

# Shelby County Plan Commission

January 23, 2024, at 7:00 PM

# Table of Contents

**Agenda ..... 3**

**VAC 24-01 Vacation of Lot 1 in Burton Simple Subdivision / SD 24-01 Dillon Ridge Simple Subdivision ..... 4**

    Staff Report ..... 4

    Plan Commission Minutes January 26, 2010 – RZ 10-03 Burton Rezone ..... 7

    BZA Minutes June 13, 2023 – RZ 23-23 Burton Development Standards Variance..... 8

    Draft Plat ..... 11

# MEETING AGENDA

Shelby County Plan Commission  
January 23, 2024 at 7:00 P.M.

## CALL TO ORDER

## ROLL CALL

## ELECTION OF OFFICERS

## PC APPOINTMENT TO THE BZA

## PC APPOINTMENT OF BZA HEARING OFFICER

## ATTORNEY CONTRACT

## APPROVAL OF MINUTES

Minutes from the November 28, 2023, meeting.

## OLD BUSINESS

**SD 23-16 – RHODEN SIMPLE SUBDIVISION:** Simple Subdivision of 5-acres into a 2.5-acre building lot and a 2.5-acre lot including an existing single-family residence and waiver of subdivision standards. Located at 6045 N 600 W, Fairland, Moral Township. **This case has been WITHDRAWN by the petitioner.**

## NEW BUSINESS

**VAC 24-01 / SD 24-01 – VACATION OF LOT 1 IN BURTON SIMPLE SUBDIVISION / DILLON RIDGE SIMPLE SUBDIVISION:** Amendment of Stipulation of Rezoning to allow subdivision of property subject to a rezoning stipulation prohibiting re-subdivision of the property, vacation of Lot 1 in Burton Simple Subdivision, Simple Subdivision of 19.646 acres into three residential building lots (15.388 acres, 2.256 acres, 2.002 acres), and waiver of subdivision design standards. Located south of and adjoining 7354 S Edinburgh Rd, Edinburgh, Jackson Township.

## DISCUSSION

**Findings of Fact – Jason Clark**

## ADJOURNMENT

The next regular meeting of the Shelby County Plan Commission is scheduled for Tuesday, **February 27, 2024, at 7:00 PM.**

## Property Details

**Location:** South of and adjoining 7354 S Edinburgh Rd, Edinburgh, Jackson Township.

**Property Size:** 19.646-acres.

**Current Land Use:** Natural Resources.

### Current Zoning Classification RE (Residential Estate)

*This district is established for single-family detached dwellings in a rural or country setting.*

**Plan Commission:** Use this zoning district for existing developments and carefully for new residential development.

### Future Land Use per Comp Plan

#### Estate Residential

*The purpose of this category is to provide for new rural residential housing opportunities in rural areas not well suited for agriculture. New residential development should have reasonable access to roads and utilities and should not significantly disrupt agricultural activities. The residential density of this category should not exceed one lot for every two acres.*

### Surrounding Development

	Zoning	Land Use
North	A1	Cropland / Farmstead
South	A1 / A2	Estate Residential / Natural Resources
East	RE	Estate Residential
West	RE / R1	Estate Residential / Single-Family Residential

# Staff Report

**Case Number:** VAC 24-01 / SD 24-01  
**Case Name:** Vacation of Lot 1 in Burton Simple Subdivision / Dillon Ridge Simple Subdivision

