

# MARION COUNTY PLANNING COMMISSION/BOARD OF ZONING APPEALS

## RECORD OF PROCEEDINGS

February 23, 2006

Chairman Eileen Sieger called the meeting to order at 7:32 p.m., with a quorum present.

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

Sieger asked if anyone had any questions about the agenda, and there were none. Sieger asked if anyone had any off agenda items, and Brazil and Maxwell said they did. Steve Schmidt, of McPherson, asked if he could ask questions about proposed zoning changes, during off agenda time. Schmidt recently purchased land in Marion County. Sieger said that was fine.

Sieger asked for corrections, or additions, to the Record of Proceedings from the Public Hearing on January 19, 2006, of the Marion County Planning Commission. Mueller made a motion to accept the Record of Proceedings as written and Maxwell seconded the motion. In favor: 8; Opposed: 0; Motion carried.

Sieger asked for corrections, or additions, to the Record of Proceedings from the January 26, 2006, meeting of the Marion County Planning Commission/Board of Zoning Appeals. Maxwell had a correction on page seven, where close should have read "closed," and on page 11 where done should have read "gone." Eilerts had a correction on page five, where Ness should have read "Nuss." Ensz made a motion to accept the Record of Proceedings with three corrections, and Unrau seconded the motion. In favor: 7; Opposed: 0; Abstained; 1; Motion carried.

Item 4: An application for Russell Schroeder, requesting a lot split for 7.79 acres for property located in Menno Township. This application was published in the February 10, 2006 issues of the *Marion County Record*, *Hillsboro Star Journal* and *Peabody Gazette Bulletin*. No one was present to speak about this application. This is a new home site, so LESA (Land Evaluation and Site Assessment System) does apply, Brazil told members. It has a mid to moderate category score, he added. Sieger asked and was told this is coming out of 43 acres, total. Sieger asked if this property is on an improved road, and Eilerts said that K-15 runs on the east side of this property. There are no structures on this property, Sieger said. Sieger asked and Unrau said it is grassland. There's a ravine on the west side and drainage from the east, across, Unrau said. It's not much of a ravine, but it's there, Unrau added. It's horseshoe like, Ediger said. There's an open area there where the house will sit, and it'll be alright, Ediger said. It's good, tall grass, Ediger said. Somebody mowed the circle around it, and

the flags are there, Ediger said. Brazil told members the county purchased some software with measuring tools. You can scroll your picture around, he said. Pretty much everything can be done from the desk, Brazil said. It was purchased for emergency management, but it can be shared, he explained. Mueller asked Brazil if he had any concerns about this lot split request and Brazil said no. Sieger asked if there were any other questions. Sieger closed the public hearing for this application and opened the floor for review and recommendation.

Maxwell asked if this is a new resident to the county. Sieger asked about the water. There is rural water in the area, but I'm not sure what they have decided, Brazil said. Generally, there is good ground water in this area, Brazil added. Members are acting as the planning commission for this application. Unrau made a motion for application number ZPO6.002, to approve a short form lot split of 7.79 acres in the "A" Agricultural Zone District as presented by the applicant, and require that the plat and the agricultural disclaimer be recorded by the Register of Deeds with the deed transfer and that certification of such actions be filed in the office of the planning commission. Ensz seconded the motion. In favor: 8; Opposed: 0; Motion carried. Sieger asked if lot splits go on a resolution, and Brazil said no, the county commission sees it in the minutes.

