

SPECIAL ORDINANCE NO. 1, 2015

APPLICATION FOR REZONING PETITION CITY OF TERRE HAUTE

=====
Common Address of real estate to be rezoned:

3279 East Margaret Avenue, Terre Haute, IN 47802

Rezoned From: R-1 Single Family Residence District (15 acres)
O-1 Agricultural District (5 acres)

Rezoned To: O-1 Planned Development

Proposed Use: Organic Produce Farm

Name of Owner: Laurie A. Elliott

Address of Owner: 3279 E. Margaret Drive
Terre Haute, IN 47802

Phone Number of Owner: (610) 715-3823

Attorney Representing Owner: Richard J. Shagley

Address of Attorney: Wright, Shagley & Lowery, P.C.
500 Ohio Street, P.O. Box 9849,
Terre Haute, IN 47807-3517

For Information Contact: Owner Attorney

Council Sponsor: Bob All

=====
COPY OF A SITE-PLAN MUST ACCOMPANY THIS APPLICATION

DEC 19 2014

SPECIAL ORDINANCE NO. 1, 2015

An Ordinance Amending Chapter 10, of the Terre Haute City Code, Zoning and Subdivision Regulations, as adopted by General Ordinance No. 10, 1999, as Amended, entitled "An Ordinance Adopting And Enacting A Code Of Ordinances For The City Of Terre Haute, Indiana; Establishing The Same; Providing For the Repeal Of Certain Ordinances Not Included Therein, Except As Herein Provided; Providing For The Manner Of Amending Such Code Of Ordinances; Providing A Penalty For Violations Thereof; Providing When This Ordinance Shall Become Effective And Officially Adopting The Terre Haute City Code, And Passing Ordinances Addressing Fees, Fines And Regulations".

BE IT ORDAINED by the Common Council of the City of Terre Haute, Indiana, as follows:

SECTION I. That Chapter 10, of the Terre Haute City Code, known and referred to as "The Comprehensive Zoning Ordinance for Terre Haute" of General Ordinance No. 10, 1999, effective, December 10, 1999, Section 10-121, thereof, District Maps, is hereby amended to read as follows:

PARCEL I

Twenty acres off the West end of 65 acres off the East end of the North Half of the Northwest Quarter of Section 1, Township 11 North, Range 9 West.

EXCEPT 5 acres off the East side thereof as conveyed to Arthur W. Diel and Helen I. Diel, husband and wife, and recorded in Deed Record 174, Page 281, in the records of the Recorder's Office of Vigo County, Indiana.

SUBJECT to Right of Way Grant as conveyed unto the State of Indiana as shown in instrument dated April 23, 1964, Deed Record 334, Page 491-2.

ALSO, SUBJECT to Easement as granted unto Consolidated Network, Inc., an Illinois Corporation as shown in instrument dated September 12, 1985, Deed Record 404, Page 31.

All records Vigo County Recorder's Office of Vigo County, Indiana.

PARCEL II

Five (5) acres off the East side of Twenty (20) acres off the West side of Sixty-five (65) acres off the East end of the North Half of the North West Quarter of Section 2, Township 11 North of Range 9 West of the 2nd Principal Meridian.

EXCEPT that part thereof conveyed to the State of Indiana, for Right of Way as shown by Instrument dated April 1, 1964 and recorded in Deed Record 334, Page 285, records of Recorder's Office of Vigo County, Indiana.

SUBJECT to Easement granted unto Consolidated Network, Inc., an Illinois Corporation by instrument dated September 17, 1985 and recorded in Deed Record 404, Page 18, records of Recorder's Office of Vigo County, Indiana.

ALSO EXCEPT that part more particularly described as follows, to-wit:

Commencing at an 5/8" diameter Iron pin, located at the Northeast corner of the Northwest Quarter of Section One (1), Township Eleven (11) North, Range Nine (9) West, 2nd P.M.. Thence "WEST" (N 90°00'00" W – Record and assumed Bearing) on the North line of the Northwest Quarter (NW ¼) of said section, One Thousand Five Hundred Twenty-five and Fifty hundredths (1525.50) feet to the Northwest corner of the C. Beckwith Two Lot Subdivision, also being the Northeast corner of Twenty (20) acres off of the West end of 65 acres off of the east end of the North half (N ½) of the Northwest Quarter (NW ¼) of said section, and the point of beginning of this description. Thence South Zero degrees One minute Fifty-eight seconds East (S 0°01'58" E; S 0°05'00" E Record) on the line common to said C. Beckwith subdivision and the East line of said twenty (20) acres, Two Hundred Fifteen and Sixty-three hundredths (215.63'; 215.0' Record Plat of 3635 Estates) feet to an Iron pipe with a plastic cap; thence "WEST" (N 90°00'00"W) and parallel to the North line of said Northwest Quarter (NW ¼), One Hundred Sixty and Zero hundredths (160.00) feet to a 5/8" Iron rod, thirty (30) inches in length with a plastic cap engraved "J.R. Keller L.S. 80920000" (hereafter referred to as a 5/8" Iron rod); thence North Zero degrees One minute Fifty-eight seconds West (N 0°01'58" W) and parallel to the West line of the aforementioned C. Beckwith Two Lot Subdivision, (passing through a 5/8" iron rod at 165.63 feet) Two Hundred Fifteen and Sixty-three hundredths (215.63) feet to a point on the North line of said Northwest Quarter (NW ¼); thence "EAST" (N90°00'00"E) on said North line, One Hundred Sixty and Zero hundredths (160.00) feet, more or less, to the point

of beginning. Containing 0.79 acres, more or less.

be and the same is, hereby established as an O-1 Planned Development, together with all rights and privileges 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.

That the real estate described shall be a Planned Development in an O-1 Planned Development as the same is defined in the Comprehensive Zoning Ordinance for the City of Terre Haute, Indiana, subject to the terms and conditions set forth herein.

- (a) That the real estate shall be used for any use permitted in an O-1 Agricultural District, including gardens, orchards, and farm animals and the production, picking and sale of agricultural products with a specialization in organic foods.
- (b) The real estate shall be subject to the following:
 - (1) In the event that this Planned Development has not materialized within six (6) months of approval, it is understood that said Planned Development becomes void.
 - (2) All such rights granted herein shall be fully transferable.
 - (3) Said Planned Development shall be recorded in the Vigo County Recorder's Office within ninety (90) days of the approval by the Council.

That the owner has met all of the criteria determined by the Area Planning Commission, except as stated above and by the City Council of Terre Haute, Indiana, that a hardship does exist, due to real estate located near district boundary lines due to improvements on the land and due to adjacent scattered incompatible uses, and that a Planned Development as set forth herein is hereby approved and will be in the public's interest and in the interest of the neighborhood.

SECTION II. WHEREAS, the Area Planning Commission has considered a petition filed pursuant to General Ordinance No. 10, 1999, being Division III Planned Development; and

WHEREAS, Special Ordinance No. 1, 2015, has been referred to the Area Planning Commission for its review and consideration and a favorable recommendation has been referred

by the Commission to the Common Council; and

WHEREAS, a public hearing on Special Ordinance No.1, 2015, has been held pursuant to Section 10 of said Ordinance and the owner of the real estate described has demonstrated to the Area Planning Commission and to the Common Council evidence that a hardship exists pursuant to Section 10-112 of said Ordinance and that said Planned Development will not adversely affect surrounding property values, and that it will not adversely affect public health, safety and the general welfare.

BE IT ORDAINED BY THE COMMON COUNCIL of the City of Terre Haute, Indiana that the owners of the real estate described have demonstrated that a hardship does exist for the use of said real estate and that the Common Council of the City of Terre Haute now determines that a hardship does exist and specifically authorizes and approves the use of the real estate described as an O-1 Planned Development as described in this Ordinance, under the terms and conditions set forth herein, and further finds and determines that the proposed uses described will be in the public interest and that substantial justice will be done.

SECTION III. 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 by law provided.

Presented by Council Member, Bob All
Bob All, Councilperson

Passed in open Council this 13th day of February, 2015.

John Mulligan
John Mulligan, President

ATTEST:
Charles P. Hanley
Charles P. Hanley, City Clerk

Presented by me to the Mayor of the City of Terre Haute, this 13th day of February, 2015.


Charles P. Hanley, City Clerk

Approved by me, the Mayor of the City of Terre Haute, this 13th day of FEBRUARY, 2015.


Duke 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, P.O. Box 9849, Terre Haute, Indiana 47807-3517.

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 PLANNING COMMISSION OF VIGO COUNTY, INDIANA.

LADIES and GENTLEMEN:

The undersigned, Laurie A. Elliott, respectfully submits this Petition to Rezone the following described real estate in the City of Terre Haute, Vigo County, State of Indiana, to-wit:

PARCEL I

Twenty acres off the West end of 65 acres off the East end of the North Half of the Northwest Quarter of Section 1, Township 11 North, Range 9 West.

