

SPECIAL ORDINANCE NO. 40, 2023

APPLICATION FOR REZONING PETITION CITY OF TERRE HAUTE

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Common Address of lots to be rezoned:
3919 Hulman Street, Terre Haute, IN 47803

Rezoned From: R-1 Single Family Residence District

Rezoned To: R-3 Multifamily Residential District

Proposed Use: Townhomes

Name of Owners: Jack A. Pittman/Estate of Jack A. Pittman

Address of Owners: 3919 Hulman St.
Terre Haute, IN 47803

Phone Number of Owners: c/o Richard J. Shagley II
812-232-3388

Attorney Representing Owners: Richard J. Shagley II

Address of Attorney: Wright, Shagley & Lowery, P.C.
PO Box 9849, Terre Haute, IN 47808

For Information Contact: Owner Attorney

Council Sponsor: Earl Elliott

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COPY OF A SITE-PLAN MUST ACCOMPANY THIS APPLICATION

SPECIAL ORDINANCE FOR A REZONING
SPECIAL ORDINANCE NO. 40, 2023

CITY CLERK

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

SECTION I. 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:

Commencing at a point 2023.1 feet East of the North West corner of the North West Quarter of Section 36, Township 12 North, Range 9 West and running thence East 621.2 feet; thence South 980.2 feet; thence West 621.1 feet; thence North 984.5 feet to the place of beginning.

Parcel No.: 84-06-36-126-007.000-002
Commonly Known as 3919 Hulman Street, Terre Haute, IN 47803

Be and the same is hereby established as an R-3 Multifamily Residential District, together with all rights and privileges that may insure to said real estate and the owners thereof by virtue of the law in such cases provided, subject to all limitations and restrictions imposed thereon by deed or otherwise."

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

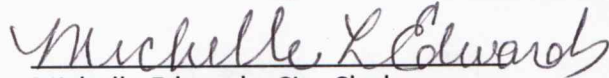
Presented by Council Member, Earl Elliott
Earl Elliott, Councilperson

Passed in open Council this 2nd day of November, 2023.

Curtis DeBaun
Curtis DeBaun IV, President

ATTEST:
Michelle Edwards
Michelle Edwards, City Clerk

Presented by me, to the Mayor of the City of Terre Haute, this 3rd day of November 2023.


Michelle Edwards, City Clerk


Approved by me, the Mayor of the City of Terre Haute, this 3rd day of NOVEMBER 2023.


Duke A. Bennett, 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.


Richard J. Shagley II

This instrument was prepared by Richard J. Shagley II, Attorney-at-Law, WRIGHT, SHAGLEY & LOWERY, P.C., 500 Ohio Street, P.O. Box 9849, 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 PLAN COMMISSION FOR VIGO COUNTY,
INDIANA:

LADIES AND GENTLEMAN:

The undersigned, Jacquelyn Tincher, Personal Representative of the Estate of Jack A. Pittman, respectfully submits this Petition to rezone the following described real estate in the City of Terre Haute, County of Vigo, Indiana, to wit:

Commencing at a point 2023.1 feet East of the North West corner of the North West Quarter of Section 36, Township 12 North, Range 9 West and running thence East 621.2 feet; thence South 980.2 feet; thence West 621.1 feet; thence North 984.5 feet to the place of beginning.

Parcel No.: 84-06-36-126-007.000-002
Commonly Known as 3919 Hulman Street, Terre Haute, IN 47803

Your Petitioner is informed and believes that in accordance with Chapter 10, Article 2 of the Municipal Code designated as "Comprehensive Zoning Ordinance for Terre Haute, Indiana," the above-described real estate is now zoned as R-1 Single Family Residence District.

Your Petitioner intends to sell the property to Jon Mutchner Homes who intends to build 102 town houses. Your Petitioner would request that the real estate described herein shall be zoned as an R-3 Multifamily Residential District.

Your Petitioner would allege that the Neighborhood Commerce District would not alter the general characteristics of this neighborhood since the neighborhood is primarily residential in nature.

