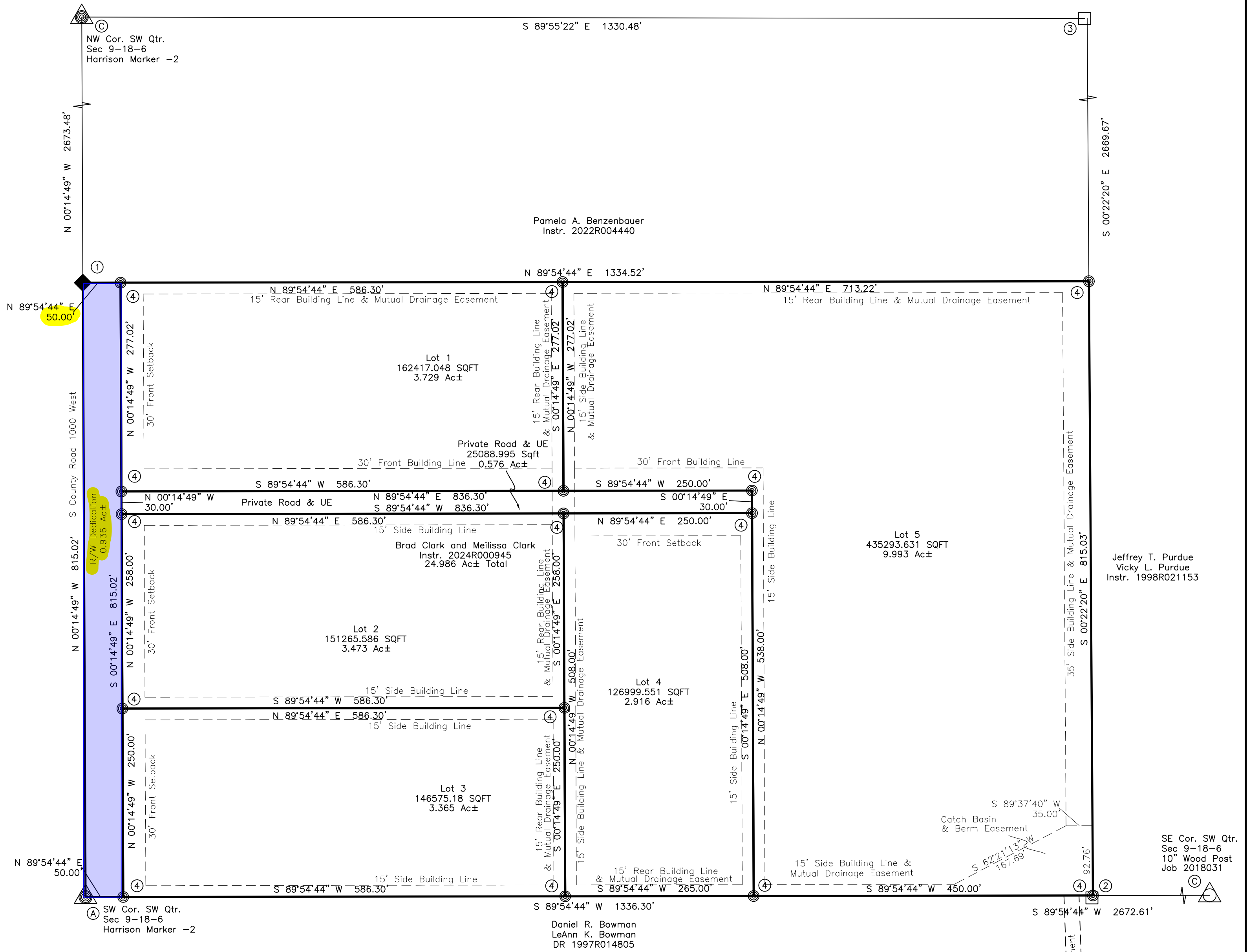
       The above stated project has been reviewed and denied.

A handwritten signature in blue ink that reads "Brian H. Bays". The signature is written in a cursive style and is positioned above a horizontal line.

