

**SPECIAL ORDINANCE NO. 15, 2017**

**APPLICATION FOR REZONING PETITION CITY OF TERRE HAUTE**

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Common Address of lots to be rezoned:  
208 and 212 Helen Avenue; and  
Portion of Vacated Alley North of 208 and 212 Helen Avenue and 2749 S. Third Street  
Terre Haute, Indiana 47802

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Rezone From: R-1 Single Family Residence District

Rezone To: C-6 Strip Business District

Proposed Use: Automotive Sales Business Extension

Name of Owners: Dennis A. Atterson, as Trustee of the Dennis A. Atterson Revocable Trust, and Kathleen A. Atterson, as Trustee of the Kathleen A. Atterson Revocable Trust; and Atterson Brothers, LLC

Address of Owners: 6806 Wabash Avenue, Terre Haute, IN 47803; and 6768 Wabash Avenue, Terre Haute, IN 47803

Phone Number of Owners: c/o Richard J. Shagley 812-232-3388

Attorney Representing Owners: Richard J. Shagley

Address of Attorney: Wright, Shagley & Lowery, P.C. PO Box 9849, Terre Haute, IN 47808

For Information Contact:  Owner  Attorney

Council Sponsor: Amy Auler

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

FILED

FEB 24 2017

SPECIAL ORDINANCE FOR A REZONING  
SPECIAL ORDINANCE NO. 15, 2017

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 ORDANED 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 281, 282 and the West 1/2 of Lot 280 Warren Place, an Addition to the City of Terre Haute, Indiana, being a Subdivision of the South 112 of the Southeast 1/4 of Section 33, Township 12 North, Range 9 West, excepting the rights of way of the Southern Indiana Railroad and the Terre Haute & Southeastern Railroad, as shown by the recorded plat thereof in Plat Record 10, Page 22 of the Records of the Recorder's Office of Vigo County, Indiana.

Subject to any easements, agreements, streets, alleys, restrictions, covenants, building lines, and rights of way of public record including but not limited to:

a) Conditions, restrictions, covenants and easements as set forth on the Plat of Warren Place as shown in Plat Record 10, page 22.

Commonly known as: 208 Helen Avenue, Terre Haute, Indiana 47802

AND

Lot Two Hundred Seventy-nine (279) and the East Half (112) of Lot Two Hundred Eighty (280) Warren Place, an Addition to the City of Terre Haute, Indiana, being a Subdivision of the South Half (1/2) of the South East Quarter (1/4) of Section Thirty-three (33), Township Twelve (12) North, Range Nine (9) West, excepting the right of ways of the Southern Indiana Railroad and the Terre Haute & Southeastern Railroad, as shown by the recorded plat thereof in Plat Record 10, Page 22, of the records of the Recorder's Office of Vigo County, Indiana.

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

Commonly known as: 212 Helen Avenue, Terre Haute, Indiana 47802.

AND

A portion of a public alley in Warren Place, an Addition to the City of Terre Haute, Indiana, being a Subdivision of the South 1/2 and Southeast 1/4 of Section 33, Township 12, Range 9 West, excepting the rights of way of the Southern Indiana Railroad and the Terre Haute & Southeastern Railroad (currently the Indiana Rail Road Company), as shown by the recorded plat thereof in Plat Record 10, Page 22 of the Records of the Recorder's Office of Vigo County, Indiana, and more particularly described as follows:

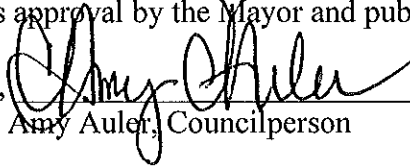
Commencing at a point on the Southern Indiana Railroad and the Terre Haute & Southeastern Railroad's (currently the Indiana Rail Road Company), south right of way line fifteen feet (15'), more or less, directly north of the northwest corner of Lot 282 in Warren Place Subdivision; thence south fifteen feet (15'), more or less to the northwest corner of Lot 282 in Warren Place Subdivision; thence east along the north line of Lots 282, 281, 280, 279, 278, 277, 276 and 275 in Warren Place Subdivision to the northeast corner of Lot 275 in Warren Place Subdivision; thence north fifteen feet (15'), more or less, to the Southern Indiana Railroad and the Terre Haute & Southeastern Railroad's south right of way line directly north of the northeast corner of Lot 275 in Warren Place Subdivision; thence west along the Southern Indiana Railroad and the Terre Haute & Southeastern Railroad's south right of way line to the place of beginning.

Commonly known as: Portion of Vacated Alley North of 208 and 212 Helen Avenue and 2749 S. Third Street, Terre Haute, Indiana 47802.

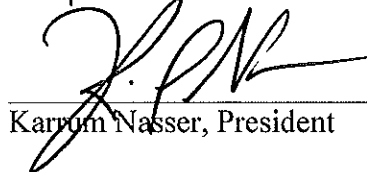
Be and the same is hereby established as a C-6 Strip Business District, together with all rights and privileges that may insure to said real estate and the owners thereof by virtue of the law in such cases provided, subject to all limitations and restrictions imposed thereon by deed or otherwise."

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.

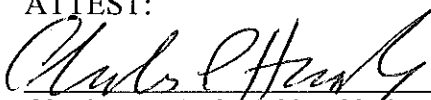
Presented by Council Member,

  
Amy Auler, Councilperson

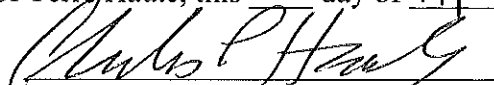
Passed in open Council this 11<sup>th</sup> day of April, 2017.

