

Shelby County Plan Commission

February 27, 2024, at 7:00 PM

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MEETING AGENDA

Shelby County Plan Commission
February 27, 2024, at 7:00 P.M.

CALL TO ORDER

ROLL CALL

PC APPOINTMENT TO THE BZA

APPROVAL OF MINUTES

Minutes from the January 23, 2024, meeting.

NEW BUSINESS

RZ 24-01 – BURTON & NOBBE REZONING: Rezoning of 2-acres from the A2 (Agricultural) District to the RE (Residential Estate) District. Located north of and adjoining 10903 S 400 W, Edinburgh, Jackson Township.

SD 24-02 – BURTON & NOBBE SIMPLE SUBDIVISION: Simple Subdivision of 2-acres from a 9.24-acre parent tract. Located north of and adjoining 10903 S 400 W, Edinburgh, Jackson Township.

OLD BUSINESS

RZ 10-03 – BURTON REZONING: Amendment of Stipulation of Rezoning to allow for subdivision of property. Located south of and adjoining 7354 S Edinburgh Rd, Edinburgh, Jackson Township.

VAC 24-01 - VACATION OF LOT 1 IN BURTON SIMPLE SUBDIVISION: Located south of and adjoining 7354 S Edinburgh Rd, Edinburgh, Jackson Township.

SD 24-01 – DILLION RIDGE 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

None.

ADJOURNMENT

The next regular meeting of the Shelby County Plan Commission is scheduled for Tuesday, **March 26, 2024, at 7:00 PM.**

Property Details

Location: North of and adjoining 10903 S 400 W, Edinburgh, Jackson Township.

Property Size: 2-acres.

Current Land Use: Cropland.

Current Zoning Classification

A2 (Agricultural)

This district is established for general agricultural areas and buildings associated with agricultural production.

Proposed Zoning Classification

RE (Residential Estate)

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

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	A2	Cropland
South	A2	Estate Residential
East	A2	Estate Residential
West	A2	Cropland

Staff Report

Case Number: RZ 24-01 / SD 24-02

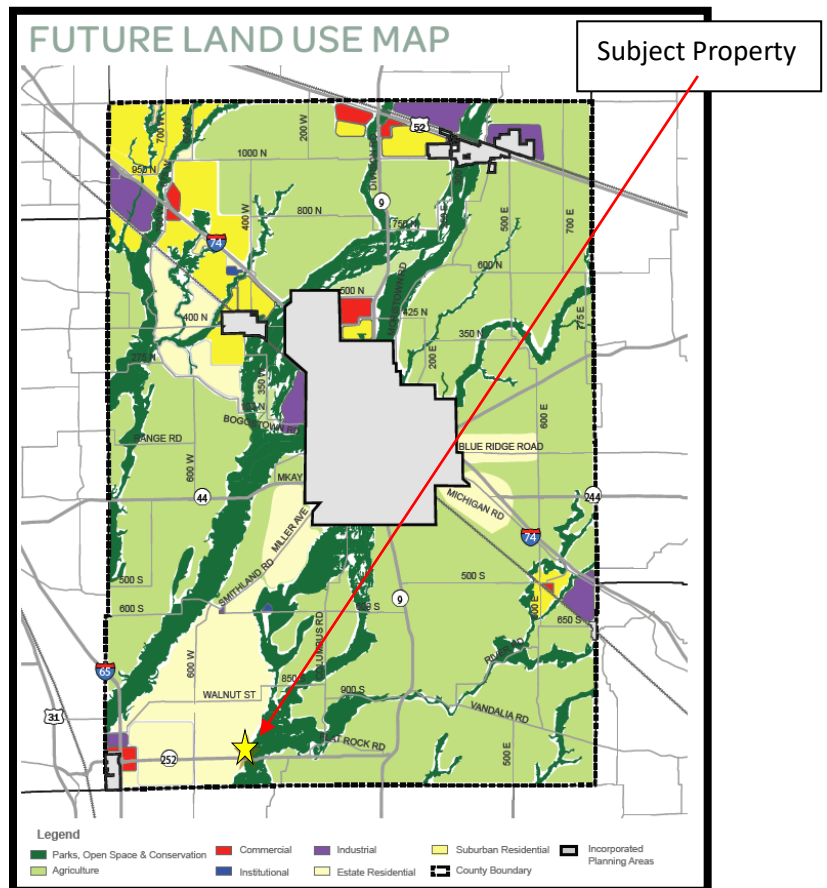
Case Name: Burton & Nobbe Rezoning – A2 (Agricultural) to RE (Residential Estate) & Burton & Nobbe Simple Subdivision

Requests

Rezoning of 2-acres from the A2 (Agricultural) District to the RE (Residential Estate) District to allow for a one-lot Simple Subdivision.

Simple Subdivision of 2-acres from a 9.24-acre parent tract.

Future Land Use Map



Property Map



Case Description

- Approval of the requests would allow for development of one new 2-acre single-family residential lot.
- 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 a new single-family residence.

Staff Analysis Findings of Fact

Rezoning: In accordance with IC 36-7-4-603 and the UDO, when considering a rezoning, the Plan Commission shall pay reasonable regard to:

1. Current Conditions and the Character of Current Structures and Uses in Each District

The size of the lot would exceed the area of the adjacent lot to the south dedicated to residential use. Therefore, rezoning to allow for residential development of a two-acre lot would not conflict with the character of the area.

2. The Most Desirable Use for Which the Land in Each District Is Adapted

The size of the lot would exceed the area of the adjacent lot to the south dedicated to residential use. The proposed lot is two acres as recommended for Estate Residential areas by the Comprehensive Plan. Development of a two-acre residential lot would be consistent with existing development and planned future development for the area.

3. The Conservation of Property Values throughout the Jurisdiction

Development of the property for residential purposes would have no perceivable impact on property values throughout the County.

4. Responsible Development and Growth

The property would have access to utilities and drainage infrastructure to support residential development.

5. The Comprehensive Plan

The size of the proposed lot is two-acres as recommended for Estate Residential areas by the Comprehensive Plan.

