

ORDINANCE NO. 2024-09

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

Zoning Map Change
PC24-010-ZA

WHEREAS, the Petitioner, New Hope Christian Church, filed its Zone Map Change Application before the Whitestown Plan Commission seeking to rezone approximately 20.66 acres, more or less, in the Town of Whitestown, Indiana, **from the R1 – Low-density Single-family Residential zoning district to MUCOR – Mixed-use, Commercial, Office, Residential zoning district.**

WHEREAS, pursuant to Indiana Code § 36-7-4-608, the Whitestown Plan Commission conducted the required public hearing and determined a favorable recommendation by a 6-0-0 vote, on April 9, 2024; and

WHEREAS, the Whitestown Plan Commission certified a favorable recommendation to the Whitestown Town Council on July 9th, 2024; 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 zoning map change.

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

Section 1. That the Applicant is New Hope Christian Church, Owner.

Section 2. That the Applicant seeks to have the described property, attached hereto as Exhibit A and generally depicted in Exhibit B, which is currently located in the **R1 – Low-density Single-family zoning district to MUCOR – Mixed-use, Commercial, Office, Residential zoning district.**

Section 3. In order to induce the Town Council, the Applicant has made certain written commitments attached hereto as Exhibit C 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 MUCOR – Mixed-use, Commercial, Office, Residential zoning district.

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

ALL OF WHICH IS ADOPTED this _____ day of _____, 2024, by the Town Council of the Town of Whitestown, Indiana.

TOWN COUNCIL OF WHITESTOWN, INDIANA.

Dan Patterson, President

Cheryl Hancock

Eric Nichols, Vice President

Tobe Thomas

Courtenay Smock

ATTEST:

Matt Sumner, Town Clerk-Treasurer

Ordinance prepared by Allan Henderson, Planning Administrator

Exhibit A

Legal Description

NEW HOPE CHRISTIAN CHURCH
TRACT I
Instrument No. 9801480

A part of the southeast quarter of the southwest quarter of Section 31, Township 18 North, Range 2 East, Eagle Township, Boone County, Indiana, more fully described as follows:

Commencing at the southeast corner of the southwest quarter of said Section 31; thence north 00 degrees 17 minutes 50 seconds east, along the quarter section line and the approximate centerline of County Road 650 East, a distance of 849.00 feet to the point of beginning; thence south 88 degrees 07 minutes 18 seconds west, along the north described line of the Starkey Trust property, as recorded in Deed Record 234, page 475-480, a distance of 906.81 feet; thence north 00 degrees 17 minutes 50 seconds east, along an east described line of said Starkey Trust property, a distance of 486.00 feet; thence north 88 degrees 04 minutes 39 seconds east, along that part of the south described line of the Clark property as recorded in Deed Record 216, page 849, a distance of 906.81 feet; thence south 00 degrees 17 minutes 50 seconds west, along the quarter section line and the approximate centerline of County Road 650 East, a distance of 486.70 feet to the point of beginning containing 10.1170 acres, being subject to the right-of-way of County Road 650 East on and along the entire east boundary.

TRACT III
Instrument No. 0511389

A portion of the Northeast Quarter of the Southwest Quarter of Section 31, Township 18 North, Range 2 East located in Eagle Township, Boone County, Indiana being bounded as follows:

BEGINNING at a point on the East Line of the Southwest Quarter of Section 31, Township 18 North, Range 2 East, said point of beginning being South 00 degrees 24 minutes 48 seconds West (the basis of bearing is the Indiana West Zone NAD 83 State Plane Coordinate System) 988.92 feet from the Northeast Corner of said Southwest Quarter; thence South 00 degrees 24 minutes 48 seconds West 346.63 feet along the East Line of said Southwest Quarter to the Southeast Corner of the Northeast Quarter of said Southwest Quarter (said corner being the midpoint of the East Line of said Southwest Quarter); thence South 88 degrees 12 minutes 40 seconds West 1,034.52 feet along the South Line of the Northeast Quarter of said Southwest Quarter; thence North 00 degrees 22 minutes 28 seconds East 385.69 feet parallel with the West Line of the Northeast Quarter of said Southwest Quarter; thence South 89 degrees 37 minutes 32 seconds East 1,034.02 feet to the POINT OF BEGINNING.

