

**Shelby County Plan Commission
Meeting Minutes
Tuesday
October 26, 2021**

Members Present:

Doug Warnecke – via Zoom
Chris Ross – via Zoom
Mike McCain
Steve Mathies
Terry Smith
Scott Gabbard
Kevin Carson
Taylor Sumerford – left during hearing of RZ 21-18

Members Absent:

Charity Mohr

Staff Present:

Desiree Calderella – Planning Director
Jodie Butts – Plan Commission Attorney

Call to Order and Roll Call (members present):

Kevin Carson called the October 26, 2021 meeting to order at 7:00 pm in Room 208 A at the Court House Annex.

Resolution 2021-03: Establishing the policy by which members of the plan commission may participate by electronic means of communication.

Steve Mathies made a motion to vote on the petition with stipulations and Scott Gabbard seconded that motion. **The resolution was APPROVED.**

Roll Call (members participating by Zoom):

Approval of Minutes:

Steve Mathies made a motion to approve the minutes from July 27, 2021. Scott Gabbard seconded the motion. The minutes were approved 8-0.

Public Hearings:

Old Business

None.

New Business

RZ 21-17 – COMBINED ASSET DEVELOPMENT, LLC REZONING: Rezoning

of 32.37 acres from the A1 (Conservation Agricultural) District to the I2 (High Intensity Industrial) District to allow for a land clearing operation and mulch distribution center. Located west of and adjoining 4324 E SR 244, Shelbyville, Liberty Township.

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

Eric Glasco of Stephenson Rife represented the petitioner. He provided an overview of the company's operations and an overview of the case using a PowerPoint presentation provided to the Board (see case file). He indicated that the petitioner anticipated occasional storage of seven to ten pieces of equipment on site and five to ten employees. He explained that the limited scope of the business should not impact traffic and could utilize a septic system and well. He stated that the petitioner would build-up mulch piles as the business grows.

The Board opened the hearing for public comment.

Kevin Evasion expressed concerns about noise and impacts to groundwater levels.

Ron Browning, who owns property at 4211 E Michigan Rd, asked if the petitioner planned to grind mulch on the property and expressed concern about impacts to groundwater levels.

Bill Richmond, who owns property at 4080 E Michigan Rd, expressed concerns with odor from chemicals, drainage, and impacts to groundwater levels.

Shirley Alton, who owns property at 4271 E Michigan Rd, expressed concern with health risks posed by the use of chemicals.

Dwayne Kuhn requested that the petitioner not alter or remove the drain tile that runs from the other side of the interstate across the subject property.

Bruce Ramsey expressed concerns about dust control and noise levels.

Mark Fisher requested that the petitioner not alter the drain tile that runs across the property, or to improve the drain tile. He expressed concern with adding more water to the drainage system of the area.

Bronson Mounce, who owns property at 4028 E Michigan Rd, expressed concerns with water runoff and impact to property values.

Travis Brant, who owns property at 4012 E Michigan Rd, expressed concerns with impacts to the water table, air pollution, impacts to drainage along the roadway, and

impacts to property values.

The Board closed the public comment portion of the hearing.

Eric Glasco explained that the petitioner would use all-natural chemicals that would not pollute groundwater. He indicated that the operation would produce a wood-smell, but produce no other odor. He indicated that the petitioner plans to improve or redirect the drain tile that runs across the property. He explained that the operation would use a limited amount of water which he does not anticipate having an impact on groundwater levels. He indicated that noise would include the diesel engine from the mulch grinder and backup alarms, however the proposed landscape mound, potential alternatives to backup alarms, and daytime working hours would mitigate noise impacts. He indicated that the operation would have a minimal amount of traffic and that the paved entrance, landscape mound, property line setbacks, and dust suppression measures would mitigate dust impacts. He explained that the proposed mound and property line setbacks would prevent the operation from altering the rural character of the area. He indicated that utilities do not exist on site to support alternate types of development. He rebutted Staff's concerns with information included in his PowerPoint presentation.

Q: Mike McCain – Would there be heavy water usage in the processing of materials?

A: Eric Glasco – No, five gallons per cubic yard.

Q: Doug Warnecke – What are the chemicals used for?

A: Tod Hann – Mulch dye.

Q: Kevin Carson – How many cubic yards of mulch would you have on site?

A: Tod Hann – Five to ten thousand cubic yards.

Q: Doug Warnecke – What percentage of the tract would be used for storage of mulch and equipment.

A: Tod Hann – Approximately 30% for the first five years.

Q: Doug Warnecke – Do you plan to ship mulch out of state?