Simple Subdivision: Staff has reviewed the proposed plat and has determined:

1. The subdivision of land is consistent with the Shelby County Comprehensive Plan.
2. The subdivision of land satisfies the development requirements of Article 06: Subdivision Types.
3. The subdivision of land satisfies the standards of Article 07: Design Standards.
4. The subdivision of land satisfies any other applicable provisions of the Unified Development Ordinance.
5. The subdivision of land satisfies the construction requirements of Shelby County's Construction Standards.

Staff Recommendation

APPROVAL because the proposed lot is two acres as recommended for Estate Residential areas by the Comprehensive Plan.

Applicant/Owner Information

Applicant:	Travis Nobbe 10903 S 400 W Edinburgh, IN 46124	Surveyor:	Powell Land Surveying LLC 4634 N 575 E Shelbyville, IN 46176
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Owner:	Gene A & Freda M Burton 10903 S 400 W Edinburgh, IN 46124
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Burton & Nobbe Simple Subdivision

Part of the Southeast Quarter of Section 28, Township 11 North, Range 6 East, Jackson, Township, Shelby County, Indiana.

Owner & Client: Gene A. & Freda M. Burton
Site Address: 10903 South, 400 West Edinburg IN 46124

Parent description of the lands owned by Gene A. & Freda M. Burton recorded in Deed Record Book 261, Page 53.
Beginning at a point on the South line of Section 28, Township 11 North, Range 6 East, 62 rods West of the Southeast corner of said section, at the intersection of the public highway running northwesterly and southwesterly through said section, with the Edinburg, Flat Rock and Norristown Turnpike; running thence West on the South line of said section 40 rods; thence North 42 rods; Thence East parallel with the South line of said section 41 rods to the center of said public highway running northwesterly and southwesterly through said section first above described; and thence in a southerly direction along the center of said public highway to the place of beginning, containing 10 acres, more or less.
EXCEPT the following described tract being the right-of-way of State Road 252 per Instrument 2012009074.
A part of the Southeast Quarter of Section 28, Township 11 North, Range 6 East, Shelby County, Indiana, and being that part of the grantors' land lying within the right of way lines depicted on the attached Right-of-Way Placed Plan marked Exhibit '8', described as follows: Beginning at a point on the South line of said section South 89 degrees 18 minutes 11 seconds West 1,142.52 feet from the southeast corner of said section, which point of beginning is on the prolonged north boundary of S.R. 252; thence North 89 degrees 18 minutes 11 seconds West 531.50 feet along said south line to the southwest corner of the grantors' land; thence North 2 degrees 44 minutes 48 seconds East 54.18 feet along the west line of the grantors' land; thence North 89 degrees 21 minutes 47 seconds East 599.97 feet to point "884" designated on said plat; thence North 89 degrees 13 minutes 00 seconds East 60.77 feet to the centerline of C.R. 400 West; thence South 4 degrees 31 minutes 03 seconds West 10.98 feet along said centerline to the prolonged northern boundary of said S.R. 252; thence North 85 degrees 28 minutes 57 seconds West 13.55 feet along the prolonged boundary of said S.R. 252 and along the northern boundary of said S.R. 252 to the northwestern boundary of the intersection of said S.R. 252 and said C.R. 400 West; thence South 75 degrees 31 minutes 05 seconds West 121.50 feet along the boundary of the intersection of said S.R. 252 and said C.R. 400 West to the north boundary of said S.R. 252; thence South 0 degrees 41 minutes 49 seconds East 14.90 feet along the boundary of said S.R. 252 and along the prolonged north boundary of said S.R. 252 to the point of beginning and containing 0.725 acres, more or less, inclusive of the presently existing right-of-way, which contains 0.122 acres, more or less.

Description of Lot 1 being a 2,000 Acres tract being split per this survey from the lands owned by Gene A. & Freda M. Burton recorded in Deed Record Book 261, Page 53.

Part of the Southeast Quarter of Section 28 Township, 11 North, Range 6 East of the second Principal Meridian, Jackson Township, Shelby County, Indiana, being created from a survey (Job # 56-2023) by Jeffrey Powell and being more particularly described as follows:

Commencing at the Southwest corner of the said quarter section, said point being an iron pin set in concrete and being per the Shelby County ties, thence North 89 degrees 16 minutes 22 seconds East (Bearings based on NAD 83, Indiana State, State Plane Coordinates) along the South line of the said quarter section a distance of 1614.75 feet to a point of intersection with the projected centerline of County Road 425 West, said point being South 89 degrees 16 minutes 22 seconds West a distance of 1019.81 feet from the Southeast corner of the said quarter section as calculated per the Shelby County ties; (previously described as being 1023 feet per Deed Record Book 261, Page 53); thence North 04 degrees 29 minutes 19 seconds East along the said centerline a distance of 426.96 feet to a mag. nail with a Powell washer, said point being the point of beginning of the tract herein described; thence South 89 degrees 16 minutes 22 seconds West parallel to the South line of the said quarter section a distance of 314.16 feet to a Powell capped rebar; thence North 00 degrees 25 minutes 27 seconds East a distance of 269.15 feet to a Powell capped rebar set on the assumed North line of a 10 acre tract recorded in Deed Record Book 261, Page 53; thence North 89 degrees 16 minutes 22 seconds East parallel to the South line of the said quarter section and being along the assumed North line of the said 10 acre tract a distance of 333.31 feet to a mag. nail with a Powell washer set in the centerline of County Road 400 West, marking the assumed Northeast corner of the said 10 acre tract; thence South 04 degrees 29 minutes 19 seconds West along the said centerline a distance of 270.21 feet to the point of beginning, containing 2,000 acres more or less and being subject to any and all easements, right of ways and restrictions.

Surveyor's Report:
This report is in accordance with Title 36, Article 1.1, Chapter 12, Sections 1 through 34, of the Indiana Administrative Code; the following observations and opinions are submitted regarding the various uncertainties in the locations of the lines and corners established on this survey as a result of: Availability and condition of the reference monuments, Occupation or Possession lines, Clarity or ambiguity of the record description used and / or adjointer's description. This survey falls within the classification of a Suburban survey and therefore has a Relative position accuracy of 0.13 feet plus 100 parts per million.

Purpose of the survey:
The purpose of this survey is to split off a 2,000 acre tract to be a new building lot from a 10 acre tract of lands owned by Gene A. & Freda M. Burton recorded in Deed Record Book 261, Page 53 per the owners instructions. The field work was performed on July 15, 2023, and other dates.

