

STATE OF INDIANA
BEFORE THE BOARD OF CLARK COUNTY COMMISSIONERS

ORDINANCE NO. 20 -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 9th day of September, 2020, the Clark County Plan Commission passed Resolution 43-2020, (see the said Resolution 43-2020 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 43-2020, dated September 9, 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 1st day of October, 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 43 - 2020

WHEREAS, the Clark County Plan Commission met on September 09, 2020, and heard the Petition of 2020-13-PC: Cris-Tiani, asking the property known known by its street address/parcel no. as 15605 SR 62, Charlestown, Indiana, be reclassified from A-1 Agriculture to M-2 Heavy Industrial for a future industrial use at 15605 SR 62 Charlestown, 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 15605 SR 62, Charlestown, Indiana should be reclassified from A-1 Agriculture to M-2 Heavy Industrial.

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

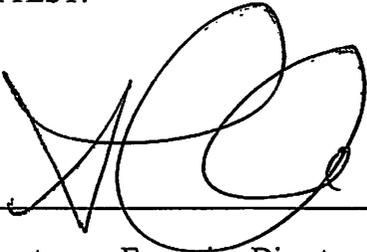
The Plan Commission was unable to reach consensus as required by law, and therefore sends the rezoning petition to the Clark County Commissioners WITHOUT RECOMMENDATION.

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 September 09, 2020.

ATTEST:

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke, positioned above a solid horizontal line.

Secretary or Executive Director

VOLUNTARY ZONING COMMITMENT

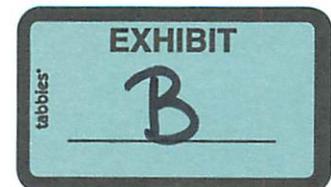
This Voluntary Zoning Commitment (hereinafter referred to as the “Commitment”) is given by and shall be binding on **CHRIS-TIANI PROPERTIES, LLC** (the “Owner”), an Indiana limited liability company with an address of 1221 Old Highway 31E, Clarksville, Indiana 47129, in favor of **CLARK COUNTY, INDIANA**, and the **CLARK COUNTY PLAN COMMISSION** (collectively, the “County”), an Indiana municipal government unit, with an address of Clark County Government Building, Room 416, 501 E. Court Avenue, Jeffersonville, IN 47130.

RECITALS:

WHEREAS, the Owner is the record owner real property located at 15605 Highway 62, Charlestown, Clark County, Indiana [Parcel No. 10-03-12-200-022.000-003], the legal description of which is attached hereto as Exhibit “A” (the “Property”); and,

WHEREAS, the Owner filed an Application for Zoning Map Amendment with the Clark County Plan Commission (the “Plan Commission”) seeking to change the zoning designation of the Property from A-1 (Agricultural) to M-2 (Heavy Industrial) in order to accommodate the Owner’s intended use as a trucking terminal and commercial dumpster storage yard facility; and,

WHEREAS, on September 9, 2020, following due notice and public hearing on the application, the Plan Commission voted to forward the application to the Clark County Board of Commissioners with a favorable recommendation by a majority vote of its entire membership, subject to the Owner tendering this instrument to the Clark County Board of Commissioners; and,



WHEREAS, pursuant to the provisions of Ind. Code § 36-7-4-1015(a)(1), the Owner now voluntarily tenders this Commitment in effort to induce the Clark County Board of Commissioners to approve the proposed zone map change.

NOW, THEREFORE, the Owner, as an inducement for the Clark County Board of Commissioners' grant of its requested zone map change, the Owner hereby imposes and consents to the following commitments for the use and/or development of the Property:

1. Unless this Commitment is subsequently modified, amended, or terminated by official action taken by the Plan Commission in accordance with Ind. Code § 36-7-4-1015(b)(5), the following uses shall be prohibited on the Property, notwithstanding whether they are otherwise permitted by right in the M-2 (Heavy Industrial) district:

- a. Creosote manufacturing and treatment of petroleum products;
- b. Boiler manufacturing;
- c. Railroad equipment manufacturing, repair, and service yards;
- d. Manufacturing of soaps, pharmaceutical paper products, or malt products; brewing or distillation of liquor and spirits; poultry hatchery; stone works and stone cutting; or, thermal, electric, and steam power plants;
- e. Mining, extraction, washing, and processing of sand, gravel, and other materials;
- f. Manufacture and assembly of glass, plastic, and rubber products and implements;
- g. Manufacture of colors, dye, paint and other coatings, and tar products; or,
- h. Municipal solid waste landfill (non-hazardous) as defined by 329 IAC 10-2-116, as the same may be amended from time-to-time.

This Commitment shall be binding on the Owner and any subsequent owner(s) of the Property, and/or any other persons acquiring an interest therein. This Commitment may be modified or terminated only by official action of the Plan Commission made after a public hearing with notice provided pursuant to applicable law and the adopted rules of the Plan Commission.

This Commitment shall be effective upon the adoption of an ordinance by the Clark County Board of Commissioners approving the zone map change requested by the Owner.

This Commitment may be enforced jointly or severally by the Plan Commission, the County, or the record owner(s) of all properties directly adjoining the Property. The standing of adjoining owners entitled to file and maintain any such enforcement action shall be determined by identification of the current owner(s) of record from the records maintained by the office of the Clark County Auditor.

An action to enforce this Commitment may be brought in the Circuit Courts of Clark County, Indiana. A permitted party bringing an action to enforce this Commitment may request mandatory or prohibitory injunctive relief through the granting of a temporary restraining order, preliminary injunction, or permanent injunction. If an action to enforce this Commitment is successful, the substantially prevailing party shall be entitled to recover its costs, including their reasonable attorney's fees. A change of venue from Clark County shall not be granted in such action, although any party to the action may seek and obtain a change of venue from judge.

