

**Shelby County Plan Commission
Meeting Minutes
Tuesday
March 28, 2023**

Members Present:

Megan Hart
Jason Abel
Mike McCain
Scott Gabbard
Terry Smith
Charity Mohr
Nick Hartman
Taylor Sumerford

Members Absent:

Kevin Carson

Staff Present:

Desiree Calderella – Planning Director
Jason Clark – Plan Commission Attorney

Call to Order and Roll Call:

Terry Smith called the February 28, 2023 meeting to order at 7:00 pm in Room 208 A at the Court House Annex.

Approval of Minutes:

Charity Mohr made a motion to approve the minutes from February 28, 2023. Scott Gabbard seconded the motion. The minutes were approved 7-0, with Terry Smith abstaining.

Old Business:

RZ 23-02 – JUGAAD LLC REZONING: Negative Findings of Fact.

Scott Gabbard made a motion to adopt the Findings of Fact and Charity Mohr seconded that motion. **The findings were ADOPTED 8-0.**

The Board adopted the following findings of fact:

1. The request is NOT consistent with the Shelby County Comprehensive Plan

because: The rezoning is not consistent with Land Use Goal 1, Strategy 1 identified in the Comprehensive Plan due to the existing residential character context. Land Use Goal 1: Welcome and promote future development in appropriate areas of the County. Strategy 1: Balance development patterns and character with available transportation and utility resources and existing character context. The rezoning is not consistent with Natural Resource Goal 2, Strategy 3 identified in the Comprehensive Plan due to proposed development occurring in a designated floodplain, removal of mature trees, and due to possible environmental impacts to the adjacent creek. Natural Resources Goal 2: Protect and enhance local water-based resources, such as surface water, groundwater, and wetlands. Strategy 3: Protect and enhance the county's land-based natural resources, such as floodplains, wooded areas, riparian areas and soils.

2. The request is NOT consistent with the current conditions and the character of structures and uses in each district because: The property is adjacent to residential estate lots.
3. The request is NOT consistent with the most desirable use for which the land in each district is adapted because: The property includes significant natural and water-based resources that if persevered, provide a natural based amenity to the community and prevents environmental impacts to wildlife, groundwater, and surface water of the creek associated with development of the site. Additionally, the petitioner did not provide adequate evidence of local demand for the proposed truck parking facility or benefit of the proposed development to the local community.
4. The request is NOT consistent with the conservation of property values throughout the jurisdiction because: Development of the property would impact the aesthetic quality of the I-74 corridor, thereby potentially impacting property values throughout the jurisdiction.
5. The request is NOT consistent with responsible growth and development because: The property is not located within the Shelby County Northwest Economic Development Area (EDA) and the County has not proposed any road or utility improvements in the Pleasant View area outside the EDA. Development of the property would remove and impact desirable natural and water-based resources. Additionally, the petitioner did not provide adequate evidence of local demand for the proposed truck parking facility or benefit of the proposed development to the local community.

RZ 23-04 – DAVIS REZONING: Rezoning of 14.74-acres from the A2 (Agricultural) District to the RE (Residential Estate) District to allow for two new single-family residential lots. Located east of and adjoining 453 E 700 S, Shelbyville, Washington Township.

Desiree Calderella read the petition into the record and stated that Staff recommends approval with a stipulation.

Eric Glasco with Stephenson Rife represented the petitioner. He provided a summary of the petition and outlined the legal criteria that the Plan Commission shall consider when deciding on a rezoning. He explained that the proposed development resembles the surrounding area which includes six or seven houses also typically on lots larger than five acres and that the flood hazard area renders the property not conducive to large-scale farming.

The Board opened the hearing for public comment.

Michelle Wheelhouse, who owns property at 7015 S 75 E, provided a presentation to the Board showing previous flood events on surrounding properties (see case file). She expressed concern that raising the land to build on the property would worsen flooding conditions in the area.

Brian Willis, who lives at 453 E 700 S, empathized that the area experiences large flood events. She expressed concern that raising the land to build on the property would worsen flooding conditions on his property and in the area.

Nancy Settles, who owns farmland to the east and west, expressed concern that raising the land to build on the property would worsen flooding conditions in the area. She provided a map to the Board (see case file).

Brandy Moore, whose mother lives at 624 E 700 S, noted that she has the same concerns as the neighbors who spoke previously.

The Board closed the public comment portion of the hearing.

Eric Glasco explained that portions of the neighbors' properties lie within the flood hazard area and therefore would experience flooding, however the petitioner intends to develop areas only outside the flood hazard area. He indicated that the petitioner's surveyor had determined that development outside of the flood hazard area would not create flooding issues. He emphasized that impacts to flooding does not fall within the legal criteria that the Plan Commission shall consider when deciding on a rezoning.

