

**MINUTES
WHITLEY COUNTY PLAN COMMISSION
REGULAR MEETING
JULY 19, 2017 7:00 P.M.**

MEMBERS PRESENT

Chad Banks
Elizabeth Deckard
John Johnson
Kenneth Kerch
Mark Mynhier
Tom Western
Brad Wolfe
Doug Wright
John Woodmansee

STAFF

Nathan Bilger
Jennifer Shinabery

ATTORNEY

Dawn Boyd

VISITORS

There were 217 visitors who registered their attendance at the July 19, 2017 regular meeting of the Whitley County Plan Commission.

CALL TO ORDER

Mr. Wright called the meeting to order at 7:10 P.M.

PLEDGE OF ALLEGIANCE

Mr. Wright led the Pledge of Allegiance.

ROLL CALL

Ms. Shinabery read the roll with those members present listed above.

CONSIDERATION AND ADOPTION OF THE JUNE 21, 2017 REGULAR MEETING MINUTES

Mr. Wright asked if there were any additions or corrections to the June 21, 2017 regular meeting minutes. There being none, Mr. Banks made a motion to approve the minutes as submitted, seconded by Mr. Western. The minutes were approved by a unanimous 9-0 vote.

OATH TO WITNESSES

Mrs. Boyd administered the oath to those present who wished to speak during the meeting on behalf of the petitions.

OLD BUSINESS

There was no old business to discuss.

NEW BUSINESS

17-W-SUBD-8 Mark & Ruth Knafel, 3155 E. Colony Avenue, Columbia City, requested primary plat approval for a 2-lot subdivision to be known as “Knafel Subdivision”. The property is located on the northwest side of E. Keiser Road, approximately ½ mile southwest of S. State Road 9 and more commonly known as 435 E. Keiser Road, Columbia City, in Section 26 of Columbia Township.

Mr. Bilger summarized the staff report, providing details of the proposed plat and explaining that the proposed lots require platting as the parcel has been split previously. He referred to the aerial view, explaining that the shape of the two lots is likely intentional in order to place all of the regulated floodplain on one lot. He explained that the proposed plat appears to meet the Zoning Code and Subdivision Control Ordinance standards. He explained the three conditions staff recommends that are listed in the staff report, pointing out that the building footprints indicated on the plat are for buildings that presumably do not exist.

Kevin Michel, Walker & Associates, represented the petitioners and clarified that the buildings listed on the plat are under construction. Mr. Michel confirmed that the regulated floodplain was all on one lot so that any future development on the other lot would not need to address any floodplain issues. Mr. Michel explained that two sites have already been approved for the septic system.

Mr. Wright asked if there was anyone present who wished to speak against or in favor of the petition. There being no comments, Mr. Banks made the motion to approve the petition with secondary plat approval delegated to the Plan Commission staff. Mr. Woodmansee requested to amend the motion to include the condition of formalizing the covenants document and including the agricultural notice prior to recordation. Mr. Johnson seconded the motion. The motion passed with an 8-0-1 vote, with Mr. Kerch abstaining.

17-W-SUBD-9 Scott & Nicole Trier, 396 E. 400 North, Columbia City, requested primary plat approval for a 1-lot subdivision to be known as “Wildwood Hills”. The property is located on the west side of N. Airport Road, approximately ½ mile north of E. 400 North, more commonly known as 4375 N. Airport Road, Columbia City, in Section 16 of Thorncreek Township, and is zoned AG, Agricultural District.

Mr. Bilger summarized the staff report, explaining that the proposed plat appears to meet all of the zoning code requirements. He referred to the aerial view, pointing out the location of the proposed lot, including the shared driveway. He explained that since the staff report was written, the Health Department did submit an approval letter for the septic system on the proposed lot.

Kevin Michel, Walker & Associates, represented the petitioners and confirmed that there is a 30’ strip west of the proposed lot, which will tie the land to the south and the north of the proposed lot together. He also confirmed that there is an existing egress/ingress easement north of the proposed lot and the petitioners will share a driveway so they do

not have to build a new one; however as zoning code dictates, there is a lot frontage of 50'.

Mr. Wright asked if there was anyone present who wished to speak against or in favor of the petition. There being no comments, Mr. Banks made the motion to approve the petition with secondary plat approval delegated to the Plan Commission Staff. The motion was seconded by Mr. Kerch and passed with a unanimous vote.

