

# CITY OF SHELBYVILLE

Adam M. Rude  
Director



Allan Henderson  
Deputy Director

## PLAN COMMISSION

**MEETING DATE: 11/22/2021**

Case Number & Name:	PC 2021-29: 533-535 East Hendricks Street; Rezone			
Petitioner's Name:	Terry and Debbie Esters			
Owner's Name:	Terry and Debbie Esters			
Petitioner's Representative:	H. Curtis Johnson, Brown, DePrez & Johnson			
Address of Property:	533-535 East Hendricks Street, Shelbyville, Indiana			
Subject Property Zoning Classification:	Current: IL – Light Industrial Proposed: BG – Business General			
Comprehensive Future Land use:	Gateway/ Mixed Use			
	<b>North</b>	<b>East</b>	<b>South</b>	<b>West</b>
Surrounding Properties' Zoning Classifications:	BG – Business General	BG – Business General	MP – Manufactured Home Park	IL – Light Industrial
Surrounding Properties' Comprehensive Future Land Use	Gateway/Mixed Use	Gateway/Mixed Use	Gateway/Mixed Use	Gateway/Mixed Use
History:	The petitioner is proposing to rezone a IL – Light Industrial property to BG – Business General property. The subject property sits on the border of the transition from IL – Light Industrial to Business General. The proposed rezone is in alignment with the goals of the Comprehensive Plan for this area to be a gateway-mixed use area in the central business district.			
Vicinity Map:				
Action Requested:	A formal request to rezone a <i>IL – Light Industrial</i> property to <i>BG – Business General</i> property.			

1. The petition request involves rezoning the 1.45-acre property at 433-435 East Hendricks Street from IL – Light Industrial to BG – Business General. There are currently two (2) businesses operating on the subject parcel, a mechanic shop, and mini-barn sales. As follow up to a successful rezoning, the petitioner intends to subdivide the property into two parcels to allow the two separate businesses to continue to operate on their own individual parcels. However, the petitioner would not be able to meet the required setbacks if the property was still zoned IL – light Industrial. Both type of previously referenced businesses are permitted uses in the BG – Business General district.
2. The Unified Development Ordinance (Section 9.10 (K)) requires the Plan Commission pay reasonable regard to the following decision criteria:

**a. Relation to the Comprehensive Plan:**

The applicant provided the following response to the 1<sup>st</sup> decision criteria: *“The Comprehensive Plan calls for this area to be Gateway Mixed-Use, which provides for significant flexibility in potential uses. Its present use dovetails nicely with the area, consisting of retail automotive parts sales, retail landscaping services and mini barn sales (apart from Esters’).”*

The planning staff has determined that the proposed zoning classification of BG – Business General is consistent with the City’s Comprehensive Plan and reflected in the following Objectives and Action Steps:

Built Environment:

Objective 2: Guide healthy development patterns using future land use mapping.

Action 3: Target mixed-use flexibility for gateway development.

Commerce and Economy:

Objective 5: Support local business retention and creation.

**b. Current Conditions:**

The applicant provided the following response to the 2<sup>nd</sup> decision criteria: *“The proposed rezoning is wholly consistent with the current conditions and the character of the current structures and uses of the subject property. No change would be made as to these existing aspects of the subject parcel.”*

The planning staff has determined the proposed zoning classification of BG – Business General is consistent with the current conditions. The subject parcel is surrounded by BG – Business General properties on the north and east side and is only separated by another BG – Business General zoning district to the west by three (3) IL – Light Industrial properties that maintained a Light Industrial zoning classification in order to allow the existing businesses to operate. An automotive repair facility and a min-barn sales facility are permitted uses in the BG – Business General zoning district.

**c. Desired Use:**

The applicant provided the following response to the 3<sup>rd</sup> decision criteria: *“As seen with both its existing use and the uses of the adjoining property, the subject parcel is well-suited for its existing use. The existing zoning of Light Industrial appears to be a relic from a former factory located to the west of the existing parcel.”*

The planning staff has determined the proposed zoning classification of BG – Business General is consistent with the desired use of the subject parcel. The subject parcel is surrounded by a much larger BG – Business General zoning district and the desired uses of the property are permitted uses in the BG – Business General district, the change in zoning will not alter the desired use in this part of the City.

**d. Property Values:**

The applicant provided the following response to the 4<sup>th</sup> decision criteria: *“Given that there will be no change in use, there should be no negative impact on property values. Esters believe that the proposed subdivision will, in fact, increase the value of the property in question, with no adverse impact on adjoining property.”*

The planning staff has determined the proposed zoning classification of BG – Business General will not have an adverse impact on surrounding property values or property values in general throughout the City. The proposed uses of the property will not change, and the two (2) existing businesses will continue to operate as they always have. This will have the effect of stabilizing property values in the area.

