

**Shelby County Plan Commission
Meeting Minutes
Tuesday
October 27, 2020**

Members Present:

Doug Warnecke
Chris Ross
Terry Smith
Charity Mohr
Kevin Carson
Scott Gabbard
Steve Mathies
Taylor Sumerford

Members Absent:

Mike McCain

Staff Present:

Desiree Calderella – Planning Director
Mark McNeely – Plan Commission Attorney

Call to Order and Roll Call:

Doug Warnecke called the October 27, 2020 meeting to order at 7:00 pm in Room 208 A at the Court House Annex.

Approval of Minutes:

Chris Ross made a motion to approve the minutes from September 22, 2020. Steve Mathies seconded the motion. The minutes were approved 8-0.

Steve Mathies made a motion to approve the minutes from October 6, 2020. Steve Mathies seconded the motion. The minutes were approved 8-0.

Public Hearings:

Old Business

None.

New Business

SD 20-08 – LAMB SIMPLE SUBDIVISION: Subdivision of 3.612-acres into a 2-acre building lot and 1.612-acre lot including an existing mobile home. Located at 6801 W 500 N, Fairland, Sugar Creek Township.

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

Jeff Powell represented the petitioner and stated that the Board had previously approved the rezoning.

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

Steve Mathies made a motion to vote on the petition and Chris Ross seconded that motion. **The petition was APPROVED 8-0.**

RZ 20-13 – RASNER REZONING: Rezoning of 38 +/- acres from the IS (Institutional) District to the RE (Residential Estate) District to allow for use of the property for single-family residential purposes. Located at 785 N Knightstown Rd, Shelbyville, Addison Township.

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

Bill Rasner did not have any additional comments.

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

Bill Rasner stated that he does not plan to subdivide the property.

Scott Gabbard made a motion to vote on the petition and Steve Mathies seconded that motion. **The petition was APPROVED 8-0.**

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.

RZ 20-14 – STANTON REZONING: Rezoning of 4.9 acres from the A2 (Agricultural) District to the RE (Residential Estate) District to allow for one single-family residential building lot. Located at 1390 W Flat Rock Rd, Flat Rock, Washington Township.

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

Gregg Graham represented the petitioner. He explained that DNR would not prohibit development of the property and that the Health Department had approved plans for a septic system. He argued that the property does not qualify as prime farmland because the property has never been used for crop production, and therefore the farm service would likely deny an application to place the land into active production. He also stated that the USDA Soil Survey is not an exact science. He explained that the Board has previously approved rezonings to allow residential development of land not well suited for agriculture.

Scott Sumerford was present.

The Board opened the hearing for public comment.

Ronitta Bowers, who owns property at 1349 W Flat Rock Rd, inquired if the Board had a concern with the petitioner building in a floodplain.

The Board closed the public comment portion of the hearing.

Scott Sumerford explained that the petitioner would need a permit to place fill to elevate the structure the required two feet above the floodplain.

Chris Ross explained that the new home development process includes several permitting approvals, therefore approval of the rezoning would not guarantee final approval to build on the property.

Q: Taylor Sumerford – Would the fill need to be compacted?

A: Desiree Calderella – Placement of fill must comply with the floodplain standards indicated in the UDO.

Q: Doug Warnecke – Has DNR found no issue with the rezoning or building in the floodplain?

A: Gregg Graham – DNR does not have any involvement with the rezoning. The owner would comply with DNR requirements for building on the property.

Q: Doug Warnecke – What is the setback requirement from the floodway?

A: Desiree Calderella – Fifteen feet from any flood hazard area.

Gregg Graham stated that the structure would be setback at least 15-feet from the floodway.

Scott Sumerford stated that the petitioner had received approval from the Health Department for a sand-septic system outside of the flood hazard area.

Kevin Carson said he applauds any person who can find a piece of property in Shelby County to build on that does not use up good farmland.

Kevin Carson made a motion to vote on the petition with a stipulation and Chris Ross seconded that motion. **The petition was APPROVED 7-1 with a stipulation:**

- 1. Approval from DNR of any building project shall be submitted to the Planning Director prior to obtaining a building permit.**

Doug Warnecke cast the negative vote.

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 20-15 – HYATT REZONING: Rezoning of 21 acres from the A1 (Conservation Agricultural) District to the RE (Residential Estate) District to allow for construction of a single-family home and residential accessory structures. Located north of and adjoining 7406 W Old SR 252, Edinburgh, Jackson Township.

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

Forest Hyatt did not have any additional comments.

The Board opened the hearing for public comment.

Dan Baugh, who owns property at 7406 W Old SR 252, expressed concern with four lots on a private gravel driveway rather than a public road, with the quality of the proposed house, and with the possibility of the petitioner operating his current business from the property.

The Board closed the public comment portion of the hearing.

Forest Hyatt stated that he would join the maintenance agreement for the driveway, that

he would construct a custom house, and that he would not operate his business from the property.

Q: Doug Warnecke – Do you plan to subdivide the property?

A: Forest Hyatt – No.

Steve Mathies made a motion to vote on the petition and Scott Gabbard seconded that motion. **The petition was APPROVED 8-0.**

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.

