RECORDER
VANDERBURGH COUNTY
Z TULEY
2014R00027874
12/15/2014 2:10 PM
RECORDING FEES: 28.00
PAGES: 8

ORDINANCE NO. R- 2014-20 TAX CODE(S) 82-05-22-019-008.073-025

AN ORDINANCE TO REZONE CERTAIN REAL ESTATE IN THE CITY OF EVANSVILLE, STATE OF INDIANA, MORE COMMONLY KNOWN AS: 3401 STOCKER DRIVE

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:

Part of the Northwest Quarter of the Northwest Quarter of Section 23, Township 6 South, Range 11 West, more particularly described as follows:

Beginning at a stone on the West line of said Quarter Quarter Section 40 rods South of the Northwest corner thereof; thence South 151.3 feet; thence East and parallel with the North line of said Quarter Quarter Section 300 feet to the West line of Charles M. and Lynn Stocker's property; thence North along the West line of Charles M. and Lynn Stocker's property a distance of 151.3 feet; thence West and parallel to the North line of said Quarter Quarter Section 300 feet to the point of beginning, containing 1.04 acres, more or less, being the same property as recorded in Deed Drawer 1, Card 19637.

by changing the zoning classification of the above-described real estate from R1 to C4 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.

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 this Petition for Rezoning and recorded in the office of the Recorder of Vanderburgh County, Indiana on December 15, 2014 at Instrument No: 2014R00027874.
No improvement location permits shall be issued unless the proposed use is in compliance with

FILED
SEP 05 2014
Jana Windhorst
CITY CLERK

said recorded use and development commitment.

Passed by the Common Council of Evansville, Indiana on this 8th day of December, 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 9th day of December, 2014.

City Clerk

Having examined the foregoing Ordinance, I do now, as Mayor of the City of Evansville, Indiana, approve said Ordinance, and return the same to the City Clerk this 10th day of December, 2014, at 11 o'clock AM.

MAYOR

THIS INSTRUMENT PREPARED BY: Justin Shofstall, ANDY EASLEY ENGINEERING, INC. 1133 W. Mill Road, Suite 205, Evansville, IN 47710.(812) 424-2481
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.

USE AND DEVELOPMENT COMMITMENT

WHEREAS, the undersigned, Charles M. and Lynn Stocker, as Petitioner and as Owner of certain real estate situated in Vanderburgh County, Indiana, commonly described as 3401 Stocker Drive, Evansville, Indiana, more particularly described as follows:

Part of the Northwest Quarter of the Northwest Quarter of Section 23, Township 6 South, Range 11 West, more particularly described as follows:

Beginning at a stone on the West line of said Quarter Quarter Section 40 rods South of the Northwest corner thereof; thence South 151.3 feet; thence East and parallel with the North line of said Quarter Quarter Section 300 feet to the West line of Charles M. and Lynn Stocker's property; thence North along the West line of Charles M. and Lynn Stocker's property a distance of 151.3 feet; thence West and parallel to the North line of said Quarter Quarter Section 300 feet to the point of beginning, containing 1.04 acres, more or less, being the same property as recorded in Deed Drawer 1, Card 19637.

WHEREAS, the Real Estate is currently classified as an R1 zoning district under the Code of Ordinances of Vanderburgh County, Zoning Code (hereinafter the "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 C-4; and

WHEREAS, Petitioner is desirous of accommodating possible 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 concerning the use of the Real Estate:

1. The Real Estate shall primarily be used for an existing Landscape Business and any secondary or complimentary uses or services from the following:

   (a) All uses permitted under the Use Group 5 set forth in the Zoning Code;
   (b) Only the following uses under the Use Group 7 (A) and (C): Flowers and Plants,Fruits and Vegetables, Barber Shop and Beauty Shop set forth in the Zoning Code;
   (c) Only the uses permitted under the Use Group 8 (B) for Lawnmower Repair and Lawn mowing service as set forrth in the Zoning Code;
   (d) Only the following uses permitted under the Use Group 11 (A) and (B) for Lawn and Garden Equipment, Landscaping and tree trimming, Lawn and Garden

Treatment Service, Shrub and Plant Nursery as set forth in the Zoning Code;

(e) Uses permitted under the Use Group 19 for Child Care Center facilities only as set forth in the Zoning Code;

The following Special Uses only:

(a) Special Use 1 - Schools
(b) Special Use 2 - Churches and church operated incidental/ accessory facilities (on same site), including Sunday schools, child care, preschools, adult day care, offices, soup kitchens, shelters, and similar uses.
(c) Special Use 3 - Hospitals, nursing homes, convalescent or custodial care centers.
(d) Special Use 5 - Charitable and philanthropic institutions.
(e) Special Use 7 - Public parks or public recreational facilities.
(f) Special Use 14 - Public buildings and public uses other than permitted uses.
(g) Special Use 27 - Uses desiring outside storage, displays, sales.

