

**SPECIAL ORDINANCE NO. 2, 2011.**

**APPLICATION FOR REZONING PETITION CITY OF TERRE HAUTE**

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Common Address of lots to be rezoned:

1456 Spruce Street, Terre Haute, IN 47807

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Rezone From:	<u>R-1 Single Family Residential District</u>
Rezone To:	<u>R-3 General Residence District</u>
Proposed Use:	<u>Residential Building</u>
Name of Owner: (1)	<u>Mark O. Oster and Sylvia B. Oster</u>
Address of Owner:	<u>1004 S. 30<sup>th</sup> Street</u> <u>Terre Haute, IN 47803</u>
Phone Number of Owner:	<u>(812) 234-1680</u>
Name of Owner: (2)	<u>Mental Health Association in Vigo County, Inc.</u>
Address of Owner:	<u>620 8<sup>th</sup> Avenue</u> <u>Terre Haute, IN 47804</u>
Phone Number of Owner:	<u>(812) 232-5681</u>
Attorney Representing Owner:	<u>Richard J. Shagley</u>
Address of Attorney:	<u>Wright, Shagley &amp; Lowery , P.C.</u> <u>PO Box 9849, Terre Haute, IN 47808</u>
For Information Contact:	<input type="checkbox"/> Owner <input checked="" type="checkbox"/> Attorney
Council Sponsor:	<u>John Mullican</u>

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COPY OF A SITE-PLAN MUST ACCOMPANY THIS APPLICATION

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**SPECIAL ORDINANCE NO. 2, 2011**

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 10-121, thereof, District Maps, is hereby amended to read as follows:

Lot 9 in Biel and Fredericks Subdivision of Lots 11 to 29 and 33 to 39 inclusive, in Baiersdorf's Subdivision of Lots 11 and 18 in Chases Subdivision of 100 acres off North side of Northeast Quarter Section 22, Township 12 North, Range 9 West.

EXCEPT five feet (5') of even width off of the East Side of said real estate.

Commonly known as 1456 Spruce Street, Terre Haute, IN 47807.

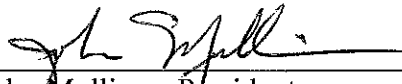
be and the same is, hereby established as a R-3 General Residence District, together with all rights and privileges that may inure to said real estate and the owners thereof by virtue of the law in such cases provided, subject to all limitations and restrictions imposed thereon by deed or otherwise.

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 publication as by law provided.

Presented by Council Member,

  
John Mullican, Councilperson

Passed in open Council this 10<sup>th</sup> day of February 2011.

  
John Mullican, President

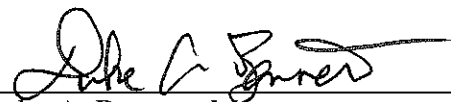
ATTEST:

  
Charles P. Hanley, City Clerk

Presented by me, to the Mayor of the City of Terre Haute, this 11<sup>th</sup> day of February, 2011.

  
Charles P. Hanley, City Clerk

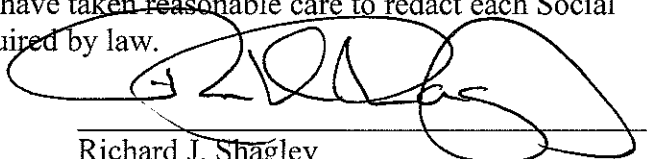
Approved by me, the Mayor of the City of Terre Haute, this 11<sup>th</sup> day of FEBRUARY, 2011.

  
Duke A. Bennett, Mayor

ATTEST:

  
Charles P. Hanley, 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

This instrument prepared by Richard J. Shagley, Attorney-at-Law, WRIGHT, SHAGLEY & LOWERY, P.C., 500 Ohio Street, 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, Mark O. Oster and Sylvia B. Oster, respectfully submit this Petition to Rezone the following described real estate in the City of Terre Haute, Vigo County, State of Indiana, to-wit:

Lot 9 in Biel and Fredericks Subdivision of Lots 11 to 29 and 33 to 39 inclusive, in Baierdsdorf's Subdivision of Lots 11 and 18 in Chases Subdivision of 100 acres off North side of Northeast Quarter Section 22, Township 12 North, Range 9 West.

