

SPECIAL ORDINANCE NO. 32, 2017

APPLICATION FOR REZONING PETITION CITY OF TERRE HAUTE

=====
Common Address of lots to be rezoned:
Lots 18 and 19 of 430 N. 14 ½ Street; and
Portion of Vacated Alley West of 430 N. 14 ½ Street
Terre Haute, Indiana 47807
=====

Rezoned From: R-3 Multifamily Residential District

Rezoned To: M-2 Heavy Industrial District

Proposed Use: Catholic Charities Food Bank's Parking and Deliveries

Name of Owners: Roman Catholic Archdiocese of Indianapolis
Properties, Inc.

Address of Owners: Office of Management Services
1400 N. Meridian Street
Indianapolis, IN 46202

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: Martha Crossen

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

JUN 05 2017

**SPECIAL ORDINANCE FOR A REZONING
SPECIAL ORDINANCE NO. 32, 2017**

CITY CLERK

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

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

Lots 18, and 19 in Biel and Frederick's Subdivision of Lots 11 and 29 and 33 to 39 inclusive, in Baiersdorf's Subdivision of Lots 11 and 18 in Chases Subdivision of 100 acres off North side of Northeast Quarter of Section 22, Township 12 North, Range 9 West.

Commonly known as a part of 430 N. 14 ½ Street, Terre Haute, Indiana 47807.

AND

A portion of a public alley in Biel and Frederick's Subdivision of Lots 11 and 29 and 33 to 39 inclusive, in Baiersdorf's Subdivision of Lots 11 and 18 in Chases Subdivision 100 acres off North side of Northeast Quarter of Section 22, Township 12 North, Range 9 West, and more particularly described as follows:

Commencing at a point 16 feet North of the South line of Lot 15 in Biel and Fredrick's Subdivision where there is a set 5/8" Rebar with Plastic Cap Stamped "SPIRES IN LS 29900015" and running thence South along the West line of Lots 15, 16, 17 and 18 in Biel and Frederick's Subdivision 105.25 feet, more or less; thence West 15 feet, more or less, to the Southeast corner of Lot 4 in Baiersdorf's Subdivision where there is a set 5/8" Rebar with Plastic Cap Stamped "SPIRES IN LS 29900015"; thence North along East line of Lots 4, 3, and 2 in Baiersdorf's Subdivision 105.25 feet, more or less, to a set 5/8" Rebar with Plastic Cap Stamped "SPIRES IN LS 29900015"; thence East 15 feet to the place of beginning.

Commonly known as: Portion of Vacated Alley West of 430 N. 14 ½ Street, Terre Haute, Indiana 47807.

Be and the same is hereby established as a M-2 Heavy Industrial 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, Martha Crossen
Martha Crossen, Councilperson

Passed in open Council this 13th day of July, 2017
[Signature]
Karrim Nasser, President

ATTEST:
[Signature]
Charles P. Hanley, City Clerk

Presented by me, to the Mayor of the City of Terre Haute, this 17th day of July, 2017.
[Signature]
Charles P. Hanley, City Clerk

Approved by me, the Mayor of the City of Terre Haute, this 17th day of July, 2017.
[Signature]
Duke A. Bennett, Mayor

ATTEST:
[Signature]
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.
[Signature]
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, Richard J. Shagley II, attorney for Roman Catholic Archdiocese of Indianapolis Properties, Inc., respectfully submit this Petition to rezone the following described real estate in the City of Terre Haute, County of Vigo, Indiana, to wit:

Lots 18, and 19 in Biel and Frederick's Subdivision of Lots 11 and 29 and 33 to 39 inclusive, in Baiersdorf's Subdivision of Lots 11 and 18 in Chases Subdivision of 100 acres off North side of Northeast Quarter of Section 22, Township 12 North, Range 9 West.

Commonly known as a part of 430 N. 14 ½ Street, Terre Haute, Indiana 47807.

