

*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: Pavey - Rezone
Petitioner: L&P Inc., Stephen Pavey
Project Location: 7987 N State Road 9
Township: Green

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 and related commitment are true and accurate records of the meeting of the Plan Commission on 26 May 2020. The attached ordinance received a favorable recommendation by a vote of six (6) ayes and one (1) absent.

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

ORDINANCE NO. 2020 - 6F

AMENDING
HANCOCK COUNTY ZONING ORDINANCE NO. 2007-1B

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

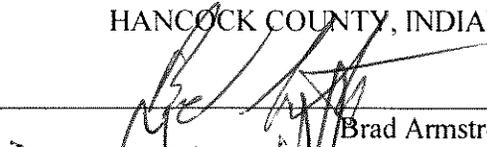
SECTION I

Title XV, Chapter 156 of the Hancock County Code, is amended as follows: The Zoning Map referenced in Section 156.020 for Green Township is hereby amended by rezoning the subject area from Agriculture (A) to Commercial Community (CC). This amendment is hereby enacted subject to execution and recordation of the attached zoning commitment.

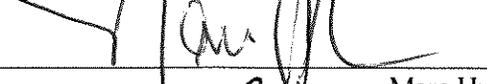
The subject area is described herein as Exhibit A. The zoning commitment is incorporated herein as Exhibit B.

ADOPTED THIS 16th DAY OF JUNE, 2020.

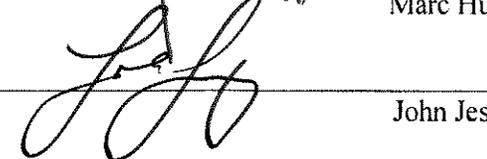
BOARD OF COMMISSIONERS OF
HANCOCK COUNTY, INDIANA



Brad Armstrong

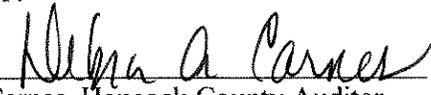


Marc Huber



John Jessup

ATTEST:



Debra Carnes, Hancock County Auditor

Petitioner: L&P. Inc., Stephen Pavey

Exhibit A

Mar 24 2020 01:58PM Pavey's L&P, Inc 7656292010

page 1

DULY ENTERED FOR TAXATION

MAR 27 2020

2003077

RECORDER 00 MAR 19

Jay D. Smith
Recorder of Hancock County

FILED

FEB 2 2020

HANCOCK COUNTY
PLATING COMMISSION

Warranty Deed

THIS INDENTURE WITNESSETH, That Ronald E. Peltz and Carolyn A. Peltz, husband and wife, of Hancock County, in the State of Indiana, Convey and Warrant to Pavey's Grocery, L.L.C., a Limited Liability Company organized under the laws of the State of Indiana, for and in consideration of the sum of One Dollar (\$1.00) and other valuable considerations the receipt whereof is hereby acknowledged, the following described tract of land in Green Township, Hancock County, in the State of Indiana, to-wit:

Beginning at a point in the centerline of State Road No. 234, said point being 179.34 feet west of the northeast corner of Section 30, Township 17, North, Range 7 East, and running thence southerly 156.96 feet parallel with the East line of the Northeast Quarter of said Section 30, thence west 172.27 feet parallel with said centerline of State Road No. 234 to the centerline of State Road No. 9, thence northerly 156.96 feet along said centerline of State Road No. 9 to said centerline of State Road No. 234, thence East 172.16 feet to the point of beginning.

Being a part of the Northeast Quarter of the Northeast Quarter of Section 30, Township 17 North, Range 7 East and containing 0.62 Acres, more or less.

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

Reservation to be of record.

Subject to the Spring installment of the 1999, due and payable 2020, and all subsequent taxes which the Grantee herein assumes and agrees to pay.

In Witness Whereof, The said Ronald E. Peltz and Carolyn A. Peltz, husband and wife, have hereunto set their hands and seals, this 23rd day of March, 2020.

