

DEFEATED

FILED

SEP 08 2022

AMENDED SPECIAL ORDINANCE NO. 25, 2022

CITY CLERK

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:

Lot 5 and 9 feet 5 inches off of the South side of Lot 6 in Block 24 in John D. Chestnuts Addition to Terre Haute, Indiana, being part of the North East quarter of Section 33, Township 12 North, Range 9 West.

Parcel No. 84-06-33-233-016.000-002
Commonly known as: 1930 S. Center St., Terre Haute, IN 47802.

be and the same is, hereby established as a R-1 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-1 Single Family 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 a R-1 Single Family Residence District and Botox center.
- (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) A variance is hereby granted from Section 10-113 a (1) which states in part:
 - a (1) "Set back requirements", there shall be zero setbacks required for the property; and
- (d) All such rights granted herein shall be fully transferable.

- (e) 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 general deterioration of the neighborhood, the improvements on the real estate, 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, Amended Special Ordinance No. 25, 2022, 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. 25, 2022, 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-1 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 _____, 2022.

Cheryl Loudermilk, President

ATTEST:

Michelle Edwards, City Clerk

Presented by me, to the Mayor of the City of Terre Haute, this ____ day of _____, 2022.

Michelle Edwards, City Clerk

Approved by me, the Mayor of the City of Terre Haute, this ____ day of _____, 2022.

Duke A. Bennett, Mayor

ATTEST:

Michelle Edwards, 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, Terre Haute, Indiana 47807.

SPECIAL ORDINANCE NO. 25, 2022

APPLICATION FOR REZONING PETITION CITY OF TERRE HAUTE

=====

Common Address of lots to be rezoned:

1930 S. Center St., Terre Haute, IN 47802
Parcel No. 84-06-33-233-016.000-002

Current Zoning: R-1 Single Family Residence District

Rezone To: R-1 Planned Development

Proposed Use: Botox Center

Name of Owner: Grimes Investments, LLC
Address of Owner: 4533 E. Poplar Dr.
Terre Haute, Indiana 47803

Phone Number of Owner c/o (812) 232-3388

Attorney Representing Owner: Richard J. Shagley, II

Address of Attorney: Wright, Shagley & Lowery, P.C.
500 Ohio Street, Terre Haute, IN 47807

For Information Contact: [] Owner [x] Attorney

Council Sponsor: Amy Auler

=====

COPY OF A SITE-PLAN MUST ACCOMPANY THIS APPLICATION

SPECIAL ORDINANCE NO. 25, 2022

CITY CLERK

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Parcel No. 84-06-33-233-016.000-002
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That the real estate described shall be a Planned Development in a R-1 Single Family 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 a R-1 Single Family Residence District and Botox center.
- (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) A variance is hereby granted from Section 10-113 a (1) and 10-113 a (2) which states in part:

a (1) "Set back requirements", there shall be zero setbacks required for the property; and

a (2) "off street parking requirements", there shall be no requirements beyond the exiting off street parking places

- (d) All such rights granted herein shall be fully transferable.
- (e) 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 general deterioration of the neighborhood, the improvements on the real estate, 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

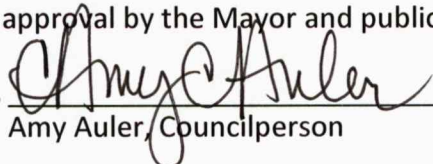
WHEREAS, Special Ordinance No. 25, 2022, has been referred to the Area Planning Commission for its review and consideration and a favorable recommendation has been referred by the Commission to the Common Council; and

WHEREAS, a public hearing on Special Ordinance No. 25, 2022, 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-1 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 _____, 2022.

Cheryl Loudermilk, President

ATTEST:

Michelle Edwards, City Clerk

Presented by me, to the Mayor of the City of Terre Haute, this ____ day of _____, 2022.

Michelle Edwards, City Clerk

Approved by me, the Mayor of the City of Terre Haute, this ____ day of _____, 2022.

Duke A. Bennett, Mayor

ATTEST:

Michelle Edwards, 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, 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 PLANNING COMMISSION OF VIGO COUNTY, INDIANA.

LADIES and GENTLEMEN:

The undersigned, Grimes Investments, LLC. by its member Jessica Grimes, respectfully submits this Petition to Rezone the following described real estate in the City of Terre Haute, Vigo County, State of Indiana, to-wit:

Lot 5 and 9 feet 5 inches off of the South side of Lot 6 in Block 24 in John D. Chestnuts Addition to Terre Haute, Indiana, being part of the North East quarter of Section 33, Township 12 North, Range 9 West.

Parcel No. 84-06-33-233-016.000-002
Commonly known as: 1930 S. Center St., Terre Haute, IN 47802.

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 R-1 Single Family Residence District.

Your Petitioner would respectfully state that the real estate is now a single family home that is currently vacant. The Petitioner intends to use the real estate for a Botox center.

