

FILED

DEC 02 2016

APPLICATION FOR REZONING PETITION
CITY OF TERRE HAUTE

CITY CLERK

SPECIAL ORDINANCE NO.45-2016

COMMON ADDRESS OF LOTS TO BE REZONED:

See attached List of lot addresses.

REZONE FROM:

C-2 Limited Community Commerce;
C-3 Regional Commerce;
C-6 Strip Business; and
R-2 Two Family Residence Districts.

REZONE TO:

Planned Unit Development District (PUD)

PROPOSED USE:

Student Living Development

PROPERTY OWNER:

Union Hospital, Inc., et. al.
(see List of Current Property Owners)

ADDRESS OF OWNER:

1606 N. 7th St.
Terre Haute, IN 47804

PHONE NO. OF OWNER:

812-238-7000

ATTORNEY REPRESENTING OWNER and PURCHASER:

Jeffrey A. Lewellyn
Attorney at Law, #15216-34

ADDRESS OF ATTORNEY:


Wilkinson, Goeller, Modesitt,
Wilkinson & Drummy, LLP
333 Ohio St.,
Terre Haute, IN 47807

PHONE NO. OF ATTORNEY:

(812) 232-4311

FOR INFORMATION CONTACT: Attorney, Jeffrey A. Lewellyn
(812) 232-4311

COUNCIL SPONSOR:


Curtis DeBaun IV, Councilman

Copy of Site Plan Must Accompany This Application.

List of Current Property Owners and Addresses for Rezone:

1. Aaron Hoover;
2. Turnis, Inc.;
3. Darla Sue Coleman;
4. Shri Sai Krupa;
5. William Tarrh; and
6. Union Hospital.

FILED

FEB 03 2017

CITY CLERK

SPECIAL ORDINANCE FOR A REZONING
SPECIAL ORDINANCE NO. 45 - 2016
COMMON COUNCIL OF THE CITY OF TERRE HAUTE, STATE OF INDIANA
AS AMENDED

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

SECTION I. BE IT ORDAINED by the Common Council of the City of Terre Haute, Indiana, That Chapter 10, Article 2 of the City Code of Terre Haute, designated as "Comprehensive Zoning Ordinance for Terre Haute, Indiana" and Division 4, Section 10.121 thereof, District Maps, be, and the same is hereby amended to include as follows:

"That the following described real estate situated in the City of Terre Haute, County of Vigo, State of Indiana, to wit:

See Exhibit A attached hereto and incorporated herein.

Subject to covenants, conditions, restrictions, easements, rights-of-way and other matters of record affecting title.

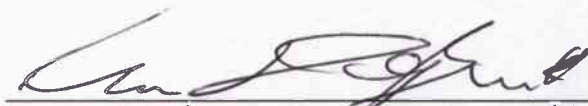
Commonly known as:

See Exhibit B attached hereto and incorporated herein.

be and the same is, hereby established as a **Planned Unit Development District (PUD)**, together with all rights and privileges that may inure to said real estate and 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.

Introduced by Council Member:


Curtis DeBaun IV, Councilman

Passed in Open Council this 9 day of February, 2017.


_____, President
Common Council of
City of Terre Haute, Indiana

ATTEST:



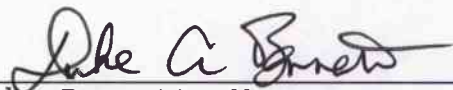
Charles P. Hanley, City Clerk

Presented by me to the Mayor of the City of Terre Haute this 10
day of February, 2017.



Charles P. Hanley, City Clerk

Approved by me, the Mayor of the City of Terre Haute, this 10th
day of FEBRUARY, 2017.



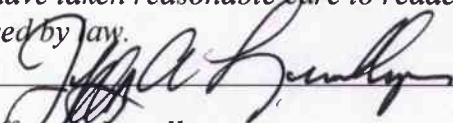
Duke Bennett, Mayor,
City of Terre Haute, Indiana

ATTEST:



Charles P. 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. Lewellyn

This instrument prepared by: Jeffrey A. Lewellyn, Attorney,
333 Ohio Street, Terre Haute, IN 47807.

EXHIBIT A
(Legal Description)

Lots 55-70 and 87-102 and 110-118 in Early Grove Place
Subdivision, the same being a subdivision of lots 27-28-33-34-39
and 40 of Section 16-12-9, Terre Haute, Indiana.

