

ORDINANCE NO. 2020 - 12C

AMENDING
HANCOCK COUNTY ZONING ORDINANCE NO. 2007-1B

AMENDING TITLE XV, CHAPTER 156, ZONING
OF THE HANCOCK COUNTY CODE OF ORDINANCES

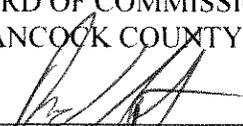
SECTION I

Title XV, Chapter 156 of the Hancock County Code, is amended as follows: The Zoning Map referenced in Section 156.020 for Buck Creek Township is hereby amended by rezoning the subject area from Industrial Business Park (IBP) to Industrial Light (IL). This amendment is hereby enacted subject to execution and recordation of the attached zoning commitment.

The subject area is described herein as Exhibit A. The zoning commitment is incorporated herein as Exhibit B.

ADOPTED THIS 3rd DAY OF DECEMBER 2020.

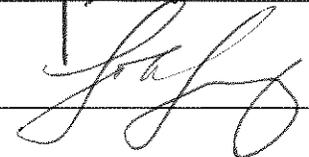
BOARD OF COMMISSIONERS OF
HANCOCK COUNTY, INDIANA



Brad Armstrong

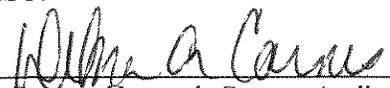


Marc Huber



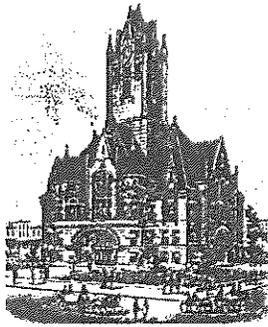
John Jessup

ATTEST:



Debra Carnes, Hancock County Auditor

Petitioner: Transport Enterprise Leasing, LLC



*The Hancock County Area Plan Commission
Court House Annex
111 American Legion Place, Suite 146
Greenfield, IN 46140
Phone: (317) 477-1134
Fax: (317) 477-1184*

CERTIFICATION
Hancock County Area Plan Commission

Project Name: Transport Enterprise Leasing - Rezone
Petitioner: Transport Enterprise Leasing, LLC
Project Location: 4753 W 300 N
Township: Buck Creek

I, Michael Long, being the Secretary of the Hancock County Area Plan Commission of Hancock County, Indiana, do hereby certify that the attached rezoning ordinance and related commitment are true and accurate records of the meeting of the Plan Commission on 24 November 2020. The attached ordinance received a favorable recommendation by a vote of six (6) ayes, zero (0) nays, and one (1) absent.

The attached ordinance is hereby certified to the Board of Commissioners, Hancock County, Indiana.

HANCOCK COUNTY AREA PLAN COMMISSION
HANCOCK COUNTY, INDIANA

Michael Long, Secretary

Legal Description - Exhibit A

SURVEYED DESCRIPTION

THE FOLLOWING DESCRIPTION WAS PREPARED BY KAREN SUTTON, P.S., - INDIANA # LS21200013 OF WEIHE ENGINEERS, INC., AS PART OF A SURVEY PERFORMED UNDER JOB NO. W200308, DATED JULY 17, 2020.

