

AMENDED SPECIAL ORDINANCE NO. 42, 2021

APPLICATION FOR REZONING PETITION CITY OF TERRE HAUTE

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Common Address of lots to be rezoned:

619 Washington Avenue, Terre Haute, IN 47802

Lot 1 Parcel No. 84-06-28-479-001.000-002

Lot 2 Parcel No. 84-06-28-479-002.000-002

Current Zoning:	<u>Lot 1 R-2 Planned Development</u> <u>Lot 2 R-2 Two Family Residence District</u>
Rezone To:	<u>R-2 Planned Development</u>
Proposed Use:	<u>Café, administrative offices and Women's Recovery Center</u>
Name of Owner:	<u>Next Step Foundation Inc.</u>
Address of Owner:	<u>619 Washington Avenue</u> <u>Terre Haute, Indiana 47802</u>
Phone Number of Owner	<u>c/o (812) 232-3388</u>
Attorney Representing Owner:	<u>Richard J. Shagley, II</u>
Address of Attorney:	<u>Wright, Shagley & Lowery, P.C.</u> <u>500 Ohio Street, Terre Haute, IN 47807</u>
For Information Contact:	<input type="checkbox"/> Owner <input checked="" type="checkbox"/> Attorney
Council Sponsor:	<u>Tammy Boland</u>

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COPY OF A SITE-PLAN MUST ACCOMPANY THIS APPLICATION

FILED

FEB 10 2022

CITY CLERK

AMENDED SPECIAL ORDINANCE NO. 42, 2021

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 Numbered One (1) in Daniel A. Jones' Subdivision of all that part of Lot 5 in the subdivision of Out Lot 66 of the original Out Lots of the Town, now City of Terre Haute, lying East of Sixth Street.

Also, Lot Numbered Two (2), except three (3') feet off the South side thereof, in Daniel A. Jones' Subdivision of all that part of Lot 5 in the Subdivision of Out Lot 66 of the original Out Lots of the Town, now City of Terre Haute, lying East of Sixth Street.

Lot 1 Parcel No. 84-06-28-479-001.000-002

Lot 2 Parcel No. 84-06-28-479-002.000-002

Commonly known as: 619 Washington Avenue, Terre Haute, IN 47802.

be and the same is, hereby established as a R-2 Planned Development, together with all rights and privileges that may inure to said real estate and the owners thereof by virtue of the law in such cases provided, subject to all limitations and restrictions imposed thereon by deed or otherwise.

That the real estate described shall be a Planned Development in a R-2 Two Family Residence District as the same is defined in the Comprehensive Zoning Ordinance for the City of Terre Haute, Indiana, subject to the terms and condition set forth herein.

- (a) That the real estate shall be used for any use permitted in a R-2 Two Family Residence District and Recovery Center. The existing church building will continue to house the Recovery Café, offices, a commercial

kitchen and large gathering room. The new construction will be attached to the existing church building and will include additional small meeting rooms, a conference room and additional offices. The size of the new building will not exceed four thousand square feet and will comprise of a single story. The location of the new building will be situated on the northern part of Lot 2 to maximize green space between the new building and the residence to the south. A fence will be added to obstruct the view the defined gathering place for participants of Next Step. An additional fence or shrub/tree barrier will be erected as a buffer to the neighbor to the south. There will be no medical services provided nor will any prescription drugs be dispensed.

- (b) In the event that this Planned Development has not materialized within six (6) months of approval, it is understood that said Planned Development becomes void.
- (c) A variance is hereby granted from Section 10-113 a (1) and 10-113 a (2) which states in part:
 - ~~12 a (1) "Set back requirements", there shall be a zero setbacks required for the property and~~
 - a (2) "off street parking requirements", there shall be no requirements beyond the exiting off street parking places.
- (d) All such rights granted herein shall be fully transferable.
- (e) Said Planned Development shall be recorded in the Vigo County Recorder's Office within ninety (90) days of the approval by the Council.

