

SPECIAL ORDINANCE NO. 4, 2018

APPLICATION FOR REZONING PETITION CITY OF TERRE HAUTE

=====

Common Address of lots to be rezoned:
3212 and 3214 N. 14th Street, and
A Portion of Vacated Alley North of 3214 N. 14th Street
Terre Haute, Indiana 47804

Rezone From: R-1 Single-Family Residential District

Rezone To: C-2 Community Commercial District

Proposed Use: Retail Store

Name of Owners: Rumagon Enterprises, Inc.

Address of Owners: 1164 S. Ravine Street
Terre Haute, IN 47802

Phone Number of Owners: c/o Richard J. Shagley II
812-232-3388

Attorney Representing Owners: Richard J. Shagley II

Address of Attorney: Wright, Shagley & Lowery, P.C.
PO Box 9849, Terre Haute, IN 47808

For Information Contact: Owner Attorney

Council Sponsor: Karrum Nasser

=====

COPY OF A SITE-PLAN MUST ACCOMPANY THIS APPLICATION

FILED

APR 04 2018

CITY CLERK

**SPECIAL ORDINANCE FOR A REZONING
SPECIAL ORDINANCE NO. 4, 2018**

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:

Lots 30 and 31, in Fort Harrison Place, being a subdivision of part of the Northeast quarter of Section 10, Township 12 North, Range 9 West, as per recorded plat in Plat Record 13, page 28 in the Recorder's Office of Vigo County, Indiana.

Commonly known as: 3212 N. 14th Street, Terre Haute, Indiana 47804.

AND

Lots Number Thirty-two (32) and Thirty-three (33) in Fort Harrison Place, being a subdivision of part of the Northeast quarter of Section 10, Township 12 North, Range 9 West, as per recorded plat in Plat Record 13, page 28 in the Recorder's Office of Vigo County, Indiana.

Commonly known as: 3214 N. 14th Street, Terre Haute, Indiana 47804.

AND

A portion of a public alley in Fort Harrison Place, being a subdivision of part of the Northeast quarter of Section 10, Township 12 North, Range 9 West, as per recorded plat in Plat Record 13, page 28 in the Recorder's Office of Vigo County, Indiana, more particularly described as follows:

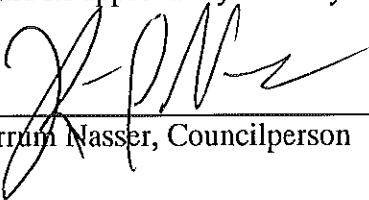
Commencing at a point at the Northwest corner of Lot 33 in Fort Harrison Place, being a subdivision of part of the Northeast quarter of Section 10, Township 12 North, Range 9 West, as per recorded plat in Plat Record 13, page 28 in the Recorder's Office of Vigo County, Indiana; thence East along the North boundary line of said Lot 33 to the Northeast corner of said Lot 33; thence North to the Southeast corner of Lot 1 in said Fort Harrison Place; thence West approximately 132 feet, more or less, along the South boundary line of Lots 1-4 in said Fort Harrison Place; thence South to the place of beginning.

Commonly known as: Portion of Vacated Alley North 3214 N. 14th Street,
Terre Haute, Indiana 47804.


Be and the same is hereby established as a C-2 Community Commercial 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,


Karrim Nasser, Councilperson

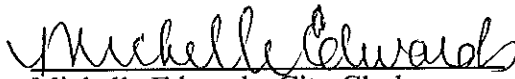
Passed in open Council this 10 day of May, 2018.


Curtis DeBaun, President


ATTEST:


Michelle Edwards, City Clerk

Presented by me, to the Mayor of the City of Terre Haute, this 11 day of May, 2018.


Michelle Edwards, City Clerk


Approved by me, the Mayor of the City of Terre Haute, this 11th day of MAY, 2018.


Duke A. Bennett, Mayor

ATTEST:


Michelle Edwards, City Clerk

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


Richard J. Shagley II

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

PETITION TO REZONE REAL PROPERTY

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

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

LADIES AND GENTLEMAN:

The undersigned, Maria Mercedes Gonzales, Vice President of Rumagon Enterprises, Inc., respectfully submits this Petition to rezone the following described real estate in the City of Terre Haute, County of Vigo, Indiana, to wit:

Lots 30 and 31, in Fort Harrison Place, being a subdivision of part of the Northeast quarter of Section 10, Township 12 North, Range 9 West, as per recorded plat in Plat Record 13, page 28 in the Recorder's Office of Vigo County, Indiana.

