

**WHITLEY COUNTY ADVISORY PLAN COMMISSION
STAFF REPORT**

19-W-REZ-7 ZONE MAP AMENDMENT

More Family Farms, Inc.

115± acres, near southwest corner of 500E and 400S

JULY 17, 2019

AGENDA ITEM: 4

SUMMARY OF PROPOSAL

Current zoning: AG, Agricultural

Proposed zoning: AGP, Agricultural Production

Property area: 115± acres

The petitioner, owner and agent of the subject property area, is requesting a zone map amendment for approximately 115 acres located in Union Township, generally located near the southwest corner of County Roads 500 East and 400 South. The requested zoning for the subject property is AGP, Agricultural Production.

Existing zoning classifications and land uses

Currently, the subject area is zoned AG, Agricultural, and is used for crop cultivation, livestock raising including a confined feeding operation (CFO), a farm, a residence, and a home occupation craft shop ("Margie's Place").

The following table lists current surrounding zoning classifications and land uses:

	<i>Current zoning</i>	<i>Current land use</i>
<i>North</i>	AG	[CR 400 North], agricultural (field), residence, farm
<i>East</i>	AG	[CR 500 East], agricultural (field), farm
<i>South</i>	AG	Agricultural (field), residence
<i>West</i>	AG	Agricultural (field), woods, residence

Proposed land use

The petitioner is requesting the zoning amendment to make use of the AGP district for agricultural operations. The petitioner has indicated that they would seek to increase the size of the existing CFO within the next year or so. They are seeking a zoning change for the entire property so that the zoning map reflects the long-term desirability of this land and vicinity for use in agriculture.

Zoning code criteria

For reference, AGP permits a far smaller list of uses than AG; however, it does allow for both Class 1 and Class 2 CFOs without need for a Special Exception approval. A Class 3 CFO would be permissible with a Special Exception.

The minimum contiguous area for rezoning to AGP is 40 acres. An area of at least 80 acres is required to be zoned AGP if a Class 3 CFO were to be proposed. The total contiguous zoning area would be approximately 115 acres.

Per the IDEM permit, the existing CFO is approved for up to 374 sows, 1,550 finishers, and 1,200 nursery pigs. Applying the animal unit formula of \$5.17, the resulting total animal unit count is 1,047. This qualifies as a Class 1 CFO (<1,200 animal units). The petitioner has stated they would increase the size of the CFO to Class 2 (1,200-3,000 animal units) in the foreseeable future, which would be permitted under AGP; they also indicated that they would not have interest in expanding to be a Class 3 CFO.

The zoning code requires a minimum 20-acre parcel size if created under AGP. The property is to be comprised of parcels that exceed 20 acres.

Staff understands that the existing residence on the property is occupied by the owners; this is consistent with the residential use regulations for AGP. The existing craft shop home occupation was approved in 1998 (along with a variance for floor area). Home occupation uses are permissible in the AGP district, so this use would be compliant with the district.

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 Land Classification Map of the 2011 Comprehensive 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 seems to place it within the “Agricultural” classification, except for small area indicated as “General Commercial.”

In its text, the Comprehensive Plan describes the purpose of the Agricultural classification as “to maintain large, undeveloped areas for productive agricultural uses and intense agricultural-related uses.” The location of this classification is described as “generally away from municipalities and residential development...where there are less than fifteen (15) dwelling units per square mile, low demand for new dwelling sites, and high cost to provide basic services.” Generally 90% of the acreage per square mile is used for agricultural production. Recommended land uses include large farms, CFOs, farmsteads, and other uses.

Since the Land Classification Map’s intent is to show the development goals for an area, the current conditions of the mapped classifications do not necessarily align with the textual descriptions. For this case, though, most of the Plan’s description does seem to match the existing conditions. All subject parcels are a significant distance from public utilities, with the nearest sewer over a mile away to the southeast. Section 33, where the subject property lies, and the surrounding sections 28, 29, 32, 34, 4, and 5 have less than 10 dwellings per section, an apparently low demand for new dwelling sites (with one new home site being established since 2008), and most of the acreage used for agriculture and farmsteads.

Section 27, to the northeast of the subject property, has several dwellings located in a roadside subdivision (approved in 2001) on its eastern edge that increase the density to more than 20 dwellings in that section. Section 3 of Jefferson Township, to the southeast, is similar, with a roadside subdivision platted in 1992. In both of these sections, it still appears that the demand for new dwelling sites is low, as only 2-3 sites have been established since 2008. The majority of these sections are also used for agriculture.

As a starting point for the Commission’s examination may then be a general comparison of the uses, purposes, and descriptions of the Plan’s classifications with the current zoning districts. Such a comparison seems to indicate that the “Agricultural” classification could include both the AGP and

AG zoning districts. So, the subject property being in the “Agricultural” classification area may be appropriately zoned as AGP, although the existing AG zoning can also be appropriate in meeting the Plan’s recommendation.

Additionally, the Plan’s text recommends to “support well-managed and properly located industrialized farms.” At a zoning level, “well-managed” may not be possible for the Commission to consider. However, the Commission should pay reasonable regard to whether this property is “properly located” for the AGP zoning since it would permit Class 2 CFOs by-right. Both the AG and AGP districts permit CFOs and general agriculture; the primary differences are the size of the CFO permitted by-right and the scope of non-agricultural uses permissible within the district. Given the existing CFO in operation on the property and the relatively low density of dwellings in the vicinity of the subject property, permitting Class 2 CFOs by-right may be appropriate. In any case, the Commission should determine whether the subject property should be considered as “prime” agricultural land and conserved for productive agriculture, or whether the property is better to continue as generally agricultural with allowances for other uses.

