

# Shelby County Plan Commission

July 27, 2021 at 7:00 PM

# Table of Contents

<b>Agenda .....</b>	<b>3</b>
<b>SD 21-10 Brand Hill Simple Subdivision .....</b>	<b>4</b>
Staff Report .....	4
Plat .....	6
<b>RZ 21-14 Browning Investments Rezoning .....</b>	<b>7</b>
Staff Report .....	7
Petitioner’s Statement of Intent.....	12
Petitioner’s Findings of Fact .....	13
Conceptual Building Elevations .....	14
Conceptual Site Plan .....	18
<b>RZ 21-13 Shelby Gravel Rezoning .....</b>	<b>19</b>
Staff Report .....	19
Petitioner’s Statement of Intent.....	25
Petitioner’s Findings of Fact .....	27
Proposed Commitments .....	28
Statement of Commitments .....	28
Exhibit A – Real Estate .....	32
Exhibit B – Site Plan .....	33
Exhibit C – Operations Area Improvement Details .....	34
Exhibit D – Security Plan .....	35
Exhibit E – Reclamation Plan .....	36
<b>RZ 21-15 Unified Development Ordinance Text Amendment – Industrial Standards and Right-of-Way Dedication .....</b>	<b>39</b>
Proposed Ordinance .....	39
Proposed Amendments with notes .....	42

# MEETING AGENDA

Shelby County Plan Commission  
July 27, 2021 at 7:00 P.M.

## CALL TO ORDER

## ROLL CALL

## APPROVAL OF MINUTES

Minutes from the June 22, 2021 meeting.

## REQUESTS FOR CONTINUANCE

## OLD BUSINESS

None.

## NEW BUSINESS

**SD 21-10 – BRAND HILL SIMPLE SUBDIVISION:** Subdivision of 5 acres into a 2.2-acre building lot and a 2.8-acre lot including an existing single-family residence and waivers of subdivision design standards. Located at 2531 S 550 W, Shelbyville, Hendricks Township.

**RZ 21-14 – BROWNING INVESTMENTS:** Rezoning of 56.27 acres from the A1 (Conservation Agricultural) District to the I1 (Low Intensity Industrial) District to allow for a warehouse facility. Located at 9175 N Frontage Rd, Fairland, Moral Township.

**RZ 21-13 – SHELBY GRAVEL, INC:** Rezoning of 254.127 acres from the A1 (Conservation Agricultural) District to the HI (High Impact) District to allow for a gravel/sand mining operation. Located at the southwest corner of I-65 & W 1000 S, Edinburgh, Jackson Township.

**RZ 21-15 – UNIFIED DEVELOPMENT ORDINANCE AMENDMENT:** Amendment of Article 2 & Article 5. Specifically, amendment to sections 2.34, 2.36, 5.17 C 4, 5.20 B and addition of section DPI-01: General Dedication of Right-of-Way Standards. Applies to Unincorporated Shelby County and the Town of Fairland.

## DISCUSSION

None.

## ADJOURNMENT

The next regular meeting of the Shelby County Plan Commission is scheduled for Tuesday, **August 24, 2021 at 7:00 PM.**

## Property Details

**Location:** 2531 S 550 W, Shelbyville, Hendricks Township.

**Property Size:** 5 acres

**Current Land Use:** Estate Residential.

### Current Zoning Classification

RE (Residential Estate)

*This district is established for single-family detached dwellings in a rural or country setting. Use this zoning district for existing developments and carefully for new residential development. Large subdivisions on well and septic systems are not favored.*

### Future Land Use per Comp Plan

Agriculture

*The purpose of this category is to provide for traditional agricultural practices (such as crop production and livestock grazing) and modern agricultural practices (such as agricultural research facilities and CAFOs). Rural home sites may also occur within this category; however, the emphasis should remain on agriculture. New residential subdivisions that remove prime farmland from production should be discouraged. The residential density of this category should be one lot for every five acres.*

### Surrounding Development

	Zoning	Land Use
North	R1	Single-Family Res.
	A1	Cropland
South	RE	Estate Residential
East	A1	Cropland
West	A1	Cropland

# Staff Report

**Case Number:** SD 21-10

**Case Name:** Brand Hill Simple Subdivision

## Requests

**Simple Subdivision** of 5 acres into a 2.2-acre building lot and a 2.8-acre lot including an existing single-family residence.

**Waivers** of subdivision design standards to allow:

1. Simple Subdivision of a 5-acre parent tract (minimum 6-acre parent tract required);
2. A lot having 75.82-feet of road frontage (minimum 160-feet of frontage required);
3. A lot having a width of 75.82-feet (minimum 160-foot lot width required);
4. Side lot lines not within a 15-degree angle to the right-of-way.

## Purpose of Subdivision Design Requirements

The UDO limits the size of the parent tract to at least 6-acres to discourage re-subdivision of 5-acre residential tracts created prior to 1999.

The minimum road frontage, minimum lot width, and property line angle requirements discourage the creation of 'flag lots.' Flag lots represent disorderly development which could lead to future property line disputes and cause difficulty for visitors or emergency vehicles in locating the house from the public road.

## Property Map





## Case Description

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- Approval of the request would allow for development of one new single-family residential building lot.
- The current RE zoning designation of the property eliminates the need to rezone the property prior to the subdivision of the property.
- The plat includes an easement over the existing driveway on proposed Lot 1 to provide access to Lot 2. Lot 2 also has fee-simple road frontage to allow for future access to the Lot directly from the public road.

## Staff Analysis Findings of Fact

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### **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, pending approval of a waiver to allow for Simple Subdivision of a 5-acre parent tract.
3. The subdivision of land satisfies the standards of Article 07: Design Standards, pending approval of a waiver to allow side lot lines not within a 15-degree angle to the right-of-way.
4. The subdivision of land satisfies any other applicable provisions of the Unified Development Ordinance, pending approval of waivers to allow for subdivision of a lot having 160-feet of road frontage and a lot width of 160-feet.
5. The subdivision of land satisfies the construction requirements of the Shelby County's Construction Standards.
6. A waiver of the 6-acre minimum tract requirement would allow for development of property not currently used for agricultural production. A waiver of the road frontage and lot width requirements would not create a property orientation inconsistent with surrounding development. A waiver of the lot angle requirement would allow for creation of lot lines following an existing fence line.

## Staff Recommendation

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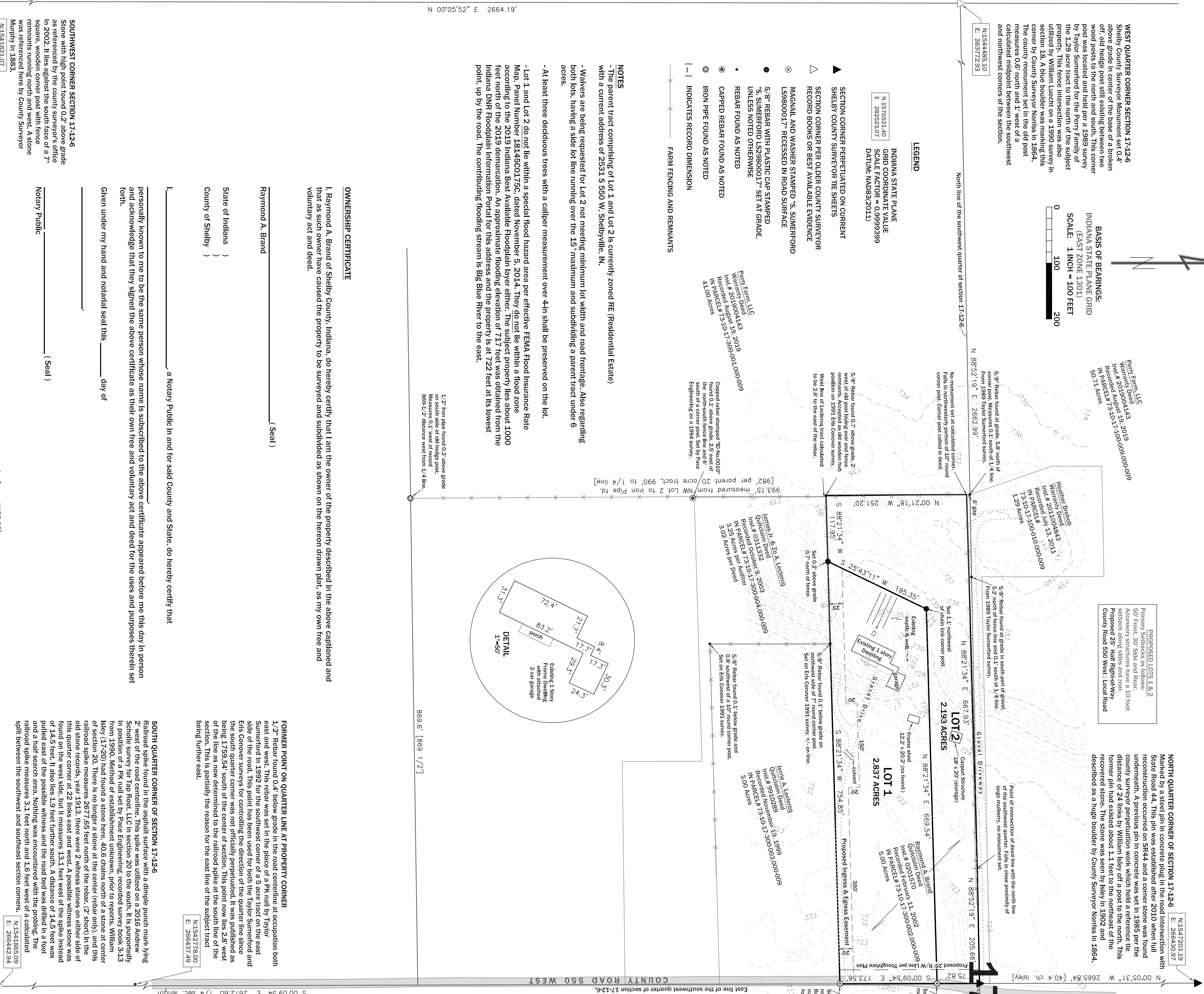
**APPROVAL of the Simple Subdivision and Waivers** primarily because lot size and orientation would not be inconsistent with surrounding development. Lot 2 would have fee-simple road frontage allowing for installation of a driveway if use of the easement became undesirable.

### *Applicant/Owner Information*

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Applicant/Owner:	Raymond Brand	Surveyor:	Scott Sumerford
	2531 S 550 W		3149 N Riley Hwy.
	Shelbyville, IN 46176		Shelbyville, IN 46176

# FINAL PLAN FOR BRAND HILL SIMPLE SUBDIVISION



**CURRENT DESCRIPTION OF PARENT TRACT**

Quitclaim Deed Instrument No. 0201570, Recorded February 11, 2002  
 Raymond A. Brand and Betty R. Faltner to  
 Raymond A. Brand

A part of the Southwest Quarter of Section 17, Township 12 North, Range 6 East of the Second Principal Meridian in Shelby County, Indiana, more particularly described as follows:

Beginning at the Northeast of the Southwest quarter of Section 17, Township 12 North, Range 6 East and running thence South 01.4 degrees 24 minutes West 87.0 feet to a point of Beginning and continuing thence South 01.4 degrees 24 minutes West 251.20 feet to a point being a P.K. nail in County Road 500 W, Thence North 90 degrees 00 minutes West 867.08 feet to a wood nail in County Road 500 W, Thence North 90 degrees 00 minutes West 867.08 feet to a wood nail in County Road 500 W, Thence North 88 degrees 52 minutes East 52.20 feet to the Place of Beginning of this tract and containing in all 5,000 acres, more or less.

**LEGAL DESCRIPTION OF LOT 1**

Part of the southwest quarter of Section Seventeen (17), Township Twelve (12) North, Range Six (6) East of Hendricks Township, Shelby County, Indiana, being part of a 5,000 acre tract conveyed by Deed Book 287, Page 618 in the Office of the Shelby County Recorder and being part of survey Job #242661T-24262 by Scott T. Sumerford, RLS238900017, certified July 27, 2021 and being more particularly described as follows:

Commencing at the northeast corner of the southwest quarter said section 17-12-6, said point being marked by a Shelby County Surveyor Monument, thence along the east line of said southwest quarter, South 00° 09' 54" East (basis of bearings being Indiana State Plane East Zone) 75.82 feet to a mag nail and washer stamped "S. Sumerford 9800017", said point being the point of beginning of the herein described tract:

Thence continuing along said east line, South 00° 09' 54" East 173.56 to the southeast corner of section 17-12-6, thence along the south line of said 5,000 acre tract, South 88° 21' 34" West 754.85 feet to a capped rebar stamped "S. Sumerford 29800017", thence North 25° 43' 11" East 195.35 feet to a capped rebar stamped "S. Sumerford 29800017", thence North 25° 43' 11" East 195.35 feet to a capped rebar stamped "S. Sumerford 29800017", thence South 25° 43' 11" West 159.35 feet to a capped rebar stamped "S. Sumerford 29800017", on the south line of said 5,000 acre tract; thence along said south line, South 88° 21' 34" West 11.95 feet to a rebar; thence along the west line of said southwest quarter, North 88° 21' 34" West 11.95 feet to a rebar; thence along the north line of said southwest quarter, North 88° 21' 34" West 11.95 feet to a rebar; thence along the north line of said southwest quarter, thence along said north line, North 88° 52' 19" East 205.66 feet to the point of beginning, containing 2,193 acres.

