NC

2021R-005686
PAT BROOKS
WARRICK COUNTY RECORDER
RECORDED AS PRESENTED ON
05/11/2021 09:41 AM
REC FEE: 0.00
PAGES: 5

WARRICK COUNTY COMMISSIONERS ORDINANCE # 2021-21

PLAN COMMISSION DOCKET # PC-R-21-01

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

Part of the Northwest Quarter of the Southwest Quarter of Section 26, and part of the Northeast Quarter of the Southeast Quarter of Section 27, all in Township 6 South, Range 9 West in Ohio Township, Warrick County, Indiana, being more particularly described as follows:
Commencing at the Northeast corner of the Northeast Quarter of the Southeast Quarter of said Section 27; thence along the East line of said quarter-quarter, South 00 degrees 33 minutes 29 seconds West 45.00 feet to the right-of-way of Lincoln Avenue as shown on a Plan and Profile sheet for INDOT Project NO. 0500636 and being the **POINT OF BEGINNING**; thence along said right-of-way the following four courses and distances: North 90 degrees 00 minutes 00 seconds West 48.24 feet; South 64 degrees 22 minutes 05 seconds West 27.74 feet; South 26 degrees 13 minutes 21 seconds West 99.64 feet; North 63 degrees 44 minutes 07 seconds West 5.00 feet to the right-of-way of Old State Road 261; thence along the right-of-way of Old State Road 261, South 26 degrees 15 minutes 53 seconds West 129.10 feet to the South line of a 2.15 acre tract recorded in Document #2006R-002167 in the Office of the Recorder of Warrick County, Indiana; thence along said South line, North 89 degrees 42 minutes 07 seconds East 509.71 feet to the Southeast corner of said 2.15 acre tract; thence along the East line of said 2.15 acre tract, North 35 degrees 27 minutes 48 seconds West 260.65 feet to aforesaid right-of-way of Lincoln Avenue; thence along said right-of-way, North 90 degrees 00 minutes 00 seconds West 179.59 feet to the point of beginning, containing 1.85 acres, more or less.

Which real estate is now zoned and classified as part of the A District, as shown on the aforesaid Warrick County Zoning District Maps, so that said above described real estate shall be and the same is hereby rezoned and reclassified from said A District to said C-2 District.

Section 2. All Ordinances 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.

ATTEST:

Deborah K Stives
County Auditor

5/10/2021
Date Approved

President

Robert H. Brooks
Member

Dan Saylor
Member
BOARD OF COMMISSIONERS OF
WARRICK COUNTY, INDIANA

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.

Jared Memering
Signature

Jared L. Memering
Printed Name

APPROVED MAY 10 2021

This document prepared by Jared L. Memering of Morley

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X REF Doc #2006R-002167

USE AND DEVELOPMENT COMMITMENT

WHEREAS the Undersigned, Chris A and Alicia A. Gilkey are owners and Chris A. Gilkey is Petitioner, of certain real estate situated in the County of Warrick, Indiana, commonly described as 4522 State Road 261 in Newburgh, Indiana, which real estate is more particularly described as follows, to wit:

Part of the Northwest Quarter of the Southwest Quarter of Section 26, and part of the Northeast Quarter of the Southeast Quarter of Section 27, all in Township 6 South, Range 9 West in Ohio Township, Warrick County, Indiana, being more particularly described as follows:

Part of the Northwest Quarter of the Southwest Quarter of Section 26, and part of the Northeast Quarter of the Southeast Quarter of Section 27, all in Township 6 South, Range 9 West in Ohio Township, Warrick County, Indiana, being more particularly described as follows:
Commencing at the Northeast corner of the Northeast Quarter of the Southeast Quarter of said Section 27; thence along the East line of said quarter-quarter, South 00 degrees 33 minutes 29 seconds West 45.00 feet to the right-of-way of Lincoln Avenue as shown on a Plan and Profile sheet for INDOT Project NO. 0500636 and being the **POINT OF BEGINNING**; thence along said right-of-way the following four courses and distances: North 90 degrees 00 minutes 00 seconds West 48.24 feet; South 64 degrees 22 minutes 05 seconds West 27.74 feet; South 26 degrees 13 minutes 21 seconds West 99.64 feet; North 63 degrees 44 minutes 07 seconds West 5.00 feet to the right-of-way of Old State Road 261; thence along the right-of-way of Old State Road 261, South 26 degrees 15 minutes 53 seconds West 129.10 feet to the South line of a 2.15 acre tract recorded in Document #2006R-002167 in the Office of the Recorder of Warrick County, Indiana; thence along said South line, North 89 degrees 42 minutes 07 seconds East 509.71 feet to the Southeast corner of said 2.15 acre tract; thence along the East line of said 2.15 acre tract, North 35 degrees 27 minutes 48 seconds West 260.65 feet to aforesaid right-of-way of Lincoln Avenue; thence along said right-of-way, North 90 degrees 00 minutes 00 seconds West 179.59 feet to the point of beginning, containing 1.85 acres, more or less.

