

ORDINANCE NO. 2023-17
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.
2023-30-Z

WHEREAS, IC. § 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 IC. 36-7-4-600 et seq. the Town of Zionsville Advisory Plan Commission, Boone County, Indiana conducted a public hearing on August 21, 2023 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 2023-31-Z (the "Petition"); 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 unanimous favorable recommendation on August 21, 2023 (Exhibit A); and

WHEREAS, the Town Council of the Town of Zionsville, Boone County, Indiana, considered the Petition to amend the Ordinance at its regular meeting on September 5, 2023.

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:

Section 1. The Zoning Ordinance for the Town of Zionsville Boone County, Indiana, is amended as follows:

Ordinance 2023-17

- A. 2.811 +/- acres described in the Certification attached hereto as Exhibit A and is rezoned from the Rural (PB) Professional Business Zoning District to the Rural (GB) General Business Zoning District.
- B. The Zoning Administrator shall cause the Town's Zoning Base Map to be amended to reflect this change in zoning.

Section 2. Conditions and Commitments. The Petition and this rezoning is subject to the written commitments attached hereto as Exhibit B.

Section 3. 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 4. 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 5. 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 6. 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 7. 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.

DULY PASSED AND ADOPTED this 18th day of September, 2023, by the Town Council of the Town of Zionsville, Boone County, Indiana, having been passed by a vote of 5 in favor and 0 opposed.

**TOWN COUNCIL OF THE TOWN
OF ZIONSVILLE, BOONE COUNTY, INDIANA
(Signatures of Council Members)**

YEA

NAY

Jason Plunkett, President		
Brad Burk, Vice President		
Alex Choi		
Joe Culp		
Josh Garrett		
Craig Melton		
Bryan Traylor		

I hereby certify that the foregoing Resolution was delivered to the Town of Zionsville mayor Emily Styron on the 18th day of September, 2023 at 1st A.M./P.M.

ATTEST: 
Amy Lacy, Municipal Relations Coordinator

**MAYOR'S
APPROVAL**


Emily Styron, Mayor

9/19/23
DATE

**MAYOR'S
VETO**

Emily Styron, Mayor

DATE

EXHIBIT A

Plan Commission Certification



Town of Zionsville 1100 West Oak Street Zionsville, Indiana 46077 www.zionsville-in.gov

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

August 24, 2023

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

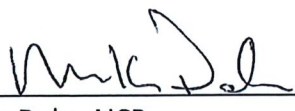
Be advised that, pursuant to Indiana Code 36-7-4, on August 21, 2023, the Town of Zionsville Advisory Plan Commission (the "Commission"), by a vote of seven (7) in favor and zero (0) opposed, gave a Favorable Recommendation to proposal #2023-30-Z to amend the Zoning Map (the "Map") of the Town of Zionsville (Legal Description of the area to be amended attached as "Exhibit A") subject to the zoning commitment attached as "Exhibit B." Proposal #2023-30-Z recommends that 2.811+/- acres comprised of multiple lots being as described in the Petition, be rezoned from the Rural Professional Business (PB) Zoning District to the Rural General Business (GB) District and remaining within the Rural Michigan Road Overlay.

The Town of Zionsville Advisory Plan Commission hereby certifies proposal #2023-30-Z to amend the Map (a copy of which is attached to this Certification and incorporated here by this reference, ("Exhibit C") to the Town Council of Zionsville, Indiana, with a Favorable Recommendation.

TOWN OF ZIONSVILLE ADVISORY PLAN COMMISSION



David L. Franz
President



Mike Dale, AICP
Secretary

EXHIBIT "A"

LAND DESCRIPTION

Portions of Outlots J, K, Appaloosa Drive and all of Block B of the Secondary Plat Appaloosa Crossing Section 1 ("Plat"), recorded as Instrument Number 2021007875 in Plat Book 29, Pages 83-86, in the Office of the Recorder of Boone County, Indiana, more particularly described as follows:

BEGINNING at the southeastern corner of Outlot I of said Plat and the northeastern corner of said Outlot J on the western line of Appaloosa Drive (dedicated as a Private Street per said Plat); thence South 20 degrees 54 minutes 20 seconds East (Basis of Bearings: Indiana State Plane, West Zone, NAD83) 18.00 feet along the eastern line of said Outlot J coincident with the western line of said Appaloosa Drive; thence North 69 degrees 02 minutes 39 seconds East 60.00 feet parallel with the northern line of said Outlot J to the eastern line of said Appaloosa Drive; thence South 20 degrees 54 minutes 20 seconds East 362.69 feet along said eastern line and along the eastern line of said Block B to the southeastern corner thereof; thence South 44 degrees 34 minutes 08 seconds West 18.08 feet along a southern line of said Block B; thence South 78 degrees 09 minutes 55 seconds West 327.65 feet along a southern line of said Block B and the southern line of said Outlot K to the eastern line of the 20.00-foot-wide additional right-of-way as dedicated per said Plat; thence North 20 degrees 54 minutes 20 seconds West 336.24 feet along said additional right-of-way line to the northwestern corner of said Outlot J and the southwestern corner of said Outlot I; thence North 69 degrees 02 minutes 39 seconds East 280.00 feet along the common line between Outlot I and Outlot J to the POINT OF BEGINNING, containing 122,436.1 square feet (2.811 acres), more or less.

