



APPLICATION FOR REZONING PETITION - CITY OF TERRE HAUTE

SPECIAL ORDINANCE NO. 37

COMMON ADDRESS OF LOTS TO BE REZONED:

5745 East Hulman Drive, Terre Haute, Indiana, 47803

Current Zoning: O-1

Requested Zoning: C-3

Proposed Use: Commercial/Retail

Name of Owner: John McDonnall

Address of Owner: 4294 Cart Path, Terre Haute, IN 47802

Phone Number of Owner: _____

Attorney Representing Owner (if any): N/A

Address of Attorney: N/A

Phone Number of Attorney: N/A

For Information Contact: Benjamin J. Houle – 317.299.7500

Council Sponsor: Robert All

***COPY OF SITE PLAN MUST ACCOMPANY THIS APPLICATION**

FILED

OCT 16 2013

SPECIAL ORDINANCE FOR A REZONING
SPECIAL ORDINANCE NO. 37, 2013

CITY CLERK

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

SECTION I. 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 Maps,
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:

Part to be Sub-divided and Re-zoned

The south 880.00 feet of twenty (20) acres off of the east side of the west 1/2 of the northwest 1/4
of section 32, township, 12 north, range 8 west.

Commonly known as: 5745 East Hulman Drive, Terre Haute, Vigo County, Indiana, 47803

Be and the same is hereby established as a C-3, Commercial Regional Commerce, together with all rights
and privileges that may insure 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 II, 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 its
approval by the Mayor and publication as required by law.

Presented by Council Member, Robert All

Robert All

Passed in Open Council this 14th day of November, 2013.

M E Louie
-President

ATTEST:

Charles P. Hanley
Charles P. Hanley, City Clerk

Presented by me to the Mayor of the City of Terre Haute this 15th day of November, 2013.

Charles P. Hanley
Charles P. Hanley, City Clerk

Approved by me, the Mayor, this 15th day of NOVEMBER, 2013.

Duke A. Bennett
Duke A. Bennett, Mayor

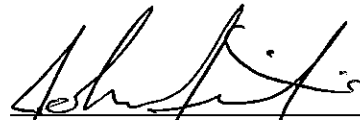
ATTEST


Charles P. Hanley, City Clerk

This instrument prepared by: **Woolpert, Inc.**

7635 Interactive Way, Suite 100, Indianapolis, IN 46278
Benjamin J. Houle
317.299.7500

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.



John Nierzwicki

Woolpert Inc.

7635 Interactive Way Suite 100
Indianapolis, IN 46278

PETITION TO REZONE REAL PROPERTY

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

And THE PRESIDENT AND MEMBERS OF THE AREA PLAN COMMISSION FOR VIGO COUNTY, INDIANA:

LADIES AND GENTLEMAN:

The undersigned, John McDonnall, respectfully submits this Petition to rezone the following described real estate in the City of Terre Haute, County of Vigo, Indiana, to wit:

Part to be Sub-divided and Re-zoned

The south 880.00 feet of twenty (20) acres off of the east side of the west 1/2 of the northwest 1/4 of section 32, township, 12 north, range 8 west.

Commonly known as: 5745 East Hulman Drive, Terre Haute, Indiana, 47803

Your petitioner is informed and believes that in accordance with Chapter 10, Article 2 of the Municipal Code designated as "Comprehensive Zoning Ordinance for Terre Haute, Indiana," the above-described real estate is now zoned as O-1, Open Space Agricultural.

Your petitioner would respectfully state that the real estate is now agricultural farmland. Your petitioner intends to use the real estate as commercial/retail use.

Your petitioner would request that the real estate described herein shall be zoned as C-3, Commercial Regional Commerce. Your petitioner would allege that the Regional Commerce District would not alter the general characteristics of this neighborhood.

Your petitioner would respectfully show the proposed change would not be detrimental to the public welfare or injurious to the property or improvements in the neighborhood.

