

APPLICATION FOR REZONING PETITION CITY OF TERRE HAUTE

SPECIAL ORDINANCE NO. 24, 2013

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Common Address of lots to be rezoned: **800 South 9th Street, Terre Haute, Indiana**

Rezone From: **C-2**

Rezone To: **C-5 – Planned Development**

Proposed Use: **Farm Equipment Sales/Residential**

Name of Owner: **Guarantee Roofing Co., Inc.**

Address of Owner: **800 South 9th Street, Terre Haute, Indiana**

Phone Number of Owner: **c/o (812) 232-6003 Louis F. Britton**

Attorney Representing Owner: **Louis F. Britton**

Address of Attorney: **Cox, Zwerner, Gambill & Sullivan, LLP, 511 Wabash Avenue, Terre Haute, Indiana 47807**

Phone Number of Attorney: **(812) 232-6003**

for Information Contact: ☐ Owner ☒ Attorney

Council Sponsor: **John Mullican**

FILED
AUG 08 2013
CITY CLERK

SPECIAL ORDINANCE NO. 24, 2013

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:

See Exhibit A.

Commonly known as 800 South 9th Street, Terre Haute, Indiana, be and the same is hereby established as C-5, General Central Business District – Planned Development, as designated in Division X Section 207(g) of said Comprehensive Zoning Ordinance for Terre Haute and the same is hereby declared to be a C-5, General Central Business District, authorizing the use of said real estate for the operation of farm equipment sales and service as well as the other uses permitted by such designation, together with all rights, privileges, and provisions that may inure to said real estate and the owners thereof by virtue of the law in such cases provided, the Area

Plan Commission and the Common Council having determined that a hardship exists due to the nature of certain improvements on the subject parcel and that use of the building fronting on 9th Street for residential dwelling units will be in the public's interest and that substantial justice will be done by permitting use of the property as a Planned Development, the Common Council further authorizes use of the existing building fronting on 9th Street as not more than four (4) dwelling units in accord with Division X Section 207(g)(1)(A) and Division III of the said Comprehensive Zoning Ordinance, subject to all limitations and restrictions imposed thereon by deed or otherwise.

SECTION 2. 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 approval by the Mayor and publication as required by law.

PRESENTED BY COUNCILPERSON


John Mullican

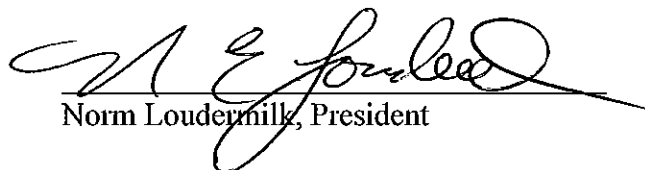
Passed in open Council this

12th

day of

September

, 2013.


Norm Loudermilk, President

ATTEST: Charles P. Hanley, City Clerk
Charles Hanley

Presented by me to the Mayor this 13th day of September, 2013.

Charles P. Hanley
Charles Hanley, City Clerk

Approved by me, the Mayor, this 13th day of SEPTEMBER, 2013.

Duke A. Bennett
Duke Bennett, Mayor
City of Terre Haute

ATTEST: Charles P. Hanley
Charles Hanley, City Clerk

I have prepared the foregoing instrument and 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.

Louis F. Britton
Louis F. Britton
COX, ZWERNER, GAMBILL & SULLIVAN, LLP
511 Wabash Avenue
Terre Haute, IN 47807
Phone: (812) 232-6003

EXHIBIT A

The following described real estate situated in Vigo County, State of Indiana, to-wit:

Lots Number Twenty-six (26), Twenty-seven (27), Twenty-eight (28), and Twenty-nine (29) in Bement's Subdivision of part of Lot Number Twelve (12) of Raymond's Subdivision of the North West Quarter (1/4) of Section 27, Township 12 North, Range 9 West.

