

ORDINANCE NO. 15-25
BEING AN ORDINANCE TO AMEND
THE CITY OF MUNCIE
COMPREHESIVE ZONING ORDINANCE
FROM THE R-3 RESIDENCE ZONE
TO THE BV VARIETY BUSINESS ZONE
ON PREMISES LOCATED AT
3300 N. MILTON ST., MUNCIE, INDIANA

WHEREAS, the State enabling act for planning and zoning empowers the City Council of Muncie, Indiana to adopt a Comprehensive Zoning Ordinance and also provides for amendments to the said Ordinance as the need arises; and

WHEREAS, the Common Council of the City of Muncie, 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 is adapted; the conservation of property values throughout the jurisdiction; and responsible growth and development.

NOW THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF MUNCIE, INDIANA, as follows:

Section 1. That the City of Muncie Comprehensive Zoning Ordinance, heretofore adopted on the 5th day of November, 1973, be amended, changed and supplemented so as to include in the **BV Variety Business Zone** the following described real estate located in the City of Muncie, Indiana to wit:

3300 N. Milton St., Muncie, IN

Section 2. That all buildings or uses permitted and placed upon described real estate shall fully conform with all the provisions of the City of Muncie Comprehensive Zoning Ordinance and shall have obtained all the proper permits.

Section 3. That this Ordinance shall be in full force and effect from and after its passage by the Common Council and its approval by the Mayor of the City of Muncie, Indiana, and such publication as may be required by law.

**REPORT TO THE COMMON COUNCIL OF
THE CITY OF MUNCIE, INDIANA**

March 7, 2025

To the Honorable:

Common Council of the City of Muncie, Indiana

Dear Council Members:

The Delaware-Muncie Metropolitan Plan Commission hereby submits to you the following report on the application of: **Gail Van Deusen & Net Lease Properties, 1000 Forest Park Blvd., Suite 401, Fort Worth, TX**, such applicant petitioning the Commission to rezone the real estate as described in the application, generally located at: **3300 N. Milton St., Muncie, IN**, from zone classification: **R-3 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 the jurisdiction and responsible growth and development; and

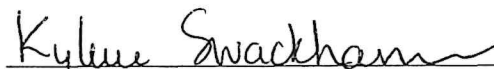
NOW, THEREFORE, the Delaware-Muncie Metropolitan Plan Commission hereby **FAVORABLY RECOMMENDS (7-0)** the application for rezoning.

**DELAWARE-MUNCIE METROPOLITAN
PLAN COMMISSION**

BY:



Chris Smith, President



Kylee Swackhamer, Secretary

	YEAS	NAYS	ABSTAIN	ABSENT
Dale Basham				
Jerry Dishman				
Brandon Garrett				
Jeff Green				
Sara Gullion				
William McIntosh Sr.				
Harold Mason Jr.				
Nora Powell				
Ro Selvey				

Passed by the Common Council of the City of Muncie, Indiana, this _____ day of _____, 2025.

 President of the Common Council
 City of Muncie, Indiana

Presented by me to the Mayor for his approval this _____ day of _____, 2025.

 Belinda Munson, City Clerk
 City of Muncie, Indiana


The above ordinance approved (vetoed) by me this _____ day of _____, 2025.

 Dan Ridenour, Mayor of the City of Muncie,
 Indiana

ATTEST:

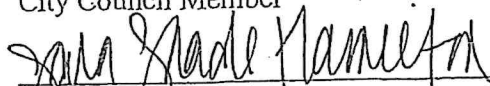
 Belinda Munson, City Clerk of Muncie, Indiana

This ordinance is proposed by:



 City Council Member

This ordinance is approved in form by:



 Corporate Counsel

EXCERPT FROM THE MARCH 6, 2025

CASE ANALYSIS FROM THE

DELAWARE-MUNCIE METROPOLITAN PLAN COMMISSION

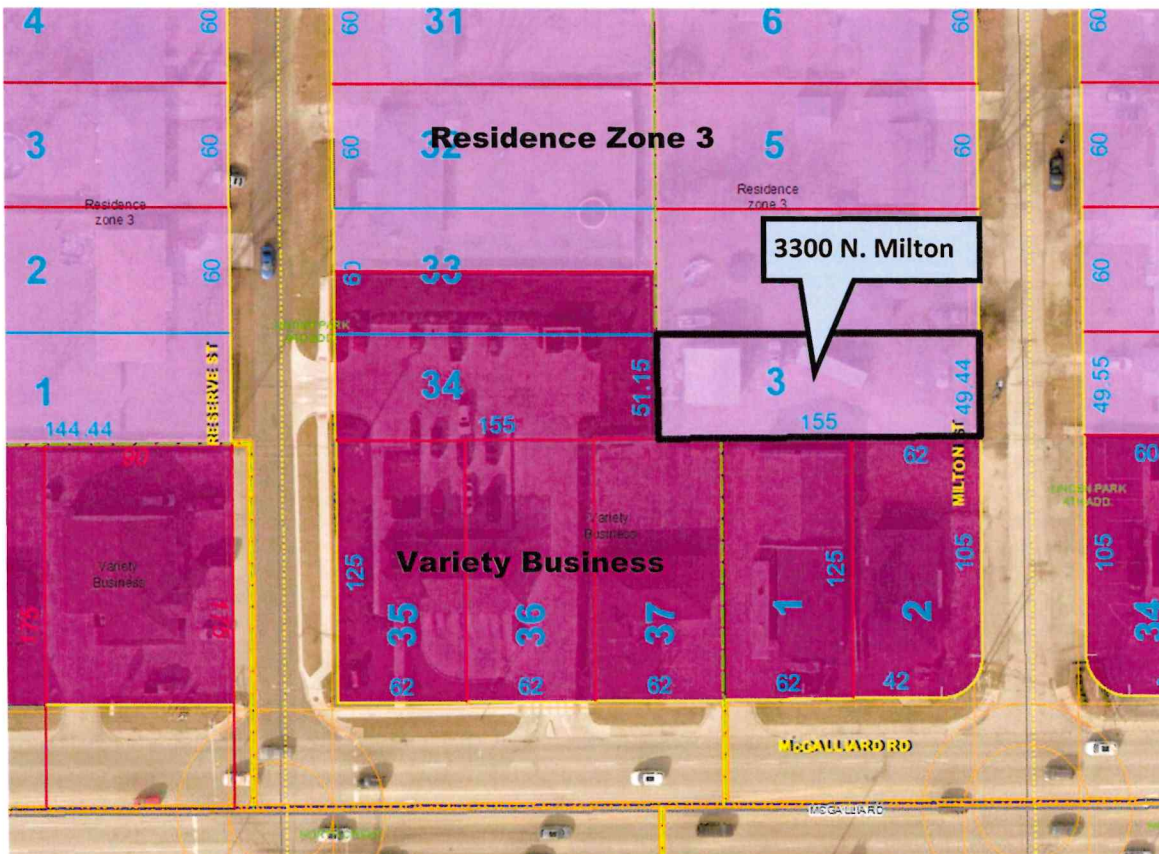
MPC 08-25Z Net Lease Properties, LLC and Gail Van Deusen

Description & Location: 3300 N Milton St., Muncie

Travel north on N Walnut St for 1.5 miles. Turn left (west) on E McGalliard Rd and continue for 0.3 mile. Turn right (north) on N Milton St, lot will be on the left (west) side of the road.

Streets: North Milton Street is platted and classified as a Local Road with a 50' proposed ROW according to the Thoroughfare Plan Map.

Land Use: The current use of the property is residential, there is no house on the property



Zoning: The current zoning of the property is R-3 Residence Zone. The zoning of the properties to the north and east are also R-3 Residence Zones. The properties immediately to the south and west are BV Variety Business Zone.

Request: The request is to rezone the property from the R-3 Residence Zone to the BV Variety Business Zone.

Additional Information: The property is planned to be part of a larger development involving the adjacent properties at 602 and 604 W. McGalliard Rd. The principal use of this lot is anticipated to be landscape buffer and accessory uses for the principal commercial building that will be on McGalliard Rd. The proposed use of all four properties is a 7Brew drive-through.

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

Jurisdiction: (Check One)

Submitted: Feb. 11, 2025

Delaware County

Case No.: MPC 08-25

City of Muncie

(1) Applicant: Net Lease Properties, LLC

Address: 1000 Forest Park Blvd., Suite 401 Phone: 817-939-7231
Fort Worth, TX 76110

(2) Record of Applicant's Ownership:

A. By Deed:
Deed Book No. & Page No.: _____
Date of Deed: _____

B. By Recorded Contract:
Misc. Book No. & Page No.: _____
Date of Contract: _____

C. By Unrecorded Contract:
Date of Contract: 11/25/2024
Name of Contract Seller: Gail R. Vandeußen
Book No. & Page No. Of Deed in Seller's Name: Instrument No. 1972-5713
Instrument No. 1984-2169

(3) Legal Description of Property for which rezoning is requested: (From the Deed or Abstract).

