

## **RESOLUTION NO. 2021-01**

### **RESOLUTION OF THE CITY OF SHELBYVILLE PLAN COMMISSION TERMINATING A ZONING COMMITMENT**

**WHEREAS**, the City of Shelbyville Plan Commission (the “Plan Commission”) has the authority, pursuant to Indiana Code 36-7-4-1015(b)(5), to modify and terminate commitments by a decision of the Plan Commission; and

**WHEREAS**, on October 26th 1998, the Plan Commission Approved a “Commitment For Use Of Real Estate Rezoned By Shelbyville Plan Commission” (the “Zoning Commitment”); and

**WHEREAS**, the Zoning Commitment was approved in relation to a rezoning of the subject property;

**WHEREAS**, the land owner has petitioned the Plan Commission for termination of the Zoning Commitment;

**WHEREAS**, the Plan Commission has held a public hearing in accordance with Ind. Code 36-7-4-1015(b)(5) and after hearing all public comment now finds that it is in the interests of the City of Shelbyville to terminate the Zoning Commitment;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF SHELBYVILLE PLAN COMMISSION, THAT:**

1. The Plan Commission hereby terminates the Zoning Commitment previously approved on October 26th, 1998 and recorded in the Shelby County Recorder’s Office as Instrument No. 10198

SO RESOLVED BY THE CITY OF SHELBYVILLE PLAN COMMISSION this 26<sup>th</sup> day of April, 2021.

**CITY OF SHELBYVILLE PLAN COMMISSION**

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President, Michael P. Evans

ATTEST:

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Secretary, Adam M. Rude

COMMITMENT FOR USE OF REAL ESTATE  
REZONED BY SHELBYVILLE PLAN COMMISSION

The undersigned, W. Taylor Sumerford Jr. and Marna Lynn Sumerford, husband and wife, of Shelby County, Indiana, (the "undersigned") hereby make the following commitments to the Shelbyville Plan Commission incident to the establishment or change of zoning designation (change of map) for the 40.483 acre tract of real estate described on the attached Exhibit A which is incorporated herein and referred to as the "Real Estate" and depicted on Exhibit B, to wit:

1. The zoning designation of R-2 Two Family Residence district has or will be assigned to the approximately 40.483 acre tract constituting the Real Estate in Ordinance No. 98-2311 of the Shelbyville Common Council of the City of Shelbyville, Indiana.

2. As a part of such zoning designation, the undersigned land owners commit to the Shelbyville Plan Commission that the Real Estate will not be used for two family or multiple family residences, either upon initial construction of any residence or at any time after initial construction. Such prohibition shall be effective despite the fact that Two Family residences are normally permitted in an R-2 District.

3. This commitment may be partially or completely terminated or modified at any time by the Shelbyville Plan Commission. However, until modified or terminated, this commitment shall be enforceable by the City of Shelbyville, its Plan Commission or any person owning part of the Real Estate, by injunctive relief, denial of building permits or approval, or other appropriate administrative or judicial remedy. As an alternative remedy, the Real Estate or portion thereof may be rezoned to another zoning designation as the Shelbyville Plan Commission shall deem appropriate.

4. This commitment shall be binding upon the heirs, assigns, mortgagees, lessees and successors of the undersigned owners with respect to the Real Estate and run with the title to the Real Estate.

5. Unless this commitment is effectively recorded with the Shelby County Recorder within 15 days after the adoption of the above ordinance on second reading, the Plan Commission may

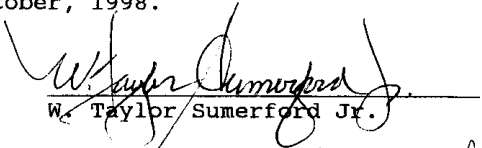
rescind the approval of this commitment and assign an R-1 Single Family Residence zoning designation for the Real Estate. Upon recording, the Shelby County Recorder shall cross-reference this commitment to the deed whereby the then current owners of the Real Estate acquired title thereto. A copy of the recorded commitment shall be delivered by the undersigned to the Building and Plan Commission office of the City of Shelbyville within 15 days after it is recorded, together with an opinion letter of an attorney or abstractor that the undersigned are the owners of record title of the Real Estate as described in Section 8 of this commitment at the time the commitment is recorded.

