

AMENDED SPECIAL ORDINANCE NO. 18, 2010

An Ordinance Amending Chapter 10, of the Terre Haute City Code, Zoning and Subdivision Regulations, as adopted by General Ordinance No. 10, 1999, as Amended, entitled "An Ordinance Adopting And Enacting A Code Of Ordinances For The City Of Terre Haute, Indiana; Establishing The Same; Providing For the Repeal Of Certain Ordinances Not Included Therein, Except As Herein Provided; Providing For The Manner Of Amending Such code Of Ordinances; Providing A Penalty For Violations Thereof; Providing When This Ordinance Shall Become Effective And Officially Adopting The Terre Haute City Code, And Passing Ordinances Addressing Fees, Fines And Regulations".

BE IT ORDAINED by the Common Council of the City of Terre Haute, Indiana, as follows:

SECTION I. That Chapter 10, of the Terre Haute City Code, known and referred to as "The Comprehensive Zoning Ordinance for Terre Haute" of General Ordinance No. 10, 1999, effective, December 10, 1999, Section 10-121, thereof, District Maps, is hereby amended to read as follows:

Lot No. Twenty-four (24) in Case and Genung's Subdivision. Lot 25, and Lot 26 except 28 feet off the North side thereof, in Genung's Subdivision of Lot 25 in Spencer's Subdivision of the North west quarter of Section 15, Township 12 North, Range 9 West, in Terre Haute, Vigo County, Indiana.

Commonly known as 1600 North 11th Street, Terre Haute, IN 47804.

be and the same is, hereby established as a R-2 Planned Development, together with all rights and privileges 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.

That the real estate described shall be a Planned Development in a R-2 Single Family Residence District as the same is defined in the Comprehensive Zoning Ordinance for the City of Terre Haute, Indiana, subject to the terms and condition set forth herein.

- (a) The real estate shall be used for auto body work and detailing and auto sales and service.
- (b) In the event that this Planned Development has not materialized within six (6) months of approval, it is understood that said Planned Development becomes void.

- (c) All such rights granted herein shall be fully transferable.
- (d) Said Planned Development shall be recorded in the Vigo County Recorder's Office within ninety (90) days of the approval by the Council.

That the owners have met all of the criteria determined by the Area Planning Commission, except as stated above and by the City Council of Terre Haute, Indiana, that a hardship does exist, due to improvements on the real estate and the physical characteristics of the real estate, and that a Planned Development as set forth herein is hereby approved and will be in the public's interest and in the interest of the neighborhood.

SECTION II. WHEREAS, the Area Planning Commission has considered a petition filed pursuant to General Ordinance No. 10, 1999, being Division III Planned Development; and

WHEREAS, Amended Special Ordinance No. 18, 2010, has been referred to the Area Planning Commission for its review and consideration and a favorable recommendation has been referred by the Commission to the Common Council; and

WHEREAS, a public hearing on Amended Special Ordinance No. 18, 2010, has been held pursuant to Section 10 of said Ordinance and the owner of the real estate described has demonstrated to the Area Planning Commission and to the Common Council evidence that a hardship exists pursuant to Section 10-112 of said Ordinance and that said Planned Development will not adversely affect surrounding property values, and that it will not adversely affect public health, safety and the general welfare.

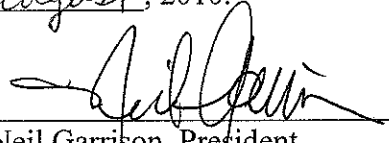
BE IT ORDAINED BY THE COMMON COUNCIL of the City of Terre Haute, Indiana that the owners of the real estate described have demonstrated that a hardship does exist for the use of said real estate and that the Common Council of the City of Terre Haute now determines that a hardship does exist and specifically authorizes and approves the uses of the real estate described as a R-1 Planned Development as described in this Ordinance, under the terms and conditions set forth herein, and further finds and determines that the proposed uses described will be in the public interest and that substantial justice will be done.

SECTION III. 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 by law provided.


Presented by Council Member, _____


Todd Nation, Councilperson

Passed in open Council this 12th day of August, 2010.


