

**SPECIAL ORDINANCE NO. 10, 2018**

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

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Common Address of lots to be rezoned:  
3349 and 3367 E. Margaret Dr., Terre Haute, IN 47802

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Rezoned From: O-1 Open District

Rezoned To: R-2 Two Family Residential District

Proposed Use: Duplexes

Name of Owners: James R. Stufflebeam

Address of Owners: 17805 1<sup>st</sup> Ct. E. Ave.  
Spanaway, WA 98387

Phone Number of Owners: c/o Richard J. Shagley II  
812-232-3388

Attorney Representing Owners: 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

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

FILED

JUL 30 2018

CITY CLERK

**SPECIAL ORDINANCE FOR A REZONING  
SPECIAL ORDINANCE NO. 10, 2018**

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

SECTION I. 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:

Commencing at the Northeast Corner of the Northwest Quarter of Section 1, Township 11 North, Range 9 West, Honey Creek Township, Vigo County, Indiana: West along and with the North line of said Northwest Quarter of 1240.50 feet to the Place of Beginning; South 00 degrees 05 minutes East 432.0 feet; West 285.0 feet; North 00 degrees 05 minutes West 432.0 feet; East 285.0 feet to the Place of Beginning and containing 2.826 Acres, more or less.

ALSO KNOWN AS C. Beckwith 2 Lot Subdivision, Lots 1 and 2 (Multifamily), as the same appears on the recorded plat thereof, recorded April 30, 1992, in Plat Record 26, page 80, of the records of the Recorder's Office of Vigo County, Indiana.

ALSO, an easement for ingress and egress as shown on the Plat of Easement prepared by Earl D. Spires, Jr., Indiana Land Surveyor No. 29900015, of Myers Engineering, Inc., identified as Project Number T17-176, dated February 22, 2017 and recorded March 8, 2017, as Instrument No. 2017002165, s shown on Easement Agreement dated March 3, 2017 and recorded March 8, 2017, as Instrument No. 2017002166, all in the records of the Recorder's Office of Vigo County, Indiana, and described as follows:

A 50 feet wide easement for ingress and egress over and across the land of Barbara Maric Beckwith and Charles R. Beckwith (Deed Record 356,

Page 989 & 990) being in the Northwest Quarter of Section 1, Township 11 North, Range 9 West, 2<sup>nd</sup> Principal Meridian, Honey Creek Township, City of Terre Haute, Vigo County, Indiana, described as follows:

Beginning at an iron pipe at the Southwest Corner of Lot 2 of C. Beckwith 2 Lot Subdivision as recorded on Plat Book 356, Page 80 of the recorded of the Vigo County Recorder's Office; thence South 00 degrees 13 minutes 26 seconds West along the West line of said Beckwith Land a distance of 50 feet; thence South 89 degrees 42 minutes 25 seconds East a distance of 285.04 feet; thence North 00 degrees 13 minutes 26 seconds East a distance of 50 feet to an iron pipe found monumenting the Southeast Corner of a 50 feet private drive as shown on said Subdivision Plat; thence North 89 degrees 54 minutes 06 seconds West along the South line of said private drive a distance of 50.16 feet to an iron pipe found monumenting the Southeast Corner of said Lot 2 a distance of 234.88 feet to the Point of Beginning, containing 0.33 acres more or less.

Subject to all covenants, conditions, restrictions, easements, leases, encumbrances, and all other matters of record.

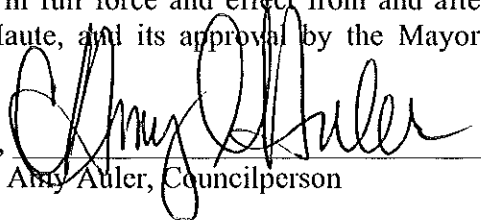
Commonly known as: 3349 and 3367 E. Margaret Dr., Terre Haute, IN 47802.

Parcel Nos. 84-09-01-100-014.000-005 and 84-09-01-100-018.000-005


Be and the same is hereby established as an R-2 Two Family Residential 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,

  
Amy Auler, Councilperson

Passed in open Council this 6 day of September 2018.

  
Curtis DeBaun, President

ATTEST:

  
Michelle Edwards, City Clerk

Presented by me, to the Mayor of the City of Terre Haute, this 7 day of September, 2018.

  
Michelle Edwards, City Clerk

Approved by me, the Mayor of the City of Terre Haute, this 7th day of SEPTEMBER, 2018.