  
Karim Nasser, President

ATTEST:

  
Charles P. Hanley, City Clerk

Presented by me, to the Mayor of the City of Terre Haute, this 12<sup>th</sup> day of April, 2017.

  
Charles P. Hanley, City Clerk

Approved by me, the Mayor of the City of Terre Haute, this 12<sup>th</sup> day of APRIL, 2017.

  
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 II

This instrument prepared by Richard J. Shagley, 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, Dennis A. Atterson, as Trustee of the Dennis A. Atterson Revocable Trust, Kathleen A. Atterson, as Trustee of the Kathleen A. Atterson Revocable Trust, and Atterson Brothers, LLC, respectfully submit this Petition to rezone the following described real estate in the City of Terre Haute, County of Vigo, Indiana, to wit:

Lots 281, 282 and the West 1/2 of Lot 280 Warren Place, an Addition to the City of Terre Haute, Indiana, being a Subdivision of the South 112 of the Southeast 1/4 of Section 33, Township 12 North, Range 9 West, excepting the rights of way of the Southern Indiana Railroad and the Terre Haute & Southeastern Railroad, as shown by the recorded plat thereof in Plat Record 10, Page 22 of the Records of the Recorder's Office of Vigo County, Indiana.

Subject to any easements, agreements, streets, alleys, restrictions, covenants, building lines, and rights of way of public record including but not limited to:

a) Conditions, restrictions, covenants and easements as set forth on the Plat of Warren Place as shown in Plat Record 10, page 22.

Commonly known as: 208 Helen Avenue, Terre Haute, Indiana 47802

AND

Lot Two Hundred Seventy-nine (279) and the East Half (112) of Lot Two Hundred Eighty (280) Warren Place, an Addition to the City of Terre Haute, Indiana, being a Subdivision of the South Half (1/2) of the South East Quarter (1/4) of Section Thirty-three (33), Township Twelve (12) North, Range Nine (9) West, excepting the right of ways of the Southern Indiana Railroad and the Terre Haute & Southeastern Railroad, as shown by the recorded plat thereof in Plat Record 10, Page 22, of the records of the Recorder's Office of Vigo County, Indiana.

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

Commonly known as: 212 Helen Avenue, Terre Haute, Indiana 47802.

AND

A portion of a public alley in Warren Place, an Addition to the City of Terre Haute, Indiana, being a Subdivision of the South 1/2 and Southeast 1/4 of Section 33, Township 12, Range 9 West, excepting the rights of way of the Southern Indiana Railroad and the Terre Haute & Southeastern Railroad (currently the Indiana Rail Road Company), as shown by the recorded plat thereof in Plat Record 10, Page 22 of the Records of the Recorder's Office of Vigo County, Indiana, and more particularly described as follows:

Commencing at a point on the Southern Indiana Railroad and the Terre Haute & Southeastern Railroad's (currently the Indiana Rail Road Company), south right of way line fifteen feet (15'), more or less, directly north of the northwest corner of Lot 282 in Warren Place Subdivision; thence south fifteen feet (15'), more or less to the northwest corner of Lot 282 in Warren Place Subdivision; thence east along the north line of Lots 282, 281, 280, 279, 278, 277, 276 and 275 in Warren Place Subdivision to the northeast corner of Lot 275 in Warren Place Subdivision; thence north fifteen feet (15'), more or less, to the Southern Indiana Railroad and the Terre Haute & Southeastern Railroad's south right of way line directly north of the northeast corner of Lot 275 in Warren Place Subdivision; thence west along the Southern Indiana Railroad and the Terre Haute & Southeastern Railroad's south right of way line to the place of beginning.

Commonly known as: Portion of Vacated Alley North of 208 and 212 Helen Avenue and 2749 S. Third Street, Terre Haute, Indiana 47802.

Your Petitioners are informed and believe 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-1 Single Family Residence District.

Your Petitioners intend to use this real estate for an extension of Premier Auto Source business and parking lot. Your Petitioners would request that the real estate described herein shall be zoned as a C-6 Strip Business District.

Your Petitioners would allege that the Neighborhood Commerce District would not alter the general characteristics of this neighborhood since the neighborhood is in a mixed use neighborhood and Premier Auto Source existing business and parking lot are to the East of the real estate. The zoning classification is consistent with Premier Auto Source's current zoning classification, and the mixed use nature of the 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 neighborhood.

WHEREFORE, your Petitioners respectfully request 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 C-6 Strip Business 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 \_\_\_\_\_ day of February, 2017.

