ORDINANCE NO. 2020-16_
OF THE
TOWN OF ZIONSVILLE, INDIANA

AN ORDINANCE TO AMEND THE TOWN OF ZIONSVILLE ZONING ORDINANCE FOR THE TOWN OF ZIONSVILLE, BOONE COUNTY, INDIANA

AND FIXING A TIME WHEN THE SAME SHALL TAKE EFFECT

Plan Commission Petition No. 2020-24-Z

WHEREAS, I.C. § 36-7-4, et seq., empowers the Town of Zionsville Advisory Plan Commission, Boone County, Indiana, to hold public hearings and make recommendations to the Town Council of the Town of Zionsville, Boone County, Indiana, concerning ordinances for the zoning and districting of all lands within the incorporated areas of the Town of Zionsville, Boone County, Indiana: and;

WHEREAS, in accordance with I.C. 36-7-4-600 et seq., the Town of Zionsville Advisory Plan Commission, Boone County, Indiana conducted a public hearing on September 21, 2020 to consider a proposal to amend the Town of Zionsville Zoning Ordinance for the Town of Zionsville, Boone County, Indiana, (the "Ordinance"); filed as petition 2020-24-Z; and,

WHEREAS, the Town of Zionsville Advisory Plan Commission certified the proposal to amend the Ordinance to the Town Council of the Town of Zionsville, Boone County, Indiana, with a favorable recommendation on September 22, 2020 (Exhibit 1); and its Commitments (Exhibit C)

WHEREAS, the Town Council of the Town of Zionsville, Boone County, Indiana, considered the Proposal to amend the Ordinance at its regular meeting on October 5, 2020.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF ZIONSVILLE, BOONE COUNTY, INDIANA, IN ACCORDANCE WITH I.C.36 7-4-600 et.seq., AND ALL ACTS AMENDATORY AND SUPPLEMENTAL THERETO, AS FOLLOWS:

1. Official Zone Map Amendment

The Official Zone Map of the Town of Zionsville Zoning Ordinance is hereby amended to rezone the Property located in the Town of Zionsville, illustrated and listed on Exhibit B to the attached Certification, from its the Rural (R1) Residential Zoning District to a Rural (R2) Residential Zoning District

Such Property shall be subject to the conditions and restrictions adopted and imposed by the Zionsville Plan Commission, if any.

(a) The Director of Finance and Records and Staff are directed to comply with Section 194.182 of the Zoning Ordinance by taking all actions required thereby to implement this Zone Map Amendment.

2. Construction of Clause Heading: The clause headings appearing herein have been provided for convenience and reference and do not purport and shall not be deemed to define, limit or extend the scope or intent of the clause to which they appertain.

Section 2. Savings Clause: If any title, section, subsection, phrase, clause, sentence, or word of this Ordinance shall for any reason be held invalid or unconstitutional by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected thereby and shall remain in full force and effect.

Section 3. Construction of Clause Headings: The clause headings appearing herein have been provided for convenience and reference and do not purport and shall not be deemed to define, limit or extend the scope or intent of the clause to which they appertain.

Section 4. Repeal of Conflicting Ordinances: The provisions of all other Town ordinances in conflict with the provisions hereof, if any, are of no further force or effect and are hereby repealed.

Section 5. Severability: If any part of this Ordinance shall be held invalid, such part shall be deemed severable and the invalidity thereof shall not affect the remainder of this Ordinance.

Section 6. Duration and Effective Date: The provisions of this Ordinance shall become and remain in full force and effect upon adoption and publication according to Indiana Law and until its repeal by ordinance.

Introduced and filed on the _____day of_____, 2020. A motion to consider on First Reading was sustained by a vote of _____in favor and _____opposed, pursuant to Indiana Code 36-5-2-9.8.

DULY PASSED AND ADOPTED this _____day of_____ 2020, by the Town Council of the Town of Zionsville, Boone County, Indiana, having been passed by a vote of ____ in favor and_____opposed.