Instrument No. 2021010517

EXCEPT:

A part of the Northeast Quarter of the Southwest Quarter of Section 31, Township 18 North, Range 2 East located in Eagle Township, Boone County, Indiana being bounded as follows:

BEGINNING at a rebar with cap (illegible) found this survey at the northwest corner of New Hope Church Tract III (Instrument No. 0511389), also being the northeast corner of The Neighborhood at Anson Section 1B of Phase 1 (Instrument No. 201200004735), said point being North 0 degrees 24 minutes 41 seconds East 1,682.18 feet and North 89 degrees 37 minutes 34 seconds West 1,034.02 feet from the southeast corner of said Southwest Quarter; thence South 89 degrees 37 minutes 34 seconds East 121.00 feet along the north line of said Tract III and south line of New Hope Boulevard (per plat of Clark Meadows at Anson Section 2 - Instrument No. 201400001595) to a rebar with orange cap (VSEI 0063) set (herein afterward called a rebar set); thence South 0 degrees 22 minutes 21 seconds West 270.00 feet to a rebar set; thence North 89 degrees 37 minutes 34 seconds West 121.00 feet to a rebar set on the west line of said Tract III and the east line of The Neighborhood at Anson Section 1B of Phase 1; thence North 0 degrees 22 minutes 21 seconds West 270.00 feet along said west and east lines to the POINT OF BEGINNING, containing 0.750 acre, more or less, and subject to all pertinent easements and rights-of-way.

NEW HOPE CHRISTIAN CHURCH
PARCELS I & II
Instrument No. 200700009717

PARCEL I

Part of the southeast quarter of the southwest quarter of Section 31, Township 18 North, Range 2 East in Boone county, Indiana, more particularly described as follows:

Beginning at a point on the east line of the southeast quarter of the southwest quarter of Section 31, Township 18 North, Range 2 East which is 468.55 feet north 00 degrees 17 minutes 50 seconds east (assumed bearing) of the southeast corner of said southwest quarter; thence south 88 degrees 14 minutes 50 seconds west 246.60 feet; thence north 00 degrees 03 minutes 45 seconds east 294.16 feet; thence north 89 degrees 06 minutes 50 seconds east 247.70 feet to the east line of said southwest quarter; thence south 00 degrees 17 minutes 50 seconds west on and along said east line 290.45 feet to the place of beginning, containing 1.66 acres, more or less.

PARCEL II

A part of the Southeast Quarter of the Southwest Quarter of Section Thirty-One (31), Township Eighteen (18) North, Range Two (2) East of the Second Principal Meridian,

situated in Eagle Township, Boone County, Indiana, and containing .51 acres, more or less, and more particularly described as follows:

Beginning at a point 759 feet north 0 degrees 17 minutes 50 seconds east (assumed bearing) of the southeast corner of said southwest quarter of Section 31, Township 18 North, Range 2 East, and run thence north 00 degrees, 17 minutes 50 seconds east (assumed bearing) 90 feet; thence south 89 degrees 06 minutes 50 seconds west 247.70 feet; thence south 00 degrees 03 minutes 45 seconds west 90 feet; thence north 89 degrees 06 minutes 50 seconds east 247.70 feet to the place of beginning.

