TERRE HAUTE

APPLICATION FOR REZONING PETITION - CITY OF TERRE HAUTE

SPECIAL ORDINANCE NO. 39, 2015

COMMON ADDRESS OF LOTS TO BE REZONED:

2720 Lafayette Avenue, Terre Haute, Indiana, 47805

Current Zoning: **R1** Single Family Residence District

Requested Zoning: **C6** Strip Business District

Proposed Use: Bakery and Sales

Name of Owner: DC Schimmel, LLC

Address of Owner: 136 Lakeshore, Terre Haute, IN 47803

Phone Number of Owner: 812-240-9452

Attorney Representing Owner (if any): Keith L. Johnson #5010-84

Address of Attorney: Post Office Box 3453, 333 Walnut Street, Terre Haute IN 47803

Phone Number of Attorney: 812-232-0909 (Telephone); 812-234-4945 (Facsimile)

For Information Contact: David Schimmel 812-240-9452

Council Sponsor: Norman Loudermilk

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

FILED

SEP 23 2015

CITY CLERK

SPECIAL ORDINANCE FOR A REZONING
SPECIAL ORDINANCE NO. 39, 2015

An Ordinance Amending Chapter 10, Article 2 of the Municipal Code designated as "Comprehensive Zoning Ordinance for Terre Haute Indiana."

SECTION 1. BE IT ORDAINED 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:

Part of the West half of the Northeast Quarter of Section 2, Township 12 North, Range 9 West, more particularly described as follows: Beginning at a point 61.5 feet West and 57.8 feet South of the intersection of Lafayette Avenue and the North line of Section 2, Township 12 North, Range 9 West, thence West along the South line of the Chicago and Eastern Illinois Railroad 200.5 feet; thence South 168 feet; thence East 95.5 feet; thence Northeast along the West line of Lafayette Avenue 198.1 feet to the point of beginning and containing 0.57 acres.

For information purposes only, the property address is purported to be: 2720 LAFAYETTE AVE., TERRE HAUTE, IN 47805.

Subject to any easements, agreements, streets, alleys, restrictions, covenants, building lines, and rights of way of public record including but not limited to: SUBJECT TO ANY CONDITIONS, RESTRICTIONS COVENANTS OR EASEMENTS OF RECORD.

Commonly known as: 2720 Lafayette Avenue, Terre Haute, Vigo County Indiana 47805.

be and the same is hereby established as a **C-6 Strip Business 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,

Norman Loudermilk

Passed in Open Council this 12th day of November, 2015.

Todd Nation -President

ATTEST:

Charles P. Hanley, City Clerk

Presented by me to the Mayor of the City of Terre Haute this 13TH day of NOVEMBER 20 15

Charles P. Hanley, City Clerk

Approved by me, the Mayor of the City of Terre Haute, this 13TH day of NOVEMBER, 2015.

Duke A. Bennett , Mayor

ATTEST:

Charles P. Hanley, City Clerk

This instrument prepared by: **Keith L. Johnson #5010-84, JOHNSON LAW OFFICE, Post Office Box 3453, Terre Haute IN 47803; 812-232-0909.**

I affirm under the penalties for perjury, that I have taken reasonable care to redact each social security numbers in this document, unless required by law.

Keith L. Johnson #5010-84

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, **DC Schimmel, LLC/ Petitioner,** respectfully submits this Petition to rezone the following described real estate in the City of Terre Haute, County of Vigo, Indiana, to wit:

Part of the West half of the Northeast Quarter of Section 2, Township 12 North, Range 9 West, more particularly described as follows: Beginning at a point 61.5 feet West and 57.8 feet South of the intersection of Lafayette Avenue and the North line of Section 2, Township 12 North, Range 9 West, thence West along the South line of the Chicago and Eastern Illinois Railroad 200.5 feet; thence South 168 feet; thence East 95.5 feet; thence Northeast along the West line of Lafayette Avenue 198.1 feet to the point of beginning and containing 0.57 acres.

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Commonly known as: 2720 Lafayette Avenue, Terre Haute, Indiana 47805.

