

**WHITLEY COUNTY ADVISORY PLAN COMMISSION
STAFF REPORT**

25-W-REZ-6 ZONE MAP AMENDMENT
Brian and Sonya Emerick
7383 S. 700 East

AUGUST 20, 2025
AGENDA ITEM: 2

SUMMARY OF PROPOSAL

Current zoning: AG, Agricultural
Proposed zoning: AGP, Agricultural Production
Property area: 80± acres

The petitioner, owners of the subject property area, is requesting a zone map amendment for a property of approximately 80 acres located in Section 13 of Jefferson Township. The requested zoning for the subject property is AGP, Agricultural Production.

The subject parcel is located on the east side of 700 East, about 1,500' south of the intersection with 700 South, with an address of 7383 S. 700 East.

Existing zoning classifications and land uses

Currently, the subject area is zoned AG, Agricultural, and is primarily used for crop cultivation. There is a dwelling with outbuildings about 600' from the road. A natural drain is mapped on the eastern quarter of the parcel, flowing to the east.

The following table lists the current surrounding zoning classifications and land uses:

	<i>Zoning</i>	<i>Land use</i>
<i>North</i>	AG, VC	Agricultural (field), residences, [700 South], residences, fields
<i>East</i>	AG	Agricultural (field), residences, [800 East], residences
<i>South</i>	AG, RR	Agricultural (field), residences, fields, [800 South], residences
<i>West</i>	AG	[700 East], agricultural (field), residences

Proposed land use

The petitioner is requesting the zoning amendment to make use of the AGP district for agricultural operations. In 2019 and 2024, the petitioner obtained AGP zoning for several parcels roughly a mile to the west of the subject parcel, so this rezoning would make this property consistent with those parcels.

Concurrent with this request, the petitioner has filed a similar rezoning (25-W-REZ-7) for another parcel located about ¼ mile from this one on the north side of 700 South.

Like the previous requests, the petitioner has stated that there are no plans to establish plans for a Confined Feeding Operation (CFO) on the property, and they are seeking a zoning change for the property so that the zoning map reflects the long-term desirability of this land and vicinity for use in agriculture.

Zoning code criteria

For reference, the AGP zoning district permits a shorter list of uses than AG; however, it does allow for both Class 1 and Class 2 CFOs without need for a Special Exception approval. A Class 3 CFO would be permissible with a Special Exception. Class 4 CFOs, the largest defined by the zoning code, would not be permitted unless rezoned to IN, Intensive Use.

The minimum contiguous area for rezoning to AGP is 40 acres; an area of at least 80 acres is required to be zoned AGP if a Class 3 CFO were to be proposed. This parcel is deeded as 80 acres.

The zoning code requires a minimum 20-acre parcel size if created under AGP. The property already exceeds 20 acres, and the petitioner has not indicated a desire to split the property.

There is one residence on the subject property, which may remain in its current use with a legal nonconforming status. If any new residences were to be proposed, they would need to be occupied by the property owner(s), family, or employees.

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 2022 Comprehensive Plan describes the Future Character and Land Use plan as “the overall look and feel of a place—the impression it makes on residents and visitors and the qualities of buildings and spaces that make it different from other places.” The plan describes community character “to help guide growth and change to support places that are attractive, draw people to want to spend time there and are compatible with adjacent areas, without being overly specific to every parcel’s individual land use.” So, the Plan emphasizes that the overall character of an area, while making allowances for some deviations that would not be detrimental to the overall area.

For the subject area, the Future Character is designated by the Plan as “Mixed Rural.” The intent for this character type is stated as:

- Expect existing agricultural operations will continue as residential development occurs
- Allow for contextually-sensitive new residential development
- Allow the division of land for subdivisions

The Plan further describes the character type as (emphasis added):

Areas that are primarily agricultural at present but already include single-family residential and will face residential growth pressure from nearby urban areas. **The character in this area is expected to continue to be recognizably rural throughout the timeframe of the Plan, but over time, farms may be further blended with non-farm residential development.** New or expanded CFOs, beyond what exists currently, would be out of character. This type can also include appropriately-located small-scale commercial that meets the immediate local needs. Public sewer and water are not necessary, but where they are available, development should be anticipated. New buildings are closer to the roadway, eventually resulting in a more intense development pattern than the Rural characters below but still less intense overall than the Suburban Living character.

