



APPLICATION FOR REZONING PETITION - CITY OF TERRE HAUTE

SPECIAL ORDINANCE NO. 3

COMMON ADDRESS OF LOTS TO BE REZONED:

2160 Lafayette Avenue Terre Haute, IN 47805

Parcel Number: 84-06-02-302-009.000-002

Current Zoning: R 3 Apartments

Requested Zoning: C2 Limited Community Commerce

Proposed Use: Parking for restaurant

Name of Owner: Bobby Que's, LLC Robert and Nichole Flak

Address of Owner: 6525 N 35th Street Terre Haute, IN 47805

Phone Number of Owner: 812-240-1335

Attorney Representing Owner (if any): N/A

Address of Attorney: _____

Phone Number of Attorney: _____

For Information Contact: Nichole Flak 812-240-1335

Council Sponsor: Cheryl Loudermilk

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

FILED

FEB 04 2020

SPECIAL ORDINANCE FOR A REZONING
SPECIAL ORDINANCE NO. 3, 2020

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:

"That the following described real estate situated in the City of Terre Haute, County of Vigo, State of
Indiana, to-wit:

The North half of 9.75 acres off the South side of all that portion of the Southwest quarter of
Section 2, Township 12 North, Range 9 West, lying West of the center line of the Lafayette Road and
North of a line running East and West 1115.4 feet North of the South line of the Southwest quarter of
said Section 2.

Except that part conveyed to the City of Terre Haute, Indiana, in Warranty Deed dated October 25,
2017 and recorded January 24, 2018 at Instrument Number 2018000829.

Also, except that part conveyed to Cross Lane Community Church, Inc., in Warranty Deed dated
May 16, 2019 and recorded May 20, 2019 at Instrument Number 2019004990.

Commonly known as: 2160 Lafayette, Terre Haute, Vigo County Indiana 47805

Be and the same is hereby established as a C2, Limited Community Commerce, 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, Cheryl Loudermilk
Cheryl Loudermilk

Passed in Open Council this 9TH day of JULY, 2020.

ATTEST: Michelle L Edwards
Michelle Edwards, City Clerk
George Azar
President, George Azar

Presented by me to the Mayor of the City of Terre Haute this 10TH day of JULY, 2020

Michelle L Edwards
Michelle Edwards, City Clerk

Approved by me, the Mayor, this 10TH day of July, 2020

Duke A. Bennett
Duke Bennett, Mayor

ATTEST Michelle L. Edwards
Michelle Edwards, City Clerk.

This instrument prepared by: Nichole Flak, 6525 N 35th Street, Terre Haute, IN 47805, 812-240-1335.

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.

Nichole L. Flak

Nichole L. Flak

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, Bobby Que's, LLC Robert and Nichole Flak, respectfully submits this Petition to rezone the following described real estate in the City of Terre Haute, County of Vigo, Indiana, to wit:

The North half of 9.75 acres off the South side of all that portion of the Southwest quarter of Section 2, Township 12 North, Range 9 West, lying West of the center line of the Lafayette Road and North of a line running East and West 115.4 feet North of the South line of the Southwest quarter of said Section 2.

Except that part conveyed to the City of Terre Haute, Indiana, in Warranty Deed dated October 25, 2017 and recorded January 24, 2018 at Instrument Number 2018000829.

Also, except that part conveyed to Cross Lake Community Church, Inc., in Warranty Deed dated May 16, 2019 and recorded May 20, 2019 at Instrument Number 2019004990.

Commonly known as: **2160 Lafayette Avenue, Terre Haute, Indiana 47805.**

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 R3-Apartment

Your petitioner would respectfully state that the real estate is now empty lot with outbuilding. Your petitioner intends to use the real estate to **parking for restaurant.**

Your petitioner would request that the real estate described herein shall be zoned as a **C2- Limited Community Commerce.** Your petitioner would allege that the ~~C2-Limited Community Commerce.~~ would not alter the general characteristics of this 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 **C2- Limited Community Commerce** 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 3rd day of February, 2020 .

BY: Paul M. Flak Nichole L Flak
Robert Flak/Nichole Flak

PETITIONER: Bobby Que's, LLC Robert Flak/Nichole Flak 6525 N 35th Street Terre Haute, IN
47805.

This instrument was prepared by Nichole Flak, 6525 N 35th Street Terre Haute, IN 47805 812-240-1335.

