

**IN THE CIRCUIT COURT OF KANKAKEE COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION**

<p>Concerned Citizens of Manteno, an Illinois non-profit corporation,</p> <p style="text-align:center">and</p> <p>Brian Kovaka,</p> <p style="text-align:center">Plaintiffs,</p> <p style="text-align:center">v.</p> <p>Village of Manteno, Illinois, an Illinois municipality,</p> <p>Francis Smith, <i>in his official capacity as Chairman of the Manteno Plan Commission,</i></p> <p>Transform Manteno IL, LLC,</p> <p style="text-align:center">and</p> <p>Gotion Inc., a California Corporation,</p> <p style="text-align:center">Defendants.</p>	<p>Case No.:</p> <p>Judge:</p> <p>COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF</p>
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Plaintiffs Concerned Citizens of Manteno and Brian Kovaka (collectively, the “Plaintiffs”), as and for its Complaint against Defendants Village of Manteno, Illinois, Francis Smith in his official capacity, Transform Manteno IL, LLC, and Gotion Inc. (collectively, the “Defendants”), state and allege as follows:

INTRODUCTION

1. This action arises from a massive and dangerous lithium battery plant being brought into a small, rural community that does not want it, that does not need it, and that has laws which do not allow it, and. This plant was brought in under the cover of secrecy, with Manteno’s mayor

signing a Non-Disclosure Agreement with the plant owner stopping him from speaking about the plant. He then convinced various municipal boards to pass several ordinances to provide it favorable tax treatment, without disclosing its identity and before anyone in the public knew the plant was coming. This plant is being brought in through millions of subsidies from the State of Illinois and millions in tax credits from the federal government. This plant will be operated by Gotion Inc. – a company being actively investigated as a national security threat by the federal government due to its close ties to its Chinese Communist Party controlled parent company. This plant will use highly toxic chemicals, including lithium and likely N-methylpyrrolidone.

2. This dangerous plant is only viable because the Village of Manteno Plan Commission approved, in a five-minute meeting without any discussion of the findings of fact in opposition submitted by Plaintiff Concerned Citizens of Manteno, a rezoning of the property the plant will sit on from I-1 to I-2. It did this despite the rezoning violating the Village of Manteno Code, the Village of Manteno Comprehensive Plan, and the Illinois Constitution and statutes.

3. To protect their community and stop to this illegal rezoning and illegal plant, Plaintiffs bring this complaint seeking declaratory and injunctive relief to enjoin the rezoning and the plant’s operation. In the alternative, Plaintiffs seek a writ of mandamus directing the Village of Manteno to revert the zoning back to its original I-1 designation.

PARTIES

4. Plaintiff Concerned Citizens of Manteno (“CCM”) is an Illinois non-profit corporation whose members include residents of the Village of Manteno who live near a planned lithium battery assembly plant in Manteno, Illinois (the “Gotion Plant”), which they oppose for environmental, national security, health, safety, and good governance reasons.

5. Plaintiff Brian Kovaka is a resident of the Village of Manteno, who owns and resides at a parcel of real estate commonly known as 863 White Tail Bend, Manteno IL 60950, a property that lies within 1200 feet of the property the Gotion Plant will be built on. Mr. Kovaka also owned the property prior to the rezoning at issue in this action.

6. Manteno is an Illinois village and has been notified of this action by a concurrent service of a copy of a summons and complaint on its Mayor as its chief executive officer. Manteno is not a home rule municipality under Illinois law.

7. Defendant Francis Smith is Chairman of the Manteno Plan Commission¹ and is employed by Manteno to carry out the duties and responsibilities of that office as provided by the Village of Manteno Code (the “Manteno Code”). The Plan Commission, in turn, is a department of Manteno charged under the Manteno Code with, *inter alia*, reviewing applications for changes in the Official Zoning Map of Manteno and making a recommendation to the Village Board as to whether to approve or reject a proposed rezoning application. Manteno Code Ch. 3.

8. Defendant Transform Manteno IL LLC is, upon information and belief, a limited liability company whose principal address is 5407 Trillium Boulevard Suite B120, Hoffman Estates, IL 60192, and, upon information and belief, is the owner of the property commonly known as 333 S. Spruce Street, Manteno, IL 60950, and specifically described as:

The Northeast 1/4 of Section 20, Township 32 North, Range 12 East of the Third Principal Meridian, in Kankakee County, Illinois

Except any interest in the coal, oil, gas and other minerals underlying the land which have been heretofore conveyed or reserved in prior conveyances, and all rights and easements in favor of the estate of said coal, oil, gas and other minerals, if any.

Further excepting the North 800. 00 feet thereof, and being more particularly described as follows:

¹ The Manteno Code uses “Planning Commission” but the internal documents of the Planning Commission use “Plan Commission” instead. Plaintiffs use Plan Commission in this complaint with the understanding that it refers to the same entity as the Planning Commission.

Commencing at the Northwest corner of the Northeast 1 /4 of said Section 20; thence South 00 degrees 26 minutes 00 seconds East along the West line of the Northeast 1/4 of said Section 20 a distance of 800. 00 feet to a point said point to be known as the point of beginning. From said point of beginning thence North 89 degrees 30 minutes 30 seconds east along the South line of the North 800 feet of the Northeast 1/4 of said Section 20 a distance of 2,665.52 feet to a point on the East line of the Northeast 1/4 of said Section 20; thence South 00 degrees 20 minutes 35 seconds East along the East line of the Northeast 1/4 of said Section 20 a distance of 1,852.63 feet to the Southeast corner of the Northeast 1/4 of said Section 20; thence South 89 degrees 33 minutes 35 seconds West a distance of 2,662.61 feet to the Southwest corner of the Northeast 1/4 of said Section 20; thence North 00 degrees 26 minutes 00 seconds West along the West line of the Northeast 1/4 of said Section 20 a distance of 1,850.25 feet to the point of beginning.

ALSO EXCEPTING THEREFROM that portion thereof conveyed to the Village of Manteno, Illinois by instrument dated July 13, 199 2 recorded July 16, 199 2 as Document No. 92-12195 and more particularly described as follows:

Commencing at the Northeast corner of the Northeast 1/4 of Section 20, Township 32 North, Range 12 East of the Third Principal Meridian, in Kankakee County, Illinois; thence South 00 degrees 20 minutes 35 seconds East on the East line of said Northeast 1/4 of Section 20, 1,345.00 feet to a point; thence South 89 degrees 39 minutes 25 seconds West; 40. 00 feet to a point on the West right of way line of South Spruce Street, said point to be known as the point of beginning for this land description; thence South 00 degrees 20 minutes 35 seconds East, on said West right of way line of South Spruce Street, 110. 00 feet to a point; thence South 89 degrees 39 minutes 25 seconds West; 150. 00 feet to a point; thence North 00 degrees 20 minutes 35 seconds West, 110. 00 feet to a point; thence North 89 degrees 39 minutes 25 seconds East, 150. 00 feet to the point of beginning.

ALSO EXCEPTING THEREFROM that portion thereof conveyed to the Village of Manteno, Illinois by Right of Way Deed dated July 10, 199 2 recorded July 16,

1992 as Document No. 92-12196 and rerecorded October 20, 1992 as Document

No. 92-17969, and more particularly described as follows:

Commencing at a point on the East line of the Northeast 1/4 of Section 20, Township 32 North, Range 12 East of the Third Principal Meridian, in Kankakee County, Illinois, being 800. 00 feet South of the Northeast corner of said Northeast 1/4 of Section 20; thence continuing South, on said East line of the Northeast 1/4, 1,852.63 feet to the Southeast corner of said Northeast 1/4 of Section 20; thence West, on the South line of said Northeast 1/4 of Section 20, 40.00feet to a point, thence North on a line being 40. 00 feet West of and parallel with the East line of Section 20, 1,852.60 feet more or less to a point

on a line being 800. 00 feet South of and parallel with the North line of said Section 20; thence East, on said line being 800.00 feet South of and parallel with. 40. 00 feet to the point of beginning;

EXCEPTING therefrom any land which has previously been dedicated for public highway. Situated in Kankakee County, Illinois.

P.I.N.: 03-02-20-200-008.

(the “Gotion Property”).

9. Gotion, Inc. is, upon information and belief, a corporation organized and existing pursuant to the laws of the State of California with a principal place of business at 48660 Kato Rd, Fremont, CA 94538.

10. Upon information and belief (informed by the Plan Commission’s findings of fact to the same), Gotion does not currently own the Gotion Property but is the intended owner of the property and intended operator of the Gotion Plant.

11. Gotion, Inc. is a subsidiary of the Chinese company Guoxuan High-Tech Company, Ltd. (“GHTC”).

12. GHTC, in turn, is a majority shareholder of Energin Guoxuan (Tangshan) New Energy Technology Co. Ltd.; a company likely subject to U.S. sanctions because it develops “military energy storage products” for “military vehicles and military ships and boats” to bolster the People’s Liberation Army.

13. GHTC is required, by its Articles of Association, to create a “[Chinese Communist] Party organization and carry out Party activities in accordance with the Constitution of the Communist Party of China.”²

14. GHTC’s Articles of Association further provide:

² Guoxuan High-Tech Company Articles of Association, Articles 5, 9 (July 20, 2022).

The Party Committee of the Company *shall perform its duties in accordance with the Constitution of the Communist Party of China* and other Party regulations:

(I) Ensure and supervise the implementation of the Party's guidelines, principles and policies in the Company, and *implement major strategic decisions of the CPC Central Committee* and the State Council as well as relevant important work arrangements of the Party organization at the higher level;

(II) Strengthen leadership and control over the selection and appointment of personnel, regulate standards, procedures, inspections, recommendations and supervision, and adhere to the principle of the Party's supervision of cadres, the board of directors' selection of managers and the managers' exercise of the right to employ personnel in accordance with law;

(III) Study and discuss the Company's reform, development and stability, major business management issues and major issues related to the immediate interests of employees, and put forward opinions and suggestions; support the shareholders' meeting, the board of directors, the supervisory committee and the senior management in performing their duties in accordance with law; support the employee representative assembly in their work;

(IV) Assume primary responsibility for comprehensively and strictly governing the Party; *lead the ideological and political work, united front work, spiritual civilization construction, enterprise culture construction, labor union, Communist Youth League and other mass work of the Company; lead the construction of Party conduct* and clean government, and support the Commission for Discipline Inspection in earnestly fulfilling its supervisory responsibilities;

(V) Strengthen the construction of Party organization and Party members at the grass-roots level of the Company, *give full play to the role of the Party branch as a fighting fortress and the vanguard and exemplary role of Party members*, unite and lead cadres and staff to actively participate in the reform and development of the Company.³

(emphases added).

15. Gotion is currently being investigated by the United States House of Representatives Select Committee on the Chinese Communist Party for threats it may pose to the national security of the United States.

³ *Id.* at Articles 114 and 115 (emphasis added).

16. Upon information and belief, Gotion is attempting to build, in Green Charter Township, Michigan, a similar plant to the Gotion Plant and attempted to build a plant in Muscle Shoals, Alabama before that plant was rejected for national security concerns.⁴

RELEVANT THIRD PARTIES

17. Timothy Nugent is the Mayor of Manteno and concurrently serves as President and CEO of the Economic Alliance of Kankakee County (“EAKC”).⁵

18. In his capacity as EAKC President and CEO, Nugent signed a non-disclosure agreement with Gotion which, upon information and belief, forbid him from discussing any aspect of the planned Gotion Plant, including the identity of Gotion, until September 8, 2023.

19. During the period of his non-disclosure agreement, Nugent, in his capacity as Manteno Mayor, sought and obtained the passage of Resolution No. 23-02, titled *A Resolution Approving an Intergovernmental Agreement Between Certain Kankakee County Taxing Districts and Officials Regarding the Abatement of Property Taxes for the Property Located at 333 South Spruce Street, Manteno, Illinois*, which provided: “[A] foreign company (the ‘Enterprise’) has proposed to purchase the Subject Property and develop the same as a state-of-the-art lithium-ion battery cell, module, pack production, and energy storage integration facility (the ‘Project’).

20. Ryan Marion is the Director of the Building and Zoning for Manteno. In that capacity, he has the duty to, *inter alia*:

. . . enforce all of the provisions of this chapter [Manteno Code § 8-1, Building Code] and to act on any questions relative to the mode or manner of construction in the erection, addition, alteration, repair, removal, demolition of structures, installation of service equipment, use and occupancy permits, maintenance of all buildings, including sewer

⁴<https://www.msn.com/en-us/money/markets/alabamas-national-security-concerns-lead-to-rejection-of-gotion-incs-ev-project/ar-AA1jVI5U>

⁵ <https://www.kankakeecountyed.org/>

connections, zoning and nuisance complaints, fire and life safety issues, other applicable village ordinances, and state laws as herein referred to.

Manteno Code § 8-1.

21. Marion also has the responsibility for determining whether a proposed land use will be prohibited, including for “[a]ny use that creates any external odor, smoke, dust, noise or glare or that involves the use of any radioactive or *highly toxic materials*, as determined by the code enforcement officer.” Manteno Code § 9-9A-3 (emphasis added).

22. Marion has the duty to regulate nuisance elements in I-1 and I-2 districts:

No land or building in any I-1 or I-2 district which shall be used, occupied or operated in such a manner so as to create any dangerous, *injurious, noxious or otherwise objectionable, fire, explosive or other hazard*; noise or vibration, smoke, dust, dirt or other form of air pollution; electrical or other disturbance; glare; or *other substance, condition or element in such amount as to adversely affect the surrounding area or premises at the specified point or points of the determination.*

Manteno Code §§ 9-9C-2(B)(1), 9-9C-4 (emphases added).

