

**SPECIAL ORDINANCE NO. 11, 2023**

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

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Common Address of lots to be rezoned:  
4355 E. Wabash Avenue, Terre Haute, IN 47803

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Rezoned From: C-6 Strip Business

Rezoned To: R-3 Multifamily Residential District

Proposed Use: Multifamily Housing Units

Name of Owners: DeBaun Funeral Homes, Inc.

Address of Owners: 88 E. Springhill Drive  
Terre Haute, IN 47802

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

**FILED**

APR 05 2023

**SPECIAL ORDINANCE FOR A REZONING  
SPECIAL ORDINANCE NO. 11, 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 ORDINATED 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:

A parcel of land in the North West quarter of Section 19, Township 12 North, Range 8 West, lying South of U.S. Highway 40, and more fully described as follows:

Beginning at the point of intersection of the south line of U.S. Highway 40 and the east line of Keane Lane (formerly known as Beecher Road), in the Northwest Quarter of Section 19, Township 12 North, Range 8 West, thence Northeasterly along the South line of said U.S. Highway 40, 187 feet; thence South parallel with said East line of Keane Lane 400 feet; thence Southwesterly parallel with said South line of U.S. Highway 40, 187 feet to the East line of said Keane Lane; thence North 400 feet to the place of beginning.

Subject to conditions and restrictions concerning heating plants, intoxicating liquors and intoxicating beverages, sewer systems, types of material used in construction and building set back lines contained in a deed from Louis H. Petzold and Gertrude Petzold and George Harvey Froderman and Mildred J. Froderman to Inez T. Hollis and Mary M. Hollis dated August 3, 1948 and recorded in Deed Record 258, Page 549 of the records of the Vigo County Recorder, as modified by a certain Agreement and release of restrictions recorded in the Miscellaneous Record 150, Page 91 of the records of the Vigo County Recorder.

Parcel No.:84-07-19-102-001.000.009

Commonly known as: 4355 E. Wabash Avenue, 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 \_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
Curtis DeBaun IV, President

ATTEST:

\_\_\_\_\_  
Michelle Edwards, City Clerk

Presented by me, to the Mayor of the City of Terre Haute, this \_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
Michelle Edwards, City Clerk

Approved by me, the Mayor of the City of Terre Haute, this \_\_\_\_ day of \_\_\_\_\_, 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  
Richard J. Shagley II

This instrument 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, DeBaun Funeral Homes, Inc., respectfully submit this Petition to rezone the following described real estate in the City of Terre Haute, County of Vigo, Indiana, to wit:

A parcel of land in the North West quarter of Section 19, Township 12 North, Range 8 West, lying South of U.S. Highway 40, and more fully described as follows:

Beginning at the point of intersection of the south line of U.S. Highway 40 and the east line of Keane Lane (formerly known as Beecher Road), in the Northwest Quarter of Section 19, Township 12 North, Range 8 West, thence Northeasterly along the South line of said U.S. Highway 40, 187 feet; thence South parallel with said East line of Keane Lane 400 feet; thence Southwesterly parallel with said South line of U.S. Highway 40, 187 feet to the East line of said Keane Lane; thence North 400 feet to the place of beginning.

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Parcel No.:84-07-19-102-001.000.009

Commonly known as: 4355 E. Wabash Avenue, 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 C-6 Strip Business.

Your Petitioner intends to sell this real estate to Jon Mutchner Homes for development of 32 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 in a mixed use neighborhood.

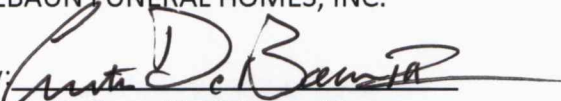
Your Petitioner would respectfully show the proposed change would not be detrimental to the public welfare or injurious to the property or improvements in the neighborhood.

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 24<sup>th</sup> day of March, 2023.

