

AREA PLANNING COMMISSION MEETING
MINUTES MARCH 11TH, 2020
6:00 P.M.

President Marvin Rees called the meeting to order at 6:00 P.M.

ROLL CALL: Bruce Levi, Ralph Adams, Jeff Slaton, Vice President, Tom Monka, Ben Wicker, Phil Shanahan, Mary Richardson, Kelly Land, Marvin Rees, President. Also present were Geoff Wesling, Attorney, Gregg Duke, Director and Secretary, and Linda Ashwill Assistant.

APPROVAL OF MINUTES of February 12th, 2020. Hearing no corrections or additions, Ralph made the motion to approve the minutes as written. Seconded by Ben. All in favor. Minutes were approved.

NEW BUSINESS:

1. APC-2019-46 Danna Hough is requesting secondary approval for a three-lot subdivision located at 7865 West 800 North in Ripley Township. Parcel # 70-01-25-100-001.000-008. Marvin asked Gregg to give the **Findings of Fact:** Mrs. Hough received primary plat approval to create a 24.076, 21.725, 21.698, and a 7.250 acre subdivision on February 12th, 2020 contingent upon receiving a variance to development standard 7.7.3 (a & b) (lot area, and lot width) from the Board of Zoning Appeals. On March 10th, 2020 Mrs. Hough received the variances to allow the subdivision.

Recommendation: Planning staff recommends secondary approval.

Marvin asks questions from the Board. There was none. Marvin asked questions from the audience. There was none. Marvin asked the Board pleasure. Phil made the motion to approve the Secondary plat. Seconded by Ralph. All in favor. Secondary plat was approved.

2. APC-2020-3 Gerald Solomon and agent Andy Scholle are requesting secondary approval for a single lot subdivision located at 8100 West 550 South in Orange Township. Parcel # 70-09-35-200-005.000-005. Gregg gives **Findings of Fact** as follows: Mr. Solomon received primary plat approval to create a 6.732 and 33.268 acre subdivision on February 12th, 2020 contingent upon receiving a variance to development standard 7.10.2 (a & d1), (lot area, and front yard housing setback) from the Board of Zoning Appeals. On March 10th, 2020 Mr. Solomon received the variances to allow the subdivision. **Recommendation:** Planning staff recommends secondary approval.

Marvin asked questions from the Board. There was none. Marvin asked if the audience had any questions. There was none. Motion was made by Ben to approve this secondary plat. Seconded by Tom. All in favor.

3. APC-202-4 Phillip Kuhn is requesting a subdivision located in the 3300 block of North 240 East in Union Township. Parcels # 70-07-15-100-003.000-012, 70-07-15-300-002.000-012, and 70-07-15-200-002.000-012. Phillip Kuhn (Burt) was in attendance as representative. Gregg gave **Findings of Fact** as follows: The original parcels of land are 133.1, 140.95, and 81.18 acres. The proposed subdivision from the original parcel would be six (6) acres. This leaves a remaining parent parcel sizes of 131.03,

139.27, and 78.93 acres. The land is being subdivided to allow the Kuhn's to create a building lot. The proposed subdivisions do not meet the following Development Standards as set forth in the A-3, Regulated Livestock District of the Rush County Zoning Ordinance:

7.10.2 a. Minimum Lot size is forty (40) acres.

The proposed six (6) acre lot is less than the forty (40) acres required and will need a variance to 7.10.2 (a) granted by the BZA. None of the remaining parent parcels will require a variance.

The proposed subdivision complies with all standards as set forth in Title III, Requirements and Principles of the Rush County Subdivision Control Ordinance with exception of the lot size and the variances listed above. All application materials (including the property owner affidavit and deed of dedication), plat drawings and legal notice comply with Title IV, Procedure, of the Subdivision Control Ordinance. All adjoining neighbors were notified by mail. **Recommendation:** Planning staff recommends primary plat approval contingent upon the variances being requested and received from the Board of Zoning Appeals to 7.10.2 (a) to allow a lot size of six (6) acres at 3352 North 240 East. Marvin asked if Mr. Kuhn had anything to add to this. He stated no. Marvin asked questions from the Board. Gregg made note the building lot was out of the flood plain. Jeff asked if that was an existing lane going down to the barn. Phil answered yes. Linda asked if he was going to have the same septic. Phil said they would put in a new septic system. Marvin asked if there were any more questions from the Board. There were none. Marvin asked the audience if they had any questions. There were none. Marvin asked if there were further questions from the Board. Tom made the motion to grant primary plat approval. Seconded by Ralph. Marvin asked for any more discussion. Mary stated this should be pending or contingent upon approval of the BZA Board for the lot size. Tom rephrased his motion to include contingent upon approval of the BZA Board for the approval of the lot size. Seconded again by Ralph. All in favor. Motion carried. Ben asked if the housing scoring would have to be done before the ILP was issued. Gregg said when Mr. Kuhn goes for the Variance they could do the housing scoring at that time. All were in favor of this amended motion. Seconded still stands. Motion was carried for this approval of Primary Plat.

