



APPLICATION FOR REZONING PETITION - CITY OF TERRE HAUTE

SPECIAL ORDINANCE NO. 11

COMMON ADDRESS OF LOTS TO BE REZONED:

1825 and 1827 North First Street, Terre Haute, Indiana 47804

Current Zoning: R-2 Two Family Residential District

Requested Zoning: C-2 Community Commercial District

Proposed Use: Parking for Cunningham Vacuum Resources located
directly across First Street

Name of Owner: James E. Cunningham and Amy J. Cunningham, d/b/a
Cunningham Vacuum Resources

Address of Owner: 6785 W. Woodview Drive South, Brazil, IN 47834

Phone Number of Owner: (812) 231-1014

Attorney Representing Owner (if any): Mark D. Hassler

Address of Attorney: Hunt, Hassler & Lorenz, LLP, 100 Cherry Street, Terre Haute, IN 47807

Phone Number of Attorney: (812) 232-9691

For Information Contact: Attorney

Council Sponsor: Neil Garrison

***COPY OF SITE PLAN MUST ACCOMPANY THIS APPLICATION**

FILED

APR 12 2013

SPECIAL ORDINANCE FOR A REZONING
SPECIAL ORDINANCE NO. 11, 2013

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, 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:

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

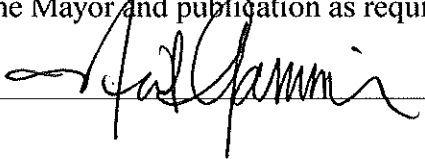
Lots Twelve (12) and Five (5) and Eight (8) feet and one (1) inch off the South side of Lot Number Four (4) in Wilson's Subdivision of Two (2) acres in Lot Number Ten (10) in the Subdivision of Section 16, Township 12 North, Range 9 West.

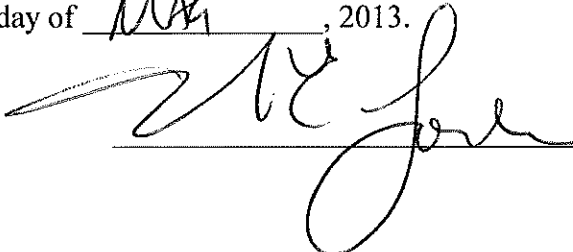
Subject to easements, covenants, restrictions, leases and other matters of record affecting title to the subject real estate, as well as rights of way for draining tiles, ditches, feeders and laterals, if any.

Commonly known as 1825 and 1827 North First Street, Terre Haute, Indiana 478094.

Be and the same is hereby established as a C-2 Community Commercial 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, 

Passed in Open Council this 9 day of MAY, 2013.

President

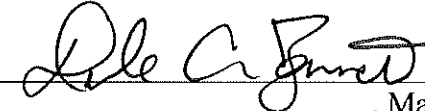
ATTEST:


Charles P. Hanley, City Clerk

Presented to me by the Mayor of the City of Terre Haute this 20th day of May, 2013.


Charles P. Hanley, City Clerk

Approved by me, the Mayor, this 20th day of MAY, 2013.

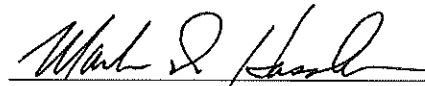

_____, Mayor

ATTEST:


Charles P. Hanley, City Clerk

This instrument prepared by Mark D. Hassler, Hunt, Hassler & Lorenz, LLP, 100 Cherry Street, Terre Haute, IN 47807.

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 D. Hassler, Attorney

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 GENTLEMEN:

The undersigned, James E. Cunningham and Amy J. Cunningham, d/b/a Cunningham Vacuum Resources, respectfully submits this Petition to rezone the following described real estate in the City of Terre Haute, County of Vigo, Indiana, to wit:

Lots Twelve (12) and Five (5) and eight (8) feet and one (1) inch off the South side of Lot Number Four (4) in Wilson's Subdivision of Two (2) acres in Lot Number Ten (10) in the Subdivision of Section 16, Township 12 North, Range 9 West.

Subject to easements, covenants, restrictions, leases and other matters of record affecting title to the subject real estate, as well as rights of way for draining tiles, ditches, feeders and laterals, if any.

