

STATE OF ALABAMA
SHELBY COUNTY

SHELBY COUNTY PLANNING COMMISSION MINUTES

Regular Meeting – February 4, 2019 – 6:00 PM

Members Present: Jim Davis, Chairman; Michael O’Kelley, Vice Chairman; Bob Land; Bill Kinnebrew; Samuetta Nesbitt; Kenneth Wilder; Jay Gunther

Members Absent: None

Staff Present: Chad Scroggins, Development Services Manager; Christie Pannell-Hester, Planning Services Supervisor; Kristine Goddard, Principal Planner; Josh Cameron, Principal Planner; John Slaughter, Chief Civil Engineer; Randy Cole, County Engineer

PUBLIC HEARING

The meeting was called to order at 6:00 P.M. by Jim Davis, Chairman. **Commissioner Davis** introduced the members of the Planning Commission and the County staff. There were approximately One Hundred audience member(s) present in addition to the Planning Commission members and County staff.

Approval of the Minutes of the January 22, 2019 Planning Commission Meeting.

Commissioner Land made a motion to approve the minutes of the January 22, 2019 meeting as written. The motion was seconded by **Commissioner Wilder**. By a unanimous vote of seven (7-0), with Commissioners Davis, O’Kelley, Land, Kinnebrew, Nesbitt, Wilder, and Gunther voting in favor, the minutes of the January 22, 2019 meeting were approved.

1. Case No. SD18-005 Rushing Farms Rezoning E-1 to E-2 SD

This is a request from Brooks Harris, Harris Doyle Homes on behalf of Rainsway, LLC, property owner, for the approval of a change in the zone district boundaries for approximately 63 acres from E-1 Single Family Estate District to E-2 SD Single Family Estate Special District to develop a 63-lot residential subdivision with varying lot sizes.

The subject property is zoned E-1 and is located at the intersection of Caldwell Mill Road and Indian Crest Drive. Parcel Identification No. 58-10-5-15-0-002-053.000.

Ms. Sharman Brooks described the case and presented the following information to the Planning Commission:

DISCUSSION

Site Description

The subject property is zoned E-1, Single-Family Estate District and is located at the intersection of Indian Crest Drive and Caldwell Mill Road (County Road 29) approximately one half mile south of Valleydale Road in the North Shelby – I-65 Zoning Beat. The View at Indian Crest, situated to the north and northwest across Indian Crest Drive, is zoned E-2 Single Family Residential, within the town of Indian Springs Village. The Windwood Circle subdivision,

located to the northeast across Caldwell Mill Road at the intersection of Caldwell Mill Road and Windwood Circle, is zoned E-1 (Shelby County) and E-1 (Indian Springs Village). The Indian Forest Estates subdivision, within the town limits of Indian Springs Village, is zoned E-1 Single Family Residential and adjoins the subject property to the southwest. The Lee Street Estate subdivision, to the south of the subject property, located within unincorporated Shelby County and is zoned E-1 Single Family Estate district. The Montalbano Estates and Willowbrook subdivisions, northeast and east across Caldwell Mill Road, are zoned E-1 and E-2 respectively. Caldwell Mill Estates, located to the east and south of the intersection of Caldwell Mill Road and Cahaba Valley Trace, is zoned E-1.

Other land uses in the vicinity of the subject site include: the commercial core, located at the intersection of Valleydale Road and Caldwell Mill Road to the north; Jefferson State Community College, is located to the northeast on Valleydale Road and Oak Mountain High School, located approximately three quarters of a mile south of the subject property.

The 63- acre subject site is heavily wooded with a mix of hardwood and evergreen trees throughout. The property has recently been selectively timbered. Topography of the site is rolling from the Caldwell Mill Road, across the site, to New Hope Mountain Road. The site terrain becomes steeper near the northern property line toward Indian Crest Drive. The subject property is not located within a Special Flood Hazard area.

The subject site is located within the Cahaba River Basin and within the area that is subject to the Phase I Municipal Separate Storm Sewer System (MS4) permit issued to Shelby County by the Alabama Department of Environmental Management. Land disturbance should include Best Management Practices (BMPS) that are designed and installed in accordance with the *Alabama Handbook for Erosion Control, Sediment Control and Stormwater Management on Construction Sites and Urban Areas* to prevent sediment from entering drainage ways or streams. A NPDES construction permit should be acquired from ADEM prior to disturbance. *Low impact development techniques are encouraged to offset the creation of impervious surfaces through development. This project must comply with the requirements set forth in the Shelby County MS4 permit.*

Proposed Site Plan

The site development area totals 63 acres. The applicant requests to rezone this property to E-2 Special District to allow the development of 63 single-family residential lots with varying lot sizes and an overall gross density of one lot per acre. Proposed lot sizes range from 0.45 acres (20,000 square feet) up to 1.12 acres.

The proposed site plan identifies 12 one acre lots, 51 one half acre and larger lots and 13.21 acres of natural open space with a walking trail system (see graphic to right). The smaller lots in this development, with 100-foot lot widths (gold), will be in the central and eastern half of the development. This portion of the development will lie alongside Caldwell Mill Road and will be in close proximity to the Willowbrook neighborhood that is similarly configured. The 100-foot lots will have a 35-foot front and rear setback with a 10-foot side setback on each side. The larger 150-foot wide lots (brown) are proposed along the north and south perimeter of the development, along and off of Indian Crest Drive and New Hope Mountain Road. The 150-foot lots will have a 40-foot front setback and a 35-foot rear setback with a 10-foot side setback on each side. Corner lots 13, 14 29 and 60 will have varying setbacks as shown on the plan sheets. The proposed setbacks are consistent with E-1 and E-2 setbacks. This project is not intended to be a mass grade project and home construction is proposed to be individual custom builds.

Access to the development is proposed at two locations while also providing interconnectivity for the surrounding Indian Wood Forest neighborhood with a secondary access to Caldwell Mill Road. The westernmost access is located on New Hope Mountain Road approximately 360 feet south of its intersection with Indian Crest Drive. The primary access is proposed off of Caldwell Mill Road and proposes to utilize and improve the existing signal at the intersection of Cahaba Valley Trace. New turn lanes and restriping existing shared turn lanes are planned including required modifications to the existing signal. Final traffic signal design will be included as part of the required preliminary plat review of the subdivision.

Four common areas are proposed to be connected by a network of natural surface walking trails throughout the development. Approximately 21% percent of the property is identified to remain in minimally disturbed natural areas. The proposed layout identifies sidewalks on one side of the street. One hundred percent (100%) of all lots in the proposed layout are located within approximately ¼ of a mile of usable open space as required by the *Subdivision Regulations of Shelby County*. The common area along Caldwell Mill Road is approximately 75 feet wide and is proposed to be an undisturbed buffer from the edge of the right of way. A 50-foot buffer and common area is proposed along the southern boundary and will contain the two proposed detention ponds.

Construction of two detention ponds and other low impact development techniques to filter stormwater run-off, are proposed to be implemented during construction and final operation of the development. The proposed ponds are designed to mimic the pre-construction hydrology in small storms and cause a decrease in peak storm flow rates for larger storms. The ponds will be constructed by building an embankment on the low side of the pond area and leaving the trees in the upper part of the pond. By not grading the whole pond area the ponds will make less environmental impact and will allow percolation of some of the storm water into the pond bottom.

Final stormwater drainage and grading plans will be prepared as part of the required preliminary plat review of the subdivision.

Impact on Community Facilities and Infrastructure

Water service is available from Birmingham Water Works and Southwest Water Company North Shelby system will provide sewer services. The larger lots located along Indian Crest Drive are proposed to be served by septic systems while all other proposed lots will be on sewer.

The subject property is located in the North Shelby Fire District. Fire hydrants will be required. Plans must be submitted for preliminary plat review and locations must be approved by the Fire District.

Children living in this development will attend Shelby County Schools in the Oak Mountain Attendance Zone.