AND

A portion of a public alley in Biel and Frederick's Subdivision of Lots 11 and 29 and 33 to 39 inclusive, in Baiersdorf's Subdivision of Lots 11 and 18 in Chases Subdivision 100 acres off North side of Northeast Quarter of Section 22, Township 12 North, Range 9 West, and more particularly described as follows:

Commencing at a point 16 feet North of the South line of Lot 15 in Biel and Fredrick's Subdivision where there is a set 5/8" Rebar with Plastic Cap Stamped "SPIRES IN LS 29900015" and running thence South along the West line of Lots 15, 16, 17 and 18 in Biel and Frederick's Subdivision 105.25 feet, more or less; thence West 15 feet, more or less, to the Southeast corner of Lot 4 in Baiersdorf's Subdivision where there is a set 5/8" Rebar with Plastic Cap Stamped "SPIRES IN LS 29900015"; thence North along East line of Lots 4, 3, and 2 in Baiersdorf's Subdivision 105.25 feet, more or less, to a set 5/8" Rebar with Plastic Cap Stamped "SPIRES IN LS 29900015"; thence East 15 feet to the place of beginning.

Commonly known as: Portion of Vacated Alley West of 430 N. 14 ½ Street, Terre Haute, Indiana 47807.

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-3 Multifamily Residential District.

Your Petitioner intends to use this real estate for the Catholic Charities Food Bank's parking and deliveries. Your Petitioner would request that the real estate described herein shall be zoned as an M-2 Heavy Industrial District.

Your Petitioner would allege that the M-2 Heavy Industrial District would not alter the general characteristics of this neighborhood since the neighborhood is in a mixed use neighborhood, and Petitioner owns two (2) adjacent parcels of real estate directly to the West of 430 N. 14 ½ Street, Terre Haute, Indiana 47807.

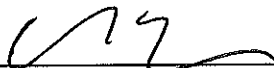
Your Petitioner would respectfully show the proposed change would not be detrimental to the public welfare or injurious to the property or improvements in the neighborhood.

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 M-2 Heavy Industrial 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 2nd day of June, 2017.

PETITIONER:

ROMAN CATHOLIC ARCHDIOCESE OF
INDIANAPOLIS PROPERTIES, INC.

By: 
Richard J. Shagley II, Attorney

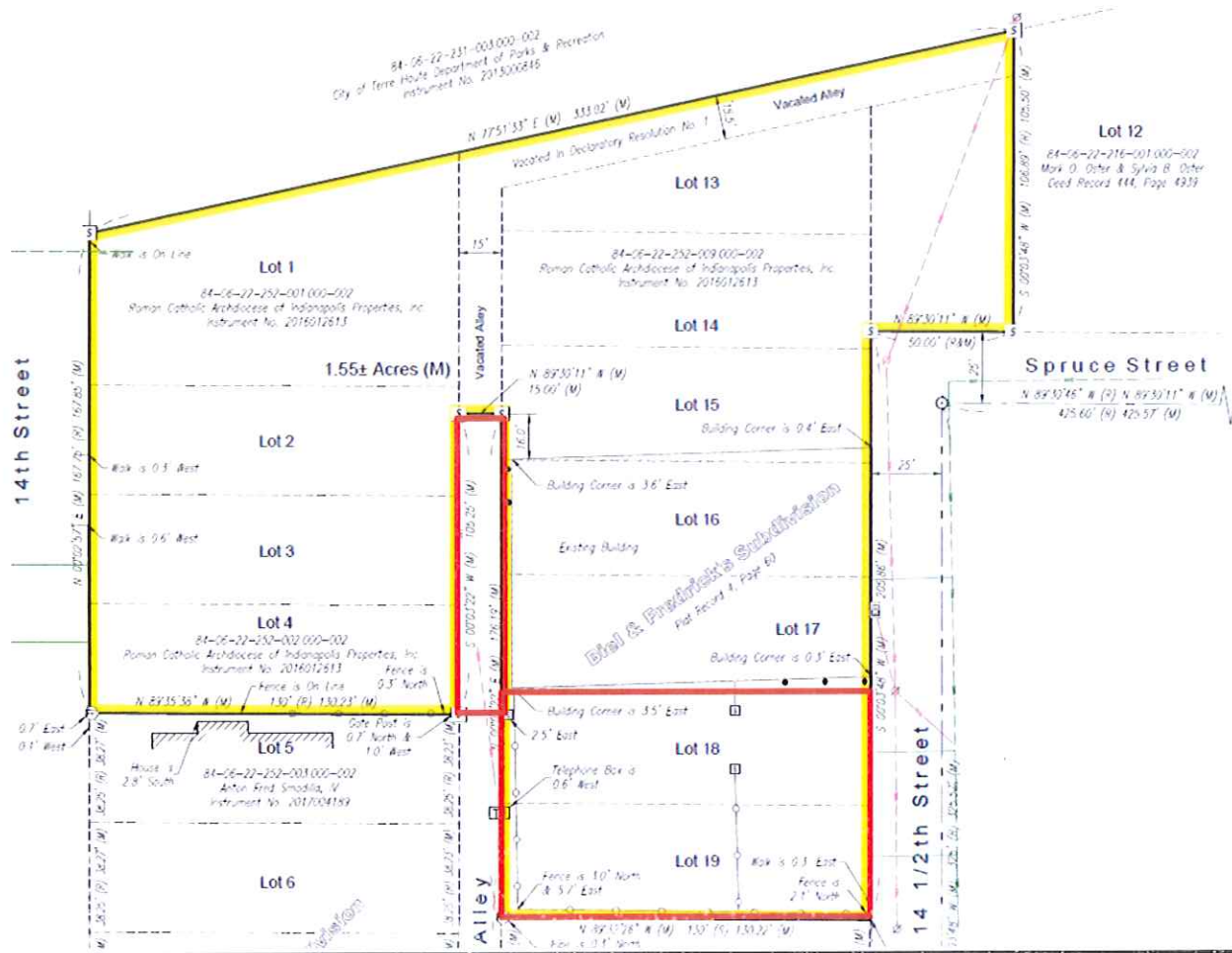
This instrument prepared by Richard J. Shagley II, Attorney-at-Law, WRIGHT, SHAGLEY & LOWERY, P.C., 500 Ohio Street, P.O. Box 9849, Terre Haute, Indiana 47807.

