

ORDINANCE NO. 2022- 19

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

Zoning Map Amendments
PC22-016-ZA

WHEREAS, the Petitioner, Braun Property Development, LLC per Brian J Tuohy, filed its Zoning Amendment Application before the Whitestown Plan Commission seeking to rezone approximately 382 acres, more or less, in the Town of Whitestown, Indiana, **from the Medium-density Single-family and Two-family Residential (R-3) and General Agriculture (AG) Zoning Classifications to the Light Industrial (I-1) Zoning Classification;** and

WHEREAS, pursuant to Indiana Code § 36-7-4-608, the Whitestown Plan Commission conducted the required public hearing and determined favorable recommendation subject to certain commitments to which petitioner agreed, by a 7-0 vote, on April 11, 2022; and

WHEREAS, the Whitestown Plan Commission certified favorable recommendation to the Whitestown Town Council on April 11, 2022 subject to the same commitments; 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 amendment.

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

- Section 1.** That the Applicant is Braun Property Development, LLC per Brian J Tuohy on behalf of Richard & Patricia Daupert and Brent & Tricia Smith, Owners.
- Section 2.** That the Applicant seeks to have the described property attached hereto as Exhibit A, which is currently located in the Medium-density Single-family and Two-family Residential (R-3) and General Agriculture (AG) Zoning Classifications to the Light Industrial (I-1) 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 Light Industrial (I-1) Zoning Classification.

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

ALL OF WHICH IS ADOPTED this 11th day of May, 2022, by the Town Council of the Town of Whitestown, Indiana.


TOWN COUNCIL OF WHITESTOWN, INDIANA.

DocuSigned by:

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Clinton Bohm, President

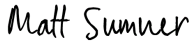
DocuSigned by:

D9213E3E412D441...
Rob Worl

Eric Miller, Vice President

Jeff Wishek

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Susan Austin

ATTEST:

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Matt Sumner, Town Clerk-Treasurer

