



**NOTICE OF MEETING OF THE  
PLANNING & DEVELOPMENT COMMITTEE  
OF THE COMMON COUNCIL**

**Thursday, June 3, 2021  
At 6:30 p.m.**

The **Planning and Development Committee** of the Common Council of the City of Elkhart will meet on **Thursday, June 3, 2021, at 6:30 p.m.**, in the Council Chambers, Municipal Building, 229 S. Second Street, Elkhart, to discuss:

- **PROPOSED ORDINANCE 21-O-19, AN ORDINANCE AMENDING THE ZONING MAP CREATED PURSUANT TO ORDINANCE NO. 4370, THE “ZONING ORDINANCE OF THE CITY OF ELKHART, INDIANA” AS AMENDED, TO REZONE APPROXIMATELY 1.3 ACRES OF UNIMPROVED LAND AT THE SOUTHWEST CORNER OF CR 6 AND STRYKER STREET FROM M-1, LIMITED MANUFACTURING DISTRICT TO B-2, COMMUNITY BUSINESS DISTRICT**

\*This meeting is open to the public and will also be made available to the public through WebEx and Facebook Live.

Rod Roberson  
Mayor



Planning & Development  
Community Development  
Economic Development  
Planning Services  
229 S. Second St.  
Elkhart, IN 46516  
574.294.5471  
Fax: 574.295.7501

To: City Council

From: Ryan Smith



Date: May 4, 2021

Re: 21-Z-04 Southwest Corner, C.R. 6 and Stryker St.

This is a request to rezone +/- 1.3 acres located at the Southwest corner of County Road 6 East and Stryker Street (vacant land) from M-1, Limited Manufacturing District to B-2, Community Business District, with commitments. The proposed use is a Dollar General. The request comes to the Council with a do-pass recommendation from the Plan Commission.

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE AMENDING THE ZONING MAP CREATED  
PURSUANT TO ORDINANCE NO. 4370, THE “ZONING ORDINANCE OF THE CITY  
OF ELKHART, INDIANA” AS AMENDED, TO REZONE APPROXIMATELY 1.3  
ACRES OF UNIMPROVED LAND AT THE SOUTHWEST CORNER OF CR 6 AND  
STRYKER STREET FROM M-1, LIMITED MANUFACTURING DISTRICT TO B-2,  
COMMUNITY BUSINESS DISTRICT**

WHEREAS, on July 20, 1998, the Common Council of the City of Elkhart, Indiana (the “Common Council”) adopted Ordinance No. 4370 (the “Zoning Ordinance of the City of Elkhart, Indiana”), creating the zoning map that established the zoning districts for all real estate located within the corporate boundaries of the City of Elkhart (commonly referred to as the “Zoning Map”); and

WHEREAS, the real estate generally described as approximately 1.3 acres of unimproved land at the Southwest Corner of CR 6 and Stryker Street, in Elkhart, Indiana (the “Real Estate”), is zoned M-1, Limited Manufacturing District; and

WHEREAS, the owner of the Real Estate petitioned the Common Council to amend the Zoning Map to allow for the development of a Dollar General retail store; and

WHEREAS, the intended use of the Real Estate is not a permitted use, thus requiring that the subject Real Estate be rezoned from M-1, Limited Manufacturing District to B-2, Community Business District, if the intended use is to be allowed; and

WHEREAS, the rezoning, as petitioned, remains compatible with the adjacent properties and reflects responsible growth and development; and

WHEREAS, on May 3, 2021, the Elkhart City Plan Commission held a public hearing on the petition to amend the Zoning Map for the purpose stated herein and forwarded to this Council its “DO PASS” recommendation.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF ELKHART, INDIANA that

Section 1. The zoning map created pursuant to and incorporated into Ordinance No. 4370, as amended, the Zoning Ordinance of the City of Elkhart, Indiana, is hereby further amended to rezone from M-1, Limited Manufacturing District to B-2, Community Bussiness District, the following real estate, located in the City of Elkhart, County of Elkhart, State of Indiana, and more-fully described as follows:

**Legal Description:**

Lot No. 2 of Victory Driveway Subdivision, Osolo Township, Elkhart County, Indiana as per Plat thereof recorded in Plat Book 40 Page 31, as Document No. 2020-31074, in the Office of the Recorder of Elkhart County, Indiana.

