

AMENDED

ORDINANCE NO. R-2014-17 TAX CODE(S) 82-06-19-029-055.009-29
82-06-19-029-055.010-029, 82-06-19-029-055.011-029
82-06-19-029-055.012-029, 82-06-19-029-055.013-029, 82-06-19-029-055.016-029,
82-06-19-029-055.017-029

AN ORDINANCE TO REZONE CERTAIN REAL ESTATE IN VANDERBURGH COUNTY, STATE OF INDIANA, MORE COMMONLY KNOWN AS 101, 105, & 107 N Fulton Avenue & 1122, 1124, & 1126 W. Illinois St. & 1121 & 1123 W. Indiana St.

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF EVANSVILLE, INDIANA, AS FOLLOWS, TO WIT:

Section 1: That Ordinance no. G-82-51, being the Municipal Code of the City of Evansville, Indiana, 1982, and more particularly Title XV, Chapter 153, by making certain changes in Atlas 1, which is made part of said section with respect to the following described real estate located in the City of Evansville, Vanderburgh County, State of Indiana:

Rezone 1 & 2: Lots 21 thru 26 in Block 103 in the Corrected Plat of a part of the City of Lamasco, an Addition to the City of Evansville, as per plat thereof, recorded in DR G, Pgs. 286 and 287 and transcribed of record in P. Bk. A, Pgs. 156 and 157 and retranscribed of record in P. Bk. E, Pgs. 34 and 35 in the Office of the Recorder of Vanderburgh Co., Indiana, more particularly described as follows:

Rezone 1: Beginning at the NW corner of said Lot 24, thence S 88° 50' 53" E 99.91 feet to the NE corner; thence S 01° 11' 19" W 100.01 feet to the SE corner of said Lot 21; thence N 88° 52' 13" W 99.91 feet to the SW corner; thence N 01° 11' 03" E 100.05 feet to the POB containing 0.23 acres (9,996 sq.ft.).

Rezone 2: Beginning at the NW corner of said Lot 25, thence S 88° 50' 53" E 50.96 feet to the NE corner of said Lot 26; thence S 01° 11' 27" W 99.98 feet to the SE corner of said Lot 26; thence N 88° 52' 13" W 50.95 feet to the SW corner of said Lot 25; thence N 01° 11' 19" E 100.00 feet to the POB containing 0.12 acres (5,095 sq.ft.).

Rezone 3: Part of Lots 1 and 2 and all of Lots 3 thru 5 in William Heilman's Subdivision of Lots 17, 18, 19 and 20 in Block 103 of the City of Lamasco, now a part of the City of Evansville, as per plat thereof, recorded in P. Bk. C, Pg.312 in the Office of the Recorder of Vanderburgh Co., Indiana; Also, part of Lots 13 thru 16 in Block 103 of the City of Lamasco, now a part of the City of Evansville, as per plat thereof, recorded in DR G, Pgs. 286 and 287 and transcribed of record in P. Bk. A, Pgs. 156 and 157 and retranscribed of record in P. Bk. E, Pgs. 34 and 35 in the Office of the Recorder of Vanderburgh Co., Indiana, more particularly described as follows:

Beginning at the NW corner of said Lot 5, thence S 88° 52' 13" E 196.83 feet; thence S 01° 12' 41" W 111.97 feet; thence N 88° 53' 43" W 46.95 feet to the SW corner of said Lot 14; thence N 01° 12' 18" E 51.99 feet; thence N 88° 53' 01" W 69.93 feet; thence S 01° 11' 45" W 52.01 feet; thence N 88° 53' 43" W 79.91 feet to the SW corner of said Lot 1; thence N 01° 11' 03" E 112.05 feet to the POB containing 0.42 acres (18,407 sq.ft.).

by changing the zoning classification of the above-described real estate from M-2 and R-4 to M-1, and said real estate is hereby so rezoned and reclassified.

Section 2. The Director of the Area Plan Commission of Evansville and Vanderburgh County is hereby authorized and directed, upon the enactment and approval of this ordinance, to cause the change to be made on said Atlas 1 as set out in Section 1 of this Ordinance, and to make notation in ink thereon of reference to the number of this ordinance and the date of final publication of the amendatory ordinance after its passage and approval; however, failing to do so shall not invalidate this Ordinance.

Section 3. This ordinance shall be in full force and effect from and after its passage by the Common Council, its approval by the Mayor, and its publication as required by law, which publication is now ordered.

