

**SPECIAL ORDINANCE NO. 8, 2019**

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

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Common Address of lots to be rezoned:  
2400 Spring Clean Avenue, Terre Haute, Indiana 47804

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Rezone From: C-3 Community Commercial District

Rezone To: C-5 Community Commercial District

Proposed Use: Storage Units

Name of Owners: Mutchner LLC

Address of Owners: 5175 Riley Road  
Terre Haute, IN 47802

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: Karrum Nasser

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

FILED

MAR 06 2019

**SPECIAL ORDINANCE FOR A REZONING  
SPECIAL ORDINANCE NO. 8, 2019**

**CITY CLERK**

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:

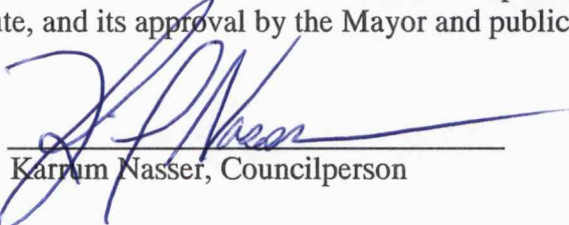
Lots Number Six (6) and Seven (7) in the Replat of Lots 2 and 4 North Plaza Park Sub division, being a subdivision of a part of the South half of the Southwest quarter of Section 2, Township 12 North, Range 9 West as shown by the recorded plat thereof dated March 13, 1995 and recorded July 24, 1995, in Plat Record 29, Page 58 of the Recorder's Office of Vigo County, Indiana.

Commonly known as: 2400 Spring Clean Avenue, Terre Haute, Indiana 47804.


Be and the same is hereby established as a C-5 Community Commercial 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,

  
Karram Nasser, Councilperson

Passed in open Council this 4th day of APRIL, 2019.

  
Martha Crossen, President

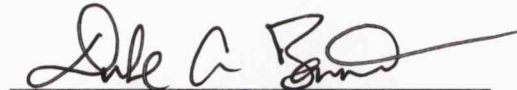
ATTEST:

  
Michelle Edwards City Clerk

Presented by me, to the Mayor of the City of Terre Haute, this 5<sup>TH</sup> day of APRIL, 2019.

  
Michelle Edwards, City Clerk

Approved by me, the Mayor of the City of Terre Haute, this 5<sup>TH</sup> day of April, 2019.

  
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, Jon Mutchner, Authorized Member of Mutchner LLC,  
respectfully submits this Petition to rezone the following described real estate in the City  
of Terre Haute, County of Vigo, Indiana, to wit:

Lots Number Six (6) and Seven (7) in the Replat of Lots 2 and 4 North  
Plaza Park Sub division, being a subdivision of a part of the South half of  
the Southwest quarter of Section 2, Township 12 North, Range 9 West as  
shown by the recorded plat thereof dated March 13, 1995 and recorded  
July 24, 1995, in Plat Record 29, Page 58 of the Recorder's Office of Vigo  
County, Indiana.

Subject to easements, covenants, restrictions, leases and other matters of  
record affecting title to the subject real estate.

Commonly known as: 2400 Spring Clean Avenue, Terre Haute, Indiana  
47804.

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-3 Community  
Commercial District.

Your Petitioner intends to use this real estate for an extension of the self-storage  
units that currently are located directly to the north of this real estate. Your Petitioner  
would request that the real estate described herein shall be zoned as a C-5 Community  
Commercial District.

Your Petitioner would allege that the C-5 Community Commercial District  
would not alter the general characteristics of this neighborhood since the neighborhood is  
in a mixed-use neighborhood, and Mutchner LLC is the owner of several parcels of real  
estate directly north of 2400 Spring Clean Avenue, Terre Haute, Indiana 47804.

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.

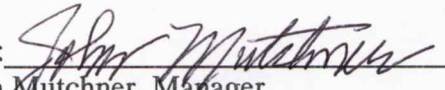


WHEREFORE, your Petitioner respectfully requests that the Area Plan Commission for Vigo County and the Common Council of the City of Terre Haute, Indiana, favorably consider the passage of a Special Ordinance amending the Comprehensive Zoning Ordinance of the city of Terre Haute, Indiana, being Chapter 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 C-5 Community Commercial District of the City of Terre Haute, Indiana, and entitled to the rights and benefits that may accrue to the real estate and the owners thereof by virtue of the new designation subject to all limitations imposed by deed or otherwise.

IN WITNESS WHEREOF, This petition has been duly executed this 26<sup>th</sup> day of February, 2019.

