

SPECIAL ORDINANCE NO. 39, 2014

APPLICATION FOR REZONING PETITION CITY OF TERRE HAUTE

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Common Address of lots to be rezoned:

1000 S. 6th Street, Terre Haute, IN 47802

Rezone From: C-1 Neighborhood Commerce District

Rezone To: R-3 Planned Development

Proposed Use: Multifamily Housing and Real Estate Business (Existing).

Name of Owner: Sharp Flats, LLC

Address of Owner: 4519 Park Lane Court
Terre Haute, IN 47803

Phone Number of Owner (812) 243-2448

Attorney Representing Owner: Richard J. Shagley

Address of Attorney: Wright, Shagley & Lowery , P.C.
PO Box 9849, Terre Haute, IN 47807-3517

For Information Contact: Owner Attorney

Council Sponsor: Amy Auler

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COPY OF A SITE-PLAN MUST ACCOMPANY THIS APPLICATION

SPECIAL ORDINANCE NO. 39, 2014

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:

One Hundred Ninety-seven (197) feet off the West end of Lot Numbered Four (4), being all that part of said Lot No. Four (4) lying West of the alley as now located, in James Farrington's Subdivision of the Southeast part of Outlot 64 of the original Outlots of the Town, now City, of Terre Haute, Indiana, except the following:

Beginning at the Southwest corner of the above described real estate, thence running East 197 feet, more or less, to the West line of said alley; thence North along the West line of said alley 12.64 feet; thence West to a point 12.23 feet North of the place of beginning; thence South to the place of beginning.

Commonly known as 1000 South 6th Street, Terre Haute, IN 47802.

be and the same is, hereby established as R-3 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 an R-3 General Residence District 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 an R-3 General Residence District and a real estate business.
- (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) All such rights granted herein shall be fully transferable.
- (d) 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 owner has 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 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. 39, 2014, 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. 39, 2014, 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 R-3 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, _____
Amy Auler, Councilperson

Passed in open Council this _____ day of January, 2015.

, President

ATTEST:

Charles P. Hanley, City Clerk

Withdrawn

Presented by me to the Mayor of the City of Terre Haute, this ____ day of January, 2015.

Charles P. Hanley, City Clerk

Approved by me, the Mayor of the City of Terre Haute, this ____ day of January, 2015.

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 47807-3517.

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, Sharp Flats, LLC, respectfully submits this Petition to Rezone the following described real estate in the City of Terre Haute, Vigo County, State of Indiana, to-wit:

One Hundred Ninety-seven (197) feet off the West end of Lot Numbered Four (4), being all that part of said Lot No. Four (4) lying West of the alley as now located, in James Farrington's Subdivision of the Southeast part of Outlot 64 of the original Outlots of the Town, now City, of Terre Haute, Indiana, except the following:

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The Petitioner is 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 C-1 Neighborhood Commerce District.

Your Petitioner would respectfully state that parts of the real estate is now a vacant but will be used as a multifamily residence and with the existing real estate business. Petitioner also owns the residential property to the north of this real estate.

Your Petitioner would allege that there is a hardship due to: 1) the physical characteristics of the land, 2) the adjacent, scattered incompatible uses and 3) the improvements on the land.

Your Petitioner would request that the real estate described herein shall be zoned as a R-3 Planned Development District to allow for the use as proposed by Petitioner. Your Petitioner would allege that the R-3 Planned Development District would not alter the general characteristics of this neighborhood.

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 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-

Withdrawn

121 District Maps and declaring the above-described real estate to be a R-3 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 executed this Petition to Rezone Real Property, this 5th day of December, 2014.

PETITIONER:

SHARP FLATS, LLC


Wendy Bennett, Managing Member

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

BY:

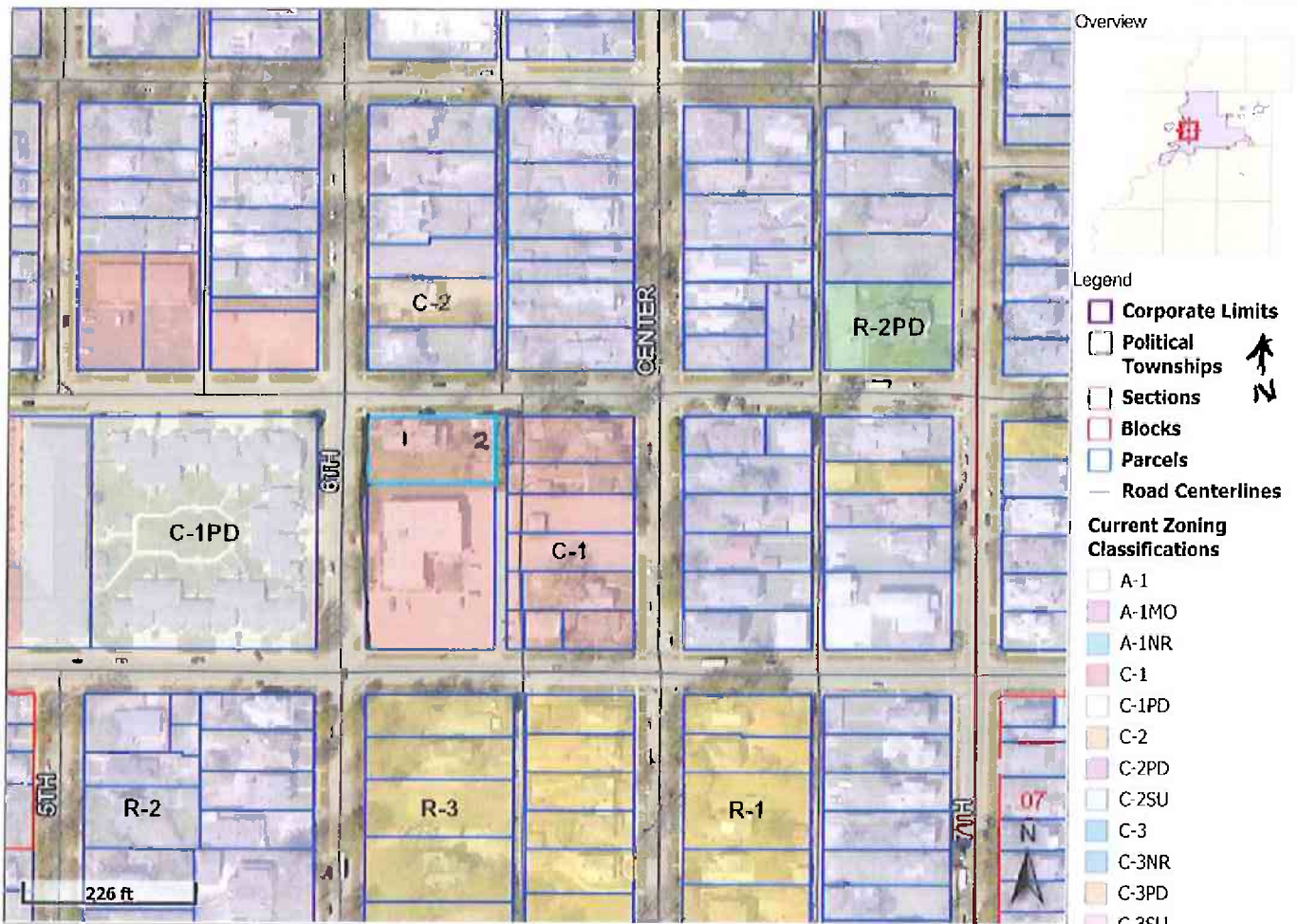

Richard J. Shagley, #257-84
Attorneys for Petitioner

The owner and mailing address: Sharp Flats, LLC, 4519 Parke Lane 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

Date Created: 12/8/2014



SPECIAL ORDINANCE No. 39, 2014

C-1 to R-3 Planned Development

OWNER: Sharp Flats, LLC

- 1. VACANT BUILDING - House for Residential Use
- 2. EXISTING Real Estate Business

- M-0
- M-1
- M-1PD
- M-2
- M-2NR
- M-2PD
- M-0

Withdrawn

-  M2SPU
-  MHCU
-  MO
-  O-1
-  O-2
-  O-S
-  OS
-  PUD
-  R-1
-  R-1CU
-  R-1NR
-  R-1PD
-  R-1SU
-  R-2
-  R-2M
-  R-2PD
-  R-2SU
-  R-3
-  R-3H
-  R-3NR
-  R-3PD
-  R-S
-  R-T
-  R3PUD

