

**STATE OF ALABAMA
SHELBY COUNTY**

SHELBY COUNTY PLANNING COMMISSION MINUTES

Regular Meeting – August 5, 2019 – 6:00 PM

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

Members Absent: None

Staff Present: Christie Pannell Hester, Planning Services Supervisor; Sharman Brooks, Senior Planner; Kristine Goddard, Principal Planner; Josh Cameron, Principal Planner

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 three (3) audience member(s) present in addition to the Planning Commission members and County staff.

Approval of the Minutes of the July 15, 2019 Planning Commission Meeting.

Commissioner Davis made a motion to approve the minutes of the July 15, 2019 meeting; the motion was seconded by **Commissioner Gunther**. By a unanimous vote of seven (7-0), with Commissioners Davis, Little, O’Kelley, Kinnebrew, Nesbitt, Wilder and Gunther voting in favor, the minutes of the July 15, 2019 meeting were approved.

1. SN19-009 Resubdivision of Lot 1 of Cruz Family Subdivision

This is a request from Moises Cruz, property owner, for approval of a final plat to subdivide Lot 1 of Cruz Family Subdivision into five lots for residential use, completing the family subdivision and to be known as A Resubdivision of Lot 1 of Cruz Family Subdivision.

The subject property is zoned A-1, Agricultural District and is located at 131 Ridgelyn Road; Parcel Identification No. 58-35-1-02-0-001-004.019.

Ms. Kristine Goddard presented the following information regarding the case:

This is a request from Moises Cruz, property owner, for approval of a final plat to subdivide Lot 1 of Cruz Family Subdivision into five lots for residential use, completing the family subdivision, to be known as A Resubdivision of Lot 1 of Cruz Family Subdivision.

The subject property is zoned A-1, Agricultural District and is located at 131 Ridgelyn Road; Parcel Identification No. 58-35-1-02-0-001-004.019.

DISCUSSION

The subject property is located at 131 Ridgelyn Road at the intersection of Shawnda Lane and Ridgelyn Road. Shawnda Lane is a City of Calera roadway and Ridgelyn Road is a private drive. Ridgecrest subdivision is located to the north of the subject property and Shiloh Creek subdivision is located to the south. Both subdivisions are single family residential developments located in the City of Calera. Other properties near the subject property located in the City of Calera and unincorporated

Shelby County also contain single family residences not part of recorded subdivisions. Properties in unincorporated Shelby County are zoned A-1, Agricultural.

The Cruz Family Subdivision (S10-25) was reviewed as a single 5.36 acre lot. It was approved as an administrative family subdivision in 2010 and recorded in Map Book 42, Page 3.

The applicant is requesting to subdivide Lot 1 into five family lots for residential use. He intends to maintain ownership of four lots and deed one lot to his daughter. The proposed Lot 1A contains 1.36 acres and the remaining four lots are each one acre in size. The subject property is located in unincorporated Shelby County and is zoned A-1, Agricultural. There is an existing mobile home on Lot 1A that meets the dimensional requirements of the A-1 zoning district.

The resubdivision of Lot 1 will create a total of five lots and complete the family subdivision.

Access to the proposed site is via Shawnda Lane, a City of Calera roadway. The applicant is dedicating right of way to the city with the proposed plat and a signature block for the City Engineer has been added to the plat for final approval.

Water Service from Shelby County is not available for these lots. The subject property is within the Calera Fire Service District. Students in this subdivision will be attend schools in the Calera attendance zone.

SUMMARY

According to the *Subdivision Regulations of Shelby County*, a family subdivision is a subdivision of land into no more than five parcels, including remnant parcels, for the purpose of dividing land among the following designated legally related family members: spouse, siblings, children, grandchildren, parents, grandparents, or step-related individuals of the same status. The purpose of this subdivision is to create five lots in the family subdivision from Lot 1 of Cruz Family Subdivision. The proposed resubdivision will create five total lots and complete the family subdivision. The subdivision as submitted meets the requirements of the *Subdivision Regulations of Shelby County* subject to the following items:

- Applicant submitting a record map for approval and recording;
- Compliance with the regulations, policies and guidelines of Shelby County, Alabama.

Commissioner O'Kelley asked if anyone present wished to speak in favor of the case. Seeing no one who wished to speak **Commissioner O'Kelley** asked if anyone present wished to speak in opposition of the case.

Ms. Heather LeMaster, 165 Ridgecrest Rd, stated that she was concerned that this subdivision may look like a mobile home park and negatively affect her property values as a result. She asked if covenants would be put in place or buffers to ensure the property looks kept up.

Commissioner O'Kelley asked staff to respond.

Ms. Goddard stated that this was a family subdivision and not a proposal for a mobile home park. She said that covenants were a private property agreement but did not often apply to family subdivisions. Ms. Goddard said that the property is zoned A-1, Agricultural that would only permit the construction of one home or placement of one mobile home on each lot and explained the setbacks for the A-1 district.

