

Decatur County Area Plan Commission Minutes
September 7, 2016 at 7:00 P.M.
1st Floor Meeting Room of Decatur County Courthouse

The regular scheduled meeting for the Decatur County Area Plan Commission was called to order by Albert Armand at 7:00 P.M. on Wednesday, September 7, 2016. Absent from this meeting was Bill Dieckman giving us 8 members present. Also present at the meeting were Krista Duvall--Decatur County Area Plan Director, Kenny Buening – Decatur County Building Commissioner, Debbie Martin - Administrative Assistant and Melissa Scholl – BZA & APC Attorney.

A copy of the meeting agenda and the attendance registrar is attached to these minutes and incorporated by reference. By consensus, the APC Board approved the minutes for the meeting on August 3, 2016 as written and presented.

*** APC Petition 2016-14 – Paul Dunagan and James Thomas** are petitioning to **“rezone”** approximately 4.60 acres in an A-1 Zoning Classification to a B-2 zoning classification to operate an eating and/or drinking establishment. This request falls under Decatur County Ordinance Section **Number 1125 (1)**. This property is located at **420 W Washington Street, Westport, In 47283 in Sand Creek Township.**

Paul Dunagan stated that he had purchased the old American Legion Building from Harold Sample to reopen as the Kickstand Saloon to serve food and adult beverages Monday through Saturday. I have applied for my license which I purchased from the owners of the Kizer Korner Pub. I did not know that I had to get it rezoned because when I purchased it from Harold he told me that it is the same as always. That’s what I’m doing here tonight, rezoning.

Comments and questions:

Board; using the existing building? **Paul;** yes sir. **Board;** how long has it been since they had any activity going on there? **Paul;** It was never officially closed, Harold Sample was just in today and he was going to come tonight but could not be here. They rented for bachelor parties, wedding receptions, that kind of stuff. The legion was still in Westport, Harold said it was known as a paper legion. **Bryan Gatewood;** I am the President of the Westport Town Council. Mr. Dunagan came before the town council at our June 13, 2016 meeting and presented what he would like to do. Joyce Brindley’s letter in support of the project is only 1/3 of the Town Council. I am the President of the Town Council in my third term. I also have a letter from my Richard Smith board member, Darian & Jennifer Gatewood and another letter from a private citizen whom Bryan did not want to read the name. (Mr. Gatewood’s letter along with the previous mentioned 3 letters will be on file in the APC Petition 2016-14 folder in the Area Plan Office) Today I had some industry people carrying around a few petitions today and we were able to garner 61 signatures. (We the undersigned citizens of the Westport area wish to petition the Decatur County Area Plan Commission on the matter of rezoning the old American Legion property from A-1 to B-2 for the Kickstand Saloon. We ask that in order to retain the morals, peace and tranquility of our peaceful community and neighborhoods that you deny the petition to rezone the property to use as a saloon and drinking establishment). I know this isn’t legal and it’s not binding, it’s