## Request

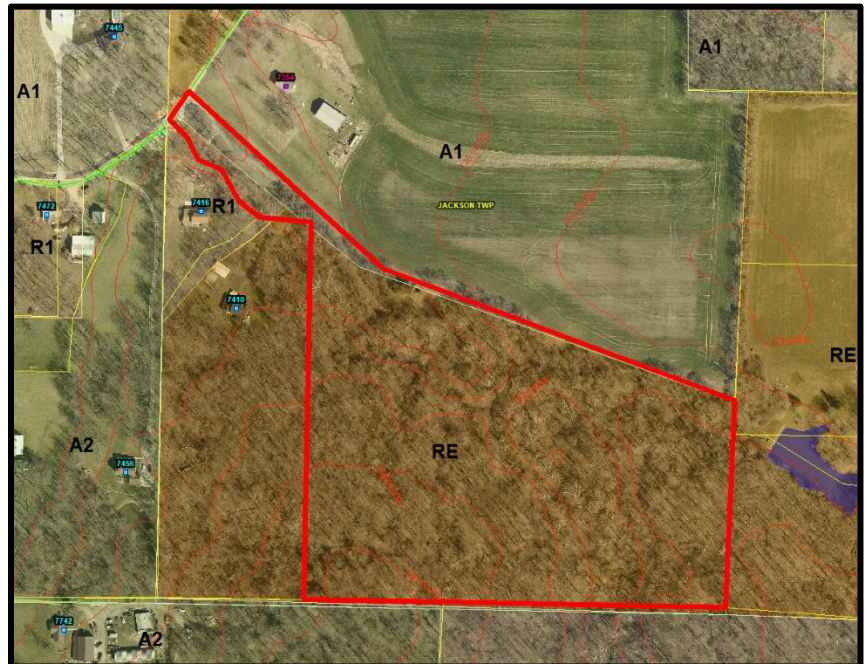
**Amendment of Stipulation of Rezoning** to allow subdivision of property subject to a rezoning stipulation prohibiting re-subdivision of the property.

**Vacation** of Lot 1 in Burton Simple Subdivision to allow for Simple Subdivision of the lot into three lots.

**Simple Subdivision** of 19.646 acres into three residential building lots (15.388 acres, 2.256 acres, 2.002 acres).

**Waiver** of Simple Subdivision design standards to allow residential lots without frontage on a public street built to the County street standards.

## Property Map



## Case Description

---

### Simple Subdivision

- The petitioner proposes to divide the property into three building lots which would utilize a shared driveway. This driveway would tie into an existing driveway which provides access to Edinburgh Rd for two adjacent residential lots (7416 S Edinburgh Rd. and 7410 S Edinburgh Rd.).
- The Technical Advisory Committee (TAC) / Site Plan Review Committee would review a detailed site plan including structure layout, elevation of development, drainage infrastructure, and septic system design for compliance with County codes prior to issuance of permits for each new single-family residence.

### Vacation

- The property is currently Lot 1 in Burton Simple Subdivision. The Plan Commission approved the two-lot Burton Simple Subdivision in 2011.
- Prior to re-subdivision of any property within a previously approved platted subdivision, the UDO requires that the Plan Commission first approve a vacation of the property from its current plat. A vacation legally removes property from a subdivision and voids any easements, covenants, and restrictions attached to the property by the subdivision.
- Burton Simple Subdivision does not include any covenants or restrictions. The proposed subdivision includes the access and drainage easement currently shown on Lot 1 of Burton Simple Subdivision.

### Amendment of Stipulation of Rezoning

- On January 26, 2010, the Plan Commission approved a rezoning of the property currently included within Burton Simple Subdivision from A1 (Conservation Agricultural) to RE (Residential Estate). The approval included a stipulation: *No more than the two proposed lots shall be created on the overall parcel.*
- Burton Simple Subdivision includes two lots; therefore, the stipulation prohibits further subdivision of the subject property.
- This stipulation was recommended by the Planning Director and an adjacent property owner.
- The stipulation applies to the property in perpetuity. The Plan Commission must approve an amendment to this stipulation to allow the project to proceed.

### Waiver

- The UDO requires that all new lots within a subdivision have access to a public street built to the County street standards. This requirement serves to mitigate issues associated with shared use of private driveways. Potential issues include:
  - Disputes over driveway maintenance and access rights.
  - Difficulty posed to visitors in locating homes from the public road.
  - Difficulty posed to emergency vehicles in locating homes and turning around within the driveway.

