

ORDINANCE NO. 2021-05

AN ORDINANCE TO AMEND THE OFFICIAL ZONING MAP OF HUNTINGTON COUNTY, INDIANA,

WHEREAS, the Huntington County Plan Commission considered application PC-21-010 filed by **PROCESS IRON & METAL, LLC** to amend the official zoning map of Huntington County, Indiana; and,

WHEREAS, the Huntington County Plan Commission conducted a duly noticed public hearing on application PC-21-010 on March 10, 2021; and,

WHEREAS, the Huntington County Plan Commission, by a 7-0 vote, issued a favorable recommendation to application PC-21-010 at a meeting duly conducted on March 10, 2021. The Huntington County Plan Commission Certification of the favorable recommendation is attached hereto and incorporated by reference as Exhibit "A". The Written Commitment, accepted and approved by a 7-0 vote by the Huntington County Plan Commission, at the same meeting on March 10, 2021, is attached hereto and incorporated by reference as Exhibit "B".

WHEREAS, the Huntington County Board of Commissioners now determines that from time to time, it is necessary to amend land use regulations in accordance with IC 36-7-4-607; and,

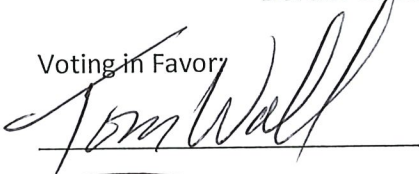
WHEREAS, such regulations are designed to promote the public health, safety, general welfare, efficiency and economy in the process of the normal and orderly development of the land within the jurisdictional area.

NOW, THEREFORE, BE IT ORDAINED, BY THE BOARD OF COMMISSIONERS OF HUNTINGTON COUNTY, INDIANA, that the official zoning map of Huntington County, Indiana, be amended for 1649N – 200E, Huntington, Indiana 46750 (Tax ID # 35-06-28-200-056.500-018) to include an Exclusive Use Overlay District (EUD).

Adopted this 29th day of March, 2021

BOARD OF COMMISSIONERS OF HUNTINGTON COUNTY, INDIANA

Voting in Favor:



Tom Wall
(President)




Rob Miller

Terry Stoffel

Voting in Opposition:

ATTEST:

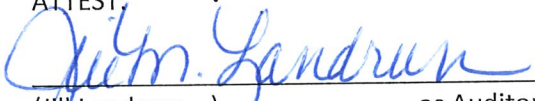
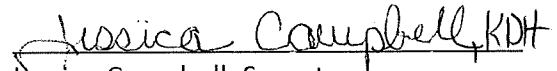

(Jill Landrum) as Auditor

Exhibit "A"

Huntington County Plan Commission Certification

On March 10, 2021, the Huntington County Plan Commission, by a 7-0 vote, certified a favorable recommendation on application PC-21-010. A Reclassification of zoning to a EUD (Exclusive Use Overlay District) for property located at 1649N – 200E, Huntington, Indiana 46750, to amend the Official Zoning Map of Huntington County, Indiana.


Jessica Campbell, Secretary
Huntington County Plan Commission

Tax ID. 35-06-28-200-056.500-018

WRITTEN COMMITMENT

THIS WRITTEN COMMITMENT (this "Commitment") is made this ____ day of March, 2021, by **PROCESS IRON & METAL, LLC** ("Owner") and.

RECITALS:

WHEREAS, Owner is the owner of certain real estate located in Union Township, Huntington County, Indiana, the legal description of which is attached hereto as **Exhibit A**, more commonly referred to 1649 North 200 East, Huntington, Indiana 46750 (the "Real Estate"); and

WHEREAS, Applicant filed a rezoning application, Docket No. PC-21-010 ("Rezoning Application), to amend the official zoning map for the Real Estate to include an Exclusive Use Overlay District (EUD) for a business operation that purchases, recycles, sorts and stores scrap metals on the Real Estate until these scrap metal materials can be transported off-site ("Business Operation"); and

WHEREAS, Owner has submitted this Commitment, voluntarily, and pursuant to I.C. 36-7-4-1015, for the purpose of setting forth the use and development of the Real Estate for the Business Operation under the EUD zoning district; and

WHEREAS, in conjunction with the Rezoning Application, the Huntington County Plan Commission ("Plan Commission") has accepted Owner's offer of this Commitment and its recordation with the Huntington County, Indiana, Recorder's Office upon the Plan Commission's and the Huntington County Commissioners' approval of the Rezoning Application.