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 **R-1 Single Family Residence District.**

Your petitioner would respectfully state that the real estate is now **an unoccupied improved lot.** Your petitioner intends to use the real estate to **Bakery, Sales and parking lot.**

Your petitioner would request that the real estate described herein shall be zoned as a **C-6 Strip Business District**. Your petitioner would allege that the **C-6 Strip Business District** would not alter the general characteristics of this neighborhood.

Your petitioner would respectfully show the proposed change would not be detrimental to the public welfare or injurious to the property or improvements in the neighborhood.

WHEREFORE, your petitioner respectfully requests that the Area 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-6 Strip Business 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.

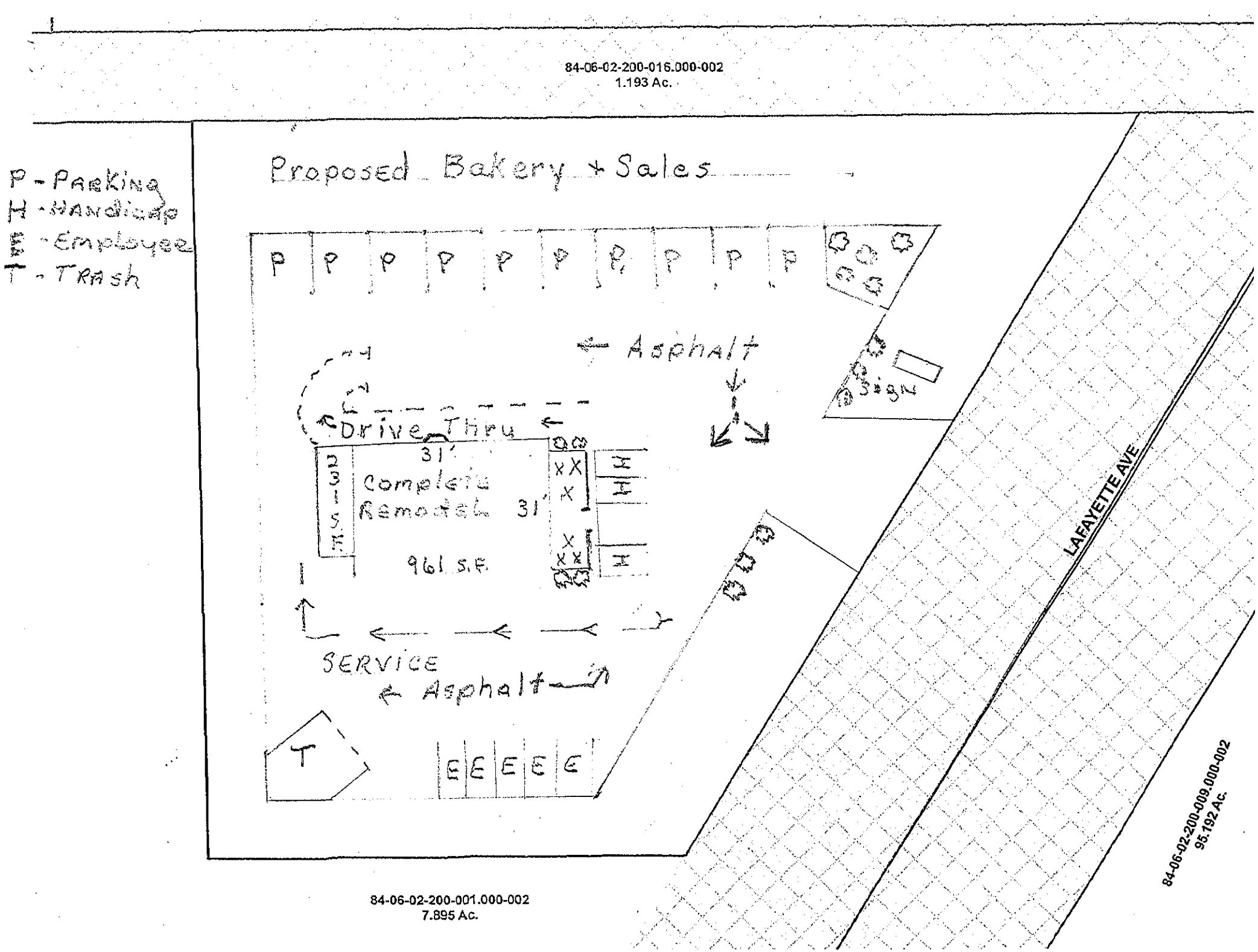
IN WITNESS WHEREOF, This petition has been duly executed this 22nd day of September,