The applicant has submitted information gleaned from a professional traffic study as requested by the County Engineer's office. The December 2018 traffic study was based on the plan showing the two required access points and included recommendations such as a new right turn lane into the development for southbound Caldwell Mill Road traffic, restriping the existing shared left turn lane for northbound Caldwell Mill Road traffic and modifications to the existing signal poles and additional signal heads. According to trip generation rates for single family residential development (9.6 trips/unit), this development can be expected to generate approximately 604 trips per day.

Additional Approvals Required

The applicant may not be the primary developer of the proposed residential subdivision. The project may be a multi-phased development with a secondary developer/builder.

The Shelby County Highway Department has completed a review of the Special District application. There are no comments in regard of the zoning of this property.

The following comments, however, are provided for guidance to the developer and/or design engineer in the event zoning is approved and detailed design proceeds toward future preliminary plat submittal:

- 1) The properties located downstream of the proposed development are within an extremely sensitive drainage area with frequent complaints. Extraordinary measures may be required to accommodate the downstream concerns regarding this sites stormwater discharge volume.
- 2) The tree canopies along County Road 29 must be trimmed to the right-of-way line as necessary to maximize the available sight distance for Road A (looking south along County Road 29 from the proposed access). Appropriate notations will be required.
- 3) The following comment is in regard to the Skipper Consulting Inc. memorandum (dated December 13, 2018) regarding left and right turn lane warrants for the proposed developments access to County Road 29:
 - a). The right and left turn lanes will be required at the proposed access to County Road 29 intersection to enhance the safety of the proposed intersection and to protect the capacity of the existing County Road system. The current submittal includes these required turn lanes. No modification to the submittal is required at this time.

The details of the proposed intersection (strict alignment with the County Road 29 & 14 intersection, turn lanes, necessary utility relocations... etc.) will be considered during the future preliminary plat submittals (which should include all detailed designs necessary for the proposed construction).

Pursuant to rezoning approval, the applicant will be required to submit fully engineered preliminary plats that meet all requirements of the Subdivision Regulations of Shelby County and that are consistent with the approved Special District plan. The preliminary plats must be reviewed and approved by the Planning Commission. Any amendments, additions, deletions, alterations or changes to the approved Special District plan shall require the review and approval of an amendment to the approved Special District plan by the Shelby County Planning Commission.

Planning Analysis

The primary purpose of zoning land is to provide for the public health, safety and welfare in the

development of land by ensuring that property is developed in an appropriate manner within the context of its immediate surrounding and the larger community of which it is a part. There are times when changes in the zoning of certain property are justified. For example, when a community is experiencing requests for rezoning to accommodate infill development or redevelopment, this is an indication that local trends and conditions may have changed, altering the assumptions underlying the existing zoning.

Special Districts are authorized for the purpose of providing optional methods of land development that encourages imaginative solutions to environmental design problems, including infill development. Areas so established shall be characterized by a unified building and site development program providing for coordinated open space and architectural treatment. The Special District overlay binds this rezoning request to a specific development proposal and site development plan. The following information should be submitted pursuant to zoning approval:

- Applicant submitting a fully engineered preliminary plat that meets all requirements of the Subdivision Regulations;
- Applicant submitting an application for final plat approval within two (2) years of approval of the preliminary plat. Failure to apply may necessitate reapplication for preliminary plat approval;
- Any amendments, additions, deletions, alterations or changes to the approved Special District plan shall require the review and approval of an amendment to the approved Special District plan by the Shelby County Planning Commission.

The Shelby County Comprehensive Plan and Subdivision Regulations clearly embrace the concept of connectivity of developments. In order to ensure the provision of internal vehicular, pedestrian and bicycle connection within development areas are consistent with the Comprehensive Plan, the Shelby County Planning Commission will review all developments relative to potential street connectivity, the nature of surrounding properties and the merits of the individual development. The Comprehensive Plan specifically, requires the provision of a network and hierarchy of streets for accommodating internal traffic flow within development areas that limit “cut through” traffic, while maintaining the benefits of internal connectivity. A network of residential streets is at the core of the framework of a transportation system. The Planning Commission strives to ensure the efficient provision of adequate public facilities in a manner that promotes the health, safety and welfare of the citizens of Shelby County while balancing the demand of services with the impact on community character and land patterns consistent with the goals and vision of the Comprehensive Plan.

The proposed plan will provide two access points; one off of Caldwell Mill Road and one off of New Hope Mountain Road, in order to achieve the required connectivity to implement sound planning practices and promote the public health, safety and welfare of the residents. The proposed plan layout demonstrates interconnectivity as required by Article 3.04 Street Networks, Blocks and Lots and Article 6.02 Street Networks, Blocks and Lots of the *Subdivision Regulations of Shelby County*. The convoluted connection, as shown on the plan, may reduce traffic speed by eliminating direct access to the new connections.

The proposed plan provides lots that are consistent in size and distribution with established development patterns of the surrounding area. A minimum 50-foot buffer is proposed along the southern boundary where lots would have been directly adjacent to established lots.

The table below identifies the area and dimensional requirements for the existing zone district and the proposed Special District:

Current Shelby County Zoning							
E-1							
District	Height Stories/Ft.	Front	Rear	One Side	Total Sides	Minimum Lot Area	Minimum Lot Width
E-1	2 ½ / 35'	40'	40'	20'	50'	1 acre (43,560 sq. ft)	150'
Proposed E-2 SD (Requested by Developer)							
100' wide lots (E-2 lots)	2 ½ / 35'	35'	35'	10' each side		0.45 ac (20,000 sq. ft.)	100'
150' wide lots (E-1 lots)	2 ½ / 35'	40'	35'	10' each side		1 ac (43,560 sq. ft.)	150'
See plans for setbacks on Lots 13, 14, 29 and 60							

The proposed development of 63 single family residential lots zoned E-2 SD, on 63 acres yields a gross lot area of one acre per family and a gross density of one unit per acre. The Shelby County Zoning Regulations require a minimum of one acre per family in the E-1 district under the current zoning of the subject property. That would result in a gross density of one unit per acre or a gross total of 63 units on the 63 acre subject property. An estimated net yield (total lot area minus infrastructure) for the subject property if developed under current zoning is approximately 57 lots without required common area. This is a difference of 6 lots.

The applicant has met with Development Services and Engineering staff to develop a plan that is consistent with the regulations, policies and guidelines of Shelby County.

Note: Development Services did receive a revised plan with changes made in response to and/or in cooperation with adjoining property owners. The revised plan does not appear to substantially change the layout presented tonight. The applicant and project engineer will address those changes in their presentation.

NOTE: Residents comments and correspondence are attached for Planning Commission consideration.

Commissioner Land indicated that he understood that the proposed buffer along Caldwell Mill Road is 75' plus the setback.

Ms. Brooks replied that is correct.

Commissioner Land asked what the average setback is on the east side of the road.

Ms. Brooks replied that most of them are 40' from the right-of-way.

Commissioner Land pointed out that there would be more buffer on the west side of the road under this plan than there would be on the existing east side.

Ms. Brooks replied yes and explained that this would be a wooded buffer and then the setback.

Commissioner Land asked if the proposed buffer on the southern end of this property is being increased to 100' and will it be a natural scheme.

Ms. Brooks stated that the developer will address the plan to increase the buffer to 100'. She stated that she understands that both buffers will be natural buffers and the southern buffer will have a walking trail through it.

Commissioner Land asked if the southern buffer would be 100' plus the setback and if it would be very similar to what would be proposed along Caldwell Mill Road on the west side.

Ms. Brooks replied yes and explained that the two areas along Caldwell Mill and the southern property line would be similar with their buffer width and the rear setbacks.

Commissioner O'Kelley stated that they see what is being proposed, but what can be developed now versus what is being proposed.

Ms. Brooks explained that under current zoning (E-1) they would come before the Planning Commission with a Preliminary Plat showing their engineering plans and the one acre minimum lot area lot layout. She compared that to the proposed plans that are before the Planning Commission, that show the lot layout with varying lot sizes, common areas, as required in a Special District, walking trails, preliminary drainage and access points. If the Special District rezoning is approved the next step would be to make an application for Preliminary Plat approval that would come before the Planning Commission.

Commissioner Land pointed out that under the existing E-1 zoning the setback is 40' as opposed to 35' plus 75' under what is being proposed.