**PETITIONERS:**

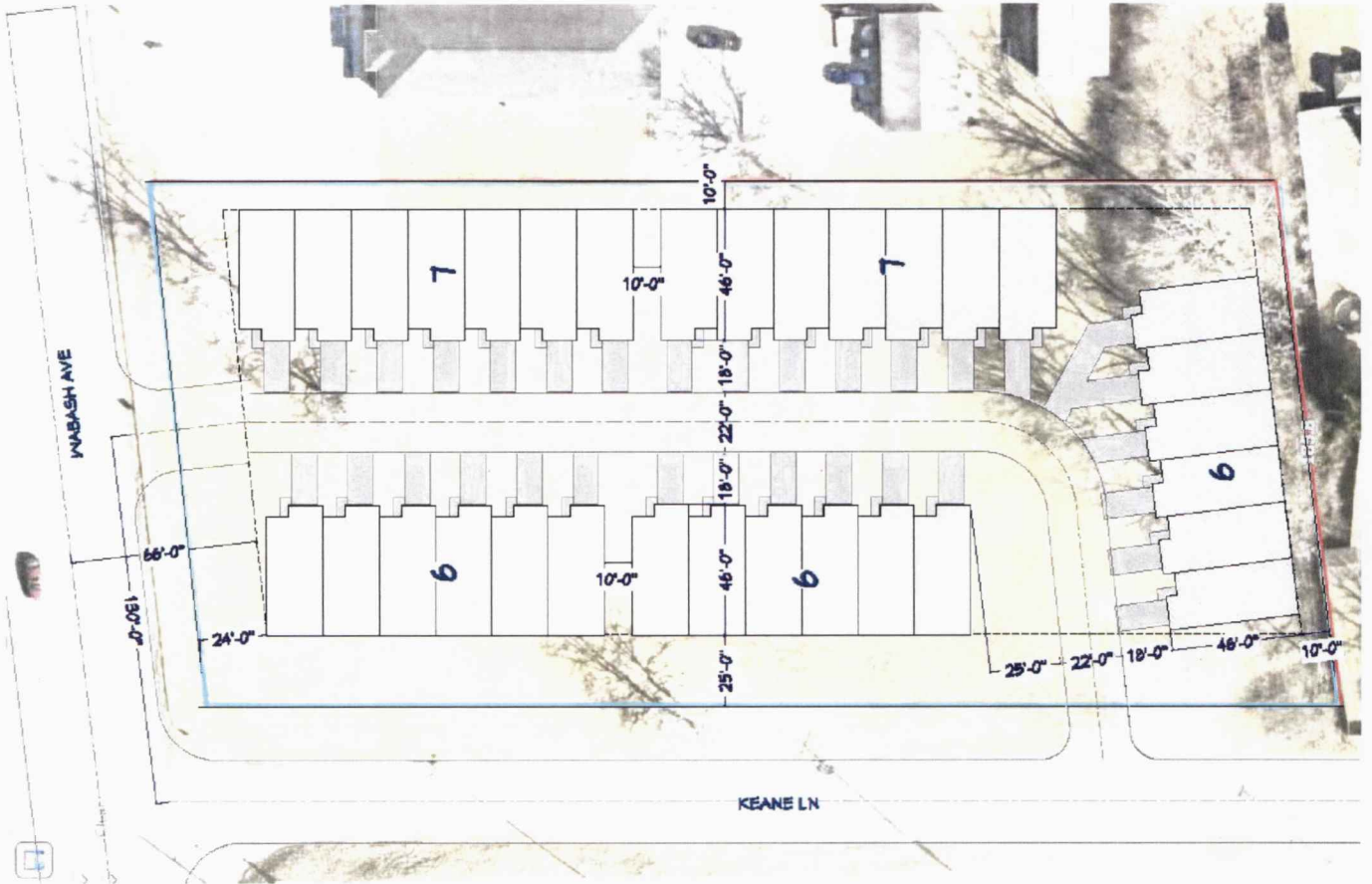
DEBAUN FUNERAL HOMES, INC.

