



**APPLICATION FOR REZONING PETITION - CITY OF TERRE HAUTE**

**SPECIAL ORDINANCE NO. 43**

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COMMON ADDRESS  
OF LOTS TO BE  
REZONED:

1301 S. 13th Street, Terre Haute, Indiana 47807

Current Zoning:

R-2. Two Family Residence District

Requested Zoning:

R-2, Planned Development for temporary sale of seasonal merchandise or the operation of a food vending trailer for takeout.

Proposed Use:

Operation of a Vending Trailer for seasonal use to sell food for takeout

Name of Owner:

Donn Yarbough

Address of Owner:

3557 W. Sutliff Drive, Terre Haute, Indiana 47802

Phone Number of Owner: 812-239-9102

Attorney Representing  
Owner (if any):

N/A

Address of Attorney:

N/A

Phone Number of  
Attorney:

N/A

For Information Contact: Donn Yarbough 812-239-9102

Council Sponsor:

John Mullican

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

FILED

OCT 2 2011

CITY CLERK

**SPECIAL ORDINANCE NO. 43 2011**

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:

East ½ of Lot 1, Block 15 in Cruft Farm Subdivision

Commonly known as: 1301 S. 13<sup>th</sup> Street, Terre Haute, Vigo County Indiana 47802

be and the same is, hereby established as an R-2 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 except as specifically authorized under the terms of this ordinance.


That the real estate described shall be a Planned Development in an R-2 Planned Development as the same is defined in the Comprehensive Zoning Ordinance for the City of Terre Haute, Indiana, subject to terms and conditions set forth herein.

- (a) That the real estate shall be used for sale of seasonal merchandise or the operation of a food vending trailer for takeout.
- (b) A variance to reduce the required off-street parking to zero.
- (c) The real estate shall be subject to the following:
  - I. That in the event said Planned Development has not materialized within six (6) months of approval, said Planned Development becomes void, and
  - II. That the rights granted herein shall be transferable, and
  - III. That said Planned Development shall be recorded in the Vigo County Recorder's Office within ninety (90) days of approval.
  - IV. That the owners have met all the criteria determined by the Area Plan Commission and by the City of Terre Haute, Indiana, that a hardship does exist due to neighborhood being blighted 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, a public hearing has been held and we the owners of the real estate described have demonstrated to the Common Council evidence that a hardship exists and that said planned development 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 authorized and approved the use of real estate as 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.

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 the City of Terre Haute, and its approval by the Mayor and publications as by law provided.

Presented by Council Member,   
John Mullican, Councilperson


Passed in open Council this 8<sup>th</sup> day of Dec, 2011.

  
John Mullican, President

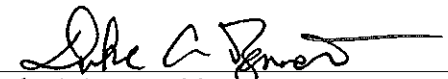
ATTEST:

  
Charles P. Hanley, City Clerk

Presented to me the Mayor of the City of Terre Haute, this 9<sup>th</sup> day of Dec, 2011.

  
Charles P. Hanley, City Clerk

Approved by me, the Mayor of the City of Terre Haute, this 9<sup>th</sup> day of DECEMBER, 2011.

  
Duke A. Bennett, Mayor

ATTEST:

  
Charles P. Hanley, City Clerk

This instrument prepared by Donn Yarbrough, 3557 West Sutliff Drive Terre Haute, Indiana 47802.

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.

  
Donn Yarbrough

## 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, Donn Yarbrough, respectfully submit this petition to Rezone the following described real estate in the City of Terre Haute, Vigo County, State of Indiana, to-wit:

East ½ of Lot 1, Block 15 in Cruft Farm Subdivision

Your Petitioner is informed and believe 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-2, Two Family Residence District.

Your Petitioner would respectfully state that the real estate is now vacant and that the petitioner intends to use the property for temporary sale of seasonal merchandise and/or the operation of a food vending trailer for takeout.

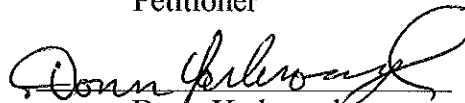
Your Petitioner would request that the real estate described herein shall be zoned as a R-2 Planned Development to allow for the use as proposed by the petitioner. Your Petitioner would allege that the R-2 Planned development would not alter the general characteristics of this neighborhood, since the real estate is located on a corner of a major thoroughfare, and surrounding land uses.

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 area.