- Vehicle conflicts if two or more cars utilize the driveway simultaneously.
- The UDO also limits use of shared driveways to two single-family lots, regardless of whether the lots lie within a subdivision. On June 13, 2023, the Board of Zoning Appeals approved a variance to allow the three lots within the proposed subdivision and the two existing adjacent residential lots to use a shared driveway with the following stipulations:
  - No more than five (5) single-family lots shall utilize the driveway.
  - The shared portion of the driveway shall be at least fifteen (15) feet wide and shall be paved.
  - Prior to issuance of a Certificate of Occupancy for any new home:
    - A 50-foot-wide access and utility easement covering the shared portion of the driveway shall be recorded and provided to the Plan Commission office.
    - The driveway shall be identified as PR 740 S, and all existing and new properties utilizing the driveway shall be assigned PR 740 S 911 addresses. A sign identifying the road shall be installed at the entrance to Edinburgh Rd.
    - An 8' x50' paved pull-off shall be installed between Edinburgh Rd. and the entrance to 7416 S Edinburgh RD.
- The Board of Zoning Appeals also approved a variance from the 160-foot road frontage requirement for the two new lots within the proposed subdivision.

## Staff Recommendation

---

Staff recommends **DENIAL**

The subject property and surrounding conditions have not significantly changed since the Plan Commission applied the stipulation to rezoning preventing further subdivision of the property in 2010. Also, the lots would sit a significant distance from the public road and mature trees would obscure the new residential homesites from the road, which could pose difficulty in locating the properties in the case of an emergency. The previous rezoning and subdivision approvals allow the petitioner to construct one home on the property without any further approval.

## Applicant/Owner Information

---

Applicant:	Mike & Laura Burton 600 Liberty Circle Edinburgh, IN 46124	Owner:	Same
Surveyor:	Scott T. Sumerford 3149 N Riley Hwy. Shelbyville, IN 46176		

RZ 10-03...Michael and Laura Burton Rezone: The owners of the property are Michael and Laura Burton of 7410 S. Edinburgh Road, Edinburgh, IN. The project designer is Tony Nicholson of Space and Sites, LLC, 6 East Taylor St., Shelbyville, IN. The address of the property is 7410 S. Edinburgh Road, Edinburgh, IN. The current zoning of the property is Conservation Agricultural (A1). The property is heavily wooded and contains one single-family home. The proposed use of the property is residential. The total area in acres is 27.65. The petitioner seeks approval to rezone a 27.65-acre parcel that is currently zoned A1, Conservation Agricultural, to an RE, Residential Estate, zoning designation in order to subdivide the overall property into two parcels. One parcel would consist of eight (8) acres and contain the existing single-family home, while the 19.65-acre tract would be created for a new single-family residence. (Section 7, Jackson Township).

Amy Dillon read the petition into the record and indicated that she had proof of publication in the Shelbyville News and proof of notification to the adjoining property owners. The petitioner is requesting a favorable recommendation to rezone a 27.65-acre parcel that is currently zoned A1, Conservation Agricultural, to an RE, Residential Estate, zoning designation in order to subdivide the overall property into two parcels. One parcel would consist of eight (8) acres and contain the existing single-family home, while the 19.65 acre tract would be created for a new single-family residence.

Tony Nicholson represented the petitioner. He noted that the statements made by Dillon were correct.

The Board opened up the meeting for public comment. No one spoke in support of or in opposition to the petition.

Amy Dillon read a letter from James Wheatley into the record regarding the petition. In the letter he indicated that he was not opposed to the petition, but he did want to request that the Plan Commission stipulate that only one new home could be constructed on the property.

After questions and comments from the Plan Commission, Scott Gabbard made a motion to vote on the petition with the following stipulations:

1. Should the platting of the subdivision not commence within two years, then the property shall revert to its conservation agricultural (A1) zoning designation.
2. No more than the two proposed lots shall be created on the overall parcel.

Anngie Steinbarger seconded the motion. The motion was approved 9-0.

Mark McNeely presented the Findings of Fact to the Board. They affirmed these were the basis for their decision. The Findings were approved 9-0.