President  
Madison County Drainage Board

# Clark Homestead Subdivision

Part of the Southwest Quarter of Section 9,  
Township 18 North, Range 6 East  
Green Township, Madison County



SCALE  
1" = 100'  
Zoned Agricultural  
Front: 30' (Collector)  
Side: 15'  
Rear: 15'

- ⊙ = Monument as labeled
- ◆ = Existing Nail
- = Existing Post
- ⊕ = Possible Well (unverified)
- UE = Utility Easement

Plat Note: An 8" PVC drainage pipe is to be placed in the drainage easement across the private road.

| CORNER MONUMENT     | CONDITION        | DEPTH          |
|---------------------|------------------|----------------|
| (A) Harrison Marker | Good             | 2" Below Grade |
| (B) 10" Wood Post   | Ref: Job 2018031 | AT GRADE       |
| (C) Harrison Marker | Good             | 2" Below Grade |

| MONUMENT TYPE   | CONDITION | DISTANCE       | DEPTH    |
|-----------------|-----------|----------------|----------|
| ① Mag Nail      | Good      | Held           | 1" Below |
| ② 6x6 Wood Post | Good      | 3.1' S, 1.3' W | N/A      |
| ③ 8" Wood Post  | Good      | Held           | N/A      |
| ④ 5/8" Rebar    | New       | To Be Set      | At Grade |



I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law.  
Haldon L. Ashton  
This Instrument Prepared by: Haldon L. Ashton

# Clark Homestead Subdivision

Part of the Southwest Quarter of Section 9,  
Township 18 North, Range 6 East  
Green Township, Madison County

A part of the West Half of the Southwest Quarter of Section 9, Township 18 North, Range 6 East in Green Township, Madison County, Indiana, described as follows:  
Beginning at a Harrison Marker at the Southwest corner of the Southwest Quarter of Section 9, Township 18 North, Range 6 East; thence North 00 degrees 14 minutes 49 seconds West 815.02 feet (assumed bearing) along the West line of said Quarter Section to a mag nail; thence 89 degrees 54 minutes 44 seconds East 1334.52 feet parallel with the South line of said Quarter Section to a 5/8-inch rebar on the East line of the West Half of the Quarter Section; thence South 00 degrees 22 minutes 20 seconds East 815.03 feet to a 5/8-inch rebar on the Southeast corner of said Half-Quarter Section; thence South 89 degrees 54 minutes 22 seconds West 1336.30 feet to the point-of-beginning, containing 25.00 acres, more or less, and subject to the right-of-way for County Road 1000 West across the Westerly side, and to all easements of record.

I, Haldon L. Ashton, hereby certify that I am a Registered Land Surveyor, licensed in compliance with the laws of the State of Indiana:  
That this plat correctly represents a survey completed by me on December 12, 2023, that all the monuments shown thereon actually exist or bond has been posted to cover the later installation of these monuments, and that all other requirements specified herein, done by me, have been met.

Registered Land Surveyor LS 80040149  
Haldon L. Ashton

Before me, the undersigned Notary Public, in and for said County and State, personally appeared Haldon L. Ashton, who acknowledged the execution of the foregoing plat, to be voluntary act and deed this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_.

Signature: \_\_\_\_\_

Printed: \_\_\_\_\_  
Notary Public

My Commission expires: \_\_\_\_\_ Resident of \_\_\_\_\_ County, \_\_\_\_\_.

Boundary Survey recorded in Instrument Number \_\_\_\_\_ Records of Madison County, Indiana.

20 foot Storm Water Easement recorded in Instrument Number \_\_\_\_\_ Records of Madison County, Indiana.

Covenants, Conditions, and Restrictions recorded in Instrument Number \_\_\_\_\_ Records of Madison County, Indiana.

#### OWNER'S CERTIFICATE

We, the undersigned, certify that We are the owners of the real estate shown and described herein; and do hereby certify that we have laid off, platted and subdivided, and do hereby lay off, plat, and subdivide said real estate in accordance with the herein plat.  
This subdivision shall be known and designated as Clarks Homestead Subdivision, an addition to Lapel, Indiana.

#### SOUTH COUNTY ROAD 1000 WEST (ATLANTIC ROAD) DEDICATION STATEMENT

The undersigned, being fee simple owner of the 0.936 acre tract of land, does hereby dedicate said tract of land, on behalf of and for the public use as South County Road 1000 West (Atlantic Road) Right-of-Way for public use. Decorative signs, sprinkler systems, trees, landscaping mounds, fences, lighting, septic fields or other such amenities and permanent structures are not permitted in the Right-of-Way.

#### WORK IN RIGHT-OF-WAY

All work within the Right-of-way on County Road 1000 West (Atlantic Road) must be permitted through the Hamilton County Highway Department.

