

**STATE OF ALABAMA  
SHELBY COUNTY**

**SHELBY COUNTY PLANNING COMMISSION MINUTES**

**Regular Meeting – April 15, 2019 – 6:00 PM**

**Members Present:** Michael O’Kelley, Chairman; Jim Davis; Joe Little; Samuetta Nesbitt; Jay Gunther; Kenneth Wilder

**Members Absent:** Bill Kinnebrew, Vice Chairman

**Staff Present:** Chad Scroggins, Development Services Manager; Kristine Goddard, Principal Planner; Josh Cameron, Principal Planner

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**PUBLIC HEARING**

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

**Approval of the Minutes of the March 18, 2019 Planning Commission Meeting.**

**Commissioner Davis** made a motion to approve the minutes of the March 18, 2019 meeting; the motion was seconded by **Commissioner Wilder**. By a unanimous vote of six (6-0), with Commissioners Davis, Little, O’Kelley, Nesbitt, Wilder and Gunther voting in favor, the minutes of the March 18<sup>th</sup> meeting were approved.

**1. Case No. E18-031, M&R Properties Zoning Violation - Storage/Salvage Yard in an A-1 District – Enforcement Action**

The purpose of this Enforcement Action is concerning the on-site storage of inoperable, unlicensed vehicles of all types in an A-1, Agricultural District. This land use constitutes an unresolved violation of the Zoning Ordinance that warrants a Planning Commission referral to the County Attorney.

The subject property is located at 3641 Hwy 26 and situated in Section 14, Township 21 South, Range 02 West; Parcel Identification No. 58-22-6-14-0-000-013.000.

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

The subject property, owned by M&R Properties, LLC, is located 3641 Hwy 26, Columbiana, within unincorporated Shelby County and in a zoned area. This property is, therefore, subject to the rules and regulations of Shelby County, specifically the Zoning Ordinance and the Sanitation Regulations. The subject property is currently zoned A-1, Agricultural district. The current land use, however, is a storage/salvage yard that is actually an M-1, Light Industrial district land use. The storage of inoperable, unlicensed vehicles of all types on the property is a violation of the Zoning Ordinance and the Sanitation Regulations (Shelby County Resolution No. 01-02-12-10). A storage/salvage yard is not a permitted use within the A-1, Agricultural district.

According to the Sanitation Regulations (Shelby County Resolution No. 01-02-12-10):

- It shall be unlawful and constitute a public nuisance to park, leave or store, in public view, more than one motor vehicle not currently and validly registered and tagged as required by state law for operation on the public highways.
- No person shall establish, operate or maintain a junkyard or salvage yard, which is within 100 feet of the nearest edge of the right-of-way of any public road, or allow the accumulation of junk on any premises for more than ninety (90) days without obtaining a County license to do so.

The following information will serve as a case history.

## **2018**

### **August 6<sup>th</sup>, 2018 - Initial Visit**

Development Services was notified of a possible zoning violation located on Highway 26 across from Nearest Lane. A site visit on the same date confirmed that inoperable and unlicensed vehicles were stored on the property located at 3641 Hwy 26. A review of the aerial photography of the property revealed that the property had been used for the storage of vehicles since the winter of 2015.

### **October 30<sup>th</sup>, 2018 - 2<sup>nd</sup> Visit - Enforcement Case initiated for possible zoning violation.**

Development Services returned to the site on October 30<sup>th</sup> and documented the continued use of the property to store vehicles. The same day, October 30<sup>th</sup>, a Notification of Zoning Violation was sent to the property owner at 8085 Hwy 26 Calera, AL, per tax records.

### **November 30<sup>th</sup>, 2018 - 2<sup>nd</sup> Notice of Violation**

A second notice of violation letter was prepared and sent to the owner's address, 8085 Hwy 26. In addition, the same letter was sent to 3641 Hwy 26 (across the street from the subject property) in an effort to contact the owner about the violation. The property at 3641 Hwy 26 is Jason's Auto, an auto repair shop.