Ms. Brooks replied that is correct on the Caldwell Mill side.

Brooks Harris, 2112 Chestnut Road, applicant presenting the case. He stated they have worked very hard to create a neighborhood that is complimentary to the surrounding neighborhoods and have a subdivision that everyone could be proud of. He stated that the eastern lots will be 150' wide matching what is across the street. He also stated that the southern lots will also be 150' wide. The small 100' wide lots are on the interior of the subdivision only. Also, they have chosen to do a 75' varying width buffer along Caldwell Mill and what was a 50' buffer along the south line of the property, but in conversations with various homeowners along that side, they agreed to double that to 100'. He explained that it would be a natural wooded buffer area with the only disturbed area being a walking trail. He stated that they have also agreed to some additional storm drainage to try and alleviate some of the issues with drainage that are already existing.

Bob Easley, Alabama Engineering, stated that they have worked with Shelby County and tried to create a unique plan to fit well with the neighborhood and that would also make good use of the property and its topography. He stated that they began looking at developing an E-1 property with steep slopes and having to cut roads in on steep slopes. He stated that they wanted to do better than steep roads and steep cuts. He stated that what they tried to do is consider the neighborhood and what would work better with the land. He stated that they took the larger lots to the south and decreased the depth in order to increase the buffer from 50' to 100'. He stated that the lots along Indian Crest and New Hope Mountain are the same size as the lots across the street. He described the lots as being 1 acre and 150' wide. He stated that the lots proposed

along the southern boundary are very similar to the existing adjoining lots to the south describing them as 150' wide and the only reason they are not 1 acre is because 100' was taken out for the buffer with a non-paved walking trail. He explained that by decreasing the lots sizes on the interior made the road fit better with less cut and slope. He stated all the drainage eventually goes to Bishop Creek. Also, almost all the water from this proposal ends up in the pond near Caldwell Mill. He stated that Shelby County's requirements for storm drainage is that they mimic the hydrology for small storm in pre-development. He stated that in doing that, trying to mimic a very small storm, they end up with a large pond. He pointed out that the pond on the corner is over an acre and the pond below lots 8 and 9 is about $\frac{3}{4}$ of an acre. He stated that they have tried to leave most of the pond in its natural state to allow best and least disturbed percolation with a designed embankment. He stated that the ponds mimic drainage in small storms, but decrease post in large storm. He stated that since Special District is tied to a site plan, they looked at the storm drainage on the front end. He explained that the 100 year storm with the peak flow rate decreases by 40 percent in post peak flow rate and the one at the corner of Caldwell Mill is a 23 percent decrease in the 100 year peak flow rate. He understands that there are flooding issues downstream today, but they want to be able to say this pond helps decrease the flow tomorrow. He stated that the goal is to make sure the problems do not get worse. He stated that he has met with some neighbors on the southwest corner and they have a ground water problem not a surface water problem. He stated that they are proposing a groundwater suppression system to help alleviate some of those issues. He explained that this is not a Shelby County requirement, they just want to try and make it better for everyone. He stated that this will not be a mass graded site. They will be clearing the road right-of-ways, the pond embankment and do site specific builds.

Commissioner Land asked why rezone from E-1 to E-2. Is it basically because of the topography?

Mr. Easley explained that they are requesting E-2 SD to give flexibility for fitting roads into the topography through lot size reduction.

Mr. Harris stated that it will also allow room for buffers and common areas.

Commissioner Land stated that in the application it states that the project is not intended to be mass graded. He stated that it should be required to not be mass graded.

Mr. Easley explained that it will not be mass graded, but graded for site specific lots.

Commissioner Land asked that they define natural vs. not natural buffer. He asked if they would consider a fence.

Mr. Harris stated that they have not considered fences. He stated they he would expect property owners to have them built at some point.

Commissioner Land stated that in regards to storm water, he understood them to say that the plan exceeds Shelby County requirements.

Mr. Easley replied yes. He stated that understanding the situation downstream, it was designed to decrease the flow rate.

Commissioner Gunther asked if they would be mass grading pathways. Hypothetically, could a person purchase a lot and clear it.

Mr. Harris stated that if a person purchases a lot, they could clear the lot. He explained that the developer would be the Architectural Review Committee and they will also set up a Homeowner's Association for the neighborhood. The Architectural Review Committee could

put in certain requirements that would restrict the number of trees cut.

Commissioner Gunther asked if drainage flows would be concentrated to one location.

Mr. Easley stated that the drainage flows would be concentrated to three locations. He identified the locations for the existing concentrations. He stated that they are picking them up and piping them to the detention ponds.

The following spoke in favor of the proposal.

Mr. John Lankford, grew up on an adjoining lot. He stated that when it comes to land development next to the property that has such a sentimental value, he's against it, period. However, he understands the owner has a desire to sell and develop it. He stated that he has been impressed with the County's ability to work with the proposed developers for the most equitable use of the land. He stated that he feels that a good effort has been made to respect the surrounding area and internal site layouts.

The following spoke in opposition to the proposal.

Mr. Frazier Christy, Indian Springs Village Engineer, 3621 Kings Hill Road. He stated that as the City Engineer for Indian Springs Village they do not presume to halt the development of this property. He stated that they would like to proceed to the least harm to the residents of Indian Springs Village, or for that matter the adjoining property owners. He stated that there are three topics he wants to talk about: zoning, traffic and drainage. First, the plan proposes a Special District which includes E-2. He stated that he has been in the development business for the better part of 20 years. He stated that he does not really see anything imaginative about this proposal. He stated that he does not see the improvement to the tract of land. He stated that this development would be increasing the impact on county drainage systems, county facilities and county School System. He stated that the current zoning pretty well mimics Indian Springs Village. He pointed out on a chart that the lots are 150'. He stated that the zoning across the street is E-1 not E-2. He stated that they would like to request that the side setback for E-1 remain. He stated that they fully do not want the E-2 at all. Second, the traffic situation. He stated that he is not a traffic engineer, but has hired a few in the past 50 year career and can read a traffic report. He stated that they are concerned with the New Hope and Indian Crest. He stated that when you pull up at the intersection you have to look back and there is about a 30 degree angle to the rear. He stated that the County requires no less than 70 degrees. He stated that when the View at Indian Crest was developed, they were required to do joint driveways for four of the lots because the site distance along Indian Crest are awful. He stated that they have a concern about slide area on Indian Crest. He shows pictures of the homes across the street and to change E-1 or aggravate it with Special District is not consistent with the neighborhood. He stated that he is a Civil Engineer and has been making water go downhill for about 50 years. He stated that if you look at the FIRM for neighbors in Bishop Creek the basin rises in feet not inches. He stated that in 2015 Indian Springs made two major changes. One to zoning and one to subdivision. He stated that they took the E-1 and converted it from a one acre lot minimum to a three acre lot minimum. He stated that they decreased the number of homes that could be built in Indian Springs by 50 percent. He stated that they do not presume to tell you what to do about development, but they would like to request that this property remain E-1 and keep all the lots at one acre.

Mr. Mark Burns, Indian Crest Drive, asked Mr. Christy if this pattern of development is found anywhere else in Indian Springs Village.

Mr. Christy stated that one thing he did not mention that concerns him and the residents is the connection to New Hope Mountain Road will cause traffic to cut through. He stated that perhaps

interconnectivity should not be a part of this plan.

Mr. John Slaughter stated that he understands the traffic flows being discussed, but is that a negative or a positive to this development. He stated that if you are representing the community, and they have an alternate and safer way to enter Caldwell Mill Road - is that not a benefit to them?

Mr. Christy stated that the alternative route would be a negative for them.

