

2008-07

ZONING ORDINANCE NO.

ZONING ORDINANCE AMENDMENT

THIS IS AN ORDINANCE for the purpose of amending and changing the zoning ordinances of the County of Shelby as it relates to a certain tract of property known as 5564 North London Road Fairland, Indiana, specifically amending the Shelby County, Indiana Zoning Ordinance adopted by the Board of Commissioners of Shelby County, Indiana on August 3, 1998, which became effective on January 1, 1999, including and incorporating therein Township Zoning Maps dated November 13, 2001, as amended, showing the boundary lines of certain Zoning Districts thereon.

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

Section 1: Purpose. The purpose of this Ordinance shall be to amend the Zoning Map of Sugar Creek Township of the Shelby County Code and the zoning ordinances thereunder as it relates to the real estate specifically described in Section 2 of this Ordinance to change the designation of said real estate from being zoned A (Prime Agricultural) to a designation R1, Single-family Residential (approximately 36.578 acres).

Section 2: Amendment. Shelby County, Indiana Zoning Ordinance adopted by the Board of Commissioners of Shelby County, Indiana on August 3, 1998, which became effective on January 1, 1999, including and incorporating therein Township Zoning Maps dated November 13, 2001, as amended, showing the boundary lines of certain Zoning Districts thereon, are hereby amended by adding the following subsection:

Land rezoned from “A,” Prime Agricultural Cropland, to “R1,” Single-

family Residential:

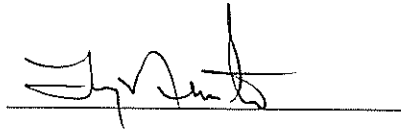
The following parcel of land and real estate located in Sugar Creek Township, Shelby County, Indiana and particularly described herein being formerly zoned and shown on the Zone Map for Sugar Creek Township Zoning District Map and lying in an “A” Prime Agricultural Cropland district is hereby rezoned to “R1” Single-family Residential:

See attached legal description of overall parent tract.

Section 3: Effective Date. This ordinance shall be in full force and effect from and after its adoption by the Board of Commissioners of Shelby County, Indiana.

Section 4: Repealable Provisions. All ordinances and parts of ordinances in conflict with the specific amendment herein are hereby repealed.

ADOPTED this 10 day of March, 2008, by a vote of 2 ayes and
0 nays of members of the Board of Commissioners of Shelby County, Indiana.



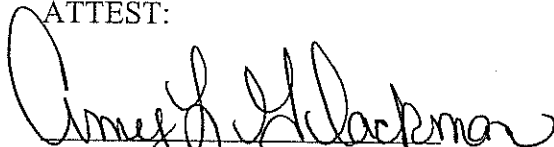
Tony Newton, President

Roger Laird, Member



David Mohr, Member

ATTEST:



Amy Glackman, Auditor
Shelby County, Indiana

-
-
-
-

25 West Polk Street, Rm 201
Shelbyville, Indiana 46176
Phone 317.392.6338
Email:amy.dillon@co.shelby.in.us

Shelby County Plan Commission

February 27, 2008

To: Shelby County Commissioners
From: Amy L. Dillon, AICP
Executive Director

RE: Rezone 08-01: Terry and Monica Morgan

Gentlemen,

On behalf of the Shelby County Plan Commission, I certify to you the following report and recommendation concerning the application for approval of the rezone petition for the property located at 5564 North London Road in Sugar Creek Township filed by Terry and Monica Morgan.

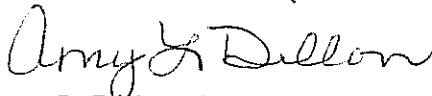
- 1.) The Plan Commission heard the application on February 26, 2008 at a public hearing held at the Shelby County Courthouse Annex Room 208A. Proper notice was given prior to the meeting by certified mail to all interested parties and by publication in the Shelbyville News as required by ordinance. Seven members of the Plan Commission were present.
- 2.) The petitioner was represented by David A Retherford, Attorney at Law.
- 3.) David Retherford made a formal presentation regarding the petition to the Plan Commission.
- 4.) Prior to the meeting on February 26, 2008, the petitioner had presented the Plan Commission with the following information.
 - a.) Rezone Application.
 - b.) Property description and drawing of the property to be rezoned.
 - c.) Proposed layout of a subdivision for the property.
 - d.) Written Findings of Fact.
 - e.) Letter of Intent.
 - f.) Proposed Zoning Commitments for the proposed subdivision.

