



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

**SPECIAL ORDINANCE NO. 38**

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COMMON ADDRESS OF LOTS TO BE REZONED: 3018 Fenwood

Parcel # 84-06-23-231-007.000-002

Current Zoning: M-2 HEAVY INDUSTRY DISTRICT

Requested Zoning: R-1 PLANNED DEVELOPMENT

Proposed Use: Two Residential units

Name of Owner: Jean Foster

Address of Owner: 100 Harbor View Dr Unit 1204, Baltimore, MD 21230

Phone Number of Owner: \_\_\_\_\_

Attorney Representing Owner (if any): N/A

Address of Attorney: N/A

Phone Number of Attorney: \_\_\_\_\_

For Information Contact: Lynda Miller 812-201-3034

Council Sponsor: Cheryl Loudermilk

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

OCT 04 2023

SPECIAL ORDINANCE NO. 38, 2023

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 the 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 for 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:

Lot 175 and 5 feet off the West side of Lot 176 in Schaal's Second Subdivision of part of the North Half of the North East Quarter of Section 23, Township 12 North, Range 9 West as per recorded plat of the same recorded in Plat Record 10, Page 30 of the Recorder's Office of Vigo County, Indiana.

Commonly known as 3018 Fenwood, Terre Haute, IN 47803.

be and the same is, hereby established as a 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 except as specifically authorized under the terms of this ordinance.

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 terms and conditions set forth herein.

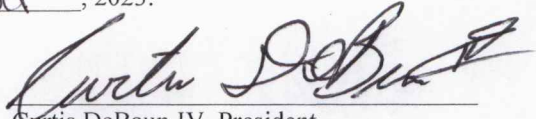
- (A) That the real estate be used for two dwelling units
- (B) Petitioner is requesting zero set back requirements
- (C) Petitioner is requesting zero off street parking requirements
- (D) That a hardship does exist due to the improvements on the land
- (E) The Planned Development will not adversely affect surrounding property values
- (F) The Planned Development will not adversely affect public health, safety, and the general public welfare
- (G) In the event the Planned Development does not materialize within six (6) months of approval, said Planned Development will become void
- (H) The Planned Development is transferrable
- (I) The Planned Development shall be recorded in the Vigo County's Recorder's Office within ninety (90) days of approval.
- (J) The owners have met all of the criteria determined by the Area Planning Commission except as stated above and by the City Council of Terre Haute, Indiana, that a hardship does exist and that a Planned Development as set forth herein is hereby approved and will be in the public's interest and in the interest of the neighborhood.

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 the City of Terre Haute, and its approval by the Mayor and publications as by law provided.

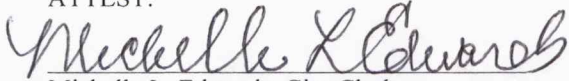
Presented by Council Member:

  
Cheryl Loudermilk, Councilperson

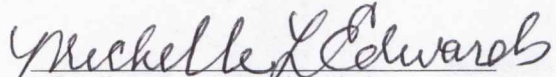
Passed in open Council this 2nd day of November, 2023.

  
Curtis DeBaun IV, President

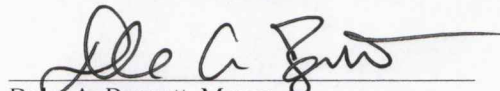
ATTEST:

  
Michelle L. Edwards, City Clerk

Presented to me the Mayor of the City of Terre Haute, this 3rd day of November, 2023.

  
Michelle L. Edwards, City Clerk

Approved by me, the Mayor of the City of Terre Haute, this 3rd day of NOVEMBER, 2023.

  
Duke A. Bennett, Mayor

ATTEST:

  
Michelle L. Edwards, City Clerk

This instrument prepared by Jean Foster, 100 Harbor View Dr, Unit 1204, Baltimore, MD 21230

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.

BY   
Jean Foster

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, Jean Foster, respectfully submits this Petition to rezone the following described real estate in the City of Terre Haute, County of Vigo, Indiana, to wit:

Lot 175 and 5 feet off the West side of Lot 176 in Schaal's Second Subdivision of part of the North Half of the North East Quarter of Section 23, Township 12 North, Range 9 West as per recorded plat of the same recorded in Plat Record 10, Page 30 of the Recorder's Office of Vigo County, Indiana.

