



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

**AS AMENDED SPECIAL ORDINANCE NO. 6, 2016**

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COMMON ADDRESS OF LOTS TO BE REZONED:

410 Davis Avenue, Terre Haute, Indiana 47805

Current Zoning: R-1 Single Family Residence District

Requested Zoning: C-2 Limited Community Commerce

Proposed Use: Office Space

Name of Owner: Todd Atterson and Jennifer Atterson

Address of Owner: 6768 Wabash Avenue, Terre Haute, Indiana 47803

Phone Number of Owner: (812) 208-0446

Attorney Representing Owner (if any): Richard J. Shagley II

Address of Attorney: WRIGHT, SHAGLEY & LOWERY, P.C., 500 Ohio Street, PO Box 9849,  
Terre Haute, Indiana 47808

Phone Number of Attorney: (812) 232-3388

For Information Contact: Richard J. Shagley, (812) 23203388

Council Sponsor: Amy Auler

**\*COPY OF SITE PLAN MUST ACCOMPANY THIS APPLICATION**

FILED

APR 07 2016

AMENDED SPECIAL ORDINANCE FOR A REZONING  
SPECIAL ORDINANCE NO. 6, 2016

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 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:

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

Lot Number Seventy-nine (79) in Meyer's Second Subdivision of Section Four (4) Township Eleven (11) North, Range 9 West, as appears on the recorded Plat of said Subdivision in Plat Record 11, page 40 of the records of the Recorder's Office of Vigo County, Indiana.

(Commonly known as 410 Davis Avenue, Terre Haute, Vigo County, IN 47805)

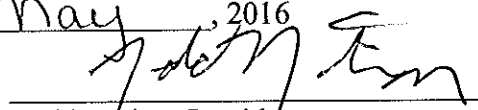
Be and the same is hereby established as a C-2 Limited Community Commerce, together with all rights and privileges that may insure to said real estate and the owners thereof by virtue of the law in such cases provided, subject to all limitations and restrictions imposed thereon by deed or otherwise."

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.

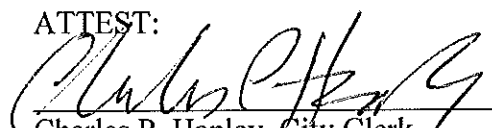
Presented by Council Member,

  
Amy Auler, Councilperson

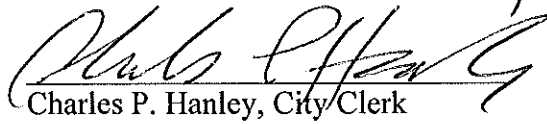
Passed in open Council this 12<sup>th</sup> day of May, 2016

  
Todd Nation, President

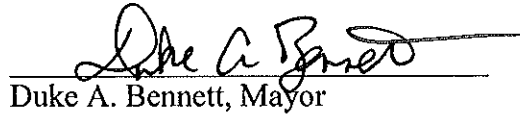
ATTEST:

  
Charles P. Hanley, City Clerk

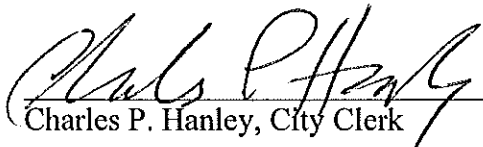
Presented by me, to the Mayor of the City of Terre Haute, this 13<sup>th</sup> day of May, 2016.

  
Charles P. Hanley, City Clerk


Approved by me, the Mayor of the City of Terre Haute, this 13<sup>th</sup> day of May, 2016.

  
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 II

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 PLAN COMMISSION FOR VIGO  
COUNTY, INDIANA:

LADIES AND GENTLEMAN:

The undersigned, Todd Atterson and Jennifer Atterson, respectfully submit this Petition to rezone the following described real estate in the City of Terre Haute, County of Vigo, Indiana, to wit:

Lot Number Seventy-nine (79) in Meyer's Second Subdivision of Section Four  
(4) Township Eleven (11) North, Range 9 West, as appears on the recorded Plat  
of said Subdivision in Plat Record 11, page 40 of the records of the Recorder's  
Office of Vigo County, Indiana.

(Commonly known as 410 Davis Avenue, Terre Haute, Vigo County, IN 47805)


Your petitioners are 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 R-1 Single Family Residence District.

