

FILED

AUG 04 2010

**SPECIAL ORDINANCE FOR A REZONING**  
**SPECIAL ORDINANCE NO. 22, 2010**

**CITY CLERK**

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

SECTION 1. BE IT ORDAINED 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:

"That the following described real estate situated in the City of Terre Haute, County of Vigo, State of Indiana, to-wit:

Part of the Northeast Quarter of Section 31, Township 12 North, Range 8 West, Vigo County, Indiana, described as follows;

Commencing at a rebar with cap found of record at the Southwest Corner of said Northeast Quarter of Section 31; thence South 89 degrees 43 minutes 26 seconds East, along the South line of said Northeast Quarter Section, a distance of 322.06 feet to a 5/8 inch rebar with cap stamped "SPIRES IN LS 29900015" hereinafter called a monument, set on the North right-of-way of New Margaret Avenue as described in Instrument Number 2010006549, being the point of curvature of a non-tangent curve, concave to the South, having a radius of 1065.00 feet and a chord of 253.05 feet bearing North 55 degrees 42 minutes 55 seconds East; thence along said North right-of-way line and curve a distance of 253.65 feet to a monument set and the Point of Beginning of this description; thence North 00 degrees 41 minutes 33 seconds East, a distance of 960.65 feet to a monument set; thence South 89 degrees 18 minutes 27 seconds East, a distance of 560.73 feet to a monument set 1092.00 feet perpendicular East of the West line of said Northeast Quarter Section; thence South 00 degrees 35 minutes 45 seconds West, parallel with said West line, a distance of 834.25 feet to a monument set on the North right-of-way line of New Margaret Avenue as described in Instrument Number 2010006549; thence North 89 degrees 39 minutes 38 seconds West, along said North right-of-way line, a distance of 66.18 feet to a monument set at the point of curvature of a tangent curve, concave to the South, having a radius of 1065.00 feet, and a chord of 511.71 feet bearing South 76 degrees 26 minutes 20 seconds West; thence along said curve a distance of 516.76 feet to the point of beginning, containing 11.23 acres, more or less.

Commonly know as: **5200 New Margaret Drive, Terre Haute, Vigo County Indiana 47803**

Be and the same is hereby established as a **R-3 General Residence 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,



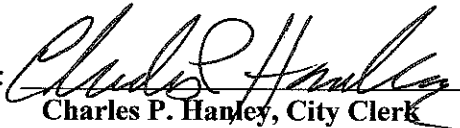
Patrick "Pat" Ralston

Passed in Open Council this 9<sup>th</sup> day of Sept, 2010.



Neil Garrison, President

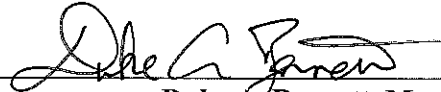
ATTEST:

  
Charles P. Hanley, City Clerk

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

  
Charles P. Hanley, City Clerk

Approved by me, the Mayor, this 10<sup>th</sup> day of SEPTEMBER, 2010.

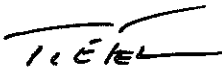


Duke A. Bennett, Mayor

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.



Timothy E. Fears

This instrument prepared by Timothy E. Fears, General Counsel, Thompson Thrift, 901 Wabash Avenue, Suite 300, Terre Haute, IN 47807, (812) 235-5959.

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 GENTLEMEN:

The undersigned, **Gregory L. Gibson**, respectfully submits this Petition to rezone the following described real estate in the City of Terre Haute, County of Vigo, State of Indiana, to-wit:

Part of the Northeast Quarter of Section 31, Township 12 North,  
Range 8 West, Vigo County, Indiana, described as follows;

Commencing at a rebar with cap found of record at the Southwest Corner of said Northeast Quarter of Section 31; thence South 89 degrees 43 minutes 26 seconds East, along the South line of said Northeast Quarter Section, a distance of 322.06 feet to a 5/8 inch rebar with cap stamped "SPIRES IN LS 29900015" hereinafter called a monument, set on the North right-of-way of New Margaret Avenue as described in Instrument Number 2010006549, being the point of curvature of a non-tangent curve, concave to the South, having a radius of 1065.00 feet and a chord of 253.05 feet bearing North 55 degrees 42 minutes 55 seconds East; thence along said North right-of-way line and curve a distance of 253.65 feet to a monument set and the Point of Beginning of this description; thence North 00 degrees 41 minutes 33 seconds East, a distance of 960.65 feet to a monument set; thence South 89 degrees 18 minutes 27 seconds East, a distance of 560.73 feet to a monument set 1092.00 feet perpendicular East of the West line of said Northeast Quarter Section; thence South 00 degrees 35 minutes 45 seconds West, parallel with said West line, a distance of 834.25 feet to a monument set on the North right-of-way line of New Margaret Avenue as described in Instrument Number 2010006549; thence North 89 degrees 39 minutes 38 seconds West, along said North right-of-way line, a distance of 66.18 feet to a monument set at the point of curvature of a tangent curve, concave to the South, having a radius of 1065.00 feet, and a chord of 511.71 feet bearing South 76 degrees 26 minutes 20 seconds West; thence along said curve a distance of 516.76 feet to the point of beginning, containing 11.23 acres, more or less.

