Decatur County Area Plan Commission March Minutes 2022

The regular scheduled meeting for the Decatur County Area Plan Commission was called to order by Brad Schutte at 7:00 p.m. on Wednesday, March 2, 2022. There were 5 board member present. Absent was Eric Whitaker, Jay Schoettmer and Tom Hunter. Also attending the meeting was Melissa Scholl – APC Attorney, Krista Duvall – Area Plan Director, Debbie Martin – Administrative Assistant, Andy Scholle – Decatur County Surveyor and Kevin Fleetwood.

Brad Schutte 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.

- * The January 5, 2022 regularly scheduled APC monthly meeting was approved with a motion from Tom Cherry and a second from Sheila Kirchhoff.
- * APC Petition 2022-03 Bryan Moorman is requesting to rezone approx. 2.99 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 920(7) & 915. The property is owned by the petitioner and is located just North of 2430 N CR 850 E, Greensburg in Fugit Township.

Bryan Moorman: I bought this property and would like to put a home on it. What is desirable to me is that it is family property and it has Napoleon water. Not showing on the overhead map but last fall I did build a pond that is sketched in there. I have worked with the county health department and you have the preliminary approval for a septic system. I had proper permitting for building the pond. I'm looking for rezoning approval and building a post frame style construction with a shop and garage. I have not signed a building contract as of yet until I get rezone approval. My thoughts a post frame structure with a shop, garage and living quarters. **Brad;** this seems pretty straight forward. **Paul;** this seems like a suitable use for this property, it is not the most productive ground.

Todd Mauer made a motion to vote on APC 2022-3; Paul Stone seconded the motion with all 5 members present voting yes. **Brad**; this petition is approved, it will go before the Commissioners, as soon as that happens you will be ready for your permit. **Paul**; stay in touch with the gals through your permitting process.

* APC Petition 2022-04 – Trent Westmeyer is requesting to rezone approx. 2.99 acres out of 9.89 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 920(7) & 915. The property is owned by the petitioner and is located just South of 10281 S CR 60 SW, Greensburg in Sand Creek Township.

This petition was tabled.

* APC Petition 2022-05 – Michael Johannigman is requesting to subdivide approx. 2.99 acres out of 38.15 acres and rezone approx. 2.99 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 920(7) & 915. The property is located at 1082 E CR 820 S, Greensburg in Marion Township.

Brad; so you are building a house, would that be west of the barn? **Michael**; yes. **Tom**; will you come off of the common driveway that is existing? Michael; yes. Brad; to be clear this is a sub-divide. Michael; yes. Brad; that is because of the house already on the property. Michael; yes. Brad; is your grandmas house a separate parcel? Michael; it is all the same now but it will be a separate parcel if everything is approved and we proceed. Paul; do we know what that new parcel will look like? Michael; it changed a little when I met with Andy Scholle but I was able to get my septic tract in the new set up. Paul; so basically the tract that you are separating is basically boxing in the existing home and then your barn and the rest will be part of it. Michael; yes, it will be part of the 36-acre tract. Paul; most generally when they add a tract, it is where the new home goes, I see now that you are just breaking out that home. Your septic and everything will be on the large tract. **Paul**; is there a drive to the west of the one that you use? Michael; yes. Paul; my only point of advice, is seems that shared drives can lead to maintenance problems in the future but as long as the septic systems are on the correct parcel lines Brad; are you on separate water? Michael; not yet. Brad; you plan on doing that? Michael; yes, maybe. Debating on if I want to spend the money on rural water or not. Todd; does rural does go by there? Michael; no. Tom; does she have a pretty good well there? Michael; yes I just drilled it 3-4 years ago. Brad; that would be your only concern if you did end up selling it. That would have to be dealt with regardless.

Sheila Kirchhoff made a motion to vote on APC 2022-05; Tom Cherry seconded the motion with all 5 members present voting yes. **Brad**; your petition has passed, good luck on your new adventure.

