

APPLICATION FOR REZONING PETITION
CITY OF TERRE HAUTE

SPECIAL ORDINANCE NO.08-2015

COMMON ADDRESS OF LOTS TO BE REZONED:

601 S. Fruitridge Ave.
Terre Haute, IN 47803

REZONE FROM: Planned Unit Development District
(PUD)

REZONE TO: General Residence District (R-3)

PROPOSED USE: Market Rate Luxury Apartment
Development

PROPERTY OWNER: Beau Monde, LLC

ADDRESS OF OWNER: 324 S. 25th St.
Terre Haute, IN 47803

PHONE NO. OF OWNER: 812-232-8899

ATTORNEY REPRESENTING OWNER:
Jeffrey A. Lewellyn
Attorney at Law, #15216-34

ADDRESS OF ATTORNEY: Wilkinson, Goeller, Modesitt,
Wilkinson & Drummy, LLP
333 Ohio St.,
Terre Haute, IN 47807

PHONE NO. OF ATTORNEY: (812) 232-4311

FOR INFORMATION CONTACT: Attorney, Jeffrey A. Lewellyn
(812) 232-4311

COUNCIL SPONSOR: _____
James Chalos

Copy of Site Plan Must Accompany This Application.

WITHDRAWN

FILED

APR 10 2015

CITY CLERK

SPECIAL ORDINANCE FOR A REZONING
SPECIAL ORDINANCE NO. 08 - 2015
COMMON COUNCIL OF THE CITY OF TERRE HAUTE, STATE OF INDIANA

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, Indiana, That Chapter 10, Article 2 of the City Code of Terre Haute, designated as "Comprehensive Zoning Ordinance for Terre Haute, Indiana" 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:

See Exhibit A attached hereto and incorporated herein.

Subject to covenants, conditions, restrictions, easements, rights-of-way and other matters of record affecting title.

Commonly known as: 601 S. Fruitridge Ave.
Terre Haute, IN 47803

be and the same is, hereby established as a **(R-3) General Residence District**, together with all rights and privileges that may inure to said real estate and 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:


James Chalos

Passed in Open Council this _____ day of _____, 2015.

John Mullican, President
Common Council of
City of Terre Haute, Indiana

ATTEST:

Charles P. Hanley, City Clerk

Presented by me to the Mayor of the City of Terre Haute this ____
day of _____, 2015.

Charles P. Hanley, City Clerk

Approved by me, the Mayor of the City of Terre Haute, this ____
day of _____, 2015.

Duke Bennett, Mayor,
City of Terre Haute, Indiana

ATTEST:

Charles P. Hanley, City Clerk

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.

Jeffrey A. Lewellyn

This instrument prepared by: Jeffrey A. Lewellyn, Attorney,
333 Ohio Street, Terre Haute, IN 47807.

EXHIBIT A
(Legal Description)

Part of the Southwest quarter of Section 24, Township 12 North, Range 9 West, Vigo County, described as follows:

Commencing at the Southeast corner of said quarter Section 24; thence North 89 degrees 07 minutes 21 seconds West, bearing is assumed and is the basis of bearings of this description, along the South line of said quarter section, a distance of 275.44 feet; thence North 00 degrees 52 minutes 39 seconds East a distance of 46.00 feet to a 5/8 inch rebar with plastic cap stamped "Myers LS 9400006" hereinafter called a monument of the intersection of the North Right-of-way line of Poplar Street (Indiana State Road 42), with the West right-of-way line of Thompson Ditch 2.12 acres Record, 1.90 acres measured, Parcel #A-31, per Certificate of Appropriation and Payment Filed: Vigo County Auditor July 17, 1975, Miscellaneous Record 176, page 495, and the Point of Beginning of this description; thence North 89 degrees 07 minutes 21 seconds West along said North right-of-way line a distance of 1044.75 feet to a monument on the East right-of-way line of Adams Street (32.5 feet $\frac{1}{2}$ width); thence North 00 degrees 20 minutes 19 seconds East along said East right-of-way line a distance of 688.48 feet to an iron pin found at the Southwest corner of Lot 289 of Hulman Meadows 5th Subdivision, Plat Record 21, page 17; thence North 89 degrees 38 minutes 58 seconds East, a distance of 139.87 feet (measured) 140 feet (record) to an iron pin found at the South west corner of Lot 290, of said Subdivision; thence North 89 degrees 37 minutes 47 seconds East, a distance of 119.81 feet (measured), 120 feet (record), to an iron pin found at the Southeast corner of said Lot 290; thence North 00 degrees 20 minutes 19 seconds East, along the East line of said Lot 290, a distance of 150.27 feet (measured), 150 feet (record), to a monument set on the South right-of-way line of Ohio Boulevard; thence North 89 degrees 37 minutes 25 seconds East, along said South right-of-way line, a distance of 921.47 feet to a monument set on the West right-of-way line of said Thompson Ditch Parcel #A-31; thence continuing said course, a distance of 100.00 feet to the West right-of-way of Fruitridge Avenue (40 feet $\frac{1}{2}$ width measured from the East line of the Southwest quarter of Section 24); thence along and with said West right-of-way line the following three (3) courses: South 00 degrees 25 minutes 25 seconds West, a distance of 278.51 feet to a monument set on the Northwesterly right-of-way line of the Southern Indiana Railway, (49.5 feet $\frac{1}{2}$ width, measured perpendicular to the centerline of the main track); thence South 00 degrees 25 minutes 25 seconds West, a distance of 441.59 feet to a