A: Tod Hann – Plan to ship mulch within a 40–50-mile range.

Q: Doug Warnecke – Have you tested runoff water for chemicals or are you aware of a testing requirement?

A: Tod Hann – No

Q: Kevin Carson – Would you stipulated to mitigate any damage to on-site drainage tiles?

A: Tod Hann – Yes, we would devise a plan to mitigate any damage.

Steve Mathies expressed concerns with truck traffic and groundwater contamination from

dye.

Q: Kevin Carson – Do you know the decibel level of the mulch grinding machines?

A: Tod Hann – We have reports available.

Q: Kevin Carson – What are your proposed hours of operation?

A: Tod Hann – Weekdays, 7AM-5PM with machines operating 8AM-4PM.

Q: Doug Warnecke – Are you planning to pave only the entrance?

A: Tod Hann – Yes.

Q: Kevin Carson – What are your plans for mulch fires?

A: Tod Hann – Pile spacing, mulch rotation, etc.

Q: Kevin Carson – How many trucks do you anticipate per day? Are you a retail or wholesale distributor?

A: Tod Hann – Five to ten on average with increasing trips as business grows. Currently 2% retail.

Q: Steve Mathies – What is the setting of your current site?

A: Tod Hann – Similar to this site, next to an interstate and residential homes.

Terry Smith explained that setting back the mulch grinder from the property line adjoining residential properties would help mitigate noise. He explained that trucks using the interstate rather than County roads would help alleviate traffic concerns.

Q: Terry Smith – How would drainage be reviewed? Would IDEM issue any permits?

A: Desiree Calderella – USI Consultants would review the plans to ensure they comply with the County drainage ordinance. The petitioner would have the responsibility of obtaining any necessary IDEM permits.

Q: Mike McCain – Is there any licensing required to use the mulch? If not, the Board may not need to consider the environmental impacts of chemicals.

A: Tod Hann – No.

Q: Doug Warnecke – Will you bag mulch on site?

A: Tod Hann – We would use a conveyor system and associated building.

Q: Terry Smith – Water used in the process would only include the water needed for dyeing the mulch, correct? No other runoff would be anticipated.

A: Tod Hann – Correct.

Q: Mike McCain – Will the conveyor be taller than the berm?

A: Tod Hann – No.

Q: Steve Mathies – Have you considered the technical aspects of construction of the berm?

A: Eric Glasco – They recently received Staff’s recommended stipulations and therefore have not determined the specific details of the berm design.

Eric Glasco requested an amendment to Staff’s stipulations to allow mulch piles at a maximum height of 20 -25 feet and for a landscape berm at a minimum of 20-feet.

Steve Mathies made a motion to vote on the petition with stipulations:

- The property shall not be used for recycling processing, sewage treatment, or outdoor storage of materials unrelated to the proposed land clearing operation and mulch distribution center.
- 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.
- Landscape Buffer ‘D’ as indicated in the Unified Development Ordinance shall be installed in the area indicated on the Site Plan submitted with the rezoning application. Landscaping mounding and all trees at mature height shall in combination be at least 25-feet in height from existing land grade.
- Outdoor stockpiles of materials shall not exceed 25-feet in height.
- All structural development, outdoor storage areas, and parking, loading, and maneuvering areas (excluding access drives) shall be setback a minimum of one-hundred and twenty (120) feet from the far east property line.
- 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.
- Damage to on-site drainage tiles shall be mitigated.

Doug Warnecke seconded the motion. The petition was **DENIED 6-2**, with Terry Smith and Mike McCain casting the dissenting votes to approve.

RZ 21-18 – SURGE INDUSTRIAL PLEASANT VIEW REZONING: Rezoning of +/- 302 acres from the A1 (Conservation Agricultural) District and the R1 (Single-Family Residential) District to the I1 (Low Intensity Industrial) District to allow for speculative low-intensity industrial development. Located generally south of McGregor Road and north of the CSX Railroad, Moral Township.

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

Peter DePrez of Brown, DePrez & Johnson represented the petitioner and attended via Zoom. He emphasized that the County has planned for development in the area for a significant amount of time, that development of the Comprehensive Plan included input from the public, that the Comprehensive Plan recommends industrial land use for the

subject property, and that the petitioner has not asked to rezone any property designated for future residential or agricultural use by the Comprehensive Plan. He explained that local residents Chris King and Mike Runnebohm solely own Surge Industrial. He stated that the petitioner agrees with Staff's recommended stipulations.

Chris King, Mike Runnebohm, George Ruschhaupt (an owner of included property), and Kyle Resitarius (attorney representing an owner of included property – Smith Trust) were present.

