

ORDINANCE NO. 2019-02

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

Zoning Map Amendments
PC18-045-ZA

WHEREAS, the Petitioner, Westport Homes, filed its Zoning Amendment Application before the Whitestown Plan Commission seeking to rezone approximately 189 acres, more or less, in the Town of Whitestown, Indiana, **from the AG (Agriculture) Zoning Classification and R2 (Low Density Single Family and Two Family Residential) to the PUD (Trailside PUD) Zoning Classification;** and

WHEREAS, pursuant to Indiana Code § 36-7-4-608, the Whitestown Plan Commission conducted the required public hearing and determined no recommendation, by a 5-0 vote, on November 19, 2018; and

WHEREAS, the Whitestown Plan Commission certified no recommendation to the Whitestown Town Council on November 19, 2018; 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, and the additional commitments of the Petitioner, now adopts the proposal and approves the requested rezoning amendment under the terms and conditions set forth herein.

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

Section 1. That the Applicant is Westport Homes.

Section 2. That the Applicant seeks to have the property described in Exhibit A, attached hereto and incorporated herein by reference ("Property"), which is currently located in the AG (Agriculture) and R2 (Low Density Single Family and Two Family Residential), rezoned to the PUD (Trailside PUD) Zoning Classification.

Section 3. In order to induce the Town Council and as a condition of granting the requested rezone of the Property, the Applicant has made certain written commitments attached hereto as Exhibit B and incorporated herein as a part of this Ordinance ("Commitments"). The rezone is subject to and contingent upon the Commitments. The Applicant shall further record this Ordinance and the Commitments in the chain of title for the Property.

Section 4. 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 5. That the Town Council hereby adopts the amendment to the zoning map with respect to the Property, such that the Property is rezoned to the PUD (Trailside PUD) Zoning Classification subject to the Commitments.

Section 6. This Ordinance shall be in full force and effect from and after its passage and upon presentation of proof by Applicant to the Town that this Ordinance and the Commitments have been recorded.

ALL OF WHICH IS ADOPTED this ____ day of _____, 2019, by the Town Council of the Town of Whitestown, Indiana.

TOWN COUNCIL OF WHITESTOWN, INDIANA.

Clinton Bohm, President

Kevin Russell

Susan Austin, Vice President

Jeff Wishek

Eric Miller

ATTEST:

Matt Sumner, Town Clerk-Treasurer

Ordinance prepared by Brittany Garriott, Town Planner

Exhibit A

Legal Description

PARCEL 1:

PART OF THE WEST HALF OF SECTION 18, TOWNSHIP 18 NORTH, RANGE 2 EAST, WORTH TOWNSHIP, BOONE COUNTY, INDIANA,

DESCRIBED AS FOLLOWS:

BEGINNING AT A HARRISON MONUMENT FOUND MARKING THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER OF SAID SECTION 18; THENCE NORTH 00 DEGREES 48 MINUTES 45 SECONDS WEST 672.52 FEET ALONG THE WEST LINE OF THE NORTHWEST QUARTER OF SAID SECTION 18 TO A FIVE EIGHTHS (5/8) INCH DIAMETER REBAR WITH BLUE PLASTIC CAP STAMPED "HAUSE PLS20600040" (HEREAFTER CALLED CAPPED REBAR); THENCE NORTH 87 DEGREES 47 MINUTES 21 SECONDS EAST 1495.52 FEET TO A CAPPED REBAR; THENCE SOUTH 00 DEGREES 58 MINUTES 27 SECONDS EAST 670.52 FEET TO THE SOUTH LINE OF THE NORTHWEST QUARTER OF SAID SECTION 18 AND A CAPPED REBAR; THENCE SOUTH 00 DEGREES 42 MINUTES 22 SECONDS EAST 2307.74 FEET TO THE NORTHERN RIGHT- OF-WAY OF THE FORMER C.C.C. & ST. L. RAILROAD AND A CAPPED REBAR; THENCE NORTH 64 DEGREES 25 MINUTES 19 SECONDS WEST 1667.75 FEET ALONG SAID NORTHERN RIGHT-OF-WAY TO THE WEST LINE OF THE SOUTHWEST QUARTER OF SAID SECTOR 18 AND A CAPPED REBAR; THENCE NORTH 00 DEGREES 45 MINUTES 54 SECONDS WEST 1527.94 FEET ALONG THE WEST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 18 TO THE POINT OF BEGINNING. CONTAINING 88.92 ACRES, MORE OR LESS.

