

**WHITLEY COUNTY BOARD OF ZONING APPEALS
STAFF REPORT**

21-W-SE-7 SPECIAL EXCEPTION AMENDMENT

Kenneth Laux

Southwest corner of Pook Road and 350 West, Washington Twp.

DECEMBER 28, 2021

AGENDA ITEM: 3

SUMMARY OF PROPOSAL

Current zoning: AG, Agricultural

Property area: 71.63 acres

The petitioner is requesting a special exception approval for a Class 2 Confined Feeding Operation ("CFO") on the property located on the southwest corner of Pook Road and 350 West in Section 6 of Washington Township. The property is currently unimproved.

As shown on the submitted site plan, the proposal is to construct a 142'x285' wean-to-finish hog barn, a compost bin, and drives. The below table shows the minimum separations and setbacks from the new buildings:

	Minimum	Proposed		Minimum	Proposed
Natural lake (>40 ac.)	2,640'	10+ mi.	Open waterway	300'	1,200'±
Recorded major residential subdivision	1,320'	1,680'± (Southwest Passage)	Property line (Pook Rd) (350 West)	40' 40'	150'± 350'±
Off-site residence	660'	685' (northeast) 960' (south) TBD (west)	RR, MR, or LR zoning	NA	12,200'±

From the proposed IDEM permitting information, the barn would contain up to 5,250 head of wean-to-finish hogs, with 297 days of self-contained manure storage. Using the animal unit calculation of \$5.17 of the zoning code, nursery pigs (15-50 lbs) are 0.2 animal units (AU), and finishing pigs (100 lbs-market weight) are 0.4 AU. Blending of these figures over the occupancy of the barn may be done in calculating the total animal units of the CFO, but conservatively, the maximum would be 2,100 AU.

CFO size calculations are based on the total animal units on the property. Since there are no other existing barns on the property, no calculation of cumulative animal units is necessary.

Class 2 CFOs are defined to be 1,201 to 3,000 animal units in size. In the AG, Agricultural District, Class 2 CFOs require a special exception through the Board of Zoning Appeals. The requirements of Sections 10.9 Special Exception Standards apply.

REVIEW CRITERIA

Indiana Code §36-7-4-918.2 and Section 10.9(A) of the Zoning Code authorize the Board to review special exceptions and state the criteria listed below upon which the Board must base its review. Staff's updated comments/proposed findings of fact under each criterion.

- 1. The special exception shall not involve any elements or cause any condition that may be dangerous, injurious, or noxious to any other property or persons, and shall comply with the performance standards;**

Confined feeding operations can create odors that may be a noxious condition, especially for

properties in close proximity to the CFO. There are two dwellings within ¼ mile of the proposed CFO, and about 12 dwellings within ½ mile, that may be affected by any such odors.

Additionally, a driveway permit has been granted for a dwelling to be located on the adjacent 13-acre property to the west, but no building permit has been applied for as of this writing. If a permit for that dwelling is issued prior to the issuance of a permit for this CFO, it is very possible that the required separation may be affected.

Being a new CFO, these residents may not be accustomed to any potential odors stemming from a CFO. The Board must ensure that any noxious condition is mitigated.

Performance standards:

- a. Fire protection: Other than potentially flammable dust (e.g. feed) or manure, no flammable or explosive materials are proposed. The requirements of the fire code would be applied as part of the construction process.
- b. Electrical disturbance: No electrical equipment that typically generates disturbance or interference is expected.
- c. Noise: The equipment of the barn, such as fans, may generate noise, but the level should not be greater than any equipment used in other permitted agricultural operations. The noise of the animals may also be present, but the proposed structure should contain most noise within.
- d. Vibrations: No vibrations are expected to be generated by this proposal.
- e. Odors: Modern barns are typically sealed and so contain animal odors better than older barns. Prevailing winds would be expected to drift most odors to the north and northeast, over the nearest off-site dwelling, wooded areas, and river.
- f. Air pollution: No air pollution, such as fly ash, dust, smoke, etc., are expected to be generated by this proposal.
- g. Erosion: A Rule 5 Erosion Control plan will need to be created, which the Soil and Water Conservation District will need to review and approve. Wind erosion is not typically a factor in cases of building construction.
- h. Water pollution: The state permit for CFOs has stringent controls, which if properly implemented, would largely prevent the possibility of water pollution. The County should defer to the state in enforcement and implementation of these measures.