EXCEPT 5 acres off the East side thereof as conveyed to Arthur W. Diel and Helen I. Diel, husband and wife, and recorded in Deed Record 174, Page 281, in the records of the Recorder's Office of Vigo County, Indiana.

SUBJECT to Right of Way Grant as conveyed unto the State of Indiana as shown in instrument dated April 23, 1964, Deed Record 334, Page 491-2.

ALSO, SUBJECT to Easement as granted unto Consolidated Network, Inc., an Illinois Corporation as shown in instrument dated September 12, 1985, Deed Record 404, Page 31.

All records Vigo County Recorder's Office of Vigo County, Indiana.

PARCEL II

Five (5) acres off the East side of Twenty (20) acres off the West side of Sixty-five (65) acres off the East end of the North Half of the North West Quarter of Section 2, Township 11 North of Range 9 West of the 2nd Principal Meridian.

EXCEPT that part thereof conveyed to the State of Indiana, for Right of Way as shown by Instrument dated April 1, 1964 and recorded in Deed Record 334, Page 285, records of Recorder's Office of Vigo County, Indiana.

SUBJECT to Easement granted unto Consolidated Network, Inc., an Illinois Corporation by instrument dated September 17, 1985 and recorded in Deed Record 404, Page 18, records of Recorder's Office of Vigo County, Indiana.

ALSO EXCEPT that part more particularly described as follows, to-wit:

Commencing at an 5/8" diameter Iron pin, located at the Northeast corner of the Northwest Quarter of Section One (1), Township Eleven (11) North, Range Nine (9) West, 2nd P.M.. Thence "WEST" (N 90°00'00" W – Record and assumed Bearing) on the North line of the Northwest Quarter (NW ¼) of said section, One Thousand Five Hundred Twenty-five and Fifty hundredths (1525.50) feet to the Northwest corner of the C. Beckwith Two Lot Subdivision, also being the Northeast corner of Twenty (20) acres off of the West end of 65 acres off of the east end of the North half (N ½) of the Northwest Quarter (NW ¼) of said section, and the point of beginning of this description. Thence South Zero degrees One minute Fifty-eight seconds East (S 0°01'58" E; S 0°05'00" E Record) on the line common to said C. Beckwith subdivision and the East line of said twenty (20) acres, Two Hundred Fifteen and Sixty-three hundredths (215.63'; 215.0' Record Plat of 3635 Estates) feet to an Iron pipe with a plastic cap; thence "WEST" (N 90°00'00"W) and parallel to the North line of said Northwest Quarter (NW ¼), One Hundred Sixty and Zero hundredths (160.00) feet to a 5/8" Iron rod, thirty (30) inches in length with a plastic cap engraved "J.R. Keller L.S. 80920000" (hereafter referred to as a 5/8" Iron rod); thence North Zero degrees One minute Fifty-eight seconds West (N 0°01'58" W) and parallel to the West line of the aforementioned C. Beckwith Two Lot Subdivision, (passing through a 5/8" iron rod at 165.63 feet) Two Hundred Fifteen and Sixty-three hundredths (215.63) feet to a point on the North line of said Northwest Quarter (NW ¼); thence "EAST" (N90°00'00"E) on said North line, One Hundred Sixty and Zero hundredths (160.00) feet, more or less, to the point of beginning. Containing 0.79 acres, more or less.

Your Petitioner is informed and believes that in accordance with Chapter 10, known and referred to as "The Comprehensive Zoning Ordinance for Terre Haute", as amended, the above described real estate is now zoned as R-1 Single Family Residence District and as

O-1 Agricultural District.

Your Petitioner would respectfully state that the real estate has been used as a residence and horse farm.

Your Petitioner would propose to provide on the real estate a small farm where individuals and families can come to pick their own vegetables, fruits, flowers and herbs. The goal of the farm is to provide healthy, organically-produced food to promote healthy eating from a natural and wholesome environment. Horses and chickens in the background will complete the picturesque view and the feel of a working farm. Individuals who are interested in organic foods will be able to purchase certain organic foods. Gardens, orchards, farm animals, and signs will be necessary to help individuals to pick and/or purchase agricultural products with a specialization in organic foods.

Your petitioner would allege that there is a hardship due to the improvements on the land such as orchards and barns used in farming purposes. There is hardship due to adjacent and scattered incompatible uses since there are other residential and farming uses in the neighborhood and due to a parcel near district boundary lines, and that the parcel is located on a major thoroughfare and is partially zoned residential. All other major parcels in the area are zoned for and used as agricultural parcels.