WHEREFORE, your petitioner respectfully requests that the Area Plan Commission for Vigo County and the Common Council of the City of Terre Haute, Indiana, favorably consider the passage of a Special Ordinance amending the Comprehensive Zoning Ordinance of the city of Terre Haute, Indiana, being Chapter 10, Article 2 of the Municipal Code designated as "Comprehensive Zoning Ordinance for the Terre Haute, Indiana," and declaring the above-described real estate to be part of the C-3, Commercial Regional Commerce district of the City of Terre Haute, Indiana, and entitled to the rights and benefits that may accrue to the real estate and the owners thereof by virtue of the new designation subject to all limitations imposed by deed or otherwise.

IN WITNES WHEREOF, This petition has been duly executed this 29 day of October, 2013.

BY: John McDonnall
John McDonnall

PETITIONER: John McDonnall, 4294 Cart Path, Terre Haute, IN 47802

This instrument was prepared by Woolpert, Inc.
7635 Interactive Way, Suite 100, Indianapolis, IN 46278
Benjamin J. Houle
317.299.7500

95 266

8534

CORPORATE WARRANTY DEED

THIS INDENTURE WITNESSETH, That Victory Services Corporation, an Indiana corporation (hereinafter called "Grantor"), for and in consideration of the payment to it of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, hereby CONVEYS and WARRANTS unto Gregory Gibson, of Vigo County, Indiana, (hereinafter called "Grantee"), the following described REAL ESTATE in Vigo County, State of Indiana, to-wit:

(THAT REAL ESTATE MORE PARTICULARLY DESCRIBED IN EXHIBIT "A" ATTACHED HERETO)

SUBJECT to 1990 real estate taxes and all subsequent taxes.

This Deed is executed and delivered by the Grantor to the Grantee in partial payment for the redemption of all of the Grantee's shares of the capital stock owned by him in and to Victory Services Corporation.

The undersigned persons executing this Deed certify and represent that no gross income taxes are due by reason of this conveyance.

The undersigned persons executing this Deed on behalf of Grantor certify under oath that all necessary corporate action by the Board of Directors and Shareholders of the corporation for the making of this conveyance has been taken.

IN WITNESS WHEREOF, Victory Services Corporation has caused this deed to be executed in its name and on its behalf by its duly authorized officers, and its corporate seal to be affixed hereto, this 31 day of July, 1990.

VICTORY SERVICES CORPORATION

By Max Gibson
President, Max Gibson

ATTESTED:

Roger McDonald, Secretary

DULY ENTERED FOR TAXATION
August 8 1990
Kenneth R. Thomas
Auditor Vigo County

STATE OF Indiana)
COUNTY OF Vigo) ss:

I, B. Guille Cox, Jr., a Notary Public in and for said County and State, do hereby certify that Ray Gibson as President and Roger McDonald as Secretary on behalf of Victory Services Corporation, personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such officers, and to be such officers, appeared before me this day in person and, being first duly sworn, said and acknowledged that they are such officers, and that they respectively signed, and delivered said deed as a free and voluntary act of said Victory Services Corporation, and as their own free and voluntary act as such officers, by authority of the Board of Directors of said corporation for the use and purposes therein set forth.

Given under my hand and notarial seal this 31 day of July, 1990.

B. Guille Cox, Jr.
Notary Public

B. Guille Cox, Jr.
(printed name)

My Commission Expires: June 24, 1991

My County of Residence: Vigo

This instrument prepared by B. Guille Cox, Jr., Attorney at Law, P. O. Box 1625, Terre Haute, IN 47808.

Mail Tax Duplicates to: Greg Gibson, P.O. Box 478, Terre Haute, Indiana 47801

EXHIBIT "A"
DESCRIPTION OF HIGHWAY 46 PROPERTY
VICTORY SERVICES CORPORATION TO GREGORY GIBSON

The following described Real Estate situated in Vigo County,
Indiana:

PARCEL 1

Beginning at the Southwest corner of the Northwest quarter of Section 32, Township 12 North, Range 8 West; running thence East 60 rods; thence North 53 1/3 rods; thence West 60 rods; thence South 53 1/3 rods to the place of beginning.