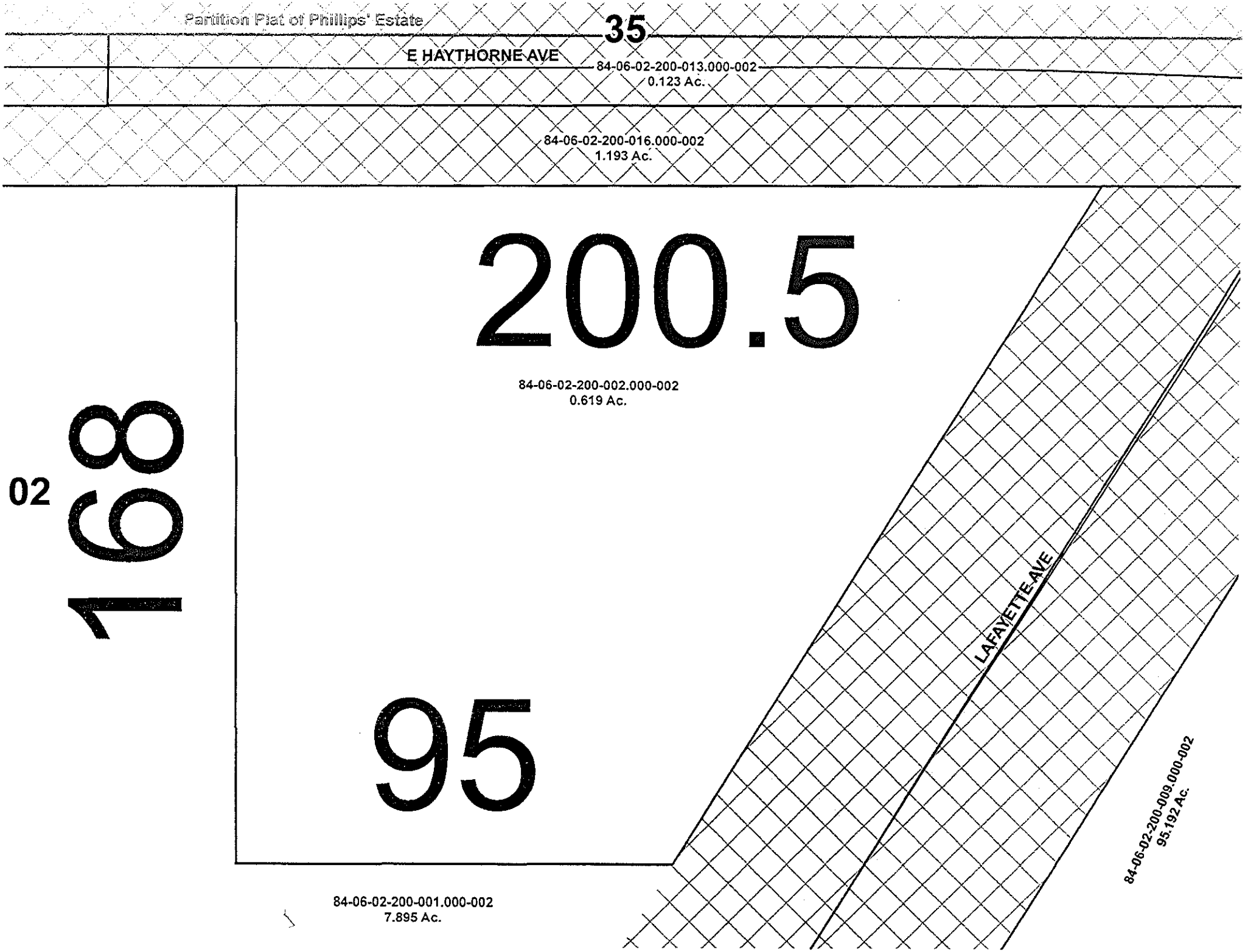
20 15.

