

SPECIAL ORDINANCE NO. 17, 2016

APPLICATION FOR REZONING PETITION CITY OF TERRE HAUTE

Common Address of lots to be rezoned:

3300 S. Fruitridge Avenue, Terre Haute, Indiana 47802

Rezone From: R-1 Single Family Residence District

Rezone To: C-3 Regional Commerce District

Proposed Use: Heavy Farm Machinery Dealership

Name of Owner: Dona G. Scank
Address of Owner: 3300 S. Fruitridge Ave.
Terre Haute, IN 47802

Phone Number of Owner -

Attorney Representing Owner: Richard J. Shagley, II

Address of Attorney: Wright, Shagley & Lowery, P.C.
PO Box 9849, Terre Haute, IN 47808

For Information Contact: Owner Attorney

Council Sponsor: Amy Auler

COPY OF A SITE-PLAN MUST ACCOMPANY THIS APPLICATION

SPECIAL ORDINANCE NO. 17, 2016

CITY CLERK

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

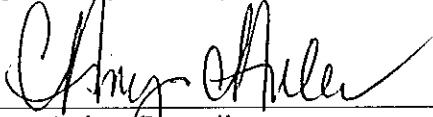
SECTION 1. BE IT ORDIANED BY THE COMMON COUNCIL of the City of Terre Haute, Vigo County, State of Indiana, that Chapter 10, Article 2 of the City Code of Terre Haute, designated as the "Comprehensive Zoning Ordinance for Terre Haute" and Division 4, Section 10.121 thereof, District Maps, be, and the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

Beginning on the North and South One-half (1/2) Section line of Section 1, Township 11 North, Range 9 West, at a point 848.34 feet South of the Northwest Corner of the Northeast One Quarter (1/4) of said Section, thence East No degrees and 25 minutes South a distance of 1295.25 feet to a point 858.87 feet South of the North Section line; thence South No degrees and No minutes a distance of 285.99 feet; thence West No degrees and 51 minutes North a distance of 1295.93 feet; thence North a distance of 282.64 feet to the place of beginning, containing 8.44 acres, more or less.

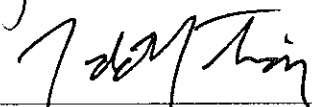
(Commonly known as 3300 S. Fruitridge Avenue, Terre Haute, Indiana 47802)

be the same is hereby established as a C-3 Regional Commerce District, 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."

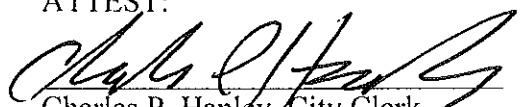
SECTION II, WHEREAS, an emergency exists for the immediate taking effect of this Ordinance, the same shall be in full force and effect from and after its passage by the Common Council of Terre Haute, and its approval by the Mayor and publication as required by law.

Presented by Council Member, 
Amy Auler, Councilperson

Passed in open Council this 11th day of August, 2016.


Todd Nation, President

ATTEST:


Charles P. Hanley, City Clerk

Presented by me, to the Mayor of the City of Terre Haute, this 12th day of August, 2016.


Charles P. Hanley, City Clerk

Approved by me, the Mayor of the City of Terre Haute, this 12th day of AUGUST, 2016.


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, II

This instrument prepared by Richard J. Shagley, II, 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 PLANNING COMMISSION OF VIGO COUNTY, INDIANA.

LADIES and GENTLEMEN:

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

Beginning on the North and South One-half (1/2) Section line of Section 1, Township 11 North, Range 9 West, at a point 848.34 feet South of the Northwest Corner of the Northeast One Quarter (1/4) of said Section, thence East No degrees and 25 minutes South a distance of 1295.25 feet to a point 858.87 feet South of the North Section line; thence South No degrees and No minutes a distance of 285.99 feet; thence West No degrees and 51 minutes North a distance 1295.93 feet; thence North a distance of 282.64 feet to the place of beginning, containing 8.44 acres, more or less.

(Commonly known as 3300 S. Fruitridge Avenue, Terre Haute, Indiana 47802)

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 R-1 Single-Family Residential District.