**SURVEYOR'S REPORT**

The client is subdividing the 5 acre property that he acquired back in 1996 into two separate lots. The client has provided me with a copy of the deed and a copy of the plat of the parent tract. I am going through this plat and comparing it to the actual ground conditions. I am also comparing the plat to the deed and the deed to the actual ground conditions. I am also comparing the plat to the deed and the deed to the actual ground conditions. I am also comparing the plat to the deed and the deed to the actual ground conditions.

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 those lines and corners because of the following:

A) Availability and condition of reference monuments.

The parent property is contained within the southwest quarter of section 17. See drawing details above. A portion of the parent property was subdivided into two lots in 1996. The parent tract was originally carved out of it as described in Deed Book 287 Page 742. It was a 20 acre plus or minus rectangle described as 982 feet by 869 1/2 feet. It also starts 8 feet south of the north quarter section line, which was also stated as 8 feet south of the centerline of a private driveway. With the uncertainty of the center of section, the history of past surveys done, this 8 foot strip is questionable in its remaining sections.

The subject five acre tract originates from a 1973 survey by Kenneth Bowman found within the private files. The description written by Bowman starts at the center of section and runs 8 feet south to the tract's beginning point. Monuments on the drawing consists of a P.K. nail a wood hub in the back and a corner fence post. Only a corner post, most likely a replacement at the northwest corner, is the only original monument. In 1991, Eric Conover performed a survey and created the 3 acre tract to the immediate south of the subject. Eric was able to recover the Bowman P.K. nail in the road and confirmed that the rebar in the back was in essentially the same location as the original hub. Eric Conover's stakes were recovered and utilized to determine the position of the surveyed Bowman tract. The Conover retracement was accepted as best evidence to the five acre location. According to the Conover findings, Bowman's corner of section 17 is located at the southwest corner of section 17-12-6. Bowman's corner of section 17 is located at the southwest corner of section 17-12-6. Bowman's corner of section 17 is located at the southwest corner of section 17-12-6. Bowman's corner of section 17 is located at the southwest corner of section 17-12-6.

The west line of the multiple tracts that supposedly came out of the 20 acre parcel mentioned were probably intended to abut up against this parent tract. With the various surveys done over the years, the shifting alignment of the half mile town County Road 590 West, and the 1991 survey controlling findings, this is not a line in agreement all the way back to the original survey. The distance between the Bowman tract and the parent tract record distance of 869.90 feet was held above the south side of the 20 acre parent tract. The iron pipe next to the corner post at the west end measures within 0.1 feet of this record based upon the quarter line on the current survey. Going on north from here, there are variations with monuments and fence lines. The found rebar at the southwest corner of the subject Brand tract measures at a length of 872.8 feet from the quarter section line, about 5.7 feet beyond the parent record. The rebar is about 2 feet west of the old fence line. At the northwest corner of the Brand tract, this fence post is 873.6 feet west beyond the quarter section line. There is question whether or not Bowman went too far west beyond owner's line when he created the subject tract. With the corner line situation, the preserved fence corner may best represent the parent tract division.

B) Occupation or possession lines

There is a fence line for livestock along the north side of the subject property. By 1967 photography, it appears that an older former fence line ran from the west quarter corner to the center of section. It also appears that the gravel driveway to the north extends more and more away from the north line of the subject property as it approaches CR590W. The assumption of holding the rough centerline of the drive for the quarter section line was not supported by the survey. It appears that the 5 foot strip in the record is a call and the unpreserved relationship of the Bowman tract line and the quarter section line.

C) Clarity or ambiguity of record descriptions

The subject property was divided first from the James Ledford 20 acre tract based upon the Bowman survey in 1973. From the deed acquired by Ledford in 1974 (Deed Book 287 Page 742), there would appear to be an eight foot strip reserved by the Perry Family. As discussed above this was solely based upon the driveway north of the property following the quarter line. From the measurements made and fence occupation, there appears to be a strip of land that goes beyond the quarter line. The distance between the quarter line and the west side of the gap at the east, quite different from the assumed 8 foot strip in the record.

There is also ambiguity in the west line of the parent 20 acre tract due to occupation/monuments and the east line of the same tract due to the centerline shifting in County Road 550 West. The parent description calls for the center of the public road and the H & W property across the street is written to the quarter section line. The resulting east-west length of the Brand five acre tract is measuring about 5 to 6 feet longer than the Bowman survey.

D) Relative positional accuracy of measurements

The sidelines of the Brand property have been retraced based upon the retracement work of Eric Conover. Besides the gap on the north as mentioned, the south side of the Brand tract is in agreement the way with the newer Ledford descriptions.

Relative positional accuracy of measurements

The lines and corners retraced or established by this survey have been executed meeting Title 865, Indiana Administrative Code 12-21, and falls under a Suburban Survey Distribution with a relative positional accuracy of 0.139 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 or practice as contained in Rule 12, of the 865, Article 1 of the Indiana Administrative Code.

DATE: July 27, 2021

Signed: \_\_\_\_\_  
 Scott T. Sumerford Registration Number: 9800017

**PLAN COMMISSION APPROVAL**

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

By: \_\_\_\_\_ Date: \_\_\_\_\_  
 President, Douglas Wemecede

By: \_\_\_\_\_ Date: \_\_\_\_\_  
 Secretary, Scott Gabbard

**JOB LOCATION**

INDIANA TITLE 865  
**BOUNDARY SURVEY**

PART OF THE SOUTHWEST QUARTER OF SECTION 17, TOWNSHIP 12 NORTH, RANGE 6 EAST, HENDRICKS TOWNSHIP, SHELBY COUNTY, INDIANA

**JOB NUMBER**  
 12N0E17-21-052

**ORIGINAL DRAWING SIZE**  
 SHEET 1 OF 1

**CLIENT**  
 Raymond Brand  
 2531 S 550 W  
 Shelbyville, IN 46176

**PROJECT**  
 Subdividing 5 acre parent tract into 2 lots for existing home at 2531 S 550 W, Shelbyville and for planned second home in the back.

**LAST DATE OF FIELDWORK**  
 July 3, 2021

**CERTIFICATION DATE**  
 July 27, 2021

**NOTES/REVISIONS**  
 NONE TO DATE

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

NAME: \_\_\_\_\_  
 Prepared By: Scott T. Sumerford

**SCOTT T. SUMERFORD LAND SURVEYING**  
 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 to be considered an original copy if an inked seal and original signature is affixed.



## Property Details

**Location:** 9175 N Frontage Rd,  
Fairland, Moral Township.

**Property Size:** 56.27-acres.

**Current Land Use:** Cropland

### Current Zoning Classification

**A1 (Conservation Agricultural)**  
*This district is established for the protection of agricultural areas and buildings associated with agriculture.*

### Proposed Zoning Classification

**I1 (Low Intensity Industrial)**  
*This district is established for low intensity industrial uses, light manufacturing facilities and business parks.*

*\*see attached district intent, permitted uses, special exception uses, and development standards.*

### Future Land Use per Comp Plan Industrial

*The purpose of this category is to provide for a full range of light and heavy industrial uses. Types of uses include manufacturing, processing, distribution and storage. The designation should accommodate a variety of industrial establishments which:*

- *Employ high environmental quality standards*
- *May function as an integral part of an overall development area*
- *Require large tracts of land because of their nature and function*
- *Have minimal impacts on adjacent uses*

### Focus Area #1- Northwest Corner

1. *Cooperate with Indy MPO for project inclusion and future funding applications.*

*Continued next page...*

# Staff Report

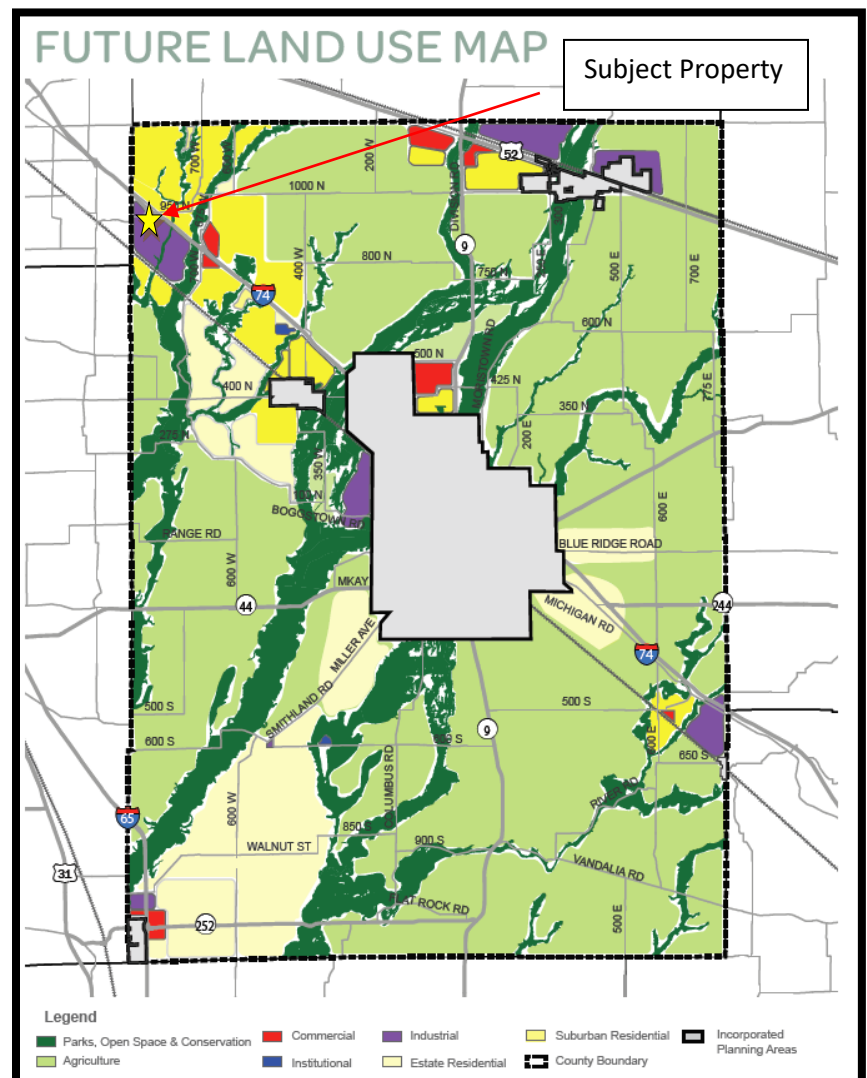
**Case Number:** RZ 21-14

**Case Name:** Browning Investments Rezoning -  
A1 (Conservation Agricultural) to I1 (Low Intensity Industrial)

## Request

**Rezoning** of 56.27 acres from the A1 (Conservation Agricultural) District to the I1 (Low Intensity Industrial) District to allow for a warehouse facility.

