

MINUTES
WHITLEY COUNTY PLAN COMMISSION
SPECIAL MEETING

August 25, 2021

6:30 p.m.

Whitley County Government Center
Lower Level, Meeting Room A/B

MEMBERS	PRESENT	ABSENT	STAFF
Michael Bemis	X		Nathan Bilger
Dane Drew	X		
Brent Emerick		X	
Theresa Green	X		LEGAL COUNSEL
Thor Hodges	X		Elizabeth Deckard
Kim Kurtz-Seslar	X		
Joe Wolf	X		NONVOTING ADVISOR
Brad Wolfe	X		(absent)
Doug Wright	X		

AUDIENCE MEMBERS

The audience list of in-person and electronic guests is attached below.

CALL TO ORDER/ROLL CALL

Mr. Hodges called the meeting to order at 6:33 p.m. and led the Pledge of Allegiance. Mr. Bilger read the roll call with members present and absent listed above.

MINUTES OF AUGUST 9 WORKSHOP

Mr. Hodges asked for comments or a motion on the minutes of the August 9th workshop. Mr. Drew made a motion to accept the minutes as presented; Ms. Kurtz-Seslar seconded. Motion passed, 8-0.

COMPREHENSIVE PLAN WORKSHOP

Mr. Hodges opened the workshop. He asked the Commission if the previous workshop setup was acceptable. The Commission's consensus was to press forward through the bullet point list and avoid rediscussing items until later when there may be still open topics that the members would want to go through. Mr. Hodges asked the Commission if they wished to continue through the bullet list of public comments as presented to Mr. Bilger, or to have Mr. Hodges take over the meeting. Mr. Wright suggested that Mr. Bilger had put together the list, so he should still lead the discussion; other members concurred. Mr. Hodges then asked for any other comments or questions from the Commission before proceeding. Hearing none, he asked Mr. Bilger to take over.

Mr. Bilger first addressed some general items. He described the new comment sheet that was distributed that added a comment from the last Commission meeting. Mr. Hodges suggested that any additional comments in the future be added as new pages to avoid confusion. Mr. Bilger also

described a running list of revisions that included the revisions directed to be made at the last workshop. Mr. Bilger also addressed the sound system issues from the last workshop, stating that the microphones were readjusted, but audience members with difficulty hearing should still move under one of the ceiling speakers for the best sound due to noise from the vents.

Mr. Bilger then read the next comment from the packet from where the Commission had left off at the previous workshop:

The charge in Ordinance #2017-10 to the Plan Commission needs to be promptly addressed prior to adoption of any Comprehensive Plan Update. Incongruent land use and uncertainty must be comprehensively addressed and curtailed. Current Land Classifications need to be reconciled with the Zoning Map and Districts. Residential development code must be completed prior to any Comprehensive Plan Updates. It is recommended that independent facilitation of this process be engaged to ensure balance, objectively and the task is completed.

Ms. Kurtz-Seslar asked about Ordinance 2017-10. There was a brief discussion about that ordinance. Mr. Bilger then was able to bring up the ordinance text on the screens for the Commission's reference, and the Commission members read the text of the ordinance. The ordinance was adopted in 2017 and established the *Interim Overlay-Agricultural Residential District* and the standards of it.

Mr. Hodges asked if this ordinance would hold up the Comprehensive Plan review. Mr. Wolfe asked if this ordinance started the Code Development Committee (CDC) and who drafted it. Mr. Bilger stated that it did and that he had drafted the technical parts, with legal counsel review. There was further discussion about the ordinance, noting that the ordinance automatically expired in 2018. Mr. Wolfe explained that this ordinance was a placeholder while the CDC was operating. Mr. Bilger stated that two new zoning code sections were added in 2018 as an outcome of the CDC: one on confined feeding operations and one on residential development. Ms. Kurtz-Seslar asked if after the Plan was adopted, if the zoning code should be revised as a whole or if it should just be those sections in conflict with the Plan recommendations. Mr. Bilger stated that it would be up to the Commission. Ms. Kurtz-Seslar asked if this should be included in the Plan. There was discussion about coming back to this point later in the Plan process to see if it should be included or deferred to code revisions.

