

SPECIAL ORDINANCE NO. 23, 2017

APPLICATION FOR REZONING PETITION CITY OF TERRE HAUTE

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Common Address of lots to be rezoned:
2955 S. 9½ Street, Terre Haute, Indiana 47802

Rezone From: R-1 Single Family Residence District

Rezone To: C-2 Community Commercial District

Proposed Use: Extension of Auto Repair and Service Business

Name of Owners: S.E.R.C., Inc.

Address of Owners: 3174 W. Florine Drive
Terre Haute, IN 47802

Phone Number of Owners: c/o Richard J. Shagley II
812-232-3388

Attorney Representing Owners: Richard J. Shagley II

Address of Attorney: Wright, Shagley & Lowery , P.C.
PO Box 9849, Terre Haute, IN 47808

For Information Contact: Owner Attorney

Council Sponsor: Amy Auler

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COPY OF A SITE-PLAN MUST ACCOMPANY THIS APPLICATION

FILED

MAY 05 2017

CITY CLERK

**SPECIAL ORDINANCE FOR A REZONING
SPECIAL ORDINANCE NO. 23, 2017**

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

SECTION I. BE IT ORDIANED BY THE COMMON COUNCIL of the City of Terre Haute, Vigo County, State of Indiana, that Chapter 10, Article 2 of the City Code of Terre Haute, designated as the "Comprehensive Zoning Ordinance for Terre Haute" and Division 4, Section 10.121 thereof, District Maps, be, and the same is hereby amended to include as follows:

Lot Number Sixty-eight (68) and Lot Number Sixty-nine (69) in "Clairmont" a subdivision of Ten acres in the South West corner of the South West ¼ of Section 34, Township 12 North, Range 9 West described as follows:

Commencing at the South West corner of said ¼ section running East 56 4-7 rods thence West 56 4-7 rods thence South 28 2-7 rods to the beginning. Except the Right of Way of the E. and T.H.R.R. Co. as per recorded plat of the same recorded in Plat Record 10, Page 35 of the Recorder's Office of Vigo County, Ind.

Subject to easements, covenants, restrictions, leases and other matters of record affecting title to the subject real estate.

Commonly known as: 2955 S. 9½ Street, Terre Haute, Indiana 47802.

Be and the same is hereby established as a C-2 Community Commercial District, together with all rights and privileges that may insure to said real estate and the owners thereof by virtue of the law in such cases provided, subject to all limitations and restrictions imposed thereon by deed or otherwise."

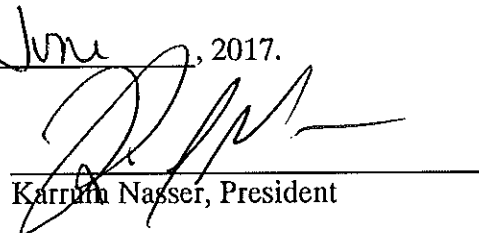
SECTION II. WHEREAS, an emergency exists for the immediate taking effect of this Ordinance, the same shall be in full force and effect from and after its passage by the Common Council of Terre Haute, and its approval by the Mayor and publication as required by law.

Presented by Council Member,




Amy Aulet, Councilperson

Passed in open Council this 8th day of June, 2017.



Karrim Nasser, President

ATTEST:


Charles P. Hanley, City Clerk


Presented by me, to the Mayor of the City of Terre Haute, this 9th day of July,
2017.


Charles P. Hanley, City Clerk

Approved by me, the Mayor of the City of Terre Haute, this 9th day of JUNE,
2017.


Duke A. Bennett, Mayor

ATTEST:


Charles P. Hanley, 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.


Richard J. Shagley II

This instrument prepared by Richard J. Shagley II, Attorney-at-Law, WRIGHT,
SHAGLEY & LOWERY, P.C., 500 Ohio Street, P.O. Box 9849, Terre Haute, Indiana
47807.

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 FOR VIGO COUNTY, INDIANA:

LADIES AND GENTLEMAN:

The undersigned, Jarrod Steiner, Authorized Member of S.E.R.C., Inc., respectfully submits this Petition to rezone the following described real estate in the City of Terre Haute, County of Vigo, Indiana, to wit:

Lot Number Sixty-eight (68) and Lot Number Sixty-nine (69) in "Clairmont" a subdivision of Ten acres in the South West corner of the South West ¼ of Section 34, Township 12 North, Range 9 West described as follows:

Commencing at the South West corner of said ¼ section running East 56 4-7 rods thence West 56 4-7 rods thence South 28 2-7 rods to the beginning. Except the Right of Way of the E. and T.H.R.R. Co. as per recorded plat of the same recorded in Plat Record 10, Page 35 of the Recorder's Office of Vigo County, Ind.

