

SPECIAL ORDINANCE NO.: 16
APPLICATION FOR REZONING PETITION - CITY OF TERRE HAUTE

COMMON ADDRESS OF LOTS TO BE REZONED:
629 South 9th Street, Terre Haute IN 47807

Current Zoning: C-2 Community Commercial District

Requested Zoning: C-2 Community Commercial District Planned Development

Proposed Use: Manufacturing of alcoholic beverages

Name of Owner: Felix Property, Inc.

Address of Owner: 629 S. 9th St., Terre Haute, IN 47807

Phone Number of Owner: Sharon Cupp, c/o Richard Shagley II (812) 232-3388

Attorney Representing Owner: Richard Shagley II, Wright, Shagley & Lowery, P.C.

Address of Attorney: 500 Ohio Street, Terre Haute, IN 47807

Phone Number of Attorney: (812) 232-3388

For Information Contact: Richard Shagley II

Council Sponsor: Todd Nation

COPY OF SITE PLAN IS ATTACHED TO THIS APPLICATION

FILED

JUL 11 2019

CITY CLERK

SPECIAL ORDINANCE FOR A REZONING
AMENDED SPECIAL ORDINANCE NO. 16, 2019

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

SECTION 1. BE IT ORDANED 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:

The South half ($\frac{1}{2}$) of lot Twenty-four (24) of Parson's Subdivision of lots three (3), five (5) and six (6) in the subdivision of the Northwest quarter ($\frac{1}{4}$) of section Twenty-seven (27), Township Twelve (12) North, Range nine (9) West.

And

Lot Number Twenty-three (23) in Thos. Parson's Subdivision of part of Lots 3, 5, and 6 in the Subdivision of the Northwest Quarter of Section 27, Township 12 North Range 9 West.

And

The North $\frac{1}{4}$ of Lot Number 22 in Parson's Subdivision of part of Lots Number 3, 5, and 6 in Raymond's Subdivision of the North West Quarter of Section 27, Township 12 North, Range 9 West in the City of Terre Haute, Indiana.

And

The South $\frac{1}{2}$ of Lot Number 22 in Thomas Parson's Subdivision of parts of Lots 3-5 and 6 in the Subdivision of the North West $\frac{1}{4}$ of Section 27-12-9, Terre Haute Indiana.

Commonly known as: 629 South 9th Street, Terre Haute, Vigo County Indiana 47802

be and the same is, hereby established as a C-2 Planned Development, together with all rights and privilege 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 C-2 Planned Development 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 the manufacturing and sale of alcohol beverages, and related activities associated with the manufacturing and sale of alcoholic beverages.
- (b) In the event that this Planned Development has not materialized within six (6) months of approval, it is understood that said Planned Development becomes void.
- (c) A variance is hereby granted from Section 10-207 e. (1)(A) which states in part: "... any area contingent or abutting a Residential District shall be buffered by an open space or off-street parking area with a minimum fifty foot (50') width measured at right angles to the residential property line."
- (d) All such rights granted herein shall be fully transferable.
- (e) Said Planned Development shall be recorded in the Vigo County Recorder's Office within ninety (90) days of 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 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.

WHEREAS, the Area Planning Commission has considered a petition filed pursuant to General Ordinance No. 10, 1999, being Division III Planned Development; and

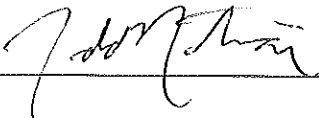
WHEREAS, Amended Special Ordinance No. 16, 2019, has been referred to the Area Planning Commission for its review and consideration and a favorable recommendation has been referred by the Commission to the Common Council; and

WHEREAS, a public hearing on Amended Special Ordinance No. 16, 2019, 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 not 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 C-2 Planned Development as described in this Ordinance, under 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.

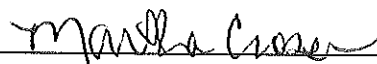
WHEREAS, an emergency exists for the immediate taking effect of this Ordinance, the same shall be in full force and effect from and after its passage by the Common Council of Terre Haute, and its approval by the Mayor and publication as by law provided.

Presented by Council Member,

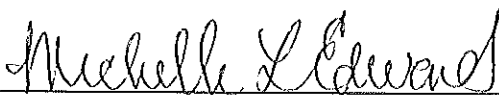


Todd Nation

Passed in Open Council this 11TH day of JULY, 2019.