TOWN COUNCIL OF THE TOWN OF ZIONSVILLE,
BOONE COUNTY, INDIANA

	YEA **Signature**	**NAY** **Signature**
Josh Garrett, President		
Bryan Traylor, Vice-President		
Alexander Choi, Member		
Joe Culp, Member		
Brad Burk, Member		
Craig Melton, Member		
Jason Plunkett, Member		

I hereby certify that the foregoing Resolution was delivered to the Town of Zionsville Mayor Emily Styron on the _____day of _____2020, at _____m.

ATTEST:_____
Amelia Lacy, Municipal Relations Coordinator

MAYOR'S
APPROVAL

_____ _____
Emily Styron**, Mayor** **DATE**

MAYOR'S
VETO

_____ _____
Emily Styron**, Mayor** **DATE**

ZIONSVILLE
FOR ALL THE RIGHT REASONS

CERTIFICATION TO
THE TOWN COUNCIL
OF THE TOWN OF ZIONSVILLE, BOONE COUNTY, INDIANA

September 22, 2020

To the Town Council of the Town of Zionsville, Indiana:

Be it advised that, pursuant to Indiana Code 36-7-4, on September 21, 2020 the Town of Zionsville Advisory Plan Commission (the "Commission"), by a vote of ___6___ in favor and __1____opposed, gave a ***Favorable Recommendation*** to proposal 2020-24-Z to amend the Zoning Map (the "Map") of the Town of Zionsville (Legal Description attached, "Exhibit A"). Proposal 2020-24-Z recommends that 31.671 ± acres described in the Petition be rezoned from the Rural (R1) Residential Zoning District to a Rural (R2) Residential Zoning District

The Town of Zionsville Advisory Plan Commission hereby certifies proposal #2020-24-Z to amend the Zoning Map (a copy of which is attached to this Certification and incorporated here by this reference, "(Exhibit B") and its Commitments ("Exhibit C"), to the Town Council of Zionsville, Indiana, with a **Favorable Recommendation.**

TOWN OF ZIONSVILLE
ADVISORY PLAN COMMISSION

_____
David L. Franz, President

Attest:_____

Wayne DeLong, AICP, CPM
Director of Planning and Economic Development
Secretary, Town of Zionsville Advisory Plan Commission

Exhibit 1

Exhibit A

Rezone Legal Description

All that part of Section 4 Township 17 North, Range 2 East, Eagle Township, Boone County, Indiana, lying within the following described real estate, to-wit:

702 feet of even width off of the entire western boundary of the below described tract of ground consisting of 31.671 acres, more or less, as part of the following legal description:

Part of the West Half of Section 3 and part of the East Half of Section 4, all in Township 17 North, Range 2 East, Eagle Township, Boone County, Indiana, more fully described as follows: Beginning at the Northwest corner of the Southwest Quarter of the Northwest Quarter of said Section 3; thence along the approximate center line of State Road 334 and the Quarter Quarter Section line, North 89 degrees 32 minutes 16 seconds East 1334.99 feet; thence along the West described line of Spring Hills Subdivision, the plat of which is recorded in Plat Book 3, page 140, Boone County Recorder's Office, South 00 degrees 37 minutes 59 seconds West 1331.42 feet; thence along the West described line of Thornhill, Section I, the plat of which is recorded in Plat Book 6, page 102, the West described line of Thornhill, Section 3A, the plat of which is recorded in Plat Book 7, pages 32-33, and the West described line of Thornhill, Section 3B, the plat of which is recorded in Plat Book 7, pages 46-47, South 00 degrees 07 minutes 43 sections East 880.65 feet; thence along the North described line of the Westwood Associates, L.P. Property recorded as Instrument #0304347, South 89 degrees 43 minutes 28 seconds West 1331.20 feet; thence along the North described line of said Westwood Associates, LP. Property, North 89 degrees 29 minutes 51 seconds West 664.08 feet; thence along part of an East described line of the Robert J. LaViolette and Sondra LaViolette Property recorded as Instrument #0319354, and the East described line of the Kevin R. Overly Property recorded as Instrument #0108110, North 00 degrees 06 minutes 40 seconds East 877.03 feet; thence along the East described line of Linda L. Gray Property recorded as Instrument #9812047, North 00 degrees 29 minutes 32 seconds West 227.97 feet; thence along the South described line of the Mark Wood and Susan Wood Property recorded in Deed Record 231, page 444, North 89 degrees 2S minutes 10 seconds East 48.42 feet; thence along the East described line of said Wood Property and the East described line of Russell Lake, Section One, the plat of which is recorded in Plat Book 4, pages 150 and 151, North 00 degrees 02 minutes 09 seconds West 1090.00 feet; thence along the approximate center line of State Road 334 and the Quarter Quarter Section line, North 89 degrees 25 minutes 10 seconds East 625.58 feet to the POINT OF BEGINNING, containing 100.0127 acres, more or less.

