

Shelby County Plan Commission

February 26, 2019 at 7:00 PM

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MEETING AGENDA

Shelby County Plan Commission
February 26, 2019, 7:00 P.M.

CALL TO ORDER

ROLL CALL

APPROVAL OF MINUTES

Minutes from the November 27, 2018 meeting.

Minutes from the January 22, 2019 meeting.

OLD BUSINESS

None.

NEW BUSINESS

RZ 19-02 – BALLARD REZONING: Rezoning of 5 acres from the A2 (Agricultural) District to the RE (Residential Estate) District to allow for a Simple Subdivision. The property is located in Hendricks Township at the address 4643 W 100 S, Shelbyville.

SD 19-02 – BALLARD SUBDIVISION: Primary Plat of a 2-lot residential subdivision and a waiver request to allow for subdivision of a tract less than 6-acres. The property is located in Hendricks Township at the address 4643 W 100 S, Shelbyville.

DISCUSSION

Small Cellular Facilities Ordinance

Development Plan Review

ADJOURNMENT

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

Staff Report

CASE NUMBER: RZ 19-02
CASE NAME: BALLARD REZONING – A2 (AGRICULTURAL) TO RE (RESIDENTIAL ESTATE)

PROPERTY DESCRIPTION

Location: Hendricks Township at the address 4643 W 100 S, Shelbyville.

Property Size: 5 acres.

Property Improvements: Single-family dwelling, detached garage, barn, and two small sheds.

Surrounding Development: Cropland surrounds the property on three sides. An adjacent lot to the north includes a single-family residence.

Current Zoning District: A2 (Agriculture) – Per the UDO, the district is established for general agricultural areas and buildings associated with agricultural production.

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 5 acres from the A2 (Agriculture) 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

- Approval of the rezoning request and subsequent simple subdivision would allow for the construction of one new single-family residence.
- Historical aerial photography indicates that woodland has covered most of the property since at least 1998.
- The USDA Soil Survey identifies most of the subject property as Not Prime Farmland and Only Prime Farmland if Drained. The Soil Survey also indicates that construction of dwellings on the property is Very Limited, except for approximately an acre on the west side of the property identified as Somewhat Limited.

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 future owner(s) of the proposed residence should acknowledge and accept that agricultural activities on adjoining property may produce noise, order, or other perceive nuisances.
2. Current Conditions and the Character of Current Structures and Uses in Each District
 - The proposed subdivision would not exceed the density of residential development on the north side of W 100 S.
3. The Most Desirable Use for Which the Land in Each District Is Adapted
 - The development of a 2-acre residential lot would not alter the rural character of the area.
4. The Conservation of Property Values throughout the Jurisdiction
 - Residential development would have no apparent negative effect on property values.
5. Responsible Development and Growth
 - Residential development at the proposed density would exceed the density of residential development northwest of the subject property. Well and septic systems would adequity serve a two-lot, rural development.

Staff recommends approval with the following condition:

1. A 'right to farm' declaration shall be included on the plat.

APPLICANT/OWNER INFORMATION

Applicant:	Andrew P. Scholle 212 W Main St. Greensburg, IN 47240	Owner:	Garrick A. Ballard & Tyanne Ballard 4575 W Range Rd. Shelbyville, IN 46176
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Staff Report

CASE NUMBER: SD 19-02
CASE NAME: BALLARD SIMPLE SUBDIVISION – PRIMARY APPROVAL

PROPERTY DESCRIPTION

Location: Hendricks Township at the address 4643 W 100 S, Shelbyville.

Property Size: 5 acres.

Property Improvements: Single-family dwelling, detached garage, barn, and two small sheds.

Proposed Zoning District: RE (Estate Residential)

Comprehensive Plan Future Land Use: Agriculture

REQUEST

Primary approval of a Simple Subdivision to allow for subdivision of 5 acres into a 2.756-acre lot and a 2.247-acre lot.

CASE DESCRIPTION

- Approval of the simple subdivision would allow for the construction of one new single-family residence on proposed Lot 1.
- Proposed Lot 1 currently includes a barn, shed, and forested area.
- Proposed Lot 2 currently includes a single-family residence, detached garage, shed, and forested area.
- Drainage and septic system design for Lot 1 will be reviewed at the time of site plan review prior to the issuance of building permits.

SUBDIVISION WAIVER REQUEST

Waiver to allow for subdivision of a 5-acre parent tract (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.
- The Plan Commission has indicated that the following conditions should be met for approval of a waiver from minimum 6-acre parent tract requirement:
 1. The property will likely not return to farmland.

1. The property has been previously developed.
2. Further development of the property will not alter the character of the area.

