

Shelby County Plan Commission

January 22, 2019 at 7:00 PM

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MEETING AGENDA

Shelby County Plan Commission
January 22, 2019, 7:00 p.m.

CALL TO ORDER

ROLL CALL

OATH OF OFFICE

ELECTION OF OFFICERS

ATTORNEY CONTRACT

PC APPOINTMENT TO THE BZA

APPROVAL OF MEETING CALENDARS

APPROVAL OF MINUTES

Minutes from the November 27, 2018 meeting.

OLD BUSINESS

None.

NEW BUSINESS

RZ 19-01 – SANDEFUR REZONING: Rezoning of 4.05 acres from the OP (Open Space & Parks) District to the RE (Residential Estate) District to allow for a Simple Subdivision. The property is located in Washington Township at the address 1503 Vandalia Rd., Flat Rock.

SD 19-01 – SANDEFUR’S ROCK SIMPLE SUBDIVISION: Primary Plat approval of a 2-lot residential subdivision at a density of one lot per 2.025 acres. The property is located in Washington Township at the address 1503 Vandalia Rd., Flat Rock.

W 19-01 – HARMON WAIVER: A waiver to allow for to allow for subdivision of a 5.46-acre parent tract into a 3.46-acre lot and a 2-acre lot (minimum 6-acre parent tract required). The property is located in Brandywine Township at the address 3141 N 425 W, Fairland.

DISCUSSION

Small Cellular Facilities

ADJOURNMENT

The next regular meeting of the Shelby County Plan Commission is scheduled for Tuesday, February 26, 2019 at 7:00 PM.

Staff Report

CASE NUMBER: RZ 19-01
CASE NAME: SANDEFUR REZONING – OP (OPEN SPACE & PARKS) TO RE
(RESIDENTIAL ESTATE)

PROPERTY DESCRIPTION

Location: Washington Township at the address 1503 Vandalia Rd, Flat Rock.

Property Size: 18.23 acres

Property Improvements: Single-family dwelling, bathhouse & open-sided pavilion, and several accessory structures.

Surrounding Development: Farmland to the south, single-family residences primarily on lots not exceeding half an acre to the east, single-family residences on lots between one and two acres to the north, and single-family residences on lots exceeding three acres to the west.

Current Zoning District: OP (Open Space & Parks) – Per the UDO, the district is established for open space, parks, trails and recreational areas.

Proposed Zoning District: RE (Estate Residential) – Per the UDO, the district is established for single-family detached dwellings in a rural or county setting.

- The district should be used for residential estates, hobby farming, and low density single-family detached dwellings on large lots.
- The district should be applied to existing development, new development and small area zoning.
- The Plan Commission should use this zoning district for existing developments and carefully for new residential development. Large subdivisions on well and septic systems are not favored.

Comprehensive Plan Future Land Use: Agriculture

- Traditional farming practices as well as accessory residential and other agriculture related uses occur within this designation.
- This land use category is intended to preserve the existing rural character of the area, while limiting the occurrence of future development on, and subdivision of, natural areas and agricultural land.
- Non-farm residences located on agriculturally designated land should legally acknowledge agricultural activities and not interfere or impede this important economic sector of the County.
- Any development in these areas must be capable of being adequately served by well, septic or other appropriate waste treatment systems.

REQUEST

Rezoning of 4.05 acres from the OP (Open Space & Parks) District to the RE (Residential Estate) District to allow for a 2-lot, Simple Subdivision.

