

SPECIAL ORDINANCE NO. 14, 2010

APPLICATION FOR REZONING PETITION CITY OF TERRE HAUTE

Tentative Common Address of lots to be rezoned:

4 Keane Lane, Terre Haute, IN 47803

Rezone From: R-1 Single Family Residence District

Rezone To: C-6 Strip Business District

Proposed Use: Pet Product Sales and Pet Park

Name of Owner: DeBaun Funeral Home, Inc.

Address of Owner: 88 East Springhill Drive
Terre Haute, IN 47802

Phone Number of Owner: (812) 299-5125

Attorney Representing Owner: Richard J. Shagley

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

For Information Contact: ☐ Owner ☒ Attorney

Council Sponsor: Neil Garrison

COPY OF A SITE-PLAN MUST ACCOMPANY THIS APPLICATION

FILED

APR 27 2010

SPECIAL ORDINANCE NO. 14, 2010

CITY CLERK

An Ordinance Amending Chapter 10, of the Terre Haute City Code, Zoning and Subdivision Regulations, as adopted by General Ordinance No. 10, 1999, as Amended, entitled "An Ordinance Adopting And Enacting A Code Of Ordinances For The City Of Terre Haute, Indiana; Establishing The Same; Providing For The Repeal Of Certain Ordinances Not Included Therein, Except As Herein Provided; Providing For The Manner Of Amending Such Code Of Ordinances; Providing A Penalty For Violations Thereof; Providing When This Ordinance Shall Become Effective And Officially Adopting The Terre Haute City Code, And Passing Ordinances Addressing Fees, Fines And Regulations".

BE IT ORDAINED by the Common Council of the City of Terre Haute, Indiana, as follows:

SECTION I. That Chapter 10, of the Terre Haute City Code, known and referred to as "The Comprehensive Zoning Ordinance for Terre Haute" of General Ordinance No. 10, 1999, effective, December 10, 1999, Section 10-121, thereof, District Maps, is hereby amended to read 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:

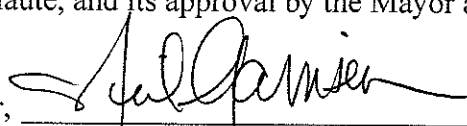
Beginning at the point of intersection of the south line of U.S. Highway 40 and the east line of Keane Lane (formerly known as Beecher Road), in the Northwest Quarter of Section 19, Township 12 North, Range 8 West, thence Northeasterly along the South line of said U.S. Highway 40, 187 feet; thence South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

Commonly known as 4 Keane Lane, Terre Haute, IN 47803.

be and the same is, hereby established as a C-6 Strip Business District, together with all rights and privileges 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.

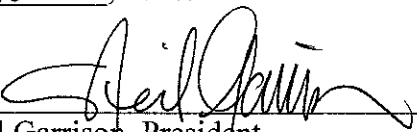
SECTION II. WHEREAS, an emergency exists for the immediate taking effect of this Ordinance, the same shall be in full force and effect from and after its passage by the Common Council of the City of Terre Haute, and its approval by the Mayor and publication as by law provided.

Presented by Council Member,



Neil Garrison, Councilperson

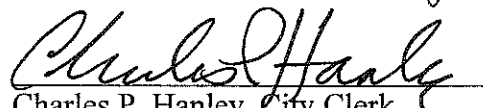
Passed in open Council this 10th day of June, 2010.


Neil Garrison, President

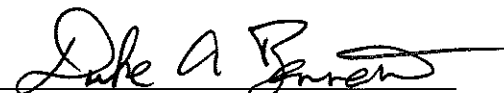
ATTEST:


Charles P. Hanley, City Clerk

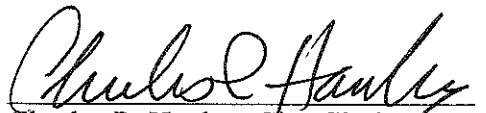
Presented by me, to the Mayor of the City of Terre Haute, this 11th day of June, 2010.


