

ORDINANCE NO. 98 - 8**AN ORDINANCE REZONING PROPERTY
AND CHANGING THE ZONING MAPS
OF THE CITY OF LEBANON**

WHEREAS, the Petitioners, Samaritans, L.L.C., fee simple owners, file their Petition for Rezoning before the Lebanon Plan Commission, seeking to rezone 25.625 acres, more or less, from an "AA" Residential Zoning Classification to a "C" Residential Zoning Classification; and

WHEREAS, at the duly noticed Public Hearing conducted by and before the Lebanon Plan Commission on Monday, August 17, 1998, said Plan Commission did vote to pass the Petition to the Common Council for the City of Lebanon with a favorable recommendation; and

WHEREAS, the Common Council for the City of Lebanon, having considered the Petition For Rezoning and the favorable recommendation made to them by the Lebanon Plan Commission, as well as all considering the city's Comprehensive Plan, along with all other pertinent comments in writing or orally at their regularly scheduled meeting held this day, now approves said rezoning, all as hereinafter set out.

IT IS THEREFORE CONSIDERED, ORDAINED AND ADOPTED as follows:

1 . That the Petitioner, Samaritans, L.L.C., is the fee simple owners of property consisting of 25.625 acres, more or less, and being more particularly described as follows, to-wit:

A part of the Northeast Quarter of Section 24, Township 19 North, Range 1 West and that part of the Southwest Quarter of the Northwest Quarter of Section 19,

Township 19 North, Range 1 East, all of which is situated in Center Township, Boone County, Indiana, more fully described by:

Beginning at the Northeast Corner of the Northeast Quarter of said Section 24; thence South $00^{\circ}25'54''$ West, along the Section line, the Range line common to Range 1 East and Range 1 West and the Second Principal Meridian Line, for a distance of 1356.87 feet; thence South $89^{\circ}18'30''$ East, along the South described line of the Lenox Property, as recorded in Deed Record 245, Page 822 and being the same line as recorded in Deed Record 240, Page 754, a distance of 348.87 feet; thence South $00^{\circ}25'00''$ West, along the West described line of Ulen Countryside Estates, Section One, as recorded in Plat Book 7, Pages 70 and 71, a distance of 931.97 feet; thence North $89^{\circ}22'40''$ West, along the North described line of the Quick Property, as recorded in Deed Record 223, Page 733, the North described line of the Shepherd Property, as recorded in Deed Record 237, Page 812 and that part of the North described line of the Shepherd Property, as recorded in Deed Record 202, Page 493, for a distance of 349.11 feet; thence South $00^{\circ}25'54''$ West, along said Section line, a distance of 2.88 feet; thence North $89^{\circ}19'50''$ West, along that part of the North described line of the Shepherd Property, as recorded in Deed Record 202, Page 493 and the North described line of the Adams Property, as recorded in Deed Record 167, Page 541 and Deed Record 202, Page 287, for a distance of 331.77 feet; thence South $00^{\circ}09'31''$ West, along the West described line of said Adams Property, as recorded in Deed Record 202, Page 287, a distance of 348.52 feet; thence North $89^{\circ}19'50''$ West, along the Quarter Section line and the approximate centerline of County Road 250 North, a distance of 507.65 feet; thence North $10^{\circ}06'00''$ West, a distance of 1372.19 feet; thence South $82^{\circ}48'04''$ West, a distance of 732.13 feet to an existing steel post; thence North $10^{\circ}05'27''$ West, along the Easterly described lines of the following deed holders:

- 1.) Kernodle Property - Deed Record 236, Page 269;
- 2.) Dafoe Property - Deed Record 211, Page 55;
- 3.) Johnson Property - Deed Record 248, Pages 79 and 80;
- 4.) Kincaid Property - Deed Record 231, Page 197;
- 5.) Hamke Property - Deed Record 224, Page 147;
- 6.) Edwards Property - Deed Record 211, Page 57;
- 7.) Dwyer Property - Deed Record 211, Page 52;
- 8.) Harman/Wilson Property - Deed Record 211, Page 54;

for a total measured distance of 843.50 feet to an existing iron pipe located in an East-West fence line; thence South $89^{\circ}34'48''$ East, along that part of the South described line of the George Property, as recorded in Deed Record 243, Pages 981-982, The Hale Property, as recorded in Deed Record 188, Page 711 and that part of the Haughton Property, as recorded in Deed Record 231, Page 706, for a distance of 782.75 feet; thence North $00^{\circ}27'54''$ East, along the East described line of said Haughton Property, a distance of 562.32 feet; thence South $89^{\circ}15'20''$ East, along the North line of said Section 24 and the approximate centerline of

County Road 300 North, a distance of 34.02 feet; thence South 49°03'20" East, along the approximate centerline of the Storms Legal Open Drain, being the Southwesterly described line of the Unverzagt Property, as recorded in Deed Record 230, Page 873, a distance of 588.73 feet; thence South 48°11'12" East, along the approximate centerline of the Storms Legal Open Drain, being the Southwesterly described line of the Hasty Property, as recorded in Deed Record 230, Page 402, a distance of 329.54 feet; thence North 00°44'40" East, along the East described line of said Hasty Property, a distance of 596.50 feet; thence South 89°15'20" East, along the North line of said Section 24 and the approximate centerline of County Road 300 North, a distance of 453.05 feet to the Point of Beginning, containing 77.9234 Acres, of which 70.4551 Acres are located in the Northeast Quarter of said Section 24, Township 19 North, Range 1 West and the remaining 7.4683 Acres are situated in the Southwest Quarter of the Northwest Quarter of said Section 19, Township 19 North, Range 1 East, Center Township, Boone County, Indiana.

The 77.9234 Acre Tract is subject to the following:

EXCLUDING THEREFROM:

A part of the Northeast Quarter of Section 24, Township 19 North, Range 1 West, and part of the Southwest Quarter of the Northwest Quarter of Section 19, Township 19 North, Range 1 East all of which is situated in Center Township, Boone County, Indiana being more particularly described as follows:

Beginning at the Northeast corner of the Northeast Quarter of said Section 24; thence South 00 degrees 25 minutes 54 seconds West on the East line of said Quarter Section said line also being the range line common to Range 1 East and Range 1 West and also the Second Principal Meridian line a distance of 1356.87 feet to the POINT OF BEGINNING of this description; thence South 89 degrees 18 minutes 30 seconds East on the South described line of the Lennox Property recorded in Deed Record 245, Page 822, said line also being the same line as recorded in Deed Record 240, Page 754, a distance of 348.87 feet; thence South 00 degrees 25 minutes 00 seconds West on the West described line of Ulen Countryside Estates, Section One, recorded in Plat Book 7, Page 70 & 71, a distance of 931.97 feet; thence North 89 degrees 22 minutes 40 seconds West on the North described line of the Quick Property recorded in Deed Record 223, Page 733, the North described line of the Shepard Property recorded in Deed Record 237, Page 812, and that part of the North described line of the Shepard Property recorded in Deed Record 202, Page 493, to a point on the aforesaid East line of the Northeast Quarter of Section 24, a distance of 349.11 feet; thence South 00 degrees 25 minutes 54 seconds West on said East line 2.88 feet; thence North 89 degrees 19 minutes 50 seconds West on that part of the North described line of the Shepard Property as recorded in said Deed Record 202 and the North

described line of the Adams Property recorded in Deed Record 167, Page 541, and Deed Record 202, Page 287, a distance of 331.77 feet; thence South 00 degrees 09 minutes 31 seconds West on the West described line of said Adams Property recorded in said Deed Record 202 a distance of 348.52 feet; thence North 89 degrees 19 minutes 50 seconds West on the South line of the aforesaid Northeast Quarter of Section 24, and the approximate centerline County Road 250 North 507.65 feet; thence North 10 degrees 06 minutes 00 seconds West 1344.65 feet; thence North 82 degrees 48 minutes 04 seconds East 63.68 feet; thence North 07 degrees 11 minutes 56 seconds West 212.50 feet; thence South 82 degrees 48 minutes 04 seconds West 2.08 feet; thence North 07 degrees 11 minutes 56 seconds West 130.00 feet; thence North 82 degrees 48 minutes 04 seconds East 83.01 feet; thence North 81 degrees 43 minutes 12 seconds East 60.00 feet; thence South 08 degrees 16 minutes 48 seconds East 80.06 feet; thence North 81 degrees 43 minutes 12 seconds East 130.30 feet; thence North 08 degrees 21 minutes 39 seconds West 23.60 feet; thence North 81 degrees 37 minutes 38 seconds East 182.50 feet to a point on a non-tangent curve concave northeasterly, the radius point of said curve being North 81 degrees 37 minutes 38 seconds East 270.00 feet from said point; thence southeasterly along said curve 26.13 feet to a point on said curve the radius point being North 76 degrees 04 minutes 58 seconds East 270.00 feet; thence North 76 degrees 04 minutes 58 seconds East 167.84 feet; thence South 02 degrees 06 minutes 31 seconds East 17.68 feet; thence South 44 degrees 18 minutes 30 seconds East 520.00 feet; thence South 67 degrees 18 minutes 30 seconds East 80.00 feet to the point of beginning, containing 40.14 acres, more or less. Subject to all legal highways, rights-of-way, easements and restrictions of record.

