

**Shelby County Plan Commission
Meeting Minutes
Tuesday
July 27, 2021**

Members Present:

Doug Warnecke
Chris Ross
Mike McCain
Steve Mathies
Terry Smith
Scott Gabbard

Members Absent:

Charity Mohr
Kevin Carson
Taylor Sumerford

Staff Present:

Desiree Calderella – Planning Director
Jodie Butts – Plan Commission Attorney

Call to Order and Roll Call:

Doug Warnecke called the July 27, 2021 meeting to order at 7:00 pm in Room 208 A at the Court House Annex.

Approval of Minutes:

Steve Mathies made a motion to approve the minutes from June 22, 2021. Chris Ross seconded the motion. The minutes were approved 6-0.

Request for Dismissal:

RZ 21-13 – SHELBY GRAVEL, INC REZONING: 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.

Stephen L. Huddleston, attorney at Huddleston & Huddleston representing the Town of Edinburgh, requested a dismissal of the petition. He explained that in 1990 Edinburgh had designated the property within its 2-mile buffer zone and therefore maintained exclusive jurisdiction over the zoning of the property. He referenced IC 36-7-4-205 f and the County population at the time as the legal basis for Edinburgh having the ability to obtain the jurisdiction. He indicated that Indiana case law did not support application of IC 36-7-4-205 e to allow the County to deny the jurisdiction. He provided exhibits in support of the request (see case file).

Wade Watson, the Planning Director for the Town of Edinburgh, was also present.

Jody Butts stated that based on the evidence provided it is not definitive that Edinburgh has jurisdiction over the property and that the County has jurisdiction.

Eric Glasco, attorney for Shelby Gravel, Inc, explained that IC 36-7-4-205 f would not have applied because it only allowed for assumption of extraterritorial jurisdiction within the same County as the municipality. Edinburgh had not annexed land in Shelby County until 1996. Therefore, Edinburgh could only have obtained jurisdiction per IC 36-7-4-205 e which required consented of the County by adoption of an ordinance.

Stephen L. Huddleston stated they stand by the information presented and Edinburgh does have jurisdiction.

Desiree Calderella indicated that she agrees with Jody, that the evidence does not definitively give Edinburgh jurisdiction and Edinburgh has not attempted to exercise jurisdiction until submittal of this petition.

Eric Glasco explained that Edinburgh would have the option to file suit against the County after approval of the rezoning.

Chris Ross made a motion to vote on the request to dismiss and Steve Mathies seconded that motion. **The request to dismiss was DENIED 6-0.**

Public Hearings:

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. Also, waivers of subdivision design standards to allow Simple Subdivision of a 5-acre parent tract (minimum 6-acre parent tract required), a lot having 75.82-feet of road frontage (minimum 160-feet of frontage required), a lot having a width of 75.82-feet (minimum 160-feet lot width required), and side lot lines not within a 15-degree angle to the right-of-way. Located at 2531 S 550 W, Shelbyville, Hendricks Township.

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

Scott Sumerford represented the petitioner. He explained that his client plans to build a house on Lot 2, behind the existing house.

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

Q: Steve Mathies: Will both lots share the same driveway.

A: Scott Sumerford: Yes, Lot 2 will use an easement but also has fee-simple road frontage.

Steve Mathies made a motion to vote on the petition and Scott Gabbard seconded that motion. **The petition was APPROVED 6-0.**

RZ 21-14 – BROWNING INVESTMENTS REZONING: 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.

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

Chris King represented the petitioner. He indicated that the Comprehensive Plan recommends industrial development for the area and that the project is speculative in nature. He stated that the petitioner agrees with Staff's proposed stipulations.

Matt Brauer and Terry Hebert with Browning Investments were also present.

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

Chris King explained that the County has commissioned a traffic study for the area and plans to make improvements to Frontage Road.

Q: Doug Warnecke: There is no building occupant planned, correct?

A: Chris King: Correct.

