

SPECIAL ORDINANCE NO. 18, 2017

APPLICATION FOR REZONING PETITION CITY OF TERRE HAUTE

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Common Address of lots to be rezoned:
771, 781 and 791 N. 40th Street, Terre Haute, IN 47803

Rezone From: R-1 Single Family Residence District

Rezone To: R-2 Two Family Residential District

Proposed Use: Duplexes

Name of Owners: Lilygrace LLC

Address of Owners: 850 N. Fruitridge Ave.
Terre Haute, IN 47803

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

Attorney Representing Owners: Richard J. Shagley II

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

For Information Contact: Owner Attorney

Council Sponsor: Karrum Nasser

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COPY OF A SITE-PLAN MUST ACCOMPANY THIS APPLICATION

FILED
MAR 08 2017
CITY CLERK

**SPECIAL ORDINANCE FOR A REZONING
SPECIAL ORDINANCE NO. 18, 2017**

An Ordinance Amending Chapter 10, Article 2 of the Municipal Code designated as "Comprehensive Zoning Ordinance for Terre Haute Indiana."

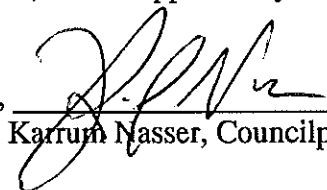
SECTION I. BE IT ORDIANED BY THE COMMON COUNCIL of the City of Terre Haute, Vigo County, State of Indiana, that Chapter 10, Article 2 of the City Code of Terre Haute, designated as the "Comprehensive Zoning Ordinance for Terre Haute" and Division 4, Section 10.121 thereof, District Maps, be, and the same is hereby amended to include as follows:

Lots 19, 20 and 21, in Eastlawn, a Subdivision in the West half of Section 13, Township 12 North, Range 9 West, as per recorded Plat in Plat Record 15, Pages 38 and 39, of the records of the Recorder's Office of Vigo County, Indiana.

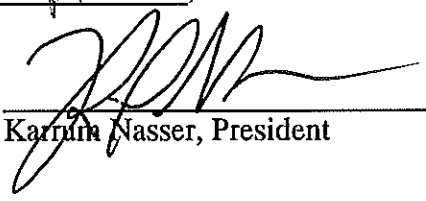
Commonly known as: 771, 781 and 791 N. 40th Street, Terre Haute, IN 47803.

Be and the same is hereby established as an R-2 Two Family Residential 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, 
Karrum Nasser, Councilperson

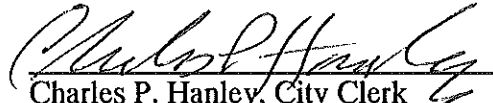
Passed in open Council this 11th day of April, 2017.


Karrum Nasser, President

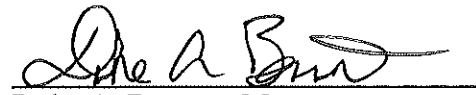
ATTEST:

Charles P. Hanley, City Clerk

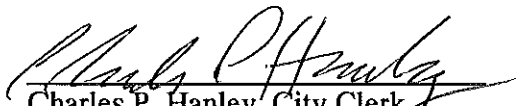
Presented by me, to the Mayor of the City of Terre Haute, this 12 day of April, 2017.


Charles P. Hanley, City Clerk

Approved by me, the Mayor of the City of Terre Haute, this 12th 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 II, 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, Chad J. Overton, President of Lilygrace LLC, respectfully submits this Petition to rezone the following described real estate in the City of Terre Haute, County of Vigo, Indiana, to wit:

Lots 19, 20 and 21, in Eastlawn, a Subdivision in the West half of Section 13, Township 12 North, Range 9 West, as per recorded Plat in Plat Record 15, Pages 38 and 39, of the records of the Recorder's Office of Vigo County, Indiana.

Commonly known as: 771, 781 and 791 N. 40th Street, Terre Haute, IN 47803.

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-1 Single Family Residence District.

Your Petitioner intends to sell the vacant real estate to North 40th Street LLC for construction of duplexes. Your Petitioner would request that the real estate described herein shall be zoned as an R-2 Two Family Residential District.

Your Petitioner 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 Lilygrace LLC is the owner of several parcels of real estate directly south of Commonly known as: 771, 781 and 791 N. 40th Street, Terre Haute, IN 47803.