OLD BUSINESS:

1. APC-2018-11 zoning ordinance reviews-discussion of changes to A-3 district (lot area, housing scorecard, CFO/CAFO setbacks).

Gregg stated he didn't have anything to say. He guessed he was still waiting on an answer on the commission on what to change. He will add this. He is just looking for direction from the Board. This is not a public hearing. He just wants to know what to type into that, so when we have a public hearing we can discuss this. Tom said he would like to see the forty (40) acre farm for housing to be brought down to two (2) acres and pitch the score card as long as they comply with all other regulations. Gregg asked for him to run that by him again. Tom said the minimum lot size in A-3 for a residence to be two (2) acres as long as they were in compliance with the Board of Health regulations, septic, etc. and drop the score card for housing. Levi said this was for housing- residential housing. Ralph said this would leave the CAFO the way it is then. Tom stated yes. Ben said he thought he would want to see the lot size to be consistent through the zone. Not just for the residential. Gregg said he thought that was a good point. He thought what Tom said was that the development standard say two (2) acres. So this will be consistent throughout the A-3. Ben said he thought it would be a problem if they dropped the housing score card entirely. They need to take a closer look at what the initial development standard would be

for housing. He thought if they are going to have that consideration in A-3 district there should be some allowance there. Linda asked if he was referring to set backs? Ben said he's not sure if banishing the score card would be the right direction to go. Tom said he just finds that you have to have a score card to get someone in front of the BZA. This counters the entire purpose. The BZA makes the regulation, why should someone have to ask permission to go before them. Ben asked Tom if he was suggesting all A-3 housing would be by a Special Exception. Tom said he suggests that the two (2) acre is minimum for housing in A-3. Ralph said this can't happen unless someone sells them the ground. Tom said what was going on right now is we have people selling people property that they know people can't use with the purpose for what they are buying it for. Then we tell them they have to contact the APC office to schedule a hearing to see if their score card will apply them to get permission to build on the property when it has already been sold to them. Marvin said they can't sell the property without being subdivided first. Gregg said what he thought Tom was saying, case in point, was the one being up north, Kenny Albaugh's property for Glenjim. Cause they subdivided with the intent of building on it. which when you subdivide you are creating a building lot, but then he was upset because he had to come back in and do the score card when someone wanted to build. Tom said still since we have the BZA why does someone have to have permission. That is his main complaint. Tom said if you want to move into the residential area no one requires you to get approval or for A-1 or A-2. So why A-3. Ben did said it is different because you have chosen to differentiate as to the prime agricultural land. That is where we are saying, we don't want the housing there but in the A-1 or A-2 areas. Tom said they do still have to sign that they know they are living in an agriculture area, where you have to put up with smells and dust, etc. That probably safeguards. Ben said that doesn't protect for the future. Ralph said this is what I don't see occurring. If he lives in A-3 and owns 500 acres and I don't want to sell you two acres to build your house, he's not going to do it. Ralph said he wasn't sure what they were hearing. Marvin said his concern was if someone such as a developer wants to put in ten (10) houses. Ralph said he could understand that, but that would be different. Tom stated he had put in basements for a long time in Fisher's, on parcels that Sun Crest Farms turned into the city of Fishers. What was being done, people were not coming in and buying ten (10) acres. They were buying forty (40) or fifty (50) acres at a time. Then they would subdivide it up. Someone is going to have to figure up what the grand kids are going to do when they die. Are the grand kids want to carry on the farm? Usually you have your son's wife or daughter in law involved in the farm and the grand kids in up with it and selling large chunks. If you don't want something selling large chunks, go talk with them and tell them what the rules are. Is it a sure fire method, no but it seems a lot easier than coming to the Board. Marvin asked if they went down to two acres to build on in A-3, what differentiates between A-2 and A-3. Ralph said that is where we make exceptions. Tom asked seriously when we ever had an exception turn down for this. Tom said it has been a long, long time. Gregg said not since he has been here. Tom said if we have a rule and have to keep having these exceptions and if they keep getting granted, why have the rule? Ben stated those are rarely for new homes being built. Ben said the majority of what we accept is the existing lot or house from the tillable. Ben said he thought they could handle that in a different way. Ralph stated the forty (40) acre rule the way it is written doesn't deviate without an exception. Ben stated he agreed. We need to expedite that process. If there is some place we can handle that. There is someplace in the middle here we can get to and not just take it where it matches. Tom said we had to establish perimeters here before we can get to the middle. Jeff said look at the one we just approved. Its six (6) acres. Does that mean we can put six houses on it? Linda said no three (3). Jeff said so you could start an addition there. But we know that is not what they plan on doing. Jeff said they were arguing about someone coming in