PETITION FOR REZONING OF REAL ESTATE

TO THE PRESIDENT AND MEMBERS
OF THE COMMON COUNCIL OF
THE CITY OF TERRE HAUTE,
VIGO COUNTY, INDIANA

Gentlemen:

Guarantee Roofing Co., Inc., petitioner, is the owner of the following described real estate located in Vigo County, Indiana, to-wit:

SEE EXHIBIT A

which real estate is commonly known as: **800 North 9th Street, Terre Haute, Indiana**

The owner proposes to convey the property to others for use as a farm equipment sales and service facility and dwelling units.

Petitioner is informed and believes that according to Chapter X, Article 2, Division IV, Zoned Districts, Section 10.121 of the District Maps, "Comprehensive Zoning Ordinance for Terre Haute," and amendments thereto, the above described real estate is zoned C-2, Community Commerce District of the City of Terre Haute, Indiana. Petitioner is further informed and believes that the operation of the proposed businesses would require said real estate to be rezoned to the classification as C-5, General Central Business District – Planned Development,

under which classification Section 10.207(g), "Uses Permitted in C-3 Zone" would authorize such business operations.

Petitioner submits that this petition for a rezoning should be granted for the following reasons:

- A. That the proposed business would be beneficial to the local community;
- B. That said real estate is located near an area which is zoned/used for commerce and the property has historically been used as a building contractor's yard;
- C. That said real estate is located on 9th Street which provides access to businesses in the immediate area as well as in other parts of town;
- D. That the use of said real estate as proposed will not significantly increase traffic or parking in the area, said real estate lends itself well to the proposed use; the proposed use does not alter the essential character of the locality and is not detrimental to public welfare or injurious to the property or improvements in the neighborhood.
- E. Said rezoning will not increase the danger of fire or endanger the public safety or substantially diminish or impair property values within the general area;
- F. That due to the nature of the improvements on the property fronting on 9th Street, a hardship exists and pursuant to Division III of the Zoning Code, the property should be zoned as a C-5 Planned Development to permit use of the building fronting on 9th Street as not more than four (4) dwelling units. Such use would be in the public's interest and would do substantial justice to the neighborhood.

WHEREFORE, petitioner respectfully requests the Common Council to favorably consider the passage of a Special Ordinance amending the Comprehensive Zoning Ordinance for

Terre Haute, and declare the above-described real estate to be a part of "C-5 General Central Business District -- Planned Development" of the City of Terre Haute, Indiana, being entitled to the rights and benefits that may inure to said real estate and the owners thereof by virtue of said description and the laws in such cases provided, subject to all limitations imposed by deed or otherwise.

IN WITNESS WHEREOF, the petitioner, Guarantee Roofing Co., Inc., has duly executed this instrument this 8th day of August, 2013.

GUARANTEE ROOFING CO., INC.

By:

(Signature)

(Printed Name and Title)

This instrument prepared by Louis F. Britton, COX, ZWERNER, GAMBILL & SULLIVAN, LLP, 511 Wabash Avenue, Terre Haute, IN 47807; (812) 232-6003.

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8/8/2013

EXHIBIT A

The following described real estate situated in Vigo County, State of Indiana, to-wit:

✓ Lots Number Twenty-six (26), Twenty-seven (27), Twenty-eight (28), and Twenty-nine (29) in Bement's Subdivision of part of Lot Number Twelve (12) of Raymond's Subdivision of the North West Quarter (1/4) of Section 27, Township 12 North, Range 9 West.

AFFIDAVIT

COMES NOW affiant, Guarantee Roofing Co., Inc. , and affirms under penalty of law that affiant is the owner of record of the property located at 800 South 9th Street, Terre Haute, Indiana,

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

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

GUARANTEE ROOFING CO., INC.

