

WITHDRAWN

SPECIAL ORDINANCE NO. 17, 2017

APPLICATION FOR REZONING PETITION CITY OF TERRE HAUTE

=====

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

Rezone From: R-1 Single Family Residential District

Rezone 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

=====

COPY OF A SITE-PLAN MUST ACCOMPANY THIS APPLICATION

WITHDRAWN

FILED

MAR 03 2017

CITY CLERK

**SPECIAL ORDINANCE FOR A REZONING
SPECIAL ORDINANCE NO. 17, 2017**

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

SECTION I. 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:

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, 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, Councilperson

WITHDRAWN

Passed in open Council this ____ day of _____, 2017.

Karrum Nasser, President

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

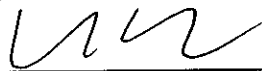
Approved by me, the Mayor of the City of Terre Haute, this ____ day of _____, 2017.

Duke A. Bennett, Mayor

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.



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.

WITHDRAWN

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.

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, 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 Residential District.

Your Petitioner intends to sell this real estate to Gregory S. Noel for development of multifamily housing units. Your Petitioner would request that the real estate described herein shall be zoned as an R-3 Multifamily Residential District.

WITHDRAWN

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 3rd day of March, 2017.

PETITIONERS:

DEBAUN FUNERAL HOMES, INC.

By: Curtis DeBaun III
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.

WITHDRAWN

SITE PLAN



WITHDRAWN

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.

WITHDRAWN

Dated at Terre Haute, Indiana this 3rd day of March, 2017.

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 3rd day of March, 2017.

Zola May Shagley
ZOLA MAY SHAGLEY, Notary Public

My Commission expires: 1-5-2025

My County of Residence: Vigo

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.

WITHDRAWN

96 11622

EXHIBIT A

FULLY ENTERED

002866

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 2866

Auditor _____ County _____
Recorder _____ County _____

WARRANTY DEED

THIS INDENTURE WITNESSETH that PAUL D. BROWN, a competent adult, ("Grantor"), CONVEYS AND WARRANTS to DEBAUN FEDERAL 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, 107 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. Patzold and Gertrude Patzold 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 349 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.

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. Brown
Paul D. Brown

STATE OF INDIANA }
COUNTY OF VIGO } SS:

Before me, a Notary Public, in and for said County and State, personally appeared Paul D. Brown, who acknowledged the execution of the foregoing Warranty Deed, and who, having been duly sworn, stated that any representations therein contained are true.

WITNESS my hand and Notarial Seal this 25th day of July, 1996.

RECEIVED FOR RECORD AT 3 32 O'CLOCK P M RECORD 411 PAGE 2866 JUL 29 1996

Printed: S. Elaine Halter
Notary Public, residing in
Vigo County, Indiana

Receipt

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

Date: 3/3/17

Name: Debaun Funeral Home

Reason: Rezoning - Notice of Filing \$25.00

Rezoning - Petition \$20.00

\$45.00

Cash: _____

Check: 67109 \$45.00

Credit: _____

Total: \$45.00

Received By: L Elbs/g

TERRE HAUTE, IN
PAID
MAR 03 2017
CONTROLLER



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: April 6, 2017

REPORT TO THE CITY COUNCIL ON ZONING MAP AMENDMENT

THE VIGO COUNTY AREA PLAN COMMISSION HEREBY GIVES CERTIFICATION TO
SPECIAL ORDINANCE NUMBER #17-17

CERTIFICATION DATE: April 5, 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. 17-17. This Ordinance is a rezoning of the property located at 4355 E. Wabash. The Petitioner, DeBaun Funeral Homes, Inc., petitions the Plan Commission to rezone said real estate from zoning classification R-1 to R-3, General Residence District, for multi-family housing. Attorney, Richard J. Shagley, II. 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. 17-17 at a public meeting and hearing held Wednesday, April 5, 2017. 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. 17-17 as required by IC 36-7-4-302. The Area Plan Commission of Vigo County now hereby attaches certification to Special Ordinance No. 17-17 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. 17-17 was DENIED.


Fred L. Wilson, President


Jared Bayler, Executive Director

Received this 6th day of April, 2017

STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: SO #17-17

Doc: # 24

Date: April 5th, 2017

Page 1 of 4

APPLICATION INFORMATION

Petitioner: Debaun Funeral Homes, Inc.