to buy a bunch of ground. No one is going to be doing that. Tom said if someone owns a bunch of farm ground and they want to sell, no one is going to be able to stop it. That's a bunch of money. Linda said if you have a farmer that had forty (40) acres and splits off two acres, and he's thinking, boy I made a pretty good bundle on that. Six months later he comes and wants to split another two off, can we stop him? Jeff said people were moving to the country so they don't have a neighbor that close. Jeff said he didn't they would run into that. If someone wanted to put in a housing addition, they are going to buy the forty (40) acres and they would have to meet the criterial. Linda asked if the main reason or point here wasn't it we wanted to save farm or agricultural ground. Linda said that is why we have the score card. If it's wooded area that can't be farmed. Tom said the score card is arbitrary. When it was first summited in here, he was sitting in the audience and the question was asked "Where you get the numbers?" Linda said they were pretty good numbers and the scoring comes up pretty good. Tom said are were going to require all farmers to move within two miles of a fire department. Linda said not that score card that hasn't been approved, the present one. Tom said he wanted to move out in the middle of tin-buck-two, and not have to worry about living within two miles of the fire dept. or so he had to ask permission and ask permission based on arbitrary numbers. Linda said we don't want to get rid of good farm ground. They are not making it anymore. Wooded area she can see for housing. Tom said if it's forty (40) acres there would be no exceptions what so ever. Linda said that is where the score card comes in. Tom said not really. Jeff asked the question "Why don't we want to get rid of farm ground"? Why don't we want to develop the ground? Linda said she wanted to eat. Linda said she wanted to have a garden. She wanted people to farm. Jeff said we are not going to get a million people to move to Rush County and gobble up all the ground. Tom said it's not like Fishers or Carmel. It's not like you can go to Indianapolis Walmart or a mall or something. We are an agricultural county and are probably going to stay that way. Jeff said as a school board representative, we are down so much in kids, evidently it's only farmers that are going to be supporting the schools because, we don't have enough kids coming in to get State money. All that tax money the farmers are not going to be able to afford to farm. Ralph said we are at 63 million this year. It has gone down. Ralph said the average with the new assessment is \$21.00 an acre. Center Township is \$23.30. Tom said plus the residential taxes. Ben said he still came back to the core principal of planning and zoning is to guide and direct where you want houses to be. Tom asked and who are we to guide and direct. Ben said we are the Planning Commission. This is the main purpose of this body. Tom said exactly and asked if he know what the purpose of the Communist Party worldwide was? It's to direct people where they can and can't be. Tom said he was not trying to turn this into a personal argument. Why can't a man build or move out on someone's forty (40) acres if they want to sale them the ground without him having to jump through hoops that other residents don't have to jump through? What the farmer has to jump through too, to get his farm and property that is already existent for such. It's a sticky situation. Ben said because every time to do this, you create more potential for future noncompliance. Ben said you add to the cost of community service. Additional upkeep on roads etc. Marvin said the road is going to be there if you build there or not. Ben said then d think about it, would you rather have uses consecrated in a given area, or would you rather have spaced. Just like right now, there has got to be space for both, but that is why we have these different zones. Tom said there are those of us that would just as soon have the middle of nowhere. Tom said he wasn't against farming. We didn't have this problem before 1947 before zoning came in. Ralph said he would like to get back to the road thing. The services, or road, is 99 percent of a two acre of a subdivision that it might go in. The road is going to be there. The boy driving out of his drive way on that road is not going to tear that road up as much as the ten semis that go through every day hauling grain.