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

WHEREFORE, your Petitioner respectfully requests that the Area Plan Commission for Vigo County and the Common Council of the City of Terre Haute, Indiana, favorably consider the passage of a Special Ordinance amending the Comprehensive Zoning Ordinance of the city of Terre Haute, Indiana, being Chapter 10, Article 2 of the Municipal Code designated as "Comprehensive Zoning Ordinance for Terre Haute, Indiana," and declaring the above-described real estate to be part of the R-3 Multifamily Residential District of the City of Terre

Haute, Indiana, and entitled to the rights and benefits that may accrue to the real estate and the owners thereof by virtue of the new designation subject to all limitations imposed by deed or otherwise.

IN WITNESS WHEREOF, This petition has been duly executed this 3 day of October, 2023.

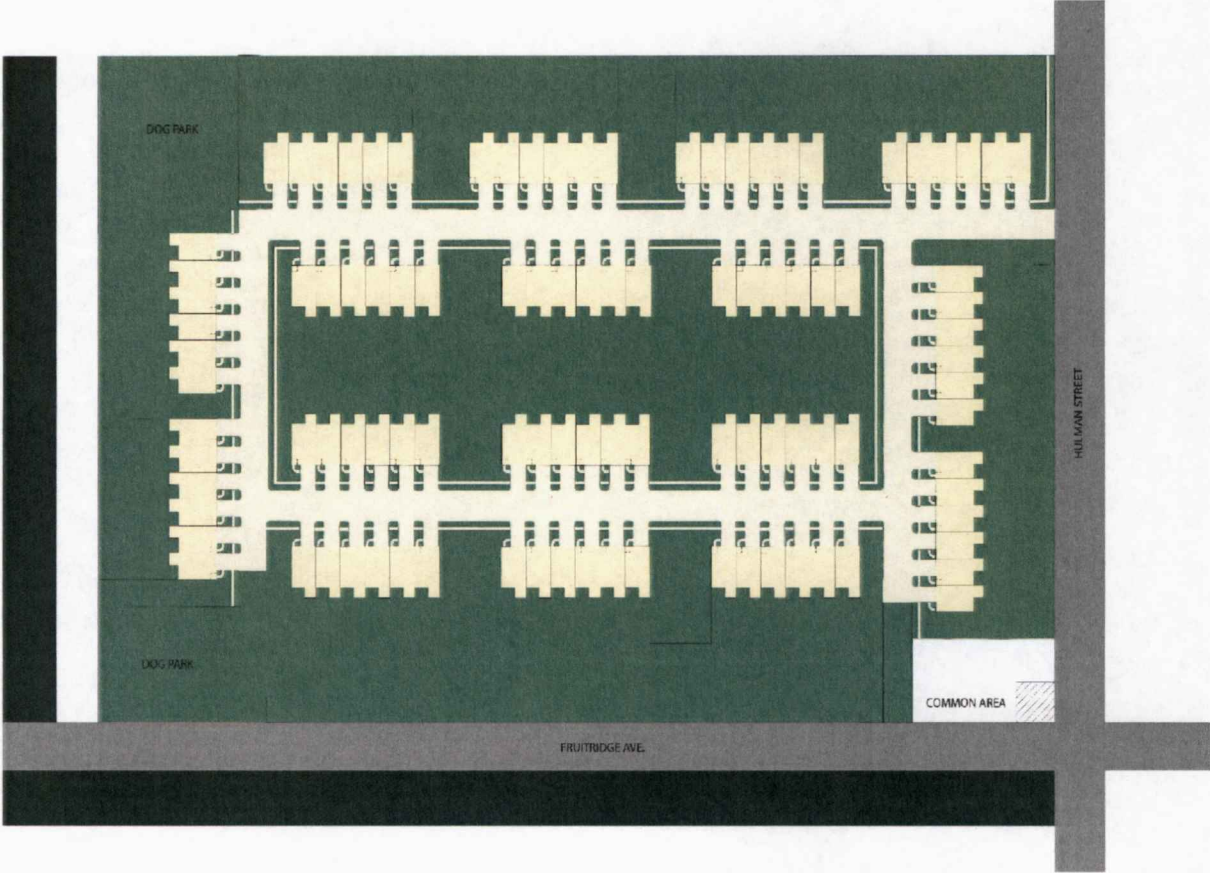
PETITIONER:

Estate of Jack A. Pittman, Deceased

By: Jacquelyn Tincher
Jacquelyn Tincher, Personal Representative

This instrument was prepared by Richard J. Shagley II, Attorney-at-Law, WRIGHT, SHAGLEY & LOWERY, P.C., 500 Ohio Street, P.O. Box 9849, Terre Haute, Indiana 47807.

