



APPLICATION FOR REZONING PETITION - CITY OF TERRE HAUTE

SPECIAL ORDINANCE NO. 9, 2017

COMMON ADDRESS OF LOTS TO BE REZONED:

825 South 7th Street, Terre Haute, Indiana 47807

Current Zoning: R-1 Single Family Residence
District

Requested Zoning: R-1 Planned Development

Proposed Use: Use three (3) rooms on the first floor of the single family residence as a retail store specializing in the sale of Victorian era gifts and collectibles. Two rooms will be used for the retail store while a third will be used for customers to sit and relax in. The remainder of the real estate will remain a single family residence. The rezoning to R-1 Planned Development will not alter the historical use of the property and is consistent with other uses in the immediate vicinity.

Name of Owner: Bonnie S. Bolinger

Address of Owner: 825 South 7th Street, Terre Haute, IN 47807

Phone Number of Owner: 812-243-5115

Attorney Representing Owner (if any): David P. Friedrich

Address of Attorney: Wilkinson, Goeller, Modesitt, Wilkinson & Drummy, 333 Ohio Street, Terre Haute, IN 47807

Phone Number of Attorney: 812-232-4311

For Information Contact: David P. Friedrich

Council Sponsor:
Todd Nation

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

FILED

FEB 24 2017

AMENDED SPECIAL ORDINANCE FOR PLANNED DEVELOPMENT

SPECIAL ORDINANCE NO. 9, 2017

CITY CLERK

An Ordinance Amending Chapter 10, of the Terre Haute City Code, Zoning and Subdivision Regulations, as adopted by General Ordinance No. 10, 1999, as Amended, entitled An Ordinance Adopting And Enacting a Code of Ordinances for the City of Terre Haute, Indiana; Establishing The Same; Providing For Repeal of Certain Ordinances Not Included Therein, Except As Herein Provided; Providing For The Manner Of Amending Such Code Of Ordinances; Providing a Penalty For Violations Thereof; Providing When This Ordinance Shall Become Effective And Officially Adopting The Terre Haute City Code, And Passing Ordinances Addressing Fees, Fines And Regulations.

BE IT ORDAINED by the Common Council of the City of Terre Haute, Indiana, as follows:

SECTION I. That Chapter 10, of the Terre Haute City Code, known and referred to as The Comprehensive Zoning Ordinance of Terre Haute of General Ordinance No. 10, 1999, effective, December 10, 1999, Section 10-121, thereof, District Maps, is hereby amended to read as follows:

Four (4) ^{Four (4)}
Lot number ~~three~~ (4) in Joseph G. Wilson's Subdivision of a part of
Out Lot 64 of the original out lots of the Town, now City, of Terre Haute,
Indiana.

Commonly known as 825 South 7th Street, Terre Haute, Vigo County, Indiana
47807

be and the same is, hereby established as an R-1 Planned Development, together with all rights and privileges that may inure to said real estate and the owners thereof by virtue of the law in such cases provided, subject to all limitations and restrictions imposed thereon by deed or otherwise.

That the real estate described shall be a Planned Development in an R-1 Planned Development as the same is defined in the Comprehensive Zoning Ordinance for the City of Terre Haute, Indiana, subject to the terms and conditions set forth herein.

- (a) The real estate shall be used for any use permitted in an R-1 Planned Development as a retail store specializing in the sale of Victorian gifts and collectibles. Two rooms on the first floor of the real estate will be used as the retail store while a third room will be for customers to sit and relax in.
- (b) The real estate will remain as a single family residence consistent with the historical use of the property and consistent with other uses in the immediate vicinity, subject to all restrictions in this Ordinance
- (c) In the event that this Planned Development has not materialized within six (6) months of approval, it is understood that said Planned Development become void.

- (d) In the event the real estate is not utilized as a Planned Development for a continuous six (6) months as a retail store, the said Planned Development becomes void.
- (e) A variance is hereby granted from Table 4 Schedule of Minimum Off-Street Parking Requirements.
- (f) Said Planned Development shall be recorded in the Vigo County Recorder's Office within ninety (90) days of the approval by the Council.