So he didn't see the road services to go up. He's buying his electricity which is already going by there. He's building his own well and he is putting in his own septic. So where are these services? Bruce said with the development the road would be better taken care of. We would have extra taxes for this development. Bruce said he was not that familiar with the score card. Bruce asked if the score card goes to the BZA. Gregg stated yes. Ben said by function the score card was an administrative process. If someone comes in to apply for housing in zone A3, it dedicates what the score in that area would be. Tom said if you don't get so many points you can't even get into the BZA for review. Marvin asked Gregg how he graded the score card. He stated by soils, whether they are suitable or not. Gregg said he goes to the Indiana soil survey to determine that. It goes by existing land use, tillable, wooded, pasture. They get points depending on that. Section density – how many houses within a half mile radius. Utilities- municipal or private. The road type-paved, graveled-new. CAFO proximity – is it upwind within a certain distance-outside of that distance-or is it downwind within a certain distance if they are outside of that distance. This is how it is scored. Jeff said the CAFO wasn't a huge deal on this. Not necessarily but the guy from then on. It's a hundred thousand house when they build it. Ten years it may be a forty-five thousand house if it's near a CAFO. Gregg said he would comment in here is that one of the things they are required to sign is The Deed of Dedication, Agricultural. They note there is going to be smells in that area. Jeff said he understands that, but like he said, initially it's buy at your own risk. Gregg said everybody else has to too. Ralph said you still have the Indiana Code the right to farm act. Jeff said he understands that. It's just the value of the house may go down considerably. Ben said it's doesn't apply to the house. It's just that you are consuming it to be a nuance. Ralph said that's what he's talking about. Jeff said no. He was just saying that the value of the house that was built, even though the first builder, or first home owner, is OK with the smells and stuff, the next one may not be. Ben said that would be the buyer's decision. Jeff said he was saying the house could be devalued. Tom said the forty acre chunk, let's say is farm land, so instead of taking two acres a whack out of farm land, we take forty (40). Granted you can but. Tom said when asked how many acres in A-1 were available for purchase. Virgil was asked how many acres in A-3 were available. He said how much money you wanted to spend. Tom said the problem was that people are selling land and at the same time there are highly restrictions on it to save farm land. Tom said then don't sell the land. Is it his place to tell the farmer he can't sell his land? No it is not. So why is it supposed to be his place to aid the farmer that he can't build on this lot. Tom said he was not anti-farming, but the way we are going about this is totally screwed. Marvin asked so what is to stop a farmer from selling off forty (40) acres of land? Tom said nothing. Jeff said the score card he guessed. Linda said the Health Department, maybe. Tom said if someone had the money for forty (40) acres. How you think you are going to stop it being sold? Gregg said if he's going to put a subdivision in, he's going to subdivide it. Tom said you should go talk to people in Fishers. That was a nice town. That consisted of three bars, a barber shop, and grain bin facilities. The railroad ran through the middle of it. Archer's Delicatessen and meat processing. That was essentiality it. Then bang, bang, bang. Developers were buying big chunks of land and putting in developments. They were going to the town board officials, which probably consisted of three people, since there hardly anyone living there in the whole county at that time. That's what started that mess. It turned into Fishers. The fastest growing county in the State. Ben asked if he was suggesting if they had zoning that couldn't happen. Tom said no. That didn't have anything to do with. Spectators were coming in giving millions for the land. They wait until the old man get tired of it or dies, and it starts giving gifts to the Grandkids. If we are going to lose our land that way, there is nothing we can do about it. Ralph said they set their sights on Marion County. They come in with deep pockets. Ben said this is an example that we do not want that type of