17-W-REZ-2 Troy Center, Inc., 709 W. Business 30, Columbia City, requested an amendment of the Whitley County Zoning Map by reclassifying property from the IPM, Industrial Park/Manufacturing District to the GC, General Commercial District in order to relocate the school. The property is located on the north side of E. Business 30, approximately ½ mile west of S. Governors Road, more commonly known as 1911 E. Business 30, Columbia City, in Section 13 of Columbia Township. Due to not meeting the public notice deadline, this petition was continued to the August 16, 2017 regular meeting.

At this point, Mr. Wright moved the item of Other Business to permit representatives from the Whitley County Agricultural community to give a presentation to the Plan Commission.

The presenters were as follows: Kelley Sheiss, Three D Stock Farms, 8179 N. 650 West, Larwill; Mark Johnson, Shady Grove Farms, 7580 E. 150 North, Churubusco; Brian Emerick, CEO Micropulse, Inc., 5865 E. State Road 14, Columbia City. Their presentations are attached to these minutes.

17-W ZOA-2 Public hearing to consider text amendments to the Whitley County Zoning Ordinance to create an Overlay Zone related to Agricultural and Residential uses near lakes, State Road 9 and 109 corridors, and eastern Jefferson Township.

Mr. Bilger referred to the 2011 Land Classification Map, pointing out the recommended zoning areas and explaining that this map is what is guiding this consideration. He explained that since the 2011 Comprehensive Plan was adopted, there have been no zoning changes. He stated that following such a plan is not easy for any county; however, due to current pressures, it is time to consider what changes may need to be made, based off of the recommendations given in the plan.

Mr. Bilger reviewed the planning principles and subsequent objectives from the 2011 Comprehensive Plan that were related to the discussion. He explained that the two areas of primary focus he is proposing to the Plan Commission at this time are residential growth and continued agricultural growth.

Mr. Bilger referred back to the Land Classification Map and briefly summarized Agricultural, Transitional Agriculture, Rural Residential, and Residential and their recommended purpose and uses. He pointed out 6 circled areas on the map that are targeted areas for this discussion. He also referred to a map showing the existing Confined Feeding Operations (CFOs) in the county. He explained the data on the map

was gathered from the 48 IDEM permits issued in the county from 2002 to 2015. He stated that from the information he has, only 30 CFOs were in operation in the county as of 2016. He stated that since 2015, there have been 3 IDEM permits that have been applied for. He stated that the CFOs in the county are located primarily outside the target areas. He also referred to the current zoning map, explaining that the county does not currently have a transitional agriculture district, nor a truly rural residential district. He explained that the discrepancy between the Land Classification Map from the 2011 Comprehensive Plan and the current zoning map is the reason why a planning effort is needed and is not something that can be accomplished quickly in order to result in educated regulations that everyone can live with and that will better the community.

Mr. Bilger explained that staff are proposing an interim overlay district with the intent of maintaining a level of status quo that does not compromise the planning process that needs to occur in order to formulate the best regulations for those areas in the county, as recommended in the Comprehensive Plan. He explained that an overlay district is a zoning district that lays on top of the existing district and modifies that district either by adding regulations or making exceptions. He explained that an overlay zoning district does not make changes to the district underneath and could be helpful in this case. He explained that the proposed overlay district could prevent unexpected residential and agricultural projects during the planning process. He reviewed Section 3.5 "IO-AGR" Interim Overlay-Agricultural Residential District and explained that this was meant for the Plan Commission to have something as a starting point for discussion. He explained that the proposal he is presenting is for the Plan Commission's consideration and is based upon initial research and input from all parties involved. He then reviewed the zoning criteria for text amendments.

Mr. Bilger stated that whether or not the Plan Commission decides to approve an overlay zoning district, he is recommending a planning effort. He explain that he is suggesting that a study committee be formed of between 8-10 people who report back to the Plan Commission on a monthly basis. He suggested that the committee be comprised of at least a few members of the public on both sides of the issue as well as other interested parties. He stated that he put together a proposed timeline for the next six months to help guide the due diligence process of the planning effort. He explained the timeline includes topics for the Plan Commission to discuss and address, with the input of the proposed committee. Mr. Bilger proposed the following timeline:

July (tonight's meeting): Overlay district.

August: Residential growth, including what type is desired and where.

September: Environmental impacts of both residential and CFOs.

October: Economic development impacts of both residential and confined feeding operations.

November: Finalizing discussion on residential and agricultural development, including a discussion on whether or not there should be separations between the two uses and where those separations should be located.

