

MARION COUNTY PLANNING COMMISSION/BOARD OF ZONING APPEALS

RECORD OF PROCEEDINGS

April 27, 2006

Chairman Eileen Sieger called the meeting to order at 7:30 p.m., with a quorum present for both the planning commission and Board of Zoning Appeals.

Roll Call was answered by Sieger, Glen Unrau, Mary Avery, Marquetta Eilerts, Ervin Ediger and David Mueller. Willis Ensz was absent. Bob Maxwell would come later in the meeting, just to make some comments. Zoning Administrator David Brazil was present. This is Brazil's last meeting with this board, as he has resigned his position, and his last day in his office will be May 8, 2006.

Sieger asked if anyone had any questions about the agenda, or any off agenda items. Sieger said Maxwell will comment during off agenda items, and Brazil said he has some things to share in off agenda, as well.

Sieger asked for corrections, or additions, to the Record of Proceedings from the March 23, 2006, meeting of the Marion County Planning Commission/Board of Zoning Appeals. Sieger had one correction on page five, where fractions, should have read, "factions." Ediger made a motion to approve the Record of Proceedings with one correction, and Eilerts seconded the motion. In favor: 5; Opposed; 0; Abstained: 1; Motion carried. Avery abstained, as she was not present at the March meeting.

Item 4: An application for Warren Dalke, requesting a rezone from agriculture to suburban residential, and a variance from required side set back of 50 or 30 feet, to 15 feet, for property located in Liberty Township. This application was published in the April 5, 2006, issues of the *Marion County Record*, *Hillsboro Star Journal* and *Peabody Gazette Bulletin*. Sieger reminded members they will be acting as the planning commission for the first request, and as the Board of Zoning Appeals for the variance. Warren Dalke was present to speak about the application. Ruby Dalke was also present. Warren Dalke explained they purchased this property in 1994, and at that time current Zoning Administrator Herb Bartel told them it would be okay to build a house on the property. Dalke said he talked to Brazil to check on zoning again, and found the property needs to be zoned for suburban residential. Photos of the property were viewed by members. Dalke explained he needs the okay to get closer to his neighbor's property than set backs allow, and it is okay with his neighbor. I'd like to get 15 to 20 feet away, instead of 50 feet, Dalke said. We have other suburban residential properties in the neighborhood, and I suggested maybe going this way, Brazil said. For suburban residential set backs are less than in an ag district

and that is why the difference is 50 or 30 feet, to 15 feet, Brazil explained. Members viewed a diagram of the property. Brazil showed members the property on a zoning map. This property is located just east of Hillsboro. Sieger showed members the resolution from 1994, for a Conditional Use Permit (CUP) for a construction yard and residence on the property. Sieger asked, and was told the entire lot is 4.3 acres. Brazil said the appraiser has it at 4.1 acres, but with the right of way included, 4.3 are correct. All of it is in an area of urban influence, but it's not in the city limits?, Sieger asked, and Brazil said yes. Sieger asked, and Dalke said there is rural water on the property. Dalke said he asked the rural water guys about adding a house, and they said there would not be a problem. But, there's no public wastewater, right?, Brazil asked, and Dalke said that is correct. And, there is no current septic system?, Brazil asked, and Dalke said that is also correct. Four acres would be adequate for the wastewater system, Brazil said. I see the City of Hillsboro was notified, and as of April 14, 2006, no comments were received, Sieger said. I talked to the city administrator, and I think we probably will receive a comment on the wastewater, Brazil said. Yes, Steve (Garrett – Hillsboro City Administrator) talked to me and just asked what I want to do, Dalke said. We'd just like to build a house there and get a variance, and our neighbor is okay with it, Dalke said. We're not sure if we'll have a basement, or not, Dalke said. Sieger asked if anyone from the public wished to speak, but no one did. Sieger reminded members they are acting as the planning commission for the first request. I want to open it up for comments for either the rezone request, or the variance, Sieger said. Are there any other questions?, she asked. Sieger closed the public hearing for this application, and opened the floor for discussion.