Chris King provided an overview of the petition. He emphasized that the rezoning is the first step in the planning process, that Surge Industrial would conduct further due diligence, and that the County would review site-specific plans.

The Board opened the hearing for public comment.

Lisa Wojhoski-Schaler, who lives within a mile of the subject property, expressed concerns with lack of public notice, that approval of a rezoning without a specific plan in place could open the door for undesirable land uses, that development would impact the aquifer and adjacent floodplain, that development would impact the natural environment, about impacts to runoff, about groundwater contamination, about allowing development before finalization of plans for sewer and water utilities, and about light and noise impacts to nearby residences. She asked why the petitioner had requested a rezone without a specific plan or business in place, she asked about the nature of the petitioner's business, she requested a continuance to allow time for the public to have their questions answered, she asked if the petitioner had completed studies to determine environmental impacts of development on the surrounding area, she asked for a guarantee that the County would not approval any further variances from the ordinance, she inquired about any additional use restrictions to prevent nuisances to nearby residences, she requested further information on the studies used in developing the Comprehensive Plan as referenced by Mr. DePrez, she asked if the rezoning complies with the guidelines of the American Planning Association, she inquired about the definition of low intensity industrial development, and she asked if any elected officials have a financial interest in development of the property.

Kevin Evasion expressed concerns that the development does not directly impact anyone involved in the decision-making processes and about impacts to traffic.

Donna Dugan, who lives in the area south of the property, submitted letters in opposition to the rezoning (see case file). She expressed concerns with the possibility of land taken from homeowners to widen the roads and with negative impacts to residential properties in the area. She asked to delay the decision on the rezoning until the neighbors could provide suggestions to improve the proposal.

Wayne Wadd, who lives in Moral Township, expressed concern that the decision-makers

approving development in the area do not live in Moral Township. He indicated that he and other residents in the area had no expectation of this type of development until recently. He expressed concern about limited fire safety and emergency services in the area. He asked about the source of funding for emergency services. He indicated that the County should have infrastructure in place prior to approving zoning for development.

Jason Able, a citizen of Moral Township, expressed concerns regarding the ambiguity of the rezoning application and lack of public input.

Aaron Lathrop, Chief of the Moral Township Fire Department, participated via Zoom. He asked the Commission to table rezoning of the property until the Fire Department has funding and a plan in place to provide emergency services to the proposed development in the area.

David Riggins, who lives south of the property, recommended that the County further review its industrial development and design standards prior to approving zoning for industrial development. He expressed concern with limited emergency services in the area.

Tony Titus, president of the County Council, explained that the Council and Council's Financial Adviser have reached out to the Moral Township Fire Department and Fairland Fire Department to begin addressing emergency service funding issues.

Randy Duncan, who owns property at 8520 N 850 W, expressed concerns with impacts to drainage in the area and limited emergency services in the area.

Haley Whalen, who owns property at 8944 N 850 W, expressed concern with impacts to property values of nearby residential properties.

Renee Evans, who lives in Moral Township, stated that she is against excessive growth and expressed concern with lack of public notice.

Blake Newkirk, who lives in the Bangel area, asked why Staff is recommending prohibition of paintball facilities and for clarification on the findings of fact. She explained that the County does not always appear to follow the Comprehensive Plan.

The Board closed the public comment portion of the hearing.

Peter DePrez verified that Surge Industrial is NOT a chemical or petroleum company. He explained that the initial step in due diligence is zoning a property to a suitable district to market the property to appropriate end-users. He explained that zoning the property to industrial would provide an area for development for industrial uses, therefore preserving other area in the County for agricultural use. He explained that development of the property would build a tax base to provide funding needed for infrastructure and services.

He stated that the Board would review plans for each specific end user.

Chris King verified he had followed the requirements for legal notice. He explained that rezoning the property would determine the potential end users, thereby determining the needed infrastructure to support the end users. He stated that Surge had not identified specific end users. He verified that he and Mike Runnebohm formed Surge Industrial LLC in June of 2021. He stated that the property is not in the floodplain. He explained that future drainage infrastructure would alleviate impacts to nearby floodplains. He explained that Citizens Energy plans to provide water, sewer, and gas to the area. He explained that the new development, rather than the existing tax base, would fund improvements to infrastructure in the area. He stated that construction of industrial buildings can have light and noise impacts and that he has communicated with landowners in the area regarding these issues during construction of the Five Below warehouse.

Desiree Calderella read the list of permitted uses in the I1 District.

