

SPECIAL ORDINANCE NO. 3, 2021

APPLICATION FOR REZONING PETITION CITY OF TERRE HAUTE

=====
Common Address of lots to be rezoned:

2470 Spring Clean Avenue, Terre Haute, Indiana 47804
3518 North 25th Street, Terre Haute, Indiana 47804

Parcel No. 84-06-02-376-018.000-002 and 84-06-376-019.000-002

Rezoned From: C-3 Regional Commerce

Rezoned To: C-5 General Central Business 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: Cheryl Loudermilk

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

FILED

FEB 3 2021

SPECIAL ORDINANCE FOR A REZONING
SPECIAL ORDINANCE NO. 3, 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:

Lots Numbers Eight (8) and Nine (9) 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 recorded in Plat Record 29, Page 58 of the Recorder's Office of Vigo County, Indiana.

Parcel No. 84-06-02-376-018.000-002 and 84-06-376-019.000-002

Commonly known as: 2470 Spring Clean Avenue, Terre Haute, Indiana 47804 and 3518 North 25th Street, Terre Haute, Indiana 47804.

Be and the same is hereby established as a C-5 General Central Business 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, Cheryl Loudermilk
Cheryl Loudermilk, Councilperson

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

O. Earl Elliott
Earl O. Elliott, President

ATTEST:

Michelle L Edwards

Michelle Edwards, City Clerk

Presented by me, to the Mayor of the City of Terre Haute, this 9TH day of MARCH, 2021.

Michelle L Edwards

Michelle Edwards, City Clerk

Approved by me, the Mayor of the City of Terre Haute, this 9TH day of MARCH, 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, 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 Numbers Eight (8) and Nine (9) 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 recorded in Plat Record 29, Page 58 of the Recorder's Office of Vigo County, Indiana.

Parcel No. 84-06-02-376-018.000-002 and 84-06-376-019.000-002

Commonly known as: 2470 Spring Clean Avenue, Terre Haute, Indiana 47804 and 3518 North 25th Street, 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 Regional Commerce.

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

Your Petitioner would allege that the C-5 General Central Business 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 west 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 2/2/21 day of January, 2021.

PETITIONER:

Mutchner LLC

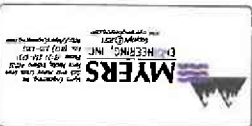
By: John Mutchner
John Mutchner, Manager

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

DATE	DESCRIPTION

3270 Spring Clean Avenue
 City of Fort Myers, 1995 County Address
 Section 21, Paragraph 23 North Range, 3 West of
 the Fort Myers City Right-of-Way Boundary.



