

ORDINANCE NO. 23- 02

AN ORDINANCE OF THE CITY OF PORTAGE, INDIANA
AMENDING CHAPTER 90, ARTICLE V
OF THE CITY OF PORTAGE MUNICIPAL CODE
ENTITLED "ZONING MAP"

BE IT, AND IT HEREBY IS ORDAINED by the Common Council of the City of Portage, Indiana as follows:

SECTION ONE: This Ordinance shall amend Chapter 90, Article V of the City of Portage Municipal Code, and accompanying Zoning Map, in the following manner:

The zoning shall be changed from requesting a Change of Zoning from R2-Low Density Residential to LI-Light Industrial for 19.15 acres +/- east side of Samuelson Road, south of I-80/I-90 between Silver Cloud Drive and 875 North.

The legal description – Lot 1 in Robbins Run, as per plat thereof, recorded April 28, 2011, as Document Number 2011-008860 in Plat File 52-E-4, in the Office of the Recorder of Porter County, Indiana

SECTION TWO: Conditions precedent:

- 1) **The Agreement for Written Commitments of Permitted Uses and Special Exception Uses**

SECTION THREE: Conflicting Ordinances. Any ordinance or provision of any Ordinance of the City of Portage in conflict with the provisions of this ordinance is hereby repealed.

SECTION FOUR: Severability. The invalidity of any section, clause, sentence, or provision of this Ordinance shall not affect the validity of any other part of this Ordinance which can be given effect without such invalid part or parts.

SECTION FIVE: Effective Date. This Ordinance shall be in full force and effect from and after its passage and adoption by the Common Council and approval by the Mayor of the City of Portage, Indiana.

PASSED AND ADOPTED by the Common Council of the City of Portage, Indiana
This 7th day of February, 2023.



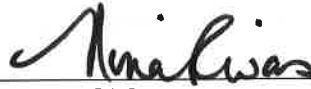
PRESIDING OFFICER

ATTEST:



NINA RIVAS,
CLERK-TREASURER

Presented by me to the Mayor of the City of Portage, Porter County, Indiana, this
7th day of February, 2023.



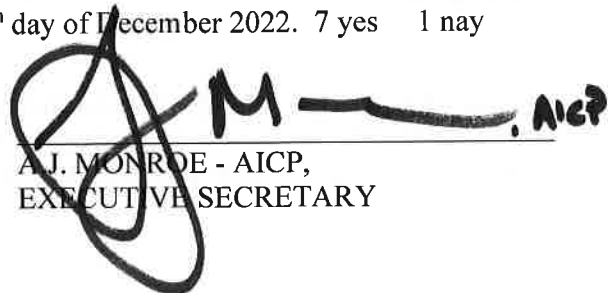
NINA RIVAS,
CLERK-TREASURER

Approved by me, the Mayor of the City of Portage, Porter County, Indiana, this
7th day of February, 2023.



SUE I. LYNCH, MAYOR

This is to certify that the preceding Ordinance was considered and voted upon, after a public hearing, by the Plan Commission to send a favorable recommendation to the Common Council for a Change of Zoning from R2 (Low Density Residential) to LI (Light Industrial) with the attached Agreement for Written Commitments of Permitted Uses and Special Exception Uses, on the 5th day of December 2022. 7 yes 1 nay



A.J. MONROE - AICP,
EXECUTIVE SECRETARY

AGREEMENT FOR WRITTEN COMMITMENTS

This Agreement for Written Commitments (hereinafter referred to as the "Agreement") is made this 5th day of January, 2023 by Security Door Inc., a for-profit corporation (hereinafter referred to as the "Owner"), for the creation of certain written commitments to induce the City of Portage Plan Commission and the City Council (collectively herein referred to as the "City") to approve the application for an Amendment to the Zoning Map filed by Owner for certain real estate located within the City of Portage, Indiana.

WITNESSETH

WHEREAS, Owner is the fee simple title owner of the real property located in Portage, Indiana and more fully described as follows (hereinafter referred to as the "Property"):

Lot 1 in Robbins Run, as per plat thereof, recorded April 28, 2011, as Document Number 2011-008860 in Plat File 52-E-4, in the Office of the Recorder of Porter County, Indiana.

WHEREAS, Owner filed an application to amend the Zoning Map by changing the zoning classification from the R2 District, Single-Family Residential to LI District, Light Industrial;

WHEREAS, Owner shall and does hereby agree to certain commitments to be placed upon and binding upon the Property; and

WHEREAS, the City, after paying reasonable regard to the Comprehensive Plan, current conditions and the character of current structures and uses in each district, the most desirable use for which the land in each district is adapted, the conservation of property values throughout the jurisdiction, and the responsible development and growth of the City, deems that the Application should be granted under certain and specific terms, conditions, and restrictions set forth herein.

NOW, THEREFORE, in consideration of the mutual promises contained herein, and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, Owner and the City covenant, promise and agree as follows:

1. **Ownership of the Property.** Owner represents and warrants that it is the fee simple title owner of the Property.

Sales Disclosure NOT Required
Porter County Assessor DM

NC

2. **Approval of Application for Zoning Amendment.** The Application is hereby deemed approved, and the Zone Map amended to reflect the Property rezoned to the zoning classification of LI District, Light Industrial.