**PETITIONER:**

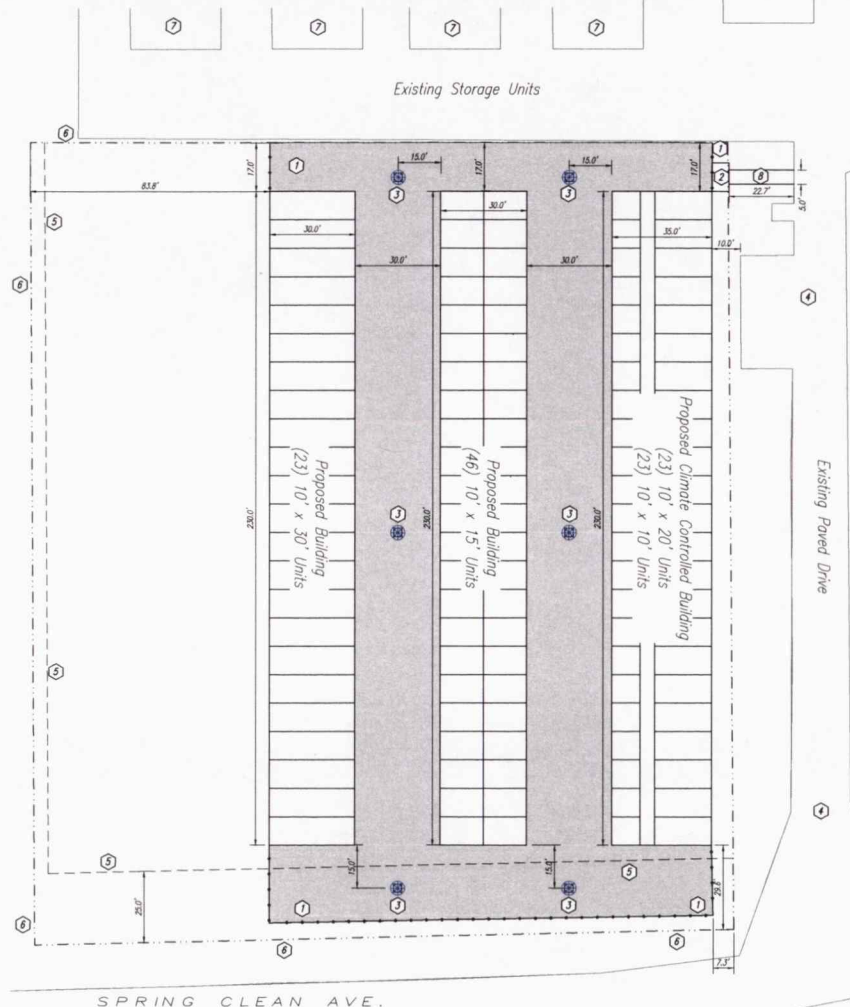
Mutchner LLC

By:   
Jon Mutchner, Manager

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

Sec. 2, Township 12 North, Range 9 West  
Harrison Township, Vigo County, Indiana



## LEGEND

1. Chain Link Fence
2. Propose Kiosk
3. Storm Inlet
4. Existing Pavement
5. Setback
6. Approximate Property Line
7. Existing Storage Units
8. Proposed Sidewalk

Heavy Duty Asphalt Pavement



NOTES  
1) COMPACT SUBGRADE TO MINIMUM AREA OF OPTIMUM DRY DENSITY PER ASTM D-1557 (STANDARD PRACTICE)  
2) PLACE AND COMPACT LIMESTONE, GRAVEL OR TRUSS LATEL, SAND COMPACTED TO 100% OPTIMUM DRY DENSITY PER ASTM D-1557  
3) SHOWN FOR PER MOST STANDARD SPECIFICATIONS

HEAVY DUTY ASPHALT PAVEMENT SECTION  
NOT TO SCALE



20' 0 20' 40'  
SCALE: 1"=20'




The location of underground utilities as shown herein are based on above ground information and/or field location, and record drawings provided by others. The actual location of which may vary upon a more detailed sub-surface inspection. No warranty is made for purposes of this survey. Before proceeding with any excavation, the proper offices should be contacted for the verification of utility types and/or locations.



2400 Spring Clean Avenue			
<b>MYERS</b> ENGINEERING, INC. Copyright © 2019 <a href="http://myersengineering.com">http://myersengineering.com</a>			
DATE	NO.	REVISIONS	BY / CHECKED
CLIENT		RECORD OWNER	
JT Mutchner, Inc.		Mutchner, LLC	
<b>Site Plan</b>			
DRAWN BY	LMH	DATE	10/07/2019
CHECKED BY	MAV	PROJECT NUMBER	TM18-011
APPROVED BY	JCM	FILE NAME	TM18-011.DWG
SCALE	1"=20'	DRAWING NAME	Site Plan
DO NOT SCALE PRINT			SHEET C3.0

SHOWN AND SCALED (AND COPY) IS THE INSTRUMENT OF SERVICE. THIS DRAWING MAY NOT BE REPRODUCED WITHOUT THE WRITTEN PERMISSION OF MYERS ENGINEERING, INC.

