

FILED

AUG 06 2010

CITY CLERK

SPECIAL ORDINANCE NO. 21, 2010

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:

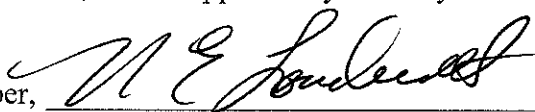
Lots Number Sixty-three (63), excepting Ten (10) feet of even width off the South side thereof, and Sixty-four (64) in Simon A. Peck's Subdivision, lying in North East quarter of Section Ten (10), Township Twelve (12) North, Range Nine (9) West, in Vigo County, Indiana.

Commonly known as 1601 Ft. Harrison Avenue, Terre Haute, IN 47804.

be and the same is, hereby established as a C-2 Community Commerce District, 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.

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 the City of Terre Haute, and its approval by the Mayor and publication as by law provided.

Presented by Council Member,



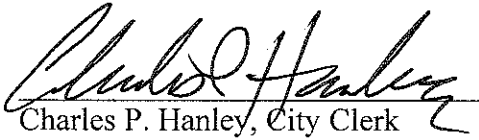
Norman Loudermilk, Councilperson

Passed in open Council this 9th day of Sept, 2010

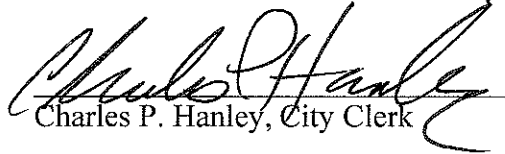


Neil Garrison, President

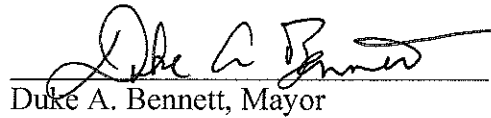
ATTEST:


Charles P. Hanley, City Clerk

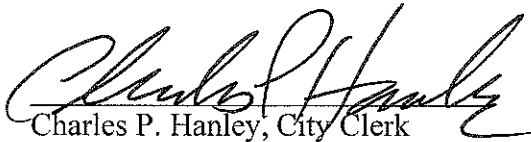
Presented by me, to the Mayor of the City of Terre Haute, this 10th day of Sept, 2010.


Charles P. Hanley, City Clerk

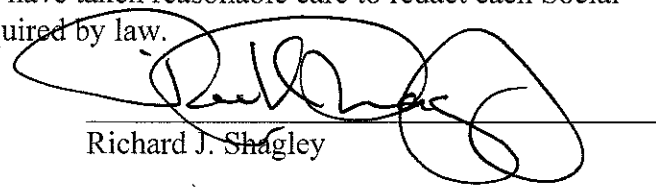
Approved by me, the Mayor of the City of Terre Haute, this 10th day of SEPTEMBER, 2010.


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

This instrument prepared by Richard J. Shagley, 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, Dave Ngo and Amy Ngo, respectfully submit this Petition to Rezone the following described real estate in the City of Terre Haute, Vigo County, State of Indiana, to-wit:

Lots Number Sixty-three (63), excepting Ten (10) feet of even width off the South side thereof, and Sixty-four (64) in Simon A. Peck's Subdivision, lying in North East quarter of Section Ten (10), Township Twelve (12) North, Range Nine (9) West, in Vigo County, Indiana.

Commonly known as 1601 Ft. Harrison Avenue, Terre Haute, IN 47804.

Your 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 vacant. Your Petitioners intends to construct a commercial building.

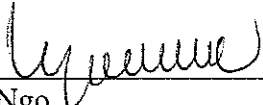
Your Petitioners would request that the real estate described herein shall be zoned as a C-2 Community Commerce District to allow for the use as proposed by the Petitioners. Your Petitioners would allege that the C-2 Community Commerce District would not alter the general characteristics of this neighborhood, since the real estate is located in the North Plaza commercial district.

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 area.