FILED

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6-25-2014 ordinance for rezoning docx (attachment).docx

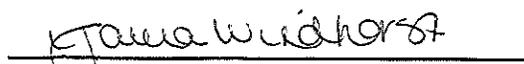
Anna Winkler
CITY CLERK

Section 4. The subject property herein rezoned shall be used and developed only in accordance with the use and development commitment which is incorporated as part of the Petition for Rezoning and recorded in the office of the Recorder of Vanderburgh County, Indiana on 11/17/2014 at Instrument No.: 2014R00025165. No improvement location permits shall be issued unless the proposed use is in compliance with said recorded use and development commitment.

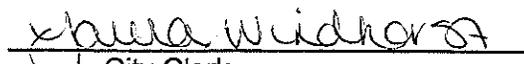
Passed by the Common Council of Evansville, Indiana, on this 10 day of Nov, 2014.


President

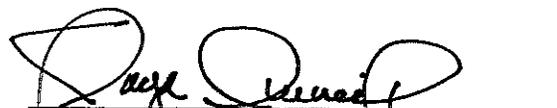
ATTEST:


City Clerk

Presented to me, the undersigned, City Clerk of the City of Evansville, Indiana, to the Mayor of said city, the 12 day of Nov, 2014.

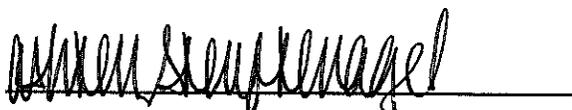

City Clerk

Having examined the forgoing Ordinance, I do now, as Mayor of the City of Evansville, Indiana, approve said Ordinance, and return same to the City Clerk this 12th day of November, 2014.


Mayor of the City of Evansville, Indiana

This Instrument Prepared By: Morley and Associates, Inc.
4800 Rosebud Lane
Newburgh, IN 47630
812-464-9585

"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."



AMENDED USE AND DEVELOPMENT COMMITMENT

WHEREAS the Undersigned, John F. Rogers is/are the owner(s) of certain real estate situated in the City of Evansville, Indiana, commonly described as 101, 105, & 107 N Fulton Avenue & 1122, 1124, & 1126 W. Illinois St. & 1121 & 1123 W. Indiana St., which real estate is more particularly described as follows, to wit:

Rezone 1 & 2: Lots 21 thru 26 in Block 103 in the Corrected Plat of a part of the City of Lamasco, an Addition to the City of Evansville, as per plat thereof, recorded in DR G, Pgs. 286 and 287 and transcribed of record in P. Bk. A, Pgs. 156 and 157 and retranscribed of record in P. Bk. E, Pgs. 34 and 35 in the Office of the Recorder of Vanderburgh Co., Indiana, more particularly described as follows:

Rezone 1: Beginning at the NW corner of said Lot 24, thence S 88° 50' 53" E 99.91 feet to the NE corner; thence S 01° 11' 19" W 100.01 feet to the SE corner of said Lot 21; thence N 88° 52' 13" W 99.91 feet to the SW corner; thence N 01° 11' 03" E 100.05 feet to the POB containing 0.23 acres (9,996 sq.ft.).

Rezone 2: Beginning at the NW corner of said Lot 25, thence S 88° 50' 53" E 50.96 feet to the NE corner of said Lot 26; thence S 01° 11' 27" W 99.98 feet to the SE corner of said Lot 26; thence N 88° 52' 13" W 50.95 feet to the SW corner of said Lot 25; thence N 01° 11' 19" E 100.00 feet to the POB containing 0.12 acres (5,095 sq.ft.).

Rezone 3: Part of Lots 1 and 2 and all of Lots 3 thru 5 in William Heilman's Subdivision of Lots 17, 18, 19 and 20 in Block 103 of the City of Lamasco, now a part of the City of Evansville, as per plat thereof, recorded in P. Bk. C, Pg. 312 in the Office of the Recorder of Vanderburgh Co., Indiana; Also, part of Lots 13 thru 16 in Block 103 of the City of Lamasco, now a part of the City of Evansville, as per plat thereof, recorded in DR G, Pgs. 286 and 287 and transcribed of record in P. Bk. A, Pgs. 156 and 157 and retranscribed of record in P. Bk. E, Pgs. 34 and 35 in the Office of the Recorder of Vanderburgh Co., Indiana, more particularly described as follows:

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CITY CLERK

Beginning at the NW corner of said Lot 5, thence S 88° 52' 13" E 196.83 feet; thence S 01° 12' 41" W 111.97 feet; thence N 88° 53' 43" W 46.95 feet to the SW corner of said Lot 14; thence N 01° 12' 18" E 51.99 feet; thence N 88° 53' 01" W 69.93 feet; thence S 01° 11' 45" W 52.01 feet; thence N 88° 53' 43" W 79.91 feet to the SW corner of said Lot 1; thence N 01° 11' 03" E 112.05 feet to the POB containing 0.42 acres (18,407 sq.ft.).

