

APPLICATION FOR REZONING PETITION CITY OF TERRE HAUTE

SPECIAL ORDINANCE NO. 42-2019

Common Address of lots to be rezoned: 2405 S. 6th St.

Rezone From: **R-1 Single Family Residence District**

Rezone To: **R-1 Single Family Residence Planned Development**

Proposed Use: **Residential**

Name of Owner: **Advantage Holdings, LLC**

Address of Owner: **210 N. Hammes , Suite 206 AV, Joliet, IL 60435**

Phone Number of Owner: **c/o (812) 232-6003 Louis F. Britton**

Attorney Representing Owner: **Louis F. Britton**

Address of Attorney: **Cox, Zwerner, Gambill & Sullivan, LLP, 511 Wabash Avenue, Terre Haute, Indiana 47807**

Phone Number of Attorney: **(812) 232-6003**

for Information Contact: Owner Attorney

Council Sponsor: Amy Auler

FILED

OCT 31 2019

SPECIAL ORDINANCE NO. 42-2019 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:

Lot Number Eight (8), except 13 inches of even width off the South Side thereof, in Greenwood, a subdivision of Lots 7 and 8 of Mary Bartletts Subdivision of North East Quarter (NE1/4) of South East Quarter (SE1/4) of Section 33 Township 12 North, Range 9 West, Vigo County, Indiana, as shown by the recorded plat thereof, recorded in Plat Record 10 Page 53, records of Vigo County, Indiana

commonly known as 2405 S. 6th St., Terre Haute, Indiana, be and the same is hereby established as a Planned Development as designated in Division III Section 10-110 et seq. of said Comprehensive Zoning Ordinance for Terre Haute and the same is hereby declared to be a R-1 Single Family Residence Planned Development District authorizing the use of said real estate for 2 detached single-family residences together with all rights, privileges, and provisions 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.

The Common Council further finds and determines that the real estate be granted a variance to reduce to zero the number of required off-street parking spaces for the above

described property and that the real estate is granted a variance from required set-backs to conform to the setbacks of the existing structures.

Petitioner has provided substantial evidence that the Planned Development will not adversely affect surrounding property values, public health and safety or the general public welfare and that a hardship exists justifying classification of the property as a Planned Development. Specifically, the Council finds that a hardship exists due to the improvements on the land: the single residential lot comprising the above described real estate is the site of 2 detached single-family residences that were constructed circa 1920, well prior to the date of the current zoning ordinance and constitute pre-existing nonconforming structures.

The Council finds that the proposed uses, if approved, will be in the public's interest, will not adversely affect surrounding property values, will not adversely affect public health, safety and the general public welfare; that substantial justice will be done for that neighborhood and that approval of the designation of the property as a Planned Development does not nullify the purpose of the zoning regulations.

In the event the planned development has not materialized within six months of approval the planned development shall become void.

The rights granted herein shall be transferable.

This Ordinance shall be recorded in the Vigo County recorder's office within 90 days of its approval at the expense of petitioner.

SECTION 2. 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 approval by the Mayor and publication as required by law.

PRESENTED BY COUNCILPERSON

Amy Auler
Amy Auler

Passed in open Council this 5TH day of DECEMBER, 2019.

Martha Crossen
Martha Crossen, President

ATTEST: *Michelle L Edwards*, City Clerk
~~Charles Hanley~~ MICHELLE EDWARDS

Presented by me to the Mayor this 6 day of December, 2019.

Michelle L Edwards
~~Charles Hanley~~, City Clerk
MICHELLE EDWARDS

Approved by me, the Mayor, this 6TH day of DECEMBER, 2019.

Duke Bennett
Duke Bennett, Mayor
City of Terre Haute

ATTEST: *Michelle L Edwards*
~~Charles Hanley~~, City Clerk
MICHELLE EDWARDS

I prepared the foregoing instrument and 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.

