

Shelby County Plan Commission
Meeting Minutes
Tuesday
April 26, 2022

Members Present:

Jordan Caldwell
Chris Ross
Mike McCain
Terry Smith
Scott Gabbard
Kevin Carson
Steve Mathies
Taylor Sumerford

Members Absent:

Charity Mohr

Staff Present:

Desiree Calderella – Planning Director
Jodie Butts – Plan Commission Attorney

Call to Order and Roll Call:

Terry Smith called the April 26, 2022 meeting to order at 7:00 pm in Room 208 A at the Court House Annex.

Approval of Minutes:

Chris Ross made a motion to approve the minutes from February 22, 2022. Jordan Caldwell seconded the motion. The minutes were approved 8-0.

Old Business:

RZ 22-04 – RISLEY REZONING: Rezoning of 1.056 acres from the A1 (Conservation Agricultural) District to the R1 (Single-Family Residential) District to allow for a one-lot Simple Subdivision. Located on the south side of CR 750 S, 0.7-mile east of CR 300 E, Nobel Township.

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

Scott Sumerford represented the petitioner. He explained that the property included a former farmhouse, and that the property would not include any existing farm ground.

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

Kevin Carson stated that he approved of the subdivision because it would not include tillable ground.

Kevin Carson made a motion to 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 22-03 – RISLEY SIMPLE SUBDIVISION: Subdivision of 1.056 acres from an 80-acre parent tract and waiver of subdivision prerequisites. Located on the south side of CR 750 S, 0.7-mile east of CR 300 E, Nobel Township.

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

Scott Sumerford represented the petitioner. He had no additional comment.

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

Chris Ross made a motion to vote on the petition and Kevin Carson seconded that motion. **The petition was APPROVED 8-0.**

RZ 22-05 – FAGEL REZONING: Rezoning of 6.36 acres from the RE (Residential Estate) District to the I1 (Low Intensity Industrial) District to allow for future sale of the property for low-intensity industrial use. Located at 6925 S Carroll Rd, Indianapolis, Moral Township.

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

David Fagel explained that industrial properties would surround the property after Marion County approved rezoning of the adjacent property to the east. He indicated that he planned to sell the property.

The Board opened the hearing for public comment.

Lisa Wojhoski-Schaler presented a list of questions to the Board (see case file).

The Board closed the public comment portion of the hearing.

David Fagel addressed the questions he could answer presented by Ms. Wojhoski-Schaler. He stated that he planned to sell the property to a company that repairs semi-trucks. He explained that properties in the area could connect to Citizens sewer for free. He explained that Marion County would assume the responsibility of rebuilding Carroll Rd. He indicated that he understood the concerns regarding flooding and drainage in the area.

Kevin Carson attested that development in the area had contributed to flooding of farm ground downstream.

Chris Ross indicated that USI Consultants would engineer all drainage designs for the Pleasant View development accordingly and that Marion County would regulate drainage design for property along Carroll Rd. in Marion County.

Kevin Carson made a motion to vote on the petition with stipulations and Chris Ross seconded that motion. **The petition was APPROVED 8-0 with stipulations:**

- 1. Development Plan Approval as required by section 9.08 Development Plan of the Unified Development Ordinance shall be required prior to issuance of an Improvement Location Permit for any non-residential permanent construction, installation, addition, alteration, or relocation of a new structure, and/or permanent alteration to the land.**
- 2. The property shall not be used for a paintball facility or governmental operations.**

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.

New Business:

RZ 22-06 – MARTIN FARMS REZONING: Rezoning of 15.117-acres from the A1 (Conservation Agricultural) District to the A2 (Agricultural) District. Located

south of and adjoining 10303 N 150 E, Morristown, Van Buren Township.

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

Andrew Fansler represented the petitioner. He provided a handout to the Board (see case file) and provided a summary of the petition. He stated that Martin Farms had made repairs to the legal drain on the property.

The Board opened the hearing for public comment.

Dean Tyner, who owns property at 10303 N 150 E, expressed concerns that development of the property would contribute to existing flooding.

The Board closed the public comment portion of the hearing.

Andrew Fansler stated that he did not think that developing one lot would worsen or improve flooding in the area. He explained that the developer of the property must consider impacts to the legal drain.

Taylor Sumerford stated that the County has had trouble with the legal drain and that the legal drain is not on maintenance.

Andrew Fansler explained that Martin Farms had made repairs to the legal drain tile and that the tile currently functions.

The Board discussed the process of assessing the legal drain for maintenance.

Q: Kevin Carson – Would you have an issue with development of the lot if the Drainage Board addressed the drainage issues?