Uses that primarily define this character are “Agricultural (New CFOs not expected)” and “Single- and Two-family residential.” Local scale commercial/retail and institutional and civic uses are listed as secondary uses.

The Mixed Rural character intensity is designated as 2.5 to 3, while Rural-Agricultural is 2. This indicates that Mixed Rural areas are planned to be more intensely developed than the Rural-Agricultural areas. Although not tremendous, the difference in character between the areas will be apparent as the planning timeframe progresses.

These recommended character descriptions may be compared with the existing and requested zoning district intents and permissible uses, summarized in the following table.

	<i>AG, Agricultural</i>	<i>AGP, Agricultural Production</i>
<i>Intent</i>	• Intended for agricultural use while permitting residential development, which meets the requirements of Section 3.2 of the Whitley County Zoning Ordinance. • The district should allow farm and residential uses to coincide in appropriate rural areas.	• Intended to provide a land use category for intensive agricultural uses and to recognize certain needs of the agricultural community. The goals of this land use district would be for enhanced Right-to-Farm protection, recognition by community, and to promote agricultural economic development... • This district should maintain large, undeveloped areas for productive agricultural uses and intense agricultural-related uses. • Whitley County's Plan Commission and Board of Zoning Appeals should strive to protect this district from conflicting land uses, non-agriculture oriented businesses, and any use that may inflict significant environmental impacts or be injurious to neighbors.
<i>Permitted uses (summarized)</i>	Residential; agricultural	Light and moderate-intensity agricultural; owner-occupied residential
<i>Special exception uses (summarized)</i>	Moderate-intensity agricultural and residential; light to moderate commercial and industrial; institutional; utility	Higher-intensity agricultural

While zoning district intents may be subject to some interpretation, it is evident based on the use lists that the primary purpose of AGP is to provide a zoning district in which agriculture is, and will be, the principal use, whereas the AG district is comprised of a wide range of agricultural and residential uses, along with secondary commercial and other uses. At the individual parcel level, the AG district is in closer alignment with the Plan recommendations for Mixed Rural than the AGP district.

The petitioner has stated an intention that this rezoning would not be to permit construction of new CFOs, especially as the rezoning would not be necessary to establish a CFO. This follows the Plan's recommendation that no new CFOs be established in Mixed Rural.

Section 5.22(RS-03) of the Zoning Code provides additional standards for new residential subdivisions within 300' of AGP-zoned property, including impacts on drainage, security of the AGP zoned property from residential uses, and explicit subdivision plat notes and covenants holding harmless agricultural production uses located in the AGP-zoned area. These additional standards do not prohibit residential development adjacent to AGP zoning, but they do provide a strong notice that adjacent residential development is not ideal. This standard is valuable to promote adequate buffers between residences and long-term or intense agricultural operations. However, the recommendations of the Mixed Rural character are that residential and agricultural uses should be expected to occur in near proximity to each other over the planning timeframe.

Text recommendations 1.1, 1.2, 1.3, 1.5, 1.6, and 4.3 of the Plan appear to apply to this request. Generally, these recommend supporting agriculture and development together. In particular, Recommendation 4.3 states, "Support the business of agriculture, including intense uses when developed in harmony with residential development."

To fully apply the Comprehensive Plan, the Commission should pay regard to these recommendations in combination with the character type and map.

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

Generally described, this area of Jefferson Township has a mixture of large (i.e., over 30 acres) agricultural parcels, residential tracts of up to 10 acres, and at least one major residential subdivision, Westfield Passage. One-half mile to the east, where public water and sewer are readily available, Allen County has numerous small-lot (i.e., 10k sq. ft. or less) subdivisions.

