

STATE OF INDIANA

BEFORE THE BOARD OF CLARK COUNTY COMMISSIONERS

ORDINANCE NO. 16-2015

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

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

WHEREAS, this 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, the Clark County Plan Commission has passed Resolution 3-2015, (see Resolution 3-2015 attached hereto as Exhibit “A”) to reclassify the property subject to that Resolution.

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

1. That the Clark County Plan Commission Resolution 3-2015, as attached hereto, is approved.
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 26th day of March, 2015.

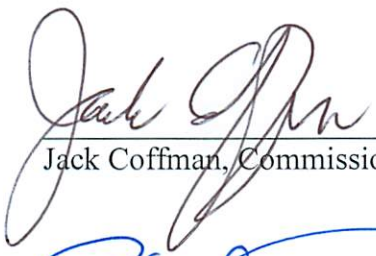
Members voting "NO":

Jack Coffman, Commissioner


Rick Stephenson, Commissioner

Bryan Glover, Commissioner

Members voting "YES":



Jack Coffman, Commissioner



Rick Stephenson, Commissioner



Bryan Glover, Commissioner

Attested by:



R. Monty Snelling, Clark County Auditor

BY THE CLARK COUNTY
PLAN COMMISSION

RESOLUTION 3-2015

WHEREAS, the Clark County Plan Commission met on May 13th, 2015 and heard the petition of J&MD Farm LLC., asking that the property known by its street address as 899 E. Utica – Sellersburg Rd., Sellersburg, Indiana be reclassified from R-2 Two-Family Residential to M-1 Light Industrial at 899 E. Utica – Sellersburg Rd., Sellersburg, Indiana.

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 and with Statement of Commitments 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:

(Check One)

The real estate described at 899 E. Utica – Sellersburg, Sellersburg, Indiana should be reclassified from R-2 Two-Family Residential to M-1 Light Industrial.

The real estate described at 899 E. Utica – Sellersburg, Sellersburg, 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 14th day of May.

I hereby certify that this is a true and correct copy of the Resolution passed by the Clark County Plan Commission on May 13th, 2015.

ATTEST:



Secretary or Executive Director

ACTION TAKEN BY BOARD OF COMMISSIONERS
OF CLARK COUNTY, INDIANA

This matter having come before the Board of Commissioners of Clark County, Indiana (County Commissioners) on _____ the petition of J&MD Farms LLC., to reclassify the real estate at 899 E. Utica - Sellersburg, Sellersburg, Indiana from R-2 Two-Family Residential to M-1 Light Industrial with Statement of Commitments; and the Plan Commission has adopted the forgoing resolution in which it makes its recommendations to the County Commissioners and the County Commissioners having read the recommendation, having reviewed all available evidence, having considered the county's comprehensive plan, having balanced the competing interests of those in the area affected, if any, now, therefore, determines as follows:

_____ The real estate at 899 E. Utica - Sellersburg, Sellersburg, Indiana should be reclassified on the zoning maps from R-2 Two-Family Residential to M-1 Light Industrial.

_____ The real estate at 899 E. Utica - Sellersburg, Sellersburg, Indiana SHOULD NOT be reclassified on the zoning maps.

Dated this _____ day of _____, 20__.

Board of Commissioners of
Clark County, Indiana



Jack Coffman, President

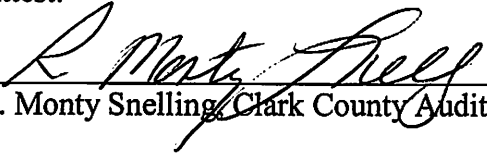


Bryan Glover, Commissioner



Rick Stephenson, Commissioner

Attest:


R. Monty Snelling, Clark County Auditor

**CERTIFICATION TO COMMISSIONERS ON APPLICATION
FOR REZONING**

APPLICANT NAME: 13 MD Farms LLC PETITION NO.: 2015-6-PC
 REAL ESTATE DESCRIPTION: DESCRIBED ON EXHIBIT "A" ATTACHED.

The Clark County Plan Commission certifies that the above application for rezoning by the above named applicant regarding the real estate described in Exhibit "A" attached was duly heard and decided.

The Clark County Plan Commission's recommendation on the petition to rezone the property from a R-2 zone to a M-2 zone is (favorable) (unfavorable, no recommendation).

Recorded Commitment Required YES No If Yes, Requirements attached.

