

SPECIAL ORDINANCE NO. 2, 2022

APPLICATION FOR REZONING PETITION CITY OF TERRE HAUTE

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Common Address of lots to be rezoned:

210 Oakland Avenue, Terre Haute, IN 47803
Parcel # 84-06-23-231-001.000-002

Rezone From: M-2 Heavy Industry District

Rezone To: R-1 Single Family Residence District

Proposed Use: Single Family Home

Name of Owners: Cassidy N. Kingery and Gerald J. Kingery & Amy L. Kingery

Address of Owners: 210 Oakland Avenue
Terre Haute, IN 47803

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: Cheryl Loudermilk

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COPY OF A SITE-PLAN MUST ACCOMPANY THIS APPLICATION

FILED

JAN 21 2022

**SPECIAL ORDINANCE FOR A REZONING
SPECIAL ORDINANCE NO. 2, 2022**

CITY CLERK

An Ordinance Amending Chapter 10, Article 2 of the Municipal Code designated as "Comprehensive Zoning Ordinance for Terre Haute Indiana."

SECTION I. BE IT ORDIANED 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:

Commencing at the Northeast corner of Lot Number 40 in Park View Heights, a plat of a portion of the North one-half of the North East Quarter of Section 23, Township 12 North, Range 9 West, the same being a replat of lots numbered 179 to 304 inclusive in Schaal's Second Subdivision and an original plat as to lots numbered 123 to 147 inclusive, as shown by record plat in the Recorder's Office of Vigo County, Indiana, in Plat Record 12 page 38; thence running West 157 feet; thence South 70 feet; thence East 157 feet; thence North 70 feet to the place of beginning.

Commonly known as: 210 Oakland Avenue, Terre Haute, IN 47803.
Parcel # 84-06-23-231-001.000-002

Be and the same is hereby established as an R-1 Single Family Residential District, together with all rights and privileges that may insure 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 Terre Haute, and its approval by the Mayor and publication as required by law.

Presented by Council Member, *Cheryl Loudermilk*
Cheryl Loudermilk, Councilperson

Passed in open Council this 3RD day of MARCH, 2022.

Cheryl Loudermilk
Cheryl Loudermilk, President

ATTEST:

Michelle L Edwards
Michelle Edwards, City Clerk

Presented by me, to the Mayor of the City of Terre Haute, this 3RD day of
MARCH, 2022.

Michelle L Edwards
Michelle Edwards, City Clerk

Approved by me, the Mayor of the City of Terre Haute, this 3rd day of MARCH,
2022.

Duke A Bennett
Duke A. Bennett, Mayor

ATTEST:

Michelle L 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.

Richard Shagley II
Richard 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 PLAN COMMISSION FOR VIGO COUNTY, INDIANA:

LADIES AND GENTLEMAN:

The undersigned, Cassidy N. Kingery, respectfully submits this Petition to rezone the following described real estate in the City of Terre Haute, County of Vigo, Indiana, to wit:

Commencing at the Northeast corner of Lot Number 40 in Park View Heights, a plat of a portion of the North one-half of the North East Quarter of Section 23, Township 12 North, Range 9 West, the same being a replat of lots numbered 179 to 304 inclusive in Schaal's Second Subdivision and an original plat as to lots numbered 123 to 147 inclusive, as shown by record plat in the Recorder's Office of Vigo County, Indiana, in Plat Record 12 page 38; thence running West 157 feet; thence South 70 feet; thence East 157 feet; thence North 70 feet to the place of beginning.

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Parcel # 84-06-23-231-001.000-002

Your Petitioner is informed and believes that in accordance with Chapter 10, Article 2 of the Municipal Code designated as "Comprehensive Zoning Ordinance for Terre Haute, Indiana," the above-described real estate is now zoned as M-2 Heavy Industry District.

Your Petitioner intends to continue using the real estate an already existing single family home. Your Petitioner would request that the real estate described herein shall be zoned as an R-1 Single Family Residential District.

Your Petitioner would allege that the Neighborhood Commerce District would not alter the general characteristics of this neighborhood since the neighborhood is primarily single family homes.

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 Plan Commission for Vigo County and the Common Council of the City of Terre Haute, Indiana, favorably consider the passage of a Special Ordinance amending the Comprehensive Zoning Ordinance of the city of Terre Haute, Indiana, being Chapter 10, Article 2 of the Municipal Code designated as "Comprehensive Zoning Ordinance for Terre Haute, Indiana," and declaring the above-described real estate to be part of the an R-1 Single Family Residential District of the City of Terre Haute, Indiana, and 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, This petition has been duly executed this 15 day of January, 2022.

