

SPECIAL ORDINANCE NO. 39, 2024

APPLICATION FOR REZONING PETITION CITY OF TERRE HAUTE

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Common Addresses of lots to be rezoned:

(A) 2121 Lafayette Ave., Terre Haute, Indiana 47804
Parcel No. 84-06-02-352-003.000-002

(B) 2145 Lafayette Ave., Terre Haute, Indiana 47804
Parcel No. 84-06-02-352-002.000-002

Rezone From: (A) C-2Community Commerce District
(B) C-1 Neighborhood Commerce District

Rezone To: C-3 Regional Commerce District

Proposed Use: Qdoba Restaurant

Name of Owners: M Three Holdings, LLC

Address of Owners: 5549 Hallie Rae Lane, 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 47807

For Information Contact: ☐ Owner ☒ Attorney

Council Sponsor: Cheryl Loudermilk

=====

COPY OF A SITE-PLAN MUST ACCOMPANY THIS APPLICATION

NOV 06 2024

**SPECIAL ORDINANCE FOR A REZONING
SPECIAL ORDINANCE NO. 39, 2024**

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:

A part of the Southwest Quarter of the Southwest Quarter of Section 2, Township 12 North, Range 9 West of the Second Principal Meridian, Harrison Township, Vigo County, in the City of Terre Haute, Indiana, more particularly described as follows:

Commencing at the Northeast corner of said quarter quarter (a 1" Iron Pipe, found); thence South 00 degrees 01 minutes 10 seconds West (assumed bearing), basis of all bearings is the East line of the southwest quarter of Section 2 being assumed a north-south line through existing monuments (stones) and the East line of said quarter quarter as established by Iron Pipes set by George Fisk survey of July 20, 1955, a distance of 217.8 feet to a 1" Iron Pin (previously set), the point of beginning of this description; thence continuing on the East line of said quarter quarter on a bearing of South 00 degrees 01 minute 10 seconds West a distance of 89.605 feet to a 1" Iron Pin (previously set); thence South 89 degrees 32 minutes 41 seconds West 273.41 feet to a P.K. Nail (previously set) in the centerline of Lafayette Avenue as presently laid out (by existing monuments at 25th Street and Lafayette Avenue and Ft. Harrison Road and Lafayette Avenue); thence along the centerline of Lafayette Avenue on a bearing of North 31 degrees 41 minutes 30 seconds East a distance of 106.53 feet to a P.K. Nail (previously set); thence North 89 Degrees 41 minutes 06 seconds East a distance of 217.47 feet to the point of beginning. Containing 0.5067 acres (22,073.21 square feet). Subject to a road right of way for Lafayette Avenue off the west side thereof.

ALSO

A part of the Southwest Quarter of the Southwest Quarter of Section 2, Township 12 North, Range 9 West of the Second Principal Meridian, Harrison Township, Vigo County, in the City of Terre Haute, Indiana, more particularly described as follows:

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ALSO

Commencing at a point which is 127.8 feet South and 16 feet West of the Northeast corner of the Southwest Quarter (1/4) of the Southwest Quarter (1/4) of Section 2, Township 12 North, Range 9 West; thence running South 90 feet; thence running due West 200.8 feet to the centerline of the Lafayette Road of United States Highway #41; thence North 31 degrees and 45 minutes East along the centerline of said Highway 107 feet; thence due East 145.1 feet to the place of beginning.

Subject to all easements, restrictive covenants, agreements, restrictions, and all matters of record or which would be disclosed by an accurate inspection and an ALTA survey of the Real Estate.

Parcel Nos.: 84-06-02-352-003.000-002
84-06-02-352-002.000-002

Commonly known as: 2121 & 2145 Lafayette Ave., Terre Haute, IN 47804-

Be and the same is hereby established as a C-3 Regional 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, Cheryl Loudermilk
Cheryl Loudermilk, Councilperson

Passed in open Council this 5th day of December, 2024.

Tammy Boland
Tammy Boland, President

ATTEST:

Michelle Edwards
Michelle Edwards, City Clerk

Presented by me, to the Mayor of the City of Terre Haute, this 6th day of December 2024. at 2:20pm

Michelle Edwards
Michelle Edwards, City Clerk

Approved by me, the Mayor of the City of Terre Haute, this 6th day of December 2024.

BS
Brandon Sakbun, Mayor

ATTEST:

Michelle 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.

RS
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 GENTLEMEN:

The undersigned, M Three Holdings, LLC, respectfully submits this Petition to rezone the following described real estate in the City of Terre Haute, County of Vigo, Indiana, to wit:

A part of the Southwest Quarter of the Southwest Quarter of Section 2, Township 12 North, Range 9 West of the Second Principal Meridian, Harrison Township, Vigo County, in the City of Terre Haute, Indiana, more particularly described as follows:

Commencing at the Northeast corner of said quarter quarter (a 1" Iron Pipe, found); thence South 00 degrees 01 minutes 10 seconds West (assumed bearing), basis of all bearings is the East line of the southwest quarter of Section 2 being assumed a north-south line through existing monuments (stones) and the East line of said quarter quarter as established by Iron Pipes set by George Fisk survey of July 20, 1955, a distance of 217.8 feet to a 1" Iron Pin (previously set), the point of beginning of this description; thence continuing on the East line of said quarter quarter on a bearing of South 00 degrees 01 minute 10 seconds West a distance of 89.605 feet to a 1" Iron Pin (previously set); thence South 89 degrees 32 minutes 41 seconds West 273.41 feet to a P.K. Nail (previously set) in the centerline of Lafayette Avenue as presently laid out (by existing monuments at 25th Street and Lafayette Avenue and Ft. Harrison Road and Lafayette Avenue); thence along the centerline of Lafayette Avenue on a bearing of North 31 degrees 41 minutes 30 seconds East a distance of 106.53 feet to a P.K. Nail (previously set); thence North 89 Degrees 41 minutes 06 seconds East a distance of 217.47 feet to the point of beginning. Containing 0.5067 acres (22,073.21 square feet). Subject to a road right of way for Lafayette Avenue off the west side thereof.