December: Final Public hearing on the proposed code and subsequently the expiration of the overlay code, if one exists.

Mr. Bilger asked the Board if they had any questions for him. There being none, Mr. Wright opened the meeting up for public questions directed to Mr. Bilger.

Kelley Sheiss, 8179 N. 650 West, Larwill, asked whether the overlay district would allow for industrial development in the target areas. Mr. Bilger responded that his recommendation would be that those special exceptions would not be approved during the time of the overlay.

Gwen Yeager, 1860 E. Linker Road, Columbia City, stated that she is a Certified Compliance and Ethics Professional with a legal background and would like to be on the study committee.

Mr. Bilger responded that he would receive volunteers and check availability of those volunteers.

Paul Mills, 1679 E. Bair Road, Columbia City, stated that he did not see how property valuation was an item to discuss in Mr. Bilger's presentation. He stated that studies show that CFOs within close proximity devalue properties and the Hinen's operation is within a mile and a half of Shriner Lake. He stated that Whitley Water Matters did an assessment of all of the property values along Bair Road that would only make up about 10% of the properties at Tri-Lakes that could be affected by the Hinen's CFO and that assessment value came up to 22.8 million dollars. He stated that in other areas of the state where proper planning was not done, property owners have sued. He stated that he did not see anything in the plans that showed concern for the valuation and loss of tax revenue by not controlling CFOs in the county. He asked how this issue will be addressed.

Mr. Bilger responded that in the overlay district proposal under Development Standards, Option C3.2 and C3.3 deal with setbacks. He stated that his proposal was a starting point for the Plan Commission to discuss. He explained that research on impact on land and property values would need to be a part of the research done during the planning process.

Pat Murphy, 1490 E. 200 South, Columbia City, asked what the valuation would be of the collective loss if the operations of these farms were affected.

Mr. Bilger responded that he does not have an exact monetary figure to answer that question; however, any change will have an effect and that is the reason taking the time and due diligence for the planning process is so important.

Jered Myers, 4640 S. 275 West, Columbia City, asked how much development would be expected over the course of the proposed 14 month time period for the planning process. He also asked if development was allowed, how much damage it would do and how much inconvenience it would cause.

Mr. Bilger responded that those questions are really why the planning process is necessary. He explained that the Department does not know what development may be proposed in the future, including over the next 14 months. He explained that the goal of the overlay zone during the planning process is to possibly pause CFO and residential

development while it is decided where and when such development should be encouraged.

Paul Mills, 1679 E. Bair Road, Columbia City, asked Mr. Bilger if he was recommending a moratorium on any new CFO permits.

Mr. Bilger explained that he has given the Plan Commission several options and he is not recommending any over the other. He explained that he serves as staff to the Plan Commission and Commissioners and his role is to present reasonable options for them to decide upon. He explained that one of the many options he presented would include restrictions on new CFO development; however, he is unsure what the Plan Commission will find palatable.

Ronda Salge, 5465 N. 650 East, Churubusco, stated that she thought there were too many options presented and it is hard to sort out. She asked if it was necessary for the Commission to make a decision tonight or do they have the option to table it. She also asked if it would be possible to put the slides presented tonight on the website for the community to have time to consider them and also provide a way for public input other than a Plan Commission meeting, which is overwhelming.

Mr. Bilger responded that the Plan Commission has the option to table, withdraw, or give a favorable or unfavorable recommendation. He stated that the proposed overlay code is currently on the website and it would be possible to add the slides as well. He stated that an alternate way to obtain public input would be possible. He explained that as a planner, he highly values public input in order to determine what is best for the community. He explained that the longer input is received on the overlay code, which is intended to be an interim solution, the longer the planning process will take. He explained that would be a decision for the Plan Commission.

Pat Murphy, 1490 E. 200 South, Columbia City, asked why people were being allowed to push their position with this platform.

Mr. Bilger responded that the public hearing stems from the 2011 Comprehensive Plan and the attempt to follow the recommendations.

John O'Connell, 1705 E. Bair Road, Columbia City, asked the Commissioners when they received the proposed overlay zoning document and what forum they have to be able to discuss the document. He also stated that he would like to see both sides of the table come together and discuss everything in order to come up with intelligent solutions.

Mr. Wright responded that he received the document on the previous Friday and explained that this time was an open forum in order for the public to be able to provide input as well as allow the public to hear the Commission discuss and decide on the issue.