monument set on the Southeasterly right-of-way line of said Southern Indiana Railway; thence South 00 degrees 25 minutes 25 seconds West, a distance of 146.60 feet to a monument set at the intersection of the West right-of-way line of Fruitridge Avenue, with the North right-of-way line of Poplar Street; thence North 89 degrees 07 minutes 21 seconds West, along said North right-of-way, a distance of 33.67 feet, to a monument set on the Southeasterly right-of-way line of said Southern Indiana Railway; thence continuing said course along said North right-of-way, a distance of 101.40 feet, to a monument set on the Northwesterly right-of-way line of said Southern Indiana Railway; thence continuing said course along said North right-of-way, a distance of 100.00 feet to the Point of Beginning, containing 24.17 acres more or less.

EXCEPT Beau Monde Section I - Part of the East one-half ($\frac{1}{2}$) of the Southwest quarter ($\frac{1}{4}$) of Section 24, Township 12 North, Range 9 West, Vigo County, described as follows:

Commencing at the Northeast corner of said quarter Section 24; thence South 00 degrees 25 minutes 25 seconds West, bearing is assumed and is the basis of bearings for this description, along the East line of said quarter section, a distance of 150.59 feet; thence North 89 degrees 34 minutes 35 seconds West, perpendicular to the East line of said quarter a distance of 40.00 feet to a 5/8 inch rebar with plastic cap stamped "Myers LS 9400006" hereinafter called a monument at the intersection of the West right-of-way line of Fruitridge Avenue and the South right-of-way line of Ohio Boulevard; thence South 89 degrees 37 minutes 25 seconds West along said South right-of-way line a distance of 100.00 feet to a monument on the West right-of-way line of Thompson Ditch Parcel #A-31 and the Point of Beginning of this description; thence South 08 degrees 49 minutes 32 seconds East along said West right-of-way line a distance of 163.91 feet to a monument; thence South 13 degrees 22 minutes 43 seconds West along said West right-of-way line a distance of 172.65 feet to a monument; thence South 87 degrees 49 minutes 35 seconds West a distance of 328.96 feet to a monument; thence South 88 degrees 19 minutes 02 seconds West a distance of 332.05 feet to a monument; thence North 89 degrees 05 minutes 59 seconds West a distance of 190.96 feet to a monument; thence North 85 degrees 17 minutes 27 seconds West a distance of 221.08 feet to a monument; thence continuing said course, a distance of 96.60 feet to a monument on the East right-of-way line of Adams Street; thence North 00 degrees 20 minutes 19 seconds East, along said East line a distance of 165.12 feet to an iron pin at the Southwest corner of Lot 289 of Hulman Meadows 5th Subdivision, Plat Record 21, page 17; thence North 89 degrees 38 minutes 58 seconds East, along the South line of said Lot 289, a distance of 139.87 feet to an iron pin at the Southwest corner of Lot 290; thence North 89 degrees 37 minutes 47 seconds East, along the South line of said Lot 290, a distance

119.81 feet to an iron pin at the Southeast corner of Lot 290; thence North 0 degrees 20 minutes 19 seconds East, along the East line of said Lot 290, a distance of 150.27 feet to a monument on the South right-of-way line of Ohio Boulevard; thence North 89 degrees 37 minutes 25 seconds East, along said South right-of-way line, a distance of 921.47 feet to the Point of Beginning, containing 8.33 acres more or less, all of which is part of the 24.17 acre property described in the Corporate Limited Warranty Deed recorded as instrument number 2005007595, on May 6, 2005, also as shown on the recorded survey last revised September 15, 2004, recorded as instrument number 2005001967 on February 11, 2005.

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
OF VIGO COUNTY, INDIANA:

LADIES AND GENTLEMEN:

The undersigned, **Beau Monde, LLC**, respectively submits this petition to rezone the following described real estate in the City of Terre Haute, County of Vigo, State of Indiana, to-wit:

See attached Exhibit A, legal description.

Subject to covenants, conditions, restrictions, easements, rights-of-way and other matters of record affecting title.

Commonly known as: 601 S. Fruitridge Ave.
Terre Haute, IN 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 Planned Unit Development District (PUD).

Your Petitioner would respectively state that the real property is now mostly unimproved land, but pursuant to Common Council of the City of Terre Haute, State of Indiana, Special Ordinance No. 33, 2005, was intended to be developed as multi-family dwelling residences neighboring with single family residences. The land is located south of Ohio Blvd. between Fruitridge Ave. on the east and Adams Street on the west, with Poplar Street on the south and is contiguous to the existing Beau Monde Section I subdivision to the north, which is part of the zoned PUD. Your petitioner intends to construct twenty-three (23) apartment buildings and one (1) Amenities Clubhouse on the subject 15.84 acres to be known as The Residences at Deming. Access to be located off of Adams Street.