That the owner has met all of the criteria determined by the Area Planning Commission, except as stated above by the City Council of Terre Haute, Indiana, that a hardship does exist, due to the adjacent, scattered incompatible uses in the area, and that a Planned Development as set forth herein is hereby approved and will be in the public's interest and that substantial justice will be done for the neighborhood.

SECTION II. WHEREAS, the Area Planning Commission has considered a petition filed pursuant to General Ordinance No.10, 1999 being Division III Planned Development; and

WHEREAS, Amended Special Ordinance No. 9, 2017, has been referred to the Area Planning Commission for its review and consideration and a favorable recommendation has been referred by the Commission to the Common Council; and

WHEREAS, a public hearing on Amended Special Ordinance No. 9, 2017, has been held pursuant to Section 10 of said Ordinances and the owner of the real estate described has demonstrated to the Area Planning Commission and to the Common Council evidence that a hardship exists pursuant to Section 10-112 of said Ordinance and that said Planned Development will not adversely affect surrounding property values, and that it will not adversely affect public health, safety and the general welfare.

BE IT ORDAINED BY THE COMMON COUNCIL of the City of Terre Haute, Indiana that the owner of the real estate described has demonstrated that a hardship does exist for the use of said real estate and that the Common Council of the City of Terre Haute now determines that a hardship does exist and specifically authorizes and approves the uses of the real estate described as an R-1 Planned Development as described in this Amended Ordinance, under the terms and conditions set forth herein, and further finds and determines that the proposed uses described will be in the public interest and that substantial justice will be done.

SECTION III. 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 publications as by law provided.

Presented by Council Member, Todd Nation
Todd Nation

Passed in Open Council this 9th day of March, 2017.
Karrum Nasser
Karrum Nasser-President

ATTEST: Charles P. Hanley
Charles P. Hanley, City Clerk

Presented by me to the Mayor of the City of Terre Haute this 10th day of March 2017.
Charles P. Hanley
Charles P. Hanley, City Clerk

Approved by me, the Mayor, this 10TH day of MARCH, 2016.
Duke Bennett
Duke Bennett, Mayor

ATTEST: Charles P. Hanley
Charles P. Hanley, City Clerk

This document prepared by:
David P. Friedrich, Wilkinson, Goeller, Modesitt, Wilkinson & Drummy, 333 Ohio Street,
Terre Haute, IN 47807

I affirm, under the penalties for perjury, that I have taken responsible care to redact each social security number in this document, unless required by law.
David P. Friedrich
David P. Friedrich

FILED

SPECIAL ORDINANCE FOR PLANNED DEVELOPMENT

FEB 06 2017

SPECIAL ORDINANCE NO. 9, 2017

CITY CLERK

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BE IT ORDAINED by the Common Council of the City of Terre Haute, Indiana, as follows:

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Lot number ^{FOUR (2)} ~~three~~ (4) in Joseph G. Wilson's Subdivision of a part of Out Lot 64 of the original out lots of the Town, now City, of Terre Haute, Indiana.

Commonly known as 825 South 7th Street, Terre Haute, Vigo County, Indiana
47807

be and the same is, hereby established as an R-1 Planned Development, together with all rights and privileges that may inure to said real estate and the owners thereof by virtue of the law in such cases provided, subject to all limitations and restrictions imposed thereon by deed or otherwise.

That the real estate described shall be a Planned Development in an R-1 Planned Development as the same is defined in the Comprehensive Zoning Ordinance for the City of Terre Haute, Indiana, subject to the terms and conditions set forth herein.

- (a) The real estate shall be used for any use permitted in an R-1 Planned Development as a retail store specializing in the sale of Victorian gifts and collectibles. Two rooms on the first floor of the real estate will be used as the retail store while a third room will be for customers to sit and relax in.
- (b) The retail store will be open from Friday to Sunday each week. Hours of operation will be from 10 a.m. to 6 p.m. on Friday and Saturday and noon to 6 p.m. on Sunday.
- (c) The real estate will remain as a single family residence consistent with the historical use of the property and consistent with other uses in the immediate vicinity, subject to all restrictions in this Ordinance

- (d) In the event that this Planned Development has not materialized within six (6) months of approval, it is understood that said Planned Development become void.
- (e) In the event the real estate is not utilized as a Planned Development for a continuous six (6) months as a retail store, the said Planned Development becomes void.
- (f) A variance is hereby granted from Table 4 Schedule of Minimum Off-Street Parking Requirements.
- (g) Said Planned Development shall be recorded in the Vigo County Recorder's Office within ninety (90) days of the approval by the Council.

