

SPECIAL ORDINANCE NO. 21, 2017

CITY CLERK

APPLICATION FOR REZONING PETITION CITY OF TERRE HAUTE

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Common Address of lots to be rezoned:
Sidenbender Road, Terre Haute, Indiana
Parcel No. 84-09-02-202-009.000-005

Rezone From: R-1 Single Family Residential District

Rezone To: R-3 Multifamily Residential District

Proposed Use: Apartment Buildings

Name of Owners: Indiana American Water Company

Address of Owners: P.O. Box 5627
555 E. County Line Rd.
Cherry Hill, NJ 08034

Phone Number of Owners: c/o Richard J. Shagley II
812-232-3388

Attorney Representing Owners: Richard J. Shagley II

Address of Attorney: Wright, Shagley & Lowery, P.C.
PO Box 9849, Terre Haute, IN 47808

For Information Contact: Owner Attorney

Council Sponsor: Amy Auler

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COPY OF A SITE-PLAN MUST ACCOMPANY THIS APPLICATION

FILED

APR 12 2017

CITY CLERK

**SPECIAL ORDINANCE FOR A REZONING
SPECIAL ORDINANCE NO. 21, 2017**

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:

A parcel lying immediately South of a 7.32 acre tract of land located in the Northwest Quarter of the Northeast Quarter of Section 2, Township 11 North, Range 9 West, bounded on the West by the West line of the Northeast Quarter of said Section 2, Township 11 North, Range 9 West, bounded on the west by the west line of the Northeast Quarter of said Section 2, and bounded on the south by Interstate 70 and containing 10.44 acres, more or less.

EXCEPT a 2.38 acre tract of land lying to the south and west of Sidenbender Road, as described in a Corporate Warranty Deed dated July 30, 2015, and recorded August 4, 2015, in Vigo County, Indiana, Instrument Number 2015007968, now commonly known as 2890 Sidenbender Road, Terre Haute, Indiana 47802, Parcel No. 84-09-02-202-008.000-005.

Containing 8.06 acres, more or less.

Commonly known as vacant land on Sidenbender Road, Terre Haute, Indiana 47802

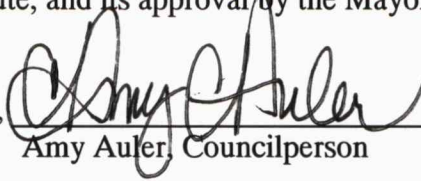
Parcel No. 84-09-02-202-009.000-005

Be and the same is hereby established as an R-3 Multifamily Residential 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,


Amy Auler, Councilperson


Passed in open Council this 11th day of May, 2017.


Karrum Nasser, President

ATTEST:


Charles P. Hanley, City Clerk

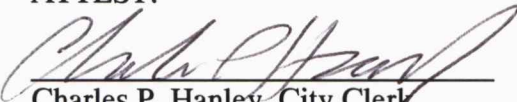
Presented by me, to the Mayor of the City of Terre Haute, this 11th day of May, 2017.


Charles P. Hanley, City Clerk


Approved by me, the Mayor of the City of Terre Haute, this 12th day of May, 2017.


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 II, Attorney-at-Law, WRIGHT, SHAGLEY & LOWERY, P.C., 500 Ohio Street, P.O. Box 9849, 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, Indiana American Water Company, respectfully submits this Petition to rezone the following described real estate in the City of Terre Haute, County of Vigo, Indiana, to wit:

A parcel lying immediately South of a 7.32 acre tract of land located in the Northwest Quarter of the Northeast Quarter of Section 2, Township 11 North, Range 9 West, bounded on the West by the West line of the Northeast Quarter of said Section 2, Township 11 North, Range 9 West, bounded on the west by the west line of the Northeast Quarter of said Section 2, and bounded on the south by Interstate 70 and containing 10.44 acres, more or less.

EXCEPT a 2.38 acre tract of land lying to the south and west of Sidenbender Road, as described in a Corporate Warranty Deed dated July 30, 2015, and recorded August 4, 2015, in Vigo County, Indiana, Instrument Number 2015007968, now commonly known as 2890 Sidenbender Road, Terre Haute, Indiana 47802, Parcel No. 84-09-02-202-008.000-005.

