

SPECIAL ORDINANCE NO. 12, 2021

APPLICATION FOR REZONING PETITION CITY OF TERRE HAUTE

=====

Common Address of lots to be rezoned:

3309 South 7th Street, Terre Haute, Indiana 47802

Parcel No. 84-09-04-279-011.000-005

Rezoned From: R-1 Single Family Residence District

Rezoned To: C-2 Community Commerce District

Proposed Use: Dental Office

Name of Owners: John R. Mast and Lynn S. Mast

Address of Owners: 3309 South 7th Street,
Terre Haute, IN 47802

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 [x] Attorney

Council Sponsor: Amy Auler

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COPY OF A SITE-PLAN MUST ACCOMPANY THIS APPLICATION

FILED

MAR 25 2021

**SPECIAL ORDINANCE FOR A REZONING
SPECIAL ORDINANCE NO. 12, 2021**

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:

Part of the Northeast quarter of Section 4, Township 11 North, Range 9 West, described as follows:

Beginning at a point 32.5 feet West and 1567.80 feet South of the Northeast corner of the Northeast quarter of Section 4, Township 11 North, Range 9 West; running thence West 138 feet; thence South 120 feet; thence East 138 feet; thence North 120 feet to the place of beginning. Being Lots 6, 7 and 8 in Pearce's Subdivision of part of the Northeast quarter of Section 4, Township 11 North, Range 9 West, as shown by an unrecorded plat dated June 11, 1934.

Parcel No. 84-09-04-279-011.000-005

Commonly known as: 3309 South 7th Street, 47802.


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

SECTION II. WHEREAS, an emergency exists for the immediate taking effect of this Ordinance, the same shall be in full force and effect from and after its passage by the Common Council of Terre Haute, and its approval by the Mayor and publication as required by law.

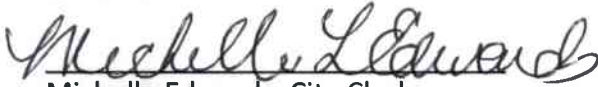
Presented by Council Member,


Amy Auler, Councilperson

Passed in open Council this 6TH day of MAY, 2021.


O. Earl Elliott, President

ATTEST:


Michelle Edwards, City Clerk

Presented by me, to the Mayor of the City of Terre Haute, this 7TH day of
MAY, 2021.


Michelle Edwards, City Clerk

Approved by me, the Mayor of the City of Terre Haute, this 7TH day of MAY,
2021.


Duke A. Bennett, Mayor

ATTEST:


Michelle Edwards, City Clerk

I affirm, under the penalties for perjury, that I have taken reasonable care to redact
each Social Security Number in this document, unless required by law.


Richard J. Shagley II

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

PETITION TO REZONE REAL PROPERTY

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

And THE PRESIDENT AND MEMBERS OF THE AREA PLAN COMMISSION FOR VIGO COUNTY, INDIANA:

LADIES AND GENTLEMAN:

The undersigned, John R. Mast and Lynn S. Mast, respectfully submits this Petition to rezone the following described real estate in the City of Terre Haute, County of Vigo, Indiana, to wit:

Part of the Northeast quarter of Section 4, Township 11 North, Range 9 West, described as follows:

Beginning at a point 32.5 feet West and 1567.80 feet South of the Northeast corner of the Northeast quarter of Section 4, Township 11 North, Range 9 West; running thence West 138 feet; thence South 120 feet; thence East 138 feet; thence North 120 feet to the place of beginning. Being Lots 6, 7 and 8 in Pearce's Subdivision of part of the Northeast quarter of Section 4, Township 11 North, Range 9 West, as shown by an unrecorded plat dated June 11, 1934.

Parcel No. 84-09-04-279-011.000-005

Commonly known as: 3309 South 7th Street, 47802.

Your Petitioner is informed and believes that in accordance with Chapter 10, Article 2 of the Municipal Code designated as "Comprehensive Zoning Ordinance for Terre Haute, Indiana," the above-described real estate is now zoned as R-1 Single Family Residence District.

Your Petitioner intends to use this real estate for a dental office. Your Petitioner would request that the real estate described herein shall be zoned as a C-2 Community Commerce District.


Your Petitioner would allege that the C-2 Community Commerce District would not alter the general characteristics of this neighborhood since the neighborhood is a mixed-use neighborhood and there are several commercial uses in this area.