EXCEPT five feet (5') of even width off of the East Side of said real estate.

Commonly known as 1456 Spruce Street, Terre Haute, IN 47807.

Your Petitioners are informed and believe 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 M-2 Heavy Industry District.

Your Petitioners would respectfully state that the real estate is now vacant. Your Petitioners intend to construct a residential building.

Your Petitioners would request that the real estate described herein shall be zoned as a R-3 General Residence District to allow for the use as proposed by the Petitioners. Your Petitioners would allege that the R-3 General Residence District would not alter the general characteristics of this neighborhood, since the real estate is located in the North Plaza commercial district.

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 area.

WHEREFORE, your Petitioners respectfully request 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 R-D General Residence District of the City of Terre Haute, Indiana, and is 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, the undersigned Petitioners have caused this Petition to Rezone Real Property to be executed, this 8<sup>TH</sup> day of January, 2011.

**PETITIONERS:**

Mark O. Oster  
Mark O. Oster  
Sylvia B. Oster  
Sylvia B. Oster

**MENTAL HEALTH ASSOCIATION IN  
VIGO COUNTY, INC.**

By: Sarah Mullican  
Sarah Mullican, President

WRIGHT, SHAGLEY & LOWERY, P.C.  
500 Ohio Street  
PO Box 9849  
Terre Haute, IN 47808  
Phone: (812) 232-3388

BY: Richard J. Shagley  
Richard J. Shagley, #257-84  
Attorneys for Petitioners

The owner and mailing address: Mark O. Oster and Sylvia B. Oster, 1004 S. 30<sup>th</sup> Street, Terre Haute, IN 47803, and Mental Health Association in Vigo County, Inc. , 620 8<sup>th</sup> Avenue, Terre Haute, Indiana 47804.

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

STATE OF INDIANA       )  
                                  ) SS:  
COUNTY OF VIGO       )

**AFFIDAVIT**

Comes now, Mark O. Oster, being duly sworn upon his oath, deposes and says:

1. That the Mark O. Oster and Sylvia B. Oster, are the fee simple owners of record of the following described real estate located in the City of Terre Haute, County of Vigo, State of Indiana, to-wit:

Lot 9 in Biel and Fredericks Subdivision of Lots 11 to 29 and 33 to 39 inclusive, in Baierdsdorf's Subdivision of Lots 11 and 18 in Chases Subdivision of 100 acres off North side of Northeast Quarter Section 22, Township 12 North, Range 9 West.

EXCEPT five feet (5') of even width off of the East Side of said real estate.


Commonly known as 1456 Spruce Street, Terre Haute, IN 47807.

2. That a copy of the Corporate Warranty Deed, Dated September 22, 1999 and recorded in the records of the Recorder's Office of Vigo County, Indiana, transferring fee simple title to Affiant, 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 Mark O. Oster and Sylvia B. Oster, are the owners 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 Mark O. Oster and Sylvia B. Oster.

4. Further, Affiant saith not.

Dated at Terre Haute, Indiana this 8TH day of January, 2011.

  
\_\_\_\_\_  
Mark O. Oster

STATE OF INDIANA )  
 ) SS:  
COUNTY OF VIGO )

SUBSCRIBED AND SWORN TO before me, a Notary Public in and for said County and State, this 8 day of January, 2011.

  
\_\_\_\_\_  
Joni J. Baber Notary Public

My Commission expires:

1-20-2018

My County of Residence:

Clay

This instrument prepared by Richard J. Shagley, Attorney At Law, WRIGHT, SHAGLEY & LOWERY, P.C., 500 Ohio Street, Terre Haute, IN 47807.

