

MARION COUNTY PLANNING COMMISSION/BOARD OF ZONING APPEALS

RECORD OF PROCEEDINGS

December 5, 2013

Chairman Nick Kraus called the meeting to order at 6:50 p.m. with all current members present.

Roll Call was answered by Kraus, David Mueller, Dan Mount, Brad Vannocker, Mary Avery, Jeff Bina, Marty Dalke, and Jim Schmidt. One seat remains open. Mueller will retire from the board after this meeting. Zoning Administrator Tonya Richards was present.

Kraus asked for corrections or additions to the Record of Proceedings for the July 25, 2013 meeting of the Marion County Planning Commission/Board of Zoning Appeals. Mueller moved to approve the Record of Proceedings as written and Mount seconded. In favor: 8; Opposed: 0; Motion carried.

Item 4: A tabled application for Steven Meyer requesting a Conditional Use Permit (CUP) for an outdoor storage operation in an "A" Agriculture District located at the intersection of 120th and Diamond, on the east side of Diamond. Kraus asked if any member had a conflict of interest for this application or if anyone had any outside communication concerning this application. No one did. Kraus noted this application was published in the June 5, 2013, issues of the *Marion County Record*, *Hillsboro Star Journal* and *Peabody Gazette Bulletin*. Kraus noted this is application #PC-13-04. Meyer was present to speak about his application. Richards explained the application was tabled to give Meyer time to decide if he would remove the semi trailers from his property, or if he wished to continue his request for a CUP with a timeline to determine an acceptable deadline for him to remove the trailers. Meyer said if he had a way to make the property look better or hide the trailers, he would. Richards said she suggested Meyer withdraw his application and have the board recommend a timeline for removing the outside storage units (the semi trailers). Richards asked Meyer if he is operating this business from his home. No, I just park trucks there overnight, Meyer said. Avery agreed Meyer should withdraw the application and be given a recommendation for a timeline to remove the trailers. Bina asked how many trailers are on the property and Meyer said 13 to 14 semi trailers. Meyer said one year to remove the trailers would help. Bina asked if Meyer needed time to find a buyer for some of the trailers, and Meyer said yes. Meyer said he sent a couple loads to China but the second load he was not paid for because it was not heavy enough. Meyer said he is looking for a local buyer to turn the plastic into lumber. Meyer said one guy was dealing with it but now he is out of business. Meyer said he has tried to sell to the same people this guy sold his equipment to, but it was a no go. Richards said typical timeframe for removal is 30 days, but that is not realistic for this. Richards asked Meyer if six months is

adequate. I'll try, Meyer said. Kraus asked if any of the trailers are currently empty, and Meyer said no, they all have something in them. Kraus said if he is given six months and has made an attempt to clean up the property, that is one thing. If he is given six months and nothing is done, that is another matter, Kraus added. Typically it goes to court and involves the county attorney, Richards said. I think I was first thinking six months, Avery said. What about three months with a review to see if progress is being made, and if so, give him another three months extension, Avery said. We need to see progress, Avery added. That is a good idea so we are not just waiting six months without progress, Richards said. That is a good compromise, Mueller agreed. Kraus asked if Meyer's business is seasonal, and Meyer said no. Kraus asked if there were any further comments, or any comments from the public. There were none. Kraus closed the public hearing for this application. Mueller moved to give Meyer a deadline of six months for removal of 13 semi trailers with a review by staff in three months to see if progress is being made. Vannocker seconded. Avery said this action reaffirms to the neighbors there is a concern about getting the property cleaned up.

In favor: 8; Opposed: 0; Motion carried.

Kraus asked what is needed to withdraw the application. Richards said she just needs it in writing, dated and signed, and Meyer may do that now so it is taken care of.

Item 5: A tabled application for Gary Dunnegan for a Preliminary Plat at 77 Lakeshore in the "LL" Lake Lot District, Saddle Creek Subdivision, located at Marion County Park and Lake. Kraus noted this application is #PC-13-01. Kraus asked if any member had a conflict of interest for this application or if anyone had any outside communication concerning this application. No one did. Kraus noted this application was published in the June 5, 2013, issues of the *Marion County Record*, *Hillsboro Star Journal* and *Peabody Gazette Bulletin*. Dunnegan apologized that he did not bring his paperwork because he thought the surveyor would be present at the meeting. Richards explained the surveyor and the consultant were both absent from the meeting due to illness. Kraus asked what has changed with this application since the last meeting. Dunnegan explained he did not understand the flood line had changed but the plan was to set the development at the same elevation anyway, so there was no problem with that. But, they decided just to stay away from it and just make that the common area, he said. Dunnegan said a Newton couple wants to buy two of the lots, and they have a contract on the barn in another lot. Dunnegan said there are not going to be that many houses on the other half of the property, maybe eight at the most. He said currently they are really short on lake properties, there just isn't any available. There are no new structures for sale, he said. He said homes in this development won't have traffic but will have a good view of the lake. No water has ever been up in here, he said. I've talked to a lot of people, he added. I think we are making a great deal, he said. Bina asked about Lots 3 and 4 being partially in the flood line. Dunnegan explained the buildings will be out of the flood area. They have to prove they are building at the right elevation, Richards said. Kraus asked if the blue double line is an existing line, and Richards said yes, it is a concrete drainage ditch. And the green lines are existing driveways, Richards added. As far as I know everything on the map is pretty correct, Dunnegan said. Dunnegan said they are working on getting utilities to the back 13 acres. Mueller asked about road access to the back acres. No, there is just a utility easement, Dunnegan