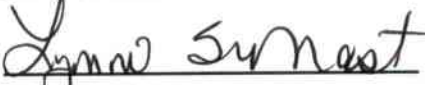
Your Petitioner would respectfully show the proposed change would not be detrimental to the public welfare or injurious to the property or improvements in the neighborhood.

WHEREFORE, your Petitioner respectfully requests that the Area Plan Commission for Vigo County and the Common Council of the City of Terre Haute, Indiana, favorably consider the passage of a Special Ordinance amending the Comprehensive Zoning Ordinance of the city of Terre Haute, Indiana, being Chapter 10, Article 2 of the Municipal Code designated as "Comprehensive Zoning Ordinance for Terre Haute, Indiana," and declaring the above-described real estate to be part of the C-2 Community Commerce 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 25th day of March, 2021.

PETITIONER:



John R. Mast


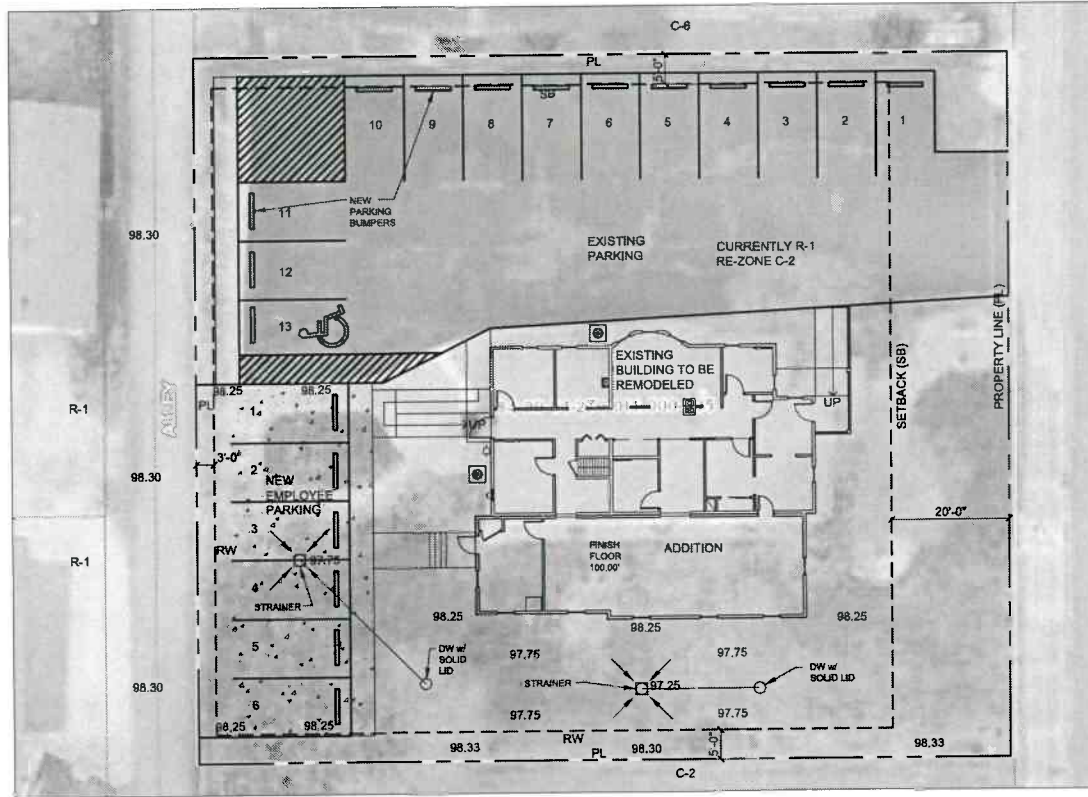
Lynn S. Mast

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

Site Plan A N

3309 S. 7th ST.

R-1 to C-2



SITE PLAN
 SCALE: 1" = 10'
 SEE SHEET T-2 FOR DRYWELL DETAILS

*NOTE: THIS DRAWING IS NOT INTENDED AS A LEGAL SURVEY

ZONING CODE SUMMARY		
TERRE HAUTE CITY ZONING ORDINANCE 1997		
DISTRICT: R-1 (RESIDENTIAL) - RE-ZONING TO C-2		
PARKING: REQUIRED: 7 SPACES (1 HANDICAP) AVAILABLE: 19 SPACES (1 HANDICAP) - PETITIONING FOR VARIANCE REQ'D PARKING ACCESS OFF ALLEY		
SETBACKS: FRONT: 20'-0"	SIDE: 5'-0"	REAR: 3'-0"