ALSO

A tract 2 rods in width off the South end of the East half of the Northwest quarter of Section 32, Township 12 North, Range 8 West.

ALSO

The North half of the Northwest quarter of the Southwest quarter of Section 32, Township 12 North, Range 8 West.

ALSO

15 acres off the West end of the North half of the North East quarter of the South West quarter of Section 32, Township 12 North, Range 8 West.

EXCEPT that part thereof as appropriated by the State of Indiana and shown in Cause No. 47800 of Vigo County Superior Court.

SUBJECT to Right of Way Grant to the State of Indiana, as shown in Deed Record 336 page 292 of the records of the Recorder's Office of Vigo County, Indiana.

PARCEL 2

Thirty-one (31) acres off the East side of all that part of the North East quarter of Section 31, Township 12 North of Range 8 West, EXCEPT 65 acres off the North side of said quarter Section and ALSO EXCEPT One (1) acre in a square form in the North East corner of said 31 acre tract. SUBJECT TO Right of Way grant to the State of Indiana dated June 25, 1941, and recorded October 21, 1941, in Deed Record 222 page 512 of the records of the Recorder's Office of Vigo County, Indiana.

ALSO EXCEPT the following described Real Estate:

A part of the Northeast quarter of Section 31, Township 12 North, Range 8 West in Vigo County, Indiana, more particularly described as follows.

Beginning at a point on the West right-of-way line of State Highway Number 46, 40 feet West of the Southeast corner of the Northeast quarter of said Section 31, thence West along the South line of said quarter section, 466.7 feet; thence North and parallel to the West right-of-way line of said State Highway Number 46, 466.7 feet; thence East and parallel to said South line, 466.7 feet to the said West right-of-way; thence South along said right-of-way line, 466.7 feet to the place of beginning, containing 5.0 acres more or less.

SUBJECT TO all easements, restrictions, drainage rights, and rights of way heretofore recorded.

RECEIVED FOR RECORD THE 8 DAY OF Aug 19 90 AT 2:15 O'CLOCK P.M.
RECORD: 423 PAGE 836 JUDITH ANDERSON, RECORDER

DULY ENTERED FOR TAXATION
Subject to fiscal acceptance for transfer

445/2648
LSE Date 04/19/2000 Time 15:11:11
Mitchell Newton JP
Vigo County Recorder
Filing Fee: 14.00
T 229803748 0 445/2648

APR 19 2000

James H. Beasly
VIGO COUNTY AUDITOR

WARRANTY DEED

This Indenture Witnesseth that Paul L. McDonnell and Margaret McDonnell, husband and wife, of Vigo County in the State of Indiana, subject to the life estate herein retained by Grantors. Convey and Warrant to John D. McDonnell, a competent adult, of Vigo County in the State of Indiana, for and in consideration of One Dollar and other valuable consideration, the receipt whereof is hereby acknowledged, the following Real Estate in Vigo County in the State of Indiana, to-wit:

Twenty (20) acres off of the East side of the West 1/2 of the North West 1/4 of Section 32, Township 12 North, Range 8 West.

ALSO

Beginning at the North West corner of the East 1/2 of the North West 1/4 of Section 32, Township 12 North, Range 8 West, and running thence South 158 rods; thence East 19 rods; thence North 158 rods; thence West 19 rods to the place of beginning.

The Grantors herein, and each of them, specifically reserve unto themselves, a life estate in the above and foregoing real estate, for and during the term of the natural life of them, or either of them.

IN WITNESS WHEREOF, The said grantors above named have hereunto set their hands and seals, this 18th day of April, 2000.

Paul L. McDonnell
Paul L. McDonnell

Margaret McDonnell
Margaret McDonnell

STATE OF INDIANA, COUNTY OF VIGO) SS:

Before me, a Notary Public in and for said county and state, this 18th day of April, 2000, personally appeared Paul L. McDonnell and Margaret McDonnell, husband and wife, who acknowledged the execution of the foregoing Warranty Deed to be their voluntary act and deed.