- 5.) Public comment was solicited and considered by the Plan Commission.
 - a.) Six individuals made formal public comment regarding the project.
 - b.) One letter was submitted prior to the meeting and read into the record.
- 6.) The Plan Commission asked questions of the petitioner prior to making a motion on the petition.
- 7.) A motion was made to vote on the petition to forward a favorable recommendation to the County Commissioners with the following stipulations:
 - a.) Should the development of the subdivision not commence within two years, then the property shall revert to its original A, Prime Ag. Cropland, zoning designation.
 - b.) The zoning commitments proposed by the petitioner should be formal commitments attached to the adoption of this rezone petition and its related ordinance (see proposed commitments attached to this report for a detailed list of commitments).

The Plan Commission approved the motion by a vote of 7 to 0; therefore a favorable recommendation is being forwarded to the County Commissioners.

If further information is required, please feel free to contact me at the enclosed location.

Respectfully,



Amy L. Dillon, AICP
Executive Director

Copy to: File
David Retherford

REZONING APPLICATION

Shelby County Plan Commission
25 West Polk Street, Room 201
Shelbyville, IN 46176
T: 317.392.6338 F: 317.421.8365

For Office Use
Only

Case #: _____
Hearing Date: _____
Fees: _____

Approved _____ Denied _____

1. Applicant/Property Owner:

Applicant:

Name: Terry Morgan and Monica Morgan, Husband and Wife _____
Address: 7260 Woodnotes, Fairland, IN - 46126 _____
Phone Number: (317) 862-5744 (Attorney David A. Retherford) _____
Fax Number: (317) 862-5783 (attorney) _____
E-mail Address: drethlaw@sbcglobal.net (attorney) _____

Owner:

Name: Same _____
Address: _____
Phone Number: _____
Fax Number: _____

2. Applicant's Attorney/Contact Person and Project Engineer (if any):

Attorney/Contact Person:

Name: David A. Retherford, Attorney at Law _____
Address: 8801 Southeastern Avenue, Indianapolis, IN - 46239 _____
Phone Number: (317) 862-5744 _____
Fax Number: (317) 862-5783 _____

Project Engineer:

Name: _____
Address: _____
Phone Number: _____
Fax Number: _____

3. Project Information:

General Location of Property (and address if applicable): Between London and Boggstown on the East side of London Road – The existing home on the site is addressed as 5564 N. London Road _____

Current Use: primarily ag, with an older farm home and barns

Current Zoning: Ag _____

Proposed Use: Residential subdivision _____

Proposed Zoning: R-1 _____

Area (in acres): 36.578 _____

Attachments:

- Affidavit & Consent of Property Owner (if applicable)
- Proof of ownership (copy of deed)
- Letter of Intent
- Site Plan

- Vicinity Map
- Application Fee
- Legal Description

The undersigned states the above information is true and correct as (s)he is informed and believes.

Signature of Applicant: *Monica Morgan* Date: January 18, 2008

State of Indiana
County of Marion



Notary Public - Signed

Residing in Marion County

My Commission expires 11/7/2015

David A. Retherford
Printed

**AFFIDAVIT & CONSENT OF PROPERTY OWNER
APPLICATION TO THE SHELBY COUNTY PLAN COMMISSION**

STATE OF INDIANA
COUNTY OF SHELBY

)
) SS:

I, Terry Morgan and Monica Morgan, Husband and Wife, AFTER BEING DULY SWORN, DEPOSE AND SAY THE FOLLOWING:
(Name of property owner)

1. That I am the owner of real estate located at 5564 N. London Road (approx);
(Address of affected property)
2. That I have read and examined the Application made to the Shelby County Plan Commission by:
us, and our attorney David A. Retherford.
(Name of applicant)
3. That I have no objections to, and consent to the request(s) described in the Application made to the Shelby County Plan Commission.