By:

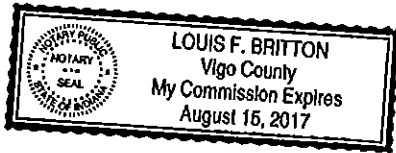
John D. Ennis
(Signature)

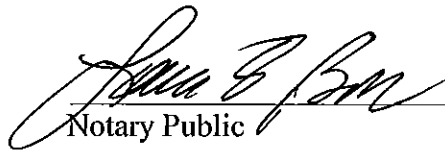
JOHN D. ENNIS
(Printed Name and Title)

STATE OF INDIANA)
) SS:
COUNTY OF VIGO)

Before me, the undersigned, a Notary Public in and for said county and state, this 8th day of August, 2013, personally appeared John D. Ennis as _____ of Guarantee Roofing Co., Inc., being first duly sworn and on his oath, stated that he is such officer of said Corporation and that as such officer he is duly authorized by the shareholders and directors of the Corporation to make, execute, and deliver this instrument for and on behalf of said Corporation and acknowledged the execution of the above and foregoing instrument as his free and voluntary act for and on behalf of said Corporation and he caused the corporate seal to be affixed, this 8th day of August, 2013.

Witness my hand and notarial seal.





Notary Public

(Printed Name)

My Commission Expires:

My County of Residence:

This instrument prepared by Louis F. Britton, COX, ZWERNER, GAMBILL & SULLIVAN, LLP, 511 Wabash Avenue, Terre Haute, IN 47807; (812) 232-6003.

70-348-5677

WARRANTY DEED

338/84

THIS INDENTURE WITNESSETH, That Claude L. Decker and Patricia L. Decker, husband and wife, of Vigo County, in the State of Indiana, CONVEY AND WARRANT to Guarantee Roofing Company, Inc., an Indiana Corporation, for the sum of One and No/100 (\$1.00) Dollar and other valuable consideration the receipt whereof is hereby acknowledged, the following REAL ESTATE in Vigo County, in the State of Indiana, to-wit:

Lots Number eighteen (18), Nineteen (19), Twenty (20), Twenty one (21), Twenty two (22), Twenty six (26), Twenty seven (27), Twenty eight (28) Twenty nine (29) and Thirty (30) in Bement's Subdivision of part of Lot Number Twelve (12) of Raymond's Subdivision of the North West Quarter (4) of Section 27 Township 12 North Range 9 West.

IN WITNESS WHEREOF, the undersigned, Claude L. Decker and Patricia L. Decker, husband and wife, have hereunto set their hands and seals this 29 day of November, 1965.

Claude L. Decker
Claude L. Decker

Patricia L. Decker
Patricia L. Decker

STATE OF INDIANA)
COUNTY OF VIGO)

Subscribed and sworn to before me, a Notary Public, this 29 day of November, 1965, personally appeared Claude L. Decker and Patricia L. Decker, husband and wife, and acknowledged the execution of the annexed Deed.

WITNESS my hand and Notarial Seal.

Robert S. Ratcliffe
ROBERT S. RATCLIFFE Notary Public

My Commission Expires:

April 28, 1968

RECEIVED FOR RECORD THE
29 DAY OF November, 1965
AT 2 O'CLOCK P.M.
WILLIAM R. COX, RECORDER

This instrument prepared by Robert S. Ratcliffe.



TERRE HAUTE
A LITTLE 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 5, 2013

REPORT TO THE CITY COUNCIL ON ZONING MAP AMENDMENT

THE VIGO COUNTY AREA PLAN COMMISSION HEREBY GIVES CERTIFICATION TO
SPECIAL ORDINANCE NUMBER #24-13

CERTIFICATION DATE: September 4, 2013

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

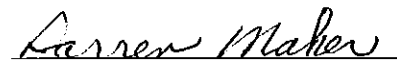
Dear Members,

The Vigo County Area Plan Commission offers you the following report and certification on Special Ordinance No. 24-13. This Ordinance is a rezoning of the property located at 800 South 9th Street. The Petitioner, Guarantee Roofing Co., Inc., Petitions the Plan Commission to rezone said real estate from zoning classification C-2 to C-5 Planned Development District, for Farm Equipment Sales/Residential. 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. 24-13 at a public meeting and hearing held Wednesday, September 4, 2013. 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. 24-13 as required by IC 36-7-4-302. The Area Plan Commission of Vigo County now hereby attaches certification to Special Ordinance No. 24-13 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. 24-13, was FAVORABLE.


