

SPECIAL ORDINANCE NO. 49, 2011

APPLICATION FOR REZONING PETITION CITY OF TERRE HAUTE

Common Address of lots to be rezoned:

210 S. Brown Avenue, Terre Haute, IN 47803
246 S. Brown Avenue, Terre Haute, IN 47803
601 S. Fruitridge Avenue, Terre Haute, IN 47803

Rezone From: R-1 Single Family Residence District

Rezone To: R-3 General Residence District

Proposed Use: Construction of Nursing Home, Assisted Living Facilities
and Managed Independent Living Dwellings

Name of Owners: Trustees of Hulman Public Building Trust
and Hulman & Company

Address of Owner: 900 Wabash Avenue
Terre Haute, IN 47807

Phone Number of Owner (812) 478-7181

Attorney Representing Owner: Richard J. Shagley

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

For Information Contact: Owner Attorney

Council Sponsor: Patrick R. Ralston

COPY OF A SITE-PLAN MUST ACCOMPANY THIS APPLICATION

FILED
DEC 01 2011
CITY CLERK

SPECIAL ORDINANCE NO. 49, 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:

The Southwest Quarter of Section Twenty-four (24), Township Twelve (12) North of Range Nine (9) West, except fifty (50) acres off the north side thereof.

EXCEPT right of way of the Southern Indiana Railway Company as taken by appropriation proceedings in Cause No. 20674 Vigo Circuit Court, and shown in order Book 65, page 369, of said Court.

ALSO EXCEPT that part thereof conveyed by Deming Land Co. to the City of Terre Haute, Indiana, as shown by Deed Record 163, page 128, records of Recorder's Office of Vigo County, Indiana.

ALSO EXCEPT that part conveyed to James M. Propst and Mary Ethel Propst, husband and wife, as shown by instrument dated September 18, 1943 and recorded September 25, 1943 at Deed Record 230 page 16;

ALSO EXCEPT that part platted into Deming Park Subdivision Section One, as shown by instrument dated December 2, 1941 and recorded December 20, 1946 at Plat Record 16 page 36;

ALSO EXCEPT that part platted into Hulman Meadows Fourth Addition as shown by instrument dated July 6, 1956 and recorded August 29, 1956 at Plat Record 17 Page 50;

ALSO EXCEPT that part platted into Hulman Meadows Fifth Addition as shown by instrument dated July 6, 1977 and recorded October 28, 1977 at Plat Record 21 Page 17;

ALSO EXCEPT that part platted into Deming Park Subdivision Lot 1A Commercial Lot as shown by instrument dated May 3, 1993 and recorded May 7, 1993 at Plat Record 27 page 65;

ALSO EXCEPT that part conveyed to Beau Monde L.L.C., as shown by instrument dated May 6, 2005 and recorded May 6, 2005 at Instrument Number 2005007595;

SUBJECT to the rights conveyed to The Terre Haute Water Works Corporation as shown by Miscellaneous Record No. 60, page 483;

SUBJECT to Grant of Easement to the City of Terre Haute as shown by instrument dated February 3, 1960 and recorded February 5, 1960 at Deed Record 320 page 353;

SUBJECT to Deed of Easement and Right of Way granted to the City of Terre Haute, Indiana for the use and benefit of the Sanitary District of the City of Terre Haute, Indiana, for the use and benefit of the Sanitary District of the City of Terre Haute, as shown by instrument dated August 23, 1976 and recorded August 25, 1976 at Deed Record 368 page 836;

SUBJECT to Grant of Permanent Right-of-Way and Permanent and Temporary Easements granted to the City of Terre Haute, Indiana for the use and benefit of the Sanitary District of the City of Terre Haute, Indiana, as shown by instrument dated January 12, 2007 and recorded August 31, 2011 at Instrument Number 2011011898;