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

Terre Haute, Indiana,” and declaring the above-described real estate to be part of the an R-3 Multifamily Residential District t 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 3
day of MARCH, 2017.

PETITIONER:

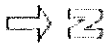
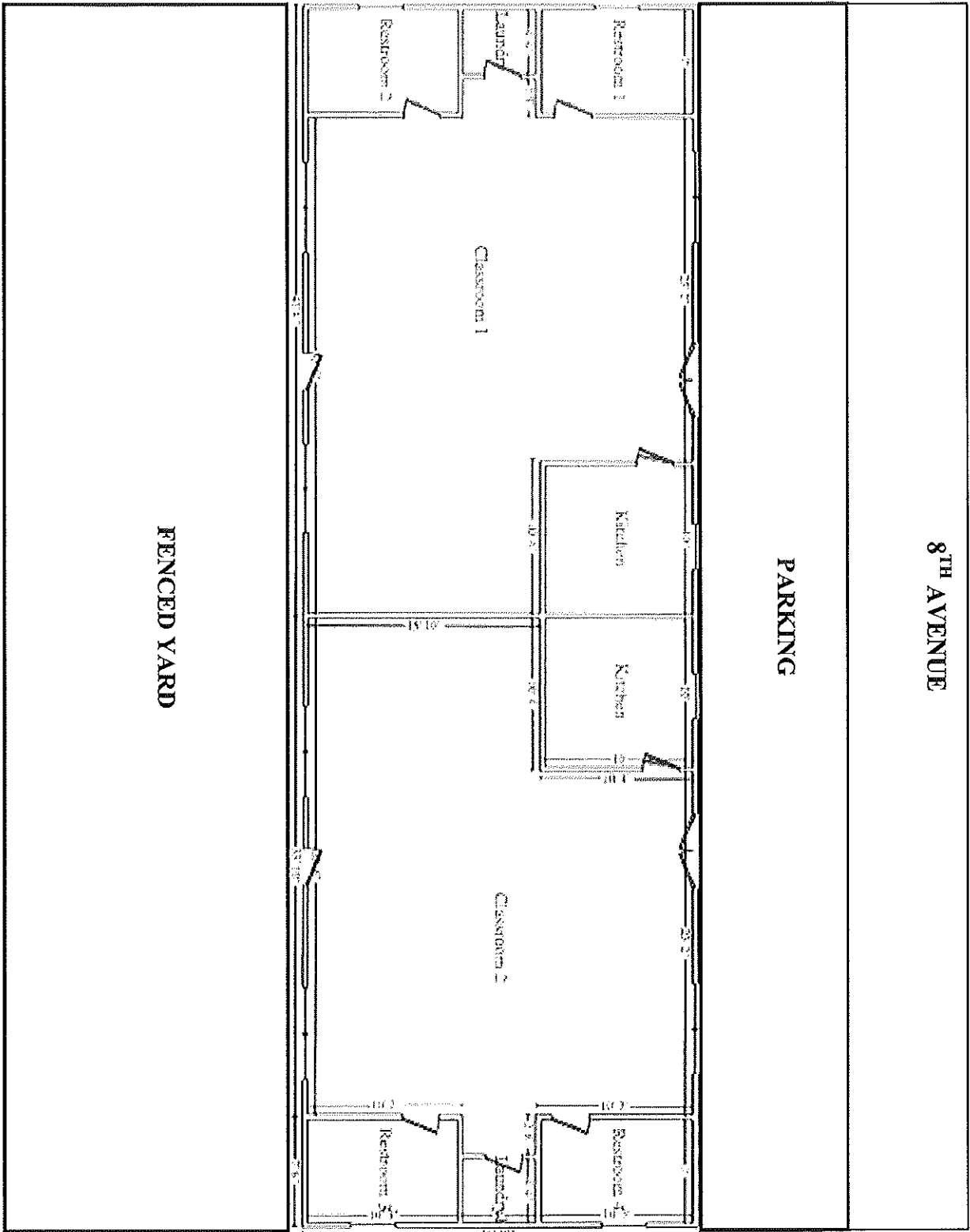
LILYGRACE LLC

By: 

Chad J. Overton, President
Richard Shagley, Attorney for owners

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

SITE PLAN



STATE OF INDIANA)
) SS:
COUNTY OF VIGO)

AFFIDAVIT

Comes now, Chad J. Overton, President of Lilygrace LLC, being duly sworn upon his oath, deposes and says:

1. That Lilygrace 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 19, 20 and 21, in Eastlawn, a Subdivision in the West half of Section 13, Township 12 North, Range 9 West, as per recorded Plat in Plat Record 15, Pages 38 and 39, of the records of the Recorder's Office of Vigo County, Indiana.

