

STATE OF INDIANA

BEFORE THE BOARD OF CLARK COUNTY COMMISSIONERS

ORDINANCE NO. 2017-35

**AN ORDINANCE ESTABLISHING THE
GREENLEAF PLANNED UNIT DEVELOPMENT DISTRICT**

WHEREAS, Article XXIV of the Clark County Zoning Ordinance (hereinafter referred to as the “Zoning Ordinance”) provides for the establishment of planned unit development districts in accordance with the requirements of Ind. Code § 36-7-4-1500, *et seq.*; and,

WHEREAS, Greenleaf Properties, LLC, an Indiana limited liability company (“Greenleaf”), is the owner of a 68.633-acre tract of real property located at an unassigned street address at the intersection of County Road 403 and Salem-Noble Road within the unincorporated territory of Clark County, Indiana (the “Property”); and,

WHEREAS, on September 13, 2017, Greenleaf filed an application to change the Zoning Map designation of the Property, the legal description of which is set forth in attached Exhibit “A”, by establishing the Greenleaf Planned Unit Development District (the “PUDD”); and,

WHEREAS, following notice and publication in accordance with applicable law, on November 8, 2017, the Clark County Plan Commission (the “Plan Commission”) conducted a public hearing on Greenleaf’s application, following which it granted favorable recommendation for the establishment of the PUDD by a unanimous vote of the members who were present and voting; and,

NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners of Clark County, Indiana (this “Board”), that, pursuant to the provisions of Ind. Code § 36-7-4-1500, *et seq.*, it hereby adopts this Ordinance as an amendment to the Clark County Zoning Ordinance, subject to the following terms and conditions:

Section 1. Legislative Intent.

Having given reasonable regard to the Comprehensive Plan and other matters specified in the Zoning Ordinance and Ind. Code § 36-7-4-603, the intent of this Board in adopting this Ordinance is to insure that the increased flexibility and design specificity regulations over land development authorized herein is carried out pursuant to established administrative standards and procedures.

Section 2. Applicability of Ordinance.

- 2.1 The official Clark County Zoning Map, a part of the Zoning Ordinance, is hereby by changed to designate the Property described in attached Exhibit “A” as the Greenleaf Planned Unit Development District.
- 2.2 Development in the PUDD shall be governed entirely by the provisions of this Ordinance; provided, however, that the definitions and substantive provisions of the Clark County Subdivision Control Ordinance and the Zoning Ordinance as in effect on the date hereof shall also continue to apply except as specifically provided herein.

Section 3. Permitted Principal Uses.

The primary uses permitted within the PUDD shall be in accordance with those shown and described in the notes of the Preliminary Plat submitted to the Plan Commission, as subsequently revised pursuant to agreement made at the conclusion of the public hearing held by the Plan Commission.

Section 4. Development Requirements.

At the public hearing conducted by the Plan Commission, Greenleaf offered voluntary commitments in accordance with the provisions of Ind. Code § 36-7-4-1015(a) that (i) Greenleaf or its successors shall not seek or utilize Section 42 Low Income Housing Tax Credit financing for the multi-family apartments it seeks to construct on the Real Estate, and (ii) Greenleaf would substitute not more than one hundred (100) garages for the initially proposed commercial mini-storage units. Greenleaf has now filed a revised Preliminary Plat showing the agreed changes and has tendered a Statement of Commitments in the form required by the Plan Commission, a copy of which is attached hereto as Exhibit “B”. This Ordinance is adopted conditioned on the execution and recording of the Statement of Commitments in the office of the Clark County Recorder subsequent to the grant of the primary plat and secondary (final) approval of the PUDD by the Plan Commission.

Section 5. Modification of Development Requirements.

- 5.1 The Plan Commission may, upon petition of Greenleaf or its successor and public hearing, modify any development requirements specified in this Ordinance.
- 5.2 Any proposed modification of the development requirements shall comply with the following guidelines:
 - 5.2.1 The modification shall be in harmony with the intent of this Ordinance.