3. All commitments and undertakings herein expressed shall be binding on the Petitioner and Owners and the Petitioner's and Owner's heirs, legal representatives, successors and assigns, and shall run in favor of the Area Plan Commission of Evansville-Vanderburgh County and all the Owners of the 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 other 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.

4. The commitments and undertakings herein made and expressed shall terminate, expire and be of no further force or effect if the Real Estate should be rezoned due to the filing of some subsequent petition to amend the zoning classification of the Real Estate.

5. This Commitment shall be recorded in the office of the Recorder of Vanderburgh County, Indiana, and shall take effect upon the adoption of the zoning classification of the Real Estate from R1 to C-4 District with a Use and Development Commitment.

IN WITNESS WHEREOF, this Use and Development Commitment is hereby made and entered into this ___ day of September, 2014, by Charles M. Stocker as Petitioner and Owner, for the purposes set forth herein.

Charles M. Stocker

STATE OF INDIANA)
) SS:
COUNTY OF Vanderburgh)

Before me, a Notary Public in and for said County and State, personally appeared the within named Charles M. Stocker and acknowledged the execution of the above and foregoing to be his voluntary act and deed.

WITNESS my hand and seal this 2nd day of September, 2014.

Patricia E. Keith
Notary Public
Patricia E. Keith
Printed Name

NOTARY PUBLIC SEAL INDIANA

MY COMMISSION EXPIRES: 11/22/2014 Residence of Notary Public: Vanderburgh

IN WITNESS WHEREOF, this Use and Development Commitment is hereby made and entered into this ___ day of September, 2014, by Lynn Stocker as Petitioner and Owner, for the purposes set forth herein.

_____
Lynn Stocker

STATE OF INDIANA)
) SS:
COUNTY OF)

Before me, a Notary Public in and for said County and State, personally appeared the within named Lynn Stocker and acknowledged the execution of the above and foregoing to be his voluntary act and deed.

WITNESS my hand and seal this _____ day of _____, 2014.