THE WEST HALF OF THE EAST HALF OF THE NORTHWEST QUARTER OF SECTION 20, TOWNSHIP 16 NORTH, RANGE 6 EAST IN BUCK CREEK TOWNSHIP, HANCOCK COUNTY, INDIANA; SAID PART BEING THE WEST HALF OF AN 80 ACRE TRACT RECORDED AS INSTRUMENT #97-01744 IN THE OFFICE OF THE RECORDER OF HANCOCK COUNTY, INDIANA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A BRASS PLUG FOUND AT THE NORTHWEST CORNER OF SAID NORTHWEST QUARTER SECTION, THENCE NORTH 89 DEGREES 24 MINUTES 12 SECONDS EAST (BEARING BASIS IS INDIANA STATE PLANE COORDINATE SYSTEM EAST ZONE) ALONG THE NORTH LINE OF SAID QUARTER SECTION A DISTANCE OF 1341.94 FEET TO THE NORTHWEST CORNER OF SAID EAST HALF QUARTER SECTION; THENCE SOUTH 00 DEGREES 16 MINUTES 46 SECONDS EAST ALONG THE WEST LINE OF SAID EAST HALF QUARTER 30.00 FEET TO A REBAR WITH A CAP STAMPED "CRIPE" AND THE POINT OF BEGINNING, SAID POINT ALSO BEING ON THE NORTH LINE OF A RIGHT OF WAY EASEMENT RECORDED IN INSTRUMENT 83-1796, THE FOLLOWING SIX (6) CALLS BEING ALONG SAID NORTH LINE; 1) NORTH 89 DEGREES 24 MINUTES 12 SECONDS EAST 216.55 FEET TO A REBAR WITH A CAP STAMPED "WEIHE ENGR 0012", (HEREINAFTER REFERRED TO AS REBAR WITH CAP); 2) SOUTH 79 DEGREES 17 MINUTES 12 SECONDS EAST 50.99 FEET; 3) NORTH 86 DEGREES 32 MINUTES 27 SECONDS EAST 200.25 FEET TO A RIGHT OF WAY MONUMENT; 4) NORTH 89 DEGREES 24 MINUTES 12 SECONDS EAST 100.00 FEET TO A RIGHT OF WAY MONUMENT; 5) SOUTH 87 DEGREES 44 MINUTES 03 SECONDS EAST 100.12 FEET TO A RIGHT OF WAY MONUMENT; 6) NORTH 86 DEGREES 32 MINUTES 27 SECONDS EAST 4.43 FEET TO A REBAR WITH CAP ON THE EAST LINE OF THE WEST HALF OF THE EAST HALF OF THE NORTHWEST QUARTER OF SAID SECTION 20; THENCE SOUTH 00 DEGREES 16 MINUTES 46 SECONDS EAST ALONG SAID EAST LINE 2622.70 FEET TO THE SOUTH LINE OF THE NORTHWEST QUARTER, PASSING THROUGH A REBAR AT 1293.91 FEET AND A REBAR WITH CAP AT 2619.19 FEET; THENCE SOUTH 89 DEGREES 30 MINUTES 22 SECONDS WEST ALONG SAID SOUTH LINE 670.99 FEET TO A REBAR WITH A CAP STAMPED "CRIPE" ON THE WEST LINE OF THE EAST HALF OF SAID NORTHWEST QUARTER; THENCE NORTH 00 DEGREES 16 MINUTES 46 SECONDS WEST ALONG SAID WEST LINE 2626.28 FEET TO THE POINT OF BEGINNING, CONTAINING 40.428 ACRES, MORE OR LESS, (1,761,064 SQ. FT.).

FILED

2020 JUL 20

RECORDED
INDEXED

EXHIBIT B

**IN THE HANCOCK COUNTY AREA PLAN COMMISSION (THE "COMMISSION")
AND THE HANCOCK COUNTY BOARD OF COMMISSIONERS (THE "COMMISSIONERS")
RE: TRANSPORT ENTERPRISE LEASING, LLC
PETITION FOR REZONING**

**COMMITMENT CONCERNING THE USE AND DEVELOPMENT OF REAL ESTATE
MADE IN CONNECTION WITH A PETITION FOR REZONING**

In accordance with I.C. 36-7-4-1015, Transport Enterprise Leasing ("Owner") having heretofore agreed and consented to the Petition for Rezoning (the "Petition") regarding the real estate located in Hancock County, Indiana, at 4753 W 300 N, Greenfield, Indiana, which is described in Exhibit A make(s) the following commitment concerning the use and development of the parcel(s) of the real estate ("Real Estate"):

Statement of Commitment: If the Real Estate is rezoned to "Industrial Light (IL)" the Owner commits to the Commission and the Commissioners the following:

- A) The following types of land uses shall not be permitted: Lumber yard, mini-warehousing.
- B) Site development shall proceed in substantial compliance with the site plan as approved by Commission.
- C) Loading docks shall not be oriented toward the westerly landowners.
- D) The existing living trees located along the north half of the west property line shall not be removed.

This Commitment shall be binding on the Owner, its successors and assigns, subsequent owners of the Real Estate, and other persons acquiring an interest therein. This Commitment may be modified or terminated only in writing and only by a decision of the Commission following a public hearing for which proper notice has been given, which decision also has been approved by the Commissioners.