AFFIDAVIT OF:

COMES NOW affiant _____

and affirms under penalty of law that affiant is the owner of record of the property located

at _____

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.

Bobby Que's, LLC Robert Flak/Nichole Flak
[Typed name of owner(s) on deed]

SIGNATURE: *Robert Flak*

SIGNATURE: *Nichole L. Flak*

STATE OF INDIANA)
SS: (COUNTY OF VIGO)

Personally appeared before me, a Notary Public in and for

said County and State, *IN*

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 *3rd* day of *February*, *2002020*

Notary Public:

Melanie Jackson
[Typed name] *Melanie Jackson*

My Commission Expires: *3-11-2026*

My County Of Residence: *Vigo*



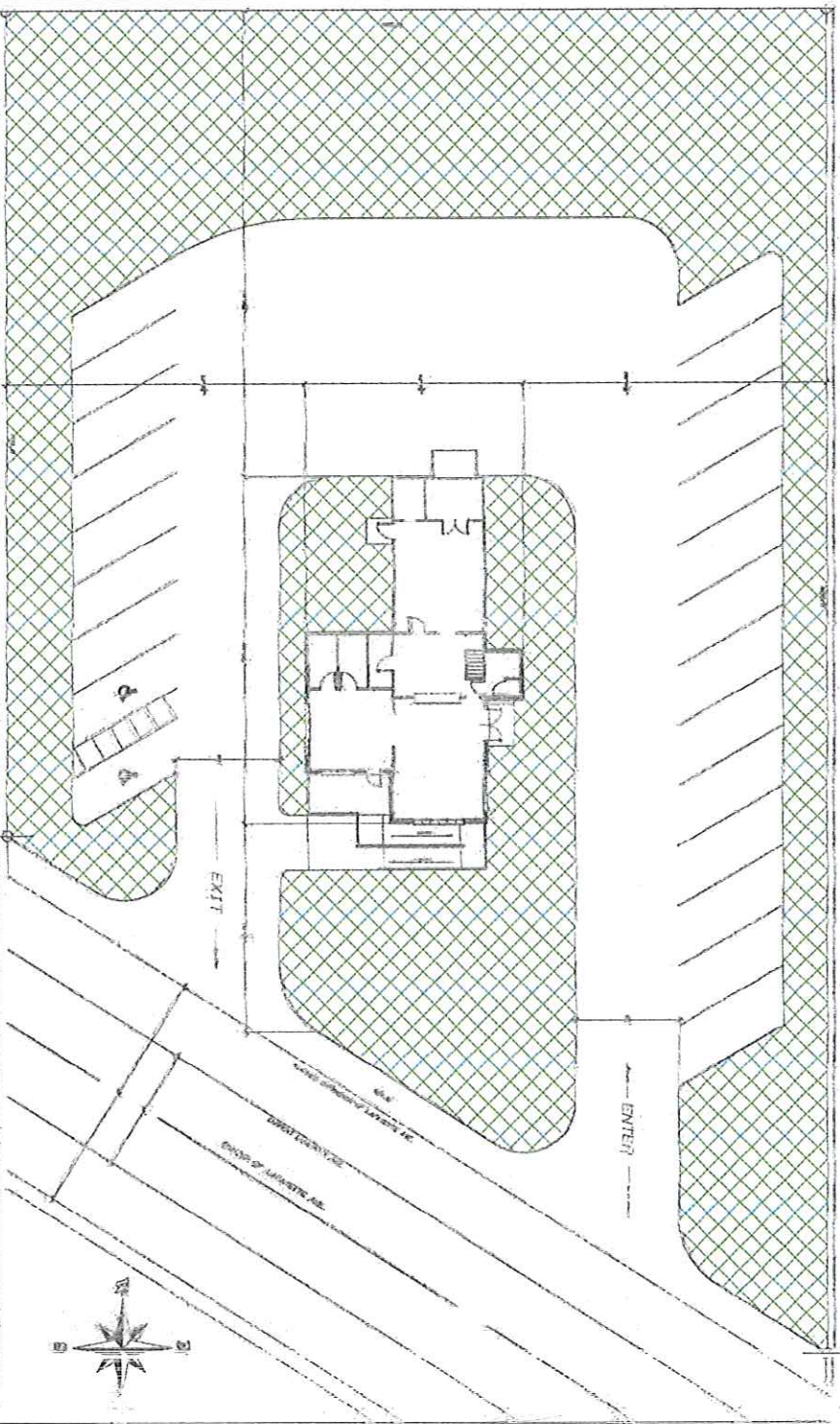


PROJECT: S. H. MACHINERY
 DATE: 1/21/2003
 SCALE: 1" = 6'

