

## ORDINANCE NO. 1311

AN ORDINANCE AMENDING THE ZONING MAP OF THE TOWN OF MUNSTER RECLASSIFYING CERTAIN REAL ESTATE FOR ZONING PURPOSES AND AMENDING THE TOWN OF MUNSTER ZONING ORDINANCE. (*Commonly known as 9200 Calumet Avenue*)

WHEREAS, the Town Council of the Town of Munster, Indiana (hereinafter the "Council"), did previously adopt an Ordinance known as the Munster Municipal Code, Chapter 26, and also known as the Town of Munster, Indiana, Zoning Ordinance of 1961, and amendments thereto (hereinafter the "Zoning Ordinance"); and

WHEREAS, the Town Council of the Town of Munster, Indiana, has previously adopted a zoning map dividing the Town into zoning districts and amendments thereto; and

WHEREAS, Munster Development, LLC (Petitioner) filed a petition with the Plan Commission of the Town of Munster, Indiana seeking to amend the zoning map and zoning ordinance to rezone certain property in Munster as a Planned Unit Development, commercial, pursuant to Munster Town Code S26-751 et. seq.

WHEREAS, the real estate sought to be rezoned (hereinafter "Real Estate") is described in Exhibit "A" incorporated herein; and

WHEREAS, Petitioner filed a petition with the Plan Commission of the Town of Munster, Indiana (hereinafter the "Plan Commission"), in order to cause the Real Estate within the Town of Munster to be rezoned as a commercial planned unit development for the construction of a "lifestyle" type shopping center.

WHEREAS, following notice by publication and notice to interested parties, as required by Indiana Code 36-7-4-604(b) and Indiana Code 5-3-1-2(b), a public hearing was held by the Plan Commission on January 24, 2006; and

WHEREAS, the Plan Commission, after public hearing, has approved the petitioner's Development Plan submitted under Section 26-752 of the Zoning Ordinance (hereinafter the "Development Plan"), and has recommended that the Zoning Ordinance be amended pursuant to Section 26-754 and has certified said recommendation to the Council pursuant to Indiana Code 36-7-4-605, as required by Indiana Code 36-7-4-608(b), so as to provide that the Real Estate be classified as Commercial Planned Unit Development, and has made the following findings as required by Section 26-754 of the Zoning Ordinance:

1. The use proposed will not be detrimental to present and potential surrounding uses, but will have a beneficial effect which could not be achieved by changing the zoning to any other district.
2. An amendment to the requirements of the Zoning Ordinance is warranted by the design and amenities incorporated in the Development Plan.
3. The land surrounding the proposed development either can be planned in coordination with the proposed development or will be compatible in use.
4. The proposed change to the previous PUD District is in conformance with the general intent of the comprehensive master plan.
5. Existing and proposed streets are suitable and adequate to carry any anticipated traffic that may be created as a result of the adoption of the proposed development.
6. Existing and proposed utility services are adequate to service the proposed development.
7. The proposed development contains the required parking spaces, landscape and utility areas necessary for creating and sustaining a desirable and stable environment.
8. The proposed development and all proposed buildings, parking spaces, and landscape and utility areas can be completely developed with five (5) years of the establishment of the District.

NOW, THEREFORE, BE IT ORDAINED by the Town Council that the Zoning Map and Ordinance is hereby amended and modified and that the Real Estate, all lying within the municipal corporate limits of the Town of Munster, Lake County, Indiana, be zoned as a commercial Planned Unit Development as follows:

SECTION 1. ZONING. The Real Estate described in Exhibit "A", incorporated herein, is hereby zoned as a commercial Planned Unit Development District (hereinafter the "District") subject to the use restriction herein provided.

SECTION 2. USE RESTRICTIONS. Use of the District shall be limited to the Development Plan submitted by Petitioner, which is incorporated herein.

SECTION 3. AMENDMENT OF THE DEVELOPMENT PLAN. All amendments to the Development Plan shall require approval by the Plan Commission, including but not limited to final site plan approval, final engineering, traffic and landscaping approval.

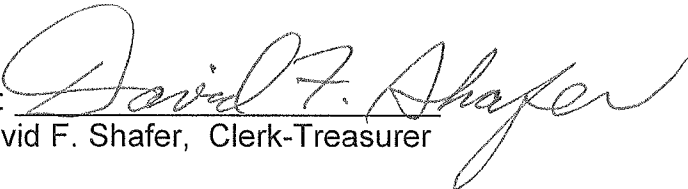
SECTION 4. INGRESS, EGRESS, UTILITIES, STORM WATER AND  
SANITARY SEWERS. Ingress, egress, roadways, parking, utilities, storm water and  
sanitary sewers shall all be subject to the final engineering approval of the Town.

PASSED AND ADOPTED by the Town Council for the Town of Munster, Lake  
County, Indiana, this 30<sup>TH</sup> day of JANUARY, 2006 by a vote of 5 in  
favor and 0 opposed.

