



APPLICATION FOR REZONING PETITION - CITY OF TERRE HAUTE

SPECIAL ORDINANCE NO. 22

COMMON ADDRESS OF LOTS TO BE REZONED:

4361 E. Wabash Avenue, Terre Haute, IN 47803

Current Zoning: R1, Single Family Residential Development

Requested Zoning: C1, Neighborhood Commerce District

Proposed Use: Dental Office

Name of Owner: Cathy J. Long

Address of Owner: 1823 S. 32nd Street, Terre Haute, IN 47803

Phone Number of Owner: 812-201-5626

Attorney Representing Owner (if any): N/A

Address of Attorney: N/A

Phone Number of Attorney: N/A

For Information Contact: Dr. Luke Staley – 812-249-5704

Council Sponsor: O. Earl Elliott

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

FILED

MAY 03 2017

SPECIAL ORDINANCE FOR A REZONING

SPECIAL ORDINANCE NO. 22, 2017

CITY CLERK

An Ordinance Amending Chapter 10, Article 2 of the Municipal Code designated as "Comprehensive Zoning Ordinance for Terre Haute, Indiana."

SECTION 1. BE IT ORDAINED BY THE COMMON COUNCIL of the City of Terre Haute, Vigo County, State of Indiana, that Chapter 10, Article 2 of the City Code of Terre Haute, designated as the " Comprehensive Zoning Ordinance for Terre Haute" and Division 4, Section 10.121 thereof, District Maps, be, and the same is hereby amended to include as follows:

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

A parcel of land located in the North West quarter of the Section 19, Township 12 North, Range 8 West, lying South of U.S. Highway 40, and more fully described as follows: Beginning at a point 125 feet South of the South right-of-way line of U.S. 40 and 249.08 feet Easterly of the West line of the Section 19, Township 12 North, Range 8 West; thence Easterly along a line 125 feet south of and parallel to the south line of U.S. 40, a distance of 40 feet; thence south along a line having an angle west to south of 84 degrees 02 minutes a distance of 100 feet; thence westerly along a line 225 feet south of and parallel to the south line of U.S. 40, a distance of 40 feet; thence north 100 feet to the place of beginning.

Together with a right of way and easement for passage and re-passage over that strip of ground lying between United States Highway No. 40 and the above described real estate, which strip of ground is 40 feet east and west and 125 feet north and south and adjoins the above conveyed real estate on the North.

Also

A parcel of land Located in the North West quarter of the Section 19, Township 12 North, Range 8 West, lying South of U.S. Highway 40 and more fully described as follows: Beginning at a point 125 feet South of the South right-of-way line of U.S. 40 and 229.08 feet Easterly of the West line of the Section 19, Township 12 North, Range 8 West; thence Easterly along a line 125 feet south of and parallel to the south line of U.S. 40 a distance of 20 feet; thence south along a line having an angle west to south of 84 degrees 02 minutes, a distance of 100 feet, thence Westerly along a line 225 feet South of and parallel to the South line of U.S. 40 a distance of 20 feet, thence North 100 feet to the place of beginning.

Together with a right of way and easement for passage and repassage over that strip of ground lying between U.S. Highway 40 and the above described real estate, which strip of ground is 170 feet East and West and 125 feet North and South and adjoins the above conveyed real estate on the North.

Also

A parcel of land Located in the North West quarter of the Section 19, Township 12 North, Range 8 West, lying South of United States Highway No. 40, and bounded and described as follows, to-wit:

Beginning at a point in the south right-of-way line of United States Highway No. 40, 289.08 feet easterly from the point where said south right-of-way line intersects the west line of said Section 19, Township 12 North, Range 8 West; running thence westerly along the said south right-of-way line for a distance of 60 feet; running thence south along a line having an angle west to south of 84 degrees to 2 minutes for a distance of 125 feet; running thence in an easterly direction on a line parallel with the south boundary line of 60 feet; running thence north to the place of beginning;

Subject to an easement over said parcel of land in favor of the public in general for passage and repassage thereover for ingress and egress from United States Highway No. 40 to lands immediately adjoining said parcel of land on the south and west thereof.

