

SPECIAL ORDINANCE NO. 38, 2021

APPLICATION FOR REZONING PETITION CITY OF TERRE HAUTE

=====

Common Address of lots to be rezoned:

2101 S. 3rd Street, Terre Haute, Indiana 47802

Parcel No. 84-06-33-251-014.000-002

Rezone From: C-2 Community Commerce District
C-6 Strip Business
M-2 Heavy Industrial District

Rezone To: C-6 Strip Business

Proposed Use: Tire Store

Name of Owners: Bcp Development LP

Address of Owners: 5555 San Felipe St., Suite 1135
Houston, TX 77056

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 [x] Attorney

Council Sponsor: Amy Auler

=====

COPY OF A SITE-PLAN MUST ACCOMPANY THIS APPLICATION

FILED

SEP 1 2021

CITY CLERK

SPECIAL ORDINANCE FOR A REZONING
SPECIAL ORDINANCE NO. ~~30~~ 31, 2021

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:

Situated in the West half of the Southwest quarter of the Northeast quarter of Section 33, Township 12 North, Range 9 West, more particularly described as follows:

From a stone located at the intersection of the centerline of Hulman Street with the East line of South First Street in the City of Terre Haute, Indiana, measure East along the centerline of said Hulman Street, 680.35 feet more or less to a point being in the West line of South Third Street; thence deflecting 88 degrees 57minutes to the right, measure Southerly along said West line of South Third Street 1484.95 feet to a point which lies 1484 feet 9 inches more or less South of the North line of said Northeast quarter, which point is the place of beginning. Thence deflecting 91 degrees 03 minutes to the right, measure 150 feet; thence with an angle to the right of 27 degrees 28 minutes, measure 56.9 feet; thence North with an angle to the right of 61 degrees 29 minutes, measure 122.8 feet; thence West with an angle to the left of 88 degrees 57minutes, measure 250 feet; thence South with an angle to the left of 91 degrees 03 minutes, measure 150 feet; thence with an angle to the left 61 degrees 29 minutes, measure 227.38 feet; thence South with an angle to the right of 61 degrees 29 minutes, measure 150 feet; thence East at right angles, measure 250 feet to said West line of Third Street; thence North along said West line, 250 feet to the place of beginning, containing 2.57 acres, more or less.

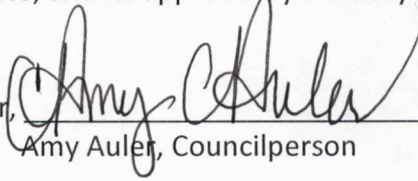
Parcel No. 84-06-33-152-014.000-002

Commonly known as: 2101 S. 3rd St., Terre Haute 47802.

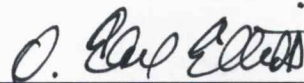
Be and the same is hereby established as a C-3 Regional Commerce District, together with all rights and privileges that may insure to said real estate and the owners thereof by virtue of the law in such cases provided, subject to all limitations and restrictions imposed thereon by deed or otherwise."

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,


Amy Auler, Councilperson

Passed in open Council this 4TH day of NOVEMBER, 2021.



O. Earl Elliott, President

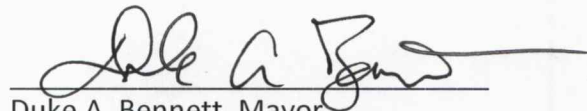
ATTEST:


Michelle Edwards, City Clerk

Presented by me, to the Mayor of the City of Terre Haute, this 5TH day of NOVEMBER 2021.


Michelle Edwards, City Clerk

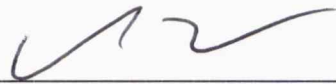
Approved by me, the Mayor of the City of Terre Haute, this 5TH day of NOVEMBER 2021.


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.



