

TERRE HAUTE
A LEVEL ABOVE

FILED
MAR 01 2013
CITY CLERK

APPLICATION FOR REZONING PETITION .CITY OF TERRE HAUTE

SPECIAL ORDINANCE NO. 5

COMMON ADDRESS OF LOTS TO BE REZONED:

2119, 2131, 2139 and 2149 Tippecanoe St., Terre Haute, IN 47807

Current Zoning: R-3 Apartments

Requested Zoning: C-2 Community Commerce District

Proposed Use: restaurant/bar/dance hall

Name of Owner: Curtis D. Phillips

Address of Owner: 2415 Liberty Avenue, Terre Haute IN 47807

Phone Number of Owner: 812-201-7681

Attorney Representing Owner: Rhonda D. Oldham

Address of Attorney: 191 Harding Avenue, Terre Haute, IN 47807

Phone Number of Attorney: 812-238-2421

For Information Contact: Rhonda D. Oldham

Council Sponsor: Neil Garrison

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

SPECIAL ORDINANCE NO. 5 2013

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 10-12 1, thereof, District Maps, is hereby amended to read as follows:

Lot 16 and 10 feet off the East side of Lot 15. Also Thirty (30) feet off of the West side of Forty (40) feet off of the East side of Lot Number Fifteen (15) in Block Five (5) in Burnam's Subdivision of Lot Number Seven (7) in Linton and Madrigal's Subdivision of part of the West Half of Section Twenty-three (23), Township Twelve (12) North, Range Nine (9) West, described to wit: Beginning at the North East corner of said Lot 16 Burnam's Subdivision South to Southeast corner of said Lot 16 Burnam's Subdivision, 140.15 feet West on South line 100.14 feet to corner of Grantor's land, North 140.13 feet; East 100.13 feet to beginning. Also commencing at the North East corner Lot 16 Burnam's Subdivision West along South line Tippecanoe Street to a point 30 feet East of the West line of Lot 14, 150.39 feet and the place of beginning, South 140.12 feet to a point 150.42 feet West of the South East corner Lot 16; West 113.55 feet North 140.11 feet to a point 263.94 West of North East corner Lot 16 East to beginning.

Also

The East ½ of Lot 14 and Twenty (20) feet off the West side of Lot 15 in Block Five (5) in Burnam's Subdivision in Linton and Madrigal's Subdivision of a part of the West Half (1/2) of Section Twenty-three (23), Township Twelve (12) North, of Range Nine (9) West in Terre Haute.

Parcel #'s: 84-06-23-108-002.000-002, 84-06-23-108-010.000-002 and 84-06-23-108-012.000-002.

Commonly known as 2119, 2131, 2139 & 2149 Tippecanoe St., Terre Haute, IN 47807

be and the same is, hereby established as a C-2 Community Commerce District 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.

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 the City of Terre Haute, and its approval by the Mayor and publications as by law provided.

Presented by Council Member, _____
Neil Garrison, Councilperson

Passed in open Council this ____ day of _____, 2013.

Norm Loudermilk, President

Defeated

ATTEST:

Charles P. Hanley, City Clerk

Presented by me to the Mayor of the City of Terre Haute, this ____ day of _____, 2013.

Charles P. Hanley, City Clerk

Approved by me, the Mayor of the City of Terre Haute, this ____ day of _____, 2013.

Duke A. Bennett, Mayor


ATTEST:

Charles P. Hanley, City Clerk

This instrument prepared by:

Rhonda D. Oldham, OLDHAM LAW P.C., 191 Harding Av., Terre Haute, IN 47807

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.



Rhonda D. Oldham

PETITION TO REZONE REAL PROPERTY # 5

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, Curtis D. Phillips, respectfully submits this Petition to rezone the following described real estate in the City of Terre Haute, County of Vigo, Indiana, to wit:

Lot 16 and 10 feet off the East side of Lot 15. Also Thirty (30) feet off of the West side of Forty (40) feet off of the East side of Lot Number Fifteen (15) in Block Five (5) in Burnam's Subdivision of Lot Number Seven (7) in Linton and Madrigal's Subdivision of part of the West Half of Section Twenty-three (23), Township Twelve (12) North, Range Nine (9) West, described to wit: Beginning at the North East corner of said Lot 16 Burnam's Subdivision South to Southeast corner of said Lot 16 Burnam's Subdivision, 140.15 feet West on South line 100.14 feet to corner of Grantor's land, North 140.13 feet; East 100.13 feet to beginning. Also commencing at the North East corner Lot 16 Burnam's Subdivision West along South line Tippecanoe Street to a point 30 feet East of the West line of Lot 14, 150.39 feet and the place of beginning, South 140.12 feet to a point 150.42 feet West of the South East corner Lot 16; West 113.55 feet North 140.11 feet to a point 263.94 West of North East corner Lot 16 East to beginning.

