

SPECIAL ORDINANCE NO. 8, 2024

APPLICATION FOR REZONING PETITION CITY OF TERRE HAUTE

=====

Common Address of lots to be rezoned:

2730 N. 13th Street, Terre Haute, IN 47804
Parcel No. 84-06-10-180-023.000-002

Current Zoning: R-1 Single Family Residence District

Rezone To: R-1 Planned Development

Proposed Use: Bakery

Name of Owner: Vickie Ward and Darby Schimmel
Address of Owner: 2719 Garfield Ave.
Terre Haute, Indiana 47804

Phone Number of Owner c/o (812) 234-5463

Attorney Representing Owner: Darrell E. Felling II

Address of Attorney: Lind & Felling
400 Ohio Street, Terre Haute, IN 47807

For Information Contact: Owner Attorney

Council Sponsor: James Chalos

=====

COPY OF A SITE-PLAN MUST ACCOMPANY THIS APPLICATION

SPECIAL ORDINANCE NO. 8, 2024

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 Number Six (6) in Robert E. Lee's Otter Brook Addition to Terre Haute, Indiana, being a subdivision of part of the South one-half of the South East quarter of the North West quarter of Section Ten (10), Township Twelve (12) North, Range Nine (9) West, as shown by the recorded plat thereof recorded in Plat Record 12, Page 12, records of Recorder's office of Vigo County, Indiana.

Subject to easements, covenants, restrictions, leases and other matters of record affecting title to the subject real estate.

Subject to real estate taxes prorated to the date hereof.

Parcel No. 84-06-10-180-023.000-002

Commonly known as: 2730 N. 13th Street, Terre Haute, IN 47804

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 a bakery.
- (b) Bakery operation hours for in-person customers and on-site sale shall be limited to 8:00 am to 5:00 pm, Monday through Saturday.

- (c) No commercial delivery services to the real estate with CDL restricted vehicles shall be permitted as it relates to the operation of the bakery.
- (d) 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.
- (e) 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 existing off street parking places
- (f) All such rights granted herein shall be fully transferable.
- (g) 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. 8, 2024, has been referred to the Area Planning Commission for its review; and

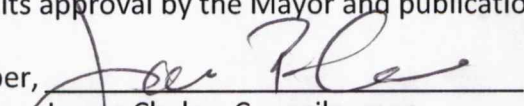
WHEREAS, a public hearing on Special Ordinance No. 8, 2024, has been held pursuant to Section 10 of said Ordinance and the owner of the real estate described has demonstrated to the Area Planning Commission and to the Common Council evidence that a hardship exists pursuant to Section 10-112 of said Ordinance 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

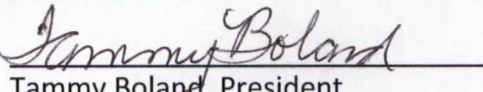
said real estate and that the Common Council of the City of Terre Haute now determines that a hardship does exist and specifically authorizes and approves the uses of the real estate described as a R-1 Planned Development as described in this Ordinance, under the terms and conditions set forth herein, 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,


James Chalos, Councilperson

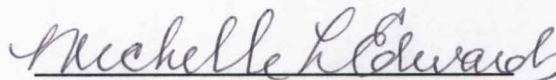
Passed in open Council this 7 day of March, 2024.


Tammy Boland, President

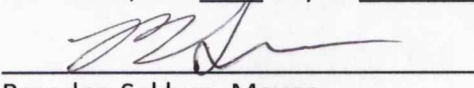
ATTEST:


Michelle Edwards, City Clerk

Presented by me, to the Mayor of the City of Terre Haute, this 7 day of March, 2024, at 8 : 56 p.m.


Michelle Edwards, City Clerk

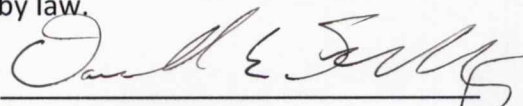
Approved by me, the Mayor of the City of Terre Haute, this 7 day of March, 2024.


