

**Floyd County Board of Commissioners
Ordinance Pertaining to Map Amendments to the Floyd County Zoning Ordinance**

Whereas, the Floyd County Board of Commissioners met on May 17, 2016, on this matter pursuant to IC 36-7-4-608; and

Whereas, the Board received from the Floyd County Plan Commission a favorable recommendation of the proposed zoning map amendment from Rural Residential to Residential Suburban with a voluntary zoning commitment listed in Exhibit A.

Whereas, the Plan Commission heard from both proponents and opponents of the map amendments to the zoning ordinance in accordance with IC 36-7-4-604

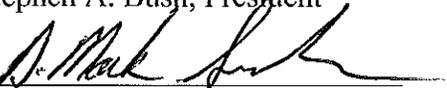
NOW, THEREFORE,

BE IT ORDAINED that Floyd County Zoning Ordinance Map is amended as indicated on Exhibit A.

SO RESOLVED this 6th day of September.

BOARD OF COMMISSIONERS
OF THE COUNTY OF FLOYD


Stephen A. Bush, President


D. Mark Seabrook, Commissioner

Charles Freiberger, Commissioner

ATTEST:



Scott Clark, County Auditor

Exhibit A

ZONING COMMITMENT

This Zoning Commitment is made in accordance with the provisions of Ind. Code § 36-7-4-1015(a)(1) by:

Cristiani Family Partnership, L.L.C., an Indiana limited liability company (hereinafter referred to as "CFP"), with an address of 1221 Old Highway 31E, Clarksville, Indiana 47129;

and

Christopher A. Rainbolt and Barbara J. Rainbolt, husband and wife (hereinafter referred to as the "Rainbolts"), with an address of 4900 Barry Lane, Floyds Knobs, Indiana 47119;

in favor of

Floyd County, Indiana, by and through its Board of County Commissioners (collectively the "County"), and the Floyd County Plan Commission (the "Plan Commission"), with an address of Pine View Government Center, 2524 Corydon Pike, Suite 203, New Albany, Indiana 47150.

RECITALS:

WHEREAS, pursuant to deed recorded as Instrument 200501482, CFP is the owner of an approximately seventy-five (75) acre parcel of real estate located at the commonly known street address of 6225 U.S. Highway 150, Floyds Knobs, Floyd County, Indiana (the "CFP Property"), the legal description of which is contained in attached Exhibit "A"; and,

WHEREAS, CFP holds the contractual right to purchase an adjacent approximately five (5) acre parcel of real estate located at an unassigned street address on U.S. Highway 150 in Floyds Knobs, Floyd County, Indiana (the "Rainbolt Property") from the Rainbolts, who are the owners of such parcel pursuant to deed recorded as Instrument 200113643, and the legal description of which is contained in attached Exhibit "B" (the CFP Property and the Rainbolt Property are also collectively hereinafter referred to as the "Real Estate"); and,

WHEREAS, with the written consent of the Rainbolts, CFP filed an application with the Plan Commission as Docket FC-02-16-32 to change the zoning map designation of the Real Estate from "RR (Rural Residential)" to "RS (Residential Suburban)" in order to permit the development of a residential subdivision consisting of not more than one hundred six (106) lots of not less than one-half (0.5) acre each on the Real Estate; and,

WHEREAS, following publication in accordance with the provisions of Ind. Code § 5-3-1-2 and notice in accordance with the requirements of the Floyd County Zoning Ordinance (the "Zoning Ordinance"), the Plan Commission held a public hearing on CFP's application at its regular meetings on March 21, 2016, and April 18, 2016, following the

close of which the Plan Commission certified the application with a favorable recommendation to the Floyd County Board of Commissioners pursuant to the provisions of Ind. Code §§ 36-7-4-605 and 608, subject only to CFP's tender of this voluntary commitment incorporating the terms set forth herein; and,

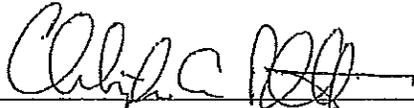
WHEREAS, in order to reflect such commitment, CFP and the Rainbolts now voluntarily tender this Zoning Commitment pursuant to the provisions of Ind. Code § 36-7-4-1015 as an inducement to the County's granting of CFP's rezoning application.