ENTERED FOR TAXATION  
Subject to final acceptance for Transfer

2018012959 WD \$25.00  
12/06/2018 02:26:08P 1 PGS  
Stacey Joy  
VIGO County Recorder IN  
Recorded as Presented  


DEC 06 2018

  
VIGO COUNTY AUDITOR

## WARRANTY DEED


THIS INDENTURE WITNESSETH, THAT Thomas E. Thompson and Mary Alice Thompson, of Vigo County, State of Indiana, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, CONVEY and WARRANT unto Mutchner, LLC, a limited liability company organized and existing under the laws of the State of Indiana, the following described real estate located in the County of Vigo, State of Indiana, to-wit:

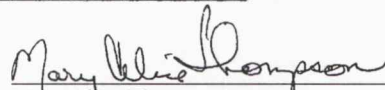
Lots Number Six (6) and Seven (7) in the Replat of Lots 2 and 4 North Plaza Park Subdivision, being a subdivision of a part of the South half of the Southwest Quarter of Section 2, Township 12 North, Range 9 West as shown by the recorded plat thereof dated March 13, 1995 and recorded July 24, 1995, in Plat Record 29, Page 58 of the Recorder's Office of Vigo County, Indiana.

Subject to easements, covenants, restrictions, leases and other matters of record affecting title to the subject real estate.

Subject to taxes prorated to the date hereof.

IN WITNESS WHEREOF the above referred to Thomas E. Thompson and Mary Alice Thompson have hereunto set their hands and seals, this 5<sup>th</sup> day of December, 2018.

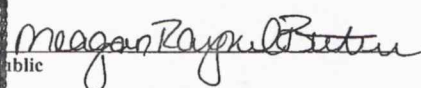
 (SEAL)  
Thomas E. Thompson

 (SEAL)  
Mary Alice Thompson

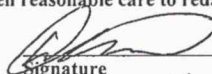
STATE OF Indiana, Vigo COUNTY, SS:

Before me, the undersigned, a Notary Public in and for said county and state, this 5<sup>th</sup> day of December, 2018, personally appeared Thomas E. Thompson and Mary Alice Thompson and acknowledged the execution of the annexed Deed to be their voluntary act and deed.

WITNESS my hand and Notarial Seal

My Commission Expires 3-19-2026  
My County of residence Vigo  
OFFICIAL SEAL  
MEAGAN RAYNEL BUTRUM  
Notary Public, State of Indiana  
Vigo County  
My Commission Expires  
March 19, 2026  
Commission No. 711609  
 (SEAL)  
Meagan Raynel Butrum  
Notary Public  
Meagan Raynel Butrum  
Typewritten or printed name of notary

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.

  
Signature  
Donald J Bonomo  
Printed Name

THIS INSTRUMENT WAS PREPARED BY: Donald J. Bonomo, Attorney, Cox, Zwerner, Gambill & Sullivan, LLP, 511 Wabash Avenue, Terre Haute, IN 47807, at the specific request of the parties or their authorized representatives based solely on information supplied by one or more of the parties to this conveyance and without examination of title or abstract. 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 the instrument.

GRANTEE ADDRESS: 5175 Riley Rd., Terre Haute, IN 47802.

MAIL TAX STATEMENTS TO: 5175 Riley Rd., Terre Haute, IN 47802.

STATE OF INDIANA       )  
                                      ) SS:  
COUNTY OF VIGO        )

**AFFIDAVIT**

Comes now, Jon Mutchner, Member of Mutchner LLC, being duly sworn upon his oath, deposes and says:

1. That Mutchner LLC 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:

Lots Number Six (6) and Seven (7) in the Replat of Lots 2 and 4 North Plaza Park Sub division, being a subdivision of a part of the South half of the Southwest quarter of Section 2, Township 12 North, Range 9 West as shown by the recorded plat thereof dated March 13, 1995 and recorded July 24, 1995, in Plat Record 29, Page 58 of the Recorder's Office of Vigo County, Indiana.

Commonly known as: 2400 Spring Clean Avenue, Terre Haute, Indiana 47804.

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 Mutchner LLC 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 Mutchner LLC.

