

STATE OF INDIANA  
BEFORE THE BOARD OF CLARK COUNTY COMMISSIONERS

ORDINANCE NO. 33 -2019

**AN ORDINANCE APPROVING AN AMENDMENT TO THE CLARK COUNTY  
ZONING MAP ON RECOMMENDATION BY THE  
CLARK COUNTY PLAN COMMISSION**

**WHEREAS**, the Board of Commissioners of Clark County, Indiana (the “Board”), is the executive body of Clark County Government pursuant to the provisions of Ind. Code § 36-2-2-2; and,

**WHEREAS**, the Board is also the legislative body of Clark County Government pursuant to the provisions of Ind. Code 36-1-2-9; and,

**WHEREAS**, the Clark County Plan Commission has advisory authority regarding zoning pursuant to Ind. Code 36-7-4, *et al*; and,

**WHEREAS**, on the 13<sup>th</sup> day of November, 2019, the Clark County Plan Commission passed Resolution 35-2019, (see the said Resolution 35-2019 attached hereto as **Exhibit “A”**) to reclassify certain property on the County’s zoning maps as identified in the said Resolution.

**NOW, THEREFORE, BE IT ORDAINED** by the Board of Clark County Commissioners as follows:

1. That the Clark County Plan Commission Resolution 35-2019, dated November 13, 2019, as attached hereto, is hereby approved, and the County’s zoning maps are reclassified pursuant to the attached Resolution and pursuant to the attached **Statement of Commitments** (attached hereto as **Exhibit “B”**).

2. This Ordinance shall be in full force and effect upon its passage and promulgation as evidenced by the affirmative signatures of the undersigned as the majority of the duly elected and serving members of this Board.

So Ordained this 12<sup>th</sup> day of December, 2019.

*Members voting "NO":*

\_\_\_\_\_  
Jack Coffman, Commissioner


\_\_\_\_\_  
Bryan Glover, Commissioner

\_\_\_\_\_  
Connie Sellers, Commissioner

*Members voting "YES":*

  
\_\_\_\_\_  
Jack Coffman, Commissioner

  
\_\_\_\_\_  
Bryan Glover, Commissioner

  
\_\_\_\_\_  
Connie Sellers, Commissioner

*Attested by:*

  
\_\_\_\_\_  
Danny Yost, Clark County Auditor

BY THE CLARK COUNTY PLAN COMMISSION

RESOLUTION 35 - 2019

WHEREAS, the Clark County Plan Commission met on November 13, 2019, and heard the Petition of 2019-17-PC: Sitting Bull LLC, asking the property known known by its street address/parcel no. as 2921 Sunset Trail, Charlestown, Indiana, be reclassified from B-3 General Business to M-2 Heavy Industrial for a Excavation Business at 2921 Sunset Trail, Charlestown, Indiana; and

WHEREAS, the Plan Commission heard the presentation of the Petitioner(s) and the objections, comments, remonstrations, and other relevant information presented by those in attendance at the hearing, if any;

NOW, THEREFORE, BE IT RESOLVED by the Plan Commission as follows:

1. The Petition to rezone the real estate described in Exhibit A was heard after notice to interested persons was properly given in accordance with the ordinance and Indiana law; and
2. The Plan Commission heard and received the relevant evidence presented and deliberated on such evidence in a public meeting.
3. The Plan Commission recommends to the Board of Commissioners of Clark County as follows:

X The real estate described at 2921 Sunset Trail, Charlestown, Indiana should be reclassified from B-3 General Business to M-2 Heavy Industrial.

       The real estate described at \_\_\_\_\_, Indiana should NOT be reclassified from \_\_\_\_\_ to \_\_\_\_\_.

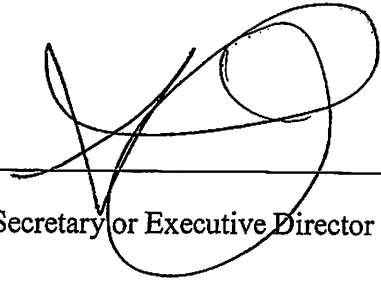
       The Plan Commission was unable to reach consensus as required by law, and therefore sends the rezoning petition to the Clark County Commissioners WITHOUT RECOMMENDATION.

Dated this 13<sup>th</sup> day of November, 2019.



I hereby certify this is a true and correct copy of the Resolution passed by the Clark County Plan Commission on November 13, 2019.