PRELIMINARY
 01/28/2021

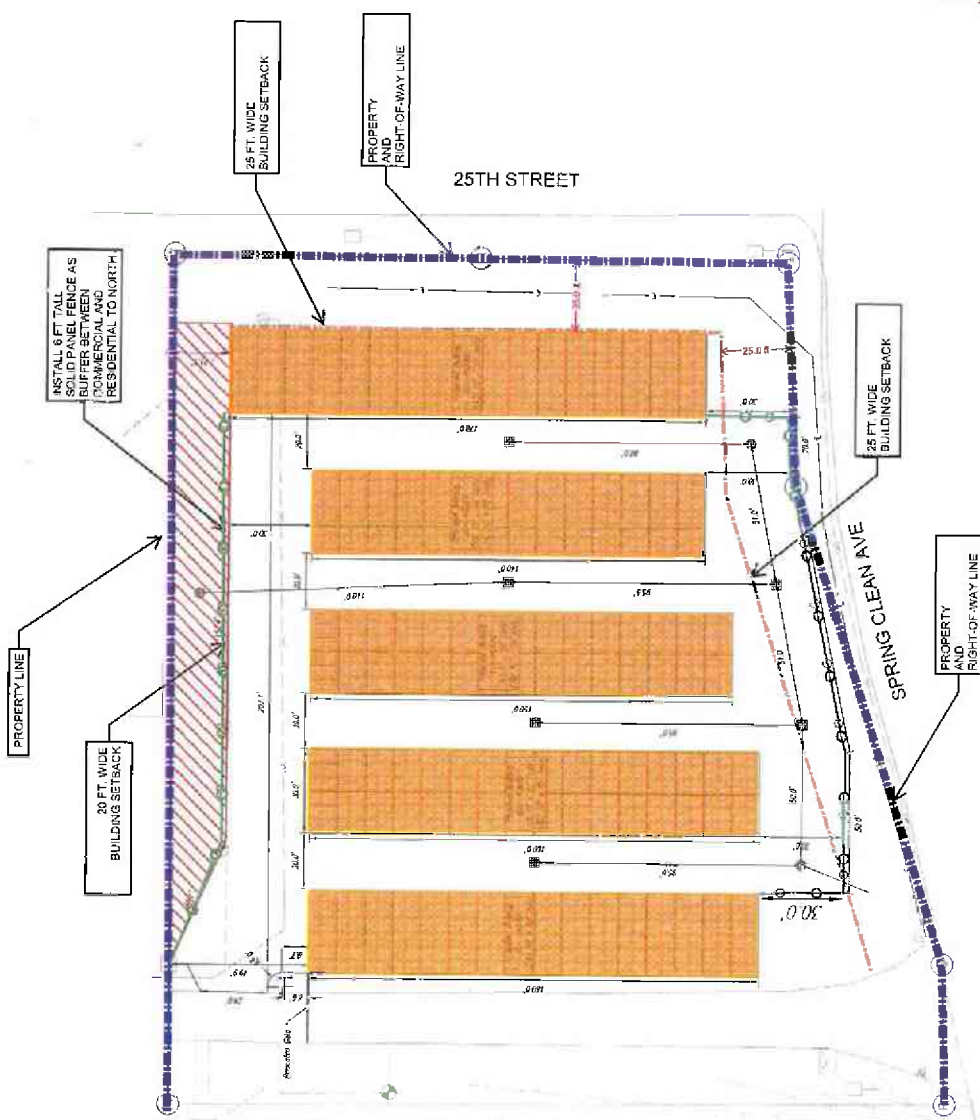
PROJECT NO.
 21-20-0001

PROJECT NAME
 Spring Clean Storage

Client
 Spring Clean Storage

Project
 Site Plan

C3.0
 Final Mark, Compliant
 01/28/2021



1"=40'
 0 10 20 30 40
 Feet
 All dimensions are in feet unless otherwise noted.



Know what's below. Call before you dig.
 800-885-8849
 www.callbeforeyoudig.com

STATE OF INDIANA) SS:
COUNTY OF VIGO)

AFFIDAVIT

Comes now, John 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 Numbers Eight (8) and Nine (9) 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 recorded in Plat Record 29, Page 58 of the Recorder's Office of Vigo County, Indiana.

Parcel No. 84-06-02-376-018.000-002 and 84-06-376-019.000-002

Commonly known as: 2470 Spring Clean Avenue, Terre Haute, Indiana 47804 and 3518 North 25th Street, 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 Mary Alice Thompson and Thomas Thompson.

4. Further, Affiant saith not.

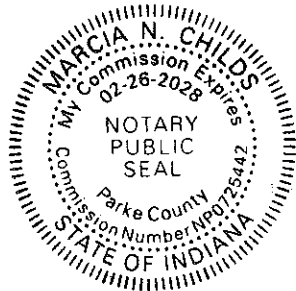
Dated at Terre Haute, Indiana this 2/2/21 day of January, 2021.

Mutchner LLC

By: 
John 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 2nd day of ~~January~~, 2021.



February

Marcia N. Childs
Marcia N. Childs, Notary Public

My Commission expires: 02-26-2028

My County of Residence: Parke

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.

subject to final acceptance for Transfer

2021001197 WD \$25.00
01/29/2021 09:17:40A 3 PGS
Diana Winsted-Smith
VIGO County Recorder IN
Recorded as Presented

JAN 29 2021

James W Brantle
VIGO COUNTY AUDITOR

WARRANTY DEED

THIS INDENTURE WITNESSETH, THAT Thomas E. Thompson, of Lee County, State of ~~FLORIDA~~ 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 Numbered Eight (8) and Nine (9) 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 recorded in Plat Record 29, page 58 of the Recorder's Office of Vigo County, Indiana.

Parcel No. 84-06-02-376-018.000-002 & 84-06-02-376-019.000-002

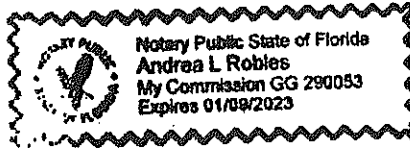
Subject to any grants, easements, leases, rights-of-way, covenants, or restrictions of record which might affect the title to the subject real estate.

