

**ORIGINAL****ORDINANCE NO. 2022- 39****AN ORDINANCE AMENDING ZONING MAPS WITHIN THE ZONING ORDINANCE  
OF THE TOWN OF WHITESTOWN, INDIANA****Zoning Map Amendments  
PC22-063-ZA**

WHEREAS, the Petitioner, Pulte Homes of Indiana, LLC., filed its Zoning Amendment Application before the Whitestown Plan Commission seeking to rezone approximately 1.5 acres, more or less, in the Town of Whitestown, Indiana, **from the General Agriculture (AG) Zoning Classifications to the Planned Unit Development – Peabody (PUD) Zoning Classification**; and to rezone approximately 287 acres, more or less in the Town of Whitestown, Indiana, **to a revised Peabody PUD Zoning Classification**.

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 5-0 vote, on October 10, 2022; and

WHEREAS, the Whitestown Plan Commission certified favorable recommendation to the Whitestown Town Council on October 10, 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 as described in Exhibit B.

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

**Section 1.** That the Applicant is Pulte Homes of Indiana, LLC. on behalf of Peabody Family Farm, LLC and Sara Shelton, Owners.

**Section 2.** That the Applicant seeks to have the described property attached hereto as Exhibit A, which is currently located in the General Agriculture (AG) and Peabody PUD Zoning Classifications to the revised Planned Unit Development – Peabody (PUD) Zoning Classification;

**Section 3.** Pursuant to Indiana Code § 36-7-4-1500 series, a PUD District ordinance to be known as the Peabody Planned Unit Development District attached hereto as Exhibit B, is hereby adopted for the property. Pursuant to Indiana Code § 36-7-4-1509 (a)(1), the purpose of this Ordinance is to express in general terms the development requirements that will apply to the development of the real property included in this District Area.

**Section 4.** In order to induce to 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 C and incorporated herein as a part of this Ordinance ("Commitments"). The Applicant shall further record this Ordinance and the Commitments in the chain of title for the Property.

**Section 5.** 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 6.** That the Town Council hereby adopts the amendment to the zoning map with respect to the Property, such that the Property is rezoned to Planned Unit Development – Peabody (PUD) Zoning Classification.

**Section 7.** 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 9th day of November, 2022, by the Town Council of the Town of Whitestown, Indiana.

TOWN COUNCIL OF WHITESTOWN, INDIANA.

DocuSigned by:



Clinton Bohm, President



Eric Miller, Vice President

DocuSigned by:



Eric Nichols

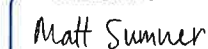


Jeff Wishek

Susan Austin

ATTEST:

DocuSigned by:



Matt Sumner, Town Clerk-Treasurer

Ordinance prepared by Jill Conniff, Planning Staff

## Exhibit A

### Legal Description

#### Pulte Homes

#### Peabody Property WEST – Whitestown

#### Zoning Land Description Update – Shelton Tract Included – 2022.08.22

Part of the Northeast, Southeast, Southwest, and Northwest Quarters of Section 24, Township 18 North, Range 1 East of the Second Principal Meridian, in Worth Township, Boone County, Indiana, based upon an ALTA/NSPS Land Title Survey prepared by Michael G. Judt, Professional Surveyor #21500017, HWC Engineering, Project #2020-092-B, dated November 19, 2021, more particularly described as follows:

COMMENCING at the northeast corner of the West Half of said Northeast Quarter, marked by a mag nail; thence North 89 degrees 52 minutes 11 seconds West (grid bearing, Indiana State Plane – West Zone, NAD 83, 2011, EPOCH 2010.0000) along the north line of the West Half of said Northeast Quarter a distance of 333.00 feet to the northwest corner of Walker Addition, the plat of which is recorded in Plat Book 3, Page 130 in the Office of the Recorder of Boone County, Indiana, and the POINT OF BEGINNING; thence South 00 degrees 36 minutes 36 seconds East along the west line of said Walker Addition and parallel with the east line of the West Half of said Northeast Quarter a distance of 2648.16 feet to the south line of the West Half of said Northeast Quarter; thence North 89 degrees 31 minutes 45 seconds East along said south line a distance of 332.97 feet to the southeast corner of the West Half of said Northeast Quarter; thence South 00 degrees 40 minutes 19 seconds East along the east line of the West Half of said Southeast Quarter a distance of 2089.32 feet to a point being 554.00 feet north of the southeast corner of the West Half of said Southeast Quarter; thence South 89 degrees 12 minutes 28 seconds West parallel with the south line of said Southeast Quarter a distance of 654.19 feet to the approximate centerline of Fishback Creek, the following twenty-two (22) courses being along said centerline;

- (1) thence North 33 degrees 40 minutes 10 seconds West a distance of 44.22 feet;
  - (2) thence North 55 degrees 34 minutes 38 seconds West a distance of 56.54 feet;
  - (3) thence North 32 degrees 24 minutes 28 seconds West a distance of 28.25 feet;
  - (4) thence North 06 degrees 03 minutes 22 seconds West a distance of 110.12 feet;
  - (5) thence North 13 degrees 44 minutes 12 seconds West a distance of 133.05 feet;
  - (6) thence North 00 degrees 22 minutes 36 seconds East a distance of 123.97 feet;
  - (7) thence North 07 degrees 33 minutes 17 seconds West a distance of 111.41 feet;
  - (8) thence North 49 degrees 48 minutes 47 seconds West a distance of 40.57 feet;
  - (9) thence North 75 degrees 58 minutes 07 seconds West a distance of 36.45 feet;
  - (10) thence North 57 degrees 31 minutes 54 seconds West a distance of 75.13 feet;
  - (11) thence North 76 degrees 58 minutes 28 seconds West a distance of 45.11 feet;
  - (12) thence North 49 degrees 33 minutes 06 seconds West a distance of 44.82 feet;
  - (13) thence North 64 degrees 12 minutes 14 seconds West a distance of 85.33 feet;
  - (14) thence North 75 degrees 33 minutes 29 seconds West a distance of 84.74 feet;
  - (15) thence South 82 degrees 34 minutes 07 seconds West a distance of 106.67 feet;
  - (16) thence North 61 degrees 04 minutes 31 seconds West a distance of 250.13 feet;
  - (17) thence North 75 degrees 27 minutes 31 seconds West a distance of 65.31 feet;
  - (18) thence North 49 degrees 38 minutes 20 seconds West a distance of 55.33 feet;
  - (19) thence North 18 degrees 52 minutes 17 seconds West a distance of 37.49 feet;
  - (20) thence North 66 degrees 40 minutes 24 seconds West a distance of 43.10 feet;
  - (21) thence South 86 degrees 14 minutes 47 seconds West a distance of 92.20 feet;
  - (22) thence North 66 degrees 02 minutes 56 seconds West a distance of 21.95 feet to the east line of a tract of land described in Instrument Number 2020017674 in said Recorder's Office;
- thence North 01 degrees 02 minutes 38 seconds West along said east line a distance of 1130.53 feet to the north line of the Southwest Quarter of said Section 24; thence North 89 degrees 31 minutes 45 seconds East along said north line a distance of 256.84 feet to the southeast corner of a tract of land described in Instrument Number 2002003167 in said Recorder's Office; thence North 00 degrees 38

minutes 34 seconds West along the east line of said tract a distance of 2658.26 feet (2656.91 feet per deed) to the north line of said Northwest Quarter; thence North 89 degrees 21 minutes 28 seconds East along said north line a distance of 158.14 feet to the northwest corner of said Northeast Quarter, marked by a Harrison monument; thence South 89 degrees 52 minutes 11 seconds East along the north line of said West Half of said Northeast Quarter a distance of 1007.81 feet to the POINT OF BEGINNING, containing 137.565 acres, more or less.