EXHIBIT B
(Common addresses)

<u>Common Address:</u>	<u>Parcel Number:</u>
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406 4 th Avenue	84-06-16-432-009.000-002
1329 N 4 th Street	84-06-16-432-002.000-002
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and	
1425 N 4 th Street (Part of only)	84-06-16-428-001.000-002 that
lies west of the alley, north of 6 th Avenue, east of North 4 th	
Street and South of 7 th Avenue.	

SPECIAL ORDINANCE FOR A REZONING
SPECIAL ORDINANCE NO. 45 - 2016
COMMON COUNCIL OF THE CITY OF TERRE HAUTE, STATE OF INDIANA

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Subject to covenants, conditions, restrictions, easements, rights-of-way and other matters of record affecting title.

Commonly known as:

See Exhibit B attached hereto and incorporated herein.

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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.

Introduced by Council Member:



Curtis DeBaun IV, Councilman

Passed in Open Council this _____ day of _____, 2017.

_____, President
Common Council of
City of Terre Haute, Indiana

ATTEST:

Charles P. Hanley, City Clerk

Presented by me to the Mayor of the City of Terre Haute this ____
day of _____, 2017.

Charles P. Hanley, City Clerk

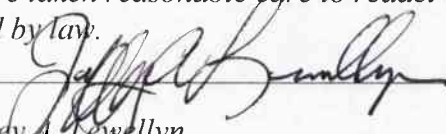
Approved by me, the Mayor of the City of Terre Haute, this ____
day of _____, 2017.

Duke Bennett, Mayor,
City of Terre Haute, Indiana

ATTEST:

Charles P. 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. Lewellyn

This instrument prepared by: Jeffrey A. Lewellyn, Attorney,
333 Ohio Street, Terre Haute, IN 47807.

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Lots 55-70 and 87-118 in Early Grove Place Subdivision, the same being a subdivision of lots 27-28-33-34-39 and 40 of Section 16-12-9, Terre Haute, Indiana.

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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
OF VIGO COUNTY, INDIANA:

LADIES AND GENTLEMEN:

The undersigned, **MSL ISU Terre Haute, LLC**, respectively submits this petition to rezone the following described real estate in the City of Terre Haute, County of Vigo, State of Indiana, to-wit:

See attached Exhibit A, legal description.

Subject to covenants, conditions, restrictions, easements, rights-of-way and other matters of record affecting title.

Commonly known as: See attached List of Property Owners and Addresses for Rezone.

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 parcels of real estate are now zoned to include the following districts:

C-2 Limited Community Commerce;
C-3 Regional Commerce;
C-6 Strip Business; and
R-2 Two Family Residence Districts.

Your Petitioner would respectively state that the C-2 and C-3 real estate is now is now mostly unimproved land, the C-6 property is strip mall and the R-2 is residential homes. The land is located east of 3rd Street, south of 7th Avenue, west of the north/south alley that is east of 4th Street and north of 4th Avenue. Your petitioner intends to construct eight (8) new buildings on the subject approximate 8.2 acres to be used for a student living development. It is anticipated the improvements will include the following:

- 1 - A building @ 44,000 square feet (4 stories);
- 2 - B buildings @ 39,600 square feet each (3 stories);

2 - C Buildings @ 22,500 square feet each (3 stories);
2 - D Buildings @ 21,600 square feet each (3 stories);
1 - Maintenance building @ 480 square feet (1 story); and
8 total buildings at an estimated square footage of 211,880.

The student living facilities will consist of the following:

1 bedroom units - 32;

2 bedroom units - 96;

4 bedroom units - 56;

184 total units and 448 beds.

The project is designed to include eight (8) buildings for student living designed as an integrated campus area for the residents. The approximate percentage of land area covered by buildings and streets is less than 50%. Traffic flow will circulate with the development campus with ingress/egress primarily from 4th Avenue. Green space will be developed around each building and amenities within the buildings will include a bistro area, business center, fitness area, and cyber lounge. The existing utility infrastructure is fully developed and capable of handling the proposed development, but final improvements will be coordinated with City engineering approval as required.

The overall design will be substantially as shown in this preliminary proposal and will be in conformity with the City's Concept Plan for the Union Hospital Health Care Campus Subarea Plan and the Collett Park Vicinity Plan. Preliminary plats and final plats will be submitted for approval by the Plan Commission and the City Council pursuant to City Code.