**PETITIONERS:**

\_\_\_\_\_  
Dennis A. Atterson, as Trustee of the  
Dennis A. Atterson Revocable Trust

\_\_\_\_\_  
Kathleen A. Atterson, as Trustee of the  
Kathleen A. Atterson Revocable Trust

ATTERSON BROTHERS, LLC

By: \_\_\_\_\_  
Todd A. Atterson, Managing Member

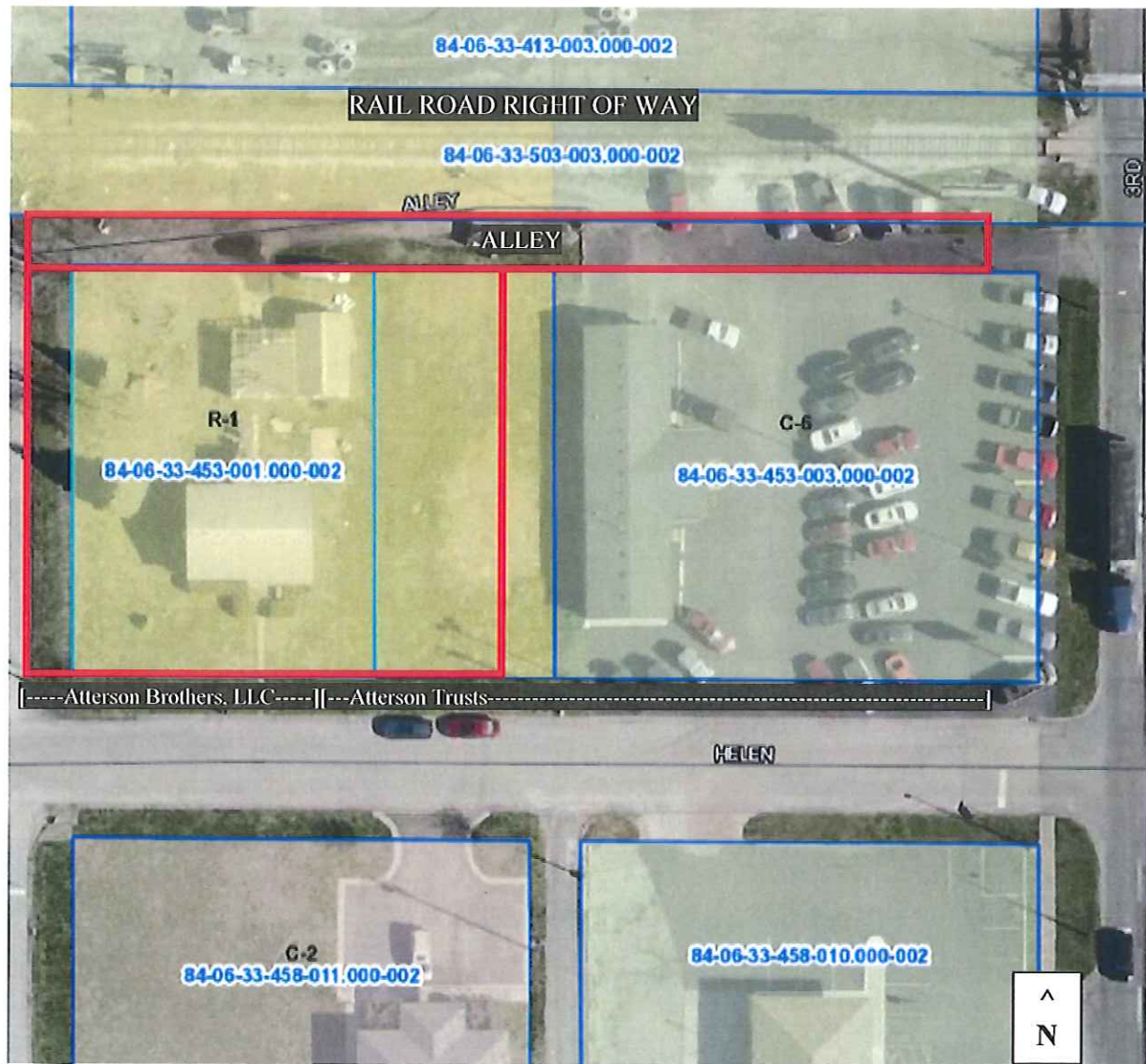
This instrument prepared by Richard J. Shagley, Attorney-at-Law, WRIGHT, SHAGLEY & LOWERY, P.C., 500 Ohio Street, P.O. Box 9849, Terre Haute, Indiana 47807.

## SITE PLAN

Real Estate: 208 and 212 Helen Avenue; and  
Portion of Vacated Alley North of 208 and 212 Helen Avenue and  
2749 S. Third Street  
Terre Haute, Indiana 47802

Rezoning: R-1 to C-6

Owners: Dennis A. Atterson, as Trustee of the Dennis A. Atterson  
Revocable Trust, and Kathleen A. Atterson, as Trustee of the  
Kathleen A. Atterson Revocable Trust; and  
Atterson Brothers, LLC





**EXHIBIT A**

DULY ENTERED FOR TAXATION  
Subject to final acceptance for issuer

2007067357 WD \$16.00  
05/16/2007 03:53:00P 1 PGS  
RAYMOND L. WATTS  
VIGO County Recorder IN  
Recorded as Presented

MAY 16 2007

*James H. ...*  
VIGO COUNTY AUDITOR

**WARRANTY DEED**

THIS INDENTURE WITNESSETH, THAT Paul W. Horn, of Monmouth County, State of New Jersey, 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, CONVEYS and WARRANTS unto Dennis A. Atterson, as Trustee of the Dennis A. Atterson Revocable Trust, and Kathleen A. Atterson, as Trustee of the Kathleen A. Atterson Revocable Trust, of Vigo County, State of Indiana, the following described real estate located in the County of Vigo, State of Indiana, to-wit:

Lot Two Hundred Seventy-nine (279) and the East Half (1/2) of Lot Two Hundred Eighty (280) Warren Place, an Addition to the City of Terre Haute, Indiana, being a Subdivision of the South Half (1/2) of the South East Quarter (1/4) of Section Thirty-three (33), Township Twelve (12) North, Range Nine (9) West, excepting the right of ways of the Southern Indiana Railroad and the Terre Haute & Southeastern Railroad, as shown by the recorded plat thereof in Plat Record 10, Page 22, of the records of the Recorder's Office of Vigo County, Indiana.