4. Further, Affiant saith not.

Dated at Terre Haute, Indiana this 26<sup>th</sup> day of February, 2019.

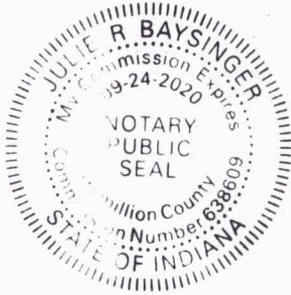
Mutchner LLC

By:   
Jon Mutchner, Manager



STATE OF INDIANA )  
 ) SS:  
COUNTY OF VIGO )

SUBSCRIBED AND SWORN TO before me, a Notary Public in and for said  
County and State, this 26<sup>th</sup> day of February, 2019.



Julie R. Baysinger  
Julie R. Baysinger, Notary Public

My Commission expires: 9-24-2020

My County of Residence: Vermillion

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.

Receipt

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

Date: 3/6/19

Name: Mitchner

Reason: Rezoning - notice of filing #25

Rezoning - Petition = \$20

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

Check: \$45<sup>00</sup> / CK # 069362

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

Total: \$45<sup>00</sup>

Received By: L. Ellis / JAB

CONTROLLER

MAR 06 2019

TERRE HAUTE, IN  
PAID

**Receipt**

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

Date: 3/6/19

Name: Mutchnier

Reason: Rezoning - notice of filing #25

Rezoning - Petition = #20

/45<sup>00</sup>

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

Check: \$45<sup>00</sup> / CK# 069362

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

Total: \$45<sup>00</sup>

Received By: L. Ellis / RAB

CONTROLLER

MAR 06 2019

TERRE HAUTE, IN  
PAID



# 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

FILED

APR 04 2019

CITY CLERK

DATE: April 4, 2019

## REPORT TO THE CITY COUNCIL ON ZONING MAP AMENDMENT

THE VIGO COUNTY AREA PLAN COMMISSION HEREBY GIVES CERTIFICATION TO  
SPECIAL ORDINANCE NUMBER 8-19,

CERTIFICATION DATE: April 3, 2019

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

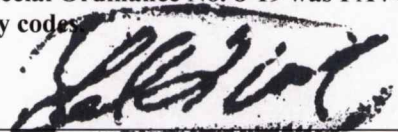
Dear Members,

The Vigo County Area Plan Commission offers you the following report and certification on Special Ordinance No. 8-19. This Ordinance is a rezoning of the property located at 2400 Spring Clean Ave. The Petitioner, Mutchner LLC petitions the Plan Commission to rezone said real estate from zoning classification C-3 to C-5, General Business District for Storage Units. 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. 8-19 at a public meeting and hearing held Wednesday, April 6, 2019. 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. 8-19 as required by IC 36-7-4-302. The Area Plan Commission of Vigo County now hereby attaches certification to Special Ordinance No. 8-19 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. 8-19 was FAVORABLE WITH THE FOLLOWING CONDITION: Approval of Site Plan meeting all City codes.



