

STATE OF INDIANA

BEFORE THE BOARD OF CLARK COUNTY COMMISSIONERS

ORDINANCE NO. 12 -2014

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

[See attached text of Resolution]

BY THE CLARK COUNTY
PLAN COMMISSION

RESOLUTION 2-2014

WHEREAS, the Clark County Plan Commission met on March 12th, 2014 and heard the petition of Huber's Orchard, Winery, & Vineyard, asking that the property known by its street address as 19816 Huber Road, Starlight, Indiana be rezoned from A-1 Agricultural Zone to M-1 Light Industrial on a 3.56 acre section for a new distillery building with the applicants agreement to a statement of commitments described in Exhibit A limiting the property to a distillery at 19816 Huber Road, Starlight, Indiana;

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 B 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:

(Check One)

X The real estate described at 19816 Huber Road, Starlight, Indiana should be reclassified from A-1 Agricultural Zone to M-1 Light Industrial.

_____ The real estate described at 19816 Huber Road, Starlight, 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 17th day of March.

I hereby certify that this is a true and correct copy of the Resolution passed by the Clark County Plan Commission on March 12th, 2014.

ATTEST:



Secretary or Executive Director

+ Name Hibers Orchard Petition No. 2014-8-PC

The Clark County Plan Commission does hereby recommend approval, denial or no recommendation of said petition on this 12th day of MARCH, 2014, by a 9-0 vote.

MEMBER	APPROVED	DENIED	NO RECOMMENDATION	ABSTAIN
<u>David Hynes</u> David Hynes	✓	_____	_____	_____
<u>John Uhl</u> John Uhl	✓	_____	_____	_____
<u>Martina Webster</u> Martina Webster	✓	_____	_____	_____
<u>Paul E. Coffman</u> Paul Coffman	✓	_____	_____	_____
<u>David Blankenkemper</u> David Blankenkemper	✓	_____	_____	_____
<u>Jack Coffman</u> Jack Coffman	✓	_____	_____	_____
<u>Michael Killen</u> Michael Killen	✓	_____	_____	_____
<u>Susan Popp</u> Susan Popp	✓	_____	_____	_____
<u>Rick Wardlaw</u> Rick Wardlaw	✓	_____	_____	_____

STATEMENT OF COMMITMENTS

The Commitments set forth in this document apply to the real estate which is described in Exhibit "A" attached hereto ("the Real Estate"). The Commitments are given by the owner of the Real Estate, namely T & G Properties, LLC ("the Owner"), and they shall be binding on any future owners or persons or entities having an interest in the Real Estate.

The Owner hereby makes the following Commitments to the Clark County, Indiana Plan Commission ("the Plan Commission") with regard to the use or development of the Real Estate, and consents to the impositions created by these Commitments:

The real estate will be used for and in connection with the making, testing, bottling, packaging, storing, warehousing, sale, and distribution of alcoholic beverages, and activities which are incidental to, accessory to, or commonly associated with those activities. Such commonly associated activities may include, but shall not be limited to, facility tours that include process explanation and product sampling. All such activities shall be undertaken pursuant to any required permits or licenses issued by any pertinent regulatory agency or governmental entity. (By way of example, and not limitation, the activities undertaken pursuant to the following permits, issued by the Indiana Alcohol and Tobacco Commission, are representative of the types of activities that may be conducted: Permit # W1022658, Type 307, Starlite Wine & Spirits LLC; Permit # W 1001884, Type 305, Huber Orchards, Inc; Permit # MM1029933, Huber Orchards, Inc; Permit # DW1400203, Type 310, Huber Orchards, Inc; Permit # M1020234, Type 204, Huber Orchards, Inc.)

The Real Estate will not be used for any of the "Permitted Uses" listed for a M1 District in the Clark County, Indiana Zoning Ordinance, except as provided in the preceding paragraph.

The Commitments set forth in this document shall be effective upon the adoption by the Clark County, Indiana Board of Commissioners of the Owner's proposal to change the zone maps of the Clark County Zoning Ordinance (rezone the Real Estate) as follows: Change the zoning district designation of the Real Estate from A1 (Agricultural) to M1 (Light Industrial).

These Commitments do not obligate the Board of Commissioners to adopt the Owner's referenced rezoning proposal.