ALSO

A part of the Southwest Quarter of the Southwest Quarter of Section 2, Township 12 North, Range 9 West of the Second Principal Meridian, Harrison Township, Vigo County, in the City of Terre Haute, Indiana, more particularly described as follows:

Commencing at the Northeast corner of said quarter quarter (a 1" Iron Pipe, found), thence South 00 degrees 01 minutes 10 seconds West (assumed bearing), basis of all bearings is the East line of the southwest quarter of Section 2 being assumed a north-south line through existing monuments (stones) and the East line of said quarter quarter as established by Iron Pipes set by George Fisk survey of July 20, 1955, a distance of 127.80 feet to a 1" Iron Pin (previously set), the point of beginning of this description, thence continuing on the East line of said quarter quarter on a bearing of South 00 degrees 01 minute 10 seconds West a distance of 90.00 feet to a 1" Iron Pin (previously set); thence South 89 degrees 42 minutes 06 seconds West a distance of 16.00 feet; thence North 00 degrees 01 Minute 09.45 seconds East a distance of 90.07 feet to a 1" Iron Pin (previously set); thence North 89 degrees 58 minutes 08 seconds East a distance of 16.00 feet to the point of beginning. Containing 0.0331 acres (1440.58 square feet).

ALSO

Commencing at a point which is 127.8 feet South and 16 feet West of the Northeast corner of the Southwest Quarter (1/4) of the Southwest Quarter (1/4) of Section 2, Township 12 North, Range 9 West; thence running South 90 feet; thence running due West 200.8 feet to the centerline of the Lafayette Road of United States Highway #41; thence North 31 degrees and 45 minutes East along the centerline of said Highway 107 feet; thence due East 145.1 feet to the place of beginning.

Subject to all easements, restrictive covenants, agreements, restrictions, and all matters of record or which would be disclosed by an accurate inspection and an ALTA survey of the Real Estate.

Parcel Nos.: 84-06-02-352-003.000-002
84-06-02-352-002.000-002

Commonly known as: 2121 & 2145 Lafayette Ave., Terre Haute, IN 47804

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 (A) C-2 Community Commerce District and (B) C-1 Neighborhood Commerce District.

Your Petitioner intends to take the existing property and intends to build a new Qdoba restaurant. Your Petitioner would request that the real estate described herein shall be zoned as a C-3 Regional Commerce District.

Your Petitioner would allege that the C-3 Regional Commerce District would not alter the general characteristics of this neighborhood since there are other restaurants in the 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-3 Regional 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 owner 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 1st day of November, 2024.

PETITIONER:


Trey Miller, Member of M Three
Holdings, LLC

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. 39, 2024



(A) 2121 Lafayette Ave., Terre Haute, Indiana 47804
Parcel No. 84-06-02-352-003.000-002

(B) 2145 Lafayette Ave., Terre Haute, Indiana 47804
Parcel No. 84-06-02-352-002.000-002

(A) C-2 Community Commerce District and
(B) C-1 Neighborhood Commerce District
to
C-3 Regional Commerce District

Proposed Use: Qdoba Restaurant

STATE OF INDIANA) SS:
COUNTY OF VIGO)

AFFIDAVIT

Comes now Trey Miller, member of M Three Holdings, LLC, being duly sworn upon his oath, deposes and says:

1. That M Three Holdings, LLC, 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:

A part of the Southwest Quarter of the Southwest Quarter of Section 2, Township 12 North, Range 9 West of the Second Principal Meridian, Harrison Township, Vigo County, in the City of Terre Haute, Indiana, more particularly described as follows:

Commencing at the Northeast corner of said quarter quarter (a 1" Iron Pipe, found); thence South 00 degrees 01 minutes 10 seconds West (assumed bearing), basis of all bearings is the East line of the southwest quarter of Section 2 being assumed a north-south line through existing monuments (stones) and the East line of said quarter quarter as established by Iron Pipes set by George Fisk survey of July 20, 1955, a distance of 217.8 feet to a 1" Iron Pin (previously set), the point of beginning of this description; thence continuing on the East line of said quarter quarter on a bearing of South 00 degrees 01 minute 10 seconds West a distance of 89.605 feet to a 1" Iron Pin (previously set); thence South 89 degrees 32 minutes 41 seconds West 273.41 feet to a P.K. Nail (previously set) in the centerline of Lafayette Avenue as presently laid out (by existing monuments at 25th Street and Lafayette Avenue and Ft. Harrison Road and Lafayette Avenue); thence along the centerline of Lafayette Avenue on a bearing of North 31 degrees 41 minutes 30 seconds East a distance of 106.53 feet to a P.K. Nail (previously set); thence North 89 Degrees 41 minutes 06 seconds East a distance of 217.47 feet to the point of beginning. Containing 0.5067 acres (22,073.21 square feet). Subject to a road right of way for Lafayette Avenue off the west side thereof.

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Commencing at a point which is 127.8 feet South and 16 feet West of the Northeast corner of the Southwest Quarter (1/4) of the Southwest Quarter (1/4) of Section 2, Township 12 North, Range 9 West; thence running South 90 feet; thence running due West 200.8 feet to the centerline of the Lafayette Road of United States Highway #41; thence North 31 degrees and 45 minutes East along the centerline of said Highway 107 feet; thence due East 145.1 feet to the place of beginning.

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Parcel Nos.: 84-06-02-352-003.000-002
84-06-02-352-002.000-002

Commonly known as: 2121 & 2145 Lafayette Ave., Terre Haute, IN 47804-

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 Affiant makes this Affidavit for the sole purpose of affirming that M Three Holdings, LLC, 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 Trey Miller, member of M Three Holdings, LLC.

4. Further, Affiant saith not.

Dated at Terre Haute, Indiana this 1st day of November, 2024.

Trey Miller
Trey Miller, Member of M Three Holdings LLC

STATE OF INDIANA)
) SS:
COUNTY OF VIGO)

SUBSCRIBED AND SWORN TO before me, a Notary Public in and for said County and State, this 1st day of November, 2024.

Julie R. Baysinger
Julie R. Baysinger Notary Public




My Commission expires: 9-24-2028

My County of Residence: Vermillion

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.

ENTERED FOR TAXATION
Subject to final acceptance for Transfer

AUG 23, 2024 MM


VIGO COUNTY AUDITOR

2024009116 WD \$25.00
8/23/2024 9:19:33 AM 4 PGS
Diana Winsted-Smith
VIGO County Recorder IN
Recorded as Presented



LIMITED LIABILITY COMPANY WARRANTY DEED

THIS INDENTURE WITNESSETH that **JFC Holdings II, LLC**, a limited liability company, organized and existing under the laws of the State of Indiana (hereinafter referred to as Grantor), for and in consideration of the payment of One Dollar (\$1.00) and other good and valuable consideration, the receipt whereof is hereby acknowledged, hereby CONVEYS, GRANTS and WARRANTS to **M Three Holdings, LLC**, (hereinafter referred to as Grantee), of the State of Indiana, the following described real estate in Vigo County in the State of Indiana, to-wit:

A part of the Southwest Quarter of the Southwest Quarter of Section 2, Township 12 North, Range 9 West of the Second Principal Meridian, Harrison Township, Vigo County, in the City of Terre Haute, Indiana, more particularly described as follows:

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Subject to all easements, restrictive covenants, agreements, restrictions, and all matters of record or which would be disclosed by an accurate inspection and an ALTA survey of the Real Estate.

