

FILED

SEP 4 2015

CITY CLERK



**APPLICATION FOR REZONING PETITION - CITY OF TERRE HAUTE**

**SPECIAL ORDINANCE NO. 36, 2015**

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COMMON ADDRESS OF LOTS TO BE REZONED:

119 South Fruitridge Avenue, Terre Haute, Indiana 47803

Current Zoning: R-1 Single Family Residence District

Requested Zoning: C-1 Neighborhood Commerce District

Proposed Use: Beauty Salon

Name of Owner: Scott A. O'Neal and Stacy J. O'Neal

Address of Owner: 119 South Fruitridge Avenue, Terre Haute, Indiana 47803

Phone Number of Owner: 315-283-1276

Attorney Representing Owner (if any): Richard J. Shagley

Address of Attorney: WRIGHT, SHAGLEY & LOWERY, P.C., 500 Ohio Street, PO Box 9849, Terre Haute, Indiana 47808

Phone Number of Attorney: (812) 232-3388

For Information Contact: Richard J. Shagley, (812) 23203388

Council Sponsor: Robert "Bob" All

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

FILED

SEP 4 2015

CITY CLERK

**SPECIAL ORDINANCE FOR A REZONING  
SPECIAL ORDINANCE NO. 36, 2015**

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

SECTION 1. BE IT ORDIANED 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:

Lot Numbered Six (6), except 3 feet off the North side thereof, and 3 feet off the North side of Lot Numbered Seven (7), in Eastwood, being a Subdivision of a part of the Northwest Quarter of Section 24, Township 12 North, Range 9 West, as per Plat recorded in Plat Record 15, Page 56, of the records in the Recorder's Office of Vigo County, Indiana.

ALSO, Lot Numbered Seven (7), except 3 feet off the North side thereof, and 16.5 feet off the North side of Lot Numbered Eight (8), in Eastwood, being a Subdivision of a part of the Northwest Quarter of Section 24, Township 12 North, Range 9 West, as per Plat recorded in Plat Record 15, Page 56, of the records in the Recorder's Office of Vigo County, Indiana.

Commonly known as: 119 South Fruitridge Avenue, Terre Haute, Indiana 47803

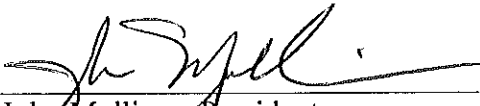
Be and the same is hereby established as a C-1 Neighborhood Commerce District, together with all rights and privileges that may insure to said real estate and the owners thereof by virtue of the law in such cases provided, subject to all limitations and restrictions imposed thereon by deed or otherwise."

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.

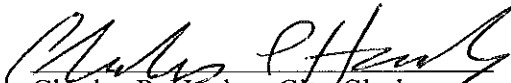
Presented by Council Member,

  
Robert All, Councilperson

Passed in open Council this 8<sup>th</sup> day of October, 2015

  
John Mullican, President

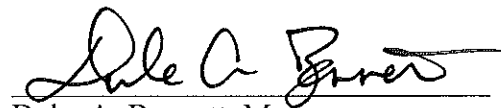
ATTEST:

  
Charles P. Hanley, City Clerk

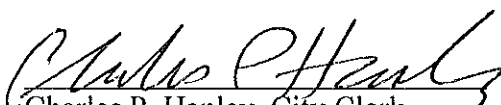
Presented by me, to the Mayor of the City of Terre Haute, this 9<sup>th</sup> day of October, 2015.

  
Charles P. Hanley, City Clerk

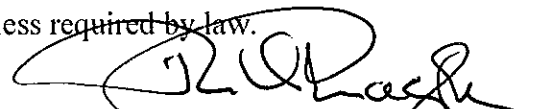
Approved by me, the Mayor of the City of Terre Haute, this 9<sup>th</sup> day of OCTOBER, 2015.

  
Duke A. Bennett, Mayor

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.

  
Richard J. Shagley

This instrument prepared by Richard J. Shagley, Attorney-at-Law, WRIGHT, SHAGLEY & LOWERY, P.C., 500 Ohio Street, Terre Haute, Indiana 47807.

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, Scott A. O'Neal and Stacy J. O'Neal, respectfully submit this Petition to rezone the following described real estate in the City of Terre Haute, County of Vigo, Indiana, to wit:

Lot Numbered Six (6), except 3 feet off the North side thereof, and 3 feet off the North side of Lot Numbered Seven (7), in Eastwood, being a Subdivision of a part of the Northwest Quarter of Section 24, Township 12 North, Range 9 West, as per Plat recorded in Plat Record 15, Page 56, of the records in the Recorder's Office of Vigo County, Indiana.