BY: _____
DC Schimmel, LLC by David Schimmel

PETITIONER: **DC Schimmel, LLC by David Schimmel, 136 Lakeshore, Terre Haute IN 47803**

This instrument was prepared by: **Keith L. Johnson #5010-84, JOHNSON LAW OFFICE, Post Office Box 3453, Terre Haute IN 47803; 812-232-0909.**


84-06-02-200-016.000-002
1.193 Ac.
P - Parking
H - Handicap
E - Employee
T - Trash
Proposed Bakery + Sales
P P P P P P P P P P
Asphalt
Sign
Drive Thru
31'
Complete Remodel
31'
961 S.F.
H
H
H
SERVICE
Asphalt
T
E E E E E
LAFAYETTE AVE
84-06-02-200-009.000-002
95.192 Ac.
84-06-02-200-001.000-002
7.895 Ac.

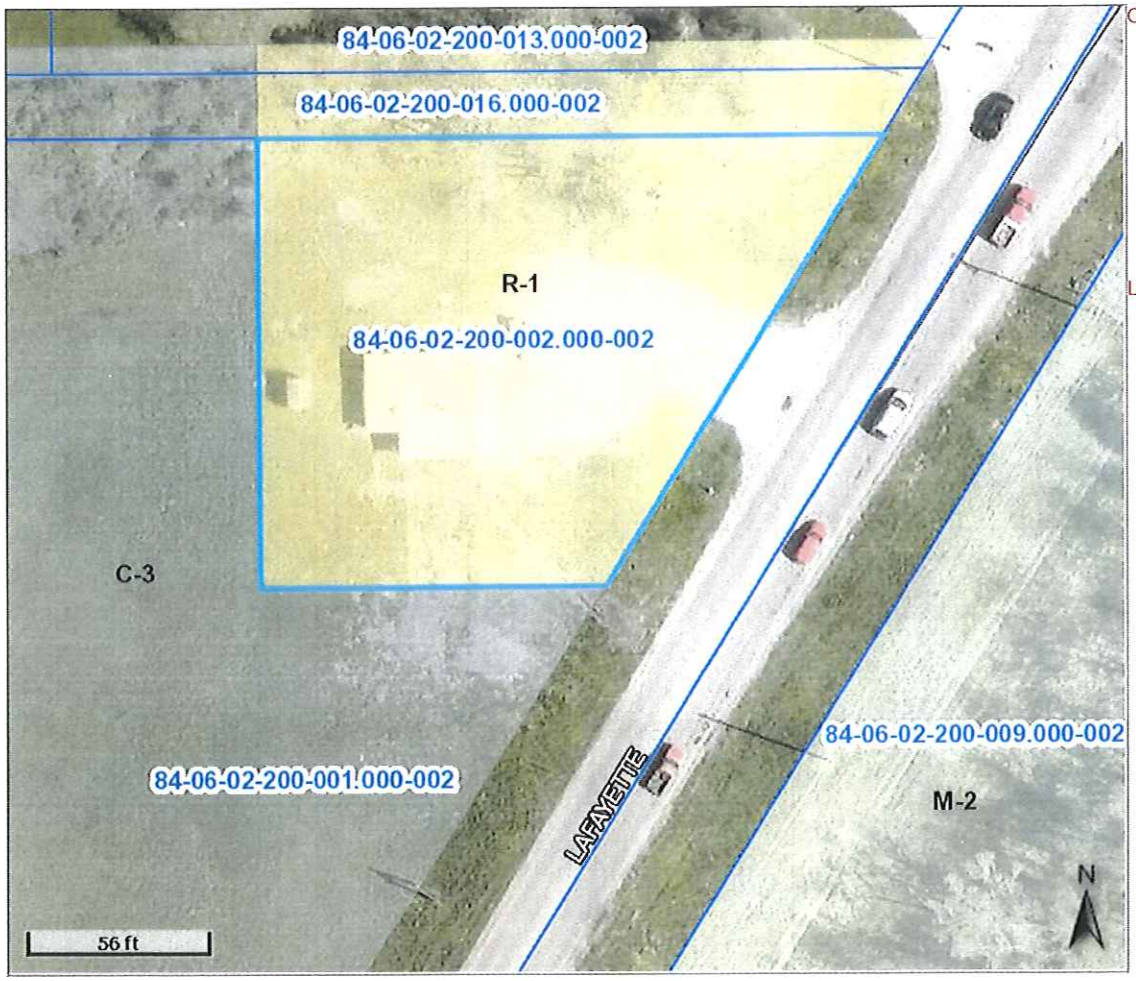

Partition Plat of Phillips' Estate
35
E HAYTHORNE AVE
84-06-02-200-013.000-002
0.123 Ac.
84-06-02-200-016.000-002
1.193 Ac.
200.5
84-06-02-200-002.000-002
0.619 Ac.
02
168
95
LAFAYETTE AVE
84-06-02-200-009.000-002
95.192 Ac.
84-06-02-200-001.000-002
7.895 Ac.