That the owners have met all of the criteria determined by the Area Planning Commission, except as stated above by the City Council of Terre Haute, Indiana, that a hardship does exist, due to the adjacent, scattered incompatible uses in the area, and that a Planned Development as set forth herein is hereby approved and will be in the public's interest and that substantial justice will be done for the neighborhood.

SECTION II. WHEREAS, the Area Planning Commission has considered a petition filed pursuant to General Ordinance No.10, 1999 being Division III Planned Development; and

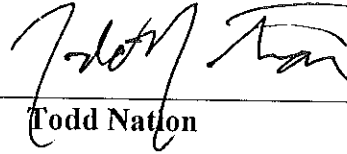
WHEREAS, Special Ordinance No. 9, 2017, has been referred to the Area Planning Commission for its review and consideration and a favorable recommendation has been referred by the Commission to the Common Council; and

WHEREAS, a public hearing on Amended Special Ordinance No. 40, 2016, has been held pursuant to Section 10 of said Ordinances and the owner of the real estate described has demonstrated to the Area Planning Commission and to the Common Council evidence that a hardship exists pursuant to Section 10-112 of said Ordinance and that said Planned Development will not adversely affect surrounding property values, and that it will not adversely affect public health, safety and the general welfare.

BE IT ORDAINED BY THE COMMON COUNCIL of the City of Terre Haute, Indiana that the owner of the real estate described have demonstrated that a hardship does exist for the use of said real estate and that the Common Council of the City of Terre Haute now determines that a hardship does exist and specifically authorizes and approves the uses of the real estate described as an R-1 Planned Development as described in this Ordinance, under the terms and conditions set forth herein, and further finds and determines that the proposed uses described will be in the public interest and that substantial justice will be done.

SECTION III. 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 publications as by law provided.

Presented by Council Member, _____


Todd Nation

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, this _____ day of _____, 2016.

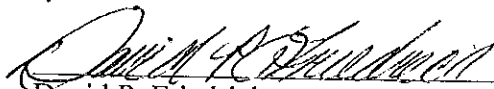
Duke Bennett, Mayor

ATTEST: _____
Charles P. Hanley, City Clerk

This document prepared by:

David P. Friedrich, Wilkinson, Goeller, Modesitt, Wilkinson & Drummy, 333 Ohio Street,
Terre Haute, IN 47807

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


David P. Friedrich

PETITION FOR A PLANNED DEVELOPMENT

PETITION TO REZONE REAL ESTATE

TO: THE PRESIDENT AND MEMBERS OF THE COMMON COUNCIL OF THE CITY OF TERRE HAUTE, INDIANA;

LADIES and GENTLEMEN:

Bonnie S. Bolinger, Petitioner, is the owner of the following described real estate in Vigo County, Indiana, to-wit:

Lot number ^{Four (4)} (4) in Joseph G. Wilson's Subdivision of a part of Out Lot 64 of the original Out Lots of the Town, now City, of Terre Haute, Indiana.

Commonly known as 825 South 7th Street, Terre Haute, Indiana
47807

The Petitioner is informed and believes that in accordance with Chapter 10 of the Comprehensive Zoning Ordinance for Terre Haute, as amended, the above described real estate is now zoned as R-1 Single Family Residence District.

The Petitioner would state the real estate is an existing single family residence.

The Petitioner would request the real estate described in this petition be zoned as an R-1 Planned Development to allow for use as proposed by the Petitioner. The Petitioner would allege that the R-1 Planned Development would not alter the general characteristics of the neighborhood.

The Petitioner is requesting a variance for parking requirements because the proposed use is a retail store in a small portion of the real estate that will only be open three (3) days a week for a limited number of hours.