Mr. Patrick Randall, 169 Ridgecrest Rd, asked for clarification that only one home would be allowed on each lot.

Ms. Goddard responded that was correct, as an agriculturally zoned property only one dwelling would be permitted for each lot.

Ms. Sharman Brooks added that a family subdivision is limited to five lots and the applicant has proposed five lots. She also stated that the minimum lot size in the A-1 district is one acre and each lot proposed is only one acre and could not be further subdivided.

With no further discussion, **Commissioner O’Kelley** called for a motion. **Commissioner Davis** made a motion in Case **SN19-009 Resubdivision of Lot 1 of Cruz Family Subdivision** that the evidence and testimony warrant Approval. The motion was seconded by **Commissioner Kinnebrew** and by a vote of seven (7-0), with Commissioners Davis, O’Kelley, Kinnebrew, Gunther, Nesbitt, Little and Wilder voting in favor, the following resolution was approved:

WHEREAS, Moises Cruz, property owner, has petitioned the Shelby County Planning Commission for approval of a final plat to subdivide Lot 1 of Cruz Family Subdivision into five lots for residential use, to be known as A Resubdivision of Lot 1 of Cruz Family Subdivision; and

WHEREAS, the subject property is located at 131 Ridgely Road; Parcel Identification No. 58-35-1-02-0-001-004.019; and,

WHEREAS, the subject property is zoned A-1, Agricultural District; and,

WHEREAS, the resubdivision of lot 1 will create five total lots, completing the family subdivision; and,

WHEREAS, the final plat and documents meet the family subdivision requirements of the *Subdivision Regulations of Shelby County*; and,

WHEREAS, the final plat and documents meet the requirements of the *Zoning Regulations of Shelby County Zoning*;

NOW, THEREFORE, BE IT RESOLVED by the Shelby County Planning Commission that the request from Moises Cruz, property owner, for the approval of a final plat to subdivide 5.36 acres, Lot 1 of Cruz Family Subdivision into five lots for residential use, to be known as A Resubdivision of Lot 1 of Cruz Family Subdivision and located at 131 Ridgely Road; Parcel Identification No. 58-35-1-02-0-001-004.019, be and the same is hereby **Approved** subject to:

- Applicant submitting a final plat for recording; and,
- Compliance with the regulations, policies and guidelines of Shelby County.

2. V19-003 Setback Variance for Lot 148, Shoal Creek

This is a request from Jill White, property owner, for the approval of a front yard setback variance of 35 feet to reduce the required front yard setback from 100 feet to 65 feet for the construction of a single family home.

The subject property is located at 4 Augusta Way, in Shoal Creek Subdivision. Parcel Identification No. 58-03-7-26-0-000-004.000.

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

This is a request from Jill White, property owner, for the approval of a front yard setback variance of 35 feet to reduce the required setback from 100 feet to 65 feet for the construction of a single family home.

The subject property is located at 4 Augusta Way, in the Shoal Creek Subdivision. Parcel Identification No. 58-03-7-26-0-000-004.000.

DISCUSSION:

Shoal Creek is zoned E-1 SD, Single Family Estate Special District. The subject property was recorded in 1977 as Lot 148 of the Shoal Creek subdivision. Shoal Creek is a private 223 lot, master planned golf community. In 2015, the Shelby County Planning Commission approved an amendment to the Shoal Creek Master Plan to allow for smaller “cottage” style lots in the development but it also established setbacks for the entirety of the subdivision. The approved master plan establishes a 100-foot setback for any lot lines adjacent to a road in Shoal Creek.

The applicant is requesting a 35 foot reduction to the setback along Augusta Way. The proposed variance would result in a 65 foot setback from the property line adjacent to Augusta Way. The 100 foot setback from Carnoustie Drive is not part of this request and will remain in place.

The applicant’s justification statement identifies that lot 148 contains steep elevations unsuitable for building at the northern end of the lot (approximately 760-feet near Carnoustie Drive up to approximately 815-feet at Augusta Way). The required setbacks and topography of the lot result in a scenario where construction would be located on the slope. Nearby homes on Augusta Way were constructed with an approximately 60 foot front yard setback. Adjusting the setbacks would allow construction on a more level area and reduce the need for cutting into the existing slope. The proposed residence would be the third home constructed on Augusta Way.

The Shoal Creek Architectural Committee and the Shoal Creek Association Board of Directors have reviewed the proposed setbacks and recommended their approval on May 29, 2019.

