

ORDINANCE NO. 2014

DAS
020 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 attached legal description

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 this 2 day of September, 2014.

**BOARD OF COUNTY COMMISSIONERS
DELAWARE COUNTY, INDIANA**



James King, President

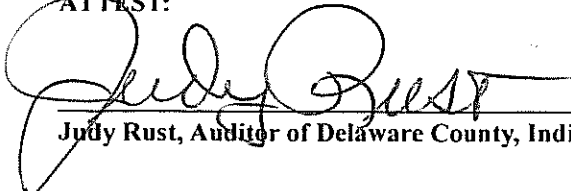


Sherry Riggins, Vice President



Larry W. Bledsoe, Jr., Member

ATTEST:



Judy Rust, Auditor of Delaware County, Indiana

Attached Legal Description

A part of the Northwest Quarter of the Southwest Quarter of Section 36, Township 21 North, Range 9 East, Harrison Township, Delaware County, Indiana, more particularly described as follows: Beginning at a bolt marking the Northwest corner of the Southwest Quarter of Section 36, Township 21 North, Range 9 East; thence South 00 degrees 00 minutes 58 seconds East (basis of bearing) along the West line of the Northwest Quarter of the Southwest Quarter of said Section 36 a distance of 162.94 feet to the Northwest corner of the Richard E. Smith, Michael J. Smith, Jacqueline L. Wilson, and Charles E. Smith Personal Representatives Deed recorded in Instrument Number 2005R23615 in the Office of the Recorder, Delaware County, Indiana; thence South 89 degrees 58 minutes 16 seconds East along the North line of said deed Instrument Number 2005R23615 a distance of 190.87 feet to the Northeast corner of said deed Instrument Number 2005R23615; thence South 00 degrees 01 minute 44 seconds West along the East line of said deed Instrument Number 2005R23615 a distance of 100.00 feet to a 5/8 inch rebar with an orange cap stamped "REW FIRM 0076"; thence South 89 degrees 58 minutes 16 seconds East a distance of 586.39 feet to a 5/8 inch rebar with an orange cap stamped "REW FIRM 0076" on the East line of the Richard E. Smith, Michael J. Smith, Jacqueline L. Wilson, and Charles E. Smith Personal Representatives Deed recorded in Instrument Number 2005R23616; thence North 10 degrees 02 minutes 05 seconds East a distance of 257.51 feet to the Northeast corner of said deed Instrument Number 2005R23616 on the North line of the Southwest Quarter of said Section 36; thence North 89 degrees 34 minutes 16 seconds West along the North line of the Southwest Quarter of said Section 36 a distance of 777.43 feet to the point of beginning.

REPORT TO THE BOARD OF COUNTY COMMISSIONERS

OF DELAWARE COUNTY, INDIANA

August 13th, 2014

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: Charles E. Smith, 48 Mimosa Circle, Muncie, IN, such applicant petitioning the commission to rezone the real estate as described in the application, generally located at: 4000 Blk. N. Nebo 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

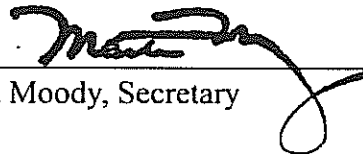
NOW, THEREFORE, the Delaware-Muncie Metropolitan Plan Commission hereby **FAVORABLY RECOMMENDS (9-0)** the application for rezoning.

**DELAWARE-MUNCIE METROPOLITAN
PLAN COMMISSION**

BY:



Tom Green, President



Marta Moody, Secretary

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

Jurisdiction: (Check One)

Submitted: 6-11-14

Delaware County

Case No.: MPC 04-142

City of Muncie

(1) Applicant: CHARLES E. SMITH

Address: 48 MIMOSA CIRCLE Phone: 501-889-2239
HOUSTON, AR 72070

(2) Record of Applicant's Ownership:

A. By Deed:
Deed Book No. & Page No.: DOC# 2009R13552
Date of Deed: 05/04/2009

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).
ATTACHED

(4) Common Address of Property Involved:
4098 NORTH NEBO ROAD
MUNCIE, IN 47304

(5) Proposed zoning change: (Give exact zone classification.)
From the R-1 Zone
To the VARIETY BUSINESS Zone

- (6) Intent and Purpose of Proposed Change: (Specify use contemplated on property.)
 APPLICANTS INTENDS TO CONSTRUCT ENCLOSED STORAGE UNITS INSIDE A FENCED AND SECURED AREA. ALSO MAY HAVE RV/BOAT/CAMPER STORAGE INSIDE THE FENCED AREA.
- (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.
 OWNER IS SELLING THE PROPERTY FOR THE PURPOSE IN ITEM 6
- (8) State how the proposed change will not adversely affect the surrounding area.
 THERE ARE CURRENTLY BUSINESSES TO THE SOUTH AND WEST OF THE PROPERTY. PROPERTY IS WITHIN SITE OF MEIJER, MENARDS, AND THE ITNTERSECTION OF NEBO AND 332.
- (9) Will certain variances be requested if the proposed zoning change is granted?
 (If yes, list the variances)
 NONE KNOW 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? NO
 (If answer is yes, give their attitudes toward the rezoning.)
 HAVE NOT SPOKEN TO PROPERTY OWNERS WITHIN 300 FT., BUT INTEND TO DO SO.
- (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.)
 NONE KNOWN AT THIS TIME.