SITE PLAN
SPECIAL ORDINANCE NO. 40, 2023



3919 Hulman Street, Terre Haute, Indiana 47803

Parcel No. 84-06-36-126-007.000-002

R-1 Single Family Residence District
to
R-3 Multifamily Residential District

Proposed Use: Townhomes

STATE OF INDIANA)
) SS:
COUNTY OF VIGO)

AFFIDAVIT

Comes now, Jacquelyn Tincher, as Personal Representative of the Estate of Jack A. Pittman admitted to probate under Cause No. 84D01-2303-ES-001630 in the Vigo County Superior Court Probate Division, being duly sworn upon her oath, deposes and says:

1. That Jack A. Pittman was the owner of record until his death on January 16, 2023, of the following described real estate located in the City of Terre Haute, County of Vigo, State of Indiana, to-wit:

Commencing at a point 2023.1 feet East of the North West corner of the North West Quarter of Section 36, Township 12 North, Range 9 West and running thence East 621.2 feet; thence South 980.2 feet; thence West 621.1 feet; thence North 984.5 feet to the place of beginning.

Parcel No.: 84-06-36-126-007.000-002
Commonly Known as 3919 Hulman Street, Terre Haute, IN 47803

2. That a copy of the Deed, recorded in the records of the Recorder's Office of Vigo County, Indiana, is attached hereto and made a part hereof and marked as Exhibit A.

3. That on March 17, 2023, Jacquelyn Tincher was appointed Personal Representative of the Estate of Jack A. Pittman, and a copy of said Order of Appointment and Letters of Administration are attached hereto as Exhibits B and C.

4. That Affiant makes this Affidavit for the purpose of affirming that Jack A. Pittman was the owner of record of the above-described real estate until his death on January 16, 2023; after the death of Jack A. Pittman said real estate became an asset of the Estate of Jack A. Pittman of which Affiant was appointed Personal Representative and has the authority to petition for the proposed change to the zoning map of the City of Terre Haute, Indiana and to induce the Common Council of the City of Terre Haute, Indiana, to accept the Petition to Rezone Real Property as filed by Jacquelyn Tincher, Personal Representative of the Jack A. Pittman Estate.

5. Further, Affiant saith not.



JKM Date 02/29/2000 Time 11:42:19
Mitchell Neuton 2P
Vigo County Recorder
Filing Fee: 15.00
I 200003044 D 445/1406

Subject to final acceptance for transfer

FEB 29 2000

WARRANTY DEED

THIS INDENTURE WITNESSETH:

Jan A. Smith
VIGO COUNTY AUDITOR

That J. WILLIAM KEPLER II and MARTHA JO KEPLER, husband and wife, of Vigo County, in the State of Indiana, CONVEY AND WARRANT to JACK A. PITTMAN, 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 valuable consideration, the receipt whereof is hereby acknowledged, the following described Real Estate in Vigo County in the State of Indiana, to-wit:

Commencing at a point 2023.1 feet East of the North West corner of the North West Quarter of Section 36, Township 12 North, Range 9 West and running thence East 621.2 feet; thence South 980.2 feet; thence West 621.1 feet; thence North 984.5 feet to the place of beginning.

Commonly known as 3919 Hulman Street, Terre Haute, Indiana.

Taxes prorated to date of deed.