EXCEPTING THEREFROM:
A part of the West Half of Section 3, and a part of the East Half of Section 4, Township 17 North, Range 2 East, Eagle Township, Boone County, Indiana, described as follows:

Beginning at the northwest corner of the southwest quarter of the northwest quarter of the aforesaid Section 3; thence North 89 degrees 25 minutes 45 seconds East 1,335.29 feet along the quarter-quarter line of said section; thence South 0 degrees 26 minutes 09 seconds West 77.47 feet; thence South 78 degrees 03 minutes 24 seconds West 4.89 feet; thence South 89 degrees 22

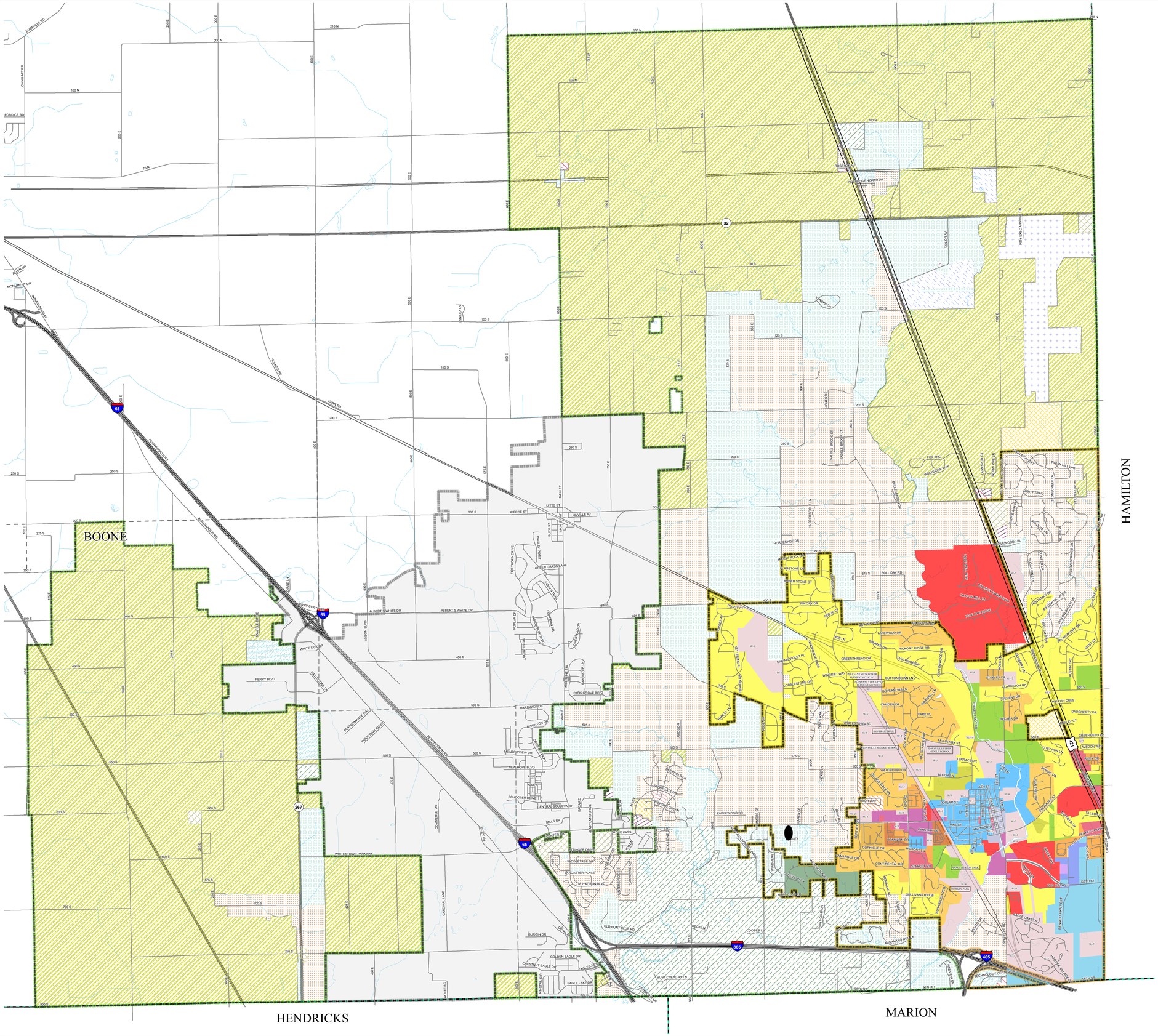
minutes 00 seconds West 125.00 feet; thence North 75 degrees 42 minutes 07 seconds West 77.62 feet; thence South 89 degrees 22 minutes 00 seconds West 1,400.00 feet; thence North 68 degrees 49 minutes 55 seconds West 53.85 feet, which point is on the south boundary of S.R. 334; thence South 89 degrees 22 minutes 00 seconds West 50.00 feet along said south boundary; thence North 0 degrees 38 minutes 00 seconds West 40.28 feet to the north line of the southeast quarter of the northeast quarter of Section 4, Township 17 North, Range 2 East; thence North 89 degrees 25 minutes 45 seconds East 370.95 feet along the quarter-quarter line of said section to the point of beginning and containing 2.366 acres, more or less.