Commonly known as: 1825 and 1827 North First 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 R-2 Two Family Residential District.

Your petitioner would respectfully state that the real estate is now vacant land. Your petitioner intends to use the real estate to construct a parking lot for use by Cunningham Vacuum Resources which is located directly across First Street from the subject property. If this Petition is granted, petitioners will request a special exception for said parking, so as to be in full compliance with the Zoning Ordinance.

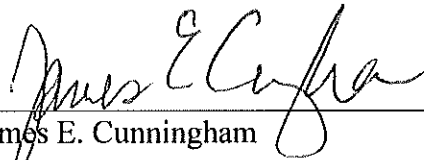
Your petitioner would request that the real estate described herein shall be zoned as a C-2 Community Commercial District. Your petitioner would allege that the Community Commercial District would not alter the general characteristics of this neighborhood.

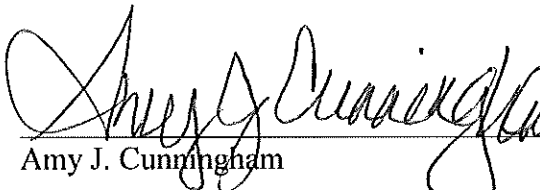
Your petitioner would respectfully show the proposed change would not be detrimental to the public welfare or injurious to the property or improvements in the neighborhood.

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 the Terre Haute, Indiana," and declaring the above-described real estate to be part of the C-2 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 10 day of April, 2013.


James E. Cunningham


Amy J. Cunningham

HUNT, HASSLER & LORENZ LLP

By 
Mark D. Hassler

100 Cherry Street
Terre Haute, IN 47807
(812) 232-9691

Attorney for Petitioners

PETITIONERS: James E. Cunningham and Amy J. Cunningham, d/b/a Cunningham Vacuum Resources

This instrument prepared by Mark D. Hassler, Hunt, Hassler & Lorenz, LLP, 100 Cherry Street, Terre Haute, IN 47807.

ALLEY

TREE ROW

TREE

67'

PARKING
LOT

55'

TREES

19'8"

1827

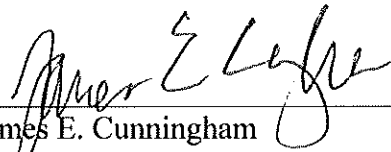
1825

1ST STREET

AFFIDAVIT OF: JAMES E. CUNNINGHAM AND AMY J. CUNNINGHAM

COMES NOW affiants James E. Cunningham and Amy J. Cunningham and affirm under penalty of law that affiants are the owners of record of the property located at 1825 and 1827 North First Street, Terre Haute, Indiana 47804 for which a rezoning is requested and hereto a copy of the deed is attached evidencing such ownership.

We affirm under penalty for perjury that the foregoing representations are true.



James E. Cunningham


Amy J. Cunningham

STATE OF INDIANA)
) SS:
COUNTY OF VIGO)

Personally appeared before me, a Notary Public in and for said County and State, James E. Cunningham and Amy J. Cunningham, who acknowledges the execution of the above and foregoing, after being duly sworn upon his oath and after having read this Affidavit.

WITNESS my hand and notarial seal, this 10th day of April, 2013.


Lynn A. Adams, Notary Public

My Commission Expires: 10/4/2016

My County of Residence: Vigo

SEP 12 2012

Timothy M. Simpson
VIGO COUNTY AUDITOR

2012014058 WD \$18.00
09/12/2012 12:34:18P 2 PGS
NANCY S. ALLSUP
VIGO County Recorder IN
Recorded as Presented


WARRANTY DEED

THIS INDENTURE WITNESSETH that **Gilbert Elliott**, "Grantor" of VIGO County, State of Indiana, CONVEYS, GRANTS, AND WARRANTS **James E. Cunningham and Amy J. Cunningham, DBA Cunningham Vacuum Resources**, "Grantees" of Vigo County, State of Indiana, for and in consideration of One Dollar (\$1.00) and other valuable consideration, the receipt whereof is hereby acknowledged, the following described real estate in Vigo County in the State of Indiana, to-wit:

A part of Lot Number 69 in the Subdivision of Section 16, Township 12 North, Range 9 West bounded as follows to-wit:

Commencing at the North East corner of said Lot 69, running thence South 128 feet, thence West to the Wabash and Erie Canal, thence North along said Canal to the North line of said Lot 69, thence East to the place of beginning.

