

Date

01/16/18

To: Nathan Bilger, Doug Wright, and Brad Wolfe

From: Pete Eshelman

Re: Overview of Hamilton County CFO Zoning Ordinance

Similar to Whitley County using multiple districts, Hamilton County has multiple tier agriculture districts. Instead of just two districts, Hamilton has four districts including:

*** A-1, Conservation and Preservation**-to protect floodplains, wetlands, forests, wildlife refuges, and similar conservation and environmentally sensitive areas.

***A-2, Agricultural**-to permit full range of ag activities as well as certain planned, large lot residential development.

***A-3, Agricultural and Planned Residential**-to allow planned residential areas in close proximity to existing residential development and existing ag uses, and

***A-4, Agricultural Business**-to provide areas for business and commercial use related to ag business.

The advantage of having delineated these districts is being proactive rather than reactive. A more predictable environment is established in advance for developing county development policies and modern agricultural growth. Specifically, this method establishes greater certainty for both agricultural growth and for rural residential development and in my view, is superior to the site scoring options used by Henry County which in my opinion, can be "gamed". Perhaps Hamilton County's approach was the intent back in 2011 when Transition Ag and Rural Residential Zoning Districts were referenced in our Comprehensive Plan Future Land Use Map.

Confined livestock feeding operations (CFOs) are allowed only by Special Exception in the A-2 district meaning that any proposal to build a new CFO in that district must go through the BZA review process. This practice is in sync with the Indiana State Department of Agriculture Official Schedule of Uses treating CFOs as special exceptions in General Ag Districts. According to IDEM there are currently at least 9- regulated farms including 8-CFOs and 1-CAFO.

Similar to Whitley County the Hamilton County BZA must make written findings that:

1. The establishment, maintenance, or operation of the special use will not be injurious to the public health, safety, morals, or general welfare of the community;
2. The special use will not affect the use and value of other property in the immediate area in a substantially adverse manner; and,
3. The establishment of the special use will be consistent with the character of the district.

The BZA may impose conditions as part of its approval to protect the public health, and for reasons of safety, comfort, and convenience.

However, Hamilton, unlike Whitley, imposes additional special use requirements on CFOs with the burden of proof resting on the applicant to objectively conduct:

1. An environmental assessment—a detailed description of the effects upon the immediate and surrounding environment including but not limited to vegetation destruction, soils contamination, surface and sub-surface water contamination, air pollution, noise, lighting, etc.
2. Archeological assessment—a letter of review regarding all affected parcels should be obtained from the department of natural resources.
3. Economic impact assessment—the costs of the new development weighed against the benefits in terms of community compensation, impact on existing and proposed infrastructure, impact on existing and proposed land uses, and impact on community character. The plan should include: cost of development, impact on infrastructure, jobs created, funding sources, and the value of the development to the community.
4. Statement of impact of facility on both existing and surrounding land uses.
5. Days/hours of operation.
6. A drainage plan—surface elevations, off site and on-site watersheds, the direction of surface runoff, retention/detention plans, all floodplains, wetlands, location of site storm water outlets drawn to the specs of the Hamilton County Surveyor's Office.
7. Facility maintenance plan—detailing the manner in which the grounds will be maintained including both short-term routine and long-term maintenance.
8. A noxious fumes assessment—description of gasses, fumes or odors which may be released as a result of daily operation. The noxious fume assessment must be verifiable with local, state, and federal requirements.
9. A traffic study to be approved by the county engineer including existing and future levels of service calculated by a professional engineer for all road segments adjacent to or impacted when requested by the county highway department.

Together these requirements are relatively protective of adjacent properties and the environment, squarely place the onus of proof on the applicant while providing meaningful due process protections for all existing landowners.

This is my homework. I hope it is useful. I am in Denver on business and apologizing for not attending this Friday's meeting.

Pete.