Availability and condition of the reference monuments:
A iron pin set in concrete was found Southwest corner of the Southeast quarter 28-11-6 per the Shelby County ties and the Southeast corner of the said quarter was established per the calculated location per the published SPC per the Shelby County ties which was found to be -0.6'S & 7.3'E of the calculated location established per a previous survey of a 13.355 acre tract by Taylor Sumerford, dated 5-1-1990 and it also appears to be -6'E of the calculated corner used per the SR 252 right-of-way documents. The uncertainties associated with the said corners are represented on the hereon drawn survey plat and within this report by Record vs Measured vs Calculated.

Occupation or possession lines:
The existing edge of pavement was used to establish the centerline of County Road 400 West per this survey. There was no existing occupation found along the North and East lines of the parent 10 acre tract; only a field division that varied. The new lines established per the survey were per the owner's instructions.

Clarity or ambiguity of the record description used and / or adjointer's description:
The parent description begins at the intersection of the of the South line of the quarter section and the centerline of County Road 400 West, being 62 rods West of the Southeast corner of the quarter section and calls for the South line to run along the South line of the quarter section 40 rods, thence North 42 rods, thence East 41 rods parallel to the South line of the quarter section to the centerline of the said county road and thence South along the centerline to the point of beginning. The description for the 10 acre tract to the North described in Instrument 2017000417, also agrees with the parent description of the surveyed tract. The client, owned stated that there use to be an old fence along the North line that ran West from the approximate location of the fiberglass rod now marking the location of an old corner post and that there is an existing ridge representing where the old fence line ran to the West which was located per this survey.

Therefore the North line of the parent 10 acre tract was established per this survey to be parallel to the South line of the quarter section as called for per the parent description and held the found fiberglass rod marking the location of an old corner post near the Northeast corner as stated per the client / owner and the said line was found to be approximately along an existing ridge representing the old fence line also stated per the client / owner. The North line of the 10 acre tract held per this survey appears to be -1.6' South of the deed line per the record distance measured along the West line, also the existing edge of pavement was used to establish the centerline of County Road 400 West per this survey and was found to be -2' East of the calculated location per the Sumerford survey.

Relative position accuracy of Measurements:
This survey falls within the classification of a Rural survey; and therefore has a Relative position accuracy of 0.13 feet plus 100 parts per million plus the above stated uncertainties.

Flood Hazard Statement:
The surveyed tract is located in a special flood hazard ZONE X per the FEMA Flood Insurance rate map number 181057C025FC, the accuracy of this Flood Hazard statement is subject to map scale uncertainty in location or elevation on the referenced Flood Insurance rate map.

Note: Five deciduous trees with at least 1 1/4" - inch DBH at the time of planting shall be planted on the property prior to occupation of the residence.

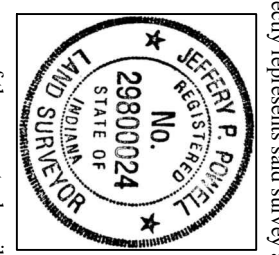
Note: the building set back lines are 50' Front for primary & accessory structures and 30' Side & 30' Rear for primary and 10' for accessory structures.

Powell Land Surveying LLC
Jeffery P. Powell, PLS
4634 North, 575 East, Shelbyville, IN 46176
Phone 317-694-6073
Email: powelllandsurveying@msn.com
This Document was prepared by Jeffrey Powell.

Matthew R. Tobias and Michelle R. Tobias
78.52 acres, Inst. 2019003115
42 rods, 693'(R)

Surveyor Certification:
I, the undersigned, hereby certify that I am a Land Surveyor registered in compliance with the laws of the State of Indiana; and I do hereby further certify that I have surveyed the real estate described in the caption above and that I have subdivided the same into two tracts as shown on the hereon drawn plat. This plat correctly represents said survey and subdivision in every detail. Monuments shown are in place as located.

Witness my hand this 9 day of January, 2024.
Jeffery P. Powell
Registered Land Surveyor
No. 29800024



Owners Certification:
I, Freda M. Burton, do hereby certify that we are the owners of the property described in the above captioned and that as such owners we have caused the said above described property to be surveyed and subdivided as shown on the here on drawn plat, as our free and voluntary act and deed.

Witness my hand this ___ day of _____, 2024.
Freda M. Burton

Notary Certification:
I, _____, a Notary Public in and for said County and State, do hereby certify that **Freda M. Burton**, Personally known to me to be the same person whose name is subscribed to the above certificate appeared before me this day in person and acknowledged that they signed the above certificate as their own free and voluntary act and deed for the uses and purposes therein set forth.

Given under my hand and notarial seal this ___ day of _____, 2024.