Also

A parcel of land located in the Northwest Quarter of the Section 19, Township 12 North, Range 8 West, in Vigo County, Indiana, and lies south of U.S. Highway No. 40 and east of the Beecher Road, also known as Kean Lane, and being more particularly described as follows: Beginning at a point 187 feet eastwardly of the east line of the Beecher Road and 400 feet south of the south right of way line of U.S. Highway No. 40, thence North a distance of 400 feet to the south right of way line of U. S. Highway No. 40, which point is 187 feet eastwardly along the south right of way line of said U.S. Highway No. 40 a distance of 17.5 feet, thence south along a line parallel to the Beecher Road a distance of 400 feet, thence westwardly along a line parallel to U.S. Highway No. 40 a distance 17.5 feet to the place of beginning

Subject to any right of ways or easements now of record on a strip of ground 125 feet north and south, which strip of ground lies immediately south of U.S. Highway No. 40 and immediately east of Beecher Road.

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A parcel of land located in the Northwest Quarter of the Section 19, Township 12 North, Range 8 West, lying south of United States Highway No. 40, and bounded and described as follows, to-wit:

Beginning at a point 225 feet south of the south right-of-way line of United States Highway No. 40 and located on a line running in an easterly direction, parallel with said south right-of-way line at a distance of 289.08 feet easterly from where such line intersects the west line of said Section 19, Township 12 North, Range 8 West; running thence in a westerly direction along a line 225 feet south of and parallel to the south right-of-way line of said United States Highway No. 40 for a distance of 60 feet; running thence south along a line having an angle, west to south of 84 degrees and 2 minutes for a distance of 175 feet; running thence easterly along a line parallel to the south

right-of-way line United States Highway No. 40 for a distance of 60 feet; running thence north for a distance of 175 feet to the place of beginning.

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Beginning at a point in the South right -of-way line of United States Highway No. 40, 294.08 feet easterly from the point where the said south right-of-way line intersects the west line of said Section 19, Township 12 North, Range 8 West; running thence Westerly along said south right-of-way line for a distance of five (5) feet; running thence south along a line having an angle of west to south of 84 degrees and 2 minutes for a distance of 400 feet, running thence in an easterly direction on a line parallel with the south boundary line of said United States No. 40 for a distance of 5 feet, running thence North to the place of beginning.

Commonly known as: 4361 E. Wabash Avenue, Terre Haute, Indiana 47803

Be and the same is hereby established as a C-1 Neighborhood 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 bit 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 O. Earl Elliott Council Member, O. Earl Elliott

Passed in Open Council this 9th day of June, 2017.

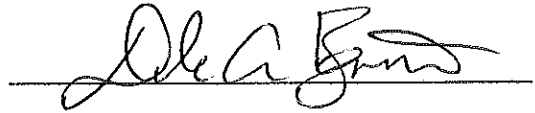
[Signature]
Karrum Nasser-President

ATTEST: [Signature]
Charles P. Hanley, City Clerk

Presented by me to the Mayor of the City of Terre Haute this 9th day of JUNE 2017.

[Signature]
Charles P. Hanley, City Clerk

Approved by me, the Mayor, this 9th day of JUNE, 2017.



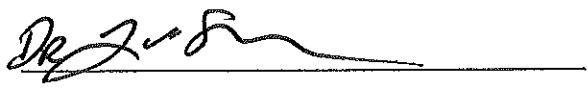
Duke Bennett, Mayor

ATTEST: 

Charles P. Hanley, City Clerk

This instrument prepared by: Cathy J. Long, 4361 E. Wabash Avenue, Terre Haute, Indiana 47803

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.



Dr. Luke William Staley

PETITION TO REZONE REAL PROPERTY

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

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

LADIES AND GENTLEMAN:

The undersigned, Cathy J. Long, respectfully submits this petition to rezone the following described real estate in the City of Terre Haute, County of Vigo, Indiana, to wit:

A parcel of land located in the North West quarter of the Section 19, Township 12 North, Range 8 West, lying South of U.S. Highway 40, and more fully described as follows: Beginning at a point 125 feet South of the South right-of-way line of U.S. 40 and 249.08 feet Easterly of the West line of the Section 19, Township 12 North, Range 8 West; thence Easterly along a line 125 feet south of and parallel to the south line of U.S. 40, a distance of 40 feet; thence south along a line having an angle west to south of 84 degrees 02 minutes a distance of 100 feet; thence westerly along a line 225 feet south of and parallel to the south line of U.S. 40, a distance of 40 feet; thence north 100 feet to the place of beginning.

