

**REPORT TO THE BOARD OF COUNTY COMMISSIONERS
OF DELAWARE COUNTY, INDIANA**

March 12th, 2019

ORIGINAL

To The Honorable:

Board of County Commissioners of Delaware County, Indiana

Dear Board Members:

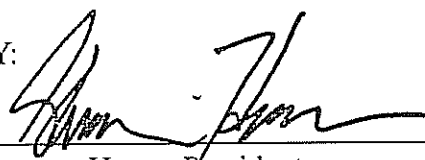
The Delaware-Muncie Metropolitan Plan Commission hereby submits to you the following report on the application of: Muncie First Church of Nazarene, Inc., 3101 N. Benton Rd., Muncie, IN, such applicant petitioning the commission to rezone the real estate as described in the application, generally located at: 3101 N. Benton Rd., Muncie, IN, from zone classification: R-1 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 in the jurisdiction and responsible growth and development; and

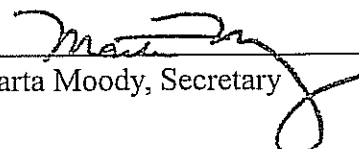
NOW, THEREFORE, the Delaware-Muncie Metropolitan Plan Commission hereby **UNFAVORABLY RECOMMENDS (5-1; 0 abstention, 3 absent)** the application for rezoning.

**DELAWARE-MUNCIE METROPOLITAN
PLAN COMMISSION**

BY:



Shannon Henry, President



Marta Moody, Secretary

ORDINANCE NO. 2019-011

ORIGINAL

BEING AN ORDINANCE TO AMEND
THE DELAWARE COUNTY COMPREHENSIVE ZONING ORDINANCE

WHEREAS, the State enabling act for planning and zoning empowers the Board of County Commissioners of Delaware County, Indiana to adopt a Comprehensive Zoning Ordinance and also provides for amendments to the said ordinance as the need arises; and

WHEREAS, the Board of County Commissioners of Delaware County, 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 district is adapted; the conservation of property values throughout the jurisdiction; and responsible growth and development.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF DELAWARE COUNTY, INDIANA, as follows:

Section 1. That the Delaware County Comprehensive Zoning Ordinance, theretofore adopted by the Board of County Commissioners of Delaware County, Indiana, on the 11th day of December, 1973, be amended, changed and supplemented so as to include in the BV Variety Business Zone the following described real estate located in Delaware County, Indiana, to wit:

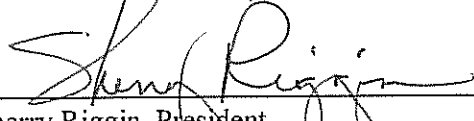
see attachment

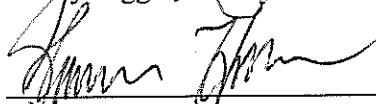
Section 2. That no structures shall be placed on said lot or parcel of land except in compliance with the Delaware County Comprehensive Zoning Ordinance of Delaware County, Indiana.

Section 3. That this Ordinance shall be in full force and effect from and after its passage by the Board of County Commissioners of Delaware County, Indiana.

Section 4. That this Ordinance is adopted/vetoed this 18 day of March, 2019.

BOARD OF COUNTY COMMISSIONERS
DELAWARE COUNTY, INDIANA


Sherry Riggins, President


Shannon Henry


James King

ATTEST:


Steven G. Craycraft, Auditor

Exhibit A

Four hundred ten (410.00) feet of equal width off of the west side of the following described tract of real estate:

A part of the Fractional Northwest quarter of Section One (1), Township Twenty (20) North Range Nine (9) East, more particularly described as follows, to-wit:- Beginning at the Northeast corner of said Fractional Northwest quarter and running thence South on the East line thereof Twenty-five (25.0') feet; thence running West parallel with the North line of said Fractional Northwest quarter Two hundred thirty (230.0') feet; thence running South parallel with the East line of said Fractional Northwest quarter Two hundred seventy-five (275.0') feet; thence running West parallel with the North line of said Fractional Northwest quarter Eight hundred fifty and four hundredths (850.04') feet; thence running North parallel with the East line of said Fractional Northwest quarter Three hundred (300.0') feet to a point in the North line of said Fractional Northwest quarter; thence running East on the North line thereof Ten hundred eighty-and four hundredths (1080.04') feet to the point of beginning, containing 5.986 acres, more or less.

Also the following.

A part of the Fractional Northwest quarter of Section One (1), Township Twenty (20) North, Range Nine (9) east, more particularly described as follows, to-wit:- Beginning at a point in the North line Eleven hundred thirty and four hundredths (1130.04') feet West of the Northeast corner of said Fractional Northwest quarter and running thence West on the North line thereof One hundred twenty-six and eighty-six hundredths (126.86') feet; thence running South parallel with the East line of said Fractional Northwest quarter Three hundred (300.0') feet; thence running East parallel with the North line of said Fractional Northwest Quarter One hundred twenty-six and eighty-six hundredths (126.86') feet; thence running North parallel with the East line of said Fractional Northwest quarter Three hundred (300.0') feet to the point of beginning, containing 0.874 acres, more or less.

