

ORDINANCE NO. 2007-43

ORDINANCE TO AMEND
THE DELAWARE COUNTY COMPREHENSIVE ZONING ORDINANCE

WHEREAS, the Board of County Commissioners of Delaware County, Indiana, has given reasonable regard to the comprehensive plan; current conditions and the character of the 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.

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.

The above Ordinance passed [vetoed] by the Board of County Commissioners of Delaware County, Indiana, this 18 day of June, 2007.

BOARD OF COUNTY COMMISSIONERS
DELAWARE COUNTY, INDIANA

John H. Brooke
John Brooke, President

Tom Bennington
Tom Bennington, Member

Larry Bledsoe
Larry Bledsoe, Member

ATTEST:

Judy Rust
Judy Rust, Auditor of Delaware
County, Indiana

Presented to us in regular session this 7th day of June, 2007 and by us FAVORABLY RECOMMENDED (8-0); this 7th day of June, 2007.

EXHIBIT A
PRIMARY AREA
OF
DEVELOPMENT

PARCEL A

A survey of a part of the fractional north half of Section 2, Township 20 North, Range 9 East in Mt. Pleasant Township, Delaware County, Indiana, described as follows:

Beginning at a point on the east line of the fractional north half of Section 2, Township 20 North, Range 9 East said point being south 00 degrees 02 minutes 03 seconds east 146.32 feet (assumed bearing) from a brass pin at the northeast corner of said half section; thence south 00 degrees 02 minutes 03 seconds east 625.39 feet; thence south 90 degrees 00 minutes 00 seconds west 343.48 feet; thence south 00 degrees 02 minutes 03 seconds east 222.32 feet; thence north 90 degrees 00 minutes 00 seconds east 343.62 feet to a point on the east line of said half section; thence south 00 degrees 02 minutes 03 seconds east 522.66 feet to the southeast corner of said half section; thence north 90 degrees 00 minutes 00 seconds west 545.18 feet to the point of beginning of a curve said point being south 00 degrees 00 minutes 00 seconds 724.00 feet from the radius point of said curve; thence westerly 447.56 feet along said curve to a point that is south 35 degrees 25 minutes 07 seconds west 724.00 feet from the radius point of said curve; thence north 54 degrees 34 minutes 52 seconds west 108.77 feet to the point of beginning of a curve said point being north 35 degrees 25 minutes 07 seconds east 876.00 feet from the radius point of said curve; thence westerly 541.52 feet along said curve to a point that is north 00 degrees 00 minutes 00 seconds 875.00 feet from said radius point; thence south 90 degrees 00 minutes 00 seconds west 1037.73 feet; thence north 00 degrees 00 minutes 00 seconds 1168.22 feet to the north line of said half section line said line being the southerly limited access right-of-way line of State Highway #332; thence south 90 degrees 00 minutes 00 seconds east 1367.00 feet along the north line of said half section; thence south 00 degrees 00 minutes 00 seconds 300.00 feet; thence south 90 degrees 00 minutes 00 seconds east 203.28 feet; thence north 00 degrees 00 minutes 00 seconds 300.00 feet to the north line of said half section; thence north 90 degrees 00 minutes 00 seconds east 360.16 feet along said north line and the highway right-of-way line to the point of beginning of a curve said point being north 00 degrees 00 minutes 00 seconds 2789.79 feet from the radius point of said curve; thence easterly 631.16 feet along said curve to a point that is north 12 degrees 57 minutes 43 seconds east 2789.79 feet from said radius point; thence south 18 degrees 28 minutes 36 seconds east 79.55 feet along said limited access right-of-way line; thence north 89 degrees 57 minutes 56 seconds east 16.50 feet to the point of beginning, containing 73.93 acres, more or less, and subject to the right-of-way for County Road 400-W along the easterly side thereof and to all easements of record.

Excepting therefrom the entire 38+ acre Tract on the east side of said 73.93 acres, leaving after said exception 35 acres more or less.