Parcel Nos.: 84-06-02-352-003.000-002
84-06-02-352-002.000-002

Commonly known as: 2121 & 2145 Lafayette Ave., Terre Haute, IN 47804-2917

Taxes shall be prorated to the date of deed.

Subject to any and all covenants, conditions, restrictions, ordinances, by-laws, easements, leases and other matters of record affecting title to the subject real estate, as well as rights of way for drainage tiles, ditches, feeders and laterals, if any.

As a further consideration of the payment of the above sum, the person(s) executing this deed on behalf of Grantor represent and certify, for the purpose of inducing Grantee to accept this Warranty Deed, that they have been fully empowered by the Articles of Organization of Grantor and proper resolution of Grantor to execute and deliver this deed; that Grantor has full capacity to convey the real estate conveyed by this instrument and that all necessary action for the making of such conveyance has been taken; Grantor further states under oath that no Indiana gross income tax is due or payable with respect to the transfer of the above-described real estate.

Grantor states that the above-described real estate is not "property" as defined by I.C. 13-11-2-174 and that the above-described real estate does not contain facilities that are subject to reporting under Section 312 of the federal Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. 11022) and is not the site of underground storage tanks for which notification is required under 42 U.S.C. 8991a or L.C. 13-23-1-2(c)(8)(A) and is not listed on the Comprehensive Environmental Response System (CERLIS) in accordance with Section 116 of CERCLA (42 U.S.C. 9616), and that, consequently, no disclosure document under Indiana Code 13-25-3-1 et seq. (Indiana Responsible Transfer Law) is required for this transaction.

This conveyance is being made pursuant to Section IC 23-18-9-3 of the Indiana Code as part of the process of winding up the affairs of JFC Holdings, II, LLC, an Indiana Limited Liability Company, which has been administratively dissolved.

DATED this 22 day of August, 2024.

IN WITNESS WHEREOF, James Cunningham, the authorized Member of JFC Holdings II, LLC, has caused this deed to be executed in its name on this 22 day of August, 2024.

JFC Holdings II, LLC

By: John Cunningham member
John Cunningham, Member

STATE OF Indiana)
COUNTY OF Vigo) SS:

Before me, the undersigned, a Notary Public in and for said County and State, this 22 day of August, 2024, personally appeared James Cunningham, the authorized Member of JFC Holdings II, LLC, and acknowledged and affirmed the execution of the foregoing deed.

In witness whereof, I have hereunto subscribed my name and affixed my official seal.

My Commission Expires:
5-11-2029



Cari Hunt
Notary Public
Printed: Cari Hunt
Residing in Vigo County

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.

Cari Hunt

Mail Tax Statements To Grantee at:

Mail Deed To: Integrity Title Services, 1532 Wabash Ave., Terre Haute, IN 47807.

This instrument was prepared by: John Gurchiek of GURCHIEK LAW, INC., P.O. Box 6327, Fishers, IN 46038, at the specific request of the parties of their authorized representatives based solely on information supplied by one or more of the parties to this conveyance. 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 this instrument.
CMT: 24 06102

TERRE HAUTE, IN

PAID

NOV 06 2024

CONTROLLER



Receipt of Payment

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

Date 11/6/24
Name Wright, Shagley, Lowery, P.C
Reason Rezoning - \$ 45.00

Cash _____

Check \$ 45.00 Ck # 074674

Credit _____

Total \$45.00

Received By EC / J. Thome



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 5, 2024

REPORT TO THE CITY COUNCIL ON ZONING MAP AMENDMENT

THE VIGO COUNTY AREA PLAN COMMISSION HEREBY GIVES CERTIFICATION TO
SPECIAL ORDINANCE NUMBER 39-24

CERTIFICATION DATE: December 4, 2024

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. 39-24. This Ordinance is a rezoning of property located at 2121 and 2145 Lafayette Ave, Terre Haute, IN. Parcel numbers 84-06-02-352-002.000-002/003. The Petitioner, M Three Holdings LLC petitions the Plan Commission to rezone for the future development of a Qdoba Restaurant from zoning classification C-1 and C-2 to C-3 Regional Commerce District.

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. 39-24 at a public meeting and hearing held Wednesday, December 4, 2024. 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. 39-24 as required by IC 36-7-4-302. The Area Plan Commission of Vigo County now hereby attaches certification to Special Ordinance No. 39-24 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. 39-24 was FAVORABLE with the following conditions: 1) Site plan approval including parking and storm water drainage by the Department of Engineering 2) Development must wait for mapping of the unmapped street.