Parcel ID 84-06-28-282-001.000-002

Alternate ID 118-06-28-282-001

Owner Address SHARP FLATS LLC

Sec/Twp/Rng n/a

Class Com Other commercial structure

4519 PARK LANE CT

Property Address 1000 S 6TH ST
TERRE HAUTE

Acreage n/a

TERRE HAUTE, IN 47803

District 002 HARRISON

Brief Tax Description FARRINGTON SUB OL 64 87.36' N SIDE W 1/
D-390/917 28-12-9 LOT 4

(Note: Not to be used on legal documents)

Last Data Upload: 11/14/2014 1:09:18 AM



developed by
The Schneider Corporation
www.schneidercorp.com

STATE OF INDIANA)
) SS:
COUNTY OF VIGO)

AFFIDAVIT

Comes now, Wendy Bennett, Managing Member of Sharp Flats, LLC, being duly sworn upon her oath, deposes and says:

1. That Sharp Flats, LLC is the fee simple owner of record of the following described real estate located in the City of Terre Haute, County of Vigo, State of Indiana, to-wit:

One Hundred Ninety-seven (197) feet off the West end of Lot Numbered Four (4), being all that part of said Lot No. Four (4) lying West of the alley as now located, in James Farrington’s Subdivision of the Southeast part of Outlot 64 of the original Outlots of the Town, now City, of Terre Haute, Indiana, except the following:

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2. That a copy of the Deed, recorded in the records of the Recorder’s Office of Vigo County, Indiana, transferring fee simple title to Sharp Flats, LLC 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 Sharp Flats, 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 Wendy Bennett, Managing Member of Sharp Flats, LLC.

4. Further, Affiant saith not.

Dated at Terre Haute, Indiana this 5th day of December, 2014.

PETITIONER:



Wendy Bennett, Managing Member
of Sharp Flats, LLC

Withdrawn

DULY ENTERED FOR TAXATION

Subject to final acceptance for transfer

JUL 01 2011

Timothy M. Spivey

VIGO COUNTY AUDITOR

2011008196 WD \$18.00

07/01/2011 01:40:03P 2 PGS

NANCY S. ALLSUP

VIGO County Recorder IN

Recorded as Presented



WARRANTY DEED

This indenture witnesseth that

Judith A. Stadler

of Vigo County in the State of Indiana

Convey(s) and Warrant(s) to

Sharp Flats, L.L.C.

of Vigo County in 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 Real Estate in Vigo County in the State of Indiana, to-wit:

One Hundred Ninety-seven (197) feet off the West end of Lot Numbered Four (4), being all that part of said Lot No. Four (4) lying West of the alley as now located, in James Farrington's Subdivision of the Southeast part of Outlot 64 of the original Outlots of the Town, now City, of Terre Haute, Indiana, except the following:

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More commonly known as 1000 South 6th Street, Terre Haute, Indiana 47807.

SUBJECT TO ANY CONDITIONS, RESTRICTIONS COVENANTS OR EASEMENTS OF RECORD.

Parcel No. 84-06-28-282-001.000-002

Dated this 29th day of June, 2011.

Judith A. Stadler
Judith A. Stadler

Exhibit A

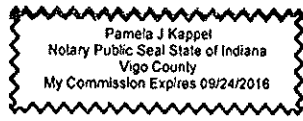
2

State of Indiana, County of Vigo) SS:

Before me, a Notary Public in and for said county and state, this 29th day of June, 2011, personally appeared Judith A. Stadler, who acknowledged the execution of the foregoing Warranty Deed to be Grantor(s) voluntary act and deed.

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

Pamela J Kappel
Notary Public
Printed: Pamela J Kappel



My Commission Expires:
My County of Residence:

This instrument prepared by: Henry L. Antonini, Antonini & Antonini, 224 South Main Street, P. O. Box 325, Clinton, IN 47842 Telephone: (765) 832-3527D976; HCT-2011-0306
I affirm under penalties for perjury that I have taken reasonable care to redact each Social Security number in this document, unless required by law. Henry L. Antonini

Mail tax bills to: Sharp Flats LLC PO Box 3141 Terre Haute, IN 47803
Return Deed to Honeycreek Vigo Title Services, Inc.

Withdrawn



Receipt

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

Date: 12/9/2014

Name: Wright, Stanley & Sonely

Reason: _____

CP# 63694 Reopening Filing 25.00
Reopening Petition 20.00

Cash: _____

Check: 45.00

Credit: _____

Total: 45.00

TERRE HAUTE, IN
PAID
DEC 09 2014
CONTROLLER

Received By: [Signature]