STAFF RECOMMENDATION

Staff has reviewed the proposed plat and has determined:

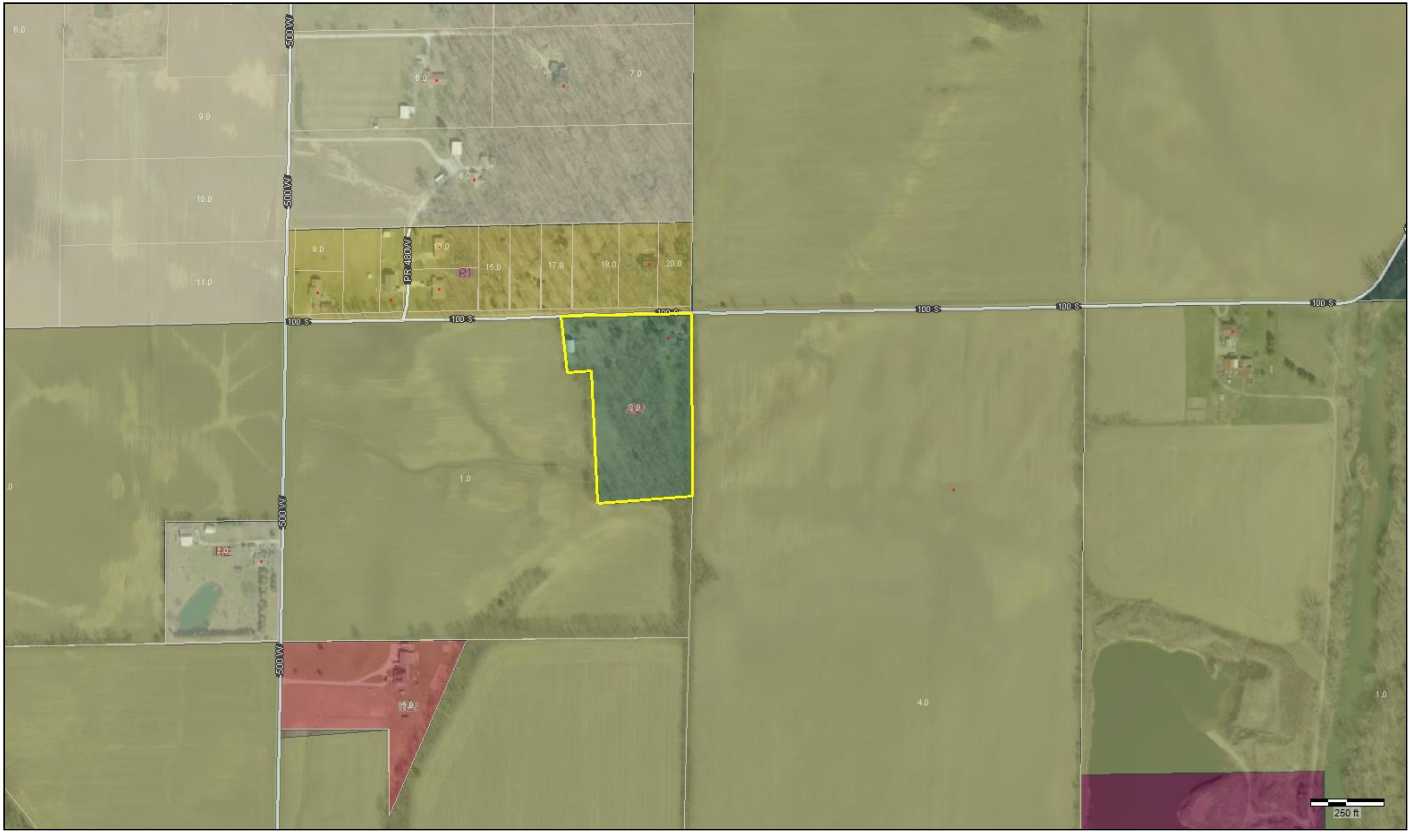
1. The subdivision of land is consistent with the Shelby County Comprehensive Plan.
2. The subdivision of land satisfies the development requirements of *Article 06: Subdivision Types*.
3. The subdivision of land satisfies the standards of *Article 07: Design Standards*.
4. The subdivision of land satisfies 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 approval of a waiver from the minimum 6-acre parent tract requirement and approval of rezoning of the property to RE (Estate Residential).

APPLICANT/OWNER INFORMATION

Applicant/Surveyor:	Andrew P. Scholle 212 W Main St. Greensburg, IN 47240	Owner:	Garrick A. & Tyanne Ballard 4575 W Range Rd. Shelbyville, IN 46176
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Area & Zoning Map



<ul style="list-style-type: none"> 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 	<p>Printed 02/21/2019</p>
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BALLARD SUBDIVISION

PART OF THE WEST HALF OF THE NORTHWEST QUARTER OF SECTION 9,
TOWNSHIP 12 NORTH, RANGE 6 EAST OF THE SECOND PRINCIPAL MERIDIAN
LOCATED IN HENDRICKS TOWNSHIP, SHELBY COUNTY, INDIANA



5/8" REBAR FOUND
6" BELOW ASPHALT
NW CORNER, NW 1/4,
SECTION 9, TWP. 12
NORTH RGE. 6 EAST

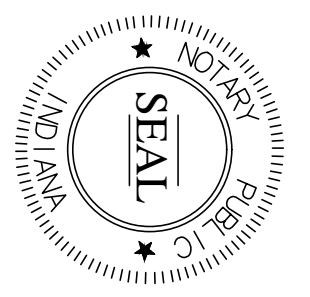
OWNER'S CERTIFICATE
We, Garrick A. Ballard and Tyanne Ballard, owners of the real estate shown and described herein, do hereby certify that we establish the boundaries of said real estate in accordance with this plat. The setback lines shall be determined by the regulations of the governing entity having zoning jurisdiction over the property shown herein.

Garrick A. Ballard Tyanne Ballard
NOTARY CERTIFICATE
State of Indiana
County of Shelby SS:

Before me, the undersigned notary public, in and for the County and State, personally appeared Garrick A. Ballard and Tyanne Ballard, who acknowledged the execution of the foregoing instrument as their voluntary acts and deeds for the purposes therein expressed.