Together with a right of way and easement for passage and re-passage over that strip of ground lying between United States Highway No. 40 and the above described real estate, which strip of ground is 40 feet east and west and 125 feet north and south and adjoins the above conveyed real estate on the North.

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Subject to an easement over said parcel of land in favor of the public in general for passage and re passage thereover for ingress and egress from United States Highway No. 40 to lands immediately adjoining said parcel of land on the south and west thereof.

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A parcel of land located in the Northwest Quarter of the Section 19, Township 12 North, Range 8 West, in Vigo County, Indiana, and lies south of U.S. Highway No. 40 and east of the Beecher Road, also known as Kean Lane, and being more particularly described as follows: Beginning at a point 187 feet eastwardly of the east line of the Beecher Road and 400 feet south of the south right of way line of U.S. Highway No. 40, thence North a distance of 400 feet to the south right of way line of U. S. Highway No. 40, which point is 187 feet eastwardly along the south right of way line of said U.S. Highway No. 40 a distance of 17.5 feet, thence south along a line parallel to the Beecher Road a distance of 400 feet, thence westwardly along a line parallel to U.S. Highway No. 40 a distance 17.5 feet to the place of beginning

Subject to any right of ways or easements now of record on a strip of ground 125 feet north and south, which strip of ground lies immediately south of U.S. Highway No. 40 and immediately east of Beecher Road.

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A parcel of land located in the Northwest Quarter of the Section 19, Township 12 North, Range 8 West, lying south of United States Highway No. 40, and bounded and described as follows, to-wit:

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

Commonly known as: 4361 E Wabash Ave, Terre Haute, Indiana 47803.

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

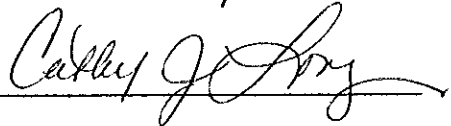
Your petitioner would respectfully state that the real estate is now business/beauty salon. Your petitioner intends to use the real estate to relocate his dental practice.

Your petitioner would request that the real estate described herein shall be zoned as C-1 Neighborhood Commerce District. Your petitioner would allege that the C-1 Neighborhood 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-1 Neighborhood 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 28th day of April, 2017.

BY: 

Cathy J. Long

PETITIONER: Cathy J. Long, 4361 E. Wabash Avenue, Terre Haute, Indiana 47803

This instrument was prepared by Cathy J. Long, 4361 E. Wabash Avenue. Terre Haute, Indiana 47803 (812) 201-5626.

AFFIDAVIT OF:

COMES NOW affiant Cathy J. Long

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

at 4361 E. Wabash Avenue, Terre Haute, IN 47803

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.

Cathy J. Long - d.b.a. Taylex Enterprises, Inc.
[Typed name of owner(s) on deed]

SIGNATURE: _____

Cathy J. Long

SIGNATURE: _____

STATE OF INDIANA)
SS: (COUNTY OF VIGO)

Personally appeared before me, a Notary Public in and for

said County and State, Vigo Co. Indiana

who acknowledges the execution of the above and foregoing, after being duly sworn upon his oath and after having read this Affidavit.

WITNESS my hand and notarial seal, this 28 day of April, 2017.

Notary Public:

Karin Marie Martinek

[Typed name]

My Commission Expires:

My County Of Residence:



WARRANTY DEED

This Indenture Witnesseth, That Lucille Taylor, of Vigo County, in the State of Indiana, CONVEYS and WARRANTS to Taylex Enterprises, Inc., of Vigo County, in the State of Indiana, for the sum of One and 00/100 Dollars (\$1.00) and other good and valuable consideration, the receipt whereof is hereby acknowledged, the following described REAL ESTATE in Vigo County, in the State of Indiana, to-wit:

A parcel of land located in the North West quarter of Section 19, Township 12 North, Range 8 West, lying South of U.S. Highway 40, and more fully described as follows: Beginning at a point 125 feet South of the South right-of-way line of U.S. 40 and 249.08 feet Easterly of the West line of Section 19, Township 12 North, Range 8 West; thence Easterly along a line 125 feet south of and parallel to the south line of U.S. 40, a distance of 40 feet; thence south along a line having an angle west to south of 84 degrees 02 minutes a distance of 100 feet; thence westerly along a line 225 feet South of and parallel to the south line of U.S. 40, a distance of 40 feet; thence north 100 feet to the place of beginning.