HYATT DEVELOPMENT STANDARDS VARAINCE - to allow for development of a lot without road frontage (minimum 160-feet of road frontage required in the RE District). Located north of and adjoining 7406 W Old SR 252, Edinburgh, Jackson Township.

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

Doug Warnecke **APPROVED** the petition.

RZ 20-16 – HARTMAN REZONING: Rezoning of 5.704 acres from the A1 (Conservation Agricultural) District to the RE (Residential Estate) District to allow for a one-lot Simple Subdivision. Located at 3239 S 25 E, Shelbyville, Shelby 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.

Nick Hartman was present.

The Board opened the hearing for public comment.

Lisa Quintero, who owns property at 305 E 275 S, asked if the petitioner requested an

access easement to SR 9 across the County owned property to the east and if the petitioner had a drainage plan. She expressed concern with construction equipment using an access lane along her property line and flooding from the access lane onto her property.

The Board closed the public comment portion of the hearing.

Nick Hartman stated that he had not requested an access easement to SR 9, that he would tie into the newly installed drainage system in the farm field to the south, and that he planned to install the septic system at the south end of the property.

Chris Ross stated that the County would not grant an easement. He explained that an access drive to SR 9 would require a bridge over a newly installed drainage way.

Jeff Powell explained that they would address drainage plans related to the driveway with the Site Plan. He verified that they would install the driveway along the fee-simple access along the north side of the property.

Taylor Sumerford asked for the State Plane Coordinates.

Edward Quintero, who also owns the property at 305 E 275, asked how they would address debris in his yard from the clearing of trees and dust in his yard from the driveway.

Jeff Powell stated they would clear a minimal number of trees.

Nick Hartman stated that he does not plan to pave the driveway.

Steve Mathies made a motion to vote on the petition and Charity Mohr seconded that motion. **The petition was APPROVED 8-0.**

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 20-09 – HARTMAN SIMPLE SUBDIVISION: Subdivision of one 5.704-acre single-family residential building lot from a 26.882-acre parent tract and waiver of subdivision design standards to allow for a lot having 50-feet of road frontage (160-

feet of road frontage required). Located at 3239 S 25 E, Shelbyville, Shelby Township.

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

Jeff Powell represented the petitioner. He did not have any additional comment.

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

Steve Mathies made a motion to vote on the petition and Chris Ross seconded that motion. **The petition was APPROVED 8-0.**

Discussion

Shelbyville Extraterritorial Jurisdiction

This discussion was continued until November 24, 2020.

Commercial Solar Energy System (CSES) Ordinance

Desiree Calderella provided an overview of the amendments to the Ordinance.

Kevin Carson asked if the lot coverage requirement related to limiting acreage of projects. Desiree Calderella explained that lot coverage requirements do not limit the overall size of the project.

Kevin Carson suggested amending *Section M. Proximity to Airport* to allow the section to apply to solar facilities within 660-feet of an airport, rather than 500 feet. Desiree Calderella stated that 500-feet is an arbitrary number and that she did not see any problem with the changing the distance.

Scott Gabbard asked if the County would have the ability to commission a company to maintain the property if a solar company violated the property maintenance standards included in the ordinance. Desiree Calderella explained that the Ordinance does not include a bond for maintenance, however the County Nuisance Ordinance does allow the Code Compliance Board to mow property in violation and place a lien on the property's tax statement.

Kevin Carson suggested amending *Section R. Decommissioning* to reference an AM Best Company with an A or A+ rating. Desiree Calderella stated that she would include the change.

The Board discussed *Section 3 k* in depth.

Kevin Carson expressed concern with not requiring approval of the project by the governmental entities because the BZA often places conditions on approval that a project comply with certain requirements of other governmental entities.

Doug Warnecke expressed concern regarding coordination with the federal agencies listed.

Doug Warnecke suggested requiring a written response from the governmental entities within a reasonable timeframe.

The Board came to a general consensus that applicants should obtain a written response from the governmental entities prior to the BZA hearing, then the BZA could require the applicant to address any issues raised by the entities at the Board's discretion.

Desiree Calderella agreed with the Board's decision. She stated she would move *Section 3 k* to the BZA phase of the application process and would also give the Zoning Administrator the discretion to review the written responses for projects that do not require a special exception.

Kevin Carson inquired about public notification requirements. Desiree Calderella explained that the Unified Development Ordinance requires notification of all property owners within 600 feet of a project site of an application for Special Exception.

Scott Gabbard expressed concern that the site plan and supplemental documentation sent to the governmental entities, specifically the federal agencies, may not be provided to the appropriate person or division of that entity.

Chris Ross, Steve Mathies, and Doug Warnecke suggested that removal of federal agencies from the governmental entity list. Desiree Calderella stated that she would remove the federal agencies from the list.

Terry Smith explained that applicants for some projects may not need to notify all agencies, such as a project located greater than 660 feet from an airport or at the opposite end of the County as a municipality. Desiree Calderella agreed and said she would take this into consideration.

Scott Gabbard suggested that the ordinance specify the applicable division in State agencies. He stated he would help identify the correct divisions.

Doug Warnecke provided an overview of the process for reviewing and voting on the final draft of the ordinance amendment.

Adjournment:

