

Decatur County Area Plan Commission
November Minutes 2020
1st Floor Meeting Room of Decatur County Courthouse

The regular scheduled meeting for the Decatur County Area Plan Commission was called to order by Paul Stone at 7:00 p.m. on Wednesday, November 4, 2020. There were 5 board members present in the room and 1 member present on Zoom with Jeff Hermes, Brad Schutte and Todd Mauer absent. Also attending was Melissa Scholl – Area Plan Commission Attorney, Krista Duvall – Area Plan Director, Debbie Martin – Administrative Assistant, Andy Scholle – Decatur County Surveyor and Kevin Fleetwood – Greensburg City Council.

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 October 7, 2020: approved as mailed.

* **APC Petition 2020-24 – Bobby Pierson** is requesting to rezone approx. 2.00 acres out of 4.171 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 Steven & Sharon Meyer and is located just North of 3141 S CR 850 E, Greensburg in **Salt Creek Township**.

Bobby Pierson: We plan on putting a home on the south end of the property for my sister and brother-in-law. It meets all the set backs and parameters of the county, it has 2 septic sites, the driveway is ok. We will put a 2-car attached garage and on a slab. **Paul;** most of the property unusable for much else the way that it was, how far off of the road will the home be? **Bobby;** 75', from the center of the road it's a 70' setback so we added to that. **Tom C;** how wide is that parcel? **Bobby;** where the house will sit it is 143'. **Paul;** do you plan on splitting this property? **Bobby;** no.

Sheila Kirchoff made a motion to vote on APC 2020-24; Tom Hunter seconded the motion with all 6 members present voting yes. **Paul;** your petition passes, thanks for coming in an following the process, stay in touch with the gals in the office and they will help you along with the permitting process.

* **APC Petition 2020-25 – Sarah Green** is requesting to re-zone approx. 5.00 acres from an A-2 zoning classification to an I-1 zoning classification. This request falls under Decatur County Subdivision Control Ordinance Section Number 1204. The property is owned by Shawn & Sarah Green and is located at 2887 S US Hwy 421, Greensburg, in **Washington Township**.

Shawn Green: I'm representing Sarah Green, some people weren't here last time so the property was originally zoned as residential, Area Plan requested last month to come in and de-zone to have a chance to re-zone again, so this is the second meeting for that. Also, with some past on filling out the form for this meeting it was mentioned by a few members on the board that no information was needed in order to judge it for rezone so we left that blank. I did talk to my attorney and if it is needed to get this passed through we can give you some of the information, the confidential information that we have if that would help it to pass the request to

get it rezoned industrial one. **Paul;** do you have any kind of a site plan, something that you are looking to do, not necessarily what the use is but any kind of site plan for structures? **Shawn;** we talked with Area Plan, the two girls were very helpful in helping out with that and the setbacks would fall under the parameters of the setbacks. There is pretty good setback off of 421, it is not being used for agricultural so we are following the guidelines there. The future use would be low traffic and low noise, we don't see it being a nuisance to any neighbors. We don't see it hurting any property values either. In my mind it would be similar to what, it would be very minimal traffic. **Paul;** as far as a driveway, would traffic enter 421 on the existing drive Shawn or would it come on to the county road to the south? **Shawn;** no, it would use the existing drive, we talked to the county highway department about that, they said (inaudible....) using the existing drive and we wouldn't need any additional permitting for that, we would ride out on a re-survey that the driveway will be shared so in case parcels were broke apart that that would be covered. **Paul;** do you imagine that (referencing the overhead map) would that become one parcel? **Shawn;** correct, I think we are going to have (inaudible...) because the land in the bottom right hand corner is pretty useless for this so we will separate that off, so we would separate that off so that we would get the 5 acres towards the top and that would push it back from the road a little further as well, but not too close to the residence. We do have approval from that residence there that this is ok. **Paul;** one of the obvious things is adhering to the Comprehensive Plan and across most counties as a norm, spot zoning is somewhat of a frowned upon thing, when there is land use that doesn't border an existing. Somewhat scrutinized I guess from the public about when there are other petitions similar about dropping in and industrial zone with nothing bordering it that meets or is of like use if that makes sense. I think one of the criteria somewhere is that it meets surrounding use. I guess that is one of the hills, or one of the things that I need to overcome in my mind about not spot zoning, that is something that we try not to do a lot of. So you had mentioned that you would be willing to share some information but not all and certainly you are exactly right, in the zoning of a property what we have to look at are the potential uses and then make the best decision at that point. But because it is spot and none of the surrounding properties are industrial, would you mind sharing some level of what you are looking to do? **Shawn;** sure, what is your definition of surrounding? Can you tighten that up a little, is that like right next to the property or is it within 5 miles? **Paul;** there is nothing that borders it that is anything besides farm or residence so I would say that would be some level of thought that, you know if you were going to build a factory that there would be a factory next to it and not a house or something like that. **Shawn;** and have you guys approved stuff before where it wasn't right next to industry? **Paul;** not that I can recall immediately.... **Audience member;** I can tell you three of them that are out in the middle of nowhere. **Paul;** that have been approved since I have been here? **Audience member;** they have been approved by this board since your 2016 program. **Paul;** what are those, I would be curious because to be honest... **Audience member;** who has GIS, zoom in there and look at the Danny Scheidler place, that is zoned I-1. **Krista;** down on 600? **Audience member;** yes, and Sardinia Machine, that is zoned I1. **Paul;** I think that was there before we had a zoning ordinance in the county. **Audience member;** I know that one at Scheidler wasn't. **Paul;** that was before my time, I know who he is but I haven't been involved in that zoning. **Shawn;** I did request some of that information, I didn't give those guys much time on it but it's a curiosity of mine as well as other areas that have been zoned that is in the surrounding area but maybe not next to it. Since we do have industrial in the surrounding area (inaudible...) to answer your question on that we are looking at a business that will be minority owned and we feel that it will go along with the agriculture of Decatur County as well. **Paul;** that is good to know. **Sheila;** would you have the ordinances in front of you and can you give the audience and idea of what can go in light industrial? **Paul;** yes, I do. (Paul read what type of things can go in the I-1 zoning classification,