ALSO, A part of Lot Number 69 in the Subdivision of Section 16, Township 12 North, Range 9 West as follows to-wit:

Commencing at a point in the East line of said Lot 69 which point is 128 feet South of the Northeast corner of said Lot 69 running thence West 120 feet, thence South 40 feet, thence East 120 feet, thence North 40 feet to the place of beginning.

ALSO, Commencing at a point 168.0 feet South of the Northeast corner of Lot 69 in School Section 16, Township 12 North, Range 9 West, said Northeast corner of Lot 69 and said commencing point being 16.5 feet west of the east line of the Northwest quarter of said Section 16, Township 12 North, Range 9 West, running thence West 120.0 feet; thence South 80.0 feet; thence East 120.0 feet; thence North 80.0 feet to the place of beginning.

ALSO, Lot Number Five (5) and Eight (8) feet and one (1) inch off the South side of Lot Number Four (4) in Wilson's Subdivision of Two (2) acres in Lot Number Ten (10) in the Subdivision of Section 16, Township 12 North, Range 9 West.

Commonly known as: 1824, 1827, 1828 and 1840 North First Street, Terre Haute, IN 47804

Subject to easements, covenants, restrictions, leases and other matters of record affecting title to the subject real estate, as well as rights of way for drainage tiles, ditches, feeders and laterals, if any.

Taxes shall be prorated to the date of this deed.

DATED this 6th day of September, 2012.

Gilbert Elliott
Gilbert Elliott

2

STATE OF INDIANA)
) SS:
COUNTY OF VIGO)

Before me, the undersigned, a Notary Public in and for said County and State, this
6th day of September, 2012, personally appeared Gilbert Elliott, and
acknowledged the execution of the foregoing deed.

In witness whereof, I have hereunto subscribed my name and affixed my official
seal.

My Commission Expires:
10/12/2017

Jane Benell
Notary Public
Printed: Jane Benell
Residing in Parke County

Mail Tax Statements To Grantee at: 6785 W Woodview Dr S
Brazil IN 47834

Mail Deed To: Integrity Title Services, 1721 Wabash Ave., Terre Haute, IN 47807

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.

Stephanie Stover
Stephanie Stover

This instrument was prepared by: John Gurchiek of GURCHIEK LAW, INC., P.O. Box 6327, Fishers, IN
46038, at the specific request of the parties of their authorized representatives based solely on information
supplied by one or more of the parties to this conveyance. 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 this instrument.

CMT: 12 0823

SEP 12 2012

2012014059 QD \$16.00
09/12/2012 12:34:18P 1 PGS
NANCY S. ALLSUP
VIGO County Recorder IN
Recorded as Presented



Nancy S. Allsup
VIGO COUNTY AUDITOR

QUIT CLAIM DEED

THIS INDENTURE WITNESSETH, that Don L. Giovanini, II ("Grantor") of Vigo County in the State of Indiana, Conveys, Releases, Grants, and Quitclaims to James E. Cunningham and Amy J. Cunningham, DBA Cunningham Vacuum Resources ("Grantees") of Vigo County in the State of Indiana, for consideration of One Dollar (\$1.00) and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the following described real estate in Vigo County, in the State of Indiana:

Wilson Sub Prt Lot 10 Lots 12, Section 16, Township 12 North, Range 9 West.

Commonly known as 1825 North First Street, Terre Haute, Indiana 47804

DATED this 6th day of September, 2012.

Don L. Giovanini, II
Don L. Giovanini, II

STATE OF INDIANA)
) SS:
COUNTY OF VIGO)

Before me, the undersigned, a Notary Public in and for said County and State, this 6th day of September, 2012, personally appeared Don L. Giovanini, II, and acknowledged the execution of the foregoing deed. In Witness whereof, I have hereunto subscribed my name and affixed my official seal.