As mentioned above, the intent of the AGP zoning district is to “provide a land use category for intensive agricultural uses and to recognize certain needs of the agricultural community.” Further, the Plan Commission “should strive to protect this district from conflicting land uses...and any use that may inflict significant environmental impacts or be injurious to neighbors.” The intent further states that the district is to protect an AGP-zoned property from development that may object to or conflict with agricultural operations.

When considering the current conditions and character of current uses in the area, it seems that placement of AGP should be only in areas that are not already fractionalized with smaller residential tracts. Otherwise, the district may actually be creating the conflict that the district strives to avoid. The fractionalization of the area around the subject property, while not as broken up/subdivided as areas to the south or east, is somewhat more broken up than those around existing AGP-zoned properties.

The Commission should examine the subject property as to whether AGP zoning regulations would complement the existing area or if the zoning would be an insertion into an area of incongruous uses.

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

The subject parcel and most of the area surrounding each have long-been used for agriculture, and continuation of agriculture as a land use is petitioner’s stated intent. As mentioned above, the only major Whitley County subdivision within a mile radius of the property is Westfield Passage to the south, although 800 South does have a significant number of individual residential tracts. Going north, the number of residences lessens, although there are still clusters along 700 South. So, it seems that agriculture could be a desirable use here.

The question then is whether AG or AGP is more desirable for this parcel. AG is a district that permits agriculture as well as many other uses, and often can be viewed as a placeholder for more intense development in the future (whether it may be 5 or 25 years). The AGP district intent shifts the perspective of agriculture to being the ultimate use in itself, with the goal of preserving large tracts of land for agricultural uses well into the future.

Additionally, the standards in §5.22 impose some requirements on new residential development adjacent to AGP-zoned parcels, which can make the adjacent area less desirable for residential development. In areas planned for long-term agriculture, this is designed to help preserve productive agricultural operations. Here, the requirements work against having both agriculture and residential uses in near proximity, as recommend by the Comprehensive Plan.

So, it seems that the petitioner can achieve their desire to continue agricultural operations on their property under the existing AG district by simply continuing to farm the property and not sell it for development. If they wished, an agricultural preservation easement could conserve just this

property for agricultural use to the future. The added regulations of AGP seem like they would be a detriment to the desirability of the surrounding area.

4. The conservation of property values throughout the jurisdiction;

While not proposed by the petitioner, the change of zoning to AGP would permit, by-right, larger CFOs than those permitted under the current AG zoning. Such uses may have negative effects on property values in the immediate area and potentially throughout the jurisdiction if a CFO is poorly located, not well-managed, and if any adverse performance effects are not mitigated.

It is worth noting that, while also not proposed, AGP zoning would also permit, by-right, greenhouses over 5 times larger than in AG. Larger ones may be permitted by special exception.

If the Commission finds that the location is well-suited for the uses permitted in AGP, the management and mitigation of effects would likely be secondary and also have minimal effects on property values.

Further, since AGP permits a smaller overall palette of uses than the existing AG district, concerns about certain uses already permissible in AG (such as kennels, auto repair shops, machine shops, hair salons, etc.) affecting surrounding land values could be lessened. AGP, by its minimal permitted uses, serves as a check on residential development, which some property owners may find more injurious to adjacent property values than the perpetuation of agricultural uses.

As discussed in the Comprehensive Plan criterion, this area should be expected to have development but with allowance that existing agriculture will be ongoing. The continuation of the property for crop cultivation will not likely impact property values, but such agricultural operations may be continued under the existing AG zoning. However, the combination of additional standards for development near AGP zoning districts and the *potential* for larger CFOs would be adverse to those expectations. Therefore, it could limit the growth of planned and desirable development in the surrounding area, which would limit the growth of property values.

5. Responsible development and growth;

As already discussed above, the Commission must determine if this rezoning request to the AGP district is an enhancement to, or preservation of, the existing agricultural uses in line with the recommendations of the Comprehensive Plan, whether it may stifle desirable land uses that are allowable under AG, and whether it may deter desirable responsible development in the surrounding area.

