

APPLICATION FOR REZONING PETITION
CITY OF TERRE HAUTE

SPECIAL ORDINANCE NO. 35-2018

COMMON ADDRESS OF LOTS TO BE REZONED:

1770 Margaret Ave.
Terre Haute, IN 47802

REZONE FROM: Apartments
(R-3)

REZONE TO: Light Industry District (M-1)

PROPOSED USE: Home construction design, build and
renovation business use for equipment,
tools and materials storage site.

PROPERTY OWNER: David Koenigsberg and Tannaz Tehranirad
PROPERTY PURCHASER: Cornerstone Builders of Terre Haute
Inc.

ADDRESS OF OWNER: 4927 Sepulveda Blvd.
Torrance, CA 90505

PHONE NO. OF OWNER: (812) 232-4311 - Jeffrey A. Lewellyn

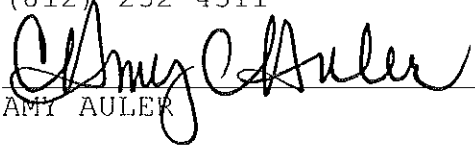
ATTORNEY REPRESENTING OWNER/PURCHASER:
Jeffrey A. Lewellyn
Attorney at Law, #15216-34

ADDRESS OF ATTORNEY: Wilkinson, Goeller, Modesitt,
Wilkinson & Drummy, LLP
333 Ohio St.,
Terre Haute, IN 47807

PHONE NO. OF ATTORNEY: (812) 232-4311

FOR INFORMATION CONTACT: Attorney, Jeffrey A. Lewellyn
(812) 232-4311

COUNCIL SPONSOR:


AMY AULER

Copy of Site Plan Must Accompany This Application.

FILED

NOV 07 2018

CITY CLERK

SPECIAL ORDINANCE FOR A REZONING
SPECIAL ORDINANCE NO. 35 - 2018
COMMON COUNCIL OF THE CITY OF TERRE HAUTE, STATE OF INDIANA

An Ordinance Amending Chapter 10, Article 2, of the Municipal Code, designated as "Comprehensive Zoning Ordinance for Terre Haute, Indiana".

SECTION I. BE IT ORDAINED by the Common Council of the City of Terre Haute, Indiana, That Chapter 10, Article 2 of the City Code of Terre Haute, designated as "Comprehensive Zoning Ordinance for Terre Haute, Indiana" and Division 4, Section 10.121 thereof, District Maps, be, and the same is hereby amended to include as follows:

"That the following described real estate situated in the City of Terre Haute, County of Vigo, State of Indiana, to wit:

See Exhibit A attached hereto and incorporated herein.

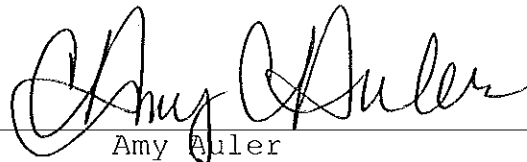
Subject to covenants, conditions, restrictions, easements, rights-of-way and other matters of record affecting title.

Commonly known as: 1770 Margaret Ave.
Terre Haute, IN 47802

be and the same is, hereby established as a **(M-1) Light Industry District**, together with all rights and privileges that may inure to said real estate and owners thereof by virtue of the law in such cases provided, subject to all limitations and restrictions imposed thereon by deed or otherwise."


SECTION II. WHEREAS, an emergency exists for the immediate taking effect of this Ordinance, the same shall be in full force and effect from and after its passage by the Common Council of Terre Haute, and its approval by the Mayor and publication as required by law.

Presented by Council Member:



Amy Euler

Passed in Open Council this 10th day of December, 2018.


Curtis DeBaun, IV, President
Common Council of
City of Terre Haute, Indiana

ATTEST:


MICHELLE EDWARDS, City Clerk

Presented by me to the Mayor of the City of Terre Haute this 7
day of December, 2018.


MICHELLE EDWARDS, City Clerk

Approved by me, the Mayor of the City of Terre Haute, this 7th
day of December, 2018.


Duke Bennett, Mayor,
City of Terre Haute, Indiana

ATTEST:


MICHELLE EDWARDS, City Clerk

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


Jeffrey A. Lewellyn

This instrument prepared by: Jeffrey A. Lewellyn, Attorney,
333 Ohio Street, Terre Haute, IN 47807.