That the owners have met all of the criteria determined by the Area Planning Commission, except as stated above and by the City Council of Terre Haute, Indiana, that a hardship does exist, mixed use in the area, due to the improvements on the real estate, the physical characteristics of the real estate, the real estate is located near district boundary lines, general deterioration of the neighborhood, 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, the Area Planning Commission has considered a petition filed pursuant to General Ordinance No. 10, 1999, being Division III Planned Development; and

WHEREAS, Special Ordinance No. 42, 2021, has been referred to the Area Planning Commission for its review and consideration and a no recommendation has been referred by the Commission to the Common Council; and

WHEREAS, a public hearing on Amended Special Ordinance No. 42, 2021, has been held pursuant to Section 10 of said Ordinance and the owner of the real estate described has demonstrated to the Area Planning Commission and to the Common Council evidence that a hardship exists pursuant to Section 10-112 of said Ordinance and that said Planned Development will not adversely affect surrounding property values, and that it will not adversely affect public health, safety and the general welfare.

BE IT ORDAINED BY THE COMMON COUNCIL of the City of Terre Haute, Indiana that the owners of the real estate described have demonstrated that a hardship does exist for the use of said real estate and that the Common Council of the City of Terre Haute now determines that a hardship does exist and specifically authorizes and approves the uses of the real estate described as a R-2 Planned Development as described in this Ordinance, under the terms and conditions set forth herein, and further finds and determines that the proposed uses described will be in the public interest and that substantial justice will be done.

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

Presented by Council Member, Tammy Bolland
Tammy Bolland, Councilperson

Passed in open Council this 10th day of February, 2022.

Cheryl Loudermilk
Cheryl Loudermilk, President

ATTEST
Michelle L Edwards
Michelle Edwards, City Clerk

Presented by me, to the Mayor of the City of Terre Haute, this 11 day of February, 2022

Michelle L Edwards
Michelle Edwards, City Clerk

Approved by me, the Mayor of the City of Terre Haute, this 11th day of FEBRUARY, 2022.

Duke A Bennett
Duke A. Bennett, Mayor

ATTEST:
Michelle L Edwards
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, 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 PLANNING COMMISSION OF VIGO COUNTY, INDIANA.

LADIES and GENTLEMEN:

The undersigned, Next Step Foundation, Inc. by Executive Director Dana Simons, respectfully submits this Petition to Rezone the following described real estate in the City of Terre Haute, Vigo County, State of Indiana, to-wit:

Lot Numbered One (1) in Daniel A. Jones' Subdivision of all that part of Lot 5 in the subdivision of Out Lot 66 of the original Out Lots of the Town, now City of Terre Haute, lying East of Sixth Street.

Also, Lot Numbered Two (2), except three (3') feet off the South side thereof, in Daniel A. Jones' Subdivision of all that part of Lot 5 in the Subdivision of Out Lot 66 of the original Out Lots of the Town, now City of Terre Haute, lying East of Sixth Street.

Lot 1 Parcel No. 84-06-28-479-001.000-002

Lot 2 Parcel No. 84-06-28-479-002.000-002

Commonly known as: 619 Washington Avenue, Terre Haute, IN 47802.

The Petitioner is informed and believes that in accordance with Chapter 10, known and referred to as The Comprehensive Zoning Ordinance for Terre Haute, as amended, the above described real estate is now zoned as R-2 Planned Development (Lot 1) and R-2 Two Family Residence District (Lot 2).

Your Petitioner would respectfully state that the real estate is now current a vacant lot. The Petitioner intends to use the real estate for a twenty (20) women only residents recovery center. The center will provide the residents with the opportunity to have their infant child remain with them during their stay. The new construction will be attached to the existing Historical Church building that houses a Recovery Café, training rooms, group rooms, a kitchen and an existing annex that is utilized for office space to provide peer recovery services and clinical services and the real estate will house women for a short-term residential recovery stay.