Commonly known as: 771, 781 and 791 N. 40th Street, Terre Haute, IN 47803.


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 A.

3. That Affiants make this Affidavit for the sole purpose of affirming that Lilygrace 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 Lilygrace LLC.

4. Further, Affiant saith not.

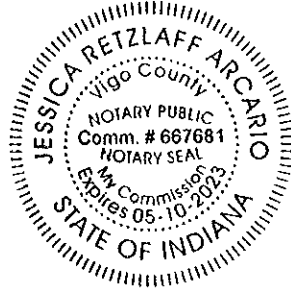
Dated at Terre Haute, Indiana this 3 day of march, 2017.

LILYGRACE LLC

By: 
Chad J. Overton, President
Richard Shaylog, Attorney for owner

STATE OF INDIANA)
) SS:
COUNTY OF VIGO)

SUBSCRIBED AND SWORN TO before me, a Notary Public in and for said
County and State, this 3rd day of March, 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 II, Attorney at Law, WRIGHT,
SHAGLEY & LOWERY, P.C., 500 Ohio Street, P.O. Box 9849, Terre Haute, Indiana
47807.

DAILY ENTERED FOR TAXATION
Subject to final acceptance for transfer

NOV 07 2012

Timothy M. Spivey
VIGO COUNTY AUDITOR

2012016623 WD \$20.00
11/07/2012 03:44:00P 3 PGS
NANCY S. ALLSUP
VIGO County Recorder IN
Recorded as Presented



LIMITED LIABILITY COMPANY WARRANTY DEED

THIS INDENTURE WITNESSETH:

That **Crown Marketing Group, LLC**, an Indiana Limited Liability Company (Grantor), of Vigo County, in the State of Indiana, **CONVEYS AND WARRANTS** to **Lilygrace LLC.**, an Indiana Limited Liability Company (Grantee), of Vigo County, in the State of Indiana, for and in consideration of the sum of One Dollar and other valuable consideration, the receipt whereof is hereby acknowledged, the following real estate situated in Vigo County, State of Indiana, to-wit:

Lots 13, 14, 22, 23, 24, and 25 in Eastlawn, a subdivision in the West Half of Section 13, Township 12 North of Range 9 West, as per recorded plat in Plat Record 15, Pages 38 and 39 of the records in the Recorder's Office of Vigo County, Indiana.

Also

Lots 26 and 27 in Eastlawn, a Subdivision in the West Half of Section 13, Township 12 North, of Range 9 West, as per recorded Plat in Plat Record 15, Pages 38 and 39, of the records in the Recorder's Office of Vigo County, Indiana.

Also

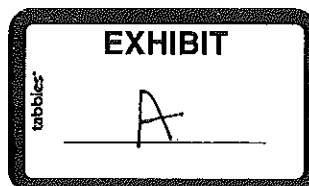
Lots 19, 20 and 21, in Eastlawn, a Subdivision in the West half of Section 13, Township 12 North, of Range 9 West, as per recorded Plat in Plat Record 15, Pages 38 and 39, of the records of the Recorder's Office of Vigo County, Indiana.

Also

The East one-half of that part vacated 40th street lying immediately West of and adjacent to the West line of Lots 19 through 27 inclusive in Eastlawn Subdivision described as follows:

Beginning at the Northwest corner of Lot 19, of Eastlawn Subdivision, as platted and recorded in the Vigo County Recorder's Office, thence S-01°49'00"-E (Assumed Bearing) along the West line of Lots 19 thru 27, thence N-89°51'00"-W 50.00 feet to the Southeast corner of Lot 46; thence N-01°49'00"-E 360.00 feet to the Northeast corner of Lot 54, thence S-89°51'00"-E 50.00 feet to the point of beginning.

Taxes prorated to date of deed.



