

MARION COUNTY PLANNING COMMISSION/BOARD OF ZONING APPEALS

RECORD OF PROCEEDINGS

August 28, 2003

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

Roll Call was answered by Sieger, Glen Unrau, Ervin Ediger, Willis Ensz, Bob Unruh and David Mueller. Mary Avery and Marquetta Eilerts were absent. Zoning Administrator David Brazil was present.

Sieger asked for corrections or additions to the Record of Proceedings for the July 24, 2003, meeting of the Marion County Planning Commission/Board of Zoning Appeals. Mueller made a motion to accept the Record of Proceedings as written and Ediger seconded the motion. In favor: 6; Opposed: 0; Motion carried.

Sieger asked for off agenda items, etc., but no one had anything to add.

Item 4: Consideration of recommendation for updated Comprehensive Plan. Sieger reminded members everyone received a copy of the plan in the mail, and this was published as a public hearing on the plan, so it is open to the public for comments. Sieger said there have been few changes since November 2001, when it left our hands. Remember, this is to replace the current Comprehensive Plan, dated 1972, Sieger said. There were a number of public hearings held and it talks about those, she said. There are some changes that are a word, or two, Sieger said. Brazil highlighted the major changes. Brazil went back over the process, saying the planning commission recommended for approval the original comprehensive plan that this was based off of and this now has the recommended changes. You can agree to the recommended changes, or stick to your original decision, and it goes back to the county commission, Brazil explained. He said some changes were dates and some were one-word changes. Brazil pointed out that on page 60 the county commission added a paragraph on wind farming. Brazil also pointed out changes on page 70, under the LESA system, number 17. On page 61, they looked at the disclaimer and did some one-word changes, there, Brazil said. The last major change was on page 46 where they address the major roadways and plan map, Brazil explained. The way the map works is it extends five-acre parcels, Brazil said. As we work into this, how does it affect 10 acres that we have already addressed?, Sieger asked. You're still talking about a density of one per 40 acres, Brazil said. Those are really all the major points that were changed, or addressed, and I'll recommend this plan for approval, Brazil told members. I see a problem with this 10-acre, five-acre thing, because people are not going to understand or be happy if they're not on a paved road, Ediger said. That's only one of the conditions that go along with the five acres, Brazil said. The whole idea was to bring your development up to your infrastructure, he added. There are almost three classifications, if you think about existing conditions, Mueller said. I'm not sure I'm comfortable with LESA as a procedure, Unruh said. We're going to struggle for a while

trying to implement that, Unruh said. At least it gives you some kind of a benchmark to base it on, Sieger said. I think the 17 questions that are asked in there will probably stay the same, but we may find we need to do a little different weighing, Brazil said. Does anyone from the public wish to speak about the Comprehensive Plan?, Sieger asked. Is there anything further, questions, or do you feel the changes that have been made are acceptable?, Sieger asked members. You know in other counties the Comprehensive Plan is completely in the hands of the planning commission and doesn't even go to the county commission, Sieger commented. What I was envisioning was using LESA as a tool and including that in the staff report, Brazil told members. It's my understanding there is software out there for LESA, so all you have to do is plug it in, Brazil said. I think the LESA system is a strong indicator of which way you want to go in the future, but it's not completely what all you want to look at, Brazil said. I think what shadow the regs cast on the plan will also be a guide, Unruh said. There are more details in here than in a lot of Comprehensive Plans, Brazil said. Do we cast the regs and then pass them off to the county commission for final review?, Unruh asked and Brazil said yes. There will be a public hearing again for the regs, too, Sieger said. Options are to approve the plan with the changes, or stick with our original plan, Sieger told members. Do we need to take action on this, tonight?, Unruh asked. Yes, there's no reason not to, Sieger said. I think LESA will be a good tool, Mueller said. I have two minor concerns, Mueller said. First, there are only two railroads, and second the City of Peabody is purchasing water from Hillsboro, Mueller said. Once it is approved, we need to keep it on the agenda annually and keep it updated, Sieger said. I think I'd rather see the plan put in place and then updated on a regular basis, in the future, Brazil said. Mueller made a motion to recommend for approval the Comprehensive Plan, and Unruh seconded the motion. In favor: 6; Opposed: 0; Motion carried.