Your Petitioner would request that the real estate described herein shall be zoned as a R-2 Planned Development to allow for the use as proposed by Petitioner. Your Petitioner would allege that the R-2 Planned Development would not alter the general characteristics of this neighborhood.

Your Petitioner would allege that there is a hardship due to: 1) improvements on the real estate (nature of structure in a mixed use neighborhood; 2) the physical characteristics of the land (the shape of Petitioner's parcel); and 3) the parcel is located near district boundary lines (the other parcels owned by Petitioner in the area are zoned commercial).


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 Planning Commission and the Common Council of the City of Terre Haute, Indiana, favorably consider the passage of a Special Ordinance amending the District Maps of Chapter 10, of the Terre Haute City Code entitled The Comprehensive Zoning Ordinance for Terre Haute, Section 10-121 District Maps and declaring the above-described real estate to be part of the R-2 Planned Development of the City of Terre Haute, Indiana, and is entitled to the rights and benefits that may accrue to the real estate and the owner thereof by virtue of the new designation subject to all limitations imposed by deed or otherwise.

IN WITNESS WHEREOF, the undersigned Petitioner has caused this Petition to Rezone Real Property to be executed, this 5TH day of November, 2021.

PETITIONER:

NEXT STEP FOUNDATION, INC.



Dana Simons, Executive Director

WRIGHT, SHAGLEY & LOWERY, P.C.
500 Ohio Street
PO Box 9849
Terre Haute, IN 47808
Phone: (812) 232-3388

BY: _____
Richard J. Shagley, II #23135-84
Attorneys for Petitioner

The owner and mailing address: Next Step Foundation, Inc., 619 Washington Ave., Terre Haute, IN 47802

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
SPECIAL ORDINANCE NO. 42, 2021



619 Washington Avenue, Terre Haute, IN 47802
Parcel No.: 84-06-28-479-002.000-002

R-2 Two Family Residence District to R-2 Planned Development

Proposed Use: Short term inpatient treatment center

STATE OF INDIANA)

) SS:

COUNTY OF VIGO)

AFFIDAVIT

Comes now, Executive Director, Dana Simons, of Next Step Foundation, Inc., being duly sworn upon her oath, deposes and says:

1. That Next Step Foundation, Inc. is the fee simple owner of record of the following described real estate located in the City of Terre Haute, County of Vigo, State of Indiana, to-wit:

Lot Numbered One (1) in Daniel A. Jones' Subdivision of all that part of Lot 5 in the subdivision of Out Lot 66 of the original Out Lots of the Town, now City of Terre Haute, lying East of Sixth Street.

Also, Lot Numbered Two (2), except three (3') feet off the South side thereof, in Daniel A. Jones' Subdivision of all that part of Lot 5 in the Subdivision of Out Lot 66 of the original Out Lots of the Town, now City of Terre Haute, lying East of Sixth Street.

Lot 1 Parcel No. 84-06-28-479-001.000-002

Lot 2 Parcel No. 84-06-28-479-002.000-002

2. That copies of the Deed, recorded in the records of the Recorder's Office of Vigo County, Indiana, transferring fee simple title to Chosen Terre Haute, LLC is attached hereto and made a part hereof and marked as Exhibit A.

3. That Affiant makes this Affidavit for the sole purpose of affirming that Next Step Foundation, 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 Next Step Foundation, Inc.

4. Further, Affiant saith not.

Dated at Terre Haute, Indiana, this 5th day of November, 2021.

NEXT STEP FOUNDATION, INC.



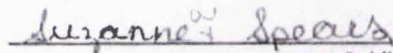
Dana Simons, Executive Director

STATE OF INDIANA)

) SS:

COUNTY OF VIGO)

SUBSCRIBED AND SWORN TO before me, a Notary Public in and for said County and State, this 5th day of November, 2021.