Ordinance prepared by Jill Conniff, Planning Staff

Exhibit A

Legal Description

PART OF THE NORTH HALF OF SECTION 2, TOWNSHIP 17 NORTH, RANGE 1 EAST, PART OF THE SOUTHEAST QUARTER OF SECTION 34, TOWNSHIP 18 NORTH, RANGE 1 EAST AND PART OF THE SOUTH HALF OF SECTION 35, TOWNSHIP 18 NORTH, RANGE 1 EAST, ALL IN BOONE COUNTY, INDIANA, AND BEING ALL OF TRACTS I, II AND III OF THE LAND DESCRIBED IN INSTRUMENT NUMBER 2001-412 AND ALSO ALL OF THE LAND DESCRIBED IN INSTRUMENT NUMBER 2001- 1431 AS RECORDED IN THE OFFICE OF THE RECORDER OF SAID COUNTY, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A P.K. NAIL AT THE SOUTHWEST CORNER OF THE NORTHWEST QUARTER OF SAID SECTION 2 (THE BEARING OF THE SOUTH LINE THEREOF BEING NORTH 89 DEGREES 35 MINUTES 11 SECONDS EAST PER SAID INSTRUMENT 2001-412); THENCE NORTH 00 DEGREES 55 MINUTES 16 SECONDS WEST A DISTANCE OF 2662.77 FEET TO A 5/8 INCH DIAMETER STEEL REBAR WITH YELLOW CAP (HEREINAFTER REFERRED TO AS "REBAR") ON THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 35; THENCE SOUTH 88 DEGREES 33 MINUTES 12 SECONDS WEST ALONG SAID SOUTH LINE A DISTANCE OF 122.45 FEET TO THE SOUTHWEST CORNER THEREOF; THENCE NORTH 00 DEGREES 49 MINUTES 51 SECONDS WEST ALONG THE WEST LINE OF SAID SOUTHWEST QUARTER A DISTANCE OF 1590.05 FEET; THENCE SOUTH 88 DEGREES 43 MINUTES 27 SECONDS WEST PARALLEL WITH THE NORTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 34 A DISTANCE OF 1326.35 FEET TO THE CENTERLINE OF STATE ROAD 267; THENCE NORTH 00 DEGREES 36 MINUTES 48 SECONDS WEST ALONG SAID CENTERLINE A DISTANCE OF 271.98 FEET; THENCE NORTH 89 DEGREES 23 MINUTES 10 SECONDS EAST A DISTANCE OF 157.72 FEET TO A POINT ON A TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 80.00 FEET, THE RADIUS POINT OF WHICH BEARS NORTH 00 DEGREES 36 MINUTES 50 SECONDS WEST; THENCE NORTHEASTERLY ALONG SAID CURVE AN ARC DISTANCE OF 37.41 FEET TO A POINT WHICH BEARS SOUTH 27 DEGREES 24 MINUTES 17 SECONDS EAST FROM SAID RADIUS POINT; THENCE SOUTH 29 DEGREES 10 MINUTES 32 SECONDS EAST A DISTANCE OF 31.76 FEET TO A POINT ON A NON-TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 170.00 FEET, THE RADIUS POINT OF WHICH BEARS NORTH 29 DEGREES 10 MINUTES 32 SECONDS WEST; THENCE NORTHEASTERLY AN ARC DISTANCE OF 66.57 FEET TO A POINT WHICH BEARS SOUTH 51 DEGREES 36 MINUTES 48 SECONDS EAST FROM SAID RADIUS POINT; THENCE NORTH 51 DEGREES 36 MINUTES 48 SECONDS WEST A DISTANCE OF 37.57 FEET; THENCE NORTH 27 DEGREES 24 MINUTES 16 SECONDS EAST A DISTANCE OF 13.23 FEET; THENCE NORTH 01 DEGREES 15 MINUTES 24 SECONDS WEST A DISTANCE OF 497.65 FEET; THENCE NORTH 88 DEGREES 43 MINUTES 27 SECONDS EAST PARALLEL WITH SAID NORTH LINE A DISTANCE OF 951.97 FEET; THENCE SOUTH 00 DEGREES 49 MINUTES 51 SECONDS EAST PARALLEL WITH THE EAST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 34 A DISTANCE OF 221.50 FEET; THENCE NORTH 88 DEGREES 43 MINUTES 27 SECONDS EAST PARALLEL WITH THE NORTH LINE OF SAID SOUTHEAST QUARTER SECTION A DISTANCE OF 140.00 FEET TO THE EAST LINE OF SAID SOUTHEAST QUARTER SECTION; THENCE SOUTH 88 DEGREES 44 MINUTES 14 SECONDS EAST A DISTANCE OF 591.15 FEET; THENCE NORTH 00 DEGREES 38 MINUTES 38 SECONDS WEST A DISTANCE OF 490.50 FEET TO THE NORTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 35; THENCE NORTH 88 DEGREES 27 MINUTES 17 SECONDS EAST ALONG SAID NORTH LINE A DISTANCE OF 783.46 FEET TO THE WEST LINE OF FALLING WATERS SUBDIVISION RECORDED IN PLAT BOOK 3, PAGE 150 IN SAID RECORDER'S OFFICE (THE FOLLOWING NINE (9) COURSES BEING ALONG THE SOUTHERN LINES THEREOF); (1) THENCE SOUTH 01 DEGREES 32 MINUTES 43 SECONDS EAST 30.00 FEET; (2) THENCE SOUTH 45 DEGREES 58 MINUTES 34 SECONDS EAST 328.02 FEET; (3) THENCE NORTH 71 DEGREES 20 MINUTES 56 SECONDS EAST 321.43 FEET; (4) THENCE SOUTH 20 DEGREES 07 MINUTES 07 SECONDS EAST 16.64 FEET; (5) THENCE NORTH 68 DEGREES 24 MINUTES 56 SECONDS EAST 163.53 FEET; (6) THENCE SOUTH 20 DEGREES 12 MINUTES 06 SECONDS EAST 113.51 FEET; (7) THENCE NORTH 82 DEGREES 54 MINUTES 03 SECONDS EAST 72.32 FEET; (8) THENCE NORTH 88 DEGREES 27 MINUTES 17 SECONDS EAST 22.16 FEET; (9) THENCE SOUTH 45 DEGREES 57 MINUTES 53 SECONDS EAST 677.33 FEET TO THE EAST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 35; THENCE SOUTH 00 DEGREES 32 MINUTES 16 SECONDS EAST ALONG SAID EAST LINE A DISTANCE OF 679.61 FEET TO THE NORTHWEST CORNER OF LAND DESCRIBED IN SAID INSTRUMENT NUMBER 2001-1431; THENCE NORTH 88 DEGREES 32 MINUTES 42 SECONDS EAST PARALLEL WITH THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 35 A DISTANCE OF 1337.73 FEET TO A POINT ON THE EAST LINE OF THE WEST HALF OF THE SOUTHEAST QUARTER OF SAID SECTION 35; THENCE SOUTH 00 DEGREES 52 MINUTES 08 SECONDS EAST ALONG