Lot Numbered Three (3) in Linden Park Fourth Addition, an addition to the City of Muncie, Indiana, as recorded in Plat Book 8, Page 10, in the office of the Recorder of Delaware County, Indiana on April 9th, 1955.

(4) Common Address of Property Involved:

3300 N Milton St. Muncie, IN 47304

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

From the R-3, Residence Zone 3 Zone

To the BV, Variety Business Zone

- (6) Intent and Purpose of Proposed Change: (Specify use contemplated on property.)
 Subject property is planned to be developed as a part of a larger development involving 3301 N Milton St, 602 W McGalliard Rd, and 604 W McGalliard Rd. In order to move forward with the proposed development, we are requesting that the property be rezoned to the same zone as the other three properties. The proposed use of all four (4) properties is a 7Brew drive-through. The principal use is not anticipated to be on the subject property. The subject property will mainly consist of a landscape buffer and accessory uses for the principal building, such as drives, parking, and/or a dumpster enclosure.
- (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.
 Applicant intends to purchase property from the current owner and develop according to Item 6.
- (8) State how the proposed change will not adversely affect the surrounding area.
 The surrounding area along W. McGalliard is a heavily commercially developed area. The proposed rezoning will allow for the redevelopment of a commercial property and will introduce a new commercial business to the McGalliard Road corridor. The adjacent property immediately to the West is zoned similar to the proposed zoning of this property and the proposed development will be consistent with buffers to adjoining residential properties.
- (9) Will certain variances be requested if the proposed zoning change is granted?
 (If yes, list the variances)
 At this time, none are anticipated for the subject property. A variance will be required when all four (4) parcels are developed. The variance anticipated is for 20' maximum building setback per Article XXX Section 7 – Corridor Development Standards.
- (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.)
- (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.)
 Based on initial review of the Title Commitment, none are anticipated.

AFFIDAVIT

(I or We) GAIL VAN DEUSEN 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: Gail Van Deusen

Subscribed and sworn to before me this 10 day of February, 20 25



Elizabeth M. Dall
Notary Public

02/27/2032
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 6 day of March, 20 25.

Signed [Signature]

Date Feb, 21 - 2025

Recorded this day of 19 at o'clock M Recorder

Warranty Deed

THIS INDENTURE WITNESSETH That Charles P. VanDeusen and Betty Sue VanDeusen, his wife,

12648

of Delaware County, in the State of Indiana, DO HEREBY Convey and Warrant to Gail R. VanDeusen and Sandy VanDeusen, 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:

Lots numbered two (2) and three (3) in Linden Park Fourth Addition, an Addition to the City of Muncie, Indiana, as recorded in Plat Book 8 page 10, in the office of the Recorder of Delaware County, Indiana.

Unit Tax Numbers 1526870 and 1526869 AB

As a part of the consideration for this conveyance, the grantees herein assume and agree to pay the 1972 taxes due and payable in the year 1973, and all subsequent taxes and assessments becoming a lien against said real estate.

This conveyance is made subject to all zoning restrictions imposed upon said real estate by the Common Council of the City of Muncie, Indiana, and subject also to the restrictions contained in the recorded plat of said addition and to all other restrictions and easements of record.

As a part of the consideration for this conveyance, the grantees herein assume and agree to pay the unpaid balance of a certain mortgage for the principal sum of \$11,950.00 in favor of Colonial Mortgage Company, Inc., which said mortgage is recorded in mortgage record 260 pages 499-502 in the office of the Recorder of Delaware County, Indiana, which said mortgage was assigned to Metropolitan Life Insurance Company on April 6, 1964.

The grantor herein, Charles P. VanDeusen represents and warrants that he is the same person as Charles VanDeusen who was the grantee in a certain deed recorded in Deed Record 456 page 247.

In Witness Whereof, The said Charles P. VanDeusen and Betty Sue VanDeusen, his wife,

Duly entered for taxation Dec 26 1972 JERRY L. THORNBURG, Auditor, Filed for Record Dec 26 1972 at VAN year 1972 Page 5713 Fee \$2.52 paid.

