

APPLICATION FOR REZONING PETITION
CITY OF TERRE HAUTE

SPECIAL ORDINANCE NO. 52 -2012

COMMON ADDRESS OF LOTS TO BE REZONED:

2301 E. Margaret Drive,
Terre Haute, IN 47802

REZONE FROM: Agricultural District (O-1),

REZONE TO: Heavy Industrial District (M-2)

PROPOSED USE: Parking, equipment storage and use of
property by N.E.W. Interstate Concrete,
Inc. for the operation of a stationary
ready-mix concrete batch plant.

PROPERTY OWNER: N.E.W. Interstate Concrete, Inc.

ADDRESS OF OWNER: 2213 E. Margaret Avenue,
Terre Haute, IN 47802

PHONE NO. OF OWNER: 812-234-5983

ATTORNEY REPRESENTING OWNER:

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 2012

CITY CLERK

SPECIAL ORDINANCE FOR A REZONING
SPECIAL ORDINANCE NO. 52 2012
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:

Commencing at a point 965.21 feet West of the Northeast Corner of the Northwest quarter (1/4) of Section 2, Township 11 North, Range 9 West, thence from said point south along a line which if extended would intersect with the North boundary line of Interstate Highway Number 70, a distance of 821.7 feet; thence in a Westerly direction 285.2 feet along the North boundary line of Interstate Highway Number 70; thence North 817.19 feet; thence East 297.68 feet to the point of beginning, containing 5.64 acres, more or less.

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

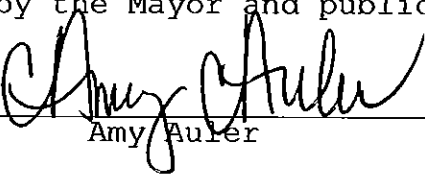
Commonly known as: 2301 E. Margaret Drive,
Terre Haute, IN 47802

be and the same is, hereby established as a **(M-2) Heavy Industrial District**, together with all rights and privileges that may inure to said real estate and owners thereof by

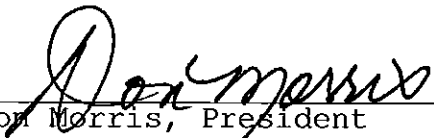
virtue of the law in such cases provided, subject to all limitations and restrictions imposed thereon by deed or otherwise."

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 13th day of December, 2012.


Don Morris, President
Common Council of
City of Terre Haute, Indiana

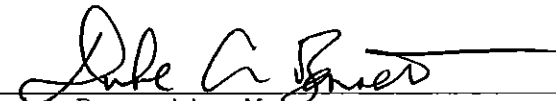
ATTEST:


Charles P. Hanley, City Clerk

Presented by me to the Mayor of the City of Terre Haute this 14th
day of December, 2012.


Charles P. Hanley, City Clerk

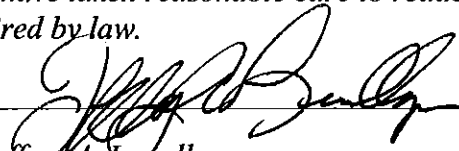
Approved by me, the Mayor of the City of Terre Haute, this 14th
day of DECEMBER, 2012.


Duke Bennett, Mayor,
City of Terre Haute, Indiana

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.


Jeffrey A. Lewellyn

This instrument prepared by: Jeffrey A. Lewellyn, Attorney,
333 Ohio Street, Terre Haute, IN 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
OF VIGO COUNTY, INDIANA:

LADIES AND GENTLEMEN:

The undersigned, **N.E.W. Interstate Concrete, 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:

Commencing at a point 965.21 feet West of the Northeast
Corner of the Northwest quarter (1/4) of Section 2,
Township 11 North, Range 9 West, thence from said point
south along a line which if extended would intersect
with the North boundary line of Interstate Highway
Number 70, a distance of 821.7 feet; thence in a
Westerly direction 285.2 feet along the North boundary
line of Interstate Highway Number 70; thence North
817.19 feet; thence East 297.68 feet to the point of
beginning, containing 5.64 acres, more or less.

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

Commonly known as: 2301 E. Margaret Drive,
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 (O-1) Agricultural
District.

Your Petitioner would respectively state that the real
property is now unimproved land, but used as part of the business
by **N.E.W. Interstate Concrete, Inc.** for the operation of a
stationary ready-mix concrete batch plant located to the west at
2213-2215 E. Margaret Avenue. The land is located along the South
side of E. Margaret Drive situated between M-2 property on the
West and C-2 property on the East, with the I-70 Interstate to
the South. Your petitioner intends to develop and use the land
as parking, equipment storage and operation of a stationary
ready-mix concrete batch plant.