just a testament from the community. **Board**; I have two questions, 1.) Does the Town Council of Westport have an alternate plan for this property? **Bryan**; No. **Board**; and it's been abandoned for a period of time or has been in non-use? **Bryan**; that is correct. I looked at the zoning ordinance and I think an A-2 for residential or a B-1 as a transitional area would be more appropriate for that because of its proximity to the residential area on the north end. Looking and reading the zoning ordinance of a B-2 as it reads to me like it's a buffer or a transition from a B-1 to a B-2, this request is going straight to a B-2 which I don't think is appropriate. **Board**; My second question, I don't know a lot about liquor laws but a 3 way liquor license from what I am reading was purchased from Kizer Korner Pub for this business, is that correct? **Paul**; No sir, it is a 5 way license. The difference in the 3 way and 5 way is it allows catering. **Board**; that's what you purchased is a 5 way? **Paul**; Yes sir. **Bryan**; What we did as a Town Council is exercise what is called a "small town exception in Indiana law" it gives us the right to repeal or stop the sale of 3 way hard liquor by the drink and that's what we exercised on June 13, 2016. **Board**; so it was okay for it to happen at Kizer Pub but it's not ok for it to take place at the old legion building? **Bryan**; In 2008 the Kizer Pub got their permit on a 2:1 split vote where I was the one against, in 2015 our board changed faces, we repealed the 2008 vote with a 2:1. **Board**; The County Alcoholic Beverage Commission allow a certain number of licenses to an area, is that correct? **Paul**; Yes sir. **Bryan**; I believe that is State Law, not County. **Board**; but they allow so many based on population? **Bryan**; right and when you get into the area of selling liquor by the drink, the first stop is the local governing body, which is the Westport Town Council. On a more practical note, if this were to go through we would ask that after hours that they turn west on Washington Street so they don't have to go over and go through town say after 10 p.m. on a weekday and after midnight on the weekend. The problem with that is that Washington Street for all intense purposes is a county road. It is right at the corporate limits of Westport. When we go to the west, the road gets narrow and it drops down to a concrete single lane slab and asking bikers to go that direction after dark with no street lights in a single lane I don't feel that it would be responsible for us to ask that but on the flip side the people in town don't need to be woken up after hours. **Board**; I'm just trying to sort out in my mind why Kizer had a 5 way and you guys didn't do anything about it and now **Bryan**; because we couldn't, there were 3 members on the board and I was outvoted 2:1. We repealed it at the time that the license changed hands figuring it would be the least disruption. **Board**; I realize that Westport repealed the enabling for the 5 way liquor by the drink, but does the Westport Town Council have a verifiable position on the rezone of this land that is setting inside the city limits? **Bryan**; No, because we have not had a meeting since we have received our packets. What I do have are the minutes from the meeting where Joyce's motion died and my motion passed indicating the 2:1 split against this establishment. **Board**; With you being the president of the Westport Town Council has this gentleman and his business of repairing motorcycles that we granted a few years back, has he been a good citizen and have they been beneficial to your community? **Bryan**; I have no knowledge about that. The residents here might be able to speak to that. **Board**; Are you aware of any problems from this business being in Westport? **Bryan**; I'm aware of talk, but it's all hearsay and I don't want to repeat it. I wish we had a formal interface between the Westport Town Council and the Area Plan Commission to where we wouldn't get individual letters and we wouldn't get caught in the middle of issues like this, you could get a formal position on this. You would see where the majority is. But you have the individual letters here. **Board**; Mr. Dunagan, you are still waiting to hear back from the state on transferring the liquor license to yourself? **Paul**; what I did was to give everything to Frank Hamilton, they signed everything, you have 60 days to wait before you can get that back. I actually had it purchased before we went to the Westport Town Council meeting. I purchased it from Melvin Johnson, gave information to Mr. Hamilton. I had to create a

corporation and apply for my Retail Merchants certificate. Mr. Hamilton took care of all of that, all it was was transfer, but it takes 60-90 days to get it all through. **Board;** Would it be a 3 way or 5 way license? **Paul;** It's a 5 way. **Board;** But Kizer Pub did a 5 way or just a 3 way? **Paul;** Yes sir, it was a 5 way. Can I say one thing sir? This talk of the way bikers are, I know a lot of people who ride cycles including the ex-Mayor who was out at my place. If we are such bad people, last Saturday we raised \$4100 for United Way with the people including the president of Duke Energy who thought it was ok to come out there. I don't understand, we have signs out there that say please ride respectfully. I can control what goes on at the building but once they leave I have no control. We've been active in raising (\$35,000) funds for Decatur County's Santa's Cause. Bikers are all not like that, 15-20 years ago I would have agreed. I have more lady riders than men riders. It's prejudgment, not true. Very unfair. **Board;** So you are waiting to get your license back from the state but the Westport Town Council has repealed it so you cannot have a 3 way license. What supersedes what? **Paul;** the lady from the ATC says that they have the say over who gets what. **Board;** the town does? **Paul;** Yes sir, there was already one there, it's not a new one, it is being transferred. At the time there still is a 3 way available license for Westport right now. I'm not trying to cause trouble for anyone or step on toes, I'm just trying to have a place where you can come out and eat. We have had 4-5 functions out there with no problems from anyone. **Bryan;** Mr. Hatton, your question about being a good citizen, at the June 13 board meeting there is a Pastor from our community who wrote a letter. He was at the meeting for a different reason but he stated that he was against the Kickstand Saloon and there is a documented threat. **Board;** I read his statement. **Bryan;** So in terms of being a good citizen I think it speaks to that. **Paul;** that wasn't me who said that but the Pastor shook hands (with Mr. Thomas?)out in the parking lot with Joe Talkington out there with us. **Audience; Russell Wilson,** I own the property on the east side, I am totally for Mr. Dunagan opening this, he has had several things going on there, has had motorcycles there and I have had no disturbances. He had events on 3 separate nights and I have set out on my patio and I have heard nothing. I thought this was an Area Plan Commission, I did not know this was an anti-alcohol movement. The Town of Westport needs as much business as we can get. The argument that you are going to drive business out because you have his business there is ludicrous. The gentleman buys several things in Westport. All this is is an anti-alcohol movement. Let's let a man open a business, if it fails it's on him. You are to decide to change from and A-1 to a B-2. I'm asking for the B-2. One of the people carrying the petition lives 7-8 miles from Westport. **Krista;** Currently he is requesting to re-zone the entire parcel, would it make a difference if he just rezoned around the building, or do they have future plans for the back part of the parcel? **Russell;** that back part is basically a swamp. **Audience; Gayle Gatewood;** I live in Westport, I own 2 lots on the north side of their property. I'm opposed to rezoning for several reasons, I'm concerned about what it will do to the value of my property. I read in the Columbus paper recently that 75% of all the court cases that go through the Bartholomew County Court System are alcohol related. Now who pays the litigation? **Audience; Joe Talkington,** Westport Police Dept. read a letter that he wrote. (This letter is on file in the APC Petition 2016-14 folder). **Board;** He has had 4 events at this location, did you experience any problems? **Joe;** I did not. **Audience; Delores Honeycutt;** I am a resident of Westport and I understand what he is trying to say in that he wants to bring new business to our town but I'm just not real sure that this is the type of business that I would like for Westport to be known for. Bringing in the alcohol and the bar situation, I personally don't have a problem with a new restaurant and I don't have a problem with the beer or this that and the other, I don't feel that hard liquor is needed. I can't understand where the people are going to come from to support this business. The Kizer Korner Pub couldn't make a go of it and they have lived in Westport all their lives and knew everyone around. I just don't understand where the need is to