Subject to easements, covenants, restrictions, leases and other matters of record affecting title to the subject real estate.

Commonly known as: 2955 S. 9½ Street, Terre Haute, Indiana 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-1 Single Family Residence District.

Your Petitioner intends to use this real estate for an extension of BC Heavy Truck & Electric, Inc.'s business. Your Petitioner would request that the real estate described herein shall be zoned as an C-2 Community Commercial District.

Your Petitioner would allege that the C-2 Community Commercial District would not alter the general characteristics of this neighborhood since the neighborhood is in a mixed use neighborhood, and S.E.R.C., Inc. is the owner of several parcels of real estate directly south of 2955 S. 9½ Street, Terre Haute, Indiana 47802.


Your Petitioner would respectfully 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 respectfully requests that the Area Plan Commission for 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, being 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 an R-3 Multifamily Residential District t of the City of Terre Haute, Indiana, and entitled to the rights and benefits that may accrue to the real estate and the owners thereof by virtue of the new designation subject to all limitations imposed by deed or otherwise.

IN WITNESS WHEREOF, This petition has been duly executed this 5th day of May, 2017.

PETITIONER:

S.E.R.C., INC.

By: 
Jarrod Steiner, Operations Manager

This instrument prepared by Richard J. Shagley II, Attorney-at-Law, WRIGHT, SHAGLEY & LOWERY, P.C., 500 Ohio Street, P.O. Box 9849, Terre Haute, Indiana 47807.

SITE PLAN

2955 S. 9 ½ Street, Terre Haute, IN 47802

R-1 to C-2

Proposed Use: 24' x 60' Lean-To Building Addition



DULY ENTERED FOR TAXATION
Subject to final acceptance for transfer

AUG 05 2015

Janet M. Shyde
VIGO COUNTY AUDITOR

2015008044 WD \$18.00
08/05/2015 02:49:41P 2 PGS
NANCY S. ALLSUP
VIGO County Recorder IN
Recorded as Presented



WARRANTY DEED

THIS INDENTURE WITNESSETH, THAT Robert Gene Hawkins, surviving spouse of Roxanne B. Hawkins, of Vigo County, State of Indiana, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, CONVEYS AND WARRANTS unto S.E.R.C., Inc., of Vigo County, State of Indiana, the following described real estate located in the County of Vigo, State of Indiana, to-wit:

Lot Number Sixty-eight (68) and Lot Number Sixty-nine (69) in "Clairmont" a subdivision of Ten acres in the South West corner of the South West 1/4 of Section 34, Township 12 North, Range 9 West described as follows:

Commencing at the South West corner of said 1/4 section running East 56 4-7 rods thence North 28 2-7 rods thence West 56 4-7 rods thence South 28 2-7 rods to the beginning. Except the Right of Way of the E. and T. H. R. R. Co. as per recorded plat of the same recorded in Plat Record 10, Page 36 of the Recorder's Office of Vigo County, Ind.

Subject to easements, covenants, restrictions, leases and other matters of record affecting title to the subject real estate.

Subject to taxes prorated to the date hereof.

The Grantor further warrants and represents that he and Roxanne B. Hawkins, were continuously married from a date prior to the date of said deed until the death of Roxanne B. Hawkins on or about October 22, 2013, as shown in Vigo County Death Record Vol. 117, Page 1142, and that he has gathered and accounted for the assets of her estate, to include life insurance proceeds, and they were not of sufficient size to incur liability for Federal Estate Tax or that such tax due has been paid, and no such tax is due and owing.

IN WITNESS WHEREOF the above referred to Robert Gene Hawkins, surviving spouse of Roxanne B. Hawkins, has hereunto set his hand and seal, this 4th day of August, 2015.

Robert Gene Hawkins (SEAL)
Robert Gene Hawkins

STATE OF Indiana, Vigo COUNTY, SS:

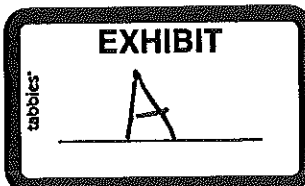
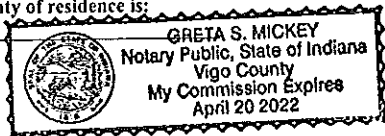
Before me, the undersigned, a Notary Public in and for said county and state, this 4th day of August, 2015, personally appeared Robert Gene Hawkins, being first duly sworn, stated that the representations therein contained are true, and acknowledged the execution of the annexed Deed to be his voluntary act and deed.