Your Petitioner requests that the real estate described herein shall be zoned as a Planned Unit Development District (PUD). Your Petitioner would allege that this change in zoning and use would not alter the general characteristics of this neighborhood and is in keeping with the City's development master plan.

Your Petitioner would respectively 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 respectively requests that the Area Plan Commission of 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, 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 **Planned Unit Development District (PUD)** of the City of Terre Haute, Indiana, and entitled to the rights and benefits that may accrue to the subject real estate and the owners thereof by virtue of the new zoning designation subject to all limitations imposed by deed or otherwise.

IN WITNESS WHEREOF, this Petition has been duly executed on this 2nd day of December, 2016.

MSL ISU Terre Haute, LLC

By: 
Matt Kwiatkowski,
Development Manager

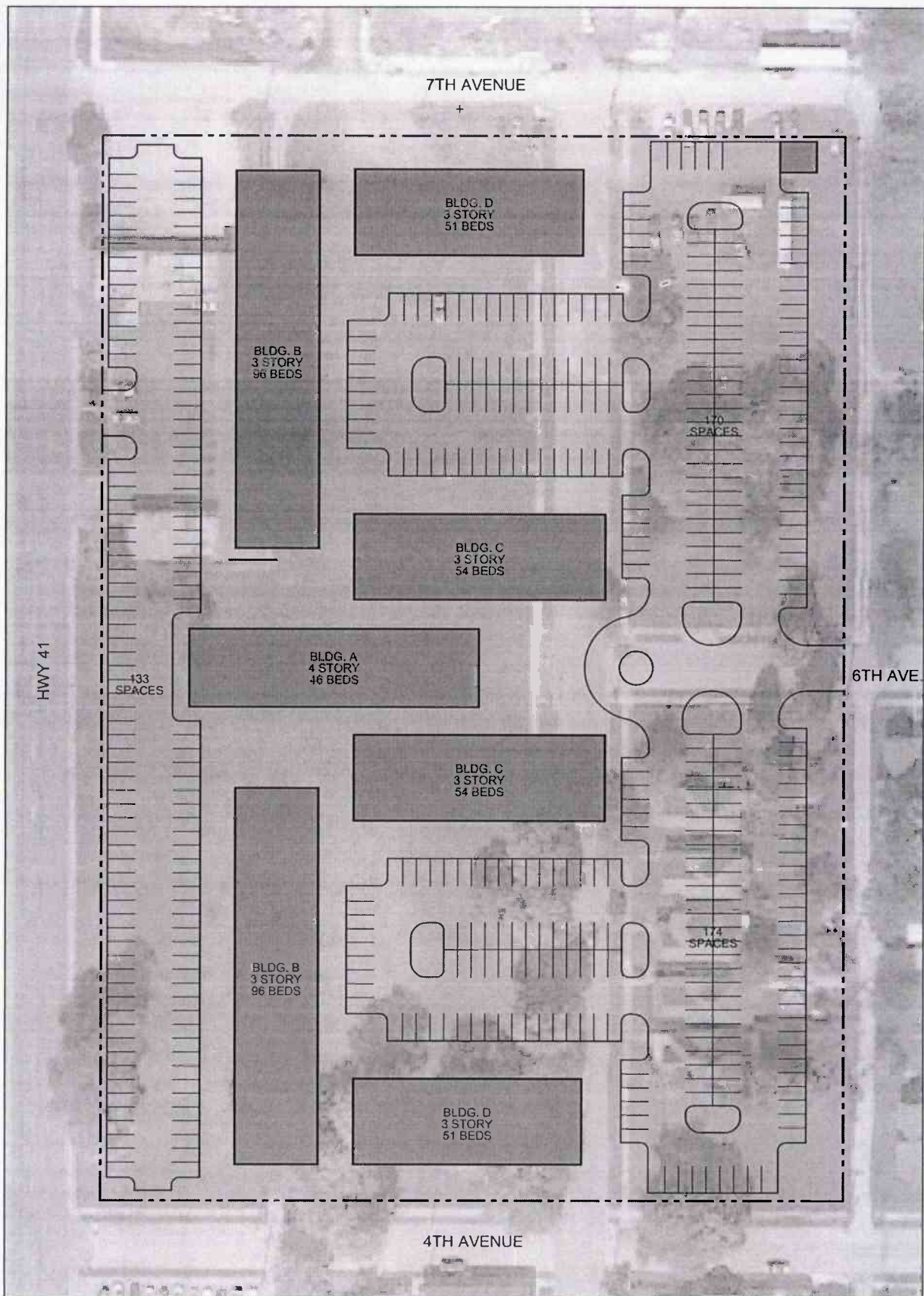
Petitioner: MSL ISU Terre Haute, LLC
14390 Clay Terrace Blvd, Suite 205
Carmel, IN 46032

