

**ORDINANCE NO. 2021 - 35**

AMENDING  
HANCOCK COUNTY ZONING ORDINANCE NO. 2007-1B

AMENDING TITLE XV, CHAPTER 156, ZONING  
OF THE HANCOCK COUNTY CODE OF ORDINANCES

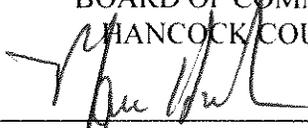
SECTION I

Title XV, Chapter 156 of the Hancock County Code, is amended as follows: The Zoning Map referenced in Section 156.020 for Vernon Township is hereby amended by rezoning the subject area from Agricultural (A) to Residential (R1.0).

The subject area is described herein as Exhibit A.

ADOPTED THIS 16<sup>th</sup> DAY OF MARCH 2021.

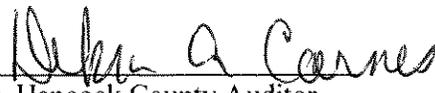
BOARD OF COMMISSIONERS OF  
HANCOCK COUNTY, INDIANA

  
\_\_\_\_\_  
Marc Huber

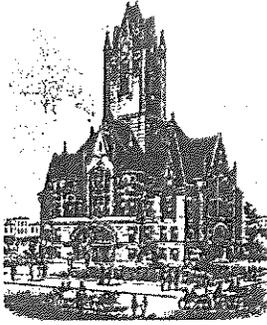
  
\_\_\_\_\_  
John Jessup

  
\_\_\_\_\_  
Bill Spalding

ATTEST:

  
\_\_\_\_\_  
Debra Carnes, Hancock County Auditor

Petitioner: The Susan J. Whybrew Family Trust / Susan Whybrew Trustee



*The Hancock County Area Plan Commission  
Court House Annex  
111 American Legion Place, Suite 146  
Greenfield, IN 46140  
Phone: (317) 477-1134  
Fax: (317) 477-1184*

### **CERTIFICATION**

#### **Hancock County Area Plan Commission**

Project Name: Whybrew - Rezone  
Petitioner: Susan Whybrew  
Project Location: 2236 W 900 N  
Township: Vernon

I, Michael Long, being the Secretary of the Hancock County Area Plan Commission of Hancock County, Indiana, do hereby certify that the attached rezoning ordinance is a true and accurate record of the meeting of the Plan Commission on 23 February 2021. The attached ordinance received a favorable recommendation by a vote of seven (7) ayes and zero (0) nays.

The attached ordinance is hereby certified to the Board of Commissioners, Hancock County, Indiana.

HANCOCK COUNTY AREA PLAN COMMISSION  
HANCOCK COUNTY, INDIANA

\_\_\_\_\_  
Michael Long, Secretary

LEGAL DESCRIPTION OF WHYBREW PROPERTY

Exhibit A

Part of the Southwest Quarter of the Southeast Quarter of Section 16, Township 17 North, Range 6 East, Vernon Township, Hancock County, Indiana, more particularly described as follows:

Beginning at the Southeast Corner of the Southwest Quarter of the Southeast Quarter of Section 16, Township 17 North, Range 6 East, Vernon Township, Hancock County, Indiana; thence South 88 degrees 41 minutes 20 seconds West (assumed bearing) 95.91 feet along the South line of said Section to the centerline of Jackson Ditch; thence Northerly along said centerline of Jackson Ditch 693.82 feet; thence North 88 degrees 30 minutes 31 seconds East 199.22 feet to the East line of said Quarter-Quarter; thence South 00 degrees 35 minutes 53 seconds East 663.22 feet along said East line to the Point of beginning and containing 2.09 acres, more or less.