Witness my hand and seal this _____ day of _____, 2019

Notary Public (Signature) _____
My commission expires _____
Name typed or printed _____
Resident of _____ County, Indiana

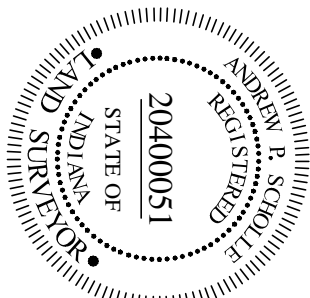


PLAN COMMISSION APPROVAL
Approved by the Shelby County Plan Commission in accordance with Subdivision Regulations.

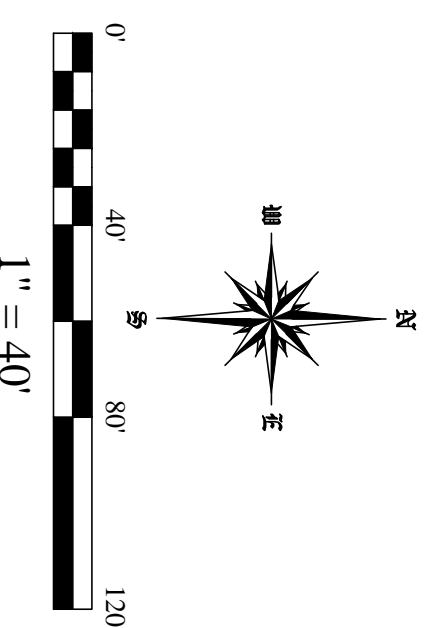
By: _____ Date: _____
By: _____ Date: _____
By: _____ Date: _____
Plan Commission

CERTIFICATE OF SURVEY
I hereby certify that this survey was performed under my supervision and to the best of my knowledge and belief was executed according to the rules of 865 IAC Rule 12.

Andrew P. Scholle
Professional Surveyor #LS20400051
January 25, 2019
Scholle's Land Surveying, Inc.
212 West Main Street
Greensburg, Indiana 47240
Telephone: 812-663-6526



I affirm under penalties for perjury that I have taken reasonable care to reduce each Social Security Number in this document unless required by law. Andrew P. Scholle



THESE TRACTS ARE PART OF
THE REZONE DISTRICT.

PREPARED BY ANDREW P. SCHOLLE

SURVEYORS REPORT
In accordance with Title 36S, article 1, Rule 12, Section 1 through 29 of the Indiana Administrative Code (commonly called "Rule 12"), the following observations and opinions are submitted regarding the various uncertainties in locations of the lines and corners established on this survey as a result of:

- VARIANCES IN REFERENCE MONUMENTS
- DISCREPANCIES IN RECORD DESCRIPTIONS AND PLATS
- INCONSISTENCIES OF OCCUPATION

There may be unwritten rights associated with these uncertainties.

The intent of this survey is to split off the existing residence from the parent parcel.

The basis of bearings for this survey is GPS North based upon WGS 84 datum. The monuments found at the Northeast and Northwest corners of the West Half of said Quarter in Ballard's deed and on the Oakwood Subdivision. A dig was not performed on this survey for the stone. Three rebar were found as called for in Ballard's deed. The Northwest corner of Ballard's property was calculated at the record distance. A line was drawn from the found rebar at the Northwest corner of said Quarter through the calculated Northwest corner of Ballard's property. This line was extended Easterly at the record distance of 435.35 feet from Ballard's deed. The overall distance along the North line of the West Half of said Quarter matched the record distance of 1538.30 feet from the Oakwood Subdivision. This station corner was also verified by calculating the Southeast corner of Ballard's property and checking the distance along the East line of Ballard's property.

No monuments were found at the Southeast or Southwest corners of the Northwest Quarter. The deed line of Ballard's deed calls the East Quarter Section line. The calculated East line of Ballard's deed was also labeled being the Half Quarter Section line. The existing fence lines vary from the boundary lines as follows:

West line that measures 185.00 feet - 1.3 feet West to 1.9 feet East
West line that measures 75.00 feet - 0.1 feet to 4.7 feet North
West line that measures 430.44 feet - 1.9 feet West to 0.3 feet East
South line that measures 312.96 feet - 0.1 feet to 0.9 feet North
East line that measures 611.00 feet - 1.3 feet West to 1.4 feet East.

The division line between Lots 1 and 2 was placed at the specified location of the owner. An attorney should be consulted before any improvements are made or removed from these areas as there may be unwritten rights associated with these uncertainties.

All rebars set are 5/8 inches in diameter and 24 inches in length with yellow identification caps marked "A.P. Scholle LS20400051". The top of said rebars are within 0.3' of adjacent ground grade. A method of random traverse was used to survey the subject tract using a Topcon GR-5 GPS equipment, Topcon GT-1003 Robotic Total Station and a Topcon GPT-3205NW Total Station. Andrew P. Scholle, P.S., Mark Reisman and Jay Schoetner performed this survey from July 3, 2018 through January 24, 2019. Every document of record reviewed and considered as a part of this plat is noted hereon. No abstract of title, nor title commitment, nor results of title searches were furnished to the surveyor. There may be other documents of record that exist, which would affect this parcel. The Relative Positional Accuracy of this survey does not exceed the 0.26 feet plus 200 parts per million as specified on a Rural Survey.

