

**WHITLEY COUNTY ADVISORY PLAN COMMISSION
STAFF REPORT**

22-W-REZ-3 ZONE MAP AMENDMENT
Janet Hurd & Sharon Simmons
South side of 200 South, 1,600'± west of Raber Road

**JUNE 15, 2022
AGENDA ITEM:**

SUMMARY OF PROPOSAL

Current zoning: AG, Agricultural
Proposed zoning: RR, Rural Residential
Property area: 4.1± acres

The petitioner, owner of the subject property area, is requesting a zone map amendment for 4.11± acres located on the south side of 200 South, about 1,600' west of Raber Road in Section 24 of Columbia Township. The property is currently unimproved. The requested zoning for the subject property is RR, Rural Residential.

The petitioner is requesting the zoning amendment to permit a one-lot subdivision for residential use. This triggers the need for rezoning out of AG, as explained in more detail below.

The subdivision plat request has not yet been prepared as the need for rezoning was recognized.

Existing zoning classifications and land uses

Currently, the subject area is zoned AG, Agricultural, and has been a field as far back as aerial photography is available (1948).

The following table lists current zoning classifications and land uses in the surrounding ¼ mile (approx.):

	<i>Current zoning</i>	<i>Current land use</i>
<i>North</i>	AG	[200 South], field, Eel River, farm
<i>East</i>	AG	Field, business, [Raber Road], residences
<i>South</i>	AG	Woods, field
<i>West</i>	AG	Field, residence, Eel River, residences

Proposed land use

The petitioner has indicated that the property is to be subdivided for the construction of a residence for a family member.

Sanitary sewer and public water are not currently available to this property.

Zoning code criteria

The parent parcel of 2018 (67± acres) was subdivided in 2020 to create "Rose Acres," a two-lot residential plat (4.72 acres) along Raber Road. Those lots have since been sold to a new owner, and a residence was constructed on Lot 2 in 2021. Lot 1 remains unimproved. It was clearly stated in the subdivision staff report and during the hearing that those two lots would be the only two platted residential lots permissible from the parent parcel without the need for rezoning.

The petitioner now desires to split an additional property, which is required to be platted. Since this creates three or more platted lots from the parent parcel since the September of 2018 threshold, it is considered a Major Residential Subdivision. Since Major Residential Subdivisions are not permitted in AG, the petitioner seeks this rezoning.

Major Residential Subdivisions are also restricted from being within 1,320' of existing Class 1 and 2 Confined Feeding Operations and 2,640' of Class 3 and 4 CFOs. The subject property (and potential plat) is 1,630' from the wall of a Class 1 CFO located to the northeast.

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 most recently adopted Comprehensive Plan is the 2011 Plan. There is a pending update to this Plan, which may or may not result in changes to the following recommendations. This review criterion specifically references the most recently adopted Plan, not a pending one, so the Commission has grounds to base decisions upon the 2011 Plan.

The Land Classification Map of the 2011 Plan "depicts the County's land use and development form goals (land classification) in a conceptual manner. It should not be construed representing precise location of land classifications, but used as a foundation for support and influence with land use and development form decisions and zoning map changes."

So, keeping in mind that the precise location of the classification areas is conceptual and open for interpretation, particularly around the fringes, the location of the subject property appears to be designated on the Map as "Transitional Agricultural". The north side of 200 South appears to be classified as "Rural Residential," and the Columbia City jurisdictional area begins at the river, about 270' to the northwest.

In its text, the Comprehensive Plan describes the purpose of the Transitional Agricultural classification as "to allow farmland and residential uses to coincide in appropriate rural areas." The recommended location of the classification is described in part as "areas where a portion of agricultural land has been divided into tracts that are forty (40) acres or less" and "areas with changing topography or lower agricultural or forestry value."

At a site level, the current and historic use of the property has been mostly agricultural. There are some small lot splits in the area, most notably Sherwood Forest at Raber Road. The floodplain of the Eel River lies on the western edge of this site, and the property falls about 15' from the east to west side. Given these characteristics, the Transitional Agricultural classification seems to reflect the current conditions of the area. So, it appears that the proposed rezoning and proposed use might align with the Plan's recommendation for Transitional Agricultural.