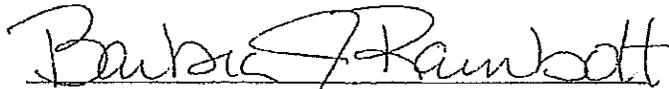
NOW, THEREFORE, in consideration of the adoption of an ordinance granting CFP's application for the requested Zone Map change regarding the Real Estate from "RR (Rural Residential)" to "RS (Residential Suburban)", CFP expressly commits to the following:

1. Limitation on Number and Size of Lots in Plat. For so long as the Real Estate remains zoned in its entirety "RS (Residential Suburban)", CFP shall not seek the primary approval of a subdivision plat with more than one hundred six (106) lots, and no single lot of which shall be less than one-half (0.5) acre.
2. Conditions to Effectiveness. This Zoning Commitment shall become effective and binding on CFP and its successors and assigns upon the final adoption by the Floyd County Board of Commissioners of an ordinance approving the Zone Map change regarding the Real Estate to "RS (Residential Suburban)" as requested by CFP;
3. Recordation. Subsequent to the satisfaction of said condition precedent, CFP and the Rainbolts shall execute this Zoning Commitment, cause same to be recorded in the office of the Recorder of Floyd County, Indiana, and CFP shall provide a duly recorded copy of same to the Executive Director of the Plan Commission. Prior to such recording, the County shall not be obligated to issue a building permit for any portion of the Real Estate.
4. Binding Effect. The terms and conditions of this Zoning Commitment shall be covenants running with the Real Estate, and shall be binding on, and enforceable against, CFP, or its successors or assigns.
5. Enforcement. Whether prior or subsequent to the recordation of this Zoning Commitment, as provided hereinabove, the terms and conditions of this Zoning Commitment may be enforced in any Indiana court of competent jurisdiction by the County or the Plan Commission, each of which shall have continuing jurisdiction over, and authority to enforce, this Zoning Commitment in accordance with the terms set forth herein.
6. Modification; Termination. In the event that any condition precedent set forth herein fails to be satisfied, the terms of this Zoning Commitment shall automatically be null, void, and of no further legal effect. Following the recordation of this Zoning Commitment, the terms of this Zoning Commitment may be modified by subsequent written amendment executed by the then owner of the Real Estate, or any portion thereof, and the Plan Commission subsequent to approval granted at a regular or special meeting following notice as required by Indiana law. Pursuant to the provisions of Ind. Code § 36-7-4-1015(b) this Zoning Commitment shall automatically terminate if the zoning district or classification of the Real Estate, or any portion thereof, is changed, or otherwise in accordance with the approval of the Plan Commission in accordance with its adopted rules.

[The remainder of this page intentionally left blank. Signature pages follow.]

IN WITNESS WHEREOF, this Zoning Commitment is voluntarily made, undertaken, and tendered by the Rainbolts to Floyd County, Indiana, acting by and through its Board of County Commissioners, and the Floyd County Plan Commission, in consideration of the grant of the zoning approvals referenced hereinabove on this 15th day of June, 2016.


CHRISTOPHER A. RAINBOLT


BARBARA J. RAINBOLT

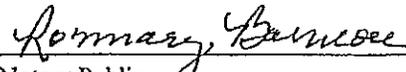
STATE OF INDIANA)
) SS:
COUNTY OF INDIANA)
 CLARK

Before me, a Notary Public in and for the above-named County and State, personally appeared Christopher A. Rainbolt and Barbara J. Rainbolt, and acknowledged the execution of the foregoing Zoning Commitment as their free and voluntary act and deed for the uses and purposes specified therein.

Witness my hand and Notarial Seal, this 15th day of June, 2016.

My Commission expires:

1-23-2019

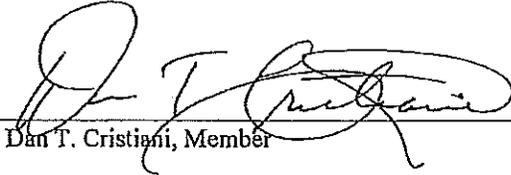

Notary Public

Resident of Clark County

ROSEMARY BARNORE
Printed Signature

IN WITNESS WHEREOF, this Zoning Commitment is voluntarily made, undertaken, and tendered by Cristiani Family Partnership, LLC, by the undersigned as its duly authorized member, to Floyd County, Indiana, acting by and through its Board of County Commissioners, and the Floyd County Plan Commission, in consideration of the grant of the zoning approvals referenced hereinabove on this 15th day of June, 2016.

CRISTIANI FAMILY PARTNERSHIP, L.L.C.,
an Indiana limited liability company

By: 
Dan T. Cristiani, Member

STATE OF INDIANA)
) SS:
COUNTY OF INDIANA)
 CLARK

Before me, a Notary Public in and for the above-named County and State, personally appeared Dan T. Cristiani, as the duly authorized member of Cristiani Family Partnership, L.L.C., an Indiana limited liability company, and acknowledged the execution of the foregoing Zoning Commitment on behalf of such company as its free and voluntary act and deed for the uses and purposes specified therein.