Notary Public: _____

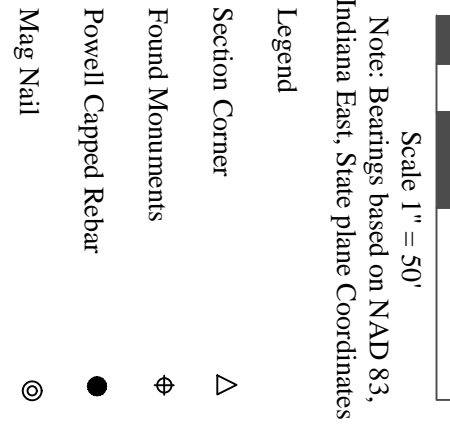
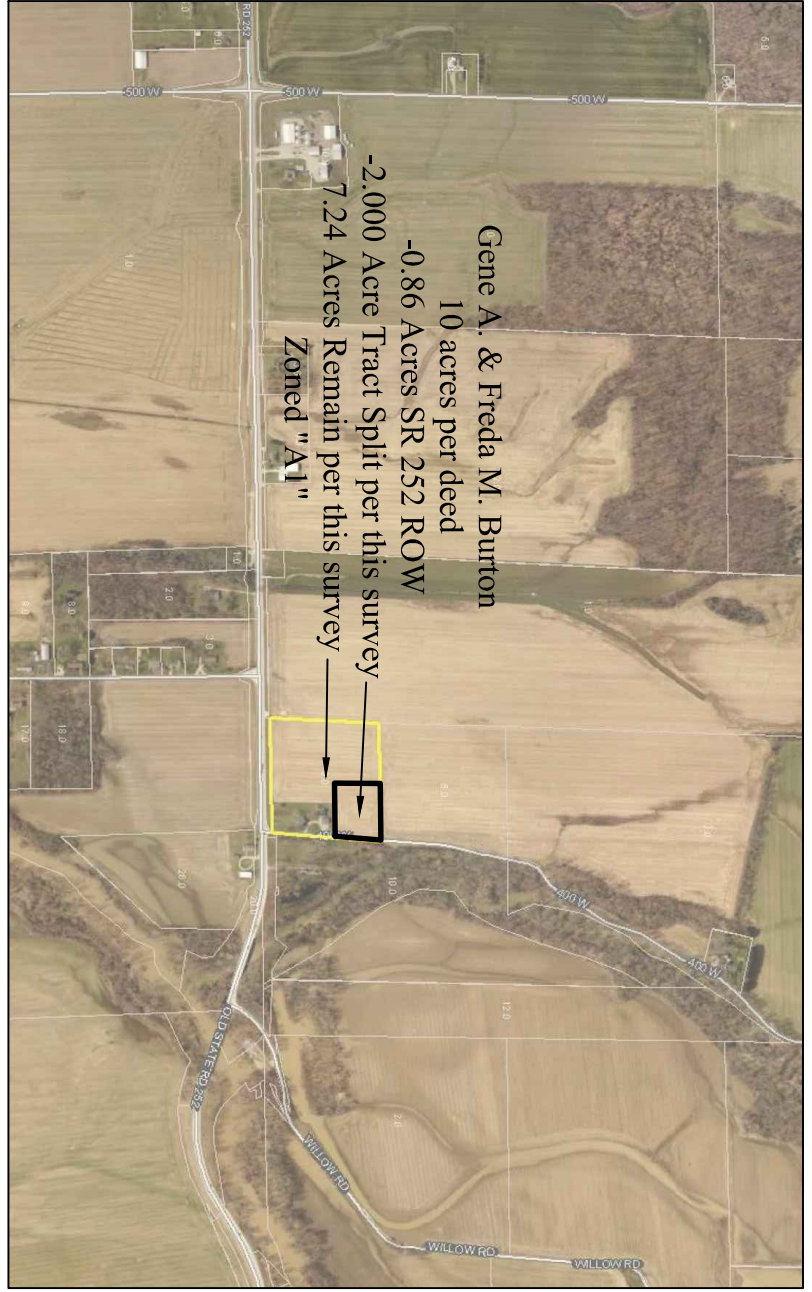
Plan Commission Approval:
Approved by the Shelby County Plan Commission in accordance with Subdivision Regulations with waivers of design standards.

By: Terry Smith, President Plan Commission
By: Scott Gabourd, Secretary Plan Commission

Rezoning Approval:
Shelby County Commissioners Rezoning Ordinance # _____ was approved by the Shelby County Commissioners on _____

I affirm, under the penalties for perjury, that I have taken reasonable care to reduce each social security number in this document, unless required by law.

Jeffery P. Powell



Note: the Sumerford survey was re-established per holding the SW cor of the SE1/4 & the NE cor of the NE1/4, 28-11-6 and found the centerline of 400 West to be -2' to the East of the calculated location per the Sumerford survey.

Note: the calculated SE cor., SE1/4, 28-11-6 per the Shelby County ties and held per this survey appears to be ~0.6'S & 7.3'E of the calculated location established per a previous survey of a 13.355 acre tract by Taylor Sumerford, dated 5-1-1990 and it also appears to be ~6'E of the calculated corner used per the SR 252 right-of-way documents.

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

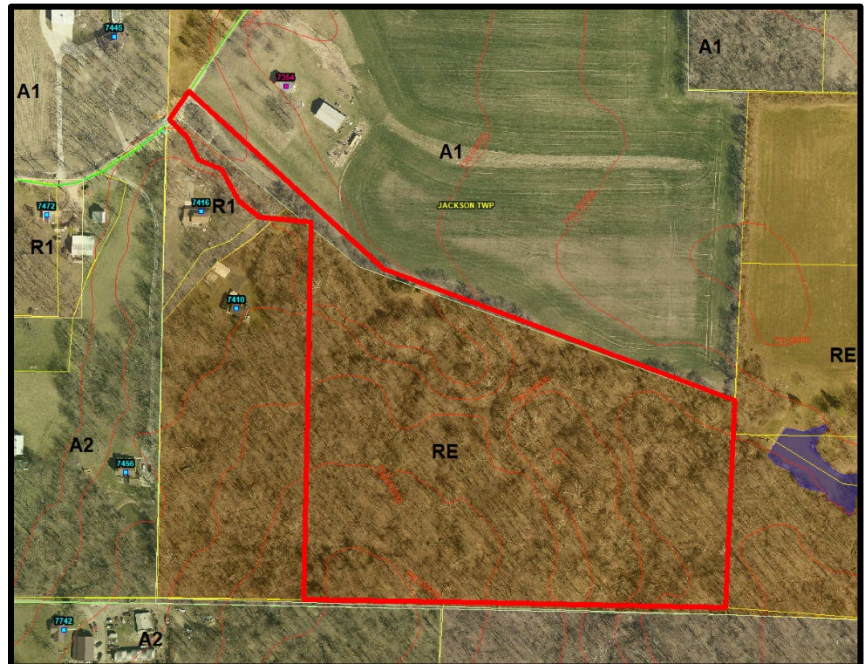
Amendment of Stipulation of Rezoning to allow subdivision of property subject to a rezoning stipulation prohibiting re-subdivision of the property.

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.

The owner/client bought the parent tract (Tract #5) of this property back in late 1999 at auction. The western part was subsequently divided into a 1.27 acre tract and another 8 acre lot per a 2001 survey and a previous Simple Subdivision in 2011. The client is now requesting that the remaining 13.65 acres be further subdivided into 3 residential building lots for himself and the possibility for two children.

In accordance with Title 865, Article 1, Chapter 12, Section 12 of the Indiana Administrative Code the following report explains the theory of location applied in retracing the lines and corners of the surveyed property and discusses the surveyor's opinion of the cause and amount of uncertainty in these lines and corners because of the following:

Availability and condition of reference monuments.

