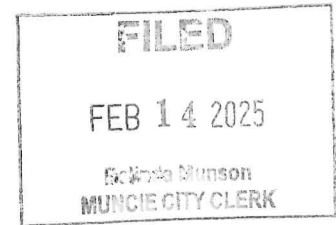


ORDINANCE NO. 10-25

BEING AN ORDINANCE TO AMEND
THE CITY OF MUNCIE
COMPREHESIVE ZONING ORDINANCE
FROM THE R-3 RESIDENCE ZONE
TO THE BV VARIETY BUSINESS ZONE
ON PREMISES LOCATED AT
3700 BLK E CENTENNIAL AVE., AND
LOT 2 IN THE NANNIE HAVEN SUBDIVISION, MUNCIE, IN 47303



WHEREAS, the State enabling act for planning and zoning empowers the City Council of Muncie, Indiana to adopt a Comprehensive Zoning Ordinance and also provides for amendments to the said Ordinance as the need arises; and

WHEREAS, the Common Council of the City of Muncie, Indiana has given reasonable regard to the Comprehensive Plan; current conditions and the character of current structures and uses in each district; the most desirable use for which land in each is adapted; the conservation of property values throughout the jurisdiction; and responsible growth and development.

NOW THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF MUNCIE, INDIANA, as follows:

Section 1. That the City of Muncie Comprehensive Zoning Ordinance, heretofore adopted on the 5th day of November, 1973, be amended, changed and supplemented so as to include in the **BV Variety Business Zone** the following described real estate located in the City of Muncie, Indiana to wit:

**3700 Blk E Centennial Ave., and Lot 2 in the Nannie Haven Subdivision,
Muncie, IN 47303**

Section 2. That all buildings or uses permitted and placed upon described real estate shall fully conform with all the provisions of the City of Muncie Comprehensive Zoning Ordinance and shall have obtained all the proper permits.

Section 3. That this Ordinance shall be in full force and effect from and after its passage by the Common Council and its approval by the Mayor of the City of Muncie, Indiana, and such publication as may be required by law.

	YEAS	NAYS	ABSTAIN	ABSENT
Dale Basham	✓			
Jerry Dishman	✓			
Brandon Garrett	✓			
Jeff Green	✓			
Sara Gullion	✓			
William McIntosh Sr.	✓			
Harold Mason Jr.	✓			
Nora Powell	✓			
Ro Selvey	✓			

Passed by the Common Council of the City of Muncie, Indiana, this 3rd day of March, 2025.

Harold Mason
 President of the Common Council
 City of Muncie, Indiana

Presented by me to the Mayor for his approval this 3 day of March, 2025.

Belinda Munson
 Belinda Munson, City Clerk
 City of Muncie, Indiana

The above ordinance approved (vetoed) by me this 4 day of March, 2025.

Dan Ridenour
 Dan Ridenour, Mayor of the City of Muncie,
 Indiana

ATTEST:

Belinda Munson
 Belinda Munson, City Clerk of Muncie, Indiana

This ordinance is proposed by:

Jerry Dishman
 City Council Member

This ordinance is approved in form by:

John Wade Hamilton
 Corporate Counsel

**REPORT TO THE COMMON COUNCIL OF
THE CITY OF MUNCIE, INDIANA**

February 7, 2025

To the Honorable:

Common Council of the City of Muncie, Indiana

Dear Council Members:

The Delaware-Muncie Metropolitan Plan Commission hereby submits to you the following report on the application of: Drake Properties I, LLC, Donna Drake, P.O. Box 96, Eaton, IN, 47338, such applicant petitioning the Commission to rezone the real estate as described in the application, generally located at: 3700 Blk E. Centennial Ave., and Lot 2 in the Nannie Haven Subdivision, Muncie, IN, 47303 from zone classification: R-3 Residence Zone to zone classification: BV Variety Business Zone.

WHEREAS, the Commission has given reasonable regard to the Comprehensive Plan, current conditions and the character of current structures and uses in each district, the most desirable use for which the land in each district is adapted, the conservation of property values throughout the jurisdiction and responsible growth and development; and

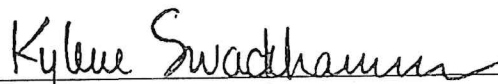
NOW, THEREFORE, the Delaware-Muncie Metropolitan Plan Commission hereby **FAVORABLY RECOMMENDS (7-1)** the application for rezoning.

**DELAWARE-MUNCIE METROPOLITAN
PLAN COMMISSION**

BY:



Chris Smith, President



Kylee Swackhamer, Secretary

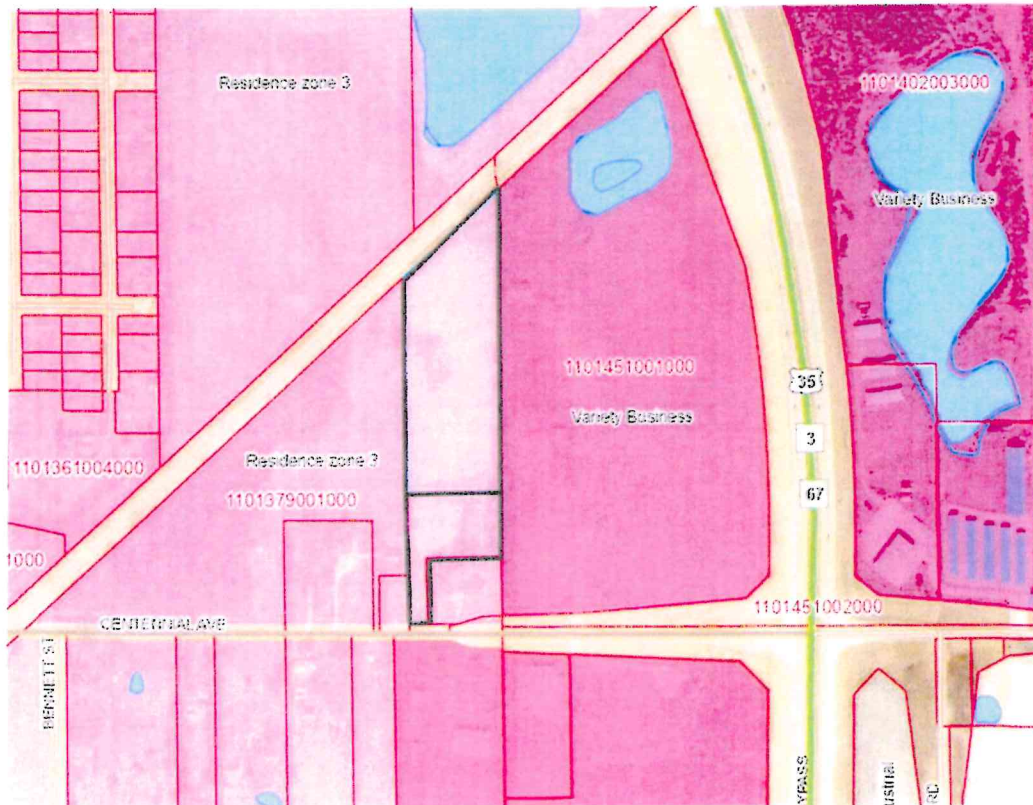
EXCERPT FROM THE FEBRUARY 6, 2025
CASE ANALYSIS FROM THE
DELAWARE-MUNCIE METROPOLITAN PLAN COMMISSION

MPC 05-25Z Drake Properties I LLC—Donna Drake

Description & Location: 3700 BLK E Centennial Ave., Muncie, Indiana and Lot 2 in the Nannie Haven Subdivision, Muncie, IN

Travel east on E Jackson St (32) for 2.3 miles. Turn left (north) on N Bennett St and continue for 1.0 mile. Turn right (east) on E Centennial Ave and continue for 0.3 mile. Parcels are in the 3700 Blk E Centennial Ave.

This application is for a 4.97 acre parcel that is landlocked by three parcels on the south, rail road tracks on the north, as well properties on the east and west. Also listed in this application is a 1.47 acre known as Lot 2 in the Nannie Haven Subdivision.



Streets: Centennial Ave. is platted with a 30' north half ROW and is classified as a Secondary Arterial with an 80' proposed ROW according to the Thoroughfare Plan Map .

Land Use: The land use in this area is a mixture of R-3 single family residences, and BV Variety Business Zone.

Zoning: The parcels north, south and west of these parcels are classified as R-3 Residence Zone. The parcels to the east and southeast are classified as BV Variety Business.

Request: The applicant is requesting both parcels to be rezoned from the R-3 Residence Zone to the BV Variety Business Zone.