PETITIONER:

By: Cassidy N. Kingery
Cassidy N. Kingery

SITE PLAN

SPECIAL ORDINANCE NO. 2, 2022



210 Oakland Avenue, Terre Haute, Indiana 47803

Parcel No. 84-06-23-231-001.000-002

M-2 Heavy Industry District to R-1 Single Family Residential District

Proposed use as a residential single family home.

STATE OF Indiana)
) SS:
COUNTY OF Vigo)

AFFIDAVIT

Comes now, Cassidy N. Kingery, being duly sworn upon her oath, deposes and says:

1. That Cassidy N. Kingery and Gerald J. Kingery & Amy L. Kingery are the owners of record of the following described real estate located in the City of Terre Haute, County of Vigo, State of Indiana, to-wit:

Commencing at the Northeast corner of Lot Number 40 in Park View Heights, a plat of a portion of the North one-half of the North East Quarter of Section 23, Township 12 North, Range 9 West, the same being a replat of lots numbered 179 to 304 inclusive in Schaal's Second Subdivision and an original plat as to lots numbered 123 to 147 inclusive, as shown by record plat in the Recorder's Office of Vigo County, Indiana, in Plat Record 12 page 38; thence running West 157 feet; thence South 70 feet; thence East 157 feet; thence North 70 feet to the place of beginning.

Commonly known as: 210 Oakland Avenue, Terre Haute, IN 47803.

Parcel # 84-06-23-231-001.000-002

2. That a copy of the Deed, recorded in the records of the Recorder's Office of Vigo County, Indiana, 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 Cassidy N. Kingery and Gerald J. Kingery & Amy L. Kingery 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 Cassidy N. Kingery.

4. Further, Affiant saith not.

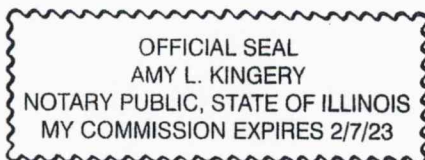
Dated at Effingham, Illinois this 15th day of January, 2022.

By: Cassidy N. Kingery
Cassidy N. Kingery

STATE OF Illinois)
COUNTY OF Effingham) SS:

SUBSCRIBED AND SWORN TO before me, a Notary Public in and for said County and State, this 15th day of January, 2022.

Amy L. Kingery
Notary Public



My Commission expires: 2/7/23

My County of Residence: Effingham

ENTERED FOR TAXATION
Subject to final acceptance for Transfer

JUN 26 2019


JAMES W. BRUMLEY
VIGO COUNTY AUDITOR

2019006396 WD \$25.00
06/26/2019 03:39:21P 2 PGS
Stacey Todd
VIGO County Recorder IN
Recorded as Presented



WARRANTY DEED

THIS INDENTURE WITNESSETH that **Kevin D. Kull, Jr.**, "Grantor" of the State of ~~Indiana~~ ^{St. M.} ~~Indiana~~ CONVEYS, GRANTS, AND WARRANTS to **Cassidy N. Kingery, and Gerald J. Kingery and Amy L. Kingery**, husband and wife, and all as Joint Tenants with Rights of Survivorship "Grantee" of the State of Indiana, for and in consideration of One Dollar (\$1.00) 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:

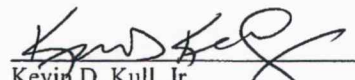
Commencing at the Northeast corner of Lot Number 40 in Park View Heights, a plat of a portion of the North one-half of the North East Quarter of Section 23, Township 12 North, Range 9 West, the same being a replat of lots numbered 179 to 304 inclusive in Schaal's Second Subdivision and an original plat as to lots numbered 123 to 147 inclusive, as shown by record plat in the Recorder's Office of Vigo County, Indiana, in Plat Record 12 page 38; thence running West 157 feet; thence South 70 feet; thence East 157 feet; thence North 70 feet to the place of beginning.

Commonly known as: 210 Oakland Ave, Terre Haute, IN 47803

Subject to easements, covenants, restrictions, leases and other matters of record affecting title to the subject real estate, as well as rights of way for drainage tiles, ditches, feeders and laterals, if any.

Taxes shall be prorated to the date of this deed.

DATED this 18 day of June, 2019.


Kevin D. Kull, Jr.

2

STATE OF Florida)
COUNTY OF Palm Beach) SS:

Before me, the undersigned, a Notary Public in and for said County and State, this 18 day of June, 2019, personally appeared Kevin D. Kull, Jr., and acknowledged the execution of the foregoing deed.

