

SPECIAL ORDINANCE NO. 18, 2013

APPLICATION FOR REZONING PETITION CITY OF TERRE HAUTE

=====
Common Addresses of lots to be rezoned:

2108 Kester Avenue, Terre Haute, IN 47804

Rezone From: R-1 – Single Family Residence District

Rezone To: R-2 – Two Family Residence District

Proposed Use: Duplexes

Name of Owners: Gloria J. Anderson
Address of Owner: 2108 Kester Avenue
Terre Haute, IN 47804
Phone Number of Owner: (812) 201-5333

Attorney Representing Owner: Richard J. Shagley II

Address of Attorney: P.O. Box 9849, Terre Haute, IN 47808

For Information Contact: ☐ Owner ☒ Attorney

Council Sponsor: Norm Loudermilk

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COPY OF A SITE-PLAN MUST ACCOMPANY THIS APPLICATION

FILED

JUN 07 2013

SPECIAL ORDINANCE NO. 18, 2013

CITY CLERK

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:

Lots 761,762, 763, and 764 in Sheridan Park, a Subdivision in the North East Quarter of Section 14, Township 12 North, Range 9 West, as per recorded Plat in Plat Record 13, Page 33, of the records in the Recorder's Office of Vigo County, Indiana.

Commonly known as 2108 Kester Avenue, Terre Haute, Indiana 47804

be and the same is, hereby established as a R-2 Two Family Residential 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.

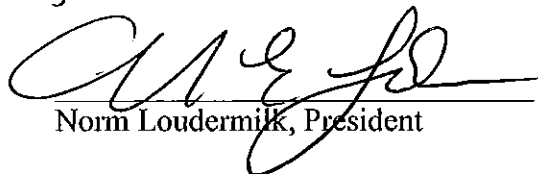
SECTION II. WHEREAS, an emergency exists for the immediate taking effect of this Ordinance, the same shall be in full force and effect from and after its passage by the Common Council of the City of Terre Haute, and its approval by the Mayor and publication as by law provided.

Presented by Council Member,



Norm Loudermilk, Councilperson

Passed in open Council this 18th day of July, 2013.



Norm Loudermilk, President

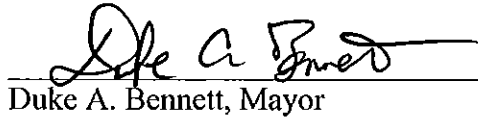
ATTEST:


Charles P. Hanley, City Clerk

Presented by me, to the Mayor of the City of Terre Haute, this 19th day of July, 2013.


Charles P. Hanley, City Clerk

Approved by me, the Mayor of the City of Terre Haute, this 19th day of ~~June~~ July, 2013.


Duke A. Bennett, Mayor

ATTEST:


Charles P. Hanley, City Clerk

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 47808.

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

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, Gloria J. Anderson, respectfully submits this Petition to Rezone the following described real estate in the City of Terre Haute, Vigo County, State of Indiana, to-wit:

Lots 761,762, 763, and 764 in Sheridan Park, a Subdivision in the North East Quarter of Section 14, Township 12 North, Range 9 West, as per recorded Plat in Plat Record 13, Page 33, of the records in the Recorder's Office of Vigo County, Indiana.

Commonly known as 2108 Kester Avenue, Terre Haute, Indiana 47804

Your 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 Residential District.

Your Petitioner would respectfully state that the real estate is now and has been used as a Single Family Residential home. Your Petitioner intends to use the real estate for residential duplexes.

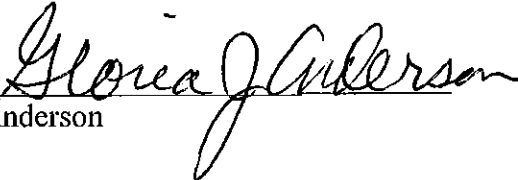
Your Petitioner would request that the real estate described herein shall be zoned as an R-2 Two-Family Residential District to allow for the use as proposed by the Petitioner. Your Petitioner would allege that the R-2 Two Family Residential District would not alter the general characteristics of this neighborhood, since the real estate is in a mixed residential area.

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 area.

WHEREFORE, your Petitioner 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 R-2 Two Family Residential District of the City of Terre Haute, Indiana, and are 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.

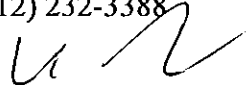
IN WITNESS WHEREOF, the undersigned Petitioner has executed this Petition to Rezone Real Property this _____ day of June, 2013.

PETITIONER:



Gloria J. Anderson

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

BY: 

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

The owner and mailing address: 2108 Kester Avenue, Terre Haute, IN 47804.