The Owner shall execute and record this Commitment in the office of the Clark County Recorder within forty-five (45) days after the adoption of an ordinance by the Clark County Board of Commissioners approving the zone map change requested by the Owner, which period shall automatically be extended during the period of any judicial appeal or review. The Owner shall promptly provide a copy of the recorded Commitment to the Plan Commission.

IN WITNESS WHEREOF, the Owner, by the undersigned as its duly authorized representative, has executed this Commitment, this _____ day of _____, 2020.

**CHRIS-TIANI PROPERTIES, LLC,
an Indiana limited liability company**

By: _____
Chris Jackson, Member

STATE OF INDIANA)
) SS:
COUNTY OF CLARK)

BEFORE ME, the undersigned, a Notary Public in and for the above-named County and State, personally appeared Chris Jackson as the duly authorized member of Chris-Tiani Properties, LLC, an Indiana limited liability company, and acknowledged the execution of the foregoing *Voluntary Zoning Commitment* on behalf of such company as its free and voluntary act and deed.

WITNESS my hand and Notarial Seal, this _____ day of _____, 2020.

My Commission expires:

_____ Notary Public

Resident of _____ County _____ Printed Name

DECLARATION

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, and that this instrument was prepared by:

C. Gregory Fifer, Attorney
APPLEGATE FIFER PULLIAM LLC
428 Meigs Avenue
Jeffersonville, IN 47130
(812) 284-9499

EXHIBIT A

Part of Survey No. 122 of the Illinois Grant, Clark County, in the State of Indiana, described as follows, to-wit: Beginning at a stake the common corner of Survey Nos. 100, 101, 121 and 122; thence N. 50 deg. 0 min. E., with the center line of State Highway No. 62 ... 380 feet to a stake, the TRUE PLACE OF BEGINNING; thence continuing N. 50 deg. 0 min. E., with the center line of State Highway No. 62 ... 871.2 feet to a stake; thence N. 40 deg. 09 min. W., 400 feet to a stake; thence S. 50 deg. 0 min. W. 871.2 feet to a stake in Bryson's line; thence S. 40 deg. 09 min. E., with Bryson's line 400 feet to the true place of beginning, containing 8 acres, more or less, and subject to all legal highways.

Also:

Part of Survey No. 122 of the Illinois Grant, described as follows, to-wit: Beginning at a point in the line dividing Surveys Nos. 101 and 122, the center line of State Highway No. 62, said point being N. 50 deg. 00 min. E., 380 feet from a brass pin in said center line at the common corner of Surveys Nos. 100, 101, 121 and 122; thence N. 40 deg. 09 min. W. with James M. Bryson's northeast line 400.0 feet to an iron pin, THE TRUE PLACE OF BEGINNING, and being the west corner of Grantees' 8.00 acre tract, as described in deed, recorded in Deed Record No. 166 at page 369 in the Recorder's Office of Clark County, Indiana; thence N. 50 deg. 00 min. E., with the northwest line of the said 8.00 acre tract, 871.2 feet to an iron pin at the north corner of the said 8.00 acre; thence N. 40 deg. 09 min. W., 21.3 feet to an iron pin; thence S. 87 deg. 41 min. W., 311.5 feet to an iron pin; thence S. 75 deg. 53 min. W. 299.2 feet to an iron pin; thence S. 68 deg. 01 min. W., 375.3 feet to an iron pin in Bryson's northeast line; thence S. 40 deg. 09 min. E., with Bryson's northeast line, 458.5 feet to the TRUE PLACE OF BEGINNING, containing 5.64 acres, more or less, hereby conveyed.

Excepting therefrom:

A part of the Survey No. 122 of the Illinois Grant, Clark County, Indiana, and being that part of the grantors' land lying within the right-of-way lines depicted on the attached Right-of-Way Plat marked "Exhibit B" described as follows: Commencing at a stake the common corner of Survey Nos. 100, 101, 121 and 122; thence N. 50 deg. 0 min. E., with the centerline of State Highway No. 62...380 feet (the foregoing portion of this description beginning with the words "at a stake" is quoted from Deed Record 10, Page 11306) to the prolonged southwestern line of the grantors' land; thence North 35 degrees 55 minutes 59 seconds West 50.00 feet along said prolonged southwestern line to the northwestern boundary of S.R. 62 and the point of beginning of this description; thence North 35 degrees 55 minutes 59 seconds West 19.46 feet along the southwestern line of the grantors' land; thence North 54 degrees 07 minutes 17 seconds East 31.57 feet to the point designated "102" on said plat; thence North 56 degrees 24 minutes 43 seconds East 250.20 feet to the point designated "107" on said plat; thence North 51 degrees 15 minutes 32 seconds East 400.50 feet to the point designated "112" on said plat; thence North 61 degrees 37 minutes 19 seconds East 191.28 feet to the intersection of the northeastern line of the grantors' land with the northwestern boundary of S.R. 62 designated "123" on said plat; thence South 40 degrees 02 minutes 03 seconds West 15.10 feet along said northwestern boundary; thence South 54 degrees 04 minutes 01 seconds West 275.00 feet along said boundary; thence South 51 degrees 12 minutes 17 seconds West 200.26 feet along said boundary; thence South 54 degrees 04 minutes 01 seconds West 250.00 feet along said boundary; thence South 59 degrees 46 minutes 42 seconds West 100.49 feet along said boundary; thence South 54 degrees 04 minutes 01 seconds West 31.55 feet along said boundary to the point of beginning and containing 0.433 acres, more or less.

All bearings in this description which are not quoted from previous instruments are based on the bearing system for Indiana Department of Transportation Project STP-193-4(010).