

APPLICATION FOR REZONING PETITION CITY OF TERRE HAUTE

**SPECIAL ORDINANCE NO. 31, 2020**

=====

**Common Address of lots to be rezoned: 3350 N. 4<sup>th</sup> St., 4000 N. 7<sup>th</sup> St. and 307 McCullough Avenue, Terre Haute, IN 47804**

**Rezone From: C-3 PD**

**Rezone To: C-3 PD**

**Proposed Use: Recreational, and accessory and related uses, event center and one single-family residence**

**Name of Owner: Vigo Hospitality Group, LLC**

**Address of Owner: 3350 N. 4<sup>th</sup> St., Terre Haute, IN, 47804**

**Phone Number of Owner: c/o (812) 232-6003 Louis F. Britton**

**Attorney Representing Owner: Louis F. Britton**

**Address of Attorney: Cox, Zwerner, Gambill & Sullivan, LLP, 511 Wabash Avenue, Terre Haute, Indiana 47807**

**Phone Number of Attorney: (812) 232-6003**

**for Information Contact: ☐ Owner ☒ Attorney**

**Council Sponsor: Neil Garrison**

FILED

OCT 7 2020

**SPECIAL ORDINANCE NO. 31, 2020**

**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 ORDAINED 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:

That the following described real estate situated in the City of Terre Haute, County of Vigo, State of Indiana, to-wit: See Exhibit A attached hereto.  
Commonly known as a part of 3350 N. 4<sup>th</sup> St., 4000 N. 7<sup>th</sup> St. and 307 McCullough Avenue,,  
Terre Haute, Indiana., be and the same is hereby established as a Planned Development as designated in Division III Section 10-110 et seq. of said Comprehensive Zoning Ordinance for Terre Haute and the same is hereby declared to be a C-3 Planned Development District authorizing the use of said real estate for one single-family residence, recreational purposes, including a golf course, pro shop, outdoor event space, related and accessory uses and such other uses as are permitted in a C-3 zoning classification except for use as a Regional Shopping Center.. Together with all rights, privileges, and provisions 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. It is further ordained that pursuant to Division X , section 10-207 (g) (1) (A) of the Comprehensive Zoning Ordinance for Terre Haute, and in order to comply with the spirit and meaning of Division 1, section 10-20, in order to further opportunities for economic and commercial development in the city of Terre Haute, one residential dwelling and its related and accessory uses shall be permitted within the C-3 Planned

Development. It is further ordained that pursuant to Division III Section 10-110 et seq. of said Comprehensive Zoning Ordinance petitioner is granted a variance from any setbacks or buffer areas which would otherwise be required for any existing improvements located within the C-3 Planned Development.

Petitioner has provided substantial evidence that the Planned Development will not adversely affect surrounding property values, public health and safety or the general public welfare and that a hardship exists justifying classification of the property as a Planned Development. Specifically, the Council finds that a hardship exists due to the proposed uses are not permitted under any other zoning classification and the nature of the site is unique in terms of size and character and is sufficiently screened to permit the proposed use and has been used for the recreational purposes provided for herein for a substantial period of time and that use of the existing restaurant/clubhouse facility as a residence will not have any adverse impact on the public health, safety or general public welfare.

The Council finds that the proposed uses, if approved, will be in the public's interest, will not adversely affect surrounding property values, will not adversely affect public health, safety and the general public welfare; that substantial justice will be done for that neighborhood and that approval of the designation of the property as a Planned Development does not nullify the purpose of the zoning regulations.

In the event the planned development has not materialized within six months of approval the planned development shall become void.

The rights granted herein shall be transferable.

This Ordinance shall be recorded in the Vigo County recorder's office within 90 days of its approval at the expense of petitioner.

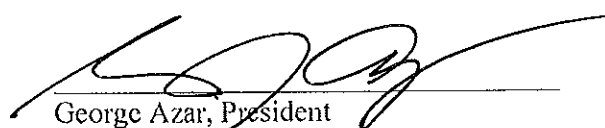
SECTION 2. WHEREAS, an emergency exists for the immediate taking effect of this Ordinance, the same shall be in full force and effect from and after its passage by the Common Council of Terre Haute, and approval by the Mayor and publication as required by law.