DULY ENTERED FOR TAXATION  
Subject to final acceptance for transfer

ESR Date 09/23/1999 Time 08:19:07  
Mitchell Hester 2P  
Vigo County Recorder  
Filing Fee: 12.00  
1 9917186 D 444/4830

SEP 22 1999

*John A. Anderson* Auditor  
Vigo County

**CORPORATE WARRANTY DEED**

THIS INDENTURE WITNESSETH, that Lassiter Development Corporation, ("Grantor"), an Indiana Corporation, of Vigo County, in the State of Indiana, CONVEYS AND WARRANTS to Mark O. Oster and Sylvia B. Oster, ("Grantee"), of Vigo County, in the State of Indiana, for the sum of One Dollar (\$1.00) and other valuable consideration, the receipt of which is hereby acknowledged, the following described real estate in Vigo County, in the State of Indiana:

Lots 9, 10, 11 and 12 in Biel and Fredericks  
Subdivision of Lots 11 to 29 and 33 to 39 inclusive, in  
Baiersdorf's Subdivision of Lots 11 and 18 in Chases  
Subdivision of 100 acres off North side of Northeast  
Quarter Section 22, Township 12 North, Range 9 West.

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

Grantor certifies that there is no gross income tax due as a  
result of this Deed.

The undersigned person executing this deed on behalf of said  
Grantor represents and certifies that she is a duly elected  
