

SPECIAL ORDINANCE NO. 34, 2017

APPLICATION FOR REZONING PETITION CITY OF TERRE HAUTE

=====

Common Address of lots to be rezoned:
1387 Wheeler Avenue, Terre Haute, IN 47802

Rezoned From: R-1 Single Family Residence District

Rezoned To: C-2 Community Commercial District

Proposed Use: Vacant Lot (Uniform Zoning to Adjoining Parcel)

Name of Owners: Landmark Property Development LLC

Address of Owners: 3300 College Avenue
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: Amy Auler

=====

COPY OF A SITE-PLAN MUST ACCOMPANY THIS APPLICATION

**SPECIAL ORDINANCE FOR A REZONING
SPECIAL ORDINANCE NO. 34, 2017**

FILED

AUG 04 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 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:

Lot 468 in Rosemont 2nd Section, an addition to the City of Terre Haute, Vigo County, Indiana, being a Subdivision of all of that part of the Southwest Quarter of the Southeast Quarter of Section 34 Township 12 North, Range 9 West, lying South and West of the South and West Right-of-Way lines of the Southern Indiana Railroad Property, in said quarter section.

Tax Certificate Description: Rosemont 2nd Sec EXC Prt To ROW

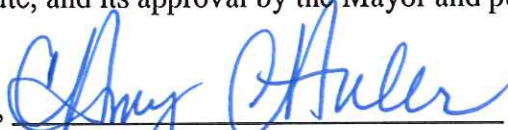
Tax Parcel Number: 84-06-34-455-014.000-002

Commonly known as: 1387 Wheeler Avenue, Terre Haute, Indiana 47802.

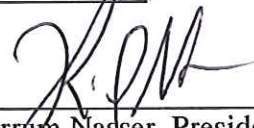
Be and the same is hereby established as a C-2 Community Commercial District, together with all rights and privileges that may insure to said real estate and the owners thereof by virtue of the law in such cases provided, subject to all limitations and restrictions imposed thereon by deed or otherwise."

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.

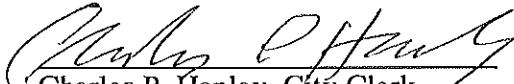
Presented by Council Member,


Amy Auler, Councilperson


Passed in open Council this 14 day of September, 2017.


Karrim Nasser, President

ATTEST:


Charles P. Hanley, City Clerk

Presented by me, to the Mayor of the City of Terre Haute, this 15 day of September 2017.


Charles P. Hanley, City Clerk


Approved by me, the Mayor of the City of Terre Haute, this 15th day of September, 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, John Lankhaar, Authorized Member of Landmark Property Development, LLC, respectfully submits this Petition to rezone the following described real estate in the City of Terre Haute, County of Vigo, Indiana, to wit:

Lot 468 in Rosemont 2nd Section, an addition to the City of Terre Haute, Vigo County, Indiana, being a Subdivision of all of that part of the Southwest Quarter of the Southeast Quarter of Section 34 Township 12 North, Range 9 West, lying South and West of the South and West Right-of-Way lines of the Southern Indiana Railroad Property, in said quarter section.

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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 use this real estate for a vacant lot with uniform zoning to the adjoining parcel of real estate. Your Petitioner would request that the real estate described herein shall be zoned as an C-2 Community Commercial District.

Your Petitioner would allege that the C-2 Community Commercial District would not alter the general characteristics of this neighborhood since the neighborhood is in a mixed use neighborhood, and Landmark Property Development, LLC is the owner of the adjoining parcel of real estate and of several parcels of real estate directly north of 1387 Wheeler Avenue, Terre Haute, Indiana 47802.

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 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 4th day of August, 2017.