Prepared By: Jeffrey A. Lewellyn, No. 15216-34
ATTORNEY FOR PETITIONER
Wilkinson Goeller Modesitt
Wilkinson & Drummy, LLP
333 Ohio Street
Terre Haute, Indiana 47807
Phone: (812) 232-4311

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ALLIANCE
ARCHITECTS
929 Lincolnway East, Suite 200 | South Bend, Indiana 46701

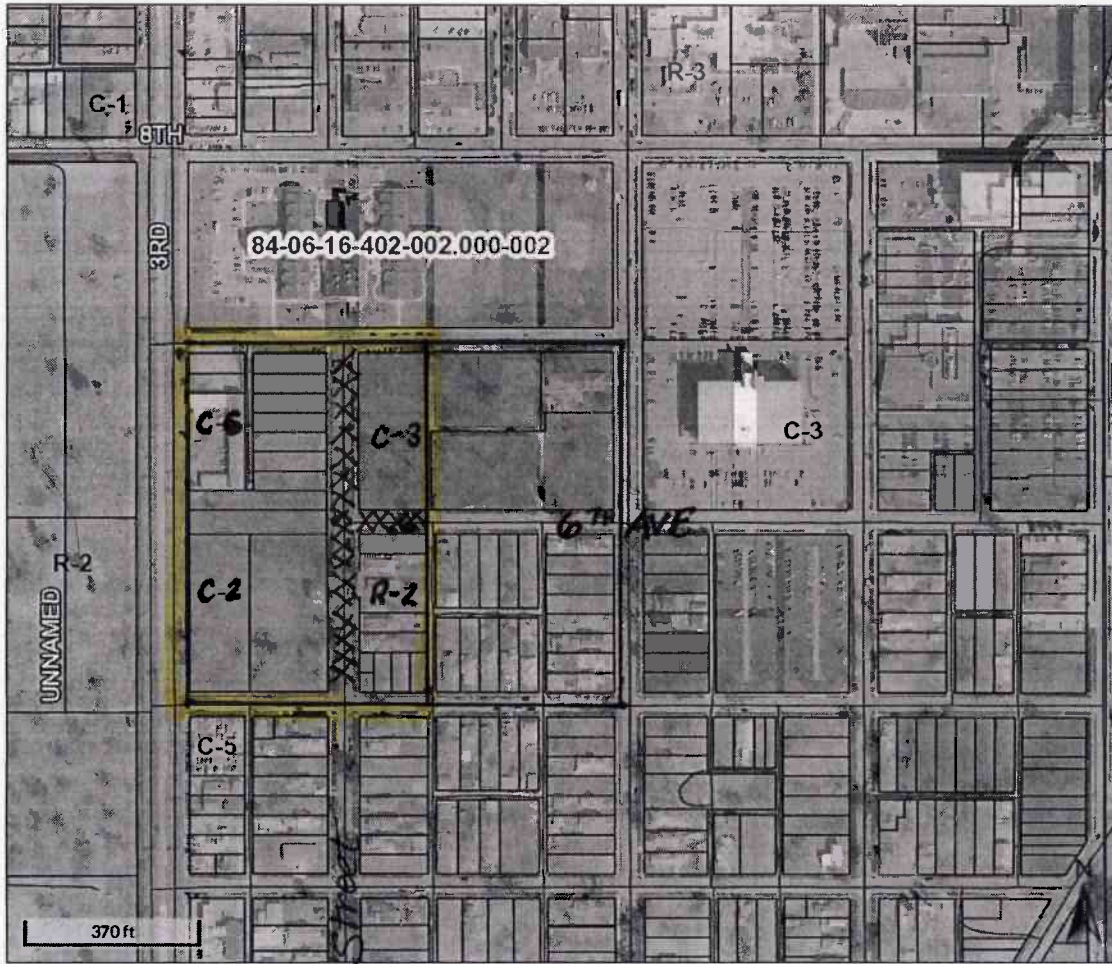
DATE
12/02/2016

I.S.U. STUDENT HOUSING
DEVELOPED FOR MAINSTREET INVESTMENT
1320 N. 4TH AVENUE
TERRE HAUTE, INDIANA

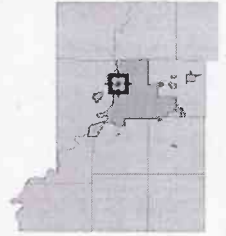


Beacon™ Vigo County, IN / City of Terre Haute

N



Overview



Legend

- Corporate Limits
- Political Township
- Sections
- Blocks
- Parcels
- Road Centerlines

