

SPECIAL ORDINANCE NO. 5, 2010

APPLICATION FOR REZONING PETITION CITY OF TERRE HAUTE

Common Address of lots to be rezoned:

1400-1416 South 15th Street, Terre Haute, IN 47803

Rezoned From: C- 6 Strip Business District and R-1 Single Family Residence District

Rezoned To: M-1 Light Industry District

Proposed Use: Towing Facility

Name of Owner: Dennis A. Andrews and Becky L. Andrews

Address of Owner: 1416 South 15th Street
Terre Haute, IN 47803

Phone Number of Owner: (812) 232-3388 (Attorneys)

Attorney Representing Owner: Richard J. Shagley

Address of Attorney: 500 Ohio Street, Terre Haute, IN 47808

For Information Contact: Owner Attorney

Council Sponsor: Richard Duncan

COPY OF A SITE-PLAN MUST ACCOMPANY THIS APPLICATION

FILED

MAR 05 2010

SPECIAL ORDINANCE NO. 5, 2010

CITY CLERK

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:

Lots 4, 5, 6, and 7, in H. Graham's Subdivision of the North half of Lot 16 in A. Dean's Subdivision of the North half of the East half and part of the West half of the North half of the South East quarter of Section 27, Township 12 North, of Range 9 West.

Subject to any and all easements, rights-of-way and other observable or recorded covenants, restrictions, conditions and limitations.


Together with one-half of the public alley as shown on the recorded plat of said subdivision, that adjoins the above described real estate; which said alley has been duly vacated.

Commonly known as 1400 – 1416 South 15th Street, Terre Haute, IN 47803.


be and the same is, hereby established as a M-1 Light Industry District, 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.

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 the City of Terre Haute, and its approval by the Mayor and publication as by law provided.

Presented by Council Member,


Richard Dunkin, Councilperson

Passed in open Council this 13 day of ~~April~~^{May}, 2010.



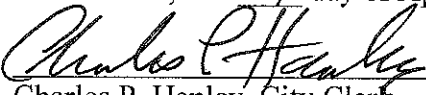
Neil Garrison, President

ATTEST:




Charles P. Hanley, City Clerk

Presented by me, to the Mayor of the City of Terre Haute, this 14th day of ~~April~~^{May}, 2010.



Charles P. Hanley, City Clerk

Approved by me, the Mayor of the City of Terre Haute, this 14th day of ~~April~~^{May}, 2010.



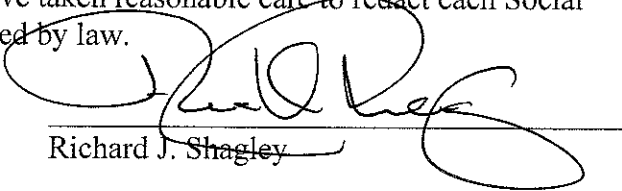
Duke A. Bennett, Mayor

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, P.C., 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, Dennis A. Andrews and Becky L. Andrews, respectfully submit this Petition to Rezone the following described real estate in the City of Terre Haute, Vigo County, State of Indiana, to-wit:

Lots 4, 5, 6, and 7, in H. Graham's Subdivision of the North half of Lot 16 in A. Dean's Subdivision of the North half of the East half and part of the West half of the North half of the South East quarter of Section 27, Township 12 North, of Range 9 West.

Subject to any and all easements, rights-of-way and other observable or recorded covenants, restrictions, conditions and limitations.

Together with one-half of the public alley as shown on the recorded plat of said subdivision, that adjoins the above described real estate; which said alley has been duly vacated.

Commonly known as 1400 – 1416 South 15th Street, Terre Haute, IN 47803.

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 C-6 Strip Business District and R-1 Single Family Residence District.

Your Petitioners would respectfully state that the major portion of the real estate is now and has been used for Andrews Towing since 2007.

Your Petitioners would request that the real estate described herein shall be zoned as a M-1 Light Industry District to allow for the use as proposed by the Petitioners' buyer. Your Petitioners would allege that the M-1 Light Industry District would not alter the general characteristics of this neighborhood, since the real estate is located on one of the City's major streets.

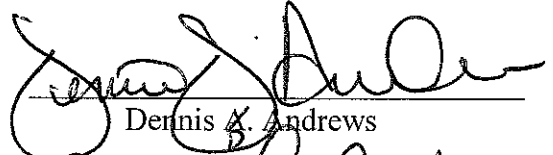
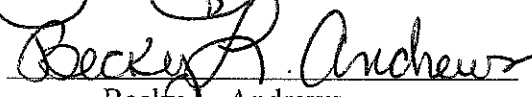
Your Petitioners would respectfully show the proposed change would not be detrimental to the public welfare or injurious to the property or improvements in the area.

