

SPECIAL ORDINANCE NO. 10, 2015

WITHDRAWN

APPLICATION FOR REZONING PETITION CITY OF TERRE HAUTE

Common Address of lots to be rezoned:

230 S. 22nd Street, Terre Haute, IN 47803

Rezone From: R-1 Single Family Residence District

Rezone To: R-1 Planned Development District

Proposed Use: Child Day Care

Name of Owners: Carrie Molinder and Cary Molinder

Address of Owners: 246 S. 22nd Street,
Terre Haute, IN 47803

Phone Number of Owners: (812) 232-3388(Attorney)

Attorney Representing Owners: Richard J. Shagley II

Address of Attorney: Wright, Shagley & Lowery , P.C.
500 Ohio St., Terre Haute, IN 47807

For Information Contact: ☐ Owner ☒ Attorney

Council Sponsor: Amy Auler

COPY OF A SITE-PLAN MUST ACCOMPANY THIS APPLICATION

WITHDRAWN

SPECIAL ORDINANCE NO. 10, 2015

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:

Lot Number Two Hundred and Eighty-four (284) in Deming, a subdivision of a Part of the West half of Section Twenty-three (23), Township Twelve (12) North, Range Nine (9) West, lying South of Wabash Avenue in the City of Terre Haute, Indiana, as shown by the recorded plat of said subdivision in the office of the Recorder of Vigo County, Indiana.

Subject to conditions, restrictions and reservations established by instrument Dated April 24, 1919 and recorded April 24, 1919 in Deed Record 153 page 536, Records of the Recorder's Office, Vigo County, Indiana, except therefrom any Restrictions based on race, creed, color or national origin.

Subject to building set-back line of Twenty-five (25) feet off of the front of herein described lot, shown by the recorded plat of Deming, recorded April 23, 1919 in Plan Record 12 page 27, records of the Recorder's Office, Vigo County, Indiana.

Commonly known as 230 S. 22nd Street, Terre Haute, Indiana 47803

be and the same is, hereby established as a R-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 R-1 Single Family Residence District 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 any use permitted in a R-1 Single Family Residence District.

- (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.
- (c) A waiver is hereby granted from Table 4, Schedule of Minimum Off-Street Parking Requirements.
- (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 owners have 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 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. 10, 2015, 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. 10, 2015, 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 R-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,


John Mullican, Councilperson

Passed in open Council this ____ day of July, 2015.

John Mullican, President

ATTEST:

Charles P. Hanley, City Clerk

Presented by me to the Mayor of the City of Terre Haute, this ____ day of July, 2015.

Charles P. Hanley, City Clerk

Approved by me, the Mayor of the City of Terre Haute, this ____ day of July, 2015.

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 II

This instrument prepared by Richard J. Shagley II, 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, Carrie Molinder and Cary Molinder, 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 Two Hundred and Eighty-four (284) in Deming, a subdivision of a Part of the West half of Section Twenty-three (23), Township Twelve (12) North, Range Nine (9) West, lying South of Wabash Avenue in the City of Terre Haute, Indiana, as shown by the recorded plat of said subdivision in the office of the Recorder of Vigo County, Indiana.

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Subject to building set-back line of Twenty-five (25) feet off of the front of herein described lot, shown by the recorded plat of Deming, recorded April 23, 1919 in Plan Record 12 page 27, records of the Recorder's Office, Vigo County, Indiana.

Commonly known as 230 S. 22nd Street, Terre Haute, Indiana 47803

The 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.

Your Petitioners would respectfully state that the real estate is now and has been used as a Single Family Residential home. Your Petitioners also own the residential property to the north of this real estate that is currently being used as a child day care.

Your Petitioners would allege that there is a hardship due to: 1) the improvements to the land and 2) adjacent, scattered incompatible uses.

Your Petitioners would request that the real estate described herein shall be zoned as a R-1 Planned Development District to allow for the use as proposed by Petitioners. Your Petitioners would allege that the R-1 Planned Development District would not alter the general characteristics of this neighborhood.