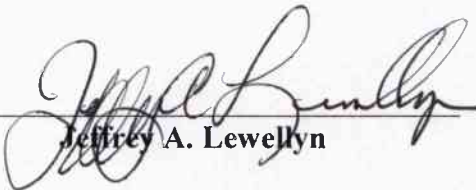
Current Zoning Classifications

- A-1
- A-1MO
- A-1NR
- C-1
- C-1PD
- C-2
- C-2PD
- C-2SU
- C-3
- C-3NR
- C-3PD
- C-3SU
- C-4
- C-5
- C-6
- C-6PD
- C-6SU
- C-7
- C-7NR
- C-8
- C-8PD
- C-9
- C3PUD
- M-0
- M-1
- M-1PD
- M-2
- M-2NR
- M-2PD
- M-O

AFFIDAVIT OF OWNERSHIP AND CONSENT

COMES NOW Affiant, Jeffrey A. Lewellyn, attorney for Petitioner, **MSL ISU Terre Haute, LLC**, and affirms under penalty of law that the owners of record of the property for which a rezoning is requested have contractually consented to the rezoning as being requested by **MSL ISU Terre Haute, LLC** to rezone the property to **(PUD) Planned Unit Development District** to allow for the construction of eight (8) apartment buildings on the subject 8.2 +/- acres.

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


Jeffrey A. Lewellyn

STATE OF INDIANA)
 :SS
COUNTY OF VIGO)

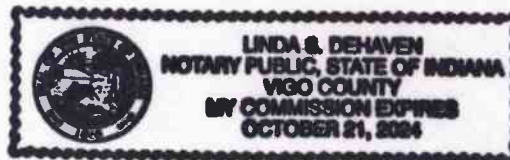
Personally appeared before me, a Notary Public in and for said County and State, **Jeffrey A. Lewellyn**, who acknowledged the execution of the above and foregoing Affidavit of Ownership and Consent, after being duly sworn upon his oath and after having read this Affidavit.

WITNESS my hand and Notarial Seal this 2nd day of December, 2016.



My commission expires:

_____, Notary Public
Resident of _____ County, Indiana





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: January 5, 2017

REPORT TO THE CITY COUNCIL ON ZONING MAP AMENDMENT

**THE VIGO COUNTY AREA PLAN COMMISSION HEREBY GIVES CERTIFICATION TO
SPECIAL ORDINANCE NUMBER #45-16**

CERTIFICATION DATE: January 4, 2017

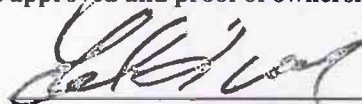
TO: The Honorable Common Council of the City of Terre Haute

Dear Members,

The Vigo County Area Plan Commission offers you the following report and certification on Special Ordinance No. 45-16. This Ordinance is a rezoning of the property located between 4th and 7th Avenue with 3rd St. on the West and the first alley East of 4th St. as the eastern boundary. The Petitioner, Union Hospital, et. al, petitions the Plan Commission to rezone said real estate from zoning classification R-2, C-2, C-3 and C-6, to Planned Unit Development District, for a student living development. 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. 45-16 at a public meeting and hearing held Wednesday, January 4, 2017. 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. 45-16 as required by IC 36-7-4-302. The Area Plan Commission of Vigo County now hereby attaches certification to Special Ordinance No. 45-16 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. 45-16 was FAVORABLE on the preliminary proposal for both phases pending approval of the primary plat. Approval of the final proposal for both phases is recommended once the completed civil set of plans is submitted and approved and proof of ownership for the property in Phase II can be provided.-


Fred L. Wilson, President


Jared Bayler, Interim Director

Received this 5th day of January, 2017

APPLICATION INFORMATION

Petitioner: Union Hospital, et. al.