Fred L. Wilson, President


Darren Maher, Assistant Director

Received this 5th day of September, 2013

STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: SO 24-13

Doc: # 59

Date: September 4th 2013

Page 1 of 4

APPLICATION INFORMATION

Petitioner: Guarantee Roofing Co., Inc.

Property Owner: Same-As-Above

Representative: Louis F. Britton

Proposed Use: Farm Equipment Sales Residential

Proposed Zoning: C-5, General Central Business District

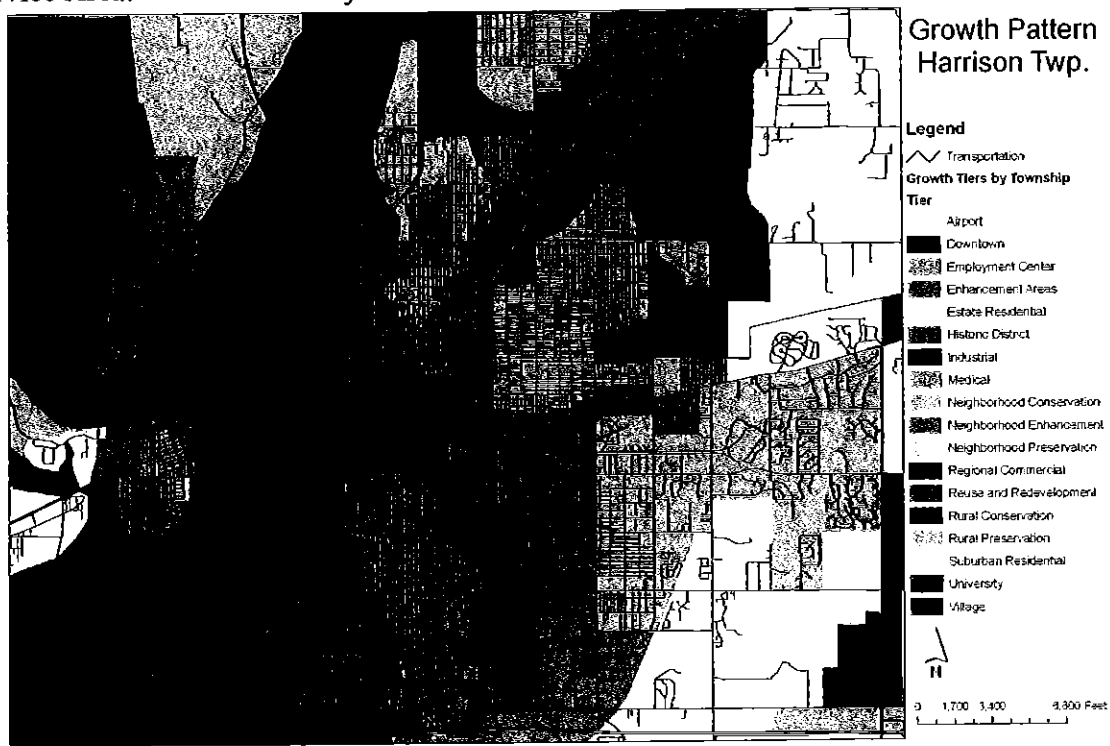
Current Zoning: C-2, Limited Community Commerce District

Location: The property is located on the Southeast corner of South 9th Street and Deming Street.

Common Address: 800 South 9th Street, Terre Haute, IN

COMPREHENSIVE PLAN GUIDANCE

Service Area: The City of Terre Haute



Guiding Policies: Reuse and Redevelopment Areas

- All policies from Neighborhood Enhancement

STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: SO 24-13

Doc: # 59

Date: September 4th 2013

Page 2 of 4

- Incentives to be provided to support redevelopment
- Density bonuses may be appropriate to support redevelopment
- Sponsor the development of redevelopment
- 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 residential context of these neighborhoods should be eliminated.
- Encourage neighborhoods to develop a unique sense of place, but still be part of the larger city.

