

ORDINANCE NO. 021

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 F Farming Zone the following described real estate located in Delaware County, Indiana, to wit:

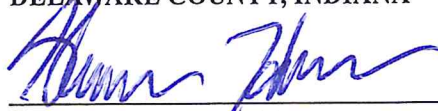
see attachment

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.

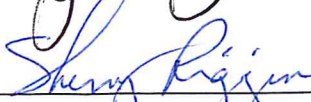
Section 3. That this Ordinance shall be in full force and effect from and after its passage by the Board of County Commissioners of Delaware County, Indiana.

Section 4. That this Ordinance is adopted/vetoed this 14 day of November, 2020.

BOARD OF COUNTY COMMISSIONERS
DELAWARE COUNTY, INDIANA


Shannon Henry, President


James King, Vice President


Sherry Riggins, Member

ATTEST:


Steven G. Craycraft, Auditor

Exhibit A

Area to Rezone

A part of the East Half of the West Half of the Northeast Quarter of Section 15, Township 21 North, Range 10 East in Hamilton Township, Delaware County, Indiana, described as follows:

Beginning at a point on the West line of the East Half of the West Half of the Northeast Quarter of Section 15, Township 21 North, Range 10 East said point being South 00 degrees 11 minutes 38 seconds West 210.00 feet (assumed bearing) from the Northwest corner of said Half-Half-Quarter section; thence North 89 degrees 29 minutes 15 seconds East 80.00 feet parallel with the North line of said Half- Half - Quarter section; thence South 00 degrees 11 minutes 38 seconds West 450.00 feet; thence South 89 degrees 29 minutes 15 seconds West 80.00 feet to a point 2 feet North of a concrete post on the West line of said Half- Half- Quarter section; thence North 00 degrees 11 minutes 38 seconds East 450.00 feet to the point of beginning, containing 0.83 acres, more or less, and subject to all easements of record.

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

November 9th, 2020

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: **The Estate of William and Mary Harmon, 1101 W. SR 28, Muncie, IN**, such applicant petitioning the commission to rezone the real estate as described in the application, generally located at: **1101 W. SR 28, Muncie, IN**, from zone classification: **R-5 Residence Zone** to zone classification: **F Farming 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

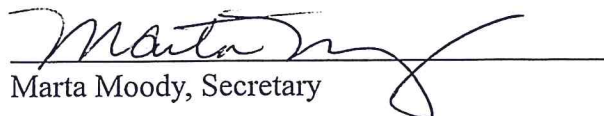
NOW, THEREFORE, the Delaware-Muncie Metropolitan Plan Commission hereby FAVORABLY RECOMMENDS (8-0; 0 abstention, 1 absent) the application for rezoning.

**DELAWARE-MUNCIE METROPOLITAN
PLAN COMMISSION**

BY:



Shannon Henry, President



Marta Moody, Secretary

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

Jurisdiction: (Check One)

Submitted: 10-8-20

Delaware County

Case No.: MPC 02-202

City of Muncie

(1) Applicant: The Estate of William and Mary Harmon - Tamara S. Nibarger (Personal Representative)

Address: 1101 E SR 28 Phone: 765-631-4679
Muncie, IN 47303

(2) Record of Applicant's Ownership:

A. By Deed:
Deed Book No. & Page No.: Deed 1985 Page 4143
Date of Deed: November 7, 1985

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 Survey

(4) Common Address of Property Involved:
1101 E SR 28,
Adjoining C. Matthew Cook at 1021 E SR 28, Muncie, IN 47303
Vacant land to the South

(5) Proposed zoning change: (Give exact zone classification.)
From the R-5 Residence Zone Zone
To the F Farming Zone Zone

- (6) Intent and Purpose of Proposed Change: (Specify use contemplated on property.)
To combine with the intention of building a pole barn.
- (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.

