

Oct 26 2 20 PM '94

94-16948

BARBARA L. EULER  
RECORDER LA PORTE CO.

**ORDINANCE NO. 94-22**  
**AN ORDINANCE TO AMEND THE LAPORTE COUNTY ZONING**  
**ORDINANCE OF LAPORTE COUNTY, INDIANA**  
**BY AMENDING THE ZONE MAP FOR CENTER TOWNSHIP**  
**SO AS TO RECLASSIFY AND REZONE CERTAIN REAL ESTATE**  
**FROM R-2 USE TO BUSINESS G-B**

WHEREAS, the following described real estate located in Center Township, LaPorte County, Indiana, is presently zoned and classified as "Residential R-2" under the LaPorte County Zoning Ordinance of LaPorte County, Indiana:

**A parcel of land lying Northerly of Johnson Road and situated in the Southwest Quarter of Section 22, Township 37 North, Range 3 West, LaPorte County, Indiana, being more particularly described as follows:**

**Commencing at an axel marking the center of Section 22, Township 37 North, Range 3 West, LaPorte County;**

**Thence: S 0° 40' 00", (South MFR#, 74-7963, along the East line of the Southwest Quarter of said Section 22, and West line and West line extended of a 6.140 acre parcel of land conveyed to Robert A. Magnuson, as recorded in MRF #86-4011, a distance of 642.74' to an iron pin for the point of beginning;**

**Thence: S 0° 40' 00", (South MFR# 74-7963), continuing along said East line, and West line, a distance of 548.22 to a railroad spike on the centerline of Johnson Road, marking the Southwesterly corner of said 6.140 acre parcel, which is S 0° 40' 00 E (South, MFR # 74-7963), and a distance of 1190.96' (1195.00' MFR# 74-7963), from the center of said Section 22;**

**Thence: N 71° 54' 52 W, ( N 73° 13' 00 W, MFR # 74-7963), along the centerline of Johnson Road, a distance of 150.00' to a railroad spike;**

**Thence: N 0° 40' 00" W, a distance of 500.00 to an iron pin;**

**Thence: N 89° 20' 00" E, a distance of 142.04' to the point of beginning;**

**Containing 1.709 acres, subject to the Right-of-Way of Johnson Road and all other legal easements.**

WHEREAS, the County Plan Commission of LaPorte County, Indiana, has held a properly advertised public hearing to consider a proposed zone map change of the above-described real estate as set forth in a Petition filed by the owners thereof; and

WHEREAS, at this hearing the LaPorte County Plan Commission considered those matters required to be considered by I.C. 36-7-4-603; and

WHEREAS, this ordinance would be an amendment to the LaPorte County Zoning Ordinance by amending the LaPorte County zone maps and more specifically the Master Zone Map of Center Township of LaPorte County, Indiana;

NOW THEREFORE,

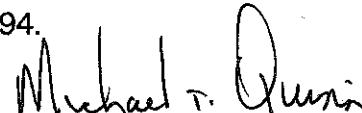
Section 1. Be it and it is hereby ordained by the Board of County Commissioners of LaPorte County, Indiana, that the hereinabove described real estate situated in Center Township, LaPorte County, State of Indiana, be and is hereby rezoned and now classified as "G-B Business" and the zone maps of LaPorte County and more specifically the zone map of Center Township is hereby amended to reflect that the above-described real estate is "G-B Business" subject to all regulations, restrictions, classifications applicable thereto as set out in the LaPorte County Zoning Ordinance, and further subject to the provisions of a certain Agreement for the Creation of Commitments which imposes certain limitations and restrictions on the use and


development of said property. This document shall be recorded with the Office of the Recorder of LaPorte County at Petitioner's expense.

Section 2. The passage of this Ordinance shall be considered as the adoption and approval of the proposed to amend the zone maps of LaPorte County, Indiana, as contained in a Petition filed with the LaPorte County Plan Commission by the owners of all of the real estate described in Section 1 above according to the provisions of I.C. 36-7-4-608.

Section 3. This Ordinance shall be in full force and effect from and after its approval and passage by the Board of County Commissioners of LaPorte County, Indiana, as required by law.