_____, Notary Public

My Commission expires:

10/29/2027

My County of Residence:

Vigo




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

DULY ENTERED FOR TAXATION
Subject to final acceptance for transfer

SEP 26 2011

Timothy M. Spence
VIGO COUNTY AUDITOR

2011012962 CORP WD \$18.00
09/26/2011 09:48:16A 2 PGS
NANCY S. ALLSUP
VIGO County Recorder IN
Recorded as Presented


CORPORATE WARRANTY DEED

This indenture witnesseth that

Harvest Prayer Ministries, Inc.

a corporation organized and existing under the laws of the State of Indiana

Convey(s) and Warrant(s) to

Next Step Foundation, Inc.

of Vigo County in the State of Indiana

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

Lot Numbered One (1) in Daniel A. Jones' Subdivision of all that part of Lot 5 in the subdivision of Out Lot 66 of the original Out Lots of the Town, now City of Terre Haute, lying East of Sixth Street.

Also, Lot Numbered Two (2), except three (3') feet off the South side thereof, in Daniel A. Jones' Subdivision of all that part of Lot 5 in the Subdivision of Out Lot 66 of the original Out Lots of the Town, now City of Terre Haute, lying East of Sixth Street.

More commonly known as 619 Washington Avenue, Terre Haute, Indiana 47802.

Subject to any conditions, restrictions, covenants or easements of record.

Parcel No. 84-06-28-479-001.000-002

The undersigned person executing this deed on behalf of Grantor represents and certifies that he is a duly elected officer of Grantor and has been fully empowered, by proper Corporate Resolution of the Board of Directors of Grantor, to execute and deliver this deed; that Grantor has full Corporate capacity to convey the real estate described herein; and that all necessary Corporate action for the making of such conveyance has been taken and done.

IN WITNESS WHEREOF, Grantor has caused this deed to be executed this 22nd day of September, 2011.

Harvest Prayer Ministries, Inc.

By _____ By _____
Vince McFarland VINCE MCFARLAND, BOARD CHAIRMAN
 (Printed Name and Office) (Printed Name and Office)

State of Indiana, County of Vigo) SS:

Before me, a Notary Public in and for said county and state, this 22nd day of September, 2011, personally appeared VINCE MCFARLAND and the BOARD CHAIRMAN and _____ respectively, of Harvest Prayer Ministries, Inc., who acknowledged the execution of the foregoing Deed for and on behalf of said Grantor, and who, having been duly sworn, stated that the representations therein contained are true.

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

Pamela J Kappel
 Notary Public
 Printed: _____



My Commission Expires:

My County of Residence:

This instrument prepared by: Henry L. Antonini, Antonini & Antonini, 224 South Main Street, P. O. Box 325, Clinton, IN 47842 Telephone: (765) 832-3527 D1040; HCT-2011-0436
 I affirm under penalties for perjury that I have taken reasonable care to redact each Social Security number in this document, unless required by law. Henry L. Antonini

Mail tax bills to Grantee: 500 FARRINGTON ST., TERRE HAUTE, IN 47807

Return Deed to: Honeycreek Vigo Title Svcs, Inc., 405 S. 6th Street, Terre Haute, IN 47807