Commonly known as 3018 Fenwood, 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 **M-2 HEAVY INDUSTRY DISTRICT**.

Your petitioner would respectfully state that the real estate is now a single family residence. Your petitioner intends to use the real estate to continue the use of single family residence.

Your petitioner would request that the real estate described herein shall be zoned as a **R-1 PLANNED DEVELOPMENT**. Your petitioner would allege that the **R-1 PLANNED DEVELOPMENT** would not alter the general characteristics of this neighborhood.

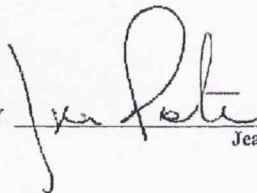
That the real estate described shall be a Planned Development in an R-1 Planned Development as the same is defined in the Comprehensive Zoning Ordinance for the City of Terre Haute, Indiana, subject to terms and conditions set forth herein.

- (A) That the real estate be used for two dwelling units
- (B) Petitioner is requesting zero set back requirements
- (C) Petitioner is requesting zero off street parking requirements
- (D) That a hardship does exist due to the improvements on the land
- (E) The Planned Development will not adversely affect surrounding property values
- (F) The Planned Development will not adversely affect public health, safety, and the general public welfare
- (G) In the event the Planned Development does not materialize within six (6) months of approval, said Planned Development will become void
- (H) The Planned Development is transferrable
- (I) The Planned Development shall be recorded in the Vigo County's Recorder's Office within ninety (90) days of approval.
- (J) The owners have met all of the criteria determined by the Area Planning Commission except as stated above and by the City Council of Terre Haute, Indiana, that a hardship does exist and that a Planned Development as set forth herein is hereby approved and will be in the public's interest and in the interest of the neighborhood.

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

WHEREFORE, your petitioner respectfully requests that the Area Plan Commission for Vigo County and the Common Council of the City of Terre Haute, Indiana, favorably consider the passage of a Special Ordinance amending the Comprehensive Zoning Ordinance of the city of Terre Haute, Indiana, being Chapter 10, Article 2 of the Municipal Code designated as "Comprehensive Zoning Ordinance for the Terre Haute, Indiana," and declaring the above-described real estate to be part of the **R-1 PLANNED DEVELOPMENT** 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 WITNES WHEREOF, This petition has been duly executed this 13<sup>th</sup> day of September, 20 23.

BY  \_\_\_\_\_  
Jean Foster

PETITIONER: Jean Foster, 100 Harbor View Dr, Unit 1204, Baltimore, MD 21230

This instrument was prepared by Jean Foster, 100 Harbor View Dr, Unit 1204, Baltimore, MD 21230

COMES NOW affiant Jean Foster and affirms under penalty of law that affiant is the owner of record of the property located at 3018 Fenwood, Terre Haute, Indiana for which a rezoning is requested and hereto a copy of the deed is attached evidencing such ownership.

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

SIGNATURE: Jean Foster  
Jean Foster

STATE OF Maryland  
SS:  
COUNTY OF Baltimore

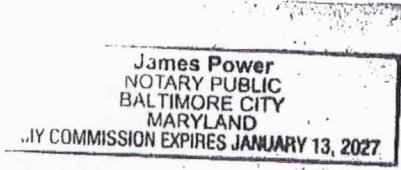
Personally appeared before me, a Notary Public in and for said County and State, Baltimore, Maryland who acknowledges the execution of the above and foregoing, after being duly sworn upon his oath and after having read this Affidavit.

WITNESS my hand and notarial seal, this 13<sup>th</sup> day of September, 2023.

Notary Public: James Power  
[Typed name] James Power

My Commission Expires: 1/13/2027

My County Of Residence: Baltimore City



ENTERED FOR TAXATION  
Subject to final acceptance for Transfer

MAY 12 2023

*James W Bramble*  
VIGO COUNTY AUDITOR

2023005457 WD \$25.00  
05/12/2023 09:02:33A 2 PGS  
Diana Winsted-Smith  
VIGO County Recorder IN  
Recorded as Presented

**WARRANTY DEED**

THIS INDENTURE WITNESSETH, THAT David Wiman, of VIGO County, State of INDIANA, 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 Jean Foster, of Baltimore County, State of Maryland, the following described real estate located in the County of Vigo, State of Indiana, to-wit:

Lot 175 and 5 feet off the West side of Lot 176 in Schaal's Second Subdivision of part of the North Half of the North East Quarter of Section 23, Township 12 North, Range 9 West as per recorded plat of the same recorded in Plat Record 10, Page 30 of the Recorder's Office of Vigo County, Indiana.