Alan Sullivan R.D.C.

have hereunto set their hands and seal s, this 22nd day of December 19 72

(Seal) Charles P. Van Deusen (Charles P. VanDeusen) (Seal)

(Seal) Betty Sue VanDeusen (Betty Sue VanDeusen) (Seal)

STATE OF INDIANA, DELAWARE COUNTY, ss:

Before me, the undersigned, a Notary Public in and for said County, this 22nd day of December, 1972, came Charles P. VanDeusen and Betty Sue VanDeusen, his wife, and

acknowledged the execution of the foregoing instrument.

Witness my hand and official seal.

My Commission expires July 11, 1976.

Gladys A. Borders Notary Public

This instrument prepared by Jon H. Moll.

04822

QUITCLAIM DEED

DEED 1984 2169

THIS INDENTURE WITNESSETH, That SANDY VANDEUSEN (Grantor) of Delaware County in the State of Indiana QUITCLAIMS to GAIL R. VANDEUSEN whose mailing address is R.R. #11, Box 219, Muncie, Indiana 47302 of Delaware County, Indiana for the sum of One Dollar (\$1.00) and other valuable consideration, the receipt of which is hereby acknowledged, the following described real estate in Delaware County, Indiana:

Lot numbered two (2) and three (3) in Linden Park Fourth Addition, an Addition to the City of Muncie, Indiana, as recorded in Plat Book 8 page 10, in the office of the Recorder of Delaware County, Indiana.

Unit Tax Numbers: 1526780 and 1526869

Subject to any and all outstanding mortgages or other liens, taxes, and assessments, restrictions, conditions, or limitations and recorded easements.

This conveyance is made pursuant to a certain Decree of Dissolution of Marriage In Re The Marriage of Sandra R. VanDeusen and Gail R. VanDeusen, Cause No. 83/618, in Delaware Circuit Court, Delaware County, Indiana, dated April 5, 1984.

IN WITNESS WHEREOF, the Grantor has executed this deed, this 21st day of June, 1984.

Sandy VanDeusen
Sandy VanDeusen

STATE OF Indiana)
COUNTY OF Delaware) SS

Before me, a Notary Public in and for said County and State personally appeared Sandy VanDeusen, who acknowledged the execution of the foregoing Quitclaim Deed, and who, having been duly sworn, stated that any representations therein contained are true.

Witness my hand and Notarial Seal this 21st day of June, 1984. My Commission expires January 9, 1984.