23. One of these standards pertains to “other forms of pollution,” and prohibits the emission of particles that could “cause any damage to health, to animal, vegetation, or other forms of property.” *Id.*

STATEMENT OF FACTS

History of the Site

24. The Village of Manteno is located in Northeast Illinois, approximately one hour from Chicago, Illinois, and, as of the 2020 census, has a population of 9,168.

25. In 2006, Manteno passed the Comprehensive Plan, which set out the intended development plan for the village.

26. The 2006 Comprehensive Plan included, *inter alia*, a requirement for a mile long stretch from Route 45-52 to Spruce Street to serve as “new Manteno's future Main Street, emphasizing those characteristics that create an appealing and safe environment for users, including street facing buildings, pedestrian scale lighting, controlled traffic access and an interconnected sidewalk system.” 2006 Comprehensive Plan at 67.⁶

27. The Comprehensive Plan calls for industrial uses to run down the Route 50 corridor south of Manteno. *Id.* at 53.

28. The Comprehensive Plan contains no language suggesting that Manteno would seek out I-2 uses but does provide that Manteno’s “policy is to . . . [c]ontinue to promote Manteno as a distribution center, but also seek[] opportunities to bring light manufacturing [I-1] business.” *Id.* at 47.

29. In fact, the Villages of Manteno, Bourbonnais, and Bradley drafted and adopted (with the County of Kankakee) standard development regulations for the area in the 6000 North corridor in preparation for the construction of the interchange at 6000 North.

30. Manteno is empowered to zone the land within its municipal boundaries pursuant to the Illinois Zoning Enabling Act and the Illinois Municipal Code.

31. The Manteno Code allows for I-1 (Light Industrial) and I-2 (Heavy Industrial) uses.

32. In general, an I-1 zone is limited to lands that “have high standards of performance that can be located in relatively close proximity to residential and business uses.” Manteno Code § 9-9A-1.

33. I-1 zoning allows only for specific uses, including:

All low nuisance, light manufacturing and industrial activities, *not expressly prohibited* in section 9-9A-7 of this article including fabrication, processing, assembly, disassembly, repairing, cleaning, servicing, testing,

⁶ https://villageofmanteno.com/wp-content/uploads/Comprehensive_Plan_2006.pdf

packaging and storage of materials, products and goods that can be conducted wholly within enclosed buildings.

Manteno Code § 9-9A-3 (emphasis added).

34. “Expressly prohibited uses” are defined as “[a]ny use that creates any external odor, smoke, dust, noise or glare or that involves the use of any radioactive or *highly toxic materials*, as determined by the code enforcement officer.” *Id.* at 9-9A-7 (emphasis added).

35. The Manteno Code does not define “highly toxic materials.”

36. I-2 zoning allows only for specific uses, including:

Adult oriented establishments, as identified and under specific additional regulations of section 9-3-10 of this title;

Industrial and manufacturing type uses: Abrasive manufacturing; Bakeries; Boot and shoe manufacturing; Bottling companies; Dairy products processing; Dry cleaning establishments and laundries employing more than ten (10) persons; Electronic and scientific precision instruments manufacturing; Electroplating; Food manufacture, packaging and processing; Furniture, bedding, and carpet manufacturing; General manufacturing; Glass products production and sales; Light machinery production; Lithographing; Machine shop; Paper products manufacturing; Plastics processing; Pottery and ceramics manufacturing; Printing and publishing establishments; Wearing apparel manufacturing; Woodworking.

37. Directly adjacent to the Gotion Property is the Prairie Materials quarry which lies outside Manteno municipal boundaries. The quarry is zoned “Ag” by Kankakee County but would have to be zoned I-2 if it was within Manteno municipal boundaries.

38. Manteno objected a number of years ago to the quarry’s County zoning request for a special use to place an asphalt plant near Route 45-52.

39. This quarry utilizes explosives to blast the rock within its boundaries, causing noticeable vibrations and rocking to the adjacent properties, including the Gotion Property.

40. Additionally, Manteno did and still does have several I-1 zoned properties, including the Gotion Property, which was zoned I-1 in 1991 to facilitate the development and operation of a K-Mart distribution center, housing industrial products.

41. K-Mart ceased operations of the distribution center in 2020.

42. Upon information and belief, after K-Mart ceased operations, Transform Manteno IL LLC purchased the Gotion Property.

43. The north side of the adjacent property to the Gotion Property is County Highway 9/Division Street. Both sides of County Highway 9/Division Street are zoned C-2 where annexed to Manteno, except for the parcel with a church.

44. The two lots on the south end of the east side of Spruce Street are zoned I-1 in Manteno. The rest of the parcels on the east side of Spruce Street south of County Highway 9/Division Street are zoned C-2 and have been developed mostly since the construction of the K-Mart distribution center.

45. The Gotion Property sits along the migratory path of the endangered Monarch Butterfly.

46. The Gotion Property is 0.64 miles from the Manteno Elementary School and 0.435 miles from Mary Sears Children's Academy, a preschool.

Setting the Stage for Gotion

47. On August 16, 2022, President Joseph R. Biden signed the Inflation Reduction Act of 2022, Pub. L. 117–169, which, *inter alia*, created a tax-incentive structure for renewable energy products. 26 U.S.C. § 38

48. This led to a surge in supposed “green energy” projects across the country, including projects to process and manufacture the components necessary for electric vehicle batteries.

49. Concurrently, the State of Illinois passed and instituted the Reimagining Energy and Electric Vehicles in Illinois Act, 20 ILCS 686, which enables the Illinois Department of Commerce and Economic Opportunity to offer tax credits and exemptions to applicants seeking to build or manufacture electric vehicle parts.

50. In addition to these incentives, on September 8, 2023, Governor J.B. Pritzker announced⁷ that (1) Gotion and the State of Illinois had executed a “REV Agreement”⁸ making Gotion eligible for “\$213 million in tax benefits over 30 years”, and (2) Gotion was the “first recipient of Invest in Illinois funding in the amount of \$125 million in capital funding.”⁹

51. In exchange for “\$536 million” in incentives from the State of Illinois, Gotion would be building the Gotion Plant and, according to Governor Pritzker’s press release, must create “2,600 full-time jobs that are paid at least 120% of the average wage of similar job classifications in Kankakee County.”¹⁰ (*Id.*)

52. This September 8, 2023 announcement was the first time the citizens of Manteno learned from official sources that Gotion would be coming to their community, despite the fact that Manteno, upon the direction of Nugent, had already granted Gotion a 30-year tax abatement.

⁷ <https://www.illinois.gov/news/press-release.26993.html>

⁸ https://dceo.illinois.gov/content/dam/soi/en/web/dceo/expandrelocate/incentives/rev-agreements/unity_tier_2_rev_agreement_redacted.pdf

⁹ https://secure-web.cisco.com/1TpGZ488cCeZdLW8Cnqg97ZDu6SLzBworuto84AfWhNMR22xhfBGY6OQuFXSGWIS3H0RsKe7vllDHnWyCvTzGiAMEpbBQ9481MAq5-HqoUq9iQHEei7RwCA-41pbRTi3MW_wCraZUIABYGb_zK1vglNBgflzN3_ZP73uzX-3iPGCaHvOq4kK-OvT_yzxPkIhs9c3ACLO_yCjH3d1YT492uhW04yP6HtHIO8mN01Csmnr0kAw4z9cR4z0FvoNUzkOr_2kzxt_ULFz2SKUBrVQ3l251t5cIHC-K16Xzt4WxNcOTqVTfRsf60tN9jh8deRL-PYp1b0vO-ufmlSBKbJaZLmz0SrVF7BfdvyZGWi3scPz3DnAGRoURPKko43xrbw-9OQjQ1TSEud2CTnmBF3-EikIFFVZrRscAkj8EiATSxU/https%3A%2F%2Fdceo.illinois.gov%2Fcontent%2Fdam%2Fsoi%2Fen%2Fweb%2Fdceo%2Fexpandrelocate%2Fincentives%2Fpress%2F24-883001_gov_closing_fund_agreement--gotion-signed_redacted_v2.pdf

¹⁰ *Id.*

53. While Gotion had been awarded millions in government incentives, it could not actually operate the Gotion Plant unless the Gotion Property was rezoned to I-2.

The Rezoning Application

54. On October 12, 2023, Gotion submitted a rezoning application (attached hereto as Exhibit 1) on behalf of Transform Manteno IL LLC to rezone the Gotion Property from I-1 to I-2 (the “Rezoning Application”).

55. As part of the recommendation, the Plan Commission stated that the intended use “would align with the Village's vision and history of utilizing land on the perimeter of the Village limits for job-creating industrial and manufacturing sites, such as the Diversatech Campus.” However, the Diversatech Campus is not located within Manteno’s municipal boundaries.

56. On November 6, 2023, CCM submitted a letter to the Planning Commission outlining various reasons why the Gotion Plant could not operate under I-2 zoning (attached hereto as Exhibit 2).

57. When reviewing a rezoning application, the Plan Commission is required to adhere to Manteno Code § 9-14-13:

4. The planning commission shall, within sixty (60) days after the hearing, transmit a written report giving its findings and recommendations to the village board.

(D) Review Consideration:

1. In reviewing an amendment, the planning commission shall give careful attention to the following:

(a) The effect of the proposed amendments on the comprehensive planning of the entire village.

(b) The changes in community characteristics that may take place because of the projected change.

(c) The relative effectiveness or ineffectiveness of the present wording of the ordinance, and whether a justification for change exists because of either special reasons or a change in conditions.

(d) Whether the amendment is designed to correct an improper situation or would result merely in the granting of special privileges.

2. Where the purpose and effect of the proposed amendment is to change the zoning classification of particular property, the planning commission shall make findings based upon the evidence presented to it in each specified case with respect to the following matters in addition to all points listed above:

(a) Existing uses of property within the general area of the property in question.

(b) The zoning classification of property within the general area of the property in question.

(c) The suitability of the property in question for the use permitted under the existing zoning classification.

(d) The trend of development, if any, in the general area of the property in question, including changes, if any, which may have taken place since the day the property in question was placed in its present zoning classification.

(e) Conformance or nonconformance with officially adopted plans of the village.

(f) The proposed amendment is in the public interest and is not solely for the interest of the applicant.

58. The Plan Commission held a “special meeting” on November 21, 2023, wherein Gotion presented on the proposed rezoning and members of the public were allowed to ask questions (the “Special Meeting”).

59. At the Special Meeting, CCM’s November 6, 2023 letter was submitted into the Plan Commission’s record.

60. A Gotion representative admitted at the Special Meeting that Gotion will be producing lithium-ion batteries.

61. Lithium-ion batteries combust when punctured.

62. Manteno does not have firetrucks capable of extinguishing a lithium fire.

63. Gotion claimed that it will use F500 fire extinguishers but did not know if there are any toxic chemicals in the extinguishers.

64. In addition, Gotion will be using highly toxic chemicals in its production process.
65. Gotion stated that its industrial processes will use (1) lithium iron phosphate, and (2) synthetic graphite; and was unsure whether it would use N-methylpyrrolidone (NMP).
66. Gotion claimed that synthetic graphite was not highly toxic but had nothing to say about whether lithium iron phosphate or NMP were highly toxic.
67. Lithium iron phosphate is toxic in doses as low as 1.5 to 2.5 mEq/L in blood serum, making it a highly toxic material.
68. Further, lithium iron phosphate is a teratogen in animals, and may be a teratogen in humans as well, meaning it may cause birth defects and impair fertility.¹¹
69. The EPA specifically advises that NMP should not be released into the environment because it causes birth defects, cancer, and toxicity to the immune system and liver.¹²
70. Upon information and belief, Marion never made a determination as to whether Gotion will be using highly toxic materials.
71. Indeed, when asked by Manteno resident Annette LaMore in an email dated December 19, 2023, whether Gotion would be using toxic materials, Marion simply responded: “This was discussed and presented at the public hearing to the planning commission and village board members that were in attendance.”
72. Gotion estimated two hundred (200) trucks a day will travel to and from the Gotion Plant but does not have a hazardous route plan in place. Further, Gotion did not know:
- a. how the materials (e.g., lithium, synthetic graphite, NMP) will be transported (e.g., truck, train);
 - b. what form the materials will be transported (e.g., liquid, dust, or solid bricks), and

¹¹ <https://nj.gov/health/eoh/rtkweb/documents/fs/1124.pdf>.

¹² https://www.epa.gov/sites/default/files/2020-12/documents/nmp_non-technical_summary.pdf.

therefore could not begin to speak to the safety steps that will have to be adopted and implemented to protect the citizens and the environment, merely stating it will “comply with the law”; or

- c. where the material will be sourced from, and thus cannot explain what laws and regulations will have to be complied with, including, *inter alia*, forced labor laws, the Uighyur Forced Labor Prevention Act, customs laws, and more.

73. Gotion claimed that it will have a “closed loop system” for water used in its industrial process, but admitted at the Special Meeting that there will be water evaporation into the atmosphere.

74. Despite this, Gotion did not explain if any toxins or other chemicals will be released during the evaporation process, nor how those will be removed if they are.