Also

The East ½ of Lot 14 and Twenty (20) feet off the West side of Lot 15 in Block Five (5) in Burnam's Subdivision in Linton and Madrigal's Subdivision of a part of the West Half (1/2) of Section Twenty-three (23), Township Twelve (12) North, of Range Nine (9) West in Terre Haute.

Parcel #'s: 84-06-23-108-002.000-002, 84-06-23-108-010.000-002 and 84-06-23-108-012.000-002.

Commonly known as 2119, 2131, 2139 & 2149 Tippecanoe St., Terre Haute, IN 47807

Your petitioner is informed and believes that in accordance with Chapter 10, Article 2 of the Municipal Code designated as "Comprehensive Zoning Ordinance for Terre Haute, Indiana," the above-described real estate is now zoned as R-3 Apartments.

Your petitioner would respectfully state that the real estate is now R-3 Apartments. Your petitioner intends to use the real estate as a restaurant/bar/dance hall.

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 Community Commerce District would not alter the general characteristics of this neighborhood.

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

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

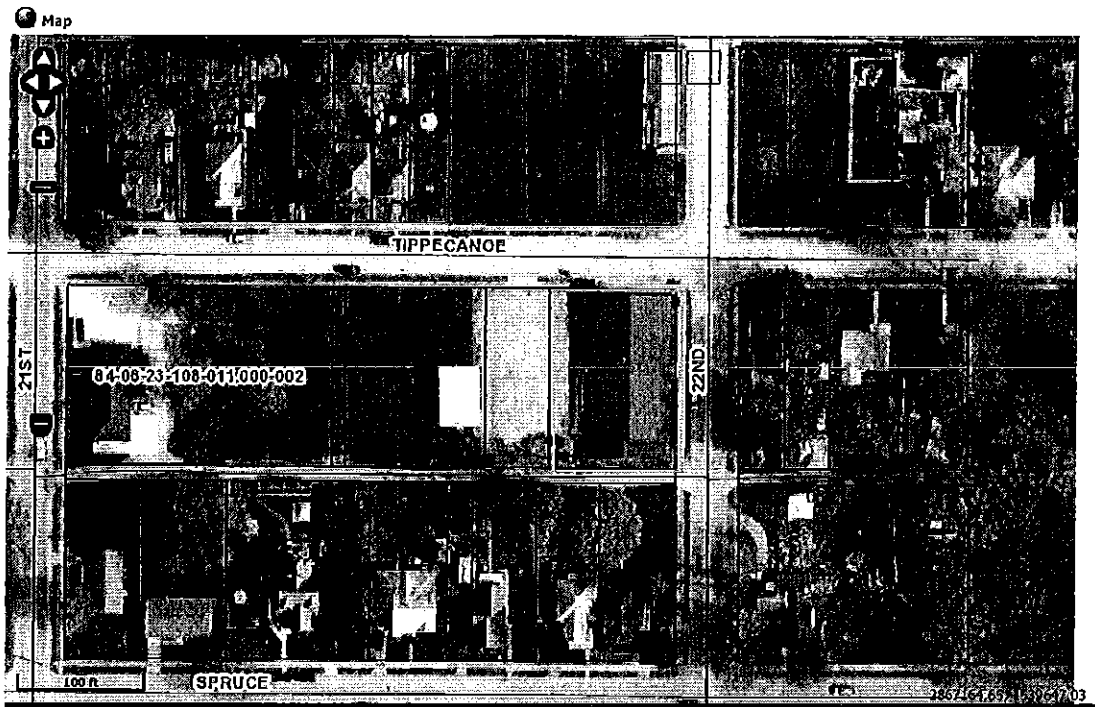
IN WITNESS WHEREOF, This petition has been duly executed this 28 day of FEBRUARY, 2013.

