

APPLICATION FOR REZONING PETITION CITY OF TERRE HAUTE

SPECIAL ORDINANCE NO. 11, 2020

Common Address of lots to be rezoned: **4701 Margaret Ave., Terre Haute, IN**

Rezone From: **0-1 Open Space District**

Rezone To: **C-2, Community Commerce District**

Proposed Use: **Offices-autism clinical services**

Name of Owner: **Gerald Wayne Collins Enterprises, LLC**

Address of Owner: **1208 S 3RD ST STE B TERRE HAUTE, IN 47802**

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: O. Earl Elliott

Cox Zwerner Gambill and Sullivan,
attorneys for Owner

By: 

Traci Orman

FILED

AUG 4 2020

CITY CLERK

SPECIAL ORDINANCE NO. 11, 2020

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.

Commonly known as 4701 Margaret Ave., Terre Haute, IN, be and the same are hereby established as C-2, Community Commerce District as designated in Division 10 Section 207 of said Comprehensive Zoning Ordinance for Terre Haute and the same is hereby declared to be a C-2, Community Commerce District authorizing the use of said real estate for the operation of offices for treatment of autistic persons as well as the other uses permitted by such designation, 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.

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.

PRESENTED BY COUNCILPERSON Earl Elliott
Earl Elliott

Passed in open Council this 3RD day of SEPTEMBER, 2020.

George Azar
George Azar, President

ATTEST: Michelle Edwards, City Clerk
Michelle Edwards

Presented by me to the Mayor this 4TH day of SEPTEMBER, 2020.

Michelle Edwards
Michelle Edwards, City Clerk

Approved by me, the Mayor, this 4TH day of SEPTEMBER, 2020.



Duke Bennett, Mayor
City of Terre Haute

ATTEST: Michelle L Edwards
Michelle Edwards, City Clerk

I have 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.

/s/ Louis F Britton

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

Exhibit A to Special Ordinance 11-2020

Beginning at the point 327.09 feet West of a stone, the Northeast Corner of the Northwest Quarter of Section 6, Township 11 North, Range 8 West, 2nd Principal Meridian, Riley Civil Township, Vigo County, Indiana; thence South and parallel to the East line of the aforesaid Northwest quarter a distance of 997.83 feet to the North right-of-way line of U.S. Highway I-70; thence with an angle to the right of 89° 51' 00.8" along the said North right-of-way line a distance of 332.03 feet; thence with an angle to the right of 90° 11' 54.3" a distance of 995.67 feet to the North line of the said Northwest Quarter; thence with an angle to the right of 89° 25' 39.7" along the said North line of the Northwest Quarter a distance of 331.20 feet to the place of beginning, containing 7.588 acres.

Except that part sold to R.K.R. Partners as described below:

Lot 1 in Whiteco Metrocom Subdivision, being a subdivision of a part of the Northwest Quarter of Section 6, Township 11 North, Range 8 West, as shown by the recorded plat thereof, recorded in Plat Record 27, page 33, records of the Recorder's Office of Vigo County, Indiana.

Also Except that part conveyed to the City of Terre Haute, for the use and benefit of the Board of Public Works as shown in Warranty Deed dated August 4, 2001 and recorded August 15, 2011 as Instrument No. 2011010808, records of the Recorder's Office of Vigo County, Indiana.

Subject to any easements, agreements, streets, alleys, restrictions, covenants, building lines, and rights of way of public record including but not limited to:

a) Subject to Grant of Permanent and Temporary Easement unto the City of Terre Haute, Indiana for the use and benefit of the Sanitary District of the City of Terre Haute, Indiana recorded September 18, 2001 as Instrument No. 200119296.

b) Subject to Temporary Easement Grant unto the City of Terre Haute, Indiana for the use and benefit of the Board of Public Works recorded August 15, 2011 as Instrument No. 2011010809.

c) Subject to rights under Easement granted to Kentucky Natural Gas Company as shown by agreement recorded in Miscellaneous Record 62 page 53.

d) Subject to Easement for gas storage granted Terre Haute Gas Corporation in Deed Record 326, page 218.

