

MARION COUNTY PLANNING COMMISSION/BOARD OF ZONING APPEALS

WORK SESSION

April 7, 2011

Chairman David Mueller called the work session to order at 6:43 p.m.

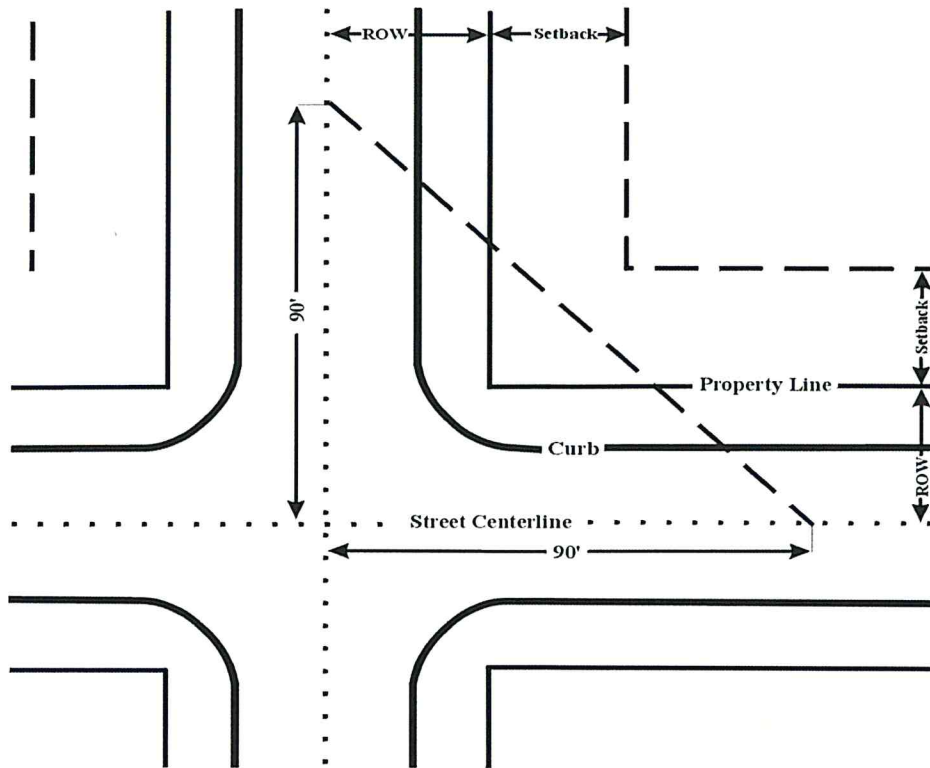
Roll Call was answered by Mueller, Dan Mount, Bob Maxwell, and Brad Vannocker. Nick Kraus and Mary Avery will arrive later. Marquette Eilerts, Lloyd Funk, and Jim Schmidt are absent. Zoning Administrator Tonya Richards was present.

Members discussed and decided they want to keep a definition for "Servant's Quarters." They discussed if this is the same as "Guest House" and determined they are two different things.

215. SERVANTS QUARTERS: Living quarters within a detached accessory building located on the same parcel with the primary structure for use by employees of the occupants of the parcel, such quarters having no separately metered utilities and not rented or otherwise used as a separate dwelling.

216. SIGHT TRIANGLE: An area at a street intersection in which nothing shall be erected, placed, planted, or allowed to grow in such a manner as to materially impede vision between a height of 2-1/2 feet and 8 feet above the grades of the outside edge of the street surface of the intersecting streets, measured from the point of intersection of the centerline of the streets, 90 feet in each direction along the centerline of the streets; except that, the County **Road and Bridge Department** may establish greater sight triangles based upon standards in the policy manual published by the American Association of State Highway and Transportation Officials (AASHTO)

Figure 4 - Sight Triangle Minimum Standards



Yearout proposed adding a definition for “Visibility Triangle,” but members decided it was not needed. Members do wish to keep this diagram with the definition for “Sight Triangle.”

217. **SIGN:** Any advertising device or surface placed out-of-doors, on or off premises, or placed indoors, when in view of the general public, which conveys information or identification. Included in this definition of "sign" shall be any structure used for said display and all sign supports. (See Article 18)

218. **SLIDE-IN CAMPER:** A structure designed to be mounted temporarily or permanently in the bed of a pickup or light truck to provide enclosed storage space for transportation of property or quarters for recreational camping, including shells and truck cabs.

219. **SOLAR COLLECTOR:** A device or combination of devices, structure, or part of a structure that transforms direct solar energy into thermal, chemical, or electrical energy and contributes significantly to, or is a substitute for, a structure’s energy supply.

