

**APPLICATION FOR RE-ZONING PETITION - CITY OF TERRE
HAUTE**

SPECIAL ORDINANCE # 53, 2012

Common address of lots to be re-zoned: 2805 South 4th Street

Current Zoning: R-1, special use for an automobile parking lot

Requested Zoning: C-6 Strip Business District

Proposed use: Commercial sale, being rezoned to match the zoning of the real estate to the west, north, south and northeast. This contiguous zoning would allow for a broader range of development of this currently vacant lot consistent with the surrounding real estate.

Name of owner: Fontanet Leasing Corporation

Address of owner: 320 Haythorne Avenue
Terre Haute, Indiana 47805

Phone number of owner: 812-466-1233

Attorney representing owner: Jeffry A. Lind

Address of attorney: Lind Law Firm
400 Ohio Street
Terre Haute, Indiana 47807

Phone number of attorney: 812-234-5463

For information contact: Attorney

Council Sponsor: Don Morris

Map



Parcel ID	84-06-33-459-005.000-002	Alternate ID	118-06-33-459-005	Owner Address	FONTANET LEASING CORPORATION
Sec/Twp/Rng	n/a	Class	Com Parking lot or structure		
Property Address	2811 S 4TH ST TERRE HAUTE	Acreage	n/a		P O BOX 478 TERRE HAUTE, IN 47808

District	002 HARRISON
Brief Tax Description	WARREN PLACE ALSO 1/2 VAC ALLEY ADJ (2828 SO THIRD) 2003036706 200312664 33-12-9 LOTS 225-226 (Note: Not to be used on legal documents)

Last Data Upload: 11/13/2012 2:44:28 AM

FILED

NOV 18 2012

SPECIAL ORDINANCE # 53, 2012

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 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:

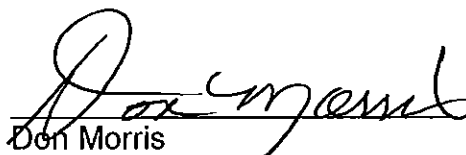
Lot Number 225 and 226 in Warren Place, an Addition to the City of Terre Haute, Indiana, being a subdivision of the South ½ of South East ¼ of Section 33, Township 12 North, Range 9 West, excepting the right of ways of the Southern Indiana Railroad, as shown by the recorded plat thereof in Plat Record 10, Page 22, of the records of the Recorder's Office of Vigo County, Indiana.

Commonly known as 2805 South 4th Street, Terre Haute, IN.

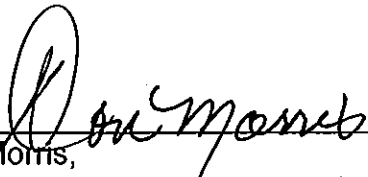
be and the same is hereby established C-6 Strip Business District, as designated in Division 10 Section 207 of said Comprehensive Zoning Ordinance for Terre Haute and the same is hereby declared to be a C-6 Strip Business District authorizing the use of said real estate for the operation of business and professional offices 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, 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:


Don Morris

Passed in open Council this 13th day of December, 2012.

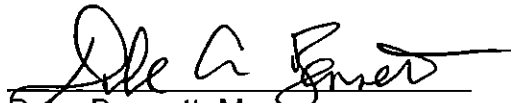

Don Morris,
Terre Haute City Council President

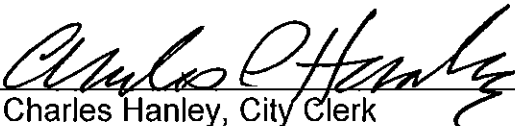
Attest: 
Charles Hanley, City Clerk

Presented to me to the Mayor this 14th day of December, 2012.


Charles Hanley, City Clerk

Approved by me, the Mayor, this 14th day of DECEMBER, 2012.


Duke Bennett, Mayor
City of Terre Haute

Attest: 
Charles Hanley, 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.