e) Subject to an Easement for a billboard over, under and across the land of Chancellor Media Whiteco Outdoor Corporation (Deed Record 444, page 504) less the land described in Instrument No. 2011010803 conveyed for right of way purposes, being in the Northwest Quarter of Section 6, Township 11 North, Range 8 West of the Second Principal Meridian, Riley Township, City of Terre Haute, Vigo County, Indiana described on October 18, 2019 and revised October 24, 2019 and revised again October 30, 2019 by Earl Spires, Jr., Indiana Land Surveyor No. 29900015 and graphically shown on a Plat of Survey (Myers Engineering, Inc. Project NO. TM19-265, and shown on Easement recorded January 9, 2020 as Instrument No. 20200000283 as follows:

Commencing at a 5/8 inch rebar with plastic cap stamped "SPIRES IN LS 29900015: at the Southwest Corner of the land conveyed for right of way (Instrument No. 2011010808); thence South 89 degrees 53 minutes 24 seconds East along the South line of said right of way (basis of bearings is the Indiana State Plane Coordinate System West Zone, Grid North) a distance of 53.79 feet to the point of Beginning of this description; thence continue the previous course a distance of 20.00 feet; thence South 00 degrees 06 minutes 36 seconds East perpendicular to the previous course a distance of 40.00 feet; thence North 89 degrees 53 minutes 24 seconds West perpendicular to the previous course a distance of 20.00 feet; thence North 00 degrees 06 minutes 36 seconds West perpendicular to the previous course a distance of 40.00 feet to the Point of Beginning containing 800 square feet, more or less.

f) Subject to an Easement for a billboard over, under and across the South 50.00 feet of even width of the land of Chancellor Media Whiteco Outdoor Corporation (Deed Record 444, page 504) less the land described in Instrument No. 2011010803 conveyed for right of way purposes, being in the Northwest Quarter of Section 6, Township 11 North, Range 8 West of the Second Principal Meridian, Riley Township, City of Terre Haute, Vigo County, Indiana described on October 18, 2019 and revised October 24, 2019 and revised again October 30, 2019 by Earl D. Spires, Jr., Indiana Land Surveyor 29900015 and graphically shown on a Plat of Survey (Myers Engineering, Inc. Project No. TM19-265, and shown on Easement recorded January 9, 2020 as Instrument No. 20200200283 containing 0.20 acres (8,516 sq ft), more or less.

PETITION FOR REZONING OF REAL ESTATE

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

Gentlemen:

Gerald Wayne Collins Enterprises, LLC, ("Petitioner") is the owners of the following described real estate located in Vigo County, Indiana, to-wit:

See Attached

which real estate is commonly known as: **4701 Margaret Ave., Terre Haute, IN**

Petitioner is informed and believe that according to Chapter 10, Article 2, Division IV, Zoned Districts, Section 10.121 of the District Maps, "Comprehensive Zoning Ordinance for Terre Haute," and amendments thereto, the above described real estate is zoned O-1, Open Space District of the City of Terre Haute, Indiana. Petitioner proposes to lease the subject property to Unlocking the Spectrum to provide clinical services to autistic persons and is further informed and believes that the operation of the proposed businesses would require said real estate to be rezoned to the classification as C-2, Community Commerce District, under which classification Section 10.207(g), "Uses Permitted in C-2 Zone" would authorize such business operations.

Petitioner submits that this petition for a rezoning should be granted for the following reasons:

- A. That the proposed business would be beneficial to the local community;
- B. That said real estate is located near an area which is zoned/used for commerce and manufacturing and the proposed use would not adversely affect the surrounding uses;
- C. That said real estate is located on Margaret Avenue which provide provides access to businesses and patients in the immediate area as well as in other parts of town;
- D. That the use of said real estate as proposed will not significantly increase traffic or parking in the area, said real estate lends itself well to the proposed use; the proposed use does not alter the essential character of the locality and is not detrimental to public welfare or injurious to the property or improvements in the neighborhood.
- E. Said rezoning will not increase the danger of fire or endanger the public safety or substantially diminish or impair property values within the general area;

A copy of the survey of the property and a parking plan are attached.

