

**ORDINANCE NO. 2023- 15**

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

Zoning Map Amendments  
PC23-023-ZA

WHEREAS, the Petitioner, Wally's Operating, LLC per Nathan Hale., filed its Zoning Amendment Application before the Whitestown Plan Commission seeking to rezone approximately 32.64 acres, more or less, in the Town of Whitestown, Indiana, **from the General Agriculture (AG) Zone to the Accommodation Business (AB) and Mixed-Use Commercial, Office, and Residential (MU-COR) Zoning Classifications.**

WHEREAS, pursuant to Indiana Code § 36-7-4-608, the Whitestown Plan Commission conducted the required public hearing and determined a favorable recommendation subject to certain commitments to which the petitioner agreed, by a 7-0 vote, on June 12, 2023; and

WHEREAS, the Whitestown Plan Commission certified a favorable recommendation to the Whitestown Town Council on June 12, 2023; 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 Wally's Operating, LLC per Nathan Hale on behalf of Cumberland-Whitestown, LLC / John E. Repenning, 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) Zoning Classification to the Accommodation Business (AB) and Mixed-Use Commercial, Office, and Residential (MU-COR) Zoning Classifications;

**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 Accommodation Business (AB) and Mixed-Use Commercial, Office, and Residential (MU-COR) Zoning Classifications.

**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 \_\_\_\_ day of \_\_\_\_\_, 2023, by the Town Council of the Town of Whitestown, Indiana.

TOWN COUNCIL OF WHITESTOWN, INDIANA.

\_\_\_\_\_  
Eric Nichols, President

\_\_\_\_\_  
Tanya Sumner

\_\_\_\_\_  
Clinton Bohm, Vice President

\_\_\_\_\_  
Jeff Wishek

\_\_\_\_\_  
Susan Austin

ATTEST:

\_\_\_\_\_  
Matt Sumner, Town Clerk-Treasurer

*Ordinance prepared by Jill Conniff, Planning Staff*

# Exhibit A

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## Legal Description

(COMMITMENT NO. NCS-1135565-INDY)

The Land referred to herein below is situated in the County of Boone, State of Indiana, and is described as follows:

PART OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 26, TOWNSHIP 18 NORTH, RANGE 1 EAST, IN BOONE COUNTY, INDIANA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

ALL OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 26, TOWNSHIP 18 NORTH, RANGE 1 EAST, EXCEPT THE PARCELS AS FOLLOWS:

EXCEPTION PARCEL NO. 1:

BEGINNING AT THE NORTHEAST CORNER OF SAID QUARTER QUARTER SECTION; THENCE SOUTH 1 DEGREE 24 MINUTES EAST (DEED), SOUTH 0 DEGREES 21 MINUTES 28 SECONDS WEST (MEASURED) ALONG THE EAST LINE OF SAID QUARTER QUARTER SECTION, 1341.3 FEET (MEASURED) 1323.45' (DEED) TO THE SOUTHEAST CORNER OF SAID QUARTER QUARTER SECTION; THENCE SOUTH 89 DEGREES 33 MINUTES WEST (DEED), SOUTH 89 DEGREES 42 MINUTES 09 SECONDS WEST (MEASURED) ALONG THE SOUTH LINE OF SAID QUARTER QUARTER SECTION, 198.17 FEET; THENCE NORTH 1 DEGREE 24 MINUTES WEST (DEED), NORTH 0 DEGREES 21 MINUTES 28 SECONDS EAST (MEASURED) 1337.2 FEET (MEASURED), 1323.05' (DEED), AND PARALLEL TO THE EAST LINE OF SAID QUARTER QUARTER SECTION, TO THE NORTH LINE OF SAID QUARTER QUARTER SECTION; THENCE ALONG THE NORTH LINE OF SAID QUARTER QUARTER SECTION, NORTH 88 DEGREES 30 MINUTES EAST (ASSUMED BEARING) 198.17 FEET TO THE POINT OF BEGINNING. SUBJECT TO ALL LEGAL HIGHWAYS AND RIGHTS-OF-WAY.