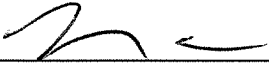
said. Kraus asked Dunnegan if he plans to develop the north part and if so what about access to that area. Yes, we plan to use the road up there, Dunnegan said. Dunnegan said it is not cheap to maintain a road. Vannocker asked who will maintain the reserve common area. Everyone will pay to maintain it, Dunnegan said. It will be like a little homeowner's association thing, he said. They do that quite often in Colorado, Dunnegan added. When the Final Plat goes to the county commission the road will be addressed as well as the maintenance of the road, Richards said. No private streets are platted in subdivisions, so that would need to be addressed, Richards said. All new roads must meet a minimum road right of way of 60 feet, Richards said. I don't think the county commission will approve it as a county road without meeting those requirements, Richards added. (County Commissioner) Holub suggested going with a private road, and I think he addressed fire trucks, etc., Dunnegan said. Private roads at the county lake historically are not maintained, Avery said. It has become a controversial subject, Avery added. I understand where you are coming from but we have to look at what has been going on out there, Avery told Dunnegan. You can keep the 30 foot road but extend the right of way where you do have 60 feet, Richards told Dunnegan. You have the room, she added. I have no trouble with that, Dunnegan said. The surveyor said he likes to have 15 feet on each side, Dunnegan said. And that would be 60 feet, Richards said. If the road is going to be maintained by the county, does that mean the county has to build the road?, Kraus asked. It has to be built to county specs by the developer, Richards said. We are not going to build something that is going to be substandard, Dunnegan said. I'm not sure what the county would benefit by it being a county road?, Kraus asked. As long as the county commissioners waive it....., Richards said. I don't think we should go back from what our regulations say, Vannocker said. We shouldn't make an exception, he added. This would be different because they would have a homeowner's contract, Bina said. That is true, Richards said. Schmidt asked how you would get to this road. Lakeshore Drive, the blacktop road, is the only county maintained road at the county lake, Richards explained. Oh, Wildin (Addition) is also maintained, and they have a 60 foot road right of way, Richards said. I think you have to look at the plan, Dunnegan said. If we were putting 50 houses in, that would be pretty tough, he said. The county commission approved the plat for the Wildin Addition and that is why it is maintained, Richards said. For no more traffic, I can't see why a hard packed road wouldn't do it, Dunnegan said. It doesn't say it has to be blacktop, Vannocker said. Kraus asked, and Richards said it has to be one foot above the base flood elevation. We talked with the realtor, Lori, (Heerey) and she thought the two acre lots would work really well, Dunnegan said. If he puts a road to the north to tie into the other subdivision plan, I think it makes sense to do the 60 foot road, Vannocker said. I have no problem with 60 foot, Dunnegan said. Members discussed the utility easement. If you develop to the north, would that be separate?, Kraus asked Dunnegan. That is the second stage of development, Dunnegan said. Kraus asked if that area would also have a homeowner's association. Kraus also asked why they would want it to be a county road. That road is not a through road, Paul White said. White was present to represent the Improvement District at the county lake. Other areas have through roads, and those roads are open to the public, White said. Wildin Addition circles around and comes back out, White added. Kraus asked if there were any other questions. Kraus opened the floor to public comment. White said the Improvement District is in favor of