Trisha Hinen, 4450 N. State Road 9, Columbia City, asked if the Comprehensive Plan was used as guideline material. She stated that they submitted their IDEM permit on February 17, 2017 and their property was zoned Agricultural District. She stated that they were ready to answer any opposition with regards to setbacks if needed. She stated that

she is at a loss and is wondering why the Commission would consider putting restrictions on someone who has already spent a great deal of time and money and is already in the process.

Mr. Wright responded that the Plan Commission needs to discuss that.

Tom Lehman, 366 E. 600 North, stated that times are changing and he believes it is time for a big revamp. He asked what the impact would be if a CFO failed and also if a bonding type insurance could be considered in order to provide some sort of safety net and structure to the process.

Mr. Bilger stated that some counties do require some sort of a bond insurance; however, he is unaware of the details of that. He stated that this would be something to consider for the long-term.

Tim Dygert, 5945 S. Woodstrail Drive, Columbia City, stated that there are a number of counties that require a permit from the health department for a CFO and asked if that was something to be considered.

Mr. Bilger stated that he is unsure what the health department requires as they are a separate department.

Stephen Hancock, 1711 E. Bair Road, Columbia City, asked when the public would have the opportunity not only to ask questions, but to speak and share ideas.

Mr. Bilger responded that he appreciated the question and would like to see public input outside of a formal public hearing such as this. He explained that the timeline he proposed earlier could include workshops to be held after the formal Plan Commission meetings. He explained that another option would be to have steering committee meetings where there is no pressure for a decision.

Mr. Wright asked if there were any other questions. There being none, Mr. Wright asked if there were any comments.

Tim Dygert, 5945 S. Woodstrail Drive, Columbia City, stated that he wanted to emphasize that there is a lot of scholarly documentation that CFOs make poor neighbors. He stated that local and state regulations do not protect against the number of negative health and economic impacts when placed in close proximity to residential and watershed areas. He stated that he wanted to encourage the Plan Commission to err on the side of safety until sufficient research is done to understand how best to integrate CFOs into Whitley County.

Paul Mills, 1679 E. Bair Road, Columbia City, stated that the existing zoning ordinances do not accurately reflect the 2011 Comprehensive Plan. He stated that doing nothing does not move the ball forward. He stated that the 2011 Plan is not even inadequate and needs to be redeveloped as it does not address the increasing national trend of high intensity factory farming and can result in a CFO being located too close to the lakes.

Ken Kunze, 2058 E. Wilcken Road, Columbia City, stated that he concurs with the remarks from the group Whitley Water Matters and also concurs with many of the remarks from the Agricultural community. He stated that he understands there are diverse interests and although he views this community as a lake community surrounded by beautiful, productive farms, he understands others see this same community as a home and work community surrounded by a few nice lakes. He stated that in his seven years of experience as a developer and a resident in this county, the Plan Commission has been very fair and Mr. Bilger is very intelligent. He stated that he understands the job before the Commission is big and stated that in his opinion the only mistake that could be made is to rush into making decisions that will affect the future of the residents of Whitley County.

Kelley Sheiss, 8179 N. 650 West, Larwill, stated that she understands there is a lot of research and for every side of an argument, there is research to support that argument. She stated that she believes the best supporting research we have is in this room. She stated that Mr. Emerick mentioned that the average age of farmers now is 57. She asked for anyone involved in the agricultural community 40 years of age or younger to stand and they were met with applause. She stated that if an overlay zoning code or moratorium is approved, the Plan Commission is essentially telling those that stood that they are unwanted. She stated that those that stood are our future and the Plan Commission owes it to them.

Pat Murphy, 1490 E. 200 South, Columbia City, stated that the cattle expansion that is concerning people is actually less than one animal per acre. He stated that he also wants to emphasize nutrient regeneration. He stated that nutrients that are produced on farms such as the Hinen's CFO are put back into the farms and are not hauled from overseas or manufactured. He explained that regenerated biological nutrients are proven to provide less run-off than commercial fertilizer and no one in this community would be able to produce a crop without fertilizer. He explained that there is almost as much phosphorous and other nutrients that naturally reside in the soil that can run-off. He explained that CFOs are a system that is all self-contained under one roof, with no chance of run-off. He stated that there is no environmental impact from the Hinen's farm; in fact the environmental impact will be reduced. He explained that you cannot just pick up a farm that is four generations deep and simply move it. He stated that there are three generations on the Hinen farm and they contribute to our community greatly. He stated that the lake residents have their own sources of run-off and pollution. He stated he thought it is important to consider the source of food and the sacrifice farmers make to provide that food. He stated that farmers are producing the highest quality and safest food product in the world and he thinks it is unbelievable that they are having to fight in this county to be able to farm.