EXCEPTION PARCEL NO. 2:

BEGINNING AT A POINT ON THE WEST LINE OF SAID QUARTER QUARTER SECTION THAT IS SOUTH 1 DEGREE 24 MINUTES EAST, A DISTANCE OF 1,023.8 FEET FROM THE NORTHWEST CORNER OF SAID QUARTER SECTION; THENCE CONTINUING ALONG THE WEST LINE, SOUTH 1 DEGREE 24 MINUTES EAST, 289.2 FEET (307 FEET RECORD) TO THE SOUTHWEST CORNER OF SAID QUARTER QUARTER SECTION; THENCE NORTH 89 DEGREES 33 MINUTES EAST ALONG THE SOUTH LINE OF SAID QUARTER QUARTER SECTION A DISTANCE OF 312.7 FEET (316.31 FEET RECORD) TO A POINT IN THE SOUTHWEST RIGHT-OF-WAY LINE OF INDIANA INTERSTATE NUMBER 65; THENCE ALONG SAID RIGHT-OF-WAY LINE, NORTH 43 DEGREES 27 MINUTES WEST A DISTANCE OF 126 FEET; THENCE CONTINUING ALONG SAID RIGHT-OF-WAY LINE NORTH 50 DEGREES 04 MINUTES WEST A DISTANCE OF 304 FEET TO THE POINT OF BEGINNING. CONTAINING IN ALL 1.1 ACRES, MORE OR LESS.

EXCEPTION PARCEL NO 3: (PARCEL NO. 22 RIGHT-OF-WAY)

THAT PART ACQUIRED BY THE STATE OF INDIANA FOR HIGHWAY PURPOSES BY VIRTUE OF COMPLAINT FOR APPROPRIATION OF REAL ESTATE IN CASE NUMBER 21077 ON THE CIVIL DOCKET OF THE BOONE

COUNTY CIRCUIT COURT, BOONE COUNTY, INDIANA, CONSISTING OF 9.192 ACRES, MORE OR LESS AND DESCRIBED AS FOLLOWS;

BEGINNING ON THE NORTHWEST CORNER OF SECTION 26, TOWNSHIP 18 NORTH, RANGE 1 EAST, WORTH TOWNSHIP BOONE COUNTY, INDIANA; THENCE SOUTH 10.8 FEET ALONG THE WEST LINE OF SAID SECTION TO THE POINT OF BEGINNING; SAID INTENDED POINT OF BEGINNING BEING THAT POINT MEASURED AT RIGHT ANGLES 90 DEGREES, 528.6 FEET LEFT FROM STATION 230 + 46 ON LINE "E" AS SHOWN UPON THE PLANS OF PROJECT I-03-4, SECTION 8, SHEETS 14 AND 15, ON FILE IN THE OFFICE OF THE STATE HIGHWAY DEPARTMENT OF INDIANA. AND FROM SAID POINT OF BEGINNING ALONG THE FOLLOWING COURSES AND DISTANCES, TO ENCLOSE A PARCEL OF LAND TO BE ACQUIRED AS RIGHT-OF-WAY AND FURTHER DESCRIBED AS PARCEL NUMBER 22 RIGHT-OF-WAY: THENCE NORTH 89 DEGREES 16 MINUTES EAST, 451 FEET, MORE OR LESS, ALONG THE SOUTH BOUNDARY OF A COUNTY ROAD TO THE JUNCTION OF RIGHT-OF-WAY LINE BEING ACQUIRED ON THE LEFT OF LINE "E"; THENCE ALONG SAID RIGHT-OF-WAY AS FOLLOWS; THENCE SOUTH 65 DEGREES 40 MINUTES WEST 158.8 FEET TO A POINT; THENCE SOUTH 10 DEGREES 02 MINUTES WEST 336.2 FEET TO A POINT; THENCE SOUTH 1 DEGREE 27 MINUTES EAST 269.1 FEET TO A POINT; THENCE SOUTH 25 DEGREES 1 MINUTE EAST 316.2 FEET TO A POINT; THENCE SOUTH 42 DEGREES 14 MINUTES EAST 473 FEET, MORE OR LESS, TO THE JUNCTION OF THE PROPERTY LINE ON THE SOUTH SIDE OF PARCEL NUMBER 22; THENCE SOUTH 89 DEGREES 33 MINUTES WEST 362 FEET, MORE OR LESS, ALONG SAID PROPERTY LINE TO THE JUNCTION OF THE RIGHT-OF-WAY LINE BEING ACQUIRED ON THE RIGHT OF LINE "E"; THENCE ALONG SAID RIGHT-OF-WAY AS FOLLOWS; THENCE NORTH 43 DEGREES 27 MINUTES WEST, 126 FEET TO A POINT; THENCE NORTH 50 DEGREES 04 MINUTES WEST, 304 FEET, MORE OR LESS, THE JUNCTION OF THE PROPERTY LINE ON THE WEST SIDE OF PARCEL NUMBER 22; THENCE NORTH 1 DEGREE 24 MINUTES WEST 1013 FEET, MORE OR LESS, ALONG SAID PROPERTY LINE TO THE PLACE OF BEGINNING, CONTAINING 9.192 ACRES, MORE OR LESS.