**BZA 23-23 – MIKE & LAURA BURTON: DEVELOPMENT STANDARDS VARIANCES – To allow five (5) single-family lots to utilize a single private driveway (maximum of two single-family lots permitted) [UDO Sec. 5.17 C 2] and one new lot without frontage on a public road (minimum 160-feet of road frontage required) [UDO Sec. 2.12]. Located south of and adjoining 7354 S Edinburgh Rd, Edinburgh, Jackson Township.**

Desiree Calderella read the petition into the record and stated that Staff recommends denial, however if the Board chooses to approve Staff recommends stipulations.

Mike Burton explained that he planned to split the property into three lots to establish building sites for himself and his wife and each of his two sons. He indicated that the property currently includes an asphalt driveway with an easement for the two homesites that currently utilize the driveway. He indicated that the driveway would cross the creek and that he planned to install two, 48” culverts to allow for proper drainage. He indicated that he had written support of the variance request from the owners of the two homesites that currently utilize the driveway.

The Board opened the hearing for public comment.

James Wheatley, who owns property at 7354 S Edinburgh Rd, expressed concern that the property may not have enough width to accommodate the driveway, that flooding may impact use of the driveway, with difficulty posed to emergency vehicles in accessing the homes from the driveway, and with the intentions of a future property owner if the petitioner sells the property.

Kip Featherston, who owns property at 7445 S Edinburgh Rd, expressed concern with development of the property worsening flooding conditions in the area.

Ron Swift, who owns property at 7416 S Edinburgh Rd, expressed concern with runoff on the existing driveway and indicated that he would like to find a solution to that problem, however, would support the Burtons moving back into the neighborhood.

The Board closed the public comment portion of the hearing.

Mike Burton indicated that he could not upgrade the existing culvert under the driveway because it does not lie in the easement. He indicated that the driveway floods rarely, and when it does it only blocks access for about an hour. He referenced the desirability of building on a wooded lot.

Kevin Carson expressed concern that the major subdivision process would not apply to the subdivision of the property. He expressed concern with the width of the driveway, that the driveway lies in a low area, and with three additional houses utilizing the same



driveway. He indicated that paving the driveway would save future costs of maintenance of a gravel driveway.

Terry Knudson expressed concern with the driveway crossing a creek.

Kevin Carson indicated that the narrow portion of the lot may not accommodate a 50-foot-wide access easement.

Desiree Calderella verified that the easement would need to cross the adjacent lot.

Kevin Carson indicated that the desirability of the proposed homesites would warrant a paved driveway.

Q: Jim Douglas – How are your feelings about that?

A: Mike Burton – If that's what it takes to get it done, I have connections in the asphalt business.

The Board, Mr. Burton, and Mr. Swift discussed the drainage issues in the area.

Kevin Carson made a motion to vote on the petition with Staff's stipulations and an additional stipulation requiring that the petitioner pave the driveway, and the Board seconded the motion. The petition was **APPROVED 5-0** with **stipulations**:

- 1. No more than five (5) single-family lots shall utilize the driveway.**
- 2. The shared portion of the driveway shall be at least fifteen (15) feet wide and shall be paved.**
- 3. Prior to issuance of a Certificate of Occupancy for any new home:**
  - a. A 50-foot-wide access and utility easement covering the shared portion of the driveway shall be recorded and provided to the Plan Commission office.**
  - b. The driveway shall be identified as PR 740 S, and all existing and new properties utilizing the driveway shall be assigned PR 740 S 911 addresses. A sign identifying the road shall be installed at the entrance to Edinburgh Rd.**
  - c. An 8' x50' paved pull-off shall be installed between Edinburgh Rd. and the entrance to 7416 S Edinburgh RD.**

The Board adopted the following Findings of Fact:

1. The approval will not be injurious to the public health, safety, and general welfare of the community.
2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.
3. The strict application of the terms of the Shelby County Unified Development Ordinance will result in a practical difficulty in the use of the property.

