

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

Rezoned From: R-1 Single Family Residential District

Rezoned 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 ORDIANED 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

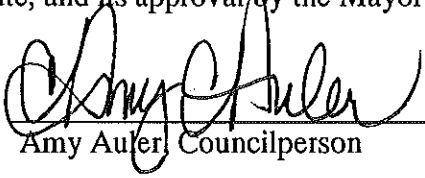
Parcel No. 84-09-02-202-009.000-005

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 ____ day of _____, 2017.

Karrum Nasser, President

ATTEST:

Charles P. Hanley, City Clerk

Presented by me, to the Mayor of the City of Terre Haute, this ____ day of _____, 2017.

Charles P. Hanley, City Clerk


Approved by me, the Mayor of the City of Terre Haute, this ____ day of _____, 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

Jeanette M. Stephens
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

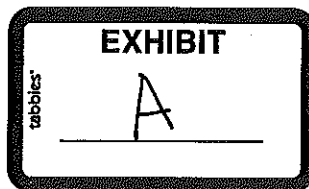
A parcel lying immediately South of the above-described parcel located in the Northwest Quarter of the Northeast Quarter of Section 2, Township 11 North, Range 9 West, bounded on the West by the West line of the Northeast Quarter of said Section 2, and bounded on the South by Interstate 70 and containing 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, Nancy Jeanne Schweigert, has hereunto set her hand and seal this 28 day of December, 2010.

Nancy Jeanne Schweigert
Nancy Jeanne Schweigert
Jeanne
NGS 12-28-10

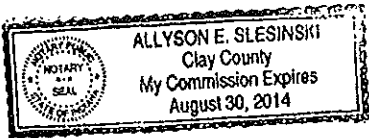
STATE OF IN)
) SS:
COUNTY OF Vigo)

Before me, the undersigned, a Notary Public in and for said County and State, this 28 day of December, 2010, personally appeared Nancy Jeanne Schweigert 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, _____



IN WITNESS WHEREOF, the said Grantor, Debra Jayne Heramb, has hereunto set her hand and seal, this 28 day of December, 2010.

Debra Jayne Heramb
Debra Jayne Heramb

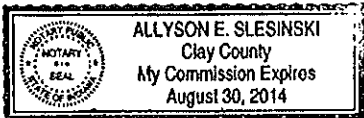
STATE OF IN)
) SS:
COUNTY OF Vigo)

Before me, the undersigned, a Notary Public in and for said County and State, this 28 day of December, 2010, personally appeared Debra Jane Heramb 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, _____



4

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

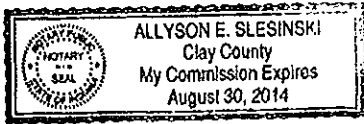
STATE OF IN)
) SS:
COUNTY OF Vigo)

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.

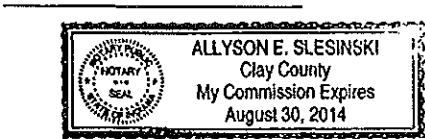
Linda S. Unger
Linda S. Unger

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, _____

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

Marcella Jane Unger

Marcella Jane Unger
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STATE OF IN)
) SS:
COUNTY OF Vigo)

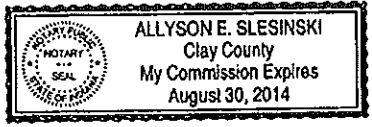
Before me, the undersigned, a Notary Public in and for said County and State, this 28 day of December, 2010, personally appeared Marcella June Unger and acknowledged this conveyance to be her voluntary act and deed.

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, _____



Grantee's Address:

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.

Margaret A. Berry

Margaret A. Berry

This Instrument Prepared By: Margaret A. Berry, Attorney at Law, Brazil, Indiana

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.

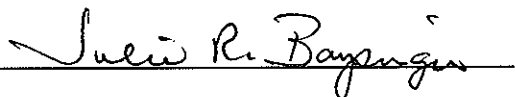
INDIANA AMERICAN WATER COMPANY

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: <u>Rezoning - Notice of Filing</u>	<u>\$25.00</u>
<u>Rezoning - Petition</u>	<u>\$20.00</u>
	<u>\$45.00</u>

Cash: _____

Check: #067236 \$45

Credit: _____

Total: \$45.00

Received By: L Ellis/gp

TERRE HAUTE, IN.
APR 17 2017
CONTROLLER'S OFFICE