In accordance with IC 36-7-4-603 and the UDO, when considering a rezoning, the Plan Commission shall pay reasonable regard to:

1. The Comprehensive Plan
2. Current Conditions and the Character of Current Structures and Uses in Each District
3. The Most Desirable Use for Which the Land in Each District Is Adapted
4. The Conservation of Property Values throughout the Jurisdiction
5. Responsible Development and Growth

CASE DESCRIPTION

- The petitioner requests to rezone only the property that would include the two lots of the simple subdivision, rather than the entire 18.23 acres.
- One lot of the subdivision would include the existing single-family residence and the petitioner stated that he plans to build a new home on the second lot.
- The remaining tract not within the simple subdivision would lie almost entirely in flood hazard area, rendering it mostly undevelopable. Therefore, staff suggested maintaining the existing OP (Open Space and Parks) Zoning of the remaining tract. The OP District does not allow for residential development.
- The petitioner plans to demolish most of the existing accessory buildings on the property.
- The property has historically been used as a campground, including a Boy Scout camp. The property does not include any significant agricultural uses.

STAFF ANALYSIS & RECOMMENDATION

1. The Comprehensive Plan
 - Residential development of the property would not eliminate any agricultural land or significant natural areas. The Plan Commission office would require County Health Department approval of well and septic plans prior to issues of building permits. The residential lots would not adjoin any parcels used for agricultural purposes.
2. Current Conditions and the Character of Current Structures and Uses in Each District
 - Residential development at the proposed density would resemble surrounding residential development.
3. The Most Desirable Use for Which the Land in Each District Is Adapted
 - The property lies within a residential neighborhood and does not adjoin any cropland. Residential development, rather than other uses, would be consistent with the character to the area.
4. The Conservation of Property Values throughout the Jurisdiction
 - Residential development would have no apparent negative impact on property values.
5. Responsible Development and Growth
 - Residential development at the proposed density would resemble surrounding residential development. Well and septic systems would adequately serve a two-lot, rural development.

Staff recommends approval.

APPLICANT/OWNER INFORMATION

Applicant: Bobbie M. Sandefur
3239 S 25 E
Shelbyville, IN 46176

Owner: Dawn R. & Chance A. Kisby
3239 S 25 E
Shelbyville, IN 46176

Staff Report

CASE NUMBER: SD 19-01
CASE NAME: SANDEFUR'S FLAT ROCK SIMPLE SUBDIVISION – PRIMARY APPROVAL

PROPERTY DESCRIPTION

Location: Washington Township at the address 1503 Vandalia Rd, Flat Rock.

Property Size: 4.05 acres

Property Improvements: Single-family dwelling, bathhouse & open-sided pavilion, and several accessory structures.

Proposed Zoning District: RE (Estate Residential)

Comprehensive Plan Future Land Use: Agriculture

REQUEST

Primary approval of a Simple Subdivision to allow for subdivision of 4.05 acres into a 2.043-acre lot and a 2.007-acre lot.

CASE DESCRIPTION

- The plat would include 4.05 acres of an 18.23-acre parent tract.
- The petitioner stated that they plan to retain an existing single-family residence on the eastern lot and to build a new single-family residence on the western lot.

STAFF RECOMMENDATION

Staff has reviewed the proposed plat and has determined:

1. The subdivision of land is consistent with the Shelby County Comprehensive Plan.
2. The subdivision of land satisfies the development requirements of *Article 06: Subdivision Types*.
3. The subdivision of land satisfies the standards of *Article 07: Design Standards*.
4. The subdivision of land satisfies any other applicable provisions of the Unified Development Ordinance.
5. The subdivision of land satisfies the construction requirements of the Shelby County's Construction Standards.

Staff recommends approval contingent on rezoning of the property to RE (Estate Residential).