Your Petitioner requests that the real estate described herein shall be zoned as a **(R-3) General Residence District**. Your Petitioner would allege that this change in zoning and use would not alter the general characteristics of this neighborhood.

Your Petitioner would respectively 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 respectively requests that the Area Plan Commission of 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, Chapter 10, Article 2, of the Municipal Code, designated as "Comprehensive Zoning Ordinance for Terre Haute, Indiana", and declaring the above-described real estate to be part of the **(R-3) General Residence District** of the City of Terre Haute, Indiana, and entitled to the rights and benefits that may accrue to the subject real estate and the owners thereof by virtue of the new zoning designation subject to all limitations imposed by deed or otherwise.

IN WITNESS WHEREOF, this Petition has been duly executed on this 9TH day of APRIL, 2015.

Beau Monde, LLC

By: 
John G. Ragie

Petitioner: Beau Monde, LLC
324 S. 25th St.,
Terre Haute, IN 47803

Prepared By: Jeffrey A. Lewellyn, No. 15216-34
ATTORNEY FOR PETITIONER
Wilkinson Goeller Modesitt
Wilkinson & Drummy, LLP
333 Ohio Street
Terre Haute, Indiana 47807
Phone: (812) 232-4311

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Date Created: 12/5/2014





Site Information

- 23 Apartment Buildings
- (10) 1-Bedroom Units
- (80) 2-Bedroom Units
- (43) 3-Bedroom Units
- (1) Enemies Clubhouse

Typical Building Dimensions:
8.25' x 30.0' x 30'

Required Parking Count:
15 parking spaces for 1 bed unit
30 parking spaces for 2 bed unit
43 parking spaces for 3 bed unit
1 clubhouse building
Total parking spaces = 99

Property Site Plan

The Residences at *Deming*

HOLDERDESIGN
ARCHITECTURE • GRAPHICS • CONSULTING



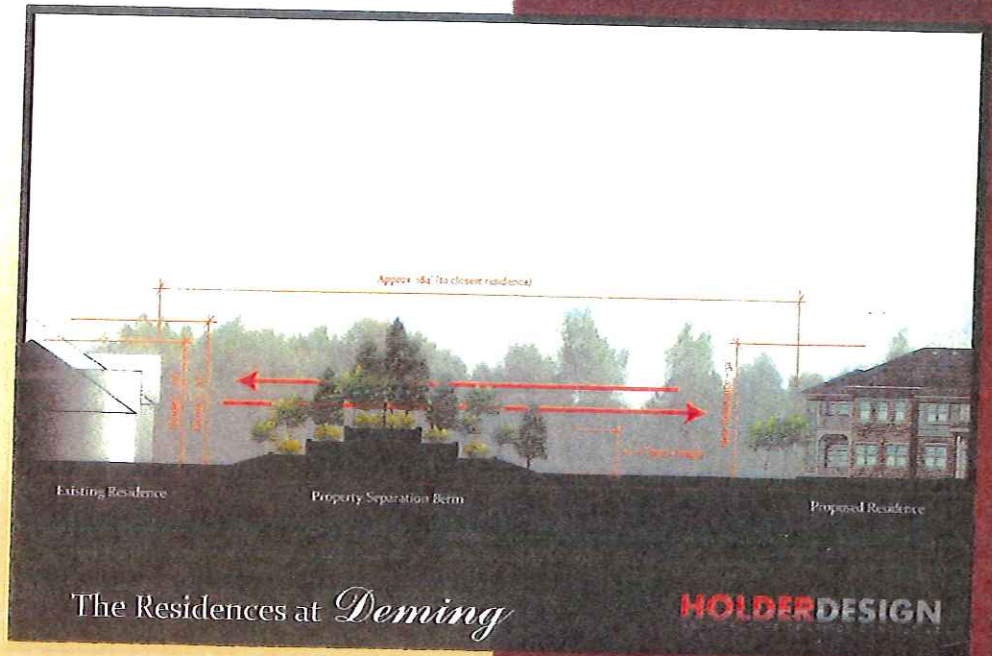
Property Site Plan

The Residences at *Deming*

HOLDERDESIGN
ARCHITECTURE • GRAPHICS • CONSULTING

Location

- ◆ Easy Access to Deming Park
- ◆ Convenient to grocery stores and shopping
- ◆ Easy access to both downtown and I-70.
- ◆ Scenic landscape



The Residences at Deming will be a community where residents want to live because they desire the ease and convenience of living on Terre Haute's east side and seek the luxurious amenities offered. Creating an apartment community like *The Residences* nestled in the already scenic landscape will be a perfect addition to the City's popular location. The resident buildings, clubhouse, amenities, and landscape have all been designed with the architecture and charm everyone loves about this Terre Haute neighborhood.