**Address(s):**

Approximately 1.3 acres of unimproved land at the Southwest Corner of CR 6 and Stryker Street, Elkhart, Indiana

**Parcel Identification Number(s):**

20-02-28-203-003.000-027

Section 2. Conditions of Rezoning. This amendment and rezoning shall not take effect unless the following conditions are satisfied:

- A. Any site development shall be approved throught Technical Review prior to permitting

Section 3. Effective Date. This ordinance shall be in full force and effect from and after its passage by the Common Council.

So ORDAINED this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
H. Brent Curry  
President of the Common council

ATTEST:

\_\_\_\_\_  
Debra D. Barrett, City Clerk

PRESENTED to the Mayor by me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_,  
at \_\_\_\_\_ a.m./p.m.

\_\_\_\_\_  
Debra D. Barrett, City Clerk

Approved by me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Rod Roberson, Mayor

ATTEST:

\_\_\_\_\_  
Debra D. Barrett, City Clerk

Rod Roberson  
Mayor

Development Services  
229 S. Second Street  
Elkhart, IN 46516  
574.294.5471  
Fax: 574.295.7501  
Permit Center Fax:  
574.970.1361



May 5, 2021

The Common Council  
City of Elkhart  
Elkhart, IN 46516

**RE: Petition 21-Z-04**

**Vacant Land, Southwest corner of County Road 6 East and Stryker Street**

Dear Council Members:

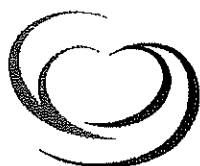
This letter certifies that the Elkhart City Plan Commission at its regular meeting on **Monday, May 3, 2021**, heard the above petition as prescribed by Section 29.11.B, Map Amendments, a request to rezone the property located at the Southwest corner of County Road 6 East and Stryker Street (vacant land) from M-1, Limited Manufacturing District to B-2, Community Business District with owner commitments.

The Plan Commission **voted 5 to 1 in favor** of this rezoning petition and thus it is sent to the Common Council with a "Do Pass" recommendation.

Sincerely,



Kayla Jewell  
Plan Commission Recording Secretary



City of Elkhart

# Staff Report

Planning & Zoning

**Petition:** 21-Z-04

**Petition Type:** Rezoning

**Date:** April 5, 2021

**Petitioner:** H & O Investments Property, LLC

**Site Location:** Vacant Land, Southwest corner of County Road 6 East and Stryker Street

**Request:** Per Section 29.11.B, Map Amendments, a request to rezone the property located at the Southwest corner of County Road 6 East and Stryker Street (vacant land) from M-1, Limited Manufacturing District to B-2, Community Business District with owner commitments.

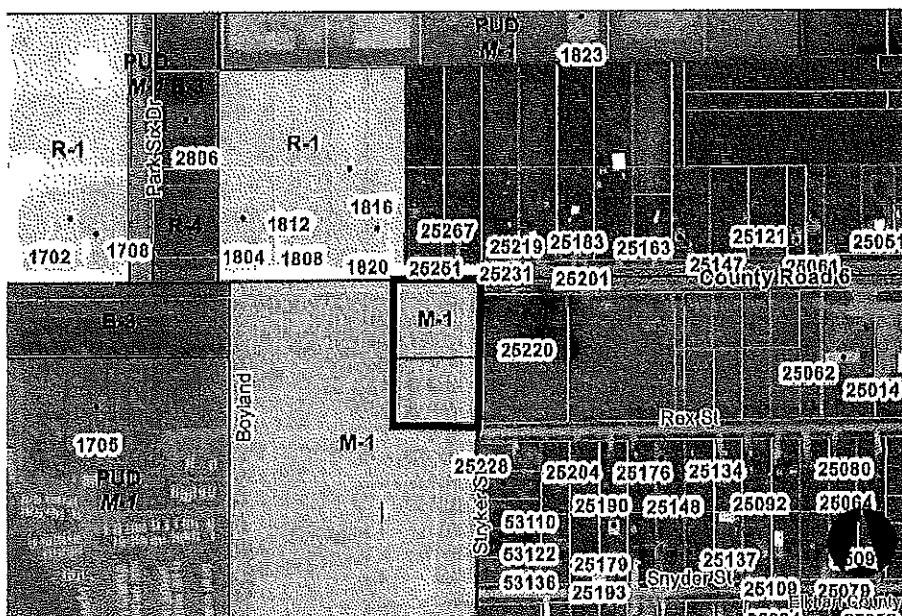
**Existing Zoning:** M-1, Limited Manufacturing District