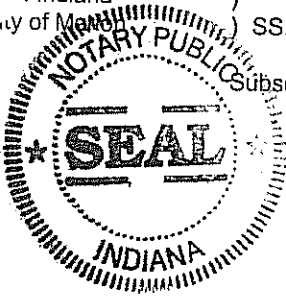
Terry Morgan
Owner's Name (Please Print)

Monica Morgan
Owner's Name (Please Print)

[Signature]
Owner's Signature

[Signature]
Owner's Signature

State of Indiana
County of Marion)
) SS:



Subscribed and sworn to before me this 18th day of January, 2008.

[Signature] / David A. Retherford
Notary Public Printed

Residing in Marion County; My Commission expires 11/07/2015

DAVID A. RETHERFORD,
Attorney at Law, Inc.

8801 Southeastern
Indianapolis, Indiana 46239

Phone: (317) 862-5744
Facsimile: (317) 862-5783
Email: drethlaw@sbcglobal.net

Letter of Intent
1-18-08
5564 N. London Road (approx)

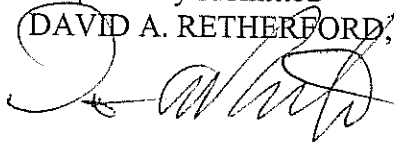
The subject property consists of 36.578 acres. It is located on the East side of London Road, South of the town of London, and just at the north edge of a small village area along Sugar Creek which is generally known as Broadripple. The property was recently purchased from the Isanogle family by my clients, Terry and Monica Morgan. The Morgans currently live just West of London, and purchased this property with the eventual plans of building a new home on one of the lots they hope to develop on this property.

They propose the rezoning to R-1, for the purposes of subsequently platting the property for approximately 24 residential building lots, with the lots to range from just over 1 acre to around 2.5 acres in size, with most of the lots being about 1.5 acre. The plan is to plat the proposed subdivision in two or three sections, with construction commencing as early as this Summer.

Proposed zoning commitments have been filed with this Petition which would also be incorporated into the Covenants and Restrictions for the subdivision. Per those commitments, the minimum house size would be 2400 square feet, and vinyl siding is not permitted.

The area is proposed on the Comprehensive Plan as Agriculture. However, due to the terrain changes along the secondary flood plain of Sugar Creek, this site is not prime farmground. A significant portion of the site is wooded. The site includes the type of topography which unique opportunity for a custom home subdivision with a combination of wooded lots, lots which would allow daylight style basements or even walkouts, and also several lots which would abut the proposed large pond through the ravine near London Road. The number of existing homes along London Road, and especially in the older developed village area of Broadripple which is located immediately to the South, indicate that the primary use of the corridor of the County which is right along Sugar Creek is actually more residential in character than agriculture. Therefore, this large lot residential proposal appears to my clients to be the highest and best use of this particular site.

Respectfully submitted
DAVID A. RETHERFORD, Attorney at Law, Inc



Mary Jo Phares
SHELBY County Recorder IN
IN 2007006501 WD
09/05/2007 14:21:48 2 PGS
Filing Fee: \$18.00

ENTER FOR TAXATION

SEP 05 2007

Amy H. Backman
SHELBY COUNTY AUDITOR

Property Address:
5564 N. London Road
Fairland, Indiana 46126

Grantee's Address and Mail Tax Statements To:
7260 N Woodnotes Addition
Fairland, IN 46126

Tax ID No. 73-05-01-200-018.000-018

TRUSTEE'S DEED

THIS INDENTURE WITNESSETH THAT *1162507*

The Norma D. Isanogle Trust

CONVEYS AND WARRANTS TO

Terry L. Morgan Sr. and Monica S. Morgan, Husband and Wife, for Ten Dollars and other valuable consideration the receipt whereof is hereby acknowledged, the following described REAL ESTATE in Shelby County, in the State of Indiana, to-wit:

SEE ATTACHED LEGAL DESCRIPTION

Subject to taxes for the year 2006 due and payable in 2007 and taxes for all subsequent years.