Martha Crossen, President

ATTEST: 

Michelle Edwards, City Clerk

Presented by me to the Mayor of the City of Terre Haute this 12TH day of JULY, 2019.

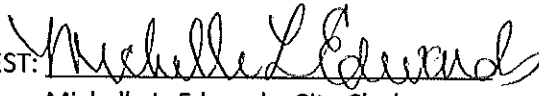


Michelle L. Edwards, City Clerk

Approved by me, the Mayor, this 12TH day of JULY, 2019.

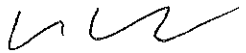


Duke Bennett, Mayor

ATTEST: 

Michelle L. Edwards, City Clerk

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



Richard J. Shagley, #23135-84

This instrument prepared by: Richard Shagley II, Wright, Shagley & Lowery, P.C., 500 Ohio St., Terre Haute, IN 47807.

FILED

JUN 06 2019

SPECIAL ORDINANCE FOR A REZONING
SPECIAL ORDINANCE NO. 16, 2019

CITY CLERK

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

SECTION 1. BE IT ORDIANED 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:

The South half ($\frac{1}{2}$) of lot Twenty-four (24) of Parson's Subdivision of lots three (3), five (5) and six (6) in the subdivision of the Northwest quarter ($\frac{1}{4}$) of section Twenty-seven (27), Township Twelve (12) North, Range nine (9) West.

And

Lot Number Twenty-three (23) in Thos. Parson's Subdivision of part of Lots 3, 5, and 6 in the Subdivision of the Northwest Quarter if Section 27, Township 12 North Range 9 West.

And

The North $\frac{1}{2}$ of Lot Number 22 in Parson's Subdivision of part of Lots Number 3, 5, and 6 in Raymond's Subdivision of the North West Quarter of Section 27, Township 12 North, Range 9 West in the City of Terre Haute, Indiana.

And

The South $\frac{1}{2}$ of Lot Number 22 in Thomas Parson's Subdivision of parts of Lots 3-5 and 6 in the Subdivision of the North West $\frac{1}{4}$ of Section 27-12-9, Terre Haute Indiana.

Commonly known as: 629 South 9th Street, Terre Haute, Vigo County Indiana 47802

be and the same is, hereby established as a C-2 Planned Development, together with all rights and privilege 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 C-2 Planned Development 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 C-2 Planned Development
- (b) In the event that this Planned Development has not materialized within six (6) months of approval, it is understood that said Planned Development becomes void.
- (c) A variance is hereby granted from Section 10-207 e. (1)(A) which states in part: "... any area contingent or abutting a Residential District shall be buffered by an open space or off-street parking area with a minimum fifty foot (50') width measured at right angles to the residential property line."
- (d) All such rights granted herein shall be fully transferable.
- (e) Said Planned Development shall be recorded in the Vigo County Recorder's Office within ninety (90) days of 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 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.

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. 16, 2019, has been referred to the Area Planning Commission for its review and consideration and a favorable recommendation has been referred by the Commission to the Common Council; and

WHEREAS, a public hearing on Special Ordinance No. 16, 2019, 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 not 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 C-2 Planned Development as described in this Ordinance, under 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.


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,



Todd Nation

Passed in Open Council this _____ day of _____, 2019.



Martha Crossen, President

ATTEST: _____
Michelle Edwards, City Clerk

Presented by me to the Mayor of the City of Terre Haute this _____ day of _____
2019.

Michelle L. Edwards, City Clerk

Approved by me, the Mayor, this _____ day of _____,
2019.

Duke Bennett, Mayor

ATTEST: _____
Michelle L. Edwards, City Clerk

This instrument prepared by: Richard Shagley II, Wright, Shagley & Lowery, P.C., 500 Ohio St., Terre Haute, IN 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 PLAN COMMISSION FOR VIGO COUNTY, INDIANA:

LADIES AND GENTLEMAN:

The undersigned, Susan Cupp, President of Felix Property Inc., respectfully submits this Petition to rezone the following described real estate in the City of Terre Haute, County of Vigo, Indiana, to wit:

The South half ($\frac{1}{2}$) of lot Twenty-four (24) of Parson's Subdivision of lots three (3), five (5) and six (6) in the subdivision of the Northwest quarter ($\frac{1}{4}$) of section Twenty-seven (27), Township Twelve (12) North, Range nine (9) West.

