

**Shelby County Plan Commission
Meeting Minutes
Tuesday
August 23, 2022**

Members Present:

Jordan Caldwell
Chris Ross
Mike McCain
Terry Smith
Scott Gabbard – Arrived after SD 22-09
Kevin Carson
Nick Hartman
Taylor Sumerford
Charity Mohr – Arrived after SD 22-11

Members Absent:

None

Staff Present:

Desiree Calderella – Planning Director
Jason Clark – Plan Commission Attorney

Call to Order and Roll Call:

Terry Smith called the August 23, 2022 meeting to order at 7:00 pm in Room 208 A at the Court House Annex.

Oath of Office:

Nick Hartman took the Oath of Office.

Approval of Minutes:

Chris Ross made a motion to approve the minutes from July 26, 2022. Mike McCain seconded the motion. The minutes were approved 7-0.

New Business:

RZ 22-17 – WEST REZONING: Rezoning of 0.64-acres from the RE (Residential Estate) District to the R1 (Single-Family Residential) District. Located north of and adjoining 7316 N 600 W, Fairland, Moral Township.

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

Scott Sumerford represented the petitioner. He explained that the petitioner had purchased the property in June with the intent of developing the lot. He indicated that the

size of the lot would conform to the adjacent lots.

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

Kevin Carson made a motion to vote on the petition and Jordan Caldwell seconded that motion. **The petition was APPROVED 7-0.**

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.

SD 22-12 – WEST LAKE SIMPLE SUBDIVISION: Subdivision of 0.64-acres from a 8.38-acre parent tract and waiver of Simple Subdivision prerequisites. Located north of and adjoining 7316 N 600 W, Fairland, Moral Township.

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

Scott Sumerford represented the petitioner. He had no additional comment.

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

Chris Ross made a motion to vote on the petition and Jordan Caldwell seconded that motion. **The petition was APPROVED 7-0.**

Old Business:

RZ 22-11 – FARNSLEY FAMILY FARM LLC REZONING: Rezoning of 1.711-acres from the A1 (Conservation Agricultural) District to the R1 (Single-Family Residential) District. Located west of and adjoining 7092 E Short Blue Rd, Shelbyville, Union Township.

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

Jeff Powell represented the petitioner. He explained that the petitioner had chosen the lot

location due to availability of an existing driveway within an access easement. He stated that the petitioner had the cooperation of the easement holder. He explained that the building site would sit on the high ground at the south side of the lot and that the petitioner had done soil borings to determine septic system feasibility.

Mark Farnsley explained that he planned to sell the lot to enterprise expenses for care of his mother and would gain no other profit from the transaction.

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

Jeff Powell explained that the petitioner would need to request a variance from the Board of Zoning Appeals to allow a third residence to utilize the driveway. He indicated that the petitioner and easement holder would record a written agreement regarding use of the driveway.

Q: Kevin Carson – Would the property deed cross-reference the easement?

A: Jeff Powell – Yes.

Desiree Calderella explained that the UDO only allows two lots to share a private access driveway. She explained that use of a driveway by a third lot would require upgrading the driveway to comply with the construction standards for a county road.

Q: Mike McCain – Have you spoken with the property owners who currently use the driveway?

A: Jeff Powell – Yes.

Jordan Caldwell made a motion to vote on the petition and Chris Ross seconded that motion. **The petition was APPROVED 7-0.**

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.

**SD 22-10 – FARNSLEY FAMILY FARM LLC SIMPLE SUBDIVISION:
Subdivision of 1.711-acres from a 41.554-acre parent tract, waiver of Simple
Subdivision prerequisites, and waiver of subdivision design standards. Located west
of and adjoining 7092 E Short Blue Rd, Shelbyville, Union Township.**

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

Jeff Powell represented the petitioner. He had no additional comment.

