

SPECIAL ORDINANCE NO. 17, 2025

APPLICATION FOR REZONING PETITION CITY OF TERRE HAUTE

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Common Addresses of lots to be rezoned:

1735 Dahlen Ave., Terre Haute, Indiana 47805
Parcel No. 84-06-03-278-007.000-002

Rezone From: R-1 Single Family Residence District

Rezone To: C-1 Planned Development

Proposed Use: Day Care Center

Name of Owner: Cherry Development, LLC
Address of Owner: 2213 Spruce St., Terre Haute, IN 47807

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

Attorney Representing Owner: 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: Cheryl Loudermilk

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COPY OF A SITE-PLAN MUST ACCOMPANY THIS APPLICATION

MAY 07 2025

SPECIAL ORDINANCE FOR A REZONING
SPECIAL ORDINANCE NO. 17, 2025

CITY CLERK

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

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

Lot Number One (1) in Dahlen Avenue Baptist Church Subdivision, being a Subdivision of Lots 724, 725, and 726 in East Half of Prairie View Subdivision in North East Quarter of Section 3, Township 12 North, Range 9 West, as shown in Miscellaneous Record 162, Page 607-1, recorded December 17, 1964.

EXCEPT Twenty (20) feet off the South side thereof, all records of the Vigo County Recorder's Office. Said Dahlen Avenue Baptist Church Subdivision being also described as follows: Lots 725, 726, and the North Half of 724 in Prairie View Subdivision, being a Subdivision of the North East Fractional Quarter of Section Three (3), Township Twelve (12) North of Range Nine (9) West.

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Commonly known as 1735 Dahlen Ave., Terre Haute IN 47805

be and the same is, hereby established as a C-1 Planned Development, 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.

That the real estate described shall be a Planned Development in a C-1 Planned Development as the same is defined in the Comprehensive Zoning Ordinance for the City of Terre Haute, Indiana, subject to the terms and condition set forth herein.

- (a) That the real estate shall be used for a day care center.
- (b) In the event that this Planned Development has not materialized within six (6) months of approval, it is understood that said Planned Development becomes void and the real estate shall revert back to R-1 Single Family Residence District.
- (c) A variance is hereby granted from Section 10-207 e. (1)(A) which states in part :

“...any area contingent or abutting a Residential District shall be buffered by an open space or off-street parking area with a minimum fifty foot (50') width measured at right angles to the residential property line.”

- (d) All such rights granted herein shall be fully transferable.
- (e) Said Planned Development shall be recorded in the Vigo County Recorder's Office within ninety (90) days of the approval by the Council.

That the owner has met all of the criteria determined by the Area Planning Commission, except as stated above and by the City Council of Terre Haute, Indiana, that a hardship does exist, due to the improvements on the real estate, the physical characteristics of the real estate, the real estate is located near district boundary lines, and that a Planned Development as set forth herein is hereby approved and will be in the public's interest and in the interest of the neighborhood.

SECTION II. WHEREAS, the Area Planning Commission has considered a petition filed pursuant to General Ordinance No. 10, 1999, being Division III Planned Development; and

WHEREAS, Special Ordinance No. 17, 2025, has been referred to the Area Planning Commission for its review and consideration and a favorable recommendation has been referred by the Commission to the Common Council; and

WHEREAS, a public hearing on Special Ordinance No. 17, 2025, has been held pursuant to Section 10 of said Ordinance and the owner of the real estate described has demonstrated to the Area Planning Commission and to the Common Council evidence that a hardship exists pursuant to Section 10-112 of said Ordinance and that said Planned Development will not adversely affect surrounding property values, and that it will not adversely affect public health, safety and the general welfare.

BE IT ORDAINED BY THE COMMON COUNCIL of the City of Terre Haute, Indiana that the owners of the real estate described have demonstrated that a hardship does exist for the use of said real estate and that the Common Council of the City of Terre Haute now determines that a hardship does exist and specifically authorizes and approves the uses of the real estate described as a C-1 Planned Development as described in this Ordinance, under the terms and conditions set forth herein, and further finds and determines that the proposed uses described will be in the public interest and that substantial justice will be done.

SECTION III. 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 by law provided.

Presented by Council Member,

Cheryl Loudermilk
Cheryl Loudermilk, Councilperson

Passed in open Council this ____ day of _____, 2025.