Subject to covenants, restrictions and easements of record.

The undersigned person(s) executing this deed on behalf of Grantor represent and certify that he/she/they is/are duly authorized and has/have been fully empowered, by the trust document to execute and deliver this deed; that said Trust has not been amended and said Trust is still in force and effect.

IN WITNESS WHEREOF, The said The Norma D. Isanogle Trust by Norma D. Isanogle, Trustee, has hereunto executed this Deed this 30th day of August, 2007.

The Norma D. Isanogle Trust

Norma D. Isanogle, Trustee
By: Norma D. Isanogle, Trustee

State of Indiana, County of Johnson ss:

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared the within named Norma D. Isanogle who acknowledged the execution of the foregoing Deed and who, having been duly sworn, stated that the representations therein contained are true.

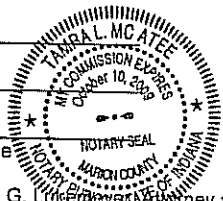
WITNESS, my hand and Seal this 30th day of August, 2007.

My Commission Expires: _____

[Signature]
Signature of Notary Public

Printed Name of Notary Public

Notary Public County and State of Residence



This instrument was prepared by: Steven G. Lucey, Esq., Attorney at Law
11711 N. Pennsylvania Street, Suite 110, Carmel, IN, 46032-4559
1162jo07 lam