Owner: 1606 N 7th St. Terre Haute IN 47804

Representative: Jeffrey Lewellyn

Proposed Use: Student Living Development

Proposed Zoning: PUD Planned Unit Development

Current Zoning: C-2, C-3, C-6, R-2

Location: The property is located between 4th and 7th Ave. With 3rd St. on the west and the first alley east of 4th St as the eastern boundary.

Common Address: See Attached

COMPREHENSIVE PLAN GUIDANCE

Service Area: The City of Terre Haute

Neighborhood Enhancement Areas

Areas that qualify as Neighborhood Enhancement, represent residential areas with aging housing stock, older industrial areas that are in need of reinvestment, and neighborhood commercial nodes that need assistance in meeting modern development standards. These areas are primarily located within the Terre Haute, West Terre Haute, Seelyville, and Riley.

In regards to residential neighborhoods that are in need of rehabilitation, they should receive priority efforts with respect to public improvements such as drainage, sidewalks, street, curb and gutter repair and replacement, and landscaping in the public rights-of-way. Where appropriate, new residential infill projects should be considered a high priority for undeveloped parcels. Over time incompatible and inconsistent uses with the residential context of these neighborhoods should be eliminated.

Over time, it is reasonable to expect some displacement of existing industrial facilities, either because of functional and competitive obsolescence of facilities themselves or because corporate restructuring. As facilities are displaced, facility reuse plans or site redevelopment plans should be prepared. In some

STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

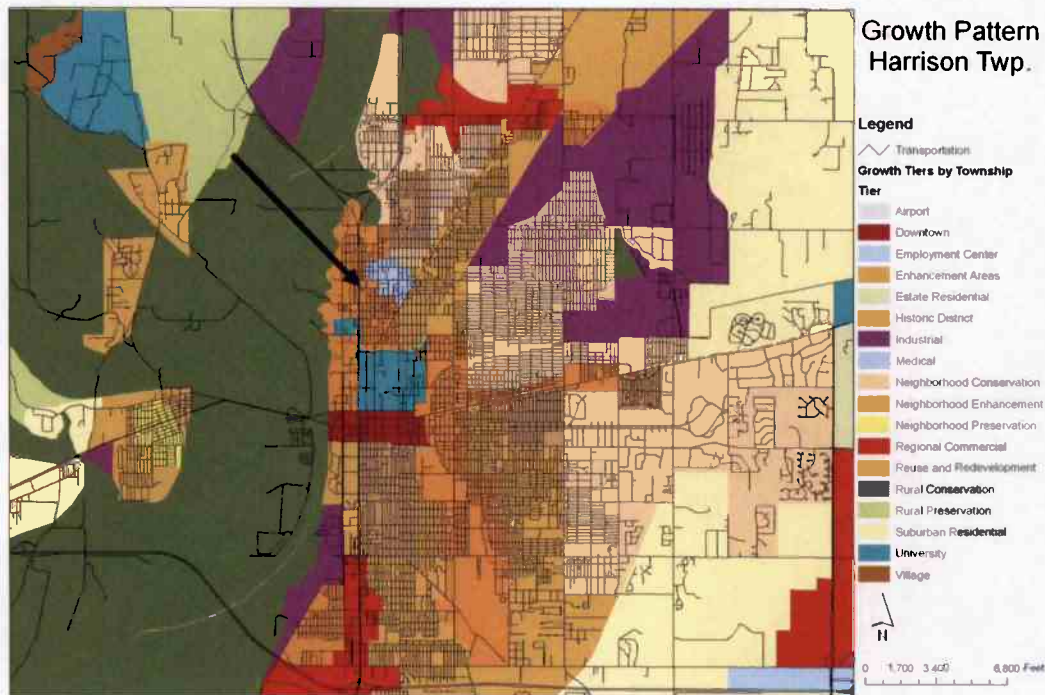
Number: SO #45-16

Doc: # 91

Date: January 2017

Page 2 of 5

cases, industrial use or redevelopment may not be appropriate, for example in older core of the City of Terre Haute.