EXHIBIT A

Part of the Southeast Quarter of the Southeast Quarter of Section 34, Township 12 North, Range 9 West described as follows, to-wit:
Commencing at the Southeast Corner of said Section 34, running thence West 9 chains and 78 links, thence North 10 chains and 27 links to the center of Lockport Road, thence South 43 degrees 30 minutes East 14 chains and 15 links to the Place of Beginning, Section 4, Township 12 North of Range 9 West of the 2nd Principal Meridian.

PETITION TO REZONE REAL PROPERTY

TO: THE PRESIDENT AND MEMBERS OF THE COMMON COUNCIL OF THE CITY
OF TERRE HAUTE, INDIANA:

and THE PRESIDENT AND MEMBERS OF THE AREA PLAN COMMISSION
OF VIGO COUNTY, INDIANA:

LADIES AND GENTLEMEN:

The undersigned, **Cornerstone Builders of Terre Haute Inc.** respectively submits this petition to rezone the following described real estate in the City of Terre Haute, County of Vigo, State of Indiana, to-wit:

See attached Exhibit A, legal description.

Subject to covenants, conditions, restrictions, easements, rights-of-way and other matters of record affecting title.

Commonly known as: 1770 Margaret Ave.
Terre Haute, IN 47802

Your Petitioner is informed and believes that in accordance with Chapter 10, Article 2, of the Municipal Code, designated as "Comprehensive Zoning Ordinance for Terre Haute, Indiana" the above described real estate is now zoned as (R-3) Apartment District.

Your Petitioner would respectively state that the real property is approximately 4.77 acres of unimproved land. The land was at one time zoned as (C-6) Strip Business District, but was rezoned in 2007 to (R-3) Apartments District for the intended construction of an apartment complex, but that project failed to materialize. Your Petitioner now intends to purchase this property for develop and use by Cornerstone Builders of Terre Haute Inc., a home design, construction and restoration business, which would include uses as small office space, material storage, tool storage and equipment storage, as well as a meeting place for employees prior to going to various job sites.

Your Petitioner requests that the real estate described herein shall be zoned as a (M-1) Light Industry District. Your Petitioner would allege that this change in zoning and use would not alter the general characteristics of this neighborhood.

Your Petitioner would respectively show the proposed change would not be detrimental to the public welfare or injurious to the property or improvements in the neighborhood.

WHEREFORE, your Petitioner respectively requests that the Area Plan Commission of Vigo County and the Common Council of the City of Terre Haute, Indiana, favorably consider the passage of a Special Ordinance amending the Comprehensive Zoning Ordinance of the city of Terre Haute, Indiana, Chapter 10, Article 2, of the Municipal Code, designated as "Comprehensive Zoning Ordinance for Terre Haute, Indiana", and declaring the above-described real estate to be part of the **(M-1)Light Industry District** of the City of Terre Haute, Indiana, and entitled to the rights and benefits that may accrue to the subject real estate and the owners thereof by virtue of the new zoning designation subject to all limitations imposed by deed or otherwise.

IN WITNESS WHEREOF, this Petition has been duly executed on this 6th day of November, 2018.

Cornerstone Builders of Terre Haute
Inc.

By: 

Scott L. Mundell,
President

Petitioner: Cornerstone Builders of Terre Haute Inc.
1111 E. Royse Drive,
Terre Haute, IN 47802