A: Dean Tyner – I would need a guarantee that the development would not cause flooding on my property.

Chris Ross explained that engineered drainage designs would provide a type of guarantee.

Andrew Fansler explained that damage to the legal drain tile caused during development of the lot would have the greatest impact on Martin Farms.

Jordan Caldwell made a motion to vote on the petition and Mike McCain 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 22-04 – MARTIN FARMS SIMPLE SUBDIVISION: Subdivision of 15.117-acres from a 115.58-acre parent tract and waivers of Simple Subdivision prerequisites and design standards. Located south of and adjoining 10303 N 150 E, Morristown, Van Buren Township.

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

Andrew Fansler represented the petitioner. He had no additional comment.

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

Steve Mathies made a motion to vote on the petition and Jordan Caldwell seconded that motion. **The petition was APPROVED 8-0.**

RZ 22-09 – SCHUNEMAN REZONING: Rezoning of 12.45-acres from the A1 (Conservation Agricultural) District to the RE (Residential Estate) District. Located on the south side of CR 1100 N, 0.4-mile east of CR 200 W, Van Buren Township.

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

Scott Sumerford represented the petitioner. He explained that the buyer of the lot plans to build a house at the southwest corner of the property.

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

Chris Ross made a motion to vote on the petition and Steve Mathies 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 22-05 – SCHUNEMAN SIMPLE SUBDIVISION: Subdivision of 12.45-acres from an 81.43-acre parent tract. Located on the south side of CR 1100 N, 0.4-mile east of CR 200 W, Van Buren Township.

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

Scott Sumerford represented the petitioner. He had no additional comment.

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

Jordan Caldwell made a motion to vote on the petition and Scott Gabbard seconded that motion. **The petition was APPROVED 8-0**

RZ 22-08 – ROBERTSON REZONING: Rezoning of 44.19-acres from the A1 (Conservation Agricultural) District to the A4 (Agricultural Commercial) District to allow for occasional public auctions of agricultural and construction equipment. Located at 3145 W Old SR 252, Flat Rock, Washington Township.

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

Andy Sumerford represented the petitioner. He provided a summary of the petition. He explained that most surrounding properties include agricultural uses and that a sufficient buffer exists between the area of the property proposed for auction activities and nearby residential properties.

Eric Robertson was present.

The Board opened the hearing for public comment.

Steve Colter, who owns property at 5674 N 630 W, asked which road adjoins the property.

The Board closed the public comment portion of the hearing.

Q: Jordan Caldwell – What is the parking area going to consist of? Will equipment be auctioned in the grass?

A: Andy Sumerford – Grass and gravel parking around the building. The petitioner will install an ADA parking space on an existing concrete pad.

A: Eric Robertson – Will also probably add stone parking in front of the building. Equipment to be auctioned will be parked in the grass.

Q: Chris Ross – Landscaping?

A: Andy Sumerford – Will seek a variance from landscaping requirements from the BZA.

Q: Scott Gabbard – Is there a reason that Staff has not recommended a stipulation of approval prohibiting some uses allowed in the A4 District?

A: Desiree Calderella – All uses permitted in the A4 District are related to agriculture and the Comprehensive Plan recommends agricultural use of the property.

Scott Gabbard indicated that some uses permitted in the A4 District differ greatly from an auction house.

Q: Kevin Carson – How much equipment do you anticipate auctioning?

A: Eric Robertson – A couple auctions a year at the most. Can have up to four auctions a year without a permit from the State auction house permit. Will install enough stone to prevent vehicles from parking on the road.

Q: Terry Smith – Do you plan on planting the remaining 30 acres?

A: Eric Robertson – Yes.

Q: Chris Ross – Equipment will be removed after each auction and not collected on site, correct?

A: Eric Robertson – Yes.

Chris Ross explained he had asked about the landscaping because he would suggest adding landscaping near the new Dollar General as an amenity.

Scott Gabbard made a motion to vote on the petition with stipulations and Steve Mathies seconded that motion. **The petition was APPROVED 8-0 with stipulations:**

- 1. All uses of the property, other than agricultural production, shall be setback at least 80-feet from all property lines adjoining property in the R1 (Single-Family Residential) District.**
- 2. A State Design Release, or written verification from the State that a State Design Release is not required, for the existing building and any applicable remodel permits shall be obtained prior to public use of the property.**

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 22-07 – P&E12 LLP REZONING: Rezoning of 10-acres from the RE (Residential Estate) District to the A2 (Agricultural) District to reflect the historical use of the property. Located at 6535 W 600 N, Fairland, Sugar Creek Township.

