

CITY OF SHELBYVILLE

Adam M. Rude
Director



Allan Henderson
Deputy Director

PLAN COMMISSION

MEETING DATE: 12/15/2021

Case Number & Name:	PC 2021-20: Lee Boulevard; Rezone			
Petitioner's Name:	Pivot Development, LLC			
Owner's Name:	Larry and Brenda Lee			
Petitioner's Representative:	Michael Collier			
Address of Property:	Lee Boulevard; Parcel #73-07-33-400-014.000-002			
Subject Property Zoning Classification:	Current: BH – Business Highway Proposed: RM – Multiple-family Residential			
Comprehensive Future Land use:	Gateway/ Mixed Use			
	North	East	South	West
Surrounding Properties' Zoning Classifications:	PK – Parks & Open Space	BH – Business Highway	BH – Business Highway	PK – Parks & Open Space
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 BH – Business Highway property to RM – Multiple-family Residential property. The subject property sits behind Walmart with access along Range Road and Lee Boulevard. Part of the property is in the floodplain.			
Vicinity Map:				
Action Requested:	A formal request to rezone a BH – Business Highway property to RM – Multiple-family Residential			

1. The proposed project request involves rezoning the 17.6-acre property bordering Range Road and Lee Boulevard from BH – Business Highway to RM – Multiple-family Residential. The property is currently vacant land that sits directly to the north of Walmart. A portion of the property is in the floodplain. As follow up to a successful rezoning, the petitioner intends to build apartments on the property.
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 1st decision criteria: *The petitioner did not provide a response to the question.*

The planning staff has determined that the proposed zoning classification of RM – Multiple-family Residential 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.

Objective 3: Transform Shelbyville’s current housing stock and neighborhoods.

Action 2: Market areas of the city prime for desired residential development

b. Current Conditions:

The applicant provided the following response to the 2nd decision criteria: *“Vacant Land.”*

The planning staff has determined the proposed zoning classification of RM – Multiple-family Residential is consistent with the current conditions. The subject parcel is surrounded by a few single-family residential structures to the west, retail to the south and east, and Blue River Memorial Park to the north and west. The site is an ideal location for housing because of its proximity to these surrounding features.

c. Desired Use:

The applicant provided the following response to the 3rd decision criteria: *“A multi-family apartment complex with up to 120 units in multiple buildings.”*

The planning staff has determined the proposed zoning classification of RM – Multiple-family Residential is a suitable desired use for the subject parcel. The City’s Comprehensive Plan has identified this area for Gateway/ Mixed Use. Adding a residential component to this area creates a truly mixed-use district; residential to support the retail and the park will serve as a natural asset for the residences.

d. Property Values:

The applicant provided the following response to the 4th decision criteria: *The petitioner did not provide a response to the question.*

The planning staff has determined the proposed zoning classification of RM – Multiple-family Residential should not have an adverse impact on surrounding property values or property values in general throughout the City. The proposed apartments on the site will increase the diversity of the housing stock in this area, provide greater housing options and help to stabilize property values

e. Responsible Growth:

The applicant provided the following response to the 5th decision criteria: *The petitioner did not provide a response to the question.*

The planning staff has determined the proposed zoning classification of RM – Multiple-family Residential allows for responsible growth and development in the area. The subject property is already serviced by roads and utilities and minimal additional public investment will be required to support the change in zoning classification.

STAFF RECOMMENDATION: Favorable recommendation on the proposed rezoning from BH – Business Highway to RM – Multiple-family Residential.

Rezone (Zoning Map Amendment): PC 2021-20: Lee Boulevard; 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 BH – Business Highway to RM – Multiple-family Residential, 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.

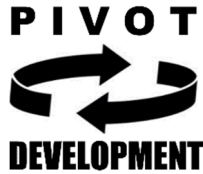
Shelbyville Plan Commission

By: _____

Attest: _____

Chairperson

Secretary



December 1, 2021

City of Shelbyville
Planning and Building Department
c/o Allan Henderson
Deputy Planning Director
44 W. Washington Street
Shelbyville, IN 46176

RE: Letter of Intent - Rezoning of vacant land behind the Shelbyville Walmart

Dear Allan,

Per the requirements of the City of Shelbyville for a rezoning application please let this letter serve as the official Letter of Intent.

It is the intention of the developer to unlock the highest and best use of the subject property by respectfully requesting for it to be rezoned from Business Highway ("BH") to Multiple-family Residential ("RM").

It is of the developer's belief that the property was originally zoned for BH due to the northernmost portion of the entire parcel that is adjacent to I-74 and that portion is north of Lee Blvd. The area subject to the request for rezoning and the area that is proposed to be developed represents the southernmost portion of the parcel at Range Road. Over 70% of the entire site lies within a flood plain and is undevelopable with the exception to approximately 5 acres. This 5-acre section of the parcel is furthest away from I-74 and is deeply recessed back into the woods and behind Walmart well over 1,000 feet away from the interstate.

