

SPECIAL ORDINANCE NO. 25, 2017

APPLICATION FOR REZONING PETITION CITY OF TERRE HAUTE

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Common Address of lots to be rezoned:
Part of 1400 E. Pugh Dr. (new address to be obtained), Terre Haute, IN 47802
=====

Rezone From: R-1 Single Family Residence District and
C-2 Community Commerce District

Rezone To: M-1 Light Industry District

Proposed Use: Contractor or Construction Office, Shops and Yards

Name of Owners: Isbell, Steven R. and Donna J.

Address of Owners: P.O. Box 2068
Terre Haute, IN 47801

Phone Number of Owners: c/o Thomas S. Clary II
812-232-3388

Attorney Representing Owners: Thomas S. Clary 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

=====
COPY OF A SITE-PLAN MUST ACCOMPANY THIS APPLICATION

Comments: This parcel is partially zoned C-2 and R-1. The area has mixed uses of residential, commercial and industrial. In close proximity are Kelly Products (M-1), Supreme Heating and Air Conditioning, Inc., Mattingly's Collision Center and Wolfe's Auto Auction. The area is seeing commercial and industrial development for increases in its tax base as well as development and expansion of Margaret Avenue and Erie Canal Rd. Currently, the subject property is vacant land.

FILED

MAY 05 2017

CITY CLERK

**SPECIAL ORDINANCE FOR A REZONING
SPECIAL ORDINANCE NO. 25, 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 ORDANED 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:

A part of the Northwest Quarter of the Northeast Quarter of Section 3, Township 11 North, Range 9 West of the 2nd Principal Meridian, Honey Creek Township, Vigo County, Indiana, more particularly described as follows:

Commencing at the Northwest Corner of the Northwest Quarter of the Northeast Quarter of Section 3, Township 11 North, Range 9 West on the 2nd Principal Meridian; thence South 00 degrees 40 minutes East (assumed bearing) on the West line of the Northeast Quarter of Section 3 a distance of 198.02 feet to the Point of Beginning; thence South 89 degrees 56 minutes East a distance of 345.70 feet to a point; thence South a distance of 119.50 feet to a point; thence North 89 degrees 56 minutes West a distance of 344.30 feet to a point on the West line of said Northeast Quarter; thence North along the West line of said Northeast Quarter on a bearing of North 00 degrees 40 minutes West a distance of 119.51 feet to the Point of Beginning.

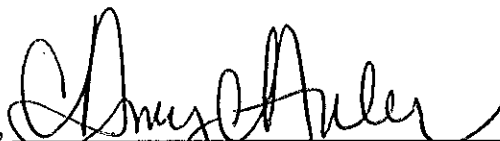
Containing 0.95 acres.

Subject to a road easement of 20' of even width off the West side of the above described tract for South 13th Street. Also subject to any other Grants, Easements, or Right of Ways of Record.

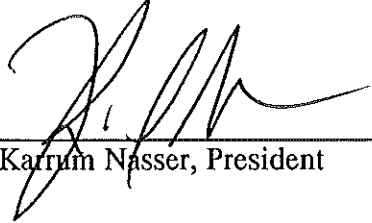
Be and the same is hereby established as an M-1 Light Industrial District, together with all rights and privileges that may insure to said real estate and the owners thereof by virtue of the law in such cases provided, subject to all limitations and restrictions imposed thereon by deed or otherwise."

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 Auler, Councilperson

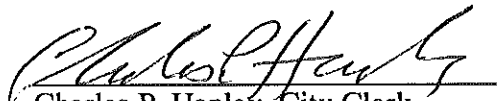
Passed in open Council this 9th day of June, 2017.


Karrum Nasser, President

ATTEST:


Charles P. Hanley, City Clerk

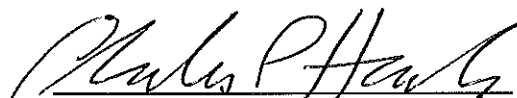
Presented by me, to the Mayor of the City of Terre Haute, this 9th day of June, 2017.