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

Jordan Caldwell made a motion to vote on the petition and Chris Ross seconded that motion. **The petition was APPROVED 7-0.**

SD 22-09 – SUNDVALL SIMPLE SUBDIVISION: Subdivision of 5.004 acres into a 3.004-acre building lot and a 2-acre lot including an existing single-family residence and waiver of subdivision prerequisites. Located at 7203 N Frontage Rd, Fairland, Moral Township.

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

Jeff Powell represented the petitioner. He provided an overview of the petition and stated that the subdivision is consistent with previous subdivision of adjoining property to the west.

Frank Sundvall was present.

The Board opened the hearing for public comment.

Eli Wood, who lives at 7233 N Frontage Rd, read a statement from his wife Ginger Wood. The statement addressed the possibility of installation of a double-wide, safety issues resulting from previous improvements to the property, and drainage issues caused by installation of a driveway.

Wayne Bley, who lives at 5544 W 700 N, indicated that the property and area have a history of drainage issues. He asked for a stipulation that water drain in accordance with the current topography and natural flow line, and not directly to the pond. He indicated that additional water should flow to the southeast corner of the property and into the roadside ditch. He asked for a stipulation that the pond on the property be increased in size, depth, and cleaned before occupancy of a new residence. He asked if any zoning standards apply to ponds on residential property. He explained that the pond had previously overflowed onto his property and expressed concern that drainage into the pond would impact the improvements he has done to his property to mitigate drainage issues. He expressed concern that the home built on the property would not reflect the architectural style of the other homes in the neighborhood. He asked that the petition be denied or delayed until the petitioner provided a site plan detailing the design of the

house and further information regarding plans to mitigate the drainage issues. Mr. Bley also spoke on behalf of Mitch McCain, who lives at 5483 W 700 N.

Desiree Calderella verified that the Staff Report should have read ‘the petitioner anticipates drainage from the new building lot to outlet into an existing pond along the west property line’, not the east property line.

The Board closed the public comment portion of the hearing.

Jeff Powell indicated that the petitioner had remodeled the existing house, paved the driveway using typical pavement methods, and had listed the house for sale. He stated that the site plan would address drainage. He explained that the petitioner has an approved soil test at the northwest part of the new lot and that the perimeter drain could gravity drain to the current elevation of the pond. He explained that he and the petitioner had discussed excavating the pond to improve aesthetics, provide better drainage for the area, and for fill dirt for the new house. He explained that most water on the new lot runs from east to west, except for a small portion at the southeast corner of the lot. He stated that development of the lot could meet drainage requirements by out-letting into the pond. He explained that the property does not have direct access to the closest legal drain. He indicated that a future owner, rather than the petitioner, may build on the new lot and that the market would determine the type of home built on the lot.

Frank Sundvall explained that he had purchased the property to remodel the existing house and to create a new lot, and then to sell both properties. He explained that Mr. Bley had elevated his property which had caused water to back up onto his property. He indicated that the market would support construction of a half-million-dollar house.

Taylor Sumerford indicated that he had looked at pictures of standing water in the area sent to him by Mr. Bley and that developing the property would require careful engineering.

Q: Kevin Carson – Have you contemplated what it would take to get to the legal drain that goes to the south?

A: Jeff Powell – We would have to cross at least one landowner to the east.

Jeff Powell explained that water flows naturally across the property to Mr. Bley’s property, and that Mr. Bley had elevated his property about one foot. Mr. Powell indicated that he could investigate alternative drainage outlets during the site plan approval process.

Jordan Caldwell expressed concern with the possibility of a future landowner developing the land in a manner that would negatively impact the neighborhood.

Jeff Powell explained that any future development would require site plan approval and

development in compliance with County regulations.

Mr. Bley further detailed the flow of water in the area and stated that draining the lot to the southeast would not impact his property.

Q: Chris Ross– Why can't you drain to the east?

A: Jeff Powell – Its feasible if we can obtain an easement and if its cost effective. But we can drain to the pond and make it work.

