

**WHITLEY COUNTY ADVISORY PLAN COMMISSION  
STAFF REPORT**

**22-W-REZ-1      ZONE MAP AMENDMENT**  
Joseph Decuis Wagyu Farm, LLC  
Northwest corner of 700 East and 900 South

**APRIL 20, 2022**  
**AGENDA ITEM:    2**

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**SUMMARY OF PROPOSAL**

Current zoning:    AG, Agricultural  
Proposed zoning:   PUD, Planned Unit Development  
Property area:      108 ± acres

The petitioner, tenant and owner’s agent of the subject property area, is requesting a zone map amendment for several parcels located in Section 23 of Jefferson Township, generally located near the northwest corner of 700 East and 900 South. The requested zoning for the subject property is PUD, Planned Unit Development.

***Existing zoning classifications and land uses***

Currently, the subject property is zoned AG, Agricultural. The current uses on the property include at least a residence, a secondary dwelling, livestock raising, crop cultivation, stabling, pastures, a bed and breakfast, and an event venue. Additionally, the westernmost 30± acres is a wooded area with a pond, trails, and a modern log cabin.

The property has had special exception approvals over the years for a Corporate Retreat (2013), Bed and Breakfast (2013), and Secondary Dwelling Unit (2017). There was also at least one variance in 2017, related to the zoning definition of bed and breakfast. Of note here, the current use of the property for a mixture of agritourism, events, small businesses, and classes, has likely exceeded a reasonable definition of a “Corporate Retreat” (although neither the code nor BZA define the term), becoming in some respects more like a general commercial use.

Virtually all surrounding properties within a mile radius of the subject parcels are zoned AG, excepting the Westfield Passage subdivision, which was rezoned to RR, Rural Residential, in 2019. That said, there are at least two AG-zoned major subdivisions within the same area: Big Indian Creek and Tanglewood Creek, both located to the southeast of the subject site.

***Zoning code criteria***

Planned Unit Developments (“PUDs”) are regulated in Indiana Code 36-7-4-1500 *et seq* and Chapter Six of the zoning code. As stated in that chapter, the intent is to “implement the comprehensive plan; [and] encourage a more creative approach in land development and site planning.”

Generally speaking, and as more defined in §6.2 of the zoning code, PUDs are special zoning districts created to meet unique needs of a particular site or development proposal. They may permit uses and modify development standards in a mix that is not easily possible using the established zoning districts. Classic examples of usage include permitting a fine-grained integration of uses (such as in downtowns) and to modify development standards for a development in lieu of seeking multiple variances.

This request is the first rezoning request to a PUD in Whitley County. However, the County has had PUDs approved in the past through a previous approval process that treated them like special exceptions. Magic Hills and Timber Ridge Addition are two examples of the legacy PUDs. In 1995, the state code standardized PUDs as a zoning district that is reviewed by the Plan Commission and adopted by the Commissioners. A

PUD consists of a text component, outlining uses and standards, and a map component, designating where the uses would apply and a general scheme of development.

There are currently no specific zoning code criteria for reviewing PUDs, other than the criteria for zone map amendments. The Commission should evaluate both the proposed uses and development standards as well as the placement within the proposed PUD map.

***Proposed land uses and districts***

The petitioner is requesting the PUD designation “establish a plan for the real estate to better allow for uses related to agritourism, preservation, agricultural uses, along with other complimentary [sic] uses that are not otherwise permitted in a strictly agricultural zoning district.” The existing uses are not proposed to be altered in any significant manner, but the change in zoning would allow for future growth of the mix of uses present on the property.

The petitioner states

“The proposed PUD is designed to:

- (a) combine essential elements of tourism and agricultural land uses;
- (b) attract members of the public to visit the agricultural operations;
- (c) to provide recreational, entertainment and/or educational experiences to visitors; and provide complimentary [sic] personal services.

The PUD will combine uses and development standards from the Whitley County agricultural and commercial zoning districts to accommodate a broad use of activities that fall under agritourism and related activities.”