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, Dr. Robert A. Behar, Chief Executive Officer of Bcp Development, Lp, respectfully submits this Petition to rezone the following described real estate in the City of Terre Haute, County of Vigo, Indiana, to wit:

Situated in the West half of the Southwest quarter of the Northeast quarter of Section 33, Township 12 North, Range 9 West, more particularly described as follows:

From a stone located at the intersection of the centerline of Hulman Street with the East line of South First Street in the City of Terre Haute, Indiana, measure East along the centerline of said Hulman Street, 680.35 feet more or less to a point being in the West line of South Third Street; thence deflecting 88 degrees 57minutes to the right, measure Southerly along said West line of South Third Street 1484.95 feet to a point which lies 1484 feet 9 inches more or less South of the North line of said Northeast quarter, which point is the place of beginning. Thence deflecting 91 degrees 03 minutes to the right, measure 150 feet; thence with an angle to the right of 27 degrees 28 minutes, measure 56.9 feet; thence North with an angle to the right of 61 degrees 29 minutes, measure 122.8 feet; thence West with an angle to the left of 88 degrees 57minutes, measure 250 feet; thence South with an angle to the left of 91 degrees 03 minutes, measure 150 feet; thence with an angle to the left 61 degrees 29 minutes, measure 227.38 feet; thence South with an angle to the right of 61 degrees 29 minutes, measure 150 feet; thence East at right angles, measure 250 feet to said West line of Third Street; thence North along said West line, 250 feet to the place of beginning, containing 2.57 acres, more or less.

Parcel No. 84-06-33-152-014.000-002

Commonly known as: 2101 S. 3rd St., Terre Haute 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 C-2 Community Commerce District, C-6 Strip Business and M-2 Heavy Industrial District.

Your Petitioner intends to use this real estate for a retail strip businesses. Your Petitioner would request that the real estate described herein shall be zoned as a C-6 Strip Business.

Your Petitioner would allege that the C-6 Strip Business would not alter the general characteristics of this neighborhood since the neighborhood is a mixed-use neighborhood and there are several commercial uses in this area.

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 C-6 Strip Business 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 15th day of September, 2021.

PETITIONER:



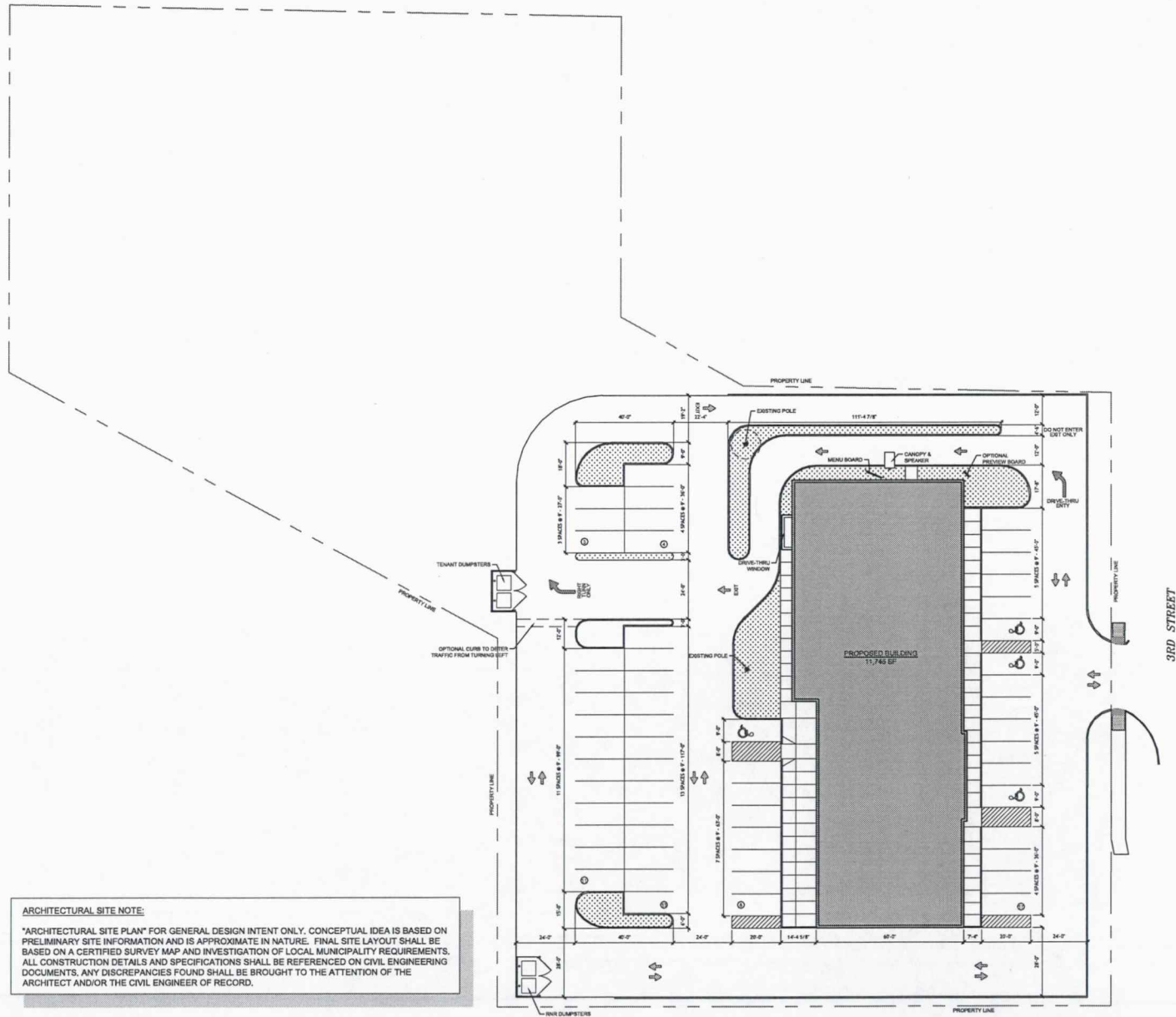
Dr. Robert A. Behar, CEO of BCP
DEVELOPMENT, LP

