

FCO -2018-7

**Floyd County Board of Commissioners
Ordinance Pertaining to Map Amendments to the Floyd County Zoning Ordinance**

Whereas, the Floyd County Board of Commissioners met on July 3, 2018, on this matter pursuant to IC 36-7-4-608; and

Whereas, the Board received from the Floyd County Plan Commission a favorable recommendation of the proposed zoning map amendment from General Industrial to Planned Unit Development PD-GI-01 with attached development standards and map location

Whereas, the Plan Commission heard from both proponents and opponents of the map amendments to the zoning ordinance in accordance with IC 36-7-4-604

NOW, THEREFORE,

BE IT ORDAINED that Floyd County Zoning Ordinance Map is amended as indicated on attached exhibits.

SO RESOLVED this 3rd day of July 2018.

BOARD OF COMMISSIONERS
OF THE COUNTY OF FLOYD



D. Mark Seabrook, President



John Schellenberger, Commissioner

Billy Stewart, Commissioner

ATTEST:



Scott Clark, County Auditor

Certification of Action

Comes now the Floyd County Plan Commission pursuant to I.C. 36-7-4-608, and hereby certifies that the attached resolution is a true and accurate copy of a Resolution regarding an amendment to the Floyd County Zoning Map as part of its meeting on June 18, 2018. The attached Resolution is available for review in the Office of the Floyd County Plan Commission and accurately reflects the recommendation of the Floyd County Plan Commission regarding Docket FC-05-18-13 for the proposed map amendment.



Linda Barksdale, Executive Plan Director
Floyd County Plan Commission

Floyd County Plan Commission
Resolution Pertaining to Amendment to the Floyd County Zoning Map

WHEREAS, the Floyd County Plan Commission met on June 18, 2018 and, pursuant to I.C. 36-7-4-608, conducted a public hearing on **Docket FC-05-18-13**, constituting an application for a zoning map amendment for a project known as Our Lady of Perpetual Hops made by Pappas Real Estate Holdings, LLC; and

WHEREAS, the Floyd County Plan Commission provided opportunity for both proponents and opponents to be heard with respect to said docket and, after hearing comments and considering the matter, voted to forward to the Floyd County Commissioners a(n):

- Favorable Recommendation**
 Unfavorable Recommendation
 No Recommendation

by a vote of:

- 9 in favor
 0 opposed
 0 abstaining

NOW THEREFORE, IT IS RESOLVED that the Floyd County Plan Commission gives the above-described recommendation on **Docket FC-05-18-13** to the Floyd County Commissioners,

NOW THEREFORE, BE IT FURTHER RESOLVED that the staff of the Floyd County Plan Commission shall forward a certified copy of this resolution to the Floyd County Commissioners for any further action which they may desire to take.

SO RESOLVED this 18th day of June, 2018.



Jeffrey Fastridge, President
Floyd County Plan Commission

Attest:



Linda Barksdale, Executive Plan Director
Floyd County Plan Commission

Exhibit A Legal Description

Exhibit "A"

Being a 10.058 acres more or less tract of land lying in the northwest and southwest quarters of Section 20, Township 2 South, Range 6 East, Lafayette Township, Floyd County, Indiana. Same being part of those same lands as previously conveyed to George W. and Mary Parsons as described in Deed Book 87, page 138, same being bounded as follows: Beginning at an existing stone at the southwest corner of the east half of the northwest quarter of said section 20, same being the southwest corner of said Parsons tract; thence along the west line of said east half and the west right of way of Luther Road, North 00 deg. 08' 59" East a distance of 670.22 feet to a point in the center of Old U.S. 150; thence along said center line, South 63 deg. 32' 27" East a distance of 1118.65 feet to a point; thence leaving said road, along the west bank of Little Indian Creek, South 46 deg. 13' 20" West a distance of 358.22 feet to a 5/8 inch steel pin and cap; thence along Parsons South line North 84 deg. 10' 06" West a distance of 748.45 feet to the place of beginning.

Subject to any and all easements of record and the legal right of way of Old U.S. 150 and Luther Road.

Exhibit B Planned Unit Development Description

Please see attached map. General Commercial standards only apply to the area highlighted in red. The remaining areas remain under General Industrial standards.