  
Duke A. Bennett, Mayor

ATTEST:

  
Michelle Edwards, 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.

/s/ Richard J. Shagley II  
Richard J. Shagley II

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.

**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, James R. Stufflebeam, respectfully submits this Petition to rezone the following described real estate in the City of Terre Haute, County of Vigo, Indiana, to wit:

Commencing at the Northeast Corner of the Northwest Quarter of Section 1, Township 11 North, Range 9 West, Honey Creek Township, Vigo County, Indiana: West along and with the North line of said Northwest Quarter of 1240.50 feet to the Place of Beginning; South 00 degrees 05 minutes East 432.0 feet; West 285.0 feet; North 00 degrees 05 minutes West 432.0 feet; East 285.0 feet to the Place of Beginning and containing 2.826 Acres, more or less.

ALSO KNOWN AS C. Beckwith 2 Lot Subdivision, Lots 1 and 2 (Multifamily), as the same appears on the recorded plat thereof, recorded April 30, 1992, in Plat Record 26, page 80, of the records of the Recorder's Office of Vigo County, Indiana.

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records of the Recorder's Office of Vigo County, Indiana, and described as follows:

A 50 feet wide easement for ingress and egress over and across the land of Barbara Marie Beckwith and Charles R. Beckwith (Deed Record 356, Page 989 & 990) being in the Northwest Quarter of Section 1, Township 11 North, Range 9 West, 2<sup>nd</sup> Principal Meridian, Honey Creek Township, City of Terre Haute, Vigo County, Indiana, described as follows:

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Subject to all covenants, conditions, restrictions, easements, leases, encumbrances, and all other matters of record.

Commonly known as: 3349 and 3367 E. Margaret Dr., Terre Haute, IN 47802.

Parcel Nos. 84-09-01-100-014.000-005 and 84-09-01-100-018.000-005

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

Duplexes were previously built on the real estate and Petitioner is seeking rezoning to have the correct zoning classification for the existing duplexes on the real

estate. Your Petitioner would request that the real estate described herein shall be zoned as an R-2 Two Family Residential District.

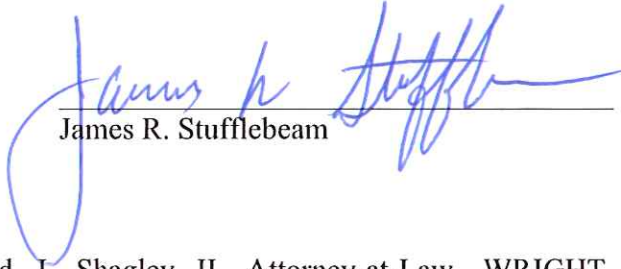
Your Petitioner would allege that the Neighborhood Commerce District would not alter the general characteristics of this neighborhood since the neighborhood is in a mixed-use neighborhood.

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

WHEREFORE, your Petitioner respectfully requests that the Area Plan Commission for Vigo County and the Common Council of the City of Terre Haute, Indiana, favorably consider the passage of a Special Ordinance amending the Comprehensive Zoning Ordinance of the city of Terre Haute, Indiana, being Chapter 10, Article 2 of the Municipal Code designated as "Comprehensive Zoning Ordinance for Terre Haute, Indiana," and declaring the above-described real estate to be part of the an R-2 Two Family Residential District t 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 WITNESS WHEREOF, this Petition has been duly executed this 7<sup>th</sup> day of July, 2018.