DELAWARE-MUNCIE METROPOLITAN PLAN COMMISSION
PROPOSED ZONING CHANGE APPLICATION

Jurisdiction: (Check One)

Submitted: 5-18-07

Delaware County
 City of Muncie

CASE NO. MPC 03-07Z

(1) Applicant: Anderson University Inc., an Indiana non-profit charitable corporation, as Trustee of the Jayne Grandison Charitable Remainder Tr.
Address: _____ Phone: 765-641-4046

Atten: Ronald Moore, Anderson University, 1100 E 5th St. Anderson Indiana, 46012-3495

(2) Record of Applicant's Ownership:

A. By Deed:

Deed Book No. & Page No.: 1996, page 2998-99

Date of Deed: _____

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 deed and additional legal discription of designated parcel.

(4) Common Address of Property Involved:

Southwest corner of Nebo Road and State Rd. 332, containg thirty-five (35) acres more or less

(5) Proposed zoning change: (Give exact zone classification.)

From the R5 Residence Zone

To the BV VARIETY BUSINESS Zone

(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)

There is no request for variances 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?
(If answer is yes, give their attitudes toward the rezoning.)

The abutting owners we have talked to so far are in favor of the 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.

AFFIDAVIT

(I or We) JAYNE A. FOUST GRANDISON 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: Jayne A. Foust Grandison

Subscribed and sworn to before me this 17th day of May, 2007.

Diana A. Woodard

5/22/07
My Commission Expires

~~DIANA A. WOODARD~~
NOTARY PUBLIC
STATE OF INDIANA
DELAWARE COUNTY

MY COMMISSION EXPIRES 5/22/07

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 June, 2007.

Attachment to Zoning Petition
Grandison property

6. To allow for commercial development on the entire 73 acre located tract at the Southwest corner of Nebo Road and State Road 332. This change will allow the owner more flexibility in offering a larger tract to potential users who might require more than the currently zoned 38 acre tract with frontage on State Road 332. The proposed commercial zone is compatible with the Variety Business zoning on the NW and NE corners of this same intersection. There is an R5 buffer zone on the west side of the parcel.

8. The proposed Variety Business zoning is located across State Road 332 from existing Variety Business zoning at the Northwest and Northeast corners of the intersection and would be compatible with the area.

REPORT TO BOARD OF COUNTY COMMISSIONERS
OF DELAWARE COUNTY, INDIANA

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 an application filed by **ANDERSON UNIVERSITY, INC. AS TRUSTEE OF THE JAYNE GRANDISON CHARITABLE REMAINDER UNITRUST**, 1100 E. 5TH St., Anderson, Indiana, requesting to rezone the real estate as described in the attached application. The application is proposing to rezone the land from the R-5 Residence Zone to the BV Variety Business Zone.

WHEREAS, the Commission has given reasonable regard to the Comprehensive Plan; current conditions and the character of current structures and use 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.

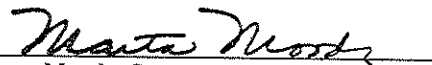
NOW THEREFORE, the Delaware-Muncie Metropolitan Plan Commission favorably recommended (8-0) the application for rezoning.

DELAWARE-MUNCIE METROPOLITAN
PLAN COMMISSION OF DELAWARE
COUNTY, INDIANA

BY:



David W. Howell, President



Marta Moody, Secretary

EXHIBIT A
PRIMARY AREA
OF
DEVELOPMENT

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Excepting therefrom the entire 38+ acre Tract on the east side of said 73.93 acres, leaving after said exception 35 acres more or less.