The two above described Tracts contain a total of 6.860 acres, more or less.

Also the following.

A part of the Fractional Northwest quarter of Section One (1), Township Twenty (20) North, Range Nine (9) East, more particularly described as follows, to-wit:- Beginning at a point in the North line Ten hundred eighty and four hundredths (1080.04') feet West of the Northeast corner of said Fractional Northwest quarter and running thence West on said North line Fifty (50.0') feet; thence running South parallel with the East line of said Fractional Northwest quarter Three hundred (300.0') feet; thence running West parallel with the North line of said Fractional Northwest quarter One hundred twenty-six and eighty-six hundredths (126.86') feet; thence running South parallel with the East line of said Fractional Northwest quarter Two hundred twenty-eight and seventeen hundredths (228.17') feet to its intersection with the North Right-of-way line of McGalliard Road; thence running Southeasterly with a deflection angle to the Left of Sixty-four degrees fifteen minutes thirty seconds (64.15'30") and on said North Right-of-way line of McGalliard Road Thirty-three and four tenths (33.40') feet; thence continuing Easterly on said Right-of-way line on a curve to the Left, said curve having a radius of Twenty-seven hundred eighty-nine and seventy-eight hundredths (2,789.78')

feet and with a central angle of Twenty-six degrees zero minutes (26.00') an arc distance of Twelve hundred forty-three and twenty-seven hundredths (1,243.27') feet to the end of said curve; thence continuing East on said Right-of-way line tangent to the heretofore described curve Two and forty-six hundredths (2.46') feet to its intersection with the East line of said Fractional Northwest quarter; thence running North on said East line Four hundred nineteen (419.0') feet; thence running West parallel with the North line of said Fractional Northwest quarter Two hundred thirty (230.0') feet; thence running North parallel with the East line of said Fractional Northwest quarter One hundred five (105.0') feet; thence running West parallel with the North line of said Fractional Northwest quarter Eight hundred fifty and four hundredths (850.04') feet; thence running North parallel with the East line of said Fractional Northwest quarter Three hundred (300.0') feet to the point of beginning, containing 12.133 acres, more or less.