**PETITIONER:**

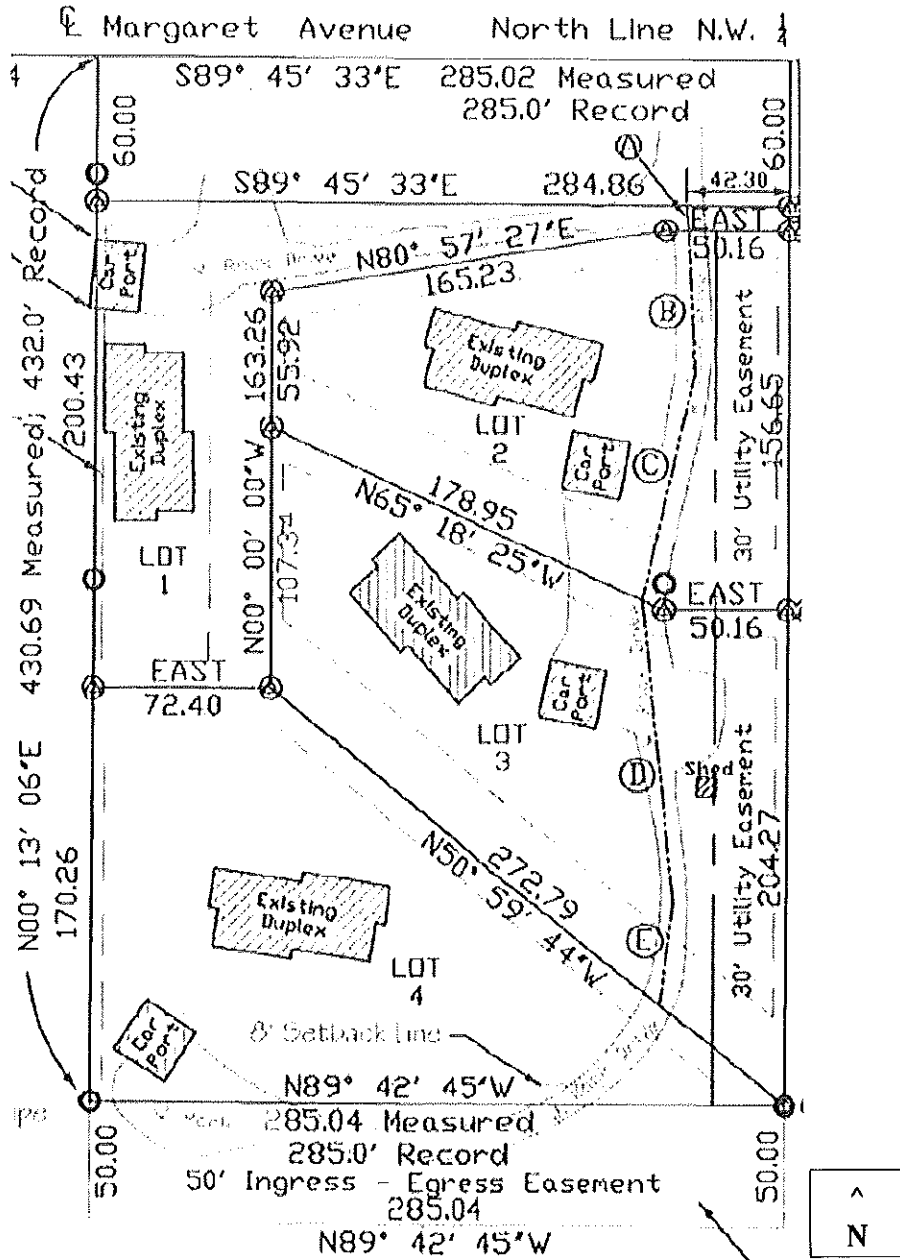
  
James R. Stufflebeam

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**  
**SPECIAL ORDINANCE NO. 10, 2018**

3349 & 3367 E. Margaret Drive  
 Terre Haute, IN 47802

Current: O-1  
 Proposed: R-2





**COPY**

**WARRANTY DEED**

THIS INDENTURE WITNESSETH, That **Charles R. Beckwith**, Grantor, of Vigo County, in the State of Indiana, **CONVEYS AND WARRANTS** to **James R. Stufflebeam**, Grantee, of Pierce County, in the State of Washington, for the sum of Ten & 00/100 Dollars (\$10.00) and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the following described real estate in Vigo County, State of Indiana:

Commencing at the Northeast Corner of the Northwest Quarter of Section 1, Township 11 North, Range 9 West, Honey Creek Township, Vigo County, Indiana; West along and with the North line of said Northwest Quarter 1240.50 feet to the place of beginning; South 00 degrees 05 minutes East 432.0 feet; West 285.00 feet; North 00 degrees 05 minutes West 432.0 feet; East 285.0 feet to the place of beginning and containing 2.826 acres, more or less.

ALSO KNOWN AS C. Beckwith 2 Lot Subdivision, Lots 1 and 2 (Multifamily), as the same appears on the recorded plat thereof, recorded April 30, 1992, in Plat Record 26, page 80, of the records of the Recorder's Office of Vigo County, Indiana.

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2017002165, and as shown on Easement Agreement dated March 3, 2017 and recorded March 8, 2017, as Instrument No.