Apartment Front Elevation



Apartment Rear Elevation

The Residences at *Deming*

HOLDERDESIGN

Amenities

- ◆ 1, 2, & 3 Bedroom Luxury Units
- ◆ Garages available
- ◆ Elegant Clubhouse with Multimedia Recreation Room and 24-hour Fitness Center
- ◆ Outdoor Kitchen
- ◆ Resort-Style Swimming Pool
- ◆ Professional Landscaping Design



Clubhouse Side Elevation



Clubhouse Front Elevation

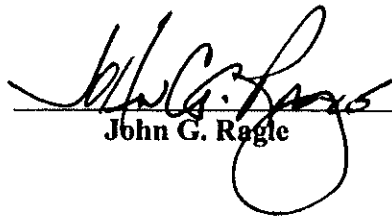
The Residences at *Deming*

HOLDERDESIGN

AFFIDAVIT OF OWNERSHIP AND CONSENT

COMES NOW Affiant, John G. Ragle, Member-Manager of Beau Monde, LLC, and affirms under penalty of law that Beau Monde, LLC is the owner of record of the property located at **601 S. Fruitridge Ave., Terre Haute, IN 47803**, for which a rezoning is requested and attached hereto is a copy of the deed evidencing such ownership. Further, on behalf of Beau Monde, LLC, I hereby consent to the rezoning as requested by Beau Monde, LLC to rezone the property to **(R-3) General Residence District** to allow for the construction of twenty-three (23) apartment buildings and one (1) Amenities Clubhouse on the subject 15.84 acres to be known as The Residences at Deming.

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

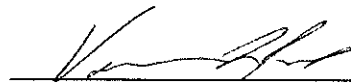


John G. Ragle

STATE OF INDIANA)
 :SS
COUNTY OF VIGO)

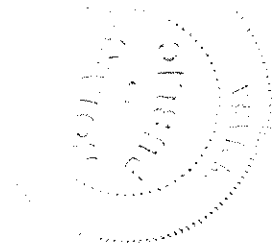
Personally appeared before me, a Notary Public in and for said County and State, **John G. Ragle**, who acknowledged the execution of the above and foregoing Affidavit of Ownership and Consent, after being duly sworn upon his oath and after having read this Affidavit.

WITNESS my hand and Notarial Seal this 9th day of April, 2015.



My commission expires:
6/8/2021

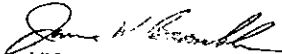
Vanessa L. Prox, Notary Public
Resident of Vigo County, Indiana



DULY ENTERED FOR TAXATION
Subject to final acceptance for transfer

RAYMOND WATTS
VIGO County Recorder IN
IN 2005007595 CW
05/06/2005 14:04:21 3 PGS
Filing Fee: \$18.00

MAY 06 2005


VIGO COUNTY AUDITOR

CORPORATE LIMITED WARRANTY DEED

THIS INDENTURE WITNESSETH that HULMAN & COMPANY, an Indiana corporation ("Grantor"), BARGAINS, SELLS and CONVEYS to BEAU MONDE L.L.C., an Indiana limited liability company, for the sum of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the following described real estate located in Vigo County, Terre Haute, Indiana, which is more particularly described as follows together with all rights and appurtenants thereto (the "Real Estate").

[SEE ATTACHED EXHIBIT A]

TO HAVE AND TO HOLD the Real Estate to Grantee and Grantee's successors and assigns forever. Grantor covenants and warrants that the Real Estate is free of any encumbrance made or suffered by Grantor except (i) all easements, highways, rights-of-way, liens, covenants, conditions, restrictions and other matters of record; (ii) all current, non-delinquent real estate taxes and assessments; (iii) all matters that would be disclosed by an accurate survey or physical inspection of the Real Estate; and (iv) a certain Sign Location Lease dated July 11, 1996. Grantor and Grantor's successors shall warrant and defend the same to Grantee and Grantee's successors and assigns forever against the lawful claims and demands of all persons claiming by, through or under Grantor but against none other.

The undersigned person executing this deed on behalf of Grantor represents and certifies that he is duly qualified to execute and deliver this Corporate Limited Warranty Deed on behalf of Grantor, that Grantor has the full capacity to convey the Real Estate, and that all necessary corporate action for the execution of this transaction has been taken and done.

2

IN WITNESS WHEREOF, Grantor has caused this Corporate Limited Warranty Deed to be executed this 6th day of May, 2005.

HULMAN & COMPANY, an Indiana corporation

By: *W. Curtis Brighton*
W. Curtis Brighton, Executive Vice President and Secretary

STATE OF INDIANA)
) SS:
COUNTY OF VIGO)

Before me, a Notary Public, in and for said County and State, personally appeared W. Curtis Brighton, the Executive Vice President and Secretary of Hulman & Company, an Indiana corporation, who acknowledged his execution of the foregoing Corporate Limited Warranty Deed, and who, before me this day having been duly sworn, stated that the representations and warranties therein contained are true and correct.

WITNESS my hand and Notarial Seal, this 6th day of May, 2005.

(SEAL)

Richard Oldham
Signature

My Commission Expires:
3-24-08

Richard Oldham
Printed NOTARY PUBLIC

County of Residence:
Vigo

Send tax bills to: 324 S 25th Street Terre Haute IN 47803

This instrument prepared by: Gretchen E. Snelling, 4790 West 16th Street, Indianapolis, Indiana 46222, (317) 492-6751.

