

APPLICATION FOR REZONING PETITION CITY OF TERRE HAUTE

**SPECIAL ORDINANCE NO. 11, 2015**

Common address of lots to be rezoned:

4510 N 7<sup>th</sup> St  
Terre Haute, IN 47805

Rezone from: 0-2 Open spaces/ flood plain district

Rezone To: R-1 Single Family Residence district

Proposed Use: Single family home

Name of Owners: Kenneth L. Buck & Carolyn S. Buck

Address of Owner: 4510 N 7<sup>th</sup> St Terre Haute, IN

Phone Number of owner: (812) 240-9631

Attorney Representing Owner: None

Counsel Sponsor: Neil Garrison

FILED

JUN 05 2015

**SPECIAL ORDINANCE NO 11, 2015**

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, the 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 as follows:

That the following described real estate situated in the City of Terre Haute, County of Vigo, State of Indiana, to-wit:

PROPERTY DESCRIPTION

3.424 ACRES

Beginning at the Northeast Corner of Section 4, Township 12 North, Range 9 West, 2<sup>nd</sup> Principal Meridian, Harrison Civil Township, Vigo County, Indiana; thence South 00°-00'-00" West along the east boundary line of said Section 4 a distance of 584.7 feet to a set "PK" nail; thence South 00°-00'-00" West 318.00 feet to a set iron pin; thence North 06°-42'-01" East 269.98 feet to a set iron pin; thence North 17°-19'-17" East 293.89 feet to a set iron pin on the north boundary line of the said Section 4; thence North 90°-00'-00" East along the said north boundary line 199.00 feet to the place of beginning. Containing 3.424 acres.

Public fresh water and sanitary sewer facilities are not available to this property.

This property zoned R-1 classification.

This survey conforms with requirements contained in 865 IAC 1-12-12 through 18 of the 1996 INDIANA ADMINISTRATIVE CODE FOR AN ORIGINAL DOCUMENT SURVEY.


This property is not in a Flood Hazard Zone as Per Firm Community Panel 18167C0043C effective date February 18, 2011.

Commonly known as 4510 N 7<sup>th</sup> St Terre Haute, Vigo County, Indiana 47805, be and the same is hereby established as R-1 single family residence district as designated in Division 10 Section 207 of said Comprehensive Zoning Ordinance for Terre Haute and the same is hereby declared to be an R-1 single family residence district.

Together with all rights and privileges that may ensure 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



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Neil Garrison

Passed in open Council this 16<sup>th</sup> day of July 2015



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John Mullican, President

ATTEST: Charles Hanley, City Clerk  
Charles Hanley

Presented by me to the Mayor this 17<sup>th</sup> day of July, 2015.

Charles Hanley  
Charles Hanley, City Clerk

Approved by me, the Mayor, this 17<sup>th</sup> day of July, 2015.

Duke Bennett  
Duke Bennett, Mayor  
City of Terre Haute

ATTEST: Charles Hanley  
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.

Mark Roman  
Mark Roman  
788 S 3<sup>rd</sup> St  
Terre Haute, IN 47807

**PETITION FOR REZONING OF REAL ESTATE**

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

Lady and Gentleman:

Kenneth L. Buck and Carolyn S. Buck, petitioners, are the owners of the following described real estate located in Vigo County, Indiana, to-wit:

**PROPERTY DESCRIPTION**

**3.424 ACRES**

Beginning at the Northeast Corner of Section 4, Township 12 North, Range 9 West, 2<sup>nd</sup> Principal Meridian, Harrison Civil Township, Vigo County, Indiana; thence South 00°-00'-00" West along the east boundary line of said Section 4 a distance of 584.7 feet to a set "PK" nail; thence South 00°-00'-00" West 318.00 feet to a set iron pin; thence North 06°-42'-01" East 269.98 feet to a set iron pin; thence North 17°-19'-17" East 293.89 feet to a set iron pin on the north boundary line of the said Section 4; thence North 90°-00'-00" East along the said north boundary line 199.00 feet to the place of beginning. Containing 3.424 acres.

Public fresh water and sanitary sewer facilities are not available to this property.

This property zoned R-1 classification.

This survey conforms with requirements contained in 865 IAC 1-12-12 through 18 of the 1996 INDIANA ADMINISTRATIVE CODE FOR AN ORIGINAL DOCUMENT SURVEY.

This property is not in a Flood Hazard Zone as Per Firm Community Panel 18167C0043C effective date February 18, 2011.

Which real estate is commonly known as 4510 N 7<sup>th</sup> St Terre Haute, Vigo County, Indiana 47805.

The owner proposes to use the property as single family residence.

Petitioner is informed and believes that according to Chapter 20, Article 2, Division IV, zones 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-2 open spaces/ Flood Plain District.

of the City of Terre Haute, Indiana. Petitioner is further informed and believes that the operation of petitioner's proposed use would require said real estate to be rezoned to the classification as R-1 Single Family Residence District.

