

**SPECIAL ORDINANCE NO. 24, 2011**

**APPLICATION FOR REZONING PETITION CITY OF TERRE HAUTE**

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Common Address of real estate to be rezoned:

2414 College Avenue, Terre Haute, IN 47803

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Rezone From: R-2 Planned Development

Rezone To: R-2 Planned Development

Proposed Use: Liquor Store(and Apartment)

Name of Owner: Richard J. Alley, subject to Life Estate in Zianna N. Alley

Address of Owner: 10 S. 31<sup>st</sup> Court  
Terre Haute, IN 47803

Phone Number of Owner: (812) 235-0216

Attorney Representing Owner: Richard J. Shagley

Address of Attorney: Wright, Shagley & Lowery, P.C.  
500 Ohio Street, P.O. Box 9849, Terre Haute, IN 47808

For Information Contact: ☐ Owner ☒ Attorney

Council Sponsor: Patrick Ralston

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COPY OF A SITE-PLAN MUST ACCOMPANY THIS APPLICATION

FILED

AUG 11 2011

CITY CLERK

**AMENDED SPECIAL ORDINANCE NO. 24, 2011**

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:

Eighty-four (84) feet off of the South side of Lot Number Seven (7) in John Milners Subdivision of part of the North West quarter (1/4) of Section Twenty-six (26) Township (12) North, Range Nine (9) West, Vigo County, Indiana, as per recorded plat of the same recorded in the Recorder's Office of Vigo County, Indiana, in Plat Record I Page 75. Except Thirty feet off the South side thereof now used as a Street.

ALSO

Except that part of said tract conveyed to City of Terre Haute as shown by Deed Record 138 Page 418 Records of Recorder's Office of Vigo County, Indiana.

ALSO

Except that part of said tract conveyed to Harry V. Hamilton and Mae Hamilton husband and wife as shown by Deed Record 194 Page 292 Records of Recorder's Office of Vigo County, Indiana.

Commonly known as 2414 College Avenue, Terre Haute, IN 47803.

be and the same is, hereby established as a R-2 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-2 Planned Development as the same is defined in the Comprehensive Zoning Ordinance for the City of Terre Haute, Indiana, subject to the terms and conditions set forth herein.

- (a) That the real estate shall be used for any use permitted in an R-2 Two Family Residence District and a liquor store.
- (b) That this Ordinance is pending any necessary approval by the Board of Public Works concerning the three (3) Off Street Parking spaces.
- (c) That there will be three (3) Off Street Parking Spaces.
- (d) The real estate shall be subject to the following:
  - (1) 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.
  - (2) All such rights granted herein shall be fully transferable.
  - (3) 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 real estate located near district boundary lines and the general deterioration of the neighborhood, 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, Amended Special Ordinance No.24, 2011, has been referred to the Area

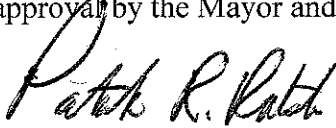
Planning Commission for its review and consideration and a favorable recommendation has been referred by the Commission to the Common Council; and

WHEREAS, a public hearing on Amended Special Ordinance No.24, 2011, 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.

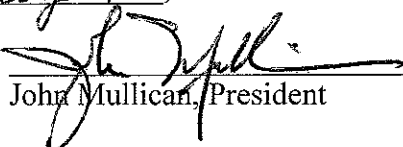
BE IT ORDAINED BY THE COMMON COUNCIL of the City of Terre Haute, Indiana that the owners of the real estate described have demonstrated that a hardship does exist for the use of said real estate and that the Common Council of the City of Terre Haute now determines that a hardship does exist and specifically authorizes and approves the use of the real estate described as a R-2 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 Amended 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, \_\_\_\_\_

  
Patrick Ralston, Councilperson

Passed in open Council this 11<sup>th</sup> day of August, 2011.

  
John Mullican, President

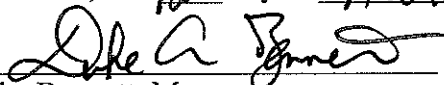
ATTEST:

  
Charles P. Hanley, City Clerk

Presented by me to the Mayor of the City of Terre Haute, this 12<sup>th</sup> day of August, 2011.

  
Charles P. Hanley, City Clerk


Approved by me, the Mayor of the City of Terre Haute, this 12<sup>th</sup> day of AUGUST, 2011.

  
Duke 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 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 47808.

**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, Richard J. Alley and Zianna N. Alley, respectfully submit this Petition to Rezone the following described real estate in the City of Terre Haute, Vigo County, State of Indiana, to-wit:

Eighty-four (84) feet off of the South side of Lot Number Seven (7) in John Milners Subdivision of part of the North West quarter (1/4) of Section Twenty-six (26) Township (12) North, Range Nine (9) West, Vigo County, Indiana, as per recorded plat of the same recorded in the Recorder's Office of Vigo County, Indiana, in Plat Record I Page 75. Except Thirty feet off the South side thereof now used as a Street.

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Commonly known as 2414 College Avenue, Terre Haute, IN 47803.

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-2 Planned Development for a video store business (and apartment).

Your Petitioners would respectfully state that the real estate is now vacant and that Petitioners intend to lease the real estate for a liquor store (and an apartment).

Your Petitioners would request that the real estate described herein shall be zoned as a R-2 Planned Development to allow for the use as proposed by the Petitioners. Your Petitioners would allege that the R-2 Planned Development would not alter the general characteristics of this neighborhood, since the real estate is located adjacent to other commercial property and has been previously used for a liquor store, video store and flag store (and an apartment).