The undersigned persons executing this Deed on behalf of the Grantor represent and certify that they are the only members of Grantor and has been fully empowered by proper resolution of the Grantor, to execute and deliver this Deed; that Grantor has full capacity to convey the real estate described herein; and that all necessary action for the making of such conveyance has been taken and done.

IN WITNESS WHEREOF, that said Grantor above named, Crown Marketing Group, LLC, has caused this Limited Liability Company Warranty Deed to be executed this 6th day of November, 2012.

Crown Marketing Group, LLC

By: Mary K. King
Mary K. King, Member

By: Thomas B. King
Thomas B. King, Member

By: Camise L. King
Camise L. King, Member

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 November, 2012, personally appeared Mary K. King, Thomas B. King, and Camise L. King, Members of Crown Marketing Group, LLC, an Indiana Limited Liability Company, Grantor in the above conveyance, and acknowledged the execution of the same to be their voluntary act and deed.

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



Daryl L. McCleary
Notary Public

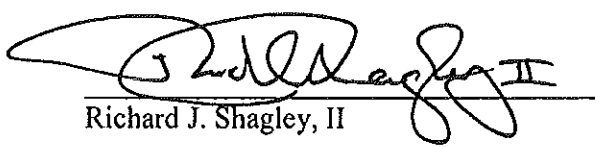
Printed: Daryl L. McCleary

My Commission Expires:
02-06-2015

My County of Residence:
VIGO

Mail to: Lilygrace LLC., 850 N. Fruitridge Ave., Terre Haute, IN 47803

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.


Richard J. Shagley, II

This instrument prepared by: Richard J. Shagley, II, Attorney at Law, 500 Ohio Street, P.O. Box 9849, Terre Haute, IN 47808-9849, (812) 232-3388, at the specific request of Grantor based solely on information supplied by one or more of the parties to this conveyance and without examination of title. The drafter assumes no liability for any errors, inaccuracy, or omissions in this instrument resulting from the information provided, the parties hereto signifying their consent to this disclaimer by Grantor's execution and Grantees' acceptance of the instrument.

Receipt

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

TERRE HAUTE, IN
PAID
MAR 03 2017
CONTROLLER

Date: 3/3/17

Name: Lily Grace LLC

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

Cash: _____

Check: 67111 \$45.00

Credit: _____

Total: \$45.00

Received By: L Ellis / gm

SPECIAL ORDINANCE NO. 18, 2017

APPLICATION FOR REZONING PETITION CITY OF TERRE HAUTE

=====

Common Address of lots to be rezoned:
771, 781 and 791 N. 40th Street, Terre Haute, IN 47803

Rezone From: R-1 Single Family Residence District

Rezone To: R-2 Two Family Residential District

Proposed Use: Duplexes

Name of Owners: Lilygrace LLC

Address of Owners: 850 N. Fruitridge Ave.
Terre Haute, IN 47803

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

Attorney Representing Owners: Richard J. Shagley II

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

For Information Contact: Owner Attorney

Council Sponsor: Karrum Nasser

=====

COPY OF A SITE-PLAN MUST ACCOMPANY THIS APPLICATION



TERRE HAUTE
A LITTLE ABOVE

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 #18-17

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. 18-17. This Ordinance is a rezoning of the property located at 771, 781, 791 N. 40th Street. The Petitioner, Lilygrace, LLC., petitions the Plan Commission to rezone said real estate from zoning classification R-1 to R-2, Two Family Residence District, for duplexes. Attorney, Richard J. Shagley, II. The Ordinance was published in the Tribune-Star Newspaper in accordance with IC 5-3-1 and Division XIII of the Comprehensive Zoning Ordinance. Further, this ordinance was posted by the City Building Inspection Department in accordance with IC 36-7-4-604(c).

The Area Plan Commission considered Special Ordinance No. 18-17 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. 18-17 as required by IC 36-7-4-302. The Area Plan Commission of Vigo County now hereby attaches certification to Special Ordinance No. 18-17 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. 18-17 was FAVORABLE WITH THE FOLLOWING CONDITIONS: 1) Must meet all City Building and Engineering codes; 2) Must submit a detailed Site Plan..

Handwritten signature of Fred L. Wilson.

Fred L. Wilson, President

Handwritten signature of Jared Bayler.