PARCEL 2:

PART OF THE NORTHWEST QUARTER AND PART OF THE SOUTHWEST QUARTER OF SECTION 18, TOWNSHIP 18 NORTH, RANGE 2 EAST, WORTH TOWNSHIP, BOONE COUNTY, INDIANA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF THE NORTHWEST QUARTER OF SAID SECTION 18; THENCE ALONG THE SECTION LINE AND AN EAST DESCRIBED LINE OF THE RALPH C. SHUMATE & CLAY F. SHUMATE PROPERTY RECORDED IN DEED RECORD 231, PAGE 487 BOONE COUNTY RECORDER'S OFFICE, NORTH 00 DEGREES 48 MINUTES 28 SECONDS WEST (ASSUMED BEARING) 672.52 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING ALONG THE SECTION LINE AND THE EAST LINE OF SAID SHUMATE PROPERTY; NORTH 00 DEGREES 48 MINUTES 28 SECONDS WEST 497.37 FEET; THENCE ALONG A SOUTH DESCRIBED LINE OF THE JACK R. CRANE REVOCABLE TRUST PROPERTY RECORDED IN DEED RECORD 254, PAGE 912, NORTH 87 DEGREES 49 MINUTES 32 SECONDS EAST 1493.33 FEET; THENCE ALONG A WEST DESCRIBED LINE OF THE EDGAR O. HAMMERLE & NADINE HAMMERLE PROPERTY

RECORDED AS INSTRUMENT NUMBER 0309432, SOUTH 01 DEGREES 03MINUTES 28 SECONDS EAST 406.84 FEET; THENCE ALONG A SOUTH DESCRIBED LINE OF SAID HAMMERLE PROPERTY AND THE APPROXIMATE CENTER LINE OF THE PIPES LEGAL TILE DRAIN, NORTH 86 DEGREES 46 MINUTES 56 SECONDS EAST 1314.79 FEET; THENCE ALONG THE APPROXIMATE CENTER LINE OF COUNTY ROAD 650 EAST AND THE QUARTER SECTION LINE, SOUTH 00 DEGREES 36 MINUTES 10 SECONDS EAST, 1765.04 FEET; THENCE SOUTH 88 DEGREES 25 MINUTES 17 SECONDS WEST, 1305.80 FEET; THENCE ALONG AN EAST DESCRIBED LINE OF THE JUNE G. WYMAN PROPERTY RECORDED IN DEED RECORD 194, PAGE 996, NORTH 00 DEGREES 42MINUTES 22 SECONDS WEST 960.99 FEET; THENCE ALONG AN EAST DESCRIBED LINE OF SAID WYMAN PROPERTY, NORTH 01 DEGREES 03 MINUTES 28 SECONDS WEST 676.66 FEET; THENCE ALONG A NORTH DESCRIBED LINE OF SAID WYMAN PROPERTY, SOUTH 87 DEGREES 47 MINUTES 38 SECONDS WEST 1495.52 FEET TO THE POINT OF BEGINNING. CONTAINING 69.49 ACRES, MORE OR LESS)

PARCEL 3:

PART OF THE EAST HALF OF THE SOUTHWEST QUARTER OF SECTION 18, TOWNSHIP 18 NORTH, RANGE 2 EAST, WORTH TOWNSHIP, BOONE COUNTY, INDIANA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF THE SOUTHWEST QUARTER OF SAID SECTION 18; THENCE ALONG THE APPROXIMATE CENTER LINE OF COUNTY ROAD 650 EAST AND THE QUARTER SECTION LINE, SOUTH 00 DEGREES 36 MINUTES 10 SECONDS (ASSUMED BEARING) EAST 971.67 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING ALONG THE APPROXIMATE CENTER LINE OF COUNTY ROAD 650 EAST AND THE QUARTER SECTION LINE, SOUTH 00 DEGREES 36 MINUTES 10 SECONDS EAST 419.76 FEET; THENCE ALONG A NORTH DESCRIBED LINE OF THE KEITH D. TITUS & NANCY D. TITUS PROPERTY RECORDED AS INSTRUMENT NUMBER 0307787, BOONE COUNTY RECORDER'S OFFICE, SOUTH 88 DEGREES 20 MINUTES 24 SECONDS WEST 200.00 FEET; THENCE ALONG A WEST DESCRIBED LINE OF SAID TITUS PROPERTY AND A WEST DESCRIBED LINE OF THE PHILLIP M. GODBY AND ANNE L. GODBY PROPERTY RECORDED IN DEED RECORD 235, PAGE 141, SOUTH 00 DEGREES 36 MINUTES 10 SECONDS EAST 200.00 FEET; THENCE ALONG A NORTH DESCRIBED LINE OF THE WAYNE E. ALLEN PROPERTY RECORDED AS INSTRUMENT NUMBER 0113594, SOUTH 88 DEGREES 20 MINUTES 24 SECONDS WEST 214.50 FEET; THENCE ALONG AN EAST DESCRIBED LINE OF THE DONALD R. CLARK & VIRGINIA L. CLARK PROPERTY RECORDED IN DEED RECORD 190, PAGE 320, NORTH 00 DEGREES 36 MINUTES 10 SECONDS WEST 376.08 FEET; THENCE ALONG A NORTH DESCRIBED LINE OF SAID CLARK PROPERTY, SOUTH 88 DEGREES 20 MINUTES 24 SECONDS WEST 890.89 FEET, THENCE ALONG AN EAST DESCRIBED LINE OF THE JUNE G. WYMAN PROPERTY RECORDED IN DEED RECORD 199, PAGE 998, NORTH 00 DEGREES 42 MINUTES 22 SECONDS WEST 245.53 FEET; THENCE NORTH 88 DEGREES 25 MINUTES 17 SECONDS EAST 1305.80 FEET TO THE POINT OF BEGINNING, CONTAINING 9.990 ACRES, MORE OR LESS.

EXCEPTING THEREFROM:

A PART OF THE EAST HALF OF THE SOUTHWEST QUARTER OF SECTION 18, TOWNSHIP 18 NORTH, RANGE 2 EAST, WORTH TOWNSHIP, BOONE COUNTY, INDIANA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF THE SOUTHWEST QUARTER OF SAID SECTION 18; THENCE SOUTH 00 DEGREES 35 MINUTES 32 SECONDS EAST 1038.14 FEET ALONG THE EAST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 18 TO A MAGNETIC NAIL WITH METAL WASHER STAMPED "HAUSE PCS20600040" (HEREAFTER CALLED MAG NAIL WITH WASHER), SAID POINT BEING THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE CONTINUING SOUTH 00 DEGREES 35 MINUTES 32 SECONDS EAST 177.21 FEET ALONG THE EAST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 18 TO A MAG NAIL WITH WASHER: THENCE SOUTH 88 DEGREES 21 MINUTES 02 SECONDS WEST 306.99 FEET TO A FIVE EIGHTHS (5/8) INCH DIAMETER REBAR WITH BLUE PLASTIC STAMPED :HAUSE PLS20600040" (HEREAFTER CALLED CAPPED REBAR); THENCE NORTH 01 DEGREES 48 MINUTES 20 SECONDS WEST 177.18 FEET TO A CAPPED REBAR;

THENCE NORTH 88 DEGREES 21 MINUTES 02 SECONDS EAST 310.74 FEET TO THE POINT OF BEGINNING. CONTAINING 1.26 ACRES, MORE OR LESS.