Mr. Van Clark, Indian Forrest Trail, stated that he sees no reason that the E-1 zoning should be changed because it serves the neighborhood well. He stated that one of the concerns about the change would be the houses being too close together. He pointed out while driving down Indian Crest, you have mailboxes on one side and you are weaving your way through mailboxes, lawn services vehicles, postal delivery, people parking, etc. He stated that they would appreciate anything to the Indian Springs Village bypass, but it is going to damage New Hope Mountain Road. He stated that there are 16' – 17' wide pavement on that road. He stated that it would be very difficult for people trying to get on and off Caldwell Mill Road. He stated that the neighbors down at the end of Indian Crest are dealing with drainage problems already and during the process of clearing the trees that have already been cleared has already caused flooding. The detention ponds become the responsibility of the Homeowner's Association, but after a few years they get tired of paying taxes, then you have rats, snakes and styrofoam cups and then it's been fenced in so that only kids can get into it. He stated that he appreciates the green acres, but he is opposed to this rezoning. They do not need six more lots.

Dr. Anne Bishop, Indian Springs Village resident for 49 years, stated that she respects the work that the developers and engineers have done. She asked if someone would be talking to the Board of Education about the impact this might have on the schools. She stated that she spoke with Dr. Christie Sayers and asked her about the impact. Dr. Sayers said they might could handle 200 students, but are expecting 500 students from another development already approved. She stated that she is very aware of rapid development of young families wanting to come into a nice community and have good schools. She asked if the Board of Education is involved in the review process in addition to the fire and highway. She also asked if there would be driveways onto Indian Crest. She stated that she has observed and they could maintain E-1 and green spaces reducing the traffic impact.

Mr. Harris stated there will be four shared driveways.

Commissioner Davis explained that the Planning Commission is responsible for the rezoning of unincorporated Shelby County alone. He stated that they have not personally spoken with the School Board.

Mr. Fred Broom, 2325 Willow Brook Circle, Homeowner's Association President, stated that when he moved here there was no traffic. Now it is nearly impossible during school time. He stated that this needs to be addressed for the whole neighborhood. He asked a question in regards to the covenants and the square footage of the houses.

Ms. Brooks explained that the Shelby County Planning Commission and the Shelby County Department of Development Services are not responsible for or a party to restrictive covenants. She stated that while requests may be made, they are not enforceable by the County.

Mr. Mark Burns asked if it was being stated that the Planning Commission does not have concern for health, safety and welfare of the citizens of Shelby County.

Commissioner Davis replied that he did not say that at all. He stated that he said that the Planning Commission is responsible for the zoning of unincorporated Shelby County. He stated

that he did not say he was not concerned.

Mr. Burns stated that it was stated at the very beginning of the meeting that the concerns are the health, safety and welfare of the citizens of Shelby County.

Ms. Brooks replied that is correct.

Mr. Burns asked aren't these issues about health, safety and welfare.

Ms. Brooks replied yes and we are getting to them. She stated that a decision has not been made. Questions are being taken from everyone in this room tonight. She stated that the County is simply not a party to the covenants.

Mr. Burns stated that he has heard only streets and only water. He asked if they would like for it to be read back, that notes are being taken by an audience member.

Ms. Brooks explained that the meeting was being recorded.

Commissioner Davis pointed out once more that the Planning Commission is responsible for the zoning.

Mr. Burns asked if that included health, safety and welfare.

Commissioner Davis replied yes it does.

Mr. Carlos Gonzales, 5331 Caldwell Mill Road, stated that it has been a blessing to move into Indian Springs Village. He stated that he lives on 19 acres with his neighbors. He stated that he knows that Mr. Harris builds good homes, but has not built this type of housing before and he would prefer greenspace that comes with E-1 zoning than the greenspace that comes with houses on top of each other and park in the middle of it. He stated that Indian Springs Village is going in the opposite direction and they changed their zoning so that lots cannot be smaller than 3 acres. He stated that he is not opposed to the development of that property, he would like to see houses built on that property, maybe with a little more vision that can build the development under E-1 regulations and make it look nice. He stated he moved to this area because of the greenspace and that is why that property needs to be developed as E-1. He stated that he lives on Caldwell Mill and was shocked at how much traffic and emergency vehicle passes on Caldwell Mill on a daily basis. He stated that the Scotch brothers developed a piece of land and did not request a change in the zoning and every one of the homes sold in that development. He stated that a land owner has a right to do what they want with their land and he is sure that this land owner wants to sale their land for top dollar. He stated that market dictates the value of that land not the Planning Commission. He stated that the reason they are coming before the Planning Commission requesting a change from E-1 to E-2 is because it is more valuable to the land owner as E-2 than E-1. He stated that the market is saying that this land is not worth the asking price. He stated that their vision goes right out the window when it hits the pocket book. He stated that he is not against development but feels that the property can be developed as E-1. He stated that there is a demand to live in these neighborhoods.

Commissioner O'Kelley asked if they would be willing to give up the proposed 75' buffer if the property were to remain E-1.

Mr. Gonzales replied yes because it will be on an acre and no developer will go there and build junk houses on an E-1 zoning in that area.

Ms. Erin Welborn, 5417 Caldwell Mill Road, stated that the traffic study was in the later part of December when schools were out for the holidays.

Mr. Herb Robins, 5136 Hollow Log Lane, stated that his property backs up to the View at Indian

Crest. He stated that the first four lots in the View at Indian Crest coming off of Caldwell Mill Road are zoned E-2, but the remaining development is E-1. The lots that are zoned E-2 are one plus acre lots. He also pointed out that topography may be an issue, but there are lots covering all the property. He does not believe that topography is the big issue. He stated that variances are available for E-1 lots based on topography. He stated that he would like to respectfully request that this proposal be turned down.

Ms. Mary Frances Cull, 5339 Caldwell Mill Road, stated that she does not oppose this subdivision, but she does not like 14 lots versus four lots across the street. She stated that of these 14 lots, nine of them are less than ½ acre.

Mr. Jarred Welborn, 5417 Caldwell Mill Road, asked Commissioner O'Kelley, regarding his question about giving up the buffer if the property remains E-1, why do we have to give up that buffer. He would ask Mr. Harris to give them some answer outside a financially motivated one, of why they can't have all the buffer areas, but still keep the large E-1 lots. Is there a reason outside of "it's not financially feasible" for you not to maintain the style and size of lots that they have grown accustomed to being residents of the Indian Springs Community?

Commissioner O'Kelley pointed out that outside of Special District it would not be tied to a site plan and buffers are not required. He stated that his concern is that if the property remains E-1 that anyone could come in and develop the property and as long as it meets the Subdivision Regulations, the Planning Commission would have to approve it. There would be no buffers to protect the property owners.

Multiple audience members spoke out to say that E-1 is more attractive.

Commissioner Davis in order to gain control of the proceedings used the gavel to say that he would clear the room if he needed to.

Audience member spoke out to say "I know you want a secret vote".

Commissioner Davis stated that there will not be a secret vote. He stated that you could be standing in the room when the vote is made.

Audience member made a comment that was not audible.

Commissioner Davis stated that if you would just shut-up we could address the questions.

Commissioner Davis tries to bring order to the room.

Mr. Welborn stated he still has the floor.

Commissioner Davis replies that he is aware and was trying to get the floor back to him.

Mr. Welborn yelled, well if you will hush for just a second and let me have the floor back, I will ask you and everyone else here to act civil when we speak to one another. He pointed out where he lived and stated that there is 110' from the edge of the road to the front of his house. He stated that he would like Mr. Harris to give them outside the financially motivated reasons of why he's not able to keep the E-1 and give them a nice neighborhood that they all can be proud of as residents of Indian Springs.

Mr. Phillip Calma, 160 New Hope Mt. Road, stated that he moved to this area because it was a wooded private area and he felt comfortable with the E-1 area and he would like to see it remain E-1. He stated that it is hard to build a house around a tree, so they have to come down. He stated that he would like to get a picture of the traffic during certain times of the day. He stated that since he moved there 32 years ago, they have built three shopping centers and three schools and the traffic has increase with all the development. He stated that he would like to see this

remain E-1. He stated that if you go with one acre lots, you could get 21 less houses. He stated that it was mentioned that there are 604 possible trip/day. Reducing the number of houses by 21, that could bring down the trip/day by 50 percent. He stated that traffic keeps getting more and more difficult in the area. He stated that he is not against one acre lots, but he is against E-2, ½ acre lots.

Commissioner Land stated that looking at the Planning analysis, the proposed E-1 says six lots, but you are saying 21 lots. He asked him to explain how he comes up with that number.

