

**MINUTES**  
**WHITLEY COUNTY PLAN COMMISSION**  
**REGULAR MEETING**

**September 15, 2021**

**7:00 p.m.**

**Whitley County Government Center**  
**Lower Level, Meeting Room A/B**

<b>MEMBERS</b>	<b>PRESENT</b>	<b>ABSENT</b>	<b>STAFF</b>
Michael Bemis	X		Nathan Bilger
Dane Drew	X		Brent Bockelman
Brent Emerick	X		
Theresa Green	X		<b>LEGAL COUNSEL</b>
Thor Hodges	X		Elizabeth Deckard (electronic)
Kim Kurtz-Seslar	X		
Joe Wolf	X		<b>NONVOTING ADVISOR</b>
Brad Wolfe	X		John Woodmansee
Doug Wright	X		

**AUDIENCE MEMBERS**

The audience list of in-person and electronic guests is attached below.

**CALL TO ORDER/ROLL CALL**

Mr. Hodges called the meeting to order at 7:00 p.m. and led the Pledge of Allegiance. Mr. Bilger read the roll call with members present and absent listed above.

**CONSIDERATION OF PREVIOUS MEETING MINUTES**

The minutes for the August 18 regular meeting were presented for consideration. Mr. Hodges called for a motion. Ms. Green made a motion to accept the August 18 minutes as presented. Mr. Drew seconded. Motion passed unanimously by roll call vote.

Mr. Hodges delayed consideration of the meeting minutes for the Comprehensive Plan workshop session held on August 25 until the workshop session to be held directly after the regular Plan Commission meeting.

**ADMINISTRATION OF OATH**

Ms. Deckard administered the oath to audience members wishing to speak.

**OLD BUSINESS**

In order to handle the scheduled petitions more efficiently, Mr. Hodges proceeded directly to the next agenda item under New Business.

## **NEW BUSINESS**

### **21-W-SUBD-16, Primary approval, “Hatton Homestead”**

Kent and Cheryl Hoffman requested preliminary plat approval for a one-lot subdivision to be known as Hatton Homestead, located on the west side of 200 West, about 200 feet south of Keiser Road in Section 32 of Columbia Township.

Mr. Bilger presented the staff report. He stated the property was zoned AG, Agricultural, and right-of-way along 200 West would be dedicated. He stated platting was required due to several splits from the parent tract since 1979, the anticipated use was residential, and zoning minimum standards would be met.

Mr. Bilger displayed an aerial image of the property and the proposed plat indicating a legal drain running along the south side of the property where a flood plain was designated. He highlighted, however, the buildable area outside of the flood plain sufficiently exceeded the zoning minimum standards of 225 feet.

Mr. Bilger stated the Health Department was waiting for the required soil tests to determine both septic tank locations. He identified staff’s proposed conditions:

1. Health Department requirements must be met prior to recordation of secondary plat.
2. Secondary plat approval delegated to the Plan Commission Staff.

Mr. Hodges asked the petitioners or a representative to address the Commission.

Kevin Michael of J. K. Walker & Associates distributed copies of the proposed plat showing the 75-foot legal drain easement and stated that building may occur in a flood plain if the structure were elevated high enough.

Mr. Hodges asked if anyone present would like to speak for or against this petition. Hearing nothing, he asked for Commission discussion. Mr. Bemis made a motion to approve 21-W-SUBD-16 with the two conditions recommended by staff. Mr. Wright seconded. Motion passed unanimously by roll call vote.

### **21-W-SUBD-17, Primary approval, “Lauer Subdivision”**

Wayne and Gail Lauer requested preliminary plat approval for a two-lot subdivision to be known as Lauer Subdivision, located on the west side of 600 East, about ¼ mile north of 400 South in Section 27 of Union Township.

Mr. Bilger presented the staff report. He stated the property was zoned AG, Agricultural, and right-of-way along 600 East would be dedicated. He stated platting would be required due to several splits from the parent tract in 1979, including multi-lot subdivisions near the subject property. He added because the petitioners seek to split the parcel into two in order to transfer the house separate from the barns, platting would be required. He stated there would be no change in property use and zoning minimum standards would be met.