The original survey was performed on the Golden Guernsey/McFarland Farms property by Taylor Sumnerford in 1999 for purposes of the auction. Several of the 5/8" rebar were not visible and a few of these are still remaining. The Burton Simple Subdivision was also done by Pace Engineering, but none of those corners were set with a breakdown in the work contract.

Retracement of the parent tract held to the stone at the center of section and best fitted to the original property corners and monuments mentioned. Most were targeting to within 0.1 feet to 0.15 feet of published dimensions and these numbers were duplicated. The stone at the southeast corner of Snyder's unplatted subdivision was off about ¼ of a foot and the west quarter corner of the section about 0.3 feet. The vertical corner corners with the previous accumulation of differences.

Occupation or possession lines

Possession around the subject tract is almost none existent. There are spots, faint remnants of wire and posts.

Clarity or ambiguity of record descriptions

There are no known issues in within title discrepancies in the adjoining properties, except for an observation along the south line of Lot 1 and some of Lot 2. The line running from the stone at the center of section 7 to the railroad spike at the east quarter corner out in County Road 600 West is not a straight line. There is call for a stone at the midway point, but it has not been found. In 1985, John Hoerner placed a defuncted the Snyder property for a nine tract subdivision. On his drawing he placed a defuncted the Snyder property for a nine tract subdivision. At the southwest corner of the subdivision, there is a stone which he laid next to a fence corner. The bearings of his plat, however, cannot truly connect the dots all the way through, from end to end. On the 1999 Taylor Sumnerford survey, the southwest system stone section and east quarter corner. In researching chain of title history, at the time of the section survey, ownership was common on both sides of this line. McFarland was able to convey his title in contrast to the actual quarter section line location. Therefore, in terms of the subject property, there is no conflict. The Meador deed to the south takes this stone into account and is in agreement. There could, however, be some overlap for that portion lying directly south of the Snyder plat.

Relative positional accuracy of measurements

The lines and corners retraced or established by this survey have been oriented meeting Title 865, Indiana Administrative Code 142.7 and falls under a Suburban Survey Classification with a relative positional accuracy of 0.13 feet + 100 ppm.

SURVEY CERTIFICATION

I hereby certify that this survey was performed under my direct supervision and to the best of my knowledge and belief was executed to minimum standards of practice as contained in Rule 12, of the 865, Article 1 of the Indiana Administrative Code.

DATE: January 23, 2023

Signed: Scott T. Sumnerford Registration Number: 98000017

OWNERSHIP CERTIFICATE

We Michael A. Burton and Laura J. Burton do hereby certify that as owners of the property described in the above captured and that as such owners have caused the property to be surveyed and subdivided as shown on the hereon drawn plat, as our own free and voluntary act and deed.

Michael A. Burton (Seal)

Laura J. Burton (Seal)

State of Indiana)
County of Shelby)

State, do hereby certify that _____ a Notary Public in and for said County and

personally known to me to be the same persons whose name is subscribed to the above certificate appeared before me this day in person and acknowledge that they signed the above certificate as their own free and voluntary act and deed for the uses and purposes therein set forth.

Given under my hand and notarial seal this _____ day of _____

Notary Public _____ (Seal)

WEST QUARTER CORNER SECTION 7-11-6
Shelby County, Indiana
below grade at edge of cultivated field. This monument was set by Taylor Sumnerford in 1987 based upon William Riley survey work in Book 139 Page 23 dated 1935. 1" measures 41.89" south of the standard corner.

PLAN COMMISSION APPROVAL

Approved by the Shelby County Plan Commission in accordance with all applicable Subdivision Regulations.

