

**WHITLEY COUNTY PLAN COMMISSION  
REGULAR MEETING MINUTES  
MARCH 20, 2019 7:00 P.M.**

**MEMBERS PRESENT**

Doug Wright	Brad Wolfe
John Woodmansee	Tom Western
Thor Hodges	Mark Mynhier
John Johnson	Joe Wolf
Elizabeth Deckard	

**STAFF**

Nathan Bilger  
Jennifer Shinabery

**ATTORNEY**

Dawn Boyd

**VISITORS**

There were 88 visitors who registered their attendance at the March 20, 2019 regular meeting of the Whitley County Plan Commission. A signed guest list is kept on record.

**CALL TO ORDER/ROLL CALL**

Mr. Wright called the meeting to order and led the Pledge of Allegiance at 7:00 p.m. Ms. Shinabery read the roll call with all members present.

**CONSIDERATION AND ADOPTION OF THE MEETING MINUTES**

Mr. Wright asked if there were any additions or corrections to the February 20, 2019 regular meeting minutes. There being none, Mr. Hodges made a motion to approve the minutes as presented, seconded by Mr. Wolfe. The motion passed 8-0-1, with Mr. Johnson abstaining.

**OATH TO WITNESSES**

Attorney Boyd administered the oath to those present who wished to speak during the meeting.

Mr. Wright explained that the order of business would be altered from the agenda and petition 19-W-SUBD-2 would be discussed first.

**19-W-SUBD-2** Stanley Meyer, 7935 N. 350 West, Columbia City, requested preliminary plat approval for a 1-lot subdivision to be known as Stanley Meyer Subdivision. The property is located on the south side of W. Old Trail Road, about 1 mile west of S. 400 West in Section 12 of Richland Township and is zoned AG, Agricultural District.

Mr. Bilger reviewed the staff report, explaining the details of the petition and the necessity for platting. He referred to aerial views of the property and stated that the plat appears to be compliant with the standards of the Subdivision Control Ordinance and the Zoning Code. He reviewed the comments letters submitted from the Soil and Water Conservation District and the Highway Department. He explained that the Parcel Committee had made a recommendation to revise the name of the subdivision to avoid confusion with similar names of existing plats.

Kevin Michel, 4242 S. 700 East, of Walker & Associates, Inc., presented the petitioner's request, explaining various details of the plat.

Mr. Wright asked if there was anyone present who wished to speak regarding the petition.

Roger Clemens, 8441 N. 350 West, Columbia City, asked whether the property could be divided again in the future and what affect it would have on his taxes. Mr. Wright explained that this petition is only for one lot and any further lots would require further approval.

Mr. Wright asked if there were any further questions or comments. There being none, Mr. Woodmansee made a motion to approve 19-W-SUBD-2 with the suggested staff conditions of:

1. Give consideration to an alternate name to avoid confusion with other recorded plat names.
2. Secondary plat approval delegated to the Plan Commission Staff.

Mr. Hodges seconded and the motion passed 9-0.

### **OLD BUSINESS**

**19-W-REZ-2** Brian & Sonya Emerick, 5865 E. State Road 14, Columbia City, requested an amendment to the Whitley County Zoning map by reclassifying 10 parcels from the AG, Agricultural District to AGP, Agricultural Production District. The properties are owned by Emerick Farms, Inc., Brian & Sonya Emerick, and Brent & Liza Emerick and are located east of S. 500 East, west of S. 800 East, north of E. 900 South and south of E. 500 South, in Sections 3, 10, 13, 15, 22 and 23 of Jefferson Township.

Mr. Bilger briefly summarized the petition that was initially presented at the previous meeting. He reviewed the staff report, highlighting the revised portions under the review criteria. He reviewed the intents and uses of the AG and AGP districts.

Brian Emerick, 5865 E. State Road 14, Columbia City, explained that the reason and intent for their petition remains the same: to maintain large tracts of land, to protect agriculture and to preserve the county's rural character. He referred to an opposing petition that was presented at the previous meeting, stating that there were only two signatures on that petition from adjoining property owners. He added that one of the people that signed later rescinded, stating that they had been misinformed about the petition by an email titled "Hogs, hogs and more hogs." He stated that those opposing his petition have spread misinformation and fear. He explained that he has been able to obtain 154 signatures, all from Whitley County, in favor of his petition and 29 of those are adjoining property owners. He also explained that he had responded in writing to some questions from one of the Commission members and those were distributed to all members.