Todd Nation, President

ATTEST:

Michelle Edwards, City Clerk

Presented by me, to the Mayor of the City of Terre Haute, this ____ day of _____, 2025.

Michelle Edwards, City Clerk

Approved by me, the Mayor of the City of Terre Haute, this ____ day of _____, 2025.

Brandon Sakbun, Mayor

ATTEST:

Michelle Edwards, City Clerk

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

Richard J. Shagley II
Richard J. Shagley II

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

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 PLANNING COMMISSION OF VIGO COUNTY, INDIANA.

LADIES and GENTLEMEN:

The undersigned, Tiffany Cherry, Member of Cherry Development, LLC, respectfully submits this Petition to Rezone the following described real estate in the City of Terre Haute, Vigo County, State of Indiana, to-wit:

Lot Number One (1) in Dahlen Avenue Baptist Church Subdivision, being a Subdivision of Lots 724, 725, and 726 in East Half of Prairie View Subdivision in North East Quarter of Section 3, Township 12 North, Range 9 West, as shown in Miscellaneous Record 162, Page 607-1, recorded December 17, 1964.

EXCEPT Twenty (20) feet off the South side thereof, all records of the Vigo County Recorder's Office. Said Dahlen Avenue Baptist Church Subdivision being also described as follows: Lots 725, 726, and the North Half of 724 in Prairie View Subdivision, being a Subdivision of the North East Fractional Quarter of Section Three (3), Township Twelve (12) North of Range Nine (9) West.

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The Petitioner is informed and believes that in accordance with Chapter 10, known and referred to as "The Comprehensive Zoning Ordinance for Terre Haute", as amended, the above described real estate is now zoned as R-1 Single Family Residence District.

Your Petitioner would respectfully state that the real estate was being used for a daycare. The Petitioner also intends to operate a Day Care Center.

Your Petitioner intends to take the existing buildings that have been used for a day care to remodel and repurpose for a nursery school that will have up to forty- three (43) spots for children during the day and overnight. Your Petitioners would request that the real estate described herein shall be zoned as a C-1 Planned Development to allow for the use as proposed by Petitioners. Your Petitioners would allege that the C-1 Planned Development would not alter the general characteristics of this neighborhood.

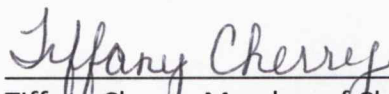
Your Petitioners would allege that there is a hardship due to: 1) improvements on the real estate (nature of structure in a mixed use neighborhood; 2) the physical characteristics of the land (the shape of Petitioners' parcel); and 3) the parcel is located near district boundary lines (the other parcels owned by Petitioners in the area are zoned commercial).

Your Petitioners 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 Petitioners respectfully requests that the Area Planning Commission and the Common Council of the City of Terre Haute, Indiana, favorably consider the passage of a Special Ordinance amending the District Maps of Chapter 10, of the Terre Haute City Code entitled The Comprehensive Zoning Ordinance for Terre Haute, Section 10-121 District Maps and declaring the above-described real estate to be part of the C-1 Planned Development of the City of Terre Haute, Indiana, and is entitled to the rights and benefits that may accrue to the real estate and the owner thereof by virtue of the new designation subject to all limitations imposed by deed or otherwise.

IN WITNESS WHEREOF, the undersigned Petitioner has caused this Petition to Rezone Real Property to be executed, this _____ day of _____, 2025.

PETITIONERS:



Tiffany Cherry, Member of Cherry
Development, LLC

WRIGHT, SHAGLEY & LOWERY, P.C.
500 Ohio Street
Terre Haute, IN 47807
Phone: (812) 232-3388

BY: 

Richard J. Shagley, II #23135-84
Attorneys for Petitioner

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

SITE PLAN
SPECIAL ORDINANCE NO. 17, 2025



1735 Dahlen Avenue, Terre Haute, IN 47805
Parcel No. 84-06-03-278-007.000-002



R-1 Single Family Residence District
to
C-1 Planned Development

Proposed Use: Day Care Center

STATE OF INDIANA)
)SS:
COUNTY OF VIGO)

AFFIDAVIT

Comes now, Tiffany Cherry, Member of Cherry Development, LLC , being duly sworn upon his oath, deposes and says:

1. That Cherry Development, LLC, is the owner of record of the following described real estate located in the City of Terre Haute, County of Vigo, State of Indiana, to-wit:

Lot Number One (1) in Dahlen Avenue Baptist Church Subdivision, being a Subdivision of Lots 724, 725, and 726 in East Half of Prairie View Subdivision in North East Quarter of Section 3, Township 12 North, Range 9 West, as shown in Miscellaneous Record 162, Page 607-1, recorded December 17, 1964.