Your Petitioner would request that the real estate described herein shall be zoned as an O-1 Planned Development to allow for the use as proposed by the Petitioner. Your Petitioner would allege that the O-1 Planned Development 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 area.

WHEREFORE, your Petitioner respectfully requests that the Area Planning Commission and the Common Council of the City of Terre Haute, Indiana, favorably consider the passage of a Special Ordinance amending the District Maps of Chapter 10, of the Terre Haute City Code entitled The Comprehensive Zoning Ordinance for Terre Haute, Section 10-121 District Maps and declaring the above-described real estate to be part of the O-1 Planned Development of the

City of Terre Haute, Indiana, and is 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 WITNESS WHEREOF, the undersigned Petitioner has executed this Petition to Rezone Real Property, this 16th day of December, 2014.

PETITIONER:



Laurie A. Elliott

WRIGHT, SHAGLEY & LOWERY, P.C.
500 Ohio Street
PO Box 9849
Terre Haute, IN 47807-3517
Phone: (812) 232-3388

BY: 

Richard J. Shagley, #257-84
Attorneys for Petitioner

The owner and mailing address: Laurie A. Elliott, 3279 E. Margaret Drive, Terre Haute, IN 47802.

This instrument prepared by Richard J. Shagley, Attorney-at-Law, WRIGHT, SHAGLEY & LOWERY, P.C., 500 Ohio Street, P.O. Box 9849, Terre Haute, Indiana 47807-3517.

STATE OF INDIANA)
) SS:
COUNTY OF VIGO)

AFFIDAVIT

Comes now, Laurie A. Elliott, being duly sworn upon her oath, deposes and says:

1. That Laurie A. Elliott is the fee simple owner of record of the following described real estate located in the City of Terre Haute, County of Vigo, State of Indiana, to-wit:

PARCEL I

Twenty acres off the West end of 65 acres off the East end of the North Half of the Northwest Quarter of Section 1, Township 11 North, Range 9 West.

EXCEPT 5 acres off the East side thereof as conveyed to Arthur W. Diel and Helen I. Diel, husband and wife, and recorded in Deed Record 174, Page 281, in the records of the Recorder's Office of Vigo County, Indiana.

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2. That a copy of the Deed, recorded in the records of the Recorder's Office of Vigo County, Indiana, transferring fee simple title to Laurie A. Elliott 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 Laurie A. Elliott is the owner of record of the above-described real estate for which a proposed change to the

DULY ENTERED FOR TAXATION
Subject to final acceptance for transfer

DEC 09 2014

Timothy M. Spivey
VIGO COUNTY AUDITOR

2014014514 WD \$20.00
12/09/2014 10:47:43A 3 PGS
NANCY S. ALLSUP
VIGO County Recorder IN
Recorded as Presented

WARRANTY DEED

THIS INDENTURE WITNESSETH that Mark A. Tarh and Cathy A. Tarh, "Grantor" of the State of Indiana, CONVEYS, GRANTS, AND WARRANTS to Laurie A. Elliott, "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:

PARCEL I

Twenty acres off the West end of 65 acres off the East end of the North Half of the Northwest Quarter of Section 1, Township 11 North, Range 9 West.

EXCEPT 5 acres off the East side thereof as conveyed to Arthur W. Diehl and Helen I. Diehl, husband and wife, and recorded in Deed Record 174, Page 281, in the records of the Recorder's Office of Vigo County, Indiana.

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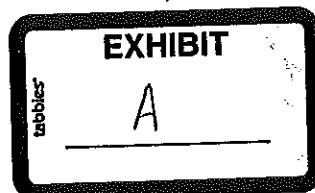
PARCEL II

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EXCEPT that part thereof conveyed to the State of Indiana, for Right of Way as shown by instrument dated April 1, 1964 and recorded in Deed Record 334, Page 285, records of Recorder's Office of Vigo County, Indiana.