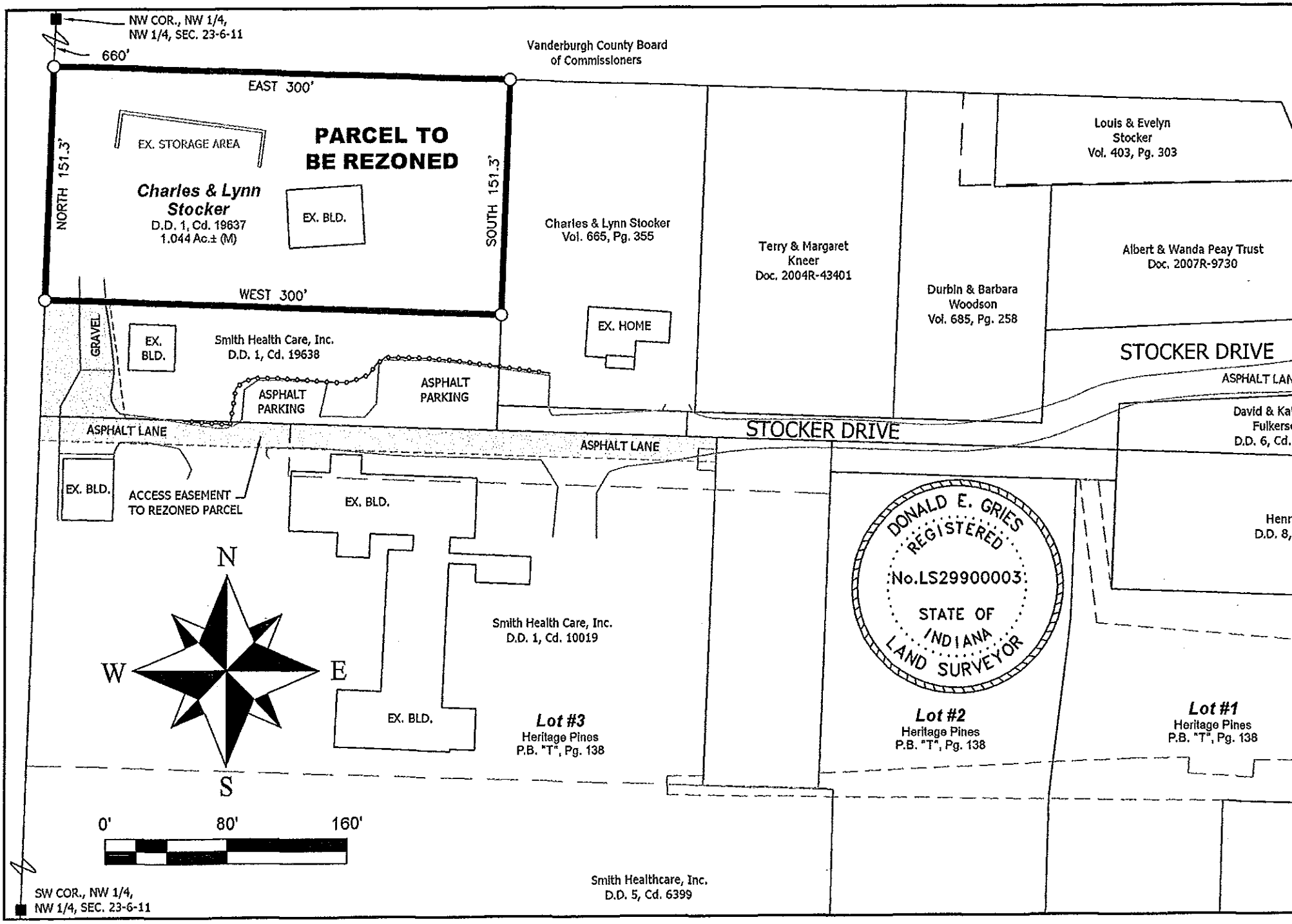
_____
Notary Public

_____
Printed Name

MY COMMISSION EXPIRES: _____ Residence of Notary Public:_____

This Instrument Prepared by: Justin Shofstall, ANDY EASLEY ENGINEERING, INC. 1133 W. Mill Rd, Evansville, IN 47710 (812) 424-2481

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.


NW COR., NW 1/4,
NW 1/4, SEC. 23-6-11
660'
EAST 300'
PARCEL TO
BE REZONED
EX. STORAGE AREA
Charles & Lynn
Stocker
D.D. 1, Cd. 19637
1.044 Ac.± (M)
EX. BLD.
NORTH 151.3'
SOUTH 151.3'
WEST 300'
Vanderburgh County Board
of Commissioners
Charles & Lynn Stocker
Vol. 665, Pg. 355
Terry & Margaret
Kneer
Doc. 2004R-43401
Durbin & Barbara
Woodson
Vol. 685, Pg. 258
Louis & Evelyn
Stocker
Vol. 403, Pg. 303
Albert & Wanda Peay Trust
Doc. 2007R-9730
GRAVEL
EX.
BLD.
Smith Health Care, Inc.
D.D. 1, Cd. 19638
ASPHALT
PARKING
ASPHALT
PARKING
EX. HOME
STOCKER DRIVE
ASPHALT LANE
STOCKER DRIVE
ASPHALT LANE
ASPHALT LANE
EX. BLD.
ACCESS EASEMENT
TO REZONED PARCEL
EX. BLD.
DONALD E. GRIES
REGISTERED
No.LS29900003
STATE OF
INDIANA
LAND SURVEYOR
N
W
E
S
Smith Health Care, Inc.
D.D. 1, Cd. 10019
EX. BLD.
Lot #3
Heritage Pines
P.B. "T", Pg. 138
Lot #2
Heritage Pines
P.B. "T", Pg. 138
Lot #1
Heritage Pines
P.B. "T", Pg. 138
0'
80'
160'
Smith Healthcare, Inc.
D.D. 5, Cd. 6399
SW COR., NW 1/4,
NW 1/4, SEC. 23-6-11

STOCKER LANDSCAPING - REZONING
3401 Stocker Drive - Adjacent Owners
#9706 - Stocker

82-05-23-019-008.070-025
Vanderburgh County Board of Commissioners
1 NW MLK JR Blvd, Rm 305
Evansville, IN 47708-1880

82-05-23-019-008.027-025
Terry J & Margaret Kneer
3327 Stocker Drive
Evansville, IN 47720

82-05-23-019-008.031-025
Benjamin L. Macke
3332 Stocker Drive
Evansville, IN 47720

82-05-23-019-008.030-025
82-05-23-019-008.028-025
Smith Healthcare Inc.
3400 Stocker Drive
Evansville, IN 47720

82-05-23-019-018.011-025
Catholic Diocese of Evansville
4200 N Kentucky Avenue
Evansville, IN 47711

