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25.00
Matt Sumner

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Nicole K. (Nikki) Baldwin
Boone County Recorder IN
Recorded as Presented

ORDINANCE NO. 2017-18

AN ORDINANCE AMENDING ZONING MAPS WITHIN THE ZONING ORDINANCE OF THE TOWN OF WHITESTOWN, INDIANA

Zoning Map Amendments
PC17-011-ZA

WHEREAS, the Petitioner, Bret & Shawna Reinhardt filed its Zoning Amendment Application before the Whitestown Plan Commission seeking to rezone approximately 3.25 Acres, more or less, in the Town of Whitestown, Indiana, from County AG Agricultural to Whitestown GB General Business; and

WHEREAS, pursuant to Indiana Code § 36-7-4-608, the Whitestown Plan Commission conducted the required public hearing and determined its favorable recommendation, by a 5-0 vote, on April 10, 2017; and

WHEREAS, the Whitestown Plan Commission certified its favorable recommendation to the Whitestown Town Council on April 10, 2017; and

WHEREAS, pursuant to Indiana Code § 36-7-4-608, the Town Council of the Town of Whitestown, having considered the application and the recommendation of the Whitestown Plan Commission, now adopts the proposal and approves the requested rezoning with the stated conditions of commitment (Covenant/Commitments), all as hereinafter set out.

IT IS THEREFORE CONSIDERED, ORDAINED, AND ADOPTED as follows:

Section 1. That the Applicant is Bret & Shawna Reinhardt.

Section 2. That the Applicant seeks to have the following described property, which is currently located in Boone County AG zoning district rezoned to Whitestown GB;

See legal description attached hereto as Exhibit A and incorporated herein by reference.

Section 3. That the Town Council of Whitestown has paid reasonable regard to the Comprehensive Plan; current conditions and the character of current structures and uses in each district; the most desirable use for which the land in each district is adapted; the conservation of property values throughout the jurisdiction; and responsible development and growth.

Section 4. That Exhibit B – Deed Restrictions and Written Commitments Concerning the Use or Development of Real Estate Made in Connection with a Zone Map Change – is made part of this Ordinance.

FILED
AUG 03 2017
Boone County Auditor

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Section 5. This Ordinance shall be in full force and effect upon the effective date of the annexation of the property (see Ordinance 2017-16), and presentation of proof by Petitioner to the Town that this Ordinance and the Commitments have been properly recorded.

ALL OF WHICH IS ADOPTED this 10 day of May, 2017, by the Town Council of the Town of Whitestown, Indiana.

TOWN COUNCIL OF WHITESTOWN, INDIANA

Eric Miller, President

Clinton Bohm

Susan Austin, Vice President

Jeff Wishek

Kevin Russell

ATTEST:

Matt Sumner, Town Clerk-Treasurer

Prepared by: Lauren Bailey

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Exhibit A

Legal Description

Zyntango Farm
Parcel I – 0120291000
Parcel II – 0120364001

Parcel I:

Part of the Northwest Quarter of section 24, Township 18 North, Range 1 East, situated in Worth Township, Boone County, Indiana, and being more particularly described as follows:

Beginning at a point on the North line of said Quarter Section being North 89 degrees 35 minutes 46 seconds East (assumed basis of bearings) 766.41 feet from the Northwest Corner thereof, said point being 1,908.41 feet West of the Northeast Corner of said Quarter Section; thence continue North 89 degrees 35 minutes 46 seconds East along said North line 200.00 feet; thence South 0 degrees 14 minutes 46 seconds East 402.57 feet to an existing fence line; thence South 89 degrees 07 minutes 46 seconds West along said fence line 200.00 feet; thence North 0 degrees 00 minutes 53 seconds West along an existing fence line 224.81 feet; thence North 0 degrees 32 minutes 20 seconds West along said fence line 179.40 feet to the point of beginning and containing 1.848 acres, more or less. Subject to right of way for County Road 300 South off the entire North side thereof and all other legal easements and rights of way of record.

