

STATE OF INDIANA  
BEFORE THE BOARD OF CLARK COUNTY COMMISSIONERS

ORDINANCE NO. 5-2022

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 9<sup>th</sup> day of February, 2022, the Clark County Plan Commission passed Resolution 3-2022, (see the said Resolution 3-2022 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 3-2022, dated February 9, 2022, as attached hereto, is hereby approved, and the County’s zoning maps are reclassified pursuant to the attached Resolution and subject to the Voluntary Zoning Commitment 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 \_\_\_\_\_ day of February, 2022.

Members voting "NO":

Members voting "YES":

\_\_\_\_\_  
Bryan Glover, Commissioner

  
\_\_\_\_\_  
Bryan Glover, Commissioner

\_\_\_\_\_  
Connie Sellers, Commissioner

  
\_\_\_\_\_  
Connie Sellers, Commissioner

\_\_\_\_\_  
Jack Coffman, Commissioner

  
\_\_\_\_\_  
Jack Coffman, Commissioner

Attested by:

  
\_\_\_\_\_  
Danny Yost, Clark County Auditor

BY THE CLARK COUNTY PLAN COMMISSION

RESOLUTION 3-2022

WHEREAS, the Clark County Plan Commission met on February 9, 2022, and heard the Petition of 2021-29-PC: Zone Map Amendment, asking a portion of the property known by its parcel no as 10-09-11-100-178.000-030; 1 0-09-11-100-024.000-030; 1 0-09-11-100-080.000-030 (as identified in Exhibit A), be reclassified from PUD (Commerce Park PUD) to PUD for commercial, located at 8512 Commerce Park Drive; 4507 Greenleaf Road; and 4515 Greenleaf Drive, Sellersburg, IN 47472.

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, after giving reasonable regard to the factors set forth in I.C. 36-7-4-603:

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;
2. The Plan Commission heard and received the relevant evidence presented and deliberated on such evidence in a public meeting; and
3. The Plan Commission recommends to the Board of Commissioners of Clark County with a 6 - 0 vote as follows:

X FAVORABLE RECOMMENDATION: The real estate described at Parcel No 10-09-11-100-178.000-030; 1 0-09-11-100-024.000-030; 1 0-09-11-100-080.000-030; 8512 Commerce Park Drive; 4507 Greenleaf Road; and 4515 Greenleaf Drive, Sellersburg, IN 47472 SHOULD be reclassified from B3 to R2.

UNFAVORABLE RECOMMENDATION: The real estate described at Parcel No 10-09-11-100-178.000-030; 1 0-09-11-100-024.000-030; 1 0-09-11-100-080.000-030; 8512 Commerce Park Drive; 4507 Greenleaf Road; and 4515 Greenleaf Drive, Sellersburg, IN 47472 should NOT be reclassified from B2 to R2.

NO RECOMMENDATION: The Plan Commission sends the rezoning petition to the Clark County Commissioners WITHOUT RECOMMENDATION.

X CONDITIONS: The Plan Commission sends the rezoning petition to the Clark County Commissioners WITH CONDITIONS to include: 1) PUD standards per site plan; and 2) 8'-10' of right-of-way would be dedicated if needed and the front setback can be reduced by the same amount.



I hereby certify this is a true and correct copy of the Resolution passed by the Clark County Plan Commission on February 9, 2022.

"Aye"



Michael Killen, President

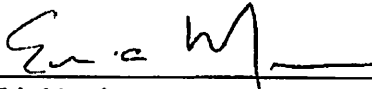
David Blankenkoper



Kevin Christman

Wally Estes

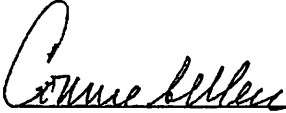
Bart Meyer



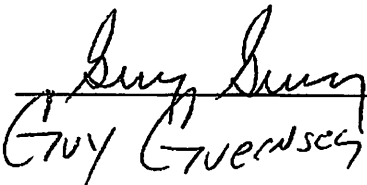
Eric Morris



Janne Newland



Connie Sellers



ATTEST:



Secretary or Executive Director

"Nay"

Michael Killen, President

David Blankenkoper

Kevin Christman

Wally Estes

Bart Meyer

Eric Morris

Janne Newland

Connie Sellers

**VOLUNTARY ZONING COMMITMENT**

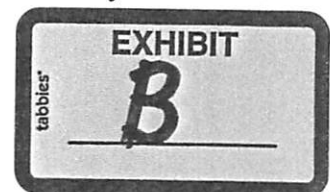
This Voluntary Zoning Commitment (hereinafter referred to as the “Commitment”) is given by and shall be binding on **COMMERCE PARK WAREHOUSE LLC** (the “Owner”), an Indiana limited liability company with an address of 8512 Commerce Park Drive, Sellersburg, Indiana 47172, in favor of **CLARK COUNTY, INDIANA**, and the **CLARK COUNTY PLAN COMMISSION** (collectively, the “County”), an Indiana municipal government unit with an address of Clark County Government Building, 501 E. Court Avenue, Room 404, Jeffersonville, IN 47130.

*RECITALS:*

**WHEREAS**, the Owner is the record owner real property located at the commonly known address of 8512 Commerce Park Drive. Sellersburg, Clark County, Indiana [Parcel Nos. 10-09-11-100-178.000-030, 10-09-11-100-024.000-030, and 10-09-11-100-080.000-030], 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 Planned Unit Development (PUD) and Low Density Residential (R-1) to Planned Unit Development (PUD) in accordance with the provisions of Ind. Code § 36-7-4-608; and,

**WHEREAS**, on February 9, 2022, following due notice and public hearing on the application, a majority of the entire membership of the Plan Commission voted to forward the Owner’s application to the Board of Commissioners of Clark County (the “Board”) with a favorable recommendation, subject only to the Owner’s tender of the voluntary commitment made in this instrument; and,



**WHEREAS**, as an inducement for the approval of the Owner's requested rezoning by this Board, the Owner now tenders this voluntary commitment in accordance with the provisions of Ind. Code § 36-7-4-1015(a)(1).

**NOW, THEREFORE**, the Owner, as an inducement for the Board's consideration and approval of the zone map change of the Property from Planned Unit Development (PUD) and Low Density Residential (R-1) to Planned Unit Development (PUD), and in accordance with the provisions of Ind. Code § 36-7-4-1015(a)(1), the Owner hereby imposes and consents to the following commitment for the use and/or development of the Property:

1. In the event that the County subsequently determines to construct roadway improvements to the portion of Greenleaf Road that is adjacent to the Property, and in the further event that the County cannot obtain sufficient rights-of-way to construct such improvements on property presently owned by West Clark 2000 School Building Corporation [Parcel No. 10-09-11-100-179.000-030], the Owner agrees to donate an eight-foot (8.00') wide right-of-way on the portion of the Property fronting Greenleaf Road; provided, however, that this commitment is contingent on the grant of final approval of any amendment to the development standards contained in the ordinance establishing the PUD district for the Property that are determined as necessary by the Executive Director of the Clark County Department of Planning & Zoning, the Plan Commission, or the Board.

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 final grant of the Owner’s requested zone map change by ordinance adopted by the Board in accordance with the provisions of Ind. Code § 36-7-4-608.

This Commitment may be enforced jointly or severally by the Plan Commission or the Board. An action to enforce this Commitment may be brought in the Circuit or Superior Courts of Clark County, Indiana. A 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 Board’s final adoption of the ordinance approving the Owner’s requested zone map change. The Owner shall promptly provide a copy of the recorded Commitment to the Clark County Department of Planning & Zoning and the Board.

IN WITNESS WHEREOF, the Owner, by the undersigned as its duly authorized representative, has executed this Commitment, this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

**COMMERCE PARK WAREHOUSE LLC,  
an Indiana limited liability company**

By: \_\_\_\_\_  
Renata G. Kelly, 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 **RENATA G. KELLY**, as the duly authorized member of Commerce Park Warehouse 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 \_\_\_\_\_, 2022.

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