

APPLICATION FOR REZONING PETITION CITY OF TERRE HAUTE

SPECIAL ORDINANCE NO. 35, 2014

Common Address of lots to be rezoned:

706 South 7th Street
Terre Haute, IN 47807

Rezone From: R-2 – Two-Family Residence District

Rezone To: R-2 – Planned Development

Proposed Use: apartment building

Name of Owner: 7TH ST LLC

Address of Owner: 2901 Ohio Blvd., Suite 121, Terre Haute, IN 47803

Phone Number of Owner: (812) 243-4790

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: Todd Nation

FILED
OCT 01 2014
CITY CLERK

SPECIAL ORDINANCE NO. 35, 2014

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:

Nine feet and Eight (8) inches off the South side of Lot No. One (1) and Twenty-three (23) feet 8 inches off the North side of Lot No. Two (2) in the Subdivision made by St. Stephen's Church of 3.22 acres off the North side of Lot No. 13 in the Subdivision made by Charles Dewey Executor of David Raymond of the North West quarter of Section 27, Township 12 North of Range 9 West.

ALSO Five (5) feet in width off the north side of 38 ft. in width off the South side of Lot number 2 in the Subdivision made by St. Stephens Church of 3.22 acres off of David Raymond of the North West quarter of Section 27, Township 12 North of Range 9 West.

Commonly known as 706 South 7th Street, Terre Haute, Vigo County, Indiana 47807, be and the same is

hereby established as R-2 – Planned Development - as designated in Division 10 Section 207 of said

Comprehensive Zoning Ordinance for Terre Haute and the same is hereby declared to be a R-2 – Planned

Development - authorizing the use of said real estate for a four-unit apartment building as well as the other uses

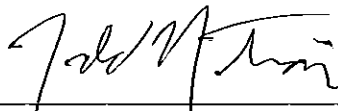
permitted by such designation, together with all rights, privileges, and provisions that may inure to said real estate and the owners thereof by virtue of the law in such cases provided, subject to all limitations and restrictions imposed thereon by deed or otherwise. Pursuant to the development plan approved by the Area Plan Commission, the development is approved for use with four (4) parking spaces and said parking shall have a setback of 0 feet from the north and south property lines.

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.

SECTION 3. In the event the Planned Development has not materialized within six (6) months of the date hereof, the Planned Development shall be void.

SECTION 4. This Ordinance shall be recorded within ninety (90) days of approval.

PRESENTED BY COUNCILPERSON

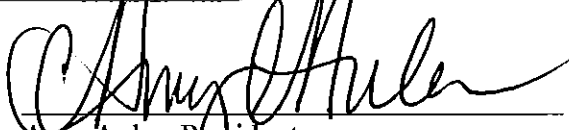

TODD NATION

Passed in open Council this

13th

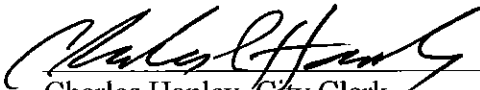
day of

November, 2014

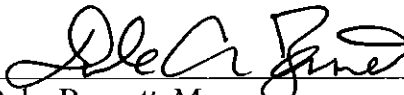

Amy Auler, President

ATTEST: , City Clerk
Charles Hanley

Presented by me to the Mayor this 14th day of November, 2014.



Charles Hanley, City Clerk

Approved by me, the Mayor, this 14th day of NOVEMBER, 2014.


Duke Bennett, Mayor
City of Terre Haute

ATTEST: 
Charles Hanley, City Clerk

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.


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

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9/29/2014

PETITION FOR REZONING OF REAL ESTATE

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

Gentlemen:

7TH ST LLC, petitioner, is the owner of the following described real estate located in
Vigo County, Indiana, to-wit:

Nine feet and Eight (8) inches off the South side of Lot No. One (1) and Twenty-three (23) feet 8 inches off the North side of Lot No. Two (2) in the Subdivision made by St. Stephen's Church of 3.22 acres off the North side of Lot No. 13 in the Subdivision made by Charles Dewey Executor of David Raymond of the North West quarter of Section 27, Township 12 North of Range 9 West.

ALSO Five (5) feet in width off the north side of 38 ft. in width off the South side of Lot number 2 in the Subdivision made by St. Stephens Church of 3.22 acres off of David Raymond of the North West quarter of Section 27, Township 12 North of Range 9 West.

which real estate is commonly known as 706 South 7th Street, Terre Haute, Vigo County, Indiana 47807.