Parcel II:

Part of the Northwest Quarter of Section 24, Township 18 North, Range 1 East, situated in Worth Township, Boone County, Indiana, and being more particularly described as follows:

Beginning at a point on the North line of said Quarter Section being North 89 degrees 35 minutes 46 seconds East (assumed basis of bearings) 966.41 feet from the Northwest Corner thereof, said point being 1708.41 feet to an existing fence line; thence South 89 degrees 26 minutes 36 seconds West along said fence line 136.85 feet; thence South 89 degrees 07 minutes 46 seconds West along said fence line 16.38 feet; thence North 0 degrees 14 minutes 46 seconds West 402.57 feet to the point of beginning and containing 1.410 acres, more or less. Subject to right of way for County Road 300 South off the entire North side thereof and all other legal easements and rights of way of record.

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Exhibit B

Commitments

Commitments Concerning the Use and Development of Real Estate

STATE OF INDIANA)
) SS:
COUNTY OF BOONE)

Pursuant to IC §36-7-4-1015, Bret and Shawna Reinhardt (hereinafter, "Owner") makes the following Commitments to the Whitestown Plan Commission regarding the hereinafter described Real Estate.

Description of Real Estate:

See Exhibit "A" attached hereto and incorporated herein.

Statement of Commitments:

1. To preserve the context of the area, the following uses should be prohibited as part of this rezoning:
   - Agricultural Credit Institutions; Auto License Bureaus; Automobile or Motorcycle Sales; Automobile Parts Supply; Automobile Repair, Animal Day Care Facility; Service Station; Banks & branch Banks; Billiard & pool Establishments; Boat Sales; Bowling Alleys; Coin Operated Laundry & Dry-cleaning; Commercial Testing Laboratories; Department Store; Detective Agencies & Protective Services; Diaper Service; Dinner Theater; Disinfecting & Exterminating Services; Fraternity, Sorority or Student Housing; Fuel Dealers; Group Residential Facility; Liquor Store; Lodge or Private Club; Mobile Home, Travel Trailer, Camper Sales & Service; Mortuary; Motion Picture Theater; Night Club; Parking Garage; Passenger Car Rental; Tavern; Tire, Battery & Accessory Dealers; Temporary Mobile Home; Tobacco Stores; Truck Sales, Rental, Leasing, Repair; Wholesale Business; Carry Out Restaurant;

2. Other land commitments from previous special exception approvals are also considered as part of the Whitestown Plan Commission rezoning commitments. See Exhibit B.a.

3. Upon further development of ancillary uses, the petitioner will seek appropriate planning and zoning approvals.

4. The rezoning shall not be effective until the subject property has been officially annexed into the corporate limits of the Town of Whitestown.

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Binding Effect:

These Commitments are binding on the owner of the Real Estate, each subsequent owner of the Real Estate, and each person acquiring an interest in the Real Estate, unless modified or terminated by operation of law or by the Whitestown Plan Commission or its successor.

Recording:

The undersigned authorizes the Director of the Whitestown Planning Department to record these Commitments in the Office of the Recorder of Boone County, Indiana, upon granting of the approval of Owner's proposed Development Plan for Docket PC17-011-ZA.

Enforcement:

These Commitments may be enforced by the Whitestown Plan Commission.

IN WITNESS WHEREOF, Owner executed these Commitments this _____ day of

_____, 2017.

By_____

Title_____

Printed_____

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STATE OF INDIANA)
)
COUNTY OF _____)

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared [OWNER], who acknowledged the execution of the foregoing Commitments.

WITNESS my hand and Notarial Seal this _____ day of _____, 2017.

Signed:_____

Printed:_____

Notary Public

My Commission Expires:

_____

My County of Residence is:

_____

This instrument was prepared by John R. Molitor, Attorney at Law.

"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."