TOWN OF ZIONSVILLE

ZONING MAP

JANUARY 1, 2015

ZIONSVILLE
FOR ALL THE RIGHT REASONS



N
W E
S
Not to Scale

LEGEND

Urban Zoning Districts	Rural Zoning Districts
RE	AG
R-SF-1	RE
R-SF-2	R1
R-SF-3	R2
R-SF-4	R3
R-MF-1	R4
R-MF-2	LB
B-0	PB
B-1	UB
B-2	GB
B-3	I-1
VBD	I-2
I-ORT	AZ
I-1	Zionsville Town Service District
I-2	Zionsville Rural Service District
I-3	Lebanon
SPECIAL USE ZONING	Michigan Road Overlay
OPEN LAND	Whitestown
R-V	Parcels
PUD	County Line
	Township Line
	Water Features
	Highways
	Streets

RECOMMENDED BY THE PLAN COMMISSION, AND APPROVED AND ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF ZIONSVILLE, AND AS AMENDED BY ZONING ORDINANCES.

- JEFF PAPA, PRESIDENT
- TIM HAAK
- ELIZABETH HOPPER
- STEVE MUNDY
- TOM SCHULER
- SUSANA SUAREZ
- CANDACE ULMER

All real property located within the corporate boundaries of the Town of Zionsville and under the jurisdiction of the Plan Commission as set forth in this Ordinance is hereby divided into Districts as shown on the Official Zone Map which, together with all explanatory matter, is incorporated by reference and declared to be a part of this Ordinance.

Allan Rachles
Plan Commission President

Wayne DeLong
Plan Commission Secretary

"This is to certify that this is the Official Zone Map of the Town of Zionsville, County of Boone, State of Indiana"

01/01/2015
Date of Adoption

CORPORATION OF ZIONSVILLE, INDIANA
SEAL

Exhibit B

BLN
BEAM·LONGEST·NEFF

ZIONSVILLE PLAN COMMISSION
FILE 2020-24-Z

COMMITMENTS CONCERNING THE USE OR DEVELOPMENT OF REAL PROPERTY MADE IN CONNECTION WITH A ZONE MAP CHANGE (REZONE)

In accordance with IND. CODE § 36-7-4-1015, **Kendalwood Realty, LLC**, (hereinafter collectively **"Owner"**) represents and warrants that Owner owns certain real estate located in Boone County, Indiana, which real estate is described in Exhibit "A" attached hereto (the **"Real Estate"**), and is commonly known as 8901 and 9085 E. Oak St., Zionsville, Indiana 46077. Owner further represents and warrants that Owner has the authority to, and does hereby voluntarily make the following **COMMITMENTS** concerning the use and development of the Real Estate, including any portion thereof.