The Petitioner proposes using two (2) rooms on the first floor of the real estate to operate a retail store specializing in the sale of Victorian gifts and collectibles. The Petitioner further states a third room will be used as a sitting room where customers may sit and relax. The store will be open from Friday to Sunday each week. Hours of operation will be from 10 a.m. to 6 p.m. on Friday and Saturday and noon to 6 p.m. on Sunday.

The Petitioner contends the real estate will remain as a single family residence consistent with the historical use of the property and consistent with other uses in the immediate vicinity, subject to all restrictions in this Ordinance.

The Petitioner would allege a hardship exists due to adjacent, scattered incompatible uses in the area.

The Petitioner requests that rezoning should be granted for the following reasons:

A. The Planned Development will not alter the general characteristics of this neighborhood because the area has mixed uses, including other similar commercial and residential uses in the immediate vicinity;

B. The proposed change will not adversely affect surrounding property values and will not adversely affect public health, safety or general welfare nor will it be injurious to the property or improvements in the neighborhood, because of the mixed uses in the area and the existence of other retail and residential real estate in the immediate vicinity. The use of the real estate as a retail store and residential residence is not incompatible with the zoning classification and surrounding uses;

C. The real estate is located on South 7th Street which provides adequate access;

D. The real estate is located near an area which is zoned for commerce and for similar planned development uses;

E. The use of the real estate as proposed will not significantly increase traffic or parking in the area, the real estate lends itself well to the proposed use and the proposed use does not alter the essential character of the area.

Wherefore, the Petitioner respectfully requests that the Area Plan Commission of Vigo County and the Common Council of the City of Terre Haute, Indiana, favorably consider the passage of a Special Ordinance Amending the District Maps of Chapter 10, of the Terre Haute City Code entitled The Comprehensive Zoning Ordinance for Terre Haute, Section 10-121 District Maps and declaring the above-described real estate be zoned R-1 Planned Development of the City of Terre Haute, 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 3rd day of February, 2017.

PETITIONER:

By: 

Bonnie S. Bolinger

This document prepared by:

David P. Friedrich, 15164-84
Wilkinson, Goeller, Modesitt,
Wilkinson & Drummy
333 Ohio Street
Terre Haute, IN 47807


SITE PLAN
R1 to R2 PLAN DEVELOPMENT



Parcel ID	84-06-28-283-011.000-002	Alternate ID	118-06-28-283-011	Owner Address	BOLINGER BONNIE S
Sec/Twp/Rng	28	Class	Res 1 fam dwelling platted lot		825 S 7TH ST
Property Address	825 S 7TH ST	Acreage	n/a		TERRE HAUTE, IN 47807
	TERRE HAUTE				
District	002 HARRISON				
Brief Tax Description	WILSON SUB O L 64 442/1977				
	D 443/81 28-12-9 LOT 4				
	(Note: Not to be used on legal documents)				

NOV 12 2015

Timothy M. Sepucha
VIGO COUNTY AUDITOR

2015011838 WD \$18.00
11/12/2015 11:52:07A 2 PGS
NANCY S. ALLSUP
VIGO County Recorder IN
Recorded as Presented


WARRANTY DEED

This indenture witnesseth that

DAVID P. CONRADY and CATHERINE M. CONRADY, HUSBAND AND WIFE
of Dutchess County in the State of New York

Convey(s) and Warrant(s) to

BONNIE S. BOLINGER

of Vigo County in the State of Indiana

for and in consideration of One Dollar (\$1.00) and other valuable consideration, the receipt whereof is hereby acknowledged, the following Real Estate in VIGO County in the State of Indiana, to-wit:

Lot Number 4 in Joseph G. Wilson's Subdivision of a part of Out Lot Number 64 of the original Out Lots of the Town, now City, of Terre Haute, 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 Joseph G. Wilson's Subdivision.
- b) Subject to an easement of the exterior to the Historical Landmarks of Indiana, Inc.
- c) Subject to Architectural Facade and Conservation Easement by and between harriet McNeal and Historic Landmark Foundation of Indiana, Inc. dated March 31, 1997 and recorded April 4, 1997 in Deed Record 442, page 1096.

Parcel No. 84-06-28-283-011.000-002

Dated this 7 day of November, 2015.