Name: John R. Molitor

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Exhibit B.a

Commitments- Previously Approved Special Exception Commitments

Plan of Operation

Written Commitments and Restrictions
for
Zyntango Farm
Owner: Bret Reinhardt
5175 East County Road 300 South
Whitestown, IN 46075

December 17, 2014

Received By
Boone Co. APC
DEC 05 2014

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WRITTEN COMMITMENTS CONCERNING THE USE OR DEVELOPMENT OF REAL ESTATE MADE IN CONNECTION WITH A SPECIAL EXCEPTION APPROVAL

WHEREAS, Owner desires to make written commitments as to certain activities which are permitted on the property for the operation of an Outdoor Recreational Facility;

NOW THEREFORE, In accordance with the approval of a Special Exception petition number 14WO-7V-202, effective December 17, 2014 by the Boone County Board of Zoning Appeals, Petitioner hereby voluntarily makes the following written commitments and restrictions concerning the use and development of the property:

1. Primary Use of the Property. The current owner or subsequent owners of the Zyntango Farm at 5175 East County Road 300 South; Whitestown, IN 46075 (Parcel # 012-03640-01) shall continue the primary use of the property as a Farming Operation. The subject Farming operation will grow and sell organic produce on the property. The subject land uses, specifically, Farm and Roadside Produce Stand are determined and classified in the Boone County Zoning Ordinance, Table 2, Authorized Uses, as permitted by right in the General Agricultural Zoning District. Petitioner agree to adhere to, and comply with, all federal, state, and local laws, rules, and regulations relating to cultivating, harvesting, processing and sale of produce, food or any consumable product sold or offered on the property.

2. Ancillary Uses on the Property. The subject Special Exception for the Outdoor Recreational Facility allows the following ancillary uses on the property:

   A) Event Venue for Weddings, Scout Meetings, Birthday Parties, and other holiday socials representative to the farm heritage of the area;
   B) Existing Primary Residence;

3. Off-Site Catering-All events serving food and beverage will be catered by off-site facilities. No food preparation will occur on the site which is intended to serve patrons for any of the above mentioned events.

4. On-Site Parking-All patrons visiting the site will park vehicles on-site. No parking will be permitted at any time on County Road 300 South. The Boone County Zoning Ordinance requires Outdoor Recreational facilities to provide 5 parking spaces per acre. The design and connectivity of the parking lot will adhere to Section IV. P. Parking and Loading Standards.

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5. Lighting Commitment-In the event the need for any future lighting fixtures are necessary, the Area Plan Commission staff will review the design and size to ensure the lighting fixtures are harmonious with the design of the building, the type of land use, and the type of adjacent uses. If external spot or flood lighting is used, the light source should be shielded and restrained in such a manner so as not to illuminate or intrude on surrounding properties. Excessive brightness, flashing lights, and brilliant colors are not permitted.

6. Hours of Operation- The above mentioned Ancillary Uses subsection A will cease operation no later than 11:00 p.m. on the property.

7. Illegal Non-Conforming Uses-In the event any illegal non-conforming uses occur in the future on the property, upon review and vote in a public hearing, the Boone County Board of Zoning Appeals has the right to repeal the subject Special Exception for Outdoor Recreational Facility.

8. Exceeding, Modifying or Altering Written Commitments. In the event the current owner or subsequent owners would seek to alter, modify, or exceed any of the above mentioned written commitments, an appearance by the current owner would be required at a public hearing held by the Boone County Board of Zoning Appeals (BZA) for approval of any change to the said commitments.

IN WITNESS WHEREOF, the Owner has executed these Written Commitments Concerning the Use and Development of Real Estate Made in Connection with Special Exception approval this 05 day of DEC, 2014.

Zyntango Farm
By: _____
Bret Reinhardt, Owner

Notary Statement

Carla Hedrick Carla Hedrick
Sworn to and subscribed before me the Notary Public/Printed

5 day of DEC, 2014
Notary Public in and for the State of Indiana

Seal

My commission expires: 9-5-2020

Carla Hedrick Notary SEAL My Comm. Expires September 5, 2020 No. 638211 Public State of Indiana

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Attachment A
Recorded Instrument Number
Boone County Recorder Office Date:

Legal Description

Rachel Cardis, Executive Director Boone County Area Plan Commission, prepared this instrument.

"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."
Signed: Rachel Cardis

Title: Executive Director Boone County Area Plan Commission