REVISIONS			PROJECT		DRAWING NUMBER	
No.	Description	Date	DR. HILDEBRAND - DENTAL OFFICE RENOVATION 3309 S. 7th STREET, TERRE HAUTE, IN		SP-1	

DATE: 08/08/2011 SCALE: 1" = 10'-0" DRAWN BY: DMG CHECKED BY: DES
Sanders and Associates, Inc.
 811 SCARBOROUGH STREET, TERRE HAUTE, INDIANA 47787-4717 PHONE (317) 232-2854

PRELIMINARY

STATE OF INDIANA) SS:
COUNTY OF VIGO)

AFFIDAVIT

Comes now, John R. Mast and Lynn S. Mast, being duly sworn upon their oath, deposes and says:

1. That John R. Mast and Lynn S. Mast are the owners of record of the following described real estate located in the City of Terre Haute, County of Vigo, State of Indiana, to-wit:

Part of the Northeast quarter of Section 4, Township 11 North, Range 9 West, described as follows:

Beginning at a point 32.5 feet West and 1567.80 feet South of the Northeast corner of the Northeast quarter of Section 4, Township 11 North, Range 9 West; running thence West 138 feet; thence South 120 feet; thence East 138 feet; thence North 120 feet to the place of beginning. Being Lots 6, 7 and 8 in Pearce's Subdivision of part of the Northeast quarter of Section 4, Township 11 North, Range 9 West, as shown by an unrecorded plat dated June 11, 1934.

Parcel No. 84-09-04-279-011.000-005

Commonly known as: 3309 South 7th Street, 47802.

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 John R. Mast and Lynn S. Mast, are the owners 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 John R. Mast and Lynn S. Mast.

4. Further, Affiant saith not.

DULY ENTERED FOR TAXATION
Subject to final acceptance for transfer

EGA Date 06/14/2002 Time 08:10:45
Mitchell Newton 2P
Vigo County Recorder 16.00
Filing Fee: Page 1 of 2
I 200215700

JUN 13 2002

EXEMPT FROM DISCLOSURE


VIGO COUNTY AUDITOR

QUIT CLAIM DEED

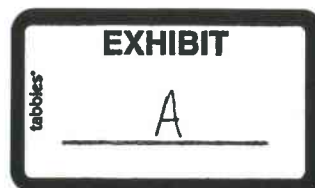
THIS INDENTURE WITNESSETH, that John R. Mast, of Vigo County, State of Indiana, quitclaims to John R. Mast and Lynn S. Mast, Husband and Wife, for and in consideration of One Dollar (\$1.00) and other valuable consideration, the receipt whereof is hereby acknowledged, the following described real estate located in Vigo County, Indiana, to-wit:

Part of the Northeast quarter of Section 4, Township 11 North, Range 9 West, described as follows:
Beginning at a point 32.5 feet West and 1567.80 feet South of the Northeast corner of the Northeast quarter of Section 4, Township 11 North, Range 9 West; running thence West 138 feet; thence South 120 feet; thence East 138 feet; thence North 120 feet to the place of beginning. Being Lots 6, 7 and 8 in Pearce's Subdivision of part of the Northeast quarter of Section 4, Township 11 North, Range 9 West, as shown by an unrecorded plat dated June 11, 1934.
SUBJECT to Easement for Water line as shown in deed dated November 10, 1958 and recorded January 9, 1959 in Deed Record 314 page 137 of the records of the Recorder's Office of Vigo County, Indiana.

DATED this 12th day of JUNE, 2002.


John R. Mast

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STATE OF INDIANA)
) SS:
COUNTY OF VIGO)

Before me, the undersigned, a Notary Public in and for said County and State, this 12th day of JUNE, 2002, personally appeared John R. Mast, and acknowledged the execution of the foregoing deed.