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2. That a copy of the Deed, recorded in the records of the Recorder's Office of Vigo County, Indiana, is attached hereto and made a part hereof and marked as Exhibit A.

3. That Affiant makes this Affidavit for the sole purpose of affirming that Cherry Development, LLC, is the owner of record of the above-described real estate, for which a proposed change to the zoning map of the City of Terre Haute, Indiana, has been filed and to induce the Common Council of the City of Terre Haute, Indiana, to accept the Petition to Rezone Real Property as filed by Tiffany Cherry, Member of Cherry Development, LLC.

4. Further, Affiant saith not.

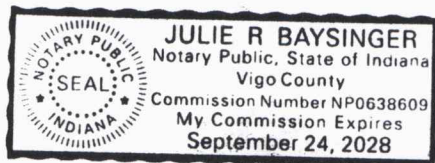
Dated at Terre Haute, Indiana this 30 day of April, 2025.

Tiffany Cherry
Tiffany Cherry, Member of Cherry
Development, LLC

STATE OF INDIANA)
) SS:
COUNTY OF VIGO)

SUBSCRIBED AND SWORN TO before me, a Notary Public in and for said County and State, this 30th day of April, 2025.

Julie R. Baysinger
Julie R. Baysinger Notary Public



My Commission expires: 9-24-2028

My County of Residence: Vermillion

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

SALES DISCLOSURE
NOT REQUIRED

2025002333 00 \$25.00
03/03/2025 08:47:51A 2 PGS
Diana Winsted-Smith
VIGO County Recorder IN
Recorded as Presented

MAR 03 2025

Larry T. Hush
VIGO COUNTY AUDITOR

QUITCLAIM DEED

THIS INDENTURE WITNESSETH, THAT Tiffany Cherry, 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, QUITCLAIMS and RELEASES unto Cherry Development LLC, a limited liability company organized and existing under the laws of the State of Indiana, the following described real estate located in the County of Vigo, State of Indiana, to-wit:

Lot Number One (1) in Dahlen Avenue Baptist Church Subdivision, being a Subdivision of Lots 724, 725, and 726 in East Half of Prairie View Subdivision in North East Quarter of Section 3, Township 12 North, Range 9 West, as shown in Miscellaneous Record 162, Page 607-1, recorded December 17, 1964.

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Subject to any grants, easements, leases, rights-of-way, covenants, or restrictions of record which might affect the title to the subject real estate.

Subject to real estate taxes prorated to the date hereof.

IN WITNESS WHEREOF the above referred to Tiffany Cherry has hereunto set her hand and seal, this 28th day of February, 2025.

Tiffany Cherry (SEAL)
Tiffany Cherry

STATE OF Indiana, Vigo COUNTY, SS:

Before me, the undersigned, a Notary Public in and for said county and state, this 28th day of February, 2025, personally appeared Tiffany Cherry, and acknowledged the execution of the annexed Deed to be her voluntary act and deed.

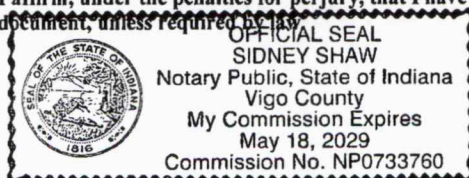
WITNESS my hand and Notarial Seal.

My Commission Expires:
5/18/2029

My County of residence is:
Vigo

Sidney Shaw
Notary Public
Sidney Shaw
Typewritten or printed name of Notary

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.



Andry B. Jones
Signature
Andry B. Jones
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.

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GRANTEE ADDRESS: 2213 Spruce St, Terre Haute, IN 47807

MAIL TAX STATEMENTS TO: 2213 Spruce St, Terre Haute, IN 47807



Receipt of Payment

TERRE HAUTE, IN

PAID

MAY 07 2025

CONTROLLER

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

Date 5/7/25
Name Cherry Development
Reason Rezoning
Petition - \$20.00
Notice - \$25.00

Cash

Check \$45.00 Ck # 075008

Credit

Total \$45.00

Received By Ek / A. Mome