Megan Hart indicated that the limited area available to build on the lots would result in a cluster of houses inconsistent with the character of the area. She indicated that the petitioner could currently build one house on the property.

Eric Glasco indicated that five houses adjoin the property.

Jason Abel spoke about SB 242 and the ability of the petitioner to build in the area currently designated as a floodplain if the bill becomes law.

Desiree Calderella explained that currently the County's Floodplain Ordinance requires that the County regulate using Best Available Data regardless of whether SB 242 becomes law.

Eric Glasco indicated that his client could not build in the current floodplain regardless of whether SB 242 becomes law.

Terry Smith indicated that the Health Department could prohibit development of the lots if the septic systems cannot comply with topographical standards.

Charity Mohr made a motion of vote on the petition with a stipulation and Megan Hart seconded that motion. **The petition was APPROVED 6-2**, with Megan Hart and Nick Hartman casting the dissenting votes, with a **stipulation**:

1. Development including single-family dwellings, accessory structures, and alteration of land in the Designated Flood Hazard Area shall be prohibited.

The Board adopted the following findings of fact:

1. The request is consistent with the Shelby County Comprehensive Plan.
2. The request is consistent with the current conditions and the character of structures and uses in each district.
3. The request is consistent with the most desirable use for which the land in each district is adapted.
4. The request is consistent with the conservation of property values throughout the jurisdiction.
5. The request is consistent with responsible growth and development.

RZ 23-06 – IN RNG INTERCONNECT, LLC REZONING: Rezoning of 6.696-acres from the A1 (Conservation Agricultural) District to the I2 (High Intensity Industrial) District to allow for a natural gas injection facility. Located at 5445 S Smithland Rd, Shelbyville, Hendricks Township.

Desiree Calderella read the petition into the record and stated that Staff recommends approval with stipulations.

Dave Kilborn, Steve Wilkinson, and Charley Day all with REV RNG presented a PowerPoint presentation including a summary of company operations and the rezoning request (see case file).

The Board opened the hearing for public comment.

Harry Lawering, who lives in Marietta, indicated that the project would benefit Decatur County, and not Shelby County. He expressed concern with drainage problems in the area, that raising the land to build on the property would worsen flooding conditions in the area, and that use of the narrow County roads by trucks would pose a safety issue. He stated that all other Counties have said no to the project.

David Settles, who owns the farm ground to the east, provided photographs to the Board on his cellular phone. He expressed concerns with drainage problems in the area, impacts to existing drainage tiles, that use of the narrow County roads by trucks would pose a safety issue, and contamination of groundwater.

Donna Griffey, who lives at 8411 S 500 W, spoke about the narrow width of CR 500 W, the poor condition of the bridges and culverts on CR 500 W, and the no-trucks sign present on CR 500 W.

Rachael Barlow, who lives at 2688 S 625 W, indicated that she had sent photographs of ditches along the proposed truck route to the Planning Director. She indicated that Eric Kessler with REV RNG had stopped communicating with her, would not host a Zoom meeting with the public, and would not continue conversations about truck routes. She explained that the company would receive tax credits from South Jersey Utility. She indicated that the proposed truck routes have sever ditches along the road and expressed concern about conflicts between trucks and inexperienced drivers and the Southwestern cross-county team running on the road. She asked if the company would ask for a tax abatement. She asked what would happen to the property after twenty years.

Zanda Stead, who lives in Hendricks Township, expressed concern with lack of notice to residents in the pipeline fall-out area. She asked how many jobs would stay in Shelby County. She asked if the operation would require hot taps. She asked if the company could build the facility at the gas plant located across the street. She expressed concern with the narrow width of roads. She expressed concern with trucks burning fuel to move fuel from the production site to the injection site. She asked if the company could fund the project without tax credits. She asked about the company's commitment to only use the site for twenty years. She asked about site monitoring.

Jeff Purdue, who lives 5296 W Marietta Railroad St, expressed concern about lack of plans for drainage.

Don Parker, County Commissioner, who lives at 6663 S 750 W, explained that he and the highway department had provided the petitioner with a truck route to consider, however they had not approved the truck route. He explained that he and the Highway Department superintendent had concluded that routing to Tom Hession drive would prove more appropriate than routing to the proposed site. He indicated that proximity to the airport prevented development of the site near Tom Hession drive, therefore the proposed site would also sit too close to Marietta. He asked about the benefits to Shelby

County. He indicated that he didn't think the company had met with the Shelby County Economic Development Corporation. He indicated that the project would create few jobs and produce minimal tax revenue. He expressed concern with impacts to the drainage tiles in the area.