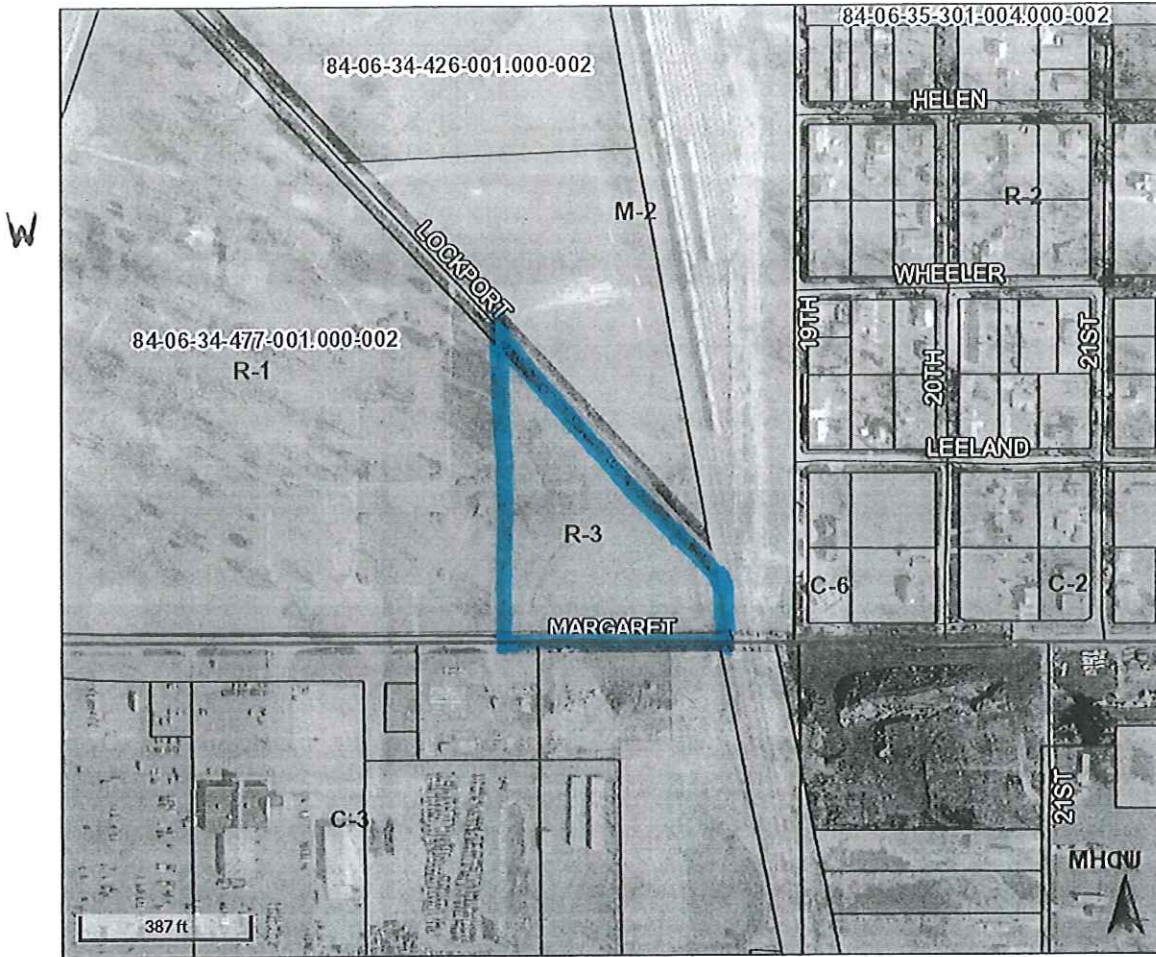
Prepared By: Jeffrey A. Lewellyn, No. 15216-34
ATTORNEY FOR PETITIONER
Wilkinson Goeller Modesitt
Wilkinson & Drummy, LLP
333 Ohio Street
Terre Haute, Indiana 47807
Phone: (812) 232-4311

EXHIBIT A

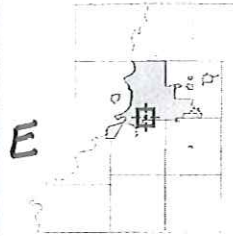
Part of the Southeast Quarter of the Southeast Quarter of Section 34, Township 12 North, Range 9 West described as follows, to-wit:
Commencing at the Southeast Corner of said Section 34, running thence West 9 chains and 78 links, thence North 10 chains and 27 links to the center of Lockport Road, thence South 43 degrees 30 minutes East 14 chains and 15 links to the Place of Beginning, Section 4, Township 12 North of Range 9 West of the 2nd Principal Meridian.