By:   
Curtis DeBaun III, ~~Vice~~ President

This instrument 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. 11, 2023



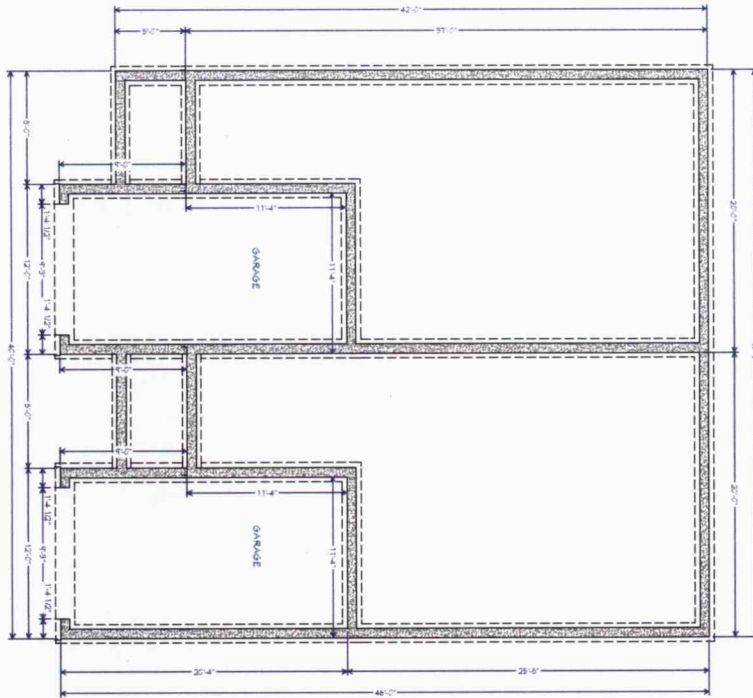
4355 East Wabash Avenue, Terre Haute, Indiana 47803

Parcel No. 84-07-19-102-001.000.009

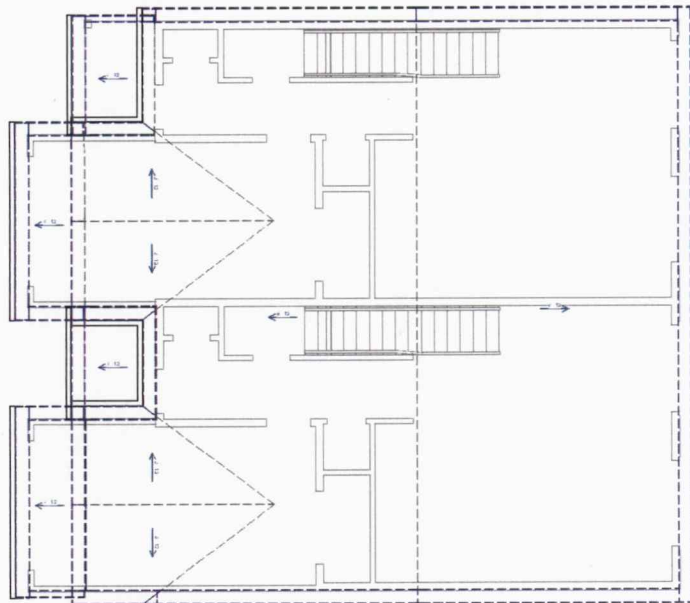
C-6 Strip Business to R-3 Multifamily Residential District