We'll begin as the planning commission and address the rezone request, Sieger told members. This area looks almost like a subdivision, Sieger said. I'll refer you to factor number one, Brazil told members. This change makes more sense to my thinking, Sieger said. If you look at the other factors, you'll see some guidelines go right along with that, too, Sieger said. Comments, or discussion?, Sieger asked members. Any problems with this request for a rezone?, she asked. Mueller said this application meets all the requirements. Mueller made a motion to recommend approval of Warren Dalke's application to rezone 4.3 acres from an "A" Agricultural Zone District to a "SR" Suburban Residential Zone District, with two conditions; first that approval is only granted with consent from the governing body of the City of Hillsboro as related to public water and wastewater systems, and second that it be limited to one residential structure within the existing lot. Unrau seconded the motion. In favor: 6; Opposed: 0; Motion carried.

Now, members are acting as the Board of Zoning Appeals to consider the variance request. Sieger asked about the difference in the set back distances. Brazil explained it is 50 feet for an ag district and 30 feet for suburban residential. So, we're talking about 15 feet as the actual set back, Sieger said.

That would be on the side of the home, Sieger said. I assume from the side of the home to the south boundary?, Sieger asked, and Dalke said yes. This is an absolute decision, not a recommendation, Sieger reminded members. Unrau made a motion to approve allowing for a 15 foot side set back for Warren Dalke. Avery seconded the motion. In favor: 6; Opposed: 0; Motion carried. Brazil explained to Dalke where he should measure from for the set back. Sieger explained to Dalke the first part of his request will go on to the county commission for final approval. Brazil explained the timeframe. Dalke asked about the paperwork, and Brazil said he will take care of it before he leaves his position.

Off agenda items were next. Brazil explained he has accepted a position as a public health administrator. He said he feels good about this new position, but is sad to say goodbye, especially with this group, as he thinks a lot of his success comes from right here. Avery said she applauds Brazil's hard work, and how he is always very ethical and professional, especially with difficult issues. Avery said Brazil has helped education new members, and she appreciates all his time and help. I particularly appreciate your patience, Unrau told Brazil. Patience with me, and with the applicants, Unrau added. Both you and Joanna will leave a void in our community, Avery told Brazil. Brazil began working for Marion County on September 13, 1999. Mueller agreed, saying there is no question about the ethical and professional way Brazil does business. Mueller said he also appreciates Brazil's extra effort when there was a hardship situation, as Brazil would always try to find a way to make it work. Sometimes we may have had to suggest something that wasn't in their application plan, but it seemed to come around and work out, and in some cases it worked out better, Sieger said. I can remember an application which was denied, and they wanted to put a single-wide on the property, and now it's just a beautiful property, Sieger said. The county commission had Jim Kaup and I work on developing some language, and they asked that I present this to you, Brazil told members. Brazil gave members a three-page handout. In Article 2, there are changes in 101 and 102, Brazil said. The third page of the handout relates to the comprehensive plan, and the change the commission asked be made for new lot splits, being changed from five acres to three acres, Brazil said. They also want to change the density from one per 40 to 12 per section, Brazil said. And, they want LESA to be applied across the board for both large and small lot development, Brazil said. Parts (of LESA) that can be used would be applied to large lot development, he said. But, the over all designs of the (LESA) system just do not apply, he added. So, if this change happens, you would just use what applies?, Sieger asked. Hopefully, the administrator would work with the applicant to make an adjustment, but the administrator could deny it, Brazil said. If it goes to the Board of Zoning Appeals, you could apply LESA to the large lot development, Brazil said. I think Kaup did a good job of putting it together, Brazil said. I read in the paper where he (Kaup) said he was not an advocate of it, and it could lead to sprawl, Sieger said. Most