Article 12 of the Ordinances). Those would be the permitted uses, barring some kind of request through the BZA to have an exception. **Shawn;** sounds like we fit in that. **Paul;** do you foresee Shawn, I'm trying to see where that is at, there is really not any concern for tall buildings or things like that. I'm just trying to think of anything that others may have some sort of level of **Shawn;** I appreciate that, we want to meet all of the criteria.

Sheila; Paul, just reading these pages of the comprehensive plan from 2016, specifically the rezone of the land use amendment is consistent with the Comprehensive Plan, it goes back to spot zoning. I am concerned about the spot zoning where there is not industrial backing up to any of that property. **Paul;** the comment was with some adherence to the Comprehensive Plan that there is no industrial property that borders this, and that is generally some level of discussion that would occur, if that makes sense. **Shawn;** I think it is a concern too but also think it is a concern to make sure that we are all treated equally. So if it has been passed before, what's the lawyer term on it "select enforcement"? **Audience: Randall Stone;** what kind of signs will be there? **Shawn;** you have something against big signs? **Randall Stone;** no, the driveway at the bottom of the hill, I have been up and down that road, I have been down that road for many, many years and you come around that curve and go down the hill and there is a driveway, I was just wondering if you would have a big sign there and traffic coming in and out of the drive? **Shawn;** we would do everything to follow the ordinance. **Paul;** that would have to be something to consider, line of sight and distance off of the road.

Tom Cherry made a motion to vote on APC 2020-25; Eric Whitaker seconded the motion with 4 members voting yes and 2 members voting no. Paul; 4-2, your petition does not pass. Shawn; thank you.

Anthony Kiefer; can I speak real quick? **Paul;** yes. **Anthony Kiefer;** the reason I came up here, I am paying real close attention to this because I would like to get into industrial zoning also. One of the things you guys keep mentioning, the Comprehensive Plan, that plan should be retitled, it shouldn't say Comprehensive Plan, it should say how to screw everybody in the county that is not a farmer, that is what it should say. If you read what has happened and seen what has happened in the county, in the past we have had (inaudible...) spot zoning. Most of them came in under the zoning when they implemented the zoning so that tells you that there was a reason for them to be there and that tells you there is a need. Sardinia Machine, the welding shop that was the next building south of Lett's Coop, there are people out there that need that zoning or need at least to be able to have some employees. You guys are killing me, I can use two full time employees right now but you guys have this daggone zoning ordinance that prohibits in Decatur County, the only one that will not let anybody have employees (inaudible..). I'm working my butt to the ground 14-16 hours a day because I can't keep up because you guys decided to do that. However, if you're agriculture and farmers you do whatever you want, but if you are not agriculture you are screwed in this county. I pay taxes, I should be able to do what I want in my building. So recently you guys have done this deal where you can, you changed the zoning where you can have up to 2 employees with a variance, I'm all in favor of that but what has happened to it? It's gone, it has disappeared, it has never been approved. So it may get through here but then it's hung up, what has happened? **Paul;** I appreciate the comment Mr. Kiefer, thanks for coming in. So what this meeting is for, to give you some background on the ordinance updates, that package of updates to those ordinances was something that we passed to the Commissioners, across this board with a favorable recommendation to them. The Commissioners received this, maybe even a few weeks ago. **Anthony Kiefer;** inaudible...it has been there for 3 months, it is killing me because I can use 2 full time employees now at \$20 per