75. Gotion claimed that 300,000 gallons of water a day might be needed from local water utility Aqua (despite being a “closed loop system”) but was unclear how any water directed to the sewage system from the process would be "pre-treated" before going in the regular sewer mains.

76. Prior to a hearing on the Rezoning Application, Manteno officials traveled to Germany to inspect a Gotion plant.

77. During the Special Meeting, Gotion revealed that it received no financial incentives from the German government to build the German plant.

78. Gotion further revealed that the German Gotion plant was not actually in operation when the Manteno officials “inspected it.”

79. Despite the German Gotion plant not being in operation, Gotion and Marion testified that the German Gotion plant was safely operating.

80. And yet, a Gotion representative then testified that there had been at least 4 fires at the German Gotion plant.

81. Gotion did not explain at the public hearing how the Gotion Plant could safely operate with the adjacent quarry using explosives at a frequent interval.

82. Indeed, Gotion apparently had not held a single conversation with quarry officials regarding how their two operations would work together.

83. Gotion has not completed any environmental studies nor obtained any necessary permits (including Army Corps of Engineer Permits, Illinois Environmental Protection Agency, etc.) for development of the Gotion Property.

84. Gotion admitted that in case of fire, there will be battery packs stored outside the Gotion Plant in a dunk tank, using a forklift system to deposit the battery outside the plant and then having the battery removed by a hazardous waste company.

85. Manteno Code § 9-9B-9(A),(C),(H) prohibits the storing or placing of hazardous material outside.

86. The prevailing west winds will blow the evaporated water, toxic fumes, and other chemical issues over the core of the Village, potentially placing residents in the line of harm. This is a reason why the Comprehensive Plan pushes industrial development to the south and east of the current Manteno municipal boundaries.

87. The Special Meeting ended without the Plan Commission taking a vote on whether to recommend approving or rejecting the Rezoning Application.

Approving the Rezoning Request

88. After the Special Meeting, on November 24, 2023, CCM submitted proposed findings of facts to the Plan Commission (attached hereto as Exhibit 3).

89. Gotion had earlier submitted findings of facts to the Plan Commission; the Plan Commission asked no questions of Gotion regarding the findings of facts at the Special Meeting.

90. The Plan Commission reconvened on November 27, 2023, for an approximately 5-minute meeting where it did not discuss the proposed findings of fact submitted by CCM nor the findings of facts submitted by Gotion.

91. Instead, the Plan Commission unanimously voted to adopt Gotion's findings of facts verbatim and recommend that the Manteno Village Board approve the Rezoning Application. (See Exhibit 4.)¹³

92. On December 5, 2023, the Manteno Village Board approved the Rezoning Application in a 5-1 vote.

COUNT I

VIOLATION OF 65 ILCS 5/11-13-15 (DECLARATORY AND INJUNCTIVE RELIEF)

93. Plaintiffs restate and reallege the foregoing paragraphs as though fully stated therein.

94. Plaintiff Brian Kovaka is a landowner whose land is within 1200 feet of the Gotion Property.

95. The Gotion Plant violates or will violate Manteno Code § 9-9A-3 prohibiting highly toxic chemicals.

96. The highly toxic chemicals will harm the public by causing birth defects, liver disease, and other adverse health effects.

97. The Gotion Plant violates or will violate Manteno Code § 9-9B-9(A),(C),(H) because, in the event of fire, Gotion intends to store lithium batteries that are *on fire* outside of the Gotion Plant.

¹³ The Plan Commission submitted proposed findings of facts that used CCM's letterhead. CCM assumes this was a mistake.

98. Any permits Gotion or Transform Manteno IL, LLC applies for to operate the Gotion Plant will violate the Manteno Code because it will be for a use not permitted by the Manteno Code.

99. Violation of the Manteno Code is a *per se* harm to Plaintiff Kovaka under 65 ILCS 5/11-13-15.

100. Upon information and belief, the portions of the Manteno Code that are violated were adopted under the authority of the Illinois Municipal Code Article 11, Division 13, 31, or 31.1.

101. The operation of the Gotion Plant is further injurious to Plaintiff Kovaka in that, among other things, it negatively affects his quality of life and the property value of his home and land.

102. Upon information and belief, unless restrained or enjoined by this Court, Manteno and Transform Manteno IL LLC will proceed with development of the Gotion Property and Gotion Plant, despite said development violating the Manteno Code.

103. Although Manteno is not currently a municipality with over 500,000 residents, notice of this action is being sent to all landowners within 250 feet of the Gotion Property concurrently with filing of this complaint (the names and identities of which are included in Exhibit 1).

104. Accordingly, this Court must enter an order enjoining the rezoning, enjoining Gotion or any other owner or operator from using highly toxic chemicals, including lithium and NMP, and enjoining Manteno from issuing any permits or other necessary permissions to operate the Gotion Plant using highly toxic chemicals.

COUNT II

UNCONSTITUTIONAL REZONING (DECLARATORY AND INJUNCTIVE RELIEF)

105. Plaintiffs restate and reallege the foregoing paragraphs as though fully stated herein.

106. An illegal, arbitrary and capricious, and unreasonable rezoning decision is a violation of the Illinois Constitution.

107. The rezoning at issue is invalid and thus a violation of the Illinois Constitution because the I-2 zoning is not compatible with the existing use and zoning of the properties surrounding the Gotion Property, none of which are zoned I-2 and most of which are zoned commercial.

108. The rezoning is invalid and thus a violation of the Illinois Constitution because it will cause a significant decrease in property values around the Gotion Plant and in Manteno, while the Gotion Property's value is not diminished by being zoned I-1 instead of I-2 or, if it is, it is a de minimis devaluation.

109. The rezoning is invalid and thus a violation of the Illinois Constitution because, even if the Gotion Property is worth less valued at I-1, the public is benefitted by the Gotion Property not being zoned I-2, given that the I-2 use will damage the health, safety, and general welfare of the public by utilizing harmful and dangerous chemicals and significantly increasing the risk of fire.

110. Further, the Gotion Plant poses a significant safety risk due to its parent company GHTC's connections to and control by the Chinese Communist Party. This safety risk is so severe that the Muscle Shoals, Alabama community rejected a Gotion Plant due to national security concerns.

111. The rezoning is invalid and thus a violation of the Illinois Constitution because the Gotion Property is not suited to host a lithium battery plant, given the adjacent quarry that frequently uses explosives, the close proximity of residential housing and schools, and the substantial rework that will have to occur to turn a distribution center into a manufacturing plant.

112. The rezoning is invalid and thus a violation of the Illinois Constitution because the Gotion Property had only been vacant for three years, two of which were in the depths of the Covid-19 pandemic.

113. The rezoning is invalid and thus a violation of the Illinois Constitution because rezoning the Gotion Property to I-2 violates the 2006 Comprehensive Plan's vision for main street, I-1 development, and the placement of industrial properties.

114. The rezoning is invalid and thus a violation of the Illinois Constitution because Gotion presented no evidence of a community need for an I-2 lithium battery plant.

115. For all these reasons, the rezoning was also an illegal spot rezoning.

116. For all these reasons, the rezoning constituted unconstitutional contract zoning.

117. For all these reasons, the rezoning violated Plaintiffs' substantive due process rights.

118. Plaintiffs have no adequate remedy at law for the injuries which they have and will suffer.

119. Thus, this Court must issue declaratory and injunctive relief against Defendants, enjoining the rezoning and reverting the Gotion Property back to I-1.

COUNT III

VIOLATION OF THE VILLAGE OF MANTENO CODE (DECLARATORY AND INJUNCTIVE RELIEF)

120. Plaintiffs restate and reallege the foregoing paragraphs as though fully stated herein.

121. For all the reasons stated under Counts I-II, Manteno's approval of the Transform Manteno IL LLC's Rezoning Application from I-1 Light Industrial to I-2 Heavy Industrial for the Gotion Property is arbitrary, unreasonable, and capricious and bears no substantial relation to public health, safety, or welfare and would result in special injury and damage to Plaintiffs and thus is illegal under the Illinois Zoning Enabling Act and Illinois Constitution.

122. Manteno's approval of the Transform Manteno IL LLC's Rezoning Application for reasoning from I-1 Light Industrial to I-2 Heavy Industrial for the Gotion Property is arbitrary, unreasonable, and capricious and bears no substantial relation to public health, safety, or welfare

and would result in special injury and damage to Plaintiffs because it violates Manteno Code § 9-9A-3 prohibiting highly toxic chemicals.

123. The highly toxic chemicals will harm the public by causing birth defects, liver disease, and other adverse health effects.

124. The approval of the Rezoning Application further violates Manteno Code § 9-9B-9(A),(C),(H) because, in the event of fire, Gotion intends to store lithium batteries that are *on fire* outside of the Gotion Plant.

125. By holding a merely five-minute meeting wherein the Plan Commission members did not discuss a single aspect of either Gotion or CCM's findings of fact, the Plan Commission did not carefully consider the rezoning application as required by Manteno Code § 9-14-13.

126. Alternatively, if the Plan Commission did discuss the findings of fact outside of public meetings, this violated the Open Meetings Act and nullifies any action taken.

127. Violation of the Manteno Code is a *per se* harm to Plaintiffs.

128. Because Manteno is not a Home Rule municipality, it has no authority to violate its code via other legislative acts such as rezoning.

129. Manteno's approval of the Rezoning Application is further injurious to Plaintiffs in that, among other things, it negatively affects the quality of life of Manteno's residents, significantly decreases the property values of residential homes adjacent to the Gotion Plant and within Manteno's borders as a whole, and will adversely affect Manteno's growth and development.

130. Upon information and belief, unless restrained or enjoined by this Court, Manteno and Transform Manteno IL LLC will proceed with development of the Gotion Property and Gotion Plant.

131. Plaintiffs have no adequate remedy at law for the injuries which they have and will suffer.

132. Thus, this Court must issue declaratory and injunctive relief against Defendants, enjoining the rezoning and reverting the Gotion Property back to I-1 for failure to follow the Manteno Code.

133. For the same reasons, this Court must also issue declaratory and injunctive relief against Defendants, declaring that Gotion will be using highly toxic materials in violation of the Manteno Code and enjoining the operation of the Gotion Plant.

COUNT IV

PROSPECTIVE PUBLIC NUISANCE (DECLARATORY AND INJUNCTIVE RELIEF)

134. Plaintiffs restate and reallege the foregoing paragraphs as though fully stated therein.

135. Plaintiffs have a right to be spared from development that injuriously affects the safety, health, or morals of the public, or that works substantial annoyance, inconvenience, or injury to the public. For the reasons outlined above, the Gotion Plant will injuriously affect the safety, health, and morals of the public, and will work substantial annoyance, inconvenience, and injury to the public.

136. Plaintiffs also have a right to a clean and healthy environment, including an environment, air, and water, free from toxic and highly toxic materials.

137. Transform Manteno IL LLC (and, ultimately, Gotion) intends to develop the Gotion Property as a heavy industrial property using, *inter alia* lithium carbonate, synthetic graphite, and NMP.

138. This proposed development violates the Manteno Code and, once in operation, will constitute a common law public nuisance because it will degrade the air and water of the

community, including significantly increasing the risk and prevalence of liver disease, birth defects, and other harmful effects from lithium, synthetic graphite, and NMP.

139. The Gotion Plant will be the cause of the adverse health effects because it will leak lithium, NMP, synthetic graphite and other harmful and dangerous chemicals and substances into the Manteno community, including into the lakes and rivers that are part of the Manteno boundaries.

140. The Gotion Plant will also cause a significantly heightened risk of dangerous fires in the community as well because, by Gotion's own admission, lithium batteries can combust spontaneously or when punctured, and some fires can be so severe that the on-fire battery will have to be brought outside the factory and placed in a dunk tank that is later towed away.

141. This heightened fire risk is amplified by the Village's failure to obtain the firefighting equipment necessary to combat a lithium fire.

142. Finally, while the Gotion Plant is not in operation yet, all these violations will be willingly undertaken by Gotion and its agents once construction and operation commence.

143. Accordingly, this Court must find that the operation of the Gotion Plant will operate as a public nuisance and enjoin Gotion from using highly toxic chemicals, including lithium and NMP.

COUNT V

PROSPECTIVE PRIVATE NUISANCE (DECLARATORY AND INJUNCTIVE RELIEF)

144. Plaintiffs restate and reallege the foregoing paragraphs as though fully stated herein.

145. For the reasons stated in Count VI, the operation of the Gotion Plant will invade Plaintiff Kovaka's use and enjoyment of his property.

146. Specifically, the presence of lithium and NMP, and the severe risk they pose to Plaintiff Kovaka's health and safety, substantially interferes with his ability to use the water on his

property, be outside on his property, or use the soil on his property, without fear of chemical contamination and adverse health risks.

147. Further, the noise that will be generated by the construction and operation of the Gotion Plant will significantly interfere with Plaintiff Kovaka's ability to enjoy his property.

148. Further, the light pollution caused by the construction and operation of the Gotion Plant (including its nighttime operations and the lighting necessary to light the property during nighttime operations) will significantly interfere with Plaintiff Kovaka's ability to sleep and otherwise enjoy his property.

149. Further, the increase in traffic caused by the construction and operation of the Gotion Plant (including nighttime deliveries of materials) will interfere with Plaintiff Kovaka's ability to access and exit his property, and contribute to increased and excessive noise, thus interfering with Plaintiff Kovaka's ability to otherwise enjoy his property.