2017002166, all in the records of the Recorder's Office of Vigo County, Indiana, and described as follows:

A 50 feet wide easement for ingress and egress over and across the land of Barbara Marie Beckwith and Charles R. Beckwith (Deed Record 356, Page

989 & 990) being in the Northwest Quarter of Section 1, Township 11 North, Range 9 West, 2<sup>nd</sup> Principal Meridian, Honey Creek Township, City of Terre Haute, Vigo County, Indiana, described as follows:  
Beginning at an iron pipe at the Southwest Corner of Lot 2 of C. Beckwith 2 Lot Subdivision as recorded on Plat Book 356, Page 80 of the records of the Vigo County Recorder's Office; thence South 00 degrees 13 minutes 26 seconds West along the West line of said Beckwith Land a distance of 50 feet; thence South 89 degrees 42 minutes 25 seconds East a distance of 285.04 feet; thence North 00 degrees 13 minutes 26 seconds East a distance of 50 feet to an iron pipe found monumenting the Southeast Corner of a 50 feet private drive as shown on said Subdivision Plat; thence North 89 degrees 54 minutes 06 seconds West along the South line of said private drive a distance of 50.16 feet to an iron pipe found monumenting the Southeast Corner of said Lot 2; thence North 89 degrees 39 minutes 55 seconds West along the South line of said Lot 2 a distance of 234.88 feet to the Point of Beginning, containing 0.33 acres more or less.

Subject to the general real estate taxes prorated to the date of this indenture and all subsequent real estate tax.

Subject to all covenants, conditions, restrictions, easements, leases, encumbrances, and all other matters of record.

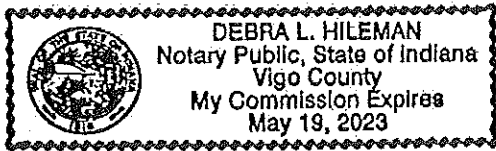
IN WITNESS WHEREOF, Grantor has executed/delivered this deed this 7<sup>th</sup> day of March, 2017.

  
\_\_\_\_\_  
Charles R. Beckwith

STATE OF INDIANA        )  
  ) SS:  
COUNTY OF VIGO        )

Before me, a Notary Public in and for said County and State, personally appeared Charles R. Beckwith, who acknowledged the execution of the foregoing Warranty Deed, and who, having been duly sworn, stated that any representations therein contained are true.

Witness my hand and Notarial Seal this 7<sup>th</sup> day of March, 2017.



Debra L. Hileman  
Notary Public

Debra L. Hileman  
Printed Name

My Commission Expires: 05-19-2023 My County of Residence: Vigo

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  
Jeffrey A. Lewellyn

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

Mail tax statements to Grantee: 17805 1<sup>st</sup> Avenue Ct E  
Spanaway, WA 98387

Property address: 3349 & 3367 East Margaret Drive, Terre Haute, IN 47802

STATE OF INDIANA        )  
COUNTY OF VIGO        ) SS:

AFFIDAVIT

Comes now, James R. Stufflebeam, being duly sworn upon his oath, deposes and says:

1. That James R. Stufflebeam is the owner of record of the following described real estate located in the City of Terre Haute, County of Vigo, State of Indiana, to-wit:

Commencing at the Northeast Corner of the Northwest Quarter of Section 1, Township 11 North, Range 9 West, Honey Creek Township, Vigo County, Indiana: West along and with the North line of said Northwest Quarter of 1240.50 feet to the Place of Beginning; South 00 degrees 05 minutes East 432.0 feet; West 285.0 feet; North 00 degrees 05 minutes West 432.0 feet; East 285.0 feet to the Place of Beginning and containing 2.826 Acres, more or less.

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11 North, Range 9 West, 2<sup>nd</sup> Principal Meridian, Honey Creek Township, City of Terre Haute, Vigo County, Indiana, described as follows:

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Subject to all covenants, conditions, restrictions, easements, leases, encumbrances, and all other matters of record.

Commonly known as: 3349 and 3367 E. Margaret Dr., Terre Haute, IN 47802.

Parcel Nos. 84-09-01-100-014.000-005 and 84-09-01-100-018.000-005

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 Affiants make this Affidavit for the sole purpose of affirming that James R. Stufflebeam 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 James R. Stufflebeam.
4. Further, Affiant saith not.

Dated at Terre Haute, Indiana this 7<sup>th</sup> day of July, 2018.

James R. Stufflebeam  
James R. Stufflebeam

STATE OF Washington )  
COUNTY OF Pierce ) :SS

SUBSCRIBED AND SWORN TO before me, a Notary Public in and for said County and State, this 7<sup>th</sup> day of July, 2018.