Proposed Use: Town Homes





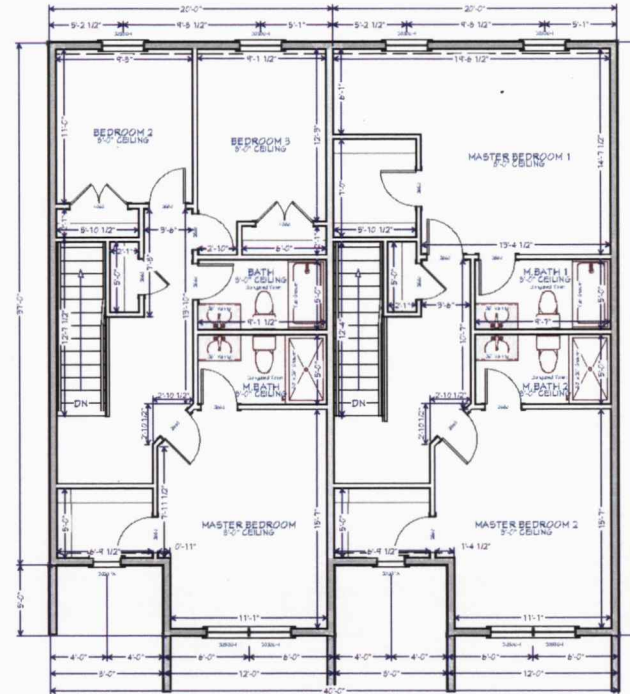
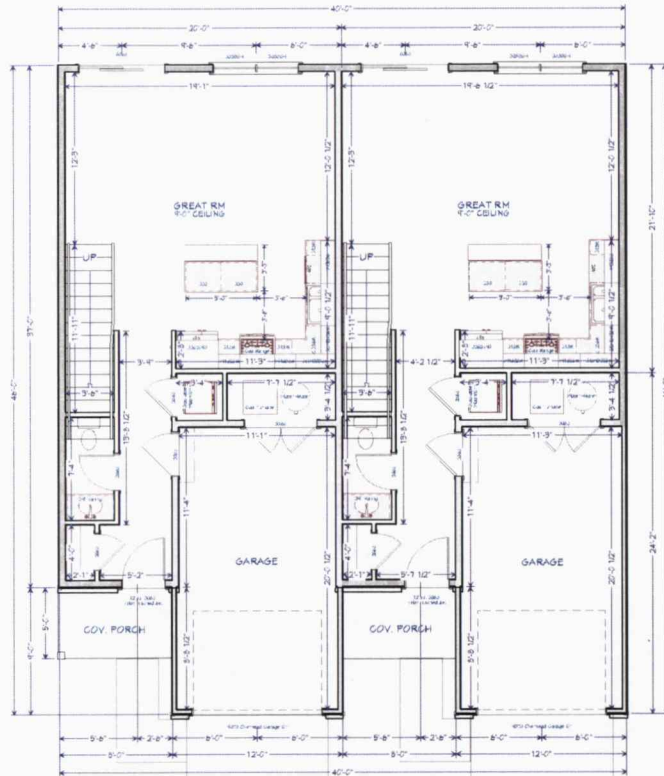
**Foundation Plan**  
Scale: 1/4" = 1'-0"



**Roof Plan**  
Scale: 1/4" = 1'-0"







**Square Footage:**

Main Floor: 612 sq.ft. each  
 Second Floor: 778 sq.ft. each  
 Garage: 240 sq.ft. each  
 Cov. Front Porch: 40 sq.ft.

**Notes:**

Main level ceilings to be 9'-0" unless noted.  
 Second level ceilings to be 8'-0".  
 Exterior walls to be 2x6, interior to be 2x4.  
 Door and window sizes noted within plans.

**Main Level Floor Plan**

Scale: 1/4" = 1'-0"

