

**ORDINANCE NO. BR 1-4-2024- 1**

**AN ORDINANCE TO AMEND ORDINANCE NO. PC 2016-03 KNOWN AS THE ELKHART COUNTY ZONING ORDINANCE BY REZONING THE AREA OF REAL ESTATE HEREINAFTER DESCRIBED FROM R-3 TO DPUD R-3, TO BE KNOWN AS BRISTOL APARTMENTS DPUD; AND BY CHANGING THE ZONE MAPS INCORPORATED BY REFERENCE IN SECTION 4.1.2.A. OF THE ELKHART COUNTY ZONING ORDINANCE**

**WHEREAS**, Swank & White LLC, represented by Abonmarche Consultants. submitted a petition to change the zone maps for the real estate described in **SECTION 1** of this ordinance from **R-3 to DPUD R-3** on November 6<sup>th</sup>, 2023.

**WHEREAS**, The Staff for the Elkhart County Advisory Plan Commission did cause the publishing of the legal advertisements for the Public Hearing in **The Middlebury Independent** on the 29<sup>th</sup> day of November 2023 and in **The Goshen News** on the 1<sup>st</sup> day of December 2023 and did mail as prescribed by Rule and Law the Notice of Public Hearing to all persons of record within 300 feet;

**WHEREAS**, The Elkhart County Advisory Plan Commission did hold a public hearing as provided by law on the 14<sup>th</sup> day of December 2023 and did take public input at that meeting;

**WHEREAS**, The Elkhart County Advisory Plan Commission did give reasonable regard to the criteria established by IC 36-7-4-603 and Section 3.5 Detailed Planned Unit Development of the Elkhart County Zoning Ordinance;

**WHEREAS**, The petition was sent to the Town Council of Middlebury, Indiana with a Favorable Recommendation;

**THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF BRISTOL, INDIANA, AS FOLLOWS:**

**SECTION 1.** That the legal description of the real estate attached hereto as **Attachment “A”** is made a part of this ordinance and incorporated herein by this reference.

**SECTION 2.** That the real estate described in **SECTION 1** of this Ordinance be rezoned from **R-3 to DPUD R-3** effective immediately and the zone maps adopted by reference in the Elkhart County Zoning Ordinance for Elkhart County, Indiana be amended and ordered amended and changed to reflect the said rezoning of said real estate.

**SECTION 3.** That the Detailed Planned Unit Development be granted for the real estate described in **SECTION 1** of this Ordinance. Unless this Ordinance specifies to the contrary, all Development Standards for the R-3 Zoning District detailed in the Elkhart County Zoning Ordinance will be enforced and govern the use of the real estate, though the Development Plan and Site Plan/Support Drawing will supersede all otherwise applicable Use Standards, District Developmental Standards, and General Development Standards under the R-3 zoning district.

**SECTION 4.** That the Site Plan / Support Drawing is made part of this Ordinance by this reference and shall be maintained in the files of the Elkhart County Advisory Plan Commission.

**SECTION 5.** This Detailed Planned Unit Development Ordinance will limit the use of this real estate to what has been shown on the Site Plan / Support Drawing.

**SECTION 6.** List of additional documentation and supporting information:

- Bristol Apartments DPUD - Narrative & Support Documents – 11/20/2023

**SECTION 7.** That the following conditions and or specified limitations to this Planned Unit Development have been adopted and imposed:

- None

**SECTION 8.** That the additional documentation and supporting information listed in Section 6 of this Ordinance must be supplied and the conditions and or specified limitations in Section 7 of this Ordinance must be satisfied prior to any permits for construction being issued.

**SECTION 9.** In the event any covenant, restriction, provision or section of this Ordinance or any portion thereof is declared invalid or void, such declaration shall in no way affect any other covenant, restriction, or section.

**SECTION 10.** This Ordinance shall be in full force and effect from and after its passage and approval in accordance with the law.

**ADOPTED BY THE TOWN COUNCIL OF BRISTOL, INDIANA THIS 4<sup>th</sup> DAY OF JANUARY 2024.**

\_\_\_\_\_  
By  
**Jeff Beachy**

\_\_\_\_\_  
By  
**Cathy Burke**

\_\_\_\_\_  
By  
**Gregg Tuholski**

\_\_\_\_\_  
By  
**Dean Rentfrow**

\_\_\_\_\_  
By  
**Doug DeSmith**

**Attest:** \_\_\_\_\_  
**Cathy Antonelli, Clerk-Treasurer**

Prepared and affirmed by H. Jason Auvil, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by laws. H. Jason Auvil, 4230 Elkhart Rd., Goshen, IN 46526