Specific to this property, public water and sewer are not immediately available. Sewer is currently located about a half mile to the south and east, although the availability to connect to either is not certain. Public water is also located to the east, in Allen County. The lack of readily available water and sewer does indicate that this property is not prime for development currently, but that also does not necessarily mean that it will not be available within the planning horizon.

Since the AGP zoning designation sets forth *long-term* expectations of agricultural usage for property, arguably to the point of being "agricultural preservation," whereas the existing AG district allows for mixed development, AGP zoning does not seem to be a responsible choice for this site.

6. The public health, safety and welfare.

Being that the uses permitted in the requested AGP zoning are already mostly permitted the existing AG district, there would not likely be much change in effect on the public health and safety. The difference in size of permissible CFOs in AGP versus AG could be argued by some to create different impacts on public health, if a CFO were to be proposed; however, regulations and permitting requirements are already in place through IDEM that could be expected to mitigate health impacts.

While AGP uses are mostly a subset of the AG uses, and those uses would be set for long-term, the additional uses permitted by AGP and the restrictions associated with it could affect the public welfare by degrading the established plans, as discussed in the above points.

Date report completed: 8/13/2025

PLAN COMMISSION ACTION

Motion:

By:

Second by:

Favorable recommendation ____

Unfavorable recommendation ____

No recommendation ____

Conditions/Commitments? ____

<i>Vote:</i>	Baker	Banks	Drew	Emerick	Green	Hodges	Johnson	Kurtz-Seslar	Wolf
<i>Yes</i>									
<i>No</i>									
<i>Abstain</i>									



Strader, Cole & Underwood, Emily

Smock, Phil & Elaine
Clark, Todd M & Jodi L

Clark, Brian R
Clark, Brian R

Schlosser, Brenda J
Clark, Brett A

Jennings, Maxella & Ballard, Cinda

Lamle, Gary D Revocable Trust

Morgan, Pamela Ann

Hitzeman, Pamela P Living Trust

Valentine, Elena M & Jeremy
Harper, Hunter

Byall, Delores J Declaration Of Trust

Jennings, Maxella & Ballard, Cinda

Lamle, Gary D Revocable Trust

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Helfrich, Eric E & Mary L

Zorger, Kelly

Smits, Richard H & Ann E

Baker, Karen S

Jennings, Maxella & Ballard, Cinda

Rawlins, Burl & Linda

Morken, Edward S

Helfrich, Eric E & Mary L

Emerick, Brian G & Sonya M

Indiana Michigan Power Company

Offord, Kenneth C & Joyce E

Bushaw, Allen J & Kerry S

Jennings, Maxella & Ballard, Cinda

Rawlins, Burl & Linda

Morken, Edward S

Helfrich, Eric E & Mary L

Emerick, Brian G & Sonya M

Smith, Phillip T & Shirley A

Strack, Charles E & Julianne M Joint Revocable Trust Agreement

Jennings, Maxella & Ballard, Cinda

Rawlins, Burl & Linda

Morken, Edward S

Helfrich, Eric E & Mary L

Emerick, Brian G & Sonya M

Cooper, Nicholas A & Michelle M

Combs, Thomas H & Bobbi A

Henderson, Daniel Kyle

Kaufman, Karen S

Bordner, Mason & Sonja

Mimmick, Patricia A & Gregg R

Helfrich, Eric E & Mary L

Emerick, Brian G & Sonya M

Stetzel, Alanna M Trustee Of The Alanna M Stetzel Revocable Trust

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Rawlins, Burl & Linda

Morken, Edward S

Helfrich, Eric E & Mary L

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Cooper, Nicholas A & Michelle M

Combs, Thomas H & Bobbi A

Henderson, Daniel Kyle

Kaufman, Karen S

Bordner, Mason & Sonja

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Rawlins, Burl & Linda

Morken, Edward S

Helfrich, Eric E & Mary L

Emerick, Brian G & Sonya M

Ormsby, Gregory A & Laura A

Click, Michael L

Kaufman, Karen S

Bordner, Mason & Sonja

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