Charles P. Hanley, City Clerk

Approved by me, the Mayor of the City of Terre Haute, this 11th day of JUNE, 2010.


Duke A. Bennett, Mayor

ATTEST:


Charles P. Hanley, City Clerk

This instrument prepared by Richard J. Shagley, Attorney-at-Law, WRIGHT, SHAGLEY & LOWERY, P.C., 500 Ohio Street, 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 PLANNING COMMISSION OF VIGO COUNTY, INDIANA.

LADIES and GENTLEMEN:

The undersigned, DeBaun Funeral Homes, Inc., respectfully submits this Petition to Rezone the following described real estate in the City of Terre Haute, Vigo County, 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.

Commonly known as 4 Keane Lane, Terre Haute, IN 47803.

Your Petitioner is informed and believes that in accordance with Chapter 10, known and referred to as "The Comprehensive Zoning Ordinance for Terre Haute", as amended, the above described real estate is now zoned as R-1 Single Family Residence District.

Your Petitioner would respectfully state that the real estate is now vacant. Your Petitioner intends to lease the real estate to Furry Friends Forever, LLC, who plan to use the real estate for pet product sales and a pet park.

Your Petitioner would request that the real estate described herein shall be zoned as a C-6 Strip Business District to allow for the use as proposed by the Petitioner. Your Petitioner would allege that the C-6 Strip Business District would not alter the general characteristics of this neighborhood, since the real estate is located on Wabash Avenue next to other commercial properties.

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 area.

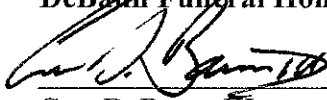
WHEREFORE, your Petitioner respectfully requests that the Area Planning Commission and the Common Council of the City of Terre Haute, Indiana favorably consider the passage of

a Special Ordinance amending the District Maps of Chapter 10, of the Terre Haute City Code entitled The Comprehensive Zoning Ordinance for Terre Haute, Section 10-121 District Maps and declaring the above-described real estate to be part of the C-6 Strip Business District of the City of Terre Haute, Indiana, and is 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, the undersigned Petitioner has caused this Petition to Rezone Real Property to be executed this 26th day of April, 2010.

PETITIONER:

DeBaun Funeral Homes, Inc.



Curt DeBaun, III

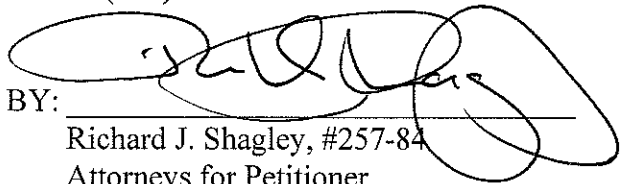
Authorized Representative

WRIGHT, SHAGLEY & LOWERY, P.C.

500 Ohio Street

Terre Haute, IN 47807

Phone: (812) 232-3388

BY: 

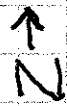
Richard J. Shagley, #257-84

Attorneys for Petitioner

The owner and mailing address: DeBaun Funeral Homes, Inc., 88 East Springhill, Terre Haute, IN 47802.