And

Lot Number Twenty-three (23) in Thos. Parson's Subdivision of part of Lots 3, 5, and 6 in the Subdivision of the Northwest Quarter of Section 27, Township 12 North Range 9 West.

And

The North $\frac{1}{2}$ of Lot Number 22 in Parson's Subdivision of part of Lots Number 3, 5, and 6 in Raymond's Subdivision of the North West Quarter of Section 27, Township 12 North, Range 9 West in the City of Terre Haute, Indiana.

And

The South $\frac{1}{2}$ of Lot Number 22 in Thomas Parson's Subdivision of parts of Lots 3-5 and 6 in the Subdivision of the North West $\frac{1}{4}$ of Section 27-12-9, Terre Haute Indiana.

Commonly known as: 629 South 9th Street, Terre Haute, Indiana 47807.

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 C-2 Community Commercial District.

Your petitioner would respectfully state that the real estate is now not currently being used. Your petitioner intends to sell the real estate for the operation of a brewery and the manufacturing of beer.

Your petitioner would request that the real estate described herein shall be zoned as a C-2 Community Commercial District Planned Development. Your petitioner would allege that the C-2

Community Commercial District Planned Development 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. Petitioner believes a hardship exists due to adjacent scattered incompatible uses, some of which are identical to that of the Petitioner.

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-2 Community Commercial District Planned Development 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.

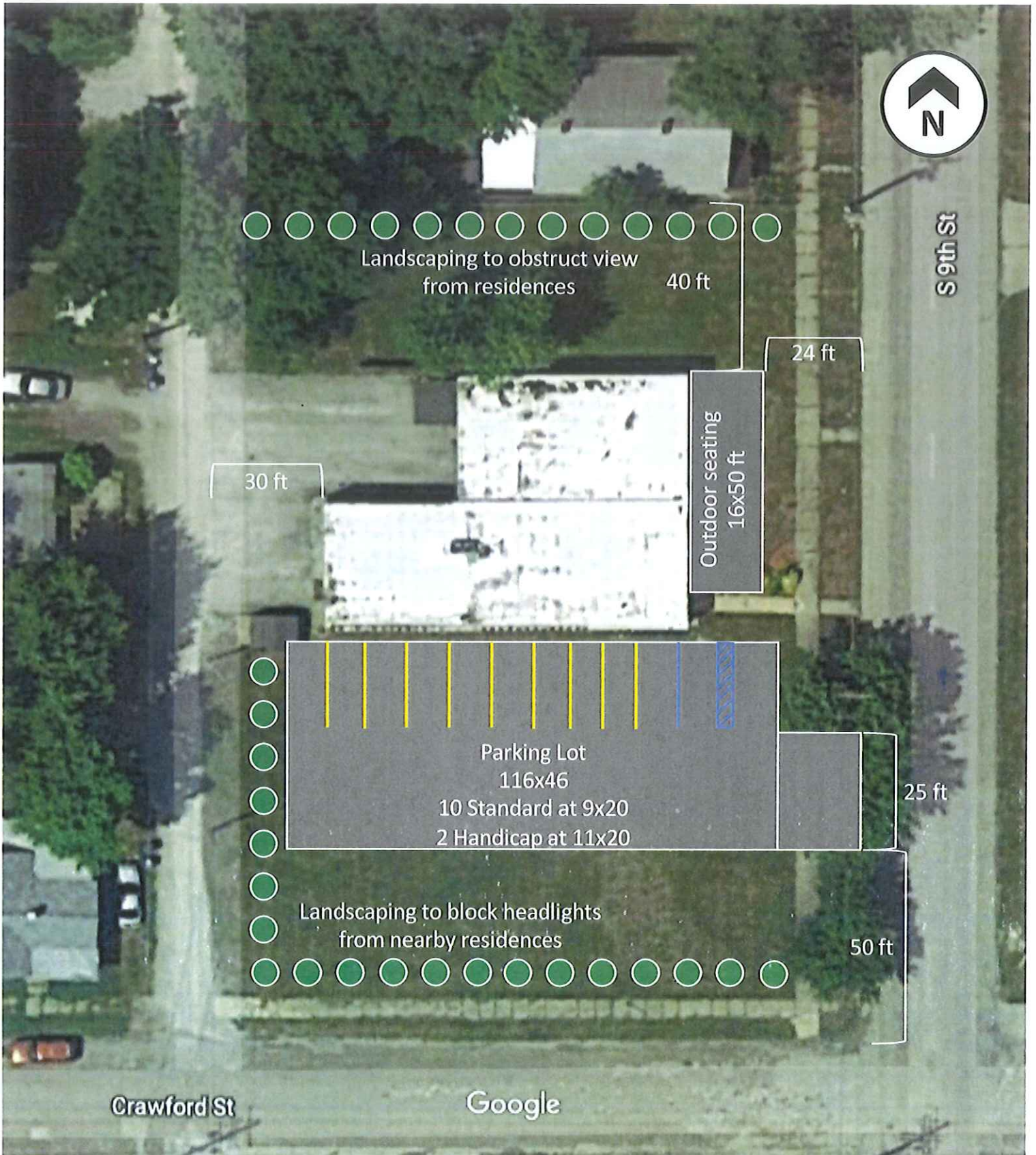
IN WITNES WHEREOF, This petition has been duly executed this 6th day of June, 2019.