Your Petitioner would request that the real estate described herein shall be zoned as a R-1 Planned Development to allow for the use as proposed by Petitioner. Your Petitioner would allege that the R-1 Planned Development would not alter the general characteristics of this neighborhood.

Your Petitioner would allege that there is a hardship due to: 1) improvements on the real estate (nature of structure in a mixed use neighborhood; 2) the general deterioration of the neighborhood; 3) the physical characteristics of the land (the shape of Petitioner's parcel); and 4) the parcel is located near district boundary lines (the other parcels owned by Petitioner in the area are zoned commercial).

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.

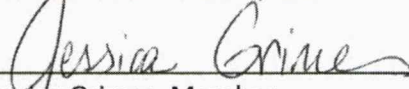
WHEREFORE, your Petitioner respectfully requests that the Area Planning Commission and the Common Council of the City of Terre Haute, Indiana, favorably consider the passage of

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 10-121 District Maps and declaring the above-described real estate to be part of the R-1 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 caused this Petition to Rezone Real Property to be executed, this 21 day of July, 2022.


PETITIONER:

GRIMES INVESTMENTS, LLC



Jessica Grimes, Member

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

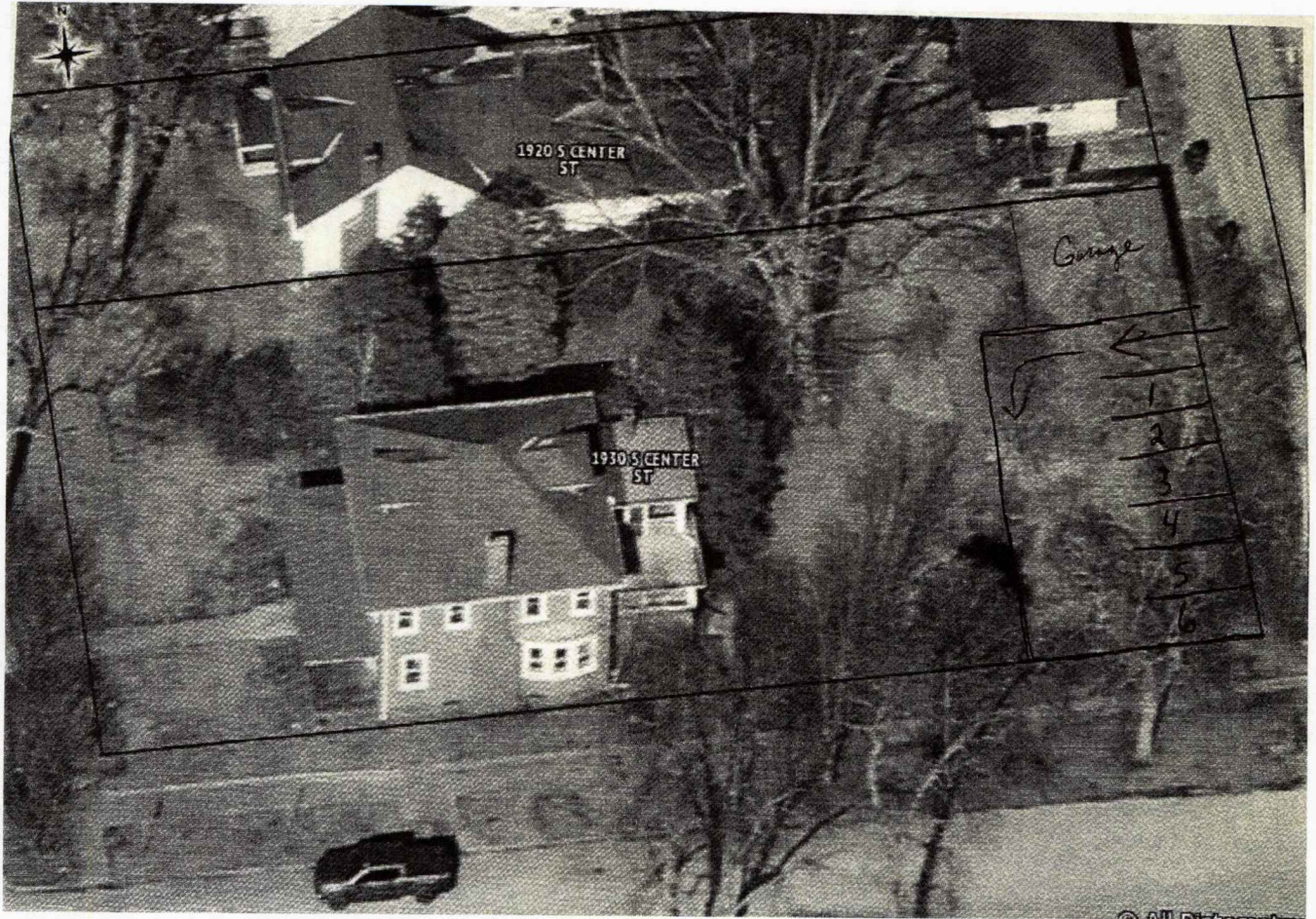
BY: 

Richard J. Shagley, II #23135-84
Attorneys for Petitioner

The owner and mailing address: Grimes Investments, LLC
4533 E. Poplar Ave.
Terre Haute, IN 47802

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.