**Peabody Property EAST – Whitestown  
AS-SURVEYED LAND DESCRIPTION**

Part of the Northeast Quarter and part of the Southeast Quarter, all in Section 24, Township 18 North, Range 1 East of the Second Principal Meridian, in Worth Township, Boone County, Indiana, as depicted on an ALTA/NSPS Land Title Survey prepared by Michael G. Judt, Professional Surveyor Number 21500017, HWC Engineering Job Number 2020-092, dated August 20, 2021, more particularly described as follows:

COMMENCING at the northeast corner of said Northeast Quarter, said corner marked by a Harrison monument found per Boone County Surveyor reference ties; thence South 00 degrees 37 minutes 35 seconds East (grid bearing, Indiana State Plane – West Zone, NAD 83, 2011, EPOCH 2010.0000) along the east line of said Northeast Quarter a distance of 350.00 feet to the POINT OF BEGINNING, being the southeast corner of Lot 32 in Walker Addition, per plat recorded in Plat Book 3, Page 130 in the Office of the Recorder of Boone County, Indiana; thence South 89 degrees 54 minutes 34 seconds West along a south line of said Walker Addition a distance of 1335.86 feet (1333.00 feet per plat) to the west line of the East Half of said Northeast Quarter; thence South 00 degrees 36 minutes 36 seconds East along said west line a distance of 2294.66 feet to the southwest corner of said Half-Quarter Section; thence South 00 degrees 40 minutes 19 seconds East along the west line of the East Half of said Southeast Quarter a distance of 2383.30 feet to the northwest corner of a right-of-way tract for Albert S. White Drive, as described in Instrument Number 201300006208 in said Recorder's Office, the following six (6) courses being along the north and east lines of said right-of-way; (1) thence North 89 degrees 22 minutes 46 seconds East a distance of 17.79 feet; (2) thence South 25 degrees 42 minutes 09 seconds East a distance of 38.64 feet; (3) thence South 00 degrees 37 minutes 14 seconds East a distance of 125.00 feet; (4) thence South 18 degrees 11 minutes 55 seconds East a distance of 47.08 feet; (5) thence North 89 degrees 12 minutes 28 seconds East a distance of 991.83 feet; (6) thence North 89 degrees 03 minutes 10 seconds East a distance of 293.82 feet to the west line of Walker Farms, Section 11, per plat recorded in Plat Book 19, Page 69 as Instrument Number 200800010858 in said Recorder's Office; thence North 00 degrees 37 minutes 11 seconds West along said west line and along the west line of Walker Farms, Section 8, per plat recorded in Plat Book 17, Page 20 as Instrument Number 200600006386 in said Recorder's Office, a distance of 2580.04 feet to the northeast corner of said Southeast Quarter, marked by a Harrison monument; thence continuing North 00 degrees 37 minutes 11 seconds West along the east line of said Northeast Quarter, being also along the west line of said Walker Farms, Section 8, along the west line of Walker Farms, Section 7, per plat recorded in Plat Book 20, Page 41 as Instrument Number 201000010339 in said Recorder's Office, along the west line of Walker Farms, Section 6, per plat recorded in Plat Book 18, Page 50 as Instrument Number 200700008496 in said Recorder's Office, and along the northerly extension of said west line of Walker Farms, a distance of 2285.79 feet to the POINT OF BEGINNING, containing 149.290 acres, more or less.

## **Exhibit B**

### **Peabody Planned Unit Development Ordinance**

#### **ARTICLE I. PEABODY PUD**

**SECTION 1.1. LEGISLATIVE INTENT.** Having given reasonable regard to (i) the comprehensive plan, (ii) current conditions and the character of current structures and uses in the Real Estate, (iii) the most desirable use for which the Real Estate is adapted, (iv) conservation of property values throughout the Town of Whitestown, and (v) responsible development and growth, it is the intent of the WPC in recommending, and the Town Council in adopting, to:

- A. Encourage improved land development and building site design;
- B. Encourage and allow a variety of innovative uses, building types and arrangements;
- C. Allow development of land areas so planned, located or situated as to merit and justify consideration as a PUD district.

**SECTION 1.2. PROJECT NARRATIVE.** This narrative is to serve as supplementary information related to the Zone Map change application for this PUD Ordinance. The nature of the property and location are such that future development would implement the goals contained in the Town's 2022 Comprehensive Plan and, in particular, the land use objectives set forth for Special Development Area 2 which encompasses the property. Special Development Area 2 is important because it serves as a transition between the more intense industrial uses to the west and the existing and planned single-family areas to the northeast.

The Project furthers the goals of Special Development Area 2 and includes a mixture of residential uses (of varying densities and housing styles) and neighborhood retail uses to help serve as a seamless transition between the existing and planned industrial uses to the west and existing residential neighborhoods to the northeast. The Project envisions a variety of single-family homes to provide new housing opportunities at varying densities within the community. In addition, the Project will include neighborhood retail offerings comprised of smaller-scale retailers for providing convenient and enjoyable services to nearby residents and visitors to the area. The Project offers a well-balanced mix of land uses and services appropriate to the character of the area, while reflecting its unique geographic location, as well as emerging market needs and demands.

Special Development Area 2 is informed by established development patterns to the east and northeast and to the west. The east and northeast areas are established single-family residential, as well as the Legacy Core. To the west, there is existing industrial development and plans for future industrial development. The Project meets the goals and objectives of Development Area 2 by providing transitional uses in the form of multiple varieties of residential uses, including single-family uses with varying lot sizes, as well as single-family detached homes built to meet demand from residents seeking the amenities and benefits of a residential neighborhood in a new home available for rent. These uses and their placement within the development are consistent with the single-family homes to the east, while also providing new residents to feed the burgeoning Legacy Core and anticipated, technology driven employers which are, and will continue to be, investing in Whitestown.