Containing 8.06 acres, more or less.

Commonly known as vacant land on Sidenbender Road, Terre Haute, Indiana 47802

Parcel No. 84-09-02-202-009.000-005

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 an R-1 Single Family Residential District.

Your Petitioner would respectfully state that the real estate is now vacant land. Petitioner intends to use the real estate for the apartment buildings

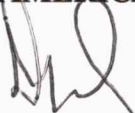
Your Petitioner would request that the real estate described herein shall be zoned as an R-3 Multifamily Residential District. Petitioner would allege that this change in zoning and use would not alter the general characteristics of this neighborhood, would not be detrimental to the public welfare or injurious to the property or improvements in the neighborhood or adversely affect property values.

WHEREFORE, your petitioner 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 R-3 Multifamily Residential District 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 12th day of April, 2017.

INDIANA AMERICAN WATER COMPANY

By:



David A. Baker, Superintendent of
Terre Haute Operations

Property Owner:

Indiana American Water Company
P.O. Box 5627
555 E. County Line Rd.
Cherry Hill, NJ 08034

Preparer:

Richard Shagley II
Wright, Shagley, Lowery, P.C.
500 Ohio Street
Terre Haute, IN 47807

SITE PLAN



102 Total Units

17 Six-Unit Buildings

Each Building: 4 Two-Bedroom Units

2 One-Bedroom Units

187 Parking Spaces



QUIT CLAIM DEED

THIS INDENTURE WITNESSETH, that Nancy Jeanne Schweigert and Debra Jayne Heramb, Owners of a One-half (1/2) interest as Joint Tenants with Rights of Survivorship; and David L. Unger and Linda S. Unger, Owners of the Remaining One-half (1/2) interest as Joint Tenants with Rights of Survivorship; and Marcella June Unger, Owner of a Retained Life Estate Interest in One-half (1/2) of the real estate RELEASE AND QUIT CLAIM to Indiana American Water Company for the sum of Ten Dollars (\$10.00) and other valuable consideration, the receipt of which is hereby acknowledged, the following described Real Estate in Vigo County, in the State of Indiana, to-wit:

DULY ENTERED FOR TAXATION
Subject to final acceptance for transfer

JAN 14 2011

Teresa M. Spivey
VIGO COUNTY AUDITOR

A parcel lying in the Northwest Quarter of the Northeast Quarter of Section 2, Township 11 North, Range 9 West, bounded on the West by the West line of the Northeast Quarter of said Section; bounded on the North by the North line of said Section 2, which is also known as Margaret Avenue; and otherwise bounded on the East and South by Thompson's Ditch, consisting of 7.32 acres of which 3.20 acres is subject to the right-of-way for Thompson's Ditch.

ALSO

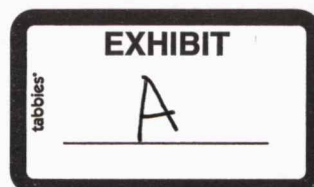
A parcel lying immediately South of the above-described parcel located in the Northwest Quarter of the Northeast Quarter of Section 2, Township 11 North, Range 9 West, bounded on the West by the West line of the Northeast Quarter of said Section 2, and bounded on the South by Interstate 70 and containing 10.44 acres, more or less.

Grantors acquired title to the above-described real estate by a series of deeds starting with a Personal Representative's Deed dated December 18, 1984, and recorded December 18, 1984, in Vigo County, Indiana Record 399 at Page 324; a Quit Claim Deed, also dated December 18, 1984, and recorded December 19, 1984, in Vigo County Indiana Record 399, Page 338; a Quit Claim Deed dated December 18, 1984, and recorded December 19, 1984, in Vigo County Record 399 at Page 339; and a Quit Claim Deed dated December 18, 1984, and recorded December 19, 1984, in Vigo County, Indiana Record 399 at Page 340.

Marcella June Unger joins in this Deed to release a retained life estate. Eva Mae Heramb owned a retained life estate interest in the real estate but died April 2, 2009, in Vigo County, Indiana, and therefore, does not join in this Deed.

Subject to 2010 real estate taxes due and payable in 2011.

Subject to all easements, rights of way, covenants, conditions and restrictions of record.



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IN WITNESS WHEREOF, the said Grantor, David L. Unger, has hereunto set his hand and seal, this 28 day of December, 2010.