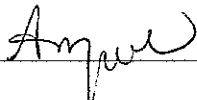
WHEREFORE, your Petitioners respectfully request that the Area Planning Commission and the Common Council of the City of Terre Haute, Indiana, favorably consider the passage of a Special Ordinance amending the District Maps of Chapter 10, of the Terre Haute City Code entitled The Comprehensive Zoning Ordinance for Terre Haute, Section 10-121 District Maps and declaring the above-described real estate to be part of the C-2 Community Commerce 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 owners thereof by virtue of the new designation subject to all limitations imposed by deed or otherwise.

IN WITNESS WHEREOF, the undersigned Petitioners have executed this Petition to Rezone Real Property this 5th day of August, 2010.

PETITIONERS:



Dave Ngo



Amy Ngo

WRIGHT, SHAGLEY & LOWERY, P.C.

500 Ohio Street

PO Box 9849

Terre Haute, IN 47808

Phone: (812) 232-3388

BY: 

Richard J. Shagley, #257-84
Attorneys for Petitioners

The owner and mailing address: Dave Ngo and Amy Ngo, 8251 Crimson Court, Terre Haute, Indiana, 47802.

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

STATE OF INDIANA)
) SS:
COUNTY OF VIGO)

AFFIDAVIT

Comes now, Dave Ngo, being duly sworn upon his oath, deposes and says:

1. That Dave Ngo and Amy Ngo, are the 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:

Lots Number Sixty-three (63), excepting Ten (10) feet of even width off the South side thereof, and Sixty-four (64) in Simon A. Peck's Subdivision, lying in North East quarter of Section Ten (10), Township Twelve (12) North, Range Nine (9) West, in Vigo County, Indiana.

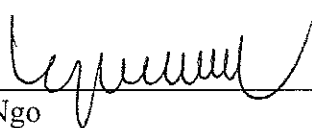
Commonly known as 1601 Ft. Harrison Avenue, Terre Haute, IN 47804.

2. That a copy of the Warranty Deed, dated AUGUST 3, 2010 and recorded in the records of the Recorder's Office of Vigo County, Indiana, transferring fee simple title to Affiant, 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 Dave Ngo and Amy Ngo, 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 Dave Ngo and Amy Ngo.

4. Further, Affiant saith not.

Dated at Terre Haute, Indiana this 5th day of August, 2010.



Dave Ngo

STATE OF INDIANA)
) SS:
COUNTY OF VIGO)

SUBSCRIBED AND SWORN TO before me, a Notary Public in and for said County and State, this 5th day of August 2010.

Robert E. Green

,Notary Public

My Commission expires:

DEC. 17, 2014

My County of Residence:

Vigo

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

DULY ENTERED FOR TAXATION
Subject to final acceptance for transfer

AUG 05 2010

Timothy M. Seppala
VIGO COUNTY AUDITOR

WARRANTY DEED

THIS INDENTURE WITNESSETH:

AMOS H. SMITH, a competent adult of Vigo County, in the State of Indiana ,
CONVEYS and WARRANTS TO **DAVE NGO and AMY NGO**, Husband and Wife of Vigo
County, in the State of Indiana, for and in consideration of the sum of One Dollar (\$1.00) of the
following described Real Estate in Vigo County, in the State of Indiana, to-wit:

Lots Number Sixty-three (63), excepting Ten (10) feet of even width off the South side
thereof, and Sixty-four (64) in Simon A. Peck's Subdivision, lying in North East quarter
of Section Ten (10), Township Twelve (12) North, Range Nine (9) West, in Vigo County,
Indiana.

Commonly known as 1601 Ft. Harrison Avenue, Terre Haute, IN 47804.

Taxes prorated to date of Deed.

The Grantor and his now deceased spouse, Janet Elaine Smith, were husband and wife at
the time they acquired title to said real estate. The marital relationship, which existed
between the Grantor and his spouse, continued unbroken from the time they acquired title
to said real estate, until the death of his said spouse on May 9, 1999, at which time the
Grantor acquired title to said real estate as surviving tenant to the entireties. No federal
estate or state inheritance taxes are due by the death of Janet Elaine Smith.