See attached page for signatures.

PRESENTED BY COUNCILPERSON

  
Neil Garrison

Passed in open Council this 5TH day of NOVEMBER, 2020

  
George Azar, President

ATTEST: Michelle Edwards, City Clerk  
Charles Hanley

Presented by me to the Mayor this 6TH day of NOVEMBER, 2020

Michelle Edwards  
~~Charles Hanley~~, City Clerk  
MICHELLE EDWARDS

Approved by me, the Mayor, this 6TH day of NOVEMBER, 2020

  
Duke Bennett, Mayor  
City of Terre Haute

ATTEST: Michelle Edwards  
Charles Hanley, City Clerk

I prepared the foregoing instrument and 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.

  
Louis F. Britton

COX, ZWERNER, GAMBILL & SULLIVAN, LLP  
511 Wabash Avenue, Terre Haute, IN 47807  
Phone: (812) 232-6003

## **Exhibit A to Special Ordinance 31, 2020**

Beginning at the stone marking the Southeast Corner of the Northeast Quarter of Section 4, Township 12 North, Range 9 West 2<sup>nd</sup> Principal Meridian, Harrison Civil Township, Vigo County, Indiana ; thence North 89°-48'-49" West along the south boundary line of the said Northeast Quarter 690.00 feet to a set iron pin; thence North 08°-48'-55" West 39.15 feet to a set iron pin; thence North 27°-06'-00" East 35.45 feet to a set iron pin; thence North 72°-00'-47" East passing a set iron pin at 310.71 feet a distance of 330.71 feet to a point on the east boundary line of the said Northeast Quarter; thence South 00°-00'-00" East along the said east boundary line 181.49 feet to the place of beginning. Containing 1.316 acres.

**Also:**

The South Half of East Fractional Section Four (4) Township Twelve (12) North, Range Nine (9) West, excepting, commencing at the Southeast corner of said East Fractional Section Four (4), running thence West 24.97 chains to the right of way of the Wabash and Erie Canal, thence North 12 Degrees East along said right of way 9.46 chains, thence East to the East line of said Section 4, thence South along the said East line to the place of beginning.

**Also:**

A strip of land for a roadway 15 feet wide off the South side of the North½ of East Fractional Section 4, Township 12 North, Range 9 West, extended from the West line of said Wabash and Erie Canal to the Seventh Street Road.

**Also:**

Lots 65 , 66 , 67, 68 , 69 , 70, 71, 72 , 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 89, 90, 91, 92, 95, 96, 97, 98, 113, 114 and 115 all being in Whitcomb and McColloch's Fort Harrison Subdivision.

**Also:**

All that part of the West half of the Southwest quarter of Section Three (3), Township Twelve (12) North, Range Nine (9) West, which lies West of the West line of the present right of way of United States Highway 41.

**Also:**

Beginning at the Southwest corner of the Northwest fractional quarter of Section Three (3), Township Twelve (12) North, Range Nine (9) West, thence East 20 feet; thence North 60 feet; thence West 20 feet to the West line of said Section 3; thence South along said West line to the point of beginning.

## **PETITION FOR REZONING**

TO THE PRESIDENT AND MEMBERS  
OF THE COMMON COUNCIL OF  
THE CITY OF TERRE HAUTE,  
VIGO COUNTY, INDIANA

Gentlemen:

**Vigo Hospitality Group, LLC**, petitioner, is proposing to zone the following described real estate located in Vigo County, Indiana, as C-3 Planned Development authorizing use for one single-family residence, recreational use including a golf course, pro shop, outdoor event center and accessory and related uses and such other uses as are permitted in a C-3 zoning classification except for use as a Regional Shopping Center: See Exhibit A attached hereto and made a part hereof.

Said real estate is commonly known as part of 3350 N. 4<sup>th</sup> St., 4000 N. 7<sup>th</sup> St. and 307 McCullough Avenue, Terre Haute, Indiana.