Additional Information:

The rezoning request for MPC 11-24Z was originally heard by the Board at the October 3, 2025 meeting and was given an unfavorable recommendation. This recommendation was forwarded to City Council for introduction at their November 4, 2024 meeting. City Council was advised by the applicant's representative that improvements were made by the property owner to address some of the issues that the neighbor had concerns with to prevent any further damage to their property. After review, City Council advised the applicant to speak with surrounding property owners regarding concerns and go back before the Plan Commission Board.

The parcels are accessed from Centennial Ave and the Corridor Development Standards will apply to any use other than one or two family residential use, unless Variances of Use are granted by the Board of Zoning Appeals. DMMPC Staff is told that the storage structure is currently used for business storage, which is not a permitted use in a residential zone unless a Variance of Use is approved by the Board of Zoning Appeals. DMMPC Staff has discussed these concerns with the applicant's representative.

**DELAWARE-MUNCIE METROPOLITAN PLAN COMMISSION
PROPOSED ZONING CHANGE APPLICATION**

Jurisdiction: (Check One)

Delaware County

City of Muncie

Submitted: 1-13-25

Case No.: MPC 05-257

(1) Applicant: Drake Properties I LLC- Donna Drake

Address: P.O Box 96 Eaton, IN 47338 Phone: 744-6072

(2) Record of Applicant's Ownership:

A. By Deed:
Deed Book No. & Page No.: 2019R02757
Date of Deed: 03/05/2019

B. By Recorded Contract:
Misc. Book No. & Page No.: _____
Date of Contract: _____

C. By Unrecorded Contract:
Date of Contract: _____
Name of Contract Seller: _____
Book No. & Page No. Of Deed in Seller's Name: _____

(3) Legal Description of Property for which rezoning is requested: (From the Deed or Abstract).

See attached

(4) Common Address of Property Involved:
3700 BLK E Centennial Ave, Muncie, IN

(5) Proposed zoning change: (Give exact zone classification.)
From the R-3 Residence Zone Zone
To the BV Variety Business Zone Zone

- (6) Intent and Purpose of Proposed Change: (Specify use contemplated on property.)
See attached
- (7) Will the Owner develop the property for the use specified in Item 6 or does owner intend to sell property for the purpose specified.
The owner intends to retain and develop the property for the use specified in item 6.
- (8) State how the proposed change will not adversely affect the surrounding area.
See attached
- (9) Will certain variances be requested if the proposed zoning change is granted?
(If yes, list the variances)
No
- (10) Has the applicant provided stamped, addressed envelopes to send notices of this rezoning to all the property owners within 300 feet? Yes
Has the applicant discussed this rezoning with those owners personally? Yes
(If answer is yes, give their attitudes toward the rezoning.)
The east adjoining neighbor is in favor of this zoning change.
- (11) Are there any restrictions, easements, and/or covenants governing the property prohibiting its use for the purpose specified in this application?
(If answer is yes, attach copy of it and/or explain.)
No

6. Lot 2 of Nannie Haven Subdivision contains a model center for a home renovation business. The purpose of the proposed change is to move this property into a zoning classification that permits a business under its uses, where the current zoning of R-3 Residential does not. The purpose in rezoning the 4.97-acre parcel that is north of Lot 2 in Nannie Haven Subdivision is for the expansion of the business. They will need a larger area for this expansion, further requiring an adequately zoned property to do so.

8. The change will not have an adverse impact on the surrounding area due to the fact that it is surrounded by properties that are already zoned BV-Variety Business for similar uses. The property that directly adjoins this property to the east is zoned BV- Variety Business, as well as several properties to the south across Centennial Avenue. The property is located near a major thoroughfare, which further supports the appropriateness of this change in zoning classification. The surrounding zoning and road infrastructure provide compatibility with the existing environment.

AFFIDAVIT

(I or We) Donna Drake being duly sworn, depose and say that I/We am/are the owner(s)/contract owner(s) and contract seller(s) of property involved in this application and that the foregoing signatures, statements, and answers herein contained and the information herewith submitted are in all respects true and correct to the best of my/our knowledge and belief.

SIGNATURES: *Donna Drake*

Subscribed and sworn to before me this 22nd day of November, 2024

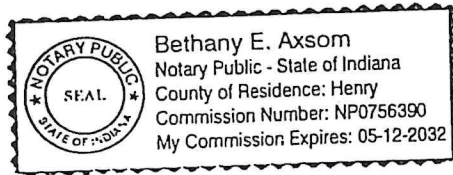
Bethany E. Axsom

Notary Public

5/12/2032
My Commission Expires

Resident of Henry County

State of IN



DO NOT WRITE IN THIS SPACE

The foregoing application has been inspected by me and was submitted to the Delaware-Muncie Metropolitan Plan Commission Office in accordance with all the formal requirements. If properly advertised by the applicant, this application will be heard by the Plan Commission in Public hearing on the _____ day of _____, 20____.

Signed _____

Date _____

182

Young's Title

4P.
5cr

Duly Entered for Taxation
Transfer Fees \$ 1000
MAR 05 2019 ERP

2019R02757
MELANIE MARSHALL
DELAWARE COUNTY RECORDER
RECORDED ON
03/05/2019 10:53 AM
REC FEE 25.00
PAGES: 4

Alan G. Conroy
Delaware County Auditor

Special Warranty Deed

This indenture witnesseth that The Bank of New York Mellon FKA The Bank of New York, as Trustee for certificateholders of CWABS, Inc., Asset-Backed Certificates, Series 2007-5, by NewRez LLC f/k/a New Penn Financial, LLC dba Shellpoint Mortgage Servicing, as Attorney-in-Fact under Limited Power of Attorney dated December 8 2016 and recorded January 17 2018 as Document Number 2018R00634 ✓ ("Grantor"),

CONVEYS AND WARRANTS TO Drake Properties I, LLC, an Indiana limited liability company of Delaware County, Indiana ("Grantee"),

In consideration of One Dollar (\$1.00) and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the following described real estate located in Delaware County, Indiana:

TRACT ONE:

A part of the Southwest Quarter of Section One (1), Township Twenty (20) North, Range Ten (10) East, more particularly described as follows, to-wit: Beginning at the Southeast corner of said Southwest Quarter and running thence West on the South line of said Quarter 369 feet; thence North parallel with the East line of said Quarter 171 feet; thence East parallel with the South line of said tract 369 feet to the East line of said Quarter; thence South on said East line of said Quarter 171 feet to the point of beginning, said in previous deed to contain 1.448 acres, more or less.

EXCEPTING THEREFROM: A part of the Southwest Quarter of Section 1, Township 20 North, Range 10 East, Delaware County, Indiana, described as follows: Beginning on the Northern boundary of Centennial Road North 00°51'00" West 20.01 feet (along the East line of said Quarter Section) from the Southeast corner of said Quarter Section; thence North 89°34'00" West 160.35 feet along said Northern boundary; thence North 73°44'03" East 104.40 feet; thence North 88°31'27" East 60.00 feet to the East line of said Quarter Section; thence South 00°51'00" East 32.00 feet along said East line to the point of beginning.

TRACT TWO:

A part of the Southwest Quarter of Section One (1), Township Twenty (20) North, Range Ten (10) East, in Center Township, Delaware County, Indiana, described as follows: Commencing at the Southeast corner of the Southwest Quarter of Section 1, Township 20 North, Range 10 East; thence North 00°56'30" West (assumed bearing) 421.00 feet along the East line of said Southwest Quarter Section to the Point of Beginning; thence North 00°56'30" West 901.42 feet



152a

to the Southerly right-of-way line of the Norfolk and Western Railroad (formerly Lake Erie and Western Railroad Company); thence South 47°08'30" West 376.20 feet along said Southerly right-of-way line; thence South 00°56'30" East 645.50 feet; thence South 90°00'00" East parallel with the South line of said Southwest Quarter Section 280.00 feet to the point of beginning, said in previous deed to contain 4.97 acres, more or less.

TRACT THREE:

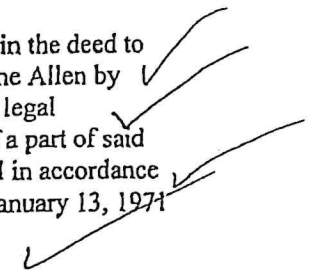
A part of the Southwest Quarter of Section One (1), Township Twenty (20) North, Range Ten (10) East, more particularly described as follows, to-wit: Beginning at a point in the East line of said Southwest Quarter 171 feet North of the Southeast corner thereof; thence North on and along said East line 250 feet; thence West parallel with the South line of said Southwest Quarter 280 feet; thence South parallel with the East line of said Southwest Quarter 250 feet; thence East parallel with the South line of said Southwest Quarter 280 feet to the point of beginning, said in previous deed to contain 1.6 acres, more or less.