SPECIAL ORDINANCE NO. 32, 2017
SITE PLAN

Lots 18 and 19 of 430 N. 14 1/2 Street and Portion of Vacated Alley West of 430 N. 14 1/2 Street
 Terre Haute, Indiana 47807

R-3 to M-2

Proposed Use: Catholic Charities Food Bank's Parking and Deliveries.



DULY ENTERED FOR TAXATION
Subject to final acceptance for transfer

DEC 09 2016

Janice M. Stegler
VIGO COUNTY AUDITOR

2016012613 WD \$22.00
12/09/2016 02:55:47P 3 PGS
NANCY S. ALLSUP
VIGO County Recorder IN
Recorded as Presented



WARRANTY DEED

THIS INDENTURE WITNESSETH, that YANKEE STEEL, INC. ("Grantor"), CONVEYS AND WARRANTS to ROMAN CATHOLIC ARCHDIOCESE OF INDIANAPOLIS PROPERTIES, INC., for the sum of ONE DOLLAR (\$1.00), and other valuable consideration, the receipt of which is hereby acknowledged, the following described real estate in Vigo County, Indiana, commonly known as 430 North 14 1/2 Street, 431 North 14th Street, and 423 North 14th Street, Terre Haute, Indiana 47807, and more particularly described as:

Lot 1, 2, 3, and 4 in Baiersdorf's Subdivision of Lots 11 and 18 in Chases Subdivision 100 acres off North side of Northeast Quarter of Section 22, Township 12 North, Range 9 West.

ALSO,

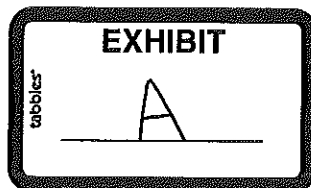
Lots 13, 14, 15, 16, 17, 18, and 19 in Biel and Frederick's Subdivision of Lots 11 and 29 and 33 to 39 inclusive, in Baiersdorf's Subdivision of Lots 11 and 18 in Chases Subdivision of 100 acres off North side of Northeast Quarter of Section 22, Township 12 North, Range 9 West.