150. Further, the increase in dust and vibrations caused by the construction and operation of the Gotion Plant and the travel of trucks (which may be transporting chemicals in a dangerous fashion such as lithium dust) will interfere with Plaintiff Kovaka's ability to enjoy his property, including by hosting outdoor events.

151. Finally, while the Gotion Plant is not in operation yet, all these violations will be willingly undertaken by Gotion and its agents once construction and operation commence.

152. Accordingly, this Court must find that the operation of the Gotion Plant will operate as a private nuisance to Plaintiff Kovaka and enjoin Gotion from using highly toxic chemicals, including lithium and NMP, operating outside reasonable hours (including accepting deliveries outside reasonable hours), from using heightened noise outside reasonable hours, and limit construction activities to reasonable hours.

COUNT VI

ALTERNATIVE CLAIM FOR WRIT OF MANDAMUS

153. Plaintiffs restate and reallege the foregoing paragraphs as though fully stated herein.

154. Plaintiffs have a clear right to have illegal, arbitrary, capricious, and unreasonable zoning adjacent to their property overturned and rejected.

155. Manteno and Francis Smith, in his official capacity, have a duty to follow and uphold the law and cannot amend the zoning map to facilitate an illegal rezoning.

156. Further, Manteno and Francis Smith, in his official capacity, have no discretion to approve an illegal rezoning.

157. Thus, as an alternative claim to Counts II-III, should this Court find that declaratory and/or injunctive relief is not a proper remedy, Plaintiff asserts this Court must issue a writ of mandamus compelling Manteno and/or Francis Smith, in his official capacity, to revert the zoning of the Gotion Property to I-1 zoning.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for Judgment as follows:

1. For a declaratory judgment that:
 - a. The proposed use of the Gotion Plant will involve highly toxic chemicals and storage of dangerous materials outside the Gotion Plant and thus is in violation of the Village of Manteno Code;
 - b. The rezoning was unconstitutional, illegal, arbitrary, capricious, and unreasonable, and thus null and void, thereby reverting the property back to an I-1 zoning designation;

- c. The proposed construction and use of the Gotion Plant constitutes a prospective and ongoing public nuisance, and a prospective private nuisance to Plaintiff Brian Kovaka;
2. For permanent injunctive relief forbidding the granting/issuing of building permits and other permits necessary for the construction and operation of the Gotion Plant;
3. For permanent injunctive relief enjoining the operation of the Gotion Plant for use as a lithium-ion battery plant or any other industrial use that utilizes highly toxic materials or other nuisance-causing materials;
4. For permanent injunctive relief enjoining the use of lithium, NMP, or any other toxic or highly toxic materials at the Gotion Property;
5. In the alternative, the issuance of a writ of mandamus compelling Manteno and Francis Smith, in his official capacity, to revert the zoning of the Gotion Property to I-1;
6. For all expenses, costs and disbursements, and reasonable attorney's fees as allowed by law; and
7. Such other and further relief the Court deems just and equitable.

Attorneys for Plaintiffs

Dated: December 22, 2023

/s/ DAVID BERGDAHL
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**Pro hac vice applications pending*

Village Use Only
Application Rec'd: 10/12/23
Fee Paid: 400 -
Comm. Hrg. Date: 11/21/23
Comm. Action: _____
Vill. Bd. Date: _____
Vill. Bd. Action: _____

PLANNING COMMISSION
VILLAGE OF MANTENO, ILLINOIS
PETITION FOR REZONING / MAP AMENDMENT

Case No. PC-ZON 23-01

Pursuant to the Village Code of Manteno, as amended, the undersigned hereby files this Petition, with the applicable filing fee, to the Village Clerk's Office requesting a map amendment/rezoning from the provisions of the Zoning Ordinance of the Village of Manteno, Kankakee County, Illinois.

Applicant: Gotion, Inc. ("Company")
Address: 48660 Kato Road
Fremont, California 94538
Attn: Di Zhang
Phone: (510) 249-5610
Email: d.zhang2@gotion.com

"Owner": Transform Manteno IL LLC
Address: c/o Transform Midco LLC
5407 Trillium Blvd, Suite B120
Hoffman Estates, Illinois 60192
Attn: D. Scott Carr
Phone: (847) 286-2676
Email: Scott.Carr@transformco.com


Address of Subject Site : 333 South Spruce Street
Manteno, Illinois 60950

Attorney for Applicant: Trevor Worby
Address: 110 North Wacker Drive, Suite 4800
Chicago, Illinois 60606
Phone: (312) 782-3939
Email: tworby@jonesday.com



1. This is a request for a rezoning / map amendment from **I-1, Light Industrial** zoning to **I-2, Heavy Industrial** zoning, for the property described below.
2. Parcel ID Number: **03-02-20-200-008**
3. Lot Size: **Approximately 112 acres**
4. Legal Description as shown on the deed: *[Or submit a copy of the deed]*
See attached Exhibit A for legal description.
5. Present use of property: **Warehouse operations.**
6. The property interest of the applicant, if not the owner, is:
Proposed purchaser pursuant to a Purchase and Sale Agreement by and between Owner and the Company, dated August 10th, 2023, pursuant to which the Company shall take title to the subject property.
7. Current zoning of the subject property: **I-1, Light Industrial.**
8. Description of any improvements currently existing on the property:
A one-story, 50-foot tall building that has a footprint of approximately 1,546,575 Sq. Ft.
9. State the reason for the rezoning / map amendment:
This rezoning request is necessary to accommodate the Company's proposed use of the property, including, but not limited to, the high-tech manufacturing of new energy storage systems.

10. The following are all of the individuals, firms or corporations owning property within 150 feet of the subject property, as appear from the tax records of the Kankakee County Assessor's Office.

Owner's Name	Owner's Address	Property Address	Parcel ID Number
DRALLE BROTHERS LLC	103 N HARLEM AVENUE, PEOTONE IL 604689185	n/a on Kankakee County GIS Services and Data	03-02-21-100-019
TRANSFORM HOLDCO LLC	3333 BEVERLY RD, HOFFMAN ESTATES IL 601790001	333 S SPRUCE ST (subject site)	03-02-20-200-008
FULTONBSH MTIL I LLC	ONE PRESIDENTIAL BLVD STE 201, BALA CYNWYD PA 19004	300 S SPRUCE ST	03-02-21-100-021
MIDLAND STATES BANK TR#834	576 WILLIAM LATHAM DR, BOURBONNAIS IL 609142320	8504 N 1000 RD E 8406 N 1000 RD E	03-02-20-400-005 03-02-20-400-008
009AERO LLC	500 S SPRUCE ST, MANTENO IL 60950	n/a on Kankakee County GIS Services and Data	03-02-21-300-008
RD WAGNER VENTURE IV LLC	13808 HIGH ROAD, LOCKPORT IL 604415867	S SPRUCE ST	03-02-21-100-023
RD WAGNER VENTURE II LLC	13808 HIGH ROAD, LOCKPORT IL 604415867	S SPRUCE ST	03-02-21-100-022
GLENVIEW STATE BANK	LOAN OPS, 800 WAUKEGAN RD, GLENVIEW IL 600254381	500 S SPRUCE ST	03-02-21-100-010
MANTENO RFT LLC	13808 HIGH ROAD, LOCKPORT IL 604415867	450L S SPRUCE ST 450 S SPRUCE ST	03-02-21-192-014 03-02-21-192-012 03-02-21-192-015
AHW REAL ESTATE CO LLC	27688 E 3200 NORTH ROAD, DWIGHT IL 604208047	200 S SPRUCE ST	03-02-21-100-014
VCNA PRAIRIE AGGREGATE HOLDINGS	ATTN CFO, 7601 W 79TH STREET, BRIDGEVIEW IL 604551115	8215C N STATE RTE 45	03-02-20-300-001 03-02-20-400-013
SANTANGELO DEBRA		n/a on Kankakee County GIS Services and Data	03-02-20-100-006
KMART CORPORATION PROPERTY TAX COMPLIANCE	768TAX DEPT B2-116A PO BOX 927000 SCHAUMBURG IL 601790001	n/a on Kankakee County GIS Services and Data	03-02-20-200-009

Owner's Name	Owner's Address	Property Address	Parcel ID Number
VILLAGE OF MANTENO	98 E THIRD ST MANTENO IL 609501204	S SPRUCE ST	03-02-20-200-007

11. Address each of the following standards, indicating how they relate to your request.
- A. How will the proposed rezoning be compatible with the existing zoning of property within the general area of the subject property:
The parcel adjacent to the subject property to the west, and two parcels adjacent to the subject property to the east / southeast are zoned as Light Industrial, I-1. No parcels zoned as residential are immediately adjacent to the subject property. Light Industrial zoned property is compatible with the proposed rezoning.
 - B. Why isn't the property suitable for the uses provided in the current zoning district:
The current zoning would not permit the Company to engage in the type of manufacturing necessary to conduct its business operations.
 - C. How will the proposed rezoning be consistent with the trend of development, if any, in the general area of the subject site:
The Company's intended use of the subject property would align with the Village's vision and history of utilizing land on the perimeter of the Village limits for job-creating industrial and manufacturing sites, such as the Diversatech Campus.
 - D. How is the rezoning of the subject site in the public interest:
The rezoning of this site would bring high-tech industrial jobs in a growing and sustainability-focused field to the area surrounding the subject property.

I hereby verify, under oath, that I am personally familiar with all of the facts stated herein and that such are true and correct.

[Signature] 8/14/23
Applicant, Trevor Womley Date
Attorney for the Applicant

[Signature] 8.12.23
Owner, (if different from Applicant) Date
D Scott Carr, AUTHORIZED REPRESENTATIVE
TRANSFORM MACHINERY I - LLC

I, LAURA T. DUFFIN, a Notary Public in and for the State of Illinois, hereby state that on the 14th day of August, 2023, the above captioned Applicant appeared before me and, under oath, stated that all matters contained in this zoning petition are true.

[Signature: Laura T. Duffin]
Notary Public

My Commission Expires: September 9, 2025

If owner is a corporation or trust, attach name of all officers, trust name, trust number, trust date, and list of all trustees.



Exhibit A
Legal Description

The Northeast 1/4 of Section 20, Township 32 North, Range 12 East of the Third Principal Meridian, in Kankakee County, Illinois

Except any interest in the coal, oil, gas and other minerals underlying the land which have been heretofore conveyed or reserved in prior conveyances, and all rights and easements in favor of the estate of said coal, oil, gas and other minerals, if any.

Further excepting the North 800.00 feet thereof, and being more particularly described as follows:

Commencing at the Northwest corner of the Northeast 1/4 of said Section 20; thence South 00 degrees 26 minutes 00 seconds East along the West line of the Northeast 1/4 of said Section 20 a distance of 800.00 feet to a point said point to be known as the point of beginning. From said point of beginning thence North 89 degrees 30 minutes 30 seconds east along the South line of the North 800 feet of the Northeast 1/4 of said Section 20 a distance of 2,665.52 feet to a point on the East line of the Northeast 1/4 of said Section 20; thence South 00 degrees 20 minutes 35 seconds East along the East line of the Northeast 1/4 of said Section 20 a distance of 1,852.63 feet to the Southeast corner of the Northeast 1/4 of said Section 20; thence South 89 degrees 33 minutes 35 seconds West a distance of 2,662.61 feet to the Southwest corner of the Northeast 1/4 of said Section 20; thence North 00 degrees 26 minutes 00 seconds West along the West line of the Northeast 1/4 of said Section 20 a distance of 1,850.25 feet to the point of beginning.

ALSO EXCEPTING THEREFROM that portion thereof conveyed to the Village of Manteno, Illinois by instrument dated July 13, 1992 recorded July 16, 1992 as Document No. 92-12195 and more particularly described as follows:

Commencing at the Northeast corner of the Northeast 1/4 of Section 20, Township 32 North, Range 12 East of the Third Principal Meridian, in Kankakee County, Illinois; thence South 00 degrees 20 minutes 35 seconds East on the East line of said Northeast 1/4 of Section 20, 1,345.00 feet to a point; thence South 89 degrees 39 minutes 25 seconds West, 40.00 feet to a point on the West right of way line of South Spruce Street, said point to be known as the point of beginning for this land description; thence South 00 degrees 20 minutes 35 seconds East, on said West right of way line of South Spruce Street, 110.00 feet to a point; thence South 89 degrees 39 minutes 25 seconds West, 150.00 feet to a point; thence North 00 degrees 20 minutes 35 seconds West, 110.00 feet to a point; thence North 89 degrees 39 minutes 25 seconds East, 150.00 feet to the point of beginning.