Parcel No. 84-06-23-231-007.000-002

Subject to any grants, easements, leases, rights-of-way, covenants, or restrictions of record which might affect the title to the subject real estate.

Subject to real estate taxes prorated to the date hereof.

IN WITNESS WHEREOF the above referred to David Wiman has hereunto set his hand and seal, this 9<sup>th</sup> day of May, 2023.

*David Wiman* (SEAL)  
David Wiman

STATE OF FL, Hillsborough COUNTY, SS:

Before me, the undersigned, a Notary Public in and for said county and state, this 9<sup>th</sup> day of May, 2023, personally appeared David Wiman and acknowledged the execution of the annexed Deed to be his voluntary act and deed.

WITNESS my hand and Notarial Seal.

My Commission Expires:  
4/17/2027

My County of residence is:  
Hillsborough

*Corrado Infantino Jr.*  
Notary Public  
Corrado Infantino Jr.  
Typewritten or printed name of notary



CORRADO INFANTINO, JR.  
Notary Public  
State of Florida  
Comm# HH387455  
Expires 4/17/2027

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.

Cristen Bray  
Signature

Cristen Bray  
Printed Name

**THIS INSTRUMENT WAS PREPARED BY:** Donald J. Bonomo, 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.

**GRANTEE ADDRESS:** 3018 Fenwood Ave, Terre Haute, IN 47803

**MAIL TAX STATEMENTS TO:** 100 Harborview Dr Unit 1204, Baltimore, MD  
21230

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Parcel ID	84-06-23-231-007.000-002	Alternate ID	84-06-23-231-007.000-002	Owner Address	Foster Jean
Sec/Twp/Rng	23	Class	Res 1 fam dwelling platted lot		100 Harbor View Dr
Property Address	3018 FENWOOD AVE	Acreage	n/a		Unit 1204
	TERRE HAUTE				Baltimore, MD 21230
Neighborhood	118528 - HARRISON				
District	002 HARRISON				
Brief Tax Description	SCHAALS 2ND SUB 5' W-176 (3018 FENWOOD AVE) 2003026552 D-441/4350 23-12-9 LOTS 175-176				
	<i>(Note: Not to be used on legal documents)</i>				



# 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: November 2, 2023

## REPORT TO THE CITY COUNCIL ON ZONING MAP AMENDMENT

THE VIGO COUNTY AREA PLAN COMMISSION HEREBY GIVES CERTIFICATION TO  
SPECIAL ORDINANCE NUMBER 38-23

CERTIFICATION DATE: November 1, 2023

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. 38-23. This Ordinance is a rezoning of 3018 Fenwood Avenue, Terre Haute, IN. Parcel number 84-06-23-231-007.000-002. The Petitioner, Jean Foster, petitions the Plan Commission to rezone said two residential units with a residential section from zoning classification M-2 to R-1PD, Single Family Residence District Planned Development.

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. 38-23 at a public meeting and hearing held Wednesday, November 1, 2023. 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. 38-23 as required by IC 36-7-4-302. The Area Plan Commission of Vigo County now hereby attaches certification to Special Ordinance No. 38-23 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. 38-23 was FAVORABLE.