WHEREFORE, your Petitioner respectfully request 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-2 Planned Development of the City of Terre Haute, Indiana, and is entitled to the right 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, the undersigned Petitioner have executed this Petition to Rezone Real Property, this 18 day of October, 2011

Petitioner

  
Donn Yarbrough

The owner and mailing address: Donn Yarbrough, 3557 West Sutliff Drive Terre Haute, Indiana 47802.

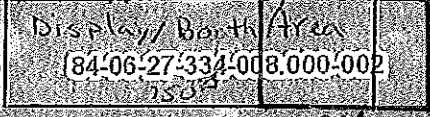
This instrument was prepared by Donn Yarbrough,

84-06-27-331-001.000-002

FRANKLIN

City of Terre Haute  
84-06-27-334-007.000-002  
27-12-09

DISPLAY/BOOTH AREA



13TH

84-06-27-334-009.000-002

15

84-06-27-334-010.000-002

25 ft



**AFFIDAVIT OF:**

COMES NOW affiant Donn Yarbrough

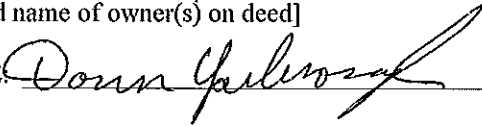
and affirms under penalty of law that affiant is the owner of record of the property located

at 1301 S. 13<sup>th</sup> Street

for which a rezoning is requested and hereto a copy of the deed is attached evidencing such ownership.

I affirm under penalty for perjury, that the foregoing representations are true.

Donn YARBROUGH  
[Typed name of owner(s) on deed]

SIGNATURE: 

SIGNATURE: \_\_\_\_\_

STATE OF INDIANA)  
SS: (COUNTY OF VIGO)

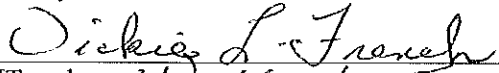
Personally appeared before me, a Notary Public in and for

said County and State, Vigo IN

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 18 day of October, 2011.

Notary Public:

  
[Typed name] Dickie L. French

My Commission Expires: 2-17-2015

My County Of Residence: Vigo

MAR 09 2009

2009002528 00 \$16.00  
03/09/2009 03:12:50P 1 PGS  
NANCY S. ALLSUP  
VIGO County Recorder IN  
Recorded as Presented



QUIT CLAIM DEED  
THIS INDENTURE WITNESSETH:

*Timothy M. Sepros*  
VIGO COUNTY AUDITOR  
That Gary Couch

of Vigo County, in the State of Indiana  
RELEASE AND QUIT CLAIM to Donn Yarbrough

of Vigo County, in the State of Indiana  
for and in consideration of the sum of Zero (0) Dollars,  
the receipt whereof is hereby acknowledged, the following described Real Estate in Vigo  
County in the State of Indiana, to-wit:

Property ID: 1-18-06-27-334-008  
Property Address: 1301 South 13th Street

Cruft Farm Sub E-1/2  
(1301 S. 13th St.)  
200314094  
27-12-9 Lot 1 Blk.-15

IN WITNESS WHEREOF, The said Gary Couch

in hereunto set his hand and seal this 12th day of March 2007

Gary Couch (Seal) \_\_\_\_\_ (Seal)  
\_\_\_\_\_ (Seal) \_\_\_\_\_ (Seal)  
\_\_\_\_\_ (Seal) \_\_\_\_\_ (Seal)

STATE OF INDIANA A.D. 2007 personally appeared the within  
named GARY COUCH

Grantor in  
the above conveyance, and acknowledged the execution of the same to be a voluntary  
act and deed.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official  
seal. Commission expires 2-9 20 09 MELODY BUCHANAN  
Residence of Vigo County *Melody Buchanan*  
Notary Public

Grantees Address: 3557 W. Sutliff Dr. Terre Haute, IN 47802  
This instrument prepared by: Donn Yarbrough

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.

DONN YARBROUGH  
3557 W SUTLIFF DR  
TERRE HAUTE IN 47802



TERRE HAUTE

# 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: December 8, 2011

## REPORT TO THE CITY COUNCIL ON ZONING MAP AMENDMENT

THE VIGO COUNTY AREA PLAN COMMISSION HEREBY GIVES CERTIFICATION TO  
SPECIAL ORDINANCE NUMBER #43-11.