ALSO,

That part of an alley vacated by Declaratory Resolution No. 1 of the Board of Public Works of the City of Terre Haute, Indiana, running North-South, North of Liberty Avenue in said City described as follows, to-wit: Beginning at a point 16 feet North of the South line of Lot 15 in Biel and Frederick's Subdivision and running thence North to the right of way of the Terre Haute and Indianapolis Railroad, thence in an Easterly direction between said railroad and North line of Lot 13 said subdivision to the west line of 14 1/2 Street. Adopted March 15, 1911. Confirmed April 6, 1911.

ALSO

All of North 14 1/2 Street lying North of the North line of Spruce Street and South of the right of way of the Pennsylvania Railroad Company and all of an alley 15.5 feet wide lying adjacent and parallel to said railroad right



Send tax statements and return recording to:
Roman Catholic Archdiocese of Indianapolis Properties, Inc.
ATTN: Erich Bangert
1400 N. Meridian Street
Indianapolis, Indiana 46202

THIS INSTRUMENT PREPARED BY: Paul Carroll, Mercer Belanger, One Indiana Square, Suite 1500, Indianapolis, Indiana 46204

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: *Paul Carroll, Mercer Belanger, One Indiana Square, Suite 1500, Indianapolis, Indiana 46204*

STATE OF INDIANA)
) SS:
COUNTY OF VIGO)

AFFIDAVIT

Comes now, Richard J. Shagley II, attorney for Roman Catholic Archdiocese of Indianapolis Properties, Inc. being duly sworn upon his oath, deposes and says:

1. That Roman Catholic Archdiocese of Indianapolis, Inc. 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 18, and 19 in Biel and Frederick's Subdivision of Lots 11 and 29 and 33 to 39 inclusive, in Baiersdorf's Subdivision of Lots 11 and 18 in Chases Subdivision of 100 acres off North side of Northeast Quarter of Section 22, Township 12 North, Range 9 West.

Commonly known as a part of 430 N. 14 ½ Street, Terre Haute, Indiana 47807.

AND

A portion of a public alley in Biel and Frederick's Subdivision of Lots 11 and 29 and 33 to 39 inclusive, in Baiersdorf's Subdivision of Lots 11 and 18 in Chases Subdivision 100 acres off North side of Northeast Quarter of Section 22, Township 12 North, Range 9 West, and more particularly described as follows:

Commencing at a point 16 feet North of the South line of Lot 15 in Biel and Fredrick's Subdivision where there is a set 5/8" Rebar with Plastic Cap Stamped "SPIRES IN LS 29900015" and running thence South along the West line of Lots 15, 16, 17 and 18 in Biel and Frederick's Subdivision 105.25 feet, more or less; thence West 15 feet, more or less, to the Southeast corner of Lot 4 in Baiersdorf's Subdivision where there is a set 5/8" Rebar with Plastic Cap Stamped "SPIRES IN LS 29900015"; thence North along East line of Lots 4, 3, and 2 in Baiersdorf's Subdivision 105.25 feet, more or less, to a set 5/8" Rebar with Plastic Cap Stamped "SPIRES IN LS 29900015"; thence East 15 feet to the place of beginning.

Commonly known as: Portion of Vacated Alley West of 430 N. 14 ½ Street, Terre Haute, Indiana 47807.

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 Roman Catholic Archdiocese of Indianapolis Properties, Inc. 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 Roman Catholic Archdiocese of Indianapolis Properties, Inc.

4. Further, Affiant saith not.

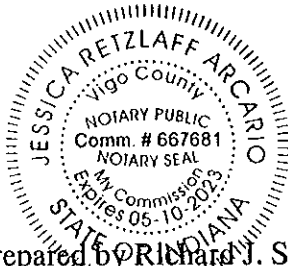
Dated at Terre Haute, Indiana this 2nd day of June, 2017.

ROMAN CATHOLIC ARCHDIOCESE OF INDIANAPOLIS PROPERTIES, INC.

By: [Signature]
Richard J. Shagley II, Attorney

STATE OF INDIANA)
) SS:
COUNTY OF VIGO)

SUBSCRIBED AND SWORN TO before me, a Notary Public in and for said County and State, this 2nd day of June, 2017.