Beacon™ Vigo County, IN / City of Terre Haute

N



Overview



Legend

- Corporate Limits
 - Political Township
 - Sections
 - Blocks
 - Parcels
 - Road Centerlines
- Current Zoning Classifications

- A-1
- A-1MO
- A-1NR
- C-1
- C-1PD
- C-2
- C-2PD
- C-2SU
- C-3
- C-3NR
- C-3PD

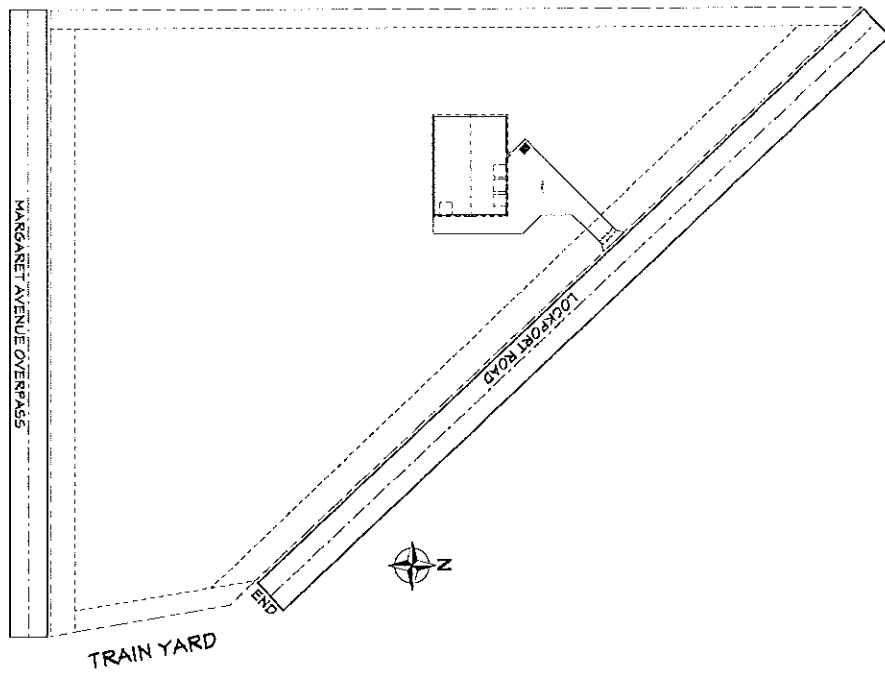
S

Parcel ID	84-06-34-477-002.000-002	Alternate ID	118-06-34-477-002	Owner	KOENIGSBERG DAVID & TANNAZ TEHRANIRAD
Sec/Twp/Rng	34	Class	Res Vacant unplatted 0-	Address	JT/RS 4927 SEPULVEDA BLVD TORRANCE, CA 90505
Property	1770 MARGARET AVE	Acreage	9.99ac		
Address	TERRE HAUTE		4.77		
Neighborhood	118102 - HARRISON				
District	002				
Brief Tax Description	IN SE COR SE W OF R R D 444/2124 34-12-9 4.77 AC (Note: Not to be used on legal documents)				

Date created: 11/5/2018
Last Data Uploaded: 11/4/2018 6:08:06 PM


Developed by Schneider GEOSPATIAL

PRELIMINARY SITE PLAN
NOT TO SCALE



7

Notes:
*Not to scale
*Approx. locations shown

Page # 7	Project #: _____	Drawn By: _____ Date: _____	PROPOSED SITE PLAN PROPOSED POLE BARN	 Comerstone Builders <small>ESTABLISHED 1988</small>	1111 E. Royse Dr. Terre Haute, IN 47802 812.878.1221
	Scale: Specified _____	Accepted By: _____ Date: _____			

DULY ENTERED FOR TAXATION
Subject to final acceptance for transfer

2007009288 WD \$18.02
08/22/2007 09:41:55A 2 PGS
RAYMOND L. WATTS
VIGO County Recorder IN
Recorded as Presented

JUN 22 2007

James W. Bennett
VIGO COUNTY AUDITOR

Warranty Deed

THIS INDENTURE, MADE THIS 7th DAY OF June, 2007 BETWEEN JOHN F. ABRELL and KATHY S. ABRELL, Husband and Wife, GRANTORS, OF Vigo COUNTY, STATE OF INDIANA, CONVEY AND WARRANT TO DAVID KOENIGSBERG and TANNAZ TEHRANIRAD, JOINT TENANTS WITH RIGHT OF SURVIVORSHIP, GRANTEEES, OF Orange COUNTY, STATE OF California:

WITNESSETH: THAT SAID GRANTORS, FOR AND IN CONSIDERATION OF THE SUM OF TEN AND NO/100 DOLLARS (\$10.00) AND OTHER VALUABLE CONSIDERATION TO SAID GRANTOR IN HAND PAID BY SAID GRANTEEES THE RECEIPT WHEREOF IS HEREBY ACKNOWLEDGED, DO BY THESE PRESENT, HAVE GRANTED, BARGAINED, AND SOLD TO THE SAID GRANTEEES AND GRANTEE'S HEIRS AND ASSIGNS FOREVER, THE FOLLOWING DESCRIBED REAL ESTATE, SITUATE, LYING AND BEING IN VIGO, STATE OF INDIANA, TO-WIT:

SEE ATTACHED FOR LEGAL DESCRIPTION

MORE COMMONLY KNOWN AS: 1770 EAST MARGARET AVE., TERRE HAUTE, IN 47802

SUBJECT TO ALL RESTRICTIONS, RESERVATIONS AND LIMITATION OF RECORD, IF ANY, AND TAXES ASSESSED MAY AND NOVEMBER, 2006 DUE AND PAYABLE IN MAY AND NOVEMBER, 2007 AND ALL SUBSEQUENT INSTALLMENTS AND YEARS THEREAFTER.

PARCEL # 118-06-34-477-002

IN WITNESS WHEREOF, GRANTORS HEREBUNTO SETS GRANTORS' HAND AND SEAL THE DAY AND YEAR FIRST ABOVE WRITTEN.

John F. Abrell
JOHN F. ABRELL

Kathy S. Abrell
KATHY S. ABRELL

STATE OF INDIANA }
COUNTY OF Adrian } SS:

Before me, a Notary Public in and for the State of Indiana and a resident of Johnson County, Indiana, personally appeared JOHN F. ABRELL and KATHY S. ABRELL, who acknowledged execution of the foregoing account closed request.

Witness my hand and Notarial Seal this 7th day of June, 2007.

SEAL:

Spencer R. Brummett

Printed

My Commission Expires: _____
County of Residence: _____



SPENCER R. BRUMMETT
Notary Public, State of Indiana
County of Johnson
My Commission Expires December 15, 2014

SEND TAX STATEMENTS TO: ✕

CA

This Form Prepared by: JOSEPH G. STRIEWE, ATTORNEY-AT-LAW
I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law.

Nicole Schaefer
NICOLE SCHAEFER

2

Stewart Title Guaranty Company

Commitment Number: 07-0273S

**SCHEDULE C
PROPERTY DESCRIPTION**

The land referred to in this Commitment is described as follows:

PART OF THE SOUTHEAST QUARTER OF THE SOUTH EAST QUARTER OF SECTION 34, TOWNSHIP 12 NORTH, RANGE 9 WEST DESCRIBED AS FOLLOWS, TO-WIT: COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 34, RUNNING THENCE WEST 9 CHAINS AND 78 LINKS, THENCE NORTH 10 CHAINS AND 27 LINKS TO THE CENTER OF LOCKPORT ROAD, THENCE SOUTH 43 DEGREES 30 MINUTES EAST 14 CHAINS AND 15 LINKS TO THE PLACE OF BEGINNING, SECTION 4, TOWNSHIP 12 NORTH OF RANGE 9 WEST OF THE 2ND PRINCIPAL MERIDIAN.

AFFIDAVIT OF OWNERSHIP AND CONSENT

COMES NOW Affiant, Jeffrey A. Lewellyn, attorney for Petitioner, **Cornerstone Builders of Terre Haute Inc.**, and affirms under penalty of law that the owners of record of the property for which a rezoning is requested are David Koenigsberg and Tannaz Tehranirad, who have contractually consented to the rezoning as being requested by **Cornerstone Builders of Terre Haute Inc.** to rezone the property to allow for uses within the (M-1) **Light Industry District**.

I affirm under penalty of perjury, that the foregoing representations are true.




Jeffrey A. Lewellyn

STATE OF INDIANA)
 :SS
COUNTY OF VIGO)

Personally appeared before me, a Notary Public in and for said County and State, **Jeffrey A. Lewellyn**, who acknowledged the execution of the above and foregoing Affidavit of Ownership and Consent, after being duly sworn upon his oath and after having read this Affidavit.

WITNESS my hand and Notarial Seal this 4th day of November, 2018.