development in that type of zone, period. Linda said if you change A-3, you are going to have to change A-2, it's a minimum of ten (10) acres. Ralph said he would guarantee you, if a developer would set his sights in Rush County. There would be half of the people lined up in his office wanting to sell, because that is the way they operate. They have plenty of money. He watched it happen in southern California back in the 60's. He know guys that had avocado orchards, rangers, and now they are housing tracks. That is something that we will never halt because money talks. He's sorry, but he has seen it happen. Ralph said he would not look for that to happen here at least any time soon. He believes that's a suggestion that you can't prepare for because they just keep throwing out money. Nobody likes it. Tom said it's a deal you have to build a community to prevent this kind of stuff. Legislation can't do that. It just doesn't work. Some people would take to court, and you will find a court that will allow that guy to buy that chunk of land. Everybody has spent umpteen million dollars except this spectator that is back by God knows who. Tom said if you build up the community and make everybody realize how important farm land is but he just doesn't think restricting people to buy a minimum of forty (40) acres for building a house in the middle of the county you are not going to accomplish anything. He one in millions that would like to live out in the country, but you can't come to Rush County and do that unless you come before the Board. Jeff said he would like to see it easier for kids to come back to Rush County. Jeff said when he said kids, especially farm kids. Linda said don't we have enough ground in A-1 or A-2 for housing? Phil stated you are talking about A-1 again. Rushville right now is already land locked. You have the farmers to the west and out east that have big farms. You have farmers to the south. Where you going to go? You think those people are going to sell them forty (40) acres? Phil said he was land locked with big farmers all around him. Ralph said it's like Vergil said at a previous meeting, we have 43,000 acres in A-1. That doesn't mean anything unless someone will sell it. Someone has to be willing to sell. If we would go with Tom's suggestion, then still someone has to be willing to sell. There's not going to be five hundred (500) people building houses on two acre lots, immediately anyway. Maybe the Board needs to look at A-1 then also. There is only supposed to be a minimum of two (2) acres, maximum of four (4). Tom said what we are getting into now is planning the way it is right now. He doesn't just mean Rush County, but State wide. We are actually creating more problems and we are solving. For every rule you have to solve a problem, three or more problems are going to crop up. Gregg said if he could just throw a little static in here too – which may be counterproductive- he didn't know –and he apologizes if it is. He thinks when you look at it, if we were to apply the rules as written, the way it should be done, the forty (40) acre rule would stop more rural development than the score cards. Score cards hardly even would have been circuit breakers to stop construction. The forty (40) acre rule would. Tom said the think about the score card is you have to have X amount of points to get you before the BZA. That is not the purpose of the BZA. The purpose of the BZA is for Joe Blow to come in and say he wants to do X. BZA looks at score card and ha, ha, ha's, you only got nineteen points, you don't get to talk to us, go away. That is dumb, stupid. He thinks the score card is arbitrary. Bruce asked Gregg if on the scorecard if they didn't have enough points what happens. Gregg said if they don't have enough points they are done. Bruce said that is just another layer that we are throwing on our people and they don't even have a chance to come in. It's turned down by a score card. Bruce said that is why BZA is there. Jeff said that is why we have the score card so people will not be able to come in and be denied. Bruce asked why? That is what the BZA job is. Bruce said since he has been on this Board, he hasn't seen anyone be turned down for anything. So why are we adding another layer on top of it. That's what he doesn't understand. Bruce asked Geoff our attorney if he could explain this. Geoff said it's because those forms are for whatever point the scoring system was put in, was based on points being not deemed of being built

upon. Geoff said what he thought he was saying just to get rid of the minimum score so they could go before the BZA. Bruce said exactly. Bruce asked what the BZA is for, if we don't do that. Ben said the advance or flip side is if you score high enough, you automatic get your permit. You don't have to go before the BZA meeting at all. Jeff said it's just a process like catch 42. Bruce said then why don't we have the BZA just to not go by scorecard? Jeff said there are other things besides that. Bruce said he was just trying to get this in his head. Ben said do you just want to have a slam dunk. Bruce said anything that is not right they need to review. Tom said why not just eliminate the points on the scorecard? Ben said you need to keep the level where it serves a purpose by layers. Ben said if you score above it doesn't require addition scrutiny. That is the purpose of the BZA to review the exceptions. Like having the scorecard you can have situations where you say OK you know what, this is by the metritis we set, and yes it arbitrary, but everything we stinking do is going to be arbitrary. If they don't have the score card the BZA could just decide, today I don't like this or that. Now at least we have metric, right, that we can assess. Tom said, OK, he could see that, and he didn't have a particular argument against that, as long as you come to a reasonable number. Ben said he could conceive that we want to remove the minimum. If that's a big concern of the process. Arguments right now if it's a house or livestock barn, it's a step administrative you go to the office when you are applying for. It's an additional level of scrutiny, but if you score high enough you don't have to go through the Board. You just get the ILP right now. If you don't score high enough, it is saying this requires some additional assessment and that is why we put to the BZA for Special Exception. Jeff asked what the last scorecard that ever got rejected was. Tom said he remember one a couple of months ago. Gregg said he wasn't because he didn't have enough points. He just had to go to the BZA. That's usually what happens. Jeff said the score was not a kicker. Gregg said it could be. If you don't have nineteen (19) points you are kicked out. Jeff asked what on the scorecard keeps them from development. Gregg said it usually was the section density. You mean from going to the BZA? Rarely or ever has someone not been allowed to build. Usually it just goes to the BZA. Jeff said that what he was saying. The scorecard has not prevented someone from building a house. Marvin asked how many have been not allowed or rejected from going to the BZA. Gregg said he doesn't remember any. There might have been one since he has been here. He can't recall any not being able to go to the BZA. Tom said if you talk to people outside this county that make the stupid statement that they are looking to buy land and ask them why they don't come to Rush County. They say because there are too many hoops to jump through. That is a fact. If we could just make the hoops bigger to jump through and they wouldn't have to jump as hard. Geoff, just to clear it up, you are having two separate or two different arguments. You are having a scoring sheet and the forty (40) acre rule argument. Geoff said he didn't know that people in Indianapolis are saying "I don't want to build in Rush County because I have to jump through the hoops with the scoring portion." He thinks they might be saying they don't want to build in Rush County because they can't buy forty (40) acres. Tom said the two are so tried together right now we need to get down to the scorecard. Jeff said that is right. He likes the two acres so he was done with that one. Ralph said so we have to end this scorecard for the section density based on 640 acres. Why would you have these various scores based on section density? Ralph said almost sixty (60) years ago when he graduated from high school every section then had several farms on it. Phil asked isn't the density based on what. Geoff said it is how many houses within a half mile. Gregg said what the attempt was, you got more points to be closer to housing districts. That is what this does presently. Gregg said he thought the idea was to move you toward the A-1's where they had community resources. Ralph said there has to be something for sell in A-1 before they can buy it. Jeff said he would venture there has been more homes torn down than built. Marvin called the meeting back to order.