Petitioners would allege that they have been operating a child day care in a residential home directly north of this real estate with no detrimental effect as it relates to off-street parking. Your Petitioners would request that a waiver be granted from Table 4 of Schedule of Off-Street Parking Requirements.


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 R-1 Planned Development 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 owner 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 3 day of ~~July~~^{June}, 2015.

PETITIONERS:

CARY MOLINDER


Cary Molinder

CARRIE MOLINDER


Carrie Molinder

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

BY: 

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

The owner and mailing address: 246 S. 22nd Street, Terre Haute, IN 47803.

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

SITE MAP

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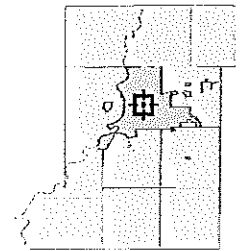


Beacon™

Vigo County, IN / City of Terre Haute




Overview



Legend

- ☐ Corporate Limits
- ☐ Political Township
- ☐ Sections
- ☐ Blocks
- ☐ Parcels
- ☐ Road Centerlines

Date created: 6/3/2015
Last Data Upload: 6/3/2015 4:19:36 AM

 Developed by
The Schneider Corporation

LOT SIZE 43' x 127'

DULY ENTERED FOR TAXATION
Subject to final acceptance for transfer

FEB 27 2015

2015001789 WD \$18.00
02/27/2015 11:03:39A 2 PGS
NANCY S. ALLSUP
VIGO County Recorder IN
Recorded as Presented

Timothy M. Allsup
VIGO COUNTY AUDITOR

LIMITED LIABILITY COMPANY WARRANTY DEED

THIS INDENTURE WITNESSETH that Redwing Properties, LLC, a limited liability company, organized and existing under the laws of the State of Indiana, (hereinafter referred to as Grantor), for and in consideration of the payment of One Dollar (\$1.00) and other good and valuable consideration, the receipt whereof is hereby acknowledged, hereby CONVEYS, GRANTS and WARRANTS to Carrie Molinder and Cary Molinder, as wife and husband (hereinafter referred to as Grantee), of the State of Indiana, the following described real estate in Vigo County in the State of Indiana, to-wit:

Lot Number Two Hundred and Eighty-four (284) in Deming, a subdivision of a part of the West half of Section Twenty-three (23), Township Twelve (12) North, Range Nine (9) West, lying South of Wabash Avenue in the City of Terre Haute, Indiana, as shown by the recorded plat of said subdivision in the office of the Recorder of Vigo County, Indiana.

Subject to conditions, restrictions and reservations established by instrument dated April 24, 1919 and recorded April 24, 1919 in Deed Record 153 page 536, records of the Recorder's Office, Vigo County, Indiana; except therefrom any restrictions based on race, creed, color or national origin.

Subject to building set-back line of Twenty-five (25) feet off of the front of herein described lot, shown by the recorded plat of Deming, recorded April 23, 1919 in Plat Record 12 page 27, records of the Recorder's Office, Vigo County, Indiana.

Commonly known as: 230 S 22nd Street, Terre Haute, IN 47803

As a further consideration of the payment of the above sum, the person(s) executing this deed on behalf of Grantor represent and certify, for the purpose of inducing Grantee to accept this Warranty Deed, that they have been fully empowered by the Articles of Organization of Grantor and proper resolution of Grantor to execute and deliver this deed; that Grantor has full capacity to convey the real estate conveyed by this instrument and that all necessary action for the making of such conveyance has been taken; Grantor further states under oath that no Indiana gross income tax is due or payable with respect to the transfer of the above-described real estate.

Grantor certifies that the above-described real estate is not "property" as defined by I.C. 13-11-2-174 and that the above-described real estate does not contain facilities that are subject to reporting under Section 312 of the federal Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. 11022) and is not the site of underground storage tanks for which notification is required under 42 U.S.C. 8991a or L.C. 13-23-1-2(c)(8)(A) and is not listed on the Comprehensive Environmental Response System (CERLIS) in accordance with Section 116 of CERCLA (42 U.S.C. 9616); and that, consequently, no disclosure document under Indiana Code 13-25-3-1 et seq. (Indiana Responsible Transfer Law) is required for this transaction.

