

ORDINANCE NUMBER # 1991-5

AN ORDINANCE TO AMEND THE TOWN ORDINANCE 1988-7 KNOWN AS THE COMPREHENSIVE PLAN OF ZONING FOR MILLERSBURG, INDIANA BY REZONING THE AREA OF REAL ESTATE HEREINAFTER DESCRIBED FROM B-3 TO R-1 AND AUTHORIZE A PLANNED UNIT DEVELOPMENT WITH A SITE DEVELOPMENT PLAN.

WHEREAS. Clarence Yoder and Ideana Yoder submitted an application to rezone real estate hereinafter described from B-3 to R-1 with a Planned Unit Development and after proper legal notice a hearing was held as provided by law, and the Plan Commission did on the 13th day of June, 1991 find that the element of the Law have been complied with for a zone change from B-3 to R-1 PUD with approval of a Planned Unit Development and filed their recommendation for adoption of this Ordinance with the Town Council of Millersburg of Elkhart County, Indiana and:

WHEREAS. the Elkhart County Plan Commission submitted said development plan together with its report and recommendation and.

WHEREAS. said report and recommendations indicate that the appropriate use of the property adjacent to the area included in the plan will be fully safeguarded and the plan is consistent with the intent of the Master Plan of the Town of Millersburg to promote the Health, Safety and General Welfare.

BE IT THEREFORE ORDAINED BY THE TOWN COUNCIL OF MILLERSBURG, ELKHART COUNTY, INDIANA. THAT:

Section 1 That the request by Clarence T. and Ideana Yoder for a Planned Unit Development be granted for the above described real estate in accordance with the plan as attached (Attachment A) and made a part of this Ordinance by reference thereto.

Section 2 That the above described real estate be rezoned from B-3 to R-1 effective immediately and the zone maps dated October 30, 1959 and made a part of Article II, Section 2 of the Master Plan of Zoning for the Town of Millersburg, Indiana be amended and ordered amended and changed to reflect the said rezoning of said real estate.

Section 3 That under the Planned Unit Development provisions of Ordinance 1988-7 known as the Comprehensive Plan for Zoning of Millersburg, Indiana and in accordance with plans as approved by the Elkhart County Plan Commission, attached hereto and made a part of this Ordinance by reference thereto, and the owners of the above described parcel and their successors in interest are authorized to use said property for any uses permitted in a R-1 district.

Section 4

That no change be made in the approved plan during construction of the Planned Unit Development except as follows.

- a. Minor changes in the location, citing and height of buildings and improvements may be authorized by the Plan Commission if required by circumstances not foreseen at the time the plan was approved.
- b. All other changes in use, rearrangement of lots, blocks, building locations, streets, parking areas, open space, or other changes in the approved plan must be made by the Town Council under the Zoning Ordinance or amendments to said Ordinance.

Section 5

This Ordinance authorizes the noted additions onto the existing single family residence.

Section 6

That, if no construction has begun on the facilities to be developed as part of the Planned Unit Development, or in the absence of plans for construction of such improvements, if the use of the aforescribed real estate herein set forth has not been established within two (2) years from the date of the approval represented by this Ordinance, the Planned Unit Development, and the approval herein stated, shall lapse, and be of no further force or effect. If the plan lapses under the conditions of this Section, the zoning applicable to the aforesaid property prior to the date of this approval of the Planned Unit Development may, at the discretion of the Town Council of Millersburg, Elkhart County, Indiana, be reinstated through formal proceedings; provided, however, that the Elkhart County Plan Commission, in its sole discretion, for good cause shown, may extend for an additional period of time the commencement of construction or the establishment of the use necessary to avoid the lapse of the Planned Unit Development. To extend the effective time period within which construction or the establishment of the use must commence, the Elkhart County Plan Commission must consider such extension at one of its formal, public meetings, and must in writing submit written confirmation of any extension it might grant to the Town Council of Millersburg, Elkhart County, Indiana, for entry in the formal minutes of said council. The procedure herein set forth for extending the time period within which the construction for use establishment must commence may be followed by the Elkhart County Plan Commission a maximum of two (2) times from and after the date of this Ordinance.

Section 7

Prior to the issuance of an Improvement Location and/or Building Permit, a copy of this ordinance shall be recorded in the Office of the Recorder of Elkhart

County. Indiana. by the owners of land described herein.

Section 8

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

Section 9

This Ordinance shall be in full force and effect from and after its passage and approval according to Law.

ADOPTED BY THE TOWN COUNCIL OF MILLERSBURG, ELKHART COUNTY, INDIANA,
THIS 1st DAY OF July, 1991.