There were too many conversations going on. Bruce said he was trying to figure out what was going on. He stated the layer of government with the more steps that we have to go through, and we have a director and assistant director to take care of these things. The big thing that bothers him is someone not getting enough points on the scorecard to go before the BZA. That is the thing that bothers him. Linda said they can file to go before the BZA for a Special Exception even though they might get an unfavorable decision if they have scored a least twenty-one (21) points presently. Bruce said yes but it's another hoop. Geoff said they could keep arguing, but he hasn't heard anyone say there should be a minimum on the scorecard. Is he right? So just get rid of the minimum. They either score enough that they are good to go or you don't score enough and you go to the BZA. Get rid of the section of folks that can't come before the BZA because of the low score. Geoff said we could all agree there might be someone that scores below nineteen, but forever reason there happens to be some weird housing situation or something where it might be a nice place to live. It would be an obvious great housing location. Jeff asked Gregg if he got some direction from them. Gregg said yes. If everyone is in agreement with it what he would do is that A-3 down to two (2) acres and take away the minimum on the scorecard. Marvin said what is this going to do with the other zones. Phil said in A-1 the maximum for construction is two (2) acres. In A-2 which is agricultural has minimum lot size of ten (10) acres. Linda said we have an A-1R also. The minimum lot size there is two (2) acres. Phil said that was with livestock on it. Ralph said but we are only on A-3 tonight. Gregg said if he could make one more statement A-4 was minimum forty (40) acres. Marvin asked if we had any A-4. Geoff said there is a very limited amount, yes. Linda said that goes by lot width also. They are supposed to have 600 foot. Marvin asked Gregg if he had the direction to follow through. Gregg said right now he was going to do A-3 and next month he would come to you probably with the remainder of this book that needs to be Ok'd by them before we have a public hearing. Jeff said you might check with your counterparts if two acres will create addition problems. Gregg said he thought that is what a lot of people have done, so he doesn't thank it has. Gregg said he thought we were the oddity of the forty (40) acres. Jeff said he wanted to market this when we get it done. Fliers out in Shelby County, etc. Gregg said he feels good about this direction and thanked them all for the discussion. Phil said this should say for housing construction only. Hog confinement stays the same. Ben said he had a dispute on that. Ben said if we are going to make a development standard smaller we need to have apply particularly to the A-3 District it should be consistent across the District. Gregg said what you are telling him the development standard is forty (40) acres. At current that is probably correct what Ben is saying in that if we lifted the development standards that would apply to CAFO's also. There is no language in the book at minimizes the CAFO acreage other than the development 7.10.2 A. Ben said the reason he is OK with that too is because we have additional standards, plus scorecard too, plus State regulations on CAFO's on top of that. They dictate that. Phil said he has had some people ask him how's come forty (40) acres is large enough for a CAFO anyway. Ben said because the use of manure is separate from the facility. When you build a CAFO you have to through your State permit you have to have acreage available for the manure. Either by yourself or under contract for disposal of. Jeff said that was why Tully got rejected a few years ago. He got accepted for the barns, but he didn't have enough ground for the manure. So they rejected him. Phil said but here you go, people start adding more CAFOS in the county, so we're shrinking again. Jeff said if a guy is going to build a CAFO he already has forty (40) acres. Ben said all that really does from a development stand point is really limit or restrict and probably put many guys to put barns and potential horse places. Phil said well here's another question he wants to ask. In reading the Indianapolis Star IDEM stated CAFO's is not farming. Ben said it's a different scale, but they still need grain and soybeans