ALSO EXCEPTING THEREFROM that portion thereof conveyed to the Village of Manteno, Illinois by Right of Way Deed dated July 10, 1992 recorded July 16, 1992 as Document No. 92-12196 and re-recorded October 20, 1992 as Document No. 92-17969, and more particularly described as follows:

Commencing at a point on the East line of the Northeast 1/4 of Section 20, Township 32 North, Range 12 East of the Third Principal Meridian, in Kankakee County, Illinois, being 800.00 feet South of the Northeast corner of said Northeast 1/4 of Section 20; thence continuing South, on said East line of the Northeast 1/4, 1,852.63 feet to the Southeast corner of said Northeast 1/4 of Section 20; thence West, on the South line of said Northeast 1/4 of Section 20, 40.00 feet to a point, thence North on a line being 40.00 feet West of and parallel with the East line of Section 20, 1,852.60 feet more or less to a point on a line being 800.00 feet South of and parallel with the North line of said Section 20; thence East, on said line being 800.00 feet South of and parallel with, 40.00 feet to the point of beginning;

EXCEPTING therefrom any land which has previously been dedicated for public highway. Situated in Kankakee County, Illinois

November 6, 2023

VIA E-MAIL & CERTIFIED MAIL

Chairman Francis Smith
Village of Manteno Planning Commission
98 East Third St.
Manteno, IL 60950
fsmith@villageofmanteno.com

Re: *Demand to Reject Potential Zoning Change*

Dear Members of the Village of Manteno Planning Commission,

The undersigned and Eckland & Blando LLP represent Concerned Citizens of Manteno, a not-for-profit group of Manteno citizens. We are writing to you regarding the planned Gotion lithium-battery plant at the parcel of land known as 333 S. Spruce Street, Manteno, IL 60950 (the “Gotion Plant”). As you are likely aware, Manteno citizens are deeply opposed to the development of this dangerous and illegal project.

Among other challenges, our client opposes the Village Board’s pending approval of the rezoning for the Gotion Plant, and intends to oppose your committee’s actions when necessary. We understand that the Planning Commission functionally serves as the Board of Appeals for any decisions made by the Director of Building and Zoning under the Village of Manteno Code (“VMC”), Chapter 14. VMC § 9-14-11(B). As a result, within twenty (20) days of the date of an alleged action by the Director of Building and Zoning, you have the duty to hear the appeal, recommend a decision, and forward that decision to the Village Board. VMC § 9-14-11(D). The Village Board’s decision is then subject to judicial review. *Id.* Accordingly, the Planning Commission functions as an integral check and balance of the powers within the Village of Manteno’s decision-making process and can protect and serve the interests of the Village’s residents in expected zoning decisions and challenges.

Our client is now seeking answers regarding Gotion’s ability to construct a highly toxic plant in Manteno. Currently, the 333 S. Spruce Street land (the Kmart Distribution Center) is zoned for I-1 (Light Industrial). In general, I-1 zone is limited to lands that “have high standards of performance that can be located in relatively close proximity to residential and business uses.” VMC § 9-9A-1. This zoning allows only for specific uses, including:

All low nuisance, light manufacturing and industrial activities, not expressly prohibited in section 9-9A-7 of this article including fabrication, processing, assembly, disassembly, repairing, cleaning, servicing, testing,

packaging and storage of materials, products and goods that can be conducted wholly within enclosed buildings.

VMC § 9-9A-3. Importantly, the Village of Manteno Code defines “expressly prohibited uses” as including “[a]ny use that creates any external odor, smoke, dust, noise or glare or that involves the use of any radioactive or *highly toxic materials*, as determined by the code enforcement officer.” *Id.* at 9-9A-7 (emphasis added).

In this case, the lithium battery manufacturing plant proposed by Gotion will require the use of highly toxic materials, such as lithium carbonate, iron phosphate, synthetic graphite, hydrofluoric acid, N-methylpyrrolidone (NMP), and styrene-butadiene rubber (SBR) (the “Chemicals”). The Chemicals are dangerous not only to the environment, but to humans and animals:

- *Lithium carbonate* is categorized as Category 2 for eye corrosion, Category 3 for chronic aquatic hazard (making it harmful for freshwater aquatic life), and Category 4 for oral acute toxicity.¹ Further, it can create lithium compounds and carbon oxides when decomposing, and can react with strong oxidizers, creating heat.² Lithium carbonate is a teratogen in animals, and may be a teratogen in humans as well, meaning it may cause birth defects and impair fertility.³
- *Iron phosphate* is categorized as Category 2 for health and Category 1 for flammability by the National Fire Protection Agency and is advised against use with food, drug, pesticides, or biocidals. Importantly, toxicological properties have not been fully investigated, there have not been cancer studies, long term exposure studies, or groundwater concern studies.
- *Synthetic Graphite* is not water soluble, which means fine graphite particles suspended in natural bodies of water may be harmful to organisms. Further, synthetic graphite is considered hazardous under the 2012 OSHA Hazard Communication Standard, 29 C.F.R. 1910.1200.⁴
- *Hydrofluoric Acid* will be used by Gotion to purify battery and anode products. Hydrofluoric acid is a strong, highly corrosive, highly reactive acid which may create flammable hydrogen gas on contact with metals. It is listed as Category 1 for

¹ <https://pubchem.ncbi.nlm.nih.gov/compound/Lithium-Carbonate>.

² *Id.*

³ <https://nj.gov/health/eoh/rtkweb/documents/fs/1124.pdf>.

⁴ <https://www.osha.gov/laws-regs/regulations/standardnumber/1910/1910.1200>.

acute dermal toxicity, skin corrosion, and serious eye damage, and Category 2 for acute inhalation toxicity and acute oral toxicity.”⁵

- Finally, the EPA specifically advises that *NMP* should not be released into the environment because it causes birth defects, cancer, and toxicity to the immune system and liver.⁶ SBR is a known carcinogen as well.⁷

There is no question that the use of such Chemicals poses a significant health risk to the environment, humans, and animals, have a high probability of developing external odor, smoke, dust, or noises, and should not be located in close proximity to Manteno businesses, such as the breweries, churches, businesses, and residential neighborhoods that surround the Gotion Plant land. The Gotion Plant’s development in an I-1 zone is therefore prohibited by the letter of the law and otherwise fails to serve the purpose of I-1 zoned land.

Accordingly, we request that the Planning Commission respond to this letter with an explanation of how the Gotion Plant fits under an I-1 permissible use, and how its proposed use can be permitted given that the Gotion Plant will use highly toxic materials.

Given these restrictions, and assuming that the Gotion plant cannot be developed in I-1 districts, we anticipate that Gotion will apply to rezone the 333 S. Spruce Street plot of land from an I-1 (light industrial) to I-2 (heavy industrial). However, even an I-2 zone would not support the Gotion Plant’s intended uses. I-2 prohibits “[a]ny use that creates any external odor, smoke, dust, noise or glare or that involves the use of any radioactive or highly toxic materials, as determined by the code enforcement officer,” in the same way that I-1 restricts toxic use. VMC § 9-9B-7. If the Gotion Plant is prohibited from operating under I-1 zoning because of its use of highly toxic materials, then it likely cannot operate within I-2 zoning restrictions either, unless it fits within a permitted use. *Id.* Here, no such permitted use exists.

As you likely know, any potential change in zoning is subject to citizen challenges. A zoning challenge will be successful so long as it demonstrates that the zoning change was “arbitrary, capricious, or unrelated to the public health, safety, and morals.” *Rodriguez v. Henderson*, 217 Ill. App. 3d 1024, 1028 (1991). This means that zoning that is done irrationally or without a legitimate purpose is invalid. The courts evaluate nine factors to determine whether a zoning change is valid:

- (1) the existing uses and zoning of nearby property;
- (2) the extent to which property values are diminished by the particular zoning restrictions;
- (3) the extent to which the destruction of a plaintiff’s property values promotes the health, safety, morals, or general welfare of the public;

⁵ <https://www.fishersci.com/store/msds?partNumber=AC423805000&productDescription=HYDROFLUORIC+ACID+ACS+500G&vendorId=VN00032119&countryCode=US&language=en>.

⁶ https://www.epa.gov/sites/default/files/2020-12/documents/nmp_non-technical_summary.pdf.

⁷ <https://www.osha.gov/laws-regs/regulations/standardnumber/1910/1910.1051AppA>.

- (4) the relative gain to the public as compared to the hardship imposed upon the individual property owner;
- (5) the suitability of the subject property for the zoned purposes;
- (6) the length of time the property has been vacant as zoned, considered in the context of land development in its vicinity;
- (7) whether a comprehensive government zoning plan for land use and development exists;
- (8) if so, whether the ordinance is in harmony with it; and
- (9) the evidence or lack of evidence of community need for a proposed use.

Id. at 1029.

If this Committee chooses to rezone the property at issue in the face of the illegality of the Gotion Plant's operation in I-2, the factors listed above would strongly weigh in favor of any citizen-plaintiff challenge. And, to be clear, our client is ready to bring suite to enforce this clear law.

The Village of Manteno's purpose for regulating zoning districts is clear: "to promote the public health, safety, morals, comfort and general welfare of the present and future inhabitants of the village." It achieves this goal by promoting "development in the best interest of the entire village." 9-1-2(A). Given the concerns outlined above, the development of the Gotion Plant within the Village of Manteno is not in the best interest of the entire village.

For these reasons, we request an answer regarding the ability of Gotion to develop a toxic battery plant in an I-1 zone. We likewise request that you review any decisions made by the Director of Building and Zoning with the understanding that the Gotion Plant will not promote the public health, safety, morals, comfort, or general welfare of Manteno's residents, now or in the future. Furthermore, our client reserves its right to challenge any future zoning change related to the Gotion Plant.

Your time and attention to this matter is appreciated. We look forward to your response.

Kindest regards,



Robby Dube

cc: Mark J. Blando, Esq.

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**CONCERNED CITIZENS OF MANTENO
PROPOSED FINDINGS OF FACT
FOR THE
REZONING/MAP AMENDMENT**

CASE NUMBER:..... PC-ZON-23-01

APPLICANT:..... TRANSFORM MANTENO LLC / GOTION, INC.

PROPERTY LOCATION:..... 333 S. SPRUCE, MANTENO, IL 60950

CURRENT ZONING:..... I-1 LIGHT INDUSTRIAL DISTRICT

REQUESTED ZONING:..... I-2 HEAVY INDUSTRIAL DISTRICT

PLANNING COMMISSION RECOMMENDATION NO. 23-01

FINDINGS OF FACT AND RECOMMENDATION OF THE PLANNING COMMISSION OF THE VILLAGE OF MANTENO FOR THE ZONING OF THE TRANSFORM MANTENO PROPERTY, CONSISTING OF APPROXIMATELY 152 ACRES OF LAND LOCATED WEST SIDE OF 333 S. SPRUCE ST., AS I-2 HEAVY INDUSTRIAL

Upon the petition of Transform Manteno LLC, owner of approximately 152 acres of land located at 333 S. Spruce St., Manteno, IL 60950 (“Subject Property”), and Gotion, Inc. (“Petitioner”), to rezone the Subject Property to I-2 Heavy Industrial, and after a public hearing on said petition held before the Planning Commission of the Village of Manteno on November 21, 2023, pursuant to duly published notice in accordance with the law, all interested persons having testified or otherwise participated therein, the said Planning Commission of the Village of Manteno hereby finds:

Findings of Fact

The Planning Commission of the Village of Manteno does hereby find that:

1. Transform Manteno LLC is the owner of the Subject Property currently located in Manteno, Illinois and legally described as follows:

THE NORTHEAST ¼ OF SECTION 20, TOWNSHIP 32 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, KANKAKEE COUNTY, ILLINOIS. EXCEPT ANY INTEREST IN THE COAL, OIL, GAS AND OTHER MINERALS UNDERLAYING THE LAND WHICH HAVE BEEN HERETOFORE CONVEYED OR RESERVED IN PRIOR CONVEYANCES AND ALL RIGHTS AND EASEMENTS IN FAVOR OF THE ESTATE OF SAID COAL, OIL, GAS AND OTHER MINERALS, IN ANY. FURTHER EXCEPTING THE NORTH 800.00 FEET THEREOF AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF THE NORTHEAST ¼ OF SAID SECTION 20; THENCE SOUTH 00 DEGREES 26 MINUTES 00 SECONDS EAST ALONG THE WEST LINE OF THE NORTHEAST ¼ OF SAID SECTION 20 A DISTANCE OF 800.00 FEET TO A POINT SAID POINT TO BE KNOWN AS THE POINT OF BEGINNING. FROM SAID POINT OF BEGINNING THEN NORTH 89 DEGREES 30 MINUTES 30 SECONDS EAST ALONG THE SOUTH LINE OF THE NORTH 800 FEET OF THE NORTHEAST ¼ OF SAID SECTION 20 A DISTANCE OF 2,665.52 FEET TO A POINT ON THE EAST LINE OF THE NORTHEAST ¼ OF SAID SECTION 20; THENCE SOUTH 00 DEGREES 20 MINUTES 35 SECONDS EAST ALONG THE EAST LINE OF THE NORTHEAST ¼ OF SAID SECTION 20 A DISTANCE OF 1,852.63 FEET TO THE SOUTH EAST CORNER OF THE NORTHEAST ¼ OF SAID SECTION 20; THENCE SOUTH 89