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

Subject to taxes prorated to the date hereof.

IN WITNESS WHEREOF the above referred to Paul W. Horn has hereunto set his hand and seal, this 15<sup>th</sup> day of May, 2007.

*Paul W. Horn* (SEAL)  
Paul W. Horn

STATE OF Indiana, Vigo COUNTY, SS:

Before me, the undersigned, a Notary Public in and for said county and state, this 15<sup>th</sup> day of May, 2007, personally appeared Paul W. Horn and acknowledged the execution of the annexed Deed to be his voluntary act and deed.

WITNESS my hand and Notarial Seal.

My Commission Expires: July 23, 2012  
My County of residence is: Vigo

*Lepithia Z. Cox*  
Notary Public  
CP WITH 2 COX  
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.

*Ronald E. Jumps*  
Ronald E. Jumps

THIS INSTRUMENT WAS PREPARED BY: Ronald E. Jumps, 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.

MAIL TAX STATEMENTS TO: PO Box 696, Terre Haute, IN 47808

**EXHIBIT B**

**DULY ENTERED FOR TAXATION**  
Subject to final acceptance for transfer

JAN 30 2007

  
VIGO COUNTY AUDITOR

2007001004 MD \$22.00  
01/30/2007 03:35:07P 4 PGS  
RAYMOND L. WATTS  
VIGO County Recorder IN  
Recorded as Presented

*Raymond L. Watts*

**WARRANTY DEED**

THIS INDENTURE WITNESSETH: That Dennis A. Atterson and Kathleen A. Atterson, husband and wife ("Grantors"), CONVEY and WARRANT to Dennis A. Atterson, as Trustee of Dennis A. Atterson Revocable Trust U/A dated 08/06/97 and Kathleen A. Atterson, as Trustee of Kathleen A. Atterson Revocable Trust U/A dated 08/06/97, as equal tenants in common, with a common mailing address of P.O. Box 696, Terre Haute, Indiana 47808-0696 (the "Grantees"), for and in consideration of the sum of ten dollars and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the real estate in Vigo County, in the State of Indiana, described in attached Exhibit A, hereby made a part hereof

Subject to all taxes, liens, encumbrances and restrictions of record

TOGETHER WITH all improvements thereon and appurtenances thereto

TO HAVE AND TO HOLD the said premises with the appurtenances upon the trusts and for the uses and purposes herein and in said Trust Agreements referenced above.

Grantors certify that the above described real estate is not "property" as defined by I.C. 13-7-22.5-6 and that the above described real estate does not contain an "environmental defect" as defined by I.C. 13-7-22.5-1.5.

The Trustees shall have broad managerial powers and duties commensurate therewith, including all the powers provided for trustees under Indiana law and including, without limitation, all of those powers provided for in the Indiana Trust Code (1971) (I.C. 30-4-3-3), as amended from time to time.

In no case shall any party dealing with the either or both of the Trustees in relation to the above-described real estate, or to whom said realty or any part thereof shall be conveyed, contracted to be sold, leased or mortgaged by either or both of the Trustees, be obliged to see to the application of any purchase money, rent, or money borrowed or advanced on said realty, or be obliged to see that the terms of said trust have been complied with, or be obliged to inquire into the necessity or expediency of any act of either or both of the Trustees, or be obliged or privileged to inquire into any for the terms of either or both of said Trust Agreements, and every deed, trust deed, mortgage, lease or other instrument executed by either or both of the Trustees in relation to said real estate shall be conclusive evidence in favor of every person relying upon or claiming under any such conveyance, lease or other instrument, (a) that at the time of the delivery thereof the trust created by either or both of said Trust Agreements were in full force and effect, (b) that such conveyance or other instrument was executed in accordance with the trusts, conditions and limitations contained in either or both of said Trust Agreements or in some amendment thereof and binding upon all beneficiaries thereunder, (c) that either or both of the Trustees were duly authorized and empowered to execute and deliver every such deed, trust deed, lease, mortgage or other instrument and (d) if the conveyance is made to a successor or successors in trust, that such successor or successors in trust have been properly appointed and are fully vested with all the title, estate, rights, powers, authorities, duties and obligations of its, his or

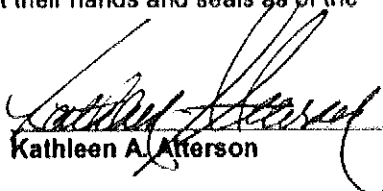
**EXHIBIT B**

2

their predecessor in trust.

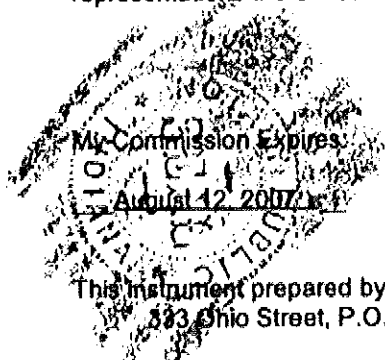
IN WITNESS WHEREOF, the said **Dennis A. Atterson** and **Kathleen A. Atterson**, husband and wife have hereunto set their hands and seals as of the 29<sup>th</sup> day of JANUARY, 2007.