Witness my hand and Notarial Seal, this 15th day of June, 2016.

My Commission expires:
1-23-2019


Notary Public

Resident of Clark County

ROSEMARY BARMORE
Printed Signature

DECLARATION

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, and that this instrument was prepared by:

C. Gregory Fifer, Attorney
APPLEGATE FIFER PULLIAM LLC
428 Meigs Avenue
Jeffersonville, IN 47130
(812) 284-9499

Description

Being a part of a certain 98.33 acre tract conveyed to Frank and Virginia E. Cristiani Recorded in Deed Book #157, Page #474 of the Floyd County records, located in the Northeast Quarter of Section #14, Township 2 South, Range 5 East and a part of the Southeast Quarter of Section #11, Township 2 South, Range 5 East, Greenville Township, Floyd County, Indiana, more particularly described as follows:

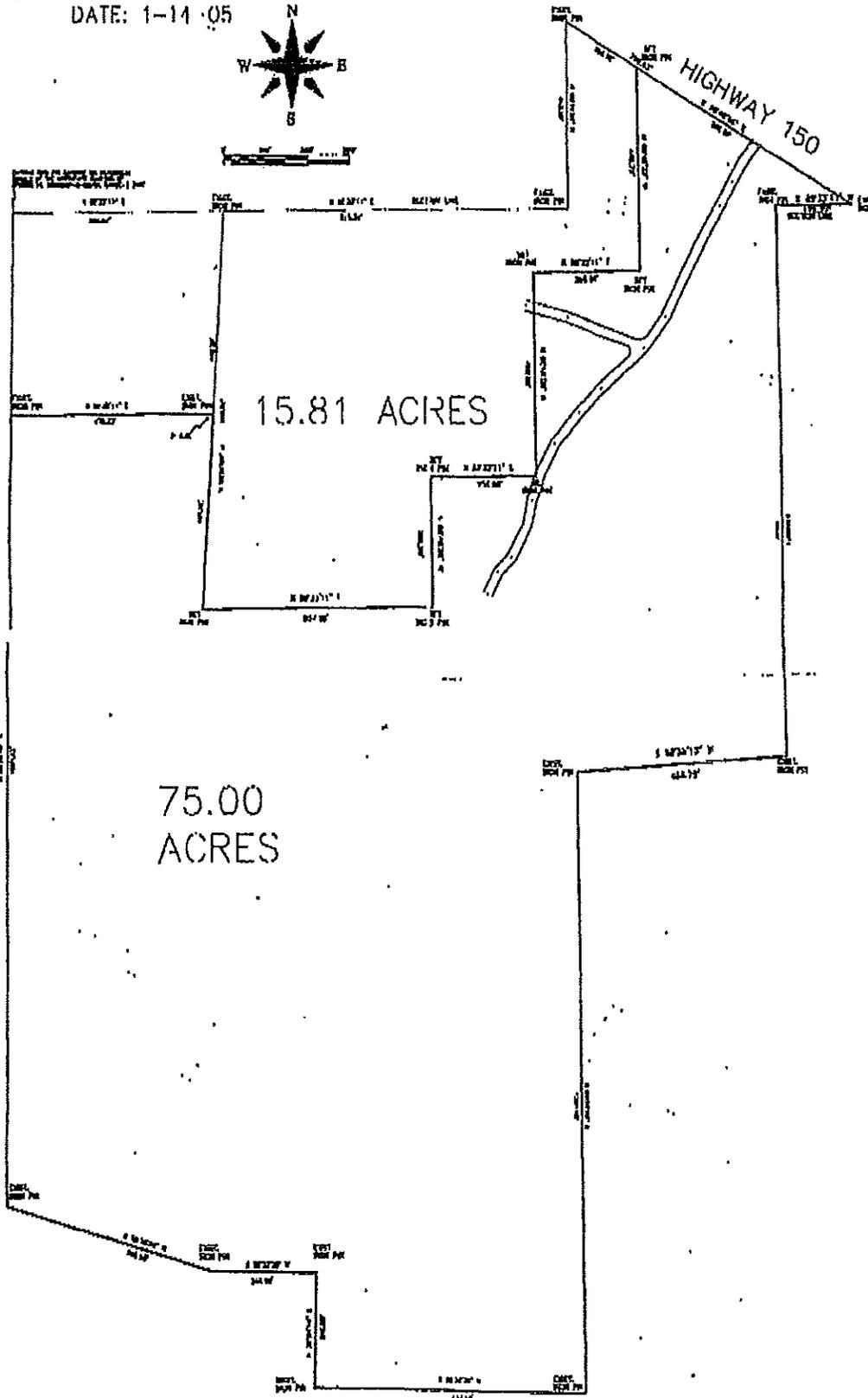
Commencing at an iron pin marking the Northwest Corner of the Northeast Quarter of said Section #14; Thence North $89^{\circ} 33' 11''$ East along the line dividing Sections 14 and 11, a distance of 500.57 feet to an iron pin, being the true place of beginning; Thence continuing North $89^{\circ} 33' 11''$ East along said Section line a distance of 270.03 feet to an iron pin; Thence South $02^{\circ} 51' 00''$ West leaving said Section line a distance of 846.38 feet to an iron pin; Thence North $89^{\circ} 33' 11''$ East a distance of 769.69 feet to an iron pin; Thence North $00^{\circ} 48' 20''$ West a distance of 1156.19 feet to an iron pin on the South Right of Way of Highway 150; Thence South $58^{\circ} 46' 55''$ East along said Right of Way a distance of 592.78 feet to an iron pin; Thence South $89^{\circ} 33' 11''$ West leaving said Right of Way a distance of 178.22 feet to an iron pin; Thence South $00^{\circ} 48' 20''$ East a distance of 1324.69 feet to an iron pin; thence South $86^{\circ} 35' 13''$ West a distance of 469.79 feet to a stone; Thence South $00^{\circ} 50' 25''$ East a distance of 1351.43 feet to a stone; Thence North $88^{\circ} 32' 30''$ West a distance of 637.94 feet to an iron pin; Thence North $01^{\circ} 27' 30''$ East a distance of 243.00 feet to an iron pin; Thence North $88^{\circ} 32' 30''$ West a distance of 246.00 feet to an iron pin; Thence North $73^{\circ} 15' 50''$ West a distance of 500.56 feet to an iron pin; Thence North $00^{\circ} 06' 10''$ East a distance of 1837.13 feet to an iron pin; Thence North $89^{\circ} 33' 11''$ East a distance of 479.23 to an iron pin; Thence North $02^{\circ} 51' 00''$ East a distance of 445.32 feet to the place of beginning, containing 75.00 acres.