Terry Smith explained that the Board must decide whether to allow subdivision of the property to provide the option to build, much like the property next door. He explained that development of the property would be contingent upon approval of a site plan showing adequate drainage.

Chris Ross made a motion to vote on the petition and Jordan Caldwell seconded that motion. 4 votes were cast to approve and 3 were cast to deny, with Kevin Carson, Taylor Sumerford, and Nick Hartman voting to deny. The petition was **CONTINUED** due to lack of majority vote.

RZ 22-18 – RITCHIE FAIRLAND REZONING: Rezoning of 2.071-acres from the A1 (Conservation Agricultural) District to the VM (Village Mixed-Use) District to allow for development of the property for low-intensity retail use. Located at 4771 W 400 N, Fairland, Sugar Creek Township.

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

Brian House, with Pritzke & Davis LLP, represented the petitioner. He stated that the Town of Fairland supports the development. He explained that at the time of construction, the petitioner intends to install a septic system approved by the State and a sewer line with pump and valve to sanitary sewer when it becomes available. He explained that the proposed size of the building, visibility of the site, and access to the site render the property marketable for speculative development.

Kyle Blanck, project engineer and surveyor, was present.

The Board opened the hearing for public comment.

Dean Raboum, who lives at 3781 N 425 W, stated that she had not received notice of the petition and expressed concerns about development of the remaining acreage as a large subdivision.

Lisa Wojihoski-Schaler with the Northwest Shelby County Concerned Citizens Coalition and who lives at 7757 W 700 N, expressed concern with approval of a speculative

development.

Chad Tucker, who lives at 3767 N 425 W, expressed concerns with development of farmland and indicated that retail development should occur near the casino.

Denise Allen, who lives at 303 W Carey St, expressed concerns with traffic, noise, light pollution, trash, and impacts to property values. She stated that she had not received notice of the petition.

Marion Kay Ferguson, who lives at 406 W Carey St, expressed concern with deviation from the rural character of the area.

Jackie Tucker, who lives at 3767 N 425 W, expressed concern with the vagueness of the proposed use and about possible installation of underground storage tanks.

Diane Atkins, who lives at 5134 N Brandywine Rd, expressed concern with the impacts of commercial development in a rural area.

Marcia Wells, who lives at 509 S Mulberry St, expressed concern that additional traffic would make it more difficult for her to cross the road to get her mail from the post office.

The Board closed the public comment portion of the hearing.

Brian House stated that the site plan included a dry detention pond to handle drainage. He stated that the Site Plan Committee would review the site plan prior to issuing building permits. He explained that the Board should take into consideration that the Town of Fairland supports the development. He explained that Indiana law strongly supports the rights of the landowner, and that Staff had determined that the petition falls within the ambient of the UDO and Comprehensive Plan. He explained that farmland may not always remain farmland over time. He indicated development of the site, if approved, would happen in the not-so-distant future. He explained that the UDO does not permit gas stations or underground storage tanks in the VM District. He stated that the retail establishment would likely close at 8PM or 9PM on weekdays and slightly later on weekends. He indicated that the petitioner is committed to a quality project that would provide an amenity to Fairland.

Q: Jordan Caldwell – What is the end use?

A: Brian House – No commitment but significant interest.

Desiree Calderella stated that the petitioner intended to apply for a Special Exception to allow a Type 3 Retail business and read the definition of Type 3 Retail into the record.

Brian House read the approval letter from Fairland into the record. He stated that the petitioner agrees with the recommended stipulations.