Your Petitioner would respectfully state that the real estate is now a single-family home. The Petitioner intends to sell the real estate for the use of heavy farm machinery dealership.

Your Petitioner would request that the real estate described herein shall be zoned as a C-3 Regional Commerce District to allow for the use as proposed by Petitioner. Your Petitioner would allege that the C-3 Regional Commerce District would not alter the general characteristics of this neighborhood.

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

WHEREFORE, your Petitioner respectfully requests that the Area 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 C-3 Regional Commerce District of the City of Terre Haute, Indiana, and is entitled to the rights and benefits that may accrue to the real estate and the owner thereof by virtue of the new designation subject to all limitations imposed by deed or otherwise.


IN WITNESS WHEREOF, the undersigned Petitioner has caused this Petition to Rezone

Real Property to be executed, this 10th day of June, 2016.

PETITIONER:

Dona G. Scank
Dona G. Scank

WRIGHT, SHAGLEY & LOWERY, P.C.
500 Ohio Street
PO Box 9849
Terre Haute, IN 47808
Phone: (812) 232-3388

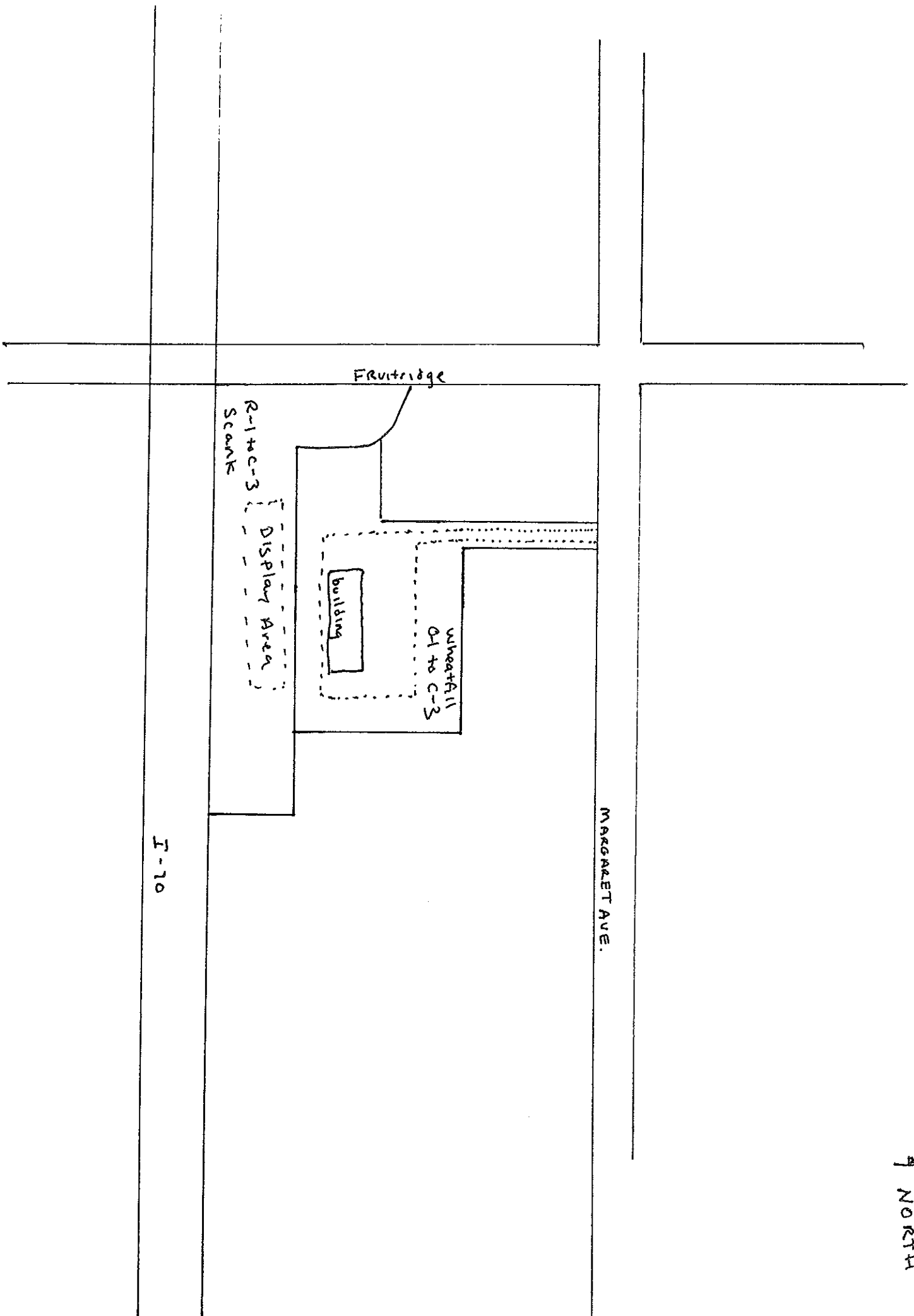
BY: 
Richard J. Shagley, II #23135-84
Attorneys for Petitioner