Delaware-Muncie Metropolitan Plan Commission

Excerpt of Case Analysis - March 2019

MPC 03-19Z

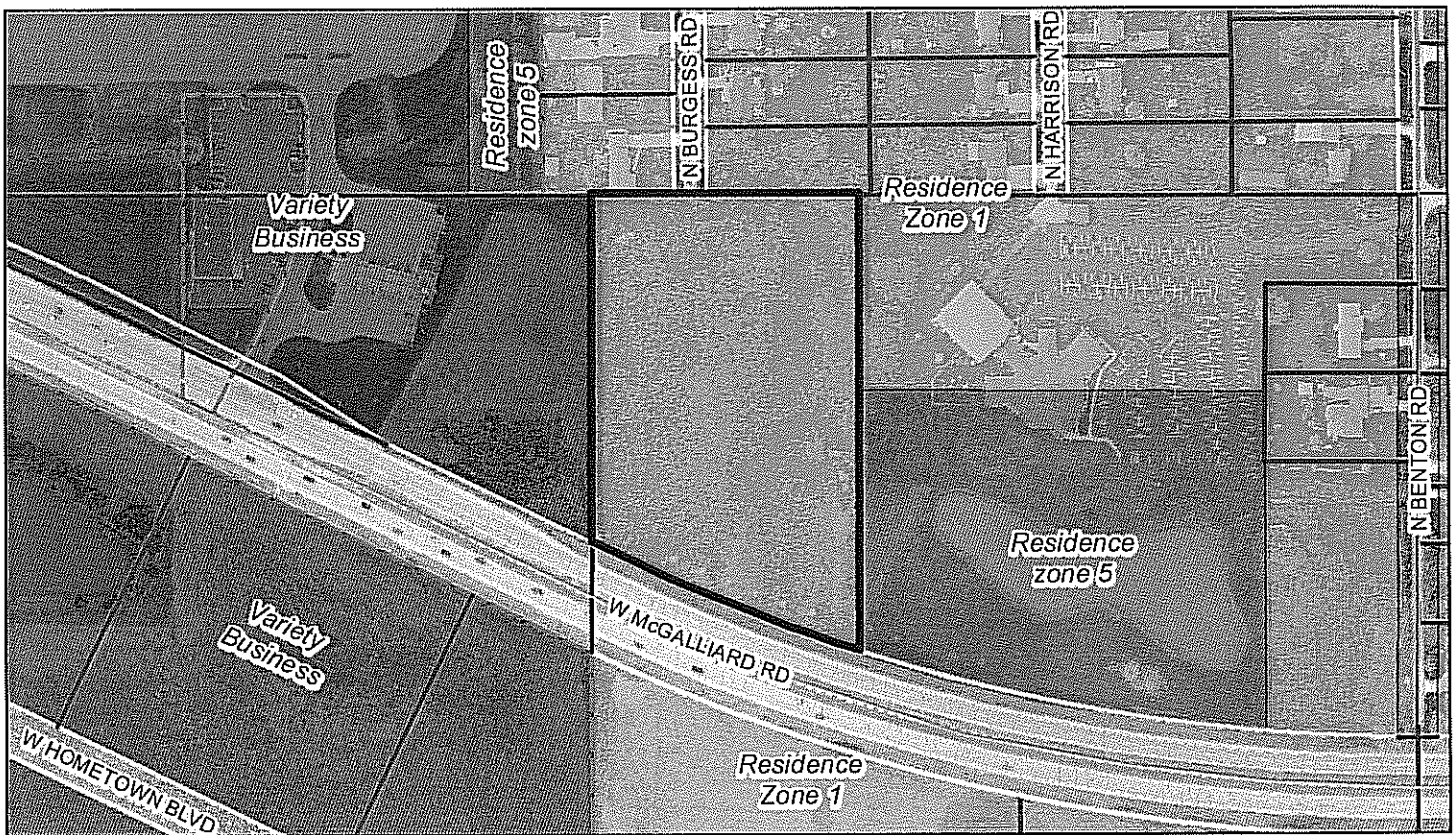
Muncie First Church of Nazarene, Inc

Location & Description: 3101 N. Benton Rd., Muncie

Located on the north side of W. McGalliard Rd./S.R. 332, west of N. Benton Rd.

Traveling north on Wheeling Ave. from downtown, go - 1.7 miles to W. McGalliard Ave., turn left (west), go - 2.1 miles to N. Morrison Rd., turn right (north), go about 500 feet to W. Hessler Rd., turn left (west), go - 0.5 miles to N. Benton Rd., turn left (south), the site immediately on the right (west) side of N. Benton Rd.

The site is the western 5 acres of an approximately 19 acre parcel that has a religious structure from 1988.



Streets: W. McGalliard Rd./S.R. 332 is classified as Control Access with a 150' proposed R.O.W. according to the Thoroughfare Plan Map. N. Benton Ave., N. Burgess Rd., and N. Harrison Rd. are classified as Local Roads with 50' proposed R.O.W. according to the Thoroughfare Plan Map. This section of W. McGalliard Rd./S.R. 332 has 150' of dedicated R.O.W. This section of N. Benton Rd. is not platted and R.O.W. has not been dedicated. N. Burgess Rd. and N. Harrison Rd. are platted with 50' of R.O.W. W. McGalliard Rd./S.R. 332 is classified as a Major Road and N. Burgess Rd., N. Harrison Rd., and N. Benton Rd. are classified as Minor Roads according to the Delaware County Major/Minor Roads Map.

Land Use: The property is currently institutional (religious) in use. Surrounding properties to the north, east, and south are residential in use; surrounding properties to the west are commercial in use.

Zoning: This site is classified in the R-1 Residence Zone and the R-5 Residence Zone; the area for the proposed rezoning classified in the R-1 Residence Zone. Surrounding properties to the north, east, and south are classified in the R-1 Residence Zone; surrounding properties to the west are classified in the BV Variety Business Zone.

Request: The applicant is requesting a change to the BV Variety Business Zone for the western 410' (5.8 acres) of the parcel to allow the current owners to sell the said portion of their parcel for commercial development.

The representative of the applicant stated that the applicant has asked the State for access to this area from W. McGalliard Rd./S.R. 332 and that the State has denied that request. The representative of the applicant also stated that this area would be split to form a new parcel and that it would have access through an access easement from Meijer Stores Limited Partnership to the west. There is no guarantee that this access easement will be established. The only established access to this portion of the property is from N. Burgess Rd. to the north. N. Burgess Rd. is a local road in the Westport Addition, a residential subdivision.

The BV Zone is the most intense commercial district and contains several uses that are high traffic generators. Under I.C. 36-7-4-1015, as a condition to the adoption of a rezoning proposal, the owner of a parcel may be required or allowed to make a commitment concerning the use or development of that parcel. The commitment can be imposed/approved by the Plan Commission or the County Commissioners.

Recommended commitment: there shall be no access to the property from the streets in Westport Addition.

Potential additional commitments: development of the site shall be in accordance with the Corridor Development Standards contained in the City of Muncie Comprehensive Zoning Ordinance. This would ensure that a landscaped 25' buffer has to be installed along the north side of the parcel along with other buffering, landscaping and ground sign provisions.