Exhibit C Planned Unit Development PD-GI-01 Development Standards

The Development Standards for the PD-GI-01. General Industrial Standards apply to all areas not designated in Exhibit B as General Commercial. The Floyd County Zoning Ordinance 2006-6 General Industrial development standards as amended applies to this area without exception.

The Development Standards for PD-GI-01 for the area depicted as General Commercial applies to all areas designated in Exhibit B as General Commercial. The Floyd County Zoning Ordinance 2006-6 development standards as amended applies to this area with the exception: allowance for a 20 foot side setback.

All uses in the designated areas shall follow Floyd County Zoning Ordinance 2006-6 General Commercial Uses in the designated area with the following exception: brewery. General Industrial Uses shall not be allowed in the designated General Commercial area.

Exhibit D Zoning Commitments

ZONING COMMITMENT

This Zoning Commitment is made in accordance with the provisions of Ind. Code § 36-7-4-1015(a) (l) by: **Pappas Real Estate Holding LLC, whose address is 3608 Eagles Trace Floyds Knobs, IN 47119** and who is the developer of the Our Lady of Perpetual Hops (PUD”) (hereinafter referred to as "Developer"), with an address of;

in favor of

Floyd County, Indiana, by and through its Board of County Commissioners (collectively the "County"), and the Floyd County Plan Commission (the "Plan Commission"), with an address of Pine View Government Center, 2524 Corydon Pike, Suite 203, New Albany, Indiana 47150.

RECITALS:

WHEREAS, pursuant to deeds recorded as Instrument 201718358, "DEVELOPER" is the owner of an approximately 10.5 +/- acres of real estate located at the commonly known as Our Lady of Perpetual Hops PUD and was property that was approved in Floyd County Plan Commission docket FC-05-18-13 (the "DEVELOPER"), the legal description of which is contained in attached Exhibit "A"; and,

WHEREAS, in order to reflect such commitment, (DEVELOPER) now voluntarily tender this Zoning Commitment pursuant to the provisions of Ind. Code § 36-7-4-1015 as an inducement to the County's granting of plan unit development application.

NOW, THEREFORE, in consideration of the adoption of an ordinance granting DEVELOPERs application for the requested Zone Map change regarding the Real Estate from "General Industrial (GI) " to "Planned Unit Development PD-GI - 01 DEVELOPER expressly commits to the following:

1. **Building Materials:** DEVELOPER agrees and attached as Exhibit B a listing of all exterior building materials that will be used for the proposed building as depicted as part of the FC-05-18-13 docket and Floyd County plan commission presentation. The DEVELOPER will provide a list of proposed and a list of requested alternative materials that would be considered in construction as part of Exhibit B. The DEVELOPER agrees to use only material from this Exhibit and to construct the building to the illustration depicted as part of the docket. Request for any alteration from this list will require Floyd County Plan commission and Board of County Commissioners approval. The DEVELOPER will provide the percentage of transparency as depicted on the presentation with the listing of all exterior building materials.
2. **Expansion of Operation:** The DEVELOPER agrees that any expansion of the brewery operation beyond the operation described in the presentation to the Floyd County Plan Commission will require approval a public hearing and approval from the Floyd County Plan Commission and Board of County Commissioners.
3. **Noise Ordinance:** The DEVELOPER agrees to abide by the terms of the Floyd County Noise Ordinance.

4. **Hours of Operation:** The DEVELOPER agrees the bar/restaurant's closing time shall be midnight local time.

Conditions to Effectiveness. This Zoning Commitment shall become effective and binding on DEVELOPER and its successors and assigns upon the final adoption by the Floyd County Board of Commissioners of an ordinance approving the Zone Map change regarding the Real Estate to Planned Unit Development PD-GI - 01 - eas requested by DEVELOPER,

Recordation. Subsequent to the satisfaction of said condition precedent, DEVELOPER shall execute this Zoning Commitment, cause same to be recorded in the office of the Recorder of Floyd County, Indiana, and DEVELOPER shall provide a duly recorded copy of same to the Executive Director the Plan Commission and the Director of Operations and Planning. Prior to such recording, the County shall not be obligated to issue any permits for any portion of the Real Estate.

Binding Effect. The terms and conditions of this Zoning Commitment shall be covenants running with the Real Estate, and shall be binding on, and enforceable against, DEVELOPER, or its successors or assigns.