the project. Utilities will need a slight upgrade on the sewer, he said. The water is okay, he added. I hope the Final Plat will have better detail as to where the lines will run, White said. One line from the city may be in the middle of the road, White said. We had it flagged, Dunnegan said. Dunnegan showed the water line on the plat. It would be in the 15 foot easement on the side, Dunnegan said. White said two meters need to be moved. He said there are a lot of issues with the utilities, one question being do we have the capacity. Mount asked what if he wants to go on to the north. We are landlocked, White said. The road easement would allow you to come right up through to the other development, Dunnegan said. Between the house and the barn, he added. If that becomes the road right of way, the property setbacks will need to be moved back, White said. I don't know why there needs to be a road through there, Gary, Richards said. The details have not been worked out because we have not had a chance to sit down with Dunnegan, White said. Lots one through 10 must be hooked to water and sewer, Richards said. Everything needs to be figured out prior to me issuing a zoning permit, Richards said. That way there is no conflict between me giving Gary a permit to build and you getting everything figured out, Richards said. There are always a lot of little detail things, and we work with the provider of utilities on these things, Dunnegan said. It seems like it has been forever since we started with this thing, Dunnegan said. We do have some people interested in building, he said. We are trying to eliminate a little expense by going with a private road, Dunnegan said. One thing is important, Richards said. Previously we had two lots and a county drainage ditch ran on the west side, she explained. We made modifications to the drain easement and it seems to be working well now, she said. The placement of the culvert and drainage system needs to be worked out and approved by an engineer to avoid any problems, Richards said. We are not really trapping any water, Dunnegan said. Until you have houses out there, Richards said. We did talk to the surveyor about some culverts, and I think Richards is right we need some kind of drainage plan, Dunnegan said. If you own two lots I assume that changes the setbacks, Kraus said. If you own two lots, yes, Richards replied. It seems like the lake is attracting a lot of people that want to retire out there, Dunnegan said. For each 1,200 square feet of house that equals 2,900 gallons of rain and that water has to go somewhere, Mount said. A lot of guys run underground piping, Dunnegan said. I wish we knew what the commissioners are going to do, Kraus said. With the idea of developing to the north, I wonder if that makes a difference, he added. Dunnegan would be financially responsible for bringing the county road up, Richards said. It might be good not to make that a through road because it will increase traffic, Mueller said. It would make the north lots feel more a part of the lake, Schmidt said. I think it is a very pretty area, Dunnegan said. It is too bad we are losing these lots, but it is what it is, Dunnegan said. The county commission can send it back to the board, Richards said. I think we need to stay with the regulations, Avery said. We need to support the regulations we put in place, she added. As an option why not just do away with all that and I'll sell it off, Dunnegan said. I don't think you have to change anything, Richards told Dunnegan. Does it need to be a public or private road?, Kraus asked. What does regulations on a road have to do with land use?, Kraus asked. Decisions like that should be made with us and the county commission, he added. We just make a recommendation to the county commission, Mueller said. This is a first step, so I think we should go with the regulations at this point, Avery said. I've waited four months on

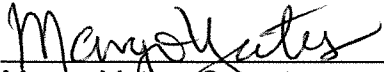
sewer and water and I have no idea when we are going to get it, Dunnegan said. Wouldn't that be with the Improvement District?, Mueller asked, and Dunnegan said yes. I understand your frustration, but we are here to deal with the plat, Avery told Dunnegan. I understand, Dunnegan said. Kraus asked if there were any more comments from the public. Kraus closed the public hearing for this application. Dalke said he will abstain from voting as he is working with Dunnegan on the project. Mueller moved the Preliminary Plat be recommended to the county commission with conditions as submitted on the staff recommendation: 1) A rezone was previously approved on July 25, 2013, to approve rezoning from "A" Agriculture to "SR" Suburban Residential for the northernmost lots, and "LL" Lake Lot for the southernmost lots of property generally located at 77 Lakeshore Drive; 2) Note regulation 4-102.12 - There shall be no private streets platted in any subdivision. Only the county commission has the authority to waive this standard. Names of all proposed streets are to be included. Dedication by the owner dedicating streets and right of way for public use shall also be included; 3) Location and elevation of permanent benchmark to be included; 4) Must guarantee installation of the following improvements: Streets, Water, and Sewer. At the Final Plat stage a separate document called a developer's agreement needs to be written, stating enforcement of any restrictive covenants, such as road agreements, maintenance, cost responsibility, etc.; 5) Note regulation 5-102 - Lots 1-10 must be hooked to the Improvement Districts water and sewer; 6) Note regulation 4-107 - The developer shall include a drainage plan including a complete drainage area map showing the natural drainage area boundaries, direction of surface flow, and any large impervious areas. The map must show existing and proposed streets, manmade or natural obstructions, runoff calculations, and proposed inlet locations. The map must also include a grading design, so that drainage from each lot should flow directly to a channel or detention area. The storm water drainage plan and subsequent installation of culverts, storm sewers, stabilization ditches, storm water detention or retention ponds and other improvements must follow accepted engineering standards and principles of design and construction. And all storm drainage plans shall be prepared by a registered engineer of the State of Kansas. 7) Note regulation 5-102 - For existing utilities and proposed utilities: The developer must provide and be responsible for making necessary arrangements with the appropriate utility companies for installation of utility lines and appurtenances. Note regulation 4-106 - Permanent easements shall be provided where necessary. Utility easements located along rear lot lines shall measure at least 20 feet wide and side lot lines at least 15 feet wide. No utility lines shall be buried within the driving surface of the street. 8) Each lot must be approved for water and sewer by the Improvement District prior to issuing a zoning permit. Mueller added another condition, that the streets must be platted at the total of 60 feet, either 24 feet plus 18 feet on each side, or 30 feet with 15 feet on each side, for a 60 foot road with an easement. Vannocker seconded. In favor: 7; Opposed: 0; Abstained: 1; Motion carried.

Schmidt moved to adjourn the meeting and Mount seconded. In favor: 8; Opposed: 0; Motion carried and the meeting adjourned at 8:12 p.m.

MARION COUNTY PLANNING COMMISSION/BOARD OF ZONING APPEALS



Nick Kraus, Chairman



Margo Yates, Secretary