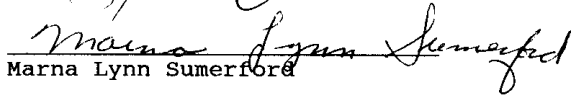
6. The remedies for enforcement herein made shall be effective only as to the portion of the Real Estate as to which a violation occurs. Owners of portions of the Real Estate for which no violation of the commitment has occurred shall not be deemed to have violated this commitment.

7. When any parcel of the Real Estate has a zoning designation under the Shelbyville Zoning Ordinance as amended from time to time which does not permit two family and multi-family residences, then this commitment shall automatically terminate as to such parcel of the Real Estate without any proceeding. This commitment also terminates as to any parcel of the Real Estate as to which: (a) the applicable zone map changes or (b) such parcel is designated as a planned unit development district under Indiana statute, presently I.C. 36-7-4-1500.

8. The undersigned verify under penalties of perjury that they are the fee simple owners of all interest in the Real Estate; and no person has a leasehold interest in the Real Estate greater than the term of three years including all extension options.

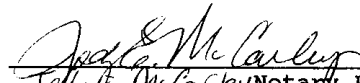
Dated this 29 day of October, 1998.

  
W. Taylor Sumerford Jr.

  
Marna Lynn Sumerford

State of Indiana, County of Shelby, SS:

Executed and acknowledged before me a Notary Public in and for said County and State this 29th day of October, 1998.

  
Shelby E. McCaskey Notary Public  
Resident of Shelby County,  
Indiana

My Commission Expires:

Sept. 17, 2006


**APPROVAL OF COMMITMENT BY  
SHELBYVILLE PLAN COMMISSION**

The foregoing commitment is hereby approved by the  
Shelbyville Plan Commission this 26<sup>th</sup> day of October, 1998.

SHELBYVILLE PLAN COMMISSION


By   
Christopher Gattis, President

ATTEST:

  
Thomas D. DeBaun, Secretary

State of Indiana, County of Shelby, SS:

Executed and acknowledged before me this 26 day of  
October, 1998.

  
Robert Adams, Notary Public  
Resident of Shelby County,  
Indiana

My Commission Expires:

August 1, 2006

**INSTRUCTIONS TO RECORDER FOR CROSS REFERENCE:**

Cross reference to deed from Delores M. Jewell to Sumerford  
dated September 13, 1985 recorded in Deed Record 293, Page 596 in  
the Office of the Shelby County Recorder.

This instrument prepared by Robert Adams, Attorney, Shelbyville,  
Indiana

# LEGAL DESCRIPTION

A part of the East half of the Southwest Quarter of Section 9, Township 12 North, Range 7 East, Shelby County, Indiana; described as follows:

Commencing at the Northwest corner of the above described Southwest quarter of Section 9; thence East along the North line of the quarter 1861 feet to the Northeast corner of McKay Manor and the true point of beginning of the tract herein described;

Thence East along the North line of the quarter 804.98 feet more or less to the Northeast corner of the quarter; thence South with the East line of the quarter 2640 feet more or less to the Southeast corner of the quarter; thence West with the South line of the quarter 660 feet more or less to the Southwest corner of the East half of the East half of said Southwest quarter; thence North with the half half quarter line 2495 feet more or less to a point 145 feet South of the North line of the quarter; thence West 144.98 feet more or less to the East line of McKay Manor; thence North with said East line 145 feet to the point of beginning, containing 40.483 acres more or less.