The owner proposes to use the property for a four unit apartment building. Site plans are attached.

Petitioner is informed and believes that according to Chapter 10, Article 2, Division IV, Zoned Districts, Section 10.121 of the District Maps, "Comprehensive Zoning Ordinance for Terre Haute," and amendments thereto, the above described real estate is zoned R-2 – Two-

Family Residence District of the City of Terre Haute, Indiana. Petitioner is further informed and believes that the operation of petitioner's proposed use would require said real estate to be rezoned to the classification as R-2 – Planned Development District, under which classification Section 10.180(c), "Uses Permitted – R-2 – Planned Development District" would authorize such use. Petitioner further requests that the Planned Development be permitted with four (4) parking spaces instead of the required six (6) spaces and that the parking area be approved for zero setback from the north and south property lines.

Petitioner submits that this petition for a rezoning should be granted for the following reasons:

A. That the proposed use would be beneficial to the local community and would provide housing opportunities for the community;

B. That said real estate is located on South 7th Street which provides access to business and industry in the immediate area as well as in other parts of town;

C. That the use of said real estate as proposed will not significantly increase traffic or parking in the area, said real estate lends itself well to the proposed use; the proposed use does not alter the essential character of the locality and is not detrimental to public welfare or injurious to the property or improvements in the neighborhood;

D. Said rezoning will not increase the danger of fire or endanger the public safety or substantially diminish or impair property values within the general area.

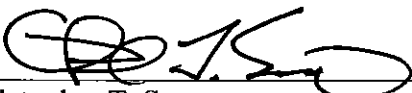
E. That the property suffers from hardship due to physical characteristics of the land and improvements. The property is located on a city lot but has been used as a four-unit apartment for an extended period of time.

F. That the property suffers from hardship due to the general deterioration of the neighborhood. This property, in particular, had formerly been condemned and an adjacent property to the north has been demolished. The parcel is also located near district boundary lines. There is a large R-3 zoning area immediately across 7th Street.

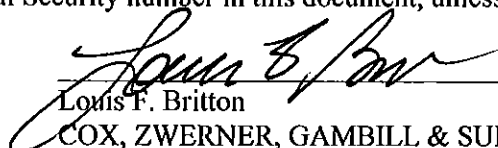
WHEREFORE, Petitioner respectfully requests the Common Council to favorably consider the passage of a Special Ordinance amending the Comprehensive Zoning Ordinance for Terre Haute, and declare the above-described real estate to be a part of "R-2 – Planned Development District" of the City of Terre Haute, Indiana, being entitled to the rights and benefits that may inure to said real estate and the owner thereof by virtue of said classification description and the laws in such cases provided, subject to all limitations imposed by deed or otherwise.

IN WITNESS WHEREOF, the petitioner, 7TH ST LLC has duly executed this instrument this 30th day of September, 2014.

7TH ST LLC:

By: x 
Christopher T. Senesac
Managing Member

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.


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

84-06-27-151-001-000-002

84-06-27-151-002-000-002

84-06-27-151-003-000-002

84-06-27-151-004-000-002

ALLEY

W

706 S. 7TH ST
REAR LOT PROPOSED PARKING

38 FEET

45 FEET

N

ALLEY

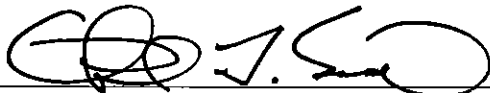
O'Serbacks on North and
South for parking and
drive way.

E

AFFIDAVIT

COMES NOW affiant, 7TH ST LLC, by Christopher Senesac, its Managing Member, and affirms under penalty of law that 7TH ST LLC is the owner of record of the property located at 706 South 7th Street, Terre Haute, Indiana, for which a rezoning is requested and attached hereto a deed evidencing such ownership.

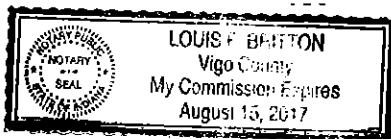
I affirm, under penalties for perjury, that the foregoing representations are true.