Only Entered for Taxation
Transfer Fees \$ 300

08615

DEED 1996 2998

dm

JUN 6 1996
Mailing Address: 7709 West River Road, Muncie, IN 47304

QUITCLAIM DEED

[Signature]
Delaware County

This Indenture Witnesseth, That Jayne A. Foust Grandison, of Delaware County, in the State of Indiana, Grantor, **DOES HEREBY** Release and Quit-Claim to

**Anderson University, Inc., an Indiana non-profit charitable corporation,
as trustee of the Jayne Grandison Charitable Remainder Unitrust,
dated May 28, 1996, Grantee,**

of Madison County, in the State of Indiana, for and in consideration of One Dollar (\$1.00) and other valuable consideration, the receipt whereof is hereby acknowledged, a Forty-nine percent (49%) undivided interest in the following described *Real Estate* located in Delaware County, in the State of Indiana, to-wit:

A part of the fractional north half of Section 2, Township 20 North, Range 9 East in Mt. Pleasant Township, Delaware County, Indiana, described as follows:

Beginning at a point on the east line of the fractional north half of Section 2, Township 20 North, Range 9 East said point being south 00 degrees 02 minutes 03 seconds east 146.32 feet (assumed bearing) from a brass pin at the northeast corner of said half section; thence south 00 degrees 02 minutes 03 seconds east 625.39 feet; thence south 90 degrees 00 minutes 00 seconds west 343.48 feet; thence south 00 degrees 02 minutes 03 seconds east 232.32 feet; thence north 90 degrees 00 minutes 00 seconds east 343.62 feet to a point on the east line of said half section; thence south 00 degrees 02 minutes 03 seconds east 522.68 feet to the southeast corner of said half section; thence north 90 degrees 00 minutes 00 seconds west 545.18 feet to the point of beginning of a curve said point being south 00 degrees 00 minutes 00 seconds 724.00 feet from the radius point of said curve; thence westerly 447.56 feet along said curve to a point that is south 35 degrees 25 minutes 07 seconds west 724.00 feet from the radius point of said curve; thence north 54 degrees 34 minutes 52 seconds west 108.77 feet to the point of beginning of a curve said point being north 35 degrees 25 minutes 07 seconds east 876.00 feet from the radius point of said curve; thence westerly 541.52 feet along said curve to a point that is north 00 degrees 00 minutes 00 seconds 876.00 feet from said radius point; thence south 90 degrees 00 minutes 00 seconds west 1037.73 feet; thence north 00 degrees 00 minutes 00 seconds 1168.22 feet to the north line of said half section line said line being the southerly limited access right-of-way line of State Highway #332; thence south 90 degrees 00 minutes 00 seconds east 1367.00 feet along the north line of said half section; thence south 00 degrees 00 minutes 00 seconds 300.00 feet; thence south 90 degrees 00 minutes 00 seconds east 203.28 feet; thence north 00 degree 00 minutes 00 seconds 300.00 feet to the north line of said half section; thence north 90 degrees 00 minutes 00 seconds east 360.16 feet along said north line and

10-4244

RECEIVED FOR RECORDS THIS 7 DAY OF June 1996
AT 8:50 A.M. RECORDED IN 2998
PAGE 2998-99
REC'D BY [Signature]
RECORDED BY DELAWARE COUNTY



the highway right-of-way line to the point of beginning of a curve said point being north 00 degrees 00 minutes 00 seconds 2789.79 feet from the radius point of said curve; thence easterly 631.16 feet along said curve to a point that is north 12 degrees 57 minutes 43 seconds east 2789.79 feet from said radius point; thence south 18 degrees 28 minutes 36 seconds east 79.55 feet along said limited access right-of-way line; thence north 89 degrees 57 minutes 56 seconds east 16.50 feet to the point of beginning, containing 73.93 acres, more or less, and subject to the right-of-way for County Road 400-W along the easterly side thereof and to all easements of records.

Unit Tax Number:

Grantee herein assumes and agrees to pay all real estate taxes and assessments which are now a lien or which may become a lien against said real estate.

Grantor certifies that the real estate described herein is not "property" as defined by the Indiana Responsible Property Transfer Act and therefore no "disclosure document" is required by reason of the transfer of the real estate described herein.

In Witness Whereof, The said Jayne A. Foust Grandison, Grantor, has hereunto set her hand and seal, this 4th day of June, 1996.