HAYTHORNE
LAFAYETTE
ALLEY
2720 LAFAYETTE AV

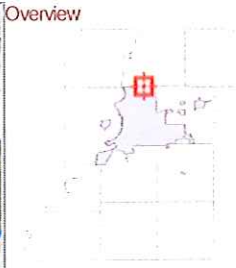
Vigo County, IN / City of Terre Haute

beacon™

Date Created: 12/9/2014



Overview



Legend

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

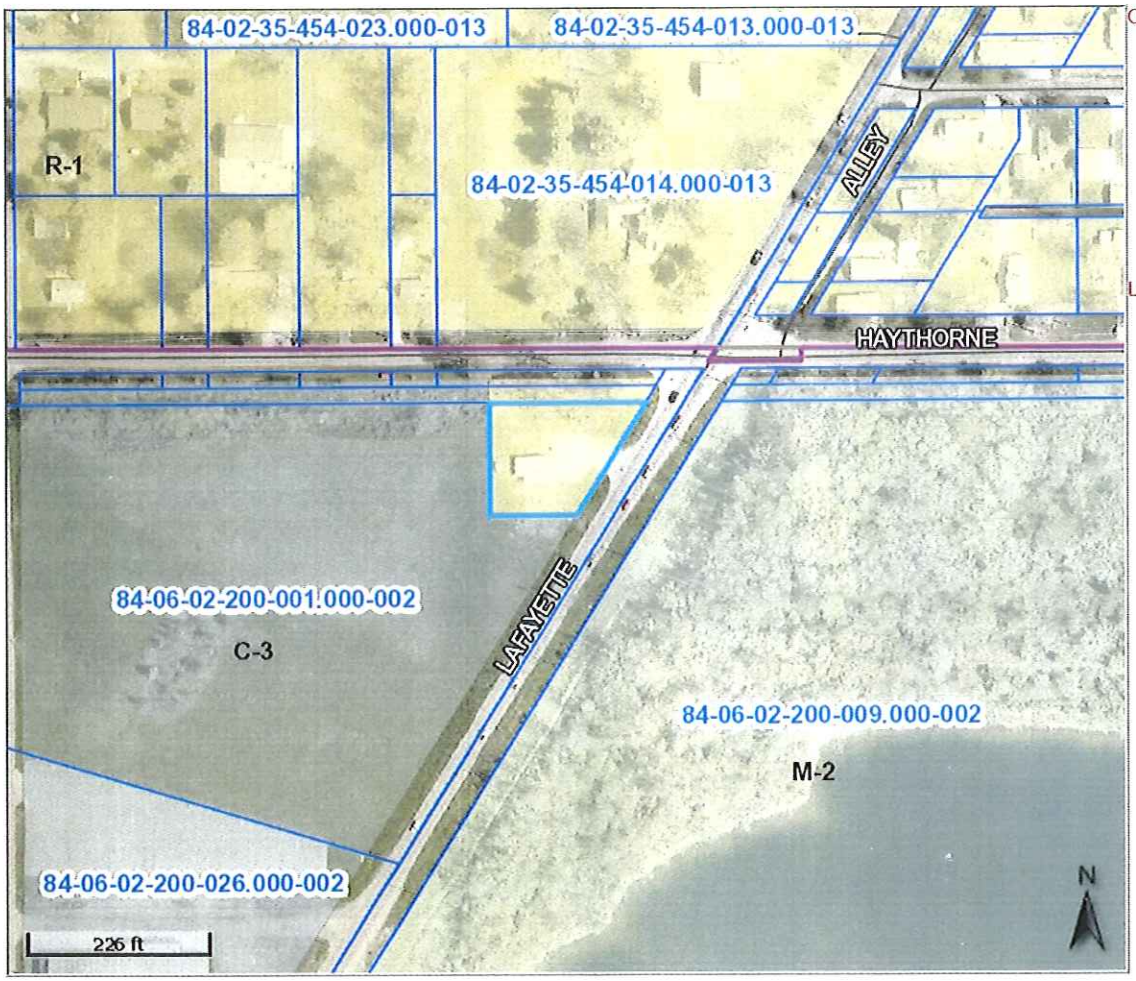
Current Zoning Classifications

- A-1
- A-1MO
- A-1NR
- C-1
- C-1PD
- C-2
- C-2PD
- C-2SU
- C-3
- C-3NR
- C-3PD
- C-3SU
- C-4
- C-5
- C-6
- C-6PD
- C-6SU
- C-7
- C-7NR
- C-8
- C-8PD
- C-9
- C3PUD
- M-0
- M-1
- M-1PD
- M-2
- M-2NR
- M-2PD
- M-O

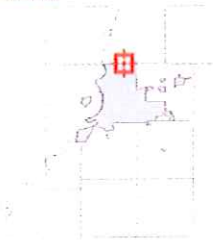
Vigo County, IN / City of Terre Haute

beacon™

Date Created: 12/9/2014



Overview



Legend

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- C-2SU
- C-3
- C-3NR
- C-3PD
- C-3SU
- C-4
- C-5
- C-6
- C-6PD
- C-6SU
- C-7
- C-7NR
- C-8
- C-8PD
- C-9
- C3PUD
- M-0
- M-1
- M-1PD
- M-2
- M-2NR
- M-2PD
- M-O

STATE OF INDIANA)
) **SS:**
COUNTY OF VIGO)

AFFIDAVIT

COMES NOW David Schimmel, being sworn upon his oath, deposes and says

1. That DC Schimmel, 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:

Part of the West half of the Northeast Quarter of Section 2, Township 12 North, Range 9 West, more particularly described as follows: Beginning at a point 61.5 feet West and 57.8 feet South of the intersection of Lafayette Avenue and the North line of Section 2, Township 12 North, Range 9 West, thence West along the South line of the Chicago and Eastern Illinois Railroad 200.5 feet; thence South 168 feet; thence East 95.5 feet; thence Northeast along the West line of Lafayette Avenue 198.1 feet to the point of beginning and containing 0.57 acres.

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Commonly known as: 2720 Lafayette Avenue, Terre Haute, Indiana 47805.

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

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

4. Further Affiant sayeth not.

Dated this 22nd day of September, 2015.

DC Schimmel, LLC by David Schimmel

STATE OF INDIANA)
) SS:
COUNTY OF VIGO)

Personally appeared before me, a Notary Public in and for said County and State, David Schimmel, who acknowledges the execution of the above and foregoing, after being duly sworn

upon his oath and after having read this Affidavit.

WITNESS my hand and notarial seal, this 22nd day of September, 2015.