PETITIONER:

LANDMARK PROPERTY
DEVELOPMENT, LLC

By: _____


John Lankhaar, Member

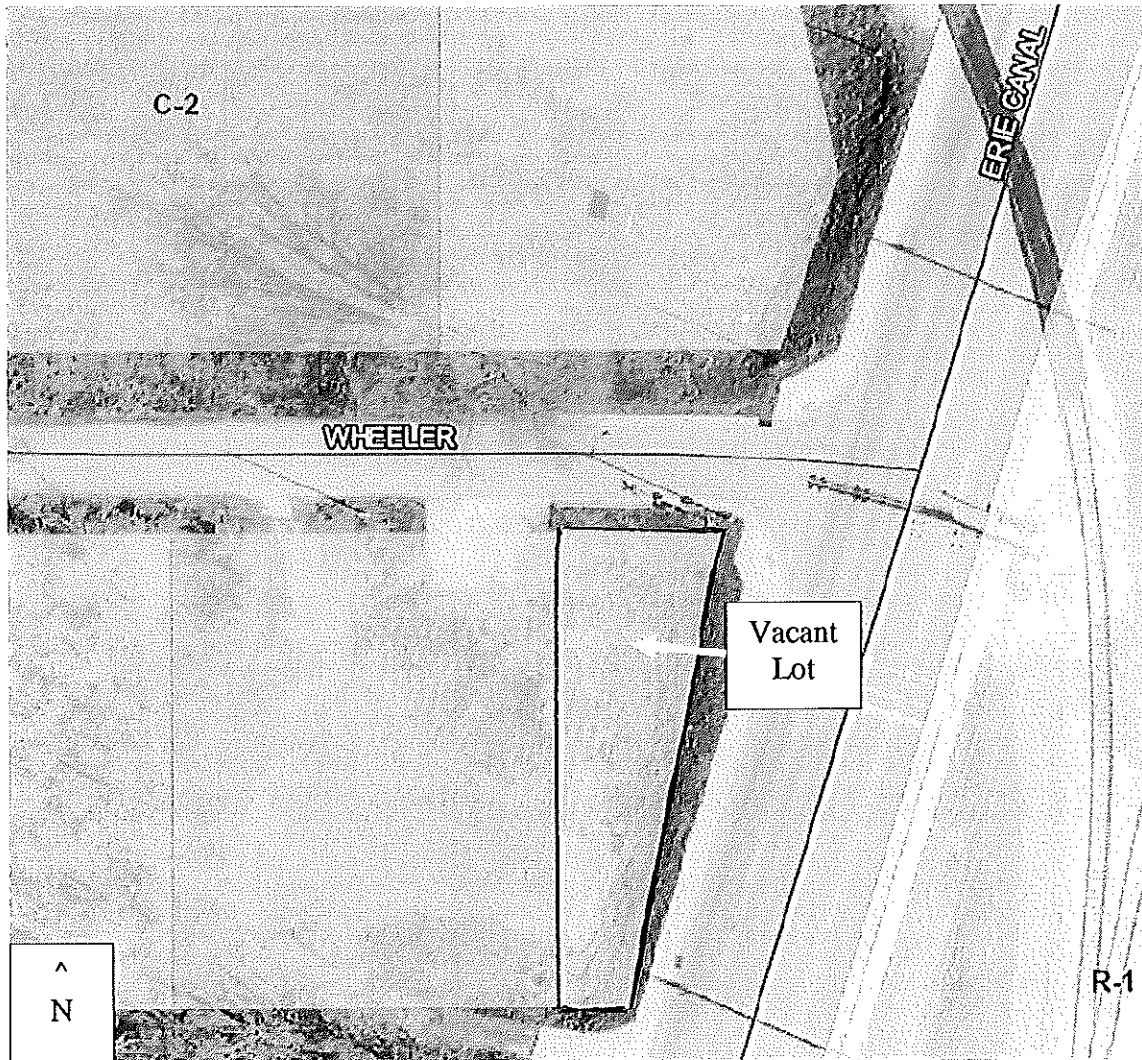
This instrument prepared by Richard J. Shagley II, Attorney-at-Law, WRIGHT, SHAGLEY & LOWERY, P.C., 500 Ohio Street, P.O. Box 9849, Terre Haute, Indiana 47807.