of these ideas we've had, already, Sieger said. Brazil told members the county commission is asking to take this information to a public hearing. I think we were pretty resolute in our last meeting about how we stand, Mueller said. I recommend you include the public and if you feel the same way after the public comments, you use the same statement you used last month, Brazil told members. I don't like going through the public process without an administrator, Sieger said, and Eilerts agreed. It will be a minimum of two months before we have an administrator, Avery said. That gets us clear into summer and harvest, she said. I have no objection to taking it to the public hearing, but I want the public to be able to attend, and summer is not a good time to get a good cross section of the county coming to speak, Avery said. If we're going to do this, we need to hear a cross section of the county, of what they envision for the county, and hopefully we hear that and come to an agreement that we can support, Avery said. If we do not, the turmoil will continue and it is not conducive to development, Avery said. We have to have a cross section and a willingness that everyone can support, she added. Would there be some value in having regional hearings?, Unrau asked. Eilerts said she wondered about that, too. Avery agreed that's a good point. It would be more of a time commitment on our part, but I'm willing to put in the time, Avery said. There's not a big hurry for this, Unrau said. We're not a big metro area like Sedgwick County, or Harvey County, and I agree we need to allow time for a new administrator to come in and get settled, Unrau said. Let's take our time with this, Unrau said. If we're going to do it, let's make it work as best we can, he added. Sieger said she thinks there was such good attendance at a couple of the public hearings in the past because letters went out to governing bodies and township board members, and she thinks they felt more personally invited, and they were involved in putting things together, originally, and that was as good a cross section from across the county as you could hope for. There is about \$8,000 in the budget for planning consultants for the remainder of the calendar year, Brazil said. There's disagreement between the two commissions, and I encourage you to work together and it will be a healthy outcome, Brazil said. I need to point out that if the county commission chooses to do so, they can take it to public hearing, Brazil said. I don't think one of us here is saying we don't want public input, Sieger said. We want, need and like public input, she added. The two most likely places to have public input is McDonald's in Hillsboro and the Coop, Ediger said. And, Ampride, Sieger added. It would be my hope that the county commission would see our comments tonight as a way to work together, Avery said. Sieger asked and members agreed by consensus that they wish to table the public hearing until a new administrator is hired. At 8:29 p.m., Maxwell arrived at the meeting. He said he had not planned to attend, but with Brazil leaving soon he wanted to say what is on his mind. He said it comes as a shock, but he hopes people where Brazil is going realize they are getting a good person and we are losing a good person. He said he talks to a lot of people, including a lot of VIP's, and he believes Brazil is a VIP. He said he wishes Brazil the best, and their gain is our loss, and

personally, he is sorry about that, but he knows Brazil will do well wherever he goes. Sieger asked members about their schedules for next week, if everyone could go to lunch, or something, before Brazil leaves. Sieger said she checked on the Kansas Open Meetings Act, and if there is no discussion of the business of the body, it is okay. I'd appreciate that, Brazil said. I know you're really busy, but maybe lunch where you would have to take a break, anyway?, Sieger asked Brazil. After some discussion about everyone's schedules, it was decided to meet at Country Lakes Café at 5:30 p.m. on Friday, May 5, 2006. Eilerts asked if Joanna (Brazil) could come, too?, and Brazil said he hoped so. Sieger reminded members the next meeting is scheduled for May 25, 2006. I sent several E-mails out and I think you're going to see some experienced applicants, Brazil said. The May meeting deadline is past, and Brazil thinks there are two, maybe three applications to address. Is there anything else?, Sieger asked. Sieger reminded members there is no meeting in June. When the new administrator is hired, perhaps we could have a gathering to get acquainted, and have an opportunity to break the ice, Avery said. Avery made a motion to adjourn, and Ediger seconded it. In favor: 6; Opposed: 0; Motion carried and the meeting adjourned at 8:45 p.m.

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Eileen Sieger,  
Chairman