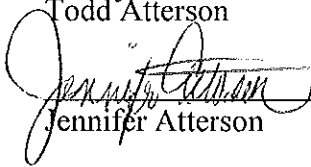
Your petitioners intend to use the real estate as office space. Your petitioners would request that the real estate described herein shall be zoned as a C-2 Limited Community Commerce. Your petitioners would allege that the Limited Community Commerce would not alter the general characteristics of this neighborhood since the neighborhood is in a mixed use neighborhood.

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 Plan Commission for 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 C-2 Limited Community Commerce of the City of Terre Haute, Indiana, and 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 WITNES WHEREOF, This petition has been duly executed this 24<sup>th</sup> day of February, 2016.

  
\_\_\_\_\_  
Todd Atterson

  
\_\_\_\_\_  
Jennifer Atterson

This instrument prepared by Richard J. Shagley II, 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, Todd Atterson and Jennifer Atterson, being duly sworn upon their oaths, deposes and says:

1.       That Todd Atterson and Jennifer Atterson are the owners of record of the following described real estate located in the City of Terre Haute, County of Vigo, State of Indiana, to-wit:

Lot Number Seventy-nine (79) in Meyer's Second Subdivision of Section Four (4) Township Eleven (11) North, Range 9 West, as appears on the recorded Plat of said Subdivision in Plat Record 11, page 40 of the records of the Recorder's Office of Vigo County, Indiana.

(Commonly known as 410 Davis Avenue, Terre Haute, Vigo County, IN 47805)

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 Todd Atterson and Jennifer Atterson 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 Todd Atterson and Jennifer Atterson.

4.       Further, Affiant saith not.

Dated at Terre Haute, Indiana this \_\_\_\_\_ day of February, 2016.

\_\_\_\_\_  
Todd Atterson

\_\_\_\_\_  
Jennifer Atterson

STATE OF INDIANA )  
 ) SS:  
COUNTY OF VIGO )

Before me, the undersigned, a Notary Public, in and for said County and State, this \_\_\_\_\_ day of \_\_\_\_\_, 2016, personally appeared the within named, **Todd Atterson** in the above conveyance, and acknowledged the execution of the same to be their voluntary act and deed.

\_\_\_\_\_, Notary Public

My Commission expires:

\_\_\_\_\_

My County of Residence:

\_\_\_\_\_

STATE OF INDIANA )  
 ) SS:  
COUNTY OF VIGO )

Before me, the undersigned, a Notary Public, in and for said County and State, this \_\_\_\_\_ day of \_\_\_\_\_, 2016, personally appeared the within named, **Jennifer Atterson** in the above conveyance, and acknowledged the execution of the same to be their voluntary act and deed.

\_\_\_\_\_, Notary Public

My Commission expires:

\_\_\_\_\_

My County of Residence:

\_\_\_\_\_

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



# 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

**FILED**

APR 07 2016

**CITY CLERK**

DATE: April 7, 2016

## REPORT TO THE CITY COUNCIL ON ZONING MAP AMENDMENT

THE VIGO COUNTY AREA PLAN COMMISSION HEREBY GIVES CERTIFICATION TO  
SPECIAL ORDINANCE NUMBER #6-16

CERTIFICATION DATE: April 6, 2016

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. 6-16. This Ordinance is a rezoning of the property located at 410 Davis Av.. The Petitioner, Todd and Jennifer Atterson, petitions the Plan Commission to rezone said real estate from zoning classification R-1 to C-2, Community Commerce District, for office space. 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. 6-16 at a public meeting and hearing held Wednesday, April 6, 2016. Remonstrators 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. 6-16 as required by IC 36-7-4-302. The Area Plan Commission of Vigo County now hereby attaches certification to Special Ordinance No. 6-16 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.6-16 was FAVORABLE WITH THE FOLLOWING CONDITIONS: 1) BZA approval for reduction in the rear buffer and setback; 2) Approval of an onsite parking plan..

A handwritten signature in black ink, appearing to read "Fred L. Wilson".

Fred L. Wilson, President

A handwritten signature in black ink, appearing to read "Jared Bayler".

Jared Bayler, Interim Director

Received this 7th day of April, 2016



## APPLICATION INFORMATION

Petitioner: Todd and Jennifer Atterson

Property Owner: Same-As-Above

Representative: Richard J. Shagley II

Proposed Use: Office Space

Proposed Zoning: C-2, Limited Community Commerce District

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

Location: The Property is located on the corner of Davis Avenue and S. 5<sup>th</sup> Street, directly east of Old Navy in Honey Creek Township.