Subject to real estate 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 28th day of January, 2021.

[Remainder of Page Left Blank]

[Notary Acknowledgment Follows]

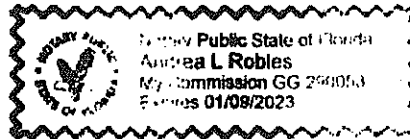


2

Thomas E. Thompson
Thomas E. Thompson

Executed in my Presence:

Laura Baratta
Signature
LAURA BARATTA
Printed Name



STATE OF Florida, Lee COUNTY, SS:

Before me, the undersigned, a Notary Public in and for said county and state, this 21st day of January, 2021, personally appeared Thomas E. Thompson and acknowledged the execution of the annexed Deed to be his voluntary act and deed.

WITNESS my hand and Notarial Seal.

My Commission Expires:
1/9/2023

Andrea Robles
Notary Public

My County of residence is:
Collier

Andrea Robles
Typewritten or printed name of notary

STATE OF Florida, Lee COUNTY, SS:

Before me, a Notary Public in and for said County and State, on January 21st, 2021, personally appeared the above named WITNESS to the foregoing instrument, who, being duly sworn by me, did depose and say that he/she knows Thomas E. Thompson to be the individual(s) described herein and who executed the foregoing instrument; that said WITNESS was present and saw Thomas E. Thompson execute the same; and that said WITNESS at the same time subscribed his/her name as a witness thereto; and that the above-named subscribing witness is not a party to the transaction described in the foregoing instrument and will not receive any interest in or proceeds from the property that is the subject of the transaction.

WITNESS my hand and Notarial Seal.

My Commission Expires:
1/9/2023

Andrea Robles
Notary Public

My County of residence is:
Collier

Andrea Robles
Typewritten or printed name of notary

[Remainder of Page Left Blank]

Mary Alice Thompson
Mary Alice Thompson

Executed in my Presence:

Sidney A. Mershon
Signature

Sidney A. Mershon
Printed Name

STATE OF Indiana, Vigo COUNTY, SS:

Before me, the undersigned, a Notary Public in and for said county and state, this 28th day of January, 2021, personally appeared Mary A. Thompson and acknowledged the execution of the annexed Deed to be her voluntary act and deed.

WITNESS my hand and Notarial Seal
OFFICIAL SEAL
MEAGAN RAYNEL BUTRUM
Notary Public, State of Indiana
Vigo County
My Commission Expires March 19, 2026
Commission No. 711609
Meagan Raynel Butrum
Meagan Raynel Butrum
Typewritten or printed name of notary

STATE OF Indiana, Vigo COUNTY, SS:

Before me, a Notary Public in and for said County and State, on January 28, 2021 personally appeared the above named WITNESS to the foregoing instrument, who, being duly sworn by me, did depose and say that he/she knows Mary Alice Thompson to be the individual(s) described herein and who executed the foregoing instrument; that said WITNESS was present and saw Mary Alice Thompson execute the same; and that said WITNESS at the same time subscribed his/her name as a witness thereto; and that the above-named subscribing witness is not a party to the transaction described in the foregoing instrument and will not receive any interest in or proceeds from the property that is the subject of the transaction.

WITNESS my hand and Notarial Seal
OFFICIAL SEAL
MEAGAN RAYNEL BUTRUM
Notary Public, State of Indiana
Vigo County
My Commission Expires March 19, 2026
Commission No. 711609
Meagan Raynel Butrum
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.

Meagan Raynel Butrum
Signature
Meagan Raynel Butrum
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: Same

Receipt

TERRE HAUTE, INC

PAID

FEB 03 2021

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

CONTROLLER

Date: 2/3/2021

Name: Mutahner LLC.

Reason: <u>Rezoning - Notice of filing</u>	<u>25.00</u>
<u>Petition</u>	<u>20.00</u>
	<u>45.00</u>