Your Petitioner requests that the real estate described herein shall be zoned as a (M-2) Heavy Industrial 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-2) Heavy Industrial 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 5th day of November, 2012.

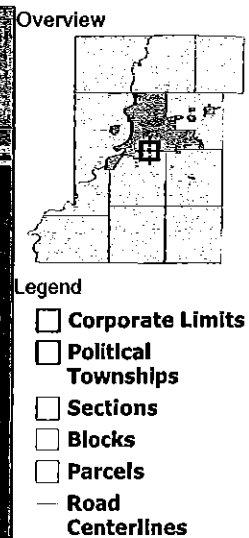
N.E.W. Interstate Concrete, Inc.

By: Preston White

Petitioner: N.E.W. Interstate Concrete, Inc.
2213 E. Margaret Avenue,
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

S



AFFIDAVIT OF OWNERSHIP AND CONSENT

COMES NOW Affiant, Preston White, Principal and Officer of N.E.W. Interstate Concrete, Inc., and affirms under penalty of law that N.E.W. Interstate Concrete, Inc. is the owner of record of the property located at 2301 E. Margaret Drive., Terre Haute, IN 47802, for which a rezoning is requested and attached hereto is a copy of the deed evidencing such ownership. Further, on behalf of N.E.W. Interstate Concrete, Inc., I hereby consent to the rezoning as requested by N.E.W. Interstate Concrete, Inc. to rezone the property to allow for the operation of a stationary ready-mix concrete batch plant.

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

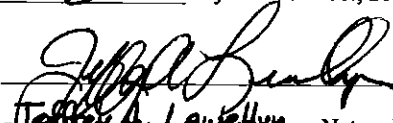

Preston White

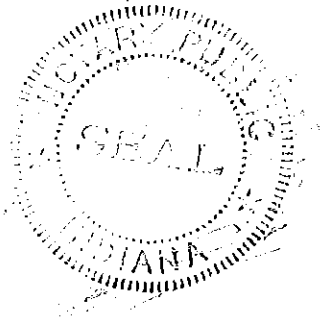
STATE OF INDIANA)
 :SS
COUNTY OF VIGO)

Personally appeared before me, a Notary Public in and for said County and State, Preston White, 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 5th day of November, 2012.

My commission expires:
1-9-2015


Jeffrey A. Loweth, Notary Public
Resident of Vigo County, Indiana



DULY ENTERED FOR TAXATION
Subject to final acceptance for transfer

RAYMOND L. WATTS
VIGO County Recorder IN
IN 2005010732 WD
06/24/2005 15:15:07 2 PGS
Filing Fee: \$16.00

JUN 24 2005


VIGO COUNTY AUDITOR

WARRANTY DEED

THIS INDENTURE WITNESSETH: That Lillian Mae Brown, Trustee, **BROWN REVOCABLE TRUST u/a/d August 14, 1992**, of Vigo County, Indiana, (the "Grantor"), CONVEYS and WARRANTS to **N.E.W. Interstate Concrete, Inc.**, (the "Grantee") of Vigo County, Indiana, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the real estate in Vigo County, in the State of Indiana, described as follows, to-wit:

Commencing at a point 965.21 feet West of the Northeast Corner of the Northwest quarter (1/4) of Section 2, Township 11 North, Range 9 West, thence from said point south along a line which if extended would intersect with the North boundary line of Interstate Highway Number 70, a distance of 821.7 feet; thence in a Westerly direction 285.2 feet along the North boundary line of Interstate Highway Number 70; thence North 817.19 feet; thence East 297.68 feet to the point of beginning, containing 5.64 acres, more or less.

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

commonly known as: 2301 E. Margaret Drive, Terre Haute, Vigo County, Indiana.

SUBJECT TO Indiana general real property taxes, as well as all other liens, easements, encumbrances and restrictions now of record.

TOGETHER WITH all improvements thereon and appurtenances thereto.

IN WITNESS WHEREOF, the said Lillian Mae Brown, Trustee, **BROWN REVOCABLE TRUST u/a/d August 14, 1992**, has hereunto set her hand and seal this 23 day of June, 2005.

Lillian Mae Brown
Lillian Mae Brown, Trustee.
Brown Revocable Trust u/a/d
August 14, 1992

STATE OF INDIANA)
):SS
COUNTY OF VIGO)

Before me, a Notary Public in and for said State and County, personally appeared this 23rd day of June, 2005, Lillian Mae Brown who, having first been duly sworn upon her oath, stated that she executed the above and foregoing document.