Public



Briana L. Brewer  
Briana L. Brewer, Notary

My Commission expires: 03/09/2022  
My County of Residence: Pierce

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.

**TERRE HAUTE**  
INDIANA  
BEFORE

**Receipt**

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

Date: 7/30/18

Name: James Stufflebeam

Reason: Reasoning - Notice of Filing \$25.00

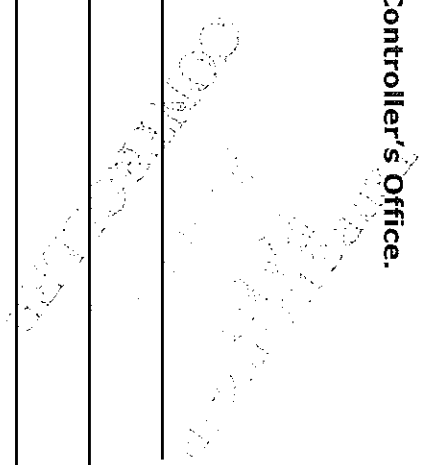
Reasoning - Petition \$20.00

\$45.00

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

Check: # 68680 \$45.00

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





TERRE HAUTE  
A CITY 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: September 6, 2018

## REPORT TO THE CITY COUNCIL ON ZONING MAP AMENDMENT

THE VIGO COUNTY AREA PLAN COMMISSION HEREBY GIVES CERTIFICATION TO  
SPECIAL ORDINANCE NUMBER #10-18

CERTIFICATION DATE: September 5, 2018

TO: The Honorable Common Council of the City of Terre Haute

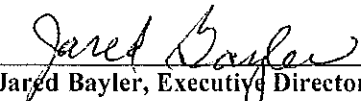
Dear Members,

The Vigo County Area Plan Commission offers you the following report and certification on Special Ordinance No.10-18. This Ordinance is a rezoning of the property located at 3349 and 3367 E. Margaret Av. The Petitioner, James R. Stufflebeam, petitions the Plan Commission to rezone said real estate from zoning classification 0-1 to R-2, Two Family Residence District, for duplexes. 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. 10-18 at a public meeting and hearing held Wednesday, September 5, 2018.. 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. 10-18 as required by IC 36-7-4-302. The Area Plan Commission of Vigo County now hereby attaches certification to Special Ordinance No. 10-18 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.10-18 was FAVORABLE WITH THE FOLLOWING CONDITIONS: 1) Approval of Major subdivision; 2) Approval of all necessary variances; 3) Favorable road report; 4) Written consent from neighboring parcel for the encroaching carport, or carport will need to be relocated within lot.

