

**WHITLEY COUNTY PLAN COMMISSION
REGULAR MEETING MINUTES
FEBRUARY 20, 2019 7:00 P.M.**

MEMBERS PRESENT

Doug Wright
John Woodmansee
Elizabeth Deckard
Mark Mynhier
Joe Wolf
Brad Wolfe
Tom Western
Thor Hodges

MEMBERS ABSENT

John Johnson

STAFF

Nathan Bilger
Jennifer Shinabery

ATTORNEY

Dawn Boyd

VISITORS

There were 175 visitors who registered their attendance at the February 20, 2019 regular meeting of the Whitley County Plan Commission. A signed guest list is kept on record.

CALL TO ORDER/ROLL CALL

Mr. Wright called the meeting to order and led the Pledge of Allegiance at 7:02 p.m. Ms. Shinabery read the roll call with all members present and absent listed above.

CONSIDERATION AND ADOPTION OF THE MEETING MINUTES

Mr. Wright asked if there were any additions or corrections to the January 16, 2019 regular meeting minutes. There being none, Mr. Hodges made a motion to approve the minutes as presented, seconded by Mr. Western. The motion passed 8-0.

OATH TO WITNESSES

Attorney Boyd administered the oath to those present who wished to speak during the meeting.

NEW BUSINESS

19-W-SUBD-1 Timothy Kyler, 630 S. 425 West, Columbia City, requested preliminary plat approval for a 2-lot subdivision to be known as Kyler Lake Estates. The property is located on the south side of W. Old Trail Road, about 1 mile west of S. 400 West in Section 12 of Richland Township and is zoned AG, Agricultural District.

Mr. Bilger reviewed the staff report, explaining the details of the petition and the necessity for platting. He explained that due to the location of the section lines, the subdivision will actually create four tax parcels. He reviewed the restrictive covenants submitted by the petitioner, commenting that he recommends better describing maintenance obligations for the pond. He stated that the plat appears to be compliant with the standards of the Subdivision Control Ordinance and the Zoning Code.

Kevin Michel, 4242 S. 700 East, of Walker & Associates, Inc., presented the petitioner's request, explaining various details of the plat and answering questions from the

Commission members. He addressed the recommendations from the Highway Department concerning driveway locations and confirmed the Health Department's approval for septic sites.

Mr. Wright asked if there was anyone present who wished to speak regarding the petition. Ms. Shinabery notified those standing in the hallway of the opportunity to speak. No one came forward. Mr. Wright asked if there were any further questions or comments from the Commission members. There were none. Mr. Woodmansee made a motion to approve 19-W-SUBD-1 with the suggested staff conditions of:

1. The proposed covenants be modified to better describe the maintenance obligations of the lot owners.
2. Secondary plat approval delegated to the Plan Commission Staff.

Ms. Deckard seconded and the motion passed 8-0.

19-W-REZ-1 Mark & Alayne Johnson, 6952 E. 150 North, Columbia City, requested an amendment to the Whitley County Zoning map by reclassifying 16 parcels from AG, Agricultural District to AGP, Agricultural Production District. The properties are owned by Johnson Bros Inc. and JB Sons and are located east of N. 550 East, west of N. 950 East, and south of E. 300 North, in Sections 25, 27, 34, 35 and 36 of Smith Township.

Mr. Bilger summarized the staff report, providing details of the request and referring to a PowerPoint presentation. He explained that the total acreage of the 16 parcels is just over 1,000 acres, mostly contiguous. He reviewed the existing land uses and the petitioner's stated intent for the request. He discussed the criteria the Commission must pay "reasonable regard" to when considering zoning ordinance amendments, as provided in detail in the staff report and gave commentary specific to the petition. He reviewed the recently amended intent of the AGP district per the zoning ordinance and the comparison of uses between the AG and the AGP districts. He discussed the location of existing CFOs on the properties and also setbacks in place for any new CFOs, as demonstrated on a PowerPoint slide. He concluded by clarifying an update to the staff report related to which classes of CFOs are allowed in both the AG and AGP districts.

Mr. Hodges asked whether the existing CFOs are compliant with the new setbacks, particularly from legal drains. Mr. Bilger responded that the petitioners would be better able to answer that question; however, the existing CFOs were existing prior to the recently instituted setbacks.