AFFIDAVIT

(I or We) CHARLES E. SMITH 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: Charles E. Smith

Subscribed and sworn to before me this 10th day of June, 20 14

Carolyn Day
Notary Public

5-16-2016
My Commission Expires

Resident of Perry County
State of Arkansas

Carolyn Day
Notary Public - Arkansas
Perry County
My Commission Exp. 5-16-2016


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 3 day of July, 20 14.

Signed [Signature]

Date 6/23/14

Duly Entered for Taxation
Transfer Fees \$ 5.00
MAY 04 2009 *EP*


* 2009R13552 *
2009R13552
JANE LASATER
DELAWARE COUNTY RECORDER
RECORDED ON
05/04/2009 09:55:29AM
REC FEE: 18.00
PAGES: 2

③
TTIC
2P

Judy Rust
DELAWARE CO. AUDITOR

File No: 291109
Parcel Number: 18-06-36-301-001-000.009

WARRANTY DEED

This Indenture Witnesseth, That Richard E. Smith, Jacqueline L. Wilson and Charles E. Smith (Grantor) *Convey(s) and Warrant(s)* to Charles E. Smith (Grantee) for the sum of One & 00/100 Dollar (\$1.00) and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the following described real estate in Delaware County, in the State of Indiana:

PARCEL 3

A part of the Northwest Quarter of the Southwest Quarter of Section 36, Township 21 North, Range 9 East, Harrison Township, Delaware County, Indiana, more particularly described as follows: Beginning at a bolt marking the Northwest corner of the Southwest Quarter of Section 36, Township 21 North, Range 9 East; thence South 00 degrees 00 minutes 58 seconds East (basis of bearing) along the West line of the Northwest Quarter of the Southwest Quarter of said Section 36 a distance of 162.94 feet to the Northwest corner of the Richard E. Smith, Michael J. Smith, Jacqueline L. Wilson, and Charles E. Smith Personal Representatives Deed recorded in Instrument Number 2005R23615 in the Office of the Recorder, Delaware County, Indiana; thence South 89 degrees 58 minutes 16 seconds East along the North line of said deed Instrument Number 2005R23615 a distance of 190.87 feet to the Northeast corner of said deed Instrument Number 2005R23615; thence South 00 degrees 01 minute 44 seconds West along the East line of said deed Instrument Number 2005R23615 a distance of 100.00 feet to a 5/8 inch rebar with an orange cap stamped "REW FIRM 0076"; thence South 89 degrees 58 minutes 16 seconds East a distance of 586.39 feet to a 5/8 inch rebar with an orange cap stamped "REW FIRM 0076" on the East line of the Richard E. Smith, Michael J. Smith, Jacqueline L. Wilson, and Charles E. Smith Personal Representatives Deed recorded in Instrument Number 2005R23616; thence North 10 degrees 02 minutes 05 seconds East a distance of 257.51 feet to the Northeast corner of said deed Instrument Number 2005R23616 on the North line of the Southwest Quarter of said Section 36; thence North 89 degrees 34 minutes 16 seconds West along the North line of the Southwest Quarter of said Section 36 a distance of 777.43 feet to the point of beginning.

