

**MONTGOMERY COUNTY
BOARD OF COMMISSIONERS**

ORDINANCE 2024-24

**DENYING THE REQUEST OF DWIGHT ALEX MILLER TO REZONE A
CERTAIN PARCEL OF LAND NORTH OF FALL CREEK ROAD FROM
AGRICULTURAL TO RESIDENTIAL SUBDIVISION (R-2)**

WHEREAS, Dwight Alex Miller (Miller) filed a proposal to rezone from Agricultural to Residential Subdivision (R-2) a certain parcel of land north of Fall Creek Road (Parcel No. 54-11-16-500-007.000-018) in Montgomery County, (the legal description for the parcels is attached as Exhibit A); and

WHEREAS, if the rezone is approved, Miller intends to develop the 6-acre parcel with a residential subdivision of single-family homes; and

WHEREAS, the Montgomery County Plan Commission published notice of a public hearing for Case RZ2023-1 and conducted a public hearing on the proposal on September 25, 2024; and

WHEREAS, the Plan Commission considered Miller's request, comments by the public, the case report and comments by the Zoning Administrator and approved an unfavorable recommendation on September 25, 2024; and

WHEREAS, the Plan Commission properly certified its recommendation to the Montgomery County Board of Commissioners on

September 26, 2024, and this certification included an unfavorable recommendation for the rezone for single-family residential subdivision (R-2); and

WHEREAS, the Board of Commissioners published notice of a public hearing on the proposal and conducted a public hearing on October 28, 2024; and

WHEREAS, the Board of Commissioners, having considered the certification of the Plan Commission, presentations of the Zoning Administrator and Miller, and comments from the public, and having paid reasonable regard to this evidence and

1. the Montgomery County Comprehensive Plan;
2. the current conditions and the character of current structures and uses in each zoning district;
3. the most desirable use for which the land in each district is adapted;
4. the conservation of property values throughout the unincorporated area of Montgomery County; and
5. responsible development and growth

now finds as follows:

1. Rezoning this real estate from Agricultural to Residential Subdivision (R-2) for single family residential development is consistent with the Comprehensive Plan as it will encourage and facilitate residential needed residential development;

2. the approval will not be injurious to the public health, safety, morals, and general welfare of the community;

3. the use and character of land and structures in the area adjacent to the subject site and in the area generally is single residential houses on larger parcels, hobby farms, and agricultural and these uses and character of land and structures would be affected in a substantially adverse manner by development of as many as six single-family houses on this six-acre parcel;

4. the approval of the rezone request will likely decrease the value of surrounding residential property because the proposed used is materially different than the single houses on large parcels and will substantially and adversely impact the value property in the area of the subject property;

5. the approval of the requested rezone is not consistent with the interests of responsible development and growth in that the approval would materially change the use and character of uses and land in the area and create disharmonious land uses;

6. the proposed use of the property as single-family residential is consistent with the most desirable use of the property in the district, but development of this six-acre parcel into multiple smaller lots is not the most desirable use of the property; and

7. that the requested proposal to rezone the subject land from Agriculture to Residential Subdivision (R-2) for single family residential development should be denied.


IT IS, THEREFORE, ORDAINED that the request by Dwight Alex Miller to rezone a certain parcel of real estate, located north of Fall Creek Road, specifically parcel 54-11-16-500-007.00-018, in Montgomery County, and described more particularly in Exhibit A, from Agricultural to Residential Subdivision (R-2) for single family residential development is hereby denied.

IT IS FURTHER ORDAINED that this ordinance is effective upon adoption.

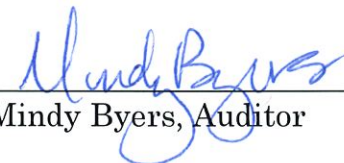
Adopted: October 28, 2024

Montgomery County Board
of Commissioners

John Frey, President


James D. Fulwider, Vice President


Dan Guard, Member

Attest: 
Mindy Byers, Auditor

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.

Daniel L. Taylor

This instrument prepared by Daniel L. Taylor, Indiana Supreme Court
#11337-54, Taylor, Minnette, Schneider & Clutter, P.C., 105 North
Washington Street, Crawfordsville, Indiana 47933. Telephone 765-361-9680.

EXHIBIT A