/s/ Louis F. Britton

Louis F. Britton
COX, ZWERNER, GAMBILL & SULLIVAN, LLP
511 Wabash Avenue, Terre Haute, IN 47807
Phone: (812) 232-6003

PETITION FOR REZONING

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

Gentlemen:

Advantage Holdings LLC, petitioner, is the owner of the following described real estate located in Vigo County, Indiana, to-wit:

Lot Number Eight (8), except 13 inches of even width off the South Side thereof, in Greenwood, a subdivision of Lots 7 and 8 of Mary Bartletts Subdivision of North East Quarter (NE1/4) of South East Quarter (SE1/4) of Section 33 Township 12 North, Range 9 West, Vigo County, Indiana, as shown by the recorded plat thereof, recorded in Plat Record 10 Page 53, records of Vigo County, Indiana

which real estate is commonly known as 2405 S. 6th St., Terre Haute, IN. Parcel number 84-06-33-427-010.000-002 (the property).

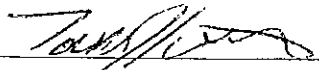
Petitioner is seeking to have the property rezoned from R-1, Single-Family Residence District to R-1, Single Family Residence District Planned Development.

In support of this petition, petitioner would show the Common Council the property constitutes a single residential lot but is occupied by 2 separate single-family residential dwellings believed to have been constructed circa 1920, well before the date of the zoning ordinance.

In order to bring the properties into compliance with the zoning ordinance petitioner is requesting a rezoning of the property to R-1, Single Family Residence District Planned

Development. Petitioner further requests a variance to reduce the number of required offstreet parking spaces to zero.