* APC Petition 2022-06 – Darryl Wolterman is requesting to rezone up to approx. 0.50 acres from an A-1 zoning classification to a B-3 zoning classification for an automobile sales operation. This request falls under Decatur County Ordinance Section Number 1145 (4). The property is owned by Garvin Gardner and is located at 709 E Main Street, Westport in Sand Creek Township.

Darryl Wolterman: I had a car lot on the highway, I wish to have it now at this location. Back in the 50's that was built as a car lot, there was no zoning back then. When talking with Krista she stated that I need to zone B-3. Brad; is there a residence on this property? Darryl; no, not on the part that we are zoning. Tom C; what is it now? Darryl; Aaron Gardner has some stuff there now, he is a mobile mechanic. Brad; Andy, does that require a survey on that portion? Andy; it will need a new parcel number and legal description for just that ½ of an acre so that Krista can put that in the Ordinance to take to the Commissioners, it is just like some of these rezones to A-2, I believe it will have to be surveyed. Darryl; Krista said that for what we are doing, there would not need to be, just write it up as just the building only. Andy; a survey around the building. Darryl; no, she told me we didn't have to do a survey. But if we do, we

will do it, if not I don't want to pay for it. **Brad**; I would think that there would have to be some definition, wouldn't there? Andy; that is my understanding, we can get this clarified from Krista. If it gets the boards approval, within 1 year you would have to get the survey done and get the Ordinance over to the Commissioners so that they can sign off on it. Darryl; this was all written up by Krista's recommendation. We thought about doing the whole parcel and she said the best thing to do would be just the building. That is all we need anyway, it has already been a business for 70 years, we are just trying to do the right thing. **Brad**; there would still have to be a description because otherwise it would go with the whole parcel. We would have to have Andy do a legal description to say where those boundaries are. **Darryl**; whatever we have to do. Andy; it is really similar to a parcel in St. Paul by the truck stop, he is moving his liquor store from inside St. Paul town out to this location. We had to make a legal description just around that building. It is similar to this because the rest of the property stays the same. **Darryl**; it will stay the way it has been for 70 years, we are just adding the zoning. Andy; the board will vote and then typically if it requires a survey and he doesn't get it within one year, it is void and he would have to come back and ask again. We can clarify that, I wouldn't let that hold up your decision. **Brad**; it has been that way for as long as I can remember, I just want to be sure we don't do something that comes back later. Sheila; when you zone that out or survey that out, it will be in a rectangular shape? Andy; it will be whatever shape the landowner wants it to be, it is just for zoning purposes, it will not be split out as a separate parcel. If he just wanted to rezone 5 feet from that building, he can do that but he cannot sell if off as a separate parcel, it is just defining what you are voting on. Approximately ½ acre. Darryl; it is a unique situation, it has sat vacant for a year that is why we are doing this. It will be the same as it is now, we just have to zone for my state license, doing what should be done.

Audience:

Eric & Kathleen Hunter: Kathleen; first of all, can I bring a picture up to the board, that photo is inaccurate as to what that looks like right now. This photo came off of Beacon and you can see currently there are all of these cars that your picture doesn't describe, we have these cars sitting back here. We are opposed to that, how many more cars do we get to see and where is his line and whose responsibility is it to take care of all of that? We sit in our backyard and we look and we see those cars. Tom C; you live north of the pond? Kathleen; we live on that property with the pond. Darryl; For me, I could have technically brought cars in from my car lot... **Kathleen;** they have been there for years. We don't want to see more of that type of thing in our neighborhood. Darryl; what I am doing is just the front office for a business. I will just basically use the office, I may only put 1-2 there for sale. What I am asking for is just the building zoning that is already a business. Kathleen; we have seen kids drive in circles on that back lot. Brad; I'm looking at the 2020 Beacon photo and we have about 10 vehicles on the south end of that property. Kathleen; I don't know that they are his or Mr. Gardner's. Darryl; none of that has to do with me, I am just here for the zoning on the building. Kathleen; how many cars can you fit up there? Darryl; if the building is zoned, I won't be able to legally put cars anywhere other than where the zoning is. I'm just using the front office. I understand you point and I want to put your mind at ease. Kathleen; there is obviously a problem and it has crept up into the back lot and we like to sit and look over the pond and those cars are right there in our view, there were none there when we moved in. Tom C; so you are just having the front part of that building? **Darryl**; yes. **Tom C**; who is responsible for the back part? **Kathleen**; I