Section 3 of Article XXIII of the *Zoning Regulations of Shelby County, Alabama* identifies that the Planning Commission may authorize a variance based on the existence of the following conditions:

1. *That the special circumstances or conditions applying to the building or land in question are peculiar to such premises and do not apply generally to other land or buildings in the vicinity.*
2. *That the granting of the application is necessary for the preservation and enjoyment of a property right and not merely to serve as a convenience to the applicant.*
3. *That the authorizing of the variance will not impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets, or increase the danger of fire, or imperil the public safety, or unreasonably diminish or impair established property values within the surrounding areas, or in any other respect impair the health, safety, comfort, morals, or general welfare of the inhabitants of Shelby County.*

CONCLUSION

Staff acknowledges the topography challenges on site. The combination of topography and the established 100-foot setbacks from both Carnoustie Drive and Augusta Way create a situation unique to this property. Other homes along Augusta Way are set back roughly 60 feet from the August Way right of way which is similar to the requested 65-foot setback.

Approval of the variance request would improve the issues created by the steep topography of the lot, reduce the need to cut into the slope and would provide a building setback consistent with existing homes along Augusta Way. Variances granted by the Shelby County Planning Commissions must meet all criteria of Section 3 of Article XXIII of the *Zoning Regulations of Shelby County*.

Commissioner O’Kelley asked if the applicant wished to speak. The applicant declined to speak.

Commissioner O’Kelley asked if there was anyone present who wished to speak in favor or opposition of the request and seeing none, called for a motion.

Commissioner Gunther made a motion in Case **V19-003 Setback Variance for Lot 148, Shoal Creek** that the evidence and testimony warrant approval of the variance request. The motion was seconded by **Commissioner Wilder** and by a vote of seven (7-0), with Commissioners Davis, O’Kelley, Kinnebrew, Gunther, Nesbitt, Little and Wilder voting in favor, the following resolution was approved:

WHEREAS Jill White, property owner, has petitioned the Shelby County Planning Commission for approval of a front yard setback variance of 35 feet to reduce the required setback from 100 feet to 65 feet along Augusta Way for the construction of a single family home; a variance of Section 3, Article X.A, pursuant to Section 3, Article XXIII; and,

WHEREAS, the subject property is zoned E-1 SD and is located at 4 Augusta Way in the Shoal Creek Subdivision. Parcel Identification No. 58-03-7-26-0-000-004.000; and,

WHEREAS, the subject property is identified as Lot 148 of the Shoal Creek Subdivision in the Chelsea North – Dunning Valley South – Westover North Zoning Beat, situated in Section 35, Township 18 South, Range 1 West; and,

WHEREAS, Shoal Creek is a master planned community and thus setbacks were established in the 2015 master plan approved by the Planning Commission on July 20th, 2015; and,

WHEREAS, the Shoal Creek master plan requires a 100 foot setback from all lot lines adjacent to a public road; and,

WHEREAS, The Shoal Creek Association Board of Directors and the Shoal Creek Architectural Committee have presented written approval of the request for setback variances; and,

WHEREAS, the Planning Commission recognizes the unusual topography of lot 148 and the double frontage of lot 148 on Carnoustie Drive and Augusta Way; and,

WHEREAS, the Planning Commission has determined that the special circumstances or conditions applying to the building or land in question are peculiar to such premises and do not apply generally to other land or buildings in the area of Shoal Creek Subdivision; and,

WHEREAS, the granting of this application is necessary for the construction of a single family home comparable in size and character to other homes located in the Shoal Creek Subdivision; and,

WHEREAS, reducing the front yard setback requirement 100 feet to 65 feet along Augusta Way will not impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets, or increase the danger of fire, or imperil the public safety, or unreasonably diminish or impair established property values within the surrounding areas, or in any other respect impair the health, safety, comfort, morals, or general welfare of the inhabitants of Shelby County; and,

NOW, THEREFORE, BE IT RESOLVED by the Shelby County Planning Commission that the application of Jill White, property owner, for the approval of a front yard setback variance of 35

feet to reduce the required setback from 100 feet to 65 feet for the construction of a single family home in the E-1 SD, Single-Family Estate Special District; a variance of Section 3, Article X.A, pursuant to Section 3, Article XXIII for property located at 4 Augusta Way, Lot 148 of the Shoal Creek Subdivision, in the Chelsea North – Dunnavant Valley South – Westover North Zoning Beat and situated in Section 35, Township 18 South, Range 1 West; Parcel Identification No. 58-03-7-26-0-000-004.000 be, and the same is hereby **Approved**, subject to:

- Compliance with the regulations, policies and guidelines of Shelby County.

Ms. Brooks reminded the Planning Commission that the next Planning Commission meeting will be on August 19th and that one case is scheduled for the public hearing.

There being no further business, **Commissioner Davis** made a motion to adjourn. The motion was seconded by **Commissioner O’Kelley** and by a unanimous vote of seven (7-0), with Commissioners Davis, O’Kelley, Little, Nesbitt, Kinnebrew, Wilder and Gunther voting in favor, the meeting of August 5, 2019 was adjourned at 6:13 P.M.

Christie Hester
Planning Services Supervisor

Michael O’Kelley, Chairman
Shelby County Planning Commission