Common Address: 410 Davis Avenue Terre Haute, Indiana 47805

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## COMPREHENSIVE PLAN GUIDANCE

Service Area: The City of Terre Haute

Guiding Policies: Neighborhood Enhancement

Character of Area: The petitioned property sits on the edge of a Neighborhood Enhancement Area and Regional Commercial growth pattern, west of a C-2, Limited Community Commerce District, South of an R-1, Single Family Residential District. Surrounding uses within these districts consist of multiple single-family dwellings, a large retail clothing store, multiple small business establishments and a high school.

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Available Services: Area is well served by utilities.

Street Access: Davis Avenue is a Primary Arterial.  
S. 5<sup>th</sup> St is a Secondary Collector.

Dev. Priority: This area has a high priority for capital investment

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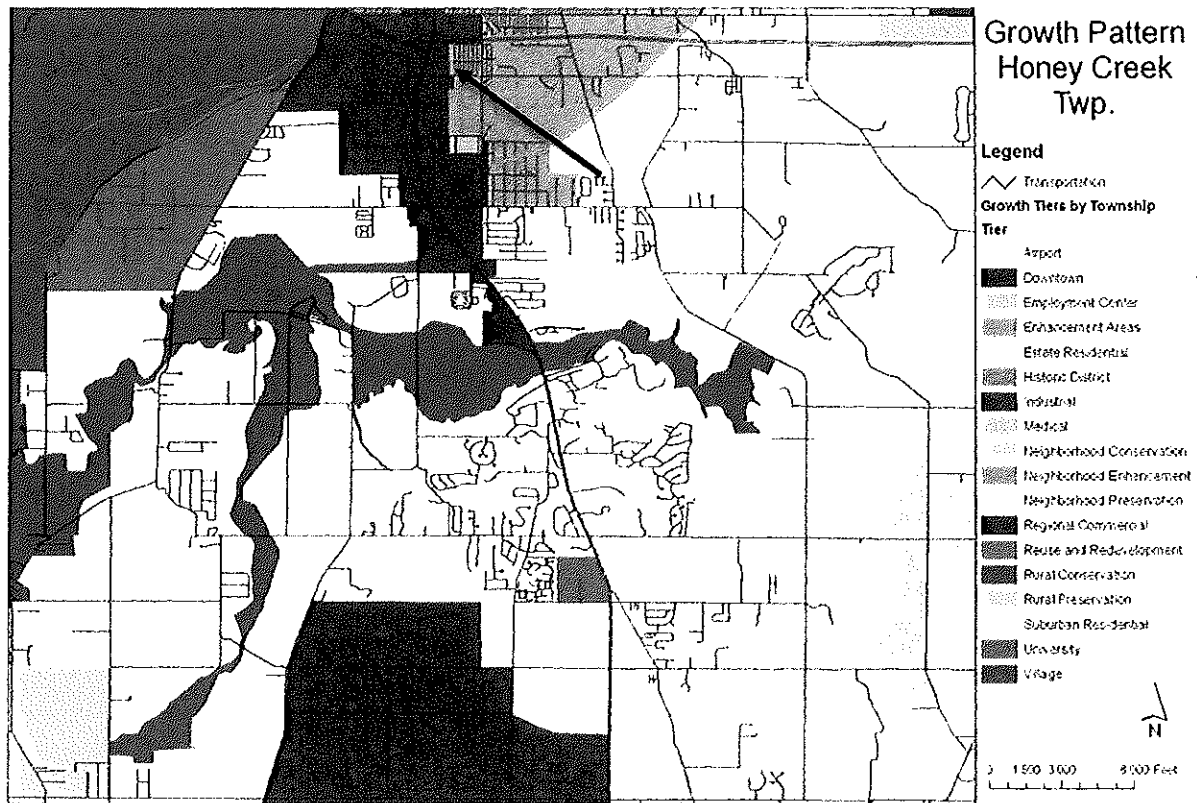
## STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: SO # 6-16

Doc: # 29

Date: April, 2016

Page 2 of 4



- Encourage infill development that is compatible with the land use mix and intensity of existing development.
- Support preservation and rehabilitation of historic properties.
- Incompatible and inconsistent uses with residential context of these neighborhoods should be eliminated.
- Identify areas that need sub-area plans prioritize the development of those plans by areas.
- Allow for a range of housing densities based on the zoning ordinance.
- Encourage neighborhoods to develop a unique sense of place, but still be part of the larger city.