My Commission Expires:

10/12/2017

Jane Benell

Notary Public
Printed: Jane Benell
Residing in Parke County

Mail Tax Bills To: 6785 W Woodview Dr S
Brazil IN 47834

Mail Deed To: Integrity Title Services, 1721 Wabash Ave., Terre Haute IN 47807

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.

Stephanie Stover

Stephanie Stover



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: May 2, 2013

REPORT TO THE CITY COUNCIL ON ZONING MAP AMENDMENT

THE VIGO COUNTY AREA PLAN COMMISSION HEREBY GIVES CERTIFICATION TO
SPECIAL ORDINANCE NUMBER #11-13

CERTIFICATION DATE: May 1, 2013


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

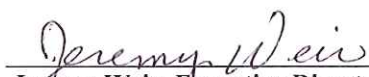
Dear Members,

The Vigo County Area Plan Commission offers you the following report and certification on Special Ordinance No. 11-13. This Ordinance is a rezoning of the property located at 1825 and 1827 North 1st Street. The Petitioner, James E. and Amy J. Cunningham/Cunningham Vacuum Resources, Petitions the Plan Commission to rezone said real estate from zoning classification R-2 to C-2, Community Commerce District, for parking for Cunningham Vacuum Resources. 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. 11-13 at a public meeting and hearing held Wednesday, May 1, 2013. 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. 11-13 as required by IC 36-7-4-302. The Area Plan Commission of Vigo County now hereby attaches certification to Special Ordinance No. 11-13 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. 11-13, was FAVORABLE.


Fred L. Wilson, President


Jeremy Weir, Executive Director

Received this 2nd day of May, 2013

STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: SO #11-13

Doc: # 35

Date: May, 1st 2013

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APPLICATION INFORMATION

Petitioner: James E. Cunningham and Amy J. Cunningham

Property Owner: James E. Cunningham and Amy J. Cunningham, d/b/a Cunningham Vacuum Resources

Representative: Mark D. Hassler

Proposed Use: Off-site parking facility for Cunningham Vacuum Resources

Proposed Zoning: C-2, Limited Community Commercial District

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

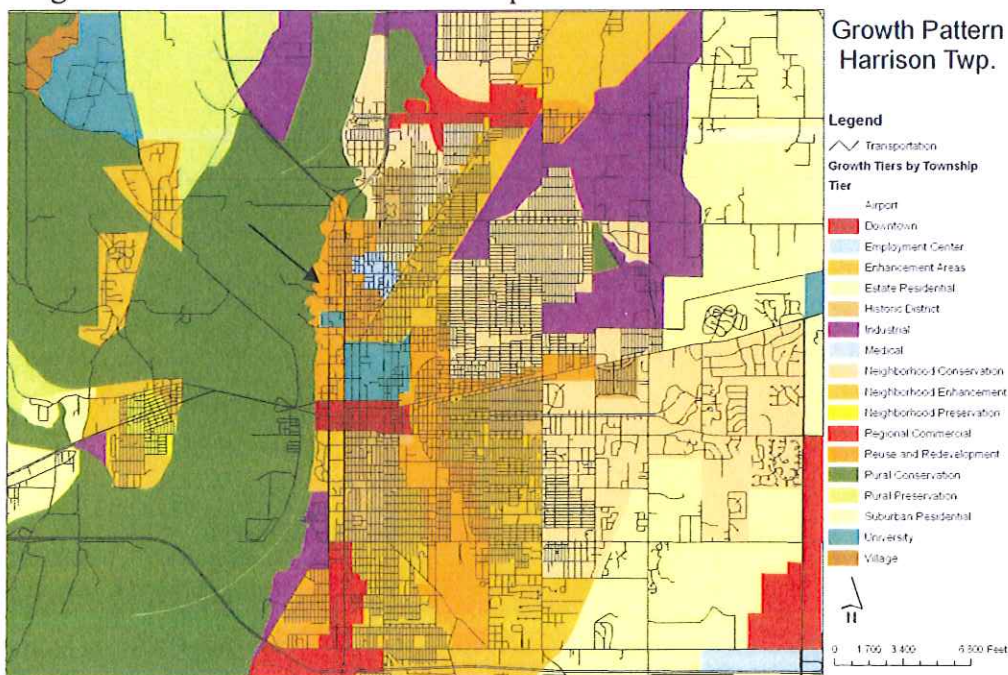
Location: The property is located on the east side of north 1st street, 250 north of Maiden Lane.