Property Owner: Same-As-Above

Representative: Richard J. Shagley II

Proposed Use: Multi-Family Apartment Complex

Proposed Zoning: R-3 General Residence District

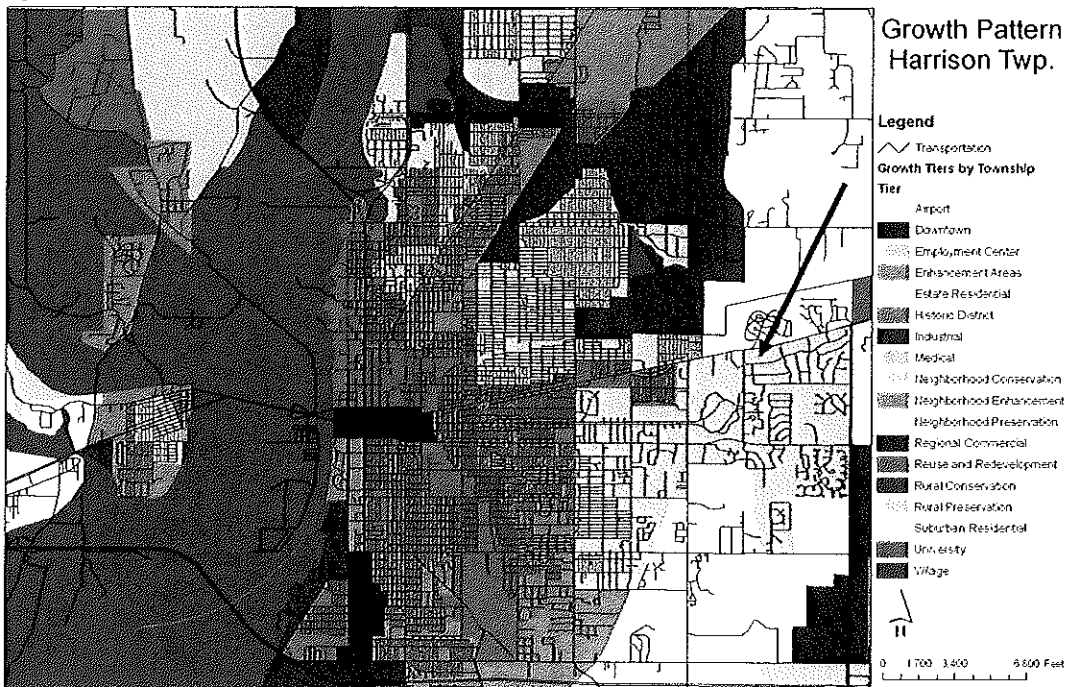
Current Zoning: C-6, Strip Business District

Location: The property consists of 1.71 acres on the southeast corner of Keane Lane and East Wabash Ave.

Common Address: 4355 East Wabash Terre Haute 47803

COMPREHENSIVE PLAN GUIDANCE

Service Area: The City of Terre Haute
Neighborhood Conservation



STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: SO #17-17

Doc: # 24

Date: April 5th, 2017

Page 2 of 4

These areas encompass neighborhoods with established and stable residential environments. The vast majority of these areas are fully developed (or expected to be in a relatively short timeframe). Fundamental directives urged for these areas encourage the maintenance of the residential desirability and stability. Where new infill development is proposed, it should be entirely consistent and compatible with pre-existing developments. However, special public attention may, in some cases, be required to assure that drainage, sidewalk improvements, and linkages to pedestrian and bicycle trails are made. Many of these neighborhoods may be excellent candidates for special assessment districts for neighborhood improvements and amenities.

In addition, these areas encompass existing retail activity nodes located throughout the community. In general, these commercial areas have evolved in an unplanned, largely uncoordinated manner along frontage of primary arterials. Within these commercial bands, a great variety of activities exist which target different markets. Some activities are oriented toward “drive-by” markets, fast food restaurants, convenience stores, gasoline stations, drive-in banking facilities, for example. Other activities are special-purpose, oriented to single trips rather than comparative multi-purpose shopping. These single purpose

Available Services: Area is well served by utilities.

Soil Limitations: unknown

Street Access: Keane Lane (Local) and East Wabash Ave (Major)

Dev. Priority: Medium

ZONING COMPATIBILITY

Sur. Zones and Uses: **North** – O-1, R-3
 East – R-1, C-6
 South – R-1,
 West – R-1,

Character of Area: Within this area of the City of Terre Haute there are a few large communal land-uses, which consist of graveyards, and a city park. Residential uses consist of suburban lot developments averaging 26,000 Sq. Ft.

ZONING REGULATIONS

R-3 Purpose: The General Residence District

R-3 Uses: 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 proposing to build 6 complexes with 6 apartments in each. The property is located on a corner of Keane Ln and Wabash Ave. with approximately 1.71 acres. The only access to the property is off of Keane Lane which is a one way street. Tenants will have to travel south down Keane Lane to Berkley Dr. through a residential neighborhood or to Poplar Street to access a 2 way street. Single family residential abuts up to this development. The nearest R-3 zoning is Heritage Trail Apartments.

Recommendation: Staff offers a FAVORABLE RECCOMENDATION with the following conditions:

1. Must meet all City development regulations.
2. Submit a detail site plan and all plans related to site development.
3. Visual screening adjoining any single family property.