TOWN COUNCIL OF THE TOWN OF  
MUNSTER, LAKE COUNTY, INDIANA

By:   
Michael Mellon, President

ATTEST:

By:   
David F. Shafer, Clerk-Treasurer

BEFORE THE PLAN COMMISSION  
OF THE TOWN OF MUNSTER, INDIANA

|                              |   |          |
|------------------------------|---|----------|
| IN THE MATTER OF PETITION OF | ) |          |
| MUNSTER DEVELOPMENT, LLC FOR | ) |          |
| REZONING AND ESTABLISHMENT   | ) | 2005-012 |
| OF A COMMERCIAL PLANNED      | ) |          |
| UNIT DEVELOPMENT             | ) |          |

FINDINGS AND CERTIFIED RECOMMENDATION  
OF THE PLAN COMMISSION TO TOWN COUNCIL

Munster Development, LLC (“Munster Development”) has filed a petition (“Petition”) with the Plan Commission (“Plan Commission”) of the Town of Munster, Indiana (“Town”) to rezone and establish a Commercial Planned Unit Development for approximately seventy-two (72) acres of land which is commonly known as the Lake Business Center, located at the address commonly known as 9200 South Calumet Avenue in the Town of Munster, Indiana, and which is legally described on Exhibit A which is attached hereto and made a part hereof (the “Property”). The Property is currently zoned with an M zoning classification.

In conjunction with Munster Development’s request for rezoning as a PUD District, Munster Development has submitted a Preliminary Development Plan pursuant to Munster Town Code (“Town Code”) §26-752 and a Development Plan pursuant to Town Code §26-753, which is attached hereto as Exhibit B and made a part hereof (the “Plan”). The Plan contemplates the development of the Property with a “lifestyle”-type shopping center. **Munster Development acknowledges that the Plan reflects preliminary planning for the development and anticipates the need for further Plan Commission approvals of amendments to the Plan until it is finalized. Therefore, the approvals and recommendations provided herein are expressly conditioned upon the Plan Commission’s approval and recommendation of a final Plan for the Property.**

Munster Development's Petition was assigned to the Plan Commission under number 2005-012. The Plan Commission held a preliminary hearing on the Petition on December 20, 2005, and set the Petition for a public hearing on January 24, 2006.

At the December 20, 2005 preliminary hearing and the January 24, 2006 public hearing, the Plan Commission received and reviewed testimony from Munster Development's representatives regarding the nature of the proposed development and the standards for it, and from Munster Development's and the Town's traffic consultants regarding the impact of the development contemplated by the Petition on traffic in the area. Munster Development's representatives also answered questions from the Commissioners and from the affected property owners. At the conclusion of the January 24, 2006 public hearing, the Plan Commission, having reviewed the petition, having weighed and reviewed all of the evidence, materials, development plans and arguments presented, having weighed and considered the creditability of the witnesses that had spoken throughout the process, having examined the applicable law, and having had the advice of legal counsel, finds as follows:

The rezoning proposed in the Petition complies with all applicable provisions of Indiana Code, including, without limitation, (a) Indiana Code §§36-7-4-1500, *et seq.*; and (b) specifically, Indiana Code §36-7-4-601(c) in that it takes into account the purposes of:

1. Securing adequate light, air, convenience of access and safety from fire, flood and other danger;
2. Lessening or avoiding congestion in public ways;
3. Promoting the public health, safety, comfort, morals, convenience and general welfare; and

4. Otherwise accomplishing the purposes of Indiana statutes governing local planning and zoning, including, without limitation, Indiana Code §§36-7-4, *et. seq.*

The rezoning proposal in the Petition pays reasonable regard to (1) the Town's Comprehensive Plan; (2) current conditions and the character of current structures and uses in the district; (3) the most desirable use for which the land in the district is adapted; (4) the conservation of property values throughout the jurisdiction; and (5) responsible development and growth, in compliance with Indiana Code §36-7-4-603.

In compliance with Town Code §26-754, and other applicable law, the Plan Commission further finds that:

1. Munster Development filed the Petition as contract purchaser of the Property, with the authorization the present owner of the Property.

2. All notice requirements and other pre-conditions to the making of these findings have been fully complied with.

3. The uses proposed in the Petition will not be detrimental to present and potential surrounding areas, but will have a beneficial effect which could not be achieved without the rezoning.

4. An amendment to the requirements of chapter 26 of the Town's Zoning Ordinance is warranted by the design and amenities incorporated in the Plan.

5. Land surrounding the development proposed in the Petition either can be planned in coordination with the proposed development or will be compatible in use.

6. The proposed change of the Property to a Commercial Planned Unit Development District for the purposes described in the Plan is in conformance with the intent of the Town's comprehensive master plan.

7. Existing and proposed streets are suitable and adequate to carry anticipated traffic within the Planned Unit Development District and the vicinity of the proposed district.

8. Existing and proposed utility services are adequate for the proposed development.

9. The development proposed in the Plan contains required parking spaces, landscape and utility areas necessary for creating and sustaining a desirable and stable environment.

10. The proposed Planned Unit Development District and all proposed buildings, parking spaces and landscape and utility areas can be completely developed within five years of the establishment of the district.