The owner and mailing address: 3300 S. Fruitridge Avenue, Terre Haute, IN 47802

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

Site Plan

9 NORTH



DULY ENTERED FOR TAXATION
Subject to final acceptance for transfer

RAYMOND MATTS
VIGO County Recorder IN
IN 2003037207 00
12/30/2003 09:27:27 0 PGS
Filing Fee: \$8.00

DEC 30 2003

EXEMPT FROM DIS

James W. Beardslee
VIGO COUNTY AUDITOR

QUITCLAIM DEED

8713

THIS INDENTURE WITNESSETH, THAT Richard L. Scank, Conveys and Quitclaims unto Dona G. Scank, the following described real estate located in the County of Vigo, State of Indiana, to-wit:

Beginning on the North and South One-half (1/2) Section line of Section 1, Township 11 North, Range 9 West, at a point 848.34 feet South of the Northwest corner of the Northeast One Quarter (1/4) of said Section, thence East No degrees and 25 minutes South a distance of 1295.25 feet to a point 858.87 feet South of the North Section line; thence South No degrees and No minutes a distance of 285.99 feet; thence West No degrees and 51 minutes North a distance of 1295.93 feet; thence North a distance of 282.64 feet to the place of beginning, containing 8.44 acres, more or less.

The undersigned grantor, by this deed, releases and quit claims any and all interest he has in the above-described real estate, including, but not limited to, any right, title, claim, or interest arising by virtue of the Summary Decree of Dissolution of Marriage and the Settlement Agreement filed January 16, 2003, in the Vigo Superior Court, in Cause No. 84D02-0210-DR-8460, entitled "In Re: The Marriage of Richard L. Scank and Dona G. Scank."

IN WITNESS WHEREOF the above referred to Richard L. Scank has hereunto set his hand and seal, this 23 day of DECEMBER, 2003.

Richard L. Scank (SEAL)
Richard L. Scank

STATE OF INDIANA, COUNTY OF VIGO) ss:

Before me, the undersigned, a Notary Public in and for said county and state, this 23 day of DECEMBER, 2003, personally appeared Richard L. Scank and being first duly sworn, stated that the representations therein contained are true acknowledged the execution of this conveyance to be his voluntary act and deed.

WITNESS my hand and Notarial Seal.

My Commission Expires:
1-11-2010

[Signature]
Notary Public

My County of residence is:
VIGO

T. KOLONZIEI
Typewritten or printed name of notary

This instrument prepared by Carroll D. Smeltzer, Attorney at Law, COX, ZWERNER, GAMBILL & SULLIVAN, LLP, P.O. Box 1625, Terre Haute, Indiana 47808-1625.

Note: In preparing this instrument, preparer makes no warranties, expressed or implied, regarding the title conveyed by it.

MAIL TAX STATEMENTS TO: 3300 S FRULTRIDGE AVE, TERRE HAUTE, IN 47802

STATE OF INDIANA)
) SS:
COUNTY OF VIGO)

AFFIDAVIT

Comes now, Dona G. Scank, being duly sworn upon her oaths, depose and say:

1. That Dona G. Scank 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:

Beginning on the North and South One-half (1/2) Section line of Section 1, Township 11 North, Range 9 West, at a point 848.34 feet South of the Northwest Corner of the Northeast One Quarter (1/4) of said Section, thence East No degrees and 25 minutes South a distance of 1295.25 feet to a point 858.87 feet South of the North Section line; thence South No degrees and No minutes a distance of 285.99 feet; thence West No degrees and 51 minutes North a distance of 1295.93 feet; thence North a distance of 282.64 feet to the place of beginning, containing 8.44 acres, more or less.