The General Commercial classification appears to overlay the property in the vicinity of “Margie’s Place.” The Plan recommends properties with this classification to be adjacent to or a short distance from municipalities, along major roadways, and in areas with public sewer and water. Suggested land uses include indoor and outdoor retail, medium to large scale retail, restaurants and service businesses, gas station, and businesses in support of industry.

It does not seem that the current conditions match the recommendations of the General Commercial classification. “Margie’s Place,” while retail, is small scale and permitted by a limited home occupation. One could assume that the Plan is making a recommendation to anticipate the expansion of the business into a larger operation; if so, the recommendations for infrastructure and other elements would need to be considered. If the business were to be expanded beyond the point of being a home occupation, a rezoning to a commercial district would be required, at which point the recommendations of the Plan classification would come into play. For the subject rezoning request, the existing business would continue to be permissible under the AGP district, and as such would not disregard the Plan recommendation for commercial, though it would not encourage it either.

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

As generally described above, this area of Union Township and adjacent Jefferson Township has few small tracts split for non-farmstead residences, save for roadside subdivisions in two areas a half-mile to a mile away from the subject property. The majority of the properties surrounding the subject property are used for agriculture and farmsteads (current and historic), with many parcels in the area over 40 acres in area.

The intent of the AGP zoning district is to “provide a land use category for intensive agricultural uses and to recognize certain needs of the agricultural community.” Further, the Plan Commission “should strive to protect this district from conflicting land uses...and any use that may inflict significant environmental impacts or be injurious to neighbors.” The intent further states that the district is to protect an AGP-zoned property from development that may object to or conflict with agricultural operations. When considering the current conditions and character of current uses in the area, it seems that placement of AGP should be only in areas that are not already fractionalized with smaller residential tracts. Otherwise, the district may actually be creating the conflict that the

district strives to avoid. So the Commission should examine the subject property as to whether AGP zoning regulations would complement the existing area or if the zoning would be an insertion into an area of incongruous uses.

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

The subject property has long-been used for agriculture; there has been little significant non-agricultural development in the vicinity; and no utilities are in reasonable proximity. All of these factors seem to reinforce agriculture as being a desirable use here. The question then is whether AG or AGP is most desirable for this property. AG is a district that permits agriculture as well as many other uses, and often can be viewed as a placeholder for more intense development in the future (be it 5 or 25 years). The AGP district intent shifts the perspective of agriculture to being the ultimate use in itself, with the goal of preserving large tracts of land for agricultural uses well into the future. Finally, the property has a Class 1 CFO already in operation since 1994, which may establish the desirability of the property for livestock operations.

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

The change of zoning to AGP would permit, by-right, larger CFOs than those permitted under the current AG zoning. Such uses may have negative effects on property values in throughout the jurisdiction if a CFO is poorly located, not well-managed, and if any adverse performance effects are not mitigated. As discussed elsewhere, the subject property is in a relatively low density area that is primarily agricultural, and it has an existing CFO, so these factors may indicate that the property is suitable for further CFO expansion with minimal impact on property values. If the Commission finds that the location is well-suited for CFOs and other uses permitted in AGP, the management and mitigation of effects would likely be secondary and also have minimal effects on property values.

Further, since AGP permits a smaller overall palette of uses than the existing AG district, concerns about certain uses already permissible in AG (such as kennels, auto repair shops, machine shops, hair salons, etc.) affecting surrounding land values could be lessened. AGP, by its minimal permitted uses, serves as a check on residential development, which some property owners may find more injurious to adjacent property values than the perpetuation of agricultural uses.

So, while the effect of rezoning to AGP or keeping the existing AG zoning on property values throughout the jurisdiction is somewhat indeterminate given the subjectivity of location and property values, it seems that in this case, there likely would be minimal effect.

5. **Responsible development and growth;**

The Commission must determine if the AGP district request is an enhancement to or preservation of the existing agricultural uses in line with the recommendations of the Comprehensive Plan or whether it may stifle desirable land uses that are allowable under AG. Given the location, surrounding uses, and availability of utilities, this property, and the immediate vicinity, seem to be unlikely to be suitable for large-scale non-agricultural development within the planning horizon, and the conditions around the property generally seem to be compatible with agricultural production uses.

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

Being that the uses permitted in the requested AGP zoning are already mostly permitted the existing AG district, there would not likely be much change in effect on the public health, safety, and welfare. The difference in size of permitted CFOs in AGP versus AG could be argued by some to have a different impact on public health, although regulations and permitting requirements are in place

through IDEM that could be expected to mitigate health impacts. Also, because there is an existing CFO in operation, an increase in its scale would have only a marginal effect on public health, safety, and welfare, as the public is already familiar with such an operation and any effects.

Date report completed: 7/10/2019

PLAN COMMISSION ACTION

Motion By:

Second By:

<i>Vote:</i>	Deckard	Hodges	Johnson	Mynhier	Western	B. Wolf	J. Wolfe	Woodmansee	Wright
<i>Yes</i>									
<i>No</i>									
<i>Abstain</i>									