When the Meijer property was rezoned in 1991, the application to rezone was amended to not include the east 100' of the subject property in order to provide a buffer from development for the residential neighborhood to the east (MPC 10-91Z).



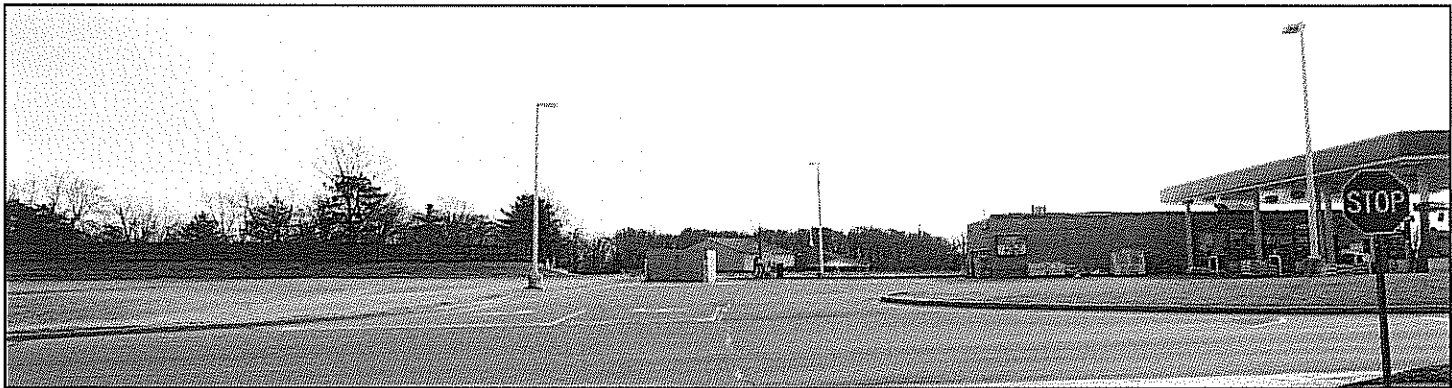
View of the western portion of 3101 N. Benton Rd., looking to the north. View includes the Meijer store to the northwest of the site (to the left) and the residential neighborhood to the north of the site.



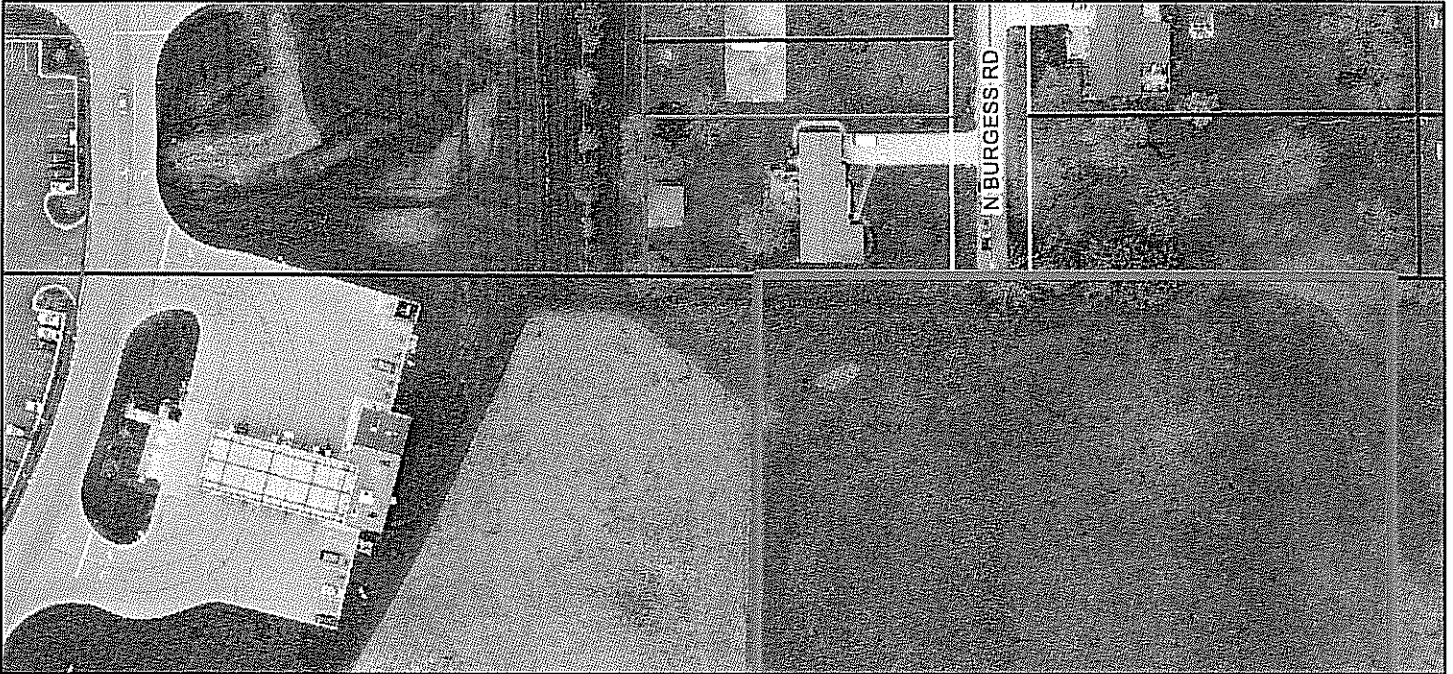
View of the western portion of 3101 N. Benton Rd., looking to the south from the dead-end of Burgess Rd.