## Future Land Use Map



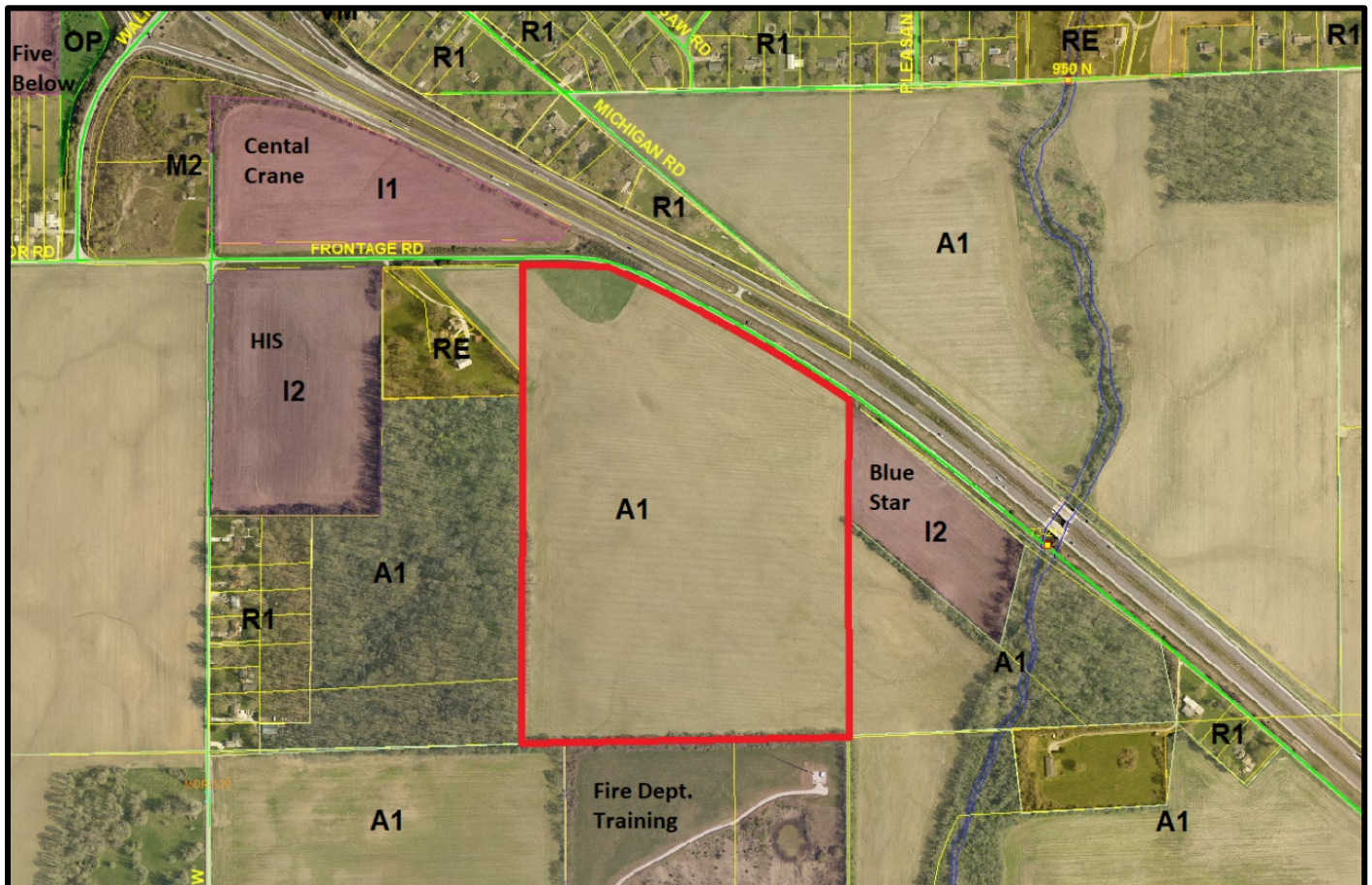
## Property Details

2. *Build County partnerships for future development potential- focus on residential and commercial opportunities utilizing non-prime farmland and suitable soil conditions as development opportunities.*
3. *Target residential, commercial, and industrial development near existing interchanges.*
4. *Take advantage of the gateway opportunity into Shelby County; utilize this portion of the county as a highly visible marketing opportunity for Shelby County and its communities.*
5. *Encourage the extension of public water & sewer facilities to this area.*
6. *Take advantage of the opportunities associated with the floodplain and encourage floodplain mitigation in areas targeted for development.*

### Surrounding Development

	Zoning	Land Use
North	NA	I-74
South	I2/RE/A1	Contractor's Office & Yard (under construction) / Residential Estate / Cropland
East	NA	I-74
West	M2	Single-Family Residential

## Property Map



## Case Description

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- The petitioner plans to develop the property for use as a warehouse facility. The petitioner plans to develop the site on a speculative basis and therefore has not identified an end-user for the site.
- The Site Plan and Building Elevations submitted with the rezoning application represent a concept plan for the site. Site constraints and plan modifications requested by the end-user may result in modifications to the site and building elevations. Examples of potential modifications include development of two smaller buildings rather than one large building, redesign of the parking area, relocation of the detention area, etc.
- The concept plan includes a 916,720 sq. ft. warehouse, 554 car parking spaces, 160 trailer parking spaces, approximately 6-acres of detention area, and three entrances onto Frontage Rd.
- The rezoning would allow for any use permitted in the I1 District and the property would remain zoned I1 if acquired by a new developer. However, Staff has recommended stipulations that would only permit site improvements consistent with the submitted application materials. These stipulations will ensure that development of the property would not impact the aesthetic quality of the I-74 gateway into Shelby County and would not conflict with the character of previously approved industrial development in the Pleasant View area.
- The Site Plan Committee, which consists of the Planning Director, Building Inspector, County Surveyor, Health Department Environmental Technician, and a representative from the Drainage Board would review a detailed site plan prior to issuing construction permits. USI Consultants, Inc would review the drainage plans to ensure the project design complies with the County's Drainage & Sediment Control Ordinance.
- The property is located within the Shelby County Northwest Economic Development Area (EDA) and Tax Increment Financing District (TIF). The EDA currently does not include a sewer utility and has limited water utility and road improvements. Establishment of the TIF captures incremental real property tax within the EDA to fund water utility improvements within the EDA, to fund improvements to McGregor Rd, and to fund the extension of sewer utilities to the EDA. The TIF may also provide future funding to improve Frontage Road.

## Staff Analysis Findings of Fact

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**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**
- 2. The Most Desirable Use for Which the Land in Each District Is Adapted**
- 3. The Conservation of Property Values throughout the Jurisdiction**
- 4. Responsible Development and Growth**
- 5. The Comprehensive Plan**



South of the I-74 / Pleasant View Interchange, agricultural and residential uses have begun to phase out and development of industrial facilities are planned or have begun on several properties. Development of the property for low-intensity industrial use would not conflict with current or future development in the area.

Development of the property would require approval of State and Local permits and drainage facilities. Therefore, development of the property would not have an adverse environmental impact or impact continued use of adjacent property for agricultural production or future use of adjacent property for industrial facilities.

The property is located within the Shelby County Northwest Economic Development Area, Industrial Future Land Use Area identified in the Comprehensive Plan, and Focus Area #1 – Northwest Area identified in the Comprehensive Plan. The County has established these areas to allow for the extension of water and sewer utilities and to attract industrial development to the northwest portion of the County near the I-74 / Pleasant View Interchange.

Application of industrial use screening and landscaping standards identified in the UDO, as well as additional screening of loading berths from the interstate, and the proposed modern industrial design of the building would enhance the visual quality of development and enhance community character.

### Staff Recommendation

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**The Plan Commission should carefully consider the environmental quality of the development, future road and utility improvements, and protection of the aesthetic quality of the area (particularly the I-74 gateway into Shelby County) prior to making a recommendation.**

Staff recommends **APPROVAL** with the following stipulations:

1. The sum of the square footage of the footprints of all buildings on site shall not significantly exceed the square footage of the footprint of the building indicated on the Site Plan submitted with the rezoning application.
2. The total square footage of parking, loading, and maneuvering areas shall not significantly exceed the square footage of the parking, loading, and maneuvering areas indicated on the Site Plan submitted with the rezoning application.
3. The Zoning Administrator shall have the discretion to require Plan Commission approval of any modification to the site plan.
4. The primary structure(s) shall be consistent with the building elevations submitted with the rezoning application. The Zoning Administrator shall have the discretion to require Plan Commission approval of any modification to the building elevations.
5. At least one (1) canopy tree per fifty (50) lineal feet of frontage shall be installed along the length of the property that abuts Frontage Road.
6. Landscape Buffer Yard 'C' shall be installed to screen loading berths visible from I-74. The Zoning Administrator shall have the discretion to determine the location and length of the buffer yard along property lines.

**Applicant/Owner Information**

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Applicant:	Browning Investments / Matt Brauer 6100 W 96 <sup>th</sup> St, Suite 150 Indianapolis, IN 46278	Owner:	Eric E Krebs Irrevocable Trust 9242 E 12 <sup>th</sup> St. Indianapolis, IN 46229
Applicant's Representative:	Christopher King E. Rampart St. Shelbyville, IN 46176	Project Engineer:	Ross L. Nixon 9025 River Rd, Suite 200 Indianapolis, IN 46240

July 6, 2021

Ms. Desiree Calderella  
Planning Director  
Shelby County Plan Commission  
25 West Polk Street  
Shelbyville, Indiana 46176

**Re: Krebs 56 Acre Property Rezone – Statement of Intent**

Dear Ms. Calderella,

On behalf of Browning Investments, I am pleased to submit the enclosed rezoning application for the 56-Acre Krebs Property near Pleasant View in northwest Shelby County.

Browning Investments is considering the construction of a modern industrial warehouse building consistent with the site plan and representative building elevations provided. As we consider this investment in Shelby County, a rezone of the property consistent with our proposed use is critical to determining the feasibility of this project.

Our proposed site plan illustrates a potential building concept based on our current understanding of site constraints. Please note, we are currently evaluating potential easements and other site constraints that may impact the developability of this site. As part of our application, we do request the ability to reduce the size of the proposed building or site multiple buildings on the property consistent with the proposed zoning district and use.

We look forward to discussing this project in detail with you in the coming weeks and answering questions that you or members of the plan commission may have.

Sincerely,

Matt Brauer  
Director of Development  
Browning Investments



# APPLICATION FOR REZONING

## FINDINGS OF FACT

The applicant (or their representative) must fill out the findings of fact on the following pages. The Plan Commission may review the applicant's findings of fact to assist with their decision-making process. Please see below for general guidance related to completing the findings of fact.

Applicant: Browning Investments

Case #: \_\_\_\_\_

Location: Approximately 9201 North Frontage Road, Fairland IN 46176

1. The request **is** consistent with the Shelby County Comprehensive Plan because:

*The Shelby County Comprehensive Plan's future land use map identifies this site as industrial use. The proposed industrial warehouse facility is consistent with the plan and a permitted use under the proposed I1 zoning.*

2. The request **is** consistent with the current conditions and the character of structures and uses in each district because:

*The proposed I1 zoning and use is congruous with adjacent I2 zoned properties and other I1 zoning in the immediate area including Blue-Star RediMix, HIS Constructors, Central Crane, Brookfield Sand & Gravel, among others. The proposed structure will be similar in aesthetic, composition, and scale to the Five Below project currently under construction.*

3. The request **is** consistent with the most desirable use for which the land in each district is adapted because:

*The Comprehensive Plan establishes this area as an Industrial District to support the investment, job creation, and economic development goals of the plan. The proposed use furthers the Comprehensive Plan's goals of creating an industrial center.*

4. The request **is** consistent with the conservation of property values throughout the jurisdiction because:

*The proposed use is consistent with other uses in the immediate area, and should the proposed project move forward, will result in a significant investment in the property that will have a positive impact on properties in the district.*

5. The request **is** consistent with responsible growth and development because:

*By concentrating industrial development in areas with infrastructure improvements (in progress) and good access to transportation networks efficient growth and development is achieved, farmland is preserved, and services can be delivered in the most cost-effective manner.*

### General Guidance – Rezoning (not to be considered legal advice):

**Finding 1:** How is the proposed new zoning designation consistent with the future land use of the property identified in the Comprehensive Plan? If you do not know the future land use of the property, please ask the Planning Director.

**Finding 2:** How is the proposed use, and/or other possible future uses permitted in the proposed zoning district, similar to surrounding structures and uses of land?

**Finding 3:** Why is the proposed use, and/or other possible future uses permitted in the proposed zoning district, the most desirable use for the land?

**Finding 4:** Explain why the proposed use, and/or other possible future uses permitted in the proposed zoning district, would not negatively impact property values.