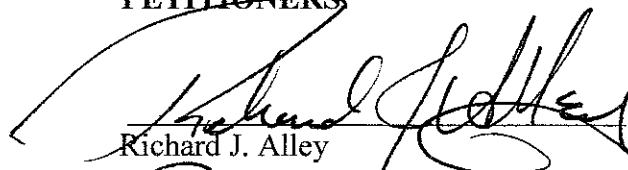
Your Petitioners would respectfully show the proposed change would not be detrimental

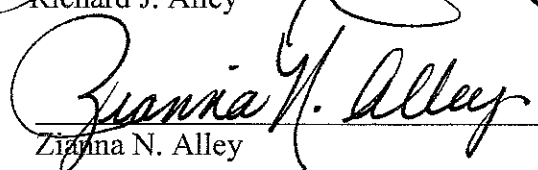
to the public welfare or injurious to the property or improvements in the area.

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 R-2 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 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 8<sup>th</sup> day of July, 2011.

**PETITIONERS:**

  
Richard J. Alley

  
Zianna N. Alley

WRIGHT, SHAGLEY & LOWERY, P.C.  
500 Ohio Street  
PO Box 9849  
Terre Haute, IN 47808  
Phone: (812) 232-3388

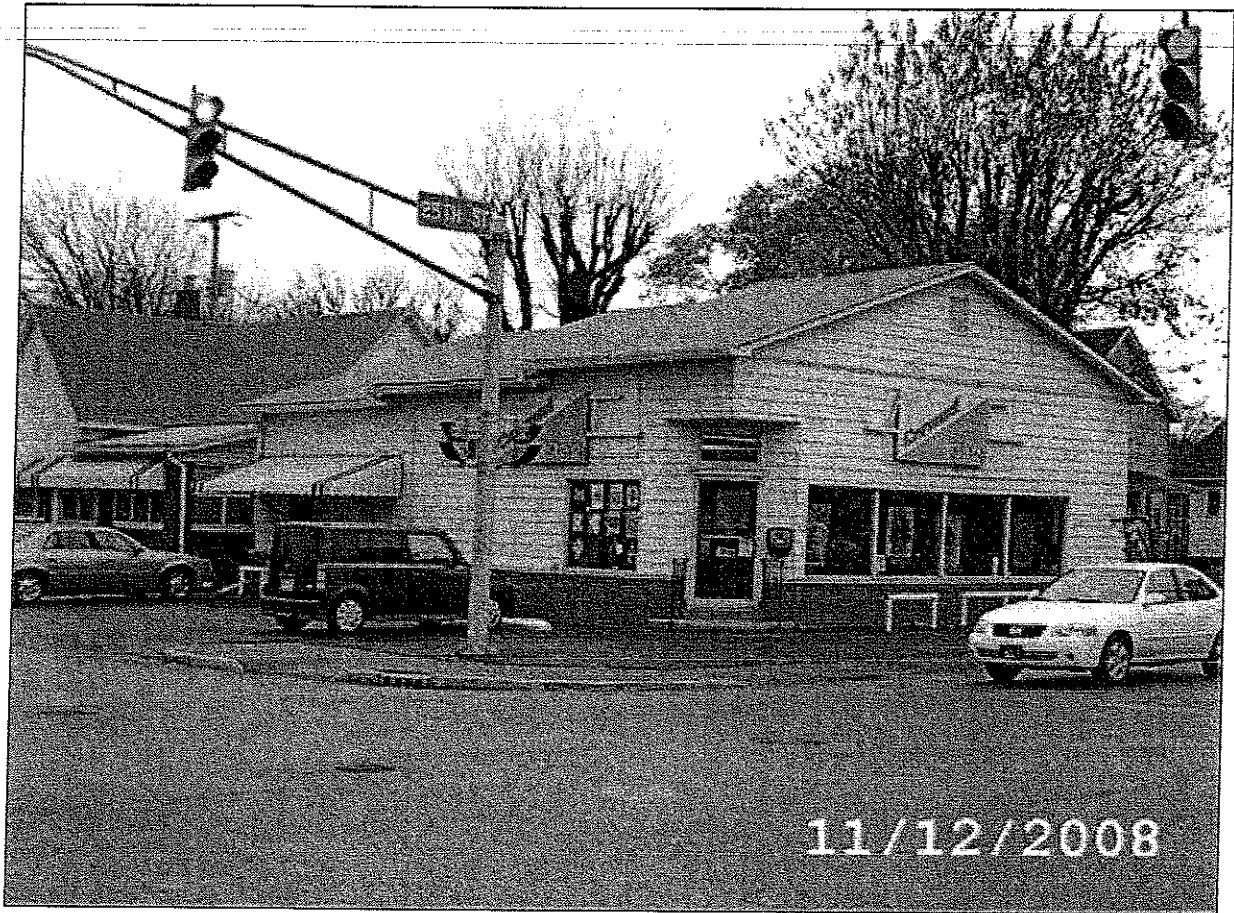
BY: 

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

The owner and mailing address: Richard J. Alley and Zianna N. Alley, 10 S. 31<sup>st</sup> Court, Terre Haute, IN 47803.

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

## SITE PLAN



EXISTING COMMERCIAL STRUCTURE

2414 COLLEGE AVENUE  
TERRE HAUTE IN 47803

R-2 PLANNED DEVELOPMENT

PROPOSED USE: LIQUOR STORE  
AND EXISTING APARTMENT