

**Decatur County Area Plan Commission
December Minutes 2020**

The regular scheduled meeting for the Decatur County Area Plan Commission was called to order by Paul Stone at 7:50 p.m. on Wednesday, December 2, 2020 at the Decatur County Emergency Management meeting room at 135 S Ireland Street. There were 6 board members present in the room. On Zoom were Jeff Hermes, Brad Schutte and Sheila Kirchhoff. Also attending via Zoom was Melissa Scholl – Area Plan Commission Attorney. Also attending was Krista Duvall – Area Plan Director, Debbie Martin – Administrative Assistant and Rick Nobbe – Decatur County Commissioner.

Paul Stone opened the meeting and read the following: *to comply with Title VI of the Civil Rights Act of 1964, Decatur County requests that participants in this meeting complete a voluntary, anonymous survey that is available on the table in the back of the room.*

*Approval of minutes of the November 4, 2020: approved as mailed.

* **APC Petition 2020-26 – Steve Snyder** is requesting to subdivide approx. 28.00 acres out of approx. 40.26 acres and rezone approx. 2.99 acres out of the approx. 28.00 acres from an A-1 zoning classification to an A-2 zoning classification for construction of a single family detached dwelling. This request falls under Decatur County Ordinance Section Number 915 & 920(7). The property is owned by Kevin & Angela Weber and is located just West of 2038 E CR 150 S, Greensburg in **Washington Township**.

Steve Snyder: We are going to take about ½ of that parcel, most of the ground is the lake and woods, there are a couple of areas where tile comes in off of the surrounding fields. There is an existing building on that piece already and a couple of drilled wells. We want to build a house. There is an existing driveway that we will use. The home will be on that cleared off area, (referencing the overhead map). It was planted in crops but it was nothing but... (inaudible), he tried to turn it around but it wasn't planted this year. **Paul;** so, the outline in red is the approximate 40.26 acres? **Steve;** there is a little area to the north east corner, it is not included. **Paul;** the 28 acres is where? **Steve;** referencing the overhead map explained the area. **Paul;** that would basically be the south end remaining to be owned by Mr. Weber, is that correct? **Steve;** correct. **Paul;** the balance of the 28 acres, what is the anticipated use, will it be mowed or what? **Steve;** it's really just kind of drainage, not sure that you will get any crops there, maybe just a bit but there is really not much left there. **Paul;** so that north east parcel, where the home will be, will be unusable? **Steve;** yes. **Paul;** will this be a personal residence or something that you will be looking to market? **Steve;** my personal residence. I built a home straight across the lake and my dad lives close. I had Mark Mohr go out and look at the driveway, he said everything is fine and I can use the existing. Andy Scholle told me that it had to be a 50' right of way, we decided to make it 50' and will include the driveway in our survey and we will own it. We were going to put an easement on it so that Kevin Weber or future owners of the fields can access their fields from the drive, they have access from the road but can also access via the driveway. **Todd;** so, you are buying the lane? **Steve;** yes. Kevin did try to farm it but it was all wooded back in there, he recently cleared it off anticipating building a house there. Things changed for him, he lived in Decatur County at the time and has since moved to Ripley County to take over his parent's farm. **Paul;** looks like the septic has been approved, some natural slope will get rid of perimeter water for you. **Steve;** there are tiles that feed that lake, it is fed by either tile or runoff. Everything

slopes heavy in areas that you cannot build, really the only place you can build is in those trees, the highest point. **Tom Hunter;** you do know that we won't take a bus back there? **Steve;** yes, I don't have any little kids. That was an issue when I did the other homes in the area.

Audience: **Allison Creed;** I have the property basically directly across from where he is looking to build. I know you are looking to build in that spot, but I am curious what the intent is for the property below that, what is the intention of that? **Steve;** the rest of the property Kevin will continue to farm that part, he doesn't anticipate selling it anytime soon, if he wasn't selling it it would just be a yard. **Allison;** I don't know if this can be handled here but the water during the summer time is getting worse, more of the pond is covered with algae, my concern is with adding another structure there and a septic, what precautions.... I don't know what the rules are in this county, with being kind of a peninsula sticking out in the body of water, how do we make sure we are not adding potential nutrients or runoff into that pond as well? **Paul;** good question, to make sure I understand the concern is that the additional loading of that body of water with anything that may cause contamination furthermore that what there may already be. I think the source that I would be aware of, and you mentioned it as well, a possible onsite wastewater system, that is regulated by the Board of Health, so there are metrics put in place that regulate how far off that absorption field has to be from any kind of surface water. I trust that the State Board of Health has taken into consideration that leach field setback from standing water. By all means it will have to stay back away, and something more recent than that is there has to be an upslope perimeter drain that keeps water from keeping that area wet and leach out on top of the ground. All of that has to be inspected during installation, that would meet some relatively strict Board of Health, the County and State, setbacks from that body of water. **Allison;** what are the rules about a body of water like that, is there anything that, you know the rules on what water quality has to be? I understand, there are drains coming from a lot of different places, I was just curious if there are rules on that. **Paul;** I will admit or make a statement that I don't know exactly how that is handled but I do know that if there were concerns about water contamination, and Jean can probably provide, she is more well versed on this than I am, but I do believe that you can pretty easily call the Board of Health, whether at the State or County level, and ask for some testing to be done. I know that it is certainly an option, that is something that we pay for with our taxes, our inspections check for things like that. I think that if that were a concern, and if I were in your shoes, that is probably who I would call is the Board of Health to check on things like that. **Allison;** just curious, just with all the rain and stuff, now that the algae is gone you can see where the water is coming in from, additional stuff that is running off in there. **Larry Rueff;** in these contentious times I just wanted to tell Steve that it will be my wife and I that will be snooping around while you are building and she would appreciate it if you don't mess the deer up back there. Welcome to the neighborhood.