Commonly known as: 3212 N. 14th Street, Terre Haute, Indiana 47804.

AND

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Commencing at a point at the Northwest corner of Lot 33 in Fort Harrison Place, being a subdivision of part of the Northeast quarter of Section 10, Township 12 North, Range 9 West, as per recorded plat in Plat Record 13, page 28 in the Recorder's Office of Vigo County, Indiana; thence East along the North boundary line of said Lot 33 to the Northeast corner of said Lot 33; thence North to the Southeast corner of Lot 1 in said Fort Harrison Place; thence West approximately 132 feet, more or less, along the South boundary line of Lots 1-4 in said Fort Harrison Place; thence South to the place of beginning.

Commonly known as: Portion of Vacated Alley North 3214 N. 14th Street,
Terre Haute, Indiana 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 R-1 Single-Family Residential District.

Your Petitioner intends to use this real estate for a retail store. Your Petitioner would request that the real estate described herein shall be zoned as an C-2 Community Commercial District.

Your Petitioner would allege that the C-2 Community Commercial District would not alter the general characteristics of this neighborhood since the neighborhood is in a mixed-use neighborhood and Petitioner is the owner of the parcel of real estate directly North of the above-described real estate.

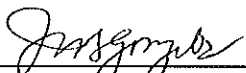
Your Petitioner would respectfully show the proposed change would not be detrimental to the public welfare or injurious to the property or improvements in the neighborhood.

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-1 Neighborhood Commercial 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 21st
day of March, 2018.

PETITIONER:

RUMAGON ENTERPRISES, INC.

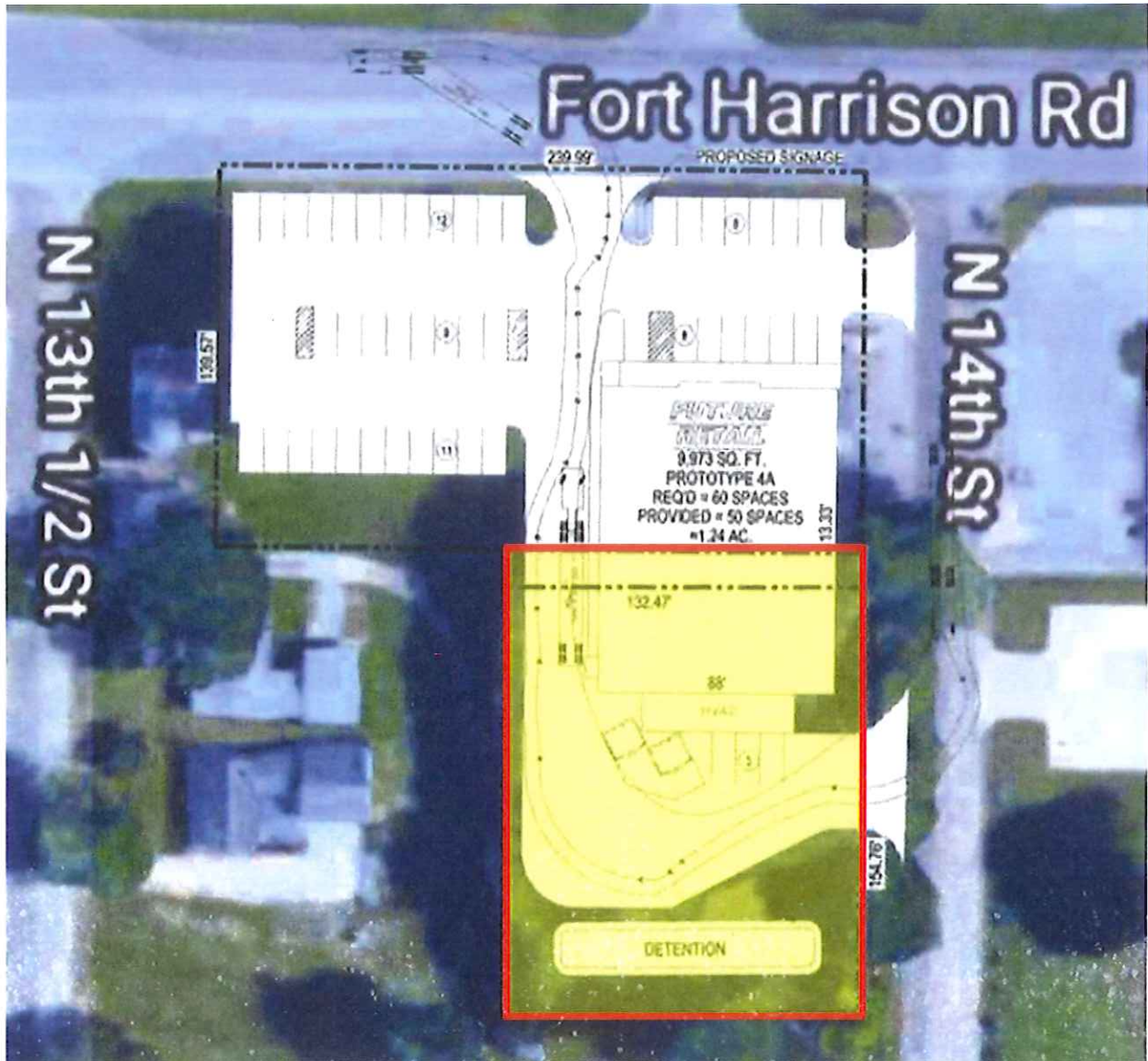
By: 
Maria Mercedes Gonzales, Vice President