David L. Unger
David L. Unger

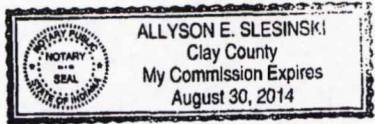
STATE OF IN)
) SS:
COUNTY OF vigo)

Before me, the undersigned, a Notary Public in and for said County and State, this 28 day of December, 2010, personally appeared David L. Unger and acknowledged this conveyance to be his voluntary act and deed.

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

My Commission Expires:

Allyson E. Slesinski
Notary Public
Printed: _____
Resident of _____ County, _____



IN WITNESS WHEREOF, the said Grantor, Linda S. Unger, has hereunto set her hand and seal, this 28th day of December, 2010.

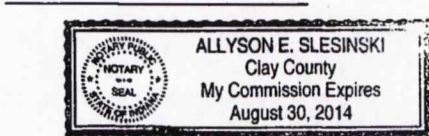
Linda S. Unger
Linda S. Unger

STATE OF IN)
) SS:
COUNTY OF Vigo)

Before me, the undersigned, a Notary Public in and for said County and State, this 28 day of December, 2010, personally appeared Linda S. Unger and acknowledged this conveyance to be her voluntary act and deed.

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

My Commission Expires:



Allyson E. Slesinski
Notary Public
Printed: _____
Resident of _____ County, _____

STATE OF INDIANA)
) SS:
COUNTY OF VIGO)

AFFIDAVIT

Comes now, David A. Baker, Superintendent of Terre Haute Operations, of Indiana American Water Company, being duly sworn upon his oath, deposes and says:

1. That Indiana American Water Company is the owner of record of the following described real estate located in the City of Terre Haute, County of Vigo, State of Indiana, to-wit:

A parcel lying immediately South of a 7.32 acre tract of land located in the Northwest Quarter of the Northeast Quarter of Section 2, Township 11 North, Range 9 West, bounded on the West by the West line of the Northeast Quarter of said Section 2, Township 11 North, Range 9 West, bounded on the west by the west line of the Northeast Quarter of said Section 2, and bounded on the south by Interstate 70 and containing 10.44 acres, more or less.

EXCEPT a 2.38 acre tract of land lying to the south and west of Sidenbender Road, as described in a Corporate Warranty Deed dated July 30, 2015, and recorded August 4, 2015, in Vigo County, Indiana, Instrument Number 2015007968, now commonly known as 2890 Sidenbender Road, Terre Haute, Indiana 47802, Parcel No. 84-09-02-202-008.000-005.

Containing 8.06 acres, more or less.

Commonly known as vacant land on Sidenbender Road, Terre Haute, Indiana 47802

Parcel No. 84-09-02-202-009.000-005


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 Affiants make this Affidavit for the sole purpose of affirming that Indiana American Water Company 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 Indiana American Water Company.

4. Further, Affiant saith not.

Dated at Terre Haute, Indiana this 12th day of April, 2017.

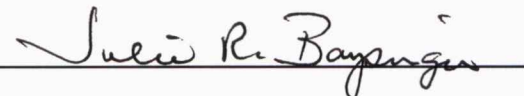
INDIANA AMERICAN WATER COMPANY

By: 
David A. Baker, Superintendent of
Terre Haute Operations

STATE OF INDIANA)
) SS:
COUNTY OF Vigo)

I, Julie R. Baysinger, a Notary Public in and for said county and state, do hereby certify that David A. Baker, Superintendent of Terre Haute Operations, of Indiana American Water Company, an Indiana Corporation, personally known to me to be the same person whose name is subscribed to the foregoing instrument as such manager, and to be such manager, appeared before me this day in person and, being first duly sworn, said and acknowledged that he is such manager and that he signed, sealed with the Corporate Seal and delivered said Affidavit as a free and voluntary act of said David A. Baker, as his own free and voluntary act as such Superintendent of Terre Haute Operations of Indiana American Water Company, an Indiana Corporation, and that he is duly authorized to make, execute, and deliver this Affidavit and that the representations contained therein are true.

Given under my hand and notarial seal, this 12th day of April, 2017.