have another one of these establishments. And he's right, he has had the business on State Road 3 and there's not been any problems there and he has run a good business, and I don't understand why no one knew the building was up for sale. I understand what Russell is saying that you are the Area Plan Commission and this should not be an alcohol situation, probably well it shouldn't be but I'm just not sure that this is the kind of business that I want Westport to be known for. Thank you. **Paul**; I'm sure everyone in here has been to Stone's, I am not much different. It's not a complete biker bar, I have a Jeep group that comes out, people from Columbus, Madison, Seymour, North Vernon, all over. ABATE wants to have their annual regional meeting there. It's not all just the Westport people. You have to understand this, the mystique of the Harley Davidson stuff. They are good hard working people. We are not depending solely in Westport, they will bring money into Westport by buying gas and other things. I will purchase my stuff from the Westport Locker, my place is not a dump, and I have put a lot of money into this, compared to what it looked like when I bought it. The lawn has been manicured, building painted, things have been fixed. It's a nice clean place. They talk about value, if I have done anything I have increased the value around there. **Russell**; If you don't want to do business with the man fine, but do not put a man out of business before he even gets started. **Paul**; Mr. Gatewood is talking about a petition he has, I have a petition with over 200 names on it of people who want my business there. I did not bring it with me, didn't know I was going to have to bring it. **Audience**: **Joyce Brindley**; You all know me and you know that I love Westport. Why people have to persecute because they don't understand. If the man wanted to build something to put other things in we probably wouldn't be having this conversation. As far as getting out petitions, I have had several calls, this gentleman has over 200 names of people wanting this business. We want these people, they are good to us. They give money to our Fire Dept., MainStreet and our Police Dept. I am so disappointed in the Town of Westport, some of the residents that try to keep us down instead of letting us grow. With the MainStreet project we are ready to put in new sidewalks and street lights. I worked hard for that because I want to do some good for our town, not come in here and bash somebody before he ever does something wrong. It doesn't make sense. If a person is an alcoholic, I don't care where they live, they will find alcohol. Are we going to start having people become alcoholics because of this? I don't think so. We have had no problem with the Kizer Korner Pub when they had their business, why would it start now. This business is outside of town, it has nothing to do with inside of the town and to worry about how people leave at night, they can go either way they want. I want to see everybody to do well, see our town do well and put back some stores that mean something. I'm just very disappointed in some of the people of our town. Thank you.