SITE PLAN
SPECIAL ORDINANCE NO. 25, 2022



1930 S. Center St., Terre Haute, IN 47802
Parcel No.: Parcel No. 84-06-33-233-016.000-002

From: R-1 Single Family Residence District

To: R-1 Planned Development

Proposed use: Botox Center



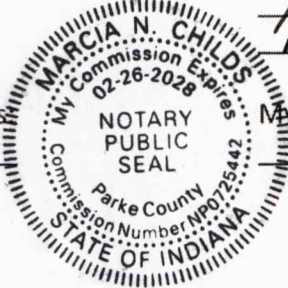
STATE OF INDIANA)
) SS:
COUNTY OF VIGO)

SUBSCRIBED AND SWORN TO before me, a Notary Public in and for said County and State, this 21st day of July, 2022.

Marcia N. Childs
Marcia N. Childs, Notary Public

My Commission expires

02-26-2028



My County of Residence:

Parke

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

ENTERED FOR TAXATION
Subject to final acceptance for Transfer

2022008425 WD \$25.00
07/11/2022 10:35:57A 2 PGS
Diana Winsted-Smith
VIGO County Recorder IN
Recorded as Presented

JUL 11 2022

Jana W. Bramble
VIGO COUNTY AUDITOR

WARRANTY DEED

This indenture witnesseth that RENE B. WEST of Vigo County in the State of Indiana

Convey(s) and Warrant(s) to GRIMES INVESTMENTS, LLC 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:

Lot 5 and 9 feet 5 inches off of the South side of Lot 6 in Block 24 in John D. Chestnuts Addition to Terre Haute, Indiana, being part of the North East quarter of Section 33, Township 12 North, Range 9 West.

Subject to any easements, agreements, streets, alleys, restrictions, covenants, building lines, and rights of way of public record including but not limited to:

a) Conditions, restrictions, covenants and easements as shown on the Plat of John D. Chestnuts Addition.

Parcel No. 84-06-33-233-016.000-002

Dated this 8th day of JULY, 2022.

Rene B West
RENE B. WEST

State of Indiana, County of Vigo) SS:

Before me, a Notary Public in and for said county and state, this 8th day of JULY, 2022, personally appeared RENE B. WEST, 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.

My Commission Expires: 7-19-2024
My County of Residence: Clay



Heather J Sorlie
Notary Public
Printed: Heather J Sorlie

This instrument prepared by: Henry L. Antonini, Antonini & Antonini, 320 South Main Street, P. O. Box 325, Clinton, IN 47842 Telephone: (765) 832-3527

D-4353; HCT-2022-0305A

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 Grantee at Grantee's address of:
4533 E. Apple Ave. Terre Haute, IN 47803
Return Deed to: Honey Creek Vigo Title Svcs, Inc., 405 S. 6th Street, Terre Haute, IN 47807

Receipt

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

Date: 08/03/22

Name: Grimes Investments

Reason: Reasoning - notice of filing \$25

Reasoning - petition \$20

\$45

Cash: _____

Check: _____

Credit: \$45

Total: 45

TERRE HAUTE, IN
PAID
AUG - 3 2022
CONTROLLER

Received By: Grimes



TERRE HAUTE
A LEVEL ABOVE

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: September 8, 2022

REPORT TO THE CITY COUNCIL ON ZONING MAP AMENDMENT

THE VIGO COUNTY AREA PLAN COMMISSION HEREBY GIVES CERTIFICATION TO
SPECIAL ORDINANCE NUMBER 25-22

CERTIFICATION DATE: September 7, 2022

TO: The Honorable Common Council of the City of Terre Haute

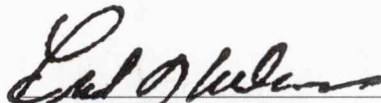
Dear Members,

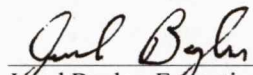
The Vigo County Area Plan Commission offers you the following report and certification on Special Ordinance No. 25-22. This Ordinance is a rezoning of 1930 S. Center Street. The Petitioner, Grimes Investments, LLC petitions the Plan Commission to rezone said botox center from zoning classification R-1 to R-1PD, Single Family Residence District Planned Development.

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. 25-22 at a public meeting and hearing held Wednesday, September 7, 2022. 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. 25-22 as required by IC 36-7-4-302. The Area Plan Commission of Vigo County now hereby attaches certification to Special Ordinance No. 25-22 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. 25-22 was FAVORABLE after the petitioner amended their request on the floor, to remove the variance for parking.