  
Fred L. Wilson, President

  
Jared Bayler, Executive Director

Received this 6th day of September, 2018



STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: SO # 10-18

Doc: # 54

Date: September 5, 2018

Page 1 of 4

**APPLICATION INFORMATION**

Petitioner: James Stufflebeam

Property Owner: Same-As-Above

Representative: Richard J. Shagley II

Proposed Use: Duplexes

Proposed Zoning: R-2, Two-Family Residential District

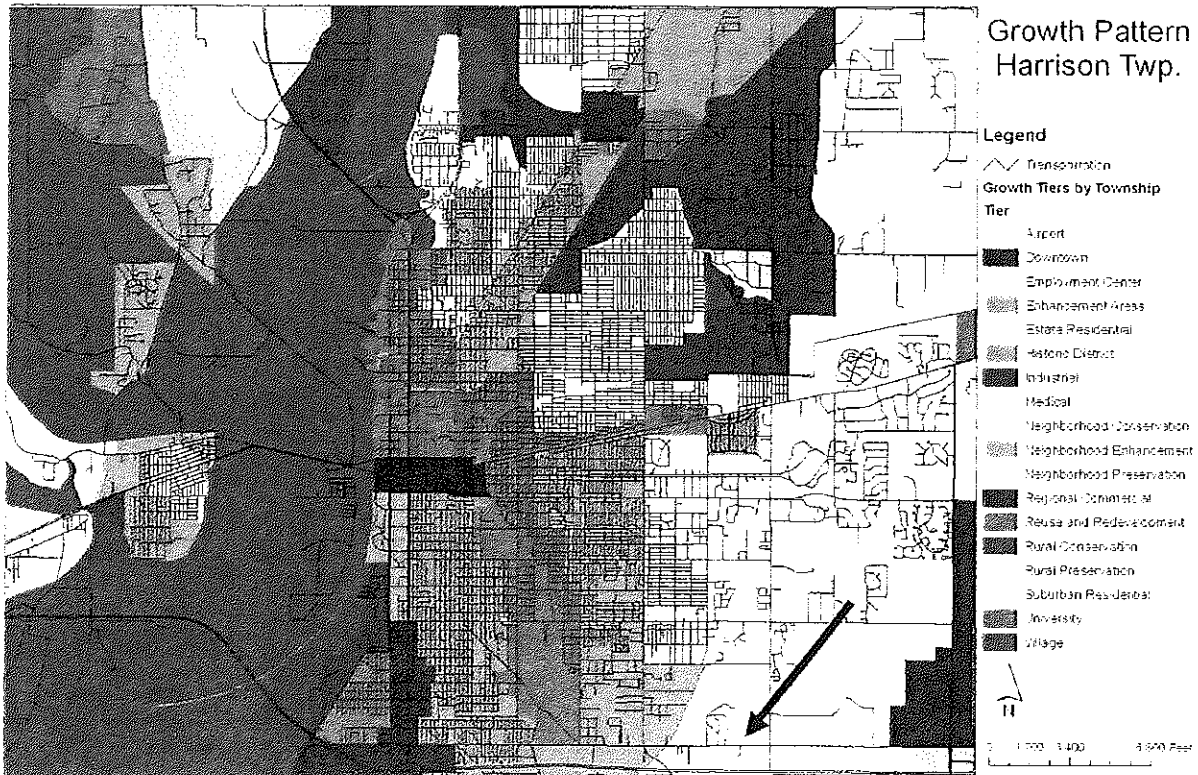
Current Zoning: O-1, Open District

Location: The property is located 1,219 feet west of the intersection of E. Margaret Drive and Fruitridge Ave.

Common Address: 3349 & 3367 E. Margaret Drive, Terre Haute

**COMPREHENSIVE PLAN GUIDANCE**

Service Area: The 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 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.
- 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.

Soil Limitations: Not studied.

Street Access: E. Margaret Drive

Dev. Priority: Medium

#### ZONING COMPATIBILITY

Sur. Zones and Uses: **North** – R-1, R-3  
**East** – O-1  
**South** – A-1  
**West** – O-1, O-1PD

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#### ZONING REGULATIONS

R-2 Purpose: Single-Family and Two-Family Dwellings Units

R-2 Uses: Any use permitted in the R-1, Single-family Residence District, such as Churches, Rectories, and Parish Houses, Convents and Monasteries; Gardening, including nurseries, provided that no offensive odors or dust are created; Public Libraries; Child Care as a Home Occupations; Parks, Playgrounds, and Schools; Residential Facility for the Developmentally Disabled. (Gen. Ord. No. 19, 1997, 2-12-98); Residential Facility for the Mentally Ill. (Gen. Ord. No. 19, 1997, 2-12-98).

R-2 Standards: Minimum Lot Size: 7,200 Sq. Ft. per unit FAR 0.5 %

Street Setback: 55 feet from centerline on Poplar Ave.

55 feet on 8<sup>th</sup> Ave.

Rear setback: 11 feet from the center of the alley right-of-way

Interior setback: 5 feet from the interior lot line

Two (2) parking spaces per two-bed room unit.

## **FINDINGS and RECOMMENDATION**

**Staff Findings:**

The petitioner seeks to rezone a parcel that currently has an existing duplex and carport on each lot. The lots are currently zoned O-1, Open District. The lots do not meet the current requirements for uses in O-1 zoning. The petitioner is also seeking a Major 4-lot subdivision for the property with each duplex and carport being in a separate lot. Subdivision is required as duplexes are required to each be on a separate lot with R-2 zoning.

The existing duplex in Lot 1 is located within the required 5 feet setback for the intended R-2 zoning. A carport, located in Lot 1 is encroaching on a neighboring parcel to the west. The existing carport in Lot 4 is located within the 11' rear setback of the intended R-2 rezoning. Variances will be necessary, as well as written consent from the neighboring parcel on which the carport is encroaching.

Roads within the subdivision must be built to public road standards. Approval from the city engineer must be obtained for acceptance of the roadways.

**Recommendation:**

Staff offers a FAVORABLE RECCOMENDATION with the following conditions:

1. Approval of Major Subdivision
2. Approval of all necessary variances.
3. Favorable road report from the city engineering department.
4. Written consent from neighboring parcel for the encroaching carport, or carport will need to be relocated within lot.