IN WITNESS WHEREOF, Leslie R. Zimmerman and Anna M. Zimmerman, are acting as the authorized Members of Redwing Properties, LLC, and has caused this deed to be executed in its name on this 26th day of February, 2015.

Redwing Properties, LLC

By: *Leslie R. Zimmerman*
Leslie R. Zimmerman

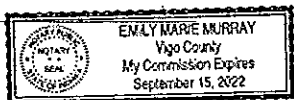
Anna M. Zimmerman
Anna M. Zimmerman

STATE OF INDIANA)
) SS:
COUNTY OF VIGO)

Before me, the undersigned, a Notary Public in and for said County and State, this 26th day of February, 2015, personally appeared: Leslie R. Zimmerman and Anna M. Zimmerman, the authorized Members for Redwing Properties, LLC, and acknowledged the execution of the foregoing Deed and Tax Affidavit for and on behalf of said Grantor, and who, having been duly sworn, state that the representations contained therein are true.

In witness whereof, I have hereunto subscribed my name and affixed my official seal.

My Commission Expires:



Emily Marie Murray
Notary Public
Printed: _____
Residing in _____ County

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.

John A. Gurchiek, Esq.

Mail Tax Statements To Grantee at: 246 S 22nd St Terre Haute IN 47803

Mail Deed To: Integrity Title Services, 1532 Wabash Ave., Terre Haute, IN 47807.

This instrument was prepared by: John Gurchiek of GURCHIEK LAW, INC., P.O. Box 6327, Fishers, IN 46038, at the specific request of the parties of their authorized representatives based solely on information supplied by one or more of the parties to this conveyance. 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 this instrument.
CMT: 15 0201

STATE OF INDIANA)
) SS:
COUNTY OF VIGO)

AFFIDAVIT

Comes now, Cary Molinder and Carried Molinder, being duly sworn upon their oaths, deposes and says:

1. Carried Molinder and Cary Molinder are 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 Number Two Hundred and Eighty-four (284) in Deming, a subdivision of a Part of the West half of Section Twenty-three (23), Township Twelve (12) North, Range Nine (9) West, lying South of Wabash Avenue in the City of Terre Haute, Indiana, as shown by the recorded plat of said subdivision in the office of the Recorder of Vigo County, Indiana.

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Commonly known as 230 S. 22nd Street, Terre Haute, Indiana 47803.

2. That a copy of the Deed, recorded in the records of the Recorder's Office of Vigo County, Indiana, transferring fee simple title to Carried Molinder and Cary Molinder is attached hereto and made a part hereof and marked as Exhibit A.

3. That Affiants make this Affidavit for the sole purpose of affirming that Cary Molinder and Carried Molinder 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 Cary Molinder and Carried Molinder.

4. Further, Affiants saith not.

Remainder of this page intentionally left blank.

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



Receipt

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

Date: 06/03/15

Name: Wright, Hagley + Howery

Reason: _____

Renewing

Carrie Molinder

TERRE HAUTE, IN

PAID

Cash: _____

Check: 4500 CR#64391

JUN - 3 2015

Credit: _____

CONTROLLER

Total: 4500

Received By: Pat Heiler



TERRE HAUTE
ACTIVITY 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 2, 2015

REPORT TO THE CITY COUNCIL ON ZONING MAP AMENDMENT

THE VIGO COUNTY AREA PLAN COMMISSION HEREBY GIVES CERTIFICATION TO
SPECIAL ORDINANCE NUMBER #10-15

CERTIFICATION DATE: July 1, 2015

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.10-15. This Ordinance is a rezoning of the property located at 230 South 22nd Street. The Petitioner, Carrie and Cary Molinder, petitions the Plan Commission to rezone said real estate from zoning classification R-1 to R-1 Planned Development District for child daycare. 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(e).

