

APPLICATION FOR REZONING PETITION CITY OF TERRE HAUTE

SPECIAL ORDINANCE NO. 24, 2012

=====
Common Address of lots to be rezoned:

3203 S. 7th St., Street, Terre Haute, Indiana

Rezone From: **R-1**

Rezone To: **C-2 Community Commerce District**

Proposed Use: **Retail Sales- Sporting Goods**

Name of Owner: **Wayne R. & Paula E. Bower**

Address of Owner: **3334 S. 5th St., Terre Haute, IN**

Phone Number of Owner: **232-3003**

Attorney Representing Owner: **Louis F. Britton**

Address of Attorney: **Cox, Zwerner, Gambill & Sullivan, 511 Wabash Avenue, Terre Haute, Indiana 47807**

Phone Number of Attorney: **(812) 232-6003**

for Information Contact: ☐ Owner ☒ Attorney

Council Sponsor: **Amy Auler**

FILED
JUN 06 2012
CITY CLERK

SPECIAL ORDINANCE NO. 24, 2012

An Ordinance amending Chapter 10, Article 2 of the Municipal Code designated as
"Comprehensive Zoning Ordinance for Terre Haute, Indiana."

SECTION 1. BE IT ORDAINED BY THE COMMON COUNCIL of the City of Terre Haute, Vigo County, State of Indiana, that Chapter 10, Article 2 of the City Code of Terre Haute, designated as the "Comprehensive Zoning Ordinance for Terre Haute" and Division 4, Section 10.121 thereof, District Map, be and the same is hereby amended to include as follows:

That the following described real estate situated in the City of Terre Haute, County of Vigo, State of Indiana, to-wit:

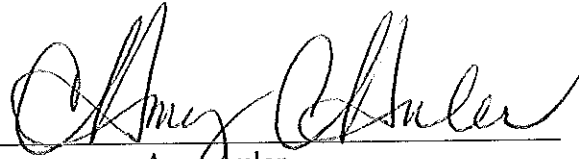
Lots 1 and 2 in George M. Millers Subdivision, being a part of the Northeast Quarter of the Northeast Quarter of Section 4, Township 11 North, Range 9 West, Vigo County, Indiana.

Commonly known as 3203 South 7th Street, Terre Haute, IN 47802, Terre Haute, Indiana, be and the same is hereby established as C-2, Community Commence District as designated in Division 10 Section 207 of said Comprehensive Zoning Ordinance for Terre Haute and the same is hereby declared to be a C-2, Community Commerce District authorizing the use of said real estate for the operation of a sporting goods store as well as the other uses permitted by such designation, together with all rights, privileges, and provisions that may inure to said real estate

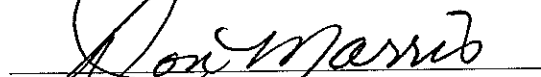
and the owners thereof by virtue of the law in such cases provided, subject to all limitations and restrictions imposed thereon by deed or otherwise.

SECTION 3. WHEREAS, an emergency exists for the immediate taking effect of this Ordinance, the same shall be in full force and effect from and after its passage by the Common Council of Terre Haute, and approval of the Mayor and publication as required by law.

PRESENTED BY COUNCILPERSON

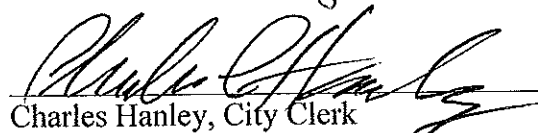

Amy Auler

Passed in open Council this 19th day of July, 2012.

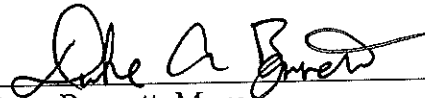

Don Morris, President

ATTEST: , City Clerk
Charles Hanley

Presented by me to the Mayor this 20th day of July, 2012.



Charles Hanley, City Clerk

Approved by me, the Mayor, this 20th day of July, 2012.


Duke Bennett, Mayor
City of Terre Haute

ATTEST 
Charles Hanley, City Clerk

I have prepared the foregoing instrument and I affirm, under the penalties for perjury, that I have taken reasonable care to redact each social security number in this document, unless required by law.