Neil Garrison, President


ATTEST:


Charles P. Hanley, City Clerk

Presented by me to the Mayor of the City of Terre Haute, this 13th day of August, 2010.


Charles P. Hanley, City Clerk

Approved by me, the Mayor of the City of Terre Haute, this 13th day of August, 2010.


Duke A Bennett, Mayor

ATTEST:


Charles P. Hanley, 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

This instrument prepared by Richard J. Shagley, Attorney-at-Law, WRIGHT, SHAGLEY & LOWERY, 500 Ohio Street, P.O. Box 8448, Terre Haute, Indiana 47808-8448.

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 PLANNING COMMISSION OF VIGO COUNTY, INDIANA.

LADIES and GENTLEMEN:

The undersigned, James A Rupska and Trudy H. Rupska, respectfully submit this Petition to Rezone the following described real estate in the City of Terre Haute, Vigo County, State of Indiana, to-wit:

Lot No. Twenty-four (24) in Case and Genung's Subdivison. Lot 25, and Lot 26 except 28 feet off the North side thereof, in Genung's Subdivison of Lot 25 in Spencer's Subdivision of the North west quarter of Section 15 Township, 12 North, Range 9 West, in Terre Haute, Vigo County, Indiana.

Parcel No. 84-06-15-181-011.000-002 and 84-06-15-181-010.000-002

Commonly known as 1600 North 11th Street, Terre Haute, IN 47804.

Your Petitioners are informed and believe that in accordance with Chapter 10, known and referred to as "The Comprehensive Zoning Ordinance for Terre Haute", as amended, the above described real estate is now zoned as R-2 Two Family Residence District.

Your Petitioners intend to sell the existing commercial building and the prospective purchaser plans to use the real estate as for an auto body & detailing and auto sales and service. The real estate was formerly the West Frame Service and has been used by your Petitioners as a body shop to rebuild automobiles.

Your Petitioners would request that the real estate described herein shall be zoned as a C-6 Strip Commerce District to allow for the use as proposed by the Petitioners. Your Petitioners would allege that the C-6 Strip Commerce District would not alter the general characteristics of this neighborhood.

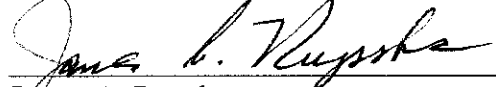
Your Petitioners would respectfully show the proposed change would not be detrimental to the public welfare or injurious to the property or improvements in the area.

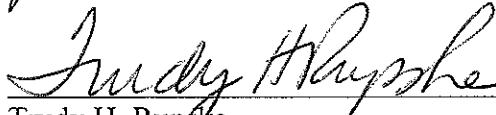
WHEREFORE, your Petitioners respectfully request that the Area Planning Commission and the Common Council of the City of Terre Haute, Indiana favorably consider the passage of a Special Ordinance amending the District Maps of Chapter 10, of the Terre Haute City Code entitled The Comprehensive Zoning Ordinance for Terre Haute, Section 10-121 District Maps and declaring the above-described real estate to be part of the C-6 Strip Commerce District of the City of Terre Haute, Indiana, and is 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, the undersigned Petitioners have caused this Petition to Rezone Real Property to be executed this 14th day of June, 2010.

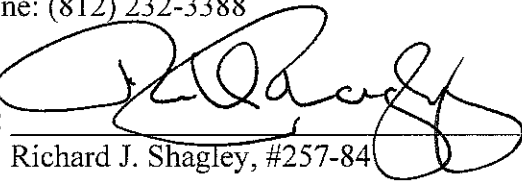
PETITIONER:


James A. Rupska


Trudy H. Rupska

WRIGHT, SHAGLEY & LOWERY, P.C.
500 Ohio Street
Terre Haute, IN 47807
Phone: (812) 232-3388

BY:


Richard J. Shagley, #257-84
Attorneys for Petitioner

The owner and mailing address: James A. & Trudy H. Rupska, 132 Berkley Dr, Terre Haute, IN 47803.

This instrument prepared by Richard J. Shagley, Attorney-at-Law, WRIGHT, SHAGLEY & LOWERY, P.C., 500 Ohio Street, Terre Haute, Indiana 47807.