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

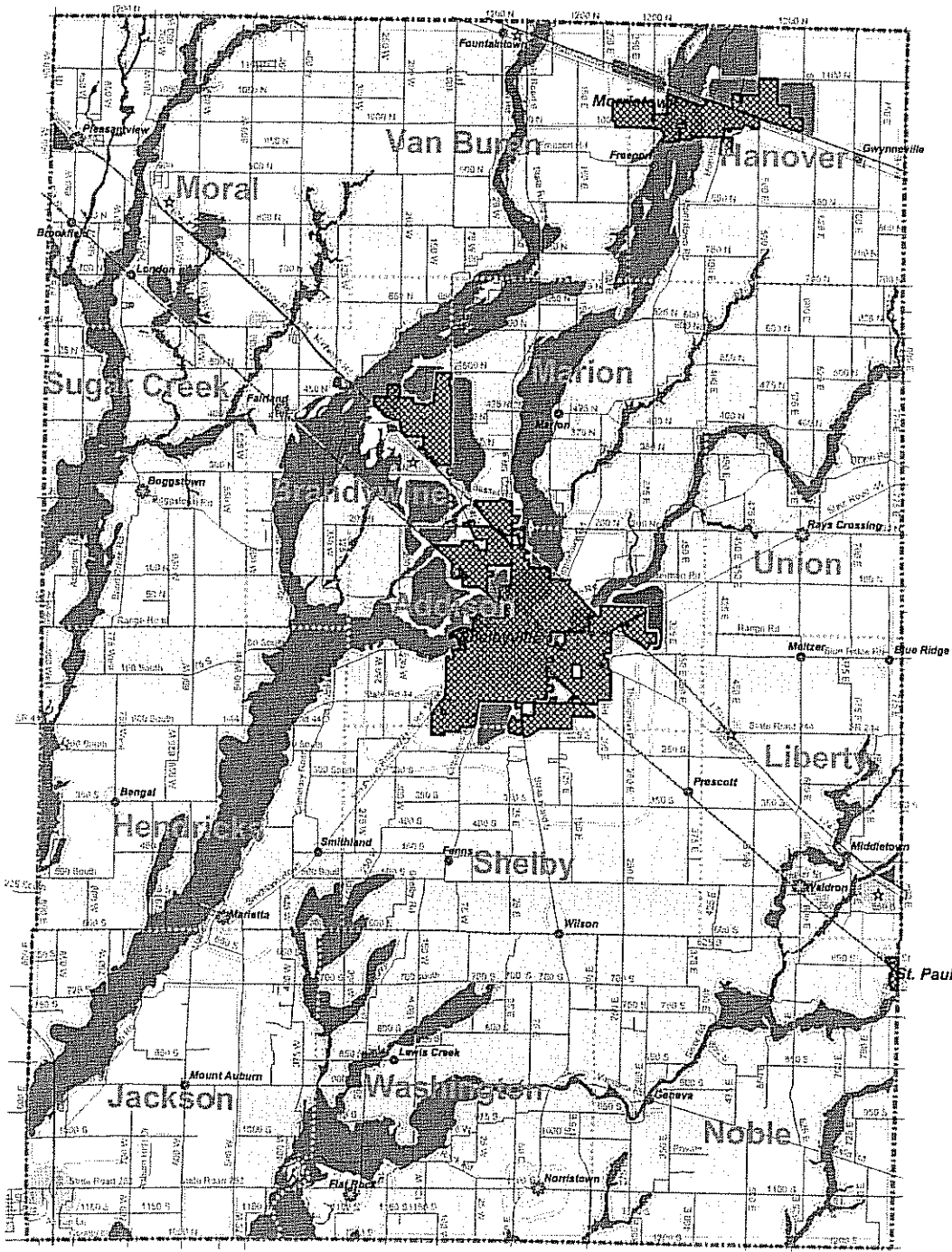
[Name] *Tamra L. McAtee*

NOTE: The individual's name in affirmation statement may be typed or printed.

LEGAL DESCRIPTION

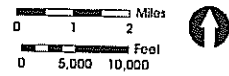
A part of the North Half of the Southeast Quarter of Section 1, Township 13 North, Range 5 East, of the Second Principal Meridian, being more particularly described as follows:

COMMENCING at the Southeast corner of said Southeast Quarter, said corner being marked by an Aluminum Cap Found per ties by the Shelby County Surveyor's office; thence North 00 degrees 11 minutes 11 seconds West (assumed Basis of Bearings) 1337.25 feet to the Southeast corner of said North Half of the Southeast Quarter Section; thence North 89 degrees 00 minutes 43 seconds West along the South line of said North Half Quarter Section 661.91 feet to a Capped Rebar Set at the **POINT OF BEGINNING** of the herein described tract; thence continuing North 89 degrees 00 minutes 43 seconds West along said South line 740.43 feet to a Capped Rebar Set, said corner being the Southeast corner of the land of Lawrence & Glenya Evans, per Instrument No. 2004-008837 in the Office of the Recorder of Shelby County; thence the following two (2) courses being along the East and North lines of said Evans; (1) North 01 degrees 23 minutes 31 seconds East 420.89 feet to a Capped Rebar Set at the Northeast corner of said Evans; (2) North 88 degrees 57 minutes 58 seconds West 589.30 feet to a Mag Nail Set in the approximate centerline of New London Road; thence the following four (4) courses being along said approximate centerline; (1) North 04 degrees 23 minutes 05 seconds West 97.64 feet; (2) North 08 degrees 46 minutes 53 seconds West 197.57 feet to a Mag Nail Found; (3) North 11 degrees 18 minutes 56 seconds West 360.29 feet to a Mag Nail Found; (4) North 12 degrees 31 minutes 05 seconds West 290.05 feet to a PK Nail Found on the North line of said North Half of the Southeast Quarter Section; thence South 88 degrees 44 minutes 11 seconds East on and along said North line 1486.48 feet to the Northwest corner of the land of Brothers Real Estate, LLC, per Instrument No. 0301346 in the Office of the Recorder of Shelby County; thence South 00 degrees 11 minutes 11 seconds East along the West line of said Brothers Real Estate, LLC and parallel with the East line of said Quarter Section 1340.43 feet to the **POINT OF BEGINNING**, containing 36.578 acres, more or less.