The petitioner has proposed to designate five districts on the subject property: two agritourism districts and three agricultural districts. These are described starting on page 30 of the petitioner’s submittal and shown on the map on page 36. This table summarizes the permitted uses in each district:

	Agritourism 1	Agritourism 2	Agricultural 1	Agricultural 2	Agricultural 3
Bed & breakfast or other overnight accommodations	X	X		X	
Administrative offices	X	X		X	
Agritourism events	X	X		X	X
Agritourism sales	X	X		X	
Single-family dwelling	X	X	X	X	
Barns/workshops	X	X		X	
Agricultural production, processing, storage	X	X		X	
Vineyard	X	X		X	X
Riding stables	X	X	X	X	
Butcher shop/meat market (not including slaughtering)	X	X		X	
Complementary personal services	X	X		X	
Tree farm			X		
Wildlife habitat			X		
All other permitted uses of AG	X	X		X	X
All other permitted uses of PR (Parks and Rec.)			X		

Uses not otherwise addressed are treated as special exceptions, subject to BZA approval.

Most of the listed uses have similar definitions in the zoning code, but the following two are worth noting as being a significant basis for this PUD request.

*Agritourism events* is defined to include “culinary events, fundraisers, corporate events, weddings, receptions, agricultural tours, music, photography shoots, entertainment, culinary demonstrations, education programs, culinary programs, fitness events (such as running/walking) and nature related activities (such as birdwatching, monarch habitat tours, wildflower hikes) and art activities including plein air painting.”

*Complementary on-site personal services* is defined to include “chapel, fitness services and spa, special lectures and classes, nature hikes, cooking education and classes, art gallery, a garden shop, a flower shop, a gift shop, fitness center/gym, health spa, a yoga studio, a photography studio, a reception/banquet hall, a media/recording studio, crafts, food preparation and processing, gardening, restaurant and food service, tasting and tap room, stage station (for walkers, runners, and bikers), corporate retreats, and other recreational uses.”

### ***Development standards***

The majority of the development standards of each proposed PUD district revert to the standards of the AG district, including floodplain standards, signage, and so on.

The only proposed standards modification is that parking in the agritourism districts and Agricultural District 2 may be hard-surface, gravel, or “manicured grass.” Currently, the parking code requires pavement for parking areas of commercial uses. Additionally, the parking areas would be those shown on Exhibit D-1 (the map/aerial).

### **REVIEW CRITERIA**

Indiana Code §36-7-4-603 and Section 12.2(F) of the zoning ordinance state the criteria listed below to which the Commission must pay “reasonable regard” when considering amendments to the zoning ordinance. Staff’s comments are under each criterion.

#### **1. The most recently adopted Comprehensive Plan;**

The most recently adopted Comprehensive Plan is the 2011 Plan. The 2021 Comprehensive Plan update is pending approval, and, while that document may be referenced, this criterion refers to the 2011 Plan.

The Land Classification Map of the 2011 Plan “depicts the County’s land use and development form goals (land classification) in a conceptual manner. It should not be construed representing precise location of land classifications, but used as a foundation for support and influence with land use and development form decisions and zoning map changes.”

So, while the precise location of the classification areas is conceptual and open for interpretation, particularly around the fringes, the location of the subject property appears to be well-within the “Rural Residential” land classification, as is most of the surrounding area lying between 600E and 800E. The floodplain on the site would be considered “Conservation & Open Space.”

In its text, the Comprehensive Plan states the purpose of the Rural Residential classification is “to allow residential development in rural areas with large lots and large front yard setbacks.”

Recommended land uses include single-family detached residential, hobby farms, crops and pastures, and forestry. Recommended development is described as protecting environmental features and that nearly all of the acreage is used for non-agricultural uses.

The Plan's text also recommends supporting farmers' markets as a quality of life initiative and supporting agricultural uses generally, including protecting rural character from suburban/urban development.

While agriculture and commercial ventures are generally supported by the text, this proposal does seek to create a mixed use agriculture/commercial district within an area distinctly described as being for residential. "Ag tourism" is contemplated by the Plan but is recommended to be in the Agricultural and Transitional Agricultural classifications.