**e. Responsible Growth:**

The applicant provided the following response to the 5<sup>th</sup> decision criteria: *“The proposed rezoning and subdivision would essentially continue the status quo as to the property. Allowing the rezoning, and ergo making the proposed subdivision permissible, will unlock value of the parcel by allowing differentiated ownership based upon differentiated uses.”*

The planning staff has determined the proposed zoning classification of BG – Business General allows for responsible growth and development in the area. The subject property is already built-out and serviced by roads and utilities. There is no additional public investment required to support the existing businesses or the change in zoning classification.

**STAFF RECOMMENDATION: Favorable recommendation on the proposed rezoning from IL – Light Industrial to BG – Business General.**

## Rezone (Zoning Map Amendment): PC 2021-29: 533-535 East Hendricks Street; Rezone

### FINDINGS OF FACT BY THE SHELBYVILLE PLAN COMMISSION

#### Staff Prepared

Motion:

(I) would like to make a motion to forward a favorable recommendation for the rezone petition presented before this body, rezoning from IL – Light Industrial to BG – Business General, pursuant to the planning staff's report and Findings of Fact.

1. ☐ The Plan Commission has paid reasonable regard to and finds that the proposed rezone is consistent with The City of Shelbyville Comprehensive Plan and all other applicable, adopted planning studies or reports.  
☐ The Plan Commission has paid reasonable regard to, and finds that the proposed rezone **is not** consistent with The City of Shelbyville Comprehensive Plan and all other applicable, adopted planning studies or reports.
2. ☐ The Plan Commission has paid reasonable regard to, and finds that the proposed rezone is complimentary to the current conditions and the character of current structures and uses in this zoning district.  
☐ The Plan Commission has paid reasonable regard to and finds that the proposed rezone **is not** complimentary to the current conditions and the character of current structures and uses in this zoning district.
3. ☐ The Plan Commission has paid reasonable regard to, and finds that the proposed rezone will allow for the most desirable use of the subject land, pursuant to the planning staff's report.  
☐ The Plan Commission has paid reasonable regard to, and finds that the proposed rezone **will not** allow for the most desirable use of the subject land, pursuant to the planning staff's report.
4. ☐ The Plan Commission has paid reasonable regard to, and finds that the proposed rezone will not have an adverse negative effect on the conservation of property values throughout the City of Shelbyville's planning jurisdiction, pursuant to the planning staff's report.  
☐ The Plan Commission has paid reasonable regard to, and finds that the proposed rezone **will** have an adverse negative effect on the conservation of property values throughout the City of Shelbyville's planning jurisdiction, pursuant to the planning staff's report.
5. ☐ The Plan Commission has paid reasonable regard to and finds that the proposed rezone is a responsible growth and development strategy for the City of Shelbyville's planning jurisdiction, pursuant to the planning staff's report.  
☐ The Plan Commission has paid reasonable regard to and finds that the proposed rezone is not a responsible growth and development strategy for the City of Shelbyville's planning jurisdiction, pursuant to the planning staff's report.

Shelbyville Plan Commission

By: \_\_\_\_\_

Attest: \_\_\_\_\_

Chairperson

Secretary



## REZONING APPLICATION

Shelbyville Planning & Building Department  
44 West Washington Street  
Shelbyville, IN 46176  
P: 317.392.5102

### For Office Use Only:

Case #: PC \_\_\_\_\_ - \_\_\_\_\_

Hearing Date: \_\_\_\_\_

Fees Paid: \$ \_\_\_\_\_

Final Decision:

Approved

Denied

### 1.

#### Applicant

Name: Terry L. & Debbie L. Esters

Address: 2557 E. McKay Rd

Shelbyville, IN 46176

Phone Number: 317-364-0465

Fax Number: \_\_\_\_\_

Email: \_\_\_\_\_

#### Property Owners Information (if different than Applicant)

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_

Fax Number: \_\_\_\_\_

Email: \_\_\_\_\_

### 2.

#### Applicant's Attorney/Representative

Name: H. Curtis Johnson

Address: 416 S. Harrison St.