hour but I can't. **Paul;** I certainly understand and your case was one I used as an example to push very hard through that. Now, I sense your frustration and I am certainly compassionate and understand the way that, and I believe this is a State Statute, but the way that procedurally works, whether it is Decatur County or any county, is that we as a board only make recommendations to the County Commissioners, those Commissioners review that with the favorable recommendation from this board, and then give it a yes or no vote. So, to muddy the water a little, inside of this stack of ordinances, something like this, are many other things that we felt were favorable updates. One of those things happens to be a lot of verbiage about confined feeding operations. Unfortunately that package is caught right now between the Commissioners and this board about what that setback distance needs to be. It is my understanding, and don't quote me on this, because I come here once a month, I'm not an expert on this but that package or ordinance updates needs to pass as a group, not something that we can select and pass a few. We have provided it to the Commissioners, they took that and did not vote or approve, they are supposedly giving us back a formal recommendation on the setback from the confined feeding operations, this board will then take that and likely make the amendment and then send it back to them, for hopefully an approval. Now, unfortunately I can't speak for those three fellows about that but we have certainly gotten it to them once, they have kicked it back to us, we will provide that back to them. It is my understanding that it is how every county works. I don't think we are alone in it. **Anthony Kiefer;** I would love to know the answer to this, how did that rule even get in there to begin with, somebody does a variance, how do they get that rule in there that restricts somebody from having any employees? In fact, some of the people on this board, or on the area planning and board of zoning that are doing exactly what I have been told what I can't do, they have employees (inaudible...) it depends on who you are in this county and that is the problem I have right now with this county. Nothing is ever conformed the same, it is always who you are or who you know. That is a problem, this board is guilty of that and so is the BZA, they are guilty of that. So that, selective here and selective there. So you guys, straighten it out, you are killing me. I'm so fed up with this county right now, I would like to build a building here but I don't know if I want to build in this county. I can't deal with it, and then that tax money is gone. You guys do everything you can to protect A1 agriculture land, I'm in favor of farmers, but you guys have taken it extremely to the far, on your side. And if you guys are not wanting to respond to an industrial building compared to an agricultural building, they are capped at 3% of assessed value, that is a crap load of money. Eventually you guys keep doing this to this county and eventually South Decatur and North Decatur will need to be replaced and there will not be a tax base, enough to do that. You guys are screwing yourself. **Paul;** to respond about where that came from, certainly older than my tenure with this board.... **Anthony Kiefer;** it was before you, Armand was a big factor in it. **Paul;** it was before my time... **Anthony Kiefer;** but some of you guys were involved and some of the people who put you on these boards were involved so **Paul;** do we know where the ordinance about a special exemption with employees would have originated? **Krista;** I can't tell you. **Melissa;** the purpose behind it is, it was to allow an individual to start a small business without having to rezone a property specifically for the business. And to try to get it up and running, if it was up and running they needed to expand, small businesses tend of fail in the first three years so it kind of gave the person the opportunity to get it up and running before they went and invested in a property with a proper business zone or industrial zone to bring all the employees and staff in. It's called a home occupation and it was designed for the members of the household to do a small business on the household property, not rezoning the property, just having the permission. If it needed to grow with employees, expansion, parking, signage and building, then that is where it would launch itself off into a business or an industrial zone. **Anthony Kiefer;** I know what it is and what it is for and the problem I have is Decatur County is the only surrounding county, I have called them all, I