Chris Ross verified that the County has begun the planning process for improving Frontage Rd.

Steve Mathies commended Browning as a quality company.

Steve Mathies made a motion to vote on the petition with stipulations and Chris Ross seconded that motion. **The petition was APPROVED 6-0 with 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.**

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 21-13 – SHELBY GRAVEL, INC REZONING: 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.

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

Eric Glasco represented the petitioner. He provided an overview of the case using a PowerPoint presentation provided to the Board (see case file). He stated that Shelby

Gravel had considered the commitments under the assumption that adjacent districts within Edinburgh are zoned residential, however do not know the definitive zoning of these parcels. He played a video demonstrating sound heard outside a Shelby Gravel facility utilizing berms. He explained that Shelby Gravel would not utilize blasting or explosives on site, and that noise would consist of backup alarms on trucks and the dredging equipment, however the proposed berms would reduce much of this noise. He stated that Shelby Gravel requests reduction of the south and west setbacks to 150-foot and removal of the bond from the commitments. He stated that an Economic Impact Study conducted by Brian Asher at SCDC showed an increased tax revenue over 10 years of \$170,000 as a result of the rezoning.

The Board opened the hearing for public comment.

Eric A Williams, who owns property at 7002 W 1000 S, represented himself, his family, Karen A Garrison Denton, Donna Christian, and Rita Gearhart. He provided a handout to the Board (see case file). He expressed concerns with lack of adequate notice, the need for Shelby Gravel to mine the property when they own additional property available to mine, previous statements made by Shelby Gravel agreeing to not mine the property, lack of maintenance of berms and dust on the road at Shelby Gravel's property in Johnson County, low tax revenue versus residential development, truck traffic and traffic safety, Shelby Gravel's use of Johnson County REMC rather than Rush-Shelby, and the possibility of sale of the property for other types of industrial development after approval of a rezoning.

Desiree Calderella explained that if the County approved the rezoning with the commitments, that a new owner could only use the property for sand/gravel mining as proposed by Shelby Gravel.

William McFarland, who's family owns property to the west of the subject property, asked about the timeline of mining the property and uses permitted by the rezoning.

Sherry Kabrich, who owns property at 6904 W 600 S, expressed concerns with traffic and aesthetics.

The Board closed the public comment portion of the hearing.

Eric Glasco stated that Shelby Gravel had mailed out the legal notice on July 14th. He stated that a berm and landscaping likely were not required when Shelby Gravel acquired the Johnson County site in 1978. He stated Shelby Gravel has had the goal of mining the property since the 1990s and does not plan to sell the property or use the property for any other purpose. He explained that the transition of mining operations from the Johnson County site to the subject site would happen slowly. He explained that Shelby Gravel would follow state regulations regarding dust suppression and that the proposed commitments also address dust. He explained that Brian Asher's Economic Impact

Study referenced personal property as well as real property. He explained that Shelby Gravel was directed to use Johnson County REMC. He explained that traffic would transition from the Johnson County site to the new location and therefore would not increase.

Q: Chris Ross – How long is the property between the subject property and Old SR 252?

A: Terry Smith – 1200 feet.

Eric Glasco explained that Shelby Gravel has no immediate plans to mine the property between Old SR 252 and the subject property.

Doug Warnecke stated that this property would act as a natural buffer.

Q: Doug Warnecke – Does Shelby Gravel plan to mine the property because the life cycle of the Johnson County plant is running out or because they need additional materials? What is the timeline?

A: Eric Glasco – It's a lifecycle issue, they will phase in the new plant. They don't have a specific timeline.

Bill Haehl with Shelby Gravel explained that the company will need to transition operations to the property because they have not successfully worked out a deal to buy property adjoining the current location. He stated that they may strip soil from the site relatively soon but will not have a plant on site for several years.

Doug Warnecke explained that sale of property and taxes do not fall under the purview of the Board.

Chris Ross stated that County Line Rd. is maintained by Johnson County.