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. Thomas S. Clary II

This instrument prepared by Thomas S. Clary 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, Steven R. Isbell and Donna J. Isbell, respectfully submit this Petition to rezone the following described real estate in the City of Terre Haute, County of Vigo, Indiana, to wit:

A part of the Northwest Quarter of the Northeast Quarter of Section 3, Township 11 North, Range 9 West of the 2nd Principal Meridian, Honey Creek Township, Vigo County, Indiana, more particularly described as follows:

Commencing at the Northwest Corner of the Northwest Quarter of the Northeast Quarter of Section 3, Township 11 North, Range 9 West on the 2nd Principal Meridian; thence South 00 degrees 40 minutes East (assumed bearing) on the West line of the Northeast Quarter of Section 3 a distance of 198.02 feet to the Point of Beginning; thence South 89 degrees 56 minutes East a distance of 345.70 feet to a point; thence South a distance of 119.50 feet to a point; thence North 89 degrees 56 minutes West a distance of 344.30 feet to a point on the West line of said Northeast Quarter; thence North along the West line of said Northeast Quarter on a bearing of North 00 degrees 40 minutes West a distance of 119.51 feet to the Point of Beginning.

Containing 0.95 acres.

Subject to a road easement of 20' of even width off the West side of the above described tract for South 13th Street. Also subject to any other Grants, Easements, or Right of Ways of Record.

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," a part of the above-described real estate is now zoned as R-1 Single Family Residence District and a part is now zoned as C-2 Community Commerce District.

Your Petitioner intends to sell the vacant real estate to Dan Carr for construction of a Contractor or construction office, shop and yard for his business, Dan Carr Signature

Interiors. Your Petitioner would request that the real estate described herein shall be zoned as an M-1 Light Industrial District.


Your Petitioner would allege that the Light Industrial District would not alter the general characteristics of this neighborhood since the neighborhood is in a mixed use neighborhood, in close proximity to another M-1 district. Furthermore, the subject property is currently vacant and the development would add to the tax base, while the subject property remains consistent with other businesses in the area and the development of Margaret Avenue and Erie Canal Road.

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.

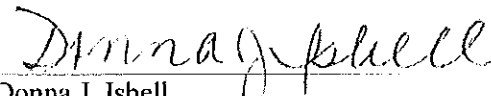
WHEREFORE, your Petitioner respectfully requests that the Area Plan Commission for Vigo County and the Common Council of the City of Terre Haute, Indiana, favorably consider the passage of a Special Ordinance amending the Comprehensive Zoning Ordinance of the city of Terre Haute, Indiana, being Chapter 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 M-1 Light Industrial District of the City of Terre Haute, Indiana, and be 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 4th
day of May, 2017.

PETITIONER:



Steven R. Isbell



Donna J. Isbell

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

SITE PLAN

1400 E. Pugh Drive (new address to be obtained), Terre Haute, IN 47802

R-1 and C-2 to M-1

Proposed Use: Contract or Construction Office, Shops and Yards



Surveyed land

MYERS ENGINEERING

DULY ENTERED FOR TAXATION
Subject to final acceptance for transfer

HW Date 05/10/1999 Time 09:14:51
Mitchell Nulton 2P
Vigo County Recorder 12.00
Filing Fee: 0 444/3975
I 9914416

MAY 10 1999

EXHIBIT FROM DISCLOSURE

Jordan A. Anderson ALDERMAN
VIGO COUNTY

WARRANTY DEED

THIS INDENTURE WITNESSETH:

JAMES R. ISBELL AND MAXINE L. ISBELL, Husband and Wife, of St. Lucie County, in the State of Florida, CONVEY AND WARRANT to STEVEN R. ISBELL AND DONNA J. ISBELL, Husband and Wife, of Vigo County, in the State of Indiana, for and in consideration of the sum of One Dollar (\$1.00) and other valuable consideration, the receipt whereof is hereby acknowledged, the following described Real Estate in Vigo County in the State of Indiana, to-wit:

A part of the Northwest Quarter of the Northeast Quarter of Section 3, Township 11 North, Range 9 West of the 2nd P.M., Honey Creek Township, Vigo County, Indiana, more particularly described as follows:

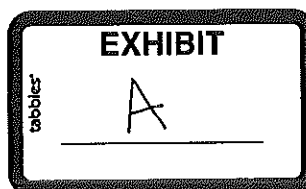
Commencing at the Northwest corner of the Northwest Quarter of the Northeast Quarter of Section 3, Township 11 North, Range 9 West on the 2nd P.M., thence South 0 degrees 40' East (assumed bearing) on the west line of the Northeast Quarter of Section 3 a distance of 198.02 feet to the point of beginning; thence South 89 degrees 56' East a distance of 345.70 feet to a point; thence South a distance of 119.50 feet to a point; thence North 89 degrees 56' West a distance of 344.30 feet to a point on the West line of said Northeast Quarter thence North along the West line of said Northeast Quarter on a bearing of North 0 degrees 40' West a distance of 119.51 feet to the point of beginning.