Jeffrey A. Lind

Prepared by: Jeffrey A. Lind, Attorney, 400 Ohio Street, Terre Haute, Indiana 47807

PETITION FOR RE-ZONING OF REAL ESTATE

To the President and Members
of the Common Council of
the City of Terre Haute,
Vigo County, Indiana

Ladies and Gentlemen:

Fontanet Leasing Corporation, petitioner, is the owner of the following described real estate located in Vigo County, Indiana, to-wit:

Lot Number 225 and 226 in Warren Place, an Addition to the City of Terre Haute, Indiana, being a subdivision of the South ½ of South East ¼ of Section 33, Township 12 North, Range 9 West, excepting the right of ways of the Southern Indiana Railroad, as shown by the recorded plat thereof in Plat Record 10, Page 22, of the records of the Recorder's Office of Vigo County, Indiana.

Commonly known as 2805 South 4th Street, Terre Haute, Indiana.

The owners propose to use the property for commercial sale, being rezoned to match the zoning of the real estate to the west, north, south and northeast. This contiguous zoning would allow for a broader range of development of this currently vacant lot consistent with the surrounding real estate. A drawing of this lot and surrounding lots is attached.

Petitioner is informed and believes that according to Chapter 10, Article 2 of the "Comprehensive Zoning Ordinance for Terre Haute", and amendments thereto, the above described real estate is currently zoned R-1, special use for an automobile parking lot.

The current use of the property is now a parking lot. The Petitioner, or its successor in interest, intends to use the property consistent with the uses allowed in a C-6 zoning district.

C-6 zoning would not alter the general characteristics of this neighborhood.

Your petitioner would request that the real estate described herein shall be zoned as a C-6 Strip Business District. Your petitioner would allege that the rezoning to C-6 Strip Business District would not alter the general characteristics of this neighborhood.

Petitioner submits that this petition for a re-zoning should be granted for the following reasons:

1. The business proposed to be located on said real estate will be beneficial to the local community, will generate employment for citizens of the community, will increase the assessed valuation of the area, and will

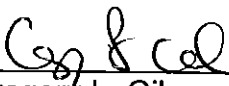
provide important services for members of the community.

2. The real estate is located at the southwest corner of Helen and 4th Street and all of the real estate to the west, south, north and northeast is presently zoned C-6.
3. Rezoning this lot to C-6 Strip Business District will not significantly increase traffic or parking in the area (more than sufficient parking is provided on-site), 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.
4. Said re-zoning will not increase the danger of fire or endanger the public safety or substantially diminish or impair property values within the general area.

Wherefore, petitioner respectfully requests 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 for Terre Haute, being Chapter 10, Article 2 of the Comprehensive Zoning Ordinance for the City of Terre Haute and declare the above-described real estate to be a part of "C-6 Strip Business District" 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 petitioners, Fontanet Leasing Corporation, have duly executed this instrument this 13th day of November, 2012.

Petitioner:
Fontanet Leasing Corporation

By 
Gregory L. Gibson, President

This instrument prepared by: Jeffry A. Lind, Attorney at Law, 400 Ohio Street, Terre Haute, Indiana 47807

APR 28 2003

LAE Date 04/28/2003 Time 14:45:49
Mitchell Newton 2P
Vigo County Recorder
Filing Fee: 16.00
I 200312584 Page 1 of 2


VIGO COUNTY AUDITOR

WARRANTY DEED

THIS INDENTURE WITNESSETH, That **Smith Enterprises, LLC** ("Grantor"), an Indiana Limited Liability Company organized and existing under the laws of the State of Indiana, CONVEYS AND WARRANTS to **Fontanet Leasing Corporation** ("Grantee"), an Indiana corporation, 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:

Tract 1:

Lot Numbers 225 and 226 in Warren Place, an Addition to the City of Terre Haute, Indiana, being a subdivision of the South $\frac{1}{2}$ of the South East $\frac{1}{4}$ of Section 33, Township 12 North, Range 9 West, excepting the right of ways of the Southern Indiana Railroad, as shown by the recorded plat thereof in Plat Record 10, Page 22, of the Records of the Recorder's Office of Vigo County, Indiana.

