ORIGINAL

ORDINANCE NO. 2016-29

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

Zoning Map Amendments
PC16-010-TA

WHEREAS, the Petitioner, Diversified Property Group, LLC filed its Zoning Amendment Application before the Whitestown Plan Commission seeking to amend the zoning classification for approximately 4.78 Acres, more or less, in the Town of Whitestown, Indiana, from Boone County Area Plan Zoning GB- General Business to Whitestown UDO GB- General Business; and

WHEREAS, pursuant to Indiana Code § 36-7-4-608, the Whitestown Plan Commission conducted the required public hearing and determined its favorable recommendation, by a 5-0 vote, on June 13, 2016; and

WHEREAS, the Whitestown Plan Commission certified its favorable recommendation to the Whitestown Town Council on June 13, 2016; 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 with the stated conditions of commitment (Covenant/Commitments), all as hereinafter set out.

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

Section 1. That the Applicant is Diversified Property Group, LLC

Section 2. That the Applicant seeks to have the following described property, which is currently located in the GB zoning district rezoned to the updated GB zoning definitions in the Whitestown UDO:

See legal description attached hereto as Exhibit A and incorporated herein by reference.

Section 3. 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 4. That Exhibit B – Deed Restrictions and Written Commitments Concerning the Use or Development of Real Estate Made in Connection with a Zone Map Change – is made part of this Ordinance.

Section 5. 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 27th day of July, 2016, by the Town Council of the Town of Whitestown, Indiana.

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TOWN COUNCIL OF WHITESTOWN, INDIANA.

Eric Miller, President

Clinton Bohm

Susan Austin

Jeff Wishek

Kevin Russell

ATTEST:

Matt Sumner, Town Clerk-Treasurer

Prepared by: Lauren Bailey

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Exhibit A

Legal Description

All of Block "A" of Maple Grove Commercial Subdivision of which is recorded as Instrument number 201300013491, Book 22, Page 51 in the Office of the Recorder of Boone County Indiana, and which plat was amended by recorded Instrument number 2016000006338, Book 24, Pages 42-43 in the Office of the Recorder of Boone County Indiana.

Exhibit B

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Commitments

Commitments Concerning the Use and Development of Real Estate

STATE OF INDIANA)
) SS:
COUNTY OF BOONE)

Pursuant to IC §36-7-4-1015, Diversified Property Group, LLC (hereinafter, "Owner") makes the following Commitments to the Whitestown Plan Commission regarding the hereinafter described Real Estate.

Description of Real Estate:

See Exhibit "A" attached hereto and incorporated herein.

Statement of Commitments:

1. To preserve the context of the area, the following uses should be prohibited as part of this rezoning:
   a. Automobile or Motorcycle Sales' Automobile Repair, Service Station; Billiard & Pool Establishments; Boat Sales; Customary Home Occupations (accessory use); Diaper Services; Disinfecting & Exterminating Services; Dwelling- single family; Fraternity, Sorority or Student Housing; Fuel Dealers; Hay, Grain & Feed Stores; Major Residential Subdivision; Mobile home, Travel Trailer, Camper Sales & Services; Night Club; Temporary Mobile home; Truck Sales, Rental Leasing, Repair; Tobacco Stores.

Binding Effect:

These Commitments are binding on the owner of the Real Estate, each subsequent owner of the Real Estate, and each person acquiring an interest in the Real Estate, unless modified or terminated by operation of law or by the Whitestown Plan Commission or its successor.

Recording:

The undersigned authorizes the Director of the Whitestown Planning Department to record these Commitments in the Office of the Recorder of Boone County, Indiana, upon granting of the approval of Owner's proposed Development Plan for Docket PC16-010-TA.

Enforcement:

These Commitments may be enforced by the Whitestown Plan Commission.

IN WITNESS WHEREOF, Owner executed these Commitments this _____ day of

_____, 2016.

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By_____

Title_____

Printed_____

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STATE OF INDIANA)
)
COUNTY OF _____)

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared [OWNER], who acknowledged the execution of the foregoing Commitments.

WITNESS my hand and Notarial Seal this _____ day of _____, 2016.

Signed:_____

Printed:_____

Notary Public

My Commission Expires:

_____

My County of Residence is:

_____

This instrument was prepared by John R. Molitor, Attorney at Law.

"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."

Name: John R. Molitor