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

My Commission Expires:

January 3, 2001

C. Don Natkensper
C. Don Natkensper, Notary Public
A resident of Vigo County, IN

Mail tax duplicates to: 5746 East Hulman Drive, Terre Haute, Indiana 47803.

This instrument prepared by: C. Don Natkensper, Attorney at Law, 322 South 6th Street, P.O. Box 1444, Terre Haute, Indiana 47808.

*Hand signed
this instrument
2nd*

Receipt

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

Date: 10/16/13

Name: Woolpert

Reason: Respring

Cash: _____

Check: _____

Credit: _____

Total: \$4500

TERRE HAUTE, IN
PAID

OCT 16 2013

CONTROLLER

Received By: Sat/Shellie

AFFIDAVIT OF:

COMES NOW affiant John McDonnell and affirms under penalty of law that affiant is the owner of record of the property located at 5745 East Hulman Drive, Terre Haute, Indiana 47803 for which a rezoning is requested and hereto a copy of the deed is attached evidencing such ownership.

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

John McDonnell
John McDonnell

STATE OF INDIANA)
) SS:
COUNTY OF VIGO)

John McDonnell personally appeared before me, Stacy Morgan, a

Notary Public in and for said County and State, who acknowledges the execution of the above and foregoing, after being duly sworn upon his oath and after having read this Affidavit.

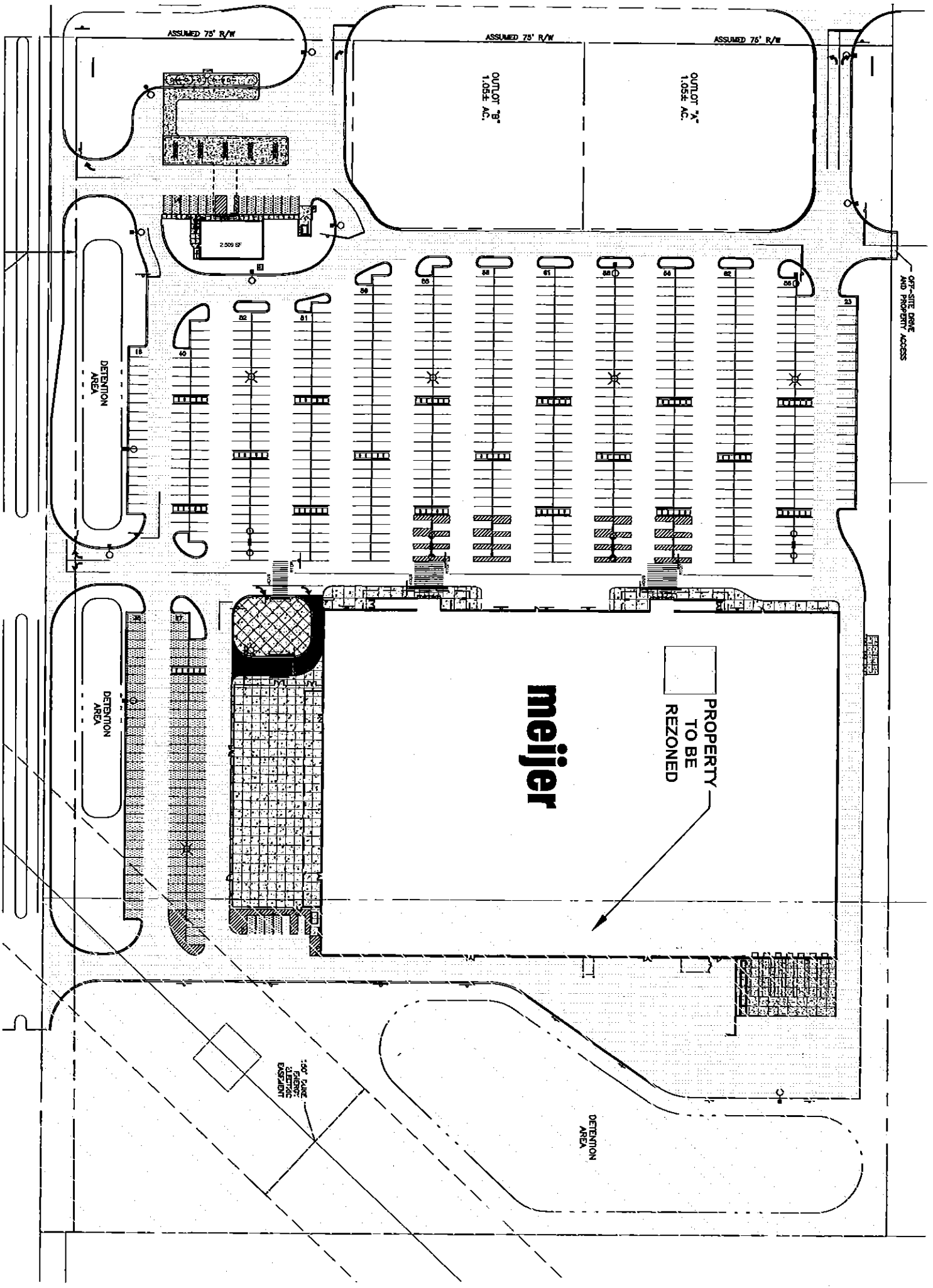
WITNESS my hand and notarial seal, this 29 day of October, 20013.