Exhibit B

Property Map

5780 South Main Street

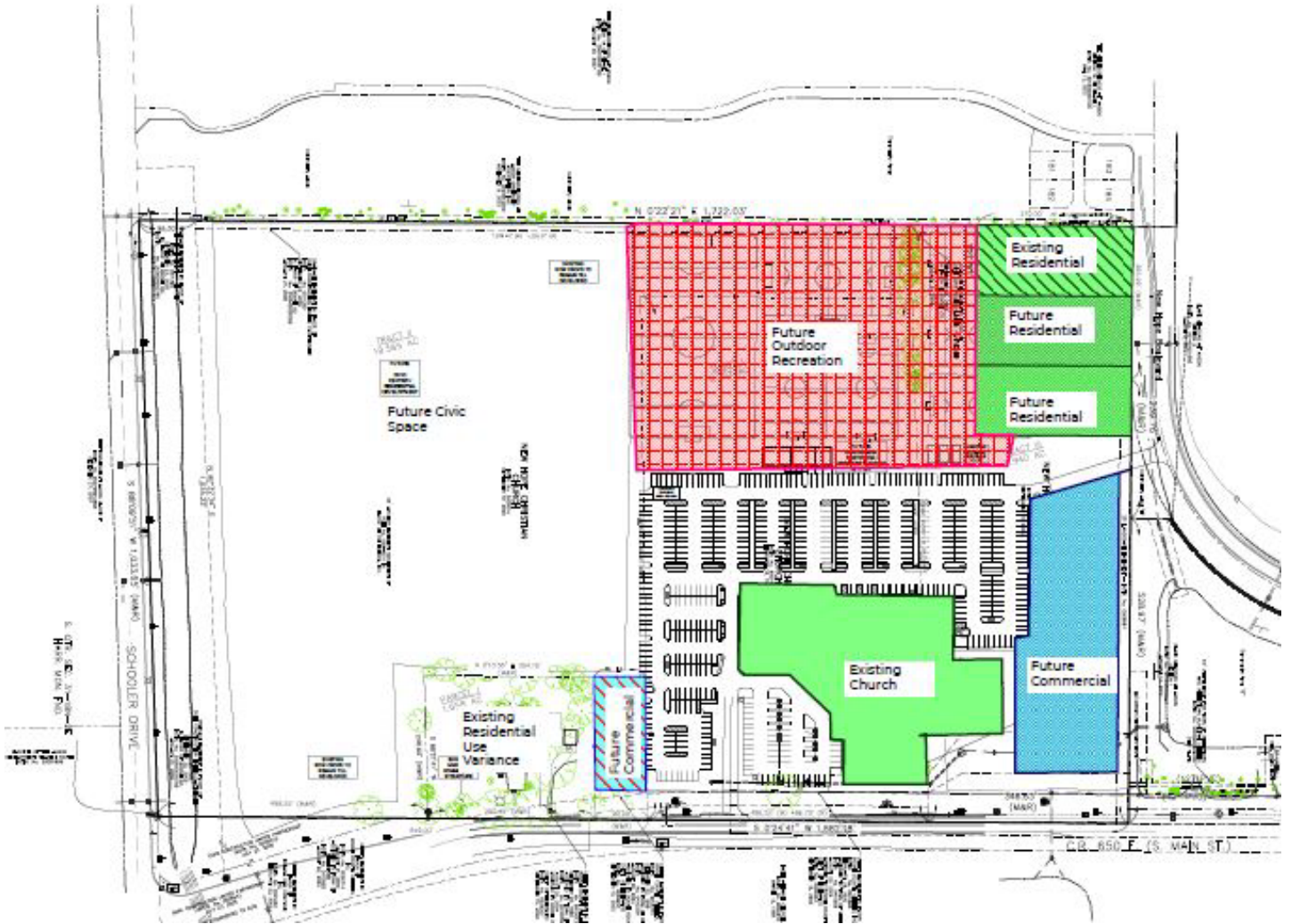


Exhibit C

Commitments

WHITESTOWN PLAN COMMISSION & TOWN COUNCIL

Docket Number PC24-010-ZA

COMMITMENTS CONCERNING THE USE OR DEVELOPMENT OF REAL ESTATE VOLUNTARILY MADE IN CONNECTION WITH A REZONING PER THE TOWN OF WHITESTOWN ZONING ORDINANCE

In accordance with Indiana Code 36-7-4-1015, New Hope Christian Church (the “Owner”), represents and warrants it is the Owner of certain real estate located in Boone County, Indiana, which real estate is more particularly described in **Exhibit A** attached hereto (the “Real Estate”), and as the Owner of said Real Estate, has authority to and does hereby voluntarily makes the following COMMITMENTS concerning the use and development of the Real Estate. The following COMMITMENTS shall be binding on the Real Estate and the Owner of the Real Estate, and other persons or entities acquiring an interest herein.

STATEMENT OF COMMITMENTS

Owner, upon approval of Docket Number PC24-010-ZA by the Town Council of the Town of Whitestown, Indiana, voluntarily agree and commit as follows:

1. Owner will commit that upon the Development of any ministry residential use on the Real Estate Tract I, Tract III, Parcel I and Parcel II it will maintain ownership of the residential property and that it shall have a related ministerial purpose and will comply with the R1 development standards. Owner will work with Town Planning Staff to orient the access points to these uses on to New Hope Blvd to accommodate safe spacing standards.
2. Town of Whitestown Unified Development Ordinance MU-COR development standards will apply, unless otherwise noted.
3. Tract II (19.565 acres) zoned R1, has been removed from this Rezone Application (see the modified legal description).
4. Any Ministry Commercial uses on the Real Estate would remain owned by the Owner and would be limited to:
 - a. Community Center
 - b. Dental/Medical Office or Clinic
 - c. Office, All Others
 - d. Garden, Urban
 - e. Concessions