Clark County Plan Commission

Member	Voting for	Voting Against	Abstain
<u>R. Wardlaw</u> RICK WARDLAW	✓		
<u>Dan Callahan</u> DAN CALLAHAN	✓		
<u>Michael Killen</u> MICHAEL KILLEN	✓		
<u>absent</u> JOHN UHL			
<u>Barbara Brathcer-Haas</u> BARBARA BRATHCER-HAAS	✓		
<u>Simon Kafari</u> SIMON KAFARI	✓		
<u>David Blattkenbeker</u> DAVID BLATTKENBEKER	✓		
<u>Jack Coffman</u> JACK COFFMAN	✓		
<u>Martina Webster</u> MARTINA WEBSTER	✓		

Attest:
Michael Tackett
 Michael Tackett
 Executive Director

7 read # 22

Exhibit A

ONLY ENTERED FOR TAXATION
SUBJECT TO FINAL ACCEPTANCE
FOR TRANSFER

AUG 29 2013

R. M. Smith
Auditor, Clark County

Richard P. Jones 4P
CLARK COUNTY RECORDER
Filed for Record as Presented
I 201318192 Page 1 of 4
C1 Date 08/29/2013 Time 11:42:32

CO-PERSONAL REPRESENTATIVES' DEED

THIS INDENTURE WITNESSETH, that Dennis Dreyer and Margo Dreyer, Co-Personal Representatives of the Estate of Margaret A. Dreyer in Case No. 10C01-1210-EU-000152 in the Clark Circuit Court No. 1 ("Grantor"), of Clark County, in the State of Indiana, CONVEY AND WARRANT to J&MD FARM, LLC, ("Grantee") of Clark County, in the State of Indiana, for the sum of Ten and no/100 Dollars (\$10.00) and other valuable consideration, the receipt of which is hereby acknowledged, the following described real estate in Clark County, in the State of Indiana:

A part of Survey No. 89 of the Illinois Grant and more particularly described as follows: beginning at the stone marked "J" on the north corner of said Survey No. 89, thence S 50 degrees 00' W with a line dividing Surveys Nos. 89 and 110, a distance 462.38 feet to an iron pin on the east r/w line of the Southern Indiana Railroad; continuing S 50 degrees 00' W with said dividing line 33.80 feet to an iron pin on the west r/w line of said Southern Indiana Railroad, same point being on the east r/w line of Conrail; thence S 12 degrees 34' 32" E with said Conrail r/w line 1477.35 feet to an iron pin; thence N 51 degrees 35' E 466.97 feet to an iron pin on the west r/w line of Southern Indiana Railroad r/w; continuing N 51 degrees 35' E 39.19 feet to an iron pin on the east r/w line of said railroad; continuing N 51 degrees 35' E. 397.28 feet to an iron pin; thence N 39 degrees 19' 07" W, passing iron pins at 391.97 feet and 590.96 feet, a distance of 668.50 feet to an iron pin; thence N 49 degrees 20' 31" E 252.52 feet to an iron pin; thence N 38 degrees 52' 27" W 665.08 feet to the point of beginning, containing 21.349 acres, less 1.025 acres of the Southern Indiana Railroad r/w, leaving a net of 20.234 acres, subject to all easements of record.

Being a part of the real estate conveyed to Roy Dreyer and Ruth Dreyer, by deed dated December 31, 1943, and of record in Deed Record 144, Page 381 in the office of the Recorder of Clark County, Indiana.

Excepting therefrom a part of Survey Number 89 of the Illinois Grant, Silver Creek Township, Clark County, Indiana, described as follows: beginning at the north corner of Survey Number 89, thence south 37 degrees 26 minutes 49 seconds east 899 feet along the survey line to the TRUE PLACE OF



BEGINNING. Thence south 37 degrees 26 minutes 49 seconds east 114.65 feet along the survey line, thence south 51 degrees 35 minutes west 151 feet, thence north 37 degrees 26 minutes 49 seconds west 40 feet. Thence south 51 degrees 35 minutes west 113 feet, thence north 37 degrees 29 minutes 49 seconds west 76.3 feet thence north 51 degrees 35 minutes east 264 feet to the TRUE PLACE OF BEGINNING. Containing 0.596 acres, more or less, subject to the county road right-of-way and any easement of record.

Subject to an easement in favor of the Town of Sellersburg, Clark County, Indiana found in Miscellaneous Book 44, page 241 in the office of the Recorder of Clark County, Indiana.

Also, starting at a stone at the northwest corner of Grant No. 90, the Illinois Grant, Clark County, Indiana; thence south 34 degrees 55' East 734 feet on the line dividing No. 89 and 90, of the Illinois Grant to a stone marked "A", in the center of the Sellersburg and Utica Road and the place of beginning; thence continuing on the same line 223.77 feet to a stone marked "B" in the center of the said road; thence north 55 deg. 14' East 292 feet to a stone marked "X" thence north 34 degrees 55' west 223.77 feet to a stone marked "A" thence south 55 deg. 14' West 292 feet to the place of beginning, containing one and one-half acres.

Being the same real estate conveyed to Roy W. Dreyer and Ruth M. Dreyer, husband and wife, by deed dated May 11, 1951 and of record in Deed Record 174, Page 521 in the office of the Recorder of Clark County, Indiana.