Notary Public:

Jennifer R Vermillion

My Commission Expires: March 3, 2018

My County Of Residence: Vermillion

DULY ENTERED FOR TAXATION
Subject to final acceptance for transfer

AUG 16 2013

Timothy M Stephen
VIGO COUNTY AUDITOR

2013010596 WD $18.00
08/16/2013 01:55:09P 2 PGS
NANCY S. ALLSUP
VIGO County Recorder IN
Recorded as Presented

WARRANTY DEED

This indenture witnesseth that

James W. Milburn
of Vigo County in the State of INDIANA

Convey(s) and Warrant(s) to

D C Schimmel, 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:

Part of the West half of the Northeast Quarter of Section 2, Township 12 North, Range 9 West, more particularly described as follows: Beginning at a point 61.5 feet West and 57.8 feet South of the intersection of Lafayette Avenue and the North line of Section 2, Township 12 North, Range 9 West, thence West along the South line of the Chicago and Eastern Illinois Railroad 200.5 feet; thence South 168 feet; thence East 95.5 feet; thence Northeast along the West line of Lafayette Avenue 198.1 feet to the point of beginning and containing 0.57 acres.

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

Parcel No. 84-06-02-200-002.000-002

Grantor, James W. Milburn, hereby certifies that he held title to the above described real estate as tenants by the entirety with his wife, Janet A. Milburn, and that the marital relationship which existed between James W. Milburn and Janet A. Milburn continued unbroken from the time they acquired title to the above described real estate until the death of Janet A. Milburn on December 24, 2007, at which time

EXHIBIT A

2

James W. Milburn acquired title to the real estate as surviving tenant by the entireties.

Dated this 15 day of August, 2013.

James W. Milburn

State of INDIANA, County of Vigo) SS:

Before me, a Notary Public in and for said county and state, this 15 day of August, 2013, personally appeared James W. Milburn, 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.

Mellony K Mejia
Notary Public Seal State of Indiana
Vigo County
My Commission Expires 11/15/2016

My Commission Expires: 11-15-16

Notary Public

My County of Residence: Vigo

Printed: Mellony K Mejia

This instrument prepared by: Henry L. Antonini, Antonini & Antonini, 224 South Main Street, P. O. Box 325, Clinton, IN 47842 Telephone: (765) 832-3527

D-1828; HCT-2013-0433

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: 136 Lakeshore, Terre Haute, IN 47803

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

TERRE HAUTE
A LEVEL ABOVE

Receipt

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

Date: 09/23/15

Name: PD

Reason: Reopening Petition

TERRE HAUTE, IN
PAID
SEP 24 2015
CONTROLLER

Cash: ~~$5~~

Check: $45.00 #8847

Credit:

Total: $45.00

Received By: [illegible]

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
NOV 05 2015
CITY CLERK

DATE: November 5, 2015

REPORT TO THE CITY COUNCIL ON ZONING MAP AMENDMENT

THE VIGO COUNTY AREA PLAN COMMISSION HEREBY GIVES CERTIFICATION TO SPECIAL ORDINANCE NUMBER #39-15

CERTIFICATION DATE: November 4, 2015

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.39-15. This Ordinance is a rezoning of the property located at 2720 Lafayette. The Petitioner, D.C. Schimmel, LLC., petitions the Plan Commission to rezone said real estate from zoning classification R-1 to C-6, Strip Business Commerce District for a bakery/sales. 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. 39-15 at a public meeting and hearing held Wednesday, November 4, 2015. Remonstrators were 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. 39-15 as required by IC 36-7-4-302. The Area Plan Commission of Vigo County now hereby attaches certification to Special Ordinance No. 39-15 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. 39-15 was FAVORABLE.