Grantors, in giving this Warranty Deed, and Grantee, in accepting this Warranty Deed, each agree and represent that this deed is in full completion and satisfaction of that Land Contract dated September 21, 1995 and recorded October 16, 1995 in Misc. Record 2065, Page 1310, records of the Recorder of Vigo County, Indiana, wherein the undersigned Grantors, J. William Kepler and Martha Jo Kepler, are "Vendor," and the Grantee, Jack A. Pitman, is "Purchaser," and that all of the provisions and terms of said Land Contract have been fully performed or that such performance has been waived.

IN WITNESS WHEREOF, the said Grantors above named, J. William Kepler II and Martha Jo Kepler, have hereunto set their hands and seals, this 26th day of August, 1999.

J. William Kepler II
J. William Kepler II

Martha Jo Kepler
Martha Jo Kepler

1407

STATE OF INDIANA)
) SS:
COUNTY OF VIGO)

Before me, the undersigned, a Notary Public, in and for said County and State, this 26th day of August, 1999, personally appeared the within named J. William Kepler II and Martha Jo Kepler, husband and wife, Grantors in the above conveyance, and, being first duly sworn, stated that the representations contained herein are true and acknowledged the execution of the same to be their voluntary act and deed.

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

John A. Wyrick
Notary Public

My Commission Expires:
11/13/2001

My County of Residence:
Vigo

Mail to: Jack A. Pittman, 3919 Hulman Street, Terre Haute, Indiana 47803.

This instrument prepared by Richard J. Shagley, Wright, Shagley & Lowery, 500 Ohio Street, P.O. Box 844S, Terre Haute, IN 47808-844S.



Receipt of Payment

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

Date 10/4/23
Name Mutzner Development
Reason rezoning-notice of filing \$25-
rezoning-petition \$20/
\$45

Cash _____
Check 45-
Credit _____
Total 45-

Ck # 073857

Received By Gunn WPC

TERRE HAUTE, IN.
PAID
OCT - 4 2023
CONTROLLER



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: November 2, 2023

REPORT TO THE CITY COUNCIL ON ZONING MAP AMENDMENT

THE VIGO COUNTY AREA PLAN COMMISSION HEREBY GIVES CERTIFICATION TO
SPECIAL ORDINANCE NUMBER 40-23

CERTIFICATION DATE: November 1, 2023

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. 40-23. This Ordinance is a rezoning of 3919 Hulman Street, Terre Haute, IN. Parcel number 84-06-36-126-007.000-002. The Petitioner, Jack A. Pittman/Estate of Jack A. Pittman, petitions the Plan Commission to rezone said townhomes with a residential section from zoning classification R-1 to R-3 General Residence District.

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. 40-23 at a public meeting and hearing held Wednesday, November 1, 2023. Remonstrators were 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. 40-23 as required by IC 36-7-4-302. The Area Plan Commission of Vigo County now hereby attaches certification to Special Ordinance No. 40-23 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. 40-23 was FAVORABLE WITH THE FOLLOWING CONDITION: 1) Site plan approval with parking and stormwater drainage by the Department of Engineering.



Handwritten signature of Fred L. Wilson.

Fred L. Wilson, President

Handwritten signature of Fred Bayler.