Commonly known as: 4008 East Centennial Avenue, Muncie, IN 47303

Tax parcel number: 18-11-01-379-006:000-003 and 18-11-01-379-007:000-003

Grantor covenants that it is seized and possessed of the said land and has a right to convey it, and warrants the title against the lawful claims of all persons claiming by, through and under it, but not further otherwise.

Grantor certifies that the land described herein is the same land as that conveyed in the deed to the grantor herein, recorded as Instrument No. 2018R14199 and also, to Jacqueline Allen by Warranty Deed recorded February 27, 2007 as Instrument No. 2007R07187. The legal description herein is corrected to except from Tract One an earlier conveyance of a part of said tract to the State of Indiana by Instrument recorded in Book 484, pages 61-62 and in accordance with the historical legal of Tract Three as described in Warranty Deed recorded January 13, 1971 in Deed Book 1971, page 158.



The following reservations from and exceptions to this conveyance and the warranty of title made herein shall apply: .

1. All easements, rights-of-way and prescriptive rights, whether of record or not, pertaining to any portion(s) of the herein-described property (hereinafter the "Property");
2. All valid oil, gas and mineral rights, interest or leases, royalty rcsrvations, mineral interest and transfers of interest of any character, in the oil, gas or minerals of record in any county in which any portion of the Property is located;
3. All restrictive covenants, terms, conditions, contracts, provisions, zoning ordinances, and other items of record in any county in which any portion of the Property is located, pertaining to any portion(s) of the Property, but only to the extent that same are still in effect;

BUSINESS ENTITY REPORT

NAME AND PRINCIPAL OFFICE ADDRESS

BUSINESS ID 201801181234779
BUSINESS TYPE Domestic Limited Liability Company
BUSINESS NAME DRAKE PROPERTIES I. LLC
ENTITY CREATION DATE 01/18/2018
JURISDICTION OF FORMATION Indiana
PRINCIPAL OFFICE ADDRESS 503 E. Race, 96, Eaton, IN, 47338, USA

YEARS FILED

YEARS 2024/2025

EFFECTIVE DATE

EFFECTIVE DATE 01/10/2024
EFFECTIVE TIME 10:21 AM

REGISTERED OFFICE AND ADDRESS

REGISTERED AGENT TYPE Individual
NAME Donna Drake
ADDRESS 503 E. RACE, 96, Eaton, IN, 47338, USA
SERVICE OF PROCESS EMAIL dfdrake1@comcast.net

I acknowledge that the Service of Process email provided above is the email address at which electronic service of process may be accepted.

GOVERNING PERSON INFORMATION

TITLE Member
NAME DONNA DRAKE
ADDRESS 503 E. RACE. 96, Eaton. IN. 47338, USA

APPROVED AND FILED
DIEGO MORALES
INDIANA SECRETARY OF STATE
01/10/2024 03:42 PM

SIGNATURE

THE SIGNATOR(S) REPRESENTS THAT THE REGISTERED AGENT NAMED IN THE APPLICATION HAS CONSENTED TO THE APPOINTMENT OF REGISTERED AGENT.

IN WITNESS WHEREOF, THE UNDERSIGNED HEREBY VERIFIES, SUBJECT TO THE PENALTIES OF PERJURY, THAT THE STATEMENTS CONTAINED HEREIN ARE TRUE, THIS DAY January 10, 2024.

THE UNDERSIGNED ACKNOWLEDGES THAT A PERSON COMMITS A CLASS A MISDEMEANOR BY SIGNING A DOCUMENT THAT THE PERSON KNOWS IS FALSE IN A MATERIAL RESPECT WITH THE INTENT THAT THE DOCUMENT BE DELIVERED TO THE SECRETARY OF STATE FOR FILING.

SIGNATURE

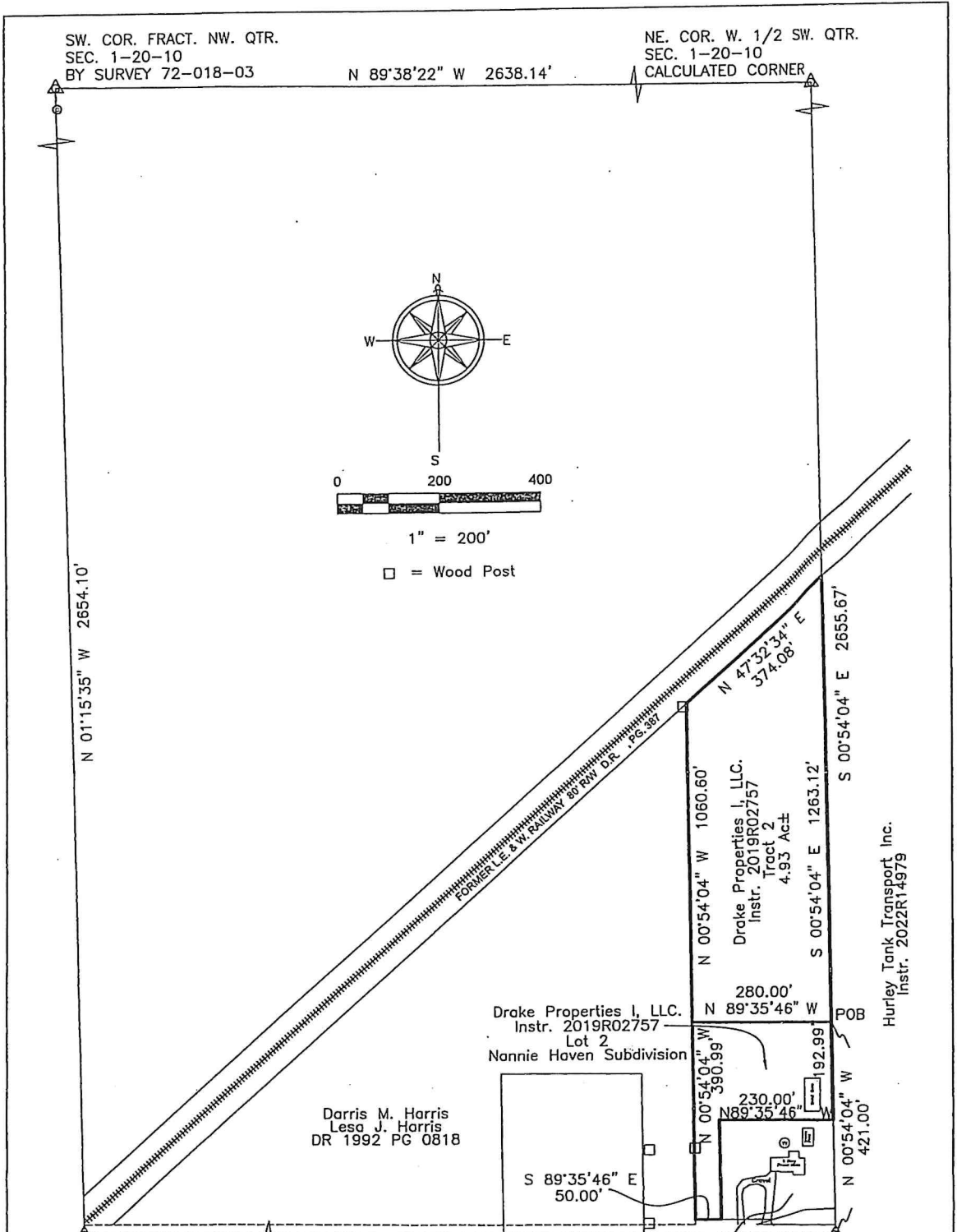
Donna F. Drake

TITLE

Member

Business ID : 201801181234779

Filing No. : 10174809



SW. COR. SW. QTR. SEC. 1-20-10 MAG NAIL N 89°35'46" W 2621.57' Drake Properties I, LLC. Instr. 2019R02757 LOT 1 SE. COR. SW. QTR. SEC. 1-20-10 MAG NAIL

This Instrument Prepared by: Halton L. Ashton
Accuracy or completeness of subsurface features is not certified.

Revisions	
Date:	
Reason:	
Date:	
Reason:	
Drawn: END	
Date: 08/21/2024	
Job: 2024598	
Client: Donna Drake	
Owner: Drake Properties I, LLC	
Crew: EHA	
Electronic Field Book	
Field Date: 11/09/2023	
IUPPS REF. #	

Proforma Survey
4008 E. CENTENNIAL AVE.
MUNICE, IN

SECTION CORNER COORDINATES ARE BASED ON INDIANA STATE PLANE EAST ZONE (NORTH AMERICAN DATUM OF 1983, CORS 96 EPOC 2002.000)

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 (HALDON L. ASHTON).