PROJECT SITE PLAN
 TELEPHON & MAILBOXES
 1254 SHAWNEE LANE
 TERRE HAUTE, INDIANA 47788

DODGE DRAFTS
 2150 LAFAYETTE AVE.
 TERRE HAUTE, INDIANA 47788

APPROVALS
 DATE: 1/21/03
 BY: [Signature]



151.0
S1

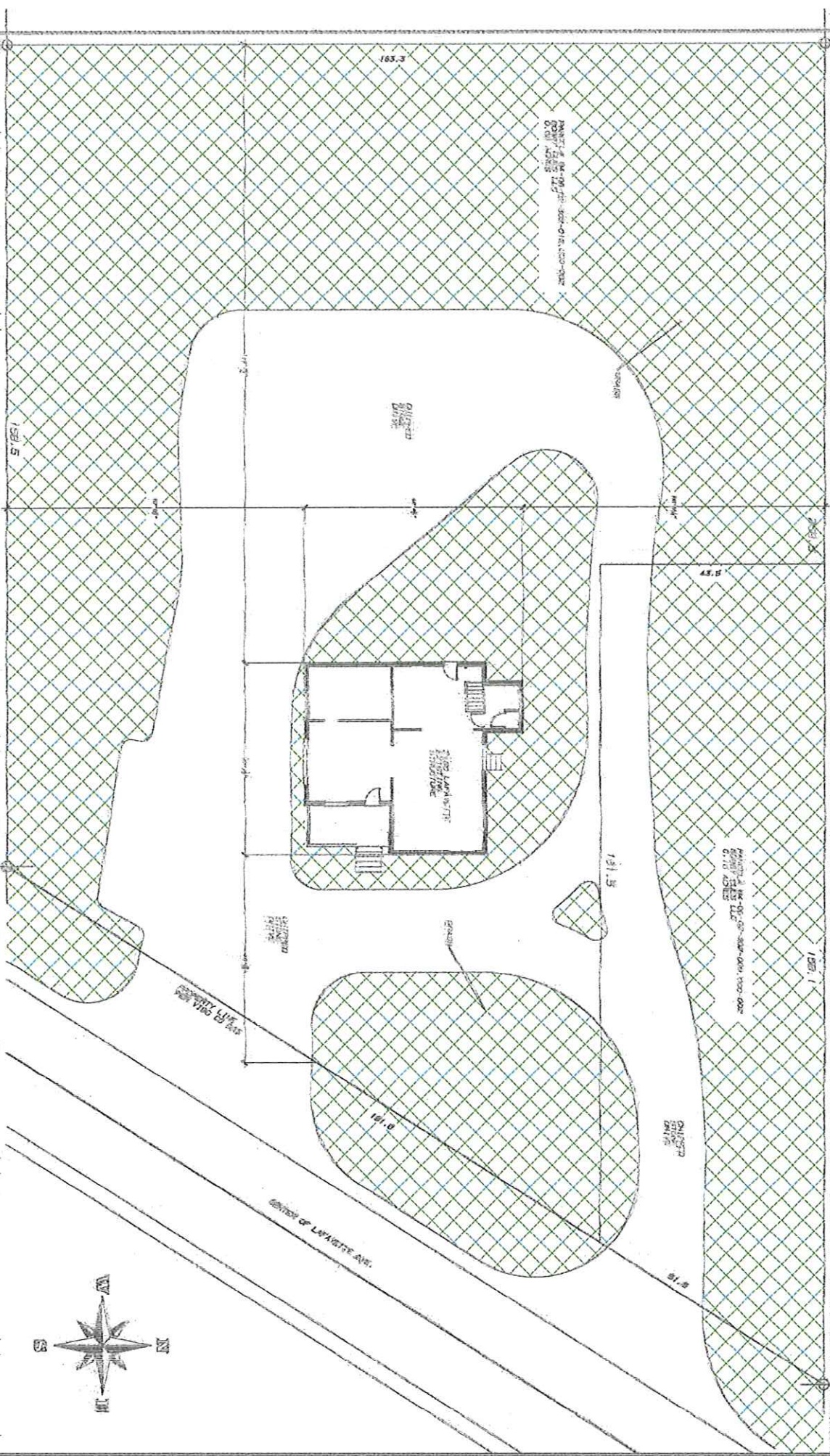
Owner: B. D. MACKENZIE
Date: 1/31/2020
Scale: 1/8" = 1' - 0"

