

ORDINANCE NO. 3839

AN ORDINANCE AMENDING THE ZONING DISTRICTS OF THE CITY OF NEW CASTLE

WHEREAS, Bruce and Brenda Aaron and Jeff and Kathy Smiley requested the New Castle Plan Commission consider an amendment of the master plan of the City of New Castle, as established in Ordinance Number 846, by rezoning certain real estate consisting of approximately 7.93 acres located near the intersection of North Main Street and Garner Street in the City of New Castle from its current I-2 (General Industrial) zoning to R-2 (single and two family dwellings) zoning, and

WHEREAS, in evaluating a proposed rezoning, the Plan Commission and Common Council must give reasonable regard to:

1. The comprehensive plan,
2. Current conditions and character of the area to be rezoned,
3. The most desirable use of the area to be rezoned,
4. The property value of the area,
5. Reasonable development and growth of the area, and

WHEREAS, on July 29, 2020, the Plan Commission, after providing notice and conducting a public hearing regarding the proposed rezoning, certified to the Common Council its favorable recommendation on the proposed rezoning.

NOW THEREFORE BE ORDAINED BY THE COMMON COUNCIL of the City of New Castle that it hereby adopts the recommendation of the New Castle Plan Commission and amends the master plan of the City of New Castle and zoning map by rezoning certain real estate located within the City of New Castle, Henry County, Indiana from I-2 to R-2. The real estate is more particularly described as follows, to wit:

ALL THOSE TWO PARCELS of land situate in the Town of New Castle, County of Henry and State of Indiana, being separately bounded and described according to two plans of surveys made by John E. Beals, Registered Surveyor, the first thereof dated September 28, 1977 and revised December 1, 1977 and the second thereof dated November 1, 1977, as follows:

THE FIRST THEREOF:

BEGINNING at an iron pipe set on the west line of Main Street (formerly Auburn Avenue), 50 feet wide, at its intersection with the south line of Gamer Street, 50 feet wide and running thence from said beginning point, South 24 degrees 53 minutes and 20 seconds east, along the west line of said Main Street, 235.06 feet to an iron pipe set on the west line of a 16.5 foot wide public alley, as platted in Woodward's Second Addition to said Town; thence south 21 degrees 43 minutes and 32 seconds west along said west line, 468.20 feet to an iron pipe set a distance of 20.00 feet, measured radially from the curve of a railroad track centerline; thence Southwestwardly, parallel to said track and along a 487.10 foot radius curve to the left whose chord bears south 32 degrees 11 minutes and 51 seconds west for a chord distance of 328.77 feet, an arc distance of 335.35 feet to an iron pipe; thence south 20 degrees 47 minutes and 00 seconds west, parallel to said track, 200.95 feet to an iron pipe set on the north line of Oak Street, thence West along said north line, 66.32 feet to an iron rod set on the east right of way line of the railroad of The Cleveland, Cincinnati, Chicago and St. Louis Railway Company, said point being 50.00 feet east of the centerline of the track of said Railroad thence north 0 degrees 20 minutes and 00 seconds west, along said east right of way line, 1114.28 feet to an iron pipe set on the south line of said Garner Street; thence East, along said south line, 393.68 feet to the place of beginning.

CONTAINING an area of 7.942 acres or 345,974.72 square feet, more or less.

TOGETHER with all that portion of the 100 foot wide railroad right of way of The Cleveland, Cincinnati, Chicago and St. Louis Railway Company lying west of and adjacent to the parcel of land hereinbefore described and which lies between the Westerly prolongation of the North line of Oak Street and the centerline of Garner Street extended across said Railroad right of way.

AND THE SECOND THEREOF:

BEGINNING at a concrete land line monument found on the north line of New York Street, 50 feet wide, said point being 125.00 feet, measured radially from the centerline of the main track of railroad of Consolidated Rail Corporation and running thence from said beginning

point West, along the north line of said New York Street, 46.60 feet to an iron pipe set at a point 15.00 feet southeastwardly from the centerline of a side track of said Railroad; thence parallel to the centerline of said side track and following a 1248.12 foot radius curve to the left having a chord which bears north 25 degrees 09 minutes and 09 seconds east for a chord distance of 595.91 feet, an arc distance of 601.72 feet to a point of reverse curve; thence northeastwardly along a curve to the right and being parallel with said side track, said curve having a radius of 12,609.22 feet and whose chord bears north 39 degrees 29 minutes and 40 seconds east for a chord distance of 179.80 feet, an arc distance of 179.80 feet, to an iron pipe set; thence south 69 degrees 13 minutes and 00 seconds east, 95.00 feet to an iron pipe set at a distance of 125.00 feet eastwardly measured radially from the centerline of the main track of said Railroad; thence southwestwardly along a curve to the right having a radius of 2058.46 feet, and whose chord bears south 32 degrees 27 minutes and 19 seconds west for a chord distance of 763.73 feet an arc distance of 768.18 feet to the point of beginning.

CONTAINING an area of 1.570 acres or 68,405.54 square feet, more or less.

EXCEPTING AND RESERVING, however, to Grantor, easements for all existing wire and pipe agreements, occupancies and licenses, if any, between Grantor and other parties, of record or not of record, that in any way encumber the premises hereinabove described, together with the right to convey such easements to the occupant without securing approval of the Grantee herein. Grantor specifically reserves and retains all rentals, fees and considerations resulting from such agreements, occupancies, licenses and easement conveyances.