Mr. Wolf said that the Plan was conceptual, so deferring details like this could be done. Mr. Hodges suggested that the Commission still needs to be comfortable with the Plan. Mr. Bemis said he felt the Plan should not be too broad nor too detailed either. Ms. Kurtz-Seslar related information from a recent training workshop that recommendations should be measurable in some fashion. Mr. Wolf cautioned that could lead to a "checkbox" mentality. Mr. Drew said that the previous rezoning could have been turned down if the Plan was taken literally. Mr. Emerick agreed that flexibility and interpretability would be necessary, especially as described in the next comment [copied below for reference]:

The interests and needs of other private industries including manufacturing, construction, wholesale and retail trade, finance and insurance, transportation, professional and business services, education, health care and accommodations should also be given due consideration. A balanced economy will withstand economic volatility.

Mr. Hodges related the case of 5-Star Distributing as an example of exceptions to the rule that will necessitate flexibility. Mr. Wolfe agreed but stated that proper placement trumps flexibility. Mr. Hodges stated that for 5-Star, the placement was proper. Mr. Wright also related the example of Cider Mill Propane, which took two tries to find a proper location. Mr. Hodges agreed these were good examples of why the Plan should not be simply checking boxes.

Mr. Hodges stated that the details of this comment would be readdressed again later in the process.

Mr. Bilger then read the next comment from the packet:

The original Draft Recommendation 1.13 [from a March draft] must be restored as Ordinance # 2018-09 was an incremental starting point plus the Planning Director committed to a two-three year review and update using as similar approach as the Code Development Committee.

He then read that referenced draft recommendation:

Prepare a recommended buffer and setback map and/or strategy for CFOs that would recognize both existing agricultural and residential areas and include reciprocal preferred distances between uses.

Ms. Kurtz-Seslar asked why this was deleted from the final Plan. Mr. Bilger stated that this was part of the draft plan that was put out for Focus Groups review. He explained that the Focus Groups were review groups based on the five parts of the Plan, with additional breakout of the land uses part. He stated that after that distribution for review, there was feedback primarily from the agricultural group that the recommendation was not acceptable as worded; there were no positive comments received at the time. He stated that there was discussion among consultant, staff, and steering committee on what to do, with the idea that the recommendation was very specific to one particular land use as compared to most of the Plan. Further, another recommendation at a broad level that the zoning code be rewritten would cover this recommendation for covering the same intent. So, because of the negative feedback, specificity, and coverage under another recommendation, this one was removed. Mr. Bilger then asked for discussion.

Mr. Hodges asked why “confined feeding operations” was specifically called out, and why not apply to all uses? Mr. Wolf agreed this could apply to more uses and could recommend buffers for industrial and residential. Mr. Emerick agreed that the draft recommendation was too specific and should have been removed.

Ms. Kurtz-Seslar referred to Recommendation 3.4, which recommends to create alternative energy regulations, and suggested that all uses be included or none. Mr. Hodges stated that setbacks are part of all land uses, so broadening the recommendation may be appropriate for all land use conflicts. Mr. Drew suggested a setback map. Mr. Bemis agreed that setbacks are good, but out of fairness, it seemed to single out a land use. Ms. Kurtz-Seslar suggested that 3.4 singled out another type of land use; Mr. Hodges suggested that came from a huge topic ten years before and to come. Mr. Wolf stated that he felt the Plan should attempt to address unintended circumstances even if the future is not predictable, such as noise barriers along highways where there are residential areas. Mr. Wright suggested to simply remove “confined feeding operation” and replacing with “for each land classification” with specifics on the buffering to come later in code writing. There was consensus on this wording.