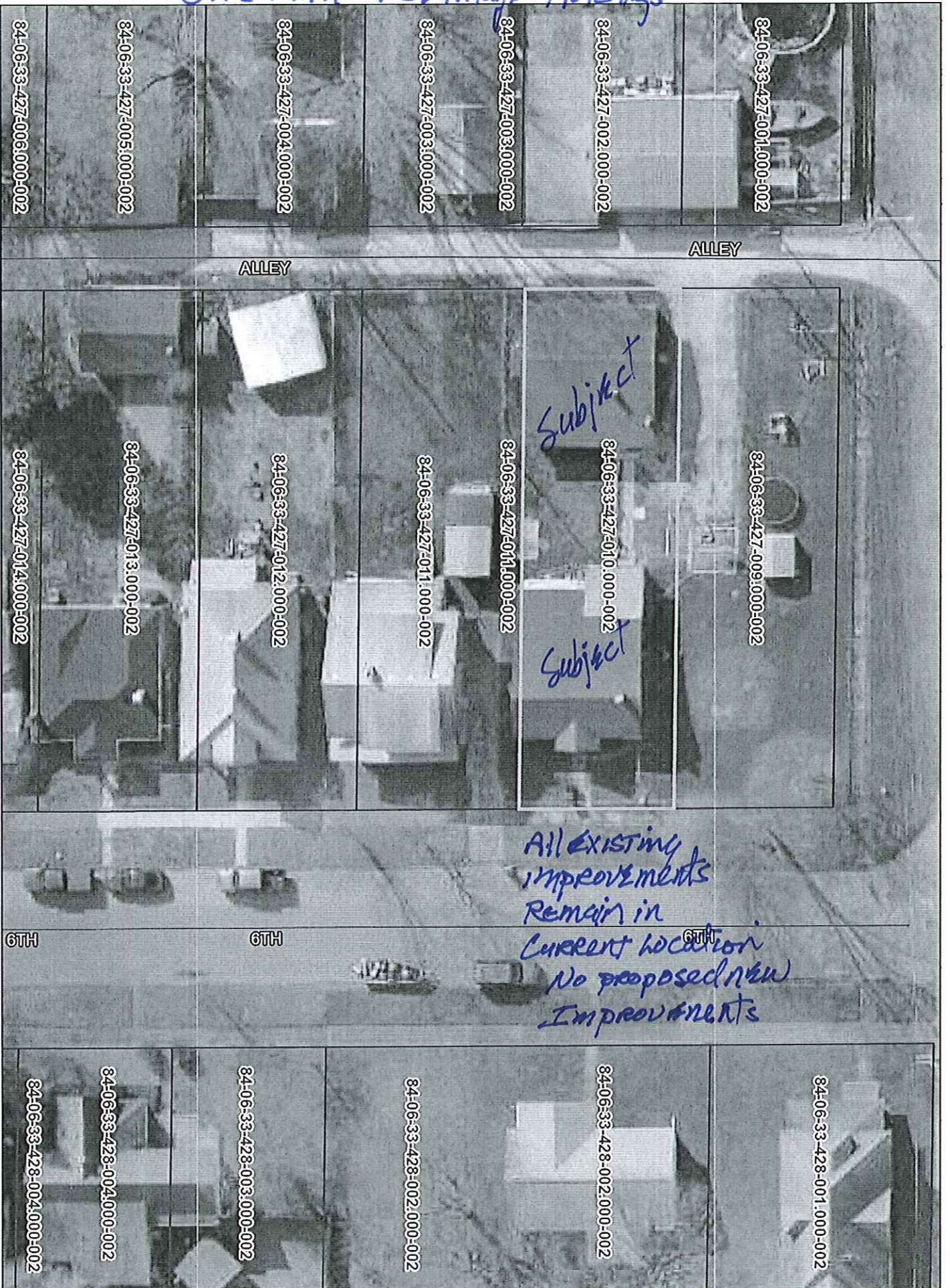
Advantage Holdings, LLC

By: 

Todd J Sivits - partner
printed name and title

This instrument prepared by Louis F. Britton, COX, ZWERNER, GAMBILL & SULLIVAN, LLP, 511 Wabash Avenue, Terre Haute, IN 47807; (812) 232-6003

Site Plan - Advantage Holdings



ALLEY

ALLEY

Subject

Subject

All existing improvements remain in current location. No proposed new improvements.

6TH

6TH

6TH

2018012231 WD \$25.00
11/16/2018 08:32:47A 1 PGS
Stacey Joy
VIGO County Recorder IN
Recorded as Presented

NOV 16 2018

James W Brumble
VIGO COUNTY AUDITOR

WARRANTY DEED

THIS INDENTURE WITNESSETH, THAT John M. Walters and Paula Walters, husband and wife, of Vigo County, State of Indiana, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, CONVEY and WARRANT unto Advantage Holdings, LLC, a limited liability company organized and existing under the laws of the State of Illinois, the following described real estate located in the County of Vigo, State of Indiana, to-wit:

Lot Number One (1), and Lot Number Eight (8), except Thirteen inches of even width off South Side thereof, in Greenwood, a Subdivision of Lots 7 and 8 of Mary Bartletts Subdivision of North East Quarter (NE1/4) of South East Quarter (SE1/4) of Section 33 Township 12 North, Range 9 West, Vigo County, Indiana, as shown by the recorded plat thereof, recorded in Plat Record 10 Page 53, records of Vigo County Indiana.

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

Subject to taxes prorated to the date hereof.

IN WITNESS WHEREOF the above referred to John M. Walters and Paula Walters have hereunto set their hands and seals, this 14 day of November, 2018.

John M Walters (SEAL)
John M. Walters
STATE OF Indiana, Vigo COUNTY, SS:

Paula Walters (SEAL)
Paula Walters
STATE OF Indiana, Vigo COUNTY, SS:

Before me, the undersigned, a Notary Public in and for said county and state, this 14 day of November, 2018, personally appeared John M. Walters and Paula Walters and acknowledged the execution of the annexed Deed to be their voluntary act and deed.

WITNESS my hand and Notarial Seal.

My Commission Expires 11/1/25
OFFICIAL SEAL
MANDY L. CHINN Notary Public
Notary Public, State of Indiana
Vigo County
My Commission Expires
January 4, 2025 Type written or printed name of notary
Commission No. 694899

Mandy L Chinn
Mandy L. Chinn

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.