View of the northwestern portion of 3101 N. Benton Rd., looking to the west from the dead-end of Burgess Rd.



View of Meijer's gas station, looking to the east. View includes the area of the proposed access easement.
The fence on the left abuts the residential neighborhood.



Aerial view of the western portion of 3101 N. Benton Rd. (area of requested rezoning is outlined in blue) and the Meijer gas station to the west. View shows the area of the proposed access easement.

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

Jurisdiction: (Check One)

☒ Delaware County

☐ City of Muncie

Submitted: Feb 13. 2019

Case No.: MPC 03-192

(1) Applicant: Muncie First Church of Nazarene, Inc.

Address: 3101 North Benton Road Phone: 765-282-4138
Muncie, IN 47304-9010

(2) Record of Applicant's Ownership:

A. ☒ By Deed:
Deed Book No. & Page No.: 1985,881-882; 1987,3900-3901
Date of Deed: February 28, 1985; August 25, 1987

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:
Adj. 3101 North Benton Road, Muncie, Indiana (Address to be assigned).

(5) Proposed zoning change: (Give exact zone classification.)
From the R-1 Residence Zone
To the BV Variety Business Zone

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Also the following.

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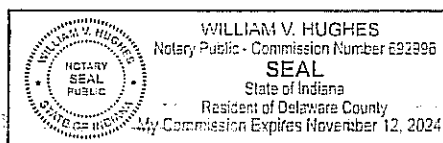
- (6) Intent and Purpose of Proposed Change: (Specify use contemplated on property.)
Owner is under conditional contract to sell this parcel for commercial development.
- (7) Will the Owner develop the property for the use specified in Item 6 or does owner intend to sell property for the purpose specified.
Per #6, the property will be sold for development.
- (8) State how the proposed change will not adversely affect the surrounding area.
This parcel adjoins Meijer and Meijer Gas Station and fronts on Indiana State Road 332. It can be suitably screened and buffered from the residential area to the north, with restricted access, and is compatible with the church to the east.
- (9) Will certain variances be requested if the proposed zoning change is granted?
(If yes, list the variances)
None known at this time.
- (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.)
An informational meeting with neighbors was held on February 9, 2019. Questions discussed and addressed included traffic flow, noise, lighting, and surface water drainage.
- (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.

AFFIDAVIT

(I or We) J. Mark Dill, Senior Pastor and President, 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: J. Mark Dill

Subscribed and sworn to before me this 12th day of February, 2019



WVH
Notary Public

11/12/2024
My Commission Expires

Resident of Delaware County

State of Indiana

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 7th day of March, 2019.

Signed [Signature]

Date 2-20-2019

11728

WARRANTY DEED

THIS INDENTURE WITNESSETH, That Robert M. Lands, of Fort Lauderdale, Broward County, State of Florida, CONVEYS and WARRANTS to Muncie First Church of Nazarene, Inc., 654 N. Jefferson Street, Muncie, Delaware County, Indiana, for and in consideration of the sum of One Dollar (\$1.00) and other valuable consideration, the receipt whereof is hereby acknowledged, the following-described real-estate in Delaware County, in the State of Indiana, to-wit:

A part of the Fractional Northwest quarter of Section One (1), Township Twenty (20) North Range Nine (9) East, more particularly described as follows, to-wit:- Beginning at the Northeast corner of said Fractional Northwest quarter and running thence South on the East line thereof Twenty-five (25.0') feet; thence running West parallel with the North line of said Fractional Northwest quarter Two hundred thirty (230.0') feet; thence running South parallel with the East line of said Fractional Northwest quarter Two hundred seventy-five (275.0') feet; thence running West parallel with the North line of said Fractional Northwest quarter Eight hundred fifty and four hundredths (850.04') feet; thence running North parallel with the East line of said Fractional Northwest quarter Three hundred (300.0') feet to a point in the North line of said Fractional Northwest quarter; thence running East on the North line thereof Ten hundred eighty and four hundredths (1080.04') feet to the point of beginning, containing 5.986 acres, more or less.

Duly Entered For Taxation

MAR 15 1985

Jack Donati, Auditor
DELAWARE COUNTY INDIANA

Also the following.