Kyle Barlow, who lives at 2688 S 625 W, asked how the trucks would maneuver turns and if the trucks would use the methane as fuel. He expressed concern with the ditches along Smithland Rd. and drainage.

Melissa Lawering, who lives on Marietta Rd, indicated that thousands of miles of pipeline exist in industrial areas. She spoke about the dangers of pipelines and the removal of rural areas by development. She expressed concern with the poor condition of surrounding roads, conflicts between trucks and vehicles on narrow roads, drainage problems in the area, and lies told by the company.

Steve Shephard, who owns land on CR 700 S, expressed concern with traffic accidents on unsafe County roads.

Justin Parker, who lives in Jackson Township, expressed concern with inconsistencies in statements made by the company. He attested to the dangerous roads. He expressed concern with rezoning approval setting a precedent for allowing additional industrial development adjacent to the property. He referenced the inconsistency of the rezoning with the Comprehensive Plan.

Blake Newkirk explained that the Comprehensive Plan does not recommend use of the area of industrial development.

The Board closed the public comment portion of the hearing.

Dave Kilborn explained that REV RNG has eleven facilities operating safely in Wisconsin and has thirty more facilities planned. He indicated that the company has a significant investment in safety training for its drivers and technicians. He indicated that the company could work with the County to identify additional routes, however, had chosen the proposed routes to avoid the school and town of Marietta. He explained that the trucks would use legal county roads currently used by semi-trucks and large farm equipment. He indicated that the County has substantially better roads than many other places that the company operates. He indicated that the company would participate in bonding the roads. He indicated that development would adhere to drainage codes and would work with drainage tiles. He indicated that capacity and acceptance to tap by the pipeline companies prevented development in locations closer to the Decatur County source farm. He indicated that the site has excellent site visibility along Smithland Rd. He explained that the farm would produce one tanker-load of gas every 23.5-hours, and a truck unloads gas for ten to sixteen hours. He indicated that only one farm would initially serve the site, however two additional smaller farms would also serve the site in

the future. He explained that the company would seek available tax credits. He indicated that the company would work with the community regarding hours of operation. He indicated that the company has a twenty-year term with the pipeline and then would decommission the project. He stated that the project would not hot tap. He indicated that gas companies will not sublease any portion of their property for the project. He stated that the project would have six truck drivers, each making \$105-\$115 per hour. He outlined the other technical positions associated with the project. He indicated that several of the company's trucks do use compressed natural gas fuel. He stated that there are no grants associated with the project and that it is 100% equity funded. He emphasized that the company would work with the community to address any safety concerns.

Q: Mike McCain – One truck on site per day?

A: Dave Kilborn – Yes.

Q: Mike McCain – Three gas lines on site?

A: Dave Kilborn – Yes, but we will only tap into the 30" A&R line.

Q: Jason Abel – How many dairy cows are needed for a digester to make economic sense?

A: Dave Kilborn – 3,200 head.

Q: Jason Abel – What's the median size?

A: Dave Kilborn – 5,200 head

Q: Terry Smith – Can the site only support three trucks at a time?

A: Dave Kilborn – Can only unload three trucks simultaneously. There's parking for three trucks per lane.

Q: Terry Smith – So on average, you would have three trucks coming in a day and three trucks going out a day?

A: Dave Kilborn – Currently contracted farm would have one truck a day. Other farms would likely have one truck every 48 hours.

Q: Terry Smith – But the site capacity is three trucks per day?

A: Dave Kilborn – Correct.

Q: Terry Smith – Is this semi-permeable, asphalt, or concrete?

A: Steve Wilkerson – Typically trucks sit on a concrete pad and the rest is gravel.

Desiree Calderella verified that the site is not in a FEMA designated flood zone.

Q: Terry Smith – CR 600 S is off limits?

A: Dave Kilborn – We are willing to not take the route by the school.

Q: Terry Smith – How is this going to be lit in the evenings?

A: Steve Wilkerson – Typically security lighting only.

Q: Charity Mohr – You previously mentioned you would only operate during daylight hours, why would you need lighting?

A: Dave Kilborn – We try to only operate in daylight hours, however weather-related issues or emergency situations may require nighttime operations.

Q: Megan Hart – On rare occasions they may have to move at night because of capacity?

A: Dave Kilborn – Yes you are right.

Q: Charity Mohr – You mentioned its flat, you are talking about the site, not the route?