WHEREAS, as the real estate is currently classified as a M-2 and R-4 Zoning districts under the Evansville Zoning Code and is so indicated on the zoning maps maintained by the staff of the Evansville-Vanderburgh County Area Plan Commission; and

WHEREAS, Petitioner has requested that the Real Estate be reclassified to zoning district M-1 ; and

WHEREAS, Petitioner is desirous of accommodating the concerns of the surrounding property owners by making a written commitment concerning the use and development of the Real Estate pursuant to I.C. 36-7-4-613;

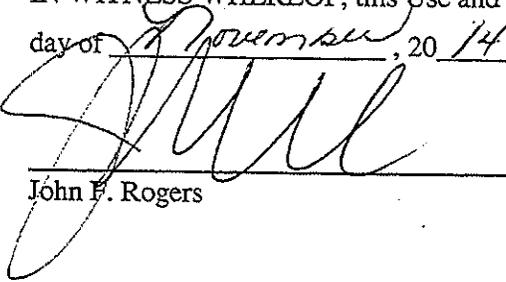
NOW, THEREFORE, in consideration of the foregoing, petitioner makes the following use and development commitment:

1. Use Restrictions. The following uses shall be prohibited on the Real Estate:

- a. All uses in Use Group 14;
- b. The following uses in in Use Group 11:
 - i. Retail stores specializing in the sale or rental of any of the following:
 - a. Agricultural implements
 - b. Automobiles
 - c. Boats and marine supplies
 - d. Building supplies
 - e. Construction equipment
 - f. Flea markets
 - g. Industrial equipment
 - h. Lumber
 - i. Machinery
 - j. Monuments
 - k. Trailers
 - l. Trucks
 - ii. The following service uses:
 - a. Boat repair
 - b. Excavating contractor
 - c. Railroad transfer, storage and team tracks
 - d. Tire recapping or retreading
 - e. Trailer repair
 - f. Truck repair
- c. Nightclubs, specifically defined as a business whose sole activity is the service of alcoholic beverages and entertainment, but specifically allowing taverns or restaurants serving alcoholic beverages.

- d. All uses in Use Group 21.
2. **Hour Limitation.** No commercial use of the Real Estate shall be allowed to remain open twenty-four (24) hours a day, and hours of operation shall not exceed those allowed by the Indiana Alcohol and Tobacco Commission for sales of alcoholic beverages.
 3. **Height Limitation.** So long as Pete McCullough owns the property commonly known as 1119 W. Indiana Street, no structure shall be constructed (i) on the lots commonly known as 1121 W. Indiana and 1123 W. Indiana at a height exceeding thirty-five (35) feet or (ii) on the lots commonly known as 101-107 N. Fulton Avenue at a height exceeding that of the existing structures or structures most recently existing on said lots prior to demolition., unless expressly consented to by in writing by Pete McCullough.
 4. **Lighting.** All lighting (parking and other exterior) shall be installed and maintained with appropriate shielding so that illumination is not directed upon any adjacent residential property.
 5. **Noise.** The sound emitting from outside speakers on the Real Estate shall be no louder than sound emitted by outside speakers associated with the drive-up window of a bank.
 6. **Enforcement.** All commitments and undertakings herein expressed shall be binding on the petitioners and the petitioners' heirs, legal representative, successors and assigns, and shall run in the favor of the Area Plan Commission of Evansville-Vanderburgh County and all the owners of real estate lying within the radius of one (1) mile from the real estate described and shall be enforced by invoking any legal, equitable or special remedy, including specific performance, injunction or equitable relief pursuant to the manner of enforcement as set forth in I.C. 36-7-4-613, 36-7-4-1013, and 36-7-4-1014. If it is necessary to initiate administrative or judicial proceedings to enforce any such commitment or undertaking, the person or entity obtaining enforcement in such proceedings shall also recover its reasonable attorneys' fees and costs of suit from the undersigned.