Item 5: Consider letter dated January 23, 2006, from the county commissioners. Members had previously taken action on the "B" part of the letter, but had not gotten to "A" and "C." You could go back and look, but at this point there's not a whole lot for you to consider, Brazil told members. The county commission is waiting until all members are present to discuss this matter, and it will not be until March 6, 2006, before they will consider the zoning regs, Brazil said. Maxwell asked if the county commission has not taken action on the recommendations the planning commission made, and Sieger explained the next time all the county commissioners will be present at a meeting to discuss it as a group is on March 6, 2006. Sieger explained the county commission has three choices. She said they can approve them, send them back, or disapprove them. At this point they may approve it, or they may ask you to go back to it, Brazil said. Most all of the items were addressed in our recommendation to the county commission and that answers the questions in my mind, Mueller said. That's the decision we came to as a group, he added. I don't know what more we can do at this point, Mueller said. Avery requested members receive the most recent copy of the proposed zoning changes. Members reviewed their recommendation for the zoning changes. Members agreed no further action is needed at this time.

Item 6: Off agenda items. Steve Schmidt of McPherson, addressed members, saying he owns a quarter section of grassland north of Lehigh, near Chisholm Trail and 240<sup>th</sup>. He said he is trying to get the property all back into grass. He said he recognizes the historic value of the Santa Fe Trail and he plans to protect the land and its history. Schmidt said he likes the idea of a road assessment fee. Brazil explained the difference between existing home sites and new home sites.

He said this is to encourage the reuse of existing sites. Brazil explained that if it is a new home site, it needs to be next to a rural secondary road, or higher. If it is an existing home site, it needs to be on a gravel road, Brazil said. Schmidt asked if it is an existing residential site, if someone could create a three acre site, and members said no. Density will govern lot splits, Brazil explained. Brazil said if you have 40 acres, you are able to build a house, and you just go through a simple construction permit process. Schmidt asked if that couldn't domino, and members said no. Lot splits were explained. It will still stay ag, it's not a rezone, Sieger explained. Schmidt asked and Brazil said a growth area is like an overlay. You change the density to encourage development in an area, he said. Some cities want to control their area, Mueller said. Hillsboro and Marion did not want that, but Goessel did, Mueller said. Brazil explained the 16 per section concept. Schmidt said he is concerned about 16 per section. Members have not recommended 16 per section, co-wide, they told Schmidt. Only in an established growth area?, Schmidt asked and members said yes. Okay, because I would really be against that, Schmidt said. I have trouble getting off work to attend your county commission meetings, but I plan to write them a letter, Schmidt said. Sieger thanked Schmidt for his interest and asked him what his plans are for his property. I might like to build a house there, some day, he said. I'm really concerned about preserving the ag attributes, as my father had three homes built on the corner of his farm ground, and it was not a good situation, Schmidt said. He told members he applauds their goals to preserve farm ground, and members said it was refreshing to hear that. Some things are just worth saving, Schmidt said. I work with our planning commission in McPherson, and I know it's often a thankless job, he said.

Brazil told members he contacted attorney Jim Kaup to ask about the mechanics of changing the net density, and he also spoke to a representative of the Kansas Association of Counties, but there is not a consensus in the two legal opinions to change the comprehensive plan. Overall, the county commission has the ultimate power, Brazil told members. They can override everything?, Maxwell asked. They could repeal all the regs and start over, Brazil said. Brazil said Kaup said the county commission could do one of three things. They could repeal the comprehensive plan; they could make changes in the regs in terms of density, but then your comprehensive plan and regs don't match and it's best to be able to justify things by them matching; or they could draft a language change for the comprehensive plan and send it to the planning commission for review. The part about changing the comprehensive plan is where the attorneys do not agree, Brazil said. If we didn't recommend it, what then?, Sieger asked. Then you're to the point you are now on the regs, Brazil said. On the comprehensive plan, too, you mean?, Sieger asked, and Brazil said yes. Sieger asked Brazil if he has reported this to the county commission, and he said yes. Avery asked for clarity. She requested a draft of the proposed changes be given to members with the minutes and other material, so there is no confusion. It just clarifies that everyone at the table is looking at the same paper, she said. Maxwell asked about the growth area around Goessel. It's a one mile circumference around Goessel, and