In support of this petition, petitioner would show the Common Council as follows:  
Petitioner intends to convert the existing restaurant and clubhouse building to use as a single-family residence. The remainder of the property which is currently zoned C-3 Planned Development would continue to be used for recreational purposes including a golf course, pro shop, , an event center, accessory and related uses and other uses permitted in a C-3 zoning classification except for Regional Shopping Centers.

A hardship exists because there is no existing zoning classification which would include this particular use. The unique character and nature of the site make it well adapted to this use

and provides screening and separation from any competing use. The use of the nonresidential portion of the property will not be changed from its zoning classification.

Petitioner also requests that the Commission approve a residential use in a C-3 district in accord with Chapter 10, section 10-207 (g) (1) (A) and approve a variance from any setbacks or buffer yards with respect to existing improvements to authorize the continued use of any existing improvements without compliance with setbacks or buffer yards as they relate to those improvements.

**Vigo Hospitality Group, LLC**

By: Vum V

VUPPALA REDDY-OWNER  
printed name and title

This instrument prepared by Louis F. Britton, COX, ZWERNER, GAMBILL & SULLIVAN, LLP, 511 Wabash Avenue, Terre Haute, IN 47807; (812) 232-6003



## **Exhibit A to Special Ordinance 31, 2020**

Beginning at the stone marking the Southeast Corner of the Northeast Quarter of Section 4, Township 12 North, Range 9 West 2<sup>nd</sup> Principal Meridian, Harrison Civil Township, Vigo County, Indiana ; thence North 89°-48'-49" West along the south boundary line of the said Northeast Quarter 690.00 feet to a set iron pin; thence North 08°-48'-55" West 39.15 feet to a set iron pin; thence North 27°-06'-00" East 35.45 feet to a set iron pin; thence North 72°-00'-47" East passing a set iron pin at 310.71 feet a distance of 330.71 feet to a point on the east boundary line of the said Northeast Quarter; thence South 00°-00'-00" East along the said east boundary line 181.49 feet to the place of beginning. Containing 1.316 acres.

**Also:**

The South Half of East Fractional Section Four (4) Township Twelve (12) North, Range Nine (9) West, excepting, commencing at the Southeast corner of said East Fractional Section Four (4), running thence West 24.97 chains to the right of way of the Wabash and Erie Canal, thence North 12 Degrees East along said right of way 9.46 chains, thence East to the East line of said Section 4, thence South along the said East line to the place of beginning.

**Also:**

A strip of land for a roadway 15 feet wide off the South side of the North½ of East Fractional Section 4, Township 12 North, Range 9 West, extended from the West line of said Wabash and Erie Canal to the Seventh Street Road.

**Also:**

Lots 65 , 66 , 67, 68 , 69 , 70, 71, 72 , 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 89, 90, 91, 92, 95, 96, 97, 98, 113, 114 and 115 all being in Whitcomb and McColloch's Fort Harrison Subdivision.

**Also:**

All that part of the West half of the Southwest quarter of Section Three (3), Township Twelve (12) North, Range Nine (9) West, which lies West of the West line of the present right of way of United States Highway 41.

**Also:**

Beginning at the Southwest corner of the Northwest fractional quarter of Section Three (3), Township Twelve (12) North, Range Nine (9) West, thence East 20 feet; thence North 60 feet; thence West 20 feet to the West line of said Section 3; thence South along said West line to the point of beginning.



## AFFIDAVIT

COME NOW affiant, Vigo Hospitality Group, LLC, by its duly authorized agent and affirm under penalty of law that it is the owner of record of the property described in the attached Deed, for which a rezoning is requested and attached hereto is a deed evidencing such ownership.

I affirm, under penalties for perjury, that the foregoing representations are true.

Vigo Hospitality Group, LLC

By Vuppala Reddy  
Signature

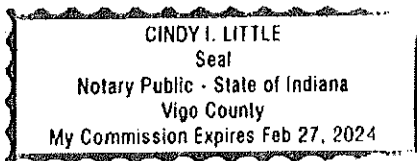
VUPPALA REDDY OWNER  
Printed name and title

STATE OF INDIANA     )  
                                  ) SS:  
COUNTY OF VIGO     )

Personally appeared before me, a Notary Public in and for said County and State, \_\_\_\_\_

Vuppala Reddy, who acknowledge the execution of the above and foregoing Affidavit, after being duly sworn upon their oath and after having read this Affidavit.