Todd Mauer made a motion to vote on APC 2020-26; Tom Cherry seconded the motion with all members present and on Zoom voting yes. **Paul;** congratulations, your petition passes unanimously. We ask that you stay in contact with the gals in the office and they will walk you through the rest of the process.

* **APC Petition 2020-27 – Walter Eicher** is requesting to subdivide approx. 4.00 acres out of approx. 10.355 acres and rezone approx. 2.99 acres out of 4.00 acres from an A-1 zoning classification to an A-2 zoning classification for construction of a single family detached dwelling. This request falls under Decatur County Ordinance Section Number 915 & 920(7). The property is owned by Wendell Thackery and is located just North of 7624 N CR 225 E, Greensburg in **Clinton Township**.

Walter Eicher: We are looking to build our home there, that lot is as it is now, (referencing the overhead map) what we are doing is the property line will come up here, we will have 50', and it actually split that so the line will come down here and straight across so that we will have road frontage. We won't have any easements across the other property for us. **Paul;** the small area (referencing the map) is the proposed rezone? **Walter;** yes. **Paul;** the existing farmstead to the west would remain as is and then the remainder of that parcel is what you are looking to purchase? **Walter;** the rezone is actually going to be right out to here (referencing the overhead map) because there is a little creek down there. They want to set it up to where if they rezone all the way down to here, we won't have to have an easement for my perimeter drain. **Paul;** the driveway has been approved, will this require a presby or are you able to get a traditional septic system? Looks like it will support an additional system. The approximate size of that, the balance of the property, would the expected use be yard? **Walter;** yes, this area (referencing the overhead map) is on top of a hill, our house will sit here and a garage here. There is not much we can do here because of the hillside and the rest to the road will be our driveway.

Sheila Kirchhoff made a motion to vote on APC 2020-27; Todd Mauer seconded the motion with all present in the room and on zoom voting yes. **Paul;** what I would ask is that you stay in touch with the gals in the office as far as building permits and inspections, they will guide you along, if you grew up in the country, we ask that folks out in the country be mindful of the folks that were there first, farm equipment and things like that. You are moving to an area where there will be farm equipment, be cognizant of that. **Walter;** the hay field Wendall Thackery still owns but I used to work for him. **Paul;** very good, sounds like you have been coached by the best.

* **APC Petition 2020-28 – Kelsey & Eric Amberger** is requesting to subdivide approx. 5.00 acres out of approx. 15.00 acres and rezone approx. 2.99 acres out of 5.00 acres from an A-1 zoning classification to an A-2 zoning classification for construction of a single family detached dwelling. This request falls under Decatur County Ordinance Section Number 915 & 920(7). The property is owned by Thomas and Linda Amberger and is located just East of 7835 W CR 200 N, Greensburg in **Clay Township**.

Eric Amberger: We probably won't be getting the whole 5 acres, it will be right at 4 acres. 2.5 will be mowed yard, a house and possibly a garage. The other part will still be in fence and have cows. **Paul;** the road is directly to the south there, and that is where the drive will be, actually not off of 240 but off of 200. **Eric;** yes. **Paul;** probably a better road for a driveway. Septic system is approved, enough fall there to give you some kind of a daylight perimeter drain which is always a good thing. **Todd;** it's a nice place for a house. **Krista;** I have received two emails from surrounding property owner and she read them: **1) Robert Pumphrey:** I would like to have my comments on petition 2020-28, a request by Eric and Kelsey Amberger to subdivide, submitted for consideration at the meeting on Wednesday, Dec 2, 2020. As an adjoining landowner, I appreciate the opportunity to submit comment. I fully support the rezoning of the identified property and the construction of a single-family dwelling on the site. The request meets both the spirit and text of the Ordinance, and complies with guidance provided by the

comprehensive plan. I respectfully ask the members of the BZA to grant the request without delay. Sincerely, Robert Pumphrey, Ag Production Enterprises Inc., Greensburg, IN

2) Linda Amberger: We would like to have my comments on petition 2020-28, a request by Eric and Kelsey Amberger to subdivide, submitted for consideration at the meeting on Wednesday, Dec 2, 2020. As the present owner of the land we support the rezoning of the identified property to be deeded to Eric and Kelsey Amberger and the construction of a single-family dwelling on the site. The request meets both the spirit and text of the Ordinance, and complies with guidance provided by the comprehensive plan. I respectfully ask the members of the BZA to grant the request without delay. Sincerely, Thomas and Linda Amberger.