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


2101 S. 3rd ST.

9 N.



ARCHITECTURAL SITE NOTE:
 "ARCHITECTURAL SITE PLAN" FOR GENERAL DESIGN INTENT ONLY. CONCEPTUAL IDEA IS BASED ON PRELIMINARY SITE INFORMATION AND IS APPROXIMATE IN NATURE. FINAL SITE LAYOUT SHALL BE BASED ON A CERTIFIED SURVEY MAP AND INVESTIGATION OF LOCAL MUNICIPALITY REQUIREMENTS. ALL CONSTRUCTION DETAILS AND SPECIFICATIONS SHALL BE REFERENCED ON CIVIL ENGINEERING DOCUMENTS. ANY DISCREPANCIES FOUND SHALL BE BROUGHT TO THE ATTENTION OF THE ARCHITECT AND/OR THE CIVIL ENGINEER OF RECORD.

1 ARCHITECTURAL SITE PLAN
 SCALE: 1" = 20'-0" (1:20)




HP
 HOLDER DESIGN, INC.

24 South 6th Street
 Terre Haute, Indiana
 47607
 ph. 812.238.1300
 www.holderdesign.net

SCOPE DOCUMENT

THE DRAWINGS INDICATE THE GENERAL SCOPE OF THE PROJECT IN TERMS OF ARCHITECTURAL DESIGN CONCEPT, THE DIMENSIONS OF THE BUILDING, THE MAJOR ARCHITECTURAL ELEMENTS AND THE TYPE OF STRUCTURAL, MECHANICAL AND ELECTRICAL SYSTEMS. AS SCOPE DOCUMENTS, THE DRAWINGS DO NOT NECESSARILY INDICATE OR DISCLOSE ALL WORK THAT IS REQUIRED FOR FULL PERFORMANCE AND COMPLETION OF THE CONTRACT DOCUMENTS. ON THE BASIS OF THE GENERAL SCOPE INDICATED OR DESCRIBED, THE TRADE CONTRACTORS SHALL FURNISH ALL ITEMS REQUIRED FOR THE PROPER EXECUTION AND COMPLETION OF THE WORK.



Matthew J. Hall
 04/29/21

THE SEALS AND SIGNATURES APPLY ONLY TO THE DOCUMENT TO WHICH THEY ARE AFFIXED AND WE EXPRESSLY DISCLAIM ANY RESPONSIBILITY FOR ALL OTHER PLANS, SPECIFICATIONS, ESTIMATES, REPORTS, OR OTHER DOCUMENTS OR INSTRUMENTS RELATING TO OR INTENDED TO BE USED FOR ANY PART OR PARTS OF THE PROJECT.

COPYRIGHT © 2021 HOLDER DESIGN, INC.