**ZIONSVILLE PLAN COMMISSION
Docket Number 2023-30-Z**

**COMMITMENTS CONCERNING THE USE OR DEVELOPMENT OF REAL ESTATE
VOLUNTARILY MADE IN CONNECTION WITH DEVELOPMENT APPROVALS
PER THE TOWN OF ZIONSVILLE ZONING ORDINANCE**

In accordance with Indiana Code 36-7-4-1015, Harris FLP (the “Initial Owner”), represents and warrants that Initial Owner is the owner of certain real estate located in Boone County, Indiana, which real estate is more particularly described in Exhibit A attached hereto (the “Real Estate”), and as an Owner of said Real Estate, each has authority to and does hereby voluntarily makes the following COMMITMENTS concerning the use and development of the Real Estate. The following “COMMITMENTS” shall be binding on the Real Estate and each of the Owners of the Real Estate, and other persons or entities acquiring an interest herein. Said Initial Owner and subsequent owners of the Real Estate are referred to herein, as “Owners,” and “Owner” shall refer to (i) Initial Owner during Initial Owner’s period of ownership of the Real Estate and (ii) each subsequent owner of the Real Estate during such subsequent owner’s period of ownership of the Real Estate.

STATEMENT OF COMMITMENTS:

Initial Owner, upon approval of Docket Number 2023-30-Z by the Plan Commission of the Town of Zionsville, Indiana, voluntarily agrees and commits as follows:

1. The maximum height of any building shall be forty feet (40’) measured from the finished grade at an exterior building wall to the main roof line or parapet; and
2. Any exterior building lights shall be automatically dimmed by fifty percent (50%) at 10:00 p.m., seven (7) days per week.

These COMMITMENTS shall be executed and recorded by Initial Owner in the Office of the Boone County Recorder, Boone County, Indiana, and shall be considered a covenant running with the land and encumbering the Real Estate.

If Initial Owner fails to cause these COMMITMENTS to be recorded in accordance with the terms of the preceding paragraph, and a subsequent Owner fails to perform and/or comply with these COMMITMENTS, the Town of Zionsville shall be entitled to receive from Initial Owner 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 only by the agreement of the then-applicable Owner and a decision of the Town Council made after a public hearing for which proper notice is given, including hearings for other land use or zoning approvals involving the Real Estate or any portion thereof.

These COMMITMENTS may be enforced either individually or collectively by the Town of Zionsville Plan Commission, the Director of Planning for the Town of Zionsville, the Town and/or

owners of any parcel of ground adjoining the Real Estate. Owner shall indemnify the Town of Zionsville Plan Commission and the Town and hold the Town of Zionsville Plan Commission and the Town 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 Owner's failure to perform Owner's obligations under the terms and conditions of these COMMITMENTS.

In the event it becomes necessary to enforce these COMMITMENTS in a court of competent jurisdiction and Owner is found to be in violation of these COMMITMENTS, Owner shall pay all reasonable costs and expenses the Town and the Town's 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 shall be responsible, at its expense, for recording these Statements of Commitments in the Office of the Recorder of Boone County, Indiana, and shall promptly provide the Planning Department of the Town of Zionsville with a copy of such recording as a condition precedent to commencing any work upon the Real Estate or receiving a permit therefor.

Initial Owner represents and warrants to the Town that (i) Initial Owner is the sole owner of all the Real Estate (subject to matters of record), (ii) that execution of these COMMITMENTS by the undersigned on behalf of Initial Owner has been duly authorized and is voluntarily undertaken and requires no authorization of a third party, and (iii) that these COMMITMENTS shall be binding upon Initial Owner as to all the particulars herein, and Initial Owner agrees that these COMMITMENTS shall be considered COVENANTS running with the land and encumbering the Real Estate, including any portion thereof.

If at any time the Real Estate is owned by more than one party those parties shall jointly and severally constitute an "Owner" during their period of joint ownership of the Real Estate.

[Remainder of Page Intentionally Left Blank; Signature Page Follows]

IN WITNESS WHEREOF, Owner has executed this instrument this _____ day of _____, 2023.

“INITIAL OWNER”

HARRIS FLP, an Indiana limited partnership

By: _____
Robert L. Harris, General Partner

STATE OF INDIANA)
) SS:
COUNTY OF BOONE)

Before me, a Notary Public in and for said County and State, personally appeared Robert L. Harris, as General Partner of Harris FLP, an Indiana limited partnership, who, on behalf of such company, acknowledged the executed of the foregoing instrument and who, having been duly sworn, stated that any representations therein contained are true.