WHEREFORE, petitioner respectfully requests the Common Council to favorably consider the passage of a Special Ordinance amending the Comprehensive Zoning Ordinance for Terre Haute, and declare the above-described real estate to be a part of "C-2 Community Commerce District" of the City of Terre Haute, Indiana, being entitled to the rights and benefits that may inure to said real estate and the owners thereof by virtue of said description and the laws in such cases provided, subject to all limitations imposed by deed or otherwise.

IN WITNESS WHEREOF, the Petitioner has duly executed this instrument this

24th day of July, 2020.

Gerald Wayne Collins Enterprises, LLC

By: Gerald Wayne Collins, Manager
(Signature)

GERALD WAYNE COLLINS
(Printed Name and Title)

Exhibit A to Petition for Rezoning

Beginning at the point 327.09 feet West of a stone, the Northeast Corner of the Northwest Quarter of Section 6, Township 11 North, Range 8 West, 2nd Principal Meridian, Riley Civil Township, Vigo County, Indiana; thence South and parallel to the East line of the aforesaid Northwest quarter a distance of 997.83 feet to the North right-of-way line of U.S. Highway I-70; thence with an angle to the right of 89° 51' 00.8" along the said North right-of-way line a distance of 332.03 feet; thence with an angle to the right of 90° 11' 54.3" a distance of 995.67 feet to the North line of the said Northwest Quarter; thence with an angle to the right of 89° 25' 39.7" along the said North line of the Northwest Quarter a distance of 331.20 feet to the place of beginning, containing 7.588 acres.

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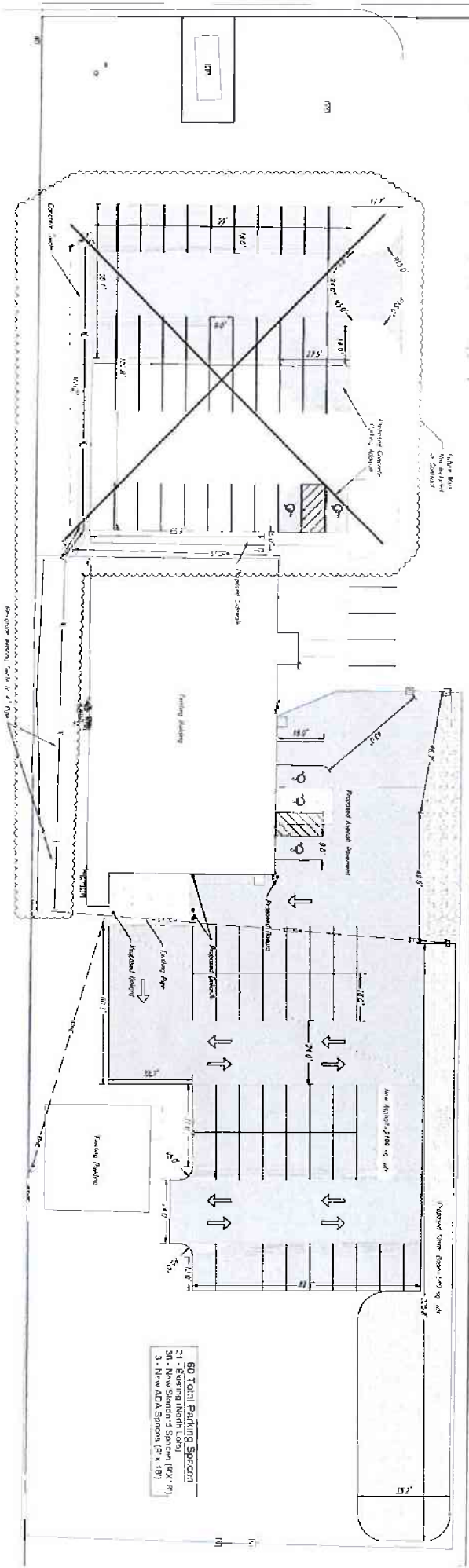
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4701 MARGARET PARKING DRAWING



AFFIDAVIT

COME NOW affiant, the Gerald Wayne Collins Enterprise, LLC, by its duly authorized agent and affirms under penalty of law that it is the owner of record of the property located at 4701 Margaret Ave. Terre Haute, Indiana, for which a rezoning is requested and attached hereto a deed evidencing such ownership.

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

Gerald Wayne Collins Enterprise, LLC.