Sell to West adjoiner (C. Matthew Cook)

- (8) State how the proposed change will not adversely affect the surrounding area.
Both the West and South are zoned as farming.
- (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 neighbors were for the rezoning.
- (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

18C01-2007-EU-000096

Delaware Circuit Court 1

Filed: 7/10/2020 4:36 PM
Clerk
Delaware County, Indiana

LETTERS TESTAMENTARY

I, the undersigned, Clerk of the Circuit Court for the County of Delaware, in the State of Indiana, do hereby certify that Letters Testamentary of the Estate of William M. Harmon, late of Delaware County, deceased is granted to Tamera S. Nibarger and the said Tamera S. Nibarger having qualified as such Personal Representative, is duly authorized to take upon herself the administration of such estate, according to law.

WITNESS my hand and the seal of said Court, on July 14, 2020.



CM

Rick Jangle
Clerk, Delaware Circuit Court

AFFIDAVIT

(I or We) Estate of William and Mary Ellen Harmon Trustee Personal Representative KV 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: *Amara Nibarger FR*

Subscribed and sworn to before me this 7th day of October, 2020

Katherine M Karmice
Notary Public Katherine M Karmice
4-22-24
My Commission Expires
Resident of Henry 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 5th day of November, 2020.

Signed *[Signature]*

Date 10-21-2020

Warranty Deed

THIS INDENTURE WITNESSETH, That MARY ELLEN HARMON

of DELAWARE County, in the State of INDIANA Convey and Warrant

WILLIAM M. HARMON AND MARY ELLEN HARMON, Husband and Wife,
of DELAWARE County, in the State of 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 northwest quarter of the northeast quarter of section fifteen (15) township twenty-one (21) north, range ten (10) east, described as follows: Beginning at the northwest corner of the east half of the west half of the northeast quarter of the above described section, and running thence east twenty (20) rods; thence south forty (40) rods; thence west twenty (20) rods; thence north forty (40) rods to the place of beginning except the following described piece of land; Beginning at the northwest corner of the above described tract of land, and running thence east eighty (80) feet, thence south two hundred ten (210) feet, thence west eighty (80) feet, thence north two hundred ten (210) feet to the place of beginning. Estimated to contain 4.615 acres more or less. ALSO EXCEPT a part of the Northwest quarter of the Northeast quarter of Section Fifteen (15), Township Twenty-one (21) North, Range Ten (10) East, more particularly described as follows, to-wit: Beginning at a point in the North line One hundred Sixty-five and seven tenths (165.70) feet East to the Northwest corner of the East half of the West half of said Northeast quarter and running thence East on said North line One hundred sixty-four and three tenths (164.30) feet; thence running South Three hundred thirty (330.0) feet; thence running West parallel with the North line of said East half of the West half of the Northwest quarter One hundred sixty-three and one tenth (163.10) feet; thence running North Three hundred thirty (330.0) feet to the point of beginning, containing 1.240 acres, more or less.

Unit Tax Number: 7-02000

Sidwell Number: 07-15-201-004-000

duly entered for taxation Nov 7 19 85
 Jack Donati, Auditor, Filed for Record
 Nov 7 19 85 at 3:00 PM in
 Record 1985 Page 4143 Fee \$ 5.00 Paid

Donna J. Ashby R.D.C.

In Witness Whereof, The said MARY ELLEN HARMON

has hereunto set her hand and seal, this 1ST day of NOVEMBER 19 85

NOV 07 1985 (Seal) *Mary Ellen Harmon* (Seal)
 MARY ELLEN HARMON
 (Seal) _____ (Seal)
 Jack Donati Auditor, DELAWARE COUNTY INDIANA (Seal) _____ (Seal)

STATE OF INDIANA, DELAWARE COUNTY, ss:

Before me, the undersigned, a Notary Public in and for said County, this 1ST day of NOVEMBER 19 85, came

MARY ELLEN HARMON, and acknowledged the execution of the foregoing instrument.

Witness my hand and official seal.