By: President, Terry Smith Date _____

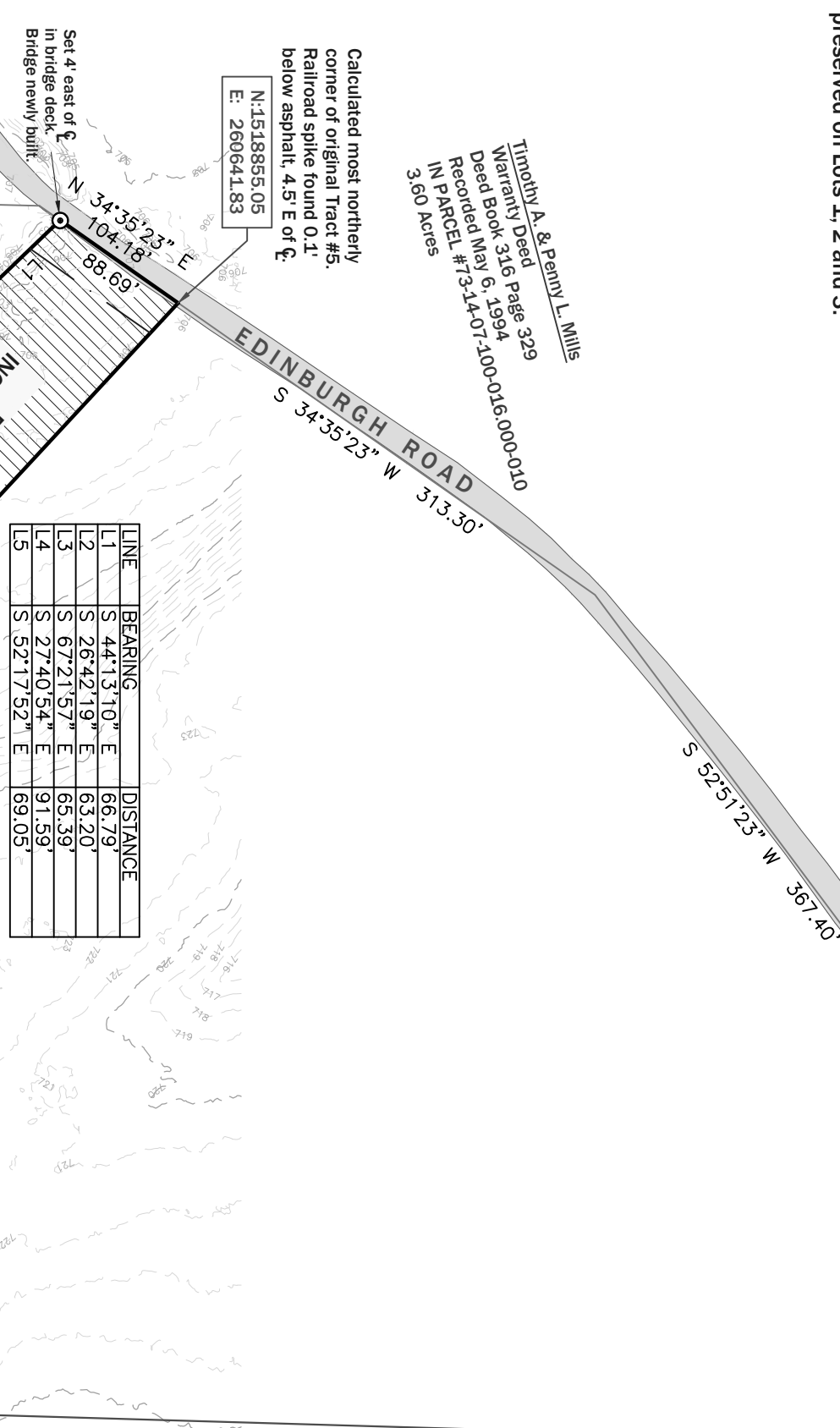
By: Secretary, Scott Gabbard Date _____

FINAL PLAT FOR

DILLON RIDGE SIMPLE SUBDIVISION

NOTES

- The subject property is currently zoned RE (Residential Estate).
- The subject tract is currently known as Lot 1 of the Burton Simple Subdivision and will require being vacated. The Shelby County Plan Commission approved the vacation of Lot 1 on _____.
- The access driveway will be known as PR 740 S and a sign identifying the road shall be installed at the entrance.
- An 8" x 50" paved pit pull off shall be installed between Edinborough Road and the entrance to the first house at 7416 S Edinborough Rd.
- At least five deciduous trees with a caliper measurement over 4in shall be preserved on Lots 1, 2 and 3.



EASEMENT DESCRIPTION FOR LOTS 1, 2 AND 3

Part of the northwest and northeast quarters of Section Seven (7), Township Eleven (11) North, Range Six (6) East, Jackson Township, Shelby County, Indiana, being part of Tract #5 of an unrecorded survey by W. Taylor Sumnerford, Jr., certified December 1999 and on file in the Office of the Shelby County Auditor, also being part of survey Job #411NE67-23-025 by Scott T. Sumnerford, RLS#29800017, certified January 23, 2024 and being more particularly described as follows:

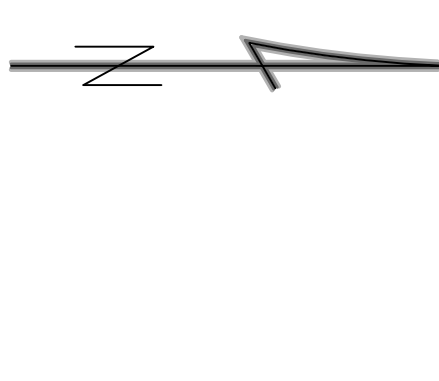
The First Portion of this easement is depicted as an ingress, egress, utility and Drainage easement upon the Final Plat of the Burton Simple Subdivision, as recorded in Instrument No. 2011005820 on August 25, 2011 in the Office of the Shelby County Recorder and consists of 1.03 acres at the northwesterly end of Lot Numbered One (1) on said Burton Plat and shown with the following:

The Second Portion of this easement is contiguous with the southeastern side of the First Portion and is an easement for ingress, egress and utilities being a strip of ground Thirty-five (35) feet wide, the sidelines of said easement being lengthened or shorten to begin from said southeastern side and terminating with a fifty (50) foot cut-de-sec, the easement measuring seventeen and one-half (17.5) feet on either side of the following described centerline:

Commencing at the northeast corner of the northwest quarter of said section 7-11-6; thence north 88° 53'23" West 223.20 feet to the most northerly corner of said Tract #5; thence south 34° 35'23" West 367.40 feet; thence south 42° 25'32" West 18.72 feet to the point of beginning of the herein described centerline;

Thence south 34° 41'39" East 230.61 feet; thence south 66° 26'45" East 101.62 feet; thence along a tangent curve to the right 235.98 feet, said curve having a radius of 160.00 feet, a chord bearing South 14° 11'40" East 215.15 feet; thence along a reverse curve to the left 50.77 feet, said curve having a radius of 50 feet, chord bearing South 01° 01'30" East 48.62 feet; thence along a tangent curve to the right 182.82 feet, said curve having a radius of 350.00 feet, a chord bearing South 15° 09'04" East 180.75 feet to the center of said cut-de-sec, with the easement terminating at the very south end of said cut-de-sec.

Subject to all easements, restrictions and right-of-ways of record.



INDIANA STATE PLANE
GRID COORDINATE VALUE
EASTING: 619993.99
NORTHING: 620824.01
DATUM: NAD83(2011)

INDIANA STATE PLANE
GRID COORDINATE VALUE
EASTING: 619993.99
NORTHING: 620824.01
DATUM: NAD83(2011)

- INDIANA STATE PLANE GRID COORDINATE VALUE EASTING: 619993.99 NORTHING: 620824.01 DATUM: NAD83(2011)
- SECTION CORNER REPERPETUATED ON CURRENT SHEET
- MAGNAN AND WILSON STAMPED vs. SUMNERFORD L59900017 RECESSSED IN ROAD SURFACE
- 5/8" REBAR WITH PLASTIC CAP STAMPED vs. SUMNERFORD L59900017 SET TO ABOVE GRADE UNLESS NOTED OTHERWISE
- 5/8" REBAR FOUND AS NOTED
- CAPPED REBAR STAMPED "DMS-00107" FOUND AS NOTED PLACE ENGINEERING FIRM NUMBER INDICATES RECORD DIMENSION

Part of the northwest and southeast quarters of Section Seven (7), Township Eleven (11) North, Range Six (6) East, Jackson Township, Shelby County, Indiana, being part of Tract #5 of an unrecorded survey by W. Taylor Sumnerford, Jr., certified December 1999 and on file in the Office of the Shelby County Auditor, also being part of survey Job #411NE67-23-025 by Scott T. Sumnerford, RLS#29800017, certified January 23, 2024 and being more particularly described as follows:

Commenting at the northeast corner of the northwest quarter of said section 7-11-6; thence along the east line of an 18.01 acre tract as described in Deed Record Book 255 Page 849 in the Office of the Shelby County Recorder, South 01° 36'23" West (basis of bearings per Sumnerford 1999 survey) 881.05 feet to an iron pipe at a point 4.87 feet west of the east line of said northwest quarter; thence along the south lines of said 18.01 acre tract the following three (3) courses:

- 1) South 88° 53'23" West 223.20 feet;
- 2) South 52° 51'23" West 313.30 feet to the most northerly corner of said Tract #5; thence along the north lines of said Tract #5 the following two (2) courses:
- 1) South 47° 34'28" East 681.50 feet;
- 2) South 69° 26'31" East 970.47 feet to the west line of the Snyder's unplatted subdivision by John Hoerner, certified June 1985 and on file in the Office of the Shelby County Auditor; thence along said west line, South 02° 27'01" West 534.43 feet to a stone at the southwest corner of said subdivision; thence North 88° 50'53" West 730.74 feet to the center of said quarter of said Tract #5; thence North 89° 11'52" West 50.49 feet to a capped rebar stamped "S- Sumnerford 29800017"; said monument being referred to hereinafter as a capped rebar; said point being the point of beginning of the herein described tract;

Thence continuing along said south line, North 89° 11'52" West 310.00 feet to a capped rebar at the southeast corner of Lot Numbered Two (2) of the Burton Simple Subdivision, as recorded in Instrument No. 2011005820 on August 25, 2011 in the Office of the Shelby County Recorder; thence along the east line of said Lot Numbered Two (2), North 01° 01'20" East 317.06 feet to a capped rebar; thence South 89° 11'52" East 310.00 feet to a capped rebar; thence South 01° 01'20" West 317.06 feet to the point of beginning, containing 2.256 acres.

Subject to all easements, restrictions and right-of-ways of record.

LEGAL DESCRIPTION LOT 3

Part of the northwest, northeast and southeast quarters of Section Seven (7), Township Eleven (11) North, Range Six (6) East, Jackson Township, Shelby County, Indiana, being part of Tract #5 of an unrecorded survey by W. Taylor Sumnerford, Jr., certified December 1999 and on file in the Office of the Shelby County Auditor, also being part of survey Job #411NE67-23-025 by Scott T. Sumnerford, RLS#29800017, certified January 23, 2024 and being more particularly described as follows:

Commenting at the northeast corner of the northwest quarter of said section 7-11-6; thence along the east line of an 18.01 acre tract as described in Deed Record Book 255 Page 849 in the Office of the Shelby County Recorder, South 01° 36'23" West (basis of bearings per Sumnerford 1999 survey) 881.05 feet to an iron pipe at a point 4.87 feet west of the east line of said northwest quarter; thence along the south lines of said 18.01 acre tract the following three (3) courses:

- 1) South 88° 53'23" West 223.20 feet;
- 2) South 52° 51'23" West 313.30 feet;
- 3) South 34° 35'23" West 313.30 feet to the most northerly corner of said Tract #5; thence along the north lines of said Tract #5 the following two (2) courses:
- 1) South 47° 34'28" East 681.50 feet;
- 2) South 69° 26'31" East 970.47 feet to the west line of the Snyder's unplatted subdivision by John Hoerner, certified June 1985 and on file in the Office of the Shelby County Auditor; thence along said west line, South 02° 27'01" West 534.43 feet to a stone at the southwest corner of said subdivision; thence North 88° 50'53" West 730.74 feet to the center of said quarter of said Tract #5; thence North 89° 11'52" West 50.49 feet to a capped rebar stamped "S- Sumnerford 29800017"; said monument being referred to hereinafter as a capped rebar; said point being the point of beginning of the herein described tract;

Thence continuing North 88° 50'53" West 268.00 feet to the center of said section 7, said point being marked by a stone; thence along the south line of the northwest quarter of said section, North 89° 11'52" West 50.49 feet to a capped rebar; thence North 01° 01'20" East 273.06 feet to a capped rebar; thence South 89° 11'52" East 318.49 feet to a capped rebar; thence South 01° 01'20" West 274.70 feet to the point of beginning, containing 2.002 acres.

Subject to all easements, restrictions and right-of-ways of record.

EAST QUARTER CORNER OF SECTION 7-11-6
Rebar cap found 0.49 below asphalt in the
spike is sitting over the top of a steel and is
penetrated by the county surveyor's office in
1983. A limestone is called for here by County
Surveyor Nickols, but it was not found in 1983.

LEGAL DESCRIPTION LOT 1

Part of the northwest, northeast and southeast quarters of Section Seven (7), Township Eleven (11) North, Range Six (6) East, Jackson Township, Shelby County, Indiana, being part of Tract #5 of an unrecorded survey by W. Taylor Sumnerford, Jr., certified December 1999 and on file in the Office of the Shelby County Auditor, also being part of survey Job #411NE67-23-025 by Scott T. Sumnerford, RLS#29800017, certified January 23, 2024 and being more particularly described as follows:

Commenting at the northeast corner of the northwest quarter of said section 7-11-6; thence along the east line of an 18.01 acre tract as described in Deed Record Book 255 Page 849 in the Office of the Shelby County Recorder, South 01° 36'23" West (basis of bearings per Sumnerford 1999 survey) 881.05 feet to an iron pipe at a point 4.87 feet west of the east line of said northwest quarter; thence along the south lines of said 18.01 acre tract the following three (3) courses:

- 1) South 88° 53'23" West 223.20 feet;
- 2) South 52° 51'23" West 313.30 feet;
- 3) South 34° 35'23" West 313.30 feet to the most northerly corner of said Tract #5 and the point of beginning of the herein described tract;

Thence along the north lines of said Tract #5 the following two (2) courses:

- 1) South 47° 34'28" East 681.50 feet;
- 2) South 69° 26'31" East 970.47 feet to the west line of the Snyder's unplatted subdivision by John Hoerner, certified June 1985 and on file in the Office of the Shelby County Auditor; thence along said west line, South 02° 27'01" West 534.43 feet to a stone at the southwest corner of said subdivision; thence North 88° 50'53" West 730.74 feet to the center of said quarter of said Tract #5; thence North 89° 11'52" West 50.49 feet to a capped rebar stamped "S- Sumnerford 29800017"; said monument being referred to hereinafter as a capped rebar; said point being the point of beginning of the herein described tract;