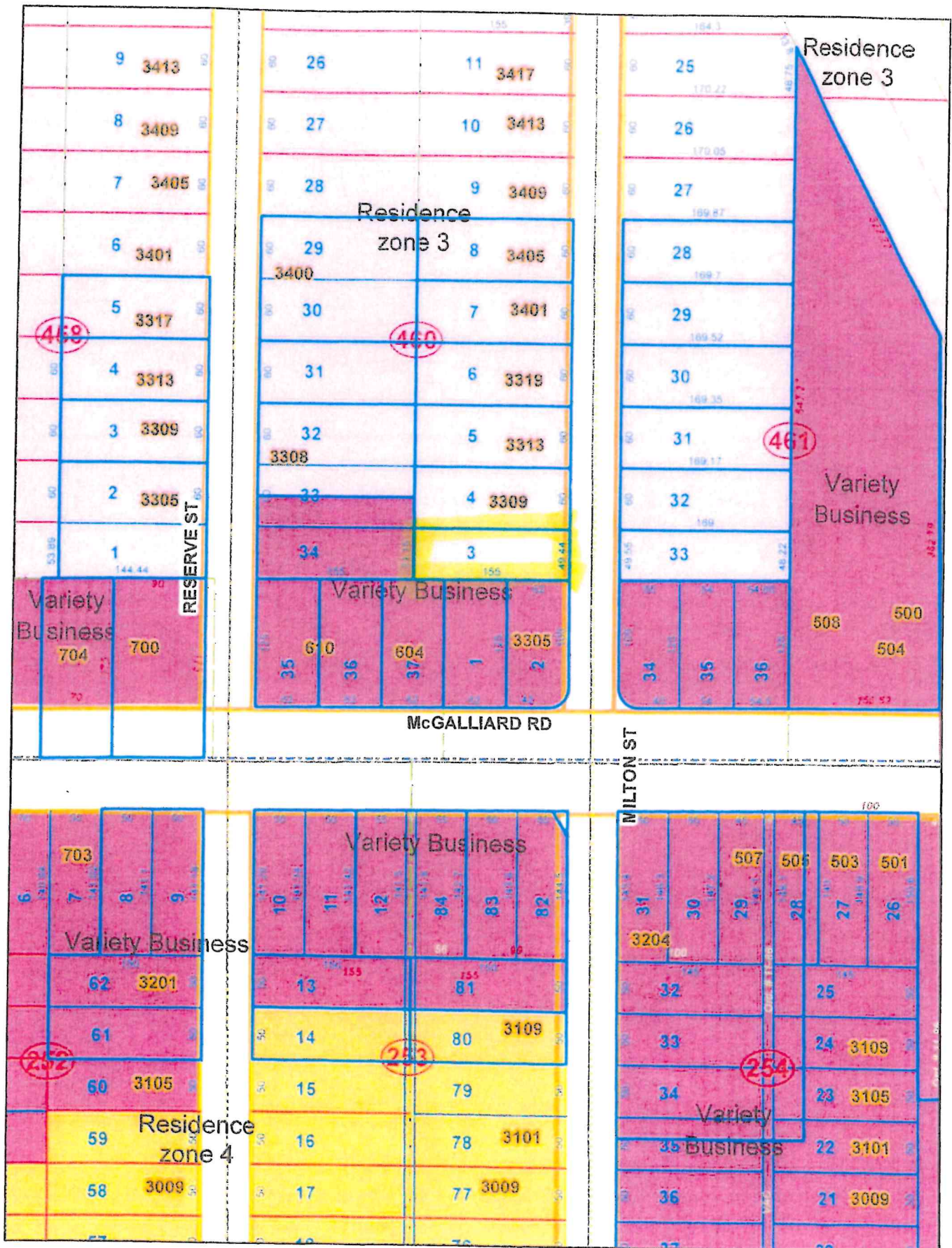


Kenneth P. Schuck
Kenneth P. Schuck, Notary Public
residing in Delaware County, IN

This instrument was prepared by: Kenneth P. Schuck, Attorney at Law.
Duly entered for taxation June 22, 1984

Jack Donati, Auditor, Filed for Record
June 22, 1984 at 5:30 P.M.
Record 2169 Page 5-10 Fee \$ 5.00 Paid

Entered For Taxation
 JUN 26 1984
 THE DAY OF
 Paul Donati, Auditor
 DELAWARE COUNTY INDIANA



WPC 08-25Z

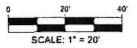
FEB 10 2025

DELAWARE-MUNCIE METROPOLITAN PLANNING COMMISSION

300 S. 11th Street, Suite 100, Muncie, IN 47302-2589

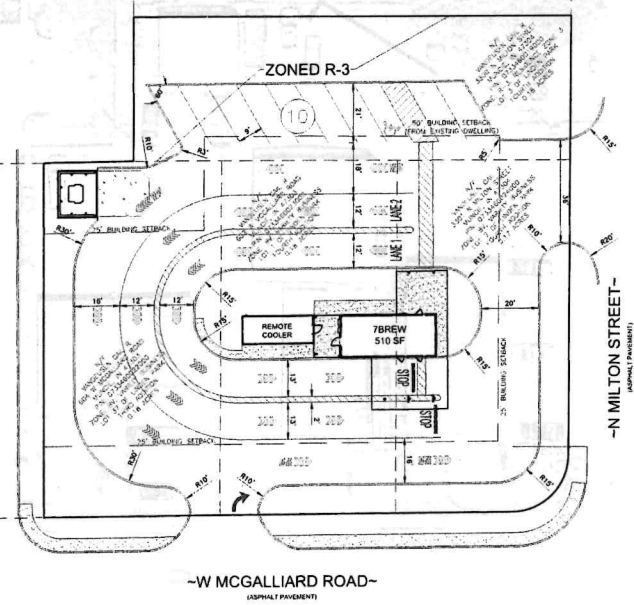
CONCEPTUAL SITE PLAN 2.0

**3300 N Milton ST
3301 N Milton ST
602 W McGalliard RD
604 W McGalliard RD
Muncie, IN 47304**



SITE NOTES:

- SITE IS ZONED BY VARIETY BUSINESS ZONE AND R-3 RESIDENCE ZONE 3.
 - BOUNDARY INFORMATION IS DRAWN PER GIS MAP
 - BUILDING SETBACKS AS PER CITY OF MUNCIE, IN CODE: (BV SETBACKS SHOWN BELOW)
- FRONT YARD = 25'
SIDE YARD = NO MINIMUM EXCEPT WHERE BV ABUTS A RESIDENCE ZONE. NO BUILDING SHALL BE CLOSER TO ANY EXISTING DWELLING THAN 50'.
REAR YARD = AT LEAST 25% OF THE DEPTH OF THE LOT BUT NO MORE THAN 25'.