**Size:** +/- 1.348 Acres

**Thoroughfares:** County Road 6 and Stryker Street

**School District:** Elkhart Community Schools

**Utilities:** Water is currently available and sanitary sewer will need to be extended to site.



**Surrounding Land Use & Zoning:**

The property is located between industrial, residential, and commercially zoned property. Properties generally on the north side of County Road 6 are residential, properties to the east are residential zoned Elkhart County zoning; the land to the west and south is an RV driveway company zoned M-1.

**Applicable Sections of the Zoning Ordinance:**

See enumerated in request.

**Comprehensive Plan:**

The Comprehensive Plan does not yet take this area into account but it is anticipated to call for this area to be used for commercial and industrial uses.

## **Staff Analysis**

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The petitioner is seeking to rezone the corner +/- 1.35-acre parcel from M-1, Limited Manufacturing District to B-2, Community Business District for the purpose of developing a Dollar General retail store.

After being annexed to the City in 2017, a petition was filed in 2018 to seek rezoning from PUD and R-1 (approved by the County Commissioners) to M-1 for a proposed large warehouse and manufacturing facility. The facility was never constructed.

In 2019, the entire undeveloped site (+/- 16 acres) had a proposal submitted to rezone for a PUD to allow for B uses along CR 6 and M uses at the rear of the site. The Planned Unit Development would allow for a higher level of review by the Plan Commission to ensure the development standards for the corridor were achieved. The 2019 proposal was again for a large manufacturing facility at the rear – farthest away from CR 6 and commercial uses north along the frontage adjacent to CR 6. However, those projects did not materialize due in part to the fact that sanitary sewer would need to be extended to the site and those costs were not able to be absorbed into the development proposal. Subsequently, the request for the Planned Unit Development was withdrawn.

In December 2020, a new petition was submitted to subdivide the site into two lots. One lot to develop a new use for the majority of the site for a driveway company, and the lot referenced today. The driveway company has received permits. A rezoning petition was filed for the January Plan Commission meeting under 21-Z-01, which at the time received a unanimous do-not-pass recommendation from the Plan Commission, and was withdrawn before being heard by the Common Council.

The only portion of the site without an approved development plan is this 1.35-acre site. The request to change the zoning and develop a retail store is before this body again because the developer for the current manufacturing use is extending sewer to the site. The retail use would be able to then connect to the public service.

The retail developer has submitted plans again through the Technical Review process; it has passed with the exception of the SWPPP being approved and some minor details on the design treatment of the building.

After hearing the public comments heard during the first rezoning application, the petitioner agreed to work with the city and adjacent neighborhood representatives to address some of their traffic concerns. After several meetings and revisions to the site plan, a driveway configuration that featured a left-turn-only egress, thereby directing exiting traffic to County Road 6, was generally agreed upon as the best solution to the traffic concerns. As far as staff knows, the neighborhood representatives spoke with many of their constituents and have endorsed the driveway and the project. The petitioner should be credited with their willingness to engage with the neighborhood and being flexible in their design.



Since the April plan commission meeting, the petitioners have responded to concerns from the Plan Commission by submitting a series of zoning commitments. Staff approves of the proposed commitments with a few suggestions for edits:

- Point 3 should explicitly state there shall be no vehicular access from CR 6
- Point 6 should remove the provision for recycled asphalt and recycled concrete
- A legal description should be attached.