This Commitment may be enforced jointly or severally by:

1. The Commission, the Commissioners, the Hancock County Board of Zoning Appeals;
2. Property owners of the Real Estate; and
3. Any person who is aggrieved by a violation of this Commitment, including but not limited to all owners of real estate which are abutting or adjoining the Real Estate.

In the event it becomes necessary to enforce this Commitment in a court of competent jurisdiction, and the owner of the Real Estate is found to be in violation of this Commitment, the owner shall pay all reasonable costs in the enforcement of this Commitment, including attorney fees.

The undersigned hereby authorizes the Commission and the Commissioners to record this Commitment in the Office of the Recorder of Hancock County, Indiana upon final approval of the ordinance rezoning the property to "Industrial Light (IL)" by the Commissioners, the cost of which shall be paid by the Owner(s) to the Commission prior to recording.

In Witness Whereof, the owner has executed this instrument this 3rd day of December, 2020.

Sheri Aaberg
Duly Appointed Representative of Transport Enterprise Leasing, LLC

STATE OF INDIANA)
)
) SS:
COUNTY OF HANCOCK)

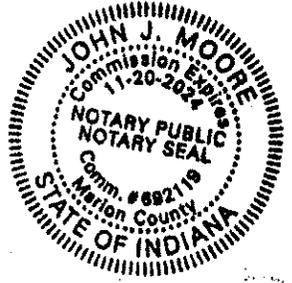
Before me, a Notary Public, in and for said county and State, personally appeared Sheri Aaberg, Chief Operating Officer, Transport Enterprise Leasing, LLC who acknowledged the execution of the foregoing Commitment, and who, having been duly sworn, stated that the representations therein contained are true.

Witness my hand and Notarial Seal this 3rd day of December, 2020.

John J. Moore
John J. Moore Notary Public

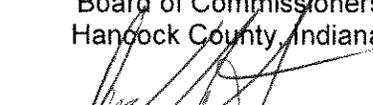
My Commission Expires: 11-20-24

County of Residence: Marion

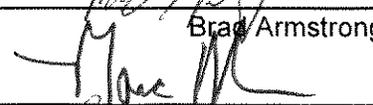


APPROVED THIS 3RD DAY OF DECEMBER 2020.

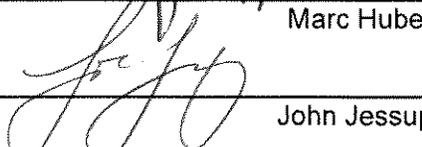
Board of Commissioners
Hancock County, Indiana



Brad Armstrong



Marc Huber



John Jessup

Attest: 

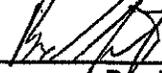
Debra Carnes, Hancock County Auditor

I affirm, under the penalties of perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law. _____

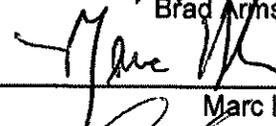
This instrument prepared by: Michael T. Dale, Executive Director, Hancock County Plan Commission.

APPROVED THIS 3RD DAY OF DECEMBER 2020.

