

**WHITLEY COUNTY ADVISORY PLAN COMMISSION
STAFF REPORT**

24-W-REZ-5 ZONE MAP AMENDMENT
Doug & Terri Reiff Revocable Trust
South side of 1000 South, ½ mile east of 650W

OCTOBER 16, 2024
AGENDA ITEM: 4

SUMMARY OF PROPOSAL

Current zoning: AG, Agricultural
Proposed zoning: AGP, Agricultural Production
Property area: 179.89± acres

The petitioner, owner of the subject property, is requesting a zone map amendment for 179± acres located in Sections 32 and 33 of Cleveland Township, generally located on the south side of 1000 South, approximately one mile west of SR 105 and ½ mile east of 650 West. The requested zoning for the subject property is AGP, Agricultural Production.

Existing zoning classifications and land uses

Currently, the subject area is zoned AG, Agricultural, and is primarily used for crop cultivation. About 8 acres is wooded. One legal drain tile is located in the far southwest corner of the property and an open drain is located across the middle of the property.

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

	<i>Current zoning</i>	<i>Current land use</i>
<i>North</i>	AG, IN	Residences, [1000 South], agricultural (field), slaughterhouse
<i>East</i>	AG	Agricultural (field), residences, wood products business
<i>South</i>	AG	Agricultural (field), residence, [SR 114]
<i>West</i>	AG	Agricultural (field), woods, residences, [650 West]

Proposed land use

The petitioner is requesting the zoning amendment to make use of the AGP district for agricultural operations. It is intended that this may be a secondary choice to locate a Class 3 Confined Feeding Operation (CFO), dependent on the suitability of their primary site, which is the subject of 24-W-REZ-4.

Even if a CFO is not proposed here, they are seeking the zoning change 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 zoning code requires a minimum 20-acre parcel size if created under AGP. The subject property exceeds this.

There are no residences on the subject property. If any 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 property, the Future Character is designated as Rural-Agricultural. While the primary character of the 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.

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

Generally described, this area of Cleveland Township has relatively few tracts split for non-farmstead residences, though there are residences north of the property. The majority of the properties surrounding the subject property are used for agriculture and farmsteads, with many parcels in the area over 40 acres in area.

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 property has long-been used for agriculture. While there are at least two businesses within ¼ mile of the property, they are agriculture-related, and there has been little significant non-agricultural development in the vicinity. No public utilities are in reasonable proximity. All of these factors seem to reinforce agriculture as being a desirable use here. The question then is whether AG or AGP is most desirable for this property. 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 currently, 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, 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. Given the location, surrounding uses, and availability of utilities, this property, and the immediate vicinity, seem to be unlikely to be suitable for large-scale non-agricultural development within the planning horizon, and the conditions around the property generally seem to be compatible with agricultural production uses.

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, although regulations and permitting requirements are in place through IDEM that could be expected to mitigate health impacts.

Date report completed: 10/8/2024

PLAN COMMISSION ACTION

Motion: _____ By: _____ Second by: _____

Favorable recommendation _____

Unfavorable recommendation _____

No recommendation _____

Conditions/Commitments? _____

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