The Area Plan Commission considered Special Ordinance No. 10-15 at a public meeting and hearing held Wednesday, July 1, 2015. Remonstrators were 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. 10-15 as required by IC 36-7-4-302. The Area Plan Commission of Vigo County now hereby attaches certification to Special Ordinance No.10-15 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. 10-15 was Unfavorable because the daycare operation is already a permitted use in a R-1 zoning classification and that it is unnecessary to change the zoning classification.

A handwritten signature in black ink, appearing to read "Fred L. Wilson".

Fred L. Wilson, President

A handwritten signature in black ink, appearing to read "Darren Maher".

Darren Maher, Executive Director

Received this 2nd day of July, 2015

STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: SO #10-15

Doc: # 45

Date: July 2015

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APPLICATION INFORMATION

Petitioner: Carrie and Cary Molinder

Property Owner: Same-As-Above

Representative: Richard J. Shagley II

Proposed Use: Child Day Care

Proposed Zoning: Planned Development District

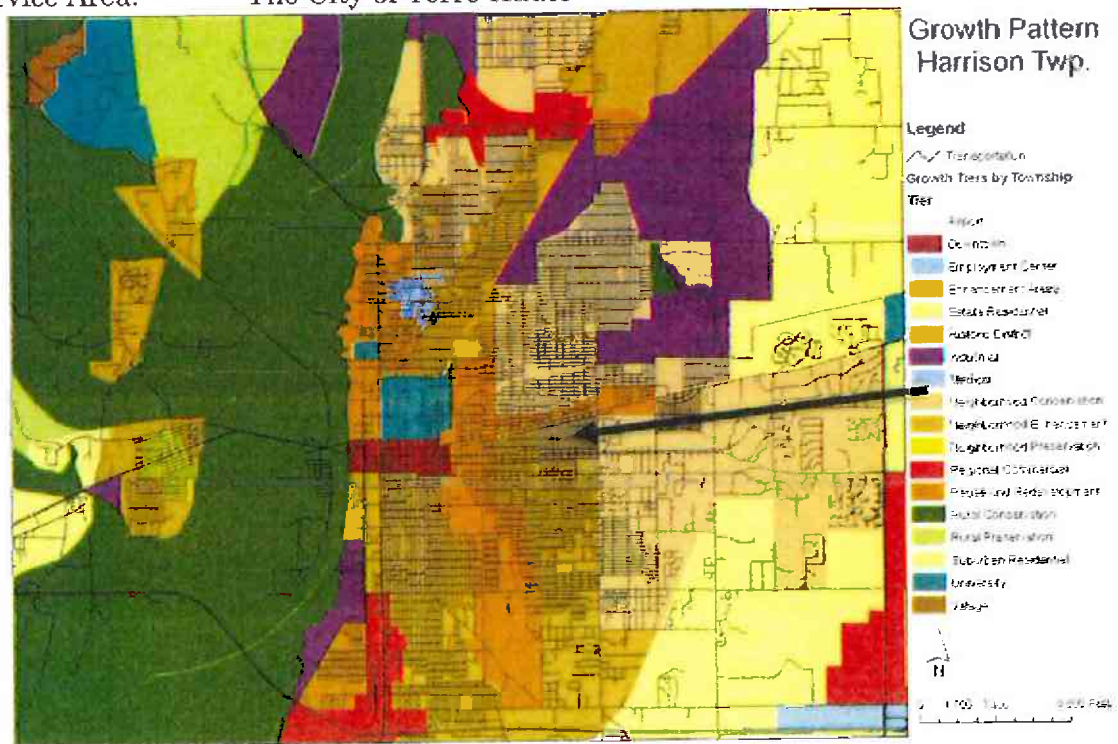
Current Zoning: R-1, Single-Family Residence District

Location: The property is on the east side of S 22nd St. approximately 400 feet north of the intersection of Ohio and S 22nd St.

Common Address: 230 S 22nd Street, Terre Haute, IN 47803

COMPREHENSIVE PLAN GUIDANCE

Service Area: The City of Terre Haute



STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: SO #38-15

Doc: # 5

Date: January 2015

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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 it historic appearance.
- District resources should be similar in style, massing, detailing and/or date of construction.
- The buildings in the district must retail their original architectural character.
- The area must have clear and precise defined boundaries.