220. **SOLID WASTE:** Garbage, refuse and other discarded materials including, but not limited to solid, semisolid, sludge, liquid and contained gaseous waste materials resulting from industrial, commercial, agricultural and domestic activities. Solid waste does not include hazardous waste as defined by K.S.A. 65-3430{f} and amendments thereto, recyclables or the waste of domestic animals as described by K.S.A. 65-3409{a}{1} and amendments thereto. **Members wish to use this definition for “Solid Waste.”**

221. **SOLID WASTE DISPOSAL AREA:** Any area used for the disposal of solid waste from more than one residential premise, or one or more commercial, industrial, manufacturing or municipal operations and which is permitted by the Kansas Department of Health and Environment, or its successor agency, pursuant to K.S.A. 65-3401 et seq., as amended.

222. **SOLID WASTE PROCESSING FACILITY:** An incinerator, compost plant, transfer station, reclamation facility or any other location where solid waste as defined by K.S.A. 65-3402, and amendments thereto, are consolidated, temporarily stored, salvaged or otherwise processed prior to being transported to a final disposal site. A Solid Waste Processing Facility does not include a Scrap Material Recycling and Processing Facility.

223. **SPECIFIED ANATOMICAL AREAS:** Any of the following:

- A. Less than completely or opaquely covered human genitals, pubic region, buttocks, anus, or female breast area below a point immediately above the top of the areola; or
- B Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

224. **SPECIFIED SEXUAL ACTIVITIES:** Any of the following:

- A. Fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts; or
- B. Acts actual or simulated of sexual intercourse, masturbation, sodomy, or oral copulation; or
- C. Excretory functions as part of or in connection with any of the activities set forth in paragraphs 1 and 2 of this definition.

225. **STOCKYARD, COMMERCIAL:** A penned enclosure, or structure, where livestock are maintained temporarily for the purpose of slaughtering, marketing or shipping.

226. **STORY:** That portion of a building, other than a basement, included between the surface of any floor and the surface of the floor next above it, or if there is no floor above it, then the space between the floor and the ceiling next above it.

227. **STORY, HALF:** A story under a gable, hip or gambrel roof of which the wall plates on at least two opposite exterior walls are not more than 2 feet above the floor of such story.

228. **STREET:** An easement or right-of-way, other than an alley, which provides principal access to adjacent properties.

229. **STRUCTURE:** Anything constructed or erected which requires location on the ground, or attached to something having a location on the ground.

230. **SUBURBAN RESIDENTIAL:** A lot of more than one (1) but less than ten (10) acres in size created for the purpose of providing a residential building site, notwithstanding the accessory agricultural use of some or all of said lot either prior to or after the construction of the residential dwelling. **Members wish to use this definition for "Suburban Residential." Kraus arrived at this point.**

231. **SWIMMING CLUB:** A pool and accessory building operated for members and their guests, whether or not operated for gain.

232. **SWIMMING POOL, PRIVATE:** A pool which is an accessory use to a residence and for the exclusive use of the occupants of the residential building and their guests.
233. **SWIMMING POOL, PUBLIC:** A pool and accessory buildings, generally owned and operated by a governmental entity, whether open or enclosed, and for use by the general public.
234. **TAVERN:** An establishment in which cereal malt beverages are sold or served to customers.
235. **TEMPORARY: Members wish to add definition for "Temporary."**
236. **TEMPORARY STRUCTURE:** a temporary; portable unit for office or residential use, or for use as an accessory structure, that is designed to be transported, and which is permitted for a time-limited period.
237. **TOWNHOUSE:** A single-family dwelling constructed as part of a series of dwellings, all of which are either attached to the adjacent dwelling or dwellings by party walls or are located immediately adjacent thereto with no visible separation between walls or roofs.
238. **TRAVEL TRAILER:** A structure, not to exceed nine feet in width, designed to provide temporary living quarters for recreational, camping or travel use, constructed with integral wheels to make it mobile and/or towable by a motor vehicle.
239. **TRAILER PARK:** A tract, lot, or parcel of land upon which temporary accommodations are provided for two or more trailers; such park being open to the public either free or for a fee.
240. **USE:** The specific purpose for which land or a building is used.
241. **USABLE OPEN SPACE:** Land or water which is free of buildings, structures and/or other substantial improvements and which is readily accessible by the public or residents of a residential development. Usable open space does not include streets, alleys, off-street parking or loading areas, roofs, or slopes in excess of 50 percent.
242. **VARIANCE:** A variation from a specific requirement in these regulations, as applied to a specific piece of property, as distinct from rezoning.
243. **WASTE TIRE:** A whole tire that is no longer suitable for its original intended purpose because of wear, damage or defect.
244. **WASTE TIRE ABATEMENT:** The processing or removing to an approved storage site of waste tires which are creating a danger or nuisance.
(Members are okay with this new definition.)
245. **WASTE TIRE BENEFICIAL USE:** The use or storage of waste tires in a way that creates an on-site economic benefit, other than from processing or recycling, to the owner of the tires. This shall not include the disposal of waste tires on the owners land simply to avoid proper disposal as prescribed by these Regulations and/or state law.
(Members are okay with this new definition.)
246. **WASTE TIRE COLLECTION CENTER:** A site where used or waste tires are collected from the public prior to being offered for recycling or disposal.