have talked to them all, it's the only county that has done that. They are the only county that limits zero employees. Bartholomew can have 2, everybody else done it the way it should have been done in the beginning but not this county. **Melissa;** I have been here a long time and it was here when I came. I don't know when it actually originated. I think it probably came in the main zoning. I have been here 18-19 years. **Anthony Kiefer;** inaudible... I commend you guys for changing it or attempting to change it but it's driving me nuts. I want an answer. **Melissa;** the Commissioners have not sent back to us, we submitted and it has not come back. When it comes back, we will reconsider either accepting their recommendation, make a new recommendation, reject their recommendation, it follows the statutory process but right now the ball is not in our court, we are waiting for the ball to come back to our court to have action on it. **Andy Scholle;** does it have to come back to us to get an approval by statute, the Commissioners just can't say the we don't like this setback for the CFO.... **Krista;** they have already voted on it to send it back to us. **Andy Scholle;** did they provide us with a letter? **Melissa;** they are supposed to provide us with a written letter of what the recommendations for amendment are and we have not received that yet. **Shawn Green;** isn't that part of a variance for coming to these meetings, to change things that are different that go against the grain, why can't a variance allow him to grow a business with more employees? Couldn't he just do a variance and it's either approved or not? **Anthony Kiefer;** it's not a variance, that is the problem, they have a county ordinance that strictly says no employees, that's the problem. **Shawn;** it also says that you can't spot do things but there is a business down my road, an old sign company, or a sign company that's spot, there is many businesses in the last two years that have been spot. Really the county is setting their self up to get sued. **Anthony Kiefer;** that could be a possibility because if you do it for the landfill and they will do it for somebody else, there's not categorization that, like the way you guys done that landfill, you didn't categorize it so therefore you have opened it to I-2 and that opens it for everybody for I-2, there is no differences. **Paul;** I think we can go a lot of directions and I certainly would like to continue that. I have thought a lot about some of the things that you guys are saying, you have very valid points on a lot of that, as far as not categorizing that, I don't know exactly what you mean by that but there are listed uses that the zoning that we approved for the landfill has and they have to stay inside of those. As far as not allowing any spot zoning or approving all of it, as far as I know that is how this has been done in this state and probably in this country for a long time. I think that I can also make the argument that if I were to say that I would not allow any of it ever, there would be quite an infringement on someone's liberty about that. **Shawn Green;** what are you doing with the no employees? **Paul;** but there has to be some level of control Shawn with, what would prevent someone from building a factory right across the road from Mr. Kiefer's home, like Honda and having hundreds of trucks up and down a road that is narrow, that is very far from any kind of major transportation, there needs to be some level on control, that would be my argument, now where that level of control falls is certainly a very hot topic and I understand everything you are saying. We as a county have to do something to protect someone's neighbors, if you have a home and someone builds a factory next to you that may have a lot of noise, semis in and out, runs your wife off of the road and does things like that, I think that there are great examples as to why some zoning is necessary. But certainly about where you draw the line in never allowing something or always allowing something, as a black and white rule is almost an unreasonable expectation. **Shawn Green;** with the neighbor comments, from all of the variances that I have heard at the county level, when the neighbors are complaining it seems you say you are backing them up but when they complain it seems like almost all of those get passed. It's when people show up and there are no neighbors complaining it seems like they get denied on average. **Paul;** I would like to see the data behind that, I can't dispute that at this time without any kind of numbers, fair statement but I just don't know....

Shawn Green; (inaudible..) send out the notice to all of the neighbors. **Paul;** that is correct. And I think that my example may be, what I mean by that is lets say that a person moved to the country on the farm that they grew up on and wanted to build a home and raise a family, they did so and invested their life savings in it and without zero say, someone came right next to them and ruined everything about their view, their serenity, their quiet neighborhood feel, is certainly ... (inedible comment from audience...) if someone elects to move next to something that exists. I understand what you are saying but the example of protection that I was trying to make is someone doesn't infringe upon you after you have set up your home base, if that makes sense.