Commenting at the northeast corner of the northwest quarter of said section 7-11-6; thence along the east line of an 18.01 acre tract as described in Deed Record Book 255 Page 849 in the Office of the Shelby County Recorder, South 01° 36'23" West (basis of bearings per Sumnerford 1999 survey) 881.05 feet to an iron pipe at a point 4.87 feet west of the east line of said northwest quarter; thence along the south lines of said 18.01 acre tract the following three (3) courses:

- 1) South 88° 53'23" West 223.20 feet;
- 2) South 52° 51'23" West 313.30 feet;
- 3) South 34° 35'23" West 313.30 feet to the most northerly corner of said Tract #5; thence along the north lines of said Tract #5 the following two (2) courses:
- 1) South 47° 34'28" East 681.50 feet;
- 2) South 69° 26'31" East 970.47 feet to the west line of the Snyder's unplatted subdivision by John Hoerner, certified June 1985 and on file in the Office of the Shelby County Auditor; thence along said west line, South 02° 27'01" West 534.43 feet to a stone at the southwest corner of said subdivision; thence North 88° 50'53" West 730.74 feet to the center of said quarter of said Tract #5; thence North 89° 11'52" West 50.49 feet to a capped rebar stamped "S- Sumnerford 29800017"; said monument being referred to hereinafter as a capped rebar; said point being the point of beginning of the herein described tract;

Thence continuing along said south line, North 89° 11'52" West 310.00 feet to a capped rebar at the southeast corner of Lot Numbered Two (2) of the Burton Simple Subdivision, as recorded in Instrument No. 2011005820 on August 25, 2011 in the Office of the Shelby County Recorder; thence along the east line of said Lot Numbered Two (2), North 01° 01'20" East 317.06 feet to a capped rebar; thence South 89° 11'52" East 310.00 feet to a capped rebar; thence South 01° 01'20" West 317.06 feet to the point of beginning, containing 2.256 acres.

Subject to all easements, restrictions and right-of-ways of record.

LEGAL DESCRIPTION LOT 2

Part of the northwest, northeast and southeast quarters of Section Seven (7), Township Eleven (11) North, Range Six (6) East, Jackson Township, Shelby County, Indiana, being part of Tract #5 of an unrecorded survey by W. Taylor Sumnerford, Jr., certified December 1999 and on file in the Office of the Shelby County Auditor, also being part of survey Job #411NE67-23-025 by Scott T. Sumnerford, RLS#29800017, certified January 23, 2024 and being more particularly described as follows:

Commenting at the northeast corner of the northwest quarter of said section 7-11-6; thence along the east line of an 18.01 acre tract as described in Deed Record Book 255 Page 849 in the Office of the Shelby County Recorder, South 01° 36'23" West (basis of bearings per Sumnerford 1999 survey) 881.05 feet to an iron pipe at a point 4.87 feet west of the east line of said northwest quarter; thence along the south lines of said 18.01 acre tract the following three (3) courses:

- 1) South 88° 53'23" West 223.20 feet;
- 2) South 52° 51'23" West 313.30 feet;
- 3) South 34° 35'23" West 313.30 feet to the most northerly corner of said Tract #5; thence along the north lines of said Tract #5 the following two (2) courses:
- 1) South 47° 34'28" East 681.50 feet;
- 2) South 69° 26'31" East 970.47 feet to the west line of the Snyder's unplatted subdivision by John Hoerner, certified June 1985 and on file in the Office of the Shelby County Auditor; thence along said west line, South 02° 27'01" West 534.43 feet to a stone at the southwest corner of said subdivision; thence North 88° 50'53" West 730.74 feet to the center of said quarter of said Tract #5; thence North 89° 11'52" West 50.49 feet to a capped rebar stamped "S- Sumnerford 29800017"; said monument being referred to hereinafter as a capped rebar; said point being the point of beginning of the herein described tract;

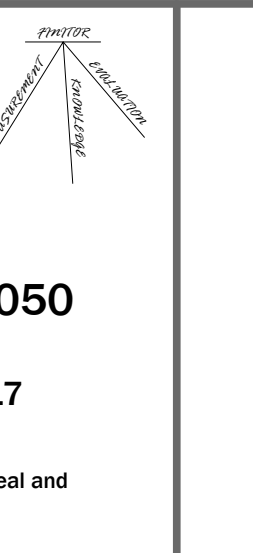
Thence continuing North 88° 50'53" West 268.00 feet to the center of said section 7, said point being marked by a stone; thence along the south line of the northwest quarter of said section, North 89° 11'52" West 50.49 feet to a capped rebar; thence North 01° 01'20" East 273.06 feet to a capped rebar; thence South 89° 11'52" East 318.49 feet to a capped rebar; thence South 01° 01'20" West 274.70 feet to the point of beginning, containing 2.002 acres.

Subject to all easements, restrictions and right-of-ways of record.

SCOTT T. SUMNERFORD
LAND SURVEYOR
3149 NORTH RILEY HIGHWAY
SHELBYVILLE, IN 46176-9462
BUSINESS PHONE (317) 401-6050

Indiana Registered Surveyor No. 29800017

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This document is only considered an original copy if an inked seal and original signature is affixed.



LAST DATE OF FIELDWORK: December 16, 2023
NOTES/REVISIONS: January 23, 2024
NOTES/REVISIONS: NONE TO DATE

I AFFIRM, UNDER THE PENALTIES FOR PERJURY, THAT I HAVE TAKEN REASONABLE CARE TO REDACT EACH SOCIAL SECURITY NUMBER IN THIS DOCUMENT, UNLESS REQUIRED BY LAW.

NAME: _____

CLIENT: Michael Burton
600 Liberty Circle
Edinborough, IN 46124

PROJECT: Simple Subdivision procedure for splitting 19.65 acres into three residential building lots at end of private road, off Edinborough Rd.

INDIANA TITLE 865
BOUNDARY SURVEY

JOB LOCATION: PART OF THE NW, NE & SE 1/4S OF SECTION 7, TOWNSHIP 11 NORTH, RANGE 6 EAST, JACKSON TOWNSHIP, SHELBY COUNTY, INDIANA

JOB NUMBER: 11N6E7-23-025
SHEET 1 OF 1

ORIGINAL DRAWING SIZE: ARCH D