can't help but feel that Mr. Gardner is not going to take care of those cars and we are trying to ensure that we don't have an additional problem that is going to come up. Sheila; have you brought that to anyone's attention? **Kathleen**; we are not savvy as to what is what, we have always thought that it is his private property and can we say much about it because we have always believed that there was a business being run out of there. According to him, it is not. **Darryl**; that is why I explained that is has always been a business but did not have the zoning. Now that I am putting my office there, we have to do the right thing. That is why it was recommended to do just the building, it's just going to be my stuff. My understanding was that as long as there are legal plates then you can put as many as you want. What I am here to do is just the zoning for the building for my business. **Kathleen**; are those your cars out front now? **Darryl;** no, they are plated cars that Aaron works on. Aaron is Garvin's son, he has a legal business. He works on cars. Kathleen; he is not working on them very hard because they have been sitting there for years that way. Darryl; at times he works on them at his house, if you are mobile you can go anywhere. These are two different subjects, but what I want to do is the building only, the front office, I can only put my cars in the front. Todd; if he is running a business out of a building working on cars, is he going to have cars behind the building that he is working on? **Kathleen**; there are semis coming in there every day, flat beds to bring in cars. **Darryl**; that is because it has been a business all this time, for 70 years. I know it's upsetting to you. Kathleen; all we are expressing is our concern about the way it looks now and how is it going to look any different. Darryl; I'm only rezoning that area. Andy; if you rent the building, is he going to continue to repair cars there? (inaudible...) **Darryl;** people will bring them there, they are plated, he works on them there Andy; you will still rent some of the building for your office and sales. **Darryl**; I probably won't even be there, yes. I will not have hardly anything, it's just a small lot. Everything is the way it is and how it has been, all I'm doing is zoning to B-3, I need to have that to get my license. Kathleen; like I said I only came here to express how I feel about the whole idea. The board will have to make the decision. It is complicated because Mr. Gardner owns the property and they are talking about zoning and car selling. I'm not real sure how clear his business plan really is. Paul; so you have a very legitimate concern and I can see the sensitivity of it and you have grounds to ask questions about cleaning up the property. We have to draw a line, what he is requesting really, he's not the property owner so he is not the person that the discussion needs to be had with, however, you are very welcome to bring this up to this board for us to consider when we make this vote, you brought it up, we have heard it and understand now. If you would like something to be done with the south end of the property, we need to look into an ordinance about property clean up and that, nothing to do with changing the zoning of a small parcel. Kathleen; I had half way expected Mr. Gardner to be here. Mr. Gardner; I'm right here. Brad; what Paul is getting at is you are concerned for the abandoned vehicles are irrelevant, the concerns for the rezone is what we are.... Kathleen; you have to separate those two. Brad; yes, as far as the abandoned vehicles on a property, what is that as far as an ordinance goes Melissa? Melissa; Kenny would handle that, I think it does have some bearing on whether they are licensed and operational. What I am hearing, it sounds like he wants to maintain a dealer license, to get the State to approve that you have to have a location and it has to meet certain criteria and he is using this as his method to maintain the licensing. **Brad**; I'm just trying to give her the example of where she would go to alleviate..... Melissa; the first step would be to Kenny, the Building Commissioner. Brad; ok, so that is where you would start with that. Paul; the County Building Inspector goes out and does inspections and if he is in violation of some ordinance about abandoned vehicles