* 
DAVID P. CONRADY

* 
CATHERINE M. CONRADY

State of New York, County of Dutchess) SS:

Before me, a Notary Public in and for said county and state, this 7th day of November, 2015, personally appeared DAVID P. CONRADY and CATHERINE M. CONRADY, who acknowledged the execution of the foregoing Warranty Deed to be Grantor(s) voluntary act and deed.

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

Marissa Pomarico
Notary Public

My Commission Expires: 09/23/2017
My County of Residence: Dutchess

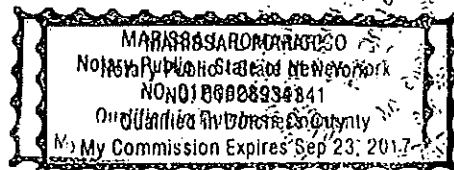
Printed: Marissa Pomarico

This instrument prepared by: Henry L. Antonini, Antonini & Antonini, 224 South Main Street, P. O. Box 325, Clinton, IN 47842 Telephone: (765) 832-3527 D-2832; HCT-2015-0653

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

Mail tax bills to Grantee at Grantee's address of:

825 S. 7th STREET, TERRE HAUTE, IN 47807
Return Deed to: Honey Creek Vigo Title Svcs, Inc., 405 S. 6th Street, Terre Haute, IN 47807.



AFFIDAVIT OF:

COMES NOW affiant Bonnie S. Bolinger and affirms under penalty of law that affiant is the owner of record of the property located at 825 South 7th Street, Terre Haute, IN 47807 for which rezoning is requested and hereto a copy of the deed evidencing such ownership. I affirm under penalty for perjury, that the foregoing representations are true.

Bonnie S. Bolinger

SIGNATURE: *Bonnie S. Bolinger*

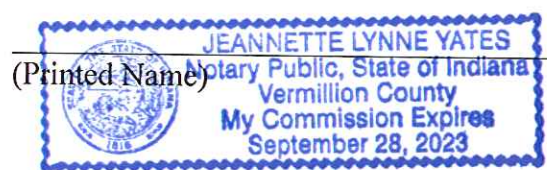
STATE OF INDIANA)
 SS:)
COUNTY OF VIGO)

Personally appeared before me, a Notary Public in and for said County and State, Bonnie S. Bolinger who acknowledges the execution of the above and foregoing, after being duly sworn upon her oath and after having read this Affidavit.
WITNESS my hand and notarial seal, this 3rd day of February, 2017.

MY COMMISSION EXPIRES:
9/28/23

Jeannette Lynne Yates
NOTARY PUBLIC

COUNTY OF RESIDENCE:
Vermillion



Receipt

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

Date: 2/6/17

Name: Wilkinson, Coelley, Muelert, Wilkinson & Manning

Reason: Receiving - value of filing \$295.00

Receiving - Petition Muehlert

\$495.00

Cash: _____

Check: # 95504 \$495.00

Credit: _____

Total: \$495.00

Received By: [Signature]

City of Terre Haute
Controller's Office
2/6/17



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: March 2, 2017

REPORT TO THE CITY COUNCIL ON ZONING MAP AMENDMENT

THE VIGO COUNTY AREA PLAN COMMISSION HEREBY GIVES CERTIFICATION TO
SPECIAL ORDINANCE NUMBER #9-17

CERTIFICATION DATE: March 1, 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. 9-17. This Ordinance is a rezoning of the property located at 825 South 7th Street. The Petitioner, Bonnie S. Bolinger, petitions the Plan Commission to rezone said real estate from zoning classification R-1 to R-1 Planned Development District, for single family and retail store. 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. 9-17 at a public meeting and hearing held Wednesday, March 1, 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. 9-17 as required by IC 36-7-4-302. The Area Plan Commission of Vigo County now hereby attaches certification to Special Ordinance No. 9-17 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. 9-17 was FAVORABLE WITH THE FOLLOWING CONDITIONS: 1) That it is found that the Petitioner has a hardship as outlined above; 2) It must be determined that said proposed uses, if approved, will be in the public's interest and that substantial justice will be done for that neighborhood.


