

**SPECIAL ORDINANCE NO. 40, 2021**

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

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Common Address of lot to be rezoned:

1055 South Hunt Street, Terre Haute, Indiana 47803

Parcel No. 84-07-29-400-003.000-009

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Rezone From: M-2 Heavy Industrial District

Rezone To: C-3 Regional Commerce District

Proposed Use: Medical Eye Clinic with Ambulatory Surgery Center

Name of Owners: Colnago, LLC & Paul L. Walton

Address of Owners: 1950 W. 86<sup>th</sup> St.  
Indianapolis, IN 46260

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: O. Earl Elliot

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COPY OF A SITE-PLAN MUST ACCOMPANY THIS APPLICATION

SPECIAL ORDINANCE FOR A REZONING  
SPECIAL ORDINANCE NO. 40, 2021

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:

A part of the Northeast Quarter of the Southeast Quarter of Section 29, Township 12 North, Range 8 West, of Lost Creek Township, Vigo County, Second Principal Meridian, Indiana; and more particularly described as follows: Beginning at a point S-00°11'25"-W (assumed bearing) along the East Line of said Section 524.35 feet from the Northeast Corner of the Southeast Quarter of Section 29, Township 12 North, Range 8 West; thence running S-00°11'25"-W 267.65 feet; thence N-89°42'53"-W 549.95 feet to an iron pin set; thence N-00°11'25"-E 267.35 feet to an iron pin set; thence S-89°42'53"-E 549.95 feet to the point of beginning.

Parcel No. 84-07-29-400-003.000-009  
Commonly known as 1055 South Hunt Street, Terre Haute, Indiana  
47803.

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, *O. Earl Elliot*  
O. Earl Elliot, Councilperson

Passed in open Council this 2<sup>nd</sup> day of December, 2021.

*O. Earl Elliot*  
O. Earl Elliott, President

ATTEST:

Michelle L Edwards

Michelle Edwards, City Clerk

Presented by me, to the Mayor of the City of Terre Haute, this 2<sup>nd</sup> day of December, 2021.

Michelle L Edwards

Michelle Edwards, City Clerk

Approved by me, the Mayor of the City of Terre Haute, this 2<sup>nd</sup> day of DECEMBER, 2021.

Duke A Bennett

Duke A. Bennett, Mayor

ATTEST:

Michelle L Edwards

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

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, Paul L. Walton, individually, and Cheryl H. Walton as the Manager of Colnago, LLC, respectfully submit this Petition to rezone the following described real estate in the City of Terre Haute, County of Vigo, Indiana, to wit:

A part of the Northeast Quarter of the Southeast Quarter of Section 29, Township 12 North, Range 8 West, of Lost Creek Township, Vigo County, Second Principal Meridian, Indiana; and more particularly described as follows: Beginning at a point S-00°11'25"-W (assumed bearing) along the East Line of said Section 524.35 feet from the Northeast Corner of the Southeast Quarter of Section 29, Township 12 North, Range 8 West; thence running S-00°11'25"-W 267.65 feet; thence N-89°42'53"-W 549.95 feet to an iron pin set; thence N-00°11'25"-E 267.35 feet to an iron pin set; thence S-89°42'53"-E 549.95 feet to the point of beginning.

Parcel No. 84-07-29-400-003.000-009

Commonly known as 1055 South Hunt Street, Terre Haute, Indiana 47803.

Your Petitioners are informed and believe 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 M-2 Heavy Industrial District.

Your Petitioners intend to use this real estate for commercial purposes within the boundaries of the C-3 Regional Commerce District. Your Petitioners would request that the real estate described herein shall be zoned as a C-3 Regional Commerce District.

Your Petitioners would allege that the C-3 Regional Commerce District would not alter the general characteristics of this neighborhood since the neighborhood is in a mixed-use neighborhood, and the use of this real estate with the boundaries of the C-3 Regional Commerce District should not cause concern for the surrounding neighborhood.



Your Petitioners 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 Petitioners respectfully request 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-3 Regional Commerce 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.