Mr. Wright asked if there was anyone present who wished to speak regarding the petition.

John Enrietto III, 8151 S. 700 East, Columbia City, explained that he wanted to review a letter he had previously submitted to the Commission members. The letter outlined his proposal for developing a new zoning district, “AG-R, Agricultural Restrictive”, which he described as essentially AGP with no CAFOs. He stated that this additional district would provide preservation while protecting property values and would provide stability to both sides.

Robert Eherenman, attorney with Haller & Colvin, 444 East Main Street, Fort Wayne, stated he represents Pete & Alice Eshelman, Byron & Shelby Lamm and John and Rolene Popp. He explained that although the petition is not about a specific CAFO site, it is necessary to discuss CAFOs as AGP zoning allows for larger sized CAFOs. He explained that he had prepared some commitments that the Plan Commission could implement as part of their recommendation and those commitments were provided to the Plan Commission members as well as the petitioner’s attorney. The commitments would prohibit CAFOs on the rezoned properties without further Plan Commission approval.

Ronda Salge, 5465 N. 650 East, Churubusco, stated that she reviewed the past 100 years of plat maps and found some interesting things. She explained that between the years 2005-2016, there appeared to be a trend of combining smaller parcels. She also stated that in her comparison of the various townships, Jefferson Township does not much appear different from the rest of the county. She stated that she sees the petition as rebalancing and believes the Emerick’s stated intentions.

Sharon Lewis, 15318 Bristlecone Court, Fort Wayne, discussed drainage concerns between Aboite Township in Allen County and Jefferson Township.

Linda Hoffman, 8120 S. Westfield Trail, Columbia City, asked whether AGP zoning on two of the parcels close to the Westfield Passage subdivision would create conflicting land uses.

Kurt Kehmeyer, 8244 S. 600 East, Columbia City, discussed the various zoning districts and the recommended residential density for those districts, providing data for the existing home density in Jefferson Township. He stated that rezoning the properties to AGP would be in conflict with those recommendations and guidelines.

Alice Eshelman, 6755 E. 900 South, Columbia City, expressed an appreciation for lost farm land, stated that the concern is the threat of CAFOs, and asked that a way be found to control growth without rezoning to AGP.

Jim Federoff, attorney with Carson LLP, 301 W. Jefferson Boulevard, Suite 200, Fort Wayne, stated he represented the petitioners. He commented on the commitments proposed by the remonstrators, stating that they would prohibit *all* CFOs on all of the parcels, even those already permitted under AG zoning. He stated that the commitments would erroneously give the authority to permit or prohibit any CFO to the Plan Commission versus the County Commissioners and would also require public notice

outside of the normal requirements in the zoning ordinance. He summarized the commitments as being far too broad and over-reaching in scope and the explained that the Emericks do not believe they should be required of them. He reiterated the Emerick's goal of preserving farm land and asked for a favorable recommendation for rezoning.

Mr. Bilger clarified that the Plan Commission has the authority to modify the commitments, if desired.

There being no further public comment, Mr. Wright closed the public hearing at 8:06 p.m.

Mr. Wolfe stated he felt it was necessary to clarify that the 'P' in AGP stands for 'production', not 'protection'. He also stated that he appreciated the Emerick's openness and this is not a case of whether the petitioners are good stewards of the land or not. He stated that the AG district intent allows for coinciding with other districts and uses. He stated that per the Comprehensive Plan, six of the parcels in the petition are in land classifications such as transitional agriculture or rural residential that do not fit with intense agriculture and are areas targeted for residential growth. He stated that AGP should not be placed in land that is targeted for such growth. He stated that public utilities are moving in that area and the area is too dense for AGP. He stated that AGP zoning in southeast Jefferson Township would create more land conflicts. He stated that one of the goals for the Plan Commission is to determine the best locations for intense agriculture in the county. He stated that 7 out of the 10 parcels were purchased by the Emericks after the 2011 Comprehensive Plan was developed, explaining that they would have had an opportunity to be aware of the Land Classification Map and know what the recommendations were for the area. He concluded that he believes there are other ways to accomplish the goals of the petitioners without rezoning to AGP.