Tom Cherry made a motion to vote on APC 2020-28; Eric Whitaker seconded the motion will all members present and on Zoom voting yes. **Paul;** the petition passes unanimously Eric, thanks for coming in, stay in touch with the gals in the office. As you start the building permitting and inspections they will guide you right along.

*** Proposed Decatur County Zoning Ordinance – Commissioners requested change.**

Paul; we've got before us the Ordinance Update package which, I don't know the total pages of that, but over the last couple of years we have worked to try to make amendments and changes to the Ordinances as they should support the Comprehensive Plan that is as old as 4 years and starting about 6 years ago. That has been a tedious, long, drawn out process to try to satisfy a lot of stakeholders from both sides of the road on several different issues. We are currently down to the confined feeding sections, and I will estimate 200 pages of ordinances, so we are looking at approximately 5 paragraphs of text in a 200-ish page package that we feel like we owe to the County to get a lot of this updated. My proposal, and I have spent no less than approximately 7 hours today and many, many hours before that fielding phone calls from concerned people about any movement or what the proposed outcome is of this confined feeding setback changes. I would ask that this board consider the option or the idea that we look to approve all of the things that we have pushed over to the Commissioners with a favorable recommendation and we keep the existing text as it is today for confined feeding buildings. What I would like to see happen is that we continue to work towards an equitable set of parameters for confined feeding as it stands today, we do not differentiate between CAFO and CFO locally as one example and I have again, taken some phone calls from folks that are concerned about falling under certain setbacks as they are being proposed. We could certainly look at passing something tonight, or taking a vote on that, and should this board decide that that is what they would like to do, that is fine but my concern is, I don't know that where we are going is a better place than where our current ordinance is today. I'm going to open this up for some discussion but what I would appreciate is some discussion amongst this board publicly about their feelings on that. I know that we have looked to approve certain sections of the ordinances separately to try to get some of these necessary things moved along and we would certainly like to approve everything at once. My proposal be that we do that but look to make an amendment should we come up with something that this county feels is better than the ordinance as it stands right now. That is my position as the president of this board and I would like to turn that over to you all for some open discussion about that. **Krista;** is everyone aware of what the current is? **Paul;** Krista I want to make sure that if I misspeak on something, please correct me. So, when the Comprehensive Plan was being assembled, there was a committee charged with taking our current ordinance and updating it. That committee came out, and I think Jay was on this and I respect that group a lot because I

have sat through the last 2 years of these meetings, once a month or approximate to work through this so I don't want to short change that group at all. I certainly appreciate all that was done there. The outcome of that committee, which contained folks from both sides of the fence, was a going from a 660' reciprocal structure to structure setback, as it is today. The proposed change would have been a 1000' structure to structure setback. That committee then handed that proposal off to an Ordinance Update Committee that has been juggling with all of the ordinances for the last 2 years. That committee then made a recommendation of all of the things that they updated to go to this board. This board then made a favorable recommendation to the County Commissioners, which was a 1000' structure to structure, non-reciprocal arrangement. Which to give some explanation behind that, if a neighboring property owner elected to build a home within that 1000' after the confined building was erected, they would have the choice to do so. My personal take on that was that I don't want to be disallowed from doing something on my property if I am perfectly ok with that confined feeding building being there. Some other clarification would be that the owner operator structure would be exempt from that. We then passed that to the Commissioners, and I certainly will take some blame for this because I don't think, even in light of trying, that there was a lot of clarity or understanding on what that reciprocal or non-reciprocal agreement was. And the feedback from the Commissioners was that they would like to see a line drawn to the property line and eliminate the structure to structure. The number that the Commissioners supplied back to us was a 400' to a property line. So effectively a parcel would have a dotted line drawn on the inside of it 400' to every boundary line and get rid of the structure to structure arrangement. So, hopefully that provides some background on what all has transpired over time. My personal concern is that, I believe there are a lot of instances where there are a lot of acres taken out of a possibility that may be better suited, maybe near the side or the rear or some other position inside of this 400' that then forces that building to be closer to a neighbor that doesn't get along, or wasn't brought up to be present or amongst odors and fans and things like that and I think that my concern is that it, while we could be benefiting some situations that a blanket 400' setback against every boundary line could force that building to need to be nearer something that we would prefer or the neighbor or even the owner operator prefer that it not be near. Additionally, there are a lot of farmsteads that are built 50' off of the road and may contain 5 buildings on the back side of it and that needs to be 400', which may be a larger distance than what it has been for 40 years that they currently had buildings. I think that my concern is that we may be making a change in the wrong direction that may be too wide of a brush stroke to apply to all situations. While I believe that we need to move forward on, again the other 199 pages of ordinance updates, those are being held hostage by these 4 paragraphs relating to confined feeding. It is my goal that we look at and bench mark our County against surrounding and again I will take some blame for this but, today I stumbled upon a 200 page document produced by Purdue in 2014 or 2017, I'm sorry, that collects a lot of data about confined feeding buildings and bench marks every county against each other. And often times separating maybe a CFO from a CAFO and I think that we can probably apply some better fitting rules that would benefit the local communities and that maybe are near a CAFO as well as the smaller operator that might operate a CFO that we not paint with such a wide brush stroke. So, again to summarize, my request would be that we keep the existing setbacks because while I know that no rule will satisfy everyone, I don't know that I started hearing a lot of negative feedback about our CFO setbacks until this process started. What I don't want to do is to pass something and go backwards, I would prefer it stay the same. We assemble a group and we look hard at trying to make, maybe, a structured or some sort of an approach that fits everyone better than just 1 rule, 400' period, move on down the road. I just don't know that that captures at least what I feel is the best thing, so I haven't sprung this on these guys, you all are hearing this for the first time. I would ask before this spreads like wildfire, that this board have