Jayne A. Foust Grandison
Jayne A. Foust Grandison, Grantor

STATE OF INDIANA, DELAWARE COUNTY, ss:

Before me, the undersigned, a Notary Public in and for said County and State, this 4th day of June, 1996, personally appeared Jayne A. Foust Grandison, and acknowledged the execution of the foregoing Quitclaim Deed.

WITNESS my hand and official seal.

My Commission Expires:
March 16, 1999

Jon H. Moll
Jon H. Moll NOTARY PUBLIC
A resident of Delaware County, Indiana.
























This instrument prepared by: Jon H. Moll, Attorney at Law, of DeFur, Voran, Hanley, Radcliff & Reed, 201 East Jackson Street - Suite 400, Muncie, Indiana 47305; Telephone: (317) 288-3651.

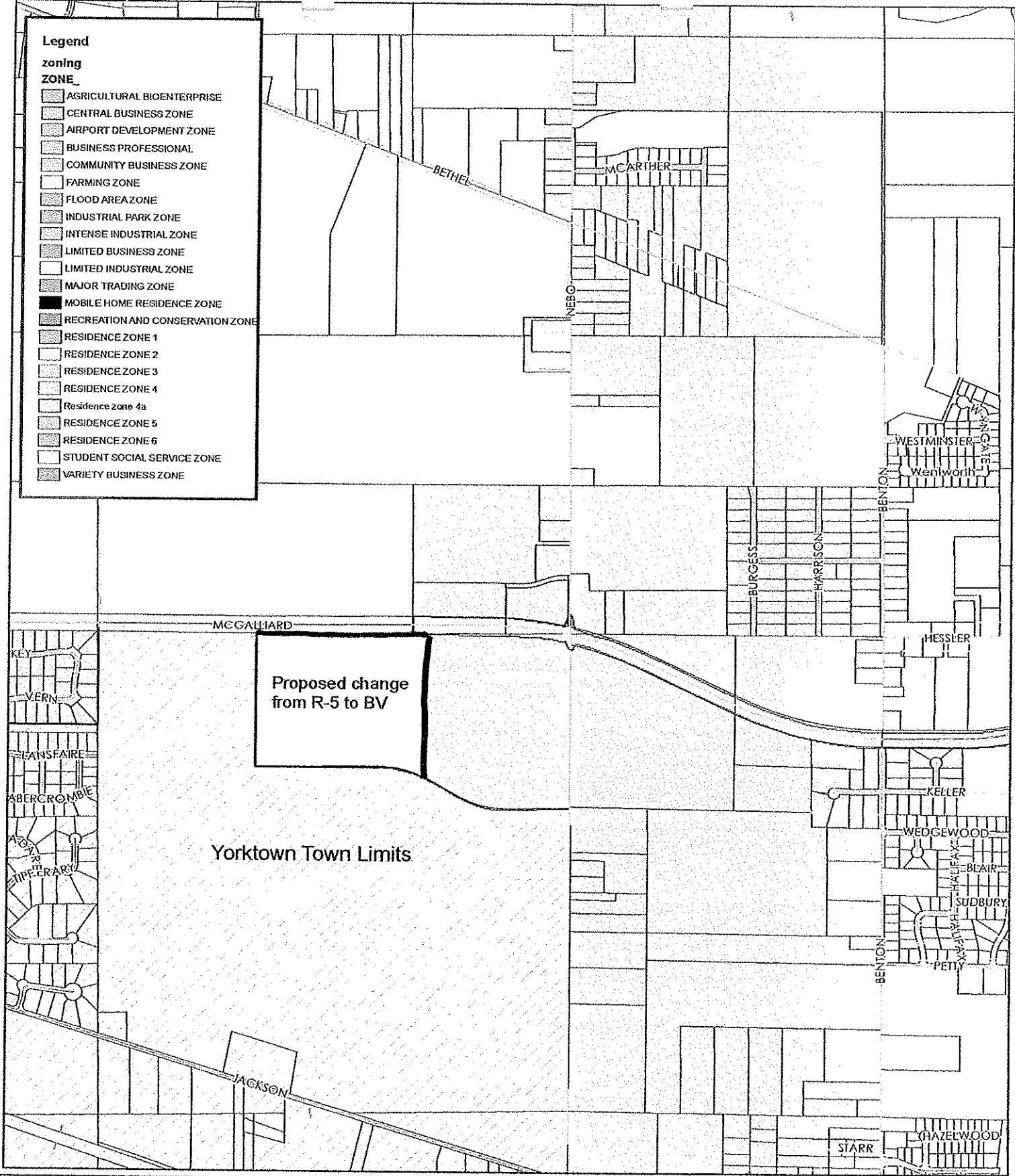


Legend

zoning

ZONE

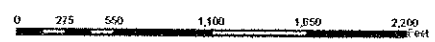
-  AGRICULTURAL BIGENTERPRISE
-  CENTRAL BUSINESS ZONE
-  AIRPORT DEVELOPMENT ZONE
-  BUSINESS PROFESSIONAL
-  COMMUNITY BUSINESS ZONE
-  FARMING ZONE
-  FLOOD AREA ZONE
-  INDUSTRIAL PARK ZONE
-  INTENSE INDUSTRIAL ZONE
-  LIMITED BUSINESS ZONE
-  LIMITED INDUSTRIAL ZONE
-  MAJOR TRADING ZONE
-  MOBILE HOME RESIDENCE ZONE
-  RECREATION AND CONSERVATION ZONE
-  RESIDENCE ZONE 1
-  RESIDENCE ZONE 2
-  RESIDENCE ZONE 3
-  RESIDENCE ZONE 4
-  RESIDENCE ZONE 4a
-  RESIDENCE ZONE 5
-  RESIDENCE ZONE 6
-  STUDENT SOCIAL SERVICE ZONE
-  VARIETY BUSINESS ZONE



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 6, 2007

To: Delaware- Muncie Plan Commission

From: Brian Durham

Subject: Rezone of property located at the 6800 to 7200 block of W. McGalliard Rd.

As a property owner notified of this rezone on June 7, 2007 . I would like for the planning commission to know that I am in favor of this rezone. This area would be a proper site for additional commercial development with currently having Menards and Meijer across the road and a new car dealership starting construction soon. Hopefully this rezone will attract some commercial businesses to the area and also create jobs for the people of Muncie and Delaware Co.

