

**DELAWARE-MUNCIE METROPOLITAN PLAN COMMISSION
MARCH 2019 REGULAR MONTHLY MEETING
AGENDA**

DATE: March 7, 2019

PLACE: Commissioner's Court Room
3rd Floor, Delaware County
Building

TIME: 6:00 P.M.

PLEDGE OF ALLEGIANCE:

ROLL CALL:

Kathy Carey*	Shannon Henry	
Jerry Dishman	Teresa Hensley	Rickie Sipe
Andrew Ellis	Jesse Landess	Nathan Vannatter*
	Michael Mueller	

Advisory Members

Duke Campbell	Mark Carter	Tom Borchers
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MINUTES: Consideration of the February 7, 2019 regular monthly meeting minutes.

NEW BUSINESS:

MPC 02-19Z Jurisdiction: City Council

Being a public hearing on the matter of an application filed by H&T Realty, INC, 614 E. Streeter Ave., Muncie, Indiana, requesting a change in zone from the R-3 Residence Zone to the BV Variety Business Zone on premises located at 614 E. Streeter Ave., Muncie, Indiana, as more accurately described in the application.

MPC 03-19Z Jurisdiction: County Commissioners

Being a public hearing on the matter of an application filed by First Church of Nazarene, Inc, 3101 N. Benton Rd., Muncie, Indiana, requesting a change in zone from the R-1 Residence Zone to the BV Variety Business Zone on premises located at 3101 N. Benton Rd., Muncie, Indiana, as more accurately described in the application.

OTHER BUSINESS:

MPC 07-19A Jurisdiction: Delaware-Muncie Metropolitan Plan Commission

Being a resolution of approval to establish a uniform schedule of filing fees.

LEGISLATIVE ACTION:

REPORT FROM DIRECTOR:

ADJOURNMENT:

*Terms expiring; members serve until new appointments are made.

**DELAWARE-MUNCIE METROPOLITAN PLAN COMMISSION
MARCH 2019 REGULAR MONTHLY MEETING
MINUTES**

The Delaware-Muncie Metropolitan Plan Commission held its regular monthly meeting on Thursday, March 7, 2019 at 6:00 P.M., in the Commissioner's Court Room of the Delaware County Building, Muncie, Indiana. President Shannon Henry called the meeting to order.

PLEDGE OF ALLEGIANCE:

Ms. Moody called roll and the following members were present: Ms. Carey, Mr. Carter, Mr. Dishman, Mr. Henry, Ms. Hensley, Mr. Landess, and Ms. Sipe. Absent: Mr. Borchers, Mr. Campbell, Mr. Ellis, Mr. Mueller, and Mr. Vannatter. Also present: Ms. Quirk, attorney for the Board.

MINUTES:

Mr. Landess made a motion to approve the January, 2019 regular monthly meeting minutes. Ms. Carey seconded the motion. Voting in favor: Ms. Carey, Mr. Dishman, Mr. Henry, Mr. Landess, and Ms. Sipe. Abstaining: Ms. Hensley. Voting against: none. Motion carried, January 2019 minutes approved.

NEW BUSINESS:

MPC 02-19Z Jurisdiction: City Council

Being a public hearing on the matter of an application filed by H&T Realty, INC, 614 E. Streeter Ave., Muncie, Indiana, requesting a change in zone from the R-3 Residence Zone to the BV Variety Business Zone on premises located at 614 E. Streeter Ave., Muncie, Indiana, as more accurately described in the application.

Monte Brown, 12201 W. Native Trail, Yorktown, Indiana, with Coldwell Banker Real Estate, appeared. He stated that the seller had the property under contract for sale and that there were other properties zoned Variety Business nearby.

Ms. Moody stated that it currently had a commercial building on the property.

Mr. Brown stated that there was an office building with an upstairs apartment.

Mr. Henry asked if some of the building was already zoned Variety Business.

Mr. Brown stated yes, about half.

No one appeared in opposition.

Mr. Landess made a favorable motion to approve MPC 02-19Z, requesting a change in zone from R-3 Residence Zone to the BV Variety Business Zone. Ms. Hensley seconded the motion. Voting in favor: Ms. Carey, Mr. Dishman, Mr. Henry, Mr. Hensley, Mr. Landess, and Ms. Sipe. Voting against: none. Motion carried, favorable recommendation to be forwarded to City Council for introduction at their April, 1, 2019 regular meeting.