David W. Sullivan
COX, ZWERNER, GAMBILL & SULLIVAN, LLP
511 Wabash Avenue
Terre Haute, IN 47807
Phone: (812) 232-6003

S:\Users\CLIENTS\Bower\Wayne\rezoning\Documents\Special Ordinance.City rezoning.docx
6/5/2012
lkl

PETITION FOR REZONING OF REAL ESTATE

TO THE PRESIDENT AND MEMBERS
OF THE COMMON COUNCIL OF THE
CITY OF TERRE HAUTE, VIGO COUNTY,
INDIANA

Gentlepersons:

Wayne R. And Paula E. Bower, petitioners are the owners of the following described real estate located in Vigo County, Indiana, to – wit:

Lots one and two in George M Miller's subdivision being part of the Northeast quarter of the Northeast quarter of section 4, Township 11 N., Range 9W, Vigo County, Indiana.

Which real estate is commonly known as 3203 S. 7th St., Terre Haute, IN.

Petitioners propose to use the property for retail sales of sporting goods. Site plans are attached.

Petitioners are informed and believe that according to Chapter 10, Article 2, Division IV, Zoned Districts, Section 10.121 of the District Maps, "Comprehensive Zoning Ordinance for Terre Haute," and amendments thereto, the above described real estate is zoned R-1, Single-Family Residence District, of the city of Terre Haute, Indiana. Petitioners are further informed and believe that the operation of petitioners' proposed business would require the real estate to be rezoned to the classification of "C-2 Community Commerce District" under which classification Section 10.207 (E) "Uses Permitted in C-2 Community Commerce District" would authorize such business operations.

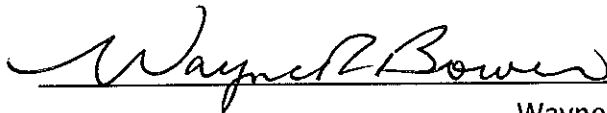
Petitioners submit that this petition for rezoning should be granted for the following reasons:

1. The proposed business would be beneficial to the local community and generate employment for the community;
2. Said real estate is located near an area which is zoned for commerce
3. Said real estate is located on South 7 th Street which provides access to business and industry in the immediate area as well as other parts of town;
4. the use of said real estate as proposed will not significantly increase traffic or parking demand in the area;
5. said real estate lends itself well to the proposed use;

6. the proposed use does not alter the essential character of the locality and is not detrimental to public welfare or injurious to the property or improvements in the neighborhood;
7. said rezoning will not increase the danger of fire or endanger public safety or substantially diminished or impair property values within the general area.

Wherefore, petitioners respectfully request that the Common Council favorably consider passage of a Special Ordinance amending the Comprehensive Zoning Ordinance for Terre Vote and declare the above described real estate to be a part of the "C-2 Community Commerce District" of the city of Terre Haute, Indiana, being entitled to the rights and benefits that may inure to said real estate and the owners thereof by virtue of said description and the laws in such cases provided, subject to all the limitations imposed by deed or otherwise.

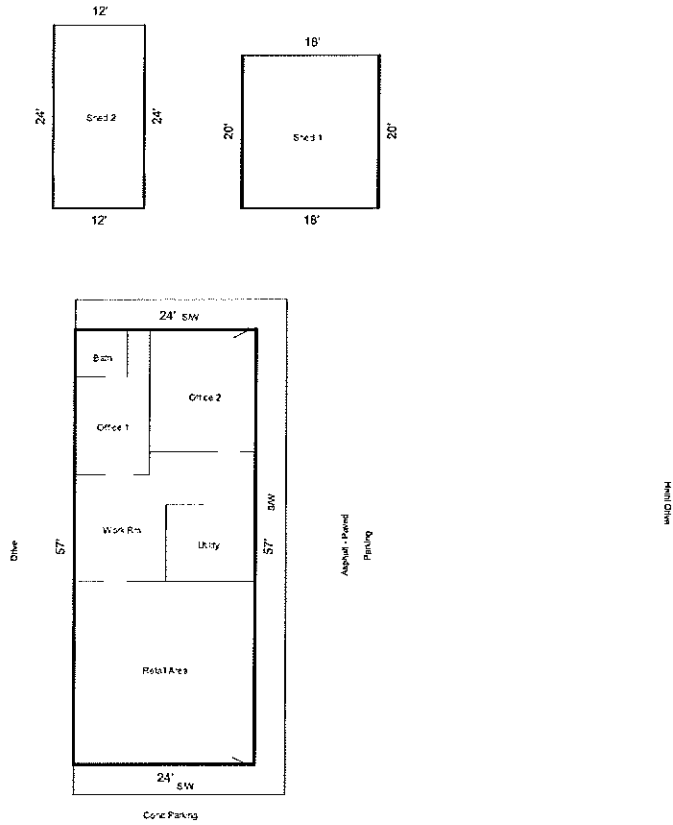
In witness whereof the petitioners have duly executed this instrument this 20 day of May, 2012.