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ALSO EXCEPT that part more particularly described as follows, to-wit: Commencing at an 5/8" diameter iron pin, located at the Northeast corner of the Northwest Quarter of Section One (1), Township Eleven (11) North, Range Nine (9) West, 2nd P.M.. Thence "WEST" (N 90°00'00"W - Record and assumed Bearing) on the North line of the Northwest Quarter (NW ¼) of said section, One Thousand Five Hundred Twenty-five and Fifty hundredths (1525.50) feet to the Northwest corner of the C. Beckwith Two Lot Subdivision, also being the Northeast corner of Twenty (20) acres off of the West end of 65 acres off of the east end of the North half (N ½) of the Northwest Quarter (NW ¼) of said section, and the point of beginning of this description. Thence South Zero degrees One minute Fifty-eight seconds East (S 0°01'58" E; S 0°05'00"E Record) on the line common to said C. Beckwith subdivision and the East line of said



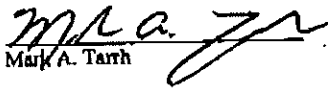
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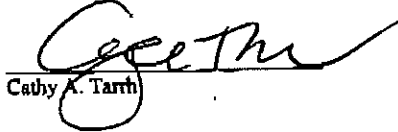
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Subject to easements, covenants, restrictions, leases and other matters of record affecting title to the subject real estate, as well as rights of way for drainage tiles, ditches, feeders and laterals, if any.

Taxes shall be prorated to the date of this deed.

DATED this 5 day of December, 2014.


Mark A. Tarr


Cathy A. Tarr

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3

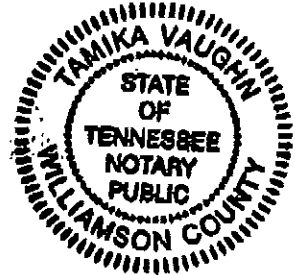
STATE OF INDIANA)
) SS:
COUNTY OF VIGO)

Before me, the undersigned, a Notary Public in and for said County and State, this 5 day of December, 2014, personally appeared Mark A. Tarrh and Cathy A. Tarrh, and acknowledged the execution of the foregoing deed.

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

My Commission Expires:
5.22.2017

Tamika Vaughn
Notary Public
Printed: Tamika Vaughn
Residing in Williamson County



Mail Tax Statements To Grantee of:

3279 E. Margaret St Terre Haute, IN

Mail Deed To: Integrity Title Services, 1532 Wabash Ave., Terre Haute, IN 47807 47802

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. Harrison

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: 14 1101

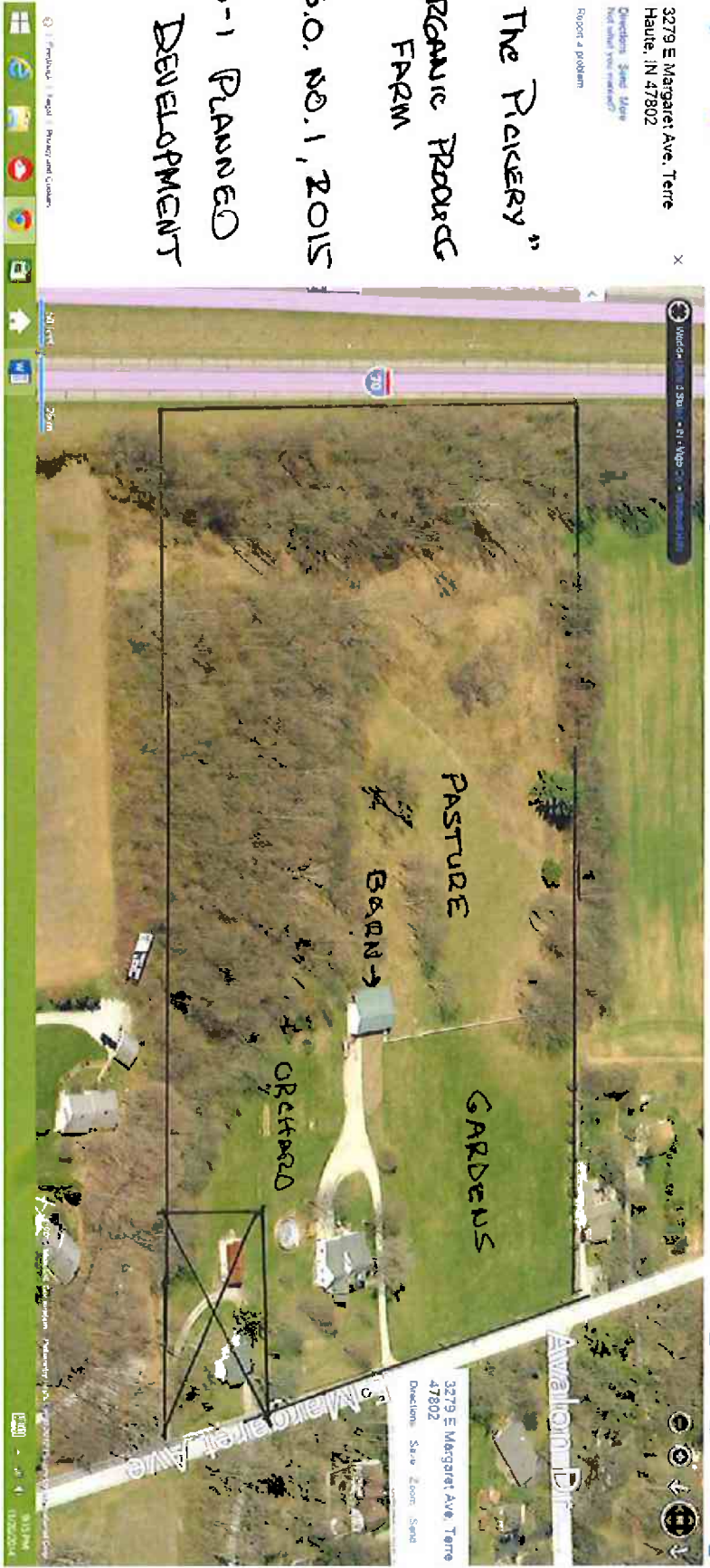
bing 3279 E Margaret Ave Terre Haute, Indiana, United States