Fred L. Wilson, President

Darren Maher

Darren Maher, Executive Director

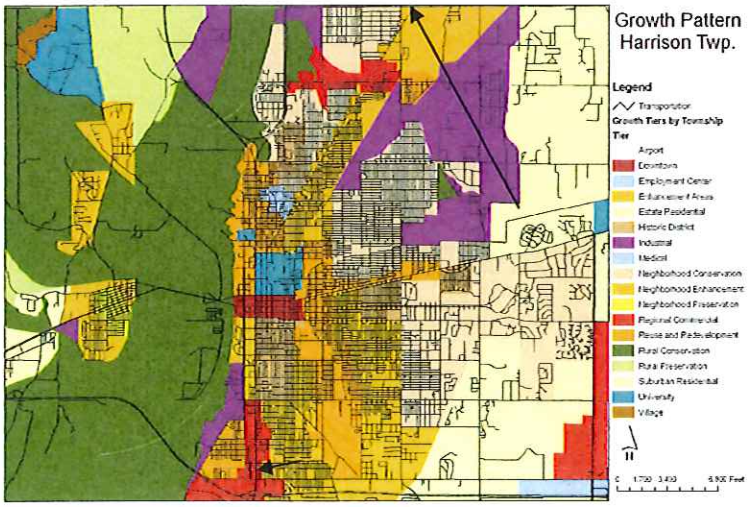
Received this 5th day of November, 2015

APPLICATION INFORMATION

Petitioner:	D.C. Schimmel, LLC.
Property Owner:	Same-As-Above
Representative:	Keith L. Johnson
Proposed Use:	Bakery and Sales
Proposed Zoning:	C-6, Strip Business Zone
Current Zoning:	R-1, Single Family Residence District
Location:	The property is located at the corner of Haythorne Ave. and Lafayette Ave.
Common Address:	2720 Lafayette Ave. Terre Haute, Indiana 47805

COMPREHENSIVE PLAN GUIDANCE

Service Area:	The City of Terre Haute
Guiding Policies:	Neighborhood Enhancement



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.

Soil Limitations: Not studied.

Street Access: Lafayette Ave.

Dev. Priority: Capital investment is a high priority

ZONING COMPATIBILITY

Sur. Zones and Uses:

North - R-1, Single Family Residential
East - M-2 Heavy Industrial
South - C-6, Strip Business
West - C-3, Regional Commercial
R-1, Single Family Residential

Character of Area: The Lafayette corridor is a known commercial strip. Over time the once thriving commercial district in this area has become abandoned or reused.

Contig. Uses & Zones: The district is a mix of commercial residential and industrial uses.

ZONING REGULATIONS

C-6 Purpose: The Strip Business Zone is a business use created primarily for transient's needs, but with some subjugated business uses serving neighborhood needs. It shall therefore be located only along major streets or expressways of the planning area and in addition shall be limited to Federal or state primary highways in densely developed areas only and not along "Limited" or "Controlled" access highways.

C-6 Uses: Uses permitted in C-6, Strip Business District are; Same as for C-1 Zone as provided in Sec. 10-207 c. (1); Banks, Barber shops; Camera and photographic supply stores; Candy and ice cream stores; Drug stores; Dry cleaning stores; Gift shops; Grocery stores, meat markets, bakeries, delicatessens, and food stores; Ice storage for retail; Municipal or privately owned recreation buildings or community centers; Post offices; 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); Service stations; Soda fountains; Sporting goods stores; Tobacco shops; Motel and as accessory uses: dining facilities with or without a bar serving alcoholic beverages, or swimming pool; Automobile sales and service (major and minor repairs); Signs as regulated by Sec. 10-141; Landscape, nurseries, garden supply, and seed stores; Business and professional offices.

C-6 Standards: Minimum Lot Size: 3,300 Sq. Ft.

FAR 0.5 %

Street Setback: 55 feet from centerline;

Rear setback 11';

Interior setback of 5' from the interior lot line;

Parking standard: Office, Business and Professional

Eight (8) spaces per one thousand (1000) square feet plus 2 spaces for drive through facilities

Parking lots for more than ten (10) cars will need visual buffering from adjacent residential properties

FINDINGS and RECOMMENDATION

Staff Findings: A bakery is a permitted use by right in a C-6 zoning. The petitioner is requesting to reuse an existing structure as a bakery with sales area. Infill and development is an encouraged activity in this area.

Parking lots for more than ten (10) cars will need visual buffering from adjacent residential properties.

This area of Lafayette has struggled to retain commercial uses in recent years. Staff supports the reuse of this structure and encourages businesses development in this district.

Recommendation: Based on the above findings staff offers a Favorable Recommendation of the C-6 rezoning.