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 47808.

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ALLEY

EXISTING
GARAGE

Steel
GARAGE

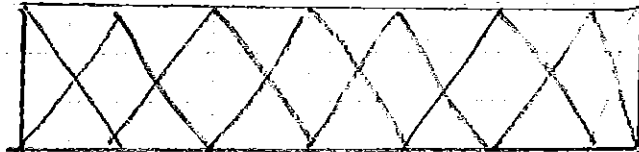
NEW
Unit
to Be
constructed

Other Bldings:
SMI Shed
House to
Be Wrecked

-165-

KESTER

E



Possible Future Construction

-204-

LINDEN

S

Not to Scale

Date Created: 2/12/2013




Parcel ID	84-06-14-228-007.000-002	Alternate ID	118-06-14-228-007	Owner Address	D & D PROPERTIES LLC
Sec/Twp/Rng	n/a	Class	Res 1 fam dwelling platted lot		3120 LINDEN ST
Property Address	2108 KESTER AVE	Acreage	n/a		TERRE HAUTE, IN 47804
	TERRE HAUTE				
District	002 HARRISON				
Brief Tax Description	SHERIDAN PARK				
	14-12-9 LOTS 761-764				
	(Note: Not to be used on legal documents)				

Last Data Upload: 2/12/2013 4:20:59 AM

DULY ENTERED FOR TAXATION
Subject to final acceptance for transfer

MAY 21 2013


VIGO COUNTY AUDITOR

2013006738 WD \$20.00
05/21/2013 02:52:24P 3 PGS
NANCY S. ALLSUP
VIGO County Recorder IN
Recorded as Presented


LIMITED LIABILITY COMPANY WARRANTY DEED

THIS INDENTURE WITNESSTH: That **D D & D PROPERTIES, LLC**, an Indiana Limited Liability Company, of Vigo County, State of Indiana, CONVEYS AND WARRANTS to **GLORIA J. ANDERSON**, of Vigo County, State of Indiana, for and in consideration of the sum of one dollar and other valuable consideration, the receipt whereof is hereby acknowledged, the following described Real Estate in Vigo County in the State of Indiana, to-wit:

Lots 761, 762, 763, and 764, in Sheridan Park, a Subdivision in the North East Quarter of Section 14, Township 12 North, Range 9 West, a per recorded Plat in Plat Record 13, Page 33, of the records in the Recorder's Office of Vigo County, Indiana.

Commonly known as 2108 Kester Avenue, Terre Haute, Indiana 47804

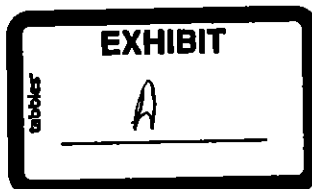
Subject to easements, covenants, and restrictions of record affecting title to the subject real estate.

Taxes prorated to date of deed.

Grantor certifies that there is no Indiana Gross Income Tax due on this transaction.

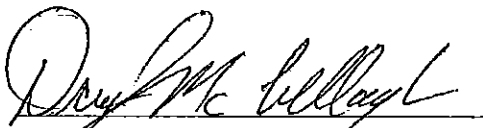
The undersigned persons executing this Deed on behalf of the Grantor represents and certifies that they are Members of Grantor and have been fully empowered, by proper resolution of the Grantors, to execute and deliver this Deed; that Grantors have full Limited Liability Company capacity to convey the real estate described herein and that all necessary action for the making of such conveyance has been taken and done.

IN WITNESS WHEREOF, the said Grantor, above named **D D & D Properties, LLC**, LLC., has caused this Limited Liability Company Warranty Deed to be executed this 21st day of ~~June~~ May, 2013.



7

D D & D PROPERTIES, LLC

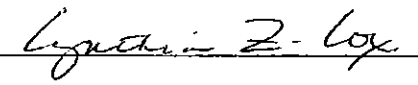

Daryl L. McCullough, Member


Debra A. McCullough, Member

STATE OF INDIANA)
)SS:
COUNTY OF VIGO)

Before me, the undersigned, a Notary Public, in and for said County and State, this 21st day of ~~June~~ MAY, 2013, personally appeared Daryl L. McCullough and Debra A. McCullough, Members of D D & D Properties, LLC., who acknowledged the execution of the foregoing Limited Liability Company Warranty Deed for and on behalf of said Grantor, and who, having been duly sworn, stated that the representations therein contained are true.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal.