ADOPTED by the Board of County Commissioners of the County of LaPorte, Indiana, this 17th day of October, 1994.

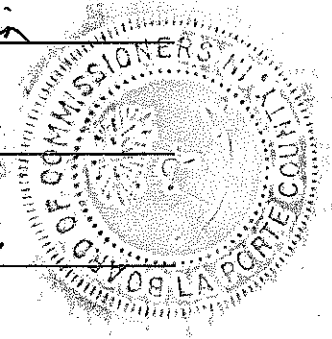
  
Michael T. Quinn

  
Stephen J. Wurster

  
Norman E. Pahs

Attest:

  
Michael R. Schultz  
Auditor of LaPorte County



Please publish two (2) times in the Michigan City News-Dispatch and LaPorte Herald Argus on Monday, October 24, 1994 and Monday, October 31, 1994.

## AGREEMENT FOR CREATION OF COMMITMENTS

THIS AGREEMENT FOR CREATION OF COMMITMENTS ("Agreement"), made and entered into this 11th day of October, 1994, by and between RAY A. AMBROSE and BETTY AMBROSE, as contract Sellers, ROBERT A. MAGNUSON, as contract Purchaser, and the LaPorte County Board of Commissioners, pursuant to provisions of I.C. 36-7-4-613, who, for the reasons set forth below, covenant and agree as follows:

1. That ROBERT A. MAGNUSON has entered into an agreement to purchase the following described real estate ("REAL ESTATE") situate in the County of LaPorte, County of LaPorte, State of Indiana, to-wit:

**A parcel of land lying Northerly of Johnson Road and situated in the Southwest Quarter of Section 22, Township 37 North, Range 3 West, LaPorte County, Indiana, being more particularly described as follows:**

**Commencing at an axel marking the center of Section 22, Township 37 North, Range 3 West, LaPorte County;**

**Thence: S 0° 40' 00", (South MFR#, 74-7963, along the East line of the Southwest Quarter of said Section 22, and West line and West line extended of a 6.140 acre parcel of land conveyed to Robert A. Magnuson, as recorded in MRF #86-4011, a distance of 642.74' to an iron pin for the point of beginning;**

**Thence: S 0° 40' 00", (South MFR# 74-7963), continuing along said East line, and West line, a distance of 548.22 to a railroad spike on the centerline of Johnson Road, marking the Southwesterly corner of said 6.140 acre parcel, which is S 0° 40' 00 E (South, MFR # 74-7963), and a distance of 1190.96' (1195.00' MFR# 74-7963), from the center of said Section 22;**

**Thence: N 71° 54' 52 W, ( N 73° 13' 00 W, MFR # 74-7963), along the centerline of Johnson Road, a distance of 150.00' to a railroad spike;**

**Thence: N 0° 40' 00" W, a distance of 500.00 to an iron pin;**

**Thence: N 89° 20' 00" E, a distance of 142.04' to the point of beginning;**

**Containing 1.709 acres, subject to the Right-of-Way of Johnson Road and all other legal easements.**

and the commitments which are created by this Agreement shall be imposed upon the real estate when this Agreement is recorded and shall restrict the use of the real estate and the improvements thereon not only by the Owner but also by all subsequent owners of the real estate until and unless modified, amended or terminated in the manner provided below.

2. That ROBERT A. MAGNUSON has recently entered into an agreement to purchase the real estate from RAY A. AMBROSE and BETTY AMBROSE, and has petitioned the LaPorte County Plan Commission for a favorable recommendation that would provided for a change in the zoning map of LaPorte County from R2 to GB General Business, but with the understanding that certain restrictions would be imposed upon the use and future alienation of the real estate if the zoning use classification of the real estate is approved by the LaPorte County Board of Commissioners.

3. ROBERT A. MAGNUSON has presented to the Plan Commission a development plan for development and use of the real estate which includes a request to amend the Zone Map of the County of LaPorte, Indiana, pursuant to the provisions of I.C. 36-7-4-602(c) and I.C. 36-7-4-608, so as to change the zoning classification on the real estate from R-2 to General Business.

