



SURVEYOR'S OFFICE

Hamilton County

Kenton C. Ward, CFM
Surveyor of Hamilton County
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Suite 188
One Hamilton County Square
Noblesville, Indiana 46060-2230

December 9, 2008

To: Hamilton County Drainage Board

RE: Tunis Garard Drain – Domain at Legacy Partial Vacation

Attached is a partial vacation request submitted by Platinum Properties LLC, managing member of East Carmel LLC. The request is for a portion of the drain that will be within the limits of the Domain at Legacy section of the Legacy subdivision now being developed.

The Tunis Garard Drain was constructed in 1900 (Commissioners Court December 5, 1900) and partially reconstructed in 1928 as the John Owen Reconstruction (DR 4, pages 240, 241, and 243). The drain is currently on a maintenance program per my report dated June 1, 1981, which was approved at hearing on August 3, 1981. (Hamilton County Drainage Book 1, Page 425).

The portions of the Tunis Garard Drain to be vacated is as follows:

Tunis Garard Drain – John Owen Arm 2	Sta. 0+00 to Sta. 4+20	10” Clay Tile
Tunis Garard Drain – Arm 5	Sta. 3+91 to Sta. 8+08	6” Clay Tile
	Sta. 8+08 to Sta. 16+15	7” Clay Tile
Tunis Garard Drain – Arm 6	Sta. 8+62 to Sta. 11+55	7” Clay Tile
	Sta. 11+55 to Sta. 16+50	8” Clay Tile

The vacation is being proposed due to the construction of the drainage facilities for the Legacy Subdivision. The maintenance of the new facilities will be done by the City of Carmel. The proposed vacation will vacate 2432 feet of regulated drain, with the tile sizes as listed above. The tiles are being properly capped and markers set at the new end of the tile locations.

The watershed for the Tunis Garard Drain will need be changed at the time of platting of the Domain at Legacy section. The entire Domain at Legacy area should be moved to the Tunis Garard watershed and removed from the Elizabeth Warner watershed.

I believe that the requested partial vacation meets the requirements for vacation as set out in IC 36-9-27-34. I recommend the Board set a hearing for this item as set out in IC 36-9-27-37(a) for February 23, 2009.

A handwritten signature in black ink, appearing to be 'Kenton C. Ward', written over a horizontal line.

Kenton C. Ward
Hamilton County Surveyor

KCW/pll

FINDINGS AND ORDER

CONCERNING THE PARTIAL VACATION OF THE

Tunis Garard Drain, John Owen Arm 2	Sta. 0+00 to Sta. 4+20
Tunis Garard Drain, Arm 5-----	Sta. 3+91 to Sta. 8+08
	Sta. 8+08 to Sta. 16+15
Tunis Garard Drain, Arm 6-----	Sta. 8+62 to Sta. 11+55
	Sta. 11+95 to Sta. 16+60

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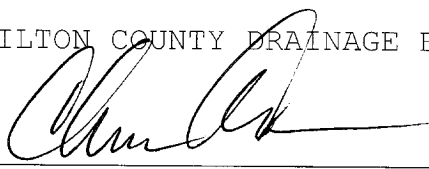
On this 23rd day of February 2009, the Hamilton County Drainage Board has held a hearing on the Maintenance Report and Schedule of Assessments of the Tunis Garard Drain, John Owen Arm 2, Sta. 0+00 to Sta. 4+20; Tunis Garard Drain, Arm 5, Sta. 3+91 to Sta. 8+08 and Sta. 8+08 to Sta. 16+15; Tunis Garard Drain, Arm 6, Sta. 8+62 to Sta. 11+55 and Sta. 11+95 to Sta. 16+60.

Evidence has been heard. Objections were presented and considered. The Board then adopted an order of action. The Board now finds that the costs of continued maintenance to the portion of the above drain exceed the benefits to the real estate benefited by the portion of the drain to be abandoned and issues this order vacating the above section of the Tunis Garard Drain, John Owen Arm 2, Sta. 0+00 to Sta. 4+20; Tunis Garard Drain, Arm 5, Sta. 3+91 to Sta. 8+08 and Sta. 8+08 to Sta. 16+15; Tunis Garard Drain, Arm 6, Sta. 8+62 to Sta. 11+55 and Sta. 11+95 to Sta. 16+60.

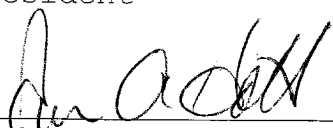
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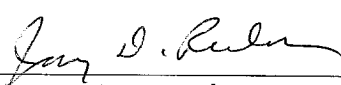
HAMILTON COUNTY DRAINAGE BOARD



President



Member



Alternate Member

Attest: 

STATE OF INDIANA)
) ss:
COUNTY OF HAMILTON)

BEFORE THE HAMILTON COUNTY
DRAINAGE BOARD
NOBLESVILLE, INDIANA

IN THE MATTER OF THE
RECONSTRUCTION OF THE
Tunis Garard Drain, Domain at Legacy

FINDINGS AND ORDER FOR RECONSTRUCTION

The matter of the proposed Reconstruction of the *Tunis Garard Drain, Domain at Legacy* came before the Hamilton County Drainage Board for hearing on *February 23, 2009*, on the Reconstruction Report consisting of the report and the Schedule of Damages and Assessments. The Board also received and considered the written objection of an owner of certain lands affected by the proposed Reconstruction, said owner being:

Evidence was heard on the Reconstruction Report and on the aforementioned objections.