Albert Armand; This vote is not about whether you want a bar or a drinking establishment or a restaurant, this vote should be about whether this particular spot on the map in the edge of Westport is suitable for a B-2 zoning classification. If the infrastructure, roads and streets that lead to that are suitable. I tried to look through the current comprehensive plan to see if there was any real guidance on what we should do in that area and as far as I can see, there is no real set plan for this part of Westport, it's not designated for business or residential but with the driveway and a building in the middle of it you can't say it is suitable for agriculture purposes. It's agricultural because it was never changed to anything else. Having said those things I will ask for any questions or comments from the board.

Board; One question I have, I was just reading the letter from the sewer department, Mr. Dunagan it says that you would need a lift station to tie into the Westport Sewer. **Paul**; Yes sir, there is a current septic there. I have had a gentleman tell me that a lift pump could be put in but I guess right now Westport is not going to let me do that. **Board**; so you won't have sewage? **Paul**; I have a tank but I

was going to hook on to the sewer department. **Board**; to operate that business as I understand it you have to have a county approved septic system of commercial size and scale or you have to hook on to Westport's sewer. This letter says that you are approved to hook on. **Paul**; I had someone else tell me that they were not going to accept any new hook ups at this time. Mr. Sample told me that when they put the new septic tank in previously that it was approved by Decatur County. **Board**; Do you know about when it was put in and about how big it is? **Paul**; I can't tell you when it was put in and it's a 1400 gallon tank. **Krista**; I really think that it needs to be tabled until the septic issue is addressed. He will have to have a commercial state approved septic or he would have to hook on to Westport sewer. That decision needs to be made prior to a vote, it has to be one or the other. **Paul**; I went to the sewer department and they told me I could hook on and then they tell me that they are having problems with their sewage right now. **Bryan**; I can speak to that, there are no restrictions right now, the letter is correct in what they need to do. The only thing that available out there is our high pressure line that goes from the lift station to the lagoons. So, what it will involve, I don't know, but it lays it out as to what needs done. They may need to get an engineer to get this done. **Paul**; Rick Adams told me that he could do it but two guys at the water company told me that they were not accepting any new hook ups. **Board**; I have had a little bit of experience with commercial septic and from my past experience a surveyor would go out, topo the area and send it off to an engineer, they would design the septic and send that to the State Board of Health who would be the agency who would approve it. They then would send it back to the local Board of Health and then Alan Crosby would do the inspections as the project progresses. **Paul**; I was there to see Alan and he gave me the gentleman's name at the state and I called him. That's when I talked to Rick Adams and he stated he could do that. **Board**; Just a heads up, this is clermont soils and it's hard to put a septic in those type of soils, could be very difficult and expensive. It can be done, people do it all the time. **Board**; You currently have city water in the building? **Paul**; Yes sir. **Board**; how many parking spots are you trying to establish? **Paul**; capacity of the building is 125. **Board**; it says there is a force main for the sewer that goes down Washington street, is that right Bryan? **Bryan**; It is there close but I'm not sure exactly where it is at. **Board**; this letter from Mark Taylor, Westport Sewer Superintendent, it says that a lift station would need to be installed. Who pays for that? Would that be Mr. Dunagan? Are you aware of that Mr. Dunagan? I don't have a clue what a lift station costs but it is probably expensive. **Paul**; Rick Adams told me that I would have to put a lift pump in, I have no idea what it costs. **Board**; does the Town of Westport have any specifications for these lift stations. **Bryan**; it would have to meet his capacity and have pressure enough to feed into our forced main. We would probably have to coordinate with him and our engineers to know the specs on the pressure and to size it properly. It's not excessive. **Russell**; there is currently residents across the road who have a lift station that goes into the high pressure lines. So there is a pre-existing lift station although they cannot hook onto the same one.

Albert Armand; I'm going to say one more thing, I am greatly disturbed that I get 2 letters, both signed by people who are on the Westport Town Council with two different views on this. It's hard for our board to make a good recommendations that fits the needs of these towns such as Westport and we get a letter from the Town Council President and one other that say we don't want this rezoned and then we have the third member who says this is a good deal. I wouldn't have a problem with it if it didn't have Town Council on the bottom of it, if it was your personal name. I'm not sure how we need to deal with this. I would feel much better if Westport came to us with an official recommendation for how we should handle this. I believe our board should always pay attention to the residents of the town that w'ere charged with the government over it. I'm going to open this up to the board if we want to vote on