Brandon Sakbun, 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.


Darrell E. Felling II

This instrument prepared by Darrell E. Felling II, Lind & Felling Law Offices, 400 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, Vickie Ward and Darby Schimmel, respectfully submit this Petition to Rezone the following described real estate in the City of Terre Haute, Vigo County, State of Indiana, to-wit:

Lot Number Six (6) in Robert E. Lee's Otter Brook Addition to Terre Haute, Indiana, being a subdivision of part of the South one-half of the South East quarter of the North West quarter of Section Ten (10), Township Twelve (12) North, Range Nine (9) West, as shown by the recorded plat thereof recorded in Plat Record 12, Page 12, records of Recorder's office of Vigo County, Indiana.

Subject to easements, covenants, restrictions, leases and other matters of record affecting title to the subject real estate.

Subject to real estate taxes prorated to the date hereof.

Parcel No. 84-06-10-180-023.000-002
Commonly known as: 2730 N. 13th Street, Terre Haute, IN 47804

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 Bakery.

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 (the size of the single-family home is considerably less than established development standards); 2) the general deterioration of the neighborhood; and 3) the parcel is located near district boundary lines (there commercial zoning within approximately one (1) block of the real estate).

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 7th day of February, 2024.

PETITIONER:



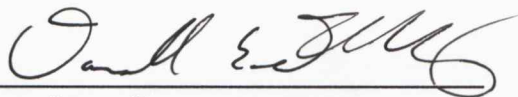
Vickie Ward



Darby Schimmel

Lind & Felling
400 Ohio Street
Terre Haute, IN 47808
Phone: (812) 232-3388

BY:



Darrell E. Felling II #60608-84
Attorney for Petitioner

The owner and mailing address: Vickie Ward and Darby Schimmel
2719 Garfield Ave.
Terre Haute, IN 47804

This instrument prepared by Darrell E. Felling II, Lind & Felling, 400 Ohio Street, Terre Haute, Indiana 47807.

SITE PLAN

SPECIAL ORDINANCE NO. 8, 2024

2730 N. 13th Street, Terre Haute, IN 47804

R-1 Single Family Residence District to R-1 Planned Development

Proposed Use: Bakery



84-06-10-180-005.000-002

84-06-10-180-017.000-002

84-06-10-255-003.000-00

84-06-10-180-006.000-002

84-06-10-180-023.000-002

ALLEY

18TH

84-06-10-180-007.000-002

84-06-10-180-024.000-002

84-06-10-255-004.000-00

84-06-10-180-008.000-002

84-06-10-180-019.000-002

STATE OF INDIANA)
) SS:
COUNTY OF VIGO)

AFFIDAVIT

Comes now, Vickie Ward and Darby Schimmel being duly sworn upon her oath, deposes and says:

1. That Vickie Ward and Darby Schimmel are the fee simple owners of record of the following described real estate located in the City of Terre Haute, County of Vigo, State of Indiana, to-wit:

Lot Number Six (6) in Robert E. Lee's Otter Brook Addition to Terre Haute, Indiana, being a subdivision of part of the South one-half of the South East quarter of the North West quarter of Section Ten (10), Township Twelve (12) North, Range Nine (9) West, as shown by the recorded plat thereof recorded in Plat Record 12, Page 12, records of Recorder's office of Vigo County, Indiana.

Subject to easements, covenants, restrictions, leases and other matters of record affecting title to the subject real estate.

Subject to real estate taxes prorated to the date hereof.

Parcel No. 84-06-10-180-023.000-002
Commonly known as: 2730 N. 13th Street, Terre Haute, IN 47804

2. That copies of the Deed, recorded in the records of the Recorder's Office of Vigo County, Indiana, transferring fee simple title to Vickie Ward and Darby Schimmel 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 Vickie Ward and Darby Schimmel are the owners of record of the above-described real estate for which a proposed change to the zoning map of the City of Terre Haute, Indiana, has been filed and to induce the Common Council of the City of Terre Haute, Indiana, to accept the Petition to Rezone Real Property as filed by Vickie Ward and Darby Schimmel.