ALSO

Tract 2:

Lot Numbers 271, 272, 273 and 274 in Warren Place, an Addition to the City of Terre Haute, Indiana, being a Subdivision of the South $\frac{1}{2}$ of the South East $\frac{1}{4}$ of Section 33, Township 12 North, Range 9 West, excepting the right of ways of the Southern Indiana Railroad and the Terre Haute and Southeastern Railroad, as shown by the recorded plat thereof in Plat Record 10, Page 22, of the records of the Recorder's Office of Vigo County, Indiana.

TOGETHER WITH all improvements thereon and appurtenances thereto.

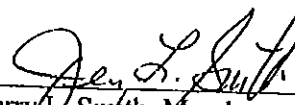
SUBJECT to a Lease between Smith Enterprises, LLC, an Indiana Limited Liability Company, as Lessor, and Armando Ortiz, Ruben Placencia and Luis Ortiz, jointly and severally, as Lessee, dated June 14, 1999.

SUBJECT to real property taxes.

The undersigned person executing this Warranty Deed on behalf of the said Grantor represents and certifies that he is a Member of said limited liability company and has been fully empowered, by proper resolution of the Members of Smith Enterprises, LLC to execute and deliver this deed; that the Grantor has full capacity to convey the real estate described herein, and that all necessary action for the making of such conveyance has been taken and done.

IN WITNESS WHEREOF, the said Smith Enterprises, LLC has caused this Warranty Deed to be executed this 24 day of April, 2003.

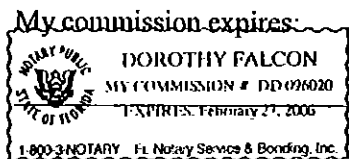
SMITH ENTERPRISES, LLC

By: 
Jerry L. Smith, Member and President

STATE OF _____)
) SS:
COUNTY OF _____)

BEFORE ME, a Notary Public in and for and a resident of said County and State, personally appeared Jerry L. Smith, Member and President of Smith Enterprises, LLC, an Indiana Limited Liability Company, organized and existing under the laws of the State of Indiana, and acknowledged the execution of the foregoing Warranty Deed for and on behalf of said limited liability company, and who, having been duly sworn, stated that the representations therein contained are true.

WITNESS my hand and Notarial Seal this 24 day of April, 2003.



Dorothy Falcon
Notary Public

Printed: Dorothy Falcon
Resident of _____ County, Indiana

THIS INSTRUMENT PREPARED BY:
Jeffrey A. Lewellyn, Attorney
333 Ohio Street, P.O. Box 800
Terre Haute, IN 47808

MAIL TAX DUPLICATES TO:
FONTANET LEASING CORPORATION
c/o GREG GIBSON
P.O. Box 478, TERRE HAUTE, IN 47808

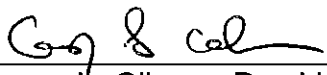
AFFIDAVIT OF Ownership by Fontanet Leasing Corporation

COMES NOW affiant Gregory L. Gibson, as President of Fontanet Leasing Corporation

and affirms under penalty of law that affiant is the owner of record of the property located at 2805 South 4t Street, Terre Haute, IN for which a rezoning is requested and hereto a copy of the deed is attached evidencing such ownership.

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

Fontanet Leasing Corporation

By 
Gregory L. Gibson, President

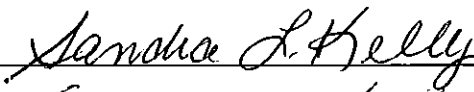
STATE OF INDIANA)
SS: (COUNTY OF VIGO)

Personally appeared before me, a Notary Public in and for

said County and State, Gregory L. Gibson, as President of Fontanet Leasing Corporation who acknowledges the execution of the above and foregoing, after being duly sworn upon his oath and after having read this Affidavit.

WITNESS my hand and notarial seal, this 13th day of November, 2012.