Available Services: Area is well served by urban services.

Soil Limitations: Not studied.

Street Access: 9th Street (Secondary Arterial)

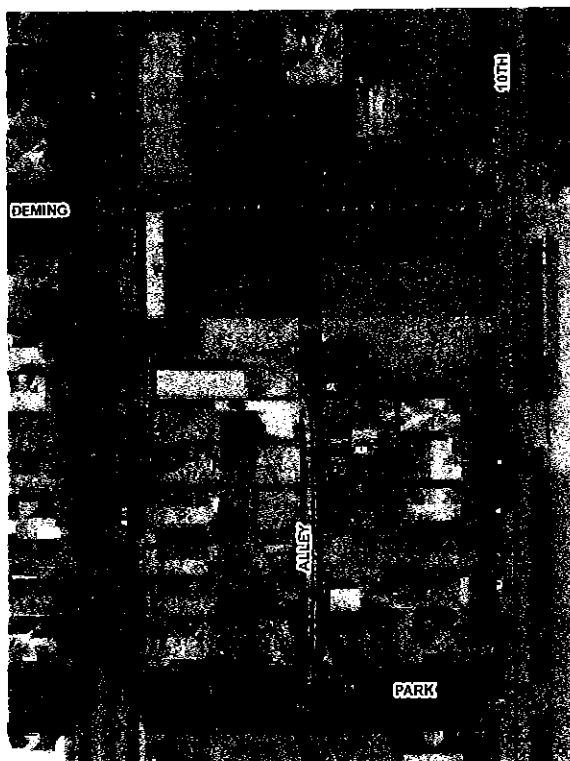
Dev. Priority: This area has been identified as a Reuse and Development area within the City of Terre Haute. The reuse and redevelopment of property within old industrial is a high priority.

ZONING COMPATIBILITY

M-2

Sur. Zones and Uses: North – ~~R-1, Single Family Residential District~~
East – ~~R-1, Single Family Residential District~~
South – ~~R-1, Single Family Residential District~~

West – ~~R-1, Single Family Residential District~~
~~3, General Residence District~~



R-2

AR 2

R-2

STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: SO 24-13

Doc: # 59

Date: September 4th 2013

Page 3 of 4

Character of Area: The area surrounding the petitioned property consists of a mix large and medium size single-family detached dwelling units and heavy industrial uses.

Contig. Uses & Zones: Uses that are contiguous to this property are Residential and industrial in Use and Nature.

ZONING REGULATIONS

C-5 Purpose: The General Central Business District is designed to accommodate, in addition to the uses permitted in the Restricted Central Business District, a wide variety of necessary services (and goods) as well as light manufacturing. It is the main warehousing and wholesaling area and shares the retail trade to a more limited degree with the C-4 District. It is characterized by high volumes of trucks and vehicles as well as pedestrian traffic.

C-5 Uses: All business, servicing, or processing, except for off-street parking and loading, shall be conducted within completely enclosed buildings, unless otherwise indicated hereinafter, and except for establishments of the “drive-in” type offering goods or services directly to customers waiting in parked motor vehicles.

C-5 Standards: Minimum Lot Size: N/A;
Street Setback: 50 feet from centerline;
Rear setback 11’;
Interior setback of 5’ from the interior lot line;
Parking Requirement: One (1) parking space for each one thousand (1000) square feet of sales area, plus (1) parking space per resident/manager live-in.

STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: SO 24-13

Doc: # 59

Date: September 4th 2013

Page 4 of 4

FINDINGS and RECOMMENDATION

Staff Findings:

The Property has been identified as a Reuse and Redevelopment site. The Thrive 2025 Comprehensive Plan calls for a range of reuses in this area. The proposed use to allow the sale of Farm Equipment and to also provide living quarters for the owner occupant will be in harmony with existing uses. The sale of farm equipment will also function as a buffer between the industrial and residential uses that exist within a close proximity in this area.

Recommendation:

Favorable Recommendation.

Handwritten notes:
The sale of farm equipment use
The residential use
and other residence