Currently, permitted M uses are able to be developed on this lot. Contractors offices, professional offices, office uses related to manufacturing activities, service businesses that provide services to the manufacturing uses, equipment rental facilities are examples that are permitted by right that do not require a rezoning. These types of use are found more frequently along this portion of the CR 6 corridor, although it's worthy to note that the Elkhart County properties to the east are zoned PUD B-3; presumably they may be developed with B uses. An M use that would fit on this lot, such as an office or contractor's operation, would likely have less impact in terms of traffic than the retail use.

## Recommendation

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The Staff offers **no recommendation** for the rezoning.

## Conditions

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If the Plan Commission chooses to approve this request, staff recommends the following conditions be placed upon the approval:

1. Any site development shall be approved through Technical Review prior to permitting.

## Photos

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Network, Dec 15, 2020 at 11:35:20 AM EST



Network, Dec 15, 2020 at 11:35:51 AM EST



## Attachments

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Petition, appeal letter, and site plan.





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March 2, 2021

TO: Honorable Members of the City Council  
And Plan Commission  
City of Elkhart, Indiana

RE: Rezone Petition – SWC County Road 6 & Stryker Road

The undersigned petitioner(s) respectfully shows the Council and Plan Commission:

1. I, \_\_\_\_\_, am authorized to act on behalf of H & O Investment Property, LLC, the owner of the following described real estate located within the City of Elkhart, Osolo Township, Elkhart County, State of Indiana, to-wit:

**Parcel Numbers: 20-02-28-203-003-027**

**Property Address: County Road 6, Elkhart, IN 46514**

2. The above described real estate presently has a zoning classification of M-1, Limited Manufacturing District under the Zoning Ordinance of the City of Elkhart.
3. Petitioner(s) presently occupies (*or propose to occupy*) the above described property in the following manner: **9,100 sft general retail.**
4. Petitioner(s) desires to rezone said real estate to B-2, Community Business District.
5. Standard Descriptions:
  - i. Proposed plan complies with the current Zoning Classification map.
  - ii. Current site conditions: vacant land, no existing buildings. Adjacent uses are a mix of residential and commercial businesses.
  - iii. Most desirable use of the land is commercial. County Road 6 is a major thoroughfare with existing commercial businesses mix with residential uses. The proposed use will contribute to the continuing growth of commercial uses on this corridor. Furthermore, rezoning to a business district is a reduction in zoning that allows lesser intense uses than the current M-1 classification.
  - iv. Conservation of property values throughout jurisdiction by serving the needs of consumers that are not of the nearest community.
  - v. Responsible growth and development by providing employment and contributing to economic growth within the community.

Wherefore, Petitioner prays and respectfully requests a hearing on this appeal and that after such hearing, the Plan Commission make a do pass recommendation and the Council, after hearing, pass on appropriate ordinance rezoning the above described parcel of land located in the City of Elkhart.

Signature of Property Owner: Chris H

Printed Name: Chris Hermon

Contact Information: (cell) 574-612-7756 (email) chrishermon1970@gmail.com

Contact Person: AR Engineering, LLC

Name: Whitney Pizzala, E.I.T.

Address: 5725 Venture Park Drive, Suite A, Kalamazoo, MI 49009

Phone Number where you can be reached: 269-830-1311

Fax Number: 866-569-0604

Second Contact Person: Zarembo Group, LLC

Name: Tom Cowen

Address: 14600 Detroit Avenue, Suite 1500, Lakewood, OH 44107

Phone Number where you can be reached: 216-226-4168

Fax Number: 216-227-1786

**AR ENGINEERING, LLC**

## WRITTEN COMMITMENT

**Grantor:**

Elkhart CR 6 BTS Retail, LLC  
14600 Detroit Avenue, Suite 1500  
Lakewood, Ohio 44107

**Grantee:**

Elkhart City Plan Commission

**Developer:**

Zaremba Group, LLC  
14600 Detroit Avenue, Suite 1500  
Lakewood, Ohio 44107

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The following shall be referred to herein as the "Property":

**Common Street Address:** \_\_\_\_\_

**Current Tax Parcel ID#:** \_\_\_\_\_

**Legal Description:** See Attached Exhibit "A"

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The Grantor hereby agrees to abide by these commitments concerning the use and/or the development of the Property located at the southwest corner of CR 6 and Stryker Street in Elkhart, Indiana and further described above:

1. Any development shall be served by City of Elkhart Municipal Water and Wastewater Utilities.
2. Vehicle access to the Property shall be off of Stryker Street. Direct access into the Property from CR 6 will not be allowed.
3. Egress out of the Property shall be restricted to left out only onto Stryker Street, as depicted on the attached Driveway Exhibit.
4. Any development shall require Best Management Practices for stormwater quantity and stormwater quality.
5. All exterior lighting shall be shielded from residential structures. No free-standing light pole shall have a height greater than twenty feet.
6. All surfaces meant for driving or parking shall be an improved, hard surface.
7. Any development will be self-parked, subject to variance if applicable.
8. Any development shall abide by current zoning standards at the time of permit application, subject to variance if applicable.

9. Any of the uses listed in Section 12, B-2 Community Business District of the Elkhart County Zoning Ordinance in effect on the date of this Zoning Commitment shall be allowed except for the following:
- A) Gasoline filling station.
  - B) Restaurant with drive-through.
  - C) Any unlawful use or legal nuisance.
  - D) Discotheque, dance hall or night club.
  - E) Massage parlor.
  - F) Funeral parlor.
  - G) Bingo parlor, but sale of lottery tickets shall not be prohibited.
  - H) Any use that emits a strong, unusual, offensive or obnoxious odor.
  - I) Any dumping, disposing, incineration or reduction of garbage (exclusive of garbage compactors located near the rear of any building).
  - J) Any dry cleaners performing on-site cleaning services.
  - K) Any establishment selling or exhibiting paraphernalia for use with illicit drugs.
  - L) Any establishment selling or exhibiting materials or devices which are adjudicated to be pornographic by a court of competent jurisdiction.
  - M) Any adult bookstore, adult video store or adult movie theater.
  - N) Any gun range or shooting gallery.
  - O) Any use that creates fire, explosives or other hazards, provided, however, small quantities of these items sold for general retail consumer use in compliance with laws shall not be prohibited.

Further, the Developer does agree to the following concerning the procedures associated with maintenance and enforcement of this Zoning Commitment:

1. That this Zoning Commitment shall be recorded in the Elkhart County Recorder's office.
2. That the Developer shall give notice of this Zoning Commitment, whether recorded or unrecorded, to any subsequent owner of the Property.
3. That the Developer and any subsequent owner of the Property shall be bound by the terms of this Zoning Commitment.
4. That the Elkhart County Advisory Plan Commission and/or the Elkhart County Zoning Administrator are authorized to enforce the terms of this Zoning Commitment.
5. This Zoning Commitment may be modified or terminated only by a decision of the Elkhart County Advisory Plan Commission after public hearing, except as otherwise stated herein.
6. This Zoning Commitment shall be effective immediately upon approval by the Elkhart County Advisory Plan Commission.

[remainder of page intentionally left blank; signatures to follow]



Agreed to this \_\_\_\_ of \_\_\_\_\_, 20\_\_ by the Grantor:

Elkhart CR 6 BTS Retail, LLC,  
an Indiana limited liability company

By: \_\_\_\_\_

Name:

Its: Authorized Signatory

STATE OF OHIO

COUNTY OF CUYAHOGA

Before me, \_\_\_\_\_, a Notary Public in and for said County and State, on this  
\_\_\_\_ day of \_\_\_\_\_, 20\_\_, came \_\_\_\_\_, the Authorized  
Signatory of Elkhart CR 6 BTS Retail, LLC, an Indiana limited liability company, who being duly  
authorized so to do, acknowledged the execution of the foregoing instrument for the uses and  
purposes therein set forth.

WITNESS my hand and official seal.

(Signature) \_\_\_\_\_

(Printed) \_\_\_\_\_

Notary Public

This document was prepared by:  
Rebekah E. Fisher, Esq.  
Rebekah Fisher & Associates, PLLC  
414 Bridge Street Franklin  
Tennessee 37064

When recorded, return to:  
Rebekah E. Fisher, Esq.  
Rebekah Fisher & Associates, PLLC  
414 Bridge Street Franklin  
Tennessee 37064

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.

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Printed Name: Rebekah E. Fisher

**EXHIBIT "A"**

Legal Description of Property