3279 E Margaret Ave, Terre Haute, IN 47802

Directions Save Map Not what you wanted? Report a problem

"The Packer's"
ORGANIC PRODUCE
FARM
S.O. NO. 1, 2015
O-1 PLANNED
DEVELOPMENT

SITE PLAN



PASTURE

BARN →

ORCHARD

GARDENS

Margaret Ave

3279 E Margaret Ave Terre Haute, IN 47802

Receipt

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

TERRE HAUTE, IN
PAID

DEC 19 2014

CONTROLLER

Date: 12/19/14

Name: Wright, Shagley + Lavery

Reason: Reynolds - Laurie Elliott

Cash: _____

Check: 4500 CK# 63728

Credit: _____

Total: 4500

Received By: Pat R Ellis



TERRE HAUTE
AHEAD 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: February 5, 2015

REPORT TO THE CITY COUNCIL ON ZONING MAP AMENDMENT

THE VIGO COUNTY AREA PLAN COMMISSION HEREBY GIVES CERTIFICATION TO
SPECIAL ORDINANCE NUMBER #1-15

CERTIFICATION DATE: February 4, 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. 1-15. This Ordinance is a rezoning of the property located at 3279 E. Margaret Dr. The Petitioner, Laurie A. Elliott, petitions the Plan Commission to rezone said real estate from zoning classification 0-1 and R-1 to 0-1 Planned Development District for a organic produce farm. 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. 1-15 at a public meeting and hearing held Wednesday, February 4, 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. 1-15 as required by IC 36-7-4-302. The Area Plan Commission of Vigo County now hereby attaches certification to Special Ordinance No. 1-15 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. 1-15 was FAVORABLE WITH THE FOLLOWING CONDITION: 1) Must be determined that said proposed uses, if approved, will be in the public's interest and that substantial justice will be done for that neighborhood; 2) In the event said Planned Development has not materialized within six (6) months of approval, said Planned Development becomes void (Sec. 10-114.4).


Fred L. Wilson, President


Darren Maher, Executive Director

Received this 5th day of February, 2015

STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: SO #1-15
Date: February, 2015

Doc: #13
Page 1 of 6

APPLICATION INFORMATION

Petitioner: The Pickery

Property Owner: Laurie A. Elliott

Representative: Richard J. Shagley

Proposed Use: Organic Produce Farm

Proposed Zoning: O-1PD Agricultural District Planned Development
Current Zoning: R-1 Single Family Residence District

Location: The property is located on Margaret Dr. approximately 1.8 miles West of S.R. 46

Common Address: The common address is 3279 East Margaret Drive, Terre Haute, In 47802