Notary Public:


Sandra L. Kelly
Printed name



My Commission Expires: 9/20/2020

My County Of Residence: Vigo



Receipt

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

Date: 11/13/12

Name: Deird Attorney

Reason: Reasoning filing \$25.00
Reasoning Petition \$20.00

TERRE HAUTE, IN
PAID

NOV 15 2012

Cash: _____

Check: \$45.00 CK# 1966

Credit: _____

Total: \$45.00

CONTROLLER

Received By: M. Douce/RS

Map



Parcel ID 84-06-33-459-005.000-002

Alternate ID 118-06-33-459-005

Owner Address FONTANET LEASING CORPORATION

Sec/Twp/Rng n/a

Class Com Parking lot or structure

P O BOX 478
TERRE HAUTE, IN 47808Property Address 2811 S 4TH ST
TERRE HAUTE

Acreage n/a

District 002 HARRISON

Brief Tax Description WARREN PLACE ALSO 1/2 VAC ALLEY AD) (2828 SO THIRD)
2003036706 200312664 33-12-9 LOTS 225-226

(Note: Not to be used on legal documents)

Last Data Upload: 11/13/2012 2:44:28 AM



Area Planning Department For Vigo County

159 Oak Street, Terre Haute, Indiana 47807

Telephone: (812) 462-3354

Fax: (812) 234-3248

Terre Haute • West Terre Haute • Riley • Seelyville

DATE: December 6, 2012

REPORT TO THE CITY COUNCIL ON ZONING MAP AMENDMENT

THE VIGO COUNTY AREA PLAN COMMISSION HEREBY GIVES CERTIFICATION TO
SPECIAL ORDINANCE NUMBER #53-12

CERTIFICATION DATE: December 5, 2012


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

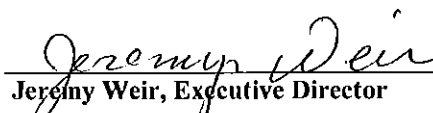
Dear Members,

The Vigo County Area Plan Commission offers you the following report and certification on Special Ordinance No. 53-12. This Ordinance is a rezoning of the property located at 2805 South 4th Street. The Petitioner, Fontanet Leasing Corporation, Petitions the Plan Commission to rezone said real estate from zoning classification R-1, Special Use to C-6, Strip Business District, for commercial sales. 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. 53-12 at a public meeting and hearing held Wednesday, December 5, 2012. 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. 53-12 as required by IC 36-7-4-302. The Area Plan Commission of Vigo County now hereby attaches certification to Special Ordinance No. 53-12 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. 53-12, was FAVORABLE.


Fred L. Wilson, President


Jeremy Weir, Executive Director

Received this 6th day of December, 2012

STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: SO #53-12

Doc: # 67

Date: December 5th 2012

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APPLICATION INFORMATION

Petitioner: Fontanet Leasing Corporation

Property Owner: Same-As-Above

Representative: Jeffry A. Lind

Proposed Use: Commercial Sales

Proposed Zoning: C-6, Strip Business Zone

Current Zoning: R-1, Single Family Residence District Special Use. The Special Use is to allow a commercial parking lot in a Residential District.

Location: The property is located on the southwest corner of south 4th street and Helen Avenue.

Common Address: 2805 South 4th Street Terre Haute, Indiana 47802

no opp.
Fruden / En-i
unanim.

COMPREHENSIVE PLAN GUIDANCE

Service Area: The City of Terre Haute

Guiding Policies: Regional Commercial



- Spatial containment of commercial activities to existing commercially zoned sites; maintain and reinforce the drawing power of major retail centers including anchor department and discount stores.
- Reduce future traffic congestion and more closely tie existing retail centers with transit operations; expand the opportunities for pedestrian linkage between and among major existing activity centers.

STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: SO #53-12

Doc: # 67

Date: December 5th 2012

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- Increase the Identity of the district as a whole, with improved coordination in urban design elements including directional signage, common landscape elements such as lighting or street furniture; develop a common approach to business signage.
- Encourage reinvestment in and continual upgrading of existing retail space; encourage the intensification of activities for retail comparative shopping purposes. Ancillary activities such as fast-food restaurants or quick stop establishments do not add to the regional character of activity centers. Emphasis should increasingly be upon multiple-trip purpose activities with regional significance.
- Ensure that future retail commercial development in the area does not detract from the viability of residential Neighborhoods in the vicinity.