Laura A Haddix
Signature
Laura A. Haddix
Printed Name

THIS INSTRUMENT WAS PREPARED BY: Donald J. Bonomo, Attorney, Cox, Zwerner, Gambill & Sullivan, LLP, 511 Wabash Avenue, Terre Haute, IN 47807, at the specific request of the parties or their authorized representatives based solely on information supplied by one or more of the parties to this conveyance and without examination of title or abstract. 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 the instrument.

GRANTEE ADDRESS: 210 N. Hammes Ave, Suite 206, Joliet, IL 60435
MAIL TAX STATEMENTS TO: 210 N. Hammes Ave, Suite 206, Joliet, IL 60435



Receipt

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

Date: 10/31/2019

Name: Advantage Training

Reason: Reasoning Notice of filing \$ 25.00

Reasoning Retention \$ 20.00

\$ 45.00

TERRE HAUTE IN
PAID

Cash: _____

Check: 45.00 CH-10000

Credit: _____

Total: 45.00

OCT 31 2019

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: December 5, 2019

REPORT TO THE CITY COUNCIL ON ZONING MAP AMENDMENT

THE VIGO COUNTY AREA PLAN COMMISSION HEREBY GIVES CERTIFICATION TO
SPECIAL ORDINANCE NUMBER 42-19,

CERTIFICATION DATE: December 4, 2019

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

Dear Members,

The Vigo County Area Plan Commission offers you the following report and certification on Special Ordinance No. 42-19. This Ordinance is a rezoning of the property located 2405 S. 6th Street, Terre Haute, IN. The Petitioner, Advantage Holdings, LLC., petitions the Plan Commission to rezone said real estate from zoning classification R-1 to R-1 PD, Single Family Residence Planned Development for residential use. The Ordinance was published in the Tribune-Star Newspaper in accordance with IC 5-3-1 and Division XIII of the Comprehensive Zoning Ordinance. Further, this ordinance was posted by the City Building Inspection Department in accordance with IC 36-7-4-604(c).

The Area Plan Commission considered Special Ordinance No. 42-19 at a public meeting and hearing held Wednesday, December 4, 2019. Remonstrators were not present. Throughout this meeting, a quorum was present pursuant to IC 36-7-4-301, and the Area Plan Commission took official action on Special Ordinance No. 42-19 as required by IC 36-7-4-302. The Area Plan Commission of Vigo County now hereby attaches certification to Special Ordinance No. 42-19 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. 42-19 was
FAVORABLE WITH THE FOLLOWING CONDITIONS:

1. A hardship must be demonstrated
2. It must be determined, that if approved, the P.D. will be in the public's interest and that substantial justice will be done for that neighborhood.