Fred L. Wilson, President

Jared Bayler, Executive Director

Received this 2nd day of November, 2023

STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: SO #38-23

Doc: # 93

Date: November 2023

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**APPLICATION INFORMATION**

Property Owner: Jean Foster

Common Address: 3018 Fenwood Avenue, Terre Haute

Proposed Use: Two Residential units

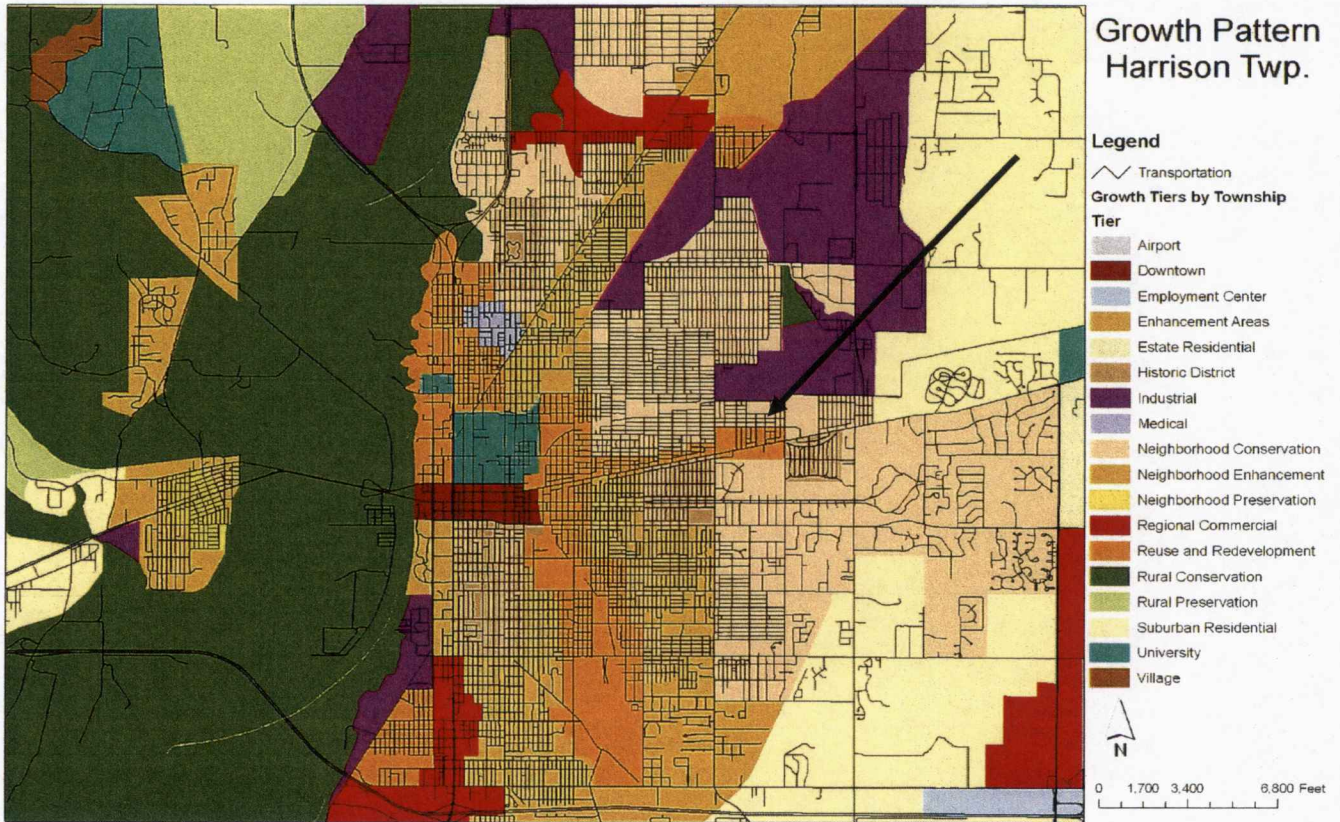
Proposed Zoning: R-1, Planned Development

Current Zoning: M-2, Heavy Industry District

Location: The property is located on the Northside of Fenwood Ave approximately 125 ft. west of Oakland Ave.

**COMPREHENSIVE PLAN GUIDANCE**

Service Area: The City of Terre Haute



### Neighborhood Conservation

These areas encompass neighborhoods with established and stable residential environments. The vast majority of these areas are fully developed (or expected to be in a relatively short timeframe). Fundamental directives urged for these areas encourage the maintenance of the residential desirability and stability. Where new infill development is proposed, it should be entirely consistent and compatible with pre-existing developments. However, special public attention may, in some cases, be required to assure that drainage, sidewalk improvements, and linkages to pedestrian and bicycle trails are made. Many of these neighborhoods may be excellent candidates for special assessment districts for neighborhood improvements and amenities.

