

**WHITLEY COUNTY ADVISORY PLAN COMMISSION
STAFF REPORT**

22-W-REZ-4 ZONE MAP AMENDMENT
Anthony Agular
10.0± acres, south side of 200 North, 700'± east of 450 East

JULY 20, 2022
AGENDA ITEM: 3

SUMMARY OF PROPOSAL

Current zoning: AG, Agricultural
Proposed zoning: RR, Rural Residential
Property area: 10.0± acres

The petitioner, owner of the subject property area, is requesting a zone map amendment for 10.0± acres located on the south side of 200 North, about 700' east of 450 East and 2,500' west of State Road 205 in Section 32 of Smith 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 the subdivision of the property into one platted lot for residential use. This triggers the need for rezoning out of AG, as explained in more detail below.

This property was previously subject of a larger rezoning request, 21-W-REZ-6, which was turned down by the County Commissioners. At the time, the request was to rezone 18 acres for four platted lots. With the rezoning denial, the petitioner proceeded with platting the two lots permitted under the AG district and attempted to sell this 10-acre parcel as agricultural. Unfortunately, he was not successful. Now, being after the refiling waiting period, the petitioner has requested this rezoning that applies only to the 10-acre parcel.

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 North], fields, residences (platted & unplatted)
<i>East</i>	AG	Residences (Birchwood Acres), field, residences
<i>South</i>	AG	Field, residence (platted), woods/field, [SR 205], residences
<i>West</i>	AG	Field, [450 East], field, residence

Proposed land use

The petitioner has indicated that the property would be platted as one lot for residential use. Sanitary sewer and public water are not currently available to this property.

Zoning code criteria

The parent parcel of 58± acres was sold in three parts: a 12-acre property at the southeast corner of 450 East and 200 North, an 18-acre property acquired by the petitioner, and a 28.72-acre property to the east of the subject property. The 12-acre property does not require platting as the "first free sale" split and the 28.72-acre property is exempt from platting as it is over 20 acres.

The petitioner already split 8 acres of the 18-acre property into two lots, leaving a 10-acre parcel that is exempt from platting if used for agriculture only. The petitioner's current intention to sell the 10-acre

parcel for residential triggers the need for platting and constitutes the third platted lot since the September 2018 threshold, and so the one-lot plat would be considered a Major Residential Subdivision. Since Major Residential Subdivisions are not permitted in AG, the petitioner seeks this rezoning to RR.

Major Residential Subdivisions are also restricted from being within $\frac{1}{4}$ to $\frac{1}{2}$ mile of existing Confined Feeding Operations. The subject property is approximately 8,500' from a Class 1 CFO located to the south-southeast.

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. Remember that 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 "Agricultural." It is near a block of "Transitional Agricultural" to the west of 450 East, and "Rural Residential" is roughly $\frac{1}{2}$ mile east near Collins.

In its text, the Comprehensive Plan describes the purpose of the Agricultural classification as "to maintain large, undeveloped areas for productive agricultural uses and intense agricultural-related uses." The recommended location of the classification is described in part as "generally away from municipalities and residential development."

At a site level, the current and historic use of the property aligns with the Agricultural classification. However, the subject property is immediately adjacent to three two-lot subdivisions, Hines Homestead, Fleetwood Acres, and the petitioner's Birchwood Acres. There are additional plats along 450 East and SR 205 to the south and west. 30-35 residences are within $\frac{1}{2}$ mile radius of the property. Given these characteristics of the wider area, the Transitional Agricultural classification could be more representative than Agricultural.

So, if the Map is interpreted as to extend the Transitional Agricultural classification, it appears that the proposed rezoning and proposed use might align with the Plan's recommendations. The Commission should discuss these factors and applicability to the site.

For reference, the proposed Comprehensive Plan Future Character and Land Use map indicates the site and surrounding area to be Agricultural Rural, in which agricultural uses are anticipated to continue with some non-farm residences. So, this rezoning might conflict with that recommended character. However, the character description does suggest that new non-farm residential development could be expected where it is near or adjacent to clusters of existing residences. Given

the proximity of existing subdivisions and density of residences in the vicinity of this plat, the proposed rezoning and use for one 10-acre residential lot might be interpreted as being in character with the surrounding area and the recommended area character.

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

The property is located among both agricultural fields and residential parcels of varying sizes. Rezoning this property to RR would convert agricultural acreage to another residential tract, which is similar in nature to most of the existing surrounding properties. So, it is likely both the existing agricultural use or the proposed residential parcel would 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;

This property is adjacent to three two-lot residential subdivisions, and a residence is to be constructed on the 12-acre tract to the west. Such existing residential development may be an indication that this area is desirable for further development.

4. The conservation of property values throughout the jurisdiction;

Since the proposed residential use and lot size 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 years of effectively unrestricted residential subdivision plats in the Agricultural zoning district throughout the County. By requiring a rezoning process, new residential subdivisions of three lots or more (or cumulative platting of 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 the proposal 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 the construction of one residence on 10 acres does not generally have significant impacts. Any effect of development on the safety of the county road was reviewed as part of the subdivision plat.

SUGGESTED CONDITIONS

In conjunction with the Plan Commission's recommendation on the zone amendment request, Staff suggests the following condition/commitment(s):

1. The petitioner to record a written commitment that the subject property shall not be platted or further subdivided for more than one residential lot for a period of not less than ten (10) years from the date of ordinance approval.

Date report completed: 7/7/22

PLAN COMMISSION RECORD OF ACTION

Motion:

By:

Second by:

Favorable recommendation ____

Unfavorable recommendation ____

No recommendation ____

Conditions/Commitments? ____

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

Wigent, David A &
Wigent, Jerry A

Cummings,
Charles W
& Mary K

Brumbaugh,
Thomas G. &
Brenda L.

Ladd, John
Richard

Ladd, Jerald
Thomas &
Laura Kay

Fulk, Virgil C
& Jennifer E

Fulk, Vaughn
Tr & Tina M

Sordelet,
Benjamin
& Jessica

Nation,
Clifford K
& Donna J

Wright,
Dianna S

Zumbrun,
Charles F. &
Deborah M

Francis, Joe

Koehl,
Justin &
Megan

Monesmith, Don R
& Monesmith, Mary
Lou Revocable
Trust Agreement

Fleetwood,
Todd A &
Shanna S

Equity Trust Company
Custodian Fbo Todd
Fleetwood Ira

Somerlott,
Alvin &
Candace J

Shelmadine,
Scott & Birk,
Samantha S

J B Sons
General
Partnership

Somerlott,
Alvin &
Candace J

Conrad, Parker
M & Moore,
Jessica N

Agular,
Anthony

Agular,
Anthony G &
Melissa

Bonneau,
Andrew C
& Sarah D

Martin,
Dennis
& Jewel

Wade, William
S & Kathy J

Hinds, Cameron &
Spann, Jordian

Big Bear
Investments
LLC

Starkey,
David A &
Laura D

Krider,
Clarence D

Hoffman
Hillcrest
Farms Inc

Sheets,
Cheryl A

Sordelet,
Thomas J &
Deborah A

Krider,
Stephanie

Brown, Chad
& Nicole M

Brown, Chad
A & Nicole M

Brown, Douglas
A & Allison A

Brown, Jason
L & Allison A

Siembab,
Joseph Jr
& Sally

Brown, Douglas
R & Larisa K

Pequignot, Kevin
M & Pamela J

ESR205

N450 E

E200 N