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

My Commission Expires:
3/17/23



David Kiel
Notary Public
Printed: David Kiel
Residing in Palm Beach County

Mail Tax Statements To Grantee at: 210 Oakland Ave. Terre Haute, IN.
47803

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

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.

Sherrie A. Harmon

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: 19 0545



TERRE HAUTE, IN

PAID

JAN 21 2022

RECEIPT

CONTROLLER

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

Date: 2/1/21/2022

Name: Kingery

Reason: Re-zoning

Cash: _____

Check: 072273 45.00

Credit: _____

TOTAL: 45.00

Received By: _____



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: March 3, 2022

REPORT TO THE CITY COUNCIL ON ZONING MAP AMENDMENT

THE VIGO COUNTY AREA PLAN COMMISSION HEREBY GIVES CERTIFICATION TO
SPECIAL ORDINANCE NUMBER 2-22

CERTIFICATION DATE: March 2, 2022

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

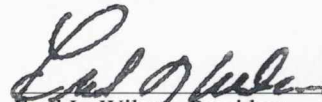
Dear Members,

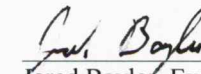
The Vigo County Area Plan Commission offers you the following report and certification on Special Ordinance No. 2-22. This Ordinance is a rezoning of 210 Oakland Avenue. The Petitioners, Cassidy N. Kingery, Gerald J. Kingery & Amy Kingery, petition the Plan Commission to rezone said single family home from zoning classification M-2 to R-1, Single Family Residence District.

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. 2-22 at a public meeting and hearing held Wednesday, March 2, 2022. 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. 2-22 as required by IC 36-7-4-302. The Area Plan Commission of Vigo County now hereby attaches certification to Special Ordinance No. 2-22 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. 2-22 was FAVORABLE.