Fred L. Wilson, President


Fred Bayler, Executive Director

Received this 8th day of September, 2022

CITY OF
TERRE HAUTE
DEPARTMENT
OF ENGINEERING

City Hall
17 Harding Avenue, Room 200
Terre Haute, IN 47807

Phone: 812.232.4028
Fax: 812.234.3973

www.terrehaute.IN.gov

DUKE A. BENNETT
Mayor

CHARLES W. ENNIS, P.E., S.E.
City Engineer
engineering@terrehaute.in.gov

MEMORANDUM

TO: Sydney Shahar
Vigo County Area Planning Department

FROM: Caleb Williams
Staff Engineer

DATE: August 8, 2022

RE: **Special Ordinance No. 25-2022**

As requested by Area Planning, the Department of Engineering has reviewed the request by Grimes Investments, LLC at 1930 S. Center St. for the following:

- Rezoning from R-1 to R-1PD for proposed use of Botox center.

The intended use of the property as a Botox center would significantly alter the neighborhood characteristic given that properties in the Center Street neighborhood are utilized as residences. The applicant would be granted a variance for no off street parking requirements, reducing available street parking. The rezoning of the property would create an unjust burden to surrounding properties by being a commercial use in a heavily residential area. The lack of required off-street parking requirements would also create an unjust burden onto the neighborhood.

The Department of Engineering would offer a negative recommendation.

STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: SO #25-22
Date: September 2022

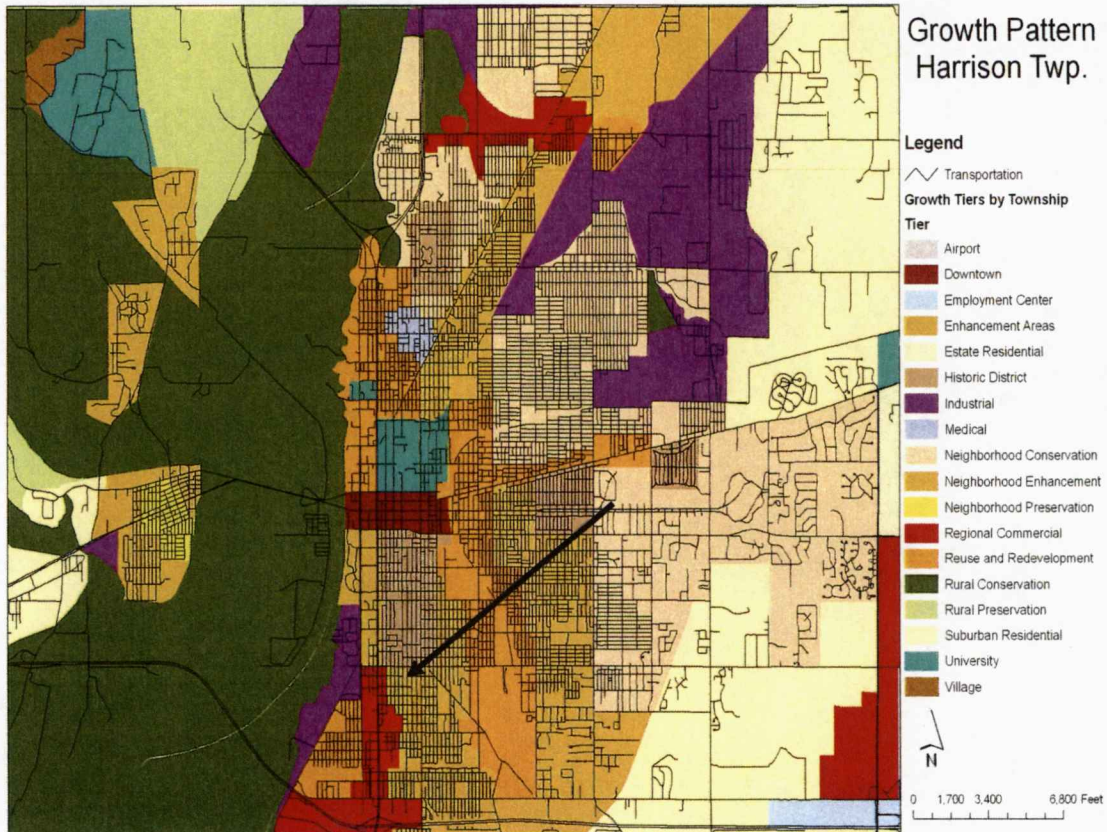
Doc: # 62
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APPLICATION INFORMATION

Owner: Grimes Investments, LLC.
Representative: Richard Shagley II
Proposed Use: Botox Center
Proposed Zoning: R-1PD, Single Family Residence District Planned Development
Current Zoning: R-1, Single Family Residence District
Location: The property is located approximately on the NE corner of S. Center & Minshall Street.
Parcel#: 84-06-33-233-016.000-002
Common Address: 1930 S. Center Street, Terre Haute, In

COMPREHENSIVE PLAN GUIDANCE

Service Area: The City of Terre Haute



STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: SO #25-22

Doc: # 62

Date: September 2022

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Neighborhood Enhancement Areas

Areas that qualify as Neighborhood Enhancement, represent residential areas with aging housing stock, older industrial areas that are in need of reinvestment, and neighborhood commercial nodes that need assistance in meeting modern development standards. These areas are primarily located within the Terre Haute, West Terre Haute, Seelyville, and Riley.