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

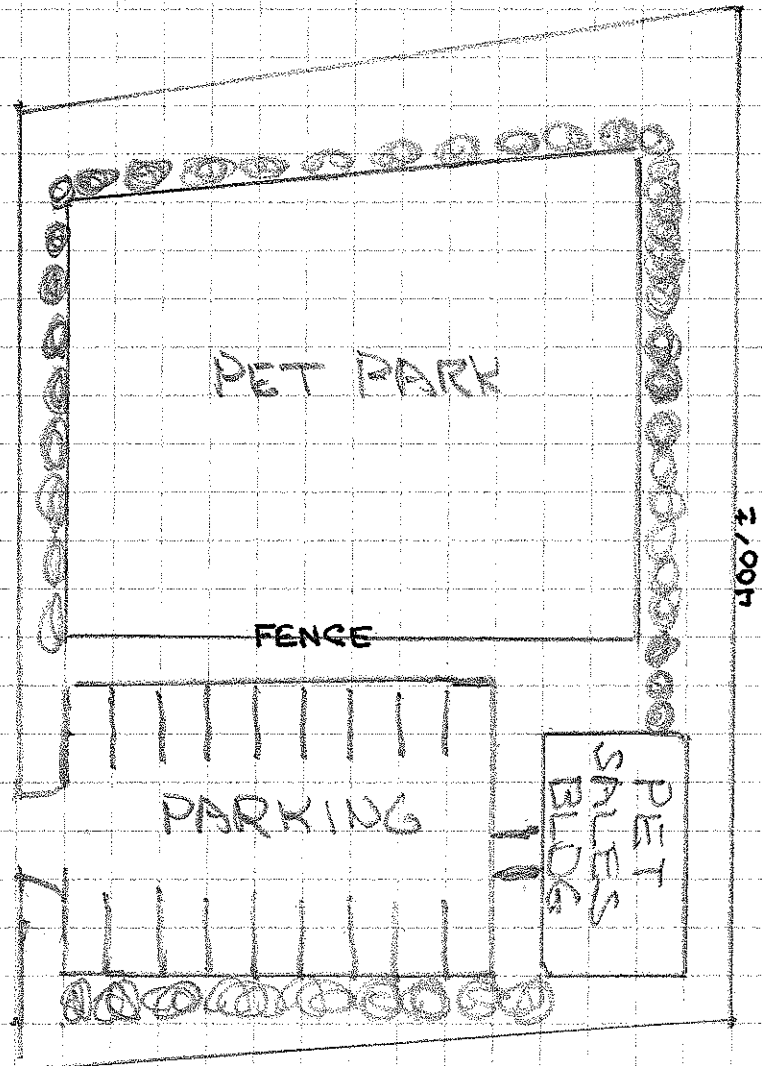
SITE PLAN



WABASH AVENUE

CALVARY CEMETARY

→ KEANE LANE →



4 KEANE LANE

R-1 to C-6

SO. 14, 2010

(NOT TO SCALE)

STATE OF INDIANA)
) SS:
COUNTY OF VIGO)

AFFIDAVIT

Comes now Curt DeBaun, III, being duly sworn upon his oath, deposes and says:

1. That DeBaun Funeral Homes, Inc., is the fee simple 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.

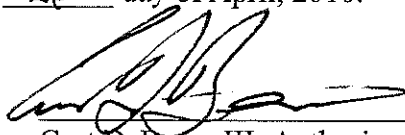
Commonly known as 4 Keane Lane, Terre Haute, IN 47803.

2. That a copy of the Warranty Deed, dated July 25, 1996, and recorded in the records of the Recorder's Office of Vigo County, Indiana, transferring fee simple title to Affiant, is attached hereto and made a part hereof and marked as Exhibit A.

3. That Affiant makes 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 26th day of April, 2010.



Curt DeBaun, III, Authorized Representative
of DeBaun Funeral Homes, Inc.

STATE OF INDIANA)
) SS:
COUNTY OF VIGO)

SUBSCRIBED AND SWORN TO before me, a Notary Public in and for said County and State, this 26th day of April 2010.

Debra M. Cullough
Debra M. Cullough, Notary Public

My Commission expires:

03/19/2015

My County of Residence:

Vigo

This instrument prepared by Richard J. Shagley, Attorney At Law, WRIGHT, SHAGLEY & LOWERY, P.C., 500 Ohio Street, Terre Haute, IN 47807.

DULY 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. 441 Page 2866

Auditor *[Signature]*
AUDITOR VIGO COUNTY

Auditor _____ 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.

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.

