

ORDINANCE NO. 2009-08

2009 025360

STATE OF INDIANA
LAKE COUNTY
FILED FOR RECORD

2009 APR 21 PM 12:35

MICHAEL A. BROWN
RECORDER

ORDINANCE NO. 2009-08

**AN ORDINANCE GRANTING RE-ZONE AND CHANGING ZONING MAP
FROM RESIDENTIAL (R-2) ZONING DISTRICT TO
LIGHT INDUSTRIAL (L-I)**

WHEREAS, Petitioner has filed a Petition requesting a change in zoning district from Residential (R-2) Zoning District to Light Industrial (L-I) at the following premises located within the corporate boundaries of the City of Lake Station, Indiana, and more particularly described as follows, to-wit:

LOT 5 IN BLOCK 4 IN FIRST ADDITION TO LIVERPOOL HOME GARDENS, AS PER PLAT THEREOF, RECORDED IN PLAT BOOK 24, PAGE 20, IN THE OFFICE OF THE RECORDER OF LAKE COUNTY, INDIANA. EXCEPTING THEREFROM THE FOLLOWING DESCRIBED REAL ESTATE: COMMENCING AT THE NORTHEAST CORNER OF LOT 5 IN BLOCK 4, IN FIRST ADDITION TO LIVERPOOL HOME GARDENS, LAKE COUNTY, INDIANA, THE POINT BEGINNING OF PARCEL 218 LIMITED ACCESS RIGHT OF WAY; THENCE SOUTH 74 DEGREES 59 MINUTES WEST, 74.6 FEET; THENCE SOUTH 76 DEGREES 31 MINUTES WEST, 132.9 FEET TO THE WEST LOT LINE OF LOT 5; THENCE NORTH 01 DEGREE 26 MINUTES EAST, 55.3 FEET ALONG SAID LOT LINE TO THE NORTH LOT LINE OF SAID LOT 5; THENCE SOUTH 88 DEGREES 34 MINUTES EAST, 200.0 FEET ALONG SAID LOT LINE TO THE POINT OF BEGINNING.

WHEREAS, this council, within ninety days of the said action of the Advisory Plan Commission, by motion duly made, seconded, passed, and adopted, approved a change of zone map classification for said described premises from Residential (R-2) Zoning District to Light Industrial (L-I), subject however, to the following conditions, to-wit:

1. **Restriction on Use and Development.** The said described premises shall be restricted in use and as to development as follows: the real property shall be used for one (1) advertising billboard, and for no other use or development.
2. **Restricted Use Commitment.** The written Commitment of the Petitioner, attached hereto as an exhibit, reciting the terms and restrictions on the use and development of the said described premises, is hereby adopted by reference and incorporated herein as if set forth word by word. The restriction referred to herein, and that contained in paragraph "1," above, shall be monitored and enforced by the Building Commission of the City of Lake Station.

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PEGGY HOLINGA KATONA
LAKE COUNTY AUDITOR

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CS/SJS

3. Zone Map Change. The zoning classification of the real property shall be Light Industrial (L-I), subject, however, to the above and foregoing permanent restriction on use and development, which is in addition to, and not in lieu of, all other zoning restrictions and limitations applicable to land located in Light Industrial (L-I) zoning classification in the City of Lake Station, Indiana; and

WHEREAS, to further memorialize the action of the Common Council regarding this matter, it is deemed fitting and proper to enact an ordinance codifying the same.

NOW, THEREFORE, BE IT ORDAINED by the Common Council of the City of Lake Station that the zoning classification for the said described premises ought to be and is hereby changed from Residential (R-2) Zoning District to Light Industrial (L-I), subject, however, to the following conditions, to-wit:

1. Restriction on Use and Development. The said described premises shall be restricted in use and as to development as follows: the real property shall be used for one (1) advertising billboard, and for no other use or development.
2. Restricted Use Commitment. The written Commitment of the Petitioner, attached hereto as an exhibit, reciting the terms and restrictions on the use and development of the said described premises, is hereby adopted by reference and incorporated herein as if set forth word by word. The restriction referred to herein, and that contained in paragraph "1," above, shall be monitored and enforced by the Building Commissioner of the City of Lake Station.
3. Zone Map Change. The zoning classification of the real property shall be Light Industrial (L-I), subject, however, to the above and foregoing permanent restriction on use and development, which is in addition to, and not in lieu of, all other zoning restrictions and limitations applicable to land located in Light Industrial (L-I) zoning classification in the City of Lake Station, Indiana; and

BE IT FURTHER ORDAINED that the zoning map of the City of Lake Station ought to be and is hereby changed to reflect said change of zone classification.



