

SPECIAL ORDINANCE NO. 29, 2020

APPLICATION FOR REZONING PETITION CITY OF TERRE HAUTE

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Common Address of lots to be rezoned:

17 South 20th Street, Terre Haute, IN 47803

Rezoned From: R-1 Single Family Residence District-Special Use

Rezoned To: R-1 Planned Development

Proposed Use: Office Space and Parking

Name of Owner: 1925 Realty Company, LLC

Address of Owner: 1925 Wabash Avenue
Terre Haute, IN 47807

Phone Number of Owner c/o (812) 232-3388

Attorney Representing Owner: Richard J. Shagley, II

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

For Information Contact: Owner Attorney

Council Sponsor: Martha Crossen

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COPY OF A SITE-PLAN MUST ACCOMPANY THIS APPLICATION

FILED

OCT 13 2020

CITY CLERK

SPECIAL ORDINANCE NO. 29, 2020

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 AAn 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 97 in Deming, a subdivision of a part of the West Half of Section 23, Township 12 North, Range 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.

Commonly known as: 17 South 20th Street, Terre Haute, IN 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 Planned Development 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 Residence District and office space and parking.
- (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 variance is hereby granted from Section 10-207 e. (1)(A) which states in

part:

"...any area contingent or abutting a Residential District shall be buffered by an open space or off-street parking area with a minimum fifty foot (50') width measured at right angles to the residential property line."

- (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 improvements on the real estate, 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. 29, 2020, 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. 29, 2020, 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, Martha Crossen
Martha Crossen, Councilperson

Passed in open Council this 3 day of December, 2020.

[Signature]
George Azar, President

ATTEST:

Michelle Edwards
Michelle Edwards, City Clerk

Presented by me, to the Mayor of the City of Terre Haute, this 4 day of December, 2020.

Michelle Edwards
Michelle Edwards, City Clerk

Approved by me, the Mayor of the City of Terre Haute, this 4th day of December, 2020.

[Signature]
Duke A. Bennett, Mayor

ATTEST:

Michelle Edwards
Michelle Edwards, 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.

[Signature]
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, 1925 Realty Company, LLC, by Jeffrey H. Fisher, member, 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 97 in Deming, a subdivision of a part of the West Half of Section 23, Township 12 North, Range 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.

Commonly known as: 17 South 20th Street, Terre Haute, IN 47803.

The 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 Residence District-Special Use.

Your Petitioner would respectfully state that the real estate is now a single-family home and used for office storage and parking. The Petitioner intends to use the real estate for office space and parking.

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

Your Petitioner would allege that there is a hardship due to: 1) improvements on the real estate (nature of structure in a mixed use neighborhood; 2) the physical characteristics of the land (the shape of Petitioner's parcel); and 3) the parcel is located near district boundary lines (the other parcels owned by Petitioner in the area are zoned commercial).

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

neighborhood.

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-1 Planned Development 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 caused this Petition to Rezone Real Property to be executed, this 12TH day of OCTOBER, 2020.

PETITIONER:

1925 REALTY COMPANY, LLC



Jeffrey H. Fisher, Member

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 Petitioner

The owner and mailing address: 1925 Wabash Avenue, Terre Haute, Indiana 47807.

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 47807.

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SITE PLAN

SPECIAL ORDINANCE NO. 29, 2020

17 South 20th Street, Terre Haute, IN 47803

R-1 Single Family Residence District-Special Use to R-1 Planned Development

Proposed Use: Office Space and Parking

 **Beacon**TM Vigo County, IN / City of Terre Haute



Overview



Legend

-  Corporate Limits
-  Political Townships
-  Sections
-  Blocks
-  Parcels
-  Road Centerlines
-  2020 Sales

Parcel ID

84-06-23-304-013-000-002

Alternate ID 118-06-23-304-013

Owner Address 1925 REALTY COMPANY LLC

STATE OF INDIANA)
) SS:
COUNTY OF VIGO)

AFFIDAVIT

Comes now, Jeffrey H. Fisher, Member of 1925 Realty Company, LLC, being duly sworn upon his oath, deposes and says:

1. That 1925 Realty Company, LLC 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:

Lot Number 97 in Deming, a subdivision of a part of the West Half of Section 23, Township 12 North, Range 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.

Commonly known as: 17 South 20th Street, Terre Haute, IN 47803.

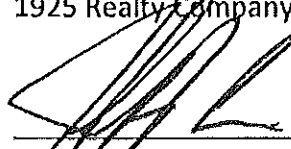
2. That copies of the Deed, recorded in the records of the Recorder's Office of Vigo County, Indiana, transferring fee simple title to 1925 Realty Company, LLC is attached hereto and made a part hereof and marked as Exhibit A.

3. That Affiant makes this Affidavit for the sole purpose of affirming that she is the owner 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 1925 Realty Company, LLC

4. Further, Affiant saith not.

Dated at Terre Haute, Indiana this 12th day of October, 2020.

1925 Realty Company, LLC



Jeffrey H. Fisher, Member

(Notary Page to Follow)

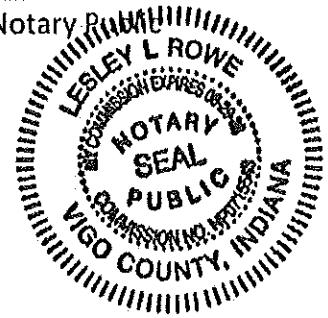
STATE OF INDIANA)
) SS:
COUNTY OF VIGO)

SUBSCRIBED AND SWORN TO before me, a Notary Public in and for said County and State, this 12 day of October, 2020.

