

**WHITLEY COUNTY BOARD OF ZONING APPEALS
STAFF REPORT**

24-W-SE-2 SPECIAL EXCEPTION AMENDMENT
Daniel & Deborah Michel
8980 S. 350 West, South Whitley

**FEBRUARY 27, 2024
AGENDA ITEM: 4**

SUMMARY OF PROPOSAL

Current zoning: AGP, Agricultural Production
Property area: 71.63 acres

The petitioner is requesting a special exception approval for an expansion to an existing Confined Feeding Operation (“CFO”) to create a 3,528 Animal Unit, Class 3 CFO on their property located on the northwest corner of 900 South and 350 West in Section 19 of Washington Township. The property is currently improved with a dwelling, outbuildings, grain bins, compost bins, and four confined feeding hog barns.

As shown on the submitted site plan, the proposal is to construct a 122’x285’ grow-to-finish hog barn, a compost bin, and drive. The below table shows the minimum separations and setbacks from the new buildings:

	Minimum	Proposed		Minimum	Proposed
Natural lake (>40 ac.)	2,640’	10+ mi.	Open waterway	300’	2,980’±
Recorded major residential subdivision	1,320’	10,600’± (Madyson Grove)	Property line (900 South) (350 West)	40’ 40’	198’± 914’±
Off-site residence	660’	960’ (northeast) 1,500’ (south) 690’ (west)	RR, MR, or LR zoning	2,640’	4,500’±

From the proposed IDEM permitting information, the new barn would contain up to 4,400 head of wean-to-finish hogs, with 385 days of self-contained manure storage. This barn would be in addition to the existing CFO containing 4,420 grow-to-finish hogs (as per IDEM approval dated 8/30/18). CFO size calculations are based on the total animal units on the property. Since there are other existing barns on the property, the calculation of cumulative animal units is necessary.

Using the animal unit calculation of §5.17 of the zoning code, nursery pigs (15-50 lbs) are 0.2 animal units (AU) and finishing pigs (100 lbs-market weight) are 0.4 AU. Blending of these figures over the occupancy of the barn may be done in calculating the total animal units of the CFO, but by policy for administrative determination, the total maximum for all barns on the property would be 3,528 AU.

Class 3 CFOs are defined to be 3,001 to 12,000 animal units in size. In the AGP, Agricultural Production District, Class 3 CFOs require a special exception through the Board of Zoning Appeals. The requirements of Sections 10.9 Special Exception Standards apply.

REVIEW CRITERIA

Indiana Code §36-7-4-918.2 and Section 10.9(A) of the Zoning Code authorize the Board to review special exceptions and state the criteria listed below upon which the Board must base its review. Staff’s updated comments/proposed findings of fact under each criterion.

1. The special exception shall not involve any elements or cause any condition that may be dangerous, injurious, or noxious to any other property or persons, and shall comply with the performance standards;

Confined feeding operations can create odors that may be a noxious condition, especially for properties in close proximity to the CFO. There are three dwellings within ¼ mile of the proposed CFO, and about 8 dwellings within ½ mile, that may be affected by any such odors.

Being an existing CFO, these residents may be accustomed to the potential odors stemming from a CFO. However, the Board must ensure that any noxious condition is mitigated.

Performance standards:

- a. Fire protection: Other than potentially flammable dust (e.g. feed) or manure, no flammable or explosive materials are proposed. The requirements of the fire code would be applied as part of the construction process.
- b. Electrical disturbance: No electrical equipment that typically generates disturbance or interference is expected.
- c. Noise: The equipment of the barn, such as fans, may generate noise, but the level should not be greater than any equipment used in other permitted agricultural operations. The noise of the animals may also be present, but the proposed structure should contain most noise within.
- d. Vibrations: No vibrations are expected to be generated by this proposal.
- e. Odors: Modern barns are typically sealed and so contain animal odors better than older barns. Prevailing winds would be expected to drift most odors to the north and northeast, over the nearest off-site dwelling, open fields, wooded areas, an open drain, and additional fields and dwellings.
- f. Air pollution: No air pollution, such as fly ash, dust, smoke, etc., are expected to be generated by this proposal.
- g. Erosion: A Rule 5 Erosion Control plan will need to be created, which the Soil and Water Conservation District will need to review and approve. Wind erosion is not typically a factor in cases of building construction.
- h. Water pollution: The state permit for CFOs has stringent controls, which if properly implemented, would largely prevent the possibility of water pollution. The County should defer to the state in enforcement and implementation of these measures.

2. The special exception shall be sited, or oriented and landscaped to produce a harmonious relationship of building and grounds to adjacent buildings and properties;

The proposed barn is to be located to the west of the existing CFO barns and angled to parallel an existing drain tile. As such, it is arranged to be an extension of the existing farm. The Board must evaluate whether the proposed location produces a harmonious relationship with adjacent buildings and properties.