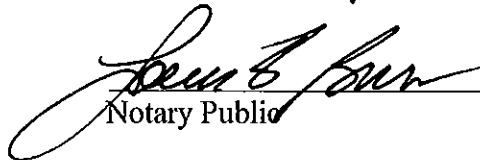
x 
Christopher Senesac, Managing Member
7TH ST LLC

STATE OF INDIANA)
) SS:
COUNTY OF VIGO)

Personally appeared before me, a Notary Public in and for said County and State, Christopher Senesac as Managing Member of 7TH ST LLC, who acknowledged the execution of the above and foregoing Affidavit, after being duly sworn upon his oath and after having read this Affidavit.

WITNESS my hand and Notarial Seal, this 30 day of Sept., 2014.



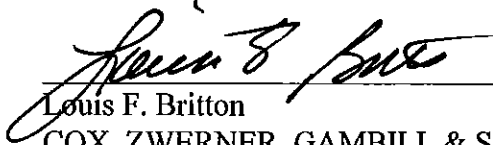

Notary Public

(Printed Name)

My Commission Expires:

My County of Residence:

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.

A handwritten signature in cursive script, appearing to read "Louis F. Britton", is written over a horizontal line.

Louis F. Britton

COX, ZWERNER, GAMBILL & SULLIVAN, LLP

511 Wabash Avenue, Terre Haute, IN 47807

Phone: (812) 232-6003

DULY ENTERED FOR TAXATION

Subject to final acceptance for transfer

JUN 30 2014

Janet M. Shewchuk
VIGO COUNTY AUDITOR

2014007678 WD \$20.00
06/30/2014 10:43:31A 3 PGS
NANCY S. ALLSUP
VIGO County Recorder IN
Recorded as Presented



LIMITED LIABILITY COMPANY WARRANTY DEED

THIS INDENTURE WITNESSETH, that ROI DEVELOPMENT, LLC ("Grantor"), an Indiana Limited Liability Company, hereby CONVEYS AND WARRANTS to 7th St LLC ("Grantee"), an Indiana Limited Liability Company, for the sum of Ten Dollars (\$10.00) and other valuable consideration, the receipt of which is hereby acknowledged, the following described real estate in Vigo County, in the State of Indiana:

Nine feet and Eight (8) inches off the South side of Lot No. One (1) and Twenty-three (23) feet 8 inches off the North side of Lot No. Two (2) in the Subdivision made by St. Stephen's Church of 3.22 acres off the North side of Lot No. 13 in the Subdivision made by Charles Dewey Executor of David Raymond of the North West quarter of Section 27, Township 12 North of Range 9 West.

ALSO Five (5) feet in width off the north side of 38 ft. in width off the South side of Lot number 2 in the Subdivision made by St. Stephens Church of 3.22 acres off the north side of Lot No. 13 in the Subdivision made by Charles Dewey Executor of David Raymond of the North West quarter of Section 27, Township 12 North of Range 9 West.

Commonly known as: 706 So. 7th Street, Terre Haute, IN 47807

ALSO

Thirty-three (33) feet in width off the South side of Lot Number Two (2) in the Church of St. Stephens Subdivision of the North one-third of Lot No 13 in the Subdivision made by Charles Dewey Executor of David Raymond of the North West quarter of Section 27, Township 12 North, of Range 9 West.

Commonly known as: 708 South 7th Street, Terre Haute, IN 47807

Subject to the covenants, conditions, restrictions, setback lines, utility easements and any amendments thereto contained in the plat of the St. Stephens Church Subdivision, Plat Record 1, Page 109, except any covenant, condition or restriction indicating a preference, limitation or discrimination based on race, color, religion, sex, handicap, familial status, or national origin to the extent such covenants, conditions or restrictions violate 42 U.S.C. 3604(c).

Further Subject to (i) all easements, highways, rights-of-way, covenants, conditions, restrictions and other matters of record; (ii) all current, non-delinquent real estate taxes and assessments; and (iii) all matters that would be disclosed by an accurate survey or physical inspection of said real estate.

2

Taxes are to be prorated as of the date of closing.

Grantor is an Indiana Limited Liability Company duly organized under the laws of Indiana, and the person(s) executing this deed on behalf of Grantor are all of the members of Grantor and are fully empowered by proper action of the members of Grantor to execute and deliver this deed. Grantor has full capacity to convey the Real Estate and all necessary Limited Liability Company action for the making of such conveyance has been taken and done.

