

ORDINANCE NO. 3616

**AN ORDINANCE TO VACATE A CERTAIN
UNIMPROVED RIGHT-OF-WAY LOCATED
IN NEW CASTLE, HENRY COUNTY, INDIANA**

WHEREAS, there is an unimproved right-of-way approximately 48 feet in width and 463.5 feet in length which runs east and west is bounded on the west by North 14th Street and on the east by North 16th Street (SR 103). Said unimproved right-of-way lies immediately north of and contiguous to the north boundary of 930 North 14th Street (currently occupied by the Comprehensive Mental Health Service) and immediately north of and contiguous to the north boundary of 901 North 16th Street (currently occupied by Hickory Creek Nursing Home), and

WHEREAS, said unimproved right-of-way is not needed by the City of New Castle as a public right-of-way, and

WHEREAS, said unimproved right-of-way is not used for the purposes of ingress and egress, and

WHEREAS, the vacation of this right-of-way as described will not hinder the growth or orderly development of the neighborhood in which it is located or in which it is contiguous. The vacation will not make access to the lands of any person by means of public way difficult or inconvenient, and the vacation will not hinder the public's access to a church, school or other public building or place, and the vacation will not hinder the use of a public right-of-way by the neighborhood in which it is located or to which it is contiguous, and

WHEREAS, the contiguous property owners have received notice pursuant to the provisions of the appropriate Indiana statutes regarding the petition and hearings thereon.

NOW THEREFORE BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF NEW CASTLE that a certain unimproved right-of-way described herein below be vacated. The unimproved right-of-way is located in the corporate limits of the City of New Castle and more particularly described as follows to-wit:

An unimproved right-of-way approximately 48 feet in width and 463.5 feet in length which runs east and west is bounded on the west by North 14th Street and on the east by North 16th Street (SR 103). Said unimproved right-of-way lies immediately north of and contiguous to the north boundary of 930 North 14th Street (currently occupied by the Comprehensive Mental Health Service) and immediately north of and contiguous to the north boundary of 901 North 16th Street (currently occupied by Hickory Creek Nursing Home).

PUBLIC UTILITY EASEMENT RETAINED AND RESERVED: The City of New Castle expressly reserves and retains an easement to maintain, install, improve and construct public utility facilities over and under the land hereby vacated. **THIS VACATION IS SUBJECT TO A PERPETUAL EASEMENT FOR PUBLIC UTILITY PURPOSES RESERVED BY THE CITY OF NEW CASTLE, INDIANA.** The City of New Castle shall have the unqualified right to construct, add-to, maintain, replace and rebuild current or future public utilities on the land described above and vacated for public ingress and egress purposes by this ordinance. The City of New Castle shall own a permanent easement for public utility purposes over and under the land described hereinabove and vacated by this ordinance. Future title holders shall not be entitled to any compensation from any public utility or the City of New Castle as a result of any use of this real estate for public utility purposes over or under the land hereby vacated and described above. Any use of the above described real estate for public utility purposes shall not be

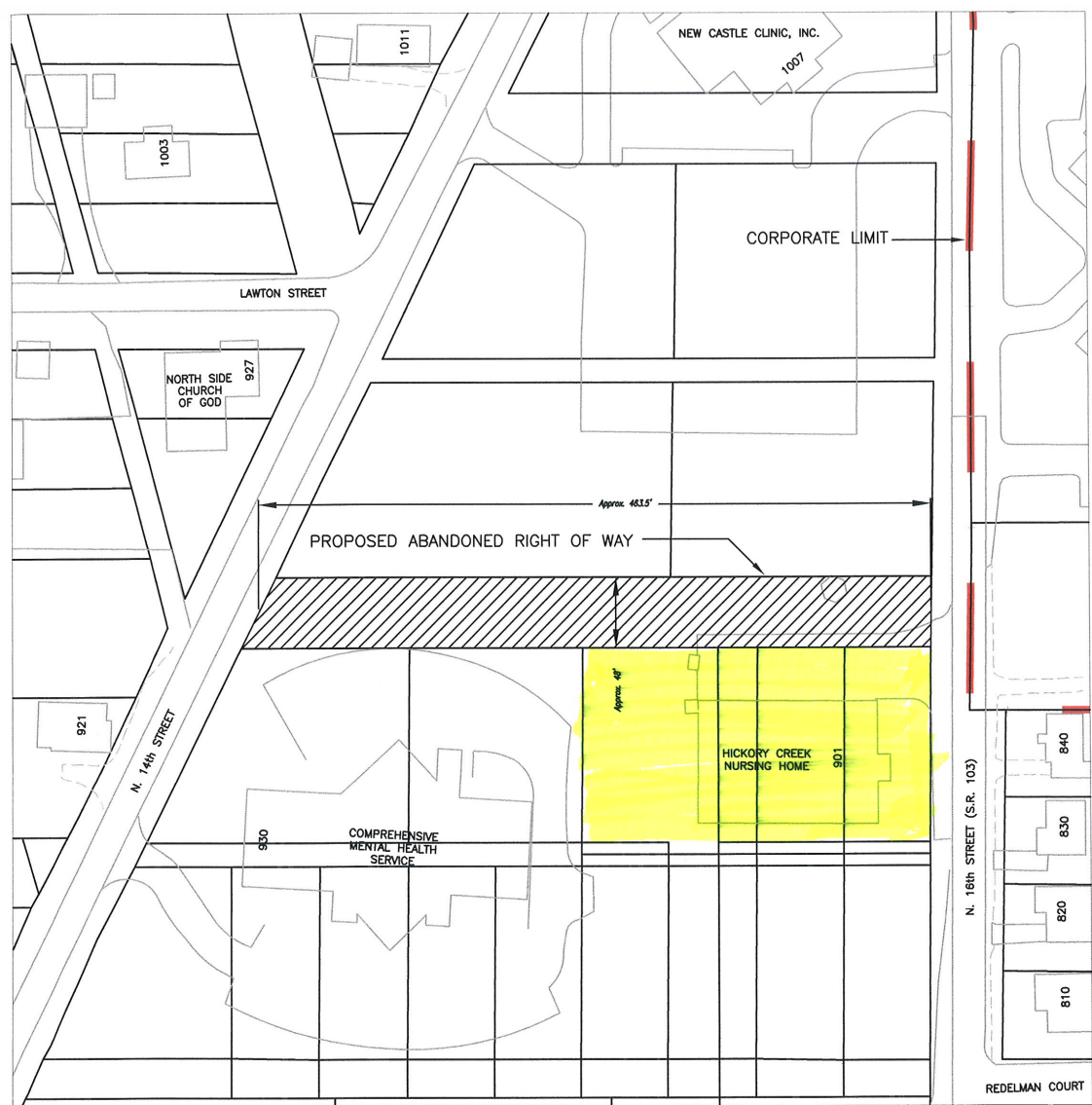
deemed a taking as that term is defined statutorily or by the common law.

Exhibits included: The attached Exhibits "A" and "B" are attached hereto, incorporated herein and made a part of this ordinance.

REPEALER: All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SEVERABILITY: Any provision herein contained which is found by a court of competent jurisdiction to be unlawful or which by operation shall be inapplicable, shall be deemed omitted but the rest and remainder of this ordinance, to the extent feasible, shall remain in full force and effect.

EFFECTIVE DATE: This Ordinance shall become effective immediately upon passage and publication as provided for by law.



PROPOSED ABANDONMENT OF PUBLIC RIGHT OF WAY

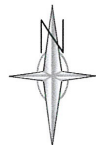


EXHIBIT " "

SCALE: 1" = 100'