NOW, THEREFORE, in consideration of the above and foregoing Recitals, Owner hereby impresses upon the Real Estate with certain restrictions and commitments, which shall run with the Real Estate and be binding upon Owner and all future owners of the Real Estate.

1. **Prohibited Uses**. The Real Estate shall not be used for any type of landfill activity or as an incinerator. Furthermore, there shall be no open burning, no shredding, and no grinding of scrap metal conducted on the Real Estate.

2. **Fencing**. The entire perimeter of the Business Operation from the rear of equipment building to within twenty-five feet (25') of the right-of way of County 200 Road East shall have a ten-foot (10') fence with privacy slats installed to screen the Business Operation. No portion of the Business Operation shall be operated outside of the fenced area. One tree for

Exhibit "B"

every 50-feet of frontage will be planted between the fence and the right of way of County Road 200 East.

3. **Parking.** All semi-trucks will be parked behind the equipment building at the rear of the Real Estate. All parking areas will be paved with metal millings.

4. **Lighting.** All site and building lighting will use sharp cut-off type fixtures as defined by the Illuminating Engineers Society of North America (IESNA).

5. **Hours of Operation.** The Business Operation shall have the following hours of operation: Monday thru Friday, 7:00 a.m. to 6:00 p.m. and Saturday, 8:00 a.m. thru 1:00 p.m. There shall be no hours of operation on Sunday. All loading and unloading activities and all operation of equipment shall only occur during these hours of operation. The following activities are exempt from the hours of operation: (a) office work; (b) vehicle repair and maintenance conducted solely inside the equipment building at the rear of the Real Estate; (c) semi-trucks may enter the Real Estate but only through the northern driveway. To be found in violation of this Commitment, any party seeking enforcement must demonstrate a pattern of non-compliance. Isolated incidents of minor non-compliance shall not be considered a violation of this Commitment.

6. **Successors and Assigns.** This Commitment and the restrictions and limitations set forth herein shall be binding upon Owner, and its successors and assigns, and shall also inure to the benefit of the Zoning Administrator of Huntington County (the "Zoning Administrator") and the Plan Commission. This Commitment and the restrictions and limitations set forth herein shall run with the Real Estate, and upon any conveyance thereof, shall be binding upon Owner and its successors and assigns as owners of the Real Estate, unless modified or terminated pursuant to the provisions of Section 8 below.

7. **Enforcement.** Any violation of this Commitment shall be deemed a violation of the Huntington County Zoning Ordinance ("Ordinance"). Pursuant to I.C. 36-7-4-1015, the Plan Commission, or any enforcement official designated by the Ordinance, shall be entitled to enforce this Commitment, at law or in equity, in the event of any breach of the obligations contained herein; provided, however, that nothing in this Commitment shall be construed as giving any person the right to compel the enforcement of this Commitment by the Plan Commission or any enforcement official designated by the Ordinance. The Plan Commission, or any enforcement official designated by the Ordinance, shall have the remedies provided for in the Ordinance and I.C. 36-7-4-1015, which remedies shall be cumulative and not exclusive.

8. **Modification and Termination.** This Commitment may be amended or terminated only by a decision of the Plan Commission, following a public hearing held by the Plan Commission, in accordance with the Plan Commissions' rules of procedure and the Ordinance.

9. **Severability.** Each restriction contained in any paragraph of this Commitment shall be severable and separate, and if any court shall rule that any particular restriction or

Exhibit "B"

covenant is unenforceable, such ruling shall not affect the enforceability of any other restriction under this Commitment, and such other restriction shall be enforced.

10. **Effective Date.** This Commitment shall be effective upon being duly recorded in the Office of the Recorder of Huntington County, Indiana.

11. **Statutory Authority.** This Commitment is made by the Owner pursuant to I.C. 36-7-4-1015.

12. **Governing Law.** This Commitment shall be governed by the laws of the State of Indiana.

IN WITNESS WHEREOF, Owner hereby agrees to all of the restrictions of this Commitment as set forth above.

PROCESS IRON & METAL, LLC:

Date: _____

Jake Doctor, Managing Member

STATE OF INDIANA)
) SS:
COUNTY OF HUNTINGON)

Before me, the undersigned, a Notary Public in and for said County and State, this _____ day of March, 2021, personally appeared Jake Doctor, Managing Member of **PROCESS IRON & METAL, LLC**, and acknowledged the execution of the foregoing Written Commitment.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal.