Legend

- Roads
- Railroad
- ⊙ Unincorporated Towns
- ⊠ Incorporated Cities & Towns
- ▨ Parks, Open Space, & Conservation
- Agriculture
- Agricultural Residential
- Suburban Residential
- Neighborhood Commercial
- ▨ General Commercial
- ▨ Institutional
- ▨ Business Park
- ▨ Industrial
- ⊙ Rural Town Center
- ★ Highway Corridor Commercial
- Township Borders
- County Limits



Proposed Zoning Commitments
5564 N. London Road (1-18-08)

1. The property may not be developed to include more than 25 residential building lots.
2. Each lot shall be used for residential purposes only.
3. All dwellings must contain a minimum of 2400 square feet of living space. One-story dwellings shall have a minimum ground floor area of 2400 square feet. One and one-half stories, two stories, split levels or bi-levels, shall have a minimum ground floor area of 1400 square feet. The ground floor area for the purpose of these restrictions shall be determined from the area of the house measured from the outside.
4. All homes must have no less than ninety-percent stone and/or masonry facades on the front of the primary residence. The side and rear walls shall be covered with either brick, stone, natural wood, wood siding or stucco. Exceptions may be made for Victorian style or like designs, subject to the approval of the developer.
5. Appropriate auxiliary structures, such as gazebos, detached garages, utility buildings, and barns may also be built on each lot, providing they are covered on the exterior with natural wood, stone, brick, wood siding material or stucco, and they compliment the primary residence.
6. No structure of a temporary character, such as trailers, basements, tents, shacks, garages, barns, or other out buildings shall be used on said lands at anytime as a residence, either temporarily or permanently. No residence shall be occupied prior to completion, and there shall be no temporary living quarters constructed on said lands.
7. Homes must be completed within 18 months of the start of construction.
8. All roofing material must be of architectural grade with a minimum rating of 25 years. No three-tab shingles will be allowed. Exceptions may be made for Victorian or like designs. All roof pitches shall be a minimum ratio of 6 feet of rise to 12 feet of run.
9. Each residence located must have at least a two-car garage, attached or detached, and of the same architectural design and materials as the residence. All driveways shall be hard paved, either asphalt or concrete and a minimum of fourteen feet wide.
10. No plastic mailboxes.
11. Prior to the construction of the dwelling, each lot must be approved for septic systems, which must conform to all existing laws, rules and regulations and directives of the Indiana State Board of Health. In no event shall the effluent from the system be permitted above the ground level or outside the boundaries of each lot except those approved on easements as designated per lot.
12. No animals, livestock or poultry of any kind shall be raised, bred, or kept on said lands, except dogs, cats or other normally recognized domestic household pets.
13. No above ground pools will be permitted other than small plastic pools which can be easily taken down and do not exceed a depth of 3 feet.

APPLICATION FOR REZONING
FINDINGS OF FACT BY THE SHELBY COUNTY PLAN COMMISSION

Applicant: Terry Morgan and Monica Morgan, Husband and Wife _____

Case #: _____

Location: 5564 N. London Road (approx) _____

The Shelby County Plan Commission, having heard the application for rezoning described above and all opposition from parties claiming to be adversely affected thereby, has considered the request based on the provisions of Indiana law and forwards the following findings and recommendation to the Shelby County Commissioners:

1. The request **is/is not** (circle one) consistent with the Shelby County Comprehensive Plan because: even though the Plan calls for Agriculture, a deviation from the plan is acceptable for purposes of the proposed R-1 subdivision due to the fact the property is directly across London Road from Sugar Creek, and just north of a village area containing several homes, indicating that the use of this immediate area is more residential in character than agricultural.
2. The request **is/is not** (circle one) consistent with the current conditions and the character of structures and uses in each zoning district because: The proposed use of the property as a residential development based on lots in excess of 1 acre in size, and custom homes, makes it likely that this use would result in homes which would be at least equal to if not higher in quality than the homes which exist in the general area, and there are many other residential uses along London Road in this area.
3. The request **is/is not** (circle one) consistent with the most desirable use for which the land in each district is adapted because: The development of a custom home residential subdivision along this corridor of Sugar Creek is a desirable use for this particular site, is consistent with the residential uses in this immediate area, especially given the unique topography of this site.
4. The request **is/is not** (circle one) consistent with the conservation of property values throughout the jurisdiction because: The proposal is for the development of a residential subdivision based on lots generally between 1 and 2 acres in size, and which includes zoning commitments providing for minimum square footages and specified exterior coverings which exceed the requirements of the ordinance and will likely exceed in price and construction standards, the typical housing which exists in this general area of the county.
5. The request **is/is not** (circle one) consistent with responsible growth and development because: The use of the properties along London Road where it runs along Sugar Creek has been more residential in character than agricultural, and the type of housing proposed here serves a market which the county desires to attract, so long as it is proposed on the right parcels.

Based on the findings described above, the Plan Commission hereby forwards a **favorable/unfavorable** (circle one) recommendation to the City Council this _____ day of _____, 2008.