Board of Commissioners
Hancock County, Indiana



Brad Armstrong

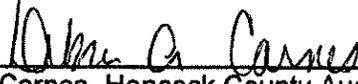


Marc Huber



John Jessup

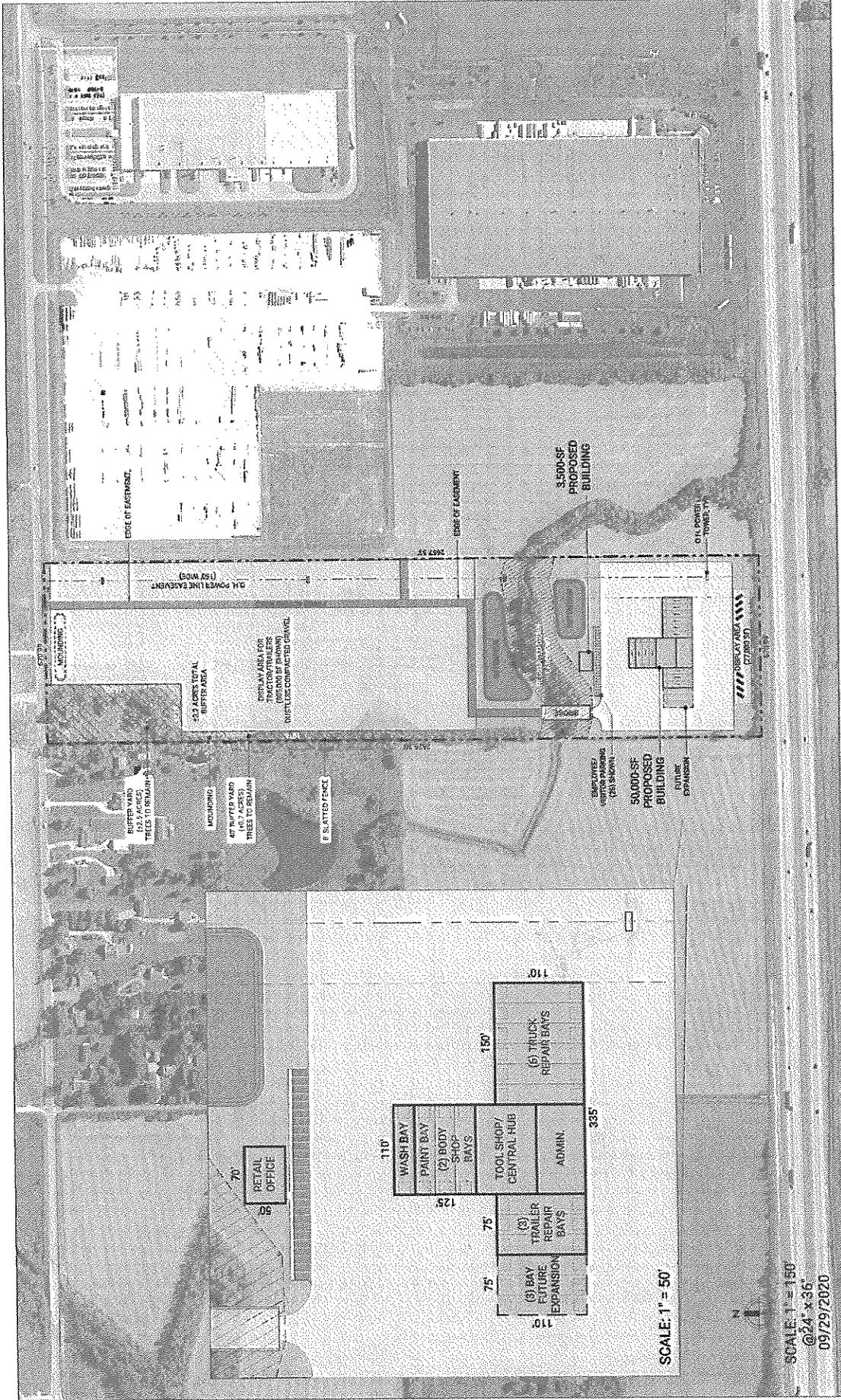
Attest:



Debra Carnes, Hancock County Auditor

I affirm, under the penalties of perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law. Mike Dale

This instrument prepared by: Michael T. Dale, Executive Director, Hancock County Plan Commission.



SCALE: 1" = 150'
 @24" x 36"
 09/29/2020

TRANSPORT ENTERPRISE LEASING LLC
 GREENFIELD, IN
 CONCEPTUAL SITE LAYOUT



**HANCOCK COUNTY AREA PLAN COMMISSION
111 AMERICAN LEGION PLACE
GREENFIELD, IN 46140**

PLAN COMMISSION MINUTES

DATE: November 24, 2020 TIME: 6:30 P.M.