3

Exhibit A

LEGAL DESCRIPTION

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Commencing at the Southeast corner of said quarter Section 24; thence North 89 degrees 07 minutes 21 seconds West, bearing is assumed and is the basis of bearings of this description, along the South line of said quarter section, a distance of 275.44 feet thence North 00 degrees 52 minutes 39 seconds East a distance of 46.00 feet to a 5/8 inch rebar with plastic cap stamped "Myers LS 9400006" hereinafter called a monument at the intersection of the North Right-of-Way line of Poplar Street (Indiana State Road 42), with the West right-of-way line of Thompson Ditch 2.12 acres Record, 1.90 acres measured, Parcel #A-31, per Certificate of Appropriation and Payment filed: Vigo County Auditor July 17, 1975, Miscellaneous Record 176, page 495, and the Point of Beginning of this description; thence North 89 degrees 07 minutes 21 seconds West along said North right-of-way line a distance of 1044.75 feet to a monument on the East right-of-way line of Adams Street (32.5 feet 1/2 width); thence North 00 degrees 20 minutes 19 seconds East along said East of right-of-way line a distance of 688.48 feet to an iron pin found at the Southwest corner of Lot 289 of Hulman Meadows 5th Subdivision, Plat Record 21, page 17; thence North 89 degrees 38 minutes 58 seconds East a distance of 139.87 feet (measured) 140 feet (record) to an iron pin found at the South west corner of Lot 290, of said Subdivision; thence North 89 degrees 37 minutes 47 seconds East, a distance of 119.81 feet (measured), 120 feet (record), to an iron pin found at the Southeast corner of said Lot 290; thence North 00 degrees 20 minutes 19 seconds East along the East line of said Lot 290, a distance of 150.27 feet (measured), 150 feet (record), to a monument set on the South right-of-way line of Ohio Boulevard; thence North 89 degrees, 37 minutes, 25 seconds East, along said South right-of-way line a distance of 921.47 feet to a monument set on the West right-of-way line of said Thompson Ditch Parcel #A-31; thence continuing said course a distance of 100.00 feet to the West right-of-way of Fruitridge Avenue, (40 feet 1/2 width measured from the East line of the Southwest quarter of Section 24); thence along and with said West right-of-way line the following three (3) courses: South 00 degrees 25 minutes 25 seconds West, a distance of 278.51 feet to a monument set on the Northwesterly right-of-way line of the Southern Indiana Railway, (49.5 feet 1/2 width, measured perpendicular to the centerline of the main track); thence South 00 degrees 25 minutes 25 seconds West, a distance of 441.59 feet to monument set on the Southeasterly right-of-way line of said Southern Indiana Railway; thence South 00 degrees 25 minutes 25 seconds West, a distance of 146.60 feet to a monument set at the intersection of the West right-of-way line of Fruitridge Avenue, with the North right-of-way line of Poplar Street; thence North 89 degrees 07 minutes 21 seconds West, along said North right-of-way, a distance of 33.67 feet, to a monument set on the Southeasterly right-of-way line of said Southern Indiana Railway; thence continuing said course along said North right-of-way, a distance of 101.40 feet, to a monument set on the Northwesterly right-of-way line of said Southern Indiana Railway; thence continuing said course along said North right-of-way, a distance of 100.00 feet to the Point of Beginning, containing 24.17 acres more or less.

Subject to Thompson Ditch, Parcel #A-31 Certificate of Appropriation and Payment filed with the Vigo County Auditor July 17, 1975

Except Right of Way for the Southern Indiana Railway Company (Soo Line), as taken by Appropriation Proceedings in Cause No. 20674, Vigo Circuit Court, and shown in Order Book 65 Page 369 of said court.

Receipt

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

Date: 4/10/15

Name: Wilkinson, Goeller, Modest, Wilkinson & Drummer

Reason: _____

Reopening

601 S. Fairbridge

Cash: _____

Check: 4500

Credit: _____

Total: 4500

TERRE HAUTE, IN
PAID

APR 10 2015

CONTROLLER

Received By: Dat / L. Ellis



Area Planning Department For Vigo County

159 Oak Street, Terre Haute, Indiana 47807

Telephone: (812) 234-3248 Fax: (812) 234-3248

Terre Haute • Riley • Seelyville

Michelle

June 4, 2015

REPORT TO THE CITY COUNCIL ON ZONING MAP AMENDMENT

**THE VIGO COUNTY AREA PLAN COMMISSION HEREBY GIVES CERTIFICATION TO
SPECIAL ORDINANCE NUMBER #8-15**

CERTIFICATION DATE: June 3, 2015

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. 8-15. This Ordinance is a rezoning of the property located at 601 S. Fruitridge. The Petitioner, Beau Monde, LLC petitions the Plan Commission to rezone said real estate from zoning classification PUD to R-3, General Residence District for market rate luxury apartments. 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. 8-15 at a public meeting and hearing held Wednesday, June 3, 2015. 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. 8-15 as required by IC 36-7-4-302. The Area Plan Commission of Vigo County now hereby attaches certification to Special Ordinance No. 8-15 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. 8-15 was TABLE as requested by Petitioner..