Notary Public:

Stacy Morgan
[Typed name]

My Commission Expires: 3-10-19

My County Of Residence: Vermillion



meijer

PROPERTY
TO BE
REZONED

DETENTION
AREA

DETENTION
AREA

DETENTION
AREA

30' PLANE
ZONE
ELECTRIC
OVERHEAD
EXPOSED

2,500 SF

OUTLOT "B"
1.054 AC.

OUTLOT "A"
1.054 AC.

ASSUMED 75' R/W

ASSUMED 75' R/W

ASSUMED 75' R/W

OFF-SITE DRIVE
AND PROPERTY ACCESS



TERRE HAUTE
A LIVING 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: November 7, 2013

REPORT TO THE CITY COUNCIL ON ZONING MAP AMENDMENT

THE VIGO COUNTY AREA PLAN COMMISSION HEREBY GIVES CERTIFICATION TO
SPECIAL ORDINANCE NUMBER #37-13

CERTIFICATION DATE: November 6, 2013

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. 37-13. This Ordinance is a rezoning of the property located at 5745 E. Hulman Dr. The Petitioner, John McDonnell, Petitions the Plan Commission to rezone said real estate from zoning classification 0-1 to C-3, Regional Commerce District for commercial retail. 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. 37-13 at a public meeting and hearing held Wednesday, November 6, 2013. 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. 37-13 as required by IC 36-7-4-302. The Area Plan Commission of Vigo County now hereby attaches certification to Special Ordinance No. 37-13 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. 37-13, was FAVORABLE.

A handwritten signature in black ink, appearing to read "Fred L. Wilson".

Fred L. Wilson, President

A handwritten signature in black ink, appearing to read "Darren Maher".

Darren Maher, Executive Director

Received this 7th day of November, 2013

STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: SO #37-13

Doc: #73

Date: November 6th, 2013

Page 1 of 5

APPLICATION INFORMATION

Petitioner: *John*
~~Paul L.~~ McDonnall and Margaret McDonnall

Property Owner: Same as Above

Representative: Benjamin J. Houle

Proposed Use: Commercial Retail to allow the development of a Meijer Department Store