2. Transport Enterprise Leasing
4753 W 300 N
20 - 16 - 6

Industrial Business Park
Rezoning 20-2061
Buck Creek

Rezoning 40.4 acres from IBP (Industrial Business Park) to IL (Industrial: Light) at 4753 W 300 N for truck sales and service and semi-tractor/trailer storage. Mr. Dale stated the petitioner is concurrently seeking BZA approval of a special exception to allow this facility. He stated Wesco outdoor facility is directly east of this site, Amazon is northeast, and residential is to the west of this site. He stated the petitioner is requesting to rezone with some of the same commitments previously granted with the previous rezoning in 2014 from A to IBP. He stated the owner's statement of intent letter states they request to rezone the site for repair/maintenance, and retail sales of commercial trucks and trailers, improve the site with buildings, paved access roads, detention ponds, and display areas. They plan to construct a dustless compacted gravel sales display area in the two areas labeled as Display Area on the site plan, construct a 50,600 sf building for repair and maintenance of trucks and trailers and possibly an additional 8,250 sf expansion at the south end of the site, and construct a 3,500 sf sales and office building north of the repair building, to install an 8 ft tall slatted fence along the west boundary to provide screening to the westerly neighbors, and install a mound along 300 W and along the west boundary and buffer yard along most of the west border as shown on the site plan (to be found in the file folder). Mr. Dale stated the proposal is consistent with the Comp Plan and responsible growth but is uncertain if it is consistent with the most desirable use of land and conservation of property values and is not consistent with the current conditions/character of current structures. He stated he has received no word of opposition to this proposal. He stated the Comp Plan designates this area for light industrial uses, and the petitioner is implementing some of the commitments that were recorded as part of the prior rezoning so staff position is favorable subject to the following commitments: A) Prohibit lumber yard and mini-warehousing, B) Prohibit outside storage of equipment, materials, and/or products within 150 ft of west property line on north half of site, unless waived or modified by the BZA, C) Prohibit loading docks oriented to westerly landowners(s), D) Prohibit removal of trees along north half of west property line, and E) Require an 8 ft tall wall or slatted fence around all outside storage areas on north half of site unless waived or modified by the BZA. Mr. Holden asked why this needs to go to the BZA. Mr. Dale stated the use is permitted by Special Exception within the IL zoning. Mr. Holden stated he doesn't like the idea of them having to come to BZA for all the variances. Mr. John Moore, attorney representing Transport Enterprise Leasing, Ms. Sherry Aaberg, Chief Operating Officer of Transport Enterprise Leasing, and Mr. Chris King, Runnebohm Construction, the architect and designer of the site were present. Mr. Moore stated they are seeking to rezone from IBP to IL, so the site already has an industrial designation with it. He presented slides of the property showing Wesco to the east and the berm

between their sites and the berm along 300 N, which will continue through the front of their own site. He stated that is why they don't believe a slatted fence is needed along the easterly boundary line. Mr. Moore stated there is a utility easement running along the entire east side of the property. He stated to the south of the site they will construct a 50,600 sf building for service and repair of trucks and trailers, with the possibility of expanding an additional 8,250 sf. He said there is also a 3,500 sf sales and office building. He stated there will be two detention ponds and will construct a bridge over the regulated drain (a creek) and the display area for the tractor/trailers will be located between the ponds and 300N on dustless compacted gravel. Mr. Moore stated there has been significant discussion with the neighbors to the west, specifically Ms. Lisa Bayne, and through these discussions they have come up with a plan for mounding and buffering that is modified slightly from what was previously approved in 2008 but what they and Ms. Bayne believes adequately protects her and the other residents. He stated in the northwest corner of the site there is about 2.5 acres covered in trees and foliage which will remain and not be developed and used as additional buffering for Ms. Bayne and the other residents. He said there will also be additional mounding and slatted fencing along the western boundary going south to end of the residential area (see site plan in folder). Mr. Moore stated he received an email forwarded from Mr. Dale from Ms. Bayne and in the email Ms. Bayne says she believes Transport Enterprise is a good choice for a new neighbor and will support the rezoning and believes this business is appropriate for this site given the scope of their operations with consideration to incorporating industry into a neighborhood. She states by contacting the buyer directly and their commitment to work together regarding adequate buffering and helping to retain the value of their homes is what makes her feel comfortable approving the rezoning. Mr. Moore stated there is approximately 1,500 ft between the homes and their operations on the south end of their property. He stated it was asked about the 150 ft request to not have the outdoor sales and service and they have drawn a line showing what that 150 ft would mean. He stated the site has already shrunk to the east by a 150 ft easement, so instead of the 150 ft setback on the west side of their parcel, per the discussion with the homeowners they have agreed to the 2.5 acre undeveloped area on the northwest corner and mounding and fencing per their proposed site plan to protect the neighbors. He said that 150 ft is very important to his client and important to the use of the site. He stated they prefer to delete it here at this meeting but could go before the BZA (with the special exception) to discuss and if the BZA decides it is appropriate then they would need to discuss it further at that time but for his clients purposes they are very reluctant to agree to that 150 ft. as it really squeezes the site for their display. He stated they believe they have adequately addressed the intent of the reason for the 150 ft setback with the 2.5 acres and mounding and fencing all done with the neighbor's agreement. Mr. Moore's next slide showed the elevations of the building and the doors shown are not docks but overhead doors that trucks will pull through. He stated they have a letter from Aqua stating they have the capacity and facilities to supply sanitary sewer service for this proposed development. Mr. Moore stated their proposed commitments include: 1) All repair and maintenance of commercial trucks and trailers will take place indoors, 2) An approximately 8 ft tall slatted fence shall be installed along the west boundary of the property as approximately shown on the conceptual site plan dated 10/27/20, 3) The site shall be developed in substantial compliance with the proposed conceptual site layout dated 10/27/20, 4) Petitioner shall commit to the mounding and preserving the buffer yard area as approximately shown on the conceptual site layout dated 10/27/20, and 5) Petitioner shall agree that both display areas shown on the attached proposed conceptual site layout shall be improved with a dustless compacted gravel surface. Mr.