Rita McGuire Becker Notary Public
 RITA MCGUIRE BECKER

My Commission expires JUNE 12, 1988

INDIANA prepared by: RITA MCGUIRE BECKER
 Attorney-At-Law

A resident of Delaware County.

NW. COR. NE. QTR.
SEC. 15-21-10
EX. PK NAIL

IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND AND SEAL OF OFFICE, UNDER THE PENALTIES FOR PERJURY, THAT I HAVE TAKEN REASONABLE CARE TO REDACT EACH SOCIAL SECURITY NUMBER IN THIS INSTRUMENT, UNLESS REQUIRED BY LAW (HALDON L. ASHTON),

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

A part of the East Half of the West Half of Township 21 North, Range 10 East in Hamilton County, Indiana as follows:

Beginning at a point on the West line of the Northeast Quarter of Section 15, Township 21 North, Range 10 East, 00 degrees 11 minutes 38 seconds West 211.00 feet to the corner of said Half-Half-Quarter section; thence East 80.00 feet parallel with the North line of said Half-Half-Quarter section; thence South 00 degrees 11 minutes 38 seconds West 45.15 seconds West 80.00 feet to a point 2 feet from the East line of said Half-Half-Quarter section; thence North 45.00 feet to the point of beginning, containing all easements of record.

I hereby certify that to the best of my knowledge and belief the plat represent a survey, executed according to law and made under my supervision and completed on 10/06/20.

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

Surveyor's Note

The Relative Positional Accuracy (due to the subject tract established this survey is 0.13 feet) Survey.

1. In accordance with the Indiana Administrative Code 865 IAC 1-12-7 ("Rule 1-12-7" submitted regarding uncertainties in the location of a survey as a result of: a. Availability, condition, or completeness of Record documents; c. Lines of occupation; and d. There may be unwritten rights associated with the tract.

Reference Monuments

At the Southeast corner of the Northeast Quarter of Section 15, Township 21 North, Range 10 East, there is a concrete post at the Southwest corner of said Half-Half-Quarter section. There is a nail with county references at the Northwest corner of said Half-Half-Quarter section. There is an iron pin referenced at the Northeast corner of said Half-Half-Quarter section. There are iron pins marking the East line of said Half-Half-Quarter section.

Occupation

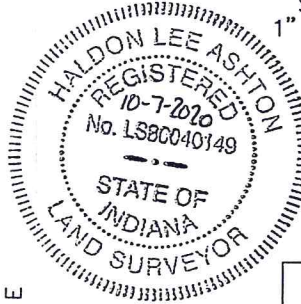
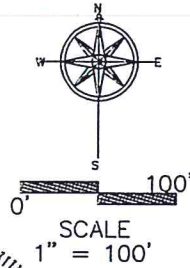
There is a right-of-way for Highway #28 across the East Half of the West Half of Township 21 North, Range 10 East. The access to Parcel A is shared with the East Half of the West Half of Township 21 North, Range 10 East.

Record Descriptions

The East line of the tract follows the West line of the Northeast Quarter of Section 15, Township 21 North, Range 10 East. The South line is 40 rods South. The West line is along the fence along that line.

- The within tract does not lie within that area shown on the Community Panel # 18035 of Delaware County, Indiana (Maps Dated: 07/04/2004) as shown on the INDNR Flood Plain Information Portal - data.
- Ownership shown hereon is per County Records and other records.
- The within survey was performed without reference to any statement of facts revealed by the title insurance policy upon receipt and inspection of current title work.

SW. COR. NE. QTR.
SEC. 15-21-10
12" CONC. POST



Re-Zone Boundary
1101 East State
Highway #28
Muncie, IN

Revisions

Date:
Reason:

Drawn: SMK
Date: 10/06/20
Job: 2020132
Client: Matt Cook
Crew: JM
Electronic Field Book
Field Date: 10/02/20
IUPPS REF. #2009114447

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



RECEIVED

OCT 08 2020