## ZONING COMPATIBILITY

Sur. Zones and Uses: **North** – R-1, Single Family Residential District

**East** – C-2, Limited Community Commerce District

**South** – C-3, Regional Commerce District and O-1, Open Space

**West** – C-3, Regional Commerce District

## 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.

**C-2 Uses:** Amusement establishments, bowling alleys, pool halls, swimming pools, dance halls, and skating rinks, Any use permitted in the C-1 Zone except as otherwise provided in this Chapter, Antique shops, Art galleries, but not including auction rooms, Banks and financial institutions, Bicycle sales, rental, and repair stores, Blue-printing and photostating 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.

Parking Requirements for Offices

Three (3) spaces per one thousand (1,000) square feet gross floor area.

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## FINDINGS and RECOMMENDATION

**Staff Findings:** The Thrive 2025 Comprehensive Plan has identified this area within the City of Terre Haute as a Neighborhood Enhancement Area.

STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: SO # 6-16

Doc: # 29

Date: April, 2016

Page 4 of 4

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The development priority for commercial development within this area could be low to high intensity based on the local thoroughfare network. High intensity commercial development and uses need to have direct access without traffic intrusion onto residential neighborhoods, and needs the appropriate buffering.

Zoning change for the proposed property is recommended. Zone change will not create any additional traffic. The Property use is compatible with surrounding uses and still encourages surrounding neighborhoods to develop a unique sense of place, but still be part of the larger city.

Recommendation: Staff has a Favorable Recommendation on the C-2 Community Commercial District at this location with the following conditions.

1. BZA approval for a reduction in the rear buffer and setback
2. Approval of an onsite parking plan.

SITE PLAN  
R-1 to C-2



Overview



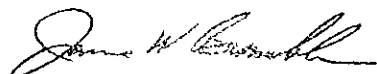
Legend

- Corporate Limits
- Political Township
- Sections
- Blocks
- Parcels
- Road Centerlines

Parcel ID	84-09-04-280-008.000-005	Alternate ID	119-09-04-280-008	Owner Address	ATTERSON TODD & JENNIFER ATTERSON 6768 WABASH AVE TERRE HAUTE, IN 47803
Sec/Twp/Rng	4	Class	Res 1fam dwelling platted lot		
Property Address	410 DAVIS AVE TERRE HAUTE	Acreage	0.15		
District	005 HONEY CREEK MEYERS 2ND ADD				
Brief Tax Description	2005003079 D-440/1984 4-11-9 LOT 79 BLOCK 1 (Note: Not to be used on legal documents)				

MAR 07 2005

RAYMOND WATTS  
VIGO County Recorder IN  
IN 2005003079 WD  
03/07/2005 14:56:59 2 PGS  
Filing Fee: \$16.00

  
VIGO COUNTY AUDITOR

**LIMITED LIABILITY COMPANY WARRANTY DEED**

THIS INDENTURE WITNESSETH:

**THRESHOLD DEVELOPMENT, LLC**, an Indiana Limited Liability Company, as Grantor, CONVEYS AND WARRANTS to **TODD ATTERSON AND JENNIFER ATTERSON**, Husband and Wife, as Grantees, for and in consideration of the sum of One Dollar (\$1.00) and other valuable consideration, the receipt whereof is hereby acknowledged, the following described Real Estate in Vigo County, in the State of Indiana, to-wit:

Lot Number Seventy-nine (79) in Meyer's Second Subdivision of Section Four (4) Township Eleven (11) North, Range 9 West, as appears on the recorded Plat of said Subdivision in Plat Record 11, page 40 of the records of the Recorder's Office of Vigo County, Indiana.

Commonly known as 410 Davis Avenue, Terre Haute, IN 47805.

Grantor certifies that there is no Indiana Gross Income Tax due on this transaction at the time of closing.

The undersigned person executing this Deed on behalf of the Grantor represents and certifies that he is a member of Grantor and has been fully empowered by proper resolution of the Grantor, to execute and deliver this Deed; that Grantor has full capacity to convey the real estate described herein; and that all necessary action for the making of such conveyance has been taken and done.

IN WITNESS WHEREOF, Threshold Development, LLC, has caused this Deed to be executed this 7<sup>th</sup> day of March, 2005.