Ronald E. Peltz
Ronald E. Peltz

Carolyn A. Peltz
Carolyn A. Peltz



I, the undersigned, a Notary Public in and for said County, this 23rd day of March, 2020, came to the presence of the said Ronald E. Peltz and Carolyn A. Peltz, husband and wife, and acknowledged the execution of the foregoing instrument.

Witness my hand and official seal,

My Commission expires: 12/31/26

Julie A. Douglas
Julie A. Douglas, Notary Public

Resident of Franklin County, Indiana

Send Tax Bills To: Pavey's Grocery, L.L.C.
2647 East Evenden Road
Connersville, IN 47331

This instrument prepared by: TOBEY & DOUGLASS, 7 East Union Street, Liberty, Indiana 47353

FILED

APR 19 2020

HANCOCK COUNTY

EXHIBIT B

**IN THE HANCOCK COUNTY AREA PLAN COMMISSION (THE "COMMISSION")
AND THE HANCOCK COUNTY BOARD OF COMMISSIONERS (THE "COMMISSIONERS")
RE: L&P INC. - PETITION FOR REZONING**

**COMMITMENT CONCERNING THE USE AND DEVELOPMENT OF REAL ESTATE
MADE IN CONNECTION WITH A PETITION FOR REZONING**

In accordance with I.C. 36-7-4-1015, L&P, ^{LLC}~~INC.~~ ("Owner") having heretofore agreed and consented to the Petition for Rezoning (the "Petition") regarding the real estate located in Hancock County, Indiana, at 7987 N State Road 9, Fortville, Indiana, which is described in Exhibit A make(s) the following commitment concerning the use and development of the parcel(s) of the real estate ("Real Estate"):

Statement of Commitment: If the Real Estate is rezoned to "Commercial Community (CC)" the Owner commits to the Commission and the Commissioners that the following types of land uses will not be permitted at the location: hotel/motel, liquor store, and/or night club.

This Commitment shall be binding on the Owner, its successors and assigns, subsequent owners of the Real Estate, and other persons acquiring an interest therein. This Commitment may be modified or terminated only in writing and only by a decision of the Commission following a public hearing for which proper notice has been given, which decision also has been approved by the Commissioners.

This Commitment may be enforced jointly or severally by:

1. The Commission, the Commissioners, the Hancock County Board of Zoning Appeals;
2. Property owners of the Real Estate; and
3. Any person who is aggrieved by a violation of this Commitment, including but not limited to all owners of real estate which are abutting or adjoining the Real Estate.

In the event it becomes necessary to enforce this Commitment in a court of competent jurisdiction, and the owner of the Real Estate is found to be in violation of this Commitment, the Owner shall pay all reasonable costs in the enforcement of this Commitment, including attorney fees.

The undersigned hereby authorizes the Commission and the Commissioners to record this Commitment in the Office of the Recorder of Hancock County, Indiana upon final approval of the ordinance rezoning the property to "Commercial Community (CC)" by the Commissioners, the

cost of which shall be paid by the Owner(s) to the Commission prior to recording.

In Witness Whereof, the owner has executed this instrument this _____ day of _____, 2019.

L&P, LLC., Stephen Pavey

STATE OF INDIANA)
) SS:
COUNTY OF HANCOCK)

Before me, a Notary Public, in and for said county and State, personally appeared Stephen Pavey who acknowledged the execution of the foregoing Commitment, and who, having been duly sworn, stated that the representations therein contained are true.

Witness my hand and Notarial Seal this _____ day of _____, 2020.

_____, Notary Public

My Commission Expires: _____

County of Residence: _____

Approved this ^{30th}~~16th~~ day of June, 2020.

Board of Commissioners
Hancock County, Indiana

Brad Armstrong

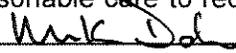
Marc Huber



John Jessup

Attest: 

Debra Carnes, Hancock County Auditor

I affirm, under the penalties of perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law. 

This instrument prepared by: Michael T. Dale, Executive Director, Hancock County Plan Commission. 

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

PLAN COMMISSION MINUTES

DATE: May 26, 2020 TIME: 6:30 P.M.