Wayne R Bower


Paula E Bower

Building Sketch

Borrower/Client	Wayne R & Paula E Bower			
Property Address	3203 S 7th St			
City	Terre Haute	County	Vigo	State IN Zip Code 47802
Lender	First Financial Bank			



Sketch by Apex, Inc.

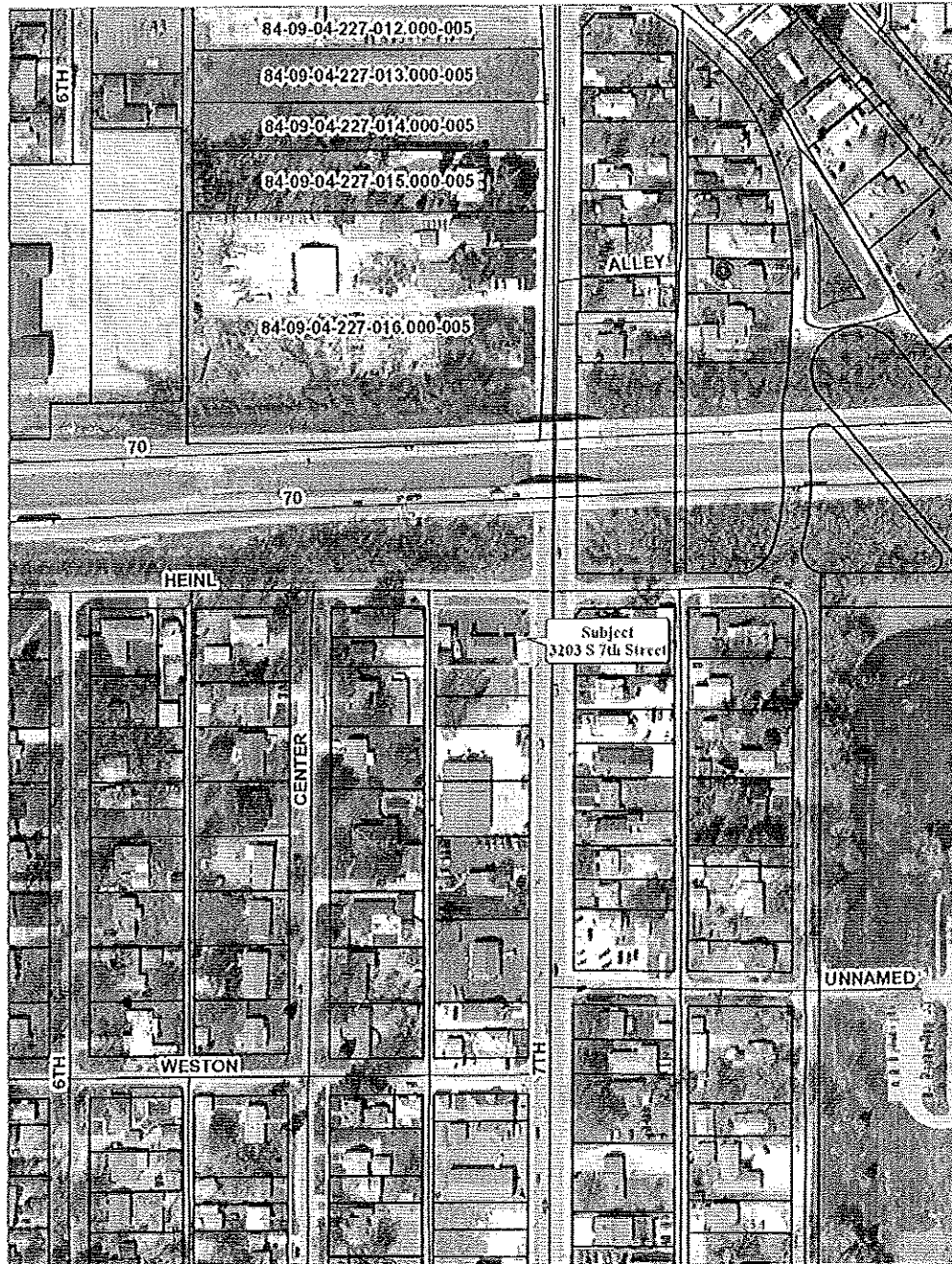
South 7th Street

Comments:

AREA CALCULATIONS SUMMARY			
Code	Description	Size	Net Totals
GBA1	First Floor	1368	1368
OTH	Shed 1	360	
	Shed 2	288	648
TOTAL BUILDING (rounded)			1368

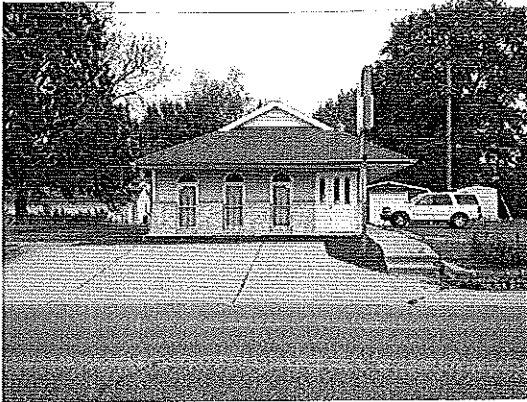
BUILDING AREA BREAKDOWN			Subtotals
Breakdown			
First Floor			
24	x	57	1368
1 Calculation Total (rounded)			1368

Plat Map



Photograph Addendum

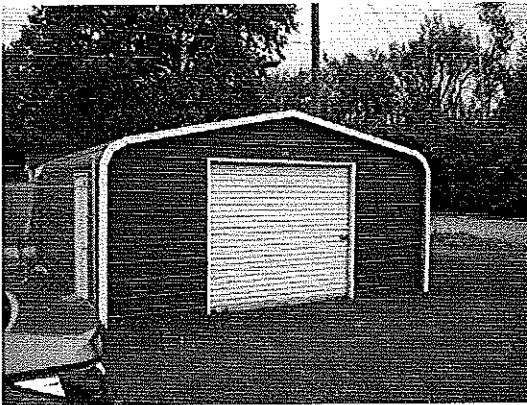
Borrower/Client	Wayne R & Paula E Bower				
Property Address	3203 S 7th St				
City	Terre Haute	County	Vigo	State	IN Zip Code 47802
Lender	First Financial Bank				



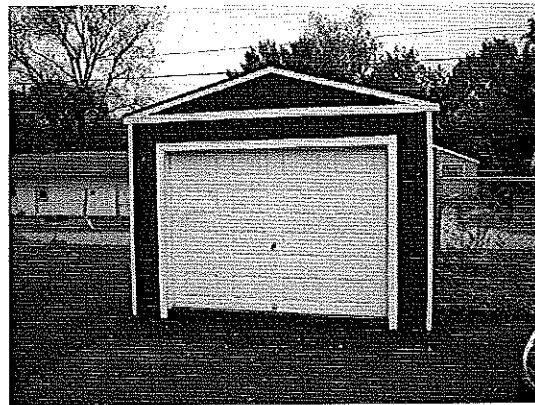
Front View



Side / Parking View



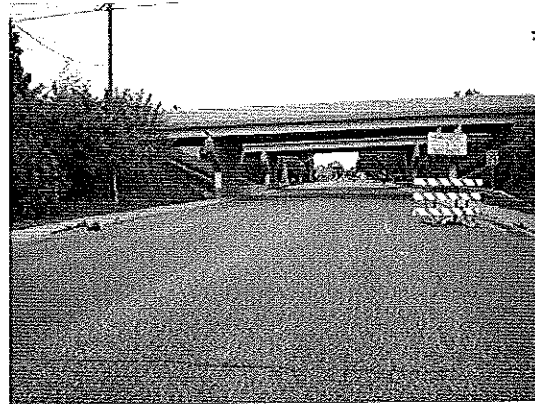
Storage Shed 1



Storage Shed 2



S 7th Street: facing South



S 7th Street: facing North

Photograph Addendum

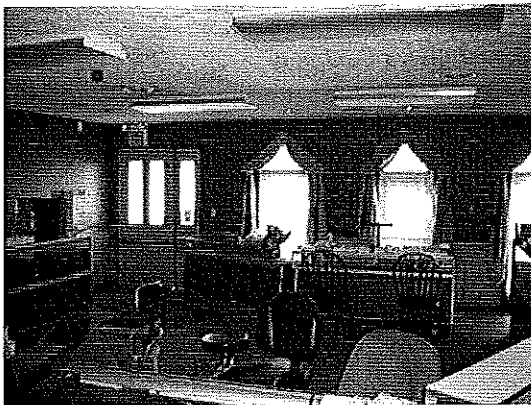
Borrower/Client	Wayne R & Paula E Bower				
Property Address	3203 S 7th St				
City	Terre Haute	County	Vigo	State	IN Zip Code 47802
Lender	First Financial Bank				