Barbara Hohenstein, 2555 E. Beech Avenue, Columbia City, stated that she understands there is a great deal of pressure on the Plan Commission and wants to remind them that no public official should knowingly use his or her office to obtain an economic interest for himself, his family, or an individual or business with whom he is associated. She stated that no public official should make or participate in making or influence a government decision in which he or she has a business or economic interest. She stated

that failure to recuse oneself from an issue when there may be a conflict of interest is the sole responsibility of the Board member.

Tim Dygert, 5945 S. Woodstrail Drive, Columbia City, stated that he has spent hundreds of hours doing research and has a chemistry background and he has looked for evidence that prove that CAFOs are safe with no negative impacts and IDEM regulations are sufficient and he has not been able to find it. He stated that the preponderance of the evidence proves that CAFOs have a negative impact on communities when they are in close proximity to residences. He explained that Whitley Water Matters is not asking that the county do away with CAFOs; however, they are asking that they not be placed within a couple of miles of high residential areas, including the lakes.

Carol Myers, 4640 S. 275 West, Columbia City, stated she is from Lake County and the suburban areas there have produced pollution and run-off, not the farms. She stated that the fertilizers and herbicides used on lawns in residential areas is one example.

Ronda Salge, 5465 N. 650 East, Churubusco, stated that data can be quoted and manipulated many different ways and cannot be trusted. She stated that based on her observation over the past few years, the Plan Commission and Board of Zoning Appeals know their responsibilities and take them seriously. She stated that she has lived next to two large open-air chicken operations and the smell was not unbearable and the CAFOs being discussed this evening are not close to the size of those chicken operations. She stated that when you move into a lake area that is surrounded by agriculture, you are not going to bring urbanization standards with you. She stated that although things do change and we need to look into that, you cannot expect to move into an agricultural area and expect everyone to accommodate you. She stated that she understands that the 2011 Comprehensive Plan holds a lot of weight; however, it is not the Bible and the guide should be the consensus reach by the majority of the people. She stated that a farmer is not going to want to contaminate the very water used for their animals to drink, as that is their livelihood. She stated that farmers are having to change their techniques as we are losing 9.5 acres of agricultural ground in the U.S. per minute. She stated that farmers are having to operate with less ground and more government restrictions. She stated that she would like the Plan Commission to take more time to consider the overlay without the pressure of making a decision quickly that will impact generations.

Keyes McGregor, 3067 E. Colony Avenue, Columbia City, stated that it is incorrect that the lake residents do not care about agriculture or the youth interested in agriculture simply because they asked the Plan Commission to hear their concerns. She stated that what they are asking is that the zoning be updated to reflect 21st century agriculture.

There being no further comments, Mr. Wright closed the hearing from public comments.

Mr. Johnson stated that the Plan Commission needs public input and the letters written to them have been valuable and easy to comprehend. He stated that his opinion is to hold off making a decision for at least 30 days in order to have more time to study the issue. He stated that in the meantime, a steering committee could make their recommendations.

Mr. Western made the motion to table the decision for one month in order to have time to study the issue and the proposed overlay zoning code.

Mr. Banks stated that he does not want to see the Plan Commission continue to “kick the can down the road.” He stated that he likes the idea of a study or steering committee. He stated that he is most in favor of personal property rights. He stated that he believes it is important to continue to receive and consider public input. He stated that a committee would be productive rather than simply tabling the decision.

Ms. Deckard seconded the motion to table the decision as long as a steering committee is in put into place. The motion was approved by a unanimous vote.

Mr. Bilger asked for volunteers from the Plan Commission to be on the steering committee and Ms. Deckard, Mr. Wright, Mr. Wolfe all volunteered. Mr. Banks volunteered to be an alternate. Ms. Shinabery took the names and contact information of volunteers from both sides of the issue: Whitley Water Matters and Agriculture. Mr. Bilger suggested there be three representatives from the Plan Commission as well as three from both groups.

ADJOURNMENT

There being no further business to discuss, Mr. Wright declared the meeting adjourned at 9:45 p.m.

GUEST LIST

A complete Guest List accompanies these minutes.