Anthony Kiefer; a lot of the problems in this county, you guys have to deal with is the problem that was put in because of that 2016 master plan. The way they have that set up, the only way you can do an industrial zoning, the way it is laid out it the strip over here off the bypass, the strip at New Point and a little piece north of Westport, in that master plan, that is in. But in the past before you put in zoning, there were several spot zones out there that were grandfathered in. So that tells you that you have a need for that, the need for (inaudible..) but the way that this county has done the last few years, there is nowhere to build a building, in your corridor. I can't afford to go out there and buy an acre of the side of the bypass, so one of the things that everybody is blindly overlooking, when you use taxpayer money for this airport, right? So we have to have a buffer zone around the airport, why not divide off some lots and sell off some lots for industrial, that provides protection for putting houses in there and someone like me a place to build a building to have a business but people don't have any forethought in this county. It's not just you guys, you guys feel the repercussions on it. **Paul;** I certainly understand and I hear what you are saying. I think that there is often times a fair amount of criticism from folks who have all of the ideas, I would highly encourage anyone who is very upset about this to try and get yourself on this board. Come onto it, I can tell you that the reward might enlighten some of you guys about what we can do with the resources that we have. I hear what you are saying, it makes sense, but things like these ordinance updates are what we are trying to do with the hand that we are dealt, if that makes sense. I understand, I can tell you that I am trying to do what I can and I think this board is too, to be sensitive to the voices that you guys are putting out there. **Shawn Green;** I feel for you, I don't want on the board but I would ask that if you pass this ordinance and try to follow the channels (inaudible...) getting information to you guys they said now that we can't email or call you, because you are going to have your own meetings, but we can't go to your own meetings either so you are asking for help but nobody wants to talk to us. What is the solution on transparency communication with not feeling like we are coming in here just grinding (inaudible...), I am a residence of Decatur county and proud of it? I have thought about moving out of the county too for similar situations, or out of the city and still may, I don't know. I would like to work together as a team for the whole county and see what we can do better. But it can't be done if nobody wants to talk back and forth, or team up and work together. **Paul;** certainly I hear what you are saying about the communication barriers on a one on one basis. We had someone come in a talk with us on what is isn't acceptable from, imagine for a second that we lived in a small town and you and I were friends or acquaintances and you came to my place of work and had me cornered for an hour and threatened to take your business elsewhere if I didn't vote how you wanted me to. All of a sudden that becomes a very difficult thing for me to sit on this board and have any neutrality about how I vote. The idea behind that is to keep all of the communication on top of the table, that if you have a concern, you come and voice it in front of the public, everybody hears, and it's not something that you and I go to the coffee shop every Sunday morning and talk about why something does or doesn't make sense. **Shawn Green;** I think we are taking the common out of common sense. (inaudible...) small town, half of you guys are related, half of you already do business together. I know you guys talk. **Paul;** not amongst the board. **Shawn Green;** why shouldn't we talk? If you want me to show up

every meeting to spill it out of what I'm thinking and what everybody else if thinking I can but it just doesn't seem like pretty good team spirit to get anything done for our county, not just somebody's county. **Paul;** I understand. **Shawn Green;** really it is going backwards. **Paul;** one more comment on about how you can't do that, Mr. Green put together a petition earlier that was one vote shy of having a pass, so I don't think that it is out of line to think that it is an impossibility to have a spot zone, you just saw that that was a very close situation. To say that you can't have any success in doing something like that, I don't know it's a true statement. **Anthony Kiefer;** I have done everything I could, I donutted my property, done everything I could but I don't know if I want to jump down that rabbit hole to spend all the money to try to go through and get shot down. **Paul;** I certainly understand. **Anthony Kiefer;** I just need a couple of employees. There is no where in this county for somebody like me to build a building and do what I need to do. There is absolutely, you can't find a piece of industrial property in this county, you can't, I have been looking for 2 years. Ripley County has like 700 acres of industrial land and that is where I will probably end up, I have looked at buildings in Alabama, Tennessee, I have yet to locate a lead because of this county. **Audience;** Rushville is wanting people too. **Anthony Kiefer;** it's the hand that you were handed, but you got handed a dirty hand to start with. Whoever weaponized that whole 2016 Area Planning Commission, it was weaponized against people who don't farm, if you are a farmer in this county you can do whatever the heck you want and nobody says a word. **Gary Fischer;** I would like to make a comment, it seems that this gentleman wants to push on agriculture, I am the chair of State and local affairs for Farm Bureau in this county, I also sit on the BZA Board, and I take that seriously. I take my farmer hat off when I sit on the BZA. However, I can no longer sit here and be quiet about how agriculture gets to the whatever they want, because that is not true. Agriculture allows businesses in homes that come into the county. **Anthony Kiefer;** what's your name? **Gary Fischer;** Gary Fischer. To continue to bash on the agriculture with untruths and half truths is unfortunate. **Anthony Kiefer;** ok let's drive out to county road, lets take base road out here and look at John Corya and look at what he is doing. For several years nobody on this board done a thing about it. He has had tons of employees, had 4-5 companies out there and not one variance, not one zoning, done whatever he wanted with 50 employees, so how does that happen? Because it's agriculture, he can do whatever he wants. **Gary Fischer;** I disagree. **Shawn Green;** Gary, has any agricultural been denied a variance? **Gary Fisher;** I can't answer that question. **Paul;** I think we have had some good conversation and have probably been losing track of some level of this agenda. Thank you guys for your comments, thanks for the petitions.

With no other business before the board the meeting was adjourned at 7:48 p.m..

ATTEST

Secretary, Todd Mauer

Decatur County Area Plan Commission

President, Paul Stone

Decatur County Area Plan Commission