Mr. Bilger then stated that while Ms. Kurtz-Seslar asked why the draft 1.13 was removed, no one had asked why it was added. He explained that it was added because there were a lot of comments received during the public input process that stated that the existing buffering and setbacks were not sufficient. Those comments were very explicitly about CFOs. He asked if that knowledge changed any of the Commission's discussion. Mr. Hodges stated he felt that it did not, because there already was too much discussion about CFOs. The next hot topic would be solar, and after that it would be something else. There was further discussion that broadening the recommendation would be best. Mr. Bilger would reword the recommendation to address all uses and insert it in the Plan at an appropriate location.

Mr. Hodges stated that the following comment was already being done in the Commission's workshop process:

The proposed 2021 FORM Comprehensive Plan is incomplete and no parts should be recommended for adoption at this time. The Plan Commission should defer taking action until a host of open issues and questions are adequately addressed. The Steering Committee lacked balance and adequate general public representation. The Steering Committee must be reconstituted by the Plan Commission, be given a six-month timetable to address the wide gaps in the proposed 2021 FORM Comprehensive Plan Update and report back to the Plan Commission with sound and responsible recommendations.

There was agreement with Mr. Hodges, and discussion moved to the next comment. Mr. Bilger read the following comment:

"Zoning" classes are arbitrarily named; implementation strategy should be adopted; concerns about agricultural operations in proximity to parts of southeast Jefferson Township that are primarily residential and forested areas.

He stated that this was a summarization of several comments from one person. He presumed "Zoning" referred to the land character types.

Mr. Hodges stated he wanted to relook at the classifications as they are in the 2011 Plan versus 2020 land character types. Mr. Drew suggested that the old map was easier to look at for a few reasons, while the new map was harder to understand. There was extended discussion about the readability of the map, with colors being too close.

Ms. Kurtz-Seslar asked about the origins of the names of the character types. Mr. Bilger stated that the character types were named to avoid duplication of existing zoning districts such as Lake Residential and the existing 2011 Plan's classifications. That was one goal of the update since there was a lot of confusion between the zoning code and plan, for example, "Transitional Agriculture" was commonly thought of as a zoning district. He stated that doing so resulted in the awkward names, especially for the rural character types.

Mr. Bilger further explained that the land uses in the rural character types were similar, but the amount of agriculture and development expected in each type were different. Traditional would have more agriculture and less development, while Conventional would have more development, similar to that seen in much of the county for the past 50 years. He agreed that the names were not descriptive and was open to better suggestions.

Mr. Wolfe asked if there could be more specifics to help describe the types in uses, development density, and so on. Mr. Emerick suggested that the 2011 Plan was also not appropriate in several

areas since it called for development in inappropriate locations. Mr. Wolfe stated that the 2011 Plan places most of the county in agriculture, which was “anything goes.” There was extended discussion about the character map and types among all members.

Mr. Hodges felt that the 2011 Plan’s map and districts should be reused. Mr. Bemis stated that this update was an opportunity to “dial in” changes without becoming too restrictive; he felt that this proposal was too broad. Mr. Wolfe agreed. Ms. Kurtz-Seslar suggested that there should be degrees or gradations in the Plan, whichever map is used. Mr. Wolf discussed that there was too much open for interpretation in the Conventional versus Traditional names. Mr. Drew suggested that the future land use map really should be paid close attention since a zoning map would follow the Plan. There was discussion about how the zoning map changes would become effective and what the effects would be. Joe Sheets’ comments from the previous meeting were referenced as a potential effect.

Mr. Bemis suggested that a system of AG-1, AG-2, AG-3 might resolve both concerns. He also stated that he didn’t want to go back to the old map and suggested there should be something in the middle. Ms. Kurtz-Seslar agreed; she added that the 2011 Plan did include some built-in buffering as “Transitional Agriculture.” Mr. Bilger clarified that Transitional Agriculture was generally applied to any plats of about 3 lots or more; Ms. Kurtz-Seslar said that the map was definitely outdated.