SITE PLAN

1387 Wheeler Avenue, IN 47802

R-1 to C-2

Proposed Use: Vacant Lot (Uniform Zoning to Adjoining Parcel)



STATE OF INDIANA)
) SS:
COUNTY OF VIGO)

AFFIDAVIT

Comes now, John Lankhaar, Authorized Member of Landmark Property Development, LLC, being duly sworn upon his oath, deposes and says:

1. That Landmark Property Development, 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:

Lot 468 in Rosemont 2nd Section, an addition to the City of Terre Haute, Vigo County, Indiana, being a Subdivision of all of that part of the Southwest Quarter of the Southeast Quarter of Section 34 Township 12 North, Range 9 West, lying South and West of the South and West Right-of-Way lines of the Southern Indiana Railroad Property, in said quarter section.

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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 Landmark Property Development, 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 Landmark Property Development, LLC.

4. Further, Affiant saith not.

Dated at Terre Haute, Indiana this 4th day of August 2017.

LANDMARK PROPERTY
DEVELOPMENT, LLC


By: 
John Lankhaar, Member

DULY ENTERED FOR TAXATION

Subject to final acceptance for transfer

APR 20 2015

Timothy M. Seprodi
VIGO COUNTY AUDITOR

2015003866 TAX DEED \$18.00
04/20/2015 03:17:52P 2 PGS
NANCY S. ALLSUP
VIGO County Recorder IN
Recorded as Presented


TAX DEED

WHEREAS Landmark Property Development, LLC did, on the 28th day October, 2013, produce to the undersigned, Timothy M. Seprodi, Auditor of the County of Vigo, in the State of Indiana, a certificate of sale dated the September 12, 2012 signed by the Auditor of Vigo County, from which it appears that Landmark Property Development, LLC on the September 12, 2012 purchased at public auction, held pursuant to law, the real property described in this indenture for the sum of \$486.51, being the amount due on the real property for taxes; special assessments, penalties and costs for the years 2011 and former years, namely:

Lot 468 in Rosemont 2nd Section, an addition to the City of Terre Haute, Vigo County, Indiana, being a Subdivision of all of that part of the Southwest Quarter of the Southeast Quarter of Section 34 Township 12 North, Range 9 West, lying South and West of the South and West Right-of-Way lines of the Southern Indiana Railroad property, in said quarter section.

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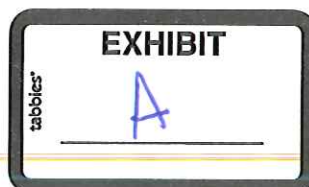
Tax Parcel Number: 84-06-34-455-014.000-002

Street Address: 1387 Wheeler Ave., Terre Haute, IN

Such real property has been recorded in the office of the Vigo County Auditor as delinquent for the nonpayment of taxes, and proper notice of sale has been given. It appearing that Landmark Property Development, LLC is the owner of the certificate of sale, that the time for redeeming such real property has expired, that the property has not been redeemed, that Landmark Property Development, LLC has received a court order for the issuance of a deed for the real property described in the certificate of sale, that the records of the Vigo County Auditor's Office state that the real property was legally liable for taxation, and that the real property has been duly assessed and properly charged on the duplicate with the taxes and special assessments for the years 2011 and former years;

Therefore, this indenture, made this 9 day of NOV., 2013, between the State of Indiana, by Timothy M. Seprodi, Auditor of Vigo County, of the first part, and Landmark Property Development, LLC, of the second part, witnesseth: That the party of the first part, for and in consideration of the premises, has granted and bargained and sold to the party of the second part, the real property situated in the County of Vigo, and State of Indiana, namely and more particularly described as follows:

Lot 468 in Rosemont 2nd Section, an addition to the City of Terre Haute, Vigo County, Indiana, being a Subdivision of all of that part of the Southwest Quarter of the Southeast Quarter of Section 34 Township 12 North, Range 9 West, lying South and West of the South



and West Right-of-Way lines of the Southern Indiana Railroad property, in said quarter section.

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Street Address: 1387 Wheeler Ave., Terre Haute, IN

to have and to hold such real property, with the appurtenances belonging thereto, in as full and ample a manner as the auditor of said county is empowered by law and by order of the Vigo Circuit Court under Cause No. 84D06-1208-MI-7316, to convey the same. Said real estate was formerly titled in the name of Jesse Tevlin.