WITNESS my hand and Notarial Seal, this 4th day of October, 2020.



Cindy I Little  
Notary Public  
Cindy I Little  
(Printed Name)

My Commission Expires:

2/27/24

My County of Residence:

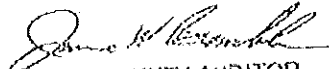
Vigo

This instrument prepared by Louis F. Britton, COX, ZWERNER, GAMBILL & SULLIVAN, LLP, 511 Wabash Avenue, Terre Haute, IN 47807; (812) 232-6003.

DULY ENTERED FOR TAXATION  
Subject to final acceptance for transfer

2008008032 TT \$24.0  
06/05/2008 03:29:16P 5 PGS  
RAYMOND L. WATTS  
VIGO County Recorder IN  
Recorded as Presented

JUN 05 2008

  
VIGO COUNTY AUDITOR

TRUSTEES' DEED

THIS INDENTURE WITNESSETH that the Terre Haute Lodge No. 86, Benevolent Protective Order of Elks, ("Grantor"), of Vigo County, in the State of Indiana, CONVEYS to Vigo Hospitality Group, LLC, an Indiana limited liability company, ("Grantee"), for the sum of One Dollar (\$1.00) and other valuable consideration, the receipt of which is hereby acknowledged, the following described Real Estate in Vigo County in the State of Indiana, to-wit:

The North Half (1/2) of the East Fractional Section 4, Township 12 North, Range 9 West.

Except 4.0 acres out of the Northeast corner described as follows: Commencing at the Northeast corner of said Section 4, thence South along the East line of said Section, 548.7 feet; thence West and parallel to the North line of said Section, 373.4 feet; thence Northeasterly to a point on said North line 262.4 feet West of said Northeast corner; thence East along said North line, 262.4 feet to the place of beginning.

ALSO except a strip of land for roadway 15 feet wide off the South side of that part of said North Half of said East Fractional Section which lies East of the West line of the Wabash and Erie Canal.

ALSO except the coal and minerals underlying the surface of the above described real estate and the rights pertaining thereto as conveyed to Harry V. Sherburne and shown by deed recorded in Deed Record 144, Page 270, records of the Recorder's Office of Vigo County, Indiana.

ALSO except that part thereof as appropriated by the State of Indiana by Decree in Cause Number 46767 in Vigo Superior Court as shown in Order Book of said Court Number 124, Page 458.

HENDRICH ABST  
498 OHIO  
TERRE HAUTE IN 47807

2

ALSO

The South Half of East Fractional Section Four (4) Township Twelve (12) North, Range Nine (9) West, excepting, commencing at the Southeast corner of said East Fractional Section Four (4), running thence West 24.97 chains to the right of way of the Wabash and Erie Canal, thence North 12 Degrees East along said right of way 9.46 chains, thence East to the East line of said Section 4, thence South along the said East line of said Wabash and Erie Canal to the Seventh Street Road.

ALSO

A strip of land for a roadway 15 feet wide off the South side of the North  $\frac{1}{4}$  of East Fractional Section 4, Township 12 North, Range 9 West, extended from the West line of said Wabash and Erie Canal to the Seventh Street Road.

ALSO

Lots 49, 50, 51, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 89, 90, 91, 92, 95, 96, 97, 98, 113, 114 and 115 all being in Whitcomb and McColloch's Fort Harrison Subdivision.

ALSO

All that part of the West half of the Southwest quarter of Section Three (3), Township Twelve (12) North, Range Nine (9) West, which lies West of the West line of the present right of way of United States Highway 41.

ALSO

Beginning at a point on the West Section line of Section Three (3), Township Twelve (12) North, Range Nine (9) West 385 feet South of the Northwest corner of the Northwest Quarter ( $\frac{1}{4}$ ) of Section Three (3), Township Twelve (12) North, Range Nine (9) West; Thence South 264 feet; Thence East 20 feet; Thence North to a point 20 feet East of the point of beginning; Thence West 20 feet to the point of beginning, containing 0.121 acres more or less.