officer of Grantor and has been fully empowered, by proper  
resolution of the Board of Directors of Grantor to execute and  
deliver this deed; that the 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.

IN WITNESS WHEREOF, the said Grantor has caused this deed to  
be executed this 22 day of September, 1999.

LASSITER DEVELOPMENT CORPORATION

By *Debra S. Phillips, Pres*  
Debra S. Phillips, President

EXHIBIT

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4940

STATE OF INDIANA)  
                                  ) SS:  
COUNTY OF VIGO )

Before me, a Notary Public in and for said County and State, personally appeared Debra S. Phillips, the President of Lassiter Development Corporation, who acknowledged execution of the foregoing Deed for and on behalf of said Grantor and who having been duly sworn, stated that the representations therein contained are true.

Witness my hand and Notarial Seal this 22 day of September 1999.

  
Printed: Rhonda Oldham  
Notary Public, residing in  
Vigo County, Indiana

My Commission Expires:  
3/29/2000

Mail Tax statements to 1004 S 38th Street TV 4283

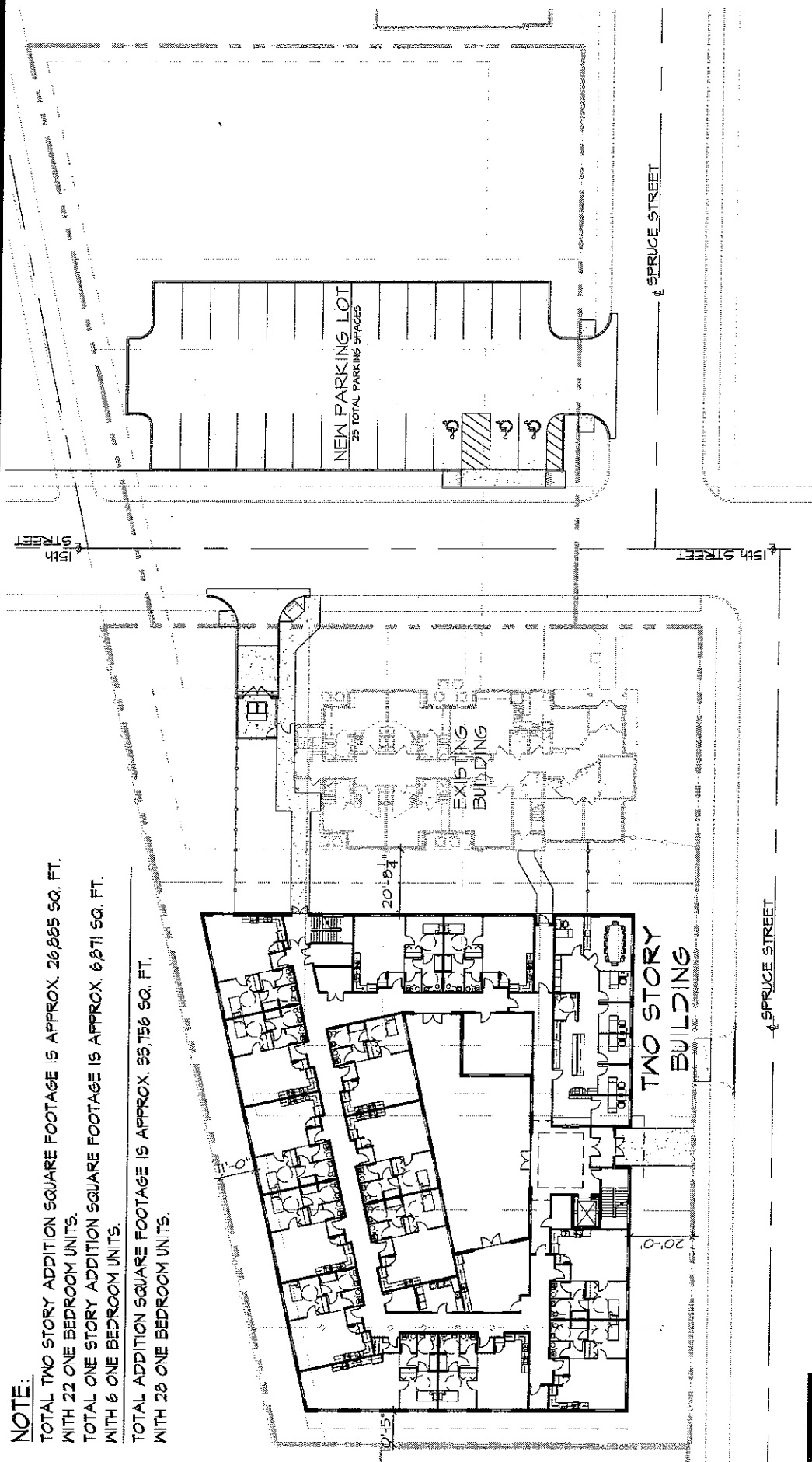
This instrument prepared by Rhonda Oldham, Attorney at Law, The Tudor House, 191 Harding Avenue, P.O. Box 410, Terre Haute, Indiana 47808-0410.