Notary Public **CYNTHIA Z. COX**
Printed: **Notary Public**
 Seal
 Vigo County, State of Indiana
 My Commission Expires June 28, 2020
County of Residence: _____

My Commission Expires:

3

Mail to: Gloria J. Anderson, 2108 Kester Avenue, Terre Haute, Indiana 47804.

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 #23135-84, Wright Shagley & Lowery, P.C., 500 Ohio Street, PO Box 9849, Terre Haute, Indiana, 47807, (812) 232-3388, at the specific request of Grantor based solely on information supplied by one or more of the parties to this conveyance and without examination of title and abstract. The drafter assumes no liability for any errors, inaccuracy, or omissions in this instrument resulting from the information provided, the parties hereto signifying their consent to this disclaimer by Grantor's execution and Grantees' acceptance of the instrument.

STATE OF INDIANA)

COUNTY OF VIGO) SS:

AFFIDAVIT

Comes now Petitioner, Gloria J. Anderson, being duly sworn upon her oath, deposes and says:

1. That Gloria J. Anderson, is the fee simple 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 761,762, 763, and 764 in Sheridan Park, a Subdivision in the North East Quarter of Section 14, Township 12 North, Range 9 West, as per recorded Plat in Plat Record 13, Page 33, of the records in the Recorder's Office of Vigo County, Indiana.

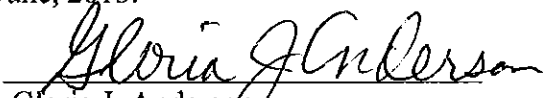
Commonly known as 2108 Kester Avenue, Terre Haute, Indiana 47804

2. That a copy of the Warranty Deed, dated May 21, 2013, 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 Gloria J. Anderson, is the owner of record of the above-described real estate commonly known as 2108 Kester Avenue, Terre Haute, IN 47804 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 Gloria J. Anderson.

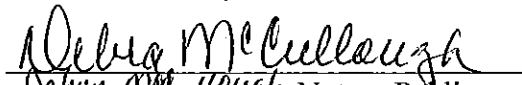
Further, Affiant saith not.

Dated at Terre Haute, Indiana this 6 day of June, 2013.


Gloria J. Anderson

STATE OF INDIANA, COUNTY OF VIGO, SS:

SUBSCRIBED AND SWORN TO before me, a Notary Public in and for said County and State, this 6th day of June, 2013.


Debra McCullough, Notary Public

My Commission expires:

03/19/15

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, IN 47808.

Receipt

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

Date: 6/7/13

Name: Wright Shigley & Lavery

Reason: _____

Reynolds
Gloria Anderson

Cash: _____

Check: 45⁰⁰ CK # 61558

Credit: _____

Total: 45⁰⁰

Received By: Nat / Ellis

TERRE HAUTE, IN
PAID
JUN 07 2013
CONTROLLER



TERRE HAUTE
A LEGG 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

DATE: July 5, 2013

REPORT TO THE CITY COUNCIL ON ZONING MAP AMENDMENT

**THE VIGO COUNTY AREA PLAN COMMISSION HEREBY GIVES CERTIFICATION TO
SPECIAL ORDINANCE NUMBER #18-13**

CERTIFICATION DATE: July 3, 2013

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. 18-13. This Ordinance is a rezoning of the property located at 2108 Kester. The Petitioner, Gloria J. Anderson, Petitions the Plan Commission to rezone said real estate from zoning classification R-1 to R-2, Two Family Residence District, for duplexes. 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. 18-13 at a public meeting and hearing held Wednesday, July 3, 2013. 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. 18-13 as required by IC 36-7-4-302. The Area Plan Commission of Vigo County now hereby attaches certification to Special Ordinance No. 18-13 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. 18-13, was FAVORABLE.