**Evolutionary Designs**  
 And Walkthroughs  
 812.240.7049  
 evolutionarydesigns@live.com



**Jon Matchner Homes**

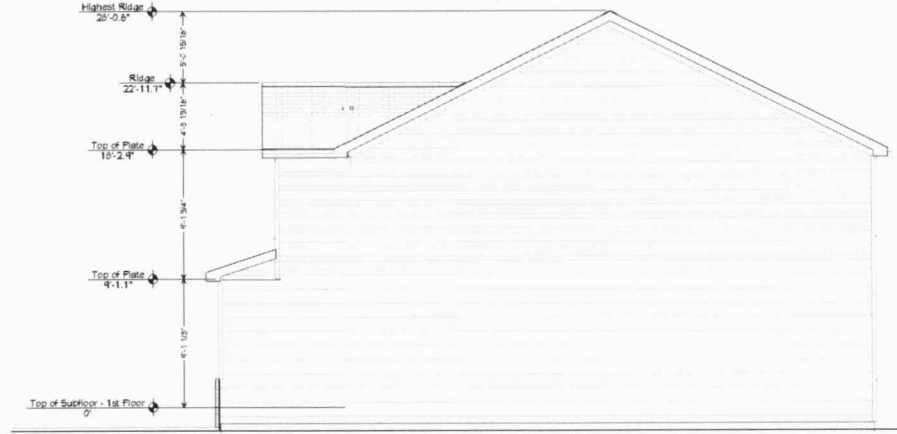
Drawn By: \_\_\_\_\_ Date: \_\_\_\_\_  
 Accepted By: \_\_\_\_\_ Date: \_\_\_\_\_

Project Number: \_\_\_\_\_  
 Matchner: mndf  
 Scale: S specified

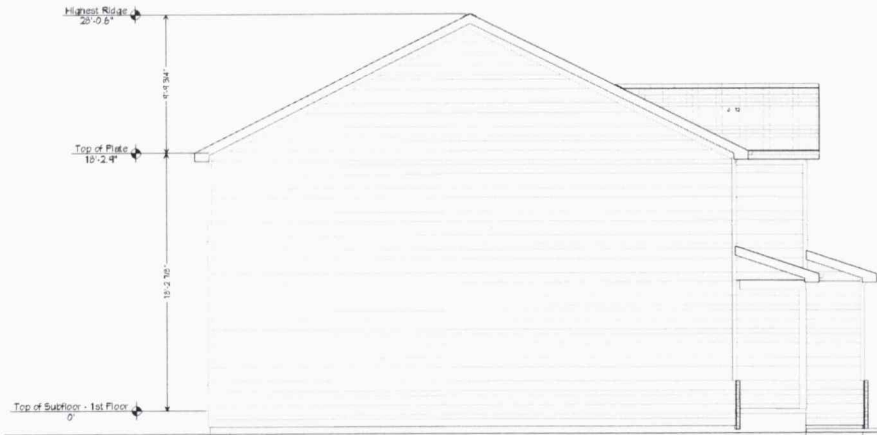
Page #  
**4**  
 Main Level Floor Plan



**Front Elevation**  
Scale: 1/4" = 1'-0"



**Side Elevation**  
Scale: 1/4" = 1'-0"



**Side Elevation**  
Scale: 1/4" = 1'-0"



**Rear Elevation**  
Scale: 1/4" = 1'-0"



**Evolutionary Designs**  
And Walkthroughs  
812.240.7049  
evolutionarydesigns@live.com

**Jon Mutchner Homes**

Drawn By: \_\_\_\_\_ Date: \_\_\_\_\_  
Accepted By: \_\_\_\_\_ Date: \_\_\_\_\_

Project Number: Mutchner:multi  
Scale: Specified

STATE OF INDIANA )

) SS:

COUNTY OF VIGO )

**AFFIDAVIT**

Comes now, Curtis DeBaun III, Vice President of DeBaun Funeral Homes, Inc., being duly sworn upon his oath, deposes and says:

1. That DeBaun Funeral Homes, Inc. is the owner of record of the following described real estate located in the City of Terre Haute, County of Vigo, State of Indiana, to-wit:

A parcel of land in the North West quarter of Section 19, Township 12 North, Range 8 West, lying South of U.S. Highway 40, and more fully described as follows:

Beginning at the point of intersection of the south line of U.S. Highway 40 and the east line of Keane Lane (formerly known as Beecher Road), in the Northwest Quarter of Section 19, Township 12 North, Range 8 West, thence Northeasterly along the South line of said U.S. Highway 40, 187 feet; thence South parallel with said East line of Keane Lane 400 feet; thence Southwesterly parallel with said South line of U.S. Highway 40, 187 feet to the East line of said Keane Lane; thence North 400 feet to the place of beginning.

