

STATE OF INDIANA
BEFORE THE BOARD OF CLARK COUNTY COMMISSIONERS

ORDINANCE NO. 10 -2020

AN ORDINANCE APPROVING AN AMENDMENT TO THE
CLARK COUNTY ZONING MAP ON RECOMMENDATION BY THE
CLARK COUNTY PLAN COMMISSION

WHEREAS, the Board of Commissioners of Clark County, Indiana (the “Board”), is the executive body of Clark County Government pursuant to the provisions of Ind. Code § 36-2-2-2; and,

WHEREAS, the Board is also the legislative body of Clark County Government pursuant to the provisions of Ind. Code 36-1-2-9; and,

WHEREAS, the Clark County Plan Commission has advisory authority regarding zoning pursuant to Ind. Code 36-7-4, *et al*; and,

WHEREAS, on the 3rd day of June, 2020, the Clark County Plan Commission passed Resolution 38-2020, (see the said Resolution 38-2020 attached hereto as **Exhibit “A”**) to reclassify certain property on the County’s zoning maps as identified in the said Resolution.

NOW, THEREFORE, BE IT ORDAINED by the Board of Clark County Commissioners as follows:

1. That the Clark County Plan Commission Resolution 38-2020, dated June 3, 2020, as attached hereto, is hereby approved, and the County’s zoning maps are reclassified pursuant to the attached Resolution and pursuant to the attached **Statement of Commitments** (attached hereto as **Exhibit “B”**).

2. This Ordinance shall be in full force and effect upon its passage and promulgation as evidenced by the affirmative signatures of the undersigned as the majority of the duly elected and serving members of this Board.

So Ordained this 9th day of July, 2020.


Members voting "NO":

Jack Coffman, Commissioner

Bryan Glover, Commissioner


Connie Sellers, Commissioner

Members voting "YES":



Jack Coffman, Commissioner

Bryan Glover, Commissioner



Connie Sellers, Commissioner

Attested by:



Danny Yost, Clark County Auditor

BY THE CLARK COUNTY PLAN COMMISSION

RESOLUTION 38 - 2020

WHEREAS, the Clark County Plan Commission met on June 03, 2020, and heard the Petition of 2020-04-PC: Matthan Schwartz, asking the property known known by its street address/parcel no. as 8905 Tunnel Mill Rd, Marysville, Indiana, be reclassified from A-1 Agricultural to B-2 Community & Roadside Business for a restaurant extension at 8905 Tunnel Mill Rd Marysville, Indiana; and

WHEREAS, the Plan Commission heard the presentation of the Petitioner(s) and the objections, comments, remonstrations, and other relevant information presented by those in attendance at the hearing, if any;

NOW, THEREFORE, BE IT RESOLVED by the Plan Commission as follows:

1. The Petition to rezone the real estate described in Exhibit A was heard after notice to interested persons was properly given in accordance with the ordinance and Indiana law; and
2. The Plan Commission heard and received the relevant evidence presented and deliberated on such evidence in a public meeting.
3. The Plan Commission recommends to the Board of Commissioners of Clark County as follows:

The real estate described at 8905 Tunnel Mill Rd, Marysville, Indiana should be reclassified from A-1 Agricultural to B-2 Community & Roadside Business

The real estate described at _____, Indiana should NOT be reclassified from _____ to _____.

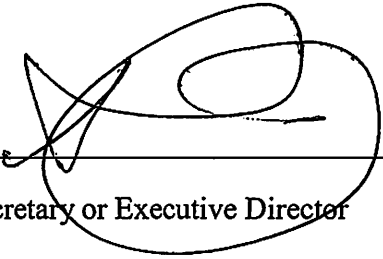
The Plan Commission was unable to reach consensus as required by law, and therefore sends the rezoning petition to the Clark County Commissioners WITHOUT RECOMMENDATION.

Dated this _____ day of _____, 2020.



I hereby certify this is a true and correct copy of the Resolution passed by the Clark County Plan Commission on June 03, 2020.