- 5.2.2 The modification shall not have an adverse impact on the physical, visual, or spatial characteristics of the Development.
 - 5.2.3 The modification shall not have an adverse impact on the streetscape or neighborhood.
 - 5.2.4 The modification shall not result in configurations of lots or street systems which shall be unreasonable or detract materially from the appearance of the development.
 - 5.2.5 The modification shall not result in any danger to the public health, safety, or welfare by making access to the site by emergency vehicles more difficult, depriving adjoining owners of adequate light or air, or violating the other purposes for which this Ordinance was enacted as set forth in Section 1.
- 5.3 If the Plan Commission determines that the proposed modification will not have an adverse impact on development in the PUDD, it shall grant a modification of the development requirements. In granting modifications, the Plan Commission may impose such conditions as will, in its reasonable judgment, secure the objectives and purposes of this Ordinance.

Section 6. Platting and Installation of Improvements.

- 6.1 The Preliminary Plat attached hereto as Exhibit "C" constitutes a primary plat conforming to the requirements of the Subdivision Control Ordinance, and further constitutes an approved primary plat under the provisions of Ind. Code § 36-7-4-707 and Ind. Code § 36-7-4-1513 (the "Plat").
- 6.2 Grading, filling, excavating, or change in the grade of any property is permitted, but shall not be detrimental to surrounding properties in appearance or in the diversion of stormwater.

Section 7. Certification and Recordation of the PUDD Plat.

- 7.1 Within thirty (30) days following secondary approval of the plat, the Plan Commission shall deliver a signed mylar of the Plat to Greenleaf.
- 7.2 Greenleaf or its successor shall record the signed Plat in the office of the Recorder of Clark County, Indiana, within sixty (60) days following receipt of the signed Plat from the Plan Commission, and shall deliver a copy of the recorded Plat to the Planning Director.

7.3 Subsequently approved modifications of the PUDD that affect the Plat shall be recorded by Greenleaf or its successor in the office of the Recorder of Clark County, Indiana, within sixty (60) days following receipt of the approval of such modification. Subsequent to recordation, Greenleaf or its successor shall deliver a copy of the recorded modification of the recorded plat to the Clark County Planning Director.

SO ORDAINED by majority vote of the entire membership of the Board of Commissioners of Clark County, Indiana, at a duly noticed and convened public meeting held on the 28th day of December, 2017.

**BOARD OF COMMISSIONERS OF
CLARK COUNTY, INDIANA**

By: 

Jack Coffman, President

Attested by:



R. Monty Snelling, Clark County Auditor

PAUL PRIMAVERA & ASSOCIATES
Registered Engineers and Land Surveyors

EXHIBIT "A"

**LEGAL DESCRIPTION OF GREELEAF
PLANNED UNIT DEVELOPMENT DISTRICT**

A part of Survey #112 of the Illinois Grant, Charlestown Township, Clark County, Indiana, more particularly described as follows:

Commencing at the Northernmost corner of said Survey #112; thence along the line between Surveys #112 and #113 South 41° 19' 50" East 245.76 feet; thence South 47° 20' 51" West 13.23 feet; thence North 56° 24' 28" West 64.47 feet to the right-of-way of Salem Noble Road; thence along said right-of-way as follows: South 41° 19' 50" East 1852.52 feet to the right-of-way of Greenleaf Road; thence leaving the right-of-way of Salem Noble Road along said right-of-way as follows: along a tangent curve concave northwesterly (said curve having a radius of 25.00 feet, a chord bearing South 04° 18' 19" West, and a chord length of 35.75 feet) a distance of 39.82 feet; thence South 49° 56' 27" West 806.18 feet; thence along a tangent curve to the right (said curve having a radius of 25.00 feet, a chord bearing South 86° 23' 19" West, and a chord length of 29.70 feet) a distance of 31.81 feet; thence along a tangent curve to the left (said curve having a radius of 60.00 feet, a chord bearing South 77° 09' 28" West, and a chord length of 85.85 feet) a distance of 95.67 feet; thence continuing along a non-tangent curve concave northeasterly (said curve having a radius of 60.00 feet, a chord bearing South 19° 17' 23" East, and a chord length of 92.95 feet) a distance of 106.33 feet; thence South 49° 56' 27" West 441.76 feet to the centerline of Silver Creek; thence along said centerline as follows: North 25° 41' 36" West 73.16 feet; thence North 19° 40' 04" East 82.25 feet; thence North 60° 39' 18" West 67.46 feet; thence North 74° 35' 07" West 162.82 feet; thence North 87° 20' 22" West 185.83 feet; thence North 86° 58' 10" West 1.18 feet; thence North 86° 24' 35" West 103.54 feet; thence North 64° 14' 25" West 141.21 feet; thence North 50° 00' 16" West 138.75 feet; thence North 32° 39' 25" West 85.28 feet; thence North 27° 17' 52" West 68.59 feet; thence North 04° 38' 31" West 77.81 feet; thence North 19° 56' 15" East 208.65 feet; thence North 11° 50' 10" East 225.06 feet; thence North 05° 25' 04" East 89.44 feet; thence North 12° 18' 49" West 59.00 feet; thence North 28° 00' 12" West 148.56 feet; thence North 68° 12' 28" West 71.10 feet; thence North 88° 58' 24" West 71.68 feet; thence South 63° 45' 30" West 177.03 feet; thence South 41° 47' 54" West 54.94 feet; thence South 52° 47' 48" West 51.96 feet; thence South 56° 56' 51" West 47.74 feet; thence South 63° 10' 30" West 51.06 feet; thence South 77° 22' 06" West 54.35 feet; thence South 87° 57' 22" West 170.51 feet; thence North 89° 26' 03" West 170.58 feet; thence North 70° 50' 39" West 86.06 feet to the right-of-way of County Road 403; thence along said right-of-way North 51° 09' 23" East 28.94 feet; thence North 37° 51' 16" East 178.47 feet; thence North 48° 36' 55" East 521.68 feet; thence North 49° 09' 52" East 300.00 feet; thence North 63° 21' 02" East 206.16 feet; thence North 49° 09' 52" East 198.00 feet; thence along a tangent curve to the left (said curve having a radius of 17288.74 feet, a chord bearing North 48° 42' 12" East, and a chord length of 278.33 feet) a distance of 278.33 feet; thence continuing along a tangent curve to the left (said curve having a radius of 17288.74 feet, a chord bearing North 47° 52' 00" East, and a chord length of 226.61 feet) a distance of 226.61 feet; thence South 56° 24' 28" East 90.01 feet to the point of beginning, containing 68.633 acres, more or less.

STATEMENT OF COMMITMENTS

These COMMITMENTS are given by and shall be binding on **GREENLEAF PROPERTIES, LLC**, an Indiana limited liability company with an address of 1221 Old Highway 31E, Clarksville, IN 47129 (hereinafter referred to as the "Owner"), as the record owner of real property located at the intersection of County Road 403 and Salem-Noble Road, Charlestown, Clark County, Indiana, which is more particularly described in Exhibit "A" attached hereto and incorporated herein (the "Real Estate"). These COMMITMENTS shall be binding on the Owner, subsequent owners of the Real Estate, and any other persons acquiring an interest therein. These COMMITMENTS may be modified or terminated only by decision of the Clark County Plan Commission (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 (Planned Unit Development District)
2. Primary approval of a proposed subdivision plat (Planned Unit Development District)

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

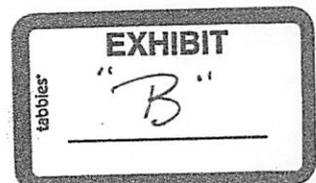
These COMMITMENTS may be enforced jointly or severally by:

- 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.

1. The Owner shall not seek or utilize Section 42 Low Income Housing Tax Credit financing for the multi-family apartments it seeks to construct on the Real Estate.
2. The Owner will substitute not more than one hundred (100) garages for the initially proposed commercial mini-storage units.

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 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 action and Owner herein waives all rights to a change of venue from the County.



PAUL PRIMAVERA & ASSOCIATES
Registered Engineers and Land Surveyors

EXHIBIT "A"

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PLANNED UNIT DEVELOPMENT DISTRICT**