Shelbyville, IN 46176

Phone Number: 317-398-6687

Fax Number: 317-398-6806

Email: curtjohnson@shelbylaw.com

#### Project Engineer

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_

Fax Number: \_\_\_\_\_

Email: \_\_\_\_\_

### 3. Project Information:

General Location of Property (and address is applicable): 533-535 E. Hendricks St., Shelbyville, IN 46176

Current Zoning: Light Industrial

Proposed Zoning: Business General

Existing Use of Property: Auto Repair Shop & Mini Barn Sales

Proposed Use: Auto Repair Shop & Mini Barn Sales

### 4. Attachments

- ☐ Affidavit and Consent of Property Owner (if applicable)
- ☒ Proof of Ownership (copy of deed, recent property card)
- ☒ Letter of Intent
- ☒ Site Plan

- ☒ Vicinity Map
- ☒ Application Fee
- ☒ Legal Description
- ☒ Findings of Fact

The undersigned states the above information is true and correct as s/he is informed and believes.

Applicant: Terry L. Esters

Date: 10/28/21

Debbie L. Esters

10/28/21

State of Indiana  
County of Shelby

Subscribed and sworn to before me this 28 day of October, 2021.

Mana G. Flores  
Notary Public Printed

Residing in Shelby County.

My Commission Expires: 8/24/2029  
My Comm. No. NP0735736



## VICINITY MAP





## LETTER OF INTENT

Petitioners' Name: Terry L. Esters & Debbie L. Esters

Location: 533-535 E. Hendricks St., Shelbyville, IN 46176

Request: Rezoning from Light Industrial to Business General

**Background:** Terry L. Esters & Debbie L. Esters (collectively "Esters") seek to have the subject property rezoned from Light Industrial to Business General. The parcels to the east are zoned Business General, as are the parcels to the north, across Hendricks Street, while the subject property and the properties to its west are zoned Light Industrial. A portion of the southern boundary abuts a parcel zoned for Manufactured Homes.

For many years the parcel in question has effectively divided in two, with the western part used as a mechanic's shop and the eastern part used for mini-barn sales. Esters intends to continue these existing uses of the parcel, should their Petition be granted.

**Purpose:** Esters seeks to have the parcel rezoned so that they can subdivide the 1.45 acre parcel, essentially splitting of the real estate based upon its current uses. Terry wishes to retire from his work as a mechanic and has a purchaser who has agreed to buy that business and the related real estate. Esters wishes to retain ownership of the real estate used for mini-barn sales.

Should the Petition be granted, the western part of the existing parcel would continue to be used as a mechanic's shop and the eastern part would continue to be used for mini barn sales. While this proposed subdivision of the parcel would not comply with the rules for Light Industrial due to set backs, it would comply with the rules for General Business. No additional construction or modification of the existing layout or structures on the premises is planned.

10/28/21

Date

Terry L. Esters  
Terry L. Esters

10/28/21

Date

Debbie L. Esters  
Debbie L. Esters



## **ZONING MAP AMENDMENT (“REZONING”) FINDINGS OF FACT**

Petitioners’ Name: Terry L. Esters & Debbie L. Esters

Location: 533-535 E. Hendricks St., Shelbyville, IN 46176

Request: Rezoning from Light Industrial to Business General

The Shelbyville Board of Zoning Appeals must determine that the following criteria have been met in order to approve an application for a Development Standard Variance. Using the lines provided, please explain how your request meets each of these criteria.

**1. Comprehensive Plan:** The Comprehensive Plan and any other applicable adopted planning studies or reports.

The Comprehensive Plan calls for this area to be Gateway Mixed-Use, which provides for significant flexibility in potential uses. Its present use dovetails nicely with the area, consisting of retail automotive parts sales, retail landscaping services and mini barn sales (apart from Esters’).

**2. Current Conditions:** The current conditions and the character of current structures and uses in each district.

The proposed rezoning is wholly consistent with the current conditions and the character of the current structures and uses of the subject property. No change would be made as to these existing aspects of the subject parcel.

**3. Desired Use:** The most desirable use for which the land in each district is adapted.

As seen with both its existing use and the uses of the adjoining property, the subject parcel is well-suited for its existing use. The existing zoning of Light Industrial appears to be a relic from a former factory located to the west of the existing parcel.

**4. Property Values:** The conservation of property values throughout the City of Shelbyville’s planning jurisdiction.

Given that there will be no change in use, there should be no negative impact on property values. Esters believe that the proposed subdivision will, in fact, increase the value of the property in question, with no adverse impact on adjoining property.


**5. Responsible Growth:** Responsible Growth and Development.

The proposed rezoning and subdivision would essentially continue the *status quo* as to the property. Allowing the rezoning, and ergo making the proposed subdivision permissible, will unlock value of the parcel by allowing differentiated ownership based upon differentiated uses.