WITNESS my hand and Notarial Seal.

My Commission Expires:

My County of residence is:

Greta S. Mickey
Notary Public
Greta S. Mickey
Typewritten or printed name of notary



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.

B. Guille Cox, Jr.
B. Guille Cox, Jr.

THIS INSTRUMENT WAS PREPARED BY: B. Guille Cox, Jr., Attorney, Cox, Zwerner, Gambill & Sullivan, LLP, 511 Wabash Avenue, Terre Haute, IN 47807.

GRANTEE'S ADDRESS: 3174 W Florine Drive, Terre Haute, IN 47802.

MAIL TAX STATEMENTS TO: SAME

STATE OF INDIANA)
) SS:
COUNTY OF VIGO)

AFFIDAVIT

Comes now, Jarrod Steiner, Authorized Member of S.E.R.C., Inc., being duly sworn upon his oath, deposes and says:

1. That S.E.R.C., Inc. is the owner of record of the following described real estate located in the City of Terre Haute, County of Vigo, State of Indiana, to-wit:

Lot Number Sixty-eight (68) and Lot Number Sixty-nine (69) in "Clairmont" a subdivision of Ten acres in the South West corner of the South West ¼ of Section 34, Township 12 North, Range 9 West described as follows:

Commencing at the South West corner of said ¼ section running East 56 4-7 rods thence West 56 4-7 rods thence South 28 2-7 rods to the beginning. Except the Right of Way of the E. and T.H.R.R. Co. as per recorded plat of the same recorded in Plat Record 10, Page 35 of the Recorder's Office of Vigo County, Ind.

Subject to easements, covenants, restrictions, leases and other matters of record affecting title to the subject real estate.

Commonly known as: 2955 S. 9½ Street, Terre Haute, Indiana 47802.

2. That a copy of the Deed, recorded in the records of the Recorder's Office of Vigo County, Indiana, is attached hereto and made a part hereof and marked as Exhibit A.

3. That Affiants make this Affidavit for the sole purpose of affirming that S.E.R.C., Inc. is the owner of record of the above-described real estate for which a proposed change to the zoning map of the City of Terre Haute, Indiana, has been filed and to induce the Common Council of the City of Terre Haute, Indiana, to accept the Petition to Rezone Real Property as filed by S.E.R.C., Inc.

4. Further, Affiant saith not.

[Signature Page to Follow]

Receipt

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

Date: 5/5/17

Name: SERC Inc

Reason: <u>Rezoning - notice of Filing</u>	<u>\$25.00</u>
<u>Rezoning - Petition</u>	<u>\$20.00</u>
	<u>\$45.00</u>

TERRE HAUTE, IN
PAID
MAY 11 2017
CONTROLLER

Cash: _____

Check: # 67317 \$45.00

Credit: _____

Total: \$45.00

Received By: Zellstgen



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: June 8, 2017

REPORT TO THE CITY COUNCIL ON ZONING MAP AMENDMENT

THE VIGO COUNTY AREA PLAN COMMISSION HEREBY GIVES CERTIFICATION TO
SPECIAL ORDINANCE NUMBER #23-17

CERTIFICATION DATE: June 7, 2017

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. 23-17. This Ordinance is a rezoning of the property located at 2955 South 9 ½ Street.. The Petitioner, S.E.R.C., Inc., petitions the Plan Commission to rezone said real estate from zoning classification R-1 to C-2, Community Commerce District, for an extension of auto repair and service.. 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. 23-17 at a public meeting and hearing held Wednesday, June 7, 2017. 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. 23-17 as required by IC 36-7-4-302. The Area Plan Commission of Vigo County now hereby attaches certification to Special Ordinance No. 23-17 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. 23-17 was FAVORABLE WITH THE FOLLOWING CONDITIONS: 1) Visual screening of existing parking areas be installed; 2) All outdoor storage be compliant with Sec. 10-218(2); 3) A detailed Site Plan be submitted and approved by City Engineering showing the required 50 foot buffer area against residential; 4) City Code Enforcement be consulted on their desired approach to bringing the West property into compliance; 5) Plan be put in place to bring the western property into compliance.

Fred L. Wilson, President

Jared Bayler, Executive Director

Received this 8th day of June, 2017

STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: SO # 23-17

Doc: # 37

Date: June 7, 2017

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APPLICATION INFORMATION

Petitioner: S.E.R.C, Inc.