Common Address: 1825 and 1827 North 1st Street, Terre Haute, IN 47804

COMPREHENSIVE PLAN GUIDANCE

Service Area: The City of Terre Haute

Guiding Policies: Reuse and Redevelopment Areas



STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: SO #11-13

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Date: May, 1st 2013

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- All policies from Neighborhood Enhancement
- 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.
- Allow for a range of housing densities based on the zoning ordinance.
- 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 1st Street, is a Secondary Arterial Roadway

Dev. Priority: Neighborhood Commercial at intersection of at least an arterial and/or sub-collector roadways: Center with 100,000 SQ. FT. Maximum size on 10 acres or less. Could be in low to high intensity residential areas with appropriate buffering

ZONING COMPATIBILITY

Sur. Zones and Uses: **North** – R-2, Two-Family Residence District

East – R-2, Two-Family Residence District

South – M-1, Light Industrial District

West – R-2, Two-Family Residence District

C-2, Limited Community Commercial District

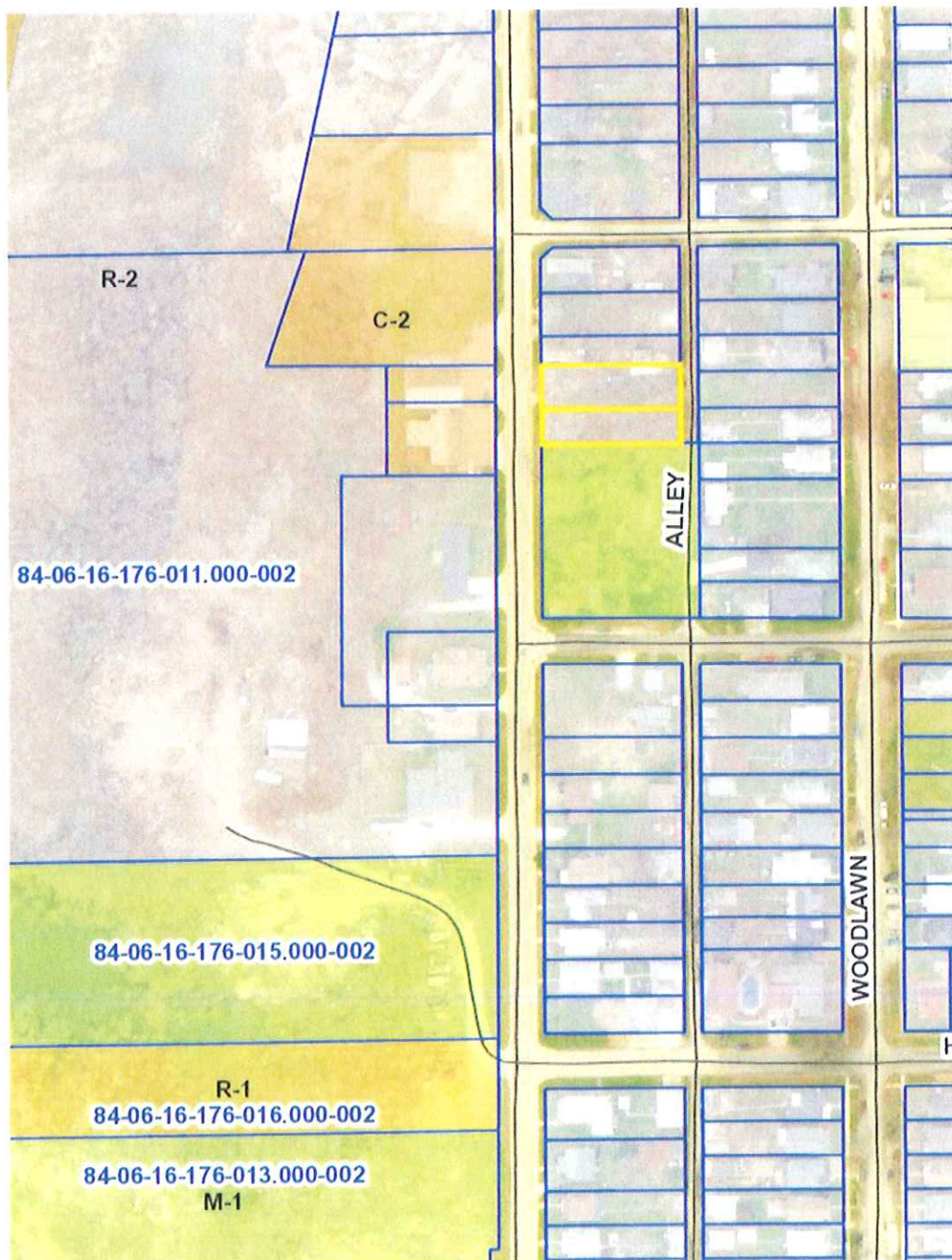
STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: SO #11-13