My Commission Expires: _____
_____, Notary Public
A resident of _____ County

This instrument prepared by **ROBERT W. EHERENMAN** (I.D. #16703-53), Attorney at Law, Haller & Colvin, P.C., 444 East Main Street, Fort Wayne, Indiana 46802; telephone: (260) 426-0444; fax: (260) 422-0274. 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. /s/ Robert W. Eherenman

EXHIBIT A

Legal Description of Real Estate

RECORD DESCRIPTION: (as described in Document Number 2020006598)

A part of the Northwest Quarter of Section 28, Township 28 North, Range 10 East, Union Township, Huntington County, Indiana, and more particularly described as follows:

Beginning at the intersection of the West line of the Northwest Quarter of Section 28, Township 28 North, Range 10 East, Union Township, Huntington County, and the Southerly right-of-way line of the Erie Railroad Company and 49.5 feet from the centerline of tract of the West bound main of said Railroad; thence South along the West line of said Northwest Quarter of Section 28, 198.0 feet to a point; thence in an Easterly direction, at an internal angle of 101 degrees 53 minutes, 498.8 feet to a point; thence North at an internal angle of 78 degrees 07 minutes and parallel to the said West line of the Northwest Quarter of Section 28, 99.0 feet to a point on the Southward right-of-way line of said Erie Railroad; thence Northwestwardly along the Southward right-of-way line of said Erie Railroad and with an internal chord angle of 112 degrees 29 minutes, 528.0 feet to the place of beginning, containing 1.701 acres more or less.

Also a part of the Northwest Quarter of Section 28, Township 28 North, Range 10 East in Union Township, Huntington County, Indiana, and more particularly described as follows:

Beginning at a point on the West line of the Northwest Quarter of Section 28, Township 28 North, Range 10 East and 744.4 feet North of the Southwest corner of said Northwest Quarter, said point of beginning also being 247.5 feet South of the intersection of the West line of said Northwest Quarter of Section 28 and the Southward right-of-way line of the Erie Railroad Company; thence Southeastwardly at an internal angle of 99 degrees 06 minutes, 910.9 feet to a point on the Southward right-of-way line of said Erie Railroad; thence Northwestwardly along the Southward right-of-way line of said Erie Railroad and with an internal chord angle of 15 degrees 42 minutes, 453.7 feet to a point, said right-of-way line being 49.5 feet from the centerline of track of the West bound main of Erie Railroad; thence South at an internal chord angle of 65 degrees 12 minutes and parallel to the West line of said Northwest Quarter of Section 28, 99.0 feet to a point; thence Northwestwardly at an internal angle of 281 degrees 53 minutes 498.8 feet to a point on the West line of said Northwest Quarter of Section 28; thence South along the West line of the Northwest Quarter of Section 28, 49.5 feet to the place of beginning and containing 0.992 acres or less.

AND INCLUDING

Part of the Northwest Quarter of Section 28, Township 28 North, Range 10 East, Huntington County, Indiana, being part of the lands of the former Erie Lackawanna Railroad, based on an original survey by Joseph R. Herendeen, Indiana Professional Surveyor Number 20900190 of Sauer Land Surveying, Inc., Survey No. 138-106 "A", dated February 12, 2021, and being more particularly described as follows, to-wit:

Commencing at the West Quarter of said Section 28, being marked by a railroad spike; thence North 00 degrees 48 minutes 51 seconds West (GPS grid bearing and basis of all bearings in this description), on and along the West line of said Northwest Quarter, being within the right-of-way of North County Road 200 East, a distance of 995.15 feet to a survey nail at the point of intersection of said West line with the Southerly right-of-way line of the former Erie Lackawanna Railroad, this being

Exhibit "B"

the true point of beginning; thence North 00 degrees 48 minutes 51 seconds West, continuing on and along said West line and within said right-of-way, a distance of 53.97 feet to a survey nail at the point of intersection of said West line with the centerline of said former Erie Lackawanna Railroad; thence South 67 degrees 19 minutes 08 seconds East, on and along said centerline, a distance of 1002.10 feet to a #5 rebar; thence South 22 degrees 40 minutes 52 seconds West, a distance of 49.50 feet to a #5 rebar inside of a 0.75 inch diameter pipe at the most Easterly corner of a 0.992 acre tract of real estate described in a deed to Process Iron and Metal, LLC, as described in Document Number 2020006598 in the Office of the Recorder of Huntington County, Indiana, being a point on said Southerly right-of-way line of the former Erie Lackawanna Railroad; thence North 67 degrees 19 minutes 08 seconds West, on and along said Southerly right-of-way line, a distance of 980.58 feet to the true point of beginning, containing 1.127 acres of land, and subject to all easements of record.