some open discussion about what they feel would be the right way to move forward. So hopefully that answers some questions about how we got where we are. I will open the floor for discussion.

Todd Mauer: I can see where a blanket 400' is an issue, if you want to go back in a corner of the woods or something and then you have to go 400' from that. I can see where that can cause some issues. No matter what we do, not everyone will be happy. **Paul;** that is exactly right.

Eric Whitaker: I think that either way it needs to be non-reciprocal, that way the property owner that is not the operator has that choice to go closer to their property line. **Paul;** yes, and I think that that whole concern, discussion was what led to the property line thing and if it's a property line rule, there is no infringement, there is no "well my house is here", basically that certainly one of the large advantages of making it a very clean break at the property line that all of a sudden, any discussions about building stuff is irrelevant so, but my concern with that is that this allows a lot of acres that may be better suited that we would force out of, if two parcels meet and both are row crop farmed by the same operator that he has to keep that maybe farther into a field or closer to his neighbor than he would otherwise have to. And he would just as soon be, it tucked next to another adjoining field. I just, my concern is two things, we have a lot of things that absolutely need to be approved, but in all of the hours and the last 24 I have spoken with a lot of concerned and upset people, I'm just not in a position to recommend something that I feel like may be going backwards in a lot of people's minds. I don't know that anyone's life is being changed by how it currently is and I think we need to take a stronger, harder look at these rules.

Just pertaining to CFO. **Krista;** you know that the 400' setback can always be varied as long as it doesn't infringe upon the IDEM rules and regulations. **Paul;** absolutely, yes. **Krista;** the CFO operator can request a variance from the Board of Zoning Appeals. **Paul;** absolutely.

Brad Schutte: I do agree, I don't like the property line rule, because it does create situations that I've gone to several of these farms and the typically the best spot for the barn is going to be closer than 400' to the property line. Just as you have mentioned, not only because of topography and location, a lot of times IDEM requirements but also because of someone's existing house. I kind of agree with you, you've got a lot of work laying on the table and not getting any attention because of a little bit. I don't think we want to go backwards, really keeping it the way it was is the best option for now and then we can readdress those 5 paragraphs and get the rest of those ordinances into action. **Paul;** thanks Brad for the comments. I'll ask anyone else connected virtually for feedback.

Sheila Kirchoff: I agree totally with you that we need to pass the ordinances that have been worked on forever it seems like, and like Krista said, there are variances that we can do to make things better if there is a situation that arises that we take that as it comes along. **Paul;** thank you Sheila. Do I understand correctly then that your recommendation would be to accept the 400' as the Commissioners has proposed back to us and then handle those requests on a case by case basis or that we review this further. I want to make sure I understand everyone. **Sheila;** yes, absolutely, let's pass the ordinances that we have got ready to roll and like you said, do it on a case by case basis from here on out until we decide to make another change. **Paul;** ok, so change the ordinance to the 400' and handle on a case by case, not to drag out any longer the CFO stuff? **Sheila;** correct. **Paul;** thank you. I'm going to ask that we take a majority. I want the audience's feedback but I'm going to ask that we lean toward the majority of how this board feels. I would like everyone to state what they would like to see happen and that will give me a better feel about how this board, as a whole, falls on this.

Does anyone have questions, at this table, about what I have proposed or spoke about? **Tom Cherry;** I kind of like the idea of leaving it like it is, because you have so many variables in the size and type, these feeding floors, we can do some amendment or re-write it as we go, depending on the size so it doesn't push the little guy out. If they want something and they can't