4. Further, Affiant saith not.

Dated at Terre Haute, Indiana, this 7th day of February, 2024.



Vickie Ward



Darby Schimmel

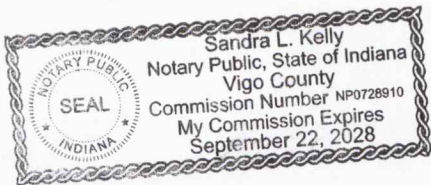
STATE OF INDIANA)
) SS:
COUNTY OF VIGO)

SUBSCRIBED AND SWORN TO before me, a Notary Public in and for said County and State, Vickie Ward and Darby Schimmel appeared in person and executed said document, this 7th day of February, 2024.

Sandra L. Kelly
Sandra L. Kelly, Notary Public

My Commission expires:
9/22/2028

My County of Residence:
Vigo



This instrument prepared by Darrell E. Felling II, Lind & Felling, 400 Ohio Street, Terre Haute, Indiana 47807.

Subject to final acceptance for Transfer

2021014747 WD \$25.00
11/04/2021 09:05:11A 1 PGS
Diana Winsted-Smith
VIGO County Recorder IN
Recorded as Presented

NOV 04 2021

James W Beamble
VIGO COUNTY AUDITOR

WARRANTY DEED

THIS INDENTURE WITNESSETH, THAT John H. Mahalek, of Vigo County, State of Indiana, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, WARRANTS and CONVEYS unto Vickie L. Ward, of Vigo County, State of Indiana, and Darby Schimmel, of Vigo County, State of Indiana, as joint tenants with rights of survivorship, the following described real estate located in the County of Vigo, State of Indiana, to-wit:

Lot Number Six (6) in Robert E. Lee's Otter Brook Addition to Terre Haute, Indiana, being a subdivision of part of the South one-half of the South East quarter of the North West quarter of Section Ten (10), Township Twelve (12) North, Range Nine (9) West, as shown by the recorded plat thereof recorded in Plat Record 12, Page 12, records of Recorder's office of Vigo County, Indiana.

Parcel No. 84-06-10-180-023.000-002

Subject to easements, covenants, restrictions, leases and other matters of record affecting title to the subject real estate.

Subject to real estate taxes prorated to the date hereof.

IN WITNESS WHEREOF the above referred to John H. Mahalek has hereunto set his hand and seal, this 3rd day of NOVEMBER, 2021.

John H. Mahalek

John H. Mahalek (SEAL)

STATE OF Indiana, Vigo COUNTY, SS:

Before me, the undersigned, a Notary Public in and for said county and state, this 3rd day of November, 2021, personally appeared John H. Mahalek and acknowledged the execution of the annexed Deed to be his voluntary act and deed.

WITNESS my hand and Notarial Seal.

My Commission Expires: 3-19-2026
My County of residence, Vigo
OFFICIAL SEAL
MEAGAN R. BUTRUM
Notary Public
Notary Public
Vigo County
My Commission Expires
March 19, 2026
Commission No. 711600
MEAGAN R. BUTRUM
MEAGAN R. BUTRUM

Written or printed name of notary

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.

Audrey B. Jones

Audrey B. Jones

THIS INSTRUMENT WAS PREPARED BY: Donald J. Bonomo, Attorney, Cox, Zwerner, Gambill & Sullivan, LLP, 511 Wabash Avenue, Terre Haute, IN 47807, at the specific request of the parties or their authorized representatives based solely on information supplied by one or more of the parties to this conveyance and without examination of title or abstract. The drafter assumes no liability for any errors, inaccuracy, or omissions in this instrument resulting from the information provided and makes no representation regarding the status or quality of the title hereby conveyed by Grantor's execution and Grantee's acceptance of the instrument.