**Finding 5:** Why is the change in zoning designation consistent with responsible growth and development?













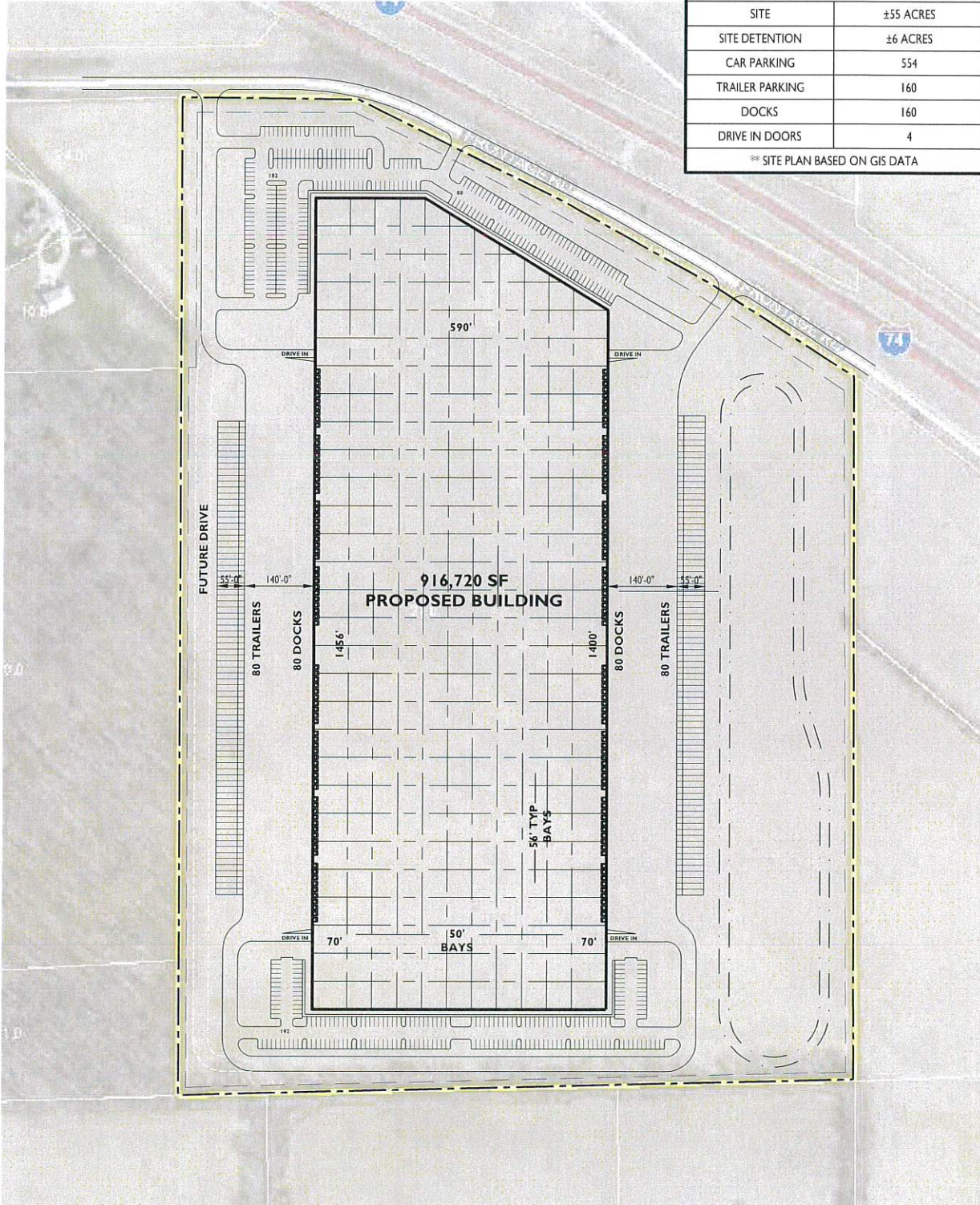


**445**  
AirTech Pkwy



## PROJECT DATA

PRESUMED ZONING: LIGHT INDUSTRIAL	
SITE	±55 ACRES
SITE DETENTION	±6 ACRES
CAR PARKING	554
TRAILER PARKING	160
DOCKS	160
DRIVE IN DOORS	4
⊗ SITE PLAN BASED ON GIS DATA	



### 916,720 SF BUILDING :: FAIRLAND, IN

04.30.2021

1" = 200'

PROJECT # 210165

**BROWNING**

PC July 27, 2021  
Page 18 of 44

## Property Details

**Location:** Southwest corner of I-65 & W 1000 S, Edinburgh, Jackson Township.

**Property Size:** 254.127-acres

**Current Land Use:** Cropland/Natural Resources.

### Current Zoning Classification

A1 (Conservation Agricultural)

*This district is established for the protection of agricultural areas and buildings associated with agriculture.*

### Proposed Zoning Classification

HI (High Impact)

*This district is established for specific uses that can have a particularly high impact on adjacent areas.*

*\*see attached district intent, permitted uses, special exception uses, and development standards.*

### Future Land Use per Comp Plan

#### Industrial

*The purpose of this category is to provide for a full range of light and heavy industrial uses. Types of uses include manufacturing, processing, distribution and storage. The designation should accommodate a variety of industrial establishments which:*

- *Employ high environmental quality standards*
- *May function as an integral part of an overall development area*
- *Require large tracts of land because of their nature and function*
- *Have minimal impacts on adjacent uses*

### Focus Area #2- Southwest Corner

1. *Identify desired land uses for this area and develop an overlay to*

# Staff Report

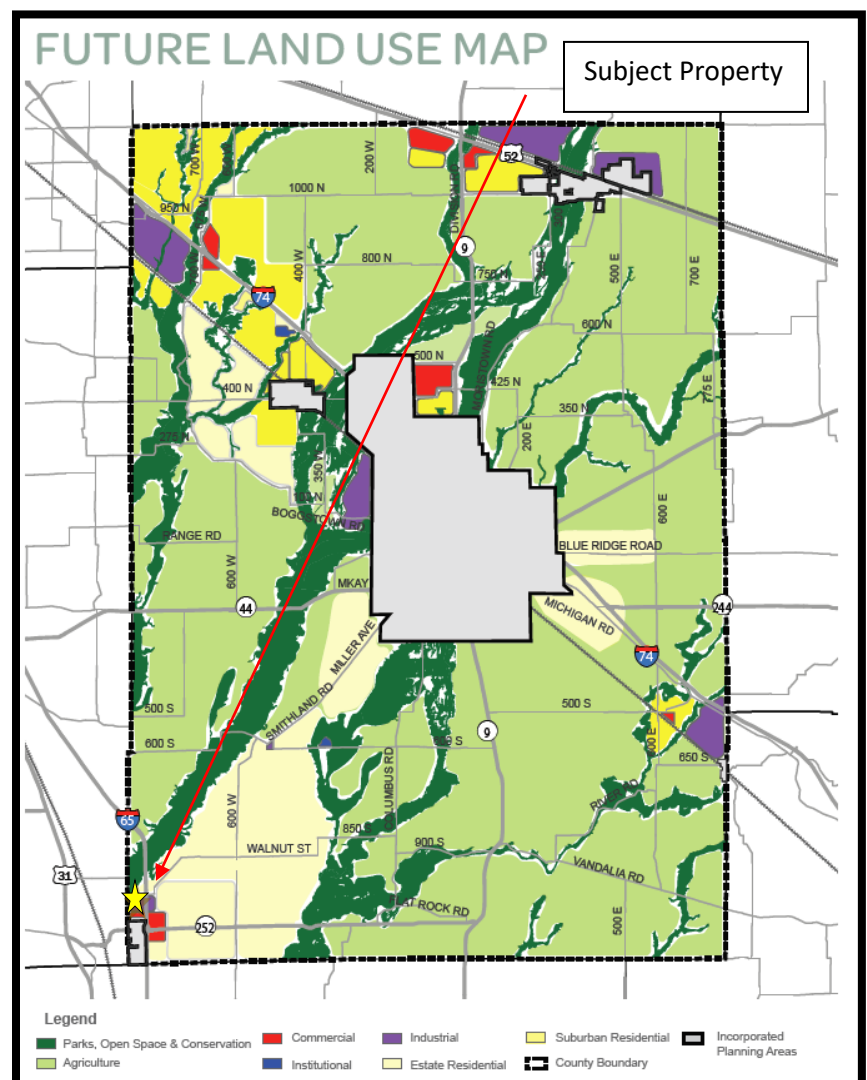
**Case Number:** RZ 21-13

**Case Name:** Shelby Gravel, Inc Rezoning - A1 (Conservation Agricultural) to HI (High Impact)

## Request

**Rezoning** of 254.127 acres from the A1 (Conservation Agricultural) District to the HI (High Impact) District to allow for a gravel/sand mining operation.

## Future Land Use Map





## Property Details

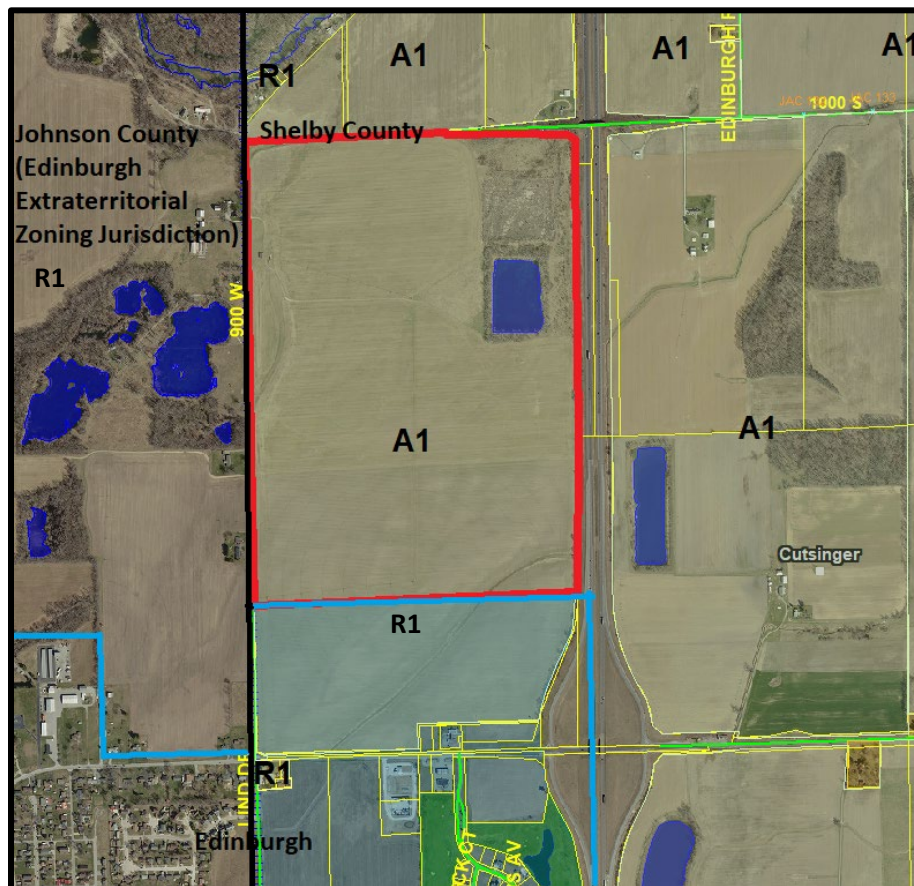
*provide more detailed future land use policy.*

2. *Encourage additional single-family residential development in this area. Define the desired character and development standards for future residential construction.*
3. *Encourage commercial and retail development near the I-65 interchange to service area residents and commuters.*
4. *Designate desired truck traffic routes on county roads servicing quarries along S.R. 252. Develop new roadway standards for these routes that can safely accommodate heavy truck traffic.*
5. *Encourage the extension of public water and sewer facilities to this area.*

### Surrounding Development

	Zoning	Land Use
North	A1	Cropland
South	R1	Cropland (Edinburgh)
East	NA	I-65
West	R1	Estate Res./Cropland/Natural Resources (Edinburgh Extraterritorial Zoning Jurisdiction)

## Property Map





## Case Description

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- Per the rezoning application, Shelby Gravel purchased the subject property in 1999 to use as a future development site for its sand and gravel mining operations. Shelby Gravel intends to gradually transition its current sand and gravel operations northwest of the property in Johnson County to the subject property.
- The proposed mining operation would only include sand and gravel mining, which unlike stone mining does not involve heavy blasting or the use of explosives.
- The concept plan submitted with the rezoning application shows the plant site at the center of the property and the entrance drive having access to 900 W.
- Existing development adjacent to the property includes five single-family residential homesites and cropland.
- The UDO only permits sand/gravel mining in the HI District due to the potentially high impact that the use can have on adjacent areas. A few potential impacts of a gravel/sand mining operation include alteration to the aesthetic character of the area, noise from mining operations and trucks, truck traffic, impacts to groundwater from improper storage or disposal of materials, impacts to air quality, and impacts to wildlife.
- Staff has recommended several commitments regarding use and development of the site. The commitments would prohibit any use of the site not consistent with the proposed gravel/sand mining operation. These commitments are based upon the commitments agreed to by Irving Materials, Inc (IMI) and Martin Marietta for their sand and gravel mining locations on SR 37 in Johnson County, IN. If the proposed commitments are approved as part of the rezoning, Shelby County would have the authority to enforce these commitments per the Enforcement and Penalty processes identified in the UDO. In summary, the commitments address the following:
  - Operation and development of the site consistent with the Operations Plan submitted with the rezoning application (commitment 1)
  - Site security (commitment 2)
  - Restoration of the property after completion of mining operations (commitments 3, 15)
  - Prohibit blasting (commitment 4)
  - Compliance with federal, state, and local codes and required permits (commitments 5, 6, 7, 12, 29)
  - Fuel, hazardous materials, and waste storage (commitments 8, 24, 25, 26, 27, 28)
  - Hours of operation (commitment 9)
  - Site lighting (commitment 10)
  - Dust suppression (commitment 11)
  - Aggregate stockpile height (commitment 13)
  - Prohibition of asphalt or ready-mix plant (commitment 14)
  - Fill materials (commitment 16)
  - Stormwater (commitments 17, 22)
  - Notification of transfer of Real Estate (commitment 18)
  - Wildlife impacts (commitment 19)
  - Setbacks (commitment 20)
  - Landscape buffers (commitment 21)
  - Waste disposal (commitment 23)