In regards to residential neighborhoods that are in need of rehabilitation, they should receive priority efforts with respect to public improvements such as drainage, sidewalks, street, curb and gutter repair and replacement, and landscaping in the public rights-of-way. Where appropriate, new residential infill projects should be considered a high priority for undeveloped parcels. Over time incompatible and inconsistent uses with the residential context of these neighborhoods should be eliminated.

Over time, it is reasonable to expect some displacement of existing industrial facilities, either because of functional and competitive obsolescence of facilities themselves or because corporate restructuring. As facilities are displaced, facility reuse plans or site redevelopment plans should be prepared. In some cases, industrial reuse or redevelopment may not be appropriate, for example in older core of the City of Terre Haute.

Neighborhood commercial areas are small scale, retail activity clusters or planned centers that serve limited market areas – typically 4,000 to 10,000 people. They provide shopping opportunities for those most frequently purchased goods and services. Neighborhood commercial areas should be distributed throughout the community in relationship to the distribution of households. Each neighborhood commercial center should be a master planned commercial development that is contained within a defined tract or land area. Auto ingress and egress must be controlled. Most importantly, these areas should relate to surrounding residential neighborhoods but not adversely impact the livability of those neighborhoods through traffic, lighting, noise, litter, or other impacts. They will require strong buffering and landscape regulations, as well as being architecturally harmonized and able to blend with their neighborhood context.

Additional policies for Neighborhood Enhancement Areas should include:

- 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 the residential context of these neighborhoods should be eliminated.
- Identify areas that need sub-area plans and prioritize the development of those plans by area.
- 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.

Available Services: Area is well served by utilities.

Dev. Priority: High intensity residential

ZONING COMPATIBILITY

Sur. Zones and Uses: **North** – R-1
East – R-1
South – R-1
West – R-1

Contig. Uses & Zones Residential

ZONING REGULATIONS

- b. Uses, Permitted - R-1 Single-Family Residence District.
- (1) One-family detached dwellings.
 - (2) Cemeteries, including crematories and mausoleums in conjunction therewith if not located within four hundred feet (400') of any other property in a Residence District.
 - (3) Churches, Rectories, and Parish Houses.
 - (4) Convents and Monasteries.
 - (5) Gardening, including nurseries, provided that no offensive odors or dust are created.
 - (6) Golf Courses, but not including commercially-operated driving ranges or miniature golf courses, provided that no clubhouse shall be located within three hundred feet (300') of any other property in a Residence District.
 - (7) Libraries, Public. (Ord. No. 1, 1967, § 1131.01 a. - b., 7-6-67)
 - (8) Child Care.
 - (9) Home Occupations. (Gen. Ord. No. 17, 2000, 9-14-00)
 - (10) Parks and Playgrounds, publicly owned and operated.
 - (11) Schools, elementary and high, non-boarding and including playgrounds and athletic fields incidental thereto.

Planned Developments

Planned Developments are uses that may be permitted, under certain circumstances, that are not a permitted use in the zoned district where said Planned Development is proposed. A Planned Development is a floating zone.

Before a Planned Development can be considered, the petitioner must show proof

STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: SO #25-22

Doc: # 62

Date: September 2022

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of one of the following unique circumstances. That the petitioner has a:

- (1) Hardship due to the physical characteristics of the land.
Example - Peculiarities of the sizes, shape, or grade of the parcel in question.
- (2) Hardship due to the improvements on the land.
Example - Commercial structure in a residential neighborhood that is not suitable for residential use.
- (3) Hardship due to adjacent, scattered incompatible uses.
Example - Scattered commercial uses in a residential neighborhood.
- (4) Hardship due to the general deterioration of the neighborhood.
Example - Neighborhoods that are blighted as determined by the Department of Redevelopment.
- (5) Parcel located near district boundary lines.
Example - Parcel located on a major thoroughfare is presently zoned residential while other parcels in the area are zoned commercial.

When it is determined by the Area Plan Commission and the City Council that a hardship does exist, a Planned Development of certain uses may be approved for any zoned lot. However, it must be determined that said proposed uses, if approved, will be in the public's interest and that substantial justice will be done for that neighborhood. Approval of said proposed uses shall not have the intent of nullifying the purpose of the zoning regulations.

FINDINGS and RECOMMENDATION

Staff Findings:

The petitioner is requesting to rezone the property to R-1PD for a "Botox center". They are planning to repurpose the existing home.