Norm Froderman, APC Secretary

Jared Bayler, Executive Director

Received this 5th day of December, 2024

STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: SO #39-24

Doc: #87

Date: December 2024

Page 1 of 4

APPLICATION INFORMATION

Property Owners: M Three Holdings, LLC

Proposed Use: Qdoba Restaurant

Proposed Zoning: C-3, Regional Commerce District

Current Zoning: C-1 & C-2

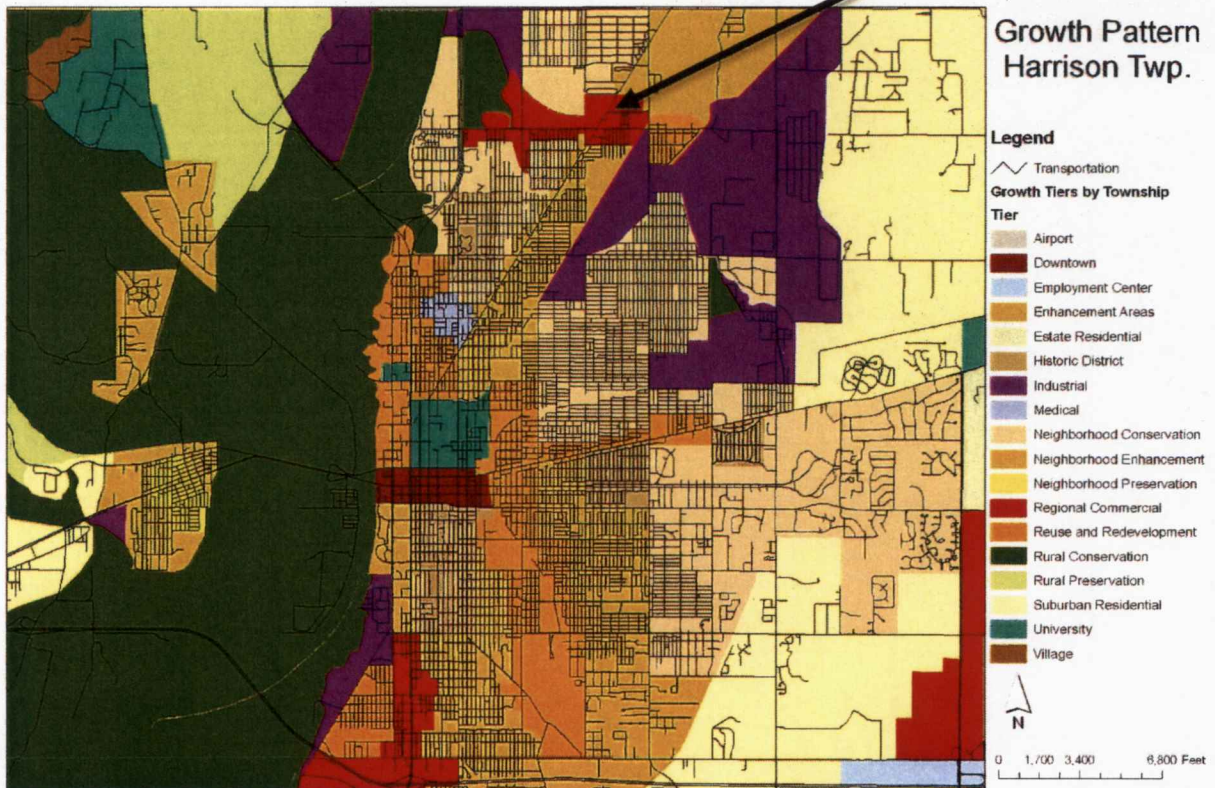
Representative: Richard J. Shagley II

Location: The property is located on the east side of Lafayette Avenue approximately 400 ft. north of the intersection of Spring Clean Ave & Lafayette Ave. 84-06-02-352-003.000-002 & 002

Common Address: 2121 Lafayette Avenue & 2145 Lafayette Ave, Terre Haute

COMPREHENSIVE PLAN GUIDANCE

Service Area: Terre Haute



ZONING COMPATIBILITY

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: The area is well served by utilities.

Character of Area: High intensity employment area.

Street Access: Lafayette Avenue

Sur. Zones and Uses:

North – C-5
West – R-3
South – C-3
East – C-3

STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: SO #39-24

Doc: #87

Date: December 2024

Page 3 of 4

ZONING REGULATIONS

- C-3 Purpose: The Regional Commerce Zone is designated for all residents in the region of Terre Haute, Indiana, and is not a limited community commerce area (or shopping center); consequently, it shall permit a wide variety of business, commerce, and services with some degree of limited warehousing for those establishments allowed in the area. It shall be a major shopping center, definitely limited to specific locations and characterized by large establishments generating large volumes of vehicular traffic. The development is characterized by its provision of some degree of comparison shopping and a complete lack of any attempt to draw pedestrian traffic.
- C-3 Uses: Any use permitted in C-1, and C-2, Pet shops, Live professional entertainment and dancing, Schools, Auction rooms, Recreation establishments, Automobile sales and service (minor and major repairs) Farm equipment sales and service.
- C-3 Standards: Street setback of 50 feet from centerline; rear setback 11' from the rear property line; Interior 5' from the interior lot line, and meet the minimum parking requirement per table 4.
-

FINDINGS and RECOMMENDATION

Staff Findings:

The petitioners are requesting to rezone the property for a Qdoba Restaurant. The use is in character for the area.

There is possible unmapped flood zone in the area. A request has been submitted for clarification from IDNR. If the request results in additional flood zones that impact the property, the property owners may request a formal investigation by IDNR.

No site plans with setbacks, parking, etc. have been provided with the application.

In their recommendation, the Department of engineering stated: "the intended use would not alter the neighborhood's characteristic or create any significant problems for the surrounding area. They provided a favorable recommendation.

Recommendation:

Staff recommends a favorable recommendation with the following conditions:

STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: SO #39-24

Doc: #87

Date: December 2024

Page 4 of 4

1. Site plan approval including parking and storm water drainage by the Department of Engineering.
2. Development must wait for mapping of the unmapped stream



**CITY OF
TERRE HAUTE
ENGINEERING
DEPARTMENT**

City Hall
17 Harding Avenue, Room 200
Terre Haute, IN 47807
Phone: 812.244.4903
www.terrehaute.in.gov

MARCUS MAURER, P.E.
CITY ENGINEER

MEMORANDUM

TO: Sydney Shahar
Vigo County Area Planning Department

FROM: Jason Holler
Lead Building Inspector

DATE: November 14th, 2024

RE: **2121 Lafayette Ave. & 2145 Lafayette Ave**

As requested by Area Planning, the Department of Engineering has reviewed the property located at 2121 Lafayette Ave. & 2145 Lafayette Ave:

- Rezoning of 2121 Lafayette Ave. from C-1 Neighborhood Commerce to a C-3 Regional Commerce District and 2145 Lafayette Ave. from a C-2 Community Commerce District to C-3 Regional Commerce District.

The parcels surrounding this property are zoned C-5 to the North and East, parcel to the West are Zoned R-3 and parcel located to the South are zoned C-1. The intended use would not alter the neighborhood's characteristic or create any significant problems for the surrounding area.