3  
ALSO

Twenty feet of even width off the West side of the following described real estate:

Commencing eighty (80) rods East and thirty-nine and one-third (39-1/3) rods South of the Northwest corner of the Northwest Quarter (1/4) of Section Three (3), Township Twelve (12) North, Range Nine (9) West; thence South Forty-nine (49) rods; thence West to the North bank of Lost Creek; thence Northwestwardly along said North bank of Lost Creek to the West Section line of said Section; thence North to a point thirty-nine and one-third (39-1/3) rods South of the Northwest corner of said Quarter (1/4) Section; thence East Eighty (80) rods to the place of beginning, except that part thereof conveyed to Southern Indiana Railroad Company by Deed recorded at Deed Record 113, Page 278, containing 0.248 acres, more or less.

ALSO

Beginning at the Southwest corner of the Northwest fractional quarter of Section Three (3), Township Twelve (12) North, Range Nine (9) West, thence East 20 feet; thence North 60 feet; thence West 20 feet to the West line of said Section 3; thence South along said West line to the point of beginning.

Trustees hereby warrant that they have been duly appointed as Trustees for the Terre Haute Lodge No. 86, Benevolent Protective Order of Elks, and all actions necessary to grant them authority to execute said conveyance has been taken and done.

Subject to real estate taxes prorated to the date of closing which Grantee assumes and agrees to pay.

IN WITNESS WHEREOF, Grantor has executed this deed this  
5 day of June, 2008.

TERRE HAUTE LODGE NO. 86,  
BENEVOLENT PROTECTIVE  
ORDER OF ELKS

By: Marvin Buck  
Marvin Buck, State Trustee

BY: Arthur Jensen  
Arthur Jensen State Trustee

Before me, a Notary Public, in and for said County and State, personally appeared Marvin Buck, Jerry Abram and Arthur Jensen, State Trustees of the Terre Haute Lodge No. 86, Benevolent Protective Order of Elks, who acknowledged the execution of the foregoing Trustees' Deed, and who, having been duly sworn, stated that any representations therein contained are true.

Printed: Thomas A. Oldham  
Notary Public, residing in  
Vigo County, Indiana

I affirm, under the penalties of perjury,  
that I have taken reasonable care to redact  
each Social Security number in this document,  
unless required by law.

Rhonda Oldham

5

Grantee's Address: 1332 N. 7<sup>th</sup> Street Terre Haute, IN 47807

Mail tax statements to: 1332 N. 7<sup>th</sup> Street Terre Haute, IN 47807

This instrument prepared by Rhonda Oldham, Attorney at Law, The  
Tudor House, 191 Harding Avenue, P.O. Box 410, Terre Haute,  
Indiana 47808-0410.



ORDER OF THE VIGO COUNTY AREA PLAN COMMISSION DETERMINING THAT A  
RESOLUTION APPROVING THE ESTABLISHMENT OF A DWELLING UNIT IN AC-3  
PLANNED DEVELOPMENT CONFORMS TO THE COMPREHENSIVE PLAN AND  
APPROVING THAT RESOLUTION

WHEREAS, Vigo Hospitality Group has requested a rezoning of certain property commonly known as **3350 N. 4<sup>th</sup> St., 4000 N. 7<sup>th</sup> St. and 307 McCullough Avenue, Terre Haute, IN 47804** to a C-3 planned Development District including as a permitted use one single-family residence; and

WHEREAS, the Commission has considered said petition and the Commission finds that permitting such residential use within the proposed C-3 Planned Development District complies with the spirit and meaning of Division I section 10-20 of the Zoning Ordinance;

Now, therefore, pursuant to Chapter 10, section 10-207 (g) (1) (A) the Vigo County Area Plan Commission now therefore orders that the proposed C-3 Planned Development District as proposed by Vigo Hospitality Group conforms to the Comprehensive Plan for the City of Terre Haute and one single-family residence shall be included as a permitted use in the said Planned Development District.

Approved by the Vigo County Area Plan Commission this \_\_\_\_\_ day of \_\_\_\_\_ ,  
2020.