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

Fred L. Wilson, President

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

Jared Bayler, Executive Director

Received this 5th day of December, 2019

APPLICATION INFORMATION

Owner: Advantage Holdings, LLC

Proposed Use: To allow two detached single family dwelling units on one lot

Proposed Zoning: R-1PD, Single Family Residence District Planned Development

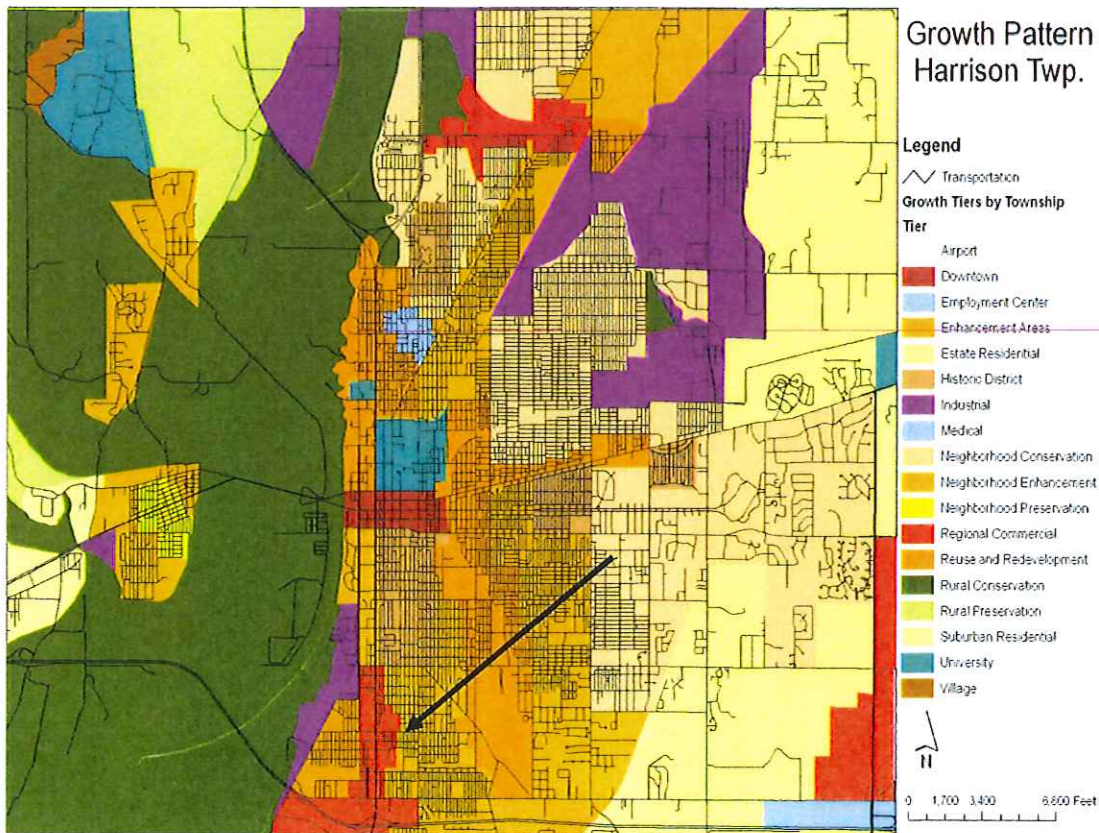
Current Zoning: R-1, Single Family Residence

Location: The property is located approximately 61 feet south of the intersection of Voorhees Street & S. 6th Street.

Common Address: 2405 S. 6th Street, Terre Haute, In Parcel: 84-06-33-427-010.000-002

COMPREHENSIVE PLAN GUIDANCE

Service Area: The City of Terre Haute



Neighborhood Enhancement Areas

Areas that qualify as Neighborhood Enhancement, represent residential areas with aging housing stock, older industrial areas that are in need of reinvestment, and neighborhood commercial nodes that need assistance in meeting modern development standards. These areas are primarily located within the Terre Haute, West Terre Haute, Seelyville, and Riley.

In regards to residential neighborhoods that are in need of rehabilitation, they should receive priority efforts with respect to public improvements such as drainage, sidewalks, street, curb and gutter repair and replacement, and landscaping in the public rights-of-way. Where appropriate, new residential infill projects should be considered a high priority for undeveloped parcels. Over time incompatible and inconsistent uses with the residential context of these neighborhoods should be eliminated.

Over time, it is reasonable to expect some displacement of existing industrial facilities, either because of functional and competitive obsolescence of facilities themselves or because corporate restructuring. As facilities are displaced, facility reuse plans or site redevelopment plans should be prepared. In some cases, industrial reuse or redevelopment may not be appropriate, for example in older core of the City of Terre Haute.

Neighborhood commercial areas are small scale, retail activity clusters or planned centers that serve limited market areas – typically 4,000 to 10,000 people. They provide shopping opportunities for those most frequently purchased goods and services. Neighborhood commercial areas should be distributed throughout the community in relationship to the distribution of households. Each neighborhood commercial center should be a master planned commercial development that is contained within a defined tract or land area. Auto ingress and egress must be controlled. Most importantly, these areas should relate to surrounding residential neighborhoods but not adversely impact the livability of those neighborhoods through traffic, lighting, noise, litter, or other impacts. They will require strong buffering and landscape regulations, as well as being architecturally harmonized and able to blend with their neighborhood context.