IN WITNESS WHEREOF, that said Grantor above named, Amos H. Smith, has hereunto
set his hand and seal, 3RD day of August, 2010.

Amos H. Smith
Amos H. Smith

STATE OF INDIANA)
) SS:
COUNTY OF VIGO)

3RD Before me, the undersigned, a Notary Public, in and for said County and State, this
day of August, 2010, personally appeared the within named Amos H. Smith, Grantor in
the above conveyance, and acknowledged the execution of the same to be his voluntary act and
deed.

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

Robert E. Irwin

Notary Public

Printed: ROBERT E. IRWIN

My Commission Expires

DEC. 17, 2014

My County of Residence:

VIGO

Mail to: Dave Ngo and Amy Ngo, 8251 Crimson Court, Terre Haute, IN 47802.

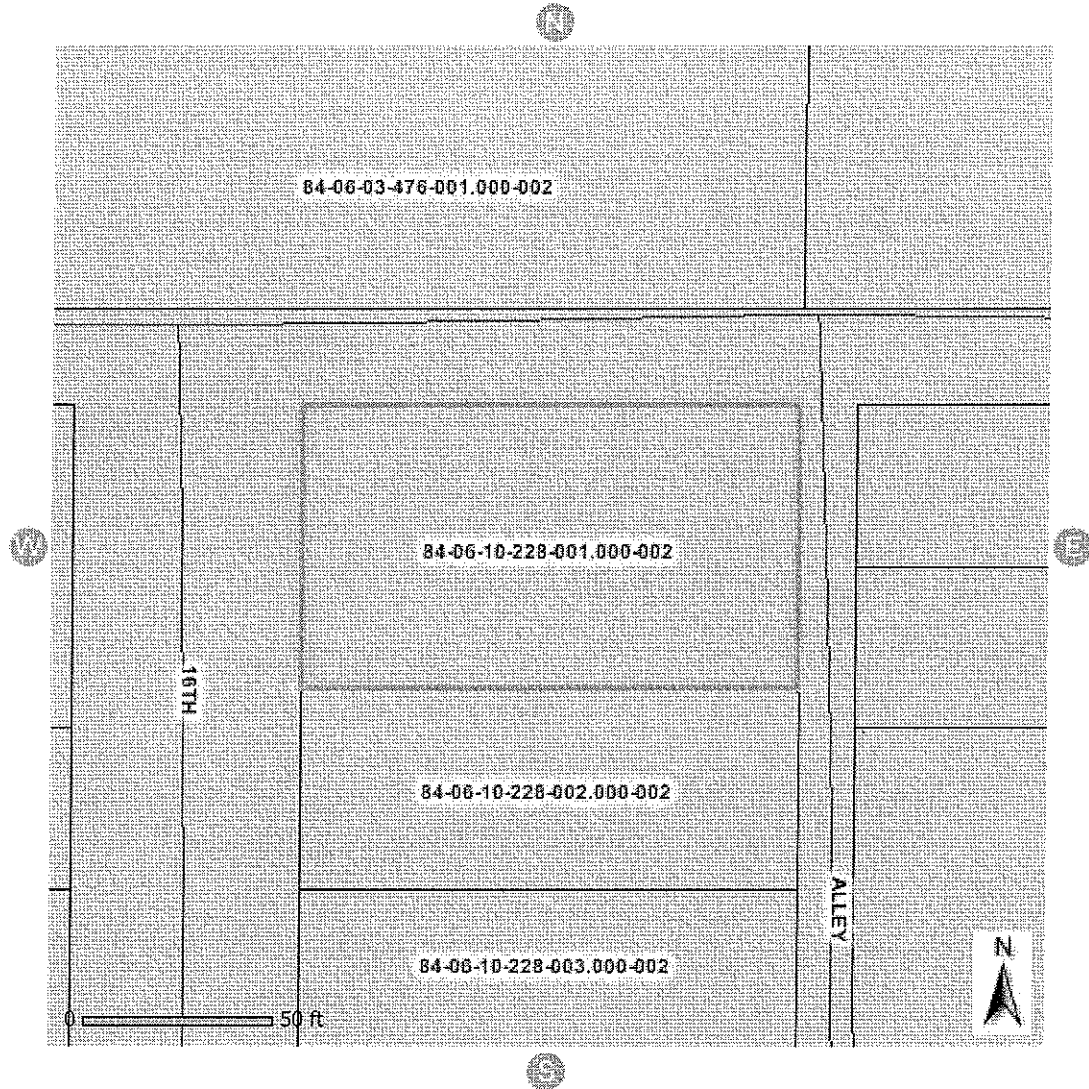
Grantee(s) Address(es): Dave Ngo and Amy Ngo, 8251 Crimson Court, Terre Haute, IN 47802.