Mark & Alayne Johnson, 6952 E. 150 North, Columbia City, presented their request. Mr. Johnson responded that his most recent CFO structure is in compliance with the distance standard from legal drains. He explained that the most recent houses built on the properties are family-owned. Mrs. Johnson gave a brief presentation, explaining their petition. She spoke about the intents of the AGP district in comparison to the AG district. She referred to the 2011 Comprehensive Plan and spoke about the importance of

preserving agricultural land and protecting the rural character of the county. She spoke about past and future residential growth and its effect on agricultural preservation. She stated that they do not have foreseeable plans to build any new barns on the properties and the intent behind the request is to preserve and protect agricultural land, not to build new barns. She discussed property values and the many variables that contribute to them. She demonstrated on a graph that property values within a two-mile radius of their long-established CFOs was higher than comparable county-wide values.

Mr. Wright asked if the Commission members had any questions for the petitioners. Mr. Wolf stated that he had appreciated the letter the Johnsons had submitted with their petition, explaining their intent.

Mr. Wright asked if there was anyone present who wished to speak regarding the petition. Ms. Shinabery notified those standing in the hallway of the opportunity to speak.

Henry Janda, 4360 E. 700 South, Columbia City, stated that his comments relate to this petition as well as the next. He stated that he does not support either rezoning petition. He stated that the requests are an affront to all non-farmers, and they are also spot zoning, which should not be allowed. He stated that allowing the properties to be rezoned will limit growth in the county as well as decrease property values. He asked the Commission to reject both petitions. He also asked that the Zoning Ordinance and the Comprehensive Plan be reviewed and updated before considering any additional zoning requests. He concluded by stating that it is time to ask the basic question: “What do you want for the future of Whitley County – is it going to be people or pigs?”

Brian Emerick, 5865 E. State Road 14, Columbia City, stated that he has had the privilege of getting to know the petitioners over the past few years and wanted to commend them on the quality of their operation and their contribution to the county.

Chris Gionti, 8100 S. Westfield Trail, Columbia City, stated that he recently moved to the county and he would not have purchased his property had he known there could be a CAFO across the street. He stated he is concerned about his property value and is already considering selling. He stated that it is hard to be comfortable not knowing what the future will bring.

There being no other public comment, Mr. Wright closed the public hearing at 7:54 p.m. and asked the Commission members if there was any discussion. Mr. Wolfe asked whether there should be something restricting new CFOs on those properties close to an existing subdivision. Mr. Bilger explained zoning commitments. He also explained that unless the petitioner amends the request, a favorable or unfavorable recommendation would need to apply to all 16 parcels in the request. He recommended continuing the petition in order to perfect the request if the Commission wanted to apply zoning commitments to only a few parcels. Mr. Western commented that a CFO could still be built on the property if it remains AG. There was brief discussion on AG versus AGP zoning related to which size CFO is permitted by special exception. Mr. Western also

commented that there are now local setbacks in place for CFOs. Mr. Woodmansee made a motion to send a favorable recommendation to the County Commissioners; Mr. Hodges seconded. With no further discussion, Mr. Wright called for a vote and the motion passed 8-0.

19-W-REZ-2 Brian & Sonya Emerick, 5865 E. State Road 14, Columbia City, requested an amendment to the Whitley County Zoning map by reclassifying 10 parcels from the AG, Agricultural District to AGP, Agricultural Production District. The properties are owned by Emerick Farms, Inc., Brian & Sonya Emerick, and Brent & Liza Emerick and are located east of S. 500 East, west of S. 800 East, north of E. 900 South and south of E. 500 South, in Sections 3, 10, 13, 15, 22 and 23 of Jefferson Township.

Mr. Bilger summarized the staff report, providing details of the request and referring to a PowerPoint presentation. He explained that the total acreage of the 10 parcels is about 1,270 acres. He reviewed the existing zoning classifications and land uses as well as the petitioner's stated intent for the request. He discussed the criteria the Commission must pay "reasonable regard" to when considering zoning ordinance amendments as provided in detail in the staff report and gave commentary specific to the petition. He reviewed the recently amended intent of the AGP district, per the zoning ordinance and the comparison of uses between the AG and the AGP districts. He discussed CFO setbacks from existing legal drains and subdivisions, as well as home sites, referring to an aerial view demonstrating those setbacks. He concluded by noting that the Plan Commission's final recommendation should again be based upon the petitioner's request, not individual parcels. If necessary, a continuance is an option in order to negotiate the aspects of the request.