IN WITNESS WHEREOF, this Use and Development Commitment is hereby made and entered into this day of November, 20 14 by John F. Rogers for the purpose set forth herein.



John F. Rogers

STATE OF INDIANA)
) SS:
COUNTY OF VANDERBURGH)

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared the within named John F. Rogers who acknowledged the execution of the foregoing Use and Development Commitment to be his free voluntary act and deed.

WITNESS my hand and Notarial Seal this 10 day of November, 2014.



KRISTA B. LOCKYEAR
Resident of Vanderburgh County, IN
Commission Expires: December 13, 2019

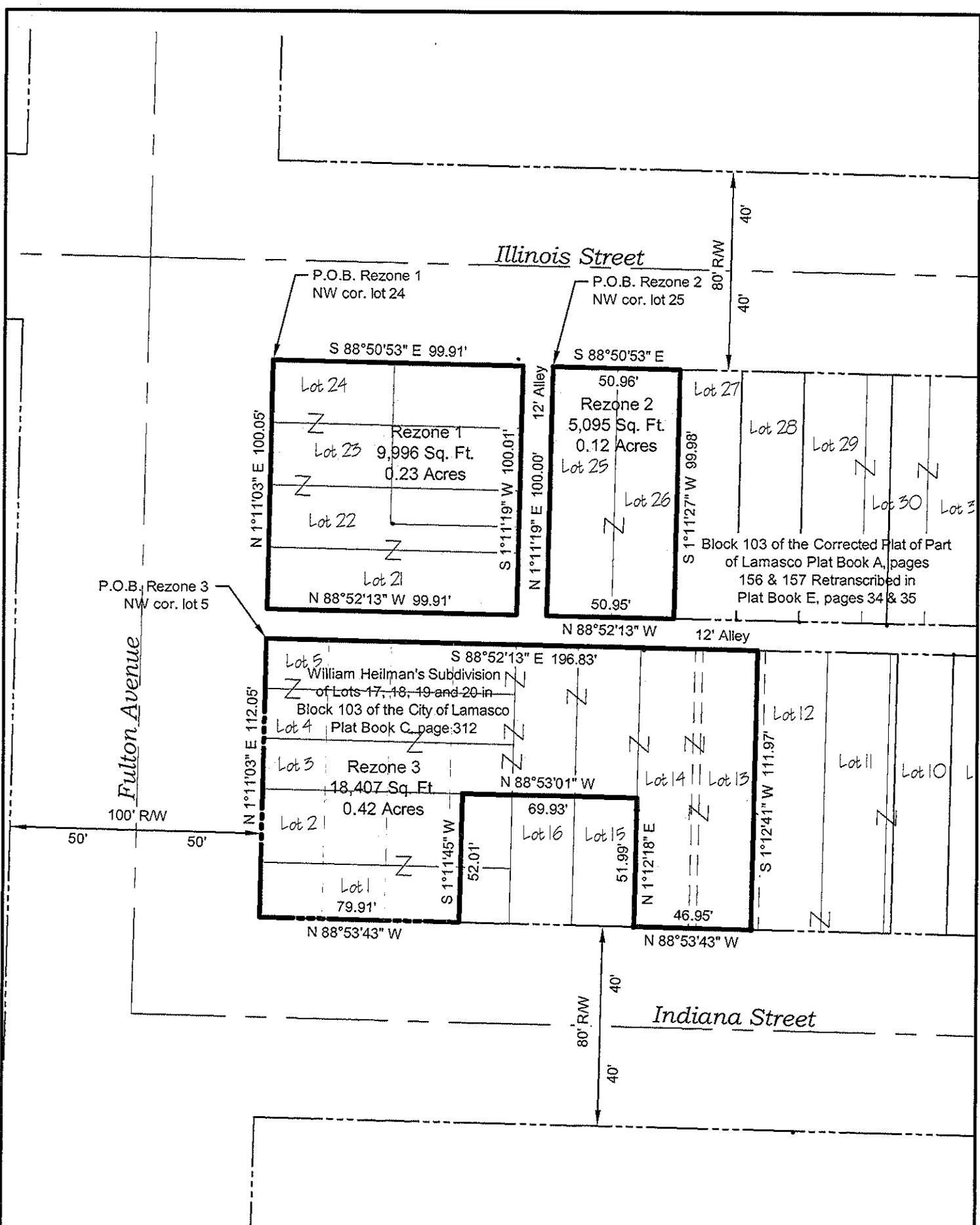
Krista B. Lockyear
Notary Public

My Commission Expires:

Printed Name
My County of Residence:

This instrument prepared by: This instrument was prepared by Krista B. Lockyear, **JACKSON KELLY PLLC**, 221 N.W. Fifth Street, P.O. Box 1507, Evansville, IN 47706, Telephone (812) 422-9444

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.
Krista B. Lockyear



SCALE 1" = 50'

Current Zoning of Site: M-2 and R-4
 Proposed Zoning: M-1
 Current Use: Vacant, offices, warehouse
 Proposed Use: Offices & warehousing



Bret Alan Sermersheim
 July 14, 2014



Engineering
 Surveying
 Architecture
 Construction Management

4800 Rosebud Lane
 Newburgh, IN 47630
 (812) 464-9585
 www.morleyandassociates.com

Rezone Exhibit
 John F. Rogers
 101 Fulton Avenue

| | |
|-----------------------------------|---------------------|
| Designed By: BAS | Job Number: 9139 |
| Drawn By: JEW | Date: 6/25/2014 |
| Filename: 9139 Rezone Base.dwg | |

W FRANKLIN ST

R4

N FULTON AVE

C-4

N FOURTH AVE

R-5

W ILLINOIS ST

M-2

REZONE M-2 & R-4 TO M-1

N FULTON AVE

W INDIANA ST

M-1

N FOURTH AVE

W DIVISION ST

W LLOYD EXPY

W LLOYD EXPY

M-3

S FULTON AVE

S FULTON AVE

W JOHN ST

VERIFIED PETITION FOR REZONING

2014-20-PC

Ordinance NO. R- 2014-17
Council District: Al Lindsey WARD 6

PETITIONER: John F. Rogers

PHONE: 812-422-5656

ADDRESS: 400 E Sycamore St., Evansville IN

ZIP CODE: 47713

OWNER OF RECORD: John F. Rogers

PHONE: 812-422-5656

ADDRESS: 400 E Sycamore St., Evansville IN

ZIP CODE: 47713

1. Petition is hereby made for the amendment of the "Zoning Maps" of the Area Plan Commission of Evansville and Vanderburgh Co., pursuant to the Indiana Code and the Municipal Code of Evansville.
2. Premises affected lie between Illinois Street and Indiana Street, on the E side of Fulton Avenue and extend 163 feet E of Fulton Avenue along Illinois Street and extend 200 feet E of Fulton Avenue along Indiana Street.

LEGAL DESCRIPTION:

Rezone 1 & 2: Lots 21 thru 26 in Block 103 in the Corrected Plat of a part of the City of Lamasco, an Addition to the City of Evansville, as per plat thereof, recorded in DR G, Pgs. 286 and 287 and transcribed of record in P. Bk. A, Pgs. 156 and 157 and retranscribed of record in P. Bk. E, Pgs. 34 and 35 in the Office of the Recorder of Vanderburgh Co., Indiana, more particularly described as follows:

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3. The commonly known address is 101, 105, & 107 N Fulton Avenue & 1122, 1124, & 1126 W. Illinois St. & 1121 & 1123 W. Indiana St.
4. The real estate is located in the Zone District designated as M-2 and R-4

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Anna Winkler
CITY CLERK

- 5. The requested change is to (Zone District) M-1
- 6. Present existing land use is Vacant, Residential and Warehousing
- 7. The proposed land use is Offices and Warehousing
- 8. Utilities provided: (check all that apply)
 City Water Electric Gas Storm Sewer
 Sewer: Private _____ Public Septic _____
- 9. All attachments are adopted by reference.
- 10. The owner, or attorney for the owner, hereby certifies that the owner of record shown above owns 50% or more of the area of the above described real estate. I affirm under the penalties for perjury that the foregoing representations are true.

(REQUIRED) Signatures:
 DATE 6-30-2014
 (when signed)

PETITIONER: 

PRINTED NAME: John F Rogers

DATE 6-30-2014
 (when signed)

OWNER OF RECORD: 

PRINTED NAME: John F Rogers

DATE 6-30-2014
 (when signed)

OWNER OF RECORD: 

PRINTED NAME: John F Rogers

REPRESENTATIVE FOR PETITIONER

Morley and Associates, Inc.
4800 Rosebud Lane, Newburgh, IN 47630
812-464-9585