The Project is also designed to incorporate future improvements to CR 575 E, thereby promoting efficient traffic circulation in the vicinity and protecting the future aesthetics of this important community corridor. The CR 575 E corridor, and its inclusion within a master planned community,

provides the backbone for connecting a community of neighborhoods with efficient access to services and amenities, while enhancing and preserving property values for existing residents.

It should also be noted that the Project incorporates a modest commercial component designed to provide neighborhood retail offerings, without taking away from redevelopment opportunities in the Legacy Core and without offering more intense commercial development, more appropriate to other areas in the Town of Whitestown, including Special Development Area 3. Lastly, the southwest portion of the Project is bisected by Fishback Creek and contains low areas which will be preserved for passive and/or active open space.

The Project represents responsible planning and development because it is consistent with existing development and development patterns, serving as a functional transition between residential uses and industrial uses, within a key Special Development Area between I-65 and the Legacy Core. With the objective characteristics of this area being largely fixed, the Real Estate is ideally suited for such a master planned community.

**SECTION 1.3. EFFECT.** This Ordinance shall be in full force and effect in accordance with the laws of the State of Indiana. Unless specifically stated in the terms of this Ordinance, all terms of the UDO, as may be amended, shall apply. Nothing in this Ordinance shall be interpreted to alter, change, exclude, delete or modify any rules or regulations beyond those contained in this Ordinance, unless specifically provided herein. To the extent that this Ordinance conflicts with the terms of the UDO, the terms of this Ordinance shall prevail.

**SECTION 1.4. DEFINITIONS.** Unless otherwise specified in (i) this Ordinance or (ii) what is attached hereto and incorporated herein by reference as Exhibit 2, the definitions of the UDO, as may be amended, shall apply to the words and terms used in this Ordinance.

## **ARTICLE II. PUD STANDARDS**

**SECTION 2.1.** The Real Estate is reclassified on Town of Whitestown Zoning Map (the "Zone Map") from the District Classifications to the Planned Unit Development District (PUD) Classification. The underlying zoning district shall be the UDO's MU-COR District.

### **SECTION 2.2. LOCATION.**

CONCEPT PLAN. The Development is depicted on the Concept Plan, which shall serve as the illustrative concept plan (Exhibit 3).

**SECTION 2.3. USES.** The following shall be permitted uses and accessory uses, in substantial compliance with the Concept Plan attached hereto as Exhibit 3 (the "Concept Plan"), as follows:

- A. MU-COR RESIDENTIAL AREA. Residential uses permitted in the MU-COR Residential Area shall include uses permitted in the MU-COR District.
- B. MU-COR COMMERCIAL AREA. Commercial uses permitted in the MU-COR Commercial Area shall include uses permitted in the MU-COR District, together with banks, other financial institutions and co-working spaces.

### **SECTION 2.4. DEVELOPMENT STANDARDS.**

A. MU-COR RESIDENTIAL AREA. Development of the MU-COR Residential Area shall be in accordance with the MU-COR standards in the UDO except as modified below by the addition or modification of the provisions and text thereof:

1. Development of the MU-COR Residential Area for single-family homes shall be generally in accordance with the Concept Plan (provided single-family homes may be located at any location within the MU-COR Residential Area) and in accordance with the Single-Family Residential Architectural Building Requirements in Exhibit 5 and in lieu of Section 9.4 (Residential Architectural Standards) in the UDO.
2. Section 9.7 (Block Standards) of the UDO shall not apply.

**Development Standards Table — Single-Family Residential**

Maximum Single-Family Dwelling Units (MU-COR Residential Area)	775
Minimum Lot Widths and Minimum Lot Areas <sup>1</sup>	40' – 4800 SF 52' – 6000 SF 70' – 8400 SF
Minimum Lot Depth	120'
Minimum Living Area	1,200 sq. ft. <sup>2</sup>
Maximum Lot Coverage	60%
Maximum Building Height	35'
Minimum Front Yard Building Setback	25'
Minimum Distance Between Buildings	10'
Minimum Side Yard Setback	5'
Minimum Rear Yard Setback	20'
Minimum Lot Frontage/Street Frontage	30'

3. The streetscape along the east side of CR 575E adjacent to the MU-COR Residential Area shall be provided with a landscaping area adjacent to the right-of-way, and otherwise be as generally depicted on Exhibit 2.4.A.3 – Conceptual Streetscape – East Side of CR 575 E. The area reserved for landscaping and a berm shall be unoccupied except for plant material and required utilities. Any required pathways, sidewalks or walkways may be located within the adjoining right-of-way. The timing for construction of any required pathway adjacent to CR 575 E (east or west side) shall be coordinated with the Town's Department of Public Works, as part of the platting process, giving due consideration to the planned phased-in improvements to CR 575 E.
4. Driveways must be a minimum of 20 feet between the end of a radius of a street intersection and the beginning of a driveway curb cut as measured at the curb line.

<sup>1</sup> The Concept Plan attached as Exhibit 3 depicts certain Lots required to be 70' wide and certain other Lots required to be 52' wide. The required 70' and 52' Lots are appropriately shaded on the Concept Plan. Except as specifically designated for either a 70' Lot or 52' Lot, lots with widths of 40', 52' or 70' may be located throughout the MU-COR Residential Area.

<sup>2</sup> Exclusive of garage area.

5. The street design may permit a minimum 75' horizontal radii to accommodate the streetscape design within the development.

B. [RESERVED]

C. MU-COR COMMERCIAL AREA. Development of neighborhood commercial uses in the MU-COR Commercial Area shall be in accordance with the MU-COR District standards in the UDO except as modified below by the addition or modification of the provisions and text thereof.

1. Development of neighborhood commercial uses shall be in accordance with the MU-COR Commercial Architectural Building Requirements in Exhibit 4.
2. The maximum height of any mixed, office and retail use building shall be forty-five (45) feet. Buildings designed exclusively for retail use (non-office) shall be limited to a maximum of thirty-five (35) feet in height.
3. The maximum square footage of any single use permitted under this Section 2.4.C. shall not exceed 10,000 square feet.
4. The streetscape along Albert S. White Boulevard and CR 575 E adjacent to the MU-COR Commercial Area shall be provided with a landscaping area adjacent to the right-of-way a minimum of twenty (20) feet in width, which shall be limited to landscaping materials in conformance with the overall Town of Whitestown standards. This twenty (20) foot wide landscaping area shall be unoccupied except for plant material, steps, pedestrian walkways, terraces, bike paths, utilities, driveways, lighting standards, signs or other similar structures (excluding parking).
5. The number of loading berths shall be as is required under the UDO and shall be constructed subject to the following requirements:
  - a. Loading docks and other service areas shall be placed to the rear and side of buildings. Loading docks on corner lots shall be fully screened from adjoining public streets and adjoining residential uses.
  - b. Screening or landscaping shall minimize the direct view of the loading area from adjacent properties, and from residential development within the overall project.
  - c. Screening and buffering may be achieved through walls, fences and landscaping.