DEGREES 33 MINUTES 35 SECONDS WEST A DISTANCE OF 2,662.61 FEET TO THE SOUTHWEST CORNER OF THE NORTHEAST ¼ OF SAID SECTION 20; THENCE NORTH 00 DEGREES 26 MINUTES 00 SECONDS WEST ALONG THE WEST LINE OF THE NORTHEAST ¼ OF SAID SECTION 20 A DISTANCE OF 1,850.25 FEET TO THE POINT OF BEGINNING. ALSO EXCEPTING THEREFROM THAT PORTION THEREOF CONVEYED TO THE VILLAGE OF MANTENO, ILLINOIS BY INSTRUMENT DATED JULY 13, 1992 RECORDED JULY 16, 1992 AS DOCUMENT NO. 92-12195 AND MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHEAST CORNER OF THE NORTHEAST ¼ OF SECTION 20, TOWNSHIP 32 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN KANKAKEE COUNTY, ILLINOIS; THENCE SOUTH 00 DEGREES 20 MINUTES 35 SECONDS EAST ON THE EAST LINE OF SAID NORTHEAST ¼ OF SECTION 20, 1,345 FEET TO A POINT; THENCE SOUTH 89 DEGREES 39 MINUTES 25 SECONDS WEST, 40.00 FEET TO A POINT ON THE WEST RIGHT OF WAY LINE OF SOUTH SPRUCE STREET, SAID POINT TO BE KNOWN AS THE POINT OF BEGINNING FOR THIS LAND DESCRIPTION; THENCE SOUTH 00 DEGREES 20 MINUTES 35 SECONDS EAST, ON SAID WEST RIGHT OF WAY LINE OF SOUTH SPRUCE STREET, 110.00 FEET TO A POINT; THENCE SOUTH 89 DEGREES 39 MINUTES 25 SECONDS WEST, 150.00 FEET TO A POINT OF BEGINNING. ALSO EXCEPTING THEREFROM THAT PORTION THEREOF CONVEYED TO THE VILLAGE OF MANTENO, ILLINOIS BY RIGHT OF WAY DEED DATED JULY 10, 1992 RECORDED JULY 16, 1992 AS DOCUMENT NO. 92-12196 AND RECORDED OCTOBER 20, 1992 AS DOCUMENT NO. 92-17969, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT A POINT ON THE EAST LINE OF THE NORTHEAST ¼ OF SECTION 20, TOWNSHIP 32 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN KANKAKEE COUNTY, ILLINOIS, BEING 800.00 FEET SOUTH OF THE NORTHEAST CORNER OF SAID NORTHEAST ¼ OF SECTION 20; THENCE CONTINUING SOUTH, ON SAID EAST LINE OF THE NORTHEAST ¼, 1,852.63 FEET TO THE SOUTHEAST CORNER OF SAID NORTHEAST ¼ OF SECTION 20; THENCE WEST, ON THE SOUTH LINE OF SAID NORTHEAST ¼ OF SECTION 20, 40.00 FEET TO A POINT, THENCE NORTH ON A LINE BEING 40.00 FEET WEST OF AND PARALLEL WITH THE EAST LINE OF SECTION 20, 1,852.60 FEET MORE OR LESS TO A POINT ON A LINE BEING 800.00 FEET SOUTH OF AND PARALLEL WITH THE NORTH LINE OF SAID SECTION 20; THENCE EAST, ON SAID LINE BEING 800.00 FEET SOUTH OF AND PARALLEL WITH 40.00 FEET TO THE POINT OF BEGINNING; EXCEPTING THEREFROM ANY LAND WHICH HAS

PREVIOUSLY BEEN DEDICATED FOR PUBLIC HIGHWAY.
SITUATED IN KANKAKEE COUNTY, ILLINOIS.

P.I.N.: 03-02-20-200-008

2. The Owner/Petitioner has duly filed its petitions with the Village Clerk requesting that the Subject Property be zoned to I-2 Heavy Industrial.
3. As explained in detail in Exhibit A, the use of the property as an I-2 Heavy Industrial Battery Manufacturing Plant is **not** consistent with the uses of other property in the general area.
4. As explained in detail in Exhibit A, the zoning of the property as I-2, Heavy Industrial is **not** consistent with the zoning classifications of property within the general area.
5. As explained in detail in Exhibit A, the property, including its physical characteristics and locations, is **not** suitable for the use proposed.
6. As explained in detail in Exhibit A, the zoning of the property as I-2, Heavy Industrial is **not** in conformance with the Village's comprehensive plan of 2006, which proposes an industrial classification for the property in question and adjoining and nearby property to its west, south, and southeast.
7. As explained in detail in Exhibit A, the zoning of the property as I-2, Heavy Industrial, is **not** in the public interest and not solely for the interest of the applicant.
8. As explained in detail in Exhibit A, the rezoning of the property and its use **will be** injurious to the public health, welfare, safety or morals of the Village.
9. As explained in detail in Exhibit A, the rezoning of the property **will** have an adverse impact on property values in its vicinity.
10. As explained in Exhibit A, the rezoning **will** interfere with or impede the orderly development of other properties in its vicinity.
11. As explained in Exhibit A, the property, as rezoned, will **not** be served adequately by public facilities and services.
12. As explained in Exhibit A, the rezoning of the property is **not** necessary and useful at the location.

Recommendation

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of the Village of Manteno, Kankakee County, Illinois, as follows:

Section 1

That the approximately 152 acres of land located WEST SIDE OF 333 S. SPRUCE ST., and legally described as follows:

THE NORTHEAST ¼ OF SECTION 20, TOWNSHIP 32 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, KANKAKEE COUNTY, ILLINOIS. EXCEPT ANY INTEREST IN THE COAL, OIL, GAS AND OTHER MINERALS UNDERLAYING THE LAND WHICH HAVE BEEN HERETOFORE CONVEYED OR RESERVED IN PRIOR CONVEYANCES AND ALL RIGHTS AND EASEMENTS IN FAVOR OF THE ESTATE OF SAID COAL, OIL, GAS AND OTHER MINERALS, IN ANY. FURTHER EXCEPTING THE NORTH 800.00 FEET THEREOF AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF THE NORTHEAST ¼ OF SAID SECTION 20; THENCE SOUTH 00 DEGREES 26 MINUTES 00 SECONDS EAST ALONG THE WEST LINE OF THE NORTHEAST ¼ OF SAID SECTION 20 A DISTANCE OF 800.00 FEET TO A POINT SAID POINT TO BE KNOWN AS THE POINT OF BEGINNING. FROM SAID POINT OF BEGINNING THEN NORTH 89 DEGREES 30 MINUTES 30 SECONDS EAST ALONG THE SOUTH LINE OF THE NORTH 800 FEET OF THE NORTHEAST ¼ OF SAID SECTION 20 A DISTANCE OF 2,665.52 FEET TO A POINT ON THE EAST LINE OF THE NORTHEAST ¼ OF SAID SECTION 20; THENCE SOUTH 00 DEGREES 20 MINUTES 35 SECONDS EAST ALONG THE EAST LINE OF THE NORTHEAST ¼ OF SAID SECTION 20 A DISTANCE OF 1,852.63 FEET TO THE SOUTH EAST CORNER OF THE NORTHEAST ¼ OF SAID SECTION 20; THENCE SOUTH 89 DEGREES 33 MINUTES 35 SECONDS WEST A DISTANCE OF 2,662.61 FEET TO THE SOUTHWEST CORNER OF THE NORTHEAST ¼ OF SAID SECTION 20; THENCE NORTH 00 DEGREES 26 MINUTES 00 SECONDS WEST ALONG THE WEST LINE OF THE NORTHEAST ¼ OF SAID SECTION 20 A DISTANCE OF 1,850.25 FEET TO THE POINT OF BEGINNING. ALSO EXCEPTING THEREFROM THAT PORTION THEREOF CONVEYED TO THE VILLAGE OF MANTENO, ILLINOIS BY INSTRUMENT DATED JULY 13, 1992 RECORDED JULY 16, 1992 AS DOCUMENT NO. 92-12195 AND MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHEAST CORNER OF THE NORTHEAST ¼ OF SECTION 20, TOWNSHIP 32 NORTH,

RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN KANKAKEE COUNTY, ILLINOIS; THENCE SOUTH 00 DEGREES 20 MINUTES 35 SECONDS EAST ON THE EAST LINE OF SAID NORTHEAST ¼ OF SECTION 20, 1,345 FEET TO A POINT; THENCE SOUTH 89 DEGREES 39 MINUTES 25 SECONDS WEST, 40.00 FEET TO A POINT ON THE WEST RIGHT OF WAY LINE OF SOUTH SPRUCE STREET, SAID POINT TO BE KNOWN AS THE POINT OF BEGINNING FOR THIS LAND DESCRIPTION; THENCE SOUTH 00 DEGREES 20 MINUTES 35 SECONDS EAST, ON SAID WEST RIGHT OF WAY LINE OF SOUTH SPRUCE STREET, 110.00 FEET TO A POINT; THENCE SOUTH 89 DEGREES 39 MINUTES 25 SECONDS WEST, 150.00 FEET TO A POINT OF BEGINNING. ALSO EXCEPTING THEREFROM THAT PORTION THEREOF CONVEYED TO THE VILLAGE OF MANTENO, ILLINOIS BY RIGHT OF WAY DEED DATED JULY 10, 1992 RECORDED JULY 16, 1992 AS DOCUMENT NO. 92-12196 AND RECORDED OCTOBER 20, 1992 AS DOCUMENT NO. 92-17969, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT A POINT ON THE EAST LINE OF THE NORTHEAST ¼ OF SECTION 20, TOWNSHIP 32 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN KANKAKEE COUNTY, ILLINOIS, BEING 800.00 FEET SOUTH OF THE NORTHEAST CORNER OF SAID NORTHEAST ¼ OF SECTION 20; THENCE CONTINUING SOUTH, ON SAID EAST LINE OF THE NORTHEAST ¼, 1,852.63 FEET TO THE SOUTHEAST CORNER OF SAID NORTHEAST ¼ OF SECTION 20; THENCE WEST, ON THE SOUTH LINE OF SAID NORTHEAST ¼ OF SECTION 20, 40.00 FEET TO A POINT, THENCE NORTH ON A LINE BEING 40.00 FEET WEST OF AND PARALLEL WITH THE EAST LINE OF SECTION 20, 1,852.60 FEET MORE OR LESS TO A POINT ON A LINE BEING 800.00 FEET SOUTH OF AND PARALLEL WITH THE NORTH LINE OF SAID SECTION 20; THENCE EAST, ON SAID LINE BEING 800.00 FEET SOUTH OF AND PARALLEL WITH 40.00 FEET TO THE POINT OF BEGINNING; EXCEPTING THEREFROM ANY LAND WHICH HAS PREVIOUSLY BEEN DEDICATED FOR PUBLIC HIGHWAY. SITUATED IN KANKAKEE COUNTY, ILLINOIS.

P.I.N.: 03-02-20-200-008;

will not be recommended to be zoned I-2 Heavy Industrial.

Section 2

The Official Zoning Map of the Village of Manteno shall **not** be recommended to be amended in accordance herewith.

Passed by the Planning Commission of the Village of Manteno at a Regular Meeting thereof held on the 27th day of November, 2023 and approved by me as Chairman on the same day.

Francis Smith
Planning Commission Chairman

ATTEST: _____

EXHIBIT A

STANDARDS: From Application

11. Address each of the following standards, indicating how they relate to your request.

A. How will the proposed rezoning be compatible with the existing zoning of property within the general area of the subject property:

The existing zoning of the property in the general area of the property varies.

The southern edge of the property requested to be rezoned I-2 is the Village limits. South of that is primarily a quarry zoned Ag by the County, but would be I-2 in the Village. The quarry has never been proposed for, and will likely never be, annexed to the Village voluntarily, and the size of the parcel makes it impossible to involuntarily annex. Further, Petitioner presented no findings of facts, nor could it explain at the public hearing, how the proposed plant would safely and effectively operate in light of the dynamiting that occurs frequently at the quarry.

The eastern edge of the south boundary contains a former farm homestead. The proposed rezoning would be compatible with the property to the south.

The two lots on the south end of the east side of Spruce Street are zoned I-1 in the Village. The rest of the parcels on the east side of Spruce Street south of County Highway 9/Division Street are zoned C-2, and have been developed mostly since the construction of the Kmart warehouse. The east side of Spruce Street would be unaffected and compatible with the I-2 zoning request.

Upon information and belief, the property directly to the west is also being bought by Gotion, and is currently zoned I-1.

The property immediately to the north was part of the original Kmart warehouse property purchase. The north side of the adjacent property is County Highway 9/Division Street. Both sides of County Highway 9/Division Street are zoned C-2 where annexed to the Village, except for the parcel with the Church. In general, C-2 could be compatible with the I-2 rezoning, but not necessarily here. The 2006 Village of Manteno Comprehensive plan calls for the mile long stretch from Route 45-52 to Spruce Street as "new Manteno's future Main Street, emphasizing those characteristics that create an appealing and safe environment for users, including street facing buildings, pedestrian scale lighting, controlled traffic access and an interconnected sidewalk system." (2006 Comprehensive Plan at 67.) A heavy industrial zoned property with a battery plant on it is not a compatible background for the new Main Street concept.

Since the property along County Highway 9/Division Street is adjacent to the proposed rezoned property, I-2 rezoning is not compatible with the property along Division Street.

B. Why isn't the property suitable for the uses provided in the current zoning district:

The property is currently zoned I-1 and houses a warehouse that was in operation until a few years ago, a permissible use under I-1 zoning. Across neighboring communities, Illinois and the country, warehouses are still needed and used.

Petitioner completely ignores the fact that the property is suitable for current uses in its Petition. Further, it made no comments nor presented any facts at the public hearing about the suitability for uses in the current zoning district.

C. How will the proposed rezoning be consistent with the trend of development, if any, in the general area of the subject site:

The trend of development in the immediate area has been sporadic, as the reconstruction of County Highway 9/Division Street is necessary for the 2006 Comprehensive Plan vision of a "new Manteno's future Main Street." (2006 Comprehensive Plan, at 67.) The properties on the east side of Spruce Street have slowly been developed as the need for larger lot commercial is needed, but the uses have not tended to be affected by the previously existing Kmart warehouse.