Mr. Bemis suggested that the Commission provide comments back on what should be done. Mr. Bilger stated that would be a good idea to keep things moving forward. He reminded the Commission about two methods of dealing with zoning code changes after a comprehensive plan update. The first was proactive, where the code and map are changed to align to the Plan and had been the main point of the discussion so far. The second was reactive, which had been done for the past ten years, where changes were only made as rezoning requests were brought forward. Mr. Bemis suggested that a middle approach might be best to address big issues, but not to be so specific to cause issues like the Sheets. Several other members agreed that a selective approach might be good to avoid stifling growth and protecting property rights. Ms. Kurtz-Seslar also reminded that variances and waivers should also be addressed in code changes; Mr. Wolfe stated that was in a recommendation for the lake areas.

Mr. Hodges stated that a plan is a plan until it’s not a plan anymore. The goal would be to have a workable plan.

There was a pause to discuss how to address these map and descriptions, with the next workshop being dedicated to the map and descriptions. In the remaining time, the Commission then pushed forward with the next comments if they were not related to the map or descriptions. Mr. Bilger read the next comment:

Appreciated the amount of public input that was sought during the process and that the process was generally good; Expressed concern over the “soft edges” found on the Future Character and Land Use Map, suggesting that instead there should be “hard edges”

Because this was related to the map, it was deferred for discussion later.

Mr. Bilger then read the next comment:

Avoid recommending solar on “prime” agricultural land.

There was discussion about whether this was a map issue. Mr. Bilger stated that there was no current solar ordinance, which was why it was included as a recommendation in the Plan. Mr. Hodges suggested this was an example of how to address the next upcoming thing. Mr. Bemis asked what “prime” meant; there was discussion that the term was not well-defined. Ms. Kurtz-Seslar suggested that recommendation 3.4 could cover this.

Mr. Wolfe asked for the status of a solar ordinance. Mr. Bilger described that there were solar land acquisition agents contacting landowners for 800 to 1,500-acre sites, and the Commissioners would like to have a solar ordinance in place by year end. He described some regulatory methods to deal with the solar that could be directed by the Plan. Mr. Wolf described some options for solar park designs. Mr. Drew expressed concern about having abandoned solar parks. Mr. Bilger stated that solar was a topic asked about several ways in the Comp Plan public input, with two main topics being brought up: aesthetics and decommissioning. This comment was brought up later during the public hearing. He then asked if this comment was appropriate in the Plan, or if it should be taken as advisement for code writing. Mr. Bemis suggested it would be another singling out of a specific industry. Mr. Wright stated that he felt an ordinance should protect the county as a whole, just like the wind turbine decommissioning requirements. There was consensus that this was addressed in the Plan already, and this specific comment could be addressed later.

Moving on, Mr. Bilger read the next comment, which was a summarized version of a lengthy public hearing comment:

CAFOs are lethal; opposition was oppressed; health impacts of CAFOs are ignored; this violates state law by ignoring public health; the plan doesn't separate ag and people; must have health study done before allowing more AGP zoning; stated objective of farms stifles residential growth

Mr. Hodges and Ms. Kurtz-Seslar suggested to take the next comment as well, which Mr. Bilger then read:

CFOs create conditions that lead to disease transmission, antibiotic resistance; contaminated ground and surface water; air pollution.

Mr. Drew suggested that there were many other contributors to health effects and pollution. Mr. Emerick distributed a list of IDEM violations for the county, noting that there were 54 violations in the past 26 years, with one being related to a CFO. He also relayed information from the Health Department about deaths and health concerns around CFOs and stated that there were no effects. Mr. Wolfe suggested that locations and buffering might resolve this. Mr. Hodges agreed that it could. Ms. Kurtz-Seslar agreed. Mr. Emerick wondered why there was so much focus on CFOs. Mr. Hodges said that the old County dump was another issue, but it was not a hot topic. Ms. Kurtz-Seslar suggested that any setbacks and buffering would be a zoning issue.

Mr. Bilger asked if there were any health-specific comments as brought up in the second comment. Mr. Hodges, Drew, and Bemis discussed that again singling out CFOs was not appropriate since there were many sources of health effects. Mr. Hodges suggested IDEM already had rules in place for regulating health effects and why should the county add new rules that may or may not be enforceable.