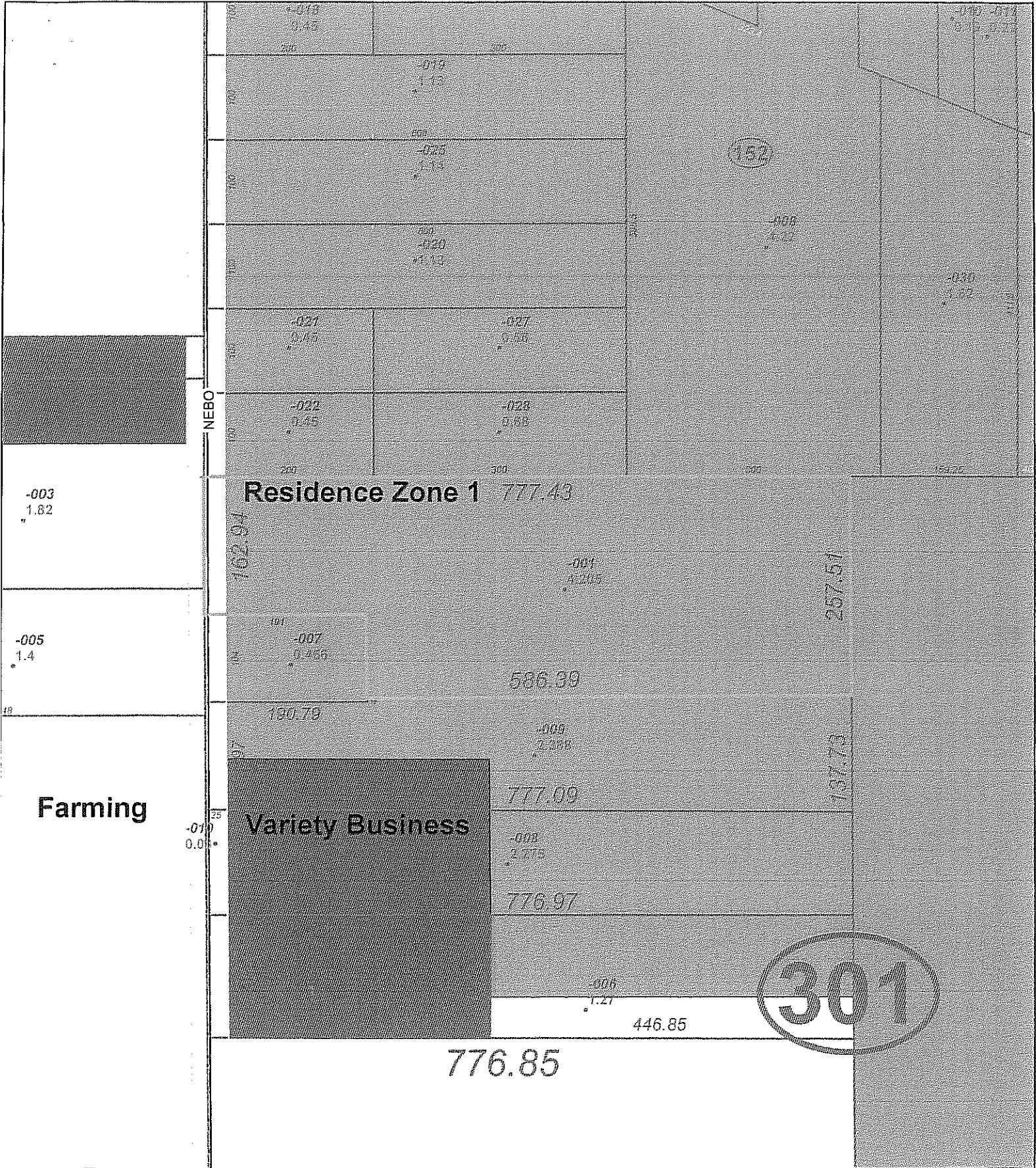
Being a part of the Northwest Quarter of the Southwest Quarter of Section 36, Township 21 North, Range 9 East, Harrison Township, Delaware County, Indiana, containing 4.205 acres, more or less. Subject to an easement for a cell tower recorded in Instrument Number 2008R25555 in the Office of the Recorder, Delaware County, Indiana. Also subject to any other legal rights-of-way. *box*

The parties hereto acknowledge that preparer has not conducted a title search in connection with this transaction and make no guarantee to the status of the real estate title.

Subject To any and all easements, assessments, agreements, and restrictions of record.

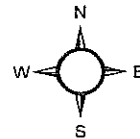
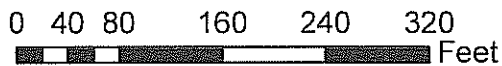
In Witness Whereof, Grantor has executed this deed this 8th day of April, 2009.
Richard E. Smith
Richard E. Smith
Charles E. Smith
Charles E. Smith

Jacqueline L. Wilson
Jacqueline L. Wilson



Delaware County
Indiana

Created using Delaware County's Geographic Information System (GIS)
Map features are graphic representations only, refer to plats, deeds and surveys for official information.



June 12, 2014

TO WHOM IT MAY CONCERN:

I, Charles E. Smith, give permission to Tom C. and Tammy J. Parker, to represent me at the Metropolitan Plan Commission rezoning meeting to be held on July 3, 2014. The purpose of the meeting is to change the zoning of property located at 4098 North Nebo Road, Muncie, IN 47304, from R-1 to Variety Business.

SIGNATURE: Charles E. Smith

Subscribed and sworn to before me this 12th day of June, 2014

Carolyn Day

Notary Public

5-16-2016

My commission Expires

Resident of Perry County

State of Arkansas

Carolyn Day
Notary Public - Arkansas
Perry County
My Commission Exp. 5-16-2016

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 _____