Available Services: Area is well served by utilities.

Soil Limitations: Not studied.

Street Access: South 3rd Street/U.S. Hwy 41 is a Primary Arterial Roadway

Dev. Priority: Capital investment is a high priority

ZONING COMPATIBILITY

Sur. Zones and Uses: **North** – C-6, Strip Business District

C-2, Community Commerce District

C-3 Regional Commerce District

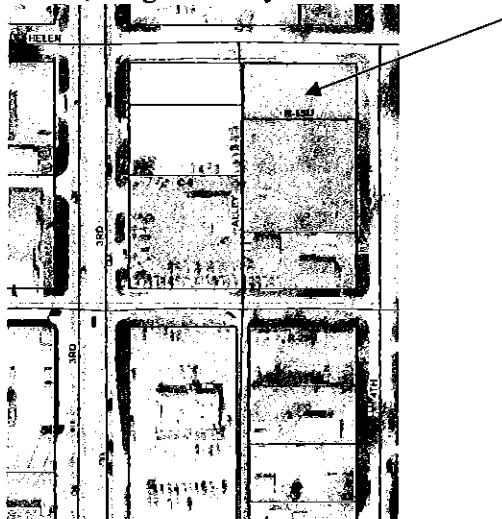
East – R-1, Single Family Residential

South – C-6, Strip Business Zone

West – C-2, Community Commerce District

C-6, Strip Business Zone

R-1, Single Family Residential



STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: SO #53-12

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Date: December 5th 2012

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Character of Area: Commercial uses fronting on south 3rd Street in the C-6, Strip Business Zone are on lots with a depth of 140 +/- ft. The district boundary lines are defined by the alley to the west (running parallel with Harding Avenue) and the alley to the east (running parallel with South 4th Street): South 3rd Street runs down the center of the district. Commercial use and zoning have expanded outside of the original district boundary as commercial uses needed additional ground to meet the customer demands.

Contig. Uses & Zones: The contiguous zoning is C-6, Strip Business; with uses that consist of conforming and non-conforming residential and commercial uses.

ZONING REGULATIONS

C-6 Purpose: The Strip Business Zone is a business use created primarily for transient's needs, but with some subjugated business uses serving neighborhood needs. It shall therefore be located only along major streets or expressways of the planning area and in addition shall be limited to Federal or state primary highways in densely developed areas only and not along "Limited" or "Controlled" access highways.

C-6 Uses: Uses permitted in C-6, Strip Business District are; Same as for C-1 Zone as provided in Sec. 10-207 c. (1); Banks, Barber shops; Camera and photographic supply stores; Candy and ice cream stores; Drug stores; Dry cleaning stores; Gift shops; Grocery stores, meat markets, bakeries, delicatessens, and food stores; Ice storage for retail; Municipal or privately owned recreation buildings or community centers; Post offices; 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); Service stations; Soda fountains; Sporting goods stores; Tobacco shops; Motel and as accessory uses: dining facilities with or without a bar serving alcoholic beverages, or swimming pool; Automobile sales and service (major and minor repairs); Signs as regulated by Sec. 10-141; Landscape, nurseries, garden supply, and seed stores; Business and professional offices.

C-6 Standards: Minimum Lot Size: 3,300 Sq. Ft.
FAR 0.5 %
Street Setback: 55 feet from centerline;
Rear setback 11';
Interior setback of 5' from the interior lot line;
Parking standard: Office, Business and Professional

STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: SO #53-12

Doc: # 67

Date: December 5th 2012

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Six (6) parking spaces per one thousand (1,000) square feet of gross floor area

Park lots for more than ten (10) cars will need visual buffering from adjacent residential properties

FINDINGS and RECOMMENDATION

Staff Findings: The proposed site is suitable for the expansion of the C-6, Strip Business District. The petitioned property is one of several parcels that will be included in a new commercial development at the intersection of South 3rd Street and Wheeler Avenue.

Park lots for more than ten (10) cars will need visual buffering from adjacent residential properties

Recommendation: Favorable Recommendation.