These Commitments may be enforced jointly or severally by:

- (a) the Clark County Plan Commission,
- (b) The Clark County Board of Commissioners

- (c) The Clark County Board of Zoning Appeals
- (d) Owners of any real estate adjoining the Real Estate to a depth of 200 feet, but not to exceed 1000 feet from the perimeter of the Real Estate, and all owners of the Real Estate. However, owners of real estate located entirely outside the jurisdiction of the Board of Zoning Appeals are not included. The identity of pertinent owners shall be determined from the records of the office of the Assessor of Clark County.

An action to enforce a Commitment provided for by this document may be brought in any of the Circuit Courts of Clark County. A person bringing an action to enforce a subject Commitment may request mandatory or prohibitory injunctive relief thru the granting of a temporary restraining order, preliminary injunction, or permanent injunction. If an action to enforce a subject Commitment is successful, the respondent shall bear the costs of the action, including reasonable attorney fees. A change of venue from the county may not be granted in such an action.

The Owner hereby authorizes the Plan Commission, or any of its agents or representatives, to record this document in the Clark County, Indiana, Recorder's Office, upon the adoption of the Owner's referenced proposal for a zoning change by the Board of Commissioners.

(This document has been prepared in accordance with the provisions of Indiana Code 36-7-4-1015.)

In witness whereof, the Owner, by its only two Members, who are also Co-Managers, has signed this document:

T & G Properties, LLC, by:

Theodore Huber Date: 3-24-14
Theodore Huber, Member/Manager

Gregory Huber Date: 3-24-14
Gregory Huber, Member/Manager

STATE OF INDIANA)
 :SS
COUNTY OF Floyd)

Before me, a Notary Public in and for said State and County, personally appeared THEODORE HUBER, and acknowledged the execution of this instrument this 24 day of March, 2014.

Marcella Hawk
Notary Public (Signature)

My Commission Expires:
January 14, 2021

Marcella Hawk
Notary Public (Printed)
County of Residence Floyd

STATE OF INDIANA)
 :SS
COUNTY OF Floyd)

Before me, a Notary Public in and for said State and County, personally appeared GREGORY HUBER, and acknowledged the execution of this instrument this 24 day of March, 2014.

Marcella Hawk
Notary Public (Signature)

My Commission Expires:
January 14, 2021

Marcella Hawk
Notary Public (Printed)
County of Residence Floyd

Prepared by:

George W. Gesenhues, Jr.
Indiana Attorney No. 7109-22
LORCH NAVILLE WARD LLC
506 State Street, P.O. Box 1343

New Albany, IN 47151-1343

Phone (812) 949-1000

Fax (812) 949-3773

I AFFIRM UNDER THE PENALTIES OF PERJURY THAT I HAVE TAKEN REASONABLE CARE TO REDACT EACH SOCIAL SECURITY NUMBER IN THE DOCUMENT UNLESS REQUIRED BY LAW. George W. Gesenhues, Jr.

Gwg\40371\statement of commitments

EXHIBIT "A"

This is the legal description of the Real Estate referenced in the "Statement of Commitments" to which this Exhibit "A" is attached:

Being a part of the south half of Section 14, Township 1 South, Range 5 East, Clark County, Indiana and being further described as follows:

Beginning at a railroad spike on the southeast corner of said Section 14; Thence S.88°30'W., (basis of bearings) along the south line of said Section, 1333.33 feet to the southeast corner of the west half of said Section; Thence continuing S.88°30'W., along said south line, 7 feet; Thence N.1°10'W., along the centerline of a 20 foot wide private road (Huber Road) 811.6 feet; Thence N.2°18'W., along said centerline, 676 feet; Thence N.85°53'W., along said centerline, 673 feet; Thence N.0°40'36"W., 178.52 feet to the northeast corner of a tract of land described in Deed Drawer 29, Instrument 2672 of said County records; Thence S.86°10'W., along the north line of said tract, 86.08 feet to the northwest corner of said tract; Thence S.1°52'W., along the west line of said tract, 150.75 feet to the northern line of a 25 foot wide private road (Huber Road); Thence N.85°38'W., along said northern line, 105 feet; N.80°00'13"W., 131.08 feet to THE TRUE PLACE OF BEGINNING:

Thence N.86°47'08"W., 320 feet;

Thence North, 456.59 feet;

Thence N.87°45'26"E., 337.75 feet;

Thence S.2°06'46"W., 488.09 feet to THE TRUE PLACE OF BEGINNING.