Fred L. Wilson, President



Darren Maher, Executive Director

Received this 4th day of June, 2015

STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: SO #08-15

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Date: June 2015

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APPLICATION INFORMATION

Petitioner: Beau Monde LLC.

Property Owner: Same-As-Above

Representative: Jeffrey A. Lewellyn

Proposed Use: Market Rate Luxury Apartments

Proposed Zoning: R-3 General Residence District

Current Zoning: Planned Unit Development

Location: The property is located NW of the intersection of Poplar St. and Fruitridge Ave. Containing 15.840 acres it has approximately 1150 feet of frontage along Poplar St.

Common Address: 601 S Fruitridge Ave., Terre Haute, IN 47803

COMPREHENSIVE PLAN GUIDANCE

Service Area: The City of Terre Haute

Neighborhood Conservation

These areas encompass neighborhoods with established and stable residential environments. The vast majority of these areas are fully developed (or expected to be in a relatively short timeframe). Fundamental directives urged for these areas encourage the maintenance of the residential desirability and stability. Where new infill development is proposed, it should be entirely consistent and compatible with pre-existing developments. However, special public attention may, in some cases, be required to assure that drainage, sidewalk improvements, and linkages to pedestrian and bicycle trails are made. Many of these neighborhoods may be excellent candidates for special assessment districts for neighborhood improvements and amenities.

In addition, these areas encompass existing retail activity nodes located throughout the community. In general, these commercial areas have evolved in an unplanned, largely uncoordinated manner along frontage of primary arterials. Within these commercial bands, a great variety of activities exist which target different markets. Some activities are oriented toward “drive-by” markets, fast food restaurants, convenience stores, gasoline stations, drive-in banking facilities, for example. Other activities are special-purpose, oriented to single trips rather than comparative multi-purpose shopping. These single purpose stores serve a market

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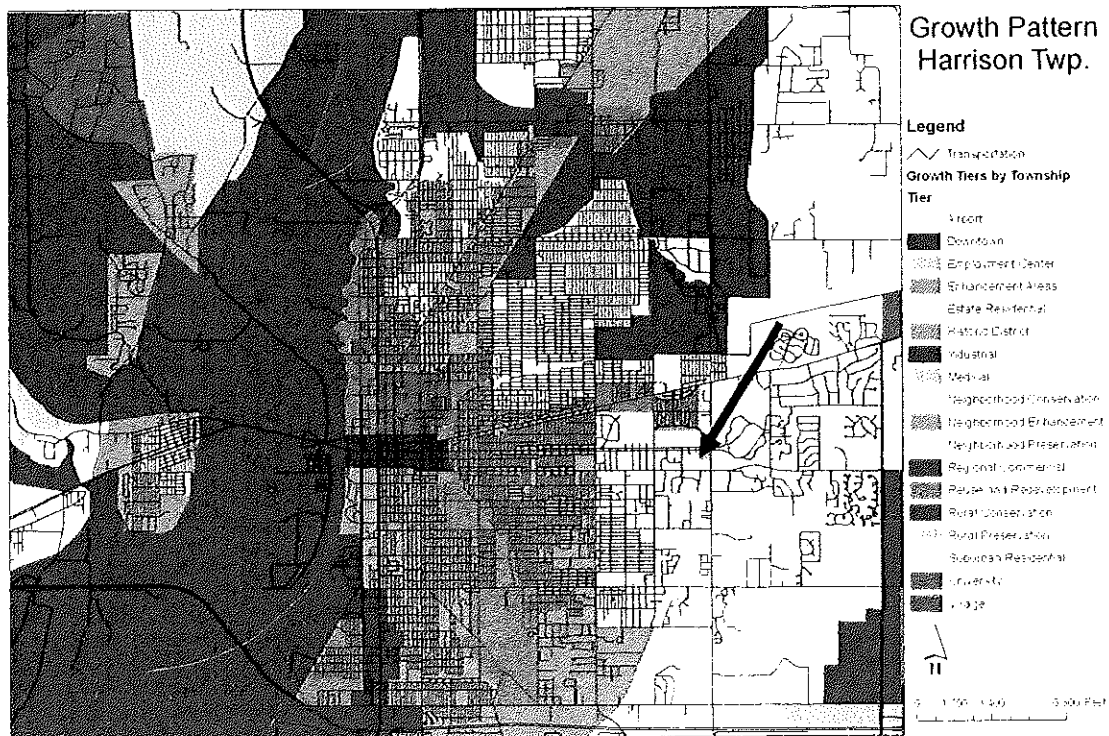
Date: June 2015

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larger than a single neighborhood. Sales and service of automobiles, trucks, boats, recreational vehicles and related activities are special purpose region-serving activities. They require large site with good visibility. Finally, commercial areas include a range of neighborhood level retail activities including grocery stores, pharmacies, personal services such as hair styling, and other frequently purchased goods and services.