and

Part of the Northeast Quarter of Section 24, Township 19 North, Range 1 West in Center Township, Boone County, Indiana, being more particularly described as follows:

Beginning at the Northeast corner thereof; thence South 00 degrees 25 minutes 54 seconds West (assumed bearing) along the East line of said Quarter Section 1356.87 feet; thence North 67 degrees 18 minutes 30 seconds West 80.00 feet; thence North 44 degrees 18 minutes 30 seconds West 520.00 feet; thence North 02 degrees 06 minutes 31 seconds West 17.68 feet; thence North 02 degrees 07 minutes 46 seconds West 345.87 feet; thence North 00 degrees 44 minutes 40 seconds East 596.50 feet to a point on the North line of said Quarter Section; thence South 89 degrees 15 minutes 20 seconds East along said North line 453.05 feet to the place of beginning, containing 12.155 acres, more or less, subject to all legal highways, easements, rights-of-way, and other restrictions of record.

2. That the above described property is currently located in the "AA"

Residential Zoning District and the Petitioners herein seek to have the above described

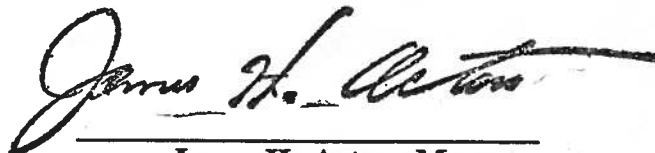
property rezoned to the "C" Residential Zoning Classification.

3. That considering the city's Comprehensive Plan and the current conditions and character of structures and other uses in and around the subject property, the rezoning of said property will in no way be detrimental to the public health, safety, welfare and property values in the area and that the rezoning of this property will in no way violate the city's Comprehensive Plan.

4. That from and after this date, the official zoning maps of the City of Lebanon shall be changed to reflect the rezoning of the subject property to "C" Residential Zoning Classification. Further, the Lebanon Plan Department and its Director and/or Building Commissioner is hereby authorized to change the official zoning maps for the City of Lebanon consistent with this ordinance.

5. As this Ordinance shall take effect upon its passage and any publication required by law.

ORDAINED AND ADOPTED this _____ day of October, 1998.



James H. Acton, Mayor

**Common Council for the City of
Lebanon, Indiana**

By Harold E. "Huck" Lewis
Harold E. "Huck" Lewis

By John W. Lasley
John W. Lasley

By Douglas W. Campbell
Douglas W. Campbell

By Andrea Hester
Andrea Hester

By James K. Urban
James K. Urban

By _____
Kay Geisler

By Jack S. Bland
Jack S. Bland

Laurie A. Gross

Attest:

Laurie A. Gross
Clerk/Treasurer

DEED RESTRICTION AND COMMITMENTS

WHEREAS, Samaritans, L.L.C., is the fee simple property owner having any and all ownership interest in certain property consisting of 25.625 acres, more or less, in Center Township, Boone County, Indiana, said property being located at east of State Road 39 between County Roads 250 North and 300 North, and being more particularly described as follows:

(SAMARITANS, L.L.C.)

A part of the Northeast Quarter of Section 24, Township 19 North, Range 1 West and that part of the Southwest Quarter of the Northwest Quarter of Section 19, Township 19 North, Range 1 East, all of which is situated in Center Township, Boone County, Indiana, more fully described by:

Beginning at the Northeast Corner of the Northeast Quarter of said Section 24; thence South 00°25'54" West, along the Section line, the Range line common to Range 1 East and Range 1 West and the Second Principal Meridian Line, for a distance of 1356.87 feet; thence South 89°18'30" East, along the South described line of the Lenox Property, as recorded in Deed Record 245, Page 822 and being the same line as recorded in Deed Record 240, Page 754, a distance of 348.87 feet; thence South 00°25'00" West, along the West described line of Ulen Countryside Estates, Section One, as recorded in Plat Book 7, Pages 70 and 71, a distance of 931.97 feet; thence North 89°22'40" West, along the North described line of the Quick Property, as recorded in Deed Record 223, Page 733, the North described line of the Shepherd Property, as recorded in Deed Record 237, Page 812 and that part of the North described line of the Shepherd Property, as recorded in Deed Record 202, Page 493, for a distance of 349.11 feet; thence South 00°25'54" West, along said Section line, a distance of 2.88 feet; thence North 89°19'50" West, along that part of the North described line of the Shepherd Property, as recorded in Deed Record 202, Page 493 and the North described line of the Adams Property, as recorded in Deed Record 167, Page 541 and Deed Record 202, Page 287, for a distance of 331.77 feet; thence South 00°09'31" West, along the West described line of said Adams Property, as recorded in Deed Record 202, Page 287, a distance of 348.52 feet; thence North 89°19'50" West, along the Quarter Section line and the approximate centerline of County Road 250 North, a distance of 507.65 feet; thence North 10°06'00" West, a distance of 1372.19 feet; thence South 82°48'04" West, a distance of 732.13 feet to an existing steel post; thence North 10°05'27" West, along the Easterly described lines of the following deed holders:

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- 4.) Kincaid Property - Deed Record 231, Page 197;
- 5.) Hamke Property - Deed Record 224, Page 147;
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- 7.) Dwyer Property - Deed Record 211, Page 52;
- 8.) Harman/Wilson Property - Deed Record 211, Page 54;

for a total measured distance of 843.50 feet to an existing iron pipe located in an East-West fence line; thence South 89°34'48" East, along that part of the South described line of the George Property, as recorded in Deed Record 243, Pages 981-982, The Hale Property, as recorded in Deed Record 188, Page 711 and that part of the Haughton Property, as recorded in Deed Record 231, Page 706, for a distance of 782.75 feet; thence North 00°27'54" East, along the East described line of said Haughton Property, a distance of 562.32 feet; thence South 89°15'20" East, along the North line of said Section 24 and the approximate centerline of County Road 300 North, a distance of 34.02, feet; thence South 49°03'20" East, along the approximate centerline of the Storms Legal Open Drain, being the Southwesterly described line of the Unverzagt Property, as recorded in Deed Record 230, Page 873, a distance of 588.73 feet; thence South 48°11'12" East, along the approximate centerline of the Storms Legal Open Drain, being the Southwesterly described line of the Hasty Property, as recorded in Deed Record 230, Page 402, a distance of 329.54 feet; thence North 00°44'40" East, along the East described line of said Hasty Property, a distance of 596.50 feet; thence South 89°15'20" East, along the North line of said Section 24 and the approximate centerline of County Road 300 North, a distance of 453.05 feet to the Point of Beginning, containing 77.9234 Acres, of which 70.4551 Acres are located in the Northeast Quarter of said Section 24, Township 19 North, Range 1 West and the remaining 7.4683 Acres are situated in the Southwest Quarter of the Northwest Quarter of said Section 19, Township 19 North, Range 1 East, Center Township, Boone County, Indiana.

This acreage consists of 77.9234 acres, more or less.

EXCLUDING THEREFROM:

A part of the Northeast Quarter of Section 24, Township 19 North, Range 1 West, and part of the Southwest Quarter of the Northwest Quarter of Section 19, Township 19 North, Range 1 East all of which is situated in Center Township, Boone County, Indiana being more particularly described as follows:

Beginning at the Northeast corner of the Northeast Quarter of said Section 24; thence South 00 degrees 25 minutes 54 seconds West on the East line of said Quarter Section said line also being the range line common to Range 1 East and Range 1 West and also the Second Principal Meridian line a distance of 1356.87 feet to the POINT OF BEGINNING of this description; thence South 89 degrees 18 minutes 30 seconds East on the South described line of the Lennox Property recorded in Deed Record 245, Page 822, said line also being the same line as recorded in Deed Record 240, Page 754, a distance of 348.87 feet; thence South 00 degrees 25 minutes 00 seconds West on the West described line of Ulen Countryside Estates, Section One, recorded in Plat Book 7, Page 70 & 71, a distance of 931.97 feet; thence North 89 degrees 22 minutes 40 seconds West on the North described line of the Quick Property recorded in Deed Record 223, Page 733, the North described line of the Shepard Property recorded in Deed Record 237,