Mr. Woodmansee stated that he is a supporter of agriculture and generally in favor of AGP zoning but believes this request counters the vision of the Comprehensive Plan, does not fit the area, and would create conflicting land uses. He stated he understands the arguments on both sides.

Mr. Hodges stated that the decision is tough and there are strong opinions involved and has appreciated the opportunity to meet new people and gather new and valuable information.

Mr. Wolf stated that he spoke with someone from the post office who informed him that they have had to add more length to the mail route in the area of the petition due to decreased mail volume. He stated that in Jefferson Township there is prime farm ground adjacent to a subdivision that probably should not have been placed there. He added that both sides do not want what is there for differing reasons. Mr. Wolf stated that agriculture should be recognized as a business and an industry and those in agriculture are trying to protect their business and provide for their families.

Mr. Johnson stated that this request is not about CAFOs because CAFOs are already allowed in AG zoning districts. He explained that the difference is in the amount of animals allowed and those in opposition do not want a CAFO of *any* size. He stated that he did not believe the difference in amount would make a difference.

Mr. Brad Wolfe made a motion to give an unfavorable recommendation to the County Commissioners; Mr. Mynhier seconded. The motion passed 5-4, with Mr. Hodges, Mr. Woodmansee, Ms. Deckard, Mr. Mynhier and Mr. Wolfe voting in favor and Mr. Western, Mr. Johnson, Mr. Wolf and Mr. Wright voting against.

### **NEW BUSINESS**

**19-W-REZ-4** Robert & Linda Hoffman, 8120 S. Westfield Trail, Columbia City, requested an amendment to the Whitley County Zoning map by reclassifying 18 parcels from AG, Agricultural District to RR, Rural Residential District. The properties have various owners, including the Hoffmans, and are located on the southeast corner of E. 800 South and S. 700 East. The properties include the Westfield Passage subdivision, Burris Estates, and 2 adjoining parcels, for a total of approximately 50 acres in Section 24 of Jefferson Township.

Mr. Bilger stated that he wanted to draw the Commission's attention to an issue prior to moving forward with discussion regarding the petition. He explained that due to a complicated situation, the petitioners were unable to obtain an authorized signature for the owner of Lot 11 of Westfield Passage (7252 E. 800 South). He explained that per Chapter Ten in the Zoning Ordinance, consent evidenced by the owner's signature, is required for all of the properties included in any petition, which is more restrictive than State statute. He explained that the petitioner provided documentation of their attempts to obtain a signature.

Attorney Boyd added that the Zoning Ordinance does not clearly address cases when a petitioner is unable to obtain a property owner's signature in a rezoning petition. She discussed three possible actions the Commission could take: tabling the petition so further efforts could be made to obtain the signature, allowing the petitioner to amend the petition by removing the parcel, and waiving the requirement for the signature.

Linda Hoffman, 8120 S. Westfield Trail, Columbia City, explained that the property is currently under the ownership of Lee Knake, who passed away in 2016. She further explained that at the time of death, Mr. Knake had a reverse mortgage solely in his name on the property. She stated that the property has been vacant since 2016, when Mr. Knake's wife moved out of the home following his death. She explained the many efforts made to contact the companies servicing the loan to which she received no response. She stated that she does not see how they can amend the petition to not include this parcel as it is part of the platted subdivision. She explained that currently the home is in very poor condition and a tax sale will not happen anytime soon. She stated she believes the petition is in order.

Mike Williams, 802 S. Westfield Trail, Columbia City, stated that Mr. Knake's property is one of twelve lots of Westfield Passage subdivision that is governed by bylaws which allows for a 2/3 vote to initiate any proposed action.

Following discussion, Mr. Hodges made a motion to table the petition in order to allow the Commission time to review the possible options and determine what course of action would be legally appropriate in this case. The motion was seconded by Mr. Wolf and passed unanimously.

### **OTHER BUSINESS**

Mr. Bilger provided the Commission with a various photographs illustrating the density of residential neighborhoods and provided a brief PowerPoint presentation on several neighborhood development types for consideration.

### **ADJOURNMENT**

Mr. Wright declared the meeting adjourned at 8:59 p.m.