and fertilizer. We can argue scale and what it encodes. Phil said if he has a CAFO you have to have a place to sale hogs. Phil said once you build a CAFO you sell to certain people, don't you? Ben said most of them are done by contract. Phil said by contract, so that's not farming. Ben said that was a physiological conversation. Marvin said farming is a business. You contract your grain as part of farming. Phil said you are raising your grain. Ben said you are raising pigs too. Phil said do you raise your pigs or just buy them off of somebody. Kelly said is it point A to point B or B to C? Ralph said he thought they need to go one step at a time. We need to settle on the A-3. Marvin asked for a motion to close the meeting. Gregg said here's the way it goes. The development standard stays at two (2) acres and that is compliable to CAFOS also. The way you have guided him so far. So CAFO can go on two (2) acres. Jeff said it would be a small one. Ben said here is why a specific situation this makes sense. I come home from school. I need to generate additional income from the farm. To get that done I'm going to do that by building a hog barn to do that. So my Dad has the ground on his grain farm. I'm going to be the big farmer with the pig farm. With two acres I can buy my two acres site put that barn on there and sell him the manure from my facility. Him utilizing it as a fertilizer. That's a scenario where you want to get young people back in farming. It's the same with housing. Ralph said actually he thinks we have seen this done in Center Township. He wasn't sure of the acreage. Ben said he know two acres sounds small for a CAFO but we are really just talking about the facility. Jeff said no, he was saying even the facility would be small on two acres. Ben said chances are you are not going to place it there. You can't shrink the lot. If it's going to be a 1,000 cow dairy they are going to have to have a lot bigger lot than that. Their footprint is that much bigger. Phil said here we go again though, you could put a CAFO right beside his house. Ben said no there would be other development standards that would keep this from happening, like the scorecard and other setbacks. Mary said she could understand Phil's situation. She asked the question if you don't sell your manure to your Dad and let it pile up what would happen. Ben said he is in validation with the State and IDEM would shut him down. Mary stated, so if we let this go through for the CFO there are other measures that would stop this. Jeff said yes. There are checks and balances. Mary said it would fall back on the Board then. Ben stated no. Marvin asked Gregg if he had what he needed. Gregg stated yes. He stated if this is what this County directs him to do, he is good with it. Jeff asked him if he could get direction from another county.

REPORTS:

Attorney: Geoff said we have a situation down in Carthage where we have sent out a couple of letters. Very well stated letters to a home owner assessing fines to this individual that will not move a mobile home or better word RV. It's an eye sore and against our Ordinance. He is not going to pay the fines. The individual is not going to do anything with it. He and Gregg were having the conversation that they were having was, we thought we should bring it to your attention and how to attack this situation. What you would like to do with this issue. We could go to court. We can sue this individual. Essentially he thinks we would have success in getting it moved. It may take a while. It would take quite a few hours, as we discussed previously. He stated we could probably, which he can't guarantee this, but we would probably has success in getting the Judge issuing a judgement in our favor for attorney fees as well. With having said that, we would probably never be able to collect. It's pretty difficult to ever collect. The question before the Board is. Would you like for him to proceed on that. Knowing we are probably throwing bad money against bad money, sort of speak. You are probably being a long time down the road getting what you want done. Getting it moved out and getting rid of the eye