BY: 
Sharon Cupp, President of Felix Property, Inc.

PETITIONER: Sharon Cupp, President of Felix Property, Inc., 629 South 9th Street, Terre Haute, Indiana 47807.

This instrument prepared by: Richard Shagley II, Wright, Shagley & Lowery, P.C., 500 Ohio St., Terre Haute, IN 47807.

SITE PLAN
629 S. 9th Street
Terre Haute, IN 47807



STATE OF INDIANA)
) SS:
COUNTY OF VIGO)

AFFIDAVIT

COMES NOW Affiant Sharon Cupp, President of Felix Property, Inc. and affirms under penalty of law and says:

1. That affiant is the owner of record of the property located at 629 South 9th Street, Terre Haute, IN 47807 and more fully described as follow:

The South half (½) of lot Twenty-four (24) of Parson’s Subdivision of lots three (3), five (5) and six (6) in the subdivision of the Northwest quarter (¼) of section Twenty-seven (27), Township Twelve (12) North, Range nine (9) West.

And

Lot Number Twenty-three (23) in Thos. Parson’s Subdivision of part of Lots 3, 5, and 6 in the Subdivision of the Northwest Quarter if Section 27, Township 12 North Range 9 West.

And

The North ½ of Lot Number 22 in Parson’s Subdivision of part of Lots Number 3, 5, and 6 in Raymond’s Subdivision of the North West Quarter of Section 27, Township 12 North, Range 9 West in the City of Terre Haute, Indiana.

And

The South ½ of Lot Number 22 in Thomas Parson’s Subdivision of parts of Lots 3-5 and 6 in the Subdivision of the North West ¼ of Section 27-12-9, Terre Haute Indiana.

2. That a copy of the deeds for the above described property are attached as Exhibits “A”, “B”, “C” and “D”.
3. That Affiant makes this Affidavit for the sole purpose of affirming Felix Property Inc. 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, to accept the Petition to Rezone Real Estate as Filed by Sharon Cupp.

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

Felix Property Inc.:

Sharon Cupp
Sharon Cupp, President

Personally appeared before me, a Notary Public in and for said County and State, Sharon Cupp, President of Felix Property, Inc, who acknowledges the execution of the above and foregoing, after being duly sworn upon her oath and after having read this Affidavit.

WITNESS my hand and notarial seal, this 6th day of June, 2019.

Notary Public:

Julie R. Baysinger

My Commission Expires:

My County Of Residence:



"A"

QUITCLAIM DEED

This Quitclaim Deed is made on September 10, 2012 between Becky K. Neal, Grantor, residing at 3700 S. Westport Ave, City of Sioux Falls, State of S.D., and Felix Property Inc, Grantee, Residing at 107 Van Buren Blvd City of Gene Haute, State of IN.

For Valuable consideration, the Grantor hereby quitclaims and transfers the following described real estate to the Grantee to have and hold forever, located at 623 S. 9th St, City of Gene Haute, State of IN.

The South half (1/2) of lot Twenty-four (24) of Parsons' Subdivision of lots three (3), Five (5) and six (6) in the subdivision of the north west quarter (1/4) of section Twenty-seven (27), Township Twelve (12) north, Range nine (9) West.