GRANTEE ADDRESS: 2719 Garfield Ave. Terre Haute, IN 47804

MAIL TAX STATEMENTS TO: Same

TERRE HAUTE, IN

PAID

FEB 08 2024

CONTROLLER



Receipt of Payment

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

Date 2/8/24
Name Darby Schimmel
Reason Rezoning - \$45.00
2730 N 13th

Cash _____

Check \$45.00 CK # 6595

Credit _____

Total \$45.00

Received By EK / J. Thome



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: March 7, 2024

REPORT TO THE CITY COUNCIL ON ZONING MAP AMENDMENT

THE VIGO COUNTY AREA PLAN COMMISSION HEREBY GIVES CERTIFICATION TO
SPECIAL ORDINANCE NUMBER 8-24

CERTIFICATION DATE: March 6, 2024

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. 8-24. This Ordinance is a rezoning of property located at 2730 N. 13th Street, Terre Haute, IN. Parcel number 84-06-10-180-023.000-002. The Petitioners, Vickie Ward and Darby Schimmel, petitions the Plan Commission to rezone said bakery from zoning classification R-1 to R-1 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. 8-24 at a public meeting and hearing held Wednesday, March 6, 2024. 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. 8-24 as required by IC 36-7-4-302. The Area Plan Commission of Vigo County now hereby attaches certification to Special Ordinance No. 8-24 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. 8-24 was FAVORABLE with the following condition: 1) Approval of variances through the BZA



Handwritten signature of Fred L. Wilson.

Fred L. Wilson, President

Handwritten signature of Sydney Shahar.

Sydney Shahar, Assistant Director

Received this 7th day of March, 2024

STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: SO #8-24

Doc: # 20

Date: March 2024

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APPLICATION INFORMATION

Owner: Vickie Ward and Darby Schimmel

Representative: Darrell Felling

Proposed Use: Bakery

Proposed Zoning: R-1, Planned Development

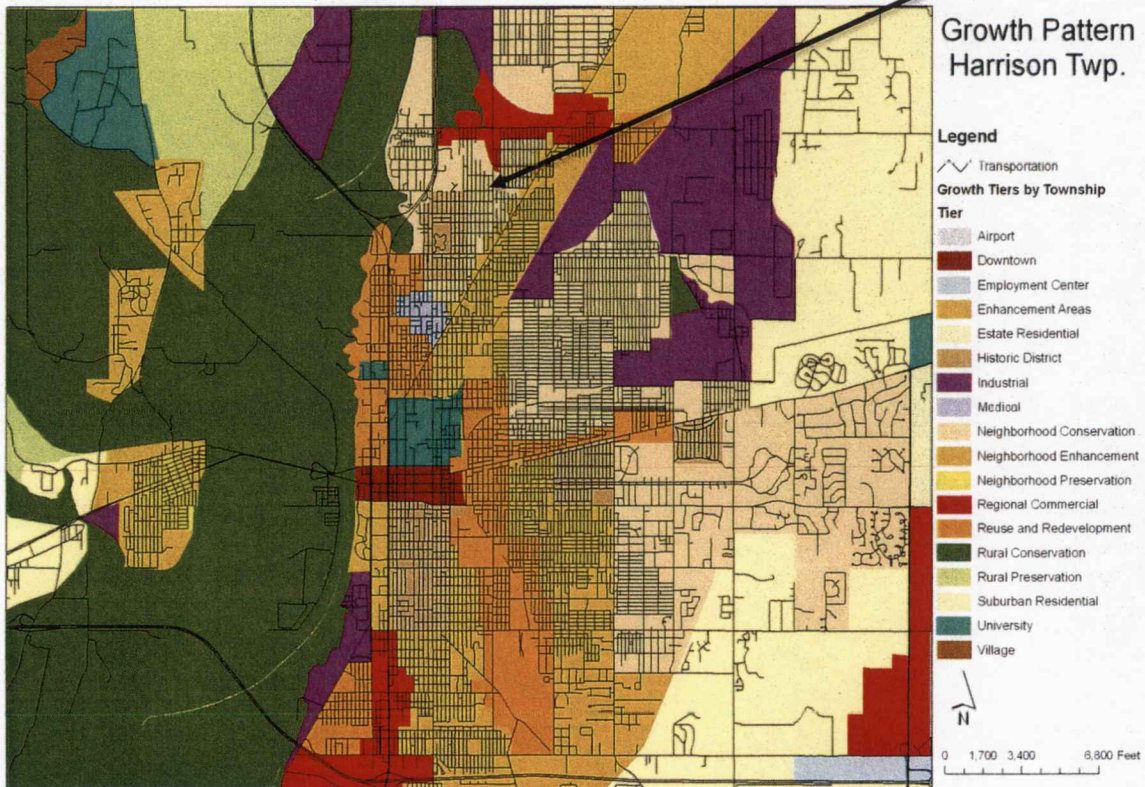
Current Zoning: R-1, Single Family Residence District