Mr. Bilger displayed an aerial image of the property depicting the subdivisions which had been split from the parent tract over the years. He indicated the split on the proposed plat included a jog in the property line to accommodate the required setbacks for one of the barns. Using an aerial image with a plat overlay, he noted the location of the driveway which would be shared between both parcels and stated the set of covenants submitted by the petitioners covered usage

of the driveway by both parcels. He added one of the reasons for the 2-lot rather than a 1-lot plat was to ensure the ongoing driveway maintenance and longevity would be handled through covenants as opposed to other means.

Mr. Bilger stated the Health Department was waiting for information to determine the septic system locations. He understood from the petitioner soil testing was being conducted the day of the meeting. He identified staff's proposed conditions:

1. Health Department requirements must be met prior to recordation of secondary plat.
2. Secondary plat approval delegated to the Plan Commission Staff.

Mr. Hodges asked whether there was consistency between the verbiage contained in the restrictive covenants and the explanation contained in Mr. Bilger's staff report. Mr. Bilger replied in the affirmative and added the driveway will be owned by the owner of the parcel where the house is located and that the owner of the other parcel will be entitled to use the same driveway.

Mr. Hodges asked for confirmation that the owner of the parcel containing the barns could construct another egress if desired. Mr. Bilger agreed that an additional driveway could be constructed; however, the existing use of the current driveway was intended to continue as is.

Mr. Hodges asked the petitioners or a representative to address the Commission.

Gail Lauer, 5402 E. 300 South, stated this property was one of the petitioners' rentals that they desired to sell. She said they would be responsible for maintaining the driveway.

Mr. Hodges asked if anyone present would like to speak for or against this petition. Hearing nothing, he asked for Commission discussion. Mr. Woodmansee stated there were several typographical errors in the restrictive covenants which should be corrected. Mr. Hodges agreed but felt the intent of the petitioners was understood and did not want to delay the petition. He asked for a motion to include correction of typographical errors. Ms. Kurtz-Seslar made a motion to approve 21-W-SUBD-17 subject to the staff report conditions and corrections made to the restrictive covenants. Mr. Drew seconded. Motion passed unanimously by roll call vote.

### **OLD BUSINESS**

Before announcing the next agenda item, Mr. Hodges stated that any members of the public who had completed their business were free to leave as the meeting could be extended for an additional couple of hours.

### **Review and consideration of an update and revision to the Comprehensive Plan**

Mr. Hodges opened the public hearing for comments on issues brought forth during the September 15 workshop session.

Joe Sheets, 3035 W. 700 North, Columbia City, stated he had a question whether the new overlay would change zoning or would zoning remain as is and only change over time as requests are made, e.g., petition for a housing addition following the regular Plan Commission approval process. Mr. Hodges replied that the process would work in the same manner as described by Mr. Sheets and stated the Comprehensive Plan would be used as a guide. Mr. Sheets stated he wanted to be certain the Comprehensive Plan would not change zoning.

Mr. Sheets asked the Commission to consider alerting members of the public, using subdivision developers as an example, to be prepared for nearby rural property owners who might decide to raise livestock. He said they should anticipate those farming activities as well as other associated occurrences such as noise. Mr. Hodges stated the Commission was attempting to achieve the same outcome through the Comprehensive Plan, i.e., the zoning designation for the property and what that designation entails. Mr. Joe Wolf asked if we already had something like that in place. Mr. Bilger stated the functionality was not there yet, but it was a recommendation of the 2011 Plan. He stated a further redefined recommendation was proposed in the update to the Plan which essentially was an agriculture notice to property owners about farming activities happening in the area. Mr. Sheets suggested not necessarily limiting notices strictly to farming activities.

John Enrietto, 8151 S. 700 East, stated he sent an article to the Commission earlier in the week dealing with health issues and that he feared he was not being heard. He asked for inclusion of appropriate buffers and cited the article in which three young men were killed in a CAFO in Mercer County, Ohio. He stated the Commission must understand how toxic and deadly the farms can be. He reiterated the request for buffers around residential areas. He again indicated the fumes emitted from these farms and manure pits are toxic as stated in the article and asked the Commission to reread the information he presented. He felt some Commission members had not read the material and requested the Commission to do so. He asked the Commission to reflect on whether it is appropriate to site CAFOs in areas where buffers have been requested.