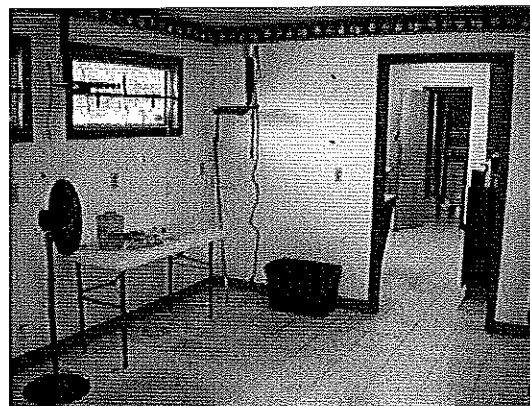
Bathroom



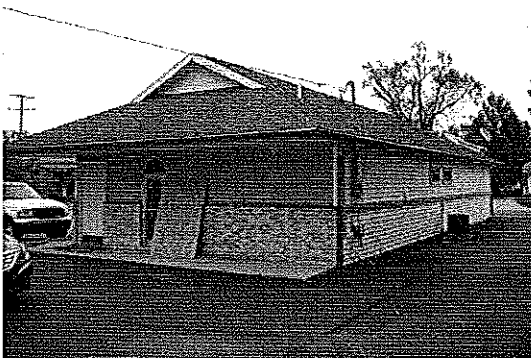
Office



Retail



Office / Work Room



Rear / Side View

intentionally blank

AFFIDAVIT

COMES NOW affiant, Wayne R. & Paula E. Bower and affirm under penalty of law that affiants are the owners of record of the property located at 3203 S. 7th St. Terre Haute, IN for which a rezoning is requested and attached hereto is a copy of affiant's deed evidencing such ownership.

I affirm, under penalties for perjury, that the foregoing representations are true.

Wayne R. Bower
Signature

WAYNE R. BOWER
Printed Name

Paula E. Bower
Signature

Paula E. Bower
Printed Name

STATE OF INDIANA)

) SS:

COUNTY OF VIGO)

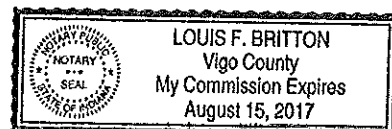
Personally appeared before me, a Notary Public in and for said County and State, Wayne R. & Paula E. Bower, who acknowledged the execution of the above and foregoing Affidavit, after being duly sworn upon their oath and after having read this Affidavit.

WITNESS my hand and Notarial Seal, this 5 day of JUNE, 2012.

Louis F. Britton
Notary Public

Printed Name

My Commission Expires: My County of Residence:



WARRANTY DEED

This indenture witnesseth that

Steven H. Newton and Kay Newton, husband and wife
of VIGO County in the State of INDIANA

Conveys and Warrants to

Wayne R. Bower and Paula E. Bower, husband and wife
of VIGO County in the State of INDIANA

for and in consideration of One Dollar (\$1.00) and other valuable consideration, the receipt whereof is hereby acknowledged, the following Real Estate in Vigo County in the State of Indiana, to-wit:

Real Estate located in Vigo County, State of Indiana, and more particularly described as follows, to-wit:

Lots 1 and 2 in George M. Millers Subdivision, being a part of the Northeast Quarter of the Northeast Quarter of Section 4, Township 11 North, Range 9 West, Vigo County, Indiana.

For information purposes only, the property address is purported to be: 3203 S 7th St., Terre Haute, IN 47802

Subject to any easements, agreements, streets, alleys, restrictions, covenants, building lines, and rights of way of public record including but not limited to:

a) Right of Way Grant from Steven H. Newton and Kay Newton, husband and wife, to Vigo County, Indiana, dated June 6, 1995 and recorded June 21, 1995 in Deed Record 440, Page 2299.

b) Conditions, restrictions, covenants and easements as set forth on the Plat of George M. Millers Subdivision, recorded in Plat Record 12, page 1.

c) Oil and Gas Lease between James E. P reecs and Merle O. Preecs , lessor and Standard Oil Company, dated October 13, 1949 and recorded May 13, 1950 in Misc.