Fred L. Wilson, President


Jared Bayler, Executive Director

Received this 3rd day of March, 2022

STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: SO # 2-22

Doc: # 15

Date: March 2022

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APPLICATION INFORMATION

Property Owner: Cassidy N. Kingery and Gerald J. Kingery & Amy Kingery

Proposed Use: Single Family Residence

Proposed Zoning: R-1, Single Family Residence District

Current Zoning: M-2, Heavy Industrial District

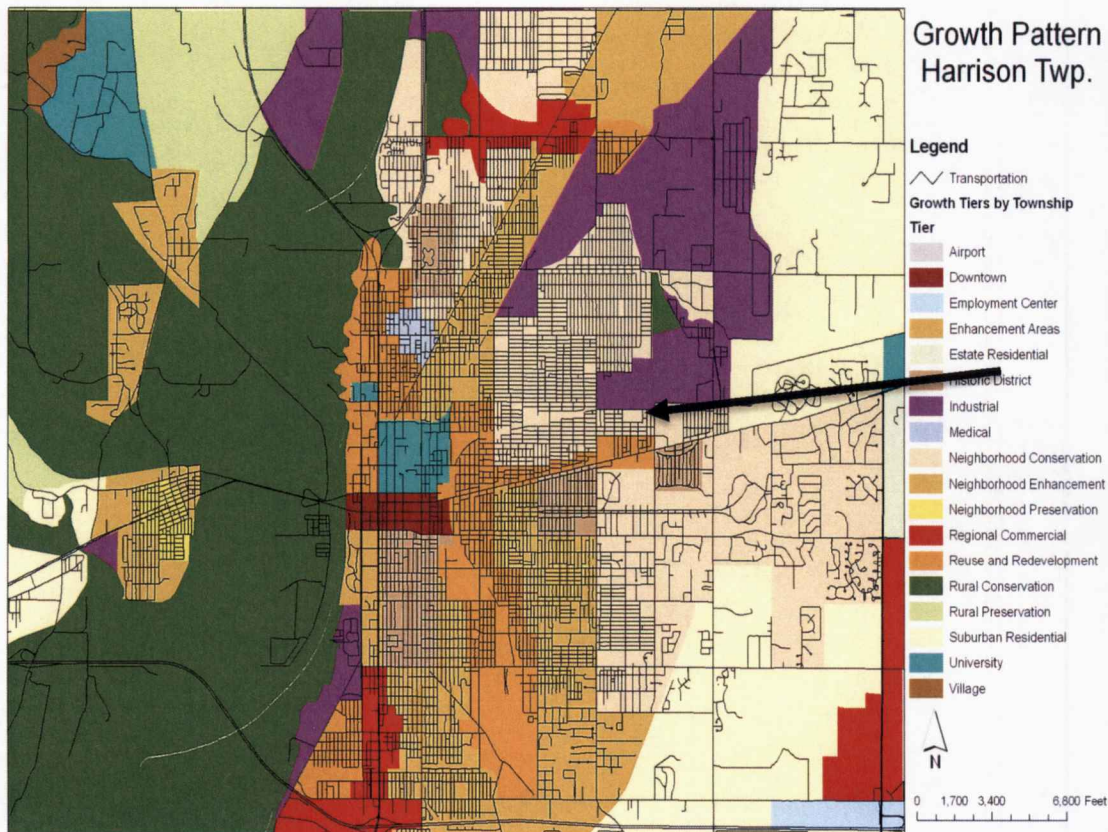
Representative: Richard Shagley II

Location: The property is on the corner of Oakland Avenue & Sibley Ave

Common Address: 210 Oakland Avenue, Terre Haute, IN 47803/ 84-06-23-231-001.000-002- Parkview Heights Lots 37-40

COMPREHENSIVE PLAN GUIDANCE

Service Area: The City of Terre Haute



STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: SO # 2-22

Doc: # 15

Date: March 2022

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Neighborhood Conservation

These areas encompass neighborhoods with established and stable residential environments. The vast majority of these areas are fully developed (or expected to be in a relatively short timeframe). Fundamental directives urged for these areas encourage the maintenance of the residential desirability and stability. Where new infill development is proposed, it should be entirely consistent and compatible with pre-existing developments. However, special public attention may, in some cases, be required to assure that drainage, sidewalk improvements, and linkages to pedestrian and bicycle trails are made. Many of these neighborhoods may be excellent candidates for special assessment districts for neighborhood improvements and amenities.

In addition, these areas encompass existing retail activity nodes located throughout the community. In general, these commercial areas have evolved in an unplanned, largely uncoordinated manner along frontage of primary arterials. Within these commercial bands, a great variety of activities exist which target different markets. Some activities are oriented toward "drive-by" markets, fast food restaurants, convenience stores, gasoline stations, drive-in banking facilities, for example. Other activities are special-purpose, oriented to single trips rather than comparative multi-purpose shopping. These single purpose uses serve a market larger than a single neighborhood. Sales and service of automobiles, trucks, boats, recreational vehicles and related activities are special purpose region-serving activities. They require large site with good visibility. Finally, commercial areas include a range of neighborhood level retail activities including grocery stores, pharmacies, personal services such as hair styling, and other frequently purchased goods and services.

Additional policies for Neighborhood Conservation areas should include:

- 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.
- Reuse of commercial oriented structure should be limited to retail activities that contribute to the diversity and variety of retail uses in a commercial node.
- With respect to existing commercial "strips" – i.e. narrow bands of commercial uses occupying major roadway frontage, the limitation of additional or new commercial uses is strongly advised.
- Geographic expansion of this commercial "strips" should be limited to the provision of additional space to ensure the compatibility with adjacent uses, not an intensification of use.
- Improved landscaping, improved pedestrian amenities, and increased attention to lighting, signage, and impacts upon nearby residential areas is advised in the review of development petitions.

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** – M-2

East – R-1

South – M-2

West – M-2

STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: SO # 2-22

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ZONING REGULATIONS

Uses, Permitted - R-1 Single-Family Residence District.

- (1) One-family detached dwellings.
- (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.
- (12) Signs, as regulated by Sec. 10-141 and Table 5.
- (13) Temporary buildings and trailers for construction purposes, for a period not to exceed the lawful duration of such construction.

STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: SO # 2-22

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(14) Accessory uses.

(15) A private outdoor swimming pool, fully enclosed by a barrier fence five feet (5') high or an equivalent barrier.

(16) Residential Facility for the Developmentally Disabled. (Gen. Ord. No. 19, 1997, 2-12-98)

(17) Residential Facility for the Mentally Ill. (Gen. Ord. No. 19, 1997, 2-12-98)

FINDINGS and RECOMMENDATION

Staff Findings:

The petitioner is requesting to rezone the property from M-2, Heavy Industrial District to R-1, Single Family Residence District. The property was originally zoned M-2 due to the proximity of the property owned by Public Service Co of Indiana Inc. (Duke Energy). Several homes surrounding the Duke Energy property are zoned M-2 despite being single family homes. The property has only been utilized as a single family home and the petitioner is requesting to rezone in order to be able to sell it.

Recommendation: Staff offers a Favorable Recommendation for this petition.