175 West 17th Junction Street, Muncie, IN 47302
Ph: (317) 833-1224 Fax: (317) 833-1225
Email: ashton@ashtonsurveyors.com

Sheet 1 OF 2

MPC 05-25Z

A description of land to have a change of zoning to Variety Business Zoning:

Lot 2 in Nannie Haven, a subdivision in Center Township, Delaware County, Indiana recorded in instrument number 2024R04211 records of Delaware County, Indiana.

Also A part of the Southwest Quarter of Section 1, Township 20 North, Range 10 East in the City of Muncie, Delaware County, Indiana, described as follows:

Beginning at a point on the East line of the Southwest Quarter of Section 1, Township 20 North, Range 10 East, said point being North 00 degrees 54 minutes 04 seconds West 421.00 feet (assumed bearing) from a nail marking the Southeast corner of said Southwest Quarter; thence North 89 degrees 35 minutes 46 seconds West 280.00 feet; thence North 00 degrees 54 minutes 04 seconds West 1060.60 feet parallel with the East line of said Southwest Quarter to the Southeasterly right-of-way line of the Norfolk and Southern Railroad; thence North 47 degrees 32 minutes 34 seconds East 374.08 feet along said Southeasterly right-of-way line to a point on the East line of said Southwest Quarter; thence South 00 degrees 54 minutes 04 seconds East 1263.12 feet along said East line to the point of beginning, containing 4.93 acres, more or less.

Dated: August 30, 2024

PRO FORMA SURVEY

This drawing is not intended to be represented as a retracement or original boundary survey, a route survey, or a Surveyor Location Report

Haldon L. Ashton
 Registered Land Surveyor LS80040149
 Haldon L. Ashton



2. Flood Zone:
3. The within tract does not lie within that Special Flood Hazard Zone A as said tract plots by scale on Community Panel #18035C0254D of the Flood Insurance Rate Maps for Delaware County, Indiana (Maps Dated:7/4/2011).
4. The minimum flood risk was verified by the INDNR Flood Plain Information Portal-dated: 11/17/2023
5. Ownership shown herein is per County Records or as indicated in title work provided by others.

This Instrument Prepared by: Haldon L. Ashton
 Accuracy or completeness of subsurface features is not certified.

<p>Revisions</p> <p>Date: Reason:</p> <p>Date: Reason:</p> <p>Drawn: END Date: 08/21/2024 Job: 2024598 Client: Donna Drake Owner: Drake Properties I, LLC Crew: EHA Electronic Field Book Field Date: 11/09/2023 IUPFS REF. #</p>	<p>Proforma Survey 4008 E. CENTENNIAL AVE. MUNICE, IN</p> <p>SECTION CORNER COORDINATES ARE BASED ON INDIANA STATE PLANE EAST ZONE (NORTH AMERICAN DATUM OF 1983, CORS 96 EPOC 2002.0000)</p> <p>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 (HALDON L. ASHTON),</p>	
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The information attached was included in the January 9, 2025 packet, regarding the request for a re-hearing for Donna Drake.

Regarding Re-Hearing Request for Donna Drake

This packet contains the following:

- 1) Excerpt of Minutes from the October 3rd, 2024 Plan Commission Meeting regarding the original request
- 2) Excerpt of Minutes from the November 4th, 2024 City Council Meeting regarding the original request
- 3) Emails and pictures from the Applicant Donna Drake and Ashton Land Surveyor
- 4) Emails and pictures from Anthony Rieger outlining his concerns

Kylene Swackhamer

From: Kylene Swackhamer
Sent: Wednesday, December 4, 2024 11:36 AM
To: MaryAnn Pope
Subject: FW: agenda

Brandon said to have the applicant formally request the Drake rehearing request for the file.

Kylene Swackhamer, Executive Director

Delaware-Muncie Metropolitan Plan Commission
100 W. Main St., Rm. 206
Muncie, IN 47305
Phone 765-747-7740
www.dmmpc.org

From: Kathy Vannice <Kvannice@ashtonlandsurveyors.com>
Sent: Tuesday, December 3, 2024 1:51 PM
To: Kylene Swackhamer <kswackhamer@co.delaware.in.us>; Brandy Ingermann <bingermann@co.delaware.in.us>
Subject: agenda

We respectfully request to place the parcel located north of 4008 E Centennial Ave, owned by Drake Properties, LLC, Parcel 11-01-379-010.000 on the agenda for the January Planning Commission meeting.

Thank you,

Celebrating 50 years in business!



Kathy Vannice
Email: kvannice@ashtonlandsurveyors.com
Phone# (765)282-5594

Kylene Swackhamer

From: Kathy Vannice <Kvannice@ashtonlandsurveyors.com>
Sent: Monday, December 16, 2024 3:57 PM
To: Kylene Swackhamer
Subject: Barn - response and pictures

----- Original Message -----

From: DFDRAKE1 <DFDRAKE1@comcast.net>
To: Dfdrake1@comcast.net
Date: 12/14/2024 11:21 PM EST
Subject: Barn - response and pictures

Respectfully I would like to respond to the letters that Mr. Reiger has sent.

First and foremost I'm sure that the procedure and notifications were properly handled. Ashton Surveyors is a 50 year old reputable company.

I'm sorry the pest control company drove through the yard. I knew nothing until the day after the October meeting. I apologize again. But I honestly can't control certain things.

The other "trespassers" I'm sure in part were turning around and were confused. Because I can only use the address of the back lot being 3700 Blk E. Centennial. These trespassers would mostly be utility people. All of this has been resolved.

He is correct. I did not ask his opinion or wants regarding the I&M pole. First I was the one paying. Second they have a light pole in the middle of their back yard. I am not sure how close my pole is to their swing set, but I'm guessing not much difference than mine.

I never once assured them of anything regarding my property. I have never met the Reigers. Everything was handled through real estate agents. Anything they assured was not sanctioned by me. They did at closing mention they may be interested in purchasing the barn. I gave them a fair price. They could not afford it, and after 6 months I started finishing the barn. I've invested another \$70,000.00 in the barn, driveway and lot.

I feel we would have had the same complaints if I would have built a home. Construction can be messy. Progress is messy. But we strive at every worksite not to be invasive or to be disrespectful of others.

As far as the lights. Originally the house, barn and back lot were put on the market as one purchase. The Southside dusk to dawn light was installed for security and safety for the house and the barn. When it didn't sell, I separated the front parcel. Selling the house and one acre. Keeping the barn and another 6.5 acres.

Frankly I had forgotten about the Southside dusk to dawn light. Since there was no electricity until recently to the barn, I didn't know there was an issue. I will have it taken down, since the house is not vacant the light is no longer needed.

The October meeting I watched referred to the property to the east of mine, seven times if I'm correct. A pest control Silverado became a tanker truck, I am not sure how that happened. Hazardous waste was discussed. Again this is not my property but the property to the east.

Attached are pictures showing both mine and the Reiger properties.

I also invite any and all of you to come visit. I think you will find a very well maintained building connected to a beautiful lot.

In my career I've mostly specialized in buying junk houses and turning them into homes. Junk houses, foreclosures, deed sales, tax sales, Tom Terry. I do have spreadsheets showing the Delaware county homes and the assessed values now. I'm happy to share any and all information and or pictures. I just want to assure this committee I'm not a slum lord. Or a sloppy flipper. We take pride in our properties past and present.

There are personal reasons I can't be at the meetings. But I put my faith into Kathy Vannice as my professional representative and Zach Crouch as my proxy.

Please reach out if you have any questions or would like to set up a time.