Mr. Wolf asked whether all of the parcels in the request were over 40 acres and Mr. Bilger confirmed they were.

Brian & Sonya Emerick, 5865 E. State Road 14, Columbia City, presented their request. Mr. Emerick stated that they are not requesting rezoning so they can build a CFO on their property, as they can do so already in AG. He discussed the long-term vision of AGP zoning and the value and importance of preserving undeveloped, bare land. He stated that the AGP zoning district intent best describes the current and future desired use for the land in their petition. He referred to the Comprehensive Plan, which states that the purpose of Agricultural zoning is "to maintain large, undeveloped areas for productive agricultural uses and intense agricultural-related uses". He explained that three of the parcels in the petition are recommended in the Comprehensive Plan to be Rural Residential; however, these parcels do not fit the description for Rural Residential and are actually prime land for agriculture. He discussed trends, resistance and difficulties in farming today and the importance of supporting and protecting agriculture in this county and state. He stated that the opposition against agriculture is one of the main reasons for their request and AGP zoning will communicate clearly that their land is for agricultural use and protect it from random, unplanned residential development. He discussed how AGP zoning will enhance property values and the quality of life in the community by

limiting splits and preserving large parcels. He stated that preserving large tracts of land that took generations to establish and the right to farm are top priorities. He discussed responsible residential development and how AGP zoning could encourage that to happen in the county. He recommended that all property owners of AG-zoned parcels 40 acres or more consider AGP zoning and stated that this supports good long-term visionary land use planning for Whitley County.

Mr. Wright asked if the Commission members had any questions for the petitioners. There being none, Mr. Wright asked if there was anyone present who wished to speak regarding the petition and briefly explained parameters for public comment. Ms. Shinabery notified those standing in the hallway of the opportunity to speak.

John Enrietto, 8151 S. 700 East, Columbia City, stated that he supports agriculture, but his concern is the future potential for CAFOs and decreased property values and AGP is wrong for Jefferson Township.

Sharon Lewis, 15318 Bristlecone Court, Fort Wayne, distributed maps to the Commission members and discussed the existing residences, subdivisions, water tower and schools that are close to the parcels in the petition.

Robert Eherenman, attorney with Haller & Colvin, 444 East Main Street, Fort Wayne, stated he represents Pete & Alice Eshelman, Byron & Shelby Lamm and John and Rolene Popp. Mrs. Eshelman presented a petition signed by Whitley County property owners opposing the proposed rezoning. Mr. Eherenman presented documentation supporting the opposition and stated several reasons the request should not be approved. He stated that the Emericks could put a deed restriction on their land and do not need to rezone. He stated that rezoning the Emericks' land would have a much broader effect for the entire township as it would provide future potential for larger-sized CFOs without approval or public notices. He also stated that the proposal is large block rezoning and would change the policy of the land use map, creating a ripple effect on other properties.

Mr. Wright announced that public comment would conclude at 10 p.m.

Roberta Davis, 5730 S. 600 East, Columbia City, stated that she is one of more than fifteen homes within a mile radius of one of the properties in the request. She stated that if the properties are rezoned to AGP, she would not be able to speak against certain agricultural uses. She stated that years ago, Mr. Emerick made promises to move his business, Micropulse, if it grew and also to provide landscaping buffers and he did not do so; she does not want the same to happen with CFOs.

Brian Emerick responded to Mr. Eherenman and explained that IDEM requires notices be given for CFOs, even when not required by local ordinances. He stated that due to existing subdivisions and CFO setbacks, building a CFO is restricted. He responded to Mrs. Davis that he had planted trees as soon as they were requested. He stated that her opposition highlights perfectly as when he was young, he split property and sold to Mr.

and Mrs. Davis, who are now opposed to agricultural zoning. He also made the point that had the properties in the petition been zoned AGP rather than AG, he would not have been able to create three building lots and also would have been forced his business to an Industrial Park rather than expanding in a corn field as AG allows almost any use.