Item 5: Continued application for Willis Peterson, requesting a variance from required front setback of 30 feet to 20 feet, side setbacks from 10 feet to three feet on the north and south sides, and rear setback from 20 feet to five feet, for property located in Centre South Township. Actually, the applicant really wanted to continue it to next month, because of scheduling they were not able to come this month and we agreed to continue it again to next month, Sieger reminded members. Unruh made a motion to continue this application to the September 25, 2003, meeting, and Mueller seconded the motion. In favor: 5; Opposed: 0; Motion carried.

Item 6: Continued application for Gordon and Judy Pendergraft, requesting a variance from required front setback of 30 feet to five feet, and side setbacks from 10 feet to two feet on the south side, for property located in Centre South Township. This application was published in the July 2, 2003 issues of the *Marion County Record*, *Hillsboro Star Journal* and *Peabody Gazette Bulletin*. Gordon and Judy Pendergraft are present, along with attorney Dan Baldwin. Baldwin presented a drawing to members. My assumption is you all are somewhat familiar with this request, he told members. Pendergrafts have built a carport, which sits on what used to be county property, but the county signed off on it, saying they have no interest in the property, Baldwin explained. The lawsuit has all been resolved?, Sieger asked. It has been signed by the judge, Baldwin said. Baldwin passed around photos, saying if you look at the photos, there is really no other place to park,

there. You can also see that over time the Pendergrafts have really improved the property, Baldwin added. We think the gas line goes right down the middle of the carport, Baldwin said. Gordon Pendergraft showed on the drawing where utility lines run. I was told if a line broke the gas company would just run another line down through, or on top of it, Pendergraft said. If you look at the way this lays out, what we really need is to be allowed to be within eight feet of the property line, Baldwin said. Is the structure rigidly solid to the ground, today?, Unruh asked. There are cedars on the south, so it's protected on the south, Baldwin said. So, traditionally, the structure wouldn't be anchored very well, but with the way it's situated you are comfortable with it, Unruh said. Yes, there is not any wind that comes through there, Pendergraft said. Sieger asked if there were any other questions, or if anyone from the public wished to speak about this application. Randy Dalke, of Atmos Energy, was present and said the gas company's concern is we can't have any closed structures over the gas line, but we're willing to work with him and if in the future we need to move our line, we could work together to do that. So, at this point in time it's not a problem?, Sieger asked. Right now the way it is, we could take a small trencher and get to his line, Dalke said. Dan Crumrine of the improvement district said they have no objections. Our sewer and water lines are well out of the way, Crumrine said. And you have not had any objections from your neighbors?, Sieger asked. I think we all understand if he would ever want an enclosed structure, he'd have to come back here again, anyway, Baldwin said. It would be easier to deal with it in a variance than try to locate the line, Baldwin said. We have no other place to go, Pendergraft said. We've heard that before, out there, Sieger said. Sieger asked if there were any other questions. Sieger closed the public hearing for this application and opened the floor for discussion with members acting as the Board of Zoning Appeals.

Should the property owner some day sell, would this become an issue for the utility company?, Unruh asked. Perhaps an easement with the utility company is the solution, he said. Yes, but I think as long as it's an open sided structure they can do what they need to do, Sieger said. On the other hand, the utility company is not asking for an easement, Unruh said. You can't give the individual permission to build on an easement, or right of way, Brazil said. It's really between the property owner and the easement holder, Brazil said. You can attach a condition on the variance, but I think the easement needs to stay between them. Brazil said. I originally looked at this property because I had a complaint, Brazil said. I think the drainage issues at the lake are between the individual property owners, he said. My suspicion is the shed changed the drainage, Brazil said. But, that was a long time ago, he added. But, maybe the drainage is another issue we should address, Brazil said. Sieger asked about the staff recommendation and Brazil said he is staying with the precedents that have been set. I think you would have to build up the earth at the back to move it back, Brazil said. Too close to my house, Pendergraft said. I know that while this is a permanent structure, it's not like a garage, Sieger said. I think it's a little gray as to whether we have a permanent structure, or not, Brazil said. It's well anchored, Pendergraft said. Are we in compliance with the second issue affecting rights of adjacent property owners?, Unruh asked. I think when you add a roof you change the drainage, Brazil said. It drains on my property, Pendergraft said. The backside, too?, Brazil asked and Pendergraft said yes. Sieger showed members photos and pointed out the slant of the roof and how it drains on Pendergraft's property. Unruh made a motion that the Board of