247. **WASTE TIRE PROCESSING FACILITY:** A site where equipment is used to cut, burn or otherwise alter whole waste tires so that they are no longer whole.

248. **WASTE TIRE SITE:** A site at which 1,000 or more whole tires are accumulated.
(Members decided to keep this definition as written using 1,000 instead of the proposed 500.)

Yearout proposed a definition for “Waste Tire Storage” but members felt it could be combined with the definition for “Waste Tire Beneficial Use,” although members wish to **not** include “the beneficial use of waste tires **as fences.**” Avery arrives at this point.

249. **WIND ENERGY CONVERSION SYSTEM (WECS):** The combination of mechanical and structural elements used to produce electricity by converting the kinetic energy of wind to electrical energy. Wind Energy Conversion Systems consist of the turbine apparatus and any other buildings, support structures and other related improvements necessary for the generation of electric power from wind.
(Members are okay with this new definition.)

250. **WIND ENERGY CONVERSION SYSTEM, COMMERCIAL:** A single Wind Energy Conversion System exceeding 25 kW or exceeding 199 feet in height above grade, or more than one Wind Energy Conversion System of any size proposed and/or constructed by the same person or group of persons on the same or adjoining parcels or as a unified or single generating system.
(Members are okay with this new definition.)

251. **WIND ENERGY CONVERSION SYSTEM HEIGHT:** The distance measured from the ground level at the base of the tower structure to the highest point on the Wind Energy Conversion System, including the rotor blades.
(Members are okay with this new definition.)

252. **WIND ENERGY CONVERSION SYSTEM, NON-COMMERCIAL:** A wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of not more than 25 kW, which is less than 199 feet in height above grade and which is intended to primarily reduce on-site consumption of utility power.
(Members wish to change the title of this definition to “Non-Commercial” instead of “Small.”)

253. **YARD:** A required open space, other than a court, unoccupied and unobstructed by any structure or portion of a structure from the general ground level of the graded lot upward; provided, however, that fences, walls, poles, posts and other customary yard accessories, ornaments and furniture may be permitted in any yard, subject to height limitations and requirements limiting obstruction of visibility.

254. **YARD-GARAGE SALE:** A sale of household goods stored on the premises of the principal residence of the householder.
(Members are okay with this definition. This is not a new definition, just a new location for this listing.)

255. **YARD, FRONT:** A yard extending across the full width of the lot, the depth of which is the least distance between the lot line or road easement or right-of-way line and the front building line.

256. **YARD, REAR:** A yard extending across the full width of the lot between the rear building line and the rear lot line, the depth of which is the least distance between the rear lot line and the rear building line.

257. **YARD, SIDE:** A yard between the side building line and the side line of the lot and extending from the front yard to the rear yard and being the least distance between the side lot line and the side building line.

258. **ZONE OR DISTRICT:** A section of the zoning area for which uniform regulations governing the use, height, area, size and intensity of use of buildings, land and open space about buildings are herein established.

259. **ZONING ADMINISTRATOR:** The person or persons or their duly appointed representative(s) authorized and empowered by the Governing Body to administer the requirements of these Regulations.

260. **ZONING CERTIFICATE:** A document signed by the Zoning Administrator which acknowledges that a use, structure, building or lot either complies with or is legally non-conforming to the provisions of these Regulations, or is authorized by a variance or special exception granted by the Board of Zoning Appeals. The issuance of the zoning certificate authorizes the use of the land and/or structure or building. The final establishment of the activity is by the issuance of a Certificate of Occupancy as provided in these Regulations.

(Members are okay with this new definition.)

1-105 Districts: In order to regulate and restrict the use of land and the location of buildings erected or altered for specific uses, to regulate and limit the height and bulk of buildings hereafter erected or structurally altered, to regulate and limit population density and the intensity of the use of lot areas, and to regulate and determine the areas of yards, courts, and other open spaces surrounding such buildings, the unincorporated portion of Marion County, is hereby divided into districts of which they shall be in number, known as:

"A"	Agricultural District
"RR"	Rural Residential District
"SR"	Suburban Residential District
"R-1"	Single-Family Residential District
"ES"	Marion Reservoir Eastshore Subdivision Residential District
"LL"	Marion County Lake Lot Residential District
"V-1"	Village District
"FP"	Floodplain District
"FRD"	Floodwater Retarding Dam Breach Impact District

1. Such land, and the district classification thereof, shall be shown on the official maps designated as the "Zoning District Boundary Maps of Marion County, Kansas." Such Zoning District Boundary Maps, and all symbols, notations, dimensions, and references shown thereon pertaining to such districts shall be as much a part of these Regulations as if fully they were described herein, and shall be filed as part of these Regulations with the Zoning Administrator of Marion County. Said Maps shall be available for inspection in the office of the Zoning Administrator and any later alterations of these Maps, adopted by amendment as provided by these Regulations, shall be filed and made available for public reference. The above stated maps shall hereinafter be referred to as the "maps".