ACREAGE SUMMARY

in ACRES

3300 N MILTON ST (LOT 3 OF LINDEN PARK 4TH ADD.)	0.18±
3301 N MILTON ST (LOT 2 OF LINDEN PARK 4TH ADD.)	0.17±
602 W MCGALLIARD RD (LOT 1 OF LINDEN PARK 4TH ADD.)	0.18±
604 W MCGALLIARD RD (LOT 37 OF LINDEN PARK 3RD ADD.)	0.18±
TOTAL TRACT	0.71±

SITE PLAN LEGEND

DESCRIPTION	PROPOSED	EXISTING
ALTERN. ELECTING	—	—
UTILITY POLE	—	—
GUARD POST	—	—
SMARTWAY MANHOLE	—	—
CATCH BASIN	—	—
JUNCTION BOX	—	—
FLARED END SECTION	—	—
CLEARWAY	—	—
GRADED WALK	—	—
CONCRETE WALK	—	—
CHAINLINK FENCE	—	—
BARBED WIRE FENCE	—	—
WATER VALVE	—	—
FIRE HYDRANT	—	—
EASEMENT	—	—
PROPERTY LINE	—	—



PARKING DATA

PROPOSED BUILDING (78REW) 510 S.F.

CITY REQUIRED PARKING:
RESTAURANT:
1 PARKING SPACE FOR EACH ONE HUNDRED SQUARE FEET OF GROSS FLOOR AREA

TOTAL REQUIRED: 6 SPACES

PROVIDED STANDARD SPACES 9 SPACES
PROVIDED H.C. ACCESSIBLE SPACES 1 SPACES
PROVIDED TOTAL PARKING 10 SPACES

PROVIDED OVERALL PARKING RATIO: 19.61/1,000 S.F.

Three working days prior to the start of any excavation on this site the contractor shall coordinate with the City of Muncie (317-852-5544) for utility location information.

The contractor shall verify and implement all the required Federal Occupational Safety and Health Administration (OSHA) and/or OSHA approved state-plan requirements established for the type of construction required by these plans.