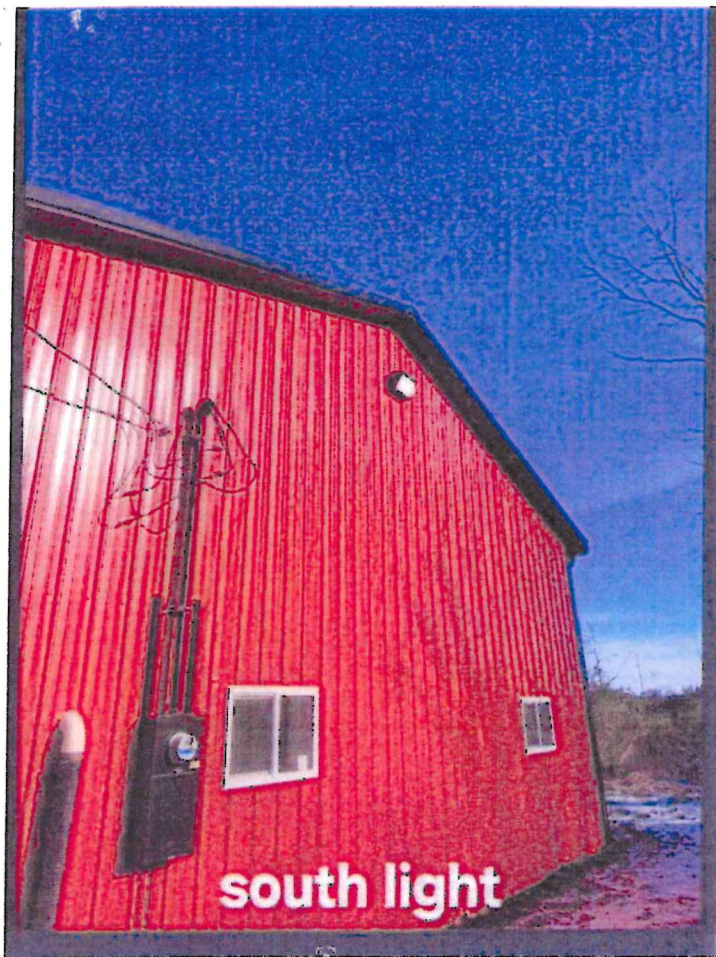
Respectfully

Donna Drake
Drake Properties
765-744-6072

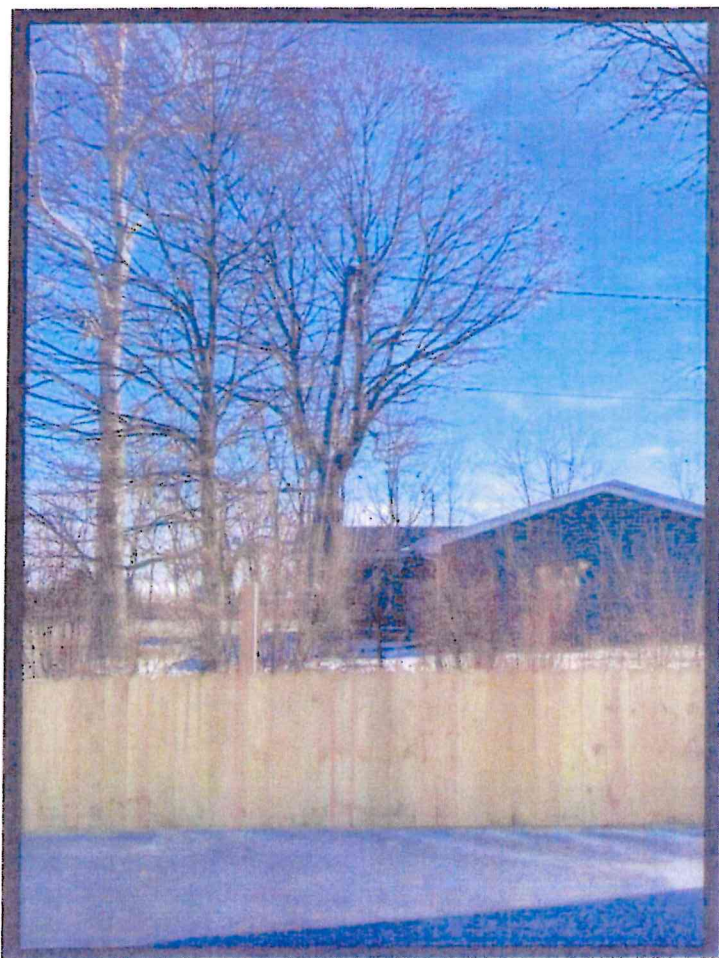
Sent from my Verizon, Samsung Galaxy smartphone



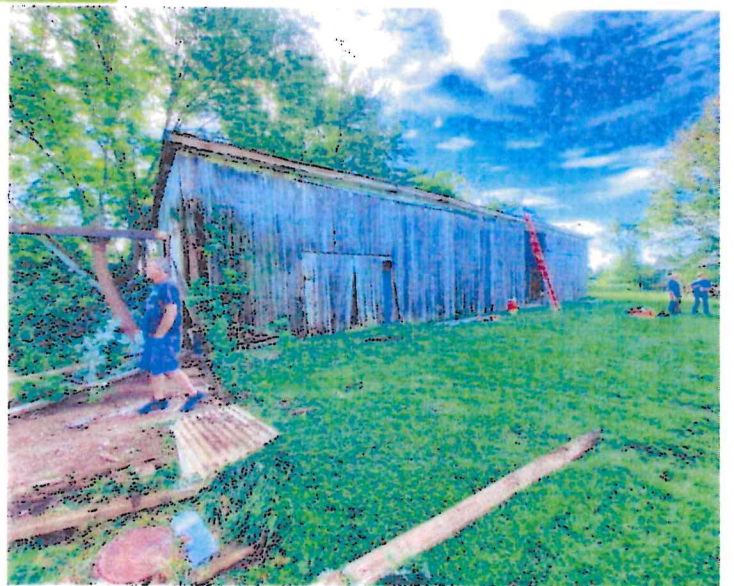
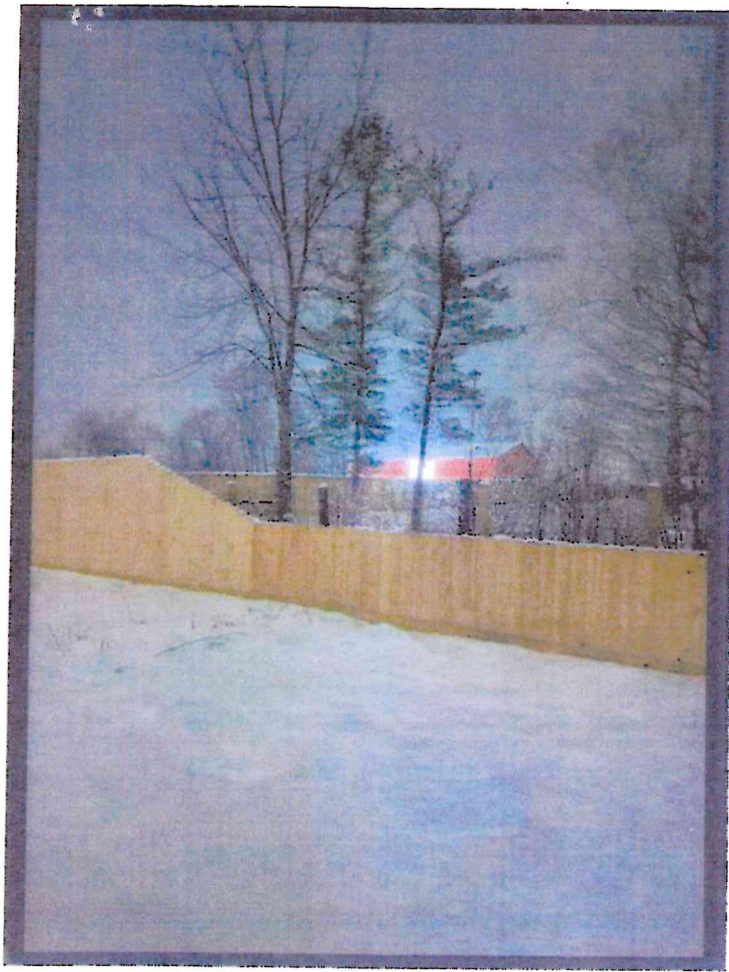