MPC 03-19Z Jurisdiction: County Commissioners

Being a public hearing on the matter of an application filed by First Church of Nazarene, Inc, 3101 N. Benton Rd., Muncie, Indiana, requesting a change in zone from the R-1 Residence Zone to the BV Variety Business Zone on premises located at 3101 N. Benton Rd., Muncie, Indiana, as more accurately described in the application.

Keith Gary, 7700 W. Londonberry Ct., Muncie, Indiana, with US Architects, appeared. He stated that he was a member of the First Church of the Nazarene and a local architect, and that William Hughes would be joining him to answer questions. He stated that BSB was a potential purchaser of 6 of the 20 acres based on rezoning and street access from Meijer Stores. He stated that they have had conversations with Meijer Stores to have access street connection from the north side of their convenience store through a 3 acre parcel that Meijer owns. He stated that Meijer had agreed as long as the buyer paid for the road and paid \$3000 per year for maintenance of that road. He stated that INDOT had denied the buyer access from 332 once Meijer gave them permission for access. He stated that part of the purchase agreement included enlarging the pond and the addition of a fountain and stone to help with drainage. He stated that the 25' rear setback with a mound and fence or arborvitae plantings and no traffic would be allowed to go into the neighborhood at the north of the property and have no access from the church at this time. He stated that the developer would follow all standards for lighting, landscaping, and street trees.

Mr. Henry asked if the mound that was mentioned would be on the northside of the property.

Mr. Gary stated yes, as a sound and visual barrier.

Mr. Henry asked if there would also be a fence.

Mr. Gary stated that there would be a fence on the top of the mound either a fence or plantings.

Ms. Moody stated that Mr. Hughes had forwarded proposed commitments to be attached to the rezoning that discussed the 4' berm on the nothside of the property. She stated the proposed commitment did not state that they would follow the corridor standards of the City Ordinance, so as a compromise, in addition to the berm they would meet the buffering requirements along that boundary and not just arborvitae.

Mr. Gary stated that was correct.

Mr. Landess stated that looking at the provided map it looks like the red line indicates the road from Meijer, and asked if that road would go all the way through or stop before the road that continues north in the neighborhood.

Mr. Gary stated that the road would only be on the 3 acre Meijer property and go east to this proposed property.

Mr. Henry asked Mr. Gary to show the Board members on the map.

Ms. Moody stated that Mr. Gary indicated that the road proposed would cross the Meijer property on the northside of the gas station lot and extend east to the church property.

Ms. Quirk asked if the Board had any other questions.

Mr. Landess asked what type of business would be going on this property.

Mr. Gary stated that it was a single user called BSB but that he was not at liberty to say what the business was, but that it was similar to other business in that area.

Mr. Dishman stated that he would hate to see a car lot go in here.

Mr. Gary stated that it was similar to what was currently being built across the street.

Mr. Dishman stated that it was hard to make a decision when you don't know the property would be used for.

Mr. Gary stated that the agreement with the purchaser was to not disclose that information.

Mark Dill, 4909 N. CR 450W, Muncie, Indiana, Pastor of the First Church of Nazarene, appeared. He stated that the church had been here since 1988 and that they kept the property as nice as possible as a vital part of the gateway into Muncie from I69, and takes that responsibility seriously. He stated that they tried to be good neighbors and had encouraged the families to use the property for fishing, bikes, and play in the field and offered the use of the gym all at no cost to anyone. He stated that they had built a new driveway and opened it up for the neighbors to use as a shortcut to Hessler Road and that they continue to look for ways to make the place where they work, worship and minister from a better place. He stated that when they were offered money for the 6 acres they had to consider if the new owner would also be a good neighbor, and the church believes they will. He stated that the church agreed they needed the money to help maintain the property and that selling those 6 acres would also benefit the county by having it on the tax roll.

William Hughes, attorney with Beasley Gilkison and Son, 110 E. Charles St., Muncie, Indiana, appeared. He submitted an aerial of the area along 332 looking to the east which illustrates the commercial character of the area. He stated that the commercial development of this area was contemplated back in 2000, and that there were many business along this area including Menards, Meijer, Toyota, and the new Ford location just to name a few. He stated that the proposed rezoning would be compatible with the Comprehensive Plan and the existing uses in the area. He stated that this property had Variety Business to the west and the south and Residence Zone on the north and east. He stated that this parcel would never be developed as residential and that it was under contract to be sold to BSB Enterprises, a local company that intends to develop the site as a single commercial use based on the zoning. He stated that the developer had been in contact with the Delaware County Economic Development office, and that Brad Bookout had sent a letter to show their support of the zoning request. He stated that they had met with neighbors and the concerns involved the traffic, access, noise and light pollution, drainage, and an appropriate buffer between the development and Westport Addition. He stated that they proposed to address some of these concerns through a written commitment which would become binding and enforceable upon approval of the request and that a draft was submitted to the Plan Commission. He stated that the commitment addressed restricting