APPLICANT/OWNER INFORMATION

Applicant: Bobbie M. Sandefur
3239 S 25 E

SHELBY COUNTY PLAN COMMISSION
SHELBY COUNTY, INDIANA
25 W POLK STREET
SHELBYVILLE, IN 46176

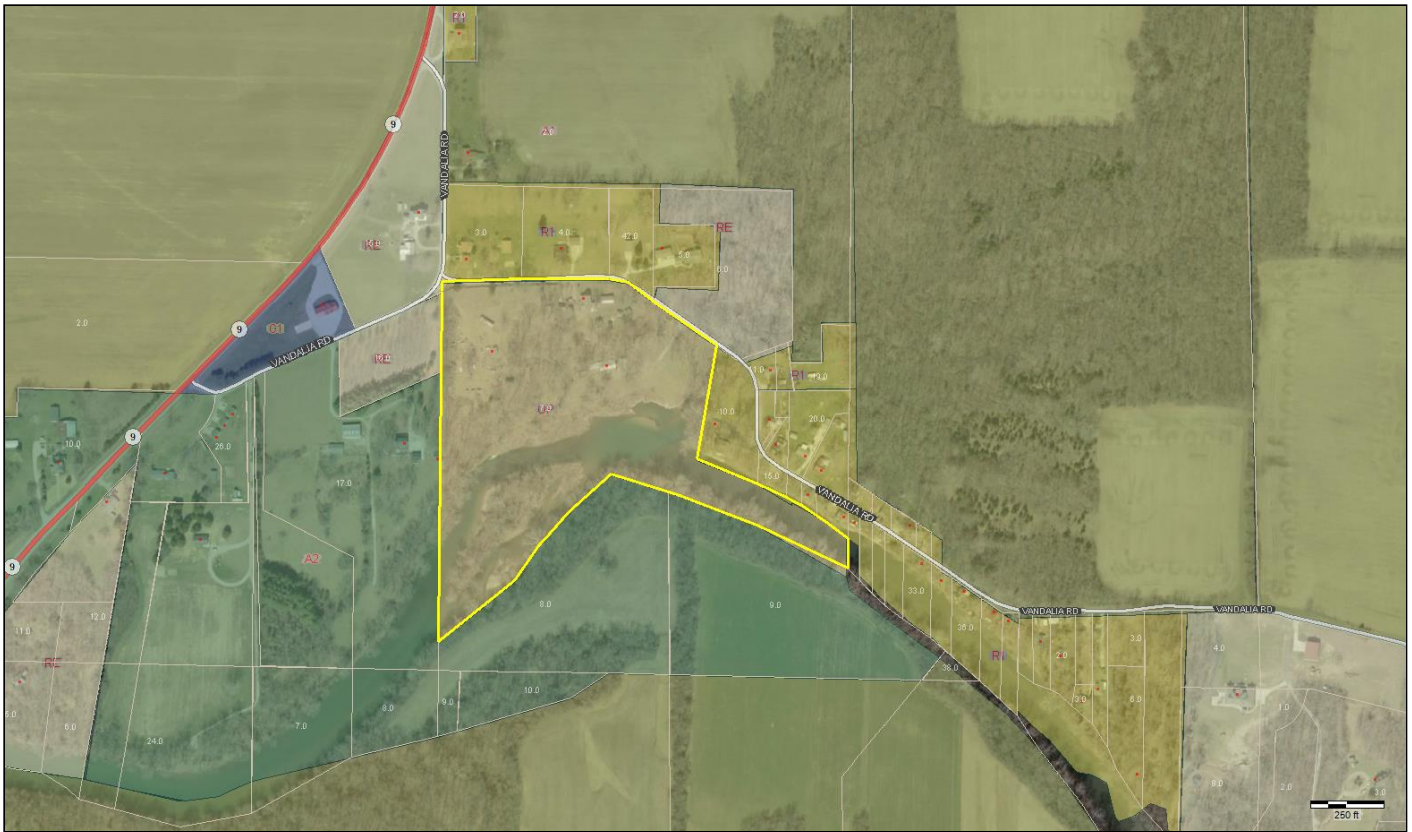
STAFF REPORT
19-01
JANUARY 22, 2019
PAGE 2 OF 2

Shelbyville, IN 46176

Owner: Dawn R. & Chance A. Kisby
3239 S 25 E
Shelbyville, IN 46176

Surveyor: Taylor Summerford

Area Map



- OP Open Space and Parks
- A1 Conservation Agricultural
- A2 Agricultural
- A3 Intense Agricultural
- A4 Agricultural Commercial
- RE Residential Estate
- R1 Single-Family Residential
- R2 Single-Family Residential
- VR Village Residential
- M1 Multiple-Family Residential
- M2 Multiple-Family Residential
- MP Manufactured Home Park
- VM Village Mixed Use
- IS Institutional
- C1 Neighborhood Commercial
- C2 Highway Commercial
- I1 Low Intensity Industrial
- I2 High Intensity Industrial
- HI High Impact