Dev. Priority: There is a low development priority in this area. Focus should remain on stability and reinvestment in the neighborhood.

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 petition property is located in the Ohio Boulevard-Deming Park Historic District

ZONING REGULATIONS

- b. Uses, Permitted - R-1 Single-Family Residence District.
(1) One-family detached dwellings.

STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

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- (2) Cemeteries, including crematories and mausoleums in conjunction therewith if not located within four hundred feet (400') of any other property in a Residence District.
- (3) Churches, Rectories, and Parish Houses.
- (4) Convents and Monasteries.
- (5) Gardening, including nurseries, provided that no offensive odors or dust are created.
- (6) Golf Courses, but not including commercially-operated driving ranges or miniature golf courses, provided that no clubhouse shall be located within three hundred feet (300') of any other property in a Residence District.
- (7) Libraries, Public. (Ord. No. 1, 1967, § 1131.01 a. - b., 7-6-67)
- (8) Child Care.
- (9) Home Occupations. (Gen. Ord. No. 17, 2000, 9-14-00)

(A) UNLICENSED CHILD CARE.

An individual, or other entity, may provide child care in their residence for less than twenty-four (24) continuous hours to five (5) or fewer children at any time excluding relatives of the individual.

(B) LICENSED CHILD CARE.

An individual, or other entity, who is licensed by the Vigo County Department of Public Welfare and the State Department of Public Welfare may provide child care services for children under the age of fourteen (14). The caregiver may not exceed ten (10) children, including their own children, at any one time.

(C) Licensed or unlicensed child care centers shall not be permitted in residential districts that do not comply to Subsections (a) and (b) above.

- (10) Parks and Playgrounds, publicly owned and operated.
- (11) Schools, elementary and high, non-boarding and including playgrounds and athletic fields incidental thereto.

Planned Developments

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.

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.

STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

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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.

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.

FINDINGS and RECOMMENDATION

Staff Findings:

The petitioner owns three properties on this block 226, 230 and 246 S 22nd St. The northernmost two properties are currently being used as a daycare. The petitioner seeks to rezone only one of the two properties being used as a daycare. The property being rezoned is the southern of the two day care properties commonly know as 230 S 2nd St. The applicant wishes not to rezone the northern property as it currently enjoys a legal non-conforming status. The applicant would attest to holding all proper certifications for child care and operating a child care facility within all state and county guidelines.

The daycare operator is licensed for 16 children with 3 teachers at 226 s 22nd and at 230 s 22nd is licensed for 12 children with 2 teachers. She has opted not change the license to a class II for 16 children

The applicants would allege that their hardship lies with the improvements to the land and adjacent scattered incompatible uses.

STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

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As a part of the Planned Development the applicant is seeking a variance from Table 4, Schedule of Minimum Off-Street Parking Requirements.

Child care facilities are permitted use by right in an R-1 Single Family Residence District as long as subsections (A) or (B) as listed above are followed. This rezoning was requested in response to a complaint filed against the business owner and as a tool for future business operations at this location.

Recommendation: Staff has a Favorable Recommendation for the R-1 PD with the following condition:

1. That is it found that the petitioner has a hardship as outlined above
2. 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.

STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

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SPECIAL ORDINANCE NO. 10, 2015

APPLICATION FOR REZONING PETITION CITY OF TERRE HAUTE

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Rezone To: R-1 Planned Development District

Proposed Use: Child Day Care

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Address of Owners: 246 S. 22nd Street,
Terre Haute, IN 47803

Phone Number of Owners: (812) 232-3388(Attorney)

Attorney Representing Owners: Richard J. Shagley II

Address of Attorney: Wright, Shagley & Lowery , P.C.
500 Ohio St., Terre Haute, IN 47807

For Information Contact: ☐ Owner ☒ Attorney

Council Sponsor: Amy Auler

COPY OF A SITE-PLAN MUST ACCOMPANY THIS APPLICATION

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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:

Lot Number Two Hundred and Eighty-four (284) in Deming, a subdivision of a Part of the West half of Section Twenty-three (23), Township Twelve (12) North, Range Nine (9) West, lying South of Wabash Avenue in the City of Terre Haute, Indiana, as shown by the recorded plat of said subdivision in the office of the Recorder of Vigo County, Indiana.