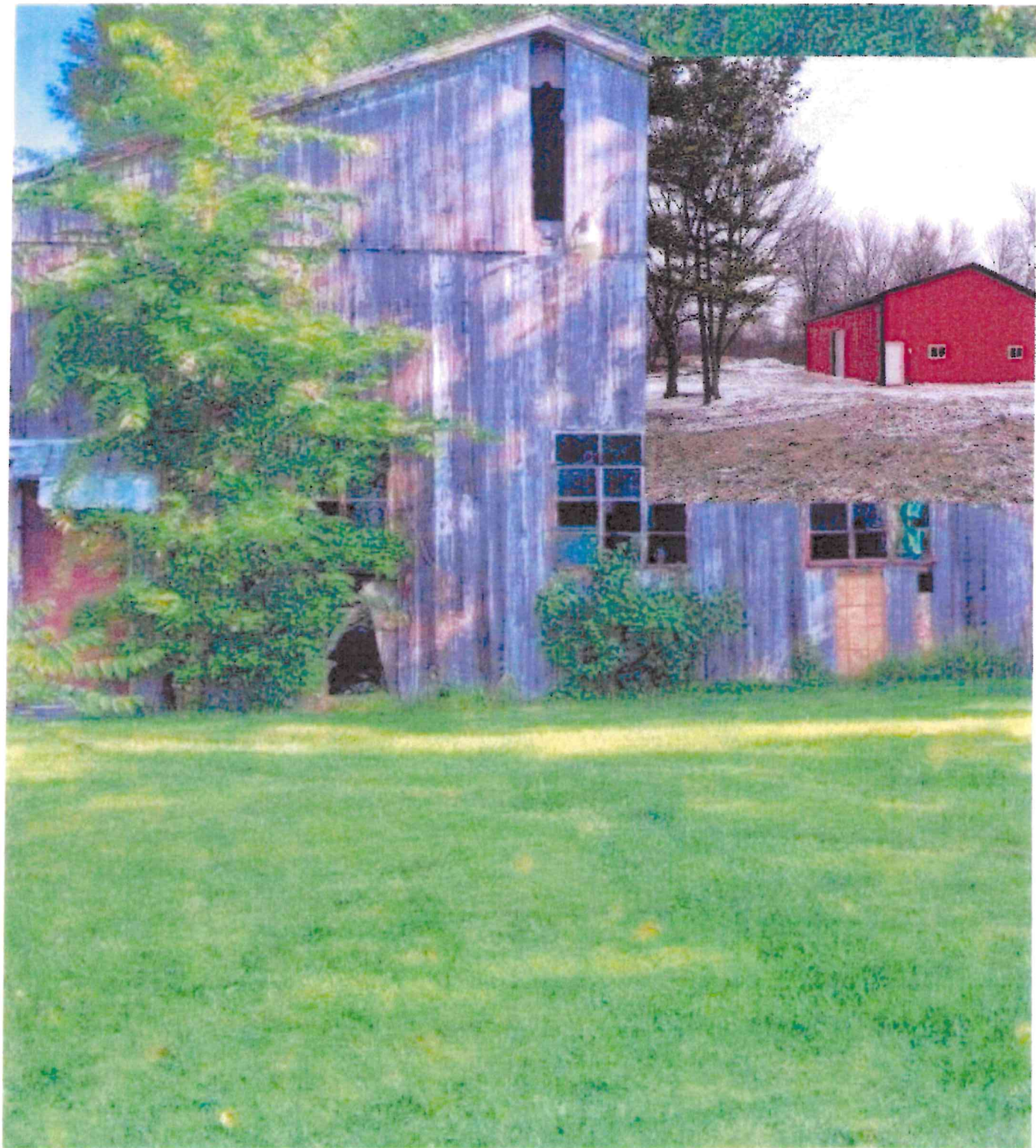


trees they referred to



their version of pride

















Brandy Ingermann

From: Kylene Swackhamer
Sent: Monday, December 30, 2024 2:34 PM
To: Brandy Ingermann
Subject: FW: FW: Plan Commission Re-zoning case

Kylene Swackhamer, Executive Director

Delaware-Muncie Metropolitan Plan Commission
100 W. Main St., Rm. 206
Muncie, IN 47305
Phone 765-747-7740
www.dmmpc.org

From: Kylene Swackhamer
Sent: Monday, November 25, 2024 9:41 AM
To: 'Brandy Ingermann (bingermann@co.delaware.in.us)' <bingermann@co.delaware.in.us>; MaryAnn Pope <mapope@co.delaware.in.us>
Subject: FW: Plan Commission Re-zoning case

Response from Anthony Rieger to be included in packet for Drake rehearing.

Kylene Swackhamer, Executive Director

Delaware-Muncie Metropolitan Plan Commission
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From: Anthony Rieger <arieger4233@gmail.com>
Sent: Friday, November 22, 2024 6:12 PM
To: Kylene Swackhamer <kswackhamer@co.delaware.in.us>
Subject: Re: Plan Commission Re-zoning case

Hello again Kylene,

I'd like to follow up as I reviewed the minutes from the 11/4 city council meeting to clarify some items.

Our concerns went beyond the constant trespassing on our property by parties attempting to reach the barn. This issue has stopped since the gravel drive was installed.

Kathy Vannice states "people drove through (what he believed to be across) his property". There is zero question they drove across our property. The pest control company drove through our front yard, not even ten feet away from our front porch, and around the side of the house back towards their barn, where our septic field is. I have video of them driving through our yard as well as video of multiple other vehicles entering our drive, sometimes parking, and often turning around through our grass when they realized they were at the wrong lot.

Ms. Vannice claimed to have photos of the completed fence but as I stated in my last email, they have not completed the western border of the property that separates their driveway from our yard. It looks like they are working on it today.

We had concerns about what was going on at the time of our initial opposition letter, but rezoning also does likely impact our resale value. I don't think the parties discussing this matter are fully aware of the proximity of the barn/lot to our home. The property line is approximately 65 feet from our home. The barn sits maybe 15 feet back from the property line.

The utility pole placement is still going to be an eyesore. Even the utility company representatives questioned why it was being placed there when I asked if they were aware of the planned fence.

Our home appraisal specifically mentions the view of the countryside as part of the valuation. I don't think there is any question that our value will be decreased because of all of this.

I did speak with Zach Crouch on multiple occasions and he has always been very courteous. His comments are fairly accurate but don't necessarily reflect our true opinion on the matter. While we are glad the fence is being erected, it doesn't change the fact that we are still unhappy with the rezoning.

The bottom line is that we purchased this home accepting that there was a business across the street and one to the east. We knew we would have noise, light pollution, and traffic to deal with because of those businesses. However, the business to our east operates so far back on their lot and that shared property line has a good enough amount of mature growth of trees, shrubs, etc that we are fairly isolated from their day to day operations. The business across the street doesn't affect our ability to use our back yard freely and we are already in the process of planting trees for better privacy for our front yard in the future. We took all of this into consideration when buying.

We bought our home with the understanding that Lot 2 was residential. We actually were told at one point in the process of buying our home, that if Drake Properties decided to sell that lot at any point, they would offer it to us first. That reassured us that it was, at a minimum, going to remain a residential lot. We would have been fine with a home going there and remaining residential.

At the end of the day, if it is rezoned to business variety, then there is no telling what will happen with that property in the future if Drake Properties does sell. It could sell to any number of businesses in varying industries that not only could affect our value, but could affect our ability to sell in general. Especially if sold to Mr. Dishman and the concerns of the hazardous waste mentioned in the meeting notes. Even a staging area, as is being currently proposed, is going to bring more regular noise and traffic than a home would as cars and trucks come and go dropping off and picking up materials regularly. Then, of course, there is the issue of the lights on the barn as previously mentioned.

All of this impacts our enjoyment of our home with our family and likely the resale value as well.

Finally, we did see in the meeting notes that it was mentioned we weren't present at the November 4 meeting. We would have attended but our daughter was born on 10/29 and that obviously took precedence.

Thank you,
Anthony Rieger

On Thu, Nov 21, 2024 at 11:46 AM Anthony Rieger <arieger4233@gmail.com> wrote:

Hello Kylene,

Thank you for reaching out.

We still are not in favor of the rezoning for our original reasons as well as that now there are excessive flood lights that are on at night as well.

There is a fence installed between our northern property line and their lot, but the fence on our western property line, that borders their drive, has barely been started.

Since the October 3rd meeting, there are two lights, one on each of the south and west walls, on the barn that are frequently on which are excessively bright. I am attaching photos and a video of what they look like at night when both are on. The light on the southern wall of the barn seems particularly unnecessary given the height of where it's installed, proximity to the property line, and the illumination provided by the other light on the west wall.

These lights illuminate our entire back yard, and even part of our front yard, when we want our yard as free from light pollution/light trespass as possible. We bought our home specifically because it was away from city centers. We wanted somewhere relatively private, remote, and mainly residential/agricultural to be able to enjoy our property and our yard and to be able to do things like stargaze, camp out in a tent with our kids, have fires, and outdoor movie nights, among other things. The lights will severely hinder, if not entirely stop us, from being able to do any of those activities. Our entire back yard, where we had planned prior to buying to do these activities, being so bright from these lights completely ruins the ability to enjoy those experiences. This may seem trivial, but these are activities that our family greatly enjoys and it is a significant enough imposition on us that it would have made us rethink buying here and has forced us to consider selling.

Also, the lights shine into our home so we will need blackout curtains for our kids' rooms (2yrs old and 1 month old) which is another expense for us.