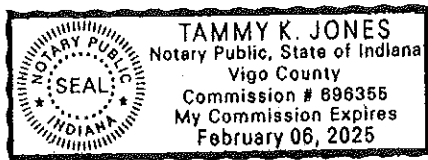
By Gerald Wayne Collins, Manager
Signature
GERALD WAYNE COLLINS
Printed name and title

STATE OF INDIANA)
) SS:
COUNTY OF VIGO)

Personally appeared before me, a Notary Public in and for said County and State, Vigo,
Indiana, who acknowledge the execution of the above and foregoing

Affidavit, after being duly sworn upon their oaths and after having read this Affidavit.

WITNESS my hand and Notarial Seal, this 24th day of July, ~~2010~~ 2020



Tammy K. Jones
Notary Public
Tammy K. Jones
(Printed Name)

My Commission Expires:

My County of Residence:
Vigo

Subject to final acceptance for Transfer

2020000282 CORP WD \$25.00
01/09/2020 02:59:52P 4 PGS
Stacey Todd
VIGO County Recorder IN
Recorded as Presented

JAN 09 2020

James W. Brown
COUNTY CLERK
CORPORATE WARRANTY DEED

THIS INDENTURE WITNESSETH, That

**LAMAR ADVANTAGE GP COMPANY, LLC AS SUCCESSOR IN INTEREST TO
CHANCELLOR MEDIA WHITECO OUTDOOR CORPORATION,**
a Corporation organized and existing under the laws of the State of Delaware,

Conveys and Warrants to

GERALD WAYNE COLLINS ENTERPRISE, LLC,
a Limited Liability Company organized and existing under the laws of the State of INDIANA,

for and in consideration of the sum of One and 00/100 Dollar (\$1.00) and other good and valuable consideration, the receipt whereof is hereby acknowledged, the following described Real Estate in Vigo County, in the State of Indiana, to-wit:

Beginning at the point 327.09 feet West of a stone, the Northeast Corner of the Northwest Quarter of Section 6, Township 11 North, Range 8 West, 2nd Principal Meridian, Riley Civil Township, Vigo County, Indiana; thence South and parallel to the East line of the aforesaid Northwest quarter a distance of 997.83 feet to the North right-of-way line of U.S. Highway I-70; thence with an angle to the right of 89° 51' 00.8" along the said North right-of-way line a distance of 332.03 feet; thence with an angle to the right of 90° 11' 54.3" a distance of 995.67 feet to the North line of the said Northwest Quarter; thence with an angle to the right of 89° 25' 39.7" along the said North line of the Northwest Quarter a distance of 331.20 feet to the place of beginning, containing 7.588 acres.

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For information purposes only, the property address is purported to be:
4701 Margaret Avenue, Terre Haute, Indiana 47803.

Tax bills should be sent to Grantee at such address unless otherwise indicated below.

Parcel No.: 84-10-06-100-009.000-023

The undersigned person(s) executing this deed on behalf of Grantor hereby represent(s) and certify (certifies) that (each of) the undersigned is a duly elected officer of the Grantor and has been fully empowered by proper resolution, or the by-laws of the Grantor, to execute, acknowledge and deliver this Deed; that the Grantor is a corporation in good standing in the State of its origin and, where required, in the State where the subject real estate is situate; that the Grantor has full corporate capacity and authority to convey the real estate described; that said real estate does not constitute all or substantially all of the assets of Grantor; and that all necessary corporate action for the making of the conveyance has been duly taken and done.

IN WITNESS WHEREOF, the said Grantor has executed this deed on this 8th day of JANUARY, 2020.

**LAMAR ADVANTAGE GP COMPANY, LLC AS
SUCCESSOR IN INTEREST TO CHANCELLOR
MEDIA WHITECO OUTDOOR CORPORATION, BY
LAMAR MEDIA CORP. MEMBER**

Central Outdoor, LLC, its sole Membe
By: Lamar Media Corp, its sole member

X

By: _____

Ricky Raven

Title VP

STATE OF Louisiana)
Parish) SS:
~~Parish of East Baton Rouge~~

SO 11, 2020



Receipt

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

Date: 08-04-2020

Name: Herald Wayne Collins Enterprises

Reason:	<u>Responing - Notice of Filing</u>	<u>\$25.00</u>
	<u>Responing - Petition</u>	<u>\$20.00</u>
		<u>\$45.00</u>

Cash: _____

Check: Ch # 100694 - \$45.00

Credit: _____

Total: \$45.00

TERRE HAUTE, INC.