**Threshold Development, LLC**

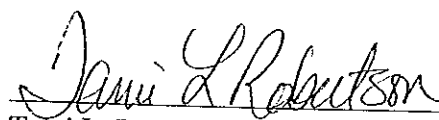
By: 

Timothy E. Fears, Member

STATE OF INDIANA       )  
                                  )SS:  
COUNTY OF VIGO       )

Before me, the undersigned, a Notary Public, in and for said County and State, this 7<sup>th</sup> day of March, 2005, personally appeared the within named Timothy E. Fears, Member of Threshold Development, LLC, 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.

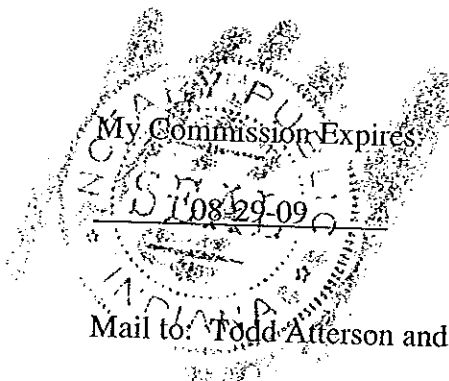
  
Tami L. Robertson, Notary Public

County of Residence:

Parke

Mail to: Todd Atterson and Jennifer Atterson, 301 S. 4<sup>th</sup> Street, Terre Haute, IN 47805.

This instrument prepared by Timothy E. Fears, Attorney at Law, Wright, Shagley & Lowery, 500 Ohio Street, P.O. Box 8448, Terre Haute, IN 47808-8448, (812) 232-3388.



STATE OF INDIANA       )  
                                  ) SS:  
COUNTY OF VIGO       )

**AFFIDAVIT**

Comes now, Todd Atterson and Jennifer Atterson, being duly sworn upon their oaths, deposes and says:

1. That Todd Atterson and Jennifer Atterson are the owners of record of the following described real estate located in the City of Terre Haute, County of Vigo, State of Indiana, to-wit:

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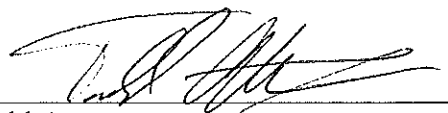
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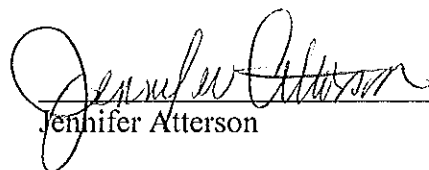
2. That a copy of the Deed, recorded in the records of the Recorder's Office of Vigo County, Indiana, is attached hereto and made a part hereof and marked as Exhibit A.

3. That Affiant makes this Affidavit for the sole purpose of affirming that Todd Atterson and Jennifer Atterson 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 Todd Atterson and Jennifer Atterson.

4. Further, Affiant saith not.

Dated at Terre Haute, Indiana this 24<sup>th</sup> day of February, 2016.

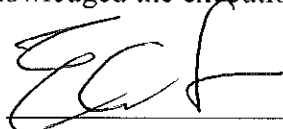
  
\_\_\_\_\_  
Todd Atterson

  
\_\_\_\_\_  
Jennifer Atterson



STATE OF INDIANA )  
 ) SS:  
COUNTY OF VIGO )

24 Before me, the undersigned, a Notary Public, in and for said County and State, this  
day of Feb, 2016, personally appeared the within named, **Todd**  
**Atterson** in the above conveyance, and acknowledged the execution of the same to be their  
voluntary act and deed.

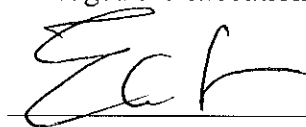
  
\_\_\_\_\_, Notary Public

My Commission expires:  
5-23-22

My County of Residence:  
Vigo

STATE OF INDIANA )  
 ) SS:  
COUNTY OF VIGO )

24 Before me, the undersigned, a Notary Public, in and for said County and State, this  
day of Feb, 2016, personally appeared the within named, **Jennifer**  
**Atterson** in the above conveyance, and acknowledged the execution of the same to be their  
voluntary act and deed.

  
\_\_\_\_\_, Notary Public

My Commission expires:  
5-23-22

My County of Residence:  
Vigo

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

Receipt

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

Date: 02/29/14

Name: Wright, Shagley, & Lomrey, PC

Reason: Resonance

TERRE HAUTE, IN  
PAID

02/29/14

Cash: \_\_\_\_\_

Check: \$45.00 #65553

Credit: \_\_\_\_\_

Total: \$45.00

CONTROLLER

Received By: Heuser/K