Zoning Appeals approve this application for a setback variance in the front of 30 feet to five feet and a side setback variance from 10 feet to two feet, on the south side in this V-I zoning district, subject to the property remaining as an open sided structure. Mueller seconded the motion. In favor: 5; Opposed: 0; Motion carried.

Item 7: Continued application for Edith Graber, requesting a variance from required rear setback of 20 feet to six feet, and a side setback from 10 feet to eight feet, on the east side, for property located in Centre South Township. This application was published wrong the first time, and was republished, correctly, in the August 6, 2003, issues of the *Marion County Record, Hillsboro Star Journal and Peabody Gazette Bulletin*. Graber was present to speak about this application. She explained she wants to add a garage to her house and a place for a washer and dryer. Sieger showed Graber a diagram and explained the plans. Sieger marked the back and side of the property on the diagram. The east lot line would be eight feet, Brazil said. So, this would line up here and come out a little here, Sieger showed Graber. Is everyone clear?, Sieger asked. Mueller questioned a storage building and Graber said it probably would be moved. Is this a storage shed on the adjacent lot?, Sieger asked. He has a little something there, Graber said. Which way does your garage open?, Sieger asked and Graber showed members. Is this a permanent home, or a weekend home?, Sieger asked. It's a permanent home, but I think it was a weekend home, before, but I live there full time, Graber said. Other questions?, Sieger asked. Does anyone from the public wish to speak about this application?, Sieger asked. Is there anything further?, Sieger asked and Graber said no. Sieger closed the public hearing for this application and opened the floor for discussion, with members acting as the Board of Zoning Appeals.

There are no problems with adjacent property owners, Sieger said. One thing we might think about is as we continue to have applications each month from the county lake, is to do something similar to what we did at the reservoir to modify the setbacks, Sieger said. Mueller made a motion that the Board of Zoning Appeals approve this application by Edith Graber for a side setback variance from 10 feet to eight feet, on the east side, and a rear setback variance from 20 feet to six feet in this V-1 Suburban Residential Zone District. Unruh seconded the motion. In favor: 5; Opposed: 0; Motion carried.

Item 8: Application for Lyle Isaac, requesting a rezone from agricultural to rural residential for property located in Lehigh Township. Members are acting as the planning commission for this application. This application was published in the August 3, 2003, issues of the *Marion County Record, Hillsboro Star Journal and Peabody Gazette Bulletin*. This property is located close to the town of Lehigh. Isaac was present to speak about the application. The reason for the request is we need to put in a lagoon, as our septic system is 27 years old, Isaac explained. We purchased two acres and then purchased an additional 10 acres, but the 10 acres is zoned agricultural, he explained. Isaac showed on a diagram where the existing property and the additional property is located. Why would it have to be rezoned?, Unruh asked. By taking 10 acres out of ag, as it has to be 40 acres to be compliant, and to issue a permit it needs to be rezoned, Brazil said. I think this is positive, as we're getting the property closer to the definition, Brazil said. And he's already purchased the additional acreage, Sieger said. There are ag lots

that are less than 40 acres that are grandfathered in, but this is new, Brazil said. You have rural water?, Sieger asked and Isaac said yes. What is the additional acreage you purchased?, Sieger asked. It's farm ground, it's terraced land and probably will be put to grass, Isaac said. Is there anything further?, Sieger asked. Does anyone from the public wish to speak about this application?, Sieger asked. It's something we'd like to have done as quickly as possible, Isaac said. Sieger asked if the soil is such that a lagoon is best there? We didn't dig a test hole, so I can't say for sure, but it's the best way in the long run, Brazil said. To fit on two acres they would have had to move one permanent structure and a hedgerow, Brazil said. Is there nothing further?, Sieger asked. Sieger closed the public hearing for this application and opened the floor for discussion by all members.