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EXHIBIT A

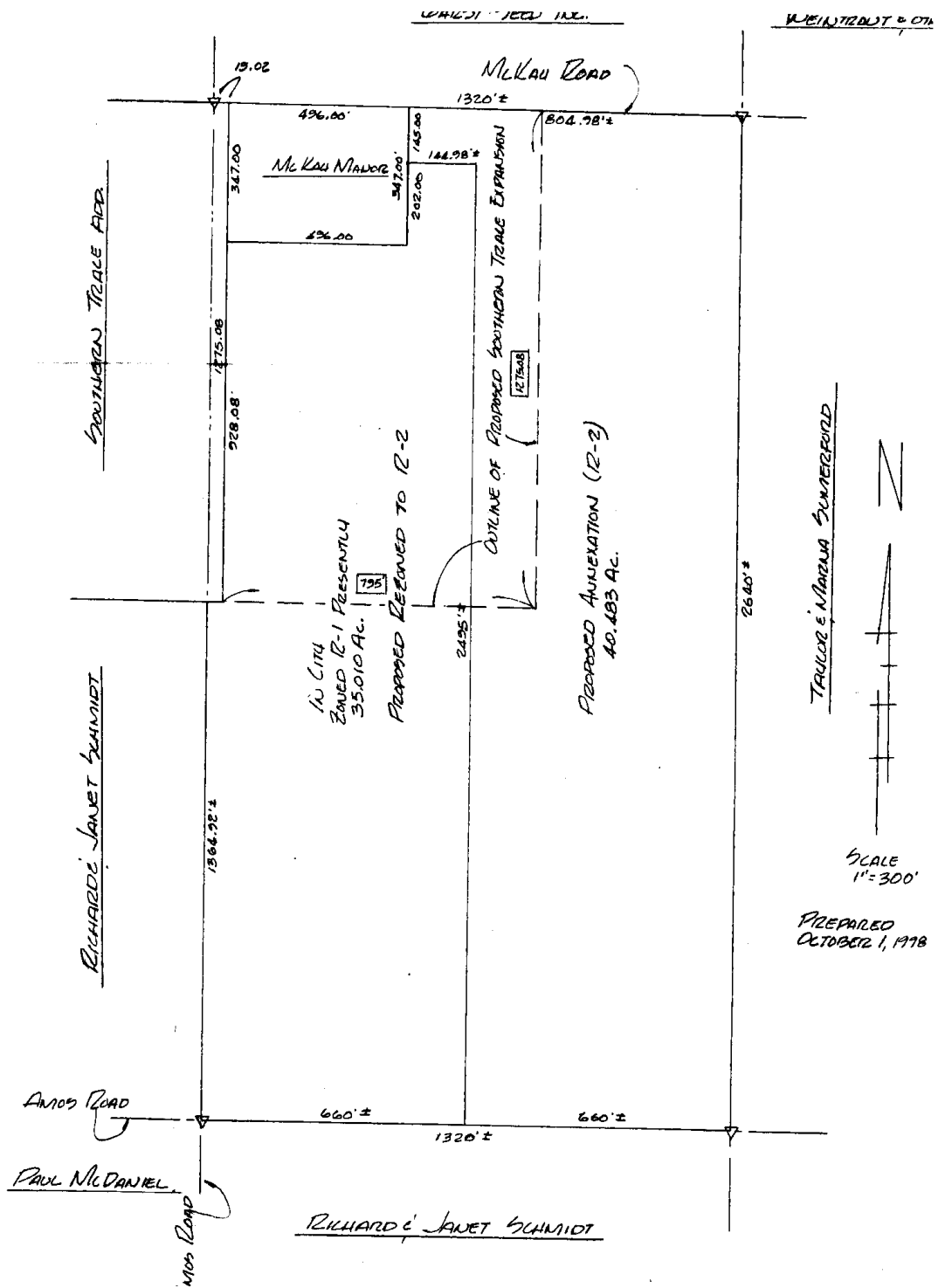


EXHIBIT B