### **December 7<sup>th</sup>, 2018**

Mr. Jason Blackmon of Jason's Auto contacted Development Services staff via telephone to discuss the zoning violation letters. Mr. Blackmon assured staff that the cars would be moved but he would need some time to move the large volume of cars. Staff continued to monitor the property.

### **December 12<sup>th</sup>, 2018 - 3<sup>rd</sup> Visit**

A site visit revealed little to no progress had been made to correct the violation.

### **December 17<sup>th</sup>, 2018**

Mr. Blackmon contacted staff via e-mail to explain that he is making progress on the violation. He stated that they are able to move about three cars a day depending on weather. Mr. Blackmon stated he planned to have the cars moved in about 45 days. Staff continued to monitor the property.

**2019****January 7<sup>th</sup>, 2019 - 4th Visit**

A site visit to the subject property revealed little to no progress had been made to correct the violation.

**January 28<sup>th</sup>, 2019 - 5<sup>th</sup> Visit**

A site visit to the subject property revealed little to no progress had been made to correct the violation.

**January 31<sup>st</sup>, 2019**

End of the 45 day extension Mr. Blackmon proposed.

**February 11<sup>th</sup>, 2019 – 6th Visit**

A 6<sup>th</sup> site visit to the subject property revealed little to no progress had been made to correct the violation. While on-site, staff encountered Mr. Blackmon. Mr. Blackmon indicated that he had purchased some property in Columbiana where he would move the remaining cars. At this time, the 45 day deadline Mr. Blackmon had given staff had past.

**February 13<sup>th</sup>, 2019**

Concerned that Mr. Blackmon might be moving the cars into another zoned area of Shelby County and creating another zoning violation, staff reached out to him via telephone to ensure that the site he had chosen would be suitable for the storage of the vehicles. Mr. Blackmon could not adequately give the location of the new property over the phone and was asked to e-mail staff with information about the location of the site. No e-mail from Mr. Blackmon was ever received.

**March 1, 2019 - 7<sup>th</sup> site visit**

A site visit revealed little to no progress had been made to correct the violation.

**March 3<sup>rd</sup>, 2019**

Staff contacted Mr. Blackmon for an update on the progress of correcting the violation. Mr. Blackmon assured staff that he was working quickly to remove the vehicles.

**March 7<sup>th</sup>, 2019 - 8<sup>th</sup> site visit**

A site visit revealed little to no progress had been made to correct the violation.

**March 8<sup>th</sup>, 2019 - 3<sup>rd</sup> Notice of Violation**

A third notice was sent via certified mail. The received receipt is on file. The letter indicated that the property owner had 10 days to correct the violation before staff would refer the case to the Planning Commission.

**March 18th, 2019 - 9<sup>th</sup> site visit**

Staff prepared to refer the case to the Planning Commission.

**March 19<sup>th</sup>, 2019**

Staff contacted Mr. Blackmon to inform him of the referral of his enforcement case to the Planning Commission. Staff instructed Mr. Blackmon to continue working on correcting the zoning violation.

**March 22<sup>nd</sup>, 2019 - 10<sup>th</sup> site visit**

A site visit revealed little to no progress had been made to correct the violation. The enforcement case was placed on the April 15<sup>th</sup> Planning Commission agenda for referral to the County attorney.

**March 29<sup>th</sup>, 2019 – 11<sup>th</sup> Site Visit**

Mr. Blackmon followed up with staff via e-mail to inform that he is continuing to make progress on the zoning violation. A follow-up site visit revealed that little progress has been made.

**Summary**

Over the course of several months, Development Services has tried to find ways to remedy the zoning violations that exist at 3641 Highway 26 to avoid the need to pursue legal action.