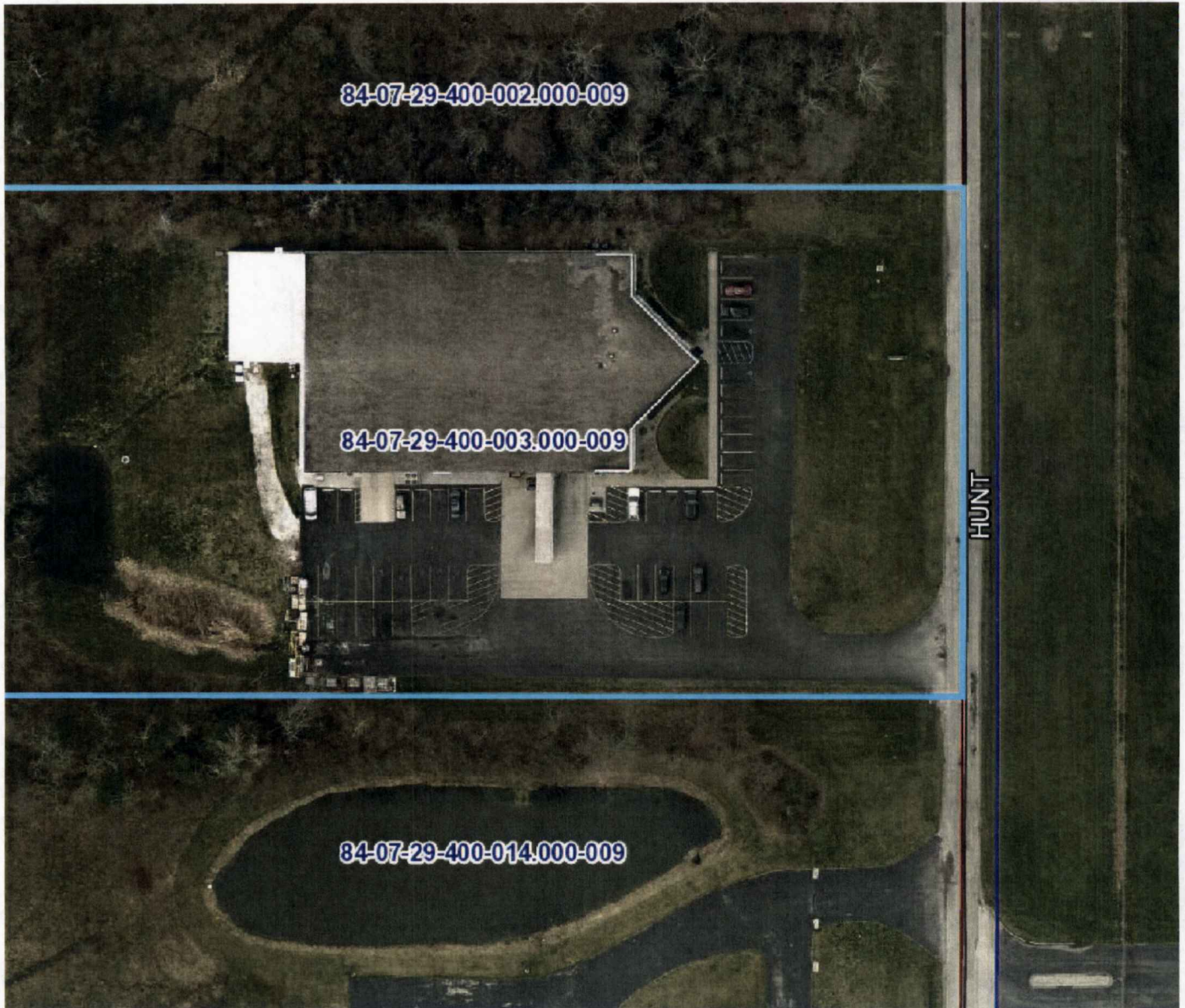
IN WITNESS WHEREOF, this petition has been duly executed this 2<sup>nd</sup> day of November 2021.

**PETITIONERS:**

Colnago, LLC  
*Cheryl H. Walton, by Harry F. Todd*  
By: *her Attorney-in-Fact*  
Cheryl H. Walton, Manager, by Harry F. Todd her Attorney-in-Fact  
*Paul L. Walton by Harry F. Todd*  
*his Attorney-in-Fact*  
Paul L. Walton, by Harry F. Todd his Attorney-in-Fact

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



1055 South Hunt Street, Terre Haute, IN 47802

Parcel No. 84-07-29-400-003.000-009

M-2 Heavy Industrial District  
to  
C-3 Regional Commerce District





STATE OF INDIANA ) SS:  
COUNTY OF VIGO )

**AFFIDAVIT**

Comes now, Paul L. Walton individually and Cheryl H. Walton as the Manager of Colnago, LLC , both being duly sworn upon their oath, and depose and say:

1. That Paul L. Walton, an individual, and Colnago, LLC, an Indiana limited liability company, are the tenant in common owners of record of the following described real estate located in the City of Terre Haute, County of Vigo, State of Indiana, to-wit:

A part of the Northeast Quarter of the Southeast Quarter of Section 29, Township 12 North, Range 8 West, of Lost Creek Township, Vigo County, Second Principal Meridian, Indiana; and more particularly described as follows: Beginning at a point S-00°11'25"-W (assumed bearing) along the East Line of said Section 524.35 feet from the Northeast Corner of the Southeast Quarter of Section 29, Township 12 North, Range 8 West; thence running S-00°11'25"-W 267.65 feet; thence N-89°42'53"-W 549.95 feet to an iron pin set; thence N-00°11'25"-E 267.35 feet to an iron pin set; thence S-89°42'53"-E 549.95 feet to the point of beginning.