(Members discussed using "map(s)" for wording in #1 and #2 of this section.)

2. When uncertainty exists with respect to the boundaries of the various districts as shown on the maps accompanying and made a part of these Regulations, the following rules shall apply:
 - a. In cases where a boundary line is given a position within a street or alley, or navigable or non-navigable stream, it shall be deemed to be in the center of the street, alley, or stream; and if the actual location of such street, alley, or stream varies slightly from the location as shown on the maps, then the actual location shall control.
 - b. In cases where a boundary line is shown as being located a specific distance from a street line or other physical feature, this distance shall control.
 - c. In cases where a boundary line is shown adjoining or coincident with a railroad, it shall be deemed to be in the center of the railroad right-of-way and distances measured from a railroad shall be measured from the center of such right-of-way.
 - d. Where the district boundaries are not otherwise indicated and where the property has been, or may hereafter be, divided into blocks and lots, the district boundaries shall be construed to be the lot lines, and where the districts designated on the maps accompanying and made a part of these Regulations are bounded approximately by lot lines, said lot lines shall be construed to be the boundary of such districts unless said boundaries are otherwise indicated on the maps or by Resolution of the Governing Body.
 - e. In unsubdivided property, unless otherwise indicated, the district boundary line on the maps accompanying and made a part of these Regulations shall be determined by the use of the scale contained on such maps.
 - f. When a lot held in one ownership on the effective date of these Regulations is divided by a district boundary line, the entire lot shall be construed to be within the less restrictive district; unless otherwise indicated on the maps or by Resolution of the Governing Body.
3. Where a district boundary follows a street, alley, watercourse or other right-of-way, in case of the vacation of said street, alley, watercourse or other right-of-way, the abutting zoning classification of each side thereof shall automatically be extended to the center line of said vacated street, alley, watercourse or right-of-way. Two districts shall be deemed to adjoin even though separated by a public way or portion thereof. (Members noted the wording in #3 was formerly under letter "g.")

1-106 General Regulations Governing All Zoning Districts:

1. Except as hereinafter provided:
 - A. No land may be used except for a purpose permitted in the district in which it is located.
 - B. No building shall be erected, converted, enlarged, reconstructed, moved or structurally altered, nor shall any building or part thereof be used, except for a use permitted in the district in which the building is located.
 - C. No building shall be erected, converted, enlarged, reconstructed, moved or structurally altered to exceed the height, area and bulk regulations, the parking regulations, or the off-street loading regulations herein established for the district in which the building is located.

- D. If a use in any structure is hereafter changed to another, then the new use must comply with the use regulations of these Regulations.
 - E. The minimum yards, parking spaces, open spaces, including lot area per family, required by these Regulations for each and every building existing at the time of the passage of these Regulations, or of any building hereafter erected, shall not be encroached upon or considered as required yard or open space for any other building, nor shall any lot area be reduced below the requirements of these Regulations.
 - F. Every building hereafter erected or structurally altered shall be located on a lot as herein defined and, except as hereinafter provided, in no case shall there be more than one main or principal building on one lot.
 - G. No structure shall hereafter be built or moved, and no structure or land shall hereafter be used, occupied or designed for use or occupancy unless the minimum off-street parking and loading spaces required by Articles 15 and 16 are provided. No structure or use already established on the effective date of these Regulations shall be enlarged unless the minimum off-street parking and loading spaces which would be required by Articles 15 and 16 are provided for the whole structure or use as enlarged.
 - H. Nothing contained in these Regulations shall be deemed to be consent, license or permit to use any property; to locate, construct or maintain any structure or facility; or to carry on any trade, industry, occupation or activity.
 - I. These Regulations shall not apply to poles, wires, cables, conduits, vaults, laterals, pipes, mains, valves or other similar equipment for the distribution to consumers of telephones or other communications, electricity, gas or water, or the collection of sewage or surface water, but not including substations located on or above the surface of the ground.
 - J. These Regulations shall not apply to railroad tracks, signals, bridges and similar facilities and equipment located on a railroad right-of-way and maintenance and repair work on such facilities and equipment.
2. All lands used for agricultural purposes as defined within these Regulations, including those agricultural activities that are designated as accessory uses to rural residential and suburban residential uses, are located within an area where land is used for commercial agricultural production. Owners, residents, and other users of this property or neighboring properties may be subjected to inconvenience, discomfort, and the possibility of injury to property and health arising from normal and accepted agricultural practices and operations, including but not limited to, noise, odors, dust, the operation of machinery of any kind, including aircraft, the storage and disposal of manure, and the application of fertilizers, soil amendments, herbicides and pesticides. Owners, occupants, and users of this property and neighboring properties should be prepared to accept such inconveniences, discomfort, and possibility of injury from normal agricultural operations, and are hereby put on official notice that K.S.A. 2-3201 et seq, the "right-to-farm law", may bar them from obtaining a legal judgment against such normal agricultural operations. (Avery commented that #2 is a good addition as it covers a lot of issues that have come up.)