  
\_\_\_\_\_  
**Dennis A. Atterson**

  
\_\_\_\_\_  
**Kathleen A. Atterson**

STATE OF INDIANA)  
  )SS:  
COUNTY OF VIGO )

Before me, the undersigned, a Notary Public in and for said County and State, this 29<sup>th</sup> day of JANUARY, 2007, appeared **Dennis A. Atterson** and **Kathleen A. Atterson**, husband and wife, who acknowledged the execution of the above and foregoing instrument and who, having been duly sworn, stated that the representations therein contained are true.




  
\_\_\_\_\_  
William M. Olah, Notary Public  
County of Residence: Vigo

This instrument prepared by William M. Olah, Attorney,  
883 Ohio Street, P.O. Box 800, Terre Haute, IN 47808-0800.

Send tax duplicates to: P.O. Box 696, Terre Haute, Indiana 47808-0696

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.

  
\_\_\_\_\_  
William M. Olah

## EXHIBIT B

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### EXHIBIT A

#### Tract 1

[301-06 South 4<sup>th</sup> Street]  
(Parcel No. 1180621463002)

Lot Number Sixty (60) of the Original In Lots of the Town, now City, of Terre Haute, Vigo County, Indiana.

ALSO

#### Tract 2

[1918 North 7<sup>th</sup> Street]  
(Parcel No. 1180616233014)

Commencing at a point in the West line of Seventh Street in the City of Terre Haute, 46 feet North of the North line of Buckeye Street as platted in Monninger Heirs Subdivision, thence North 60 25/100 feet; thence West 160 feet; thence South 50 25/100 feet to a point 46 feet North of the North line of Buckeye Street as aforesaid; thence East 160 feet to the place of beginning.

ALSO

Commencing at a point on the West line of 7<sup>th</sup> Street in the City of Terre Haute, as now laid out and established, 96.25 feet North of the North line of Buckeye Street in said City as now laid out and established, and running thence North 127 feet, running thence West 176 feet, more or less, to the East line of the real estate heretofore conveyed by Martin A. Sheets and Susan C. Sheets, his wife, to O.D. Wynkoop, running thence South 114.75 feet, more or less to the South line of the real estate formerly owned by Martin A. Sheets and Susan C. Sheets, husband and wife, said line being located 109.50 feet North of the North line of Buckeye Street, as now laid out and established; running thence East 16 feet; running thence South 13.5 feet, more or less, to a point 96.25 feet North of the North line of Buckeye Street; running thence East to the place of commencement, same being a part of Lot 7 in the Subdivision of Section 16, Township 12 North, Range 9 West.

ALSO

#### Tract 3

[6850 Wabash Avenue]  
(Parcel No. 1060716100010)

Beginning at an iron pin located at a point on a line extended in a easterly direction along the South right of way line of the Terre Haute and Indianapolis Railroad (now Pennsylvania) 572.3 feet from the point of intersection of the said South right of way line with the west line of Section Sixteen (16) Township Twelve (12) North, Range Eight (8) West, thence South 827.60 feet to an iron pin located at the north right of way line of the Indiana Railroad, thence Northeasterly along the said north right of way line of said Indiana Railroad 822.90 feet (plus or minus) thence North 430 feet (plus or minus) to the South right of way line of the said Terre Haute and Indianapolis Railroad, thence in a westerly direction along said South right of way line of Terre Haute and Indianapolis Railroad 755.3 feet to the place of beginning, containing 7.33 acres, more or less.

Except that part thereof conveyed to Mary Pfeiffer as shown by instrument dated August 6, 1941 and recorded in Deed Record 223 page 368;

Also except that part thereof conveyed to Sam E. Hudgins and Audrey Hudgins, husband and wife, as shown by instrument dated September 29, 1947 and recorded in Deed Record 250 page 544;

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**EXHIBIT B**

4

Also except that party thereof conveyed to Dennis A. Atterson and Kathleen A. Atterson, husband and wife, as shown by instrument dated August 21, 1976 and recorded in Deed Record 369 page 246.

ALSO

**Tract 4**

[No Street Address]

(Parcel No. 10507093000006)

Beginning at the southwest corner of the Southwest Quarter of Section Nine (9), Township Twelve (12) North, Range Eight (8) West and running thence North along and with the West line of said Quarter a distance of Six Hundred Forty-three and nine-tenths (643.9) feet; thence East and parallel with the South line of said Quarter a distance of Six Hundred Seventy-six and five-tenths (676.5) feet; thence South and parallel with the West line of said Quarter a distance of Six Hundred Forty three and nine-tenths (643.9) feet to the South line of said Quarter; thence West a distance of Six Hundred Seventy-six and five tenths (676.5) feet to the point of beginning, and containing ten (10) acres, more or less, all being the Southwest Quarter of Section Nine (9), Township Twelve (12) North, Range Eight (8) West, Lost Creek Township.

ALSO

**Tract 5**

[2749 South 3<sup>rd</sup> Street]

(Parcel Nos. 1180633453003 and 1180633453004)

Lots 275, 276, 277, and 278, Warren Place, an Addition to the City of Terre Haute, Indiana, being a Subdivision of the South Half of the Southeast Quarter of Section 33, Township 12 North, Range 9 West, excepting the right of ways of the Southern Indiana Railroad and the Terre Haute & Southeastern Railroad, as shown by the recorded plat thereof in Plat Record 10, Page 22, of the Records of the Recorder's Office of Vigo County, Indiana.