STATEMENT OF COMMITMENTS

Owner voluntarily agrees and commits that a favorable recommendation by the Zionsville Plan Commission ("**Commission**") of Docket No. 2020-24-Z requesting a Zone Map Change of 31.671 acres (+/-), Exhibit "B" ("**Rezone Parcel**"), from a Rural R-1 to a Rural R-2 Zoning Classification is subject to the following Commitments:

1) Owner agrees to substantial compliance with the Site and Master Plans of the Real Estate as submitted as part of the Rezone Application process showing a maximum of 150 lots. Further, subject to the limitations in the following paragraph 2, no two-family dwellings shall be permitted on the Real Estate.

2) In the event Owner cannot or does not secure platting and development plan approval for the Master Plan as currently submitted, these Commitments are null and void as to the Real Estate, specifically the current R-2 Zoning Classification property consisting of 65.975 acres (+/-).

3) In the event Owner cannot or does not secure platting and development approval pursuant to substantial compliance with the Master Plan (see attached annexed Exhibit "C") submitted to the Town of Zionsville September 16, 2020 for the September 21, 2020 Plan Commission agenda, the Rezone Parcel property consisting of 31.671 acres (+/-) to a Rural R-2 Zoning Classification, Owner agrees and commits that the Rezone Parcel property consisting of 31.671 acres (+/-) shall be developed consistent with the Town of Zionsville's Zoning Ordinance Rural R-1 zoning classification, as may be amended from time to time.

The **COMMITMENTS** contained herein shall be effective upon a favorable recommendation by the Zionsville Plan Commission and the adoption of an Ordinance by the Zionsville Town Counsel rezoning the 31.671 acres, (Rezone Parcel), from a Rural R-1 Zoning Classification to a Rural R-2 Zoning Classification.

These **COMMITMENTS** shall be promptly recorded in the Office of the Boone County Recorder, Boone County, Indiana, and shall be considered a covenant running with the land described herein as the Real Estate, including any portion thereof.

These **COMMITMENTS** shall be binding on Owner, subsequent owners of the Real Estate or any portion thereof, and any and all other person or entities acquiring an interest in any portion of the Real Estate (hereinafter collectively the "Owners"). Owner shall have an affirmative duty to inform any third parties with whom Owner negotiates for a possible sale, lease, assignment, mortgage, or transfer of the Real Estate, or any portion thereof, of the existence of these **COMMITMENTS**. In the event any sale, lease, assignment, mortgage or transfer occurs, Owner shall ensure that a copy of these **COMMITMENTS** is incorporated into any such written agreement with the third party. In the event Owner fails to comply with the terms of this paragraph and the third party fails to perform and/or comply with these **COMMITMENTS**, the Town of Zionsville shall be entitled to recover from Owner and from each third party, jointly and/or severally, any and all damages which arise from this failure and shall be entitled to injunctive relief to terminate any non-compliance herewith.

These **COMMITMENTS** may be modified or terminated by decision of the Zionsville Town Counsel made after a Public Hearing for which proper notice is given, and upon recommendation as required by the Zionsville Plan Commission.

These **COMMITMENTS** may be enforced jointly and/or severally by the Town of Zionsville, Zionsville Plan Commission, the Director of Planning for the Town of Zionsville (or a position created for the Town of Zionsville which is analogous thereto), the Town (including any successor city or municipality), and/or owners of any parcel of ground adjoining or adjacent to the Real Estate. Owner and all Owners shall be obligated hereunder to indemnify the Town of Zionsville Plan Commission and the Town (including a successor city or municipality), and to hold said entities and their respective authorized representatives, including the Director of Planning for the Town, harmless from any liability, expense (including reasonable attorney fees and court costs), costs or damages which result from the failure to perform Owner's and/or Owners' obligations under the terms and conditions of these **COMMITMENTS**. Throughout these **COMMITMENTS** any reference to "Town" or "Town of Zionsville" shall also include any successor city, municipality, or other governmental body having land use, planning, and/or zoning jurisdiction over the Real Estate.