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

Subject to 1993 taxes, payable in 1994, prorated from the date hereof.

IN WITNESS WHEREOF, the said Lucille Taylor, has hereunto set her hand and seal, this 7th day of October, 1993.

Lucille Taylor (Seal)
Lucille Taylor

=====

STATE OF INDIANA)
) SS:
COUNTY OF VIGO)

Before me, the undersigned, a Notary Public in and for said County and State, this 7th day of October, 1993, personally appeared Lucille Taylor, and acknowledged this conveyance to be her voluntary act and deed.

In Witness Whereof, I have hereunto subscribed my name and affixed my official seal.



Mary Alice McCrisaken
Notary Public

Mary Alice McCrisaken
(printed name)

My commission expires:
June 7, 1995

My county of residence:
Vigo

Tax Duplicate sent to Grantees
Address 4361 East Wabash Avenue, Terre Haute, IN 47803

This instrument prepared by Robert D. Hepburn
Robert D. Hepburn, Attorney
COX, ZWERNER, GAMBILL & SULLIVAN, P.O. Box 1625, Terre Haute, IN 47808.

DULY ENTERED
FOR TAXATION

OCT 14 1993

Judith A. Anderson
AUDITOR VIGO COUNTY

RECEIVED FOR RECORD THE 14 DAY OF Oct 19 93 AT 11:00 O'CLOCK am
RECORD 438 PAGE 1497 NANCY BARNHART RECORDER



84-07-19-102-03 1.000-009

84-07-19-102-003.000-009

9-102-001.000-009

4-07-19-102-03 4.000-009

84-07-19-102-017.000-009

Receipt

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

Date: 5/3/17

Name: Cathy Long

Reason: <u>Rezoning - Notice of Filing</u>	<u>\$25.00</u>
<u>Rezoning - Petition</u>	<u>\$20.00</u>
	<u>\$45.00</u>

TERRE HAUTE, IN
PAID
MAY 11 2017
CONTROLLER

Cash: _____

Check: # 9237 45.00

Credit: _____

Total: \$45.00

Received By: L Ellis



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: June 8, 2017

REPORT TO THE CITY COUNCIL ON ZONING MAP AMENDMENT

THE VIGO COUNTY AREA PLAN COMMISSION HEREBY GIVES CERTIFICATION TO
SPECIAL ORDINANCE NUMBER #22-17

CERTIFICATION DATE: June 7, 2017

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. 22-17. This Ordinance is a rezoning of the property located at 4361 E. Wabash Avenue. The Petitioner, Cathy J. Long, petitions the Plan Commission to rezone said real estate from zoning classification R-1 to C-1, Neighborhood Commerce District, for a dental office/Dr. Luke Staley. 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. 22-17 at a public meeting and hearing held Wednesday, June 7, 2017. 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. 22-17 as required by IC 36-7-4-302. The Area Plan Commission of Vigo County now hereby attaches certification to Special Ordinance No. 22-17 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. 22-17 was FAVORABLE WITH THE FOLLOWING CONDITION: 1) Permission from City Engineer to allow the detached residence in the rear of the main office or BZA approval of the use of the detached structure as a residence.