ALSO

**Tract 6**

[1011 Eagle Street]

(Parcel No. 1180633453003)

A part of the Northeast Quarter of the Southwest quarter of Section Twenty-Two (22), Township Twelve (12) North, Range Nine (9) west, located in Harrison Township, Vigo County, Indiana, and more particularly described as follows:

Lot Number One Hundred fifty-five (155) in the subdivision of Forty-seven and thirty-two hundredths (47 32/100) acres off the East side of the West half of Section Twenty two (22), in Township Twelve (12) North of Range Nine (9) West, heretofore made by Chauncey Rose in the City of Terre Haute.

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**EXHIBIT C**

*DULY ENTERED FOR TAXATION*  
Subject to final acceptance for transfer

MAY 27 2016

2016005359 WD \$18.00  
05/27/2016 11:19:42A 2 PGS  
NANCY S. ALLSUP  
VIGO County Recorder IN  
Recorded as Presented



*Tommy M. Sigurdson*  
VIGO COUNTY AUDITOR

**WARRANTY DEED**

THIS INDENTURE WITNESSETH, That

**JAMES K. BELL and WANDA J. BELL,**  
Husband and Wife,  
Of VIGO County, in the State of INDIANA,

Convey and Warrant to

**ATTERSON BROTHERS, LLC,**

A Limited Liability Company organized and existing under the laws of the State of Indiana,

for and in consideration of the sum of One and 00/100 Dollar (\$1.00) and other good and valuable consideration, the receipt whereof is hereby acknowledged, the following described Real Estate in Vigo County, in the State of Indiana, to-wit:

Lots 281, 282 and the West 1/2 of Lot 280 Warren Place, an Addition to the City of Terre Haute, Indiana, being a Subdivision of the South 1/2 of the Southeast 1/4 of Section 33, Township 12 North, Range 9 West, excepting the rights of way of the Southern Indiana Railroad and the Terre Haute & Southeastern Railroad, as shown by the recorded plat thereof in Plat Record 10, Page 22 of the Records of the Recorder's Office of Vigo County, Indiana.

Subject to any easements, agreements, streets, alleys, restrictions, covenants, building lines, and rights of way of public record including but not limited to:

a) Conditions, restrictions, covenants and easements as set forth on the Plat of Warren Place as shown in Plat Record 10, page 22.

For information purposes only, the property address is purported to be:  
208 Helen Avenue, Terre Haute, Indiana 47802.

Tax bills should be sent to Grantee at such address unless otherwise indicated below.

Parcel No.: 84-06-33-453-001.000-002

IN WITNESS WHEREOF, the said Grantors have executed this deed on this 26<sup>TH</sup> day of MAY, 2016.

*James K. Bell*  
James K. Bell (Seal)

*Wanda J. Bell*  
Wanda J. Bell (Seal)

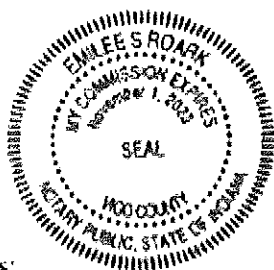
EXHIBIT C

2

STATE OF INDIANA )  
 ) SS:  
COUNTY OF VIGO )

Before me, the undersigned, a Notary Public in and for said County and State, this 26<sup>TH</sup> day of MAY, 2016, personally appeared James K. Bell and Wanda J. Bell who acknowledged the execution of the foregoing Warranty Deed to be the voluntary act and deed of Grantors, and who, having been duly sworn, stated that any representations therein contained are true.

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



Emilee S. Roark  
Notary Public

EMILEE S. ROARK  
Printed Name

My Commission Expires:  
11-1-23

My County of Residence:  
VIGO

**This Instrument Was Prepared By:** Matthew R. Effner, Attorney; Effner Law Firm, 19 S. 6<sup>th</sup> Street, Suite 1200, Terre Haute, IN 47807; (812) 238-4000; HCVT-2016-0413.  
Note: In preparing this instrument, preparer makes no warranties, expressed or implied, regarding the title conveyed by it.

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

Mail Tax Bills To Grantee At: 6768 WABASH AVE, TERRE HAUTE, IN  
47803

Return Deed To: Honey Creek Vigo Title Services, Inc., 405 S. 6<sup>th</sup> Street, Terre Haute, IN 47807.

STATE OF INDIANA        )  
                                  ) SS:  
COUNTY OF VIGO         )

**AFFIDAVIT**

Comes now, Dennis A. Atterson, as Trustee of the Dennis A. Atterson Revocable Trust, and Kathleen A. Atterson, as Trustee of the Kathleen A. Atterson Revocable Trust, being duly sworn upon their oath, depose and say:

1. That Dennis A. Atterson, as Trustee of the Dennis A. Atterson Revocable Trust, and Kathleen A. Atterson, as Trustee of the Kathleen A. Atterson Revocable Trust are the 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 Two Hundred Seventy-nine (279) and the East Half (112) of Lot Two Hundred Eighty (280) Warren Place, an Addition to the City of Terre Haute, Indiana, being a Subdivision of the South Half (1/2) of the South East Quarter (1/4) of Section Thirty-three (33), Township Twelve (12) North, Range Nine (9) West, excepting the right of ways of the Southern Indiana Railroad and the Terre Haute & Southeastern Railroad, as shown by the recorded plat thereof in Plat Record 10, Page 22, of the records of the Recorder's Office of Vigo County, Indiana.