Record 117, Page 328.

d) Lease between James E. Preecs & Merle O. Preecs, and Standard Oil Company, dated August 16, 1954 and recorded September 10, 1954 in Misc. Record 137, Page 73.


e) Lease between James E. Preecs & Merle O. Preecs, and Standard Oil Company, dated August 18, 1959 and recorded September 17, 1959 in Misc. Record 157, Page 46.

f) Lease between James E Preecs and Merle O. Preecs, husband and wife, and The American Oil Company, recorded December 13, 1963 in Lease Record 4, Page 820.

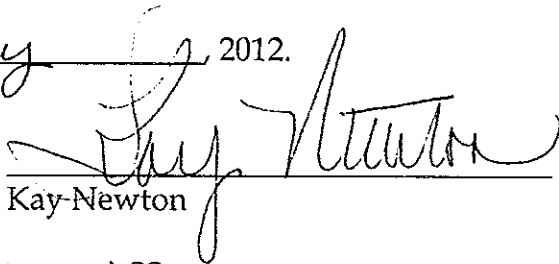
SUBJECT TO ANY CONDITIONS, RESTRICTIONS COVENANTS OR EASEMENTS OF RECORD.

Parcel No. 84-09-04-279-017.000-005

Dated this 15th day of May, 2012.



Steven H. Newton



Kay Newton

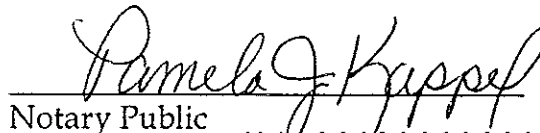
State of Indiana, County of Vigo) SS:

Before me, a Notary Public in and for said county and state, this 15th day of May, 2012, personally appeared Steven H. Newton and Kay Newton, who acknowledged the execution of the foregoing Warranty Deed to be Grantor(s) voluntary act and deed.

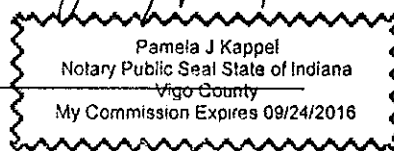
IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal.

My Commission Expires:

My County of Residence:


Notary Public

Printed: _____



This instrument prepared by: Henry L. Antonini, Antonini & Antonini, 224 South Main Street, P. O. Box 325, Clinton, IN 47842 Telephone: (765) 832-3527

D-1256; HCT-2012-0231

I affirm under penalties for perjury that I have taken reasonable care to redact each Social Security number in this document, unless required by law. Henry L. Antonini

Mail tax bills to Grantee: 3305 South 7th Street, Terre Haute, Indiana 47802
Return Deed to: Honey Creek Vigo Title Svcs, Inc., 405 S. 6th Street, Terre Haute, IN 47807



Receipt

The following was paid to the City of Terre Haute, Controller's Office.

Date: June 6, 2012

Name: Cox Law Firm

Reason: Rezoning Petition \$ 20.00
Rezoning filing \$ 25.00

TERRE HAUTE, IN
PAID

JUN 06 2012

Cash: _____

Check: \$45.00 CK# 90860

CONTROLLER

Credit: _____

Total: \$45.00

Received By: M. Deweese



TERRE HAUTE
A LITTLE ABOVE

Area Planning Department For Vigo County

159 Oak Street, Terre Haute, Indiana 47807

Telephone: (812) 462-3354

Fax: (812) 234-3248

Terre Haute • West Terre Haute • Riley • Seelyville

DATE: July 12, 2012

REPORT TO THE CITY COUNCIL ON ZONING MAP AMENDMENT

THE VIGO COUNTY AREA PLAN COMMISSION HEREBY GIVES CERTIFICATION TO
SPECIAL ORDINANCE NUMBER #24-12

CERTIFICATION DATE: July 11, 2012

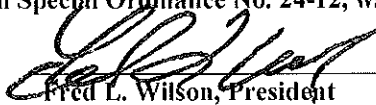
TO: The Honorable Common Council of the City of Terre Haute