With the adjacent City Park, the Little Blue River running along the property line, and the natural private setting it is the developer's belief that the 5-acre site makes an attractive location for a well-appointed and amenity rich family apartment complex to compliment the housing that the City of Shelbyville has to offer.

Please accept this Letter of Intent as the developer's sincere attempt to maximize the benefit of the property for the greater good of the City and the City's future residents. Thank you in advance for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Callan".

Pivot Development, LLC
1024 Bayside Dr, # 383
Newport Beach, CA 92660



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: Pivot Development, LLC

Address: 1024 Bayside Drive, #383

Newport Beach, CA 92660

Phone Number: 949-791-8055

Fax Number: _____

Email: info@pivotdev.us

Property Owners Information (if different than Applicant)

Name: Larry Lee 1/2 & Brenda Lee 1/2 Tenants In Common, Undivided

Address: 795 Scenic Drive, North Vernon, IN 47265

Phone Number: 812-604-5204

Fax Number: _____

Email: llee@newimagemixers.com

2.

Applicant's Attorney/Representative

Name: TBD

Address: _____

Phone Number: _____

Fax Number: _____

Email: _____

Project Engineer

Name: TBD

Address: _____

Phone Number: _____

Fax Number: _____

Email: _____

3. Project Information:

General Location of Property (and address is applicable): Approx. 5 developable acres directly behind Shelbyville Walmart at SR44 and I-74

Current Zoning: BH

Proposed Zoning: RM

Existing Use of Property: Vacant land

Proposed Use: Multifamily Apartment Complex

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: Pivot Development, LLC Date: 12-3-21

State of California

County of Orange SS:

Subscribed and sworn to before me this _____ day of December, 2021.

_____/_____
Notary Public Printed

Residing in _____ County. My Commission Expires: _____



ZONING MAP AMENDMENT (“REZONING”) FINDINGS OF FACT

Petitioner’s Name: Pivot Development, LLC

Location: Vacant land directly behind Walmart between Range Rd and Lee Blvd.

Variance for: BH to RM

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.

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

Vacant land

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

A multi-family apartment complex with up to 120 units in multiple buildings.

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

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

AFFIDAVIT & CONSENT OF PROPERTY OWNER
APPLICATION TO THE SHELBYVILLE PLAN COMMISSION

STATE OF Indiana)
COUNTY OF _____) SS:

I, Larry Lee _____, AFTER BEING DULY SWORN, DEPOSE AND SAY THE
(Name of property owner)
FOLLOWING:

1. That I am the owner of real estate located at _____;
(Address of subject property)
2. That I have read and examined the Application made to the Shelbyville Plan Commission by:
Pivot Development, LLC _____.
(Name of applicant)
3. That I have no objections to, and consent to the request(s) described in the Application made to the Shelbyville Plan Commission.

Larry Lee
Owner's Name (Please Print)

Owner's Signature

Subscribed and sworn to before me this _____ day of December, 2021.

_____/_____
Notary Public Printed

Residing in _____ County My Commission expires _____

MAR 12 2019

Amy H. Blackmore

SHELBY COUNTY AUDITOR

2019001134 QCD \$25.00
03/12/2019 01:41:25P 4 PGS
Tawnya J Williams
SHELBY County Recorder IN
Recorded as Presented

QUITCLAIM DEED

THIS INDENTURE WITNESSETH, That **BRENDA LEE**, an adult of Jennings County, Indiana **QUITCLAIMS** to each **LARRY L. LEE**, an adult of North Vernon, Jennings County in the State of Indiana, and **BRENDA R. LEE**, an adult of North Vernon, Jennings County in the State of Indiana, an undivided one-half (1/2) interest as tenants-in-common for and in consideration of the sum of TEN DOLLARS (\$10.00) and other good and valuable consideration, the receipt whereof is hereby acknowledged, the following described real estate in Shelby County, in the State of Indiana, to-wit:

See attached *Exhibit A – Legal Description*

Parcel No.: 73-07-33-400-014.000-002

Property Address: Lee Blvd., Shelbyville, Indiana 46176

Being and intended to be the same real estate conveyed to **BRENDA LEE** by virtue of a Quitclaim Deed, dated January 2, 2009, and recorded May 25, 2010, as Instrument No. 2010002809 in the Recorder's Office of Shelby County, Indiana.

By agreement of the parties, no title search or title opinion was done on the above described real estate.

###

SALE DISCLOSURE
NOT REQUIRED
SHELBY COUNTY ASSESSOR

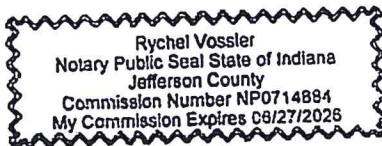
IN WITNESS WHEREOF, That said **BRENDA LEE** has hereunto set her hand and seal, this 31st day of January, 2019.

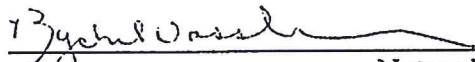

BRENDA LEE

STATE OF INDIANA)
) SS:
COUNTY OF JENNINGS)

Before me, the undersigned, a Notary Public in and for said County and State, this 31st day of January, 2019, came **BRENDA LEE**, who acknowledged the execution of the foregoing instrument.