Common Address: 2730 N 13th St, Terre Haute, 47804 Parcel# 84-06-10-180-023.000-002

Location: The property is located approximately 196' North of the intersection of N 13th and Florida Avenue on the West side of N 13th Street

COMPREHENSIVE PLAN GUIDANCE

Service Area: The City of Terre Haute



Neighborhood Conservation

These areas encompass neighborhoods with established and stable residential environments. The vast majority of these areas are fully developed (or expected to be in a relatively short timeframe). Fundamental directives urged for these areas encourage the maintenance of the residential desirability and stability. Where new infill development is proposed, it should be entirely consistent and compatible with pre-existing developments. However, special public attention may, in some cases, be required to assure that drainage, sidewalk improvements, and linkages to pedestrian and bicycle trails are made. Many of these neighborhoods may be excellent candidates for special assessment districts for neighborhood improvements and amenities.

In addition, these areas encompass existing retail activity nodes located throughout the community. In general, these commercial areas have evolved in an unplanned, largely uncoordinated manner along frontage of primary arterials. Within these commercial bands, a great variety of activities exist which target different markets. Some activities are oriented toward “drive-by” markets, fast food restaurants, convenience stores, gasoline stations, drive-in banking facilities, for example. Other activities are special-purpose, oriented to single trips rather than comparative multi-purpose shopping. These single purpose stores serve a market larger than a single neighborhood. Sales and service of automobiles, trucks, boats, recreational vehicles and related activities are special purpose region-serving activities. They require large site with good visibility. Finally, commercial areas include a range of neighborhood level retail activities including grocery stores, pharmacies, personal services such as hair styling, and other frequently purchased goods and services.

Additional policies for Neighborhood Conservation areas should include:

- Allow for a range of housing densities based on the zoning ordinance.
- Allow for a mix of uses, focusing on neighborhood and community serving commercial nodes.
- Encourage neighborhoods to develop a unique sense of place, but still be part of the larger city.
- Reuse of commercial oriented structure should be limited to retail activities that contribute to the diversity and variety of retail uses in a commercial node.
- With respect to existing commercial “strips” – i.e. narrow bands of commercial uses occupying major roadway frontage, the limitation of additional or new commercial uses is strongly advised.
- Geographic expansion of this commercial “strips” should be limited to the provision of additional space to ensure the compatibility with adjacent uses, not an intensification of use.
- Improved landscaping, improved pedestrian amenities, and increased attention to lighting, signage, and impacts upon nearby residential areas is advised in the review of development petitions.

Available Services: Area is well served by utilities.

Dev. Priority: Medium intensity residential

ZONING COMPATIBILITY

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

Character of Area: The petitioned property is located in a residential neighborhood.

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 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.

STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: SO #8-24

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Date: March 2024

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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 petitioners are requesting to rezone the property to R-1 PD for a bakery. The neighborhood is primarily single family residential. Due to the nature of the Planned Development, the property would either need to be rezoned for any other commercial use in the future other than the bakery, or would revert back to Single Family Residential zoning. The pre-existing structure is only 428 square feet and is located at the rear of the property.

They are requesting variances for zero setbacks on the property as well as no parking requirements beyond the existing off-street parking places through the Planned Development. They are also requesting variances through the Board of Zoning Appeals: Non-hard surface parking, backing into a public or private street or alley, and a variance to allow for an 8 sq ft directory sign.

The Department of Engineering commented that the bakery will be in operation Monday through Saturday during the hours of 8:00 AM until about 5:00 PM. They feel that a small bakery at this location would not alter the neighborhood's characteristic, create any traffic issues, or create any significant problems for the surrounding area.

STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: SO #8-24

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Date: March 2024

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Recommendation: Staff offers a favorable recommendation with the following conditions:

1. Approval of variances through the BZA



**CITY OF
TERRE HAUTE
ENGINEERING
DEPARTMENT**

City Hall

17 Harding Avenue, Room 200
Terre Haute, IN 47807
Phone: 812.244.4903
www.terrehaute.in.gov

MARCUS MAURER, P.E.
CITY ENGINEER

MEMORANDUM

TO: Sydney Shahar
Vigo County Area Planning Department

FROM: Josey Daugherty
Assistant City Engineer

DATE: February 14, 2024

RE: **Special Ordinance No. 8-2024**

As requested by Area Planning, the Department of Engineering has reviewed the request by the Vickie Ward and Darby Schimmel for the following:

- Rezoning of 2730 N. 13th Street from R-1 Single Family Residence District to R-1 Planned Development.

The property is currently a small residential home. The parcels surrounding this property are all zoned R-1. The intended use of the property is a bakery that will be in operation Monday through Saturday during the hours of 8:00 AM until 5:00 PM. The Department of Engineering feels that a small bakery at this location would not alter the neighborhood's characteristic, create any traffic issues or create any significant problems for the surrounding area.

The Department of Engineering offers a positive recommendation for this rezoning.

Docket #20 SO #8-24

2730 N. 13th Street



Docket # 20

SPECIAL ORDINANCE NO. 8, 2024

APPLICATION FOR REZONING PETITION CITY OF TERRE HAUTE

=====

Common Address of lots to be rezoned:

2730 N. 13th Street, Terre Haute, IN 47804
Parcel No. 84-06-10-180-023.000-002

Current Zoning: R-1 Single Family Residence District

Rezone To: R-1 Planned Development

Proposed Use: Bakery

Name of Owner: Vickie Ward and Darby Schimmel
Address of Owner: 2719 Garfield Ave.
Terre Haute, Indiana 47804

Phone Number of Owner c/o (812) 234-5463

Attorney Representing Owner: Darrell E. Felling II

Address of Attorney: Lind & Felling
400 Ohio Street, Terre Haute, IN 47807

For Information Contact: Owner Attorney

Council Sponsor: James Chalos

=====

COPY OF A SITE-PLAN MUST ACCOMPANY THIS APPLICATION

SPECIAL ORDINANCE NO. 8, 2024

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 Number Six (6) in Robert E. Lee's Otter Brook Addition to Terre Haute, Indiana, being a subdivision of part of the South one-half of the South East quarter of the North West quarter of Section Ten (10), Township Twelve (12) North, Range Nine (9) West, as shown by the recorded plat thereof recorded in Plat Record 12, Page 12, records of Recorder's office of Vigo County, Indiana.

Subject to easements, covenants, restrictions, leases and other matters of record affecting title to the subject real estate.

Subject to real estate taxes prorated to the date hereof.

Parcel No. 84-06-10-180-023.000-002

Commonly known as: 2730 N. 13th Street, Terre Haute, IN 47804

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 a bakery.
- (b) Bakery operation hours for in-person customers and on-site sale shall be limited to 8:00 am to 5:00 pm, Monday through Saturday.