Jordan Caldwell made a motion to vote on the petition with stipulations and Mike McCain seconded that motion. **The petition was APPROVED 8-0 with stipulations:**

- 1. Development of the site shall be consistent with the Site Plan submitted with the rezoning application. The Zoning Administrator shall have the discretion to require Plan Commission approval of any modification to the site plan.**
- 2. A minimum six (6) foot tall opaque fence and six (6) evergreen trees shall be installed between the north parking lot and the property line. This landscaping shall be added in addition to the landscaping requirements indicated in the UDO.**
- 3. All parking spaces shall be located in the rear yard, unless the building incorporates architectural standards in compliance with Section 5.13 of the Unified Development Ordinance.**
- 4. The current and any future property owner shall abandon any septic system and connect to sanitary sewer at the time sanitary sewer becomes available within 100-feet of the property lines.**

The Board adopted the following findings of fact:

1. The request is consistent with the Shelby County Comprehensive Plan.
2. The request is consistent with the current conditions and the character of structures and uses in each district.
3. The request is consistent with the most desirable use for which the land in each district is adapted.
4. The request is consistent with the conservation of property values throughout the jurisdiction.
5. The request is consistent with responsible growth and development.

SD 22-13 – RITCHIE FAIRLAND REZONING: Subdivision a 2.07-acre commercial lot from a 118.12-acre parent tract and waiver of subdivision type standards. Located at 4771 W 400 N, Fairland, Sugar Creek Township.

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

Brian House represented the petitioner. He had no additional comment.

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

Chris Ross made a motion to vote on the petition and Jordan Caldwell seconded that

motion. **The petition was APPROVED 8-0.**

RZ 22-14 – MIKE BOWMAN REZONING: Rezoning of 27.648-acres from the A1 (Conservation Agricultural) District, R1 (Single-Family Residential) District, and I1 (Low Intensity Industrial) District to the I2 (High Intensity Industrial) District to allow for expansion of an excavating business. Located at 6224 W 800 N, Fountaintown, Moral Township.

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

Mike Bowman provided a summary of the petition and stated that he would not change how he has operated the business over the last twenty years. He explained that the new property he purchased does not have drainage, therefore would not support farming or residential development. He explained that the property currently housing his business has always included outdoor storage, but that the County zoned this property I1 when updating the zoning maps, and therefore the rezoning of the current business property would correct an error made by the County. He stated that he has drainage on-site. He stated that he had spoken with the neighbors adjacent to the property as to their preference for landscape buffers. He stated that he plans to install a fence, berms along the lean-to buildings, and to leave the property open next to the neighbor at the corner of Michigan Rd. at their request.

The Board opened the hearing for public comment.

John Budine, who lives at 8144 N Michigan Rd, expressed support for the petition.

Don Gookins, who lives at 8164 N Michigan Rd, expressed support for the petition.

Doug Lay, who lives at 6188 W 800 N, expressed support for the petition.

Ellen Stillabower, who lives at 8277 N 600 W, expressed concern about noise.

The Board closed the public comment portion of the hearing.

Mike Bowman explained that pulverating topsoil may cause noise, however he cannot hear it in his office or in the workshop with the overhead doors open. He indicated that a tractor in the field behind Ms. Stillbower's house would generate more noise than his operations. He explained that he only grinds concrete and pulverizes topsoil between 8AM to 5PM hour range and only a few days a month.

Q: Jordan Caldwell – Have you reviewed the stipulations?

A: Mike Bowman – I don't agree with all of them.

Jordan Caldwell indicated that he supports the rezoning, and that Mr. Bowman needs more space as his business has grown.

Mr. Bowman discussed his plans for landscape buffers along adjoining properties.

Desiree Calderella explained that the UDO would require a landscape buffer along the properties adjoining the new property purchased by Mr. Bowman. She explained that he would need to request a variance from the BZA if an adjacent landowner prefers to have a less restrictive buffer.

Q: Kevin Carson – You are willing to appear before the BZA and bring letters from adjoining landowners and/or have the landowners appear to confirm that they are ok with no landscape buffer or fence?

A: Mike Bowman – Yes.

Q: Terry Smith – Has there been any complaint about the current I1 zoning?

A: Desiree Calderella – Not that I am aware of.