If there is any code regarding light trespassing, or if Drake Properties wishes to simply make the alteration, then we would appreciate something being done about the lights at a minimum.

We understand that the lights are likely installed for security, but feel there should be updates made to lessen their impact on us given the close proximity of the barn/lights to our yard and home.

We are still not in favor of the rezoning. If it's within the commission's scope to require the lights be updated to be less intrusive then we ask that the proper action be taken for that. Regardless, we are still in opposition to the rezoning. In addition to our original objections, which still stand, it seems that when one concern we have about a business going in is somewhat addressed, like the incomplete fencing, a new concern arises, the lighting, and we don't want to have to argue and litigate every change the business makes that negatively affects our family and for all our original reasons as well as the lighting, would prefer the lot remain for residential use.

We appreciate your time and the commissions' review of this matter.

Thank you,
Anthony Rieger

On Wed, Nov 20, 2024 at 12:41 PM Kylene Swackhamer <kswackhamer@co.delaware.in.us> wrote:

Hello Anthony,

I am reaching out to you in regards to the Plan Commission case that was heard at our October 3rd for a re-zoning of the Drake Property. After the hearing before the Plan Commission, the case went before City Council at their meeting on November 4th. At that meeting, the City Council requested that the case go back before the Plan Commission for another review to include some new information presented by the applicant, and they also asked me to reach back out to you to see if you would like to submit any further information to follow-up on your original email. Our office has not had this request from City Council before, so we are awaiting guidance from our attorney on how to proceed.

I would appreciate if you could please return my

email or give me a call to provide any updates to your comments. Thank you very much.

Kylene Swackhamer, Executive Director

Delaware-Muncie Metropolitan Plan Commission

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Phone 765-747-7740

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COMMISSION

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NEW BUSINESS:

MPC 11-24Z Jurisdiction: City of Muncie

Being a consideration of an appeal filed by Drake Properties I LLC – Donna Drake, P.O. Box 96 Eaton, Indiana, requesting a change in zone from the R 3 Residence Zone to the BV Variety Business Zone on premises located in the 3700 Block E Centennial Ave, Muncie, Indiana, as more accurately described in the application.

Kathy Vannice, Ashton Land Surveyor, 325 W. Washington St., Muncie IN, appeared to represent the applicant. She stated that they had platted lot 2, and that the goal was to sell the parcels to the north to the property owners to the east. She stated that the property to the east was zoned Variety Business, and they would need to rezone in order to combine those parcels.

Mr. Wiseley asked if Drake Properties was trying to sell lot 2 and the northern acreage to the adjoining neighbor.

Ms. Vannice stated yes.

Mr. Wiseley asked who owned the parcel to the east.

Ms. Vannice stated that she believed Hurley Tank Transport Inc. was the owner.

Anthony Rieger, 4008 E. Centennial Ave., Muncie, Indiana, appeared in opposition. He stated that he had submitted a written statement and that he did not appreciate the way the owner had gone about this. He stated that Ms. Drake indicated she had talked to all of the property owners, and that no one had talked to him or his wife. He stated that the first he had heard about this request was when he received the letter in the mail and that from what he understood, it would be a commercial development. He stated that they had already had enough problems with trespassing and people driving in his yard from the pest control company. He stated that they had driven over his septic

field, but luckily, he did not believe there had been any damage. He stated that they had small children and wanted to raise their family in this nice quiet area, but that this would force them to build a fence and plant trees that would cost them a lot of money. He stated that he did not know what actions can be taken, but this was his opportunity to voice his concerns and his opposition to the request.

Ms. Vannice asked if Mr. Rieger was to the west of the Drake property.

Mr. Wiseley stated that he was lot 1 to the south.

Ms. Vannice asked if there was a buffer required between a Residential and the Variety Business Zones.

Ms. Swackhamer stated that they would have to follow and met the development standards.

Ms. Vannice stated that in the buffer yard, a fence of at least 6' would be required and Ms. Drake would need to understand that was a requirement of those development standards.

Mr. Wiseley stated that the Board could make a motion to approve this as a single request, or they could separate the motion for the acreage and then for lot 2 since they were 2 individual parcels.

Mr. Henry asked about the existing building on lot 2 and if it would remain.

Ms. Vannice stated yes, it was an existing barn and it would remain. She stated that the property to the north was the one that Hurley Tank was interested in.

Mr. Wiseley stated as a reminder, this would be the Board's recommendation to City Council for final action.

Mr. Smith asked for clarification as to where Mr. Rieger lived.

Mr. Wiseley stated that looking at the case analysis, he was the property labeled 4008, which was lot 1 and that lot 2 was the L shaped property.

Ms. Swackhamer stated for the record, Mr. Rieger letter had been received and given to the Board.

Mr. Smith asked if by separating the motion, that would be one motion for lot 2 and a second motion for the acreage.

Mr. Wiseley stated yes.

Mr. Smith made a motion for an unfavorable recommendation for MPC 11-24Z, requesting a change in zoning from the R 3 Residence Zone to the BV Variety Business Zone, for lot 2, the 1.4 acre parcel of the subdivision. Mr. Dishman seconded the motion. Voting in favor: Mr. Carroll, Mr. Dishman, Mr. Henry, Ms. Hensley, Ms. Sipe, Mr. Smith, and Mr. Wiseley. Voting against: None. Motion carried, an unfavorable recommendation will be forwarded to City Council for introduction at their November 4, 2024 meeting.

Mr. Dishman made a motion for an unfavorable recommendation for MPC 11-24Z, requesting a change in zoning from the R 3 Residence Zone to the BV Variety Business Zone the for the 4.97 acre parcel. Mr. Smith seconded the motion. Voting in favor: Mr. Carroll, Mr. Dishman, Mr. Henry, Ms. Hensley, Ms. Sipe, Mr. Smith, and Mr. Wiseley. Voting against: None. Motion carried, an unfavorable recommendation will be forwarded to City Council for introduction at their November 4, 2024 meeting.

NOVEMBER 4, 2024

NEW ORDINANCES:

ORD. 27-24 AN ORDINANCE TO AMEND THE CITY OF MUNCIE COMPREHENSIVE ZONING ORDINANCE FROM THE R3 RESIDENCE ZONE TO THE BV VARIETY BUSINESS ZONE FOR PARCEL #11-01-379-007-000 AND PARCEL #11-01-379-010-000 LOCATED WITHIN THE 3700 BLK OF E. CENTENNIAL AVE., MUNCIE, INDIANA.

A motion was made by Green and seconded by Garrett to Introduce.

Kathy Vannice, Ashton Land Surveyors, explains these parcels of land right now have a pole barn sitting on them and are owned by Drake Properties LLC. For an R3 zone, there must be a house or another structure there as well for it to be in compliance. They have gone before the commissioners and the reason she is here tonight is to help plead their case. The owner of an adjoining property had a problem with the people who were trying to fix up and remodel the pole barn. In the process of replacing the siding, people drove through (what he believed to be across) his property. Drake Properties have since made sure it was staked and have installed a privacy fence all the way around. Vannice has pictures to show for verification. Also installed was a new gravel driveway that makes it very clear where to enter and exit the property so there should not be anyone making an accidental turn in at the wrong spot. The whole goal in this is to change it to Variety Business. The owner of the property (Donna Drake) buys, remodels, and sells homes which many times is referred to as a house flipper. She would like to be able to use that barn in the back as a staging (for flooring, materials, etc.) while completing remodels. It is not going to be real "retail" but needs to be zoned Variety Business to be able to do this. Drake has done a great job trying to establish so that the owner in front does not feel that their backyard is being invaded upon. Again, Vannice has photos to show the Council and approaches the bench.

Councilperson Gullion asked why this received a 0-7 unfavorable recommendation from the Planning Commission. Vannice explained the owner in the front stood up and complained at the Planning Commission meeting that when the property behind him was being remodeled (the pole barn), he felt like people had pulled across his septic system because in his opinion the entrance was not clear. That is when the surveying company made sure to show Drake the exact corners and provided her line steaks to put a fence up to alleviate that. Also, with this, if there is any future design or a future building, there are development standards that Drake would have to comply with and which would require more of a buffer zone. That would mean not just a fence but plantings and other things to screen it from a residential property.