ENTER FOR TAXATION

JUL 08 2021

  
SHELBY COUNTY AUDITOR

2021005118 WD \$25.00  
07/08/2021 04:22:04P 3 PGS  
Tawnya J Williams  
SHELBY County Recorder IN  
Recorded as Presented  


### WARRANTY DEED

THIS INDENTURE WITNESSETH that Laura Hinrichs Revocable Living Trust, Laura Hinrichs, Trustee, <sup>dated 9/10/2000</sup> ("Grantor") of Shelby County, Indiana CONVEYS AND WARRANTS to Terry L. Esters and Debbie L. Esters, husband and wife, ("Grantee") of Shelby County, Indiana, the following described real estate in Shelby County, Indiana, to-wit:

THE REAL ESTATE DESCRIBED ON THE ATTACHED EXHIBIT A,  
WHICH IS INCORPORATED HEREIN.

Grantees herein assume and agree to pay 2020 real estate taxes due and payable in the year 2021 and all subsequent real estate taxes.

This conveyance satisfies in full the Memorandum Contract For Purposes of Recordation recorded May 10, 2004 as Instrument Number 2004003787.

Laura Hinrichs is the Trustee of the Laura Hinrichs Revocable Living Trust and is authorized as such trustee to execute this instrument on behalf of said trust.

Dated this 8<sup>th</sup> day of July, 2021.

Laura Hinrichs Revocable Living  
Trust

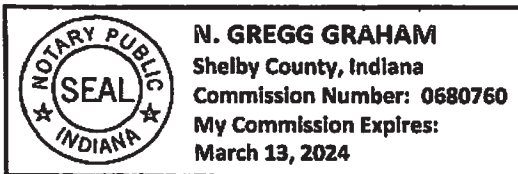
  
By: Laura Hinrichs, Trustee

SALES DISCLOSURE  
APPROVED  
SHELBY CO. ASSESSOR

STATE OF INDIANA       )  
                                      ) SS:  
COUNTY OF SHELBY     )

Before me, a Notary Public in and for said County and State, personally appeared Laura Hinrichs as Trustee of the Laura Hinrichs Revocable Living Trust who acknowledged the execution of the above and foregoing instrument as and for her free and voluntary act and deed.

Witness my hand and Notarial Seal this 8<sup>th</sup> day of July,  
2021.



N. Gregg Graham  
N. Gregg Graham, Notary Public  
Resident of Shelby County, Indiana

Send tax statements to:  
533 E. Hendricks Street  
Shelbyville, IN 46176

Grantee's address is:  
533 E. Hendricks Street  
Shelbyville, IN 46176

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law.  
*N. Gregg Graham*

THIS INSTRUMENT PREPARED BY N. GREGG GRAHAM, ATTORNEY AT LAW, #7246-73  
51 WEST MECHANIC STREET, SHELBYVILLE, INDIANA 46176  
TELEPHONE: 317-825-0527 FACSIMILE: 317-392-4842  
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EXHIBIT A  
LEGAL DESCRIPTION

The following described real estate in Shelby County, Indiana, to-wit:

Part of the Northeast Quarter of Section 5, Township 12 North, Range 7 East of the Second Principal Meridian in Shelby County, Indiana, more particularly described as follows:

Beginning where the south line of Hendricks Street in the City of Shelbyville, Indiana intersects the northeast line of the rights-of-way of the Cleveland, Cincinnati, Chicago and St. Louis Railway Companies and running thence north 74 degrees 09 minutes 30 seconds east 321.98 feet along said south line of said Hendricks Street to the point of beginning of this tract, said point being an iron pipe; thence continuing north 74 degrees 09 minutes 30 seconds east 186.95 feet along said south line to an iron pin; thence south 15 degrees 50 minutes 30 seconds east 272.70 feet to an iron pipe; thence south 45 degrees 40 minutes 30 seconds west 16.40 feet to an iron pipe; thence south 12 degrees 43 minutes 00 seconds west 75.27 feet to an iron pipe; thence south 74 degrees 58 minutes 00 seconds west 141.68 feet to an iron pipe; thence north 14 degrees 58 minutes 00 seconds west 344.70 feet to the point of beginning of this tract, containing 1.45 Acres, more or less, and subject to all existing legal rights-of-way and easements of record.

Parcel Number: 73-11-05-200-189.000-002

Property Address: 533 - 535 E. Hendricks Street, Shelbyville, Indiana 46176