Cody Rice, 5141 E. 700 South, Columbia City, asked if there was a real threat for subdivisions in the area. He also asked whether there would be a guarantee that no CFOs would be built on the properties in the event the petitioners sell their land and whether any studies have been conducted to know what the effect would be on property values.

Brian More, 6401 S. 500 East, Columbia City, voiced his support of the petition and AGP zoning. He stated that Whitley County has a group of farmers that care about the land and as Scott Wagner from the Health Department stated in a previous meeting, environmental issues related to agriculture are nearly nonexistent. He stated that the conflict related to agriculture will have decades of lasting economic impact. He discussed how AGP zoning will prevent small subdivisions of land that are contributing to the problem. He voiced his support of the Emericks and described how they care for and improve the land they own, increasing its value.

Mike Williams, 8062 S. Westfield Trail, Columbia City, stated that his subdivision has twelve homes, representing 5 million dollars of resale value. He discussed his concern over property values and CAFOs. He stated that there are other ways to protect large lots of land and control residential growth and is suspicious of the request for AGP rezoning without stated plans for a CFO.

Cindy Weist, 7701 E. 800 South-92, Fort Wayne, stated she is surrounded by more than 300 acres of land owned by the petitioners and has zero concern. She stated she believes the Emericks desire AGP zoning to continue to protect the integrity of the land. She stated that even if the Emericks decided to build a CAFO, she would rather have a CAFO owned by them in her backyard than a commercial or residential development.

Ronda Salge, 5465 N. 650 East, Churubusco, stated that AGP zoning is not new, it is just misunderstood and now needs to be used by farmers due to the opposition they face. She stated that in the past few years, she has done a great deal of research and investigation and there are good farmers in this county. She stated that the county is at risk of losing its rural character and the Commission's responsibility is to Whitley, not Allen County.

David Quilhot, 6425 E. 100 South-92, Roanoke, stated that there have been lies and deception spread by the opposition and expressed full support of the petitioners, stating they properly care for the land they own and have good character.

Trisha Hinen, 4450 N. State Road 9, Columbia City, expressed concern with the petition Mrs. Eshelman had presented as she had viewed the recruitment material used to encourage people to sign that petition and the information was focused on CFOs.

Lois Larson of Aboite Township (address not given), asked the Commission to see the bigger picture and not view the county line as an artificial boundary. She asked them to recognize and consider the property values of more than 2,000 houses in Aboite Township and stated that their water quality is affected by Jefferson Township. She stated that she does not object to farming, yet having the right to farm does not mean you have the freedom to do things that will impact the greater good.

Scott Twomey, 7165 E. Indian Creek Road-92, Roanoke, stated that this has been a good debate amongst good people. He stated that he believes the issue is fear on both sides and does not understand why there could not a third option of being able to protect the petitioner's land while easing fears about CAFOs.

Brad Cooper, 7535 S. 600 East, Columbia City, stated that the uncertainty of CAFOs is scaring people and wonders if there is a way to give both sides what they want.

Mr. Western asked to review the slide again that shows where CFOs are already not permitted based upon setback limitations.

Josh Lopez, 631 E. Spear Road, Columbia City, stated that until the County does something about where residential development will be allowed, farmers are going to request rezoning to AGP as it is their only protection.

Joan Null, 8099 S. 200 East, Columbia City, stated that a large amount of tax payer's money was spent on the Comprehensive Plan and the zoning ordinances do not match the plan. She stated that she has not heard a compelling reason to rezone to AGP. She stated that a restrictive deed is sufficient to preserve and protect land. She stated that everyone keeps saying that AGP zoning is not about CAFOs; however, the main difference between AG and AGP zoning is the allowable size of a CFO.

Alayne Johnson, 6952 E. 150 North, Columbia City, referenced RS-03 AGP Standards in Section 5.22 Major Residential Subdivision Standards (RS): "Subdivision plat notes and restrictive covenants on the property deeds holding harmless agricultural production in the AGP district when operating under normal practices". She stated that Mrs. Null's remarks are inaccurate and protection is their reasoning for rezoning based upon the above standard.

There being no further public comment, Mr. Wright closed the public hearing at 9:40 p.m.

Mr. Wolf stated that we are all one community and we are all concerned about property values. He stated that change and growth is inevitable and the Commission will need to make a decision based upon what is before them the best they can.