The petitioner is requesting two variances from the City Code. A variance from Section 10-113(a)(1) for zero setbacks and 10-113(a)(2) for no requirements beyond the existing parking. The existing house does not meet setback requirements and there is a garage or shed in the north east corner that does not meet interior lot line setbacks. The amount of existing parking was not indicated on the site plan.

City Engineering gave the rezoning an unfavorable recommendation (attached). On their recommendation, they noted that rezoning the property would create an unjust burden to the surrounding properties by being a commercial use in a heavily residential area. The lack of required off-street parking requirements would also create an unjust burden onto the neighborhood.

STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: SO #25-22

Doc: # 62

Date: September 2022

Page 5 of 5

It could be argued that the nature of the business allows for customers by appointment only, so the amount of traffic would be minimal.

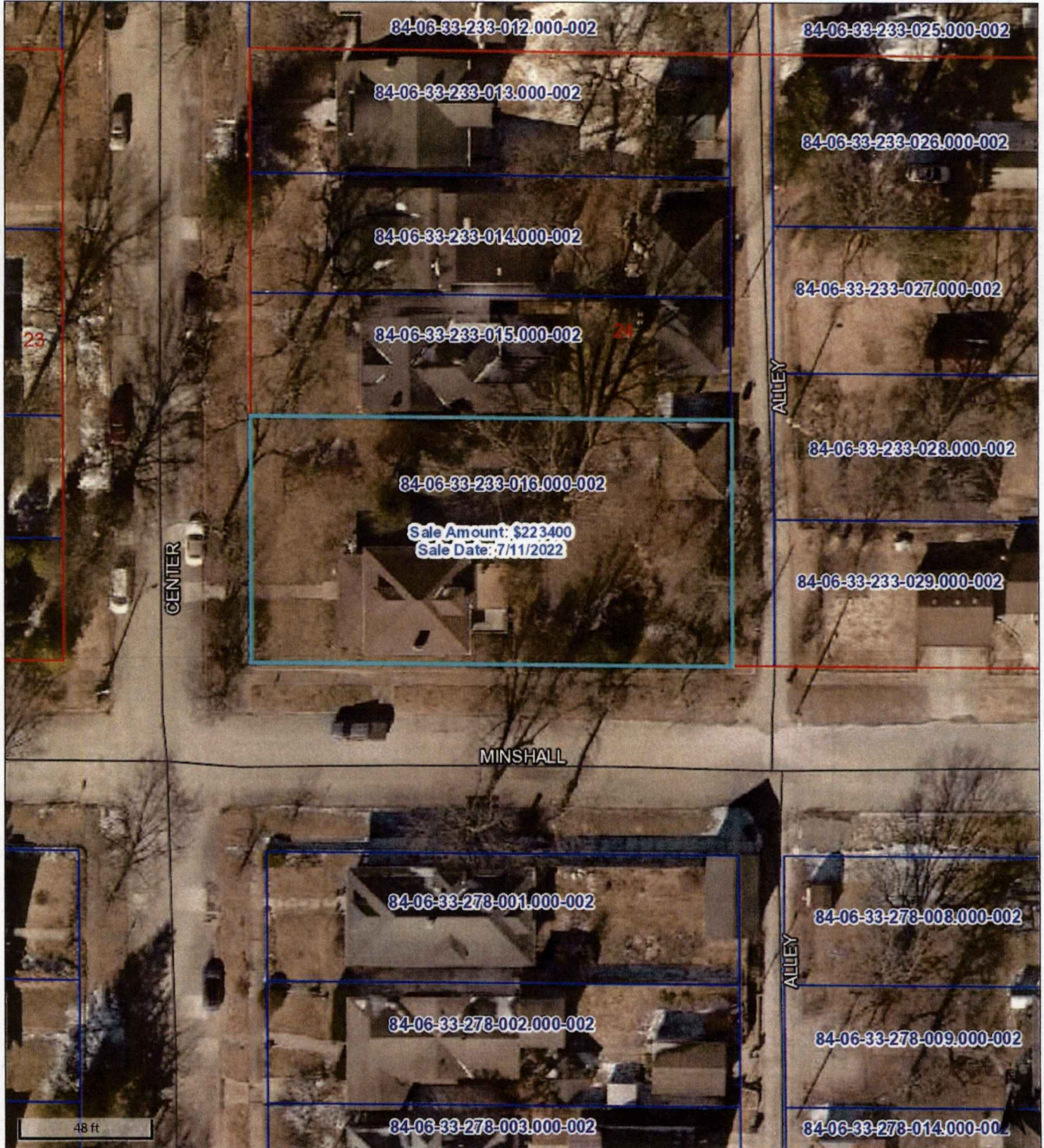
Recommendation: In keeping with the recommendation forwarded to us by the City and echoing similar concerns, Staff gives an unfavorable recommendation. If a favorable recommendation is given, the following conditions are suggested:

1. Must be recorded within 90 days
2. A hardship must be demonstrated

 **Beacon**TM Vigo County, IN / City of Terre Haute

Docket #62 SO #25-22

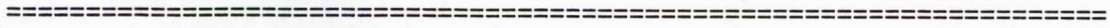
1930 S. Center St.