A part of the Fractional Northwest quarter of Section One (1), Township Twenty (20) North, Range Nine (9) east, more particularly described as follows, to-wit:- Beginning at a point in the North line Eleven hundred thirty and four hundredths (1130.04') feet West of the Northeast corner of said Fractional Northwest quarter and running thence West on the North line thereof One hundred twenty-six and eighty-six hundredths (126.86') feet; thence running South parallel with the East line of said Fractional Northwest quarter Three hundred (300.0') feet; thence running East parallel with the North line of said Fractional Northwest Quarter One hundred twenty-six and eighty-six hundredths (126.86') feet; thence running North parallel with the East line of said Fractional Northwest quarter Three hundred (300.0') feet to the point of beginning, containing 0.874 acres, more or less. d/c

The two above described Tracts contain a total of 6.860 acres, more or less.

Unit Tax Number 10-3685/-

Grantee assumes and agrees to pay all taxes and assessments now, or hereafter becoming a lien.

Jack Donati, Auditor, Filed for Record
1985-1519-85 at 3:15 P.M.
Record-1985 Page 881-Fees 6.30 Paid
Donna G. Ashby R.D.G.

1804 N. Wheeling June 3

09427

DEED 1987 3909

Muncie 47303

WARRANTY DEED

THIS INDENTURE WITNESSETH, That Robert M. Lands, of West Palm Beach, Palm Beach County, State of Florida, CONVEYS and WARRANTS to Muncie First Church of Nazarene, Inc., 1804 North Wheeling Avenue, Muncie, Delaware County, Indiana, for and in consideration of the sum of One Dollar (\$1.00) and other valuable consideration, the receipt whereof is hereby acknowledged, the following -described real estate in Delaware County, in the State of Indiana, to wit:






















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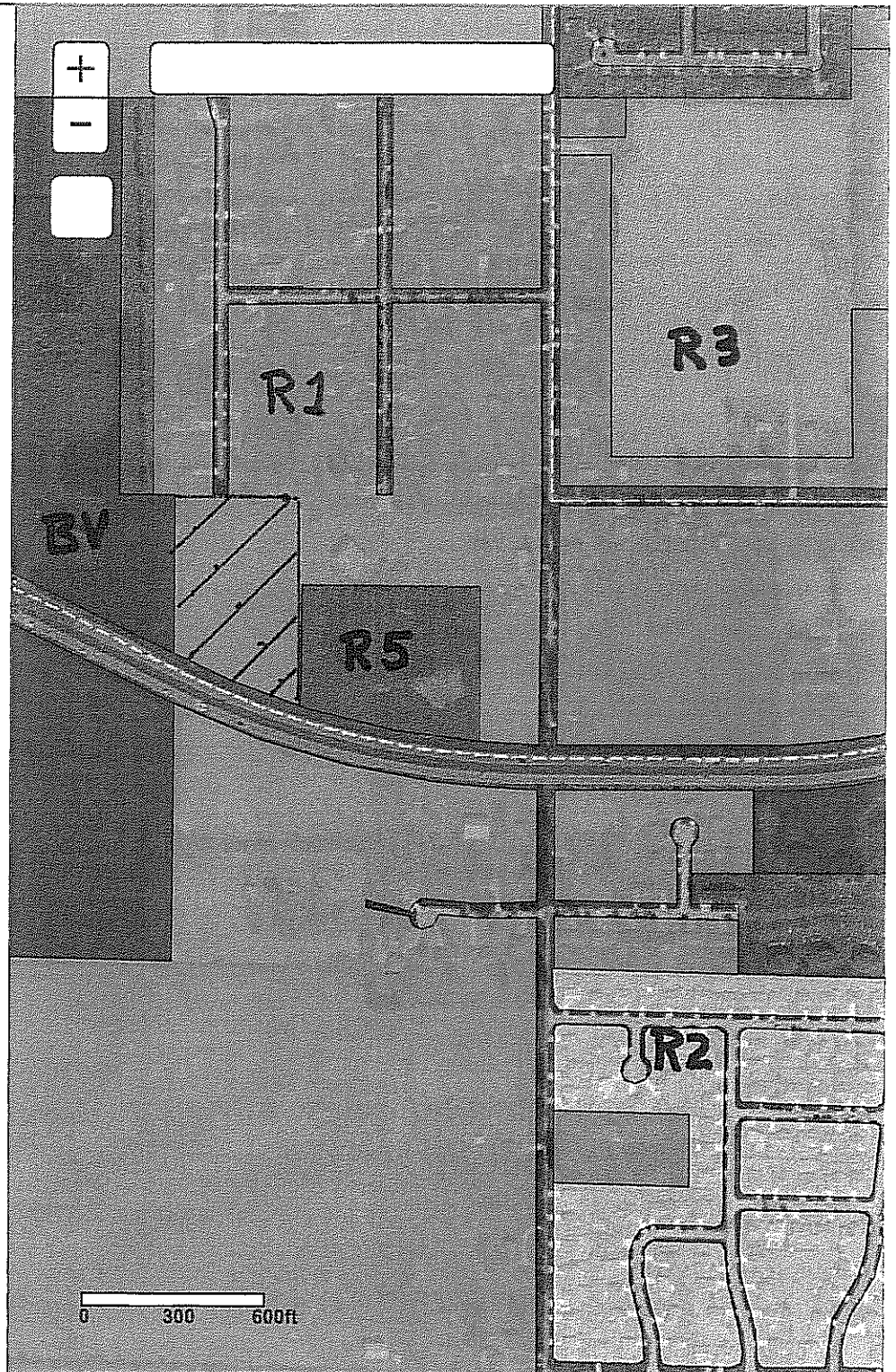
DELAWARE COUNTY RECORDER 1987R09427 1 of 2
Page One