DESCRIPTION (CLARK PARCELS)

A PART OF THE EAST HALF OF THE SOUTHWEST QUARTER OF SECTION 18, TOWNSHIP 18 NORTH, RANGE 2 EAST OF THE SECOND PRINCIPAL MERIDIAN, IN WORTH TOWNSHIP, BOONE COUNTY, INDIANA, DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT WHICH IS 18 CHAINS 33 1/3 LINKS SOUTH AND 6 CHAINS 33 1/3 LINKS WEST OF THE NORTHEAST CORNER OF THE EAST HALF OF THE SOUTHWEST QUARTER OF SECTION 18, TOWNSHIP 18 NORTH, RANGE 2 EAST, AND RUN THENCE WEST 13 CHAINS 66 2/3 LINKS TO THE WEST LINE OF SAID TRACT; THENCE SOUTH 16 CHAINS 6 LINKS TO THE NORTH LINE OF THE RIGHT OF WAY OF THE INDIANAPOLIS AND NORTHWESTERN TRACTION COMPANY; THENCE WITH SAID NORTH LINE OF SAID RIGHT OF WAY OF SAID TRACTION COMPANY, SOUTH 75 DEGREES 19 MINUTES EAST 2 CHAINS 19 LINKS; THENCE WITH SAID NORTH LINE OF SAID RIGHT OF WAY OF SAID TRACTION COMPANY, SOUTH 82 DEGREES 2 MINUTES EAST, 1 CHAIN 51 LINKS; THENCE WITH SAID NORTH LINE OF SAID RIGHT OF WAY OF SAID TRACTION COMPANY EAST 9 CHAINS 95 LINKS; THENCE NORTH 5 CHAINS 78 2/3 LINKS; THENCE EAST 6 CHAINS 48 1/3 LINKS TO THE EAST LINE OF SAID TRACT; THENCE NORTH 22 1/2 LINK; THENCE WEST 6 CHAINS 33 1/3 LINKS; THENCE NORTH 10 CHAINS 77 2/3 LINKS TO THE PLACE OF BEGINNING. CONTAINING 22 2/3 ACRES, MORE OR LESS.

ALSO:

A PART OF THE EAST HALF OF THE SOUTHWEST QUARTER OF SECTION 18, TOWNSHIP 18 NORTH, RANGE 2 EAST OF THE SECOND PRINCIPAL MERIDIAN IN WORTH TOWNSHIP, BOONE COUNTY, INDIANA, DESCRIBED AS FOLLOWS:

COMMENCING 335 FEET NORTH OF THE SOUTHWEST CORNER OF SAID HALF QUARTER SECTION AND RUN THENCE NORTH 48 1/2 FEET; THENCE SOUTH 76 DEGREES 34 MINUTES EAST 147 FEET; THENCE SOUTH 84 DEGREES 38 MINUTES EAST 100 FEET; THENCE EAST 653 FEET; THENCE SOUTH 20 FEET; THENCE WEST 853 FEET TO THE NORTH LINE OF THE RIGHT OF WAY OF THE C.C.C. AND ST. L. RAILROAD; THENCE NORTH 62 DEGREES 42 MINUTES WEST 48 FEET TO THE PLACE OF BEGINNING.

EXCEPTING THEREFROM:

THAT PART CONVEYED BY WARRANTY DEED TO MISSION BAPTIST CHURCH RECORDED JANUARY 20, 1965 IN DEED RECORD 179 PAGE 232, IN WORTH TOWNSHIP, BOONE COUNTY, INDIANA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT 10 CHAINS AND 14 1/2 LINKS NORTH OF THE SOUTHEAST CORNER OF THE EAST HALF OF THE SOUTHWEST QUARTER OF SECTION 18, TOWNSHIP 18 NORTH, RANGE 2 EAST, AND RUNNING THENCE NORTH 64.91 FEET; THENCE WEST 414 1/2 FEET; THENCE SOUTH 64.91 FEET; THENCE EAST 414 1/2 FEET TO THE PLACE OF BEGINNING.