Fred L. Wilson, President

Jared Bayler, Executive Director

Received this 8th day of June, 2017

STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: SO # 22-17

Doc: # 36

Date: June 7, 2017

Page 1 of 5

APPLICATION INFORMATION

Petitioner: Cathy J. Long /Dr. Luke Staley

Property Owner: Cathy J. Long

Representative: Same as above

Proposed Use: Dental Office

Proposed Zoning: C-1, Neighborhood Commerce District

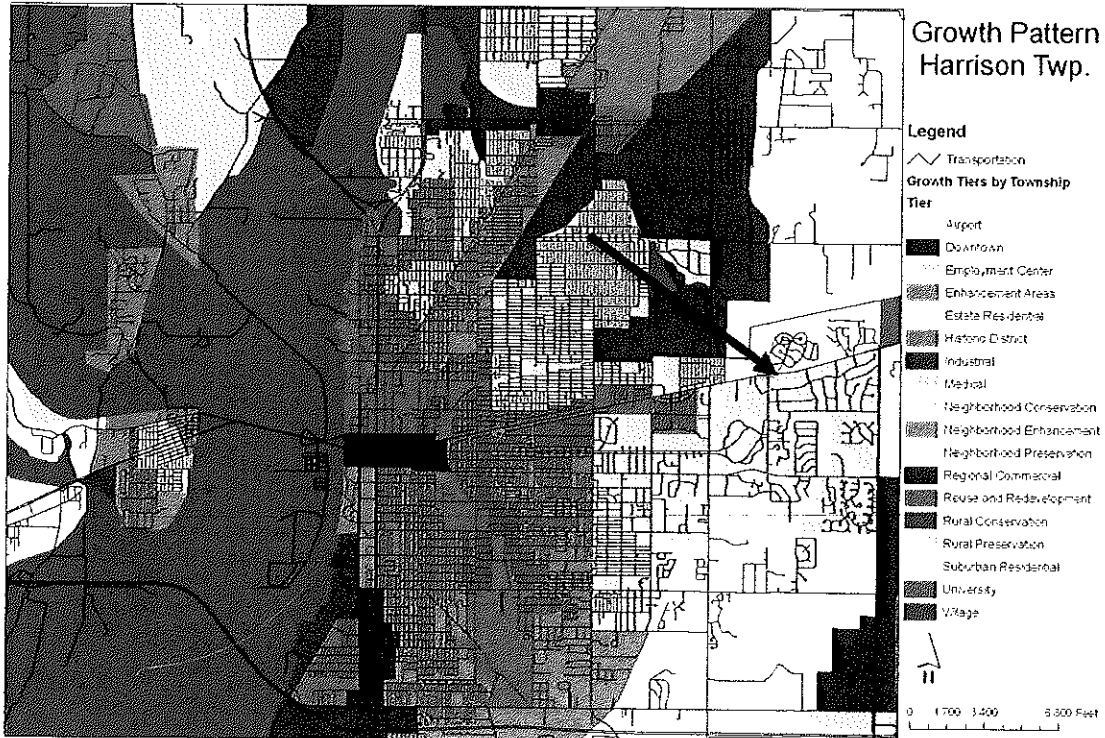
Current Zoning: R-1, Single Family Residential District

Location: The property is located on Wabash Ave. approximately 190 ft. east of Keane Lane

Common Address: 4361 E. Wabash Avenue, Terre Haute IN, 47803

COMPREHENSIVE PLAN GUIDANCE

Service Area: The City of Terre Haute



Neighborhood Conservation

These areas encompass neighborhoods with established and stable residential environments. The vast majority of these areas are fully developed (or expected to be in a relatively short timeframe). Fundamental directives urged for these areas encourage the maintenance of the residential desirability and stability. Where new infill development is proposed, it should be entirely consistent and compatible with pre-existing developments. However, special public attention may, in some cases, be required to assure that drainage, sidewalk improvements, and linkages to pedestrian and bicycle trails are made. Many of these neighborhoods may be excellent candidates for special assessment districts for neighborhood improvements and amenities.

In addition, these areas encompass existing retail activity nodes located throughout the community. In general, these commercial areas have evolved in an unplanned, largely uncoordinated manner along frontage of primary arterials. Within these commercial bands, a great variety of activities exist which target different markets. Some activities are oriented toward “drive-by” markets, fast food restaurants, convenience stores, gasoline stations, drive-in banking facilities, for example. Other activities are special-purpose, oriented to single trips rather than comparative multi-purpose shopping. These single purpose stores serve a market larger than a single neighborhood. Sales and service of automobiles, trucks, boats, recreational vehicles and related activities are special purpose region-serving activities. They require large site with good visibility. Finally, commercial areas include a range of neighborhood level retail activities including grocery stores, pharmacies, personal services such as hair styling, and other frequently purchased goods and services.