Dated September 10 2012

Becky K. Neal
(Signature of grantor)

(Printed name of grantor)

DULY ENTERED FOR TAXATION
Subject to final acceptance for transfer

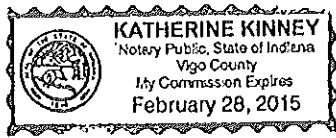
SEP 10 2012

State of IN
County of VIGO

Timothy M. Sproule
VIGO COUNTY AUDITOR

On Sept 10, 2012, Becky K Neal personally came before me and, being duly sworn, did state that he/she is the person described in the above document and that he/she signed the above document in my presence.

Katherine Kinney
(Notary signature)



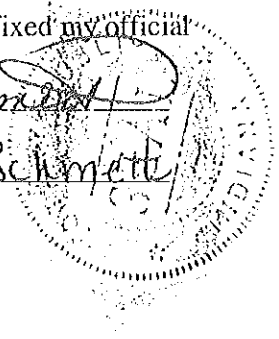
Notary Public, for the County of VIGO State of IN

My commission expires: 2.28.15

Before me, the undersigned, a Notary Public, in and for said County and State, this 31st day of May, 2007, personally appeared the within named Sharon Cupp, Grantor in the above conveyance, and acknowledged the execution of the same to be her voluntary act and deed.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal.

Emily Schmetz
Notary Public
Printed: Emily Schmetz



My Commission Expires
10/20/2011

My County of Residence:
Vigo

Mail to: Sharon Cupp, c/o Valley Press, 629 South 9th Street, Terre Haute, IN 47802.

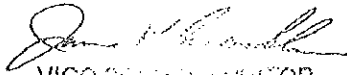
This instrument prepared by Richard J. Shagley, Attorney at Law, 500 Ohio Street, P.O. Box 8448, Terre Haute, IN 47808-8448.

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

Richard J. Shagley
Richard J. Shagley

DULY ENTERED FOR TAXATION
Subject to final acceptance for transfer

MAY 17 2006


VIGO COUNTY AUDITOR

RAYMOND L. WATTS
VIGO County Recorder IN
IN 2006010689 WD
05/17/2006 15:17:04 2 PGS
Filing Fee: \$18.00

WARRANTY DEED

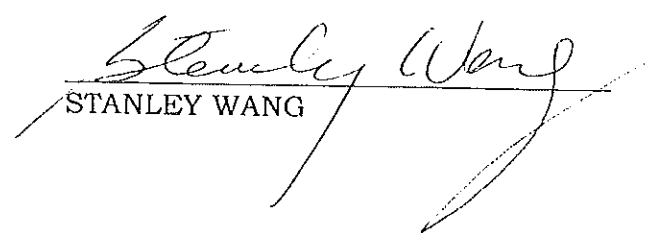
THIS INDENTURE WITNESSETH that STANLEY WANG, an adult, of Vigo County, in the State of Indiana **CONVEYS** and **WARRANTS** to FELIX PROPERTY, INC., a corporation organized under the laws of the State of Indiana for the sum of \$1.00 and other valuable considerations, the receipt whereof is hereby acknowledged, the following described real estate in Vigo County, in the State of Indiana, to-wit:

The North ½ of Lot Number 22 in Parson's Subdivision of part of Lots Number 3, 5 and 6 in Raymond's Subdivision of the North West Quarter of Section 27, Township 12 North, Range 9 West in the City of Terre Haute, Indiana.

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

The undersigned hereby represents that this real estate is not "property" as defined in Indiana Code 13-11-2-174, and does not contain facilities that are subject to reporting under Section 312 of the federal Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. 11022) and is not the site of underground storage tanks for which notification is required under 42 U.S.C. 6991a or Indiana Code 13-23-1-2(c)(8)(A) and is not listed on the Comprehensive Environmental Response, Compensation and Liability Information System (CERCLIS) in accordance with Section 116 of CERCLA (42 U.S.C. 9616), and that, consequently, no disclosure document under Indiana Code 13-25-3-1 et seq. (Indiana Responsible Transfer Law) is required for this transaction.

In Witness Whereof, STANLEY WANG has hereunto set his hand and seal this 12th day of May, 2006.