it's a creative way to change the density in that area and not be in conflict of the comprehensive plan, Brazil said. The area west of Goessel, when was that done?, Maxwell asked. The majority was before zoning, Brazil said. When I was a little boy, Unrau said. It's just a unique example, Maxwell said. Brazil said there is another thing he wanted to inform members about. In just the last couple of weeks there was an informal meeting in Peabody about a proposed feedlot, he said. It would be a confined feed operation, close to the city, with 999 head of animals, he said. When there are 1,000, or more, animals is when a federal permit is required, Brazil said. I want you to be aware that this is happening, he told members. And, there may possibly be a couple more around Peabody, he added. If it is over 1,000 I'll see the notice of the application, he said. Maxwell asked if the junkyard south of Peabody is getting cleaned up. There are three, maybe four, sites in the county that are potential salvage operations which require KDOT (Kansas Department of Transportation) to come look to see if they have a salvage operating license, Brazil said. It's been close to five months since I sent a letter, and I have had no response, Brazil said. The county commission asked me to see about going through a CUP (Conditional Use Permit), Brazil said. Maxwell commented about the county commission's changes on a recent trailer house application. I've been directed not to go to enforcement until November 1, 2007, Brazil said, concerning the trailer. This could be challenged by anyone who was given 90 days, Sieger said. I agree that any other applications that have been turned down could challenge it, Brazil said. I think we should define temporary, and also deal with the structure requirements, like tie down anchors, Maxwell said. Someone will come and apply for a variance to whatever, Sieger said. Part of this depends on the situation, Mueller said. I'm not sure we could ever say what temporary is, Sieger said. Avery said she thinks members need to specify ag use, and residential use. Maxwell suggested making an amendment for temporary structures and guesthouses. Brazil read the regs. So, we've already got it in the plan, Mueller said. Financial constraints could make, or break a business, Unrau said. I'm not sure I'd go along with setting a timeframe, Unrau said. A shed on skids takes a \$10 application fee, and to meet other requirements, Brazil said. Requirements for construction or installation are designed to be permanent, Brazil said. If it's temporary housing, they would come in for a variance, Mueller said. We basically have a precedent of what's been happening in the past, and each situation is going to be different, Mueller said. Generally, when a father plans for a temporary house for a son, he's planning for a transition, Unrau said. Sometimes it takes two years and sometimes it takes 10 years, and sometimes they can't do it any other way and you're going to be looking at making or breaking a business, Unrau said. We did it in our family, and it worked out, he added. A modular home is not quite a temporary thing, Unrau said. It's really different than a mobile home, he added. True rural residents move every three to five years, and when you're talking about modular homes they take it all with them, and then you have all the infrastructure left and usually it doesn't get reused, Unrau said. That's my problem with small acreages, they have very little invested in the property, Sieger said. We want to encourage ag operations to continue and the whole multi-

generational thing is good, Brazil said. It's a completely different situation, Mueller said. I'll continue to look, Brazil said. Avery said she remembered that Eilerts pointed out that there are requirements through the appraiser's office. The other thing I'm concerned about is safety, Avery said. Ensz asked about the 13 mile road south of Hillsboro, where members have noticed three culverts have been installed. Brazil said he has three construction permits that match up with three properties on the west side of the road. Members told Brazil they are talking about a little over four miles south on the east side of the road. Brazil said he has no construction permits for that location, and has no idea what might be going on. Maxwell said he read about a wind energy meeting and wondered if anyone is interested in getting them to come to Marion County and give a presentation. Sieger asked what kind of presentation it was. A pros and cons informational meeting, Mueller said. Sieger said members could get on an e mail list for wind energy updates. In the Marion area for wind operations, how many acres are involved?, Maxwell asked. Brazil said he would guess 50,000 to 60,000 acres. Sieger reminded members the next meeting is scheduled for March 23, 2006. Ediger made a motion to adjourn the meeting and Mueller seconded the motion. In favor: 8; Opposed: 0; Motion carried and the meeting adjourned at 9:25 p.m.

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Eileen Sieger,  
Chairman