Jared Bayler, Executive Director

Received this 6th day of April, 2017

STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: SO #18-16

Doc: # 25

Date: April 5th, 2017

Page 1 of 3

APPLICATION INFORMATION

Petitioner: Lilygrace LLC

Property Owner: Same-As-Above

Representative: Richard J. Shagley II

Proposed Use: Two-family Dwelling

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

Current Zoning: R-1, Single Family Residence District

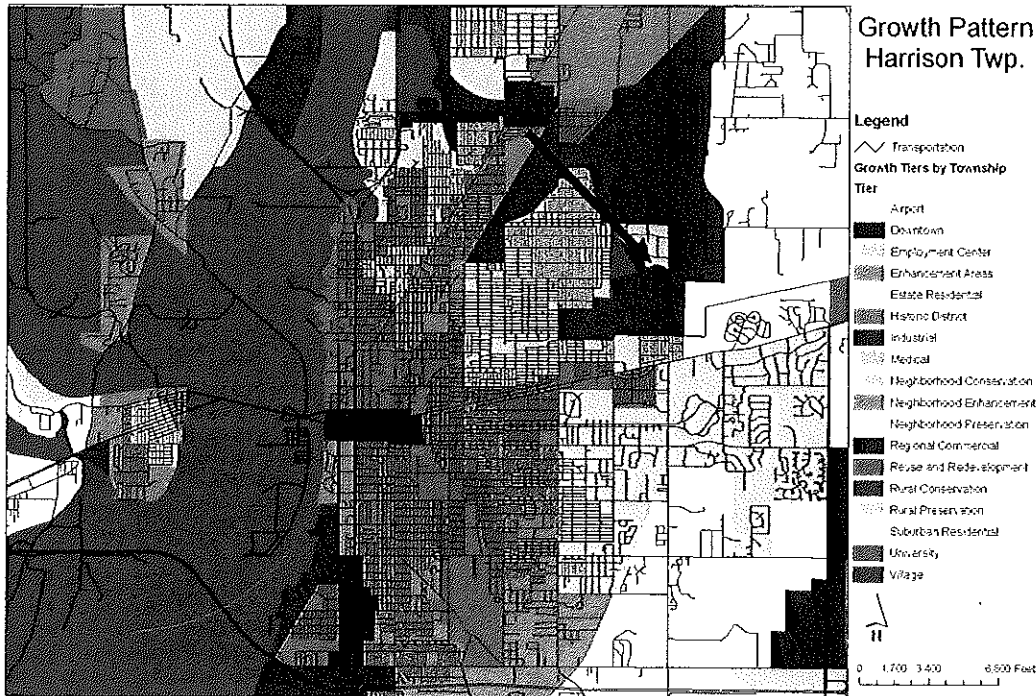
Location: The property is located on the southwest corner of 8th Ave and North 40th Street

Common Address: 771, 781, and 791 North 40th Street, Terre Haute, IN 47803

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 #18-16

Doc: # 25

Date: April 5th, 2017

Page 2 of 3

These are areas that offer potential future reuse and redevelopment potential. These areas are a result of underutilization of land relative to potential development. Brownfield and blighted categorization establishes the need to apply policies established for these areas.

Additional policies for Reuse and Redevelopment Areas include:

- Incentives to be provided to support redevelopment.
- Density bonuses may be appropriate to support redevelopment
- Sponsor the development of redevelopment plans
- All policies from Neighborhood Enhancement Areas

Available Services: Area is well served by utilities.

Soil Limitations: Not studied.

Street Access: Access to the site will be North 40th Street (Local)

Dev. Priority: Capital investment and urban renewal that matches the existing development intensity and block pattern is a high priority within the City of Terre Haute

ZONING COMPATIBILITY

Surrounding Zones and Uses: **North** R-1, Single-family Residence District
 East R-1, Single-family Residence District
 South R-1, Single-family Residence District
 West R-1, Single-family Residence District

Contiguous Uses & Zones: The contiguous zoning is R-1, Single Residence District with single family residential uses as permitted.