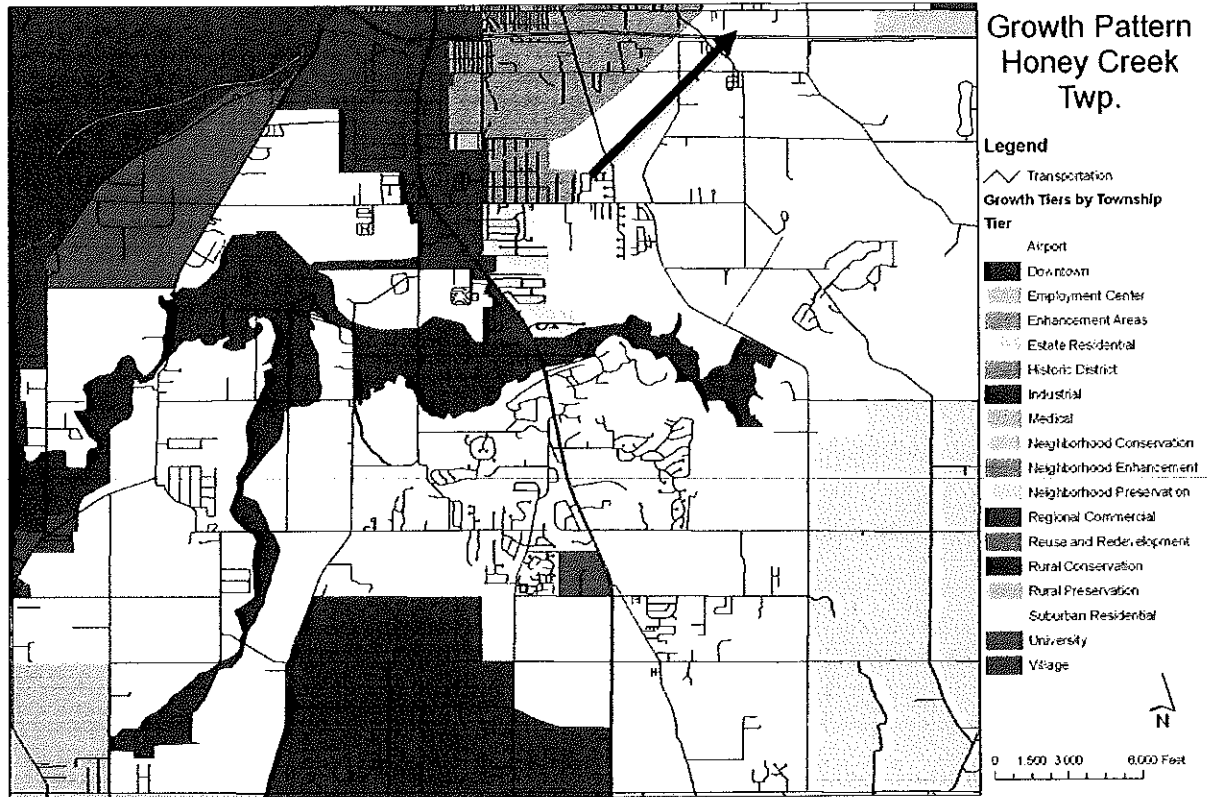
ZONING COMPATIBILITY

Sur. Zones and Uses: **North** – R-1, Single Residential
East – O-1, Agricultural District
South – A-1 Agricultural District
West – O-1, Agricultural District

Character of Area: The petitioned property is located immediately South of Stratford Hills Subdivision and abuts the I-70 corridor to the South. The property is located at a transition point in land uses. To the east agricultural uses become the predominant land use. Single family homes still occur but with less frequency than to the west.

COMPREHENSIVE PLAN GUIDANCE

Service Area: City of Terre Haute

**Suburban Residential**

These are largely undeveloped areas lying within the boundaries of existing and planned urban services. Current residential densities range from building on lots of $\frac{1}{2}$ acre to 2 acres in size, this should be used as a minimum density. Over time, densities should be encouraged to increase moderately to allow average densities of three to three and one-half (3 to 3.5) households per acre. In the case of all residential densities, densities are stated as an average for the entire area in a given land use categories. Promotion of monotonous suburban tract housing is not the intent of this growth pattern, although this may be an undesirable consequence. To avoid this outcome, careful consideration of alternative site development schemes should be undertaken by planning, engineering, development and real estate professionals for each new residential tract.

Increasing residential densities within this growth pattern offers four distinct advantages over typical low-density development.

- Optimization of the relationship between public infrastructure capacity and average development densities.
- Reduction in the need for infrastructure extensions and expansions, thereby saving public capital cost.
- Provides pedestrian scale residential neighborhoods, which will blend with existing Terre Haute neighborhoods that were developed at five to seven (5 to 7) units per acre and at the same time provide enhanced opportunities for non-motorized travel.
- Minimize land consumption and limits land disturbance.