PRELIMINARY DRAWING

FOR REVIEW PURPOSES ONLY
NOT TO BE USED FOR CONSTRUCTION

shurp.com TEL: 46361-253-4751

BFA
Engineering+Surveying

103 ELM STREET MARIETTA, MISSOURI 63090

MUNCIE, INDIANA
NET LEASE PROPERTIES, LLC
PO BOX 100843
Fort Worth, TX 76185

REVISIONS

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3		
4		

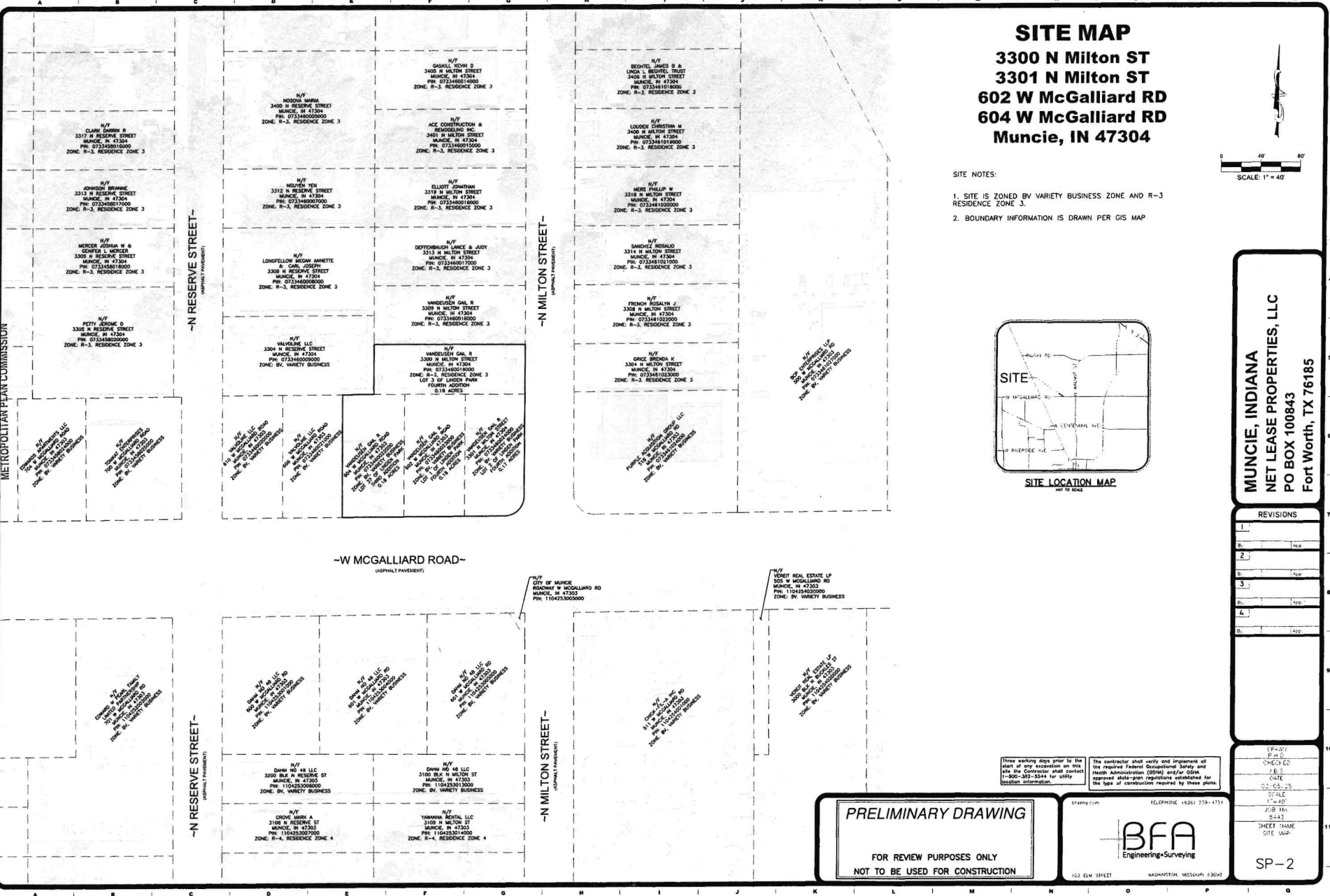
DATE: 02.05.25
SCALE: 1" = 20'
JOB NO: 2443
SHEET NAME: CONCEPTUAL SITE PLAN 2.0
SP-1

MPC 08-25Z

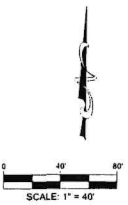
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FEB 10 2025

DELAVARE-MUNCIE METROPOLITAN PLANNING COMMISSION

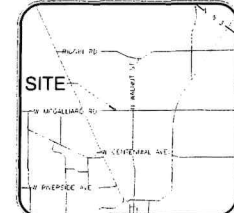


SITE MAP
3300 N Milton ST
3301 N Milton ST
602 W McGalliard RD
604 W McGalliard RD
Muncie, IN 47304



SITE NOTES:

1. SITE IS ZONED BY VARIETY BUSINESS ZONE AND R-3 RESIDENCE ZONE 3.
2. BOUNDARY INFORMATION IS DRAWN PER GIS MAP



SITE LOCATION MAP
NOT TO SCALE

MUNCIE, INDIANA
NET LEASE PROPERTIES, LLC
PO BOX 100843
Fort Worth, TX 76185

REVISIONS	
1	
2	
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4	

Three working days prior to the start of any excavation on this site the Contractor shall contact 1-800-367-5844 for safety location information.

The contractor shall verify and implement all the required Federal Occupational Safety and Health Administration (OSHA) and/or OSHA approved state-sign regulatory standards for the type of construction required by these plans.

PRELIMINARY DRAWING
 FOR REVIEW PURPOSES ONLY
 NOT TO BE USED FOR CONSTRUCTION

BFA
 Engineering & Surveying
 103 ELM STREET WASHINGTON, MISSOURI 63090

DPA-DIT
 R.A.S.
 ONE-3-EO
 L.E.S.
 (DATE)
 02-05-25
 SCALE
 1"=20'
 JOB NO.
 8-843
 SHEET NAME
 SITE MAP
 SP-2