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 M-1 Light Industry 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 executed this Petition to Rezone Real Property this 26th day of February, 2010.

PETITIONERS

Dennis A. Andrews
Becky L. Andrews


Dennis A. Andrews

Becky L. Andrews

WRIGHT, SHAGLEY & LOWERY, P.C.
500 Ohio Street, P.O. Box 9849
Terre Haute, IN 47808-9849
Phone: (812) 232-3388

BY: 

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

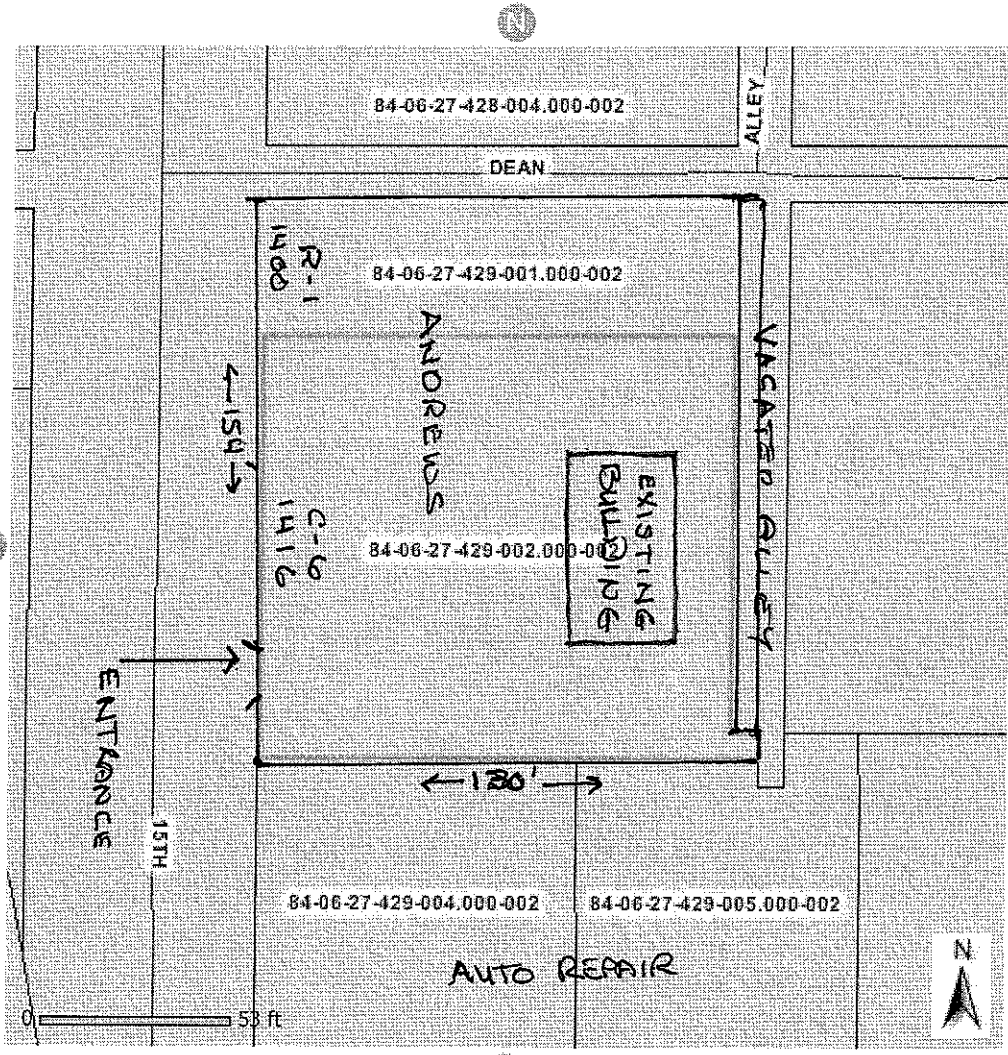
The owners Dennis A. Andrews and Becky L. Andrews, mailing address: 1416 South 15th Street, Terre Haute, IN 47803

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

SITE PLAN

Map

SO. 5, 2010
 |
 1400-1416
 S 15th St.
 |
 R-1 and C-6
 TO
 M-1
 |
 TOWING
 FACILITY