Brian Durham

A handwritten signature in black ink that reads "Brian Durham". The signature is written in a cursive style with a large initial "B".

Excerpt from the
**DELAWARE-MUNCIE METROPOLITAN PLAN
COMMISSION
JUNE, 2007 CASE ANALYSIS**

MPC 3-07Z

ANDERSON UNIVERSITY AS TRUSTEE OF J. GRANDISON

DESCRIPTION & LOCATION: On the south side of the 6800 through the 7200 block of W. McGalliard Rd.-SR 332, Mt. Pleasant Twp. Travel west on McGalliard past Nebo Rd.-CR 400W; the parcel is located on the south side of McGalliard and to use as a benchmark – the acreage begins west of where the Menards Store is across the road.



STREETS: McGalliard Rd. is classified as Controlled Access with a 150' proposed ROW.

LAND USE: The land use along McGalliard between Nebo-CR400W and CR 500 is farming except for Gill Brothers Furniture Store and Menards. The land use between Morrison Rd.-CR 300W and Nebo Rd. along McGalliard is mixed with commercial on the corners and residential and farming in-between.

ZONING: The zoning for the property is R-5 Residence Zone. In 2002, this property was changed from the F Farming Zone to R-5 multi-family. The surrounding area to the west and south are now located in the corporate

limits of Yorktown which have different names for their zoning categories, but the zoning is still pretty much the same as before it was annexed: to the west is M-1 (our R-5 multi-family zone) and to the south Office Zone (our BP Business & Professional Office Zone).

REQUEST: *The request is to rezone the property from R-5 Residence Zone (multi-family) to BV Variety Business Zone. The applicant would like to combine this 36 acre parcel with the 38 acre parcel (zoned BV in 2002) on the corner to sell to a potential buyer.*