Not every new subdivision will provide developed densities approaching four (4) units per acre, yet, as cluster housing, patio homes, variations of zero-lot line housing and integrated neighborhoods of town houses, garden apartment, and single family dwelling units become more common and more fashionable, average densities will increase. Traditionally, allowable densities controlled mix and pattern of suburban residential development. Density, per se, is increasingly viewed by development professionals as only one of many variables that must be considered in making site development decisions. The infrastructure capacity relative to undeveloped areas and special environmental conditions of a specific development site, as well as, the site plan itself and its impact on surrounding property should primarily control the developed density. This should especially be the case as development moves beyond minimum residential densities. In all cases, density and the arrangement of uses on a developed site should be sensitive to surrounding development patterns, making land use transitions within the new development and utilizing natural features as transitions or buffers.

Policies for Suburban Residential areas should include:

- Houses on lots ranging from one-half to two acres depending on wastewater treatment needs.
 - The extent of non-residential uses should be limited to parks, churches, and schools.
 - Residential subdivision lots should not have frontage on county roads, rather they should be required to build local level public streets to provide access from the county road to the lots.
 - Medium range plans for expanding needed infrastructure should be developed, considering projected demand and funding.
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ZONING REGULATIONS

O-1 Agricultural.

The Agricultural District includes that large area of land which is predominately either general farming, residential farming, or farm land undergoing a change into suburban usage. It does not include new subdivisions but only suburban homes that are scattered or exist in small clusters.

Uses Permitted - O-1 Agricultural.

- (1) Agricultural uses, including nurseries and truck gardens.
- (2) Any use, special or permitted, in an R-1 District.
- (3) Farm animals.
- (4) Orchards.
- (5) Clubs or lodges.
- (6) Home Occupations.
- (7) Kennels.
- (8) Mobile Homes, (Trailer) Park District as provided for in Sec. 10-180 e.
- (9) Private, outdoor, and public recreation facilities (non-commercial). 10-152
- (10) Signs.
- (11) Tourist Home.
- (12) Heliports.
- (13) Airports. (Ord. No. 1, 1967, § 1137.01, 7-6-67)

Planned Developments

Planned Developments are uses that may be permitted, under certain circumstances that are not a permitted use in the zoned district where said Planned Development is proposed. A Planned Development is a floating zone.

Criteria. Sec. 10-112

Before a Planned Development can be considered, the petitioner must show proof of one of the following unique circumstances. That the petitioner has a:

- (1) Hardship due to the physical characteristics of the land.

Example - Peculiarities of the sizes, shape, or grade of the parcel in question.

- (2) Hardship due to the improvements on the land.

Example - Commercial structure in a residential neighborhood that is not suitable for

residential use.

(3) Hardship due to adjacent, scattered incompatible uses.

Example - Scattered commercial uses in a residential neighborhood.

(4) Hardship due to the general deterioration of the neighborhood.

Example - Neighborhoods that are blighted as determined by the Department of Redevelopment.

(5) Parcel located near district boundary lines.

Example - Parcel located on a major thoroughfare is presently zoned residential while other parcels in the area are zoned commercial.

When it is determined by the Area Plan Commission and the City Council that a hardship does exist, a Planned Development of certain uses may be approved for any zoned lot. However, it must be determined that said proposed uses, if approved, will be in the public's interest and that substantial justice will be done for that neighborhood.

FINDINGS and RECOMMENDATION

Staff Findings:

There exists two different planning documents for the Margaret corridor. The Margaret Avenue Corridor Plan identifies the best use as single family residential. The Thrive 2025 Plan identifies the best use as suburban residential. Both plans are in agreement that a residential setting is the best future use of the area.

Conditions existing currently offer a greater flexibility as the property lies at the transition between a primarily agricultural use and a primarily residential use.

As an existing transition (criteria number 5 Parcel located near district boundary lines) is the existing hardship placed upon the property owner. Also, if in the future, a small commercial/retail space were needed or constructed the mixed use nature allowed by the Planned Development would permit it. It is important to note however, that if not realized in 6 months the planned development will discontinue.

As the current conditions exist the applicant's proposal makes sense. It is and would be a logical small step up in land use without overwhelming the surrounding neighborhoods or incapacitating surrounding land uses. The trend is for the city to grow further east and development along arterial corridors should

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be expected. The petitioner's proposed use will perpetuate that trend.

The argument could also be made that as commercial and industrial developments arise infill westward along Margaret Drive this property and the proposed use would serve as a step down in intensity as a transition back to residential uses.

Recommendation: Staff offers a Favorable Recommendation on the request to rezone the property with the following condition.

1. It must be determined that said proposed uses, if approved, will be in the public's interest and that substantial justice will be done for that neighborhood.
 2. Must be recorded within 90 days and
 3. in the event said Planned Development has not materialized within six (6) months of approval, said Planned Development becomes void (Sec. 10-114,4)
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