8. Pavey, Stephen
7987 N SR 9
30 - 17 - 7

Agricultural
Rezoning 20-2003
Green

Rezoning 0.62 acres from A (Agricultural) to CC (Commercial: Community) at 7987 N SR 9. Mr. Dale stated in 1993 the zoning map shows this site had B-1 (Business) zoning and in 2007 the county rezoned this parcel to A. He stated in 2012 the BZA granted a Special Exception to change the nonconforming use (gas station) to a similar use (auto sales), subject to conditions and the approval was not transferrable. He stated in 2019 the BZA granted a Special Exception to allow a nonconforming use (auto sales) to continue at this location, subject to conditions and the approval was not transferrable. He stated this site looks like and has been used for businesses for a very long time despite the zoning and comp plan designations. He stated diagonally across SR 9 is the IMI office building. Mr. Dale stated if the rezoning is approved liquor store, hotel/motel, and night club should be prohibited uses within the CC zoning district. Ms. Amy Osborne, attorney representing Mr. Pavey was present and stated they possibly wanted to put in a convenience store. Mr. Dale stated most of the site is already paved but will need to be striped. There was no further discussion. There were no remonstrators. Mr. Holden made the motion for a favorable recommendation with commitments to the County Commissioners. Mr. Armstrong seconded. Motion carried. Six (6) approved, Zero (0) denied.

Item 8: Stephen Pavey

Rezone 0.62 acres from Agriculture (A) to Commercial Community (CC).

Location: 7987 North SR 9

- ◆ Green Township

History

- ◆ 1993: Zoning map shows site had Business (B-1) zoning. County rezoned site to Agriculture (A) in 2007.
- ◆ 2012: BZA granted SE to change the nonconforming use (gas station) to a similar use (auto sales), subject to conditions. Approval was not transferrable.
- ◆ 2019: BZA granted SE to allow nonconforming use (auto sales) to continue at this location, subject to conditions. Approval was not transferrable.

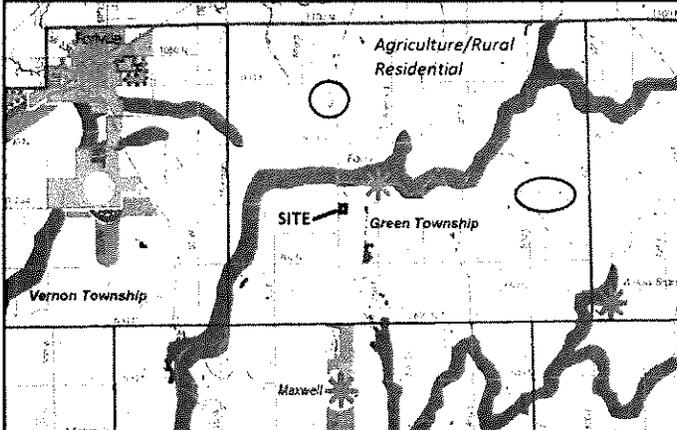
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Pavey / Vicinity



Pavey / Comprehensive Plan



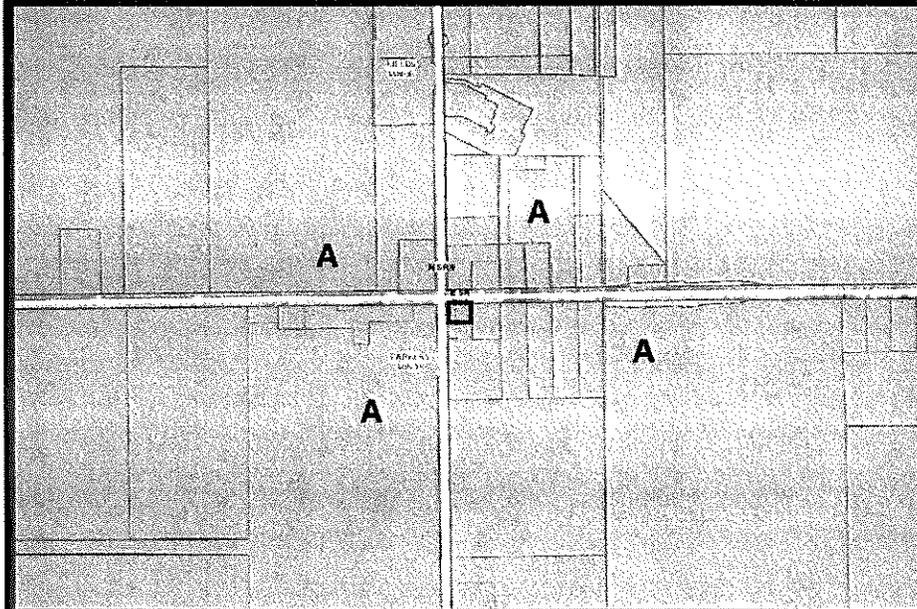
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Agriculture/Rural Residential:

Intended to remain largely rural with uses focusing on farming and other agriculture-related functions. Limited residential development at very low densities is appropriate. Appropriate uses include traditional farming, single-family homes, stables, nature preserves, and animal or food production related activities.

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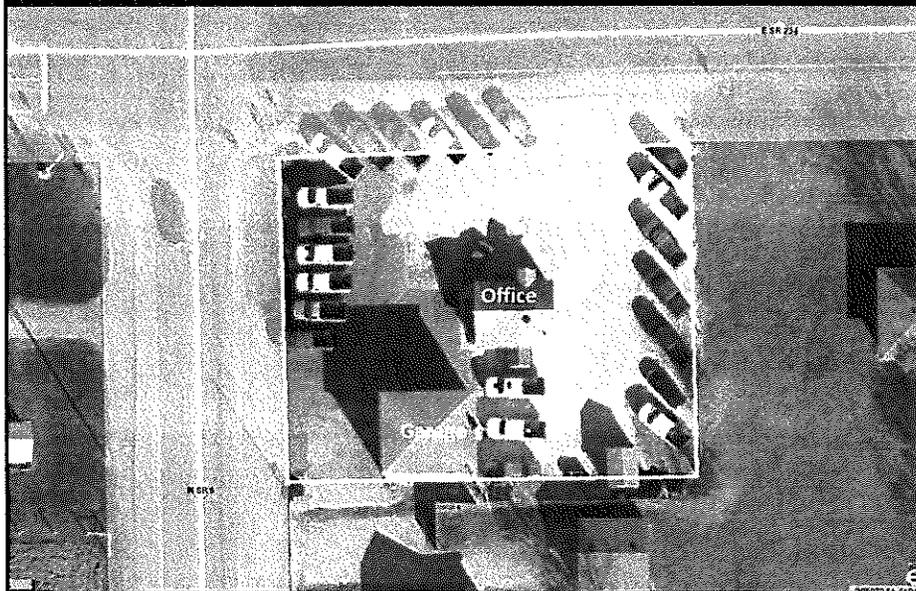
Pavey / Zoning Map