Q: Terry Smith – Could the property be rezoned to I1 with a BZA exception for the proposed use?

A: Desiree Calderella – Yes. However, I am recommending a stipulation to rezoning approval that use of the property be limited to contractor's offices and light manufacturing.

Q: Charity Mohr – What happens if an adjoining landowner who does not want a landscape buffer chooses to sell their property?

A: Mike Bowman – I would agree to a stipulation to install the landscape buffer.

Scott Gabbard noted that rezoning of the property currently zoned I1 would correct a zoning assignment error made by the County, that the property does not directly adjoin I-74, and that the new property adjoins property already zoned for industrial use.

Q: Scott Gabbard – How is the stipulation regarding limiting use to excavating and light manufacturing different from what he is requesting?

A: Desiree Calderella – Its not.

Kevin Carson made a motion to vote on the petition with stipulations and Jordan Caldwell seconded that motion. **The petition was APPROVED 9-0 with stipulations:**

- 1. Any equipment associated with the business shall not be parked in the required yard setbacks.**
- 2. No off-site advertising signs shall be erected on the property.**

3. **The current and any future property owner shall abandon any septic system and connect to sanitary sewer at the time sanitary sewer becomes available within 100-feet of the property lines.**
4. **Use of the property shall be limited to contractor's offices and shops associated with the excavation business and light manufacturing.**

The Board adopted the following findings of fact:

1. The request is consistent with the Shelby County Comprehensive Plan.
2. The request is consistent with the current conditions and the character of structures and uses in each district.
3. The request is consistent with the most desirable use for which the land in each district is adapted.
4. The request is consistent with the conservation of property values throughout the jurisdiction.
5. The request is consistent with responsible growth and development.

RZ 22-15 – P&E 12 LLP REZONING: Rezoning of 10-acres from the RE (Residential Estate) District to the A2 (Agricultural) District. Located at 6535 W 600 N, Fairland, Sugar Creek Township.

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

Jake Brattain represented the petitioner. He explained that the petitioner had thought that the property was zoned agricultural and that they could continue to use the property as historically used. He indicated that the petitioner had been overzealous by leasing the property for storage of the ARCO trucks, however had discontinued that use of the property, and had cleaned up the property in a timely manner. He stated that the petitioner agrees with Staff's recommended stipulations.

Phillip Mitchko indicated that he had spoken with all but three or four neighbors who had received notification of the petition. He indicated that the neighbors seemed agreeable to his proposed use if he did not store commercial vehicles on the property. He stated that he plans to only farm the property and conduct small engine repair. He indicated that he can view the property from his residence across the street and therefore would keep the property maintained. He explained that the presence of four large buildings and current use of the property for farming hay supports rezoning of the property to agricultural. He provided photographs to the board (see case file).

The Board opened the hearing for public comment.

Vann Sanders, who lives at 5694 N PR 660 W, indicated that he had spoken with the petitioner and supports the petition with the recommended stipulations.

The Board closed the public comment portion of the hearing.

Q: Jordan Caldwell – Do you agree with the stipulations?

A: Jake Brattain – Yes.

Q: Scott Gabbard– Is there any reason why prohibiting farmers markets and wineries is included in the stipulation?

A: Desiree Calderella – Those uses could generate more traffic and a higher volume of people than other uses permitted in the A2 District.

Charity Mohr made a motion to vote on the petition with stipulations and Scott Gabbard seconded that motion. **The petition was APPROVED 9-0 with stipulations:**

- 1. Use of the property for a home business kennel, agricultural tourism, farmers market, and/or winery shall be prohibited.**
- 2. Outdoor storage of commercial vehicles and products, materials, supplies, waste, scrap, or the like associated with a Type 3 Home Bussiness shall be prohibited.**

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.

Discussion:

None.

Adjournment:

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

Terry Smith
President

Date

Scott Gabbard
Secretary

Date