Containing 0.95 acres.

Subject to a road easement of 20' of even width off the West side of the above described tract for South 13th Street. Also subject to any other Grants, Easements, or Right of Ways of Record.

Commonly known as 1325 Margaret Avenue, Terre Haute, Indiana.

Taxes prorated to date of deed.



MYERS ENGINEERING

3976

This Deed is conveyed to Grantees in satisfaction of a Land Contract dated December 27, 1985, by and between Grantors and Grantees, and all terms and conditions of said Land Contract have been completed.

IN WITNESS WHEREOF, the said Grantors above named James R. Isbell and Maxine L. Isbell, Husband and Wife, have hereunto set their hands and seals, this 6th day of August, 1999.

James R. Isbell
James R. Isbell

Maxine L. Isbell
Maxine L. Isbell

STATE OF FLORIDA, COUNTY OF VIRO SS:

Before me, the undersigned, a Notary Public, in and for said County and State, this 6th day of August, 1999, personally appeared the within named James R. Isbell and Maxine L. Isbell, Husband and Wife, Grantors in the above conveyance, and acknowledged the execution of the same to be their voluntary acts and deeds.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal.

Ann L. Robertson
Ann L. Robertson, Notary Public

My Commission Expires:

8-27-01

County of Residence:

VIRO

Mail to: Steven R. Isbell & Donna J. Isbell, 1425 Margaret Avenue, Terre Haute, IN 47802.

This instrument prepared by Timothy E. Fears, Wright, Shagley & Lowery, 500 Ohio Street, P.O. Box 8448, Terre Haute, IN 47808-8448.

STATE OF INDIANA)
) SS:
COUNTY OF VIGO)

AFFIDAVIT

Comes now, Steven R. Isbell and Donna J. Isbell, being duly sworn upon their oath, and deposes and says:

1. That Steven R. Isbell and Donna J. Isbell are the owners of record of the following described real estate located in the City of Terre Haute, County of Vigo, State of Indiana, to-wit:

A part of the Northwest Quarter of the Northeast Quarter of Section 3, Township 11 North, Range 9 West of the 2nd Principal Meridian, Honey Creek Township, Vigo County, Indiana, more particularly described as follows:

Commencing at the Northwest Corner of the Northwest Quarter of the Northeast Quarter of Section 3, Township 11 North, Range 9 West on the 2nd Principal Meridian; thence South 00 degrees 40 minutes East (assumed bearing) on the West line of the Northeast Quarter of Section 3 a distance of 198.02 feet to the Point of Beginning; thence South 89 degrees 56 minutes East a distance of 345.70 feet to a point; thence South a distance of 119.50 feet to a point; thence North 89 degrees 56 minutes West a distance of 344.30 feet to a point on the West line of said Northeast Quarter; thence North along the West line of said Northeast Quarter on a bearing of North 00 degrees 40 minutes West a distance of 119.51 feet to the Point of Beginning.

Containing 0.95 acres.

Subject to a road easement of 20' of even width off the West side of the above described tract for South 13th Street. Also subject to any other Grants, Easements, or Right of Ways of Record.

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 Steven R. Isbell and Donna J. Isbell are the owners 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 Steven R. Isbell and Donna J. Isbell.

4. Further, Affiant saith not.

Dated at Terre Haute, Indiana this 4th day of May, 2017.

[Signature]
Steven R. Isbell

[Signature]
Donna J. Isbell

STATE OF INDIANA)
) SS:
COUNTY OF VIGO)

SUBSCRIBED AND SWORN TO before me, a Notary Public in and for said
County and State, this 4th day of May, 2017.

[Signature]
COLLEEN G. PRESNELL, Notary Public

My Commission expires: Sept. 20, 2020

My County of Residence: Sublimina

This instrument prepared by Thomas S. Clary II, Attorney at Law, WRIGHT, SHAGLEY
& LOWERY, P.C., 500 Ohio Street, P.O. Box 9849, Terre Haute, Indiana 47807.