WHEREAS, as the real estate is currently classified as A Zoning district under the Warrick County Zoning Code 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-2; and

WHEREAS, Petitioner is desirous of accommodating the concerns of the surrounding property owners 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 commitment:

1. Use of the Real Estate shall be limited to the following uses:
   1) All C-2 uses EXCEPT the following:
      Article IX, Section 1 (4) – Backyard Chickens
      Article XIV, Section 3 (9) – Taverns, bars, nightclubs and restaurants serving alcoholic beverages consumed on premises and package liquor stores

2. Use of the Real Estate shall be limited to the following development requirements:

   N/A

3. No alcohol sales and \ or consumption on the premises as long as a church is the adjoiner to the south, unless the premises is developed as a residential use (homes, apartments, townhomes, or condominiums) then alcohol can be consumed on the premises.

4. All commitments and undertakings herein expressed shall be binding on the petitioners and the petitioners' heirs, legal representative, successors and assigns, and shall run in the favor of the Area Plan Commission of Warrick County and all the owners of real estate lying within the radius of one (1) mile from the real estate described and

shall be enforced by invoking any legal, equitable or special remedy, including specific performance, injunction or 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.

IN WITNESS WHEREOF, this Use and Development Commitment is hereby made and entered into this 12th day of April, 2021 by Chris A. Gilkey and Alicia A. Gilkey for the purpose set forth herein.

Chris A. Gilkey (Owner & Petitioner)

Alicia A. Gilkey (Owner)

STATE OF INDIANA)
) SS:
COUNTY OF WARRICK)

Before me, the undersigned, a Notary Public and for said County and State, personally, appeared the within named Chris A. Gilkey and Alicia A. Gilkey, who acknowledged the execution of the foregoing Use and Development commitment to be his/her free voluntary act and deed.

WITNESS my hand and Notarial Seal this 12 day of April, 2021.

NOTARY PUBLIC

Michele S. Nally
Signature

Michele S. Nally
Printed Name

A resident of Henderson County, ~~Indiana.~~ KY

My commission expires: 2/4/2027

MICHELE S NALLY
Commission No. NP0716841
NOTARY SEAL PUBLIC
My Commission Expires 02/04/2021
STATE OF INDIANA

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

Jared Memering
Printed Name

This instrument prepared by: Jared Memering of Morley

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the person or entity obtaining enforcement in such proceedings shall also recover its reasonable attorneys' fees and costs of suit from the undersigned.

IN WITNESS WHEREOF, this Use and Development Commitment is hereby made and entered into this 8th day of February, 20 21 by Chris & Alicia A Gilkey for the purpose set forth herein.

Chris A. Gilkey (Owner & Petitioner)

Alicia A. Gilkey (Owner)

STATE OF INDIANA)
) SS:
COUNTY OF WARRICK)

Before me, the undersigned, a Notary Public and for said County and State,

personally, appeared the within named Chris A. & Alicia A. Gilkey

who acknowledged the execution of the foregoing Use and Development commitment to

be his/her free voluntary act and deed.

WITNESS my hand and Notarial Seal this 8th day of February, 20 21.

NOTARY PUBLIC

Signature

Bret A. Sermersheim

Printed Name

A resident of VANDERBURGH County, Indiana.

My commission expires: August 6, 2026

BRET A SERMERSHEIM
Notary Public, State of Indiana
Resident of Vanderburgh County,
My Commission Expires: August 6, 2026
Commission Number NP0715205

Witness

STATE OF INDIANA)
) SS:
COUNTY OF WARRICK)

Before me, the undersigned, a Notary Public and for said County and State,

personally appeared the above named Kristin Ray to the foregoing instrument, who, being by me duly sworn, did depose and say that he/she knows Chris A. and Alicia A. Gilkey, Owner(s)/Petitioner, to be the individual(s) described in and who executed the foregoing instrument; that said WITNESS was present and saw said Owner(s)/Petitioner execute the same; and that said WITNESS at the same time subscribed his/her name as a witness thereto

WITNESS my hand and Notarial Seal this 8th day of February, 20 21.

NOTARY PUBLIC

Signature

Bret A. Sermersheim

Printed Name

FILED

FEB 08 2021

WARRICK COUNTY
RECORDER'S OFFICE

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A resident of Vanderburgh County, Indiana.

My commission expires: August 6, 2026

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.

Jared Memering
Signature

Jared Memering
Printed Name

This instrument prepared by: Jared Memering of Morley

BRET A SERMERSHEIM
Notary Public, State of Indiana
Resident of Vanderburgh County
My Commission Expires: August 6, 2026
Commission Number NP0715205

FILED

FEB 08 2021

WARRICK COUNTY
AREA PLAN COMMISSION

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