SAID EAST LINE A DISTANCE OF 1266.55 FEET TO THE SOUTHEAST CORNER OF SAID WEST HALF QUARTER SECTION; THENCE NORTH 88 DEGREES 32 MINUTES 42 SECONDS EAST ALONG THE NORTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 2 A DISTANCE OF 29.69 FEET TO THE NORTHWEST CORNER THEREOF; THENCE SOUTH 01 DEGREES 28 MINUTES 26 SECONDS EAST ALONG THE EAST LINE OF THE WEST HALF OF SAID NORTHEAST QUARTER OF SECTION 2 A DISTANCE OF 311.42 FEET; THENCE SOUTH 89 DEGREES 01 MINUTES 44 SECONDS WEST PARALLEL WITH THE SOUTH LINE OF THE NORTH HALF OF SAID NORTHEAST QUARTER A DISTANCE OF 1006.43 FEET TO A POINT WHICH LIES 332.64 FEET EAST (BY PERPENDICULAR DISTANCE) FROM THE WEST LINE OF SAID NORTHEAST QUARTER OF SAID SECTION 2; THENCE SOUTH 01 DEGREES 59 MINUTES 19 SECONDS EAST PARALLEL WITH SAID WEST LINE A DISTANCE OF 1055.02 FEET TO THE SOUTH LINE OF THE NORTH HALF OF SAID NORTHEAST QUARTER OF SECTION 2; THENCE SOUTH 89 DEGREES 01 MINUTES 44 SECONDS WEST ALONG SAID SOUTH LINE A DISTANCE OF 332.69 FEET TO THE SOUTHEAST CORNER OF THE NORTH HALF OF SAID NORTHWEST QUARTER OF SAID SECTION 2; THENCE SOUTH 89 DEGREES 04 MINUTES 29 SECONDS WEST ALONG THE SOUTH LINE OF THE NORTH HALF OF SAID NORTHWEST QUARTER OF SECTION 2 A DISTANCE OF 652.67 FEET; THENCE SOUTH 01 DEGREES 43 MINUTES 32 SECONDS EAST ALONG THE EAST LINE OF THE WEST HALF OF THE SOUTHEAST QUARTER OF SAID NORTHWEST QUARTER A DISTANCE OF 1090.69 FEET TO A REBAR WHICH BEARS NORTH 01 DEGREES 43 MINUTES 32 SECONDS WEST A DISTANCE OF 258.49 FEET FROM THE SOUTHEAST CORNER OF SAID HALF QUARTER QUARTER SECTION; THENCE SOUTH 87 DEGREES 59 MINUTES 26 SECONDS WEST A DISTANCE OF 430.75 FEET TO A REBAR; THENCE SOUTH 01 DEGREES 27 MINUTES 35 SECONDS EAST PARALLEL WITH THE WEST LINE OF SAID SOUTHEAST QUARTER QUARTER A DISTANCE OF 246.46 FEET TO THE SOUTH LINE OF THE NORTHWEST QUARTER OF SAID SECTION 2; THENCE SOUTH 89 DEGREES 35 MINUTES 11 SECONDS WEST ALONG SAID SOUTH LINE A DISTANCE OF 746.85 FEET TO A P.K. NAIL; THENCE NORTH 00 DEGREES 41 MINUTES 33 SECONDS EAST A DISTANCE OF 296.49 FEET TO A REBAR; THENCE SOUTH 89 DEGREES 35 MINUTES 11 SECONDS WEST PARALLEL WITH SAID SOUTH LINE A DISTANCE OF 354.75 FEET TO A REBAR; THENCE SOUTH 00 DEGREES 55 MINUTES 16 SECONDS EAST A DISTANCE OF 296.45 FEET TO A P.K. NAIL ON THE SOUTH LINE OF SAID NORTHWEST QUARTER; THENCE SOUTH 89 DEGREES 35 MINUTES 11 SECONDS WEST ALONG SAID SOUTH LINE A DISTANCE OF 431.80 FEET TO THE POINT OF BEGINNING, CONTAINING 361.981 ACRES, MORE OR LESS.