Additional policies for Neighborhood Conservation areas should include:

- Allow for a range of housing densities based on the zoning ordinance.
- Allow for a mix of uses, focusing on neighborhood and community serving commercial nodes.
- Encourage neighborhoods to develop a unique sense of place, but still be part of the larger city.
- Reuse of commercial oriented structure should be limited to retail activities that contribute to the diversity and variety of retail uses in a commercial node.
- With respect to existing commercial “strips” – i.e. narrow bands of commercial uses occupying major roadway frontage, the limitation of additional or new commercial uses is strongly advised.
- Geographic expansion of this commercial “strips” should be limited to the provision of additional space to ensure the compatibility with adjacent uses, not an intensification of use.
- Improved landscaping, improved pedestrian amenities, and increased attention to lighting, signage, and impacts upon nearby residential areas is advised in the review of development petitions.



Available Services: Area is well served by utilities.

Street Access: Adams Blvd. is a Local Level Roadway.
Poplar Street is a Secondary Arterial.

Dev. Priority: Low

ZONING COMPATIBILITY

Sur. Zones and Uses: **North** – R-1 Single Family Residential
East – R1 Single Family Residential
South – R-1 Single Family Residential
West – R-1, Single Family Residential

Character of Area: The area is currently an undeveloped parcel associated with the questionably identified Beaumont PUD. Deming Park borders the property to the east. Single family homes comprise a vast majority of this district. All non-single family homes are legal nonconforming and would need to be brought into conformity if ever destroyed by 50% or more.

ZONING REGULATIONS

R-3 Purpose: The General Residence District

R-3 Uses: Any use permitted in the R-1 and R-2 Districts, apartment, hotels, colleges and universities, but not business colleges or trade schools, Fraternal, philanthropic and charitable use or institutions, provided that not more than twenty-five percent (25%) of the gross floor area or four thousand (4,000) square feet shall be used as office space. Hospitals, sanitariums, and convalescent homes, Institutions for the aged and for children, Lodging Houses and Tourist Homes, Nursery Schools, Boarding, Private Clubs or Lodges - not operated for profit, provided that not more than twenty percent (20%) of the gross floor area or two thousand (2,000) square feet, whichever is greater, shall be used as office space, Apartment House.

FINDINGS and RECOMMENDATION

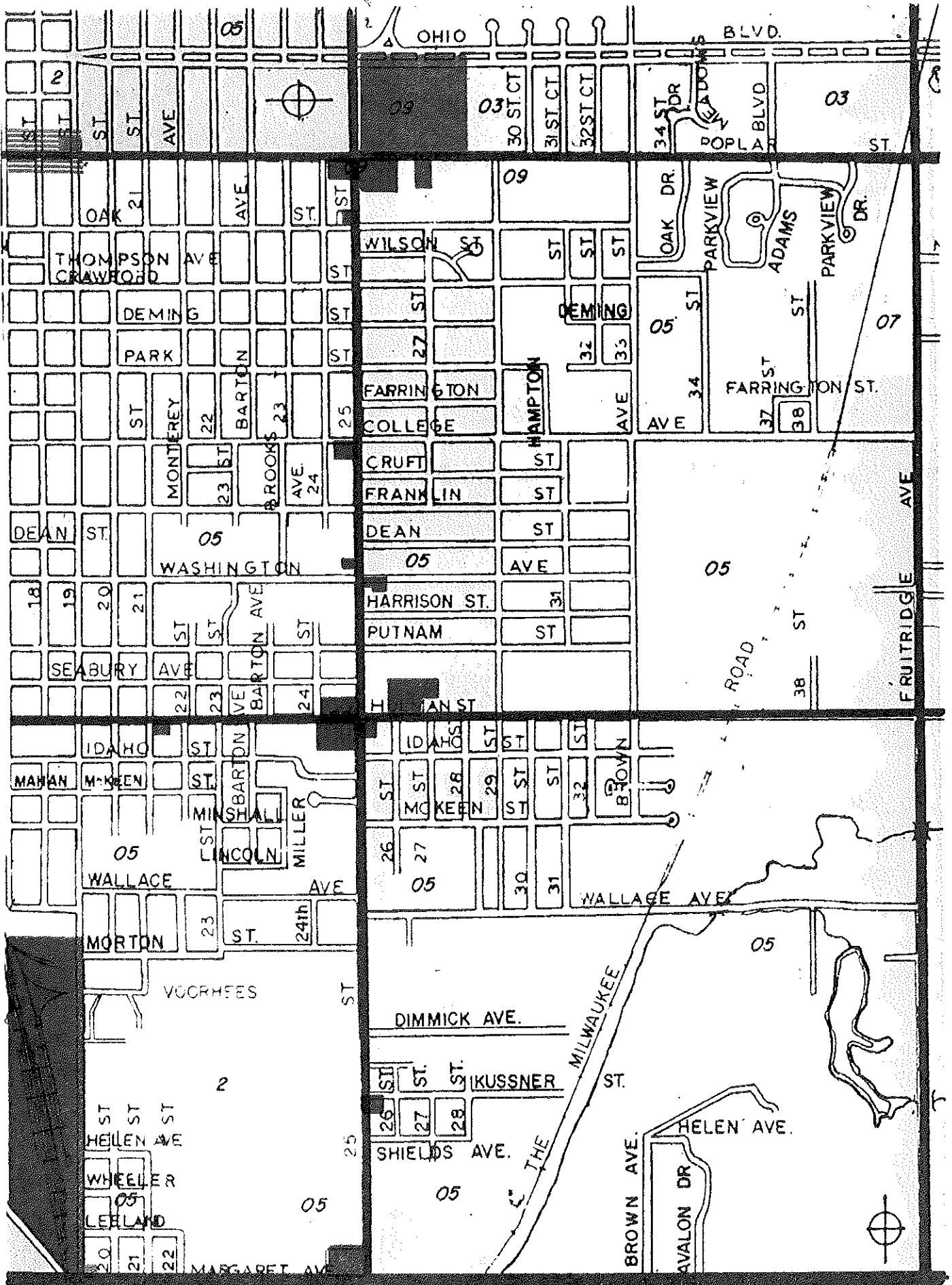
Staff Findings: R-3 is the most intensive residential use allowed by the zoning ordinance. As outline in Table 8 (Exhibit A) in the City Code, it allows for a floor area ratio of 0.7, 0.9, 2.0, 4.0, 6.0, and 8.0. As outlined in the District Index for Zoning Maps the maximum allowable density for this district is .03 (Exhibit B) which translated to .3 in Table 8. The only zoning classes that allow for a FAR of .3 is R-T (Residential Trailer) and R-1 Single Family. R-3 then, is at least twice the density as is intended for and allowed by guidance zoning for this area. The basis for which is outlined in the original zoning maps indicating the area should remain as is.