access of traffic, installing an earthen berm, and improving the drainage in the area. He stated that in addition to the commitments the development was also subject to all of the standards of the Zoning Ordinance, and that before any permits were granted, the developer must submit plans to show compliance with the standards. He stated that they do not believe the rezoning would adversely affect the values of the surrounding properties and that this was the best use of the property. He stated that this was not spot zoning and that the developer can meet or exceed the development standards. He stated that the corridor standards were meant to apply along this segment of 332, but that this particular parcel was not inside the city limits and some things would not be appropriate like the sidewalk requirements. He stated that they do not feel this would increase the amount of traffic and that this was in line with good development practice by placing new commercial development next to existing development.

Ms. Carey stated that it was hard to vote without knowing what would be going in.

Mr. Hughes stated that he understood that concern and that the proposed developer did not have corporate approval or a plan to show at this time.

Rich Swingley, 3304 N. Harrison Rd., Muncie, Indiana, appeared in opposition. He stated that every decision the Board must make was risk versus reward, and that the neighbors were being asked to take a risk. He stated that they would be dealing with possible light pollution and that even with the restrictions that light was reflective and was a concern and since this property was in the county that signage could be 45' tall. He stated that it seems the developer was a car lot and they were sure to want a large bright sign to attract people. He stated that Mr. Hughes discussed all of the other businesses, but those are all to the west of the neighborhood or across 4 lanes of traffic, and that this new development would be 40' away from the neighborhood and that the sound and trash would travel with the wind directly to the neighborhood. He stated that there was no limitation on digital signage in Variety Business and that was a huge concern since it could be 45' in the air flashing lights. He asked why this property needed to be rezoned for this business when there were existing commercial properties for sale in the same area. He stated that there was mention of 30 jobs but if this was just a business moving from one location to another then those were not new jobs and was not a benefit.

Jerry Gardner, 3501 N. Burgess Rd., Muncie, Indiana, appeared in opposition. He stated that he had lived in the addition for 40 years and that he hopes the dead end road would never be opened up to traffic.

Clark Van Tassel, 3301 N. Burgess Rd., Muncie, Indiana, appeared in opposition. He stated that he agreed with the Pastor Dill that the church had been great neighbors but this felt like they were turning on the neighborhood. He stated that no one will say what kind of business but that everyone thinks it could be a car dealership and that would create a lot of noise. He stated that when the tire store to the west runs their air guns and equipment, it sounds like they are in his backyard and that an earthen bank would not change that. He stated that he had a berm behind his house from Meijer and now a berm beside him for this development it felt like he was being boxed into a corner. He stated that the pond was very shallow and that making it deeper would not help the drainage it would just create more standing water and attract more geese to the area. He stated that if it was a car dealership then the large auto carriers would be just a few feet away from his bedroom window. He stated that he had contacted Craig Hunter, the manager of Meijer and he did not know about the driveway agreement and that Mr. Hunter called him after contacting Meijer headquarters and they were also unaware of any agreement. He asked if the developer had a written agreement with Meijer and if not

what would happen to this parcel when it becomes land locked. He stated that he was also concerned about what this would do to the value of the properties in the area.

Joe Shigley, 3301 N. Benton Rd., Muncie, Indiana, appeared in opposition. He stated that he was concerned that if they built the 3' berm it would drain the water to his property and not to the pond. He stated that he all ready had flooding issues from when the church added to the driveway and that his water drains to the south.

Joe Scagnoli, 3301 N. Harrison Rd., Muncie, Indiana, appeared in opposition. He stated that he had the same concerns about the noise, lighting and activity. He stated that the church had been good neighbors but this would be a different kind of activity in the area and would cause different problems. He stated that all 4 neighbors on the outer edge of this property had spoken about their concerns and that not knowing the kind of business and how it would continue to grow creates more problems. He stated that if this was a dealership that was just moving locations, they would be bringing the same employees and that this was changing the environment of the neighborhood.

Tom Malapit, 3400 N. Burgess Rd., Muncie, Indiana, appeared in opposition. He stated that he just purchased this property 1 week ago and did so because the dead end street was nice and quiet. He stated that his concern was that a car lot would use a loud PA system and that Burgess Road would be turned into an access road.