Enforcement. Whether prior or subsequent to the recordation of this Zoning Commitment, as provided hereinabove, the terms and conditions of this Zoning Commitment may be enforced in any Indiana court of competent jurisdiction by the County or the Plan Commission, each of which shall have continuing jurisdiction over, and authority to enforce, this Zoning Commitment in accordance with the terms set forth herein.

Modification; Termination. In the event that any condition precedent set forth herein fails to be satisfied, the terms of this Zoning Commitment shall automatically be null, void, and of no further legal effect. Following the recordation of this Zoning Commitment, the terms of this Zoning Commitment may be modified by subsequent written amendment executed by the then owner of the Real Estate, or any portion thereof, and the Plan Commission subsequent to approval granted at a regular or special meeting following notice as required by Indiana law. Pursuant to the provisions of Ind. Code § 36-7-4-1015(b) this Zoning Commitment shall automatically terminate if the zoning district or classification of the Real Estate, or any portion thereof, is changed, or otherwise in accordance with the approval of the Plan Commission in accordance with its adopted **rules**.

[The remainder of this page intentionally left blank. Signature pages follow.]

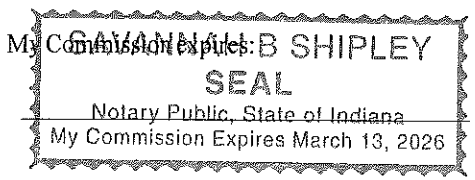
IN WITNESS WHEREOF, this Zoning Commitment is voluntarily made, undertaken, and tendered by the _____s to Floyd County, Indiana, acting by and through its Board of County Commissioners, and the Floyd County Plan Commission, in consideration of the grant of the zoning approvals referenced hereinabove on this 2nd day of July 2018.

By: [Signature]
Sherri Pappas McGuffey

STATE OF INDIANA)
) SS:
COUNTY OF Floyd)

Before me, a Notary Public in and for the above-named County and State, personally appeared Sherri Pappas McGuffey, and acknowledged the execution of the foregoing Zoning Commitment as their free and voluntary act and deed for the uses and purposes specified therein.

Witness my hand and Notarial Seal, this 2 day of July, 2018.



Savannah B Shipley
Notary Public

Resident of CLARK County

Savannah B Shipley
Printed Signature

Commission number
711435

Exhibit "A"

Being a 10.058 acres more or less tract of land lying in the northwest and southwest quarters of Section 20, Township 2 South, Range 6 East, Lafayette Township, Floyd County, Indiana. Same being part of those same lands as previously conveyed to George W. and Mary Parsons as described in Deed Book 87, page 138, same being bounded as follows: Beginning at an existing stone at the southwest corner of the east half of the northwest quarter of said section 20, same being the southwest corner of said Parsons tract; thence along the west line of said east half and the west right of way of Luther Road, North 00 deg. 08' 59" East a distance of 670.22 feet to a point in the center of Old U.S. 150; thence along said center line, South 63 deg. 32' 27" East a distance of 1118.65 feet to a point; thence leaving said road, along the west bank of Little Indian Creek, South 46 deg. 13' 20" West a distance of 358.22 feet to a 5/8 inch steel pin and cap; thence along Parsons South line North 84 deg. 10' 06" West a distance of 748.45 feet to the place of beginning.

Subject to any and all easements of record and the legal right of way of Old U.S. 150 and Luther Road.

Our Lady of Perpetual Hops : Exterior Material Selection Table

MAR 418-2666

6/29/2018

Item	Material Choice	Material Alternate
Roof	Standing Seam Metal Roof	Standing Seam Metal Roof
Exterior Mainscotting around Restaurant and Bar Portions of Facility	Stone	Simulated Stone
Windows	Aluminum Insulated Fixed Glass Windows	N/A
Overhead Doors	Full Glass Overhead Doors	N/A
Deck	Pressure Treated Wood	N/A
Deck Railing	Pressure Treated Wood and/or Metal	Pressure Treated Wood and/or metal
Siding and Trim	Metal	Cementitious Board / Wood Simulated
Sunshades	Aluminum	Aluminum / Fabric
Entry Canopy	Metal	Wood



**MICHELL
ALLEN
RITZ**
ARCHITECTS