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

My Commission Expires:

1-31-07

Sondra J. Modesitt
Notary Public
Printed: Sondra J. Modesitt

My County of Residence:

Vigo

Return Deed to: John R. Mast, 3309 S. Seventh Street, Terre Haute, IN 47802

Send Tax Statements to: John R. Mast, 3309 S. Seventh Street, Terre Haute, IN 47802

This instrument prepared by Brad Bough, MODESITT, BOUGH & KELLY, 321 Ohio Street, Terre Haute, IN 47807 (812) 232-4133.

Receipt

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

Date: 3-25-21

Name: Marlene Mast

Reason: Reopening notice of Piling \$ 25
Reopening Petition \$ 20
45.00

Cash: _____

Check: 45.00 # 071447

Credit: _____

Total: 45.00

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: May 6, 2021

REPORT TO THE CITY COUNCIL ON ZONING MAP AMENDMENT

THE VIGO COUNTY AREA PLAN COMMISSION HEREBY GIVES CERTIFICATION TO
SPECIAL ORDINANCE NUMBER 12-21

CERTIFICATION DATE: May 5, 2021

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. 12-21. This Ordinance is a rezoning of part of 3309 S. 7th. The Petitioner, John and Lynn Mast, petitions the Plan Commission to rezone said real estate from zoning classification R-1 to C-2, Community Commerce, for a dentist office.

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. 12-21 at a public meeting and hearing held Wednesday, May 5, 2021. 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. 12-21 as required by IC 36-7-4-302. The Area Plan Commission of Vigo County now hereby attaches certification to Special Ordinance No. 12-21 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. 12-21 was FAVORABLE WITH THE FOLLOWING CONDITIONS: 1) approval of a site plan, by City Engineering 2) approval of a variance for backing into the alley for additional parking by the Board of Zoning Appeals 3) Approval of a storm water drainage plan by City Engineering.




Fred L. Wilson, President


Jared Bayler, Executive Director

Received this 6th day of May, 2021

STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: SO # 12-21

Doc: # 26

Date: May 2021

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APPLICATION INFORMATION

Property Owner: John & Lynn Mast

Representative: Richard Shagley II

Proposed Use: Dental office

Proposed Zoning: C-2, Community Commerce District

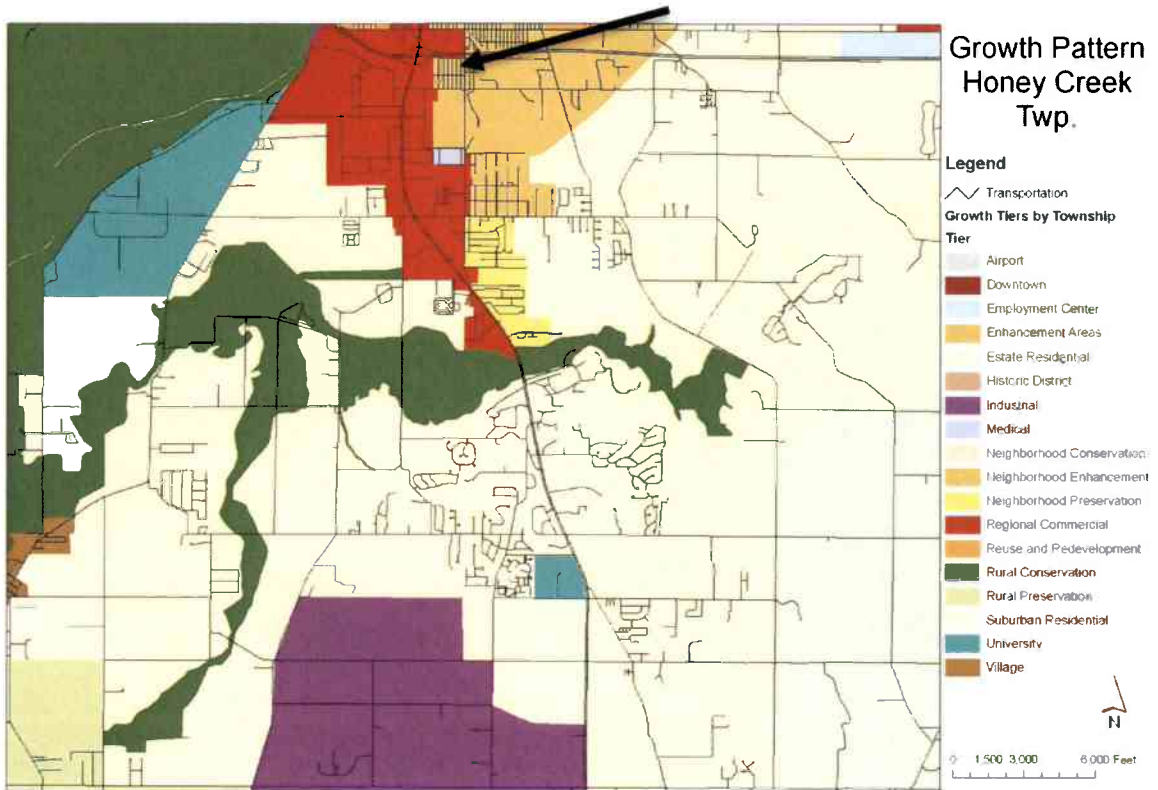
Current Zoning: R-1, Single Family Residence District