Julie R. Baysinger, Notary Public
My Commission expires: 9-24-2020
My County of Residence: Vermillion

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 47807.

Receipt

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

Date: 4/12/17

Name: IN American Water

Reason: Rezoning - Notice of Filing \$25.00

Rezoning - Petition \$20.00

\$45.00

TERRE HAUTE, IN
PAID
APR 12 2017
CONTROLLER

Cash: _____

Check: #067236 \$45

Credit: _____

Total: \$45.00

Received By: L Ellis/gp



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: May 4, 2017

REPORT TO THE CITY COUNCIL ON ZONING MAP AMENDMENT

**THE VIGO COUNTY AREA PLAN COMMISSION HEREBY GIVES CERTIFICATION TO
SPECIAL ORDINANCE NUMBER #21-17**

CERTIFICATION DATE: May 3, 2017

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. 21-17. This Ordinance is a rezoning of the property located at Sidenbender Rd. The Petitioner, IN American Water Company, petitions the Plan Commission to rezone said real estate from zoning classification R-1 to R-3, General Residence District, for apartments Attorney, Richard J. Shagley, II. 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. 21-17 at a public meeting and hearing held Wednesday, May 3, 2017. Remonstrators WERE 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. 21-17 as required by IC 36-7-4-302. The Area Plan Commission of Vigo County now hereby attaches certification to Special Ordinance No. 21-17 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. 21-17 was FAVORABLE WITH THE FOLLOWING CONDITIONS: 1) Must meet all City development regulations; 2) Must submit a detailed Site Plan and all plans related to site development; 3) Visual screening adjoining any single family property; 4) Must have a submitted and approved Major subdivision.

Handwritten signature of Fred L. Wilson in black ink.

Fred L. Wilson, President

Handwritten signature of Jared Bayler in black ink.

Jared Bayler, Executive Director

Received this 4th day of May, 2017

STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: SO #21-17

Doc: # 32

Date: May 3, 2017

Page 1 of 4

APPLICATION INFORMATION

Petitioner: Indiana American Water Company

Property Owner: Same-As-Above

Representative: Richard J. Shagley II

Proposed Use: Multi-Family Apartment Complex

Proposed Zoning: R-3 General Residence District

Current Zoning: R-1, Single Family Residential District

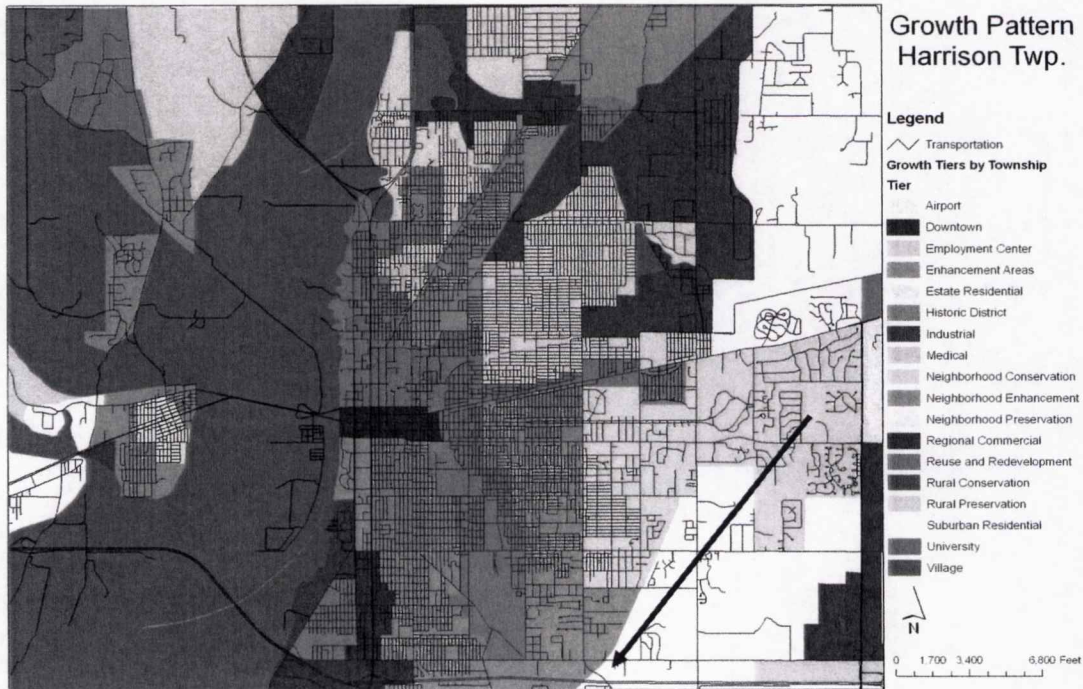
Location: The property consists of 8.06 acres on the east side of Sidenbender Rd and North of I-70.