1-107 Vesting of Development Rights: In conformance with the provisions of K.S.A. 12-764, and any subsequent amendments, the following shall apply:

1. The rights of landowners of properties platted or subdivided for rural residential or suburban residential development in conformance with the definition of said terms in the these Regulations shall be protected for use of said land for the intended rural residential or suburban residential purposes for a period of five (5) years from the time in which such property was first platted or subdivided, provided:
 - A. Verifiable evidence is presented showing the date in which said plat or subdivision of land was first created. Acceptable evidence shall be: signed and sealed certificates or plats of survey from a Registered Land Surveyor showing the several lots proposed to be created, either dated or dated and recorded with the Register of Deeds; recorded Restrictive or Protective Covenants for the development; recorded deeds conveying land; or recorded Affidavits of Equitable Interest on contracts for deed for said tracts of land.
 - B. Within said five (5) year period actual sales occur resulting in separate owners on the tracts of land.
 - C. The division of land was legally done in conformance with the then Marion County Subdivision Regulations.
2. Except for lots in a recorded plat, any remaining contiguous tracts of land within the area divided under this rule held in common ownership at the conclusion of said five (5) year period shall be considered an unplatted lot, as defined in these Regulations, and subsequent divisions of said lot shall be in conformance with the Subdivision Regulations then in effect.
3. Properties divided or platted for any use other than agricultural or residential purposes shall not be permitted to develop or further develop except in conformance with these Regulations and the Marion County Subdivision Regulations. Persons who obtain a validly issued permit under the previous Marion County Zoning Regulations shall be permitted to develop the property so long as the permit issued under the previous Marion County Zoning Regulations does not expire. Failure to start construction under said permit before the expiration of the permit shall not protect the owner from the provisions of these Regulations or the Marion County Subdivision Regulations then in effect.

ARTICLE 2

"A" AGRICULTURAL DISTRICT REGULATIONS

Sections:

2-101 Application

2-102 Use Regulations

2-103 Sign Regulations

2-104 Height, Area and Bulk Regulations

2-105 Supplementary Height, Area and Bulk Regulations

2-106 Supplementary Use Regulations

2-101 Application: The regulations set forth in this Article, or set forth elsewhere in these Regulations when referred to in this Article, are the regulations in the "A" Agricultural District. The purpose of this District is to provide for a full range of agricultural activities on land used for agricultural purposes, including processing and sale of agricultural products raised on the premises, and at the same time offer protection to land used for agricultural purposes from the depreciating effect of objectionable, hazardous, incompatible and unsightly uses. The District is intended to allow net density of one residence per 40 acres, and sell-offs on 5-acre lots with site assessment in LESA weighted to favor non-tilled, wooded, steep or rough locations along SAS all-weather roads or highways, or existing farmstead sites located on existing gravel roads. (The wording in red will be deleted and members agreed this is a good deletion.)

The District is also intended for purposes of protecting watersheds and water supplies; to protect forest and scenic areas; to conserve fish and wildlife habitat; to promote forestry; and to prevent and/or discourage untimely scattering of suburban residential, rural residential, and/or more dense urban development. In this regard, all lands used for agricultural purposes, as defined in these regulations, are and shall be exempt from any and all restrictions or limitations. No administrative interpretation shall be made that results in any restriction or stipulation on land used for agricultural purposes as herein defined; provided, however, that consistent with state law, new agricultural buildings shall be subject to setback requirements on that part of agricultural lands fronting on designated major roads and highways. Any proposal for change of land used for agricultural purposes to nonagricultural uses shall be subject to the requirements of these regulations.

Land within the "A" Agricultural District is eligible for the Agricultural Lot Split process found in the Marion County Subdivision Regulations as a means to provide for a gradual conversion of such lands to non-agricultural residential uses. It is also deemed to be the most prime for development from the perspective of location; however proposals for development must prove compliance with all other rules, regulations, codes and resolutions of Marion County for further development to occur. This includes the provision of adequate utility infrastructure to support the proposed development. (Kraus found typo in the second sentence where "the" was taken out to make the correction.)