Docket 62

SPECIAL ORDINANCE NO. 25, 2022

APPLICATION FOR REZONING PETITION CITY OF TERRE HAUTE



Common Address of lots to be rezoned:

1930 S. Center St., Terre Haute, IN 47802
Parcel No. 84-06-33-233-016.000-002

Current Zoning: R-1 Single Family Residence District

Rezone To: R-1 Planned Development

Proposed Use: Botox Center

Name of Owner: Grimes Investments, LLC
Address of Owner: 4533 E. Poplar Dr.
Terre Haute, Indiana 47803

Phone Number of Owner c/o (812) 232-3388

Attorney Representing Owner: Richard J. Shagley, II

Address of Attorney: Wright, Shagley & Lowery, P.C.
500 Ohio Street, Terre Haute, IN 47807

For Information Contact: Owner Attorney

Council Sponsor: Amy Auler

=====

COPY OF A SITE-PLAN MUST ACCOMPANY THIS APPLICATION

SPECIAL ORDINANCE NO. 25, 2022

CITY CLERK

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:

Lot 5 and 9 feet 5 inches off of the South side of Lot 6 in Block 24 in John D. Chestnuts Addition to Terre Haute, Indiana, being part of the North East quarter of Section 33, Township 12 North, Range 9 West.

Parcel No. 84-06-33-233-016.000-002

Commonly known as: 1930 S. Center St., Terre Haute, IN 47802.

be and the same is, hereby established as a R-1 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-1 Single Family 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 a R-1 Single Family Residence District and Botox center.
- (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) A variance is hereby granted from Section 10-113 a (1) and 10-113 a (2) which states in part:
 - a (1) "Set back requirements", there shall be zero setbacks required for the property; and

a (2) "off street parking requirements", there shall be no requirements beyond the exiting off street parking places

- (d) All such rights granted herein shall be fully transferable.
- (e) 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 general deterioration of the neighborhood, the improvements on the real estate, 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

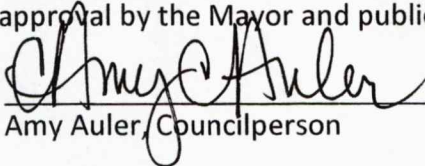
WHEREAS, Special Ordinance No. 25, 2022, has been referred to the Area Planning Commission for its review and consideration and a favorable recommendation has been referred by the Commission to the Common Council; and

WHEREAS, a public hearing on Special Ordinance No. 25, 2022, 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-1 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 _____, 2022.

Cheryl Loudermilk, President

ATTEST:

Michelle Edwards, City Clerk

Presented by me, to the Mayor of the City of Terre Haute, this ____ day of _____, 2022.

Michelle Edwards, City Clerk

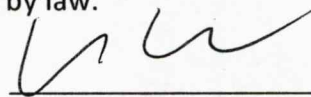
Approved by me, the Mayor of the City of Terre Haute, this ____ day of _____, 2022.

Duke A. Bennett, Mayor

ATTEST:

Michelle Edwards, 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, 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 PLANNING COMMISSION OF VIGO COUNTY, INDIANA.

LADIES and GENTLEMEN:

The undersigned, Grimes Investments, LLC. by its member Jessica Grimes, respectfully submits this Petition to Rezone the following described real estate in the City of Terre Haute, Vigo County, State of Indiana, to-wit:

Lot 5 and 9 feet 5 inches off of the South side of Lot 6 in Block 24 in John D. Chestnuts Addition to Terre Haute, Indiana, being part of the North East quarter of Section 33, Township 12 North, Range 9 West.

Parcel No. 84-06-33-233-016.000-002
Commonly known as: 1930 S. Center St., Terre Haute, IN 47802.

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 R-1 Single Family Residence District.

Your Petitioner would respectfully state that the real estate is now a single family home that is currently vacant. The Petitioner intends to use the real estate for a Botox center.

Your Petitioner would request that the real estate described herein shall be zoned as a R-1 Planned Development to allow for the use as proposed by Petitioner. Your Petitioner would allege that the R-1 Planned Development would not alter the general characteristics of this neighborhood.

Your Petitioner would allege that there is a hardship due to: 1) improvements on the real estate (nature of structure in a mixed use neighborhood; 2) the general deterioration of the neighborhood; 3) the physical characteristics of the land (the shape of Petitioner's parcel); and 4) the parcel is located near district boundary lines (the other parcels owned by Petitioner in the area are zoned commercial).

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.

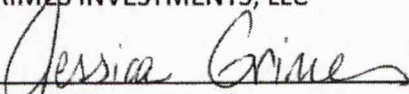
WHEREFORE, your Petitioner respectfully requests that the Area Planning Commission and the Common Council of the City of Terre Haute, Indiana, favorably consider the passage of

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 10-121 District Maps and declaring the above-described real estate to be part of the R-1 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 caused this Petition to Rezone Real Property to be executed, this 21 day of July, 2022.