WASHINGTON STREET

Summary

Parcel ID	84-06-27-429-001.000-002- 84-06-27-429-002.000-002	Alternate ID	N/A	Owner Name	ANDREWS DENNIS A & BECK
Sec/Twp/Rng	1400 -	Class	Com Other commercial structure	Owner Address	ANDREWS DENNIS A & BECK
Property Address	1416 S 15TH ST TERRE HAUTE	Acres	0.00		960 BOLTON RD WEST TERRE HAUTE, IN 478
District	002 HARRISON				
Brief Tax Description	GRAHAMS SUB ALSO 1/2 VAC ALLEY ADJ LOTS 4-6 27-12-9 (Note: Not to be used on legal documents)				

Last Data Upload: 3/4/2010 2:00:26 AM

DULY ENTERED FOR RECORDATION
Subject to final acceptance for transfer

2007006766 WD \$16.00
05/09/2007 08:29:33A 1 PGS
RAYMOND L. WATTS
VIGO County Recorder IN
Recorded as Presented

MAY 09 2007


VIGO COUNTY AUDITOR

WARRANTY DEED

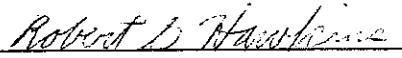
This Indenture Witnesseth that Robert G. Hawkins, a competent adult, of Vigo County, State of Indiana, Conveys and Warrants to Dennis A. Andrews and Becky L. Andrews, husband and wife, of Vigo County, State of Indiana, for and in consideration of One Dollar and other valuable consideration, the receipt whereof is hereby acknowledged, the following described real estate in Vigo County, State of Indiana, to-wit:

and 7
Lots 4, 5 and 6, in H. Graham's Subdivision of the North half of Lot 16 in A. Dean's Subdivision of the North half of the East half and part of the West half of the North half of the South East quarter of Section 27, Township 12 North, of Range 9 West.

Subject to any and all easements, rights-of-way and other observable or recorded covenants, restrictions, conditions and limitations.

Together with one-half of the public alley as shown on the recorded plat of said subdivision, that adjoins the above described real estate; which said alley has been duly vacated.

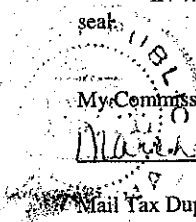
IN WITNESS WHEREOF, The said grantor above named has hereunto set his hand and seal, this 9th day of May, 2007.

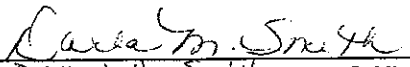

Robert G. Hawkins

STATE OF INDIANA, COUNTY OF VIGO) SS:

Before me, a Notary Public in and for said county and state, this 4th day of May, 2007, personally appeared Robert G. Hawkins, a competent adult, who acknowledged the execution of the foregoing Warranty Deed to be his voluntary act and deed and stated that the representations therein contained are true as he verily believes.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official

seal:

My Commission Expires:
March 4, 2011
Mail Tax Duplicates to: _____


DARLA M. SMITH, Notary Public
A resident of Vigo County, Indiana

This instrument prepared by: C. Don Nattkemper, Attorney at Law, 2901 Ohio Boulevard, Suite 160, Terre Haute, Indiana 47803.

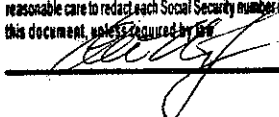
I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law.


Exhibit A

QUIT CLAIM DEED



THE GRANTOR, G. X. Thompson 1348 Ohio St, City of Terre Haute County of Vigo, State of Indiana for and in consideration of \$1.00 (One and no/100 dollars) and other valuable considerations convey and quit-claim to, Dennis & Becky Andrews of 960 Bolton Rd City of West Terre Haute 47885 County of Vigo State of Indiana all interest in the following real estate:

Lot Number Seven (7) in H. Graham's Subdivision of the North half of Lot No. 16 in Deans Subdivision of the North half of the East half and front of the West half of the North half of the South East quarter of Section, 27, in Township 12 North of Range 9 West, of the 2nd Principal Meridian in Terre Haute, Vigo County, Indiana.

Commonly referred to as: 1400 S. 14th, Terre Haute, Indiana

DULY ENTERED FOR TAXATION
Subject to final acceptance for transfer

Dated this 3rd day of December 2009.

G. X. Thompson

DEC 04 2009

TIMOTHY M. STEGWEE
VIGO COUNTY AUDITOR

STATE OF Indiana
County of Vigo

I, Cathy Sue Rusin, Notary Public in and for the state of Indiana, do hereby certify that on this 3rd day of Dec., 2009, personally appeared before me G. X. Thompson

to me known to be the individuals described in and who executed the within instrument and acknowledge that they signed the same as their free and voluntary act and deed for the uses and purposes mentioned.