TERRE HAUTE

ABOVE
TERRE HAUTE, IN
PAID

Receipt

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

NOV 05 2021

CONTROLLER

Date: 11-5-21

Name: Next Step

Reason: Renewing - Notice of Filing \$25.00
Renewing Petition \$20.47
\$45.47

Cash: _____

Check: 45.00 CK #72044

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: December 2, 2021

REPORT TO THE CITY COUNCIL ON ZONING MAP AMENDMENT

THE VIGO COUNTY AREA PLAN COMMISSION HEREBY GIVES CERTIFICATION TO
SPECIAL ORDINANCE NUMBER 42-21

CERTIFICATION DATE: December 1, 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. 42-21. This Ordinance is a rezoning of 619 Washington Avenue. The Petitioner, The Next Step Foundation, petitions the Plan Commission to rezone said property to a café, administrative offices & women's recovery center from the zoning classification Lot 1, R-2 Planned Development and Lot 2, R-2 Two Family Residence to R-2 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. 42-21 at a public meeting and hearing held Wednesday, December 1, 2021. Remonstrators were 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. 42-21 as required by IC 36-7-4-302. The Area Plan Commission of Vigo County now hereby attaches certification to Special Ordinance No. 42-21 as required by IC 36-7-4-401(a)(7) and IC 36-7-4-605(c).

Therefore, Area Plan Commission voted to send no recommendation on Special Ordinance No. 42-21.

A handwritten signature in dark ink, appearing to read "Fred L. Wilson".

Fred L. Wilson, President

A handwritten signature in dark ink, appearing to read "Jared Bayler".

Jared Bayler, Executive Director

Received this 2nd day of December, 2021

STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: SO #42-21
Date: December 2021

Doc: # 76
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APPLICATION INFORMATION

Property Owner: The Next Step Foundation

Representative: Richard Shagley II

Proposed Use: Café, Administrative offices & Women's Recovery Ctr.

Proposed Zoning: R-2 Planned Development

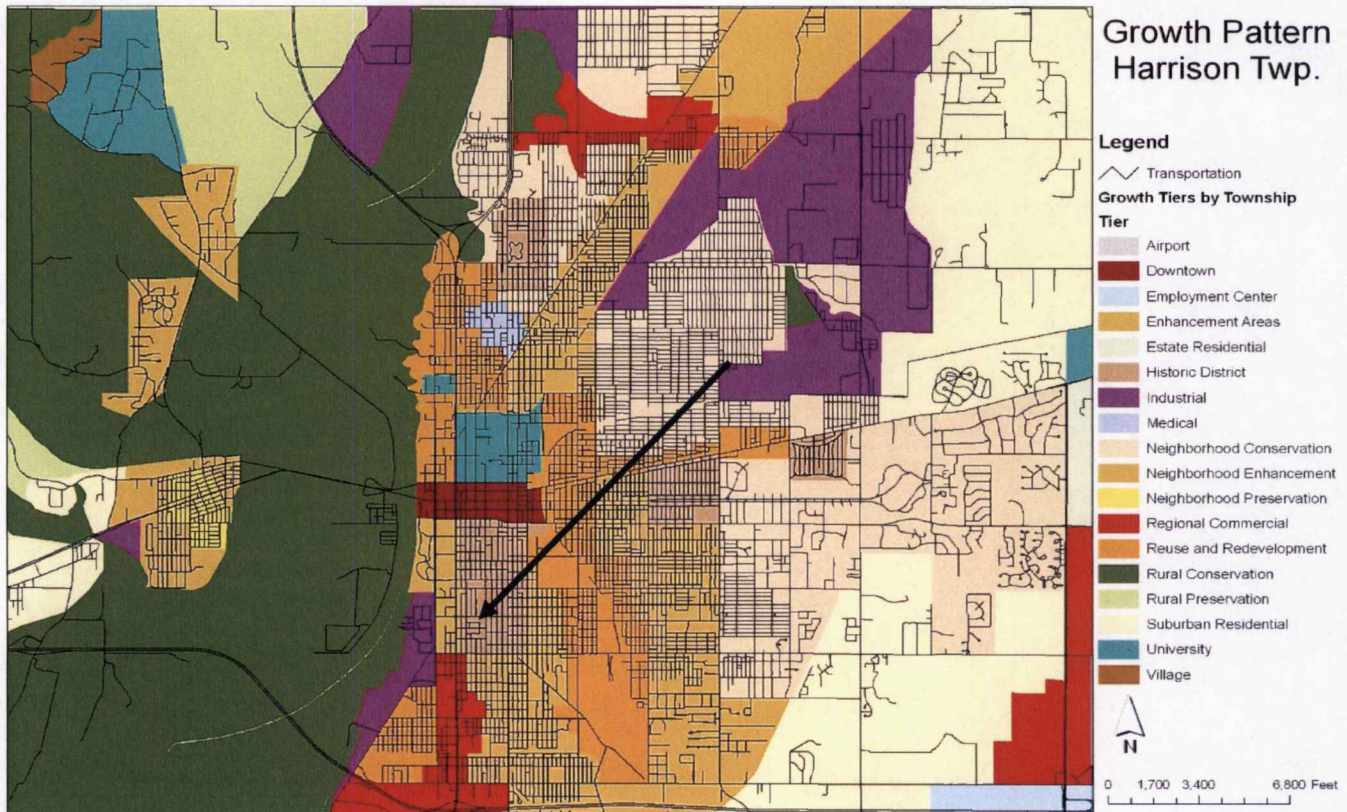
Current Zoning: Lot 1, R-2 Planned Development
Lot 2, R-2 Two Family Residence