have the setback that the bigger guy has, if we go with 400' it's something we might regret in the future. **Paul;** so I understand that your preference would be that we approve the ordinance updates except for leave the confined feeding alone for now and work on that moving forward, is that correct Tom? **Tom Cherry;** no, leave it like it is and then as we go forward, make some amendments specifying the type and size of building, otherwise I think if we go with 400' thing it will tie up the BZA, every time we turn around someone would need a variance. We need something possibly engraved a little more in stone, something that is written. **Paul;** thanks Tom. **Tom Hunter;** I think that if the current situation is working I wouldn't see a reason why we would change it from the 660' setback, structure to structure, leave it as it is and move on with the other things that we need to do. These guys out here know more about this that I do for sure and I haven't heard anything from anyone in particular whether they like it or don't like it, they are not going to come to me on that type of an issue. It has worked for a long time with those numbers, all you are doing is changing numbers, especially if you are going to say move it to 400' from property line and then give exceptions. What are we really gaining, leave it at 660' structure to structure. If that has been working I don't see a reason to change it to 400' where you are already anticipating giving exceptions. **Paul;** thanks Tom. **Jay Schoettmer;** for 5 years no one had been able to agree or come up with an answer so, we are wasting time, leave it alone. **Eric Whitaker;** I think leave it 660', the only thing I would change is we did change anything would be non-reciprocal. **Paul;** again, I want to make clear on what I want to see happen is that we make these proposed changes leaving no changes to the confined feeding, and I'll be happy to be involved in this, I don't want to see it shoved on someone else but I want to see probably many of the same faces that have been involved before but I want to look at this as an approach. All the time I have spent with this we have never discussed having any type of a tiered arrangement. It has always been, when, well what is the distance from the structure. I think there is just more that falls into making one blanket rule. I will take the blame on not proposing this until now but, I guess I have come across some information and have been contacted by a lot of people that have enough discomfort with this that I think it is merited at this point. I don't want to start to reinvent the wheel if this is going to hold hostage what has been held hostage for a year now about trying to get the remainder of this. I just want to be clear about my intent. I don't plan to just walk away from all the work that has been done. I would like to continue the work that has been done and come up with something that is equitable for all producers. **Jeff Hermes;** I would tend to agree with Sheila and go with the 400'. I also understand that we spent a lot of time working on this and have not gotten anywhere. As much as I want to move forward and go with the recommendation, that decision may not be quite right, we need to dive back into this and take a look at it. **Paul;** would your proposal be that we move forward on the remainder of the ordinances? **Jeff;** yes, we need to move forward on the remainder of the ordinances. **Paul;** thank you for your feedback. **Todd Mauer;** I'm in agreement with you, I think the 400' would cause some issues and you will have people coming in here asking for variances. When you start bending the rules for one do you bend them for everyone, how and when do you bend it. I know we have done a lot of work on this, my question or concern is that is ultimately comes down to the Commissioners, if we send it back to them and tell them we are leaving it at 660', are they going to kick it right back to us again? **Paul;** so, I have had some discussion with Rick Nobbie and I think he has had some discussions since I have spoken to him, I will ask him to I guess speak on that. But it is my understanding that, in the light of what all has happened in the last bit on this, I think they would be open to something other than what they have proposed back to us. Rick, maybe we will start the discussion off with you if you don't mind, about what your feeling is on this, I know you have been right in the middle of a lot of this discussion, I don't want to leave you out of..... **Rick Nobbie;** believe me Paul, it's alright if you leave me out. I do agree that, first off it just takes a lot (inaudible) and fortitude, it's a testament

to your seat where you are sitting at that you bring this up. We are trying to get it right, all of us are trying to get it right, whatever that is so, the Commissioners did not believe that non-reciprocal was the way to go. We felt like that was a position that if I built my home next to Larry Nieman's building that it's not, if there is an issue, it's when. When I sell it or something like that, I think that the distance, whether it's IDEM's distance or 660' or (inaudible) distance is important. I'm excited for the opportunity to continue, I suppose, if it will continue and everybody can be a part of it. I read some of that same Purdue data that you read that talks about the differences between CFO's and CAFO's, whether it's water usage or road usage and what not, some of that ought to be looked at. Agriculture has done nothing but get bigger and bigger in my 45 years of being involved in it and I don't see that changing. If we are looking more industrial in agriculture, maybe there is a place for some sort of that type of conversation. The Commissioners were asked to make a recommendation back the APC and we did that. We did that with conversation, not just between the Commissioners but other members of the community, those for and against. Whatever their position is. For me, as long as the opportunity continues to exist to make the system better, say for whatever that looks like, I've only got a few more days left but I would support that if it came back to the Commissioners in that way. **Paul;** for clarification, you believe that the Commissioners would support a recommendation of approving the ordinances barring changes to the confined feeding verbiage, and an effort to continue to refine it, come up with something better? **Rick;** yes, I believe that that would be the case. I can't say that with 100% certainty, but I think that as long as the conversation continues and we don't wait another 2 or 3 years, it will be Chuck's issue at that point, and if anyone asks me I am happy to continue to be a part of the discussion. If we can continue that discussion and you know, there have been those who have told me in conversation that they don't want to limit the, I won't say smaller, but the more medium, average size livestock producer. They don't want to limit that ability. And certainly, there are going to be places that buildings are better suited, it may not fit within the 400', but to somebodies' comment, they can come back and ask for a variance. Todd said you don't want to give a variance on every one, if we can delineate what really is an issue, whether that is an 8000 head hog building or a 25000 head cattle barn, or whatever that might be, make those better it is good conversation. That's where I am at. **Paul;** thanks Rick. I think it has been relatively spelled out how I feel and I think you know kind of how the board feels. My request would be, if you have a strong opinion about this, by all means please come up. But what I would like to take as an outcome is something constructive, something that, I everyone can be guilty of sitting in the back of the room at times and say well this isn't going to work, provide what your opinion is that would work and more so, if what I want to happen tonight, I would invite you all to give a proposition moving forward on what an equitable rule would look like that would suit all of the producers, if that makes sense. I will open this up to the floor for anyone, but again, I would like to convert all of the negative stuff that is getting ready to happen into something that, here is what I believe would be a good proposal. Let's try to make this something that we can give everyone an opportunity to speak, let's try and move this along so no one is disallowed. **Patty Lange Fischer:** Representing Decatur County Farm Bureau, to leave the ordinances as was our original request. However, I need clarification, the original ordinance included reciprocal setbacks, is that included now? **Paul;** so, again this is Paul Stone speaking Patty, not this board but my proposal would be that we keep it as it is today, 660' and it is reciprocal. **Patty;** I needed that clarification, thank you. **Mr. Nobbe;** Paul thanks for your research and your thoughts to this. If I understand right is it 660' now or 650'? **Paul;** 660' I believe. **Mr. Nobbe;** ok 660' and the proposal is to go 400' to property line. Paul; that is correct. **Mr. Nobbe;** 660' structure to structure. **Paul;** the 660' would be out the window at that point. **Mr. Nobbe;** currently its 660', so if it goes to 400' property line to property line, I have a neighbor with a house on the property line, I could add