Moore stated the proposed improvements represent a capital investment of approximately \$4 million and will result in approximately 15-30 new jobs with salaries in excess of \$50,000 annually and believes the proposed use is complementary to existing and future nearby distribution operations, and they do have support from the neighbors to the west. He stated with regards to staff position, they agree with A, C, and D but would change B to 'Substantial compliance with the approved site plan' and delete E. He stated if in the future the residential properties to the west are sold to develop more industrial uses, they would like the option to remove the commitment regarding the 2.5 acre preservation area as well as the mounding and fencing along the western boundary. Mr. Holden asked if the trail out front will continue. Mr. Moore stated there is a sidewalk across Wesco and they would continue that across their front. Mr. Holden stated he believes it is a bad idea to send all these things to BZA when they can be addressed by this body with the rezoning. There was discussion regarding leaving the 150 ft as part of the commitment and going before the BZA to address or taking that commitment out with this rezoning. Mr. Armstrong stated he really appreciated Transport Enterprise doing all the hard work before coming to this board, meeting with the homeowners and obtaining their approval for this proposed rezoning by the people most affected by it. Mr. Dale stated the 150 ft is for buffering and has concerns if something happens that Transport Enterprise decides not to move forward at this site and someone else moves in. Mr. Armstrong said even if this company backs out or sells and someone else comes into this property, they would have to abide by these proposed commitments and site plan and if they didn't want the commitments that are recorded with this rezoning, they would be required to come back to this board and the Commissioner's to have any and all commitments changed. Mr. Moore stated they are still required to meet the landscaping and buffering standards along the south property line and if they can't, they will petition for a variance. Ms. Aaberg said she was unclear what standards were being discussed. Mr. Dale stated Type 3 Landscaping and Buffering standards are required per code. Mr. Moore stated normally a site plan is not submitted for a rezoning however in order to make sure the residential neighbors were happy, they wanted them to know they were committed to this site plan and the agreement they made with them. Mr. Armstrong stated he believes the language for B should be changed as previously stated and drop E completely. Mr. Holden asked about the roads in the area, as more and more industrial is being built. Mr. Armstrong stated that area is in the middle of a segment that is federally funded to be built next year or the year after. He said the county has been working on this since 2008. Mr. Randy Sorrell, Hancock County Economic Development was present and stated this parcel has been on the market for several years but because of the restrictions (the power lines and regulated drain) the business had to be unique in order to fit on this parcel. He stated this business works on this parcel and is needed for this area. He stated Transport Enterprise did a lot of advance work and has come up with a good plan for everyone involved and Hancock County Economic Development supports the proposed rezoning. There were no remonstrators. Mr. Armstrong made the motion for a favorable recommendation subject to staff suggested commitment with the exception to changing the language for B to 'Substantial compliance with the approved site plan' and delete E entirely. Ms. Oldham seconded. Motion carried. Six (6) approved the favorable recommendation, Zero (0) denied.

Item 2: Transport Enterprise Leasing

Rezone 40.4 acres from Industrial Business Park (IBP) to Industrial Light (IL).