2. The special exception shall be sited, or oriented and landscaped to produce a harmonious relationship of building and grounds to adjacent buildings and properties;

As originally submitted, the proposed barn would have been oriented north-south and closer to 350 West. This configuration was revised to the current east-west orientation in order to increase the separation between the barn and the off-site residences. While compliant with the zoning code minimum at present, the Board must evaluate whether the proposed orientation by itself is sufficient to produce a harmonious relationship with adjacent buildings and properties. The potential construction of a dwelling adjacent to this property may also need further scrutiny.

3. The special exception shall produce a total visual impression and environment that is consistent with the environment of the neighborhood;

The proposed barn is similar in scale to agricultural buildings in the area, such as the recently-constructed CFO about a mile west on Pook Road. Farms have historically had large buildings, be they barns, livestock pens, or grain silos, so large agricultural buildings may be expected

throughout any primarily agricultural neighborhood. That said, whether this particular location is a primarily agricultural neighborhood, given the number of nearby single-family dwellings along Keiser Road, should be determined by the Board.

4. The special exception shall organize vehicular access and parking to minimize traffic congestion in the neighborhood; and

No specific number of vehicles were submitted related to the proposed building. Since this would be a new barn on an unimproved site, any number of vehicles accessing this site would be more than currently, and this could seem inconsistent with the neighborhood. However, because there is ample room for maneuvering on-site, there should be little traffic congestion created by this proposal.

5. The special exception shall preserve the purpose of this Ordinance as stated in Section 1.4.

The proposed use is a contemplated special exception use provided for in the AG district. The site appears to lie entirely within an agricultural classification of the Comprehensive Plan and the "traditional rural" character type of the pending Comprehensive Plan, in both of which CFOs are contemplated. This special exception review serves to promote and protect the public health, safety, comfort, convenience, and general welfare. Finally, the proposed use seems to fall within the plans for the future development of the County, particularly the needs of agriculture.

SUGGESTED CONDITIONS

Staff suggests the following conditions if the Board finds to approve the requested special exception:

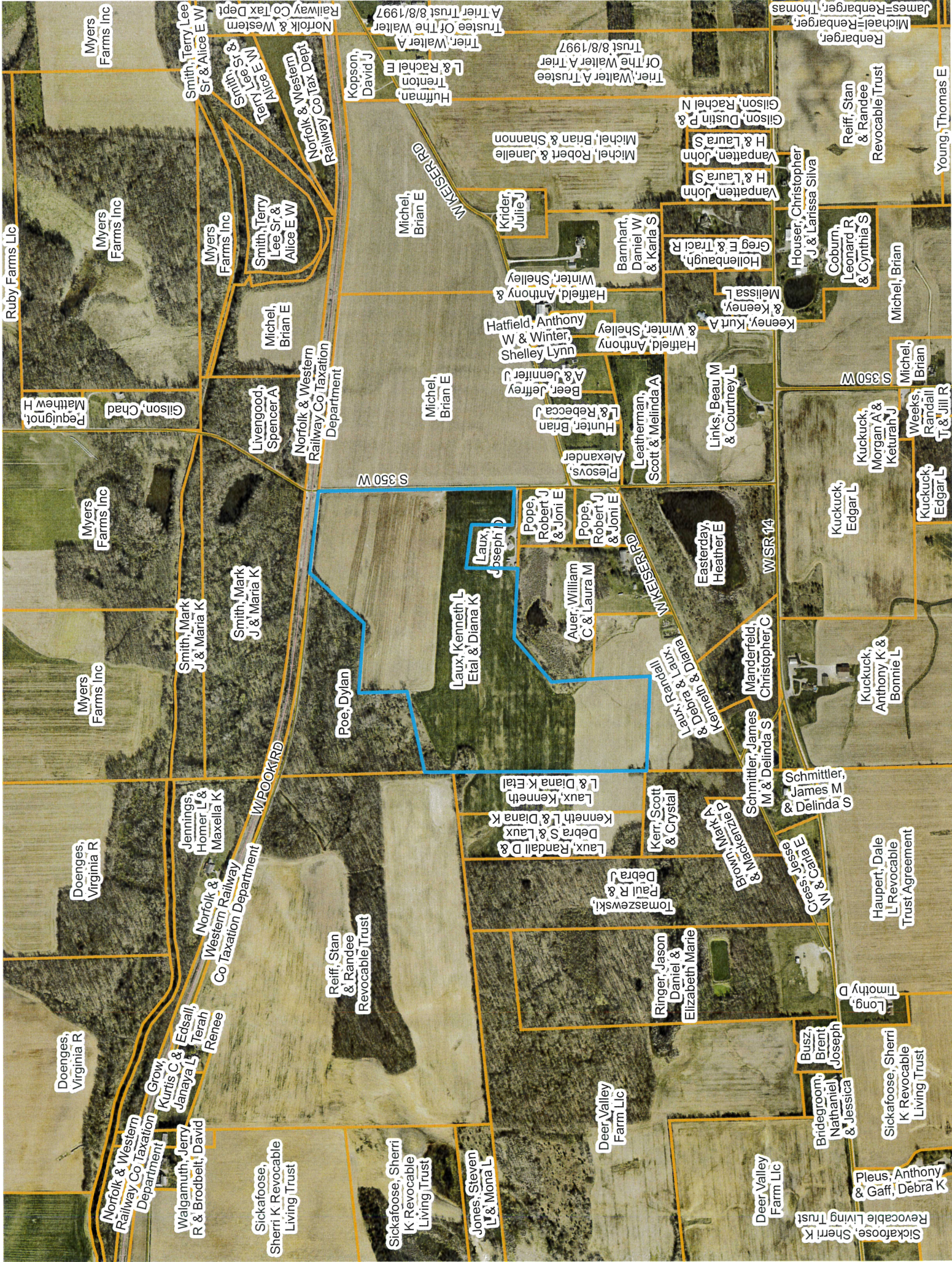
1. Special exception is granted as presented and per the submitted site plan.
2. Special exception is limited to 2,100 animal units, as described in the submittal.
3. As for any CFO case, the Board should discuss if any mitigation requirements are necessary; however, Staff has no specific recommendations at this time.