Property Owner: Same-As-Above

Representative: Richard J. Shagley II

Proposed Use: Extension of Auto Repair and Service Business

Proposed Zoning: C-2, Community Commerce District

Current Zoning: R-1, Single Family Residence District

Location: The property is located approximately 148 ft. north of the intersection of Margaret Avenue and S. 9 ½ Street.

Common Address: 2955 S. 9 ½ Street, Terre Haute, Indiana 47802

COMPREHENSIVE PLAN GUIDANCE

Service Area: The City of Terre Haute

Guiding Policies: **Neighborhood Enhancement**

Areas that qualify as Neighborhood Enhancement, represent residential areas with aging housing stock, older industrial areas that are in need of reinvestment, and neighborhood commercial nodes that need assistance in meeting modern development standards. These areas are primarily located within the Terre Haute, West Terre Haute, Seelyville, and Riley.

In regards to residential neighborhoods that are in need of rehabilitation, they should receive priority efforts with respect to public improvements such as drainage, sidewalks, street, curb and gutter repair and replacement, and landscaping in the public rights-of-way. Where appropriate, new residential infill projects should be considered a high priority for undeveloped parcels. Over time incompatible and inconsistent uses with the residential context of these neighborhoods should be eliminated.

Over time, it is reasonable to expect some displacement of existing industrial facilities, either because of functional and competitive obsolescence of facilities themselves or because corporate restructuring. As facilities are displaced, facility reuse plans or site redevelopment plans should be prepared. In some cases, industrial

STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

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reuse or redevelopment may not be appropriate, for example in older core of the City of Terre Haute.

Neighborhood commercial areas are small scale, retail activity clusters or planned centers that serve limited market areas – typically 4,000 to 10,000 people. They provide shopping opportunities for those most frequently purchased goods and services. Neighborhood commercial areas should be distributed throughout the community in relationship to the distribution of households. Each neighborhood commercial center should be a master planned commercial development that is contained within a defined tract or land area. Auto ingress and egress must be controlled. Most importantly, these areas should relate to surrounding residential neighborhoods but not adversely impact the livability of those neighborhoods through traffic, lighting, noise, litter, or other impacts. They will require strong buffering and landscape regulations, as well as being architecturally harmonized and able to blend with their neighborhood context.

Additional policies for Neighborhood Enhancement Areas should include:

- Encourage infill development that is compatible with the land use mix and intensity of existing development.
- Support preservation and rehabilitation of historic properties.
- Incompatible and inconsistent uses with the residential context of these neighborhoods should be eliminated.
- Identify areas that need sub-area plans and prioritize the development of those plans by area.
- Allow for a range of housing densities based on the zoning ordinance.
- Encourage neighborhoods to develop a unique sense of place, but still be part of the larger city.

Available Services: Area is well served by utilities.

Street Access: S. 9 ½ Street

Dev. Priority: This area is a high intensity residential area.

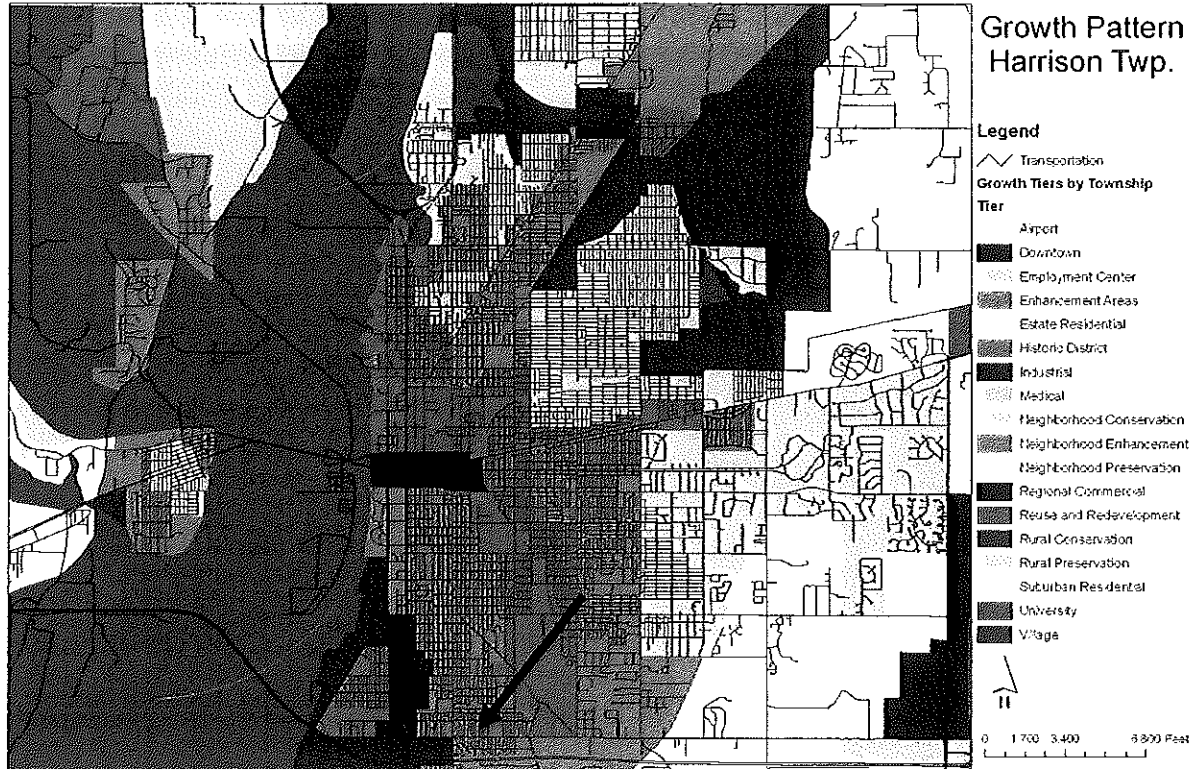
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ZONING COMPATIBILITY