Parcel No. 84-07-29-400-003.000-009

Commonly known as 1055 South Hunt Street, Terre Haute, Indiana 47803.

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 Paul L. Walton, an individual, and Colnago, LLC, an Indiana limited liability company, are the tenant in common owners 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 Paul L. Walton, individually, and Cheryl H. Walton as the Manager of Colnago, LLC.

4. Further, Affiants saith not.

Remainder of page intentionally left blank.

Dated at Terre Haute, Indiana this 2<sup>nd</sup> day of November 2021.

Colnago, LLC

Cheryl H. Walton, by Harry F. Todd  
By: her Attorney-in-Fact

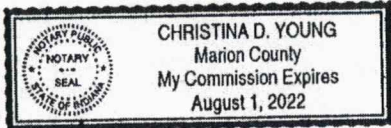
Cheryl H. Walton, Manager, by Harry F. Todd her Attorney-in-Fact

Paul L. Walton, by Harry F. Todd  
his Attorney-in-Fact

Paul L. Walton, by Harry F. Todd his Attorney-in-Fact

STATE OF INDIANA )  
                                  ) SS:  
COUNTY OF MARION )

SUBSCRIBED AND SWORN TO before me, a Notary Public in and for said County and State, this 2<sup>nd</sup> day of November 2021.



Comm# 551421

Christina D. Young  
Christina D. Young, Notary Public

My Commission expires: 8-1-22

My County of Residence: Marion

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

JUL 29 2021

*James W. Brantley*  
VIGO COUNTY AUDITOR

**SALES DISCLOSURE  
NOT REQUIRED**

2021009941 DEED \$25.00  
07/29/2021 09:58:19A 6 PGS  
Diana Winsted-Smith  
VIGO County Recorder IN  
Recorded as Presented



RECORDING COVER PAGE FOR:

**CORRECTIVE DEED**

**Cross-Reference: 2012005664**

Re-record to correct the following deed by replacing the erroneous legal description in the body of the deed (which resulted in a "mathematical mis-closure") with correct legal description now attached as Exhibit A.

When Recorded Return To:  
First American Title Insurance Company  
National Commercial Services  
211 N. Pennsylvania St., Suite 1250  
Indianapolis, IN 46204  
File No: NCS *1068222*

**LIMITED WARRANTY DEED**

THIS INDENTURE WITNESSETH, that TriAero Holdings, LLC, an Indiana limited liability company (“Grantor”), CONVEYS AND WARRANTS to Colnago, LLC, as to a 64% tenant in common interest, and Paul L. Walton, as to a 36% tenant in common interest (collectively, the “Grantee”), for the sum of Ten Dollars (\$10.00), and other valuable consideration, the receipt of which is hereby acknowledged, certain real estate located in Vigo County, in the State of Indiana, more particularly described in Exhibit A, attached hereto and by reference made a part hereof (the “Real Estate”).

THIS CONVEYANCE IS MADE, and the Real Estate is SUBJECT TO the Permitted Exceptions shown on Exhibit B, attached hereto and made a part hereof.

THE WARRANTIES OF GRANTOR HEREUNDER ARE LIMITED TO ITS ACTS AND DEEDS, AND THOSE CLAIMING BY, THROUGH OR UNDER GRANTOR, AND NOT OTHERWISE.

**Remainder of Page Intentionally Left Blank.  
Signature Page Follows.**





Tax Parcel Number(s):

84-07-29-400-003.000-009.