For reference, the proposed Comprehensive Plan Future Character and Land Use map indicates the site and surrounding area to be Conventional Rural (potentially renamed Rural-Agricultural), in which agricultural uses are anticipated to continue with few standalone non-farm residences. So, this rezoning might conflict with that recommendation. However, some new non-farm residential development could be expected where it is near or adjacent to existing residences. Given the proximity of existing subdivisions, the proximity of the Columbia City jurisdictional area, and number of residences in the vicinity of this plat, the proposed rezoning might be interpreted as being in character with the surrounding area and the recommended area character.

Both versions of the Plan also recommend siting growth near municipalities, which this rezoning and plat would only be a few hundred feet from.

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

The property is located among agricultural fields, with residential parcels to the east and west. A CFO is in operation to the northeast. Rezoning this property to RR would convert agricultural acreage to a residential tract, which is similar in nature to many of the existing surrounding properties. So, it is likely both the existing agricultural use or the proposed residential parcel could be compatible with the current conditions and character of the surrounding area.

3. The most desirable use for which the land in each district is adapted;

It seems that the proximity to the City may make the site more desirable for residential use. However, it is also near an existing CFO, which may make the property less desirable residentially. This could be mitigated by the fact that there is only one lot proposed, but only to the degree that it is not the first of more "only one lot" requests.

4. The conservation of property values throughout the jurisdiction;

Since the proposed residential use and lot sizes are similar to various surrounding properties, it is likely this rezoning would not have much effect on property values in the immediate area. The effect of residential development on the value of surrounding farmland may be positive or negative.

5. Responsible development and growth;

The addition of Major Residential Subdivision as a use in the code changes of 2018 was intended to serve as a check on the decades of effectively unrestricted residential subdivision plats in the Agricultural zoning district throughout the County. By requiring a rezoning process, new residential subdivisions totaling a cumulative three lots or more would not necessarily be prohibited in the County, but the process would provide the opportunity for discussion about the appropriateness of subdivision proposals that had previously not been available since platting by itself is an administrative action.

So, the Plan Commission and then the Commissioners should take this opportunity to scrutinize such proposals both to avoid inconsistent intrusions into primarily agricultural areas and to avoid needlessly prohibiting residential subdivisions where they may be consistent with existing conditions.

6. The public health, safety and welfare.

It seems unlikely that the public health, safety, and welfare would be affected by this proposal since single single-family residences do not generally have significant impacts. Any effect of development on the safety of the county road was reviewed as part of the subdivision plat.

Date report completed: 6/9/22

PLAN COMMISSION RECORD OF ACTION

Motion:

By:

Second by:

Favorable recommendation ____

Unfavorable recommendation ____

No recommendation ____

Conditions/Commitments? ____

Vote:	Drew	Emerick	Hodges	Johnson	Kurtz-Seslar	Schrumpf	Wolf	Wright
<i>Yes</i>								
<i>No</i>								
<i>Abstain</i>								

LEGAL DESCRIPTION FOR RE-ZONING

Part of the Northeast Quarter of Section 24, Township 31 North, Range 9 East, Whitley County, Indiana (This description prepared by Kevin R. Michel, LS80870006, as part of original legal description for re-zoning RY-126 completed by J.K. Walker and Associates, P.C., dated May 4, 2022), being more particularly described as follows, to wit:

Commencing at a Mag spike found at the Northwest corner of said Northeast Quarter; thence S89°-27'-29"E (GPS Grid bearing and used as the basis of bearings for this description), on and along the North line of said Northeast Quarter, a distance of 200.00 feet to a Mag nail at the POINT OF BEGINNING; thence continuing S89°-27'-29"E, on and along said North line, being within the right-of-way of County Road 200S, a distance of 253.00 feet to a Mag nail; thence S00°-37'-35"E, a distance of 708.00 feet to a 5/8-inch iron pin capped "Walker"; thence N89°-27'-29"W, a distance of 253.00 feet to a 5/8-inch iron pin capped "Walker"; thence N00°-37'-35"W, a distance of 708.00 feet to the point of beginning, containing 4.11 acres of land, more or less, subject to legal right-of-way for County Road 200S, subject to all legal drain easements and all other easements of record.

For: Hurd, Janet E.
Simmons, Sharon A.
RY-126



92-06-13-000-306.000-003

92-06-13-000-214.000-003

92-06-13-000-211.000-003

92-06-13-000-304.000-003

S RABER RD

E MOWREY RD

Shenwood
Forest
Subdivision

E ROBINHOOD RD

E 200 S

92-06-24-000-101.000-003

92-06-24-000-408.000-003

Rose Acres

92-06-24-000-102.000-003

92-06-24-000-106.002-003

E KEISER RD

Johnson
Estates

Spring Run