Proposed Zoning: C-3, Regional Commerce District

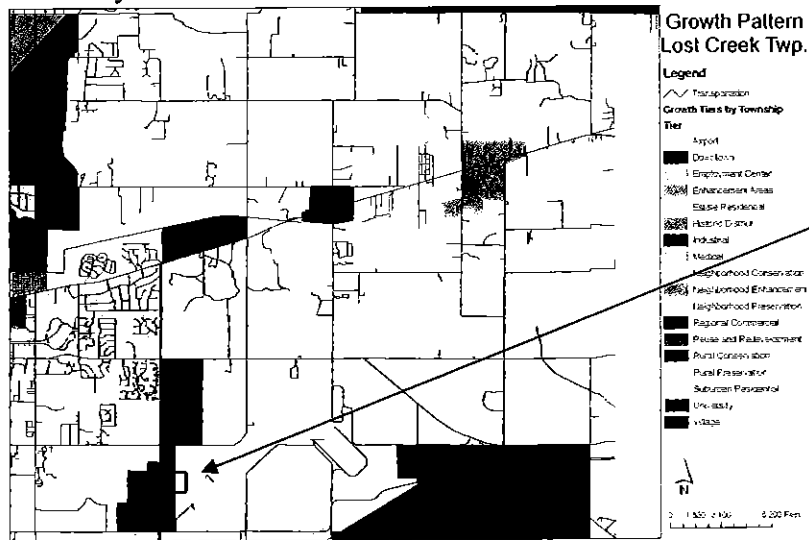
Current Zoning: O-1, Agricultural District

Location: The property is located on the northeast corner of the intersection of State Road 46/U.S. Hwy 40 and New Margaret Dr.

Common Address: No common address has been assigned at this time.

COMPREHENSIVE PLAN GUIDANCE

Service Area: The City of Terre Haute



Recommended Use: Regional Commerce Area

- Spatial containment of commercial activities to existing commercially zoned sites; maintain and reinforce the drawing power of major retail centers including anchor department and discount stores.

STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: SO #37-13

Doc: #73

Date: November 6th, 2013

Page 2 of 5

- Reduce future traffic congestion and more closely tie existing retail centers with transit operations; expand the opportunities for pedestrian linkage between and among major existing activity centers.
- Increase the Identity of the district as a whole, with improved coordination in urban design elements including directional signage, common landscape elements such as lighting or street furniture; develop a common approach to business signage.
- Encourage reinvestment in and continual upgrading of existing retail space; encourage the intensification of activities for retail comparative shopping purposes. Ancillary activities such as fast-food restaurants or quick stop establishments do not add to the regional character of activity centers. Emphasis should increasingly be upon multiple-trip purpose activities with regional significance.
- Ensure that future retail commercial development in the area does not detract from the viability of residential Neighborhoods in the vicinity.

Available Services: Area is well served by utilities and urban services.

Soil Limitations: Please refer to the soils report within the Meijer 3-lot Subdivision case files.

Street Access: State Road 46/US Highway 41 is a Rural Arterial Roadway: Characterized by sparse development, limited access with turn lanes and passing blisters at access points.

Dev. Priority: The petitioned property has a high priority for new development, as it is located in an area identified and zoned for regional commercial uses by the Thrive 2025 Comprehensive Plan.

ZONING COMPATIBILITY

Sur. Zones and Uses: **North** – O-1, Agricultural District, R-1, Single Residential
C-1, Neighborhood Commercial C-6, Strip Business
East – O-1, Agricultural District
South – C-3, Regional Commerce District, M-2, Heavy Industrial
O-1, Agricultural District
West – C-3, Regional Commerce District