Mr. Calma stated that he took the 1,355,000 square feet and divided it by an acre (43,560 sq. ft.), coming up with the number of lots.

Commissioner Land asked what the discrepancy was.

Mr. Slaughter stated that his math did not consider the proposed rights-of-way that takes away some of the property. He explained that Ms. Brooks' calculations included rights-of-way and detention.

Mr. Calma stated that the point he was trying to make is that there will be a lot more ½ acre lots than one acre lots.

Ms. Cull stated that the gross figure is misleading. She explained more of the math incorporating green space, roads, etc.

Commissioner Davis stated that they understand the math.

Mr. Clay Bishop, resident of Indian Spring, pointed out that in the presentation they talked about the common spaces and the walkways to create those that make up concessions to the neighbors, they had to reduce the size of the lots. He stated that it's the ratio of house to the land that makes this community special and anything that is going to reduce the lot size for the house that is on it, they are against. He stated that they will take their chances with the E-1 zoning.

Mr. Doug Holland, 234 Indian Forest Drive, stated that drainage has been discussed. He pointed out the Sam and Robert Kurtz's front yard is currently under water and most of that is a result of deforestation. He stated that he does not trust that the detention ponds will satisfy the water in this area.

Ms. Mary Bahri, 5343 Caldwell Mill Road, stated that you can sell a one acre piece of property for more that you can sell a ½ acre piece of property and build a nicer home and make a profit.

Mr. Ray Patt, 191 New Hope Mtn. Road, asked if the locations where the detention ponds are proposed to be has had a perk test. He also asked if there was an alternative to the ponds.

Commissioner Davis stated that he could not answer those questions, but someone would address them.

Mr. Wayne Jones, 59 Choctaw Lane, Indian Springs, pointed out that Herb brought up the fact about a variance. He stated that this is not a variance but a Special District, but it works the same as a variance. He stated that if there is anything different than the drawing, than what the regulations require, once the drawings have been approved, they have to come back. He stated that the setbacks on the corner lots will vary and nobody knows what they are. He stated that water is tiny, but water will still flow over a period of time. He stated that they are not going to build houses against the road. He does not see this development being consistent with the neighborhood. He stated that financial burden is not a reason for a change.

Mr. Evan Cork, 237 Indian Forest Trail, stated that the board mentioned earlier that fencing is not addressed. He stated that if this is approved, he would like some consideration of some kind

of fence to protect their privacy from people walking on the trail.

Commissioner Davis apologized for his ungentlemanly behavior. He asked about the perk tests.

In rebuttal, Mr. Easley stated that they have not run a perk test. He stated that the ponds themselves will percolate some. He explained that the way that detention ponds work is that they have big pipes coming in and small pipes going out and when it rains very hard, the ponds will hold the water and drain out over time. He stated that post is at or smaller than peak flow rate. He stated that they have looked into the possibility of subsurface disposal and looked into individual lot drain. He explained that these options do not fit within Shelby County Regulation and it is difficult to maintain. He stated that subsurface is more common in commercial development.

Someone from the audience asked about the pump station smell.

Mr. Harris replied that they are proposing a pump station that will have plenty of capacity.

Commissioner Kinnebrew explained that the problem with the venting or non-venting of pump systems is that there are voids of air and this is what generates the smell because they are designed to be full.

Mr. Easley explained that if this remains E-1 with 63 versus 57 lots you will still have two detention ponds, but they might be smaller and the connector road from New Hope Mtn. to Caldwell Mill Road would remain. He stated that the problem with Indian Crest Road, is that it does not meet the same standards as a new design. He stated that the sanitation would remain the same. He stated that the road layout would probably change.

Mr. Harris stated that the side setbacks are listed at 10', but out of a 150' lot or even a 100' lot they are not going to use all 80' or 130' of that. He stated that the notion that the houses are going to be 10' apart is not reality. He stated that they have side setbacks like that to offer flexibility for topographic situations where the house can be placed where it best fits on a lot. He pointed out that the traffic study was done on Thursday, November 29, 2018.

Mr. John Tombrello, 2501 Willow Brook Circle, stated that a pumping station is on his land and it does overflow from time to time. He stated that the proposed pumping station is going to be pumped into this pumping station, it will cause some problems.

Ms. Cull asked if the developer could submit a different E-1 plan with the same greenspace, infrastructure and roadways to make the lots one acre.

Commissioner Davis stated that the Planning Commission does not have any control over that. He stated that he could ask him if he would do it.

Audience member stated that they have not answered all of their questions.

Commissioner Davis asked him what his question was.

Audience member stated square footage of the homes.

Mr. Harris stated that they have not determined the square footage, but probably on an average of 2,800 sq. ft. to 3,500 sq. ft. and that is a guess.

Mr. Easley explained that they will not be pumping to the existing pump station, they will pump to an existing line, not a pump station. He stated that it's not that the line doesn't have capacity, but the pump station doesn't have capacity. He explained that the line has the capacity for about four pump stations that are the size of the one that is there now.

Commissioner Gunther stated that there has been a lot of speculation on the number of lots. He

asked if they have ever gone through the exercise of how many one acre lots could be achieved.

Mr. Harris stated that he's not sure; they went through several different layouts on this development.

Mr. Easley stated that he looked at that a few months ago. He explained that there are two principal parts and they are lot width and lot size. He stated that the problem he found for an efficient layout, is that it put the roads in funny places.

Commissioner Davis stated that they have listened to all concerns including, traffic, the number of lots, the size of the lots, drainage, etc. and all parts of the concerns will be taken into consideration. He explained that under E-1 there is no control over if there could be 56-57 lots developed. Under E-2 SD, the plan will be the plan, it cannot be changed. He stated that the Planning Commission will be denying the rezoning or approving the rezoning. He stated that the Planning Commission does not have any skin in the game other than the voting on the zoning.

Audience member stated that the Planning Commission has a lot of skin in the game. He stated that common sense that E-1 is more attractive than E-2, it's that simple.

Commissioner Davis explained what was on the table so that everyone understood.

Audience member stated that the community as a group are willing to take their chances with E-1 zoning.

Commissioner Davis stated that the Planning Commission has heard everyone in the room.

Mr. Cosgrove ("Mr. C") stated that he has listened to all comments and a very good presentation has been made. He stated that he does not like the road to discharge across from his lot.

With no further discussion, **Commissioner Davis** called for a motion. **Commissioner Kinnebrew** made a motion in Case **SD18-005 Rushing Farms Rezoning E-1 to E-2 SD** the evidence as presented and testimony warrant Approval subject to addressing the Comprehensive Plan and staff comments. The motion was seconded by **Commissioner Gunther** and by a majority vote of four (4-2-1), with Commissioners Kinnebrew, Land, Wilder and Gunther voting in favor and Commissioners Davis and O'Kelley voting in opposition with Commissioner Nesbitt abstaining, the following resolution was approved:

WHEREAS, Brooks Harris, Harris Doyle Homes on behalf of Rainsway, LLC, property owner, has petitioned the Planning Commission for the approval to change zone districts from E-1, Single Family Estate District to E-2 SD, Single Family Estate Special District for approximately 63 acres for the development of a 63-lot single-family residential subdivision with varying lot sizes; and,

WHEREAS, the subject property is located at the intersection of Caldwell Mill Road and Indian Crest Drive and identified as parcel identification number 58-10-5-15-0-002-053.000; and,

WHEREAS, the primary purpose of zoning land is to provide for the public health, safety and welfare in the development of land by ensuring that property is developed in an appropriate manner within the context of its immediate surrounding and the larger community of which it is a part; and,

WHEREAS, there are times when changes in the zoning of certain property are justified; and,

WHEREAS, Special Districts are authorized for the purpose of providing optional methods of land development that encourages imaginative solutions to environmental design problems, including infill development; and,

WHEREAS, the Special District overlay binds this rezoning request to a specific development proposal and site development plan, including the road configuration, number and lot sizes, and density; and,

WHEREAS, the Shelby County Comprehensive Plan and Subdivision Regulations clearly embrace the concept of connectivity of developments; and,