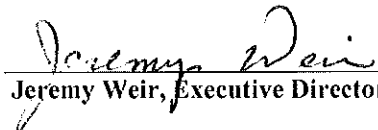
Dear Members,

The Vigo County Area Plan Commission offers you the following report and certification on Special Ordinance No. 24-12. This Ordinance is a rezoning of the property located at 3203 South 7th Street. The Petitioner, Wayne R. and Paula E. Bower, Petitions the Plan Commission to rezone said real estate from zoning classification R-1 to C-2, Community Commerce District, for retail sales and sporting goods. The Ordinance was published in the Tribune-Star Newspaper in accordance with IC 5-3-1 and Division XIII of the Comprehensive Zoning Ordinance. Further, this ordinance was posted by the City Building Inspection Department in accordance with IC 36-7-4-604(c).

The Area Plan Commission considered Special Ordinance No. 24-12 at a public meeting and hearing held Wednesday, July 11, 2012. Remonstrators were not present. At this meeting, a quorum was present throughout the meeting pursuant to IC 36-7-4-301, and the Area Plan Commission took official action on Special Ordinance No. 24-12 as required by IC 36-7-4-302. The Area Plan Commission of Vigo County now hereby attaches certification to Special Ordinance No. 24-12 as required by IC 36-7-4-401(a)(7) and IC 36-7-4-605(c).

Therefore, Area Plan Commission's certified recommendation on Special Ordinance No. 24-12, was FAVORABLE.


Fred L. Wilson, President


Jeremy Weir, Executive Director

Received this 12th day of July, 2012

STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: SO # 24-12

Doc: # 26

Date: July 11th, 2012

Page 1 of 4

APPLICATION INFORMATION

Petitioner: Wayne R. & Paula E. Bower

Property Owner: Same as Above

Representative: Louis F. Britton

Proposed Use: Retail Sales- Sporting Goods

Proposed Zoning: C-2, Limit Community Commerce District

Current Zoning: R-1, Two-Family Residence District

Location: The property is located on the southwest Corner of South 7th Street and East Heintz Drive.

Common Address: 3203 South 7th Street, Terre Haute, IN 47802

COMPREHENSIVE PLAN GUIDANCE

Service Area: The City of Terre Haute

Recommended Use: Enhancement areas

- Encourage infill development that is compatible with the land use mix and intensity of existing development.
- Support preservation and rehabilitation of historic properties.
- Incompatible and inconsistent uses with residential context of these neighborhoods should be eliminated.
- Identify areas that need sub-area plans prioritize the development of those plans by areas.
- Allow for a range of housing densities based on the zoning ordinance.
- Encourage neighborhoods to develop a unique sense of place, but still be part of the larger city.

Available Services: Area is well served by utilities.

Soil Limitations: Not studied.

Street Access: Access to the property is from South 7th Street and Heintz Drive. South 7th Street is classified as a Secondary Arterial Roadway, and Heintz Dr. is classified as a local level roadway.

Dev. Priority: The petitioned property has a high priority for new development.

STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: SO # 24-12

Doc: # 26

Date: July 11th, 2012

Page 2 of 4

ZONING COMPATIBILITY

Sur. Zones and Uses: **North** – I-70 Right-Of-Way

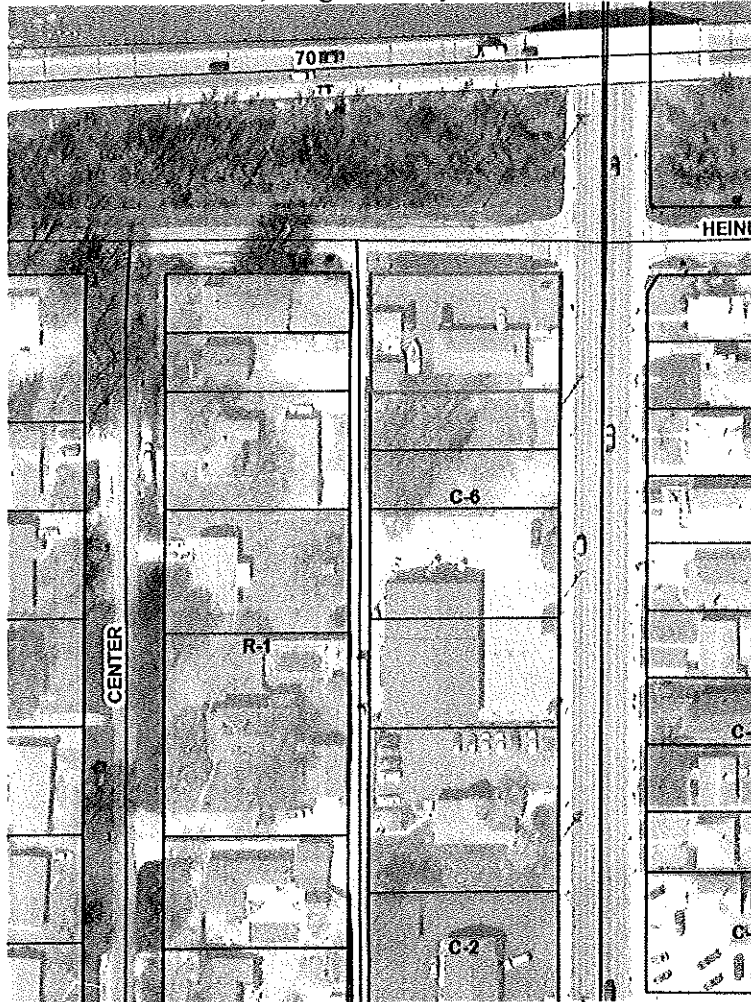
East – R-1, Single Family Residence District

C-2, Community Commercial District

C-5 General Central Business District

South – C-6, Strip Business District, R-1, and C-2

West – R-1, Single Family Residence District



Character of Area: The uses of property fronting on South 7th has a mix of residential and commercial, utilizing the prime frontage on lots averaging in size from 5600 Sq. Ft.

Contig. Uses & Zones: The use of property to the north is public right-of-way for Interstate 70; to the east R-1, Single Family Residential homes and converted residential dwelling to commercial uses zoned C-1, C-2, and C-5; zoning and uses to the west are single family dwellings zoned R-1; zoning and uses to the south are C-6, Strip Business, R-1(conform or non-conform), C-2.

STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: SO # 24-12

Doc: # 26

Date: July 11th, 2012

Page 3 of 4

ZONING REGULATIONS

- C-2 Purpose: The Community Commerce Zone is designed for the residents of the nearby community consisting of more than one (1) of the neighborhoods in that section of the city, so as to permit a wider variety of both business uses and services. It is designed not for an abutting neighborhood, but for a relatively larger consumer population for both daily and occasional shopping. The development is characterized by a lack of “comparison shopping” and is limited to providing only one (1) store for each type of business.
- C-2 Uses: Antique shops, Art galleries, but not including auction rooms, Banks and financial institutions, Bicycle sales, rental, and repair stores, Blue-printing and photos tatting establishments, Books and stationery stores, Camera and photographic supply stores, Candy and ice cream stores, Leather goods and luggage stores, Loan offices, Locksmith shops, Medical and dental clinics, Meeting halls, Millinery shops, Municipal or privately-owned recreation buildings or community-center, Musical instrument sales and repair, Newspaper distributors for home delivery and retail sale, Office supply stores, Offices, business and professional, Optometrists, Paint and wallpaper stores, Restaurants. Liquor may be served if incidental to the serving of food as the principal activity. (Gen. Ord. No. 2, 2007, As Amended, 2-8-07), Live entertainment. (Gen. Ord. No. 2, 2007, As Amended, 2-8-07)
- C-2 Standards: Minimum Lot Size: 3,300 Sq. Ft.
FAR 0.9 %
Street Setback: 55 feet from centerline;
Rear setback 11’;
Setback buffer of 50’ buffer at right angles along the interior property lines when adjacent to Residential or a Setback of 5’ when adjacent to other uses.
Mortuary/Crematorium
One (1) space per thirty-two (32) square feet of area in parlor and assemble rooms/
-

STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: SO # 24-12

Doc: # 26

Date: July 11th, 2012

Page 4 of 4

FINDINGS and RECOMMENDATION

Staff Findings: Residential land-uses in this area are surrounded by major thoroughfares and associated land-uses. I-70 which is an elevated interstate is located to the North, South 7th Street is located to the east, and the I-70 and U.S. 41 interchange Regional Commerce Zone is located to the west. South 7th Street and East Davis Dr. are Secondary Arterial roadways that provides for intra-community travel mobility. The section of South 7th Street between Margret Avenue and E. Dave Dr. has a mix of commercial and residential uses.

Recommendation: Favorable Recommendation,