(Commonly known as 3300 S. Fruitridge Avenue, Terre Haute, Indiana 47802)

2. That copies of the Deed, recorded in the records of the Recorder's Office of Vigo County, Indiana, transferring fee simple title to Dona G. Scank are 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 she is the owner 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 Dona G. Scank.

4. Further, Affiant saith not.

Dated at Terre Haute, Indiana this 10th day of June, 2016.



Dona G. Scank

(Notary Page to Follow)



Receipt

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

Date: 6/24/14

Name: Wright, Shagley & Lowery, PC

Reason: Re Zoning
B3 Partners, LLC

TERRE HAUTE, IN

PAID

JUN 24 2014

CONTROLLER

Cash: _____
Check: \$90.00 (^{\$45.00} #66096 & ^{\$45.00} #66094)

Credit: _____

Total: \$90.00

Received By: Reilly/K



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: August 4, 2016

REPORT TO THE CITY COUNCIL ON ZONING MAP AMENDMENT

THE VIGO COUNTY AREA PLAN COMMISSION HEREBY GIVES CERTIFICATION TO
SPECIAL ORDINANCE NUMBER #17-16

CERTIFICATION DATE: August 3, 2016

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. 17-16. This Ordinance is a rezoning of the property located at 3300 S. Fruitridge. The Petitioner, Dona G. Scank, petitions the Plan Commission to rezone said real estate from zoning classification R-1 to C-3, Regional Commerce District, for commercial retail to allow the development of a heavy farm machinery dealership. 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. 17-16 at a public meeting and hearing held Wednesday, August 3, 2016. Remonstrators WERE 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. 17-16 as required by IC 36-7-4-302. The Area Plan Commission of Vigo County now hereby attaches certification to Special Ordinance No. 17-16 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. 17-16 was FAVORABLE WITH THE FOLLOWING CONDITIONS: 1) Landscape Plan be submitted and approved by the City; 2) A complete detailed Site Plan be submitted and approved; 3) A drive cut capable of handling commercial traffic be built to the standards as outlined by City Engineering; 4) A major subdivision be submitted and approved.


Fred L. Wilson, President


Jared Bayler, Interim Director

Received this 4th day of August, 2016

APPLICATION INFORMATION

Petitioner: Dona G. Scank

Property Owner: Same as Above

Representative: Richard J. Shagley II

Proposed Use: Commercial Retail to allow the development of Heavy Farm Machinery Dealership

Proposed Zoning: C-3, Regional Commerce District

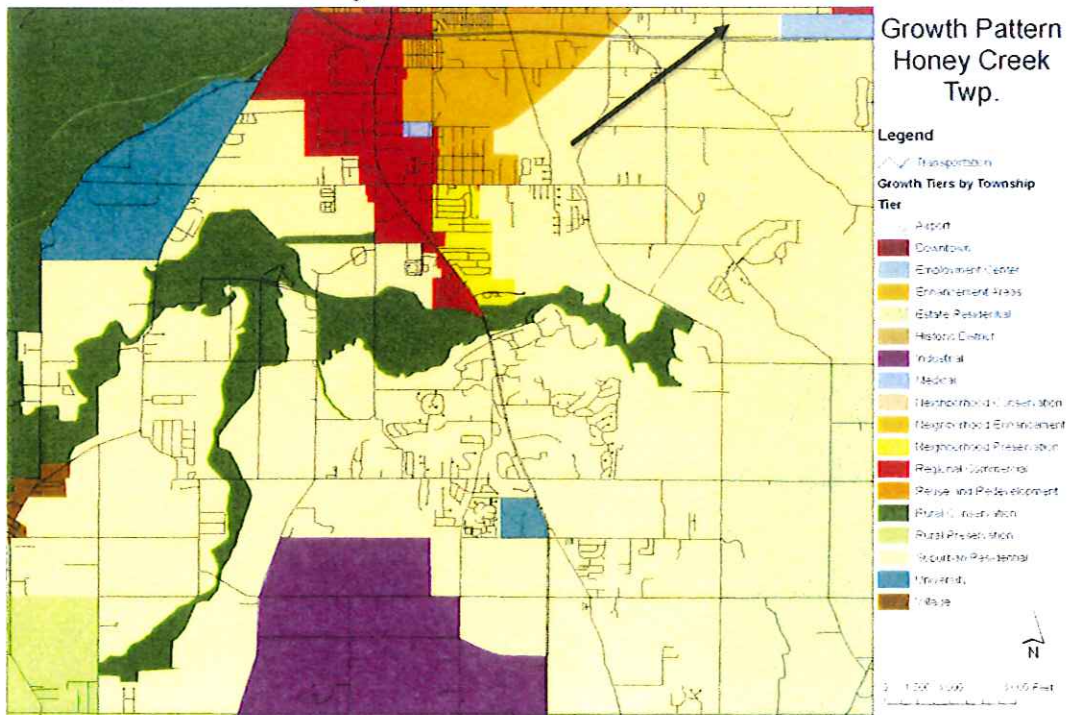
Current Zoning: R-1, Single Family Residential