Mark Johnson, 6906 E. 150 North, stated the three individuals in Mercer County were in a pit in which neither humans nor animals enter. He stated they were in a confined space working on a pump which should have been removed before attempting to repair it. He indicated he has CAFO barns and does not enter the pits because it is unsafe to do so, and every worker on his farm knows not to enter them. He stated even though the area may be ventilated, it is not safe to enter.

Mr. Johnson stated he recalled the last meeting where it was mentioned the Code Development Committee was tasked to revisit the Zoning Code every two to three years. He indicated he was a member of that Committee and did not recall any meetings. Further, he believed changes were not necessarily warranted every two to three years.

Alayne Johnson, 6906 E. 150 North, stated she wanted to correct the record from the previous workshop session regarding the removal of Recommendation 1.13 from the draft 2020 Comprehensive Plan update. She stated Mr. Bilger mentioned he had received comments from several people in the agriculture community, and she was among them. She said Mr. Bilger indicated the comments were that Recommendation 1.13 was not acceptable, and he implied there were no additional comments. She reiterated she wanted to correct the record and read an email she had sent to Mr. Bilger summarizing their conversation. She noted in her email she was opposed to inclusion of Recommendation 1.13 and believed it to be unwarranted given the recent CFO zoning update. She stated inclusion of 1.13 would be used to further regulate the agricultural community unnecessarily and felt it would punish those involved in agriculture without justification. She noted Mr. Bilger stated no other focus group requested inclusion of Recommendation 1.13 in the 2020 Comprehensive Plan update and stated it was inappropriate to include simply because it was suggested by the consultant. She mentioned in her email consultants do not live in this community and would not have to face the fallout that would ensue. She reiterated she had offered more comments than a single objection to inclusion of Recommendation 1.13 and felt others on Comprehensive Plan task forces would be willing to

explain their positions as well. She encouraged all in attendance to ask questions, and she along with others would be able to explain how they arrived at their positions.

Mr. Hodges stated the Commission decided to halt the current process and engage in Comprehensive Plan workshops in order to gather information which he believed to be missing due to lack of formal minutes being prepared. He encouraged this type of information to be shared by others who have been involved in Comprehensive Plan update meetings or discussions. He stated these comments are part of the reason why the regular Plan Commission meetings include an agenda item for a Comprehensive Plan review following each workshop session.

John Meister, 5995 S. Woodstrail Drive-57, Columbia City, stated he needed to be sworn in. Ms. Deckard administered the oath to him. Mr. Meister stated he lives on the border of Noble County. He said he wanted to provide clarification since Mr. Johnson was not present during a meeting Mr. Meister and several others had with Mr. Bilger wherein the development of Ordinance 2018-09 [ordinance that added §§ 5.21 and 5.22, among other changes] was discussed. Mr. Meister stated Whitley County was one of only four counties in Indiana with no specific provisions for CAFOs, e.g., no setbacks or distance requirements outside of those established for normal construction. He said Ordinance 2018-09 was intended to be an introductory ordinance, and because it was a major change, the intent was to review it in two to three years and assemble a group to hear feedback. He stated some of the rationale was due to limited setbacks relative to distance and features. He stated there were no setbacks from schools, churches, recreational facilities, and public areas found anywhere in the ordinance. He added these types of setbacks are common practice in Indiana according to a Purdue Extension study. He stated Mr. Bilger mentioned earlier the idea of a new and improved agriculture notice was included in Ordinance 2018-09, specifically, to inform those considering moving to a rural area of the dust, noise and work during early morning hours associated with agricultural activities. He said Ordinance 2018-09 was consistent with Recommendation 1.13. He stated he was not certain who generated Recommendation 1.13 but surmised Mr. Bilger communicated it was generated by the consultant. He said it was based on public input and the consultant's best judgment. He indicated that he and a number of others would like Recommendation 1.13 to be reconsidered.