ALSO, Lot Numbered Seven (7), except 3 feet off the North side thereof, and 16.5 feet off the North side of Lot Numbered Eight (8), in Eastwood, being a Subdivision of a part of the Northwest Quarter of Section 24, Township 12 North, Range 9 West, as per Plat recorded in Plat Record 15, Page 56, of the records in the Recorder's Office of Vigo County, Indiana.

Commonly known as: 119 South Fruitridge Avenue, Terre Haute, Indiana 47803

Your petitioners are 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 R-1 Single Family Residence District.

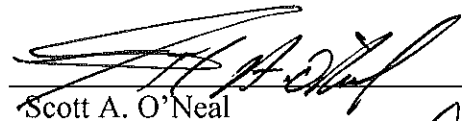
Your petitioners intend to use the real estate as a beauty salon. Your petitioners would request that the real estate described herein shall be zoned as a C-1 Neighborhood Commerce District. Your petitioners would allege that the Neighborhood Commerce District would not alter the general characteristics of this neighborhood since the neighborhood is in a mixed use neighborhood.

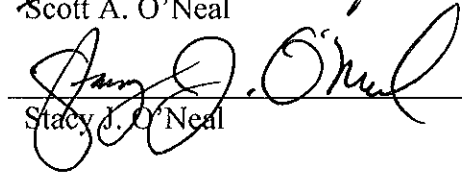
Your petitioners would respectfully show the proposed change would not be detrimental to the public welfare or injurious to the property or improvements in the neighborhood.

WHEREFORE, your petitioners 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-1 Neighborhood 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 2<sup>nd</sup> day of September, 2015.

  
\_\_\_\_\_  
Scott A. O'Neal

  
\_\_\_\_\_  
Stacy J. O'Neal

This instrument prepared by Richard J. Shagley, Attorney-at-Law, WRIGHT, SHAGLEY & LOWERY, P.C., 500 Ohio Street, Terre Haute, Indiana 47807.



Overview



Legend

- Corporate Limits
- Political Township
- Sections
- Blocks
- Parcels
- Road Centerlines

Parcel ID	84-06-24-180-018.000-002	Alternate ID	118-06-24-180-018	Owner Address	O'NEAL SCOTT A & STACY J O'NEAL
Sec/Twp/Rng	n/a	Class	Res 1 fam dwelling platted lot		119 S FRUITRIDGE AV
Property Address	119 S FRUITRIDGE AVE	Acreage	n/a		TERRE HAUTE, IN 47803
	TERRE HAUTE				
District	002 HARRISON				
Brief Tax Description	EASTWOOD SUB ALSO 3' N SIDE 7 2006009962 200502311 24-12-9 LOTS 6-7 <i>(Note: Not to be used on legal documents)</i>				

Date created: 9/3/2015  
Last Data Upload: 9/3/2015 2:30:24 AM



# SITE PLAN

**Beacon™** Vigo County, IN / City of Terre Haute



Overview



Legend

- Corporate Limits
- Political Township
- Sections
- Blocks
- Parcels
- Road Centerlines

Parcel ID	84-06-24-180-020.000-002	Alternate ID	118-06-24-180-020	Owner Address	O'NEAL SCOTT A & STACY J O'NEAL
Sec/Twp/Rng	n/a	Class	Res Vacant platted lot		119 S FRUITRIDGE AV
Property Address	3701 WABASH AVE	Acreage	n/a		TERRE HAUTE, IN 47803
	TERRE HAUTE				
District	002 HARRISON				
Brief Tax Description	EASTWOOD SUB EXC 3' N SIDE & 16.5' N SIDE LOT 8				
	2006009962 D-417/493 24-12-9 LOTS 7-8				
	<i>(Note: Not to be used on legal documents)</i>				

Date created: 9/3/2015  
Last Data Upload: 9/3/2015 2:30:24 AM


Developed by  
The Schneider Corporation

R-1 to C-1  
S.O. NO. 36, 2015

DULY ENTERED FOR TAXATION  
Subject to final acceptance for transfer

AUG 06 2015

  
VIGO COUNTY AUDITOR

2015008085 WD \$18.00  
08/06/2015 03:07:01P 2 PGS  
NANCY S. ALLSUP  
VIGO County Recorder IN  
Recorded as Presented  


## WARRANTY DEED

THIS INDENTURE WITNESSETH that Bradley R. Hamersley "Grantor" of the State of Indiana, CONVEYS, GRANTS, AND WARRANTS to Scott A. O'Neal and Stacy J. O'Neal, as husband and wife, "Grantee" of 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 described real estate in Vigo County in the State of Indiana, to-wit:

Lot Numbered Six (6), except 3 feet off the North side thereof, and 3 feet off the North side of Lot Numbered Seven (7), in Eastwood, being a Subdivision of a part of the Northwest Quarter of Section 24, Township 12 North, Range 9 West, as per Plat recorded in Plat Record 15, Page 56, of the records in the Recorder's Office of Vigo County, Indiana.