\_\_\_\_\_  
Fred Wilson, President, Vigo County  
Area Plan Commission

Attest: \_\_\_\_\_

\_\_\_\_\_  
printed name and title



**TERRE HAUTE**  
ATTITUDE 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: November 5, 2020**

## REPORT TO THE CITY COUNCIL ON ZONING MAP AMENDMENT

**THE VIGO COUNTY AREA PLAN COMMISSION HEREBY GIVES CERTIFICATION TO  
SPECIAL ORDINANCE NUMBER 31-20**

**CERTIFICATION DATE: November 4, 2020**

**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. 31-20. This Ordinance is a rezoning of the property located at 3350 North 4<sup>th</sup>, 4000 North 7<sup>th</sup>, 307 McCullough. The Petitioner, Vigo Hospitality Group LLC, petitions the Plan Commission to rezone said real estate from zoning classification C-3PD to C-3PD, Regional Commercial Planned Development.

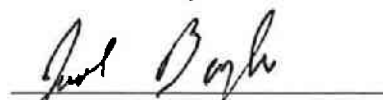
The Ordinance was published in the Tribune-Star Newspaper in accordance with IC 5-3-1 and Division XIII of the Comprehensive Zoning Ordinance. Further, this ordinance was posted by the City Building Inspection Department in accordance with IC 36-7-4-604(c).

The Area Plan Commission considered Special Ordinance No. 31-20 at a public meeting and hearing held Wednesday, November 4, 2020. 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. 31-20 as required by IC 36-7-4-302. The Area Plan Commission of Vigo County now hereby attaches certification to Special Ordinance No. 31-20 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. 31-20 was FAVORABLE WITH THE FOLLOWING CONDITIONS: 1) Must be recorded in 90 days 2) A continued hardship must be demonstrated 3) Hard surfacing of the existing public use areas not already hard surfaced, contractual evidence of compliance or relief from the BZA.



  
Fred L. Wilson, President

  
Jared Bayler, Executive Director

**Received this 5th day of November, 2020**

## STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: SO #31-20  
Date: November 2020

Doc: # 54  
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### APPLICATION INFORMATION

Owner: Vigo Hospitality Group, LLC.

Proposed Use: Recreational and accessory and related uses, event center and one single- family residence

Proposed Zoning: C -3PD, Regional Commerce District Planned Development

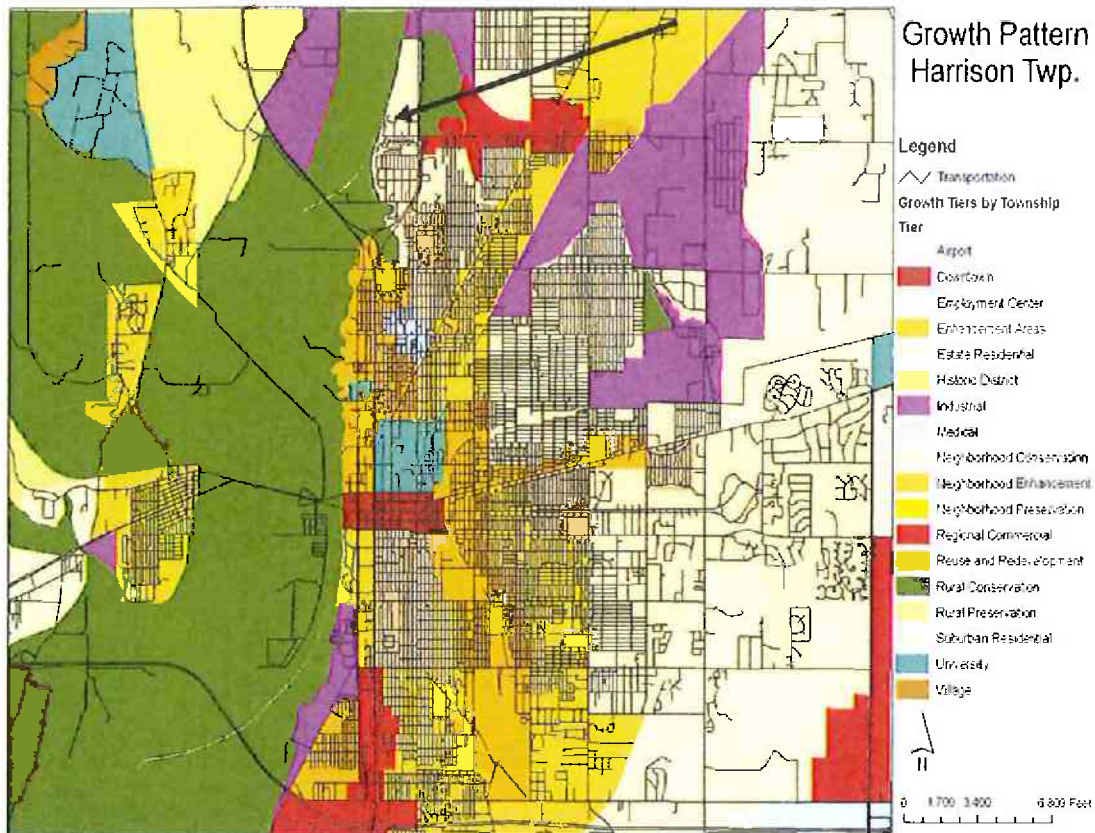
Current Zoning: C-3PD, Regional Commerce District Planned Development