Doc: # 35

Date: May, 1st 2013

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Character of Area: This area has a mix of residential, commercial, and industrial uses. The residential uses are confined by Linden Street to the North, North 3rd Street to the East, 8th Ave to the South, and North 1st Street to the west. The Commercial and Industrial uses are fronting on the perimeter of the define area.

STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: SO #11-13

Doc: # 35

Date: May, 1st 2013

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Contig. Uses & Zones: The contiguous zonings are R-2, Two-Family Residence District; with uses that are permitted, and M-1 Light Industrial District with a non-conforming residential use.

ZONING REGULATIONS

- C-2 Purpose:** The Community Commerce Zone is designed for the residents of the nearby community consisting of more than one (1) of the neighborhoods in that section of the city, so as to permit a wider variety of both business uses and services. It is designed not for an abutting neighborhood, but for a relatively larger consumer population for both daily and occasional shopping. The development is characterized by a lack of “comparison shopping” and is limited to providing only one (1) store for each type of business.
- C-2 Uses:** Antique shops, Art galleries, but not including auction rooms, Banks and financial institutions, Bicycle sales, rental, and repair stores, Blue-printing and photos tatting establishments, Books and stationery stores, Camera and photographic supply stores, Candy and ice cream stores, Leather goods and luggage stores, Loan offices, Locksmith shops, Medical and dental clinics, Meeting halls, Millinery shops, Municipal or privately-owned recreation buildings or community-center, Musical instrument sales and repair, Newspaper distributors for home delivery and retail sale, Office supply stores, Offices, business and professional, Optometrists, Paint and wallpaper stores, 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), Live entertainment. (Gen. Ord. No. 2, 2007, As Amended, 2-8-07)
- C-2 Standards:** Minimum Lot Size: 3,300 Sq. Ft.
FAR 0.9 %
Street Setback: 40 feet from centerline;
Rear setback 11’;
Interior setback of 50’ buffer at right angles along the interior property lines
Parking Requirements for Light Retail Establishments
Three (3) spaces per one thousand (1,000) square feet gross floor area
-

FINDINGS and RECOMMENDATION

Staff Findings: The Thrive 2025 Comprehensive Plan has identified this area within the City of Terre Haute for reuse and redevelopment. The development priority for commercial development within this area could be low to high intensity based on the local thoroughfare network. High intensity commercial development and uses need to have direct access without traffic intrusion onto residential neighborhoods, and needs the appropriate buffering.

The petitioned C-2, Limited Community Commerce rezoning, and the proposed off-site parking facility will function as a buffer space, for the residential uses to the north.

Any person, company applying for a commercial or industrial building permit within the WPD-1 and WPD-5 must provide the City Building Inspection Department with a site plan as defined in this Division. Said site plan must then be forwarded to Indiana American Water for their inspection and comments. Indiana American shall provide such written comments within five (5) business days of receiving the proposed site plan for development. Comments from Indiana American Water shall be forwarded to the City Building Inspection Department. If said comments have not been received within the allotted time period the City may issue a building permit if the proposal complies with all other ordinances/regulations. (Gen. Ord. No. 25, 2003, 9-11-03)

Buffered from adjacent residential uses by all of the following:

- Scale of building design
- Landscaping
- Loading

Recommendation: Staff has a Favorable Recommendation on the C-2, Community Commercial District at this location.