Wade Watson stated that the adjacent parcels in Edinburgh's jurisdiction are zoned residential. He stated that Edinburgh's Comprehensive Plan shows future commercial and industrial development for the adjacent property to the south.

Eric Glasco explained that a Reclamation Plan typically includes leveling berms and using berm soil to prepare the site for residential development. He stated that Shelby Gravel could not deviate from the Reclamation Plan included in the commitments without approval of the Plan Commission.

Desiree Calderella explained that she had recommended doubling the required setback from adjacent residential districts because the UDO does not list residential districts and the High Impact District as compatible districts.

Q: Doug Warnecke – Could Shelby Gravel develop the site with the increased setback?

A: Eric Glasco – Yes, however it poses a significant economic impact. He explained that

the berm rather than the setback would buffer noise.

A: Bill Haehl – The increased setback results in a reduction of about 8 million in gross sales. He stated he believed the setback is excessive.

Desiree Calderella explained that she had recommended a bond for reclamation because IMI and Martin Marietta had agreed to provide Johnson County a bond for reclamation. She explained that the terms of the bond reflect the terms of the bond required by the UDO for decommissioning of solar facilities. She explained that the high impact use may warrant posting of a bond, however the Board should consider if they trusted the company to reclaim the site without posting a bond.

Eric Glasco explained that Johnson County had likely required a bond due to the potential environmental impacts posed by IMI and Martin Marietta mining in the floodplain.

Terry Smith indicated that he believed that the additional 150-foot setback would not make much of an impact on buffering the noise of the equipment's diesel engine.

Chris Ross indicated he would rather see more emphasis on the landscaping than the setback.

Desiree Calderella explained that improper maintenance of required landscaping would violate the UDO.

Desiree Calderella explained that the bond would cover the cost to reclaim the site per the reclamation plan included in the commitments, which would include grading the site for use for residential development or park space.

Steve Mathies indicated that he didn't see the need to burden a reputable company with a bond.

Terry Smith indicated that reclaiming the site would increase the value of the property, therefore the company would benefit from properly reclaiming the property.

Steve Mathies made a motion to vote on the petition with the proposed commitments, however removing the commitment regarding the bond and amending the commitment regarding the setbacks to change all setbacks to 150-feet. Chris Ross seconded that motion. **The petition was APPROVED 6-0 with amended commitments (see attached commitments).**

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 21-15 – UNIFIED DEVELOPMENT ORDINANCE AMENDMENT:
INDUSTRIAL STANDARDS & ROW DEDICATION: 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.**

Desiree Calderella read the petition into the record and stated that the proposed ordinance had not changed from the ordinance presented to the Plan Commission at their June 22, 2021 meeting.

The Board opened the hearing for public comment.

Chris King with Runnebohm Construction Company, Inc. voiced support for the amendment.

The Board closed the public comment portion of the hearing.

Q: Scott Gabbard – Have the Fire Departments reviewed the amendment to the driveway widths?

A: Desiree Calderella – No, however the proposed driveway width is standard in several other ordinances.

Chris Ross made a motion to vote on the ordinance amendment and Scott Gabbard seconded that motion. **The amendment was APPROVED 6-0.**

Discussion

None.

Adjournment:

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

Doug Warnecke
President

Date

Scott Gabbard
Secretary

Date

EXHIBIT C

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 foregoing 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. 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.
16. 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.
17. 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.

18. 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.
19. 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 all property lines. Required Landscaping and mounding may be installed within the setback.
20. 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.
21. 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.
22. All trash dumpsters, if any, shall be located on an impervious surface.
23. 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.
24. While being stored, water soluble solids shall be kept dry at all times.
25. 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 26 below.
26. 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.