In addition, these areas encompass existing retail activity nodes located throughout the community. In general, these commercial areas have evolved in an unplanned, largely uncoordinated manner along frontage of primary arterials. Within these commercial bands, a great variety of activities exist which target different markets. Some activities are oriented toward “drive-by” markets, fast food restaurants, convenience stores, gasoline stations, drive-in banking facilities, for example. Other activities are special-purpose, oriented to single trips rather than comparative multi-purpose shopping. These single purpose stores serve a market larger than a single neighborhood. Sales and service of automobiles, trucks, boats, recreational vehicles and related activities are special purpose region-serving activities. They require large site with good visibility. Finally, commercial areas include a range of neighborhood level retail activities including grocery stores, pharmacies, personal services such as hair styling, and other frequently purchased goods and services.

Additional policies for Neighborhood Conservation areas should include:

- Allow for a range of housing densities based on the zoning ordinance.
- Allow for a mix of uses, focusing on neighborhood and community serving commercial nodes.
- Encourage neighborhoods to develop a unique sense of place, but still be part of the larger city.
- Reuse of commercial oriented structure should be limited to retail activities that contribute to the diversity and variety of retail uses in a commercial node.
- With respect to existing commercial “strips” – i.e. narrow bands of commercial uses occupying major roadway frontage, the limitation of additional or new commercial uses is strongly advised.
- Geographic expansion of this commercial “strips” should be limited to the provision of additional space to ensure the compatibility with adjacent uses, not an intensification of use.
- Improved landscaping, improved pedestrian amenities, and increased attention to lighting, signage, and impacts upon nearby residential areas is advised in the review of development petitions.

STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

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- Available Services: Area is well served by utilities.
- Soil Limitations: Not studied.
- 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 – M-2  
East – M-2, R-1  
South – R-1, R-2  
West - M-2

## 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)
  - (10) Parks and Playgrounds, publicly owned and operated.
  - (11) Schools, elementary and high, non-boarding and including playgrounds and athletic field's 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 the zoning regulations.

## **FINDINGS and RECOMMENDATION**

### **Staff Findings:**

The petitioner is requesting to rezone to R-1 PD, Single Family Residence Planned Development for a property with two pre-existing homes. Because the property is currently zoned M-2, Heavy Manufacturing, there was an issue with the title company and the sale of the property, as we have seen frequently.

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Although this is a two dwelling property, the zoning of R-1 PD was recommended by the City Attorney in order to maintain the characteristic of the neighborhood. The Department of Engineering states that the use of the parcel has not changed in many years.

The petition is requesting zero setback on all sides as well as zero parking due to the pre-existing buildings.

The second residence has an address with a half number (3018 ½ Fenwood St.), which is not a valid 911 address and will need to be readdressed.

Recommendation: Staff has a Favorable Recommendation for rezoning to R-1 Planned Development.



**CITY OF  
TERRE HAUTE  
ENGINEERING  
DEPARTMENT**

City Hall  
17 Harding Avenue, Room 200  
Terre Haute, IN 47807  
Phone: 812.244.4903  
[www.terrehaute.in.gov](http://www.terrehaute.in.gov)

**MARCUS MAURER, P.E.**  
CITY ENGINEER

## MEMORANDUM

**TO:** Sydney Shahar  
Vigo County Area Planning Department

**FROM:** Josey Daugherty  
Assistant City Engineer

**DATE:** October 19, 2023

**RE:** **Special Ordinance No. 38-2023**

As requested by Area Planning, the Department of Engineering has reviewed the request by Jean Foster. for the following:

- Rezoning of 3018 Fenwood Avenue from M-2 Heavy Industrial District to R-1 Planned Development.

The current M-2 zoning of the parcel does not fit the characteristics of the neighborhood. The parcel is in a neighborhood with single-family residential to the east, west, south and a mixture of single-family residential and heavy industrial to the north. The current use of the property is a single-family residential home with a carriage house at the rear. The proposed zoning to an R-1 Planned Development would not alter the neighborhood's characteristic, as the use of this parcel has not changed in many years.

The Department of Engineering offers a positive recommendation for this rezoning.



 **Beacon**<sup>TM</sup> Vigo County, IN / City of Terre Haute

Docket #93 SO #38-23

3018 Fenwood Ave

