

SPECIAL ORDINANCE NO. 5, 2025

APPLICATION FOR REZONING PETITION CITY OF TERRE HAUTE

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Common Addresses of lots to be rezoned:

500, 502 & 504 Barton Ave., Terre Haute, Indiana 47803
Parcel No. 84-06-26-131-001.000-002
Parcel No. 84-06-26-131-002.000-002
Parcel No. 84-06-26-131-003.000-002

Rezoned From: R-2 Planned Development

Rezoned To: C-1 Planned Development

Proposed Use: Nursery School

Name of Owner: R. M. S. Rentals LLC
Address of Owner: 918 S. 23rd Street, Terre Haute, IN 47803

Phone Number of Owner c/o Richard J. Shagley II
812-232-3388

Attorney Representing Owner: Richard J. Shagley, II

Address of Attorney: Wright, Shagley & Lowery, P.C.
PO Box 9849, Terre Haute, IN 47808

For Information Contact: Owner Attorney

Council Sponsor: Anthony Dinkel

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COPY OF A SITE-PLAN MUST ACCOMPANY THIS APPLICATION

FILED

FEB 05 2025

CITY CLERK

SPECIAL ORDINANCE FOR A REZONING

SPECIAL ORDINANCE NO. 5, 2025

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

SECTION I. BE IT ORDANED 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:

Beginning at a point Twenty (20) rods East and Six Hundred Eighty-five (685) feet South of the Northwest corner of the Northwest Quarter (1/4) of the Northwest Quarter (1/4) of Section Twenty-six (26), Township Twelve (12) North, Range Nine (9) West, running thence East Ten (10) rods, thence South One Hundred (100) feet, thence West Ten (10) rods; thence North One Hundred (100) feet to the place of beginning.

Except Twenty-four (24) feet off the West side thereof for a street and except Eight (8) feet off the East side thereof for an alley.

Commonly known as: 500, 502 & 504 Barton Ave., Terre Haute, IN 47803

Parcel No. 84-06-26-131-001.000-002

Parcel No. 84-06-26-131-002.000-002

Parcel No. 84-06-26-131-003.000-002

be and the same is, hereby established as a C-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 C-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 C-1 Planned Development.
- (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. 5, 2025, 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

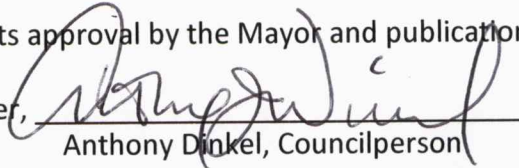
WHEREAS, a public hearing on Special Ordinance No. 5, 2025, has been held pursuant to Section 10 of said Ordinance and the owner of the real estate described has demonstrated to the Area Planning Commission and to the Common Council evidence that a hardship exists pursuant to Section 10-112 of said Ordinance 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 C-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,


Anthony Dinkel, Councilperson

Passed in open Council this ____ day of _____, 2025.

Todd Nation, President

ATTEST:

Michelle Edwards, City Clerk

Presented by me, to the Mayor of the City of Terre Haute, this ____ day of _____, 2025.

Michelle Edwards, City Clerk

Approved by me, the Mayor of the City of Terre Haute, this ____ day of _____, 2025.

Brandon Sakbun, Mayor

ATTEST:

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 J. Shagley II

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

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, Seth Reckner, Member of R. M. S. Rentals, LLC, respectfully submit this Petition to Rezone the following described real estate in the City of Terre Haute, Vigo County, State of Indiana, to-wit:

Beginning at a point Twenty (20) rods East and Six Hundred Eighty-five (685) feet South of the Northwest corner of the Northwest Quarter (1/4) of the Northwest Quarter (1/4) of Section Twenty-six (26), Township Twelve (12) North, Range Nine (9) West, running thence East Ten (10) rods, thence South One Hundred (100) feet, thence West Ten (10) rods; thence North One Hundred (100) feet to the place of beginning.

Except Twenty-four (24) feet off the West side thereof for a street and except Eight (8) feet off the East side thereof for an alley.

Commonly known as: 500, 502 & 504 Barton Ave., Terre Haute, IN 47803

Parcel No. 84-06-26-131-001.000-002

Parcel No. 84-06-26-131-002.000-002

Parcel No. 84-06-26-131-003.000-002

The Petitioners are 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-2 Planned Development.

Your Petitioners would respectfully state that the real estate was being used for a daycare. The Petitioners intend to sell the real estate for the use of heavy farm machinery dealership.

Your Petitioner intends to take the existing buildings that have been used for a day care to remodel and repurpose for a nursery school that will have up to thirty-two (32) spots for children during the day and overnight. Your Petitioners would request that the real estate described herein shall be zoned as a C-1 Planned Development to allow for the use as proposed by Petitioners. Your Petitioners would allege that the C-1 Planned Development would not alter the general characteristics of this neighborhood.


Your Petitioners 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 Petitioners' parcel); and 3) the parcel is located near district boundary lines (the other parcels owned by Petitioners in the area are zoned commercial).

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 C-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 4 day of Feb, 2025.