**SECTION 2.5. LANDSCAPING STANDARDS.** The applicable standards for landscaping shall be as set forth in the UDO, except as follows:

A. ENHANCED BUFFERING FOR LOTS ADJOINING OTHER RESIDENTIAL LOTS WITHIN WALKER FARMS.

1. A 15-foot wide buffer strip (a portion of which may overlap with the rear yard for a Lot), shall be maintained along Lots adjoining other residential lots within the Walker Farms subdivision.



2. Spruce trees, a minimum of 6-foot tall at planting, shall be planted within the strip in areas backing up to other homes, which spruce trees shall be 15' apart.

**B. BUFFERING ALONG CR 300 AND ALBERT S. WHITE BOULEVARD.**

1. A buffer area incorporating a 3' to 4' tall berm, together with 12 trees per 100 lineal feet (6 evergreen, 6' at planting and 6 shade trees, 2" caliper) shall be established behind Lots adjoining CR 300 and Albert S. White.
2. This buffering shall be in lieu of any other standard in the UDO or Thoroughfare Plan.

**C. STREET TREES; LOT TREES.**

1. There shall be one (1) street tree per thirty-five linear feet of lot width in accordance with the UDO.
2. Each lot shall have a minimum of one (1) tree in the front yard.
3. Any street tree located within the public right of way shall be maintained by the applicable Homeowners' Association.

**SECTION 2.6. SIGNAGE.** The applicable standards for signage shall be as set forth in the UDO.

**SECTION 2.7. LIGHTING.** The applicable standards for lighting shall be as set forth in the UDO.

**SECTION 2.8. PARKING.** The applicable standards for parking shall be as set forth in the UDO.

**SECTION 2.9. OPEN SPACE AND AMENITY STANDARDS.** The applicable standards for Open Space and Amenities shall be as set forth in the UDO with the following exceptions:

- Section 9.10.J., #1 of the UDO shall include regulation size pickleball court (no fence required); in #2 "basketball court" shall include half court elementary court in lieu of three quarter regulation;
- For Section 9.10.K., #2, B, there shall be no chimney requirement.

**SECTION 2.10. CUL-DE-SACS.** Notwithstanding anything to the contrary contained in Section 9.19, Figure 9-1 of the UDO, cul-de-sacs may be up to 800-feet in length. In addition, Section 9.19, Figure 9-2 shall not apply.

**SECTION 2.11. ANTI-MONOTONY STANDARDS.** Anti-monotony provisions shall apply to single-family residential uses only and shall be governed by the Façade Variety Code contained in Exhibit 5 herein.

**PEABODY  
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Exhibit 5	Single-Family Residential Architectural Building Requirements (and Character Exhibits)

**Exhibit 1**  
**LAND DESCRIPTION**

**Pulte Homes**

**Peabody Property WEST – Whitestown**

**Zoning Land Description Update – Shelton Tract Included – 2022.08.22**

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- (21) thence South 86 degrees 14 minutes 47 seconds West a distance of 92.20 feet;

- (22) thence North 66 degrees 02 minutes 56 seconds West a distance of 21.95 feet to the east line of a tract of land described in Instrument Number 2020017674 in said Recorder's Office;

thence North 01 degrees 02 minutes 38 seconds West along said east line a distance of 1130.53 feet to the north line of the Southwest Quarter of said Section 24; thence North 89 degrees 31 minutes 45 seconds East along said north line a distance of 256.84 feet to the southeast corner of a tract of land described in Instrument Number 2002003167 in said Recorder's Office; thence North 00 degrees 38 minutes 34 seconds West along the east line of said tract a distance of 2658.26 feet (2656.91 feet per deed) to the north line of said Northwest Quarter; thence North 89 degrees 21 minutes 28 seconds East along said north line a distance of 158.14 feet to the northwest corner of said Northeast Quarter, marked by a Harrison monument; thence South 89 degrees 52 minutes 11 seconds East along the north line of said West Half of said Northeast Quarter a distance of 1007.81 feet to the POINT OF BEGINNING, containing 137.565 acres, more or less.

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AS-SURVEYED LAND DESCRIPTION**

Part of the Northeast Quarter and part of the Southeast Quarter, all in Section 24, Township 18 North, Range 1 East of the Second Principal Meridian, in Worth Township, Boone County, Indiana, as depicted on an ALTA/NSPS Land Title Survey prepared by Michael G. Judt, Professional Surveyor Number 21500017, HWC Engineering Job Number 2020-092, dated August 20, 2021, more particularly described as follows:

COMMENCING at the northeast corner of said Northeast Quarter, said corner marked by a Harrison monument found per Boone County Surveyor reference ties; thence South 00 degrees 37 minutes 35 seconds East (grid bearing, Indiana State Plane – West Zone, NAD 83, 2011, EPOCH 2010.0000) along the east line of said Northeast Quarter a distance of 350.00 feet to the POINT OF BEGINNING, being the southeast corner of Lot 32 in Walker Addition, per plat recorded in Plat Book 3, Page 130 in the Office of the Recorder of Boone County, Indiana; thence South 89 degrees 54 minutes 34 seconds West along a south line of said Walker Addition a distance of 1335.86 feet (1333.00 feet per plat) to the west line of the East Half of said Northeast Quarter; thence South 00 degrees 36 minutes 36 seconds East along said west line a distance of 2294.66 feet to the southwest corner of said Half-Quarter Section; thence South 00 degrees 40 minutes 19 seconds East along the west line of the East Half of said Southeast Quarter a distance of 2383.30 feet to the northwest corner of a right-of-way tract for Albert S. White Drive, as described in Instrument Number 201300006208 in said Recorder's Office, the following six (6) courses being along the north and east lines of said right-of-way; (1) thence North 89 degrees 22 minutes 46 seconds East a distance of 17.79 feet; (2) thence South 25 degrees 42 minutes 09 seconds East a distance of 38.64 feet; (3) thence South 00 degrees 37 minutes 14 seconds East a distance of 125.00 feet; (4) thence South 18 degrees 11 minutes 55 seconds East a distance of 47.08 feet; (5) thence North 89 degrees 12 minutes 28 seconds East a distance of 991.83 feet; (6) thence North 89 degrees 03 minutes 10 seconds East a distance of 293.82 feet to the west line of Walker Farms, Section 11, per plat recorded in Plat Book 19, Page 69 as Instrument Number 200800010858 in said Recorder's Office; thence North 00 degrees 37 minutes 11 seconds West along said west line and along the west line of Walker Farms, Section 8, per plat recorded in Plat Book 17, Page 20 as Instrument Number 200600006386 in said Recorder's Office, a distance of 2580.04 feet to the northeast corner of said Southeast Quarter, marked by a Harrison monument; thence continuing North 00 degrees 37 minutes 11 seconds West along the east line of said Northeast Quarter, being also along the west line of said Walker Farms, Section 8, along the west line of Walker Farms, Section 7, per plat recorded in Plat Book 20, Page 41 as Instrument Number 201000010339 in said Recorder's Office, along the west line of Walker Farms, Section 6, per plat recorded in Plat Book 18, Page 50 as Instrument Number 200700008496 in said Recorder's Office, and along the northerly extension of said west line of Walker Farms, a distance of 2285.79 feet to the POINT OF BEGINNING, containing 149.290 acres, more or less.