Address of Transferred Property:

1055 South Hunt Street, Terre Haute, IN 47803

Grantee's Address for Mailing of Tax Statements and Recorded Deed:

1950 W. 86<sup>th</sup> Street  
Indianapolis, IN 46260

THIS INSTRUMENT PREPARED BY:  
Patrick M. Rooney, Attorney at Law  
1638 Shelby Street, Suite 101  
Indianapolis, Indiana 46203  
pmrooney1@gmail.com; 317.445.9956

I affirm under penalties for perjury that  
I have taken reasonable care to redact  
each social security number in this  
document, unless required by law.  
*/s/ Patrick M. Rooney*

**Exhibit A**

**Legal Description of Real Estate**

A PART OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 29, TOWNSHIP 12 NORTH, RANGE 8 WEST, OF LOST CREEK TOWNSHIP, VIGO COUNTY, SECOND PRINCIPAL MERIDIAN, INDIANA; AND MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT A POINT S-00°11'25"-W (ASSUMED BEARING) ALONG THE EAST LINE OF SAID SECTION 524.35 FEET FROM THE NORTHEAST CORNER OF THE SOUTHEAST QUARTER OF SECTION 29, TOWNSHIP 12 NORTH, RANGE 8 WEST; THENCE RUNNING S-00°11'25"-W 267.65 FEET; THENCE N-89°42'53"-W 549.95 FEET TO AN IRON PIN SET; THENCE N-00°11'25"-E 267.35 FEET TO AN IRON PIN SET; THENCE S-89°42'53"-E 549.95 FEET TO THE POINT OF BEGINNING.

CONTAINING 3.38 ACRES MORE OR LESS.

EXCEPT ALL COAL AND OTHER MINERALS UNDERLYING THE SURFACE OF THE ABOVE DESCRIBED LAND TOGETHER WITH THE RIGHTS PERTAINING THERETO.

EXHIBIT B

1. Real Estate Taxes for the year(s) 2021, (payable 2022) are a lien but not yet due and payable.
2. Grant to Missouri-Kansas Pipe Line Co., its successors and assigns, recorded May 16, 1931 in Misc. Record 62, Page 14, and the terms and provisions thereof.
3. Grant to Indiana Electric Company, its successors and assigns, recorded March 27, 1924 in Deed Record 173, Page 422, and the terms and provisions thereof.
4. Restrictive Easement Agreement made by and between Robert F. and Hester Baur, husband and wife, and the United States of America, recorded December 10, 1979 in Misc. Record 381, Page 215, and the terms and provisions thereof.
5. Permanent noise and avigation easement to the Terre Haute International Airport-Hulman Field, as set forth in the Corporate Warranty Deed recorded April 12, 2012 as document 2012005664, and the terms and provisions thereof.





# 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: December 2, 2021

## REPORT TO THE CITY COUNCIL ON ZONING MAP AMENDMENT

THE VIGO COUNTY AREA PLAN COMMISSION HEREBY GIVES CERTIFICATION TO  
SPECIAL ORDINANCE NUMBER 40-21

CERTIFICATION DATE: December 1, 2021

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

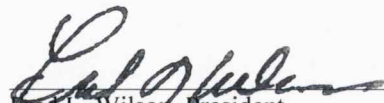
Dear Members,

The Vigo County Area Plan Commission offers you the following report and certification on Special Ordinance No. 40-21. This Ordinance is a rezoning of 1055 South Hunt Street. The Petitioner, Colnago LLC & Paul L. Walton, petitions the Plan Commission to rezone said property to a medical eye clinic with ambulatory surgery center from the zoning classification M-2 Heavy Industrial District to C-3 Regional Commerce District.

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. 40-21 at a public meeting and hearing held Wednesday, December 1, 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. 40-21 as required by IC 36-7-4-302. The Area Plan Commission of Vigo County now hereby attaches certification to Special Ordinance No. 40-21 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. 40-21 was FAVORABLE WITH THE FOLLOWING CONDITIONS: 1) The approval of variance from City BZA