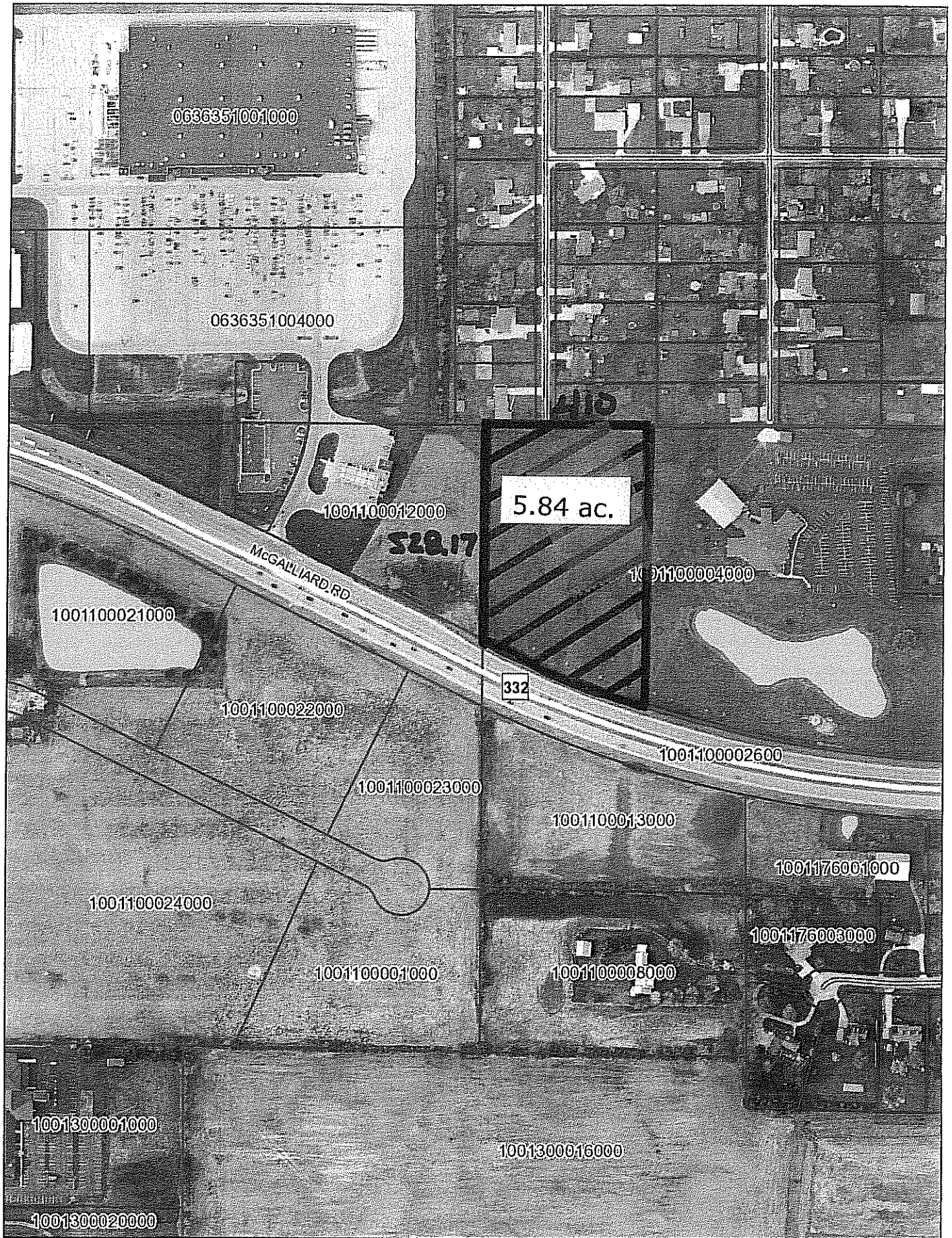
Duly entered for taxation Sept 1 1987
Jerry Thornburg, Auditor, Filed for Record
Sept 2 1987 at 8:30 A.M. in
Record 1987 Page 3909 - Fee \$6.50 Paid
Dana J. Oakley R.D.C.