Fred Bayler, Executive Director

Received this 2nd day of November, 2023

STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: SO #40-23

Doc: #90

Date: August 2023

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APPLICATION INFORMATION

Address: 3919 Hulman Street, Terre Haute, IN 47803

Current Zoning: R-1, Single Family Residence District

Proposed Zoning: R-3, General Residence District

Proposed Use: Townhomes

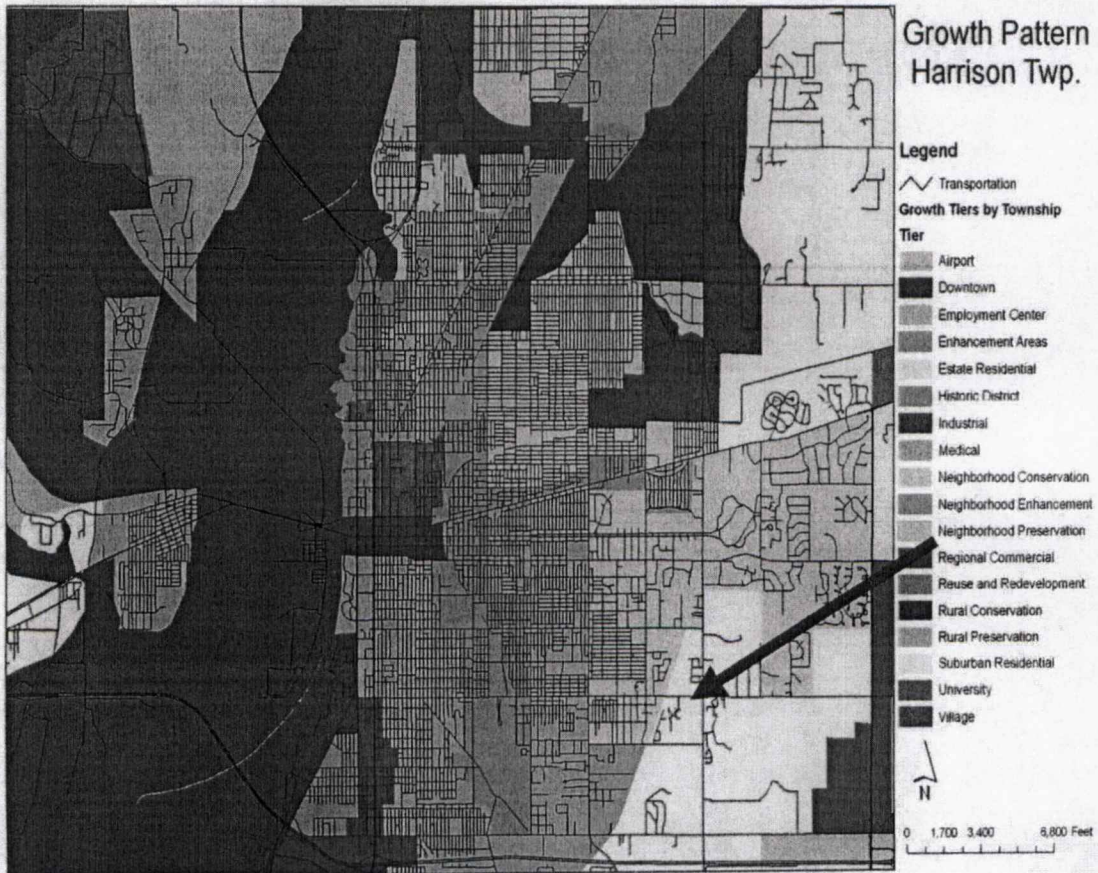
Property Owner: Jack A. Pittman/Estate of Jack A. Pittman

Representative: Richard J. Shagley II

Location: The Property is located on south west corner of Hulman St. & S. Fruitridge Ave. Parcel# 84-06-36-126-007.000-002

COMPREHENSIVE PLAN GUIDANCE

Service Area: The City of Terre Haute



Suburban Residential

These are largely undeveloped areas lying within the boundaries of existing and planned urban services. Current residential densities range from building on lots of ½ acre to 2 acres in size, this should be used as a minimum density. Over time, densities should be encouraged to increase moderately to allow average densities of three to three and one-half (3 to 3.5) households per acre. In the case of all residential densities, densities are stated as an average for the entire area in a given land use categories.

Promotion of monotonous suburban tract housing is not the intent of this growth pattern, although this may be an undesirable consequence. To avoid this outcome, careful consideration of alternative site development schemes should be undertaken by planning, engineering, development and real estate professionals for each new residential tract.

Increasing residential densities within this growth pattern offers four distinct advantages over typical low-density development.

- Optimization of the relationship between public infrastructure capacity and average development densities.
- Reduction in the need for infrastructure extensions and expansions, thereby saving public capital cost.
- Provides pedestrian scale residential neighborhoods, which will blend with existing Terre Haute neighborhoods that were developed at five to seven (5 to 7) units per acre and at the same time provide enhanced opportunities for non-motorized travel.
- Minimize land consumption and limits land disturbance.