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

- A. That the proposed use would be beneficial to the local community and would provide housing opportunities for the community;
- B. 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;
- C. 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.
- D. That the property suffers from hardship due to physical characteristics of the land and improvements.

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 R-1 Single Family Residence District of the City of Terre Haute, Indiana, being entitled to the rights and benefits that may inure to said real estate and the owner thereof by virtue of said classification description and the laws and such cases provided, subject to all limitations imposed by deed or otherwise.

IN WITNESS WHEREOF, the petitioners, Kenneth L. Buck and Carolyn S. Buck have duly executed this instrument this 4th day of June, 2015.

By Kenneth L. Buck  
Kenneth L. Buck  
Carolyn S. Buck  
Carolyn S. Buck



**AFFIDAVIT**

COMES NOW affiant, Kenneth L. Buck and Carolyn S. Buck, and affirms under penalty of law that 4510 N 7<sup>th</sup> St, Terre Haute, Indiana is the owner of record of the property located at 4510 N 7<sup>th</sup> St, 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.

Kenneth L. Buck  
Kenneth L. Buck  
Carolyn S. Beech  
Carolyn S. Buck

STATE OF INDIANA            )  
  ) SS:  
COUNTY OF VIGO            )

Personally appeared before me, a Notary Public, in and for said County and State, Christopher Senesac as Managing Member of 7<sup>TH</sup> ST LLC, who acknowledged the execution of the above and foregoing Affidavit, after being duly sworn upon his oath and after having read this Affidavit.

WITNESS my hand and Notarial Seal, this 4th day of June, 2015.

Arlene J. Manwaring  
Notary Public

Arlene J. MANWARING  
(Printed Name)

My Commission Expires:  
July 8, 2016

My County of Residence:  
Vigo

96 10805

010805

RECEIVED FOR RECORD

93 JUN 23 AM 8:33

443/002243

PAUL MASON  
VIGO CO. RECORDER

DULY ENTERED FOR TAXATION  
Subject to final acceptance for transfer

JUN 23 1998

EXEMPT FROM DISCLOSURE  
**WARRANTY DEED**

90307500359

*Judson & Judson* AUDITOR  
VIGO COUNTY

THIS INDENTURE WITNESSETH, THAT KENNETH L. BUCK and CAROLYN S. JUDSON joint tenants with right of survivorship 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 KENNETH L. BUCK and CAROLYN S. BUCK, husband and wife, the following described real estate located in the County of Vigo, State of Indiana, to-wit:

✓ Four (4) acres off the North end of the following described land, to-wit: Six (6) acres in the North 1/2 of East fractional Section 4, Township 12 North, Range 9 West, bounded on North by Section line, on West by the Wabash and Erie Canal, on East by section line and on South by a line East and West from canal to the East line of said fractional Section so as to contain 6 acres, more or less. Except all the coal, fire, clay and other minerals lying in or under the surface of the above described real estate together with mining rights pertaining thereto.

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

Subject to real property taxes.

The grantors further warrant and represent that they are one and the same persons as the grantees Kenneth L. Buck and Carolyn S. Judson in that certain Warranty Deed dated October 5, 1983 and recorded October 6, 1983 in Deed Record 394, page 801 in the office of the Vigo County REcorder and that they married subsequent to execution of the aforesaid deed.

IN WITNESS WHEREOF the above referred to KENNETH L. BUCK and CAROLYN S. JUDSON have hereunto set their hand and seal, this 16TH day of JUNE, 1998.

*Kenneth L. Buck* (SEAL)  
KENNETH L. BUCK

*Carolyn S. Judson* (SEAL)  
CAROLYN S. JUDSON

STATE OF INDIANA, VIGO COUNTY, SS:

Before me, the undersigned, a Notary Public in and for said county and state, this 16TH day of JUNE, 1998, personally appeared KENNETH L. BUCK and CAROLYN S. JUDSON, who being duly sworn stated the representations contained herein are true and acknowledged the execution of the annexed Deed to be their voluntary act and deed.

WITNESS my hand and Notarial Seal.