ATTEST:



Secretary or Executive Director

Legal Description: See Exhibit A attached hereto and by this reference incorporated herein (the "Real Estate")

STATEMENT OF COMMITMENTS:

These COMMITMENTS are given by and shall be binding on MATTHAN & NAOMI SCHWARTZ ("owner"), subsequent owners of the Real Estate and any other persons acquiring an interest therein. These COMMITMENTS may be modified or terminated only by a decision of the Clark County Plan Commission (the "Board") made at a public hearing after notice has been provided under the rules of the Board.

These COMMITMENTS contained in this instrument shall be effective upon the adoption or approval by the Board of the Owner's Petition/Application for all or any of the following related to all or part of the Real Estate.

1. Adoption of a rezoning proposal
2. Primary approval of a proposed subdivision plat
3. Approval of a vacation of all or part of the plat
4. Special exception (Pick as applicable)
5. Special use
6. Contingent use
7. Conditional use
8. Variance

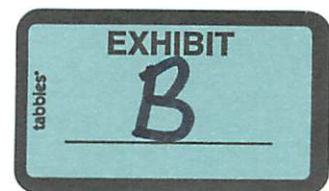
These COMMITMENTS do not obligate the Board or the Clark County Commissioners, as applicable to adopt, approve, or favorably recommend the Owner's Petition or Application to which this COMMITMENT relates.

These COMMITMENTS may be enforced jointly or severally by:

- a) The Clark County Plan Commission
- b) the Board of Clark County Commissioners
- c) the Clark County Board of Zoning Appeals
- d) Owners of all parcels of ground adjoining the Real Estate to a depth of two (2) ownerships, but not to exceed one thousand (1,000) feet from the perimeter of the Real Estate, and all owners of the Real Estate. Owners of real estate located entirely outside the Jurisdiction of the Board are not included, however. The identity of owners shall be determined from the records of the office of the Assessor of Clark County which lists the then current owners of record.

The Owner imposes and consents to the following COMMITMENTS for the use and/or development of the Real Estate:

- a) All permitted uses Allowed in B-2 Zoning Except the following
- b) uses: Taverns, Night Clubs, Auditoriums, Theaters, bowling Alley, billiard rooms
- c) dance studios, Amusement Facilities, Amusement Parks, drive in movies
- d)



An action to enforce a COMMITMENT may be brought in a Circuit Court in Clark County, Indiana. A permitted party bringing an action to enforce a COMMITMENT may request mandatory or prohibitory injunctive relief through the granting of temporary restraining order, preliminary injunction or permanent injunction. If the action to enforce a COMMITMENT herein is successful, the respondent shall bear the costs of the action. A change of venue from the County shall not be granted in such an action and Owner herein waives all rights to a change of venue from the County.

The Owner hereby authorizes the Board, Clark County, Indiana or any of their agents or representatives to record this Statement of Commitments in the office of the Recorder of Clark County, Indiana, upon approval or adoption of Owner's Petition/Application.

IN WITNESS WHEREOF, the Owner has executed this instrument this 4TH day of Feb, 2020.

(Individual Signature Lines)

Matthew Schwartz

Nasmi Schwartz

(Or Company Signature Line)

(TYPE COMPANY NAME HERE)

BY: _____
ITS: _____

(INDIVIDUAL NOTARY)

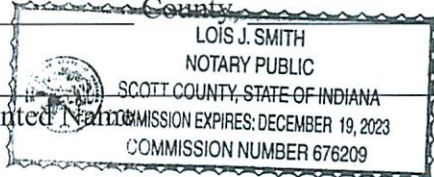
STATE OF INDIANA
COUNTY OF CLARK

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Before me, the undersigned, a Notary Public in and for said County and State, this 4TH day of February, 2020, personally appeared MATTHEW & NASMI SCHWARTZ and acknowledged the execution of the above and foregoing instrument.

Witness my hand and notarial seal.

My commission expires:
12.19.2023

Lois J. Smith
Notary Public, Resident of _____
County _____

Printed Name _____

(OR CORPORATE NOTARY)