BY: Curtis D. Phillips
Curtis D. Phillips

PETITIONER: Curtis D. Phillips, 2415 Liberty Avenue, Terre Haute IN 47807

This instrument was prepared by:

Rhonda D. Oldham, OLDHAM LAW P.C., 191 Harding Av., Terre Haute, IN 47807



Parcel ID	84-06-23-108-010.000-002	Alternate ID	118-06-23-108-010	Owner Address	PHILLIPS CURTIS D
Sec/Twp/Rng	n/a	Class	Com Restaurant/cafe/bar		2415 LIBERTY AVENUE
Property Address	2149 TIPPECANOE ST	Acreage	n/a		TERRE HAUTE, IN 47807
	TERRE HAUTE				
District	002 HARRISON				
Brief Tax Description	BURNAMS SUB IN L & M 40' E-15				
	381/433 23-12-9 LOTS 15-16 B 5				
	(Note: Not to be used on legal documents)				

Last Data Upload: 2/28/2013 4:58:03 AM

CERTIFIED
TRUE COPY *DLH*

2010010835 SWD \$20.00
08/20/2010 02:43:02P 3 PGS
NANCY S. ALLSUP
VIGO County Recorder IN
Recorded as Presented



DULY ENTERED FOR TAXATION
Subject to final acceptance for transfer

AUG 20 2010

Timothy M. Allsup
VIGO COUNTY AUDITOR

**SPECIAL WARRANTY DEED
INDIANA**

THIS INDENTURE, made as of the 19th day of August, 2010 by and between FIFTH THIRD BANK, an Ohio banking corporation, with an address of 1830 East Paris Avenue, Grand Rapids, Michigan 49546 ("Grantor") to and in favor of CURTIS D. PHILLIPS, an individual, with an address of 2415 Liberty Avenue, Terre Haute, Indiana 47807 ("Grantee");

WITNESSETH, that the Grantor, for and in consideration of the sum of \$130,000.00 and other good and valuable consideration in hand paid by the party of the second part, the receipt whereof is hereby acknowledged, and pursuant to authority of the Officers of said Company, by these presents does REMISE, RELEASE, ALIENATE AND CONVEY unto the Grantee and to its heirs and assigns, FOREVER, the real estate, situated in the Vigo County, State of Indiana, described as follows:

[SEE ATTACHED LEGAL DESCRIPTION]

commonly known as: 2149 Tippecanoe Street, Terre Haute, Indiana

Parcels: 84-06-23-108-010.000-002 / 84-06-23-108-002.000-002 /
84-06-23-108-012.000-002 / 84-06-23-108-013.000-002

together with all the hereditaments and appurtenances thereunto belonging, or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof, and all the estate, right, title, interest, claim or demand whatsoever, of the Grantor, either in law or equity, of, in and to the above described premises, subject to all easements, encroachments, and encumbrances of record.

TO HAVE AND TO HOLD the said premises as above described, with the appurtenances, unto the Grantee, his successors and assigns forever.

The undersigned person(s) executing this Deed on behalf of Grantor represent and certify that they are duly elected Officer(s) of Grantor and have been fully empowered, by proper 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.

And Grantor, for itself and its successors does covenant, promise and agree, to and with Grantee, Grantee's heirs and assigns, that Grantor has not done or suffered to be done anything whereby the Premises hereby granted are, or may be, in any manner encumbered or charged, except as herein recited; and that Grantor will warrant and forever defend title to the Premises, against all persons lawfully claiming or who may claim the same, by, through or under Grantor but not otherwise.

The warranties passing to Grantees hereunder are limited solely to those matters arising from acts of the Grantor, its agents or representatives, occurring solely during the period of Grantor's ownership of the subject real estate.

And the Grantor, does hereby covenant to warrant to defend said real estate against any and all acts done, suffered, or permitted by the Grantor and against the lawful claim of any person or persons claiming under or through the Grantor, subject to as aforesaid.

TO HAVE AND TO HOLD the said premises as above described, with the appurtenances, unto the Grantee, its successor and assigns forever.

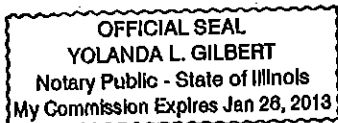
IN WITNESS WHEREOF, Grantor has caused its name to be signed to these presents by its Officer the day and year first above written.

FIFTH THIRD BANK

Matthew Kirchner
By: Matthew Kirchner
Its: Vice President

STATE OF Illinois)
COUNTY OF Cook) ss.

On this 19th day of August, 2010, before me personally appeared Matthew Kirchner, Vice President of Fifth Third Bank, to me known to be the person(s) described in and who executed the foregoing instrument and acknowledged that he has executed the same as a free act and deed.



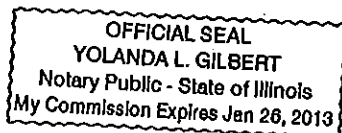
Yolanda L. Gilbert
Notary Public, Cook County, IL
Acting in Cook County, IL
My Commission Expires: January 26, 2013

FIFTH THIRD BANK

Casey Gehrig
By: Casey Gehrig
Its: Assistant Vice President

STATE OF Illinois)
COUNTY OF Cook) ss.

