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DEBORAH L. PEYTON
DELAWARE CO. RECORDER
10.00

THIS DOCUMENT WAS PREPARED BY DIANE NORDMANN, CITY OF HOPKINTON, 115 FIRST ST. S.E., P.O. BOX 154, HOPKINTON, IA 52237, 563-926-2181

RESOLUTION #08-2003

Vacation of a portion of County Highway D47 Right of Way in Section 24-T87N-R4W

WHEREAS this document is a correction to the original Res. #08-2003 recorded on 7/31/03 in Book 2003, Page 3662 in Delaware County, Iowa's Recorder's Office.

WHEREAS the Code of Iowa, section 354.23 gives the City Council the power on its own motion to vacate part of an official plat that had been conveyed to the city or county or dedicated to the public which is deemed by the governing body to be of no benefit to the public, and

WHEREAS the current owner of lot 6 of Block 15 of the Hopkinton Second Addition by H. A. Carter has become aware that the house he purchased was errantly constructed within the right of way of Marion Street (County Highway D47) by the prior owner, and

WHEREAS the owner has requested that Delaware County and the City of Hopkinton determine if there is excess right of way on county highway D47 and if excess right of way exists that the City and County vacate said excess right of way, and

WHEREAS the Delaware County Board of Supervisors has directed the Delaware County Engineer to conduct an engineering study of the need for the herein described right of way, and

WHEREAS the Delaware County Engineer concluded in the engineering study that the subject right of way was in excess of the county's roadside clear zone requirements, and

WHEREAS based on the completed engineering study, the Delaware County Board of Supervisors has vacated the county easement on the herein described portion of the shared right of way, and

WHEREAS, the Code of Iowa, Section 364.7 states that a city may not dispose of an interest in real property by sale, lease for a term of more than three years, or gift, except in accordance with the following procedure:

1. The council shall set forth its proposal in a resolution and shall publish notice as provided in section 362.3, of the resolution and of a date, time and place of a public hearing on the proposal.
2. After the public hearing, the council may make a final determination on the proposal by resolution, and

WHEREAS, the City Council published notice as required under section 362.3 and has held such hearing as required per 364.7 of the Code of Iowa,

NOW THEREFORE BE IT RESOLVED that the City Council of Hopkinton, Iowa in session this 9th day of June, 2003, enters the following order in regard to the aforementioned road vacation proceedings.

The City Council orders the following described portion of the platted city street to be closed and vacated. The City Council further orders that the herein stated excess right of way be surveyed by a licensed land surveyor and property corners set prior to the issuance of a quitclaim to the Owner of said lot. The Council further directs and authorizes the Mayor of Hopkinton, Iowa to sign said order vacating the platted right of way on behalf of the City. Said right of way vacated is described as follows:

A thirteen (13) foot wide segment of right of way of Marion Street (County Highway D47), being located adjacent to the Westerly line of Lot Six (6) Block Fifteen (15) of Hopkinton Second Addition by H. A. Carter, Hopkinton, Iowa, being a part of Section Twenty-four (24), Township Eighty-seven North (T87N), Range Four West (R4W) of the 5th P.M., Delaware County, Iowa.

SO ORDERED THIS 9th DAY OF JUNE, 2003;

City Council, Hopkinton, Iowa

Danial J. Tucker, Mayor of Hopkinton

Attest:

Diane Nordmann, City Clerk of Hopkinton

On this 1st day of August, 2003, before me Brenda Kelchen a notary public in and for the State of Iowa appeared Danial J. Tucker, Mayor and Diane Nordmann, to me personally known, and who, being by me duly sworn, did say that they are the Mayor of Hopkinton and City Clerk of Hopkinton, respectively, of the County of Delaware, Iowa; that the seal affixed to the foregoing instrument is the city seal of Hopkinton, and that the instrument was signed and sealed on behalf of the city, by authority of its City Council, on the 9th day of June, 2003 and, Danial J.Tucker and Diane Nordmann acknowledged the execution of said instrument to be their voluntary act and deed and the voluntary act and deed of the county, by it voluntarily executed.

Brenda Kelchen
Notary Public
My Commission Expires: 04-13-05

Seal:

BRENDA K. KELCHEN
Commission Number 169097
My Commission Expires
04-13-05