

**WHITLEY COUNTY ADVISORY PLAN COMMISSION
STAFF REPORT**

23-W-REZ-2 ZONE MAP AMENDMENT
Columbia City Solar, LLC
Various parcels in Union Township

MARCH 15, 2023
AGENDA ITEM: 3

SUMMARY OF PROPOSAL

Current zoning: AG, Agricultural, and IPM, Industrial Park/Manufacturing
Proposed zoning: Solar Energy Collection System Overlay
Property area: 705± acres

The petitioner, proposed tenant of the subject property area, is requesting a zone map amendment for twelve parcels located in Sections 17, 18, 19, and 20 in Union Township, as shown on the submitted map. The request is to establish a Solar Energy Collection System (SECS) Overlay District on all or part of the subject parcels.

Existing zoning classifications and land uses

The majority of the subject property is zoned AG, Agricultural. Approximately 274 acres located north of Mowery Road (39% of the requested site) is zoned IPM, Industrial Park/Manufacturing.

It appears that the area proposed for the Overlay is primarily used for crop cultivation. There are some wooded areas, totaling about 32 acres. Floodplain/floodway encumbers about 32 acres of the area. Legal drain easements lie along about 8,700' of drains on or adjacent to the subject area.

As best as staff can find, there are no structures located on the property proposed for the Overlay. However, located elsewhere on the subject parcels, there are dwellings and a landing field that are excluded from the area of the Overlay proposal.

Adjacent and surrounding properties are primarily zoned AG. Adjacent properties to the north of Paige Road and those to the east and north of Mowery Road are zoned IPM. Further north, across the railroad, properties are zoned IPM, VC (Village Commercial), and GC (General Commercial).

Usage of surrounding properties appears to be also primarily crop cultivation or other agricultural and farms. There are approximately 18 non-farm residences and 8 farm residences adjacent or abutting the subject area. Within ¼ mile of the zoning area, there are approximately 72 residential addresses and 40 business addresses.

It should also be noted that the IPM-zoned areas in and around this request are within a TIF (Tax Increment Financing) district. TIF is an economic development tool that is used to encourage business development by capturing increases in property tax revenues and reapplying those funds toward infrastructure improvements and other incentives for growth within the district. The TIF district was established in 1993 and generally extends as a corridor along US 30 and the railroad in Union Township.

Proposed land use

The petitioner is requesting the zoning amendment to “establish a Solar Energy Collection System (SECS) Overlay District on top of the existing zoning districts to construct, operate, and maintain the Columbia City Solar Project, a proposed 100 MW [megawatt] solar farm” (excerpted from the petitioner’s submitted narrative).

As an overlay district, this would not change any of the underlying zoning districts, but it would add these uses as permitted uses:

- Commercial Solar Energy Collection System (CSECS), Photovoltaic System
- Commercial Solar Energy Collection System (CSECS), Agrivoltaic System
- Battery Energy Storage System (BESS).

Construction of these uses would need to be in conformance with the standards of Section 5.23 of the Zoning Code. Any uses compliant with the underlying zoning districts, such as crop cultivation or light manufacturing, would still be permissible even with the Overlay in place.

Zoning code criteria

Per the requirements of §5.23, SECS-4, an SECS Overlay District may be established over property zoned AG, AGP, IPM, and/or IN. The subject parcels are zoned AG and IPM.

The code states that an Overlay may be of any size sufficient to permit a proposed Commercial Solar Energy Collection System (CSECS) that conforms to the code standards. At 705± acres, the proposed Overlay should be adequately sized for a CSECS, even when netting out areas for legal drains, floodways, setbacks, buffers, etc.

Additionally, the Overlay cannot encompass any areas of 10 acres or less that are occupied by an existing nonparticipating dwelling or that are zoned residentially (RR, LR, MR, or MP), unless a waiver is granted by the residence or property owner. The proposed zoning area does not encompass any such areas. It would abut three sides of two residential properties: 2905 E. Mowery Road and 2835 S. Raber Road (which is located on a subject parcel but excluded from the Overlay area).

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 2022 Plan. The Future Character and Land Use Plan describes the character expected for areas of the county in terms of the overall look and feel of a place through the areas’ built/urban forms and natural features. Since character types are defined at a higher perspective than specific, individual land uses, there may be a range of uses expected in any one type, assuming their appearance and performance effects do not contradict the overall character. Further, the Plan states that where a character type does not align with existing land uses, a progression toward the planned character will be made as opportunities become available. To aid in arranging the descriptions, a Character Intensity (CI) is also recommended for each character type, ranging from 1, virtually undeveloped natural areas, to 5, intensely developed downtowns and commercial centers. A conventional residential subdivision would usually have a CI of 3.

While the precise areas of the character types are conceptual and open for interpretation, particularly around the fringes, the location of the subject properties appears to be designated as “Rural-Agricultural” and “Employment Center” character types.

In its text, the Comprehensive Plan describes the intent of the Employment Center character type as to “promote opportunities for larger employers to locate and conduct business, and to cluster

businesses.” It would be characterized as being primarily light industrial and office uses in business parks or similar groupings. Commercial, multi-family, and heavy industrial could be appropriate as secondary uses in certain circumstances, especially if integrated with or among the primary uses. With a recommended Character Intensity of 3.5-4.5, the level of development should be expected to be relatively intense overall, though lighter intensity uses could be compatible when in proximity to most of the other character types.