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

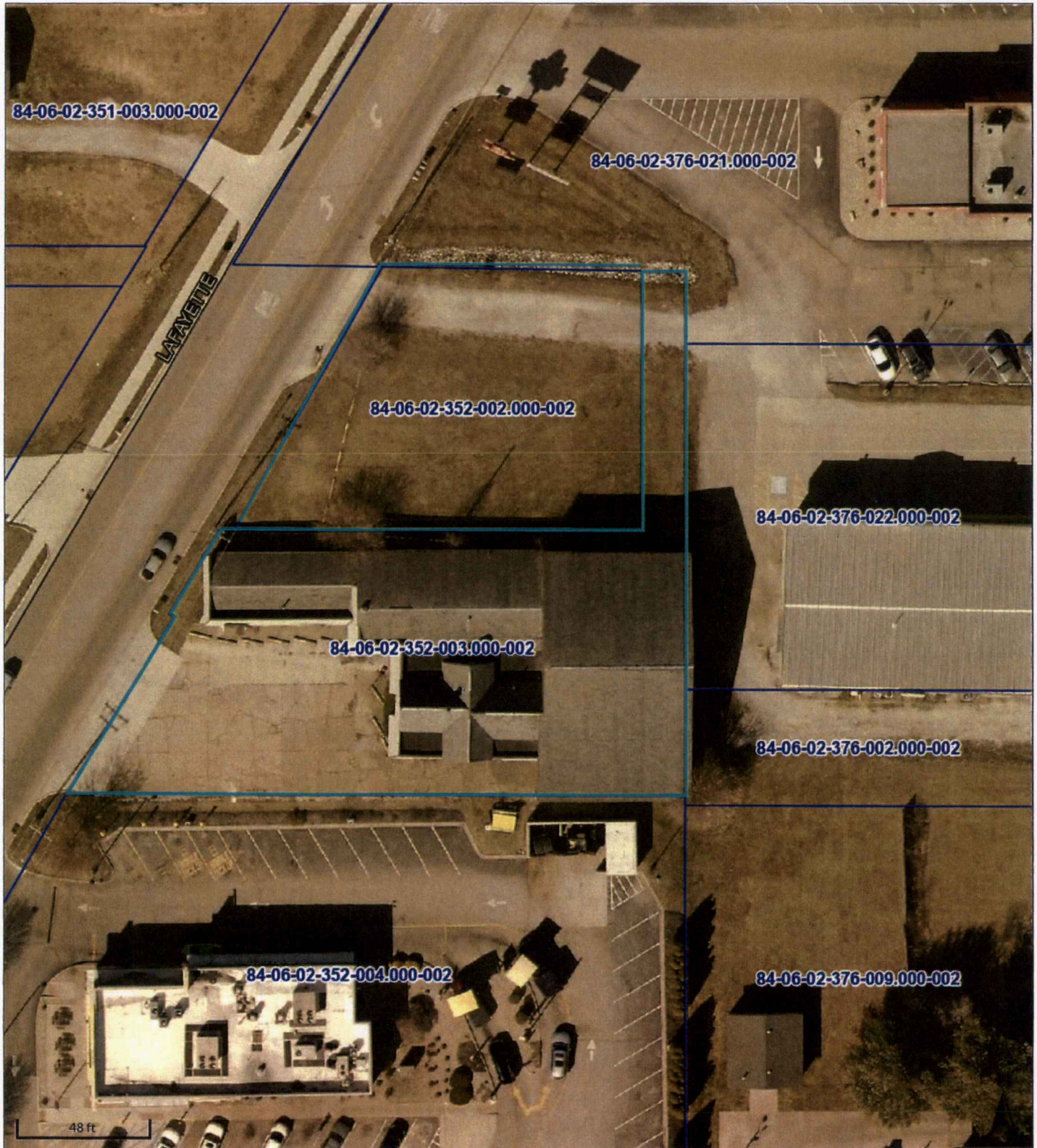


BeaconTM

Vigo County, IN / City of Terre Haute

Docket #87 SO #39-24

2121 and 2145 Lafayette Ave



Arrived

On your right: 2121 Lafayette Ave, Terre Haute

Rate your route



End Route

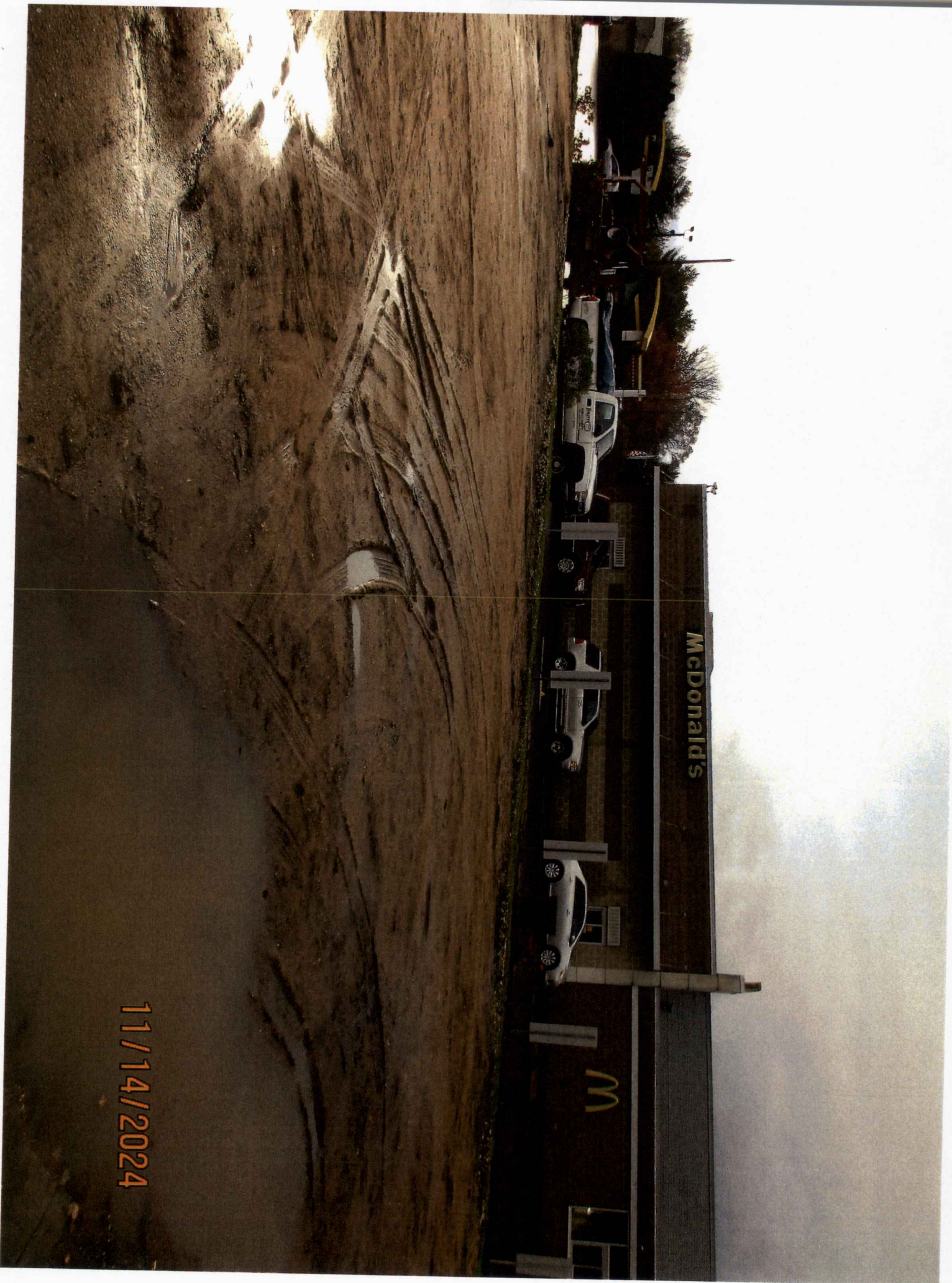
11/14/2024



11/14/2024



11/14/2024



11/14/2024



11/14/2024



11/14/2024

APPLICATION FOR REZONING PETITION CITY OF TERRE HAUTE

=====

Common Addresses of lots to be rezoned:

(A) 2121 Lafayette Ave., Terre Haute, Indiana 47804
Parcel No. 84-06-02-352-003.000-002

(B) 2145 Lafayette Ave., Terre Haute, Indiana 47804
Parcel No. 84-06-02-352-002.000-002

Rezoned From: (A) C-2Community Commerce District
(B) C-1 Neighborhood Commerce District

Rezoned To: C-3 Regional Commerce District

Proposed Use: Qdoba Restaurant

Name of Owners: M Three Holdings, LLC

Address of Owners: 5549 Hallie Rae Lane, 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 47807

For Information Contact: ☐ Owner ☒ Attorney

Council Sponsor: Cheryl Loudermilk

=====

COPY OF A SITE-PLAN MUST ACCOMPANY THIS APPLICATION

COPY
SPECIAL ORDINANCE FOR A REZONING
SPECIAL ORDINANCE NO. 39, 2024

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:

A part of the Southwest Quarter of the Southwest Quarter of Section 2, Township 12 North, Range 9 West of the Second Principal Meridian, Harrison Township, Vigo County, in the City of Terre Haute, Indiana, more particularly described as follows:

Commencing at the Northeast corner of said quarter quarter (a 1" Iron Pipe, found); thence South 00 degrees 01 minutes 10 seconds West (assumed bearing), basis of all bearings is the East line of the southwest quarter of Section 2 being assumed a north-south line through existing monuments (stones) and the East line of said quarter quarter as established by Iron Pipes set by George Fisk survey of July 20, 1955, a distance of 217.8 feet to a 1" Iron Pin (previously set), the point of beginning of this description; thence continuing on the East line of said quarter quarter on a bearing of South 00 degrees 01 minute 10 seconds West a distance of 89.605 feet to a 1" Iron Pin (previously set); thence South 89 degrees 32 minutes 41 seconds West 273.41 feet to a P.K. Nail (previously set) in the centerline of Lafayette Avenue as presently laid out (by existing monuments at 25th Street and Lafayette Avenue and Ft. Harrison Road and Lafayette Avenue); thence along the centerline of Lafayette Avenue on a bearing of North 31 degrees 41 minutes 30 seconds East a distance of 106.53 feet to a P.K. Nail (previously set); thence North 89 Degrees 41 minutes 06 seconds East a distance of 217.47 feet to the point of beginning. Containing 0.5067 acres (22,073.21 square feet). Subject to a road right of way for Lafayette Avenue off the west side thereof.

ALSO

A part of the Southwest Quarter of the Southwest Quarter of Section 2, Township 12 North, Range 9 West of the Second Principal Meridian, Harrison Township, Vigo County, in the City of Terre Haute, Indiana, more particularly described as follows:

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ALSO

Commencing at a point which is 127.8 feet South and 16 feet West of the Northeast corner of the Southwest Quarter (1/4) of the Southwest Quarter (1/4) of Section 2, Township 12 North, Range 9 West; thence running South 90 feet; thence running due West 200.8 feet to the centerline of the Lafayette Road of United States Highway #41; thence North 31 degrees and 45 minutes East along the centerline of said Highway 107 feet; thence due East 145.1 feet to the place of beginning.

Subject to all easements, restrictive covenants, agreements, restrictions, and all matters of record or which would be disclosed by an accurate inspection and an ALTA survey of the Real Estate.

Parcel Nos.: 84-06-02-352-003.000-002
84-06-02-352-002.000-002

Commonly known as: 2121 & 2145 Lafayette Ave., Terre Haute, IN 47804-

Be and the same is hereby established as a C-3 Regional 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

COPY

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, Councilperson

Passed in open Council this ____ day of _____, 2024.

Tammy Boland, President

ATTEST:

Michelle Edwards, City Clerk

Presented by me, to the Mayor of the City of Terre Haute, this ____ day of _____, 2024.

Michelle Edwards, City Clerk

Approved by me, the Mayor of the City of Terre Haute, this ____ day of _____, 2024.

Brandon Sakbun, 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
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

COPY
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 GENTLEMEN:

The undersigned, M Three Holdings, LLC, respectfully submits this Petition to rezone the following described real estate in the City of Terre Haute, County of Vigo, Indiana, to wit:

A part of the Southwest Quarter of the Southwest Quarter of Section 2, Township 12 North, Range 9 West of the Second Principal Meridian, Harrison Township, Vigo County, in the City of Terre Haute, Indiana, more particularly described as follows:

Commencing at the Northeast corner of said quarter quarter (a 1" Iron Pipe, found); thence South 00 degrees 01 minutes 10 seconds West (assumed bearing), basis of all bearings is the East line of the southwest quarter of Section 2 being assumed a north-south line through existing monuments (stones) and the East line of said quarter quarter as established by Iron Pipes set by George Fisk survey of July 20, 1955, a distance of 217.8 feet to a 1" Iron Pin (previously set), the point of beginning of this description; thence continuing on the East line of said quarter quarter on a bearing of South 00 degrees 01 minute 10 seconds West a distance of 89.605 feet to a 1" Iron Pin (previously set); thence South 89 degrees 32 minutes 41 seconds West 273.41 feet to a P.K. Nail (previously set) in the centerline of Lafayette Avenue as presently laid out (by existing monuments at 25th Street and Lafayette Avenue and Ft. Harrison Road and Lafayette Avenue); thence along the centerline of Lafayette Avenue on a bearing of North 31 degrees 41 minutes 30 seconds East a distance of 106.53 feet to a P.K. Nail (previously set); thence North 89 Degrees 41 minutes 06 seconds East a distance of 217.47 feet to the point of beginning. Containing 0.5067 acres (22,073.21 square feet). Subject to a road right of way for Lafayette Avenue off the west side thereof.