**Attachment "A"**

**Legal Description**

LEGAL DESCRIPTION-PER INSTR. #2023-03030

A PART OF THE SOUTHWEST QUARTER AND THE SOUTHEAST QUARTER OF SECTION 29, AND THE NORTHWEST QUARTER OF SECTION 32, TOWNSHIP 38 NORTH, RANGE 6 EAST, IN WASHINGTON TOWNSHIP, ELKHART COUNTY, INDIANA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A STONE MARKING THE SOUTHWEST CORNER OF THE NORTHEAST QUARTER OF SECTION 32, AND ASSUMING THE WEST LINE OF SAID QUARTER SECTION TO HAVE A BEARING OF DUE NORTH AND SOUTH, THENCE DUE NORTH ALONG THE WEST LINE OF SAID QUARTER SECTION, 2,228.5 FEET TO A SPIKE NAIL MARKING THE INTERSECTION OF THE WEST LINE OF SAID QUARTER SECTION WITH THE CENTER LINE OF ELKHART-BRISTOL ROAD (COMMONLY KNOWN AS STATE ROAD NUMBER 120); THENCE NORTH 61 DEGREES 40 MINUTES EAST ALONG A CHORD SEGMENT OF SAID CURVE, 312.38 FEET TO THE POINT OF TANGENT: THENCE NORTH 60 DEGREES 17 MINUTES EAST, ALONG THE CENTER LINE OF SAID ROAD, 148.34 FEET TO THE PLACE OF BEGINNING OF THIS DESCRIPTION, THENCE SOUTH 60 DEGREES 17 MINUTES WEST, ALONG THE CENTER LINE OF SAID ROAD, 148.34 FEET TO A POINT OF CURVE: THENCE SOUTH 61 DEGREES 40 MINUTES WEST, ALONG A CHORD SEGMENT OF SAID CURVE, 312.38 FEET TO THE POINT OF INTERSECTION OF THE CENTER LINE OF SAID ROAD WITH THE WEST LINE OF THE NORTHEAST QUARTER OF SECTION 32; THENCE SOUTH 64 DEGREES 22 MINUTES 30 SECONDS WEST, ALONG A CHORD SEGMENT OF SAID CURVE, 227.18 FEET TO THE POINT OF TANGENT OF SAID CURVE, THENCE SOUTH 65 DEGREES 8 MINUTES WEST, ALONG THE CENTER LINE OF SAID ROAD, 133.71 FEET; THENCE NORTH 21 DEGREES 17 MINUTES WEST, APPROXIMATELY 204.28 FEET TO THE WATER'S EDGE OF THE ST. JOSEPH RIVER; THENCE UPSTREAM AND MEANDERING ALONG THE WATER'S EDGE OF SAID ST. JOSEPH RIVER TO A POINT THAT IS NORTH 24 DEGREES 18 MINUTES WEST, APPROXIMATELY 1,200.00 FEET NORTHERLY OF THE PLACE OF BEGINNING; THENCE SOUTH 24 DEGREES 18 MINUTES EAST, APPROXIMATELY 1,200.00 FEET, MORE OR LESS, TO THE PLACE OF BEGINNING.

EXCEPTING THEREFROM THE FOLLOWING:

A PART OF THE NORTHEAST QUARTER OF SECTION 32, TOWNSHIP 38 NORTH, RANGE 6 EAST, SECOND PRINCIPAL MERIDIAN, WASHINGTON TOWNSHIP, ELKHART COUNTY, INDIANA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A RAILROAD TIE POST MONUMENTING THE SOUTHEAST CORNER OF SAID NORTHEAST QUARTER OF SECTION 32, AND THE EAST LINE OF SAID NORTHEAST QUARTER OF SECTION 32 TO HAVE AN ASSUMED BEARING OF NORTH 0 DEGREES 00 MINUTES 00 SECONDS WEST (DUE NORTH); THENCE NORTH 0 DEGREES 00 MINUTES 00 SECONDS WEST, A DISTANCE OF 2228.50 FEET TO A POINT ON THE CENTERLINE OF STATE ROAD 120; THENCE SOUTH 64 DEGREES 22 MINUTES 30 SECONDS WEST ALONG SAID CENTERLINE OF STATE ROAD 120 A DISTANCE OF 199.05 FEET TO A POINT ON SAID CENTERLINE OF STATE ROAD 120 BEING THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE CONTINUING SOUTH 64 DEGREES 22 MINUTES 30 SECONDS WEST ALONG SAID CENTERLINE OF STATE ROAD 120, A DISTANCE OF 28.13 FEET TO A POINT ON THE CENTERLINE OF STATE ROAD 120; THENCE SOUTH 65 DEGREES 08 MINUTES 00 SECONDS WEST ALONG SAID CENTERLINE OF STATE ROAD 120, A DISTANCE OF 133.77 FEET TO A