ATTEST:



\_\_\_\_\_

Secretary or Executive Director

**Legal Description:** See Exhibit A attached hereto and by this reference incorporated herein (the "Real Estate")

**STATEMENT OF COMMITMENTS:**

These COMMITMENTS are given by and shall be binding on \_\_\_\_\_ ("owner"), subsequent owners of the Real Estate and any other persons acquiring an interest therein. These COMMITMENTS may be modified or terminated only by a decision of the Clark County \_\_\_\_\_ (the "Board") made at a public hearing after notice has been provided under the rules of the Board.

These COMMITMENTS contained in this instrument shall be effective upon the adoption or approval by the Board of the Owner's Petition/Application for all or any of the following related to all or part of the Real Estate.

1. Adoption of a rezoning proposal
2. Primary approval of a proposed subdivision plat
3. Approval of a vacation of all or part of the plat
4. Special exception (Pick as applicable)
5. Special use
6. Contingent use
7. Conditional use
8. Variance

These COMMITMENTS do not obligate the Board or the Clark County Commissioners, as applicable to adopt, approve, or favorably recommend the Owner's Petition or Application to which this COMMITMENT relates.

These COMMITMENTS may be enforced jointly or severally by:

- a) The Clark County Plan Commission
- b) the Board of Clark County Commissioners
- c) the Clark County Board of Zoning Appeals
- d) Owners of all parcels of ground adjoining the Real Estate to a depth of two (2) ownerships, but not to exceed one thousand (1,000) feet from the perimeter of the Real Estate, and all owners of the Real Estate. Owners of real estate located entirely outside the Jurisdiction of the Board are not included, however. The identity of owners shall be determined from the records of the office of the Assessor of Clark County which lists the then current owners of record.

The Owner imposes and consents to the following COMMITMENTS for the use and/or development of the Real Estate:

- a) For the sale of natural earthen products such as dirt, rock, sand, slate, & other materials
- b) For the resale of asphalt millings that have been hauled onto the real estate
- c) Processing dirt through a sifter/sorter to remove rock
- d) Rinsing/washing of rock for the purpose of resale
- e) For the acceptance and processing of yard waste
- f) For the continued use as a solid/clean fill dump site



An action to enforce a COMMITMENT may be brought in a Circuit Court in Clark County, Indiana. A permitted party bringing an action to enforce a COMMITMENT may request mandatory or prohibitory injunctive relief through the granting of temporary restraining order, preliminary injunction or permanent injunction. If the action to enforce a COMMITMENT herein is successful, the respondent shall bear the costs of the action. A change of venue from the County shall not be granted in such an action and Owner herein waives all rights to a change of venue from the County.

The Owner hereby authorizes the Board, Clark County, Indiana or any of their agents or representatives to record this Statement of Commitments in the office of the Recorder of Clark County, Indiana, upon approval or adoption of Owner's Petition/Application.

IN WITNESS WHEREOF, the Owner has executed this instrument this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**(Individual Signature Lines)**

\_\_\_\_\_  
\_\_\_\_\_

**(Or Company Signature Line)**

(TYPE COMPANY NAME HERE)

\_\_\_\_\_  
BY: \_\_\_\_\_  
ITS: \_\_\_\_\_

**(INDIVIDUAL NOTARY)**

STATE OF \_\_\_\_\_

§

COUNTY OF \_\_\_\_\_

Before me, the undersigned, a Notary Public in and for said County and State, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, personally appeared \_\_\_\_\_ and acknowledged the execution of the above and foregoing instrument.

Witness my hand and notarial seal.

\_\_\_\_\_  
Notary Public, Resident of  
\_\_\_\_\_ County, \_\_\_\_\_

My commission expires:

\_\_\_\_\_

\_\_\_\_\_  
Printed Name

**(OR CORPORATE NOTARY)**

STATE OF INDIANA

§

COUNTY OF \_\_\_\_\_

Before me, the undersigned, a Notary Public in and for said County and State, this \_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, came \_\_\_\_\_, by \_\_\_\_\_, its \_\_\_\_\_ and by \_\_\_\_\_, its \_\_\_\_\_, who acknowledged the execution of the above and foregoing instrument.

Witness my hand and notarial seal.

\_\_\_\_\_  
Notary Public, Resident of  
\_\_\_\_\_ County, Indiana

My commission expires:

\_\_\_\_\_

\_\_\_\_\_  
Printed Name

THIS INSTRUMENT PREPARED BY:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

I AFFIRM, UNDER PENALTIES OF PERJURY, THAT I HAVE TAKEN REASONABLE CARE TO REDACT SOCIAL SECURITY NUMBERS IN THIS DOCUMENT, UNLESS REQUIRED BY LAW. \_\_\_\_\_