EXISTING SITE PLAN
STEPHEN D. MACKENZIE
1234 BRAZILIA LANE
BRASIL, INDIANA 47934

DOBBY CLERK'S
2160 LAFAYETTE AVE.
TERRE HAUTE, INDIANA 47905

APPROVALS

PROFESSIONAL SEAL
A. HUGHES
1/22/20



183.3

158.5

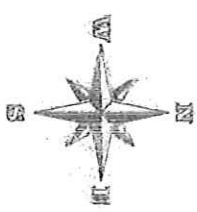
43.5

131.5

101.0

91.5

Center of Lafayette Ave.



PROPERTY AREA 104,000 SQ. FT.
0.0011 ACRES

PROPERTY AREA 104,000 SQ. FT.
0.0011 ACRES

EXISTING DRIVE

EXISTING GARAGE

EXISTING DRIVE

EXISTING DRIVE

EXISTING DRIVE

ENHANCED FOR IMAGING
Subject to final acceptance for Transfer

2019013089 WD \$25.00
12/02/2019 03:28:22P 2 PGS
Stacey Todd
VIGO County Recorder IH
Recorded as Presented

DEC 02 2019

James W. Brantley
VIGO COUNTY AUDITOR

WARRANTY DEED

THIS INDENTURE WITNESSETH, THAT Shala Sue Ingle, 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 Bobby-Que's, LLC, a limited liability company organized and existing under the laws of the State of Indiana, the following described real estate located in the County of Vigo, State of Indiana, to-wit:

The North half of 9.75 acres off the South side of all that portion of the Southwest quarter of Section 2, Township 12 North, Range 9 West, lying West of the center line of the Lafayette Road and North of a line running East and West 1115.4 feet North of the South line of the Southwest quarter of said Section 2.

Except that part conveyed to the City of Terre Haute, Indiana, in Warranty Deed dated October 25, 2017 and recorded January 24, 2018 at Instrument Number 2018000829.

Also, except that part conveyed to Cross Lane Community Church, Inc., in Warranty Deed dated May 16, 2019 and recorded May 20, 2019 at Instrument Number 2019004990.

All records of the Recorder's Office of Vigo County, Indiana.

Parcel #: 84-06-02-302-012.000-002 & 84-06-02-302-009.000-002

Subject to easements, covenants, restrictions, leases and other matters of record affecting title to the subject real estate.

Subject to taxes prorated to the date hereof.

Grantor further states that she and Diana M. Haltom acquired title, as joint tenants with rights of survivorship, by that deed dated April 15, 2016 and recorded April 26, 2016 at Instrument Number 2016004129, and that Diana M. Haltom died on or about October 18, 2017, and that the assets of her estate, to include life insurance proceeds, were not of sufficient size to incur liability for Federal Estate Tax or that such tax due has been paid and none is due and owing.

IN WITNESS WHEREOF the above referred to Shala Sue Ingle has hereunto set her hand and seal, this 2nd day of DECEMBER, 2019.

Shala Sue Ingle (SEAL)
Shala Sue Ingle

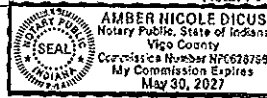
STATE OF INDIANA, VIGO COUNTY, SS:

Before me, the undersigned, a Notary Public in and for said county and state, this 2nd day of DECEMBER, 2019, personally appeared Shala Sue Ingle and acknowledged the execution of the annexed Deed to be her voluntary act and deed.

WITNESS my hand and Notarial Seal.

My Commission Expires: MAY 30, 2027

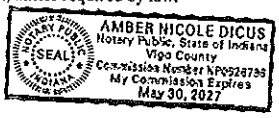
Amber Nicole Dicus
Notary Public



My County of residence is: Vlad

AMBER NICOLE DICUS
Typewritten or printed name of notary

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.



