

**Shelby County Plan Commission
Meeting Minutes
Tuesday
October 24, 2023**

Members Present:

Megan Hart
Taylor Sumerford
Mike McCain
Terry Smith
Kevin Carson
Charity Mohr
Scott Gabbard
Jason Abel
Nick Hartman

Members Absent:

None

Staff Present:

Desiree Calderella – Planning Director
Jason Clark – Plan Commission Attorney

Call to Order and Roll Call:

Terry Smith called the October 24, 2023 meeting to order at 7:00 pm in Room 208 A at the Court House Annex.

Approval of Minutes:

Nick Hartman made a motion to approve the minutes from September 26, 2023. Charity Mohr seconded the motion. The minutes were approved 9-0.

Old Business:

SD 23-16 – RHODEN SIMPLE SUBDIVISION: Simple Subdivision of 5-acres into a 2.5-acre building lot and a 2.5-acre lot including an existing single-family residence and waiver of subdivision standards to allow Simple Subdivision of property less than 6-acres. Located at 6045 N 600 W, Fairland, Moral Township.

The petitioner requested a continuance prior to the meeting. The case was **CONTINUED.**

RZ 23-20 – WELLS REZONING: Rezoning of 0.52-acres from the R1 (Single-Family Residential) District to the C2 (Highway Commercial) District and of 2.03-acres from the RE (Residential Estate) District to the C2 (Highway Commercial) District to allow for speculative commercial development. Located at 1803 & 1815 S 450 E, Shelbyville, Liberty Township.

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

Dennis Wells explained that the rezoning would allow for sale of the property for commercial use. He explained that the property had been used for commercial purposes for over thirty years, however, the County had changed the zoning to residential because the property no longer included a business use. He explained that a future owner could only use the property for the uses permitted in the C2 District and that the proximity of the property to the interstate supports approval of the rezoning.

The Board opened the hearing for public comment.

Brook Thompson, who lives on SR 244, indicated that the petitioner had not attempted to sell the property for residential use, that adjacent properties include agricultural and residential uses, and that the surrounding roads cannot accommodate commercial traffic.

Matt Settles, who owns property on SR 244, indicated that he had not received notice of the petition, that he had concerns with some of the uses permitted in the C2 District, and expressed concern about impacts of commercial use of the property on surrounding property values.

Whitney Carson-Mahin expressed concern about the speculative nature of the rezoning request and explained that the Plan Commission does not have a responsibility to assist with sale of properties.

Brett Mahin expressed concern about the speculative nature of the rezoning request.

The Board closed the public comment portion of the hearing.

Dennis Wells explained that the ordinance only permits specific uses in the C2 District and indicated that he had sent out the required notice.

Desiree Calderella read the list of permitted uses in the C2 District and described the type of permitted retail uses.

Q: Kevin Carson – Do you have any potential buyers?

A: Dennis Wells – I have not.

Q: Kevin Carson – You want us to rezone your property to make it more valuable than what it is today?

A: Dennis Wells – That would be part of it. For thirty years it was zoned manufacturing.

Kevin Carson explained that the County had cleaned up the zoning maps in 2008 and had zoned some properties previously zoned residential to commercial and some properties previously zoned commercial to residential. He indicated that property owners had an opportunity to appeal the change in zoning of their property to the County.

Kevin Carson expressed concern with approving a rezoning of property without an intent or plan for use of the property.

Dennis Wells explained that the rezoning application did not require him to provide an intended use for the property.

Jason Abel indicated that use and development of the property would have a greater impact on the overall community due to the location of the property. He expressed concern with approving a rezoning of this type of property without an intent or plan for use of the property.

Q: Jason Abel – Do you have specific ideas of what would be appropriate?

A: Dennis Wells – The list of permitted uses.

Megan Hart indicated that the ordinance does not list the adjacent agricultural districts as appropriate adjacent districts to the C2 district and expressed concerns with approving a rezoning of property without an intent or plan for use of the property.

Desiree Calderella referenced the additional review and approval processes for development subsequent to approval of a rezoning.

Kevin Carson made a motion of vote on the petition and Jason Abel seconded the motion. The petition was **DENIED 6-2-1**, with Terry Smith and Mike McCain voting to approve and Scott Gabbard abstaining.

The findings of fact were continued to the next meeting.

RZ 23-19 – SCHWIER & CO., LLC REZONING: Rezoning of 38.197-acres from the A1 (Conservation Agricultural) District to the RE (Residential Estate) District and waivers of Simple Subdivision prerequisites to allow Simple Subdivision of property into nine lots (major subdivision process required for division into more than three lots) and of subdivision design standards to allow two lots under two acres and one lot with less than 160-feet of road frontage.

Jacob S. Brattain with McNeely Law LLP represented the petitioner. He indicated that the petitioner would withdraw their request for waivers of subdivision design standards, and only would request the waiver to allow for a nine-lot Simple Subdivision. He explained that seventy-two homes already exist within half a mile of the property and that none of the homes are in a major subdivision. He indicated that the subdivision would have deed restricted covenants. He indicated that the subdivision would require additional approvals and that the petitioner would not seek any variances from development standards. He explained that Shelby County has a housing shortage, and that the development would provide housing opportunities for business executives in Morristown.

The Board opened the hearing for public comment.

Andrea Warfield indicated that the area has drainage problems and expressed concern with waiving drainage review. She indicated that the property includes productive farm ground. She indicated that the request significantly deviates from the maximum of three-lot requirement.

Doug Warfield expressed concerns about drainage and with seven new driveways cuts onto a County road.

The Board closed the public comment portion of the hearing.