ALSO, Lot Numbered Seven (7), except 3 feet off the North side thereof, and 16.5 feet off the North side of Lot Numbered Eight (8), in Eastwood, being a Subdivision of a part of the Northwest Quarter of Section 24, Township 12 North, Range 9 West, as per Plat recorded in Plat Record 15, Page 56, of the records in the Recorder's Office of Vigo County, Indiana.

Commonly known as: 119 S Fruitridge Avenue, Terre Haute, IN 47803

Subject to easements, covenants, restrictions, leases and other matters of record affecting title to the subject real estate, as well as rights of way for drainage tiles, ditches, feeders and laterals, if any.

Taxes shall be prorated to the date of this deed.

DATED this 31 day of July, 2015.

  
Bradley R. Hamersley

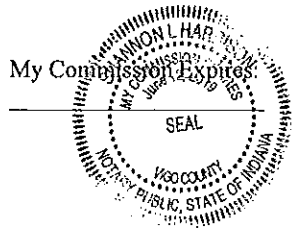


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STATE OF INDIANA )  
 ) SS:  
COUNTY OF VIGO )

Before me, the undersigned, a Notary Public in and for said County and State, this 31 day of July, 2015, personally appeared Bradley R. Hamersley, and acknowledged the execution of the foregoing deed.

In witness whereof, I have hereunto subscribed my name and affixed my official seal.



*Shannon L. Harp*  
Notary Public  
Printed: \_\_\_\_\_  
Residing in \_\_\_\_\_ County

Mail Tax Statements To Grantee at:

Mail Deed To: Integrity Title Services, 1532 Wabash Ave., Terre Haute, IN 47807

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.

*Shannon L. Harp*

This instrument was prepared by: John Gurchiek of GURCHIEK LAW, INC., P.O. Box 6327, Fishers, IN 46038, at the specific request of the parties of their authorized representatives based solely on information supplied by one or more of the parties to this conveyance. The drafter assumes no liability for any errors, inaccuracy, or omissions in this instrument resulting from the information provided and makes no representation regarding the status or quality of the title hereby conveyed by Grantor's execution and Grantee's acceptance of this instrument.  
CMT: 15 0673

STATE OF INDIANA        )  
  ) SS:  
COUNTY OF VIGO         )

**AFFIDAVIT**

Comes now, Scott A. O'Neal, being duly sworn upon his oath, deposes and says:

1. That Scott A. O'Neal and Stacy J. O'Neal are the owners of record of the following described real estate located in the City of Terre Haute, County of Vigo, State of Indiana, to-wit:

Lot Numbered Six (6), except 3 feet off the North side thereof, and 3 feet off the North side of Lot Numbered Seven (7), in Eastwood, being a Subdivision of a part of the Northwest Quarter of Section 24, Township 12 North, Range 9 West, as per Plat recorded in Plat Record 15, Page 56, of the records in the Recorder's Office of Vigo County, Indiana.

ALSO, Lot Numbered Seven (7), except 3 feet off the North side thereof, and 16.5 feet off the North side of Lot Numbered Eight (8), in Eastwood, being a Subdivision of a part of the Northwest Quarter of Section 24, Township 12 North, Range 9 West, as per Plat recorded in Plat Record 15, Page 56, of the records in the Recorder's Office of Vigo County, Indiana.

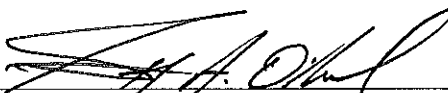
Commonly known as: 119 South Fruitridge Avenue, Terre Haute, Indiana 47803

2. That a copy of the Deed, recorded in the records of the Recorder's Office of Vigo County, Indiana, is attached hereto and made a part hereof and marked as Exhibit A.

3. That Affiant makes this Affidavit for the sole purpose of affirming that Scott A. O'Neal and Stacy J. O'Neal are the owners of record of the above-described real estate for which a proposed change to the zoning map of the City of Terre Haute, Indiana, has been filed and to induce the Common Council of the City of Terre Haute, Indiana, to accept the Petition to Rezone Real Property as filed by Scott A. O'Neal and Stacy J. O'Neal

4. Further, Affiant saith not.

Dated at Terre Haute, Indiana this 2nd day of September, 2015.