STANLEY WANG

2

STATE OF INDIANA)
) SS:
COUNTY OF Vigo)

Before me, the undersigned, a Notary Public in and for said County and State, this 11 day of May, 2006, personally appeared STANLEY WANG and acknowledge this conveyance to be his voluntary act and deed.

Notary Public - State of Indiana
Sullivan County
My Commission Expires:
April 9, 2010

[Signature]
Notary Public
Printed: Belen Martindale

My Commission Expires:
April 9, 2010

My County of Residence:
Sullivan

THIS WARRANTY DEED was prepared by Douglas S. Followell, Attorney at Law, PO Box 350, Sullivan, IN 47882 (812) 268-3415 at the specific bequest of Hoosier Title & Abstract based solely on information supplied by them 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, the parties hereto signifying their assent to this disclaimer by GRANTOR'S execution and GRANTEE'S acceptance of the instrument.

Please mail tax statements to FELIX PROPERTY, INC. at _____

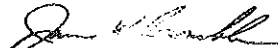
I, the undersigned, in accordance with I.C. 36-2-7.5, do hereby affirm under the penalties of perjury that: 1) I have reviewed the document for the purpose of identifying and, to the extent permitted by law, redacting all Social Security numbers; and 2) I have redacted, to the extent permitted by law, such Social Security number in the foregoing document.

[Signature]

DULY ENTERED FOR TAXATION
Subject to final acceptance for transfer

RAYMOND L. WATTS
VIGO County Recorder IN
IN 2005020805 HD
11/03/2005 11:36:58 1 PGS
Filing Fee: \$14.00

NOV 03 2005


VIGO COUNTY AUDITOR

WARRANTY DEED

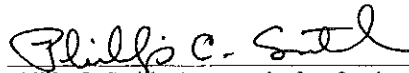
THIS INDENTURE WITNESSETH, that Patricia A. Rollings, a competent adult, of Vigo County in the State of Indiana, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Conveys and Warrants unto FELIX PROPERTY, INC., an Indiana Corporation of Vigo County in the State of Indiana, the following described real estate located in the County of Vigo, in the State of Indiana, to-wit:

The South 1/2 of Lot Number 22 in Thomas Parson's Subdivision of parts of Lots 3 - 5 and 6 in the Subdivision of the North West 1/4 of Section 27-12-9, Terre Haute, Indiana.

Subject to the protective covenants and restrictions established by deeds dated February 7, 1903, and September 26, 1903, recorded respectively in Deed Record 108, Page 505, and Deed Record 110, Page 364, all records of the Recorder's Office of Vigo County, Indiana.

Grantor warrants that the grantor of the Power of Attorney for the authority to execute this deed is on the date of and time of this deed living and that the grant of the Power of Attorney has not been revoked.

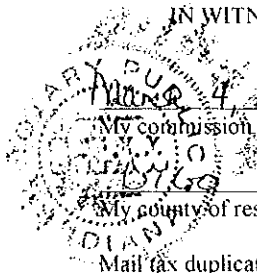
IN WITNESS WHEREOF, The said grantor, above named Patricia A. Rollings, a competent adult, by her Attorney-in-Fact hereto, duly authorized by a Power of Attorney dated March 2, 2004, and recorded in Instrument Number 2004004502 of the records of the Vigo County Recorder's Office, have hereunto set her hand and seal, this 28th day of October, 2005.

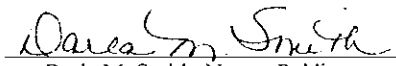

Phillip C. Smith, Attorney-in-fact for the above named Grantor, Patricia A. Rollings

STATE OF INDIANA, COUNTY OF VIGO) SS:

Before me, a Notary Public in and for said county and state, this 28th day of October, 2005, personally appeared Phillip C. Smith as Attorney-in-Fact for Patricia A. Rollings, who acknowledged the execution of the foregoing Warranty Deed to be her voluntary act and deed and stated that the representations therein contained are true as he verily believes.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal.


My commission expires: March 4, 2011
My county of residence: Vigo
Mail (ax duplicates to:


Darla M. Smith, Notary Public

Felix Property Inc. 107 Van Buren Blvd. Terre Haute, IN 47803
This instrument was prepared by: Phillip C. Smith, Attorney at Law, Corporate Square, 2901 Ohio Boulevard, Suite 160, Terre Haute, Indiana 47803.