BY *Duane Mahler*
DUANE MAHLER

BY *Bob Stacy*
BOB STACY

BY *Greg Baumgartner*
GREG BAUMGARTNER

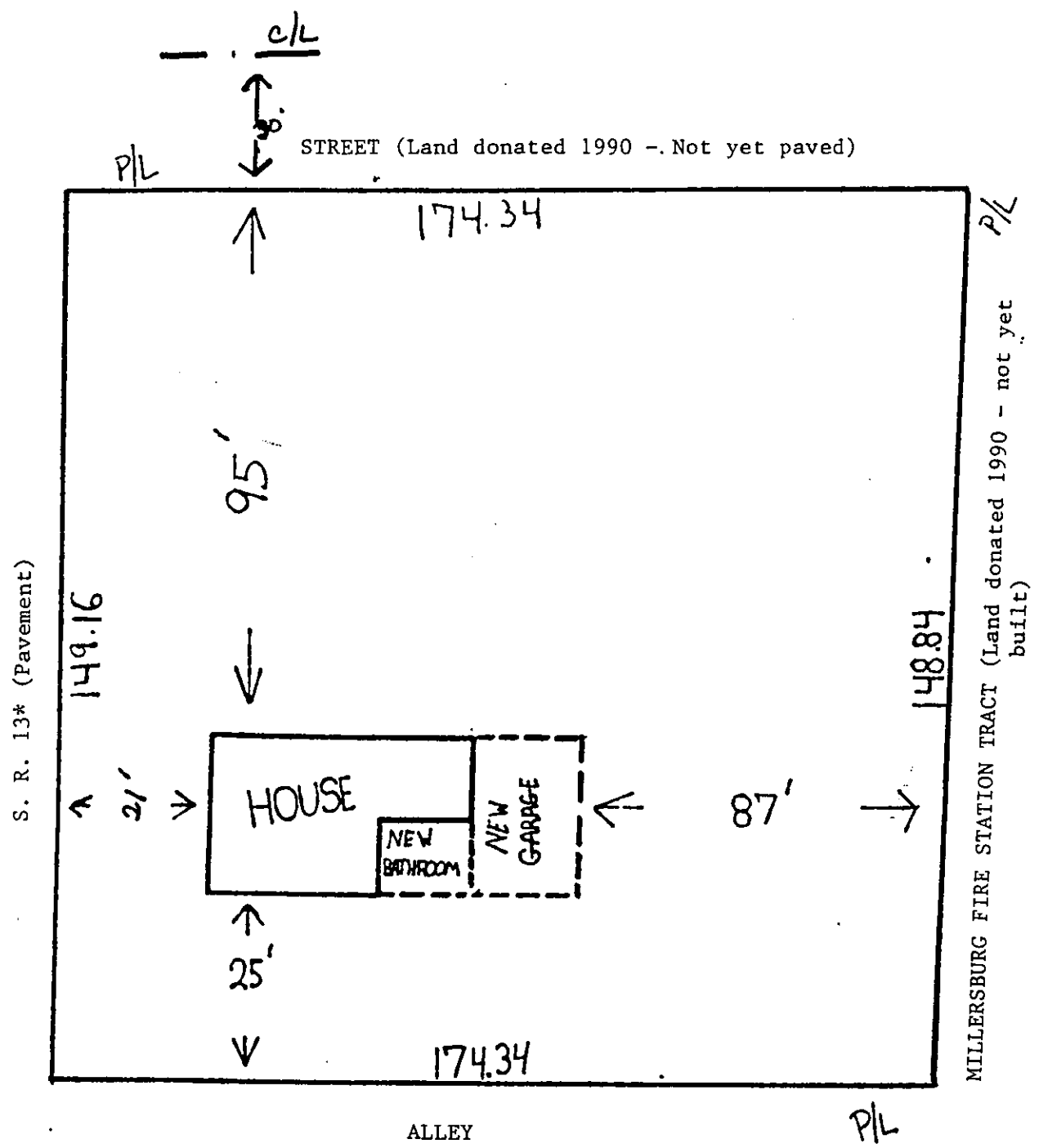
"A"

LEGAL DESCRIPTION OF PROPERTY

A part of the Southwest Quarter of Section 35, Township 36 North, Range 7 East; Clinton Township, Elkhart County, Indiana, and more particularly described as follows:

Commencing at a P.K. nail marking the Northwest corner of said Southwest Quarter; thence South, 966.96 feet, along the West line of said Southwest Quarter and the centerline of State Road 13, to a P.K. nail at the point of beginning of this description; thence continuing along the last described line and bearing, 149.76 feet, to a P.K. nail; thence North 89 degrees 33 minutes, 19 seconds East, 174.34 feet, to an iron stake; thence North, 148.84 feet, to an iron stake; thence South 89 degrees, 51 minutes, 23 seconds West, 174.34 feet, to the point of beginning containing 0.60 acre and subject to a public highway.

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*WIDTH OF SR 13 NOT KNOWN, NOR LOCATION OF C/L, WHICH IS P/L OF PROPERTY.

This site plan is a fair and accurate representation of my property and petition

Robert A. Seckoe

Name

Attorney for Applicants

Date

C. & I. Under