  
\_\_\_\_\_  
Scott A. O'Neal

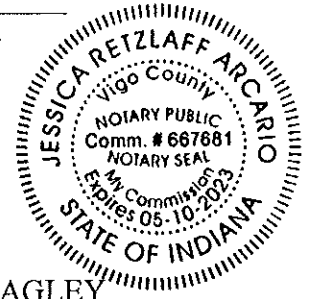
STATE OF INDIANA )  
  ) SS:  
COUNTY OF VIGO    )

SUBSCRIBED AND SWORN TO before me, a Notary Public in and for said County and State, this 2<sup>nd</sup> day of September, 2015.

Jessica Arcario  
\_\_\_\_\_  
Jessica Arcario, Notary Public

My Commission expires:  
05-10-2023

My County of Residence:  
Vigo



This instrument prepared by Richard J. Shagley, Attorney at Law, WRIGHT, SHAGLEY & LOWERY, P.C., 500 Ohio Street, Terre Haute, Indiana 47807.

**Receipt**

TERRE HAUTE, IN

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

**PAID**

SEP 04 2015

Date: 09/04/15

Name: Wright, Shagley & Arwery

**CONTROLLER**

Reason: Rezoning Petition Ordinance # 36,2015

Cash: \_\_\_\_\_

Check: \$ 45.00 # 64816

Credit: \_\_\_\_\_

Total: \$ 45.00

Received By: *R. Ellis*



# 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: October 8, 2015

## REPORT TO THE CITY COUNCIL ON ZONING MAP AMENDMENT

**THE VIGO COUNTY AREA PLAN COMMISSION HEREBY GIVES CERTIFICATION TO  
SPECIAL ORDINANCE NUMBER #36-15**

**CERTIFICATION DATE: October 8, 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.36-15. This Ordinance is a rezoning of the property located at 119 South Fruitridge Avenue. The Petitioner, Scott and Stacy O'Neal, petitions the Plan Commission to rezone said real estate from zoning classification R-1 to C-1, Neighborhood Commerce District for a beauty salon. 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. 36-15 at a public meeting and hearing held Wednesday, October 7, 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. 36-15 as required by IC 36-7-4-302. The Area Plan Commission of Vigo County now hereby attaches certification to Special Ordinance No. 36-15 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. 36-15 was FAVORABLE.

Handwritten signature of Fred L. Wilson in black ink.

Fred L. Wilson, President

Handwritten signature of Darren Maher in black ink.

Darren Maher, Executive Director

Received this 8th day of October, 2015



STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: SO # 36-15  
Date: October 7, 2015