PAID

AUG 04 2020

CONTROLLER

Received By: Rebecca



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 3, 2020

REPORT TO THE CITY COUNCIL ON ZONING MAP AMENDMENT

THE VIGO COUNTY AREA PLAN COMMISSION HEREBY GIVES CERTIFICATION TO
SPECIAL ORDINANCE NUMBER 11-20

CERTIFICATION DATE: September 2, 2020

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

Dear Members,

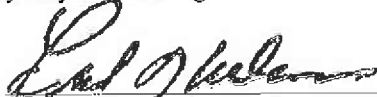
The Vigo County Area Plan Commission offers you the following report and certification on Special Ordinance No. 11-20. This Ordinance is a rezoning of the property located at 4701 Margaret Avenue. The Petitioner, Gerald Wayne Collins Enterprises, LLC, petitions the Plan Commission to rezone said real estate from zoning classification O-1 to C-2, Community Commerce District for offices/autism clinical services.

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. 11-20 at a public meeting and hearing held Wednesday, September 2, 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. 11-20 as required by IC 36-7-4-302. The Area Plan Commission of Vigo County now hereby attaches certification to Special Ordinance No. 11-20 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. 11-20 was FAVORABLE WITH THE FOLLOWING CONDITIONS: 1) approval of a site plan by City Engineering.




Fred L. Wilson, President


Jared Bayler, Executive Director

Received this 3rd day of September, 2020

STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: SO # 11-20
Date: September 2020

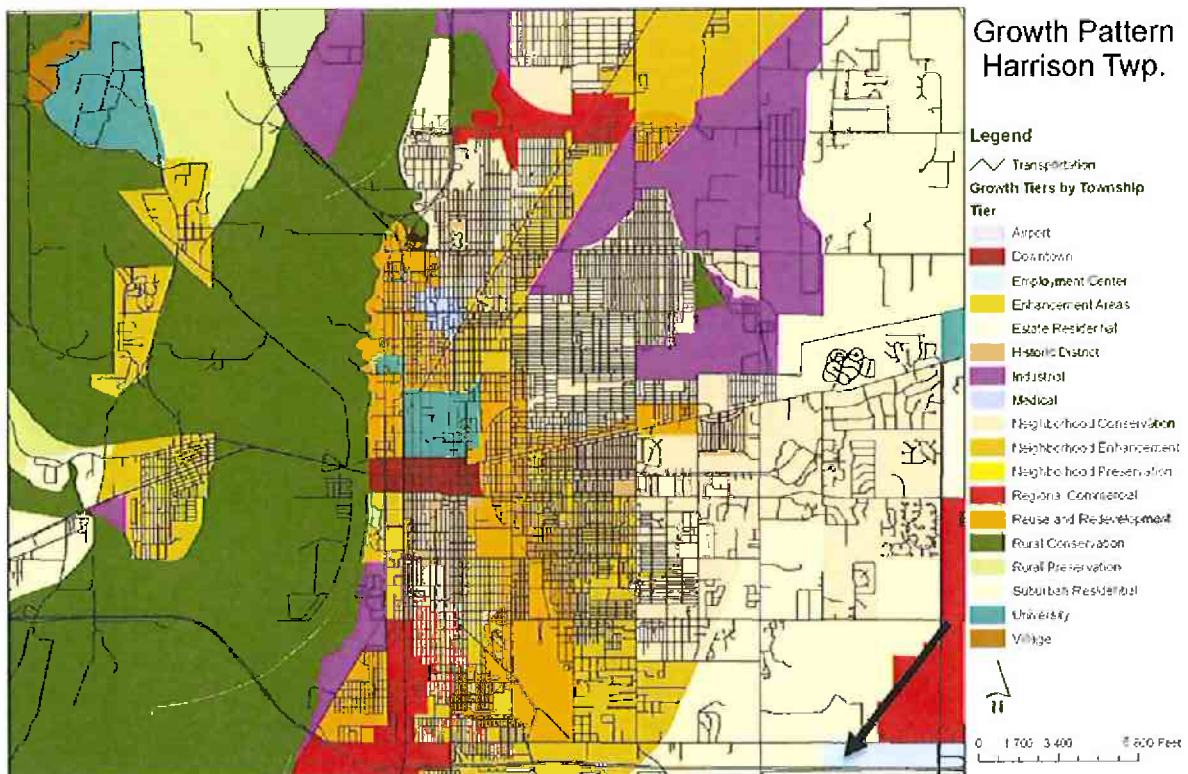
Doc: # 41
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APPLICATION INFORMATION