Subject however to a 150 foot wide Electric Transmission Easement, said Easement being described as follows.

Commencing at an iron pin marking the Northwest corner of the Northeast Quarter of said Section Number 14 and running thence North $89^{\circ} 33' 11''$ East along the North line of the Northeast Quarter a distance of 575.69 feet to a point in the centerline of the said 150 foot wide Easement, being the true place of beginning; Thence South $02^{\circ} 51' 00''$ West along said centerline a distance of 2427.27 feet to a point on the end of said centerline and being on the South line of the 75.00 acre tract.

EXHIBIT "A"

DAN CRISTIANI PROPERTY
DATE: 1-14-05



BEING A PART OF FRANK AND VIRGINIA CRISTIANI'S TRACT OF LAND IN THE NORTHEAST QUARTER OF SECTION 14, TOWNSHIP 2 SOUTH, RANGE 5 EAST, GREENVILLE TOWNSHIP, FLOYD COUNTY, INDIANA, AND BEING MORE FULLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF THE NORTHEAST QUARTER OF SECTION 14, TOWNSHIP 2 SOUTH, RANGE 5 EAST, AND RUNNING THENCE NORTH 89° 43' EAST, ALONG THE NORTH LINE OF SECTION 14, FOR 500.82 FEET THENCE RUNNING SOUTH 2° 51' WEST, 445.10 FEET TO AN IRON PIPE; THENCE RUNNING SOUTH 89° 43' WEST, 479.33 FEET TO AN IRON PIPE ON THE EASTERN LINE OF QUAILWOOD FARMS, SECTION TWO, PLAT NO. 839; THENCE RUNNING NORTH 0° 05' EAST, ALONG THE EASTERN LINE OF PLAT NO. 839 FOR 444.44 FEET TO AN IRON PIPE, THE PLACE OF BEGINNING, CONTAINING 6.00 ACRES.