WITNESS my hand and notarial seal.

Sheryl Minks
Notary Public
Printed: Sheryl minks

Resident of Vigo County, Indiana

My Commission Expires:

July 20, 2006

This instrument prepared by Craig M. McKee, Attorney, 333 Ohio Street, P.O. Box 800, Terre Haute, IN 47808-0800.

Send tax duplicates to:

N.E.W. Interstate Concrete, Inc., 2223 E. Margaret Drive, Terre Haute, IN 47802.



Receipt

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

Date: Nov 7, 2012

Name: Wilkinson, Gueller, Modesitt

Reason: Rezoning Filing \$25⁰⁰

Rezoning Petition \$20⁰⁰

TERRE HAUTE, IN.
PAID

NOV - 7 2012

Cash: _____

Check: \$45⁰⁰ CK# 0083634

Credit: _____

Total: \$45⁰⁰

CONTROLLER

Received By: M. Dowell/SE



TERRE HAUTE
A CITY ABOVE

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, 2012

REPORT TO THE CITY COUNCIL ON ZONING MAP AMENDMENT

THE VIGO COUNTY AREA PLAN COMMISSION HEREBY GIVES CERTIFICATION TO
SPECIAL ORDINANCE NUMBER #52-12

CERTIFICATION DATE: December 5, 2012

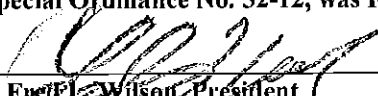
TO: The Honorable Common Council of the City of Terre Haute


Dear Members,

The Vigo County Area Plan Commission offers you the following report and certification on Special Ordinance No. 52-12. This Ordinance is a rezoning of the property located at 2301 E. Margaret Dr. The Petitioner, New Interstate Concrete, Inc., Petitions the Plan Commission to rezone said real estate from zoning classification 0-1 to M-2, Heavy Industry District, for a concrete batch plant. 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. 52-12 at a public meeting and hearing held Wednesday, December 5, 2012. 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. 52-12 as required by IC 36-7-4-302. The Area Plan Commission of Vigo County now hereby attaches certification to Special Ordinance No. 52-12 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. 52-12, was FAVORABLE.


Fred L. Wilson, President


Jeremy Weir, Executive Director

Received this 6th day of December, 2012

STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: SO #52-12

Doc: # 66

Date: December 5th, 2012

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APPLICATION INFORMATION

Petitioner: N.E.W. Interstate Concrete, Inc.

Property Owner: Same-As-Above

Representative: Jeffrey A. Lewellyn (Attorney)

Proposed Use: Parking, equipment storage, and use of property by N.E.W. Interstate Concrete, Inc for the operation of a stationary ready-mix concrete batch plant.

Proposed Zoning: M-2, Heavy Industrial District

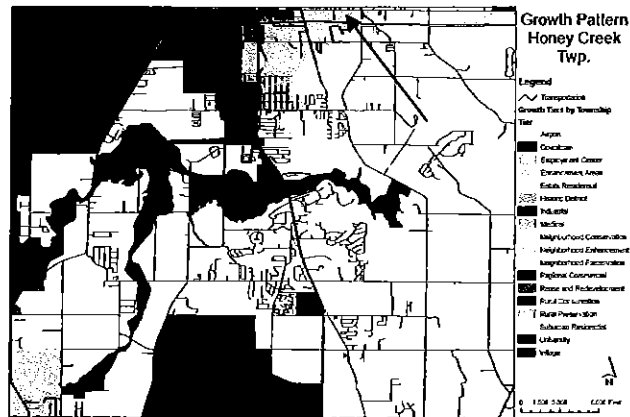
Current Zoning: O-1, Agricultural District

Location: The petitioned property is located on the south Margaret Dr. directly south of Kings Court, which provide ingress and egress into the Kensington Subdivision.

Common Address: *2301 E Margaret Drive*
~~1041 S. Hunt Street~~

COMPREHENSIVE PLAN GUIDANCE

Service Area: Neighborhood Enhancement Area



Hanley/Ennis
one approval/Rebs

STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: SO #52-12

Doc: # 66

Date: December 5th, 2012

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Guiding Policies:

- Encourage infill development that is compatible with the land use mix and intensity of existing development.
 - Incompatible and inconsistent uses with residential context of these neighborhoods should be eliminated.
 - 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.