250' to my building and still be legal? That is going backwards. And you mentioned that you don't want to go backwards, and we don't want to go backwards. The other thing is, that when it is property line to property line, Rick had made mention that farms are getting larger and anyone who farms knows there is a minimum per acres. That's why the acreage gets larger, because the equipment gets more expensive and you have to spread it out. So small farmers like myself, and unfortunately my farm is long and narrow, our opportunity is with a livestock enterprise. If we are going property line to property line with 660' on each side, I'm right down the middle. So that takes my opportunity away for doing anything like that and if the proposal goes to 400' or whatever you come up with, existing buildings are grandfathered? **Paul;** that is correct. **Mr. Nobbe;** there are hundreds and hundreds of buildings out there now that will not have an effect on whatsoever, but we could add to them and go 250' closer if it is property line to property line. To me I think your thinking is right, whatever the committee or the board comes up with, please don't go backwards and please take into consideration that everyone does not have 10,000 acres, everyone wants to make a living but everyone wants to get along with their neighbor. There is no question about that so, I believe that we are doing the right thing now of leaving it where it is at and I haven't had a lot of complaints from neighbors or anyone around me, I don't know that there has been this overwhelming outrage about the way it is now. I haven't heard, so again, thanks Paul for your research. **Tom Warner;** I was at the Commissioners meeting and there was 3 recommendations, 400', 500' and 600', wasn't there Mr. Nobbe? **Rick Nobbe;** no, there was 370', 400' and 500' were the recommendations the Commissioners got to choose from to send back to the APC. The commissioners voted unanimously to send back the 400' from property line setbacks at that time. **Tom Warner;** inaudible... **Paul;** please come to the microphone so that the recording can hear everyone and the minutes can be typed. **Tom;** well, the reason we need it to be from property line to property line is very simple, our constitution states that the 5th amendment that we can't take other people's property without just restitution at the time, do you all believe in the constitution? **Paul;** yes sir. **Tom;** do you.... Well then take that into consideration in this. The next thing is you are supposed to be looking at the health and welfare of the people in this county. These hog barns are dangerous. I have a fishing lake, I have seen what this hog waste will do. Anybody that has been around large operations knows that there is going to be accidents, its not a question of will but when. And if they are off of the property line 400' or 600' would be better, then they are not apt to spill over on your neighbor and create problems. And they are not as apt to get into the water aquifer, now we just talked about the landfill, and in the case of the landfill they are putting a seal in the bottom of the ground that they are going to cover with trash. These hog lagoons and buildings don't put seals in them. That is a bad thing because we are sitting on (inaudible) rock in this county and that water goes right down through that rock. It is getting into our water aquifer and that is dangerous, there is a lot of chemicals in that hog waste, nitrate being one of the worst ones and you can't get it out of the water once it's in there. So, that causes blue babies, heart problems, breathing problems for older people. Also cancer, we have a high cancer rate too, they don't know why, but we have a heck of a lot of hog barns in this county. So, could that be a contributing factor? So lets put a distance between the people and the hogs and that will help that situation a bunch. What about pumping the wells dry? A lot of these people are hauling water in the county over by me because these hog barns that went in over the summer, when it dried up the drought stays there for a while, their wells went dry. A couple of them punched their wells on down I know one guy who punched his well on down and when he started pumping the water to water his cattle he was desperate for water in the house to take a bath and clean up, he and his wife plugged it in and started drinking that water, it affected them, so they took the water to Columbus and they said don't drink the water, its off the scale with fecal chloroform and (inaudible). They are right close to a big lagoon and operation. This has happened in other parts