Subject to conditions, restrictions and reservations established by instrument Dated April 24, 1919 and recorded April 24, 1919 in Deed Record 153 page 536, Records of the Recorder's Office, Vigo County, Indiana, except therefrom any Restrictions based on race, creed, color or national origin.

Subject to building set-back line of Twenty-five (25) feet off of the front of herein described lot, shown by the recorded plat of Deming, recorded April 23, 1919 in Plan Record 12 page 27, records of the Recorder's Office, Vigo County, Indiana.

Commonly known as 230 S. 22nd Street, Terre Haute, Indiana 47803

be and the same is, hereby established as a R-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 R-1 Single Family Residence District 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 any use permitted in a R-1 Single Family Residence District.

- (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.
- (c) A waiver is hereby granted from Table 4, Schedule of Minimum Off-Street Parking Requirements.
- (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 owners have 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 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. 10, 2015, 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. 10, 2015, 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 R-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,


John Mullican, Councilperson

Passed in open Council this ____ day of July, 2015.

John Mullican, President

ATTEST:

Charles P. Hanley, City Clerk

Presented by me to the Mayor of the City of Terre Haute, this ____ day of July, 2015.

Charles P. Hanley, City Clerk

Approved by me, the Mayor of the City of Terre Haute, this ____ day of July, 2015.

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 II

This instrument prepared by Richard J. Shagley II, 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, Carrie Molinder and Cary Molinder, 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 Two Hundred and Eighty-four (284) in Deming, a subdivision of a Part of the West half of Section Twenty-three (23), Township Twelve (12) North, Range Nine (9) West, lying South of Wabash Avenue in the City of Terre Haute, Indiana, as shown by the recorded plat of said subdivision in the office of the Recorder of Vigo County, Indiana.

Subject to conditions, restrictions and reservations established by instrument Dated April 24, 1919 and recorded April 24, 1919 in Deed Record 153 page 536, Records of the Recorder's Office, Vigo County, Indiana, except therefrom any Restrictions based on race, creed, color or national origin.

Subject to building set-back line of Twenty-five (25) feet off of the front of herein described lot, shown by the recorded plat of Deming, recorded April 23, 1919 in Plan Record 12 page 27, records of the Recorder's Office, Vigo County, Indiana.

Commonly known as 230 S. 22nd Street, Terre Haute, Indiana 47803

The 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.

Your Petitioners would respectfully state that the real estate is now and has been used as a Single Family Residential home. Your Petitioners also own the residential property to the north of this real estate that is currently being used as a child day care.

Your Petitioners would allege that there is a hardship due to: 1) the improvements to the land and 2) adjacent, scattered incompatible uses.

Your Petitioners would request that the real estate described herein shall be zoned as a R-1 Planned Development District to allow for the use as proposed by Petitioners. Your Petitioners would allege that the R-1 Planned Development District would not alter the general characteristics of this neighborhood.

Petitioners would allege that they have been operating a child day care in a residential home directly north of this real estate with no detrimental effect as it relates to off-street parking. Your Petitioners would request that a waiver be granted from Table 4 of Schedule of Off-Street Parking Requirements.

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 R-1 Planned Development 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 owner 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 3 day of ~~July~~_{June}, 2015.

PETITIONERS:


CARY MOLINDER


Cary Molinder

CARRIE MOLINDER


Carrie Molinder

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

BY: 
Richard J. Shagley II, #23135-84
Attorneys for Petitioners

The owner and mailing address: 246 S. 22nd Street, Terre Haute, IN 47803.