- f. Ministry Residential Uses would include:
 - i. Dwelling, Single Family Detached
 - ii. Dwelling, Single Family Attached
 - iii. Live/Work Dwelling
 - iv. Group Residential Facility
5. Owner commits to the following list of excluded uses on the Real Estate:
 - a. Restaurant Class A and B
 - b. Taverns & Lounges
 - c. Bed & Breakfast
 - d. Hotel or Motel
 - e. Animal Sales & Services, Household Pets
 - f. Food Sales or Market (this exclusion does not prohibit food concessions sales generally noted on the site plan)
 - g. Liquor Store
 - h. Landscape Contractor
 - i. Retail Sales, Personal Services & Repair
 - j. Automobile Services, Light
 - k. Auto/Motorcycle/Boat/Light Truck Sales or Rentals
 - l. Service Station, Local
 - m. Utility, Major & Minor Impact
 - n. Fairgrounds
 - o. Hospital
 - p. Cemetery
 - q. Library
 - r. Museum
 - s. College & University
 - t. Parking Garage
 - u. Vehicle Storage
 - v. All Industrial, Manufacturing, and Wholesale Primary Uses
6. Relative to the Real Estate open space used for youth sports, owner commits to the following:
 - a. Owner will operate any youth sports activities as part of its ministry (in other words no exclusive third-party service provider operated programs);
 - b. No permanent bleachers installed or used in the area;
 - c. No stadium lighting will be installed;
 - d. No independent signage will be installed;
 - e. No permanent public address systems will be installed;
 - f. Hours of operation will be limited to daylight hours;
 - g. The owner acknowledges the Whitestown Noise Control Ordinance and commits to operate the youth sports area within the limits of the same; and
 - h. The area will be maintained by the Owner's property management staff.

7. Should the existing commercial ministry use on the 1.658 acre Parcel I change, the structure be substantially altered, or be redeveloped the Owner commits to work with the Town Planning Staff in order to orient the access point to accommodate safe spacing standards. This is an offsite commitment related to the Rezoning.
8. Should a commercial use on the site develop, the Owner commits to work with the Town Planning Staff in order to internally orient the access point to accommodate safe spacing standards.

These COMMITMENTS shall be executed and recorded by Owner in the Office of the Boone County Recorder, Boone County, Indiana, and shall be considered a covenant running with the land and encumbering the Real Estate.

If Owner fails to cause these COMMITMENTS to be recorded in accordance with the terms of the preceding paragraph, and a subsequent Owner fails to perform and/or comply with these COMMITMENTS, the Town of Whitestown shall be entitled to receive from Owner jointly and/or severally, any and all damages which arise from this failure and shall be entitled to injunctive relief to terminate any non-compliance herewith.

These COMMITMENTS may be modified or terminates only by the agreement of the then-applicable Owner and a decision of the Town Council made after a public hearing for which proper notice is given, including hearings for other land use or zoning approvals involving the Real Estate or any portion thereof.

These COMMITMENTS may be enforced either individually or collectively by the Town of Whitestown Plan Commission, the Director of Planning for the town of Whitestown, the Town and/or owners of any parcel of ground adjoining the Real Estate. Owner shall indemnify the Town of Whitestown Plan Commission and the Town and hold the Town of Whitestown Plan Commission and the Town, harmless from any liability, expense (including reasonable attorney fees and court costs), costs, or damages which result from Owner's failure to perform Owner's obligations under the terms and conditions of these COMMITMENTS.

In the event it becomes necessary to enforce these COMMITMENTS in a court of competent jurisdiction and Owner is found to be in violation of these COMMITMENTS, Owner shall pay all reasonable costs and expenses the Town and the Town's Plan Commission and other authorized representative(s) incur in the enforcement of these COMMITMENTS, including reasonable attorney fees, expert witness fees, and court costs.

Owner shall be responsible, at its expense, for recording these Statements of Commitments in the Office of the Recorder of Boone County, Indiana, and shall promptly provide the Planning Department of the Town of Whitestown with a copy of such recording as a condition precedent to commencing any work upon the Real Estate or receiving a permit therefor.

Owner represent and warrant to the Town that (i) Owner are the sole owners of all the Real Estate (subject to matters of record), (ii) the execution of these COMMITMENTS by the undersigned on behalf of Owner has been duly authorized and is voluntarily undertaken and

requires no authorization of a third party, and (iii) that these COMMITMENTS shall be binding upon Owner as to all the particulars herein, and Owner agree that these COMMITMENTS shall be considered COVENANTS running with the land and encumbering that Real Estate, including any portion thereof.

If at any time the Real Estate is owned by more than one party those parties shall jointly and severally constitute an "Owner" during their period of joint ownership of the Real Estate.