STATE OF INDIANA)
) SS:
COUNTY OF VIGO)

AFFIDAVIT

Comes now, James A. Rupska, being duly sworn upon his oath, deposes and says:

1. That James A. Rupska and Trudy H. Rupska, are the fee simple owners of record of the following described real estate located in the City of Terre Haute, County of Vigo, State of Indiana, to-wit:

Lot No. Twenty-four (24) in Case and Genung's Subdivison. Lot 25, and Lot 26 except 28 feet off the North side thereof, in Genung's Subdivison of Lot 25 in Spencer's Subdivision of the North west quarter of Section 15 Township, 12 North, Range 9 West, in Terre Haute, Vigo County, Indiana.

Parcel No. 84-06-15-181-011.000-002 and 84-06-15-181-010.000-002

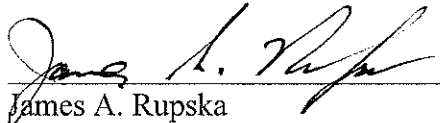
Commonly known as 1600 North 11th Street, Terre Haute, IN 47804.

2. That a copy of the Warranty Deed, dated December 30, 1998, and recorded in the records of the Recorder's Office of Vigo County, Indiana, transferring fee simple title to Affiant, is attached hereto and made a part hereof and marked as Exhibit A.

3. That Affiant makes this Affidavit for the sole purpose of affirming that James A. Rupska and Trudy H. Rupska, are the 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 James A. Rupska and Trudy H. Rupska.

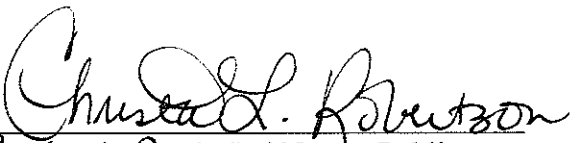
4. Further, Affiant saith not.

Dated at Terre Haute, Indiana this 14 day of JUNE, 2010.


James A. Rupska

STATE OF INDIANA)
) SS:
COUNTY OF VIGO)

SUBSCRIBED AND SWORN TO before me, a Notary Public in and for said County and State, this 14th day of June 2010.


CHRISTAL L. ROBERTSON, Notary Public

My Commission expires:

8/6/10

My County of Residence:

PARKE

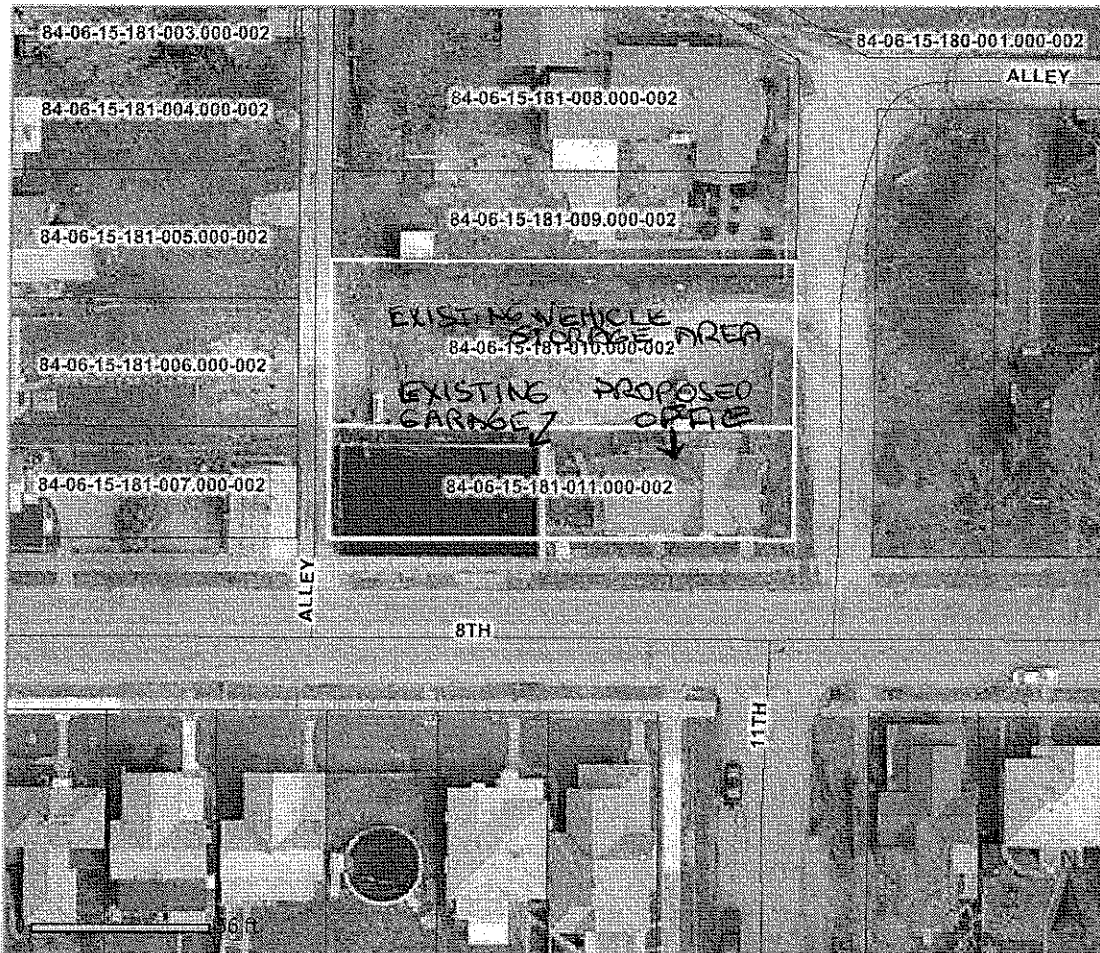
This instrument prepared by Richard J. Shagley, Attorney At Law, WRIGHT, SHAGLEY & LOWERY, P.C., 500 Ohio Street, Terre Haute, IN 47807.

SITE PLAN

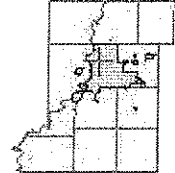
Vigo County, IN / City of Terre Haute



Date Created: 6/24/2010
Map Scale: 1 in = 56 ft



Overview



Legend

- Road Centerlines
- Parcels
- Blocks
- Sections
- Political Townships
- Corporate Limits

S.O. 18, 2010
R-2 to C-6
Auto body work
and detailing
AND
Auto sales and
service

Parcel ID 84-06-15-181-011.000-002

Sec/Twp/Rng

Property Address 1600 N 11TH ST
TERRE HAUTE

Alternate ID 118-06-15-181-011

Class Commercial Garage

Acreage 0.00

Owner Name RUPSKA JAMES A & TRUDY

Owner Address RUPSKA JAMES A & TRUDY
132 BERKLEY DR
TERRE HAUTE, IN 47803

District 002 HARRISON

Brief Tax Description CASE & GENUNGS SUB (1600 N 11TH ST)
D-444/38 15-12-9 LOT 24

(Note: Not to be used on legal documents)

Last Data Upload: 6/24/2010 1:29:54 AM



developed by
The Schneider Corporation
www.schneidercorp.com





TERRE HAUTE

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: August 5, 2010

REPORT TO THE CITY COUNCIL ON ZONING MAP AMENDMENT

THE VIGO COUNTY AREA PLAN COMMISSION HEREBY GIVES CERTIFICATION TO
SPECIAL ORDINANCE NUMBER #18-10

CERTIFICATION DATE: August 4, 2010

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. 18-10. This Ordinance is a rezoning of the property located at 1600 North 11th Street. The Petitioner, James and Trudy Rupska, Petitions the Plan Commission to rezone said real estate from zoning classification R-2 to C-6, Strip Business District, for auto body work and detailing and auto sales and 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. 18-10 at a public meeting and hearing held Wednesday, August 4, 2010. 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. 18-10 as required by IC 36-7-4-302. The Area Plan Commission of Vigo County now hereby attaches certification to Special Ordinance No. 18-10 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. 18-10, was FAVORABLE TO AMEND TO R-2 PLANNED DEVELOPMENT.