Shelby County Plan Commission

By: _____

President

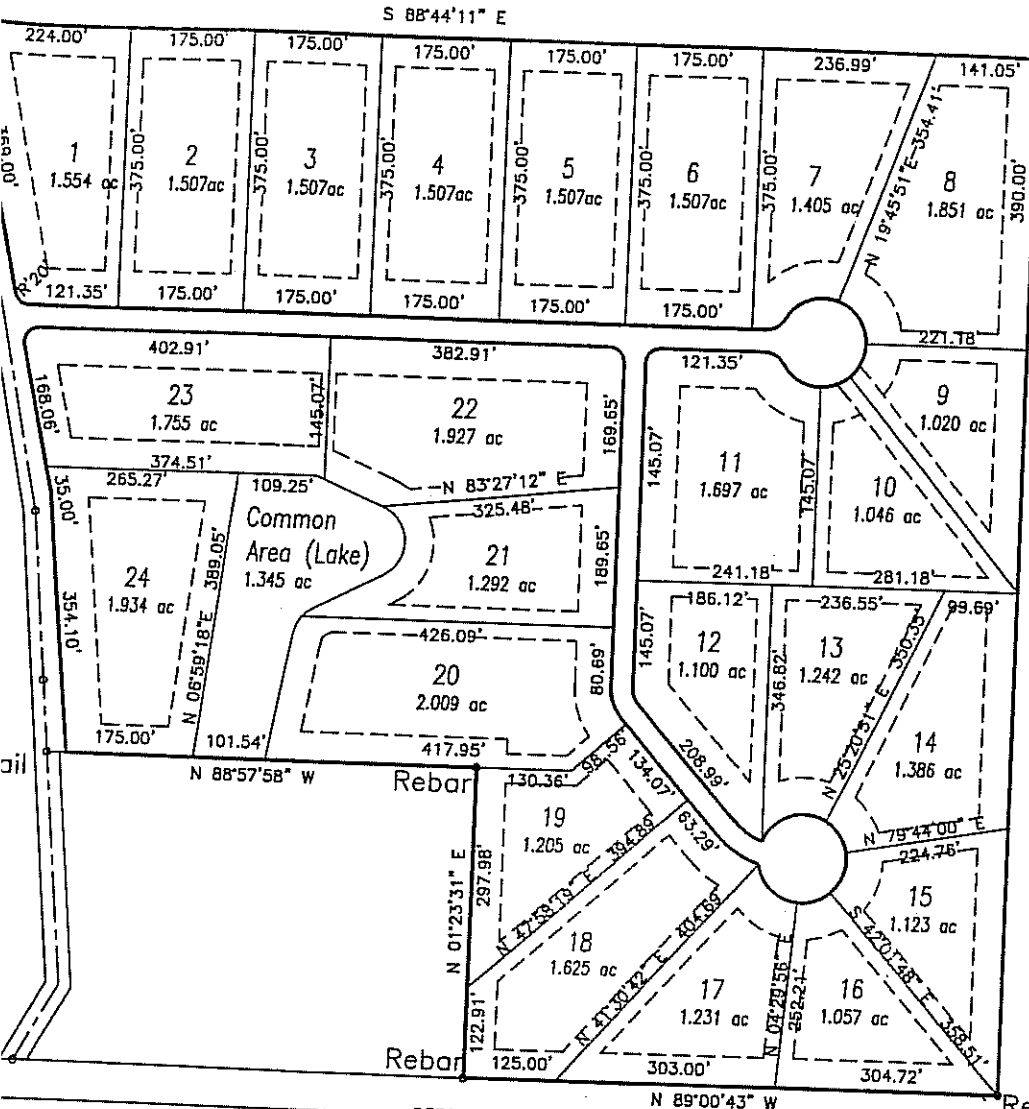
Attest: _____

Secretary

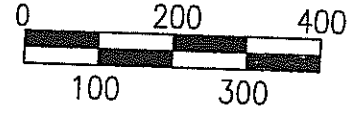
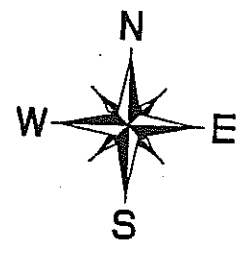
ROAD RIPPLE CROSSING PRELIMINARY PLAT

REDUCED

OWNER: TERRY MORGAN



NE corner
SE Quarter



Kenneth Gregory Garrison
11/6/2007

DESCRIPTION
A PART OF THE NORTH HALF OF THE SOUTHEAST QUARTER OF SECTION 1, TOWNSHIP 13 NORTH, RANGE 5 EAST, SHELBY COUNTY, INDIANA, DESCRIBED AS FOLLOWS:

BEGINNING AT A CAPPED REBAR ON THE SOUTH LINE OF SAID HALF-QUARTER SECTION BEING NORTH 89°00'43" WEST 661.91 FEET FROM THE SOUTHEAST CORNER OF SAID HALF-QUARTER SECTION; THENCE CONTINUING NORTH 89°00'43" WEST 740.43 FEET ALONG SAID SOUTH LINE TO A CAPPED REBAR; THENCE NORTH 01°23'31" EAST 420.89 FEET TO A CAPPED REBAR; THENCE NORTH 88°57'58" WEST 589.30 FEET TO A MAG NAIL IN THE CENTERLINE OF LONDON ROAD; THENCE NORTH 04°23'05" WEST 97.64 FEET ALONG SAID CENTERLINE; THENCE NORTH 08°46'53" WEST 197.57 FEET ALONG SAID CENTERLINE TO A MAG NAIL; THENCE NORTH 11°18'56" WEST 360.29 FEET ALONG SAID CENTERLINE TO A MAG NAIL; THENCE NORTH 12°31'05" WEST 290.05 FEET ALONG SAID CENTERLINE TO A MAG NAIL IN THE NORTH LINE OF SAID HALF-QUARTER SECTION; THENCE SOUTH 88°44'11" EAST 1486.48 FEET ALONG SAID NORTH LINE TO A CAPPED REBAR; THENCE SOUTH 00°11'11" EAST 1,340.43 FEET TO THE POINT OF BEGINNING, CONTAINING 36.578 ACRES, MORE OR LESS.

- NOTES**
- EXISTING R/W FOR LONDON ROAD IS 16.5'
 - PROPOSED R/W FOR LONGON ROAD IS 25.0'
 - BUILDING PADS FOR PROPOSED STRUCTURES SHALL HAVE A SIX INCH DROP WITHIN THE FIRST TEN FEET FROM THE PROPOSED BUILDING.
 - ALL LOTS ARE TO BE SINGLE FAMILY RESIDENTIAL LOTS, WITH ONLY ONE RESIDENCE CONSTRUCTED PER LOT.
 - NO STRUCTURE WILL BE CONSTRUCTED WITHIN 50 FEET OF THE ROAD RIGHT OF WAY LINE.