Fred L. Wilson, President


Jared Bayler, Interim Director

Received this 2nd day of March 2017

STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: SO #9-17

Doc: # 15

Date: March 2017

Page 1 of 4

APPLICATION INFORMATION

Petitioner: Bonnie S. Bolinger

Property Owner: Same-As-Above

Representative: David P. Friedrich

Proposed Use: Retail of Victorian era gifts and collectables with a single family residence

Proposed Zoning: R-1 Planned Development District

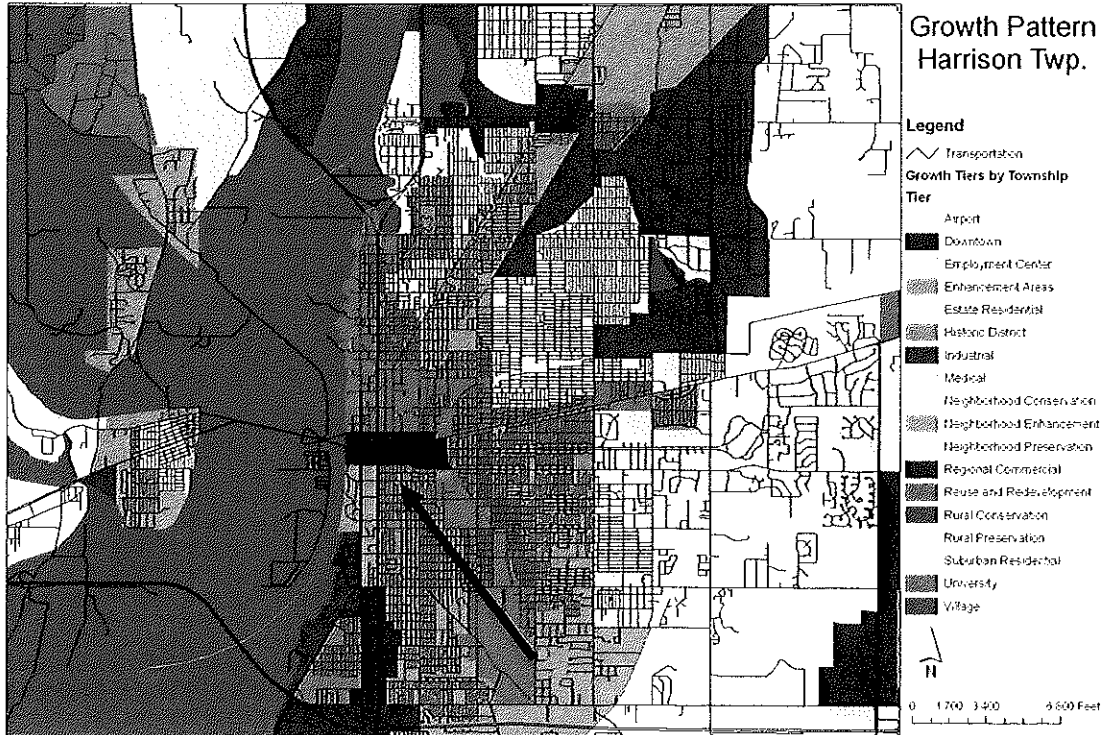
Current Zoning: R-1, Single-Family Residence District

Location: The property is on the northwest corner of Park Ave. and S. 7th St.

Common Address: 825 S. 7th Street, Terre Haute, IN 47807

COMPREHENSIVE PLAN GUIDANCE

Service Area: The City of Terre Haute



Historic Districts

Historic Districts are locations within the community that are important because of historic events, their architectural or cultural significance, or a connection to the lives of the people who lived there that should be protected and enhanced as an amenity to region. There are two types of historic districts:

- **National Register Historic Districts.** The National Register is a nation-wide list of buildings or areas certified by the Secretary of Interior as important architecturally, historically or culturally. Individual buildings and those in a district are eligible for Federal and Indiana tax credits for rehabilitation and tax reductions for easement donation. Listing a building on the National Register does not trigger local review of changes to the building unless the project is federally funded.
- **Local Historic Districts.** Local Historic Districts can be created by local ordinance, and are regulated by a historic district design standards in that ordinance. These standards vary from district to district and are developed by the neighborhood. “Certified” local historic districts have been determined to qualify for the National Register. These districts enjoy the same tax credit benefits as National Register districts.