Jim Falsey, 5708 W. Winterhawk Ct., Muncie, Indiana, appeared in opposition. He stated that he lived on the southside of McGalliard Road directly across from the church. He stated that he can see all of Meijer, the new Ford dealership and the lights from the church and that his area does not need more light pollution. He stated that there were already commercial properties in the area that could be used.

Mr. Hughes stated that Mr. Gary had been communicating with Matt Levit who was the manager of property sales for Meijer and that they did not have a written commitment from Meijer but that they had agreed to work with the developer for access to this property. He stated that if there was no agreement from Meijer then the development would not happen because they had no desire to access the property from Burgess Road or the church property. He stated that he understood the concerns of the neighbors and that there would be options on where to position the building and lights to help with those concerns.

Mr. Gary stated that in 1986 the pond was built to help with drainage and that there was an overflow pipe that does run under McGalliard Road and that by increasing the pond area it would increase the amount of water it would be able to collect and hold.

Ms. Carey asked what could be done about the number of geese.

Mr. Gary stated that there were just so many already in the area and that not much could be done.

Mr. Landess asked for clarification on what would happen if the developer decided to try and gain access from Burgess Road.

Ms. Moody stated that the proposed commitments state that there will be no vehicular access to Burgess Road and those commitments would be enforceable if they were in place and would become restrictions. She stated that if the commitments were not in place then the proper way to extend a

road would be through the subdivision ordinance where they would plat a public road and that would need approval from the County Engineer and the County Commissioners.

Mr. Landess asked if the commitments could be repealed in the future.

Ms. Moody stated that the only way the commitments were changed or modified would be to come before the Plan Commission and the County Commissioners for review.

Mr. Landess asked Mr. Gary if the far northeast corner was the only option for the road or if it could be moved to the southwest corner of the gas station.

Mr. Gary stated that Meijer was against the southwest option because it would be too dangerous with all of the traffic at that corner.

Ms. Moody stated that Board had several options for a motion. She stated that a motion to approve a favorable recommendation to the County Commissioners with the proposed commitments approved and imposed on the future use of the property and with a supplement that states all bufferyard requirements shall be met. She stated the Board could also make a motion to forward to the County Commissioners with an unfavorable recommendation or with no recommendation.

Mr. Dishman made a motion for an unfavorable recommendation for MPC 03-19Z, requesting a change in zone from R-1 Residence Zone to BV Variety Business zone. Ms. Carey seconded the motion. Voting in favor: Ms. Carey, Mr. Dishman, Ms. Hensley, Mr. Landess, and Ms. Sipe. Voting against: Mr. Henry. Motion carried, unfavorable recommendation to be forwarded to the County Commissioners for their March 18, 2009 regular meeting.

OTHER BUSINESS:

MPC 07-19A Jurisdiction: Delaware-Muncie Metropolitan Plan Commission
Being a resolution of approval to establish a uniform schedule of filing fees.

Ms. Moody stated that at the last meeting there was a text amendment to remove the filing fees from the ordinance in order for the Plan Commission to establish the fee schedule by resolution. She stated that the County Commissioners adopted the text amendments to the County Ordinance and City Council also approved the amendments. She stated that the Plan Commission would now establish the rezoning, variance and special fees and utilize the new process where the Plan Commission would publish notice in the newspaper not the applicant. She stated that the fees were raised to accommodate the public notice price, and that the fees would still be less for the applicant since the legal notice would be less for the Plan Commission. She stated that since the fee schedule was removed from the ordinance it would be easier to make changes in the future by coming to the Plan Commission.

Mr. Landess made a motion to approve MPC 07-19A, a resolution of approval to establish a uniform schedule of filing fees. Mr. Dishman seconded the motion. Voting in favor: Ms. Carey, Mr. Dishman, Mr. Henry, Ms. Hensley, Mr. Landess, and Ms. Sipe. Voting against: none. Motion carried, MPC 07-19A approved.

LEGISLATIVE ACTION:

Ms. Moody stated that the text amendments to remove the filing fees from the ordinance were adopted by the County Commissioners and City Council. She stated that City Council also approved the rezoning request of Rozella Kimble at 721 E. 7th Street and the 2018 Zone Map Changes.

REPORT FROM DIRECTOR:

Ms. Moody stated that the next project the staff will be working on was text amendments to deal with solar energy.

Mr. Henry stated that he saw a field between Tipton and 31 on SR 28 that was under construction.

Ms. Moody stated that with talking to some farmers there have been some questions.

ADJOURNMENT:

Shannon Henry, President

Marta Moody, Secretary