it tonight or if we want to table it tonight so that the Town of Westport can come back with a solid recommendation, as the Town of Westport and not as the members of the town council. **Krista**; I think we also need a clear idea of what the septic situation is. Will it be a state approved commercial septic system or are they going to hook into the Westport sewage system. That is something we have to know, they can't open that business without it. **Board**; I agree wholeheartedly, you have a building that hasn't been used for how many years? It sounds like a residential grade septic system which isn't sufficient for a commercial building. How can we make a vote on something when the septic system is not proper? **Albert**; I know we need to have that as part of this but the big question becomes is this A-1, B-2, R or some other zoning, the preferred zoning by the Town of Westport, not that it's the preferred business that they want, but is it the preferred zoning for that area. Especially given that it's a fairly narrow street, definitely rough and narrow to the west. Not that it's excessively wide but neither is it excessively narrow coming into 500 W. I think we need more information, need some things cleared up. I would like to see it tabled until we can get these answers. I don't know how the rest of the board feels or how you, Paul, feel. If we table it, you can come back next month. If we vote you run the risk of a vote less than what you would like and then you are out for a period of 1 year. **Paul**; I'll do whatever you want me to do, if I have to have a lift station, I will put one in. **Albert**; It's not about lift stations, we need some clear guidance on the zoning of this property, not necessarily the preferred use but the preferred zoning for this area. **Paul**; what was it when it when the American Legion had it? **Albert**; it is an A-1 zoning classification currently and that is what it was when they had it. My understanding is that when Decatur County adopted the zoning, this may not be 100% accurate, but my understanding is that they declared everything as A-1 unless it was specified otherwise. Residential, businesses, industrial and so on that were existing at the time received those zoning classifications. If it wasn't deemed definitely, then it was zoned A-1. The American Legion was able to operate because it was considered a preexisting non-conforming, and since it has not truly been in business for over 12 months, the non-conforming part of it or the grandfather clause no longer applies. **Andy**; I would like to see it tabled and since this came about prior to the next Westport Town Council meeting, I would like to see them talk about it at their next meeting. **Bryan**; we normally lock down the agenda one week prior to the meeting but we decided that we would put this on the agenda and see what kind of recommendation we could come up with. **Andy**; I would like to see him talk to Alan Crosby if a commercial septic is going to go in, or if you are going to talk to Rick Adams and try to put in a lift station. I would like an answer one way or another. The 1400 gallon septic tank is more of a residential, not suitable for this establishment. **Paul**; I will talk with Rick Adams, if it is a lift station that I need, I can do whatever you want me to do. **Albert**; I think we need something from the county highway department about the road condition. Hopefully if this goes in it will be successful and be a high traffic business. **Paul**; If I go ahead and do the sewer stuff done and they turn me down, then I'm just out that money, correct? **Albert**; We are not asking you to install it, we just want to have a signed estimate that states that you will install whatever system you decide to go with. You can bring it to the meeting next month, we don't need the cost, and we just need to know what you will be doing for these problems. **Andy**; Krista, is there anything in our ordinance on the minimum number of parking and handicap parking spaces? If the building has a 125 seating capacity, what is the minimum. **Krista**; I don't know what that number is. **Andy**; so you may have to keep that in the back of your mind as well. **Paul**; we already made it bigger. **Audience: Joyce Brindley**; I just want to say that the town did resurface Washington street out to that area. **Jay**; I agree and see where we can table this and I can see that we can go ahead and vote, but I will go with the majority of the board if they want to table it. **Albert**; If there are no objections from the board members and if it is alright with the petitioner we will table this until the October

meeting. I would ask that you get the information together for your septic and other approvals that may be required to make this a legal doable business out there. Make sure you have everything in line. We want you to go into this with your eyes open. **Paul**; Yes sir. **Albert**; We are going to table this until the October meeting, Bryan Gatewood, Westport needs to ideally come up with a petition on what they would like the zoning to be in this area, not an idea of whether they want to have a drinking establishment, or something, just the zoning classification issue. Not whether it is fit for a bar or not, that is not what our board has interest in telling people, but whether or not it should be zoned an A-1, B, R or whatever. This will be tabled so that is the end of this petition for the month.

Missy Scholl; because this is tabled, it will appear on next month's agenda, you will not be notified again by mail.

The next meeting will be Wednesday, October 5th at 7:00 p.m.

P.O.P. (People over Pigs)--They have nothing for this meeting.

With no other business, the meeting was adjourned at 8:02 P.M.

Respectfully submitted by Debbie Martin, Administrative Assistant.

ATTEST

Secretary, Andy Scholle
Decatur County Area Plan Commission

President, Albert Armand
Decatur County Area Plan Commission