82-05-22-019-008.073-025
Charles M & Lynn M Stocker
3401 Stocker Drive
Evansville, IN 47720

Westside Improvement Association
c/o Fred Padgett
2345 Skyline Drive
Evansville, IN 47720

Hilltop Neighborhood Association
c/o Carolyn Stagg
700 Rheinlander
Evansville, IN 47720

VERIFIED PETITION FOR REZONING

2014-24 -PC ORDINANCE NO. R- 2014-20

COUNCIL DISTRICT: Ward 6- Al Lindsey

PETITIONER Charles and Lynn Stocker PHONE 812-422-6656

ADDRESS 3401 Stocker Drive; Evansville, IN ZIP CODE 47720

OWNER OF RECORD Charles and Lynn Stocker PHONE 812-422-6656

ADDRESS 3401 Stocker Drive; Evansville, IN ZIP CODE 47720

1. Petition is hereby made for the amendment of the "Zoning Maps" of the Area Plan Commission of Evansville and Vanderburgh County, pursuant to the Indiana Code and the Municipal Code of Evansville.

2. Premises affected are on the North side of Stocker Drive a distance of 480 feet West (N.S.E.W.) of the corner formed by the intersection of Stocker Drive and Harmony Way

Registered Neighborhood Association (if applicable) Hilltop and Westside Improvement

LEGAL DESCRIPTION:
SUBDIVISION _____ BLOCK _____ LOT NO. _____
(where applicable - if not in a subdivision, insert legal here or attach to ordinance)

3. The commonly known address is 3401 Stocker Drive

4. The real estate is located in the Zone District designated as R1

5. The requested change is to (Zone District) C4

6. Present existing land use is non-conforming Landscape Business

7. The proposed land use is continued Landscape Business

8. Utilities provided: (check all that apply)
City Water xx Electric xx Gas xx Storm Sewer xx
Sewer: Private _____ Public xx 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 9-2-14 (when signed) PETITIONER [signature]
PRINTED NAME Charles and Lynn Stocker

DATE 9-2-14 (when signed) OWNER OF RECORD [signature]
PRINTED NAME Charles and Lynn Stocker

REPRESENTATIVE FOR PETITIONER (Optional)
NAME Andy Easley Engineering, Inc.
ADDRESS/ZIP 1133 West Mill Road; Suite 205; Evansville, IN 47710
PHONE 812-424-2481

FILED
SEP 05 2014
Jana Wildness
CITY CLERK

84-13736

Deed DRAWER 1 CARD 19637

WARRANTY DEED

THIS INDENTURE WITNESSETH that JAMES F. ST[illegible] and ANITA MILLER STOCKER, husband and wife, Grantors, of Vander[illegible]gh County and State of Indiana, CONVEY AND WARRANT to CHARLES M. STOCKER and LYNN STOCKER, husband and wife, Grantees, of Vanderburgh County and State of Indiana, for the sum of One Dollar ($1.00) and other good and valuable considerations, the following described real estate in Vanderburgh County in the State of Indiana, to-wit:

Part of the Northwest Quarter of the Northwest Quarter of Section Twenty-three (23), Township Six (6) South, Range Eleven (11) West, described as follows:

Beginning at a stone on the West line of said Quarter Quarter Section Forty (40) rods South of the Northwest corner thereof; thence South a distance of One Hundred Fifty-one and Three Tenths (151.3) feet; thence East and parallel with the North line of said Quarter Quarter Section a distance of Three Hundred (300) feet to the West line of Charles M. and Lynn Stocker's property, thence North along the West line of Charles M. and Lynn Stocker's property a distance of One Hundred Fifty-one and Three Tenths (151.3) feet; thence West and parallel to the North line of said Quarter Quarter Section a distance of Three Hundred (300) feet to the point of beginning, containing an area of One and Four Hundredths (1.04) acres, more or less.

Subject to all legal highways, easements, rights-of-way, reservations and restrictions of record.

Subject to all taxes, liens and encumbrances of record affecting said real estate.

RECEIVED FOR RECORD

JUL 10 8 56 AM '84

ESTELLA M. MOSS RECORDER OF VANDERBURGH COUNTY

IN WITNESS WHEREOF, the said Grantors have hereunto set their hands and seals this 9th day of July, 1984.

James F. Stocker (SEAL) Anita Miller Stocker (SEAL)
James F. Stocker Anita Miller Stocker

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 JAMES F. STOCKER and ANITA MILLER STOCKER who acknowledged the execution of the foregoing Warranty Deed to be their voluntary act and deed.

WITNESS, my hand and Notarial Seal, this 9th day of July, 1984.