## **Exhibit 2 DEFINITIONS**

The following words and terms, not defined elsewhere in the Peabody PUD or its Exhibits, shall have the following meanings:

1. **Area.** A portion of the Real Estate depicted on the Concept Plan consisting of either the MU-COR Residential Area or the MU-COR Commercial Area.
2. **Concept Plan.** The depiction of the illustrative concept plan for the Development set forth in Exhibit 3.
3. **Development.** The project depicted on the Concept Plan set forth in Exhibit 3.
4. **Director.** The Director of Planning and Community Development for the Town of Whitestown.
5. **MU-COR Commercial Architectural Building Requirements.** The architectural guidelines set forth in Exhibit 4 applicable to the Neighborhood Commercial Area uses.
6. **Plan Commission.** The Town of Whitestown Plan Commission.
7. **Real Estate.** The real estate, as described in Exhibit 1.
8. **Single-Family Residential Architectural Building Requirements.** The architectural guidelines set forth in Exhibit 5 applicable to the Single-Family Residential Area.
9. **MU-COR Residential Area.** The areas depicted on the Concept Plan, with the conceptual street layout, located north of Albert S. White Boulevard and east and west of CR 575 E.
10. **Unified Development Ordinance (UDO).** The Town of Whitestown Unified Development Ordinance as may be amended.

EXHIBIT 2.4.A.3.  
Conceptual Streetscape - East Side of CR 575 E

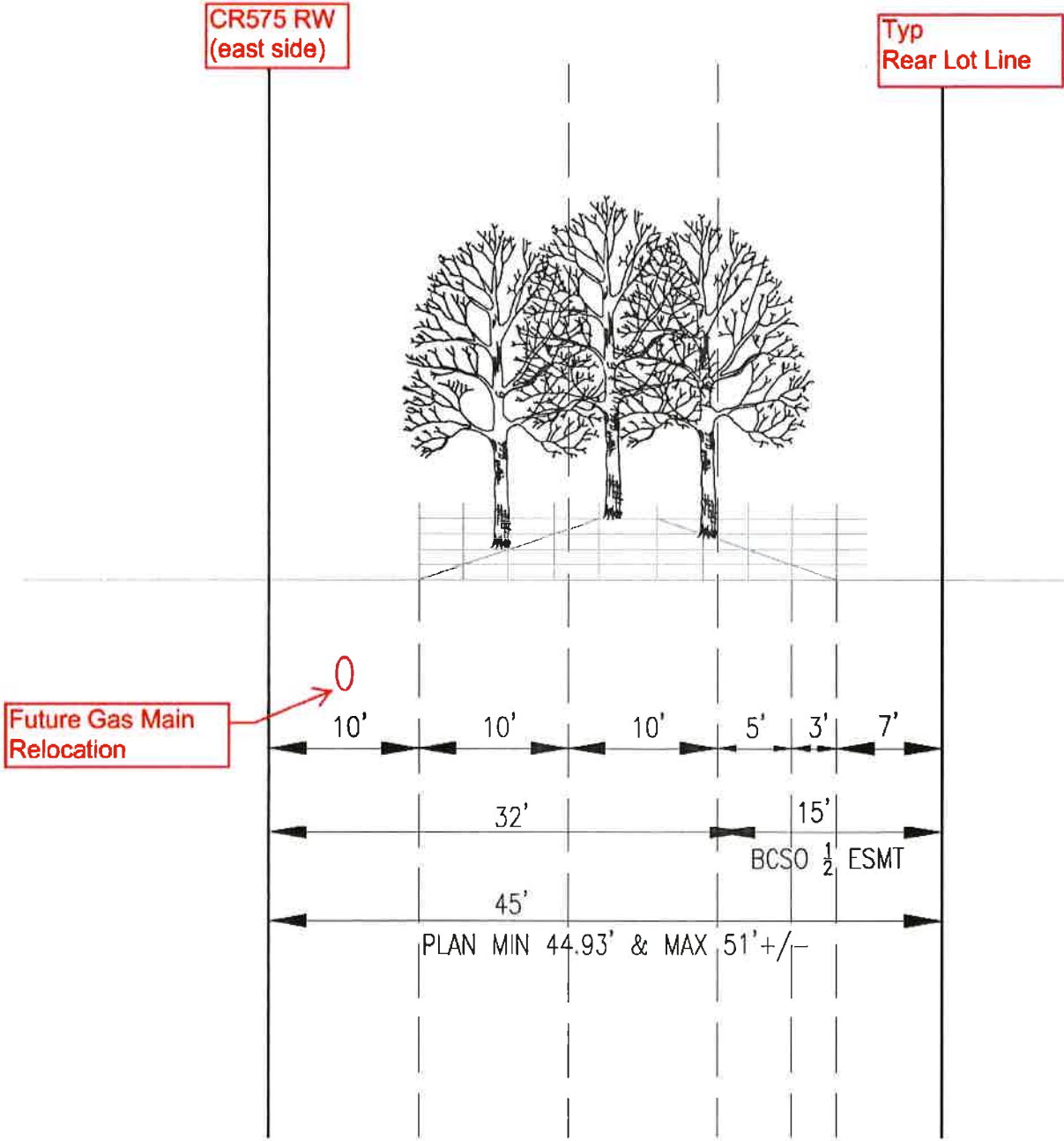
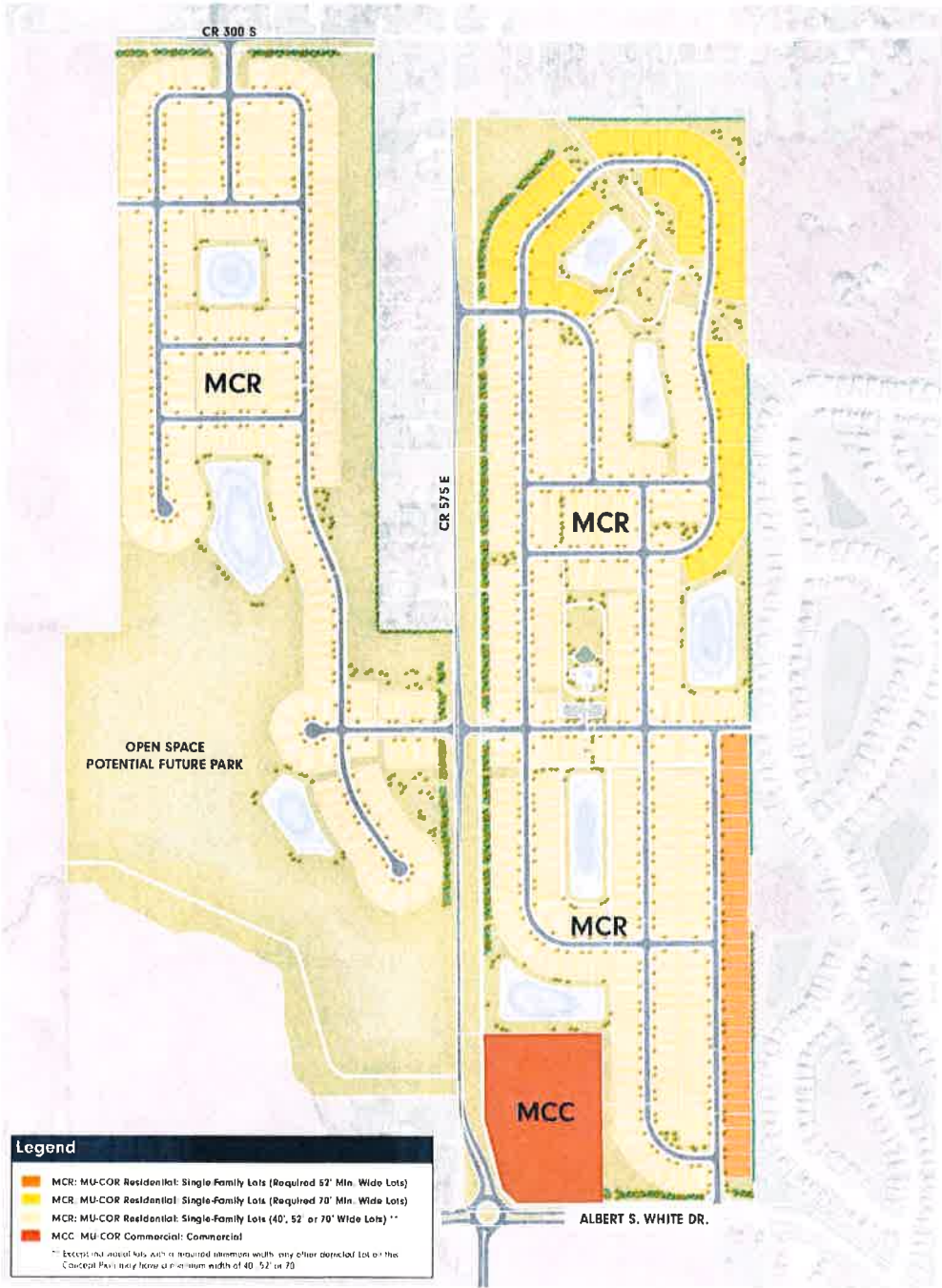