ALSO

COPY

A part of the Southwest Quarter of the Southwest Quarter of Section 2, Township 12 North, Range 9 West of the Second Principal Meridian, Harrison Township, Vigo County, in the City of Terre Haute, Indiana, more particularly described as follows:

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ALSO

Commencing at a point which is 127.8 feet South and 16 feet West of the Northeast corner of the Southwest Quarter (1/4) of the Southwest Quarter (1/4) of Section 2, Township 12 North, Range 9 West; thence running South 90 feet; thence running due West 200.8 feet to the centerline of the Lafayette Road of United States Highway #41; thence North 31 degrees and 45 minutes East along the centerline of said Highway 107 feet; thence due East 145.1 feet to the place of beginning.

Subject to all easements, restrictive covenants, agreements, restrictions, and all matters of record or which would be disclosed by an accurate inspection and an ALTA survey of the Real Estate.

Parcel Nos.: 84-06-02-352-003.000-002
84-06-02-352-002.000-002

Commonly known as: 2121 & 2145 Lafayette Ave., Terre Haute, IN 47804

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 (A) C-2 Community Commerce District and (B) C-1 Neighborhood Commerce District.

COPY

Your Petitioner intends to take the existing property and intends to build a new Qdoba restaurant. Your Petitioner would request that the real estate described herein shall be zoned as a C-3 Regional Commerce District.

Your Petitioner would allege that the C-3 Regional Commerce District would not alter the general characteristics of this neighborhood since there are other restaurants in the 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-3 Regional 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 owner 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 1st day of November, 2024.

PETITIONER:

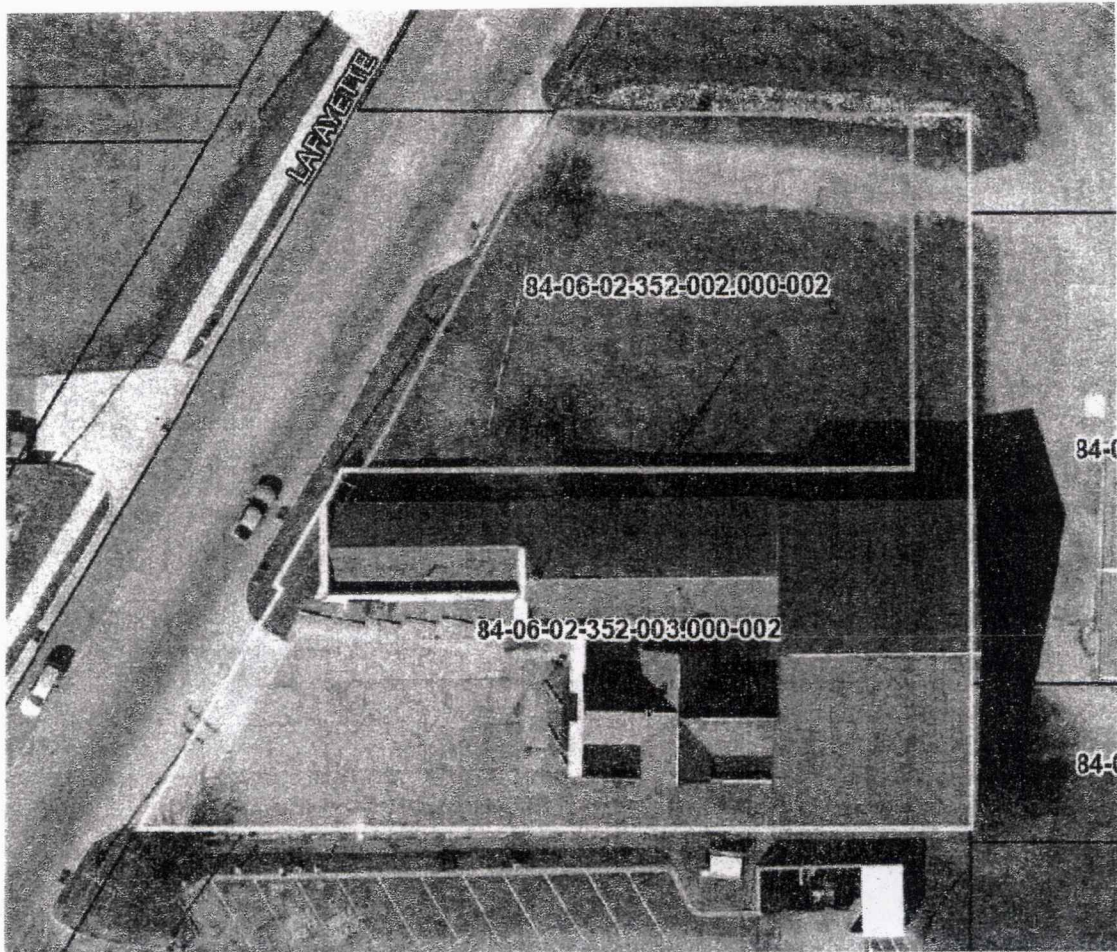


Trey Miller, Member of M Three Holdings, LLC

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.

COPY

SITE PLAN
SPECIAL ORDINANCE NO. 39, 2024



(A) 2121 Lafayette Ave., Terre Haute, Indiana 47804
Parcel No. 84-06-02-352-003.000-002

(B) 2145 Lafayette Ave., Terre Haute, Indiana 47804
Parcel No. 84-06-02-352-002.000-002

(A) C-2 Community Commerce District and
(B) C-1 Neighborhood Commerce District
to
C-3 Regional Commerce District

Proposed Use: Qdoba Restaurant

STATE OF INDIANA
COUNTY OF VIGO

) SS:
)

COPY

AFFIDAVIT

Comes now Trey Miller, member of M Three Holdings, LLC, being duly sworn upon his oath, deposes and says:

1. That M Three Holdings, LLC, 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:

A part of the Southwest Quarter of the Southwest Quarter of Section 2, Township 12 North, Range 9 West of the Second Principal Meridian, Harrison Township, Vigo County, in the City of Terre Haute, Indiana, more particularly described as follows:

Commencing at the Northeast corner of said quarter quarter (a 1" Iron Pipe, found); thence South 00 degrees 01 minutes 10 seconds West (assumed bearing), basis of all bearings is the East line of the southwest quarter of Section 2 being assumed a north-south line through existing monuments (stones) and the East line of said quarter quarter as established by Iron Pipes set by George Fisk survey of July 20, 1955, a distance of 217.8 feet to a 1" Iron Pin (previously set), the point of beginning of this description; thence continuing on the East line of said quarter quarter on a bearing of South 00 degrees 01 minute 10 seconds West a distance of 89.605 feet to a 1" Iron Pin (previously set); thence South 89 degrees 32 minutes 41 seconds West 273.41 feet to a P.K. Nail (previously set) in the centerline of Lafayette Avenue as presently laid out (by existing monuments at 25th Street and Lafayette Avenue and Ft. Harrison Road and Lafayette Avenue); thence along the centerline of Lafayette Avenue on a bearing of North 31 degrees 41 minutes 30 seconds East a distance of 106.53 feet to a P.K. Nail (previously set); thence North 89 Degrees 41 minutes 06 seconds East a distance of 217.47 feet to the point of beginning. Containing 0.5067 acres (22,073.21 square feet). Subject to a road right of way for Lafayette Avenue off the west side thereof.