Location: The property is located along I-70 immediately next to the east of the I-70 Fruitridge overpass

Common Address: 3300 S Fruitridge Ave. Terre Haute, In 47802

COMPREHENSIVE PLAN GUIDANCE

Service Area: The City of Terre Haute



Recommended Use: 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 ½ 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.

STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: SO #17-16

Doc: #55

Date: August, 2016

Page 3 of 4

- 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.

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

Street Access: According to the Site Plan ingress/egress is to be from Margaret Ave.

ZONING COMPATIBILITY

Sur. Zones and Uses:

North – O-1, Agricultural District, R-1 Single Family

East – O-1, Agricultural District, R-1 Single Family

South – A-1 Agricultural District

West – O-1, Agricultural District C-2, Community Commerce

Contig. Uses & Zones:

- To the northwest is a national exterminator chain. All other surrounding uses are either residential or agricultural.
-

ZONING REGULATIONS

C-3 Purpose: The Regional Commerce Zone is designated for all residents in the region of Terre Haute, Indiana, and is not a limited community commerce area (or shopping center); consequently, it shall permit a wide variety of business, commerce, and services with some degree of limited warehousing for those establishments allowed in area. It shall be a major shopping center, definitely limited specific locations and characterized by large establishments generating large volumes of vehicular traffic. The development is characterized by its provision of some degree of comparison-shopping and a complete lack of any attempt to draw pedestrian traffic.

C-3 Uses: Any use permitted in C-1, and C-2, Pet shops, Live professional entertainment and dancing, Schools, Auction rooms, Recreation

establishments, Automobile sales and service (minor and major repairs) Farm equipment sales and service.

C-3 Standards: Street setback of 50 feet from centerline; rear setback 11' from the rear property line; Interior 5' from the interior lot line, and meet the minimum parking requirement per table 4.

FINDINGS and RECOMMENDATION

Staff Findings:

The property is located near two busy thoroughfares and has easy visibility from I-70. If the business is to locate here special attention needs be paid to visual screening against residential uses. Illumination of an off-street parking area shall be arranged so as not to reflect direct rays of light into adjacent residential districts and streets. Farm equipment sales and service is a permitted use by right in a C-3 District.

Questions arise as to the selection of this location. One would think that property closer to Hwy 46 would better suit the needs of the developer. It is anticipated that over time industrial and commercial uses along E. Margaret Drive will infill to the west. As they do so the increase in traffic will continue. E. Margaret is being constructed and expanded with that traffic flow in mind. Also, as development continues westward encounters with residential uses will become more common. It is possible to integrate the two uses as long as proper buffer and visual screening is applied. The buffer for a C-3 against single family residence is 450 ft.

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

1. Landscape plan be submitted and approved by the city.
2. A complete detailed site plan be submitted and approved.
3. A drive cut capable of handling commercial traffic be built to the standards as outlined by city engineering.
4. A major subdivision be submitted and approved.