The Rural-Agricultural character is described as being intended to “conserve agricultural land and minimize incompatible land uses; promote economic development in the county while preserving its rural character;...and protect and enhance natural scenic areas.” It would be characterized as being primarily agricultural with scattered or clustered non-farm residences. Secondary uses could include more intense agricultural uses (e.g. larger confined feeding operations, grain elevators), agribusinesses, small scale commercial, and two-family residential. Again, such uses would need to be in character with the overall area. Having a Character Intensity of 2, this type should have a relatively low level of development, as less traffic, lower lot coverage, and fewer built-up areas would be expected.

Since the proposed Overlay is specifically intended to permit commercial solar farms, it is important to review the Plan’s text for specific recommendations. Recommendation 3.4 states that the Zoning Ordinance should be amended to “regulate alternative energy facilities, both small- and utility-scale, to mitigate negative effects to surrounding properties while recognizing the emerging importance of alternative energy sources.” The zoning code was amended in 2022 to provide regulations on solar; this case is the first to utilize the process set forth in that amendment.

Looking at the public comments made during the planning process (Appendix D of the Plan), participants seemed to be “conflicted when it came to supporting additional solar power in the County. Some participants were concerned that solar power from solar panels is ‘not efficient,’ ‘not environmentally friendly,’ and should not be a priority for the County. Others expressed cautious optimism about solar power/energy generation and supported solar power over wind turbines/wind energy production.”

In reviewing this proposal, the Commission has many seemingly opposing points to consider in reference to the Plan. The Commission should evaluate whether the proposed Overlay would be in line with the recommended character types, and whether this location, in combination with the standards of §5.23, would be able to mitigate negative effects that might arise from the CSECS use.

So, the Commission could give thought to whether a CSECS would be more commercial/industrial or agricultural in character, considering both the built form (e.g., the structures, lot coverage) and the effects (e.g., traffic, noise, potential pollution), within the current and future contexts.

Additionally, the Plan’s recommendations to encourage employment growth may also be an important consideration, as CSECS typically do not have large employment after they are constructed. However, the property could be reused for businesses after the CSECS is decommissioned in a few decades.

Again, the Commission will need to weigh many aspects of the Plan and the proposal, with multiple perspectives.

- 2. The current conditions and the character of current structures and uses in each district;**
This vicinity of Union Township is generally comprised of farms, fields, and both scattered and

clustered rural residences, as described above. An airfield and large sewer lift station are adjacent to the proposed rezoning area along 300 South. To the north of the subject site lies more intensely developed commercial and industrial areas. No public sewer or water is currently available to these properties, although both utilities are available to the north side of the railroad.

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

The desirability of the subject property for any particular land use should be a combination of the planned uses and character, described above, the landowners' desired use, and context of the surrounding area. A CSECS may be desirable if it is considered a quasi-agricultural use, as its effects are largely similar, although its structures are not the crops or livestock expected as "agricultural". Some of the effects of a CSECS are probably similar to agriculture, like traffic volume and stormwater runoff, while some effects are not so similar, such as aesthetics and potential noise.

However, the desirability of at least some of the properties for employment generation is established by the existing zoning and the plan. A CSECS may shut out potential employers for decades, which may not be desirable. But an employer may not be interested in the property for decades either—the land appears to have been zoned industrial for years without being developed. So, the Commission will need to weigh the desirability of maintaining land for crop cultivation and livestock raising and the present or future possibility of business development with possible desirability of a CSECS.

4. The conservation of property values throughout the jurisdiction;

As had been discussed during the research in developing the regulations on solar in 2022, there are cited studies available that indicate a CSECS could have positive or negative impacts on property values on areas immediately surrounding solar farms. Whether the effects are positive or negative might be determined upon mitigation measures (e.g. buffering, setbacks), location, the mix of surrounding uses, market volatility, sellers' desire to leave, and other factors. The Commission has already given at least some consideration to mitigation through creation of development standards, and now it will need to consider the impacts of this specific proposed location and its surrounding uses to determine if property values will be permanently degraded or not.

Effects on property values *throughout the jurisdiction* are even less definite when looking at the impacts of a single project. If CSECSs are relatively intermittent throughout the county and located in relatively undeveloped areas, their effects on property values, be they positive or negative, would be diffused by the larger components of property values so as to not likely have any significant impact. If CSECSs were to become more common, such has happened in some counties in the state, the cumulative effect would be much more significant. So, a diligent and judicious deliberation of any proposed CSECS location is still important to conserve or promote property values throughout the county into the future.

5. Responsible development and growth;

The Commission must determine if the request is an actually desirable use for this location, or whether it may irresponsibly stifle land uses that are more desirable or more appropriate in character.

6. The public health, safety and welfare.

Many of the health and safety effects of solar installations were researched and discussed in the code development process last year, and measures were implemented to attempt to mitigate what appeared to be significant or noxious effects. As such, many of the potential effects on public health

and safety specific to solar facilities would be expected to be addressed during Development Plan review.

At the zoning stage though, impacts on public health and safety for any development of this scale could include water quality impacts through erosion or runoff, destruction of natural areas, floodplain encroachment and degradation, unplanned traffic growth, undesirable sprawl, adverse impacts on septic systems or sewers, light pollution, and so on. So, the Commission will need to assess the proposed site for factors like these and determine the appropriateness of the request.

The public welfare would be protected by balancing private property rights of the petitioner and of surrounding residents with the public good as may be determined by the Commission and legislative body.

Date report completed: 3/9/23

PLAN COMMISSION RECORD OF ACTION

Motion:

By:

Second by:

Favorable recommendation ____

Unfavorable recommendation ____

No recommendation ____

Conditions/Commitments? ____

<i>Vote:</i>	Baker	Drew	Emerick	Green	Hodges	Johnson	Kurtz-Seslar	Schuman	Wolf
<i>Yes</i>									
<i>No</i>									
<i>Abstain</i>									