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.

SPECIAL ORDINANCE NO. 4, 2018
SITE PLAN

3212 and 3214 N. 14th Street, and
Portion of Vacated Alley North of 3214 N. 14th Street
Terre Haute, Indiana 47802

Current Zoning: R-1
Proposed Zoning: C-2
Proposed Use: Retail Store



FOR TAXATION

EXHIBIT A

NOV 03 1995 95 15197

004323

Judith Anderson
AUDITOR VIGO COUNTY

WARRANTY DEED

THIS INSTRUMENT WITNESSETH, that Karen Sue McGee, of Vigo County, in the State of Indiana, (hereinafter referred to as Grantor), for and in consideration of the sum of One and No/100 Dollars (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, CONVEYS and WARRANTS unto Runagon Enterprises, Inc., of Vigo County, in the State of Indiana, (hereinafter referred to as Grantee), the following described REAL ESTATE located in the County of Vigo, State of Indiana, to-wit:

1/ Lots Number Thirty-two (32) and Thirty-three (33) in Fort Harrison Place, being a subdivision of part of the Northeast quarter of Section 10, Township 12 North, Range 9 West, as per recorded plat in Plat Record 13, page 28 in the Recorder's Office of Vigo County, Indiana.

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

Subject to the taxes prorated from the date hereof.

IN WITNESS WHEREOF, the above referred to Grantor has herunto set her hand and seal, this 1st day of November, 1995.

Karen Sue McGee
Karen Sue McGee

STATE OF INDIANA, VIGO COUNTY, ss:

Before me, the undersigned, a Notary Public in and for said County and State, this 1st day of November, 1995, personally appeared Karen Sue McGee, and acknowledged this conveyance to be her voluntary act and deed.

Witness my hand and Notarial Seal.



RECEIVED BY RECORDER
AT 10:25 O'CLOCK A.M.
RECORD 1410 PAGE 4323
Mary Alice McCracken
Notary Public

NOV 3 1995

Nancy Bernhart Nancy Alice McCracken
Printed Name

My Commission Expires RECORDED VIGO COUNTY My County of Residence is:

June 7, 1999

Vigo

This instrument prepared by *Jerry A. Lind*
Jerry A. Lind, Attorney

COX, ZWERNER, GAMBILL, & SULLIVAN

Tax Duplicate sent to Grantor Address 1361 Fort Harrison Road
Terre Haute, IN 47804

200119955

JKH Date 09/24/2001 Time 08:48:36
Mitchell, Neuton
Vigo County Recorder 2P
Filing Fee 16.00
1/200119955 Page 1 of 2

DULY ENTERED FOR TAXATION
Subject to final acceptance for transfer

SEP 24 2001

James W. Russell
VIGO COUNTY AUDITOR

WARRANTY DEED

THIS INDENTURE WITNESSETH: That ANNIE E. GARVER, A COMPETENT ADULT, of Vigo County in the State of Indiana, and LINDA LEE CARSON, A COMPETENT ADULT, of Yazoo County in the State of Mississippi, "Grantors" CONVEY AND WARRANT to Rumagon Enterprises Inc, of Vigo County, State of Indiana for and in consideration of One Dollar (\$1.00) and other valuable consideration, the receipt whereof is hereby acknowledged, the following real estate in Vigo County in the State of Indiana, to-wit:

Lots 30 and 31, in Fort Harrison Place, being a Subdivision of part of the Northeast Quarter of Section 10, Township 12 North, Range 9 West, as per recorded plat in Plat Record 13, Page 28, in the Recorder's Office of Vigo County, Indiana.