3. **Use and Development of the Property.**

A. **Permitted Uses.** Owners shall be entitled to the following uses on the Property which are allowed and generally consistent with the new zoning classifications set forth in Sec. 90-3.43 of the Portage Zoning Ordinance, with the following exceptions:

- (1) Office/showroom, contractor
- (2) Office/warehouse, contractor
- (3) Light industrial assembly and distribution
- (4) Warehouse and distribution facility

Nothing in this Agreement shall prohibit Owner from petitioning the Board of Zoning Appeals for a variance from use for any LI District, Light Industrial uses or any other use on the Property pursuant to the Portage Zoning Ordinance and/or I.C. 36-7-4-900 *et seq.*

B. **Special Exception Uses.** Owner shall be allowed to petition the Board of Zoning Appeals for a Special Exception for the following uses:

- (1) Communication/utility:
Above ground utility facility
- (2) Industrial:
Outdoor storage (accessory use)

C. **Outdoor Advertising.** Owner shall not be allowed a billboard sign otherwise allowed in the LI District, Light Industrial set forth in Section 90-6.49 of the Portage Zoning Ordinance.

D. **Development of the Property.** Owner shall not develop the Property beyond a single-site development.

E. **Buffer Surrounding the Property.** Owner shall provide a robust buffer along the east and south property lines of the Property.

F. **Conceptual Site Plan.** Owner shall work with the City to determine locations on the Property of future driveway cuts onto Samuelson Road.

4. **Subsequent Owners.** This Agreement shall run with the land and be binding upon subsequent owners of the Property, unless modified or terminated hereinafter.

5. **Duration and Termination.** This Agreement shall be effective at such time as Owner's development of the Property begins and shall continue in full force and effect unless and until modified or terminated by the Plan Commission at a public hearing after notice as provided by the Plan Commission's rules. In the event that the City adopts new or changed zoning classifications for the Property after the date of this Agreement, the Property shall be zoned to a classification most similar to and which permits the uses except as restricted herein contemplated in the LI District in effect as of the date of this Agreement.

6. **Severability of Enforcement.** While this Agreement is entered into jointly by each Owner party, all parties, including City, recognize that each individual party shall separately and severally enjoy the benefits and bear the obligations and burdens of the terms of this Agreement. The City shall not seek any enforcement action against or revoke or terminate this Agreement against any party, or their successor and assigns, who is in substantial compliance with this Agreement. A violation of this Agreement by one Owner party shall not create or be deemed to be a violation or breach of any other party or the entire Property.

7. **Merger.** This Agreement constitutes the entire agreement of the parties, and all promises, undertakings, representations, agreements, understandings, and arrangements with reference to representations are herein merged.

8. **Construction.** This Agreement is entered into in the State of Indiana and shall be construed in accordance with the laws thereof. In the event of a conflict or ambiguity within this Agreement, the more restrictive provision shall be deemed to prevail. The headings appearing as titles for each of the provisions of this Agreement are included for purposes of convenience only and shall not be considered in the construction of any of the substantive provisions herein.

9. **Counterpart Execution.** This Agreement may be signed in one or more counterparts, each of which shall be deemed an original but all of which shall be deemed one and the same instrument.

10. **Designated Party of Enforcement - Variances.** The City shall be the designated party of enforcement of this Agreement and the covenants and agreements contained herein. The City of Portage Board of Zoning Appeals may grant variances to the terms of this Agreement provided the standard provision to be varied would be a developmental standard variance under Indiana law.

11. **Enforceability.** If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable for any reason this Agreement and the other provisions herein shall be deemed to be null and void *ab initio* and of no force and effect whatsoever.

IN WITNESS WHEREOF, the City and Owner have executed this Agreement for Written Commitments at Portage, Indiana, upon the date and year first above written.

OWNER:

Security Door, Inc., an Indiana for-profit corporation

By: [Signature]
Bryce Pickering
President

CITY:

By: [Signature]
Name: Sue Lynch
Title: Mayor

STATE OF INDIANA)
) SS:
COUNTY OF PORTER)

Before me, the undersigned, a Notary Public for said county and state, personally appeared Bryce Pickering, President of Security Door, Inc., an Indiana for-profit corporation, being first duly sworn by me upon oath, acknowledged the execution of the foregoing instrument to be a free and voluntary act for and on behalf of said company. Signed and sealed this 5th day of January, 2023.

My Commission Expires:
4/4/2030

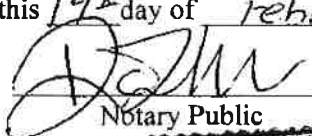
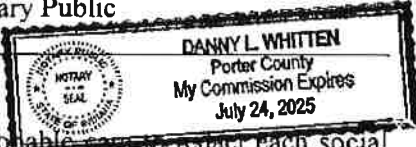
[Signature]
Notary Public
Printed: Donna Diane Borowski



STATE OF INDIANA)
) SS:
COUNTY OF PORTER)

Before me, the undersigned, a Notary Public for said county and state, personally appeared Sue Lynch, Mayor of the City of Portage, Indiana, being first duly sworn by me upon oath, acknowledged the execution of the foregoing instrument to be a free and voluntary act for and on behalf of said company. Signed and sealed this 14th day of February, 2023.

My Commission Expires:


Notary Public
Printed: 

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. **Todd A. Leeth**

This Instrument Prepared By:

Todd A. Leeth
Hoeppner Wagner & Evans LLP
103 E. Lincolnway
Valparaiso, Indiana 46383
(219) 464-4961

**HOEPPNER
WAGNER &
EVANS LLP**
ATTORNEYS AT LAW

<https://hwelaw.sharepoint.com/sites/Clients/Shared Documents/Security Door 20257/Portage Zone Map Amd -1/Documents/Written Commitments 2022-12-14.doc>