Location: The property is located on the southeast corner of South 6th Street and Washington Avenue.

Common Address: 619 Washington Avenue, Terre Haute. Parcels #84-06-28-479-001.000-002& 84-06-28-479-002.000-002.

COMPREHENSIVE PLAN GUIDANCE

Service Area: The City of Terre Haute



STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: SO #42-21
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Historic District

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

Available Services: Area is well served by utilities.

Soil Limitations: Not studied.

Street Access: Washington Avenue is a Secondary Collector Roadway

Dev. Priority: There is a high priority for capital reinvestment and infill development that match the historic architecture within the Farrington's Grove Historical District.

ZONING COMPATIBILITY

Sur. Zones and Uses: **North** – R-3, Multi-Family Residence District
East – R-2, Two-Family Residence District
South – R-2, Two-Family Residence District
West – R-2PD, Planned Development

Character of Area: The petitioned property is located within the Farrington's Grove Historical District. Uses within the vicinity consist of a mix of legal non-conforming and conforming residential uses.

Contig. Uses & Zones: The contiguous zoning is R-2, Two-Family Residence District with residential uses that are permitted.

ZONING REGULATIONS

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

R-2, P-D: Before a Planned Development can be considered, the petitioner must show proof of one of the following unique circumstances. That the petitioner has a:

STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: SO #42-21
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- (1) Hardship due to the physical characteristics of the land.**
- (2) Hardship due to the improvements on the land.
- (3) Hardship due to adjacent scattered incompatible uses.
- (4) Hardship due to the general deterioration of the neighborhood.
- (5) Parcel located near district boundary lines.

R-2 Standards: Minimum Lot Size: 6,600 Sq. Ft.
FAR 0.9 %
Street Setback: Block face average;
Rear setback 11' from center of alley;
Interior setback of 5' from the interior lot line;
Parking will be provided on street.

FINDINGS and RECOMMENDATION

Staff Findings: In 2012 (SO #2, 2012), the northern parcel (84-06-28-479-001.000-002) was rezoned R-2PD for a Women's Recovery Center with a variance for zero parking spaces. Since the intended use did not materialize within 6 months, the zoning reverted back to R-2 (please note that the zoning on Beacon was not changed back from R-2PD).

The petitioner has requested the previous parcel as well as the vacant parcel to the south to be rezoned to R-2PD for the existing café, administrative offices, and a proposed women's only recovery center for twenty (20) residents. New construction will be attached to the existing historical church building. They are also requesting a variance from Section 10-113(a)(2) for zero off-street parking and from Section 10-136 for zero setbacks due to the existing structure.

The site plan for the new construction will need to be approved by City Engineering. The parcels may need to be combined.

Recommendation: Staff has a Favorable Recommendation for an R-2 PD with the following conditions:

1. Site plan to be approved by City Engineering