  
Fred L. Wilson, President

  
Jared Bayler, Executive Director

Received this 4th day of April, 4 2019



## APPLICATION INFORMATION

Petitioner: Mutchner LLC

Property Owner: Same as Above

Representative: Richard Shagley II

Proposed Use: Storage Units

Proposed Zoning: C-5 General Business District

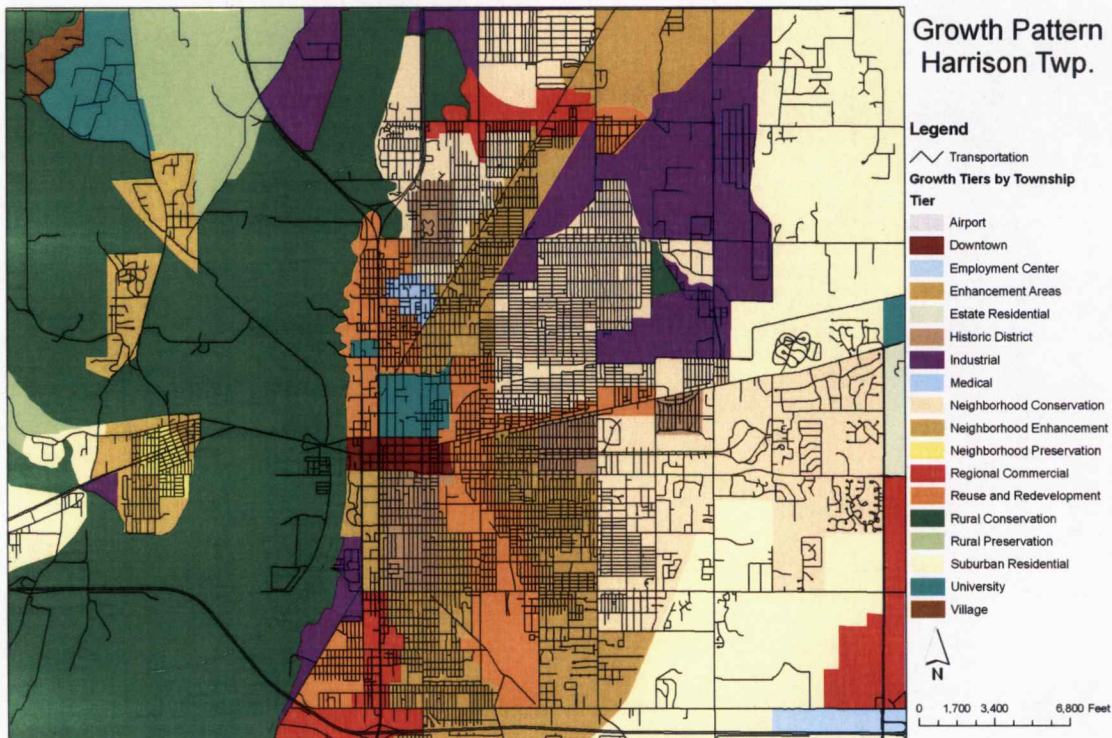
Current Zoning: C-3 Regional Commercial District

Location: The property is located on Spring Clean Ave,  
approximately 324 feet west of N. 25<sup>th</sup> Street.  
North Plaza Park Sub Lot 6 & 7

Common Address: 2400 Spring Clean Avenue, Terre Haute, IN 47804

## COMPREHENSIVE PLAN GUIDANCE

Service Area: The City of Terre Haute



Street Access: Spring Clean Avenue

Dev. Priority: High intensity

### 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.



## **ZONING COMPATIBILITY**

Sur. Zones and Uses:

**North** – C-5

**East** – R-1 & C-3

**South** – R-1

**West** – C-3

Character of Area: The petitioned property is located within a variety of mixed uses.

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## **ZONING REGULATIONS**

The General Central Business District is designed to accommodate, in addition to the uses permitted in the Restricted Central Business District, a wide variety of necessary services (and goods) as well as light manufacturing. It is the main warehousing and wholesaling area and shares the retail trade to a more limited degree with the C-4 District. It is characterized by high volumes of trucks and vehicles as well as pedestrian traffic.

Uses, Permitted - C-5 General Central Business District (CBD).

(1) Uses permitted in the C-5 Zone are subject to the following requirements: 10-128

(A) Dwelling Units and lodging rooms and motels are not permitted except as otherwise provided.

(B) All business, servicing, or processing, except for off-street parking and loading, shall be conducted within completely enclosed buildings, unless otherwise indicated hereinafter, and except for establishments of the "drive-in" type offering goods or services directly to customers waiting in parked motor vehicles.

(C) All activities involving the production, processing, cleaning, servicing, testing or repair of materials, goods, or products shall conform to the Performance Standards established for industrial districts in Sec. 10-143.

(2) Performance standards shall in every case be applied at the boundaries of the lot on which any such activities take place. The following uses are permitted in the C-5 Zone except as may be allowed for Planned Developments, uses designated with an asterisk in Terre Haute City Code (\*) shall not be located on the ground floor within fifty feet (50') of any street.

(A) Any use permitted in the C-4 Zone unless otherwise set forth or superseded hereinafter; however, restrictions on ground floor location for any use designated with an asterisk in Terre Haute City Code(\*) in the C-4 Zone shall not apply unless such use is designated hereinafter with an asterisk in Terre Haute City Code (\*).

(B) Motor vehicle sales, of vehicles not over 1½ ton capacity.

(C) Recording studios.

STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: SO #8-19

Doc: # 23

Date: April 2019

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(D) Television studios.

(E) Warehousing and wholesale establishments, and storage (other than accessory to a permitted retail use) where storage of merchandise is not limited to floor samples only.

(F) Mini warehouses.

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## **FINDINGS and RECOMMENDATION**

### **Staff Findings:**

Mini warehouses are a permitted use by right in the C-5 District in the City. Storage units or mini warehouses exist immediately to the north.

This area within the City of Terre Haute is recognized as a regional commercial district that prioritizes high intensity commercial developments.

Approval of a site plan must be given by City Engineering. The City may also request the two lots be combined into a single lot of use.

**Recommendation:** Favorable with the following condition;

1. All required development standards as outlined by City Engineering be met.