Subject to conditions and restrictions concerning heating plants, intoxicating liquors and intoxicating beverages, sewer systems, types of material used in construction and building set back lines contained in a deed from Louis H. Petzold and Gertrude Petzold and George Harvey Froderman and Mildred J. Froderman to Inez T. Hollis and Mary M. Hollis dated August 3, 1948 and recorded in Deed Record 258, Page 549 of the records of the Vigo County Recorder, as modified by a certain Agreement and release of restrictions

recorded in the Miscellaneous Record 150, Page 91 of the records of the Vigo County Recorder.

Commonly known as: 4355 E. Wabash Avenue, Terre Haute, Indiana 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 Affiants make this Affidavit for the sole purpose of affirming that DeBaun Funeral Homes, 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, has been filed and to induce the Common Council of the City of Terre Haute, Indiana, to accept the Petition to Rezone Real Property as filed by DeBaun Funeral Homes, Inc.

4. Further, Affiant saith not.

Dated at Terre Haute, Indiana this 24<sup>th</sup> day of March, 2023.

DEBAUN FUNERAL HOMES, INC.

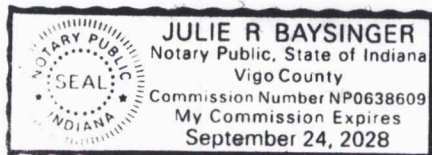
By: Curtis DeBaun III  
Curtis DeBaun III, ~~Vice~~ President

STATE OF INDIANA )

) SS:

COUNTY OF VIGO )

SUBSCRIBED AND SWORN TO before me, a Notary Public in and for said County and State, this 24<sup>th</sup> day of March, 2023.



Julie R. Baysinger  
Julie R. Baysinger Notary Public

My Commission expires: 9-24-2028

My County of Residence: Vermillion

This instrument 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.

EXHIBIT A

96 11622

002866

DAILY ENTERED  
FOR TAXATION  
Duly entered for taxation  
day of  
19 JUL 29 1996

Received for record this  
day of  
19, at o'clock  
M. and recorded in  
Book No. 411 Page 286

Auditor Paul D. Ennen  
Vigo County

Recorder \_\_\_\_\_ County

WARRANTY DEED

THIS INDENTURE WITNESSETH that PAUL D. ENNEN, a competent adult, ("Grantor"), CONVEYS AND WARRANTS to DEBAUN FUNERAL HOMES, INC., an Indiana corporation, ("Grantee"), for the sum of One Dollar (\$1.00) and other valuable consideration, the receipt of which is hereby acknowledged, the following described Real Estate in Vigo County, in the State of Indiana, to-wit:

A parcel of land in the North West quarter of Section 19, Township 12 North, Range 8 West, lying South of U.S. Highway 40, and more fully described as follows:

Beginning at the point of intersection of the south line of U. S. Highway 40 and the east line of Keane Lane (formerly known as Beecher Road), in the Northwest Quarter of Section 19, Township 12 North, Range 8 West, thence Northeasterly along the South line of said U. S. Highway 40, 187 feet; thence South parallel with said East line of Keane Lane 400 feet; thence Southwesterly parallel with said South line of U. S. Highway 40, 187 feet to the East line of said Keane Lane; thence North 400 feet to the place of beginning.

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Subject to the real estate taxes prorated to the date of closing.

IN WITNESS WHEREOF, Grantor has executed this deed this 25th day of July, 1996.

Paul D. Ennen



Receipt of Payment

TERRE HAUTE, IN.  
PAID  
APR 05 2023  
CONTROLLER

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

Date 04-05-2023  
Name Mutchner Homes

Reason  
Rezoning - Notice of filing \$25<sup>00</sup>  
Rezoning - Petition \$20<sup>00</sup>

\$45<sup>00</sup>

Cash \_\_\_\_\_  
Check \$45<sup>00</sup> Ck # 73413

Credit \_\_\_\_\_

Total \$45<sup>00</sup>

Received By Dawn Price