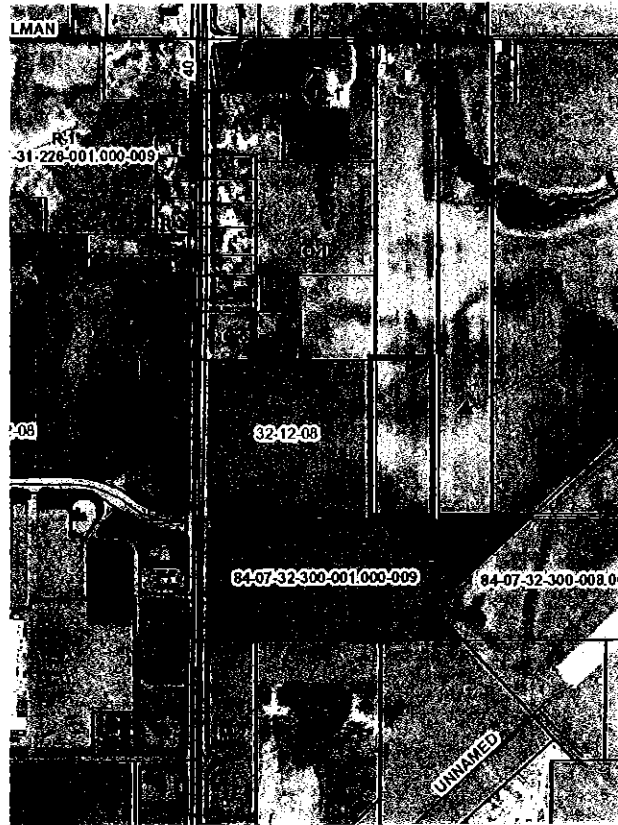
STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: SO #37-13

Doc: #73

Date: November 6th, 2013

Page 3 of 5



Character of Area: The petitioned property is located within the regional commercial hub centered on State Road 46 and I-70 Interchange. Within a close vicinity to this property are the International Airport, Sycamore Terrace, distribution services such as UPS and FedEx, and a few other heavy industrial uses. The majority of the area is undeveloped parcel of large open and flat ground fronting major thoroughfares.

Contig. Uses & Zones:

- To the north lay large tracks of land the zoned O-1, Agricultural District, with grain production as the primary use, there are also single detached residential dwelling zoned R-1, Single Family Residential. Commercial uses that are within a close proximity to the intersection of Hulman Street and State Rd. 46/U.S. Hwy consist of a dentist office zoned C-4, Restricted Central Business District and the International Brotherhood of Electrical Workers zoned C-1, Neighborhood Commerce District.
- To the east the property is zoned O-1, Agricultural District, and is being used for crop production and the Terre Haute International Airport.

STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: SO #37-13

Doc: #73

Date: November 6th, 2013

Page 4 of 5

- To the south the property is zoned O-1, Agricultural District with the airport as the primary use: C-3, Regional Commercial which is being used for crop production and M-2, Heavy Industrial that is home to Wabash valley asphalt.
 - To the west the property is zoned C-3, Regional Commercial and is location of the Sycamore Terrace development.
-