My Commission Expires:  
APRIL 13, 2001  
My County of residence is:  
VIGO

*Sue A. Galloway*  
Notary Public  
SUE A. GALLOWAY  
Typewritten or printed name of notary

THIS INSTRUMENT WAS PREPARED BY: *Ronald E. Jumps*  
Ronald E. Jumps, Attorney, Cox, Zwerner, Gambill & Sullivan, 511 Wabash Avenue, Terre Haute, IN 47807

MAIL TAX STATEMENTS TO: GRANTEE 4510 N. 7th St, Terre Haute, IN 47808

RECEIVED FOR RECORD  
AT 8 O'CLOCK M  
RECORD 443 PAGE 2243

*Paul Mason*  
RECORDER VIGO COUNTY





- Legend**
- Corporate Limits
  - Political Township
  - Sections
  - Blocks
  - Parcels
  - Road Centerlines

84-02-33-400-004.000-012

HAYTHORNE

84-06-04-200-002.000-002

7TH

84-06-04-200-004.000-052

UNNAMED

41

41

41

RECEIPT

TO: Mark Alan Roman

REASON:

Renewing

PAYMENT

OK # 251

RECEIVED BY

Sat / S Ellis

TERRE HAUTE, IN  
PAID  
JUN - 2015  
CONTROLLER





# 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: July 2, 2015

## REPORT TO THE CITY COUNCIL ON ZONING MAP AMENDMENT

THE VIGO COUNTY AREA PLAN COMMISSION HEREBY GIVES CERTIFICATION TO  
SPECIAL ORDINANCE NUMBER #11-15

CERTIFICATION DATE: July 1, 2015

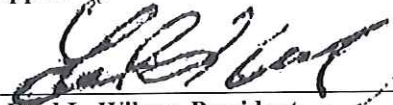
TO: The Honorable Common Council of the City of Terre Haute

Dear Members,

The Vigo County Area Plan Commission offers you the following report and certification on Special Ordinance No.11-15. This Ordinance is a rezoning of the property located at 4510 North 7<sup>th</sup> Street. The Petitioner, Kenneth and Carolyn Buck, petitions the Plan Commission to rezone said real estate from zoning classification 0-2 to R-1, Single Family Residential District for a single family residence . 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. 11-15 at a public meeting and hearing held Wednesday, July 1, 2015. 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. 11-15 as required by IC 36-7-4-302. The Area Plan Commission of Vigo County now hereby attaches certification to Special Ordinance No.11-15 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. 11-15 was Favorable WITH THE FOLLOWING CONDITION: That the subdivision of property be approved.

  
Fred L. Wilson, President

  
Darren Maher, Executive Director

Received this 2nd day of July, 2015

STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: S.O. #11-15

Doc: # 48

Date: July 2015

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**APPLICATION INFORMATION**

Petitioner: Kenneth L. Buck & Carolyn S. Buck

Property Owner: Same-As-Above

Representative: Same-As-Above

Proposed Use: Residential single family

Proposed Zoning: R-1, Single-Family Residence District

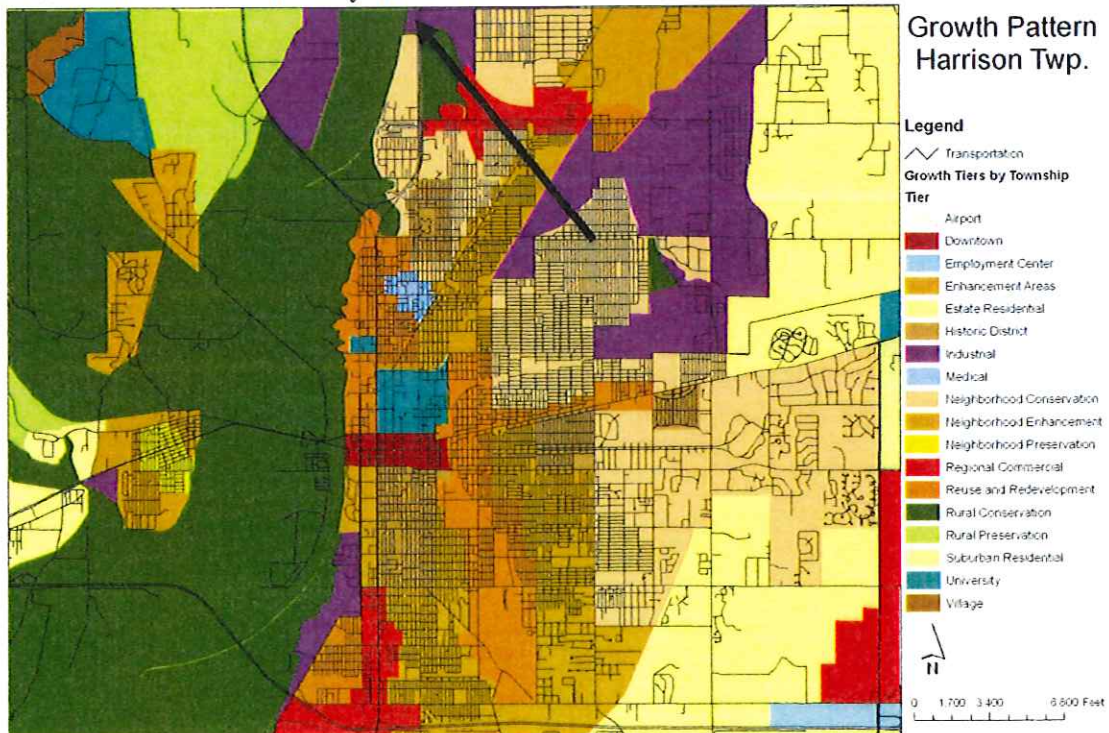
Current Zoning: O-2, Open Space Flood Plain

Location: The property is located on N 7<sup>th</sup> St. just south of Haythorne Ave. Across the highway is a large recreational vehicle dealership and an excavation company.