Specific items to be utilized in identifying historic districts include:

- Buildings and structures within the district generally must be 50 years old.
- Many demolitions or new buildings have not altered it historic appearance.
- District resources should be similar in style, massing, detailing and/or date of construction.
- The buildings in the district must retail their original architectural character.
- The area must have clear and precise defined boundaries.

Dev. Priority: There is a low development priority in this area. Focus should remain on stability and reinvestment in the neighborhood.

ZONING COMPATIBILITY

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

ZONING REGULATIONS

- b. Uses, Permitted - R-1 Single-Family Residence District.
(1) One-family detached dwellings.

- (2) Cemeteries, including crematories and mausoleums in conjunction therewith if not located within four hundred feet (400') of any other property in a Residence District.
- (3) Churches, Rectories, and Parish Houses.
- (4) Convents and Monasteries.
- (5) Gardening, including nurseries, provided that no offensive odors or dust are created.
- (6) Golf Courses, but not including commercially-operated driving ranges or miniature golf courses, provided that no clubhouse shall be located within three hundred feet (300') of any other property in a Residence District.
- (7) Libraries, Public. (Ord. No. 1, 1967, § 1131.01 a. - b., 7-6-67)
- (8) Child Care.
- (9) Home Occupations. (Gen. Ord. No. 17, 2000, 9-14-00)

(A) UNLICENSED CHILD CARE.

An individual, or other entity, may provide child care in their residence for less than twenty-four (24) continuous hours to five (5) or fewer children at any time excluding relatives of the individual.

(B) LICENSED CHILD CARE.

An individual, or other entity, who is licensed by the Vigo County Department of Public Welfare and the State Department of Public Welfare may provide child care services for children under the age of fourteen (14). The caregiver may not exceed ten (10) children, including their own children, at any one time.

(C) Licensed or unlicensed child care centers shall not be permitted in residential districts that do not comply to Subsections (a) and (b) above.

- (10) Parks and Playgrounds, publicly owned and operated.
- (11) Schools, elementary and high, non-boarding and including playgrounds and athletic fields incidental thereto.

Planned Developments

Planned Developments are uses that may be permitted, under certain circumstances that are not a permitted use in the zoned district where said Planned Development is proposed. A Planned Development is a floating zone.

Before a Planned Development can be considered, the petitioner must show proof of one of the following unique circumstances. That the petitioner has a:

- (1) Hardship due to the physical characteristics of the land.
Example - Peculiarities of the sizes, shape, or grade of the parcel in question.
- (2) Hardship due to the improvements on the land.

Example - Commercial structure in a residential neighborhood that is not suitable for residential use.

(3) Hardship due to adjacent, scattered incompatible uses.

Example - Scattered commercial uses in a residential neighborhood.

(4) Hardship due to the general deterioration of the neighborhood.

Example - Neighborhoods that are blighted as determined by the Department of Redevelopment.

(5) Parcel located near district boundary lines.

Example - Parcel located on a major thoroughfare is presently zoned residential while other parcels in the area are zoned commercial.

When it is determined by the Area Plan Commission and the City Council that a hardship does exist, a Planned Development of certain uses may be approved for any zoned lot. However, it must be determined that said proposed uses, if approved, will be in the public's interest and that substantial justice will be done for that neighborhood. Approval of said proposed uses shall not have the intent of nullifying the purpose of these zoning regulations.

FINDINGS and RECOMMENDATION

Staff Findings: The petitioner is requesting to turn the current structure into a multipurpose building. The first floor will contain 3 rooms for retail of Victorian era gifts and collectables. Two of the three rooms will be retail space, the third a sitting room. The remainder of the property will remain a residence.

The petitioner alleges a hardship due to scattered incompatible uses. As a part of the Planned Development the applicant is seeking a variance from Table 4, Schedule of Minimum Off-Street Parking Requirements.

The ordinance contends that the petitioned use will not alter the historic use of the property and is consistent with other uses in the immediate vicinity.

Recommendation: Staff has a Favorable Recommendation for the R-1 PD with the following condition:

1. That it is found that the petitioner has a hardship as outlined above
2. It must be determined that said proposed uses, if approved, will be in the public's interest and that substantial justice will be done for that neighborhood.