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

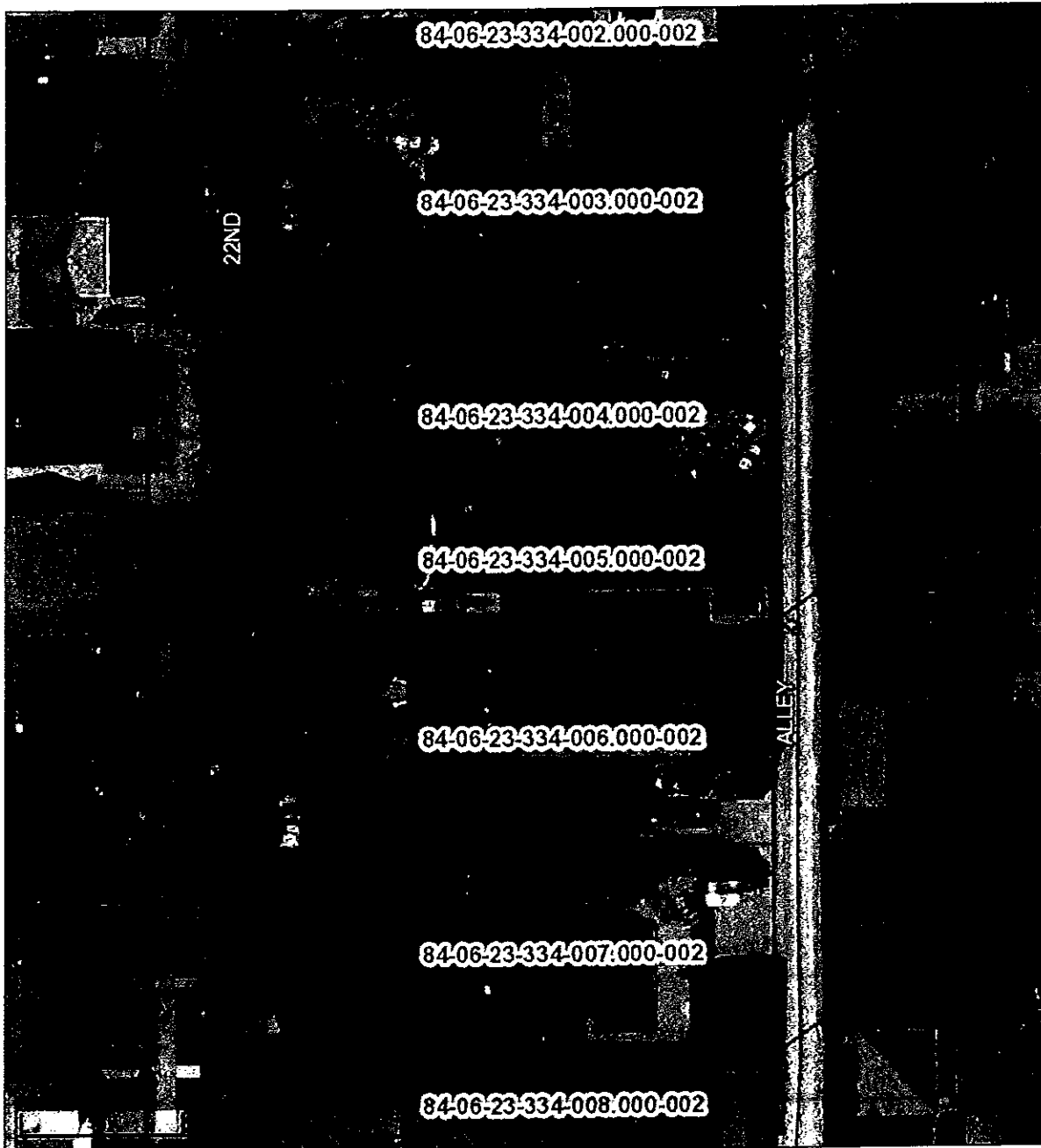
SITE MAP

4^N

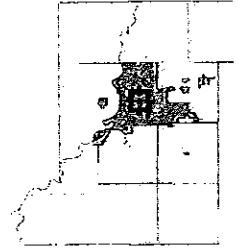


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Vigo County, IN / City of Terre Haute