WHEREAS, the proposed plan layout demonstrates interconnectivity as required by Article 3.04 Street Networks, Blocks and Lots and Article 6.02 Street Networks, Blocks and Lots of the *Subdivision Regulations of Shelby County*; and,

WHEREAS, the proposed plan provides lots that are consistent in size and distribution with established development patterns; and,

WHEREAS, the proposed plan provides approximately 15.06 acres of open space and common areas with natural surface walking trails throughout the development; and,

WHEREAS, the developer does not intend to mass grade the site; and,

WHEREAS, a request for rezoning must be in the interest of and not be detrimental to the health, safety and welfare of the immediate, surrounding and larger community for which the subject parcel is a part of;

WHEREAS, the Commission finds that based upon the evidence and plans presented during the public hearing, that this single family estate residential use is compatible with the surrounding single family estate residential properties;

NOW, THEREFORE, BE IT RESOLVED by the Shelby County Planning Commission that the request from Brooks Harris, Harris Doyle Homes on behalf of Rainsway, LLC, property owner, for the approval of a change in the zone district boundaries for approximately 63 acres from E-1 Single Family Estate District to E-2 SD Single Family Estate Special District to develop a 63-lot residential subdivision with varying lot sizes for the property located at the intersection of Caldwell Mill Road and Indian Crest Drive and identified by Parcel Identification No. 58-10-5-15-0-002-053.000, and the same is hereby **Approved**, subject to:

- The attached approved E-2 Special District plan for Rushing Farms;
- Applicant submitting a fully engineered preliminary plat that meets all requirements of the Subdivision Regulations;
- Applicant submitting an application for final plat approval within two (2) years of approval of the preliminary plat. Failure to apply may necessitate reapplication for preliminary plat approval;
- Any amendments, additions, deletions, alterations or changes to the approved Special District plan shall require the review and approval of an amendment to the approved Special District plan by the Shelby County Planning Commission.
- Compliance with the regulations, policies and guidelines of Shelby County.

****A ten minute recess to clear the room before the next agenda item*****

Case No. SD18-006 Byrom Independent Living - Rezoning from O-I (2) to R-4 SD

This is a request from Marty Byrom, Byrom Building Corp., on behalf of The Title Group Incorporated, property owner, for the approval of a change in the zone district boundaries from O-I (2) Office and Institution District (2) to R-4 SD, Multiple Family Special District for approximately 8.9 acres for the development of a “Over 55” Independent Living Community.

The subject property is located on Valleydale Road across from Dogwood Circle; Parcel Identification No’s. 58-10-5-16-0-001-013.000, 58-10-5-16-0-001-014.000, 58-10-5-16-0-001-015.000, 58-10-5-16-0-001-016.000, 58-10-5-16-0-001-016.001, 58-10-5-16-0-001-017.000, 58-10-5-16-0-001-018.000, 58-10-5-16-0-001-019.000, 58-10-5-16-0-001-020.000.

Mr. Josh Cameron described the case and presented the following information to the Planning Commission:

DISCUSSION**Site Description**

The subject properties are located on Valleydale Road across from Dogwood Circle. There are nine properties included in this request totalling 8.9 acres. The properties are bounded by the Indian Valley neighborhood on the North and West. A single-family residence is located in the middle of the project site while the other properties are undeveloped and wooded. The property is currently zoned O-I(2), Office and Institutional District, while the surrounding properties are zoned E-2, Single-Family Estate District, and are mostly comprised of single family homes. The subject property’s terrain is at the highest point near Valleydale Road but gradually slopes downward to the North and West. Across Valleydale Road from the subject properties is the Piedmont International University, formerly the Southeastern Bible College.

Discussion

The applicant, Marty Byrom, is requesting to re-zone the property from O-I(2), Office and Institutional District, to R-4 SD, Multiple Family Special District. Mr. Byrom is proposing an “Over 55” independent living development. The project is proposed to be sold as a condominium development that includes single-family and duplex homes. A roughly 4,000 square foot community center and pool are proposed in this request. Additionally, Mr. Byrom is requesting approval for a 7,800 square foot multi-tenant office building fronting directly on Valleydale Road. Tenants will be restricted to professional office uses.

The proposed development includes 59 housing units; roughly 6.6 dwelling units per acre. All of the buildings in this development are proposed at a maximum 35 feet in height. The request proposes one access point directly onto Valleydale Road and across from Dogwood Circle. Mr. Byrom has also included a right turn lane on Valleydale Road as part of this request. Sidewalks and crosswalks throughout the development are included in this request. Landscaping and parking requirements, as required by the *Zoning Regulations of Shelby County*, have been accounted for in this proposal. Roughly 69% (6 acres) of the site is proposed as common area for

the development. Common area for this development consists of all the areas outside of the buildings themselves including roads and green space. Mr. Byrom also plans to use an underground detention facility to mitigate the drainage on site as well as an above ground detention area on the western end of the subject properties.

The subject site is located within the Cahaba River Basin and is within the area that is subject the Phase I Municipal Separate Storm Sewer System (MS4) permit issued to Shelby County by the Alabama Department of Environmental Management. The project should comply with the requirements of the MS4 permit. Post Construction requirements for New and Redevelopment require the development ensure, to the maximum extent practicable, that the post-construction runoff mimics the pre-construction hydrology of the site. A 1.1" rainfall over a 24 hour period preceded by a 72-hour antecedent dry period shall be the basis for design and implementation of the post construction BMPs. Land disturbance should include Best Management Practices (BMPs) that are designed and installed in accordance with the Alabama Handbook for Erosion Control, Sediment Control and Stormwater Management on Construction Sites and Urban Areas to prevent sediment from entering drainage ways or streams. LID (Low Impact Development) techniques are encouraged to minimize runoff created by impervious surfaces of the project. Owner will be required to provide as-built survey of all BMPs constructed, annual certification, and inspections as required by the MS4 storm water permit.

Impact on Community Facilities and Infrastructure

Water service is not available from Shelby County for the subject properties. Fire service will be provided by North Shelby Fire Department. Children living in this development will be in the Oak Mountain School attendance zone.

Additional Approvals Required

An integral part to this development is the relocation of the existing driveway accessing the neighboring property (Raven Drive). To date, staff has not received any written agreement from Mr. Byrom or the adjacent property owner to relocate the driveway. According to the Shelby County Highway department:

Complete development of the proposed site plan hinges on the developer's ability to relocate the existing gravel road to the adjacent property to the east. Provide documentation (such as an easement) from the adjacent property owner to assure the developer's legal ability to relocate this gravel road as proposed. Please note: If rezoning to Special District is acquired, future site plan submittals must include a detailed design (centerline profile, vertical profile, typical section... etc.) for the proposed relocated gravel road.

Pursuant to approval, the applicant is required to submit a subdivision application to complete the condominium development as well as a fully engineered site plan. The subdivision will be subject to Planning Commission approval. The site plan will be reviewed administratively by staff and will not require Planning Commission approval. Any amendments, additions, deletions, alterations or changes to the approved Special District plan shall require the review and approval of an amendment to the approved Special District plan by the Shelby County Planning Commission.

Planning Analysis

Special Districts are authorized for the purpose of providing optional methods of land development that encourages imaginative solutions to environmental design problems, including infill development. Areas so established shall be characterized by a unified building and site development program providing for coordinated open space and architectural treatment. The

Special District overlay binds the amendment request to a specific development proposal and site development plan.

The proposed development cannot be constructed as submitted and revised plans will be required that address the relocation of the existing drive.

Staff recognizes the need for elderly care options in Shelby County. The proposed 6 dwelling units per acre is substantially higher than the surrounding developments that average around 1 dwelling unit per acre.

The Shelby County Comprehensive Plan identifies the intersection of Caldwell Mill Road and Cahaba Valley Road (east of the subject properties) as a "Community Core". The Comprehensive Plan encourages commercial and residential growth in these areas. Specifically, the surrounding "Focus Areas" which are intended to include most of the population supporting the "Community Core" Objective FA-2 concerning the Community Focus Area Goal, Objectives and Policies states:

"Advance the development of Community Focus Areas as distinct places that offer a mix of residential, commercial and employment uses, and include a full complement of public services and facilities, amenities, that supports a high quality of life, and a compact design that supports the County's Green Infrastructure."