Jessica Arcario
Jessica Arcario, Notary Public

My Commission expires: 05/10/23
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.

Receipt

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

Date: 06-05-2017

Name: Roman Catholic Archdiocese

Reason: Resoning

Cash: _____

Check: \$45.00 #067424

Credit: _____

Total: \$45.00

TERRE HAUTE, IN
PAID
JUN 05 2017
CONTROLLER

Received By: [Signature]



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: July 6, 2017

REPORT TO THE CITY COUNCIL ON ZONING MAP AMENDMENT

THE VIGO COUNTY AREA PLAN COMMISSION HEREBY GIVES CERTIFICATION TO
SPECIAL ORDINANCE NUMBER #32-17

CERTIFICATION DATE: July 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. 32-17. This Ordinance is a rezoning of the property located at 430 N. 14 ½ St., Lots 18 and 19 and portion of vacated alley West of this address. The Petitioner, Roman Catholic Archdiocese of Indianapolis Properties, Inc./Office of Management Services, petitions the Plan Commission to rezone said real estate from zoning classification R-3 to M-2, Heavy Industry District, for Catholic Charities food banks' parking and delivery. 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. 32-17 at a public meeting and hearing held Wednesday, July 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. 32-17 as required by IC 36-7-4-302. The Area Plan Commission of Vigo County now hereby attaches certification to Special Ordinance No. 32-17 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. 32-17 was FAVORABLE WITH THE FOLLOWING CONDITIONS: 1) BZA approval for relief from the 300 foot buffering requirement; 2) Landscape Plan be approved for the visual screening of the parking area.

Handwritten signature of Fred L. Wilson in black ink.

Fred L. Wilson, President

Handwritten signature of Jared Bayler in black ink.

Jared Bayler, Executive Director

Received this 6th day of July, 2017

APPLICATION INFORMATION

Petitioner: Roman Catholic Archdiocese of Indianapolis

Property Owner: Same-As-Above

Representative: Richard J. Shagley II

Proposed Use: Catholic Charities Food Banks; Parking and Deliveries

Proposed Zoning: M-2 Heavy Industrial District

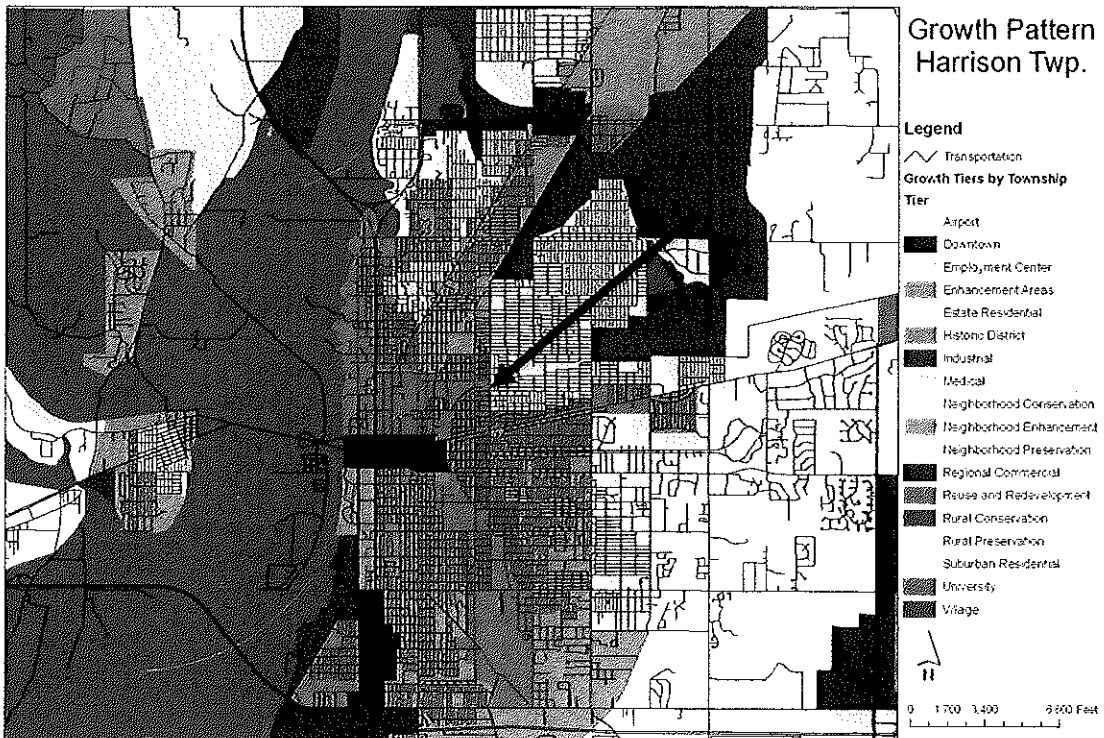
Current Zoning: R-3, Multi family Residence District