SUBJECT to Grant of Permanent Right-of-Ways and Permanent and Temporary Easements granted to the City of Terre Haute, Indiana for the use and benefit of the Sanitary District of the City of Terre Haute, Indiana, and the City of Terre Haute, as shown by instrument dated August 11, 2011 and recorded August 31, 2011 at Instrument Number 2011011899;

SUBJECT to Grant of Permanent Right-of-ways and Permanent and Temporary Easements granted to the City of Terre Haute, Indiana for the use and benefit of the Sanitary District of the City of Terre Haute, Indiana, and the City of Terre Haute as shown by instrument dated August 11, 2011 and recorded August 31,

2011 at Instrument Number 2011011900;

All being records of the Recorder's Office of Vigo County, Indiana.

ALSO

A part of the southwest quarter of Section 24, Township 12 North, Range 9 West, described as follows: Beginning at a point in the west line of the southwest quarter of said Section 24, 95 feet north of a stone at the intersection of the said west line with the center line of Ohio Boulevard as the same is now located and established, and running north along the west line of said Quarter Section, 230 feet; thence east in a line parallel with the center line of said Ohio Boulevard 155.0 feet; thence south parallel with the west line of said Quarter Section 230 feet; thence West 155.0 feet to the place of beginning.

Excepting therefrom a strip of ground 32.5 feet in width along the west side of said tract, which is hereby dedicated to the public as one-half of a thoroughfare known and designated as Brown Avenue. Being lot 65 in an unrecorded plat of Deming Park Subdivision, being a subdivision of a part of the southwest quarter of Section 24, Township 12 North, Range 9 West.

Subject to covenants and restrictions set forth in instrument dated September 18, 1943 and recorded September 25, 1943 at Deed Record 230 page 16;

Subject to the rights conveyed to The Terre Haute Water Works Corporation as shown by Miscellaneous Record No. 60, page 483;

Subject to Deed of Easement and Right of Way granted to the City of Terre Haute, Indiana for the use and benefit of the Sanitary District of the City of Terre Haute, Indiana, for the use and benefit of the Sanitary District of the City of Terre Haute, as shown by instrument dated August 23, 1976 and recorded August 25, 1976 at Deed Record 368 page 836;

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ALSO

Lots 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, and 20 in Deming Park Subdivision Section 1, being a subdivision of a part of the Southwest Quarter of Section 24, Township 12 North, Range 9 West, as shown by the recorded plat thereof, recorded December 20, 1946 at Plat Record 16 page 36, records of the Recorder's Office of Vigo County, Indiana.

Subject to the rights conveyed to The Terre Haute Water Works Corporation as shown by Miscellaneous Record No. 60, page 483;

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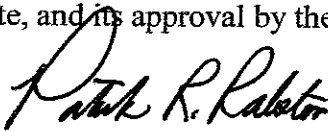
the Sanitary District of the City of Terre Haute, Indiana, and the City of Terre Haute as shown by instrument dated August 11, 2011 and recorded August 31, 2011 at Instrument Number 2011011900;

All being records of the Recorder's Office of Vigo County, Indiana.

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,



Patrick Ralston, Councilperson

Passed in open Council this ____ day of _____, 2012.

ATTEST:

_____, President

Charles P. Hanley, City Clerk

Presented by me, to the Mayor of the City of Terre Haute, this ____ day of _____, 2012.

Charles P. Hanley, City Clerk

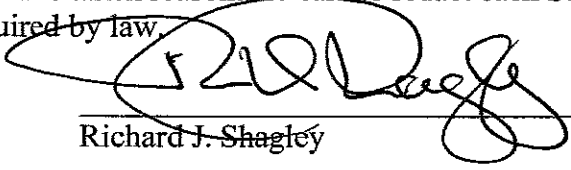
Approved by me, the Mayor of the City of Terre Haute, this ____ day of _____, 2012.