ZONING REGULATIONS

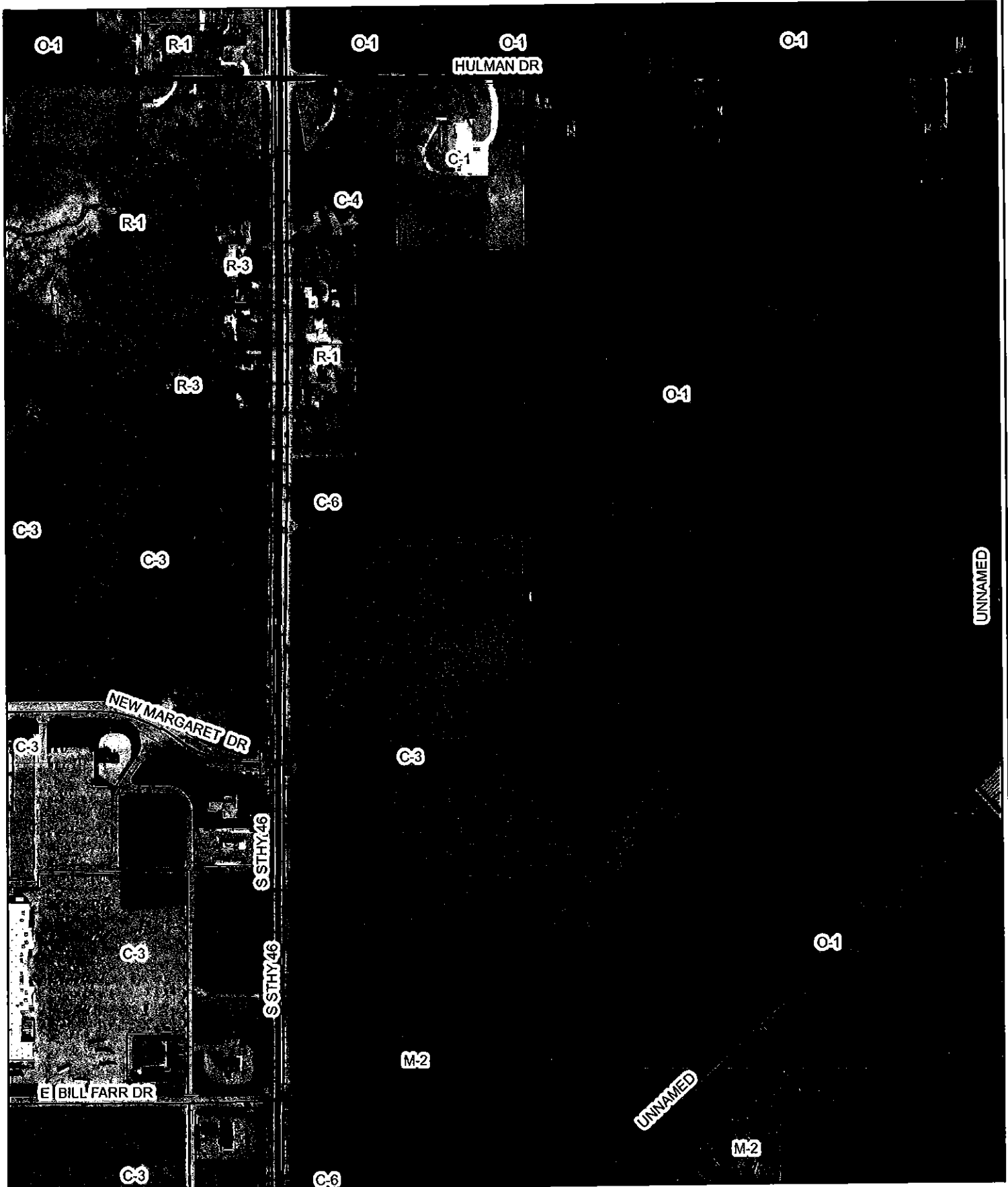
- C-3 Purpose: The Regional Commerce Zone is designated for all residents in the region of Terre Haute, Indiana, and is not a limited community commerce area (or shopping center); consequently, it shall permit a wide variety of business, commerce, and services with some degree of limited warehousing for those establishments allowed in area. It shall be a major shopping center, definitely limited specific locations and characterized by large establishments generating large volumes of vehicular traffic. The development is characterized by its provision of some degree of comparison-shopping and a complete lack of any attempt to draw pedestrian traffic.
- C-3 Uses: Any use permitted in C-1, and C-2, Pet shops, Live professional entertainment and dancing, Schools, Auction rooms, Recreation establishments, Automobile sales and service (minor and major repairs) Farm equipment sales and service.
- C-3 Standards: Floor Area Ratio of 2.0; street setback of 50 feet from centerline; rear setback 11' from the rear property line; Interior 5' from the interior lot line, and meet the minimum parking requirement per table 4. Shopping Center (up to 200,000 square feet) is required to have 4.5 spaces per one thousand (1,000) square feet of gross floor area.
-

FINDINGS and RECOMMENDATION

Staff Findings: The rezoning request is in harmony with the development pattern identified by the Thrive 2025 Comprehensive Plan. Anchor stores such as Meijer add to the diversity of goods and services available within a regional commercial zone. Increasing the availability of goods and services within this district will help place emphasis on multiple-trip purpose activities with a regional significance.

Recommendation: Favorable Recommendation on the request to rezone the property to C-3, Regional Commercial.

Docket #73, SO #37-13 5745 East Hulman Dr.
O-1, Agricultural District to C-3, Regional Commercial



Parcel: 84-07-32-101-012.000-009

0 125 250 500 Feet


Area of Interest

Prepared by the Vigo County
Department of Area Planning