Petitioner writes that the intended use "would align with the Village's vision and history of utilizing land on the perimeter of the Village limits for job-creating industrial and manufacturing sites, such as the Diversatech Campus." (Application at 4.) Petitioner's example of the Diversatech Campus is misguided, however, as the Diversatech Campus is not within the Village, but adjacent to the Village and under County control. Further, it misses the crucial context of the Diversatech Campus's creation, which followed the closure of the State Hospital and the corresponding significant reduction of jobs that followed. No such significant economic destabilization has occurred to justify the proposed use.

Relatively recently the Village zoned some property west of the railroad, south of the South Branch of Rock Creek I-1 immediately south of Rock Creek and I-2 closer to the 6000 North Road / Bourbonnais Parkway. But the zoning south of the Village is in conformance with the 2006 Comprehensive Plan, which calls for industrial to run down the Route 50 corridor south of town (2006 Comprehensive Plan at 53), and the zoning of the Village of Bourbonnais which has zoned the property between Route 45-52, 6000 North, 1000 East/Cypress Street, and 7000 North within its boundaries Industrial. The quarry east of Route 50 on the North Side of 6000 North means all of the property from Route 45/52 to 2000 East Road is either industrially zoned or has an industrial use on it.

In fact, the Villages of Manteno, Bourbonnais, and Bradley drafted and adopted (with the County of Kankakee) standard development regulations for the area in the 6000 North corridor in preparation for the construction of the interchange at 6000 North. One of the driving factors for the 6000 North corridor and new interchange was the Amtrak passenger train wreck with a semi-tractor trailer carrying rebar from the factory on 4500 north and the need for safe truck

access to the interstate. It is for these reasons the south side of the South Branch of Rock Creek is appropriate for industrial uses and planned for with the new interchange.

South of the Kmart warehouse, the subject of the rezoning, the property is primarily owned all the way to the South Branch of Rock Creek by the Prairie Materials quarry. The property is zoned and primarily used for ag other than for the quarry itself, as are the couple of parcels still owned by farmers along Route 45-52.

Finally, and most crucially, the Village objected a number of years ago to the quarry's County zoning request for a special use to place an asphalt plant near Route 45-52. This directly contradicts Petitioner's unsupported theory that the Village supports expanded industrial uses in the area.

D. How is the rezoning of the subject site in the public interest:

Rezoning is not in the public's interest. Petitioner states that "the rezoning of this site would bring high-tech industrial jobs in a growing and sustainability-focused field to the area surrounding the subject property." (Application at 7.) There is no guarantee of the high-tech industrial jobs; although the various agreements for incentives from the Village, County and State have listed parameters for job development, there is no guarantee that those will be met. At the public hearing, community members identified The news stories and Gotion's official reports to the Michigan Economic Development Corporation about the proposed Gotion battery plant proposed for Green Charter Township, Michigan¹ reducing the proposed pay, the number of jobs, and other promises puts those comments into question. Petitioner does not have a diversity plan, which would ensure the proposed benefits are accessible to all members of the community.

Moreover, the safety questions for the particular proposed development are numerous, serious, and as yet unanswered or unanswerable:

1. Petitioner touts that it will use the latest F500 fire extinguishers, but does not know if there are any toxic chemicals in the extinguishers.
2. Petitioner "estimates" two hundred (200) trucks a day, but does not have a hazardous route plan, does not know:
 - a. how the materials will be transported (e.g., truck, train),
 - b. what form the materials (e.g., lithium, synthetic graphite, NMP) will be transported (e.g., liquid, dust, or solid bricks), and therefore cannot even begin to speak to the safety steps that will have to be adopted and implemented to protect

¹ Originally the plant was proposed for Big Rapids Township, Michigan before Gotion relocated after that Township would not grant requested incentives without additional information from Gotion

the citizens and the environment; and

- c. where the material will be sourced from, and thus cannot explain what laws and regulations will have to be complied with, including, *inter alia*, forced labor laws, the Uighur Forced Labor Prevention Act, customs laws, and more.
3. Petitioner claimed that they will have a closed loop system for water in the process, but admitted at the public meeting that there will be water evaporation. Despite this, Petitioner but did not explain if any toxins or other chemicals will be in the evaporation process, and how those will be removed if they are.
4. Petitioner claimed that 300,000 gallons of water a day might be needed from Aqua (despite being a “closed loop system”) but were unclear how any water directed to the sewer from the process would be "pre-treated" before going in the regular sewer mains.
5. Petitioner does not have a plan for dealing with the quarry blasting next door - and apparently have not bothered to even discuss this with quarry officials.
6. There was discussion and letters put into place about the German plant visited by officials for comparison - but the plant was not even open. Unfortunately, we learned more about the German plant than we did about the proposed plant here. And, even though the plant was not yet operating, there have been an average of 4 fires a year there.
7. Petitioner has not completed any environmental studies nor obtained any necessary permits (including Army Corps of Engineer Permits, Illinois Environmental Protection Agency, etc.) for development of the property.
8. Finally, Petitioner admitted that in case of fire, that there will be battery packs stored outside in a dunk tank, using a forklift system to deposit the battery outside the plant and then having the battery removed by a hazardous waste company. The Village 2006 Comprehensive Plan calls for Division Street, within viewing range of the property, to be the "new Manteno Main Street." (2006 Comprehensive Plan at 67.) Burning batteries in dunk tanks do not belong next to the new Manteno Main Street and are a violation of the Village Code 9-9B-9(A),(C),(H), which prohibits the storing or placing of hazardous material outside.

And the materials themselves raise concern. The Village Code §§ 9-9A-7 and 9-9B-7 categorically forbids the use of “highly toxic materials”, of which the Gotion plant, but Petitioner’s own admission, will use several.

1. Petitioners will be using at least (1) lithium iron phosphate; (2) synthetic graphite, and (3)

potentially N-methylpyrrolidone (NMP).²

- a. Lithium iron phosphate: Lithium in and of itself is extremely toxic. Lithium iron phosphate should not be punctured, causes chemical burns, can release toxic fumes, and has high risk of thermal runaway.
 - b. Synthetic Graphite: Synthetic graphite is not water soluble which means fine graphite particles suspended in natural bodies of water may be harmful to organisms and is hazardous under 2012 OSHA Hazardous Communication standards.³
 - c. NMP: *NMP* should not be released into the environment because it causes birth defects, cancer, and toxicity to the immune system and liver.⁴
 - d. They will be using synthetic graphite and do not know if they will be using NMP.
2. The prevailing west winds will blow the evaporated water, toxic fumes, and other chemical issues over the core of the Village, potentially placing residents in the line of harm. This is a reason why the Comprehensive Plan pushes industrial development to the south and east of the current Village.

For all of these reasons, the public interest in jobs is greatly outweighed by the public's safety interests from the concerns about the materials used in the manufacturing process.

² “Potentially” is used here because Gotion does not know at this stage if it intends to use this chemical at all. Why Gotion is unsure as to which chemicals it intends to use in this process is unclear.

³ <https://www.osha.gov/laws-regs/regulations/standardnumber/1910/1910.1200>.

⁴ https://www.epa.gov/sites/default/files/2020-12/documents/nmp_non-technical_summary.pdf.

Section 9-14-13 of the Village Code, Zoning Ordinance, Amendments:

(D) Review Consideration:⁵

1. In reviewing an amendment, the planning commission shall give careful attention to the following:

(a) The effect of the proposed amendments on the comprehensive planning of the entire village.

In developing the 2006 Village of Manteno Comprehensive Plan, many public hearings were held. One of the focus points was the primary residential areas would likely go north and west, and the current development patterns of Bourbonnais confirm that residential development will likely run west along County Highway 9/Division Street and then south between Route 45/52 and 1000 West Road/Career Center Road. This would put the proposed rezoning in the middle of the proposed "new Manteno Main Street" (2006 Comprehensive Plan at 67.), rather than south of the South Branch of South Creek which is proposed for industrial to the south & east in the comprehensive plan.

(b) The changes in community characteristics that may take place because of the projected change.

The Village is very concerned about the development of Division Street between Spruce and Route 45/52. The 2006 Village Comprehensive Plan states:

Given the potential market, it will take many years to develop the West Division Street commercial corridor. The concept shown is a relatively intense use of the land, in a scheme that presupposes a high level of planning and design control. It is likely that, *without strict control by the Village of Manteno*, a much looser form of highway commercial will in fact be developed. This could result in a faster development of the land, leading to additional sprawl of the commercial corridor down Route 45/52 frontage and the resulting commercial strip is unlikely to exhibit the small town atmosphere valued by current Manteno residents.

(2006 Comprehensive Plan at 69 (emphasis added).) Granting this rezoning request is the first step of the slippery slope the Comprehensive Plan is concerned about. The imminent reconstruction of County Highway 9/Division Street is already going to push for looser forms of highway commercial along the strip. Instead of a high level of planning & design control, granting the rezoning allowing this heavy industrial use will likely drive the looser form of highway commercial that the 2006 Comprehensive Plan does not want. Allowing the rezoning is the first step towards losing strict control.

⁵ Concerned Citizens of Manteno incorporate all previous writings for this section as well.

(c) The relative effectiveness of the present wording of the ordinance, and whether a justification for change exists because of either special reasons or a change in conditions.

The Kmart warehouse, the property in question for the rezoning, was in place when the Zoning Ordinance was comprehensively revised in 1999 and the Comprehensive Plan was adopted in 2006. The property was intentionally put in the I-1 Light Industrial district at that time. There is no justification for change of either because of special reasons or a change in conditions.

(d) Whether the amendment is designed to correct an improper situation or would result merely in the granting of special privileges.

The Petitioner writes in answer to Standard 2 on the Petition: "The current zoning would not permit the Company to engage in the type of manufacturing necessary to conduct its business operations." Petitioner is requesting the granting of special privileges in this rezoning because it otherwise could not do its business there. Nowhere does it suggest that there is an improper situation with the zoning.

2. Where the purpose and effect of the proposed amendment is to change the zoning classification of particular property, the planning commission shall make findings based upon the evidence presented to it in such specified case with respect to the following matters in addition to all points listed above:

(a) Existing uses of property within the general area of the property in question:

South, outside the Village boundary, is dominated by a quarry.

On the south end of the east side of Spruce Street is a couple of I-1 zoned lots, one with a multi-use building, the other with a light industrial factory. The remainder of the lots are a lumberyard / hardware store, farm implement business, a couple of storage businesses, and some yet to be developed lots.

Immediately west is vacant property, upon information & belief under contract with Petitioner, zoned I-1 to Route 45/52.

The property along County Highway 9/Division Street's south side adjacent to the rezoning is primarily vacant between Route 45/52 and Spruce Street. The north side has a couple older houses, a relatively new church, a construction firm's office, and a gas station on the corner of County Highway 9/Division Street & Route 45-52.

North of the lots fronting on County Highway 9/Division Street is residential on approximately the eastern third of the mile near Spruce, farmland the rest. Between Spruce and I-57 is commercial backing up to County Highway 9/Division Street,

residential to the north.

East of I-57, in the path of the prevailing wind coming off the site, is commercial along the frontage road (South Cypress Street) and near County Highway 9/Division Street, and primarily residential then to the east edge of the Village. A daycare, Manteno Elementary School, and 26-acre Heritage Park where the youth baseball & soccer leagues play is less than a mile east of the site.

(b) The zoning classification of property within the general area of the property in question.

South, the quarry is zoned Ag by Kankakee County, with a special use for an asphalt plant near Route 45-52 that the Village objected to the special use application. It would be I-2 in the Village.

West, vacant land zoned I-1 to Route 45-52.

North, property on both sides of County Highway 9 is zoned C-2, as is most of the property along Spruce east of the rezoning request. Two lots at the south end of Spruce are zoned I-1. North of the C-2 on County Highway 9/Division Street is zoned residential in the Village, Ag by Kankakee County.

East of I-57 is commercial along County Highway 9/Division Street and the frontage road (Cypress Street). Residential dominates the rest of the way east to the railroad tracks.

(c) The suitability of the property in question for the use permitted under the existing zoning classification:

The property is suitable for uses in the current zoning district. It was built as a warehouse and was used as a warehouse until recently when Kmart was going out of business. Across neighboring communities, Illinois and the country, warehouses are still needed and used.

(d) The trend of development, if any, in the general area of the property in question, including changes, if any, which may have taken place since the day the property in question was placed in its present zoning classification.

The trend of development in the immediate area has been sporadic, as the reconstruction of County Highway 9/Division Street is necessary for the 2006 Comprehensive Plan vision of a "new Manteno's future Main Street." (2006 Comprehensive Plan at 67.) The properties on the east side of Spruce Street have slowly been developed as the need for larger lot commercial is needed, but the uses have not tended to be affected by the previously existing Kmart warehouse.

Petitioner writes that the intended use "would align with the Village's vision and history of utilizing land on the perimeter of the Village limits for job-creating industrial and manufacturing sites, such as the Diversatech Campus." Petitioner's example of the Diversatech Campus is misguided, however, as the Diversatech Campus is not within the Village, but adjacent to the Village and under County control, and historically has not been overly willing to work with the Village.