3. The special exception shall produce a total visual impression and environment that is consistent with the environment of the neighborhood;

The proposed barn is, at 285' long, larger in scale than most agricultural buildings in the area, such as the existing CFO barns on the property. However, farms have historically had large buildings, be they barns, livestock pens, or grain silos, so some large agricultural buildings may be expected throughout any primarily agricultural neighborhood. The proliferation of large buildings, even those agricultural in nature, may be out of character for the neighborhood and should be avoided.

Given the proximity to 900 South, a landscape buffer screen, like that on the existing CFO, may be appropriate to break up the massing and visual effect of the large building from the public right-of-way.

4. The special exception shall organize vehicular access and parking to minimize traffic congestion in the neighborhood; and

No specific number of vehicles were submitted related to the proposed building. Since this new barn site plan includes additional parking and access, is located on property that is currently a CFO, and offers ample room for maneuvering on-site, there should be little traffic congestion created by this proposal.

5. The special exception shall preserve the purpose of this Ordinance as stated in Section 1.4.

The proposed use is a contemplated special exception use provided for in the AGP district. The site appears to lie entirely within the “rural-agricultural” character type of the Comprehensive Plan, and CFOs are listed as expected uses in character for the area. That said, large CFOs, such as this proposal, are secondary uses that must be viewed with more scrutiny to ensure they do not fall out of character with the area.

In that consideration, the Board should evaluate whether one Class 3 CFO at this location would be more in character for the area than having another Class 2 CFO on another property. As has been discussed at various times before, it could be seen as a matter of fewer, but larger, CFOs versus more, but smaller, ones.

This special exception review serves to promote and protect the public health, safety, comfort, convenience, and general welfare. Finally, the proposed use seems to fall within the plans for the future development of the County, particularly the needs of agriculture.

SUGGESTED CONDITIONS

Staff suggests the following conditions if the Board finds to approve the requested special exception:

1. Special exception is granted as presented and per the submitted site plan.
2. Special exception is limited to 3,528 animal units, as described in the submittal.
3. A landscape screen consisting of 6’ conifer trees spaced no greater than 20’ apart is required along the 900 South frontage, generally in line with the existing landscape screen. A western screen may also be appropriate.
4. The Board should discuss if any other mitigation requirements are necessary.

Date report prepared: 2/21/2024

BOARD OF ZONING APPEALS RECORD OF ACTION

Motion: _____ By: _____ Second by: _____
 Approve _____
 Approve w/conditions _____
 Deny _____

<i>Vote:</i>	Green	Sheiss	Wilkinson	Wolf	Wright
<i>Yes</i>					
<i>No</i>					
<i>Abstain</i>					



Honaker, Atalie
Shepherd, Brandon J
Easterday, Dennis L
Trust Agreement
Haupt, Dale L Revocable
Trust Agreement
Tester, Jeremy D
Haupt, Dale L Revocable Trust

Gordon, David M & Tina M
Dickerhoff, David E & Kathryn S Revocable Trust (Trustees)
Dickerhoff, David E & Kathryn S Trust
Dickerhoff, David E & Kathryn S Trust
Leeuw, William B & Lori J

Ott, M Washington
Jeffrey & Townshipp
Donna J Trustee
Dickerhoff, David E & Kathryn S Revocable Trust (Trustees)
Leeuw, William B & Lori J

Hull, Bradley W & Hull, Stephen J
Hull, Bradley W & Hull, Stephen J
Hull, Bradley W & Hull, Stephen J
Hull, Bradley W & Hull, Stephen J
Thomas, Robert David

Haupt, Dale L Revocable Trust & Sickatoose, Steven L
Haupt, Dale L
Kinney, Cara S & Kinney, Anthony S
Kurtz, Robert C & Kurtz Darlene J

Van Houten, Robert & Nancy J
Kucuk, Tracy A & Anita M
Kurtz, Robert C & Kurtz Darlene J
Nixon, Ted R
Sherbahn, Craig E & Pamela S
Baumgartner, Bernard Dean Trustee
Nicodemus, Bryan K & Hilary L
Nicodemus, Terry L & Benjamin M
Nicodemus, Steven F & Benjamin M
Asbaugh, Kendall G & Rachel L
Burkholder, Benjamin M & Megan R

Sickatoose, Cory & Steve & Beth Ann
Maudie; Sickatoose, Steve & Beth Ann
Sickatoose, Cory & Steve & Beth Ann
Haupt, Dale L Revocable Trust Agreement & Sickatoose, Steven L
Kerl, Michael D & Mary A
Sheets, Christopher R & Melissa M

Leeuw, William B & Lori J
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Michel, Daniel L & Michel, Deborah A
Michel, Brian L & Shannon N
Emley, Jay F
Monceaux, Dylan K & Robbin C
Taulbee, Shane M & Sonja

Coble, Jo Ann
Pettigrew, Adam D & Deborah E
Jullera, Travis & Carl J
Sherbahn, Craig E & Pamela S

Asbaugh, Benjamin M & Megan R
Burkholder, Kendall G & Rachel L
Nicodemus, Terry L & Benjamin M
Nicodemus, Steven F & Benjamin M
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Asbaugh, Benjamin M & Megan R
Burkholder, Kendall G & Rachel L