AND THE EAST HALF OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 2, TOWNSHIP 17 NORTH, RANGE 1 EAST CONTAINING 20 ACRES MORE OR LESS, EXCEPTING THEREFROM THE LAND PREVIOUSLY CONVEYED BY GRANTORS TO GRANTEEES FROM SAID REAL ESTATE.

Exhibit B

Commitments

1. When the Petitioner files a petition for Development Plan approval relating to improvements proposed for each phase of the Site, Petitioner agrees to schedule an informational meeting with neighboring property owners to discuss such improvements.
2. Petitioner agrees that prior to the construction of any buildings within the area labeled "Phase 4" on the attached Exhibit A, Petitioner's engineers shall prepare a Line of Sight study to determine appropriate reasonable landscaping for screening purposes between the buildings within the "Phase 4" area and adjacent residential properties. At minimum, Petitioner agrees to install an approximately six-foot (6') tall landscaped berm (including a mixture of fast growing tree species and slow growing tree species, along with grasses, native perennial flowering plants and bushes) with a six-foot (6') tall fence along the area of the Site as approximately depicted on the attached Exhibit A. Such berm and landscaping will be installed prior to occupancy of buildings in Phase 4 of the development.
3. Petitioner agrees that the exterior colors of any buildings constructed on the Site shall be selected using reasonable efforts to reduce reflection and glare from the exteriors of such buildings. Buildings within the development will not be painted white, and the color of the exterior of the buildings will be neutral/natural colors (grey, green, blue).
4. Any ponds installed within the Site shall be professionally treated at least three (3) times per year and maintained in order to reduce algae, moss, cattails and smell. Roadside barriers of wood, composite or other material approved by the Town of Whitestown ("Town") shall be installed in areas approved by the Town.
5. The area labeled "Delineated Wetland Area" on the attached Exhibit A shall be maintained as a green area within the Site, provided that dead and/or diseased trees and other foliage will be removed. Additional trees and native grasses shall be added to the area.
6. In coordination with and with approval from the Boone County Surveyors Office and Boone County Drainage Board, Petitioner shall clear dead and/or diseased trees and debris from White Lick Creek adjacent to each development phase.
7. Walking paths shall be installed within the development as approved during the Development Plan approval process, within the guidelines of State requirements regarding improvements in floodways and plains. Such paths shall provide connections near CR 550 S and between the phases of the development.

8. Lights installed on buildings in the development shall be placed on lower portions of the buildings, shall be shielded and of yellow color. Street lighting shall be directed downward and shielded.
9. Landscaped areas within the development shall include a mixture of fast growing tree species and slow growing tree species, native perennial flowering plants and bushes.
10. During the development of the Site, the areas bordering residential neighbors shall be kept reasonably free of debris. Petitioner shall use reasonable efforts to control Canadian Thistle.
11. Petitioner will direct contractors to prohibit construction traffic entering the Site from using CR 550 S.