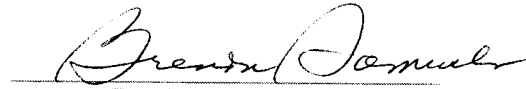
ORDINANCE NO. 2009-08

PASSED AND ADOPTED, by the Common Council of the City of Lake Station, Lake
County, Indiana, this 16th day of April, 2009.

ATTEST:


Brenda Samuels, Clerk/Treasurer

PRESENTED BY ME, to the Mayor of the City of Lake Station, Indiana,
this 16th day of April, 2009.


Brenda Samuels, Clerk/Treasurer

SIGNED, APPROVED AND RETURNED to the Common Council by me
this 16th day of April, 2009.



COMMITMENT RESTRICTING THE USE OF PROPERTY

THIS COMMITMENT made this 26th day of March, 2009, by Louis H. O'Donnell IV, attorney-in-fact for the property owner (hereinafter, "the petitioner").

WITNESSETH:

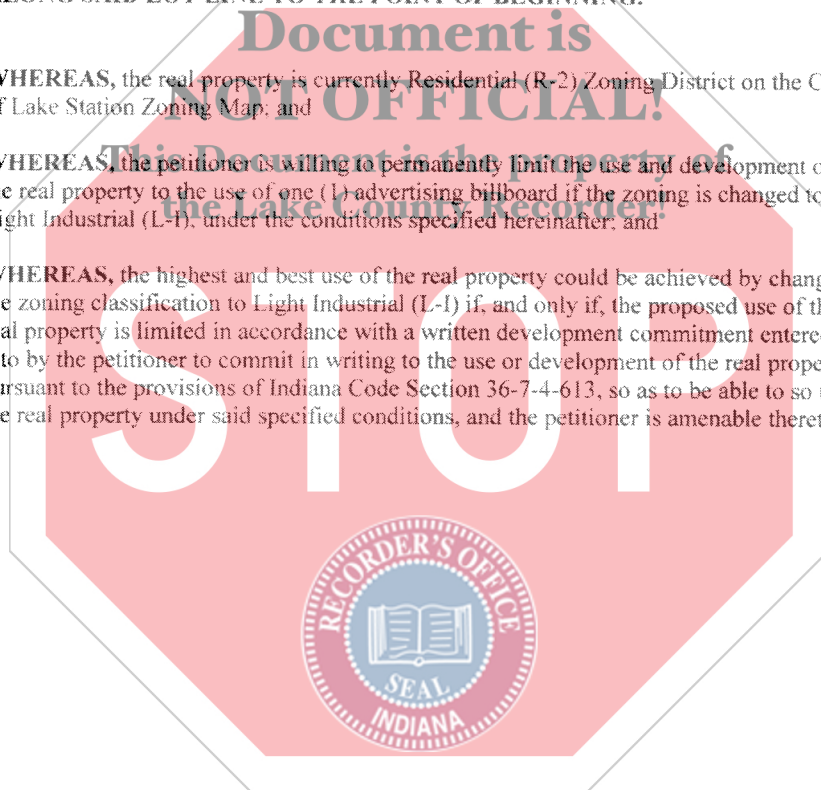
WHEREAS, Petitioner has filed a Petition requesting a change in zoning from Residential (R-2) Zoning District to Light Industrial (L-1) at the following premises located within the corporate boundaries of the City of Lake Station, Indiana, and more particularly described as follows, to-wit:

LOT 5 IN BLOCK 4 IN FIRST ADDITION TO LIVERPOOL HOME GARDENS, AS PER PLAT THEREOF, RECORDED IN PLAT BOOK 24, PAGE 20, IN THE OFFICE OF THE RECORDER OF LAKE COUNTY, INDIANA. EXCEPTING THEREFROM THE FOLLOWING DESCRIBED REAL ESTATE: COMMENCING AT THE NORTHEAST CORNER OF LOT 5 IN BLOCK 4, IN FIRST ADDITION TO LIVERPOOL HOME GARDENS, LAKE COUNTY, INDIANA, THE POINT BEGINNING OF PARCEL 218 LIMITED ACCESS RIGHT OF WAY; THENCE SOUTH 74 DEGREES 59 MINUTES WEST, 74.6 FEET; THENCE SOUTH 76 DEGREES 31 MINUTES WEST, 132.9 FEET TO THE WEST LOT LINE OF LOT 5; THENCE NORTH 01 DEGREE 26 MINUTES EAST, 55.3 FEET ALONG SAID LOT LINE TO THE NORTH LOT LINE OF SAID LOT 5; THENCE SOUTH 88 DEGREES 34 MINUTES EAST, 200.0 FEET ALONG SAID LOT LINE TO THE POINT OF BEGINNING.