Common Address: 4510 N 7<sup>th</sup> St., Terre Haute, IN 47805

**COMPREHENSIVE PLAN GUIDANCE**

Service Area: The City of Terre Haute



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Dev. Priority: There is low priority to develop areas near to or adjacent to flood hazard areas.

### **Industrial Areas**

Industrial Areas shown on the Growth Pattern maps incorporate existing or planned industrial parks and industrial facilities. Allocation of additional land for future development of industrial facilities is also shown. Areas appropriate for industrial use include large, uninterrupted tracts of level land with few environmental constraints and with excellent highway and arterial access. The plan, in general, accommodates expansion of existing industries.

### **ZONING COMPATIBILITY**

Sur. Zones and Uses:  
**North** – A-1 County Agricultural  
**East** – M-2 Heavy Industrial  
**South** – C-3 PD  
**West** – C-3 PD

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### **ZONING REGULATIONS**

Uses, Permitted - R-1 Single-Family Residence District.

- (1) One-family detached dwellings.
- (2) Cemeteries, including crematories and mausoleums in conjunction therewith if not located within four hundred feet (400') of any other property in a Residence District.
- (3) Churches, Rectories, and Parish Houses.
- (4) Convents and Monasteries.
- (5) Gardening, including nurseries, provided that no offensive odors or dust are created.
- (6) Golf Courses, but not including commercially-operated driving ranges or miniature golf courses, provided that no clubhouse shall be located within three hundred feet (300') of any other property in a Residence District.
- (7) Libraries, Public. (Ord. No. 1, 1967, § 1131.01 a. - b., 7-6-67)
- (8) Child Care.

STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

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(9) Home Occupations. (Gen. Ord. No. 17, 2000, 9-14-00)

(A) Unlicensed Child Care.

An individual, or other entity, may provide child care in their residence for less than twenty-four (24) continuous hours to five (5) or fewer children at any time excluding relatives of the individual.

(B) Licensed Child Care

An individual, or other entity, who is licensed by the Vigo County Department of Public Welfare and the State Department of Public Welfare may provide child care services for children under the age of fourteen (14). The caregiver may not exceed ten (10) children, including their own children, at any one time.

(C) Licensed or unlicensed child care centers shall not be permitted in residential districts that do not comply to Subsections (a) and (b) above.

(10) Parks and Playgrounds, publicly owned and operated.

(11) Schools, elementary and high, non-boarding and including playgrounds and athletic fields incidental thereto.

(12) Signs, as regulated by Sec. 10-141 and Table 5.

(13) Temporary buildings and trailers for construction purposes, for a period not to exceed the lawful duration of such construction.

(14) Accessory uses.

(15) A private outdoor swimming pool, fully enclosed by a barrier fence five feet (5') high or an equivalent barrier.

(16) Residential Facility for the Developmentally Disabled. (Gen. Ord. No. 19, 1997, 2-12-98)

(17) Residential Facility for the Mentally Ill. (Gen. Ord. No. 19, 1997, 2-12-98)

## **FINDINGS and RECOMMENDATION**

Staff Findings:           The applicant is the unwilling recipient of a zoning classification that has all but been eliminated from the zoning maps. Over time the language for the O-2 or flood zone has been mostly eliminated from City Code. No definition of what is or preamble to an O-2 flood zone still exists except to say it is located in an open space district.



STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

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O-2 still does remain a legal zoning classification as it is mentioned as an established district and parameters for a F.A.R are outlined in Table 8 and 2 of the City Code.

The applicant is attempting to rezone the property as current lending and insuring institutions draw from FEMA guidelines stating that no buildings can exist or be rebuilt after destruction in a floodway.

A survey has been performed on the property and has subdivided the area identified as a SFHA (special flood hazard area) by FEMA from the property surrounding the home. The remaining portion on which the home resides lies entirely outside the SFHA.

Some questions have arisen as to why the R-1 Zoning classification was chosen. It would seem that given the location and surrounding land uses an O-1 or agricultural zoning would be more cohesive and would better benefit the current and future property owners.

Recommendation: Though unsure as to the reasoning behind the desire to rezone to R-1 instead of an O-1 staff is still willing to offer a Favorable Recommendation for the rezoning with the following conditions.

1. That the subdivision of the property removing the home and surrounding area from the SFHA be approved and recorded.