2-102 Use Regulations: In District "A," no building, structure, land or premises shall be used and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered, except for one or more of the following uses:

1. Agricultural purposes.
2. Grain storage structures.

3. Wellhead stations, well separators, tank batteries or other similar above ground facilities used merely for distribution, transmission or temporary storage of oil or natural gas.
4. Oil and/or gas well drilling operations, and temporary on-site storage of oil and gas field-related equipment and supplies, but not a junk yard.

Single-family dwellings at densities no greater than one residence per 40 acres, or on smaller lots no less than 5-acres; provided that the net density on the parcel (or contiguous lots under single ownership) remains no less than one residence per 40 acres; provided further that site assessment in LESA is approved and weighted to favor non-tilled, wooded, steep or rough locations along SAS all-weather roads or highways; provided further that existing farmstead sites located on SAS or gravel roads may be used as single-family dwellings. The County shall require an agricultural disclaimer recorded with the deed transfer that states lands within the Agricultural Zone are located in an area where land is used for commercial agricultural production; and conformance to standard building codes applicable in the region.

(This wording will be deleted – okay with members. This was part of the old #5.)

5. Single-family dwellings, on legally-created lots no less than 3 acres when located on a farmstead which either (a) has a residential structure existing as of November 1, 2005, whether habitable or not, or (b) has been the site of a residential structure and the Zoning Administrator determines there has been no subsequent nonresidential use of the property comprising the proposed lot. Any such lot created after November 1, 2005 having less than 40 acres shall comply with the applicable lot split requirements of Article 6 of the County's Subdivision Regulations. The County shall require an agricultural disclaimer recorded with the deed transfer that states land within the Agricultural Zone are located in an area where land is used for commercial agricultural production and conformance to County-adopted building codes is required. Payment of any applicable road improvement assessment adopted by the Board of County Commissioners shall be a condition of the creation of any such new lot of less than 40 acres, in accordance with Article 6 of the County's Subdivision Regulations, and a condition of receiving any building permits required for improvements upon such a lot.

(Yearout proposed deleting this part of #5, too, but Richards would like to leave this part in. Avery agreed because of the road assessment, saying homes are often off the beaten path and roads become an issue and that is why members previously added this. Kraus suggested letting the county lake have their own board, zoning, etc., and Richards said that would be awesome. Kraus asked Maxwell if the reservoir would want to incorporate and Maxwell said no, they have good county roads that are maintained there. Avery said Dan Crumrine would have been on top of the lift station issue in a recent application at the county lake. Mueller agreed and said Crumrine was there to explain such things to people at the county lake. He was in my office a lot and he would take care of things, Richards agreed. Mount asked how many the county lake sewer system was designed to handle, and Richards said it is all city sewer. It goes to Marion, that is why it is pressurized, Avery said. Richards said she called right after the recent meeting at the county lake hall and asked for the improvement district's water rights and easement information, but they do not have it.)

6. Railroad rights-of-way, including a strip of land with tracks and auxiliary facilities for track operations, but not including passenger stations, freight terminals, switching and classification yards, repair shops, roundhouses, powerhouses, interlocking towers, and fueling, sanding and watering stations.

7. The creation of one (1) additional lot on lands used for agricultural purposes shall be permitted without requiring a rezoning, including those divisions of agricultural lands because of mortgage or lending requirements; provided said additional lot is created in conformance with the requirements of the Marion County Subdivision Regulations; and further provided that the lot so created shall not be permitted to have anything but a single family dwelling as defined in these Regulations.

(Members are okay with this addition. Richards commented that it will help the county. Members had a lengthy discussion concerning how many homes to allow per section. Mueller asked Richards to explain the current regs to Vannocker. Richards explained that if the land has not been previously split, you can build on five acres. Mueller added that three acres is allowed at existing or former home sites. Richards said the banks many times only want to allow three acre sites. Members discussed the concern of people buying more acreage than they can easily take care of. Mueller noted that years ago you had to have 40 acres in order to build.)

2-103 Performance Standards: The Performance Standards for permitted uses are contained in Article 15 of these Regulations..

2-104 Parking Regulations: The Parking Regulations for permitted uses are contained in Article 16 of these Regulations.

2-105 Off-Street Loading Regulations: The Off-Street Loading Regulations for permitted uses are contained in Article 17 of these Regulations.

2-106 Sign Regulations: The Sign Regulations are contained in Article 18 of these Regulations.

2-107 Height, Area and Bulk Regulations: In the "A" Agricultural District, the minimum dimensions of yards required along designated major roads and highways in Marion County shall be as follows:

1. **Lot Area:** Every lot shall be a minimum of 40 acres. A lot described as quarter/quarter (i.e. 1/4 of a section) shall be deemed to meet the lot size requirements even though said lot may net less than a full 40 acres.