Taxes shall be prorated to the date of this deed.

DATED this 19 day of September, 2001.

Annie E. Garver
ANNIE E. GARVER

Linda Lee Carson
LINDA LEE CARSON

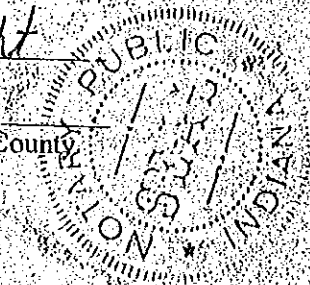
2

STATE OF INDIANA)
) SS:
COUNTY OF VIGO)

Before me, the undersigned, a Notary Public in and for said County and State, this 20 day of September, 2001, personally appeared: Annie E. Garver, a competent adult, and acknowledged the execution of the foregoing deed. In witness whereof, I have hereunto subscribed my name and affixed my official seal.

My commission expires:
July 4, 2008

Yuana Wright
Notary Public
Printed: Yuana Wright
Residing in Vigo County

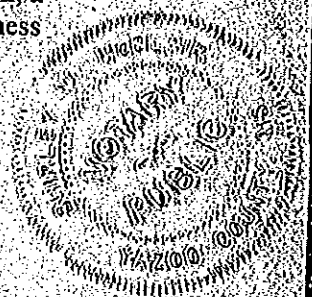


STATE OF MISSISSIPPI)
) SS:
COUNTY OF Yazoo)

Before me, the undersigned, a Notary Public in and for said County and State, this 19th day of Sept., 2001, personally appeared: Linda Lee Carson, a competent adult, and acknowledged the execution of the foregoing deed. In witness whereof, I have hereunto subscribed my name and affixed my official seal.

My commission expires:
June 7, 2002

Shirley W. McBlain
Notary Public
Printed: Shirley W. McBlain
Residing in Yazoo County



Mail Tax Statements To: 1361 Ft. Harrison Terre Haute, IN 47802

Mail Deed To: Same

This instrument was prepared by Terry R. Modesitt, MODESITT, BOUGH & KELLY, 321 Ohio Street, Terre Haute, IN 47807.

STATE OF INDIANA)
) SS:
COUNTY OF VIGO)

AFFIDAVIT

Comes now, Maria Mercedes Gonzales, Vice President of Rumagon Enterprises Inc., being duly sworn upon her oath, deposes and says:

1. That Rumagon Enterprises, Inc. 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:

Lots 30 and 31, in Fort Harrison Place, being a subdivision of part of the Northeast quarter of Section 10, Township 12 North, Range 9 West, as per recorded plat in Plat Record 13, page 28 in the Recorder's Office of Vigo County, Indiana.

Commonly known as: 3212 N. 14th Street, Terre Haute, Indiana 47804.

AND

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Commonly known as: Portion of Vacated Alley North 3214 N. 14th Street,
Terre Haute, Indiana 47804.

2. That a copy of the Deeds, 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 and Exhibit B.

3. That Affiants make this Affidavit for the sole purpose of affirming that Rumagon Enterprises, Inc. is the owner of record of the above-described real estate for which a proposed change to the zoning map of the City of Terre Haute, Indiana, has been filed and to induce the Common Council of the City of Terre Haute, Indiana, to accept the Petition to Rezone Real Property as filed by Rumagon Enterprises, Inc.

4. Further, Affiant saith not.

Dated at Terre Haute, Indiana this 21st day of March, 2018.

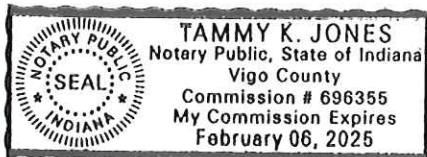
PETITIONER:


RUMAGON ENTERPRISES, INC.

By: 
Maria Mercedes Gonzales, Vice President

STATE OF INDIANA)
) SS:
COUNTY OF VIGO)

SUBSCRIBED AND SWORN TO before me, a Notary Public in and for said County and State, this 21st day of March, 2018.




Tammy K. Jones, Notary Public

My Commission expires: 2/6/25
My County of Residence: Vigo

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.

Receipt

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

Date: 04-04-18

Name: Elean & Assoc.