PETITIONERS:



Seth Reckner, Member of R. M. S.
Rentals, LLC

WRIGHT, SHAGLEY & LOWERY, P.C.
500 Ohio Street
Terre Haute, IN 47807
Phone: (812) 232-3388

BY: 

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

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

SITE PLAN
SPECIAL ORDINANCE NO. 5, 2025



500, 502 and 504 Barton Ave., Terre Haute, IN 47803
Parcel No. 84-06-26-131-001.000-002
Parcel No. 84-06-26-131-002.000-002
Parcel No. 84-06-26-131-003.000-002



R-2 Planned Development
to
C-1 Planned Development
Proposed Use: Nursery School

STATE OF INDIANA)
)SS:
COUNTY OF VIGO)

AFFIDAVIT

Comes now, Seth Reckner, Member of R. M. S. Rentals, LLC, being duly sworn upon his oath, deposes and says:

1. That R. M. S. Rentals, LLC, is the owner of record of the following described real estate located in the City of Terre Haute, County of Vigo, State of Indiana, to-wit:

Beginning at a point Twenty (20) rods East and Six Hundred Eighty-five (685) feet South of the Northwest corner of the Northwest Quarter (1/4) of the Northwest Quarter (1/4) of Section Twenty-six (26), Township Twelve (12) North, Range Nine (9) West, running thence East Ten (10) rods, thence South One Hundred (100) feet, thence West Ten (10) rods; thence North One Hundred (100) feet to the place of beginning.

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Parcel No. 84-06-26-131-003.000-002

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 R. M. S. Rentals, LLC, 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 Seth Reckner, Member of R. M. S. Rentals, LLC.

4. Further, Affiant saith not.

Dated at Terre Haute, Indiana this 4 day of Feb, 2025.



Seth Reckner, Member of R. M. S.
Rentals, LLC

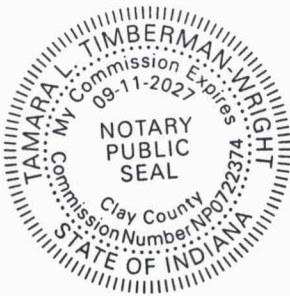
STATE OF INDIANA)
) SS:
COUNTY OF VIGO)

SUBSCRIBED AND SWORN TO before me, a Notary Public in and for said County and State, this 4th day of February, 2025.

Tamara L. Timberman-Wright
Tamara L. Timberman-Wright, Notary Public

My Commission expires: 9/11/2027

My County of Residence: Clay

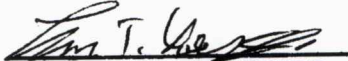


This instrument prepared by Richard J. Shagley II, Attorney at Law, WRIGHT, SHAGLEY & LOWERY, P.C., 500 Ohio Street, P.O. Box 9849, Terre Haute, Indiana 47807.

ENTERED FOR TAXATION
Subject to final acceptance for transfer

FILED
JAN 03 2025

2025000302 WD \$25.00
01/03/2025 09:03:12A 2 PGS
Diana Winsted-Smith
VIGO County Recorder IN
Recorded as Presented


VIGO COUNTY AUDITOR

WARRANTY DEED


THIS INDENTURE WITNESSETH that **Amanda Bolin, a competent adult**, of Vigo County, in the State of Indiana, **Conveys and Warrants to R.M.S. Rentals, LLC, a limited liability company**, duly organized and existing under the laws of the State of Indiana, for and in consideration of One Dollar and other valuable consideration, the receipt whereof is hereby acknowledged, the following described real estate in Vigo County, State of Indiana, to-wit:

Beginning at a point Twenty (20) rods East and Six Hundred Eighty-five (685) feet South of the Northwest corner of the Northwest Quarter (1/4) of the Northwest Quarter (1/4) of Section Twenty-six (26), Township Twelve (12) North, Range Nine (9) West, running thence East Ten (10) rods, thence South One Hundred (100) feet, thence West Ten (10) rods; thence North One Hundred (100) feet to the place of beginning.

EXCEPT Twenty-four (24) feet off the West side thereof for a street and except Eight (8) feet off the East side thereof for an alley.

Subject to all rights-of-way, easements, leases, restrictions, reservations, covenants, right of persons in possession, outstanding mineral interests, land use restrictions imposed by governmental authorities, and all other matters of record, if any there be.

IN WITNESS WHEREOF, the said grantor above named has hereunto set her hand and seal, this 2nd day of January, 2025.


Amanda Bolin

STATE OF INDIANA, COUNTY OF VIGO) SS:

Before me, a Notary Public in and for said county and state, this 2nd day of January, 2025, personally appeared Amanda Bolin, a competent adult, who acknowledged the execution of the foregoing Warranty Deed to be her voluntary act and deed and stated that the representations therein contained are true as is believed.

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



OFFICIAL SEAL
MEAGAN R. BUTRUM
Notary Public, State of Indiana
Vigo County
My Commission Expires
March 19, 2026
Commission No. 711609

Meagan R. Butrum
_____, Notary Public

My Commission Expires:

3-19-2026

A resident of Vigo County, Indiana

Mail Tax Duplicates to: 918 S. 23rd St, Terre Haute, IN 47803

Mailing address of the real estate is: 500, 502, 504 Barton Avenue, Terre Haute, IN 47803

Tax Parcel Identification Numbers are: 84-06-26-131-001.000-002, 84-06-26-131-002.000-002 and 84-06-26-131-003.000-002

Mailing address of the Grantee is: 918 S. 23rd St, Terre Haute, IN 47803

THIS INSTRUMENT PREPARED BY: Jared A. Farnsworth, Nattkemper & Farnsworth, LLC, Attorneys at Law, 2901 Ohio Boulevard, Suite 160, Terre Haute, Indiana 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. /s/ Jared A. Farnsworth



TERRE HAUTE, IN

PAID

FEB 05 2025

CONTROLLER

Receipt of Payment

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

Date 2/5/25
Name Richard Shagley
Reason Rezoning - \$45.00

RMS Rentals

Cash _____

Check \$45.00 ck # 074830

Credit _____

Total \$45.00

Received By Emalin R / D. [Signature]