ALSO LESS AND EXCEPT:

LAND DESCRIBED IN AGREED FINDINGS AND JUDGMENT, IN FAVOR OF STATE OF INDIANA, RECORDED DECEMBER 7, 2017 AS DOCUMENT 20170011684.

PARCEL 2:

A PART OF THE NORTHWEST QUARTER OF SECTION 26, TOWNSHIP 18 NORTH, RANGE 1 EAST, SITUATED IN WORTH TOWNSHIP, BOONE COUNTY, INDIANA, PARTICULARLY DESCRIBED AS FOLLOWS:

FROM THE NORTHEAST CORNER OF THE AFORESAID NORTHWEST QUARTER, PROCEED THENCE SOUTH 88 DEGREES 43 MINUTES 22 SECONDS WEST (THE BEARING COMPUTED FROM THE CENTERLINE OF I-65, AS SHOWN ON STATE HIGHWAY PLANS), ALONG THE SECTION LINE 1,114.77 FEET TO THE POINT OF BEGINNING. FROM SAID POINT OF BEGINNING, PROCEED THENCE SOUTH 00 DEGREES 02 MINUTES 52 SECONDS WEST, 614.03 FEET; THENCE SOUTH 89 DEGREES 08 MINUTES 51 SECONDS WEST, ALONG AN EXISTING FENCE 213.13 FEET; THENCE NORTH 00 DEGREES 02 MINUTES 52 SECONDS EAST, ALONG THE QUARTER-QUARTER SECTION LINE 612.45 FEET; THENCE NORTH 88 DEGREES 43 MINUTES 22 SECONDS EAST ALONG THE SECTION LINE, 213.16 FEET TO THE POINT OF BEGINNING. LOCATED IN WORTH TOWNSHIP, BOONE COUNTY, INDIANA. (FOR REF. ONLY: CONTAINS 3.00 ACRES, MORE OR LESS.)

PARCEL 3:

A PART OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION TWENTY-SIX (26), TOWNSHIP EIGHTEEN {18} NORTH, RANGE ONE (1) EAST IN BOONE COUNTY, INDIANA, DESCRIBED AS FOLLOWS:


BEGINNING AT THE NORTHEAST CORNER OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 26, TOWNSHIP 18 NORTH, RANGE 1 EAST; RUNNING THENCE SOUTH 1 DEGREE 24 MINUTES EAST IN AND ALONG THE EAST LINE OF SAID QUARTER QUARTER SECTION 1323.45 FEET; MORE OR LESS TO THE SOUTHEAST CORNER OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 26, TOWNSHIP 18 NORTH, RANGE 1 EAST; THENCE SOUTH 89 DEGREES 33 MINUTES WEST IN AND ALONG THE SOUTH LINE OF SAID QUARTER QUARTER SECTION 198. 17 FEET TO A POINT; THENCE NORTH 1 DEGREE 24 MINUTES WEST AND PARALLEL TO SAID EAST LINE A DISTANCE 1323.05 FEET, MORE OR LESS TO A POINT IN THE NORTH LINE OF SAID QUARTER QUARTER SECTION; THENCE NORTH 89 DEGREES 16 MINUTES EAST IN AND ALONG SAID NORTH LINE 198. 17 FEET TO THE PLACE OF BEGINNING.

## Exhibit B

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### Commitments

1. Residential uses are not permitted.
2. The site will be split zoned between Accommodation Business (AB) and Mix Use- Commercial, Office, and Residential (MU-COR) Zones as approximately shown on the Zone District Map attached hereto. At the time of platting, legal descriptions for the AB Zone and the MU-COR Zone will be recorded with this Ordinance at the Boone County Recorder's Office.
3. At the time of platting, right-of-way will be dedicated to the Town for a Major Collector roadway connecting Perry Worth Road and Albert S White Drive. Prior to full build out of the site the Developer will construct the Major Collector roadway to Town street standards.
4. No overnight semi-truck and/or trailer parking permitted on site.



Nathan Hale

# Proposed Zone District Map