On this 19th day of August, 2010, before me personally appeared Casey Gehrig, Assistant Vice President of Fifth Third Bank, to me known to be the person(s) described in and who executed the foregoing instrument and acknowledged that he has executed the same as a free act and deed.



Yolanda L. Gilbert
Notary Public, Cook County, IL
Acting in Cook County, IL
My Commission Expires: January 26, 2013

Prepared by:

Peter D. Rhoades, Esq.
The Rhoades Law Office PC
P O Box 2271
Holland MI 49422
616-355-7318

Return to After Recording/Send Further Tax Bills to Grantee:

Curtis D. Phillips
2415 Liberty Avenue
Terre Haute IN 47807

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.

Daryl L. Mc Cleary
Daryl L. Mc Cleary

Exhibit A
Legal description

Lot 16 and 10 feet off the East side of Lot 15. Also Thirty (30) feet off of the West side of Forty (40) feet off of the East side of Lot Number Fifteen (15) in Block Five (5) in Burnam's Subdivision of Lot Number Seven (7) in Linton and Madrigal's Subdivision of part of the West Half of Section Twenty-three (23), Township Twelve (12) North, Range Nine (9) West, described to wit: Beginning at the North East corner of said Lot 16 Burnam's Subdivision South to Southeast corner of said Lot 16 Burnam's Subdivision South to Southeast corner of said Lot 16, 140.15 feet West on South line 100.14 feet to corner of Grantor's land, North 140.13 feet; East 100.13 feet to beginning. Also commencing at the North East corner Lot 16 Burnam's Subdivision West along South line Tippecanoe Street to a point 30 feet East of the West line of Lot 14, 150.39 feet and the place of beginning, South 140.12 feet to a point 150.42 feet West of the South East corner Lot 16; West 113.55 feet North 140.11 feet to a point 263.94 West of North East corner Lot 16 East 1213.55 feet to beginning.

Also

The East $\frac{1}{2}$ of Lot 14 and Twenty (20) feet off the West side of Lot 15 in Block Five (5) in Burnam's Subdivision in Linton and Madrigal's Subdivision of a part of the West Half ($\frac{1}{2}$) of Section Twenty-three (23), Township Twelve (12) North, of Range Nine (9) West in Terre Haute.

Also

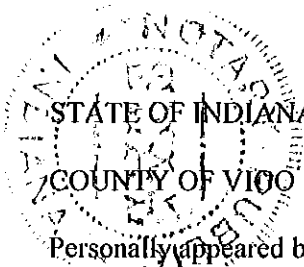
Commencing at the Northeast corner of Lot Sixteen (16) in Block Five (5) of Burnam's Subdivision of Lot Number Seven (7) in Linton and Madrigal's Subdivision of part of the West Half ($\frac{1}{2}$) of Section Twenty-three (23), Township Twelve (12) North, Range Nine (9) West; thence West along the South line of Tippecanoe Street 263.94 feet to place of beginning, thence South 140.11 feet; thence West 6.45 feet; thence North 140.11 feet to a point 30 feet East of the North West corner of Lot Twelve (12); thence East 6.45 feet to beginning.

AFFIDAVIT OF:

COMES NOW affiant, Curtis D. Phillips and affirms under penalty of law that affiant is the owner of record of the property located at 2119 Tippecanoe St., 2131 Tippecanoe St., 2139 Tippecanoe St. and 2149 Tippecanoe St., all in Terre Haute, IN 47807 for which a rezoning is requested and hereto a copy of the deed is attached evidencing such ownership.

I affirm under penalty for perjury, that the foregoing representations are true.

Curtis D. Phillips
Curtis D. Phillips



Personally appeared before me, a Notary Public in and for said County and State, Curtis D. Phillips who acknowledged the execution of the above and foregoing, after being duly sworn upon his oath and after having read this Affidavit.

WITNESS my hand and notarial seal, this 28 day of February, 2013.

Notary Public: Marlene H. Turner My Commission Expires: 12-27-17
Marlene H. Turner My County Of Residence: Vigo
Printed

Receipt

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

Date: March 1, 2013

Name: Oldham Law

Reason: Rezoning Filing \$25 C. Phillips
Rezoning Petition \$20

TERRE HAUTE, IN
PAID

Cash: _____

MAR 01 2013

Check: \$45.00 CR# 1152

CONTROLLER

Credit: _____

Total: \$45.00

Received By: M. Dowell