PART WEST HALF OF THE SOUTHEAST QUARTER OF SECTION 16,
TOWNSHIP 11 NORTH, RANGE 7 EAST, WASHINGTON TOWNSHIP,
SHELBY COUNTY, INDIANA.

UNDER 3E/4 STATE PLANE
SEC. 16-T-7 COORDINATES
N 137290.74
E 304311.86

DR 205 P. 478
AREA NOT SPECIFIED

Inst # 0211360
2.78 Ac.

Inst # 2004909100
1.22 Ac.

Inst # 2004009100
5.44 Ac.

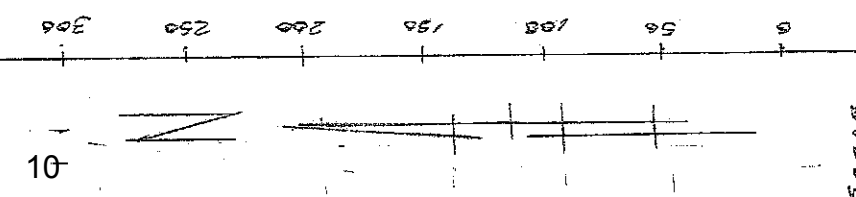
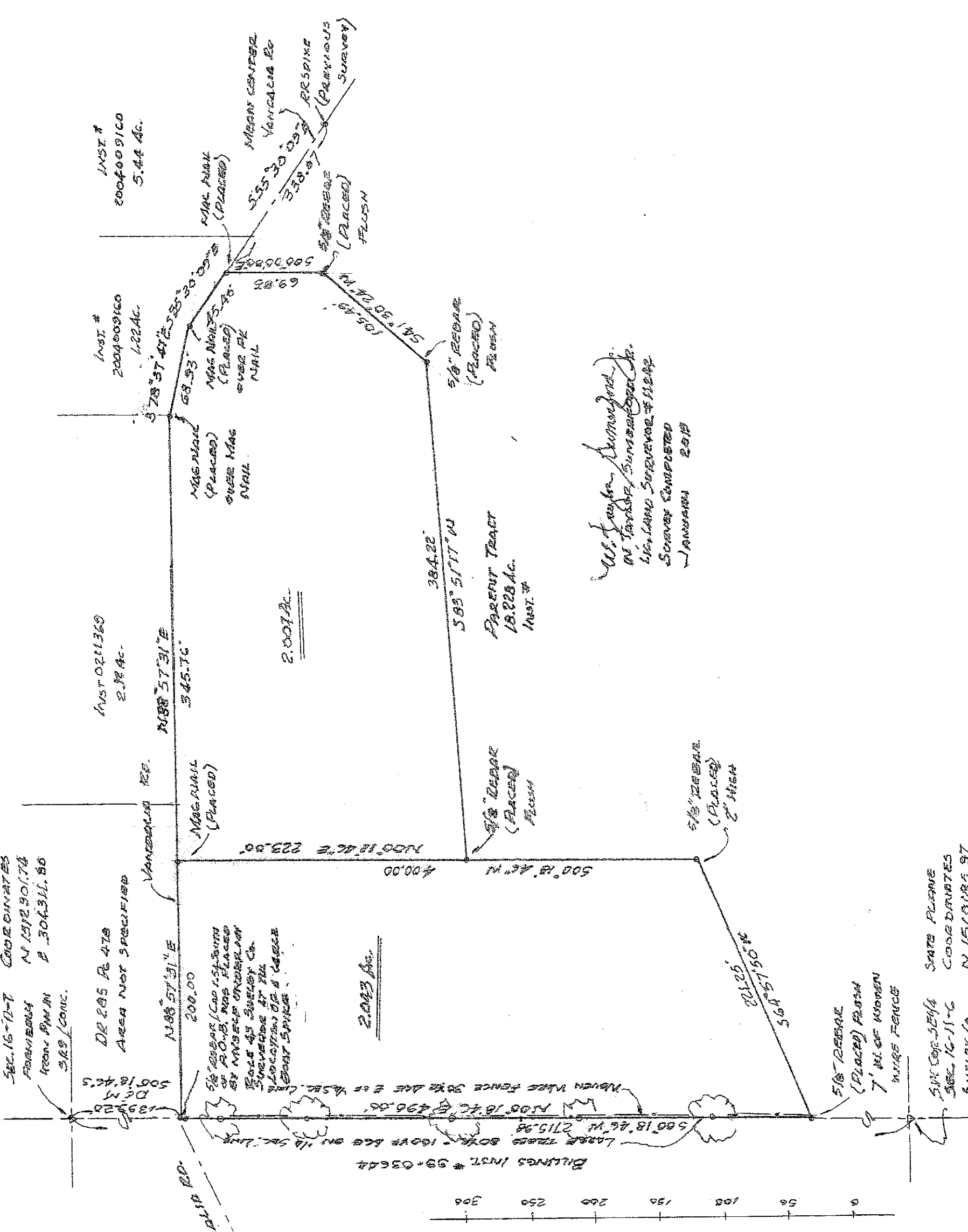
5/8" ZEBAR (Cap 1.5" from
of P.O.B. HAS PLACED
BY NILES ORDER
RANGE 43 SHELBY Co.
SURVEYED BY THE
DEPARTMENT OF A LARGE
CONY SPIKE