Chris King stated that Surge Industrial has stipulated to doubling the required setback and landscape buffer requirements between the property and adjacent residential uses. He indicated that Surge Industrial may ask to rezone a portion of the property for commercial development at a future date. He stated that he is not aware of any new high-density residential development north of I-74. He stated that he hoped that the development would grow the workforce in the community. He stated that Surge Industrial cannot guarantee that end users will not request variances from ordinance requirements due to the uniqueness of each project. He outlined the plans for road improvements along McGregor Rd. and Frontage Rd. He stated that the County has not ‘taken’ any private land for these road improvements and that landowners have donated land for the improvements.

Q: Kevin Carson – Has Moral Township Fire Department hired Robby Stonebreaker to conduct fire inspections for the County?

A: Aaron Lathrop – Yes, on an hourly basis.

Steve Mathies discussed State fire inspection requirements.

Chris King explained that he has consulted with Mr. Stonebreaker on current construction projects and plans to continue to consult with the fire department on future projects.

The Board took a 10-minute recess. Taylor Sumerford excused himself from the meeting at this time. He did not vote on RZ 21-18.

Chris King explained that the Citizens water line would provide enough flow to service building sprinkler systems. He verified that he is aware of required State permits and would conduct all applicable due diligence. He explained that he hoped to have public

comment of these projects to address potential unforeseen issues. He explained that the Comprehensive Plan protects farmland by designating areas for development in concentrated areas. He explained that design of drainage infrastructure would occur as the next step after approval of the rezoning and that the County would review and approve the drainage design plans. He spoke about the difficulties in determining impacts to property values, however a home adjacent to Five Below sold after one day on the market.

Q: Scott Gabbard – Can you clarify the meaning of institutional grade investments?

A: Chris King – Higher standards of construction.

Q: Scott Gabbard – Why has government operations been excluded as a recommended stipulation?

A: Desiree Calderella – A rezone to the Institutional zoning district and applying the development standards of that district would be more appropriate for the development of a government facility.

Desiree Calderella provided a summary of the requirements of section 9.08 Development Plan of the UDO.

Q: Kevin Carson – Are you coming before the Plan Commission now with a vision, and will then will come back with a plan?

A: Chris King – We are asking the Plan Commission to define the use. Then we will continue to invest in the due diligence process and come back to the Plan Commission with specific plans. This is a typical process in other communities.

Q: Kevin Carson – Do you need to rezone the entire 300+ acres now?

A: Chris King – Yes, some potential end users require over 200-acres of land.

Q: Kevin Carson – Do you have a designated end user?

A: Chris King – No.

Q: Scott Gabbard – Can you list the items required for a State designated shovel-ready site?

A: Chris King – Phase 1 environmental, Phase 2 environmental if necessary, wetlands delineation, Army Corp approvals, topographic surveys, geotechnical analysis, utility capacities, road access, etc.

Q: Kevin Carson – What is your timeline for obtaining a shovel-ready site designation?

A: Chris King – Three to four months.

Steve Mathies stated that he believes that the proposal is a great opportunity for Shelby County and Moral Township. He indicated that the project has community involvement due to the petitioners residing in the County. He stated that the Comprehensive Plan

recommends use of the property for industrial purposes.

Chris Ross noted that the County had approved rezoning of other property in the area on a speculative basis. He stated that he believes that the proposal is a good thing for the County. He indicated that the petitioner needed to rezone the property first, and that they would come back to the Plan Commission with a detailed development plan.

Mike McCain made a motion to vote on the petition with stipulations and Steve Mathies seconded that motion. The petition was **APPROVED 6-1**, with Kevin Carson casting the negative vote, with **stipulations**:

- 1. Development Plan Approval as required by section 9.08 Development Plan of the Unified Development Ordinance shall be required prior to issuance of an Improvement Location Permit for any permanent construction, installation, addition, alteration, or relocation of a new structure, and/or permanent alteration to the land.**
- 2. The property shall not be used for a paintball facility or governmental operations.**
- 3. At the discretion of the Zoning Administrator, increased setbacks and/or landscape buffers exceeding ordinance requirements shall be provided along all property lines not adjoining property in the OP, IS, C2, I1, I2, and HI Districts. Required setbacks shall not exceed two-times the requirement of the Unified Development Ordinance. Required landscape buffers shall not exceed one letter-grade above the requirement of the Unified Development Ordinance.**

Discussion

None.

Adjournment:

With no further business to come before the Board, Steve Mathies made a motion to adjourn. Terry Smith seconded that motion. The meeting was adjourned.

Doug Warnecke
President

Date

Scott Gabbard
Secretary

Date