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Subject to all easements, restrictive covenants, agreements, restrictions, and all matters of record or which would be disclosed by an accurate inspection and an ALTA survey of the Real Estate.

Parcel Nos.: 84-06-02-352-003.000-002
84-06-02-352-002.000-002

Commonly known as: 2121 & 2145 Lafayette Ave., Terre Haute, IN 47804-

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 Affiant makes this Affidavit for the sole purpose of affirming that M Three Holdings, LLC, 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

COPY

Petition to Rezone Real Property as filed by Trey Miller, member of M Three Holdings, LLC.

4. Further, Affiant saith not.

Dated at Terre Haute, Indiana this 1st day of November, 2024.

Trey Miller
Trey Miller, Member of M Three Holdings LLC

STATE OF INDIANA)
) SS:
COUNTY OF VIGO)

SUBSCRIBED AND SWORN TO before me, a Notary Public in and for said County and State, this 1st day of November, 2024.



Julie R. Baysinger
Julie R. Baysinger Notary Public

My Commission expires: 9-24-2028

My County of Residence: Vermillion

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.

ENTERED FOR TAXATION
Subject to final acceptance for Transfer

COPY

2024009116 WD \$25.00
8/23/2024 9:19:33 AM 4 PGS
Diana Winsted-Smith
VIGO County Recorder IN
Recorded as Presented

AUG 23, 2024 MM

James W. Brumwell

VIGO COUNTY AUDITOR



LIMITED LIABILITY COMPANY WARRANTY DEED

THIS INDENTURE WITNESSETH that **JFC Holdings II, LLC**, a limited liability company, organized and existing under the laws of the State of Indiana (hereinafter referred to as Grantor), for and in consideration of the payment of One Dollar (\$1.00) and other good and valuable consideration, the receipt whereof is hereby acknowledged, hereby CONVEYS, GRANTS and WARRANTS to **M Three Holdings, LLC**, (hereinafter referred to as Grantee), of the State of Indiana, the following described real estate in Vigo County in the State of Indiana, to-wit:

A part of the Southwest Quarter of the Southwest Quarter of Section 2, Township 12 North, Range 9 West of the Second Principal Meridian, Harrison Township, Vigo County, in the City of Terre Haute, Indiana, more particularly described as follows:

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Subject to all easements, restrictive covenants, agreements, restrictions, and all matters of record or which would be disclosed by an accurate inspection and an ALTA survey of the Real Estate.

Parcel Nos.: 84-06-02-352-003.000-002
84-06-02-352-002.000-002

Commonly known as: 2121 & 2145 Lafayette Ave., Terre Haute, IN 47804-2917

Taxes shall be prorated to the date of deed.

Subject to any and all covenants, conditions, restrictions, ordinances, by-laws, easements, leases and other matters of record affecting title to the subject real estate, as well as rights of way for drainage tiles, ditches, feeders and laterals, if any.

As a further consideration of the payment of the above sum, the person(s) executing this deed on behalf of Grantor represent and certify, for the purpose of inducing Grantee to accept this Warranty Deed, that they have been fully empowered by the Articles of Organization of Grantor and proper resolution of Grantor to execute and deliver this deed; that Grantor has full capacity to convey the real estate conveyed by this instrument and that all necessary action for the making of such conveyance has been taken; Grantor further states under oath that no Indiana gross income tax is due or payable with respect to the transfer of the above-described real estate.

COPY

Grantor states that the above-described real estate is not "property" as defined by I.C. 13-11-2-174 and that the above-described real estate does not contain facilities that are subject to reporting under Section 312 of the federal Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. 11022) and is not the site of underground storage tanks for which notification is required under 42 U.S.C. 8991a or L.C. 13-23-1-2(c)(8)(A) and is not listed on the Comprehensive Environmental Response System (CERLIS) in accordance with Section 116 of CERCLA (42 U.S.C. 9616), and that, consequently, no disclosure document under Indiana Code 13-25-3-1 et seq. (Indiana Responsible Transfer Law) is required for this transaction.

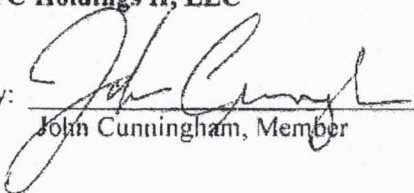
This conveyance is being made pursuant to Section IC 23-18-9-3 of the Indiana Code as part of the process of winding up the affairs of JFC Holdings, II, LLC, an Indiana Limited Liability Company, which has been administratively dissolved.

DATED this 22 day of August, 2024.

IN WITNESS WHEREOF, James Cunningham, the authorized Member of JFC Holdings II, LLC, has caused this deed to be executed in its name on this 22 day of August, 2024.

JFC Holdings II, LLC

By:

 member
John Cunningham, Member

COPY

STATE OF Indiana)
COUNTY OF Vigo) SS:

Before me, the undersigned, a Notary Public in and for said County and State, this 22 day of August, 2024, personally appeared James Cunningham, the authorized Member of JFC Holdings II, LLC, and acknowledged and affirmed the execution of the foregoing deed.

In witness whereof, I have hereunto subscribed my name and affixed my official seal.

My Commission Expires:
5-11-2029



Cari Hunt
Notary Public
Printed: Cari Hunt
Residing in Vigo County

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.

Cari Hunt

Mail Tax Statements To Grantee at:

Mail Deed To: Integrity Title Services, 1532 Wabash Ave., Terre Haute, IN 47807.

This instrument was prepared by: John Gurchiek of GURCHIEK LAW, INC., P.O. Box 6327, Fishers, IN 46038, at the specific request of the parties of their authorized representatives based solely on information supplied by one or more of the parties to this conveyance. 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 this instrument.
CMT: 24 06102