FURTHER EXCEPTING THEREFROM:

THAT PART CONVEYED BY QUIT CLAIM DEED TO EBENEZER BAPTIST CHURCH, INC. RECORDED JUNE 22, 2006 AS INSTRUMENT NO. 200600006666 AND RE-RECORDED AS INSTRUMENT NO. 200800002073, IN WORTH TOWNSHIP, BOONE COUNTY, INDIANA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF THE SOUTHWEST QUARTER OF SECTION 18; THENCE ALONG THE EAST LINE OF SAID SOUTHWEST QUARTER NORTH 00 DEGREES 39 MINUTES 30 SECONDS WEST 524.41 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 89 DEGREES 15 MINUTES 52 SECONDS WEST 414.54 FEET; THENCE NORTH 00 DEGREES 29 MINUTES 05 SECONDS EAST 10.82 FEET; THENCE NORTH 89 DEGREES 59 MINUTES 14 SECONDS WEST FOR A DISTANCE OF 223.28 FEET; THENCE NORTH 00 DEGREES 08 MINUTES 58 SECONDS WEST 250.81 FEET; THENCE SOUTH 89 DEGREES 59 MINUTES 14 EAST 226.77 FEET; THENCE SOUTH 00 DEGREES 22 MINUTES 23 SECONDS EAST 76.13 FEET; THENCE NORTH 88 DEGREES 52 MINUTES 29 SECONDS EAST 413.58 FEET; THENCE SOUTH 00 DEGREES 07 MINUTES 14 SECONDS WEST FOR A DISTANCE OF 187.88 FEET TO THE POINT OF BEGINNING.

Exhibit B

Commitments

Proposed Commitments for Trailside Neighborhood Whitestown, Indiana

Case No.: PC18-045-ZA – Trailside PUD Zoning Amendment (“Rezoning Petition”)

Westport Homes, Inc. (“Petitioner”) by counsel, hereby agrees that the following commitments shall be delivered to the Whitestown Town Council (“Town Council”) in connection with its hearing of the Rezoning Petition on January 23, 2019. The Town Council’s approval of the Rezoning Petition shall be conditioned on the following commitments by the Petitioner:

1. Petitioner agrees that the development plan for the Trailside Neighborhood (“Trailside”) shall not allow vehicle access from Uitts Street into Trailside; provided that if the Whitestown Fire Department desires emergency vehicle access from Uitts Street into Trailside, Petitioner at its expense, shall install an emergency access entrance (“Emergency Entrance”) to Trailside off of Uitts Street at a location approved by the Whitestown Fire Department at the southeast corner of Trailside and such emergency entrance shall either be blocked with a “knox box” type gate or have bollards installed to prevent vehicles (except for Whitestown Fire Department vehicles) from entering Trailside through the Emergency Entrance;
2. Instead of providing for vehicle access off of Uitts Street into Trailside, as part of Petitioner’s detailed development plan application for Trailside (“Detailed Development Plan”), Petitioner shall install a second entrance to Trailside off of CR 650 E. Both entrances on CR 650 E. into Trailside shall include decel lanes and a left turn lane at each entrance to Trailside along CR 650 E.; and
3. Petitioner shall add additional green space to the southeast and northwest areas of Trailside. As part of Petitioner’s application for Detailed Development Plan approval, Petitioner shall submit a concept plan revising the concept plan dated October 10, 2018, filed with the Rezoning Petition, to include additional “green space” common areas in the southeast and northwest areas of Trailside. Petitioner, shall meet with the Whitestown Parks Department and obtain their input regarding such additional green space areas.
4. Prior to completion of development of Trailside, Petitioner at its expense, shall install a sidewalk within Whitestown’s existing right-of-way on the north side of Uitts Street along Trailside’s frontage on Uitts Street.