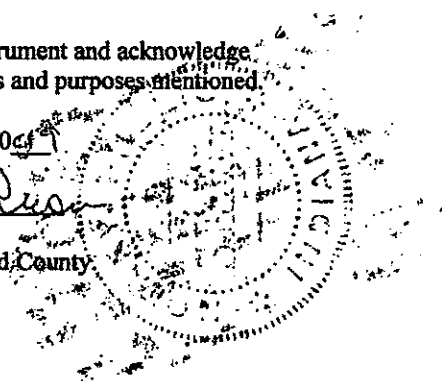
GIVEN UNDER MY HAND AND OFFICIAL SEAL this 3rd day of Dec., 2009

Cathy Sue Rusin

Notary Public in and for the State of Indiana, residing at 2104 Beech in said County

My commission expires 10/19/16

This instrument prepared by G. X. Thompson.



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.

EXHIBIT B

STATE OF INDIANA)
) SS:
COUNTY OF VIGO)

AFFIDAVIT

Comes now Dennis A. Andrews, being duly sworn upon his oath, deposes and says:

1. That Dennis A. Andrews and Becky L. Andrews, 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:

Lots 4, 5, 6, and 7, in H. Graham's Subdivision of the North half of Lot 16 in A. Dean's Subdivision of the North half of the East half and part of the West half of the North half of the South East quarter of Section 27, Township 12 North, of Range 9 West.

Subject to any and all easements, rights-of-way and other observable or recorded covenants, restrictions, conditions and limitations.

Together with one-half of the public alley as shown on the recorded plat of said subdivision, that adjoins the above described real estate; which said alley has been duly vacated.

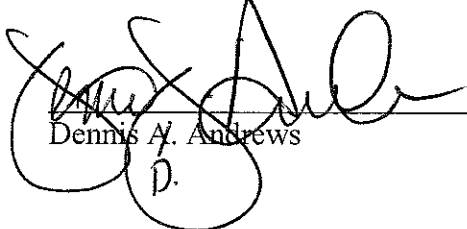
Commonly known as 1400 – 1416 South 15th Street, Terre Haute, IN 47803.

2. That a copy of the Warranty Deed, dated May 7, 2007, and Quitclaim Deeds, dated December 3, 2009, recorded in the records of the Recorder's Office of Vigo County, Indiana, transferring fee simple title to Dennis A. Andrews and Becky L. Andrews are attached hereto and made a part hereof and marked as Exhibits A and B.

3. That Affiant makes this Affidavit for the sole purpose of affirming that Dennis A. Andrews and Becky L. Andrews, 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 Dennis A. Andrews and Becky L. Andrews.

4. Further, Affiant saith not.

Dated at Terre Haute, Indiana this 26th day of February, 2010.


Dennis A. Andrews
D.

STATE OF INDIANA)
)SS:
COUNTY OF VIGO)

Before me, the undersigned, a Notary Public in and for said County and State, this 26th day of February, 2010, appeared Dennis A. Andrews, who acknowledged the execution of the above as the voluntary act and deed, and further acknowledged that he is authorized to execute the same.



Sharon D. Anderson, Notary Public

My Commission Expires: County of Residence:
11-15-2010 Putnam

This instrument was prepared by Richard J. Shagley, Attorney, Wright, Shagley & Lowery, 500 Ohio Street, Terre Haute, Indiana 47807.



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

FILED

MAY 08 2010

CITY CLERK

DATE: May 6, 2010

REPORT TO THE CITY COUNCIL ON ZONING MAP AMENDMENT

THE VIGO COUNTY AREA PLAN COMMISSION HEREBY GIVES CERTIFICATION TO
SPECIAL ORDINANCE NUMBER #5-10

CERTIFICATION DATE: May 5, 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. 5-10. This Ordinance is a rezoning of the property located at 1400-1416 South 15th Street. The Petitioner, Dennis and Becky Andrews, Petitions the Plan Commission to rezone said real estate from zoning classification R-1 and C-6 to M-1, Light Industry District, for a towing facility. 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. 5-10 at a public meeting and hearing held Wednesday, May 5, 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. 5-10 as required by IC 36-7-4-302. The Area Plan Commission of Vigo County now hereby attaches certification to Special Ordinance No. 5-10 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. 5-10, was FAVORABLE WITH THE FOLLOWING CONDITION: 1) Dependent on landscape/buffering plan that is agreed upon with neighbors to East and North.