Receipt

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

Date: 5/5/17

Name: Steven & Donna Isbell

Reason: Rezoning - Notice of Filing \$25.00

Rezoning - Petition \$20.00

\$45.00

TERRE HAUTE, IN
PAID
MAY 11 2017
CONTROLLER

Cash: _____

Check: # 67324 \$45.00

Credit: _____

Total: \$45.00

Received By: L Ellis Ijw



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 #25-17

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. 25-17. This Ordinance is a rezoning of the property located at 1400 E. Pugh Dr. The Petitioner, Steven R. and Donna J. Isbell, petitions the Plan Commission to rezone said real estate from zoning classification R-1 and C-2 to M-1, Light Industry District, for a contractor or construction office, shops, yards. 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. 25-17 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. 25-17 as required by IC 36-7-4-302. The Area Plan Commission of Vigo County now hereby attaches certification to Special Ordinance No. 25-17 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. 25-17 was FAVORABLE WITH THE FOLLOWING CONDITIONS: 1) Approval of a detailed Site Plan by City Engineering; 2) All business, servicing, or processing occur completely within enclosed buildings.

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 #25-17

Doc: # 40

Date: June 7, 2017

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APPLICATION INFORMATION

Petitioner: Steven & Donna Isbell

Owner: Same

Representative: Thomas Clary II

Proposed Use: Contractor or Construction Office, Shops & Yards

Proposed Zoning: M-1, Light Industrial District

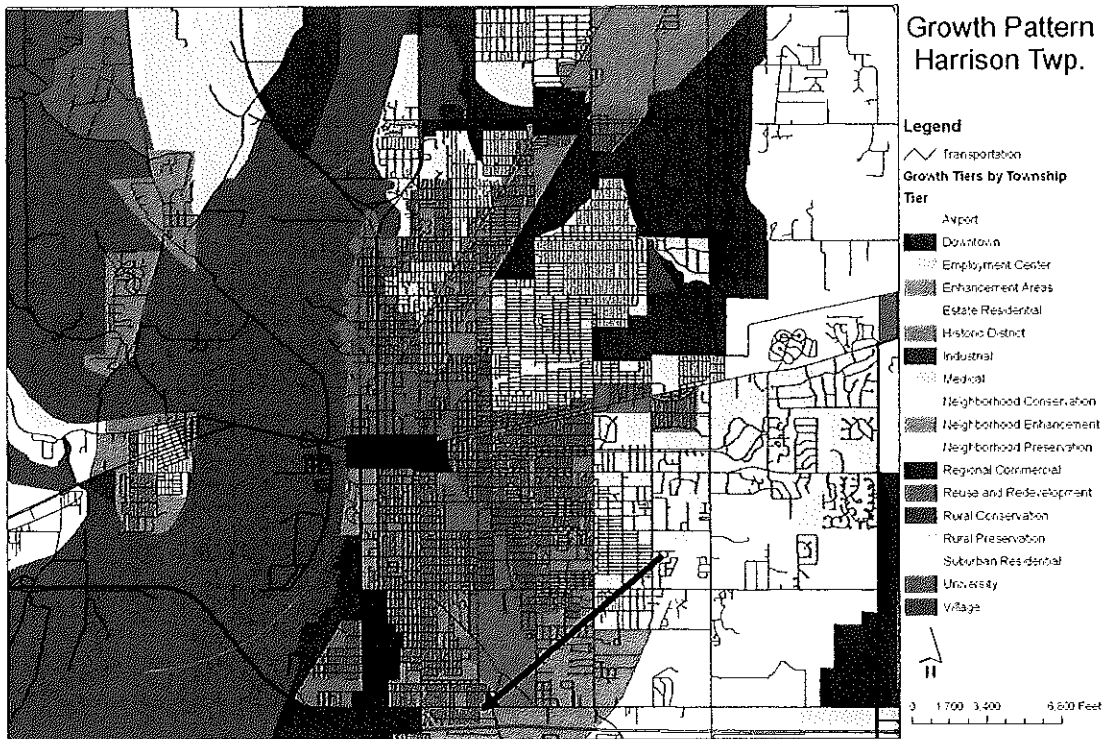
Current Zoning: R-1 & C-2,

Location: The property is located on south 13th Street approximately 100ft. south of Margaret Ave on the east side

Common Address: 1400 E. Pugh Dr. Terre Haute, IN 47802

COMPREHENSIVE PLAN GUIDANCE

Service Area: The City of Terre Haute



Neighborhood Enhancement Areas

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 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.

Street Access: S. 13th Street is a local level roadway

Dev. Priority: High intensity residential area.

ZONING COMPATIBILITY

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

Character of Area: There are many different land uses adjacent to this site. The R-1 zoning to the south and east are all businesses operating as legal nonconforming.

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

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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 Sec. 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 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.

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

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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.

Recommendation:

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

1. Approval of a detailed site plan by City Engineering.
2. All business, servicing, or processing occur completely within enclosed buildings