The following information should be submitted pursuant to amendment approval:

- Applicant submitting a fully engineered subdivision plan that conforms to the approved master plan for Planning Commission review.
- Applicant submitting a fully engineered site plan that meets all requirements of the Zoning Ordinance of Shelby County;
- Any amendments, additions, deletions, alterations or changes to the approved Special District plan shall require the review and approval of an amendment to the approved Special District plan by the Shelby County Planning Commission.

Commissioner O'Kelley asked if the regulations indicate what constitutes professional use.

Mr. Cameron replied no.

Mr. Marty Byrom, applicant, presented the case. He stated that they are proposing 59 residential units and have a common club house in the center for the residents. He stated that it will eventually will be gated. He stated that this would accommodate residents who would be pre-assisted living/pre-nursing home. He stated it would be for residents that are 55 plus. He stated that they do not have any plans currently for the office space. He stated that duplexes would be up front.

Commissioner Nesbitt asked if these would be for purchase or rent.

Mr. Byrom stated that they will purchase a unit and portion of the club house. He stated that rental may occur after someone purchases a condo. He stated that the Homeowner's Association fees will pay for all the external maintenance.

Commissioner Nesbitt asked as the developer, they will not be rented.

Mr. Byrom replied that he is not intending to. He stated that the intent is sell with the reserved right to rent.

Commissioner Davis asked if over 55 a hard figure.

Mr. Byrom stated that he is waiting on the attorney's to create the condo documents and to tell him what his legal requirements are and what he can do. He stated that he has read that the requirements from HUD is that if you promote it as a 55 plus community, 80% of at least one spouse must be over 55.

Commissioner Kinnebrew stated sometimes children will purchase these units and allow the parents to live in them.

Commissioner Land asked if he has considered handicap and the elderly.

Mr. Byrom stated that they will make it as universal as possible and can comply with ADA rules.

Commissioner Land asked if the project is supposed to comply with ADA.

Mr. Byrom replied yes, but not all the units will be ADA compliant. He stated that they will complete ADA units as needed.

Commissioner Land asked Mr. Byrom if he sees this project as being compatible with the surrounding area.

Mr. Byrom stated that he does not know of anything else like this in Birmingham.

Commissioner Land clarified his question to say is this project compatible with the density in the area.

Mr. Byrom asked from a demographic standpoint. He stated that he has not measured lot size.

Mr. Cameron stated that the development that Mr. Byrom is proposing is roughly nine acres and will equal to six units per acre. He stated that the surrounding properties that are actual single family neighborhoods are 1 – 2 units per acre.

Commissioner Land stated that his question arises from the definition of the Special District, which simply says that Special District Regulations requires consideration of the value and character of surrounding properties relative to the proposed rezoning.

Commissioner Davis asked Mr. Byrom to answer that question.

Mr. Byrom stated that he does have the information on the existing houses and does not know the answer to that.

Commissioner Nesbitt asked what the square footage of the units will be.

Mr. Byrom stated that the smallest will be around 900 sq. ft. and the largest will be around 1,850 sq. ft.

Commissioner Land stated that this is not compatible based on the number stated in the staff report.

The following spoke in favor of the proposal.

Mr. Jim Davies, 2575 Comanche Drive, stated that if you are looking for compatibility in the neighborhood, you might want to consider that just down the road from this location a retirement home was built on a piece of property where 1 or 2 single family homes were.

Ms. Rebecca Schuler, Fowler Court, adjacent property owner, stated that she is personally for this project. She stated that she has been to about 10 zoning battles over the years and she prefers this over office development. She stated that she has sent out emails and has met with Mr. Byrom about the project and most of the responses she got were positive. She stated that there were a couple of issues. One was increasing traffic on Valleydale Road. She stated that the other concern was water drainage. She asked if adjacent property owners would be notified for the site plan approval. She asked if the developer wanted to do something different, would it revert back.

Ms. Goddard replied no, Special District runs with an approval. She explained that if a different developer were to purchase the property and they wanted to do something different on the property; they would need to reapply to the Planning Commission to change that Special District. It would go through this process again with a new plan.

Mr. Slaughter reiterated that if this is approved, this plan is attached to that property regardless of who the developer is. He explained that if someone did not want to develop this property outside what was approved, they would need to come back to the Planning Commission and ask for a modification to the Special District. He explained that the beauty of a Special District case is that it gives the citizens confidence of almost exactly what is going in and that approval carries with the property.

Commissioner Kinnebrew asked Ms. Schuler how many adjoining property owners she is speaking for.

Ms. Schuler replied that that she has received about 15 responses that were positive.

Mr. Byrom identified the adjoining property lines.

The following spoke in opposition to the proposal.

Mr. Kathy Steber, 2448 Chuchura Road, stated that she is not in favor of this. She asked why the zoning had to be R-4 if it's residential.

Mr. Cameron explained that it currently O-I. He stated that they would need a residential district and reason they chose R-4 is because of the density. He stated that R-4 is the closet zoning district for the density they have proposed. He explained that R-4 is normally meant for apartments, but in this case it is for single family and duplex homes.

Ms. Steber stated that she and her neighbors are not excited about the potential density.

Ms. Mary Davies, 2575 Comanche Drive, asked why there has to be 59 buildings.

Commissioner Davis explained that this is the proposal of the applicant.

Mr. Bill Azbel, 2529 Comanche Drive, asked Ms. Schuler where she lived in relation to this project.

It was pointed out that she was adjacent to the project.

Mr. Azbel stated that he is concerned with the 15 ft. buffer and he is against the project because of property values and traffic on Valleydale Road.

Commissioner Kinnebrew asked Mr. Azbel if he feels if a better value for his home would be the development of the current zoning O-I as offices behind his home.

Mr. Azbel replied yes, office would be better for the value of his home.

Mr. Davies asked what made Mr. Byrom think that this would be a good project.

Mr. Chris Taylor, pointed that he lives on a one acre lot on the corner. He stated that he is concerned with the drainage will flow onto his property. He is also concerned with property values dropping. He stated that he wanted them to be very clear on how the water will runoff this property. He stated that he is not against progress, he just wants to make sure there is a good buffer.

Mr. Seth Mobley, 408 Bower Court, stated that he is not directly opposed to this project, but had a statement. He stated that he has the largest adjoining property line to this project. He stated that when he purchased the property, he knew that this property could be developed. He stated that he has communicated with Mr. Byrom and he has been very cordial. He stated that he is concerned with the runoff because there is a lot of the roofs and asphalt that will cause more runoff. He stated that he feels that Mr. Byrom is a reputable builder and will do the right thing for all the neighbors.

Mr. Jeff Vines, 404 Bower Court, stated that he has drainage concerns for downstream. He stated that although he is not adjacent to the property, he still gets water from that area.

Ms. Sue Ellen Schack, 2530 Marcel Lane, stated that if you are going to target 55 and older, and this is an independent living facility, why not make all the houses ADA compliant. She stated that she is concerned with the traffic coming out of Dogwood Circle onto Valleydale Road. She asked if a traffic light has been considered. She stated that she is concerned with the number of houses that being considered.

Mr. Slaughter stated that a traffic study has not been performed on this site and it is not required for this development. He explained that it can be good or bad for a study to occur. Traffic lights may be good or bad. He stated that there are warrants that have to exist based on proposed turn lanes and existing turn land to warrant the signalization and even then it can be scrutinized by the County Engineer for the big picture of traffic on Valleydale Road. He stated that at this time a signal is not required.

Mr. John R. O'Brien, 2513 Marcal Road, stated that he is a retired engineer from Jefferson County. He stated that he brought a project before this Commission 10 years ago. He stated that residents had similar concerns then. He stated that when he first heard about this project, he was in favor of the senior citizen units, but now he feels that this is a marketing ploy. He stated that if these units are not all ADA compliant, then one needs to wonder about how it's 55 plus maximum number of units is what is being applied for. He feels that this project is incompatible with the surrounding area. He stated that the staff report also mentions about the focus area at Caldwell Mill Road and Cahaba Valley Road which is not the focal point for this area. He stated that the traffic has been brought up and there is a serious traffic issue. He stated that traffic has been discussed when Valleydale Baptist Church was proposed, when South Eastern Bible College was proposed and other commercial projects. He pointed out the alignment of two roads are not correct. He stated that this proposal seems to be based on a lot of ifs.