LAND DESCRIPTION FOR LOT 1

Part of the West Half of the Northwest Quarter of Section 9, Township 12 North, Range 6 East of the Second Principal Meridian located in Hendricks Township, Shelby County, Indiana, being that 2.756 acre tract of land as shown on the plat of the Ballard Subdivision certified by Andrew P. Scholle, P.S. #LS20400051 on January 25, 2019 as the Scholle's Land Surveying, Inc.'s project number 2019-0-0008 (all references to monuments and courses herein are shown on said plat of survey) described as follows:

Commencing at a 1/2 inch rebar found at the Northwest corner of said Quarter; thence North 88 degrees 50 minutes 00 seconds East along the North line of said Quarter a distance of 1198.30 feet to a mag nail set at the POINT OF BEGINNING; thence South 00 degrees 15 minutes 38 seconds West passing through a 3/8 inch rebar set with yellow cap stamped "A.P. SCHOLLE LS20400051" a distance of 612.82 feet to a capped rebar set; thence South 88 degrees 11 minutes 01 second West a distance of 612.82 feet to a capped rebar set; thence South 88 degrees 14 minutes 24 seconds West a distance of 430.44 feet to a 1/2 inch rebar found; thence North 03 degrees 47 minutes 21 seconds West a distance of 75.00 feet to a 1/2 inch rebar found; thence North 06 degrees 18 minutes 09 seconds West passing through a capped rebar set at 149.86 feet, a total distance of 185.00 feet to the POINT OF BEGINNING, containing 2.756 acres, more or less.

LAND DESCRIPTION FOR LOT 2

Part of the West Half of the Northwest Quarter of Section 9, Township 12 North, Range 6 East of the Second Principal Meridian located in Hendricks Township, Shelby County, Indiana, being that 2.247 acre tract of land as shown on the plat of the Ballard Subdivision certified by Andrew P. Scholle, P.S. #LS20400051 on January 25, 2019 as the Scholle's Land Surveying, Inc.'s project number 2019-0-0008 (all references to monuments and courses herein are shown on said plat of survey) described as follows:

Commencing at a 1/2 inch rebar found at the Northwest corner of said Quarter; thence North 88 degrees 50 minutes 00 seconds East along the North line of said Quarter a distance of 1198.30 feet to a mag nail set at the POINT OF BEGINNING; thence South 00 degrees 15 minutes 38 seconds West passing through a 3/8 inch rebar set with yellow cap stamped "A.P. SCHOLLE LS20400051" a distance of 577.82 feet to a capped rebar set; thence South 88 degrees 11 minutes 01 second West a distance of 612.82 feet to a capped rebar set; thence South 88 degrees 14 minutes 24 seconds West a distance of 430.44 feet to a 1/2 inch rebar found; thence North 03 degrees 47 minutes 21 seconds West a distance of 75.00 feet to a 1/2 inch rebar found; thence North 06 degrees 18 minutes 09 seconds West passing through a capped rebar set at 149.86 feet, a total distance of 185.00 feet to the North line of said Quarter a distance of 161.00 feet to the POINT OF BEGINNING, containing 2.247 acres, more or less.

OWNER'S INFORMATION
GARRICK A. BALLARD AND TYANNE BALLARD
TAX MAILING ADDRESS:
4575 WEST RANGE ROAD
SHELBYVILLE, IN 46176
PROPERTY ADDRESS:
4643 W 100 S
SHELBYVILLE, IN 46176

PER UDO SECTION 9.1.4 - PROPOSED TREE PRESERVATION AREAS
FIVE DECIDUOUS TREES PER LOT ARE REQUIRED TO BE PRESERVED.

Ordinance for Small Cell Facilities and Associated Wireless Support Structures

Ordinance No. _____

Add the following to Article 5 of the Shelby County Unified Development Ordinance: SCF-01 Small Cell Facilities and Associated Wireless Support Structures

The Small Cell Facilities and Associated Wireless Support Structure Standards section applies to the following zoning districts:

OP, A1, A2, A3, A4, RE, R1, R2, VR, M1, M2, MP, VM, IS, C1, C2, I1, I2, HI

The intent of the Small Cell Facilities and Associated Wireless Support Structure Standards is to establish reasonable land use and development standards allowing for the location of small cell facilities, while minimizing the potential negative impacts of such facilities. This section applies only to small cell facilities and associated wireless support structures as defined and detailed herein.

Conventional, taller, wireless communications facilities are regulated in Section 5.80.

A. Permit Required:

1. Small cell facilities and wireless support structures shall not be constructed, erected, placed, substantially modified or altered until an Improvement Location Permit and has been obtained.
2. An applicant shall demonstrate that the proposed small cell facility, wireless support structure or substantial modification thereof complies with all applicable laws and ordinances governing land use and development.
3. Within the right-of-way, a permit issued by the Shelby County Board of Commissioners is required to:
 - a. Locate a small cell facility and wireless support structure.
 - b. Perform a substantial modification.
 - c. Collocate wireless facilities on existing structures.
4. New Wireless Support Structures require a New Wireless Support Structure Building Permit. The permit application shall include:
 - a. The name, business address, and point of contact for the applicant.
 - b. The location address, and Latitude and Longitude of the proposed or affected wireless support structure or small cell facility.