Also, beginning at a stone the northwest corner of Survey No. 90 of the Illinois Grant, and running thence north 47 deg. 57' east 69 chains and 97 links, on the original line between Surveys Numbered 111 and 90, to a black oak and beech; thence south 41 deg. East 34 chains and 3 ½ links to a stone, corner to what was formerly known as Harff's land; thence south 48 deg. 13' west 71 chains and 5 links to the land formerly owned by said Harff, cornered with what was formerly James Wells' line; thence north 41 deg. 50' west 34 chains 2 ½ links to the place of beginning containing 60 acres more or less, with the appurtenances thereto belonging. EXCEPTING therefrom a one acre parcel conveyed to Theodore Krakel, and 1 acre parcel conveyed to Union Lime Company and 1 ½ acre parcel conveyed to Silver Creek Township.

EXCEPT THEREFROM the following: Being a part of Survey 90 of the Illinois Grant to Clark County, Indiana, and being further described as follows: Beginning at a "MAG" nail on the west corner of said survey, thence N 54° 59' 28" E, along the line dividing Surveys 90 and 111, 359.1 feet to THE TRUE PLACE OF BEGINNING; thence continuing N 54° 59' 28" E, along said dividing line,

281.28 feet to a steel pin; thence S 35° 01' 03" E, 298.34 feet to a steel pin; thence S 54° 57' 32" W, 640.38 feet to a "MAG" nail on the line dividing Surveys 89 and 90, being in Utica Street (a.k.a. Utica Sellersburg Road), thence N 35° 01' 03" W, along said dividing line, 176 feet to a "MAG" nail; thence N 54° 57' 32" E, (Passing through a steel pin at 30 feet) 360 feet to a steel pin; thence N 35° 26' 19" W, 122.5 feet to THE TRUE PLACE OF BEGINNING. Containing 3.38 acres and being subject to all legal highways and easements of record.

Being the same real estate conveyed to Ruth Dreyer, by deed dated September 30, 1959, and of record in Deed Record 225, Page 9 in the office of Recorder of Clark County, Indiana.


Commonly known as 899 E. Utica, Sellersburg, Indiana.

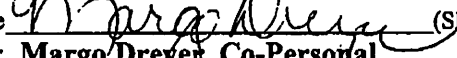
The undersigned hereby represent that this real estate is not "property" as defined in Indiana Code 13-11-2-174, and is not, and has not been used as a landfill or dump, and contains no underground storage tanks or toxic or hazardous waste or materials, and that no disclosure statement under Indiana Code 13-11-2-56, et seq., (Indiana Responsible Transfer Law) is required for this transaction.

GRANTEE TO PAY REAL ESTATE TAXES BEGINNING WITH THOSE PAYABLE IN THE FALL OF 2013 AND THEREAFTER.

Parcel Nos.: ⁰¹⁷⁻⁴¹⁻⁰⁴⁵⁰ 10-17-08-900-157.000-031, ⁰⁰⁹⁻⁶⁻⁰⁰⁵⁰ 10-09-09-000-008.000-030 and
10-09-09-000-013.000-030 ⁰⁰⁹⁻⁶⁻⁰⁰⁶⁰
Send tax statements to: J&MD Farm, LLC
Address: 899 E. Utica
Sellersburg, IN 47172
Grantee(s) Address: same

IN WITNESS WHEREOF, Grantors have executed this deed this 10th day of July, 2013.

Signature  (SEAL)
Printed: Dennis Dreyer, Co-Personal
Representative of the Estate of
Margaret A. Dreyer

Signature  (SEAL)
Printed: Margo Dreyer, Co-Personal
Representative of the Estate of
Margaret A. Dreyer

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 J&MD Farm LLC ("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

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 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) That this would be a clean, high-tech, non-polluting industrial zone comparable to the industrial uses in the neighborhood previously, and comparable to the uses at River Ridge Commerce Center.
- b) That no structure would be erected of a height that would interfere with commerce at the Clark Regional Airport.
- c) Consistent with Article XIV of Clark County Zoning Ordinance.

An action to enforce a COMMITMENT may be brought in a Circuit or Superior 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 13th day of MAY, 2015.

J&MD FARM LLC

Rick Dreyer
By: Rick Dreyer
Position: Member J&MD LLC

STATE OF INDIANA)
) SS
COUNTY OF Clark)

Before me, a Notary Public for said County and State, personally appeared Rick Dreyer of J&MD Farm LLC, who acknowledged the execution of the foregoing instrument.

WITNESS my hand and Notary Seal, this 13th day of MAY, 2015.

My Commission Expires:

8/20/20

John R. Vessing
Notary Public
Resident of Clark County
State of Indiana