Additional policies for Neighborhood Conservation areas should include:

- Allow for a range of housing densities based on the zoning ordinance.
- Allow for a mix of uses, focusing on neighborhood and community serving commercial nodes.
- Encourage neighborhoods to develop a unique sense of place, but still be part of the larger city.
- Reuse of commercial oriented structure should be limited to retail activities that contribute to the diversity and variety of retail uses in a commercial node.
- With respect to existing commercial “strips” – i.e. narrow bands of commercial uses occupying major roadway frontage, the limitation of additional or new commercial uses is strongly advised.
- Geographic expansion of this commercial “strips” should be limited to the provision of additional space to ensure the compatibility with adjacent uses, not an intensification of use.
- Improved landscaping, improved pedestrian amenities, and increased attention to lighting, signage, and impacts upon nearby residential areas is advised in the review of development petitions.

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Available Services: Area is well served by utilities.

Soil Limitations: Not studied.

Street Access: Wabash Avenue

Dev. Priority: This area is high intensity residential

ZONING COMPATIBILITY

Sur. Zones and Uses: **North** – R-3, O-1

East – C-6, R-1

South – R-1

West – R-1, C-6

Character of Area: The petitioned property sits in the middle of C-6, Strip Business with R-1 Single Family homes behind property.

ZONING REGULATIONS

C-1 Purpose: The neighborhood commerce district is designed solely for use of persons residing in abutting residential neighborhoods to permit convenience shopping, and therefore such uses as are necessary to those limited basic shopping needs which occur daily or frequently so as to require shopping facilities in close proximity to places of residence are permitted.

C-1 Uses: Uses permitted in C-1, Community Commerce District are; Barber shops and Beauty shops; Branch banks and Business and professional offices, Clothes pressing establishments; Colleges and universities, but not business colleges or trade schools, Drug stores, Dry cleaning and laundry receiving stations where processing is to be done elsewhere, Grocery stores, meat markets, bakeries, delicatessens, food stores, Hardware stores, Hobby, art, and school supply stores, Ice storage for retail, Launderettes, automatic, self-service only, employing not more than two (2) persons in addition to one (1) owner or manager, provided that laundry machines shall not exceed sixteen (16) pounds capacity each, Nursery schools, non-boarding, in a single-story building.

C-1 Standards: Minimum Lot Size: 3,300 Sq. Ft.
 FAR 0.7 %
 Street Setback: 55 feet from centerline;
 Rear setback 11’;
 Interior setback of 5’ from the interior lot line;
 Office Space, Three (3) spaces per one thousand (1000) square feet
 of gross floor area.

FINDINGS and RECOMMENDATION

Staff Findings:

The petitioner has requested the Current R-1 zoning be changed to C-1 to allow for a dental office to operate at that location. The C-1 zoning is designed to be interwoven into residential areas. Most developmental restrictions for this zoning classification are minimal.

Table 4 Within the City Code requires 7 parking stalls per practitioner for dental offices. Sufficient parking should be available.

As there is to only be one practicing Dr. at this location, the definition of Clinic would not apply here. Medical and dental clinics are a listed use under the C-2 zoning. Instead this proposed use could be considered a professional office. As with most dental/professional offices traffic to and from will be slow but consistent. The trickle of traffic should not impact surrounding land uses.

C-1 in the city allows a residence to exist only the second floor of a commercial establishment (Sec. 10-207). Existing currently in the rear of the property is a detached structure being used as a residence. Permission from City Engineering for continued use of the detached structure as a residence must be provided or a BZA application for a variance approved.

There are some issues with the legal description for this location. Prescribed as starting on the south line of Hwy 40, 125 ft. north and south is described as an easement for passage and re-passage

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over that strip of ground. This issue is not one that impacts the rezoning but more a concern of the property owner. For the protection of the property owner this legal description should be corrected.

Recommendation: The staff gives a Favorable Recommendation with the following condition(s):

1. Permission from City Engineering to allow the detached residence in the rear of the main office or BZA approval of the use of the detached structure as a residence.