27. 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.
28. 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: 
Aaron Haehl, Vice-President and Chief Financial Officer

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 43 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 (30.40 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 39 degrees 27 minutes 30 seconds East on and along the Southerly right-of-way line of said road 78.25 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 51 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) 1033.28 feet, measured, (1033.60 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 333.70 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 03 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

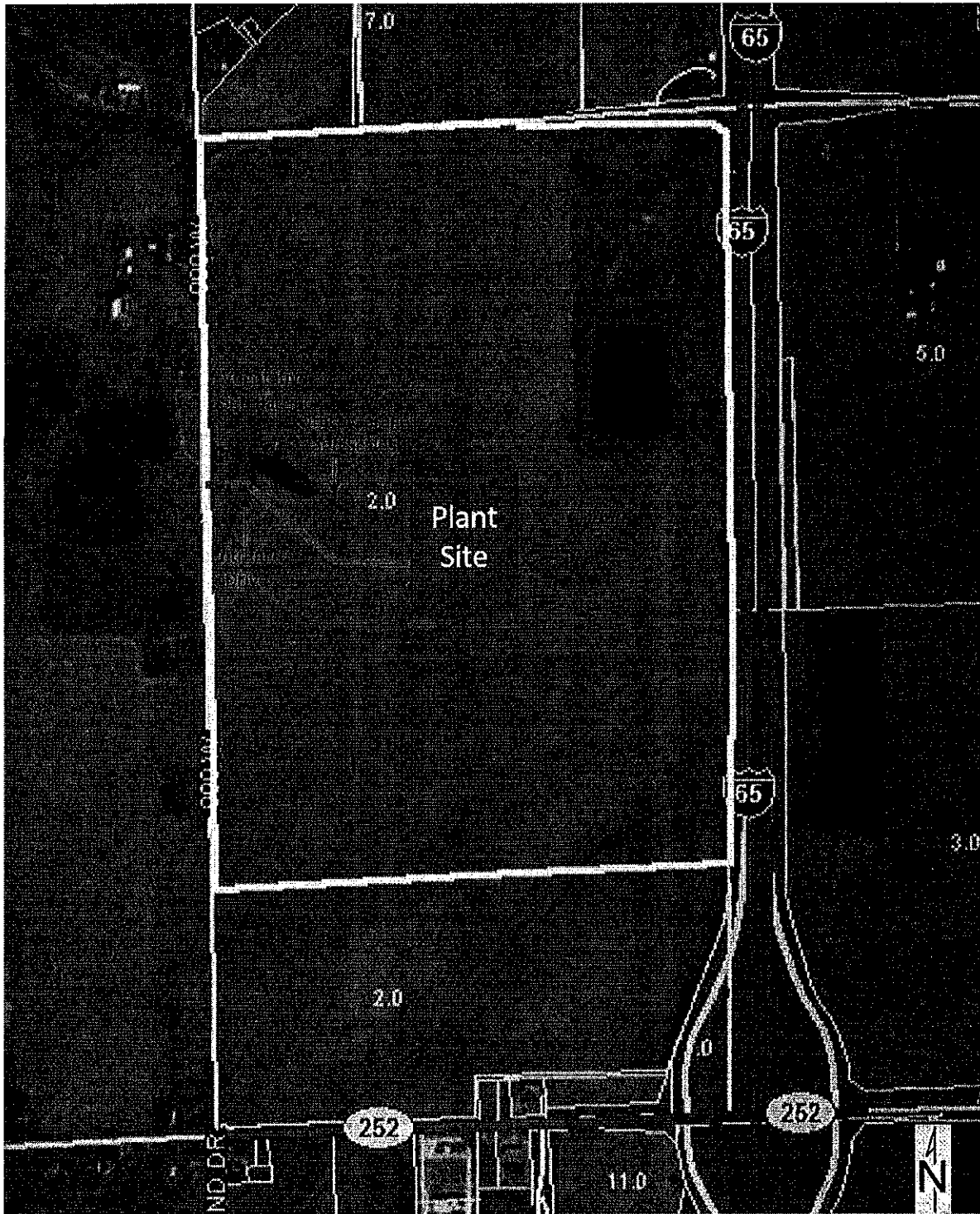


Exhibit C

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 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.