

**WHITLEY COUNTY ADVISORY PLAN COMMISSION  
STAFF REPORT**

**24-W-REZ-2      ZONE MAP AMENDMENT**

Brian and Sonya Emerick  
Two parcels in Sections 9 and 10 of Jefferson Twp.

**JUNE 19, 2024  
AGENDA ITEM: 4**

**SUMMARY OF PROPOSAL**

Current zoning:    AG, Agricultural  
Proposed zoning:  AGP, Agricultural Production  
Property area:     119± acres (3 parcels)

The petitioner, owners of the subject property area, is requesting a zone map amendment for three separate parcels comprising approximately 119 acres located in Sections 9 and 10 of Jefferson Township. The requested zoning for the subject property is AGP, Agricultural Production.

Two subject parcels are located on the southwest corner of SR 14 and 600 East (eastern parcel) and one on the north side of 700 South about 2,000' east of 400 East (western parcel).

***Existing zoning classifications and land uses***

Currently, the subject area is zoned AG, Agricultural, and is primarily used for crop cultivation, with about 5.5 acres being wooded. Two legal drain tiles are located on one of the parcels, with an open drain on the other parcel. The eastern parcel has two existing residences.

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

	<b>Western parcel (77.9± acres)</b>		<b>Eastern parcel (41± acres)</b>	
	<i>Zoning</i>	<i>Land use</i>	<i>Zoning</i>	<i>Land use</i>
<i>North</i>	AG	Agricultural (field), farm, [SR 14], residences	AG, GC, IPM	[SR 14], residences, businesses, agricultural (field)
<i>East</i>	AG	Agricultural (field), residences	AG	[600 East], residences (platted and unplatted), agricultural (field)
<i>South</i>	AG	Residence, [700 South], residences (platted and unplatted)	AGP	Agricultural (field)
<i>West</i>	AG	Agricultural (field), residences, [400 East]	AGP, AG	Agricultural (field), residence, farm

***Proposed land use***

The petitioner is requesting the zoning amendment to make use of the AGP district for agricultural operations. In 2019, the petitioner obtained AGP zoning for several parcels in the vicinity, and this rezoning would add some property to that area. The eastern parcel would be contiguous to previously zoned AGP area, while the western parcel would be the first AGP-zoned property in Section 9. Like the previous request, the petitioner has stated that there are no plans to establish plans for a Confined Feeding Operation (CFO) on the property, and they are seeking a zoning change for the 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 western parcel is just under 80 acres. The eastern parcel would add about 40 acres to the existing AGP property, creating a total contiguous zoning area of approximately 612 acres.

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, and the petitioner has not indicated a desire to split the property.

There is one residence on the subject property, which may remain in its current use with a legal nonconforming status. If any new residences were to be proposed, they would need to be occupied by the property owner(s), family, or employees.

### **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 2022 Comprehensive Plan describes the Future Character and Land Use plan as “the overall look and feel of a place—the impression it makes on residents and visitors and the qualities of buildings and spaces that make it different from other places.” The plan describes community character “to help guide growth and change to support places that are attractive, draw people to want to spend time there and are compatible with adjacent areas, without being overly specific to every parcel’s individual land use.” So, the Plan emphasizes that the overall character of an area, while making allowances for some deviations that would not be detrimental to the overall area.

For the subject area, the Future Character is designated as Rural-Agricultural, though Mixed Rural is in the immediate area of the eastern parcel. While the primary character of the Rural-Agricultural area is to be agricultural or rural, and the character intensity is recommended to be 2 (very low intensity), some higher-intensity agricultural uses and/or small-scale commercial or retail can be appropriate as secondary uses. The AGP zoning, as a restrictive agricultural district, would follow this character. If any higher-intensity agricultural uses are to be proposed, they would need to be reviewed judiciously for compatibility with the surrounding area, especially as some new developments should be expected in the Mixed Rural character area.

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

Generally described, this area of Jefferson Township has some tracts split for non-farmstead residences, but there are only two major residential subdivisions within a half-mile of each parcel: Mannes Homestead and Rolling Meadows near the eastern parcel and Stone Meadows and Stable Acres near the western parcel. The majority of the area surrounding the subject property is used for agriculture and farmsteads (current and historic), with many agricultural parcels in the area over 40 acres in area. The western parcel does have several unplatted non-farm residential properties varying from 2- to 20-acres adjacent along 700 South.

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 parcels and most of the area surrounding each have long-been used for agriculture, and, other than Stable Acres and the cluster of roadside parcels along 700 South, most development in the area consists of scattered individual homes. Sanitary sewer is in place along SR 14, but its capacity and availability for major development is not certain. Being that both parcels are west of 600 East, the desirability of residential development is lowered, as reflected in the Comprehensive Plan. There was a previous rezoning of the 570± acres adjacent to the eastern parcel in 2019 suggests that AGP may be appropriate for this area. So, agriculture could be a desirable long-term use here.

The question then is whether AG or AGP is most desirable for these parcels. 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.

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

While not proposed by the petitioner, 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. 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, in combination with the stated intention to continue crop cultivation on the parcels, 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.

**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, if one were to be proposed, though regulations and permitting requirements are in place through IDEM that could be expected to mitigate health impacts.

Date report completed: 6/11/2024

**PLAN COMMISSION ACTION**

Motion:

By:

Second by:

Favorable recommendation \_\_\_

Unfavorable recommendation \_\_\_

No recommendation \_\_\_

Conditions/Commitments? \_\_\_

<b>Vote:</b>	<b>Baker</b>	<b>Banks</b>	<b>Drew</b>	<b>Emerick</b>	<b>Green</b>	<b>Hodges</b>	<b>Johnson</b>	<b>Kurtz-Seslar</b>	<b>Wolf</b>
<i>Yes</i>									
<i>No</i>									
<i>Abstain</i>									