Containing 3.56 acres and being subject to all easements of record.

David R. Blankenkemper, P.L.S.

Howard R. Blankenkemper (1905-1974)
Rollyn H. Blankenkemper (1934-1994)

Blankenkemper & Son

EXHIBIT B

Land Surveyors Inc., P.C.

Established 1945

618 E. Court Avenue
Jeffersonville, Indiana 47130

(812) 282-4183 phone
(812) 282-4197 fax

P.O. Box 157
Jeffersonville, Indiana
47131-0157

2 January 2014

DESCRIPTION OF 3.56 ACRES SECTION 14, T-1-S, R-5-E, CLARK CO.

Being a part of the south half of Section 14, Township 1 South, Range 5 East, Clark County, Indiana and being further described as follows:

Beginning at a railroad spike on the southeast corner of said Section 14; Thence S.88°30'W., (basis of bearings) along the south line of said Section, 1333.33 feet to the southeast corner of the west half of said Section; Thence continuing S.88°30'W., along said south line, 7 feet; Thence N.1°10'W., along the centerline of a 20 foot wide private road (Huber Road) 811.6 feet; Thence N.2°18'W., along said centerline, 676 feet; Thence N.85°53'W., along said centerline, 673 feet; Thence N.0°40'36"W., 178.52 feet to the northeast corner of a tract of land described in Deed Drawer 29, Instrument 2672 of said County records; Thence S.86°10'W., along the north line of said tract, 86.08 feet to the northwest corner of said tract; Thence S.1°52'W., along the west line of said tract, 150.75 feet to the northern line of a 25 foot wide private road (Huber Road); Thence N.85°38'W., along said northern line, 105 feet; N.80°00'13"W., 131.08 feet to THE TRUE PLACE OF BEGINNING:

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Thence N.87°45'26"E., 337.75 feet;

Thence S.2°06'46"W., 488.09 feet to THE TRUE PLACE OF BEGINNING.

Containing 3.56 acres and being subject to all easements of record.

NOTE: This description prepared from record documents for zoning purposes only. No surveying done this date.

file:T:\DOCS\DESCRIPTIONS\21247.wpd

ACTION TAKEN BY BOARD OF COMMISSIONERS
OF CLARK COUNTY, INDIANA

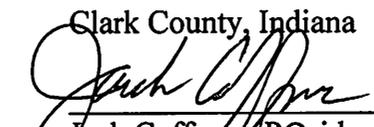
This matter having come before the Board of Commissioners of Clark County, Indiana (County Commissioners) on March 27 2014 the petition of Huber's Orchard, Winery, & Vineyard to rezone a 3.56 acre section at 19816 Huber Road, Starlight, Indiana from A-1 Agricultural to M-1 Light Industrial; and the Plan Commission has adopted the forgoing resolution in which it makes its recommendations to the County Commissioners and the County Commissioners having read the recommendation, having reviewed all available evidence, having considered the county's comprehensive plan, having balanced the competing interests of those in the area affected, if any, now, therefore, determines as follows:

The real estate described at 19816 Huber Road, Starlight, Indiana should be reclassified on the zoning maps from A-1 Agricultural to M-1 Light Industrial.

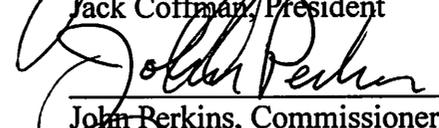
The real estate at 19816 Huber Road, Starlight, Indiana SHOULD NOT be reclassified on the zoning maps.

Dated this 27th day of March, 2014.

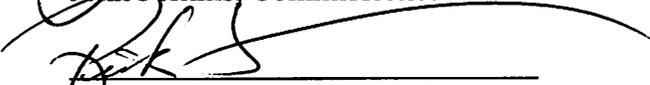
Board of Commissioners of
Clark County, Indiana



Jack Coffman, President

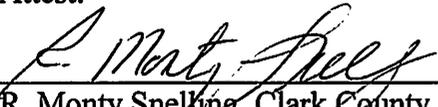


John Perkins, Commissioner



Rick Stephenson, Commissioner

Attest:



R. Monty Snelling, Clark County Auditor