- c. A map identifying all wireless support structures within a one-half (1/2) mile radius of the proposed new wireless support structure.
- d. The new wireless support structure shall not be approved unless the person submits written documentation and an affidavit affirming that the small cell facility planned for the proposed wireless support structure cannot be accommodated on an existing or approved utility pole or electrical transmission tower or other existing structure with a height of fifty (50) feet or greater within a one-half mile radius of the proposed new wireless support structure due to one (1) or more of the following reasons:
 - i. The proposed small cell facility would exceed the structural capacity of existing or approved wireless support structures, utility poles, electrical transmission towers, and/or structures with a height of fifty (50) feet or greater as documented by a qualified and licensed professional engineer and that existing or approved wireless support structures, utility poles, electrical transmission towers, and structures with a height of fifty (50) feet or greater cannot be reinforced, modified, or replaced to accommodate the planned telecommunication equipment at a reasonable cost; or
 - ii. The proposed small cell facility would cause interference impacting the usability of other existing telecommunication equipment at the site if placed on existing or approved wireless support structures, utility poles, electrical transmission towers, and/or structures with a height of fifty (50) feet or greater as documented by a qualified and licensed professional engineer, and that the interference cannot be prevented at a reasonable cost; or
 - iii. Existing or approved wireless support structures, utility poles, and/or electrical transmission towers within a one-half (1/2) mile radius cannot accommodate the planned small cell facility at a height necessary to function reasonably as documented by a qualified and licensed professional engineer; or
 - iv. The person has been unable to enter a commonly reasonable lease term with the owners of existing or approved wireless support structures, utility poles, electrical transmission towers, and structures with a height of fifty (50) feet or greater.
- e. Single Application: An applicant may submit one (1) application for the location or substantial modification of multiple small cell facilities and associated wireless support structures. The permit authority shall issue a single permit for all such facilities and support structures included in the application rather than individual permits for each.
- f. Procedure

- i. **Determination of Completion/Defects:** Within ten (10) calendar days of receipt of an application, the permit authority shall review the application to determine if the application is complete. If the permit authority determines that an application is not complete, the permit authority shall notify the applicant in writing of all defects in the application. An applicant that receives a written notice of incompleteness may cure the defects and resubmit the corrected application within thirty (30) calendar days of receiving the notice. If an applicant is unable to cure the defects within the thirty (30) day period, the applicant shall notify the permit authority of the additional time the applicant requires to cure the defects. This section also applies to resubmitted applications.
- ii. **Determination of Compliance with Zoning and Land Use Ordinances:** Within ten (10) calendar days of receipt of an application, the permit authority shall review the application to determine if it complies with applicable laws and ordinances governing land use and zoning and shall notify the applicant in writing whether the application is approved or denied. If the applicant requested additional time to cure defects per (i) above, the ten (10) day period is extended for a corresponding amount of time. If the application for the proposed wireless support structure requires a variance of use from the terms of an applicable zoning ordinance in accordance with IC 36-7-4-918.4, and the Shelby County Board of Zoning Appeals approves said variance, then the permit authority may have not more than ninety (90) days from the receipt of the initial application to issue a permit.
- g. **Written Determinations:** A written determination shall state clearly the basis for the decision to approve or deny an application. If the permit authority denies an application, the written notice must include substantial evidence in support of the denial. A notice is considered written if it is included in the minutes of a public meeting of the permit authority.

B. Location: The following restrictions on placement of new wireless support structures shall apply:

- 1. New wireless support structures located within the right-of-way shall be placed at the back of the right-of-way, adjacent to where adjoining property lines intersect. The Shelby County Board of Commissioners may approve a deviation from this requirement due to specific site conditions.
- 2. New wireless support structures are permitted in all zoning districts outside of the right-of-way.
- 3. New wireless support structures shall not impede the visual clearance standards as specified in Section 5.85 of the Shelby County Unified Development Ordinance.
- 4. New wireless support structures shall not block or encroach upon any sidewalk or walkway.

5. New wireless support structures shall be a minimum of five-hundred (500) feet from any other wireless support structure located on the same side of the street (or along the same side of the closest street if located outside of the right-of-way).
 6. New wireless support structures shall be a minimum of seventy-five (75) feet from the intersection of any two street right-of-ways, measured from the point at which the back of the right-of-way lines intersect.
- C. Design Requirements: Beginning on the effective date of Month Day, 2019, new small cell facilities and new wireless support structures shall meet the following specifications:
1. Height: Small cell facilities shall not be mounted on wireless support structures exceeding 50 feet in height or be mounted on structures more than 10 percent taller than other adjacent structures.
 2. Facility Size: Each antenna shall not exceed a volume of three (3) cubic feet. All small cell facilities, including antenna, attached to a single support structures shall not exceed twenty-eight (28) cubic feet in volume. Alternatively, all facility equipment at a single facility, with the exception of the antenna itself, may be ground mounted in a cabinet having an area not to exceed forty (4) cubic feet and a height not to exceed forty-eight (48) inches.
 3. Aesthetics:
 - a. All wiring and fiber shall be concealed within the support structure and all conduit, wiring and fiber shall be buried between structures and/or structures and ground mounted cabinets. All service lines (e.g. electric lines) to the support structure must also be buried unless service lines in the area of the support structure are aerial. In that event, service lines to the support structure may also be aerial, except for any service drop crossing a street or roadway which would need to be bored and placed under such street or roadway. The Zoning Administrator may waive reequipments to bury components of small cell facilities if the applicant demonstrates that burying of the components would prohibit cellular service.
 - b. Small cell facilities mounted to a wireless support structure shall match the support structure in color.
 4. Signs: All support structures shall have a plaque identifying the structure, the owner and the owner's contact information, and said plaque shall not exceed 0.25 square feet.
 5. Collocation:
 - a. Small cell facilities may be collocated on existing structures, existing electrical transmission towers, and existing utility poles at any location in any zoning district.
 - b. Any proposed wireless support structure shall be designed and engineered structurally, electrically and in all other respects, to accommodate both the initial small cell facility and one or more additional small cell facilities. The support