Location: 4753 W 300 N

- ◆ Buck Creek Township

Purpose

- ◆ To accommodate a maintenance, repair, and sales facility for commercial vehicles and trailers.

Note

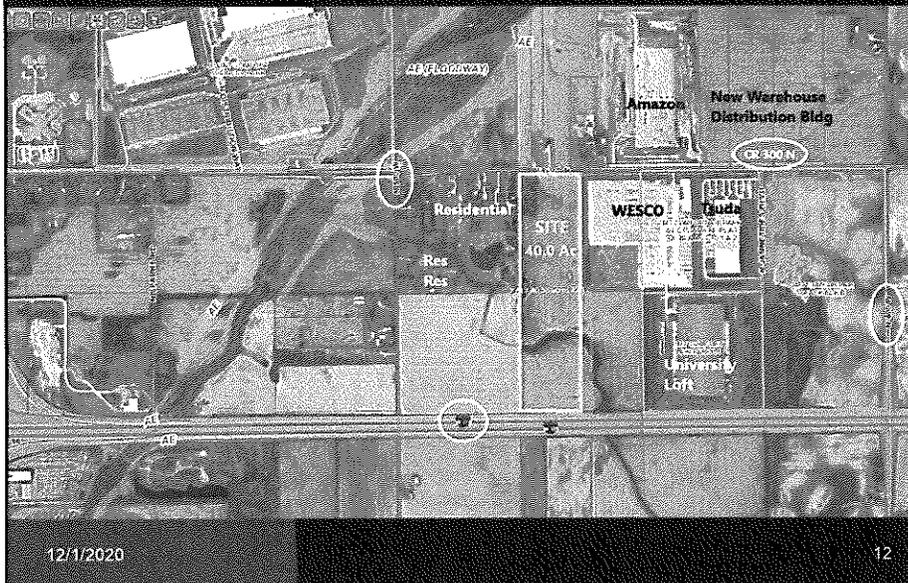
- ◆ Petitioner is concurrently seeking BZA approval of a special exception for this facility in the IL zone.

12/1/2020

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Transport / Vicinity



12/1/2020

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Transport / Site



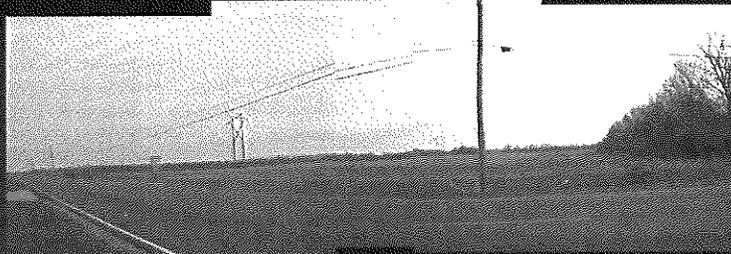
Zoning Commitments

- A) Prohibit heliport, hospital/medical facility, auction facility, hotel/motel, restaurant, lumber yard, mini-warehousing.
- B) Prohibit outside storage of equipment, materials, and/or products within 150' of west property line on north half of site. (Proposed site plan does not conform to this commitment.)
- C) Require 8' tall wall or slatted fence around all outside storage areas on north half of site. (Proposed site plan does not conform to this commitment.)
- D) Prohibit loading docks oriented to easterly landowner.
- E) Require buffer yard type 3 installed and maintained along west property line; 5' tall mounds along north half of west property line.
- F) Require compliance with zoning code.
- G) Prohibit removal of trees along north half of west property line.

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Transport / Ground Photos



12/1/2020

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Transport / Statement of Intent