Mr. Woodmansee stated that he believes the petitioners have honorable intentions and believes there is value in protecting farmland. He stated that he is torn because there are

other options besides AG and AGP zoning to accomplish agricultural land preservation. He stated that all of the possible land uses need to be considered when deciding appropriate zoning.

Ms. Deckard asked how AGP zoning would affect future residential development in the area of the petition that is recommended as rural residential or transitional agriculture in the Comprehensive Plan. Mr. Bilger responded that the AGP zoning would establish the land as 'prime agriculture' and any residential development proposal would raise the question of whether or not the development would be the best fit.

Mr. Western stated that he is also torn on his decision and commented that AGP zoning restricts land use more than AG zoning. Mr. Bilger showed the slide again that compared the uses between the two zoning districts.

Mr. Wolf made a motion to favorably recommend the petition to the County Commissioners. Mr. Wright asked if there was a second. There was none.

Mr. Hodges stated that he is not prepared to make a decision tonight and made a motion to table the petition in order to gather more information and take more time to make such a big decision. Mr. Mynhier seconded. Mr. Wright called for a vote. The vote was a tie, with Mr. Hodges, Mr. Wright, Mr. Wolf and Mr. Mynhier voting in favor and Mr. Western, Mr. Woodmansee, Ms. Deckard and Mr. Wolfe voting against. Mr. Wright called for a re-vote. The motion passed 4-3-1, with Mr. Hodges, Mr. Wright, Mr. Woodmansee and Mr. Mynhier voting in favor, Mr. Woodmansee, Ms. Deckard and Mr. Wolfe voting against, and Mr. Western abstaining.

19-W-REZ-3 Zuehsow DeKalb LLC, 5593 County Road 7, Garrett, IN 46738, requested an amendment to the Whitley County Zoning map by reclassifying 5.71 acres from AG, Agricultural District to RR, Rural Residential District. The property is located on the south side of E. 300 North, about ½ mile west of N. US 33 and more commonly known as 8880 E. 300 North, Churubusco, in Section 25 of Smith Township.

Mr. Bilger reviewed the staff report, providing details of the request, referring to a PowerPoint presentation. He explained that in 2008 the existing single-family dwelling was granted a special exception to be used as a bed and breakfast. He explained that if rezoned, the petitioners intend to request special exception approval for an addiction treatment facility, which the BZA interpreted would fall under the classification of 'mental health facility'. He reviewed the existing zoning classifications and land uses. He explained that the 5.71 acres was recently split from a larger parcel and the remaining acreage would remain AG. He referred to the land classification map from the 2011 Comprehensive Plan, explaining his staff report modification that the property is located in a band of "transitional agriculture". He discussed the review criteria as provided in detail in the staff report and gave commentary specific to this petition. He reviewed the comparison of uses between the AG and the RR districts.

Mr. Wright asked about spot zoning. Attorney Boyd explained that the purpose behind the rezoning request should be considered as well as whether or not uses on adjoining properties are compatible. She also suggested checking for compatibility with the Comprehensive Plan.

Mr. Wolfe asked how many houses were nearby and Mr. Bilger counted approximately 11. He also asked about the location of the nearest public utility (water and sanitary sewer), and Mr. Bilger responded approximately one mile by air, farther if following roads.

Dalen Zuehsow, 5593 County Road 7, Garrett, presented the request. He explained that the Allendale facility would serve 16-18 people in voluntary withdrawal management. He discussed the opioid epidemic in Indiana, providing statistics. He referred to the land classification map, highlighting that being as the area is currently considered transitional, rezoning to rural residential would be appropriate.

Mickey Ashpole, 8712 Pinsley Way, Fort Wayne, explained that he is the CEO of Fort Wayne Recovery. He gave a brief overview of his biography and summarized documents he provided the Commission in support of the petition, including letters of support, rezoning petition questionnaire, and answers to frequently asked questions about the treatment center. He explained the nature of the center and discussed the need.

Mr. Wright asked if the Commission members had any questions for the petitioners. There being none, Mr. Wright asked if there was anyone present who wished to speak regarding the petition.

Captain Kevin Hunter, Fort Wayne Police Department's Vice & Narcotics Division, One East Main Street, spoke about the opioid crisis and the lack of available treatment centers. He expressed his support of Mr. Ashpole and stated that Allendale Treatment Facility will be positive for Northeast Indiana.