A part of the Southwest Quarter of the Southeast Quarter of Section 16, Township 17 North, Range 6 East, in Vernon Township, Hancock County, Indiana, more particularly described as follows:

Commencing at the Southwest corner of the Southeast Quarter of said Section 16; thence South 89 degrees 59 minutes 44 seconds East (assumed bearing) along the South line thereof a distance of 1309.40 feet to the Southeast corner of the Southwest Quarter of said Southeast Quarter; thence North 00 degrees 42 minutes 33 seconds East along the East line thereof a distance of 663.22 feet to the Northeast corner of a tract of land described in Instrument Number 2013448 in the Office of the Recorder of Hancock County, Indiana, said point also being the POINT OF BEGINNING of this description; thence South 89 degrees 53 minutes 14 seconds West along the North line thereof a distance of 199.22 feet to the Northwest corner of said tract, said point also being in the physical centerline of Jackson Ditch; (the next 4 courses being along the physical centerline of Jackson Ditch) thence North 13 degrees 00 minutes 00 seconds West a distance of 100.00 feet; thence North 13 degrees 00 minutes 00 seconds East a distance of 100.00 feet; thence North 27 degrees 00 minutes 00 seconds East a distance of 170.00 feet; thence North 13 degrees 31 minutes 28 seconds East a distance of 326.00 feet to the North line of the Southwest Quarter of said Southeast Quarter; thence North 89 degrees 53 minutes 39 seconds East along the North line thereof a distance of 54.00 feet to the Northeast corner of the Southwest Quarter of said Southeast Quarter; thence South 00 degrees 42 minutes 33 seconds West along the East line thereof a distance of 663.10 feet to the POINT OF BEGINNING. Containing 2.172 acres, more or less.

FILED

JAN 29 2021

HANCOCK COUNTY  
PLAN COMMISSION

More commonly known as: 2236 W 900 N, Fortville, IN 46040

A part of the Southeast Quarter of the Southeast Quarter of Section 16, Township 17 North, Range 6 East and more particularly described as follows, to wit:  
Beginning at a point 561 feet East and 330 feet South of the Northwest Corner of the Southeast Quarter of the Southeast Quarter of said Section; thence East 759 feet; thence South 198 feet; thence West 759 feet; thence North 198 feet to the place of beginning. Containing 3.45 acres. More or less.

EXCEPT:

A part of the Southeast Quarter of the Southeast Quarter of Section 16, Township 17 North, Range 6 East described as follows:  
Beginning at a point on the East line of the Southeast Quarter of Section 16, Township 17 North, Range 6 East, said point being 330 feet South of the Northeast Corner of the South half of said Southeast Quarter and running thence South 198 feet along said East line, thence Westerly 341 feet parallel with the North line of said South Half of the Southeast Quarter, thence North 198 feet, thence Easterly 341 feet to the point of beginning. Containing 1.55 acres, more or less.

Subject, however, to all legal highways, rights of way, easements and restrictions of record.

More commonly known as: vacated land, Parcel Number 30-02-16-400-030.00X1.

The following described real estate located in Hancock County, Indiana, to-wit:

A part of the Southeast quarter of the Southeast quarter of Section 16, Township 17 North, Range 6 East, described as follows:

Beginning at the southwest corner of the Southeast quarter of the Southeast quarter of Section 16, Township 17 North, Range 6 East; thence North 80 rods; thence East 34 rods, thence South 80 rods; thence West 34 rods to the place of beginning, containing 17 acres, more or less.

**EXCEPTION:**

A part of the Southeast Quarter of the Southeast Quarter of Section 16, Township 17 North, Range 6 East described as follows:

Beginning at the Southwest Corner of the Southeast Quarter of the Southeast Quarter of Section 16, Township 17 North, Range 6 East; thence North on the West line thereof 290.6 feet; thence East, parallel with the South line of said Quarter Section 150 feet; thence South, parallel with said West line 290.6 feet to the South line of said Southeast Quarter; thence West on said South line 150 feet to the place of beginning, containing one (1) acre, more or less.

More commonly known as: 2162 W 900 N, Fortville, IN 46040

The following described real estate located in Hancock County, Indiana, to-wit:

A part of the Southeast quarter of the Southeast quarter of Section 16, Township 17 North, Range 6 East, described as follows:

Beginning at the southwest corner of the Southeast quarter of the Southeast quarter of Section 16, Township 17 North, Range 6 East; thence North 80 rods; thence East 34 rods, thence South 80 rods; thence West 34 rods to the place of beginning, containing 17 acres, more or less.