Fred L. Wilson, President


Jeremy Weir, Executive Director

Received this 5th day of August, 2010

STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: SO #18-10

Doc: # 53

Date: August 2010

Page 1 of 3

APPLICATION INFORMATION

Petitioner: James A. Rupska

Property Owner: Same-As-Above

Representative: Same-As-Above

Proposed Use: Auto body work & detailing and auto sales and service

Proposed Zoning: C-6, Strip Business Zone

Current Zoning: R-2, Two-Family Residence District

Location: The property is located on the northwest corner of North 11th Street and 8th Avenue.

Common Address: 1600 North 11th Street, Terre Haute, IN

COMPREHENSIVE PLAN GUIDANCE

Service Area: The City of Terre Haute

Guiding Policies: Neighborhood Conservation

- 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.
- New retail activities in an area should contribute to the diversity and variety of retail uses in a commercial node.
- Improved landscaping, improved pedestrian amenities, and increase attention to lighting, signage, and impacts upon nearby residential areas is advised in the review of development petitions.

Available Services: Area is well served by utilities.

Soil Limitations: Not studied.

Street Access: North 11th Street (Local Roadway)

Dev. Priority: Capital investment is a high priority

STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: SO #18-10

Doc: # 53

Date: August 2010

Page 2 of 3

ZONING COMPATIBILITY

Sur. Zones and Uses: **North** – R-2, Two-Family Residential District
East – R-2, Two-Family Residential District
South – R-2, Two-Family Residential District
West – R-2, Two-Family Residential District

Character of Area: Residential dwellings are the most common feature within this neighborhood, with commercial servicing nodes are located on the major thoroughfares (Lafayette Avenue and North 13th Street).

Contig. Uses & Zones: The contiguous zoning is R-2, Two-Family Residence District with uses that consist of single family dwellings, and non-conforming commercial use.

ZONING REGULATIONS

C-6 Purpose: The Strip Business Zone is a business use created primarily for transient's needs, but with some subjugated business uses serving neighborhood needs. It shall therefore be located only along major streets or expressways of the planning area and in addition shall be limited to Federal or state primary highways in densely developed areas only and not along "Limited" or "Controlled" access highways.

C-6 Uses: Uses permitted in C-6, Strip Business District are; Same as for C-1 Zone as provided in Sec. 10-207 c. (1); Banks, Barber shops; Camera and photographic supply stores; Candy and ice cream stores; Drug stores; Dry cleaning stores; Gift shops; Grocery stores, meat markets, bakeries, delicatessens, and food stores; Ice storage for retail; Municipal or privately owned recreation buildings or community centers; Post offices; 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); Service stations; Soda fountains; Sporting goods stores; Tobacco shops; Motel and as accessory uses: dining facilities with or without a bar serving alcoholic beverages, or swimming pool; Automobile sales and service (major and minor repairs); Signs as regulated by Sec. 10-141; Landscape, nurseries, garden supply, and seed stores; Business and professional offices.

C-6 Standards: Minimum Lot Size: 3,300 Sq. Ft.

STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: SO #18-10

Doc: # 53

Date: August 2010

Page 3 of 3

FAR 0.5 %

Street Setback: 55 feet from centerline;

Rear setback 11';

Interior setback of 5' from the interior lot line;

One (1) parking space per ten thousand (10,000) square feet outdoor lot area, plus one (1) space per one thousand (1,000) square feet indoor floor area.

Park lots for more than ten (10) cars will need visual buffering from adjacent residential properties

FINDINGS and RECOMMENDATION

Staff Findings: The proposed site is not suitable for the expansion of the C-6, Strip Business District. This location is within a contiguous R-2, Two-Family Residential District. This neighborhood and the surrounding uses would be better serviced with an R-2 Planned Development.

Recommendation: Staff offers an Unfavorable Recommendation on the request to change the zoning from residential to Commercial. Staff will support a request to rezone the property to R-2 Planned Development, if the petitioner wishes to amend the Special Ordinance.