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, Hulman & Company and Trustees of Hulman Public Building Trust respectfully submit their Petition to Rezone the following described real estate in the City of Terre Haute, Vigo County, State of Indiana, to-wit:

The Southwest Quarter of Section Twenty-four (24), Township Twelve (12) North of Range Nine (9) West, except fifty (50) acres off the north side thereof.

EXCEPT right of way of the Southern Indiana Railway Company as taken by appropriation proceedings in Cause No. 20674 Vigo Circuit Court, and shown in order Book 65, page 369, of said Court.

ALSO EXCEPT that part thereof conveyed by Deming Land Co. to the City of Terre Haute, Indiana, as shown by Deed Record 163, page 128, records of Recorder's Office of Vigo County, Indiana.

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All being records of the Recorder's Office of Vigo County, Indiana.

ALSO

A part of the southwest quarter of Section 24, Township 12 North, Range 9 West, described as follows: Beginning at a point in the west line of the southwest quarter of said Section 24, 95 feet north of a stone at the intersection of the said west line with the center line of Ohio Boulevard as the same is now located and established, and running north along the west line of said Quarter Section, 230 feet; thence east in a line parallel with the center line of said Ohio Boulevard 155.0 feet; thence south parallel with the west line of said Quarter Section 230

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Excepting therefrom a strip of ground 32.5 feet in width along the west side of said tract, which is hereby dedicated to the public as one-half of a thoroughfare known and designated as Brown Avenue. Being lot 65 in an unrecorded plat of Deming Park Subdivision, being a subdivision of a part of the southwest quarter of Section 24, Township 12 North, Range 9 West.

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All being records of the Recorder's Office of Vigo County, Indiana.

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 R-1 Single Family Residential District.

Petitioners, Hulman & Company and Trustees of Hulman Public Building Trust, would propose to sell the real estate to Magnolia Health Systems, LLC who plan to develop a nursing home, assisted living facilities and managed independent living dwellings on said real estate.

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 Petitioners. Your Petitioners would allege that the R-3 General Residence District would not alter the general residential characteristics of this neighborhood. 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.

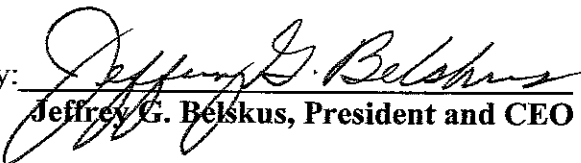
WHEREFORE, your Petitioners respectfully request that the Area Planning Commission and the Common Council of the City of Terre Haute, Indiana, favorably consider

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-3 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 executed this Petition to Rezone Real Property, this 29th day of November, 2011.

PETITIONERS:

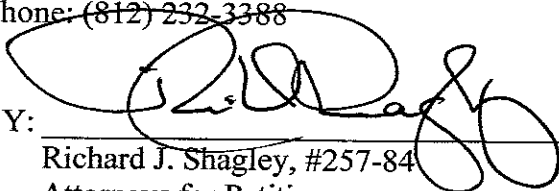
HULMAN & COMPANY

By: 
Jeffrey G. Belskus, President and CEO

**TRUSTEES OF HULMAN PUBLIC
BUILDING TRUST**

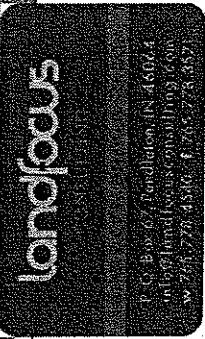
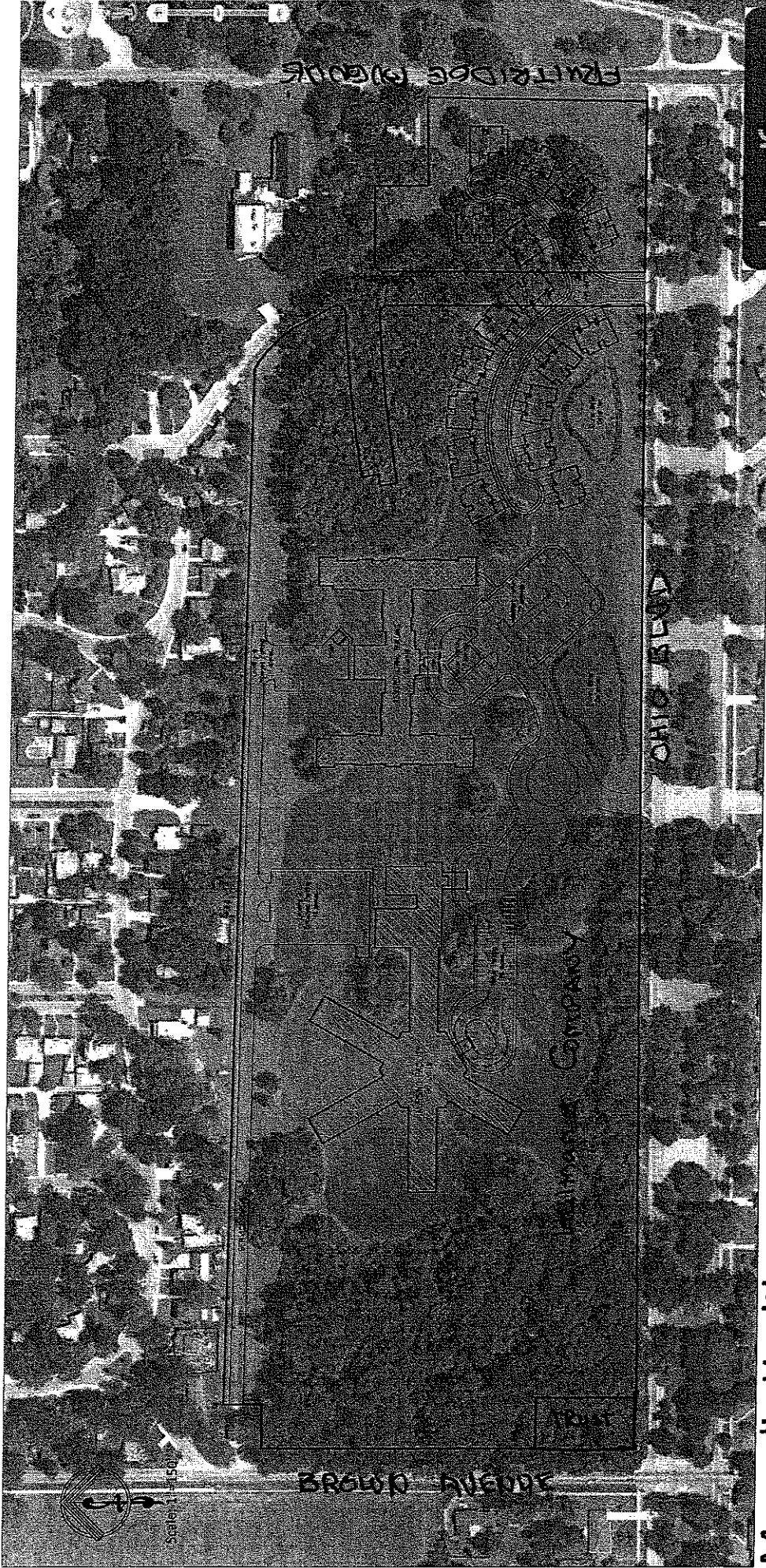
By: 
W. Curtis Brighton, Trustee

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

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

The owners and mailing addresses: Hulman & Company and Trustees of Hulman Public Building Trust, 900 Wabash Avenue, Terre Haute, IN 47807 .

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



Magnolia Healthcare
Proposed Terre Haute Facility
Discussion Plan #1
November 21, 2011

SPECIAL ORDINANCE NO 49, 2011

HUSMAN & COMPANY AND TRUSTEES OF HUSMAN PUBLIC BUILDINGS TRUST