WITNESS my hand and Notarial Seal.




RYCHEL VOSSLER, Notary Public
residing in JEFFERSON County, Indiana

My commission expires: _____

Grantees address
Tax Mailing Address: 595 Scenic Drive, North Vernon, Indiana 47265

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.


WILMER E. GOERING, II

This instrument prepared by:
Wilmer E. Goering, II, Attorney at Law
322 Liberty Street
Vevay, IN 47043

EXHIBIT A - LEGAL DESCRIPTION

Part of the Southeast Quarter of Section 33, Township 13 North, Range 7 East, Addison Township, Shelby County, Indiana, the following is intended to be part of that land described in Deed Record 299, Page 266, and described as follows:

Commencing at the Southeast Corner of said section; thence North 89°10'54" West (an assumed bearing) along the South line of said Section a distance of 833.85 feet to the Southwest corner of "Tract A" as shown on Reference Survey #1 (Benchmark Surveying dated August 2, 2002) and the Point of Beginning; thence continuing North 89°10'54" West along said South line a distance of 360.76 feet to the Southwest corner of subject land (D.R. 299, P. 266); thence, North 00°00'00" East along the West line of subject land a distance of 668.04 feet to the center of the Little Blue River as shown on Reference Survey #2 (Pace Engineering, Inc. dated September 6, 2002); the next 4 calls are along said river as shown on said Reference Survey #2; thence North 53°58'49" East a distance of 31.66 feet; thence North 11°59'12" East a distance of 339.15 feet; thence North 02°57'30" West a distance of 213.92 feet; thence North 15°46'45" West a distance of 403.87 feet to the North line of subject land (D.R. 299, P. 266); thence South 88°52'32" East along said North line a distance of 768.24 feet to the West right of way line of Interstate 74 and a curve to the left; thence Southeasterly along said curve and said right of way line for an arc distance of 314.14 feet, having a radius of 7784.44 feet; said curve has a chord bearing South 45°57'01" East a distance of 314.12 feet to the Northwest corner of said "Tract A"; thence South 44°19'50" West along the Northwest line of said "Tract A" a distance of 872.50 feet to a corner of said "Tract A"; thence South 00°06'12" East along the West line of said "Tract A" a distance of 768.26 feet to the Point of Beginning, containing 19.07 acres, more or less and subject to all legal rights of way and easements.

Excepting therefrom the following described Parcel:

Part of the Southeast Quarter of Section 33, Township 13 North, Range 7 East, Addison Township, Shelby County, Indiana, the following description intended to be part of that land described and recorded in Instrument Number 0301095, and described as follows:

Commencing at a Shelby County Surveyors Standard Monument (found) marking the Southeast Corner of said Section 33; thence North 01°02'12" West (an assumed bearing) along the East line of said Quarter Section a distance of 961.95 feet to the Northerly right of way of Lee Boulevard; thence North 65°40'31" West along said right of way a distance of 497.40 feet to 5/8" rebar and cap (set), and the Point of Beginning; thence North 43°18'56" East along said right of way a distance of 15.04 feet to a 5/8" rebar and cap (set) at the PC of a curve to the right; thence Northwesterly along said curve an arc distance of 248.66 feet, having a

radius of 555.00 feet, and a chord bearing North $54^{\circ}18'28''$ West a distance of 246.59 feet to a $\frac{5}{8}$ " rebar and cap (set) at the PT thereof; thence North $28^{\circ}49'47''$ West a distance of 182.75 feet to a $\frac{5}{8}$ " rebar and cap (set); thence North $07^{\circ}08'27''$ West along said right of way a distance of 134.01 feet to a $\frac{5}{8}$ " rebar and cap (set); thence North $89^{\circ}55'26''$ West a distance of 125.11 feet to the Southerly right of way of Lee Boulevard and a $\frac{5}{8}$ " rebar and cap (set) at the PC of a curve to the left; thence Southeasterly along said curve an arc distance of 397.11 feet, having a radius of 650.00 feet, and a chord bearing South $24^{\circ}04'01''$ East a distance of 390.96 feet to a point on said curve; thence continuing Southeasterly along said curve an arc distance of 234.17 feet, having a radius of 650.00 feet, and a chord bearing South $51^{\circ}53'23''$ East a distance of 232.91 feet to a point on said curve; thence continuing Southeasterly along said curve an arc distance of 20.85 feet, having a radius of 650.00 feet, and a chord bearing South $63^{\circ}07'47''$ East a distance of 20.85 feet to a $\frac{5}{8}$ " rebar and cap (set) at the PT thereof; thence North $43^{\circ}18'56''$ East along said right of way a distance of 21.90 feet to a $\frac{5}{8}$ " rebar and cap (set); thence continuing North $43^{\circ}18'56''$ East a distance of 63.45 feet to the Point of Beginning containing 1.45 acres more or less, subject to all legal rights of way and easements.