PETITIONER:

GRIMES INVESTMENTS, LLC



Jessica Grimes, Member

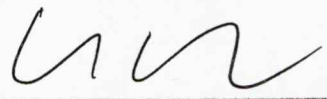
WRIGHT, SHAGLEY & LOWERY, P.C.

500 Ohio Street

PO Box 9849

Terre Haute, IN 47808

Phone: (812) 232-3388

BY: 

Richard J. Shagley, II #23135-84
Attorneys for Petitioner

The owner and mailing address: Grimes Investments, LLC
4533 E. Poplar Ave.
Terre Haute, IN 47802

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.

SITE PLAN
SPECIAL ORDINANCE NO. 25, 2022



1930 S. Center St., Terre Haute, IN 47802
Parcel No.: Parcel No. 84-06-33-233-016.000-002

From: R-1 Single Family Residence District

To: R-1 Planned Development

Proposed use: Botox Center



STATE OF INDIANA)
) SS:
COUNTY OF VIGO)

AFFIDAVIT

Comes now, Jessica Grimes, Member of Grimes Investments, LLC, being duly sworn upon her oath, deposes and says:

1. That Grimes Investments, 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:

Lot 5 and 9 feet 5 inches off of the South side of Lot 6 in Block 24 in John D. Chestnuts Addition to Terre Haute, Indiana, being part of the North East quarter of Section 33, Township 12 North, Range 9 West.

Parcel No. 84-06-33-233-016.000-002

Commonly known as: 1930 S. Center St., Terre Haute, IN 47802.

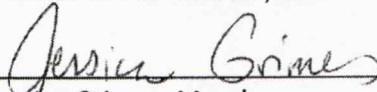
2. That copies of the Deed, recorded in the records of the Recorder's Office of Vigo County, Indiana, transferring fee simple title to Grimes Investments, LLC is attached hereto and made a part hereof and marked as Exhibit A.

3. That Affiant makes this Affidavit for the sole purpose of affirming that Grimes Investments, 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 Grimes Investments, LLC.

4. Further, Affiant saith not.

Dated at Terre Haute, Indiana, this 21 day of July, 2022.

GRIMES INVESTMENTS, LLC



Jessica Grimes, Member

STATE OF INDIANA)
) SS:
COUNTY OF VIGO)

SUBSCRIBED AND SWORN TO before me, a Notary Public in and for said County and State, this 21st day of July, 2022.

Marcia N. Childs
Marcia N. Childs, Notary Public

My Commission expires
02-26-2028




My County of Residence:
Parke

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

ENTERED FOR TAXATION
Subject to final acceptance for Transfer

2022008425 WD \$25.00
07/11/2022 10:35:57A 2 PGS
Diana Winsted-Smith
VIGO County Recorder IN
Recorded as Presented



JUL 11 2022


VIGO COUNTY AUDITOR

WARRANTY DEED

This indenture witnesseth that RENE B. WEST of Vigo County in the State of Indiana

Convey(s) and Warrant(s) to GRIMES INVESTMENTS, LLC 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:

Lot 5 and 9 feet 5 inches off of the South side of Lot 6 in Block 24 in John D. Chestnuts Addition to Terre Haute, Indiana, being part of the North East quarter of Section 33, Township 12 North, Range 9 West.

Subject to any easements, agreements, streets, alleys, restrictions, covenants, building lines, and rights of way of public record including but not limited to:

a) Conditions, restrictions, covenants and easements as shown on the Plat of John D. Chestnuts Addition.

Parcel No. 84-06-33-233-016.000-002

Dated this 8th day of JULY, 2022.

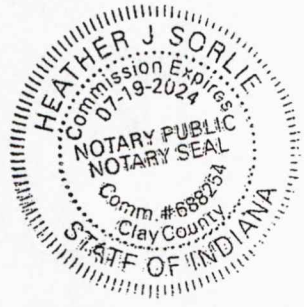
René B. West
RENE B. WEST

State of Indiana, County of Vigo) SS:

Before me, a Notary Public in and for said county and state, this 8th day of JULY, 2022, personally appeared RENE B. WEST, 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.

My Commission Expires: 7-19-2024
My County of Residence: Clay



Heather J Sorlie
Notary Public
Printed: Heather J Sorlie

This instrument prepared by: Henry L. Antonini, Antonini & Antonini, 320 South Main Street, P. O. Box 325, Clinton, IN 47842 Telephone: (765) 832-3527

D-4353; HCT-2022-0305A

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 Grantee at Grantee's address of:
4533 E. Apple Ave. Terre Haute, IN 47803

Return Deed to: Honey Creek Vigo Title Svcs, Inc., 405 S. 6th Street, Terre Haute, IN 47807