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POINT ON SAID CENTERLINE OF STATE ROAD 120 TO AN IRON REBAR WITH CAP (DORIOT 890028); THENCE NORTH 21 DEGREES 17 MINUTES 00 SECONDS WEST, A DISTANCE OF 149.08 FEET TO A 3/4 INCH IRON PIPE BEING A MEANDER LINE POINT FOR THE ST. JOSEPH RIVER; THENCE CONTINUING NORTH 21 DEGREES 17, MINUTES 00 SECONDS WEST, A DISTANCE OF 55.18 FEET TO A POINT ON THE NORMAL WATER LINE OF SAID ST. JOSEPH RIVER; THENCE NORTH 26 DEGREES 06 MINUTES 57 SECONDS EAST MORE OR LESS ALONG THE NORMAL WATER LINE OF SAID ST. JOSEPH RIVER, A DISTANCE OF 131.45 FEET MORE OR LESS TO A POINT ON THE NORMAL WATER LINE OF SAID ST. JOSEPH RIVER; THENCE SOUTH 34 DEGREES 11 MINUTES 32 SECONDS EAST, A DISTANCE OF 125.00 FEET TO AN IRON REBAR WITH CAP (DORIOT 890028) BEING A MEANDER LINE POINT FOR THE ST. JOSEPH RIVER; THENCE CONTINUING SOUTH 34 DEGREES 11 MINUTES 32 SECONDS EAST, A DISTANCE OF 165.08 FEET TO THE POINT OF BEGINNING.

LEGAL DESCRIPTION-PER INSTR. #2023-03036

A PART OF THE SOUTHWEST QUARTER (SW 1/4) AND THE SOUTHEAST QUARTER (SE 1/4) OF SECTION TWENTY-NINE (29), AND THE NORTHWEST QUARTER (NW 1/4) AND THE NORTHEAST QUARTER (NE 1/4) OF SECTION THIRTY-TWO (32), IN TOWNSHIP THIRTY-EIGHT (38) NORTH, RANGE SIX (6) EAST, IN WASHINGTON TOWNSHIP, ELKHART COUNTY, INDIANA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A STONE MARKING THE SOUTHWEST CORNER OF THE NORTHEAST QUARTER (NE 1/4) OF SECTION THIRTY-TWO (32) AND ASSUMING THE WEST LINE OF SAID QUARTER SECTION TO HAVE A BEARING OF DUE NORTH AND SOUTH, THENCE DUE NORTH, ALONG THE WEST LINE OF SAID QUARTER SECTION, A DISTANCE OF TWO THOUSAND TWO HUNDRED TWENTY-EIGHT AND FIVE TENTHS (2,228.5) FEET TO A SPIKE NAIL MARKING THE INTERSECTION OF THE WEST LINE OF SAID QUARTER SECTION WITH THE CENTER LINE OF THE ELKHART - BRISTOL ROAD (COMMONLY KNOWN AS STATE ROAD NUMBER 120); THENCE NORTH SIXTY-ONE (61) DEGREES FORTY (40) MINUTES EAST, ALONG A CHORD SEGMENT OF SAID CURVE, A DISTANCE OF THREE HUNDRED TWELVE AND THIRTY-EIGHT HUNDREDTHS (312.38) FEET TO THE POINT OF TANGENT AND THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE NORTH TWENTY-EIGHT (28) DEGREES TWENTY-FOUR (24) MINUTES EIGHTEEN (18) SECONDS WEST, A DISTANCE OF FOUR HUNDRED FIFTY (450.00) FEET; THENCE NORTH SIXTY (60) DEGREES SEVENTEEN (17) MINUTES EAST, PARALLEL WITH THE CENTER LINE OF SAID ROAD, A DISTANCE OF ONE HUNDRED FORTY-EIGHT AND THIRTY-FOUR HUNDREDTHS (148.34) FEET; THENCE SOUTH TWENTY-FOUR (24) DEGREES EIGHTEEN (18) MINUTES EAST, A DISTANCE OF FOUR HUNDRED FIFTY (450.00) FEET TO THE CENTER LINE OF SAID ROAD, THENCE SOUTH SIXTY (60) DEGREES SEVENTEEN (17) MINUTES WEST, ALONG SAID ROAD, A DISTANCE OF ONE HUNDRED FORTY-EIGHT AND THIRTY-FOUR HUNDREDTHS (148.34) FEET TO THE PLACE OF BEGINNING.

CONTAINING ONE AND FIFTY-THREE HUNDREDTHS (1.53) ACRES OF LAND. SUBJECT TO PUBLIC HIGHWAY: STATE ROAD NO. 120.