In testimony whereof, Timothy M. Seprodi, Auditor of Vigo County, has hereunto set his/her hand, and affixed the seal of the board of county commissioners, the day and year last above mentioned.

Timothy M. Seprodi R.A.
Timothy M. Seprodi, Auditor of Vigo County

STATE OF INDIANA, COUNTY OF Vigo) SS:

Before me, the undersigned, David Crockett, Clerk in and for said County, this day, personally came the above named Timothy M. Seprodi, Auditor of said County, and acknowledged that said Auditor signed and sealed the foregoing deed for the uses and purposes therein mentioned.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 4th day of November, 2013.

David R. Crockett
David Crockett
Clerk of Vigo Circuit Court

This instrument prepared by: Henry J. Antonini, Attorney at Law, 224 South Main Street, Clinton, IN 47842-0325 Telephone: (765) 832-3527

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. Henry L. Antonini

Send Tax Statements and Return to: Landmark Property Development, LLC, 3300 College Ave., Terre Haute, IN 47803

Receipt

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

Date: 8/4/17

Name: Landmark Property Development

Reason: Rezoning - Notice of Filing \$25.00

Rezoning - Petition \$20.00

\$45.00

Cash: _____

Check: #67612 \$45.00

Credit: _____

Total: \$45.00

Received By: L. Ellington

TERRE HAUTE, IN
8/10/17 10:00 AM
CONTROLLER'S OFFICE



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: September 7, 2017

REPORT TO THE CITY COUNCIL ON ZONING MAP AMENDMENT

THE VIGO COUNTY AREA PLAN COMMISSION HEREBY GIVES CERTIFICATION TO
SPECIAL ORDINANCE NUMBER #34-17

CERTIFICATION DATE: September 6, 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. 34-17. This Ordinance is a rezoning of the property located at 1387 Wheeler. The Petitioner, Landmark Properties Development, LLC, petitions the Plan Commission to rezone said real estate from zoning classification R-1 to C-2 Community Commerce District, to match adjoining parcel. 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. 34-17 at a public meeting and hearing held Wednesday, September 6, 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. 34-17 as required by IC 36-7-4-302. The Area Plan Commission of Vigo County now hereby attaches certification to Special Ordinance No. 34-17 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. 34-17 was FAVORABLE
NO CONDITIONS.

A handwritten signature in black ink, appearing to read "Fred L. Wilson".

Fred L. Wilson, President

A handwritten signature in black ink, appearing to read "Jared Bayler".

Jared Bayler, Executive Director

Received this 7th day of September, 2017

APPLICATION INFORMATION

Petitioner: Landmark Property Development LLC

Property Owner: Same-As-Above

Representative: Richard J. Shagley II

Proposed Use: Vacant Lot (Uniform Zoning to Adjoining Parcel)

Proposed Zoning: C-2, Community Commerce District

Current Zoning: R-1, Single Family Residence District

Location: The property is located at the intersection of Wheeler Avenue and Erie Canal Rd.

Common Address: 1387 Wheeler Ave, Terre Haute, Indiana 47802

COMPREHENSIVE PLAN GUIDANCE

Service Area: The City of Terre Haute

Guiding Policies: **Neighborhood Enhancement**

Areas that qualify as Neighborhood Enhancement, represent residential areas with aging housing stock, older industrial areas that are in need of reinvestment, and neighborhood commercial nodes that need assistance in meeting modern development standards. These areas are primarily located within the Terre Haute, West Terre Haute, Seelyville, and Riley.

In regards to residential neighborhoods that are in need of rehabilitation, they should receive priority efforts with respect to public improvements such as drainage, sidewalks, street, curb and gutter repair and replacement, and landscaping in the public rights-of-way. Where appropriate, new residential infill projects should be considered a high priority for undeveloped parcels. Over time incompatible and inconsistent uses with the residential context of these neighborhoods should be eliminated.