structure shall be designed to allow for future rearrangement of cellular communication equipment and antennas upon the structure and to accept cellular communication equipment and antennas mounted at varying heights.

6. **Maintenance:** Support structures shall be maintained in good working order at the cost of the applicant, including the cost of electricity.
7. **Continued Operation:** A person receiving a permit for (1) construction of a new wireless support structure; (2) substantial modification of a wireless support structure; or (3) collocation of wireless facilities inherently agrees that if the wireless support structure or wireless facilities are not used for a period of six (6) consecutive months, they will be removed by the facility owner at its expense. Should such owner fail to remove the wireless support structure or wireless facilities after ninety (90) business days from the date a Notice of Violation is issued by the County, the County may remove such structure or facilities and bill the owner for the costs of removal and cleanup of the site.

D. **Confidential Information:** All confidential information submitted by an applicant shall be maintained to the extent authorized by Ind. Code 5-14-3 *et. seq.*

E. **Definitions:** For purposes of this Section SCF-01, the words and phrases below are defined as follows:

1. **Antenna:** an apparatus designed for the purpose of emitting radiofrequency (RF) radiation, to be operated or operating from a fixed location for the provision of personal wireless service and any commingled information services.
2. **Collocation:** the placement or installation of wireless facilities on existing electrical transmission towers, existing utility poles, existing wireless support structures, and existing structures, including water towers and other buildings or structures. The term includes the placement, replacement, or modification of wireless facilities within an approved equipment compound.
3. **Electrical Transmission Tower:** a structure that physically supports high voltage overhead power lines. The term does not include a utility pole.
4. **Equipment Compound:** the area that: (1) surrounds or is near the base off a wireless support structure; and (2) encloses wireless facilities.
5. **Existing Structure:** does not include a utility pole or an electrical transmission tower.
6. **Permit Authority:** the Shelby County Plan Commission
7. **Person:** a corporation, firm, partnership, association, organization or any other group acting as a unit, as well as a natural person.
8. **Small Cell Facility:** (1) a personal wireless service facility as defined by the Telecommunications Act of 1996, 47 U.S.C. or (2) a wireless service facility that satisfies the requirements of section SCF-01 C 1 and SCF-01 C 2.

9. Substantial Modification of a Small Cell Wireless Support Structure: the mounting of a small cell facility on a wireless support structure in a manner that: (1) increases the height of the wireless support structure by ten percent (10%) of the original height of the wireless support structure or greater; or (2) adds an appurtenance to the wireless support structure that protrudes horizontally from the wireless support structure more than the width of the wireless support structure and existing appurtenances . The term substantial modification does not include the following: (1) increasing the height of a wireless support structure to avoid interfering with an existing antenna, or (2) increasing the diameter or area of a wireless support structure to: (a) shelter an antenna from inclement weather; or (b) connect an antenna to the wireless support structure by cable.
10. Utility Pole: a structure that is: (1) owned or operated by: (a) a public utility; (b) a communications service provider; (c) a municipality; (d) an electric membership corporation; or (e) a rural electric cooperative; and (2) designed and used to: (a) carry lines, cables, or wires for telephone, cable television, or electricity; or (b) provide lighting.
11. Wireless Support Structure: a freestanding structure designed to support wireless facilities. The term does not include a utility pole or an electrical transmission tower.

The Unified Development Ordinance requires Development Plan Review for all non-agricultural and non-residential projects, however I do not believe this section of the ordinance has been implemented for all projects. This section would also apply to smaller projects, such as storage buildings for schools or additions to churches. I am seeking guidance from the Board as to whether I should start implementing this section of the ordinance. I would ask for an informal vote for the record if the Board chooses to institute a policy to apply this section only to certain projects or to not implement this section at all, at least until we amend the ordinance.

Development Plan

9.08 Development Plan

This process applies to the following zoning districts:



A. Prerequisite.

1. Development Plan Approval shall be required prior to an Improvement Location Permit being issued for:
 - a. Permanent Construction, Installation, Addition, Alteration, or Relocation of a New Structure, and
 - b. Permanent Alteration to the Land,
2. *Subdivisions:* For residential subdivisions, Development Plan Approval shall be reviewed concurrently with the final subdivision plat.

B. Exemptions from Development Plan:

1. *Single-family detached residential:* Any lot being developed for a single-family detached residence or its accessory structures shall be exempt from Development Plan Approval. Only the Improvement Location Permit process shall apply.
2. *Agriculture Sites and Buildings:* Any lot being solely used for agricultural purposes shall be exempt from Development Plan Approval. Only the Temporary Improvement Location Permit process shall apply.
3. *Temporary Use of Land or Structure:* Any temporary use of land or structure shall be exempt from Development Plan Approval. Only the Improvement Location Permit process shall apply.
4. *Establish a New Land Use or Change an Existing Land Use:* Establishing a new land use or changing an existing land use shall be exempt from Development Plan Approval. Only the Improvement Location Permit process shall apply.

