

ORDINANCE NO. 2016-_____

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

Zoning Map Amendments
PC16-009-ZA

WHEREAS, the Petitioner, MS Whitestown, LLC filed its Zoning Amendment Application before the Whitestown Plan Commission seeking to rezone approximately 16.0 Acres, more or less, in the Town of Whitestown, Indiana, from R1-Low Density Single Family Residential to MF-High Density Multi-Family Residential; 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 4-0 vote, on May 9, 2016; and

WHEREAS, the Whitestown Plan Commission certified its favorable recommendation to the Whitestown Town Council on May 9, 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 MS Whitestown, LLC

Section 2. That the Applicant seeks to have the following described property, which is currently located in the R1 zoning district rezoned to MF:

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 _____ day of _____, 2016, by the Town Council of the Town of Whitestown, Indiana.

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

Exhibit A

Legal Description

Part of the land conveyed to Eagle Alliance Church, Inc. In Instrument Number 9802618 as recorded in the Office of the Recorder of Boone County, Indiana and being part of the South Half of the Southeast Quarter of Section 31, Township 18 North, Range 2 East of the Second Principal Meridian, Eagle Township of Boone County, Indiana more particularly described as follows:

Commencing at a Harrison monument found marking the Southwest corner of the Southeast Quarter of said Section 31; thence along the along the south line of said quarter section North 88 degrees 22 minutes 43 seconds East (basis of bearing being the Indiana State Plane West Zone) a distance 1050.63 feet to the Point of Beginning; thence North 30 degrees 49 minutes 05 seconds East a distance of 402.63 feet to a point on a tangent curve to the left having a radius of 639.85 feet, the radius point of which bears North 59 degrees 10 minutes 55 seconds West; thence northerly along said curve an arc distance of 343.19 feet to the Northwest corner of the South Half of the Southeast Quarter of said Quarter Section which bears South 89 degrees 54 minutes 47 seconds East from said radius point; thence North 88 degrees 31 minutes 26 seconds East along the north line of said half quarter-quarter section a distance of 1,067.45 feet to the northwest corner of a parcel conveyed to Kerry D. Bowman in Instrument Number 200900005849 as recorded in said Recorder's Office; thence South 00 degrees 14 minutes 34 seconds East along the west line of said Bowman parcel and the west line of a parcel conveyed to Kerry D. Bowman and Melissa D. Bowman in Instrument Number 0105595 as recorded in said Recorder's Office a distance of 153.73 feet to the north line of a parcel conveyed to Boys and Girls Club of Zionsville, Inc. in Instrument Number 0512257 as recorded in said Recorder's Office; thence South 88 degrees 22 minutes 43 seconds West along said north line a distance of 170.48 feet to the northwest corner of said Boys and Girls Club parcel; thence South 00 degrees 14 minutes 34 seconds East along the west line of said Bows and Girls Club parcel a distance of 507.70 feet to 1196.58 feet to the Point of Beginning, containing 16.00 acres of land, more or less.

This description prepared by Anthony B. Syers
Indiana Registered Land Surveyor #20800124
March 29, 2016

Exhibit B
Commitments

**Commitments Concerning the Use and
Development of Real Estate**

STATE OF INDIANA)
) SS:
COUNTY OF BOONE)

Pursuant to IC §36-7-4-1015, MS Whitestown, 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: Fraternity, Sorority or Student-Housing; Orphanage; Public Golf Course; Temporary Mobile Home; Composting Facility; Golf & Country Club; Temporary Clean Fill Disposal, land reclamation, or processing site; or Mineral Extraction.

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 PC16-009-ZA.

Enforcement:

These Commitments may be enforced by the Whitestown Plan Commission.

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

_____, 2016.

By _____

Title _____

Printed _____

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