Randy Creech, 9030 E. 300 North, Churubusco, stated that many of his neighbors left because they thought the meeting would end at 10 p.m., but had those remaining in the audience stand that were in opposition of the rezoning. He stated that he moved to the area over thirty years ago to live in a rural, agricultural area. He expressed concern that the treatment facility will have a major negative impact on his property value. He expressed concern over worsening drainage issues that already exist and provided the Commission with photos and a letter from the Whitley County Highway Department. The letter stated that a ditch would be installed beginning in the spring of 2008 in order to address drainage issues. He discussed his concern that a detox facility would affect the safety of children and neighbors.

Anne Creech, 9030 E. 300 North, Churubusco, continued to express her and her husband's concerns. She spoke of the concern over sewage running on her property. She expressed concern that the house and the property would not be large enough or adequate

to accommodate the proposal. She discussed the possible negative impact the facility would have on the community.

Andrew Hawk, 7570 E. 300 North, Churubusco, stated that he moved his family to the area in 2014 and believes the proposal threatens the safety and security of the community. He asked whether anyone on the Commission would be comfortable with a treatment facility on their road. He stated that such a facility may be needed, but not at the proposed location.

Russell Gilliom, D.D.S., chairman of the Whitley County Health Department, spoke about the opioid crisis and the need to encourage additional treatment centers in this community.

Ronald Smithson, 8502 E. 300 North, Churubusco, clarified that the rezoning would be limited to the 5.71 acres. He expressed concern over drainage issues. He expressed safety concerns and stated he was not comfortable with the location of the facility. He spoke about his negative personal experience with addicts.

Devin Zeigler, 8165 E. 300 North, Churubusco, discussed the availability of utilities in the area and suggested the location of a facility serving both Allen and Whitley counties would be better located in Allen County.

Ron Smithson, Jr., 7825 E. 300 North, Churubusco, stated that the two previous petitions were from farmers trying to do the right thing to save their land and this proposal is one of the worst things that could be located behind your house. He spoke about underlying issues that contribute to addiction and his concern of bringing those issues within close proximity of his children.

Ryne Schaden, 145 W. Cambridge Drive, Columbia City, explained that he used to live in Warsaw, near The Serenity House, and spoke about the negative issues with that facility. He stated that the facility should be located in the city, with easier access to law enforcement assistance.

Jarrod Krider, 7710 E. 300 North, Churubusco, express concern that the house would not be adequate and only serves to be convenient for the petitioners. He also expressed concern for the safety of his young children.

Mr. Wright explained that due to the time (approximately 10:50 p.m.), public input would end following the next speaker.

Don Dafforn, 8700 E. 300 North, Churubusco, spoke about safety and negative effects on property values.

Mr. Ashpole addressed the concerns, specifically parking and safety. He explained how the proposed location is ideal. He stated that he is disheartened because what he has heard tonight is

a belief that there is no hope for those caught in addiction and again reiterated that the target clientele are employed, responsible people who voluntarily desire help.

Mr. Hodges stated that he believed the treatment center is a great idea but cannot vote to support the location. He stated that he has a responsibility to represent the public that is present tonight in opposition.

Mr. Woodmansee stated that while he supports drug treatment centers, he questions whether this is the right zoning change.

Mr. Wolf stated that he respectfully abstains from voting and discussion due to conflict of interest.

Mr. Mynhier stated that he supports addressing the opioid crisis and providing help to those in addiction; however, it is evident that the community opposes the location.

Mr. Western stated that he recognizes the need in the county to address drug addiction, yet the proposed location is not appropriate.

Mr. Mynhier asked what drug addiction services are available in Whitley County currently and Ms. Deckard pointed out that there are none.

Mr. Wright stated that he did not believe that people completely understand the proposal.

Mr. Hodges made a motion to give an unfavorable recommendation to the County Commissioners; Mr. Western seconded. The motion passed 5-2-1, with Mr. Mynhier and Ms. Deckard voting against and Mr. Wolf abstaining.

OTHER BUSINESS

Residential Code Review: Neighborhood/subdivision types: time did not allow for this to be discussed; however, Mr. Bilger provided some information for the Commission members to review related to the topic.

ADJOURNMENT

Mr. Wright declared the meeting adjourned at 11:09 p.m.