Relatively recently the Village zoned some property west of the railroad, south of the South Branch of Rock Creek I-1 immediately south of the creek and I-2 closer to the 6000 North Road / Bourbonnais Parkway. But the zoning south of the Village is in conformance with the 2006 Comprehensive Plan, which calls for industrial to run down the Route 50 corridor south of town (p. 53), and the zoning of the Village of Bourbonnais which has zoned the property between Route 45-52, 6000 North, 1000 East/Cypress Street, and 7000 North within its boundaries Industrial. The quarry east of Route 50 on the North Side of 6000 North means all of the property from Route 45/52 to 2000 East Road is either industrially zoned or has an industrial use on it.

In fact, the Villages of Manteno, Bourbonnais and Bradley drafted and adopted with the County of Kankakee standard development regulations for the area in the 6000 North corridor in preparation for the construction of the interchange at 6000 North. One of the driving factors for the 6000 North corridor and new interchange was the Amtrak passenger train wreck with a semi-tractor trailer carrying rebar from the factory on 4500 north and the need for safe truck access to the interstate. So, yes, the south side of the South Branch of Rock Creek is appropriate for industrial uses and planned for with the new interchange.

South of the Kmart warehouse, the subject of the rezoning, the property is primarily owned all the way to the South Branch of Rock Creek by the Prairie Materials quarry. The property is zoned and primarily used for ag, as are the couple of parcels still owned by farmers. Nonetheless, the Village objected a number of years ago to the quarry's County zoning request for a special use to place an asphalt plant near Route 45-52, which is not consistent with the Petitioner's theory that the Village supports expanded industrial uses in the area.

(e) Conformance or non-conformance with officially adopted plans of the Village.

The proposed rezoning is not in conformance with the officially adopted 2006 Comprehensive Plan, which envisions County Highway 9/Division Street between Route 45-52 and Spruce Street as the "new Manteno Main Street" (2006 Comprehensive Plan at 67.) Rezoning this parcel to I-2 Heavy Industrial adjacent to the proposed "new Manteno Main Street" is not in conformance with the plan, which indicates industrial development belongs to the south of the South Branch of Rock Creek and the southeast of the existing

Village.

(f) The proposed amendment is in the public interest and is not solely for the interest of the applicant.

The Petitioner writes in answer to Standard 2 on the Petition: "The current zoning would not permit the Company to engage in the type of manufacturing necessary to conduct its business operations." Petitioner is requesting the granting of special privileges in this rezoning because it otherwise could not do its business there. Nowhere does it suggest that there is an improper situation with the existing zoning.

**CONCERNED CITIZENS OF MANTENO
PROPOSED FINDINGS OF FACT
FOR THE
REZONING/MAP AMENDMENT**

CASE NUMBER:..... PC-ZON-23-01

APPLICANT:..... TRANSFORM MANTENO LLC / GOTION, INC.

PROPERTY LOCATION:..... 333 S. SPRUCE, MANTENO, IL 60950

CURRENT ZONING:..... I-1 LIGHT INDUSTRIAL DISTRICT

REQUESTED ZONING:..... I-2 HEAVY INDUSTRIAL DISTRICT

PLAN COMMISSION RECOMMENDATION NO. 23-_____

FINDINGS OF FACT AND RECOMMENDATION OF THE PLAN COMMISSION OF THE VILLAGE OF MANTENO ON THE PETITION FOR REZONING OF THE PROPERTY LOCATED AT 333 SOUTH SPRUCE STREET, MANTENO, ILLINOIS CONSISTING OF APPROXIMATELY 112 ACRES OF LAND, FROM I-1 LIGHT INDUSTRIAL TO I-2 HEAVY INDUSTRIAL

Upon the petition of Gotion, Inc. (the "Petitioner"), joined by Transform Manteno IL LLC (the "Owner"), the owner of approximately 112 acres of land located at 333 South Spruce Street, Manteno, Illinois (the "Subject Property"), for rezoning the Subject Property from I-1 Light Industrial to I-2 Heavy Industrial, and after a public hearing on said petition held before the Plan Commission of the Village of Manteno on November 21, 2023, pursuant to duly published notice, all interested persons having testified or otherwise participated therein, the said Plan Commission of the Village of Manteno hereby finds:

Findings of Fact

The Plan Commission of the Village of Manteno does hereby find that:

1. The Owner is the owner of the Subject Property currently located in Manteno, Illinois and legally described as follows:

The Northeast 1/4 of Section 20, Township 32 North, Range 12 East of the Third Principal Meridian, in Kankakee County, Illinois

Except any interest in the coal, oil, gas and other minerals underlying the land which have been heretofore conveyed or reserved in prior conveyances, and all rights and easements in favor of the estate of said coal, oil, gas and other minerals, if any.

Further excepting the North 800.00 feet thereof, and being more particularly described as follows:

Commencing at the Northwest corner of the Northeast 1/4 of said Section 20; thence South 00 degrees 26 minutes 00 seconds East along the West line of the Northeast 1/4 of said Section 20 a distance of 800.00 feet to a point said point to be known as the point of beginning. From said point of beginning thence North 89 degrees 30 minutes 30 seconds east along the South line of the North 800 feet of the Northeast 1/4 of said Section 20 a distance of 2,665.52 feet to a point on the East line of the Northeast 1/4 of said Section 20; thence South 00 degrees 20 minutes 35 seconds East along the East line of the Northeast 1/4 of said Section 20 a distance of 1,852.63 feet to the Southeast corner of the Northeast 1/4 of said Section 20; thence South 89 degrees 33 minutes 35 seconds West a distance of 2,662.61 feet to the Southwest corner of the Northeast 1/4 of said Section 20; thence North 00 degrees 26 minutes 00 seconds West along the West line of the

Northeast 1/4 of said Section 20 a distance of 1,850.25 feet to the point of beginning.

ALSO EXCEPTING THEREFROM that portion thereof conveyed to the Village of Manteno, Illinois by instrument dated July 13, 1992 recorded July 16, 1992 as Document No. 92-12195 and more particularly described as follows:

Commencing at the Northeast corner of the Northeast 1/4 of Section 20, Township 32 North, Range 12 East of the Third Principal Meridian, in Kankakee County, Illinois; thence South 00 degrees 20 minutes 35 seconds East on the East line of said Northeast 1/4 of Section 20, 1,345.00 feet to a point; thence South 89 degrees 39 minutes 25 seconds West, 40.00 feet to a point on the West right of way line of South Spruce Street, said point to be known as the point of beginning for this land description; thence South 00 degrees 20 minutes 35 seconds East, on said West right of way line of South Spruce Street, 110.00 feet to a point; thence South 89 degrees 39 minutes 25 seconds West, 150.00 feet to a point; thence North 00 degrees 20 minutes 35 seconds West, 110.00 feet to a point; thence North 89 degrees 39 minutes 25 seconds East, 150.00 feet to the point of beginning.

ALSO EXCEPTING THEREFROM that portion thereof conveyed to the Village of Manteno, Illinois by Right of Way Deed dated July 10, 1992 recorded July 16, 1992 as Document No. 92-12196 and rerecorded October 20, 1992 as Document No. 92-17969, and more particularly described as follows:

Commencing at a point on the East line of the Northeast 1/4 of Section 20, Township 32 North, Range 12 East of the Third Principal Meridian, in Kankakee County, Illinois, being 800.00 feet South of the Northeast corner of said Northeast 1/4 of Section 20; thence continuing South, on said East line of the Northeast 1/4, 1,852.63 feet to the Southeast corner of said Northeast 1/4 of Section 20; thence West, on the South line of said Northeast 1/4 of Section 20, 40.00 feet to a point, thence North on a line being 40.00 feet West of and parallel with the East line of Section 20, 1,852.60 feet more or less to a point on a line being 800.00 feet South of and parallel with the North line of said Section 20; thence East, on said line being 800.00 feet South of and parallel with, 40.00 feet to the point of beginning;

EXCEPTING therefrom any land which has previously been dedicated for public highway. Situated in Kankakee County, Illinois.

P.I.N.: 03-02-20-200-008.

2. The Petitioner and the Owner are parties to that certain purchase and sale agreement whereby the Petitioner shall take title to the Subject Property.

3. The Petitioner has duly filed its petition with the Village Clerk requesting that the Subject Property be rezoned to I-2 Heavy Industrial.

4. The use of the Subject Property as a high-tech electric vehicle battery manufacturing gigafactory is consistent with the uses of other property in the general area as follows:

- The Company's intended use of the Subject Property would align with the Village's vision and history of utilizing land on the perimeter of the Village limits for job-creating industrial and manufacturing sites, such as North Central Quarry (Prairie Material) (the "Quarry") and the Diversatech Campus.

5. The zoning of the Subject Property as I-2, Heavy Industrial is consistent with the zoning classifications of property within the general area as follows:

- The parcel adjacent to the Subject Property to the west, and two parcels adjacent to the Subject Property to the east and southeast are zoned as Light Industrial, I-1.
- As stated at the public hearing by Ryan Marion, the Director of Building & Zoning, the Quarry, which lies to the south and southwest of the Subject Property but is currently outside of the Village limits, would be classified as Heavy Industrial, I-2, with a special use permit, if it were inside Village limits.
- No parcels zoned as residential are directly adjacent to the Subject Property.
- Light Industrial zoned property and the Quarry are compatible with the proposed rezoning.

6. The Subject Property, including its physical characteristics and locations, is suitable for the use proposed as follows:

- The size and location of the Subject Property allows for Petitioner to effectively conduct its operations while converting a retired Kmart distribution center, bringing the facility back to life.

7. The zoning of the Subject Property as I-2, Heavy Industrial is in conformance with the Village's comprehensive plan of 2006, which proposes an industrial classification for the Subject Property and adjoining and nearby properties to its north, south, southeast and southwest.

8. The zoning of the Subject Property as I-2, Heavy Industrial, is in the public interest and not solely for the interest of the applicant, as follows:

- Petitioner will invest nearly \$2 billion to build the largest electric vehicle battery production investment in Illinois and create 2,600 jobs, making it the most significant new manufacturing investment in Illinois in decades.
- The project will create a significant ripple effect for job creation and economic growth.

- The project will create 2,600 prevailing wage jobs in Manteno, meaning they will be paid at least 120% of the average wage for similar jobs in Kankakee County.

9. The rezoning of the Subject Property and its use will not be injurious to the public health, welfare, safety or morals on account of:

- Petitioner will adhere to rigorous federal, state and local safety standards and protocols to ensure safe production.
- Petitioner will prioritize sustainable practices, employing advanced technologies to minimize its environmental footprint, including energy-efficient manufacturing processes and waste reduction strategies.
- The building located on the Subject Property will be LEED certified by the U.S. Green Building Council. LEED-certified buildings are shown to save money, improve efficiency, lower carbon emissions and create healthier places for people.
- Once up and running, Petitioner will have no more than 200 trucks per day entering and exiting the Subject Property. The Owner averaged 600 trucks per day in 2014 according to IDOT.

10. The rezoning of the Subject Property will not have an adverse impact on property values in its vicinity.

11. The rezoning of the Subject Property will not interfere with or impede the orderly development of other properties in its vicinity.

12. The Subject Property, as rezoned, will be served adequately by public facilities and services.

13. The rezoning of the Subject Property is necessary and useful at the location.

Recommendation

NOW, THEREFORE, BE IT RESOLVED by the Plan Commission of the Village of Manteno, Kankakee County, Illinois, as follows:

Section 1

That the approximately 112 acres of land located at 333 South Spruce Street, Manteno, Illinois and legally described as follows:

The Northeast 1/4 of Section 20, Township 32 North, Range 12 East of the Third Principal Meridian, in Kankakee County, Illinois

Except any interest in the coal, oil, gas and other minerals underlying the land which have been heretofore conveyed or reserved in prior conveyances, and all rights and easements in favor of the estate of said coal, oil, gas and other minerals, if any.

Further excepting the North 800.00 feet thereof, and being more particularly described as follows:

Commencing at the Northwest corner of the Northeast 1/4 of said Section 20; thence South 00 degrees 26 minutes 00 seconds East along the West line of the Northeast 1/4 of said Section 20 a distance of 800.00 feet to a point said point to be known as the point of beginning. From said point of beginning thence North 89 degrees 30 minutes 30 seconds east along the South line of the North 800 feet of the Northeast 1/4 of said Section 20 a distance of 2,665.52 feet to a point on the East line of the Northeast 1/4 of said Section 20; thence South 00 degrees 20 minutes 35 seconds East along the East line of the Northeast 1/4 of said Section 20 a distance of 1,852.63 feet to the Southeast corner of the Northeast 1/4 of said Section 20; thence South 89 degrees 33 minutes 35 seconds West a distance of 2,662.61 feet to the Southwest corner of the Northeast 1/4 of said Section 20; thence North 00 degrees 26 minutes 00 seconds West along the West line of the Northeast 1/4 of said Section 20 a distance of 1,850.25 feet to the point of beginning.

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EXCEPTING therefrom any land which has previously been dedicated for public highway. Situated in Kankakee County, Illinois.

P.I.N.: 03-02-20-200-008.

be recommended to be rezoned I-2 Heavy Industrial.

Section 2

The Official Zoning Map of the Village of Manteno shall be recommended to be amended in accordance herewith, with such amendment to be effective upon approval by the corporate authorities of the Village of Manteno but no sooner than the date when ownership of the Subject Property is transferred from Owner to Petitioner.

Passed by the Plan Commission of the Village of Manteno at a Special Meeting thereof held on November 21, 2023 and recessed and reconvened to November 27, 2023, and approved by me as Chairman on the latter day.

Francis Smith
Plan Commission Chairman

ATTEST:

Darla Hurley
Plan Commission Secretary