ALSO CONVEYED HEREWITH UNTO THE GRANTEE AND HER SUCCESSORS IN TITLE TO THE ABOVE DESCRIBED REAL ESTATE IS AN EASEMENT AND RIGHT OF WAY 25 FEET IN WIDTH WHICH IS DESCRIBED AS FOLLOWS:

BEING A PART OF FRANK AND VIRGINIA CRISTIANI'S TRACT OF LAND IN THE NORTHEAST QUARTER OF SECTION 14, TOWNSHIP 2 SOUTH, RANGE 5 EAST AND A PART OF THE SOUTHEAST QUARTER OF SECTION 11, TOWNSHIP 2 SOUTH, RANGE 5 EAST, GREENVILLE TOWNSHIP, FLOYD COUNTY, INDIANA.

BEING A STRIP OF LAND 25 FEET IN WIDTH, THE CENTER LINE OF WHICH IS DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF THE NORTHEAST QUARTER OF SECTION 14, TOWNSHIP 2 SOUTH, RANGE 5 EAST, AND RUNNING NORTH 89° 43' EAST ALONG THE NORTH LINE OF SECTION 14 FOR 500.82 FEET, THENCE RUNNING SOUTH 2° 51' WEST, 545.1 FEET; THENCE SOUTH 87° 09' EAST 12.5 FEET TO THE TRUE PLACE OF BEGINNING OF THE CENTER LINE TO BE DESCRIBED; THENCE RUNNING NORTH 2° 51' EAST, 274.83 FEET; THENCE NORTH 73° 04' EAST 893.14 FEET; THENCE NORTH 8° 53' EAST, 76.9 FEET; THENCE NORTH 24° 41' WEST, 80 FEET MORE OR LESS TO A POINT WHICH IS 12.5 FEET EAST OF THE WESTERN LINE OF FRANK CRISTIANI'S TRACT OF LAND IN SECTION 11, TOWNSHIP 2 SOUTH, RANGE 5 EAST; THENCE RUNNING NORTHWARDLY PARALLEL TO AND 12.5 FEET EAST OF SAID WESTERN LINE FOR 280 FEET MORE OR LESS TO THE SOUTHERN RIGHT OF WAY OF U.S. HIGHWAY NO. 150.

SUCH EASEMENT AND RIGHT OF WAY TO BE USED IN COMMON BY THE GRANTORS, THEIR HEIRS, ASSIGNS AND TRANSFEREES AND THE GRANTEES, THEIR HEIRS, ASSIGNS AND TRANSFEREES AS A MEANS OF INGRESS AND EGRESS TO AND FROM U.S. HIGHWAY 150.

GRANTORS HEREBY RESERVE TO THEMSELVES, THEIR SUCCESSORS, HEIRS AND ASSIGNS, THE RIGHT TO USE A 60-FOOT WIDE ROADWAY EASEMENT FOR MEANS OF INGRESS AND EGRESS TO A 40,000 ACRE PARCEL OF LAND LOCATED ADJACENT TO THE ABOVE DESCRIBED FIVE ACRE TRACT, SAID EASEMENT BEING MORE FULLY DESCRIBED AS FOLLOWS, TO-WIT:

COMMENCING AT AN IRON PIN AT SAID NORTHWEST CORNER OF SAID NORTHEAST QUARTER OF SECTION NO. 14, TOWNSHIP 2 SOUTH, RANGE 5 EAST, AND RUNNING THENCE NORTH 89° 33' 11" EAST, 370.82 FEET TO THE CENTERLINE OF BARRY LANE (60 FOOT R/W), SAID BARRY LANE BEING A PART OF HIGHLANDER VILLAGE, SECTION ONE, PLAT NO. 882 OF THE FLOYD COUNTY, INDIANA RECORD OF PLATS AND BEING THE TRUE PLACE OF BEGINNING OF THE CENTERLINE OF SAID 60 FOOT WIDE ROADWAY EASEMENT TO BE HEREIN DESCRIBED.

THENCE ON A CURVE TO THE LEFT, SAID CURVE HAVING A CENTRAL ANGLE OF 82° 04' 57"; A RADIUS OF 150 FEET AND A CHORD WHICH BEARS SOUTH 28° 11' 29" EAST, 154.70 FEET; THENCE ON A CURVE TO THE RIGHT, SAID CURVE HAVING A CENTRAL ANGLE OF 82° 04' 57", A RADIUS OF 150.00 FEET AND A CHORD WHICH BEARS SOUTH 28° 11' 29" EAST, 154.70 FEET; THENCE SOUTH 2° 51' 00" WEST, 171.04 FEET TO A POINT ON THE NORTH LINE OF THE HEREBY DESCRIBED 40,000 ACRE PARCEL OF LAND AND BEING THE END OF SAID 60 FOOT WIDE ROADWAY EASEMENT.

EXHIBIT "B"