- The UDO does not list residential zoning districts or low-intensity agricultural districts as appropriate adjacent zoning districts to property zoned HI. Adjacent property to the south and west in Edinburgh’s zoning jurisdiction is zoned R1 (Suburban Residence) and adjacent property to the north and east within Shelby County’s jurisdiction is zoned A1 (Conservation Agricultural). Staff has recommended increasing the required 150-foot front setback to 300-feet along south and west property lines due to the adjacent residential zoning designations. Roads provide an additional buffer between the subject property and agricultural zoning districts; therefore, staff has not recommended an increase to the required 150-foot front setback along the north and east property lines.
- Staff has also recommended mounding and landscaping along all property lines exceeding the requirements of the UDO due to the incompatible adjacent zoning districts and to provide screening of the operation from the I-65 corridor. Staff has recommended that mounding and trees at mature height in combination should be at least 35-foot tall, which would adequately screen the aggregate stockpiles which staff has recommended do not exceed 35-feet in height.
- Staff has recommended that the petitioner provide a bond to the County for the cost to implement the Reclamation Plan after the completion of mining activities on site. IMI and Martin Marietta both agreed to provide a bond in their commitments. The bond terms proposed by Staff reflect the terms included in the Shelby County UDO regarding decommissioning of solar energy systems. Shelby Gravel has not agreed to provide a bond. The Board should consider alternate assurances that Shelby Gravel will reclaim the site when making their decision regarding requirement of a bond.
- The USDA Soil Survey Classifies approximately 85% of the property as Prime Farmland.
- The Site Plan Committee, which consists of the Planning Director, Building Inspector, County Surveyor, Health Department Environmental Technician, and a representative from the Drainage Board would review a detailed site plan prior to use of the site for mining activities. USI Consultants, Inc would review the drainage plans to ensure the project design complies with the County’s Drainage & Sediment Control Ordinance.

## Staff Analysis Findings of Fact

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**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**
- 2. The Most Desirable Use for Which the Land in Each District Is Adapted**
- 3. The Conservation of Property Values throughout the Jurisdiction**
- 4. Responsible Development and Growth**
- 5. The Comprehensive Plan**

Proposed commitments requiring setbacks, landscaping, and berms exceeding ordinance requirements would provide a buffer between mining operations and lower-intensity adjacent zoning districts and land uses, thereby mitigating impacts associated with noise, dust, and aesthetic compatibility. Proposed commitments prohibiting blasting and asphalt/ready-mix plants and commitments regarding hours of operation, site lighting, and dust suppression would also mitigate nuisance impacts on lower-intensity adjacent uses.

Proposed commitments regarding compliance with applicable codes, storage of hazardous materials, dust suspension, use of fill materials, stormwater, wildlife impacts, and waste disposal would mitigate environmental impacts.

The property is located within the Industrial Future Land Use Area identified in the Comprehensive Plan and Focus Area #2 – Southwest Corner identified in the Comprehensive Plan. Approval of the rezoning stipulated on the proposed commitments would promote development of the property that would employ high environmental quality standards, function as an integral part of the I-65 / Old SR 252 interchange, and have minimum impact on adjacent land uses. Establishment of landscaping and berms along the property lines would protect the aesthetic character of the Shelby County portion of the I-65 Corridor.

Per the rezoning application, Shelby Gravel purchased the subject property in 1999 to use as a future development site for its sand and gravel mining operations.

The property is located in an area relatively isolated from high-density development and near three major thoroughfares: Old SR 252, SR 31, & I-65. This location would limit the amount of truck traffic using local roads and require mitigation of impacts from few developed properties.

### Staff Recommendation

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Staff recommends **APPROVAL with commitments regarding the use and development of the property** primarily because the property is located in the Industrial Future Land Use area identified in the Shelby County Comprehensive Plan and because the proposed commitments would mitigate impacts to adjacent property, mitigate environmental impacts, and protect the aesthetic character of the Shelby County portion of the I-65 Corridor.

### Applicant/Owner Information

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Applicant/Owner:	Shelby Gravel, Inc. P.O. Box 280 Shelbyville, IN 46176	Applicant's Attorney:	Eric M. Glasco, Stephenson Rife 2150 Intelliplex Dr, Ste. 200 Shelbyville, IN 46176
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**View of Property and surrounding area at west side of I-65 / Old SR 252 exit**



Google Street View - 2019





**STEPHENSON**  
**RIFE**  
LLP

**Eric M. Glasco**  
**Direct Dial: 317-680-2052**  
[EricGlasco@SRTrial.com](mailto:EricGlasco@SRTrial.com)

June 30, 2021

Shelby County Plan Commission  
25 Polk Street, Room 201  
Shelbyville, IN 46176

Re: Request for Rezone from A1 (Conservation Agricultural) to HI (High Impact)

Dear Plan Commission Members:

This letter of intent supports Shelby Gravel Inc.'s ("Shelby") request to rezone approximately 254 acres located on W. 1000 S. in Jackson Township in southwestern Shelby County, near the intersection of Interstate 65 and State Road 252, known as Parcel Number: 73-13-26-100-002.000-010 (the "Property"). Stephenson Rife represents the landowner and Petitioner, Shelby.

Shelby purchased the Property in 1999 to use as a future development site for its sand and gravel mining operations. Prior to completing the purchase of the Property, Shelby met with the then Shelby County Plan Commission and the Shelby County Commissioners to discuss its intentions regarding the Property. Shelby County at the time supported Shelby Gravel's long term plan with the property and reflected this when it identified the Property as intended for industrial use in its comprehensive plan. Shelby County adopted its most recent Comprehensive Plan, which contains Shelby County's most recent Future Land Use Map, in 2019. The Future Land Use Map continues to identify the Property as most appropriate for future industrial use.

The Property needs to be rezoned from its present zoning of Conservation Agriculture (A1) to High Impact (HI) in order for Shelby to efficiently develop a sand and gravel mining operation on the Property. Shelby specifically asks that the intended use of the Property for which the rezone is requested be identified as gravel and sand mining to alleviate any concerns the County may have regarding alternative uses under the High Impact zoning classification. Rezoning the Property to HI is consistent with Comprehensive Plan and with current development in the area. The proposed rezone is in line with the most appropriate use for the Property based on Shelby County's future land use preferences map, included as a part of Shelby County's Comprehensive Plan. Shelby County developed the Future Land Use Map after careful consideration of various factors affecting the area and public input and comment.

Shelby County's stated vision for the subject Property, as set out in the land use map, is further supported by the fact that Interstate 65 interchanges are being utilized more and more for commercial and industrial purposes. The proposed rezone and use of the Property will provide jobs and tax revenue that are advantageous to Shelby County. The current infrastructure of the

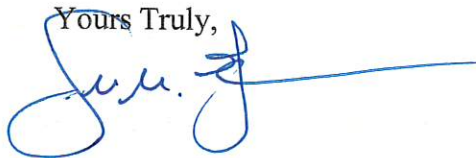


area around the Property is more than capable of supporting the proposed development of the Property.

Rezoning the Property from A1 to H1 would not have an adverse impact on neighboring property values. The majority of the adjacent properties are currently used as farmland and the proposed rezone will not impact their current use. Also, Shelby will use berms and/or other landscaping buffers to create an aesthetically pleasing boundary and to limit the visibility of the mining operation from adjacent properties. Additionally, the Property consists of 254 acres, substantially more than the 20 acre minimum required by Shelby County's Development Ordinance. This will result in even greater minimization of possible impact on adjacent property owners.

It should also be noted that sand and gravel mining is not the same as stone mining. While stone mining involves heavy blasting, sand and gravel mining is a less invasive process and has very little impact on neighbor properties. No blasting will occur on the subject Property. The sand and gravel operation will be what is termed a "wet operation" whereby the aggregates are made wet to prevent dust from becoming airborne during the mining and transfer process. Additionally, Shelby will implement procedures to reduce the likelihood dust from any internal roads and traffic areas become airborne.

While truck traffic is sometimes a concern for sand and gravel mining operations, in this situation the trucks that will utilize the facility will be redirected from the presently active Edinburgh sand and gravel plant. It is the intention of Shelby for the proposed facility to gradually replace the presently active sand and gravel plant just northwest of the Property located on E 650 S in Johnson County. It is unlikely there will be any noticeable additional truck traffic on the road accessing the Property. Additionally, the Property is situated close to the Interstate 65 and State Road 244 interchange and truck traffic to the proposed plant will only utilize County Road 900 W for a short distance.

Yours Truly,  


**APPLICATION FOR REZONING  
FINDINGS OF FACT**

The applicant (or their representative) must fill out the findings of fact on the following pages. The Plan Commission may review the applicant's findings of fact to assist with their decision-making process. Please see below for general guidance related to completing the findings of fact.

Applicant: Shelby Gravel, Inc.

Case #: \_\_\_\_\_

Location: W. 1000 S., Shelbyville, IN 46176

1. The request is consistent with the Shelby County Comprehensive Plan because: Shelby County Future Land Use Map identifies the subject parcel as being intended for industrial use. Shelby Gravel's intention when it purchased the subject parcel was for it to be the location of a future gravel and sand mining operation.  
Shelby Gravel has previously discussed its intention with Shelby County representatives and the County has been receptive and supportive of Shelby Gravel's intentions as indicated by the future use designation.

2. The request is consistent with the current conditions and the character of structures and uses in each district because: The proposed rezone of the subject parcel is consistent with the current conditions and character of the subject parcel as it is undeveloped agricultural land that is adjacent to Interstate 65 and in close proximity to State Road 252. The parcel across 65 is also designated for future industrial use and the parcel to the south is designated for future commercial use.

3. The request is consistent with the most desirable use for which the land in each district is adapted because: \_\_\_\_\_  
Shelby County has identified this land to be used for future industrial use. The subject parcels rural nature and close proximity to 65 and 252 make this property ideal for industrial development.

4. The request is consistent with the conservation of property values throughout the jurisdiction because: The proposed rezone will have no effect on the value of the adjacent farm lands as the development will not impact the farming operations. The subject parcel is substantially larger than the minimum lot area for the proposed High Impact zoning district allowing for the industrial use to be set back from the property lines which will minimize the impact on adjacent properties. Through the use of berms and other landscaping buffers any impact on adjacent properties can be diminished even further.

5. The request is consistent with responsible growth and development because: The infrastructure in place in the area around the subject parcel is sufficient to support the proposed use supported by the rezoning to High Impact. The rural nature of this parcel and its proximity to 65 and 252 make this site a responsible selection for industrial growth and development

**General Guidance – Rezoning (not to be considered legal advice):**

- Finding 1:** How is the proposed new zoning designation consistent with the future land use of the property identified in the Comprehensive Plan? If you do not know the future land use of the property, please ask the Planning Director.
- Finding 2:** How is the proposed use, and/or other possible future uses permitted in the proposed zoning district, similar to surrounding structures and uses of land?
- Finding 3:** Why is the proposed use, and/or other possible future uses permitted in the proposed zoning district, the most desirable use for the land?
- Finding 4:** Explain why the proposed use, and/or other possible future uses permitted in the proposed zoning district, would not negatively impact property values.
- Finding 5:** Why is the change in zoning designation consistent with responsible growth and development?