Reason: Reopening 504, 2018

Per: Wright, Staley & Honery, PC TERRE HAUTE, IN
PAID

Cash: _____

Check: \$45.00 #068296

Credit: _____

Total: \$ 45.00

APR 11 2018
CONTROLLER

Received By: [Signature]



Area Planning Department For Vigo County

159 Oak Street, Terre Haute, Indiana 47807

Telephone: (812) 462-3354

Fax: (812) 234-3248

Terre Haute • West Terre Haute • Riley • Seelyville

DATE: May 10, 2018

REPORT TO THE CITY COUNCIL ON ZONING MAP AMENDMENT

**THE VIGO COUNTY AREA PLAN COMMISSION HEREBY GIVES CERTIFICATION TO
SPECIAL ORDINANCE NUMBER #4-18**

CERTIFICATION DATE: May 9, 2018

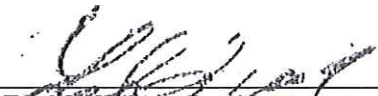
TO: The Honorable Common Council of the City of Terre Haute

Dear Members,

The Vigo County Area Plan Commission offers you the following report and certification on Special Ordinance No. 4-18. This Ordinance is a rezoning of the property located at 3212, 3214 N. 14th Street. The Petitioner, Rumagon Enterprises, Inc., petitions the Plan Commission to rezone said real estate from zoning classification R-1 to C-2, Community Commercial District, for a retail store (Dollar Store). 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. 4-18 at a public meeting and hearing held Wednesday, May 9, 2018. 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. 4-18 as required by IC 36-7-4-302. The Area Plan Commission of Vigo County now hereby attaches certification to Special Ordinance No. 4-18 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. 4-18 was **FAVORABLE WITH THE FOLLOWING CONDITIONS**: 1) A detailed Site Plan be submitted and approved to City Engineering showing the required 50 foot buffer area against residential, or BZA approval for a reduction in the buffer area; 2) Documentation of assignable area submitted to our office or alteration of the Site Plan to include enough parking stalls; 3) Evidence of vacation of the alley; 4) Approval of a Major subdivision.


Fred E. Wilson, President


Jared Bayler, Executive Director

Received this 10th day of May, 2018

STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: SO # 4-18

Doc: # 27

Date: May 2018

Page 1 of 4

APPLICATION INFORMATION

Petitioner: Rumagon Enterprises, Inc.

Property Owner: Same-As-Above

Representative: Richard J. Shagley II

Proposed Use: Retail Store

Proposed Zoning: C-2, Community Commerce District

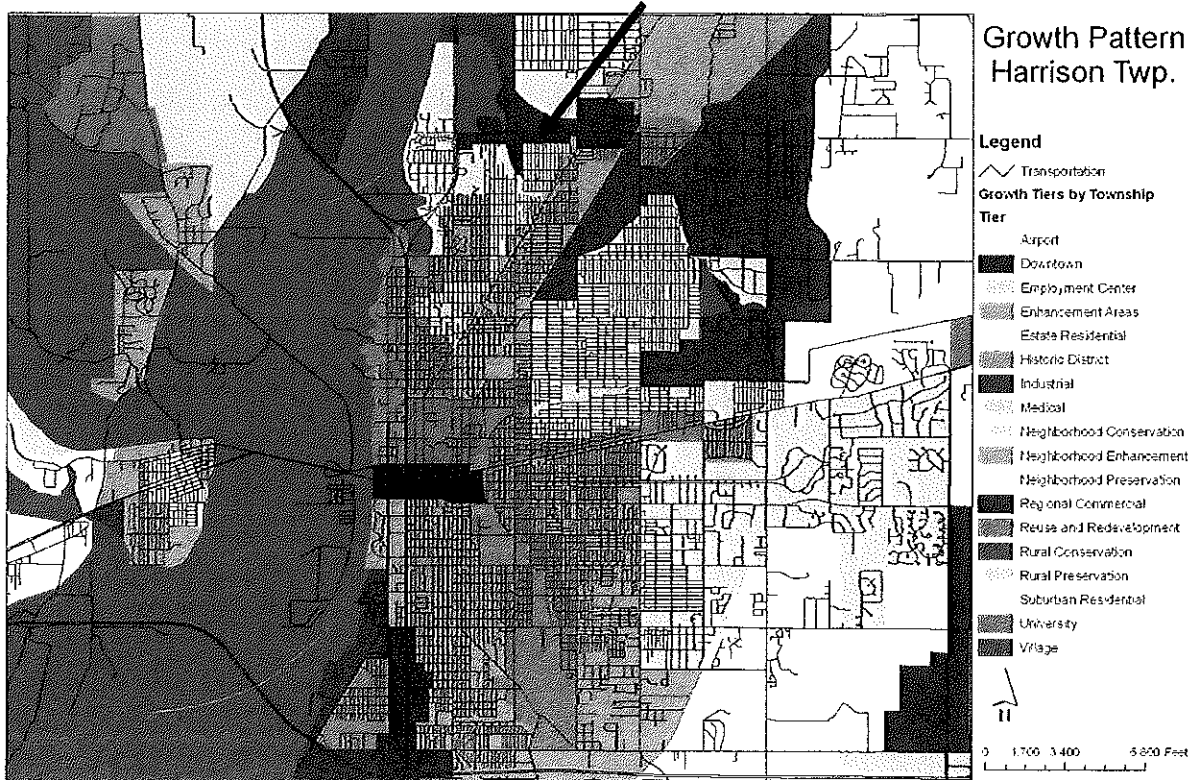
Current Zoning: R-1, Single Family Residence District