Over time, it is reasonable to expect some displacement of existing industrial facilities, either because of functional and competitive obsolescence of facilities themselves or because corporate restructuring. As facilities are displaced, facility reuse plans or site redevelopment plans should be prepared. In some cases, industrial reuse or redevelopment may not be appropriate, for example in older core of the City of Terre Haute.

Neighborhood commercial areas are small scale, retail activity clusters or planned centers that serve limited market areas – typically 4,000 to 10,000 people. They provide shopping opportunities for those most frequently purchased goods and services. Neighborhood commercial areas should be distributed throughout the community in relationship to the distribution of households. Each neighborhood commercial center should be a master planned commercial development that is contained within a defined tract or land area. Auto ingress and egress must be controlled. Most

STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: SO # 34-17
Date: September 2017

Doc: # 67
Page 2 of 4

importantly, these areas should relate to surrounding residential neighborhoods but not adversely impact the livability of those neighborhoods through traffic, lighting, noise, litter, or other impacts. They will require strong buffering and landscape regulations, as well as being architecturally harmonized and able to blend with their neighborhood context.

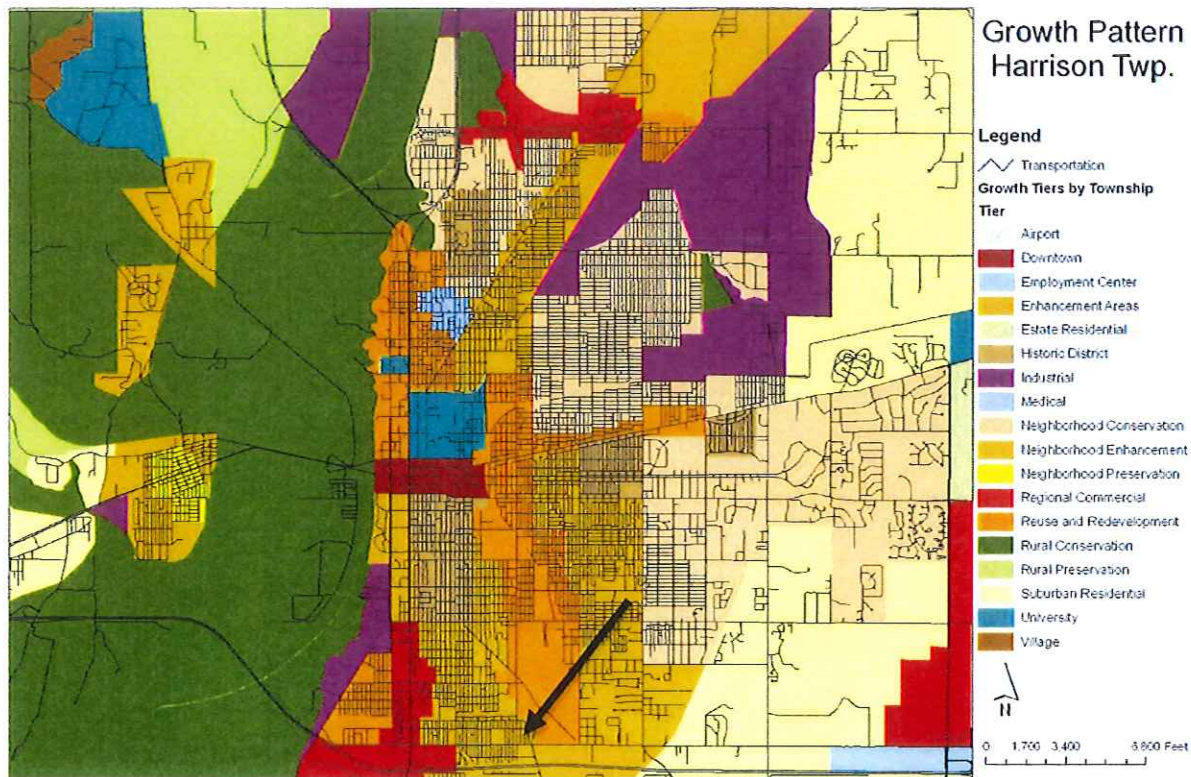
Additional policies for Neighborhood Enhancement Areas should include:

- Encourage infill development that is compatible with the land use mix and intensity of existing development.
- Support preservation and rehabilitation of historic properties.
- Incompatible and inconsistent uses with the residential context of these neighborhoods should be eliminated.
- Identify areas that need sub-area plans and prioritize the development of those plans by area.
- 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.