Additional policies for Neighborhood Enhancement Areas should include:

- Encourage infill development that is compatible with the land use mix and intensity of existing development.
- Support preservation and rehabilitation of historic properties.
- Incompatible and inconsistent uses with the residential context of these neighborhoods should be eliminated.
- Identify areas that need sub-area plans and prioritize the development of those plans by area.
- Allow for a range of housing densities based on the zoning ordinance.
- Encourage neighborhoods to develop a unique sense of place, but still be part of the larger city.

Available Services: Area is well served by utilities.

Dev. Priority: Neighborhood Commercial.

ZONING COMPATIBILITY

Sur. Zones and Uses: **North** – M-1
East – R-1
South – R-1
West – R-1, R-1PD

Character of Area: The petitioned property is located in a range of residential and Light Industrial land uses.

Contig. Uses & Zones: The area is a mix of zoning categories.

ZONING REGULATIONS

b. Uses, Permitted - R-1 Single-Family Residence District.

- (1) One-family detached dwellings.
 - (2) Cemeteries, including crematories and mausoleums in conjunction therewith if not located within four hundred feet (400') of any other property in a Residence District.
 - (3) Churches, Rectories, and Parish Houses.
 - (4) Convents and Monasteries.
 - (5) Gardening, including nurseries, provided that no offensive odors or dust are created.
 - (6) Golf Courses, but not including commercially-operated driving ranges or miniature golf courses, provided that no clubhouse shall be located within three hundred feet (300') of any other property in a Residence District.
 - (7) Libraries, Public. (Ord. No. 1, 1967, § 1131.01 a. - b., 7-6-67)
 - (8) Child Care.
 - (9) Home Occupations. (Gen. Ord. No. 17, 2000, 9-14-00)
 - (10) Parks and Playgrounds, publicly owned and operated.
 - (11) Schools, elementary and high, non-boarding and including playgrounds and athletic fields incidental thereto.
-

Planned Developments

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

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

- (1) Hardship due to the physical characteristics of the land.
Example - Peculiarities of the sizes, shape, or grade of the parcel in question.
- (2) Hardship due to the improvements on the land.
Example - Commercial structure in a residential neighborhood that is not suitable for residential use.
- (3) Hardship due to adjacent, scattered incompatible uses.
Example - Scattered commercial uses in a residential neighborhood.
- (4) Hardship due to the general deterioration of the neighborhood.
Example - Neighborhoods that are blighted as determined by the Department of Redevelopment.
- (5) Parcel located near district boundary lines.
Example - Parcel located on a major thoroughfare is presently zoned residential while other parcels in the area are zoned commercial.

When it is determined by the Area Plan Commission and the City Council that a hardship does exist, a Planned Development of certain uses may be approved for any zoned lot. However, it must be determined that said proposed uses, if approved, will be in the public's interest and that substantial justice will be done for that neighborhood. Approval of said proposed uses shall not have the intent of nullifying the purpose of the zoning regulations.

FINDINGS and RECOMMENDATION

Staff Findings:

The petitioner currently enjoys a legal nonconforming status. Containing two single family homes, the property would not be able to meet the zoning ordinance except through the Planned Development zoning category. The rezoning is an attempt to create a legal conforming status.

STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: SO #42-19
Date: December 2019