**COMMITMENTS CONCERNING THE USE OR DEVELOPMENT OF REAL ESTATE MADE  
IN CONNECTION WITH A REZONING**

In accordance with I.C. 36-7-4-1015, the owner (“Owner”) of the real estate located in Shelby County, Indiana, which is described below, makes the following COMMITMENTS concerning the use and development of the parcel of real estate:

**Legal Description:** See Exhibit A attached hereto and incorporated herein by reference (the “Real Estate”).

**Statement of COMMITMENTS:**

1. Owner shall operate all mineral extraction activities on the Real Estate consistent with the Operations Plan prepared by Shelby Gravel, Inc. (“Shelby Gravel”) dated as of July 21, 2021, attached hereto as Exhibit B (the “Site Plan”), and the Proposed Operations Area Improvement Details prepared by Shelby Gravel dated July 21, 2021, attached hereto as Exhibit C (jointly, with the Site Plan, the “Operation Plans”).
2. Owner shall comply with the Security Plan attached hereto as Exhibit D and incorporated herein by reference at all times mineral extraction activities occur on the Real Estate.
3. Owner shall restore and reclaim the Real Estate promptly upon cessation of mineral extraction activities on the Real Estate in accordance with the Restoration and Reclamation Plan attached hereto as Exhibit E and incorporated herein by reference (the “Reclamation Plan”). All perimeter landscaping and mounding shall remain in place until removal is approved by Shelby County Plan Commission (the “Plan Commission”) or such other governmental agency that has zoning jurisdiction over the Real Estate.
4. Owner shall not use explosives on the Real Estate or any type of blasting to remove stone or other material from the Real Estate.
5. Prior to conducting mineral extraction activities on the Real Estate, Owner shall (i) obtain all necessary and required permits and approvals from all applicable local, state and federal governmental agencies (collectively, the “Required Permits”), and (ii) submit copies of all Required Permits to the Plan Commission. Specific state and federal permits that shall be obtained include the following:
  - a. A "Rule 5 Storm Water Run-Off Associated with Construction Activity Permit" pursuant to 327 IAC 15-5, which will include an erosion control plan, submission of an NOI letter to the Indiana Department of Environmental Management ("IDEM") and compliance with all requirements of the general permit rule.
  - b. A Source Specific Operating Agreement ("SSOA") permit pursuant to 326 IAC 2-9-7 regarding the emission of particulate matter, including dust. The SSOA is administered by IDEM, and requires annual compliance certification.
  - c. A Mine Safety and Health Administration ("MSHA") mine ID number. Acquisition of the ID number results in not less than one inspection per year by MSHA for compliance with permissible noise exposure limits and noise levels and other safety issues involving employees on site.
6. Owner shall at all times during mineral extraction activities on the Real Estate maintain in good standing, as applicable, all operational permits required by all applicable local, state and federal governmental agencies.



7. The removal of minerals, including sand and gravel, from the Real Estate may be accomplished primarily by the use of an excavator, dragline or dredging equipment. It is anticipated that no dewatering will occur on the Real Estate. Any dewatering shall only be permitted after amendment of all existing permits, as needed, and the acquisition of any additional permits from IDEM, IDNR or the United States Army Corps of Engineers, as applicable.
8. Owner shall not store on the Real Estate any fuels or other liquids, other than that incidental and necessary for the excavation of minerals from the Real Estate in accordance with the Operation Plans. Any fuel stored on the site shall be in double walled storage tanks or in above ground storage tanks within a containment area with a volume large enough to store the entire contents of the largest storage tank within the containment area plus applicable freeboard. The fueling of all vehicles on the Real Estate shall be done either over a concrete pad or over other containment areas or structures to prevent the release of such fuels due to inadvertent spills.
9. Hours of operation will be from 6:00 a.m. to 6:00 p.m. Monday through Saturday, except during the construction season, during which hours of operation may commence at dawn and end at dusk. No operations shall occur on Sunday. Notwithstanding the forgoing to the contrary, mineral extraction operations may be conducted outside these hours only (i) to supply materials for inclusion in a public (state, federal or municipal) project; (ii) to respond to an emergency involving a matter of public interest that requires the immediate use of Shelby Gravel's materials, such as by way of illustration, flooding or emergency road or structural repair; or (iii) to meet exceptional demands caused by special projects requiring work outside normal hours. Owner shall make a good faith effort to provide the Plan Commission or such other governmental agency that has zoning jurisdiction over the Real Estate with 48 hours' notice of operations outside the stated hours.
10. Maximum illumination levels at the property line of the Real Estate shall not exceed 30 lux, and all lighting shall be designed and installed to prevent spillage of light onto surrounding property
11. Owner shall control dust and airborne particulate by water and water products, and shall keep a water truck on site during mineral extraction operations. The owner shall apply, as needed, an unpaved road dust suppressant to gravel drives to control dust from truck and vehicular traffic.
12. Owner shall submit detailed site plans to the Shelby County Technical Advisory Committee ("TAC") for its approval prior to the commencement of mineral extraction operations on the site. Such detailed site plans shall include a detailed landscape plan, locations of all improvements, if any, and all other matters reasonably requested by TAC, including but not limited to approval of the Shelby County Drainage Board and the applicable fire department if desired by TAC; provided, however, that this Commitment shall not be construed so as to require Owner to install any improvements, including landscaping, mounding and fencing that would be prohibited by applicable state or federal statute, law, ordinance or regulation.
13. No aggregate stockpile located on the Real Estate shall exceed thirty five (35) feet in height.
14. Owner shall not permit the operation of an asphalt batch plant or ready mix plant on the Real Estate.
15. Prior to commencement of mineral extraction operations on the Real Estate, Owner shall obtain an engineer's estimate for the cost to complete the Reclamation Plan upon completion of mining operations. The engineer selected shall be a State licensed professional engineer chosen by the Plan Commission or its staff. Owner shall obtain a bond, or a surety bond issued by an AM Best Company having an A or A+ rating in an amount equal to the amount of the engineer's estimate. Such bond or surety bond shall (i) be drawn in favor of the Board of Commissioners of Shelby County, and default to the applicable municipality should the Real Estate become annexed, and (ii) extend until such time as the Reclamation Plan is complete.

16. No form of solid waste, sludge, or any other form of waste material prohibited by IDEM or Shelby County ordinances shall be used on site.
17. Owner shall cause all stormwater run-offs from fueling area, maintenance shop apron, and all run-off of water from the wheel wash to be circulated through an oil/water separator prior to discharge into ponds located on the Real Estate. Final plans for such drainage and the oil separator shall be submitted to TAC for final approval.
18. Owner shall notify the Plan Commission prior to the conveyance of any portion of the Real Estate to a third party, which notice shall include the name of and contact information for the new owner. Any deed conveying any portion of the Real Estate shall cross-reference these Commitments.
19. Prior to commencement of mineral extraction operations on the Real Estate, Owner shall request a review of the IDNR's Heritage Database to determine if there are any species or habitats in the area that are of interest. If the review identifies threatened and/or endangered species on the Real Estate, the Owner shall submit a plan to mitigate the impacts on threatened and/or endangered species to the Plan Commission prior to commencement on any mining activities on the Real Estate.
20. All mining extraction activities, structural development, outdoor storage areas, and parking, loading, and maneuvering areas (excluding access drives) shall be setback a minimum of one-hundred and fifty (150) feet from the north property line, one-hundred and fifty (150) feet from the east property line, three hundred (300) feet from the south property line, and three hundred (300) feet from the west property line. Required Landscaping and mounding may be installed within the setback.
21. Prior to the commencement of mineral extraction operations on the Real Estate, Owner shall submit a landscaping plan to TAC. At a minimum, landscaping shall include a buffer yard along all property lines, excluding area within access drives. The buffer yard shall include:
  - a. Mound: A undulating mound shall be installed roughly parallel to the property lines. Undulating mounding and all trees at mature height shall in combination be at least 35-feet in height from existing land grade.
  - b. Canopy Tree: One (1) canopy tree shall be planted for every forty (40) feet of contiguous boundary with the adjacent lot.
  - c. Ornamental or Evergreen Tree: Two (2) ornamental or evergreens tree shall be planted for every fifty (50) feet of contiguous boundary with the adjacent lot.
  - d. Row of Evergreens: One (1) evergreen tree shall be planted for every twelve (12) feet of contiguous boundary with the adjacent lot. The evergreen trees shall be planted in an irregular row spaced no closer than nine (9) feet apart or more than fifteen (15) feet apart.
22. No surface impoundments, ponds, or lagoons shall be established except for:
  - a. Stormwater detention and retention ponds, provided they are constructed in a manner that provides an effective barrier to prevent migration to groundwater; or
  - b. Aggregate mining pits.
23. All trash dumpsters, if any, shall be located on an impervious surface.
24. All areas designated for the storage of hazardous materials or objectionable substances shall be constructed in a manner to prevent a release from the storage area.
25. While being stored, water soluble solids shall be kept dry at all times.

26. Sludge that could release liquids or water soluble solids shall be held in a containment area. The containment area shall comply with the containment area provisions provided in Section 27 below.
27. Any area used for the bulk delivery or transfer of liquids shall be within a containment area. All containment areas shall comply with the following requirements:
  - a. Capable of containing 110% of the volume of the largest volume held, stored, loaded or unloaded;
  - b. Constructed in a manner to prevent a release from reaching the groundwater;
  - c. Constructed of hard-surface, impervious material, free of vegetation, cracks, open seams, open drains, siphons, or other openings that jeopardize the integrity of the area.
28. Secondary containment shall be required for any single container holding 56 gallons or more of liquid for more than 24 hours. Secondary containment shall be required for containers holding 56 or more gallons of liquid in the aggregate for more than 24 hours. All secondary containment areas shall comply with the following requirements:
  - a. If unenclosed or located outside, the secondary containment shall be (i) covered, (ii) located on an impervious surface that is properly drained, and (iii) constructed to prevent intrusion of precipitation.
  - b. All secondary containment areas shall be constructed to meet at least one of the following requirements: (i) a containment area capable of containing 110% of the largest container and preventing any release from the container, or (ii) a storage tank designed and built with an outer shell and a space between the tank wall and the outer shell that allows for and includes interstitial monitoring.
29. Use and development of the property shall comply with all provisions of the Shelby County Unified Development Ordinance. However, in the case when the provisions of the Unified Development Ordinance and these commitments conflict, the more restrictive provision shall apply.

These COMMITMENTS shall be binding on the owner, subsequent owners, and other persons acquiring an interest in the Real Estate. These COMMITMENTS may be modified or terminated by a decision of the Plan Commission made at a public hearing after proper notice has been given.

COMMITMENTS contained in this instrument shall be effective upon the grant of rezoning petition by the Shelby County Commissioners.

These COMMITMENTS may be enforced jointly and severally by the Board of Commissioners of Shelby County or the Shelby County Plan Commission.

*The undersigned hereby authorizes the Plan Commission to record this Commitment in the office of the Recorder of Shelby County, Indiana, upon final approval of petition #RZ 21-13.*

**SHELBY GRAVEL, INC.**

By: \_\_\_\_\_  
 Matt Haehl, President

## Exhibit A

### Real Estate

A part of the Southwest Quarter and a part of the Northwest Quarter of Section 26, Township 11 North, Range 5 East of the Second Principal Meridian, Jackson Township, Shelby County, Indiana, described as follows:

Beginning at the Southwest corner of said Northwest Quarter Section as evidenced by a Johnson County Surveyor monument found in place: thence North 00 degrees 57 minutes 26 seconds West (assumed bearing) on and along the West line of said Northwest Quarter Section 2608.70 feet to a P.K. nail set, and marking the Northwest corner of said Northwest Quarter Section; thence North 86 degrees 53 minutes 51 seconds East on and along the North line of said Northwest Quarter Section 1697.71 feet to a P.K. nail set; thence South 02 degrees 54 minutes 45 seconds East 17.04 feet to an iron pin set South of a right-of-way monument and marking a Northwesterly corner of a 0.784 Acre tract used for highway right-of-way purposes (Mutz to State of Indiana) (Inc. State Highway Proj. No. I-65-3(91) 80 (1968)); thence South 86 degrees 04 minutes 41 seconds East on and along the Southerly right-of-way line of said road 50.36 feet (50.40 feet-deed) to an iron pin set at a right-of-way monument; thence North 88 degrees 48 minutes 21 seconds East on and along the Southerly right-of-way line of said road 500.23 feet (deed and measured) to an iron pin set at a right-of-way monument; thence South 88 degrees 20 minutes 19 seconds East on and along the Southerly right-of-way line of said road 501.60 feet (deed and measured) to an iron pin set at a right-of-way monument; thence South 59 degrees 27 minutes 30 seconds East on and along the Southerly right-of-way line of said road 78.26 feet, measured, (78.47 feet-deed) to an "x" cut on the top of a right-of-way monument and marking the Southeasterly corner of said 0.784 Acre tract, said point also being located on the East line of said Northwest Quarter Section, and also being located on the West right-of-way line of I-65; thence South 00 degrees 46 minutes 00 seconds East on and along the said East line of said Northwest Quarter Section and the West right-of-way line of said Highway I-65, a distance of 2528.02 feet to an iron pin set near a highway right-of-way monument, and marking the Southeast corner of said Northwest Quarter Section; thence South 00 degrees 47 minutes 28 seconds East on and along the East line of the said Southwest quarter Section and the West right-of-way line of said I-65, (Inc. State Highway Proj. No. I-65-2 (70) 75 (1968), a distance of 518.68 feet (deed and measured) to an iron pin set and marking a Northerly corner of a 7.114 Acre tract (Mutz to State of Indiana); thence South 03 degrees 15 minutes 42 seconds West on and along the Westerly right-of-way line of said Highway 501.37 feet, measured, (501.20 feet-deed) to an iron pin set; thence South 00 degrees 46 minutes 31 seconds East on and along the said Westerly right-of-way line of said highway 397.01 feet (deed and measured) to an iron pin set at the beginning of a curve to the right; thence Southwesterly on and along the said Westerly right-of-way line on an arc of a curve to the right of an arc distance of 236.87 feet (deed and measured) to an iron pin set, said arc having a radius of 1357.40 feet and being subtended by a chord having a bearing of South 06 degrees 31 minutes 23 seconds West and a chord length of 236.57 feet; thence South 21 degrees 58 minutes 01 second West on and along the said Westerly right-of-way line of said highway 387.72 feet (deed and measured) to an iron pin set; thence South 21 degrees 54 minutes 32 seconds West on and along the said Westerly right-of-way line of said highway 140.81 feet (deed and measured) to an iron pin set at the beginning of a curve to the left; thence Southwesterly on and along the said Westerly right-of-way line on an arc of a curve to the left an arc distance of 290.32 feet to an iron pin found in place, said arc having a radius of 647.96 feet being subtended by a chord having a bearing of South 15 degrees 11 minutes 17 seconds West and a chord length of 287.90 feet, said point also being the most Northeasterly corner of a 2.243 Acre tract, Branigin to Hen House Interstate, Inc., (Recorded in Book 287, page 783); thence South 87 degrees 59 minutes 30 seconds West on and along the North line of said 2.243 Acre tract and the North line of a 1.263 Acre tract; Brueckner to Hen House Interstate, Inc. (Recorded in Book 286, page 187), and the North line of a 0.459 Acre tract, Branigin to Hen House Interstate, Inc. (also recorded in Book 287, page 783) 1053.28 feet, measured, (1053.60 feet-sum of deeds) to an iron pin found in place and marking the most Northwesterly corner of said 0.459 Acre tract; thence South 02 degrees 00 minutes 30 seconds East on and along the Westerly line of said 0.459 Acre tract 200.00 feet (deed and measured distance) to an iron pin found in place on the Northerly right-of-way line of State Road #252 (FAS Proj. No. 34 (1938)); thence South 87 degrees 59 minutes 30 seconds West on and along the said Northerly right-of-way line of State Road #252, a distance of 756.56 feet to an iron pin set at the beginning of a curve to the left; thence Westerly on and along the said Northerly right-of-way line of said State Highway #252, and on and along an arc of a curve to the left an arc distance of 533.71 feet to an iron pin set, said arc having a radius of 57,336.50 feet and being subtended by a chord having a bearing of South 87 degrees 43 minutes 30 seconds West and a chord length of 533.70 feet; thence South 87 degrees 27 minutes 30 seconds West on and along said Northerly right-of-way line 21.13 feet to an iron pin set; thence North 68 degrees 05 minutes 52 seconds West on and along said Northerly right-of-way line 48.33 feet to an iron pin set; thence South 88 degrees 36 minutes 56 seconds West 26.33 feet to a P.K. nail set in the West line of the said Southwest Quarter Section; thence North 01 degrees 23 minutes 04 seconds West on and along the said West line of said Southwest Quarter Section 2579.98 feet to the Place of Beginning, Containing 324.317 Acres, more or less, subject to all legal rights-of-way, easements and restrictions.

Except 70.19-acres of land included in annexation by Edinburgh per Ordinance 1996-5

**Exhibit B**

**Shelby Materials Edinburgh Conceptual Layout**

7-21-2021



## Exhibit C

### NARRATIVE STATEMENT AND PLAN OF OPERATION

Shelby Gravel, Inc. (“Shelby”) seeks to rezone approximately 254 acres located on W. 1000 S. in Jackson Township in southwestern Shelby County, near the intersection of Interstate 65 and State Road 252, known as Parcel Number: 73-13-26-100-002.000-010 (the “Property”). The Property contains a significant quantity of sand and gravel and was acquired by Shelby as part of its long term business plan for its sand gravel operation. Sand and gravel will be extracted on the Property and transported to off-site processing plants.

Prior to the extraction of sand and gravel, the mining area will be prepared by removing overburden that is on top of the sand and gravel. The Shelby County Planning Director has requested that the mining areas be setback a minimum of one hundred and fifty feet from the northern and eastern property lines and three hundred feet from the southern and western property lines. This will reduce the impact on any future residential development in the area. The overburden will be excavated using construction equipment typical on most construction sites, such as excavators, haul trucks, and dozers. The overburden will likely be stored on the Property and utilized for future reclamation purposes. Once the mining area is prepared, an excavator, dragline, or dredge will be utilized to extract the in-situ sand and gravel. All three methods of extraction will allow water to flow back into the excavation site. The sand and gravel will be conveyed, pumped, and hauled to a processing plant.

No blasting or explosives will be used as part of the operation. Hours of operation will be from 6:00 a.m. to 6:00 p.m., Monday through Saturday, except during peak season, where the operations will operate from dawn until dusk. No operations shall occur on Sundays. Notwithstanding the forgoing to the contrary, mineral extraction operations may be conducted outside these hours only (1) to supply materials for inclusion in a public (municipal, county, state, or federal) project; (ii) to respond to an emergency involving a matter of public interest that requires immediate use of Shelby Gravel’s materials; or (iii) to meet exceptional demands caused by special projects requiring work outside normal hours. Except in the case of emergencies, Shelby will make a good faith effort to notify the Shelby County Plan Commission 48 hours in advance of all operations outside the stated hours.

Any lighting used in the project shall be focused downward towards the mining areas. The mining operations will be conducted behind berms which will help mitigate light and noise impact on adjoining properties.

## **Exhibit D**

### **Security Plan**

#### SECURITY PLAN FOR SHELBY GRAVEL, INC SAND AND GRAVEL MINING OPERATION IN SHELBY COUNTY, INDIANA

1. A minimum 4-foot-tall ~~chain-link~~ fence will be installed along the perimeter of the Real Estate.
2. Entrances to the Real Estate will be gated and locked to prevent the passage of vehicular traffic at all times, except during operating hours when employees of the operator of the gravel extraction operation are present.
3. No trespassing signs will be prominently posted along all boundaries of the Real Estate.
4. All equipment used on the Real Estate must contain a cab capable of being locked. All cabs will be locked when not in use.
5. The scale building and office/maintenance building will be equipped with alarms, and the operator of the gravel extraction operation will subscribe to a monitoring service for the alarm system.
6. Owner shall arrange for regular patrols of the site if requested by any governmental agency.

## **Exhibit E**

### **Reclamation Plan**

#### **RECLAMATION PLAN FOR SHELBY GRAVEL, INC. OPERATION OF SHELBY GRAVEL INC. MINING OPERATION AT I-65 AND W 1000 S**

This Reclamation Plan (the "Plan") provides the guidelines for the reclamation and beautification of the Real Estate upon the conclusion of sand and gravel mining operations. To the extent possible, time frames for implementation of the guidelines are included. The guidelines, however, may be implemented during mining if feasible.

These guidelines are based on the Guiding Principles (the "Principles") of the Environmental Stewardship Council (the "ESC") of the Indiana Mineral Aggregates Association, published on June 1, 2000. The Principles were drafted after ESC contacted several consulting firms and two universities. The Principles were drafted over a period of six months, after which they were adopted through a series of hearings and meeting over approximately a one year period.

1. Reclamation Principles. The following reclamation principles and guidelines will be adhered to with respect to the reclamation and restoration of the Real Estate upon the conclusion of sand and gravel mining operations.
  - 1.1. Stabilization of Soil and Loose Rock.
  - 1.2. Slope Materials. Sufficient volumes of overburden will be maintained on the Real Estate to insure the reclamation plan can be completed. All overburden placed on the real estate will be placed graded and stabilized to minimize soil erosion, surface disturbance, and stream or river contamination. Sufficient water-retarding siltation control structures and diversion ditches will be utilized, if necessary, to control runoff.
  - 1.3. Grading Slopes. Upon completion of reclamation, no vertical or near vertical high walls will remain in unconsolidated deposits. Any ridges, peaks or slopes created by excavation, overburden removal or replacement will be graded to a slope that provides for stability, prevents erosion, and supports vegetation. A stable slope of unconsolidated material will be less than a ratio of 3 feet horizontal to one foot vertical (3:1). The grading of any slopes will be compatible with the surrounding topography and the proposed land use of the Real Estate.
  - 1.4. Post Mining Vegetation.
    - 1.4.1. A vegetative cover will be established on all portions of the affected Real Estate that is not covered by water or existing vegetation. The re-vegetation will provide a diverse, effective and permanent vegetation cover capable of self-regeneration and plant succession. Any area which will receive new vegetative cover will be covered with an amount and type of soil material sufficient to support growth of the proposed vegetation



cover. The required soil cover will be deposited and uniformly spread over the reclaimed and graded areas. Agricultural lime and fertilizer will be applied to the soil in amounts recommended by standard agricultural soil testing procedures and soil pH tests. Re-graded reclamation areas and slopes will be prepared and seeded no later than the beginning of the next growing season after completion of final grading and cessation of mining activities.

1.4.2. Ground Cover. Soil stabilizers and or mulch will be applied, as necessary, to promote seed germination and prevent washing away of seeds. Soil materials will be prepared utilizing appropriate standard agricultural methods. Seedbed preparation will be accomplished along the contour of all slopes and the soil material loosened to a depth sufficient to promote proper seed germination.

1.4.3. Vegetative Material. Quick germinating, rapid-growing vegetative species capable of stabilizing the surface soil and preventing erosion will be sown. Vegetative materials will consist of grasses, legumes, herbaceous or woody plants, shrubs and trees. Specific material will be chosen based on soil test results, post-mining land use, long-term erosion control, growth rates, ability to provide permanent vegetative cover, self-regeneration and plant succession capabilities, potential soil rebuilding abilities, and potential benefits to wildlife. At least three grass and legume species will be applied as re-vegetative ground cover. One species will be a quick-growing variety to establish cover for the other species. At least one permanent legume species and two permanent grasses will be applied. Planting rates will be determined based upon recommendations of seed manufacturers and results if soil tests. Fresh, top-quality seeds will be used and legume seeds will be properly inoculated prior to planting.

1.4.4. Time Table. A minimum of 65% ground cover will be established at the end of the first growing season. Individual bare areas due to unsuccessful re-vegetation should not exceed one-half acre for any two acres planted at the end of the first growing season. Coverage of 85% will be established at the end of the second growing season.

2. Site Specific Guidelines. The following guidelines are specific to the Real Estate. The Reclamation Principles contained above shall be utilized when complying with the site specific guidelines.

2.1 Lake Areas. All areas noted as "Lakes" on the Reclamation Plan will be inundated with water. Slopes surrounding the lakes will be stabilized and seeded pursuant to the Reclamation Principles state above. Except as required otherwise for specific land uses, the shores of the lakes will be sloped to permit easy exit from the lakes for safety.

2.2 Non-Lake Areas. All areas not located in Lake Areas and not located in undisturbed Areas will be graded to drain towards the lakes. Such grades shall be as close as reasonably possible to the surrounding topography so as to appear natural. Such areas will be covered by the vegetative cover described in the Reclamation Principles.

2.3 Use of Reclaimed Property. Since the anticipated time horizon for cessation of gravel mining operations is fifteen to thirty years, specific uses for the reclaimed area have not

been identified. The goal with respect to the reclamation of the areas is to make such areas suitable for any type of development that is consistent with the surrounding area and the Shelby County Comprehensive Plan and Unified Development Ordinance. Such uses, generally, could include any combination of residential, office, retail, and commercial or recreational uses. Buffering mounds will not be removed, if at all, until restoration and reclamation is nearly complete. Until improvements are constructed pursuant to a specific use, all unpaved areas will be covered by the vegetative cover described in the Reclamation Principles.