Date report prepared: 12/21/21

BOARD OF ZONING APPEALS RECORD OF ACTION

Motion:		By:		Second by:	
Approve	—				
Approve w/conditions	—				
Deny	—				

<i>Vote:</i>	Denihan	Lopez	Wilkinson	Wolf	Wright
<i>Yes</i>					
<i>No</i>					
<i>Abstain</i>					



Sickafoose, Sherri K
Revocable Living Trust

Pleus, Anthony
& Gaff, Debra K

Deer Valley
Farm Lic

Busz, Brent
Nathaniel
& Jessica

Sickafoose, Sherri
K Revocable
Living Trust

Long, D

Ringer, Jason
Daniel &
Elizabeth Marie

Deer Valley
Farm Lic

Tomaszewski,
Paul R &
Debra J

Laux, Randall D &
Debra S & Laux
Kenneth L & Diana K

Laux, Kenneth
& Diana K Etal

Schmittler,
James M
& Delinda S

Brown, Mark A
& Mackenzie A

Kerr, Scott
& Crystal

Haupt, Dale
L Revocable
Trust Agreement

W & C, Jesse
& Celia E

Schmittler, James
M & Delinda S

Laux, Randall
& Debra & Laux,
Kenneth & Diana

Auer, William
C & Laura M

Pope, Robert J
& Joni E

Pope, Robert J
& Joni E

Plesovs,
Alexander

Hunter, Brian
L & Rebecca J

Michel, Brian E

Beer, Jeffrey
A & Jennifer J

Hatfield, Anthony