- (c) No commercial delivery services to the real estate with CDL restricted vehicles shall be permitted as it relates to the operation of the bakery.
- (d) 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.
- (e) 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 existing off street parking places
- (f) All such rights granted herein shall be fully transferable.
- (g) 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. 8, 2024, has been referred to the Area Planning Commission for its review; and

WHEREAS, a public hearing on Special Ordinance No. 8, 2024, 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, _____
James Chalos, Councilperson

Passed in open Council this ____ day of _____, 2024.

Tammy Boland, President

ATTEST:

Michelle Edwards, City Clerk

Presented by me, to the Mayor of the City of Terre Haute, this ____ day of _____, 2024,
at ____:____.m.

Michelle Edwards, City Clerk

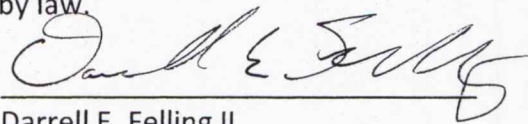
Approved by me, the Mayor of the City of Terre Haute, this ____ day of _____, 2024.

Brandon Sakbun, 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.



Darrell E. Felling II

This instrument prepared by Darrell E. Felling II, Lind & Felling Law Offices, 400 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, Vickie Ward and Darby Schimmel, respectfully submit this Petition to Rezone the following described real estate in the City of Terre Haute, Vigo County, State of Indiana, to-wit:

Lot Number Six (6) in Robert E. Lee's Otter Brook Addition to Terre Haute, Indiana, being a subdivision of part of the South one-half of the South East quarter of the North West quarter of Section Ten (10), Township Twelve (12) North, Range Nine (9) West, as shown by the recorded plat thereof recorded in Plat Record 12, Page 12, records of Recorder's office of Vigo County, Indiana.

Subject to easements, covenants, restrictions, leases and other matters of record affecting title to the subject real estate.

Subject to real estate taxes prorated to the date hereof.

Parcel No. 84-06-10-180-023.000-002

Commonly known as: 2730 N. 13th Street, Terre Haute, IN 47804

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 Bakery.

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.

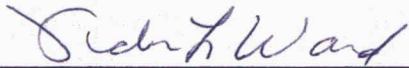
Your Petitioner would allege that there is a hardship due to: 1) improvements on the real estate (the size of the single-family home is considerably less than established development standards); 2) the general deterioration of the neighborhood; and 3) the parcel is located near district boundary lines (there commercial zoning within approximately one (1) block of the real estate).

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 7th day of February, 2024.

PETITIONER:



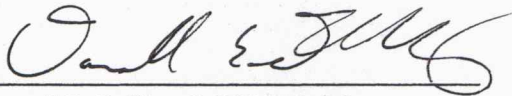
Vickie Ward



Darby Schimmel

Lind & Felling
400 Ohio Street
Terre Haute, IN 47808
Phone: (812) 232-3388

BY:



Darrell E. Felling II #60608-84
Attorney for Petitioner

The owner and mailing address: Vickie Ward and Darby Schimmel
2719 Garfield Ave.
Terre Haute, IN 47804

This instrument prepared by Darrell E. Felling II, Lind & Felling, 400 Ohio Street, Terre Haute, Indiana 47807.

SITE PLAN

SPECIAL ORDINANCE NO. 8, 2024

2730 N. 13th Street, Terre Haute, IN 47804

R-1 Single Family Residence District to R-1 Planned Development

Proposed Use: Bakery



84-06-10-180-008,000-002

84-06-10-180-007,000-002

84-06-10-180-006,000-002

84-06-10-180-005,000-002

ALLEY

84-06-10-180-019,000-002

84-06-10-180-024,000-002

84-06-10-180-023,000-002

84-06-10-180-017,000-002

193TH

84-06-10-255-004,000-00

84-06-10-255-003,000-00