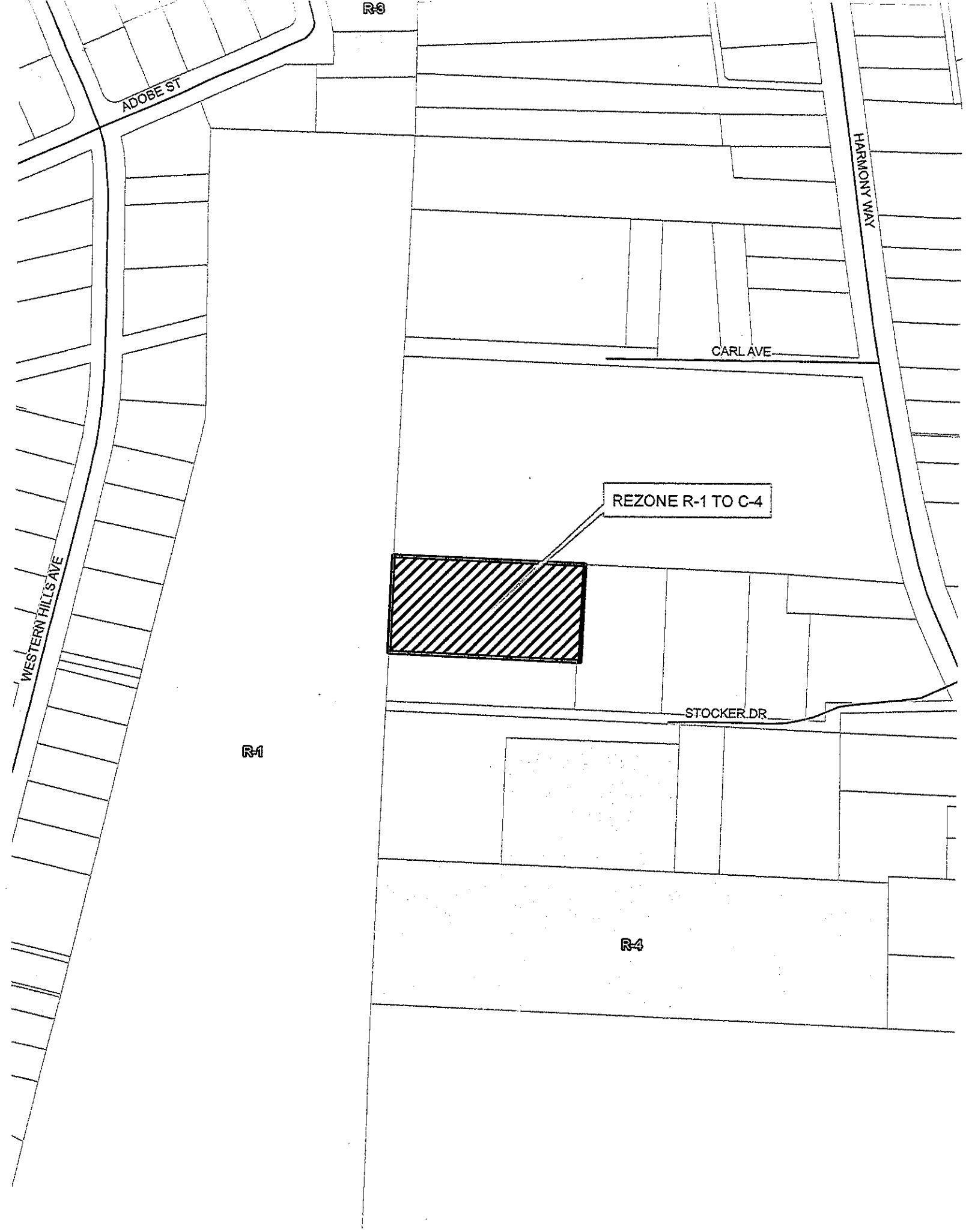
Edwin W. Johnson
Edwin W. Johnson Notary Public
County of Residence: Vanderburgh

My Commission Expires:
November 21, 1984

This instrument prepared by Edwin W. Johnson of the firm of Johnson, Carroll and Griffith, P.C., Attorneys, Evansville, Indiana (#33) (5748D/3)

Mail Tax Duplicate To: 3401 Stocker Drive
Evansville, Indiana 47712

DULY ENTERED FOR TAXATION
JUL 10 1984 3375
Alice McBride AUDITOR


R-3
ADOBE ST
HARMONY WAY
CARL AVE
REZONE R-1 TO C-4
WESTERN HILLS AVE
STOCKER DR
R-1
R-4