The lot size shall not apply to those lots created through an approved Agricultural Lot Split in accordance with the Marion County Subdivision Regulations and which are subject to the Agricultural Lot Split Agreement filed with the Marion County Register of Deeds.

2. **Lot Dimensions:** The minimum width of a lot shall be 660 feet. The minimum depth of a lot shall be 660 feet.
3. **Front Yard:** The depth of the front yard shall be at least 30 feet or a minimum of 75 feet from the centerline of the existing right-of-way, whichever is greater.
4. **Side Yard:** There shall be a side yard on each side of a dwelling. The depth of the side yard shall be at least 50 feet.
5. **Rear Yard:** The depth of the rear yard shall be at least 50 feet.

The Area and Bulk Regulations are also set forth in the chart of Article 19. Said chart, and all notations and requirements shown therein, shall have the same force and effect as if all the notations and requirements were fully set forth or described herein.

2-108 Supplementary Height, Area and Bulk Regulations: The Supplementary Height, Area and Bulk Regulations are contained in Article 20 of these Regulations.

2-109 Supplementary Use Regulations: The Supplementary Use Regulations, including permitted Conditional Uses and Accessory Uses, are contained in Article 21 of these Regulations.

ARTICLE 14

PLAN APPROVAL GUIDELINES

Sections:

14-101 Purpose (Application?)

14-102 Application, Review, Approval Procedure

14-103 Development Plan

14-104 Development Plan - Phasing, Time Restrictions

14-105 Remedies for Noncompliance

Members discussed changing all references to “Purpose” to “Application” in order to have this wording uniform throughout the regulations. Kraus pointed out will need to make this change in Article 1, too. Kraus questioned if there is a different meaning between purpose and application. Members asked Richards to get Yearout’s suggestion for this.

14-101 Purpose (Application?): The procedures and requirements set forth in this Article, or the requirements set forth elsewhere in these Regulations (members like the use of the word “Regulations here instead of using the word “Code.”) when referred to in this Article, are for the development plans (members wish to remove all references to “P” Planned zoning districts) required for Conditional Use Permits designated elsewhere in these Regulations. These requirements are specifically intended to accommodate the consideration of an application for a Conditional Use under the provisions of these Regulations. The erection, construction, reconstruction, moving or altering on an individual lot or property of a single-family residential unit shall not be subject to the provisions of this Article.

The requirements and regulations herein prescribed pertaining to height, open space, setbacks, parking, loading, and signs may be adjusted or modified so that the property in question may be developed in a reasonable manner and, at the same time, will not be detrimental to the public welfare and the interests of the community, but in keeping with the general intent and spirit of these Regulations. Such adjustments or modifications may be made in the Development Plan as a part of the Conditional Use process, or may be allowed upon request of the applicant after approval by the Planning Commission and Governing Body as an amendment to a previously approved Development Plan or as a first approval of a Development Plan on properties that have never had an approved Development Plan. (Vannocker suggested requiring digital photos with Development Plans in order to save time. Mueller suggested Richards ask Yearout about this.)

14-102 Application, Review, Approval Procedure: In order to assure that proposed re-zonings or uses requiring Conditional Use permits meet the requirements of these Regulations and will be compatible with surrounding properties and uses, it is hereby required that all applications for a Conditional Use Permit, except those uses exempted in Section 14-101 above, include a Development Plan which must be approved as specified within this Article prior to any construction on the property.

The procedure for approval of a Development Plan shall consist of the following:

1. Application for a Conditional Use Permit, and:
2. A Development Plan

The development plan shall be submitted at the time the application is submitted and no application shall be deemed complete nor set for public hearing until said Development Plan is submitted.

14-103 Development Plan: Application for a Conditional Use, and Development Plan approval shall be made in accordance with the procedures outlined in Article 21 of these Regulations. The application shall include a Development Plan which describes the applicant's intentions for the use and development of the property. The Development Plan shall include and/or display the following information:

1. **When deemed necessary**, a topographic survey indicating the legal description, property boundary, existing contours, existing utilities and easements, and natural and manmade features of the property.
2. A Development Plan, drawn to the same scale as the topographic survey, indicating:
 - A. Existing contours (shown as dashed lines);
 - B. Proposed contours (shown as solid lines);
 - C. Location and orientation of all existing and proposed buildings;
 - D. Areas to be used for parking, including the number and arrangement of stalls;
 - E. Areas to be developed for screening, including the location of plant materials, and screening structures and features;
 - F. Pedestrian and vehicular circulation, and their relationship to existing streets, alleys and public right-of-way;
 - G. Points of ingress and egress;
 - H. Location of all existing and proposed utilities (sanitary sewage systems, water systems, storm drainage systems, gas lines, telephone lines and electrical power lines);
 - I. Drainage controls (retention or detention ponds);
 - J. Location, size and characteristics of identification and business signs;
 - K. Lighting layout, appurtenances, and intensity of illumination;
 - L. Proposed finished floor elevations of all buildings and structures.
3. A statement of intent shall accompany the preliminary Development Plan to explain the measures used to achieve compatibility of the proposed development with surrounding properties through the planning of the site and the location and design of structures.