DRAWN BY: AM	CHECKED BY: M/JH	PLOT SCALE: AS NOTED	DATE: 06/07/2021
-----------------	---------------------	-------------------------	---------------------

PROPOSED INSTRUCTIONS FOR:
RNR TIRE EXPRESS
 NEW FACILITY
 TERRE HAUTE, INDIANA

SHEET DESCRIPTION: ARCHITECTURAL SITE PLAN

REVISIONS

SHEET NO.
A1.0

JOB NO.
 A20-024

STATE OF INDIANA) SS:
COUNTY OF VIGO)

AFFIDAVIT

Comes now, Dr. Robert A. Behar, CEO of BCP DEVELOPMENT, LP, being duly sworn upon his oath, deposes and says:

1. That BCP DEVELOPMENT, LP 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:

Situated in the West half of the Southwest quarter of the Northeast quarter of Section 33, Township 12 North, Range 9 West, more particularly described as follows:

From a stone located at the intersection of the centerline of Hulman Street with the East line of South First Street in the City of Terre Haute, Indiana, measure East along the centerline of said Hulman Street, 680.35 feet more or less to a point being in the West line of South Third Street; thence deflecting 88 degrees 57minutes to the right, measure Southerly along said West line of South Third Street 1484.95 feet to a point which lies 1484 feet 9 inches more or less South of the North line of said Northeast quarter, which point is the place of beginning. Thence deflecting 91 degrees 03 minutes to the right, measure 150 feet; thence with an angle to the right of 27 degrees 28 minutes, measure 56.9 feet; thence North with an angle to the right of 61 degrees 29 minutes, measure 122.8 feet; thence West with an angle to the left of 88 degrees 57minutes, measure 250 feet; thence South with an angle to the left of 91 degrees 03 minutes, measure 150 feet; thence with an angle to the left 61 degrees 29 minutes, measure 227.38 feet; thence South with an angle to the right of 61 degrees 29 minutes, measure 150 feet; thence East at right angles, measure 250 feet to said West line of Third Street; thence North along said West line, 250 feet to the place of beginning, containing 2.57 acres, more or less.

Parcel No. 84-06-33-152-014.000-002

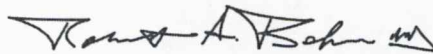
Commonly known as: 2101 S. 3rd St., Terre Haute 47802.

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 BCP DEVELOPMENT LP 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 Dr. Robert A. Behar.

4. Further, Affiant saith not.

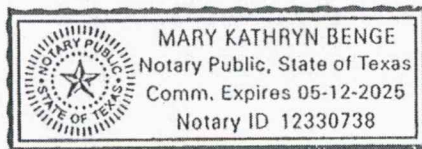
Dated at Terre Haute, Indiana this 1st day of September, 2021.



Dr. Robert A. Behar, CEO of BCP DEVELOPMENT, LP

STATE OF Texas)
) SS:
COUNTY OF Harris)

SUBSCRIBED AND SWORN TO before me, a Notary Public in and for said County and State, this 1st day of September, 2021.



Mary K. Bengé
Mary K. Bengé, Notary Public

My Commission expires: May 12, 2025

My County of Residence: Wharton

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.

ENTERED FOR TAXATION
Subject to final acceptance for Transfer

DEC 07 2020

Jason W. Bramble
VIGO COUNTY RECORDER

2020016029 WD \$25.00
12/07/2020 08:54:53A 4 PGS
Stacey Todd
VIGO County Recorder IN
Recorded as Presented



WARRANTY DEED

THIS INDENTURE WITNESSETH, That Steven B. Thomas, Grantor, of Sarasota County, in the State of Florida, CONVEYS AND WARRANTS an **undivided one-half interest** to BCP Development LP, Grantee, a Nevada limited partnership, 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:

Situated in the West half of the Southwest quarter of the Northeast quarter of Section 33, Township 12 North, Range 9 West, more particularly described as follows:

From a stone located at the intersection of the centerline of Hulman Street with the East line of South First Street in the City of Terre Haute, Indiana, measure East along the centerline of said Hulman Street, 680.35 feet more or less to a point being in the West line of South Third Street; thence deflecting 88 degrees 57 minutes to the right, measure Southerly along said West line of South Third Street 1484.95 feet to a point which lies 1484 feet 9 inches more or less South of the North line of said Northeast quarter, which point is the place of beginning. Thence deflecting 91 degrees 03 minutes to the right, measure 150 feet; thence with an angle to the right of 27 degrees 28 minutes, measure 56.9 feet; thence North with an angle to the right of 61 degrees 29 minutes, measure 122.8 feet; thence West with an angle to the left of 88 degrees 57 minutes, measure 250 feet; thence South with an angle to the left of 91 degrees 03 minutes, measure 150 feet; thence with an angle to the left of 61 degrees 29 minutes, measure 227.38 feet; thence South with an angle to the right of 61 degrees 29 minutes, measure 150 feet; thence East at right angles, measure 250 feet to said West line of Third Street; thence North along said West line, 250 feet to the place of beginning, containing 2.57 acres, more or less.

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

4

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

Mail tax statements to: BCP Development LP
555 San Felipe, Suite 1135, Houston, TX 77056

Property address: 2101 South Third Street, Terre Haute, IN 47802
Parcel No. 84-06-33-251-014.000-002



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: November 4, 2021

REPORT TO THE CITY COUNCIL ON ZONING MAP AMENDMENT

THE VIGO COUNTY AREA PLAN COMMISSION HEREBY GIVES CERTIFICATION TO
SPECIAL ORDINANCE NUMBER 38-21

CERTIFICATION DATE: November 3, 2021

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. 38-21. This Ordinance is a rezoning of 2101 S. 3rd Street. The Petitioner, BCP Development LP, petitions the Plan Commission to rezone said tire store from zoning classification C-2, C-6, and M-2 to C-6, Strip Business.

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. 38-21 at a public meeting and hearing held Wednesday, November 3, 2021. 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. 38-21 as required by IC 36-7-4-302. The Area Plan Commission of Vigo County now hereby attaches certification to Special Ordinance No. 38-21 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. 38-21 was FAVORABLE WITH THE FOLLOWING CONDITIONS: 1) Approved detailed site plan to include parking and storm water drainage plan from City Engineering.

Handwritten signature of Fred L. Wilson in black ink.

Fred L. Wilson, President

Handwritten signature of Jared Bayler in black ink.

Jared Bayler, Executive Director

Received this 4th day of November, 2021

STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: SO #38-21
Date: November 2021