4. The Plan Commission has agreed, following a properly advertised public hearing held pursuant to the provisions of I.C. 36-7-4-604, to recommend to the LaPorte County Board of Commissioners that the Zone Map of the Count of LaPorte be amended so that the real estate be rezoned and reclassified from R-2 to General Business, if the Owner agrees that the real estate will only be used for certain uses and purposes, and other restrictions and conditions as specified herein, even though other uses are otherwise permitted in an area zoned and classified as General Business.

5. The current owners RAY A. AMBROSE and BETTY AMBROSE, in consideration of this agreement, agree that the real estate proposed be sold to ROBERT A. MAGNUSON, shall be subject to the restrictions imposed by this agreement and join with him in requesting the rezoning of the real estate to General Business, and agree to limit the usage of the real estate consistent with the limitations requested by the Plan Commission and it is the purpose of this Agreement to make a public record of this Agreement between the Plan Commission and the Owner and ROBERT A. MAGNUSON

and to provide for the enforcement of this Agreement pursuant to the provisions of I.C. 36-7-4-613.

6. The Owners and ROBERT A. MAGNUSON now agree that if the Plan Commission recommends to the Board of Commissioners of LaPorte County and they then, by ordinance adopted pursuant to the provisions of the I.C. 37-7-4-601 et. seq., amends the Zone Map of the County of LaPorte to rezone and reclassify the real estate as General Business, and even though additional uses would otherwise be permitted in an area zoned and classified as General Business, the Owner and ROBERT A. MAGNUSON will use the real estate for only the following uses, and no others, and on the following conditions:

(a) That the Owner, or subsequent owners shall not construct more than two (2) buildings, to be used for either office or light retail or storage, and that each building will not exceed 6,000 square feet in size and be only one story in height above ground level.

(b) That not more than one drive entrance/exit shall be placed on said property to access Johnson Road, and that a minimum spacing of one hundred feet (100) shall be maintained between such drive entrance and the westerly most drive entrance from the adjacent property presently utilized as a Mobil gas station and commonly known as "Port Stop".

(c) That access shall be made for traffic leaving or entering the subject property to access said property from Highway 35 across property already owned by ROBERT A. MAGNUSON.

(d) That any structures erected on said property shall be consistent with the development on the adjacent property presently owned by ROBERT A. MAGNUSON.

6. The Plan Commission, the Owners and ROBERT A. MAGNUSON further agree that if the LaPorte County Board of Commissioners does amend the Zone Map of the County of LaPorte to rezone and reclassify the real estate as General Business, and if the LaPorte County Commissioners further accepts and approves the recommendation of the plan Commission that the real estate should be rezoned and reclassified as General Business only if the usage is limited by the provisions of this Agreement, and so indicates its approval and acceptance of these limitations by authorizing the President of the LaPorte County Board of Commissioners ( and anyone else?) of the County to sign this Agreement, where provided below, that the Owner shall then, at his expense, cause a copy of this Agreement to be recorded in the Miscellaneous Records in the office of the Recorder of LaPorte County, Indiana.


8. Following the amendment of the Zone Map of the County of LaPorte rezoning and reclassifying the real estate to General Business, and the recording of this Agreement, the Owner and his grantees, assignees, devisees, and all others who claim by or through him, shall be bound by the provisions of this Agreement, and specifically the limitation on the usage and conditions of the real estate set forth in Paragraph 6 above, and thereafter the real estate shall not be used in any manner inconsistent or contrary to the limitations and provisions set forth in Paragraph 6 above, until and unless this Agreement is modified, amended or terminated. If the Owner or his grantees, assignees, devisees, or any other owner of the real estate or any part thereof, or anyone using the above real estate, should violate any of the provisions of this Agreement, including, but not limited to, attempting to alienate or using the real estate in any manner in violation of or inconsistent with the limitations set forth in Paragraph 6 above, then and in that event the County of LaPorte may enforce the provisions of this Agreement by requesting a Court of competent jurisdiction to enjoin any such violation and, if necessary, to grant a mandatory injunction ordering the Owner or any person who is then the owner of the real estate, or any person who is violating the provisions of this Agreement, to remove any structure, building or improvement placed on the real estate in violation of the provisions of this Agreement.