Michel, Daniel L & Michel, Deborah A
Omelian, John J & Lynn A
Lee, Ryan M & Anna M
Ottinger, Terry W
Anderson, Ronnie L Jr & Jamie A
Rubrake, Gary

Rubrake, Gary A; Alexander, Jocly L; Pequignot, Susan M & Rubrake, Thomas E
Brown, Ronald S & Diana L
Stoner, Scott D
Michel, Daniel L & Michel, Deborah A
Snyder, Chad I & Christelle L

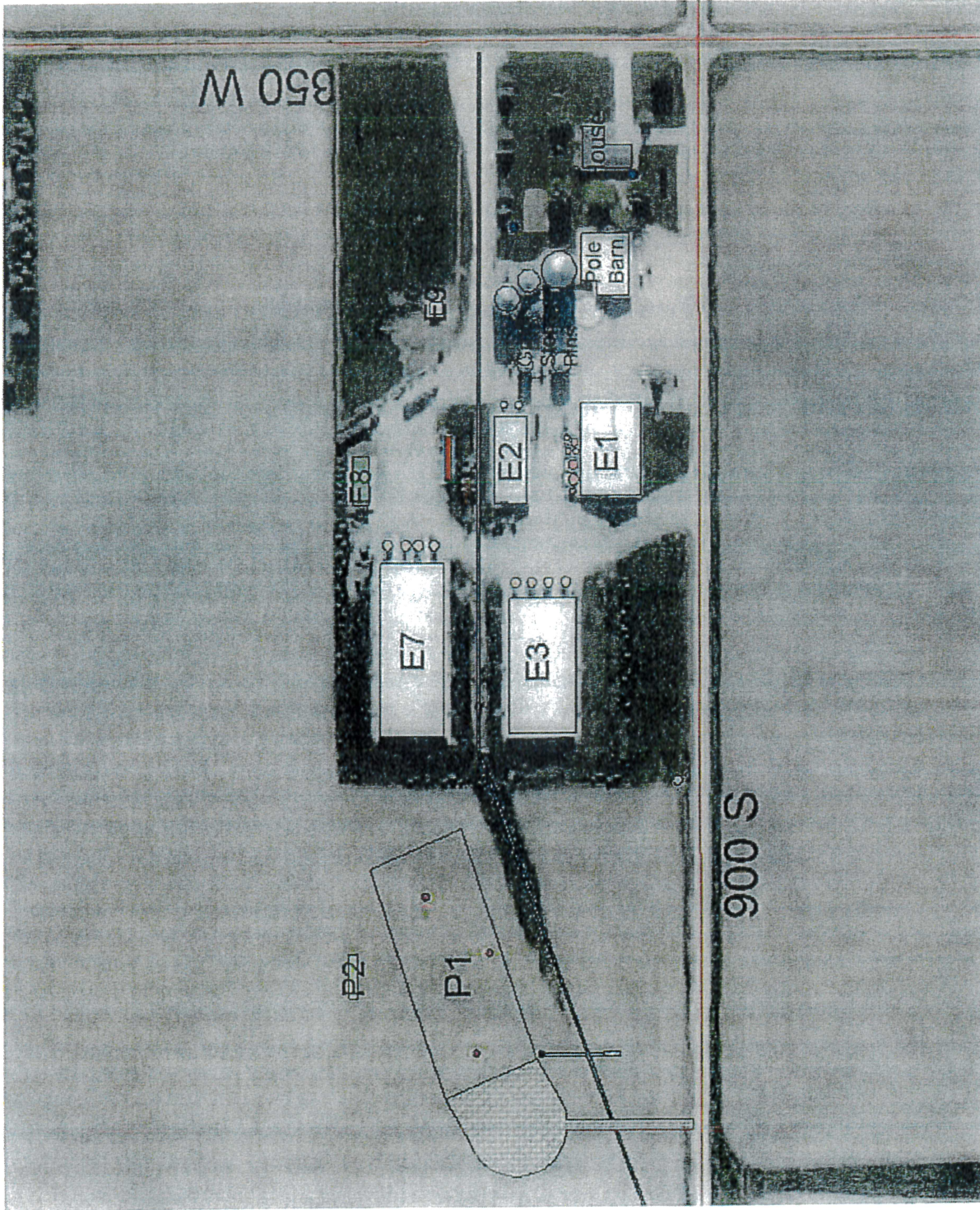
Michel, Daniel L & Michel, Deborah A
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Taulbee, Shane M & Sonja

Hicks, Pamela Sue
Hicks, Terry L
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Dan Michel



Site Map

- Compost Bin
- Existing Field Tile
- Existing Well
- Fertilizer Tanks
- Gas
- Grain Bins
- Observation Point
- Outlet Tile
- Proposed Driveway
- Proposed Well
- Rock Outlet
- Soil Borings

Site Map

8980 S 350 W
South Whitley, IN 46787

See Facility Detail sheet for
existing/proposed structures and
animal numbers