Fred L. Wilson, President


Darren Maher, Assistant Director

Received this 5th day of July, 2013

STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: SO #18-13

Doc: # 46

Date: July 3rd, 2013

Page 1 of 3

APPLICATION INFORMATION

Petitioner: Gloria J. Anderson

Property Owner: Same-As-Above

Representative: Richard J. Shagley II

Proposed Use: 1 Duplex

Proposed Zoning: R-2, Two-Family Residence District

Current Zoning: R-1, Single Family Residence District

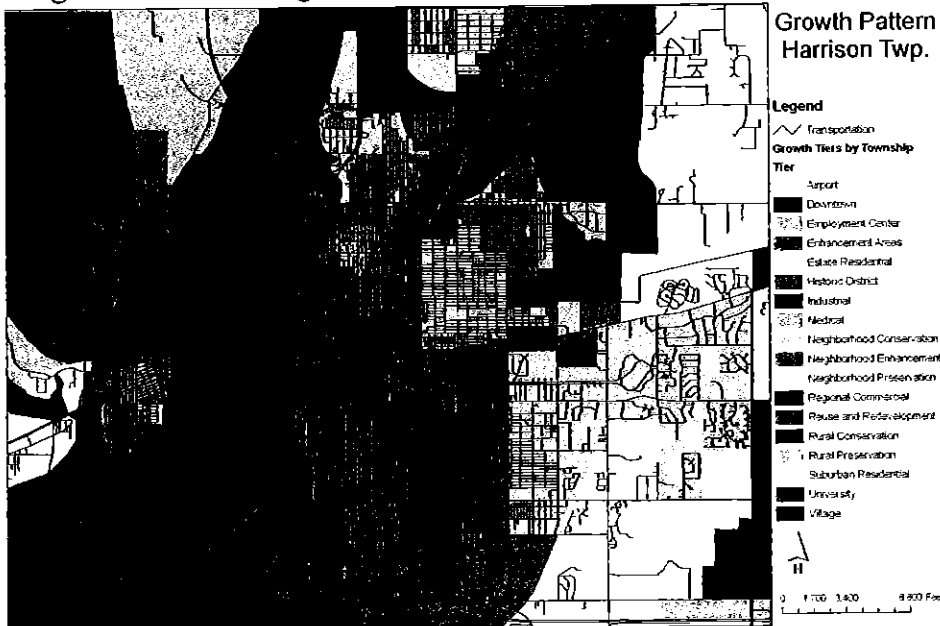
Location: The property is located on the northwest corner Linden Street and Kester Avenue.

Common Address: 2108 Kester Avenue, Terre Haute, In 47803

COMPREHENSIVE PLAN GUIDANCE

Service Area: The City of Terre Haute

Guiding Policies: Neighborhood Conservation



STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: SO #18-13

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Date: July 3rd, 2013

Page 2 of 3

- Allow for a range of housing densities based on the zoning ordinance.
- Allow for a mix of uses, focusing on neighborhood and community serving commercial nodes.
- Encourage neighborhoods to develop a unique sense of place, but still be part of the larger city.
- With respect to existing commercial “strips” – i.e. narrow bands of commercial uses occupying major roadway frontage, containment and limitation of future expansion of the commercial frontage is strongly advised.
- Improved landscaping, improved pedestrian amenities, and increase attention to lighting, signage, and impacts upon nearby residential areas is advised in the review of development petitions.

Available Services: Area is well served by utilities.

Soil Limitations: Not studied.

Street Access: North Kester Avenue is a (Local)

Dev. Priority: Capital investment that matches the existing development intensity and neighborhood development pattern is a high priority

ZONING COMPATIBILITY

Sur. Zones and Uses: **North** – R-1, Single-family Residence District
East – R-1, Single-family Residence District
South – R-1, Single-family Residence District
West – R-1, Single-family Residence District

Character of Area: The property included in the petition is located in the south-east portion of the Sheridan Park neighborhood. The built environment around the petitioned property consists of Single Family dwelling, and new two family dwellings.

Contig. Uses & Zones: The contiguous zoning is R-1, Single Residence District its uses are single family residential structures.

STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: SO #18-13

Doc: # 46

Date: July 3rd, 2013

Page 3 of 3

ZONING REGULATIONS

R-2 Purpose: Single-family and Two-Family dwellings Units

R-2 Uses: Any use permitted in the R-1, Single-family Residence District, such as Churches, Rectories, and Parish Houses, Convents and Monasteries; Gardening, including nurseries, provided that no offensive odors or dust are created; Public Libraries; Child Care as a Home Occupations; Parks, Playgrounds, and Schools; Residential Facility for the Developmentally Disabled. (Gen. Ord. No. 19, 1997, 2-12-98); Residential Facility for the Mentally Ill. (Gen. Ord. No. 19, 1997, 2-12-98).

R-2 Standards: Minimum Lot Size: 6,600 Sq. Ft.
FAR 0.5 %
Street Setback: 55 feet from centerline;
Rear setback 11';
Interior setback of 5' from the interior lot line;
Two (2) parking spaces per two-bed room unit.

FINDINGS and RECOMMENDATION

Staff Findings: The petitioned real-property has a total area of 33,824^{+/-} Sq. Ft. The Comprehensive Zoning Ordinance for the City of Terre Haute has defined a lot area development standard of 6600 Sq. Ft. per unit. The total land required to develop 1 duplex as proposed is 13200 Sq. Ft. The petitioner has sufficient lot area to meet the development standards.

Recommendation: Favorable Recommendation on the proposed R2 rezoning.