sore but probably spending a lot of money doing this. Kelly said speaking for Carthage, he thinks they need to set a presentence before it evolves into something else. Phil asked if it was on private land. Geoff stated it's on private land. He would give them a heads up, you have probably seen it or pictures of it, since this has been going on several months now. Gregg said he had sent out pictures. Geoff said it was essentially a shallow fence with an RV without plates, grass growing up over it. He thinks there is an individual living in it. It's not a good look. It's against the Ordinance. Jeff asked which Ordinance? Gregg said it's the one where residential zones were not allowed to have an RV on your property unless it's in an enclosed building. You have to have license plates on it and has to be drivable. Jeff said this isn't a fifth-wheel then. Gregg said no. It's an RV. Kelly said there are probably sanitary issues. Geoff said it sounded like to them that he is hooked into the sewer system. Geoff asked Kelly if they had attacked that front yet. Kelly said he didn't think they had. Geoff said that is something you could turn as a crime, by fraudulently being hooked into the city utility. Jeff asked if he didn't pay utilities. Kelly said he might pay the property owner but it's hooked into the house. Geoff said he thinks he is still commenting a crime, since he has hooked into the home owner's line. He's not paying his individual utility so he is commenting a crime. Ben asked how much of the liability is ours as planning and zoning versus how much is it falls to the town of Carthage? Is there opportunity to consul between the two to figure out how to maybe share in action. Geoff said he didn't think you could make an argument that one side is stronger than the other. Ben said if they were going to bring the full case, then we should spread it between us. Kelly said this had been going on for probably five years or more. Gregg stated the fine was up to \$2,500.00. The maximum. Jeff asked if he owned the house. It's not a rental? Geoff said the property was deeded in his name. Mary said you can sue the property owner, so wouldn't that be the way to go. Geoff said seriously if it were him, he would call law enforcement and have a police report done, and see if thee prosecutor would attack. He thinks there is a crime here. He thinks there is a criminal case here. He thinks he is fraudulently getting free utilities. No different if he stole Mr. Duke's electricity and put in onto his house. That maybe the way to go at it. Geoff is just saying he does not like to look at clients in anyway and say, give me a lot of money and you get what you want, but it has cost a lot to get it done. That is what you are looking at. Mary said if you are suing the property owner, can't you put a lien on the property. Geoff said sure until they transfer it. Ralph asked if his taxes were up to date. Gregg said he believed so, yes. Jeff asked if he was related somehow? Does someone live in the house? Geoff said yes. Someone lives in house and someone lives in the trailer. Mary asked if we were sending the fines to the property owner. Geoff said yes. That's who is responsible. Mary said this is all going against him and he's letting this guy stay there? Gregg stated his guess is it was a son. Marvin said so you are looking for direction from this Board to pursue a law suit or not. Gregg stated yes sir. Geoff stated the other thing is, and we have talked about this, and he would be willing to bet, the property owner just doesn't have the money to get this thing moved. That is a realist thing. Ralph said his suggestion would be to first do what you suggested on going to law enforcement. See if there is actually a crime here. Geoff said that would be Carthage Town's police to go to the property owner and say what's going on here. They need to have their own individual meter. Ralph said exhaust that avenue first. Marvin asked if they had meter reader in the town that would verify this. Mary said they in their town contact, which they have had a situation like this before, that utilities only go to one building. It's covered in the contract in a way that if you can't have two hook ups on one meter. You can't do this without paying for two. Ben said he would like to see this coordinated with Carthage on the issues. Geoff asked who their consul was. Is it still Adam. Kelly said yes. Geoff said what he probably have the utility superintendent look into. Geoff asked how they handled the utility. Kelly said the Works Manager.

Geoff said he would have him get with the Town Marshall. Have them do a police report and give to the Prosecutors office. He's not telling them, the prosecutor is going to want to deal with it or not. He doesn't know that answer but a least you are attacking this avenue and you have evidence. This doesn't cost you any money. This doesn't cause the Town of Carthage any money. It doesn't cost us any money. Then you can get to it that the RV doesn't have any water or sewage hookup. That might get rid of the convenience of having it there. Gregg stated he would also suggest he does have a cleanup fund that he would have to ask the Council if he could use some of the money from. If they can't afford to move that RV, he would have the money to do that. Gregg said he didn't know if this Board would want him to do that or not, but this is another option. Geoff said that would be a lot cheaper than attorney fees. It stated he feels comfortable that they could get a judgement for attorney fees, but it could be ten million dollars, doesn't mean they are going to be collect. Linda asked Geoff is saying he's expensive. Mary spoke to Kelly and said she would suggest to give their attorney a copy of the sewer ordinance and the water contract. Marvin asked if there was anything else to come before the Board. Geoff said he was good.

Director: Gregg said he had nothing else.

Adjournment:

Tom made the motion to adjourn the meeting. Seconded by Ralph. All were in favor.
Meeting adjourned at 7:08 P.M.

Marvin Rees
President

Gregg Duke
Executive Director