Location: The property is located on S. 7th Street approximately 204' North of E. Weston Drive.

Address & Parcel #: 3309 S. 7th Street, Terre Haute, In #84-09-04-279-011.000-005

COMPREHENSIVE PLAN GUIDANCE

Service Area: Terre Haute Honey Creek Township



Neighborhood Enhancement Areas

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

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

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

Neighborhood commercial areas are small scale, retail activity clusters or planned centers that serve limited market areas – typically 4,000 to 10,000 people. They provide shopping opportunities for those most frequently purchased goods and services. Neighborhood commercial areas should be distributed throughout the community in relationship to the distribution of households. Each neighborhood commercial center should be a master planned commercial development that is contained within a defined tract or land area. Auto ingress and egress must be controlled. Most importantly, these areas should relate to surrounding residential neighborhoods but not adversely impact the livability of those neighborhoods through traffic, lighting, noise, litter, or other impacts. They will require strong buffering and landscape regulations, as well as being architecturally harmonized and able to blend with their neighborhood context.

Additional policies for Neighborhood Enhancement Areas should include:

- Encourage infill development that is compatible with the land use mix and intensity of existing development.
- Support preservation and rehabilitation of historic properties.
- Incompatible and inconsistent uses with the residential context of these neighborhoods should be eliminated.
- Identify areas that need sub-area plans and prioritize the development of those plans by area.
- Allow for a range of housing densities based on the zoning ordinance.
- Encourage neighborhoods to develop a unique sense of place, but still be part of the larger city.

STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: SO # 12-21

Doc: # 26

Date: May 2021

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Available Services: Area is well served by utilities.

Street Access: S. 7th Street, Terre Haute, In

Intensity: Neighborhood Commercial

ZONING COMPATIBILITY

Sur. Zones and Uses: **North** – C-6

East – R-1, C-2, C-6

South – C-2

West – R-1

ZONING REGULATIONS

C-2 Purpose: The Community Commerce Zone is designed for the residents of the nearby community consisting of more than one (1) of the neighborhoods in that section of the city, so as to permit a wider variety of both business uses and services. It is designed not for an abutting neighborhood, but for a relatively larger consumer population for both daily and occasional shopping. The development is characterized by a lack of “comparison shopping” and is limited to providing only one (1) store for each type of business.

C-2 Uses: Amusement establishments, bowling alleys, pool halls, swimming pools, dance halls, and skating rinks, Any use permitted in the C-1 Zone except as otherwise provided in this Chapter, Antique shops, Art galleries, but not including auction rooms, Banks and financial institutions, Bicycle sales, rental, and repair stores, Blue-printing and 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.

STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: SO # 12-21

Doc: # 26

Date: May 2021

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FINDINGS and RECOMMENDATION

Staff Findings: The petitioner has requested rezoning to allow for a Dental Office. The property has been operating as a dental office for a number of years.

The petitioner plans to add six parking spaces in the back for employee parking. A variance to allow backing into the alley is required from the City Board of Zoning Appeals. All parking will need to be hard-surfaced.

A stormwater drainage plan is required and has been submitted to Area Planning, but will need to be submitted to and approved by City Engineering.

Recommendation: Favorable recommendation with the following conditions:

1. Approval of a site plan by City Engineering.
2. Approval of variance for backing into the alley for additional parking by the Board of Zoning Appeals.
3. Approval of a stormwater drainage plan by City Engineering.