Debra L. Hileman, Notary Public
Resident of Vigo County, Indiana

My commission expires:
05/19/2023





Area Planning Department For Vigo County

159 Oak Street, Terre Haute, Indiana 47807
Telephone: (812) 462-3354 Fax: (812) 234-3248

Terre Haute • West Terre Haute • Riley • Seelyville

DATE: December 6, 2018

REPORT TO THE CITY COUNCIL ON ZONING MAP AMENDMENT

**THE VIGO COUNTY AREA PLAN COMMISSION HEREBY GIVES CERTIFICATION TO
SPECIAL ORDINANCE NUMBER 35-18,**

CERTIFICATION DATE: December 5, 2018

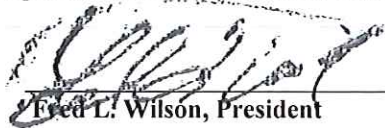
TO: The Honorable Common Council of the City of Terre Haute

Dear Members,

The Vigo County Area Plan Commission offers you the following report and certification on Special Ordinance No.35-18. This Ordinance is a rezoning of the property located at 1770 Margaret. The Petitioner, David Koenigsberg and Tannaz Tehranirad petitions the Plan Commission to rezone said real estate from zoning classification R-3 to M-1, Light Industry, for home construction design, build and renovation business use for equipment, tools and materials storage site. The Ordinance was published in the Tribune-Star Newspaper in accordance with IC 5-3-1 and Division XIII of the Comprehensive Zoning Ordinance. Further, this ordinance was posted by the City Building Inspection Department in accordance with IC 36-7-4-604(c).

The Area Plan Commission considered Special Ordinance No. 35-18 at a public meeting and hearing held Wednesday, December 5, 2018.. Remonstrators were not present. At this meeting, a quorum was present throughout the meeting pursuant to IC 36-7-4-301, and the Area Plan Commission took official action on Special Ordinance No. 35-18 as required by IC 36-7-4-302. The Area Plan Commission of Vigo County now hereby attaches certification to Special Ordinance No. 35-18 as required by IC 36-7-4-401(a)(7) and IC 36-7-4-605(c).

Therefore, Area Plan Commission's certified recommendation on Special Ordinance No. 35-18 was FAVORABLE.



Fred L. Wilson, President

Jared Bayler, Executive Director

Received this 6th day of December, 2018

STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: SO #35-18
Date: December 2018

Doc: # 83
Page 1 of 4

APPLICATION INFORMATION

Petitioner: Cornerstone Builders of Terre Haute, Inc.
Owner: David Koenigsberg & Tannaz Tehranirad
Representative: Jeffrey A Lewellyn
Proposed Use: Home construction design, build and renovation business use for equipment, tools and materials storage site.
Proposed Zoning: M-1, Light Industrial District
Current Zoning: R-3, Apartments
Location: The property is located on the north side of Margaret Ave. between Grandview Cemetery and the CSX Rail Yard.
Common Address: 1770 E. Margaret Dr. Terre Haute, IN 47802

COMPREHENSIVE PLAN GUIDANCE

Service Area: The City of Terre Haute



Reuse and Redevelopment Areas

These are areas that offer potential future reuse and redevelopment potential. These areas are a result of underutilization of land relative to potential development. Brownfield and blighted categorization establishes the need to apply policies established for these areas.

Additional policies for Reuse and Redevelopment Areas include:

- Incentives to be provided to support redevelopment.
- Density bonuses may be appropriate to support redevelopment
- Sponsor the development of redevelopment plans
- All policies from Neighborhood Enhancement Areas

Street Access: Lockport Rd is a local roadway and will be the only means of ingress/egress

Dev. Priority: Neighborhood improvements are a high priority.

ZONING COMPATIBILITY

Sur. Zones and Uses: **North** – M-2
East – C-6, R-2
South – R-1, C-3
West – R-1

Character of Area: The area has commercial and industrial uses.

ZONING REGULATIONS

It is the purpose of this classification to provide for complete separation of residential and commercial areas, from industrial areas for the mutual protection of both industrial and residential, and commercial uses. It is recognized that for industrial growth, a reasonable excess of quality land must be held in exclusive reserve for industrial expansion. In the granting of special uses, this goal must be paramount in the consideration thereof and special uses not clearly of manufacturing or industrial nature must be incidental to an established industrial facility.