**EASEMENTS.** There are strips of ground shown on this plat and marked "Easement," granted and dedicated and reserved for the mutual use and accommodation of the Town of Lapel and/or any granted public or private utilities, including: water lines, wastewater lines, storm drainage and stormwater lines, gas lines, communication facilities, utility poles, electrical power lines, equipment, cabinets, closures, manholes, conduit, cables, lines, and appurtenances. All grantees shall have the right to remove and keep removed all or part of any structure, building, fence, tree, shrub or other improvement, growth, or obstruction which may in any way endanger or interfere with the construction, maintenance, operation or efficiency of the respective utility in, on, or under said easement strips. The Town of Lapel and all granted public utilities shall at all times have the full right of ingress and egress to and from and upon said easement strips for the purpose of constructing, reconstructing, inspecting, patrolling, maintaining, and adding to or removing all or part of the respective systems without the necessity at any time of procuring the permission of anyone.

**SIGHT VISIBILITY.** No fence, wall, hedge, tree or shrub which obstructs sight lines between 3 and 8 feet above the grade of the adjacent road shall be placed or permitted to remain on any corner lot within the triangular area formed by the street right-of-way lines and a line connecting points along the street rights-of-way located:  
35 feet from their intersection for road classified as arterial by the Thoroughfare Plan or Functional Classification Map,  
30 feet for roads classified as collectors by the Thoroughfare Plan or Functional Classification Map,  
15 feet for roads classified as local by the Thoroughfare Plan or Functional Classification Map, and  
Ten (10) feet for all private driveways.

**UTILITY EASEMENT.** No permanent structure shall be placed within a utility easement. This shall include fencing or any other screening material, accessory structures, or any other item which may prohibit access to a utility or easement holder. If a permanent structure is placed within a utility easement, it may be removed or accessed as necessary by any affected easement holder or utility without cost to that holder or utility.

**DRAINAGE EASEMENTS.** This subdivision is subject to all drainage system design and construction standards of the Lapel Subdivision Control Ordinance, which provides for the repair and maintenance of the system, including the assessment of owners of lots to maintain swales and participate in the cost of the maintenance of legal drains. All drainage easements shall run to the Madison County Drainage Board.

**DRIVEWAY.** No driveway shall be located within 40 feet of the intersection of two street right-of-way lines.

**PRIVATE DRIVE AGREEMENT.** The 30 foot wide ingress-egress and utility easement labeled 30' Private Road is for the benefit of Lots 2, 4, and 5 only. It shall be considered as a private drive and not for public access. There shall be a sign at the end of the drive designating it as a private drive. The owners and their successors agree to maintain the drive to as nearly as possible the same condition as existed when the drive was constructed. The Town of Lapel, IN is exempt from any maintenance or upkeep of this private drive. Ownership and maintenance shall be divided equally between lots 2, 4, and 5. It is further understood this 30 foot easement is also for utilities. It may be necessary to repair such utilities. At no time can any repair block access to any of the lots. When such repair is completed the drive is to be restored to the original condition or better.

**MUTUAL DRAIN AGREEMENT.** A 15 foot wide mutual drainage easement to cross and service the lots as reflected on the plat, said easement is restricted to use for drainage and for maintenance of the drainage easement and not for public access. Ownership and maintenance shall be divided by the lots serviced by said easement.

The foregoing covenants, or restrictions, are to run with the land and must be binding on all parties and all persons claiming under them until January 1, 2049, at which time said covenants, or restrictions, must be automatically extended for successive periods of ten years unless changed by vote of a majority of the then owners of the building sites covered by these covenants, or restrictions, in whole or in part. Invalidation of any of the foregoing covenants, or restrictions, by judgment or court order must in no way affect any of the other covenants or restrictions, which must remain in full force and effect.

The right to enforce these provisions by injunction, together with the right to cause the removal, by due process of law, of any structure or part thereof erected, or maintained in violation hereof, is hereby dedicated to the public, and reserved to the several owners of the several lots in this subdivision and to their heirs and assigns.

Witnessed our hands and seals this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Brad Clark -- Signature

Melissa Clark -- Signature

STATE OF INDIANA )  
                          )SS  
COUNTY OF MADISON )

Before me, the undersigned Notary Public, in and for said County and State, personally appeared Brad Clark and Melissa Clark, who acknowledged the execution of the foregoing plat, to be voluntary act and deed this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_.

Signature: \_\_\_\_\_

Printed: \_\_\_\_\_  
Notary Public

My Commission expires: \_\_\_\_\_ Resident of \_\_\_\_\_ County, \_\_\_\_\_.