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

Commonly known as: 212 Helen Avenue, Terre Haute, Indiana 47802.

AND

Lots 275, 276, 277, and 278, Warren Place, an Addition to the City of Terre Haute, Indiana, being a Subdivision of the South Half of the Southeast Quarter of Section 33, Township 12 North, Range 9 West, excepting the right of ways of the Southern Indiana Railroad and the Terre Haute & Southeastern Railroad, as shown by the recorded plat thereof in Plat Record 10, Page 22, of the Records of the Recorder's Office of Vigo County, Indiana.

Commonly known as: 2749 South 3<sup>rd</sup> Street, Terre Haute, Indiana 47802.

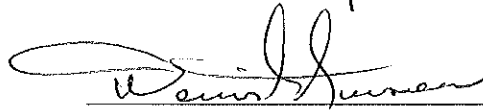
2. That a copy of the Deeds, recorded in the records of the Recorder's Office of Vigo County, Indiana, is attached hereto and made a part hereof and marked as Exhibit A and B.



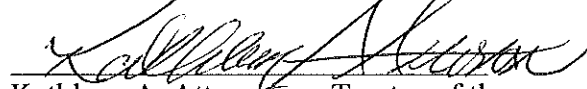
3. That Affiants make this Affidavit for the sole purpose of affirming that Dennis A. Atterson, as Trustee of the Dennis A. Atterson Revocable Trust, and Kathleen A. Atterson, as Trustee of the Kathleen A. Atterson Revocable Trust are the owners of record of the above-described real estate for which 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. Atterson, as Trustee of the Dennis A. Atterson Revocable Trust, and Kathleen A. Atterson, as Trustee of the Kathleen A. Atterson Revocable Trust, and Atterson Brothers, LLC.

4. Further, Affiant saith not.

Dated at Terre Haute, Indiana this 20<sup>th</sup> day of February, 2017.



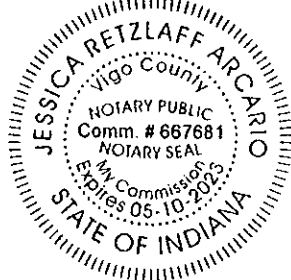
Dennis A. Atterson, as Trustee of the  
Dennis A. Atterson Revocable Trust



Kathleen A. Atterson, as Trustee of the  
Kathleen A. Atterson Revocable Trust

STATE OF INDIANA )  
                                  ) SS:  
COUNTY OF VIGO )

SUBSCRIBED AND SWORN TO before me, a Notary Public in and for said County and State, this 20<sup>th</sup> day of February, 2017.



Jessica Arcario  
Jessica Arcario, Notary Public

My Commission expires: 05-10-2023

My County of Residence: Vigo

This instrument prepared by Richard J. Shagley, Attorney at Law, WRIGHT, SHAGLEY & LOWERY, P.C., 500 Ohio Street, P.O. Box 9849, Terre Haute, Indiana 47807.

STATE OF INDIANA        )  
                                  ) SS:  
COUNTY OF VIGO        )

**AFFIDAVIT**

Comes now, Todd Atterson, Managing Member of Atterson Brothers, LLC, being duly sworn upon his oath, deposes and says:

1. That Atterson Brothers, 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 281, 282 and the West 1/2 of Lot 280 Warren Place, an Addition to the City of Terre Haute, Indiana, being a Subdivision of the South 112 of the Southeast 1/4 of Section 33, Township 12 North, Range 9 West, excepting the rights of way of the Southern Indiana Railroad and the Terre Haute & Southeastern Railroad, as shown by the recorded plat thereof in Plat Record 10, Page 22 of the Records of the Recorder's Office of Vigo County, Indiana.

Subject to any easements, agreements, streets, alleys, restrictions, covenants, building lines, and rights of way of public record including but not limited to:

a) Conditions, restrictions, covenants and easements as set forth on the Plat of Warren Place as shown in Plat Record 10, page 22.

Commonly known as: 208 Helen Avenue, Terre Haute, Indiana 47802


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 C.

3. That Affiants make this Affidavit for the sole purpose of affirming that Atterson Brothers, 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 Dennis A. Atterson, as Trustee of the Dennis A. Atterson Revocable Trust, and Kathleen A. Atterson, as Trustee of the Kathleen A. Atterson Revocable Trust, and Atterson Brothers, LLC.

4. Further, Affiant saith not.

Dated at Terre Haute, Indiana this 21<sup>st</sup> day of February, 2017.

**ATTERSON BROTHERS, LLC**

By:   
Todd A. Atterson, Managing Member

STATE OF INDIANA )  
                          ) SS:  
COUNTY OF VIGO  )

SUBSCRIBED AND SWORN TO before me, a Notary Public in and for said  
County and State, this 21<sup>st</sup> day of February, 2017.

  
Sarah B. McConnell, Notary Public

My Commission expires: March 22, 2018

My County of Residence: Parke

This instrument prepared by Richard J. Shagley, Attorney at Law, WRIGHT, SHAGLEY  
& LOWERY, P.C., 500 Ohio Street, P.O. Box 9849, Terre Haute, Indiana 47807.