The Light Industrial zone classification provides for additional sites in a more densely developed area. It provides for those industries which are more compatible with densely developed, contiguous, residential and commercial uses and which can readily meet the industrial performance standards as contained in Sec. 10-143.

Uses, Permitted - M-1 Light Industry District.

The following uses are permitted, provided that all business, servicing, or processing shall take place within completely enclosed buildings, unless otherwise indicated hereinafter and except for establishments of the “drive-in” type offering goods or services directly to customers waiting in parked motor vehicles and off-street loading and parking as regulated in Sec. 10-137. Any production, processing, cleaning, servicing, testing, repair, or storage of material, goods, or products which shall conform with the performance standards set forth in Sec. 10-143 (except such uses as are specifically excluded), and which shall not be injurious or offensive to the occupants of adjacent premises by reason of the emission or creation of noise, vibration, smoke, dust, or other particulate matter, toxic and noxious materials, odors, fire or explosive hazards, glare or heat. Within three hundred feet (300’) of a Residence District, all storage except of motor vehicles, shall be within completely enclosed buildings or may be located out-of-doors if it is effectively screened by a solid wall or fence (including solid entrance and exit gates) as specified in Sec. 10-172 e. for junkyards.

The following is a list of approved uses of an M-1 zoning: Automobile laundries. (3) Building materials sales, (4) Contractor or construction office, shops, and yards; such as:(A) Building.(B) Cement.(C) Electrical.(D) Heating, ventilating and air conditioning.(E) Roofing.(F) Masonry.(G) painting.(H) Plumbing.(I) Refrigeration.(5) Fuel and ice sales, if located in completely enclosed buildings.(6) Garages and parking lots, for motor vehicles.(7) Public utility and public service uses, including:(A) Bus terminals, bus garages, bus lots.(B) Electric sub-stations.(C) Fire stations.(D) Gas utility service sub-stations.(E) Police stations.(F) Railroad passenger stations.(G) Railroad rights-of-way.(H) Telephone exchanges, microwave relay towers, and water filtration plants.(I) Water filtration plants.(J) Water pumping stations.(K) Sewage or storm water pumping stations.(8) Signs as regulated in Sec. 10-141. (9) Trade schools. (10) Accessory uses.

FINDINGS and RECOMMENDATION

Staff Findings:

The Light Industrial zone classification provides for sites in a more densely developed area. It provides for those industries which are more compatible with densely developed, contiguous, residential and commercial uses and which can readily meet the industrial performance standards as contained in §10-143.

Any production, processing, cleaning, servicing, testing, repair, or storage of material, goods, or products at this location must conform with the performance standards set forth in §10-143 (except such uses as are specifically excluded), and which shall not be injurious or offensive to the occupants of adjacent premises by reason of the emission or creation of noise, vibration, smoke, dust, or other particulate matter, toxic and noxious materials, odors, fire or explosive hazards, glare or heat.

STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: SO #35-18

Doc: # 83

Date: December 2018

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Within three hundred feet (300') of a Residence District, all storage except of motor vehicles, shall be within completely enclosed buildings or may be located out-of-doors if it is effectively screened by a solid wall or fence (including solid entrance and exit gates) as specified in §10-172 e.

If the proposed use is to be applied at this location it should be able to comply with the development standards including all on site fabrication and storage of materials be indoors and public parking areas must be paved. A detailed site plan must be submitted to the city for approval. Parking calculation must be included in the plan.

Due to the construction on Margaret Ave. access to the property will only be available from Lockport. Consequently a new address for the property will need to be assigned. An address can be given once a detailed site plan has been submitted and approved.

Recommendation:

Staff offers a Favorable Recommendation on the rezoning with the following conditions:

1. Approval of a detailed site plan by City Engineering.



Receipt

The following was paid to the City of Terre Haute, Controller's Office.

Date: 11/7/18

Name: David Koenigsberg + Tannaz Tehranrad

Reason: Rezoning - Notice of Filing 25.00

Petition 20.00

TERRE HAUTE, IN
PAID
NOV 10 2018
CONTROLLER

Cash: _____

Check: 45.00

Credit: _____

Total: 45.00

Received By: L. Ellsberg