**NOTE:**

TOTAL TWO STORY ADDITION SQUARE FOOTAGE IS APPROX. 26,885 SQ. FT.  
WITH 22 ONE BEDROOM UNITS.

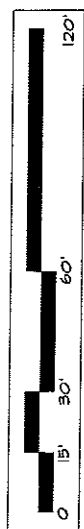
TOTAL ONE STORY ADDITION SQUARE FOOTAGE IS APPROX. 6,871 SQ. FT.  
WITH 6 ONE BEDROOM UNITS.

TOTAL ADDITION SQUARE FOOTAGE IS APPROX. 33,756 SQ. FT.  
WITH 28 ONE BEDROOM UNITS.



**SITE PLAN**  
SCALE: 1" = 30'-0"

**MAJSTEN ARCHITECTS**  
Preliminary Site Plan for the  
**MHVC Housing Project**  
505 N. 15th St. - Terra Haute, IN  
December 15, 2010

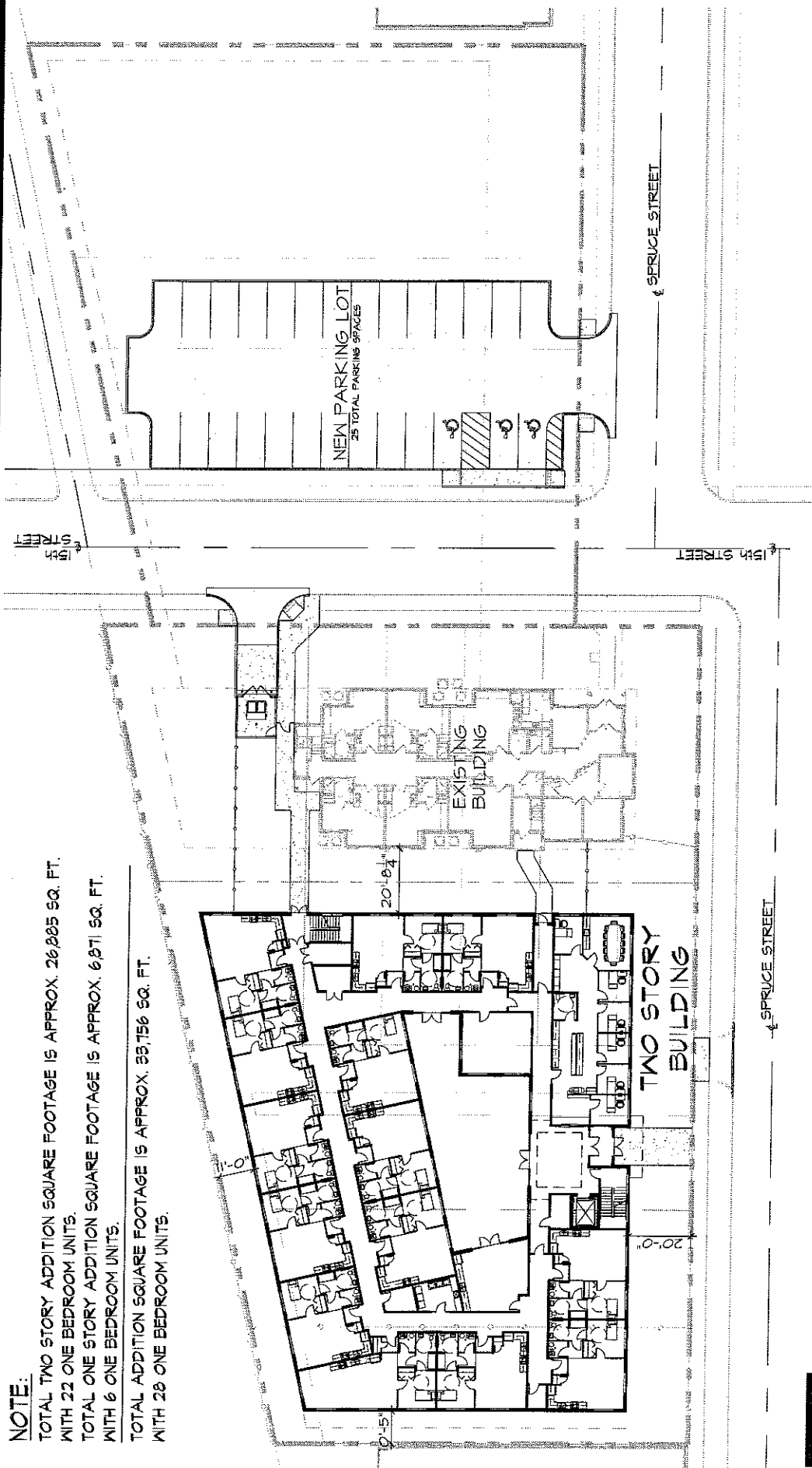


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Preliminary Site Plan for the  
**MHVC Housing Project**

506 N. 15th St. - Terra Haute, IN  
December 15, 2010



**SITE PLAN**

SCALE: 1" = 30'-0"





TERRE HAUTE  
A LIGHT ABOVE

# 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

FILED

FEB 10 2011

CITY CLERK

## Report to the City Council on Zoning Map Amendment

The Vigo County Area Plan Commission Hereby Gives Certification  
to  
Special Ordinance Number 02-11

CERTIFICATION DATE: February 10, 2011

TO: The Honorable Common Council of the City of Terre Haute, Indiana.

Dear Members,

The Vigo County Area Plan Commission offers you the following report and certification of Special Ordinance No. 2-11. This Ordinance is a zoning map amendment of the property located at 1456 Spruce Street. The Petitioners, Mark and Sylvia Oster, petitioned the Plan Commission to change zoning classification of said real estate from R-1, Single Family Residential to R-3, Multi-family Residential for the placement of a boarding house. 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. 2-11 at a public hearing held Wednesday, February 9, 2011. Remonstrators were not present. 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. 2-11 as required by IC 36-7-4-302.

The Area Plan Commission of Vigo County, Indiana now hereby attaches certification to Special Ordinance No. 2-11 as required by IC 36-7-4-401(a)(7) and IC 36-7-4-605(c).

THEREFORE, the Area Plan Commission certified recommendation on Special Ordinance No. 2-11, was FAVORABLE.

Fred L. Wilson, President

Jeremy Weir, Executive Director

Received this 10<sup>th</sup> day of February, 2011