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

Jacob Brattain with McNeely Law represented the petitioner. He indicated that the previous owner of the property kept horses, operated a small engine repair shop, and lived on the property. He explained that the petitioner currently operates a small engine repair shop in one of the barns and tenants occupy the house. He explained that the petitioner seeks to rezone the property to its original agricultural zoning designation.

Philip Mitchko of P&E12 LLP was present.

The Board opened the hearing for public comment

Steve Colter, who lives at 5674 N PR 630 W, expressed concern with equipment accessing the property on a road which does not permit trucks and impacts to surrounding residential property values.

Van Sanders, who lives at 5694 N PR 660 W, provided a packet to the Board (see case file). He pointed out discrepancies between the photographs in the packet and the petitioner's land use certificate application. He expressed concerns with fill dirt on the property exacerbating flooding, environmental impacts associated with the outdoor storage of telephone poles and electrical components, impacts to property values, noise and lights from trucks and equipment, attraction of crime, extra wear and tear on roads, and aesthetic impacts.

Vicki Schneider, who lives at 5671 N 630 W, explained that the current use of the property does not reflect the historic agricultural use of the property. She pointed out discrepancies between the petitioner's land use certificate application and activities occurring on the property. She expressed concerns with primary use of the property as a business, impacts to property values, extra wear and tear on the roads, degradation to the

aesthetic appeal of the land, and inappropriate spot zoning.

Robert Denton, who owns property at 5887 N 630 W, expressed concern with impacts to property values and aesthetic impacts.

The Board closed the public comment portion of the hearing.

Jacob Brattain explained that the petitioner has a month-to-month contract with Duke to allow for storage of the trucks referenced by the neighbors. He offered to cancel this contract. He indicated that the petitioner had planned to request a variance to allow for storage of the Duke trucks indoors. He explained that the petitioner does not operate a spray-foam business and only has the spray-foam sign in the yard for advertising purposes. He explained that the petitioner only seeks to operate his personal business on the property, which does not include outdoor storage, retail sales, or employees. He indicated that the petitioner intends to sell the second manufactured home on the property. He explained that the petitioner intends to continue to cut hay and may eventually keep farm animals on the property. He stated that the petitioner requests to only conduct small engine repair in the existing shop area with no retail sales. He explained that the petitioner had not brought dirt onto the property but had changed the slope of the ground to allow water to flow away from the existing barn.

Q: Chris Ross – How long has the electrical company been there?

A: Jacob Brattain – Since December or January. ARC electrical is the subcontractor.

Q: Jordan Caldwell – Telephone poles?

A: Jacob Brattain – Yes, temporary storage of telephone poles. Not burning the poles.

Q: Jordan Caldwell – Transformers on the ground?

A: Philip Mitchko – Possibly, electrical components stored on pallets on the ground.

Philip Mitchko stated that he did not realize how big of a nuisance the electrical contractor would be and that he should have spoken to the neighbors before agreeing to allow the contractor to use the property on a temporary basis. He stated that his long-term goal is to work out of the shop on the property and farm the property.

Scott Gabbard expressed concern with the Board considering a rezoning of property with an active zoning violation.

Q: Terry Smith – Is temporary use of the property by the electrical contractor a permitted use in the RE District.

A: Desiree Calderella – No, the UDO does not permit the use in RE or A2.

Desiree Calderella explained the approval process for permitting the use as a home business in both the RE and A2 Districts.

Q: Terry Smith – How many employees for the small engine repair shop?

A: Jacob Brattain – Maximum of three.

Q: Terry Smith – Will the vehicles on site be gone if ARC no longer leases the site.

A: Jacob Brattain – Yes, only vehicles would be Phil's, his helpers, and tenants.

Q: Terry Smith – The noise is associated with ARC, correct?

A: Jacob Brattain – As far as I know. The petitioner does own a skid steer.

Q: Terry Smith – Are you looking for a variance to put some of this stuff in the barn?

A: Jacob Brattain – Yes, had planned on requesting a variance at the next BZA meeting.

Q: Terry Smith – Is there a requirement to park the vehicles in the barn (with not outdoor storage)?

A: Desiree Calderella – If zoned A2, they could park the vehicles in the barn without approval of a variance.

Terry Smith expressed concern with the Board considering a rezoning of property with an active zoning violation.

Chris Ross and Jordan Caldwell concurred and asked the petitioner to correct the zoning violation.

Jacob Brattain **WITHDREW** the rezoning request.

Discussion:

None.

Adjournment:

With no further business to come before the Board, Chris Ross made a motion to adjourn. Jordan Caldwell seconded that motion. The meeting was adjourned.

Terry Smith
President

Date

Scott Gabbard
Secretary

Date