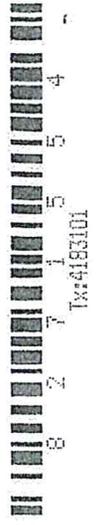


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2018R-009256
PAT BROOKS
WARRICK COUNTY RECORDER
RECORDED AS PRESENTED ON
11/15/2018 12:32 PM
REC FEE: 0.00

WARRICK COUNTY COMMISSIONERS ORDINANCE # 2018-028
Plan Commissioner Docket # PC-R-18-19
AN ORDINANCE TO AMEND THE WARRICK COUNTY, INDIANA
COMPREHENSIVE ZONING ORDINANCE BY REZONING CERTAIN
REAL ESTATE IN WARRICK COUNTY, INDIANA

**BE IT ORDAINED BY THE COUNTY COMMISSIONERS OF WARRICK
COUNTY, INDIANA:**

Section 1. That the Warrick County, Indiana Comprehensive Zoning Ordinance and the Warrick County Zoning District Maps dated February 1, 2005, and made a part of said Ordinance, be and the same are hereby amended as follows:

That the boundaries of the A, as shown on said Warrick County Zoning District Maps, be amended as to the following described real estate:

Lots Three (3) and Four (4) in Epworth Lincoln Subdivision, as per plat thereof, recorded as Instrument No. 2016R-005112, in the office of the Recorder of Warrick County, Indiana.

Section 2. All Ordinance and parts of Ordinances in conflict herewith are hereby repealed.

Section 3. This Ordinance shall be in full force and effect from and after its passage by the Board of Commissioners of the County of Warrick, State of Indiana.

Section 4. The subject property herein rezoned shall be used and developed only in accordance with the use and development commitment which is attached hereto and incorporated herein and no improvement location permits shall be issued until the petitioner records said use and development commitment in the office of the Recorder of Warrick County, Indiana.

X Ref # - 2016 R - 005 265
2016 R - 005 264

Jan Sayl
President

Robert H. Jones
Member

Mark Wersha
Member

BOARD OF COMMISSIONERS
WARRICK COUNTY, INDIANA

ATTEST:

Belmont H. Owens
County Auditor
11/13/18
Date Approved

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.

[Signature]
Signature

Krista B. Lockyear
Printed Name

This document prepared by: Krista B. Lockyear

USE AND DEVELOPMENT COMMITMENT

WHEREAS, the undersigned, **Evansville Christian School, Inc.**, an Indiana nonprofit corporation, is Petitioner and Owner (hereinafter referred to as the "Petitioner") of certain real estate situated in Warrick County, Indiana and more particularly described on Exhibit "A," attached hereto and by this reference made a part hereof (the "Real Estate"); and

WHEREAS, the Real Estate is currently classified as an AG zoning district under the Warrick County Comprehensive Zoning Ordinance and is so indicated on the zoning maps maintained by the staff of the Warrick County Area Plan Commission; and

WHEREAS, Petitioner has requested that the Real Estate be reclassified to zoning district **C-1**;
and

WHEREAS, Petitioner is desirous of accommodating possible concerns of the surrounding property Owner by making a written commitment concerning the use and development of the Real Estate pursuant to I.C. 36-7-4-613;

NOW, THEREFORE, in consideration of the foregoing, Petitioner makes the following use and development commitments concerning the use of the Real Estate:

1. **Use of the Real Estate.** The use of the Real Estate shall be limited to those use groups permitted in the Neighborhood Commercial (C-1) District as set forth in the Neighborhood Commercial (C-1) District of the Comprehensive Zoning Ordinance of Warrick County (the "Zoning Code"); provided, however, the following uses shall be **prohibited**:

- a. Any uses permitted in any industrial zoning, including M-1, M-2 or other industrial classification as defined at the time by the Warrick County, Indiana Zoning Code, except that schools or other educational facilities with a proper special use shall be allowed;
- b. Gas Station;
- c. Convenience Store;
- d. Animal or vehicle Racetrack;
- e. Off-track betting Facility;
- f. Drive-in Theater;
- g. Movie Theater;
- h. Tattoo Parlors;
- i. Massage Parlors;
- j. Any Commercial Use which allows partial nudity;
- k. Abortion clinics;
- l. Adult book stores or similar adult-only oriented businesses;
- m. Package liquor stores;
- n. Store whose primary use is the sale of tobacco, smokeless tobacco or vapor products;

- o. Tavern, bar or nightclub;
- p. Pawn shop;
- q. Dance or billiard hall;
- r. Waste sorting or disposal services;
- s. Mobile home park;
- t. Gun clubs;
- u. Skeet/target ranges;
- v. Paint ball facilities;
- w. Hotels or motel; or
- x. Kennel or animal breeding.

2. **Enforcement.** All commitments and undertakings herein expressed shall be binding on the Petitioner and the Petitioner's heirs, legal representatives, successors and assigns, and shall run in favor of the Area Plan Commission of Warrick County and all the Owners of the real estate lying within the radius of one (1) mile from the Real Estate and shall be enforced by invoking any legal, equitable or special remedy, including specific performance, injunction or other equitable relief pursuant to the manner of enforcement as set forth in I.C. 36-7-4-613, 36-7-4-1013, and 36-7-4-1014. If it is necessary to initiate administrative or judicial proceedings to enforce any such commitment or undertaking, the person or entity obtaining enforcement in such proceedings shall also recover its reasonable attorneys' fees and costs of suit from the undersigned.

3. **Expiration of Commitments.** The commitments and undertakings herein made and expressed shall terminate, expire and be of no further force or effect if the Real Estate should be rezoned due to the filing of some subsequent petition to amend the zoning classification of the Real Estate.

4. **Recording.** This Commitment shall be recorded in the office of the Recorder of Warrick County, Indiana, and shall take effect upon the adoption of the zoning classification of the Real Estate from an AG District to a C-1 District with a Use and Development Commitment.

5. **Miscellaneous.** In the event that ambiguity exists or is deemed to exist in any provision of this Agreement, said ambiguity is not to be construed by reference to any doctrine calling for such ambiguity to be construed against the drafter of this Agreement. This Agreement shall be governed by and construed in accordance with the laws of the State of Indiana, not including the choice of law rules thereof, and each party hereto by execution of this Agreement, consents to the exercise of jurisdiction over any matter arising in connection with this Agreement in the Superior Court of Warrick County, State of Indiana. All headings set forth herein are included for the convenience of reference only and shall not affect the interpretation hereof, nor shall any weight or value be given to the relative position of any part or provision hereof in relation to any other provision in determining such construction. The recitals set forth in the above preamble are incorporated herein by this reference and made a part of this Agreement.

EXHIBIT "A"

Lots Three (3) and Four (4) in Epworth Lincoln Subdivision, as per plat thereof, recorded as Instrument No. 2016R-005112, in the office of the Recorder of Warrick County, Indiana.