  
Fred L. Wilson, President

  
Jared Bayler, Executive Director

Received this 2nd day of December, 2021

STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: SO #40-21

Doc: #75

Date: 2021

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## APPLICATION INFORMATION

Property Owners: Colnago, LLC & Paul L. Walton

Representative: Richard J. Shagley II

Proposed Use: Medical Eye Clinic with Ambulatory Surgery Center

Proposed Zoning: C-3, Regional Commerce District

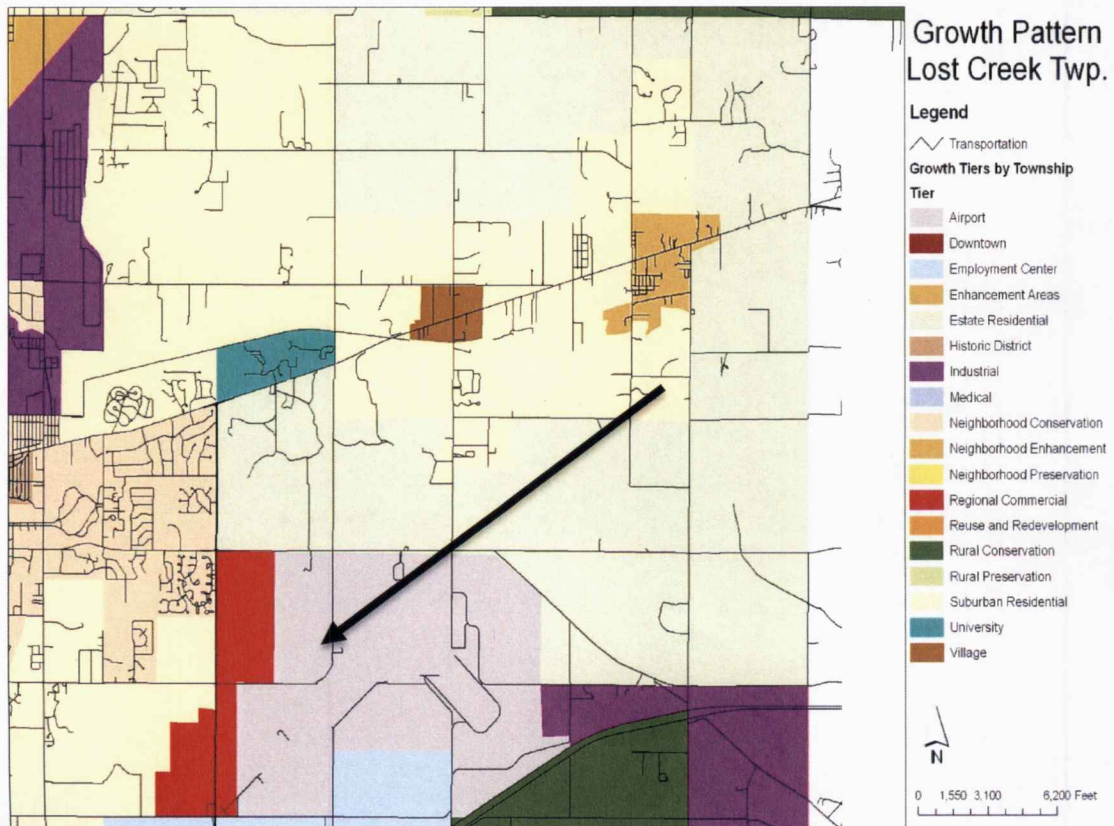
Current Zoning: M-2, Heavy Industrial District

Location: The property is located approximately 3,135 ft. south of the of the intersection of E. St. Rd. 42 & S. Hunt Street on the west side of S. Hunt Street

Common Address: 1055 S. Hunt Street, Terre Haute – 84-07-29-400-003.000-009

## COMPREHENSIVE PLAN GUIDANCE

Service Area: Terre Haute Lost Creek



STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

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Doc: #75

Date: 2021

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**Airport**

The Airport area shown on the Growth Pattern maps incorporates the Terre Haute International Airport and surrounding uses. The airport area has significant potential for airport-related business and industrial services. The airport area should be the focus of a sub-area plan that creates a parcel-by-parcel master land use plan to accommodate additional growth while acknowledging the limitations related to development adjacent to an airport.

**Available Services:** Area is well served by utilities.

**Intensity:** High intensity employment area

**Street Access:** S. Hunt Street

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**ZONING COMPATIBILITY**

Sur. Zones and Uses:

**North** – M-2, O-1

**West** – O-1

**South** – M-2, O-1

**East** – O-1

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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.



STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: SO #40-21

Doc: #75

Date: 2021

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C-3 Standards: Street setback of 50 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.

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## **FINDINGS and RECOMMENDATION**

### **Staff Findings:**

The petitioner is requesting to rezone to C-3 Regional Commerce District for the purpose of a “Medical Eye Clinic with Ambulatory Surgery Center”. Medical and dental clinics are a listed use in the C-3 District.

The parking lot is already hard-surfaced with sufficient parking.

The driveway is within 12 feet of the interior lot line (Section 10-136(e)) and will need a variance from the City Board of Zoning Appeals.

### **Recommendation:**

Staff would offer a favorable recommendation.

1. Approval of variance from City BZA

NOV 03 2021

Receipt

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

CONTROLLER

Date: 11-3-21

Name: Paul Walton

Reason: Reopening Notice of Filing \$25.00  
Petition \$20.00  
\$45.00

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

Check: 45.00 CK 72030

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

Total: 45.00

Received By: [Signature]