Is there any part where you have a problem, or concern?, Sieger asked members. Ediger made a motion to recommend approving a rezone to rural residential for a total of 12 acres as stated in the application. Ensz seconded the motion.

In favor: 6; Opposed: 0; Motion carried.

Brazil said he needs a copy of the survey from Isaac by the second Friday in September.

Item 9: Application for Philip Shapel, requesting a variance from required front setback of 30 feet to 20 feet, for property in Centre South Township. This application was published in the August 6, 2003, issues of the *Marion County Record*, *Hillsboro Star Journal* and *Peabody Gazette Bulletin*. This property is located at the county lake. Shapel was present to speak about the application and said they are building a new home and it fits real well except for a large oak tree, and they don't want to take the oak tree down. Saving a tree is a pretty big deal, Sieger said. Was this a vacant lot to begin with?, Sieger asked. No, there was a house there and they had the house removed and we bought the lot, Shapel said. Shapel showed members photos and explained their plans. Your deck will extend six feet out more than his deck did?, Brazil asked. So, we'll be 28 feet from the street, Shapel said. We've kind of changed the floor plan a little, but the lot will stay the same, Shapel said. Sieger asked about the deck. That's included in the 50 feet, Shapel said. So, the deck is like the previous property, except six feet further out?, Sieger and Brazil asked. We're bringing the stem wall out, but the garage will still sit back, Shapel said. Crumrine questioned the basement wall. Because the grinder pump sits real close and will have to be moved because there's an easement there and we'll need room to get a backhoe in there, Crumrine said. I guess I need to know how much room you need, Shapel said. You have four feet to move over, Brazil said. Is that enough?, Shapel asked and Crumrine said yes. And water's not a problem as the water comes in from the back, Crumrine said. Every one of those roads out there has a water, gas and sewer line, Crumrine said. Is this a permanent residence?, Sieger asked and Shapel said yes, eventually. I normally recommend variances apply for 10 feet off the front, Brazil said. The adjacent property owner, we did a variance for from 30 down to 20, Brazil said. I struggle with this because it is a nice tree, he added. But, the property owner to the north is setback and I realize views are not at the top of the priority list, but views will be obstructed, probably even at 30 feet views will be obstructed, but that was the reason for the recommendation, Brazil said. We haven't had any comments from the neighbors?, Sieger asked and Brazil said no. They're probably used to it from the previous structure,

Brazil said. Is there anything further?, Sieger asked. Sieger closed the public hearing for this application and opened it for discussion.

Mueller made a motion that the Board of Zoning Appeals approve this application as presented for a front yard setback variance of 30 feet to 20 feet in V-I District. Unruh seconded the motion. In favor: 5; Opposed: 0; Motion carried.

We'll issue a permit to construct next week, Brazil told Shapel.

Sieger thanked Crumrine for coming and adding to the information. Sieger asked and Brazil said yes, Crumrine is receiving notifications, now. Some of the easements and some of the workings are tough to come up with, and it helps having you here, Brazil told Crumrine. Unruh questioned if we are limiting road improvements by allowing properties too close. No, Crumrine said. Rock Road and Bluestem are narrow roads out there, Crumrine said. The big thing is nobody wants those roads, he added. It would be very difficult to bring those roads in now, with the standards we have now, Brazil said. Sieger asked for off agenda items. The only thing I thought of is I haven't received any mileage yet this year, Brazil said. Ensz said he did go to Montezuma and looked at those wind turbines. In an ag publication I received, it talked about some wind farms in other states and what was interesting was it showed one on fire, and they said over the course of so many years they have had five units catch fire, Unruh said. Unruh asked if Montezuma has had problems with fire, and Brazil said no. One of the largest risks I've noticed is the ice, Brazil said. It'll fling the ice, so setbacks become very important, Brazil said. I noticed Spearville approved the first step, Mueller said. The stipulation it listed was a 500-foot setback from a road, Mueller said. Ensz made a motion to adjourn and Ediger seconded the motion. In favor: 6; Opposed: 0; Motion carried and the meeting adjourned at 9:20 p.m.

MARION COUNTY PLANNING COMMISSION/BOARD OF ZONING APPEALS



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Eileen Sieger,  
Chairman