IN WITNESS WHEREOF, Grantor has caused the execution of this Limited Liability Company Warranty Deed by its duly authorized member(s) this 26th day of June, 2014.

"Grantor"

ROI Development, LLC

By: Michael S. Rowe
Michael S. Rowe

Its: Member

STATE OF INDIANA)
) SS:
COUNTY OF VIGO)

Before me, a Notary Public in and for said County and State, personally appeared Michael S. Rowe, the sole authorized member(s) of ROI Development, LLC, Grantor, an Indiana Limited Liability Company, who acknowledged the execution of the foregoing Limited Liability Company Warranty Deed, and who, have been duly sworn, stated that the representations therein contained are true.

Witness my hand and Notarial Seal this 26 day of June, 2014.

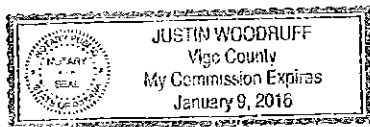
Justin Woodruff
Signature

Printed Name

Notary Public

My Commission Expires:

County of Residence:



Send tax statements to and

Grantee's mailing address is:

3
7TH ST LLC
2901 OHIO BLVD, SUITE 121
TERRE HAUTE, IN 47803

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. Thomas S. Clary II

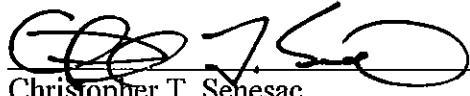
This Instrument Prepared By: Thomas S. Clary II, Attorney #25526-84, Wright, Shagley & Lowery, P.C., 500 Ohio Street, PO Box 9849, Terre Haute, IN, 47807, (812) 232-3388, at the specific request of Grantor based solely on information supplied by one or more of the parties to this conveyance and without 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 Grantee's acceptance of the instrument.

CONSENT TO ZERO SETBACK

The undersigned is the owner of 708 South 7th Street (Parcel No. 84-06-27-151-003.000-002) which is the property immediately adjacent and south of 706 South 7th Street (Parcel No. 84-06-27-151-002.000-002).

The undersigned has no objection to the Area Plan Commission not requiring a setback for parking for 706 North 7th Street on the south property line of 706 South 7th Street.

Dated: 9 - 30, 2014


Christopher T. Senesac
Managing Member of 7TH STREET LLC



Receipt

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

Date: 10/3/2014

Name: Law Offices of C. J. Zuckerman

Reason: Gambel & Sullivan

Bygoing

TERRE HAUTE, IN
PAID

OCT 02 2014

CONTROLLER

Cash: _____

Check: 45.00

Credit: _____

Total: 45.00

Received By: Allen / Lf



TERRE HAUTE
A LEVIT 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: November 6, 2014

REPORT TO THE CITY COUNCIL ON ZONING MAP AMENDMENT

THE VIGO COUNTY AREA PLAN COMMISSION HEREBY GIVES CERTIFICATION TO
SPECIAL ORDINANCE NUMBER #35-14

CERTIFICATION DATE: November 5, 2014

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

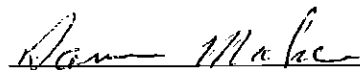
Dear Members,

The Vigo County Area Plan Commission offers you the following report and certification on Special Ordinance No. 35-14. This Ordinance is a rezoning of the property located at 706 South 7th Street. The Petitioner, 7th Street, LLC/Chris Senesac, petitions the Plan Commission to rezone said real estate from zoning classification R-2 to R-2 Planned Development District for a four unit apartment building. 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. 35-14 at a public meeting and hearing held Wednesday, November 5, 2014. 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. 35-14 as required by IC 36-7-4-302. The Area Plan Commission of Vigo County now hereby attaches certification to Special Ordinance No. 35-14 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. 35-14 was FAVORABLE WITH THE FOLLOWING CONDITION: 1) The Petitioner restore the exterior façade in keeping with historical and esthetic designs of the Farrington Grove community.


Fred L. Wilson, President


Darren Maher, Executive Director

Received this 6th day of November, 2014

STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: SO #35-14
Date: November 2014

Doc: # 51
Page 1 of 5

APPLICATION INFORMATION

Petitioner: Chris Senesac

Owner: 7th St. LLC.