In the event it becomes necessary to enforce these **COMMITMENTS** in a court of competent jurisdiction and Owner and/or any subsequent Owners are found to be in violation of these **COMMITMENTS**, such Owner and/or Owners shall pay all reasonable costs and expenses the Town and the Zionsville Plan Commission and other authorized representative(s) incur in the enforcement of these **COMMITMENTS**, including reasonable attorney fees, expert witness fees, and court costs.

Owner and all subsequent Owners of all or a portion of the Real Estate shall be obligated hereunder, jointly and/or severally, to indemnify the Town of Zionsville Plan Commission and/or the Town and hold said entities and their respective authorized representative(s), including the Director of Planning for the Town, harmless from any and all liability, expense (including reasonable attorney fees and court costs), costs, or damages which result from the failure to perform Owner's and/or Owners' obligations hereunder and/or to comply wit the terms and conditions of these **COMMITMENTS.**

Any controversy arising under or in relation to these **COMMITMENTS** shall be litigated exclusively in the applicable state courts of Indiana without regard to conflicts of law principles. Owner irrevocably consents, for him and herself and all subsequent Owners, to service, jurisdiction, and venue in such state courts for any and all such litigation and hereby waives any other venue to which Owner or subsequent Owners might be entitled by virtue of domicile, habitual residence, or otherwise.

Owner shall be responsible , at owner's expense, for recording these **COMMITMENTS** in the Office of the Recorder of Boone County, Indiana, within thirty (30) days after recommendation by the Plan Commission of Docket No. 2020-24-Z and adoption of an Ordinance rezoning the property of 31.671 acres (+/-) from Rural R-1 to Rural R-2 Zoning Classification and shall promptly provide the Planning Department of the Town of Zionsville with a copy of such recording as a condition precedent for the Development Plan and Platting approval, together with any Improvement Location Permit and/or Building Permit for the Real Estate.

The undersigned, by executing these **COMMITMENTS,** represents and warrants that at the time of executing this document, Kendalwood Realty, LLC, is the sole owner of the Real Estate, that execution of these **COMMITMENTS** is being voluntarily undertaken and requires no authorization of a third party, and that these **COMMITMENTS** shall be binding upon the undersigned as to all the particulars herein and shall be considered a **COVENANT** running with the land described herein as the Real Estate, including any portion thereof. By affirming his or her signature below to these **COMMITMENTS,** the undersigned each further represents and warrants that he/she has full capacity and authority to execute these **COMMITMENTS.**

IN WITNESS WHEREOF, Kendalwood Realty, LLC as the sole owner of the Real Estate, has executed these **COMMITMENTS** this _____ day of _____, 2020.

OWNER:

Kendalwood Realty, LLC, by:

_____

Joe Zheng,
Member/Manager

STATE OF INDIANA)
) SS:
COUNTY OF BOONE)

Before me, a Notary Public, in and for said County and State, personally appeared **Joe Zheng, Member/Manager of Kendalwood Realty, LLC,** as the owner of the Real Estate described above, who acknowledged voluntarily executing the foregoing instrument and who, having been duly sworn, stated that any and all representations therein contained are true.

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

_____

Barri Andreoli, Notary Public

Commission Number:
560217

My Commission Expires: January 14, 2023
County of Residence: Boone

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. Michel J. Andreoli

This instrument prepared by Michael J. Andreoli, Attorney at Law,
1393 West Oak Street, Zionsville, Indiana 46077, (317) 873-6266.