Commonly known as **5200 New Margaret Drive, Terre Haute, Indiana 47803.**

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 a **C-3 Regional Commerce District**.

Your petitioner would respectfully state that the real estate described herein shall be zoned as a **R-3 General Residence District** to allow for the construction and development of a multi-family apartment complex. Your Petitioner would allege that the development would not alter the general characteristics of this neighborhood.

Your Petitioner would respectfully show the proposed use 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 of 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 the Terre Haute, Indiana,” and declaring the above-described real estate to be part of the **R-3 General Residence District** of the City of Terre Haute, Indiana, and entitled to the rights and the benefits that may accrue to the subject 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 on this 3 day of August, 2010.

  
\_\_\_\_\_  
Gregory L. Gibson

PETITIONER: **Gregory L. Gibson**  
**PO Box 478**  
**Terre Haute, IN 47808**

This instrument prepared by Timothy E. Fears, General Counsel, Thompson Thrift, 901 Wabash Avenue, Suite 300, Terre Haute, IN 47807, (812) 235-5959.



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 as filed by Affiant.

4. Further Affiant sayeth not.

DATED at Terre Haute, Indiana this 3 day of August, 2010.

Gregory L. Gibson  
Gregory L. Gibson

**STATE OF INDIANA, COUNTY OF VIGO, SS:**

SUBSCRIBED AND SWORN TO before me, a Notary Public in and for said County and State, this 3<sup>rd</sup> day of August, 2010.

My Commission expires: 4.21.2012

County of Residence: Vigo

James M. Gallant  
Notary Public



This instrument prepared by Timothy E. Fears, General Counsel, Thompson Thrift, 901 Wabash Ave, Suite 300, Terre Haute, IN 47807, (812) 235-5959.

JMW Date: 04/02/2001 Time: 13:21:33  
 Mitchell Newton 2P  
 Vigo County Recorder  
 Filing Fee: 15.00  
 I 20014555 Page 1 of 2

DULY ENTITLED TO INFORMATION  
 Subject to final acceptance for transfer

APR 02 2001

## WARRANTY DEED

*John W. Mitchell*  
 VIGO COUNTY AUDITOR

THIS INDENTURE WITNESSETH, THAT John L. Leminger for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Conveys and Warrants unto Gregory L. Gibson, the following described real estate located in the County of Vigo, State of Indiana, to-wit:

## TRACT I

Beginning Forty (40) rods West of the Northeast corner of the Southeast Quarter of Section Thirty-one (31) in Township Twelve (12) North, Range Eight (8) West, and running thence South Ninety-one (91) rods and Ten (10) links; thence West Eighty (80) rods; thence North Ninety-one (91) rods and Ten (10) links; thence East to the place of beginning, containing Forty-five and Seven-tenths (45.7) acres, more or less.

Subject to rights granted to John G. Leminger and Rose Leminger, husband and wife, as shown by Deed Record 313 Page 579, records of Recorder's Office of Vigo County, Indiana.

## TRACT II

All that part of the Northeast Quarter of Section Thirty-one (31), Township Twelve (12) North, Range Eight (8) West, except Sixty-five (65) acres off the North side thereof, and except Thirty-one (31) acres off the East side of the remaining part of said Northeast Quarter.

Subject to Grant of Easement dated September 17, 1958 and recorded December 24, 1958 in Deed Record 313, page 579.

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

Subject to taxes for the year 2001 payable 2002 and all future years.

The Grantor further Warrants and Represents that he is the son of John G. Leminger, Jr., and Rose Leminger, the grantees in that certain deed dated October 5, 1961 and recorded October 6, 1961 in Deed Record 325, page 795 and that the said John G. Leminger, Jr. and Rose Leminger were continuously married from a date prior to October 5, 1961 until the death of Rose Leminger on or about October 25, 1978.

IN WITNESS WHEREOF the above referred to John L. Leminger has hereunto set his hand and seal, this 28th day of March, 2001.