WHEREAS, the real property is currently Residential (R-2) Zoning District on the City of Lake Station Zoning Map; and

WHEREAS, the petitioner is willing to permanently limit the use and development of the real property to the use of one (1) advertising billboard if the zoning is changed to Light Industrial (L-1), under the conditions specified hereinafter; and

WHEREAS, the highest and best use of the real property could be achieved by changing the zoning classification to Light Industrial (L-1) if, and only if, the proposed use of the real property is limited in accordance with a written development commitment entered into by the petitioner to commit in writing to the use or development of the real property pursuant to the provisions of Indiana Code Section 36-7-4-613, so as to be able to so use the real property under said specified conditions, and the petitioner is amenable thereto.



NOW, THEREFORE, in consideration of the premises, the petitioner agrees and commits as follows:

1. **Restriction on Use and Development.** The real property shall be used only for the installation of one (1) advertising billboard.
2. **Restriction of content to be displayed.** No adult entertainment or alcoholic beverages shall be displayed on said billboard.
3. **Approval required prior to issuing a building permit.** Petitioner shall provide the Lake Station Building Department copies of permits and/or approvals from the following entities: a) D.N.R., b) Army Corps of Engineers & c) Indiana Department of Transportation.
4. **Zoning Classification.** The zoning classification of the real property shall be Light Industrial (L-I), subject, however, to the above and foregoing permanent restriction on use and development, which is in addition to, and not in lieu of, all other zoning restrictions and limitations applicable to land located in Light Industrial (L-I) zoning classification in the City of Lake Station, Indiana.
5. **Conditional upon approval by ordinance by the Common Council.** The entire commitment is conditioned upon its approval by the Common Council of the City of Lake Station, by duly passed and adopted ordinance incorporating this Commitment and its terms therein, in accordance with the laws of the State of Indiana regarding such matters. In the event said Common Council shall fail to so ordain, the said commitment shall, *ipso facto*, be and become null and void, and of no force or effect.
6. **Subsequent owners.** This commitment shall run with the land and be binding upon subsequent owners of the real estate, unless modified or terminated hereinafter.
7. **Duration and Termination.** This commitment shall commence and be in full force and effect as of the date of final approval of the Zone Map Change of the real property to the classification of Light Industrial (L-I) by the said Common Council, and shall continue in full force and effect unless and until modified or terminated at a public hearing after notice as provided by rule consistent with the provisions of Indiana Code Section 36-7-4-613.
8. **Merger.** This Commitment constitutes the entire understanding of the Petitioner, and all promises, undertakings, representations, agreements, understandings, and arrangements with reference to representations are herein merged.
9. **Construction.** This Commitment is entered into the State of Indiana and shall be construed in accordance with the laws thereof the headings appearing as titles for each of the provisions of this Agreement are included for purposes of convenience



only and shall not be considered in the construction of an of the substantive provisions hereof.

10. Severability. If any provision of this Commitment is determined by a court of competent jurisdiction to be invalid or unenforceable for any reason, the other provisions herein shall remain in full force and effect and shall be liberally construed in order to effectuate the purpose and intent of this agreement.

IN WITNESS WHEREOF, the Petitioner has executed this Commitment, upon the date and year first above written.

Petitioner

BY: LOUIS H. O'DONNELL IV, as attorney-in-fact

STATE OF MICHIGAN SS:

COUNTY OF: BERRIEN

Before me, CAROL C. REYNOLDS, a Notary Public in and for the State of Michigan, personally appeared Louis H. O'Donnell IV who signed in my presence, or acknowledged his signature to the above and foregoing document, this 26th day of March, 2009.

My commission expires:

County of Residence:

CAROL C. REYNOLDS
NOTARY PUBLIC STATE OF MICHIGAN
BERRIEN COUNTY
ACTING IN:
BERRIEN
MY COMMISSION EXP. DEC. 23, 2013

Document is NOT OFFICIAL!

This Document is the property of the Lake County Recorder!

Signature of Notary

STOP