Receipt

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

Date: 2/24/17

Name: Dennis Atterson - Property owner

Reason:	<u>Rezoning - Notice of Filing</u>	<u>\$25.00</u>
	<u>Rezoning - Petition</u>	<u>20.00</u>
		<u>\$45.00</u>

TERRE HAUTE, IN  
PAID  
FEB 24 2017  
CONTROLLER

Cash: \_\_\_\_\_

Check: #67033 \$45.00

Credit: \_\_\_\_\_

Total: \$45.00

Received By: Lelhus/gm



# 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: April 6, 2017

## REPORT TO THE CITY COUNCIL ON ZONING MAP AMENDMENT

THE VIGO COUNTY AREA PLAN COMMISSION HEREBY GIVES CERTIFICATION TO  
SPECIAL ORDINANCE NUMBER #15-17

CERTIFICATION DATE: April 5, 2017

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. 15-17. This Ordinance is a rezoning of the property located at 208 & 212 Helen & 2739 S. 3<sup>rd</sup> St. The Petitioner, Dennis & Kathleen Atterson Trustees, petitions the Plan Commission to rezone said real estate from zoning classification R-1 to C-6, Strip Business District, for Automotive Sales Business Extension. 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. 15-17 at a public meeting and hearing held Wednesday, April 5, 2017. 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. 15-17 as required by IC 36-7-4-302. The Area Plan Commission of Vigo County now hereby attaches certification to Special Ordinance No. 15-17 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. 15-17 was FAVORABLE WITH THE FOLLOWING CONDITION: 1) Must meet all City Building and Engineering requirements.

Fred L. Wilson, President

Jared Bayler, Executive Director

Received this 6th day of April, 2017

STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: SO #15-17

Doc: # 17

Date: April 5<sup>th</sup>, 2017

Page 1 of 3

**APPLICATION INFORMATION**

Petitioner: Dennis A. Atterson, Kathleen A. Atterson, and Atterson Brothers, LLC.

Property Owner: Same-As-Above

Representative: Richard J. Shagley

Proposed Use: Automotive Sale Business Extension

Proposed Zoning: C-6, Strip Business District

Current Zoning: R-1 Single-Family Residence District

Location: The property commences at the northwest corner of South 3<sup>rd</sup> Street and Helen Ave, and runs the length of Helen Ave to Harden Ave.

Common Addresses: 208 and 212 Helen Ave, and 2749 South 3<sup>rd</sup> Street  
Terre Haute, IN 47802

**COMPREHENSIVE PLAN GUIDANCE**

Service Area: The City of Terre Haute  
Guiding Policies: Regional Commercial



## STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

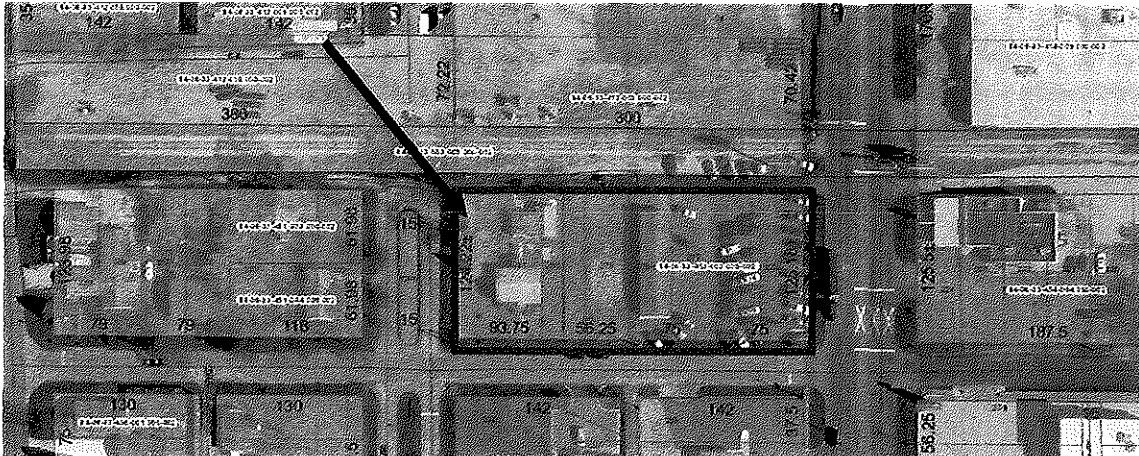
Number: SO #15-17

Doc: # 17

Date: April 5<sup>th</sup>, 2017

Page 2 of 3

### Site location



### Recommendation of the Comprehensive Plan for the Regional Commerce Area

- Spatial containment of commercial activities to existing commercially zoned sites; 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 linkage 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 residential Neighborhoods in the vicinity.

STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: SO #15-17

Doc: # 17

Date: April 5<sup>th</sup>, 2017

Page 3 of 3

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**ZONING COMPATIBILITY**

Sur. Zones and Uses: **North** – C-6, Strip Business

**East** – C-6, Strip Business

**South** – C-2, Limited Community Commerce

C-6, Strip Business

**West** – R-1, Single-Family Residence District

Character of Area: Properties fronting on South US Hwy 41/South 3<sup>rd</sup> Street have uses that consist of businesses servicing the transient needs and the needs of the local neighborhoods. Adjacent to this site is a railroad spur.

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**ZONING REGULATIONS**

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.

**FINDINGS and RECOMMENDATION**

Staff Findings: The petitioners wants to expand their auto sales business. The existing building will be moved farther back onto the property to make room for a bigger car lot.

Recommendation: Staff offers a Favorable Recommendation for the C-6 with the following condition:

1. Must meet all City Building and Engineering requirements.