Overview



Legend

- ☐ Corporate Limits
- ☐ Political Township
- ☐ Sections
- ☐ Blocks
- ☐ Parcels
- Road Centerlines

Date created: 6/3/2015
Last Data Upload: 6/3/2015 4:19:36 AM



Developed by
The Schneider Corporation

LOT SIZE 43' X 127'

To: The Honorable City Council Members

FILED

From: Gail Nattkemper

JUL 9 2015

CITY CLERK

Attached is a petition signed by the surrounding neighborhood residents opposed to the rezoning of 230 South 22nd Street.

I have been asked by them to speak on their behalf.

Thank you for taking the time to listen to our concerns.

Terre Haute, Indiana, to R-1 Development.

Name	Address
Michael Souer	231 So. 22nd St. T.H 47803
Larry & Donna Delira	206 S. 22nd St.
Jane Pine	227 S. 22nd St.
Robert and Linda Mohrhaus	149 So. 22 nd St.
Jeanette Clead	145 So. 22nd - been here 53 yrs
Gail Natkempen	2174 Ohio Blvd.
Lee Hopkins	223 S. 22 nd St
Edna E. Snick	2204 OHIO BLVD
[Signature]	2224 OH BLVD
William Miller	2246 OH Blvd.
[Signature]	211 S. 23rd
Mary Johnson	210 S. 23rd
John Correy	209 S. 23rd
Don Miller	212 Barton Ave
[Signature] + Wright	211 Barton Ave
[Signature]	227 Barton Ave
Kelly Cardinal	253 S. 22 nd St.
[Signature]	111 South 22 nd Street
Congreg. Pae Family	38 - S. 22 nd St -
John Franco	2197 S. 22ND

Paul Escalante	2150 Warrell St.
William W. Wray	113 Monterey
Michael Gullette	45 Monterey
Matthias Lee	239 S. 22nd
Patricia S. McIntyre	2153 Ohio Blvd.
Brumley	2255 Ohio Blvd.
Salvador Nasser	2258 - OHIO
Loretta M. Nasser	2303 Ohio Blvd.
Susan Vernon	2375 Ohio Blvd.
Arthur Vernon	2375 Ohio Blvd.
Wm. "Mm"	2401 Ohio Blvd.
Sister & Karen McCary	2421 Ohio Blvd.
Hannah Taylor	2816 Harrison Ave
Phillips	2408 Ohio Blvd.
John A. Marshall	2270 Ohio Blvd.
Jamie Doss Board	2270 Ohio Blvd. / T.H.
Pat Campbell	2305 Warren St.
Margery Hopkins	223 S. 22nd St.
John	200 S. 22nd St.
Mary Alice DeWitt	125 S. 22nd St.
Arthur DeWitt	125 S. 22nd St.
James DeWitt	101 S. 22nd St.
Kitty DeWitt	33 S. 22nd St.



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SHAGLEY
LOWERY, P.C.

Since 1946

FILED

JUL 15 2015

CITY CLERK

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Terre Haute, Indiana
47807-3517

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Fax: 812.232.8817

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amischler@wsfirm.com

Robert L. Wright
of Counsel

Norman L. Lowery
of Counsel

*Registered Civil Mediator
**Also Licensed in Illinois

July 14, 2015

Via Regular and Electronic Mail

Ms. Michelle Edwards
City Hall
47 Harding Street
Terre Haute, Indiana 47808

Re: Special Ordinance #10-15

Dear Ms. Edwards,

As you know, we represent the petitioners, Carrie and Cary Molinder ("Petitioners") with regards to the above matter.

Please accept this as the Petitioners formal request to have this matter tabled from the July 16th 2015 Regular Meeting of the Terre Haute City Council's agenda.

Thank you for your assistance, if you have any questions, please do not hesitate to contact me.

Sincerely yours,
Wright, Shagey & Lowery, P.C.

Richard Shagley II

C: Mr. & Mrs. Molinder