

**COMMON COUNCIL OF THE CITY OF AUSTIN, INDIANA**

**ORDINANCE NO. 2025-OR-2**

**AN ORDINANCE DENYING PETITION FOR REZONE**

**WHEREAS**, the City of Austin Advisory Plan Commission (the “APC”) has referred to the Common Council of the City of Austin (the “Council”) the application of Michael Payne, applicant(s) and co-owner(s), to rezone certain lands within the jurisdictional area of the City of Austin, Parcel No. 72-03-35-440-001.000-003, located at 192 S. Seventh St. in Austin, Scott County, Indiana 47102 (the “Property”) as requested in a rezoning application, Case Number RZ-01-2025, to the APC; and

**WHEREAS**, the APC held a duly noticed public hearing on the proposed rezone in accordance with Indiana Code § 36-7-4 et seq., and thereafter issued a formal recommendation on the proposed rezone, which is attached hereto and incorporated herein as Exhibit “A”; and

**WHEREAS**, the Council, having considered the petition, the recommendation of the APC, evidence presented, public comments, and the factors set forth under Indiana Code § 36-7-4-603, finds that the requested rezone is not consistent with the City’s Comprehensive Plan and is not in the best interest of the public health, safety, and general welfare of the community.

**NOW THEREFORE BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF AUSTIN, INDIANA, THAT:**

**Section 1. Findings.** The Common Council hereby adopts the following findings:

1. The proposed rezone is inconsistent with the goals, objectives, and policies of the Austin Comprehensive Plan.
2. The proposed rezone would adversely affect the character of the surrounding neighborhood and the value of nearby properties.
3. The proposed density is not compatible with existing infrastructure and traffic patterns.
4. The rezone is not necessary to facilitate responsible growth or development at this location.

**Section 2. Denial of Petition.** The petition for rezone of the property located at 192 S. Seventh St. in Austin, Scott County, Indiana from R-1 to R-2 is hereby denied.

**Section 3. Effective Date.** This ordinance shall be in full force and effect from and after its passage by the Common Council and approval by the Mayor.

**PASSED AND ADOPTED** by the Common Council of the City of Austin, Indiana, this 8 day of Apr. 1, 2025 by a vote of 3 ayes, 0 nays, and 1 abstentions.

Common Council City of Austin, Indiana

Roger Hawkins  
Roger Hawkins, Presiding Officer

Attest:

Chris Fugate  
Chris Fugate, Clerk-Treasurer

Presented by me to the Mayor of the City of Austin for his approval or veto pursuant to Indiana Code § 36-4-6-15 and 16, on Apr. 1 8<sup>th</sup> at \_\_\_\_:\_\_\_\_ p.m.

Chris Fugate  
Chris Fugate, Clerk-Treasurer

This Ordinance having been passed by the legislative body and presented to me is approved by me and duly adopted, pursuant to Indiana Code § 36-4-6-16(a)(1), on Apr. 1 8, 2025 at \_\_\_\_:\_\_\_\_ p.m.

Roger Hawkins  
Roger Hawkins, Mayor

Attest:

Chris Fugate  
Chris Fugate, Clerk-Treasurer

**EXHIBIT "A"**

## RECOMMENDATION TO AUSTIN CITY COUNCIL

CASE NUMBER: RZ-01-2025

DATE FILED: February 10, 2025

APPLICANT(s): Michael Payne

OWNER(s): Michael Payne, Melissa Payne, Sue Payne

REQUEST: Change in zoning from R-1 Residential to R-2 Residential

Property Location: 192 S Seventh Street, Austin, IN 47102  
Parcel ID# 72-03-35-440-001.000-003  
Legal Description: S ½ SEQR 35-4-6 29.03 A

Proposed Use: To establish a substance abuse and homeless shelter

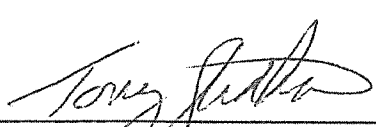
In preparing and considering, the Austin Advisory Plan Commission and the legislative body shall pay reasonable regard to:

1. That the change in zone will not adversely affect the values of surrounding property;
2. That the proposed use is the best and most adequate use of the property;
3. That the proposed change in zone does not constitute spot zoning; that the owner of the property in question is not being favored over surrounding property owners;
4. That the owner can comply with all the requirements of this chapter;
5. That traffic congestion will not be unnecessarily increased;
6. That the owner is not speculating on land values; and
7. That the proposed change is in line with good zoning practice

### RECOMMENDATION BY AUSTIN APC:

- ☐ Favorable Recommendation  
☐ Unfavorable Recommendation  
☒ No Recommendation

AUSTIN ADVISORY PLAN COMMISSION VOTE: # of YES 60 # of NO 2 # of ABSENT 1  
*Abstain*  
*Not in favor of*  
*No Recommendation*

  
\_\_\_\_\_  
Tony Stidham, President  
Austin Advisory Plan Commission

4/2/25  
\_\_\_\_\_  
Dated

# APPLICATION RECORD OF VOTING FOR CHANGE IN ZONING

CASE NUMBER: RZ-01-2025

DATE: April 2, 2025

APPLICANT(s): Michael Payne

OWNER(s): Michael Payne, Melissa Payne, Sue Payne

In preparing and considering, the Austin Advisory Plan Commission and the legislative body shall pay reasonable regard to:

1. That the change in zone will not adversely affect the values of surrounding property;
2. That the proposed use is the best and most adequate use of the property;
3. That the proposed change in zone does not constitute spot zoning; that the owner of the property in question is not being favored over surrounding property owners;
4. That the owner can comply with all the requirements of this chapter;
5. That traffic congestion will not be unnecessarily increased;
6. That the owner is not speculating on land values; and
7. That the proposed change is in line with good zoning practice

## RECOMMENDATION BY APC:

- ☐ Favorable Recommendation  
☐ Unfavorable Recommendation  
☒ No Recommendation

## VOTE:

Tony Stidham, President

- ☒ NO  
☐ YES  
☐ ABSENT

John Adams, Vice-President

- ☒ NO  
☐ YES  
☐ ABSENT

Trevor McIntosh, Secretary

- ☐ NO  
☐ YES  
☒ ABSENT

Abstained

Gary Hubbard

- ☐ NO  
☒ YES  
☐ ABSENT

Freddie Hale

- ☐ NO  
☒ YES  
☐ ABSENT

Melissa Smith

- ☐ NO  
☒ YES  
☐ ABSENT

Lisa Webster

- ☐ NO  
☒ YES  
☐ ABSENT

Michelle Shelton

- ☐ NO  
☒ YES  
☐ ABSENT

Dave Eberenz

- ☐ NO  
☒ YES  
☐ ABSENT

REASON #1 - deed the land  
REASON #2 - deed restriction for REMAINING  
R1 use of property for Townhomes.  
REASON #3 - Building to be used as