In rebuttal, Mr. Byrom stated that there might some residents that do not want all ADA compliant. He stated that he is putting it out there as a 55 plus community and feels that there will be a lot of people who are retired. He stated that he works here and understands having to fight the traffic. He stated a lot of people that will be moving in will be leaving big houses and lots to have smaller lots. He feels that this use is more compatible than the O-I.

Commissioner Davis stated that he compiled some questions that were brought up. He asked why this location is appropriate for this type of development.

Mr. Byrom stated that he has been watching the property for 15 years. He has always wanted to secure one level homes with amenities.

Commissioner Davis asked if all the buildings were one level.

Mr. Byrom replied yes.

Commissioner Davis asked if he sees a legitimate need for this project.

Mr. Byrom replied yes based on aging demographics, there is no place for them to go and he would like to offer that for this group.

Commissioner Davis asked how he proposes to address the drainage issues.

Mr. Byrom stated that he will hire a good engineer that will address the issues.

Commissioner Davis asked what progress has been done on the movement of the drive.

Mr. Byrom stated that they are drawing up an easement agreement.

Commissioner Nesbitt asked about the parking.

Mr. Byrom stated that there will be some garages and some covered.

Commissioner Gunther asked about drainage and who came up with the current concept, because it does not seem like a lot of space for what is proposed.

Mr. Bart Carr, Carr and Associates Engineers, pointed out the location of a knoll with drainage going in two different directions. He stated that based on a plan from years ago, there is already a detention pond that was submitted, approved by the County, but he does not know if it was built per that approval. He stated that the proposed detention pond is pretty close to where the previous reviews were.

Commissioner Gunther asked if calculations have been done for detention pond.

Mr. Carr, replied no, but there is room.

Commissioner Davis (via Chad) asked what about the pond?

Mr. Carr stated that it has been proposed similarly as to what was there originally 8 – 10 years ago.

Mr. Slaughter stated that the County did not approve the drainage on site. He explained that it was the property owner acting without approvals.

Commissioner Gunther asked if the preconstruction be based on the clear cut or based on what it was before it was clear cut.

Mr. Scroggins replied it would be based on current.

Mr. Mobley stated he has been there 5 ½ years and no matter what the rate is, it's going to be more than what he's seen since living there. He stated that the land has been altered and clear cut and that happened sometime before he purchased in the neighborhood. He feels that there will be more water generated. He stated that what discourages him is that Mr. Carr did not say any of that. He stated that he did not respond to you as he did him and his neighbor Seth.

Mr. Carr felt that this was a question for Mr. Slaughter.

Mr. Slaughter made a point that the County did not approve any drainage on the property. He stated that he has been with the County almost 20 years and they have not had any other submittals on this property. He thinks the question was whether or not the study would be done before the clear cut or is it based on the current property.

Mr. Carr stated that his answer would be pre-development runoff from a wooded piece of property, before clear cutting, and then what is the post development.

Mr. Slaughter stated that from his review aspect he would prefer pre development.

Mr. Vines asked if there is a current flow rate studied by the county.

Mr. Slaughter stated that his review for Special Districts is superficial and has to review the information at face value as submitted. He stated that he checks the numbers to ensure they work and meet all the requirements.

Jim Wall, 2531 Comanche Drive, stated that drainage is a problem and it washes out the neighboring lots. He stated that 58 houses on six acres is not similar to the surrounding neighborhoods.

Ms. Davies stated that Acton Creek floods back yards.

Mr. Taylor stated he has three oak trees that are dead now because of the drainage.

With no further discussion, **Commissioner Davis** called for a motion.

Commissioner Kinnebrew asked **Commissioner Land** asked why he feels like it does not meet the requirements.

Commissioner Land stated that it does not meet the requirements of the compatibility of the surrounding communities. He also stated that the problems with the drainage, if it is approved, would meet regulations.

Commissioner Kinnebrew stated that he feels that the R-4 would be more compatible than the O-I.

Commissioner Land made a motion in Case **SD18-006 Byrom Independent Living - Rezoning from O-I (2) to R-4 SD** the evidence and testimony does not warrant Approval. Also, if it is approved, the drainage would need to meet the County Regulations. The motion was seconded by **Commissioner Wilder** and by a majority vote of five (5-2), with Commissioners Davis, Land, Wilder, and Nesbitt voting in favor and Commissioners Kinnebrew and Gunther voting in opposition, the following resolution was approved:

WHEREAS, Marty Byrom, Byrom Building Corp., on behalf of The Title Group Incorporated, property owner, has petitioned the Planning Commission for the approval of a change in the zone district boundaries from O-I (2) Office and Institution District (2) to R-4 SD, Multiple Family Special District for approximately 8.9 acres for the development of a "Over 55" Independent Living Community; and,

WHEREAS, the subject properties are located on Valleydale Road across from Dogwood Circle; Parcel Identification No's. 58-10-5-16-0-001-013.000, 58-10-5-16-0-001-014.000, 58-10-5-16-0-001-015.000, 58-10-5-16-0-001-016.000, 58-10-5-16-0-001-016.001, 58-10-5-16-0-001-017.000, 58-10-5-16-0-001-018.000, 58-10-5-16-0-001-019.000, 58-10-5-16-0-001-020.000; and,

WHEREAS, the primary purpose of zoning land is to provide for the public health, safety and welfare in the development of land by ensuring that property is developed in an appropriate manner within the context of its immediate surrounding and the larger community of which it is a part; and,

WHEREAS, Special Districts are authorized for the purpose of providing optional methods of land development that encourages imaginative solutions to environmental design problems, including infill and existing development; and,

WHEREAS, the Special District overlay binds this rezoning request to a specific development proposal and site development plan, including the location of existing buildings and signs; and,

WHEREAS, the proposed development includes fifty-nine (59) housing units with a mix of detached single-family homes and attached duplexes; and,

WHEREAS, the proposed development also includes a 3,700 square foot community center and a 7,800 square foot office building ; and,

WHEREAS, the office building is intended to be for professional office use only; and,

WHEREAS, the proposed development is roughly six times the residential density of other surrounding single-family neighborhoods; and,

WHEREAS, the density of the proposed development is not compatible with the density of nearby residential neighborhoods; and,

WHEREAS, the developer cannot provide assurances that the development will be limited to residents over the age of 55; and,

WHEREAS, a request for rezoning must be in the interest of and not be detrimental to the health, safety and welfare of the immediate, surrounding and larger community for which the subject parcel is a part of;

NOW, THEREFORE, BE IT RESOLVED by the Shelby County Planning Commission that the request from Marty Byrom, Byrom Building Corp., on behalf of The Title Group Incorporated, property owner, to change zone districts of 8.9 acres from O-I(2) Office and Institutional (2) to R-4 SD, Multiple Family Special District, for the development and on Valleydale Road across from Dogwood Circle; Parcel Identification No's. 58-10-5-16-0-001-013.000, 58-10-5-16-0-001-014.000, 58-10-5-16-0-001-015.000, 58-10-5-16-0-001-016.000, 58-10-5-16-0-001-016.001, 58-10-5-16-0-001-017.000, 58-10-5-16-0-001-018.000, 58-10-5-16-0-001-019.000, 58-10-5-16-0-001-020.000 and the same is hereby ***DENIED***.

There being no further business, **Commissioner O'Kelley** made a motion to adjourn. The motion was seconded by **Commissioner Wilder** and by a unanimous vote of seven (7-0), with Commissioners Davis, Land, Nesbitt, Kinnebrew, Wilder, O'Kelley and Gunther voting in favor, the meeting of February 4, 2019 was adjourned at 10:05 P.M.

Christie Hester
Planning Services Supervisor

Jim Davis, Chairman
Shelby County Planning Commission