Moving to the next two comments, Mr. Hodges stated that they also dealt with CFOs and may have already been discussed enough. Mr. Bilger read the two comments into the record:

CFOs create health hazards via emissions, manure impacts water quality, creates environment that fosters antibiotic resistance; 660' setback is inadequate; recommendations are counter to protecting public health; requests specific zones for residential & CFOs

CFOs/CAFOs have adverse health effects on nearby residents; negative impact on air quality; spread of microbial pathogens; antibiotic resistance; 660' setback is inadequate

Mr. Bilger asked if there was comment on these, as the Commission had just discussed CFOs in the previous comments. Mr. Wolfe stated that all the comment points should be discussed as part of the buffer and setbacks. Mr. Bemis agreed that setbacks could be variable depending on location.

Mr. Bilger redirected the discussion by stating that CFOs were the “elephant in the room” and he wanted to make sure that there was an appropriate level of discussion on the matter. He stated that since this was a Comprehensive Plan, it includes more than just zoning matters such as setbacks, and these four comments were really dealing with health effects. He asked if the Plan should include health recommendations, even if they were not in the Commission’s authority. He then asked what the Commission felt about including health matters in the Plan. Mr. Wolf stated he felt it would be outside the scope of the Plan. Mr. Drew agreed. Mr. Bemis stated he felt that health issues should not be part of the Comprehensive Plan since there was not a health goal that could be achieved. There might be health effects, but not in the plan. Mr. Wolf felt that there may or may not be negative health effects about many things. Mr. Emerick expressed concern about drunk drivers from event centers being a health problem as well, in addition to septic systems. Mr. Wright added that there may be illnesses from many sources.

Mr. Bemis clarified that whether or not there are actual health effects of CFOs, there should be similar treatment of all uses that create health issues, and again asked if health should be included. Ms. Kurtz-Seslar pointed out that Part 3 of the Plan did not really address health effects, other than septic systems. It was more environmental health than personal health. Mr. Wolfe stated that if there were health effects from a CFO in the county, it could be a court issue. Mr. Hodges stated that too much focus was on CFOs and that the elephant really should be taken out of the room because the setbacks would be broader. Mr. Wolfe suggested that if health matters were included, it would be broadened for industry too.

At this point, discussion of the points was paused, and Mr. Hodges asked for any Commission comments. Mr. Wolfe stated that this workshop process was working better and more smoothly than the Code Development Committee process from 2018. Mr. Hodges suggested that it was because there was a mix of opinions and perspectives instead of just two.

There was discussion about the homework from the Commission. Mr. Bilger asked for members to submit their “wish lists” and visions about the map and descriptions to him, and he would compile it for the next meeting.

The Commission discussed the date of the next workshop, settling on the 15th, following the regular meeting since it only had two items on the agenda. The homework should be sent to staff by the 8th.

ADJOURNMENT

Having no further business, Mr. Hodges declared the meeting adjourned at 8:41 p.m.

GUEST LIST

1. John Meister.....5995 S. Woodstrail Drive-57
2. John O’Connell1705 E. Bair Road, Columbia City
3. Susan Lawrence275 N. 800 East, Avilla
4. Sonya Emerick5865 E. State Road 14, Columbia City
5. Kevin Ousley4863 S. Raber Road, Columbia City
6. Pat Murphy.....1490 E. 200 South, Columbia City

GUEST LIST-ELECTRONIC

7. Rachael Hartman.....102 N. Main Street, Kendallville
8. Trisha Hinen.....4450 N. State Road 9, Columbia City
9. Alayne Johnson6906 E. 150 North, Columbia City
10. Paul Mills1679 E. Bair Road, Columbia City
11. Angela Sheets.....3035 W. 700 North, Columbia City
12. Kelley Sheiss.....8179 N. 650 West, Columbia City
13. Emily Studebaker.....5147 W. 200 South, Columbia City
14. Athalia Peters6075 E. 150 North, Piercetown