Exhibit "A"

Part of the West Half of Section 3 and part of the East Half of Section 4, all in Township 17 North, Range 2 East, Eagle Township, Boone County, Indiana, more fully described as follows: Beginning at the Northwest corner of the Southwest Quarter of the Northwest Quarter of said Section 3; thence along the approximate center line of State Road 334 and the Quarter Quarter Section line, North 89 degrees 32 minutes 16 seconds East 1334.99 feet; thence along the West described line of Spring Hills Subdivision, the plat of which is recorded in Plat Book 3, page 140, Boone County Recorder's Office, South 00 degrees 37 minutes 59 seconds West 1331.42 feet; thence along the West described line of Thornhill, Section I, the plat of which is recorded in Plat Book 6, page 102, the West described line of Thornhill, Section 3A, the plat of which is recorded in Plat Book 7, pages 32-33, and the West described line of Thornhill, Section 3B, the plat of which is recorded in Plat Book 7, pages 46-47, South 00 degrees 07 minutes 43 sections East 880.65 feet; thence along the North described line of the Westwood Associates, L.P. Property recorded as Instrument #0304347, South 89 degrees 43 minutes 28 seconds West 1331.20 feet; thence along the North described line of said Westwood Associates, LP. Property, North 89 degrees 29 minutes 51 seconds West 664.08 feet; thence along part of an East described line of the Robert J. LaViolette and Sondra LaViolette Property recorded as Instrument #0319354, and the East described line of the Kevin R. Overly Property recorded as Instrument #0108110, North 00 degrees 06 minutes 40 seconds East 877.03 feet; thence along the East described line of Linda L. Gray Property recorded as Instrument #9812047, North 00 degrees 29 minutes 32 seconds West 227.97 feet; thence along the South described line of the Mark Wood and Susan Wood Property recorded in Deed Record 231, page 444, North 89 degrees 2S minutes 10 seconds East 48.42 feet; thence along the East described line of said Wood Property and the East described line of Russell Lake, Section One, the plat of which is recorded in Plat Book 4, pages 150 and 151, North 00 degrees 02 minutes 09 seconds West 1090.00 feet; thence along the approximate center line of State Road 334 and the Quarter Quarter Section line, North 89 degrees 25 minutes 10 seconds East 625.58 feet to the POINT OF BEGINNING, containing 100.0127 acres, more or less.

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Received
9-10-2020
Town of Zionsville

gas consultants

COMMUNITY SOLUTIONS GROUP

Russell Oaks Development: Approximate Parcel Location
Zionsville, Indiana

Master Plan

EXHIBIT C

ORDINANCE NO. 2020-___
OF THE
TOWN OF ZIONSVILLE, INDIANA

AN ORDINANCE TO AMEND THE TOWN OF ZIONSVILLE ZONING ORDINANCE FOR THE TOWN OF ZIONSVILLE, BOONE COUNTY, INDIANA

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Section 5. Severability: If any part of this Ordinance shall be held invalid, such part shall be deemed severable and the invalidity thereof shall not affect the remainder of this Ordinance.

Section 6. Duration and Effective Date: The provisions of this Ordinance shall become and remain in full force and effect upon adoption and publication according to Indiana Law and until its repeal by ordinance.

Introduced and filed on the _____day of_____, 2020. A motion to consider on First Reading was sustained by a vote of _____in favor and _____opposed, pursuant to Indiana Code 36-5-2-9.8.

DULY PASSED AND ADOPTED this _____day of_____ 2020, by the Town Council of the Town of Zionsville, Boone County, Indiana, having been passed by a vote of ____ in favor and_____opposed.

TOWN COUNCIL OF THE TOWN OF ZIONSVILLE,
BOONE COUNTY, INDIANA

	YEA **Signature**	**NAY** **Signature**
Josh Garrett, President		
Bryan Traylor, Vice-President		
Alexander Choi, Member		
Joe Culp, Member		
Brad Burk, Member		
Craig Melton, Member		
Jason Plunkett, Member		

I hereby certify that the foregoing Resolution was delivered to the Town of Zionsville Mayor Emily Styron on the _____day of _____2020, at _____m.

ATTEST:_____
Amelia Lacy, Municipal Relations Coordinator

MAYOR'S
APPROVAL

_____ _____
Emily Styron**, Mayor** **DATE**

MAYOR'S
VETO

_____ _____
Emily Styron**, Mayor** **DATE**