Receipt

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

Date: 6/6/19

Name: Wright, Shagle & Lowery P.C.

Reason: Rezoning - Notice of Filing \$25⁰⁰

Rezoning Petition \$20

\$45⁰⁰

Cash: _____

Check: \$45⁰⁰ CR # 069665

Credit: _____

Total: \$45⁰⁰

Received By: L. S. 1/15/19

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CITY OF TERRE HAUTE, IN



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: July 5, 2019

REPORT TO THE CITY COUNCIL ON ZONING MAP AMENDMENT

THE VIGO COUNTY AREA PLAN COMMISSION HEREBY GIVES CERTIFICATION TO
SPECIAL ORDINANCE NUMBER 16-19,

CERTIFICATION DATE: July 3, 2019

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. 16-19. This Ordinance is a rezoning of the property located at 629 S. 9th St. The Petitioner, Felix Property, Inc., petitions the Plan Commission to rezone said real estate from zoning classification C-2 to C-2 PD, Community Commercial District Planned Development for the manufacturing of alcoholic beverage. 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. 16-19 at a public meeting and hearing held Wednesday, July 3, 2019. 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. 16-19 as required by IC 36-7-4-302. The Area Plan Commission of Vigo County now hereby attaches certification to Special Ordinance No. 16-19 as required by IC 36-7-4-401(a)(7) and IC 36-7-4-605(c).

Therefore, the Area Plan Commission's certified recommendation on Special Ordinance No. 16-19 was FAVORABLE with the following conditions: 1.) Must be recorded within 90 days; 2.) A hardship must be demonstrated; 3.) It must be determined that, if approved, the P.D. will be in the public's best interest and that substantial justice will be done for that neighborhood; 4.) Landscape and buffer plan must be approved by City Engineering; 5.) Storm water drainage plan approved by City Engineering.



Handwritten signature of Fred L. Wilson.

Fred L. Wilson, President

Handwritten signature of Jared Bayler.

Jared Bayler, Executive Director

Received this 5th day of July, 2019

STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: SO #-16-19
Date: July 2019

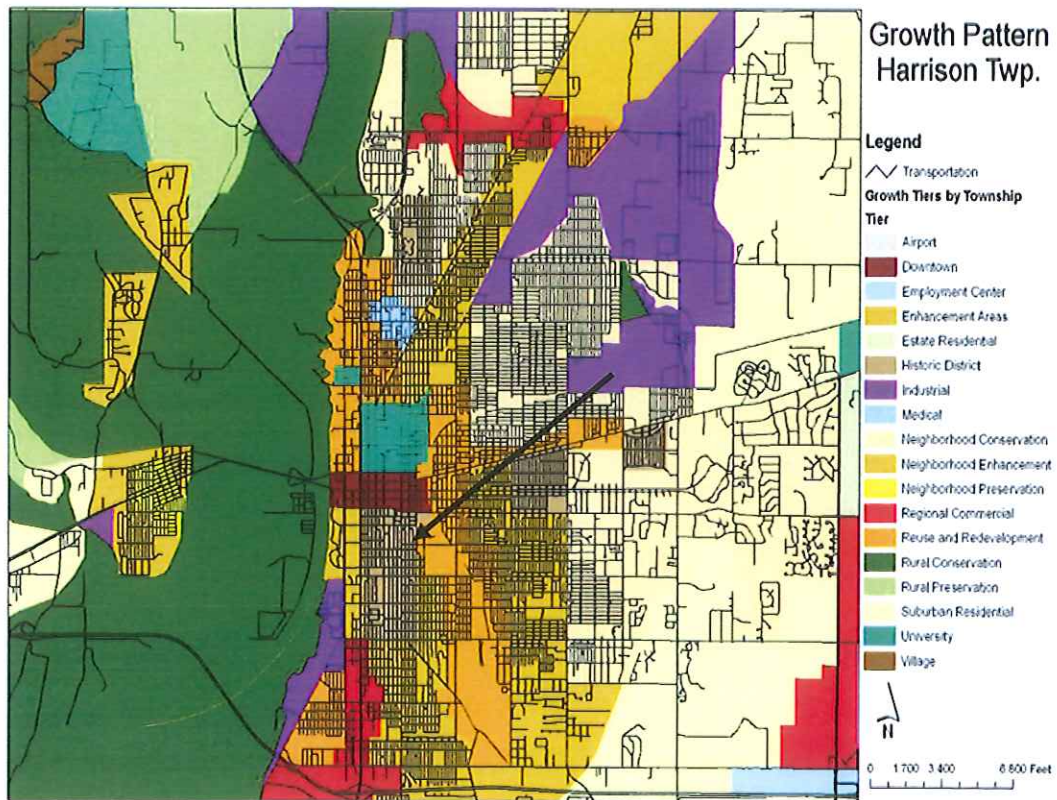
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APPLICATION INFORMATION