Location: The property consist of 59.40 acres plus several lots. Lots 65-92, 95-98,113-115

Common Address: 3350 N 4<sup>th</sup> St, 4000 N. 7<sup>th</sup> St., 307 McCullough Avenue

### COMPREHENSIVE PLAN GUIDANCE

Service Area: The City of Terre Haute



### **Neighborhood Conservation and Rural Preservation**

These areas encompass neighborhoods with established and stable residential environments. The vast majority of these areas are fully developed (or expected to be in a relatively short timeframe). Fundamental directives urged for these areas encourage the maintenance of the residential desirability and stability. Where new infill development is proposed, it should be entirely consistent and compatible with pre-existing developments. However, special public attention may, in some cases, be required to assure that drainage, sidewalk improvements, and linkages to pedestrian and bicycle trails are made. Many of these neighborhoods may be excellent candidates for special assessment districts for neighborhood improvements and amenities.

In addition, these areas encompass existing retail activity nodes located throughout the community. In general, these commercial areas have evolved in an unplanned, largely uncoordinated manner along frontage of primary arterials. Within these commercial bands, a great variety of activities exist which target different markets. Some activities are oriented toward “drive-by” markets, fast food restaurants, convenience stores, gasoline stations, drive-in banking facilities, for example. Other activities are special-purpose, oriented to single trips rather than comparative multi-purpose shopping. These single purpose stores serve a market larger than a single neighborhood. Sales and service of automobiles, trucks, boats, recreational vehicles and related activities are special purpose region-serving activities. They require large site with good visibility. Finally, commercial areas include a range of neighborhood level retail activities including grocery stores, pharmacies, personal services such as hair styling, and other frequently purchased goods and services.

Additional policies for Neighborhood Conservation areas should include:

- Allow for a range of housing densities based on the zoning ordinance.
- Allow for a mix of uses, focusing on neighborhood and community serving commercial nodes.
- Encourage neighborhoods to develop a unique sense of place, but still be part of the larger city.
- Reuse of commercial oriented structure should be limited to retail activities that contribute to the diversity and variety of retail uses in a commercial node.
- With respect to existing commercial “strips” – i.e. narrow bands of commercial uses occupying major roadway frontage, the limitation of additional or new commercial uses is strongly advised.
- Geographic expansion of this commercial “strips” should be limited to the provision of additional space to ensure the compatibility with adjacent uses, not an intensification of use.
- Improved landscaping, improved pedestrian amenities, and increased attention to lighting, signage, and impacts upon nearby residential areas is advised in the review of development petitions.

### **Rural Preservation**

This category is intended to preserve and enhance the rural lifestyle in Vigo County. This category shares many of the aspects of property identified as a rural protection area with the exception of already being the recipient of public investment in the nature of the provision of centralized water or sanitary sewer.

Additional policies for Rural Preservation Areas should include:

- New development must be served by either centralized water or sanitary sewer;

## STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: SO #31-20

Doc: # 54

Date: November 2020

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- Expansion of centralized water and sanitary sewer only to alleviate a public health issue; and,
- Primary uses of grain production, livestock production, forest production, woodland preservation/set asides, and caretaker residential.