Not every new subdivision will provide developed densities approaching four (4) units per acre. Yet, as cluster housing, patio homes, variations of zero-lot line housing and integrated neighborhoods of town houses, garden apartment, and single family dwelling units become more common and more fashionable, average densities will increase. Traditionally, allowable densities controlled mix and pattern of suburban residential development. Density, per se, is increasingly viewed by development professionals as only one of many variables that must be considered in making site development decisions. The infrastructure capacity relative to undeveloped areas and special environmental conditions of a specific development site, as well as, the site plan itself and its impact on surrounding property should primarily control the developed density. This should especially be the case as development moves beyond minimum residential densities. In all cases, density and the arrangement of uses on a developed site should be sensitive to surrounding development patterns, making land use transitions within the new development and utilizing natural features as transitions or buffers.

Policies for Suburban Residential areas should include:

- Houses on lots ranging from one-half to two acres depending on wastewater treatment needs.
- The extent of non-residential uses should be limited to parks, churches, and schools.

STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: SO #40-23

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- Residential subdivision lots should not have frontage on county roads, rather they should be required to build local level public streets to provide access from the county road to the lots.
- Medium range plans for expanding needed infrastructure should be developed, considering projected demand and funding.

Available Services: Area is well served by utilities.

Dev. Priority: Medium intensity residential

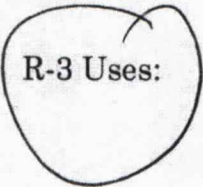
ZONING COMPATIBILITY

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

Character of Area: Homes with 3 to 5 dwellings per acre.

ZONING REGULATIONS

R-3 Purpose: The General Residence District



Any use permitted in the R-1 and R-2 Districts, Apartment Hotels. Colleges and universities, but not business colleges or trade schools, Fraternal, philanthropic and charitable use or institutions, provided that not more than twenty-five percent (25%) of the gross floor area or four thousand (4,000) square feet shall be used as office space. Hospitals, sanitariums, and convalescent homes, Institutions for the aged and for children, Lodging Houses and Tourist Homes, Nursery Schools, Boarding, Private Clubs or Lodges - not operated for profit, provided that not more than twenty percent (20%) of the gross floor area or two thousand (2,000) square feet, whichever is greater, shall be used as office space, Apartment House.

R-3 Standards: Minimum Lot Size: F.A.R. 0.7 or 70%

A minimum Floor Area 512 Sq. Ft., and a minimum Lot Area 1000 Sq. Ft.

Parking Requirements

1.5 parking spaces per 1 bedroom unit.

2.0 parking spaces per 2 bedroom unit.

3.0 parking spaces per 3 bedroom unit.

FINDINGS and RECOMMENDATION

Staff Findings:

The petitioner is requesting to rezone to R-3, General Residence District, for the construction of 102 townhomes by Jon Mutchner Homes. The property is approximately 14 acres.

The parcels surrounding this property are all zoned R-1. However, the Department of Engineering has stated that, “the rezoning of the property would not create any significant problems for the surrounding area”. There is a commercial business across Hulman, which is zoned R-1PD.

The site plan does not show setbacks, parking, or any other information other than the proposed layout of the intended townhomes. A site plan approval and stormwater drainage will need to be approved by the Department of Engineering.

Recommendation: The Department of Engineering offered a positive recommendation for the rezoning. Staff also offers a favorable recommendation with the following conditions:

1. Site plan approval with parking and stormwater drainage by the Department of Engineering.



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: October 19, 2023


RE: **Special Ordinance No. 40-2023**

As requested by Area Planning, the Department of Engineering has reviewed the request by Jack A. Pittman for the following:

- Rezoning of 14 acres at 3919 Hulman Street from R-1 Single Family Residence District to R-3 Multifamily Residential District.

The intended use of the property as townhomes would not alter the neighborhood's characteristic. The parcels surrounding this property are all zoned R-1. This rezoning of the property would not create any significant problems for the surrounding area.

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

 **Beacon**TM Vigo County, IN / City of Terre Haute

Docket #90 SO #40-23

3919 Hulman St