Shelley Lynn
& Winter, Shelley

Hatfield, Anthony
& Winter, Shelley

Hollenbaugh,
Greg E & Traci R

Barnhart,
Daniel W
& Karla S

Knider, Julie J

Michel, Robert & Janelle
Michel, Brian & Shannon

Trier, Walter A Trustee
Of The Walter A Trier
Trust 8/8/1997

Trier, Walter A
L & Rachel E
Huffman,
Trenton

Jones, Steven
L & Mona L

Sickafoose, Sherri
K Revocable
Living Trust

Sickafoose,
Sherri K Revocable
Living Trust

Walgamuth, Jerry
R & Brodbelt, David

Norfolk & Western
Railway Co Taxation
Department

Grow, Kurtis C & Edsall,
Janaya L

Jennings, Homer L &
Maxella K

Smith, Mark
J & Maria K

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Requignot, Matthew H

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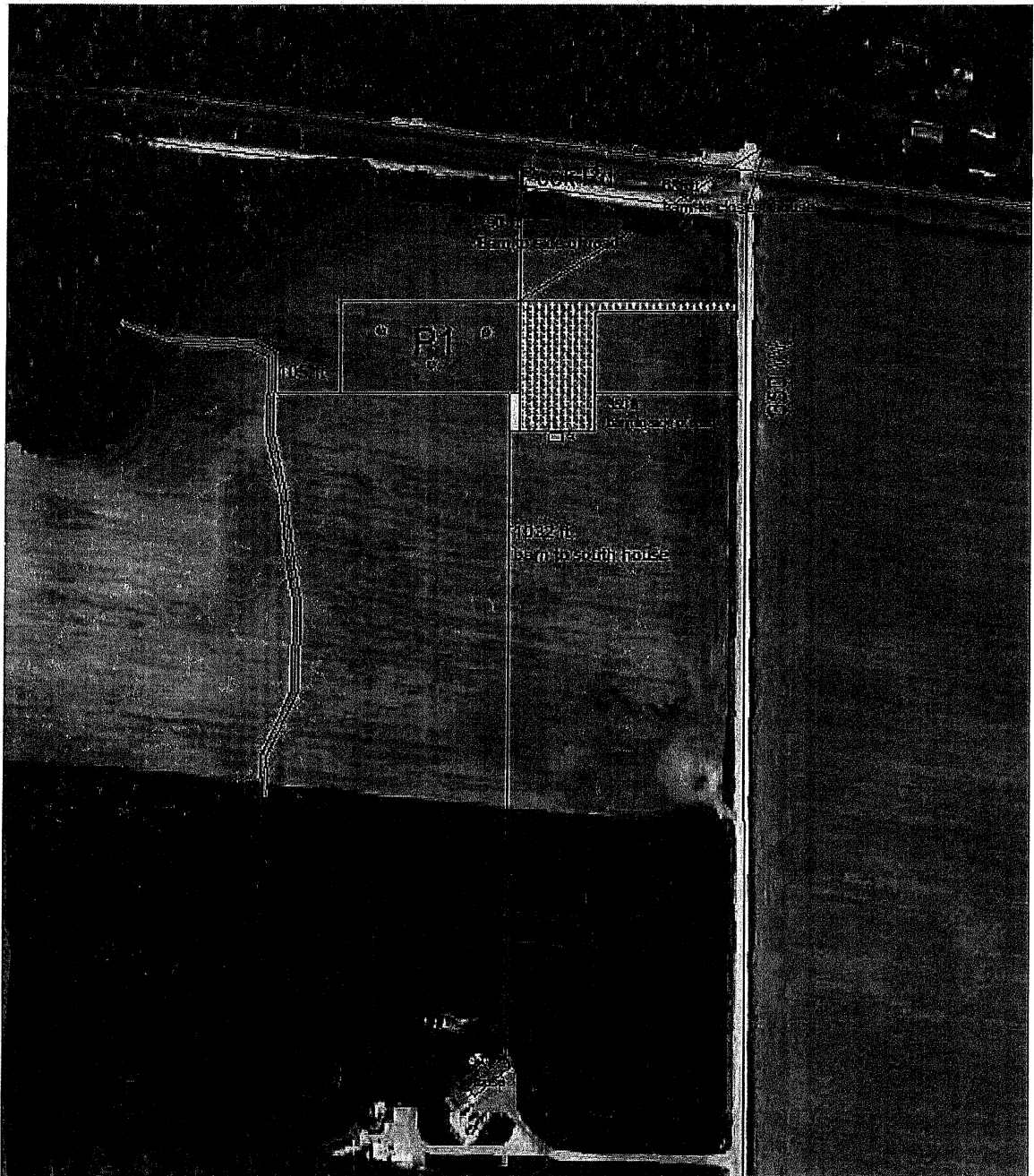
Requignot, Matthew H

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Laux Farms



Site Map

Site Map

- Compost Bin
- Field Tile
- Grain Bin
- Manure Bunker
- Proposed Driveway
- Proposed Well
- Soil Boring Points
- Well

1810 W SR 14
Columbia City, IN 46725