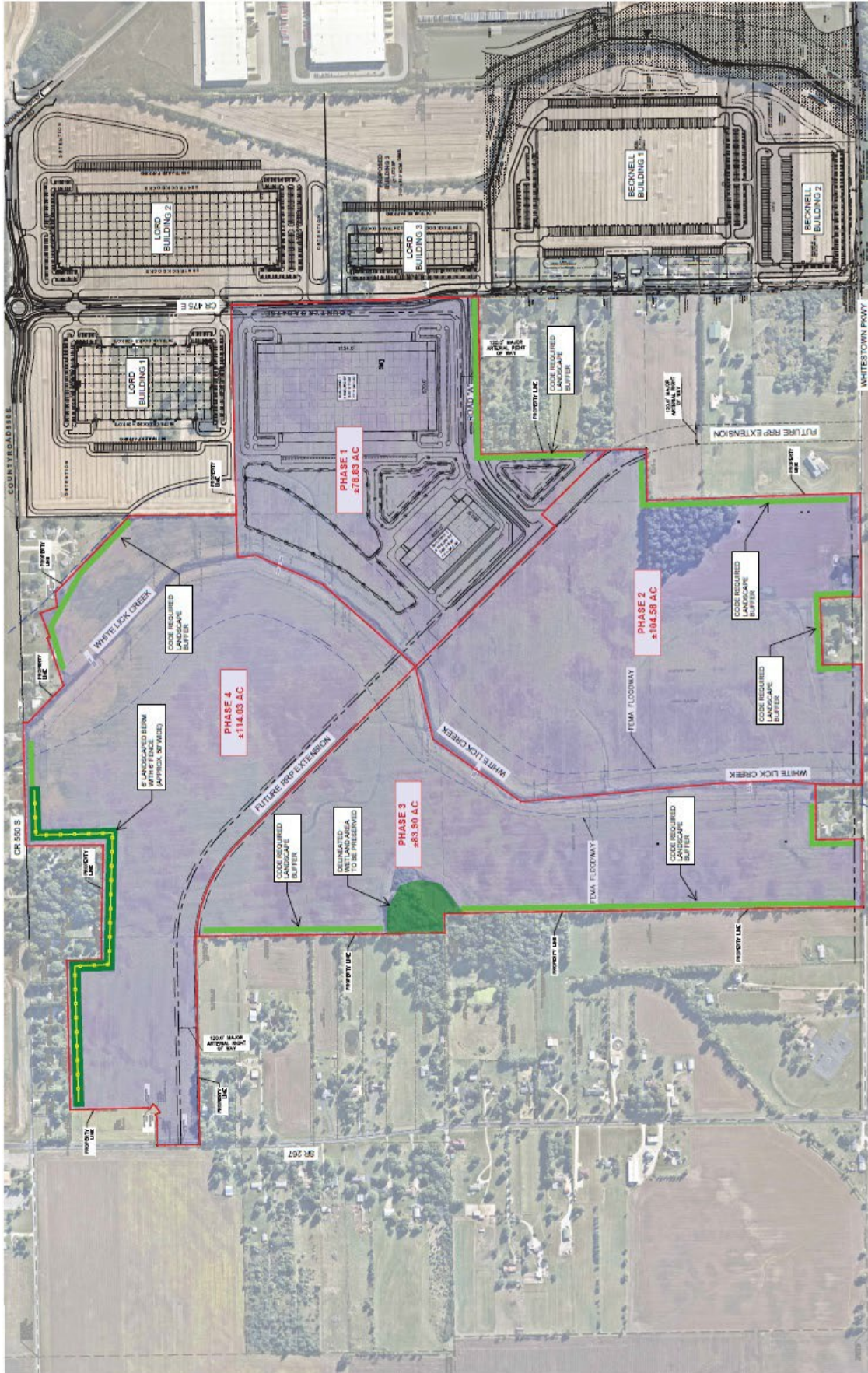
BRAUN PROPERTY DEVELOPMENT, LLC



By: Adam Braun, President

Date: 5/2/2022

EXHIBIT A



Kimley»Horn

**BRAUN PROPERTY DEVELOPMENT
WHITESTOWN COMMERCE PARK**

PHASING PLAN
March 31, 2022