A: Dave Kilborn – The road. It is relative. It is a narrow road. We are willing to bond the road. It is a legal road.

Charity Mohr expressed concern about the conditions of the road and expressed concerns with traffic safety. She indicated that the company would operate when it needs to operate, and that the Plan Commission has no control over their hours of operation. She expressed concern with approving the project when the company cannot guarantee routes from future farms. She expressed concerns with approval setting a precedent for other industrial development in the area.

Megan Hart spoke about other available locations in the County with more appropriate zoning and better truck access.

Q: Megan Hart – Someone spoke about one location being too close to the airport, is that true?

A: Dave Kilborn – Current pipeline law and FAA laws ruled it out.

Q: Megan Hart – What about next to Poet?

A: Dave Kilborn – We have looked at a variety of locations, all locations had roadblocks.

Q: Scott Gabbard – You have not reached out to the development corporation here at all?

A: Dave Kilborn – I will have to fact-check with my project manager. Typically, we do.

Q: Scott Gabbard – Regarding drainage, what kind of mitigation or engineering?

A: Dave Kilborn – We build to code. We are willing to put tile in.

A: Steve Wilkerson – Elevation of the site above drainage areas we know. Construct drainage facilities such as a basin.

Dave Kilborn and Charity Mohr had additional discussion regarding road safety.

Mike McCain made a motion of vote on the petition with Staff stipulations and Scott Gabbard seconded that motion. Megan Hart, Jason Abel, Taylor Sumerford, and Charity

Mohr voted to deny, Terry Smith, Scott Gabbard, and Mike McCain voted to approve, and Nick Hartman abstained. No action was taken.

Mike McCain made a motion to forward the case to the Commissioners with No Recommendation. Charity Mohr seconded the motion. The petition was forwarded to the Commissioners with **NO RECOMMENDATION 8-0.**

SD 23-03 – RNG - PILE FARMS SIMPLE SUBDIVISION: Subdivision of a 6.696-acre industrial lot from a 49.17- acre parent tract and waiver of subdivision standards. Located at 5445 S Smithland Rd, Shelbyville, Hendricks Township.

Charity Mohr made a motion to table the petition until the Commissioners make a decision on the rezoning and Megan Hart seconded that motion. The petition was **CONTINUED 8-0.**

New Business:

RZ 23-08 – ADAMS REZONING: Rezoning of 4.2-acres from the A1 (Conservation Agricultural) District & A2 (Agricultural) District to the RE (Residential Estate) District to allow for a two-lot Simple Subdivision. Located at 8297 S 750 E, Saint Paul, Nobel Township.

Desiree Calderella read the petition into the record and stated that Staff recommends approval.

Scott Sumerford represented the petitioner and indicated that the property owner's daughter intends to build a new house on the property.

The Board opened the hearing for public comment. There was none. The Board closed the public comment portion of the hearing.

Charity Mohr made a motion of vote on the petition and Scott Gabbard seconded that motion. **The petition was APPROVED 8-0.**

The Board adopted the following findings of fact:

1. The request is consistent with the Shelby County Comprehensive Plan.
2. The request is consistent with the current conditions and the character of structures and uses in each district.
3. The request is consistent with the most desirable use for which the land in each district is adapted.
4. The request is consistent with the conservation of property values throughout the jurisdiction.
5. The request is consistent with responsible growth and development.

SD 23-04 – ADAMS & ADAMS SUBDIVISION: Subdivision of a 2-acre single-family building lot and a 2.2-acre lot including an existing single-family residence from 60.87-acres. Located at 8297 S 750 E, Saint Paul, Nobel Township.

Desiree Calderella read the petition into the record and stated that Staff recommends approval.

Scott Sumerford represented the petitioner and had no comment.

The Board opened the hearing for public comment. There was none. The Board closed the public comment portion of the hearing.

Scott Gabbard made a motion of vote on the petition and Charity Mohr seconded that motion. **The petition was APPROVED 8-0.**

RZ 23-07 – NORTHWEST SHELBY COUNTY REGIONAL SEWER DISTRICT REZONING: Rezoning of 19.217-acres from the A2 (Agricultural) District to the IS (Institutional) District to allow for development of a wastewater treatment plant. Located south of and adjoining 4875 W 600 N, Fairland, Brandywine Township.

Desiree Calderella read the petition into the record and stated that Staff recommends approval with stipulations.

Mike Bowman represented the petitioner. He provided an overview of the petition and described the history of and need for the sewer district.

The Board opened the hearing for public comment.