The Board, having considered the evidence and objections, and, upon motion duly made, seconded and unanimously carried, did find and determine that the costs, damages and expenses of the proposed Reconstruction will be less than the benefits accruing to the owners of all land benefited by the Reconstruction.

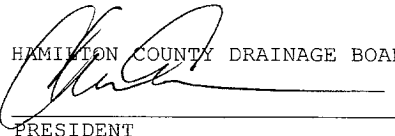
The Board having considered the evidence and objections, upon motion duly made, seconded and unanimously carried, did adopt the Schedule of Assessments as proposed, subject to amendment after inspection of the subject drain as it relates to the lands of any owners which may have been erroneously included or omitted from the Schedule of Assessments.

The Board further finds that it has jurisdiction of these proceedings and that all required notices have been duly given or published as required by law.

Wherefore, it is ORDERED, that the proposed Reconstruction of the *Tunis Garard Drain, Domain at Legacy* be and is hereby declared established.

Thereafter, the Board made inspection for the purpose of determining whether or not the lands of any owners had been erroneously included or excluded from the Schedule of Assessments. The Board finds on the basis of the reports and findings at this hearing as follows:


HAMILTON COUNTY DRAINAGE BOARD



PRESIDENT

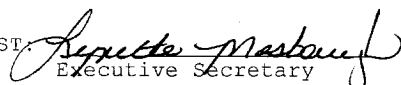


Member



Alternate Member

ATTEST:


Executive Secretary

Tunis Garard Drain #141 The Domain at Legacy to be removed frm Warner & assd to Garard when platted.
 Partial Vacation for The Legacy Subdivision.
 Hearing: 02/23/09
 This will vacate 2,402' of old drain.
 *No change in current maintenance assmt.

Tunis Garard, John Owen Arm 2	Sta. 0+00 to Sta. 4+20	420
Tunis Garard Arm 5	Sta. 3+91 to Sta. 16+15	1224
Tunis Garard Arm 6	Sta. 8+62 to Sta. 11+55	293
Tunis Garard Arm 6	Sta. 11+95 to Sta. 16+60	465
		2402

Parcel	Owner	Address	City	Description1	Ac Ben	MntAsmt	Percent
17-10-23-00-00-001.003	East Carmel LLC	9757 Westpoint Dr, Ste 600	Indianapolis, IN 46256	S23 T18 R4 309.01 Ac	140.00	*	*

BEFORE THE HAMILTON COUNTY
DRAINAGE BOARD IN THE MATTER OF THE
Tunis Garard Drain, Domain at Legacy Partial Vacation

NOTICE is hereby given that a request by the Hamilton County Surveyor to PARTIALLY VACATE THE **Tunis Garard Drain, Domain at Legacy Partial Vacation** of Arm 5 of the Tunis Garard Drain, Station 3+91 to Station 8+08 and Station 8+08 to 16+15; John Owen Arm 2 of the Tunis Garard Drain, Station 0+00 to Station 4+20; Arm 6 of the Tunis Garard Drain, Station 8+62 to Station 11+55 and Station 11+95 to Station 16+60 for the Domain at Legacy Project per plans prepared for East Carmel, LLC has been filed and that a hearing is scheduled for **February 23, 2009** at **9:25 A.M.** on that request.

Objections to the VACATION of the drain must be filed in writing not less than five (5) days before the date of the hearing.

The Board will consider whether the drain performs the function for which it was designed and constructed; whether the expense of maintenance outweighs the benefits to be derived therefrom, and whether the abandonment thereof will not be detrimental to the public welfare.

HAMILTON COUNTY DRAINAGE BOARD

BEFORE THE HAMILTON COUNTY DRAINAGE BOARD
IN THE MATTER OF THE

Tunis Garard Drain, Domain at Legacy Partial Vacation

NOTICE

Notice is hereby given pursuant to Indiana Code 36-9-27-63 (before codification in 1981) that this Board, prior to final adjournment on **February 23, 2009** issued an order adopting the partial vacation, filed the same and made public announcement thereof at the hearing and ordered publication. Copies of the schedule of assessments and order are on file in the office of the Hamilton County Surveyor. If judicial review of the findings and order of the Board is not requested pursuant to Indiana Code 36-9-27-65(f) within twenty (20) days from the date of this publication, the order shall be conclusive.

Hamilton County Drainage Board

Attest: Lynette Mosbaugh

ONE TIME ONLY