9. After this Agreement is recorded, as provided in Paragraph 6 above, it may only be modified, amended or terminated in the manner generally provided for as specified in I.C. 36-7-4-613 and the Zoning Ordinances of the County of LaPorte as from time to time amended.

10. Neither the entering into this Agreement nor the recording thereof shall affect the validity of any covenants, easements, equitable servitude or other land use restrictions created in accordance with law that affects or involves the real estate.

IN WITNESS WHEREOF, this Agreement for Creation Commitments has been signed by the parties hereto this 11th day of October, 1994.

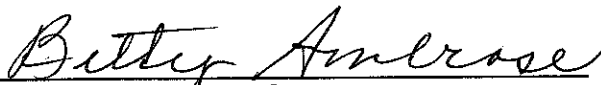
LAPORTE COUNTY PLAN COMMISSION

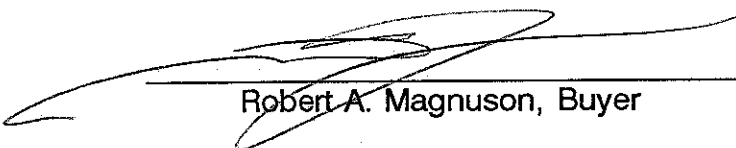
BY:   
Charles Thomas, President

ATTEST:

  
James Blint, Building Commissioner

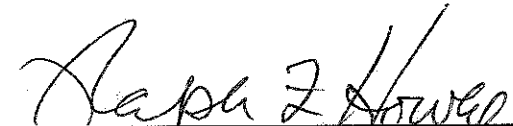
  
Ray A. Ambrose, Owner

  
Betty Ambrose, Owner

  
Robert A. Magnuson, Buyer

STATE OF INDIANA            )  
  )  
COUNTY OF LAPORTE        )

Before me, the undersigned, a Notary Public in and for said County and State, this 17th day of October, 1994 came Ray A. Ambrose, Betty Ambrose and Robert A. Magnuson and acknowledged the execution of the foregoing instrument. Witness my hand and official seal.

  
Ralph F. Howes, Notary Public

My Commission Expires 11-1-94  
A resident of LaPorte County

Since the Board of Commissioners of the County of LaPorte, Indiana, on the 11th day of October, 1994:

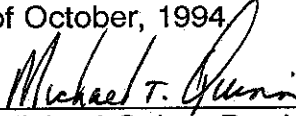
(a) Adopted an ordinance amending the Zone Map of the County of LaPorte, Indiana, to rezone and reclassify the real estate described in Paragraph 1 of the above and foregoing Agreement For Creation of Commitments to General Business;

(b) Approved the creation of Commitments limiting the usage of the real estate, all as set forth in the above and foregoing Agreement For Creation of Commitments; and

(c) Adopted a resolution concurrently with the adoption of the ordinance amending the Zone Map reclassifying and rezoning the real estate, authorized the

President of the Board of Commissioners and the President of the County of LaPorte County Plan Commission to sign this Agreement for Creation of Commitments, as evidence of the approval of the Board of Commissions that this Agreement, as signed by the Plan Commission, Ray A. Ambrose, Betty Ambrose as owners, and Robert A. Magnuson as Buyer, shall be approved and placed of record in the Miscellaneous Records of the Office of the Recorder of LaPorte County, Indiana, all as provided in I.C. 36-7-4-613;

The President of the Board of Commissioners and President of the Plan Commission of the County of LaPorte, have hereunto affixed their signatures and the official seal of their office this 11th day of October, 1994.

  
Michael Quinn, President  
of the Board of Commissioners of the County  
of LaPorte, Indiana

ATTEST:

  
Michael R. Schultz, Auditor

This instrument prepared by Ralph F. Howes, Attorney, 1003 Indiana Avenue, LaPorte, IN 46350 (219) 326-7070