that have not been cleaned up or whatever, that would be your method. Now your argument is still relevant for us to consider but that is the avenue that you could take to voice that. **Brad;** I think my only concern is rezoning such a small spot being tied to an entire parcel. We are kind of sticking something in the middle of a parcel. **Todd**; (inaudible...) to really keep the cars on that part of it. With the dual business in there, I understand the homeowner working on cars but is he going to have his behind the building and how do you tie it to just what you rezone? **Darryl**; this is not something that you normally deal with, we are not really rezoning it, it is a B3, it has never been zoned a B3 so you can't zone it an A1 because it was built as a business. Melissa; that is not a correct statement, it is an A1 that has a grandfathered use in it but when that use ends it is still an A1 property. It is not a B3 property now. **Brad**; was there a grandfathered use stated? **Melissa**; I don't think it was stated but I would assume (inaudible...) came into effect.... Andy; to me this is like all of the stone quarries in the county, they should be zoned industrial but they are not, we did rezone the landfill but before we rezoned it an I-zone, how many years had it been there and it was still an A1 zone. That is the way I am kind of seeing this.... Darryl; I guess it is really both, that is the dilemma. Brad; yes, because there is a house on it. **Darryl**; that is why we are just doing the building, it's a way to make it right where the business is the business and the house is an A1 to make it what everything really is. Paul; one of the criteria for changing zoning is meeting like use for the area. I have some sensitivity to the folks that are concerned that the view around there is not going to improve, to potentially get worse with the addition of a proper zoning for a business because once it becomes B3, there is not really any control about what happens inside of that. B3 is a pretty wide open, there could be a lot of things happen at that point, so I don't know exactly the mechanics of that, and there is a lot that can probably be learned by talking to the building inspector about potentially cleaning up some of the vehicles and things but that is a bit of a standout situation compared to the surrounding properties as far as the dense cluster of vehicles. Tom C; so if that wasn't zoned properly, then you couldn't get your license? **Darryl**; that is true, it has to be B3. **Sheila**; my concern is, Mr. Gardner, you have really not spoke up. I feel like we are going to rezone this for someone to rent the building. Todd; who has been using it? Darryl; Garvin and Aaron. Tom C; so you are zoning everything that is in gravel there? Darryl; yes. Andy; we have rezoned other buildings, that was when the board made a recommendation to rezone a building based on just the footprint of the building. The boards approval was as such. Brad; if we rezone that building, then nothing can ever change with that building, would that be correct? Andy; I think you could put anything that is allowed in a B3 within that building. **Brad**; in other words, it can never be added on to and it can never be modified. Andy; if we just surveyed around the building, if he wanted to add on another bay or something.... Brad; I'm struggling with the control of it all, if we rezone and then we end up with a dozen cars there.... Todd; you just do the building where you put the cars. **Brad**; it has to be a car lot, I can't see rezoning this building, just the building, it doesn't make sense to me. It doesn't give him any definition. Krista; I didn't just suggest the building, it is about ½ acre there. Brad; so there would have to be a legal description and there would have to be some control. Krista; yes. Andy; we were debating that, Krista, that for this I thought there would have to be a survey to make a description of what the board votes on. Krista; yes, I would have to have a legal description of the rezone so I can put it in the system so that everyone knows exactly where it is. Andy; would there be enough room if he went so far to the west of the building, cut off the rezone on the south side and Darryl; I am only going to keep maybe one or two. Todd; our issue is, once we rezone a B3 you can put 50 cars there and we can't stop you. **Darryl**; where would I put them, there are