C. Filing Requirements:

1. *Application:* Application for Development Plan Approval shall be made on a form provided by the Zoning Administrator. The following information shall be provided on the application form.
 - a. Property owner's name, mailing address, phone number and/or email address.
 - b. Applicant's name, mailing address, phone number, and/or email address, if different than owner.
 - c. Written detailed description of the proposed project.
 - d. Date submitted and signed.
 - e. Signature of the applicant, testifying that they are authorized to represent the property.
 - f. Any other information requested on the application form.
2. *Interested Parties:* A list of names and mailing addresses of all known property owners within 600 feet of the boundary of the proposed site shall be provided by the applicant. The measurement shall include any property that is wholly or partially within the 600 foot boundary regardless if a road, river, railroad, or other physical barrier exists. This information may be obtained from the Shelby County Auditor's Office.
3. *For Permanent Construction, Installation, Addition, Alteration, or Relocation of a Structure:* The following supporting information, as applicable, shall be provided on a site plan, application form, and/or as an attachment.
 - a. Projects involving non-inhabitable structures not mounted on a permanent foundation.
 - i. A drawing of the parcel with dimensions.
 - ii. The building envelope (i.e. the resulting developable area after applying setbacks).
 - iii. The location of existing structures (e.g. home, garage, sidewalk, driveway, etc.).
 - iv. The location of the proposed structure.
 - v. A calculation of the existing lot coverage, expressed in a percentage.
 - vi. A calculation of the lot coverage as it would be upon completing the project, expressed in a percentage.
 - vii. An affidavit stating the proposed project is not located within a floodplain or easement.

- b. Projects involving non-inhabitable structures mounted on a permanent foundation.
 - i. All requirements of *Section 9.08(C)(3)(a) for structures not on a permanent foundation*.
 - ii. A scale drawing of the parcel with dimensions.
 - iii. Existing adjacent right-of-ways, street easements or alley easements, and the name of the street or alley if applicable.
 - iv. Easements on the parcel or adjacent to the parcel, including the name of the easement holder and a description of the terms of the easement.
 - v. Denotation of any existing structure on adjacent parcels if within twenty (20) feet of the subject parcel's property line.
 - c. Projects involving inhabitable buildings.
 - i. All requirements of *Section 9.08(C)(3)(b) for structures on a permanent foundation*.
 - ii. Denotation of the location of mature trees, greater than 9 inches in caliper.
 - iii. Elevation above sea level at the location of the project prior to alteration of land.
 - iv. Certification by a licensed engineer or surveyor that the proposed project is not on or within thirty (30) feet of a floodplain or wetland.
 - v. Denotation of adjacent zoning districts if different than the subject parcel.
 - vi. Certification by a licensed engineer or surveyor that the soils are suitable to support the weight of the structure and any foundation modifications necessary to support the weight of the structure.
 - vii. Location of existing or proposed drainage tile.
 - viii. Denotation of where utility lines will be run to the building and whether they are above or below grade.
 - ix. Location of a septic system, reserve area for a replacement septic system, well, geothermal loop, or other on-site utility system.
 - x. Denotation of any existing structure on adjacent parcels if within fifty (50) feet of the subject parcel's property line.
 - d. Complex or Unique Projects: The Zoning Administrator may require any additional information if reasonably necessary to determine if a complex or unique project complies with the provisions of the Unified Development Ordinance. This may include the supporting information listed in *Section 9.11(D)(2)(i): WPO District Requirements*. for projects within the WPO District.
4. *For Permanent Alteration to the Land*: The following supporting information, as applicable, shall be provided on a site plan, application form, and/or as an attachment.
- a. Projects that involve disturbing more than five percent (5%) of a parcel's area on a parcel less than five (5) acres in area, or disturbing any portion of a site greater than five (5) acres, or that results in more than 9,000 cubic feet of soil being disturbed (cumulative amount of soil added from one area and soil removed from another, not the net of soil added and removed).
 - i. A scale drawing of the parcel with dimensions.
 - ii. The location of existing structures (e.g. building, sidewalk, driveway, etc.).
 - iii. Denotation of existing mature trees, greater than 9 inches in caliper.
 - iv. Denotation of floodplains, wetlands, rock formations, karst, natural lakes, streams, regulated drains, retention ponds, detention ponds, known drainage tile, inlets, outlets, monuments or markers, and drainage swales on the parcel and within 75 feet of the parcel's property lines.
 - v. Two-foot contour lines of the existing parcel.
 - vi. Two-foot contours showing the parcel's contours as it would be upon completing the proposed project.
 - vii. Erosion control methodology, devices, locations, and maintenance strategy.
 - viii. Drainage evaluation of the existing parcel and as it would be upon completion of the proposed project with a characterization of the change to drainage onto adjacent properties, into drainage tile, or into surface water ways.
 - ix. Design cross-section of recreational ponds.