2.043 Ac.

PARENT TRACT
18.228 Ac.
Inst #

W. J. Taylor (Surveyor)
W. J. TAYLOR SURVEYOR & H.L.P.
SHELBY SURVEYOR & H.L.P.
SURVEY COMPLETED
JANUARY 2019

SUR COR 3E/4 STATE PLANE
SEC. 16-T-7 COORDINATES
SHELBY Co. N 1510185.97
SURVEY MEMO. E 304296.97



SCALE
1" = 50'

Staff Report

CASE NUMBER: WI9-01
CASE NAME: THOMAS & SHERRY HARMON – WAIVER

PROPERTY DESCRIPTION

Location: Brandywine Township at the address 3141 N 425 W, Fairland.

Property Acreage: 5.46 acres

Property Improvements: Single-family dwelling, detached garage, & gazebo.

Surrounding Development: Within a residential development containing six, approximately 5.5-acre lots. Farmland adjoins the development on all sides.

Zoning Classification: RE (Estate Residential) – Per the UDO, the Plan Commission should consider the following intended use of the district when making decisions:

- Use this zoning district for existing developments and carefully for new residential development.
- Large subdivisions on well and septic systems are not favored.

Comprehensive Plan Future Land Use: Agriculture - The predominant land use in Shelby County is agricultural. Traditional farming practices as well as accessory residential and other agriculture related uses occur within this designation. Crop production, livestock (grazing and confined animal feeding operations), timber production, agricultural production and storage centers (such as grain elevators); agricultural research; stables, wineries, and other natural and food production related activities are suitable for this designation. Existing residential lots containing single-family housing units could also have agricultural related uses, such as stables and small-scale non-commercial food production and limited livestock production. Activities characterized as agritourism (farm trails, farmers' markets, and roadside stands) will find a home within this designation. This land use category is intended to preserve the existing rural character of the area, while limiting the occurrence of future development on, and subdivision of, natural areas and agricultural land.

WAIVER REQUEST

Waiver of the Simple Subdivision Prerequisites - to allow for subdivision of a 5.46-acre parent tract into a 3.46-acre lot and a 2-acre lot (minimum 6-acre parent tract required).