Audrey B. Jones
Signature

Audrey B. Jones
Printed Name

THIS INSTRUMENT WAS PREPARED BY: Donald J. Bonomo, Attorney, Cox, Zwemer, 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: 6525 N 35th St, Terre Haute, IN 47805

MAIL TAX STATEMENTS TO: Same

Receipt

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

Date: 02-04-2020

Name: Bobby Qwo's, LLC

Reason: Reznung - Notice of Filing - \$25⁰⁰
Reznung - Petition - \$20⁰⁰

TERRE HAUTE
PAID

FEB 04 2020

Cash: \$45⁰⁰

Check: _____

Credit: _____

Total: \$45⁰⁰

CONTROLLER

Received By: *L. Lusk*



TERRE HAUTE
A LITTLE ABOVE

Area Planning Department For Vigo County

159 Oak Street, Terre Haute, Indiana 47807
Telephone: (812) 462-3354 Fax: (812) 234-3248

Terre Haute • West Terre Haute • Riley • Seelyville

DATE: July 9, 2020

REPORT TO THE CITY COUNCIL ON ZONING MAP AMENDMENT

THE VIGO COUNTY AREA PLAN COMMISSION HEREBY GIVES CERTIFICATION TO
SPECIAL ORDINANCE NUMBER 3-20

CERTIFICATION DATE: July 8, 2020

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. 3-20. This Ordinance is a rezoning of the property located at 2160 Lafayette Avenue. The Petitioner, Bobby Que's LLC, petitions the Plan Commission to rezone said real estate from zoning classification R-3 to C-2, Limited Community Commerce.

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. 3-20 at a public meeting and hearing held Wednesday, July 8, 2020. 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. 3-20 as required by IC 36-7-4-302. The Area Plan Commission of Vigo County now hereby attaches certification to Special Ordinance No. 3-20 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. 3-20 was FAVORABLE WITH THE FOLLOWING CONDITIONS: 1) Adherence to the site plan be maintained 2) Approval of the site plan by City Engineering.

Handwritten signature of Fred L. Wilson in black ink.

Fred L. Wilson, President

Handwritten signature of Jared Bayley in black ink.