Development Plan

5. *Deadline:* Eleven (11) hard copies of the Application for Development Plan Approval; eleven (11) hard copies of all supporting information; one (1) digital copy of the Application for Development Plan Approval and supporting information in .pdf (portable document format); and one (1) digital copy of any drawings or plans in .dwg format shall be submitted to the Plan Commission at least twenty-eight (28) days prior to the public meeting at which it is first to be considered by the Plan Commission.
6. *Fees:* Applicable fees shall be paid at the time the Application for Development Plan Approval is filed. Fees shall include reimbursement for any cost borne by the Plan Commission to hire a professional engineer or other technician necessary to subsidize the planning staff's capabilities for review.

D. Review Procedure:

1. *Assignment:* Development Plans which are determined to be substantially complete and in proper form by the Zoning Administrator, shall be assigned a case number and placed on the first available Plan Commission agenda that occurs at least twenty-eight (28) days after the substantially complete application for Development Plan was submitted. The Zoning Administrator shall notify the applicant in writing of the date of the meeting and provide the applicant with a legal notice.
2. *Internal Review:* Upon assignment of a case number and hearing date, the Technical Advisory Committee and other applicable agencies will be notified of the proposed Development Plan and asked to review and comment. The Zoning Administrator may submit a written report to the Plan Commission stating any facts concerning the physical characteristics of the area involved in the Development Plan, the surrounding land use, public facilities available to service the area, or other pertinent facts. The written report may also contain opinions of the Zoning Administrator concerning the Development Plan and information from the Technical Advisory Committee and/or other agencies that have reviewed the Development Plan. A copy of such report shall be made available to the applicant and all remonstrators.
3. *Public Notice:* The following public notice standards apply to an Application for Development Plan Approval. All costs associated with providing public notice shall be borne by the applicant.
 - a. The applicant shall notify all interested parties of the public hearing by regular US mail a minimum of ten (10) days before the public hearing.
 - b. The applicant shall publish legal notice in a newspaper of general circulation a minimum of ten (10) days before the public hearing.
 - c. The applicant shall be responsible for providing proof of published notice to the Plan Commission and including proof in the case file.
4. *Attendance:* The applicant shall be present at the Plan Commission meeting to address and discuss comments and concerns posed by the Plan Commission. Failure to appear shall result in the dismissal of the Application for Development Plan Approval.
5. *Public Hearing:* A public hearing shall be held in accordance with the Plan Commission Rules of Procedure.
6. *Review:* At their regularly scheduled public meeting, the Plan Commission shall review:
 - a. The Application for Development Plan Approval.
 - b. All supporting information including the site plan, site access and circulation plan, elevations, etc.
 - c. The testimony of the applicant.
 - d. Information presented in writing or verbally by the Zoning Administrator, the Technical Advisory Committee, or other applicable department or agency.
 - e. Input from the public during the public hearing.
 - f. Any applicable provisions of the Unified Development Ordinance.
 - g. Any applicable requirements of the Shelby County's Construction Standards.
 - h. Any other information as may be required by the Plan Commission to evaluate the application.

Development Plan

7. *Decision*: The Plan Commission shall make findings of fact and take final action or continue the Application for Development Plan Approval to a defined future meeting date.
 - a. *Findings of Fact*: The Plan Commission shall make the following findings of fact. Approval of findings may be in the form of a general statement. Disapproval of findings shall specify the portion of the Unified Development Ordinance or Shelby County's Construction Standards with which there is not compliance.
 - i. The development plan is consistent with the Shelby County Comprehensive Plan.
 - ii. The development plan satisfies the development requirements of *Article 02: Zoning Districts*.
 - iii. The development plan satisfies the standards of *Article 05: Development Standards*.
 - iv. The development plan satisfies any other applicable provisions of the Unified Development Ordinance.
 - v. The development plan satisfies the construction requirements of the Shelby County's Construction Standards.
 - b. *Final Action*: Based on the findings of fact, the Plan Commission shall approve, approve with conditions, or deny the Application for Development Plan Approval.
 - c. The findings of fact and final action shall be signed by the President of the Plan Commission.
 - d. The Zoning Administrator shall provide the applicant a copy of the decision.
- E. *Duration*: An approved Development Plan shall be valid for two (2) years from the date the Plan Commission granted approval. Approved minor amendments shall not reset the two-year time frame. The Zoning Administrator may grant one (1) six-month extension for cause. The applicant shall submit the request for extension in writing, and the Zoning Administrator shall make a written determination regarding the decision. Both the request and the determination shall be made part of the Development Plan record. If development of the project has not begun by the end of the two-year period (or by the end of the six-month extension), the approval expires and a new Application for Development Plan Approval shall be submitted.
- F. *Modification*:
 1. *Minor Amendments*: Minor amendments to approved Development Plans which do not involve an increase in height, area, bulk or intensity of land uses; the designation of additional land uses; a reduction in yards; the addition of driveways or access points; or a reduction in the amount of parking may be authorized by the Zoning Administrator without a public hearing, if the requested minor amendments do not adversely impact the purpose or intent of the overall development. Minor amendments authorized by the Zoning Administrator shall be reported, in writing, to the Plan Commission at the next regular meeting of the Plan Commission.
 2. *Major Amendments*: If the Zoning Administrator determines that the proposed modification may adversely impact the purpose or intent of the overall development; or if the proposed modification includes an increase in intensity of any land use; or if the proposed modification includes the designation of an additional land use, the applicant shall be required to file a new Application for Development Plan approval.