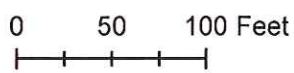
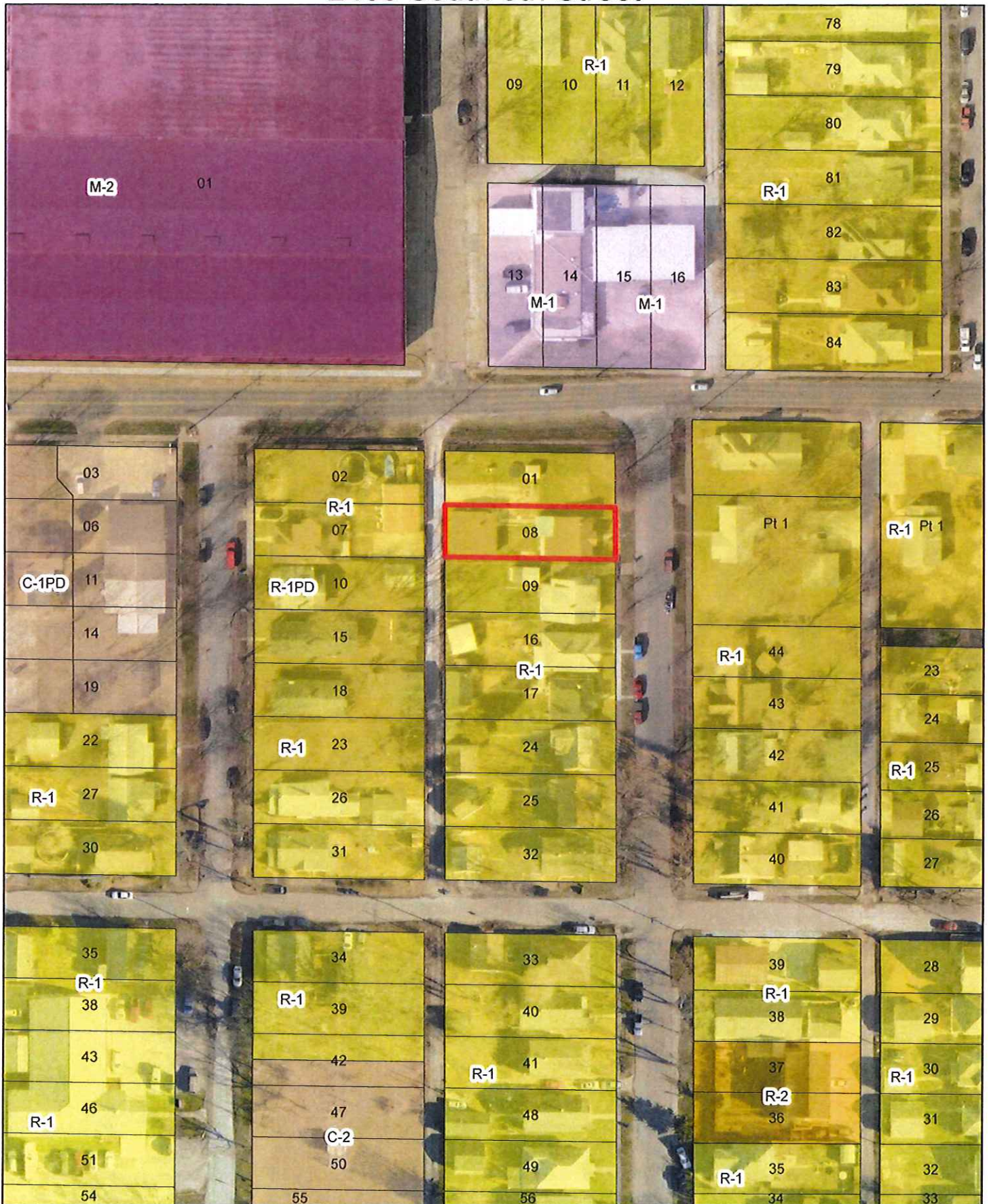
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The petitioner should be able to demonstrate a hardship. The petitioner has requested as a part of the ordinance relief from the parking requirements.

Recommendation: Staff offers a Favorable Recommendation with the following conditions.

1. Must be recorded in 90 days
2. A hardship must be demonstrated
3. It must be determined, that if approved, the P.D. will be in the public's interest and that substantial justice will be done for that neighborhood.

Advantage Holdings, LLC
 Docket #76, SO #42-19 From R-1 to R-1PD
 2405 South 6th Street



Parcel: 84-06-33-427-010.000-002

Prepared by Vigo County
 Department of Area Planning