For reference, looking at the 2021 draft update, the Future Character Map indicates this property as being "Town Enhancement" (e.g. light commercial or mixed use). Its intent is to "Encourage investment in existing structures where possible" and "Encourage infill development that is compatible with the existing scale and character." Among its recommended uses are mixed use buildings, commercial, residential, cottage industry, and parks and open space, all of which are suggested in this proposal; however, the draft plan does not address agricultural uses. The textual recommendations are similar to the 2011 Plan, but it does explicitly recommend supporting agritourism in recommendation 5.7.

So, the 2021 draft plan could suggest that the current use of the property, in existence since at least 2013, may be appropriate as it recommends uses more in line with the current use and this proposal. That said, this proposal is still not fully consistent with the entire recommended classification or character of either the 2011 or 2021 document. This may be more indicative of the difficulty of defining this use at a high level rather than a discouragement of it.

**2. The current conditions and the character of current structures and uses in each district;**

The area surrounding this property is comprised of individual residences, subdivisions, fields, and farms.

As a method to establish and nurture the existing uses on the property in a formal way, it is not anticipated that this PUD would have additional effects on the surrounding properties. That said, if there are existing adverse effects of the current use, then it may not be an appropriate zoning change. The number of nearby property owners submitting letters of support suggest otherwise.

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

The current use of the subject property is largely what is described within the PUD proposal. This is a result of the petitioner's development since at least the 2013 special exception approval. So, it seems that the suitability for this mix of uses has been established.

The conservation of about 30 acres of wooded land in the proposed Agricultural District 1 may have long-lasting positive effects for the petitioner and potentially for the wider community.

Long-term, as the surrounding area is developed, the desirability of the subject property may change. At which point, the PUD could be rezoned back to an appropriate standard zoning district.

**4. The conservation of property values throughout the jurisdiction;**

To the extent that the use of the subject property under the proposed PUD does not change from the current usage, there should be negligible effect on property values. The PUD seeks to establish the existing uses and permit a mix of uses at a scale that would be complementary and compatible to the surrounding area. While the PUD does permit a number of commercial activities, these are generally already allowable under AG with special exception approval.

**5. Responsible development and growth;**

The property is served by public sewer, so the growth of the proposed uses to be more extensive than currently, though still small-scale, is possible. The areas defined by the proposed districts generally limit the developability of the property; still, there may be need to create an upper limit for the permissible intensity of the proposed uses to avoid excessive effects on the surrounding area and public ways.

The proposed modification to the development standards, to permit gravel and grass parking in the locations seen in the map, may be adequate for responsible development. If the gravel and grass parking is used only for those uses that are intermittent, such as weekly reception events, the damage done to the grass and gravel would be relatively low. Pavement would need to be used for more regular uses, such as farm market and restaurants.

In terms of the proposed number, the parking code requires 1 parking space per 50 gross square feet for a public assembly building (or 1 space per 4 seats). The main reception hall area is approximately 12,500 gross square feet, requiring up to 250 parking spaces. The existing gravel area may accommodate about 34 spaces, while the grassy pasture capacity could exceed 400 spaces. The existing paved spaces throughout the facility may be sufficient for the regular uses and ADA spaces.

**6. The public health, safety and welfare.**

Being that the uses permitted in the requested PUD are already mostly permitted in the existing AG district, there should not be immediate change in effect on the public health, safety, and welfare. The commitment to prohibit parking on public roads would prevent a major traffic safety hazard that has arisen with another event venue in the county.

Date report completed: 4/15/22

**PLAN COMMISSION RECORD OF ACTION**

Motion: \_\_\_\_\_ By: \_\_\_\_\_ Second by: \_\_\_\_\_  
Favorable recommendation \_\_\_\_  
Unfavorable recommendation \_\_\_\_  
No recommendation \_\_\_\_  
Conditions/Commitments? \_\_\_\_

<b><i>Vote:</i></b>	<b>Drew</b>	<b>Emerick</b>	<b>Hodges</b>	<b>Johnson</b>	<b>Kurtz-Seslar</b>	<b>Schrumpf</b>	<b>Wolf</b>	<b>Wright</b>
<i>Yes</i>								
<i>No</i>								
<i>Abstain</i>								