Cash: _____

Check: _____

Credit: 45.00

Total: 45.00

Received By: LELLIS / JAV



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: March 4, 2021

REPORT TO THE CITY COUNCIL ON ZONING MAP AMENDMENT

THE VIGO COUNTY AREA PLAN COMMISSION HEREBY GIVES CERTIFICATION TO
SPECIAL ORDINANCE NUMBER 3-21

CERTIFICATION DATE: March 3, 2021

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

Dear Members,


The Vigo County Area Plan Commission offers you the following report and certification on Special Ordinance No. 3-21. This Ordinance is a rezoning of the property located at 2470 Spring Clean Ave & 3518 North 25th Street. The Petitioner, Mutchner LLC, petitioned the Plan Commission to rezone said real estate from zoning classification C-3 to C-5 General Central Business District in order to build 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. 3-21 at a public meeting and hearing held Wednesday, March 3, 2021. Remonstrators were not present. At this meeting, a quorum was present throughout the meeting pursuant to IC 36-7-4-301, and the Area Plan Commission took official action on Special Ordinance No. 3-21 as required by IC 36-7-4-302. The Area Plan Commission of Vigo County now hereby attaches certification to Special Ordinance No. 3-21 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. 3-21 was FAVORABLE WITH THE FOLLOWING CONDITION: All required development standards as outlined by City Engineering be met.




Fred L. Wilson, President


Jared Bayler, Executive Director

Received this 4th day of March, 2021

STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: SO # 7-21

Doc: # 7

Date: March 2021

Page 1 of 4

APPLICATION INFORMATION

Petitioner: Mutchner LLC

Property Owner: Same as Above

Representative: Richard J. Shagley II

Proposed Use: Storage Units

Proposed Zoning: C-5 General Central Business District

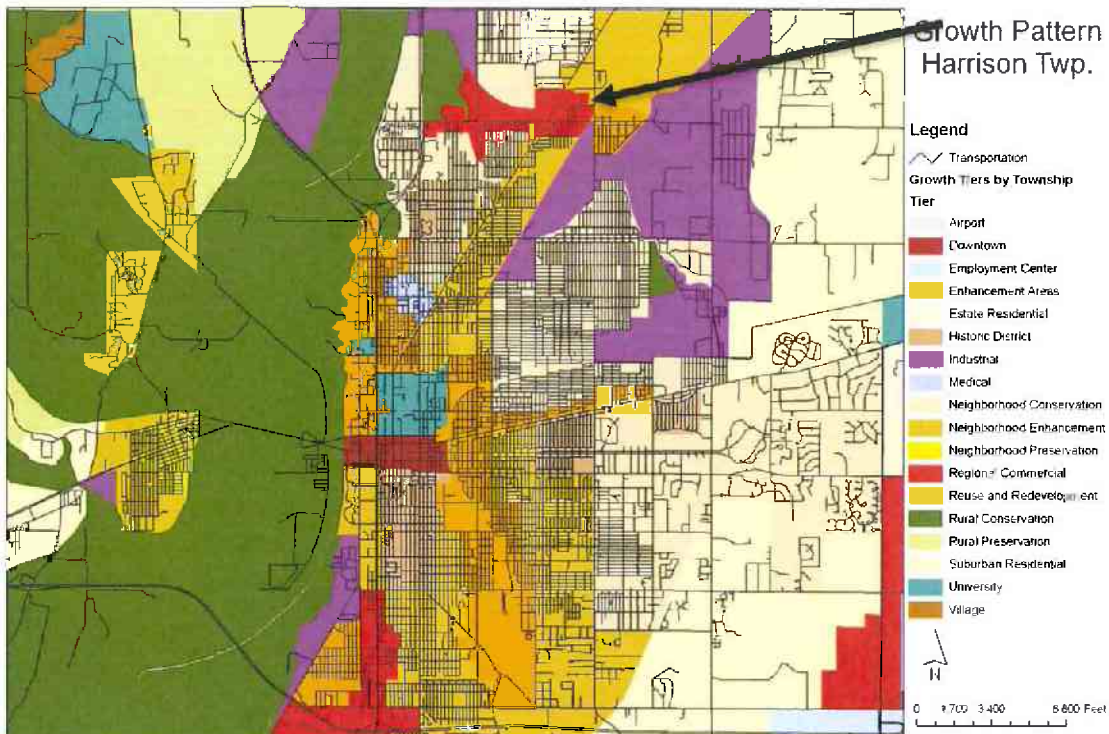
Current Zoning: C-3 Regional Commerce District

Location: The property is located on the corner of Spring Clean Avenue and N 25th St.

Common Address: 2470 Spring Clean Ave, 3518 N 25th St, Terre Haute

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 – R-1

East – M-2

South – R-2

West – C-5

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

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.

(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.

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 west and north-west, which were rezoned in 2019 (SO #8-19).

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. Hard surfacing is a requirement of the C-5 District. 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.