already cars there now. (inaudible...) **Brad;** in 5 years when something changes and this is still B3 we can end up with a problem on our hands, it has happened. Do you see where we are coming from? Darryl; yes. Brad; you have moved before so that can easily happen again. Darryl; it can only be where the gravel is anyway, I see what you are saying but we are locked too because I cannot do anything outside of the boundaries that she will set for that gravel area. Kathleen; there is a house on 707 that shares that drive. Darryl; that house area will not be thrown in the B3. Sheila; who is at 707? Mr. Gardner is. Paul; is there a minimum on this property for a rezone? Can it be as small as we want or does it have to be ½ acre. Krista; I would have to pull the ordinance. Paul; it is hard to get it down to ½ acre. ¼ of an acre would be the gravel and the building. Andy; I didn't think there was a minimum. Brad; it is just hard to get my head around what we are trying to rezone here. I am going to struggle with this unless we have a definition of the lines. Andy; can you just come to some agreement that the rezone area will be 20' south of building, 20' west and then put that into a motion. Give it parameters, whatever you think, it has to be surveyed that way or Krista will not send it to the Commissioners. Paul; here is one concern of ours, because we have been faced with this in the past, is a technicality of what is considered a vehicle that is being repaired and one that is not actively being repaired. Should this become rezoned and your name is on this and there are a lot of vehicles sitting around there that aren't actively being repaired, it could be you that we are coming to and saying that there are, according to that one image, there are approximately 15-16 cars sitting inside of your B zoned property. You would either need to repair them or clean them up or haul them off. **Krista**; we would contact the property owner, that would be Mr. Gardner. **Paul:** so maybe that question is something you two need to has out, at the point that that become a B zone and there are a lot of vehicles sitting around there that something isn't happening with, the County could ask you to do something with those, is that ok with you guys? **Brad**; it is going to change, you are going to get more scrutiny when you become a B3. Darryl; if you leave it agriculture then you can keep doing what you are doing? Brad; you will just be on a nuisance complaint. Darryl; if it goes to B3, it will be doing the way it is now. My cars won't be plated anyway, that is the law. If there are cars sitting there without plate on them they will be within that perimeter. Most of that stuff is what he is working one. I will only have a couple of cars. Todd; our issue is that once it becomes B3 it can become full blown and we can't stop it at that point. Then we would have to come down and decide which cars are being worked on by his son, which cars are yours to sell Krista; if there is an ordinance violation, the county nuisance ordinance, then we go in and it doesn't matter whose cars they are, if they are in violation the county will give you 30 days to fix it or they would remove them. Paul; the neighbor to the south and east are concerned about some of the vehicles that are back there, what is the ordinance on how long the vehicle can sit there, what grounds do they have to make a complaint? Krista; I told him that when he came in that this would be an issue, the junk vehicles, that would be your issue. If that was my pond I would be very unhappy that I couldn't sit out by my pond and not see those vehicles. I don't know what the stipulation is, but if they are operable, licensed vehicles, I just don't know what kind of teeth we have. Paul; there is just several dynamics playing into this vote, you have Aaron that has a lot of old vehicles sitting around there now as well as the property owner, you are wanting to come in and rent the space to have an address for this application. **Darryl**; I will have my office and stuff there but I may bring in a couple of cars to sell. I can only put them where the zoning is. Paul; so to define this, if this is what the petitioner is requestioning, somewhere along this line drawn on the map, we can come up with an approximate, no more than 50' to the west, 20' to the south and the parcel

line to the east, is that somewhat agreeable if we are going to try to define this petition? **Krista**; yes. **Brad**; we have to have something to define the rezone, without that I'm just not comfortable. There was more discussion on the distances and where the lines would be drawn. **Brad**; Something else that I want to be clear on, we only have 5 people here tonight and it takes 5 people to pass the vote, I just want you to understand that so I am not short changing you, typically there is 9 who vote. You can always withdraw and come back to the next meeting where there are more people. **Darryl;** I have to renew my license before the end of March. Paul; so if we were going to clean this petition up what we are looking at is 30 feet to the west and south, use the existing east parcel line and to the center of the road on the north side. Krista brought to the attention of a letter that was not included in the packet. Brad Schutte read the following letter from the Town of Westport: I am contacting you on behalf of the Westport Town Council to inform you and the Area Planning Commission that Darryl Wolterman, renter of property at 709 E Main Street was given permission to move forward with the property rezoning to transfer the front section of 709 E Main Street, which includes the lard building along Main Street to B-3 zoning for his automobile business. The Westport Town Council heard Darryl Wolterman's request at the monthly Westport Town Council meeting at 6:30 p.m. on February 14, 2022. The Town of Westport can be reached at 812-591-3500 or townofwestport@comcast.net with any additional questions. Signed: Harry Pray III, Westport Town Council President.