**EXCEPTION:**

A part of the Southeast Quarter of the Southeast Quarter of Section 16, Township 17 North, Range 6 East described as follows:

Beginning at the Southwest Corner of the Southeast Quarter of the Southeast Quarter of Section 16, Township 17 North, Range 6 East; thence North on the West line thereof 290.6 feet; thence East, parallel with the South line of said Quarter Section 150 feet; thence South, parallel with said West line 290.6 feet to the South line of said Southeast Quarter; thence West on said South line 150 feet to the place of beginning, containing one (1) acre, more or less.

More commonly known as: 2162 W 900 N, Fortville, IN 46040

**HANCOCK COUNTY AREA PLAN COMMISSION  
111 AMERICAN LEGION PLACE  
GREENFIELD, IN 46140**

**PLAN COMMISSION MINUTES**

**DATE: February 23, 2021 TIME: 6:30 P.M.**

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5. Whybrew, Susan  
2236 W 900 N  
16 - 17 - 6

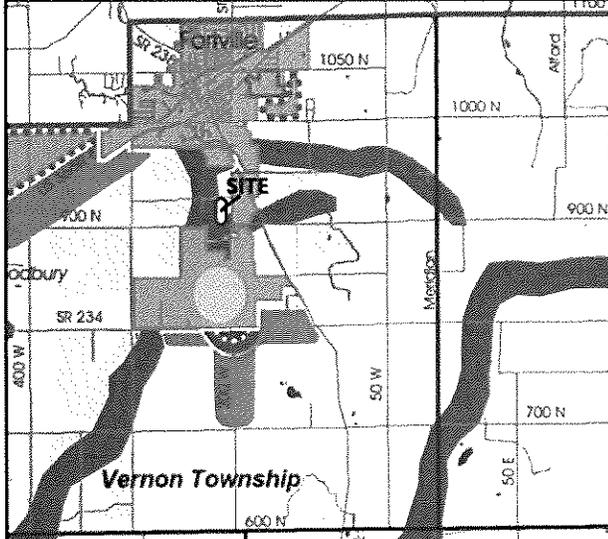
Agricultural  
Rezoning 21-2092  
Vernon

Rezoning 23.16 acres from A (Agricultural) to R1.0 (Residential) at 2236 W 900 N. Mr. Dale stated the petitioner is requesting to rezone to accommodate future residential development. He stated in July 2014 the county approved the parcel to be rezoned from R1.0 to A to accommodate a private air strip, subject to a zoning commitment and in August 2014 the BZA granted a special exception to allow a private airstrip at this location, subject to conditions. He said the special exception has subsequently expired. He stated the Comp Plan shows this site in Low-Density Residential and the site is surrounded by R1.0 and R-1 zoning. He said there are floodplain and floodway located on this property. He said Single-family dwellings are permitted in the A zoning district except that major residential subdivisions are not permitted. Mr. Dale stated the site is consistent with the Comp Plan with the most desirable use of land with conservation of property values and with responsible growth and development but is not consistent with the current conditions and character of current structures. He said the petitioner's statement of intent says that Paul Whybrew has passed away and all operations of the Whybrew Flying Academy have ceased and Ms. Whybrew has no interest in it being resumed and that in 2020 the FAA deactivated the Whybrew Field as a designated landing area at Ms. Whybrew's request. Also, Ms. Whybrew is now retired and no longer wishes to maintain the 23 acre site and now seeks to rezone the site for future low-density residential estate size lots consistent with the R1.0 zoning district and is sought without any special reservations or commitments for future resumption of the landing area. The statement says there are no current plans for platting the property and no new buildings are being contemplated at this time. He stated staff position is favorable. Mr. Jeff Bellamy, attorney stated he has represented the Whybrew's for several years and they agree with everything Mr. Dale presented. He stated from 1985 to 2013 the Whybrews accumulated the five parcels that make up the 23 acres. He stated Mr. Whybrew was very passionate about his single engine flying power parachutes he used to fly. He stated in 2007 when the county rezoned the whole area the Whybrews owned most of the current 23.16 acres but not all and it became a question as to whether or not the airfield was a legal non-conforming use and they felt it was better to rezone it to its original Ag zoning and the airfield operated without any issue through 2018 when Mr. Whybrew suddenly passed away. Mr. Bellamy stated the intent is to present it for orderly residential development as Ms. Whybrew has friends and some strangers knocking on her door interested in purchasing a lot from her along the road. He said she does not want to just cut off frontage lots and leave acreage behind them. He stated they received a nice letter from a neighbor who also happens to be a Township Trustee. He said in the letter it states as a neighbor she supports the rezoning and as a Township Trustee, she typically don't take a

position on zoning requests unless they have an impact on public safety and in this case, the zoning request has no public safety impact so the township has no issues with the request. Mr. Bellamy stated they have not received any negative feedback. There were no remonstrators. Mr. Holden made the motion for a favorable recommendation to the County Commissioners. Ms. Oldham seconded. Motion carried. Seven (7) approved the favorable recommendation, Zero (0) denied.