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

This instrument prepared by Richard J. Shagley, Attorney at Law, Wright, Shagley & Lowery , P.C., 500 Ohio Street, Terre Haute, IN 47807.

SITE PLAN



Summary

Parcel ID 84-06-10-228-001.000-002

Sec/Twp/Rng

Property Address 1601 FT HARRISON RD
TERRE HAUTE

Alternate ID 118-06-10-228-001

Class Res 1 fam dwelling platted lot (RAZED)

Acreage 0.00

Owner Name DAVE + AMY NGO

Owner Address:

1708 N 31 st ST
TERRE HAUTE, IN 47804

District 002 HARRISON

Brief Tax Description

PECKS SUB EX 10' S-63
10-12-9 LOTS 63-64

PRESENT USE: VACANT LOT

PROPOSED USE: COMMERCIAL BUILDING
TO BE CONSTRUCTED TO
TENANT'S REQUIREMENTS
AND
C-2 REQUIREMENTS

(Note: Not to be used on legal documents)

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S.O. 21, 2010 - R-1 to C-2 - COMMERCIAL AREA



TERRE HAUTE

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: September 2, 2010

REPORT TO THE CITY COUNCIL ON ZONING MAP AMENDMENT

THE VIGO COUNTY AREA PLAN COMMISSION HEREBY GIVES CERTIFICATION TO
SPECIAL ORDINANCE NUMBER #21-10

CERTIFICATION DATE: September 1, 2010

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. 21-10. This Ordinance is a rezoning of the property located at 1601 Ft. Harrison Av. The Petitioner, Dave and Amy Ngo, Petitions the Plan Commission to rezone said real estate from zoning classification R-1 to C-2, Community Commerce District, for a commercial building. The Ordinance was published in the Tribune-Star Newspaper in accordance with IC 5-3-1 and Division XIII of the Comprehensive Zoning Ordinance. Further, this ordinance was posted by the City Building Inspection Department in accordance with IC 36-7-4-604(c).

The Area Plan Commission considered Special Ordinance No. 21-10 at a public meeting and hearing held Wednesday, September 1, 2010. 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. 21-10 as required by IC 36-7-4-302. The Area Plan Commission of Vigo County now hereby attaches certification to Special Ordinance No. 21-10 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. 21-10, was FAVORABLE .