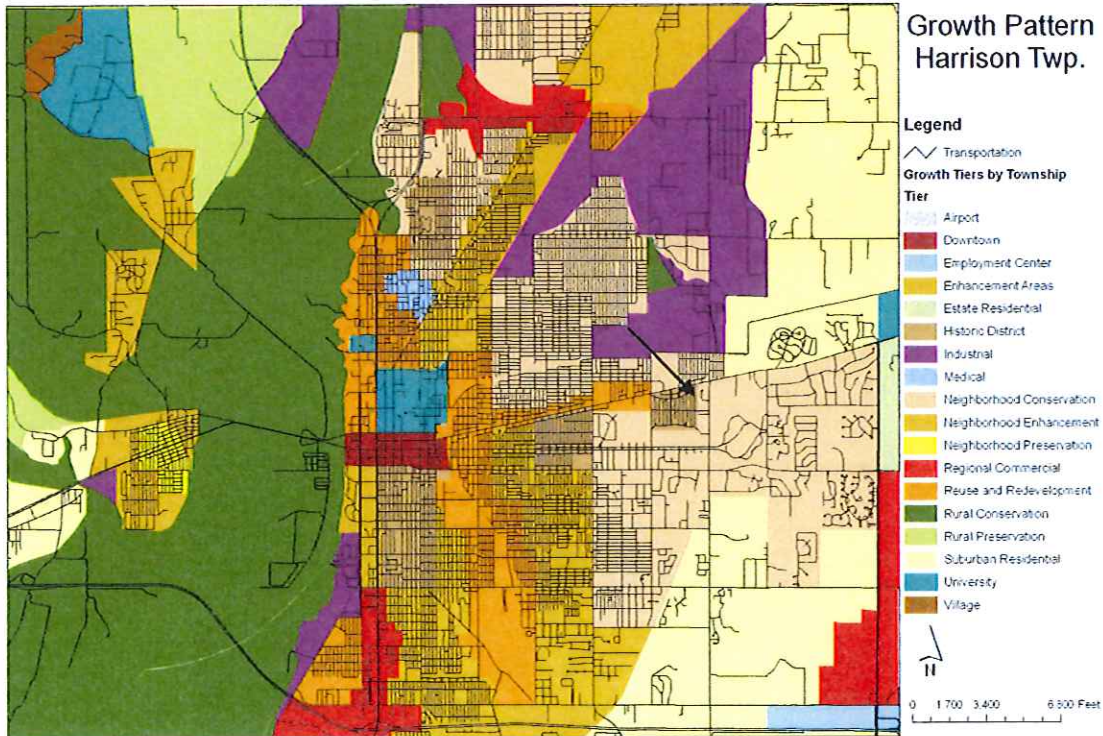
Doc: # 64  
Page 1 of 4

**APPLICATION INFORMATION**

Petitioner: Scott A. O’Neal and Stacy J. O’Neal  
Property Owner: Same-As-Above  
Representative: Richard J. Shagley  
Proposed Use: Beauty Salon  
Proposed Zoning: C-1, Neighborhood Commerce District  
Current Zoning: R-1, Single Family Residence District  
Location: The property is located approximately 620 feet South of Wabash Ave and Parallel to Blakely Avenue.  
Common Address: 119 South Fruitridge Avenue, Terre Haute IN, 47803

**COMPREHENSIVE PLAN GUIDANCE**

Service Area: The City of Terre Haute



## STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: SO # 36-15

Doc: # 64

Date: October 7, 2015

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### 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 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.

STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: SO # 36-15

Doc: # 64

Date: October 7, 2015

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Available Services: Area is well served by utilities.

Soil Limitations: Not studied.

Street Access: Fruitridge Ave. is a Primary Arterial Roadway.

Dev. Priority: This area has a high priority for capital investment

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## ZONING COMPATIBILITY

Sur. Zones and Uses: **North** – R-1, Single-family Residence District  
                                  - C-1, Neighborhood Commercial District  
**East** – C-2, Community Commercial District  
**South** – R-1, Single-family Residence District  
**West** – R-1, Single-family Residence District

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Character of Area: The petitioned property sites in the middle of an already established R-1, Single-family Residence District, West of a C-2 Community Commercial District and South of a C-1, Neighborhood Commercial District. Surrounding uses within these three districts consist of single family dwellings, a Dentist office that now lies vacant and a medical center.

## ZONING REGULATIONS

C-1 Purpose: The neighborhood commerce district is designed solely for use of persons residing in abutting residential neighborhoods to permit convenience shopping, and therefore such uses as are necessary to those limited basic shopping needs which occur daily or frequently so as to require shopping facilities in close proximity to places of residence are permitted.

C-1 Uses: Uses permitted in C-1, Community Commerce District are; Barber shops and Beauty shops; Branch banks and Business and professional offices, Clothes pressing establishments; Colleges and universities, but not business colleges or trade schools, Drug stores, Dry cleaning and laundry receiving stations where processing is to be done elsewhere, Grocery stores, meat markets, bakeries,

STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: SO # 36-15

Doc: # 64

Date: October 7, 2015

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delicatessens, food stores, Hardware stores, Hobby, art, and school supply stores, Ice storage for retail, Launderettes, automatic, self-service only, employing not more than two (2) persons in addition to one (1) owner or manager, provided that laundry machines shall not exceed sixteen (16) pounds capacity each, Nursery schools, non-boarding, in a single-story building.

C-1 Standards:

Minimum Lot Size: 3,300 Sq. Ft.

FAR 0.7 %

Street Setback: 55 feet from centerline;

Rear setback 11’;

Interior setback of 5’ from the interior lot line;

Beauty Shop, Six (6) spaces per one thousand (1000) square feet of gross floor area.

Park lots for more than ten (10) cars will need visual buffering from adjacent residential properties

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## FINDINGS and RECOMMENDATION

Staff Findings:

The petitioned site was and is a single-family dwelling. The petitioners would allege that the Neighborhood Commerce District would not alter the general characteristics of this neighborhood since the neighborhood is in a mixed use neighborhood. The petitioners will respectfully show the proposed change would not be detrimental to the public welfare or injurious to the property or improvements in the neighborhood. It is not necessary that the property be rezoned from an R-1 to C-1 to have an in home business, such as a Beauty Salon. However, to prepare for any future advancements for the business, it is recommended that they rezone. The proposed use is in harmony with the comprehensive plan.

Recommendation:

Favorable Recommendation.