of the county, the guy is afraid to raise problems because the guy is bigger than he is and can lean on him a little bit, they do want to be leaned on and they don't want problems. We have had people move out of the county on account of the hog barns being too close. And now we have a noise thing and a smell, where there is smell, that is methane. (inaudible) it's hard on you. Now then we are going to have the EPA coming in here shortly, so if we can clean up now before the government gets here, because when they come in you don't stand a chance in dealing with them boys because they are rough. And our water in this county is precious to us and we are not respecting it, we need to do something and get some bigger buffers, bigger setbacks would help this issue a bunch. If they don't have enough ground for the setback then they probably don't have enough ground to take care of the waste that these hogs are producing, and when they 2500 head barns, how many times does that 2500 head go through there, twice at least and starting on the third batch a lot of times I think. So, think of all that waste, what are they doing to it, they are dumping it on our ground out here, storing it in lagoons and right down into our water table. So, let's get some buffers from the property line and see if we can make this county a little cleaner and safer to live in. I'm 73 years old, I'm not going to be around a whole lot longer, I don't have a thing to gain being up here talking to you people, so, you can listen to Farm Bureau over here, they helped get check offs in here, you have your corn and bean check off which is promoting the hogs. So, they are (inaudible) and they are pushing for it. So, you can listen to the hog farmers, you just seen one here who said his farm was long and narrow, well, buy more ground. **Paul**; thanks Tom. **Breanna Schrader**; I'm an attorney working with the local Farm Bureau here tonight. I want to take a quick second to address a few of the points that were just made to make sure we are all on the same page, listening to science and that we have a clear understanding of what the state requires. I have 5 points 1) the gentleman mentioned that CFO's don't have to put any kind of seals on the bottom of their waste management structures; that is not true. 327 IAC19 is the set of regulations that says how CFO's have to be constructed, he mentioned hog barns, they generally use pits which are concrete structures that not only have a bottom to them, they are also required to have water proofing and joint structures to ensure it doesn't leak. 2) regarding the idea of being a potential taking or taking without just compensation, he mentioned the 5th amendment, actually our Indiana Supreme Court just heard that issue this year, not more than 6 months ago and decided that this is not, in the context of a CFO, it is not a taking, it does not violate either the Indiana Constitution or the US Constitution and that is a case out of Hendricks County. 3) the current IDEM setbacks: 400' from existing off-site residence or public use building, 100' from a property line or 300' from surface water. There are a few others, 1000' from public water well, but those 3 are the most common issues that come up. All of those are measured from the structure of a waste management system, be it the barn or a lagoon. All of those can also be waived by the other property owner under the Indiana regulations. 4) CFO's in Indiana are required to be zero discharge, so that is different than in some states, they are not allowed to have any manure discharge, any leave the site. Can not be 1% or 1 part per million, zero. That means that the EPA is not involved, if there is a discharge you are required to get what is called an NPDES Permit. Some states you are required to do that because they allow discharge from CFO, here in Indiana we do not. So the EPA has looked at our permitting structure and said we don't need to be involved, IDEM, you handle all of it. So the EPA is not coming in, they are not involved, and all of the sites in Indiana are required to be zero percent discharge. **Paul**; can you define zero percent discharge again? **Breanna Schrader**; the best way to think about it is that some states allow facilities to let manure leave the site, they allow them to, if you think about different kinds, like industrial settings, a building can have a water run out that has contaminants in the water and they are allowed to discharge that water to a (inaudible) of the United States because they get an NPDES permit. So, the EPA basically says that we know you are

discharging a small amount of contaminants into the water system, you have to measure how much it is and you need this very expensive permit to do so. Here in Indiana, because we have said CFO operations are not allowed to discharge any contaminant, there is no manure that is allowed to leave the site at all. That includes manure, any kind of stormwater, wash water that has come into contact with manure, none of that can leave the site. It all has to be directed into your waste management structure and then handled appropriately in accordance with IDEM and the Office of Indiana State Chemist Regulations. **Paul**; I think there is a lot of manure that leaves the site, am I missing something? **Breanna Schrader**; yes, it leaves the site yes, it doesn't all stay there forever. It's not allowed to leave the site and be discharged into any water. So, in Indiana, we have to store it, it is regulated, it has to be accounted for, it has to be applied at an agronomic rate to the fields. Or you have to account for every gallon. In some places, you could have a small amount that just runs into maybe a filter strip and into a ditch or creek. Not in Indiana, it has to all be accounted for, and then when you apply it every gallon, your records have to match. When we say zero discharge, it doesn't mean that for the life of a site nothing will ever leave. It means it all has to be applied in an agronomic manner and rate. Good question. 5) in Indiana we generally require sites to have 180 days storage, that is so that we can account for fluctuations in weather, just to make sure it is kind of, it's a lot more that it used to be, it keeps increasing but right now it is at 180 days of manure storage. Farms will then take that manure to your point, Mr. Stone, take that manure and apply it at an agronomic rate based on soil testing and manure testing. We match that to make sure the nutrients match up, depending on what crop, what will be planted next. So, the farmers have to keep their records of how much will be applied, where it will be applied, what the soil test show, what the manure test show and again, they have at least 180 days of storage. A lot of them now have 220 or more so that if there is adverse weather and you can't apply it today, you have plenty of storage to hang on to it. Those 5 points that I just wanted to make sure, I heard some things that jumped out at me and because I do this every day I thought that I am here and I would try to set that record straight. I am happy to answer any questions. **Paul**; thank you for everything there. **Dorothy Lecher**; one of the jobs that I do is to meet with farmers and we look at if they can put in a CFO. I work with Decatur and surrounding counties. I pull up to their land, we do exactly what you do here, we measure and based on the county's set back, can they put in an operation. I can tell you that in Decatur County, it works. Some counties just go off of what IDEM says and IDEM's rules work very, very well. There are farmers in Decatur County that couldn't build CFO's based on your rules, and the same way in other counties, they could not build off of IDEM's rules. So what you have works. It allows them to ask do you have enough land and what is your surroundings. So your rules are working. To say you need to add to that, we take that very defensive because we already see that we are limited and we are guarded and are very much regulated. The last IDEM inspection that I had, she was with me 2 ½ hours in the conference room, checking every one of my mathematical equations and then before that we had an on-site inspection. It lasted about 1 hour and 15 minutes. She is very professional, I never know which one is coming, but she was professional and she knew the rules and she checked every compilation. I was thinking how many more is she going to check and if I made just one mistake but thank goodness we didn't. We take it very professional and that is why we are all here today. As far as hog barns being unsafe, I carried two children full term and I was in those hog barns every day. Thank you. **Paul**; thank you. **Scott Kreuzeman**: I own a consulting business, I work primarily with livestock producers in about 25 counties in Indiana. I have been to a lot of these meetings and am familiar with rules in a lot of counties. I can tell you what works, what doesn't, what people like or don't like. I would just like to be the first volunteer, that if you do decide to take a look at these rules, I would like to offer some input and maybe some education on what exactly happens on these operations and what kind of rules they follow and the records