Prior to 1999, the County exempted land subdivided into tracts 5-acres or more from platting requirements, which resulted in the creation of an abundance of residential tracts between five and six acres throughout the County. The UDO limits the size of the parent tract to at least 6-acres to discourage re-subdivision of these tracts. Discouraging re-subdivision of land in rural areas protects rural character by limiting density and discourages development in areas without adequate utilities.

CASE DESCRIPTION

- The petitioner stated subdivision of the property would allow a family member to construct a new single-family residence on the 3.46-acre lot.
- Crops currently cover the area proposed for the lot that would include the new single-family residence.
- In the 1990s a previous property owner subdivided the property along with five other tracts utilizing the 5-acre platting exemption rule. All six tracts now include single-family dwellings and accessory structures.
- The deed for the property includes restrictive covenants, one which states: *The tract shall not be divided or subdivided after original conveyance and no more than one single family dwelling shall be erected thereon.* Individual property owners within the development can enforce covenants using the civil court system, however the Plan Commission does not have the power to enforce covenants unless it approved a plat conditional on covenants. However, the Plan Commission can take covenants into consideration when making decisions on waivers from ordinance requirements.

STAFF RECOMMENDATION

Staff recommends **denial**, because:

- Approval of the waiver would result in further subdivision of six tracts without access to public water and sewer facilities, therefore contradicting intended use of the RE District.
- Approval of the waiver would result in additional residential development in an area designated for agricultural use per the Comprehensive Plan.
- Approval of the waiver would allow for additional subdivision of land, therefore contradicting the purpose of the minimum 6-acre parent tract requirement of the ordinance.

APPLICANT/OWNER INFORMATION

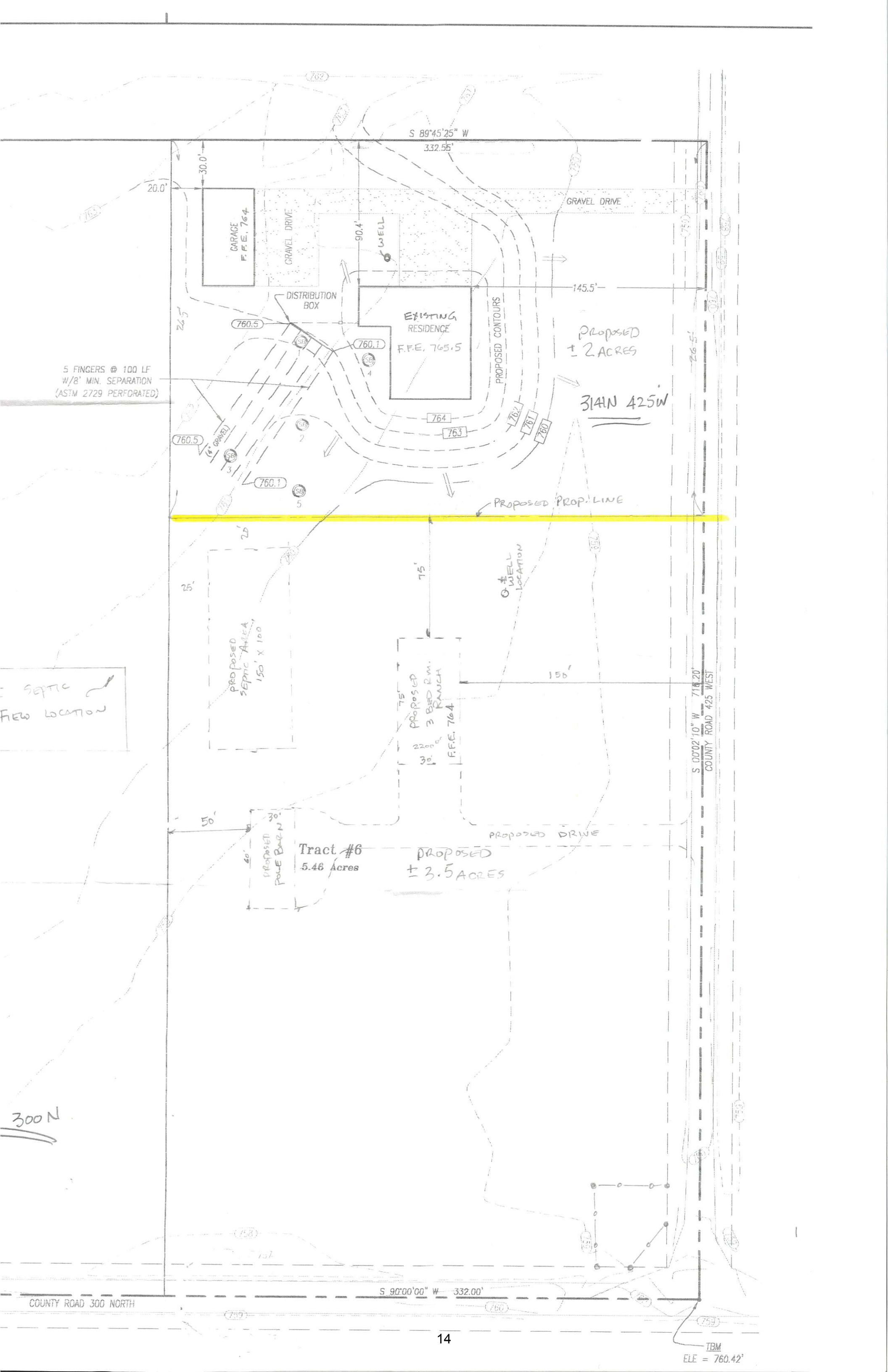
Applicant: Thomas R & Sherry Harmon
3141 N 425 E
Fairland, IN 46126