Sheila; Mr. Gardner, are you full on board with this? No audible comment heard. Brad; and do you guys know how to deal with your concerns? Kathleen; not 100%. Brad; you will want to come to the Area Plan Office. Kathleen; I'm sure my neighbor knows how I feel about those cars now. **Brad**; talking with Garvin may fix the problem as well, that would be the first place to start. Mr. Gardner; I didn't know it was a bother to them, I have had some stuff that has been sitting there longer than what I would like and we have been moving some of the things out. Eric Hunter; there is less than there was. Mr. Gardner; yes, some has been there longer than I ever aimed. I have never heard a peep from these guys, they are my neighbors. Kathleen; there was nothing there when we moved in, we just always felt like that was your personal property but this was our opportunity to not have an additional nuisance come in also. Mr. Gardner; I just had no idea. Some have been there too long, I guess I need to get some titles for a couple of them and move some out. Brad; so now that you know what you need to do that is a solution to that problem. So do we have any other conversation on the rezone? If not, I will look for a motion, as long (Mr. Wolterman) that you would like us to vote tonight. Darryl; I have no choice, I have to get this done. Todd; just so you know that if it is voted down, you do have 1 year and you can bring this back.

Paul Stone made a motion to vote on APC 2022-6 defined as 30 feet to the west of the building, 30 feet to the south of the building and the existing property line to the east and to the center of the road to the north to be rezoned to a B3; Tom Cherry seconded the motion with 3 members voting yes and 2 members voting no. **Brad**; your petition has failed, in one year you can return to try to rezone it.

* Broadband Ordinance – Bryan Robbins: I have presented this to the APC. Brad; is this the one that you presented? Bryan; it's the same one, this is actually Rick Nobbe here (inaudible...). What this essentially does is a template provided by the State, a broadband ready program. It just says that Decatur County if prepared to facilitate broadband expansion in our

area, mainly pertaining to (inaudible..) fiber and whatnot. The City of Greensburg has passed one and Rushville, Rush County passed one, (inaudible..) is just kind of a check off the box. Our area is open for investment for telecommunications companies who want to expand to broadband in our area. We have been talking to Krista for some time now and I know when I came before you guys were still in the process of getting all of the guidelines (inaudible..) and it was delayed because they thought that they were just going to enter this into (inaudible...) I'm not sure if that was completed. We are just bringing it up again so we can be named a broadband ready community. **Brad**; the only comment or question I have, this is first ready, we will have the opportunity to edit it, it talks about in section 4 the county Commissioners shall adopt adequate process and procedures to implement the provisions, processed and procedures may not do the following, the only one I have a question on is to impose a fee to review an application or issue a permit for a project. So that is suggesting to waive all fees, is that correct? Bryan; that is suggested that, I'm not sure what sort of fees would be or are in place... **Brad**; the conversations that I have had is that structures cannot fall under this. We made clarification that any structure would still require a permit and fee. Melissa; do you guys have the highlighted version with the proposed changes to the template? Brad; no, I have the original. Melissa; it was part of the packet, it is a PDF in your email. Todd; there were two in the packet. Brad; ok, this was changed, Bryan do you have the highlighted copy? **Bryan**; no. **Brad**; on section 4 at the end; said processes and procedures may require the following, the original version said may not. Which we may want to reword it, making that a null and void statement. The only concerns were, granting accesses to public right of ways, etc. **Bryan**; that is just (inaudible...) communications service providers and I don't think you guys would do that anyway. Essentially you wouldn't allow one (inaudible...) and I will be honest with you, I'm not sure what the permit costs are. **Brad**; the only thing would be is when you require a structure, a block building or some sort of infrastructure for a hub or a center, we want to make sure that this isn't a blanket for any type of structure. **Bryan**; and on that I would like to look up on the code on section 2, I can ask at the State level. Brad; this is first reading and now with discussion we can make changes to have our final reading. So, Bryan if you can get that information, I think it will be simple with some minor editing. Bryan; I can do that and come back next month and go from there. **Brad**; get that to Krista and that can go out and be advertised in proper form. Is that correct Melissa? Melissa; yes, you will vote on what you want the final language to be (inaudible).

With no other business before the board the meeting was adjourned at 8:23 p.m. with a motion from Todd Mauer and a second from Sheila Kirchhoff.

ATTEST	
Secretary, Todd Mauer	President, Brad Schutte
Decatur County Area Plan Commission	Decatur County Area Plan Commission