Owner: Felix Property, Inc.
Proposed Use: Manufacturing of alcoholic beverages
Proposed Zoning: C -2PD, Community Commercial District Planned Development
Current Zoning: C-2, Community Commercial District
Location: The property is located 86 feet north of the on the corner of the intersection of S. 9th and Crawford Street.
Common Address: 629 S. 9th Street. Terre Haute, IN: Parcel #'s 84-06-27-107-038-.000-002/039/042/040/041.

COMPREHENSIVE PLAN GUIDANCE

Service Area: The City of Terre Haute



STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: SO #-16-19

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Reuse and Redevelopment Areas

These are areas that offer potential future reuse and redevelopment potential. These areas are a result of underutilization of land relative to potential development. Brownfield and blighted categorization establishes the need to apply policies established for these areas.

Additional policies for Reuse and Redevelopment Areas include:

- Incentives to be provided to support redevelopment.
- Density bonuses may be appropriate to support redevelopment
- Sponsor the development of redevelopment plans
- All policies from Neighborhood Enhancement Areas

Available Services: Area is well served by utilities.

Dev. Priority: Neighborhood Commercial

ZONING COMPATIBILITY

Sur. Zones and Uses: **North** – R-2
East – M-2
South – R-2, R-2PD
West – R-2

Character of Area: The petitioned property is located in a range of residential and manufacturing land uses.

Contig. Uses & Zones: The area is a mix of zoning categories.

ZONING REGULATIONS

ZONING REGULATIONS

C-2 Purpose: The Community Commerce Zone is designed for the residents of the nearby community consisting of more than one (1) of the neighborhoods in that section of the city, so as to permit a wider variety of both business uses and services. It is designed not for an abutting neighborhood, but for a relatively larger consumer population for both daily and occasional shopping. The development is characterized by a lack of “comparison

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shopping” and is limited to providing only one (1) store for each type of business.

C-2 Uses: Amusement establishments, bowling alleys, pool halls, swimming pools, dance halls, and skating rinks, Any use permitted in the C-1 Zone except as otherwise provided in this Chapter, Antique shops, Art galleries, but not including auction rooms, Banks and financial institutions, Bicycle sales, rental, and repair stores, Blue-printing and photostating establishments, Books and stationery stores, Camera and photographic supply stores, Candy and ice cream stores, Leather goods and luggage stores, Loan offices, Locksmith shops, Medical and dental clinics, Meeting halls, Millinery shops, Municipal or privately-owned recreation buildings or community-center, Musical instrument sales and repair, Newspaper distributors for home delivery and retail sale, Office supply stores, Offices, business and professional, Optometrists, Paint and wallpaper stores, 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), Live entertainment. (Gen. Ord. No. 2, 2007, As Amended, 2-8-07)

C-2 Standards: Minimum Lot Size: 3,300 Sq. Ft.

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.
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.

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(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 property is situated on or near a district boundary line. The petitioner has requested two variances as a part of their ordinance. One being a reduction in parking and the second the setback and buffering requirements. Visual screening of the hard surfaced parking area will still be required and a storm water drainage plan will need to be approved by City Engineering.

The location previously housed a printing business so another commercial use will not be out of character for the neighborhood.

The City of Terre Haute may require the multiple lots be combined into a single lot of use. If so a major subdivision will be needed.

Recommendation: Staff offers a Favorable Recommendation with the following conditions.

1. Must be recorded in 90 days
2. A hardship must be demonstrated
3. It must be determined, that if approved, the P.D. will be in the public's interest and that substantial justice will be done for that neighborhood.
4. Landscape and buffer plan must be approved by city engineering
5. Storm water drainage plan approval by City Engineering