Location: The property is located appx. 147 ft. south of Ft. Harrison Rd. on N. 14th Street

Common Address: 3212 & 3214 N. 14th Street, Terre Haute, Indiana 47804

COMPREHENSIVE PLAN GUIDANCE

Service Area: The City of Terre Haute



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.
 - 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: Area is well served by utilities.

Street Access: N. 14th Street and Ft. Harrison Rd.

STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: SO # 4-18

Doc: # 27

Date: May 2018

Page 3 of 4

ZONING COMPATIBILITY

Sur. Zones and Uses: **North** – C-2

East – R-1 & C-2

South – R-1

West – C-2

ZONING REGULATIONS

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

C-2 Uses: Amusement establishments, bowling alleys, pool halls, swimming pools, dance halls, and skating rinks, Any use permitted in the C-1 Zone except as otherwise provided in this Chapter, Antique shops, Art galleries, but not including auction rooms, Banks and financial institutions, Bicycle sales, rental, and repair stores, Blue-printing and photostating establishments, Books and stationery stores, Camera and photographic supply stores, Candy and ice cream stores, Leather goods and luggage stores, Loan offices, Locksmith shops, Medical and dental clinics, Meeting halls, Millinery shops, Municipal or privately-owned recreation buildings or community-center, Musical instrument sales and repair, Newspaper distributors for home delivery and retail sale, Office supply stores, Offices, business and professional, Optometrists, Paint and wallpaper stores, Restaurants. Liquor may be served if incidental to the serving of food as the principal activity. (Gen. Ord. No. 2, 2007, As Amended, 2-8-07), Live entertainment. (Gen. Ord. No. 2, 2007, As Amended, 2-8-07)

C-2 Standards: Minimum Lot Size: 3,300 Sq. Ft.

FINDINGS and RECOMMENDATION

Staff Findings:

The properties to be rezoned are lots 30-33 of Ft. Harrison Pl sub. All three lots have frontage along 14th St. The properties with frontage along Ft. Harrison are already zoned C-2.

The rezoning will create an “L” shaped property on which the developer intends to construct a Dollar Tree retail establishment.

Visual screening of any parking lots adjacent to residential will be needed. A landscape plan must be submitted and approved for those areas. The C-2 zoning requires a 50 ft. buffer in the City of Terre Haute. A variance from that development standard has been applied for.

A major subdivision and vacation of an alley will be needed.

Ft. Harrison is Primary Arterial Roadway with a heavy traffic count. An established commercial/industrial corridor exists along the entirety of Ft. Harrison.

This rezoning will allow commercial to push south into an existing residential neighborhood. However, the rezoning is in keeping with the comprehensive plan that indicates the first block north of Prairie is to be commercial in use. Surrounding commercial uses have also pushed south into the residential properties.

Table 4 Schedule of Minimum Off-Street Parking Requirements outlines the need for 6 spaces per one thousand square feet of gross floor area. The site plan indicates that they are short in the number of parking stalls required.

Recommendation: Staff has a Favorable Recommendation on the C-2 Community Commercial District at this location with the following conditions.

1. A detailed site plan be submitted and approved to City Engineering showing the required 50ft. buffer area against residential or BZA approval for a reduction in the buffer area.
2. Documentation of assignable area submitted to our office or alteration of the site plan to include enough parking stalls.
3. Evidence of vacation of the alley.
4. Approval of a major subdivision.