Owner: Same

Area Map



- OP Open Space and Parks
- A1 Conservation Agricultural
- A2 Agricultural
- A3 Intense Agricultural
- A4 Agricultural Commercial
- RE Residential Estate
- R1 Single-Family Residential
- R2 Single-Family Residential
- VR Village Residential
- M1 Multiple-Family Residential
- M2 Multiple-Family Residential
- MP Manufactured Home Park
- VM Village Mixed Use
- IS Institutional
- C1 Neighborhood Commercial
- C2 Highway Commercial
- I1 Low Intensity Industrial
- I2 High Intensity Industrial
- HI High Impact



What is a small cell facility?

A cellular transmittal facility having a total volume of 3 cubic feet or less. Cellular service companies (AT&T, Sprint, etc.) use these facilities between traditional cell phone towers to increase the speed of data in highly populated areas. Small cell facilities can be mounted to existing utility poles, however due to the cost of leasing space on existing utility poles, cellular service companies usually choose to construct their own wireless support structures. Cellular companies usually place the poles in the right-of-way to avoid leasing ground. These wireless support structures generally have a height of approximately 40 feet and resemble a utility pole. State law allows cellular service facilities to have the same privileges regarding access to the right-of-way as other utilities and places restrictions on local land use control.

Examples:



Common Concerns with Small Cell Facilities

- The placement of small cell utility poles in areas without existing utility poles, altering the character of a neighborhood or residential/rural area.

- The possible proliferation of small cell utility poles constructed by competing cellular service companies.
- Obstruction of the right-of-way hindering roadway maintenance (snow removal, installation of culverts and other road improvements, etc.)
- Interference with traffic safety if placed too close to the road, placed on a corner within the line of site, placed in a blind spot, etc.
- Construction defects if not subject to code inspections.

Possible Remedies

- Do not regulate. Historically zoning has applied to private properties, not public right-of-way.
- Apply the ordinance standards applicable to traditional telecommunications facilities to small cell facilities. However, applying these standards would require approval of several variances because the ordinance does not consider the unique features of small cell facilities.
- Adopt an ordinance that applies to small cell facilities (I wrote one for Johnson County that we can modify and adopt if needed).