Guiding Policies: Enhancement Areas

Neighborhood commercial areas are small scale, retail activity clusters or planned centers that serve limited market areas – typically 4,000 to 10,000 people. They provide shopping opportunities for those most frequently purchased goods and services. Neighborhood commercial areas should be distributed throughout the community in relationship to the distribution of households. Each neighborhood commercial center should be a master planned commercial development that is contained within a defined tract or land area. Auto ingress and egress must be controlled. Most importantly, these areas should relate to surrounding residential neighborhoods but not adversely impact the livability of those neighborhoods through traffic, lighting, noise, litter, or other impacts. They will require strong buffering and landscape regulations, as well as being architecturally harmonized and able to blend with their neighborhood context.

Additional policies for Neighborhood Enhancement Areas should include:

- Encourage infill development that is compatible with the land use mix and intensity of existing development.

STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: SO #45-16

Doc: # 91

Date: January 2017

Page 3 of 5

- Support preservation and rehabilitation of historic properties.
- Incompatible and inconsistent uses with the residential context of these neighborhoods should be eliminated.
- Identify areas that need sub-area plans and prioritize the development of those plans by area.
- Allow for a range of housing densities based on the zoning ordinance.
- Encourage neighborhoods to develop a unique sense of place, but still be part of the larger city.

Available Services: Area is well served by utilities.

Dev. Priority: Reinvestment and infill developments are a high priority.

ZONING COMPATIBILITY

Sur. Zones and Uses: **North** – R-3 General Residence District
East – C-3 Regional Commercial & R-2,
South – C-5 & C-2 Neighborhood Commercial
West – R-2 Two Family

Character of Area: The petitioned property is located in a range of residential and commercial land uses. Large tracts of the area have become vacant.

Contig. Uses & Zones: The area a mix of zoning categories. Primarily a residential district, intrusions of higher density residential and small commercial developments have occurred.

ZONING REGULATIONS

See Attached "A"

Planned Unit Developments

A PLANNED UNIT DEVELOPMENT is a tract of land which is developed as a unit under single ownership or control, which includes two (2) or more principal buildings, and which is at least four (4) acres in area, except for planned unit developments operated by a municipality shall be at least two (2) acres in area, and manufacturing planned limit developments which shall be at least ten (10) acres in area.

The Planned Unit Development District, as defined in Sec. 10-93, is designed to encourage innovative and creative design and facilitate use of the most advantageous construction techniques in the development of land. The district provides more flexibility in land use regulations by consolidating the procedures of the subdivision regulations and the amendment procedures of the Zoning Ordinance.

The district regulations insure ample provision for efficient use of open space, promote high standards in the design and construction of developments, and further the purposes of the Comprehensive Plan.

The Planned Unit Development District will permit the developer to propose a total development plan which can be considered as to its overall merits under a unified procedure. Rezoning to and development under this district will be permitted only in accordance with a detailed development plan and after approval of the plan by the Plan Commission in accordance with the procedures and standards contained in this Planned Unit Development Ordinance. All submittals shall be made in the name of the owner of the subject property or his duly authorized agent. (Gen. Ord. No. 7, 1995, § 1. (1132.01), 10-5-95)

FINDINGS and RECOMMENDATION

Staff Findings:

The petitioner proposes the construction of a student living development. The development is to take shape in two phases. Phase one will contain 6 total buildings with an estimated total of 202,880 square feet containing 162 units for a total of 410 beds. The densities as listed by the petitioner will be less than 50 percent lot coverage. Phase II may include one additional building with 39,600 square feet. This project is designed for phase I to include green space with public amenities such as a bike trail.

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Variances have been requested for a reduction in parking and setbacks along 3rd street. Approval of both variances is recommended. The Collette Park Plan calls for a zero lot line setback. The petitioner has demonstrated a functioning model for parking for their facilities. The parking numbers required by the ordinance would create unnecessary and unused tracts of parking.

Infill and reinvestment is a recommended activity within the City of Terre Haute. This development is in keeping with the Collett Park Vicinity Plan and the Union Hospital Subarea Plan.

The establishment of a PUD is a lengthy and complicated process. A series of established steps must be followed. Referencing the code (attached "A") the petitioner must:

1. Have a pre-application conference: Completed #s 1-9
2. Have submitted a preliminary proposal: Completed #s 1-3 and letters A-I
3. Have submitted a preliminary Plat. If the plat is unamended by the Plan commission it can also be the final plat: Completed #s 1-14
4. Incomplete #15-18 unless already submitted to the City Engineering Office.

Recommendation: Staff offers a Favorable Recommendation on the preliminary proposal for both phases Approval of the final proposal for both phases is recommended if no further amendments are requested by City Council.