14-104 Development Plan – Planning commission Review: The Planning Commission shall review the application for a Conditional Use Permit, along with the Development Plan, and shall recommend approval or denial of the Conditional Use Permit along with the Development Plan to the Governing Body, or may request modifications to the Development Plan as deemed necessary to carry out the spirit and intent of these Regulations. Approval by the Governing Body shall constitute approval and permanency of the Development Plan, thereby establishing the criteria for construction of the proposed development. (Richards pointed out that all environmental plan requirements have been removed and said that is probably good.)

In the process of reviewing any Development Plan, the Planning Commission and/or Governing Body may provide approval of the Development Plan conditioned upon certain limitations or restrictions deemed necessary to protect the public interest and surrounding properties, including, if any, the following:

1. Limitations on the type, illumination and appearance of any signs or advertising structures.
2. Direction and location of outdoor lighting.
3. Arrangement and location of off-street parking and off-street loading spaces.
4. The type of paving, landscaping, fencing, screening and other such features.
5. Limitations on structural alterations to existing buildings.
6. Prohibition of use or construction of any structure to be used for a shingle-family dwelling, including a manufactured home. (Members asked Richards to ask Yearout about this addition.)
7. Plans for control or elimination of smoke, dust, gas, noise or vibration caused by the proposed use.
8. Waiver of any standards, requirements or depiction of information required by this Article when requested by the applicant and shown to be unnecessary as applied to the specific case in question.
9. Such other conditions and/or limitations that are deemed necessary.

14-105 Development Plan - Phasing, Time Restrictions: The applicant may proceed with construction based on the entire Development Plan, or may elect to develop the property in phases. The applicant may submit the Development Plan separately for the first and each successive phase of construction, or for all of the project with a depiction of the phasing sequence; however, all Conditional Uses approved with a Development Plan shall have construction begun within one (1) year of said approval by the Governing Body. The applicant may request a one (1) year extension of this time restriction by submitting a request in writing to the Governing Body stating the reasons construction has not begun and at what time construction is expected to begin. If the Governing Body agrees, the one (1) year extension may be granted one time but shall not be granted for any longer period.

The Governing Body shall review the Development Plan and shall act on said plan in a reasonable time period. Upon approval by the Governing Body, the Development Plan shall be filed for record in the office of the Zoning Administrator. In addition, an affidavit shall be recorded with the Marion County Register of Deeds indicating a Development Plan has been approved and is on record with the Zoning Administrator and that revisions or alterations to the property must be made in accordance with the Development Plan.

After the Development Plan has been approved, and when in the course of carrying out the Development Plan, minor adjustments are requested by the applicant and such adjustments conform to the minimum standards established by the approved Development Plan for building coverage, parking spaces, points of ingress and/or egress, heights, setbacks and/or other requirements, such adjustments may be made by the Zoning Administrator. If the requested adjustments are deemed by the Zoning Administrator to exceed the minimum standards established by the approved Development Plan, the revised Development Plan must be submitted to and approved by the Planning Commission and Governing Body before any further work can proceed. At no time shall the Conditional Use previously approved be subject to disapproval. The only issue in said review shall be the requested revisions to the previously approved Development Plan.

14-106 Appeals of Planning Commission Action on Development Plan: Any decision of the Marion County Planning Commission regarding Development Plans may be appealed to the Governing Body, whose decision shall be final. An appeal shall be filed in writing with the Zoning Administrator not later than fifteen (15) days following the date of the Marion County Planning Commission's final action. If no appeal is taken within that time, the decision of the Marion County Planning Commission shall be final. The appeal shall set forth the basis for the appeal and the relief sought by the applicant. The Zoning Administrator shall schedule the appeal before the Governing Body no later than thirty (30) days following the filing of the appeal. The Zoning Administrator shall notify all interested persons in writing of the time and place of the Governing Body's meeting at least ten (10) days prior to said meeting.

14-107 Remedies for Noncompliance: If the applicant fails to comply with any of the restrictions or limitations established with an approved Development Plan, including the time requirements herein established, the approved Development Plan shall be declared null and void and no permit for construction shall be issued until a new Development Plan has been approved following the procedures previously cited. The Conditional Use Permit shall remain in effect but shall do so without an approved Development Plan. If the approved Development Plan is voided, the Planning Commission or the Governing Body may initiate an action to have the Conditional Use Permit revoked. (Richards wondered about putting conditions on if it ceases. Members discussed if there could not be an electronic way of tracking public records in order to flag time sensitive issues. Richards is going to research how a CUP is to be removed.)