Mr. Blackmon has been notified in writing three (3) times that the storage of inoperable, unlicensed vehicles of all types on the property is a violation of the Zoning Ordinance and the Sanitation Regulations (Shelby County Resolution No. 01-02-12-10). While staff acknowledges that Mr. Blackmon has been cooperative throughout the enforcement process and has made some progress in the past few months, the violation continues beyond both Mr. Blackmon's proposed timeline and the procedural timeline for enforcement by Shelby County. Therefore, the Shelby County Planning Commission may recommend Case Number **E18-031 M&R Properties Zoning Violation - Storage/Salvage Yard in an A-1 District** to the Shelby County Commission for referral to the County Attorney for legal action to be taken to enforce the zoning ordinance.

**Commissioner Davis** asked how many cars are left on the property to be moved.

Mr. Cameron stated that there are four cars, including one loaded on a tow truck, with some tires.

**Commissioner Gunther** stated that A-1 zoning does not allow for storage.

Mr. Cameron replied that is correct.

**Commissioner Nesbitt** asked what happens if this is referred to the County Attorney.

Mr. Cameron explained that the County Attorney would decide at that point, what or if any further action is to be taken.

**Commissioner Little** asked when this site was first used for storage.

Mr. Cameron stated somewhere between 2014 and 2015 according to aerial photography.

**Commissioner Little** asked how long has the County had jurisdiction over this site.

Mr. Cameron stated that zoning for this district was established in 2012.

**Commissioner Little** asked if the applicant is cooperating now.

Mr. Cameron stated that Mr. Blackman has been very communicative with staff and has been giving staff progress updates. He stated that staff has also been doing their own site visits and there has been slow but incremental removal of the vehicles.

**Commissioner Little** asked where the vehicles are going.

Mr. Cameron stated that he believes it is somewhere south of Columbiana, but he is not certain.

**Commissioner Gunther** clarified that there are three (3) vehicles and some tires still on the property. He asked what is being done to have those removed.

Mr. Cameron stated that he has not spoken with Mr. Blackman about their removal.

**Commissioner Little** asked that once all the cars have been removed, will the owner be in compliance, or are there additional issues.

Mr. Cameron stated that he is not aware of any additional issues. This is the only one that has been brought to staff's attention.

**Commissioner O'Kelley** asked what the continuation dates would be if this gets continued.

Ms. Goddard stated that the next Planning Commission Meeting is May 6<sup>th</sup>, but that would be too soon for proper notification. She stated that it would be two weeks from that which is May 20<sup>th</sup>.

Mr. Jason Blackman apologized for the amount of time it has taken to remove the cars. He stated that he had a little over 100 cars on the property. He stated that some of the cars were operable and some of them were not. He stated that they have been trying to be as compliant as possible during the process of removing the cars. He stated that all the cars have been removed. He stated that the tires are still on the property, but they will be removed to come into compliance. He explained that he has been renting the property since 2014 and this was just brought to his attention in October, 2018. He had pictures and they were distributed to the Planning Commission to show that the cars have been removed.

**Commissioner O'Kelley** asked how many tires were on the property.

Mr. Blackman stated that there are eight tires total.

**Commissioner Gunther** asked if there is another place that the cars will go.

Mr. Blackman stated that some went across the street at the grandfathered transmission shop. He stated that most of the cars went to a salvage shop and five cars are at an un-zoned location.

**Commissioner Little** stated that the gathering area seems to be integral to this business even though it's not a junk yard.

Mr. Blackman stated that he is looking at a warehouse in downtown Columbiana, but before any moves are made he will make sure it is zoned for salvage compliance. He stated that they have a lot of volume at the shop, but he understands that the neighbors are not happy.

Mr. Phillips, 114 Jared Lane, asked about the future use of the property where the cars were. He is concerned with the dangerous road.

Mr. Blackman stated that he is no longer renting that property. He agreed that there is a sight issue at the hill where you have to pull out on the road. He stated that his ultimate goal is to be completely off the property.

Tracy Arnold, lives next door, stated that there is a problem with sight distance. She stated that they have a problem with sight distance. She stated that it is her understanding that A-1 is residential and not commercial. She stated that they bring cars in at night between 8:30 – 11:30 p.m.