Street Access: Wheeler Avenue

Dev. Priority: Residential area with a few commercial zonings.



STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

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Page 3 of 4

ZONING COMPATIBILITY

Sur. Zones and Uses: **North** – R-1, C-2
East – R-1
South – R-1, C-6
West – R-1

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: Amusement establishments, bowling alleys, pool halls, swimming pools, dance halls, and skating rinks, Any use permitted in the C-1 Zone except as otherwise provided in this Chapter, Antique shops, Art galleries, but not including auction rooms, Banks and financial institutions, Bicycle sales, rental, and repair stores, Blue-printing and photostating 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.

STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: SO # 34-17

Doc: # 67

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Page 4 of 4

FINDINGS and RECOMMENDATION

Staff Findings: In the past few years there has been an increase in traffic along Erie Canal Rd. This increase was foreseen and encouraged by the upgrade of the roadway. Increased traffic counts attract commercial development.

The petitioned property is located next to a C-2 zoning. The petitioner would like to match the zoning of the smaller parcel with the existing larger parcel to the west.

With no submitted site plan it is assumed this is a speculative zoning.

The C-2 zoning maintains a 50ft buffer where adjacent to residential. Given the size of the lot to be rezoned. If the C-2 is approved then variances must be applied for or it must be combined with the parcel to the west. Even with the combination of the two tracts, variances may still be needed.

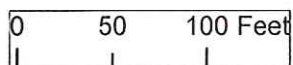
Recommendation: Staff has a Favorable Recommendation on the C-2 Community Commercial District at this location.

Docket #67, S.O. #34-17

1387 Wheeler Ave From R-1 to C-2



Parcel: 84-06-34-455-014.000-002



Area-of-Interest

Prepared by the Vigo County
Department of Area Planning

SPECIAL ORDINANCE NO. 34, 2017

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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: Amy Auler

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COPY OF A SITE-PLAN MUST ACCOMPANY THIS APPLICATION

FILED

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**SPECIAL ORDINANCE FOR A REZONING
SPECIAL ORDINANCE NO. 34, 2017**

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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:

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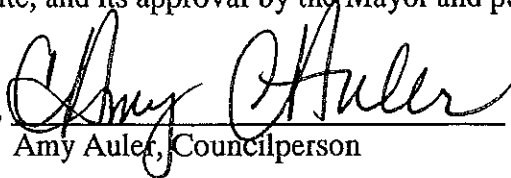
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Presented by Council Member,


Amy Auler, Councilperson

Passed in open Council this _____ day of _____, 2017.

Karrum Nasser, President

ATTEST:

Charles P. Hanley, City Clerk

Presented by me, to the Mayor of the City of Terre Haute, this ____ day of _____,
2017.

Charles P. Hanley, City Clerk

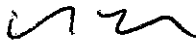
Approved by me, the Mayor of the City of Terre Haute, this ____ day of _____,
2017.

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
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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:

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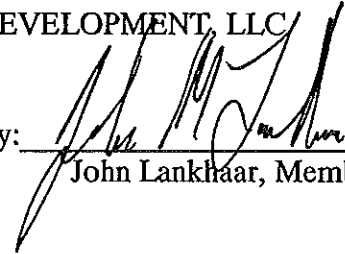
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WHEREFORE, your Petitioner respectfully requests that the Area Plan Commission for Vigo County and the Common Council of the City of Terre Haute, Indiana, favorably consider the passage of a Special Ordinance amending the Comprehensive Zoning Ordinance 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 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 4th day of August, 2017.

PETITIONER:

LANDMARK PROPERTY
DEVELOPMENT, LLC

By: 
John Lankhaar, Member

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

1387 Wheeler Avenue, IN 47802

R-1 to C-2

Proposed Use: Vacant Lot (Uniform Zoning to Adjoining Parcel)