Lisa Wojihoski-Schaler with the Northwest Shelby County Concerned Citizens Coalition and who lives at 7757 W 700 N, indicated that the Coalition has no major objection to the project and prefers that sewer districts remain local.

Adam Freeman, who lives at 4915 W 600 N, expressed concern that his property and the school would fall within a 500-meter long-term exposure radius of the facility.

Donna Ordille, who lives at 4536 W 500 N and owns adjacent land, asked if the property is in a floodplain. She expressed concern with contamination of the creek, impact to her property value, odor, conversion of agricultural land to industrial use in northwest Shelby County, and lack of notice to neighbors. She asked why they could not enlarge the current treatment plant at the school.

Angie Freeman, who lives at 4536 W 500 N, expressed concern with the impact to her property value and lack of communication from the Town of Fairland regarding the project.

Terry Ordille, who lives at 4536 W 500 N and owns adjacent land, indicated that he would favor improvement of the existing plant at the school rather than construction of a new sewage treatment plant.

The Board closed the public comment portion of the hearing.

Mike Bowman indicated that the plant would sit the same distance from nearby houses as the distance between the school and the school's treatment plant. He explained that the district had considered building a new plant where the school's treatment plant currently exists, however that facility uses old technology and does not function well. He indicated that water infrastructure currently exists to service the planned sewer service area. He explained the process for treatment of the water and management of odor. He indicated that transition of sewage treatment from septic systems to the treatment plant would reduce pollution of well water. He indicated that historical data shows an increase in property values throughout an area after installation of a sewer utility in an area. He stated that the project would not impact drainage.

Taylor Sumerford asked about project supervision.

Mike Bowman explained that the sewer district has hired an engineering firm to design the project, and that contractors will bid on the project, and that the engineering firm will inspect the project during construction. He explained that he would coordinate between the sewer district and the engineer. He indicated that the sewer district would provide a phone number to field questions or complaints from the public. He spoke about the various types of notice provided regarding the project. He spoke about project financing and monthly rates for sewer service.

Taylor Sumerford indicated that the Surveyor's office receives many complaints about septic systems and that the project would help address these complaints.

Q: Nick Hartman– Where is the current outfall for the school?

A: Mike Bowman – On this property.

Q: Nick Hartman– You said there would be no smell?

A: Mike Bowman – I really don't think there is any way anybody will smell the plant.

Q: Nick Hartman– 200,000 gallon is enough to handle the city and school?

A: Mike Bowman – It is enough capacity to not have to add on in the future.

Q: Nick Hartman– Who are you hiring to maintain it?

A: Mike Bowman – We haven't gotten to that point, but the sewer district will have full control.

Q: Megan Hart – Who will handle day-to-day operations?

A: Mike Bowman – The district will probably hire a subcontractor to operate the plant.

Q: Taylor Sumerford – Will the County Commissioners be in charge of this?

A: Mike Bowman – No, the sewer district board.

Q: Scott Gabbard – How does it compare to the sewer plant in Morristown?

A: Mike Bowman – From what I've heard, it's way different.

Q: Scott Gabbard – Is it under roof?

A: Mike Bowman – No, it's open with lagoons.

Terry Smith noted that the sewage plant in Morristown is older and closer to development.

Q: Jason Abel – Stipulation number 2, odor management plan.

A: Mike Bowman – If it's a concern of the planning committee, we will address it with some sort of plan. The engineer wasn't concerned about it.

Scott Gabbard made a motion of vote on the petition with stipulations and Nick Hartman seconded that motion. **The petition was APPROVED 8-0 with stipulations:**

- 1. Use and development of the site shall be limited to a wastewater treatment plant developed by the Northwest Shelby County Regional Sewer District.**
- 2. An odor management and response plan certified by a qualified professional as determined by the TAC shall be submitted to the County prior to issuance of an Improvement Location Permit for development of the wastewater treatment plant.**

The Board adopted the following findings of fact:

1. The request is consistent with the Shelby County Comprehensive Plan.
2. The request is consistent with the current conditions and the character of structures and uses in each district.
3. The request is consistent with the most desirable use for which the land in each district is adapted.
4. The request is consistent with the conservation of property values throughout the jurisdiction.
5. The request is consistent with responsible growth and development.

Discussion:

Charity Mohr suggested compensation for Board members.

Terry Smith suggested a training session to discuss topics of discussion germane to rezoning and subdivision petitions to limit meeting length.

Adjournment:

With no further business to come before the Board, Megan Hart made a motion to adjourn. Charity Mohr seconded that motion. The meeting was adjourned.

Terry Smith
President

Date

Scott Gabbard
Secretary

Date