Exhibit 3  
CONCEPT PLAN



PROJECT ACREAGE = 264.42 AC. (EXCLUDES EX ASW ROW, PROPOSED CR 575 ROW & 9 ACRES OF COMMERCIAL)  
COMMON AREA = +/- 121.90 AC.  
PERCENTAGE OF COMMON AREA = 46.1%

CR 575 RIGHT OF WAY  
PROPOSED 120' R/W (WITH 110' +/- ON EASTERN DEVELOPMENT PROPERTY) = 13.44 AC.

PLUITE HOMES  
**PEABODY FARMS**  
CHIEFSEECOM, INDIANA

0 100 200  
Feet  
1:1000  
11/15/2019

**HWC**  
ENGINEERING

**Exhibit 4**  
**MU-COR COMMERCIAL ARCHITECTURAL BUILDING**  
**REQUIREMENTS**

**GENERAL DESIGN GOALS**

The development of neighborhood commercial uses within the MU-COR Commercial Area of the Peabody PUD project is to introduce business offerings catering to the convenience and enjoyment of nearby residents. Buildings shall be constructed generally in accordance with the conceptual representations contained within the MU-COR Commercial Architectural Character Exhibits attached to this Exhibit 4.

In order to add architectural interest and variety, avoid the effect of a single, long or massive wall, and establish high quality attractive structures, the following general standards shall apply:

1. On buildings along Albert S. White Boulevard (400 South) and/or CR 575 E, no wall that faces either of these two streets shall have a blank, uninterrupted length exceeding thirty (30) feet without including one of the following: change in plane (minimum of 1-foot), change in height, change in texture or masonry pattern; doors, windows, faux windows, trellis with vines, or an equivalent element that subdivides the wall into human scale proportions.
2. Side or rear walls adjacent to a residential use must incorporate one of the following: the use of false windows and door openings defined by frames, sills and lintels, change in wall plane, change in texture or masonry pattern, or similarly proportioned modulations of the wall to break up the façade to meet the above mentioned requirements.
3. All sides of the building shall include design characteristics perceived to be generally consistent with those on the front. Buildings along Albert S. White Boulevard (400 South) shall have side and rear facades that are of the same materials as the front elevation.
4. Buildings along Albert S. White Boulevard (400 South) and/or CR 575 E shall appear (at a minimum) as one and one-half stories from the front and sides. The minimum height for the front facade of any building facing Albert S. White Boulevard (400 South) shall be twenty (20) feet, either at the roofline or at the top of the parapet wall. Minimum heights for other sides of the buildings shall be eighteen (18) feet, either at the roofline or at the top of the parapet wall.

**BUILDING BASE, BODY, AND CAP**

All architectural elevations of primary buildings (not accessory buildings/structures) shall consist of a base, a body, and a cap.

Base: Building materials that are used to accentuate the transition from grade to a height consistent with requirements in this section. (For instance, materials different from those used in the body of the building — like textured concrete masonry. Or designs to accentuate materials used in the body of the building — like brick rowlocks or soldier courses.) The base shall occupy the lowest portion of the elevation, and shall have a height no less than five percent (5%) of the average wall height. The base and cap shall be clearly distinguishable from the body through changes in color, material, pattern, profile, or texture.



Body: The body shall occupy the middle portion of the elevation, and shall have a height no less than fifty percent (50%) of the average wall height.

Cap: Building materials that are used to accentuate the transition from the body to the top of the building, consistent with the requirements in this section. (For instance, a cornice, crown mold, eave or a sloped roof structure designs.)

1. The cap shall occupy the highest portion of the elevation, excluding the roof, and shall have a height no less than five percent (5%) of the average wall height.
2. The cap shall consist of at least one of the following architectural features: a cornice, parapet, awning, canopy, sloped roof or eaves.
3. The base and cap shall be clearly distinguishable from the body through changes in color, material, pattern, profile, or texture.