Owner's Statement of Intent

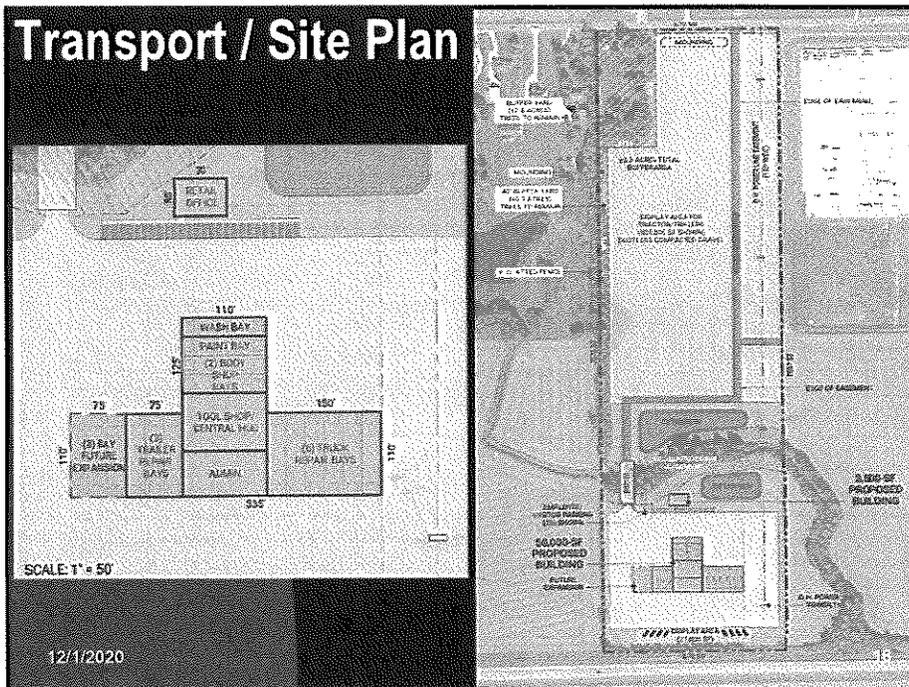
- ◆ To rezone the site for repair, maintenance, and retail sales of commercial trucks and trailers.
- ◆ Improve the site with buildings, paved access roads, detention ponds, and display areas, including:
 - Construct a dustless compacted gravel sales display area in the two areas labeled as Display Area on the site plan.
 - Construct a 50,600 sf building for repair and maintenance of trucks and trailers and possibly an additional 8,250 sf expansion at the south end of the site.
 - Construct a 3,500 sf sales and office building north of the repair building.
- ◆ Install an 8'-tall slatted fence along the west boundary to provide screening to the westerly neighbors.
- ◆ Install a mound along CR 300 W and along the west boundary and buffer yard along most of the west border as shown on the site plan (next slide).

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Transport / Site Plan



12/1/2020

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Transport / Zoning Code Permitted Uses

The following land use categories are permitted by-right in the proposed IL zone and not in the current IBP zone:

Agricultural Uses: Animal stables, crop processing and storage, grazing and pastureland, nursery, seed sales/distribution/storage

Communications/Utilities Uses: Meteorological tower, WECS/non-commercial

Commercial Uses: Equipment sales and rental, recreational vehicle sales/service, vehicle detailing / accessory shop

Several other uses are permissible by the BZA as a special exception in the IL zone.

12/1/2020

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Transport / Consistency with Comp Plan

1) Consistent with the Comprehensive Plan? Yes

- ◆ The proposed IL zoning conforms to the "Business Park" land use designation that supports light industrial uses at this location.

2) Consistent with current conditions/character of current structures? No

- ◆ The proposed IL zoning is a departure from the current condition of the property.

3) Consistent with most desirable use of land? Uncertain

- ◆ The proposed IL zoning is in keeping with the petitioner's objectives. The adjoining residential property owners might prefer this area to remain undeveloped, rural, or residential.

4) Consistent with conservation of property values? Uncertain

- ◆ Without a market analysis, it's difficult to know whether the proposed IL zone will have a positive or negative impact on local property values.

5) Consistent with responsible growth and development? Yes

- ◆ The proposed IL zoning is compatible with the "Business Park" land use designation of the Comprehensive Plan.

12/1/2020

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Transport / Staff Position

Summary

- ◆ Comp Plan designates this area for light industrial uses.
- ◆ Staff has received no word of opposition to this proposal.
- ◆ The petitioner is implementing some of the commitments that were recorded as part of the prior rezoning.

Staff Position

- ◆ Favorable, subject to the following commitments:
 - A) Prohibit lumber yard and mini-warehousing.
 - B) Prohibit outside storage of equipment, materials, and/or products within 150 of west property line on north half of site unless waived or modified by the BZA.
 - C) Prohibit loading docks oriented to easterly landowner(s).
 - D) Prohibit removal of trees along north half of west property line.
 - E) Require an 8' tall wall or slatted fence around all outside storage areas on north half of site unless waived or modified by the BZA.

12/1/2020

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