President Dishman questions if this is located out on Centennial and the bypass. Vannice replies yes, it is really close to there. Dishman asks if that gentleman that owns that property wants to put a semi tanker place in here. Vannice states the gentleman on the corner is a semi tanker that's already zoned Variety Business. We are talking about a small home just to the west. To the north is the barn that used to be an old, dilapidated gray barn but has since been remodeled and is actually the red barn shown in the pictures. Grass and open field are all that can be seen behind it. Dishman asks if the same man that owns the tanker place is wanting to purchase this property as well. Vannice expresses that gentleman made an offer but personal issues made it so that finances are not there for him currently. He has made an offer but right it is somewhat tabled for his own personal reasons. Dishman recalls it being his understanding that nobody wanted a semi tanker place (or semi clean-up) out there and if he was considering purchasing it then he was potentially considering expanding. Vannice alludes he wanted to but is not now. Donna Drake is the current owner and, again, her desire is to use this as her own staging for flooring (or whatever) to be delivered as she is remodeling. Dishman just has a problem with the hazardous waste out there. Tankers and semi tankers can lead to a great mess. He suggests that gentleman that complained at the Planning Commission Meeting was probably right, maybe those semis are cutting into his yard. Vannice entices the semis are to the east, adjoining this property. It is pre-existing property that is owned by the gentleman that owns the semi tankers. We are talking about the property to the west and north adjoining. Vannice obtains a different photo and points out all three (3) properties mentioned, the semi owner, the man who filed the complained at the one topic of this ordinance.

Councilperson Basham acknowledges the 0-7 unfavorable recommendation from the Planning Commission with every member voting no is a significant red flag. Vannice honestly felt like she needed a second chance to explain Drake's goal not being to destroy this man's property around his house. That is part of the reason in her due diligence she immediately put the fence up to prevent any more damage or people coming through his property.

Councilperson Selvey asks if the improvements came before or after they went to the Planning Commission. Vannice replies the fence came after. In fact, it was Drake that purchased and remodeled the original one and actually sold it to the person who came to the meeting to complain. She remodeled that house for him. Selvey asks Dishman, since he is on the Planning Commission, if it is possible for her to go back to the Planning Commission with the improvements for them to take another vote and then bring it back to Council. Would that be acceptable in being fair to everyone? Powell agrees. Dishman informs they *can* go back to the Planning Commission but he is still having an issue with the tankers being out there. Vannice alludes that offer being off the table at this time and he has personal issues that he cannot finance purchasing it, as it was mentioned. Dishman makes the comment that maybe later on he will have his financials in order, though. Vannice suggests asking Drake to see if she is even interested in selling to him because as far as she was made aware they are not going in that direction because she is wanting to use that facility (barn) herself. There is no lease or contract on it right now. Selvey, again, recommends to go back to the Planning Commission, think about other improvements that can be done and talk to the neighbors to figure something out. With the way the Planning Commission voted and the details the Council is hearing tonight, she thinks it would be best to go back to the Planning Commission again.

Kylene Swackhamer, Director of the Planning Commission, is not a voting member of the Planning Commission Board so cannot speak on why or how they voted but confirms they do take into account when there is opposition. Her office did receive the email of opposition from the landowner in front of the property and it was mainly things that were currently going on as far as going on to his property. There is no current development on the site and there are not any plans for current development. The barn, as it sits there, is not in compliance with the zoning ordinance being on a residential lot. You are not supposed to have an accessory structure without a home/dwelling so changing the zoning to BV would fix that problem. The semi company that was mentioned to the east is zoned Variety Business so he can do that business there, as is, currently. There is nothing stopping him from doing that and that (kind of) butts up right against this property. With him being allowed to do that, he is not any type of violation. If there was some type of illegal dumping or something like that then that might be an NEM problem or environmental issue. She just wanted to mention that she thinks some of the opposition was the current things that were going on. Dishman claims at one time they were dumping out there. Swackhamer believes

that would be something to (maybe) report him for as a business owner in not doing things properly or somehow letting environmental involved.

Selvey is honestly trying to give them all another chance and is afraid if they don't accept the offer to go back – she personally is not very comfortable voting yes. For the third and last time, the best thing they could do is go back to the Planning Commission and make more changes. She tells them to take their time with it. However, if they want the Council to vote on it tonight then that is just a chance they'll have to take.

Powell asks Council Attorney Dan Gibson if it would be appropriate to Table this until it has an opportunity to go back through the Planning Commission and see the changes that have been made. Gibson informs them they can but they would have to take action and introduce it first. Powell thanks him for the clarification.

Swackhamer adds that would be up to the client but believes that would just entail another application to the Planning Commission and further processing could be done then.

Councilperson Garrett refers to the barn that is on the property now and asks if that was before the structure was tore down or after. Swackhamer replies it was before the ordinance so it is basically non-conforming as it is, it is existing. It wasn't built and in non-compliance, again, it was already existing. Garrett assures that was his question.

Councilperson Green asks President Dishman if the individual that had filed the complaint has had a range of opinion since the fence was put up and other changes were made.

Zach Crouch, friend of Donna Drake and Drake Properties, refers to that individual as 'Anthony' who lives at the front house that he purchased off Donna Drake. Crouch isn't sure what happened in the past but alludes that Drake Properties has taken extensive precautions to make sure that it does not happen again by putting in a privacy fence completely landscaped to the back. It truly is a changed property from the worst to the better. With that, Crouch has spoken with the landowner several times and as far as he is concerned, he is pretty happy with the improvements on that. That gentleman is not here so Crouch cannot speak for him but can speak to Drake Properties taking all precautions to make sure that that he is happy with living there. Crouch is aware that the gentleman is married with a small child and his wife just had another small child delivered so they want to make sure both sides are equally happy and be in the correct zoning for that. In addition to the fence being installed, Drake had Ashton Land Surveyors come out to do a proper zoning. Again, they want to make sure they are in perfect alliance with that. In closing, Crouch speaks to President Dishman regarding the tanker and/or semi situation he keeps referring to and isn't too sure about it but does know that Vannice had stated his funding was not there. He is sure they could draw something up saying they will not sell to that individual and would be more than happy to bring that up. He isn't sure why it was voted 0-7 other than it having a complaint. Addressing Selvey's comments, he assures Drake has done everything to justify the betterment of that. Dishman mentions loads of equipment that has been sitting out there just rusting away and is aware it has been sold. Crouch weighs that not being Drake Properties. Dishman just knows they let a lot of equipment sit out there and drain and leak on the ground. A lot of tanker companies do their own cleaning on the properties and he sure doesn't want that mess all over the ground out there. Crouch agrees and mentions as it sits it went from pretty much a hayfield to a decently nice mowed property and he can guarantee that Drake would not sell to any company that'll be destructive in that matter. They want those people to be happy and not regret moving here as he moved from the Noblesville/Indianapolis area to Muncie in Delaware County to raise his family and they want to make sure he is happy with that decision.

Mason questions approximately how many residents are in close proximity of this zoning. Vannice explains there is this young man down the road and then a house to the west. Other than that, there is a house down on the south side of the road but there is not a lot of houses in the area. Mason confirms those people have been notified. Vannice states they were notified by the mailings that are required to go before the Commission. And as Selvey suggested, they would be willing to go back.

Basham asks Dishman if there is anything else he would like to share to help the Council better come to their decision, having being a member of the Planning Commission. Dishman has a problem with them leaving contaminants on the ground when this town is already full of that. Nobody wants to clean them up. If this guy goes bankrupt, is he is going to go out there and clean up that property? He believes there being a pond back there

where things can leak in too. Crouch isn't too sure about that but can guarantee, without a doubt, none of that would take place on Drake properties. They would have to address that with that gentleman specifically. He gives his word that this property would never sell to something like that. They are as green-friendly as possible. Dishman would like to see it brought back to the Planning Commission and maybe that gentleman that complained can provide his blessing. Again, this is only up for Introduction tonight.

Selvey appreciates the letter from homeowner being provided to her but it is concerning especially if it is one out of three houses. That is significant in comparison to one out of a hundred. The letter was very touching with some great concerns. She wishes he was here so they could hear his approval but suggests they go back and obtain a letter from him saying that everything is kosher then they can go from there. Crouch nor Vannice never received that letter so as far as complaints, he cannot fix something he doesn't know about. The letter is actually provided by Kylee Swackhamer with the Planning Commission. Crouch refers to verbally talking with that gentleman in great detail and believes he was notified about it being up for discussion tonight.

Dishman asks Vannice if she would like for Council to Table this until she can get in touch with that person and come back later. Dishman would prefer him be in attendance but a letter will suffice as well. Vannice states yes, they can do that. A vote by acclamation showed 8 yeas and 1 nay (Garrett). INTRODUCED. A motion was made by Dishman and seconded by Gullion to Table. A roll call vote showed 8 yeas and 1 nay (Garrett). TABLED.

ORD. 22-24 AN ORDINANCE TO AMEND THE CITY OF MUNCIE COMPREHENSIVE ZONING