Representative: Chris Senesac

Proposed Use: Four unit apartment building

Proposed Zoning: R-2PD, Planned Development

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

Location: The property is located on the east side of 7th Street south of Crawford and north of Deming.

Common Address: 706 S 7th St., Terre Haute, IN 47807

COMPREHENSIVE PLAN GUIDANCE

Service Area: The City of Terre Haute



STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: SO #35-14
Date: November 2014

Doc: # 51
Page 2 of 5

Guiding Policies: Historic District

Historic Districts

Historic Districts are locations within the community that are important because of historic events, their architectural or cultural significance, or a connection to the lives of the people who lived there that should be protected and enhanced as an amenity to region. There are two types of historic districts:

- **National Register Historic Districts.** The National Register is a nation-wide list of buildings or areas certified by the Secretary of Interior as important architecturally, historically or culturally. Individual buildings and those in a district are eligible for Federal and Indiana tax credits for rehabilitation and tax reductions for easement donation. Listing a building on the National Register does not trigger local review of changes to the building unless the project is federally funded.
- **Local Historic Districts.** Local Historic Districts can be created by local ordinance, and are regulated by a historic district design standards in that ordinance. These standards vary from district to district and are developed by the neighborhood. “Certified” local historic districts have been determined to qualify for the National Register. These districts enjoy the same tax credit benefits as National Register districts.

Specific items to be utilized in identifying historic districts include:

- Buildings and structures within the district generally must be 50 years old.
- Many demolitions or new buildings have not altered its historic appearance.
- District resources should be similar in style, massing, detailing and/or date of construction.
- The buildings in the district must retain their original architectural character.
- The area must have clear and precise defined boundaries.

Street Access: 7th Street is a Secondary Arterial road.

Dev. Priority: Reinvestment and rehabilitation are a high priority.

ZONING COMPATIBILITY

Sur. Zones and Uses: **North** – R-2
 East – R-2
 South – R-2
 West – R-3

Character of Area: The petitioned property is located in a residential neighborhood adjacent to Farrington Grove. Many homes in this area are rental properties for ISU students.

ZONING REGULATIONS

General - Floating Zones.

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.

Planned Development Criteria.

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.

STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: SO #35-14

Doc: # 51

Date: November 2014

Page 4 of 5

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 these zoning regulations.

Sec. 10-113 Variances.

a. For the purposes of carrying out the intent of this Article, the Area Plan Commission may recommend and the City Council may approve variances as to:

1. Set back requirements; and
2. Off street parking requirements.

b. The Area Plan Commission may recommend and the City Council may impose limitations and restrictions to ensure said Planned Development will not adversely affect the character of a particular neighborhood where said Planned Development is proposed. Violations of limitations imposed shall subject the property to penalties as established in Sec. 10-159.

Sec. 10-114 Requirements.

a. In the special ordinance to approve said Planned Development the petitioner:

- (1) Shall state the use or uses requested in said Planned Development; and
- (2) Shall request what variances are needed for said Planned Development; and
- (3) Shall provide evidence that said Planned Development will not adversely affect surrounding property values and that it will not adversely affect public health, safety, and the general public welfare; and
- (4) Shall state that in the event said Planned Development has not materialized within six (6) months of approval, said Planned Development becomes void; and
- (5) Shall state that the rights granted herein shall be transferable; and

STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: SO #35-14
Date: November 2014

Doc: # 51
Page 5 of 5

- (6) Said Planned Development shall be recorded in the Vigo County Recorder's Office within ninety (90) days of approval. Recording fees shall be the responsibility of the petitioner.
-

FINDINGS and RECOMMENDATION

Staff Findings: Staff findings are in three main categories.

1. The proposed rezoning is a logical step up in density for this area of the community. Located only a short distance from the downtown district, renters will be most likely students from ISU. This rezoning could continue the trend of encouraging increased pedestrian activity in the C-9 district.
2. The property currently being renovated is in keeping with the Farrington Grove architectural designs. Currently in a state of disrepair any reinvestment or renovation of historic housing is an encouraged activity.
3. The petitioner does have proof of a hardship and is able to demonstrate and meet all requirements as outlined in Sec. 10-113 and 114.

Recommendation: Staff offers a Favorable Recommendation with the following condition:

1. The developer restore the exterior facade in keeping with historical and esthetic designs of the Farrington Grove community.