Pavey / Surrounding Uses



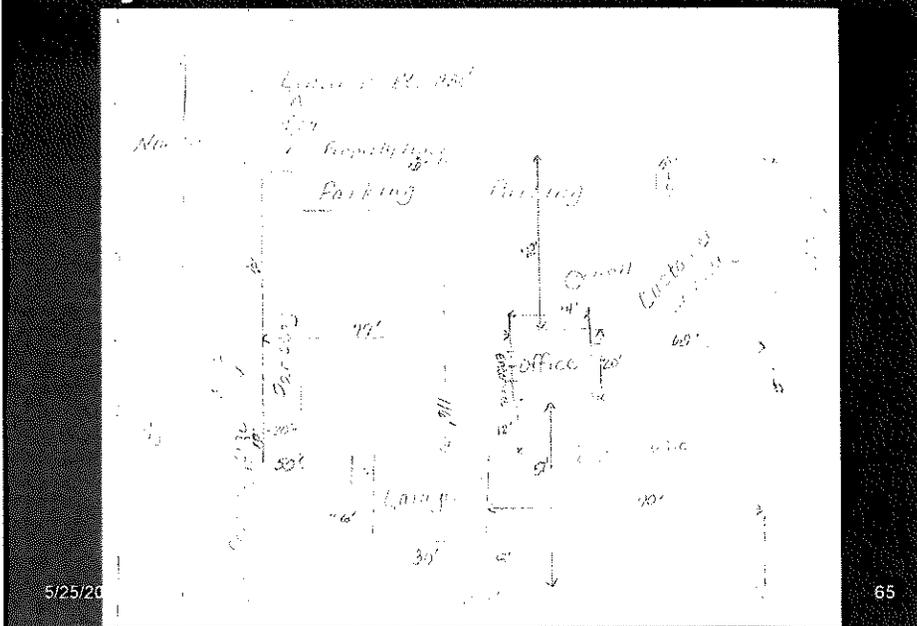
Pavey / Subject Site



Pavey / Ground Photos



Pavey / Site Plan



Pavey / Permitted Uses

The following land use categories are permitted by-right in the CC zone, and not in the A zone:

Agricultural Uses

- ◆ Farmer's market

Residential Uses

- ◆ Secondary dwelling (on upper floors of other use)

Institutional Uses

- ◆ Church or other place of worship, community center, funeral home, government facility, hospital/medical center, lodge/private club, medical clinic, parking lot or structure (as a primary use), trade/business school

Continued next slide

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Pavey / Permitted Uses, cont'd

Commercial Uses

- ◆ Administrative/professional office, antique shop, apparel/footwear store, art/photo gallery, auto parts sales (without on-site repair), auto repair/body shop, automobile/motorcycle sales/lease/service, bakery (retail), bank/financial institution, banquet/assembly hall, barber/beauty shop, bowling alley, building finishes shop, business/financial services office, car wash, child care center, conference center, convenience store (without gas station), craft/fabric store, dance/martial arts studio, data processing/call center, deli, department store, dry cleaners (retail), fitness center, flower shop, garden shop, gas station, gift shop, grocery store, gymnastics center, health spa, hardware store, hotel/motel, ice cream shop, investment firm, jewelry store, liquor store, medical/dental office, microbrewery/brew pub, miniature golf course, news dealer/bookstore, night club, office supply store, oil change shop, pet grooming establishment, pet store, pharmacy, photographic studio, print shop/copy center, radio/TV station, record/CD/musical instrument shop, repair services, restaurant, self-service laundry, shoe repair/tailor shop, skating rink/swimming pool, sporting goods shop, stationary store, tanning salon, variety store, vehicle detailing/accessory shop, veterinary office/animal clinic (without outdoor kennels), video/music store

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Pavey / Consistency with Comp Plan

- 1) Consistent with the Comprehensive Plan? No
 - ◆ The proposed CC zoning does not conform to the "Agriculture/Rural Residential" designation that promotes farming-related uses and low-density residential development.
- 2) Consistent with current conditions/character of current structures? Yes
 - ◆ The proposed CC zoning conforms to the current use of the property that is occupied by commercial structures.
- 3) Consistent with most desirable use of land? Yes
 - ◆ The proposed CC zoning is in keeping with the petitioner's goal to establish a commercial use at this location.
- 4) Consistent with conservation of property values? Maybe
 - ◆ Subject to restrictions, the proposal is not anticipated to adversely affect the nearby agricultural, residential, and institutional uses.
- 5) Consistent with responsible growth and development? Yes
 - ◆ Proposal conforms with long-standing commercial development of the site.

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Pavey / Staff Position

Summary

- ◆ Site was originally zoned for business.
- ◆ A commercial enterprise has operated at this location for many years despite its agricultural zoning and comp plan designation.
- ◆ The character of the site is commercial, at the intersection of two State Roads.
- ◆ Subject to restrictions intended to prevent incompatible land uses, staff does not anticipate the rezoning will adversely impact upon the nearby community.
- ◆ If approved, proposal will result in spot-rezoning.

Staff Position

- ◆ Approval, subject to condition:
 - A) Recording of a zoning commitment that prohibits the following: hotel/motel, liquor store, and night club.

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