## **MATERIALS**

Predominant exterior building materials must be of high quality, and be aesthetically pleasing and compatible with materials used in adjoining neighborhoods within and outside of the Development. The following are permitted:

1. Building Body: Wood, brick, architectural cast stone, Quick-Brick (rear wall elevations only), [EIFS (Synthetic Stucco)] only if used as part of an accent or trim, decorative tiles, and limestone shall be permitted as siding materials for the body of the building.
2. Building Base: Brick, architectural cast stone, limestone or textured concrete masonry units (Quick-Brick or Split Faced Units) shall be permitted as base finish materials.
3. Building Cap: Brick, architectural cast stone, limestone, textured concrete block, wood, metal coping or applied materials such as EIFS (Synthetic Stucco) or other synthetic materials (i.e. "Fypon") are examples of materials permitted for the building cap.

## **FAÇADE COLORS**

The use of low reflectance, subtle, red brick, or earth tone colors as the predominant colors on the façade is generally acceptable. The use of high intensity colors, metallic colors, fluorescent colors or black as the predominant façade color would have to be reviewed by the Director on a case-by-case basis. However, building trim and accent areas may feature black or brighter colors, including primary colors, but the use of neon tubing as a feature for building trim or accent area is not permitted.

## **ROOFS**

The roof treatment should harmonize with the character of the surrounding residential character and zoning of the area and with the designs of the buildings adjacent to the structure. Building walls, parapets, and/or roof systems shall be designed to conceal all roof-mounted mechanical equipment from all sides. Mechanical equipment shall be screened from view, at five (5) feet above ground level.

1. Permitted roof styles shall include gable, mansard, and hip roofs. Flat roofs are permitted for single-user outlot applications where the gross floor area of the building is 3,500 SF or less, if sufficiently disguised through the use of parapet walls.
2. The height of any pitched roof shall not exceed one-half (1/2) of the overall building height.
3. Permitted materials for pitched roofs include wood, slate, fiberglass reinforced asphalt 3D roof shingles, and standing seam or termed metal. Other roof materials shall require specific approval by the Director on a case-by-case basis.
4. Flat canopies (such as those associated with convenience stores with gasoline sales) must be designed in such a manner to create a strong association with the building itself.

#### **ADDITIONAL OUTLOT BUILDINGS GUIDELINES**

Retail buildings with less than 8,000 leasable square feet should be oriented closer to Albert S. White Boulevard (400 South), subject to the applicable building setback line as measured from the improved rights-of-way.

Sidewalk areas in front of buildings should be no less than 5-feet in width.

## MU-COR COMMERCIAL ARCHITECTURAL CHARACTER EXHIBITS



(Illustration of sloped roof, cap architectural detail and masonry building materials, as well as façade colors)



(Illustrating masonry detail and building materials comprising the body and sloped roof)



## **Exhibit 5 SINGLE-FAMILY RESIDENTIAL ARCHITECTURAL BUILDING REQUIREMENTS**

### **GENERAL DESIGN GOALS**

Building designs shall include architectural design variations and/or exterior material or color variations where single-family dwellings are immediately adjacent or directly across a street. Mechanicals should be hidden from view. Accessory structures should be compatible with principle structures in terms of character, roof shape, building material, color, and architectural detail. Building façades shall have unified and complimentary finished materials. Acceptable materials include cultured stone, stucco, brick, cement board, vinyl and wood. Windows facing external streets shall be provided with shutters, or window trim a nominal size of 1"x 4", or decorative brick/masonry window accent. Buildings shall also incorporate at least one (1) architectural element such as gables, balconies, changes in wall plane or other architectural elements on any façade that faces a public street. Buildings shall be constructed generally in accordance with the conceptual representations contained within the Single-Family Residential Architectural Building Character Exhibits.

### **BUILDING EXTERIOR**

The exposed exterior wall area, exclusive of door, window, and covered porch, breezeways and corridors, shall be predominantly brick, masonry veneer, stucco, or other low maintenance cement board, similar low-maintenance material or vinyl. Allowed masonry material shall be:

- (a) Hard fired stacked in place, mortared joints, face or building brick with a minimum nominal depth of three (3) inches.
- (b) Stone material consisting of granite, sandstone, slate, limestone, marble or other hard and durable all weather stone; or
- (c) Split faced, fluted, sandblasted, glazed or textured concrete masonry units; or
- (d) Stucco or other similar cement board material.

Vinyl siding and/or aluminum siding shall be permitted, and shall be permissible for gutters, eaves, cornices, or other decorative architectural features. Vinyl siding shall consist of a vinyl material of at least 0.044 inch thickness.

### **ARCHITECTURAL STANDARDS**

The perimeter lot requirements and internal lot requirements (including window treatments) identified in the Whitestown UDO do not apply.

The architectural building requirements set forth herein are in lieu of Section 9.4 of the Whitestown UDO.

The anti-monotony requirements of the PUD shall be governed by the Façade Variety Code attached hereto.

## **GARAGES**

The width and placement of attached garages shall conform to the following:

- (a) The width of a garage door shall not exceed 70% of the width of the primary structure.
- (b) Except as set forth in clauses (i) and (ii) below, a garage for a two story home in the Single-Family Residential Area may not extend forward of the primary structure by more than 6 feet.
  - (i) Any front loaded garage protruding over 6' and up to 14' forward of the primary structure shall have at least one window installed in the garage wall that is perpendicular to the front façade of the dwelling; and
  - (ii) Any front loaded garage protruding over 14' and up to 16' forward of the primary structure shall have at least two windows installed in the garage wall that is perpendicular to the front façade of the dwelling.
- (c) A garage in the Single-Family Residential Area for a single story primary structure may extend forward of the primary structure by 16 feet.
- (d) The term "primary structure" as used herein shall mean the main dwelling inclusive of the front covered porch.

## **PARKING**

Each home shall be provided with an attached, 2-car garage.

## **AMENITIES**

A park will be provided in common area for the single-family residential, rather than a full Amenity Center.

## **SCREENING**

If located in front of buildings, air conditioning compressors, satellite dishes larger than twenty-four (24) inches in diameter, and utility boxes shall be screened from view from public streets.



SINGLE-FAMILY RESIDENTIAL  
ARCHITECTURAL BUILDING CHARACTER EXHIBITS






Confidential and Proprietary







FACADE VARIETY CODE

4		4
3		3
2		2
1		1
		1
1		1
2		2
3		3
4		4

- 1

Home cannot be of the same elevation of the same plan as the Subject home. Must be a different color package. Home cannot be mirrored or flipped elevation.
- 2

Home cannot be of the same elevation of the same plan as the Subject home. Cannot be the identical color package as the Subject home but may have the same brick. Home cannot be mirrored or flipped elevation
- 3

Home may be of the same plan and elevation as the Subject home, but must be a different color package.
- 4

May be identical to Subject home.