Soil Limitations: Not studied.

Street Access: Margaret Drive is classified as a Primary Arterial Roadway

Dev. Priority: medium to low

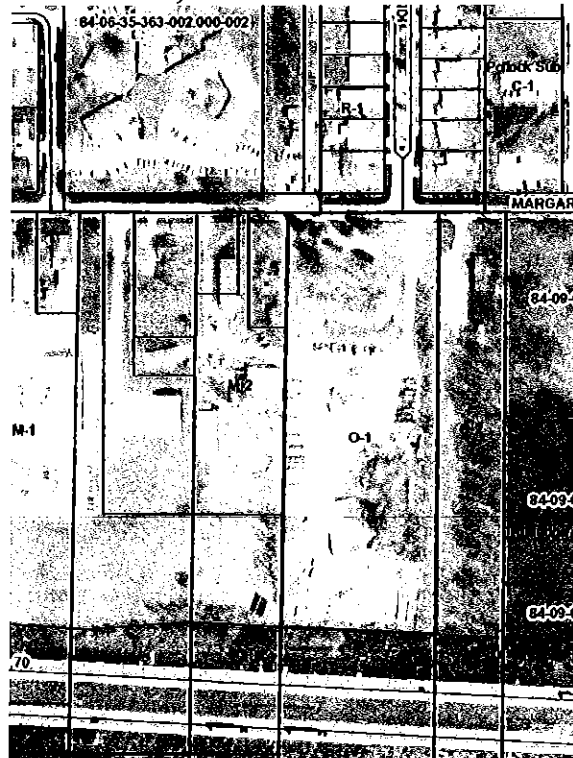
ZONING COMPATIBILITY

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

East – C-2, C-3, and R-1 PD

South – A-1 and R-S

West – O-1, M-1 and M-2



STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: SO #52-12

Doc: # 66

Date: December 5th, 2012

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Character of Area: There is a mix of uses surrounding the petitioned property. To the north there is a mix of low, medium, and high density residential zoning and uses, which consist of vacant lots, single-family dwellings, and the Southwood Health & rehabilitation Center (R-3). The commercial uses consist of neighborhood commerce and community commerce developments of 5,000 to 10,000 sq. ft. per establishment. To the east, uses consist of community commerce and regional commerce zoning with developments of 5,000 to 10,000 sq. ft. sq. ft. per establishment. There is one residential use to the east zoned R-1 PD. The uses to the south consist of agriculture and Single-Family Residential Suburban District. To the west are properties zoned M-1, Light Industrial and M-2, Heavy Industrial District. The property zoned M-2 is the location of the stationary ready-mix concrete batch plant, and the property zoned M-1 is the location of Turner Coaches.

Contig. Uses & Zones: Site is contiguous with an M-2, Heavy Industrial District to the west which is being used by N.E.W Interstate Concrete and to the east is a C-2, Community Commerce development of 10,000 sq. ft. the east.

ZONING REGULATIONS

M-2 Purpose: 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 industry, residential, and commercial uses. It is recognized that to provide for industrial growth, a reasonable excess of quality land must be held in reserve for industrial expansion.

M-2 Uses: Any production, processing, cleaning, servicing, testing, repair, storage of material, goods or products.

M-2 Standards: Street setback: 55 feet from centerline.
Rear Setback: 11 feet
Interior Setback: 5 feet
Parking: per table 4
Industrial performance standards

STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: SO #52-12

Doc: # 66

Date: December 5th, 2012

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FINDINGS and RECOMMENDATION

Staff Findings: The Heavy Industrial District rezoning request is contiguous to property already zoned M-2, which is the location of the ready-mix concrete batch plant.

Section 10-225 e. Uses, Permitted - M-2 Heavy Industry District states that 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) at least eight feet (8') in height.

The operation of stationary ready-mix concrete batch plant shall abide by the Section 10-143 Performance Standards of the Comprehensive Zoning Ordinance for the City of Terre Haute.

Section 10-143 states all uses in the M-1 (Light Industrial) District and the M-2 (Heavy Industrial) District shall conform to the standards of performance described within this Section below and shall be so constructed, maintained, and operated so as not to be injurious or offensive to the occupants of adjacent premises by reason of the omission or creation of noise, vibration, smoke, dust or other particulate matter, toxic or noxious waste materials, odors, fire, and explosive hazard or glare.

Recommendation: A Favorable Recommendation, with the condition the petitioner shall install and maintain a solid wall or fence (including solid entrance and exit gates) at least eight feet (8') in height.