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Proposed Zone - PUD

GREENLEAF PROPERTIES PLANNED UNIT DEVELOPMENT



PREPARED BY:
PAUL PRIMAVERA & ASSOCIATES
301 E. CHESTNUT ST.
CORYDON, IN 47112
TEL: (812) 738-4124
FAX: (812) 738-6740

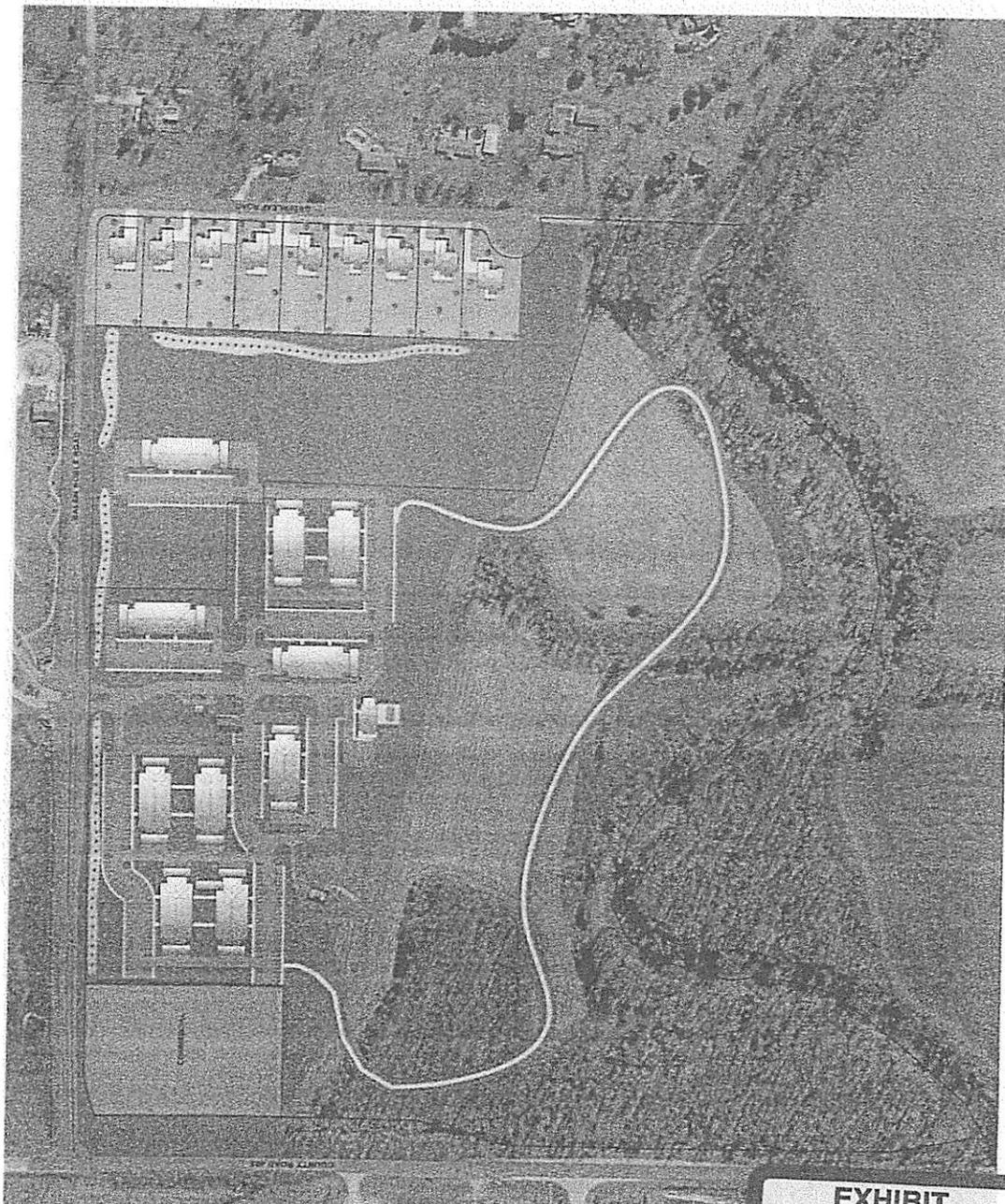
ZONING ANALYSIS

1. THE PROPOSED DEVELOPMENT IS ZONED UNDER THE PRESENT ZONING ORDINANCE AS A PLANNED UNIT DEVELOPMENT (PUD).
2. THE PROPOSED DEVELOPMENT IS COMPATIBLE WITH THE CHARACTER AND USES OF THE SURROUNDING AREA.
3. THE PROPOSED DEVELOPMENT IS IN ACCORDANCE WITH THE ZONING ORDINANCE.
4. THE PROPOSED DEVELOPMENT IS IN ACCORDANCE WITH THE ZONING ORDINANCE.

PROPERTY OWNERS:
PAUL PRIMAVERA & ASSOCIATES
301 E. CHESTNUT ST.
CORYDON, IN 47112



**PAUL PRIMAVERA
& ASSOCIATES**
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EXHIBIT
"C"