## Exhibit C

### Commitments

The Real Estate is subject to the following Commitments:

- A. Pulte shall be required to record Covenants, Conditions and Restrictions ("Covenants") governing the use and development of the Real Estate as part of establishing the Peabody Homeowners' Association ("HOA"). The Peabody Farms Development shall be professionally managed by an outside HOA management company at all times which will enforce the Peabody HOA Covenants.
- B. If a single-family residential community where individual homes are held for rent and not sale ("SFR Community") is developed on any part of the real estate that is subject to this rezoning, it shall be limited to the acreage WEST of CR 575 E.

II. The Real Estate on the East side of CR 575 E is subject to the following Commitments, which shall also be incorporated into the Covenants:

- A. Pulte, as the builder of the homes, agrees and covenants that it shall not sell, transfer and/or convey title to more than one home per individual or legal entity controlled by the individual.
- B. No homeowner may rent any home for a period of 12 months after the home's purchase from Pulte, except to the extent necessary as a result of a hardship, for example, military deployment, illness, or job assignment).
- C. Air BNB and/or any other similar short-term rentals shall be strictly prohibited and shall be strictly enforced by the Peabody HOA.
- D. Any leasing office shall be completely housed within a model home.

III. The Real Estate on the West side of CR 575 E is subject to the following Commitments, which shall also be incorporated into the Covenants:

- A. In the event the Real Estate on the west side of CR 575 E, or any portion thereof, is developed for a SFR Community, such Real Estate shall be subject to the following Commitments:
  - 1. The homes shall be owned by a legal entity or partnership and not individuals (the "SFR Owner").
  - 2. All lawns and mulch beds shall be maintained by the SFR Owner.
  - 3. Each home in the SFR Community shall have an irrigated front yard.
  - 4. The SFR Community shall be professionally managed and maintained by the SFR Owner, and its designees and contractors, and subject to the terms of Covenants, Conditions and Restrictions, no less stringent than those applicable to a owner-occupied single-family residential community.
  - 5. If any portion of the Real Estate on the west side of CR 575 E is developed for a SFR Community, then such SFR Community shall be comprised of contiguous areas and lots owned by the SFR owner with no intermingling of homes, areas or lots owned by any other person or legal entity.
- B. If any portion of the Real Estate on the west side of CR 575 E is developed for owner occupied single-family homes and not for a SFR Community, it shall be subject to the Commitments set forth in Section I and II above.

## **Exhibit 1**

### **Additional Park Commitment**

The developer shall reserve and contribute a minimum of 3 to 4 acres be provided that is outside of the floodplain, accessible to the entire Whitestown community, visible from outside of the neighborhood, and able to be improved with features and amenities like parking, shelters, restrooms, and/or playgrounds. The acreage and location must be acceptable by Whitestown Parks. If acreage and location acceptable to Whitestown Parks cannot be found within the proposed development, the developer would make a payment above and beyond the park impact fees to acquire comparable ground for Whitestown Parks ("Park Land Payment"). If the Park Land Payment is required, it shall be paid prior to 50% of building permits being issued.

### **Drainage Plan Commitment**

Detailed drainage plans for the Real Estate shall be presented at the time of the next Plan Commission application.

The foregoing Commitments supplement the Original Commitments made in connection with Ordinance 2022-4 (Peabody PUD) on Exhibit 2.

IN WITNESS WHEREOF, Owner has executed this instrument this 1<sup>st</sup> day of November, 2022.

"OWNER"

Peabody Family Farm, LLC, an Indiana Limited Liability Company

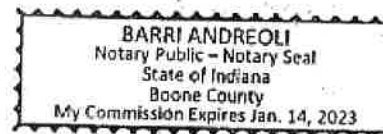
By: Lana K. Smith  
Lana K. Smith, Approved Member

STATE OF INDIANA )  
                                  ) SS:  
COUNTY OF BOONE)

Before me, a Notary Public in and for said County and State, personally appeared Lana K. Smith, an approved Member of Peabody Family Farm, LLC, an Indiana Limited Liability Company, who acknowledged the execution of the foregoing instrument in such capacity, for and on behalf of such limited liability company, and who, having been duly sworn, stated that any and all representations therein contained are true.

Witness my hand and Notarial Seal this 1<sup>st</sup> day of November, 2022.

Signature: Barri Andreoli  
Printed: Barri Andreoli, Notary  
County of Residence: Boone  
My Commission Expires: Jan. 14, 2023





IN WITNESS WHEREOF, Owner has executed this instrument this 1 day of  
NOVEMBER, 2022.

"OWNER"

Sara Shelton

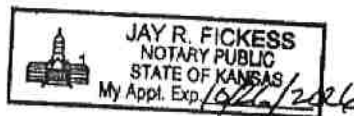
By: [Signature]  
Sara Shelton

STATE OF ~~INDIANA~~ <sup>KANSAS</sup>  
COUNTY OF JOHNSON ) SS:

Before me, a Notary Public In and for said County and State, personally appeared Sara Shelton, who acknowledged the execution of the foregoing instrument, and who, having been duly sworn, stated that any and all representations therein contained are true.

Witness my hand and Notarial Seal this 1st day of NOVEMBER, 2022.

Signature: [Signature]  
Printed: JAY R. FICKESS  
County of Residence: JOHNSON  
My Commission Expires: 10/26/2026



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, Matthew M. Price, Attorney at Law.

This instrument was prepared by:  
Matthew M. Price, Attorney at Law  
Dentons Bingham Greenebaum LLP  
10 W. Market Street, Suite 2700  
Indianapolis, IN 46204  
Telephone: 317-635-8900

## EXHIBIT 2

### ORIGINAL COMMITMENTS

1. The applicant and Whitestown Parks Department continue conversations regarding potential park dedication to Town ownership. The future potential park land is generally located northwest of Albert S White Drive and CR 575 E and shown on the attached "Exhibit 1" as the area identified as "Open Space Potential Future Park". If the Town does not acquire the park land, that area will remain open space.
2. Detailed drainage plans for the Property will be presented at the time of next Plan Commission application.
3. As a condition to the requested rezone to PUD, Applicant (on behalf of Owner) acknowledges that it has authority to and hereby does dedicate 2.1 acres +/- of right-of-way (Right-of-Way) free and clear to the Town of Whitestown ("Right-of-Way Dedication") and commits to completing the Right-of-Way Dedication by signing any and all necessary documents to record said Right-of-Way Dedication within fourteen (14) days of approval of the zoning amendment by the Town Council. The Right-of-Way is generally depicted as the blue shaded area on the demonstrative exhibit attached hereto as "Exhibit 1" and shall be defined in a legal description that is consistent with the attached Exhibit 1. Such Right-of-Way Dedication shall be in Whitestown's standard form and shall be free and clear of any and all easements except those specifically agreed to in writing by the Town of Whitestown.

OWNERS

Peabody Family Farm, LLC, an Indiana Limited Liability  
Company and The Madeline S. Peabody Irrevocable Trust  
by Laura K. Smith  
Laura K. Smith, Agent and Trustee

# EXHIBIT 1 - PC21-020-ZA Peabody Property Zoning Commitment