Common Address: No Address

COMPREHENSIVE PLAN GUIDANCE

Service Area: The City of Terre Haute

Suburban Residential



STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: SO #21-17

Doc: # 32

Date: May 3, 2017

Page 2 of 4

These are largely undeveloped areas lying within the boundaries of existing and planned urban services. Current residential densities range from building on lots of ½ acre to 2 acres in size, this should be used as a minimum density. Over time, densities should be encouraged to increase moderately to allow average densities of three to three and one-half (3 to 3.5) households per acre. In the case of all residential densities, densities are stated as an average for the entire area in a given land use categories.

Promotion of monotonous suburban tract housing is not the intent of this growth pattern, although this may be an undesirable consequence. To avoid this outcome, careful consideration of alternative site development schemes should be undertaken by planning, engineering, development and real estate professionals for each new residential tract.

Increasing residential densities within this growth pattern offers four distinct advantages over typical low-density development.

- Optimization of the relationship between public infrastructure capacity and average development densities.
- Reduction in the need for infrastructure extensions and expansions, thereby saving public capital cost.
- Provides pedestrian scale residential neighborhoods, which will blend with existing Terre Haute neighborhoods that were developed at five to seven (5 to 7) units per acre and at the same time provide enhanced opportunities for non-motorized travel.
- Minimize land consumption and limits land disturbance.

Not every new subdivision will provide developed densities approaching four (4) units per acre, yet, as cluster housing, patio homes, variations of zero-lot line housing and integrated neighborhoods of town houses, garden apartment, and single family dwelling units become more common and more fashionable, average densities will increase.

Policies for Suburban Residential areas should include:

- Houses on lots ranging from one-half to two acres depending on wastewater treatment needs.
- The extent of non-residential uses should be limited to parks, churches, and schools.
- Residential subdivision lots should not have frontage on county roads, rather they should be required to build local level public streets to provide access from the county road to the lots.
- Medium range plans for expanding needed infrastructure should be developed, considering projected demand and funding.

Available Services: Area is well served by utilities.

Soil Limitations: unknown

Street Access: Sidenbender Rd.

Dev. Priority: Medium

ZONING COMPATIBILITY

Sur. Zones and Uses: **North** – O-1, MHCU
 East – R-1, R-2
 South – A-1,
 West – O-1, C-3, C-2, R-1PD

Character of Area: Within this area of the City of Terre Haute Residential uses consist of suburban lot developments being greater than 26,000 Sq. Ft.

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: F.A.R. 0.7 or 70%
 A minimum Floor Area 512 Sq. Ft., and a minimum Lot Area 1000 Sq. Ft.

Parking Requirements

- 1.5 parking spaces per 1 bedroom unit.
- 2.0 parking spaces per 2 bedroom unit.
- 3.0 parking spaces per 3 bedroom unit.

FINDINGS and RECOMMENDATION

Staff Findings:

The petitioner is proposing to build 17 six-unit buildings. Each building will consist of 4 Two-bedroom units and 2 one-bedroom units. The total number of units will be 102 with 187 parking spaces. The property is located approximately 875ft +/- south from the intersection E. Margaret/S. 25th Street and less than 100 ft. from I-70 on the East side of Sidenbender Rd. Single family residential abuts up to this development. The nearest R-3 zoning is the Flats complex off of S. 25th Street.

A portion of the property is located in an AE flood zone. Proper documentation will be needed to assure all FEMA new construction guidelines are met.

Recommendation: Staff offers a FAVORABLE RECCOMENDATION with the following conditions:

1. Must meet all City development regulations.
2. Submit a detail site plan and all plans related to site development.
3. Visual screening adjoining any single family property.
4. Must have a submitted and approved major subdivision.