The Plan Commission votes to approve Munster Development's Petition and for the rezoning of the Property from an M zoning designation to a Commercial Planned Unit Development zoning designation in accordance with the Plan. The Plan Commission also recommends that the zoning ordinance be amended pursuant to Town Code §26-754 to reflect this recommendation, and hereby certifies this recommendation to the Town Council pursuant to Indiana Code §36-7-4-605, as required by Indiana Code, so as to provide that the Property be classified as a Commercial Planned Unit Development for the purposes set forth in the Plan.

PASSED AND ADOPTED BY THE TOWN OF MUNSTER PLAN COMMISSION  
THIS 24<sup>th</sup> day of January, 2006, by a vote of \_\_\_\_ in favor and \_\_\_\_ opposed.

TOWN OF MUNSTER PLAN COMMISSION

By: \_\_\_\_\_  
President

ATTEST:

By: \_\_\_\_\_  
Title: \_\_\_\_\_

## EXHIBIT A

### LEGAL DESCRIPTION OF PROPERTY

PARCEL ONE: A part of the Northeast Quarter of Section 25, Township 36 North, Range 10 West of the Second Principal Meridian, described as follows: Commencing at a point on the East line of said Northeast Quarter and 1134.18 feet South of the Northeast corner thereof; thence South along the East line of said Northeast Quarter a distance of 1090.68 feet; thence South 89 degrees 50 minutes West and parallel to the North line of said Northeast Quarter a distance of 1407.52 feet, more or less, to the Easterly right-of-way line of the Pennsylvania Railroad; thence Northwesterly along the Easterly right-of-way line of the Pennsylvania Railroad to a point 1134.18 feet South of the North line of said Northeast Quarter; thence North 89 degrees 50 minutes East a distance of 2263.91 feet, more or less, to the Point of Beginning, all in the Town of Munster, Lake County, Indiana.

PARCEL TWO: Starting at a point on the East line of Section 25, Township 36 North, Range 10 West of the Second Principal Meridian, 651.00 feet South of the Northeast corner of said Section 25; thence South on the East line of said Section 25 483.18 feet; thence West 2263.91 feet parallel to the North line of said Section 25 to the East line of the Pennsylvania Railway right-of-way; thence Northwesterly along said right-of-way 290.97 feet to the intersection with the East line of the right-of-way of the C.I. & L. (Monon) Railroad; thence Northwesterly along the East right-of-way of the Monon Rail Road to a point 651.00 feet South of the North line of said Section 25; thence East parallel to the North line of said Section 25 to the Point of Beginning, in the Town of Munster, Lake County, Indiana.

Excepting therefrom the following described parcel:

Part of the Fractional Section 25, Township 36 North, Range 10 West of the Second Principal Meridian, in the county of Lake, State of Indiana described as follows:

Commencing at the Northeast corner of said Section 25; thence South 01 degree 54 minutes 30 seconds West along the East line of said Section 25 a distance of 190 feet to a point; thence North 88 degrees 17 minutes 20 seconds West parallel with the North line of said Section 25 a distance of 2506.32 feet to a point on the East right-of-way line of the Louisville and Nashville Railroad; thence South 07 degrees 31 minutes East along said East right-of-way line a distance of 59 feet to the point of curvature of a curve to the right, said curve having a radius distance of 3844.77 feet; thence Southwardly along said curve to the right a distance of 344.28 feet (chord = South 04 degrees 57 minutes 03 seconds East 344.19 feet) to the True Place of Beginning of this description; thence continuing along said East right-of-way line and along said curve to the right a distance of 276.75 feet (chord = South 00 degrees 19 minutes 21 seconds East 276.70 feet) to the point of tangency of said curve; thence South 01 degree 44 minutes 20 seconds West continuing along said East right-of-way line a distance of 36.57 feet to the Northerly right-of-way line of the Pennsylvania Railroad; thence South 36 degrees 18 minutes 10 seconds East a distance of 293.20 feet to a point; thence North 53 degrees 41 minutes 50 seconds East a distance of 35 feet to a point; thence North 14 degrees 41 minutes 32 seconds West a distance of 544.76



feet to a point; thence North 88 degrees 17 minutes 20 seconds West a distance of 64.16 feet to the Place of Beginning of this description.

And also excepting therefrom:

A part of the Northeast Quarter of Section 25, Township 36 North, Range 10 West of the Second Principal Meridian, in the Town of Munster, Lake County, Indiana, more particularly described as follows:

Commencing at the Northeast corner of said Northeast Quarter; thence South 01 degrees 54 minutes 55 seconds West, along the East line of said Northeast Quarter, a distance of 651.00 feet to the point of beginning; thence continuing South 01 degrees 54 minutes 55 seconds West along said East line, a distance of 80.00 feet; thence North 88 degrees 17 minutes 28 seconds West, a distance of 315.00 feet; thence North 01 degrees 54 minutes 55 seconds East, a distance of 80.00 feet; thence South 88 degrees 17 minutes 28 seconds East, a distance of 315.00 feet to the point of beginning, excepting therefrom that part lying within Calumet Avenue Right-of-Way (100 feet wide).