# Whybrew / Comprehensive Plan



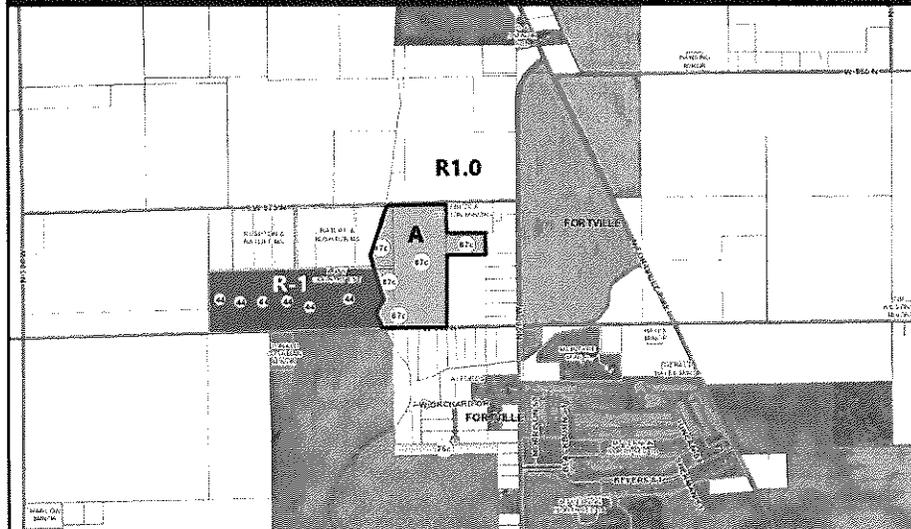
**Low-Density Residential**  
 Primarily intended for single-family detached homes; density should not exceed 2.5 du/ac. In areas with adequate access to utilities services, transportation facilities, and commercial opportunities. Most appropriate near the fringes of established cities and towns, and in proximity to schools.

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# Whybrew / Zoning Map



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# Whybrew / Neighborhood / Site



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# Whybrew / Floodplain



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# Whybrew / Statement of Intent

## Petitioner's Statement

- ◆ Paul Whybrew has passed away, and all operations of the Whybrew Flying Academy have ceased. Susan Whybrew has no interest in it being resumed.
- ◆ In 2020, the FAA deactivated the Whybrew Field as a designated landing area at Susan's request.
- ◆ Susan is now retired and no longer wishes to maintain the 23 acre site and now seeks to rezone the site for future low-density residential estate size lots consistent with the R1.0 zoning district.
- ◆ The rezoning is sought without any special reservations or commitments for future resumption of the landing area.
- ◆ There are no current plans for platting the property. No new buildings are being contemplated at this time.

## Permitted Uses

- ◆ HCC 156.023. Single-family dwellings are permitted in the "A" district except that major residential subdivisions are not permitted.

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# Whybrew / Consistency with Comp Plan

- 1) Consistent with the Comprehensive Plan:
  - ◆ The proposed R1.0 zoning conforms to the "Low-Density Residential" designation that promotes single-family residential development.
- 2) Not consistent with current conditions & character of current structures:
  - ◆ The proposed R1.0 zoning does not conform to the current use of the property.
- 3) Consistent with most desirable use of land:
  - ◆ The proposed R1.0 zoning conforms to the owner's goal to accommodate future residential development of the site for a contractor's warehouse/storage facility. Staff has received several notices, from local landowners, in support of the proposal.
- 4) Consistent with conservation of property values:
  - ◆ The proposed R1.0 zoning is not anticipated to adversely affect the value of nearby properties.
- 5) Consistent with responsible growth and development:
  - ◆ The site is bordered by agricultural and residential land uses.

Staff Position: Favorable

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