CERTIFICATION DATE: December 7, 2011

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. 43-11. This Ordinance is a rezoning of the property located at 1301 South 13<sup>th</sup> Street. The Petitioner, Donn Yarbrough, Petitions the Plan Commission to rezone said real estate from zoning classification R-2 to R-2 Planned Development District, for the operation of a seasonal vending trailer to sell food for takeout. 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. 43-11 at a public meeting and hearing held Wednesday, December 7, 2011. 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. 43-11 as required by IC 36-7-4-302. The Area Plan Commission of Vigo County now hereby attaches certification to Special Ordinance No. 43-11 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. 43-11, was Favorable.

Fred L. Wilson, President

Jeremy Weir, Executive Director

Received this 8th day of December, 2011



STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: SO #43-11  
Date: December 2011

Doc: # 77  
Page 1 of 3

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**APPLICATION INFORMATION**

Petitioner: Donn Yarbough  
Property Owner: Same-As-Above  
Representative: Same-As-Above  
Proposed Use: Operation of a Vending Trailer for Seasonal Use to sell food for takeout  
Proposed Zoning: R-2 Planned Development  
Current Zoning: R-2, Two-Family Residential  
Location: The property is located on the southwest corner of South 13<sup>th</sup> Street and Franklin Street.  
Common Address: 1301 South 13<sup>th</sup> Street, Terre Haute, IN 47807

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**COMPREHENSIVE PLAN GUIDANCE**

Service Area: The City of Terre Haute  
Guiding Policies: Reuse and Redevelopment Areas  
• All policies from Neighborhood Enhancement  
• Incentives to be provided to support redevelopment  
• Density bonuses may be appropriate to support redevelopment  
• Sponsor the development of redevelopment  
Available Services: Area is well served by utilities.  
Soil Limitations: Not studied.  
Street Access: South 13<sup>th</sup> Street is a Primary Arterial roadway and Franklin Street is a local level roadway  
Dev. Priority: This has a high priority for residential infill development and reinvestment.

STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: SO #43-11

Doc: # 77

Date: December 2011

Page 2 of 3

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## ZONING COMPATIBILITY

Sur. Zones and Uses: **North** – R-3, General Residence District  
**East** – R-2, Two-Family Residence District  
**South** – R-2, Two-Family Residence District  
**West** – R-2, Two-Family Residence District



Character of Area: This area has many vacant lots that have been plat for urban developments. All the urban services are available within this area of the City of Terre Haute.

Contig. Uses & Zones: The contiguous zoning is R-2, Two-Family Residence District with residential uses that are permitted.

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## ZONING REGULATIONS

P-D Purpose: 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.

R-2, P-D: 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.
- (2) Hardship due to the improvements on the land.
- (3) Hardship due to adjacent, scattered incompatible uses.
- (4) Hardship due to the general deterioration of the neighborhood.
- (5) Parcel located near district boundary lines.

R-2 Standards: Minimum Lot Size: 6,600 Sq. Ft.  
FAR 0.9 %  
Street Setback: 55 feet from centerline;  
Rear setback 11’;  
Interior setback of 5’ from the interior lot line;  
Parking Requirements will be determined through site-plan review

## FINDINGS and RECOMMENDATION

Staff Findings: The petitioner has indicated that a hardship exists due to neighborhood blight and general deterioration of the neighborhood. The petitioner has also requested an off-street parking variance.

The Thrive 2025 Comprehensive Plan has identified this area within the City of Terre Haute for reuse and redevelopment. The development priority for commercial development within this area could be low to high intensity based on the local thoroughfare network. High intensity commercial development and uses need to have direct access without traffic intrusion onto residential neighborhoods, and needs the appropriate buffering.

Recommendation: Staff has a Favorable Recommendation for an R-2 PD, which will allow the operation of a Vending Trailer for seasonal use to sell food for takeout any use permitted in an R-2 Two-Family District.

**Receipt**

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

Date: 10/24/11

Name: Donna Yarborough

Reason: \_\_\_\_\_

3557 W Sutliff Dr. T.H. IN 47802

Rezoning

Cash: 45<sup>00</sup>

Check: \_\_\_\_\_

Credit: \_\_\_\_\_

Total: 45<sup>00</sup>

TERRE HAUTE, IN  
PAID

OCT 24 2011

Received By: Sat Hiles  
CONTROLLER