Muncie-Delaware County Zoning

zoning_hosted

-  AGRICULTURAL
-  BIOENTERPRISE
-  CENTRAL BUSINESS ZONE
-  AIRPORT DEVELOPMENT
-  BUSINESS PROFESSIONAL
-  COMMUNITY BUSINESS ZONE
-  FARMING ZONE
-  FLOOD AREA ZONE
-  INDUSTRIAL PARK ZONE
-  INTENSE INDUSTRIAL ZONE
-  LIMITED BUSINESS ZONE
-  LIMITED INDUSTRIAL ZONE
-  MAJOR TRADING ZONE
-  MOBILE HOME RESIDENCE ZONE
-  RECREATION / CONSERVATION
-  RESIDENCE ZONE
-  RESIDENCE ZONE
-  RESIDENCE ZONE
-  RESIDENCE ZONE
-  RESIDENCE ZONE
-  Residence zone





DMMPC

EXHIBIT
APPLICANT
OPPOSER
DATE REC'D
Muncie First Church of Nazarene
3-7-19
INC



RECEIVED

COMMITMENT

MPC 03-19Z

MUNCIE FIRST CHURCH OF NAZARENE, INC

MAR 06 2019

MPC 03-19Z

DELAWARE-MUNCIE

METROPOLITAN PLAN COMMISSION

amended 3-7-19

AS AMENDED

This Commitment is made and approved pursuant to Indiana Code 36-7-4-1015 and in conjunction with rezoning of 5.84 acres, more or less, located in Delaware County, Indiana, and more particularly described in Exhibit A attached hereto ("Real Estate") from the R-1 Residence Zone to the BV Variety Business Zone ("Rezoning") under the terms of the Delaware County Comprehensive Zoning Ordinance ("Ordinance").

Upon final approval of the Rezoning by the Board of Commissioners of Delaware County, Indiana, any development upon the Real Estate shall be subject to the following conditions:

1. There shall be constructed and maintained in the rear setback area of the Real Estate along the north boundary line thereof an earthen berm no less than four (4) feet in height above natural grade of the area. *For the entire site, all bufferyard and planting requirements contained in the City of Muncie Corridor Development Standards shall be met.*

2. The Real Estate shall have no vehicular access from North Burgess Road. All ingress to and from the Real Estate shall be on, over and across a roadway or roadways from the parcel west of the Real Estate constructed and maintained under a permanent grant of easement from Meijer Stores Limited Partnership and its successors and assigns.

3. Provision for surface water drainage of the Real Estate shall be by connection to and improvement and enlargement of an existing pond lying east of the Real Estate under a permanent grant of easement from Muncie First Church of Nazarene, Inc. and its successors and assigns.

4. Development of the Real Estate shall, in addition to the foregoing, be subject to all applicable development standards of the Ordinance, subject to any variances granted by the Delaware-Muncie Metropolitan Board of Zoning Appeals; provide that said Board of Zoning Appeals may not grant any variances to the conditions of this Commitment.

No development plan shall be approved and no improvement location permit issued without making provision for fulfilling the terms of this Commitment. No occupancy permit shall be issued unless such terms have been fulfilled.

This Commitment shall be a covenant running with the land and binding upon all successive owners and occupants of, and all other persons having an interest in, the Real Estate. The Commitment may not be waived, modified in whole or in part, or terminated without approval of the Board of Commissioners of Delaware County, Indiana, after public hearing before and recommendation of the Delaware-Muncie Metropolitan Plan Commission.

This Commitment shall be recorded in the Office of the Recorder of Delaware County, Indiana, and shall be effective upon final approval of the Rezoning.

Executed this _____ day of March, 2019.

Muncie First Church of Nazarene, Inc.

By: _____

Printed Name: _____

Title: _____

STATE OF INDIANA

SS:

DELAWARE COUNTY

Before the undersigned Notary Public in and for said State, on the _____ day of March, 2019, personally appeared and above named _____, as _____ of Muncie First Church of Nazarene, Inc. and acknowledged the voluntary execution of the foregoing Commitment.

Notary Public

Approved this _____ day of March, 2019.

Board of Commissioners of Delaware County, Indiana

Sherry Riggin, President

James King, Member

Shannon Henry, Member

This instrument prepared by William V. Hughes, Attorney, Beasley & Gilkison LLP, 110 East Charles Street, Suite 220, Muncie, Indiana, and Keith L. Gary, Registered Architect, US Architects, 9200 West Smith Street, Yorktown, Indiana. Amendment added by Delaware-Muncie Metropolitan Plan Commission office.