Property Owner: Gerald Wayne Collins Enterprises, LLC
Representative: Louis Britton
Proposed Use: Offices-autism clinical services
Proposed Zoning: C-2, Community Commerce District
Current Zoning: O-1, Agricultural District
Location: The property is immediately east of 4675 E. Margaret Drive
Parcel #: 84-10-06-100-009.000-023

COMPREHENSIVE PLAN GUIDANCE

Service Area: The City of Terre Haute/Terre Haute Riley



STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: SO # 11-20
Date: September 2020

Doc: # 41
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Employment Centers

These areas are to be developed as high intensity, mixed-use, planned corporate business parks. Employment Centers may include a wide diversity of use activities including research and development, office buildings, corporate headquarters or corporate “campus” facilities, office/distribution facilities – so called “flex space” and institutional uses. In addition to these primary uses, complementary, secondary or ancillary activities should be encouraged on a limited basis. These may include day care centers. Business support services like print services or computer service bureaus, and limited retail commercial activities such as restaurants, designed to use by employees and open space recreational amenities. Employment Centers should be developed under a master development plan which provide landscape, lighting, architectural controls, internal vehicular and pedestrian circulation plans, controlled access parking and loading facilities, common area lighting and standardized signage. Additionally, these areas should offer the protection of performance standards with respect to noise, vibration and environmental quality

Available Services: Area is well served by utilities.

Street Access: E. Margaret Drive

ZONING COMPATIBILITY

Sur. Zones and Uses: **North** – O-1, M-1
East – O-1, M-2
South – 1-70 Corridor
West – C-3, C-2

ZONING REGULATIONS

C-2 Purpose: The Community Commerce Zone is designed for the residents of the nearby community consisting of more than one (1) of the neighborhoods in that section of the city, so as to permit a wider variety of both business uses and services. It is designed not for an abutting neighborhood, but for a relatively larger consumer population for both daily and occasional shopping. The development is characterized by a lack of “comparison shopping” and is limited to providing only one (1) store for each type of business.

C-2 Uses: Amusement establishments, bowling alleys, pool halls, swimming pools, dance halls, and skating rinks, Any use permitted in the C-1 Zone except as otherwise provided in this Chapter, Antique shops, Art galleries, but not including auction rooms, Banks and financial institutions, Bicycle sales, rental, and repair stores, Blue-printing and photostating

STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: SO # 11-20
Date: September 2020

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establishments, Books and stationery stores, Camera and photographic supply stores, Candy and ice cream stores, Leather goods and luggage stores, Loan offices, Locksmith shops, Medical and dental clinics, Meeting halls, Millinery shops, Municipal or privately-owned recreation buildings or community-center, Musical instrument sales and repair, Newspaper distributors for home delivery and retail sale, Office supply stores, Offices, business and professional, Optometrists, Paint and wallpaper stores, Restaurants. Liquor may be served if incidental to the serving of food as the principal activity. (Gen. Ord. No. 2, 2007, As Amended, 2-8-07), Live entertainment. (Gen. Ord. No. 2, 2007, As Amended, 2-8-07)

C-2 Standards: Minimum Lot Size: 3,300 Sq. Ft.

FINDINGS and RECOMMENDATION

Staff Findings: The petitioner has requested rezoning to allow for offices/autism clinical services.

Once again we see commercial development pushing west along E. Margaret Dr. This area is identified by the comprehensive plan as an employment center. As such any proposed project that will create employment should be supported.

The site plan appears to meet code however review of a detailed plan must be approved by City Engineering.

Recommendation: Favorable recommendation with the following conditions:

1. Approval of a site plan by City Engineering if necessary.