Jared Bayley, Executive Director

Received this 9th day of July, 2020

STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: SO # 3-20

Doc: # 11

Date: March 2020

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APPLICATION INFORMATION

Property Owner: Bobby Que’s LLC- Robert & Nichole Flak

Representative: Same as above

Proposed Use: Parking for restaurant

Proposed Zoning: C-2, Community Commerce District

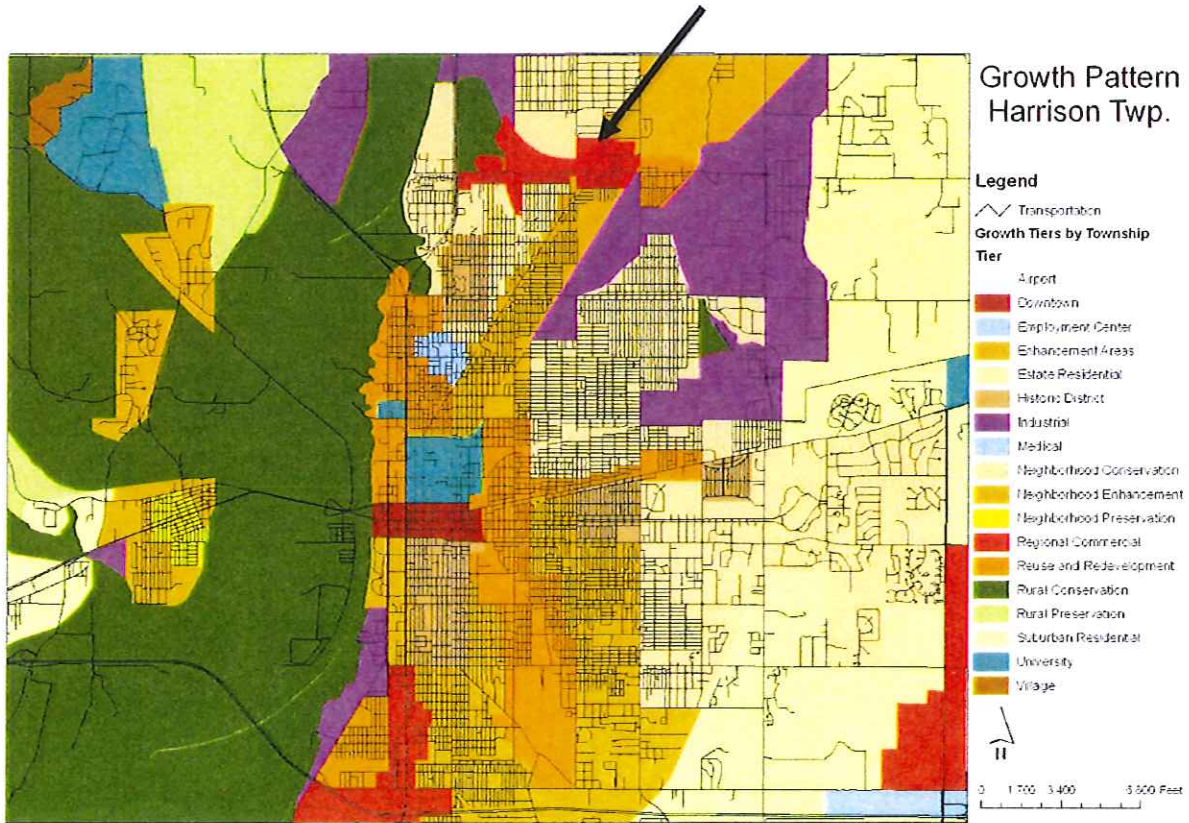
Current Zoning: R-3, Apartments

Location: The property is approximately 600 ft. south of Cross Lane.

Common Address: 2160 Lafayette Avenue, Terre Haute

COMPREHENSIVE PLAN GUIDANCE

Service Area: The City of Terre Haute



Regional Commercial

Regional commercial areas are major retail centers providing the widest variety of retail goods and services (comparative shopping goods such as jewelry, apparel, household goods, and general merchandise) to a market area larger than the community, with no single type of retail activity dominating the district. The vitality of the areas is based upon the diversity of retail activities being located in a relatively concentrated area. With respect to these major regional shopping areas, future planning should consider the district or area as a whole, thereby assuring the vitality and viability of these regional commercial areas.

Additional policies to guide future development decisions include:

- Utilize spatial containment of commercial activities to existing commercially zoned sites to:
 - Maintain and reinforce the drawing power of major retail centers including anchor department and discount stores.
 - Reduce future traffic congestion and more closely tie existing retail centers with transit operations; expand the opportunities for pedestrian linkages between and among major existing activity centers.
 - Increase the identity of the district as a whole, with improved coordination in urban design elements including directional signage, common landscape elements such as lighting or street furniture; develop a common approach to business signage.
 - Encourage reinvestment in and continual upgrading of existing retail space; encourage the intensification of activities for retail comparative shopping purposes.
 - Ancillary activities such as fast-food restaurants or quick stop establishments do not add to the regional character of activity centers. Emphasis should increasingly be upon multiple-trip purpose activities with regional significance.
 - Ensure that future retail commercial development in the area does not detract from the viability of existing activity centers and does not detract from the livability of residential Neighborhoods in the vicinity.

Available Services: Area is well served by utilities.

Street Access: Lafayette Avenue

ZONING COMPATIBILITY

Sur. Zones and Uses:
North – R-3
East – C-5
South – C-2
West – C-2

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 photostatting 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.

FINDINGS and RECOMMENDATION

Staff Findings:

The petitioner requests the rezoning to match the adjacent parcel where their restaurant business is or will be located. The petitioned parcel is currently used in association with the property to the south as a means of ingress/egress. Given the relatively small size of the parcel, it would be nearly impossible to develop it independently of neighboring uses. Due to the

STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: SO # 3-20

Doc: # 11

Date: March 2020

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current use, size and location, arguments could easily be founded that the zoning should be switched to match the companion zoning to the south.

City code calls for all public use areas in commercial zones to be hard surfaced. The petitioners' site plan does call for this area to be used as parking. Thus hard surfacing of all drive and parking areas will be needed or relief from the BZA from that standard.

Recommendation: Favorable on the rezoning request with the following conditions.

1. Adherence to the site plan be maintained
2. Approval of the site plan by City Engineering
3. All public use areas be hard surfaced or relief from the BZA

2160 Lafayette Ave. Terre Haute, IN 47805

Created by: Vigo County Area Planning

Docket #11 UZO #3-20

Overview