Page 812, and that part of the North described line of the Shepard Property recorded in Deed Record 202, Page 493, to a point on the aforesaid East line of the Northeast Quarter of Section 24, a distance of 349.11 feet; thence South 00 degrees 25 minutes 54 seconds West on said East line 2.88 feet; thence North 89 degrees 19 minutes 50 seconds West on that part of the North described line of the Shepard Property as recorded in said Deed Record 202 and the North described line of the Adams Property recorded in Deed Record 167, Page 541, and Deed Record 202, Page 287, a distance of 331.77 feet; thence South 00 degrees 09 minutes 31 seconds West on the West described in of said Adams Property recorded in said Deed Record 202 a distance of 348.52 feet; thence North 89 degrees 19 minutes 50 seconds West on the South line of the aforesaid Northeast Quarter of Section 24, and the approximate centerline County Road 250 North 507.65 feet; thence North 10 degrees 06 minutes 00 seconds West 1344.65 feet; thence North 82 degrees 48 minutes 04 seconds East 63.68 feet; thence North 07 degrees 11 minutes 56 seconds West 212.50 feet; thence South 82 degrees 48 minutes 04 seconds West 2.08 feet; thence North 07 degrees 11 minutes 56 seconds West 130.00 feet; thence North 82 degrees 48 minutes 04 seconds East 83.01 feet; thence North 81 degrees 43 minutes 12 seconds East 60.00 feet; thence South 08 degrees 16 minutes 48 seconds East 80.06 feet; thence North 81 degrees 43 minutes 12 seconds East 130.30 feet; thence North 08 degrees 21 minutes 39 seconds West 23.60 feet; thence North 81 degrees 37 minutes 38 seconds East 182.50 feet to a point on a non-tangent curve concave northeasterly, the radius point of said curve being North 81 degrees 37 minutes 38 seconds East 270.00 feet from said point; thence southeasterly along said curve 26.13 feet to a point on said curve the radius point being North 76 degrees 04 minutes 58 seconds East 270.00 feet; thence North 76 degrees 04 minutes 58 seconds East 167.84 feet; thence South 02 degrees 06 minutes 31 seconds East 17.68 feet; thence South 44 degrees 18 minutes 30 seconds East 520.00 feet; thence South 67 degrees 18 minutes 30 seconds East 80.00 feet to the point of beginning, containing 40.14 acres, more or less. Subject to all legal highways, rights-of-way, easements and restrictions of record.

and

Part of the Northeast Quarter of Section 24, Township 19 North, Range 1 West in Center Township, Boone County, Indiana, being more particularly described as follows:

Beginning at the Northeast corner thereof; thence South 00 degrees 25 minutes 54 seconds West (assumed bearing) along the East line of said Quarter Section 1356.87 feet; thence North 67 degrees 18 minutes 30 seconds West 80.00 feet; thence North 44 degrees 18 minutes 30 seconds West 520.00 feet; thence North 02 degrees 06 minutes 31 seconds West 17.68 feet; thence North 02 degrees 07 minutes 46 seconds West 345.87 feet; thence North 00 degrees 44 minutes 40 seconds East 596.50 feet to a point on the North line of said Quarter Section; thence South 89 degrees 15 minutes 20 seconds East along said North line 453.05 feet to the place of beginning, containing 12.155 acres, more or less, subject to all legal highways, easements, rights-of-way, and other restrictions of record.

WHEREAS, Samaritans, L.L.C., is seeking to have the subject property rezoned from its current zoning classification to a "C" Residential Zoning Classification; and

WHEREAS, the undersigned, as a voluntary inducement to the Lebanon Area Plan Commission and Lebanon City Council to approve the rezoning of the subject property prior to submission of plats and applications for improvements, hereby records the following Deed Restrictions and Commitments, to run and be part of the subject property as follows:

1. That the use of the subject property for apartments, as currently permitted in the "C" Residential Zoning Classification, set out in Chapter 27 of the City Code of Lebanon, is hereby expressly restricted and prohibited.

2. That the undersigned specifically represent that these Deed Restrictions and Commitments are voluntary and shall be binding on the owner, subsequent owners of the real estate, lessees and all other persons acquiring an interest therein. These Deed Restrictions and Commitments may be modified by a decision of the Lebanon Plan Commission and/or Lebanon City Council at a public hearing after public notice duly give in accordance with the applicable rules of each such public body. These Deed Restrictions and Commitments shall be effective upon adoption of an Ordinance by the Common Council for the City of Lebanon changing the zoning classification of the real estate to a "C" Residential Zoning Classification.

3. These Restrictions and Commitments may be enforced jointly or severally by:
- a. The Lebanon Plan Commission;
 - b. The Lebanon City Council;
 - c. Any and all others who have an ownership interest in the subject property.

Samaritans, L.L.C.

By: W.H. Cuttino, Jr.
Member W.H. Cuttino, Jr.

STATE OF INDIANA)
) SS:
COUNTY OF BOONE)

BEFORE ME, a Notary Public in and for said County and State, personally appeared
Samaritans, L.L.C., and acknowledged the execution of the foregoing instrument.

WITNESS, my hand and Notarial Seal this 28th day of September, 1998.



Rita M. Wilson

Notary Public

Rita M. Wilson

(Printed)

My Commission Expires:
February 13, 2000

My County of Residence:
Boone