According to the site plan the proposed development is overdeveloped. Not enough green space is available, the units are too small and there is not enough square feet to meet the min. lot area per unit. Adjacent uses are all single family or legal nonconforming while still remaining R-1. This development is in no way in keeping with the surrounding uses.

It is clear that the proposed use will adversely affect the use and potential value of other property in the immediate area in a substantially adverse manner and that the strict application of the terms of the ordinance would result in no unnecessary hardship in the use of the property.

This petition precisely fits the definition of a spot zoning. This rezoning does provide unjustified special treatment that benefits a particular owner, while undermining the pre-existing rights and uses of adjacent property owners. It is not consistent with, and does not further the purposes of the general area plan for this.

Recommendation: Staff offers an unfavorable recommendation on the R-3 rezoning.



DISTRICT 10

80	0.24
100 and Above	0.50

TABLE 8

iv) Zoning and Subdivision Regulations

Minimum Lot and Floor Area Requirements (for dwellings)			
Zone	F.A.R.	Floor Area/D.U. in Square Feet	Min. Lot Area/D.U. in Square Feet
R-1	0.3	1100	7200*
	0.5	768	6600*
R-2	0.5	512	7200*
	0.7*	450	6600*
R-3	0.7	512	1000
	2.0	512	500
	4.0	450	500
	6.0	384	100
	8.0	384	100
R-T	0.3	181	4000
C-1	0.5	768 (Only when accessory to commercial)	3300
C-6	0.7	768	3300
	0.9	768	3300
C-2	ALL	No New Dwelling Units Permitted	
C-3	0.9	512 (Only when accessory to commercial)	1000
	2.0	512	1000
C-4	ALL	No New Dwelling Units Permitted	
C-5	0.9	288 Apartment Units Only	NONE
	2.0	288	NONE
	6.0	288	NONE
	10	288	NONE
M-1, M-2 M-P	ALL	No New Dwelling Units Permitted	
O-1	ALL	No New Dwelling Units Permitted	
O-2	0.1	1200	43,560 (1 ACRE)

***Since 1970**

NOTES: No new single family dwelling in any district shall be less than 768 square feet and associated lots shall be greater than 6600 sq. ft. No new two-family dwelling in any district shall be less than 900 sq. ft. and associated lot shall be greater than 6600 sq. ft.

All floor area listed in this table is the net livable area per D.U.

Edwards,Michelle

FILED

From: Jeffrey A. Lewellyn [JALewellyn@wilkinsonlaw.com]
Sent: Thursday, August 13, 2015 3:43 PM
To: Edwards,Michelle
Subject: RE: SO 8, Beau Monde

AUG 13 2015

CITY CLERK

Can you accept this email as our formal request to withdraw our petition for rezoning of the Beau Monde property relating to the proposed Special Ordinance 8 -2015?

Jeffrey A. Lewellyn

Wilkinson, Goeller, Modesitt,
Wilkinson & Drummy, LLP
333 Ohio Street
Terre Haute, IN 47807

Phone (812) 232-4311
Fax (812) 235-5107

From: Edwards,Michelle [<mailto:Michelle.Edwards@TerreHaute.IN.Gov>]
Sent: Thursday, August 13, 2015 3:40 PM
To: Jeffrey A. Lewellyn
Subject: SO 8, Beau Monde
Importance: High

Will you be submitting a request to withdraw tonight?

	<p>Edwards, Michelle Chief Deputy City Clerk Administrative Assistant-City Council City Clerk's Office (812) 232-3375 Work (812) 244-2131 Direct Michelle.Edwards@TerreHaute.IN.Gov 17 Harding Ave Room 102 City Hall Terre Haute, IN 47802</p>
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The City of Terre Haute 17 Harding Avenue Terre Haute, IN 47807

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