ZONING REGULATIONS

R-2 Purpose: Single-Family and Two-Family Dwellings Units

R-2 Uses: Any use permitted in the R-1, Single-family Residence District, such as Churches, Rectories, and Parish Houses, Convents and Monasteries; Gardening, including nurseries, provided that no offensive odors or dust are created; Public Libraries; Child Care as a Home Occupations; Parks, Playgrounds, and Schools; Residential

STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: SO #18-16

Doc: # 25

Date: April 5th, 2017

Page 3 of 3

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

R-2 Standards:

Minimum Lot Size: 7,200 Sq. Ft. per unit FAR 0.5 %

Street Setback: 55 feet from centerline on North 40th Street;

55 feet on 8th Ave.

Rear setback: 11 feet from the center of the alley right-of-way

Interior setback: 5 feet from the interior lot line;

FINDINGS and RECOMMENDATION

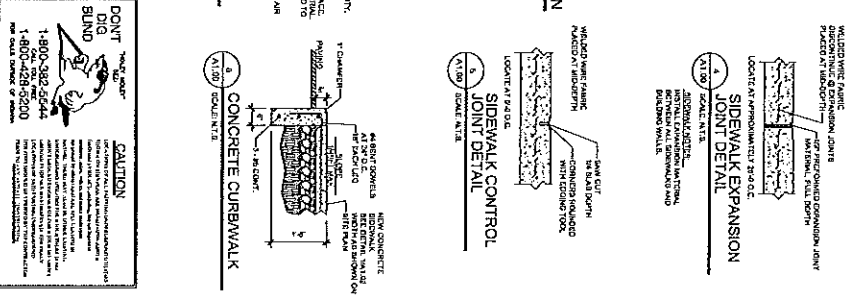
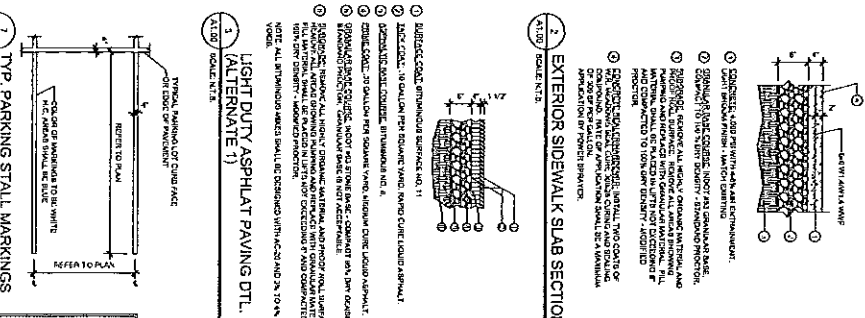
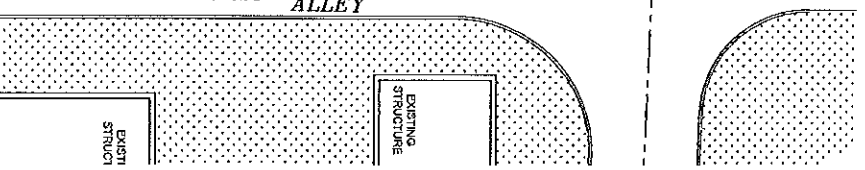
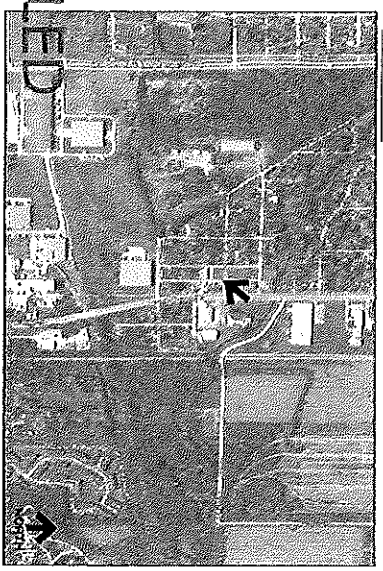
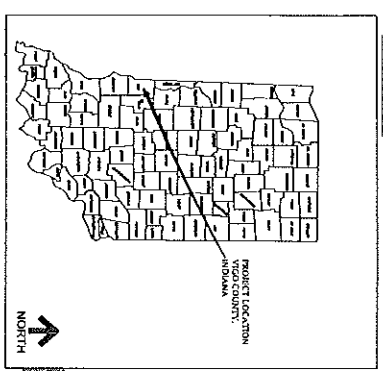
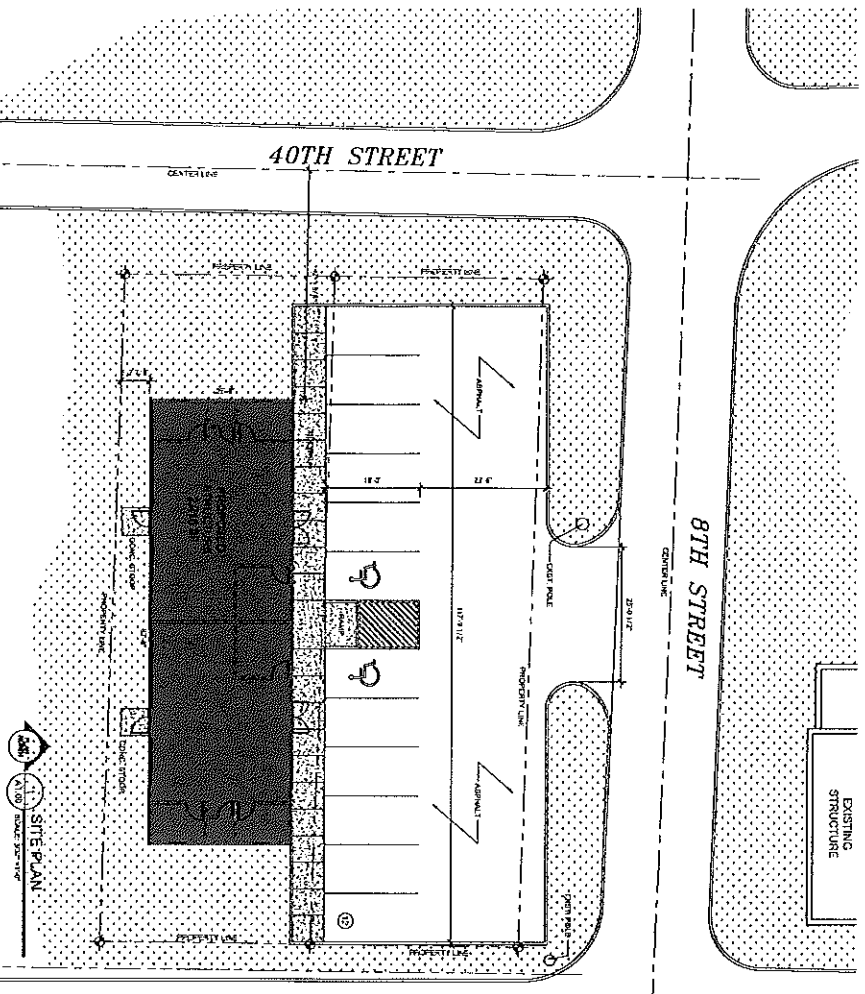
Staff Findings:

Sufficient space should be available for 2 Duplex's and parking. However a site plan wasn't turned in with the petition. A detailed site plan must be submitted.

Recommendation:

Staff offers a FAVORABLE RECCOMENDATION with the following conditions:

1. Must meet all City Building and Engineering Codes.
2. Must submit a detailed site plan.



GENERAL SITE NOTES:

1. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL AND STATE AUTHORITIES.

2. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL AND STATE AUTHORITIES.

3. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL AND STATE AUTHORITIES.

4. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL AND STATE AUTHORITIES.

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6. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL AND STATE AUTHORITIES.

7. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL AND STATE AUTHORITIES.

8. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL AND STATE AUTHORITIES.

9. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL AND STATE AUTHORITIES.

10. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL AND STATE AUTHORITIES.

NO.	REVISIONS

INSTRUCTIONS FOR:
XACTIMATE DAYCARE
 Terre Haute, Indiana

SHEET DESCRIPTION: SITE PLAN - NEW WORK

DATE: 04/15/2017

SCALE: AS NOTED

CHECKED BY: M.H.

DRAWN BY: B.M.

CDP HOLDER DESIGN, INC.
 1110 West 12th Street
 Terre Haute, Indiana 47788
 Phone: 765.838.1234
 Fax: 765.838.1235
 Email: info@cdpdesign.com

PROJECT DOCUMENT

DATE: 04/15/2017

SCALE: AS NOTED

CHECKED BY: M.H.

DRAWN BY: B.M.

APR 11 2017
 CITY CLERK

FILED