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
Paul D. Ennen

STATE OF INDIANA)

COUNTY OF VIGO)

SS:

Before me, a Notary Public, in and for said County and State, personally appeared Paul D. Ennen, 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 441 PAGE 2866

JUL 29 1996

Nancy Brundage
RECORDER VIGO COUNTY

S. Jayne Halter
Printed: S. Jayne Halter
Notary Public, residing in
VIGO County, Indiana



TERRE HAUTE

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: June 3, 2010

REPORT TO THE CITY COUNCIL ON ZONING MAP AMENDMENT

THE VIGO COUNTY AREA PLAN COMMISSION HEREBY GIVES CERTIFICATION TO
SPECIAL ORDINANCE NUMBER #14-10

CERTIFICATION DATE: June 2, 2010

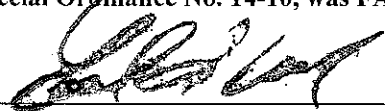
TO: The Honorable Common Council of the City of Terre Haute

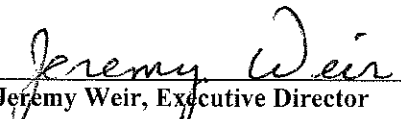
Dear Members,

The Vigo County Area Plan Commission offers you the following report and certification on Special Ordinance No. 14-10. This Ordinance is a rezoning of the property located at 4 Keane Ln. The Petitioner, DeBaun Funeral Homes, Inc., Petitions the Plan Commission to rezone said real estate from zoning classification R-1 to C-6, Strip Business District, for pet product sales and pet park. 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. 14-10 at a public meeting and hearing held Wednesday, June 2, 2010. 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. 14-10 as required by IC 36-7-4-302. The Area Plan Commission of Vigo County now hereby attaches certification to Special Ordinance No. 14-10 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. 14-10, was FAVORABLE.


Fred L. Wilson, President


Jeremy Weir, Executive Director

Received this 3rd day of June, 2010

STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: SO #14-10

Doc: # 31

Date: July 2009

Page 1 of 3

APPLICATION INFORMATION

Petitioner: DeBaun Funeral Home, Inc.

Property Owner: Same-As-Above

Representative: Same-As-Above

Proposed Use: Pet Product Sales and Pet Park

Proposed Zoning: C-6, Strip Business Zone

Current Zoning: R-1, Single-Family Residence District

Location: SE corner of Wabash Ave and Keane Ln.

Common Address: 4 Keane Lane

COMPREHENSIVE PLAN GUIDANCE

Service Area: The City of Terre Haute

Guiding Policies: Neighborhood Conservation

- Allow for a range of housing densities based on the zoning ordinance.
- Allow for a mix of uses, focusing on neighborhood and community serving commercial nodes.
- Encourage neighborhoods to develop a unique sense of place, but still be part of the larger city.
- New retail activities in an area should contribute to the diversity and variety of retail uses in a commercial node.
- With respect to existing commercial “strips” – i.e. narrow bands of commercial uses occupying major roadway frontage, containment and limitation of future expansion of the commercial frontage is strongly advised.
- Improved landscaping, improved pedestrian amenities, and increase attention to lighting, signage, and impacts upon nearby residential areas is advised in the review of development petitions.

Available Services: Area is well served by utilities.

Soil Limitations: Not studied.

Street Access: Keane Lane (Local Roadway)

STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: SO #14-10

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Page 2 of 3

Dev. Priority: Capital investment is a high priority

ZONING COMPATIBILITY

Sur. Zones and Uses: **North** – R-3, General Residence District

O-1, Agricultural District

East – R-1, Single-family Residence District

C-6, Strip Business Zone

South – R-1, Single-family Residence District

West – R-1, Single-family Residence District

Character of Area: The highest concentration of usages in this area is low density residential. Commercial usages are present with frontage on Wabash Ave.

Contig. Uses & Zones: The contiguous zoning is R-1, Single-Family Residence District with uses that consist of single family dwellings, and non-conforming commercial use.

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

STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: SO #14-10

Doc: # 31

Date: July 2009

Page 3 of 3

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;

One (1) parking space per ten thousand (10,000) square feet outdoor lot area, plus one (1) space per one thousand (1,000) square feet indoor 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. This location has frontage along Wabash Avenue, and is within a close proximity to existing C-6 uses. A minimum twenty-two (22') ft. rear buffer will provide suitable separation between commercial and residential land-uses.

Recommendation:

Favorable Recommendation.