Witness my hand and Notarial Seal this _____ day of _____, 2023.

Signature: _____

[SEAL]

Printed: _____

This instrument was prepared by and upon recording return to: Matthew M. Price, Esq., Dentons Bingham Greenebaum LLP, 10 West Market Street, Suite 2700, Indianapolis, Indiana 46204.

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. ~ **Matthew M. Price, Esq.**

EXHIBIT A
LEGAL DESCRIPTION OF THE REAL ESTATE

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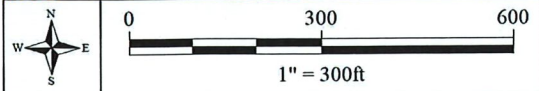
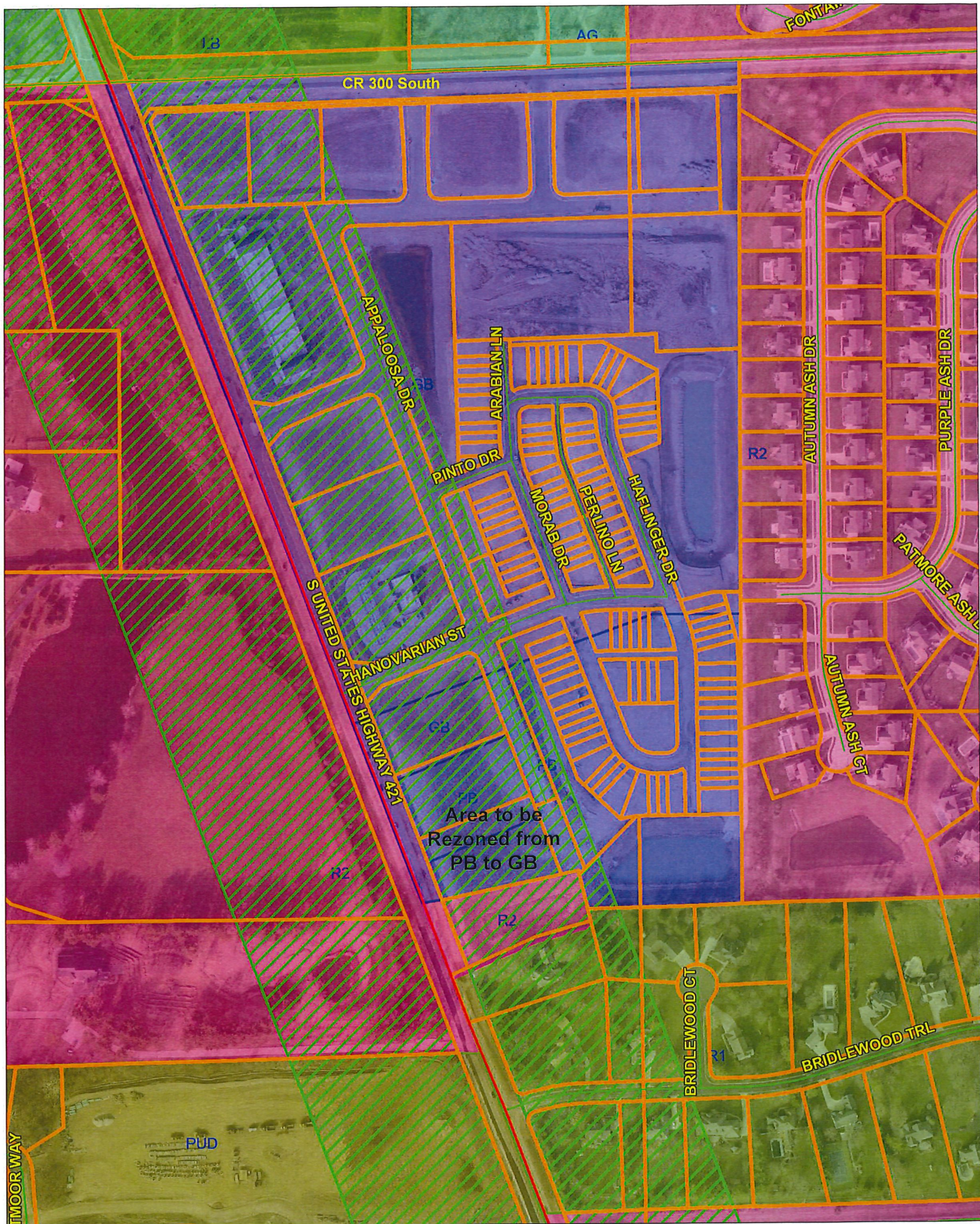


EXHIBIT B

Commitments and Conditions to Petition 2023-30-Z

STATEMENT OF COMMITMENTS:

Initial Owner, upon approval of Docket Number 2023-30-Z by the Plan Commission of the Town of Zionsville, Indiana, voluntarily agrees and commits as follows:

1. The maximum height of any building shall be forty feet (40') measured from the finished grade at an exterior building wall to the main roof line or parapet; and
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