*John L. Leminger* (SEAL)  
 John L. Leminger

STATE OF INDIANA VIGO COUNTY, SS:  
Before me, the undersigned, a Notary Public in and for said county and state, this 28th day of March, 2001, personally appeared John L. Leminger and first being duly sworn acknowledged the execution of the annexed Deed to be his voluntary act and deed.

WITNESS my hand and Notarial Seal.

My Commission Expires:  
Sept 24, 2006  
My County of residence is:  
Vigo

Susan K. Keller  
Notary Public  
SUSAN K. KELLER  
Typewritten or printed name of notary

THIS INSTRUMENT WAS PREPARED BY:  
Ronald E. Jumps, Attorney, Cox, Zwargner, Gambill & Sullivan, 511 Wabash Avenue, Terre Haute, IN 47807  
MAIL TAX STATEMENTS TO: Gregory E. Gibson, PO Box 478  
Terre Haute, IN 47807

U:\USER\RECEPT\REALTIC\Gibson\Greg



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 #22-10

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. 22-10. This Ordinance is a rezoning of the property located at 5200 New Margaret Av. The Petitioner, Gregory L. Gibson, Petitions the Plan Commission to rezone said real estate from zoning classification C-3 to R-3, General Residential District, for a multi-family apartment complex. 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. 22-10 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. 22-10 as required by IC 36-7-4-302. The Area Plan Commission of Vigo County now hereby attaches certification to Special Ordinance No. 22-10 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. 22-10, was FAVORABLE.

  
Reed L. Wilson, President

  
Jeremy Weir, Executive Director

Received 2<sup>nd</sup> day of September, 2010

STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: SO #22-10

Doc: # 61

Date: September 2010

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## APPLICATION INFORMATION

Petitioner: Gregory L. Gibson

Property Owner: Gregory L. Gibson

Representative: Timothy E. Fears

Proposed Use: Multi-family Apartment Complex

Proposed Zoning: R-3, General Residence District

Current Zoning: C-3, Regional Commerce District

Location: The Property is located on the north side of New Margaret Dr. 700 Ft. west of State RD. 46

Common Address: 5200 New Margaret Dr.

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## COMPREHENSIVE PLAN GUIDANCE

Service Area: The City of Terre Haute

Guiding Policies: Regional Commercial

- 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.

Street Access: New Margaret Dr. is an Arterial Roadway

*Access controlled by traffic  
Roadway*

## STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

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Dev. Priority: High development priority

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### ZONING COMPATIBILITY

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

Character of Area: This area has land-uses that require large tracks of land such as a Major retail shopping-center anchored to Interstate 70 and State Road 46 attracting passersby's, and the 2<sup>nd</sup> largest International Airport in the state of Indiana.

Contig. Uses & Zones: The area is contiguous to a Single-Family Residence District, and Regional Commercial Zone with uses that are permitted.

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### ZONING REGULATIONS

R-3 Purpose: The General Residence District

R-3 Uses: Any use permitted in the R-1 and R-2 Districts, Apartment Hotels. Colleges and universities, but not business colleges or trade schools, Fraternal, philanthropic and charitable use or institutions, provided that not more than twenty-five percent (25%) of the gross floor area or four thousand (4,000) square feet shall be used as office space. Hospitals, sanitariums, and convalescent homes, Institutions for the aged and for children, Lodging Houses and Tourist Homes, Nursery Schools, Boarding, Private Clubs or Lodges - not operated for profit, provided that not more than twenty percent (20%) of the gross floor area or two thousand (2,000) square feet, whichever is greater, shall be used as office space, Apartment House.

R-3 Standards: Minimum Lot Size: N/A;  
FAR 0.7 %  
Street Setback: 55 feet from centerline;  
Rear setback 11';  
Interior setback of 5' from the interior lot line;

STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

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1.5 parking spaces per 1 bedroom unit.

2.0 parking spaces per 2 bedroom unit.

3.0 parking spaces per 3 bedroom unit.

Section 10-207 Uses, Permitted. g. Uses, Permitted C-3 Regional Commerce District. (B)  
A regional shopping center shall have a minimum separation from other uses and/or zones as follows:

Apartment, buffer strip separation of 150 Feet ✓

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## **FINDINGS and RECOMMENDATION**

Staff Findings: The submitted site-plan is missing key development standards, which are required by Section 10-207 Uses, Permitted. Subsection g. Uses, Permitted C-3 Regional Commerce District. (B).

Recommendation: Tabled recommendation until all development standards are met.