Fred L. Wilson, President

Jeremy Weiss, Executive Director

Received 2nd day of September, 2010

STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: SO #21-10

Doc: # 62

Date: September 2010

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APPLICATION INFORMATION

Petitioner: Dave Ngo and Amy Ngo

Property Owner: Same-As-Above

Representative: Richard J. Shagley

Proposed Use: Commercial Building

Proposed Zoning: C-2, Limited Community Commercial District

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

Location: SE corner of the N 16th Street and Fort Harrison Road

Common Address: 1601 Fort Harrison Road, Terre Haute, IN 47804

COMPREHENSIVE PLAN GUIDANCE

Service Area: The City of Terre Haute

Guiding Policies: Regional Commercial

- Spatial containment of commercial activities to existing commercially zoned sites; maintain and reinforce the drawing power of major retail centers including anchor department and discount stores
- Increase the Identity of the district as a whole, with improved coordination in urban design elements including directional signage, common landscape elements such as lighting or street furniture; develop a common approach to business signage.
- Encourage reinvestment in and continual upgrading of existing retail space; encourage the intensification of activities for retail comparative shopping purposes. Ancillary activities such as fast-food restaurants or quick stop establishments do not add to the regional character of activity centers. Emphasis should increasingly be upon multiple-trip purpose activities with regional significance.
- Ensure that future retail commercial development in the area does not detract from the viability of residential Neighborhoods in the vicinity.

Available Services: Area is well served by utilities.

Soil Limitations: Not studied.

STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: SO #21-10

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Date: September 2010

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Street Access: North 16th Street, which is a local level Roadway

Dev. Priority: Low Priority for this site. Developments in Regional Commercial Zones need to reduce future traffic congestion and more closely tie existing retail centers with transit operations; expand the opportunities for pedestrian linkage between and among major existing activity centers.

ZONING COMPATIBILITY

Sur. Zones and Uses: **North** – C-3, Regional Commerce District
East – C-1, Neighborhood Commercial District
R-1, Single Family Residential
South – R-1, Single Family Residential
West – R-1, Single Family Residential

Character of Area: The Plaza North Shopping Center is one of the main retail centers within the Regional Commerce Zone located along Fort Harrison Rd. The south side of Fort Harrison Rd. has existing low intensity commercial uses utilizing the frontage along Fort Harrison Rd. In addition to the low intensity commercial uses, there are a large number of Single-Family dwellings that are currently within the area that has been identified for Regional Commercial expansion.

Contig. Uses & Zones: The contiguous zoning is R-1, Single-Family Residence District; with uses that are permitted.

ZONING REGULATIONS

C-2 Purpose: The Community Commerce Zone is designed for the residents of the nearby community consisting of more than one (1) of the neighborhoods in that section of the city, so as to permit a wider variety of both business uses and services. It is designed not for an abutting neighborhood, but for a relatively larger consumer population for both daily and occasional shopping. The development is characterized by a lack of “comparison shopping” and is limited to providing only one (1) store for each type of business.

STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: SO #21-10
Date: September 2010

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C-2 Uses: Antique shops, Art galleries, but not including auction rooms, Banks and financial institutions, Bicycle sales, rental, and repair stores, Blue-printing and photos tatting establishments, Books and stationery stores, Camera and photographic supply stores, Candy and ice cream stores, Leather goods and luggage stores, Loan offices, Locksmith shops, Medical and dental clinics, Meeting halls, Millinery shops, Municipal or privately-owned recreation buildings or community-center, Musical instrument sales and repair, Newspaper distributors for home delivery and retail sale, Office supply stores, Offices, business and professional, Optometrists, Paint and wallpaper stores, Restaurants. Liquor may be served if incidental to the serving of food as the principal activity. (Gen. Ord. No. 2, 2007, As Amended, 2-8-07), Live entertainment. (Gen. Ord. No. 2, 2007, As Amended, 2-8-07)

C-2 Standards: Minimum Lot Size: 3,300 Sq. Ft.
FAR 0.9 %
Street Setback: 55 feet from centerline;
Rear setback 11’;
Interior setback of 5’ from the interior lot line;
Parking Requirements for a Restaurant
Eight (8) spaces per one thousand (1,000) Sq. Ft. of gross floor area, plus one space per five (5) customer seats outside the principal structure.

FINDINGS and RECOMMENDATION

Staff Findings: The proposed use is consistent with the land-use pattern as indicated by the Comprehensive Plan. But staff finds, this site may have insufficient lot space to meet the development requirements as outlined. Therefore, addition space/lots to gain a site-plan approval.

Recommendation: Staff has a Favorable Recommendation for a C-2, Community Commercial District.