FURTHER EXCEPTING AND RESERVING, however, unto the said Grantor, the existing railroad track and appurtenances hereto, located upon the premises, together with the right, but not the obligation, to enter upon so much of the premises as may be required for a period of 12 months after the date of delivery hereof, for the purpose of removing said track and appurtenances.

ALSO EXCEPT:

A tract of land situated in the Northeast Quarter of Section 10, Township 17 North, Range 10 East, Henry County, State of Indiana, being described as follows:

Commencing at the apparent Southwest corner of the Northwest Quarter of the Northeast Quarter of Section 10, Township 17 North, Range 10 East, Henry County, Indiana; thence South 01 degrees 08 minutes 09 seconds East 88.40 feet to a westerly extension of Line "A" as shown on the attached Right-of-way Parcel Plat (Exhibit B); thence North 89 degrees 58 minutes 09 seconds East, 594.84 feet, along said Line "A" and its westerly extension, to P.O.T. Station 39+50.00 Line "A" on the attached Right-of-way Parcel Plat (Exhibit B), thence South 00 degrees 01 minutes 51 seconds East, 20.00 feet, to a point on the apparent southerly Right-of-Way line of Garner Street, said point being designated #102 on the attached Right-of-way Parcel Plat (Exhibit B); and also being the Point of Beginning; thence North 89 degrees 58 minutes 09 seconds East, along said southerly Right-of-Way line, along said southerly Right-of-Way line, 30.48 feet, to a point located at the intersection of said southerly Right-of-Way line the apparent westerly Right-of-Way line of Main Street thence South 14 degrees 41 minutes 51 seconds East, along said westerly Right-of-Way line, 35.15 feet, to point designated #103 on the attached Right-of-Way Parcel Plat (Exhibit B); thence North 49 degrees 13 minutes 35 seconds West, 52.03 feet, to the Point of Beginning containing 0.012 acres (+/- 518 sq. ft) of land, more or less.

ALSO EXCEPT:

A part of the Northeast Quarter of Section 10, Township 17 North, Range 10 East, Henry County, Indiana, and that part of the grantor's land lying within the land described in Instrument No. 200706633, Office of the Recorder of Henry County, lying within the right of way lines depicted on the attached Right of Way Parcel Plat marked Exhibit "B", described as follows:

Commencing at the southwest corner of said quarter section, designated as point "6320" on said plat; thence North 0 degrees 33 minutes 41 seconds East (assumed bearing) 160.02 feet along the west line of said quarter section to the north line of Parcel 'C' as described in Instrument No. 20017712; thence South 89 degrees 29 minutes 48 seconds East 464.43 feet along said north line to the northeast corner of said Parcel 'C', also being on the west boundary of the abandoned Penn Central Railroad (former C.C.C. & St. Louis Railroad), which northeast corner is also the point of beginning of this description: thence North 0 degrees 24 minutes 54 seconds East 935.39 feet along said west line to the point designated as "10301" on said plat; thence along said west line Northerly 134.59 feet along an arc to the right having a radius of 1,959.86 feet and subtended by a long chord having a bearing of North 2 degrees 22 minutes 56 seconds East and a length of 134.56 feet to the centerline of Garner Street; thence South 89 degrees 38 minutes 08 seconds East 65.16 feet along said centerline

to the point designated as "10416" on said plat; thence Southerly 134.66 feet along an arc to the left having a radius of 1,894.86 feet and subtended by a long chord having a bearing of South 2 degrees 27 minutes 03 seconds West and a length of 134.63 feet to the point designated as "7015" on said plat; thence South 0 degrees 24 minutes 54 seconds West 866.13 feet to the point designated as "7013" on said plat; thence Southwesterly 128.91 feet along an arc to the right having a radius of 115.00 feet and subtended by a long chord having a bearing of South 32 degrees 31 minutes 45 seconds West and a length of 122.27 feet to the west boundary of the abandoned Penn Central Railroad (former C.C.C. & St. Louis Railroad); thence North 0 degrees 24 minutes 54 seconds East 34.30 feet along the west boundary of said abandoned Penn Central Railroad to the point of beginning and containing 1.604 acres, more or less, inclusive of the presently existing right of way which contains 0.018 acres, more or less, for a net additional taking of 1.586 acres, more or less.

PARCEL NO. 030-81205-00 (33-12-10-220-101.000-016)

(A GIS map is attached that depicts the real estate that is rezoned).

This rezoning is made pursuant to the New Castle City Code Section 152.05 and Indiana Code 36-7-4-607 et seq.

REPEALER: All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SEVERABILITY: Any provision herein contained which is found by a court of competent jurisdiction to be unlawful or which by operation shall be inapplicable, shall be deemed omitted but the rest and remainder of this ordinance, to the extent feasible, shall remain in full force and effect.

EFFECTIVE DATE: This Ordinance shall become effective immediately upon passage and publication as provided for by law.

ADOPTED BY THE COMMON COUNCIL OF THE CITY OF NEW CASTLE THIS
____ DAY OF _____, 2020.

Greg York, Presiding
Officer, Common Council, City
of New Castle, Indiana

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NAY

ATTEST:

Brenda Grider,
Clerk-Treasurer

APPROVED BY ME THIS ____ DAY OF _____, 2020.

Greg York, Mayor of the City
of New Castle, Indiana