Sur. Zones and Uses: **North** – R-1, Residential District
East – R-1, Residential District
South – C-2, Community Commerce District
West – R-1, Residential District

ZONING REGULATIONS

C-2 Purpose: The Community Commerce Zone is designed for the residents of the nearby community consisting of more than one (1) of the neighborhoods in that section of the city, so as to permit a wider variety of both business uses and services. It is designed not for an abutting neighborhood, but for a relatively larger consumer population for both daily and occasional shopping. The development is characterized by a lack of “comparison shopping” and is limited to providing only one (1) store for each type of business.

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- C-2 Uses: Amusement establishments, bowling alleys, pool halls, swimming pools, dance halls, and skating rinks, Any use permitted in the C-1 Zone except as otherwise provided in this Chapter, Antique shops, Art galleries, but not including auction rooms, Banks and financial institutions, Bicycle sales, rental, and repair stores, Blue-printing and photostating establishments, Books and stationery stores, Camera and photographic supply stores, Candy and ice cream stores, Leather goods and luggage stores, Loan offices, Locksmith shops, Medical and dental clinics, Meeting halls, Millinery shops, Municipal or privately-owned recreation buildings or community-center, Musical instrument sales and repair, Newspaper distributors for home delivery and retail sale, Office supply stores, Offices, business and professional, Optometrists, Paint and wallpaper stores, Restaurants. Liquor may be served if incidental to the serving of food as the principal activity. (Gen. Ord. No. 2, 2007, As Amended, 2-8-07), Live entertainment. (Gen. Ord. No. 2, 2007, As Amended, 2-8-07)
- C-2 Standards: Minimum Lot Size: 3,300 Sq. Ft.
-

FINDINGS and RECOMMENDATION

Staff Findings:

The property owners have requested to rezone the adjoining residential property to the north to allow for a building expansion. Careful site planning will be required. The C-2 zoning has a max building size of 10,000 sq. ft. Also, a 50 ft. buffer against residencies must be maintained. Currently there is outdoor storage of containers of unknown substances. Outdoor storage is permitted in a C-2 but it must be screened from view by any public street, park, or other public place, any residential zone, or any permitted ground floor residential use within three hundred feet (Sec. 10-218(2)). No screening of the storage is present as is evident by the photos included. Visual screening of parking areas needs to be installed and maintained.

The property to the west appears as if it is used as parking for the business. Several issues face this location. It may need to be rezoned to match the business zoning, a special exception for off-site-parking will need approved through the city BZA and it

STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

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will need to be hard surfaced. Visual screening will need to be implemented.

Recommendation: Staff has a Favorable Recommendation on the C-2 Community Commercial District at this location with the following conditions.

1. Visual screening of existing parking areas be installed.
2. All outdoor storage be compliant with Sec. 10-218(2)
3. A detailed site plan be submitted and approved by City Engineering showing the required 50ft. buffer area against residential.
4. City Code Enforcement be consulted on their desired approach to bringing the west property into compliance
5. Plan be put in place to bring the western property into compliance.