Jacob Brattain explained that all properties in Shelby County hold water and that the referenced drainage issues exist on a nearby property. He referenced the site plan review process. He indicated that the petitioner would only add seven new driveways in an area that already includes seventy-two homes.

Jason Abel spoke about the marketability of the lots.

Charity Mohr spoke about the financial feasibility of developing the property with a shared access road. She indicated that she viewed the project as a major subdivision.

Kevin Carson indicated that the County had created rules to discourage the type of development proposed by the petitioner. He indicated that he viewed the project as a major subdivision and that the development could accommodate additional lots and generate more profit if developed through the major subdivision process.

Taylor Sumerford expressed concern regarding homeowner maintenance of the rear yards of long lots.

Randy Schwier explained that developing the property with homes at a value currently in demand in Shelby County would not cover the current costs of installing an interior road.

Jason Abel asked for examples of similar modern developments. He indicated that the County would benefit from the proposed development, however, should ensure responsible development.

Scott Gabbard noted that the developer is responsible for drainage infrastructure for major subdivisions.

Randy Schwier indicated that he would provide a perimeter drain if needed prior to selling the lots.

Terry Smith expressed concern with waiving the required professional drainage study for the development of multiple lots.

Kevin Carson indicated that he would prefer development of more lots and amenities. He indicated that he does not favor multiple accesses onto the County road.

Randy Schwier indicated that he does not develop lots under two acres and markets his lots to customers who intend to build \$500,000 to \$600,000 homes.

Jacob Brattain referenced an email submitted in favor of the petition (see case file).

Megan Hart expressed concern with the seven-to-one depth-to-width ratio and expressed concern regarding homeowner maintenance of the rear yards of long lots.

Kevin Carson made a motion of vote on the rezoning and Megan Hart seconded the motion. The rezoning was **APPROVED 7-1**, with Scott Gabbard casting the dissenting vote and Taylor Sumerford abstaining.

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.

Chairty Mohr referenced the subdivision code that would allow the petitioner to subdivide two lots from the property through the Simple Subdivision process, and then resubdivide the remaining lot in five years.

Megan Hart made a motion of vote on the waiver to allow for a nine-lot Simple Subdivision and Scott Gabbard seconded the motion. The waiver was **DENIED 8-0**, with Taylor Sumerford abstaining.

New Business:

RZ 23-21 – FAIRLAND INVESTMENT INC. REZONING: Rezoning +/- 28.46-acres from the A1 (Conservation Agricultural) District and the RE (Residential Estate) District to the I2 (High Intensity Industrial) District to allow for speculative industrial development. Located at 9237 N Frontage Rd, Fairland, Moral Township.

Jacob S. Brattain with McNeely Law LLP represented the petitioner. He indicated that the petitioner had agreed to stipulations numbers 1 through 7 listed in the Staff Report. He emphasized that land approved for industrial development surrounds the property and that the petitioner does not request to expand the existing industrial development area past its current boundaries.

The Board opened the hearing for public comment.

Lisa Wojihoski-Schaler with the Northwest Shelby County Concerned Citizens Coalition and who lives at 7757 W 700 N, expressed concern that the speculative nature of the request would allow for a large range of activities within unknown impacts to the community and adjacent residential properties. She referenced crime associated with truck parking areas and the presence of vacant warehouses in central Indiana. She indicated that development of the property would further contribute to traffic and drainage issues impacting the adjacent residential properties. She expressed concern with removal of mature trees from the property and removal of wildlife habitat. She indicated that the County has not completed infrastructure improvements in the area.

Ian Seecof, who lives in Woodnotes Addition, expressed concern with the impact of the development in the Pleasant View area on his residential well and traffic.

Barbara Mier, who lives at 9570 N Pumpkinvine Rd, indicated that the ordinance does not designate residential zoning districts as appropriate adjacent districts to industrial zoning districts.

The Board closed the public comment portion of the hearing.

Jacob Brattain described the type of uses allowed in the high intensity industrial district. He indicated that County ordinance would require maintenance of trees between the development and adjacent residential uses. He emphasized that future development of the site would require technical review committee approval. He explained that the County had designed the area road improvements to accommodate future development of all properties in the area.

Megan Hart expressed concern with removal of the mature wooded area on the property. She indicated that the ordinance does not designate residential zoning districts as appropriate adjacent districts to industrial zoning districts.

Mike McCain indicated that the petitioner could log the property without approval of a rezoning.

Jason Abel asked how the petitioner would utilize the property as a highly visible marketing opportunity as recommended by the Comprehensive Plan and how the proposed development would differ from less desirable development that has occurred in the area.

Jacob Brattain explained that the high intensity industrial district would allow flexibility in attracting different types of businesses to the site.

The Board discussed a stipulation requiring a type of buffer between the residential lots and on-site development.

Jacob Brattain indicated that the petitioner would agree to maintain a 100-foot buffer of wooded area adjacent to the residential lots and only use the remaining area south of the HIS property for retention/detention area and open space.

Charity Mohr expressed concern that noise from some types of high intensity industrial uses would impact the use and value of adjacent residential properties.

Desiree Calderella referenced the Commissioners' Noise Ordinance.

Jason Abel made a motion of vote on the petition with stipulations 1 through 7 listed in the Staff Report and a stipulation to include the 100-foot buffer and open space area agreed to by the petitioner, and Mike McCain seconded the motion. The petition was **DENIED 5-3-1**, with Terry Smith, Scott Gabbard, and Mike McCain voting to approve and Taylor Sumerford abstaining.

The findings of fact were continued to the next meeting.

Discussion:

None.

Adjournment:

With no further business to come before the Board, Kevin Carson made a motion to adjourn. Megan Hart seconded that motion. The meeting was adjourned.

Terry Smith
President

Date

Scott Gabbard
Secretary

Date