Mr. Wright commented that Mr. Meister agreed to tell the truth by taking the oath. Mr. Meister confirmed that to be the case. Mr. Wright informed Mr. Meister to provide his complete address during public hearings in the future. Mr. Meister stated he believed he did provide his complete address. Mr. Wright indicated he omitted "57" from the address. Mr. Meister said he had mentioned he lives in Noble County. Mr. Wright reiterated he omitted "57" and stated Mr. Meister indicated he lives on the border but did not mention the county. Mr. Meister stated he did mention the county. Mr. Wright informed him in the future to add "57", and Mr. Meister agreed it would not be a problem to do so.

Mr. Johnson stated Mr. Meister said Mr. Johnson was not privy to the conversation about the two-to-three-year reviews of Ordinance 2018-09. Having spoken to others in the agriculture industry on the Code Development Committee, Mr. Johnson indicated none of them had known about it. He asked why he and other Code Development Committee members were not privy to that conversation.

Mr. Sheets stated he believed there were no setback requirements for sewage treatment facilities, and there were three schools within ¼ mile of the Columbia City sewage treatment plant. He said

the same gases emitted from a sewage treatment plant or lagoon system serving the lakes are no different than those emitted from CAFOs.

Mr. Enrietto stated Mr. Wright said at the last meeting he was unaware of any sickness or death resulting from CAFOs. Mr. Enrietto stated for that reason he shared the Mercer County article. He said the problem was three individuals entering an area that emits large amounts of hydrogen sulfide, methane, carbon dioxide and other toxic chemicals. He stated the wind carries these chemicals, which is the source of concern and that the county requires signage alerting others to resultant odors. He said neighbors would not be affected immediately but added the wind does not stop at property lines. In the studies he presented previously, he stated it was shown residents two to five miles downwind are becoming sick over time.

Ms. Johnson asked Mr. Bilger if Whitley County requires signage for CFOs. Mr. Bilger replied that signage for CFOs was not required, but signage was required for AGP zoning. Ms. Johnson stated one of the reasons she rezoned her property to AGP was due to the signage requirement and the ability to alert others to agricultural activities taking place on the property.

Mr. Sheets stated every septic tank and pumping system has a “Do Not Enter – Poisonous Gas” warning statement affixed. Referring to CFOs, he said any system dealing with sewage involves the same gases.

Mr. Hodges asked for additional comments. Hearing none, he closed the public hearing.

### **OTHER BUSINESS**

Mr. Bilger introduced Brent Bockelman as the recently hired Planner I, replacing Mark Cullnane who had left at the end of August. He said Mr. Bockelman may be familiar to some from his 20-year tenure at a local store, and the team was happy to have him on board.

### **ADJOURNMENT**

Having no further business, Mr. Hodges declared the meeting adjourned at 7:45 p.m.

### **GUEST LIST**

1. Joe Sheets.....3035 W. 700 North, Columbia City
2. John Enrietto .....8151 S. 700 East, Columbia City
3. Mark Johnson.....6906 E. 150 North, Columbia City
4. Alayne Johnson.....6906 E. 150 North, Columbia City
5. John Meister.....5995 S. Woodstrail Dr.-57, Columbia City
6. Gail Lauer .....5402 E. 300 South, Columbia City
7. Wayne Lauer .....5402 E. 300 South, Columbia City
8. Kevin Michael.....4242 S. 700 East, Columbia City
9. Joan Null .....8099 S. 200 East, Columbia City
10. Jack Dunifon .....8115 S. Westfield Trail, Columbia City
11. Bob Fahl.....10460 S. 700 East-92, Roanoke
12. Allen Bushaw.....6100 E. 700 East, Columbia City
13. John O’Connell .....1705 E. Bair Road, Columbia City
14. Brian Johnson.....7725 E. 800 S-92, Fort Wayne
15. Kevin Ousley .....4863 S. Raber Road, Columbia City

16. Pat Murphy.....1490 E. 200 South, Columbia City

**GUEST LIST-ELECTRONIC**

17. Judy Kehmeyer .....8375 S. 600 East, Columbia City  
18. Kurt Kehmeyer.....8244 S. 600 East, Columbia City  
19. Robert Kehmeyer .....8411 S. 600 East, Columbia City  
20. Susan Lawrence .....0275 N. 800 East, Avilla  
21. Paul Mills .....1679 E. Bair Road, Columbia City  
22. Angela Sheets.....3035 W. 700 North, Columbia City  
23. Alayne Johnson .....6906 E. 150 North, Columbia City

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