Available Services: Area is well served by utilities.

Dev. Priority: Neighborhood Commercial

## ZONING COMPATIBILITY

Sur. Zones and Uses: **North** – C-3PD

**East** – R-1

**South** – R-1, R-3

**West** – R-1PD, R-1

Character of Area: The petitioned property is located in a range of residential land uses.

Contig. Uses & Zones: The area is a mix of residential zoning categories.

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## 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 60 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. Off-street parking areas for more than ten (10) vehicles, and off-street

loading areas shall be effectively screened on each side, which adjoins or faces residential or institutional premises situated in any R-District. All parking lots shall be illuminated. Such lighting shall be composed of light posts, which are compatible with architecture of the building and are wired internally and underground. All commercial and public lots shall have an average intensity of not more than one (1) to four (4) during the period of uses.

Illumination of an off-street parking area shall be arranged so as to reflect direct rays of light away from adjacent residential districts and streets. In no case shall such lighting cause more than three (3) foot candles of light to fall on adjacent properties as measured horizontally at the lot line.

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## **Planned Developments**

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

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

- (1) Hardship due to the physical characteristics of the land.  
Example - Peculiarities of the sizes, shape, or grade of the parcel in question.
- (2) Hardship due to the improvements on the land.  
Example - Commercial structure in a residential neighborhood that is not suitable for residential use.
- (3) Hardship due to adjacent, scattered incompatible uses.  
Example - Scattered commercial uses in a residential neighborhood.
- (4) Hardship due to the general deterioration of the neighborhood.  
Example - Neighborhoods that are blighted as determined by the Department of Redevelopment.
- (5) Parcel located near district boundary lines.  
Example - Parcel located on a major thoroughfare is presently zoned residential while other parcels in the area are zoned commercial.

When it is determined by the Area Plan Commission and the City Council that a hardship does exist, a Planned Development of certain uses may be approved for any zoned lot. However, it must be determined that said proposed uses, if approved, will be in the public's interest and that substantial justice will be done for that neighborhood. Approval of said proposed uses shall not have the intent of nullifying the purpose of the zoning regulations.

## **FINDINGS and RECOMMENDATION**

### **Staff Findings:**

In 2008 sufficient evidence was found to support the existence of a planned development at this location. The petitioner can demonstrate a continued hardship due to proposed uses not permitted under any other zoning classification. The property was rezoned in 2008, Docket #22, SO #04-08 from an R-1, Single Family District, to a C-3PD. The proposed use was for recreational, health, medical, accessory and related uses. The petitioner is seeking to rezone to C-3PD in order to add the use for one single-family residence. The remaining uses include, recreational purposes, a golf course, pro shop, outdoor event space, related and accessory uses and such other uses permitted in a C-3 zoning classification except for use as a Regional Shopping Center.

The PD requests a variance in relief of the setbacks and buffering requirement for a C-3 in the City of Terre Haute. Of note however, is the variance applies to only existing buildings. No new construction would be afforded the same relief. This means that due to lot restrictions and setback requirements almost no new commercial development would be permitted south of the platted right of way for McCullough Ave. Additionally, since only one residence is permitted in the ordinance, no additional residential uses would be permitted in these same areas. These restrictions functionally render these same properties virtually unbuildable until which point they are rezoned once again.

Portions of the property are used for public use and are not hard surfaced e.g. Parking lot "A." Hard surfacing will be required or relief from the City B.Z.A must be obtained.

Portions of the property lie in the AE flood zone and AE floodway. The property should be regulated as such unless Elevation Certificates or Letters of Map Amendment are submitted showing otherwise. Any property touching the AE floodway is regulated by the State of Indiana. Hence, any permits for construction or remodeling at this location will require state approval.

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Recommendation: Staff offers a Favorable Recommendation with the following conditions.

1. Must be recorded in 90 days
2. A continued hardship must be demonstrated
3. Hard surfacing of the existing public use areas not already hard surfaced, contractual evidence of compliance or relief from the B.Z.A.