Location: The property is located 120 ft. north of Liberty Avenue on N. 14 ½ St.

Common Address: 430 N. 14 ½ Street, Terre Haute, IN 47802 Lots 18 & 19

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.

Dev. Priority: Medium intensity residential

ZONING COMPATIBILITY

Sur. Zones and Uses: **North** – M-2
East – M-2, R-3, R-2
South – R-3, C-2
West – R-3, M-2

Character of Area: The area has a mix of uses: Residential, manufacturing and commercial
The Heritage Trail is within 250 ft. of the lots.

ZONING REGULATIONS

All uses in the M-1 (Light Industrial) District and the M-2 (Heavy Industrial) District shall conform to the standards of performance described within this Section below and shall be so constructed, maintained, and operated so as not to be injurious or offensive to the occupants of adjacent premises by reason of the omission or creation of noise, vibration, smoke, dust or other particulate matter, toxic or noxious waste materials, odors, fire, and explosive hazard or glare.

It is the purpose of this classification to provide for complete separation of residential and commercial areas from industrial areas for the mutual protection of both industry and residential and commercial uses. It is recognized that to provide for industrial growth, a reasonable excess of quality land must be held in exclusive reserve for industrial expansion. In the granting of special uses permits, this goal must be paramount in the consideration and special uses not clearly of a manufacturing or industrial nature must be incidental to an established industrial facility.

The Heavy Industrial zone classification provides for both light and heavy industrial and manufacturing uses. Large masses of land are provided in this classification for those industries needing large acreage for production processing, expansion, or for meeting the industrial performance standards.

Uses, Permitted - M-2 Heavy Industry District.

The following uses are permitted either indoors or outdoors, provided that within three hundred feet (300') of a Residence District all business, servicing, or processing shall take place within completely enclosed buildings, unless otherwise indicated and except for off-street parking and loading as regulated in Sec. 10-172. Within three hundred feet (300') of a Residence District, all storage, except of motor vehicles, shall be within completely enclosed buildings or may be located out-of-doors if it is effectively screened by a solid wall or fence (including solid entrance and exit gates) at least eight feet (8') in height.

(1) Any production, processing, cleaning, servicing, testing, repair, or storage of materials, goods, or products which shall conform to the performance standards set forth in Sec. 10-178 (except such uses as are specifically excluded from the City of Terre Haute).

(2) The keeping, raising, breeding, and maintaining of farm and other animals for research, development, experimentation and testing in connection with a permitted use.

(3) Any other use permitted in the Light Industrial District.

FINDINGS and RECOMMENDATION

Staff Findings: The expansion of Industrial into residential has to be planned carefully. Separation of heavy industrial from residential and commercial uses is called for and is outlined in The City Code.

The code states that all servicing, or processing shall take place within completely enclosed buildings and calls for a 300 ft. buffer separating heavy industrial from unlike uses.

One of the permitted uses within the buffer area is parking. Visual screening of the hard surfaced parking area must be completed and approved by city engineering.

Recommendation: Staff offers a Favorable Recommendation for the rezoning to M-2 heavy industrial from R-3 Multifamily with the following conditions.

1. BZA approval for relief from the 300ft buffering requirement
2. Landscape plan be approved for the visual screening of the parking area