Fred L. Wilson, President

Jeremy Weik, Executive Director

Received this 6th day of May, 2010

STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: SO #05-10

Doc: # 22

Date: April 2010

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APPLICATION INFORMATION

Petitioner: Dennis A. Andrews and Becky L. Andrews

Property Owner: Same-As-Above

Representative: Richard J. Shagley

Proposed Use: Towing Facility

Proposed Zoning: M-1, Light Industrial District

Current Zoning: C-6, Strip Business District and
C-2, Community Commerce District

Location: The property is located on the southeast corner of South 15th Street
and Dean Avenue.

Common Address: 1400-1416 South 15th Street

COMPREHENSIVE PLAN GUIDANCE

Service Area: The City of Terre Haute

Guiding Policies: Reuse and Redevelopment

- Encourage infill development that is compatible with the land use mix and intensity of existing development
- Incompatible and inconsistent uses with residential context of these neighborhoods should be eliminated.
- Encourage neighborhoods to develop a unique sense of place, but still be part of the larger city.

Available Services: Area is well served by utilities.

Soil Limitations: Not studied.

Street Access: South 15th Street is a Local Roadway with sixty (60) feet of ROW

Dev. Priority: Capital investment is a high priority

STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

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ZONING COMPATIBILITY

Sur. Zones and Uses: **North** – R-2, Two-Family Residence District
East – R-2, Two-Family Residence District
South – C-6, Strip Business District
 C-5, General Central Business District
 C-2, Community Commerce District
West – M-2, Heavy Industrial District

Character of Area: Uses of the nearby properties are automotive related, with a signal family dwelling to the east of this location.

Contiguous Uses & Zones: Commercial uses are contiguous to the and south. The current zoning of these uses are C-6, Strip Business and C-2, Community Commerce District, with uses that are permitted.

ZONING REGULATIONS

C-6 Purpose: It is the purpose of this classification to provide for complete separation of residential and commercial areas, from industrial areas for the mutual protection of both industrial and residential, and commercial uses. It is recognized that for industrial growth, a reasonable excess of quality land must be held in exclusive reserve for industrial expansion. In the granting of special uses, this goal must be paramount in the consideration thereof and special uses not clearly of manufacturing or industrial nature must be incidental to an established industrial facility. The Light Industrial zone classification provides for additional sites in a more densely developed area. It provides for those industries which are more compatible with densely developed, contiguous, residential and commercial uses and which can readily meet the industrial performance standards as contained in Sec. 10-143.

C-6 Uses: Any production, processing, cleaning, servicing, testing, repair, or storage of material, goods, or products which shall conform with the performance standards set forth in Sec. 10-143 (except such uses as are specifically excluded), and which shall not be injurious or offensive to the occupants of adjacent premises by reason of the emission or creation of noise, vibration, smoke, dust, or other particulate matter, toxic and noxious materials, odors, fire or

STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: SO #05-10

Doc: # 22

Date: April 2010

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explosive hazards, glare or heat. Within three hundred feet (300') of a Residence District, all storage except of motor vehicles, shall be within completely enclosed buildings or may be located out-of-doors if it is effectively screened by a solid wall or fence (including solid entrance and exit gates) as specified in Sec. 10-172 e. for junkyards; Automobile laundries; Building materials sales; Contractor or construction office, shops, and yards; Fuel and ice sales, if located in completely enclosed buildings; Garages and parking lots, for motor vehicles; Public utility and public service uses, including; Signs as regulated in Sec. 10-141; Trade schools.

C-6 Standards: Minimum Lot Size: 3,300 Sq. Ft.
FAR 0.5 %
Street Setback: 55 feet from centerline;
Rear setback 11';
Interior setback of 5' from the interior lot line;
One (1) space per each employee on the largest shift

FINDINGS and RECOMMENDATION

Staff Findings: The proposed rezoning request is in a close proximity to a historic industrial core within The City. Throughout this industrial core there is an intermingling between urban neighborhoods and industrial uses.

Automotive uses are contiguous to this site. The City Board of Public Works & Safety specifies that the towing contracts for abandoned/junk vehicles require, following items with regard to the storage lot:

- A. The Storage Site shall be lighted and fenced with a hard surface that is at list eight (8) feet high.
- B. Contractor shall maintain the capacity for storing 100 abandoned or junk vehicles.

STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: SO #05-10

Doc: # 22

Date: April 2010

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Recommendation: Favorable Recommendation with one condition. The petitioner ~~needs to provide a site plan, approved by the Board of Public Works showing the capacity to store 100 auto's on-site.~~

*Dependent on Landscape/Butter's
plan that is agreed upon with
neighbors to East and North*

Haute/Mason