#### PLAN COMMISSION CERTIFICATE

Under authority provided by IC 36-7, enacted by the general assembly of the State of Indiana, and all acts amendatory thereto, and an ordinance adopted by the Town Council of the Town of Lapel, Madison County, Indiana, this plat was given approval by the Lapel Advisory Plan Commission on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Signature: \_\_\_\_\_ Signature: \_\_\_\_\_

Printed: \_\_\_\_\_ Printed: \_\_\_\_\_  
President Secretary

#### APPROVAL AND ACCEPTANCE OF DEDICATION BY THE LAPEL TOWN COUNCIL

This plat and the acceptance of any public rights-of-way dedicated herein is hereby approved on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by the Town Council of the Town of Lapel, Indiana.

Signature: \_\_\_\_\_ Signature: \_\_\_\_\_

Printed: \_\_\_\_\_ Printed: \_\_\_\_\_  
President Clerk/Treasurer

#### PLANNING AND ZONING CERTIFICATE

I, \_\_\_\_\_, Zoning Administrator/Building Inspector for the Town of Lapel, hereby certify that the application for approval of this plat meets all of the minimum requirements set forth in the Comprehensive Plan of Lapel, Indiana such other applications requirements contained in the Unified Development Ordinance of the Town of Lapel, August 20, 2015, as amended.

Signature: \_\_\_\_\_

Printed: \_\_\_\_\_  
Zoning Administrator/Building Inspector

SHEET 2 OF 2  
DATE: 01/10/24



I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law.  
Haldon L. Ashton

This Instrument Prepared by: Haldon L. Ashton

# EXHIBIT 6

**Polhuy, Oksana**

---

**From:** David E. Lucas <David.Lucas@hamiltoncounty.in.gov>  
**Sent:** Friday, October 27, 2023 3:29 PM  
**To:** Polhuy, Oksana  
**Subject:** RE: Atlantic Road R/W Question

**Categories:** Lapel

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Oksana,

According to our Assistant County Attorney Hamilton County will not need to sign off on the plat. Please just keep me in the loop and send a copy of the recorded plat.

I can send it to our Tax and Mapping Department to draw in the R/W parcel.

I am the TAC contact for County Highway if you need input in the future.

Thank you for your help on this!



**David Lucas** | *Project Coordinator*  
Hamilton County Highway Department  
1700 S. 10<sup>th</sup> St. | Noblesville, IN 46060

[david.lucas@hamiltoncounty.in.gov](mailto:david.lucas@hamiltoncounty.in.gov)

317.773.7770 - office



---

**From:** Polhuy, Oksana <opolhuy@msconsultants.com>  
**Sent:** Wednesday, October 25, 2023 4:24 PM  
**To:** David E. Lucas <David.Lucas@hamiltoncounty.in.gov>  
**Subject:** RE: Atlantic Road R/W Question

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hello David,

Thank you for the info. That's what I was looking for.

And just to clarify, would this application go only through the local plat review since it's in Lapel's jurisdiction, but would have space for Hamilton County commissioners to sign it? Or would your representative still want to

be somehow involved? Maybe like a TAC member of a sort? There is no official TAC committee, but I ask people relevant to the application, for input.

Thank you,

**Oksana Polhuy, AICP**

**ms consultants, inc** | engineers, architects, planners  
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p: 317-566-0050 Ext. 15124

f: 317-566-0052

e: [opolhuy@msconsultants.com](mailto:opolhuy@msconsultants.com)

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**From:** David E. Lucas <[David.Lucas@hamiltoncounty.in.gov](mailto:David.Lucas@hamiltoncounty.in.gov)>

**Sent:** Wednesday, October 25, 2023 1:44 PM

**To:** Polhuy, Oksana <[opolhuy@msconsultants.com](mailto:opolhuy@msconsultants.com)>

**Subject:** Atlantic Road R/W Question

**[EXTERNAL MESSAGE]** This message has originated outside of ms consultants. Do not open attachments or click on links from unknown or unexpected senders.

Oksana,

Atlantic Road is within Hamilton County jurisdiction. Our R/W for Atlantic Road is a 50' half with an additional 10' within 500' of an intersection.

I have attached a sheet that details our dedication statement for plats.

Please feel free to contact me if you have additional questions.



**David Lucas** | *Project Coordinator*

Hamilton County Highway Department  
1700 S. 10<sup>th</sup> St. | Noblesville, IN 46060

[david.lucas@hamiltoncounty.in.gov](mailto:david.lucas@hamiltoncounty.in.gov)

317.773.7770 - office