Lesley L Rowe
Lesley L Rowe, Notary Public

My Commission expires:
8-29-21

My County of Residence:
Vigo



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

DULY ENTERED FOR TAXATION
Subject to final acceptance for transfer:

ST 07438

001819 /

RECEIVED FOR RECORD

MAY 28 1997

007438

97 MAY 28 PM 2:01

John A. Anderson ALLOTOR
Vigo County

PAUL MASON
VIGO CO. RECORDER

WARRANTY DEED

THIS INDENTURE WITNESSETH, That Jon S. Linebarger and Tracy Griffith Linebarger, husband and wife, of Vigo County, in the State of Indiana, CONVEY and WARRANT to 1925 Realty Company, LLC of Vigo County, in the State of Indiana, for the sum of Ten and 00/100 Dollars (\$10.00) 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:

Lot Number 97 in Deming, a subdivision of a part of the West Half of Section 23, Township 12 North, Range 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 the plat of Deming Subdivision recorded April 23, 1919, in Plat Record 12, Page 27 in the Recorder's Office of Vigo County, Indiana.

Subject also to protective covenants, restrictions, conditions and reservations established by deed dated April 24, 1919, recorded April 24, 1919, in Deed Record 153, Page 536, in the Recorder's Office of Vigo County, Indiana.

Subject also to Encroachment upon the South side of subject real estate by a six foot board fence from the real estate adjoining subject real estate on the South as disclosed by survey prepared by William T. Crowley, Jr. LS #6966, dated March 22, 1991.

Subject also to encroachment into the twenty-five foot building setback line along the East boundary of lot established by the plat of Deming Subdivision, recorded April 23, 1919, in Plat Record 12, Page 27, in the Recorder's Office of Vigo County, Indiana, as disclosed by survey prepared by William T. Crowley, Jr., LS #6966, dated March 22, 1991.

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

Subject to the taxes prorated from the date hereof.

IN WITNESS WHEREOF, the said Jon S. Linebarger^{SSW} and Tracy Griffith Linebarger, husband and wife, have hereunto set their hands and seals, this 27th day of May 1997.

Jon S. Linebarger (Seal)
Jon S. Linebarger

Tracy Griffith Linebarger (Seal)
Tracy Griffith Linebarger

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STATE OF INDIANA)
) SS:
COUNTY OF VIGO)

Before me, the undersigned, a Notary Public in and for said County and State, this 27th day of May 1997, personally appeared Jon S. Linebarger and Tracy Griffith Linebarger and acknowledged this conveyance to be their voluntary act and deed.

In Witness Whereof, I have hereunto subscribed my name and affixed my official seal.

Susan K. Keller
Notary Public

SUSAN K. KELLER
(printed name)



My commission expires:
September 15, 1998

My county of residence:
Vigo

This instrument prepared by Carroll D. Smeltzer Carroll D. Smeltzer, Attorney at Law, COX, ZWERNER, GAMBILL & SULLIVAN, P.O. Box 1625, Terre Haute, IN 47808-1625.

Tax Duplicate Sent To 1935 Realty Co., L.L.C.

Address 1935 Wabash Ave., Terre Haute, In 47807

RECEIVED FOR RECORD
AT 11:00 O'CLOCK AM
RECORD 147 PAGE 1819
1997
Paul Mason
RECORDED VIGO COUNTY



Receipt

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

TERRE HAUTE, INC
PAID
OCT 13 2020
CONTROLLER

Date: 10/13/2020

Name: 1925 Realty Company

Reason:	<u>Reasoning - Notice of Filing</u>	<u>\$25.00</u>
	<u>Reasoning - Petition</u>	<u>\$20.00</u>

Cash: _____

Check: #11042 \$45.00

Credit: _____

Total: \$45.00

Received By: L. Ellsby



TERRE HAUTE
A FOOT 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: December 3, 2020

REPORT TO THE CITY COUNCIL ON ZONING MAP AMENDMENT

THE VIGO COUNTY AREA PLAN COMMISSION HEREBY GIVES CERTIFICATION TO
SPECIAL ORDINANCE NUMBER 29-20

CERTIFICATION DATE: December 2, 2020

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. 29-20. This Ordinance is a rezoning of the property located at 17 South 20th. The Petitioner, 1925 Realty Co. LLC, petitions the Plan Commission to rezone said real estate from zoning classification R-1 to R-1PD, Single Family Planned Development.

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. 29-20 at a public meeting and hearing held Wednesday, December 2, 2020. 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. 29-20 as required by IC 36-7-4-302. The Area Plan Commission of Vigo County now hereby attaches certification to Special Ordinance No. 29-20 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. 29-20 was FAVORABLE WITH THE FOLLOWING CONDITIONS: 1) Must be recorded in 90 days 2) A hardship must be demonstrated.

Handwritten signature of Fred L. Wilson in black ink.

Fred L. Wilson, President

Handwritten signature of Jared Bayler in black ink.

Jared Bayler, Executive Director

Received this 3rd day of December, 2020