that they are required to keep. If anyone on the board is interested in visiting one of these barns, get ahold of me and I can make that happen. There are plenty of producers around that would welcome a visit. I'm also in agreement with what the board had decided on or is leaning towards to just keep the rules as they are now, take a further look into this. It is a sensitive topic, you don't want to rush, it is tough to reverse a change. I do think the way it is right now works just fine honestly, but if you decide that I doesn't, I really think that you spend a lot of time, there are a lot of different models that you can look at. There are some that work better than others and I can sure provide some input on those. I also would like to say that I have been to a lot of meetings and this is a very well-run meeting, thank you for that. I'll stick around a little bit afterwards if anyone wants any contact information. Any way that I can help out I would be more than happy to. **Paul;** thank you Scott. **Krista;** you all know my opinion, we spent a lot of money and time and effort in putting together a Comprehensive Plan. In that meeting we put together some recommendations and if we are not going to use the recommendations that we put together in the Comprehensive Plan, then I think that your plan is the next best. Leave it the way it is, we had very few issues as long as I have been here. I think I have had 2 situations where someone had wanted to put a home too close or closer than the 660', both times they said, you know what, lets just move our house over here a little bit. Both situations it worked out and for the best. Other than that, I really haven't had any issues with the 660' setback, structure to structure. So, if we are not going to go with the Comprehensive Plan, which I think that we should, then I think your idea is the next best. **Paul;** thanks Krista, one point in all of my talking if I haven't mentioned clearly, is I think that my concern is all of the time, months and years that were put into this, basically what we would look to approve is nothing like that group came up with. I think that is where I have discomfort, is, that is a bit of an injustice to all of those people. So, before we hastily adopt something I think we are better off to keep it as it has worked for a long period of time. And if we are going to make a change that we look very hard at that. At the same time not hold hostage the reaming 200 pages of updates so that this county can get to functioning how it should have a long time ago when the Comprehensive Plan was adopted. I would look for a motion that what we do moving forward is look to make a favorable recommendation on all of the proposed ordinance updates, however we keep the CFO verbiage as it is today and make that recommendation to the Commissioners. **Melissa Scholl;** I think what we would need to do first, because the Commissioners have come back to us, we would need to vote on accepting or rejecting their requested change to what we had submitted to them. Then based upon that vote then there would be a second vote as to what we want to send to them for consideration. **Paul;** so basically we need to address the proposal from the Commissioners before we make a proposal back. **Melissa;** yes.

Patty Lange Fischer; I do not believe that you make a negative motion, I believe you make a positive motion and then that motion fails, then you move forward.

Todd Mauer made a motion to accept the Commissioners recommendation of accepting the 400' set back from a property line; Tom Cherry seconded the motion with all members present in the room and on Zoom voting no.

Todd Mauer made a motion to make a favorable recommendation to the Commissioner with the exception of leaving the Confined Feeding text as is it today; Brad Schutte seconded the motion with all members present in the room and on Zoom voting yes.

Paul; ok, so the Decatur County Area Plan Commission votes to make a favorable recommendation to the Decatur County Commissioners regarding the proposed text amendments

to the Decatur County Zoning Ordinance. Upon adoption by the Decatur County Commissioners, the current text of the Decatur County Zoning Ordinance will be repealed and replaced by the proposed text amendments to the Decatur County Zoning Ordinance. At this point all of our ordinance updates will be passed to the Commissioners but the current verbiage of the confined feeding will remain the same. I will look for the assembly of a small committee to try to come up with something better than what we have today.

With no other business before the board the meeting was adjourned at 9:16 p.m..

ATTEST

Secretary, Todd Mauer

Decatur County Area Plan Commission

President, Paul Stone

Decatur County Area Plan Commission