**ORDINANCE NO 2021 -**

**AN ORDINANCE OF THE BOARD OF COMMISSIONERS OF SHELBY COUNTY, INDIANA, AMENDING THE SHELBY COUNTY UNIFIED DEVELOPMENT ORDINANCE – SPECIFICALLY: ARTICLE 2 & ARTICLE 5**

WHEREAS, the Board of Commissioners of Shelby County, Indiana recognize the need for orderly growth and development within Shelby County and those areas within its planning jurisdiction;

WHEREAS, Shelby County has an existing Unified Development Ordinance that regulates development within its jurisdictional areas;

WHEREAS, Shelby County desires to update its development regulations to meet current economic conditions, current trends, and to promote quality growth;

WHEREAS, Public Notice was given for at least one public hearing as required by Indiana Code 36-7-4-604; and

WHEREAS, the Shelby County Plan Commission has recommended approval of the amendment to the Unified Development Ordinance as required by Indiana Code 36-7-4-605.

NOW, THEREFORE, BE IT ORDAINED, by the Board of Commissioners of Shelby County, Indiana as follows:

**SECTION 1:** That Article 2, Section 2.34 I1 District Development Standards Minimum Side Yard Setback, Minimum Rear Yard Setback, and Maximum Structure Height are amended as follows:

Minimum Side Yard Setback

- 15 feet
- 60 feet when the side property line adjoins property in the A2, RE, R1, R2, VR, M1, M2, MP, VM, & IS Districts

Minimum Rear Yard Setback

- 15 feet
- 60 feet when the rear property line adjoins property in the A2, RE, R1, R2, VR, M1, M2, MP, VM, & IS Districts

Maximum Structure Height

- 60-feet for primary structure
- 35 feet for accessory structure

**SECTION 2:** That Article 2, Section 2.36 I2 District Development Standards Minimum Side Yard Setback and Minimum Rear Yard Setback are amended as follows:

Minimum Side Yard Setback

- 20 feet
- 60 feet when the side property line adjoins property in the A2, RE, R1, R2, VR, M1, M2, MP, VM, & IS Districts

Minimum Rear Yard Setback

- 20 feet
- 60 feet when the rear property line adjoins property in the A2, RE, R1, R2, VR, M1, M2, MP, VM, & IS Districts

**SECTION 3:** That Article 5, Section 5.17 C 4 is amended as follows:

Excessive Vehicle Use: Any access that is used by one (1) or more lots and that conveys over 2000 vehicles per day shall not be considered a driveway. These access facilities shall be established according to the regulations for a public street.

**SECTION 4:** That Article 5, Section 5.20 B is amended as follows:

Width: No driveway shall exceed the following widths:

1. Nonresidential Use onto Any Street: Fourteen (14) feet per lane with a maximum overall width of forty-two (42) feet.
2. Multiple-family Use onto Any Street: Ten (10) feet per driving lane, with a maximum overall width of twenty (20) feet.

**SECTION 5:** That Article 5, Section DPI-01: General Dedication of Right-of-Way Standards is added as follows:

This Dedication of Right-of-Way Standards section applies to the following zoning districts: **OP, A1, A2, A3, A4, RE, R1, R2, VR, M1, M2, MP, VM, IS, C1, C2, I1, I2, HI**

- A. **Project Applicability:** Right-of-way consistent with the requirements of the Unified Development Ordinance shall be dedicated fee-simple to the Shelby County Commissioners before an Improvement Location Permit for any new primary structure is obtained. However, right-of-way dedication and these standards shall only apply to non-agricultural and non-residential primary structures.
- B. **Dedication of Right-of-way:** The developer of any non-agricultural or non-residential property that adjoins an existing street that does not conform to the recommended minimum right-of-way dimensions established in the Shelby County Comprehensive Plan shall dedicate additional width along either one or both sides of such street sufficient to meet the recommendations of the Comprehensive Plan. If the developer only controls the property on one side of the street, sufficient right-of-way shall be dedicated to bring the half right-of-way up to the dimensions required in the Comprehensive Plan.
  1. *Passing Blister:* Where a passing blister is required and inadequate right-of-way exists to install the passing blister, the developer shall make a good faith effort to acquire property sufficient for the installation of the passing blister. If the owner of the property on which the passing blister is to be installed refuses to sell the property to the developer, the developer shall provide the Planning Department copies of all surveys; appraisals; written offers made by the developer to the property owner; and correspondence from the property owner.
  2. *Acceleration and Deceleration Lanes:* Where an acceleration lane and/or deceleration lane is required and the developer does not control street frontage adequate to install the lane, the developer shall make a good faith effort to acquire property sufficient for the installation of the acceleration lane and/or deceleration lane. If the owner of the property on which the acceleration lane and/or a deceleration lane is to be installed refuses to sell the property to the developer, the developer shall provide the Planning Department copies of all: surveys; appraisals; written offers made by the developer to the property owner; and correspondence from the property owner.
  3. *Eminent Domain:* Whereas the installation of passing blisters, acceleration lanes, and deceleration lanes is vital to the health, safety, and welfare of the motoring public, the County may begin eminent domain proceedings in accordance with IC 32-24: Eminent Domain for the acquisition of public right-of-way sufficient for the installation of the passing blister, acceleration lane, and/or deceleration lane upon receipt of the aforementioned documentation illustrating the developers' failure to acquire the needed property. Upon

completion of the eminent domain proceedings, the developer shall reimburse the County in an amount equal to the price paid by the County for the public right-of-way, anything that had to be condemned within the acquired right-of-way, and anything for which the County paid the price of relocation.

4. *Installation of Improvements:* The developer shall then install the passing blister, acceleration lane, and/or deceleration lane per any construction and engineering standards established by the Shelby County Plan Commission.

**SECTION 13: Effective Date.** This ordinance shall be in full force and effect from and after its adoption by the Board of Commissioners of Shelby County, Indiana.

**SECTION 14: Repealable Provisions.** All ordinances and parts of ordinances in conflict with the specific amendment herein are hereby repealed.

**ADOPTED** this 9<sup>th</sup> day of August 2021 by a vote of \_\_\_\_\_ ayes and \_\_\_\_\_ nays of members of the Board of Commissioners of Shelby County, Indiana.

\_\_\_\_\_  
Kevin Nigh, President

\_\_\_\_\_  
Don Parker, Member

\_\_\_\_\_  
Chris Ross, Member

ATTEST:

\_\_\_\_\_  
Amy Glackman, Auditor  
Shelby County, Indiana

# Ordinance Amendments

## Industrial Hight & Setback Standards

Typical warehouses exceed 45-feet. Sixty-foot matches Shelbyville's height standard for lower intensity industrial districts. The County currently has several industrial properties that would qualify for infill development adjoining lower intensity uses. The increased setback would off-set the increase in height, thereby eliminating the casting of shadows of very tall buildings on adjoining lower intensity uses and providing a buffer between incompatible development.

### 2.34 – I1 District Development Standards

#### Minimum Side Yard Setback

- 15 feet
- 60 feet when the side property line adjoins property in the A2, RE, R1, R2, VR, M1, M2, MP, VM, & IS Districts

#### Minimum Rear Yard Setback

- 15 feet
- 60 feet when the rear property line adjoins property in the A2, RE, R1, R2, VR, M1, M2, MP, VM, & IS Districts

#### Maximum Structure Height

- ~~45-feet~~ 60-feet for primary structure
- 35 feet for accessory structure

### 2.36 – I2 District Development Standards

#### Minimum Side Yard Setback

- 20 feet
- 60 feet when the side property line adjoins property in the A2, RE, R1, R2, VR, M1, M2, MP, VM, & IS Districts

#### Minimum Rear Yard Setback

- 20 feet
- 60 feet when the rear property line adjoins property in the A2, RE, R1, R2, VR, M1, M2, MP, VM, & IS Districts

# Ordinance Amendments

## Qualification as a Driveway, Excessive Vehicle Use

The UDO likely established the 200-vehicle per day threshold for driveways in error because Shelbyville's UDO establishes a 2000-vehicle per day threshold. Traffic counts on County roads with a low-to-medium amount of traffic generally range between 1,200 to 2,000 trips per day.

### 5.17 C 4 – Qualification as a Driveway, Excessive Vehicle Use

4. Excessive Vehicle Use: Any access that is used by one (1) or more lots and that conveys over ~~200~~ 2000 vehicles per day shall not be considered a driveway. These access facilities shall be established according to the regulations for a public street.

## Non-Residential Driveway Width

Bartholomew County, Hendricks County, and Franklin permit up to 14-foot lane width. These jurisdictions do not have separate widths for separate roads. Shelbyville had considered increasing their lane width to 48-foot total with a landscape median, because developers have asked for 24-ingress and 24-egress. Currently, the ordinance permits three lanes at 10.5' or 10', dependent on the road classification. The amendment would increase this to three lanes at 14' each. Width would be measured at the proposed ROW line.

### 5.20 B – Non-residential Driveway Width

B. Width: No driveway shall exceed the following widths:

1. **Nonresidential Use onto Any Street: Fourteen (14) feet per lane with a maximum overall width of forty-two (42) feet.**
- ~~1. Nonresidential Use onto Arterial or Collector: Maximum of ten and one half (10.5) feet per lane with a maximum overall width of thirty one and one half (31.5) feet.~~
- ~~2. Nonresidential Use onto Local Street: Ten (10) feet per lane, with a maximum overall width of thirty (30) feet.~~
3. Multiple-family Use onto Any Street: Ten (10) feet per driving lane, with a maximum overall width of twenty (20) feet.

## Right-of-Way Dedication

The UDO currently only requires dedication of right-of-way at the time of subdivision of property. This section would require dedication of right-of-way in compliance with the width recommendations of the Comprehensive Plan prior to approval of permits for all new primary non-residential and non-agricultural structures on existing lots. The dedication would transfer legal ownership of the road (not just an easement) to the County at no cost to the County. Most non-residential and non-agricultural development will require road improvements, and this section would place the burden on the developer to obtain the right-of-way. This section reflects the language currently included in the subdivision section of the ordinance.

### DPI-01: General Dedication of Right-of-Way Standards

This Dedication of Right-of-Way Standards section applies to the following zoning districts: **OP, A1, A2, A3, A4, RE, R1, R2, VR, M1, M2, MP, VM, IS, C1, C2, I1, I2, HI**

- A. Project Applicability: Right-of-way consistent with the requirements of the Unified Development Ordinance shall be dedicated fee-simple to the Shelby County Commissioners before an Improvement Location Permit for any new primary structure is obtained. However, right-of-way dedication and these standards shall only apply to non-agricultural and non-residential primary structures.
  
- B. Dedication of Right-of-way: The developer of any non-agricultural or non-residential property that adjoins an existing street that does not conform to the recommended minimum right-of-way dimensions established in the Shelby County Comprehensive Plan shall dedicate additional width along either one or both sides of such street sufficient to meet the recommendations of the Comprehensive Plan. If the developer only controls the property on one side of the street, sufficient right-of-way shall be dedicated to bring the half right-of-way up to the dimensions required in the Comprehensive Plan.
  1. *Passing Blister*: Where a passing blister is required and inadequate right-of-way exists to install the passing blister, the developer shall make a good faith effort to acquire property sufficient for the installation of the passing blister. If the owner of the property on which the passing blister is to be installed refuses to sell the property to the developer, the developer shall provide the Planning Department copies of all surveys; appraisals; written offers made by the developer to the property owner; and correspondence from the property owner.
  2. *Acceleration and Deceleration Lanes*: Where an acceleration lane and/or deceleration lane is required and the developer does not control street frontage adequate to install the lane, the developer shall make a good faith effort to acquire property sufficient for the installation of the acceleration lane and/or deceleration lane. If the owner of the property on which the acceleration lane and/or a deceleration lane is to be installed refuses to sell the property to the developer, the developer shall provide the Planning Department copies of all: surveys; appraisals; written offers made by the developer to the property owner; and correspondence from the property owner.
  3. *Eminent Domain*: Whereas the installation of passing blisters, acceleration lanes, and deceleration lanes is vital to the health, safety, and welfare of the motoring public, the County may begin eminent domain proceedings in accordance with IC 32-24: Eminent Domain for the acquisition of public right-of-way sufficient for the installation of the passing blister, acceleration lane, and/or deceleration lane upon receipt of the aforementioned documentation illustrating the developers' failure to acquire the needed property. Upon completion of the eminent domain proceedings, the developer shall reimburse the County in an amount equal to the price paid by the County for the public right-of-way, anything that had to be condemned within the acquired right-of-way, and anything for which the County paid the price of relocation.
  4. *Installation of Improvements*: The developer shall then install the passing blister, acceleration lane, and/or deceleration lane per any construction and engineering standards established by the Shelby County Plan Commission.