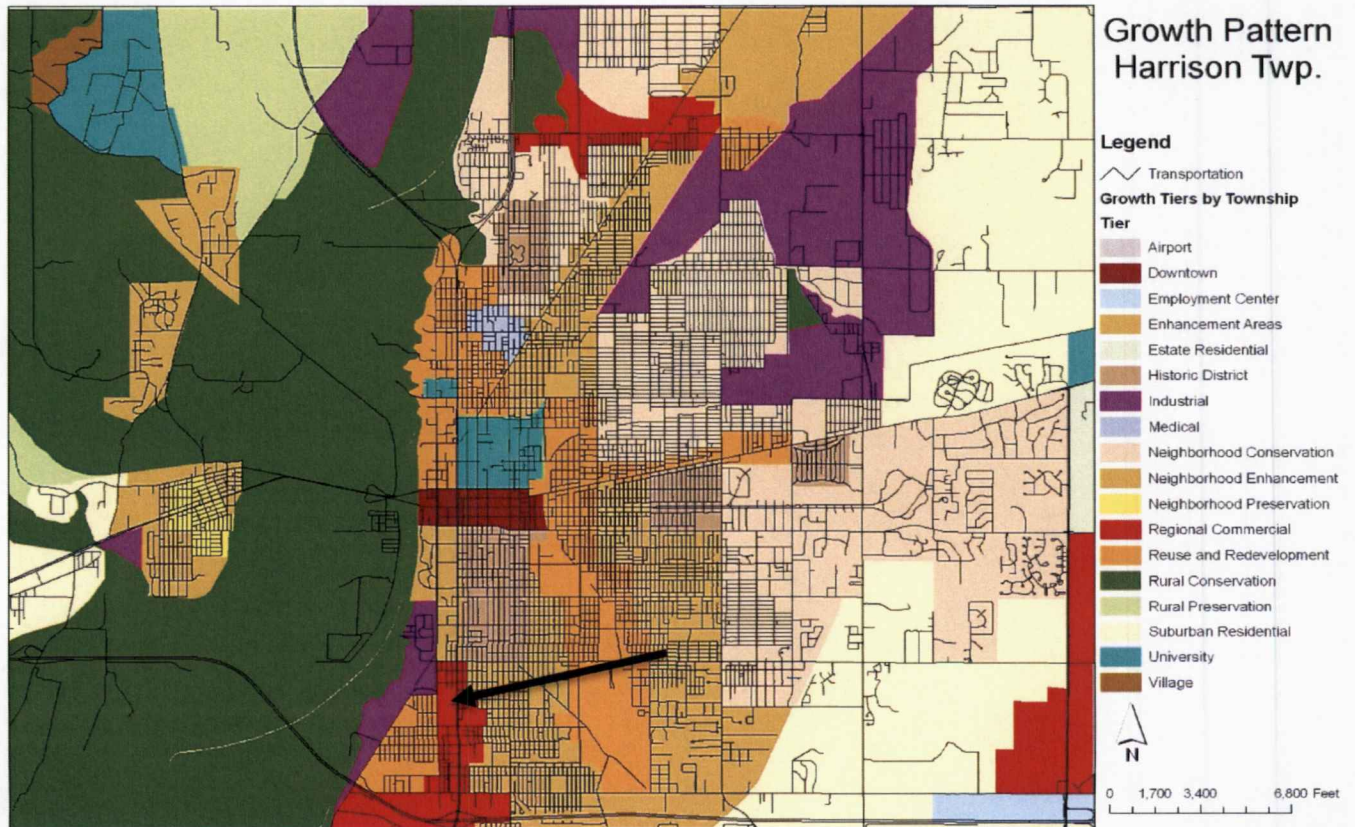
Doc: # 63
Page 1 of 3

APPLICATION INFORMATION

Owner: Bcp Development LP
Proposed Use: Tire Store
Proposed Zoning: C-6, Strip Business District
Current Zoning: C-2, Limited Community Commerce, C-6, Strip Business, and M-2, Heavy Industrial
Representative: Richard J. Shagley II
Location: West Side of S. 3rd Street across from Lincoln Street.
Common Address: 2101 S. 3rd Street, Terre Haute, IN

COMPREHENSIVE PLAN GUIDANCE

Service Area: Harrison Township



STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: SO #38-21

Doc: # 63

Date: November 2021

Page 2 of 3

Regional Commercial

Regional commercial areas are major retail centers providing the widest variety of retail goods and services (comparative shopping goods such as jewelry, apparel, household goods, and general merchandise) to a market area larger than the community, with no single type of retail activity dominating the district. The vitality of the areas is based upon the diversity of retail activities being located in a relatively concentrated area. With respect to these major regional shopping areas, future planning should consider the district or area as a whole, thereby assuring the vitality and viability of these regional commercial areas.

Additional policies to guide future development decisions include:

- Utilize spatial containment of commercial activities to existing commercially zoned sites to:
 - Maintain and reinforce the drawing power of major retail centers including anchor department and discount stores.
 - Reduce future traffic congestion and more closely tie existing retail centers with transit operations; expand the opportunities for pedestrian linkages between and among major existing activity centers.
 - Increase the identity of the district as a whole, with improved coordination in urban design elements including directional signage, common landscape elements such as lighting or street furniture; develop a common approach to business signage.
 - Encourage reinvestment in and continual upgrading of existing retail space; encourage the intensification of activities for retail comparative shopping purposes.
 - Ancillary activities such as fast-food restaurants or quick stop establishments do not add to the regional character of activity centers. Emphasis should increasingly be upon multiple-trip purpose activities with regional significance.
 - Ensure that future retail commercial development in the area does not detract from the viability of existing activity centers and does not detract from the livability of residential Neighborhoods in the vicinity.

Available Services: Area is well served by utilities.

Dev. Priority: High intensity employment areas.

ZONING COMPATIBILITY

Sur. Zones and Uses: **North** – C-2, C-6, M-2

East – C-6

South – C-2, C-6, M-2

West – M-2

Character of Area: The petitioned property is located in a mix use of zoning categories.