Mr. Blackman pointed out that there is a trailer park down the street that has six (6) rundown mobile homes.

Mr. Scroggins stated that that property can be looked at later, but as of today, you still have a zoning violation. He advised him to address his violation before pointing in another direction.

**Commissioner Davis** stated that there are obviously more issues here other than just the movement of cars. He stated that there seems to be some traffic issues and the Planning Commission does not have control over that. He stated that he heard the concerns with the dangerous sight distance.

With no further discussion, **Commissioner O’Kelley** called for a motion. **Commissioner Davis** made a motion in Case **E18-031, M&R Properties Zoning Violation - Storage/Salvage Yard in an A-1 District – Enforcement Action** that it be Continued to the May 20, 2019 Planning Commission Meeting to ensure, with follow up by staff, that the property is properly vacated and cleaned up. The motion was seconded by **Commissioner Wilder** and by a vote of five (5-0-1), with Commissioners Davis, Wilder, O’Kelley, Nesbitt and Gunther voting in favor of the motion and Commissioner Little abstaining, the following resolution was approved:

**WHEREAS**, the purpose of this Enforcement Action is concerning the on-site storage of inoperable, unlicensed vehicles of all types in an A-1, Agricultural district; and,

**WHEREAS**, the subject property is located at 3641 Highway 26 and situated in Section 14, Township 21 South, Range 02 West; Parcel Identification No. 58-22-6-14-0-000-013.000; and,

**WHEREAS**, the subject property is subject to the rules and regulations of Shelby County, specifically the Zoning Ordinance and the Sanitation Regulations; and,

**WHEREAS**, the current land use is a storage/salvage yard that is actually an M-1, Light Industrial district land use; and,

**WHEREAS**, a storage/salvage yard is not a permitted use within the A-1, Agricultural district; and,

**WHEREAS**, over the course of several months Development Services staff has tried to find ways to remedy the zoning violations that exist at 3641 Highway 26 to avoid the need to pursue legal action; and,

**WHEREAS**, Development Services staff has contacted Ricky Ray, property owner, and Jason Blackmon, Jason’s Auto, via telephone and e-mail on several occasions since October 30<sup>th</sup>, 2018 to discuss the zoning violation and remedies to correct said violations; and,

**WHEREAS**, Mr. Jason Blackmon, Jason’s Auto, and Mr. Ricky Ray, property owner, have been notified in writing three (3) times that the storage of inoperable, unlicensed vehicles of all types on the property is a violation of the Zoning Ordinance and the Sanitation Regulations (Shelby County Resolution No. 01-02-12-10); and,

**WHEREAS**, Mr. Blackmon has been communicative and cooperative with staff regarding the zoning violation; and,

**WHEREAS**, a site visit on April 15<sup>th</sup>, 2019, showed significant progress had been made to correct the zoning violation; and,

**WHEREAS**, the subject property remains in violation of the zoning ordinance for the operation of a storage/salvage yard; and,

**WHEREAS**, the Planning Commission determined that in order to ensure that the property is properly vacated and cleaned up that staff would continue to monitor and report back to the Planning Commission on May 20, 2019 ; and,

**NOW, THEREFORE, BE IT RESOLVED** by the Shelby County Planning Commission that Case Number **E18-031 M&R Properties Zoning Violation**; and located at 3641 Highway 26 and situated in Section 14, Township 21 South, Range 02 West; Parcel Identification No. 58-22-6-14-0-000-013.000, be and the same is hereby *CONTINUED to May 20, 2019*.

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There being no further business, **Commissioner Wilder** made a motion to adjourn. The motion was seconded by **Commissioner Davis** and by a unanimous vote of six (6-0), with Commissioners Davis, O’Kelley, Little, Nesbitt, Wilder and Gunther voting in favor, the meeting of March 18, 2019 was adjourned at 6:34 P.M.

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Christie Hester  
Planning Services Supervisor

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Michael O’Kelley, Chairman  
Shelby County Planning Commission